

Posted February 23, 2022 @11:17am CB

**TOWN OF HARVARD
PLANNING BOARD AGENDA
MONDAY FEBRUARY 28, 2022 @ 7:00PM**

Pursuant to Chapter 20 of the Acts of 2021, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency and signed into law on June 16, 2021, this meeting will be conducted via remote participation. Interested individuals can listen in and participate by phone and/or online by following the link and phone number below.

THVolGovt Pro is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://us02web.zoom.us/j/83697257526?pwd=bGFzejNRVkp0THpjNCttRTJySDZiQT09>

Meeting ID: 836 9725 7526

Passcode: 846239

One tap mobile

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Public Comment

- New Business:** a) Approval Not Require Endorsement – 37 Peninsula Road (7:00pm)
b) Disband the Community Resiliency Working Group
c) Annual Appointments – Brown and Burson
d) Recommend Open Space Committee Representative

- Standard Business:** a) Board Member Reports
- Representatives & Liaisons Update
 - Community Matters
- b) Director's Report
c) Approve Minutes

- Old Business:** a) Ayer Road Market Study Update from Howard Kohn of the Chesapeake Group (7:15pm)
- Public Outreach
- b) Discuss the State's Multi-Family District Requirements
- Review Schedule
 - Draft Comments

**NEXT SCHEDULED MEETING:
MARCH 7, 2022**



Director of Community and Economic Development

UPDATE

February 28, 2022

■ Approval Not Required (ANR) Plan Review – 37 Peninsula Road (Wind)

Name of Applicant: Helen Tracey Wind

Location of Property: 37 Peninsula Road, Harvard, MA

Assessors Map/Parcel: 26/47

Zoning District: Agricultural-Residential (AR)

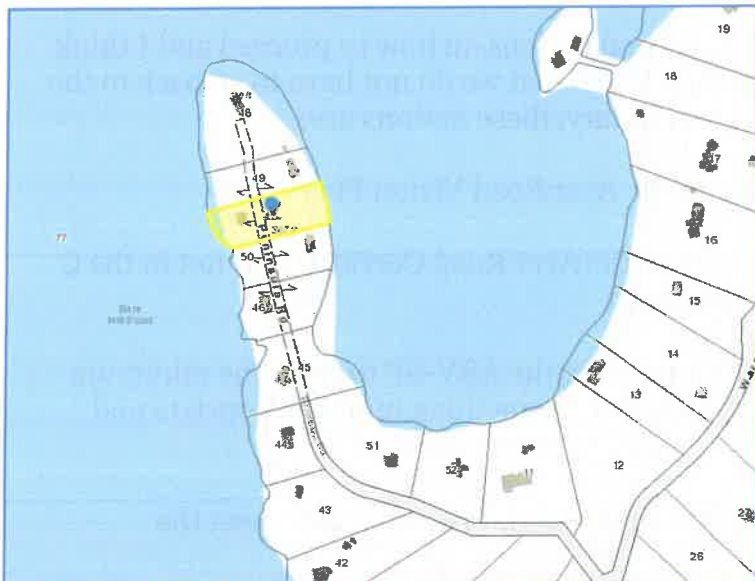
Parcel Size: 0.98 Acres

Current Land Use: Residential

Property Owner: Same as applicant

Consulting Engineer: David E. Ross Associates, Inc.

Application For: ANR



Request: The Applicant is seeking endorsement of an Approval Not Required or ANR plan which is proposed as follows:

Current Lot A-27 is simply seeking the recording of a perimeter plan for zoning protection. There is no proposed subdivision as part of this application. This is an existing non-conforming camp lot on Bare Hill Pond. Perimeter plans are sought in order to receive the three-year zoning freeze. In this case I cannot determine what they are looking to lock in but that is not the purvey of this application or the decision.

- Access: The parcel appears to have access via Peninsula Road but Peninsula is private and does not appear to extend except as a “paper” street to the parcel. I have discussed this with the engineer and was provided with the 1950 Land Court decision creating the subdivision and street as well as other supporting documents and thus I would judge that the parcel technically has access according to the law.
- Frontage: The same issue applies related to frontage and I would defer to the evidence provided by Mr. Wolfe regarding this lot.

