

**Harvard Planning Board
Meeting Minutes
July 16, 2007
APPROVED: September 17, 2007**

Chair Mary Essary called the meeting to order at 7:41pm in the Town Hall Meeting Room.

Members Present: Mary Essary, Kara McGuire-Minar, Joseph Sudol and Leo Blair (Associate Member)

Others Present: Richard Breyer (Harvard Hillside), Mary & Leon Piasecki, Wayne McFarland, Al Barbieri, Christian Bilodeau, Don Walter, Rob Oliva (Hamway Engin.) Bruce Ringwall (GPR, Inc.) and O'Conner

Approve Minutes

Sudol made a motion to accept the minutes of May 7, 2007, June 4, 2007 and June 18, 2007 as amended. McGuire-Minar seconded the motion. The vote was unanimously in favor of the motion.

All Land Use Board Meeting

Essary stated a meeting was held on July 12th with a member of each of the four Land Use Boards to collaborate on current filings and filings to come. Ira Grossman, the Town Sanitarian, stated that it is not necessary for septic systems to be designed in detail during the initial filing phase, but other towns are requiring that testing be done prior to a filing. Perk testing results and wetlands should be delineated prior to filing with any of the Boards. Sudol asked if it would be appropriate to have on an application the requirement that an applicant go before another Board to approve a wetland line in order to file with the Planning Board. Essary is not sure the answer to this question and would have to speak with Town Counsel Mark Lanza. It was also asked if for an Approval Not Required (ANR) endorsement, the perking and wetland delineation can be required. Essary stated if it is affecting the access and frontage, most likely. Sudol stated the check list he has created for the ANR application came directly from Chapter 130 of the Code of the Town of Harvard. This list would require the plans to have topography, existing structures, existing septic system and wetlands shown.

When there are informal discussions at meetings individuals from other Boards should be invited to attend those meetings or provide comments prior to the meeting.

The question as to what is a structure arose at this meeting with the other Boards. Essary had asked and she did not know the answer. It had been explained to her that if someone built a barn and stored equipment in it the Board of Health (BOH) would not look at it, but if the use changed to housing horses the BOH would need to be involved.

The next meeting was scheduled for August 30, 2007 at 9:15am.

Continuation of a Special Permit Modification Hearing – Donald Walter, Lot 102 Lovers Lane (Map 17D Parcel 29.1. Opened at 8:04pm

Scenic Road Consent Hearing – Paul & Hillary Kavanagh, Lot 2 Stow Road (Map 38 Parcel 12). Opened at 8:30pm

Rules & Practices of Procedures

Brooks was not in attendance this evening so there are no new updates to revising the Rules and Regulations of Procedure. Blair suggests pin pointing individual items for Brooks to review and then give him another piece to review, rather than try to get all pieces done at once.

Devens Disposition – Vote taken by the Board of Selectmen (BOS)

Essary reviewed the vote taken last October by the Planning Board (PB), which concluded that more options need to be explored. Essary thinks there is a lot of wiggle room in the BOS vote and decision. They sought PB input previously and we should provide input again. Essary will need to determine what the previous Annual Town Meeting votes were.

Scenic Road Consent Regulations

Essary stated the Board needs to get these regulations accepted sooner rather than later since this seems to be the biggest current problem.

Chapter 125-40 Lighting Provision of the Protective Bylaw

Essary stated this topic needs to be kept on the radar screen. The provision will need to be amended in the Fall for Annual Town Meeting.

Update of MPIC & TCPC Collaboration for a Town Center Overlay District

Essary informed the member that there has been one meeting with both Committees and tasks were divided up. An Overlay district is being looked at for the Town Center. The next scheduled meeting is July 31, 2007 at 7:00pm in the Hildreth House.

