

**HARVARD PLANNING BOARD
MEETING MINUTES
January 7, 2008**

Co-Chair Mary Essary opened the meeting at 7:39pm in the Town Hall Meeting Room

Members Present: Mary Essary, Joe Sudol, Peter Brooks, Barbara Brady and Kara McGuire Minar

Others Present: Liz Allard, Valerie Hurley (Harvard Press), Gary Shepard (Ross Assoc.) and Karen La Roche

Approval of Minutes

Brooks made a motion to accept the minutes of November 19, 2007 as amended. Brady seconded the motion. The vote was unanimously in favor of the motion, with the exception of Essary who was not in attendance at the November 19th meeting.

Brooks made a motion to accept the minutes of December 17, 2007 as amended. Brady seconded the motion. The vote was unanimously in favor of the motion, with the exception of Sudol and McGuire Minar who were not at the December 17th meeting.

Re-sign ANR Plan for Kasabian Poor Farm Road

At the December 17, 2007 meeting of the Planning Board the members endorsed an ANR plan for Kenneth Kasabian on Poor Farm Road. Mr. Kasabian folded the Mylar plan and the Registry of Deeds would not accept it for recording. The Board agreed to re-sign a new Mylar for Mr. Kasabian.

Site Plan Review - Ginny Thurston Healing Garden

Gabe Vellante submitted a plan for the Board to review of the Ginny Thurston Healing Garden on Bolton Road. Since the plan is for a non-profit organization Site Plan Approval is not required, but that it does need to abide by the bylaws; a review by the Zoning Enforcement Officer (ZEO) is acceptable. However, Mr. Vellante wanted to be certain all aspects of the plan would meet Site Plan Approval. Since the plan is for an addition that would double the facilities size, the Board felt there could be issues with drainage and they would prefer their consulting engineer, Hamwey Engineering, review the plan before making any comments. As in the past with other non-profits, the Board agreed that application fees may be waived by the Board, consulting review fees will need to be paid for by the applicant before the plan can be submitted to Hamwey for review. This is consistent with the policy regarding the new library.

Brooks made a motion that the Board has determined the Ginny Thurston Healing Garden does not require formal Site Plan Approval, but if the ZEO requests the Board to do so, then the plan will require review by the Boards consultant, Hamwey Engineering. McGuire Minar seconded the motion. The vote was unanimously in favor of the motion.

2008 Planning Board Member Openings

With Town Caucus on February 2nd members of the Board need to decide if they are willing to run for another term. Essary may want to be an Associate Member due to changes in her personal life. Brooks suggested that he may step down if someone else is excited to run for the position. Sudol believes if anything is going to change between Brooks and Essary then maybe Blair would be interested in running. With Blair absent from the meeting this will need to be discussed with him at a later date.

Scenic Road Consent Approval – Traywick, Cleaves Hill Road (Map 18 Parcel 46.2)

Members discussed the draft Scenic Road Consent and made minor changes that Brady will revise and send to the Administrator. McGuire Minar made a motion to grant the Scenic Road

Consent as amended and discussed. Sudol seconded the motion. The vote was 3-0; Sudol, Brady and McGuire Minar.

Continuation of a Special Permit Modification Hearing – Donald Walter, Lot 102 Lovers Lane (Map 17D Parcel 29.1). Opened at 8:10pm

Chapter 125 Protective Bylaw Amendments Hearing – Museum Bylaw. Opened at 8:15pm

Chapter 125 Protective Bylaw Amendments Informal Hearings – Chapter 125-2 Definitions “Structure”, Chapter 125-40 Lighting and Chapter 125-46E Associate Member. Opened at 8:20pm

Site Plan Review – La Roche, 68 Prospect Hill Road (Map 11 Parcel 22.1)

Gary Shepard, of Ross Engineering, was present to represent the applicant. Shepard explained that the plan is for upgrades to the driveway. The current owner would like the garage to have an entrance in the back of the structure. The original turn around has been shifted and the driveway is being modified in front of the house. The question is, is this extension of the driveway to over five-hundred (500) feet requires a Site Plan Approval. The Special Permit previously issued for this location stated “since the driveway is less than 500 feet in length and was constructed before March 30, 1996, the provision of Section 125-31 of the Bylaw do not apply to the driveway.” The Inspector of Buildings, Gabe Vellante, was not sure if it would require Site Plan Approval and wanted the Board to take a look at it.