Therefore, the 81X perimeter plan meets the minimum requirements for an Approval Not Required (ANR).

Summary: Recommend an ANR endorsement.

■ Disband Community Resilience Working Group

This should be a simple vote not requiring discussion, unless the Board wishes to recognize the CRWG for its work and accomplishments.

■ Discussion of MBTA Multifamily Zoning Draft Guidelines

A packet has been provided to the Select Board for our discussion on Tuesday, March 1st. We hope to be able to garner their support for the draft letter and get their own comments incorporated. The Planning Board meets again on the 7th and 21st and the Select Board next meets on March 15th so this can be further developed as needed prior to the March 31st deadline date.

The packet also includes a copy of the online Community Information Form and members can see the questions that they ask. Most critical at this point is whether the Planning Board wishes to see outside technical assistance. The agencies offering assistance is also in the packet and has been provided in earlier UPDATE's.

As expressed earlier, I think the Town has several options on how to proceed and I think that each option should be considered in parallel so that we do not have to go back to the drawing board if one option fizzles out. In summary, these options are:

1. Consider weaving the provisions into the Ayer Road Vision Plan
2. Find a specific location in the vicinity of the Ayer Road Corridor (but not in the C District) to zone for a standalone district.
3. Consider a temporary provision by amending the ARV-SP to meet the minimum requirements in order to buy time to develop something more appropriate and fitting.
4. Look for a specific location or locations throughout Harvard that meet the guidelines.

5. Consider establishing an MGL 40R district and include MGL 40S. DHCD has indicated that they may come up with a specific program like 40R for the MBTA communities.

Some of these may be blended or used together (e.g., 1, 3, and 5). The Board should also consider how it wants to engage the public. Would the Board want the public to give input on suggestion solutions or locations, or rather give the public a few options to respond to? Maybe the Board doesn't think public input is necessary or desirable? IMPO I would consider engaging early and often.

There is a lot to further develop by the state before Harvard can go much further. For example, they may modify the guidelines based on community input. However, some of these issues should at least be preliminarily discussed.

**HARVARD PLANNING BOARD
MEETING MINUTES
FEBRUARY 7, 2022**

1
2
3
4
5 Chair Justin Brown called the meeting to order at 7:03pm virtually, pursuant to Chapter 20 of the Acts of
6 2021, An Act Relative to Extending Certain COVID-19 measures adopted during the State of Emergency
7 and signed into law on June 16, 2021, under M.G.L. Chapter 40A and Code of the Town of Harvard
8 Chapter 125
9

10 **Members Present:** Justin Brown, Stacia Donahue, Richard Cabelus, Brian Cook, Doug Thornton and
11 Jefferson Burson (Associate Member)
12

13 **Others Present:** Christopher Ryan (Director of Community & Economic Development), Liz Allard (Land Use
14 Administrator) and Valerie Hurley (Harvard Press)
15

16 **Public Comment**

17 There were no comments from the public this evening
18

19 **Election of Vice Chair**

20 Donahue made a motion to elect Richard Cabelus as the Vice Chair of the Planning Board. Cook seconded
21 the motion. The vote was unanimously in favor of the motion by roll call, Donahue, aye; Cabelus, aye;
22 Cook, aye; Thornton, aye; and Brown, aye.
23

24 **Montachusett Regional Planning Commission (MRPC) District Local Technical Assistance (DLTA) Grant**

25 Ryan stated Conservation was interested in submitting an application for the current round of funding.
26 With the ability of each community within the MRPC region to obtain only one DLTA grant this year
27 Donahue wanted to make certain the Transportation Advisory Committee (TAC) would not be seeking an
28 additional phase of their report. Ryan stated TAC didn't expect to see a major change, but rather an
29 update of information and additions; TAC was not eager to take on another DLTA grant.
30

31 Donahue asked about the soon to expire Housing Production Plan (HPP), and could that be updated under
32 a DLTA grant? Ryan stated yes, but similar to TAC report we may not get a robust report. Ryan noted the
33 Municipal Affordable Housing Trust (MAHT) may be willing to pay out of their own funds for the HPP
34 update. Donahue thinks having a back up is good idea in the off-chance funding is available for a second
35 round. Ryan has suggested alternative funding for the multi-family district bylaw.
36

