

Posted January 10, 2022-11:30AM-MK

**TOWN OF HARVARD  
ZONING BOARD OF APPEALS AGENDA  
WEDNESDAY JANUARY 12, 2022 @ 7:00pm**

---

Pursuant to Chapter 20 of the Acts of 2021, An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency and signed into law on June 16, 2021, this meeting will be conducted via remote participation. Interested individuals can listen in and participate by phone and/or online by following the link and phone number below.

Topic: THVolGovt Pro's Zoning Board of Appeals Zoom Meeting  
Time: Jan 12, 2022 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/87677299731?pwd=SjNjeE93ZC9HZU5TcWw4bkM3aTR0dz09>

**Meeting ID: 876 7729 9731**

**Passcode: 481485**

One tap mobile

+13017158592,,87677299731# US (Washington DC)

+13126266799,,87677299731# US (Chicago)

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 929 436 2866 US (New York)

Meeting ID: 876 7729 9731

Find your local number: <https://us02web.zoom.us/u/kyMKBFixu>

**7:00pm Special Permit Hearing – Patrick & Helen Wind, 37 Peninsula Road, for the conversion of a seasonal residence to year-round residence**

**New Business:** a) Review & Approve 2021 Annual Report

b) Annual State Ethics Receipt & Online Training

c) Approve Minutes

**Old Business:** a) Enforcement Options at Pine Hill Village

b) Trail Ridge Update

**NEXT SCHEDULED MEETING:  
FEBRUARY 9, 2022**

The listing of matters are those reasonably anticipated by the chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.



## ZONING BOARD OF APPEALS

The Zoning Board of Appeals (ZBA) is composed of three members serving staggered three-year terms, with up to three alternates that are appointed yearly by vote of the majority of the Select Board. The ZBA is a quasi-judicial body that operates under the authority of Chapter 40A of Massachusetts General Laws (M.G.L.) and the Code of the Town of Harvard, Chapter 125 Protective (Zoning) Bylaw for the purpose of promoting health, safety, convenience and general welfare of the Town of Harvard.

The ZBA has authority in the following matters:

It can issue Special Permits for various uses and purposes including, but not limited to, Pre-Existing Lots/Structures/Uses, Access for the Physically Handicapped, Conversion for Multiple Residence, Conversion of Seasonal Residence, Institutional Uses, Off Sites Uses, Accessory Dwelling Units, and Permitted Uses in the AR Districts.

It reviews and decides upon requests for variances submitted to the Board by applicants who want an exemption to the Protective (Zoning) Bylaw, Chapter 125, in order to use their land and any existing structures on the land in a particular way.

If anyone believes that they have been aggrieved by a decision of the Building Commissioner/Zoning Enforcement Officer they may appeal that decision to this Board for a hearing and adjudication of the dispute.

Anyone wishing to construct affordable housing in the Town must come before this Board and request a Comprehensive Permit as provided for under Chapter 40B of the M.G.L.

The year 2021 was a relatively quiet one for the Board, who only met six times over the course of the year on a handful of pre-existing non-conforming applications and one variance application for relief from the required setback for a structure from the centerline of the right-

of-way. With the Covid-19 virus still prevalent all of the ZBA meetings were held virtually utilizing Zoom and voice access in 2021.

Special Permits under Chapter 125-2(2) Non-conforming one- and two-family dwellings were approved for the following locations in 2021:

- 53 Turner Lane
- 108 West Bare Hill Road
- 10 Old Littleton Road
- 204 Bolton Road

The previously mentioned variance for 24 Mil Road was also approved by the ZBA in 2021.

Currently there are two active Comprehensive Permits (M.G.L. Chapter 40B) in Harvard; Pine Hill Village, a twenty-three unit development of single-family dwellings and townhouses on Stow Road and Craftsman Village Harvard with twenty detached cottages on Ayer Road. Both developments are under construction, with occupancy permits being issued in late December for the first set of units known as Pine Bank at the Pine Hill Village location. In December the ZBA issued an extension to the Comprehensive Permit for Pine Hill Village to December 31, 2022. Shortly thereafter the Building Commissioner issued a 3-day Stop Work Order due to non-compliance of the condition within the Comprehensive Permit pertaining to hours of construction.

In the spring of 2021 the development known as Trail Ridge, also permitted under a Comprehensive Permit, off of Littleton County Road, finalized the construction of fifty-two condominium units. Although all of the units have received Certificates of Occupancy the Board has found themselves in litigation with the holder of the Permit over the responsibilities of to complete infrastructure on the property.

At the request of the Select Board, the ZBA filing fees were revised, and now includes a per abutter fee for all applications to offset the cost

of mailing the required notices to each abutter within 300' of the property.

The Board provided its support to the Planning Board's amendment of 125-18.1 Accessory Apartment Use, which now allows for the development of senior friendly accessory apartment units by-right, increases the allowed size of a unit and brings the provision up to date with current zoning terms by renaming to the Accessory Dwelling Unit (ADU). The ADU's allowed by-right will be required to have age-appropriate design, as detailed within 125-57 of the Protective (Zoning) Bylaw.

