

**Harvard Planning Board
Meeting Minutes
January 8, 2007
APPROVED: February 5, 2007**

Chairman Mary Essary called the meeting to order at 7:40pm in the Hapgood Room of the Harvard Public Library.

Members Present: Mary Essary, Barbara Brady, Joseph Sudol and Kara McGuire Minar

Others Present: Bonnie Chandler (Harvard Post), Valerie Hurley (Harvard Press), Mark Lanza, Jim Elkind (Harvard Conservation Trust), Michael Crouse (GPR, Inc.), Richard Nota, Maud Ayson (Fruitlands Museum), Pam Durrant, Tim Clark (Town Center Planning Committee) and Lucy Wallace (Board of Selectmen).

Minutes

Brady made a motion to accept the minutes of April 13, 2006 as amended. Essary seconded the motion. The vote was unanimously in favor of the motion, with the exception of Sudol who was not a member of the board at the time of the meeting.

Sudol made a motion to accept the minutes of November 6, 2006 as written. Brady seconded the motion. The vote was unanimously in favor of the motion.

Sudol made a motion to accept the minutes of November 20, 2006 as written. Brady seconded the motion. The vote was unanimously in favor of the motion.

Sudol made a motion to accept the minutes of December 4, 2006 as written. Minar seconded the motion. The vote was unanimously in favor of the motion.

Maka Decision – Lot 2 Stow Road, Map 38 Parcel 12

The admin informed the members changes had been made to the Special Permit as commented on by Bruce Ringwall, the applicant's representative. The changes were reviewed and accepted by the Board. Lanza received a phone call from Attorney Larkin, the applicant's representative on this subject matter. Attorney Larkin stated the lot line at issue was created in the early 60's at the time the set back of the structure was allowed, if so it should be grandfathered. This is not a non-conforming lot due to infectious invalidity. Minar asked if they are asking us to approve the creation of a new lot is that blessing a non-conforming lot. Lanza stated no. The decision cannot be made tonight because the proper members are not present tonight.

ANR Approval – Harvard Conservation Trust, Slough Road

McGuire Minar made a motion to approve the HCT ANR for the two lots on Slough Road; Lot 5 and Parcel B. Brady seconded the motion. The vote was unanimously in favor of the motion.

Scenic Road Consent – Nicholas Kouros & John Ritter, 185 West Bare Hill Road, Map 26 Parcel 20.1.1. Opened at 8:01pm

Proposed Bylaw Amendments – Chapter 125-1 and 125-31B (1). Opened at 8:36pm

Town Center Planning Committee

Tim Clark was present to discuss with the members the reappointment of the Town Center Planning Committee. Clark will submit his recommendations to the Board for their next meeting. Clark would like the Board to take the lead on the town village overlay district. Selectwoman Lucy Wallace thinks if there is a committee in place concurrently with support of the Planning Board residents would be receptive of plans and changes. Wallace added in addressing the septic in the town center there are municipal buildings that fall into play. Essary stated this topic would be placed on the agenda for the next meeting.

Modification of Special Permit – New Cingular Wireless, 0 Brown Road

Lanza provided background on the re-issuance of the special permit. McGuire Minar made a motion to approve the modification of the Special Permit for New Cingular Wireless. Brady seconded the motion. The vote was unanimously in favor of the motion. Brady made a motion to authorize the chair to sign the decision for the board. McGuire Minar seconded the motion. The vote was unanimously in favor of the motion.

Certification of Accessory Apartments and Deed Restrictions

Brady presented a draft outline for proposed certification of accessory apartments. Brady noted we do not have the incentive in Town to develop or add these apartments to the subsidized housing inventory. The assessors said they can't just give a tax break. Through home rule petition you can pass a property tax reduction. DHCD was satisfied that the town was following up enough so no deed restrictions were needed, because they would have to reapply for the tax exemption each year. Essary stated this would be the most economical way for us to increase our affordable housing inventory. Essary asked would they have to be new accessory apartments or could there be amnesty for existing accessory apartments. Brady did not know the answer to that question. Brady did add there really needs to be a turnover in the accessory apartments to determine there is no discrimination under DCHC. Lanza stated if there is only a home rule petition, then there is no need to have an advertised public hearing, so there is time to get this on the warrant. This subject will be discussed further at the next meeting.

