

Posted 4/11/2022 at 9:46am CB

**TOWN OF HARVARD  
ZONING BOARD OF APPEALS REVISED AGENDA  
WEDNESDAY APRIL 13, 2022 @ 7:00pm**

Pursuant to Chapter 22 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on February 15, 2022, 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.

Hildreth Pro is inviting you to a scheduled Zoom meeting.

**Join Zoom Meeting**

<https://us02web.zoom.us/j/85447816401?pwd=cjkrQ1hOQjJTTWl2dkliUHR1cFVUdz09>

**Meeting ID: 854 4781 6401**

**Passcode: 053771**

One tap mobile

+13017158592,,85447816401# US (Washington DC)

+13126266799,,85447816401# US (Chicago)

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

**Meeting ID: 854 4781 6401**

Find your local number: <https://us02web.zoom.us/j/85447816401?pwd=cjkrQ1hOQjJTTWl2dkliUHR1cFVUdz09>

**7:00pm Special Permit Hearing – Robert Brown & Kathleen Restic, 198 Prospect Hill Road, for an addition to a pre-existing non-conforming structure**

**7:15pm Special Permit Hearing – William Ference, 247 Littleton County Road, for an over-sized non-conforming structure, a reduced setback to the centerline of the way, and a non-conforming use as an event location for weddings, conferences, retreats, and lodging and hostel, with some uses including catering**

**New Business:** a) Craftsman Village Harvard – Release of Certificates of Occupancy Units#1- 10  
b) Interview of Potential Volunteer – Barbara Romero  
c) Annual Appointments – Theodore Maxant, Orville Dodson and Steve Moeser  
d) Approve Minutes

**Old Business:** None

**NEXT SCHEDULED MEETING:  
MAY 11, 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.



**Town of Harvard**

13 Ayer Road

Phone: (978) 456-4100

**Volunteer Form**

*Good Government Starts with You*

**Date Submitted:** January 27, 2022

---

**Name:** Barbara L Romero

---

**Home Address:** [REDACTED]  
HARVARD, MA 01451

---

**Mailing Address:** [REDACTED]  
HARVARD

---

**Phone Number(s):** [REDACTED]

---

**Email Address:** [REDACTED]

---

**Current Occupation/Employer:** Realtor, Compass

**Have you previously been a member of a Board, Committee or Commission (either in the Town of Harvard or elsewhere)?**No

*If yes, please list the Board name and your approximate dates of service:*

I've been on community boards, but not town boards. (Co-Chair of the Harvard Family Association 2016-2018), Infancy To Independence Board #2 person (forget title) (2019-2020), Cleanup

**Are you a registered voter?** Yes

**Do you, your spouse, or your employer have any current or potential business relationship with the Town of Harvard that could create a conflict of interest?**No

*If YES, please describe the possible conflict:*

**Narrative:** Most of the Zoning education would be useful to my career, so I can make time it through my work week. I could devote 2 hours a week for a while. I have been in real estate for 10 years and exposed to small town zoning issues throughout. I am a broker, so have training that far exceeds the standard realtor's licensure training. I have seen this board through two interesting cases (cell tower and 37 Peninsula as an abutter and buyer's agent). I like the board's culture and thoughtfulness and look forward to the opportunity to learn more from them.

**Board(s) / Committee(s):** ZONING BOARD OF APPEALS

Christopher Tracey, Chair  
**Harvard Zoning Board of Appeals**  
13 Ayer Road  
Harvard, Massachusetts 01451

February 16, 2022

**RE: Craftsman Village Harvard**  
**Ayer Road, Harvard**  
**Interim As-Built Review**  
*Building Units #1 through #10*

Dear Mr. Tracey,

On behalf of our client, Craftsman Village Harvard, Hannigan Engineering, Inc. is submitting this interim As-built review for a portion of the Craftsman Village project off of Ayer Road in Harvard, Massachusetts. The project was approved by the Harvard Zoning Board of Appeals (ZBA) in December of 2019 for the construction twenty two-bedroom condominium units, along with applicable access and utility improvements. At this time the project proponent has completed the initial phase of construction consisting of ten of the dwelling units. Included with this letter is the interim As-built plan with the site features constructed at this time. The purpose of this letter is to provide the Board a review of the building and construction completed thus far for the issuance of the Certificate of Occupancy for Units #1 through #10.

