

**TOWN OF HARVARD
PLANNING BOARD AGENDA
MONDAY, SEPTEMBER 11, 2023 @ 7:00PM**

Pursuant to Chapter 2 of the Acts of 2023, An Act Making Appropriations for the Fiscal Year 2023 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects, and signed into law on March 29, 2023, 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.

TOHpro1 is inviting you to a scheduled Zoom meeting.

Topic: Planning Board

Time: Sep 11, 2023 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/86922626999?pwd=WlVtTTZlQzg1cGRlWXBTckVRUm9SQ09>

Meeting ID: 869 2262 6999

Passcode: 671628-

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Public Comment

Old Business: a) Comments on potential 40-B development at Old Mill & Ayer roads
b) Updates on Ayer Road visioning phases 2 & 3.

New Business: None

Public Hearings:

7:30pm Cellco Partnership d/b/a Verizon Wireless, 60 Old Shirley Rd. Modification of existing equipment §125-27

8:00pm Continuation of Public Hearing for Section 125-35: Open Space Residential Development Bylaw Amendment for adoption.

Standard Business: a) Review Metrics
b) Board Member Reports

- Representatives & Liaisons Update
- Community Matters

c) Planning Board budget update
d) Prospective MBTA Multi-family zoned overlay district bylaw
e) Master Planning for 2026
f) 2016 Master Plan Action item updates from Boards
g) Approve Minutes

The listing of matters are those reasonably anticipated by the chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

**NEXT SCHEDULED MEETINGS:
MONDAY, SEPTEMBER 18, 2023**

RMM



Director of Planning
UPDATE
7 SEPTEMBER 2023

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■ **Ayer Road Vision Plan Project & Request for Proposal**

Status of Consulting Work in Phase 1: COMPLETED

Weitzman Associates completed the Market Study and fiscal Impact Analysis for the Ayer Road Commercial District. This is the first phase of a three-phase project. The study is posted on the Town's webpage here:

https://www.harvardma.gov/sites/g/files/vyhlf676/f/uploads/final_report_1-5-23_harvard_market_study_fiscal_impact_analysisrevised.pdf

Preparations for Phases 2 & 3

The Town of Harvard received a \$250,000 FY23 Rural and Small Town Grant from the Commonwealth of Massachusetts which will be used to fund Phase II (Vision Plan) and Phase III (Form Based Code). A Request for Proposals (RFP) was issued on 8 MAY 2023, and Utile, Inc. was selected from the respondents. Town staff has had a virtual kick-off meeting to discuss timelines, deliverables and field visits. This includes ideas for how to conduct outreach for the Ayer Road Vision Plan project over the next few months. The team from Utile will be participating in a Planning Board meeting in October 2023.

■ MBTA Multifamily Zoning Draft Guidelines Update

Draft Letter

The draft letter was finalized, signed, and submitted to the state on 3/29/2022. It was also sent to MAPC, MRPC, 495 MetroWest Collaborative, and the Assabet Regional Housing Consortium.

Select Board Briefing

This required public briefing was held on Tuesday, April 12, 2022 during the Select Board's regular meeting.

Community Information Form

The required Community Information Form (CIF) was submitted on Wednesday, April 13, 2022 and confirmation was sent on to Planning Board members and other stakeholders.

Options to Proceed

At this point and to be discussed at the last meeting and this meeting, the Planning Board has instructed staff reach out to owners of specific parcels that meet the size criteria and offer reasonable proximity to commuter rail stations in Ayer and Littleton. The state will allow communities to develop more than one site as a contingency.

Potential Timelines

The following table is a rough estimate for how long each suggested option might take. Of course, they will vary based on how we integrate public outreach, funding requirements, technical assistance, and other factors.

Finally, please note that the Planning Board is NOT constrained by the typical two-year wait to bring failed bylaws back to Town Meeting. This is clearly stated in MGL 40A, Section 5 as follows:

No proposed zoning ordinance or by-law which has been unfavorably acted upon by a city council or town meeting shall be considered by the city council or town meeting within two years after the date of such unfavorable action unless the adoption of such proposed ordinance or by-law is recommended in the final report of the planning board.

