

**TOWN OF HARVARD  
PLANNING BOARD AGENDA  
MONDAY MAY 16, 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 February 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/83447155227?pwd=eFVVdEpUdW9aSjhZeWh1NGVGdmZ5UT09>

**Meeting ID: 834 4715 5227**

**Passcode: 122659**

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**Public Comment**

**New Business:** a) Modification versus De Minimus Changes to a Special Permits

**Old Business:** a) Multi-Family District Bylaw Mapping Update

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

- Representatives & Liaisons Update
- Community Matters

b) Director's Report

c) Approve Minutes

**Public Hearings:**

7:30pm **Modification of Special Permit– Michael Hood – Three Seasons Landscape, 264 Ayer Road**, to identify additional areas to be used to exhibit various seasonal products and other activities not previously approved

8:00pm **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

8:05pm **Continuation of a Special Permit & Site Plan Review – Kennedy & Company, 295 Ayer Road**, for Landscape Services

**NEXT SCHEDULED MEETING:  
JUNE 6, 2022**





## Director of Community and Economic Development

# UPDATE

May 16, 2022

Note that this UPDATE is being developed one week early due to my vacation next week. I will wait until Friday, May 6<sup>th</sup> to submit it to make sure I get as much up-to-date information as possible. I may also try to make some amendments on Monday the 16<sup>th</sup> and resend by noon.

### ■ Special Permit and Site Plan Review; 203 Ayer Road

#### SYNOPSIS

- Provided a response to applicant's rejoinder to Director's UPDATE of 4/25/2022. These comments will be provided in BLUE.

**RECOMMENDATION:** Hear applicant update and anticipate continuing the hearing to a future date.

**Request:** The Applicant is seeking two Special Permits for a commercial development in the C district. Based on the provisions of Sections 125-52 and 125-23(B)(2) of the Protective Bylaw, such developments and businesses are allowed in the C district with a Special Permit and Site Plan Review.

STATUS OF APPLICATION – See SYNOPSIS above.

PEER REVIEW – Planning Board shall discuss the proposal submitted by Beals & Thomas for \$12,000 to conduct this review.

SECTION 125-37 SPECIAL PERMIT– This Special Permit was originally recommended that the applicant file due to seeking a building that met the threshold of this section. As recommended by staff review, the applicant has filed to request a waiver from this requirement. Specific provisions of 125-37 can be addressed under the Section 125-52 review.

SECTION 125-39 SITE STANDARDS – Several comments shall be provided in regard to the Site Plan Standards.

- **Site Standards and ARV-SP & Zoning Requirements** - Flexibility related to site standards and dimensional requirements is not intended to provide the applicant relief from otherwise strict standards but instead is directly related to the promotion of the key objective of ARV-SP, which, as stated in Subsection A2, is, “...to promote the creation of a village commercial identity for commercial properties located on Ayer Road, and to accomplish the goals and objectives set forth for this area in the Town's Master Plan adopted by the Planning Board...” Any flexibility in the application or granting of these provisions should be viewed through that lens.
- **Parking, etc.** - This reviewer notes that the applicant’s proposed provision of “shared parking” shall be evaluated for meeting this objective once the final site plan has been developed in order to assess how the various buildings and proposed uses interplay. Shared parking is also intended to share spaces beyond the extents of a proposed application.
- **Parking, etc.** - The trip generation information provided in the 4/25 UPDATE was intended as a learned example only. There is no way to accurately assess trip generation without knowing the full set of specific uses intended for the site.
- **Sidewalks** - It is up to the Board as to whether they wish to request sidewalk bond as a contingency in event the SUP is not built. There is precedent.

#### SECTION 125-46 SPECIAL PERMITS

- Section C. specifically states that a Special Permit, “...shall be authorized *only* (emphasis mine) subject to applicable provisions of § 125-39, Site standards, and any special requirements for the particular class of special permit and only if, in addition, the authorizing board finds that the granting of the permit: (c) Will be in harmony with the general purpose and intent of the Bylaw, including *each purpose* (emphasis mine) stated in § 125-1, Purpose, which is pertinent to the particular application.” The Applicant is welcome to disagree with the individual Purpose criteria evaluations in the Staff Report but the language provided above from the Bylaw is clear that they can and should be applied, as applicable.

#### SECTION 125-52 AYER ROAD VILLAGE SPECIAL PERMIT – Provided additional comments based on Applicant responses for 4/25 meeting:

- Agree with the Applicant that ARV-SP applications do not need to meet every objective. However, it is logical to assume that of the six (6) listed objectives in Section A1, many or most should apply in order to meet the spirit and intent of the Bylaw. For those that cannot be adhered to, the Applicant should explain why a specific objective is not reasonable and why the alternative not meeting the objective is a better option.
- The Staff Report does indeed assert that at this time and for this current plan, most of the listed objectives have not been met. This could change based on subsequent revisions,

but for now, that is the position of this reviewer. The Applicant asserts that it is up to the Planning Board to make the final determination as to whether this (or for that matter any other element of the Bylaw) has been met, and that staff, peer review, or any other information that the Board uses to come to a decision is only advisory. Further, the Applicant suggests that the Planning Board determination should be “subjective” which is defined by the Cambridge Dictionary as, “influenced by or based on personal beliefs or feelings, rather than based on facts.” And I would respectfully disagree that this is the basis of which an informed determination or ultimate decision on this application should be made.

