

**HARVARD ZONING BOARD OF APPEALS  
MEETING MINUTES  
JULY 13, 2016  
APPROVED: NOVEMBER 9, 2016**

Chairman Chris Tracey called the meeting at 7:30pm in the Town Hall at 13 Ayer Road under the Zoning Act Chapter 40A and the Code of the Town of Harvard Chapter 125

**Members Present:** Chris Tracey, Steve Moeser, Robert Capobianco, Orville Dodson, Theodore Maxant and Mike Lawton

**Others Present:** Liz Allard (LUB Admin), Doug Pochini, Elaine Davis-Curll, Justin Baer, Diane Baer, Garry Baer, Debbie Kaegebein, Neil Gorman (Ross Assoc.), and Colleen Noon

**Continuation Special Permit Hearing – Gary Baer, 111 Clinton Shore Drive.** Opened at 7:30pm (see page 2 for detailed minutes)

**Comprehensive Permit Hearing – Fairway Partners, Inc., Trail Ridge Way.** Opened at 7:35pm (see page 3 for detailed minutes)

**Variance and Special Permit Hearing – Matthew & Colleen Noon, 90 Warren Avenue.** Opened at 7:45pm (see page 4 for detailed minutes)

**Minutes**

Robert Capobianco made a motion to approve the minutes of February 10 & 24, May 11, and June 8, 2016 as amended. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

**Adjournment**

At 9:03pm Mike Lawton made a motion to adjourn the meeting. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

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

## **Zoning Board of Appeals**

### **Special Permit Hearing Meeting Minutes**

#### **Gary Baer, 111 Clinton Shore Drive**

**July 13, 2016**

The hearing was opened at 7:30pm by Chairman Chris Tracey in the Town Hall at 13 Ayer Road under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, the Protective Bylaw, Chapter 125

**Members Present:** Chris Tracey, Robert Capobianco, Steve Moeser, Mike Lawton, Orville Dodson and Theodore Maxant

**Others Present:** Liz Allard (LUB Admin), Justin Baer, Diane Baer and Garry Baer

This hearing was continued from June 8, 2016 for a Special Permit filed on behalf of Gary Baer for the reconstruction and expansion of a pre-existing non-conforming structure at 111 Clinton Shore Drive, Harvard.

Garry Baer stated he intends to rebuild the cottage at 111 Clinton Shore Drive as his retirement home with a two-level 1,300 square foot structure; the existing one-level structure is 669 square feet. Additional expansion of the existing structure will take place with an 8' x 12' addition on the south side of the structure. The existing block foundation will need to be removed and replaced with poured concrete foundation. The property and the structure are both non-conforming; the land area is 6,066 square feet and the existing structure is within a few feet of the property lines. The proposed structure, including the 8' x 12' addition will not be more non-conforming than the existing structure. Photos of the existing structure were provided by Mr. Baer.

As a property within a condominium association, the Board requested documentation indicating the activity has been approved by the association. In addition, the Board requested the recorded plan detailing the location of the lots within this association be provide for the file.

Chris Tracey noted comments were received by the Building Commissioner, the Bare Hill Pond Watershed Management Committee, the Conservation Commission and the Fire Chief.

Robert Capobianco made a motion to close the evidentiary portion of the hearing. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

After a brief discussion, Robert Capobianco made a motion to issue a Special Permit to Garry Baer for the reconstruction and expansion of a single-family dwelling at 111 Clinton Shore Drive and allow the Chairman, Chris Tracey, to sign the decision on behalf of the Board. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

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

## **Zoning Board of Appeals**

### **Comprehensive Permit Hearing Meeting Minutes**

#### **Fairway Partners, Inc. Trail Ridge Way**

**July 13, 2016**

The hearing was opened at 7:54pm by Chairman Chris Tracey in the Town Hall at 13 Ayer Road under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, the Protective Bylaw, Chapter 125

**Members Present:** Chris Tracey, Robert Capobianco, Steve Moeser, Mike Lawton, Orville Dodson and Theodore Maxant

**Others Present:** Liz Allard (LUB Admin) Doug Pochini, Elaine Davis-Curll, and Debbie Kaegebein,

This hearing is for a Comprehensive Permit filed on behalf of Fairway Partners, Inc. for the for the construction of the remaining 12 duplexes at the development known as Trail Ridge, on Trail Ridge Way, Harvard.

Doug Pochini stated the Comprehensive Permit issued to Fairway Partners in 2004 had unexpectedly expired at the end of 2015. All of the infrastructure and twenty-eight of the fifty-two units have been completed. The application before the Board is for the remaining twenty-four units, which six are affordable units. Members discussed the intended timeframe to complete the remaining units.

