

**TOWN OF HARVARD  
ZONING BOARD OF APPEALS AGENDA  
WEDNESDAY DECEMBER 28, 2022 @ 7:00pm**

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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 July 14, 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.

THVolGovt Pro is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://us02web.zoom.us/j/82260481323?pwd=K091OTI2REVVdndqd2p3a1RHNFivQT09>

Meeting ID: 822 6048 1323

Passcode: 402064

One tap mobile

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Dial by your location

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Meeting ID: 822 6048 1323

Find your local number: <https://us02web.zoom.us/u/kblE3rHY5Y>

- New Business:** a) Request to Extend the Pine Hill Village Comprehensive Permit – Pine Hill Way (f/k/a Map 36 Parcels 85 & 86.1 Stow Road)  
b) Pine Hill Village Response to the Conservation Agent’s November 10, 2022 Letter  
c) Approve Minutes

**NEXT SCHEDULED MEETING:  
JANUARY 11, 2023**

**AS**

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.

Pine Hill Village LLC  
PO Box 468  
Tyngsboro, MA 01879  
978-509-3235  
easthomestrust@yahoo.com

To: Town of Harvard Zoning Board of Appeals  
13 Ayer Road  
Harvard, MA 01451

RECEIVED  
DEC 12 2022

Via Email: [lallard@harvard.ma.us](mailto:lallard@harvard.ma.us)

Re: Request to Extend the Comprehensive Permit for Pine Hill Village

December 7, 2022

Dear Members of the Board:

Please accept this as our formal request for an extension to the date to complete construction as stated under conditions 3.34 and 3.35 of the Comprehensive Permit, dated October 29, 2008 for the affordable housing project known as "Pine Hill Village", Stow Road, Harvard (Map 36 Parcels 85 & 86.1).

The current date of completion for this Comprehensive Permit is December 31, 2022 and we are hereby requesting that the Comprehensive Permit be extended to December 31, 2023.

Thank you,

*Peter Tricones, Manager*

OFFICE OF THE  
**CONSERVATION COMMISSION**

13 AYER ROAD HARVARD, MA 01451

978-456-4100 EXT.321

www.harvard-ma.gov



**DATE:** November 10, 2022

**TO:** Conservation Commission & Zoning Board of Appeals

**FROM:** Land Use Administrator/Conservation Agent

**RE:** Pine Hill Village Status Report Update

On December 28, 2021 the Harvard Conservation Commission issued a letter to the developer of Pine Hill Village, Peter Cricones, detailing the outstanding items that currently needed to be addressed. On February 4, 2022 the Land Use Administrator/Conservation Agent for the Town of Harvard received responses to the Commission's request. Both the Commission's requests and Mr. Cricones responses are stated below, along with a status update from the Land Use Administrator/Conservation Agent.

**November 10, 2022 UPDATE:** As of this date responses received from Mr. Cricones, along with a status update from the Land Use Administrator/Conservation Agent, from a site inspection with Steve Ventresca, of Nitsch Engineering, and Don Ritchie, chair of the Conservation Commission, are stated below.

**Conservation Request:** Repair the drainage swale at the entrance off of Stow Road as shown in the detail provided by Markey & Rubin, Inc., dated December 1, 2021.

**Answer:** We are in the process of repairing it.

**Conservation Update:** The repair has not been completed. Haybales used to reduce silt from entering the drainage channel cause water to back-up within the swale leading to the channel.

**Updated Answer 10/20/2022:** The swale has been updated (regraded and stone lined) as per plan from Ian Rubin.

**Conservation Update 11/10/2022:** Work completed as requested



**Conservation Request:** Verify material to construct Rain Gardens #22 and 23

**Answer:** Bioretention soil mix was used. Please see attached for the receipts for the material that was used.

**Conservation Update:** The material used to construct the rain gardens includes more than a bioretention seed mix. The Commission is seeking core samples be taken and witnessed by the Commission or the Nitsch Engineering to verify installation was done according to the approved plan.

**Updated Response 10/20/2022:** The rain gardens were constructed per plan.

**Conservation Update 11/10/2022:** Verification of materials used to construct the rain gardens was completed by Steve Ventresca, of Nitsch Engineering

**Conservation Request:** Bioretention cell only has one riser pipe; detail shows two; verify one pipe is sufficient.

**Answer:** Dan Boudreau is working on a letter to verify that one pipe is sufficient.

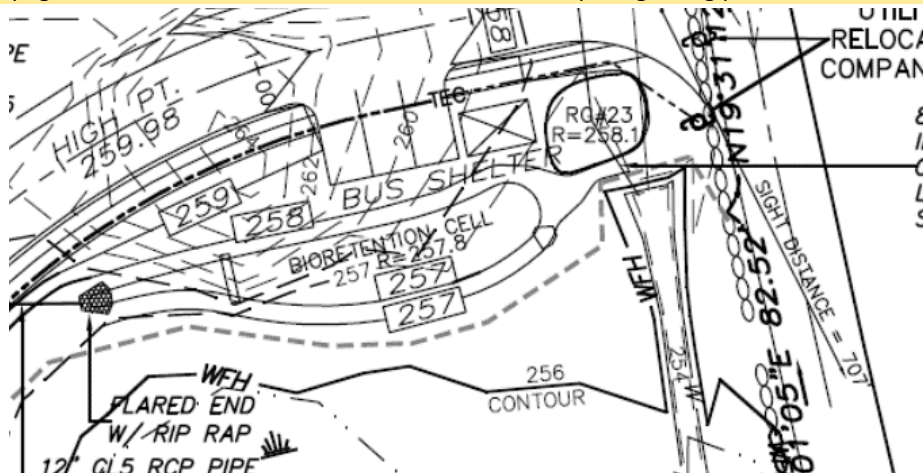
**Conservation Update:** Verification has not occurred

**Updated Answer 10/0/2022:** See attached letter from Dan Boudreau dated May 25, 2022 for the verification

**Conservation Update 11/10/2022:** The stormwater model used to design the bioretention cell should be run again with only one riser pipe in order to provide clear evidence that one riser pipe is sufficient. This information shall be provided to Nitsch Engineering for review. In addition, the elevation of the forebay shall be compared to that of the rain garden as they appear to be of different elevations. The Notice of Intent Landscape Fencing and Planting Plan shows an elevation of 257 for the bottom of the forebay and rain garden and a rim of 257.8

**Updated Answer 12/15/2022:** Dan Boudreau is working on the one riser pipe issue in the bioretention area. The outflow pipe elevation per plan is 257 and the elevation per plan of the base of the bioretention area is 257.0.

