

**HARVARD PLANNING BOARD
MEETING MINUTES
MAY 16, 2022
APPROVED: November 7, 2022**

Chair Justin Brown called the meeting to order at 7:01pm 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), Dan Wolfe (Ross Associates, Inc.), Michael Hood (Three-Season Landscape), Bruce Ringwall (GPR, Inc.), Ken Atwell (Harvard Green), Valerie Hurley (Harvard Press), Lou Russo (Wheeler Realty Trust) and Yvonne Chern,

Public Comment

There were no comments from the public this evening

Modification versus *De Minimus* Changes to a Special Permits

As a follow up to a discussion in December, Donahue asked if there are any thresholds to guide the Planning Board, such a dollar amount. Cook stated perhaps for certain projects, but maybe not be all; for example, a previously approved Special Permit, now is seeking to make a change to the front of a building, but the change is still within the spirit of the decision. Language within Chapter 133-31 is conflicting on this process. Cabelus suggest amending Chapter 133 to be similar to that of Chapter 147 Wetland Protection Bylaw, when it comes to amendments. Brown worried about full transparency in the public process. Burson stated on a quick search he found a definition which states “does not change the material fact in which a Board based their approval”. Ryan stated this issue requires a little research of Mass General Laws and case law, in order to provide what type of discretion the Planning Board may have. In addition to getting Town Counsel opinion to be certain the thresholds are legal.

Approve Minutes

Donahue made a motion to approve the minutes of April 4 and 8, 2022 as amended. 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.

Director’s Report

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

Modification of Special Permit– Michael Hood – Three Seasons Landscape, 264 Ayer Road. Opened at 7:31pm (see page 3 for complete details)

Continuation of a Special Permit, Ayer Road Village-Special Permit and Site Plan Review - Yvonne Chern & Wheeler Realty Trust, 203 Ayer Road. Opened at 8:09pm (see page 5 for complete details)

Continuation of a Special Permit & Site Plan Review – Kennedy & Company, 295 Ayer Road. Opened at 8:15pm (see page 6 for complete details)

Board Member Reports

- **Representatives & Liaisons Updates**

- *Parks & Recreation (P&R) Commission* – Donahue stated P&R is very interested in the badminton facility; but some members of the public are interested in pickle ball and are looking for a location; with no Beach Director for the summer season swimming is at your own risk; swim lessons may be available at Mirror Lake.
- *Montachusett Regional Planning Commission* – Donahue stated funding from the American Recovery Plan Act 2.0 is ensuring all towns get some type of funding; \$250,000 had been earmarked to help Harvard with the Ayer Road Visioning Plan. With water and sewer being an issue for a lot of the small communities within the region MRPC is looking into regionalizing, as well as reaching out to other abutting communities outside the region, such as Littleton or Boxborough
- *Open Space Committee (OSC)* – Cook stated previous comments from Donahue were shared with the OSC. OSC spent time at their last meeting clarifying the differences between active and passive recreation.
- *Climate Initiative Committee* – Burson stated the presentation of the decarbonation plan to the Select Board has been pushed out. The plan is requesting all Town purchases take the environment into consideration when doing so.
- *Ayer Road Transportation Improvement Program Plan*- the Select Board will be discussing the previously proposed round-about at their meeting tomorrow night. If anyone from the Planning Board would like to weigh in on that topic there is a public comment period.
- *Ayer Road Visioning Plan* – The contract with Weitzman was signed today. A pre-kick-off meeting is scheduled for this Wednesday. An authorization to proceed needs to be drafted, which Ryan will complete.

- **Community Matters**

- *Lighting Bylaw* – Brown took some initiative and put the most vocal individuals in touch with each other to move forward with a potential bylaw to be brought before the Planning Board as a citizen’s petition. Police Chief Babu would be supportive of this bylaw change.