The membership of the Board remained unchanged from the reorganization in 2020, with Christopher Tracey once again serving as the Chairman. Michael Lawton maintained his role as the Vice Chairman, while Theodore Maxant remained at member status. Associate members Orville Dodson and Steve Moeser continued to serve as well. Land Use Administrator Liz Allard continues to serve as the Clerk. Currently there is the available position of Associate member; anyone interested should contact the Land Use Administrator for more information.

The Board typically meets on the second Wednesday of the month. Anyone seeking to make an application to the ZBA or wanting to attend a meeting should check with the Land Use office to confirm the schedule. The Board typically sets aside the fourth Wednesday of the month to hear Comprehensive Permit applications.

The ZBA office is located on the first floor of Town Hall at 13 Ayer Road. We can be reached at 978-456-4100 ext. 321. You may also email us at [lallard@harvard-ma.gov](mailto:lallard@harvard-ma.gov)

Submitted:

Christopher Tracey, Chairman

Michael Lawton, Vice Chairman

Theodore Maxant, Member

Orville Dodson, Associate

Steven Moeser Associate

Liz Allard, Land Use Administrator/Conservation Agent

**HARVARD ZONING BOARD OF APPEALS  
MEETING MINUTES  
DECEMBER 8, 2021**

Vice Chair Michael Lawton called the meeting to order at 7:00pm, virtually pursuant to Chapter 20 of the Acts of 2021, An Act Relative to Extending Certain COVID-19 Measures adopted during the State of Emergency and signed into law on June 16, 2021, and under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125

**Members Present:** Chris Tracey (arrived at 7:14pm), Michael Lawton, Theodore Maxant (departed at 7:24pm), Steve Moeser, and Orville Dodson

**Others Present:** Liz Allard (Land Use Boards Administrator), Audrey Tracey, Dan Wolfe (Ross Associates), Peter Cricones (Pine Hill Village) and Carla Page (Pine Hill Village)

**Special Permit Hearing – Christopher & Audrey Tracey, 204 Bolton Road.** Opened at 7:05pm (for complete details see page 3)

Chris Tracey joined the meeting at this time.

**Pine Hill Village Compliance for Certificates of Occupancy – Pine Bank and Request to Extend the Comprehensive Permit**

Liz Allard stated most of the data requested has been submitted by the developer, Peter Cricones. The Conservation Commission reviewed the information provided to them last week and provide additional feedback to Mr. Cricones of items that need to be addressed, but should not hold up the issuance of occupancy permits. It was noted that the topography is from GIS and not surveyed. Ms. Allard reviewed the deficiencies between the existing site and the approved plan, which included:

- Detail provided by the contractor shows proposed repair to the pooling of water at entrance off Stow Road;
- Rain Gardens #22 and 23 have been installed at the entrance; material to construct needs to be verified;
- Bioretention cell only has one riser pipe; detail shows two; is one pipe sufficient needs to be verified;
- The rain gardens raisers have flat grates as opposed to rounded grates as shown on the approved detail; are the flat grates acceptable;
- The installation of the energy dissipation at the outlet at the constructed wetland should be verified with approved detail;
- Parabolic swale #8 in front of units 1A and B has had a fence installed; material to construct needs to be verified;
- Plantings around the constructed wetland are not consistent with the approved plan and some of the trees are dead; replacement plantings shall be in a random pattern;
- Additional planting required in front of Units 1A and B;
- Dewatering and silt removal methods for the constructed wetland will require approval from the Commission;
- Silt on the driveway for units 5 and 7 shall be removed before occupancy;
- A berm has been installed between the road way and the driveway to units 5 & 7 to eliminate stormwater from entering driveway;
- Erosion controls have been installed between Phase 1 and Phase 2 to reduce erosion into the constructed wetland; and
- An additional parking space has been installed at units 5 and 7; this pavement shall be removed and replaced with loam and seed as well as the planting as shown on the approved plan.

Steve Moeser asked about water pooling in the driveway for units 5 and 7. Mr. Cricones stated the existing low spots in the driveway will be leveled out with water shedding to the grassy area; once the final topcoat is installed on the driveway the standing water will not remain. Mr. Cricones also explained the rain gardens only required one riser; he will provide documentation from his consultant.

Mr. Tracey explained to Mr. Cricones that any future requests for certificates of occupancy will require all necessary components of the requested section of the development to be completed to the satisfaction of the authorizing board or commission.

Mr. Moeser questioned the placement of mechanical equipment outside the front doors of the affordable units. Mr. Cricones stated the equipment was located as shown on the plan, but was agreeable to providing screening. The grass pavers on the front walkways should be reviewed in the summer to determine if they are functioning properly. Mr. Cricones was reminded that changes to the approve plan requires approval from the ZBA before those changes can be implemented.