Enforcement Review – Yale Altman, 7 Green Hill Road (Map 10 Parcel 38)

Yale Altman was present to discuss the work he has done on his property and the stones he had removed from a property up the road from him. Mr. Altman presented letters from the owner of the property he removed the stones from. The letter allows him to remove the stones. Mr. Altman added these stones were all on the ground under over grown vegetation and not part of any wall. McGuire-Minar asked where the stones had been placed on his property. Mr. Altman stated he has created a wall that is parallel to the road but set back on the property. Essary thinks the discussion right now is what does the Board want to do, go out and take a look at the site or take his word as to what he has stated.

The Board accepted Mr. Altman’s explanation and saw no reason for a filing under the scenic road consent, but there would be no more removal of stones from the property up the road. A letter will be sent to Gabe Vellante, the Building Commissioner, stating the Board’s Resolution of this matter.

Sudol made a motion to send Gabe Vellante, the Building Commissioner, a letter stating no further action will be required and that Mr. Altman has agreed to not remove any additional stones from the property up the road. McGuire-Minar seconded the motion. The vote was unanimously in favor of the motion. Sudol will write the letter.

Temporary Clerk

Essary made a motion appointing McGuire-Minar as the Clerk for this meeting in the absence of Brooks. Sudol seconded the motion. The vote was unanimously in favor of the motion.

Adjournment

Sudol made a motion to adjourn the meeting at 9:59pm. McGuire-Minar seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Kara McGuire-Minar, Temporary Clerk

Harvard Planning Board

Continuation of a Special Permit Modification Hearing

Donald Walter, Lot 102 Lovers Lane (Map 17D Parcel 29.1)

July 16, 2007

This hearing was opened at 8:04pm by Chairperson Mary Essary under M.G. L. Chapter 40A and "The Code of the Town of Harvard" Chapter 125-29 in the Harvard Town Hall Meeting Room.

Members Present: Mary Essary, Kara McGuire-Minar, Joseph Sudol and Leo Blair (Associate Member)

Others Present: Richard Breyer (Harvard Hillside), Mary & Leon Piasecki, Wayne McFarland, Al Barbieri and Don Walter

This hearing was continued from June 16, 2007 for a Special Permit modification filed on behalf of Donald Walter at Lot 102 Lover Lane, Harvard (Map 17D Parcel 29.1).

Al Barbieri, legal representation for Don Walter, explained he has been trying to get mediation scheduled as requested by the Board at the previous hearing. A date and time has not been agreed upon as of yet. Attorney Barbieri is hoping this will be completed by the next meeting of the Planning Board.

Sudol made a motion to continue the hearing to August 6, 2007 at 8:30pm. McGuire-Minar seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Kara McGuire-Minar, Temporary Clerk

Harvard Planning Board

Modification of Scenic Road Consent

Paul Hillary Kavanagh, Lot 2 Stow Road (Map 38 Parcel 12)

July 16, 2007

This hearing was opened at 8:30pm by Chairperson Mary Essary under M.G.L. Chapter 40 Section 15C, Chapter 87 Section 3 and "The Code of the Town of Harvard" Chapter 90 in the Harvard Town Hall Meeting Room Tree Warden hearing as well.

Members Present: Mary Essary, Kara McGuire-Minar, Joseph Sudol and Leo Blair (Associate Member)

Others Present: Richard Breyer (Harvard Hillside), Christian Bilodeau, Rob Oliva (Hamwey Engin.), Bruce Ringwall (GPR, Inc.) and O'Conner

This hearing was filed on behalf of Paul & Hillary Kavanagh to modify a Scenic Road Consent at Lot 2 Stow Road, Harvard (Map 38 Parcel 12).

Bruce Ringwall, of GPR, Inc., was present to represent the applicant. The first hearing for the Scenic Road Consent (SRC) discussed in detail as to what was taking place on the site and only showed the tree canopy and not the individual trees. The modified SRC plan identifies each of the trees. Trees were described as shown on the plan. With the exception of the cedar and the elm all others need to be removed for the installation of the driveway. Ringwall stated they believe the cedar makes it difficult to view on coming traffic from the south.

