

**HARVARD PLANNING BOARD
MEETING MINUTES
OCTOBER 18, 2010
APPROVED: December 20, 2010**

Chair Kara McGuire Minar opened the meeting at 7:34pm in the Town Hall meeting room under M.G.L. Chapter 40A and the Code of the Town of Harvard Chapter 125

Members Present: Kara McGuire Minar, Lisa Fox, Craig Bardenheuer and Wayne McFarland

Others Present: Liz Allard (LUB Admin), Jamie Allard (Harvard Press), Paul Kavanagh and Bruce Ringwall (GPR, Inc.)

Board Members Reports – Committee Activities

Allard informed that members that she attended the first meeting of the Poor Farm Sub-committee on behalf of the Board, but that a representative from the Board will need to be chosen. The Sub-Committee has scheduled a site walk for October 16th at 10:00 a.m. to view the house and the grounds. The next meeting will be determined after that. Allard will reach out to Associate Member Catalina to see if she is interested in representing the Board on this Sub-committee.

Continuation of an Approval Not Required – Getty/Egan, Massachusetts Avenue (Map 22B Parcel 14).

Neither the representative nor the applicant was present. The Board agreed that there must have been some miscommunication at the last meeting. Allard will attempt to contact them. Bardenheuer made a motion to continue the discussion until November 1, 2010 at 7:45pm.

Approval of Minutes

Bardenheuer made a motion to accept the minutes of September 13 and 20, 2010 as amended. Fox seconded the motion. The vote was unanimously in favor of the motion.

ZBA Request for Comments – Wyrwal, 38 Lovers Lane

McGuire Minar will review the application and report back to the Planning Board at the next meeting.

Scenic Road Consent Violation – 339 Stow Road

McGuire Minar read into the record an email response from Town Counsel dated October 5, 2010. The response quoted Chapter 90-6 of the Scenic Road Bylaw and went on to explain how fines can be recovered through the process of a civil case for the dollar value of the removed tree. McGuire Minar asked Paul Kavanagh if he had any comments to Town Counsel's response. He did not. Both McGuire Minar and Bardenheuer apologized for not being at the last meeting as they were both traveling on business. McGuire Minar reviewed the minutes of September 20th, to which Kavanagh agreed with what had been previously stated by his wife. McGuire Minar asked when the Highway Department was called to come and clean up the remains of the tree. Kavanagh had no idea, but added that they had to remove the remains of both the cedar and the ash themselves as no one from the Highway Department ever showed up.

The National Grid tree cutting report was discussed. McGuire Minar stated the report clearly indicates the removal of the ash, but not any indication that the cutter removed a cedar tree; McGuire Minar asked Kavanagh why Asplundh would cut down a tree they were not asked to cut down. Kavanagh stated he does not know and added that in his conversation with the tree cutter he had stated that the Town would not let them remove the cedar tree. McGuire Minar asked if he has expressed a desire to Asplundh to have the tree removed. Kavanagh stated yes he did express the desire to have the tree removed. McGuire Minar read the email from the National Grid arborist Jesse Dobbs, dated September 29, 2010, as well as the signed affidavit by Randy

Morgan, the tree cutter. Both which state they has nothing to do with the removal of the cedar tree. McGuire Minar asked what was the final result of the removal of the tree remains. Kavanagh stated that he disposed of the ash tree because it was covered in poison ivy and kept the cedar for fire wood. McGuire Minar reviewed that Kavanagh was aware of the Scenic Road Consent (SCR) that specifically stated the cedar was not be removed unless there was further review of the Planning Board, he was aware of the tree cutting crew conducting work on Stow Road in July, and that he took the cedar wood for burning. McGuire also reviewed that the fine as discussed in the newspaper had been misconstrued and is \$100 only. The \$1900 discussed in the newspaper was a number that was obtained by the Tree Warden after the September 20th meeting of the Planning Board for the replacement of the tree and has yet to be discussed by this Board. The restoration can be pursued through the civil court.

McGuire Minar apologized again for not discussing the issue with the Kavanagh's initially; there is no reason for not being transparent. Bardenheuer stated the SRC is a simple and straight forward process that at times can be painful; the Bylaws are there for the preservation of the Town. Residents some times do not agree with the decision. Kavanagh was asked if he has gone back to Asplundh for an explanation. Kavanagh stated no. McGuire Minar asked if the Kavanagh's would have an interest in pursuing a civil case against National Grid and/or Asplundh in association with the Town. Kavanagh stated he would have to discuss any legal action with his wife.

Bardenheuer believes a fine has already been discussed and should be pursued. Other options for replacement were discussed. McGuire Minar would like to mitigate this without a civil suit. Again Kavanagh stated he would have to discuss that with wife, but believes that will not be suitable. Kavanagh stated he is willing to pay the fine to be done with this. McGuire Minar stated the Planning Board is trying to enforce the Bylaws, in other cases such as the issue the Planning Board had with the driveway, it seems as if it has been easier to ask for forgiveness rather than comply with the Bylaw. Kavanagh asked why McGuire Minar was bringing up the driveway and was she going to blame him for what his contractor had done. Bardenheuer stated the Planning Board is going to try and work out a suitable mitigation to replace the tree, if that fails then the Planning Board needs to decide what to do next, which most likely would be to go to the Board of Selectmen and determine if it should be pursued further. The members agreed that Town Counsel should draft a letter requesting the fine of \$100 be paid and that mediation is attempted between the Kavanagh's and two members of the Planning Board along with respective counsel if need be. Allard will follow up with Town Counsel.

LUPA & CPA2 Update

Members discussed the next steps they should take in this process. The proposal streamlines zoning and action on permits. Fox asked if this is a shoe in, in the event that there is repeal on Chapter 40B. Fox asked if this really only to apply certain places rather than the entire State. Members suggested asking Montachusett Regional Planning Commission or asking a local planner to review it and give the Planning Board (PB) an update on how this may affect the Town. A meeting such as the on held by Stow last January maybe helpful. Bardenheuer stated the PB needs to determine why these changes are being made, how do they impact Harvard and what do we need to do. Allard will do some follow up work with Stow and a local Planner.

Adjournment

McFarland made a motion to adjourn the meeting at 8:38p.m. McGuire Minar seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Lisa Fox, Clerk