

**HARVARD CONSERVATION COMMISSION
MINUTES OF MEETING
MARCH 16, 2023
APPROVED: JULY 6, 2023**

Chair Don Ritchie called the meeting to order at 7:01pm, virtually, pursuant to Chapter 107 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on July 16, 2022, under MGL Chapter 131 §40 Wetland Protection Act and Code of the Town of Harvard Chapter 119 Wetland Protection Bylaw

Members Present: Don Ritchie, Eve Wittenberg, Jaye Waldron, Joanne Ward, Jim Burns (arrived at 7:19pm), Mark Shaw, and John Iacomini (Associate Member)

Others Present: Liz Allard (Conservation Agent), Peter Dorward (Open Space Committee), John Lee (Harvard Conservation Trust), Bruce Ringwall (GPR, Inc.), Luke Kirkland, Steve Moeser, Valerie Hurley (Harvard Press), Connie & Michael Woolcock, Walter Ericson, Maureen Herald (Norse Environmental Services, Inc.), Vicki Lociatto, Daniel Carr (Stamski & McNary), Benjamin Thomas, and Rainer Park

Open Space Committee (OSC) Update – Delinquent Tax List

Peter Dorward, chair of the Open Space Committee, stated the Corbett land is no longer tax delinquent and has been removed from the list. There are two parcels adjacent to conservation land on Brown Road that have been added to the tax delinquent list. The OSC has sent an inquiry to the Select Board for the Westchester, Hemphill, O'Donnell, Erickson, and Wildman Realty parcels. Eve Wittenberg asked if the land is taken for free in lieu of back taxes. Mr. Dorward stated that was a good question, but he was unsure of the answer. In the past the Commission had been told the back taxes would have to be paid, but recently told that is not the case. Ms. Wittenberg asked if any of the parcels have environmental issues? Mr. Dorward was not aware of any. In the past the Commission had been told the back taxes would have to be paid, but recently told that is not the case. Mr. Dorward wanted to confirm that Commission would be willing to be the managers of these lots should they be taken by the Town. Joanne Ward stated another concern would be any outside liens against the properties. Liz Allard asked what the total acreage would be preserved as open space with the taking of these parcels. Mr. Dorward did not have that amount calculated. Mr. Dorward stated there a number of parcels that appear to have no owner information associated with them; some of these parcels have conservation value; no answer yet on how to take these parcels for conservation purposes. Don Ritchie volunteered to help with the necessary research of these parcels.

Joanne Ward made a motion stating the Commission would be willing to manage the parcels described above should they be taken by the Town for unpaid taxes. Eve Wittenberg seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jaye Waldron, aye; Mark Shaw, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye. Note: Jim Burns was not present for this vote.

Violation of the Order of Conditions – 175 Littleton County Road, DEP#177-694, Harvard#0820-04

Bruce Ringwall, of GPR, Inc., representing Luciano Manganella, who sent his sincere apologies for not obtaining the appropriate approval for the installation of the stonewall at the driveway entrance. Mr. Manganella understands he needs permission for activity within 200' of the pond, but felt with the existing driveway in place and the erosion controls he was not in violation of Order of Conditions. Mr. Manganella realizes he cannot conduct unpermitted activity within the resource areas or their associated buffer zones. Mr. Ringwall stated Mr. Manganella has no problem paying the fine, but is seeking to maintain the stonewalls in their current location, within 75' of a wetland resource area, by installing additional plantings around the pond. Mr. Ringwall described the cost associated with the removal of the stonewalls; he asserted that having Mr. Manganella enhance the property with plantings would be more beneficial than removing the stonewalls. Mr. Ringwall added that he believed the upgrades that have been made on the property (e.g., the replacement of an old stone culvert) should carry some weight with

the decision of the Commission to remove the stonewalls. Mr. Ringwall stated he would hate to see Mr. Manganella have to go to court to appeal the Enforcement Order.

Don Ritchie stated this is not the first time the Commission has issued an Enforcement Order to Mr. Manganella. Each time a violation occurs Mr. Manganella states he will not do it again and receives a virtual slap on the wrist and then he does something again. Mr. Ringwall attempted to review the previous Enforcement Orders issued to Mr. Manganella; Mr. Ritchie declined hearing the list reviewed.

After debating the previous decision of the Commission, Eve Wittenberg made a motion requiring the property owner at 175 Littleton County Road to remove the stonewalls that were constructed within the 75' no structure wetland buffer zone. Joanne Ward made a friendly amendment, that was accepted by Ms. Wittenberg, that there is to be no disruption to the pond during the removal of the stonewalls. Jaye Waldron seconded the motion. The vote was in favor of the motion by a roll call, Jaye Waldron, aye; Jim Burns, aye; Mark Shaw, nay; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Request for Determination of Applicability Hearing- Michael & Connie Woolcock, 24 Littleton Road, Harvard#0223-02. Opened at 7:35pm

Abbreviated Notice of Resource Area Delineation Hearing - Juno Development corner of Old Mill and Ayer Roads (Map 4 Parcels 52, 52.1, 52.2, 53), Harvard#0323-01. Opened at 7:40pm

Continuation of a Notice of Intent Hearing –Rainer Park, 7 Peninsula Road, Harvard#0223-01. Opened at 7:54pm

Continuation of a Notice of Intent Hearing – Yvonne Chern, 203 Ayer Road, DEP#177-711, Harvard#0322-01. Opened at 8:14pm.

