

**Harvard Planning Board  
Meeting Minutes  
February 1, 2010  
APPROVED: February 22, 2010**

Joe Sudol opened the meeting at 7:30pm in the Town Hall Meeting Room.

**Members Present:** Joe Sudol, Kara McGuire Minar, Craig Bardenheuer and Wayne McFarland

**Others Present:** Liz Allard (LUB Admin), Peter Warren, Mark Lanza (Town Counsel), Lou Russo, Bill Johnson, David Browchuk (GPR, Inc.)

**Board Reports – Committee Activities**

Sudol stated he attended a Community Preservation Committee meeting at which the Committee voted to provide funding for a number of projects. Funding includes the restoration of Town Hall, preservation of Town Hall documents, and preservation of the cemetery markers in Shaker Hills, and funding for both the Conservation Commission for the purchase of open space and funding for the Housing Authority. Sudol stated the amount of funding requested was substantially higher than the amount of funds available for distribution and the choices were difficult.

**Approval of Minutes**

Bardenheuer made a motion to accept the minutes as amended for January 25, 2010. McFarland seconded the motion. The vote was unanimously in favor of the motion.

**ZBA Request for Comments – Gulati, 92 Tahanto Trail, Map 26 Parcel 39**

Sudol reviewed the application filed with the ZBA by Sanjay and Chrysa Gulati for a Special Permit for the re-construction of a single-family dwelling on a pre-existing non-conforming lot. Sudol stated the applicant is not increasing the non-conformity and will move the existing structure back further from Bare Hill Pond. Sudol has no issues with plan as proposed. Sudol suggest a letter be submitted that Planning Board has no comments. Bardenheuer made a motion to that effect. McFarland seconded the motion. The vote was unanimously in favor of the motion.

**Associate Planning Board Member**

Members did not have any new feedback since last meeting.

**Town Planner**

Sudol has not had an opportunity to speak with Town Administrator (TA) since the last meeting to further discuss the possibility of hiring a part-time planner. Sudol will follow up with the TA before the next meeting.

**Approval Not Required Endorsement – Wheeler Realty Trust, Lots 3A & 4A Ayer Road (Map 8 Parcel 40.3).**

David Browchuk, of GPR Inc., presented the revised Approval Not Required (ANR) plan for Wheeler Realty Trust, Lots 3A and 4A Ayer Road. Browchuk stated the lot line has been changed by 14' from Lot 3A to Lot 4A. Bardenheuer asked why it was moved back. Browchuk stated it had to do with the trenches for the septic system. Browchuk stated there is a note on the new ANR plan that states this plan supersedes the previously signed ANR plan. Sudol stated this plot plan was part of a Special Permit decision and by changing the lines the Planning Board will have to go back and re-visit the decision as issued to reflect this revised plan.

Sudol made a motion to endorse the Approval Not Required plan as revised and submitted. McGuire Minar seconded the motion. The vote was unanimously in favor of the motion.

In regards to amending the existing Special Permit decision, Sudol believes it could be done as an addendum to the Special Permit. McGuire Minar made a motion to consider the change to the

ANR plan as deminimus. McFarland seconded the motion. The vote was unanimously in favor of the motion.

**Annual Town Meeting Protective Bylaw Amendments Hearing.** Opened at 8:00pm

**Adjournment**

Bardenheuer made a motion to adjourn the meeting at 9:28pm. McGuire Minar seconded the motion. The vote was unanimously in favor of the motion.

Signed: \_\_\_\_\_  
Kara McGuire Minar, Clerk (In Fox's Absence)

Harvard Planning Board

Annual Town Meeting Protective Bylaw Amendments Hearing Meeting Minutes

February 1, 2010

Sudol opened the meeting at 8:00pm under M.G.L. Chapter 40A §5 and the Code of the Town of Harvard Chapter 125-50 in the Town Hall Meeting Room

Members Present: Joseph Sudol, Kara McGuire Minar, Craig Bardenheuer and Wayne McFarland

Others Present: Liz Allard, Mark Lanza (Town Counsel), Peter Warren, Lou Russo and Bill Johnson

NOTE: Numbering is as indicated on the legal notice and may not be in numerical order here.

(1) Building Definition – Add a new definition of “Building” in §125-2 Definitions

Sudol stated that the Planning Board (PB) intended to propose the addition of a definition for “building” within §125-2 to address the issue firewalls impacting the protective bylaw’s restrictions on building size. Since the current Protective Bylaw does not have a definition of “building” the Town has to rely on the definition under the State Building Code (780 CMR) for a definition. Unfortunately during Sudol’s research and drafting of the definition he used the 6<sup>th</sup> edition of the Building Code and not the current 7<sup>th</sup> edition. It was noted that the 7<sup>th</sup> edition is now separated into two parts; one for one- and two-family dwellings only and another for all other types of construction. Both sections of the 7<sup>th</sup> edition have new definitions of a building and do not mention firewalls within the definition.

Sudol stated if the Planning Board decides not to go forward with this Bylaw change the Town would not be in jeopardy of an applicant constructing a structure that would use firewalls to separate it into different buildings, allowing for a large scale structure. Sudol would suggest that a definition for “building” still be brought forward at a later ATM to give the Board time to ensure that the definition would apply to both commercial and residential buildings consistent with the State Building Code.

