

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

Vice Chair Eve Wittenberg called the meeting to order at 7:00pm, virtually, pursuant to Chapter 2 of the Acts of 2023, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on March 29, 2023, under MGL Chapter 131 §40 Wetland Protection Act and Code of the Town of Harvard Chapter 119 Wetland Protection Bylaw

Members Present: Eve Wittenberg, Paul Willard, Jaye Waldron, Mark Shaw, and John Iacomini (Associate Member)

Others Present: Liz Allard (Conservation Agent), Bob O'Shea (Parks & Recreation Commission), John McCormack (Planning Board Master Plan Liaison), Marisa Steel (Parks & Recreation Commission), Sam Evonuk, Sean & Collin (Chestnut Tree & Landscape) and William Buckley

Amend Enforcement Orders – 175 Littleton County Road to include deadlines on required actions

Jaye Waldron made a motion to amend the Enforcement Order at the above-mentioned location to include a deadline of May 6, 2023 for the removal of the stonewall. Paul Willard seconded the motion. The vote was unanimously in favor of the motion by a roll call, Mark Shaw, aye; Jaye Waldron, aye; Eve Wittenberg, aye; and Paul Willard, aye.

Review Construction Sequence for 90 Warren Ave, DEP#177-719, Harvard#1122-02

As required by the Order of Conditions a construction sequence for 90 Warren Ave has been submitted for the Commission's review. After briefly discussing, the Commission requested an update on this project be provided at each meeting moving forward.

Review Amendments of the Memorandum of Understanding (MOU) for Ann Lees Field with Parks & Recreation Commission

Bob O'Shea, chair of the Parks & Recreation (P&R) Commission, was present to discuss the final version of the MOU between P&R and the Conservation Commission (ConCom). The ConCom had suggested the item addressing the weed management be removed from the MOU. Mr. O'Shea explained watering is the biggest problem with this field and the need to out-compete weeds in order to maintain a healthy playing field. Marisa Steel shared information from Matt Benway pertaining to a previous request to draw water from the pond at Ann Lees field for watering purposes. Ms. Steel explained the watering of an arch shaped area behind the bases within the outfield from April to June this year; the overseeding for the rest of the field will be addressed this winter. Weather will dictate the number of times a week the area would need to be watered. Once the seed takes hold watering will stop. After discussing, it was agreed this was not an item to be addressed under the MOU, but part of the Order of Conditions previously issued to P&R.

Paul Willard made a motion to approve the Memorandum of Understanding for Ann Lees Field with Parks & Recreation Commission as discussed this evening, dated April 6, 2023. Mark Shaw seconded the motion. The vote was unanimously in favor of the motion by a roll call, Mark Shaw, aye; Jaye Waldron, aye; Eve Wittenberg, aye; and Paul Willard, aye.

Mark Shaw made a motion to allow the use of water from the pond at the Ann Lees field to water the in-field arch shaped area up to four times week for an hour each time. Paul Willard seconded the motion. The vote was in favor of the motion by a roll call, Mark Shaw, aye; Jaye Waldron, aye; Eve Wittenberg, nay; and Paul Willard, aye. Eve Wittenberg made a friendly amendment to the motion requiring watering to stop should a drought be declared. Jaye Waldron seconded the amendment. The vote was not in favor

of the amendment to Mark Shaw's motion by a roll call, Mark Shaw, nay; Jaye Waldron, aye; Eve Wittenberg, aye; and Paul Willard, nay.

Continuation of a Notice of Intent Hearing – Yvonne Chern, 203 Ayer Road, DEP#177-711, Harvard#0322-01. Opened at 7:44pm.

Pine Hill Village Review of Phase 1 & 2 Construction Sequence to allow work within Phase 3

The members reviewed the memorandum provided by the Conservation Agent, with Peter Cricones providing an update to the outstanding items.

Jaye Waldron made a motion to approve the removal of the trees within Phase 3 with the following conditions: cutting shall take place after the mud season concludes (early to mid-May), as required by the Order of Conditions, and with the approval of the Conservation Agent prior to the commencement of activity. Paul Willard seconded the motion. The vote was unanimously in favor of the motion by a roll call, Mark Shaw, aye; Jaye Waldron, aye; Eve Wittenberg, aye; and Paul Willard, aye.

