

**HARVARD PLANNING BOARD
MEETING MINUTES
APRIL 4, 2022
APPROVED: MAY 16, 2022**

Chair Justin Brown called the meeting to order at 7:02pm 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.), Lou Russo (Wheeler Realty Trust), Libby Cole, Tom Scorn Vacca, Andrew Perry, Mike Kennedy Sr and Mike Kennedy Jr.

Public Comment

There were no comments from the public this evening

Board Member Reports

- Representatives & Liaisons Updates
 - *Harvard Climate Initiative Committee* – Burson reported a first draft of the land use goals from the Climate Action plan have been circulated, with another draft expected after town meeting in May.
 - *Transportation Advisory Committee (TAC)* – The public comment meeting on the 25% Design Plan for the Ayer Road Transportation Improvement Project (TIP) was held on March 30th, with a decent number of attendees. The plan in its current phase was reviewed. The previously vetted round-about, was brought up again; TAC should review why this aspect of the project was eliminated at their next meeting. The representatives from Mass Department of Transportation (DOT) were surprised that at this phase (25%) that the round-about would be discussed again. Ryan felt the Mass DOT and representatives from The Engineering Company handled it well. Mass DOT has provided the Town an opportunity to discuss this further. Ryan does not think there was a formal vote at TAC pertaining to the round-about. Ryan stated as designed this is a great project that handles some of the issues along the Ayer Road corridor; at the same time there needs to be flexibility for future development that may require adjustments to plan before it is finalized. Donahue stated all of the documents from the March 30th meeting are on the Town's website, which can be viewed [here](#). Brown asked if it would be helpful for the Planning Board to weigh in on this matter as it was very clearly determined that the road did not support a round-about. Although the Select Board accepted the 10% design plan, Donahue thinks it would be useful to have review of the process at an upcoming meeting.
- Community Matters – None

Director's Report

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

Erosion Control Minor Permit – 32 Finn Road

Allard noted an Erosion Control Minor Permit was issued late last week to 32 Finn Road for the construction of a barn. Any one aggrieved by this decision may file an appeal pursuant to Mass General Law Chapter 40A Section 17 by April 21st.

Zoning Board of Appeals Request for Comments

- 247 Littleton County Road – Special Permit request for an addition to a pre-existing nonconforming structure, as well as memorializing nonconforming uses that have been in continuous operation before the zoning was adopted by the Town. Ryan stated the applicant has provided plenty of evidence that shows these uses existed prior to the adoption of the Protective Bylaw. The addition to the nonconforming structure is compliant with the Bylaw. The ZBA should consider detailing hours of operation, number of the events, etc. within the conditions of the Special Permit. Donahue wondered if the entertainment license required for Carlson’s Orchard would also be necessary at this location. Ryan stated that is typically an event-by-event process, so perhaps the ZBA will need to determine how this should be handled moving forward.

Erosion Control Application – 336 Still River Road

After a review of the revisions made to the decision, Donahue made a motion to accept the decision as revised for the expansion of a sewage disposal system at 336 Still River Road. 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.

Modification of Special Permit & Site Plan Approval Hearing – Scott Patterson, 256 Ayer Road. Opened at 7:30pm (see page 3 for complete details)

Approve Minutes

Donahue made a motion to approve the minutes of March 21, 2022 as amended. 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.

Special Permit, Ayer Road Village-Special Permit and Site Plan Review - Vyonne Chern & Wheeler Realty Trust, 203 Ayer Road. Opened at 8:00pm (see page 4 for complete details)

Special Permit & Site Plan Review – Kennedy & Company, 295 Ayer Road. Opened at 9:14pm (see page 7 for complete details)

Ayer Road Visioning Plan Update

Ryan reviewed the details for the scheduled presentation and tour of the commercial district this Friday, April 8, 2022 with Senator Eldridge and Representative Sena, along with other Town officials. Donahue will be at the Climate Initiative Committee’s Earth Day event on April 30th and is willing to discuss any related Planning Board initiative, including this Plan. Cook stated if he is not coaching at that time he can stop by to help out. Brown suggested one page hand out for the Ayer Road Visioning plan. Ryan is expecting the updated scope of work from the consultant by tomorrow.