Please refer to page 3 of the Notice of Intent Plans which is the site plan/grading plan which shows the following:



**Conservation Request:** The rain gardens raisers have flat grates as opposed to rounded grates as shown on the approved detail; verify flat grates are acceptable

**Answer:** Dan Boudreau is working on a letter to verify that flat grates are acceptable.

**Conservation Update:** Verification has not occurred

**Updated Answer 10/20/2022:** The flat grates have been changed so that they are all rounded.

**Conservation Update 11/10/2022:** Request satisfied

**Conservation Request:** The installation of the energy dissipation at the outlet at the constructed wetland should be verified with approved detail

**Answer:** Ian Rubin is working on this; however, he is currently out of the country. Upon his return, we will submit the verification and approved detail from him.

**Conservation Update:** Verification has not occurred

**Updated Answer 10/20/2022:** See attached report from Ian Rubin dated December 1, 2021

**Conservation Update 11/10/2022:** The letter from Ian Rubin did not clarify the issue, which is the Conservation Agent, along with Nitsch Engineering, believes the energy dissipator is not deep enough to function as designed.

**Updated Answer 12/15/2022:** The energy dissipator has been lowered on the outflow area.



**Conservation Request:** Material to construct parabolic swale #8 in front of units 1A and B needs to be verified.

**Answer:** Yes, this will be verified in the spring

**Conservation Update:** Verification has not occurred. The Commission is seeking core samples be taken and witnessed by the Commission or the Nitsch Engineering to verify installation was done according to the approved plan.

**Updated Answer 10/20/2022:** The parabolic swale has been constructed per plan. Please see attached. We can do the core samples next week, please let me know when a good date/time is.

**Conservation Update 11/10/2022:** Verification of materials used to construct the rain gardens was completed by Nitsch Engineering.

**Conservation Request:** 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.

**Answer:** Any dead trees or shrubs will be replaced in the spring and will be replaced in a random pattern.

**Conservation Update:** Plantings have been replaced, however the area is well over grown and should be maintained to help reduce the spread on invasive plants.

**Updated Answer 10/20/2022:** Weed whacking and will continue to do so.

**Conservation Update 11/10/2022:** Recommend this area be periodically mowed along with lawn areas around the units as part of the routine maintenance of the site and reduce the growth and spread of invasive plants.





**Conservation Request:** Additional planting required in front of Units 1A and B as shown on the approved plan.

**Answer:** Yes, this will be done per plan.

**Conservation Update:** Plantings are still not in accordance with the approved plan.

**Updated Answer 10/20/2022:** The plantings have been installed.

**Conservation Update 11/10/2022:** Work completed as requested



**Conservation Request:** Silt on the driveway for units 5 and 7 shall be removed before occupancy.

**Answer:** This has been done

**Conservation Update:** Although a berm was installed at the entrance to the driveway silt continues to collect on the driveway between units 5 and 7 as water pools in that area during heavy rain events. The silt sock installed on the edge of the driveway near unit 5 has been removed without approval from the Commission. Silt laden waste is passing over grassy area before accumulating at the edge of the existing erosion control barrier.

**Updated Answer 10/20/2022:** A new hay wattle has been installed. Will install check dams on the shoulders of the roadway between stations 7+00 to +950. See Ian's plan page when the final coat of pavement gets put on.

**Conservation Update 11/10/2022:** Improvements made up hill of this site have eliminated silt accumulating in the driveway. The pooling of water will continue until the final coat is installed on the driveway. The silt sock has been replaced as requested.





**Conservation Request:** 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.

**Answer:** The pavement at the additional parking space that was installed at units 5 and 7 has been removed. It will be replaced with loam and seed as well as the planting as shown on the approved plan weather dependent.

**Conservation Update:** Although the excess pavement was removed in early 2022 no other activity has occurred to rectify the issue.

**Updated Answer 10/20/2022:** This area has been hydroseeded and the tree has been installed.

**Conservation Update 11/10/2022:** In September when the Conservation Agent was on site the area had been stabilized with grass, however during review of the site on November 10, 2022 the Agent observed the newly planted tree, but there was no longer any grass. Re-hydroseed area for compliance.

**Updated Answer 12/15/2022:** The hydroseeded has been completed here is an updated picture showing the hydroseed:



**Additional comment in the letter from the Commission dated December 28, 2021:**

**Conservation Request:** Please be reminded that any changes to the approved plan require either Conservation Commission and/or Zoning Board of Appeal approval prior to the change occurring.

**Answer:** Also, any changes to the approved plans will be presented to Conservation Commission and/or Zoning Board of Appeal for approval prior to the change occurring.

**Conservation Update:** A mail kiosk has been added to the west side of the visitor park at the entrance to the development, but was not on the approved plan. This addition was not approved by the Commission, nor the Zoning Board of Appeals.

**Updated Answer 10/20/2022:** Apologies for not seeking approval of the Commission nor the Board. This location was requested by the USPS.

**Conservation Update 11/10/2022:** The Conservation Commission will be issuing a fine in the amount of \$300.00 for this violation of the approved plans under the Order of Conditions.



**Conservation Request:** To ensure proper installation of any additional rain gardens, please contact this office to arrange an inspection during the installation of these stormwater features.

**Answer:** And finally, to ensure proper installation of any additional rain garden, you will be contacted to arrange an inspection during the installation of these stormwater features.

**Conservation Update:** According to the weekly reports from the Developer, rain gardens 16 and 21 were to be worked on the weeks of June 20 and 27, 2022, however no inspection of the installation of these gardens was arranged as previously requested.

**Updated Answer 10/20/2022:** We were under the impression that the notification of the weekly updates would serve as the notification and then the inspection would follow. Please see attached pictures of rain garden 16.

