

**HARVARD CONSERVATION COMMISSION
MINUTES OF MEETING
FEBRUARY 4, 2016
APPROVED: APRIL 21, 2016**

Chairman Paul Willard called the meeting to order at 7:00pm in the Hapgood Room at 7 Fairbank Street under MGL Chapter 131 §40 the Wetland Protection Act and The Code of the Town of Harvard Chapter 119 the Wetland Protection Bylaw

Members Present: Paul Willard, Don Ritchie, Wendy Sisson, Jim Breslauer, Jaye Waldron and Joanne Ward

Others Present: Liz Allard (LUB Admin), Jim Burns, Rob Oliva (Ross Assoc.), J.T. Morine, SusanMary Reddinger, Linda Dwight (Harvard Superintendent), Scott Smyers (Oxbow Assoc.), Mary Traphagen and Ken Kasabian

Water System Study Committee – Stormwater Mitigation, Pond Road

Ted Morine, a member of the Water System Study Committee, was present to discuss with the Commission the potential of mitigating stormwater along Pond Road. The public water supply wells on Pond Road have recently been found to have sources of pollution. It has been determined that one of the existing wells has a fracture to bedrock and is a potential source of the pollution. The Department of Public Works will reduce the amount of salt used on the roadway in the area of the wells in order to help in reducing the pollutants in the water. To further protect the well the Committee is looking to improve water chemistry by designing remediation that will channel the water to a point beyond the existing fracture.

The design will most likely trigger the need for the Committee to file with the Conservation Commission (Concom). A Notice of Intent may trigger the need for the inclusion of a stormwater management facility for the outflow. The process of filling with the Concom was detailed for Mr. Morine. Once more information is obtained Mr. Morine will contact the Land Use Administrator to discuss the options for filling.

Potential Associate Member – Jim Burns

Jim Burns was present this evening to discuss his interest in becoming the associate member of the Conservation Commission. Mr. Burns has been participating in trail maintenance activities with the Land Stewardship Subcommittee as of recently. Mr. Burns is interested in the outdoor activities of the Commission. Mr. Burns flexible work schedule would allow for him to partake in site visit. Mr. Burns see a great value in being involved in the Town.

Wendy Sisson made a motion that Jim Burns be recommend for appointment by the Board of Selectmen as the associate member of the Conservation Commission. Don Ritchie seconded the motion. The vote was unanimously in favor of the motion.

Invasive Plant Management Update – Murphy, 55 West Bare Hill Road

Wendy Sisson updated the Commission on her and Don Ritchie's review of the above mentioned site last week. The contractor asked to use Garlon 4, which is non-petroleum basal oil. This product is best used when conditions have been dry and there is no potential for rain. Members were agreeable to the request.

Continuation of a Notice of Intent Hearing – Town of Harvard School Department, 14 Massachusetts Avenue, DEP#177-644, Harvard#1215-02. Opened at 7:32pm

Sign Final Deed for Gift of Land – Daman, Brown Road

Liz Allard stated the Daman's have signed the final deed for the gift of approximately 35 acres of land along Brown Road. Once the deed is signed by the Commission it will be forwarded to the

Board of Selectmen for their signatures and finally for recording at the Registry of Deeds. With no questions or comments, Joanne Ward made a motion to accept the gift of land as detailed in the deed from Steven and Deborah Daman. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion.

Discuss Working Group with Harvard Conservation Trust

Liz Allard has been contacted by the Director at the Harvard Conservation Trust in regards to the creation of a working group made up of members of the Commission and the Harvard Conservation Trust who would work together on current land transactions. Due to a lack of enthusiasm by the Commission the matter was tabled.

Master Plan Steering Committee (MPSC) Update

Jaye Waldron stated the Master Plan Steering Committee received the reserve fund transfer needed to complete the Master Plan. A new contract with Burns & McDonnell will incorporate the Devens aspects into the entire Master Plan. There is a tentative date to present to the public on March 3rd.

Land Stewardship Subcommittee Update

Wendy Sisson reported the Subcommittee is working on a trail log that will allow users to report on the status of the trails for routine maintenance.

The Committee is planning a possible spring walk of the Willard property.

Update on Annual Town Meeting 2016 Warrant Articles

Feedback on the Commissions request for funding of \$350,000 from Town Meeting for the purchase of 24 acres of land along Massachusetts Avenue has not been good. The Commission did not follow the process of applying to the Capital Planning and Investments Committee; therefore it had not been considered when the budget was completed.

