

ANNUAL TOWN MEETING

April 1, 2014

The meeting was called to order in the Bromfield Cronin Auditorium at 7:07 p.m. by Moderator Robert Eubank. The call of the meeting and the return of service were found to be in order by Town Clerk Janet Vellante.

Moderator Robert Eubank requested that the town allow the following non-voters to speak to the meeting if necessary:

Timothy Bragan	Town Administrator
Joseph Connelly	Interim Superintendent of Schools
Edward Denmark	Police Chief
Timothy Deschamps	Executive Director Central Mass. Mosquito Control Project
Linda Dwight	HES Principal/Incoming Superintendent
Mark Lanza	Town Counsel
Lorraine Leonard	Finance Director
Richard Nota	Director of Public Works
William Scanlan	Planner
Harald Scheid	Regional Assessor
Richard Sicard	Fire Chief
Debbie Thompson	Director, Council on Aging

ARTICLE 1: ANNUAL REPORTS

To see if the Town will hear the reports of the Board of Selectmen, School Committee, and any other officers or committees that may be ready to make a report and act thereon.

(Inserted by Board of Selectmen)

On a motion by Marie Sobalvarro, 1 St. John Lane, Board of Selectmen, and seconded,

Voted unanimously yes that the Town accept the reports of the Board of Selectmen, School Committee, and any other officers or committees as printed in the 2013 Annual Town Report and hear the reports of any other Town committees or boards which have not included a report in said Town Report.

ARTICLE 2: CONSERVATION COMMISSION - REIMBURSE CPA CONSERVATION FUND

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to reimburse the CPA Conservation Fund a sum of money that was improperly charged to this account, or pass any vote or votes in relation thereto. (Inserted by Conservation Commission)

On a motion by Alice vonLoesecke, 84 Warren Avenue, Finance Committee, and seconded,

Voted greater than 2/3 yes that the Town transfer from the Stabilization Fund \$2,573.23. to reimburse the Conservation Fund funded by the Community Preservation Fund.

ARTICLE 3: PAY BILLS OF PRIOR FISCAL YEARS

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to pay bills of Fiscal Year 2013, or pass any vote or votes in relation thereto.
(Inserted by Board of Selectmen)

On a motion by Ronald Ricci, 19 East Bare Hill Road, Board of Selectmen, and seconded,

Voted unanimously yes that the Town transfer from the Stabilization Fund \$174,270. to pay the outstanding bill of Fiscal Year 2013 of the Department of Public Works.

ARTICLE 4: TRANSFER OF FUNDS TO STABILIZATION

To see if the Town will vote to transfer a sum of money from Fiscal Year 2013 Certified Free Cash to the Stabilization Fund, or pass any vote or votes in relation thereto.
(Inserted by Finance Committee)

On a motion by Alice vonLoesecke, 84 Warren Avenue, Finance Committee, and seconded,

Voted unanimously yes that the Town transfer \$20,000. from Fiscal Year 2013 Certified Free Cash to the Stabilization Fund.

ARTICLE 5: CAPITAL PLANNING AND INVESTMENT COMMITTEE – DEBT PAYMENT

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended by the Town Treasurer, with the approval of the Board of Selectmen, to fund the Capital Planning and Investment Committee's debt service for Fiscal Year 2015, with unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto.
(Inserted by Capital Planning and Investment Committee)

On a motion by Alan Frazer, 157 Bolton Road, Capital Planning and Investment Committee, and seconded,

Voted unanimously yes that the Town appropriate \$156,053. to be expended by the Town Treasurer, with the approval of the Board of Selectmen, to fund the Capital Planning and Investment Committee's debt service for Fiscal Year 2015, with unexpended funds as of June 30, 2015 being returned to their funding source, and that said appropriation be provided by transferring \$156,053. from Fiscal Year 2013 Certified Free Cash.

ARTICLE 6: FISCAL YEAR 2013 CERTIFIED FREE CASH

To see if the Town will vote to transfer a sum of money from Fiscal Year 2013 Certified Free Cash to the Capital Stabilization and Investment Fund, or pass any vote or votes in relation thereto.
(Inserted by Finance Committee)

On a motion by Alan Frazer, 157 Bolton Road, Finance Committee, and seconded,

Voted unanimously yes that the Town transfer \$612,564, from Fiscal Year 2013 Certified Free Cash to the Capital Stabilization and Investment Fund.

ARTICLE 7: OMNIBUS BUDGET

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, such sums of money as may be necessary to defray expenses for Fiscal Year 2015, or pass any vote or votes in relation thereto.

(Inserted by Finance Committee)

On a motion by Alice vonLoesecke, 84 Warren Avenue, Finance Committee, and seconded,

Voted unanimously yes that the Town appropriate of \$ 22,154,538. to defray the expenses of the Town for Fiscal Year 2015 as printed in the Finance Committee Report on pages 25 through 31, and that said appropriation be provided by raising \$21,952,080. by taxation and transferring \$11,748. from Wetlands Fees; and appropriate \$190,710. to defray the expenses of the Harvard Wastewater Management District Commission for Fiscal Year 2015, and that said appropriation be provided by revenues from the wastewater management system.

INSERT BUDGET

ARTICLE 8: RESERVE FUND – FISCAL YEAR 2015

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be placed in the Reserve Fund Account for unforeseen and extraordinary expenses for Fiscal Year 2015, or pass any vote or votes in relation thereto.

(Inserted by Finance Committee)

On a motion by Steven Colwell, 192 Littleton Road, Finance Committee, and seconded,

Voted unanimously yes that the Town appropriate \$350,000. for the Reserve Fund of the Town for unforeseen and extraordinary expenses for Fiscal Year 2015 and that said appropriation be provided by raising \$350,000. by taxation.

ARTICLE 9: GASB 45 OPEB ACTUARIAL VALUATION

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be expended by the Finance Director, with the approval of the Board of Selectmen, to conduct the required bi-annual GASB 45, Other Post Employment Benefits (OPEB), actuarial valuation, with unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

On a motion by Leo Blair, 188 Prospect Hill Road, Board of Selectmen, and seconded,

Voted unanimously yes that the Town appropriate and raise by taxation \$10,000. to be expended by the Finance Director, with the approval of the Board of Selectmen, to conduct the required bi-annual GASB 45, Other Post Employment Benefits (OPEB), actuarial valuation, with unexpended funds as of June 30, 2015 being returned to their funding source.

ARTICLE 10: BOARD OF SELECTMEN – HUMAN RESOURCE/ASSISTANT TOWN ADMINISTRATOR

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be expended by the Board of Selectmen, to create a Human Resource/Assistant Town Administrator position, or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

On a motion by Stuart Sklar, 39 Scott Road, Board of Selectmen, and seconded,

Voted majority yes that the Town appropriate and raise by taxation \$44,165. to be expended by the Board of Selectmen to create a Human Resource/Assistant Town Administrator position.

ARTICLE 11: BOARD OF SELECTMEN – ELECTRONICALLY CONVERT FILE DOCUMENTS

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be expended by the Town Administrator, with the approval of the Board of Selectmen, to begin the process of taking paper file documents and converting them to a readable, digital format, with unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

The following motion was made by Leo Blair, 188 Prospect Hill Road, Board of Selectmen, and seconded,

I move that that the Town appropriate and raise by taxation \$20,000. to be expended by the Town Administrator, with the approval of the Board of Selectmen, to begin the process of taking paper file documents and converting them to a readable, digital format, with unexpended funds as of June 30, 2015 being returned to their funding source.

A motion made by Paul Green, 288 Old Littleton Road, to move the question was seconded and voted greater than 2/3 yes.

Voted majority yes that the Town appropriate and raise by taxation \$20,000. to be expended by the Town Administrator, with the approval of the Board of Selectmen, to begin the process of taking paper file documents and converting them to a readable, digital format, with unexpended funds as of June 30, 2015 being returned to their funding source.

ARTICLE 12: WATER COMMISSION –REPLACE 500 FT. OF WATER PIPE ON POND RD.

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended by the DPW Director, with the approval of the Water Commissioners, to replace approximately 500 feet of water pipe on Pond Road, from the Pond Road Parking area to the water pumping station, with unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by DPW and Water Commission)

On a motion by Ronald Ricci, 19 East Bare Hill Road, Board of Selectmen, and seconded,

Voted unanimously yes that the Town raise and appropriate \$9,500. to be expended by the DPW Director, with the approval of the Water Commissioners, to replace approximately 500 feet of water pipe on Pond Road, from the Pond Road Parking area to the water pumping station, with unexpended funds as of June 30, 2015 being returned to their funding source.

ARTICLE 13: WATER COMMISSION – WATERPROOF EXTERIOR OF BOLTON ROAD WATER TANK

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended by the DPW Director, with the approval of the Water Commissioners, to waterproof the exterior of the Bolton Road water tank, with unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by DPW and Water Commission)

On a motion by Ronald Ricci, 19 East Bare Hill Road, Board of Selectmen, and seconded,

Voted unanimously yes that the Town appropriate and raise by taxation \$8,700. to be expended by the DPW Director, with the approval of the Water Commissioners, to waterproof the exterior of the Bolton Road water tank, with unexpended funds as of June 30, 2015 being returned to their funding source.

ARTICLE 14: DPW – PREPARE AND ELECTROSTATICALLY PAINT FUEL TANK

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended by the DPW Director, with the approval of the Board of Selectmen, to prepare and electrostatically paint the fuel tank located at the DPW, with unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by DPW)

On a motion by Lucy Wallace, 18 Orchard Hill, Board of Selectmen, and seconded,

Voted unanimously yes that the Town appropriate and raise by taxation \$8,750. to be expended by the DPW Director, with the approval of the Board of Selectmen, to prepare and electrostatically paint the fuel tank located at the DPW, with unexpended funds as of June 30, 2015 being returned to their funding source.

ARTICLE 15: DPW – SEASONAL MOWING

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended by the DPW Director, with the approval of the Board of Selectmen, to hire someone on a part-time basis to do seasonal mowing, with unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by DPW)

On a motion by Lucy Wallace, 18 Orchard Hill, Board of Selectmen, and seconded,

Voted unanimously yes that the Town appropriate and raise by taxation \$15,000. to be expended by the DPW Director, with the approval of the Board of Selectmen, to hire someone on a part-time basis to do seasonal mowing, with unexpended funds as of June 30, 2015 being returned to their funding source.

ARTICLE 16: TOWN CLERK - PRESERVATION OF HISTORIC TOWN DOCUMENTS

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended by the Town Clerk, for restoration and preservation of historic Town documents, with unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Town Clerk)

On a motion by Janet Vellante, 83 Ann Lees Road, Town Clerk, and seconded,

Voted majority yes that the Town appropriate and raise by taxation \$10,000. to be expended by the Town Clerk for restoration and preservation of historic Town documents, with unexpended funds as of June 30, 2015 being returned to their funding source.

ARTICLE 17: PLANNING BOARD – TOWN PLANNER

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to continue the position of Town Planner in Fiscal Year 2015, as an independent contractor, with unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Planning Board)

On a motion by Jim Breslauer, 130 Poor Farm Road, Planning Board, and seconded,

Voted unanimously yes that the Town appropriate and raise by taxation \$60,000. to continue the position of Town Planner in Fiscal Year 2015, as an independent contractor, with unexpended funds as of June 30, 2015 being returned to their funding source.

Procedural Motion:

On a motion by SusanMary Redinger, 121 Ayer Road, School Committee, and seconded,

Voted majority yes that the Town (1) consider and act on Articles 20 through 23 and 25 of the Warrant for the 2014 Annual Town Meeting before consideration and action on Articles 19 of said Warrant; and (2) consider and act on Articles 18, 20 through 23 and 25 of said Warrant pursuant to a single motion.

ARTICLES 18, 20, 21, 22, 23 AND 25

On a motion by SusanMary Redinger, 121 Ayer Road, School Committee, and seconded,

Voted majority yes that the Town take no action on Articles 18, 20 through 23 and 25.

ARTICLE 18: THE BROMFIELD SCHOOL – SAND & PAINT EXPOSED STEEL

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended by the School Department, with the approval of the School Committee, to sand and paint the exposed steel at the Bromfield School, with unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by School Department)

(See procedural motion after Article 17.)

ARTICLE 19: CAPITAL PLANNING AND INVESTMENT COMMITTEE – AMEND CHAPTER 17 OF THE CODE OF HARVARD

To see if the Town will vote to amend the Code of the Town of Harvard, Chapter 17, Capital Planning and Investment Committee; Capital Stabilization and Investment Fund, section 17-2. Duties, paragraph A by making the following changes:

[key to revisions: underlining = additions; ~~striketrough~~ = deletions]

- A. The Committee shall consider matters relating to appropriations from the Capital Stabilization and Investment Fund, and shall make recommendations to the Town or any board, committee or official thereof, and establish policies relative to the funding of capital projects of the Town and set priorities and schedules for such capital projects. The Committee shall study proposed capital outlays involving the acquisition of land or an expenditure of ~~\$10,000~~ \$20,000 or greater and/or having a useful life of at least ~~three~~ five years. All officers, boards, and committees, including the Board of Selectmen and the School Committee, shall by September 30th each year give to such Board, on forms prepared by it, information concerning all anticipated capital projects needing Town Meeting action during the ensuing five years. The Committee shall consider the relative need, timing, and cost of these expenditures and the effect each will have on the financial position of the Town.

Or pass any vote or votes in relation thereto.

(Inserted by Capital Planning and Investment Committee)

On a motion by Keith Cheveralls, 21 Quarry Lane, Capital Planning and Investment Committee, and seconded,

Voted unanimously yes that the Town amend the Code of the Town of Harvard, Chapter 17, Capital Planning and Investment Committee; Capital Stabilization and Investment Fund, Section 17-2. Duties, Paragraph A , Second Sentence by increasing the dollar amount and useful life of proposed capital outlays which the Capital Planning and Investment Committee must study from \$10,000. to \$20,000. and three years to five years, respectively.

ARTICLE 20: HILDRETH ELEMENTARY SCHOOL – RESURFACE FRONT ROADWAY AND PARKING LOT

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended by the School Department, with the approval of the School Committee, to resurface the front roadway and parking lot at the Hildreth Elementary School, with unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto. (Inserted by School Department and Capital Planning and Investment Committee)

(See procedural motion after Article 17.)

ARTICLE 21: HILDRETH ELEMENTARY SCHOOL – BUILDING ASSESSMENT OF THE K-WING

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended by the School Department, with the approval of the School Committee, to conduct a building assessment of the Kindergarten Wing at Hildreth Elementary School, with unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by School Department and Capital Planning and Investment Committee)

(See procedural motion after Article 17.)

ARTICLE 22: THE BROMFIELD SCHOOL – REPAIR AND REPLACE HEAT RECOVERY UNITS AND BATHROOM EXHAUST SYSTEMS

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended by the School Department, with the approval of the School Committee, to repair and replace heat recovery units and bathroom exhaust systems at The Bromfield School, with any unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by School Committee and Capital Planning and Investment Committee)

(See procedural motion after Article 17.)