Discuss the State’s Multi-Family District Requirements

- Select Board Draft Compliance Guidance Briefing– April 19, 2022
- MBTA Community Information Form - Due May 2, 2022

Adjournment

Thornton made a motion to adjourn the meeting at 10:46pm. Donahue 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 April 4, 2022
- Director of Community and Economic Development UPDATE, April 4, 2022
- Special Permit Large Scale Commercial Uses Construction Record Drawing 256 Ayer Road Harvard, MA prepared for 256 Ayer Road, LLC., JOB 181090, prepared GPR, Inc. dated April 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 March 2022

Harvard Planning Board

Modification of Special Permit & Site Plan Approval

Scott Patterson, 256 Ayer Road

April 4, 2022

The public hearing was opened at 7:30pm 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) and Bruce Ringwall (GPR, Inc.)

This hearing is 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

Bruce Ringwall, of GPR, Inc. detailed the site plan as previously approved by the Board. The property owner has decided not to rehabilitate the garage, but to remove and square out the athletic facility to allow for more room within the building for storage of equipment, that now has to moved from one location to another to allow for workouts. The addition will be behind the existing building and blocked from the view of the road by the existing house. The requirement within the existing Special Permit including providing an as-built plan; Ringwall stated the submitted plan for this modification serves as that plan. Other revisions to the site plan include relocation the trash bins for the residence to an area west of the parking area.

Ryan stated the Planning Board will need to determine if the Design Review Board (DRB) should review these modifications. Cook did not think this request rose to the level of DRB, but would like to see the elevations of the proposed addition. Cabelus has concerns with increasing the usable area, but not increasing parking, which is already insufficient. Donahue had similar concerns with parking, as well as the re-located trash bins. The current parking configuration includes 14 spots with one being handicapped accessible. There was a concern expressed about access should an ambulance be needed at the site. An additional question related to whether the area where the building is coming down could become parking? Ryan stated the impervious surface exchange is close to 1-to1 swap, with the area in which the garage will be removed is proposed to be lawn area; not sure if that can be used for parking. Ryan suggested landscaping for concealing the trash bins.

With a number of unanswered questions, Ringwall had no issues with continuing the hearing. Ringwall noted the roofline will be less than what is there now, with a lower pitch then the existing “Barn”. It was suggested to expand the existing parking area and remove those that are in front of building. Ringwall stated the trash bins are just two typical residential bins, screening may make pick-up difficult for the company doing so.

Donahue made a motion to continue the hearing to April 25, 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

Special Permit, Ayer Road Village-Special Permit and Site Plan Review

Yvonne Chern & Wheeler Realty Trust, 203 Ayer Road

April 4, 2022

The public hearing was opened at 8:00pm 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) and Yvonne Chern

This hearing is 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.

Brown stated the Design Review Board is engaged on the commercial guidelines and requested that the Planning Board members wait for that review to complete prior to digging in on that aspect of the project. The Boards current role is to interpret the bylaw, which can be somewhat challenging as relevant parts for this application are scattered throughout.

Bruce Ringwall, of GPR, Inc. introduced Lou Russo, of Wheeler Realty Trust, the property owner, and Yvonne Chern, the applicant. The property is located right off the cloverleaf of Route 2 along Ayer Road. The entire property is a little over 11 acres. Parcel A, as shown on the site submitted with the application, is just over 3 acres, which will be subdivided from the balance of the property as this development moves forward. An Approval Not Required plan has not yet been submitted. The “lollipop” area that extends into the common area of Harvard Green includes a septic system for Harvard Green. The development has been submitted as an Ayer Road Village – Special Permit (ARV-SP), under §125-52, which allows for the creation of separate lots that create village like parcels with interconnections. The development across the road was also completed by an ARV-SP. There is a paved way at the property line of the lollipop, but a connection with Harvard Green has not been discussed as of yet, however a pedestrian walkway has been proposed. This will provide access from Harvard Green directly to the Charlie Waite Field, with McCurdy Track and the new Council of Aging beyond that. There is no current connection to the lots to the south.

