

**Harvard Planning Board  
Meeting Minutes  
November 17, 2008  
APPROVED: January 5, 2009**

Chairman Joe Sudol called the meeting to order at 7:33pm in the Town Hall Meeting Room

**Members Present:** Joseph Sudol, Barbara Brady, Kara McGuire Minar and Craig Bardenheuer (associate member)

**Others Present:** Richard Breyer (Harvard Hillside), Liz Allard (LUB Admin), Lisa Fox, Mark Lanza, Rob Oliva (Hamwey Engineering), Bruce Ringwall (GPR, Inc.), Lou Russo (Wheeler Realty Trust), Tim Clark, Fire Chief Bob Mignard, Police Chief Ed Denmark, Tim Firment, Lindsey Shives, Susan & Ned Leeming and Chris Tracey

**Potential New Member Interviews**

Lisa Fox was present to discuss with the Board her desire to become a member of the Planning Board. Sudol explained the vacancy available and the meeting schedule of the Planning Board. Fox has a background in land development, she has volunteered in different capacities over the years. McGuire Minar asked what interested her in joining the Planning Board. Fox stated this would fit for her because she would not have to do a lot of catch up and it would give her an opportunity to decide on whether or not she would be interested in running for position in the spring. Fox feels she has the tools to look at things individually and as well as a whole as it pertains with the Master Plan. She feels she has a good beat on what people in general here in Harvard want. As for Devens, it needs to tread carefully on what the Town decides and how it would affect everyone. Bardenheuer asked if there were five candidates for the position why should the Board pick her. Fox stated she has good background knowledge than others might bring to the table. McGuire Minar asked Fox if she felt there maybe a conflict due to career as a real estate agent. Fox stated she would think there would not be many conflicts, as Harvard is not the only Town she works in. Brady asked Fox as the Planning Board becomes more involved in the deciding factors to future development, do you have any thoughts as a how the Town could proceed with these areas. Fox is amazed that the process has not changed much over the years, there have been plenty of meetings and processes, instead of having a developed driven plan there should be a Town driven plan. Sudol stated that the Protective Bylaw is not simple, but is something that someone could be brought up to speed on.

McGuire Minar questioned why Bardenheuer is not moving up from an associate member to fill the vacancy as apposed to just appointing someone as a member right out of the gate. Historically in the past when a vacancy is available the associate member fills the vacancy until the next election. Bardenheuer explained that he felt since he has just recently joined the Board he would prefer to remain as an associate member rather than a full member. After additional discussion Bardenheuer stated he would accept the Boards recommendation that he fill the vacancy and that Fox be appointed to the associate position.

Sudol made a motion to recommend to the Board of Selectmen that Craig Bardenheuer be appointed to the vacant member position and Lisa Fox be appointed to the associate position. McGuire Minar seconded the motion. The vote was unanimously in favor of the motion.

The members will meet with the Board of Selectmen tomorrow night to officially appoint both Bardenheuer and Fox.

**Continuation of a Public Hearing on Proposed Amendments to the existing Planning Board Special Permit Application.** Opened at 7:50pm

**Ayer Road Special Permit Hearing – Wheeler Realty Trust, 196/198/200 Ayer Road (Map 8 Parcel 40).** Opened at 8:03pm

**Continuation of a Special Permit, Driveway Site Plan and Scenic Road Consent Hearing – Richard & Keyo Russell, 81 Littleton Road (Map 18 Parcel 11.2).** Opened at 9:00pm

**Site Plan Review – Fruitlands Museum, 102 Prospect Hill Road (Map 16 Parcel 35)**

Tim Firment was present to represent Fruitlands, as well as Lindsey Shives. Plans previously submitted were reviewed. These plans included a proposed ground floor plan, ANR plans and site plans for Fruitlands. Firment explained that when applying for a liquor license you need to establish the area in which liquor will be served. As shown on the plan that will be a 135 foot radius extending out to the south, west and east of the property and 40 feet toward the driveway to the north from the existing building that houses the Tea Room. The exit doors have been increased in size. The proposed ground floor plan shows the connecting of the Tea Room and store. The seating at full capacity is ~300 seats including the seasonal tent. The tent has 180 seats and is only seasonal. The tent is used for events; where as the Tea Room and store will have 100 seats to meet the requirements of the Protective Bylaw. The Fire Chief has reviewed the plans, in general he has no problem with the event tent, and he has made unannounced visits and found things to be okay. The Fire Chief believes the seating in the tea room is very tight. His concern is people getting out of this in a hurry. He is okay with the exits in the Tea Room.

