

**Harvard Planning Board
Meeting Minutes
February 23, 2009
APPROVED: March 16, 2009**

Chairman Joseph Sudol called the meeting to order at 7:37pm in the Town Hall Meeting Room

Members Present: Joseph Sudol, Barbara Brady, Peter Brooks, Kara McGuire Minar and Lisa Fox (Associate Member)

Others Present: Richard Breyer (Harvard Hillside), Liz Allard (LUB Admin), Ken Van Wormer, Tim Firment (Fruitland) and Lou Russo (Wheeler Realty Trust), Bruce Gallagher, Michael Hannon and Paul Morris

Wheeler Realty Trust 196- 200 Ayer Road – Ayer Road Village Special Permit Decision

Sudol had drafted a decision that had been distributed to the members, since then he has made a few edits to the document. The members recommended the addition of stronger language in regards to the building size within the Findings of the decision. The Board is accepting the Building Inspectors opinion that the installation of a fire wall creates two buildings negating the requirement that buildings not be larger than 30,000sq. ft. McGuire Minar stated one of the purposes behind the Ayer Road Village Special Permit (ARV-SP) was to reduce massing of buildings and by allowing this development to exceed 30,000 sq. ft. by adding a fire wall may open up the doorway for other developments that would exceed 30,000sq ft. Sudol stated Mass Building Code defines this structure as two buildings; the Board has already been through this with Town Counsel. McGuire Minar stated the Board is walking through the spirit of the Bylaw. Sudol stated that with no definition of a building in our Bylaw a loophole was created and it is now up to the Board to correct that loophole. Sudol also noted that §125-52 is the only section where the 30,000 sq ft limitation is mentioned within the Protective Bylaw. McGuire Minar stated again the intent of the ARV-SP is being stepped on here, the Building Code is going to have requirements for safety, where as the Bylaw retains the character of Harvard. Brady stated she was on the committee which created the ARV-SP and that was the intent, unfortunately a building was not defined. Without a definition you then have to rely on the Building Code for a definition. Brady thinks an amendment will be required if the Board feels this is loophole. Brooks believes the Building Inspector and Town Counsel have agreed that this is acceptable. Sudol wants to point out that the Planning Board did have a lot of concerns about this matter; the applicant came in and made the building look like two separate buildings from Ayer Road, which meets the massing intent of the Bylaw. The Findings should have an added statement that the Building Inspector has made a statement that this does not violate Mass Building Code. Brady stated given the advice the Board has gotten from Town Counsel and the Building Inspector, the best advice is to pin down where the problem lies and solve that at the Annual Town Meeting.

Sudol asked Brooks if the original Special Permit, which was issued for the existing driveway, needs to be modified since the driveway will be increased in width. Brooks stated if it is not a material change you do not need a public hearing, however if it is a public hearing would be required. Sudol believes the change in width would be a material change. The Board discussed if this could just be a condition within the new decision. Need to confirm with Town Counsel if this permit could cover that change rather than requiring a modification of the original permit. Brooks suggested making it a Finding in this permit.

McGuire Minar asked if the Bylaw does not restrict something, then is it not allowed, correct. Members agreed that was correct, then what is the Board's authority to condition a drive-thru? Brooks stated under §125-52, it is up to Board whether it is an allowed use; §125-52G(1) allows authority to the given site standards. Brooks suggested a condition that construction will take some type of reasonable time. Members agreed that this is already a requirement of the Bylaw under Special Permits.

With additions and corrections needed the Board agreed to continue the discussion on March 2, 2009.

Proposed Protective Bylaw Amendments Hearing. Opened at 8:23pm

Russell Lot 2 Old Littleton Road Decision

Brooks did not participate in the conversation as he is an abutter. Sudol reminded the members that there needs to be some basis for the driveway not being safe in order for the permit to be denied. Sudol recalls from the site visit that sight distance was at about 120 feet and the requirement for a rural road is 95 feet. Sudol will go back out and determine an actual distance. Could condition the decision that requires safety precautions be installed. Sudol will discuss safety signage with the Highway Director Rich Nota.

Update on Devens Vicksburg Square Re-Zoning

Sudol explained the proposed plan to the members; Mass Development wants to remove Vicksburg Square from the technology zone and make a separate zone that would be a mixed use zone. Residential units would have limited number of bedrooms, and all units would be rentals with 25% affordable. These are historical buildings that Devens want to maintain. The impact on Harvard will be minimal. The members are interested in hearing more specific from Mass Development. A public meeting hosted by the Planning Board will take place on March 16, 2008.

