

**Harvard Planning Board
Meeting Minutes
July 7, 2008
Approved: September 8, 2008**

Chairman Joe Sudol called the meeting to order at 7:30 pm in the Town Hall Meeting Room

Members Present: Joseph Sudol, Mary Essary, Barbara Brady, Peter Brooks, Kara McGuire Minar and Craig Bardenheuer (Associate Member)

Others Present: Richard Breyer (Harvard Hillside), Francin Parise (Metro PCS), David DeBay CLS and Jack Visniewski PE (Cornerstone Land Consultants) and Daniel D. Klasnick (Duval & Klasnick, LL), Mark Lanza (Town Counsel)

Approval of Minutes

Essary made a motion to approve the minutes of June 16, 2008. McGuire Minar seconded the motion. The vote was unanimously in favor of the motion.

Peter Brooks joined the meeting at 7:45 PM.

New Business

Sudol noted that the Planning Board (PB) had received a request from the ZBA to review a supplementary information package received from Transformations regarding the Pine Hills 40B application for Stow Road. It was agreed that Sudol would review and summarize comments for the members to discuss at the PB meeting on 21 July 2008.

The Board discussed the August schedule of PB meetings, i.e., the 11th and 18th and the potential that a number of members will not be unavailable. Sudol noted that there were a number of hearings that needed to be scheduled in August in order to meeting required time

Planning Board Procedures/Regulations

Sudol noted that the Planning Board (PB) Rules and Regulations (R&R) draft had been completely revised to incorporate comments from members and that members should review the latest draft prior to the public hearing scheduled for 21 July 2008.

Sudol summarized that the purpose of developing these R&R was not to replace the Bylaws but to provide a single document describing the functions and duties of the Planning Board and its members as well as summarizing each of the PB functions, how various applications were processed and the requirements for each application. The document would be extremely useful for new members of the Board and for the public. Mark Lanza noted that there was no requirement for the PB to have R&R for other than Special Permit (SP) Applications but that the PB may develop R&R for any of the functions it performs. Mark also noted that most Towns who have R&R for other than SP's develop separate documents for each function. Sudol indicated that he would prefer this to be in one document and also preferred that they be "codified". Lanza indicated that it was not required but preferred for Subdivision and SP R&R needed to be codified. These must be filed with the Town Clerk.

Sudol asked Lanza to address the applicability of Bylaw 125-46, 47 (Appeals and Enforcement) to the PB functions. Lanza noted that these applied to SP decisions only and that other PB decisions are covered by the applicable sections of MGL.

Sudol noted that the PB R&R were still a work in progress and that once a final draft was ready, the Board would like Lanza to review.

Other Discussions

Essary asked Lanza to explain the differences in applications withdrawn with and without prejudice. Mark explained that decisions denied and applications withdrawn with prejudice cannot be refilled for two years. In the case of denied decisions applications may be refilled within the two years if there is new information concerning the application.

The only difference between the Board only allowing withdrawal with prejudice and denying the application is that in case of any questions, with an actual denial there is documentation for the Boards "findings" and therefore for its position: i.e. an active written decision is more defensible.

Essary and McGuire Minar voiced their concerns with ANR plans in that because of the lack of information being provided the Planning Board (PB) is approving ANR plans that cause problems later down the road or create violations of the Zoning laws. Even though the plans are clearly marked as not an approved building lot, this fact gets lost in later applications. The members concurred that the PB was limited in its responsibility in endorsing these plans.

Accessory Apartment Deed Rider/Procedure Brady led a discussion on the status of her efforts to develop and acceptable deed restriction and procedure and the issues with the Department of Housing and Community Development (DHCD) regarding length of restriction, use of a lottery and other issues. Brady informed the members that the latest discussions with DHCD have led to a revised deed rider and procedure that Mark Lanza has reviewed. Lanza described the process he used to come up with a deed rider based on the DHCD model with modifications to make it applicable to accessory apartments. The most significant issue Lanza identified was whether the deed rider would run with the owner or the land. Lanza recommended with the land since in Harvard most accessory apartments exist under a Special Permit that runs with the land. Essary indicated that one of the concerns with owners was whether this would impact sale of or value of their property in the future.

After considerable discussion Sudol recommended that the deed restriction run with the owner or 15 years. Lanza agreed to revise the deed rider and provide it to Brady. Brady will update the procedure and discuss both the deed rider and procedure with DHCD prior to the end of July.