- The Applicant uses a University of Delaware definition of “mixed-use” and there are many other definitions circulating that range from similar to markedly different. This one just happens to align with the needs of the Applicant. I would suggest that given the fact that §125-13(Z) provides guidance language that appears to try to define the term for the purpose of the Bylaw, using the exact same term used in §125-52, this was the intent of the authors and should be the governing definition. That being said, it is not an optimal definition, may not lead to the best development outcome, and thus the Planning Board is seeking Town Counsel opinion regarding these Bylaw provisions and what latitude the Planning Board has in being flexible for the purpose of good results.
- Regarding connectivity, the Applicant appears to be suggesting that connections between the various uses within their project site, and pedestrian connections to other sites, constitutes meeting the G3B criteria. I would re-emphasize that this reviewer does not interpret it that way. The provision states, “Connectivity between adjoining sites, or provisions for curb-cut reduction, shared access, and shared parking.” As I have stated previously, it is my interpretation that “adjoining sites” refers to non-affiliated land owned by someone else and separately developed or developable. This leads directly to the “curb cut reduction” that would result. Shared access is being able to navigate through multiple parcels so as to avoid having to go back out on the roadway for multiple destinations.
- The proposed façade changes are a good sign that the applicant is willing to address commentary on design, but this is not directly relevant to the Planning Board at this time. Once the Design Review Board process has been completed, the Design Guidelines criteria will be integrated into the discussion of the application. Of greater applicability now would be the urban design perspective and whether the project in any way approaches “a village commercial identity” A(2) and “development should be located, grouped and sited in a manner to respect the context of any adjoining existing residential uses. All uses in the new development should be clustered appropriately.” D(1).
- Parking subordination is partly placing the bulk of the parking to the rear but also reducing parking as part of the shared parking objective, integrating pedestrian and bicycle connectivity, and providing ride sharing or other ways of reducing single occupancy vehicle trips.
- Regarding Section G(3) findings, note the following responses:

- (i) Applicant should indicate clearly how the project provides more natural resource preservation that would otherwise be required by other mandatory bylaws, rules, and regulations. This reviewer asserts that no credit for incentives should be extended for actions that would be required anyway.
- (ii) The connectivity and access question has been addressed above.

More analysis will be provided once the initial Peer Review process has concluded.

**Recommendation:** Hear applicant update and continue hearing to a future date certain.

## ■ Special Permit Modification – 264 Ayer Road (Michael Hood D.B.A. Three Seasons Landscape)

### *SYNOPSIS*

**Summary:** The applicant, Michael Hood, is seeking to modify a previously granted Special Permit to use the front yard of the parcel for the display of seasonal products in bins. The revised site plan broadly depicts the areas in the front where the Applicant seeks to have display areas approved by this request. See a photograph of current conditions below:



### **Section 125-38, Site Plans and Section 125-39, Site Standards**

**Parking and Loading** – No parking blocks on site. Appears employees are parking on the grass as noted at far right of photograph above. No handicap parking space observed.

**Screening** – Visibility is the purpose of this request.

**Fire Protection** – Pending comments from Fire Department.

**Drainage – No significant issues.**

**Sidewalks – Not applicable.**

**Section 125-40, Lighting –** Board may wish to ask if any lighting has been added or is anticipated to be added, particularly for this display area. A site visit observed at least one unshielded light in the parking area.

**Section 125-41, Signs –** The display area signs do not appear to meet the limitations imposed by the Bylaw. The Board may wish to enforce this or have further inquiry done to ensure that this assessment is accurate.

### **Special Permit Requirements / Special Permit Authorization**

Does not appear to trigger additional concerns related to Sections 125-1 or 125-20. The Board may wish a staff assessment of whether any of the C District Design Guidelines should be undertaken in order to ensure consistency with how Design Guidelines may be applied to other landscaping businesses in the district. As an example, the following may be applicable in this modification: Site Landscaping Guidelines including street trees and front and side yard landscaping.

### **Special Conditions – May 18, 2020**

The following Special Conditions were applied to the decision of May 18, 2020 for this Special Permit. A site visit on May 5, 2022 contributed to the observations noted below.