ARTICLE 23: THE BROMFIELD SCHOOL – ADD ENTIRE BUILDING TO EMERGENCY GENERATOR

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended by the School Department, with the approval of the School Committee, to connect the remaining portions of the building to the emergency generator at The Bromfield School, with any unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by School Committee and Capital Planning and Investment Committee)

(See procedural motion after Article 17.)

ARTICLE 24: HARVARD CABLE TELEVISION/THE BROMFIELD SCHOOL - AIR-CONDITIONING

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended by the School Department, with the approval of the School Committee, to provide for air-conditioning in the new Harvard Cable Television Studio located at The Bromfield School, with unexpended funds as of June 30, 2015 being returned to their funding source or pass any vote or votes in relation thereto.

(Inserted by School Committee, Harvard Cable Committee and Capital Planning and Investment Committee)

The following motion was made by Alan Frazer, 157 Bolton Road, Capital Planning and Investment Committee, and seconded,

I move that the Town appropriate \$19,850. to be expended by the Community Cable Access Committee, to provide for air-conditioning in the new Harvard Cable Television Studio located at The Bromfield

School, with unexpended funds as of June 30, 2015 being returned to their funding source and that said appropriation be provided by transferring \$19,850. from funds currently in the Capital Stabilization and Investment Fund.

A motion made by Leo Blair, 188 Prospect Hill Road, to move the question was seconded and voted greater than 2/3 yes.

Voted greater than 2/3 yes that the Town appropriate \$19,850. to be expended by the Community Cable Access Committee, to provide for air-conditioning in the new Harvard Cable Television Studio located at The Bromfield School, with unexpended funds as of June 30, 2015 being returned to their funding source and that said appropriation be provided by transferring \$19,850. from funds currently in the Capital Stabilization and Investment Fund.

ARTICLE 25: THE BROMFIELD SCHOOL – REPLACE SPALLING CONCRETE IN FRONT ENTRANCE AND WALKWAYS

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended by the School Department, with the approval of the School Committee, to replace spalling concrete in the front entrance and walkways located at The Bromfield School, contingent upon the approval of a Proposition 2½ capital outlay expenditure exclusion under Massachusetts General Laws Chapter 59, § 21C(i½) ballot question at the April 2014 Annual Town Election, with any unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by School Committee and Capital Planning and Investment Committee)

(See procedural motion after Article 17.)

ARTICLE 26: DPW – PURCHASE NEW FRONT END LOADER

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended by the DPW Director, with the approval of the Board of Selectmen, to purchase a new front end loader, contingent upon the approval of a Proposition 2½ capital outlay expenditure exclusion under Massachusetts General Laws Chapter 59, § 21C(i½) ballot question at the April 2014 Annual Town Election, with any unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by DPW and Capital Planning and Investment Committee)

On a motion by Marie Sobalvarro, 1 St. John Lane, Board of Selectmen, and seconded,

Voted majority yes that the Town appropriate and raise by taxation, \$160,000. to be expended by the DPW Director, with the approval of the Board of Selectmen, to purchase a new front end loader, contingent upon the approval of a Proposition 2½ capital outlay expenditure exclusion under Massachusetts General Laws Chapter 59, § 21C(i½) ballot question at the April 8, 2014 Annual Town Election, with any unexpended funds as of June 30, 2015 being returned to their funding source.

ARTICLE 27: DPW – PURCHASE NEW LIGHT DUTY ONE TON DUMP TRUCK

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended by the DPW Director, with the approval of the Board of Selectmen, to purchase a new light duty one ton dump truck, with any unexpended funds as of June 30, 2015 being returned to

their funding source, or pass any vote or votes in relation thereto.
(Inserted by DPW and Capital Planning and Investment Committee)

On a motion by David Kassell, 112 West Bare Hill Road, Capital Planning and Investment Committee, and seconded,

Voted greater than 2/3rds yes that the Town appropriate \$70,000. to be expended by the DPW Director, with the approval of the Board of Selectmen, to purchase a new light duty one ton dump truck, with any unexpended funds as of June 30, 2015 being returned to their funding source and that said appropriation be provided by transferring \$70,000. from the Capital Stabilization and Investment Fund.

ARTICLE 28: PARK AND RECREATION – BEACH PARKING EXPANSION

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, a sum of money to be expended by the Park and Recreation Commission, to expand the parking at the Town Beach at Bare Hill Pond, with any unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Park and Recreation Commission and Capital Planning and Investment Committee)

On a motion by Debbie Ricci, 19 Bare Hill Road, Capital Planning and Investment Committee, and seconded,

Voted less than 2/3rds yes [DOES NOT PASS] that the Town appropriate \$30,000. to be expended by the Park and Recreation Commission, to expand the parking at the Town Beach at Bare Hill Pond, with any unexpended funds as of June 30, 2015 being returned to their funding source and that said appropriation be provided by transferring \$30,000. from funds currently in the Capital Stabilization and Investment Fund.

ARTICLE 29: COMMUNITY PRESERVATION COMMITTEE REPORT

To see if the Town will vote to hear the report and recommendations of the Community Preservation Committee on the Fiscal Year 2015 Community Preservation Budget, or pass any vote or votes in relation thereto.

(Inserted by Community Preservation Committee)

On a motion by Debbie Ricci, 19 Bare Hill Road, Community Preservation Committee, and seconded,

Voted unanimously yes that the Town hear the report and recommendations of the Community Preservation Committee on the Fiscal Year 2015 Community Preservation Budget.

ARTICLE 30: COMMUNITY PRESERVATION FUNDS – TRANSFERS

To see if the Town will vote to transfer the sum of \$4,300 from Community Preservation Fund unspecified reserves to Community Preservation Fund Affordable Housing Reserves and to transfer the sum of \$8,000 from Community Preservation Fund unspecified reserves to Community Preservation Fund Historic Reserves, or pass any vote or votes in relation thereto.

(Inserted by Community Preservation Committee)

On a motion by Debbie Ricci, 19 Bare Hill Road, Community Preservation Committee, and seconded,

Voted unanimously yes that the Town transfer \$4,300. from Community Preservation Fund unspecified reserves to Community Preservation Fund Community Housing Reserves and to transfer the sum of \$8,000 from Community Preservation Fund unspecified reserves to Community Preservation Fund Historic Resources Reserves.

ARTICLE 31: HARVARD MUNICIPAL AFFORDABLE HOUSING TRUST FUND

To see if the Town will vote to appropriate and transfer \$100,000 from Fiscal 2015 Community Preservation Revenues, \$4,300 from Community Preservation Fund Housing Reserves and \$45,700 from Community Preservation Fund unspecified reserves, for a total of \$150,000, to be placed in the Municipal Affordable Housing Trust Fund, or pass any vote or votes in relation thereto.
(Inserted by Harvard Municipal Affordable Housing Trust and Community Preservation Committee)

On a motion by Leo Blair, 188 Prospect Hill Road, Community Preservation Committee, and seconded,

Voted majority yes that the Town appropriate and transfer \$100,000. from Fiscal Year 2015 Community Preservation Revenues, \$4,300 from Community Preservation Fund Community Housing Reserves, and \$45,700. from Community Preservation Fund unspecified reserves, for a total of \$150,000. to be placed in the Harvard Municipal Affordable Housing Trust Fund.

ARTICLE 32: CONSERVATION COMMISSION – CONSERVATION FUND

To see if the Town will vote to appropriate and transfer from Fiscal 2015 Community Preservation Revenues the sum of \$40,000 and from Community Preservation Fund unspecified reserves the sum of \$60,000, for a total of \$100,000, to be placed in the Conservation Fund, to be expended by the Conservation Commission for the purpose of purchasing land and/or interest in land for open space purposed, or pass any vote or votes in relation thereto.
(Inserted by Conservation Commission and Community Preservation Committee)

On a motion by Beth Williams, 3 Granite View Lane, Community Preservation Committee, and seconded,

Voted majority yes that the Town appropriate and transfer \$40,000 from Fiscal Year 2015 Community Preservation Revenues and \$60,000. from Community Preservation Fund unspecified reserves, for a total of \$100,000 to be placed in the Conservation Fund.

ARTICLE 33: COUNCIL ON AGING – REPLACE WINDOWS AT THE HILDRETH HOUSE

To see if the Town will vote to appropriate and transfer from Fiscal 2015 Community Preservation Funds the sum of \$66,600 to be expended by the Hildreth House Improvement Committee for the replacement of windows at the Hildreth House, with unexpended funds as of June 30, 2016 being returned to their funding source, or pass any vote or votes in relation thereto.
(Inserted by Hildreth House Improvement Committee and Community Preservation Committee)

On a motion by Deb Thomson, 130 Poor Farm Road, Community Preservation Committee, and seconded,

Voted majority yes that the Town appropriate and transfer from Fiscal Year 2015 Community

Preservation Revenues \$66,600 to be expended by the Hildreth House Improvement Committee for the replacement of windows at the Hildreth House, with unexpended funds as of June 30, 2016 being returned to their funding source.

ARTICLE 34: PARK AND RECREATION – RESURFACING (RESTORATION OF) MCCURDY TRACK

To see if the Town will vote to appropriate and transfer from Community Preservation Fund unspecified reserves the sum of \$120,000 to be expended by the Harvard Park and Recreation Commission for resurfacing of the McCurdy Track at Harvard Park with unexpended funds as of June 30, 2016 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Community Preservation Committee)

On a motion by Leo Blair, 188 Prospect Hill Road, Community Preservation Committee, and seconded,

Voted majority yes that the Town appropriate and transfer from Fiscal Year 2015 Community Preservation Fund unspecified reserves \$120,000 to be expended by the Harvard Park and Recreation Commission for resurfacing of the McCurdy Track at Harvard Park with unexpended funds as of June 30, 2016 being returned to their funding source.

ARTICLE 35: HISTORICAL COMMISSION – SHAKER CEMETERY PERIMETER TREE REMOVAL

To see if the Town will vote to appropriate and transfer from Community Preservation Fund Historic Reserves \$17,000 to be expended by the Historical Commission for the removal of trees around the perimeter of the Shaker Cemetery, with unexpended funds as of June 30, 2016 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Historical Commission and Community Preservation Committee)

On a motion by John Martin, 5 Fairbank Street, Historical Commission and Community Preservation Committee, and seconded,

Voted majority yes that the Town appropriate and transfer from Community Preservation Fund Historic Reserves \$17,000 to be expended by the Historical Commission for the removal of trees around the perimeter of the Shaker Cemetery, with unexpended funds as of June 30, 2016 being returned to their funding source.

ARTICLE 36: COMMUNITY PRESERVATION COMMITTEE – ADMINISTRATIVE EXPENSES

To see if the Town will vote to appropriate and transfer from Community Preservation Fund Unallocated Reserves the sum of \$2,500 to be expended by the Harvard Community Preservation Committee for administrative expenses, including Community Preservation Coalition dues and necessary legal fees, with unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Community Preservation Committee)

On a motion by Didi Chadran, 206 Stow Road, Community Preservation Committee, and seconded,

Voted unanimously yes that the Town appropriate and transfer from Community Preservation Fund Unallocated Reserves \$2,500. to be expended by the Harvard Community Preservation Committee for administrative expenses, including Community Preservation Coalition dues and necessary legal fees, with unexpended funds as of June 30, 2015 being returned to their funding source.

ARTICLE 37: COUNCIL ON AGING - HILDRETH HOUSE PARKING REPAIRS

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to be expended by the Board of Selectmen to repair the existing parking area at the Hildreth House for safety purposes, with any unexpended funds as of June 30, 2015 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by the Harvard Council on Aging)

On a motion by Bruce Dolimount, 165 West Bare Hill Road, Council on Aging, and seconded,

Voted majority yes that the Town take no action on this article.

Procedural Motion:

On a motion by Marie Sobalvarro, 1 St. John Lane, Board of Selectmen, and seconded,

Voted majority yes that the Town consider and act on Articles 49 through 53 of the Warrant for the 2014 Annual Town Meeting, sequentially, before consideration and action on Article 38 of said Warrant.

ARTICLE 49: REVOLVING FUNDS

To see if the Town will vote to:

1) continue the Revolving Fund Account, as allowed by Massachusetts General Laws Chapter 44, Section 53E ½, to be used to fund the activities of the Council On Aging with the revenue or expenditures of this account not to exceed \$35,000 in Fiscal Year 2015, and

2) continue the Revolving Fund Account, as allowed by Massachusetts General Laws Chapter 44, Section 53E ½, to be used to fund the activities of the Fourth of July Committee with the revenue or expenditures of this account not to exceed \$25,000 in Fiscal Year 2015, and

3) continue the Revolving Fund Account, as allowed by Massachusetts General Laws Chapter 44, Section 53 E ½, to be used to fund the activities of the Harvard Ambulance Service with the revenue or expenditures of this account not to exceed \$150,000 in Fiscal Year 2015, and

4) continue the Revolving Fund Account, as allowed by Massachusetts General Laws Chapter 44, Section 53 E ½, to be used to fund the activities of the Fire Department's S.A.F.E. Program with the revenue or expenditures of this account not to exceed \$15,000 in Fiscal Year 2015,

or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

The following motion was made by Stuart Sklar, 39 Scott Road, Board of Selectmen, and seconded,

I move that the Town continue the revolving fund accounts for purposes and with the expenditure and revenue limitations as printed on Page 57 of the Warrant and Finance Committee Report for the 2014 Annual Town Meeting.

Voted unanimously yes that the Town:

- 1) continue the Revolving Fund Account, as allowed by Massachusetts General Laws Chapter 44, Section 53E ½, to be used to fund the activities of the Council On Aging with the revenue or expenditures of this account not to exceed \$35,000 in Fiscal Year 2015, and
- 2) continue the Revolving Fund Account, as allowed by Massachusetts General Laws Chapter 44, Section 53E ½, to be used to fund the activities of the Fourth of July Committee with the revenue or expenditures of this account not to exceed \$25,000 in Fiscal Year 2015, and
- 3) continue the Revolving Fund Account, as allowed by Massachusetts General Laws Chapter 44, Section 53 E ½, to be used to fund the activities of the Harvard Ambulance Service with the revenue or expenditures of this account not to exceed \$150,000 in Fiscal Year 2015, and
- 4) continue the Revolving Fund Account, as allowed by Massachusetts General Laws Chapter 44, Section 53 E ½, to be used to fund the activities of the Fire Department's S.A.F.E. Program with the revenue or expenditures of this account not to exceed \$15,000 in Fiscal Year 2015,

ARTICLE 50: FIRE DEPARTMENT – EXTEND SUNSET DATE

To see if the Town will vote to extend the sunset date on Article 12, Fire Department Fire Pond Evaluation and Engineering, of the April 2013 Annual Town Meeting from June 30, 2014 to June 30, 2015, or pass any vote or votes in relation thereto.

(Inserted by Fire Department)

On a motion by Ronald Ricci, 19 East Bare Hill Road, Board of Selectmen, and seconded,

Voted unanimously yes that the Town extend the sunset date on Article 12, Fire Department Fire Pond Evaluation and Engineering, of the Warrant for the April, 2013 Annual Town Meeting from June 30, 2014 to June 30, 2015.

