

## SPECIAL TOWN MEETING

AUGUST 29, 2012

The meeting was called to order in the Bromfield Cronin Auditorium at 7:02 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 A. 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
Mark Lanza	Town Counsel
Lorraine Leonard	Finance Director
Richard Nota	Director of Public Works
Richard Sicard	Fire Chief

### **Article 1: Amend Chapter 125 Protective Bylaw - 125-23 Permitted uses in C Districts**

To see if the Town will vote to amend the Protective Bylaw of the Town, Chapter 125 of the Town Code, by making the following revisions thereto, or pass any vote or votes in relation thereto.

(Key to revisions: underlining = additions)

**§ 125-23. Permitted uses in C Districts. [Added 3-6-1965 ATM by Art. 29; amended 3-6-1971 ATM by Art. 34; 3-4-1972 ATM by Art. 44; 3-3-1973 ATM by Art. 35; 3-26-1977 ATM by Art. 35; 4-5-1986 ATM by Art. 39; 11-16-1987 STM by Art. 10; 3-28-1998 ATM by Art. 29; 12-8-1998 STM by Art. 14; 3-27-2004 ATM by Art. 39]**

The intent of the C District is to permit shopping and business services type land uses that meet the needs of the local community rather than the region, and to encourage uses that, when established, result in a traditional New England village form of development of appropriate scale, character, vernacular architecture, design, and detail. It is also the intent of the C District to provide for an array of uses consistent with the Master Plan adopted by the Planning Board, as may be amended, including opportunities for mixed use development, pedestrian interaction, and a vibrant village atmosphere.

A. Permitted uses are:

- (1) As provided in § 125-12, Small-scale commercial uses.
- (2) As provided in § 125-7, Agricultural uses, § 125-10, Conversion for multiple residence, § 125-15, Earthmoving, § 125-16, Institutional uses, and § 125-41J, Other off-site signs.
- (3) As provided in § 125-8, Single residence use, on lots as they existed February 1, 1972.
- (4) As provided in § 125-13, Medium-scale commercial uses, with the exception of Subsections M, T, U and V (laboratory for engineering, research, experimental, or testing activities; landscaping services involving equipment parking; kennel and/or veterinary services; mortuary), however, for § 125-13, Medium-scale commercial uses, Subsection Y permitted uses, only in building(s) existing on October 16, 1998. As provided in § 125-53, Large-Scale Ground Mounted Solar Photovoltaic Facilities Overlay District.

B. Uses by special permit (see § 125-46, Special permits) issued by the Planning Board as follows:

- (1) As provided in § 125-13, Medium-scale commercial uses, Subsections M, S, T, U, V, Z (inn or bed-and-breakfast establishment, eating establishments with live musical entertainment; laboratory for engineering, research, experimental, or testing activities; shops and sales of supplies for plumbing, electrical, carpentry and other building trades; landscaping services involving equipment parking; kennel and/or veterinary services; mortuary; mixed use village development).
- (2) As provided in § 125-14, Large-scale commercial uses, except that no special permit shall be issued pursuant to Subsection F thereof for an automobile body shop.

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

I move that the Town amend the Protective Bylaw of the Town, Chapter 125 of the Town Code, by making the revisions to Section 125-23 thereof, Permitted uses in C Districts as printed on Page 1 and 2 of the Warrant for this special town meeting.

The Planning Board supported this article unanimously.

Voted greater than 2/3 yes that the Town amend the Protective Bylaw of the Town, Chapter 125 of the Town Code, by making the following revisions thereto, or pass any vote or votes in relation thereto.

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- (4) As provided in § 125-13, Medium-scale commercial uses, with the exception of Subsections M, T, U and V (laboratory for engineering, research, experimental, or testing activities; landscaping services involving equipment parking; kennel and/or veterinary services; mortuary), however, for § 125-13, Medium-scale commercial uses, Subsection Y permitted uses, only in building(s) existing on October 16, 1998. As provided in § 125-53, Large-Scale Ground Mounted Solar Photovoltaic Facilities Overlay District.