37 Allard explained a DLTA grant proposal is for the update to the Open Space & Recreation Plan that will
38 expire in 2023. The lead on this proposal, per their charge, will be the Open Space Committee and not the
39 Conservation Commission, as previously stated. It was agreed the OSC should apply for the DLTA grant,
40 with hopes MAHT come through with funding.
41

42 **Board Member Reports**

43 • **Representatives & Liaisons Updates**

- 44 ○ **Montachusett Regional Planning Commission** – Donahue stated at the recent monthly meeting the
45 2021 – 2022 budget was reviewed with inefficient identified, which MRPC is hoping to correct.
- 46 ○ **Harvard Climate Initiative Committee** –Burson stated the Committee has officially convened after
47 transitioning from the Community Resiliency Working Group. The Committee is working on
48 Climate Action Plan development and will start reaching out to other boards and committees to
49 execute actions within that Plan.
- 50 ○ **Transportation Advisory Committee** –An outreach meeting with the residents of Old Mill and
51 Blanchard Roads has been scheduled for Feb 16th at 7pm to discuss a potential pedestrian and
52 bicycle trail from Old Mill Road into Devens. Representatives from the State's Transportation

53 Improvement Program will be available to discuss the 25% plan for the Ayer Road corridor, from
54 the Ayer Town line to the Route 2 overpass, on March 30th at 7pm.
55

56 • **Community Matters**

57 ○ Brown gave a shout out to Ryan on his Consider This piece, which provided a well thought out
58 expression of the Ayer Road Visioning Plan process. Brown was happy to see the suggestion to
59 attend Planning Board meetings to express opinions rather than social media or Town meeting.
60 Brown, however was disappointed the author of the “Letter to Editor” pertaining to the market
61 survey, made no effort to reach out to the Board for information. Ryan stated the author did
62 reach out to him, and had tried to direct him to the white paper that has everything anyone would
63 want to know about the process.
64

65 **Director’s Report**

66 Ryan stated the *Hazard Mitigation Plan* has had a change in the choice of consultant since his report was
67 written. With the State fully funding the Plan the selection of the consultant is conducted by the State,
68 therefore Horsley Witten will not be developing the Plan for Harvard. Ryan will have more information at
69 an upcoming meeting.
70

71 Regarding the *Municipal Vulnerability Preparedness* grants, Ryan is waiting for directive from the
72 Expression of Interest (EOI) for culvert replacement design project. In addition, Ryan had also submitted
73 an EOI for environmental zoning bylaw amendments including flood zone, electric vehicle chargers, open
74 space, buffers, landscaping and low impact development among many others.
75

76 **Approve Minutes**

77 Donahue made a motion to approve the minutes of January 24, 2022 as amended. Cabelus seconded the
78 motion. The vote was unanimously in favor of the motion by roll call, Donahue, aye; Cabelus, aye; Cook,
79 aye; Thornton, aye; and Brown; aye.
80

81 **Bi-annual Review of Planning Board Goals from Strategic Planning Session**

82 Ryan requested the Re-codifying Zoning Bylaw be removed from the priority list to allow him to focus on
83 other items on the list. He would recommend dropping Rural Life and Town Center as well. Cook likes it
84 stripping it down to the three things the Planning Board needs to focus on. Cabelus would recommend
85 leaving Rural Life as a fourth on the list. Donahue would like to drop it to the top three. Cabelus thinks
86 people are going to see the list of three as develop, develop, develop; perception wise it would help to
87 keep Rural Life and Town Center as it gives good contrast to what the Board is working on. Thornton
88 would support dropping Town Center and Re-codify the Zoning Bylaw. Donahue motion to reorganize the
89 priority list to be:

- 90 • Ayer Road Commercial District, economic development
- 91 • Multifamily re-writing zoning and mapping
- 92 • Open Space Residential Development & Senior Housing
- 93 • Rural Life/Ag Tourism