ARTICLE 51: PLANNING BOARD – EXTEND SUNSET DATE

To see if the Town will vote to amend its vote under Article 28, Update of Master Plan, of the Warrant for the April 2012 Annual Town Meeting, by extending the sunset date from June 30, 2014 to June 30, 2015, or pass any vote or votes in relation thereto.

(Inserted by Planning Board)

On a motion by Joseph Hutchinson, 26 Westcott Road, Planning Board and Master Plan Steering Committee, and seconded,

Voted majority yes that the Town extend the sunset date on Article 28, Update of Master Plan, of the Warrant for the April 2012 Annual Town Meeting, by extending the sunset date from June 30, 2014 to June 30, 2015.

ARTICLE 52: ACCEPTANCE OF GIFTS OF PROPERTY

To see if the Town will vote to accept gifts of land or interests in land for any municipal purpose, or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

On a motion by Ronald Ricci, 19 East Bare Hill Road, Board of Selectmen, and seconded,
Voted unanimously yes that the Town take no action on this article.

ARTICLE 53: ACCEPTANCE OF HIGHWAY FUNDS

To see if the Town will vote to accept State funds to be used for reconstruction and improvements of public ways, or pass any vote or votes in relation thereto.
(Inserted by Board of Selectmen)

On a motion by Marie Sobalvarro, 1 St. John Lane, Board of Selectmen, and seconded,

Voted unanimously yes that the Town accept State funds to be used for reconstruction and improvements of public ways.

When discussion of adjournment arose, Paul Green, 288 Old Littleton Road, made a motion which was seconded, to reconsider and to go to article 38 and to limit debate to a maximum of 10:00 pm. The motion was defeated.

A motion made by Patricia White, 162 East Bare Hill Road, and seconded, to adjourn to the next day at 7:00 pm in Cronin Auditorium, was voted majority yes.

April 2, 2014 - Second Session

The meeting was called to order in the Bromfield Cronin Auditorium at 7:02 p.m. by Moderator, Robert Eubank

A motion by Paul Green, 288 Old Littleton Road, to limit debate on article 38 to 7:35 pm was seconded, and voted 115 yes, 76 no [DOES NOT PASS - 2/3rds required]

ARTICLE 38: AMEND DOG BYLAWS

To see if the Town will vote to amend the Code of the Town of Harvard, Chapter 24, Dogs, by making the following revisions thereto, or pass any vote or votes in relation thereto:

[key to revisions: underlining = additions; ~~striketrough~~ = deletions]

Article I. Dog Owner Responsibility

[Adopted 3-31-1979 ATM by Art. 33]

§ 24-1. Definitions.

[Amended 12-3-2002 STM by Art. 10]

As used in this bylaw, unless the context otherwise indicates, the following terms shall have the meanings indicated:

DANGEROUS DOG

A dog that either: (i) without justification, attacks a person or domestic animal or fowl causing physical injury or death; or (ii) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal or fowl.

DOG OFFICER

The “animal control officer”, as defined in Massachusetts General Laws Chapter 140, 136A.

DOGS

All animals of canine species, both males and females.

KEEPER

A person, business, corporation, entity or society, other than the owner, having possession of a dog.

OWNER

Any person or persons, firm, association or corporation owning, keeping or harboring a dog as herein defined.

NUISANCE DOG

A dog that: (i) by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or (ii) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one’s quiet and peaceful enjoyment; or (iii) has threatened or attacked livestock or fowl, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

§ 24-2. Responsibility of dog owner or keeper.

The owner or keeper shall prevent his dog from being a nuisance dog or a dangerous dog as defined in § **24-1**.

§ 24-3. Impounding.

It shall be the duty of the Dog Officer to apprehend any dog found to be in a violation of § **24-2** of the bylaw and to impound such dog in a suitable place or to order the owner or keeper thereof to restrain said dog.

§ 24-4. Notice to owner and redemption.

The Dog Officer shall, in matters of impoundment, impoundment fees and redemption of impounded animals, carry out his/her duties in accordance with Sections 151 and 151A of Chapter **140**, and any amendments thereto, of the Massachusetts General Laws.

§ 24-5. Fines.

[Amended 3-30-1985 ATM by Art. 22]

A. Any owner or keeper found in violation of any provision of § **24-2** or any other provision of this bylaw shall be liable for fines as follows:

- (1) First offense: \$50.00
- (2) Second offense: \$100.00

- (3) Third offense: \$200.00.
- (4) Subsequent offenses: \$300.00 for each offense.

B. Any owner or keeper found in violation of an order of the Board of Selectmen issued pursuant to Massachusetts General Laws Chapter 140, Section 157, shall be liable for fines in accordance with Massachusetts General Laws Chapter 140, Section 157A as follows:

- (1) First offense: up to \$500.00
- (2) Second offense: up to \$1,000.00

C. Further, if the owner or keeper of a dog be a minor, the parent or guardian of such minor shall be held liable for any violation of this bylaw.

§ 24-6. Disposition of funds.

The sums collected pursuant to this bylaw shall be accounted for and paid over to the Town Treasurer; provided, however, that under the provisions of the state law, the Dog Officer shall be entitled to all fees paid to him/her for the care of the impounded dogs by the owners or keepers thereof.

§ 24-7. Legality.

In the event that any provision or section of this bylaw is deemed invalid or unenforceable, all other provisions shall remain in full force and effect.
(Inserted by Board of Selectmen)

The following motion was made by Lucy Wallace, 18 Orchard Hill, Board of Selectmen, and seconded,

I move that the Town amend the Code of the Town of Harvard, Chapter 24, Dogs, by making the revisions thereto as printed on pages 39 and 40 of the Finance Committee Report and Warrant for the 2014 Annual Town Meeting.

The following motion was made by Lucy McQuilkin, 124 Bolton Road, and seconded,

I move to amend the article as follows:

A dog that: (i) by constant barking or other disturbance, is a source of annoyance to more than one unrelated person; or (ii) has threatened or attacked livestock or fowl, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

Amendment failed, majority no.

Voted majority yes that the Town amend the Code of the Town of Harvard, Chapter 24, Dogs, by making the following revisions thereto, or pass any vote or votes in relation thereto:

[key to revisions: underlining = additions; ~~striketrough~~ = deletions]

Article I. Dog Owner Responsibility

[Adopted 3-31-1979 ATM by Art. 33]

§ 24-1. Definitions.

[Amended 12-3-2002 STM by Art. 10]

As used in this bylaw, unless the context otherwise indicates, the following terms shall have the meanings indicated:

DANGEROUS DOG

A dog that either: (i) without justification, attacks a person or domestic animal or fowl causing physical injury or death; or (ii) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal or fowl.

DOG OFFICER

The “animal control officer”, as defined in Massachusetts General Laws Chapter 140, 136A.

DOGS

All animals of canine species, both males and females.

KEEPER

A person, business, corporation, entity or society, other than the owner, having possession of a dog.

OWNER

Any person or persons, firm, association or corporation owning, keeping or harboring a dog as herein defined.

NUISANCE DOG

A dog that: (i) by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or (ii) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one’s quiet and peaceful enjoyment; or (iii) has threatened or attacked livestock or fowl, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

§ 24-2. Responsibility of dog owner or keeper.

The owner or keeper shall prevent his dog from being a nuisance dog or a dangerous dog as defined in § **24-1**.

§ 24-3. Impounding.

It shall be the duty of the Dog Officer to apprehend any dog found to be in a violation of § **24-2** of the bylaw and to impound such dog in a suitable place or to order the owner or keeper thereof to restrain said dog.

§ 24-4. Notice to owner and redemption.

The Dog Officer shall, in matters of impoundment, impoundment fees and redemption of impounded animals, carry out his/her duties in accordance with Sections 151 and 151A of Chapter **140**, and any amendments thereto, of the Massachusetts General Laws.

§ 24-5. Fines.

[Amended 3-30-1985 ATM by Art. 22]

A. Any owner or keeper found in violation of any provision of § **24-2** or any other provision of this bylaw shall be liable for fines as follows:

- (1) First offense: \$50.00
- (2) Second offense: \$100.00
- (3) Third offense: \$200.00.
- (4) Subsequent offenses: \$300.00 for each offense.

B. Any owner or keeper found in violation of an order of the Board of Selectmen issued pursuant to Massachusetts General Laws Chapter 140, Section 157, shall be liable for fines in accordance with Massachusetts General Laws Chapter 140, Section 157A as follows:

- (1) First offense: up to \$500.00
- (2) Second offense: up to \$1,000.00

C. Further, if the owner or keeper of a dog be a minor, the parent or guardian of such minor shall be held liable for any violation of this bylaw.

§ 24-6. Disposition of funds.

The sums collected pursuant to this bylaw shall be accounted for and paid over to the Town Treasurer; provided, however, that under the provisions of the state law, the Dog Officer shall be entitled to all fees paid to him/her for the care of the impounded dogs by the owners or keepers thereof.

§ 24-7. Legality.

In the event that any provision or section of this bylaw is deemed invalid or unenforceable, all other provisions shall remain in full force and effect.

Procedural motion:

Billy Salter, 3 Elm Street made a motion to move article 47 to after article 38, which was seconded.

Stephen Richter, 16 Hynes Lane, made an amending motion to move article 47 and 48 to after article 38, which was seconded, and passed majority yes.

ARTICLE 39: BOARD OF HEALTH – CENTRAL MASS MOSQUITO CONTROL PROJECT

To see if the Town will vote to become a member of the Central Massachusetts Mosquito Control Project; and raise and appropriate, borrow or transfer from available funds, a sum of money for the Town's membership in said project or pass any vote or votes in relation thereto.
(Inserted by the Board of Health)

On a motion by Thomas Philippou, 254 Stow Road. Board of Health, and seconded,

Voted majority yes to take no action.

ARTICLE 40: Planning Board – Amend the Protective Bylaw 125-3 Existing Lots, Structures and Uses

To see if the Town will vote to amend the Protective Bylaw, Article II, Existing Lots, Structures and Uses by changing the title and deleting in its entirety Section 125-3, Non-conforming Structures and Uses, and replace with the following, or take any vote or votes in relation thereto;

ARTICLE II Non-conformities

§ 125-3 Non-conforming Structures and Uses

Non-conforming uses and structures shall be regulated as provided in MGL Chapter 40A, Section 6 and as provided in this Bylaw. At adoption of this Bylaw as amended, any lawful existing structure (except an off-site sign), or use of a structure or use of land, may continue as such structure existed or in the manner and to the extent such structure or land was used at the time of first publication of notice of the public hearing for such adoption, subject to the provisions of this section §125-3. A building or special permit issued before such first publication of notice of hearing may continue in effect or be made effective except as otherwise provided (see § 125-49, Enforcement, and § 125-46, Special permits). However, any other building or special permit shall conform to such Bylaw (change), and a structure or use may be extended or otherwise changed only as specifically provided in this Bylaw.

In making a determination under §125-3 whether a change, extension, or alteration to a non-conforming use or structure will be more detrimental than the existing non-conforming use or structure to the neighborhood, the Board of Appeals will apply the factors listed in §125-20A and will identify other site-specific impacts that affect quality of life in the neighborhood.

A. Non-conforming structures

For the purposes of this Bylaw a lawful non-conforming structure is one that conformed to the Bylaw at some past time or predates the Bylaw; and became nonconforming solely as the result of the adoption of the Bylaw or amendments thereto. If a structure conformed at more than one time, only the most recent instance of conformity shall be considered.

B. Non-conforming One- and Two Family Dwellings

- (1) A non-conforming one- or two-family dwelling may be repaired (see "erect," § 125-2, Definitions), may be moved or enlarged or otherwise altered for a use permitted by the Bylaw, as a matter of right, provided that such alteration does not:
 - (a) Produce or increase the degree of any non-conformity in lot-structure relations or building height, and the changes conform to the Bylaw as amended; and
 - (b) Cumulatively over time increase the footprint of a one- or two-family dwelling by more than 15% and/or alter the gross floor area by more than 15% from that which existed at the time the dwelling first became non-conforming.

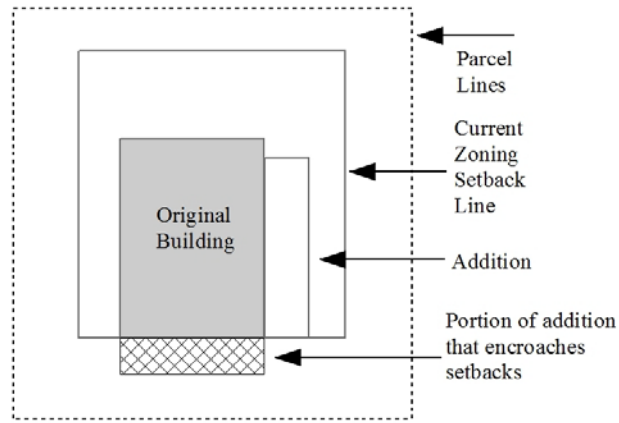


Figure 1: Example of an extension of a non-conforming one- or two-family dwelling that does not increase the degree of non-conformity.

- (2) By special permit granted by the Board of Appeals a non-conforming one- or two-family dwelling may be moved or enlarged or otherwise altered for a use permitted by the Bylaw, if such non-conformity is increased or intensified, provided the Board finds, in addition to the requirements of § 125-46, Special permits, the alterations:
 - (a) Would have been permitted before the structure became non-conforming (see Attachment A: Historical Table of Harvard Basic Lot Dimensions); and
 - (b) Will not be substantially more detrimental to the neighborhood than the existing non-conformity (see MGL Chapter 40A Section 6).

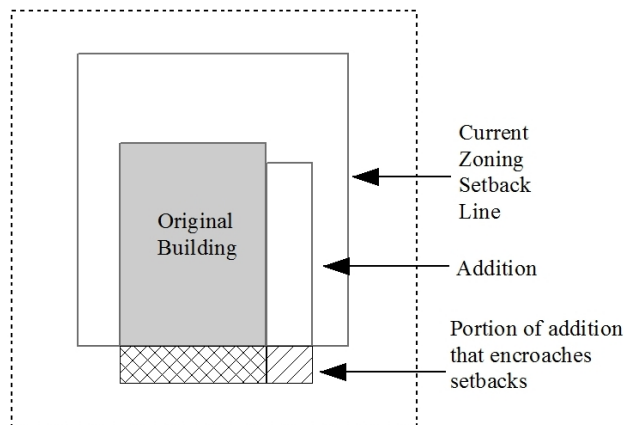


Figure 2: Example of an extension of a non-conforming one- or two-family dwelling that increases the degree of nonconformity that the Board of Appeals may permit by grant of a special permit.

C. Non-conforming Structures Other Than One- and Two-Family Dwellings

- (1) By special permit granted by the Board of Appeals a lawful nonconforming structure other than a one- or two-family dwelling may be moved or enlarged or otherwise altered for a use permitted by the Bylaw, if the Board makes a finding that such movement, enlargement or alteration will not be substantially more detrimental to the neighborhood than the existing non-conforming structure.