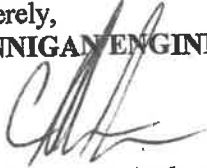
At this time, the primary driveway for the site from Ayer Road to the approved cul-de-sac has been constructed to a binder-coarse layer of pavement to provide access to the dwelling units. Additionally, the first of two secondary driveways have been constructed to provide access to the dwelling units. Based on this office's review, it appears that the roadway and driveways to Units #1 through #10 have been constructed in compliance with the approved plans with the noted exception of the final top course of pavement. This final paving will be installed as part final phase of construction. In addition, the dwelling units have been constructed in compliance with the approved plan relative to placement and accessibility from Ayer Road.

In addition to the access improvements, much of the proposed utility services have been constructed. Currently the work performed includes in the installation of the subsurface sewage disposal system, including, septic tanks and pump systems to service the first ten dwelling units. Additionally, the proposed public water supply wells have been constructed along with applicable pumping and storage systems, and distribution mains throughout the site. The service connections have been made for the existing units with the additional units to be connected as construction proceeds. The domestic water and sewage systems have been constructed in compliance with the approved plan.

Relative to surface drainage system, at this time portions of surface drainage system have been completed including catch basins, piping and water quality units. The remaining portion of the drainage system will be constructed as part of the next phase of construction as most of those features are associated with the rear dwelling units which are to be constructed. As this site is currently under construction and due to the weather conditions, the final grading and stabilization of site has not been completed including the installation of the rain garden and detention basin. As weather conditions improve, these features will be constructed and completed as part of subsequent construction phases. Formal review of compliance for drainage system will be made as these features are constructed.

Hannigan Engineering, Inc. is providing this information to assist the Board, and the Town Departments, in their review of the Certificate of Occupancy for Units #1 through #10. Please find copies of the As-Built Site Plan. We look forward to working with you on this project and would be available to meet and review aspects of the project should questions arise.

Sincerely,  
**HANNIGAN ENGINEERING, INC**



Christopher M. Anderson, PE  
Project Engineer



William D. Hannigan, PE  
President

pc: Sotir Papalilo  
Mark O'Hagan

J:\My Documents\PROJECTS\2900+2992-Springwood-Harvard\ZBA\2992-Certificate of Occupancy units 1-10.docx

**PROJECT INFORMATION**

LAND INFORMATION  
 DATE: 5/7/87  
 1377 FARM ROAD  
 01545 HARVARD, MA  
 320000  
 330000  
 340000  
 350000  
 360000  
 370000  
 380000  
 390000  
 400000  
 410000  
 420000  
 430000  
 440000  
 450000  
 460000  
 470000  
 480000  
 490000  
 500000  
 510000  
 520000  
 530000  
 540000  
 550000  
 560000  
 570000  
 580000  
 590000  
 600000  
 610000  
 620000  
 630000  
 640000  
 650000  
 660000  
 670000  
 680000  
 690000  
 700000  
 710000  
 720000  
 730000  
 740000  
 750000  
 760000  
 770000  
 780000  
 790000  
 800000  
 810000  
 820000  
 830000  
 840000  
 850000  
 860000  
 870000  
 880000  
 890000  
 900000  
 910000  
 920000  
 930000  
 940000  
 950000  
 960000  
 970000  
 980000  
 990000  
 1000000

