

Action Items	Member/Staff Responsible
NONE	

**HARVARD PLANNING BOARD  
MEETING MINUTES  
JUNE 4, 2018  
APPROVED: JULY 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, Rich Maiore, Stacia Donahue, Fran Nickerson, Justin Brown and Jarrett Rushmore (associate member)

**Others Present:** Liz Allard (LUB Admin), Robert Capobianco, Marc Sevigny, Ed Starzec (MassDevelopment), Paul Green, Sister Mary Elizabeth Gillin, Sister Marie-Therese Golden, Rick Maiore (H@HHC), Carl Sciple, Edward Pare, Jr. (Counsel for AT&T), Robin & Mike Peters, Matthew Fiokos (Harvard Press), Fred Hamwey (Hamwey Engineering), Neil Gorman (Ross Associates), Jeff Baer, Brenda Baer, Deane Rayla, Theodore Maxant and Christine Maxant

**Update from MassDevelopment re: Vicksburg Square**

Ed Starzec, Project Manager for MassDevelopment, was present to discuss the potential of developing Vicksburg Square. With the building zoned as Innovation & Technology there has not been any interested party for developing the property. MassDevelopment is interested in revisiting residential use of the building. Attempts in 2008 to change the zoning to residential failed in both Harvard and Ayer. MassDevelopment will not request a super town meeting until they are certain there is support for the development as residential or even perhaps mixed use. MassDevelopment is considering a development that would include 80% of the units to be affordable, with veterans and elderly residence having preference. The effect on municipalities to take over later was a concern from the abutting Towns in 2008. A quarter of the Vicksburg Square building is within the boundary of Harvard. MassDevelopment is looking at the potential to develop the property under MGL Chapter 40R, by creating an overlay district that promotes dense housing. MassDevelopment will be exploring this option over the summer.

**Discuss Request for Affordable Provision to be included in Chapter 125-55 Hildreth House Overlay District**

Paul Green detailed the petition, the financial burden on others and funds available to subsidize the affordable units. Green asked if it is the purpose of the Planning Board (PB) to worry about the economical viability of such a proposal. McBee thinks it is a factor taken into account. Green thinks statements made indicating that if the project contains affordable units the market rate units unaffordable to seniors is not factual. Green stated the Town probably has about 2/3 of the funds currently available to them for the subsidized of this project. Green is deeply concerned whether the project is economically viable at all with or without affordable units. PB Would like to know if the money exists to subsidize this project. Green was asked to confirm the available balance for affordable housing with the Community Preservation Committee.

**Modification & Extension of a Special Permit Hearing – New Cingular Wireless PCS, LLC, 131 Brown Road.** Opened at 7:37pm (see page 4 for complete details)

### **Approve Invoices**

Maiore made a motion to approve the following invoices:

- William Scanlan, \$2200.00
- MRPC - \$1786.39 (FY19 Annual Dues)

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

### **Approve Minutes**

Nickerson made a motion to approve the April 23 and May 7, 2018 as amended. Maiore seconded the motion. The vote was unanimously in favor of the motion.

**Continuation of a Special Permit & Driveway Site Plan – Lucy Nesbeda, 55 Oak Hill Road.** Opened at 7:45pm (see page 5 for complete details)

### **Approval Not Required – Robert Capobianco, Trustee of Two Eighty One Still River Trust, 281 Still River Road**

Bruce Ringwall, of GPR, Inc., was present to represent the applicant. McBee asked why the five deeds were submitted. Ringwall stated those deeds shows Willard Land was a way prior to 1953. Town Counsel has advised the Planning Board that the property owner has right to use Willard Lane for access or the entire length of the way. This right is known as an easement by estoppel.

Teddy Maxant, a resident of Willard Lane, stated there was an easement between Luongo and Willard to Willard Lane, which terminated when Capobianco bough the land. Maxant added there is no defined responsibility to maintain Willard Lane and that Willard Lane is a glorified driveway. Maxant has objection to the proposed lot being considered as a building lot. Ringwall clarified that the plan states, as required by the Planning Board (PB) policy, the endorsement of the plan shall not be construed as the PB finding the lot to conforming to the requirements of the Protective Bylaw.

Several residents spoke in opposition of the plan citing Willard Lane is not suitable for additional development and that the participation in its upkeep is voluntary and not done by all who reside along Willard Lane.

Ringwall explained the plan before the PB this evening is for the creation of one lot and should be considered as such. Ringwall further explained subdivision plans are typically created to establish value of a property, which allows for interested parties, such as the Conservation Commission, to determine financing.