- (2) The moving, enlargement or alteration, of a non-conforming structure so as to increase an existing non-conformity, or create a new non-conformity, including the extension of an exterior wall at or along the same non-conforming distance within a required yard setback, shall require a variance from the Zoning Board of Appeals.

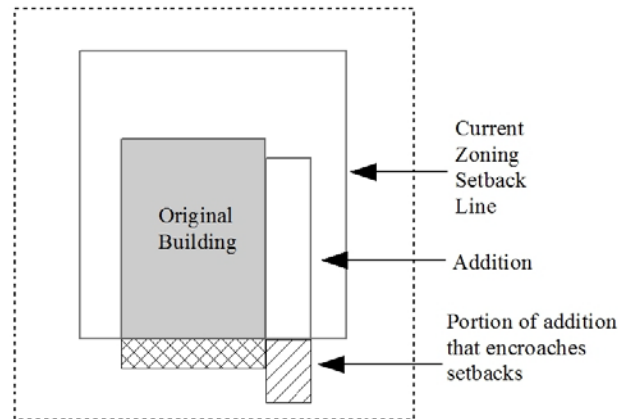


Figure 3: Example of an extension of a non-conforming structure other than a one- or two-family dwelling that increases the degree of non-conformity, and that creates a new non-conformity, that the Board of Appeals may permit only by grant of a variance.

- (2) The repair, moving, enlargement, alteration and extension of and addition to any nonconforming structure and the construction of new on-site and off-site accessory structures owned by the Town of Harvard or leased by the Town, as lessor or lessee, and used for a Town library, Town museum, Town office, Town hall, Town protective services or other use by the Town of Harvard or its lessee and located on a parcel of land situated within 2,500 feet of the Town Center Intersection of Routes 110 and 111 shall be exempt from all provisions of this Bylaw, except for § 125-39, Site Standards.

D. Non-conforming uses

- (1) If a non-conforming use of a structure or land is changed to a conforming use, it shall not thereafter revert to its previous non-conforming use.
- (2) A non-conforming use may be extended, altered, or otherwise changed, by special permit authorized by the Board of Appeals (see § 125-46, Special permits), provided:
- (a) Such change, extension, or alteration will not be substantially more detrimental than the existing non-conforming use to the neighborhood; and
 - (b) If a non-conforming use is to be changed to a different use, the new use is permitted, subject to the use being in the same or less intense use category (see §125-7 thru 9 and §125-12 thru 14).
- (3) A non-conforming use of a portion of an existing structure designed for the use may be extended throughout such structure, but only by special permit authorized by the Board of Appeals as in Subsection D(2).
- (4) Use of land accessory to a non-conforming use of a main building may be extended only to meet site standards.

- (5) Any use subject to § 125-39, Site standards, and/or § 125-38, Site plans, even though preexisting, is subject to such standards and approval upon expansion or alteration as provided in § 125-38, Site plans.

E. Abandonment

- (1) A non-conforming use which has been abandoned or not used for a period of two years or more shall not be reestablished. A non-conforming use which has been changed to a conforming use shall not be reestablished.
- (2) A non-conforming structure which has been abandoned or not used for a period of two years or more shall be removed or it shall be altered or moved so as to conform to the Bylaw as a new structure.
 - (a) In order to be "not used" under this subsection, the structure shall either have been in such disrepair as to require reconstruction (see definition of "erect") or (if a building) it shall have become uninhabitable.
 - (b) A structure will not be considered "not used" or "uninhabitable" while it is being modified to re-achieve use or habitability in accordance with a validly issued building permit or validly issued Board of Health permit under Title V of the State Sanitary Code if the work there under begins promptly, and is diligently pursued to a conclusion as provided in § 125-49B, Permits and licenses, and results in use or occupancy.

F. Reconstruction after Catastrophe or Demolition

- (1) Non-conforming structures which are damaged or destroyed by accidental cause, including fire, or otherwise damaged or destroyed without the consent of the owner, may be repaired or reconstructed upon the issuance of a building permit, provided that:
 - (a) Reconstruction of said premises shall commence within three years after such catastrophe or demolition.
 - (b) Building(s) as reconstructed shall be located on the same foot print as the original non-conforming structure, shall be only as great in volume or area as the original non-conforming structures, and shall meet all applicable requirements for setbacks and height.
 - (c) A Special Permit shall be required in the event that the proposed reconstruction would cause the structure to be located other than on the original footprint, or cause the structure to exceed the volume or area of the original non-conforming structure, and the non-conforming nature of the structure is not increased or intensified more than the original non-conformity.

G. Exception for Historic Merit

A non-conforming historic ruin located in a historic district (see the Town Historic Preservation Bylaw) may be preserved by site plan approval; it may be restored in whole or in part pursuant to a special permit from the Board of Appeals acting with advice from the Historical Commission

as provided in § 125-46, Special permits, provided the Board of Appeals finds historic merit in the restoration and finds no substantial adverse impact on the neighborhood, and further provided that any improvements meet all of the environmental requirements of the Bylaw as if for a new structure, including accessibility to emergency vehicles.

(Inserted by Planning Board)

The following motion was made by Christopher Tracey, 204 Bolton Road, Zoning Board of Appeals, and seconded,

I move that the Town amend the Protective Bylaw, Article II, Existing Lots, Structures and Uses by changing the title and deleting in its entirety Section 125-3 thereof, Non-conforming Structures and Uses, and replacing it with the new Section 125-3 as printed on pages 41 through 44 of the Finance Committee Report and Warrant for the 2014 Annual Town Meeting, as further revised on page 1 of the document entitled “Town of Harvard 2014 Annual Town Meeting Planning Board Handouts Warrant Articles 40-46” and made available and distributed at this Town Meeting.

Voted greater than 2/3rds yes that the Town will vote to amend the Protective Bylaw, Article II, Existing Lots, Structures and Uses by changing the title and deleting in its entirety Section 125-3, Non-conforming Structures and Uses, and replace with the following, or take any vote or votes in relation thereto;

ARTICLE II

Non-conformities

§ 125-3 Non-conforming Structures and Uses

Non-conforming uses and structures shall be regulated as provided in MGL Chapter 40A, Section 6 and as provided in this Bylaw. At adoption of this Bylaw as amended, any lawful existing structure (except an off-site sign), or use of a structure or use of land, may continue as such structure existed or in the manner and to the extent such structure or land was used at the time of first publication of notice of the public hearing for such adoption, subject to the provisions of this section §125-3. A building or special permit issued before such first publication of notice of hearing may continue in effect or be made effective except as otherwise provided (see § 125-49, Enforcement, and § 125-46, Special permits). However, any other building or special permit shall conform to such Bylaw (change), and a structure or use may be extended or otherwise changed only as specifically provided in this Bylaw.

In making a determination under §125-3 whether a change, extension, or alteration to a non-conforming use or structure will be more detrimental than the existing non-conforming use or structure to the neighborhood, the Board of Appeals will apply the factors listed in §125-20A and will identify other site-specific impacts that affect quality of life in the neighborhood.

A. Non-conforming structures

For the purposes of this Bylaw a lawful non-conforming structure is one that conformed to the Bylaw at some past time or predates the Bylaw; and became nonconforming solely as the result of the adoption of the Bylaw or amendments thereto. If a structure conformed at more than one time, only the most recent instance of conformity shall be considered.

B. Non-conforming One- and Two Family Dwellings

- (1) A non-conforming one- or two-family dwelling may be repaired (see "erect," § 125-2, Definitions), may be moved or enlarged or otherwise altered for a use permitted by the Bylaw, as a matter of right, provided that such alteration does not:
- (a) Produce or increase the degree of any non-conformity in lot-structure relations or building height, and the changes conform to the Bylaw as amended; and
 - (b) Cumulatively over time increase the footprint of a one- or two-family dwelling by more than 20% and/or alter the gross floor area by more than 20% from that which existed at the time the dwelling first became non-conforming.

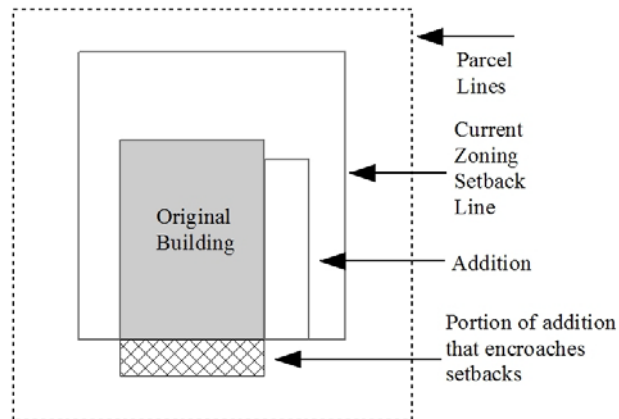


Figure 1: Example of an extension of a non-conforming one- or two-family dwelling that does not increase the degree of non-conformity.

- (2) By special permit granted by the Board of Appeals a non-conforming one- or two-family dwelling may be moved or enlarged or otherwise altered for a use permitted by the Bylaw, if such non-conformity is increased or intensified, provided the Board finds, in addition to the requirements of § 125-46, Special permits, the alterations:
- (a) Would have been permitted before the structure became non-conforming (see Attachment A: Historical Table of Harvard Basic Lot Dimensions); and
 - (b) Will not be substantially more detrimental to the neighborhood than the existing non-conformity (see MGL Chapter 40A Section 6).

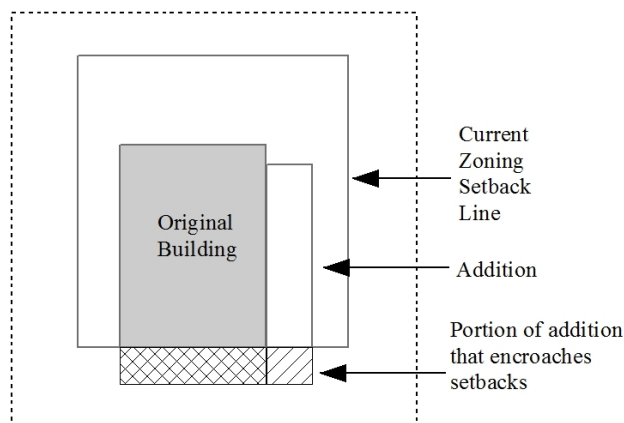


Figure 2: Example of an extension of a non-conforming one- or two-family dwelling that increases the degree of nonconformity that the Board of Appeals may permit by grant of a special permit.

C. Non-conforming Structures Other Than One- and Two-Family Dwellings

- (1) By special permit granted by the Board of Appeals a lawful nonconforming structure other than a one- or two-family dwelling may be moved or enlarged or otherwise altered for a use permitted by the Bylaw, if the Board makes a finding that such movement, enlargement or alteration will not be substantially more detrimental to the neighborhood than the existing non-conforming structure.
- (2) The moving, enlargement or alteration, of a non-conforming structure so as to increase an existing non-conformity, or create a new non-conformity, including the extension of an exterior wall at or along the same non-conforming distance within a required yard setback, shall require a variance from the Zoning Board of Appeals.

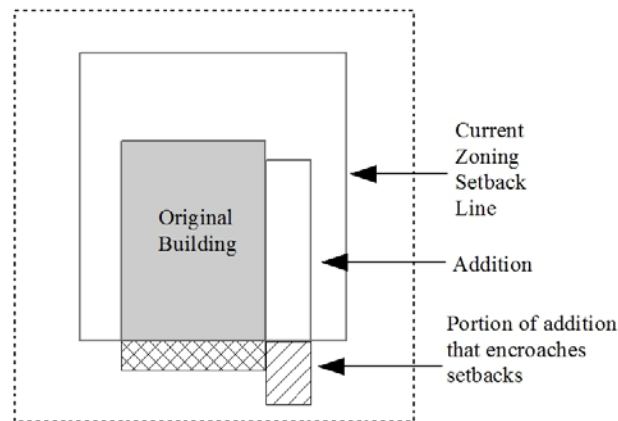


Figure 3: Example of an extension of a non-conforming structure other than a one- or two-family dwelling that increases the degree of nonconformity, and that creates a new non-conformity, that the Board of Appeals may permit only by grant of a variance.

- (3) The repair, moving, enlargement, alteration and extension of and addition to any nonconforming structure and the construction of new on-site and off-site accessory structures owned by the Town of Harvard or leased by the Town, as lessor or lessee, and used for a Town library, Town museum, Town office, Town hall, Town protective services or other use by the Town of Harvard or its lessee and located on a parcel of land situated within 2,500 feet of the Town Center Intersection of Routes 110 and 111 shall be exempt from all provisions of this Bylaw, except for § 125-39, Site Standards.

D. Non-conforming uses

- (1) If a non-conforming use of a structure or land is changed to a conforming use, it shall not thereafter revert to its previous non-conforming use.
- (2) A non-conforming use may be extended, altered, or otherwise changed, by special permit authorized by the Board of Appeals (see § 125-46, Special permits), provided:
 - (a) Such change, extension, or alteration will not be substantially more detrimental than the existing non-conforming use to the neighborhood; and

- (b) If a non-conforming use is to be changed to a different use, the new use is permitted, subject to the use being in the same or less intense use category (see §125-7 thru 9 and §125-12 thru 14).
- (3) A non-conforming use of a portion of an existing structure designed for the use may be extended throughout such structure, but only by special permit authorized by the Board of Appeals as in Subsection D(2).
- (4) Use of land accessory to a non-conforming use of a main building may be extended only to meet site standards.
- (5) Any use subject to § 125-39, Site standards, and/or § 125-38, Site plans, even though preexisting, is subject to such standards and approval upon expansion or alteration as provided in § 125-38, Site plans.

E. Abandonment

- (1) A non-conforming use which has been abandoned or not used for a period of two years or more shall not be reestablished. A non-conforming use which has been changed to a conforming use shall not be reestablished.
- (2) A non-conforming structure which has been abandoned or not used for a period of two years or more shall be removed or it shall be altered or moved so as to conform to the Bylaw as a new structure.
 - (b) In order to be "not used" under this subsection, the structure shall either have been in such disrepair as to require reconstruction (see definition of "erect") or (if a building) it shall have become uninhabitable.
 - (b) A structure will not be considered "not used" or "uninhabitable" while it is being modified to re-achieve use or habitability in accordance with a validly issued building permit or validly issued Board of Health permit under Title V of the State Sanitary Code if the work there under begins promptly, and is diligently pursued to a conclusion as provided in § 125-49B, Permits and licenses, and results in use or occupancy.

F. Reconstruction after Catastrophe or Demolition

- (1) Non-conforming structures which are damaged or destroyed by accidental cause, including fire, or otherwise damaged or destroyed without the consent of the owner, may be repaired or reconstructed upon the issuance of a building permit, provided that:
 - (a) Reconstruction of said premises shall commence within three years after such catastrophe or demolition.
 - (b) Building(s) as reconstructed shall be located on the same foot print as the original non-conforming structure, shall be only as great in volume or area as the original non-conforming structures, and shall meet all applicable requirements for setbacks and height.

