

**HARVARD PLANNING BOARD
MEETING MINUTES
April 27, 2009
APPROVED: June 1, 2009**

Chair Joe Sudol opened the meeting at 7:41pm in the Main Meeting Room of the Old Library

Members Present: Joe Sudol, Barbara Brady, Kara McGuire Minar, Craig Bardenheuer and Lisa Fox (Associate Member)

Others Present: Liz Allard (LUB Admin), Susan Davitt (Harvard Press), Mark Lanza, Peter Warren, Mark Saydah and Thomas McCarthy

Annual Town Meeting Roundup

The Board met on April 16, 2009 to discuss the potential effects of the revised definition of Floor Area, the new definition, Building and the revised Bylaw to prohibit any drive through on the warrant for the Annual Town Meeting (ATM). Questions during that meeting were raised that required clarification from Town Counsel, Mark Lanza. Attorney Lanza was in attendance this evening to help sort out the options the Boards has in regards to these articles. Sudol stated there are two options the Planning Board (PB) could take. First, a representative from the PB could make a motion on the floor of ATM to amend the articles to include a grandfather clause of any Special Permits granted prior to May 2, 2009. Lanza stated that a motion to accept the grandfather clause would only need a majority vote. The second option would be for the PB to pass on the article. Lanza explained if the under lining articles fails it can not be brought back for two years unless the PB recommends it. Passing or taking no action can be moved on the floor and would take 2/3 to pass it. Failure to move over would require a majority vote. Fox asked if making amendments at ATM open the article up for amendments from the floor. Lanza stated yes. Sudol asked about the printing of the warrant prior to the public hearing by the PB on these articles meeting. Lanza stated that was not a problem.

Sudol thinks PB should go forward with an amendment to the warrant article and explain that the hearings were later than the deliverance of the article to the Board of Selectmen, and that changes were made during those hearings. Brady further stated it should be explained at ATM that the PB does not want a permit that has already been approved by the PB to be affected adversely or invalidated by the Amendments.

Attorney Lanza stated when drafting an amendment to include a grandfather clause you want to be aware of the breath and length of the clause. The Attorney General does not like to see specific dates used. Attorney Lanza suggested an amendment in either the definition itself or directly in 125-46D(1) as an exception, which is more favorable to the Attorney General. Brady asked if 125-46 was tied in to intent of the originally proposed amendment enough to be a proper location for the amendment. Attorney Lanza suggested including a reference to affordable housing units, which would make it more specific. That type of amendment would not apply to a Comprehensive Permit, but could apply to other Special Permits. Attorney Lanza was suggesting a clause that applies to a specific Special Permit and future Special Permits. It was also suggested to add a subparagraph to Floor Area, Gross definition, that states any Special Permit issued for affordable housing would not be subject to 125-46D(1). Attorney Lanza stated picking a particular date is a red flag to the Attorney General.

Attorney Lanza stated the Board is vulnerable for bringing a subject matter such as grandfathering that has not been broached before. Attorney Lanza thinks it would be best to pass over this until Super Town Meeting in June. Brady would not like to leave this loophole open longer than necessary. It was agreed that an amendment to 125-46D would be confusing to the public.

Bardenheuer would like to suggest that there is a non-zero possibility that passing it over would not fly and the PB should be prepared with an amendment. Bardenheuer stated plan B could be to reject the amendment.

Sudol stated there is another article in place by Financial Impact Analysis Team (FIAT) that may have the same outcome if approved by ATM. McGuire Minar stated that the FIAT Committee has not had any public hearings and is not an elected board.

Brady stated that the amendments do not change the Ayer Road Village Special Permit (ARV-SP), it only improves ability to enforce it; if the PB were changing the allowable square footage of a structure then maybe we could say wait and see what the FIAT comes up with. Fox believes the PB should be transparent at ATM and explain that an oversight in the ARV-SP was discovered during the process for the Wheeler application and that these definitions would solidify that oversight.

Bardenheuer would choose to pass it over to give it greater thought, second choice would be to defeat it, or final choice take it as an amendment. McGuire Minar suggest the PB be prepared with an amendment, on the second choice we need to be clear as to why, that being this loophole created a problem for the PB and we need to know how to amend it not only for the already issues Special Permit but for ones in the future. Sudol thinks Bardenheuer's third option is not an option.

Sudol would advise a pass over on the drive through article. Bardenheuer thinks that this amendment does not kill the project as the amendment to the floor area, gross would. McGuire Minar believes this is making this a personal point. Fox agreed. The members agreed to go forward with drive through.

It was the consensus of the PB to make an amendment on the floor removing the Floor Area, Gross definition from the warrant article.

Bardenheuer exited the meeting at this time.