**Conservation Update 11/10/2022:** The remaining rain gardens requires a member of the Commission, its Agent and/or an employee of Nitsch Engineering to be on site during installation. Mr. Cricones is to make direct contact with the Conservation Agent in order to arrange these inspections. ***The submittal of the weekly reports will not be considered notification.***



#### **Additional Comments from the Land Use Administrator/Conservation Agent**

In general, the common areas on the site are not being maintained cause unwanted over growth around the



installed landscaping.

**Answer:** We are in the process of weed whacking and will continue to do so

**Conservation Update 11/10/2022:** The Commission recommends these areas be maintained with mowing at the same time the lawn areas of the units are mowed as part of the routine maintenance of the site, as well as to reduce the growth and spread of invasive plants.



Members of the Conservation Commission along with its Agent had spent a considerable amount of time on the site over the years prior to development. The site was originally free from invasive plant species. Since the addition of fill onto the site invasive plant species have been identified on the site, including Japanese Knotweed, Garlic Mustard and Black Locust. The Commission is concerned these invasives will spread into the wetland resource areas on and off the site, including a vernal pool on the adjacent lot, as well as the forested area around the development. The Commission is requesting a plan be prepared to rectify the issue.

**Answer:** Ruby Environmental Services Inc. has been contracted to provide annual invasive species management plan, which includes spraying/cutting. This plan has been presented and approved to the Commission and the first treatment (fall portion of the contract) was done on 10/3/2022.

**Conservation Update 11/10/2022:** Management Plan by Ruby Environmental was approved by the Commission. Photos above show areas that previously included invasive plant species. As stated above the Commission recommends these areas be maintained with mowing at the same time the lawn areas of the units are mowed in order to reduce the growth and spread of invasive plants. A progress report from Ruby Environmental shall be provided for the Commission's review.

The lower Bio-Retention Cell is receiving silt during rain events. Areas in which stormwater is flowing shall be

stabilized to reduce silt from entering this cell.

**Answer:** Waddles were removed out of the pipes and the pipes were cleaned

**Conservation Update 11/10/2022:** Outfall remains free of silt; continue to monitor for compliance.



The constructed wetland is acting a sediment basin during construction, however silt in this basin has reached levels that should be addressed to avoid adverse impacts to the wetland resource areas.

**Answer:** A dewatering plan of this area has been approved by the Conservation Commission to allow for the removal of silt within this basin.

**Conservation Update 11/10/2022:** A dewatering plan has been approved by the Commission and may proceed.



Parabolic Channel (PS8) in front of Building #1 is constantly full of silt. Stabilization of issue with riprap, erosion control barriers and silt sacks have only exacerbated the problem. Proper installation and maintenance of this and all of the Parabolic Channels shall be adhered to.

**Answer:** Pipes were cleaned, wattles were removed, and a new wattle will be added further away from the pipe.

**Conservation Update 11/10/2022:** Outfall remains free of silt; continue to monitor for compliance.



Parabolic Channel 7 (PS7) was designed to be a series of step pools along the main road of the development. As constructed this channel is one long channel that has been stabilized sporadically similar to PS8. Proper installation and maintenance of this and all of the Parabolic Channels shall be adhered to.

**Answer:** The swale has been cleaned and the check dams have been installed in a series of step pools.



**Conservation Update 11/10/2022:** Outfall remains free of silt; continue to monitor for compliance. The swale itself had originally been proposed as step pool. Although the check dams installed along the swale will slow the flow of water during heavy rain events the Agent would recommend the step pools be installed to better control water within the swale. If it is the desire of Mr. Cricones to keep the swale as constructed the stormwater model shall be run again to prove it will function to control stormwater.

**Updated Answer 12/15/2022:** Two step pools before the check dams will be added on Swale PS7.



A major cause of siltation with the Parabolic Channels and Constructed wetland is the uncontrolled runoff from the upper portion of the site. A plan to properly control stormwater runoff shall be submitted to the Commission for their review.

**Answer:** We have added more check dams every couple hundred feet up the roadway on the side along with adding 3" crushed gravel on the right side of the road going up the hill. The fact that the driveways have been paved and the whole site has been hydro seeded has also greatly reduced this issue. Any material that ends up in the parabolic swale 1 has been and will continued to be cleaned out if anything goes in there. We have also added more check damns in front of it and within it

**Conservation Update 11/10/2022:** These areas have stabilized as detailed above. Monitor for continued compliance.







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**HARVARD ZONING BOARD OF APPEALS**  
**MEETING MINUTES**  
**SEPTEMBER 14, 2022**

Chair Christopher Tracey called the meeting to order at 7:00pm, virtually in accordance with legislation S. 2475, an act relative to extending certain COVID-19 measures adopted during the Covid Pandemic state of emergency and under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125

**Members Present:** Chris Tracey, Michael Lawton, Steve Moeser, Orville Dodson (Associate Member) and Barbara Romero (Associate Member)

**Others Present:** Liz Allard (Land Use Boards Administrator), Bruce Ringwall (GPR, Inc.), George Triantis (Historic Commission), Robert Kody (Envision Homes), Debbie Kaegbein, John McCormack, Pradeep Khurana, Vamsee Krishina, Patricia Allen, Dan Wolfe (Ross Associates), Murali Mallem, John Farnsworth, Linnea Grealish, Michael Symula, Christopher & Jennifer Holmes, Beth Daigle, Tim Carey, Bill Mederios, Robert Allen, Wayne Cornell, Edna Mello, Pam Marston, Robyn & Lee Schamberg, Swati Sangwan and Chengwu Yang

**Special Permit Hearing – Pradeep & Marisa Khurana, 110 Warren Avenue.** Open at 7:01pm (see page 3 for complete details)

**Variance Hearing – Christopher & Jennifer Holmes, 31 Glenview Drive.** Opened at 7:35pm (see page 5 for complete details)

**Continuation of a Variance Hearing –Luciano Manganello, 175 Littleton County Road.** Opened at 7:54pm (see page 7 for complete details)

**Harvard Historical Commission Request for Support to Expand Historical District to include 39 Massachusetts Avenue**

George Triantis, chair of the Historical Commission, was present to gain support of the Board pertaining to the article on the warrant for the Fall Town Meeting on October 1<sup>st</sup>. The article requests the expansion of the historical district to include the Bromfield House property. Mr. Triantis provide the details on how this property came to be owned by the Town of Harvard. Mr. Triantis stated the property should be included on the historical district for three reasons: historical significance, architectural significance and significance of location. Mr. Triantis stated the Mass Historical Commission has reviewed and endorsed the proposal. Mr. Triantis urged members of the public to attend the Historic Commission’s public hearing scheduled for tomorrow at 7pm. Steve Moeser made a motion to support Historical Commission’s endeavor to include Bromfield property as part of the historical district. Orville 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**

Town Counsel Mark Lanza stated the judge has determined the funds being held by the court from the sale of the final unit shall be returned to Normandian Group and the Trail Ridge Home Owners Association (HOA) is to be a party to the lawsuit. Attorney Lanza advised the Board to vote to rescind the reduction of the bond that was voted on in October of 2020, but never requested. Attorney Lanza further advised the bonding company be notified that a claim may be necessary in order to complete project.