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live musical entertainment; laboratory for engineering, research, experimental, or testing activities; shops and sales of supplies for plumbing, electrical, carpentry and other building trades; landscaping services involving equipment parking; kennel and/or veterinary services; mortuary; mixed use village development).

- (2) As provided in § 125-14, Large-scale commercial uses, except that no special permit shall be issued pursuant to Subsection F thereof for an automobile body shop.

**Article 2: Amend Chapter 125 Protective Bylaw - 125-53 Large-Scale Ground-Mounted Solar Photovoltaic Facilities Overlay District.**

To see if the Town will vote to amend the Protective Bylaw of the Town, Chapter 125 of the Town Code, by making the following revisions thereto, or pass any vote or votes in relation thereto.

(Key to revisions: underlining = additions)

§125-53 Large-Scale Ground-Mounted Solar Photovoltaic Facilities Overlay District. [Added 11-9-2010 STM by Art. 2]

A. Purpose and Objectives. The purpose of this Section is to promote the creation of new large-scale ground-mounted solar photovoltaic facilities (SPFs) by:

- (1) Establishing areas for construction of SPFs;
- (2) Providing standards for the placement, design, construction, operation, monitoring, modification and removal of such facilities, which standards address public safety and minimize impacts on scenic, natural and historic resources; and
- (3) Providing adequate financial assurance for the eventual decommissioning of such facilities.

B. Applicability. This § 125-53 applies to and permits the installation and operation of large-scale (nameplate capacity of 250 kW DC or greater) ground-mounted SPFs in accordance

with the provisions hereunder. This section also pertains to physical modifications that materially alter the type, configuration, or size of these facilities or related equipment.

C. Location. The Solar Photovoltaic Facilities Overlay District shall consist of the following areas:

- (1) An area of approximately 10.18 acres within Assessor's Map 17A, Parcel 14, with frontage of 110 feet along Harvard Depot Road, bounded as follows: from the intersection of the northern lot boundary with Depot Road, running roughly west for 889 feet, then south 464 feet, then east 659 feet and then northerly following Bowers Brook to Depot Road 587 feet; and,
- (2) Within the Commercial "C-District" the land shown as Parcels 25 and 27 on Assessor's Map 4, located along Ayer Road, subject to the provisions of §125-53D(6)

D. Review Criteria and Considerations.

- (1) No building permit shall be issued for an SPF without prior approval by the Planning Board of a site plan in accordance with the provisions of §125-38 of this Protective Bylaw. Site plans shall be deemed constructively approved if not acted upon within one year after submission of complete plans.
- (2) Applications for Site Plan Review shall include evidence that the utility company that operates the electrical grid where the facility is to be located has been informed and consents to the solar photovoltaic facility owner or operator's plan to connect to the electrical grid. Off-grid systems are exempt from this requirement.
- (3) The height of all structures comprising the SPF shall not exceed 20 feet above the pre-existing natural grade.
- (4) The applicant shall submit a plan for the operation and maintenance of the SPF.
- (5) The owner, operator, successors, and assigns of the SPF shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures.
- (6) For Parcels 25 and 27 in the Commercial District, as shown on Assessor's Map 4, a one hundred and fifty (150) foot set-back is required from both Ayer Road and Old Mill Road for any SPF constructed. In addition, any SPF located on these parcels must be substantially masked from view with trees, shrubs, or bushes all seasons of the year.
- (7) The applicant shall provide proof of ownership of the proposed site, or proof of a contract or lease with the owner of the site establishing the applicant's right to construct a SPF on the site. The application must be signed by the owner(s) of the property and the company(s) proposing to erect the SPF.

(8) In addition to the application fee, which shall be determined by the rules for site plan approval, the applicant shall pay a project review fee if so required by the Planning Board in accordance with said rules.

E. Nonuse. All structures associated with an SPF shall be removed within one year of cessation of use. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Removal shall include:

- (1) Removal of all structures, equipment, security barriers and transmission lines from the site.
- (2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (3) After consultation with the Planning Board, stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below grade foundations in order to minimize erosion and disruption to vegetation.