OWNER:  
 CHAMBERLAIN HOLDINGS, INC.  
 1000 WASHINGTON STREET  
 SUITE 200  
 BOSTON, MASSACHUSETTS 02108

DESIGNER:  
 HANNIGAN ENGINEERING, INC.  
 1000 WASHINGTON STREET  
 SUITE 200  
 BOSTON, MASSACHUSETTS 02108

DATE:  
 5/7/87

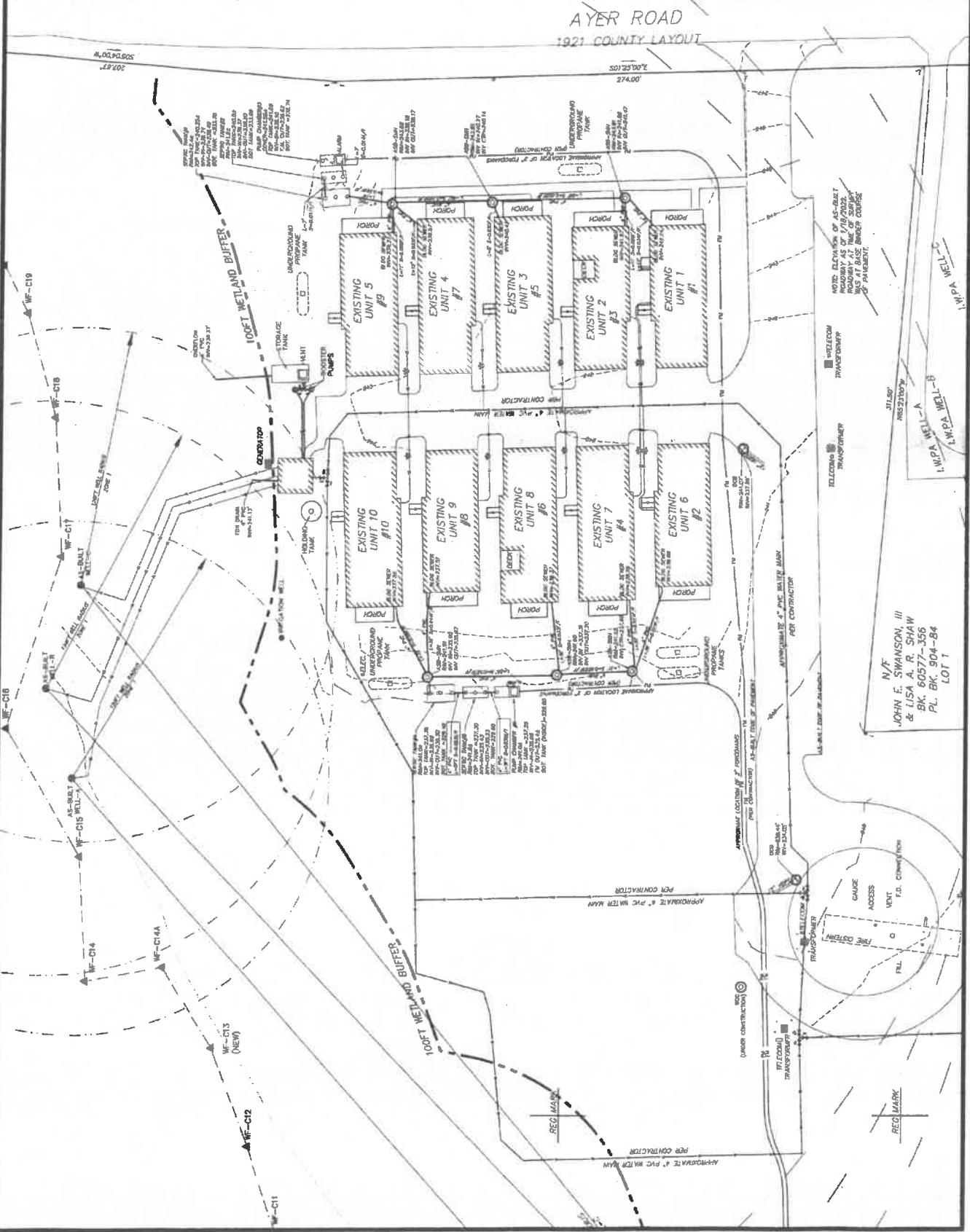
PROJECT:  
 INTERIM AS-BUILT PLAN  
 HARVARD, MASSACHUSETTS

PREPARED FOR:  
 WESTON DEVELOPMENT GROUP, INC.  
 P.O. BOX 200  
 SHREWSBURY, MASSACHUSETTS 01545  
 TEL. NO.

SCALE: 1"=20'

DATE: 5/7/87  
 SCALE: 1"=20'  
 DRAWN: CHA  
 CHECKED: MWH  
 APP'D: MWH  
 DATE: 5/7/87  
 PROJ. NO. 74-138  
 JOB NO. 2892

SHEET 1 OF 2  
 PLAN NO. 18-19



N/E  
 JOHN E. SWANSON, III  
 & LISA A. R. SHAW  
 BK. 60577-356  
 PL. BK. 904-84  
 LOT 1



April 6, 2022  
5779

Harvard Zoning Board of Appeals  
c/o Christopher Tracey, Chair  
13 Ayer Road  
Harvard, MA 01451

RECEIVED  
APR 06 2022

VIA EMAIL

**RE: Interim As-Built Review  
“Craftsman Village Harvard”  
Building Units #1 through #10  
361 Ayer Road, Harvard MA**

Dear Members of the Board:

Dillis & Roy Civil Design Group, Inc. (DR) has received the Interim As-built plans and supporting letter for. We have reviewed the plans and supporting documents for accuracy with respect to visible site features.

