

**HARVARD PLANNING BOARD
MEETING MINUTES
JULY 16, 2012
APPROVED: August 6, 2012**

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: Michelle Catalina, Peter Brooks, Tim Schmoyer, Rich Marcello and Joe Hutchinson

Others Present: Liz Allard (LUB Admin), Kerry & Tucker Evans, Jack Visniewski (Cornerstone Land Consultants), Worth Robbins, Lucy Wallace (Board of Selectmen), Eric Broadbent (Harvard Energy Advisory Committee), Audrey Ball, Ruth Silman, Steve Strong, Sydney Blackwell, Bill Blackwell, Duncan Chapman, Kath Bilafer, Karl Schwiegershausen, Steve & Stella Matson, Gary Helmstetter, Ted Van Dusen, Ron Ricci (Board of Selectmen), Bill Calderwood, Ron Hettich, Jim Elkind and Jackie Normand

Request for Modification to Driveway Site Plan – Lot 2 Old Littleton Road (Map 18 Parcel 11.2.4)

Brooks as an abutter recused himself from the discussion and joined the audience.

Jack Visniewski, from Cornerstone Land Consultants, along with Kerry and Tucker Evans were present to discuss the modification to the driveway on Lot 2 Old Littleton Road. Visniewski reviewed the original plan designed by GPR, Inc., which was approved under a previous Special Permit and Driveway Site Plan approval. Visniewski stated since purchasing the property the Evans had decided upon a different house and driveway design than the previously approved plan.

Visniewski stated the layout of the original driveway was steep (10%), by curling the driveway around the proposed house and working with the existing slopes he was able to make the driveway less steep (5%). The revised driveway is seventy-five (75) feet longer than the originally proposed driveway. A truck turnout has been added along the driveway prior to the house that includes a four-car parking area for guest. Visniewski stated the elevation of house will be slightly higher than originally proposed. There are no proposed changes to the driveway from the roadway to where the lot opens up. Visniewski stated he is hoping the Board will consider this a minor revision and not require the filing of a modification to the Driveway Site Plan.

Catalina stated she is pleased with decrease in the grade of the driveway. Marcello thinks the revised plan looks better. Catalina asked about turning widths on the radius. Visniewski stated he had not calculated them for the upper radius, but can do so to be certain it complies with the Protective Bylaw. Catalina asked the members in light of the changes presented this evening do they feel this is a *De Minimus* change or would it require the filing of a modification to the Driveway Site Plan approval. Members agreed that a modification to the Driveway Site Plan approval is required; however it would not require additional review by the Planning Board consultant. Visniewski thanked the Board for their time and will work on getting the proper information to the Board for the August 6th meeting.

Protective Bylaw Amendment Hearing. Opened at 7:50pm

Approve Minutes

Brooks made a motion to approve the minutes of June 25, 2012 as amended. Marcello seconded the motion. The vote was unanimously in favor of the motion.

Adjournment

Brooks made a motion at to adjourn the meeting at 8:45pm. Marcello seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Liz Allard, Clerk

Harvard Planning Board

Protective Bylaw Amendment Hearing

July 16, 2012

Chairman Michelle Catalina opened the hearing at 7:50pm in the Town Hall Meeting Room under MGL Chapter 40A Section 5 and the Code of the Town of Harvard Chapter 125

Members Present: Michelle Catalina, Peter Brooks, Rich Marcello and Tim Schmoyer

Others Present: Liz Allard (LUB Admin), Worth Robbins, Lucy Wallace (Board of Selectmen), Eric Broadbent (Harvard Energy Advisory Committee), Audrey Ball, Ruth Silman, Steve Strong, Sydney Blackwell, Bill Blackwell, Duncan Chapman, Kath Bilafer, Karl Schwiegershausen, Steve & Stella Matson, Gary Helmstetter, Ted Van Dusen, Ron Ricci (Board of Selectmen), Bill Calderwood, Ron Hettich, Jim Elkind and Jackie Normand

Hutchinson recused himself from the discussion and joined the audience.

Catalina opened up the hearing by allowing members of the audience to voice their opinions and concerns with the proposed Protective Bylaw Amendments that would increase the existing overlay district of provision 125-53 Large-Scale Ground-Mounted Photovoltaic Facility Overlay District to include the Commercial (C) district. Worth Robbins stated there are basically three things that have happen that have gotten us to this point; first, a building permit to construct a 249.9kW photovoltaic facility in the Agricultural-Residential (AR) district was denied as a commercial use within the AR district; second the Zoning Board of Appeals upheld that denial and also concluded the use was not accessory as defined by the Protective Bylaw; third, an additional building permit was applied for and denied for a facility within the C district on the basis that it is not an allowed use within the C district, nor is it accessory.

Robbins stated the location available for such a facility in Town is the existing overlay district on Depot Road. At the June 19th meeting of the Board of Selectmen (BOS) Robbins requested that a Request for Proposals be completed for the overlay district. In addition, the Harvard Energy Advisory Committee (HEAC) was asked to determine the suitability of the site for such a facility. Three professional solar develops have since stated the site can handle a facility that is no more than 150 –200kW. This is not a workable for the size for the Harvard Community Solar Garden (HCSG). Robbins concluded by stating having the overlay district extended into the C district would allow for compliance with the Green Community Act (GCA) and Massachusetts General Law, as wells provide suitable locations for a facility in excess of 200kW.

