

**TOWN OF HARVARD
PLANNING BOARD AGENDA
MONDAY SEPTEMBER 12, 2022 @ 7:00PM**

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 July 15, 2022, 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.

Hildreth Pro is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://us02web.zoom.us/j/88484310074?pwd=Um9oVGhHYTVsNDhibE9RK2dMYTlhZz09>

Meeting ID: 884 8431 0074

Passcode: 558682

One tap mobile

+13092053325,,88484310074# US

+13126266799,,88484310074# US (Chicago)

Dial by your location

+1 309 205 3325 US

+1 312 626 6799 US (Chicago)

+1 646 931 3860 US

Meeting ID: 884 8431 0074

Find your local number: <https://us02web.zoom.us/j/88484310074>

Public Comment

- New Business:** a) Multi-Family District bylaw letter to property owners
b) Proposed Protective Bylaw Amendment §125-7 Agricultural Uses

- Old Business:** a) ZBA Request for Comments
- 31 Glenview Drive (Variance)

- Standard Business:** a) Board Member Reports
- Representatives & Liaisons Update
 - Community Matter
- b) Approve Minutes

Public Hearings:

7:30pm Continuation of a Special Permit, Ayer Road Village-Special Permit and Site Plan Review - Yvonne Chern & Wheeler Realty Trust, 203 Ayer Road, for the development of three commercial use buildings, including a Commercial Entertainment and Recreation use

8:00pm Continuation of Special Permit & Driveway Site Plan Review – Francoise Crook, Lot 5 Prospect Hill Road (Map 11 Parcel 22.1 portion of), the approval of a Type 2 hammerhead lot and associated driveway

NEXT SCHEDULED MEETING:

SEPTEMBER 19, 2022

OFFICE OF THE
PLANNING BOARD

13 AYER ROAD HARVARD, MA 01451 PHONE: 978-456-4100 www.Harvard-MA.gov



Property Owner's Name
Address
Harvard, MA 01451

DATE

Re: Proposed correction to Zone your parcel as Multi-family

Dear NAME:

Earlier this month, the Massachusetts Department of Housing and Community Development issued compliance guidelines for Multi-family zoning districts under §3A of the Zoning Act. As a result, Harvard has been defined as an "adjacent small town" for an MBTA community. This requires that Harvard shall have a zoning by-law that provides for at least one (1) district of reasonable size in which multi-family housing is permitted as of right.

Your property at *253 Ayer Road (GIS parcel # 004-049-002-001)* is an existing multi-family parcel. However, it is not currently zoned for multi-family housing. If there were a need to rebuild the structures on your property, the new building must be a single-family home because it is currently an existing, non-conforming use. Having the above referenced parcel correctly mapped as multi-family would allow you to rebuild the structures as is by right.

This correction to the Harvard zoning map would further demonstrate compliance with the town's (protective) zoning by-law 125-9 for Multi-residential use, while codifying what you already have. Additionally, by mapping this properly, it will show that the Town of Harvard is in compliance with the state's guidelines that our municipal zoning allows multi-family housing as of right. We would like to make these updates to the Town's zoning map at next year's town meeting with your support.

Please contact the Director of Planning, Frank O'Connor, in the Planning Department at FOConnor@Harvard-MA.gov with any questions.

All the best,

Richard Cabelus, Chair
Planning Board

cc: Harvard Select Board
Town Administrator
Zoning Board of Appeals

WARRANT ARTICLE

Article __. Amend the Protective Bylaw to Allow
Accessory Entertainment on Farms

To see if the Town will vote to amend Section 125-7, Paragraph A of the Code of the Town of Harvard relative to general agricultural uses and uses accessory thereto by making the following revision thereto, or take any vote or votes in relation thereto.

[Key to revision: underlining denotes added text]

§125-7 Agricultural uses.

Amended 3-5-1966 ATM by Art. 44; 3-6-1971 ATM by Arts. 33 and 34; 3-4-1972 ATM by Art. 44; 3-25-1978 ATM by Art. 23; 3-31-1990 ATM by Art. 18; 4-5-1997 ATM by Art. 46]

A. General agriculture. Agriculture (see § 125-2, Definitions) conducted on a parcel of five or more acres in area shall not be subject to the provisions of § 125-20 of this Zoning Bylaw, provided that the otherwise prohibited activity constitutes or is accessory to a principal agricultural use, as set forth in G.L. c. 40A, § 3. Accessory uses may include:

(1) An accessory camp for seasonal farm labor, approved by the Board of Health. A mobile home unit may be used for such a camp provided a permit issued by the Building Commissioner^m is in effect. A permit shall be for a sixty-day period. A permit may be renewed for additional periods up to a total additional time of 50 days. Setbacks for structures shall apply to the extent permitted by law.

