

Action Items	Member/Staff Responsible
Seek advice from BOH re: determining sources of contamination in the GWPOD	Scanlan

**HARVARD PLANNING BOARD  
MEETING MINUTES  
MARCH 5, 2018  
APPROVED: APRIL 2, 2018**

Chair Erin McBee called the meeting to order at 7:00pm in the Town Hall Meeting Room, 13 Ayer Road under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125

**Members Present:** Erin McBee, Michelle Catalina, Fran Nickerson, Rich Maiore and Stacia Donahue

**Others Present:** Liz Allard (LUB Admin), Bill Scanlan (Town Planner), Alison Thornton, Jan Fradenburgh, Mark Wheeler (Ross Assoc.), R.J. Rushmore, Justin & Rebecca Brown, Steve Hierman, Peter Deng (YYT Harvard LLC), Paul Green, Lucy Wallace (BOS), Don & Karen Green, Chris & Kerri Green, Margaret Nestler, Tom Cotton, Frank Carlson, Carl & Sara Warren, Tim Schmoyer, Tim Myllykangas, Craig Raymond, Gail Colin, Laura McGovern and Jonathan Wallace

**Approval Not Required – YYT Harvard LLC, 166 Littleton Road**

Mark Wheeler, of Ross Associates, was present to represent, YYT Harvard LLC, in regards to the property at 166 Littleton Road, known as the “Poor Farm”. Wheeler explained the 29.02 acres of land will be divided into six lots and two parcels. Each of the six lots has a minimum of 180’ of frontage and 1.5 acres of land. Parcel A will be privately owned and Parcel B will be gifted to the Town of Harvard as open space. Lot 4 will retain the existing “Poor Farm” as much as feasibly possible. Allard confirmed the Conservation Commission is working with the owners on the necessary waiver for Lot 1, which will be required in order to obtain a building permit.

Catalina made a motion to endorse Plan of Land in Harvard, Mass., owned by YYT Harvard LLC, prepared by David E. Ross Associates, Inc., Job No. 31852, Plan No. L-13312, dated February 2018. Maiore seconded the motion. The vote was unanimously in favor of the motion.

**Board Members Reports – Committee Activities**

Catalina stated the Community Preservation Committee is not meeting in the month of March because they have already made their recommendations on applications for funding in fiscal year 2019.

Nickerson stated the Municipal Affordable Housing Trust will be meeting later this week.

Nickerson made a motion to recommend to the Board of Selectmen the appointment of Erin McBee to the Harvard-Devens Jurisdiction Committee. Maiore seconded the motion. The vote was unanimously in favor of the motion.

McBee stated the Zoning Board of Appeals opened the hearing for the Comprehensive Permit for Craftsman Village along Ayer Road, which was well attended. McBee stated parking on the site needs to be re-considered. As designed the units only have parking within the garage for each unit. Additional parking for visitors has been designated along the access road, which may not be ideal for emergency vehicle access. Parking along Ayer Road would be very dangerous and should be further discussed with

the Chief of Police. McBee stated due to the existing stonewall and drainage ditch along Ayer Road the applicant is unable to install a sidewalk along the front boundary. The hearing was continued to April 11<sup>th</sup> at 7:50pm.

McBee stated the Finance Committee voted in favor of the Director of Planning warrant for annual town meeting in the amount of \$76,000. The Board of Selectmen will be approving the final warrant tomorrow night, as well as conducting the all boards meeting.

### **Planner Report**

Scanlan stated the contract with Bristol Engineering for the traffic improvements along Ayer Road has been finalized. A kick-off meeting is in the process of being planned.

Scanlan has still not heard on the grant funding through National Grid's Partnership Program, on the trees for the Bromfield parking lot. In addition, Scanlan is still waiting hear on the grant from MassDevelopment under their Real Estate Development Program. This grant was applied for to assist in the financial analysis of the proposed Open Space Design Bylaw.

### **Approve Minutes**

Nickerson made a motion to approve the minutes of February 5 and 12, 2018. Maiore seconded the motion. The vote was unanimously in favor of the motion.

### **Approve Invoice**

Maiore made a motion to approve the following invoice:

- William Scanlan, \$1760.00

Nickerson seconded the motion. The vote was unanimously in favor of the motion.

**2018 Chapter 125 Protective Bylaw Amendments for Annual Town Meeting Public Hearing.** Opened at 7:16pm (see page 3 – 8 for details)

### **Director of Planning Warrant Article**

With nothing new to report this item was passed over.

