

**HARVARD PLANNING BOARD  
MEETING MINUTES  
OCTOBER 17, 2022  
APPROVAL MAY 1, 2023**

Chair Richard Cabelus called the meeting to order at 7:01pm virtually, pursuant to Chapter 107 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 16, 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, Arielle Jennings and John McCormack (Associate Member)

**Others Present:** Frank O'Connor (Director of Planning), Liz Allard (Land Use Administrator), Valerie Hurley (Harvard Press), Ellen Sachs Leicher, Ken Atwell, Bruce Ringwall (GPR, Inc), Erin McBee (Select Board liaison) and Kara McGuire Minar, Kerri Green (Ag Commissioner)

**Public Comment**

There was no public comment this evening

**Approve Not Require Endorsement – Littleton County Road (Map 19 Parcel 67.1)**

Chair Cabelus asked if Liz Allard had any comments. Allard said Bruce Ringwall was available to explain the plan. Ringwall highlighted the proposal and explained the shape factor in the bylaw to avoid strange shapes such as dumbbell or spaghetti shaped lots. Allard asked Ringwall if the applicant were going to return to combine the smaller parcels. Donahue asked about the easement. Ringwall did not know what the property owner would do with those easement rights. Donahue made a motion to endorse the Plan of Land in Harvard, Mass., prepared for Luciano Manganella, 135 Commonwealth Ave, Unit B Boston, MA 0216, prepared by GPR, Inc., Job 221108, dated September 29, 2022. Jennings seconded the motion. The vote was unanimously in favor of the motion by roll call, Donahue, aye; Cook, aye; Jennings, aye; and Cabelus, aye.

**Review comments on the Market Analysis and Fiscal Impact Analysis for the Ayer Road Commercial District from the Board and others to provide those to Weitzman**

Cabelus asked O'Connor to share his thoughts on the comments from the Planning Board members related to the draft of the Weitzman Report. O'Connor said the comments were not edited but that he did remove names because with anonymity came authenticity and free flowing thoughts. O'Connor said the ideas could be cleaned up, whittled down and prioritize what they share with the team at Weitzman. Cabelus asked if the members had any thoughts or questions. Jennings asked about a lack of specific rezoning options particularly with multifamily a potential constraint to development. Cabelus said they could ask the consultant for more specifics such as what part of the bylaw is constraining. Allard thought this phase was to deal with financials and that future phases would deal with zoning. McCormack asked about potentially changing the boundaries of the C-District and where does multifamily zoning fit into all of this area. O'Connor said he spoke with the point person at Weitzman about various taxes and fees in the C-District as part of the final deliverable, especially with water & sewer. Allard added that Phase 3 would deal with updating the zoning bylaws. Cabelus told O'Connor to clean up the questions and comments to send to the consultant. Cabelus said it is a work in progress and we are still in the early phases. O'Connor mentioned a member of the Select Board had contributed comments, also.

**Continuation of a Special Permit, Ayer Road Village-Special Permit and Site Plan Review - Yvonne Chern & Wheeler Realty Trust, 203 Ayer Road.** Opened at (see page 4 for complete details)

### **Proposed Protective Bylaw Amendment §125-7 Agricultural Uses**

- Draft of comments / concerns to the Select Board
- Review Procedural Process for Public Hearing

Cabelus asked if the public hearing info were posted. Allard explained it was submitted to local paper to run on consecutive Fridays. Cabelus referenced the letter written by O'Connor on behalf of Planning Board to the Select Board. Cabelus asked O'Connor if he were interested in adding comments. O'Connor said he reviewed the Zoom meeting and kept everything in the same sequential order. Cabelus was not sure if it were going to have any beneficial or appropriate to send the letter to Select Board at this time. Donahue felt sending the letter would help Select Board understand what would come up in the Public Hearing. Select Board member McBee asked if it were to issue permits for a period of thirty days. Cabelus said yes. Cook said it does not have to be thirty days. He did want to see a timeframe with the permit. McBee asked that the Planning Board do send the letter to the Select Board. McCormack felt the letter was moot at this point because the Rutland bylaw raised several issues need to be addressed but were not in the letter. Minar said the letter raised several good issues and was a starting point. Donahue made a motion to send the letter as amended with the additional information from Agriculture Committee, seconded by Cook. Roll call vote passed unanimously 4-0: Jennings: aye; Cook: aye; Donahue: aye; and Cabelus: aye.