(2) An accessory farm stand for sales of natural produce principally from the premises or from other premises that are part of the same principal agricultural use including premises constituting a "farming use" pursuant to § 125-35D(2)(a)[4].

(3) Accessory entertainment activities and events, provided that a license for such entertainment is obtained from the Select Board.

**HARVARD PLANNING BOARD
MEETING MINUTES
MAY 2, 2022**

Chair Justin Brown called the meeting to order at 7:03pm 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.), Ken Atwell (Harvard Green), Catherine W (Harvard Press), Valerie Hurley (Harvard Press), Lou Russo (Wheeler Realty Trust), Yvonne Chern and Jesus Mena.

Public Comment

There were no comments from the public this evening

Ayer Road Visioning Plan Project Update

- Status of Consultant Work in Phase 1
 - The contract with Weitzman Associates is almost finalized.
- Update of Corridor Tour
 - Members of the Planning Board, Senator Eldridge, Representative Sena, along with their staff, Town officials and members of the Harvard Press attended the tour on April 8th. The presentation and lunch went smoothly. A special thank you to the Council on Aging (COA) for use of the vans for the tour, which also went well. Both Senator Eldridge and Representative Sena have a better understanding of the goals of this project. Brown stated the presentation prior to the tour was very well done. The COA director, Debbie Thompson, finally understood why there is a desire to limit the number of curb cuts along Ayer Road. Donahue stated the main take away is the Planning Board, along with other Town Boards and Departments can do a better job of deciphering between the Transportation Improvement Project (TIP) and this project as there is still a lot of confusion among the residents on separating these two projects out. Donahue noted the TIP is a Mass Department of Transportation project, with minimal input from the Town, whereas, the Ayer Road Visioning Plan is completely under the control of the Planning Board and the vision of the Town.
- Update of Phases 2 & 3
 - These phases are dependent on the data from the fiscal impact analysis, with the hope the analysis will assist in getting funding for these phases. The Planning Board should consider conducting a targeted outreach campaign, such as coffees at the General Store, a booth at Town Meeting, and providing more material on the website. Getting people to the website is a key ingredient as well. Open to any other suggestions to get the word out from the Board members. Brown volunteered to help out at a booth at Town Meeting, as did along with Donahue and Cabelus.

Ayer Road Transportation Improvement Project (TIP) Update

There seems to be a lot of chatter about roundabouts as of late pertaining to this project, which had been discussed in great detail during the early stages of this project. Ryan stated the Mass Department of Transportation (MassDOT) conducted a virtual public hearing for the 25% design phase. The 10% design phase hearings were previously conducted as live meetings prior to COVID-19. MassDOT is conducting a new traffic study this week along Ayer Road. With concerns expressed by both Transportation Advisory

50 Committee (TAC) and Select Board, MassDOT is willing to meet with representatives from these groups.
51 Ryan has sent a memo has been sent asking if changes would delay the process; hoping to get a response
52 before the Select Board at the end of May. TAC needs to memorialize their 10% comments. Brown
53 explained the previous discussions with MassDOT pertaining to the roundabout and the inability to install
54 such a traffic calming measure due to adjoining roads. Cabelus asked what is Planning Board authority
55 here? The charge of the Planning Board includes traffic for a well-planned community. The Select Board
56 has the final approval of the plan.

57
58 **Continuation of a Modification of Special Permit & Site Plan Approval Hearing – Scott Patterson, 256**
59 **Ayer Road.** Opened at 7:32pm (see page 4 for complete details)

60
61 **Town on Harvard Municipal Decarbonization Draft Discussion**
62 Thornton stated at the April 13 meeting of the Energy Advisory Committee the draft Municipal
63 Decarbonization Plan was reviewed. The report details all of the actions the Town can take to reduce its
64 carbon footprint as it pertains to Town buildings and vehicles. The intent is to phase in these actions to
65 achieve a carbon neutral goal, which are outline within the report. It brought home what Harvard as local
66 community can do to achieve carbon neutral. Grants are available to achieve some of these goals.

