

**Harvard Planning Board
Meeting Minutes
September 8, 2008
Approved: October 6, 2008**

Chairman Joe Sudol called the meeting to order at 7:34pm in the Hapgood Room of the Old Library

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

Others Present: Richard Breyer (Harvard Hillside), Liz Allard (LUB Admin), Deb Pierce, Nick Pauling (GPR, Inc.), Ned & Susan Leeming, Rachel Oglesby, Ken Van Wormer and Karl Kareeb

Approval of Minutes

Essary made a motion to approve the minutes of July 7, 2008 as amended. Brady seconded the motion. The vote was unanimously in favor of the motion.

Essary made a motion to accept the minutes of July 21, 2008 as amended. Brady seconded the motion. The vote was unanimously in favor of the motion.

ZBA Request for Comments

The Board has received a request for comments from the ZBA in regards to an application submitted on behalf of Bell Atlantic for the renewal of a Special Permit for cellular service that exist on the fire tower on Pinnacle Road. Sudol has reviewed the application and believes the Board has no comment on this application since there will be no changes made to the existing use. Essary made a motion to approve the letter written by Sudol to the ZBA in regards to the request for comments on an application submitted on behalf of Bell Atlantic. Brady seconded the motion. The vote was unanimously in favor of the motion.

The Board has received a request for comments from the ZBA in regards to an application filed on behalf of Richard & Roxanne Mace at 38 Peninsula Road for the construction of a three car garage on a non-conforming lot. Sudol explained the application is only for the construction of a detached garage, the existing structure will not be modified. Sudol believes the addition of a new structure would require conformance with setback requirements. Essary stated this location adjacent to Bare Hill Pond is a sensitive area and this activity will increase the impervious surface. Brady stated the Board should emphasize strong concerns as this is an additional structure and increases the nonconformity of the lot, as well as being within the 100' buffer zone of Bare Hill Pond. Essary believe this increase to impervious surface is more detrimental to the area, see §125-3. McGuire Minar believes the concerns of the Board should be registered with the ZBA, which should include that the application does not meet the requirements of §125-46. Essary made a motion to allow Sudol to write a letter expressing the concerns of The Planning Board to the ZBA in regards to the Mace's application. Brady seconded the motion. The vote was unanimously in favor of the motion.

Continuation of a Special Permit, Driveway Site Plan and Scenic Road Consent Hearing – Richard & Keyo Russell, 81 Old Littleton Road, (Map 18 Parcel 11.2). Opened at 7:50pm

ZBA Request for Comments

Sudol has reviewed the application received from the ZBA filed on behalf of Armand and Nicole Bassi for the reconstruction of a single family dwelling at 127 West Bare Hill Road. Sudol stated the new driveway will be over 500' long and will require a filing with the Planning Board (PB). After a discussion the Board agreed that this is an existing driveway and the PB has no comments in regards to this application. Brooks made a motion to allow Sudol to write a letter

stating the PB has no comments on the application submitted for Bassi at 127 West Bare Hill Road.

Sudol has reviewed the new information submitted to the ZBA on behalf of Transformations, Inc. for the Comprehensive Permit application on Stow Road. Sudol has written a letter detailing concerns with the application and the new information submitted. Those concerns are Parcel R on plan is shown as a subdivision road and will require acceptance by Town Meeting vote as well as a filing with the Planning Board. The division of five separate lots constitutes a subdivision and will require a filing with the PB under M.G.L. Chapter 41 and §130 of the Code of the Town of Harvard. The proposed monthly condominium fees are unrealistically low and do not show a relationship with other units within each of the Home Owner Associations. Providing separate wells for each building within the five (5) lots (HOA) further complicates the division of responsibilities and allocation of costs amongst the individual market rate and affordable units. Request Applicant to provide more detailed Master Deed and Declaration of Trust documents showing how this will be accomplished. Request the Applicant confirm that these eight (8) units will be provided should the Town of Harvard not provide financial support for the two (2) additional units above the six (6) required. Lot 1 shows only one affordable unit, which is less than the required 25%. Essary made a motion to approve the letter written by Sudol in regards to the Comprehensive Permit before the ZBA filed on behalf of Transformations, Inc. on Stow Road.