1. The Applicant offers the Town a payment-in-lieu, rather than providing the 6' concrete sidewalk specified in the Commercial Design Guidelines (Section H, p. 19) or gravel path based on a cost per linear foot of \$15.13 and on a 5' width. In this case, a payment would translate to \$4,266.66. THIS CONDITION MET.
2. The applicant provides 6' commercial grade parking blocks for all gravel spaces. PARKING BLOCKS NOT VISIBLE ON AERIAL PHOTOGRAPHY NOR ON SITE VISIT. BOARD SHOULD INQUIRE AS TO WHETHER THE BLOCKS ARE PLANNED FOR INSTALLATION OR IF APPLICANT HAS A REASON FOR THEIR ABSENCE.
3. The driveways provide clear directional signage and that the narrower portion of the driveway be restricted from two-way commercial traffic. NO DIRECTIONAL SIGNAGE IS ON SITE.
4. The Applicant provides an as-built site plan upon completion of the project prior to final inspection. NO AS-BUILTS HAVE BEEN RECEIVED BY OUR OFFICE.
5. The applicant seeks and receives a driveway permit from the Department of Public Works.

6. If any commercial scale waste receptacle is deemed necessary in the future, that the applicant submit plans to the Planning Board for approval. NO WASTE RECEPTABLE IS VISIBLE ON SITE.

## Comments

This is a fairly straightforward modification. It is suggested that the Applicant explain why not all of the Special Conditions were addressed and why improvements to the site were made without first filing for this modification, which could be defined as a "minor modification". This is technically a violation of the decision, most specifically of Standard Condition VIII, which states, *"This decision allows the proposed improvements and activities in the location shown on the approved site plan. No alterations, changes to the approved improvements, other additional uses or additional improvements shall be allowed without further review and approval by the Planning Board in the form of a modification to the Special Permit."*

Also, there are a few special conditions from the initial Special Permit that have not been met. These include lack of parking blocks, no submitted as-built site plan, and no directional signage. Finally, the proposed product display areas are vague clouds. The Board may wish to have the Applicant be more specific about how the display areas are used and to emphasize that signage is not permitted.

**Recommendation:** Based on the above comments and recommendations, the Board should evaluate and determine what, if any, additional information will be required from the applicant. If satisfied with the responses of the applicant, a modification may be granted with or without additional conditions. However, before a decision is rendered, the applicant should provide the as-built plans as noted above and address satisfactorily the other unmet special conditions.

## ■ Special Permit and Site Plan Review – 295 Ayer Road (Kennedy & Co.)

### Synopsis

The initial peer review process needs to conclude before additional Staff comments will be forthcoming. Applicant should be advised to limit discussion and further revisions until such time so as to avoid unnecessary expenses and time. The Board should consider further continuances timed to align with subsequent milestones. Other issues to note:

1. The temporary use requested by the Applicant is being further researched by the Applicant's agent.
2. Awaiting peer review by Beals & Thomas.
3. Design Review Board will NOT be invoked and all Design Guidelines will be addressed by the Planning Board.

**Recommendation:** Hear applicant update and anticipate continuing the hearing to a future date.



**Request:** The Applicant is seeking a Special Permit for a landscaping and nursery business in the C district. Based on the provisions of Section 125-13(T) of the Protective Bylaw, such businesses are allowed in the C district with a Special Permit and Site Plan Review.

**STATUS OF APPLICATION** – See SYNOPSIS above.

**PEER REVIEW** – Peer review with Beals & Thomas is underway. Estimated completion within three (3) weeks of start.

**SECTION 125-38 SITE PLANS** – Site plan content (Subsection D.) has been met by this filing. Additional staff review will occur once these findings have been received.

**SECTION 125-39 SITE STANDARDS** – Additional staff review will occur once these findings have been received.

**SECTION 125-46 SPECIAL PERMITS** – Additional staff review will occur once these findings have been received.

**SECTION 125-20 USE CRITERIA** – Much of these criteria will be vetted by Peer Review. Others will require consideration later in the process when discussion of site and operation details require discussion.

**Recommendation:** Based on the above comments, the Board may wish to allow limited new information by the applicant and continue the hearing to the next scheduled Planning Board meeting.

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## ■ Ayer Road Vision Plan Project

### *Status of Consulting Work in Phase 1*

We are still trying to structure a contract amenable to both the Town and the vendor. No timetable is estimated for that outcome.

### *Preparations for Phases 2 and 3*

It has been learned that the State, through ARPA program, has recommended fully funding Phases 2 and 3 for this project. It is understood that the funds must next be authorized and encumbered. It is not clear how these funds will be accessed nor any other administrative rules that may apply. Once the funds are available, there is no reason to delay crafting and executing an RFP for this work.

The project page link is here:

<https://www.harvard-ma.gov/economic-development/pages/ayer-road-planning-framework-project>



**HARVARD PLANNING BOARD  
MEETING MINUTES  
APRIL 4, 2022**

Chair Justin Brown called the meeting to order at 7:02pm 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.), Lou Russo (Wheeler Realty Trust), Libby Cole, Tom Scorn Vacca, Andrew Perry, Mike Kennedy Sr and Mike Kennedy Jr.