Planning Board Request for Comments - § 125-60. Smart Growth Overlay District

Liz Allard had provided the Commission questions, comments, and suggestions to the proposed Smart Growth Overlay District. Most comments pertain to the processes regulated by the Planning Board, however should provisions associated with Stormwater, Environmental, and Open Space be revised the Commission would request an opportunity to review prior to any final determination by the Planning Board. Members of the Commission wanted clarification as to whether or not wetlands would be counted toward the open space within this district. In addition, it should be clear that additional stormwater should not be directed to the existing stormwater systems constructed for Harvard Green.

Jaye Waldron made a motion to provide the Planning Board the questions, comments, and suggestions to the proposed Smart Growth Overlay District as provided to the Commission this evening. Eve Wittenberg seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jaye Waldron, aye; Jim Burns, aye; Mark Shaw, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Allocation of Funding for “Developing an Invasive Plant Management Program” Training

Joanne Ward made a motion to approve the allocation of \$95.00 for Wendy Sisson to attend the above-mentioned training session. Eve Wittenberg seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jaye Waldron, aye; Jim Burns, aye; Mark Shaw, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Approve Minutes

Eve Wittenberg made a motion to accept the minutes of December 15, 2022 and March 2, 2023 as amended. Mark Shaw seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jaye Waldron, aye; Jim Burns, aye; Mark Shaw, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Approve Invoices

There were no invoices for approval this evening.

Review Amendments of the Memorandum of Understanding for Ann Lees Field from Parks & Recreation Commission

After discussing the suggested revisions from the Parks & Recreation Commission, Jim Burns made a motion to accept the Memorandum of Understanding (MOU) for Ann Lees Field as revised. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jaye Waldron, aye; Jim Burns, aye; Mark Shaw, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

The MOU will be shared with P&R with an invite to the April 6th meeting to finalize.

Pine Hill Village Update

Liz Allard reported that recent snow has not be stored in approved areas on the site, nor was the site plowed yesterday. Ms. Allard is awaiting confirmation on the material being used within the constructed wetland. Responses to the recent review of the as-built plans and site inspection by Nitsch Engineering was submitted this afternoon. Both the Conservation Agent and the Building Commissioner have a long list of items that need to be addressed prior to the sign-off of Certificates of Occupancy.

Adjournment

Jaye Waldron made a motion to adjourn the meeting at 8:48pm. Jim Burns seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jaye Waldron, aye; Jim Burns, aye; Mark Shaw, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard,
Conservation Agent

EXHIBITS & OTHER DOCUMENTS

- Conservation Commission Agenda, dated March 16, 2023
- Delinquent Tax Parcel Recommendations, updated 4/30/2022
- Undated photo of driveway entrance at 175 Littleton County Road
- Request for Determination of Applicability 24 Littleton Road Harvard, Massachusetts site plan, prepared by Ducharme & Dillis Civil Design Group, Inc., dated 9-12-16
- Abbreviated Notice of Resource Area Existing Conditions Old Mill Road, Harvard, MA, prepared for Walter Eriksen 92 Middlesex Road, Tyngsboro, MA 01879 Job 211140 prepared by GRP, Inc., November 29, 2021
- Sewage Disposal Plan, Rainer Park, 7 Peninsula Road Harvard, MA Map 13 Parcel 26, Job No. SM-6915, prepared by Stamski & McNary, Inc., Feb 13, 2023
- Diagram of Tress to be Removed – 7 Peninsula Road, undated
- § 125-60 Smart Growth Overlay District
- Memorandum of Understanding between the Harvard Conservation Commission and Harvard Parks and Recreation Commission for Ann Lees Field, November 19, 2020

**Harvard Conservation Commission
Request for Determination of Applicability Meeting Minutes
Michael & Connie Woolcock, 24 Littleton Road, Harvard#0223-02**

The public hearing was opened at 7:35pm 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 107 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on July 16, 2022.

Members Present: Don Ritchie, Eve Wittenberg, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw, and John Iacomini (Associate Member)

Others Present: Liz Allard (Conservation Agent), and Connie & Michael Woolcock

This hearing is for a request for Determination of Applicability filed by Michael & Connie Woolcock for the construction of landscaped and hardscaped areas around the existing dwelling within the 100' wetland buffer zone and the 200' riverfront area at 24 Littleton Road, Harvard

Connie Woolcock detailed the project which will include the installation of the circular and rectangular patio shown on the submitted plan. Although the plan details additional work on the site, this application is only intended to be for the two patios and plantings.