Members feel that it has been a significant amount of time since they have gone to the Town and requested funding. If the request is receiving negative feedback, should a citizen petition be considered? Liz Allard will follow up with the Town Administrator and the Finance Director to determine the best route for the Commission to take in order to obtain funding for this purchase.

Update to the Gifts of Land – Swabb, 100 Shaker Road

Proposals have been received from three contractors for consideration by the Commission for the removal of the structures and other debris at 100 Shaker Road. Wendy Sisson would like to wait for additional proposals before making a decision, as the money for this work would come from the Conservation fund which is dwindling.

Continuation of a Notice of Intent Hearing - Kenneth Kasabian, Lot B Poor Farm Road (Map 9 Parcel 4.2.1), DEP#177-643, Harvard#0715-02. Opened at 8:00pm

Erosion Control Bylaw Hearing. Opened at 8:30pm

Follow-up on ZBA Comments for CHOICE, 105 Stow Road

Responses by the applicant to the Commission's comments previously sent to the ZBA are not clear and need better clarification before the Commission will be satisfied with the plan proposed by CHOICE for 105 Stow Road. Liz Allard will follow up with the applicant's representative to further clarify the plans.

Adjournment

Jim Breslauer made a motion at 9:17pm to adjourn the meeting. Joanne Ward seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted, Liz Allard Land Use Administrator/Conservation Agent

**Harvard Conservation Commission
Continuation of a Notice of Intent Hearing Meeting Minutes
Town of Harvard School Department, 14 Massachusetts Avenue
DEP#177-644, Harvard#1215-02
February 4, 2016**

The public hearing was opened at 7:32pm by Chairman Paul Willard under the Massachusetts Wetland Protection Act, Ch. 131 §40 and the Harvard Wetland Protection Bylaw, Chapter 119 of the Code of the Town of Harvard in the Hapgood Room at 7 Fairbank Street

Members Present: Paul Willard, Don Ritchie, Wendy Sisson, Jim Breslauer, Jaye Waldron and Joanne Ward

Others Present: Liz Allard (LUB Admin), Jim Burns, Rob Oliva (Ross Assoc.) SusanMary Reddinger, Linda Dwight (Harvard Superintendent), and Mary Traphagen

This hearing was continued from January 7, 2016 for a Notice of Intent filed on behalf of the Town of Harvard School Department for the construction of a new paved parking area with appropriate stormwater management facilities within the 100' wetland buffer zone at 14 Massachusetts Avenue, Harvard.

Rob Oliva, of Ross Associates, was present to present the revised plan to the Commission. Mr. Oliva stated pavement, the shed and the dumpster pad have been removed from the 75' wetland buffer zone. In doing so the parking area has lost 8 spaces. The proposed detention basin shows some perennial shrubs for bio-retention. In addition, the plan shows a limitation of annual mowing from the edge of parking area on the west side of the lot that extends out eight feet. This limitation is also noted in the area along the driveway.

With no further questions or comments, Jim Breslauer made a motion to close the hearing and issue an Order of Conditions with the following special conditions:

- 1) Maintenance of the Stormwater Management Facilities shall be in accordance with those requirements detailed on page 4 of the final approved plan; and
- 2) Annual Reports shall be submitted to the Conservation Commission by December 31st of each year detailing the maintenance and/or repairs completed to the facilities.

Don Ritchie seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

**Harvard Conservation Commission
Continuation of a Notice of Intent Hearing Meeting Minutes
Kenneth Kasabian. Lot B Poor Farm Road (Map 9 Parcel 4.2.1)
DEP#177-643, Harvard#0715-02
February 4, 2016**

The public hearing was opened at 8:00pm by Chairman Paul Willard under the Massachusetts Wetland Protection Act, Ch. 131 §40 and the Harvard Wetland Protection Bylaw, Chapter 119 of the Code of the Town of Harvard in the Hapgood Room at 7 Fairbank Street

Members Present: Paul Willard, Don Ritchie, Charlie Gorss, Wendy Sisson, Jim Breslauer, Jaye Waldron and Joanne Ward

Others Present: Liz Allard (LUB Admin), Jim Burns, Scott Smyers (Oxbow Assoc.) and Ken Kasabian

This hearing was continued from January 7, 2016 for a Notice of Intent filed on behalf of Kenneth Kasabian for the construction of a single family dwelling with sections of the proposed driveway and grading for the septic system within the 100 wetland buffer zone on Lot B Poor Farm Road (Map 9 Parcel 4.2.1), Harvard.