67
68 Burson made two points – 1) The Town of Harvard does not have much in the way of industrial
69 companies, and 2) Heating and cooling are our biggest carbon use. High level recommendations will need
70 to be turned into a process by each department. Ryan asked if financial savings were discussed, which
71 may help in “selling” these recommendations.

72
73 Brown asked what are the actions by Planning Board. Thornton stated bylaw amendments. Burson
74 stated the Climate Action Plan is a higher-level plan, whereas the Decarbonization Plan is lower level for
75 the buildings and vehicles. Brown noted the plan is listed as a draft, is there a hope to have this finalized
76 soon. Burson stated within the next month or two.

77
78 **Continuation of a Special Permit, Ayer Road Village-Special Permit and Site Plan Review - Yvonne Chern**
79 **& Wheeler Realty Trust, 203 Ayer Road.** Opened at 8:01pm (see page 5 for complete details)

80
81 **Continuation of a Special Permit & Site Plan Review – Kennedy & Company, 295 Ayer Road.** Opened at
82 9:25pm (see page 7 for complete details)

83
84 **Board Member Reports**

- 85 • Representatives & Liaisons Updates
- 86 ○ *Open Space Committee* – Cook stated the survey questions have been circulated for comments; if
 - 87 members have any comments they should be provided to Cook by Wednesday of this week.
 - 88 ○ *Montachusett Regional Planning Commission (MRPC)* – Donahue noted the Transportation Advisory
 - 89 Committee is still waiting on the Transportation Plan completed by MRPC
 - 90 ○ *Earth Day Event* – Donahue stated although there was not a great turn out for this event she was able
 - 91 to get four more residents to understand the differences between the Ayer Road projects
- 92 • Community Matters - none

93
94 **Director’s Report**

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

96
97 **Adjournment**

98 Donahue made a motion to adjourn the meeting at 10:10pm. Cook seconded the motion. The vote was
99 unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and
100 Brown; aye.

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Signed: _____ Liz Allard, Clerk

EXHIBITS & OTHER DOCUMENTS

- Planning Board Agenda May 2, 2022
- Director of Community and Economic Development UPDATE, May 2, 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 4/13/22

DRAFT

155 **Harvard Planning Board**

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157 **Continuation of a Modification of Special Permit & Site Plan Approval**

158

159 **Scott Patterson, 256 Ayer Road**

160

161 **May 2, 2022**

162

163 The public hearing was opened at 7:32pm by Chair Justin Brown under MGL Chapter 40A the Zoning Act
164 and the Code of the Town of Harvard Chapter 125 the Protective Bylaw virtually pursuant to Chapter 22 of
165 the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of
166 Emergency, and signed into law on February 15, 2022

167

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

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171 **Others Present:** Christopher Ryan (Director of Community & Economic Development), Liz Allard (Land Use
172 Administrator) and Bruce Ringwall (GPR, Inc.)

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174 This hearing was continued from April 25, 2022 for the Modification of a Special Permit & Site Plan
175 Approval filed on behalf of Scott Patterson to expand the facility known as "The Barn" to properly space
176 existing equipment at 265 Ayer Road, Harvard

177

178 After reviewing the draft decision and with no comments from the public, Cook made a motion to issue a
179 modification to the Special Permit & Site Plan Approval for Scott Patterson, 265 Ayer Road as presented.
180 Cabelus seconded the motion. Donahue made a friendly amendment to include the closing of the
181 hearing. The amendment was accepted by Cook and Cabelus. The vote was unanimously in favor of the
182 motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and Brown; aye.

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184 Signed: _____ Liz Allard, Clerk

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208 **Harvard Planning Board**

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210 **Continuation of a Special Permit, Ayer Road Village-Special Permit and Site Plan Review**

211

212 **Yvonne Chern & Wheeler Realty Trust, 203 Ayer Road**

213

214 **May 2, 2022**

215

216 The public hearing was opened at 8:01pm by Chair Justin Brown under MGL Chapter 40A the Zoning Act
217 and the Code of the Town of Harvard Chapter 125 the Protective Bylaw virtually pursuant to Chapter 22 of
218 the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of
219 Emergency, and signed into law on February 15, 2022

220

221 **Members Present:** Justin Brown, Richard Cabelus, Stacia Donahue, Brian Cook and Doug Thornton

222

223 **Others Present:** Christopher Ryan (Director of Community & Economic Development), Liz Allard (Land Use
224 Administrator), Bruce Ringwall (GPR, Inc.), Lou Russo (Wheeler Realty Trust), Yvonne Chern,

225

226 This hearing was continued from April 25, 2022 for a Special Permit, an Ayer Road Village-Special Permit
227 and Site Plan Review filed on behalf of Yvonne Chern & Wheeler Realty Trust for the development of
228 three commercial use buildings, including a Commercial Entertainment and Recreation use at 203 Ayer
229 Road, Harvard.