The following documents were received by CDG:

1. Interim As-Built Plan in Harvard, Massachusetts, dated February 16, 2022.
2. Interim As-Built Letter, dated February 6, 2022.

DR conducted a site visit on April 4, 2022. At the time of the site visit there were no site work operations in process, however various trades were working within units 1 through 10. With the exception of side door steps exiting units 3, 4, 7, 8, and 10 the plans by Hannigan accurately represent the Interim As-Built Condition for the project site.

Additionally, the representations in the accompanying letter also appear accurate. Binder course pavement has been installed from Old Ayer Road to the cul-de-sac and along the drive between the constructed units. Existing utilities visible from surface observations appear in compliance with the design plans and the information depicted on the Interim As-Built plans.

Final grading and stabilization of the site has not yet occurred, due to construction activities and weather conditions per the letter provided by Hannigan Engineering. No review of the drainage system was conducted as part of this site walk, other than to observe that the surface features represented on the interim as-built appear accurate. Our review also does not make any assertions relative to the septic system as this will be reviewed by the Board of Health agent.

Based on our review, it is our opinion that the work depicted on the interim as-built plan has been constructed in general conformance with the approved plans for the project. We trust this meets your needs at this time. If you have any questions or require any additional information, please do not hesitate to contact me.

Regards,

**DILLIS & ROY**  
CIVIL DESIGN GROUP, INC.



Gregory S. Roy, P.E.  
Vice President



Francis McPartlan, PE (MA)  
Senior Civil Engineer





Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Central Regional Office • 8 New Bond Street, Worcester MA 01606 • 508-792-7650

Charles D. Baker  
Governor

Karyn E. Polito  
Lieutenant Governor

Kathleen A. Theoharides  
Secretary

Martin Suuberg  
Commissioner

April 5, 2022

Craftsman Village Harvard LLC  
Attn: Sotir Papilo and Mark O'Hagan  
5 Coachman Ridge Road  
Shrewsbury, MA 01545

Re: Town: Harvard  
PWS Name: Craftsman Village  
PWS ID #: 2125026  
Program: System Modification WS15  
MassDEP Transmittals: X286150  
Action: **Activation Approval**

VIA ELECTRONIC MAIL ONLY  
[sotir@westondevgroup.com](mailto:sotir@westondevgroup.com)

Dear Public Water Supplier:

Massachusetts Department of Environmental Protection (MassDEP) personnel conducted a final inspection on January 24, 2022, of the Public Water System (PWS) wells and water system to serve the new Craftsman Village facility in Harvard, MA. MassDEP approved the WS15 application on July 6, 2020.

The system is served by three bedrock wells, Well 1 (2125026-01G), Well 2 (2125026-02G) and Well 3 (2125026-03G). Raw water from each well is directed to the water treatment building where water is treated for arsenic, iron, manganese, and gross alpha radionuclide removal. The treatment system consists of a backwashing sediment filter with 3 cubic feet of Macrolite ceramic media to remove particulate iron and manganese; a backwashing cationic exchange water softener vessel with 4 cubic feet of Purolite C100E cation exchange resin to remove dissolved iron and manganese; a backwashing anion exchange vessel (AIX) with 5 cubic feet of Resin Tech SBG2 anion resin for arsenic and gross alpha removal; and a non-backwashing Metsorb vessel for final arsenic removal through adsorption. Backwash waste from the sediment filter and the water softener is directed to a Class V drywell registered with MassDEP's Underground Injection Control Program. The discharge line is protected by an airgap. Backwash water from the AIX vessel with gross alpha and arsenic waste discharges to an on-site 2,500-gallon holding tank which will be pumped by a licensed waste hauler and taken to a certified disposal facility for treatment. Finished water is directed to a 9,000 gallon concrete underground atmospheric storage tank. Two wet well booster pumps will draw the treated water from the storage tank and pump it to the distribution system.