Scott Smyers, Oxbow Associates, was present to represent the applicant, Ken Kasabian, who was also present. A signed statement from Mr. Kasabian and Penny Wilkinson in regards to the history of the cart path was submitted. Questions pertaining to wetland flag A2 have been addressed and agree upon by BSC Group, consultant for the Commission. Mr. Smyers stated he and the applicant have conceded to the Commission's opinion that the area delineated by wetland flags IDF#1A - #4A is an isolated wetland and is jurisdictional under the Town of Harvard's Wetland Protection Bylaw. The original plan for the site including filling that area; the revised plan shows it beyond the erosion control area, which will be designated as a no disturb area within a final order of conditions. The Stormwater calculations have been revised and resubmitted to the file. Two drainage swales have been added to accommodate any runoff from the proposed house. BSC Group reviewed the revised calculations and plans and was satisfied with them. The driveway has been relocated to avoid fill in the wetland, therefore there is no need for the previously proposed wetland replication area. Stone bounds placed along the driveway have been provided for to aid in demarcating the area. An additional waiver request for activity within the buffer zones of the isolated wetland was submitted to the file. An explanation and map showing the entire site including the additional 25' of frontage along Poor Farm Road was submitted to the file. Mr. Smyers noted the proposed house has been moved out of the 75' no-build zone from the isolated wetland.

Drainage of stormwater on the site was discussed. Mr. Smyers stated most of the drainage is from the roof of the proposed house. Don Ritchie asked if a perimeter drain could be drained to the detention basin as well. Mr. Smyers stated the detention basin is for the impervious surface of the roof and not ground water.

Wendy Sisson expressed her concerns with the flood zone not only on the site, but that on the surrounding site. The house location is the only area outside the of the wetland buffer zone; the entire site is relatively flat, therefore the house in not proposed on the typical upland knoll. A majority of the site is in Zone X of "Other Flood Areas", which has a 0.2% annual chance of flooding. Ms. Sisson does not agree with the information provided on the current Flood Insurance Rate Maps; she believes the site should be designated at Zone AE, which has a 1% annual chance of flooding. The buildable area here does not qualify as a suitable upland area. Ms. Sisson stated that there is a cumulate effect at work here when you add up all of the factors that

make this a site that is not suitable for development. In addition, the Commission would be hard pressed to really enforce the area well enough to protect the wetland.

Ms. Sisson added the Town Sanitarian, Ira Grossman, has noted the Zoning Bylaw does not allow for a septic system within 100' of the wetland resource area. Also, under Title 5 the drainage structures have to be 25' from the septic system, therefore on a quick review of the plan Mr. Grossman believes it is not compliant. Ms. Sisson concluded this plan would not past muster with other boards in Town.

Paul Willard stated the proposal places the house close to the elevation of the surrounding floodplain. He can see how things, from an engineering stand point, could work, but this is not a good site for development.

Jim Breslauer stated allowing for the waiver of the 50' no disturb zone for the driveway would not be consistent with the intent and purpose of the Bylaw. Jaye Waldron agreed with Mr. Breslauer.

Mr. Smyers explained the Commission's jurisdiction as it pertains to floodplains and habitat. He noted the Commission has hired, at the applicant's expense, a third party reviewer of the proposal, who has found the plan to be compliant with the Wetland Protection Act (WPA) and its associated regulations, as well as an effort to comply with the Wetland Protection Bylaw and its regulations. Mr. Smyers further stated the regulations are the regulations and the Commission cannot extend their jurisdiction into Zone X. Under the WPA, Bordering Land Subject to Flooding is specific to 100 year floodplain. In regards to concerns with wildlife habitat, a letter from Natural Heritage Endangered Species Program (NHESP) indicated there are no issues; in fact there was no requirement for the application to be sent to NHESP. Mr. Smyers would prefer that comments about Title 5 be dealt with by the Board of Health.

Mr. Willard expressed that the Commission feels there will be an adverse impact to the resource areas due to this development. Mr. Breslauer noted a recent application by the Harvard School Department was revised in order to remove activity from the 50' buffer zone. Mr. Smyers stated the drainage is the only thing within the 50' buffer zone.

Ken Kasabian stated the proposal was developed to be consistent with the laws; he understands things are close, but this is the best plan for the site.

Mr. Willard stated he remembers the cart path having skunk cabbage many years ago, before the filling of that area by woodchips. Mr. Smyers stated the cart path does not function as a wetland because it does not support wetland vegetation.

After a brief discussion with Mr. Kasabian, Mr. Smyers requested the hearing be continued.