All it requires to supersede this provision is to develop a Planning Board report recommending passage of the Bylaw. The passage above is a clickable link taking you to MGL Chapter 40A, §5.

The former Department of Housing and Community Development (DHCD) / now Executive Office of Housing and Livable Communities (EOHLC) issued Compliance Guidelines back on 10th of August 2022 in which Harvard was categorized as an Adjacent Small Town, assigned a minimum multi-

family unit capacity of 113. The Town's Action Plan was submitted on 20 December 2022. As part of the Action Plan, a letter was sent to the owners of all known multi-family / multi-home parcels. This was part of the process to identify existing multi-family parcels as part of creating a zoning district of a reasonable size where multi-family housing would be permitted by right and to avoid spot zoning. To meet the DHCD requirements that the zoning district have reasonably close proximity to existing MBTA commuter rail stations, the area of Harvard that is East and North of Route 111 seems to provide the most options, if a developer were able to meet state water and septic requirements.

DHCD provided initial feedback on the Action Plan that was submitted in December 2022. Specifically, Harvard would do well to reduce the size of the proposed overlay district. Director of Planning is working with MPRC to refine map and complete the DHCD Compliance Model & Components. As an Adjacent Community, Harvard is required to complete its process by December 2025. The Action Plan was resubmitted prior to 31 January 2023 deadline which reflected the recommendations made by DHCD.

Revised Draft of potential multi-family zones has been resubmitted to DHCD. Harvard was instructed to reduce the size of the initial proposed district. Director is working with Montachusett Regional Planning to complete Compliance Model & Components as part of the Adjacent Communities cohort.

UPDATE: Next Step for Planning Board is to refine map of potential zones for MBTA 3A housing.

UPDATE: 30 MARCH 2023 – Planning Board is in the process of refining prospective MBTA multi-family zoned districts. Working with MRPC for compliance determination that potential sites / parcels meet criteria. Expected to start in mid-April and finalized by end of June 2023.

Update: 24 APRIL 2023 – Planning Board member Donahue and O'Connor had a virtual meeting with Montachusett Regional Planning to discuss prospective parcels that would help Harvard comply with the MBTA 3A zoning mandate for multi-family housing.

Update: 24 MAY 2023 – Planning Board member Donahue and O'Connor had a follow-up virtual meeting with Montachusett Regional Planning to discuss parcels that were to be removed from initial list and add other properties that would help Harvard comply with the MBTA 3A zoning mandate for multi-family housing. The compliance evaluation is being run on the updated list by MRPC staff and will be shared with us soon.

UPDATE: *In response to feedback from municipal leaders in several MBTA communities, on 17 August 2023 EOHLC revised the Guidelines to offer MBTA communities a path to receive some credit for mixed-use development zoning districts. The revision also specifies how Section 3A compliance may affect certain discretionary grant award decisions. These revisions:*

1. Allow an MBTA community to “offset” the minimum multi-family unit capacity requirement in certain multi-family zoning district(s) by up to 25%, based on the unit capacity of a mixed-use zoning district that meets key requirements of Section 3A and the Guidelines, but for requiring a ground floor non-residential component. Such “offset” – only available where existing village-style or downtown development is essential to preserve pedestrian access to amenities – still requires a municipality to demonstrate the same total amount of unit capacity.

2. Protect the financial feasibility of achieving housing goals where mixed-use zoning requires groundfloor non-residential uses by (i) setting forth location criteria for mixed-use development districts and requiring that EOHLC has pre-approved the location before the MBTA community’s vote on its zoning changes; (ii) capping the percentage floor area of each development that may be required to be non-residential (ground floor only); (iii) requiring a broad mix of non-residential uses allowed as of right; and (iv) prohibiting minimum parking requirements for non-residential uses.

3. Allow MBTA communities to locate more housing in walkable and transit-oriented neighborhoods without jeopardizing existing non-residential resources and amenities. Many MBTA communities expressed a desire to locate districts in village-style or downtown neighborhoods but feared that allowing multi-family housing as of right in those areas could risk a loss of existing businesses and buildings. Many residents expressed a desire to live in village-style, downtown, and transit-oriented neighborhoods.

