

**Harvard Planning Board
Meeting Minutes
January 5, 2009
APPROVED: March 16, 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, Peter Brooks and Craig Bardenheuer

Others Present: Richard Breyer (Harvard Hillside), Liz Allard (LUB Admin), Mark Lanza, Bruce Ringwall (GPR, Inc.), Lou Russo, Jeff Maxtutis (AECOM), Valerie Hurley (Harvard Press), Ken Van Wormer, Tim Firment, Lindsay Shives, Ned & Susan Leeming, Tim Clark, Dennis Flynn (AECOM) and Brian Bebor (Conley Assoc.)

Minutes

Brady made a motion to approve the minutes as amended for October 6, October 20, November 3, November 17 and December 1, 2008. Bardenheuer seconded the motion. The vote was unanimously in favor of the motion.

Comments to the Conservation Commission – Open Space & Recreation Plan

Sudol has reviewed the entire Open Space and Recreation Plan and has made a few comments, which will be sent to the Commission. Bardenheuer made a motion to accept the comments as written. McGuire Minar seconded the motion. The vote was unanimously voted in favor of the motion.

Continuation of the Planning Board Rules & Regulations Hearing. Opened at 7:45pm

Special Permit Deminimus Change

Sudol reviewed a request from Chris Green, of Westward Orchard, to allow for the driveway to be finished with "Star Pac" rather than bituminous concrete as permitted within the Special Permit issued September 24, 2004. The Board agreed that the change, which is allowed under the Bylaw, 125-39B(6)(c)[4], would be deminimus. Sudol made a motion to approve this change as deminimus. Brooks seconded the motion. The vote was unanimously in favor of the motion.

Continuation of a Special Permit, Driveway Site Plan & Scenic Road Consent Hearing – Richard & Keyo Russell, 81 Old Littleton Road (Map 18 Parcel 11.2). Opened at 8:10pm

Town Counsel comments on the Rules and Regulations

Town Counsel's comments on defining between the differences between a quorum and a super majority. The additional people to be notified is okay to keep as written, just pointing out the difference. ANR's are not looking if there is safe access, but only if there is adequate access and frontage. Explaining appeals should not be done and the applicant should be directed to laws. Doing above the time allowed by the law, time frames for subdivisions.

Modification of a Driveway Site Plan Decision Review – Kavanagh 339 Stow Road (Map 36 Parcel 12.1)

The members reviewed the decision modifying the Drive Site Plan approval for Paul and Hillary Kavanagh at 339 Stow Road. The members agreed they would like to see a finding that expresses the fact that the Planning Board's engineering consultant had a differing opinion of that of the applicants engineer, who felt the material used as fill was compatible to the material allowed under the Bylaw. Sudol will amend the decision to reflect the finding.

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

Bruce Ringwall, of GPR, Inc., was present to present the plans for the applicant. Tim Firment was also present as a representative for Fruitlands, along with Lindsay Shrives, Fruitlands architect. Ringwall stated the new plans submitted to the Board show no changes to the Public Water Supply (PWS) or septic system. The site contains 207.64 acres or 9,043,056 square feet (SF) in total, 29,617SF (0.3%) contains building footprints, 80,071SF (0.9%) contains pavement and parking areas, walks and other impervious surface contain 7,694Sf (0.1%), with a total of 117,382SF (1.3%) impervious surfaces. The plan shows 160 parking spaces within the lawn area adjacent to the main drive and Prospect Hill Road. This parking has no line stripping designating specific parking spaces. During events at the facility staff that directs parking in this area. The Tea Room has eighteen (18) parking spaces, which includes seven (7) handicapped spaces. The additional parking areas include the gift shop with thirty-five (35) spaces and the Fruitlands Museum with twenty-five (25) spaces. These are paved areas that not stripped out. The plan shows no increase in impervious surfaces. The existing impervious surfaces come in close contact with the new stormwater management requirements, which does not allow sheet flow into adjacent wetlands, rivers and streams without prior treatment, which is occurring here. Both the septic system configuration and the PWS were described. Ringwall stated that lighting on the site address primarily security issues and around the Tea Room. The museum has motion sensor lighting; the gift shop lighting is on timers and sensors as well as the picture gallery. Fruitland has proposed a light facility in accordance with the light bylaw between the grassed parking area and the Tea Room paved parking area. Ringwall concluded with the only addition on the site are lighting and handicap parking signage. Tim Firment added that Fruitlands have always tried to leave the area in as much as a natural sates as possible.

