

**Harvard Planning Board
Meeting Minutes
January 22, 2007
APPROVED: February 5, 2007**

Chairman Mary Essary called the meeting to order at 7:45pm in the Hapgood Room of the Harvard Public Library.

Members Present: Mary Essary, Barbara Brady, Joseph Sudol and Peter Brooks (Associate Member)

Others Present: Bonnie Chandler (Harvard Post), Valerie Hurley (Harvard Press), Marie LeBlanc (Fruitlands Museum), Pam Durrant (Fruitlands Museum), Maud Ayson (Fruitlands Museum), Mark Lanza, Gary Shepard (Ross Assoc.) and John Sweeney

ANR Approval – Turner, 23 West Bare Hill Road

Gary Shepard, of Ross Associates, was present and explained to the members the site consists of one existing house and a shed, which will be removed. The property is a land court property, so there are two mylars to be filed. Previously the land was divided into five parcels; these are being combined into two lots, one with the existing house. Shepard stated that there are no wetlands anywhere on the property. He noted that the division will not create any non-conformity on the lot with the house. Brady made a motion to endorse the plan as submitted. Sudol seconded the motion. The vote was unanimously in favor of the motion.

ANR Approval – Walter, 20 Lover Lane

Gary Shepard, of Ross Associates, was present and explained to the members when the original ANR was signed by the Board there was a note on the plan stating the lots were not buildable lots. Now that the special permit has been issued the owners are looking to have the note removed. A notation has been made on the plan. Brady made a motion to endorse the plan. Sudol seconded the motion. The vote was unanimously in favor of the motion.

Open Seats on the Board

Bill Ashe has tendered his resignation effective February 1, 2007. As the Chair, Essary would like to accept his resignation and thank him for all of his work on Devens Reuse and other Planning Board activities. Essary asked Brooks, our current Associate, if he would be able to be a full member of the Board, and also suggested that he run for the position that will be open to fulfill the rest of Ashe's term. Brooks asked how long the term would be. He was told one year. Brooks said that he would be willing to accept the submission, and would be willing to fill out Bill's term.

Essary made a motion to submit Peter Brooks name to the Board of Selectmen (BOS) for appointment to the Planning Board to replace Ashe. Sudol seconded the motion. The vote was unanimously in favor of the motion. The Administrative Assistant will get this item put on the Selectmen agenda for February 6th and send letter to BOS.

Maka Decision – Stow Road Map 38 Parcel 12

The members needed to sign the decision are not present this evening. A meeting was scheduled for February 2nd at 7:30am in the Town Hall Meeting Room to vote on the decision.

Continuation of Proposed Amendments to the Protective Bylaw Hearing. Opened at 8:15pm

ADHOC Appointment – Shaker Village 40B

The Board of Selectmen requested a representative of the Planning Board be appointed to the AHDOC Committee for the 40B Project known as Shaker Village. Essary stated McGuire Minar would be a good individual to be nominated to represent the board because of her interest in the Boxborough 40B project; no other members had the time to take on this task. Brady made a

motion, subject to McGuire Minar accepting the appointment (Minar was not present at the meeting), that the Board designates her as representative for the Board. Sudol seconded the motion. The vote was unanimously in favor of the motion.

Town Center Planning Committee Appointments

Tim Clark, chair of the committee, had asked the Board to reappoint the committee in addition to representatives from groups tied to the town center. Essary suggested that it is appropriate to do such appointments in early April, immediately after Town Elections. After discussion, it was agreed that the Administrative Assistant would send a letter to the appropriate boards reminding them of the need to appoint a representative in April. Essary also suggested that if we have a list of suggested groups from Clark, that we contact those groups, such as the churches in the area of the center, let them know the Board would like them to join the committee and ask them to appoint a representative. The Board agreed that the nominations for representatives come from the organizations themselves, although we may suggest a person that is interested from Clark's list. Allard will follow up with Clark to obtain list of suggested members and organizations to be represented.