94 Cabelus seconded the motion. The vote was unanimously in favor of the motion by roll call, Donahue,
95 aye; Cabelus, aye; Cook, aye; Thornton, aye; and Brown; aye.
96

97 **Update on the Ayer Road Visioning Plan**

98 Ryan has been assisting Howard Kohn, of the Chesapeake Group, to set-up interviews from both point-of-
99 views (pro and anti-development). Kohn will provide an update on Wednesday to Ryan and Brown. Ryan
100 has not seen the data from the survey as of yet, which had just over 500 responses. Brown wondered
101 how to respond to those who expressed concern with sending the survey out to other communities.
102 Donahue though Ryan’s “Consider This” piece explained it well. Ryan’s response to a recent “Letter to the
103 Editor” will expand on that as well.
104

105 **Discuss the State’s Multi-Family District Requirements**

106 • **Review Schedule**

- 107 ○ February 15 Brown & Ryan to attend Select Board to debrief them on the process.
- 108 ○ Comments due to the State by March 31st

109 • **Draft Comments**

- 110 ○ Suggest establishing a threshold as a percent, or 10%, of existing housing stock, as opposed to a flat
- 111 750 housing unit minimum, especially considering Harvard’s lack of developable area.
- 112 ○ Could these units be phased as opposed to having 750 units developed at once?
- 113 ○ Suggest the State providing funding to communities that go over their ability to educate children.
- 114 ○ Can impact fees be applied not only related to education, but all the things additional housing might
- 115 affect?

117 **Chapter 125 Bylaw Amendment – §125-35 Open Space Residential Development (OSRD)**

118 ➤ Review schedule – The schedule was not reviewed

119 ➤ Comments on Proposed Draft

- 120 ○ The reorganized format makes for a cleaner version
- 121 ○ §125-35A(6) seems out of place as it is a restriction and not a purpose or intent and would be
- 122 appropriate elsewhere, along with the last line of §125-35A(5)
- 123 ○ Need to define what open space is in a way that does not require looking at §125-2 for that
- 124 definition.
- 125 ○ Take out the term “traditional New England” and replace with “the character of Harvard”
- 126 ○ Can the affordable section be shortened? Not without removing important information
- 127 ○ Permitted uses – clarify accessory residential/recreational uses; clubhouse or community buildings
- 128 including green infrastructure

130 **Adjournment**

131 Cabelus made a motion to adjourn the meeting at 9:44pm. Donahue seconded the motion. The vote was

132 unanimously in favor of the motion by roll call, Donahue, aye; Cabelus, aye; Cook, aye; Thornton, aye; and

133 Brown; aye.

135 Signed: _____ Liz Allard, Clerk

137 **EXHIBITS & OTHER DOCUMENTS**

- 138 • Planning Board Agenda February 7, 2022
- 139 • Director of Community and Economic Development UPDATE, February 7, 2022
- 140 • Harvard Draft Open Space Residential Design (OSRD) Development December 28, 2021 – 3rd Draft

OFFICE OF THE
PLANNING BOARD

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March X, 2022

Mr. Mike Kennealy, Secretary
Executive Office of Housing and Economic Development
Commonwealth of Massachusetts
One Ashburton Place, Room 2101
Boston, MA 02108

RE: Formal Comments from Town of Harvard, MA in Regard to MBTA Communities Multifamily Zoning Draft Guidelines

Dear Secretary Kennealy:

The Town of Harvard, Massachusetts, as adopted by the Select Board on _____ has reviewed the Massachusetts Department of Housing & Community Development Draft Compliance Guidelines for Multi-family Districts Under Section 3A of the Zoning Act in consultation with the Harvard Planning Board and other Town stakeholders. The Town of Harvard recognizes the housing crisis and is prepared to make substantial positive contributions; however, the "one size fits all" approach proposed places an undue burden on small rural communities such as Harvard. As such, the Town of Harvard proffers for consideration the following commentary and proposed solutions.