McGuire Minar asked about the sheeting off of storm water in the paved areas to wetlands. Ringwall explained the new guidelines for storm water management, which allows for runoff over vegetative strips. In this instance Fruitlands has small areas of paved surface and large vegetated strips. McGuire Minar asked for functions does Fruitlands envision the lower parking areas will be used for. Ringwall sated that during most events individuals' park in the field parking. The lower parking is used by school buses and parking for the Fruitlands Museum. McGuire Minar asked what the Board's role in parking safety is at a facility that has alternative safe parking. Town Counsel, Mark Lanza, stated where there are no standards the Board should look to other standards by others in the State.

Sudol stated that the Bylaw requires for parking areas to be paved. Ringwall stated the grass parking areas are pre-existing and has historically used as a parking area. Firment agreed with this statement. Sudol stated this has come up before, but is there not a change in use by becoming year round use, if so then the current Bylaws apply. Lanza stated it would unless it is pre-existing non-conforming use. Sudol question a change in use by making the facility year round use. Sudol added that the Board ask that the parking be behind the buildings and hear we have parking in the front in one of the best view shed in the area. Lanza stated the application of the Bylaw would depend on if the use is or is not pre-existing non-conforming.

Firment stated that there has not been a change of use. The only change is the issuance of a liquor license. The restaurant has been in use since 1935. The capacity has not changed has not changed. Fruitlands does hope the frequency of use will increase.

Brooks wants to know how long the area has been used as parking. Firment stated there are historical pictures that show the area used as parking. McGuire Minar asked if the Board should define the parking areas. McGuire Minar asked what the boundaries of an accessory use are in the case of the Tea Room should that use become more frequent. Lanza stated that with the adoption of 125-16H the restaurant is an allowed use and not an accessory use, but as a matter of right. Sudol believes that the applicant should meet the requirements of Site Standards as required under 125-16. Lanza stated even though that is a correct statement, the Board has to look at the Bylaw and the provisions that exist now, you still have the issue of prior non-

conforming uses on the property and the some instances the changes are inconclusive. Lanza added the Board would need to determine whether or not the existing provisions of the Protective Bylaw concerning Site Standards apply to all aspects of the property; the Board would have to go through that analysis and Lanza is not sure the Board wants to do that. McGuire Minar asked if it was correct that the applicant was before the Board because of the changes to 280 seats for year round use. Lanza added with alcohol served, which requires a liquor license. Brady stated the applicant is going to the Board of Selectmen for the liquor license, but are before because they need to comply with site standards. Sudol stated that is correct, unless it is a pre-conforming non-conforming use. McGuire Minar asked does the change in the Bylaw now codify this as a conforming use. Lanza stated certain aspects of it yes, the Board needs to determine what the cut line is as it applies to the changes in the Bylaw.