### **Adjournment**

Maiore made a motion to adjourn the meeting at 9:20pm. Donahue seconded the motion. The vote was unanimously in favor of the motion.

Signed: \_\_\_\_\_ Liz Allard, Clerk

## Harvard Planning Board

### Protective Bylaw Amendments Public Hearing

March 5, 2018

Erin McBee, chair of the Planning Board, opened the public hearing at 7:16pm in the Town Hall Meeting Room under the Zoning Act, M.G.L. Chapter 40A and the Code of the Town of Harvard, Protective Bylaw Chapter 125

**Members Present:** Erin McBee, Michelle Catalina, Fran Nickerson, Rich Maiore and Stacia Donahue

**Others Present:** Liz Allard (LUB Admin), Bill Scanlan (Town Planner), Alison Thornton, Jan Fradenburgh, R.J. Rushmore, Justin & Rebecca Brown, Steve Hierman, Peter Deng (YYT Harvard LLC), Paul Green, Lucy Wallace (BOS), Don & Karen Green, Chris & Kerri Green, Margaret Nestler, Tom Cotton, Frank Carlson, Carl & Sara Warren, Tim Schmoyer, Tim Myllykangas, Craig Raymond, Gail Colin, Laura McGovern and Jonathan Wallace

This hearing is for the proposed Protective Bylaw Amendments for the 2018 Annual Town Meeting. The amendments are as follow:

➤ **125-56 Ground Water Protection Overlay District**

**OVERVIEW:**

- The Planning Board was contacted by the Littleton Water Department who requested Harvard adopt an overlay district for a Public Water Supply (PWS) in Littleton in which the ground water protection district included parts of Harvard in the Littleton County Road area near the Boxborough line.
- Planning Board agreed that if they were going to create an overlay district for Littleton it should also be done for the PWS owned by the Town of Harvard
- The Town of Ayer also has PWS with a district that overlaps into Harvard along the northern town boundary, which has also been included in the proposed overlay district
- The proposed bylaw was crafted by Montachusett Regional Planning Commission under District Local Technical Assistance grant obtained by the Planning Board
- Model bylaws were reviewed to create the proposed bylaw
- The Department of Environmental Protection uses scientific methods to create the proposed districts
- Existing uses would not be subject to the proposed Bylaw, only new uses and activities as detailed in the proposed bylaw may require a Special Permit

**INPUT:**

- Comments from the Board of Health (BOH) were read into the record
  - Include a reference to the stable permits when discussing manure management under Prohibited Uses – *Planning Board has added language as requested by BOH and moved the storage or composting of animal manure to Permitted Uses*
  - Consider including a threshold for storage of deicing material, herbicides and pesticides - *The text of the Bylaw states such storage is permissible if it "is within a structure designed to prevent the generation and escape of contaminated runoff or leachate". It would seem unlikely that a Town department would not meet such a simple standard. The Planning Board has taken no action.*

- Please define any acronyms at the time of their first use – *this has been addressed*
- Laura M<sup>c</sup>Govern, of 62 Old Mill Road, wanted to know who would be responsible for determining a source of contamination. It is unclear to the Planning Board (PB) as to who would be responsible should contamination occur - *The PB will seek the advice of the BOH on this question.*

➤ **125-57 Agritourism Overlay District (AOD)**

**OVERVIEW:**

- The 2016 Master Plan recommends the amendment of the Protective Bylaw to provide for agricultural-related businesses and to allow tourist oriented business in the AR district
- In the fall of 2017 the Planning Board began discussing a Farm-to-Table Restaurant Overlay District, which could potentially be used to preserve large farms located in the Agricultural-Residential district by giving farms another revenue stream
- Early drafts of the bylaw include three locations along main roads in Harvard. Those locations being Hazel Farm at 150 Ayer Road, Westward Orchard along Mass Ave and Doe Orchard at 327 Ayer Road
- Agricultural Advisory Commission provided feedback suggesting a review of the exemptions for farming allowed under M.G.L. Chapter 40A, Section 3 with reference to the definition of Agriculture in M.G.L. Chapter 128 Section 1A and to obtain advice from the Massachusetts Department of Agricultural Resources on allowed Agritourism uses
- Further discussions included options of creating new or expanding the existing commercial district to allow a Farm-to-Table Restaurant at the Hazel Farm
- Prior to submitting the bylaw to the Board of Selectmen for inclusion on the warrant for Annual Town Meeting the Planning Board narrowed the locations down to two, Hazel's farm and Carlson Orchard on Oak Hill Road; changed the name from Farm-to-Table Restaurant Overlay District to Agritourism Overlay District, because the bylaw provides for additional types of businesses beyond just restaurants; and separated out accessory uses from those that would be considered the primary use under this bylaw.
- The Planning Board is considering withdrawing this amendment due to concerns that have been raised by interested parties. This would allow the Planning Board more time to study the matter.