Cabelus started the topic of Review of Procedural Process. He said this is part of the treatises for Land Use. Cabelus inquired how procedurally does this work. Allard mentioned she looked to Mass Planners for guidance on bringing a bylaw amendment from the board of selectmen. Cabelus stated there are three ways to initiate the adoption or change of zoning bylaws and in this instance, it came from the Select Board. Cabelus said this would not be a joint hearing with Select Board. Cabelus said the statute allows that the Planning Board *may* make recommendations and is advisory in nature.

Cabelus conferred with Allard that the Planning Board would have its Public Hearing and then could choose to endorse the amendment or not endorse it as it saw fit. This proposed amendment could be voted on at Town Meeting early next year. Cabelus said the Planning Board would need language to define or limit accessory entertainment and events. He referenced an example from New Jersey. He added that he thought limiting language would be helpful. Cook said it was good and gave an example if a secondary use overtook the agricultural component of a farm. McCormack said the Rutland bylaw was very good.

Cabelus invited Ms. Kerri Green to speak about the topic. She identified herself as a member of the Agriculture Commission. Green said the Ag Commission would be meeting on 26<sup>th</sup> of October. McBee asked if the Planning Board were going to add a definition of entertainment. McBee said a license would need to be issued. Minar said there would be concerns for septic at events also. Cook said there needs to be clear and limiting language to get passed Town Meeting. McCormack asked if there were language available for the Town Center Entertainment District. Allard said language was received from Town counsel earlier today and she would get that link out immediately. McBee said she thought it would be an Overlay District for Town Center Entertainment. Cook added there might be a way to implement stream lined container with a limit on the Special Permits.

### **Open Space Residential Development Bylaw Amendment**

Donahue wanted to make a motion to skip over Open Space Residential Development. This item was passed over this evening.

### **Multi-Family update on MBTA adjacent small town housing mandate action plan**

Cabelus asked how the process for the Harvard Action Plan was proceeding. O'Connor said he submitted the first draft of the Action plan to Massachusetts Department of Housing and Community Development. O'Connor added he has a peer review by DHCD scheduled for next week. Cabelus said the next step was to identify potential sites for mapping the multi-family district(s).

### **Board Member Reports**

#### **• Representatives & Liaisons Updates**

#### **• Community Matters**

- McCormack said the Harvard – Devens commission would present its updated plans at a public meeting Wednesday, October 19, 2022 at 7:00pm
- Donahue said she had attended a Transportation Advisory committee meeting. They are finishing MRPC update and will present to Select Board soon. Donahue said \$250,000 funds for the second phase of Ayer Road Visioning Plan were allocated to Harvard. She thought the funds were ARPA.
- Kara Minar said next Select Board meeting will be Nov. 1, 2023. She inquired when the Planning Board wanted to meet to discuss Agriculture and Entertainment bylaws. Cabelus said it would be good for Select Board to send an invitation for Planning Board to attend.
- Ellen Sachs Leicher said Climate Action Plan goals that would impact the Planning Board is in draft report and waiting on public comments until Nov. 4, 2023. She would appreciate any feedback by that date. She mentioned there might be money available for bylaw amendments. Allard asked if there were a reason for adopting a Land Clearing bylaw, which she thought was the Erosion Control bylaw. There was a question about which group would handle invasive plants and insects at Bare Hill Pond. Cabelus instructed O'Connor to circulate the draft to the Planning Board members.

### **Approve Minutes**

None available this evening for approval

### **Approve Invoices**

Donahue made a motion to approve the following invoices as submitted:

- Weitzman Associates LLC \$30,000 (Ayer Road Commercial District analysis)
- Beals + Thomas \$330.00 (Peer Review 203 Ayer Road)
- Beals + Thomas \$508.75 (Driveway Inspections 175 Littleton County Rd.
- John McCormack \$25 (reimbursement for training)
- Kennedy Landscaping \$2,677.39 (reimbursement of escrow fund)

Cook seconded the motion. The vote was unanimously in favor of the motion by roll call, Donahue, aye; Cook, aye; and Cabelus, aye.

### **Adjournment**

Donahue made a motion to adjourn the meeting at 9:15pm. Cook seconded the motion. The vote was unanimously in favor of the motion by roll call, Donahue, aye; Cook, aye; and Cabelus, aye.

Signed: \_\_\_\_\_ Frank O'Connor, Jr., Clerk

## **EXHIBITS & OTHER DOCUMENTS**

- Planning Board Agenda October 17, 2022
- Plan of Land in Harvard, Mass., prepared for Luciano Manganella, 135 Commonwealth Ave, Unit B Boston, MA 0216, prepared by GPR, Inc., Job 221108, dated September 29, 2022.

