

**HARVARD PLANNING BOARD**  
**MEETING MINUTES**  
**March 20<sup>th</sup>, 2023**  
**APPROVED JUNE 5, 2023**

Chair Richard Cabelus called the open meeting to order remotely at 7:00pm, pursuant to Chapter 2 of the Acts of 2023, An Act Making Appropriations for the Fiscal Year 2023, which has suspended the requirement of the Open Meeting Law to have all meetings at publicly accessible locations and allowing all public bodies to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting.

**Members Present:** Richard Cabelus, John McCormack, Stacia Donahue, Doug Thornton, Ariel Jennings

**Others Present:**

Frank O'Connor (Town Planner), Mark Lanza (Town Council), Lou Russo (Wheeler Realty Trust), Brian Levy (Minco Development), Eric Loth (Minco Development), Michelle Catalina, Steve Moeser, Ellen Sachs Leisure, Justin Brown, Ken Atwell, Catherine Warner, Kara Maguire, Chris Holmes, Steve (of Scott Road), David Bass (Arrow Smith), Jeffery Dirk (Minco), Erin McBee (Select Board), Kara Minar (Select Board), Greg Winter (Minco)

**Topics of Discussion:**

1. Public Commentary
2. Continuation of Special Permit - Ayer Road Village-Special Permit and Site Plan Review Hearing
3. Ayer Road: pursue Phases II & III (vision plan & zoning to facilitate vision) RFP with funds from Rural & Small-Town Grant award
4. Correspondence on Local technical assistance augmentation funds
5. Special Permit Hearing – DISH Network, 60 Old Shirley Road for installation of co-locator equipment
6. Proposed Bylaw Amendment Hearing – Wheeler Realty Trust and 12 Lancaster County Road LLC, 185-189 Ayer Road, for proposed Overlay District

**Discussion Overviews:**

**1. No Public Commentary**

**2. Continuation of Special Permit - Ayer Road Village-Special Permit and Site Plan Review Hearing**

No public comments or concerns.

Motion: Stacia Donahue made a motion for a continuance for 203 Ayer Road's special permit for April 24<sup>th</sup> 2023 at 7:30pm

Seconded by Doug Thornton

Voted yes by: Ariel Jennings, Doug Thornton, Stacia Donahue, Richard Cabelus

*Passed unanimously*

**3. Ayer Road: pursue Phases II & III (vision plan & zoning to facilitate vision) RFP with funds from Rural & Small-Town Grant award**

Frank O'Connor updated the board, starting by expressing a goal to find professional services that work with plans and point board in the right direction. Frank mentioned that he had modified the request from a proposal to an invitation to bid. One benefit of this would mean the board would not be compelled to stay with the same consultant for both phase II and phase III if things do not work out initially. The grant

is \$250,000 and Frank suggested applying \$240,000 and using the remained wisely for the benefit of the town of Harvard. The current goal is to have a final draft of the bid for the April 24<sup>th</sup> 2023 board meeting.

#### **4. Correspondence on Local technical assistance augmentation funds**

Grants were applied for to help transportation group and another to help Harvard Climate Initiative Committee for grant writing help.

Transportation grant approved: Focuses on Old Mill Road to Devens for a bike/walk track by rotary.

Harvard Climate Initiative grant not approved due to lack of applicants, but could be accepted in second round of applications.

#### **5. Special Permit Hearing – DISH Network, 60 Old Shirley Road for installation of co-locator equipment**

Public Hearing: David Bass, attorney with Arrow Smith Development and representative for the owner of the SPA 2012 TC assets LLC tower and the Dish Wireless applicant, updated the board on the current plans of the application. Dish seeking special permit to co-locate antennas on towers of 60 Old Shirley Road and proposing to modify the tower by adding antennas to the existing tower.

This proposal is up to the board to make sure the requests falls under the law and is applicable. David Bass is confident that the application is in compliance and following the law in all aspects.

Note: Frank will send photos to David Bass.

Questions/Concerns:

- Stacia Donahue questioned who would be responsible for damages around the area, citing the winter storm that has currently left the area in need of maintenance.  
Answer from David Bass: SBA is the owner of the site and will be made aware of this (Dish is not responsible for this maintenance).
- Stacia Donahue also wanted clarification that the materials used to hide/cover antennas will be put back up after monthly checks. Concerns came from previous times when this was not done  
Answer from David Bass: It is a stealth antenna so the materials covering are part of the antenna and will be put back up after each check.

Motion: Stacia Donahue made a motion to continue the discussion for April 3<sup>rd</sup> 2023 at 7:30pm

Seconded by Doug Thornton

Voted yes by: Doug Thornton, Ariel Jennings, Stacia Donahue, Richard Cabelus

*Passed unanimously*

#### **6. Proposed Bylaw Amendment Hearing – Wheeler Realty Trust and 12 Lancaster County Road LLC, 185- 189 Ayer Road, for proposed Overlay District**

Mr. Russo introduced Brian Levy (attorney drafting bylaw) and Eric Loth (Minnco Corporation).

Brian Levy walked through the bylaw and the plans for the development, also stating that the purpose of the bylaw is to assist the town with meeting the 40b obligations and the MBTA community law requirements while also provided other benefits to the town.

Eric Loth presented some preliminary sketches of the plans for the proposed project and how it can potentially cover a majority or all of the town's needs for the new MBTA requirement for housing.