Mr. Ringwall requested that the Planning Board review their standards on SRC and that the bylaw have a proper appeal period. The Board is aware of the issue and has plans to establish a proper appeal period.

The proposed plan calls for the removal of all of the trees. Christian Bilodeau, the Town of Harvard Tree Warden, stated there are about five dead ash trees to be removed. The elm is healthy but it is a Native American Elm which are dying. There are three significant trees in total in the area in question. Essary asked from a Tree Warden perspective, none of the trees has a great future with the exception of the cedar. Mr. Bilodeau stated that was correct. He also added that possibly a voluntary condition can be placed within the consent that monies be donated to the Tree Warden fund for the planting of trees in other locations around Town.

McGuire-Minar asked if the ash and elm are not showing any decay. Mr. Bilodeau stated not now. Blair agrees the cedar is the only one worth saving, but because of its location it can not be saved. Rob Oliva, of Hamwey Engineering, believes the cedar needs to be removed for safety. Sudol wants to fully understand why the tree can not be trimmed, since it is not unlike any other driveway on Stow Road, which also has trees quite close to the driveways. Essary asked about the speed limit on Stow Road and are there potential traffic issues. A member of the public stated the speed limit was 30MPH, while others thought it was 40MPH. Essary stated that based on the plan everything north of the cedar needs to come down. Mr. Ringwall stated that was correct. The cedar is the only thing the Board has questions on. Blair empathizes with what Sudol has stated. This cedar has foliage from the base up and Blair thinks it would be difficult to see anything from the left when exiting the driveway. Mr. Bilodeau stated the foliage could be trimmed up and it would be okay, but if you go to high you could damage it. Mr. Oliva asked how much you can take off before you kill it. Mr. Bilodeau stated three to three and a half feet off the ground. Blair asked about moving the tree. Mr. Bilodeau recommended against doing that.

McGuire-Minar stated the trees that really need to come out are the ones that impede the construction of the driveway, because by allowing a tree to be removed because of sight would be setting a precedent that you should clear cut for any new house; part of the "scenic road" is the natural appearance of the vegetation, for example not trimming and manicured. Mr. Ringwall pointed out that stumps are being removed for the installation of a culvert per the Department of Public Works and the Conservation Commission. Sudol stated McGuire-Minar has a point and he agrees with the trees in the construction zone being removed, but not to removing the other trees.

O'Conner, an abutter, has lived with a six foot pine tree off the road at the end of his driveway for years and they back out on to Stow Road with caution. Ringwall asked that the hearing be closed so the applicant can move on with the construction of their house. McGuire-Minar pointed out that the SRC has not deterred the construction of the house.

Sudol made a motion to close the hearing. McGuire-Minar seconded the motion. The vote was unanimously in favor of the motion.

At the end of the meeting the members discussed the SRC.

Essary thinks the sight lines are sufficient on a scenic road because the cedar is set back enough. Sudol has no problem with all the other trees being removed but he would like the cedar trimmed. The point of SRC is to save the trees on scenic roads. Personally he does not like the driveway location or where the cut is. He would be okay with the removal of all the trees with the exception of the cedar. McGuire-Minar agrees with all that has been said this evening. McGuire-Minar also believes there are some characteristics that should be left in tact. Blair does not think it is a real big deal, but if Essary as a resident of Stow feels the speed limit is increased on Stow Road maybe the cedar should be removed.

Ringwall stated it is not the issue of people coming out of the driveway it is the individual coming out of the driveway not being seen by on coming traffic.

Sudol motion to approve the revised scenic road application with the exception that the cedar tree is not removed pending further review of the final construction of the driveway. McGuire-Minar seconded the motion. The vote was unanimously in favor of the motion.

Sudol will write the draft for the members to review and sign within the next two weeks.

Signed: _____
Kara McGuire-Minar, Temporary Clerk