Chapter 61A – Maka Stow Road

A letter was sent two years ago in regards to this site. The Board would have the same comments for the site, that its acquisition is not a priority for the town in terms of the Open Space plan or any other issue for the Planning Board. Brady made a motion to resend a letter that contains the same comments as previously stated. Sudol seconded the motion. The vote was unanimously in favor of the motion.

Maka Scenic Road Consent – Stow Road Map 38 Parcel 12

The scenic road consent has been reviewed and approved by Lanza. Sudol made a motion to approve the consent as written. Brady made an amendment to the first page and seconded the motion. The vote was unanimously in favor of the motion.

Adjournment

Brady made a motion to adjourn the meeting at 9:58pm. Sudol seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Barbara Brady, Clerk
(In the absence of McGuire Minar)

Harvard Planning Board

Continuation of Proposed Amendments to the Protective Bylaw Meeting Minutes

January 22, 2007

The public hearing was opened at 8:15pm 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), Marie LeBlanc (Fruitlands Museum), Pam Durrant (Fruitlands Museum), Maud Ayson (Fruitlands Museum), Mark Lanza and John Sweeney

Chapter 125-31B (3) and (4) and 125-31D (2): Essary explained these sections need to be reworded to allow a temporary driveway during construction. Sudol suggests having a section for temporary driveways. Essary explained text needs to be submitted to the Board of Selectmen (BOS) by January 26th. This text needs to be as close to the final text as possible, the final text can not be more restrictive. The Board is looking to allowing the construction of a driveway up to the bituminous concrete for temporary use during construction, with the final top coat being put in place once heavy use is done. This is in accordance with requests from builders and from recommendations from the Board's consulting engineer that the construction vehicles can damage the driveway if it constructed beyond the gravel layers.

The board also discussed the wording regarding written authorization to go forward from the PB with respect to a common driveway before a building permit is issued. Right now, this is worded differently in the section on common driveways and the general section on driveways. After discussion, it was agreed that the requirement should be deleted under the section on common driveways and the language transferred to the general section so that this is clear that it applies to all driveways requiring site plan approval or a special permit from the PB. Currently, the inconsistency makes it appear that different regulations apply in different situations, and that is not the intent.

Chapter 125-39B(5)(e)[5]: This diagram needs to be deleted as it was not at last years Annual Town Meeting.

Chapter 125-31B(1): Essary began by noting at last meeting the DPW Director and Fire Chief had no issues with this change. The only concerns of the public expressed at that meeting were this change would allow for more development.

Brady thinks the only way this could happen if there is not a frontage lot. Essary added there is nothing at all right now that prevents four hammerhead lots driveways to be right next to each other. It would be possible to say it can be extended to four if the Board finds it to be reasonable. Brady responded by noting that eliminating the requirements for one lot being a frontage lot could in fact lead to a higher density, given the geometric limitations imposed by requirements for hammerhead lots. Lanza stated it would have to meet the criteria. Essary asked if we wanted to include language to the effect that "the Board can extend it to three (3) hammerhead lots if the Board feels it will preserve the character". Brooks asked if the Board is trying to encourage this more. Brady stated yes because the Board would like to encourage less curb cuts, destruction of stone walls and the remove of public shade trees. Given this, after discussion, the board decided to change the number of backland or hammerhead lots allowed to share the same driveway from two (2) to three (3).

Chapter 125-1: Sudol stated the Board should consider making changes to the purpose of the Bylaw seriously since it is the bases for the decisions made by the Board. Brady stated the purpose should be kept as general as possible. Sudol has completed the changes he would like the Board to approve. The Board will review those; Allard will investigate examples from other towns. Town Counsel and Brooks stated that reference to the purpose of the bylaws is becoming more important in cases before the courts, particularly with the issue of standing. Brady remarked that this section is our "Constitution".