Relative to vehicle access, there is a proposed combined access on Ayer Road into the site with a main corridor that accesses the front and rear of badminton facility (building A), with additional access between the two other potential structures (buildings B and C). In order to achieve the height necessary for the badminton courts, the building will be recessed into the ground and allows to achieve the grades required by the Protective Bylaw. The site is down gradient of Harvard Green and will be meeting the height requirements. There is no residential housing proposed within the site. Bike parking will be provided at each of the buildings. A pedestrian space with a gazebo has been proposed as well.

The north side of the property consists of a large body of wetlands that has expanded over the years. The hatched area shown on the plan is the proposed wetland restoration area for the isolated wetland that will be filled for the development of the badminton facility. An Order of Conditions has been issued by the Conservation Commission for the replication of the isolated wetland adjacent to the existing Bordering Vegetated Wetland.

Ringwall explained the Building A is a proposed 16-court badminton facility, that requires there to be no windows because the shuttlecock is white and would be obstructive from view. Ringwall is working with the Design Review Board and the architect to create an esthetically pleasing building. The architectural drawings detail an office space, viewing location, and apartment for a facility manager. This property is similar to one owned in Westborough by Chern. Traffic will be mostly in the evening; a traffic study is being prepared. Unlike a tennis club or golf club, with other amenities, such as swimming pool, this location will strictly be badminton courts. As for food service, there will only be prepackaged food.

Ringwall stated this facility is similar to that described in §125-14D of the Protective Bylaw. §125-52G(2) allows for a greater building size, but shall not exceed that more than 10% than allowed under §125-30B. Ringwall noted this is the same provision as those used to create the structures across the street; adding this development takes advantage of the single access and shared parking amongst the businesses. Ringwall stated the parking has been designed to be close to building for daily use, with the back parking lot to be used during tournaments. Ringwall would like to propose different lighting patterns depending the time of year and events taking place. The proposed light details 14' lamppost. Ringwall indicated the setbacks from abutting properties was reduced to 20' a few years ago for the Commercial district. Ringwall stated building A is being proposed to be behind the parking lot to avoid a large-scaled structure fronting on the Ayer Road. The plan calls for screening with landscape. Ringwall debated Ryan's comment regarding §125-39C, in which he stated the plan provides a buffer around the site.

The applicant agrees that peer review is a good idea since the Town does not have an engineer. Ringwall explained stormwater has been designed to meet the new regulations under the Town's Wetland Protection Bylaw, which reduces the volume and rate by 5%. Ringwall argued that peer review should be limited to traffic, stormwater and civil, but not other aspects of the application as he felt those could be handled by Ryan. Ryan will take a look at the comments from Ringwall and provide advice to the Board, including the ARV-SP eligibility.

Donahue stated housing is issue within Town, and asked if it is too late to allow for housing within the two remaining buildings. Ringwall stated the site has the necessary water for housing, but not the sewer capacity. Donahue would like it not to be taken off the table at this point. Russo stated it is not off the table as of yet. §125-52 does require a mixed-use of residential and commercial. After some debate of this statement, Brown indicated §125-13Z defines mix-use development.

Cabelus suggested open spaces and lot widths be shown on a plan, along with the logic behind them. Cook would like to see the architectural plans. It was suggested the parking lots be phased in since the other two buildings are not yet under contract. Cabelus believes §125-52G(3)(b) is being meet, however (c) is not. Cook asked if the drainage basins are designed to reduce phosphorus. Ringwall stated as designed, yes, along with other parameters required by the State's Stormwater regulations.

Donahue made motion to direct staff to work with the applicant's representative to create a scope of work for peer review. Ringwall objects to the peer review of Town planning and zoning and appraisal and land values. Ryan will find reference for land value and appraisal. 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.

Brown noted the comments received from Patrick Killeen and Board of Health have been distributed to the members and the applicant's representative. Brown asked for any public comment; there were none.

Donahue made a motion to continue the hearing to April 25, 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

Harvard Planning Board

Special Permit & Site Plan Review

Kennedy & Company, 295 Ayer Road

April 4, 2022

The public hearing was opened at 9:14pm 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 and Mike Kennedy Jr.

