

**HARVARD CONSERVATION COMMISSION
MINUTES OF MEETING
OCTOBER 19, 2023
APPROVED: APRIL 4, 2024**

Chair Eve Wittenberg called the meeting to order at 7:05pm, 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, Don Ritchie, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw, Jessie Panek and John Lee (Associate Member)

Others Present: Liz Allard (Conservation Agent), Chuck Caron (Caron Environmental Consulting, LLC), Mark O'Hagan (Craftsman Village), Wendy Sisson (Land Stewardship Subcommittee), Daniel Mesnick, Bruce Leicher (Bare Hill Pond Watershed Management Committee), Peter Dorward, Diandrea Bilodeau, Scott Smyers (Oxbow Associates), Frank O'Connor (Town Planner), Sotir Papalilo (Craftsman Village), Matt Marro, Miles Connors (Parterre Ecological Services), Peter Foley (Harvard Conservation Trust), and Naomi Valentine (SWCA Environmental Consultants)

Land Stewardship Subcommittee (LSS) Updates with Wendy Sisson

Wendy Sisson stated Fall is a busy time of year with lots of people on the lands, and invasive work and mowing takes place. Encroachments onto conservation lands have been resolved or are being resolved. LSS is collaborating with Harvard Conservation Trust on chainsaw work using the Trail Status application. With the hunting season underway, LSS has helped to install proper signage at the trail heads. A full list of the activity around invasive plant management can be viewed [here](#).

The Fall walk, scheduled for November 4th, will be in honor of Jim Adelson, a long-term member of the LSS, who recently passed away.

Ms. Sisson reviewed the LSS recommendations for the requested snowmobile trail on the Rodriguez land, which can be viewed [here](#).

Department of Environmental Protection Appeal of Bare Hill Pond Watershed Management Committee (BHPWMC) Order of Conditions, DEP#177-726

Eve Wittenberg gave an overview of the appeal by the Department of Environmental Protection (DEP), which came down to whether the Division of Fish & Wildlife (DFW) needed to be consulted and advice received from them before the Commission issued the Order of Conditions (OOC). DEP may issue a superseding OOC or withdraw the appeal. At this point, BHPWMC and the Commission are waiting to hear back from DEP.

A gravity drawdown is currently taking place as there are mechanical issues with the pump that are being addressed. Bruce Leicher stated Judith Schmitz felt comfortable with everything Harvard is doing as part of the drawdown process after her review of the pond by boat last week. A comprehensive response explaining the work put into this effort over the years was submitted by Wendy Gendron, of Aquatic Restoration Consulting, Inc., to the DFW; however, there has been no response from DFW as of today. Mr. Leicher will continue to keep the Commission informed of any updates on this matter.

Request for Certificate of Compliance – 15 Under Pin Hill Road, DEP#177-536

Jessie Panek made a motion to issue a Certificate of Compliance and not require the fee for a Certificate of Compliance on an expired Order of Conditions, as the work approved under this Order was never

conducted. Joanne Ward seconded the motion. The vote was unanimously in favor of the motion by a roll call, Don Ritchie, aye; Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, Aye; Mark Shaw, aye; and Jessie Panek, aye.

Continuation of a Notice of Intent Hearing - Rachel Broadhurst, 41 Pinnacle Road, DEP#177-728, Harvard#0823-03. Opened at 7:32pm

Abbreviated Notices of Intent Hearing – Harvard Conservation Trust, Muller Land, Littleton County Road (Map 18 Parcel 42). Opened at 8:00pm

Abbreviated Notices of Intent Hearing – Harvard Conservation Trust, Coke-Newsham Land, Whitney & Littleton Roads (Map 17B Parcels 31, 32 & 38). Opened at 8:22pm

Wetland Violation – 94 Ayer Road

Liz Allard provided an overview: a perimeter drain was installed around the house within 100' of the BVW (Bordering Vegetative Wetland) and 200' of Bowers Brook and a permit is required from the Conservation Commission. All the work is done and the disturbed areas are still not stable at this time and there is currently no erosion control on that side of the house. Don Ritchie asked the owner why he thought he could conduct this activity without an application with the Commission. Daniel Mesnick, homeowner, explained the French drain failed as it was not pitched properly and over 7" of rainwater flooded his property. Mr. Mesnick thought he was just doing repairs and wasn't disturbing the area. He didn't know that he could have received an emergency certification to get the work done; he did not understand that he needed a permit for this activity and now understands the need for one. Jessie Panek asked if all the work is done. Mr. Mesnick stated all of the digging work is complete but the updated gutter system is not in yet. The gutters were already connected to the perimeter drain. Ms. Panek asked about the issue regarding the stabilization of the area and erosion control. Mr. Mesnick stated he will install a silt fence and plant grass in the spring in the disturbed area. Ms. Panek suggested a cover on the disturbed areas, either hay or mesh.