The members of the PB deliberated on the information provided, the advice received from Town Counsel and perhaps seeking additional advice from Town Counsel. Ultimately, Maiore made a motion to endorse the “Plan of Land in Harvard, Mass., owned by Two Eighty One Still River Trust at 281 Still River Road”, dated May 2, 2018. Donahue seconded the motion. The vote was 4-0, with Nickerson abstaining.

### **Board Members Reports – Committee Activities**

There were no board member reports this evening.

### **Final Task for the Town Planner**

McBee request the members send her any tasks they may have for Scanlan to complete before his last day on June 28<sup>th</sup>.

**Schedule 2018 Strategic Planning Session – June 23<sup>rd</sup> @ 9:00am**

The agenda for this session is being developed; if members have items they would like to include please send them to Allard. A location is being determined.

**Update from Select Board on the Director of Community & Economic Development**

The Select Board has chosen to move forward with the Director of Community & Economic Development position as detailed in the recently approved Town Charter. A draft job description is being created and will be available to the Planning Board for input.

**ZBA Request for Comments – 5 Littleton Road**

Allard stated Scanlan has indicated there are no concerns from the Planning Board on this application.

**Adjournment**

Donahue made a motion to adjourn the meeting at 9:50pm. Maiore seconded the motion. The vote was unanimously in favor of the motion.

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

**Harvard Planning Board**

**Modification & Extension of a Special Permit Hearing Meeting Minutes**

**New Cingular Wireless PCS, LLC, 131 Brown Road**

**June 4, 2018**

Erin McBee, chair of the Planning Board, opened the public hearing at 7:37pm in the Town Hall Meeting Room, 13 Ayer Road, 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, Rich Maiore, Stacia Donahue, Fran Nickerson, Justin Brown and Jarrett Rushmore (associate member)

**Others Present:** Liz Allard (LUB Admin), Edward Pare, Jr. (Counsel for AT&T) and Matthew Fiokos (Harvard Press)

Edward Pare, Jr., Counsel for AT&T was present to discuss the application to modify and extend the Special Permit for AT&T, as co-locator on the wireless communication tower at 131 Brown Road. After a brief discussion of the proposed modification Maiore made a motion to close the hearing and issue a modification and extension of the Special Permit to 2024, to AT&T at 131 Brown Road, with the condition that evidence of a current bond is provided for the file. Donahue seconded the motion. The vote was unanimously in favor of the motion.

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

## Harvard Planning Board

### Continuation of a Special Permit & Driveway Site Plan Hearing Meeting Minutes

Lucy Nesbeda, 55 Oak Hill Road

June 4, 2018

Erin McBee, chair of the Planning Board, opened the public hearing at 7:45pm in the Town Hall Meeting Room, 13 Ayer Road, 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, Rich Maiore, Stacia Donahue, Fran Nickerson, Justin Brown and Jarrett Rushmore (associate member)

**Others Present:** Liz Allard (LUB Admin), Robin & Mike Peters, Matthew Fiokos (Harvard Press), Fred Hamwey (Hamwey Engineering) and Neil Gorman (Ross Associates)

Neil Gorman, of Ross Associates, stated revised plans have been submitted in accordance with the peer review completed by Hamwey Engineering. Revisions primarily focused on the driveway, which consisted of a 30' construction entrance as opposed to the proposed 12' and revising the length of the driveway to 1000' to the structure as required by the Protective Bylaw. Additional comments received by Hamwey Engineering in regards to the condition of the existing driveway and whether or not it will need to be rebuilt have been added as notes on the plan. An additional note in regards to the final surface for the driveway has been added to the plan as well. The Fire Department has reviewed the plan and is satisfied. The stormwater analysis originally submitted has been withdrawn as the plan now includes grass swale along easterly side of driveway to treat stormwater. The determination as to the installation of a wearing course over the existing driveway will be made by Fred Hamwey at the appropriate time in the process of developing the property. Fred Hamwey, who was present as well, is satisfied that all of his initial concerns have been detailed on the plan.

In addressing the concerns of the abutters, Gorman stated the driveway has been designed in accordance with the Protective Bylaw, including maintaining 50' access the length of the driveway. The applicant understands the privacy concerns, however the abutting property had been cleared up to the stone wall by the previous owner. The proposed dwelling is setback as far as possible from the required setback, at 100' from the property line. The driveway of the abutting property was a mirror image as the one being sought here. As for the use of the existing cart path of the driveway, the applicant had expressed to Gorman with the agricultural fields beyond 55 Oak Hill Road she would like to not have to share that access of that field with the new lot. Maiore asked why the applicant has not responded to the abutters in regards to their alternate plans for the driveway location. Gorman stated the applicant wanted to handle everything through the engineer.