- (c) A Special Permit shall be required in the event that the proposed reconstruction would cause the structure to be located other than on the original footprint, or cause the structure to exceed the volume or area of the original non-conforming structure, and the non-conforming nature of the structure is not increased or intensified more than the original non-conformity.

G. Exception for Historic Merit

A non-conforming historic ruin located in a historic district (see the Town Historic Preservation Bylaw) may be preserved by site plan approval; it may be restored in whole or in part pursuant to a special permit from the Board of Appeals acting with advice from the Historical Commission as provided in § 125-46, Special permits, provided the Board of Appeals finds historic merit in the restoration and finds no substantial adverse impact on the neighborhood, and further provided that any improvements meet all of the environmental requirements of the Bylaw as if for a new structure, including accessibility to emergency vehicles.

The Planning Board recommended this article.

ARTICLE 41: Zoning – Amend Section 125-27 Wireless Communication Overlay District

To see if the town will vote to amend Chapter 125 of the Code of the Town of Harvard, the Town's Protective Bylaw, by amending Section 125-27, Wireless Communications Towers Overlay District, by adding a new subsection D (3) to accommodate communications equipment of municipal public safety departments on applications for new towers or modifications to existing towers, or take any vote or votes in relation thereto.

(Inserted by Planning Board)

The following motion was made by Erin McBee, 221 Littleton Road, Planning Board, and seconded,

I move that the Town amend Chapter 125 of the Code of the Town of Harvard, the Town's Protective Bylaw, by amending Section 125-27 thereof, Wireless Communications Towers Overlay District, by adding thereto a new subsection D (3) to accommodate communications equipment of municipal public safety departments on applications for new towers or modifications to existing towers, which new subsection D (3) is printed on page 3 of the document entitled "Town of Harvard 2014 Annual Town Meeting Planning Board Handouts Warrant Articles 40-46" and made available and distributed at this town meeting.

Voted unanimously yes that the town amend Chapter 125 of the Code of the Town of Harvard, the Town's Protective Bylaw, by amending Section 125-27, Wireless Communications Towers Overlay District, by adding a new subsection D (3) to accommodate communications equipment of municipal public safety departments on applications for new towers or modifications to existing towers, or take any vote or votes in relation thereto.

§125-27D(3) For new towers, or modifications to existing towers that require grant of a special permit by the Planning Board, the tower owner shall allow the installation of municipal public safety communications equipment provided such equipment does not interfere with the service of other carriers on the tower. The Town shall bear the cost of the equipment and its installation.

The Planning Board recommended this article.

ARTICLE 42: Zoning – Amend Zoning Map Wireless Communication

To see if the Town will vote to amend Chapter 125, the Protective Bylaw, of the Code of the Town of Harvard by accepting the amended Zoning Map to correct an error made to the Wireless Communications District when the map was approved by Annual Town Meeting 2010, which amended Zoning Map is on file in the Office of the Town Clerk, or take any vote or votes in relation thereto.

(Inserted by Planning Board)

On a motion made by Joseph Hutchinson, 25 Westcott Road, Planning Board, and seconded,

Voted unanimously yes that the Town amend Chapter 125, the Protective Bylaw, of the Code of the Town of Harvard by accepting the amended Zoning Map to correct an error made to the Wireless Communications District when the map was approved by the 2010 Annual Town Meeting, which amended Zoning Map is entitled “§125-42 Harvard Zoning Map” dated January, 2014, prepared by the Montachusett Regional Planning Commission GIS Department on file in the Office of the Town Clerk, a reduced copy of which is shown on the colored-coded handout made available and distributed at this town meeting.

The Planning Board recommended this article.

ARTICLE 43: Zoning – Amend Sections 125-31 and 125-39B Driveways

To see if the Town will vote to amend Chapter 125, the Protective Bylaw, of the Code of the Town of Harvard by making the following revisions to Section 125-31 thereof regarding Driveways and Section 125-39B thereof regarding Standards for Driveways, or take any vote or votes in relation thereto.

[key to revisions: underlining = additions; ~~striketrough~~ = deletions]

Amend the Protective Bylaw, §125-31, Driveways, as follows:

§125-31 Driveways. [Added 3-30-1996 ATM by Art. 29]

For purposes of public safety, any driveway constructed after March 30, 1996, of more than 200 feet in center-line length and providing access from the public way to a main building shall be constructed in accordance with the standards for driveways set forth in the Bylaw §125-39B. No such driveway shall be constructed without site plan approval by the Planning Board at a regularly scheduled public meeting. Construction of all such driveways shall be subject to inspection by the Planning Board's driveway inspector, fees for said inspections to be paid by the applicant as specified in the Planning Board's regulations. **[Added 3-29-1980 ATM by Art. 27]**

- A. No driveway which serves two or more building lots of any type, or which serves a hammerhead or a backland lot, or which serves a use for which a special permit or site plan approval is required, may lie on a corridor of land or land area having a width of less than 35 feet and frontage of less than 50 feet. This subsection shall apply only to driveways constructed after February 8, 1980, and to lawfully existing driveways changed after that date to connect with or serve one or more additional lots.
- B. Shared (common) driveways. To reduce the impact of impervious surfaces and the number of driveway cuts, it is the intent to permit adjoining lots to share a driveway which, except for branches serving individual lots, lies on or near their mutual boundaries subject to a recorded maintenance and

snow plowing agreement to ensure that the driveway will be maintained and remain useful for both ordinary and emergency access under all weather conditions, and to ensure that a driveway will not be used as a substitute for a street or as a substitute for mandatory access frontage (see §125-29). After March 26, 1988, a driveway may be constructed or extended to serve more than one lot only in accordance with a special permit authorized by the Planning Board (see §125-46, Special permits), subject to all applicable provisions of this bylaw. For a shared driveway serving only single- and two-family residence uses, the driveway site standards in §125-39B shall apply (see §125-38, Site plans, and §125-39, Site standards). **[Added 3-31-1979 ATM by Art. 27; amended 3-26-1988 ATM by Art. 34; 3-27-1993 ATM by Art. 25; 3-25-1995 ATM by Art. 30; 3-29-2003 ATM by Art. 37; 3-31-2007 ATM by Art. 23]**

- (1) At most four lots, of which no more than three shall be hammerhead or backland lots, may be connected to or otherwise share the same driveway. This provision (increasing the number of lots from three to four) will apply only to common drives built or extended by special permit after March 25, 1995. The driveway shall lie entirely within the lots being served. This subsection shall apply only to shared driveways constructed after February 9, 1979, and to lawfully existing driveways changed after that date to connect with or serve one or more additional lots. (Added driveway requirements for hammerhead and backland lots are contained in § 125-29D, Type 2 lots, and § 125-29F, Type 4 lots.)
 - (2) Each branch of a shared driveway shall include a turnaround for vehicles including moving vans, ambulance, fire, and police.
 - (3) (Reserved)
 - (4) A shared driveway shall be considered satisfactory only if:
 - (a) It has been constructed in accordance with the provisions of the special permit and the approved driveway site plan; and
 - (b) There is a recorded clear provision for maintenance and snow removal running with the land.
 - (5) Grades on shared driveways constructed or extended after March 26, 1988, shall not exceed 10%.
 - (6) A shared driveway, which is constructed, or extended to serve additional lots or uses, after March 26, 1988, shall begin at the street on which the lots served have their access frontage. A driveway shall not be used to provide the lot access frontage required by this Bylaw or by the Subdivision Control Law. Where the access to structures or uses provided by the driveway is substantially different than that which would be provided through required lot frontages, the special permit shall not be issued unless the Planning Board finds that the proposed shared driveway and its location are in the public interest.
- C. Driveway site plan approval. For lots or uses for which a special permit is required by this Bylaw as amended, the installation or extension of a driveway to serve a new main building or a new use shall be in accordance with a driveway construction site plan approved by the Planning Board, with advice from the Director of the Department of Public Works with respect to driveway connection to the street. Such driveway construction site plan approval shall expire if the work thereunder is not begun and diligently pursued to completion within two years after issuance. **[Added 3-31-1984 ATM by Art. 29]**
- D. For any shared driveway, or any driveway requiring a special permit or site plan approval by the Planning Board, a building permit shall be issued only upon receipt of a written statement from the Planning Board or its agent, indicating that a satisfactory driveway and turnaround for the purposes of construction connection to the lot for which the permit is issued have been provided. **[Added 3-31-1984 ATM by Art. 29; amended 3-31-2007 ATM by Art. 22]**

- (1) For the purpose of actual construction, driveway centerline radii may be sharper than eighty feet (80'), provided that the entire lot is in the AR District and also provided that the entire driveway is laid out and constructed in accordance with the provisions of §125-39, Site standards, including §125-39B. However, the driveway centerline radius of curvature may not be less than 40 feet, except in circular turnarounds for cars only. If so constructed or extended, driveway curvature shall be considered "satisfactory" for the purpose of the written statement required prior to issuance of a building permit on a Type 2 or Type 4 lot by the provisions of §125-29F(3)(b).
 - (2) The Planning Board may consider the construction of a driveway or its extension "satisfactory" for the purpose of said written statement if the location of the driveway is consistent with the special permit or site plan approval; it is suitable for access by construction and safety vehicles to within 100 feet of the building site, provided that there is a (perhaps temporary) turnaround for vehicles including trucks near the building site; all drainage and erosion control measures required for the driveway are in place; and all related measures required by any special permit for construction have been met.
 - (3) A temporary occupancy permit or use of the premises served by such a driveway shall be permitted only upon receipt of a written statement from the Planning Board or its agent, indicating that all drainage, utilities, and erosion control measures are in place; that the driveway is complete up to and including base gravel; and that all related measures required by any special permit or site plan approval have been met.
 - (4) A final occupancy permit or use of the premises for the final lot served by such a driveway is permitted only upon receipt of a written statement from the Planning Board or its agent indicating that a driveway and turnaround have been completed in accordance with the special permit or approved site plan, and that an "as built" has been filed with and approved by the Board or its agent.
- E. **Crossing of W District and inland wetlands.** Driveways which are constructed after April 8, 1989, and any existing driveway extended after that date to serve an additional use or main building, shall not alter 5,000 square feet or more of combined W District and/or inland wetlands (all non-overlapping crossings summed). Installation of driveways crossing W and WFH Districts may be subject also to special permit; see §§125-25 and 125-26. **[Added 4-8-1989 ATM by Art. 36]**
- F. **Long driveways.** For purposes of public safety, after January 1, 1999, any driveway having or resulting in a center-line length greater than 1,400 feet from the public or private way to any main building served by that driveway may be constructed, or extended to serve another main building more than 1,400 feet from the way, only in accordance with a special permit authorized by the Planning Board (see §125-46, Special permits), subject to all applicable provisions of this Bylaw. No special permit shall be granted under this section unless the Planning Board finds that all dwellings which are served by the driveway have available a water source within 1,400 accessible hose feet which is adequate for fire protection. **[Added 12-8-1998 STM by Art. 15]**
- (1) In determining whether a water source is adequate for fire protection the Planning Board may request the written advice of the Fire Department and will consider the capacity of the water source, the availability and adequacy of access to the water source for fire protection, and provisions for maintenance of the water source.
 - (2) For purposes of this section, a buried cistern containing no less than 10,000 gallons of clean water will be considered an adequate source of water for fire protection purposes to serve one lot, provided that the site does not abut a W District. (See also §125-39E.)

Amend the Protective Bylaw, §125-39B, Standards for Driveways, as follows:

§125-39 Site standards.

B. Standards for driveways. The intent is to make available site standards for driveways which are appropriate to the intensity of actual use. For a driveway which serves only one- or two-family residences the use of this site standard is required only if it is specifically so stated in § 125-31, Driveways, of this bylaw. [Amended 3-27-1982 ATM by Art. 40; 3-31-1984 ATM by Art. 28; 3-29-2003 ATM by Art. 37; 3-22-2006 ATM by Art. 18]

- (1) Number of driveways. For each site, the total number of driveways shall not exceed one for each 200 feet of frontage or additional fraction thereof. Driveways shall not encroach on the buffer strip except to intersect with the street, and to reach said intersection directly from within the interior of the lot.
- (2) Residential use. Driveways installed to serve residential uses of the type permitted in the AR District (but not more than eight dwelling units) may be constructed with a single lane, provided that it widens to at least a twenty-five-foot length of dual lane every 300 feet along its length, with one such dual lane section at the street or its intersection with another driveway. Driveways for residential use shall comply with standards in Table 1.
- (3) Radius of curvature. The minimum center-line radius of curvature of a driveway may not be less than 40 feet. However, specific design standards for intersections and turnarounds shall take precedence over these general curvature requirements.

Table 1 Residential Driveway Standards

Use	Number of Lanes	Turnouts	Lane Width	Shoulder Width	Turnaround	Max. Grade
Driveway for single or two-family home	1	1 every 300', width = 20' length = 25'	12'	2' per side	Not required	12%
Shared (Common) Driveway for up to 4 lots or 4 units	2	Not required	8'	2' per side	Required for each branch	10%
Driveway for more than 4 lots or 4 units	2	Not required	10'	2' per side	Required	8%

Note 1: Article II, §140-10 of the Harvard Code, Driveway Construction and Connection Permits, applies to all proposed driveway connections to a town way. Jurisdiction of §140-10 applies for a distance of 25 feet from the near side or 50 feet from the far side of the roadway, whichever is greater.

- (4) Non-Residential Driveway Standards
 - (a) Driveways that serve commercial, industrial, or other non-residential uses shall be limited to one entrance and one exit per street. One combined entrance/exit location is preferable at the main entrance to facilitate traffic movement; such an entrance shall be separated by a traffic island with separate in and out movements.

Where frontage exceeds 400', the Planning Board may approve an additional access. If needed, the applicant shall construct separate right and/or left turning lanes to facilitate entry and exit from the site.

- (b) Driveway locations shall meet the line of sight criteria based on the American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets (See Table 2 below) or, where driveways are located on very low-volume local roads (average daily traffic volume of 400 vehicles per day or less), locations shall meet the guidelines of AASHTO Guidelines for Design of Very Low-Volume Local Roads (Average Daily Traffic less than or equal to 400). Exceptions to these guidelines may be considered by the Planning Board where it can be shown that less restrictive criteria would not impact safety or that more restrictive criteria would be required for safety.

Table 2
Driveway Sight Distance

Design Speed (mph)	Stopping Sight Distance (feet)
25	155
30	200
35	250
40	305
45	360
50	425

Source: based on guidelines established in A Policy on the Geometric Design of Highways and Streets, American Association of State Highway and Transportation Officials [AASHTO], 2004.

- (c) Access to traffic areas is beyond said buffer strip;
- (d) No driveway shall be constructed closer than 80 feet to a street intersection as measured along the Town's right-of-way to the nearest intersection of the right-of-way lines.
- (e) To reduce turning movements onto main thoroughfares, developers are encouraged to connect internal roadways with adjacent developments. When adjacent lots have contiguous frontage, the Planning Board may require such lots to share a single driveway, or that the lots be accessed by an internal service road. Where such sharing cannot be achieved in the short run, the means and location for future long term inter-parcel connections may be required through right-of-way reservation and/or dedication.

