

**HARVARD PLANNING BOARD
MEETING MINUTES
JULY 18, 2022
APPROVED: August 15, 2022**

Vice Chair Richard Cabelus called the meeting to order at 7:00pm virtually, pursuant to Chapter 22 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on February 15, 2022, and under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125

Members Present: Richard Cabelus, Stacia Donahue, Brian Cook, Doug Thornton, Arielle Jennings (departed at 8:00pm) and John McCormack (Associate Member)

Others Present: Frank O'Connor (Director of Planning), Liz Allard (Land Use Administrator), Bruce Ringwall (GPR, Inc.), Mike Kennedy Sr. & Jr. (Kennedy & Company), Valerie Hurley (Harvard Press), Lou Russo (Wheeler Realty Trust), Greg Winter (Winter Real Estate Investors, LLC), Brian Levey (Beveridge & Diamond, P.C.), Kara McGuire Minar, Erin McBee, Mark Lanza (Town Counsel)

Public Comment

Select Board members, Erin McBee and Kara Minar, stated they were in attendance this evening as the Select Board co-liaisons to the Planning Board.

Elect Chair, Vice Chair and Clerk for Fiscal Year 2023

Donahue made a motion to elect Richard Cabelus as the chair of the Planning Board for Fiscal Year 2023. Cook seconded the motion. The vote was unanimously in favor of the motion by roll call, Jennings, aye; Donahue, aye; Cook, aye; Thornton, aye; and Cabelus, aye.

Cook made a motion to elect Staci Donahue as the vice chair of the Planning Board for Fiscal Year 2023. Thornton seconded the motion. The vote was unanimously in favor of the motion by roll call, Jennings, aye; Donahue, aye; Cook, aye; Thornton, aye; and Cabelus, aye.

Donahue made a motion to elect Liz Allard as the clerk of the Planning Board for Fiscal Year 2023. Cook seconded the motion. The vote was unanimously in favor of the motion by roll call, Jennings, aye; Donahue, aye; Cook, aye; Thornton, aye; and Cabelus, aye.

Appoint Design Review Board & Harvard Climate Initiative Committee Representatives for Fiscal Year 2023

Cook made a motion to appoint Donahue to the Harvard Climate Initiative Committee. Thornton seconded the motion. The vote was unanimously in favor of the motion by roll call, Jennings, aye; Donahue, aye; Cook, aye; Thornton, aye; and Cabelus, aye.

Donahue made a motion to appoint Cabelus to the Design Review Board. Cook seconded the motion. The vote was unanimously in favor of the motion by roll call, Jennings, aye; Donahue, aye; Cook, aye; Thornton, aye; and Cabelus, aye.

Review of Ayer Road Overlay District

Cabelus stated the proposed Mixed Use Overlay District (MUOD) would comprise of 185, 187 and 203 Ayer Road. Greg Winter, of Winter Real Estate Investors, LLC, is proposing to the Planning Board this overlay district in order to provide a huge need in Harvard for seniors looking to downsize within the Town. As a mix use development this MUOD will meet the needs of Harvard. The MUOD will allow for the development of a Continuing Care Retirement Community (CCRC), along with retail and recreational opportunities. As proposed the MUOD will allow for the residents of the CCRC to walk to services. The

development will ensure visual impacts keeping with the character of the Town. Proper sewer treatment and water is to be provided by Devens. The economic benefits are very robust and expected to pay for new Department of Public Works building, along with the renovations to Police and Fire Departments. The development will minimize traffic impacts to the Town as it is located directly off of Route 2. Seventy-five new and two-hundred temporary jobs during constructions will be created with the development of this MUOD.