Adjournment

Sudol made a motion at 10:47pm to adjourn the meeting. Brady seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Kara McGuire Minar, Clerk

Harvard Planning Board

Scenic Road Consent Hearing Meeting Minutes

Nicholas Kouros & John Ritter – 185 West Bare Hill Road, Map 26 Parcel 20.1.1

January 8, 2007

The public hearing was opened at 8:01pm by Chairman Mary Essary in the Hapgood Room of the Harvard Public Library under Massachusetts General Law Chapter 40 Section 15C and the Code of the Town of Harvard, Chapter 90.

Members Present: Mary Essary, Barbara Brady, Kara McGuire Minar and Joseph Sudol

Others Present: Bonnie Chandler (Harvard Post), Valerie Hurley (Harvard Press), Mark Lanza, Michael Crouse (GPR, Inc.), Richard Nota, Maud Ayson (Fruitlands Museum), Pam Durrant, Tim Clark (Town Center Planning Committee) and Lucy Wallace (Board of Selectmen).

Crouse explained to the members that the lot was originally accessed by a common driveway. The applicant wanted better site distance and their own driveway. At the roadway, within the property boundaries are a large oak and maple and two stonewalls. The new driveway has been located as to not disturb the stonewall and to preserve the trees. The driveway has already been built due to confusion with what could be done and when. The driveway is 267 feet and does not require site plan approval. Essary asked if the grade exceed 10%. Crouse stated yes. The driveway is twelve (12) feet wide with two (2) foot shoulders. No portion of the stonewall was removed, nor were any trees removed.

Essary asked Lanza for comments. Lanza stated with no destruction of the stonewall or tree removal, this does not need a consent from the Board. The contractor told Nota this was an existing driveway and that no permits were required. McGuire Minar asked if the Board can send a letter to the contractor explaining the process. Since other work is taking place on site it is hard to determine if the rough drive way was not done prior to the contactor who paved the driveway came on board.

The Board and Nota agreed DPW would contact the Land Use Boards Administrative Assistant from now on to check to see if any permits are required before allowing a driveway cut.

Crouse asked about returning the filing fee. Lanza stated the fee is for administrative services rendered in dealing with the application.

Signed: _____
Kara McGuire Minar, Clerk

Harvard Planning Board

Proposed Amendments to the Protective Bylaw Meeting Minutes

January 8, 2007

The public hearing was opened at 8:36pm by Chairman Mary Essary in the Hapgood Room of the Harvard Public Library

Members Present: Mary Essary, Barbara Brady, Kara McGuire Minar and Joseph Sudol

Others Present: Bonnie Chandler (Harvard Post), Valerie Hurley (Harvard Press), Mark Lanza, Michael Crouse (GPR, Inc.), Richard Nota, Maud Ayson (Fruitlands Museum), Pam Durrant, Tim Clark (Town Center Planning Committee) and Lucy Wallace (Board of Selectmen).

Proposed amendments for ATM are changes to Chapter 125-1 to be more consistent with the Master Plan and Chapter 125-31 B (1) removing the restriction to the types of lots allowed on a common driveway.

Chapter 125-31: The Board had invited the DPW Director and the Fire Chief to comment about the change to the lot types off of a common drive. Nota stated it does not seem to be a problem. Fire Chief Mignard stated as long as there is access and egress for emergency vehicles he has no issue with the proposal. The amendment does not change the required special permit for a shared common driveway. Sudol has researched the bylaw requirement of allowing only two hammerhead lots off of a common driveway. He believes the bylaw does not seem to serve a purpose. Mignard stated he looks at a common driveway as an un-named street, as long as the flare at the end gives us access to turn around he is fine with it. It was stated that turn around are based on the length for the driveway.

Tim Clark stated he had concerns in regards to development density if you change the number of hammerhead lots off a common driveway. Essary pointed out this does not change the frontage requirements, but only gives flexibility in accessing the property, a flexibility that may serve the town better than requiring an additional driveway.

Clark stated the town allowed backland lots and it has created a number of buildable lots. By allowing this you are allowing the creation of additional lots. Brady stated we may have to look at the density prior to allowing the common driveway and noted this is still a special permit.

Clark asked if the cluster lot development is that something you want to encourage. Essary responded by saying yes or course, but that was not relevant to this discussion. She pointed out most development in town came from subdividing one lot into two, and when larger parcels were involved it was often the case the land owner did not want to take responsibility for development and therefore a cluster was not an option.

Essary asked if we should remove the limitation entirely, or change the maximum, from 2 to 3 hammerhead lots out of the four lots on a common driveway. Brady preferred the bylaw still require one frontage lot. Essary stated a special permit lot is only approved at the discretion of the Board; we have the right to place conditions/restrictions on it. We cannot force someone on to someone else's driveway, but we can place this restriction on a new special permit.