Sudol stated this issue is not only with parking, but with the width of the driveway, lighting, walkways and issues with noise on property lines. Lanza clarified that the noise policies of the State are not within the purview of the Planning Board. McGuire Minar asked how the Board could go forward if they do not know what the cut line is for the conforming and the non-conforming uses. Lanza stated the Board needs look at all the aspects they would normally look at during Site Plan approval and what standards apply and if it is necessary to go through the non-conforming use analysis that needs to be done in respect to that aspect. Lanza advised not pursuing the analysis unless it is necessary. Brooks stated it seemed to him that the Board needs to look at what parts are non-conforming. Brooks wanted to know if it was the applicant position that this entire area has been used for parking in the past. Firment stated it has been since the early 1900's. Brooks asked the applicant if it is their position that all of the parking shown on this plan has been pre-existing. Ringwall stated and then some. Sudol asked how the frequency of use comes into play as far as prior non-conformance and current use. Lanza stated that raises the issue that is not the Planning Board (PB), is there a substantial enough change here in prior non-conforming use to require some zoning relief, which is an issue for the Board of Appeals and not this Board. McGuire Minar asked if the PB could define where the parking area is. Sudol stated in his mind the issue is prior non-conforming use the whole rest of the property, all the other buildings, all the other parking areas, all the wetlands is existing and does not come into play in the PB review of Site Plan, in determine whether or not we are going to apply the Bylaw strictly is what happen to the Tea Room, the function room and the new use under a liquor license is that now no longer a prior non-conforming use and therefore requires Site plan review. Lanza whether not if this is a substantial enough change going from what every frequency it was before to what is going to happen in the future some how triggers the need to go to the ZBA for a Special Permit for change in prior non-conforming use, I do not know the answer to that. Sudol asked were does the PB stand in terms of Site Plan review. Lanza stated the PB has heard from the applicant that the parking is the same and has not changes for some 80 years. McGuire Minar asked if the PB should define the parking area and do we defined the area. McGuire Minar believes the uses intensity of has changed. Ringwall is not sure how the intensity use has changed; the matter of having a dining facility has been there as long as museum has been there, the only change is they will be able to legally sell alcoholic beverages. The meadow has been used in seasons when space is needed for special events. If this facility becomes more than it has been then they will have to come back here for Site Plan. McGuire Minar stated it has been established that there are 280 seats that could become year round facility and the other part is not recognizing what other use may happen in the future there is not any no boundary to that horizon, how that intensity of use in terms of how many days per year or if that temporary area now becomes not temporary. Ringwall stated that it is not temporary. Sudol stated Lanza has already stated the PB can not look at the intensity or frequency of use. Lanza stated however the intensity of use is relevant to the PB in determining all of the issues dealt within in Site Plan review, access, circulation, parking, lighting, etc. Sudol stated having sat through the ZBA proceedings with the applicant there is clearly a change in intensity as to what occurred a number of years ago and what are being planned under having a liquor license in the future. Sudol does not remember the exact numbers, but the financial shown clearly indicated the number of functions, the number of restaurant meals being served and there was and there is clearly a change in that intensity. Ringwall stated he too has seen numbers when he was designing the

septic system a few years ago and there was a fluctuation over the years as the number of events, the number of people at those events, those numbers have fluctuated for years and that what was part of the septic design played. Firment disagrees with the intensity increasing as Fruitland takes the tent down ever October, the tent goes away in the winter, so the intensity does not increase with other events. Fruitlands has spoken with the BOS and have stated the intent is to keep the use the same. Sudol stated McGuire Minar made a good point at the previous meeting, that the way the Bylaw is now written you could replace the tent with a hard covers building and there could be a restaurant there tomorrow if you wanted to and it would be by right. Lanza wanted to remind the Board that it not just the Site Standards that are set up in the Bylaw that the Board is constrained to when fashioning conditions which are appropriate for inclusion of a Site Plan, the Board has to stay with the subject areas. Take for example keeping the parking area free of snow, Lanza does not believe there is anything within the Bylaw, whether paved or not, that a parking area has to be kept free of snow, however that would be a reasonable condition if the Board could include in a Site Plan decision.

Brady read from the Protective Bylaw 125-39B(6), which it states "Driveways and parking areas shall be constructed with crowns and drainage so as to be serviceable in all weather...", it is basically setting out that the parking should be a paved area or at least a gravel base. Brady thinks the PB would have to be comfortable in saying there was enough paved parking to service what is being, forget an intensity of use, what is the existing use, if the PB is going to be applying Site Standards which are laid out here, than the PB has to be comfortable with the paved parking. Brooks stated that the applicant does not have to comply with any of those stands because it is pre-existing, it existed before the zoning ordinance, which is the applicants position that is has all ways been therefore they are exempt from any of the existing Site Standards. Sudol stated the PB needs to make a decision if there is a change in use and no longer a pre-conforming pre-existing use. Sudol added it more that a Site Plan review, the PB has to determine if they have the legal authority to do a Site Plan review. Lanza stated in his opinion there is no question of the Boards authority to do Site Plan approval, because the Bylaw clearly defines a museum, this entity meets that definition, and is now that is included in the Institutional Use section. Before that was not clear and addition there are provisions for a restaurant and a function room, there is no question it falls under that it falls under that section. The standards issue, which standards apply, that is a separate issue. You could be case that none of the standards apply, but that does not mean the PB can not do a meaningful Site Plan review and approval. The purpose of Site Plan approval is to look at on site and off site impacts of the use and fashion conditions to deal with those issues, mitigate, control them and/or regulate them. The Board is not powerless to impose conditions because there are not detailed standards. Take parking for example, there are no standards, but Board can determine if the numbers of spaces are adequate or inadequate based on some objective standard. Brady asked if the PB could set the conditions to make the number of spaces that may not be paved serviceable. Lanza stated yes, because if this were true then the Site Standards do not apply because this accessory parking was existing before the Zoning Bylaw were adopted does not mean the PB is not empowered to do meaningful Site Plan approval and has no standards at all available. Sudol stated it should be recognized under the Zoning Act, even an institutional use, the PB can impose site plan requirements as long as they are reasonable. Sudol added, if the PB felt it reasonable that that parking lot be paved we could impose that standard. Lanza stated, yes, however the applicant could appose those standards for a number of reason. McGuire Minar stated one of the sticking points is that we would all rather have that area retained as a meadow, what happens if the PB says okay that is a prior non-conforming use, go ahead and keep it as a meadow and in the future define the area or parts as a suitable parking area and the applicant wants to pave it, do they have to come back to the PB. Lanza stated no not unless the Board states that the parking area shall remain unpaved. Other wise as long as it conforms there would be no requirement to come back to then Board.

