

**HARVARD CONSERVATION COMMISSION
MINUTES OF MEETING
AUGUST 5, 2021
APPROVED: NOVEMBER 4, 2021**

Chair Don Ritchie called the meeting to order at 7:20pm, virtually, pursuant to Chapter 20 of the Acts of 2021, An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency and signed into law on June 16, 2021, under MGL Chapter 131 §40 Wetland Protection Act and Code of the Town of Harvard Chapter 119 Wetland Protection Bylaw

Members Present: Don Ritchie, Paul Willard, Wendy Sisson, Joanne Ward (arrived at 7:50pm), Mark Shaw and Eve Wittenberg (Associate Member) (departed at 7:45pm)

Others Present: Liz Allard (Land Use Boards Administrator/Conservation Agent), Jim & Lorelei Galeski, Bruce Ringwall (GRP, Inc.), Lou Russo, Martin Feehan (State Wildlife Deer & Moose Biologist), Bob Douglas (Deer Management Subcommittee), Dan Tracey, Tom Cotton (Deer Management Subcommittee), Don Osmer, Stu Sklar, Jen Sundeen, Matt Marro, MaryAnn DiPinto (Three Oaks Environmental) and Kelvin Wiebe

Election of Officers for Fiscal Year 2022

This item was passed over this evening.

Deer Management Subcommittee Scouting Results & Recommended Properties for 2021

As reported on at the July 15th meeting the Deer Management Subcommittee (DMS) is request the addition of the following locations for the 2021 Deer Management Program: Blomfelt, Dunlap, Great Elms, Herman Orchard, Maxant, Prospect Hill, Shaker Spring House, Sprague, Vesenska and the Williams lands. Wendy Sisson, chair of the Land Stewardship Subcommittee (LSS,) stated LSS recommended the Gillette land as well. The DMS did not include Gillette over concerns of hunters trespassing on to the adjacent Harvard Conservation Trust land (Horse Meadow Knoll (HMK)). Ms. Sisson would still recommend Gillette as it is densely populated with deer and would be further from people on the HMK trails then on other sites; the site can be accessed from Sherry Rd without accessing through HMK. Ms. Sisson is concerned with allowing the program to take place on Prospect Hill, Sprague and Williams lands as they are heavily used by people. Ms. Sisson was not looking to argue about where the best hunting is, but to move forward with an objective that is a long-term approach. With the program only in its second year it would be acceptable to omit areas where people have expressed concern. Eve Wittenberg expressed concern with tripling the program, stating that it is premature since the program is not well established. Dan Tracey expressed his concern by suggesting the program be limit to a few new parcels. Mr. Tracey added there are still a large number of people in Harvard uncomfortable with hunting on conservation land, and even though hunting is allowed there are still a lot people who would avoid using trails knowing hunting is taking place in those areas, the Commission should be sensitive to that. Don Osmer stated hunting in Town is well established; the more areas open to hunting the better the harvest that will be achieved; there has not been any negative interaction in years past. Jennifer Sundeen expressed that with the current state of things there are many people out using the trails, potential with children, who may interact with this program in a negative way. Martin Feehan, the State Wildlife Deer & Moose Biologist, stated as increase deer pressure impacts Harvard having more areas served by the program is a plus.

After discussing the recommended areas, Wendy Sisson made a motion to increase the number of conservation lands to be served by the Deer Management Program from five areas to 13. The complete list of conservation lands include:

Herman Orchard

Rodrigues*
Damon/Stephenson*
Dunlap
Willard /Poitras*
Maxant
Great Elms

Blomfelt Land
Shaker Springs
Gillette
Vesenska
Perini*
Barrett*

* 2020 Approved Conservation Land

Mark Shaw seconded the motion. The vote was unanimously in favor of the motion by roll call vote, Paul Willard, aye; Wendy Sisson, aye; Joanne Ward, aye; Mark Shaw, aye; and Don Ritchie, aye.

The DMS will return at a later date to discuss the distribution of hunters for the 2021 program.

Notice of Intent Hearing – James Galeski, 28 Shaker Road, Harvard#0721-01. Opened at 7:45pm

Notice of Intent Hearing – Wheeler Realty Trust, 203 Ayer Road, Harvard#0721-02. Opened at 8:01pm

Requests for the use of conservation land:

- **Harvard Conservation Trust Annual Run for the Hills Event, October 31, 2021**
Wendy Sisson made a motion to approve the use of the Prospect Hill Conservation Area for the Harvard Conservation Trust annual Run for the Hills Event on October 31, 2021. Joanne Ward seconded the motion. The vote was unanimously in favor of the motion by roll call vote, Paul Willard, aye; Wendy Sisson, aye; Joanne Ward, aye; Mark Shaw, aye; and Don Ritchie, aye.
- **The Commission's Position on the Stone land, Old Mill Road**
Wendy Sisson stated she understands the appeal of the Stone land as it is connected to Harvard Park and the existing trails could be used to access the area, however any talk about swapping the Stone land with the Parks & Recreation parcels on Pond Road should be off the table as the idea of swapping land has not been well received by residents in the past. The Stone land could have additional uses other than official playing fields, as the State does not allow for active recreation on conservation land. A practice field could be considered, but anything that would require bulldozing to develop the land would not be amenable as it would then be difficult to revert the land back to an agricultural field. Joanne Ward agreed with Ms. Sisson, and added that having a pond on the abutting private land could set the Town up for litigation should an injury occur on the private land. In addition, how would the required maintenance of a regulation soccer field affect that private pond. Paul Willard questioned whether or not the non-written wishes of previous owner matter to anyone? Ms. Sisson stated the deed does allow for recreation, but no paved parking or buildings. Ms. Sisson will provide a written statement for review at the September 2nd meeting.
- **Wetland Crossing for Trail near Bower's Spring, Bolton**
Wendy Sisson explained the request received from the Town of Bolton to upgrade boardwalks on the Bower's Spring side of the Bare Hill Wildlife Sanctuary. Ms. Sisson stated the improvements to the boardwalks will be in Harvard, but not necessarily completed in the way in which the Land Stewardship Subcommittee would install a boardwalk. Ms. Sisson is seeking the Commission's opinion on the matter. Members agreed to review additional material and discuss at the September 2nd meeting.

Request for a Certificate of Compliance – 5 Haskell Lane, DEP#177-668

Paul Willard made a motion to issue a Certificate of Compliance for 5 Haskell Lane, DEP#177-668. Joanne Ward seconded the motion. The vote was unanimously in favor of the motion by a roll call, Paul Willard, aye; Wendy Sisson, aye; Joanne Ward, aye; Mark Shaw, aye; and Don Ritchie, aye.

Approve Minutes

Joanne Ward made a motion to approve the minutes of April 15, June 17 and July 1, 2021 as amended. Mark Shaw seconded the motion. The vote was unanimously in favor of the motion by a roll call, Paul Willard, aye; Wendy Sisson, aye; Joanne Ward, aye; Mark Shaw, aye; and Don Ritchie, aye.

Discuss Proposed Land Use Boards Matrix for FY2023

This item was passed over this evening.

Wetland and Other Violations:

- 20 White Lane – This item was not on the original agenda, but has been before the Commission previously as an encroachment on to conservation land. Liz Allard explained she had been alerted that work at 20 White Lane was continuing to encroach onto conservation land. A review of the site indicated that previous attempts to resolve the issue had been ignored, including requiring the property owner to provide the Commission with a certified plot plan to assist in developing a plan to remediate the encroachment. After discussing, Wendy Sisson made a motion to send a certified letter to the property owner requesting the certified plot plan be provided within a set time frame or the matter will be handed over to Town Counsel to resolve. The vote was 3-1 in favor of the motion by a roll call, Paul Willard, aye; Wendy Sisson, aye; Joanne Ward, aye; Mark Shaw, nay; and Don Ritchie, aye.
- 96 Ayer Road – With the Request for Determination of Applicability (RDA) still not filled for the installation of a shed within the buffer zone of a resource area, Wendy Sisson made a motion to issue an Enforcement Order to file the RDA within 30-days. Paul Willard seconded the motion. The vote was unanimously in favor of the motion by a roll call, Paul Willard, aye; Wendy Sisson, aye; Joanne Ward, aye; Mark Shaw, aye; and Don Ritchie, aye.
- 232 Still River Road – No new information
- Peninsula Road – A letter has not yet been sent to the property owner at 10 Peninsula Road.

Update on Pine Hill Village Stow Road

Don Ritchie and Liz Allard were onsite with Steve Ventresca, of Nitsch Engineering, this past Tuesday. A number of concerns with the progress of the site were reviewed including the pooling of water at the outflow of the constructed wetland. Mr. Ventresca noted the plunge pool at the outlet appears not to be deep enough to provide proper storage during times of heavy rain events. A full report will be provided by Nitsch Engineering in the coming weeks. In the meantime, Mr. Cricones has been reminded that any dewatering on the site requires prior approval from the Commission, as he has made mention of dewatering the constructed wetland to begin planting. Mr. Cricones has also been advised that it is soon to begin the planting of the constructed wetland as it still is serving as a sedimentation basin for the entire site.