Multi-Family District Bylaw Mapping Update

Ryan and Cook met two weeks ago and are working on the map that will identify potential locations for a multi-family district, as suggested by other Board members. Due to other constraints Cook has not had an opportunity to move forward with this item as of yet. Ryan stated there is a wide variety of parcels in Town that will be self-evident as to why they were chosen for this district. Ryan is hopeful that Board members can suggest other parcels and/or narrow the list down. Cook wants to be certain that some of these parcels do not take away from other uses needed in Town, such as an athletic facility.

Adjournment

Cook made a motion to adjourn the meeting at 9:13pm. 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

EXHIBITS & OTHER DOCUMENTS

- Planning Board Agenda May 16, 2022
- Director of Community and Economic Development UPDATE, May 16, 2022
- Site Plan Michael Hood Three Season Landscape 264 Ayer Road, Harvard, MA, prepared by Ross Associates, Inc., Job No.: 33051, Plan No.: L-13982, 5/31/22
- Commercial Development Special Permit/Site Plan prepared for Kennedy & Company, Inc., JOB 211096, prepared by GPR, Inc., dated 4/13/22

Harvard Planning Board

Modification of Special Permit & Site Plan Approval

Michael Hood Three-Season Landscape, 265 Ayer Road

May 16, 2022

The public hearing was opened at 7:31pm 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), Dan Wolfe (Ross Associates, Inc.) and Michael Hood (Three-Season Landscape)

This hearing is for the Modification of a Special Permit & Site Plan Approval filed on behalf of Michael Hood Three-Season Landscape to identify additional areas to be used to exhibit various seasonal products and other activities not previously approved at 265 Ayer Road, Harvard

Dan Wolfe, of Ross Associates, Inc., stated the applicant received the Special Permit just about two-years ago; it has been slow getting the business up and running and compliant with the Special Permit. Wolfe stated the building looks far better than it has in the past, however some of the activities on the site came to the attention of some of the residents in Town, in particular the front lawn; the display of such material as bark mulch and seasonal items such as pumpkins, which were not in the original decision. Since things can change from season to season the site plan show generalized areas for display at fairly a low level that would not impede lines of sight. The site plan locates existing and new areas, including stock pile of loam and an area for the preparation firewood. The Director's report alludes to things not completed, such as directional signs and the pavement apron on southerly entrance. Wolfe stated this is correct as the re-development of this site is still a working in progress.

Ryan stated the site plan was well done; compliance with the special conditions from the original Special Permit that have not yet been addressed can be provided on the final as-built, as required by Special Permit. Ryan wondered if there is suitable parking on the site, as he observed parking occurring on the grassed areas; perhaps employee parking? Ryan noted signage on the display areas between Ayer Road and the building are large enough to be seen by passersby, but does not comply with the bylaw as they are distracting. Donahue asked what the setbacks from Ayer Road and are these display areas behind them. Wolfe stated setbacks as usually to a structure and the display areas are not structure; Wolfe felt they would not fall under any off-set rules.

Cabelus asked how the signs are not compliant, the amount of square footage? How can they be compliant. Ryan stated signs typically relate to the business itself. Other types of signs such as these that are specific to products. There are temporary signs and if the applicant can fall within those it could work out. Under §125-41E one temporary sign, not for more than 30-days is allowed by-right; need to find a way to work with the applicant to make these display signs compliant. Cook stated the needs for a sign is most likely 90-days. Allard direct the Board to §125-F, which allows discretion for the Board pertaining to temporary signs. Cook suggested increasing to two signs. Ryan suggested a clear direction with this modification for the applicant to follow. Cabelus stated limited signage is the intent of the bylaw. Cook

requested the applicant provide an inventory of signs necessary and the size of those signs to assist in crafting conditions for the modification of the Special Permit. Cabelus asked if it is the applicant's intent to come in compliance with the Special Permit. Wolfe stated it is. Wolfe had questions as to where the parking blocks are to be located, as he does not see them on the previously approved plan. Brown explained the need and use of the parking blocks. Wolfe noted parking blocks were required for the gravel parking spots in front of building C. Brown confirmed that is in fact the location for the parking blocks to be installed and will be shown on the final as-built. Brown asked about the timeline to be compliant. The applicant, Michael Hood, stated he is hoping by the end of 2022. Donahue asked if lighting on the site was compliant with §125-40. Wolfe and Hood confirmed there are new lights proposed for the site other than that for the business sign, which is compliant to the bylaw.

