

**HARVARD ZONING BOARD OF APPEALS
MEETING MINUTES
NOVEMBER 30, 2022
APPROVED: DECEMBER 28, 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.

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

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

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

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

Approve Minutes

Minutes were not available this evening

Adjournment

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

Signed: _____ Liz Allard, Clerk

DOCUMENTS & OTHER EXHIBITS

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

Harvard Zoning Board of Appeals

Continuation of a Variance Hearing Minutes

Christopher & Jennifer Holmes, 31 Glenview Drive

November 30, 2022

The hearing was opened by Chair Christopher Tracey 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 a, and under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125

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

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

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

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

Signed: _____ Liz Allard, Clerk