Sudol asked what the width of the driveway is as it is not indicated on the plan. Ringwall stated it is 18' to 24' in different areas. Sudol asked if the Board feels they have enough information from the applicant to close the discussion or should it be continued. Brooks is still confused as to why they are here. Brady stated there has been some discussion that there is some pre-existing non-

conforming use that perhaps the PB might set conditions on to make sure it can be use in the way it should be used and has been used. McGuire Minar asked Lanza what the standards are for pre-existing non-conforming use. Lanza stated it has to have been legal done or the zoning provision that makes what there now and has not been abandon for two (2) years. Again the use the PB is talking about now is an accessory use by parking, are not talking about the primary use of the restaurant. Brooks asked if we find the pre-existing that has not been abandon, how at that point can the have any authority over its exempt under the Bylaw so then how can the PB impose conditions. Lanza stated because you are dealing with this strange animal called "Site Plan approval", it varies so widely from Town to Town. Site Plan approval allows for the implementation of reasonable conditions separate from the requirements of the Bylaw. Reasonable set of conditions concerning the impacts what the use might be; so even if you took out the entire parking area sections you would still have plenty of authority under Site Plan review to review and approve a site plan and condition a site plan to access, lighting, noise, size of parking spaces, but if the parking is grandfathered what you can not do is based on this requirement in the Bylaw you have to have this number of spaces, this size, this sort of surface, etc, etc. Brady asked but you could say if you plan on using these spaces for an event they have to be acceptable, they have to safe, they have to be plowed. Lanza stated that was correct. Brady stated if there were photographs that showed the area in question that would be helpful. It is Lanza recollection that the first Protective Bylaw was adopted in 1959, so evidence should be collected showing the area used as parking prior to that.

Sudol asked if the members had any other questions. There where none. Sudol asked if there was any additional landscaping. Ringwall stated there was not. Sudol asked where the light pole was to be added. Ringwall showed where on the plan as to where it was located. McGuire Minar asked where the lights would focus to. Ringwall stated one would focus to the paved area and the other would focus up to the grass parking area. McGuire Minar asked what the footprint of the light would be in the grassed area. Ringwall stated you will have a minimal because of the slope of the hill as well as the shielding of the light.

McGuire Minar made a motion to continue the Site Plan review for Fruitlands Museum to January 26, 2009 at 8:30pm. Bardenheuer seconded the motion. The vote was unanimously in favor of the motion.

Continuation of an Ayer Road Special Permit Hearing – Wheeler Realty Trust, 196/198/200 Ayer Road (Map 8 Parcel 40). Opened at 9:42pm

Adjournment

McGuire Minar made a motion to adjourn the meeting at 11:16pm. Brooks seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Peter Brooks, Clerk

Harvard Planning Board

Continuation of the Planning Board Rules & Regulations Hearing

January 5, 2009

Chairman Joe Sudol opened the hearing at 7:45pm in the Town Hall Meeting Room under M.G.L. Chapter 40A §9

Members Present: Joseph Sudol, Barbara Brady, Kara McGuire Minar, Peter Brook and Craig Bardenheuer

Others Present: Richard Breyer (Harvard Hillside), Liz Allard (LUB Admin), Bruce Ringwall (GPR, Inc.), Valerie Hurley (Harvard Press) and Ken Van Wormer