After clarifying the intent of the application and the acknowledgement of activity with an already disturbed area (lawn) Joanne Ward made a motion to allow for a waiver for the two patios within the 75' no structure setback under the Wetland Protection Bylaw. Eve Wittenberg seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jaye Waldron, aye; Jim Burns, abstained; Mark Shaw, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Mark Shaw made a motion to close the hearing and issue a Negative #3 Determination of Applicability with the condition that the erosion control barrier shall be inspected by the Conservation Agent or a member of the Commission prior to the commencement of activity. Joanne Ward seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jaye Waldron, aye; Jim Burns, abstained; Mark Shaw, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard,
Conservation Agent

Harvard Conservation Commission
Abbreviated Notice of Resource Area Delineation Meeting Minutes
Juno Development corner of Old Mill and Ayer Roads
(Map 4 Parcels 52, 52.1, 52.2, 53), Harvard#0323-01.

The public hearing was opened at 7:54pm 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 107 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on July 16, 2022.

Members Present: Don Ritchie, Eve Wittenberg, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw, and John Iacomini (Associate Member)

Others Present: Liz Allard (Conservation Agent), Walter Ericson, Maureen Herald (Norse Environmental Services, Inc.), and Vicki Lociatto

This hearing is for an Abbreviated Notice of Resource Area Delineation filed on behalf of Juno Development, for the confirmation of the delineation of a Bordering Vegetated Wetland and the Mean Annual High Water of Bower's Brook at corner of Old Mill and Ayer Roads (Map 4 Parcels 52, 52.1, 52.2, 53), Harvard

Maureen Herald, from Norse Environmental, was present to introduced the project and schedule a site visit to review the delineated wetland. Ms. Herald stated the property is made up of four parcels totaling 11.3 acres; the site contains a perennial stream, Bower's Brook, bank, pond, bordering vegetated wetlands (BVW), riverfront area and floodplain. Ms. Herald has flagged the bank, BVW, and 200' riverfront area throughout the property, with the BVW and bank being well defined. A site walk was scheduled for April 8, 2023 at 9:00am.

Joanne Ward made a motion to continue the hearing to April 20, 2023 at 7:30pm. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jaye Waldron, aye; Jim Burns, aye; Mark Shaw, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard,
Conservation Agent

**Harvard Conservation Commission
Continuation of a Notice of Intent Hearing
Rainer Park, 7 Peninsula Road, Harvard#0223-01
March 16, 2023**

The public hearing was opened at 8:02pm 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 107 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on July 16, 2022.

Members Present: Don Ritchie, Eve Wittenberg, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw, and John Iacomini (Associate Member)

Others Present: Liz Allard (Conservation Agent), Daniel Carr (Stamski & McNary), and Rainer Park

This hearing was continued from March 2, 2023 for a Notice of Intent filed on behalf of Rainer Park for the replacement of a single-family home, removal of excess pavement, replacement septic system, and removal of barn within the 100' wetland buffer zone and 200' of Bare Hill Pond, at 7 Peninsula Road, Harvard

Daniel Carr, from Stamski & McNary, stated the Department of Environmental Protection has issued a file number and the Fire Department has provided a plan of the trees to be removed for the controlled burn. Mr. Carr stated the difference between the trees that have been suggested to be removed for safety reasons and the ones necessary to be removed for the burn is five. Mr. Carr noted this does not include the trees behind the garage, which also are of a safety concern. When asked about the requested removal of the turn-around on the driveway, Mr. Carr stated the applicant would like to keep it in light of the proposed reduction of impervious areas on the site. After briefly discussing, it was suggested the turn-around within the 50' wetland buffer zone be eliminated and the existing turn-around north of the garage be expanded. Mr. Carr stated there is a tree in the suggested expansion area but agreed to remove the turn-around within the 50' wetland resource buffer zone. As for the comments received from DEP comments, the applicant is removing the proposed dock from the plan; it was requested the Notice of Intent be updated to reflect this update.

Eve Wittenberg made a motion to grant a waiver to the 50' no disturb zone to allow for the removal of the existing barn and storage trailer. Jaye Waldron seconded. The vote was unanimously in favor of the motion by a roll call, Jaye Waldron, aye; Jim Burns, aye; Mark Shaw, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Joanne Ward made a motion to close the hearing and issue an Order of Conditions with the standard special conditions. Mark Shaw seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jaye Waldron, aye; Jim Burns, aye; Mark Shaw, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard,
Conservation Agent

**Harvard Conservation Commission
Continuation of a Notice of Intent Hearing
Yvonne Chern, 203 Ayer Road, DEP#177-711, Harvard#0322-01
March 16, 2023**

The public hearing was opened at 8:14pm 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 107 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on July 16, 2022.

Members Present: Don Ritchie, Eve Wittenberg, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw, and John Iacomini (Associate Member)

Others Present: Liz Allard (Conservation Agent)

This hearing was continued from March 2, 2023 for a Notice of Intent filed on behalf of Yvonne Chern for the construction of commercial structures with associated parking, grading, and drainage within the 100' wetland buffer zone at 203 Ayer Road, Harvard

At the request of the applicant's representative, Bruce Ringwall, Jim Burns made a motion to continue the hearing to April 6, 2023 at 7:30pm. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jaye Waldron, aye; Jim Burns, aye; Mark Shaw, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard,
Conservation Agent