

**HARVARD ZONING BOARD OF APPEALS
MEETING MINUTES
MAY 12, 2021
APPROVED: SEPTEMBER 8, 2021**

Chair Chris Tracey called the meeting to order at 7:05pm, virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20 under M.G.L. Chapter 40A and the Code of the Town of Harvard Chapter 125

Members Present: Chris Tracey, Theodore Maxant (departed @ 8:25pm), Steve Moeser, and Orville Dodson (departed @ 8:32pm)

Others Present: Liz Allard (Land Use Boards Administrator), Laura Moss, Dan Wolfe (Ross Associates, Inc.), Adam Meir, Charles Vander Linden, William Mederios, Mike Carroll and Wayne Cornell

Variance Hearing – Adam Meier & Collen Yout, 24 Mill Road. Opened at 7:05pm. (See page 3 for complete details)

Discuss Revised Bond for Trail Ridge

Following-up on the discussion from the April 14, 2021 meeting, Chris Tracey stated the ZBA is unsure as to who is responsible for what at Trail Ridge. The site still has a number of items to be addressed before the project would be considered complete. There has been no word from Doug Pochini, representative for Fairway Partners, since the April meeting. Mr. Tracey suggested the Certificates of Occupancy for the remaining units be withheld until all outstanding items are verified complete. Steve Moeser asked if the bonding company has been put on notice that acclaim may be forthcoming. Liz Allard stated they had not. Charles Vander Linden, representing the Home Owners Association, stated there has been a transfer of the common facilities to the Trust.

After further discussing the ZBA options, Steve Moeser made a motion request the Certificates of Occupancy be withheld from the last three units until confirmation of compliance with the Comprehensive Permit is obtained and to notify the bonding company of a pending claim. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Theodore Maxant, aye; Steve Moeser, aye; Orville Dodson, aye; and Chris Tracey, aye.

Approve Minutes

Steve Moeser made a motion to approve the minutes of April 12, 2021 as amended. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion by a roll call, Theodore Maxant, aye, Steve Moeser, aye; Orville Dodson, aye; and Chris Tracey, aye.

Discuss the definition of “Structure” within Chapter 125

Steve Moeser was hoping to have a better understand from a Zoning Board of Appeals point of view how a structure, such as a shed, relates to the setbacks within Chapter 125 Protective Bylaw. A building permit is not required for a structure less than 200 square feet according to the State's Building Code; however, that does address the Town's Protective Bylaw setbacks. According the Building Commission a structure, such as a shed, shall be setback the height of the structure; with unlimited number of these unpermitted types of structures allowed.

Chris Tracey detailed the definition of structure, which states “any construction or assemblage of materials in a fixed location...”; there is no definition for a “fixed location”. Mr. Tracey suggested an amendment of the bylaw or interpretation by the Building Commission since Harvard does not have a section that details allowable structures in residential yards like other communities zoning bylaws do. The options available are to either amend the current language with §125-30E(2) to allow only one such structure or strike it in its entirety and require all structures, including sheds, obtain a building permit.

What about pre-existing non-conforming lot? Would a variance be required, because you would not be able to conform to §125-30E(2)? Mr. Tracey thinks that may be true. Dan Wolfe believes the definition needs amending in regard to “in a fixed location”. Mr. Tracy believes the Building Commission is looking at a fixed location to have a foundation. After discussing a number of examples and advice provided previously by Town Counsel on non-conforming lots and structures, Mr. Tracey and Mr. Moeser agreed to meet with the Building Commissioner to further discuss.

Adjournment

At 8:39pm Steve Moeser made a motion to adjourn the meeting. Chris Tracey seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye and Chris Tracey, aye.

Signed: _____ **Liz Allard, Clerk**

DOCUMENTS & OTHER EXHIBITS

- Town of Harvard, Zoning Board of Appeals Agenda, dated May 12, 2021
- Site Plan Colleen Yout 24 Mill Road, Harvard, MA, Jon No.: 33244, Plan No.: L-14313, prepared by David E. Ross Associates, Inc., March 2021
- Functional Aesthetic Design + Build – First Floor, Loft and Exterior Elevation Plans, 3.14.21
- 24 Mill Road – Back of House Photo, 2021-01-29
- DRAFT Zoning Board of Appeals Meeting Minutes, April 14, 2021 prepared by Liz Allard

Harvard Zoning Board of Appeals

Variance Hearing Minutes

Adam Meier & Collen Yout, 24 Mill Road

May 12, 2021

The hearing was opened at 7:05pm virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20, by Chairman Chris Tracey under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125.

Members Present: Chris Tracey, Theodore Maxant, Steve Moeser and Orville Dodson

Others Present: Liz Allard (Land Use Boards Administrator), Dan Wolfe (Ross Associates, Inc.), Laura Moss and Adam Meier

This hearing is for a Variance filed on behalf of Adam Meier & Collen Yout to allow for a reduced setback from the centerline of the roadway for an addition to an existing single-family home at 24 Mill Road, Harvard.

Dan Wolfe, President of Ross Associates, Inc., was present, along with the applicant Adam Meier. Mr. Wolfe explained the proposed addition would encroach on the 75' from the centerline of the right-of-way for the frontage along Mill Road. The existing structure is 86.1' from the centerline, whereas the proposed addition would place the structure at 62.1' from the centerline. Mr. Wolfe explained the hardship arises out of the land; an addition to the existing dwelling elsewhere would be difficult due to the topography of the lot, which in the rear dwelling is a steep slope down to Bower's Brook. The existing septic system is located on the left side of the dwelling and the well is located on the right. Mr. Wolfe stated there are many examples of homes along Mill Road that are closer to the roadway than this proposal. The total proposed floor area is less than 2,000 square feet.

Chris Tracey stated it is clear that an addition at the rear of the house is not suitable due to the slope, which descends 5' every 10'. Mr. Tracey questioned why an addition could not be located on the right side of the dwelling. Mr. Wolfe stated that is a well and steep slope in that area.

Theodore Maxant was amenable to the request for a variance as the application and site plan meets the intent of the Protective Bylaw.

In order to meet the 75' setback the rooms within the addition would need to be smaller. Steve Moeser stated the relief being sought is 13'; why not direct connect the existing roof line with the proposed roof line? Required height within the rooms of the addition would not be achieved if the roofs were connected due to the topography (existing eve is only 7.6' above grade). Mr. Moeser suggested the roof lines be reviewed again as there may be issues with ice dams, drainage and snow build-up in the future.

Wetland restrictions on the site were discussed. Liz Allard, Conservation Agent, stated the Commission approved a waiver last week to allow the addition with 50' of a wetland resource area. In regards to §125-45B(a), Adam Meier stated he explored a second-floor addition or tearing-down and rebuilding; either of these options would come at a significant cost, creating a financial hardship.

Steve Moeser made a motion to close the evidentiary portion hearing. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by roll call vote,

Theodore Maxant, aye; Steve Moeser, aye and Chris Tracey, aye.

Steve Moeser made a motion to issue a Variance to §125-30E(4) of the Protective Bylaw to Adam Meier & Collen Yout at 24 Mill Road to allow for a structure at 62.1' from the centerline of the right-of-way as opposed to the required 75'. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by roll call vote, Theodore Maxant, aye; Steve Moeser, aye; and Chris Tracey, aye.

Signed: _____ Liz Allard, Clerk