This hearing was continued from December 1, 2008 for amendments to the existing rules and regulations

Members stated they had not received the version of the regulations containing Town Counsels comments for review prior to the meeting. Sudol would like all of the members to review this version prior to approval of the regulations. Brady made a motion to continue the hearing to January 26, 2009 at 7:45pm. Bardenheuer seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Peter Brooks, Clerk

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)

January 5, 2009

Chairman Joe Sudol opened the hearing at 8:10pm in the Town Hall Meeting Room under M.G.L. Chapter 40A and the Code of the Town of Harvard, Chapter 125-31, the Protective Bylaw and Chapter 90 Scenic Roads

Members Present: Joseph Sudol, Barbara Brady, Kara McGuire Minar, Peter Brooks and Craig Bardenheuer

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

This hearing was continued from November 17, 2008 for Special Permit, Driveway Site Plan and Scenic Road Consent filed on behalf of Richard and Keyo Russell for the construction of a single-family dwelling on a hammerhead lot with a driveway longer than 500' on designated scenic road at 81 Old Littleton Road (Map 18 Parcel 11.2)

A request from the applicant's representative to continue the hearing to January 26, 2008 at 8:00pm had been received. McGuire Minar made a motion to continue the hearing to the requested dated. Brady seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Peter Brooks, Clerk

Harvard Planning Board

Continuation of an Ayer Road Special Permit Hearing Meeting Minutes

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

January 5, 2008

Chairman Joe Sudol opened the meeting at 9:42pm 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, Peter Brooks and Craig Bardenheuer

Others Present: Richard Breyer (Harvard Hillside), Liz Allard (LUB Admin), Mark Lanza, Bruce Ringwall (GPR, Inc.), Lou Russo, Jeff Maxtutis (AECOM), Valerie Hurley (Harvard Press), Tim Clark, Dennis Flynn (AECOM) and Brian Beisel (Conley Assoc.)

This hearing was continued from December 1, 2008 on an Ayer Road Village 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)

Sudol asked the representative, Bruce Ringwall, if all of the presentation material had been reviewed previously. Ringwall stated pretty much, a plan had been emailed to the members showing the location of signs and revised drainage plans. Ringwall stated the question came up in regards to the location of signs at the previous meeting. Those locations were reviewed on the plan. Three new signs are proposed for the property. All signs will be constructed in accordance with the Town of Harvard Protective Bylaw 125-41. The other plan submitted is in regards to the catch basin between the two new buildings that Hamwey Engineering, consultant to the Planning Board (PB), had questions about. Drainage calculations when run show that there is a column of water that could rise above the catch basin and pond in that area. To eliminate that issue the plan proposes to increase the pipe size from 15" to 18". Hamwey Engineering has confirmed that he agrees with this configuration to address this issue. The change has not been made on the plan; the applicant would like it to be a condition if so approved. The confirmation from Hamwey is within an email received December 16, 2008. Sudol noted that Hamwey's letter dated December 10 requested that documentation be provided, storm water management, soil testing and the operation and management plan. Ringwall stated all documents have been submitted and the Land Use Administrator agreed.

Sudol reviewed some of the open items from the last meeting and questioned the status of discussions with Concom and Board of Health (BOH). Ringwall stated he and the applicant have met with Concom and have talked to them about the Zone one well radius being on a portion of Conservation Land. The request for a letter from them is in the works; as for the BOH, that is still in the works as well.

Sudol had one last item on his list, the adding of the granite inlets to the catch basin grates. Ringwall stated instead of doing that we have proposed increasing the pipe size.

The other issue for this evening is the traffic report. A consultant for the PB has reviewed and commented on the traffic report submitted by the applicant. One other issue is the pedestrian walkways over from the housing units over to the existing retail building. There is no way to get a sidewalk in on the south side of the driveway. Russo stated he suggest that if the Board so they should indicate where crosswalks should be located they would add them to the plan. There are three places where cross walks cross the drive.