Police Chief Denmark spoke on the liquor license requirements. Action he has asked Fruitlands to initiate has been complied with. Chief Denmark stated once the premises is licensed you can no longer BYOB. Concerts will be held within a portion of the 135' radius.

Sudol asked with the increase of people here how Fruitlands is handling the increase in trash. Firment stated small cans are outside the building and hauled to on-site dumpsters. Sudol asked how parking is handled. Firment stated there is paved parking for handicapped vehicles and parking in the field for all others. The average event is 120 people. Bardenheuer asked if Fruitlands foresees a change in the amount of functions. Firment stated no.

Chris Tracey asked if Fruitlands was providing a stamped plan to the Board of Selectmen hearing for the liquor license. Lindsey Shives stated there is a stamped plan being submitted. Mr. Tracey asked as for site plan, does the Planning Board look at specific aspects of the Bylaw. Sudol stated this review of the Site Plan is an unusual circumstance since this is an existing use that has no change. Mr. Tracey asked if Fruitlands needs to meet the requirements of the Bylaw and if they do not meet those requirements they must apply to ZBA for waivers. Sudol stated that the proper information to conduct a site plan review has not been submitted; the information should be submitted and the applicant should request the Boards review of that information. McGuire Minar suggested the meeting be continued and in the information required for site plan review are submitted. Sudol agree, and added that a more formal site plan identified as identified in §125-38 needs to be submitted. It was noted that subsection D lists the minimum requirements that can not be waived.

McGuire Minar made a motion to continue the hearing to December 15, 2008 at 8:30pm. Bardenheuer seconded the motion. The vote was unanimously in favor of the motion.

**Adjournment**

Brady made a motion to adjourn the meeting at 11:10pm. McGuire Minar seconded the motion. The vote was unanimously in favor of the motion.

Signed: \_\_\_\_\_  
Kara McGuire Minar, Clerk (In Brooks' absence)

Harvard Planning Board

Continuation of a Public Hearing on Proposed Amendments to the existing Planning Board  
Special Permit Application Meeting Minutes

November 17, 2008

Chairman Joe Sudol opened the meeting at 7:50pm in the Meeting Room at the Town Hall under M.G.L. Chapter 40A and "The Code of the Town of Harvard" Chapter 125.

Members Present: Joseph Sudol, Barbara Brady, Kara McGuire Minar and Craig Bardenheuer (associate member)

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

This hearing was continued from November 3, 2008 for amendments to the existing Planning Board Special Permit Application Form as previously amended.

It was explained that the proposed fees are in line with what other Towns are charging and that it was determined that the sliding scale was used in Towns that have a lot of commercial development. The amount for a cell tower was discussed. It was determined that that fee should be increased by 20% as well, consistent with the other increased fees.

McGuire Minar made a motion to approve the changes to the application and the associated fees as presented tonight to include the increase of the wireless communication fee to \$1300. Brady seconded the motion. The vote was unanimously in favor of the motion.

Signed: \_\_\_\_\_  
Kara McGuire Minar, Clerk (In Brooks' absence)

Harvard Planning Board

Ayer Road Special Permit Hearing Meeting Minutes

Wheeler Realty Trust, 196/198/200 Ayer Road (Map 8 Parcel 40)

November 17, 2008

Chairman Joe Sudol opened the meeting at 8:03pm in the Town Hall Meeting Room under M.G.L. Chapter 40A and the Code of the Town of Harvard Chapter 125-52 the Protective Bylaw

Members Present: Joseph Sudol, Barbara Brady, Kara McGuire Minar and Craig Bardenheuer (associate member)

Others Present: Richard Breyer (Harvard Hillside), Liz Allard (LUB Admin), Lisa Fox, Mark Lanza, Rob Oliva (Hamwey Engineering), Bruce Ringwall (GPR, Inc.), Lou Russo (Wheeler Realty Trust), Tim Clark, Fire Chief Bob Mignard, Police Chief Ed Denmark, Tim Firment, Lindsey Shives, Susan & Ned Leeming and Chris Tracey

This hearing is for an Ayer Road Special Permit filed on behalf of Wheeler Realty Trust for the construction of a commercial building and an affordable elderly housing building at 196/198/200 Ayer Road (Map 8 Parcel 40), Harvard.