Request for Determination of Applicability Hearing – Kristin Scarlet Evonuk, 99 Ayer Road, Harvard#0323-02. Opened at 8:00pm

Discuss and Ratify Enforcement Order – 320 Ayer Road

Liz Allard detailed the activity at 320 Ayer Road conducted by Chestnut Tree & Landscape, which included more clearing of the site than was the original intent when a Special Permit was issued by the Planning Board for this location causing encroachment on the 200' wetland buffer zone of a pond; and activity within the wetland resource area and the 100' wetland resource buffer zone. Violations are in violation of both the Wetland Protection Act and the Harvard Wetland Protection Bylaw. The Enforcement Order issued by Ms. Allard required the fill be pulled back to install an erosion control barrier. Eve Wittenberg added the fill does contain hazard substances visible within the 100' buffer zone including gas cans and what appeared to be round-up. John Iacomini, an abutter, stated he is concerned with what appeared to be a recent oil slick on his pond and where that water is headed beyond him. Mr. Iacomini's understanding was that Chestnut Tree & Landscape would just be storing equipment on the site which seems to be exceeded. Mr. Iacomini stated the contamination of the buffer zone needs to be looked at in depth; the members agreed.

Sean, a representative from Chestnut Tree & Landscape, stated Grant McClean, the owner of Chestnut Tree & Landscape, was not available this evening. Sean understood that Mr. McClean and Liz Allard have conducted a review of the site detailing what is not allowed and how to rectify the current violations. Sean acknowledged encroachment beyond the original scope presented to the Planning Board. Work to remove fill material has begun and an erosion control barrier has been installed, however not correctly, but progress is being made to address it. In regard to chemicals on-site, that falls on Chestnut Tree & Landscape as they should be stored properly. Mr. Willard stated it is illegal not to have them properly stored. Ms. Wittenberg stated the landscape material stored in the parking area along Ayer Road is within close proximity to the pond, which has been brought to the attention of Mr. McClean previously and not addressed. Ms. Wittenberg is looking for assurance that things will be addressed. Sean stated he understands the severity here and will put forth a work order to get things cleaned up and stored properly; adding this is not how they want to run things. Sean added now that the buffer zone is well marked they are better aware of the areas in which activity cannot occur.

Liz Allard recommended a Licensed Site Professional be engaged to determine the extent of contamination on the property. Ms. Allard detailed the fines that could be applied for the violations that have and continue to occur on the site. The Commission discussed the requirements of a more stringent Enforcement Order. John McCormack, a member of the Planning Board, indicated this matter has not been referred to Board as of yet, therefore the question to the Commission is are they going to forward

information on to the Planning Board. Ms. Allard stated the chair, vice chair and the Town Planner are aware of these events.

Paul Willard made a motion to ratify the Enforcement Order issued by the Conservation Agent on March 31, 2023. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by a roll call, Mark Shaw, aye; Jaye Waldron, aye; Eve Wittenberg, aye; and Paul Willard, aye.

Paul Willard made motion to issue a new Enforcement Order requiring that within 30-days of receipt of the Order a Licensed Site Professional shall provide to the Conservation Commission a written assessment and recommendation to remediate the site. Activity on the site shall be limited to personal and business-related vehicles only. There shall be no addition or removal of stored material except for the landscape material on the parking lot between Ayer Road and the pond, which shall be removed within 7-days of receipt of the Order. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by a roll call, Mark Shaw, aye; Jaye Waldron, aye; Eve Wittenberg, aye; and Paul Willard, aye.

Zoning Board of Appeals Request for Comments – 247 Littleton County Road

The Commission had no comments pertaining to this application.

Draft Impact Report (DEIR) for Proposed Research/Industrial Park at 1414 Massachusetts Avenue, Boxborough

Liz Allard has not had an opportunity to review the material pertaining to this proposed development as of yet and will ask Joanne Ward if she would be interested in taking the lead on this matter for the Commission.

Approve Minutes

Minutes were not available for approval this evening.

Approve Invoices

There were no invoices for approval this evening.