4. Add a list of thirteen discretionary grants programs to Section 9 to alert MBTA communities of additional grant programs that will consider compliance with Section 3A in making grant awards. These revisions to the Guidelines are intended to provide greater flexibility to MBTA communities to adopt new zoning districts in mixed-use neighborhoods, and to promote housing opportunities for residents in such neighborhoods. The revisions do not reduce the total unit capacity required by the Guidelines.

Housing Production Plan

The Harvard Housing Production Plan (HPP) helps guide affordable housing options in town, specifically those that are eligible for inclusion in the Subsidized Housing Inventory. This does include the Town's land in Devens. The Plan represents a tool that timely progress is made toward meeting the Town's affordable housing goals. It is based on a comprehensive needs assessment and an analysis of existing conditions, demographic trends, and local and regional market forces such as the recent Weitzman analysis. However, the most recent numbers from the 2020 Census will not be available until later this year. The HPP will identify opportunities and layout strategies the Town may pursue to meet its goal of providing housing for households across a broad range of incomes, ages and needs.

The Plan will recommend a number of regulatory reforms and strategies to expand local development capacity. It will include preservation strategies as well as new production initiatives, and it anticipates a significant role for both private and Town-initiated development.

UPDATE: Since the Planning Board meeting held 27 FEB. 2023, the Director has participated in two meetings to update / revise / expand the plan. There is a tentative goal of having the document ready before the end of June 2023.

UPDATE: 30 MARCH 2023 – Most recent Housing Production Plan meeting that had been set for 29 MARCH 2023 was rescheduled to a future date in April 2023.

UPDATE: 31 MAY 2023 – A draft of the Housing Production Plan is being circulated for comment. The next meeting of the HPP Committee will be on Wednesday, 7th JUNE 2023 via Zoom.

UPDATE: *Director had a meeting in July 2023 with Town Administrator, Chair of the Harvard Municipal Affordable Housing Trust and a town resident who is consulting on the HPP. Six additional rental units were approved in Devens for Emerson Village Green apartments but remain unbuilt at this time. That Devens project will have 46 units and the MAHT might buy down 2 additional units in this development if the Town wants it to qualify on its Subsidized Housing Index, which Harvard needs to do to move closer to meeting its goal of 10%. The developer hopes to break ground in Fall of 2023, so these needs be a high priority for the Town of Harvard and the MAHT. Finance Director Jared Mullane has provided financial info from FY18-FY23, but he is working to get the prior years' data from a previous vendor.*

DESIGN REVIEW BOARD

An invitation was sent to a former Planning Board member to fill the vacancy on the Design Review Board. The new member is a professional architect and will be a good addition to the team.

A proposed 40-B development at Old Mill & Ayer roads (Robin Lane) was submitted to the Zoning Board of Appeals. The Developer requested a meeting with the DRB and a tentative meeting date has been set for late September 2023.

The DRB will meet via Zoom on Tuesday, 26 September 2023 at 9am.

FUNDING UPDATES

UPDATE: 5 SEPTEMBER 2023 - Director reached out to Montachusett Regional Planning Commission for leads on potential funding sources for updating the 2026 Master Plan. The team at MRPC said there is money available through Planning Assistance Grant from Executive Office of Energy and Environmental Affairs (EOEEA), the same one we applied to for MBTA Communities assistance. This funding opportunity will open in May 2026 and could fund up to \$50,000 towards a Master Plan. The staff at MPRC mentioned that a whole master plan from scratch would be ~\$150K, but an update would be ~75K.

MASTER PLAN UPDATES

Current Master Plan was created in 2016 and is scheduled to be updated in 2026. Planning Board has started drafting potential updates. Finding funds remains a challenge. Director has reached out to Montachusett Regional Planning Commission to begin looking for grant funding to pay for updating the existing Master Plan, which would be much less expensive that writing a new Master Plan.