On January 14, 2021 Massachusetts General Laws ch. 40A, § 3A entitled Multi-Family Zoning As-Of-Right in MBTA Communities was enacted into law. The statute directs a community designated an "MBTA community" as defined in Mass. Gen. Laws ch. 161A, §1 to have "...at least 1 district of reasonable size in which multi-family housing is permitted as of right...." Section 3A then defines what a "reasonable size" shall be. The statute defines "reasonable size" as having 2 elements: (1) the multifamily district or districts shall "...have a minimum gross density of 15 units per acre..." and (2) "...be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal, or bus station, if applicable." The plain reading of 3A goes no further to define reasonable size. Presumably, the General Court realized that a one-size fits all criteria for 175 diverse MBTA communities could not be reasonably codified in 3A and therefore delegated such authority to the appropriate state agency with sufficient expertise and knowledge in this area, namely the Department of Housing & Community Development (DHCD).

DHCD is a subagency within the Executive Office of Housing and Economic development (EOHED). EOHED's mission, as bannered on its website, states that the agency "prioritizes economic opportunity for residents, collaborative leadership in communities, and an environment that supports job creation and business growth. EOHED also supports new housing for residents through targeted investments." See, <https://www.mass.gov/orgs/executive-office-of-housing-and-economic-development> The EOHED is the Executive Agency charged with the expertise to promulgate reasonable guidance to enable and implement 3A. Respectfully, the Town of Harvard submits that the EOHED and its subagency DHCD has abdicated its role to effectuate "targeted" goals and benchmarks for the 175 diverse community base in 7 different counties, with mixed

housing stock, divergent population density, area, and topography and a myriad of other characteristics that make up the rich fabric of the towns and cities of the Commonwealth.

The Town of Harvard is acutely aware of the housing crisis in Massachusetts. The Town of Harvard is ready, willing and able to do its part, and hopes the other 174 communities feel as strongly to economic opportunity, socioeconomic mobility, and meeting housing needs for the residents of the Commonwealth. However, the Agency’s proposed “one size fits all” approach, that categorizes from the perspective of the transit service provided rather than the unique components of the actual community and thereby lumping these 175 communities into the 4 sweeping categories of rapid transit, bus service, commuter rail, and adjacent does exactly what the General Court sought to avoid and implicitly rejected in 3A in not categorically defining “reasonable size”. The General Court did not categorically define reasonable size because to do so with such a broad brush would be inherently unreasonable. The statute’s silence in this regard is telling. The General Court delineated in 3A the density per acre, “15 units per acre”, but delegated to EOHEd, and its administrative expertise, how that would be implemented in 175 communities. However, respectfully, what the Legislature sought to avoid, is unfortunately what the EOHEd has done with its proposed guidance. The EOHEd has promulgated proposed guidance that is categorically broad (a 50 acre district (yielding a 750 unit minimum), and fails to consider its mission of “targeted” investment and development, and “collaborative leadership in communities.” The Town of Harvard respectfully submits that this proposed guidance, if implemented as is, will have a disparate impact of scale, size, economic and budgetary impact as applied to the 175 communities and is unreasonable.

At the table below illustrates, communities that are required to have a minimum of 750 units under the guidelines range from 1,068 housing units in Plympton (70.2% of housing stock) up to 7,439 units in Holden (10.1% of housing stock). A community as urbanized as Foxborough, with 7,682 housing units is still only required to provide 768 units. Harvard would be required to add 33.3% additional multifamily units to a community that does not currently have the capacity to service them adequately. It is anticipated that under this scenario, costs on services such as school, fire, public works, and so on are not fully considered by this plan.

Table 1 - Percentage of Total Housing Stock – Comparative Communities in Vicinity of 750 Units

Community	Total Housing Units	Min. 750 Required	Percentage of Housing Stock
Holden	7,439	750	10.1%
Duxbury	6,274	750	12.0%
Norton	6,971	750	10.8%
Rockland	7,243	750	10.4%
Ashby	1,243	750	60.3%
Plympton	1,068	750	70.2%
Harvard	2,251	750	33.3%
Foxborough	7,682	768	10.0%
Amesbury	7,889	789	10.0%

Table 1 Source: <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities>

Harvard Comments and Questions

Based on the above concerns and issues raised, the Town of Harvard has assembled a list of specific comments and questions that we would ask DHCD to address as part of the current open comment period closing on March 31, 2022.