F. Compliance. Applicants, other than governmental authorities, shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the SPF and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed 125 percent of

the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. The project proponent shall submit a fully inclusive estimate of the costs associated with removal prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

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

I move that the Town amend the Protective Bylaw of the Town, Chapter 125 of the Town Code, by making the revisions to Section 125-53 thereof, Large-Scale Ground-Mounted Solar Photovoltaic Facilities Overlay District, as printed on Page 2 and 3 of the Warrant for this special town meeting.

The Planning Board supported this article unanimously.

Voted greater than 2/3 yes that the Town amend the Protective Bylaw of the Town, Chapter 125 of the Town Code, by making the following revisions thereto.

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  - (3) Providing adequate financial assurance for the eventual decommissioning of such facilities.
- B. Applicability. This § 125-53 applies to and permits the installation and operation of large-scale (nameplate capacity of 250 kW DC or greater) ground-mounted SPFs in accordance with the provisions hereunder. This section also pertains to physical modifications that materially alter the type, configuration, or size of these facilities or related equipment.
- C. Location. The Solar Photovoltaic Facilities Overlay District shall consist of the following areas:
- (1) An area of approximately 10.18 acres within Assessor's Map 17A, Parcel 14, with frontage of 110 feet along Harvard Depot Road, bounded as follows: from the intersection of the northern lot boundary with Depot Road, running roughly west for 889 feet, then south 464 feet, then east 659 feet and then northerly following Bowers Brook to Depot Road 587 feet; and,
  - (2) Within the Commercial "C-District" the land shown as Parcels 25 and 27 on Assessor's Map 4, located along Ayer Road, subject to the provisions of §125-53D(6)
- D. Review Criteria and Considerations.
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- (2) Applications for Site Plan Review shall include evidence that the utility company that operates the electrical grid where the facility is to be located has been informed and consents to the solar photovoltaic facility owner or operator's plan to connect to the electrical grid. Off-grid systems are exempt from this requirement.
  - (3) The height of all structures comprising the SPF shall not exceed 20 feet above the pre-existing natural grade.
  - (4) The applicant shall submit a plan for the operation and maintenance of the SPF.
  - (5) The owner, operator, successors, and assigns of the SPF shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures.
  - (6) For Parcels 25 and 27 in the Commercial District, as shown on Assessor's Map 4, a one hundred and fifty (150) foot set-back is required from both Ayer Road and Old Mill Road for any SPF constructed. In addition, any SPF located on these parcels must be substantially masked from view with trees, shrubs, or bushes all seasons of the year.
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  - (8) In addition to the application fee, which shall be determined by the rules for site plan approval, the applicant shall pay a project review fee if so required by the Planning Board in accordance with said rules.
- E. Nonuse. All structures associated with an SPF shall be removed within one year of cessation of use. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Removal shall include:
- (1) Removal of all structures, equipment, security barriers and transmission lines from the site.
  - (2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
  - (3) After consultation with the Planning Board, stabilization or re-vegetation of the site as

necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below grade foundations in order to minimize erosion and disruption to vegetation.

- F. Compliance. Applicants, other than governmental authorities, shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the SPF and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed 125 percent of

the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. The project proponent shall submit a fully inclusive estimate of the costs associated with removal prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

### **ARTICLE 3: ABANDON AND DISCONTINUE PORTION OF ELM STREET**

To see if the Town will vote to discontinue and abandon the portion of Elm Street lying between the northerly boundary of Easement #1 and Ayer Road, which easement and road are shown on a plan entitled “Plan of Easements – Harvard Common – Harvard, Massachusetts” dated December, 1992, prepared by David E. Ross Associates, Inc. and recorded with the Worcester County Registry of Deeds in Plan Book 680, Plan 2, a copy of which plan is on file in the Office of the Town Clerk, or take any action in relation thereto.

On a motion by Timothy Clark, 114 Bolton Road, Board of Selectmen, and seconded,

Voted majority yes that the Town discontinue and abandon the portion of Elm Street lying between the northerly boundary of Easement #1 and Ayer Road, which easement and road are shown on a plan entitled “Plan of Easements – Harvard Common – Harvard, Massachusetts” dated December, 1992, prepared by David E. Ross Associates, Inc. and recorded with the Worcester County Registry of Deeds in Plan Book 680, Plan 2, a copy of which plan is on file in the Office of the Town Clerk.

