

**HARVARD ZONING BOARD OF APPEALS
MEETING MINUTES
JUNE 10, 2015
APPROVED: JULY 8, 2015**

Member Steve Moeser opened the meeting at 7:33pm in the Hapgood Room at 7 Fairbank Street under the Zoning Act Chapter 40A and the Code of the Town of Harvard Chapter 125

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

Others Present: Liz Allard (LUB Admin), Rob Oliva (Ross Assoc.), Joe Pettirossi, Maureen Pettirossi, Robert Hughes and Bruce Leicher

Special Permit Hearing – Maureen Pettirossi, 64 Warren Avenue. Opened at 7:30pm (for detailed minutes see page 2)

Adjournment

At 8:23pm Robert Capobianco 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

Maureen Pettirossi, 64 Warren Avenue

June 10, 2015

The hearing was opened at 7:30pm by Member Steve Moeser in the Hapgood Room at 7 Fairbank Street under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, the Protective Bylaw, Chapter 125

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

Others Present: Liz Allard (LUB Admin), Rob Oliva (Ross Assoc.), Joe Pettirossi, Maureen Pettirossi, Robert Hughes and Bruce Leicher

This hearing is for a Special Permit filed on behalf of Maureen Pettirossi, for the demolition and reconstruction of a pre-existing non-conforming structure at 64 Warren Avenue, Harvard.

Robert Capobianco made a motion to waive the reading of the legal notice. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion.

Rob Oliva, Project Manager from Ross Associates, was present to represent the applicant. Mr. Oliva explained the application is for a Special Permit as the existing structure is nonconforming in relation to the property line (26.3', should be 40') and the w-district (42.9, should be 60'). The lot sits askew to Bare Hill Pond. The applicant is proposing the removal of the existing one level structure, which will be replaced by a new two-story structure in all most the same location. As proposed the new structure will have an increase in both footprint and floor area, of 47.5% and 125.6% consecutively, but meets the requirements of floor area ratio at 6.2% (less than 10%). The old storage shed is no longer used, but is a conforming structure.

Mr. Oliva stated the proposed new structure will be no more nonconforming then the existing structure for both the side line and w-district setbacks. There are no plans to improve the existing driveway.

Mr. Oliva has stated he has meet on site with Fire Chief to address his concerns with the width of the driveway. The Fire Chief has concerns with the existing grades of the driveway; however there is no way to improve what is there. Mr. Oliva stated he is aware that the Conservation Commission views this as new construction that will need to meet the 75' setback for structures. Mr. Oliva does not consider this to be new construction, nor does the site allow for the structure to moved back any further without cutting into the existing slope. The Planning Board has similar comments and too views it new construction. Mr. Oliva explained in the court case Gale v. the ZBA of Gloucester, a single family residence can be demolished and replaces with a larger structure with either a finding under section 6 of the Zoning Act or by special permit.

Steve Moeser asked what the plan is to comply with the required 20' width of access along the driveway as stated by the Fire Chief. Mr. Oliva stated he is working with the Fire Chief to comply as best as they can. Mr. Oliva feels confident he will be able to comply with the request of the Fire Chief.

Robert Capobianco stated he is embroiled with semantics here; if the existing structure was being altered he would be okay with it, but you are taking the whole house down and building a new

one. Mr. Capobianco would like get Town Counsel's advice on the matter before making any decisions.

Theodore Maxant stated there is a deed restriction as a two bedroom dwelling; however it appears to be a design for a three bedroom dwelling. The Building Commissioner typically would consider some of the spaces as bedrooms and may question the two-bedroom septic system.

The members were having a difficult time with an increase in size of this magnitude, not to mention that a 6,000+ square foot house is only two-bedrooms.

Mr. Moeser can not imagine how a structure of this size could not be a detrimental to the neighborhood, not mention increased runoff to Bare Hill Pond.

Mr. Moeser asked about the small cabin on the site. Mr. Oliva stated he is not certain as when it was built, it does not have a foundation and the assessing department has found it to be a shed. Mr. Moeser noted the structure has heat.

As for drainage on the site, Mr. Oliva stated the property is primarily made up of ledge, which does not allow for the infiltration currently of runoff. The increase in runoff is marginal due to the ledge.

The applicant is proposing to remove a number of dead or diseased trees, which will be further discussed with the Conservation Commission.

Propane is currently used for cooking and hot water; the applicant is considering changing the heating system over to propane as well.

Existing down spouts are piped under the existing patio and daylight out of the existing retaining wall. Mr. Oliva stated typically Conservation Commission prefers dry wells or infiltration trenches around the house; with ledge and shallow depths of soil it may not be suitable to do so. Plantings may help address runoff. Liz Allard asked about rain gardens. Mr. Oliva stated that ledge again would be an issue.

Mr. Moeser is afraid by allowing houses of this size on the pond it may effect view shed of others in the neighborhood.

Members discussed the retaining wall and if it is considered a structure, as it is closer to the pond. Mr. Oliva explained as a block wall rather than a poured concrete wall, it is not considered a structure.

Questions about whether or not the structure is considered seasonal were addressed. The structure was previously purchased by occupants who resided there year round.

In response to comments made by the Bare Hill Pond Watershed Management Committee, the applicant does not plan use any fertilizers on the site.

The members would like to review storm water calculations, confirmation that the retaining wall is not considered a structure, and advice from Town Counsel on the ability to reconstruct a large dwelling.

Robert Capobianco made a motion to continue the hearing to July 8, 2015 at 7:40pm. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Liz Allard, Clerk

DOCUMENTS & OTHER EXHIBITS

Special Permit Hearing – Maureen Pettirossi, 64 Warren Avenue

- Site Plan, Joseph Pettirossi, 64 Warren Avenue, Harvard, MA, Davis E. Ross Associates, Inc., Jon No. 30322, Plan No. L-12487-A, dated May 2015