Adjournment

McGuire Minar made a motion to adjourn the meeting at 10:29pm. Brady seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Peter Brooks, Clerk

Harvard Planning Board

Proposed Protective Bylaw Amendments Hearing Meeting Minutes

February 23, 2009

Chairman Joseph Sudol opened the meeting at 8:23pm in the Town Hall Meeting Room under M.G.L. Chapter 40A §5 and the Code of the Town of Harvard, Chapter 125-50, The Protective Bylaw

Members Present: Joseph Sudol, Barbara Brady, Kara McGuire Minar, Peter Brooks and Lisa Fox (Associate Member)

Others Present: Richard Breyer (Harvard Hillside), Liz Allard (LUB Admin), Ken Van Wormer, Lou Russo, Bruce Gallagher, Michael Hannon and Paul Morris

Sight Distance §125-39B(5)(c)

Sudol stated the current Protective Bylaw has only one sentence in regards to sight distances. The suggested language was read. McGuire Minar agrees with this proposal, but worries the Board should have some discretion. Town Counsel suggested basing the criteria on State standards. Brady asked if the Board has statistics on average traffic on roads in Harvard. Sudol stated no, an applicant would be required to come up with that information. Ken Van Wormer, a resident, thought Board of Selectmen (BOS) set standards for driveways. Sudol explained that this is for driveways over 500' within the Protective Bylaw, but BOS is planning a change to the general Bylaw be the same as this. Lou Russo, a resident, stated the Town has for many years tried to enforce the character of a rural roads, this could be a conflict with scenic road requirements, and how are you going to address this. Sudol stated most roads are scenic in Town and contain stone walls and it would have to be a case by case situation. Brady explained the issued recently raised at Special Permit hearing about additional driveway cut on already difficult location and this is just another way of addressing issues brought before Planning Board. Neither the members nor the general public present has any additional questions.

Residential Wind Energy Conversion System District Bylaw

Sudol gave an overview of the history of this provision. Sudol drafted a Bylaw that included all the information that was provided by the committee as well as the cell tower provision. Sudol explained that the bylaw does not include commercial use because it would complicate the Bylaw. McGuire Minar asked how Town Center is defined as an exempt area. Sudol is aware this needs to be determined. McGuire Minar asked if there are any lot size requirement, because for example Still River has lots that are small nonconforming lots. Sudol thinks what is going to govern are the requirements, fall zone, setbacks, etc. McGuire Minar stated in other Towns they require a specific lot size. Sudol agreed that in his review of other Bylaws he found that the standard lot size is all over the place. Brady thinks in general, you are talking about an undersized lot that would have to go before the ZBA. Brady does not think the Bylaw would be more restrictive if there was a requirement for 1.5 acre lot.

Brooks asked why the Bylaw prohibits the sharing of the energy. Sudol stated it seemed to be a common requirement from the ones he reviewed.

Lot restrictions are limiting already under Section G (3). Bruce Gallagher, a resident, wanted to know if the members have driven around Town to see where wind towers could be located at 100', because that is very limiting. Gallagher thinks the Bylaw is really restrictive. Sudol would like to hear what specifics are restrictive and why.

Michael Hannon stated the Bylaw has a maximum of ten (10) kilowatts, which is very restrictive. Sudol stated 1.5 kilowatts is enough to power approximately one third the average household electrical requirements. Sudol added, this Bylaw is only applicable to on sight use. Sudol asked those present what their purpose is for wanting a wind turbine, to be green or sell enough back to the grid to make money. Gallagher stated that this alternative use for energy would be more efficient then what is conventionally used. Sudol asked how many kilowatts Hannon would want to produce. Sudol added that the ten (10) kilowatts was based upon what other Towns have done.

Gallagher asked the Board if they have you considered having the AP class go out and pinpoint the areas where the maximum amount of towers could be located.

Brady wanted to know what the concern is with returning energy to the grid. Sudol stated an applicant would have show acceptance by National Grid to return to the grid.

Sudol stated the average wind speeds in Harvard are anywhere from 4.5 – 6 meters per second. To locate a tower on your property will require a lot of study work. Sudol is hearing this evening that fifteen (15) kilowatts as a reasonable number. Brady asked if a tower does not exceed any of the requirements then why the Board cares how much is generated. Sudol stated it comes down to what an individual needs with more kilowatts. McGuire Minar can see where sharing would make a lot of sense, and if we don't put that in there what other issues that opens up. Sudol is all in favor of putting it back to the gird if allowed by National Grid, but still leery about sharing.

Hannon asked what if an individual constructed a subdivision or multi-family and wants to put in alternative energy. There should be some provision that allows abutters to agree to a location.

Sudol will take a look at Section G (3) and the 500 feet requirement from any structure. It was stated that you could eliminate that issue by putting a two (2) acre lot limit.

Paul Morris is concerned about the definition meteorological tower, does that restrict the use of a weather stations. Sudol stated yes. Morris would want to see requirements that are specific to the installation of a temporary tower for research of the availability of use.

Brooks made a motion to continue the hearing to March 2, 2009 at 8:00pm. McGuire Minar seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Peter Brooks, Clerk