### **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**

#### **October 17, 2022**

The public hearing was opened at 7:30pm 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) Kara Minar (Select Board member)

This hearing was continued from September 12, 2022 for a Special Permit, an Ayer Road Village-Special Permit and Major Building 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.

Cabelus asked Ringwall if he were interested in starting the discussion. Ringwall exhibited a plan of the entire parcel. Ringwall showed several acres of the parcel that would remain undeveloped as part of the proposed project. Ringwall mentioned that the proposal had met the required frontage. Ringwall mentioned some of the incentives that came with the Ayer Road Special Village Permit. Donahue asked if anything were submitted to the Design Review Board. Ringwall said he was preparing to present to the DRB but that he was waiting for clear guidance if the materials for the DRB would include all three buildings or just the badminton facility. Jennings asked what was the benefit of going forward with just the badminton facility. Cabelus said there was a meeting where applicability of the Ayer Road Special Permit was discussed. Cabelus said if Ringwall wanted the multi-use village development, it needs to meet §125-5E to avoid excessive building masses and unbroken façades. Cabelus explained that he believed Building A could be done under §125-37 of the bylaw and Buildings B & C under the Ayer Road Special permit, which is a different part of the bylaw, each independently but still work in harmony.

Lou Russo apologized for not being able to attend the previous meeting. He said he felt Ayer Road Special permit is appropriate. Russo showed renderings of buildings B & C and would appreciate having another meeting that he would be able to attend and discuss the site plan for those buildings. Russo said it was unfair to take away the Ayer Road Special permit and a mistake for the town. Russo said these would be presented to the Design Review Board along with the modifications to the badminton facility. Cabelus

asked if there were a specific issue why Russo and Ringwall did not want to bring building A under §125-37 and Buildings B & C under an Ayer Road Village special permit and if that were an impediment. Ringwall said the bylaw allows for multiple buildings to be on a single lot with shared uses and protection areas. Ringwall explained that if the applicant were to put one building on an eleven-acre lot at this time, what is the guarantee the applicant would be able to put the additional buildings on the site later. McCormack asked if Ringwall would do anything differently bringing the proposed buildings separately. Ringwall explained that the Ayer Road Special permit allow dimensional relief. Ringwall said proposal was designed for the three buildings by utilizing the allowed setbacks and shared curb cuts and septic. Ringwall said the applicant was looking to use Buildings B & C as office space under the Ayer Road Special permit. Russo added that the different interpretations of §125-13 and Mixed-Use Village Development are not requirements of the Ayer Road Special permit. Russo said he is not looking for greater density.

Ringwall asked for an outline of how the proposal is mixed use development. He said proposal is a mixed-use development and not tied to §125-13. Arielle Jennings was looking forward to a discussion of the two main points that are contested. She said it would help her understanding the proposal. McCormack reiterated his inquiry to applicant about what would they do differently if they were not able to get the Ayer Road Village Special permit? Ringwall said it would be at least three lots, broken down with multiple access points. Cabelus asked and Ringwall confirmed that the applicant is looking for incentives under G-1. Ringwall said the applicant is looking for multiple buildings and Title V compliance with the site. Cabelus asked Ringwall what is the specific use if there were not mixed used village development at the site. Ringwall said it would be large scale recreation and office use. Donahue said the wetland replication at the site still needed to be resolved. Ringwall said the applicant is preserving wetlands area and woodlands. He said the only historic structure on the site are stone walls. Jennings said the bylaw is trying to incentives mixed use.

Select Board member Kara McGuire Minar felt granting the exception then Ayer Road Village special permit would be essentially dead. Cabelus asked Ringwall if it were possible to bring Building A under §125-37 and Buildings B & C under Ayer Road Village special permit §125-52 on separate tracks contemporaneously. Ringwall was not certain how the applicant could frame conditions so he was not bringing one use on eleven acres of land. Russo said that he believes everything allowed under commercial districts in sections 12, 13, and 14 are allowed to work with the Ayer Road Village special permit. Cook said if it were approved, it would gut the bylaw. Cook said the Planning Board is trying to guide applicant through the bylaw. He said it is up to the applicant to come back with a project that meets the requirements.

Donahue made a motion to continue the public hearing to Monday, November 7<sup>th</sup> 2023 at 8:30pm. Seconded by Cook. Roll call vote passed unanimously 4-0: Jennings: aye; Cook: aye; Donahue: aye; and Cabelus: aye.

Signed: \_\_\_\_\_ Frank O'Connor, Jr., Clerk