Jeffrey Dirk, traffic consultant, spoke on the initial proposal's location and how it is beneficial being close to Route 2, potentially putting minor strain on Harvard's public transportation.

Questions/Concerns:

- Richard Cabelus had some general concerns about the open-ended wording.

- Stacia Donahue questioned if the 203 Ayer Road proposal would be voided if this new proposal were to pass.  
Mr. Russo's response: Mr. Russo clarified that the 203 Ayer Road Buildings would not be built, but the Badminton facility would still move forward.
- Ariel Jennings questioned if this proposal would cover all affordable housing needs for the MBTA requirement.  
Brian Levy's respond: Brian Levy stated that the proposal was not intended to cover (entirely) that type of proposal.
- John McCormick is concerned about the size the given area, the individual parcels of land being used, as well as the size of the proposal and that it has been previously stated that the maximum units are less than what was proposed here.  
Mr. Russo's response: Mr. Russo clarified that he and the owners of the other parcels submitted their application in tandem. For the issue of the maximum amount of units, Mr. Russo believes this number can become greater if water and sewage is provided for the proposed units (a plan he has already moved forward with by using treated water connected from Devens).
- Richard Cabelus questions where the tax revenue number in the proposal came from.  
Eric Loth's response: Eric Loth answered saying it is based on multiple areas, but a full fiscal impact analysis has not been done at this point.
- Erin McBee felt some of the provisions left it so more could be built into the parcels or turned into commercial areas. Erin also mentions concerns about a rear setback if the parcels were ever to be divided.  
Mr. Russo's response to setback: He can add language to clarify and not duplicate setback requirements.
- Michelle Catalina of Old Littleton Road was concerned that there are only 2 parcels on Ayer road that are developable. Michelle Catalina was also concerned of the potential of the parcels being used in the future for large scale commercial development and wanted the board to look into the bylaw more and prevent any unwanted future actions.  
Mr. Russo's response: Clarifies that the bylaw does not extend more than 48,000 feet; Bylaw is intended for three components of multifamily housing and can cap at 250 units instead of 400 units.  
Mark Lanza's Response: Clarified that the wording could hypothetically/potentially be used in a misleading way.
- Steve Moeser of Park Lane wanted to know how the town would know of any changes to the language. Stacia Donahue clarified that that any changes must be track changed from here on out.
- Ellen Sachs Leisure of Warren Ave and chair of the Harvard Climate Initiative Committee wanted to comment and clarify the committee's position on the proposal. They believe the plan lacks specifics in: electrification, not using fossil fuels, energy generation (solar/wind), energy/water saving, EV charges/parking, native landscaping/shade trees, and open space.  
Mr. Russo's response: Mr. Russo has agreed that language should be added to address climate initiatives.
- Justin Brown of Park Lane and former planning board member had concerns about the potential of development by right.  
Mr. Russo's response: Cites that MBTA bylaw does not allow for development by right in special permit.
- Ken Atwell feels the language in the bylaw is very open and concerning. He does not agree with the beneficial tax revenue due to potential needs cancelling it out. He also believes the traffic situation in this area will be a mistake.  
Mr. Russo's response: It is not his intention to keep things wide open and will take steps to be clearer

- Steve from Scott Road believed the bylaw’s wording is too loose and agreed with Michelle’s previous comments that this plan is not a potential money maker for the town.
- Catherine Warner of East Bare Hill Road doesn’t believe this is the best path to bring affordable housing to the Harvard community and should be looked at more purposefully.
- Steve Moeser of Park Lane wanted to know what the Planning Boards final actions could be along with their role (in comparison of the Select Board’s role with the final decision).
- Kara Maguire Minar of Still River Road had a procedural question on MBTA zoning and if it is 2/3 or majority to pass.  
Mark Lanza’s response: Clarified that simple majority is all that is needed.
- Concerns about language in hypothetical situation where if special permit passes and parcels are sold to an outside source wishing to build commercial buildings. Additionally, only a simple majority would currently be needed for this to potentially happen.
- Chris Holmes questions if there will be a full impact analysis made before moving forward.  
Greg Winter’s (from Winter Real Estate Investors) response: a development consultant, has been gathering data he believes important. Greg would need information from other town departments in order to have a full comprehensible data.
- Justin Brown of Park Lane hopes the board isn’t trying to solve all its needs all in one project.
- Richard Cabelus made note of a comment in the commentary if the Fire Chief can extend the max height from three stories to four stories in hopes it will be revisited and clarified on.
- ***\*Emailed comments/concerns will be attached to the minutes\****

Motion: Stacia Donahue made a motion for a continuance April 3<sup>rd</sup> 2023 at 8:00pm  
 Seconded by Doug Thornton  
 Voted yes by: Ariel Jennings, Doug Thornton, Stacia Donahue, Richard Cabelus  
*Passed unanimously*

**Minutes**

Motion: Stacia Donahue made a motion to approve January 9<sup>th</sup> 2023 minutes  
Seconded by Doug Thornton  
Voted yes by: Doug Thornton, Ariel Jennings, Stacia Donahue, Richard Cabelus  
*Passed unanimously*

**Adjournment:**

Motion to adjourn by Stacy Donahue at 10:30pm  
 Seconded by Doug Thornton  
 Voted yes by: Ariel Jennings, Doug Thornton, Stacia Donahue, Richard Cabelus