Special Permit and Site Plan Review Hearing – Saydah/Whole Earth Landscape & Design, 320 Ayer Road (Map 2 Parcel 76). Opened at 8:47pm

Site Plan Approval – Verizon Central Office Littleton Road

The reviewed the plan that was submitted by Walden 3 Design for the installation of a fence to shield a recently installed generator at the Verizon Central office on Littleton Road. It was determined that if this fence was not included with in the Site Plan Approval first issued by the Zoning Board of Appeals some years ago, than the applicant will need to file the appropriate application with the Planning Board for Site Plan Approval. Allard has reviewed the original Site Plan Approval from the ZBA and has found no indication that this fence was included.

Discuss Annual Town Meeting Articles - Town Center Sewer

Sudol polled the members as to their opinions of the warrant article for Town Center Sewer. McGuire Minar wanted to know what the district would be. Sudol stated it is basically the water district. McGuire Minar believes there should be a greater incentive to hook up now rather than later. Sudol stated everyone within the district will have to pay a betterment fee.

The members agreed in favor of support for this warrant article and Annual Town Meeting.

Adjournment

McGuire Minar made a motion to adjourn the meeting at 10:02pm. Brady seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____ Kara McGuire Minar, Clerk

Harvard Planning Board

Special Permit & Site Plan Approval – Saydah/Whole Earth Landscape & Design, 320 Ayer Road Hearing Meeting Minutes

April 27, 2009

This hearing was opened at 8:47pm by Chair Joe Sudol under M.G.L. Chapter 40A and “The Code of the Town of Harvard” Chapter 125 in the Main Meeting Room of the Old Library

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

Others Present: Liz Allard (LUB Admin), Susan Davitt (Harvard Press), Mark Lanza, Mark Saydah and Thomas McCarthy

This hearing is for a Special Permit and Site Plan review filed on behalf of Mark Saydah/Whole Earth Landscape and Design for the storage of equipment and materials associated with Whole cape and Design at 320 Ayer Road, Harvard

Fox was appointed as a voting member for this application.

Mark Saydah was present to represent his application to the Planning Board. Saydah stated he would be parking work vehicles and storing landscaping material and equipment on the site. The existing driveway is approximately 400' in length. Saydah stated he runs a small company that uses three trucks, one of the three is used as a back up. The site will include a storage container. Sudol stated the location is within the commercial zone and there are three sections of the Protective Bylaw that pertain to this applications 125-20, , 125-23 allows this medium size operation with the requirement of a Special Permit, and 125-39 site standards.

Sudol noted no chemicals or fertilizers that will be stored outside. Saydah stated his business is a natural type business and he uses natural products such as chicken manure that would be stored in the container. Saydah stated he would operate from 5:30am to 5:30pm with minimal noise. Noise from trucks would be limited to the backup signal. Questions about the contents of the compost were discussed. There would be no garbage that would attract wildlife within the compost.

McGuire Minar asked Saydah if he was okay with the building inspectors comment in regards to not being able to use the front paved area as storage of any kind. Saydah stated yes. Fox stated the house is not habitable, and if there are any plans for it to be. Saydah stated no, his offices are located across the street at 325 Ayer Road. Sudol commented on the Building Inspectors other comment about the size of the proposed bins. Sudol asked what the size of the bins would be. Saydah stated they should each be ten feet wide.

The direct abutter at 306 Ayer Road, Tom McCarthy, stated all he found at the Town Clerk's office was the smaller plan for his review. From his seconded floor of his house he would see and hear everything. McCarthy stated under 125-39C(2) there shall be at least 50% of the total lot area that consists of green area, along with 25% for lots that are in excess of three acres. McCarthy feels this is property borders his property and noise will affect him. McGuire Minar stated that there would be plenty of distance between is property and the activity. McGuire Minar asked if Saydah would be okay with chipping being limited to the hours of 9am to 3pm. Saydah would be agreeable to starting work at 7am, which not unreasonable in other communities. McGuire Minar asked if Saydah had plows that he runs in the winter. Saydah stated that was correct. As for a green area the McCarthy was looking for the members determined there is at least 320 feet from the property line to the activity. It was explained to McCarthy that the Protective Bylaw already has a noise decidable limit, which this activity will be within. McGuire Minar tried to mediate the times of operations with the abutter. Time was agreed to as work

hours for chipping from 7am – 6pm. No new lighting will be installed. Container 20 will contain items that needs to be secured or needs to remain dry. McGuire Minar stated this activity is within the commercial district and the Board is limited to the restrictions they can place within the Special Permit.

With no additional comments from the Board members McGuire Minar made a motion to close the hearing. Brady seconded the motion. The vote was unanimously in favor of the motion.

Members had no issues with the application as presented. Sudol will draft a decision for review and approval at the next meeting.

Signed: _____
Kara McGuire Minar, Clerk