

**HARVARD PLANNING BOARD  
MEETING MINUTES  
APRIL 2, 2012  
APPROVED: May 21, 2012**

Vice Chair Michelle Catalina opened the meeting at 7:32pm 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, Michelle Catalina, Tim Schmoyer, Peter Brooks and Rich Marcello (Associate Member)

**Others Present:** Liz Allard (LUB Admin), Mark Lanza, Rich Maiore, Sydney Blackwell (Harvard Press), Bill Calderwood, Worth Robbins, Barbara Brady, Terry Morton, Steven Strong, Ruth Silman, David Fay, Steve & Stella Matson, Jim Elkind, Bill Blackwell, Paul Green, Robin Carlaw, Ron Hettich and Roseanne & Jim Saalfield

**Master Plan Steering Committee Update**

Catalina stated the final report for Phase I is having the final touches put on it and should be delivered to the Planning Board within the next seven days. Catalina recommends a wide spread distribution. Marcello stated they will be doing something on video.

**Other Boards & Committee Updates**

Catalina informed the members that the Community Preservation Committee voted 3-2 to go forward with a warrant article at the 2012 Annual Town Meeting to raise the Community Preservation Act surcharge to 3%. Catalina voted in favor of the article.

**Montachusett Regional Planning Commission (MRPC) Traffic Count Request**

Members discussed the request from MRPC for locations for this years traffic studies. Catalina suggested Ayer Road along the commercial district, as well as the feeder roads along Ayer Road within the commercial district. Rich Maiore, chairman of the Economic Development Committee (EDC) was present and stated the EDC would discuss the request at next meeting. Prospect Hill Road to Still River Road for truck traffic was also recommended. Members asked Allard to consult with Chief Demark on any hot spots he may be concerned with.

**Approval of Minutes**

Marcello made a motion to approve the minutes of January 23, 2012, February 13, 2012 and February 27, 2012 as submitted. Schmoyer seconded the motion. The vote was unanimously in favor of the motion.

**ZBA Request for Comments – Evans, Lot 2 Old Littleton Road (Map 18 Parcel 11.2.4)**

The Board has no concerns with the request for a variance to 125-18A(1). The Boards understanding of this provision is to prevent the creation of a multiple residence use on newly constructed homes by way of an accessory apartment. However, the Board believes the request for a variance to this provision would be consistent with the intent of the Protective Bylaw.

**Continuation of the Protective Bylaw Amendments Hearing.** Opened at 7:45pm

**ATM Assignments**

After a brief discussion the members agreed to the follow in regards to presenter at the Annual Town Meeting:

- Proposed Amendment to §125-41 Signs – Schmoyer
- Proposed Amendment to §125-18 Affordable Accessory Apartment – McGuire Minar
- Proposed Commercial Solar Photovoltaic Installation – Catalina

**Right of First Refusal – Wade, Westcott Rod (Map 32 Parcels 90 & 91)**

Allard explained to the members that the potential owner, Timothy Myllykangas, is seeking to remove a house lot only out of the Chapter 61A status, approximately five acres. The members agreed that there is no significant value to the Town to obtain this property.

**Adjournment**

Schmoyer made a motion to adjourn the meeting at 9:33pm. Marcello seconded the motion. The vote was unanimously in favor of the motion.

Signed: \_\_\_\_\_  
Michelle Catalina, Clerk (in Green's Absence)

Harvard Planning Board

Protective Bylaw Amendments

March 19, 2012

This hearing was opened at 8:00pm by Chair Kara McGuire Minar under M.G.L. Chapter 40A and the Harvard Protective Bylaw, Chapter 125 of the Code of the Town of Harvard in the Old Library Multipurpose Room

**Members Present:** Kara McGuire Minar, Michelle Catalina, Rich Marcello and Tim Schmoyer

**Others Present:** Liz Allard (LUB Admin), Mark Lanza, Rich Maiore, Sydney Blackwell (Harvard Press), Bill Calderwood, Worth Robbins, Barbara Brady, Terry Morton, Steven Strong, Ruth Silman, David Fay, Steve & Stella Matson, Jim Elkind, Bill Blackwell, Paul Green, Robin Carlaw, Ron Hettich and Roseanne & Jim Saalfeld

### **§125-41 Signs**

Allard explained that the warrant article is not correct in the printed document for the Annual Town Meeting (ATM). A hand out will be prepared to reflect the correct amendment. With no further discussion or questions, Catalina made motion to close the public hearing in regards to the amendments to the Protective Bylaw, Chapter §125-41 Signs. Marcello seconded the motion. The vote was unanimously in favor of the motion. Catalina made a motion to favorably recommend the passage of the amendments to the Protective Bylaw, Chapter §125-41 Signs as presented in the word document entitled "Article XX Signs 125-41 03.19.2012.doc", undated. Schmoyer seconded the motion. The vote was unanimously in favor of the motion.

### **Affordable Accessory Apartment Bylaw**

Barbara Brady, of the Municipal Affordable Housing Trust, stated as printed in the warrant article there is a minor edit that can be made on the floor of ATM; the edit is to remove "must or" from §125-18.2A(3). A question about property in probate was raised, would §125-18.2(4)(b)(ii) cover that matter. Attorney Lanza stated it would. McGuire Minar questioned the default to the Building Commissioner for the Local Program Administrator. Members agreed that minor edits would need to be made to that section (§125-18.2B) as well on the floor of ATM. Brady has prepared a hand out for ATM with frequently asked question, in which she reviewed with the members.