MassDEP received an engineering certification for the construction of the three wells, the treatment system, the storage tank, the constant pressure pumping system and the distribution

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.  
TTY# MassRelay Service 1-800-439-2370  
MassDEP Website: [www.mass.gov/dep](http://www.mass.gov/dep)

Printed on Recycled Paper

system from Donald Provencher, PE# 38272, dated February 14, 2022. The certified water operator is Edward Vieweg (License # 1782 Grade C4). Water quality samples for arsenic, iron, manganese and gross alpha were collected from the combined raw and finished water on January 21. The arsenic, manganese and gross alpha results were below their respective limits in the finished water. The total iron concentration in the finished water (0.223 mg/L) was higher than the total iron concentration in the raw water (0.158 mg/L). Repeat iron samples collected on March 18 from the combined raw water had a concentration of 0.229 mg/L and from the finished water had a total iron concentration of 0.022 mg/L. Total coliform samples were collected from each well's raw water, and the finished water tap on January 21. Coliform was present in the finished water sample and E-coli was absent. Two more coliform samples were collected on March 18 from the finished water tap and the routine site in the distribution system and both were absent. A cross connection survey was completed on March 11 and March 28, 2022, of the treatment building and 7 Baldwin Court and identified no testable devices. Irrigation and fire demand will be supplied from non-potable wells on site.

**MassDEP hereby grants approval to activate the Public Water System.** The Public Water System (PWS) is classified as a Community PWS with a 1-T Treatment System and a VSS Distribution System. Pursuant to MassDEP's authority under 310 CMR 22.04(7) to require that each supplier of water operate and maintain its system in a manner that ensures the delivery of safe drinking water to consumers, this approval is made subject to the conditions set forth below:

1. Approved Withdrawal Volume – The approved maximum daily withdrawal volume from each well and the assigned Zone I and Interim Wellhead Protection Areas are listed in the table below. The total combined withdrawal from the wells shall not exceed 4,400 gpd.

Source Name	Source Code ID	Approved Rate	Zone I	IWPA
Well 1	2125026-01G	1,359 gpd	120 feet	431 feet
Well 2	2125026-02G	1,682 gpd	134 feet	438 feet
Well 3	2125026-03G	1,359 gpd	120 feet	431 feet

2. Pump House Ventilation – By April 15, 2022, install an intake louvre and exhaust fan in the pump house to facilitate proper ventilation and air flow. Submit photo documentation of the work completed to MassDEP.
3. Flood Plain Survey – By June 1, 2022, survey the land around Well 1 and Well 2 to ensure that the casings extend at least 2 feet above the 100-year flood elevations.
4. Storage Tank Overflow – By June 1, 2022, finish grading around the storage tank and ensure the overflow pipe terminates at least 12 inches above the ground surface. Submit photo documentation of the work completed to MassDEP.
5. April Routine Total Coliform Sampling – The Supplier of Water shall collect a full round of samples to be analyzed for total coliform bacteria in accordance with the temporary total coliform sampling plan submitted on March 24, 2022. The full round shall consist of raw water samples from Wells 1, 2 and 3, a finished water sample from the entry point tap after treatment, and a finished water sample from the routine sampling site at 5 Baldwin Court.

6. Individual Cross Connection Surveys – The Supplier of Water shall conduct a Cross Connection Survey of each building prior to occupancy. The serial number, model number, address, and location of each backflow prevention device shall be recorded in an on-site list in order to maintain records for future testing and reporting on the Annual Statistical Report
7. Water Treatment Facility Rating – In accordance with 310 CMR 22.11B, the proposed design of the Water Treatment Facility is classified as a Class I-T treatment system. The Supplier of Water shall ensure that this Water Treatment Facility is operated by an operator with a grade I-T license or higher. The Supplier of Water is hereby advised that any future treatment changes may change the classification of the treatment plant and operator staffing requirements.
8. Reserve/Emergency Escrow Funds – Upon ownership transfer to the Homeowners Association, all funds shall remain in escrow and a new escrow agreement shall be executed with MassDEP.
9. Transfer of Ownership – In accordance with 310 CMR 22.24(4), the Supplier of Water shall notify MassDEP in writing at least 30 days prior to the transfer of the property or change of system ownership.

If you have any questions regarding the source approval, please contact Tim O’Keefe of the Drinking Water Program at 781-686-6867 or by email at [Timothy.OKeefe@mass.gov](mailto:Timothy.OKeefe@mass.gov). If you have any questions regarding the water treatment approvals, please contact Margo Webber of the Drinking Water Program at [Margaret.Webber@mass.gov](mailto:Margaret.Webber@mass.gov) or at 508-767-2738.