### **ARTICLE 4: AUTHORIZE THE BOARD OF SELECTMEN TO LEASE PROPERTY**

To see if the Town will vote to authorize the Board of Selectmen to enter into a lease, as lessee, of property for temporary space to house Town Hall offices and related space located within the town of Harvard (not including Devens) while the current town hall building is being renovated, provided such lease is the lowest cost solution for the relocation of town offices, or take any other action relative thereto.

(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 authorize the Board of Selectmen to enter into a lease, as lessee, of property for temporary space to house Town Hall offices and related space located within the Town of Harvard (not including Devens) while the current town hall building is being renovated, provided such lease is the lowest cost solution for the relocation of town offices.

The following motion was made by Bill Salter, 3 Elm Street, and seconded,

I move that the Town authorize the Board of Selectmen to enter into a lease, as lessee, of property for temporary space to house Town Hall offices and related space located within the town of Harvard (not including Devens) while the current town hall building is being renovated, provided such lease shall represent the best tradeoff of costs and benefits, including financial and non-financial costs and benefits, for the relocation of town offices.

The Board of Selectmen did not accept the amendment.

A motion by Jim Ware to move the amendment was seconded and voted greater than 2/3 yes.

The amendment was voted majority yes to authorize the Board of Selectmen to enter into a lease, as lessee, of property for temporary space to house Town Hall offices and related space located within the town of Harvard (not including Devens) while the current town hall building is being renovated, provided such lease shall represent the best tradeoff of costs and benefits, including financial and non-financial costs and benefits, for the relocation of town offices.

The following motion was made by Keith Turner, 247 Littleton County Road, and seconded,

I move that the Town amend the motion by deleting the phrase “(not including Devens)”

The Board of Selectmen did not accept the amendment.

The amendment was voted majority yes to amend the motion by deleting the phrase “(not including Devens)”.

The following motion was made by Paul Richards, 63 Westcott Road, and seconded,

I move that the Town amend the motion by changing the phrase “within the Town of Harvard” to “within an eight mile radius as the crow flies of the Town Hall”.

The Board of Selectmen did not accept the amendment.

The Moderator recommended removing “as the crow flies”.

The amendment was voted majority yes to amend the motion by changing the phrase “within the Town of Harvard” to “within an eight mile radius of the Town Hall”

Voted greater than 2/3 yes to authorize the Board of Selectmen to enter into a lease, as lessee, of property for temporary space to house Town Hall offices and related space located within an eight mile radius of the Town Hall while the current town hall building is being renovated, provided such lease shall represent the best tradeoff of costs and benefits, including financial and non-financial costs and benefits, for the relocation of town offices.

**ARTICLE 5: AUTHORIZE THE BOARD OF SELECTMEN TO RENT OR LEASE THE OLD LIBRARY**

To see if the Town will vote to (a) authorize the Board of Library Trustees to transfer the care, custody, management and control of the old library building located at 7 Fairbank Street to the Board of Selectmen; and (b) authorize the Board of Selectmen to enter into a rental or lease agreement, as lessor, with another party to utilize the old library building located at 7 Fairbank Street, or take any other action relative thereto.

On a motion by William Johnson, 72 Warren Avenue, Board of Selectmen, and seconded,

Voted greater than 2/3 yes to (a) authorize the Board of Library Trustees to transfer the care, custody, management and control of the old library building located at 7 Fairbank Street to the Board of Selectmen; and (b) authorize the Board of Selectmen to enter into a rental or lease agreement, as lessor, with another party to utilize the old library building located at 7 Fairbank Street.

The meeting was dissolved at 8:15 p.m.

Checkers for the meeting were Gail Conlin, Debbie Kaegebein, Frances Maiore, and Dorothy Solbrig. They checked in 198 voters out of a total of 4169 registered voters (3914 active voters).

Respectively submitted,

Janet A. Vellante  
Town Clerk