**Public Comment**

There were no comments from the public this evening

**Board Member Reports**

- **Representatives & Liaisons Updates**
  - *Harvard Climate Initiative Committee* – Burson reported a first draft of the land use goals from the Climate Action plan have been circulated; with another draft expected after town meeting in May.
  - *Transportation Advisory Committee (TAC)* – The public comment meeting on the 25% Design Plan for the Ayer Road Transportation Improvement Project (TIP) was held on March 30<sup>th</sup>, with a decent number of attendees. The plan in its current phase was reviewed. The previously vetted round-about, was brought up again; TAC should review why this aspect of the project was eliminated at their next meeting. The representatives from Mass Department of Transportation (DOT) were surprised that at this phase (25%) that the round-about would be discussed again. Ryan felt the Mass DOT and representatives from The Engineering Company handled it well. Mass DOT has provided the Town an opportunity to discuss this further. Ryan does not think there was a formal vote at TAC pertaining to the round-about. Ryan stated as designed this is a great project that handles some of the issues along the Ayer Road corridor; at the same time there needs to be flexibility for future development that may require adjustments to plan before it is finalized. Donahue stated all of the documents from the March 30<sup>th</sup> meeting are on the Town's website, which can be viewed [here](#). Brown asked if it would be helpful for the Planning Board to weigh in on this matter as it was very clearly determined that the road did not support a round-about. Although the Select Board accepted the 10% design plan, Donahue thinks it would be useful to have review of the process at an upcoming meeting.
- **Community Matters** – None

**Director's Report**

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

**Erosion Control Minor Permit – 32 Finn Road**

Allard noted an Erosion Control Minor Permit was issued late last week to 32 Finn Road for the construction of a barn. Any one aggrieved by this decision may file an appeal pursuant to Mass General Law Chapter 40A Section 17 by April 21<sup>st</sup>.

**Zoning Board of Appeals Request for Comments**

- 247 Littleton County Road – Special Permit request for an addition to a pre-existing nonconforming structure, as well as memorializing nonconforming uses that have been in continuous operation before the zoning was adopted by the Town. Ryan stated the applicant has provided plenty of evidence that

shows these uses existed prior to the adoption of the Protective Bylaw. The addition to the nonconforming structure is compliant with the Bylaw. The ZBA should consider detailing hours of operation, number of the events, etc. within the conditions of the Special Permit. Donahue wondered if the entertainment license required for Carlson's Orchard would also be necessary at this location. Ryan stated that is typically an event-by-event process, so perhaps the ZBA will need to determine how this should be handled moving forward.

#### **Erosion Control Application – 336 Still River Road**

After a review of the revisions made to the decision, Donahue made a motion to accept the decision as revised for the expansion of a sewage disposal system at 336 Still River Road. Cook seconded the motion. The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and Brown, aye.

**Modification of Special Permit & Site Plan Approval Hearing – Scott Patterson, 256 Ayer Road.** Opened at 7:30pm (see page 3 for complete details)

#### **Approve Minutes**

Donahue made a motion to approve the minutes of March 21, 2022 as amended. Thornton seconded the motion. The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and Brown, aye.

**Special Permit, Ayer Road Village-Special Permit and Site Plan Review - Vyonne Chern & Wheeler Realty Trust, 203 Ayer Road.** Opened at 8:00pm (see page 4 for complete details)

**Special Permit & Site Plan Review – Kennedy & Company, 295 Ayer Road.** Opened at 9:14pm (see page 7 for complete details)

#### **Ayer Road Visioning Plan Update**

Ryan reviewed the details for the scheduled presentation and tour of the commercial district this Friday, April 8, 2022 with Senator Eldridge and Representative Sena, along with other Town officials. Donahue will be at the Climate Initiative Committee's Earth Day event on April 30<sup>th</sup> and is willing to discuss any related Planning Board initiative, including this Plan. Cook stated if he is not coaching at that time he can stop by to help out. Brown suggested one page hand out for the Ayer Road Visioning plan. Ryan is expecting the updated scope of work from the consultant by tomorrow.

#### **Discuss the State's Multi-Family District Requirements**

- Select Board Draft Compliance Guidance Briefing– April 19, 2022
- MBTA Community Information Form - Due May 2, 2022

#### **Adjournment**

Thornton made a motion to adjourn the meeting at 10:46pm. Donahue seconded the motion. The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and Brown, aye.