Sincerely,

*Robert A. Bostwick*

Robert A. Bostwick  
Section Chief  
Drinking Water Program

ecc: Drinking Water Program, Files, MassDEP – Boston, CERO  
Paula Caron, Andrea Lemerise, DWP, MassDEP – CERO  
Mark O’Hagan, Craftsman Village Harvard LLC – [mark@westondevgroup.com](mailto:mark@westondevgroup.com)  
Don Provencher, Provencher Engineering, LLC [don@provencher.com](mailto:don@provencher.com)  
Ira Grossman, Nashoba Associated Boards of Health [igrossman@nashoba.org](mailto:igrossman@nashoba.org)  
Edward Vieweg, Small Water System Services, [ed@swss.biz](mailto:ed@swss.biz)  
Kim Packard, Small Water System Services, [Kim@swss.biz](mailto:Kim@swss.biz)  
Angela Jaffarian, Small Water System Services, [Angela@swss.biz](mailto:Angela@swss.biz)



**Craftsman Village Harvard**  
**Erosion Control Report**

RECEIVED  
JAN 13 2022

1/4/22

All the erosion control is in, has been inspected and is in proper working order. Also, now that the binder is installed the drainage system is in full working order. We have installed silt sacks on all the catch basin covers and the water quality unit is installed and working properly.

The erosion control is and has been inspected weekly throughout the year as well as after every weather event. There have been no breaches or disruptions of the erosion control to date.

Scott Murray

Murray Excavating LLC



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

**HARVARD ZONING BOARD OF APPEALS  
MEETING MINUTES  
JANUARY 26, 2022**

Chair Christopher Tracey called the meeting to order at 7:01pm, 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, Michael Lawton and Steve Moeser

**Others Present:** Liz Allard (Land Use Boards Administrator), Dan Wolfe (Ross Associates), Barbara Romero, Patrick Wind, Kathy Farrell and Mark O'Hagan (Craftsman Village Harvard)

**Continuation of a Special Permit Hearing – Patrick & Helen Wind, 37 Peninsula Road.** Opened at 7:02pm (for complete details see page 2)

**Approve Minutes**

Steve Moeser made a motion to approve the minutes of January 12, 2022 as drafted. 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; and Chris Tracey, aye.

**Craftsman Village Harvard – Request for De Minimus Change to Approved Site Plan to Relocate Mailboxes**

After a brief discussion Steve Moeser made a motion to approve the revised location of the mailboxes at Craftsman Village Harvard, as shown on the plan attached to the letter dated January 24, 2022. 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 and Chris Tracey, aye.

**Adjournment**

At 8:09pm Steve Moeser made a motion to adjourn the meeting. 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 and Chris Tracey, aye.

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

**DOCUMENTS & OTHER EXHIBITS**

- Town of Harvard, Zoning Board of Appeals Agenda, dated January 26, 2022

52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103

**Harvard Zoning Board of Appeals**

**Continuation of a Special Permit Hearing Minutes**

**Patrick & Helen Wind, 37 Peninsula Road**

**January 26, 2022**

The hearing was opened by Chair Christopher Tracey at 7:02pm 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:** Christopher Tracey, Michael Lawton and Steve Moeser

**Others Present:** Liz Allard (Land Use Boards Administrator), Dan Wolfe (Ross Associates), Kathy Farrell, Patrick Wind and Barbara Romero

This hearing was continued from January 12, 2022 for a Special Permit filed on behalf of Patrick & Helen Wind for the conversion of a seasonal residence to year-round residence at 37 Peninsula Road, Harvard.

Dan Wolfe, of Ross Associates, explained the outcome of the Board of Health (BOH) meeting held on Monday evening. The BOH took the stance that if this home were to be convert to year-round residence it would have a negative impact on the environment, specifically Bare Hill Pond. Mr. Wolfe does not know how that relates to the tight tank at this location, as it does not have a leaching component to it. Mr. Wolfe is also unsure how adding one year-round residents would make an impact on the environment. Mr. Wolfe detailed the previous agreements the Winds have with both the Zoning Board of Appeals (ZBA) and the Conservation Commission (ConCom), of no lawn increased areas and all other open space areas to be left to revegetate natural; the property has been well cared for in this regard. Additionally, the decisions made by the ZBA and ConCom include conditions to maintain stormwater runoff; which includes a more recent driveway modified that has had approval from ConCom; the driveway is of cobblestone making it more pervious than pavement.