Frank Carlson, Littleton County Road, voiced support of this business and its improvements to the site.

The members agreed the following will be necessary in order to make a final decision on the request to modify the Special Permit: signage clarification, light compliance, and compliance with existing conditions with a timeline.

Donahue made a motion to continue the hearing to June 6, 2022 at 7:30pm. 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

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 16, 2022

The public hearing was opened at 8:09pm 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.) and Lou Russo (Wheeler Realty Trust)

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.

Bruce Ringwall, of GPR, Inc., stated with no word from the peer reviewer, Beals & Thomas, or Town Counsel, he is requesting a continuation to June 6, 2022. Donahue stated the Parks & Recreation Commission is very interested in this project as it pertains to the Charlie Waite field; could parking be allowed at 203 Ayer Road for use of that field and will the facility include pickle ball courts? With Yvonne Chern, the applicant for the badminton facility, not present this evening an answer to these questions could not be obtained. Brown asked about the filing with the Design Review Board (DRB) for this development. Ringwall stated is awaiting a meeting date and has information to share with the DRB.

Donahue made a motion to continue the hearing to June 6, 2022 at 8:30pm. 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.

Signed: _____ Liz Allard, Clerk

Harvard Planning Board

Continuation of a Special Permit & Site Plan Review

Kennedy & Company, 295 Ayer Road

May 16, 2022

The public hearing was opened at 8:15pm 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., stated the peer review by Beals & Thomas has not yet been completed. However, Ringwall requested in preparation for the June 6th meeting that Town staff begin drafting a set of conditions. Brown stated it might be too much to hope that this will all be wrapped up on June 6th, but staff can do their best to move this along. Brown noted comments received from “Concerned Citizens and Workers Along Road”; adding that comments submitted to the Board carries more weight if it can be signed by those individuals.

Ringwall explained the existing well on site will be used for dust control for gravel access in the back, potable water and irrigation. Ryan stated one of the concerns with the letter received was the screened material. When asked about screening material onsite, it was explained the Kennedy’s receive screened loam for specific projects and do not typically store it on site; do bring material back to the site and screen material about 10 times a year; screening of material is not a part of their overall business. Donahue stated with water available on-site dust should be well controlled. A condition to be included in the decision: daily dust control during dry weather, with additional measures during minimal screening preparations to prevent dust from leaving the site.

There were no comments from the general public comments.

Site lighting, signs and sidewalks were discussed. Conditions to consider include: the temporary use of the trailer as an office and repair to the house, with set timeframes and the ability to extend those timeframes. Ringwall explained sidewalks within the development including a connection to the share-use path once the final Transportation Improvement Project is completed. Lighting at hoop house and the house (office) are for security and will be compliant with bylaw. Cabelus asked with no on-site lighting what are the hours of operation. The hours of the garden center will be from 10am to 5pm. Off-site landscapers will return to the site after 5pm, but not after dark. Conditions pertaining to business hours and seasonal business use were discussed; determined no pumpkins or Christmas trees will be sold on site. Brown mentioned the past practice of requiring payment in-lieu of installing a sidewalk. Ringwall stated other applicants along Ayer Road have met this requirement, with funds returned because timeframes had or will soon lapse and therefore felt there was no need for this requirement. A condition pertaining to sidewalks to be determined for this matter as necessary, but not funds.

With peer review still not received, Donahue made a motion to continue the hearing to June 6, 2022 at 8:00pm. 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