Signed: \_\_\_\_\_ Liz Allard, Clerk

#### **EXHIBITS & OTHER DOCUMENTS**

- Planning Board Agenda April 4, 2022
- Director of Community and Economic Development UPDATE, April 4, 2022

**Harvard Planning Board**

**Modification of Special Permit & Site Plan Approval**

**Scott Patterson, 256 Ayer Road**

**April 4, 2022**

The public hearing was opened at 7:30pm by Chair Justin Brown under MGL Chapter 40A the Zoning Act and the Code of the Town of Harvard Chapter 125 the Protective Bylaw 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

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

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

This hearing is for the Modification of a Special Permit & Site Plan Approval filed on behalf of Scott Patterson to expand the facility known as "The Barn" to properly space existing equipment at 265 Ayer Road, Harvard

Bruce Ringwall, of GPR, Inc. detailed the site plan as previously approved by the Board. The property owner has decided not to rehabilitate the garage, but to remove and square out the athletic facility to allow for more room within the building for storage of equipment, that now has to moved from one location to another to allow for workouts. The addition will be behind the existing building and blocked from the view of the road by the existing house. The requirement within the existing Special Permit including providing an as-built plan; Ringwall stated the submitted plan for this modification serves as that plan. Other revisions to the site plan include relocation the trash bins for the residence to an area west of the parking area.

Ryan stated the Planning Board will need to determine if the Design Review Board (DRB) should review these modifications. Cook did not think this request rose to the level of DRB, but would like to see the elevations of the proposed addition. Cabelus has concerns with increasing the usable area, but not increasing parking, which is already insufficient. Donahue had similar concerns with parking, as well as the re-located trash bins. The current parking configuration includes 14 spots with one being handicapped accessible. There was a concern expressed about access should an ambulance be needed at the site. Could the area where the building is coming down be parking? Ryan stated the impervious surface exchange is close to 1-to1 swap, with the area in which the garage will be removed is proposed to be lawn area; not sure if that can be used for parking. Ryan suggested landscaping for concealing the trash bins.

With a number of unanswered questions, Ringwall had no issues with continuing the hearing. Ringwall noted the roofline will be less than what is there now, with a lower pitch then the existing "Barn". It was suggested expanding existing parking area and remove those that in front of building. Ringwall stated the trash bins are just two typical residential bins, screening may make pick-up difficult for the company doing so.

Donahue made a motion to continue the hearing to April 25, 2022 at 7:30pm. Cook seconded the motion. The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and Brown; aye.

Signed: \_\_\_\_\_ Liz Allard, Clerk

**Harvard Planning Board**

**Special Permit, Ayer Road Village-Special Permit and Site Plan Review**

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

**April 4, 2022**

The public hearing was opened at 8:00pm by Chair Justin Brown under MGL Chapter 40A the Zoning Act and the Code of the Town of Harvard Chapter 125 the Protective Bylaw 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

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

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

This hearing is for s Special Permit, an Ayer Road Village-Special Permit and Site Plan Review filed on behalf of Yvonne Chern & Wheeler Realty Trust for the development of three commercial use buildings, including a Commercial Entertainment and Recreation use at 203 Ayer Road, Harvard.

Brown stated the Design Review Board is engaged on the commercial guidelines and request that the Planning Board members wait for that review to complete prior to digging in on that aspect of the project. The Boards current role is to interpret the bylaw which can be somewhat challenging as relevant parts for this application are scattered throughout.

Bruce Ringwall, of GPR, Inc. introduced Lou Russo, of Wheeler Realty Trust, the property owner, and Yvonne Chern, the applicant. The property is located right off the cloverleaf of Route 2 along Ayer Road. The entire property is a little over 11 acres. Parcel A, as shown on the site submitted with the application, is just over 3 acres, which will be subdivided from the balance of the property as this development moves forward. An Approval Not Required plan has not yet been submitted. The "lollipop" area that extends into the common area of Harvard Green includes a septic system for Harvard Green. The development has been submitted as an Ayer Road Village – Special Permit (ARV-SP), under §125-52, which allows for the creation of separate lots that create village like parcels with interconnections. The development across the road was also completed by ARV-SP. There is a paved way at the property line of the lollipop, but have not discussed a connection with Harvard Green as of yet, however a pedestrian walkway has been proposed. This will provide access from Harvard Green directly to the Charlie Waite Field, with McCurdy Track and the new Council of Aging beyond that. There is no current connection to the lots to the south.

Relative to vehicle access, there is a proposed combined access on Ayer Road into the site with a main corridor that accesses the front and rear of badminton facility (building A), with additional access between the two other potential structures (buildings B and C). In order to achieve the height necessary for the badminton courts the building will be recessed into the ground and allows to achieve the grades required by the Protective Bylaw. The site is down gradient of Harvard Green and will be meeting the height requirements. There is no residential housing proposed within the site. Bike parking will be provided at each of the buildings. A pedestrian space with a gazebo has been proposed as well.

The north side of the property consists of a large body of wetlands that has expanded over the years. The hatched area shown on the plan is the proposed wetland restoration area for the isolated wetland that will be filled for the development of the badminton facility. An Order of Conditions has been issued by

the Conservation Commission for the replication of the isolated wetland adjacent to the existing Bordering Vegetated Wetland.