Sudol has reviewed the application for a Variance filed on behalf of Steve Nigzus at 26 Madigan Lane for a sewer line within 100' of a wetland. Sudol has written a letter detailing the concerns the Planning Board has with the application as submitted. Those concerns are that the application previously submitted and approved by the Conservation Commission did not show a library or bathroom, but was for a hay barn and tractor implementation. Sudol stated in the letter that this is a direct conflict between what was permitted and what was built. The plan submitted to the ZBA also indicates that the size of the structure built is larger than what was permitted by the Conservation Commission. Given the inconsistencies Sudol has stated in the letter that a Variance should not be granted. Brooks made a motion to approve the letter Sudol has written in regards to the application filed on behalf of Steve Nigzus at 26 Madigan Lane. McGuire Minar seconded the motion. The vote was unanimously in favor of the motion.

Master Plan & Implementation Committee Appointments/ Master Plan Update

Sudol request that the 2007 members of the Master Plan Implementation Committee be reinstated to the Committee and requested adding a new residential member, Sarah Tracey. Essary made a motion to reappoint the following members Joe Sudol from the Planning Board, Paul Willard from the Conservation Commission, Lucy Wallace from the Board of Selectmen, Christopher Tracey from the ZBA, Lorin Johnson from the Board of Health, Al Combs, Tim Clark and Sarah Tracey as citizen appointments. McGuire Minar seconded the motion. The vote was unanimously in favor of the motion.

Refund Consultant Fees Omnipoint & STC Five

Allard informed the members that both Omnipoint and STC Five decisions have been finalized and the remaining balance of the accounts held for review by the Planning Boards consultant should be returned to the applicants. Essary made a motion to refund Omnipoint \$300.00 and STC Five \$400.00, the remaining balance from the cell tower consultant fund for each application. Brady seconded the motion. The vote was unanimously in favor of the motion.

Board of Selectmen Local Initiative Program Procedure Approval

Sudol informed the members that the Board of Selectmen has approved the Local Initiative Program Procedure that makes it the responsibility of the Planning Board to review and make recommendation on friendly 40B applications before the Town.

Devens Disposition Success Criteria

The Devens Disposition Criteria was discussed amongst the members. Sections were assigned to each member for their review prior to the next meeting.

Bylaw Amendments

Sudol informed the members that it is time to start to think about amendments of the Bylaw for the 2009 Annual Town Meeting. Some of the items that should be considered this year include the sign provision, §125-41, as it pertains to political signs; a Drive-thru provision; a demolition delay provision as requested by the Historical Commission; landscaping requirements within Site Plans, §125-38; Driveways, §125-31 in regards to the requirements between a residential driveway and a commercial driveway; the Purpose, §125-1 and a wind turbine provision.

Informal Discussion – Karl Kareeb, 72 Massachusetts Avenue (Map 22 Parcel 21)

Karl Kareeb, of 72 Massachusetts Avenue, was present to discuss with the Planning Board (PB) his intentions to subdivide his 30+ acres lot on Mass Ave. He would like to carve out one lot to include the existing house and keep the remainder in Chapter land. Mr. Kareeb stated it has been recommended to him that he should create a backland lot with 10.5 acres with a portion of that lot in chapter. Mr. Kareeb wanted to know what the implications of creating such lot are. The members asked why not just do it as a conforming basic lot. Putting the hammerhead lot in the middle of the existing lot will tie up the remaining land within the future as well as require approval from the PB. The Board recommended Mr. Kareeb create an ANR lot with a minimum of 180' of frontage.

Continuation of the Planning Board Rules & Regulations Hearing. Opened at 9:50pm

Adjournment

Brooks made a motion to adjourn the meeting at 10:17pm. McGuire Minar seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Kara McGuire Minar, Clerk

Harvard Planning Board

Continuation of a Special Permit, Driveway Site Plan and Scenic Road Consent Hearing Meeting Minutes

Richard & Keyo Russell, 81 Old Littleton Road (Map 18 Parcel 11.2)

September 8, 2008

Chairman Joe Sudol opened the meeting at 7:50pm in the Hapgood Room of the Old Library under M.G.L. Chapter 40A and the Code of the Town of Harvard, Chapter 125-46, 125-31, 125-29 the Protective Bylaw and Chapter 90 Scenic Roads.