Brian Levey, of Beveridge & Diamond, P.C., stated the proposal is the standard type you would normally see within an overlay district like this. Levey provided an overview of the MUOD, which includes a total of 16 acres along Ayer Road within the commercial district. As previously stated by Winter, the development would provide senior living, residential, commercial, restaurant and recreational opportunities. Density yields would be a maximum of 205 residential units, with maximum if 255,000 square feet of total building area. The height of the proposed structures would be three stories at fifty feet. Twenty percent of the residential units will be affordable, with thirty percent of the area being open space. The maximum number of parking spaces would be 415. Utilities are intended to come from Devens for water and septic. Landscaping and signage would be part of the special permit process with the Planning Board

With a public hearing scheduled for 7:30pm and 8:00pm, Donahue made motion to table this discussion until after those hearings. Cook seconded the motion. The vote was unanimously in favor of the motion by roll call, Jennings, aye; Donahue, aye; Cook, aye; Thornton, aye; and Cabelus, aye.

Approval Not Required – 295 Ayer Road

Donahue made a motion to endorse the Plan of Land (Approval Not Required) #295 Ayer Road Harvard, Mass. prepared for RDJ Realty Company Trust #52 Ethan Allen Drive Acton, MA 01720, JOB 181083, prepared by GRP, Inc., dated June 22, 2022. Thornton seconded the motion. The vote was unanimously in favor of the motion by roll call, Jennings, aye; Donahue, aye; Cook, aye; Thornton, aye; and Cabelus, aye.

Continuation of a Special Permit & Site Plan Review – Kennedy & Company, 295 Ayer Road. Opened at 7:34pm (see page 5 for complete details)

Approve Invoices

Donahue made a motion to approve the two invoices from Beals + Thomas for the peer review of 203 Ayer (\$3782.50) and 295 Ayer Road (\$2285.00). Cook seconded the motion. The vote was unanimously in favor of the motion by roll call, Donahue, aye; Cook, aye; Thornton, aye; and Cabelus, aye.

Continuation of a Special Permit, Ayer Road Village-Special Permit and Site Plan Review - Yvonne Chern & Wheeler Realty Trust, 203 Ayer Road. Opened at 8:00pm (see page 6 for complete details)

Review of Ayer Road Overlay District, Continued

Cabelus asked if it is correct that none of the proposed structures of MUOD conform to the existing bylaw. Winter stated that was correct and the MUOD would allow the current application for §125-52 Ayer Road Village-Special Permit (ARV-SP) at 203 Ayer Road to proceed with the current process to obtain a Special Permit and the would be allowed within the MUOD. The intent is to have an overlay district that will not conflict with the §125-52 ARV-SP.

Cook sees this as two projects proceeding on two different tracks who want to use each other but do not want to be permitted together; in other words, cherry picking. When asked, Attorney Mark Lanza stated the MUOD is not spot zoning as it is an overlay district of a district that has many uses. Lanza is confident should the MUOD pass town meeting that Attorney General office will approve as well. Donahue wondered if the proponent could submit it as a citizen's petition. Levey is hoping the Planning Board will hold a public hearing to bring it to town meeting. Winter had met with Town Administrator Tim Bragan and discussed the potential of a public hearing with the Planning Board in early August with additional

hearings in September. Winter stated the MUOD would not bring in additional school aged children into the school system and has the potential of one million in tax benefits for the Town. Winter is hoping to have the Select Board, Finance Committee and Planning Board support of this MUOD.

Cook understands the benefit for the Town but the Planning Board is here to decide what is best for the Town. Cook thinks it a monumental event to get this completed within the next two months. Lanza clarified the process of being able to petition the Board for a bylaw amendment.

Kara Minar, the Select Board co-liaison to the Planning Board, supports the Boards comments on this MUOD. Minar still not understanding what the gain here is with the MUOD that can't be achieved with the existing bylaws. McCormack does not understand what the current zoning does not support that requires the MUOD. If unable to develop with §125-52 ARV-SP then why not amend that provision and why is it limited to just those three lots. Attorney Levey stated §125-57 Senior Residential Development limits the number of units allowed to be constructed annually; the market place today tries to combine the CCRC to serve the three types of senior living. Those who develop these types of facility are seeking to develop all of the units at one time. Current zoning does not allow for development in the manner these types of facilities need to be devolved; there are about five other provisions within §§125-52 and 57 that would not allow for such a development.