Robert Capobianco made a motion to close the evidentiary portion of the hearing. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Robert Capobianco made a motion to issue a Comprehensive Permit to Fairway Partners for the construction of twelve duplexes, of which six of the units will be affordable units, with the condition that the permit is valid for three years and to allow the Chairman, Chris Tracy, to sign the decision on behalf of the Board. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

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

## **Zoning Board of Appeals**

### **Variance & Special Permit Hearing Meeting Minutes**

#### **Matthew & Colleen Noon, 90 Warren Avenue**

**July 13, 2016**

The hearing was opened at 8:07pm by Chairman Chris Tracey in the Town Hall at 13 Ayer Road under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, the Protective Bylaw, Chapter 125

**Members Present:** Chris Tracey, Robert Capobianco, Steve Moeser, Mike Lawton, Orville Dodson and Theodore Maxant

**Others Present:** Liz Allard (LUB Admin), Neil Gorman (Ross Assoc.) and Colleen Noon

This hearing is for a Variance and Special Permit filed on behalf of Matthew and Colleen Noon for a proposed access bridge and conversion of seasonal residence on a pre-existing non-conforming lot at 90 Warren Avenue, Harvard.

Neil Gorman, Project Manager from Ross Associates, was present to represent the applicant. Mr. Gorman reviewed the project, which includes the removal of the existing structure, relocation of the existing driveway, the installation of a new septic system and the replacement of a foot bridge with a vehicular bridge. The existing house and proposed house meet all of the existing zoning setbacks. The lot is pre-existing non-conforming as it is only 1.4 acres and has a lot width of 198' at 120' from the centerline of the roadway. The existing foot bridge is 10' from the side property line, with the proposed vehicular bridge guardrail at 9' from the property line.

This property was before the Board last year with relatively the same plan; driveway and septic locations have been changed for this application. At that time a determination had made by the Zoning Enforcement Officer, Gabe Vellante, and Town Counsel, Mark Lanza, that although the bridge would not be considered a structure as part of the driveway, anything proposed above grade would be defined as a structure. The guardrail was considered a structure and therefore would require a variance to the required sideline setback. Mr. Gorman stated the guardrail is proposed as a safety feature and would only stand two feet above finished grade.

It has been determined that it is a function of the Board to determine whether or not to consider the guardrail a structure. If Board determines it is a structure and the variance is required Mr. Gorman made the following case for issuing the Variance.

The site conditions contain steep topography, a wetland resource area that bisects the property and a rise of the land from Warren Avenue to the house location. The proposed location of the bridge is at the narrowest point of the wetland and would not require new disturbance to relocate the driveway. The construction of a larger bridge located across a larger span of the wetland resource area would increase costs to the applicant by way of engineering, construction materials and fees under the Town's Wetland Protection Bylaw.

Mr. Gorman stated the application before the Board is for a Special Permit as well for the conversion of a seasonal residence to year-round. Information has been provided as required under 125-11 conversion of seasonal residence.

After a brief discussion, the Board concluded that if the guardrail is actually a structure a case has been made to allow for the issuance of a Variance. It was the opinion of the Board that the guardrail should not be considered a structure. On the chance the decision is appealed the Board decided to grant a Variance.

Robert Capobianco made a motion to close the evidentiary portion of the hearing. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Robert Capobianco made a motion to grant the Variance to Chapter 125-30E(3) Land Structure Relations, to allow for the construction of a vehicular bridge and its associated guardrail nine feet from the side property line. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Robert Capobianco made a motion to grant a Special Permit for the conversion of a seasonal residence at 90 Warren Avenue. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Robert Capobianco made a motion to allow the Chairman, Chris Tracy, to sign the above decisions on behalf of the Board. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

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

## DOCUMENTS & OTHER EXHIBITS

### **Continuation Special Permit Hearing – Gary Baer, 111 Clinton Shore Drive**

- Harvard Zoning Board of Appeals Application, property address: 111 Clinton Shore Drive, applicant: Garry Baer, Owners: Garry & Wayne Baer, builder: Ashby Peg & Beam, site plan: Stamsky & McNary, Inc., dated July 13, 2016
- Four 8 ½ x 11 photos of existing structure, received July 13, 2016

### **Variance and Special Permit Hearing – Matthew & Colleen Noon, 90 Warren Avenue**

- Site Plan, Matthew & Colleen Noon, 90 Warren Avenue, Harvard, MA, prepared by David E. Ross Associates, Inc., Job No. 31339, Plan No. L-12998, dated June 2016
- Sewage Disposal Plan, Matthew & Colleen Noon, 90 Warren Avenue, Harvard, MA, prepared by David E. Ross Associates, Inc., Job No. 31339, Plan No. L-12986, dated June 2016