

**Harvard Planning Board  
Meeting Minutes  
March 3, 2008**

Co-Chair Joe Sudol called the meeting to order at 7:50pm in the Town Hall Meeting Room

**Members Present:** Barbara Brady, Joseph Sudol, Peter Brooks and Leo Blair (Associate Member)

**Others Present:** Richard Breyer (Harvard Hillside), Mark Lanza, Paul Willard, Ruth Silman, John Sweeny, Steve Nigzus, Pam Browning, Ted Van Dusen, Eric Broadbent, Valerie Hurley (Harvard Press), Bruce Gallagher, Joyce Gallagher and Elaine Lazarus

**Minutes**

Brooks made a motion to accept the minutes of February 11, 2008 as amended. Brady seconded the motion. The vote was unanimously in favor of the motion.

**Comments on the Board of Selectmen Local Initiative Program Criteria**

Sudol discussed his attendance at the ZBA meeting last Wednesday night in regards to the requirements of Local Initiative Program (LIP) applications as drafted by the Board of Selectmen (BOS). Sudol also explained the State has put new regulations, 760 CMR 56.00, into effect as of February 22, 2008. Town Counsel Mark Lanza was present at that meeting and clarified some issues with the LIP procedure. The comments for the BOS are not a pressing issue as there are no LIP applications presently, nor are there any in the near future as far as anyone can determine. The Land Use Boards have a working session scheduled for March 13<sup>th</sup>, at which time the criteria and the new regulations will be discussed. Comments in regards to the LIP criteria as drafted by the BOS will be discussed by the Planning Board at the March 17<sup>th</sup> meeting.

**Citizen Petition for Protective Bylaw Amendment for the Annual Town Meeting Hearing – §125-53 Wind Energy Systems.** Opened at 8:00pm

**Scenic Road Bylaw, Chapter 90 Amendment for Annual Town Meeting**

Allard informed the members that Attorney Lanza has reviewed the revised Scenic Road Bylaw, Chapter 90 as submitted to the Board of Selectmen to be on the warrant for the Annual Town Meeting. Attorney Lanza made minor changes to the document in regards to consultant fees and fines. Brooks made a motion to accept the revision as proposed by Attorney Lanza to the warrant article for Annual Town Meeting. Brady seconded the motion. The vote was unanimously in favor of the motion.

**Associate Member Changes for Annual Town Meeting**

Allard informed the members that Attorney Lanza made minor adjustments to the warrant article submitted by the Planning Board in regards to the administrative duties of the Associate Member. Attorney Lanza created a new Chapter within the Code of the Town of Harvard, Chapter 11. Brooks made a motion to accept the revision as proposed by Attorney Lanza to the warrant article for Annual Town Meeting. Brady seconded the motion. The vote was unanimously in favor of the motion.

**Adjournment**

Brooks made a motion to adjourn the meeting at 9:30pm. Brady seconded the motion. The vote was unanimously in favor of the motion.

Signed: \_\_\_\_\_  
Peter Brooks, Clerk

Harvard Planning Board

Protective Bylaw Amendment for the Annual Town Meeting Hearing – §125-53 Wind Energy Systems Meeting Minutes

Citizen Petition

March 3, 2008

This hearing was opened at by Co-chair Joe Sudol under The Zoning Act M.G.L. Chapter 40A §5 Adoption and Amendment of Zoning By-Laws and Ordinances and the Code of the Town of Harvard, Chapter 125 Protective By-Law §125-50 Amendments in the Town Hall Meeting Room.

Members Present: Barbara Brady, Joseph Sudol, Peter Brooks and Leo Blair (Associate Member)

Others Present: Richard Breyer (Harvard Hillside), Mark Lanza, Paul Willard, Ruth Silman, John Sweeny, Steve Nigzus, Pam Browning, Ted Van Dusen, Eric Broadbent, Valerie Hurley (Harvard Press), Bruce Gallagher, Joyce Gallagher and Elaine Lazarus

John Sweeny was present to present the proposed provision to the Planning Board (PB). Sweeny stated the provision was written to help promote the allowance of wind energy structures as an accessory use to residential use with restrictions while maintaining the character of the Town. Sweeny stated the provision references many Towns bylaw and mirrors the recommendations given to the PB by the Wind Energy Conversion Systems Committee (WECSC). Brooks asked if the structures would be allowed as a matter of right. Sweeny stated yes. Sweeny noted that all of the WECSC members signed the petition. Ruth Silman stated a windmill is considered an accessory use to a residential lot. There is a setback restriction for the fall zone; if the area is not available the structure would not be allowed.

Sudol asked if there was any reason to include meteorological (met) towers. Sweeny stated the info available is very granular so any site could give different results, the met towers would be used to determine if a site is practicable. Sweeny added met towers would only be allowed for two (2) years to get the data measurements, if however enough data is not received within that two (2) years another (2) years will be allowed.

Sudol asked if there was any particular technology considered while drafting the provision. Sweeny stated the technology that is currently available and what may be available over the next several years was anticipated in the process. Sudol stated Harvard wind maps are not very promising and has consideration been given to limiting erection to "wind districts" in Harvard. Sweeny stated the preference to have a wind tower or not would be up to each individual. Sweeny added it would be a statement of personal taste or economic benefit.

Sudol stated in his research on wind data in Harvard he has found that to effectively turn a turbine the tower would have to be at 167 feet or above. Sweeny does not necessarily agree with that, he feels there would be a decreasing benefit the higher the tower. Eric Broadbent feels a tower over 150 feet would be a big burden on an individual and you could have people asking for the variances.