(f) Where it is proposed to re-develop property, the Planning Board will evaluate existing access and work with the applicant to re-design curb cuts to improve safety and traffic flow. Where appropriate, the Board may require a reconfiguration to the existing access or the removal of unnecessary driveway openings in favor of fewer access points with a greater level of traffic control.

(g) The angle of intersection of the driveway center line with the roadway center line is at least 60° and the transition from driveway to roadway is flared so that vehicles, including an SU30, may make the required turns without leaving the surface of either, or, if lanes are marked, without leaving marked lanes.

[1] For the purpose of designing flares, a passenger car has the turning radii of an American Association of State Highway Officials (AASHO) passenger car, P20, and a "fire truck" or "moving van" [see § 125-29F(1)(f)] has the turning radii of an AASHO single-unit truck, SU30, with minimum turning radii as follows:

Vehicle	Inside Radius	Outside Radius
Car	20 feet	30 feet
Truck	30 feet	45 feet

[2] The flare at an intersection of a branch of the driveway is designed so that vehicles may make the required turn. If there is no additional turnaround, the intersection must be constructed so that it can serve as a turnaround for vehicles. Exception: If the lot frontage and the roadway are too narrow to permit an AASHO SU truck to make both turns in a single pass, the driveway layout shall favor the turn from the direction of the fire station, by the most likely route.

[3] Plans showing special requirements for driveways connecting with state-maintained ways are available at the district or state offices of the Massachusetts Department of Public Works.

(Inserted by Planning Board)

The following motion was made by Kara Minar, 204 Still River Road, Planning Board, and seconded,

I move that the Town amend Chapter 125 of the Code of the Town of Harvard, the Protective Bylaw, by making the revisions to Section 125-31 thereof regarding Driveways and Section 125-39B thereof regarding Standards for Driveways as printed on pages 5 through 14 of the document entitled "Town of Harvard 2014 Annual Town Meeting Planning Board Handouts Warrant Articles 40-46" and made available and distributed at this town meeting.

A motion to amend the article was made by Timothy Clark, 114 Bolton Road, and withdrawn.

A motion to delete all references to the phrase "after February 8, 1980" was accepted by the Planning Board.

Voted greater than 2/3rds yes that the Town amend Chapter 125, the Protective Bylaw, of the Code of the Town of Harvard by making the following revisions to Section 125-31 thereof regarding Driveways and Section 125-39B thereof regarding Standards for Driveways, or take any vote or votes in relation thereto.

Amend the Protective Bylaw by adding the following definition of “Lane or Travel Lane” to §125-2, Definitions

Lane or Travel Lane – The portion of the roadway or driveway for the movement of vehicles, exclusive of shoulders.

Amend the Protective Bylaw, §125-31 Driveways, as follows:

§125-31 Driveways. [Added 3-30-1996 ATM by Art. 29]

For purposes of public safety, any driveway constructed after March 30, 1996, of more than 300 feet in center-line length and providing access from the public way to a main building shall be constructed in accordance with the standards for driveways set forth in the Bylaw §125-39B. . No such driveway shall be constructed without site plan approval by the Planning Board at a regularly scheduled public meeting. Construction of all such driveways shall be subject to inspection by the Planning Board's driveway inspector, fees for said inspections to be paid by the applicant as specified in the Planning Board's regulations. [Added 3-29-1980 ATM by Art. 27]

A. No driveway which serves two or more building lots of any type, or which serves a hammerhead or a backland lot, or which serves a use for which a special permit or site plan approval is required, may lie on a corridor of land or land area having a width of less than 35 feet and lot frontage of less than 50 feet. This subsection shall apply only to driveways constructed, and to lawfully existing driveways changed after that date to connect with or serve one or more additional lots.

B. Shared (common) driveways. To reduce the impact of impervious surfaces and the number of driveway cuts , it is the intent to permit adjoining lots to share a driveway which, except for branches serving individual lots, lies on or near their mutual boundaries subject to a recorded maintenance and snow plowing agreement to ensure that the driveway will be maintained and remain useful for both ordinary and emergency access under all weather conditions, and to ensure that a driveway will not be used as a substitute for a street or as a substitute for mandatory access frontage (see §125-29). After March 26, 1988, a driveway may be constructed or extended to serve more than one lot only in accordance with a special permit authorized by the Planning Board (see §125-46, Special permits), subject to all applicable provisions of this bylaw. For a shared driveway serving only single- and two-family residence uses, the driveway site standards in §125-39B shall apply (see §125-38, Site plans, and §125-39, Site standards). [Added 3-31-1979 ATM by Art. 27; amended 3-26-1988 ATM by Art. 34; 3-27-1993 ATM by Art. 25; 3-25-1995 ATM by Art. 30; 3-29-2003 ATM by Art. 37; 3-31-2007 ATM by Art. 23]

- (1) At most four lots, of which no more than three shall be hammerhead or backland lots, may be connected to or otherwise share the same driveway. This provision (increasing the number of lots from three to four) will apply only to common drives built or extended by special permit after March 25, 1995. The driveway shall lie entirely within the lots being served. This subsection shall apply only to shared driveways constructed after February 9, 1979, and to lawfully existing driveways changed after that date to connect with or serve one or more additional lots. (Added driveway requirements for hammerhead and backland lots are contained in §125-29D, Type 2 lots, and §125-29F, Type 4 lots.)

- (2) Each branch of a shared driveway shall include a turnaround for vehicles including moving vans, ambulance, fire, and police.
- (3) (Reserved)
- (4) A shared driveway shall be considered satisfactory only if:
 - (a) It has been constructed in accordance with the provisions of the special permit and the approved driveway site plan; and
 - (b) There is a recorded maintenance and snow plowing agreement running with the land.
- (5) Grades on shared driveways constructed or extended after March 26, 1988, shall not exceed 8%.
- (6) A shared driveway which is constructed, or extended to serve additional lots or uses, after March 26, 1988, shall begin at the street on which the lots served have their access frontage. A driveway shall not be used to provide the lot access frontage required by this Bylaw or by the Subdivision Control Law. Where the access to structures or uses provided by the driveway is substantially different than that which would be provided through required lot frontages, the special permit shall not be issued unless the Planning Board finds that the proposed shared driveway and its location are in the public interest.

C. Driveway site plan approval. For lots or uses for which a special permit is required by this Bylaw as amended, the installation or extension of a driveway to serve a new main building or a new use shall be in accordance with a driveway construction site plan approved by the Planning Board, with advice from the Director of the Department of Public Works with respect to driveway connection to the street. Such driveway construction site plan approval shall expire if the work thereunder is not begun and diligently pursued to completion within two years after issuance. [Added 3-31-1984 ATM by Art. 29]

D. For any shared driveway, or any driveway requiring a special permit or site plan approval by the Planning Board, a building permit shall be issued only upon receipt of a written statement from the Planning Board or its agent, indicating that the driveway has been cut-in at the location shown on the plan for the purposes of construction to the lot . [Added 3-31-1984 ATM by Art. 29; amended 3-31-2007 ATM by Art. 22]

(1) For the purpose of actual construction, driveway centerline radii may be sharper than eighty feet (80'), provided that the entire lot is in the AR District and also provided that the entire driveway is laid out and constructed in accordance with the provisions of §125-39, Site standards, including §125-39B. However, the driveway center-line radius of curvature may not be less than 40 feet, except in circular turnarounds for cars only. If so constructed or extended, driveway curvature shall be considered "satisfactory" for the purpose of the written statement required prior to issuance of a building permit on a Type 2 or Type 4 lot by the provisions of §125-29F(3)(b).

(2) The Planning Board may consider the construction of a driveway or its extension "satisfactory" for the purpose of said written statement if the location of the driveway is consistent with the special permit or site plan approval; it is suitable for access by construction and safety vehicles to within 100 feet of the building site, provided that there is a (perhaps temporary) turnaround for vehicles including trucks near the building site; all drainage and erosion control measures required for the driveway are in place; and all related measures required by any special permit for construction have been met.

(3) A temporary occupancy permit or use of the premises served by such a driveway shall be permitted only upon receipt of a written statement from the Planning Board or its agent, indicating that all drainage, utilities, and erosion control measures are in place; that the driveway is complete up to and including base gravel; and that all related measures required by any special permit or site plan approval have been met.

(4) A final occupancy permit or use of the premises for the final lot served by such a driveway is permitted only upon receipt of a written statement from the Planning Board or its agent indicating that a driveway and turnaround have been completed in accordance with the special permit or approved site plan, and that an "as built" has been filed with and approved by the Board or its agent.

E. Crossing of W District and inland wetlands. Driveways which are constructed after April 8, 1989, and any existing driveway extended after that date to serve an additional use or main building, shall not alter 5,000 square feet or more of combined W District and/or inland wetlands (all non-overlapping crossings summed). Installation of driveways crossing W and WFH Districts may be subject also to special permit; see §§125-25 and 125-26. [Added 4-8-1989 ATM by Art. 36]

F. Long driveways. For purposes of public safety, after January 1, 1999, any driveway having or resulting in a center-line length greater than 1,400 feet from the public or private way to any main building served by that driveway may be constructed, or extended to serve another main building more than 1,400 feet from the way, only in accordance with a special permit authorized by the Planning Board (see §125-46, Special permits), subject to all applicable provisions of this Bylaw. No special permit shall be granted under this section unless the Planning Board finds that all dwellings which are served by the driveway have available a water source within 1,400 accessible hose feet which is adequate for fire protection. [Added 12-8-1998 STM by Art. 15]

(1) In determining whether a water source is adequate for fire protection the Planning Board may request the written advice of the Fire Department and will consider the capacity of the water source, the availability and adequacy of access to the water source for fire protection, and provisions for maintenance of the water source.

(2) For purposes of this section, a buried cistern containing no less than 10,000 gallons of clean water will be considered an adequate source of water for fire protection purposes to serve one lot, provided that the site does not abut a W District. (See also §125-39E)

Amend the Protective Bylaw, §125-39B, Standards for Driveways, as follows:

§125-39 Site standards.

B. Standards for driveways. The intent is to make available site standards for driveways which are appropriate to the intensity of actual use. For a driveway which serves only one- or two-family residences the use of this site standard is required only if it is specifically so stated in §125-31, Driveways, of this bylaw. [Amended 3-27-1982 ATM by Art. 40; 3-31-1984 ATM by Art. 28; 3-29-2003 ATM by Art. 37; 3-22-2006 ATM by Art. 18]

(1) Driveway locations shall meet the line of sight criteria based on the American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets (see Table 1 below) or, where driveways are located on very-low-volume local roads (average daily traffic volume of 400 vehicles per day or less), locations shall meet the guidelines of Local Roads (Average Daily Traffic less than or equal to 400). Exceptions to these guidelines may

be considered by the Planning Board where it can be shown that less restrictive criteria would not impact safety or that more restrictive criteria would be required for safety. [Amended 5-2-2009 ATM by Art. 35]

*Table 1
Driveway Sight Distance*

<i>Design Speed (mph)</i>	<i>Stopping Sight Distance (feet)</i>
25	155
30	200
35	250
40	305
45	360
50	425

Source: based on guidelines established in A Policy on the Geometric Design of Highways and Streets, American Association of State Highway and Transportation Officials [AASHTO], 2004.

(2) Residential driveways. Each dwelling is entitled to two driveways, one of which may be a U-shaped driveway. The Planning Board may permit an additional driveway for lots with more than four hundred feet (400') of frontage. Driveways shall not encroach on the buffer strip (see §125-39C(1)) except to intersect with the street, and to reach said intersection directly from within the interior of the lot.

(3) Lane Width. Driveways installed to serve residential uses of the type permitted in the AR District (but not more than four dwelling units) may be constructed with a single lane, provided that it widens to at least a twenty-five-foot length of dual lane every 300 feet along its length, with one such dual lane section at the street and its intersection with another driveway. Driveways for residential uses shall comply with the standards in Tables 1 and 2.

(4) Radius of curvature. The minimum center-line radius of curvature of a driveway may not be less than 40 feet. However, specific design standards for intersections and turnarounds shall take precedence over these general curvature requirements.

Table 2 Residential Driveway Standards

Use	Number of Lanes	Turnouts	Lane Width	Shoulder Width	Turnaround	Max. Grade
Driveway for single or two-family home and Shared (Common) Driveway for up to 4 lots or 4 dwelling units	1	1 every 300', width = 8' length = 25'	12'	2' per side	Required for each branch of a common driveway	8%
Driveway for more than 4 lots or 4 dwelling units	2	Not required	10'	2' per side	Required for each branch	8%

Note: Article II, §140-10 of the Harvard Code, Driveway Construction and Connection Permits, applies to all proposed driveway connections to a town way. Jurisdiction of §140-10 applies for a distance of 25 feet from the near side or 50 feet from the far side of the roadway, whichever is greater.

(5) Non-Residential Driveway Standards

(a) Driveways that serve commercial, industrial, or other non-residential uses shall be limited to one entrance and one exit per street. One combined entrance/exit is preferable to facilitate traffic movement; the entrance/exit shall be separated by a traffic island. Where frontage exceeds 400', the Planning Board may approve an additional access.

[1] Traffic islands shall contain bricks, stone, or ornamental pavers, and islands may contain other design treatments such as landscaping, fences or low stone walls reflective of Harvard's cultural landscape. The islands shall not impede safe pedestrian crossing and shall meet accessibility standards.

[2] Proponents of developments that will generate five hundred (500) or more trips per day (Average Daily Traffic) based on the most recent Trip Generation Manual of the Institute of Transportation Engineers shall prepare a traffic impact study. A professional transportation engineer shall prepare the study, which shall document:

- [a] total and peak hour trip generation,
- [b] existing and proposed levels of service of the roadway providing access to the site, and
- [c] projected conditions at the access points to the development.

The study shall include recommendations whether separate right and/or left turning lanes are advisable to facilitate entry and exit from the site.

(b) The development shall preserve the buffer strip (see §125-39C(1)) except for the width necessary to access the parking areas;

(c) To reduce turning movements onto main thoroughfares, applicants are encouraged to connect internal roadways with adjacent developments. When adjacent lots have contiguous frontage, the Planning Board may require such lots to share a single driveway, or that the lots be accessed by an internal service road. Where such sharing cannot be achieved in the short run, the means and location for future long term inter-parcel connections may be required through right-of-way reservation and/or dedication.

(d) Where it is proposed to re-develop property, the Planning Board will evaluate existing access and work with the applicant to re-design curb cuts to improve safety and traffic flow. Where appropriate, the Board may require a reconfiguration to the existing access or the removal of unnecessary driveway openings in favor of fewer access points with a greater level of traffic control.

(e) The angle of intersection of the driveway center line with the roadway center line is at least 60° and the transition from driveway to roadway is flared so that vehicles, including an SU30, may make the required turns without leaving the surface of either, or, if lanes are marked, without leaving marked lanes.