Ringwall explained the Building A is a proposed 16-court badminton facility, that requires there to be no windows because the shuttlecock is white and would be obstructive from view. Ringwall is working with Design Review Board and the architect to create an esthetically pleasing building. The architectural drawings detail an office space, viewing location and apartment for a facility manager. This property is similar to one owned in Westborough by Chern. Traffic will be mostly in the evening; a traffic study is being prepared. Unlike a tennis club or golf club, with other amenities, such as swimming pool, this location will strictly be badminton courts. As for food service, there will only be prepackaged food.

Ringwall stated this facility is similar to that described in §125-14D of the Protective Bylaw. §125-52G(2) allows for a greater building size, but shall not exceed that more than 10% than allowed under §125-30B. Ringwall noted this is the same provision as those used to create the structures across the street; adding this development takes advantage of the single access and shared parking amongst the businesses. Ringwall stated the parking has been designed to be close to building for daily use, with the back parking lot to be used during tournaments. Ringwall would like to propose different lighting patterns depending the time of year and events taking place. The proposed light details 14' lamppost. Ringwall indicated the setbacks from abutting properties was reduced to 20' a few years ago for the Commercial district. Ringwall stated building A is being proposed to be behind the parking lot to avoid a large-scaled structure fronting on the Ayer Road. The plan calls for screening with landscape. Ringwall debated Ryan's comment regarding §125-39C, in which he stated the plan provides a buffer around the site.

The applicant agrees that peer review is a good idea since the Town does not have an engineer. Ringwall explained stormwater has been designed to meet the new regulations under the Town's Wetland Protection Bylaw, which reduces the volume and rate by 5%. Ringwall argued that peer review should be limited to traffic, stormwater and civil, but not other aspects of the application as he felt those could be handled by Ryan. Ryan will take a look at the comments from Ringwall and provide advice to the Board, including the ARV-SP eligibility.

Donahue stated housing is issue within Town, and asked if it is too late to allow for housing within the two remaining buildings. Ringwall stated the site has the necessary water for housing, but not the sewer capacity. Donahue would like it not to be taken off the table at this point. Russo stated it is not off the table as of yet. §125-52 does require a mixed-use of residential and commercial. After some debate of this statement, Brown indicated §125-13Z defines mix-use development.

Cabelus suggested open spaces and lot widths be shown on a plan, along with the logic behind them. Cook would like to see the architectural plans. It was suggested the parking lots be phased in since the other two buildings are not yet under contract. Cabelus believes §125-52G(3)(b) is being meet, however (c) is not. Cook asked if the drainage basins are designed to reduce phosphorus. Ringwall stated as designed, yes, along with other parameters required by the State's Stormwater regulations.

Donahue made motion to direct staff to work with the applicant's representative to create a scope of work for peer review. Ringwall objects to the peer review of Town planning and zoning and appraisal and land values. Ryan will find reference for land value and appraisal. Cabelus seconded the motion. The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and Brown; aye.

Brown noted the comments received from Patrick Killeen and Board of Health have been distributed to the members and the applicant's representative. Brown asked for any public comment; there were none.

261 Donahue made a motion to continue the hearing to April 25, 2022 at 8:00pm. Cook seconded the motion.  
262 The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye;  
263 Thornton, aye; and Brown; aye.  
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265 Signed: \_\_\_\_\_ Liz Allard, Clerk  
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**Harvard Planning Board**

**Special Permit & Site Plan Review**

**Kennedy & Company, 295 Ayer Road**

**April 4, 2022**

The public hearing was opened at 9:14pm by Chair Justin Brown under MGL Chapter 40A the Zoning Act and the Code of the Town of Harvard Chapter 125 the Protective Bylaw 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

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

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

This hearing is for a Special Permit & Site Plan Review filed on behalf of Kennedy & Company for Landscape Services at 295 Ayer Road, Harvard.

Bruce Ringwall, of GPR, Inc., stated 295 Ayer Road is part of the property on which Rollstone Bank, the Plaza, which including Sorrento's and the Grapevine, and is owned by RDJ Realty Trust, which is approximately 40 acres. The Kennedy's have a lease agreement with RDJ Realty Trust, which will be its own lot of 2.6 acres. Roughly 10 years ago GPR, Inc. was involved with the permitting of the Harvard Solar Garden at the west portion of the property, which allowed for future development along the roadway. Kennedy & Company is moving from its Acton location, where they have been in business for over 40 years. Mike Kennedy Sr. purchased the land in Acton 28-years ago and then sold it to the Town for future development. While Acton decided what to do with the land the Kennedy's were leasing the land. Acton has now determined to use the land for residential development, requiring Kennedy & Company to look for a new site.

The proposal includes renovating the existing house for storage, but may have additional use in the future. A 10' x 20' modular office and a hoop house are proposed, with a new access entrance, along with parking for landscape services, to pick out plantings for Do-it-Yourself or other services provided by Kennedy & Company. Materials to be stored on the site include loam and mulch, along with nursery plants. The Kennedy's will make the existing house safe by installing a new roof, windows, doors and paint. The existing access to the solar garden is provided by an easement over this property that would transfer to Kennedy & Company. The proposal is to use that driveway as well to provide a gravel access for large truck delivery of material. There is proposed septic system that is about ready to be submitted to Nashoba Associated Boards of Health for review, which will connect both house and office space to a signal subsurface disposal system. As required under §125-39F Drainage, surface water runoff will be directed to a forebay.