With no further discussion or questions, Catalina made motion to close the public hearing in regards to the amendments to the Protective Bylaw, Chapter §125-18.2 Affordable Accessory Apartment. McGuire Minar seconded the motion. The vote was unanimously in favor of the motion. Catalina made a motion to favorably recommend the passage of the amendments to the Protective Bylaw, Chapter §125-18 by adding §125-18.2 Affordable Accessory Apartment as presented on the word document entitled "Article 42 AAA 125-18.doc". Schmoyer seconded the motion. The vote was unanimously in favor in the motion.

### **Commercial Solar Photovoltaic Installation**

McGuire Minar stated that she would limit the time allowed for comments this evening and asked that individuals who wish to speak present new information. Worth Robbins, of Massachusetts Avenue, read his letter addressed to Catalina and Schmoyer and emailed to Allard this morning.

Ruth Silman, Counsel for the Harvard Community Solar Gardens, stated in a perfect world we would have the three-tiered system of this bylaw as suggested at the previous hearing. Silman suggested an edit to the definition of commercial should include after the term "export", "net metering or sale of to a third party". Silman also stated the 100' setback is very restrictive and asked if there is flexibility to decrease that requirement. Catalina stated there have been no changes to the provision as originally written; although the setbacks might seem large, it was put out there to see how it would be perceived by those who are not invested in a proposed

commercial solar photovoltaic facility. Catalina added she determined that the setback would aid in concerns raised about view sheds.

Public comment was suspended until the end of the discussion amongst the members. Catalina stated the Planning Board (PB) does not have an energy policy and that did not make it easy to figure out this bylaw. Catalina stated the PB needs to figure out if there is a way to incorporate all of the concerns.

Marcello stated the PB should create a policy that states the PB would like to make solar available to all in Town by different means, those being residential, commercial, and arrogated residential. Marcello added, in general the solar garden is great, but this is only a piece of gaining solar for all in Town.

Schmoyer does not think it is a bad idea to make a policy for the PB to come to agreement on. Right now we have a two-tiered approach with the current bylaw and everything else. Schmoyer stated that it is his understanding that there is no place in Town where solar is allowed by right. Schmoyer stated the status quo maybe suitable and there may be no need for something to be done for April 28<sup>th</sup>.

Marcello believes the PB needs to do what is the right thing for the Town; that being a policy before a bylaw is developed. Marcello stated that he would recommend the withdrawal of the bylaw at this point.

Schmoyer thinks it may be an informative process to present at non-binding vote at ATM to get a sense of what the community wants. Catalina thinks that is fine if the PB as a Board can agree. Marcello thinks there is still a lot of homework that needs to be done.

McGuire Minar this subject matter is a shifting landscape, some communities are moving away from cutting large tracts of land to install solar. Currently PB does not know where the State is with a policy on solar at this point. McGuire Minar feels the PB has not really had an opportunity to get the input of the community members at large. Right now the PB is divided between abutters and investors. What it comes down to is what is the best way to apply a policy or bylaw that is fair. McGuire Minar feels the bylaw still needs more work to be a final collective bylaw.

Marcello thinks the discussion of property values is not valid point. What are people going do when oil runs out; the Town is going to have to shift its viewpoint.

Catalina agrees with most of what has been said by the members. Catalina does not know if it would be worth talking policy of the Board. Catalina stated that as far as the content of the bylaw is concerned, she has not heard anything from anyone about megawatt type size.

Town Counsel, Mark Lanza, stated Schmoyer was right, there is no by right solar in Town, if it is not in the bylaw then it is not allowed. However, the State law says you can't prohibit or unreasonable regulate solar. A building permit would not be issued for the proposed community solar garden, as it would not fall under the current Bylaw in regards to commercial solar.

Schmoyer asked if the residential solar that was generated by Solarize Mass legal for the issuance of building permits under the current Protective Bylaw? Lanza stated no, residential solar is not allowed under the current Protective Bylaw.

McGuire Minar stated the worse case is we have one year of the status quo that would give the State time to catch up with the issue should the bylaw be withdrawn at ATM.

Catalina stated we need to understand how we really feel about large scale and definition of arrogated solar. Schmoyer stated the feedback PB has received is there is a desire to have a bylaw, but no consensus as to what that bylaw should include.

Lanza stated the PB can vote not to recommend the bylaw at ATM.

McGuire Minar re-opened the public comment. Robbins stated the PB should consider crafting bylaw that covers all of the situations and one that fits into the community and the neighborhoods that are suitable for large scale solar.

With no further comments, Catalina made a motion to close the public hearing. Schmoyer seconded. The vote was unanimously in favor of the motion.

Catalina made a motion that the Planning Board recommend against favorable passage of the Commercial Photovoltaic Solar Installation bylaw. Marcello seconded the motion. The vote was unanimously in favor of the motion.

Signed: \_\_\_\_\_  
Michelle Catalina, Clerk (In Green's absence)

## **DOCUMENTS & OTHER EXHIBITS**

### **Protective Bylaw Amendment:**

#### **§125-41 Signs**

- Word document entitled "Article XX Signs 125-41 03.19.2012.doc", undated

#### **Affordable Accessory Apartment**

- Word document entitled "Article 42 AAA 125-18.doc", undated

#### **Commercial Solar Photovoltaic Installation**

- Accessory Off-site final.doc, Worth Robbins, sent and received by email on April 2, 2012