

**HARVARD PLANNING BOARD
MEETING MINUTES
MAY 2, 2022
APPROVED: SEPTEMBER 12, 2022**

Chair Justin Brown called the meeting to order at 7:03pm 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: Justin Brown, Richard Cabelus, Stacia Donahue, Brian Cook, Doug Thornton and Jefferson Burson (Associate Member)

Others Present: Christopher Ryan (Director of Community & Economic Development), Liz Allard (Land Use Administrator), Bruce Ringwall (GPR, Inc.), Ken Atwell (Harvard Green), Catherine W (Harvard Press), Valerie Hurley (Harvard Press), Lou Russo (Wheeler Realty Trust), Yvonne Chern and Jesus Mena.

Public Comment

There were no comments from the public this evening

Ayer Road Visioning Plan Project Update

- Status of Consultant Work in Phase 1
 - The contract with Weitzman Associates is almost finalized.
- Update of Corridor Tour
 - Members of the Planning Board, Senator Eldridge, Representative Sena, along with their staff, Town officials and members of the Harvard Press attended the tour on April 8th. The presentation and lunch went smoothly. A special thank you to the Council on Aging (COA) for use of the vans for the tour, which also went well. Both Senator Eldridge and Representative Sena have a better understanding of the goals of this project. Brown stated the presentation prior to the tour was very well done. The COA director, Debbie Thompson, finally understood why there is a desire to limit the number of curb cuts along Ayer Road. Donahue stated the main take away is the Planning Board, along with other Town Boards and Departments can do a better job of deciphering between the Transportation Improvement Project (TIP) and this project as there is still a lot of confusion among the residents on separating these two projects out. Donahue noted the TIP is a Mass Department of Transportation project, with minimal input from the Town, whereas, the Ayer Road Visioning Plan is completely under the control of the Planning Board and the vision of the Town.
- Update of Phases 2 & 3
 - These phases are dependent on the data from the fiscal impact analysis, with the hope the analysis will assist in getting funding for these phases. The Planning Board should consider conducting a targeted outreach campaign, such as coffees at the General Store, a booth at Town Meeting, and providing more material on the website. Getting people to the website is a key ingredient as well. Open to any other suggestions to get the word out from the Board members. Brown volunteered to help out at a booth at Town Meeting, as did along with Donahue and Cabelus.

Ayer Road Transportation Improvement Project (TIP) Update

There seems to be a lot of chatter about round-about as of late pertaining to this project, which had been discussed in great detail during the early stages of this project. Ryan stated the Mass Department of Transportation (MassDOT) conducted a virtual public hearing for the 25% design phase. The 10% design phase hearings were previously conducted as live meetings prior to COVID-19. MassDOT is conducting a

new traffic study this week along Ayer Road. With concerns expressed by both Transportation Advisory Committee (TAC) and Select Board, MassDOT is willing to meet with representatives from these groups. Ryan has sent a memo has been sent asking if changes would delay the process; hoping to get a response before the Select Board at the end of May. TAC needs to memorialize their 10% comments. Brown explained the previous discussions with MassDOT pertaining to the roundabout and the inability to install such a traffic calming measure due to adjoining roads. Cabelus asked what is Planning Board authority here? The charge of the Planning Board includes traffic for a well-planned community. The Select Board has the final approval of the plan.

Continuation of a Modification of Special Permit & Site Plan Approval Hearing – Scott Patterson, 256 Ayer Road. Opened at 7:32pm (see page 4 for complete details)

Town on Harvard Municipal Decarbonization Draft Discussion

Thornton stated at the April 13 meeting of the Energy Advisory Committee the draft Municipal Decarbonization Plan was reviewed. The report details all of the actions the Town can take to reduce its carbon footprint as it pertains to Town buildings and vehicles. The intent is to phase in these actions to achieve a carbon neutral goal, which are outline within the report. It brought home what Harvard as local community can do to achieve carbon neutral. Grants are available to achieve some of these goals.

Burson made two points – 1) The Town of Harvard does not have much in the way of industrial companies, and 2) Heating and cooling are our biggest carbon use. High level recommendations will need to be turned into a process by each department. Ryan asked if financial savings were discussed, which may help in “selling” these recommendations.

Brown asked what are the actions by Planning Board. Thornton stated bylaw amendments. Burson stated the Climate Action Plan is a higher-level plan, whereas the Decarbonization Plan is lower level for the buildings and vehicles. Brown noted the plan is listed as a draft, is there a hope to have this finalized soon. Burson stated within the next month or two.