BOH denied the request for what they called a "Change in Use" from seasonal to year-round use. Mr. Wolfe stated they are at an impasse with BOH, but have decided to continuing with the ZBA as he feels the requirements are being met. Chapter 2 of the State Sanitary Code does not apply here, as this is a new home that was built to Mass Building Code. The existing sewage disposal system is compliant with Title V as a tight tank, which is the option of last resort when a conventional system cannot be sited; the site had been perked with failing perk rates. The Winds have been good stewards of the land starting in 2013 with the permits issued by both ZBA and ConCom to reconstruct the dilapidating house. ConCom has issued the Certificate of Compliance. With permission of the ConCom they created a terrace on the pond side of the house, which in terms of stormwater runoff is an improvement, as it slows stormwater. BOH previously approved the conversion of the rooms in the basement as it did not violate the recorded deed restriction. This property has been through the Boards numerous times. Mr. Wolfe has reviewed the properties along Peninsula Road that have converted from seasonal to year-round and concluded five of the six properties are on tight tanks and have been successful in this process.

Chris Tracey is a bit confused as to why the BOH is acting they way that it is and would like to take the time to go through some of those points. Since a unanimous vote is necessary for approval from the ZBA, Mr. Tracey may ask for a straw vote of the members, allowing for the applicant to be able to withdraw the application.



104 Steve Moeser stated the visit to the site and information provided by Mr. Wolfe has him satisfied in  
105 regards to stormwater; as one of the conditions of the special permit there is no issue with it on the site.  
106 Mr. Moeser has spent a considerable amount of time on this application and was unable to find a  
107 definition for a "change in use" from the Department of Environmental Protection (DEP), although it is  
108 mentioned throughout Title V (310 CMR 15.00). In his business the change of use within building codes  
109 and zoning codes is considered a change from residential to commercial or industrial, where as here the  
110 use is remaining residential. Changing from seasonal to year-round does not change the flow into that  
111 tight tank and not the required pumping, other than perhaps the frequency. In his summation, the use is  
112 a residential one, which is the same whether seasonal or year-round. The only change is the frequency in  
113 which a tight tank would need pumping. Within the Protective (zoning) Bylaw §125-11A(1) states  
114 minimum standards of Title 5, which were met and approved years ago; he sees nothing that negates  
115 that; no additional conditions attached to the use of the tight tank in the recent BOH letter. The site,  
116 stormwater, runoff and the sewage has already been approved through past processes. Mr. Moeser does  
117 not have any questions or any answers that he is looking for as far as §125-11 is considered in his ability  
118 to make a decision; he has no issues with §125-46 either. Mr. Moeser stated every application should  
119 stand on its own, but this application is very similar to what has been presented and approved in the past.  
120 Mr. Moeser will go into detail when a vote is taken on how §§125-11 and 125-46 are applicable to this  
121 application. Mr. Moeser does not want to comment on BOH letter, although he did not understand the  
122 permit statement in that letter, as there is no required permit from the BOH.

123  
124 Mr. Wolfe explained as a result of reviewing the ZBA application the BOH requested a list of items –  
125 recorded deed restriction, pumping letter, renewed pumping contract, floor plans, water test, and to  
126 submit an application and filing fee for what they were calling a change in use. BOH are viewing the words  
127 within Title V to imply the use is changing from seasonal to year-round. However, there has been no  
128 change in the design aspects of the tight tank. As previously stated the BOH denied the application. Mr.  
129 Wolfe never recalls having to put in a new application for the other properties along Peninsula Road to  
130 convert from seasonal to year-round residence.