Chris Tracey requested Attorney Lanza prepare the appropriate language to rescind the vote and notifying the bonding company that the applicant is in default.

52 John McCormack, a resident at Trail Ridge, asked what the scope of this conversation is, what is the role  
53 of the Board and is there a pending suit. Mr. Tracey explained there is ongoing litigation; previously the  
54 Board had heard from the HOA at Trail Ridge that there is still outstanding infrastructure to be completed  
55 on the property as the units were coming to completion, therefore it was decided to withhold the  
56 Certificates of Occupancy. Mr. Tracey explained differences between the contractor and the developer.  
57 Nothing has happened to resolve outstanding issues and Fairways Partners have been completely silent  
58 this entire time. Fairways Partners is obligated to deliver a final set of plans as required by the  
59 Comprehensive Permit. Mr. Tracey stated this is a complicated situation that may result in final work  
60 being completed by either by the Town, Fairway Partners or the HOA.

61

62 **Approve Minutes**

63 Steve Moeser made a motion to approve the minutes of August 10, 2022 as drafted. Michael Lawton  
64 seconded the motion. The vote was unanimously in favor of the motion by a roll call vote, Michael  
65 Lawton, aye; Steve Moeser, aye; Orville Dodson, aye; and Chris Tracey, aye.

66

67 **Pine Hill Village Update**

68 Liz Allard explained she had been on site recently to review compliance with the status report sent to the  
69 developer, Peter Cricones, in July. Ms. Allard estimates about 50% of the work has been completed. An  
70 updated status report is being developed based on the most recent site visit.

71

72 **Adjournment**

73 At 8:53pm Steve Moeser made a motion to adjourn the meeting. Michael Lawton seconded the motion.  
74 The vote was unanimously in favor of the motion by a roll call vote, Michael Lawton, aye; Steve Moeser,  
75 aye; and Chris Tracey, aye.

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

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**DOCUMENTS & OTHER EXHIBITS**

81

- Town of Harvard, Zoning Board of Appeals Agenda, dated September 14, 2022
- Site Plan Pradeep & Marisa Khurana, 110 Warren Avenue Harvard, MA Job No.: 33383, Plan No.: L-14572, prepared by David E. Ross Associates, Inc., 9/14/2022
- Structure Location Plan in Harvard, MA, Plan Prepared for Christopher Holmes & Jennifer E. Holmes, 31 Glenview Drive, Harvard, MA 01451, Plan No. 22-17-CPP, prepared by Farnsworth Engineering Associates, 2022-07-06

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**Harvard Zoning Board of Appeals**

**Special Permit Minutes**

**Pradeep & Marisa Khurana, 110 Warren Avenue**

**September 14, 2022**

The hearing was opened by Chair Christopher Tracey at 7:01pm virtually in accordance with legislation S. 2475, an act relative to extending certain COVID-19 measures adopted during the Covid Pandemic state of emergency and under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125

**Members Present:** Chris Tracey, Michael Lawton, Steve Moeser, Orville Dodson (Associate Member) and Barbara Romero (Associate Member)

**Others Present:** Liz Allard (Land Use Boards Administrator), Robert Kody (Envision Homes), Pradeep Khurana, and Dan Wolfe (Ross Associates)

This hearing is for a Special Permit filed on behalf of Pradeep & Marisa Khurana for an addition to a pre-existing non-conforming structure at 110 Warren Avenue, Harvard.

Dan Wolfe, of Ross Associates, stated the property and the structure at 110 Warren Ave are pre-existing non-conforming. The lot itself is has 131.12 feet of frontage, with 1.4 acres of land. The structure itself is non-conforming to setbacks under 125-30E(7) to the W-district, which predates the adoption of the Protective Bylaw. The proposal includes the conversion of the existing garage into a family room, the addition of a new garage, expansion of the rear deck and the addition of a front porch structure. The existing garage is 29.1 feet from the property line, with the new garage being 27.6 feet, but is conforming to the side yard setback, which is 20% of the lot width (26.6 feet). The expansion to the rear deck does not bring a structure closer to the W-District boundary at 46 feet. Mr. Wolfe feels this request would have been allowed prior to the lot and structure becoming non-conforming. Mr. Wolfe met with the Board of Health (BOH) last night, who have approved the poly-barrier and retaining wall to protect the existing septic system. A four-bedroom deed restriction is required by the BOH. The Conservation Commission (ConCom) is meeting tomorrow night to discuss this location. Mr. Wolfe stated the 2007 Zoning Board of Appeals decision included a condition of a 15 foot wide no disturb area, which has been added to the plan.

Mr. Wolfe addressed comments received from the Bare Hill Pond Watershed Management Committee stating increase in stormwater will be addressed by the two-foot-wide recharge trenches on either side of the proposed garage, as well as in front of the proposed porch. The expansion of the deck will remain pervious. Any future change to the driveway from its current condition of gravel will require approval from the ConCom. In regard to the use of fertilizers and chemicals, a condition pertaining to the State regulations will be added to the decision.

Steve Moeser questioned the proposed setback of the new garage, as it is now closer to the property line than the existing garage. Mr. Wolfe stated that was correct, however the proposed garage still conforms to the side yard offset (26.6 feet), which is 20% of the lot width. Mr. Moeser asked about the height of the proposed garage and having to set it back from the property line by that height. Mr. Wolfe explained, as previously confirmed by Town Counsel, a new nonconformity can be created without a variance. An existing nonconformity (grandfathered) can be intensified with a finding and special permit from the Board.