Adjournment

Wendy Sisson made a motion to adjourn the meeting at 9:48pm. Jim Burns seconded the motion. The vote was unanimously in favor of the motion by a roll call, Wendy Sisson, aye; Joanne Ward, aye; Mark Shaw, aye; Jim Burns, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard,
Land Use Administrator/
Conservation Agent

**Harvard Conservation Commission
Notice of Intent Hearing
James Galeski, 28 Shaker Road
DEP#177-706, Harvard#0721-01
August 5, 2021**

The public hearing was opened at 7:45pm by Chair Don Ritchie under MGL Chapter 131 §40 Wetland Protection Act and the Code of the Town of Harvard Chapter 119 Wetland Protection Bylaw virtually, pursuant to Chapter 20 of the Acts of 2021, An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency and signed into law on June 16, 2021.

Members Present: Don Ritchie, Paul Willard, Wendy Sisson, Joanne Ward and Mark Shaw

Others Present: Liz Allard (Land Use Administrator/Conservation Agent), James & Lorelei Galeski and MaryAnn DiPinto (Three Oaks Environmental).

This hearing is for a Notice of Intent filed on behalf of James & Lorelei Galeski for the restoration of the 100' wetland buffer zone and wetland resource area with loam and seeding, plantings and stormwater control at 28 Shaker Road, Harvard.

MaryAnn DiPinto explained the site had been logged, causing the area to become heavily vegetated with wetland plant species. Ms. DiPinto has delineated an existing isolated wetland between the existing slope and ledge outcropping, along with the delineation for the bordering vegetated wetland. Ms. DiPinto recommends the seeding of the top of the slope and plant with wood vegetation to break up the area between the existing lawn and the slope. Ms. DiPinto would further recommend the planting of additional woody vegetation in and around the isolated wetland, along with the removal of the invasive glossy buckthorn.

Wendy Sisson would like to evaluate the wetland delineation, as well as the runoff from the top of the slope. In addition, Ms. Sisson request a management plan be created for the invasive plant(s). Mr. Willard agreed additional time to review the site and other material would be necessary in order to make a final decision on this application.

After a few clarifying questions from Jim Galeski, Wendy Sisson made a motion to continue the hearing to September 2, 2021 at 7:30pm. Paul Willard seconded the motion. The vote was unanimously in favor of the motion by a roll call, Paul Willard, aye; Wendy Sisson, aye; Joanne Ward, aye; Mark Shaw, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

**Harvard Conservation Commission
Notice of Intent Hearing
Wheeler Realty Trust, 203 Ayer Road, Harvard#0721-02
August 5, 2021**

The public hearing was opened at 8:01pm by Chair Don Ritchie under MGL Chapter 131 §40 Wetland Protection Act and the Code of the Town of Harvard Chapter 119 Wetland Protection Bylaw virtually, pursuant to Chapter 20 of the Acts of 2021, An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency and signed into law on June 16, 2021.

Members Present: Don Ritchie, Paul Willard, Wendy Sisson, Joanne Ward and Mark Shaw

Others Present: Liz Allard (Land Use Administrator/Conservation Agent), Bruce Ringwall (GRP, Inc.), Lou Russo and Matt Marro.

This hearing is for a Notice of Intent filed on behalf of Wheeler Realty Trust for the filling of a freshwater wetland with proposed replication adjacent to an existing bordering vegetated wetland located on the site at 203 Ayer Road, Harvard.

Bruce Ringwall detailed the existing site stating fill from the construction of Route 2 had been left on the site that later was used as an agricultural field. When Harvard Green was developed the agricultural activity on the site ceased. In 2021 a stock pile of material from another development was located on the site, which assisted in creating the existing isolated wetland. The existing wetland in the north corner of the property along Ayer Road was delineated in 1996 and ties into drainage under Gebo Lane. Matt Marro found this wetland to be consistent with the delineation done in 1996, but in turn located the new isolated wetland under the Town's Wetland Protection Bylaw. Mr. Marro has determined the isolated wetland is based on the disturbance of the area that is close to ground water. Mr. Ringwall is seeking the Commission's permission to fill the isolated wetland with replication near an existing wetland at the back of the property. With part of the property already under contract and others interested in developing the remaining area, Mr. Ringwall is only seeking to fill and replicate the wetland under this Notice of Intent. Knowing how this application will proceed will allow for further development to be designed for the property.

Don Ritchie found it unusual to request the filling and replication of a wetland without an actual plan for development. Mr. Ringwall reminded the Commission preliminary plans for the site were discussed at their previous meeting. Mr. Ritchie stated the isolated wetland might be hydrological connected to the existing wetland adjacent to Ayer Road; which would be in an area that will be covered in pavement. Mr. Ringwall stated drainage to be addressed by this development would not inference with ground water. The applicant would like to get this part of the project underway this year in order to begin building by spring of 2022.