Essary stated the Board might prefer one common driveway rather than several small driveways. McGuire Minar asked if a Special Permit is issued requiring the common driveway, can they opt

out if they have the frontage and can fit a single driveway in. Lanza stated the land owner waives the right to use the frontage as a driveway if they do not appeal the decision.

Clark asked what kind of methodology the Board is trying to encourage? Essary was confused at this question, but re-stated we try to encourage clusters when possible. She cited both the Sheehan property and the Harvard Conservation Trust property as examples where the Board could not require someone use the Cluster Bylaw.

Brady sees there are cases where there would not be a cluster where there would be a backland lot added, it would be nice to not have to get a variance. Maybe there is some other way to encouraging the clustering development.

If you leave the bylaw the way it is you leave yourself open to a lot of little driveways throughout town. Nota asked if an applicant connects to a common driveway, then is a residential connection not required. Lanza stated that was correct. Chandler asked if the Board is encouraging cluster development over the backland lots. Essary stated regarding the number of hammerhead lots on a common driveway, it is not one or the other, it builds on the other bylaws and it may be beneficial or it may affect the placement. Brady stated you have to prove that you had the backland lots then you can do cluster development. Cluster makes a better use of space, but does not alter the dimensional requirements. Essary pointed out if anything, allowing for more hammerhead lots on a common driveway at least mimicked "clustering" from the roadside. The Board agreed to review the language and continue to reflect on any unanticipated consequences of making this change.

Chapter 125-1: Sudol began discussion by pointing out Chapter 125-1, the statement of purpose, was last amended in 1969. Since then the Master Plan has been updated, so the Board thought it appropriate this section be reviewed. Sudol has looked into amending the purpose to be consistent with the Master Plan. The Master Plan covered the purposes, but it expanded on them. The Board is proposing to follow more of the Master Plan, giving them more of a back ground to reviewing an application.

Sudol will forward his draft changes to have others comment on it. Brady thinks there is something to be said for the work that was put into the Master Plan. She thinks there may be some value to the bylaw remaining general, but not trying to put the exact wording of the master plan, without injecting into the purpose that could evolve over time. Essary stated lets have Sudol circulate his document and noted what is there now is kind of an odd mix of the general and the specific. Essary added many times she is looking for guidance that you can only find by reading between the lines; she believes the statement of purpose was an important part of the bylaws and was the ultimate criteria for allowing discretionary permits.

Lanza stated in the Zoning Act, M.G.L. Chapter 40A, there is a purpose section and most town and city bylaws parallel this purpose. Lanza thinks it is a good idea to have a well thought out purpose section. A special permit or variance should be written to be in alignment with those purposes. We want to keep them general, but still have some substances. They are findings which are required by the PB and ZBA.

The Board agreed to review Sudol's suggestions and continued their discussion.

Chapter 79: Essary asked Lanza if Chapter 79 of the Acts of 2006 should this be a town bylaw or a part of the protective bylaw. Lanza stated it is not a bylaw it is a state statute, which can be determined as to which boards it applies to. It does have to be voted in at town meeting. Wallace, a member of the Board of Selectmen (BOS) was in attendance, was asked by Essary if the BOS had any comments on this. She said they had not met since this issue was initially raised by the PB in December and suggested the Board take responsibility for getting comments from other town boards to see if they would like to have it adopted; she did not believe the

Chairman of the BOS has circulated any such request. If several boards are interested then maybe the Selectmen should present it at ATM.

New: Museum Bylaw: Lanza stated a copy of draft has been sent to the Board in regards to a provision in the bylaw which will cover museums. The Zoning Bylaw currently does not address museums. The draft has been circulated to one of the members of the Board of Selectmen and the Fruitland's attorney. Since the ZBA is a defendant against Fruitlands it is not a good idea to have them backing this amendment. Lanza reviewed his draft. McGuire Minar has issues with the distance requirement and the serving of alcohol as it could limit other areas in Town such as the Historical Society in Still River. McGuire Minar is also uncomfortable with writing something that is so specific to the Fruitland's. Lanza stated if zoning is not allowed it is not prohibited. If this is adopted it would make Fruitland's a conforming facility within Town.

Each of these subject matters will be discussed further at the next meeting. McGuire Minar made a motion to continue the hearing until January 22, 2007 at 8:00pm. Brady seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Kara McGuire Minar, Clerk