Michael Lawton asked if the driveway was being widened. Mr. Wolfe stated it was to allow for the approach into the bay closest to the house. Mr. Lawton asked what was the reasoning for the 15 foot no

157 disturb area. Mr. Wolfe could only speculate that the ConCom did not want the trees disturbed in that  
158 area to maintain a vegetated barrier between this property and the abutting conservation land.

159  
160 Michael Lawton made a motion to close the evidentiary portion of the meeting. Steve Moeser seconded  
161 the motion. The vote was unanimously in favor of the motion by a roll call vote, Michael Lawton, aye;  
162 Steve Moeser, aye; and Chris Tracey, aye.

163  
164 The Board discussed the necessary conditions for the issue of the Special Permit which include:

- 165 • Any modification to the driveway, existing and/proposed, shall require a filing with the Harvard  
166 Conservation Commission;
- 167 • The Four-Bedroom Bedroom Deed Restriction issued by the Harvard Board of Health shall be  
168 recorded at the registry of deeds in association with this decision;
- 169 • Within the 100-foot buffer zone, no person shall use a registered pesticide in a manner that is  
170 inconsistent with its labeling or other restrictions imposed by M.G.L. Chapter 132B and its  
171 regulations promulgated at 333 CMR;
- 172 • The Order of Conditions issued by the Harvard Conservation Commission shall be recorded at  
173 the registry of deeds in association with this decision; and
- 174 • The fifteen (15) foot no disturb zone on the Northwest side of the house shall be maintained in  
175 perpetuity.

176 Steve Moeser made a motion to issue a Special Permit to Pradeep & Marisa Khurana for an addition to a  
177 pre-existing non-conforming structure at 110 Warren Avenue to include the above conditions, as well as  
178 standard conditions under §125-46 of the Protective Bylaw. Michael Lawton seconded the motion. The  
179 vote was unanimously in favor of the motion by a roll call vote, Michael Lawton, aye; Steve Moeser, aye;  
180 and Chris Tracey, aye.

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183 Signed: \_\_\_\_\_ Liz Allard, Clerk  
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207 **Harvard Zoning Board of Appeals**

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209 **Variance Hearing Minutes**

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211 **Christopher & Jennifer Holmes, 31 Glenview Drive**

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213 **September 14, 2022**

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215 The hearing was opened by Chair Christopher Tracey at 7:35pm virtually in accordance with legislation S.  
216 2475, an act relative to extending certain COVID-19 measures adopted during the Covid Pandemic state of  
217 emergency a, and under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125

218

219 **Members Present:** Chris Tracey, Michael Lawton, Steve Moeser, Orville Dodson (Associate Member) and  
220 Barbara Romero (Associate Member)

221

222 **Others Present:** Liz Allard (Land Use Boards Administrator), John Farnsworth, Christopher & Jennifer  
223 Holmes and Michael Symula

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225 This hearing is for a Variance filed on behalf Christopher & Jennifer to allow for a reduced setback as  
226 required by the Protective Bylaw Chapter 125-30E(3) for an addition to a pre-existing non-conforming  
227 structure thereby increasing the non-conformity 31 Glenview Drive, Harvard.

228

229 John Farnsworth stated the request for a variance is being sought in order to allow for a proposed deck  
230 with associated stairs that increases the existing non-conformity of the existing structure. Mr. Farnsworth  
231 stated the topography of the land required the house to be constructed below street level on a slab, with  
232 a foundation above grade and walkout basement to the rear. The existing deck is in rough shape and  
233 does not have stairs.

234

235 Christopher Holmes, the owner, read a prepared statement into the record. Mr. Holmes stated when he  
236 purchased the home there was an enclosed porch that he had safety concerns with, including the stairs  
237 associated with it. After purchasing the home Mr. Holmes attempted to repair the stairs however the fell  
238 apart causing him to remove them. Shortly thereafter a tree fell and caused damage the existing door,  
239 which was unreplaceable due to the size and conditions of the existing doorframe. The application before  
240 the Board this evening is to rebuild the deck and provide an additional safe egress from the home.  
241 Currently Mr. Holmes only has one exit out of the home. Mr. Holmes stated the only feasible solution is  
242 to replace the deck and create an additional safe egress from the home. Mr. Holmes does not view this as  
243 a self-created hardship as the house was compliant went built. Due to the topography of the lot a  
244 compliant deck could not be done without significant planning or cost. The proposal is a minor increase in  
245 the same location. Neighbors have been contacted and have no issues with the proposal. As proposed  
246 this is the only location to construct a safe additional egress from the structure, as using the garage door  
247 in an emergency is not a safe egress. Without the egress access to the deck would be limited by having to  
248 go around the house or provide a steep set of stairs. Mr. Holmes stated as proposed this would not  
249 negatively impact the neighborhood and no neighbors would be able to view it from their properties.

250

251 Chris Tracey asked about evidence pertaining to the requirements under 125-45B(1)(b). Mr. Farnsworth  
252 did not realize a topography map would be necessary, but added that the hardship is not having a second  
253 egress. Mr. Tracey asked why the proposed deck and stairs could not be done in a manner that is  
254 compliant. Mt. Farnsworth stated they could with a lot of effort, as there is a significant elevation change  
255 between the stairs and the area in which they land. Mr. Tracey asked why the stairs cannot be placed at  
256 the corner of the garage and sunroom. Michael Symula, the architect, stated he could have designed a  
257 door out of the sunroom to the deck, but that still would have created a non-conformity. When asked  
258 where the previous stairs were located, Mr. Holmes stated they were parallel to the garage; he could not



259 demonstrate where exactly they were previously, but knows the landing was past where the proposed  
260 stairs would land.

261  
262 With another hearing to open Michael Lawton made a motion to continue this hearing to 7:55pm this  
263 evening. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion by a roll  
264 call vote, Michael Lawton, aye; Steve Moeser, aye; Orville Dodson, aye, and Chris Tracey, aye.

265  
266 At 7:55pm Mr. Tracey re-opened this hearing.

267  
268 Steve Moeser does not understand why this cannot be designed to not encroach on the setback, by  
269 simply adding 5-6 more risers. Mr. Farnsworth stated it would most likely be ten more risers, whereas the  
270 stairs as proposed are only 4-5 stairs. Mr. Holmes reiterated the topography of the land and how the back  
271 of the house drops off dramatically. Mr. Farnsworth stated he would provide a plan detailing the  
272 topography of the land.