Sudol stated he had a question on the traffic report even before peer review came in. Sudol had a question about the crash data taken from 2006, it was interesting to not that the crash data was just a one hundredth below the requirements for some type of traffic control. If that is based on 2006 data how do we know we have not already crossed that threshold? Brian Beisel, of Conley Associates, stated it is not a threshold for a requirement for anything it was just a comparison of the crash rate at this intersection compared to the State wide average. To clarify it was 2005 when the Dunkin' Donuts went in, so the CDM Traffic Study has traffic data from 2005, 2006 and 2007. For 2006 we have 0.659 as a Crash ate of the four accidents reported. The Mass Highway District 3 Crash Rate average for an unsignalized intersection is 0.79 crashes per one million vehicles entering an intersection. The Mass Highway Statewide Crash Rate is 0.66 crashes per million vehicles entering an intersection. Even if you were at 0.76 it does not require that something be done, it is just a way of comparison to say whether or not this intersection has a lot of accidents that occur there. If there are then go and look as to why, is there a geometry issue, a high volume, are the lanes coming in at a weird angle. It is defiantly not a requirement, its just let you know there is potential issues that could be reified. Sudol asked if it did not trigger any requirements. Beisel stated it did not. McGuire Minar asked about the difference in the number of accidents from this report and that that was reported by the Harvard Chief of Police. Beisel stated that the data base includes minor accidents as well as accident reports are illegible at times and not included in the total numbers. McGuire Minar requested that the Harvard Police Department give the PB the actual data for the site. Russo clarified that the accident numbers were for four (4) full years.

AECOM review of the traffic report was noted for the record. Conley Associates have also responded to that report. In reply to Conley's response, Dennis Flynn, from AECOM, stated that under their conclusions the number of accidents has increased over the years. This intersection does trigger a traffic signal. They feel additional studies should be conducted to determine if additional traffic devices should be installed. Off site improvements, additional exit lane on site and re-stripping of the left turn on Ayer Road were all suggested. Conley Associates comments state the applicant will review those suggestions. Jeff Maxtutis, also of AECOM, stated there are not enough gaps in the high flow times and people become impatient waiting to get out of the area. Sudol asked if this is based on current data or historical data. Sudol asked would location of lights at other sections of Ayer Road provide the gaps needed. Maxtutis stated it could help, but it may depend on where it is located. Beisel explained the improvements that have been suggested that will improve safety.

Bardenheuer asked if the number in and out with the increase usage were quantified. Beisel stated it had been done in the initial review.

Brady asked how many car lengths are there between Ayer Road and the Dunkin' Donuts driveway. Beisel stated there are five car lengths.

McGuire Minar noticed that the AECOM report noted future development that the Connolly report did not. A 2% increase was used as was used in the CDM report for development, per year for six years. The memo dated 12/29/08 shows the levels of service summary. Brooks asked for a mitigated level of service for 2013. The build analysis unmitigated is not useful to the PB.

Sudol stated from what he is hearing not only from the traffic studies, but the Police Chief as well is that Harvard is just about there for a light. Sudol questioned the commercial site located across the street that once developed will affect that area. Russo stated it is his hope to develop that site in the future.

Bardenheuer asked if there is a real way to look at the numbers to make it simply understood. Beisel stated there were other models that could show the numbers. Maxtutis stated if you are over 1.2 you are going to have trouble. Russo asked if it is the requirements for a flashing beacon from the State. Maxtutis stated that is more of a safety device. Russo asked about using

signage. Maxtutis stated it is AECOMs recommendation that the area needs a signal. Brady stated clearly at some point over the course of the day the intersection is over capacity.

A letter from the Fire Chief was received this evening and summarized for the members and individuals present.

McGuire Minar stated she did not see any details on the signage layout sketch. Ringwall stated the signs will met the requirements of the Bylaw, which will be reviewed by the Building Inspector and be in compliance.

Sudol asked Lanza about the 35, 000 square foot building allowance. Lanza stated that since you have no definition of building within the Bylaw, you refer to the Unified Building Codes. If no definition is in the Code then you would refer to Webster's dictionary. With that Lanza concluded that the decision made by the Building Commissioner was valid in regards to the use of fire walls to separate a structure into two (2) distinct buildings. Brady noted that the reference in 125-52G(2)(b) to 125-37A(1) expresses nonresidential buildings and a size limit of 30,000 square feet.

With the lateness of the meeting McGuire Minar made a motion to continue the hearing to January 26, 2008 at 9:00pm. Bardenheuer seconded the motion. The motion was unanimously in favor of the motion.

Signed: _____
Peter Brooks, Clerk