[1] For the purpose of designing flares, a passenger car has the turning radii of an American Association of State Highway Transportation Officials (AASHTO) passenger car, P20, and a "fire truck" or "moving van" [see §125-29F(1)(f)] has the turning radii of an AASHO single-unit truck, SU30, with minimum turning radii as follows:

Vehicle	Inside Radius	Outside Radius
Car	20 feet	30 feet
Truck	30 feet	45 feet

[2] The flare at an intersection of a branch of the driveway is designed so that vehicles may make the required turn. If there is no additional turnaround, the intersection must be constructed so that it can serve as a turnaround for vehicles. Exception: If the lot frontage and the roadway are too narrow to permit an AASHO SU truck to make both turns in a single pass, the driveway layout shall favor the turn from the direction of the fire station, by the most likely route.

[3] Plans showing special requirements for driveways connecting with state-maintained ways are available at the district or state offices of the Massachusetts Department of Public Works.

(6) Construction. Driveways and parking areas shall be constructed with crowns and drainage so as to be serviceable in all weather. There shall be a permeable gravel base of which at least eight inches is two feet or more above the level of saturation established by high water table or by drainage. [The need to engineer for water table within one foot of the surface should be anticipated on even apparently high ground in soils described and shown in the 1970 Master Plan (Comprehensive Plan of Development for Harvard) as "Paxton-Woodbridge Association," on account of perched water table.] There shall be in addition a surface layer at least four inches thick of gravel or two inches thick if bituminous paving; greater depths should be used if customary for the purpose for which the driveway or parking lot is intended.

(a) A driveway which serves as access to parking or garaging for trucks shall be constructed to be at least two lanes wide for its entire length, and shall meet the following materials and construction standards, which materials and construction standards shall be shown on the driveway design plans. (Also refer to the accompanying sketch labeled "Typical Driveway Cross-Section" for visual reference.) [Amended 3-31-2001 ATM by Art. 29]

[1] Ordinary borrow material shall be used as subbase material in areas where fill is required to bring the site up to subgrade. The ordinary borrow material shall meet the requirements of the Massachusetts Highway Department's Standard Specifications for Highways and Bridges (SSHB) Section 150, Embankment, and M1.01.0, Ordinary Borrow.

[2] All organic and compressible subgrade materials shall be removed prior to the placement of borrow material.

[3] Gravel base material having a minimum depth of 12 inches shall be placed on the subbase or existing subgrade. The gravel base material shall meet the requirements of SSHB Section 405, Gravel Base Course, and M1.03.0, Type b, Gravel Borrow.

[4] The finish surface shall be a bituminous concrete pavement surface (minimum two-inch compacted binder course and minimum one-and-one-half-inch compacted finish course) meeting the requirements of SSHB Section 460, Class I Bituminous Concrete Pavement Type I-1, and M3.11.00, Class I Bituminous Concrete.

[5] All materials listed in Subsection B(6)(a)[1] through [4] shall be compacted as specified in SSHB.

[6] Driveway construction standards shall be in accordance with the Massachusetts Highway Department's Standard Specifications for Highways and Bridges.

[7] If such a driveway, which serves as access to parking or garaging for trucks, is more than 150 feet long it shall be constructed as a roadway serving the same intensity of use as specified in the Rules and Regulations of the Harvard Planning Board Relative to Subdivision Control as amended through March 26, 2001; this sentence applies to new driveway construction or extension undertaken after March 26, 2001.

(b) The construction of a shared driveway which is over 150 feet long and which includes grades of 7% or more shall include paving from the road to the height or trough of the land so as to include said grade and the means for disposing of runoff from it in the paved section. This provision applies to new construction or extension of driveway undertaken after March 31, 1984.

(c) Except as otherwise provided, driveways regulated under this subsection shall meet the following materials and construction standards, which materials and construction standards shall be shown on the driveway design plans. (Also refer to the accompanying sketch labeled "Typical Driveway Cross-Section" for visual reference.) [Amended 3-31-2001 ATM by Art. 29]

[1] Ordinary borrow material shall be used as subbase material in areas where fill is required to bring the site up to subgrade. The ordinary borrow material shall meet the requirements of the Massachusetts Highway Department's Standard Specifications for Highways and Bridges (SSHB) Section 150, Embankment, and M1.01.0, Ordinary Borrow.

[2] All organic and compressible subgrade materials shall be removed prior to the placement of borrow material.

[3] Gravel base material having a minimum depth of 12 inches shall be placed on the subbase or existing subgrade. The gravel base material shall meet the requirements of SSHB Section 405, Gravel Base Course, and M1.03.0, Type b, Gravel Borrow.

[4] The finish surface shall be one of the following, however, in any particular situation the use of a paving material other than bituminous concrete is subject to approval by the permitting or approving board:

[a] A bituminous concrete pavement surface (minimum two-inch compacted binder course and minimum one-and-one-half-inch compacted finish course) meeting the requirements of SSHB Section 460, Class I Bituminous Concrete Pavement Type I-1, and M3.11.00, Class I Bituminous Concrete; or

[b] A minimum four-inch compacted depth of a dense graded crushed stone material, e.g. "Star-Pac," so called, or equivalent as determined by the Planning Board; or

[c] A three-fourths-inch to one-and-one-half-inch sized crushed stone material to a minimum four-inch compacted depth.

[5] All materials listed in Subsection B(6)(c)[1] through [4] shall be compacted as specified in SSHB.

[6] Driveway construction standards shall be in accordance with the Massachusetts Highway Department's Standard Specification for Highways and Bridges.

(d) Driveway or parking lot which is used only for overflow parking or orchard access during apple picking season need not be constructed to the standards of this Subsection B(6).

The Planning Board recommended this article.

ARTICLE 44: Zoning – Amend Section 125-54 Floodplain Districts

To see if the Town will vote to amend Chapter 125, the Protective Bylaw, of the Code of the Town of Harvard by making the following revisions to §125-54 thereof, or take any vote or votes in relation thereto:

[key to revisions: underlining = additions; ~~striketrough~~ = deletions]

§125-54 FLOODPLAIN DISTRICTS

B. FLOODPLAIN DISTRICT BOUNDARIES AND BASE FLOOD ELEVATION DATA

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Harvard designated as Zone A and AE on the Worcester County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Worcester County FIRM that are wholly or partially within the Town of Harvard are panel numbers 25027C0292E, 25027C0294E, 25027C0311E, 25027C0312E, 25027C0313E, 25027C0314E, 25027C0316E, 25027C0318E, 25027C0457E, and 25027C0476E dated July 4, 2011 and; 25027C0477F, 25027C0478F, 25027C0479F, 25027C0481F and 25027C0483 dated July 16, 2014. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commission, Conservation Commission and Department of Public Works.

C. BASE FLOOD ELEVATION AND FLOODWAY DATA

- (1) Floodway Data. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

D. USE REGULATIONS

- (1) Reference to existing regulations

- (a) The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- [1] Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR);

(2) Other Use Regulations

- (a) In Zone AE, along watercourses that have a regulatory floodway designated on the Worcester County FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (b) All subdivision proposals must be designed to assure that:
 - [1] such proposals minimize flood damage;
 - [2] all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - [3] adequate drainage is provided to reduce exposure to flood hazards.
- (c) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.
- (d) There shall be established a "routing procedure" which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Building Commissioner and Department of Public Works for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

F. DEFINITIONS

ZONE AE (for new and revised maps) means the 100-year floodplain where the base flood elevation has been determined.

(Inserted by Planning Board)

The following motion was made by Joseph Hutchinson, 25 Westcott Road, Planning Board, and seconded,

I move that the Town amend Chapter 125 of the Code of the Town of Harvard , the Protective Bylaw, by making the revisions to §125-54 thereof as printed on pages 51 through 53 of the Finance Committee Report and Warrant for the 2014 Annual Town Meeting.

Voted greater than 2/3rds yes that Town amend Chapter 125, the Protective Bylaw, of the Code of the Town of Harvard by making the following revisions to §125-54 thereof:

[key to revisions: underlining = additions; ~~strikethrough~~ = deletions]

§125-54 FLOODPLAIN DISTRICTS

B. FLOODPLAIN DISTRICT BOUNDARIES AND BASE FLOOD ELEVATION DATA

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Harvard designated as Zone A and AE on the Worcester County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Worcester County FIRM that are wholly or partially within the Town of Harvard are panel numbers 25027C0292E, 25027C0294E, 25027C0311E, 25027C0312E, 25027C0313E, 25027C0314E, 25027C0316E, 25027C0318E, 25027C0457E, and 25027C0476E dated July 4, 2011 and; 25027C0477F, 25027C0478F, 25027C0479F, 25027C0481F and 25027C0483 dated July 16, 2014. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commission, Conservation Commission and Department of Public Works.

C. BASE FLOOD ELEVATION AND FLOODWAY DATA

- (1) Floodway Data. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

D. USE REGULATIONS

(1) Reference to existing regulations

- (a) The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

[1] Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR);

(2) Other Use Regulations

- (a) In Zone AE, along watercourses that have a regulatory floodway designated on the Worcester County FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (b) All subdivision proposals must be designed to assure that:
 - [1] such proposals minimize flood damage;

[2] all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and

[3] adequate drainage is provided to reduce exposure to flood hazards.

(c) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

(d) There shall be established a "routing procedure" which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Building Commissioner and Department of Public Works for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

F. DEFINITIONS

ZONE AE (for new and revised maps) means the 100-year floodplain where the base flood elevation has been determined.

The Planning Board recommended this article.

ARTICLE 45: Zoning – Amend Section 125-55 Medical Marijuana Treatment Centers

To see if the Town will vote to amend Chapter 125, the Protective Bylaw, of the Code of the Town of Harvard by making the following revisions thereto relative to Medical Marijuana Treatment Centers, or take any vote or votes in relation thereto:

1.) by adding the following new definition to §125-2, Definitions, for Medical Marijuana Treatment Center:

“MEDICAL MARIJUANA TREATMENT CENTER - A not-for-profit entity registered under 105 CMR 725.100, to be known as a registered marijuana dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana infused products (MIPs), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.”; and

2.) Amend the Protective Bylaw, by adding to §125-14, Large Scale Commercial Uses a new subsection G, Medical Marijuana Treatment Center, which will be allowed in the C District upon the grant of a special permit from the Planning Board, as follows:

“G. Medical Marijuana Treatment Center: In the C district, a Medical Marijuana Treatment Center (MMTC), including registered marijuana dispensaries and indoor cultivation sites, may be allowed by special permit (see §125-46, Special Permits) authorized by the Planning Board if in compliance with site plan standards in §125-38 provided that:

- (1) no MMTC may be located closer than five hundred feet (500') from a park, playground, church or other religious use, school, licensed child care facility, other facility where minors regularly congregate, or another MMTC. This measurement shall be the shortest distance between the MMTC building and the property line of the use in question;

- (2) the total square footage of the MMTC shall not exceed 10,000 square feet;
- (3) the site plan shall show all exterior proposed security measures for the premises, including, but not limited to lighting, fencing, gates and alarms, ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity;
- (4) hours of operation shall be between 8:00 AM and 8:00 PM Monday thru Saturday; and
- (5) an applicant shall possess a Certification of Registration from the Mass. Department of Public Health as a Registered Marijuana Dispensary and complies with the Department's regulations at all times."

(Inserted by Planning Board)

The following motion was made by Jim Breslauer, 130 Poor Farm Road, Planning Board, and seconded,

I move that the Town amend Chapter 125, the Protective Bylaw, of the Code of the Town of Harvard by making the revisions thereto relative to Medical Marijuana Treatment Centers, by i.) adding the new definition to §125-2, Definitions, for Medical Marijuana Treatment Center as printed on page 53 of the Finance Committee Report and Warrant for the 2014 Annual Town Meeting; and 2.) by adding to §125-14 thereof, Large Scale Commercial Uses a new subsection G, Medical Marijuana Treatment Center, which will be allowed in the C District upon the grant of a special permit from the Planning Board, as printed on page 54 of the Finance Committee Report and Warrant for the 2014 Annual Town Meeting with the revisions to said new subsection G as printed on page 19 of the document entitled "Town of Harvard 2014 Annual Town Meeting Planning Board Handouts Warrant Articles 40-46" and made available and distributed at this town meeting.

Voted greater than 2/3rds yes that the Town amend Chapter 125, the Protective Bylaw, of the Code of the Town of Harvard by making the following revisions thereto relative to Medical Marijuana Treatment Centers, or take any vote or votes in relation thereto:

§125-14, Large Scale Commercial Uses, by adding a new subsection G, Medical Marijuana Treatment Center, which will be allowed in the C District upon grant of a special permit from the Planning Board, as follows:

G. Medical Marijuana Treatment Center: In the C district, a Medical Marijuana Treatment Center (MMTC), including registered marijuana dispensaries and indoor cultivation sites, may be allowed by special permit (see §125-46, Special Permits) authorized by the Planning Board if in compliance with site plan standards in §125-38 provided that:

- (1) no MMTC may be located closer than five hundred feet (500') of a property in residential use, two hundred feet (200') of the Commercial district boundary, four hundred feet (400') of Ayer Road, or five hundred feet (500') of a school, church, child care facility, park, playground, an adult entertainment use, or another MMTC. This measurement shall be the shortest distance between the MMTC building and the property line of the use in question;
- (2) the total square footage of the MMTC shall not exceed six thousand (6,000) square feet;
- (3) the site plan shall show all exterior proposed security measures for the premises, including, but not limited to lighting, fencing, gates and alarms, ensuring the safety of

employees and patrons and to protect the premises from theft or other criminal activity;

- (4) hours of operation shall be between 8:00 AM and 8:00 PM Monday thru Saturday;
and
- (5) an applicant shall possess a Certification of Registration from the Mass. Department of Public Health as a Registered Marijuana Dispensary and complies with the Department's regulations at all times.

The Planning Board recommended this article.

ARTICLE 46: Zoning – Amendments re: Adult Entertainment

To see if the Town will vote to amend Chapter 125, the Protective Bylaw, of the Code of the Town of Harvard by making the following revisions thereto relative to Adult Entertainment, or take any vote or votes in relation thereto:

1.) By adding to §125-2, Definitions, new definitions for Adult Entertainment Uses, as follows:

“Adult Bookstore – an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws Chapter 272, Section 31.

Adult Motion Picture Theatre – an enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws Chapter 272, Section 31.

Adult Paraphernalia Store – an establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in Massachusetts General Laws Chapter 272, Section 31.

Adult Video Store – an establishment having as a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws Chapter 272, Section 31.

Establishment which Displays Live Nudity for its Patrons – any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in Massachusetts General Laws Chapter 272, Section 31.

2.) by adding to §125-14, Large Scale Commercial Uses a new subsection H, Adult Entertainment, which uses will require a special permit from the Planning Board in the C District, as follows:

“H. Adult Entertainment Uses:

- (1) Purpose. This by-law is enacted pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution to serve the compelling Town interest of preventing the clustering and concentration of adult entertainment enterprises as defined herein because of their deleterious effect on adjacent areas and in response to studies demonstrating

their effect in generating crime and blight.