Ms. Panek made a motion requiring the property owner file a Request for Determination of Applicability. Jaye Waldron seconded the motion. Friendly amendment made by Jaye Waldron to install silt fence as soon as possible, with inspection by the Conservation Agent. The motion was seconded by Jessie Panek. The vote was unanimously in favor of the motion by roll call: Don Ritchie, aye; Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

Review Land Survey Proposal for the Littleton Country Road Project for the Conservation Restriction

Don Ritchie on made a motion to accept the Proposal for Professional Services on the Carlson Property Littleton County Road, Harvard, Ma Project No.: 34425 prepared by Ross Associates, Inc. October 11, 2023. Jim Burns seconded the motion. The vote was unanimously in favor of the motion by a roll call: Don Ritchie, aye; Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

Discuss Request to Release the Last Unit at Craftsman Village Harvard Upon ZBA Request

Mark O'Hagan explained that sign-offs for units go to all the Boards who have ongoing work there. Mr. O'Hagan further stated the goal is to have all the outstanding activities under the Commission addressed prior to the ZBA signing the as-built plan. Mr. O'Hagan knew the invasive management plan was one of the items to be completed. A request for a Certificate of Compliance will be made in the spring to allow a season for everything to grow. Liz Allard stated there are storm water issues as well and she will get report to them as soon as possible.

Review Craftsman Village Harvard Plan to Manage Invasive Plants

Scott Smyers, of Oxbow Associates, stated he has reviewed the site and is recommending a plan that will focus on the invasive species in the northeast portion of the site, within the detention basin and rain

garden. The area in the northeast corner will be selectively treated with a glyphosate-based herbicide using a combination of backpacker sprayer and stem-applicator for Japanese knotweed and a triclopyr-based herbicide for broadleaf vines and shrubs. Annual reports will be provided to the Commission and this activity will take place for three seasons starting in 2024. The Commission requested a map of the areas to be treated be provided for their review prior to final approval of the Invasive Plant Control Plan prepared by Oxbow Associates, Inc.

Update on Wetland Violation at 19 Warren Avenue

Liz Allard stated David Ross Associates, Inc has been contracted to develop the necessary application to remediate the violation and other proposed activities on the site.

Update on Enforcement Order – 320 Ayer Road

Liz Allard stated an application was submitted today, with the public hearing scheduled for November 2, 2023.

Assign Timeframes to assigned tasks from Strategic Planning Session

- Eve Wittenberg and Joanne Ward are working to reinstate Natural Heritage Endangered Species Program habitat. They will put their plan together by December and present to the Commission in January and then start documenting all species in Harvard in Spring 2024.
- Conservation Restrictions and Baseline reports was assigned to Joanne Ward, Wendy Sisson and Liz Allard. Ms. Allard stated Ms. Sisson has been out of town, so there is no completion date for phase 1 as yet.
- Amendments to Chapters 119 and 147-Liz Allard will have draft by January 2024 on Climate and Ms. Allard and Jessie Panek will have Invasives draft by January 2024.
- Monitor Conservation Restrictions- Don Ritchie and Jim Burns- will meet up to discuss
- Deer Management Goals – Don Ritchie and Jessie Panek will get together early 2024 to discuss.
- Wetland Protection Bylaw Fees - John Lee went through all Town Reports back to 1987 and found no mention. Liz Allard suggested to get the Bylaw Fees on the warrant for the spring Town Meeting.
- Website News & Announcements – Eve Wittenberg and Liz Allard will continue to work on
- Involving Interns - will be discussed at next meeting

Update on Proposed Park at Beaver Brook, Boxborough

Joanne Ward stated she has not had any updates on this development; she will reach out to her contacts in Boxborough.

Pine Hill Village Status Update, DEP#177-586

Liz Allard said a review of the site indicated some of the catch basins are clogged and need cleaning. The on-site contractor was informed of this need.

Update on 90 Warren Ave, DEP#177-719, Harvard#1122-02

There was no update this evening

Update from Representatives/Liaisons

Deer Management Subcommittee – Jessie Panek gave the update: Two deer have been harvested from the Damon/Stephenson land. A deer stand and trail camera were found by the hunter on the land; the Environmental Police and the Harvard Police Department were notified.