The application requests a reduction to the required buffer strip to abutting properties to 10% along the southern boundary to be able to locate the storage bins. The nursery plant sale area will be regraded and mulch. Ringwall asked the walkways between the different areas on the site not be paved.

Equipment used during the prime season include 5 dump trucks, a 6-wheeler truck, 4 bobcats, and a yard machine for onsite work, along with a trail to haul the bobcats around. Equipment would be overwintered in the back corner of the property. Landscape service would be provided between the hours of 7:30am and 5:00pm, with the nursery operating between 10am and 5pm, with adjusted hours during

peak times, April to October. The plan details signage at front of property and a hoop house to store equipment out of the elements.

Ryan stated peer review consulting is important here and suggested the Design Review Board (DRB) review the qualifications before the Board makes a determination. Ryan wondered how the easement would be modified, along with the potential for an easement for stormwater sent off site. Ryan is unsure a modular building can be sited for permanent use. More detail pertaining to the improvements to the house are necessary. In addition, the Protective Bylaw requires 50% of site contain green area. Ryan is also interested in comments from other boards and departments.

Cook agrees with Ryan's comments, thinks the application should go through DRB; temporary buildings are only for 6 months at a time, need to really look at that; sidewalks are necessary; better screening for area for parking trucks; not in support of locating structures in the buffer just because the abutting site is doing so; move storage bins to interior of the site; why can't office be with the existing structure as opposed to modular structure. Donahue agrees with Cook pertaining to the use of the existing house and expressed concerns with fire hazard as it pertains to the storage of mulch and irrigation; would like others with more experience to weigh in on the storage of such things as mulch which can combust, and is adjacent to Harvard Power. Cabelus agrees not fan of modular structure; peer review on a limited scope and engaging the DRB. Thornton, agrees, and want to know more about temporary structure. Brown stated if this is sent to the DRB it may not be favorable; pushed back on sidewalk waiver; and agrees with engaging a peer review consultant.

Ringwall heard what the Board was suggesting pertaining to the use of the existing structure, but indicated it would take about a year in order to get it up to code. The easement to the solar garden would reduce access from two to one point. Drainage has been done in the past without peer review. Ringwall also heard what is being said about the sidewalk and buffer strip; can move structures into the site. The hoop house is for storage and not a green house.

Mike Kennedy Sr. stated the modular building could be temporary, but will it need it longer than six months. As for fire concerns, the entire site will be irrigated and the storage of mulch is within allowed limits. Kennedy requested he be able to storage material from the Acton site while they are finalizing the plans with Harvard. After briefly discussing this request additional material was requested in order for the Board to make a determination. Ringwall will work with Ryan to get on the schedule with the DRB.

Donahue made a motion to continue the hearing to April 25, 2022 at 9:00pm. Cabelus seconded the motion. The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and Brown, aye.

Signed: \_\_\_\_\_ Liz Allard, Clerk

**HARVARD PLANNING BOARD  
MEETING MINUTES  
April 8, 2022**

Chair Justin Brown called the meeting to order in person at Upper Town Hall at 1:15pm and virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125. Meeting was hybrid with in person attendees and remote attendees via Zoom platform.

**Members Present:** Justin Brown, Doug Thornton, Stacia Donahue

**Others Present:** Christopher Ryan (Director of Community and Economic Development), John Osborn (Harvard Press), Val Hurley (Harvard Press), Tim Bragan (Town Administrator), Lynn Kelly (Town Clerk), Deb Thompson (COA Director), State Representative Dan Sena (37<sup>th</sup> Middlesex District), State Senator Jamie Eldridge, Daniel Szetela (Assistant to Representative Sena), Bianca DeSousa (Assistant to Senator Eldridge) and Thomas Kilian (Harvard Press photographer)

**Review of the Ayer Road Vision Plan Project**

Ryan opened the meeting with a few introductions of the key people involved with the Ayer Road Commercial District Vision Plan and thanked both Senator Eldridge and Representative Sena for attending our meeting to hear about the plan.

Brown reviewed a presentation describing the 3-step approach the Town is trying to take to achieve an improvement to the commercial corridor on Ayer Road that is in line with what the Town wants to see. Phase 1 is the market analysis that is currently on-going. Phase 1 was originally funded by Select Board, but the Town won approval for a grant to cover the cost of this phase.