Jim Breslauer made a motion to continue the hearing to March 3, 2016 at 7:30pm in the Hapgood Room at 7 Fairbank Street. Don Ritchie seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

**Harvard Conservation Commission
Erosion Control Bylaw Hearing
February 4, 2016**

The public hearing was opened at 8:30pm by Chairman Paul Willard in the Hapgood Room at 7 Fairbank Street

Members Present: Paul Willard, Don Ritchie, Wendy Sisson, Jim Breslauer, Jaye Waldron and Joanne Ward

Others Present: Liz Allard (LUB Admin) and Jim Burns

Members had previously received the draft Erosion Control Bylaw that was revised by Don Ritchie and Paul Willard. The members discussed the length of the document and the need to establish regulations along with the Bylaw. Perhaps if the Bylaw was reduced in size it would have a better chance of passing at the annual town meeting. A fee and regulations would be created after the passage of this bylaw at town meeting.

It was suggested that other Towns' stormwater management bylaws be reviewed to see how they deal with the installation of erosion controls. It was determined that getting Town Counsel's opinion on whether or not to have regulations or just the Bylaw should be obtained. With that said, Jim Breslauer made a motion to continue the hearing to February 18, 2016 at 7:30pm in the Hapgood Room at 7 Fairbank Street. Joanne Ward seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

DOCUMENTS & OTHER EXHIBITS

Continuation of a Notice of Intent Hearing – Town of Harvard School Department, 14 Massachusetts Avenue, DEP#177-644, Harvard#1215-02

- Site Plan of Land in Harvard, Mass., prepared for Harvard Public Schools, “Bromfield School Parking Area”, prepared for Harvard Public Schools, 39 Massachusetts Avenue, Harvard, MA 01451, prepared by David E. Ross Associates, Inc., 11 Fitchburg Road, P.O. Box 368, Ayer, MA 01432, Plan#L-12776, Project #30723, sheets 1 -4, dated 1/25/16

Continuation of a Notice of Intent Hearing - Kenneth Kasabian, Lot B Poor Farm Road (Map 9 Parcel 4.2.1), DEP#177-643, Harvard#0715-02

- Notice of Intent Plan for Poor Farm Road, Harvard, Massachusetts 01451, Map 9, Block 4, Lot 2.1, prepared for Kenneth Kasabian, 97 Poor Farm Road, Harvard, Massachusetts, 01451, prepared by Hancock Associates, 315 Elm Street, Marlborough, MA, Layout/Grading & Utilities Plan, Notes & Detail Sheet, DWG: 18509NI.dwg, Project No. 18509, dated 2/2/16
- Stormwater Narrative in support of Notice Intent Plan for Poor Farm Road, Harvard, MA, prepared by Hancock Associates #18509, prepared for Kenneth Kasabian, dated January 2016
- Notice of Intent Plan for Poor Farm Road, Harvard, Massachusetts 01451, Map 9, Block 4, Lot 2.1, prepared for Kenneth Kasabian, 97 Poor Farm Road, Harvard, Massachusetts, 01451, prepared by Hancock Associates, 315 Elm Street, Marlborough, MA, Watershed Map, DWG: 18509NI.dwg, Project No. 18509, dated 1/22/16
- Floodplain Map, Lot B Poor Farm Road Harvard, MA 1 inch = 260 feet, February 04, 2016
- Flood Insurance Rate Map, Panel 0314E, dated July 4, 2011
- Wetland Protection Bylaw Rules, 147 Attachment 3, Town of Harvard, Form C, Request for Waiver, Harvard Wetland Protection Bylaw, received February 4, 2016
- Letter signed by Kenneth Kasabian and Penelope Wilkinson, dated February 3, 2016 Email from Scott Smyers, Oxbow Associates, Subject: Lot B Poor Farm Rd, dated Feb 02, 2016
- Letter from BSC Group, RE: Supplement Peer Review 2 – Engineering and Stormwater Management. Poor Farm Road, Map 9 Block 4, Lot 2.1, Harvard, Massachusetts, signed by Dominic Rinaldi, Senior Project Manager/Senior Associate , dated February 4, 2016
- Letter from BSC Group, RE: Supplement Peer Review #1 – wetland resources, Notice of Intent for Map 9 Block 4, Lot 2.1, (Formerly referenced to as 97 Poor Farm Road) Harvard, Massachusetts, signed by Gillian Davies, Senior Ecological Scientist, dated February 1, 2016

Erosion Control Bylaw Hearing

- Chapter XXX Erosion Control, undated