273  
274 When asked Mr. Symula stated extending the deck across the back of the house would create a staircase  
275 and landing that would interfere with the basement egress. Michael Lawton stated he was struggling with  
276 knowing this application cannot be done any other way. Both Orville Dodson and Barbara Romero agreed  
277 with Mr. Lawton.

278  
279 After discussing the need for a unanimous vote for a variance and the inclination that voting members  
280 would be inclined to deny the application without further evidence, Mr. Farnsworth requested the  
281 hearing be continued. The applicant and his representatives where reminded that all of the requirements  
282 under 125-45B(1) will need to be met in order for the Board to vote in a positive manner for a variance.

283  
284 Steve Moeser made a motion to continue the hearing to October 12, 2022 at 7:00pm. Orville Dodson  
285 seconded the motion. The vote was unanimously in favor of the motion by a roll call vote, Michael  
286 Lawton, aye; Steve Moeser, aye; Orville Dodson, aye, and Chris Tracey, aye.

287  
288 Signed: \_\_\_\_\_ Liz Allard, Clerk

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312 **Harvard Zoning Board of Appeals**

313

314 **Variance Hearing Minutes**

315

316 **Luciano Manganella, 175 Littleton County Road**

317

318 **September 14, 2022**

319

320 The hearing was opened by Chair Christopher Tracey at 7:54pm virtually in accordance with legislation S.  
321 2475, an act relative to extending certain COVID-19 measures adopted during the Covid Pandemic state of  
322 emergency a, and under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125

323

324 **Members Present:** Chris Tracey, Michael Lawton, Steve Moeser, Orville Dodson (Associate Member) and  
325 Barbara Romero (Associate Member)

326

327 **Others Present:** Liz Allard (Land Use Boards Administrator) and Bruce Ringwall (GPR, Inc.)

328

329 This hearing was continue from August 10, 2022 for a Variance filed on behalf Luciano Manganella to  
330 allow for the construction of a shared residential driveway to be greater than 8% as required by the  
331 Protective Bylaw Chapter 125-31B(5) and 125-39B Table 2 at 175 Littleton County Road , Harvard.

332

333 Bruce Ringwall, of GPR, Inc., requested the application before the Board be withdrawn without prejudice.

334

335 Steve Moeser made a motion to accept the request to withdraw the application without prejudice.

336 Michael Lawton seconded the motion. The vote was unanimously in favor of the motion by a roll call vote,

337 Michael Lawton, aye; Steve Moeser, aye; and Chris Tracey, aye.

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

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**HARVARD ZONING BOARD OF APPEALS**  
**MEETING MINUTES**  
**OCTOBER 12, 2022**

Chair Christopher Tracey called the meeting to order at 7:00pm, virtually in accordance with legislation S. 2475, an act relative to extending certain COVID-19 measures adopted during the Covid Pandemic state of emergency and under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125

**Members Present:** Chris Tracey, Michael Lawton, Steve Moeser and Barbara Romero (Associate Member)

**Others Present:** Liz Allard (Land Use Boards Administrator), Bill Medeiros, Christopher Holmes, Michael Symula, Rebecca Cheney, Wayne Cornell, Mark Lanza (Town Counsel), Mike Carroll and Tim Carey

**Continuation of a Variance Hearing – Christopher & Jennifer Holmes, 31 Glenview Drive.** Opened at 7:05pm (see page 4 for complete details)

**Updates from the Chair**

An application for a Comprehensive Permit is tentative for the corner of Ayer and Old Mill Road.

The voting requirement of associate members are only in lieu of the lack of three voting members on applications only. Administrative matters such as minutes and/or invoices can only be voted on by the members of the Board and not associate members. The Board could change the bylaw to allow the associate members the ability to vote on administrative matters.

Harvard-Devens Jurisdiction Committee holding a public hearing on October 19<sup>th</sup> and have asked participation from all of the Boards and Committees. Mr. Tracey will do his best to participate. If other have time and can participate Mr. Tracey encouraged the members to do so. Barbara Romero plans to attend.

**Trail Ridge Home Owners Request for Information**

Chris Tracey explained the Board received a set of questions submitted by Rebecca Cheney, a resident of Trail Ridge, who asked for time on the agenda this evening. Ms. Cheney stated there is a lot of confusion at Trail Ridge about the completion of the permit, timing, the bond and who is responsible for what. A few residents have gotten together to try to determine where the Trail Ridge Trust stands in this matter. Ms. Cheney, along with Bill Medeiros has done research both at Town Hall and the Registry of Deeds. Ms. Cheney stated these questions submitted are just a jumping off point for them as there are things they are unable to find the answers to. Ms. Cheney stated the homeowners understand it is easy to lose the thread and we as residents do not have all of the background that the Town may have. As residents of Trail Ridge, we want this matter to be front of mind and get the ball rolling to get this project completed to the satisfaction of the Town and the residents.

When asked by Mr. Tracey about answering the questions Board received from Ms. Cheney, Attorney Lanza stated if you would not say it with Fairways Partners attorney in the room then do not say it at all. Mr. Tracey stated he is not prepared tonight, given the timing of the receipt of the questions, and not in anyway not to get this resolved, but doesn't think it is reasonable to be able to provide answers this evening. Mr. Tracey does not think it would require the whole Board to answer these questions and perhaps he and Liz Allard can answer them.

Mr. Tracey asked about the addition of the Trust being a part of the lawsuit against Fairway Partners. Attorney Lanza stated the two parties originally as part of the litigation - Fairway Partners and some related entities that were financing the development and are controlled by Fairway Partners and the Town side of this litigation, being the Zoning Board of Appeals and the Zoning Enforcement Officer. The

53 judge has ordered the Trust be brought in because Fairway Partners has continuously stated the  
54 outstanding items have been cause due to neglect of the Trust and not the responsibility of the  
55 developer. Attorney Lanza has had a hard time determining which is the responsibility of the developer  
56 and that of the Trust. Fairway Partners attorney has indicated to Attorney Lanza they would like the Town  
57 to drop the lawsuit. Attorney Lanza stated he has no intention to do so. Attorney Lanza has continued to  
58 urge Fairway Partners attorney to bring the Trust in as a party. What Attorney Lanza will or will not  
59 recommend to the Board will be discussed in executive session. Mr. Tracey stated the one primary goal is  
60 how to get the infrastructure completed. Attorney Lanza stated there are some inconsistencies between  
61 the Trust and Town and that there may be a need to discuss a common strategy. Mr. Tracey stated it is  
62 the Board's position to do everything we can within our rights to get the developer to complete the  
63 development as approved by the Comprehensive Permit.