Approval Not Required – Saxl, Under Pin Hill Road (Map 17A Parcel 7)

David Debay, PLS and Jack Visniewski, PE of Cornerstone Land Consultants were present to present the ANR Plan to the Board on behalf of Richard Saxl. Debay explained Lot B would be the existing house lot and the remaining land will be considered Lot A. McGuire Minar and Essary raised several questions regarding the information provided on the plan as submitted, such as topography and the location of wetlands that would impact access and future development. The applicant provided additional information in the form of a "site plan" showing the location of a proposed building, Sewage Disposal System and access driveway from Under Pin Hill Road. McGuire Minar reiterated concerns with access to the site, steepness of the lot, geological makeup (rock), required grading and potential runoff as a result of development. Sudol reminded the Board that although the "site plan" was useful in understanding a proposed location of a building, septic system and driveway on the site, it was not the Board's responsibility to comment on these aspects for this application. Brooks also commented on the Board's responsibility to review the plan for lot size, frontage and useful access in determining endorsement as an ANR plan. At the request of Brady, Mark Lanza, Town Counsel, provided an explanation of what would be considered illusory access under the law. After considerable discussion members indicated that the ANR plan did meet the requirements for an ANR and Essary made a motion to endorse the ANR plan as presented. Brooks seconded the motion. The Board voted 4 – 0 in favor of the motion with McGuire Minar abstaining.

Discussion on Renewal Application by Omnipoint Holdings, Inc, 60 Old Shirley Road (Map 8 Parcel 70)

The Public Hearing on this Application was closed on 16 June 2008. As noted at the hearing there were no issues raised and no comments from the Town's consultant on the Application. It was noted that Essary had reviewed the tapes of the June 16th hearing, signed the appropriate documents and was able to participate in the decision process. The Board agreed there were no items for discussion and Essary would write the Decision for review at the next Planning Board meeting on 21 July 2008.

Special Permit Hearing – Metro PCS Massachusetts, 60 Old Shirley Road (Map 8 Parcel 70). Opened at 8:00pm

Continuation of a Renewal of Special Permit Hearing – STC Five, LLC, 47 Poor Farm Road (Map 9 Parcel 1.2). Opened at 8:30pm

Adjournment

Brady made a motion to adjourn the meeting at 9:50pm. Bardenheuer seconded the motion and the vote was unanimously in favor of the motion.

Signed: _____
Peter Brooks, Clerk

Harvard Planning Board

Special Permit Hearing

Metro PCS Massachusetts, 60 Old Shirley Road (Map 8 Parcel 70)

July 7, 2008

Chairman Joe Sudol opened the meeting at 8:00pm in the Town Hall Meeting Room under M.G.L. Chapter 40A and the Code of the Town of Harvard, Chapter 125-27 the Protective Bylaw.

Members Present: Joseph Sudol, Barbara Brady, Peter Brooks, Mary Essary and Kara McGuire Minar, Craig Bardenheuer (Associate Member)

Others Present: Richard Breyer (Harvard Hillside), Francin Parisi (Metro PCS)

This hearing is for a Special Permit filed on behalf of Metro PCS for the existing cell tower at 60 Old Shirley Road, Harvard (Map 8 Parcel 70).

Francin Parisi presented a discussion on the Application indicating that the antennae and equipment being installed were replacing antennae and equipment being removed. The antennae, being installed at a height of 68 feet replaced previous antennae at this location. Equipment associated with this application were being mounted on the existing concrete pad located inside the existing fenced in compound. In response to a question from Essary, Parisi noted that authorization letters from the property owner and tower owner were included in the Application.

Sudol noted that the Town's consultant, John Zimmer, had reviewed the application and had no comments.

Essary made a motion to close the public portion of the hearing. McGuire Minar seconded the motion and the vote was unanimously in favor of the motion. The Board agreed that no further discussions were required. Essary will write the Decision for review at the next Planning Board meeting on July 21, 2008.

Signed: _____
Peter Brooks, Clerk

Harvard Planning Board

Continuation of a Renewal of a Special Permit Hearing

STC Five, LLC 47 Poor Farm Road (Map 9 Parcel 70)

July 7, 2008

Chairman Joe Sudol opened the hearing at 8:30pm in the Town Hall Meeting Room under M.G.L. Chapter 40A and the Code of the Town of Harvard, Chapter 125-27, the Protective Bylaw.

Members Present: Joe Sudol, Barbara Brady, Peter Brooks, Mary Essary and Kara McGuire Minar, Craig Bardenheuer (Associate Member)

Others Present: Richard Breyer (Harvard Hillside) and Daniel D. Klasnick (Duval & Klasnick, LL)

This hearing is for the Continuation of a Renewal of a Special Permit filed on behalf of STC Five, LLC for the existing cell tower at 47 Poor Farm Road, Harvard (Map 9 Parcel 1.2).

Chairman Sudol informed the Applicant that Board member Essary has been "mullinized" and could participate in the decision process. The Applicant discussed the additional conditions proposed by the Board regarding Town use and access to the Tower and based on previous discussions and review of the proposed conditions is in agreement with the conditions. The Board discussed the conditions and with concurrence by Mark Lanza, Town Counsel, agreed that the two conditions were consistent with the Board of Selectmen request for such conditions. Essary moved to close the public portion of the hearing. McGuire Minar seconded the motion and the Board voted 4-0 in favor of the motion with Brooks abstaining.

Joe Sudol will write the Decision for review at the next Planning Board meeting on 21 July 2008. The Board agreed that it was not necessary for the Applicant to attend and that a draft of the decision would be provided to the Applicant prior to the meeting on the 21st.

Signed: _____
Peter Brooks, Clerk