**INPUT:**

- Comments from the Board of Health were read into the record
  - Please include discussion of noise & noise control, hours of operation and lighting restrictions - *These items are addressed under 125-28 Site Plans and 125-39 Site Standards, which are required under 125-57E Submittal Requirements of this proposed bylaw*
  - Please define "farm guesthouse" - *The Planning Board will further define this term*
  - Please address how you expect to monitor and enforce §F(9) - *Planning Board is considering adding additional language that requires annual reporting of the required narrative*
- A letter from Westward Orchard, Inc. requested their two properties at 90 Oak Hill Road and 188 Mass Ave be included in the district - *Additional locations can be included as the Planning Board works toward a bylaw that complements the wants and needs of Harvard*
- An email from Franklyn Carlson stated the proposed bylaw may "trigger" new site plan requirements and approvals, which will put a great deal of financial burden on the farm

owners. Carlson thinks all that is needed is an Agritourism bylaw that allows farms to have music, food, open houses, tastings etc. without creating a huge burden to farmers - *Planning Board agrees this bylaws needs much more refining before it came be brought before the Town for a vote.*

- Carl Warren, of 35 Sheen Road, stated he too would like to be included in the district
- Chris Green, of 102 Oak Hill Road, stated there is good and bad with this bylaw. The constraints on farmers may not outweigh the good. What is the desired outcome?
- Carrie Green, of 102 Oak Hill Road, does not understand how sourcing from others is Agritourism; should products be grown on-site or within a set radius? - *§125-57F(9) details 25% of food served in the restaurant shall be sourced from New England farms during the months of May – September*
- Don Green, of 90 Oak Hill Road, feels this is a commercial business and does not see bond between agricultural and a commercial business
- Peter Deng, of 218 Littleton County Road, wanted to know if the Poor Farm at 166 Littleton Road would fit into this district - *As drafted, it does not due to the 30 acre requirement*
- Laura M<sup>c</sup>Govern, of 62 Old Mill Road, asked how the Planning Board got to 30 acres and is there a way to include smaller farms - *The Planning Board wanted to limit the number of locations on which this bylaw would apply as to not overwhelm the community with large scale business in the agricultural-residential district. In addition, large parcels allow for larger setbacks from residential properties, reducing potential conflicts with abutters. The Planning Board will take into consideration the proposed land area requirements.*
- Tim Schmoyer, of 278 Stow Road, suggested the Planning Board create a handout for town meeting that lists the allowed uses under agriculture and what additional uses will be allowed under this bylaw.
- Craig Raymond, of 134 Ayer Road, supports the bylaw, but wants to know what happens when a business fails and how specific requirements of this bylaw will be monitored - *The Planning Board has discussed including language that would require the parcel to revert back to its original use should a business fail. Lucy Wallace, chair of the Board of Selectmen (BOS), stated a restaurant will require an annual licenses from the BOS which would be an opportunity for the requirements of this bylaw to be reviewed*
- Peter Deng, of 218 Littleton County Road, asked about camping - *Scanlan stated uses that are connected to the primary agricultural use will still be allowed and this proposed bylaw would have no effect on the already allowed uses under MGL Chapter 128.*
- Margret Nestler, 31 Cruft Lane, asked about the total square footage of existing and proposed buildings and parking areas - *Catalina explained the parking is determined based in comparison to the building size. Maiore explained the square footage under §125-57F(5) and parking requirements under §125-57F(14)*
- Tim Myllykangas, 64 Westcott Road, respects both sides of the issue. Agriculture is experiencing a loss of acreage as farm owner's age with no one to take over. The cost associated with complying with local site plan standards would be a burden to farmers. The Planning Board should consider grandfathering of some of the infrastructure that is already in place.
- Carrie Green, of 102 Oak Hill Road, is hoping additional outreach to the local farms will be provided - *Maiore stated the Planning Board will be reaching out to as many local farms as possible for additional feedback, including a survey that was proposed early in these discussions.*
- Robin Calderwood, of 54 Woodchuck Hill Road, wants to avoid changing the character of the agricultural-residential district