Ron Ricci, a member of the BOS, stated he supports the HCSG, and thinks the Town does have an overlay district that has difficulties in development. Ricci thinks it would be a mistake to encompass the entire C district into the overlay to solve an immediate problem; adding more area to the overlay district needs more thought than a rushed town meeting at the end of the summer. Marcello asked if Ricci was in favor of extending the overlay district to include the parcel suitable for the HCSG, but not to the entire district. Ricci stated he was.

Marcello asked if anyone present was against putting any part of the C district in the overlay district. There were no responses from those present.

Lucy Wallace, chair of the BOS, stated the BOS did not take an official vote on the matter at the June 19th meeting, has agreed to an August 22nd Special Town Meeting. The warrant will be signed at the August 7th meeting. The BOS have confirmed with Town Counsel that adding only one parcel within the C district to the overlay district is not considered spot zoning as this is an

overlay district and not a district on its own. Wallace believes the Towns GCA status would be in question, since the current overlay district has been determined to be unsuitable for a facility. Wallace concluded by stating she feels that the amendment should only include the one parcel proposed by the HCSG; taking a bite of the apple at a Special Town Meeting might defeat the amendment all together.

Jim Elkind, of the HEAC, stated for all intense purposes the transfer station may not be suitable, but as written the provision allows for facilities that are greater than 250kW; not an issue to be addressed under this amendment but one to be considered is the reduction of that limit that would allow smaller sites to utilize the provision of the Bylaw.

Bill Calderwood stated at the BOS there was the agreement to resolve the immediate issue of finding a suitable location for the HCSG. The other issue is how big these systems should be allowed to be. With the existing overlay district not being big enough to accommodate a substantially large facility, the Town should consider developing town owned land which can be controlled and managed by the Town. As for reducing the limited size allowed in the overlay district as suggested by Elkind, the PB should consider a provision that picks up where what is considered an accessory use stops. Calderwood agrees that adding the entire C district for the amendment could cause the article to fail at a Special Town Meeting.

Catalina mentioned the tax benefits received within the C district and how the overlay district may affect those benefits. Duncan Chapman, a member of the Economic Development Committee, stated he strongly supports the amendment in order to get the resolve and move forward. He does not see any reduction in the benefits and agrees that property owners in the C district will utilize their properties with the highest and best use. In addition creating an arbitrary point in which solar would be allowed at the rear of a parcel in the C district would allow for development of commercial businesses at the front of the parcel.

Eric Broadbent, of the HEAC, would like to see some of the benefits of having the entire C district as the overlay district discussed. By limiting the overlay district to one parcel in the C district you are not addressing the issue of having solar available to everyone. Catalina stated the PB plans on working on an additional amendment for the 2013 Annual Town Meeting.

Marcello asked if anyone could speak to the tax exemptions for large scale solar. Robbins stated there is already an exemption on the books that would allow for a non-increase in taxes for twenty (20) years of onsite solar facility. Ruth Silman stated the legislator is working on determining the size of such a facility.

Bill Corder stated he would encourage the amendment to include the entire C district.

Catalina read emails received from Jim Higgins, Keith Cheveralls, Sue & Ned Toll into the record. Schmoyer read an email from Bill Johnson into the record. Catalina read the email from the Fenton's into the record.

Catalina asked if there were any additional public comments, with none she closed the public comments.

Brooks asked what the proposed HCSG facility looks like. Catalina explained it will not be the entire lot and is contained to the rear of the parcel. Brooks wondered if making solar a permitted use within the C district or as an accessory use to primary use would prevent the loss of the overlaying value of the area.

Schmoyer thinks the Town made a mistake by creating an overlay district that was not suitable, but at this point we can't continue with the way it is. Brooks asked if the Town re-zones this one parcel will that satisfies the GCA problem. Marcello stated this will buy us time. Broadbent stated

the existing overlay district site is still suitable, but not for a facility the size HCGS is seeking. In addition, the site would require money to get it up to par.

Brooks does not have a problem expanding the district to this one site and would not agree to any broader expansion into the C district without more study and input. Brooks would like to see the proposed plan and digest it more. Marcello agrees with Brooks. Schmoyer would like to fix the problem as much as possible and consider in the revised Master Plan the use of more renewable energy.

Catalina has some concerns with the fear of what that means for abutters by including the entire C district. Marcello will update the amendments as discussed this evening. Brooks made a motion to continue the hearing to August 6th at 7:45pm in the Town Hall Meeting Room. Marcello seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Liz Allard, Clerk

DOCUMENTS & OTHER EXHIBITS

Request for Modification to Driveway Site Plan – Lot 2 Old Littleton Road (Map 18 Parcel 11.2.4)

- ❖ Driveway Re-design Special Permit Plan, Old Littleton Road, Harvard Massachusetts, prepared by Cornerstone Land Consultants, Inc., Job No. 2012-141, Drawing No. 9149, dated July 16, 2012

Protective Bylaw Amendment Hearing

- ❖ Email from Jim Higgins, dated July 16, 2012
- ❖ Email from Keith Cheveralls, dated July 16, 2012
- ❖ Email from Sue & Ned Toll, dated July 16, 2012
- ❖ Email from Bill Johnson, dated July 15, 2012
- ❖ Email from Larry & Janice Fenton, dated July 16, 2012