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

Others Present: Richard Breyer (Harvard Hillside), Liz Allard (LUB Admin), Rob Oliva (Hamwey Engin.), Deb Pierce, Nick Pauling (GPR, Inc.), Ned & Susan Leeming, Rachel Oglesby and Ken Van Wormer

This hearing was continued from July 21, 2008 on a Special Permit, Driveway Site Plan and opening this evening in conjunction with this hearing is a Scenic Road Consent application all filed on behalf of Richard & Keyo Russell for the construction of a single-family dwelling on a hammerhead lot on a designated "scenic road" at 81 Old Littleton Road, Harvard.

Peter Brooks recused himself from this discussion as he is an abutter to this property.

A site walk was conducted on September 6, 2008. Nick Pauling from GPR, Inc. presented the revised plan to the Board. A letter dated September 8, 2008 was also submitted. Pauling reviewed the letter submitted that addresses the Boards and public concerns from the previous meeting. Item one states based on conversations with Town Counsel the land area within the existing view easement could not be included within the minimum buildable area, GPR is requesting a reduced minimum lot area as allowed in §125-29d(1)(a) of the Bylaw which allows for the size to be reduced to 2.5 acres. Pauling is requesting that the 4.5 acre lot be reduced to 3.89± acres with a total buildable area of 0.99± acre. The reduction will allow the applicant to reach the 25% buildable area requirement. The 0.61± acres that will be removed from Lot 2 will be distributed to Lot 3, which abuts Lot 2 to the north and west. The revised plan shows Lot 3 as 10.6± acres and is a basic lot. Essary asked what the frontage is on Lot 3. Pauling did not know. The Board will need to know that. Pauling stated that the limitations on Lot 3, wetlands and buffer zone, would limit the further subdivision of the lot.

McGuire Minar asked what the acreage of the view easement is. Pauling sated he did not know. Sudol stated he does not think the reduced lot would comply with the Bylaw. Essary stated the plan shows the buildable area circle still goes into the view easement area, does it not violate the view easement. Pauling sated no. Town Counsel was not present this evening, so Sudol thought the Board would not be discussing the view easement, because he was under the impression that GPR was working on it. Pauling stated they saw it as an avenue to say the view easement, because we are working on it, will not be within the buildable area once the details of that easement is worked out. McGuire Minar stated the view easement is 6.9 acres as she understood it at the site walk, is it correct that under the original plan that the view easement area was contained within the buildable area. Pauling stated that was correct, under the original proposal they did not exclude the view easement. Pauling stated that Town Counsel has stated you cannot use the view easement as part of the build area, so we have reduced the lot area to not include the view easement in the buildable area. Essary stated when a reduction of the type

has come before the Board previously it has been our assumption that you do not reduce the size of the lot to make it comply with the Bylaw, in other words it would have to be a lot that would stand on its own and then it would be reduced. Sudol read the portion of the Bylaw that was being discussed. The decision to allow a reduction in the size of a lot is the discretion of the Planning Board (PB). Pauling stated what we are proposing tonight is that the 4.5 acre would stand on its own except for the self imposed view easement. McGuire Minar wanted to be clear that the view easement could only be revised by the interested parties. Pauling stated that was correct. McGuire Minar to suggest that with a stroke of a pen we can change this is misleading. McGuire Minar stated to come here without this resolved and then to try and manipulate the Bylaw to work for you is not concrete enough for the Board to make a decision on that.

McGuire Minar stated that until the view easement is figured out, the Board can neither move forward, nor is there a viable reason for the reduction of the lot. Brady stated the Board cannot make any productive head way until we know where the view easement is going.