64  
65 Steve Moeser stated most of the questions deal with records going back 10 – 12 years ago and some are  
66 simple as “Does the Board consider the project complete”; no, the Board does not consider the project  
67 complete. Mr. Moeser had and continues to have questions about the notification of the bonding  
68 company and who is responsible for doing so. Attorney Lanza stated the Board should be the one to  
69 notify the bonding company, which he will discuss privately with the Board in executive session. Mr.  
70 Moeser would like Attorney Lanza to see the questions before responding to be certain the Board does  
71 not get itself into any additional legal issues. Mr. Moeser asked what type of response are the residents  
72 looking for, written? Michael Lawton has no comments as he was not involved early on in this matter.  
73 Barbara Romero was concerned that the Board is opening themselves up to sending the homeowners  
74 down the wrong path.

75  
76 Mike Carroll, a resident at Trail Ridge, wants to make a clarification that they are not representing the  
77 Trust, just individual homeowners seeking information. Mr. Carroll asked why the default letter has not  
78 been sent to the bonding company. Mr. Tracey did not have a good answer as to why the notification of  
79 the bonding company was never sent. Mr. Carroll was trying to understand that if the Board does not  
80 want to answer the questions tonight then can we get together at some other time to discuss them. Mr.  
81 Tracey stated as you heard from Attorney Lanza there are some things not to be discussed publicly. Mr.  
82 Tracey reiterated the Board wants a resolution, and hopefully after the executive session they will have a  
83 better understanding of how to proceed here. Mr. Tracey feels the Board and the residents of Trail Ridge  
84 are working in harmony; he knows it has been years at getting at to these resolutions, but confident it can  
85 be achieved.

86  
87 Mr. Tracey asked if anyone that represents the Trust was present this evening. Ms. Cheney stated there  
88 are members of Trust here this evening but not sure if they want to identify themselves as Trust  
89 members. Ms. Cheney asked that any conversations pertaining to this matter be done in a public meeting  
90 rather than privately. Mr. Tracey had no issue with this request. Ms. Cheney and others are willing to  
91 help gather information if necessary.

92  
93 Wayne Cornell stated the Board of Trustees has authorized Bill Medeiros and Rebecca Cheney to gather  
94 the historical data. In addition, the Attorney for the Trust has been keeping a close eye on the litigation  
95 and is willing to step in when necessary.

96  
97 **Approve Minutes**

98 Minutes were not available this evening

99  
100 **Pine Hill Village Update**

101 There was no update this evening.

102  
103 **Executive Session – Pending Potential Litigation with Fairway Partners, LLC and others re: Trail Ridge**  
104 **Comprehensive Permit Project Infrastructure Security**



105 At 7:59pm Chris Tracey made a motion that the Zoning Board of Appeals go into executive session  
106 pursuant to Massachusetts General Laws Chapter 30A, Section 21 (a)(3) to discuss strategies with respect  
107 to pending litigation between Fairway Partners, LLC and others and the Zoning Board of Appeals and  
108 permit Land Use Administrator/Conservation Agent Liz Allard and Town Counsel Mark Lanza to participate  
109 in the executive session at their respective remote locations. The Chairman declares that an open  
110 meeting may have a detrimental effect on the litigating position of the Board. Steve Moeser seconded the  
111 motion The vote was unanimously in favor of the motion by a roll call vote, Michael Lawton, aye; Steve  
112 Moeser, aye; Barbara Romero, aye and Chris Tracey, aye.

113  
114 Mr. Tracey stated the Board will come out executive session only to adjourn the meeting in approximately  
115 thirty minutes.

116  
117 **Adjournment**

118 At 8:42pm Steve Moeser made a motion to adjourn the meeting. Michael Lawton seconded the motion.  
119 The vote was unanimously in favor of the motion by a roll call vote, Michael Lawton, aye; Steve Moeser,  
120 aye; and Chris Tracey, aye.

121  
122 Signed: \_\_\_\_\_ Liz Allard, Clerk

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125 **DOCUMENTS & OTHER EXHIBITS**

- 126 • Town of Harvard, Zoning Board of Appeals Agenda, dated October 12, 2022
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157 **Harvard Zoning Board of Appeals**  
158  
159 **Continuation of a Variance Hearing Minutes**  
160  
161 **Christopher & Jennifer Holmes, 31 Glenview Drive**

162  
163 **October 12, 2022**  
164

165 The hearing was opened by Chair Christopher Tracey at 7:05pm virtually in accordance with legislation S.  
166 2475, an act relative to extending certain COVID-19 measures adopted during the Covid Pandemic state of  
167 emergency a, and under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125  
168

169 **Members Present:** Chris Tracey, Michael Lawton, Theodore Maxant, Steve Moeser and Barbara Romero  
170 (Associate Member)  
171

172 **Others Present:** Liz Allard (Land Use Boards Administrator) Christopher Holmes and Michael Symula  
173

174 This hearing is for a Variance filed on behalf Christopher & Jennifer to allow for a reduced setback as  
175 required by the Protective Bylaw Chapter 125-30E(3) for an addition to a pre-existing non-conforming  
176 structure thereby increasing the non-conformity 31 Glenview Drive, Harvard.  
177

178 Christopher Holmes, along with Michael Symula, were present and stated they are waiting for more  
179 information from the Police and Fire Departments on this application and request the hearing be  
180 continued.  
181

182 Steve Moeser made a motion to continue the hearing to November 30, 2022 at 7:00pm. Michael Lawton  
183 seconded the motion. The vote was unanimously in favor of the motion by a roll call vote, Michael  
184 Lawton, aye; Steve Moeser, aye; and Chris Tracey, aye.  
185