If Phase 1 returns with positive results, then the Town Planning Board and Select Board will continue with Phase 2 which will be the vision plan. This phase will involve citizen outreach to develop a clear idea of what the people of Harvard want to see in the commercial district and what they don't want to see that is also informed by the Phase I Market Analysis. The Town would be looking to hire professional consultants to help with this phase so that many voices can be heard and consensus can be built for the vision. Phase 3 would create zoning language of the Phase II vision in a graphically format called Form-Based code. Due to the technical complexity, a consultant would guide this phase. Brown explained that currently our zoning bylaw for the commercial district is just written text. A properly written form-based code gives clear guidelines and graphics about what the zoning should be to achieve the vision the Town created in Phase 2.

Ryan reviewed our current statistics and zoning restrictions on the commercial corridor. The restrictions and lack of infrastructure have led to a commercial district that is sparsely populated and not revenue producing for the Town. Nearly all commercial monies spent by townspeople are spent at businesses outside of Harvard.

Ryan reiterated the desire of the Planning Board and Select Board engage with the citizenry to determine a vision for the corridor and then provide clear zoning to reflect this vision. Ryan noted that Harvard has applied for many grants to help the Town with this 3-phase project. He noted that Harvard is almost always turned down and that he hoped with a better understanding of what we're trying to do, that we might be more successful in the future with our grant applications.

Brown reviewed the desired timing of the proposed plan. Ideally the vision plan and zoning would come first, followed by water and sewer infrastructure upgrades, and last would be the re-pavement and improvement of Ayer Road. The Transportation Improvement Project (TIP) for

Ayer Road commercial corridor for the repaving is currently slated for 2026 with MassDOT and sets a timeframe for the first two actions.

Brown closed the presentation and all interested participants left Town Hall for the COA vans for a tour of the district.

### **Tour of Ayer Road Commercial District**

#### **Stop 1 – 188 Ayer Road (Bower's Brook parcel)**

Ryan reviewed the project at this location as the example of the Town's Ayer Road Village Special Permit (ARV-SP). This parcel includes a mix of retail, commercial office building, and residential all interconnected on the same parcel. Ryan explained that with the ARV-SP the Harvard residents had achieved at making something better in the district, but he hoped that new zoning would go even further with design and connectivity. Ryan also pointed out the empty and underutilized parcels across the street.

#### **Stop 2 – 215 Ayer Road (Post Office)**

Ryan noted that the owner of this parcel would like to further develop this parcel, but lack of infrastructure has hampered further development.

#### **Stop 3 – 16 Lancaster County Road**

Thompson introduced this parcel as the soon-to-be home of the Council on Aging (COA) and how the new expanded capacity at this facility will serve the senior population of Harvard so much better than the current cramped facilities near Town Hall. It was noted the proximity to the McCurdy Track complex and the Post Office was very nice for the seniors. It was also noted that trail improvements that connect Lancaster County Road to Depot Road and a possible new trail connection to connect Old Mill Road to Devens would be nice for biking and walking in this area of Town. The TIP project would also bring a shared use path (SUP) near to this area to connect the COA to Ayer Road. However, there are concerns about traffic getting to and from the senior center and it was noted that nobody on the tour felt it would be safe enough in its current condition to walk from the COA to the Dunkin Donuts up the street.

#### **Stop 4 – 264 Ayer Road (Three Seasons Landscaping)**

Ryan noted that we have multiple landscaping business located on Ayer Road as it is one of the few allowed uses in the corridor. Currently there are 3 with another in the permitting process for a possible total of 4. Additionally, Ryan noted that the Town is facing a new unfriendly 40B project on the parcel across the street at the corner of Old Mill Road and Ayer Road. This parcel will be lost from the commercial district if the project moves forward as housing.

#### **Stop 5 – 285 Ayer Road (Sorento's Plaza)**

Ryan pointed out the underutilized and rather unattractive layout of this parcel. He also noted that it's a large parcel, but yet the parking lot directly abuts wetlands at the back and lacks any filtering or mitigation design. Ryan hoped that new zoning would increase requirements for stormwater runoff and climate impact mitigation design by requiring a buffer zone between parking and protected areas. Brown pointed to the multiple curb cuts for each individual parcel to Ayer Road visible from this location. Debbie Thompson remarked that this illustration finally clarified the proposed improvement and recommended that this aspect be shared in future outreach on the project.

#### **Stop 6 – 325 Ayer Road – (open parcel across from Appleworks)**

Ryan pointed out the orchard (agricultural use) next to the industrial looking use and how there are residential parcels mixed in as well as Ayer Road heads north. He stressed the importance of strong zoning to maintain a harmony in some way even though the parcels are all very different in size and layout. Again, it was pointed out that lack of sewer and water infrastructure along the corridor was really preventing development. However, having proper zoning in place before any

infrastructure was improved would be the only way to ensure maintaining Harvard's unique character.  
Tour concluded with many thanks to all who participated and a group photo was taken by the COA van.

**Adjournment**

Donahue made a motion to adjourn the meeting at 2:57pm. Thornton seconded the motion. The vote was unanimously in favor of the motion.

Signed: \_\_\_\_\_ Stacia Donahue, PB Member

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