1. A one size fits all 750 minimum units is an unreasonable provision and will have a disparate impact on differently sized communities. Harvard is a small, rural community and the 750 is 1/3 of existing housing stock and could fundamentally alter the community and its public institutions. Harvard proposes that an alternative methodology for the number of units similar to that previously proposed by the Metropolitan Area Planning Council (MAPC) be devised. This should be formula-driven based on specific criteria such as total housing stock. It should be focused on a percentage of total housing units divided by the codified minimum density of 15 units/acre.
2. Harvard feels that a deadline for adopting complying regulations as of December 31, 2024 is too short. For open town meeting communities that typically address zoning once annually, this gives, at most, three opportunities to develop complying bylaws and map amendments. Should any of these attempts fail, such communities would be required as per MGL 40A, Section 5, to wait two years to reintroduce the bylaw amendment. This could result in missing the proposed deadline. Harvard recommends that at least one (1) additional year be granted, extending the deadline for MBTA adjacent communities to December 31, 2025.
3. Harvard believes that for the current Guidelines, such development thresholds will have a significant impact on community services and infrastructure, particularly for municipal systems operating at or near capacity. The 2016 report by the UMass Dartmouth Public Policy Center entitled The Costs and Hidden Benefits of New Housing Development in Massachusetts outlines the impact of such scenarios and concludes that state payments should accrue to communities that can demonstrate a net negative fiscal impact on the community. With this in mind, we would ask DHCD whether this potential impact to communities near or at capacity was considered? If so, would the State be prepared to extend some form of assistance and what form?
4. For other fiscal impacts, Harvard would like the State to consider implementing an Impact Fee Law such that each new development of a specific threshold size can make a financial contribution to the community and defray costs (e.g., Chapter F, Cape Cod Commission). If Massachusetts wants to encourage sector targeted growth, it should seriously consider such a system—perhaps tied to a mandatory capital improvements element in master plans.
5. Harvard, like many other MBTA communities, lacks water and sewer infrastructure in areas that would be suitable for multifamily. The state should clarify how the lack of this infrastructure will impact these requirements. Would the state be willing to expand grant-in-aid to help rural communities without current capacity to create the necessary infrastructure to service this threshold of residential development?
6. Harvard's planning goals emphasize smart growth and sustainable development including having walkable, mixed-use districts, having a single-use multi-family zoning district is a concern. Therefore, Harvard would assert that these Guidelines should be able to be met in

a mixed-use implementation in order to facilitate multifamily residential use in this area. Harvard would also want to be able to use MGL Chapters 40R and 40S in such a scenario. Can DHCD provide more clarity as to whether a mixed-use district can meet the Guidelines?

7. MAPC has concluded¹ that, “*The 750-unit minimum could result in unreasonably high growth rates for many small towns.*” Many rural communities such as Harvard do not have the administrative capacity to handle large projects. Therefore, in the absence of DHCD not revising the required number downward as preferred, Harvard would want to have the ability to introduce a phasing provision or limit on the number of building permits in order to reasonably be able to absorb a certain number of units annually.
8. Question: It is understood that over age 62 restricted housing cannot count in the totals, but what about over 55 units?

In conclusion, while Harvard is aware of and sensitive to the housing crisis in the Commonwealth, we feel strongly that each community should be able to have a solution that fits their unique qualities and characteristics. This proposed set of guidelines, while well-meaning and intended to align with the recent amendments to MGL ch. 40A, is too rigidly inflexible and will negatively impact some communities far more than others. We have proposed a number of reasonable changes to the guidelines and also proposed additional measure that will ameliorate the likely impacts of rapid residential development. We hope you will accept these comments in the spirit of collaboration that they were intended. If you have any questions or wish to discuss further, please contact.....

Harvard Select Board	Harvard Planning Board
<p data-bbox="219 1029 341 1060">Stu Sklar</p> <hr data-bbox="219 1092 755 1102"/>	<p data-bbox="836 1029 998 1060">Justin Brown</p> <hr data-bbox="836 1092 1372 1102"/>

¹ https://www.mapc.org/wp-content/uploads/2022/01/MAPC_Sec3A_CapacityAnalysis_1_10_221.pdf