- (2) In the C district, an Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theatre, or Establishment which Displays Live Nudity for its Patrons may be allowed by special permit (see §125-46, Special Permits) authorized by the Planning Board if in compliance with site plan standards in §125-38 provided that:
- (a) No such use may be located within five hundred feet (500') of a residential zoning district, school, church or other religious use, child care facility, park, playground or another Adult Entertainment Use.
 - (b) No Special Permit shall be issued to any person convicted of violating the provisions of M.G.L. Ch. 119, § 63 or M.G.L. 272, § 28.
 - (c) No store which rents and/or sells videos shall have any adult videos openly displayed in the same public viewing area as non-adult videos. Said adult videos shall be displayed in a separate room from the non-adult videos, which is to be constructed to prevent the view of adult video stock by the general public unless they enter the room itself. Said enclosure shall have only one entrance and be located to ensure proper monitoring.

No pictures, publications, videotapes, movies, covers, or other implements, items, or advertising that fall within the definition of adult entertainment enterprise merchandise or are erotic, prurient, or related to violence, sadism, or sexual exploitation shall be displayed in the windows of, or on the building of any adult entertainment enterprise, or be visible to the public from pedestrian sidewalks or walkways or from other areas, public or semi-public, outside such establishments.”

(Inserted by Planning Board)

The following motion was made by Timothy Schmoyer, 278 Stow Road, Planning Board, and seconded,

I move that the Town amend Chapter 125, the Protective Bylaw, of the Code of the Town of Harvard by making the revisions thereto relative to Adult Entertainment, by i.) adding the new definitions to §125-2, Definitions, for Adult Entertainment Uses as printed on page 54 of the Finance Committee Report and Warrant for the 2014 Annual Town Meeting; and 2.) by adding to §125-14 thereof, Large Scale Commercial Uses a new subsection H, Adult Entertainment Uses, which will be allowed in the C District upon the grant of a special permit from the Planning Board, as printed on page 55 of the Finance Committee Report and Warrant for the 2014 Annual Town Meeting with the revisions to said new definitions and subsection G as printed on pages 20 and 21 of the document entitled “Town of Harvard 2014 Annual Town Meeting Planning Board Handouts Warrant Articles 40-46” and made available and distributed at this town meeting.

Voted greater than 2/3rds yes that the Town amend Chapter 125, the Protective Bylaw, of the Code of the Town of Harvard by making the following revisions thereto relative to Adult Entertainment:

Amend the Protective Bylaw, §125-2, Definitions

Adult Video Store – an establishment having as a substantial or significant portion of its stock in trade, videos, any visual material, movies, digital media, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in Massachusetts General Law Chapter 272, Section 31.

Amend the Protective Bylaw, §125-14, Large Scale Commercial Uses, by adding a new subsection H, Adult Entertainment, which uses will require a special permit from the Planning Board in the C District, as follows:

H. Adult Entertainment Uses:

- (1) Purpose. This by-law is enacted pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution to serve the compelling Town interest of preventing the clustering and concentration of adult entertainment enterprises as defined herein because of their deleterious effect on adjacent areas and in response to studies demonstrating their effect in generating crime and blight.
- (2) In the C district, an Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theatre, or Establishment which Displays Live Nudity for its Patrons may be allowed by special permit (see §125-46, Special Permits) authorized by the Planning Board if in compliance with site plan standards in §125-38 provided that:
 - (a) No such use may be located within five hundred feet (500') of a property in residential use, two hundred feet (200') of the Commercial district boundary, four hundred feet (400'), or five hundred feet (500') of a school, church, child care facility, park, playground or another Adult Entertainment Use.
 - (b) No Special Permit shall be issued to any person convicted of violating the provisions of M.G.L. Ch. 119, § 63 or M.G.L. 272, § 28.
 - (c) No store which rents and/or sells videos shall have any adult videos openly displayed in the same public viewing area as non-adult videos. Said adult videos shall be displayed in a separate room from the non-adult videos, which is to be constructed to prevent the view of adult video stock by the general public unless they enter the room itself. Said enclosure shall have only one entrance and be located to ensure proper monitoring.
 - (d) No pictures, publications, videotapes, movies, covers, or other implements, items, or advertising that fall within the definition of adult entertainment enterprise merchandise or are erotic, prurient, or related to violence, sadism, or sexual exploitation shall be displayed in the windows of, or on the building of any adult entertainment enterprise, or be visible to the public from pedestrian sidewalks or walkways or from other areas, public or semi-public, outside such establishments.

The Planning Board recommended this article.

(Article 47 was taken after article 38.)

ARTICLE 47: HOME RULE LEGISLATION – MANAGE OTHER POST-EMPLOYMENT BENEFITS LIABILITY OF THE TOWN OF HARVARD

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth to pass Special Legislation under the Home Rule Amendment to the Massachusetts Constitution or pass any vote or votes in relation thereto the following Act:

Be it enacted by the Senate and the House of Representatives in General Court assembled, and by the authority of the same, as follows:

AN ACT TO MANAGE THE OTHER POST-EMPLOYMENT BENEFITS LIABILITY OF THE TOWN OF HARVARD

SECTION 1. Notwithstanding any general or special law to the contrary including, but not limited to chapter 32B of the General Laws, the Town of Harvard, in the discretion of its board of selectmen, may adopt eligibility rules and regulations, establishing, and changing from time to time, eligibility and/or premium contribution rates based on one or more of the following factors:

- (1) Years of service as an employee of the town of Harvard;
- (2) Years of creditable service for the purposes of chapter 32 of the General Laws;
- (3) Receipt of a retirement allowance/pension under chapter 32 of the General Laws;
- (4) The length of time between the employee's separation from employment and application for retirement benefits under chapter 32 of the General Laws, including the application for and/or receipt of such allowance/pension immediately after the separation of employment from the town of Harvard;
- (5) Participation in the town of Harvard's health plan at the time of retirement and/or for a period of time prior thereto;
- (6) Age, provided no benefit shall be offered to younger retirees that is not also available to older similarly-situated retirees on the same terms;
- (7) Status as a retired employee, surviving spouse of a retired or deceased employee, or dependent of retired or deceased employee;
- (8) Date of hire;
- (9) Date of retirement;
- (10) Reason for separation from employment;
- (11) Average hours worked over a defined period of time;
- (12) And any other such factor the town of Harvard deems necessary and appropriate to limit its Other Post-Employment Benefit Liability.

SECTION 2. The Town of Harvard, in establishing premium contribution rates, may set, and change from time to time, different premium contribution rates based upon the criteria set forth above including, but not limited to, the prorating of premium contributions based on the average number of hours worked over a defined period of time; provided said premium contribution rates shall be otherwise subject to the requirements of sections 7, 7A, 9, 9A, 9B, 9C, 9D, 9D¹/₂, 9D³/₄, 9E, 9G and/or 16, as accepted, of chapter 32B of the General Laws.

SECTION 3. Nothing in this special act shall result in the termination of the health coverage of a retiree, surviving spouse or dependent who is currently participating in the town of Harvard's health plan; provided said individual(s) continue to participate in said health plan.

SECTION 4. The implementation of any rules in accordance with this special act shall not be subject to collective bargaining pursuant to chapter 150E of the General Laws or any other general or special law to the contrary.

SECTION 5. Nothing in this special act shall limit or in any way restrict the Town of Harvard in the exercise of its rights under chapter 32B of the General Laws.

SECTION 6: This act shall be effective upon passage.
(Inserted by Board of Selectmen)

The following motion was made by Stuart Sklar, 39 Scott Road, Board of Selectmen, and seconded,

I move that the Town authorize the Board of Selectmen to petition the General Court of the Commonwealth to pass a special act under the Home Rule Amendment to the Massachusetts Constitution relative to Other Post-Employment Benefit Liability substantially the same as the proposed special act printed on pages 55 and 56 of the Finance Committee Report and Warrant for the 2014 Annual Town Meeting.

A motion by Paul Morris, 14 Lovers Lane, and seconded, to amend the article by eliminating section 4 was defeated, majority no.

A motion by Laura Andrews, 13 Scott Road, and seconded, to move the question was voted greater than 2/3rds yes.

Voted majority yes to authorize the Board of Selectmen to petition the General Court of the Commonwealth to pass Special Legislation under the Home Rule Amendment to the Massachusetts Constitution or pass any vote or votes in relation thereto the following Act:

Be it enacted by the Senate and the House of Representatives in General Court assembled, and by the authority of the same, as follows:

AN ACT TO MANAGE THE OTHER POST-EMPLOYMENT BENEFITS LIABILITY OF THE TOWN OF HARVARD

SECTION 1. Notwithstanding any general or special law to the contrary including, but not limited to chapter 32B of the General Laws, the Town of Harvard, in the discretion of its board of selectmen, may adopt eligibility rules and regulations, establishing, and changing from time to time, eligibility and/or premium contribution rates based on one or more of the following factors:

- (1) Years of service as an employee of the town of Harvard;
- (2) Years of creditable service for the purposes of chapter 32 of the General Laws;
- (3) Receipt of a retirement allowance/pension under chapter 32 of the General Laws;
- (4) The length of time between the employee's separation from employment and application for retirement benefits under chapter 32 of the General Laws, including the application for and/or receipt of such allowance/pension immediately after the separation of employment from the town of Harvard;
- (5) Participation in the town of Harvard's health plan at the time of retirement and/or for a period of time prior thereto;

(6) Age, provided no benefit shall be offered to younger retirees that is not also available to older similarly-situated retirees on the same terms;

(7) Status as a retired employee, surviving spouse of a retired or deceased employee, or dependent of retired or deceased employee;

(8) Date of hire;

(9) Date of retirement;

(10) Reason for separation from employment;

(11) Average hours worked over a defined period of time;

(12) And any other such factor the town of Harvard deems necessary and appropriate to limit its Other Post-Employment Benefit Liability.

SECTION 2. The Town of Harvard, in establishing premium contribution rates, may set, and change from time to time, different premium contribution rates based upon the criteria set forth above including, but not limited to, the prorating of premium contributions based on the average number of hours worked over a defined period of time; provided said premium contribution rates shall be otherwise subject to the requirements of sections 7, 7A, 9, 9A, 9B, 9C, 9D, 9D½, 9D¾, 9E, 9G and/or 16, as accepted, of chapter 32B of the General Laws.

SECTION 3. Nothing in this special act shall result in the termination of the health coverage of a retiree, surviving spouse or dependent who is currently participating in the town of Harvard's health plan; provided said individual(s) continue to participate in said health plan.

SECTION 4. The implementation of any rules in accordance with this special act shall not be subject to collective bargaining pursuant to chapter 150E of the General Laws or any other general or special law to the contrary.

SECTION 5. Nothing in this special act shall limit or in any way restrict the Town of Harvard in the exercise of its rights under chapter 32B of the General Laws.

SECTION 6: This act shall be effective upon passage.

ARTICLE 48: HOME RULE LEGISLATION - TO MAKE COMMUNITY SOLAR SHARES EXEMPT FROM LOCAL TAXATION

To see if the Town will vote to instruct the Board of Selectmen to file a Home Rule Petition with the General Court of the Commonwealth of Massachusetts to enact a special act which provides that, notwithstanding any provisions of the Massachusetts General Laws to the contrary, shares in a community solar energy system constructed in the Town of Harvard shall be exempt from local taxation on the same basis as if the shares were installed on the properties of the residential and/or non-utility business share owners.

(Inserted by Petition)

The following motion was made by Libby Levison, 15 Old Shirley Road, and seconded,

I move that the Town of Harvard instruct its Board of Selectmen to file a Home Rule Petition with the General Court of the Commonwealth of Massachusetts to enact a special act as follows.

SECTION 1. Notwithstanding any general or special law to the contrary, any community shared solar energy system, located within the town of Harvard, shall be exempt from taxes imposed by chapter 59 of the General Laws.

For the purposes of this section, “community shared solar energy system” shall mean a solar powered system or device or a combination of solar powered systems or devices collectively owned by residents or non utility businesses that are placed on property owned by a cooperating local property owner, nonprofit organization or non utility business for the purpose of heating or otherwise supplying not more than 125 per cent of the annual energy needs of each of the owners of the system or device; provided, however, that (i) the ownership units shall be less than or equal to 25 kilowatts each and (ii) the owner of a community solar energy system unit shall receive an exemption in proportion to the owner’s share of the system, as determined by the proportion of energy generated for use by the owner.

SECTION 2. This act shall take effect on January 1, 2015.

A motion by Marie Sobalvarro, 1 St. John Lane, to amend the second paragraph in Section 1 by adding residents "in the Town of Harvard" and businesses "in the Town of Harvard", was not accepted by the petitioners, and was withdrawn.

A motion by Laura Andrews, 13 Scott Road, to amend the first paragraph in Section 1 by adding, after the word taxes "for a period of 20 years from the date of installation", was seconded and accepted by the petitioners.

A motion by Lucy Wallace, 18 Orchard Hill, to move the question, was seconded and voted greater than 2/3rds yes.

Voted majority yes that the Town of Harvard instruct its Board of Selectmen to file a Home Rule Petition with the General Court of the Commonwealth of Massachusetts to enact a special act as follows.

SECTION 1. Notwithstanding any general or special law to the contrary, any community shared solar energy system, located within the town of Harvard, shall be exempt from taxes, for a period of 20 years from the date of installation, imposed by chapter 59 of the General Laws.

For the purposes of this section, “community shared solar energy system” shall mean a solar powered system or device or a combination of solar powered systems or devices collectively owned by residents or non utility businesses that are placed on property owned by a cooperating local property owner, nonprofit organization or non utility business for the purpose of heating or otherwise supplying not more than 125 per cent of the annual energy needs of each of the owners of the system or device; provided, however, that (i) the ownership units shall be less than or equal to 25 kilowatts each and (ii) the owner of a community solar energy system unit shall receive an exemption in proportion to the owner’s share of the system, as determined by the proportion of energy generated for use by the owner.

SECTION 2. This act shall take effect on January 1, 2015.

[Articles 49 through 53 were taken out of order after article 37 on the first evening. See wording after Article 37.]

The first session on April 1, which was adjourned at 9:30 PM, covered Articles 1 through 37 and 49 through 53. The second session on April 2 covered Articles 38 through 48 and was dissolved at 10:10 PM

Debbie Ricci was recognized as the Citizen of Note.

Checkers for the meeting were Patti Anklam , Lisa Dagdigian, Jim DeZutter, and Debbie Kaegebein, on the first night, and Patti Anklam, Marge Darby, Rhonda Sprague, and Carol Lee Tonge on the second night. They checked in 341 voters out of a total of 4089 registered voters (3899 active voters) on April 1, and 267 voters on April 2.

Tellers for the meeting were Moe Dancause, Libby Levison, Bruce Nickerson, Phil Knoettner, Bob Sullebarger, and Jim Ware.

Respectfully submitted,

Janet A.Vellante
Town Clerk