Blair asked Broadbent if there is a disproportional cost when you extend the height. Broadbent stated he had no idea, but when you erect a tower higher you are looking at a major cost for the base and infrastructure. Blair stated to Sweeny that people might make the decision even if not economically feasible because it is an environmental decision. Steve Nigzus stated the cost is mainly in the concrete. Silman stated by definition in the provision height is measured from the ground to the tip of the blade.

Sudol wanted to know if Sweeny is interested in putting a tower on his property. Sweeny stated he is 50/50 on the decision, not sure if his property has that kind of space. Sudol asked that because Nigzus now has a permit to put one on his property, why not wait until his is constructed to see how it works out. Sweeny stated he visited many sites in the State to look at them and hear them in different wind speeds. Sweeny wanted to use his personal experience to determine if this technology were something he would invest in. Blair thinks people's economic choice is not in our purview.

Sudol stated the provision addressed the view shed very weakly. Sudol asked what others would think when driving down the road and looking at these structures. Sweeny thinks view shed is a visual personal aspect. Joyce Gallagher feels the same way; towers are better than telephone poles. Gallagher stated that liken them to cell towers is not a good comparison and they should be likened to telephone poles.

Bruce Gallagher stated the economics of these structures is the carbon it is replacing. Gallagher stated Harvard has individuals who are in the business of reusable resources and it is important for this Board and the School Board to step up to the plate and go for it, lets push the envelop. Broadbent understands being on the Town Board has its complexities, we all see the world around us changing and you may not always have everyone agreeing with you. Not everyone in Harvard is going to put up a wind tower, but as a Board you can look back and say you tried. Elaine Lazarus stated she is in support the provision and if the Board is concerned about structures over 120 feet they do not have grant a Special Permit.

Brady stated the difference between this provision and the one the PB drafted is the use by right. Brady asked why Sweeny decided to make it a use by right and not by Special Permit. Nigzus stated that when reviewing other Towns bylaws that some allowed it by right. Silman stated the committee took along time studying what could be done and allowing by right or permit was a big question. Any one who is going to take the time to research the installation of a tower would have done so much homework; that to then have to file a Special Permit would be an onus. Sweeny stated part of the incentive to this is the renewable energy credits and grants that could make or break an individual's decision on this.

Blair stated the PB's provision did not allow these structures on Chapter 61B or Conservation land, would you be agreeable to that as well. Nigzus asked if Chapter 61B would be privately owned. He was informed yes. Silman stated this issue did not come up in the committees' discussions. Sweeny stated if the PB had a recommendation to that then it could be reviewed.

BMB: I believe that Attorney Lanza was asked whether this sort of a recommendation would be considered more restrictive, and thus not be the sort of change that could legally be made to the petition at this point (ie after the petition had been printed in the warrant). The answer was yes.

Brady stated some bylaws specify that utility lines should be underground and others specify that the towers shall create no electromagnetic interference. She asked whether there is any history of interferences. Nigzus has spoken with several installers and has not come across any who have stated there would be any interference with electromagnetic devices and that utilities are generally installed underground. National Grid has standards for connecting to the grid. Silman stated a lot of the fear of inference came out of the cell towers, a perception based on past uses.

Sudol stated he had read a majority of the bylaw submitted by the WECSO and there was a wide disparity amongst Towns in regards to height, restrictions on erection in historical districts, scenic roads, etc., how did you decided which ones pertain to Harvard. Sweeny stated he does not think he has a reading on what Harvard wants yet and he wanted to put something out there that was not overly restrictive to get something in front of the public to see how it will work.

Blair asked if requiring utilities be installed underground would be a significant change. Sweeny stated he would allow this change to be added. Attorney Lanza was asked whether such an amendment would be considered more restrictive, and the answer was that it would not, and could thus be legally incorporated.

Brooks is troubled by the abutters having no input in the process, the bylaw that the PB drafted had all of these required by Special Permit, which requires abutter notification. Brooks suggested requiring a Special Permit for a few years and then see how it goes before making it by right. Brady agrees with that statement, might be nice to have a few years to see where it is going especially on the impact the abutter may have.

Paul Willard stated instead of saying by Special Permit only, why not approve the petition as is and see how it goes and if it does not work then change it at another Town Meeting.

Sudol stated he can look at it from two points of view, does it meet the needs of the Town or the needs of one or two individuals. From a personal point of view it is hard to determine if he would put one up.

Brady stated she does not see this bylaw as a detriment to the Town and people who want to do it should be allowed to if they meet certain guidelines. It is not our position to make a decision on their economics. Brady added from the point of view of vision it is not the purview of the PB to take a stand on windmills as an issue, but to ask is there a way in which we can have windmills in Harvard if people want them, and also reasonable respect everyone's individual piece of land. This includes individuals who can and would like to contribute to the protection of the environment in this way. Unless there is a very viable reason from the PB's point of view why windmills should not be allowed, from a land use point of view, we should try to find reasonable guidelines. We do face challenges in renewable resources.

Blair stated it strikes him that whether these are economically feasible or a good idea, it is the small steps that evolve into bigger things and in that respect maybe it is the time to make a stand. We do not know how it is going to go at Annual Town Meeting. Our opinions are limited at this point so it is either up or down at this point.

With members absent this evening Brooks made a motion to continue the hearing to March 17, 2008 at 8:15pm. Brady seconded the motion. The vote was unanimously in favor of the motion.

Signed: \_\_\_\_\_  
Peter Brooks, Clerk