131  
132 Mr. Tracey agreed with everything Mr. Moeser stated. Mr. Tracey stated it is always challenging for the  
133 ZBA to get input from other Boards and Commissions. In this case, something does not sit right, and often  
134 the ZBA does not take the advice of the BOH. Mr. Tracey is not inclined to deny this application based on  
135 the BOH input. Mr. Tracey too went through the references provided by BOH, which does not indicate the  
136 use as seasonal only. The language under 310 CMR 15.260 does not state tight tanks can't be used for  
137 year-round use. Mr. Tracey did see language stating a tight tank shall provide year-round access for  
138 pumping; as well BOH can require pumping monthly. Mr. Tracey asked Mr. Wolfe why the septic system  
139 was designed for 3100 gallons, but proposed 4000-gallon tank. Mr. Wolfe stated a smaller the tank would  
140 require more pumping. Mr. Tracey then asked, why not make it bigger? Mr. Wolfe stated septic tank  
141 trucks are 4000 gallons, which would cause an inconvenience for pumping purposes. Mr. Tracey asked if  
142 there is a difference in the design when designing for a seasonal residence? Mr. Wolfe stated everything  
143 is designed as year-round use. Mr. Tracey detailed §125-11 and concluded a tight tank of 4000 gallons  
144 meets §125-11A(2). Mr. Tracey does not want to be at odds with BOH, however there was a lot of "noise"  
145 out there about the staging of the property which appeared to indicate 4 bedrooms; may have put some  
146 concerns in BOH minds, but if that is the case that is between the BOH & the Winds and has nothing to do  
147 with the ZBA and what ZBA is permitting; he does not care as it is deed restricted as a two-bedroom  
148 home. Mr. Tracey detailed the six houses along the peninsula in which five have tight tank and four of  
149 those five have been approved for year use. Mr. Wolfe has been involved with all of them and BOH has  
150 never asked him to come back with another application. Mr. Wolfe did note that the conversion to year-  
151 round on the other four were done at the same time as the Special Permit to re-construct those  
152 residences. One house remaining at 34 Peninsula Road that has not converted and is on a conventional  
153 septic system, Mr. Wolfe is unfamiliar with the details of that location. In the end, Mr. Tracey would be in  
154 favor of supporting this application.  
155

156 Michael Lawton stated the obvious thing here under the terms of the application before the ZBA would  
157 not be anything concerning and it would be a simple approve, but the BOH letter does not approve the  
158 conversion, so how does ZBA approve. Mr. Tracey feels the issue is between the BOH and the applicant if  
159 there is something to resolve and he does not think that issue is before the ZBA. The basis for the BOH  
160 denial is unclear to Mr. Tracey and Mr. Moeser. Mr. Lawton agreed it does not make sense and the letter  
161 from the BOH seems to be inconsistent, but the letter still exists. Mr. Lawton stated even considering this  
162 application on its merits and not on the BOH letter he is still unsure how to respond. Mr. Moeser  
163 explained how the ZBA solicits advice from others as required by Mass General Law, and simply that is  
164 what the ZBA received from BOH. Mr. Lawton sees it more than advice from BOH; it's a denial and should  
165 it matter to the ZBA. Mr. Moeser suggested the application meets all of the requirements under §§125-  
166 11 & 46, as defined. Mr. Tracey noted 310 CMR 15.002 does not include a definition for "change in use"  
167 or "use". In addition, the Town of Harvard also has no "change in use" definition, nor "use" definition.  
168 Mr. Tracey stated if the residences of Harvard did not want to see conversions from season to year-round  
169 residence then there would not be a bylaw allowing for it, but we do, therefore the ZBA has the ability to  
170 so.

171  
172 There were no comments from the public. Mr. Tracey confirmed the members were in favor of approving  
173 this application. When asked Mr. Wolfe did not want to withdraw the application.  
174

175 Steve Moeser made a motion to close the evidentiary portion of the hearing. Michael Lawton seconded  
176 the motion. The vote was unanimously in favor of the motion by a roll call vote, Michael Lawton, aye;  
177 Steve Moeser, aye and Chris Tracey, aye.  
178

179 Mr. Moeser detailed the requirements under §125-46C(1)(a):

180 (a) The tight tank, nor stormwater on the site will not result in substantial increase of volume or rate  
181 of surface water runoff to neighboring properties and streets, and will not result in substantial  
182 danger of pollution or contamination of the groundwater supply, a groundwater absorption area,  
183 a well, pond, stream, watercourse, W District, or inland wetland. Any and all surface water runoff  
184 resulting from development shall be retained within the lot in which it originates or shall be  
185 discharged into existing identifiable watercourses without material impact on abutting  
186 properties. Existing landscaping and rain garden on the site assists in complying with these  
187 requirements.

188 Mr. Moeser stated the above is the same finding for the Special Permit in 2013. As for 125-11A(2), the  
189 tight tank was already approved by the BOH.  
190

191 Steve Moeser made a motion to approve the application for a special permit for the year-round use at 37  
192 Peninsula Road. Michael Lawton seconded the motion. The vote was unanimously in favor of the motion  
193 by roll call vote, Michael Lawton, aye; Steve Moeser, aye; and Chris Tracey, aye.  
194

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