APPARENT ZONING / WETLANDS VIOLATIONS by: Chestnut Tree & Landscape

Location of Property: 320 AYER Road, Harvard, MA

Assessors Map 2 //Parcel 74

Zoning District: C-District

Property Owner: GIF PARTNERS, 133 Pearl St #300, Boston, MA 02110 d.b.a. Ayer Road Property Owner LLC

On Tuesday, 4th April 2023, the Town of Harvard Conservation Officer informed me that Chestnut Tree & Landscape, located at 320 Ayer Road, had been clearing areas of the site that had the potential of being within the wetland resource areas and/or the associated buffer zones. With permission of the new property owner, the Conservation Officer reviewed the site on Friday with Grant MacLean to find activity on the site had exceed the area allowed under the Special Permit & Site Plan Review approved by the Planning Board in 2020 and at best that activity was limited to the buffer zone only. However, upon return to the site later that day she discovered that the newly delineated wetland intersected with recently added fill on the North side of the property.

The Conservation Officer is working with the new property owner, who had previously scheduled a wetland scientist to visit the site. In addition, the Conservation Officer noted trailers belong to other construction companies on the site, which was only permitted to Chestnut Tree & Landscape. The site contains more than just landscape equipment - gas cans, round up and other "trash" is strewn about the site. She did share some of the photos to provide context.

The agent for the Conservation Commission issued an Enforcement Order, requiring the installation of an erosion control barrier to try encapsulate the disturbed area from causing any additional impacts to the wetlands and pond on site. The Conservation Commission will be further discussing this matter at a future meeting. The property owner has been very responsive to requests, including providing access to the site.

The Conservation Officer has updated the Zoning Enforcement Officer about apparent violations. The chair and vice chair of the Conservation Commission will provide updates.

At this time, the Conservation Commission has ratified the enforcement order issued last week requiring activity within the wetlands and its buffer zone cease and desist and install an erosion control barrier along the edge of disturbance. The Conservation Commission voted to issue an additional enforcement order limiting activity on the site to personal and business vehicles only, no new material is to be stored on site, existing material within the parking lot between the pond and Ayer Road is to be removed and a Licensed Site Professional is to be hired at the expense of Chestnut Tree & Landscape who will assess the site, with a report due to the Commission within 90-days.

As of 31 MAY 2023, Business owner hired a Licensed Site Professional at his own expense to obtain a written assessment of the situation. Planning Director has spoken with the Zoning Enforcement Officer and Conservation agent about the situation. At this time, the business owner has not submitted a request to obtain a permit for the landscaping business at that site. While a Landscape service is allowed in the Commercial District under §125-13T, the business must comply with §125-39 for Site Standards and obtain a Special Permit from the Planning Board under §125-46. Under §125-49A, the business owner may be fined \$100 per day for operating without a valid Special Permit.

UPDATE: *The Chair asked the Director to invite the business owner at 320 Ayer Road to attend the Planning Board meeting on Monday, 18th SEPTEMBER 2023. The Landscaping business owner is working with GPR to provide documents to explain the wetlands violations to the Conservation Commission. Landscape business owner will explain reason for second business operating out of the site without a Special Permit. The Director will be working with the business owner to obtain the required Special Permit for the business as required in §125-13T (Medium scale business), and §125-38A(4) Site Plans for Commercial uses and business uses described in § 125-13 shall be subject to site plan review and approval by the Planning Board, except for such uses which are exempt from site plan review and approval, and §125-39 (Site Standards) a site for any business use subject to special permit.*

**SPECIAL PERMIT Application under §125-27 Wireless Communications Towers Overlay District
by Cellco Partnership d/b/a Verizon Wireless**

Location of Property: 60 Old Shirley Road, Harvard, MA

Assessors Map 8 //Parcel 70 (Book: 58049 Page: 0310)

Zoning District: WCF Overlay

Property Owner: John Lard & Howard Selzco, TTEES of 2017 Selzco Realty Trust

The existing wireless facility consists of a 100-foot tall monopine tower ("Tower") and adjacent fenced equipment area which was constructed pursuant to the terms and conditions of a special permit granted to Nextel Communications dated April 26, 1999, as modified by the July 12, 1999 Notice of Modification, both recorded in the Worcester County Registry of Deeds on October 12, 1999 at Book 20937 Page 285 and Book 20937 Page 305, respectively.