- Don Green, of 90 Oak Hill Road, would like there to be a definition of a farm in agricultural and a commercial farm
- Frank Carlson, of 112 Littleton County Road, stated a lot has to been done to get this bylaw right as it could be a substantial change to the town

➤ **Recreational Marijuana – Amend Chapter 125-2, 125-14G and 125-21**

**OVERVIEW**

- The 2016 ballot petition known as “Question 4” became Chapter 334 of the Acts of 2016. It created General Law Chapter 94G which governs the adult use of marijuana and creates the Cannabis Control Commission (“Commission”). Chapter 334 and G.L. c.94G was amended by Chapter 55 of the Acts of 2017.
- Harvard voted in favor of Question 4 by a vote of 1958 (yes) and 1776 (no)
- The 2017 Act requires the Commission to promulgate regulations necessary for the issuance of licenses by March 15, 2018
- At the 2017 Annual Town Meeting (ATM) Harvard residents voted against a Temporary Moratorium on the Cultivation, Manufacture and Retail Sale of Marijuana and Related Products as Authorized by the “Regulation and Taxation of Marijuana Act” (the Act) Adopted on November 8, 2016
- It was clear from the comments made at the 2017 ATM residents of Harvard wanted the ability to cultivate marijuana in the Agricultural-Residential District. The Planning Board proposes to amend Chapter 125-21 Permitted uses in AR Districts, by including Outdoor/open air marijuana cultivation. The cultivation of more than twelve (12) plants is considered commercial cultivation.
- With retail businesses allowed by the Code of the Town of Harvard, Chapter 125-13, Medium-scaled commercial uses, the Planning Board sought to set regulations that limited the number of marijuana establishments and provide development and operation criteria of these establishments. The Planning Board proposes to replace Chapter 125-14G Medical Marijuana Treatment Center with Marijuana Establishments
- The proposed amendment to Chapter 125-14G limits the number of marijuana establishments to no more than one (1) of the five allowed types

**INPUT**

- Police Chief Edward Denmark had no recommendations to the language of the proposed bylaw amendments, nor did he see any negative public safety issues surrounding the promulgation of the proposed bylaw amendments
- Tim Schmoyer, of 278 Stow Road, asked about the setbacks that had been established with the adoption of medical marijuana treatment centers in 2014 - *That section of the Protective Bylaw, Chapter 125-14G is being repealed and replaced with the proposed Marijuana Establishments*
- Carrie Green, of 102 Oak Hill Road, asked for clarification on the number of establishments allowed in the commercial district - *As drafted the proposed bylaw only allows for one (1) establishment, from the five types of establishments that are allowed, not one of each type of establishment*
- Justin Brown, of 15 Park Lane, asked about onsite consumption - *After a brief discussion, the Planning Board agreed to remove marijuana social consumption establishment from the definition of marijuana establishment, therefore eliminating onsite consumption.*
- Tim Schmoyer, of 278 Stow Road, suggested the Planning Board apply the setbacks detailed in the amended Chapter 125-14G to determine exactly where in the commercial district these establishments could develop

- Laura M<sup>c</sup>Govern, of 62 Old Mill Road, asked why greenhouses are not allowed for the cultivation of marijuana - *The Planning Board felt by allowing greenhouses there was the potential for a large number of massive sized greenhouses to be erected within the Agricultural-Residential District, not only detracting from viewsheds and the character of the Town, but the Purpose of the Protective Bylaw as detailed in Chapter 125-1. Lighting requirements for the cultivation of marijuana is also a factor in not allowing greenhouses. The cultivation of marijuana requires extensive hours of direct light, which would require light during evening hours; this would be in direct conflict of the purpose and intent of Chapter 125-40, Lighting. The matter of whether or not to allow greenhouses was highly debated. Lucy Wallace, chair of the Board of Selectmen, reminded those in attendance that marijuana is still a controlled federally regulated substance that is not comparable to the growing of normal agricultural commodities such as tomatoes.*
- Chris Green, of 102 Oak Hill Road, asked if you own a marijuana dispensary do you have to cultivate the marijuana you sell - *No*