This hearing is 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 295 Ayer Road is part of the property on which Rollstone Bank, the Plaza, which including Sorrento's and the Grapevine, and is owned by RDJ Realty Trust, which is approximately 40 acres. The Kennedy's have a lease agreement with RDJ Realty Trust, which will be its own lot of 2.6 acres. Roughly 10 years ago GPR, Inc. was involved with the permitting of the Harvard Solar Garden at the west portion of the property, which allowed for future development along the roadway. Kennedy & Company is moving from its Acton location, where they have been in business for over 40 years. Mike Kennedy Sr. purchased the land in Acton 28-years ago and then sold it to the Town for future development. While Acton decided what to do with the land the Kennedy's were leasing the land. Acton has now determined to use the land for residential development, requiring Kennedy & Company to look for a new site.

The proposal includes renovating the existing house for storage, but may have additional use in the future. A 10' x 20' modular office and a hoop house are proposed, with a new access entrance, along with parking for landscape services, to pick out plantings for Do-it-Yourself or other services provided by Kennedy & Company. Materials to be stored on the site include loam and mulch, along with nursery plants. The Kennedy's will make the existing house safe by installing a new roof, windows, doors and paint. The existing access to the solar garden is provided by an easement over this property that would transfer to Kennedy & Company. The proposal is to use that driveway as well to provide a gravel access for large truck delivery of material. There is a proposed septic system that is about ready to be submitted to Nashoba Associated Boards of Health for review, which will connect both house and office space to a signal subsurface disposal system. As required under §125-39F Drainage, surface water runoff will be directed to a forebay.

The application requests a reduction to the required buffer strip to abutting properties to 10% along the southern boundary to be able to locate the storage bins. The nursery plant sale area will be regraded and mulch. Ringwall asked the walkways between the different areas on the site not be paved.

Equipment used during the prime season include 5 dump trucks, a 6-wheeler truck, 4 bobcats, and a yard machine for onsite work, along with a trailer to haul the bobcats around. Equipment would be located in the back corner of the property during the winter months. Landscape service would be provided between the hours of 7:30am and 5:00pm, with the nursery operating between 10am and 5pm, with adjusted

hours during peak times, April to October. The plan details signage at front of property and a hoop house to store equipment out of the elements.

Ryan stated peer review consulting is important here and suggested the Design Review Board (DRB) review the qualifications before the Board makes a determination. Ryan wondered how the easement would be modified, along with the potential for an easement for stormwater sent off site. Ryan is unsure a modular building can be sited for permanent use. More detail pertaining to the improvements to the house are necessary. In addition, the Protective Bylaw requires 50% of site contain green area. Ryan is also interested in comments from other boards and departments.

Cook agrees with Ryan's comments, and thinks the application should go through DRB; temporary buildings are only for 6 months at a time, need to really look at that; sidewalks are necessary; better screening for area for parking trucks; not in support of locating structures in the buffer just because the abutting site is doing so; move storage bins to interior of the site; why can't office be with the existing structure as opposed to modular structure. Donahue agrees with Cook pertaining to the use of the existing house and expressed concerns with fire hazard as it pertains to the storage of mulch and irrigation; would like others with more experience to weigh in on the storage of such things as mulch which can combust, and is adjacent to Harvard Power. Cabelus agrees not fan of modular structure; peer review on a limited scope and engaging the DRB. Thornton, agrees, and want to know more about temporary structure. Brown stated if this is sent to the DRB it may not be favorable; pushed back on sidewalk waiver; and agrees with engaging a peer review consultant.

Ringwall heard what the Board was suggesting pertaining to the use of the existing structure, but indicated it would take about a year in order to get it up to code. The easement to the solar garden would reduce access from two to one point. Drainage has been done in the past without peer review. Ringwall also heard what is being said about the sidewalk and buffer strip; can move structures into the site. The hoop house is for storage and not a green house.

Mike Kennedy Sr. stated the modular building could be temporary, but will it need it longer than six months. As for fire concerns, the entire site will be irrigated and the storage of mulch is within allowed limits. Kennedy requested he be able to storage material from the Acton site while they are finalizing the plans with Harvard. After briefly discussing this request additional material was requested in order for the Board to make a determination. Ringwall will work with Ryan to get on the schedule with the DRB.

Donahue made a motion to continue the hearing to April 25, 2022 at 9:00pm. 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