

**TOWN OF HARVARD  
PLANNING BOARD AGENDA  
MONDAY JANUARY 3, 2022 @ 7:00PM**

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**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.**

Topic: UpperTHProWebinar Planning Board  
Time: Jan 3, 2022 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting  
<https://us02web.zoom.us/j/82223662394?pwd=VXZHQnNSK1dMYU9oK3dCVEVOZ2hRUT09>

**Meeting ID: 822 2366 2394**  
**Passcode: 064426**  
One tap mobile  
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**Public Comment**

**New Business:** a) Discuss the State's Multi-Family District Requirements

**Standard Business:** a) Board Member Reports

- Representatives & Liaisons Update
- Community Matters

b) Director's Report  
c) Approve Minutes

**Public Hearing:**  
**7:15pm Scenic Road Consent – Philip Cutler, 56 Stow Road** for the rebuilding of a stonewall on either side of the existing driveway

**Old Business:** a) Spring Annual Town Meeting, 2022 - Open Space Residential Development (OSRD)

- Review schedule
- Comments on Proposed Draft

**NEXT SCHEDULED MEETING:  
JANUARY 24, 2022**





## Director of Community and Economic Development

# UPDATE

January 3, 2022

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### ■ DRAFT Compliance Guidelines for Multi-family Districts Under Section 3A of the Zoning Act

On Wednesday, December 15<sup>th</sup>, the Department of Housing and Community Development released Compliance Guidelines for the requirements for MBTA communities to establish an as-of-right (by-right) multifamily housing zoning district. Upon cursory review of the documentation, I wanted to provide members with some highlights:

1. Must establish a district of a “reasonable” size (at least 50 acres of land).
2. May have sub-districts with differing densities as long as the overall district meets the minimum requirement.
3. Must allow at least 15 units/acre (minimum gross density).
4. Must be without any age restrictions.
5. Must be legally and practically allowed.
6. Should be in areas that have safe and convenient access to transit by bicycles and pedestrians.
7. Must allow for at least 10% of units as share of total housing stock but also must allow at least 750 units (50 acres x 15 units/acre).
8. Communities must estimate the unit capacity for each district. The minimum required capacity must be attainable in the district(s).
9. Districts may be established that already include existing multifamily units.
10. When an MBTA community has no land area within 0.5 mile of a transit station (Harvard), the multi-family district should, if feasible, be located in an area with reasonable access to a transit station based on existing street patterns, pedestrian connections, and bicycle lanes, or in an area that otherwise is consistent with the Commonwealth’s sustainable development principles.
11. DHCD must make a “Determination of Compliance” for each applicable community, which may be interim, allowing Harvard to establish the requisite bylaws and mapped area(s).

12. Interim compliance requires:
  - a. Creation of an Action Plan
  - b. Implementation of Action Plan
  - c. Adoption of Zoning Amendment
  - d. Request Determination of Full Compliance
13. Effect of Non-Compliance – The MBTA community will not be eligible for funds from the following grant programs: (i) the Housing Choice Initiative; (ii) the Local Capital Projects Fund; or (iii) the MassWorks infrastructure program.
14. To remain in compliance while DHCD is collecting public comment on the Draft Guidelines, an MBTA community must:
  - Submit the MBTA Community Information Form by 5:00 p.m. on May 2, 2022.
  - Hold a briefing of your City Council, Town Council or Select Board on the Draft Compliance Guidance no later than May 2, 2022 and attest to that on the MBTA Community Information Form.

At this point, I also have a few questions:

1. Can this be as part of a mixed-use zoning as long as the 15 units/acre is incorporated?
2. If yes to #1, can this be as part of MGL 40R and 40S?
3. Could we preliminarily modify ARV-SP to incorporate this and then later integrate it into the Ayer Road Form Based Code?

Monday's meeting should cover the following issues:

1. How to go about searching for land or lands suitable to rezone multi family.
2. Develop criteria for site(s) location and Bylaw elements.
3. Development of a draft Bylaw.
4. How to engage the public in this process.
5. The development of an "Action Plan"

Since the Select Board should be informed of the Board's interest in developing steps to pursue as part of an Action Plan as soon as possible, the Planning Board should formally notify the Select Board as soon as possible that the Planning Board will discuss this in January.

I may have additional detail prior to our Monday meeting. If you have any questions prior, please contact me at [cryan@harvard-ma.gov](mailto:cryan@harvard-ma.gov) or 978.456.4100.323.

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## ■ Other Topics in Planning and Development

***Ayer Road Vision Plan RFP*** – The project is close to having the scope and contract accepted. The consultant has already developed the community survey and I expect to release it after the new year.