As currently installed, the Verizon Wireless facility consists of an array of 12 antennas (3 sectors with 4 antennas each) mounted at a center line elevation of approximately 75 feet. The existing Verizon Wireless facility also includes an equipment shelter adjacent to the bottom of the Tower, located within an eight-foot high chain link fence, which houses the equipment to power and connect the transmission equipment on the Tower. Other wireless communications carriers are also located within this fenced area and on the Tower.

Verizon Wireless proposes to remove its existing 12 antennas from the tower and replace them with nine new antennas (three sectors with three antennas each). Two of the antennas in each sector will be mounted on a "side by side" mount on one of the existing pipe mount positions, while the third antenna in each sector will be mounted on a different existing pipe mount position. Six remote radio heads (RRHs) (two in each of the three sectors) will be mounted behind the existing pipe mounts. A new hybrid cable will replace an existing hybrid cable running from the equipment shelter across the ice bridge and up the inside of the monopine "tree trunk" to the Verizon antennas on the tower. The existing Verizon Wireless overvoltage protection box ("OVP") mounted at the 75-foot center line elevation will be replaced with a new OVP (collectively, the "Proposed Modifications").

Director has requested that the applicant provide updated Verification Certificate for Indefinite Term Surety Bond and Power of Attorney.

Site visit on Thursday, 7 September 2023 found the site to be properly fenced with gates locked. No faux branches were found on ground. Tower is well camouflaged to resemble a tree.

Potential Updates to Bylaws:

§125-35 Open Space and Conservation – Planned Residential Development

§125-18.2 Proposed Harvard Center Overlay District for Subordinate Structures

The intent of the *proposed* Harvard Center Overlay District for Subordinate Structures is to foster well-planned, subordinate structure construction in the center in the Town of Harvard. The purpose is to further develop consistency and continuity within this District in keeping with the existing character of traditional New England villages and the Town of Harvard. By allowing these subordinate structures to be built, the ongoing usefulness and relevance of homes and businesses in the town center will be improved. Historically there were subordinate structures (such as barns, workshops and sheds) located on many of these parcels but they have not survived. The district is defined as any home or business located either in the Harvard Common Historic district or a part of the Harvard Town Sewer district and further limited to parcels that are less than 0.9 acres in size. Set-back distances present a challenge.

§133-22 Planning Board Procedural Rules and Regulations (proposed amendments)

E. ~~Seventeen~~ TEN ~~hard~~ copies of the application shall be submitted to the office of the Harvard Town Clerk during posted business hours. The copies shall be: two full sized copies (no larger than 30" x 42" but no smaller than 24" x 36"), eight reduced copies (11" x 17") and a complete electronic copy. Submittals must be collated and assembled as ~~17~~ ten individual and complete "packages." The applicant may request and shall be entitled to a written receipt for the materials submitted. The date of filing shall be considered the date upon which the application has been delivered to or received by the Harvard Town Clerk as required in these Rules.

H. (2) The applicant shall list and provide copies of all variances, permits, and other special permits or site plan approvals previously issued by Town boards or state and federal agencies, and a list of any variances or permits required to complete the proposed work. This list ~~should~~ must include but not be limited to any permits from the Board of Health, the Conservation Commission, the Board of Appeals, the Board of Selectmen,^[2] the Department of Public Works, the Army Corps of Engineers, Mass Department of Transportation, and the Department of Environmental Protection; and certificates issued by the Secretary of Environmental Affairs under the Massachusetts Environmental Policy Act.

§125-13M Medium Scale Commercial Uses: (potential change)
Research and development services. Establishments primarily engaged in industrial or scientific research, including limited product testing and use. This classification includes electronic research firms or pharmaceutical research laboratories, but excludes manufacturing, except of prototypes, ~~or medical testing and analysis~~ and no storage of toxic or virulent substances.