Sudol explained to the applicant and his representative that the Board currently has three voting members and one associate member present this evening. The fourth voting member can be brought up to speed on the proceedings by reviewing the audio tape from this evening. The Applicant concurred.

Bruce Ringwall, of GPR, Inc. was present to represent the applicant, Wheel Realty Trust. Lou Russo, of Wheeler Realty Trust, was also present. Ringwall explained the application before the Board is for a Special Permit under the Protective Bylaw 125-52, the Ayer Road Village Special Permit. Ringwall explained 200 Ayer Road is the current commercial building. Lot 1 has been sold off and is not a part of this application. Lot 3 will be an office and retail building similar to the existing commercial building at 200 Ayer Road. The Ayer Road overlay district came along since this project originally began. Drainage on Lot 1 collects and drains to Lots 2 and 3. A fire cistern exists that is feed by the existing wells. Fire suppression goes out to the four lots through this cistern. Wires for phone cable, electric exist already. The existing warehouse, pole barn, and existing gravel will be removed.

Dash lines show boundaries lines between the lots. Lot 2 boundaries will remains the same as previously approved. The plan proposes a change in the lot line between Lots 3 & 4. The applicant wants to flip flop those lots because the septic system needs for the housing is more than for an office building. Lots 3 & 4 are not 4.5 acre hammerhead lot which has been previously approved. Lot computations are shown on the plan. The co-efficient shape requirement guidelines needs to be less than sixty, both lots meet that requirement. Open space criteria will be met.

The proposed plan is designed to take Lot 2's septic system line and move it to Lot 3. The three wells have an exceptional yield, but can only draw down what is required, and cannot use them as they would have an interim wellhead protection area with structures in it, which is not allowed. They have met with the Department of Environmental Protection (DEP) with conceptual plans. Water supply will most likely be connected to Lot 2 and treated through that system and then distributed out. Sudol asked if additional testing would need to be done. The Applicant indicated that the additional testing will all be part of the permitting process from DEP.

Parking will consist of loop parking around the commercial buildings from Lot 2 to Lot 3. The proposed plan shows a drive-thru on the backside of commercial building. The applicant is hoping to get a pharmacy or a bank as a tenant.

As for drainage, detention basins exist along the property line. The basin will be expanded to pick up the additional runoff from increased impervious surfaces. Other areas collect in a fore bay that drains in the rear of the property. There are new DEP Stormwater Management Guidelines that require certain levels of Total Suspended Solids to be removed. Drainage has been reviewed and discussed with Hamwey Engineering who would like to see some revisions. There will be a series of infiltration basins behind the housing facility. Entire site meets pre and post development guidelines for drainage.

A landscape plan has been included following some of the landscaping from the buildings up front. Bike racks will be available. There will be patio and plaza areas for the housing facility. McGuire Minar asked if this is a pedestrian friendly area with a drive thru which increases traffic flow. Speeds of the traffic are going to be slow since it is a mix used development. There are sidewalks provided.

Sudol stated roof drains are being taken off separately, where are they going. Rob Oliva, of Hamwey Engineering, explained the roof run off is drained directly to infiltration trenches because it is relatively clean.

Sudol asked if clarification could be given in regards to the letter received from the Nashoba Associated Boards of Health (NABH), which comments on the well radius. Ringwall explained that the wells current on site would not meet all of the set back requirements due to the movement of the septic systems, so they will need to be located close to the property line. This will put the wellhead protection area onto the adjoining Conservation land. Since all protection areas must be in control of the owners, the applicant is meeting with the Commission this week to hopefully obtain an easement onto that property. As for other comments within the NABH letter, the applicant is aware of and is in the process of addressing them.

This hearing was suspended for five minutes at 9:00pm to open another hearing.

Sudol asked if the applicant was going to do a traffic study. Mr. Russo sated yes. Sudol believes the increase of traffic has been tremendous since 2007.