Museum Bylaw: Lanza distributed revisions made to his previously submitted bylaw for museums within town. Brady asked if as the bylaw stands right now, given there is no provision to allow a museum, a person does not have the right to put one in. Lanza stated only the town has the right to put one in currently. Lanza stated additions are underlined and deletions have a strike through them. Brook asked if Lanza would like to change the definition of a museum to have "and/or" rather than just "and" for its requirements; as it reads it requires all of the characteristics to be met, including research. Brooks asked if the intent is to allow for an existing entity to conform. Lanza stated no and explained the word "Town" is not repeated in the bylaw and should be included. Lanza stated that during the ZBA hearings they heard from the person who crafted the existing bylaw (P. Shutt) and he confirmed that the word "Town" was meant to apply to all of the subsequently mentioned uses. Lanza suggested clarifying this by modifying each use mentioned, which would be the modification of Part D. Essary also said that it is confusing because Part D begins by listing "Way"; this should be reworded.

The new section, Part H, covers private museums. Part H is very specific, and led to questions about how this would apply in general.

Members were concerned over the Historical Society, in Still River, and its ability to continue in its current capacity if this bylaw is accepted at Annual Town Meeting. Lanza asked if the Historical Society land and building are owned by the town. Members were not sure of this but will look into it. A sentence was added to part H to make it clear the bylaw is not unwittingly disallowing existing museums.

Brady asked what would happen if an accessory structure had an accessory apartment in it. Lanza stated the accessory structure should not contain sleeping quarters. Sudol asked why Lanza struck out the "owned & operate by" line. Lanza explained a museum may want to hire an outside company to run the food service, as long as the funds were being used to run the museum it would be acceptable. Sudol asked if a museum could sell off their function facility. Lanza stated it would not change the provision within the bylaw, which requires the proceeds benefit the museum.

Residential Wind Tower Bylaw: John Sweeney, a resident of town, is proposed a residential Wind Tower Bylaw for this year's Annual Town Meeting (ATM). Ham radio towers are specifically allowed under the bylaw as accessory uses; since wind towers are not mentioned they are implied as not being allowed.

Sweeney explained the Town of Harwich has a very good bylaw, which deals primarily with residential, non-commercial use. He explained that a tower would need to be high enough to avoid any interference. Trees tops are on average 80 feet, so you are looking at approximately a hundred (100) foot tower. Brooks thinks you would get the same resistance as you do with cell towers from residents. Lanza is of the assumption it would be prohibited because as an accessory structure it would not meet the height requirements. Sweeney would like to get a feel as how residences would feel about these types of towers.

Essary noted that a great deal depends on exactly what these towers would be like, where they would be appropriate, etc. The board noted that the Harwich bylaw is very detailed, spelling out limits on any issues of concern, such as noise, size in terms of power production, and so on. The Harwich bylaw has a limit of 150 feet. Lanza noted that towns near the Cape are in a different

situation with regard to available wind energy, and is not sure what would be justified in a town like Harvard.

Brooks does not think we are in a position to draft and write a bylaw for this year. Essary asked if the Board should use the Harwich bylaw to start work on it. Brady stated there is no problem with starting a public discussion. Essary would be in favor of moving forward with this with a hundred (100) foot height limitation and using the Harwich bylaw as an example. Sudol asked Lanza if at the ATM you could get a sense of how the town feels about this. Lanza agreed that the board could see if pursuing it is applicable and see if an advisory board should be established. Brooks thinks it is a lot for the Board to chew on in such short amount of time and added is this something we want to take on right now or take it on over the next year.

Lanza suggested at ATM an advisory vote of resolution be taken to determine where the town stands on this issue. The board will pursue this, maybe not as aggressively as hoped, and will include notice of the proposed resolution in the legal notice for the February 12 meeting with the other proposed amendments.

Lanza will draft a legal notice for the hearings under Chapter 40A for a meeting on February 12, 2007 at 8:00pm. He will also draft a letter to the Selectmen Chapter 79 of the Acts of 2006.

The informal hearings on the proposed bylaw changes were continued until the next PB meeting, Feb. 5, at 8:00. Because of the legal requirements, formal hearings cannot begin until Feb. 12, so the board will hold a special meeting on that date.

Lanza and Essary will work to get the text of the proposed changes, as discussed at the meeting, to the town clerk for public access by Jan. 26, when the legal ad will appear.

Signed: _____
Barbara Brady, clerk
(In the absence of McGuire Minar)