Paul Willard asked what the current replication requirement is under the Town's Wetland Protection Bylaw and are there any limits on the amount of fill. Replication is required at a 1:1.5 ratio and there are no limits on fill. Mr. Willard stated he could not approve the application until he knows what is going to happen on the site. Wendy Sisson is concerned with the conceptual plan showing a fully developed site as though it was a perfect upland site with no water issues at all; there is too much impervious surface for the site; does not like the idea of underground detention of Stormwater; overall the applicant is trying to fit too much on this site; if the wetland was to be filled, she would like to see it replicated adjacent to the wetland along Ayer Road.

Mr. Ringwall took offense to the statement the applicant is developing the entire site; the Protective (Zoning) Bylaw requirements are being met with only 25% of site being developed with buildings and parking. As for drainage, a variety of drainage types were previously shown to the Commission, none of

which would be under buildings or parking areas; storage of Stormwater would be under the parking areas, but not treatment. Existing ground water will not be blocked by this development; leveling the site will still allow for drainage to work; open space will be provided on the site as required.

Mark Shaw has given the site and project some thought; overall small area of commercial development, by a developer who has provided quality development in Town, therefore this should be a project that should be allowed by the Commission. Joanne Ward stated the site has some issues; Mr. Shaw makes good point about being part of the commercial district; as long as all of the issues are addressed then perhaps it should be allowed; drainage will need to be considered; the Commission permitted other sites in Town with more concerns than this. Mr. Ritchie repeated he is not sure if the Commission should approve the filling of a wetland until we know what the development of site will be. Mr. Willard asked if excess water will flow out of the culvert under Gebo Lane. Mr. Ringwall stated under the State's Stormwater Regulations a development cannot create greater rate of runoff off a site post construction.

Ms. Ward asked if the increase in rain events is being taken into consideration. Mr. Ringwall stated rainfall data developed by Northeast Climate Research Center at Cornell University are being used. Liz Allard initially would have recommended a condition that would not allow for the replication to begin until such time that an Order of Conditions was issued for the development of the property. Ms. Allard reached out to both the Department of Environmental Protection (DEP) and the Massachusetts Association of Conservation Commissioners (MACC) for their advice on this application. The MACC helpline provided a number of suggestions from its Board of Directors, which has been shared with the Commission members. DEP, knowing the proposed replication was in fact one protected under the Town Bylaw and not the Wetland Protection Act, suggested work on the replication area under this Notice of Intent should be conditioned to be executed when and if a building permit is issued for the development of the property.

Lou Russo, the applicant, stated he is seeking an appropriate way to move forward with the project. Mr. Russo appreciates what the comments made by Mr. Shaw. Mr. Russo stated he has worked with Mr. Ringwall for years to provide quality development in Harvard. Mr. Russo has donated 5 acres of land to the Parks & Recreation Commission and 26 acres to Conservation; he is asking for due consideration to continue with the sequence as proposed. Mr. Russo has no doubt stormwater can be handled for this site.

Mr. Ritchie suggested putting the proposed recreation center where the other two buildings are proposed. Ms. Sisson appreciates this is a commercial development, but she looking at it as to what the site can handle, which reinforces her suggestion to locate the replication area within the same location. Ms. Sisson does not see the rationale for creating wetland somewhere else on the property. Ms. Sisson could approve a plan that retains water on the site and moves the existing wetland vegetation to an area near by to where it currently exists. It was noted the replication being provided would be at a 1:1 ratio. Mr. Shaw thinks creating a swap along Ayer Road as you enter the commercial district and across the street from bowling alley is not ideal. Mr. Russo thinks replicating the wetland along Ayer Road would not be a good amenity to the adjacent to the soccer field. In addition, this would create a larger buffer zone limiting the development area. Mr. Ringwall sought some better clarification as to where Ms. Sisson would be amenable to locating the replication area; closer to Ayer Road as opposed to closer to the Charlie Waite field. Mr. Ringwall also questioned if the Commission would be amenable to a waiver to the setbacks. Mr. Russo added the proposal to locate the replication area also took into account the current Transportation Improvement Project for Ayer Road. The Commission agreed to discuss waivers later. Ms. Sisson would be opened to 1:1 replication ratio if the replication area was relocated along Ayer Road.

Wendy Sisson a motion to continue the hearing to September 2, 2021 at 7:45pm. Paul Willard seconded the motion. The vote was unanimously in favor of the motion by a roll call, Paul Willard, aye; Wendy Sisson, aye; Joanne Ward, aye; Mark Shaw, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

EXHIBITS & OTHER DOCUMENTS

- Conservation Commission Agenda, dated August 5, 2021
- Site Plan For: Land at 28 Shaker Road Harvard, MA for James and Lorelei Galeski, Job No. 1039, Plan 4385, prepared by Harvard Engineering Services, June 25, 2021
- Commercial Development Wetland Alternation & Replication Plan, 203 Ayer Road Harvard, MA Job 211009A, prepared for Wheeler Realty Trust, prepared by GPR, Inc., July 2021