Letter from Rich Nota dated October 21, 2008 was read into the record.

Request for waivers have been submitted with the application. As for §125-52G1(c), the Bylaw states that you can combine the lots for frontage, but not combine the lots for square footage. Russo explained the request for waiver to §125-52G2(a) is in regards to the lot lines, which are still there due to the tax credits that will be given on the affordable housing.

Fire Chief Bob Mignard spoke with Russo this morning about fire protection. The Fire Chief is not a fire protection engineer and would need to look at that plan and have his consultant review it. The Fire Chief is not certain that using the existing cistern will work, but will need that reviewed. The Fire Chief would like more water rather than just enough. The Fire Chief has his usual concerns about access and egress. The Fire Chief requested that 360 degree access to buildings be provided. Roof access concerns him as well since operating equipment on the roof can catch fire. The Fire Department needs access to the roof quickly either internally or externally; or by aerial truck, which the Town does not have. As for the firewalls he would like to see another one added to the residential building. A preliminary letter providing comments was submitted by Chief Mignard.

Police Chief Denmark has been looking at numbers in regards to traffic and Harvard is right on the preliminary numbers that would require a traffic study. On average there are currently 168

trips a day out of that development. Commercial use could change that number. Everything is based on peak time. Since the development of that area there have been twenty-two accidents. Traffic flow for a bank without a drive-thru is 126 trips, with a drive-thru it is 265 trips. A traffic study will look at the existing traffic patterns and if the additional traffic will impact that area. McGuire Minar asked if sight line is an issue. Chief Denmark stated the accidents are being caused by impatient individuals and not sight lines.

Brady questioned the massing of the elderly housing, a letter from Building Commissioner states the building is considered as two buildings, she has been grappling with that because it seems to her that the State building code definition is a "structural" definition and the incentives of §125-52G(2)(b)/125-38F(2) are not a matter of public safety but an issue of the zoning. Brady feels the intent of the Bylaw is to hold the massing of building to a minimum. Russo stated he attended all of the §125-52 hearings when it was being proposed and believes common wall buildings were what the intent was and it was to limit the big box stores from coming in. This proposal works best for the design to keep things conducive. Russo stated he elected to come before the PB rather than do a 40B project. Russo added he has done his best to reduce the massing. Russo feels making two buildings and having no common walls diminishes the project. Brady would be curious to see the elevations from Ayer Road to this housing facility.

Tim Clark, a member of the Board of Selectmen and a former Planning Board member, was also present during the creation of §125-52. Clark submitted a proposed site that was presented at Annual Town Meeting, which was used as an example for the type of village this provision would provide for. The Ayer Road provision was intended to present a village like area. Clark is concerned that what has been presented is not something that was envisioned by the intent of the provision. Clark added that the CDM traffic study was completed in 2007 and should be reviewed as a valuable resource. Clark will submit further information for the Boards review.

With additional information needed and other items to attend to Brady made a motion to continue the hearing to December 1 at 8:30pm. Bardenheuer seconded the motion. The vote was unanimously in favor of the motion.

Signed: \_\_\_\_\_  
Kara McGuire Minar, Clerk (In Brooks' absence)

Harvard Planning Board

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

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

November 17, 2008

Chairman Joe Sudol opened the hearing at 9:00pm in the Town Hall Meeting Room under M.G.L. Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125-

Members Present: Joseph Sudol, Barbara Brady, Kara McGuire Minar and Craig Bardenheuer (associate member)

Others Present: Richard Breyer (Harvard Hillside), Liz Allard (LUB Admin), Lisa Fox, Mark Lanza, Bruce Ringwall (GPR, Inc.) and Susan & Ned Leeming

This hearing was continued from November 3, 2008 filed on behalf of Richard & Keyo Russell for the construction of a single-family dwelling on a hammerhead lot with a driveway longer than 500' on a designated scenic road at 81 Old Littleton Road, (Map 18 Parcel 11.2), Harvard.

The Applicant's representative, GPR, Inc. has requested the hearing be continued to December 15, 2008 at 8:00pm. McGuire Minar made a motion to continue the hearing to the requested date and time. Brady seconded the motion. The vote was unanimously in favor of the motion.

Signed: \_\_\_\_\_  
Kara McGuire Minar, Clerk (In Brooks' absence)