Mr. Moeser stated he will take issue with allowing for addition Certificates of Occupancy on the remaining units if there are complaints on the construction of the units within the Pine Bank neighborhood. Mr. Cricones stated he provides a one-year builders' warranty. Mr. Tracey asked that a copy of that warranty be submitted for the record. The street lighting was discussed and determined the height of the post is what had been previously approved. The bulbs however, will need to be replaced as they are the incorrect candle foot.

Orville Dodson made a motion to release the Certificates of Occupancy for the Pine Bank units at Pine Hill Village. Michael Lawton seconded the motion. The vote was unanimously in favor of the motion by a roll call vote, Michael Lawton, aye; Steve Moeser, aye; Orville Dodson, aye; and Chris Tracey, aye.

Michael Lawton made a motion to extend the Comprehensive Permit to December 31, 2022. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion by a roll call vote, Michael Lawton, aye; Steve Moeser, aye; Orville Dodson, aye; and Chris Tracey, aye.

#### **Approve Minutes**

Orville Dodson made a motion to approve the minutes of September 8, 2021. Michael Lawton seconded the motion. The vote was unanimously in favor of the motion by a roll call vote, Michael Lawton, aye; Steve Moeser, aye; Orville Dodson, aye; and Chris Tracey, aye.

#### **Trail Ridge Update**

Liz Allard stated she recently completed the Public Records request submitted on behalf of Ron Peabody. Otherwise there has been no new developments.

#### **Adjournment**

At 8:27pm Steve Moeser made a motion to adjourn the meeting. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion by a roll call vote, Michael Lawton, aye; Steve Moeser, aye; Orville Dodson, aye; and Chris Tracey, aye.

Signed: \_\_\_\_\_ Liz Allard, Clerk

**Harvard Zoning Board of Appeals**

**Special Permit Hearing Minutes**

**Christopher & Audrey Tracey, 204 Bolton Road**

**December 8, 2021**

The hearing was opened by Vice Chair Michael Lawton at 7:05pm virtually, pursuant to Chapter 20 of the Acts of 2021, An Act Relative to Extending Certain COVID-19 Measures adopted during the State of Emergency and signed into law on June 16, 2021, and under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125

**Members Present:** Theodore Maxant, Michael Lawton, Steve Moeser and Orville Dodson

**Others Present:** Liz Allard (Land Use Boards Administrator), Audrey Tracey and Dan Wolfe (Ross Associates)

This hearing is for a Special Permit filed on behalf of Christopher & Audrey Tracey for an addition and garage reconstruction to a pre-existing non-conforming structure at 204 Bolton Road, Harvard.

Dan Wolfe detailed the existing structures, built in approximately 1800's, and the offsets from the centerline of the right-of-way making them pre-existing non-conforming. The proposed plan details the removal of the existing garage, which is to be replaced with a slightly large structure and a connector between the existing barn and garage. Neither of these structures will increase the existing non-conformities. As always, Mr. Wolfe included a summary of the dimensional aspects including total footprint and floor area and the floor area ratio. The proposed plan is in harmony with the requirements of Chapter 125-46C(1)(a) and will not result in a substantial increase of rate or volume of stormwater runoff to abutting properties and streets, nor will it result in substantial of danger of pollution or contamination of groundwater supply, groundwater absorption area, wells, Bare Hill Pond or the W-district.

Theodore Maxant made a motion to close the evidentiary portion hearing. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion by roll call vote, Theodore Maxant, aye; Orville Dodson, aye; and Michael Lawton, aye.

Theodore Maxant made a motion to issue a Special Permit to Christopher & Audrey Tracey for an addition and garage reconstruction to a pre-existing non-conforming structure at 204 Bolton Road, Harvard. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion by roll call vote, Theodore Maxant, aye; Orville Dodson, aye; and Michael Lawton, aye.

Signed: \_\_\_\_\_ Liz Allard, Clerk

## DOCUMENTS & OTHER EXHIBITS

- Town of Harvard, Zoning Board of Appeals Agenda, dated December 8, 2021
- Site Plan in Harvard, Mass. Christopher & Audrey Tracey 204 Bolton Road, Assessor's Map 31 Parcel 9.1.1, Job No. 32982, Plan No. L-11895, prepared by David E. Ross Associates, Inc., 10/21/21
- Pine Hill Village Photos by Liz Allard 12.02.2021:
  - Drainage @ Roadway
  - Drainage @ Roadway Detail
  - Nyloplast in-line drain grate
  - Bioretention cell
  - Detail Raingarden Type A
  - Rain Garden Types
  - Constructed Wetland Outlet
  - Parabolic Swales
  - Parabolic Swale Detail
  - Silt in Driveway units 5 & 7
  - Berm @ units 5 & 7
  - Erosion control between phases
  - Guest parking @ Units 5& 7
  - Guest Parking @ Units 5& 7 detail
  - Plantings at Constructed Wetland
  - Planting detail
  - Plantings @ Unit 1