Pauling continued to review the letter submitted. The plan has been revised to show the width and flare radii at the proposed driveway connection. The revised plan shows the proposed subsurface sewage disposal system to reflect the relocated absorption area outside the buildable area. Site distance, a site walk have realized there is some scrub growth between the edge of pavement and stonewall. Proposing to clear this vegetation at the time of driveway construction to provide maximum sight distance possible. Sudol stated the small growth vegetation is within the right of way and will be up to the Town to remove.

Pauling stated that Rob Oliva has reviewed the revised calculations in regards to the low point of the proposed driveway where water could pool. This has been corrected by making the trench longer along the proposed driveway to station 5+00, where it will veer away from the edge of the pavement and follow along the toe of the proposed fill slope before discharging into the proposed micro pool. A short section of the trench, between station 2+25 and 3+60, will be installed with varying depths to ensure surface runoff collected at the beginning of the trench, near station 0+75, will flow to the micro pool. A note has been added to the plan to install coir fiber roll with native vegetation plugs along the property line adjacent to the trench along the toe of the fill slope will provide additional organic barrier preventing surface runoff continuing onto Lot 1. Oliva was concerned that since the Bylaw does not allow impact on abutting properties, they are directing any run off that does not infiltrate to the near by water course. Oliva feels GPR has addressed this issue.

McGuire Minar commented on the spring that was mentioned previously. The location of the spring has not been located. Rachael Oglesby commented that the spring is driest in August. Oglesby stated that the area in which the driveway is proposed is very wet a majority of the year. Pauling stated that the catch basins will help mitigate that runoff. All flow patterns that go to Lot 1 will be cut off by the trenches. Sudol asked Oliva if he was confident with the calculations. Oliva stated the typical approach is to use the pre and post runoff as calculations. With this application you are looking at the water that would infiltrate into the ground and will not due to the driveway. The trench is going to redirect water away from Lot 1, but will direct it to Lot 3 and increase the wetlands. Essary asked where Conservation Commission (Concom) is with the adding of additional water to the wetlands. Sudol read the letter received from Concom. Essary thinks the increase in water should be reviewed by Concom.

Deb Piece, a direct abutter in which the view easement was established for, is concerned with how much the new lot would encompass the view easement. Piece stated she has not made any agreement to changing the view easement and has not been approached to change it.

Oglesby stated she attended this evening to talk about the stone wall. She was concerned that the notification did not state anything about the construction of the house. It was explained that the Scenic Road Consent was filed after the Special Permit Application, so there were two

different notices sent out. Oglesby is also concerned that with the stand of trees that would be removed the sighting of the house will be seen from her lot.

Peter Brooks, as an abutter, asked if the Board could we get some agreement to get revised information prior to the meetings. Brooks stated that Site Plan Review, §125-38 & 39 do apply to a Special Permit for a hammerhead lot and needs to be addressed. Brooks is not in favor of a reduction of the lot until the applicant shows that they can comply. Brooks added there is no public interest in the reduction. Brooks stated there was not much discussion on Lot 3 and the Board needs to take a look at it to show the frontage.

Oliva stated an ANR plan needs to be approved for Lot 2 and 3. Pauling stated an ANR plan will be submitted for those lots once a permit is issued for the hammerhead lot. It was noted that Lot 3 will be developed at a later date.

Essary made a motion to continue the hearing to October 6, 2008 at 8:00pm in the Town Hall Meeting Room. Brady seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Kara McGuire Minar, Clerk

Harvard Planning Board

Continuation of the Planning Board Rules and Regulations Hearing Meeting Minutes

September 8, 2008

Chairman Joe Sudol opened the meeting at 9:50pm in the Hapgood Room of the Old Library under M.G.L. Chapter 40A and the Code of the Town of Harvard Chapter 125 the Protective Bylaw

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

Others Present: Richard Breyer (Harvard Hillside) and Liz Allard (LUB Admin)

This hearing was continued from July 21, 2008 for amendments to the existing Rules and Regulations of the Planning Board to include Special Permits, Subdivision, Site Plans, ANR's and Scenic Road Consent.

Sudol stated he will review the document once more for any changes and will send it to the members for their review and comments.

Essary made a motion to continue the hearing until September 15, 2008 at 9:00pm. Brady seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Kara McGuire Minar, Clerk