Continuation of a Special Permit, Ayer Road Village-Special Permit and Site Plan Review - Yvonne Chern & Wheeler Realty Trust, 203 Ayer Road. Opened at 8:01pm (see page 5 for complete details)

Continuation of a Special Permit & Site Plan Review – Kennedy & Company, 295 Ayer Road. Opened at 9:25pm (see page 7 for complete details)

Board Member Reports

- Representatives & Liaisons Updates
 - *Open Space Committee* – Cook stated the survey questions have been circulated for comments; if members have any comments they should be provided to Cook by Wednesday of this week.
 - *Montachusett Regional Planning Commission (MRPC)* – Donahue noted the Transportation Advisory Committee is still waiting on the Transportation Plan completed by MRPC
 - *Earth Day Event* – Donahue stated although there was not a great turn out for this event she was able to get four more residents to understand the differences between the Ayer Road projects
- Community Matters - none

Director's Report

Items in this report were discussed under other topics on the agenda this evening.

Adjournment

Donahue made a motion to adjourn the meeting at 10:10pm. Cook seconded the motion. The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and Brown; aye.

Signed: _____ Liz Allard, Clerk

EXHIBITS & OTHER DOCUMENTS

- Planning Board Agenda May 2, 2022
- Director of Community and Economic Development UPDATE, May 2, 2022
- Commercial Development Special Permit prepared for Yvonne Chern, JOB 211009, prepared by GPR, Inc., dated March 2022
- Commercial Development Special Permit/Site Plan prepared for Kennedy & Company, Inc., JOB 211096, prepared by GPR, Inc., dated 4/13/22

Harvard Planning Board

Continuation of a Modification of Special Permit & Site Plan Approval

Scott Patterson, 256 Ayer Road

May 2, 2022

The public hearing was opened at 7:32pm by Chair Justin Brown 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 February 15, 2022

Members Present: Justin Brown, Richard Cabelus, Stacia Donahue, Brian Cook, Doug Thornton and Jefferson Burson (Associate Member)

Others Present: Christopher Ryan (Director of Community & Economic Development), Liz Allard (Land Use Administrator) and Bruce Ringwall (GPR, Inc.)

This hearing was continued from April 25, 2022 for the Modification of a Special Permit & Site Plan Approval filed on behalf of Scott Patterson to expand the facility known as “The Barn” to properly space existing equipment at 265 Ayer Road, Harvard

After reviewing the draft decision and with no comments from the public, Cook made a motion to issue a modification to the Special Permit & Site Plan Approval for Scott Patterson, 265 Ayer Road as presented. Cabelus seconded the motion. Donahue made a friendly amendment to include the closing of the hearing. The amendment was accepted by Cook and Cabelus. The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and Brown; 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

May 2, 2022

The public hearing was opened at 8:01pm by Chair Justin Brown 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 February 15, 2022

Members Present: Justin Brown, Richard Cabelus, Stacia Donahue, Brian Cook and Doug Thornton

Others Present: Christopher Ryan (Director of Community & Economic Development), Liz Allard (Land Use Administrator), Bruce Ringwall (GPR, Inc.), Lou Russo (Wheeler Realty Trust), Yvonne Chern,

This hearing was continued from April 25, 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.

Ryan detailed his review of this application as stated in his Update for May 2, 2022. Ryan is recommending the scope of work for the peer review be approved. Donahue asked if it is okay that there are no details on the other two proposed buildings. Bruce Ringwall, of GPR, Inc., stated the final decision of the Planning Board can be modify when those buildings are agreed upon. Ryan is questioning the compliance of this application with §125-52 Ayer Road Village-Special Permit (ARV-SP). Cabelus asked for explanation for the requested waiver to §125-37. Ringwall stated the application, as stated previously, indicates §125-52G(2) gives the authorization to go above and beyond the floor area allowed under §125-37. Ringwall noted, this is similar to the Bower's Brook development, which was vetted by Town Counsel at that time. Ringwall stated the waiver was filed as suggested by this Board and the Director. Cabelus asked if this application is a mix used development? Ringwall stated there is a recreational use and two other buildings that would be office and/or retail. Donahue wanted to know if Board of Health (BOH) has weighed in on the ability to have housing? In addition, are there any assurances that the other two buildings will be considered mixed-use? Ringwall stated he cannot predict what the uses could be.

Cook stated that a site plan can include the size, bulk, and limits of proposed buildings, but he would rather the proponent come up with what is appropriate when the time comes. In the interim guardrails should be installed around those two unknown pads. Russo doubts another recreational use would be established on the site and has no objection to the guardrails. Cabelus doesn't know how Planning Board can waive anything since the applicant, nor the Planning Board, knows what will be proposed in the future for these remaining two pads on the site.

Cabelus made a motion to deny the requested waiver. There was no second to this motion. Cook agreed with assessment Ringwall has made pertaining to this proposal being mix use development (a recreational and commercial aspect). Cook understands mix used development, which is very narrow, can include a mix of different types of commercial development. Cook suggested a condition that no additional recreation use is allowed; limit the pad size; and include language of the type of commercial development, to restrict the development, but still allow the applicant to move forward. Cook likes the proposed three buildings as opposed two large buildings; he is not in mind to flat out deny this; he believes there are options.