Erin McBee, the Select Board co-liaison to the Planning Board, stated the proposed development would be a huge project in Harvard. McBee is hesitant here because there has been push back from residents in the past. McBee wants to make sure the residents understands how this development will fit into Harvard. McBee would want to see an affordability aspect, outreach to the neighbors, what the other uses will be on the site, and how will the connectivity will be to access such areas as the medical building across the street. Donahue thinks this is above her capacity on the Planning Board and would like to hear what the Select Board has to say about this proposal. Minar noted Harvard is serviced by a volunteer Fire Department and ambulance service; there will be real intense emergencies with this type of development.

Cabelus asked for more on the retail and why would the badminton need its own §125-52 ARV-SP. Winter stated community orientated retail business such as Trader Joes or something similar to the Concord Market; something that would be a Saturday shopping trip to the market, the salon, the market, etc., as well as services that complement the seniors living there. Winter stated he plans to meet with the residents of Harvard Green over the next few weeks.

Bruce Ringwall, of GPR, Inc., the representative for the 203 Ayer Road application currently before the Planning Board, explained the badminton center is something that they want to move forward with as there has already been a tremendous amount of time and money put into to design and engineer the facility. Lou Russo, the co-applicant for 203 Ayer Road stated he would like to keep the process moving in order to allow his client to get along with their business plan. The way the overlay district has been drafted it does allow uses under the §125-52 ARV-SP as well as other zoning; the idea is to coordinate all of these uses into one overlay district. Attorney Levey stated it is really a timing issue for market -based senior living development.

Members of the Planning Board agreed they are interested in hearing from the Select Board and want the abutters to be informed of the proposal. Cook suggested that getting community support on this project is key, as to avoid it being railroaded at Town Meeting. Donahue stated the timing incredibly fast if you are looking to bring this to the fall town meeting; could this wait until spring? Winter stated that is really up to the two sellers of the land, if they are willing to wait. Minar suggested that Planning Board express their concerns in writing to the Select Board.

ZBA Request for Comments – 175 Littleton County Road

The Board briefly discussed the request for a variance from §§125-31B(5) and 125-39 Table 2 to increase the require slope of a driveway from 8% to 10%. The lot was originally developed under the 10% slope

allowance in 2000 and a modification of Special Permit was conducted in 2020 that meet the new 8% requirement of the Protective Bylaw. Cook and McCormack volunteered to meet Bruce Ringwall on site to review the proposal and report back at the next Planning Board meeting.

Discuss August Meeting Schedule

With the five Mondays in August and the Labor Day holiday the first Monday in September, Liz Allard suggested the Board meet August 1st, 15th and 29th. After briefly discussing, the Board agreed to add August 29th as a meeting date should it be necessary.

Strategic Planning Session & Discuss Potential Topics

The Board agreed to August 17th as the date for the strategic planning session from 6pm to 9pm. Liz Allard will secure a location as this will be an in-person meeting. Members were reminded to provide any items they would like to discuss for the agenda.

Board Member Reports

• **Representatives & Liaisons Updates**

- *Open Space Committee (OSC)* – Cook stated the OSC Met on Thursday at which the high-level need for a softball field was discussed. The Select Board has also made the locating of land for multiple recreational needs a priority for this fiscal year. The good news – there is movement for and support for it.
- *Montachusett Regional Planning Commission* – Donahue stated the State is dragging their feet on MBTA Multi-family requirements. There will be a second round of funding under the American Rescue Plan Act funding, which might be good news for the Ayer Road Visioning Plan.
- *Harvard-Devens Jurisdiction Committee* – Cabelus stated Senator Jamie Eldridge has put forth funding within the State budget for a consultant to assist in a resolution amongst the three towns.

- Community Matters – none this evening

Approve Minutes

Minutes were unavailable this evening.

Adjournment

Donahue made a motion to adjourn the meeting at 9:32pm. Cook seconded the motion. The vote was unanimously in favor of the motion by roll call, Jennings, aye; Donahue, aye; Cook, aye; Thornton, aye; and Cabelus, aye.