230

231 Ryan detailed his review of this application as stated in his Update for May 2, 2022. Ryan is
232 recommending the scope of work for the peer review be approved. Donahue asked if it is okay that there
233 are no details on the other two proposed buildings. Bruce Ringwall, of GPR, Inc., stated the final decision
234 of the Planning Board can be modify when those buildings are agreed upon. Ryan is questioning the
235 compliance of this application with §125-52 Ayer Road Village-Special Permit (ARV-SP). Cabelus asked for
236 explanation for the requested waiver to §125-37. Ringwall stated the application, as stated previously,
237 indicates §125-52G(2) gives the authorization to go above and beyond the floor area allowed under §125-
238 37. Ringwall noted, this is similar to the Bower's Brook development, which was vetted by Town Counsel
239 at that time. Ringwall stated the waiver was filed as suggested by this Board and the Director. Cabelus
240 asked if this application is a mix used development? Ringwall stated there is a recreational use and two
241 other buildings that would be office and/or retail. Donahue wanted to know if Board of Health (BOH) has
242 weighed in on the ability to have housing? In addition, are there any assurances that the other two
243 buildings will be considered mixed-use? Ringwall stated he cannot predict what the uses could be.

244

245 Cook stated that a site plan can include the size, bulk, and limits of proposed buildings, but he would
246 rather the proponent come up with what is appropriate when the time comes. In the interim guardrails
247 should be installed around those two unknown pads. Russo doubts another recreational use would be
248 established on the site and has no objection to the guardrails. Cabelus doesn't know how Planning Board
249 can waive anything since the applicant, nor the Planning Board, knows what will be proposed in the future
250 for these remaining two pads on the site.

251

252 Cabelus made a motion to deny the requested waiver. There was no second to this motion. Cook agreed
253 with assessment Ringwall has made pertaining to this proposal being mix use development (a recreational
254 and commercial aspect). Cook understands mix used development, which is very narrow, can include a
255 mix of different types of commercial development. Cook suggested a condition that no additional
256 recreation use is allowed; limit the pad size; and include language of the type of commercial
257 development, to restrict the development, but still allow the applicant to move forward. Cook likes the
258 proposed three buildings as opposed two large buildings; he is not in mind to flat out deny this; he
259 believes there are options.

260

261 Ryan stated his reading of the bylaw, which lends itself to interpretation, in particular §125-52G(1),
262 references mixed-use village development (MUVD) pursuant to §125-13Z, which is clear as to what is
263 considered MUVD. This same term, MUVD, is used in §125-52G(2) as well. §125-52 needs to be
264 determined before §125-37 can be dealt with. Donahue asked why the application is under §125-52 and
265 not just §125-3. Ringwall stated within the purposes of §125-52 is calls for an opportunity to present
266 visible alternatives to conventional commercial development.
267

268 Brown went back to §125-13Z MUVD, and is what the Board should allow under §125-52. Cook thinks the
269 Board is hyper focused on the four uses under §125-13Z and not the greater good of the proposed site
270 plan that would eliminate a number of driveway cuts along Ayer Road in an area that is difficult to
271 maneuver currently. Cabelus stated the applicant could still obtain a Special Permit for the proposed
272 development under §125-37. Ringwall believes the applicant's and himself need to consult with legal
273 counsel. Russo saw no reason not to add §125-37 as part of this application, which has been done.
274 Brown asked if the requested waiver was being withdrawing. Russo stated he would need to consult his
275 legal counsel before making any determination. Ryan suggested the Board obtain Town Counsel's advice
276 as well.
277

278 Ringwall argued that the application meets the requirements under §125-52G(3)(a) by increasing the size
279 of the existing wetland on the property. Cook agrees with Ringwall in that the application is meeting this
280 requirement. Allard noted the wetland is being expanded as part of the filling of an isolated wetland on
281 the property for the development of the parcel. Donahue made a motion to request Town Counsel
282 review the bylaw for the Board. Cook seconded the motion. The vote was unanimously in favor of the
283 motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and Brown; aye.
284