➤ **Citizen Petition – Amend Chapter 125-55 Hildreth Housing Overlay District**

**OVERVIEW**

- Special Town Meeting in November 2016 approved a new section of the Protective Bylaw, Chapter 125-55 Hildreth Housing Overlay District
- The district was created in order to provide “down-sized” housing for the aging population in Harvard, as well as to provide funding toward the Phase II renovations of the Hildreth House (Council-on- Aging Center)
- During the public hearing process in 2016 for the proposed overlay district the Planning Board discussed whether or not to include an affordable housing requirement within this district. The Planning Board concluded that creating affordable units would lower the value and sale price of the land.
- Due to the eligibility requirements for affordable units, many of Harvard’s seniors have assets that preclude them from qualifying for an affordable unit.
- Paul Green, the petitioner of the petition, explained his proposed amendment is a trade-off for disposing of town-owned land, with long-term benefits by assisting in achieving the housing goals of the Town. This amendment will require the criteria applied to other such developments in town to apply to a Town project as well. The downside to creating affordable units is the reduction in real estate taxes that would be assessed for this type of unit. Any time the town proposes housing it should include an affordable component, therefore Mr. Green is asking for support of this amendment

**INPUT**

- Fran Nickerson, a member of the Housing @ Hildreth House Committee, stated the intent of the bylaw was to provide a service for seniors who have given their time to the Town
- Tim Schmoyer, of 278 Stow Road, asked if information was available that showed the current numbers of the Harvard population that would be eligible for an affordable unit - *Since the Planning Board does not have access to information regarding personal assets it is difficult to know just how many residents would qualify for an affordable housing unit.*
- Lucy Wallace, of 18 Orchard Hill Road, asked how the difference will be put on the town - *Paul Green suggested making up any short falls in development costs with funding from such sources as the Municipal Affordable Housing Trust (MAHT), Community Preservation Act (CPA) funds or the developer could apply for tax credits from the State for affordable housing. Ms. Wallace stated funding from MAHT and CPA are currently very limited and the State no longer has the tax credits as they did in the past.*

- Chris Green, of 102 Oak Hill Road, stated Harvard may be more affordable than you may think; he cautioned restricting things may get you to something you really never intended

Catalina made a motion to continue the hearing to March 19, 2018 at 7:15pm in the Town Hall Meeting Room. Nickerson seconded the motion. The vote was unanimously in favor of the motion.

Signed: \_\_\_\_\_ Liz Allard, Clerk

## DOCUMENTS & OTHER EXHIBITS

### Planning Board Agenda, dated Monday March 5, 2018

#### Approve Minutes

- Draft Minutes of February 5 and 12, 2018 prepared by Liz Allard and edited by Bill Scanlan

#### Approval Not Required – Harvard Conservation Trust, Sherry Road

- Plan of Land in Harvard, Mass., owned by YYT Harvard LLC, prepared by David E. Ross Associates, Inc., Job No. 31852, Plan No. L-13312, dated February 2018

#### 2018 Protective Bylaw Amendments for Annual Town Meeting

- Ground Water Protection Overlay District
  - Memo from the Harvard Board of Health, Re: Proposed Protective (Zoning) Bylaw Amendments, dated March 1, 2018
  - ARTICLE XX: PLANNING BOARD – Amend the Protective Bylaw Chapter 125-56, undated
- Agritourism Overlay District
  - ARTICLE XX: PLANNING BOARD – Amend the Protective Bylaw Chapter 125-57, undated
  - AGRITOURISM OVERLAY DISTRICT FAQ, undated
  - Memo from the Harvard Board of Health, Re: Proposed Protective (Zoning) Bylaw Amendments, dated March 1, 2018
  - Letter from Westward Orchard, Inc., dated February 27, 2018
  - Email from Franklyn Carlson, Subject: RE: Agritourism, dated Feb 22, 2018
- Recreational Marijuana
  - ARTICLE XX: PLANNING BOARD – Amend the Protective Bylaw 125-2 Definitions,, 125-14G, Medical Marijuana Treatment Center and 125-21 Permitted uses in the AR District, undated
  - RECREATIONAL MARIJUANA FAQ, undated
- Citizen Petition – Amend Chapter 125-55 Hildreth Housing Overlay District
  - Citizen Petition for the Harvard 2018 Annual Town Meeting, §125-55 Hildreth Housing Overlay District (HHOD), undated