Shepard believes the Board should either approve the Site Plan as submitted or decide that no Site Plan Approval is required. Essary believes since the addition makes it a driveway over five-hundred (500) feet it needs Site Plan Approval, as specified by the Bylaw. Brady agreed. Brooks requested additional information from the original Special Permit that created this lot. Essary explained the lot contained an existing driveway to an existing house; the grade of the existing driveway exceeded the 10% maximum grade allowed by the bylaw (Chapter 125-29F(1)(f)[2]). The Special Permit issued created a hammerhead lot with a condition that the ZBA determine if this would qualify as a grandfathered driveway, even though an entirely new lot was being created.

Sudol stated the turnaround does not meet the requirements of the bylaw. The Fire Chief, Robert Mignard, has submitted comment and his proposal was acceptable to Shepard. Essary stated given that this plan will need Site Plan Approval it will need to be sent to Hamwey Engineering for review. Funds will need to be received prior to the plan being sent for review. A review of what has been previously approved by both the ZBA and the Planning Board will need to be done, and the applicant would need to submit a copy of the Special Permit and ZBA ruling allowing the existing driveway.

ZBA Request for Comments –Transformation, Inc. Stow Road, Chapter 40B

Sudol has reviewed the application for the Board and felt there were substantial problems. He pointed out that the site is divided into five (5) separate homeowner associations. Some of the points Sudol would like more information on whether any units will be rentals; who would be the administrator; who would retain the fees on a resale of any of the units; and how will the five (5) different home owner association work in common areas. Sudol pointed out each of the five (5) lots will have their own septic system and well. The plan shows a clustering of the affordable units on one lot, which Sudol believes is not allowed under the statute. Essary thinks Sudol should draft comments and circulate them to the members for any additional comments. A history of the lot is in the file in the office. Comments are due to the ZBA by January 23rd.

Acceptance of Annual Report

Members requested additional information be included in the Annual Report, such as the state of Chapter 40B's and the Town Center Overlay District. Essary will add this information to the report and submitted by Friday's deadline.

Update to the LIP Process Letter from Land Use Boards to the BOS

The Board of Selectmen (BOS) at their December 18th meeting approved a process for the acceptance of a Local Initiative Program (LIP), known as "Partnering on a Local Initiative Project". This process was approved without any input from the Land Use Boards. The Board suggested a letter be sent to the BOS thanking them for their efforts; however input from the Land Use Boards would have been appreciated. Essary and Sudol will further discuss this with the other Land Use Board representatives at their monthly meeting on Thursday. A letter from all four (4) Boards would be more appropriate, rather than individual letters from each of the four (4) Boards.

Review Wind Turbine Matrix

Members have not all had an opportunity to review the matrix submitted to them in December from the Wind Energy Conversation System Committee (WECSC), and the recommendations for a Bylaw were only sent out late afternoon today (Jan 7, 2008) Sudol believes if the Board is going to move forward on creating a Bylaw it is going to take some time to do and should not be rushed for the 2008 Annual Town Meeting (ATM). Sudol suggests putting up an article for ATM to see if residents are in favor of a Bylaw. McGuire Minar thinks this Town will be in favor of green alternatives and that a bylaw would be a positive vote. Sudol will write up the notes he has made on the matrix and circulate them to the other members. McGuire Minar thinks a letter should be written to the WECSC members to thank them for their efforts and let them know that the subject would be tabled until after this years ATM.

Town Center Overlay District Bylaw

Essary stated Mark Lanza, Town Counsel, has sent comments on the drafted Town Center Overlay District Bylaw, but they have not been reviewed by all of the members of the Town Center Planning Committee and the Master Plan Implementation Committee. The sense of the meetings has been people want to see the Town Center viable, but not changed dramatically. Sudol will incorporate Lanza's comments and call a meeting of the joint committees to try and accept a final draft.

Other Warrant Articles for Annual Town Meeting

Allard reminded the Board that along with creating Regulations to Chapter 90 Scenic Roads Bylaw, the Bylaw itself has been updated and needs approval at the Annual town Meeting. Once the revised Bylaw is approved by the Attorney General the regulations could immediately go into effect. Sudol will review the revised Bylaw prior to the January 28th meeting and get his revisions to Allard for distribution to the other members.

The Town Center Overlay District Bylaw, as previously discussed this evening, should be ready in time for the Annual Town Meeting.

Continuation of Amendments and Establishment of Rules

With the Boards focus on the warrants for Annual Town Meeting the amendments and establishment of rules will be put on hold. Further discussion will take place at a later date.

Hamwey Fee Schedule

Allard informed the members that the consultant for the Planning Board has raised their fees an average of eight (8) % as of January 1, 2008. With increasing cost the Board should consider an increase in the current fees collected with applications. This topic will be further discussed after Annual Town Meeting.