The members asked how this could affect the current Ayer Road Village Special Permit (ARV-SP) issued last March. Sudol stated if the applicant had not done any work within the first six months after issuance of the ARV-SP, then the applicant would be required to meet the changes to the Bylaw. Town Counsel, Mark Lanza, would need to clarify the six month rule and when is work considered started. Sudol stated the PB will need to decide whether to go forward with a definition at this time or to wait for a future ATM. Sudol thinks a definition in the Protective Bylaw should reflect both parts of the Building Code.

Peter Warren asked if the Fire Chief has commented on the proposed definition. Allard stated he has not commented and was given the legal notice, but not the specific language.

Bill Johnson asked if not at this ATM then at what ATM could a change be made. The members agreed that they would like to avoid jeopardizing the ARV-SP that was issued last March, so possibly after that project is complete. With Lanza’s arrival at the meeting he was asked what constitutes starting work on a project. Lanza stated site work constitutes starting work. It was also Lanza’s opinion that it is in the best interest of the Town that the Protective Bylaw has its own definition of “building”.

McGuire Minar stated she feels it is feasible to go forward with a definition now. Lou Russo, the applicant of the ARV-SP, thinks the addition of a definition of “building” will step on the proposed

housing development as individuals opposed to the project may debate the “start” of work time frame. It was the opinion of Lanza that work has begun in the appropriate amount of time, but someone else could disagree with that opinion. Russo would not like to see this go forward this year. McGuire Minar stated that the PB does not like getting onto spot zoning and make adjustments for anyone particular project.

Bardenheuer thinks it is in Harvard’s best interest to have a definition, but it is not urgent to do it this year. Bardenheuer feels the Russo project is a good project that would be good for the Town and the PB does not want to put it in jeopardy. McFarland agreed with Bardenheuer.

The members agreed not to make any final decisions tonight, but to keep the hearing open for any further discussion the public may have.

### (3) An amendment to restrict certain types of drive-throughs

A provision for the Protective Bylaw was drafted by Town Counsel, Mark Lanza. Sudol asked Lanza to explain §125-20E (2), which states, “There are no residential uses within 300’ of the drive-through facility”. Lanza explained that a drive-through could not be within 300’ of any residential property line. The Town of Harvard defines its residential properties as an Agricultural-Residential (AR) district. Lanza stated if the PB finds this to be too restrictive they could create an exception, such as for a mix used properties since that type of development would consist of both a commercial use and a residential use on one parcel. Lanza stated the 300’ was used to create a separation of uses; this number could be changed if so desired by the PB. Bill Johnson asked how this number compared to other required distances within the Protective Bylaw. Sudol stated those numbers differ depending on what type of zone the property in question abuts. Johnson thinks it should be consistent with other dimensional setback requirements. Lou Russo commented that he owns a commercial parcel on Ayer Road that abuts an AR district parcel that would put the 300’ out into the roadway. Sudol stated since the provision is being restricted to banks and pharmacies the PB will need to think of the logistics of those uses and hours of operation when determining a final distance from a residential use.

Peter Warren asked about §125-20E (3) which states, “There are to be no other drive-through facilities within 500’ of the proposed facility”. McGuire Minar explained the intent is not to have a billion curb cuts on Ayer Road. Johnson stated if take the Hirsch parcel that already has a bank on it you would not be able to have a pharmacy as well. Bardenheuer asked if it was a number or the notion all together. Both Johnson and Warren stated the number. Bardenheuer asked what is reasonable. Neither Johnson nor Warren had an answer. Sudol suggested restricting the number of drive-throughs allowed on a parcel rather than restricting the distance between drive-throughs.

McGuire Minar thinks the PB needs to present a provision in a reasonable way that will accommodate those concerned. Sudol asked if the PB could take a look at an application on case by case bases. Lanza stated it could as long as it is tied to specific set of performance standards.

Johnson asked about §125-20E (6) that only allows for one stacking lane. Johnson felt there may be sites that find this requirement to be too restrictive due to spacing and that the ability to have two staking lanes may be better suited. Sudol asked Lanza if the PB could make different requirements for different facilities. Lanza stated you could, but he has never seen that however. McGuire Minar asked that the decision for the Rollstone Savings Bank be reviewed to determine what limitations were put there when that site was approved.

### (4) Amend §125-411 (1)(c) relative to off-site signs to be consistent with a recent provision of the Board Selectmen in regards to U-Pick Seasonal Sign Policy

Sudol explained to those present that this amendment will bring the Protective Bylaw in line with the recent policy of the Board of Selectmen's U-Pick Seasonal Sign Policy in regards to the allowable size of those signs.

(2) Revise the existing Zoning Map

Allard explained that the dates which have indicated revisions over the years to the Zoning Map have been researched and the associated warrant article numbers has been determined for each date. This information will be incorporated into §125-42 of the Protective Bylaw for historical purposes. No changes are being made to the Zoning Map other than it is going to digitized and in color in an effort to make it more user friendly.

With no further items for discussion Bardenheuer made a motion to continue the hearing to February 22, 2010 at 8:00pm. McFarland seconded the motion. The Vote was unanimously in favor of the motion.

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