Ryan stated his reading of the bylaw, which lends itself to interpretation, in particular §125-52G(1), references mixed-use village development (MUV) pursuant to §125-13Z, which is clear as to what is considered MUV. This same term, MUV, is used in §125-52G(2) as well. §125-52 needs to be determined before §125-37 can be dealt with. Donahue asked why the application is under §125-52 and not just §125-3. Ringwall stated within the purposes of §125-52 is calls for an opportunity to present visible alternatives to conventional commercial development.

Brown went back to §125-13Z MUV, and is what the Board should allow under §125-52. Cook thinks the Board is hyper focused on the four uses under §125-13Z and not the greater good of the proposed site plan that would eliminate a number of driveway cuts along Ayer Road in an area that is difficult to maneuver currently. Cabelus stated the applicant could still obtain a Special Permit for the proposed development under §125-37. Ringwall believes the applicant's and himself need to consult with legal counsel. Russo saw no reason not to add §125-37 as part of this application, which has been done. Brown asked if the requested waiver was being withdrawing. Russo stated he would need to consult his legal counsel before making any determination. Ryan suggested the Board obtain Town Counsel's advice as well.

Ringwall argued that the application meets the requirements under §125-52G(3)(a) by increasing the size of the existing wetland on the property. Cook agrees with Ringwall in that the application is meeting this requirement. Allard noted the wetland is being expanded as part of the filling of an isolated wetland on the property for the development of the parcel. Donahue made a motion to request Town Counsel review the bylaw for the Board. Cook seconded the motion. The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and Brown; aye.

The proposal for peer review was circulated today. After a brief discussion of the available documents for review, Cook made a motion to execute the proposal from Beals & Thomas. Cabelus seconded the motion. The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and Brown; aye.

Russo had submitted a letter as it pertains to the documents shared with the peer reviewer, specifically the Update from the Director, as Russo feels it would provide a tainted opinion and would prefer the consultant come to their own conclusion. Cook thinks they could be provided; Cabelus agrees with Cook. As a public document available on the Town website, the peer reviewer could obtain this information on their own if they so choose. Ringwall wants minutes made available to the consultants as well. It was pointed out that the peer reviewer could obtain the videos of the meetings available on the Town website as well.

There were no comments from the public. Written input has been received from Ken Atwell, of Harvard Green, who are getting organized and may have additional comments at a later date.

Donahue made a motion to continue the hearing to May 16, 2022 at 8:00pm. Thornton seconded the motion. The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and Brown; aye.

Signed: _____ Liz Allard, Clerk

Harvard Planning Board

Continuation of a Special Permit & Site Plan Review

Kennedy & Company, 295 Ayer Road

May 2, 2022

The public hearing was opened at 9:25pm by Chair Justin Brown 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 February 15, 2022

Members Present: Justin Brown, Richard Cabelus, Stacia Donahue, Brian Cook and Doug Thornton

Others Present: Christopher Ryan (Director of Community & Economic Development), Liz Allard (Land Use Administrator), Bruce Ringwall (GPR, Inc.), Mike Kennedy Sr. & Jr.

This hearing was continued from April 25, 2022 for a Special Permit & Site Plan Review filed on behalf of Kennedy & Company for Landscape Services at 295 Ayer Road, Harvard.

Bruce Ringwall, of GPR, Inc., detailed the minor changes to the site plan, which included moving the temporary office to behind the existing house and is now labeled as temporary construction trailer; moved the hoop house a little further from the property boundary; shortened the walkway; notes the temporary trailer will be skirted; other plants around the site for landscaping; will make connection to sidewalk once the Ayer Road Transportation Improvement Project plan is finalized; added electrical service to the house and hoop house; landscape material to be located in open areas; and details for the business sign.

After discussing review of the plans by the Design Review Board (DRB), Cook thanked Ringwall and the Kennedy's for providing all of the material requested by the Board and thought that the DRB does not need to be engaged. Cabelus agreed with Cook. Thornton agreed as well. Brown agrees but would want to clearly lay out the rehabilitation of the house as the office.

The deposit was received today for peer review, which was only partial payment. The Kennedy's were informed the total amount needs to be provided. Ringwall detailed the trees to be removed from the site. Donahue asked that the stones removed from the existing wall be reused within the existing wall. Ringwall was amenable.

Ringwall explained the Kennedy's have missed this season for retail sale, and are asking to be allowed to use the site temporarily for their construction equipment. Brown concerned the Bylaw does not allow for the temporary storage of material. Cook does not know how this relates to the Bylaw, in support of using as temporary storage until this can all be sorted out. Donahue, have we checked with Town Counsel to determine if this would be allowed? Cabelus don't know where the Board would get the authority to allow the temporary storage of material. Ringwall will look into any provision that may allow for the temporary storage of material, but once a decision is made work will progress on improving the driveway and material will start to come onto the site.

Donahue made a motion to continue the hearing to May 16, 2022 at 8:05pm. Thornton seconded the motion. The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and Brown; aye.

Signed: _____ Liz Allard, Clerk