Signed: _____ Liz Allard, Clerk

EXHIBITS & OTHER DOCUMENTS

- Planning Board Agenda July 18, 2022
- Plan of Land (Approval Not Required) #295 Ayer Road Harvard, Mass. prepared for RDJ Realty Company Trust #52 Ethan Allen Drive Acton, MA 01720, JOB 181083, prepared by GRP, Inc., dated June 22, 2022.

Harvard Planning Board

Continuation of a Special Permit & Site Plan Review

Kennedy & Company, 295 Ayer Road

July 18, 2022

The public hearing was opened at 7:34pm by Chair Richard Cabelus under MGL Chapter 40A the Zoning Act and the Code of the Town of Harvard Chapter 125 the Protective Bylaw virtually pursuant to Chapter 22 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on July 14, 2022

Members Present: Richard Cabelus, Stacia Donahue, Brian Cook, Doug Thornton, Arielle Jennings and John McCormack (Associate Member)

Others Present: Frank O'Connor (Director of Planning), Liz Allard (Land Use Administrator), Bruce Ringwall (GPR, Inc.), Mike Kennedy Sr. & Jr (Kennedy & Company) and Valerie Hurley (Harvard Press)

This hearing was continued from June 27, 2022 for a Special Permit & Site Plan Review filed on behalf of Kennedy & Company for Landscape Services at 295 Ayer Road, Harvard.

The Board and the Applicant's representative, Bruce Ringwall, of GPR, Inc., had previously received a draft Special Permit and Site Plan Approval for their review. Ringwall had provided edits to the Land Use Administrator, who has reconciled most with Ringwall.

After reviewing the decision in detail Donahue made a motion to close the hearing and issue the Special Permit and Site Plan Approval to include the edits made to the draft decision this evening. Cook seconded the motion. The vote was unanimously in favor of the motion by roll call,; Donahue, aye; Cook, aye; Thornton, aye; and Cabelus, aye.

Signed: _____ Liz Allard, Clerk

Harvard Planning Board

Continuation of a Special Permit, Ayer Road Village-Special Permit and Site Plan Review

Yvonne Chern & Wheeler Realty Trust, 203 Ayer Road

July 18, 2022

The public hearing was opened at 8:00pm by Chair Richard Cabelus under MGL Chapter 40A the Zoning Act and the Code of the Town of Harvard Chapter 125 the Protective Bylaw virtually pursuant to Chapter 22 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on July 14, 2022

Members Present: Richard Cabelus, Stacia Donahue, Brian Cook, Doug Thornton, Arielle Jennings and John McCormack (Associate Member)

Others Present: Frank O'Connor (Director of Planning), Liz Allard (Land Use Administrator), Bruce Ringwall (GPR, Inc.) and Lou Russo (Wheeler Realty Trust)

This hearing was continued from June 27, 2022 for a Special Permit, an Ayer Road Village-Special Permit and Site Plan Review filed on behalf of Yvonne Chern & Wheeler Realty Trust for the development of three commercial use buildings, including a Commercial Entertainment and Recreation use at 203 Ayer Road, Harvard.

Bruce Ringwall, of GPR, Inc., gave an over view of the process moving forward with lost and gains of Board members. The legal notice will need to be re-advertised, along with re-notification of the abutters. At the re-opening of the hearing an overview of the project will be presented to get the new members up to speed on the application. Ringwall stated this process needs to move forward as its own entity under the current zoning and should not be delayed due to the overlay district proposal on the agenda this evening.

Cook was surprised Ringwall wanted to keep this is going under the §125-52 ARV-SP since the overlay district proposes additional housing, which is a requirement of the provision. Ringwall talked about §125-52G(3)(a) and how this application fits into the provisions. Donahue thought the Board had not agreed that the application was in compliance with §125-52 ARV-SP. This item needs to be addressed at the next hearing for this application.

As requested by Ringwall, Donahue made a motion to continue the hearing to August 15, 2022 at 7:30pm. Thornton seconded the motion. The vote was unanimously in favor of the motion by roll call, Donahue, aye; Cook, aye; Thornton, aye; and Cabelus, aye.

Signed: _____ Liz Allard, Clerk