Pine Hill Village Status Update

Liz Allard has followed up with Town Counsel on the introduction of invasive plants at the Pine Hill Village site. Attorney Lanza has stated there is a clear violation of the Order of Conditions that states, "The seed stock to be used to restore disturbed areas shall complement or contain native flora and be of proven value to local wildlife and shall be approved by the Conservation Commission prior to its use on the project". The first step in preventing the developer from fully addressing the matter is to issue an Enforcement Order. As time allows, Ms. Allard will draft an enforcement order for the review and approval of the Commission.

Adjournment

Paul Willard made a motion to adjourn the meeting at 9:06pm. Mark Shaw seconded the motion. The vote was unanimously in favor of the motion by a roll call, Mark Shaw, aye; Jaye Waldron, aye; Eve Wittenberg, aye; and Paul Willard, aye.

Respectfully submitted,

Liz Allard,
Conservation Agent

EXHIBITS & OTHER DOCUMENTS

- Conservation Commission Agenda, dated April 6, 2023
- Envision Homes – 90 Warren Ave Construction Sequence Phase I, 4/3/223
- Memorandum of Understanding between the Harvard Conservation Commission and Harvard Parks and Recreation Commission for Ann Lees Field, November 19, 2020
- Email from Marisa Steel, to Liz Allard, Subject: Fwd: water/irrigation numbers ONE CORRECTION, 04/06/2023
- Memorandum to Harvard Conservation Commission from Conservation Agent, Subject: Pine Hill Village Request Proceed with Phase 3, April 5, 2023
- Rough Outline prepared by Sam Evonuk, 03/07/2023
- Photos from 320 Ayer Road

Harvard Conservation Commission
Continuation of a Notice of Intent Hearing
Yvonne Chern, 203 Ayer Road, DEP#177-711, Harvard#0322-01
April 6, 2023

The public hearing was opened at 7:44pm by Vice Chair Eve Wittenberg 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 2 of the Acts of 2023, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on March 29, 2023.

Members Present: Eve Wittenberg, Paul Willard, Jaye Waldron, Mark Shaw, and John Iacomini (Associate Member)

Others Present: Liz Allard (Conservation Agent)

This hearing was continued from March 16, 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, Jaye Waldron made a motion to continue the hearing to April 20, 2023 at 8:30pm. Mark Shaw seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jaye Waldron, aye; Mark Shaw, aye; Paul Willard, aye; and Eve Wittenberg, aye.

Respectfully submitted,

Liz Allard,
Conservation Agent

Harvard Conservation Commission
Request for Determination of Applicability Meeting Minutes
Kristin Scarlet Evonuk, 99 Ayer Road, Harvard#0323-02
April 6, 2023

The public hearing was opened at 8:00pm by Vice Chair Eve Wittenberg 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 2 of the Acts of 2023, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on March 29, 2023.

Members Present: Eve Wittenberg, Paul Willard, Jaye Waldron, Mark Shaw, and John Iacomini (Associate Member)

Others Present: Liz Allard (Conservation Agent) and Sam Evonuk

This hearing is for a Request for Determination of Applicability filed by Kristin Scarlet Evonuk for the installation of a fence, plantings, and removal of two trees within the 100' wetland buffer zone and the 200' riverfront area at 99 Ayer Road, Harvard

Sam Evonuk explained a site visit with the Commission took place some time ago, with not much change from that visit to the proposed plan. Pertaining to the request to remove two trees, one is dead and leaning towards the roadway, and the other, at the driveway entrance, is not well, but Mr. Evonuk is happy to leave it until it becomes a problem. Additionally, bushes have been added to fill in the privacy gap on the north side of the driveway. Liz Allard mentioned a comment received from the Department of Environmental Protection pertaining to work within the floodplain. Ms. Allard further discussed these comments with the Building Commission, who agreed the fence, as proposed, would not impede the flow of water during a flooding situation.

Jaye Waldron made a motion to close the hearing and issue a Negative #3 Determination of Applicability with the condition that the Conservation Agent be notified when the tree(s) are to be removed. Mark Shaw seconded the motion. The vote was unanimously in favor of the motion by a roll call, Mark Shaw, aye; Jaye Waldron, aye; Paul Willard, aye; and Eve Wittenberg, aye.

Respectfully submitted,

Liz Allard,
Conservation Agent