Adjournment

McGuire Minar made a motion to adjourn the meeting at 9:40pm. Sudol seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Peter Brooks, Clerk

Harvard Planning Board

Continuation of a Special Permit Modification Hearing Meeting Minutes

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

January 7, 2008

This hearing was opened at 8:10pm by Co-chair 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, Joe Sudol, Peter Brooks, Barbara Brady and Kara McGuire Minar

Others Present: Liz Allard and Valerie Hurley (Harvard Press)

This hearing was continued from December 17, 2007 for a Special Permit modification filed on behalf of Donald Walter at Lot 102 Lovers Lane, Harvard.

The applicant's representative has requested the hearing be continued to January 28, 2008. No new evidence was taken. The applicant's representative wanted to be clear as to the next step when all the abutters accepted the driveway covenant. The Board agreed the request to modify the Special Permit could be withdrawn, but the original Special Permit for the shared driveway will need to be modified to reflect the new covenant. The Board is willing to waive the fees for that hearing. Allard will inform the representative of this decision. Brady made a motion to continue the hearing to January 28, 2008 at 7:50pm. Sudol seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Peter Brooks, Clerk

Harvard Planning Board

Protective Bylaw Amendments Hearing – Museum Bylaw

Meeting Minutes

January 7, 2008

Co-Chair Mary Essary opened this hearing at 8:15pm at 8:00pm under M.G.L. Chapter 40A §5 and the Code of Harvard, the Protective Bylaw Chapter 125-50 in the Harvard Town Hall Meeting Room.

Members Present: Mary Essary, Joe Sudol, Peter Brooks, Barbara Brady and Kara McGuire Minar

Others Present: Liz Allard and Valerie Hurley (Harvard Press)

The Board has received no input from the Board of Selectmen (BOS) or Zoning Board of Appeals as to the status of the litigation with Fruitlands. It was recommended the Board send a letter to the BOS informing them the hearings have been opened as requested and before accepting the bylaw as drafted for submittal as a warrant article at the Annual Town Meeting the Board would need a status on the settlement agreement. The Board believes there is no reason to move forward with this bylaw unless there is a settlement agreement.

Sudol made a motion to continue the hearing to January 28, 2008 at 8:00pm. Brady seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Peter Brooks, Clerk

Harvard Planning Board

Protective Bylaw Amendments Informal Hearings Chapter 125-2 Definitions "Structure"; Chapter 125-40 Lighting and Chapter 125-45E Associate Members

Meeting Minutes

January 7, 2008

Co-Chair Mary Essary opened this hearing at 8:20pm at 8:00pm under M.G.L. Chapter 40A §5 and the Code of Harvard, the Protective Bylaw Chapter 125-50 in the Harvard Town Hall Meeting Room.

Members Present: Mary Essary, Joe Sudol, Peter Brooks, Barbara Brady and Kara McGuire Minar

Others Present: Liz Allard and Valerie Hurley (Harvard Press)

Chapter 125-2 Definitions "Structure" - The Board has determined that the definition of "Structure" as written, is not a problem, it is the interpretation of the definition. The term "structure" as defined in other surrounding Towns were reviewed. Each definition has essentially the same language. Essary suggested discussing this topic with the ZBA since they regulate the Zoning Enforcement Officer, who interprets the definition differently than that of the Board. Brady suggested a discussion with Gabe Vellante, the Inspector of Buildings/Zoning Enforcement Officer, before the discussing it with ZBA. Essary stated she would further discuss this with the other Land Use Boards on Thursday when they meet.

Chapter 125-40 "Lighting" - Sudol stated the current bylaw was created due to support the observatory that has since become inactive, creating a loop hole within the Bylaw. Sudol suggested not making the Bylaw very technical such that it would cause confusion at the Annual Town Meeting. Essary stated it is the intent that really needs to be rewritten. Sudol will do a mark up of the existing language and send it around for comments, which can be discussed at the January 28th meeting.

This hearing was temporarily suspended to open a scheduled Site Plan Review. This hearing was re-opened at 8:50pm.

Chapter 125-46E Associate Members – The Board agreed language that allows the Associate Member to participate in all activities allowed under State Law should be drafted. Sudol does not understand why we need to do that since there is not much more an Associate Member can do under the State Law. Essary will ask Mark Lanza, Town Counsel, what the difference is between Chapter 125-46E and the State Law. This will be further discussed at the January 28th meeting.

McGuire Minar made a motion to continue the hearing to the January 28, 2008 at 8:05pm. Sudol seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Peter Brooks, Clerk