285 The proposal for peer review was circulated today. After a brief discussion of the available documents for
286 review, Cook made a motion to execute the proposal from Beals & Thomas. Cabelus seconded the
287 motion. The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook,
288 aye; Thornton, aye; and Brown; aye.
289

290 Russo had submitted a letter as it pertains to the documents shared with the peer reviewer, specifically
291 the Update from the Director, as Russo feels it would provide a tainted opinion and would prefer the
292 consultant come to their own conclusion. Cook thinks they could be provided; Cabelus agrees with Cook.
293 As a public document available on the Town website, the peer reviewer could obtain this information on
294 their own if they so choose. Ringwall wants minutes made available to the consultants as well. It was
295 pointed out that the peer reviewer could obtain the videos of the meetings available on the Town website
296 as well.
297

298 There were no comments from the public. Written input has been received from Ken Atwell, of Harvard
299 Green, who are getting organized and may have additional comments at a later date.
300

301 Donahue made a motion to continue the hearing to May 16, 2022 at 8:00pm. Thornton seconded the
302 motion. The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook,
303 aye; Thornton, aye; and Brown; aye.
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305 Signed: _____ Liz Allard, Clerk
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314 **Harvard Planning Board**

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316 **Continuation of a Special Permit & Site Plan Review**

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318 **Kennedy & Company, 295 Ayer Road**

319

320 **May 2, 2022**

321

322 The public hearing was opened at 9:25pm by Chair Justin Brown under MGL Chapter 40A the Zoning Act
323 and the Code of the Town of Harvard Chapter 125 the Protective Bylaw virtually pursuant to Chapter 22 of
324 the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of
325 Emergency, and signed into law on February 15, 2022

326

327 **Members Present:** Justin Brown, Richard Cabelus, Stacia Donahue, Brian Cook and Doug Thornton

328

329 **Others Present:** Christopher Ryan (Director of Community & Economic Development), Liz Allard (Land Use
330 Administrator), Bruce Ringwall (GPR, Inc.), Mike Kennedy Sr. & Jr.

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332 This hearing was continued from April 25, 2022 for a Special Permit & Site Plan Review filed on behalf of
333 Kennedy & Company for Landscape Services at 295 Ayer Road, Harvard.

334

335 Bruce Ringwall, of GPR, Inc., detailed the minor changes to the site plan, which included moving the
336 temporary office to behind the existing house and is now labeled as temporary construction trailer;
337 moved the hoop house a little further from the property boundary; shortened the walkway; notes the
338 temporary trailer will be skirted; other plants around the site for landscaping; will make connection to
339 sidewalk once the Ayer Road Transportation Improvement Project plan is finalized; added electrical
340 service to the house and hoop house; landscape material to be located in open areas; and details for the
341 business sign.

342

343 After discussing review of the plans by the Design Review Board (DRB), Cook thanked Ringwall and the
344 Kennedy's for providing all of the material requested by the Board and thought that the DRB does not
345 need to be engaged. Cabelus agreed with Cook. Thornton agreed as well. Brown agrees but would want
346 to clearly lay out the rehabilitation of the house as the office.

347

348 The deposit was received today for peer review, which was only partial payment. The Kennedy's were
349 informed the total amount needs to be provided. Ringwall detailed the trees to be removed from the site.
350 Donahue asked that the stones removed from the existing wall be reused within the existing wall.
351 Ringwall was amenable.

352

353 Ringwall explained the Kennedy's have missed this season for retail sale, and are asking to be allowed to
354 use the site temporarily for their construction equipment. Brown concerned the Bylaw does not allow for
355 the temporary storage of material. Cook does not know how this relates to the Bylaw, in support of using
356 as temporary storage until this can all be sorted out. Donahue, have we checked with Town Counsel to
357 determine if this would be allowed? Cabelus don't know where the Board would get the authority to
358 allow the temporary storage of material. Ringwall will look into any provision that may allow for the
359 temporary storage of material, but once a decision is made work will progress on improving the driveway
360 and material will start to come onto the site.

361

362 Donahue made a motion to continue the hearing to May 16, 2022 at 8:05pm. Thornton seconded the
363 motion. The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook,
364 aye; Thornton, aye; and Brown; aye.

365

366 Signed: _____ Liz Allard, Clerk