Robin Peters, the abutter, asked how many trees removal along the stone wall. Gorman stated it would depend on the on the root system in the vicinity of the driveway. Peters wants there to be screening and an adjustment made to the driveway, moving it further away from the stone wall, which serves as the property boundary, to help maintain privacy on her property. The Peters have determined that approximately sixty trees will need to be removed in order to construct the driveway. This will be a significant impact on the privacy they have on their property currently.

The pros and cons of shifting the driveway were discussed. Gorman stated the applicant is willing to screening with vegetation, but perhaps the abutters can do some on their side as well. The Peters were not agreeable to this suggestion, as they are not the ones developing the property.

Brown asked if there are any engineering obstacles to the driveways proposed by the Peters. Gorman stated there are not, but applicant is with her rights to develop the property as proposed.

Maiore thinks without pursuing the alternatives the applicant should be responsible for screening for privacy of the abutting property. The Planning Board will need to determine the type of screening and the amount of that screening; however the amount of screening can not be determined until construction of the driveway begins as there is no way currently to know how many trees will be removed.

With no further questions or comments, Maiore made a motion to close the hearing and issue the Special Permit and Driveway Site Plan Approval with the conditions that a landscape plan, that will provide screening to the abutting property to the west, to be approved by the Planning Board prior to the issuance of a Certificate of Occupancy. Donahue seconded the motion. The vote was unanimously in favor amongst the voting members.

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

## DOCUMENTS & OTHER EXHIBITS

### Planning Board Agenda, dated Monday June 4, 2018

#### Discuss Request for Affordable Provision to be included in Chapter 125-55 Hildreth House Overlay District

- Why I oppose affordable housing at Hildreth House, Fran Nickerson, received June 4, 2018
- Summary, from Fran Nickerson, received June 8, 2018

#### Modification & Extension of a Special Permit Hearing – New Cingular Wireless PCS, LLC, 131 Brown Road

- Plan entitled: AT&T Site Number: MA3364, Site Name: Harvard I-495 (MA0143), Project: LTE 2C\_3C\_2018 Upgrade, dated 03/01/18

#### Approve Invoices

- INVOICE – William Scanlan, Consulting Town Planner, dated May 18, 2018
- INVOICE – Montachusett Regional Planning Commission, FY19 MRPC Membership Assessment, dated May 17, 2018

#### Approve Minutes

- Draft minutes of April 23, 2018 and May 7, 2018, prepared by Liz Allard

#### Continuation of a Special Permit & Driveway Site Plan – Lucy Nesbeda, 55 Oak Hill Road

- Plan of Special Permit Lots, Lucy Nesbeda, 55 Oak Hill Road, Harvard, MA, prepared by David E. Ross Associates, Inc., Job No. 24800, Plan No. L-13453, dated 5/15/18
- Driveway Plan, Lucy Nesbeda, 55 Oak Hill Road, Harvard, MA, prepared by David E. Ross Associates, Inc., Job No. 24800, Plan No. L-13340, dated 6/4/18

#### Approval Not Required – Robert Capobianco, Trustee of Two Eighty One Still River Trust, 281 Still River Road

- Plan of Land in Harvard, Mass. Owned by Two Eighty One Still River Trust at 281 Still River Road, Job 181019, prepared by GPR Inc., dated May 2, 2018
- Email from Mark Land, Town Counsel, RE: Still Rive Road ANR Plan back from the dead, dated May 24, 2018
- Letter to the Harvard Planning Board, from Garry Baer, Subject: Willard Lane, dated May 30, 2018
- Refute claims made by GPR about road width, submitted by Theodore Maxant, dated 5/22/18, with additional photo, received June 4, 2018
- Conceptual Development Plan C , Robert Capobianco, #281 Still River Road, Harvard, MA, prepared by David E. Ross, Associates, Job: 23603, dated October 2017
- Conceptual Development Plan A , Robert Capobianco, #281 Still River Road, Harvard, MA, prepared by David E. Ross, Associates, Job: 23603, dated September 2017
- 23 8½ x 11 Photos detailing the frontage and roadway, provided by GPR, Inc., received June 4, 2018