***Hazard Mitigation Plan*** – The review team meeting has been scheduled for January 4, 2022 and I also have contacted the Town Administrator regarding a project committee. This discussion needs a follow up.

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## ■ OSRD Review Discussion

As noted in the comments document sent on 12/15, So far I have received comments from four individuals. I have made edits to the primary document, the proposed Chapter 125-35, plus both accompanying documents, Chapter 125-2 and Chapter 133-60 and had previously recommended that we focus on specific review subjects as follows:

1. Overall Document Organization and Structure
2. Errors, Omissions, Inconsistencies, Conflicts
3. Key Question #1: By-Right, Special Permit, or Both
4. Key Question #2: The Economics of OSRD (Public and Private)
5. Key Question #3: Open Space Ownership and Maintenance
6. Dimensions, Calculations, and the Overall Math of the Bylaw
7. Other Issues

We had previously begun to discuss organization and structure and there were several comments received that asked to address this. In the process of trying to address all comments received, I did take another look at structure. At this point in time, I chose not to make any changes to the structure after making a number of edits in response to other comments and after developing a guidebook, I made the judgement that these changes and the guidebook clarify some of the perceived ambiguity.

Importantly, I also noted that what might have created some of the confusion emanates from the decision to decouple the processes and procedures from earlier drafts and move this material over to Chapter 133. Comments on how other bylaws from other towns are easier to understand have noted that process is integrated into these bylaws and that is correct. They do have everything self contained. We chose to move process out because at that time, the draft was over 20 pages long and members were concerned that this length was excessive and would never pass Town Meeting.

So let me summarize that changes that have been made since the last draft and hope that this has simplified things slightly:

1. Added a contents section at the top. While our Bylaw has not done this previously, many other bylaws around the country do (see the one I did for Brookline [HERE](#)).
2. I moved B(2) to Chapter 133-60.
3. I added a preliminary statement to the Open Space section explaining that since open space is the central organizing principle for the Bylaw, this is why it is located here.
4. Changed C(1) from Generally to Calculation of Open Space.
5. Eliminated some extraneous open space language including non-common OS.
6. Changed Permanent Open Space to Open Space Logistics.
7. Increased additional density from 25% to 33%.
8. Eliminated conditional uses and blended all uses together in one section.
9. Modified language for starter home bonus and added language for MGL 40R.
10. Eliminated the hybrid or subdivision option.
11. Deleted the first dimensional table and put the criteria in text.

12. Modified the second dimensional table.
13. Summarized the four-step design process in 133-60 in G.
14. Summarized the application process in 133-60 in H.

I have also developed a draft OSRD Guidebook intended to explain what it is and how it works. I am hoping that these explanations plus the Guidebook will clarify things and make them easier to understand.

I have also updated by compendium of comments and tried to add my explanations after each comment. I will include that in your packet as well for Monday.

If you still agree with the review schedule, we should conclude discussion of structure and organization on Monday and begin discussion of Errors, Omissions, Inconsistencies, Conflicts.



# Harvard Planning Board

## Memorandum

To: Planning Board Members  
From: Christopher Ryan, AICP  
Date: Thursday, December 30, 2021  
RE: Scenic Road Consent; Philip Cutler, 56 Stow Road

### Introduction

Applicant is seeking to repair a failing stone wall that serves also as a retaining wall by taking it down completely, saving the stones, and rebuilding the wall in the same location using the saved stones. They would also like to add 10' to 14' on each side of the driveway entrance with a flaring of the wall, using the saved stones from the site.

### Comments

This is for a project where the work had already begun when the property owner was notified of the need to file for a Scenic Road Consent application under the auspices of Chapter 90 of the Town Bylaws.

The applicant has provided a site plan showing the extent of work proposed. However, there were no photographs submitted nor was there a more detailed plan showing the location of the proposed driveway flare, as required by the application checklist. These items are important to determine whether there is proposed to be an "appropriate terminus" as described in Section 90-4 B(2) which should be reviewed by the DPW Director for compliance.

Further, since this is a remedial application in response to a violation for commencing work prior to the formal filing of an application and receiving Consent, some enforcement action should be applied.

### Recommendation

The Planning Board should consider requesting the applicant to provide a more detailed site or project area plan with a detail for the driveway flair. Additionally, photographs showing original condition prior to disturbance and current conditions at stop work, should be submitted. These

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materials should be reviewed and commented on by DPW Director and Planning Board staff, and if found acceptable, a recommendation for approval of the Consent is suggested.

Finally, regarding the matter of enforcement, it is recommended that since the violation was pre-application and the property owner was willing to and immediately filed an application ex post facto, that no citation or Section 90-6(E) fine is necessary but that the applicant pay an additional application fee of \$150 as the sole enforcement action.