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

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**HARVARD ZONING BOARD OF APPEALS  
MEETING MINUTES  
NOVEMBER 30, 2022**

Chair Christopher Tracey called the meeting to order at 7:01pm, virtually in accordance with legislation S. 2475, an act relative to extending certain COVID-19 measures adopted during the Covid Pandemic state of emergency and under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125

**Members Present:** Chris Tracey, Michael Lawton (left prior to the executive session), Steve Moeser and Barbara Romero (Associate Member)

**Others Present:** Liz Allard (Land Use Boards Administrator), Brie Jones (Land Use Board Administrative Assistant), Frank O'Conner (Director of Planning), Christopher Holms and Mark Lanza (Town Counsel)

**Continuation of a Variance Hearing – Christopher & Jennifer Holmes, 31 Glenview Drive.** Opened at 7:03pm (see page 3 for complete details)

**Pine Hill Village Update**

Liz Allard, along with Steve Ventresca, of Nitsch Engineering, and Don Ritchie, the chair of the Conservation Commission, were on site last week to complete a review of the progress of the development as stated in his letter of October 20, 2022. There are some outstanding items that have been detailed in the updated report prepared by Ms. Allard. For the most part the developer has complied with the items that were outstanding when the occupancy permits were issued for the Pine Bank area. This report will be provided to the developer earlier next week with a reminder of the process in order for the Commission and the Zoning Board of Appeals to sign off on the occupancy permits for the units in phase 2 of the development.

Ms. Allard requested the Board allow for a change to the plan as it pertains to the grassed walkway to the front doors of the units within the development as they are not suitable to the New England weather. After briefly discussing the Board agree in theory they are in agreement, but would like to know what the solution will be to provide safe access into the units. The Conservation Commission will also be consulted on the type of surface to used in place of the grass pavers shown on the approved plan.

**Rescind October 14, 2020 Vote to Reduce the Bond at Trail Ridge and Notification of Bonding Company of Developer's Default at Trail Ridge**

The Board discussed the September 10, 2008 vote to reduce the bond to \$179, 029. Attorney Lanza stated it is Not unusual that the bonding company would not send a revised bond showing the reduction in the bond. Chris Tracey asked about not requiring the sidewalk be installed as requested from the residents at Trail Ridge. Attorney Lanza stated the Board would need to vote on a *De Minimus* finding to not require the sidewalk. Mr. Tracey noted the developer never provided a final as-built as required by the Comprehensive Permit. Attorney Lanza thinks there is sufficient funding to cover the cost of the as-built plan. Steve Moeser is considered about the existence of the bond. Attorney Lanza stated he has seen the bond in its original amount, which is the only document he has seen pertaining to the bond.

Chris Tracey moved that the Zoning Board of Appeals rescind its September 10, 2008 vote to reduce the infrastructure security for Trail Ridge Comprehensive Permit Project to \$176,029 and direct Town Counsel to draft a notice of the reduction and the developer's default on its obligation to timely complete the project infrastructure to be signed by myself, Chris Tracey, for the Board and sent to the surety on the performance bond for the project. Steve Moeser 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.

52 **Executive Session – Pending Potential Litigation with Fairway Partners, LLC and others re: Trail Ridge**  
53 **Comprehensive Permit Project Infrastructure Security**

54 Chris Tracey moved that the Zoning Board of Appeals go into executive session pursuant to Massachusetts  
55 General Laws Chapter 30A, Section 21 (a)(3) to discuss strategies with respect to pending litigation  
56 between Fairway Partners, LLC and others and the Zoning Board of Appeals and permit Land Use  
57 Administrator/Conservation Agent Liz Allard, the Land Use Boards and Building Department  
58 Administrative Assistant Brie Jones and Town Counsel Mark Lanza to participate in the executive session  
59 at their respective remote locations. The Chairman declares that an open meeting may have a  
60 detrimental effect on the litigating position of the Board.

61  
62 By roll call vote the members of the ZBA stated that no other person is present or able to hear the  
63 discussion at their respective remote locations. Barbara Romero, aye; Steve Moeser, aye; and Chris  
64 Tracey, aye.

65  
66 The Chairman states in open session that the Board will reconvene in open session in approximately 15 to  
67 20 minutes.

68  
69 **Approve Minutes**

70 Minutes were not available this evening

71  
72 **Adjournment**

73 At 8:40pm Steve Moeser made a motion to adjourn the meeting. Barbara Romero seconded the motion.  
74 The vote was unanimously in favor of the motion by a roll call vote, Barbara Romero, aye; Steve Moeser,  
75 aye; and Chris Tracey, aye.

76  
77  
78 Signed: \_\_\_\_\_ Liz Allard, Clerk

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81 **DOCUMENTS & OTHER EXHIBITS**

- 82 • Town of Harvard, Zoning Board of Appeals Agenda, dated November 30, 2022

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105 **Harvard Zoning Board of Appeals**  
106  
107 **Continuation of a Variance Hearing Minutes**  
108  
109 **Christopher & Jennifer Holmes, 31 Glenview Drive**  
110

111 **November 30, 2022**  
112

113 The hearing was opened by Chair Christopher Tracey at 7:00pm virtually in accordance with legislation S.  
114 2475, an act relative to extending certain COVID-19 measures adopted during the Covid Pandemic state of  
115 emergency a, and under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125  
116

117 **Members Present:** Chris Tracey, Steve Moeser and Barbara Romero (Associate Member)  
118

119 **Others Present:** Liz Allard (Land Use Boards Administrator) and Bruce Ringwall (GPR, Inc.)  
120

121 This hearing was continued from October 12, 2022 for a Variance filed on behalf Christopher & Jennifer to  
122 allow for a reduced setback as required by the Protective Bylaw Chapter 125-30E(3) for an addition to a  
123 pre-existing non-conforming structure thereby increasing the non-conformity 31 Glenview Drive, Harvard.  
124

125 Christopher Holmes, the applicant, was present to request the application before the Board for a variance  
126 be withdrawn without prejudice. Steve Moeser made a motion to accept the applicant's request to  
127 withdraw the application without prejudice. Chris Tracey seconded the motion. The vote was  
128 unanimously in favor of the motion by a roll call vote, Steve Moeser, aye; Barbara Romero; and Chris  
129 Tracey, aye.  
130

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