Open Space Committee (OSC) – Liz Allard gave the update. The OSC is up and running again. They are now working on completing the Open Space plan and are working on the Littleton County Road Project.

Community Preservation Committee – John Lee gave the update. Two applications from the Conservation Commission, five from the Parks & Recreation Commission, and one each from the Historic Commission and Municipal Affordable Housing Trust have been received. One of the Park & Recreation applications may be withdrawn as it does not meet the necessary criteria for funding. At this point there is sufficient funding for all the requested received. The Committee will start reviewing applications with the applicants next week.

Adjournment

Jaye Waldron made a motion to adjourn the meeting at 9:59pm. Jim Burns seconded the motion. The vote was unanimously in favor of the motion by a roll call: Don Ritchie, aye; Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, Aye; Mark Shaw, aye; and Jessie Panek, aye.

Respectfully submitted,
Celia Jornet,
Recording Secretary

EXHIBITS & OTHER DOCUMENTS

- Conservation Commission Agenda, dated October 19, 2023
- Proposal for Professional Services Carlson Property Littleton County Road, Harvard, Ma Project No.: 34425 prepared by Ross Associates, Inc. October 11, 2023
- Invasive Plant Control Plan Craftsman Village Harvard LLC Harvard, MA [DEP File 3177-0678], prepared by Oxbow Associates, Inc., October 13, 2023

Harvard Conservation Commission
Continuation of a Notice of Intent Hearing Meeting Minutes
Rachel Broadhurst, 41 Pinnacle Road, Harvard#0823-03
October 19, 2023

The public hearing was opened at 7:32pm by 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, Don Ritchie, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw, Jessie Panek and John Lee (Associate Member)

Others Present: Liz Allard (Conservation Agent) and Matt Marro

This hearing was continued from October 5, 2023 for a Notice of Intent filed on behalf of Rachel Broadhurst for the construction of a paddock within 100' of a wetland resource area and the restoration of the resource area after enforcement at 41 Pinnacle Road, Harvard.

Matt Marro provided an update including the fact that the fence installed within the wetland resource area had not yet been removed. Mr. Marro stated the horses are out for an hour each day and that manure is picked up every day or every other day. Mr. Marro explained there has been a misunderstanding with the property owner, Rachel Broadhurst, and what she thought could be done on the property as pertains to historical and agricultural uses. Mr. Marro will be consulting with the Department of Environmental Protection on the aspect of breeding horses as an agricultural use within wetland buffer zones and the allowed exemptions. Eve Wittenberg stated this property is under an Enforcement Order that does not allow for the horses to be within 100' of the wetland resource area; however, the Conservation Agent has observed evidence contrary to that. Mr. Marro was not disputing that activity that is occurring is in violation of the enforcement order and/or additional violations have occurred.

Joanne Ward stated her knowledge on the breeding of horses. The barn and property would not be big enough to maintain such an endeavor. Jaye Waldron stated the aspect of breeding horses should have been brought up at the beginning of this application process. Jim Burns feels the Commission is being taken for a ride on all of this as the applicant tries to find a way to maintain her current activity. Jessie Panek is annoyed that the manure is not being picked up immediately, along with allowing horses to roam into the wetland. Ms. Panek agrees the Commission is just getting the run around.

Ms. Ward agreed that the applicant needs to be present at the next meeting or submit a written response to the Commission should personal matters prevent her from attending. Ms. Panek suggested issuing an enforcement order requiring a restraint to keep the horses out of the 100' wetland buffer zone. Don Ritchie stated if she has the ability to erect a fence around the perimeter of her property, she should be able to erect one at the 100' buffer zone and that Ms. Broadhurst cease all activity until she gets the fence erected. Liz Allard clarified that the waiver in question was for plantings within 50' buffer. Ms. Allard also stated that Ms. Broadhurst has a permit with the Board of Health for a stable and private barn but Ms. Allard put a hold on it until the current issue is resolved. Ms. Wittenberg stated the Commission has been distracted by the horse breed issue, but the two issues at hand are the fence within the wetland and the horse pasturing within the 100' buffer zone.

Ms. Wittenberg asked Mr. Marro if he would like to continue the hearing so that his client can be here to respond to questions raised during tonight's hearing and he stated he would like to ask for a continuance. Jim Burns made a motion to continue the hearing at the next meeting on November 2nd at 8:15pm.

Joanne Ward seconded the motion. The vote was unanimously in favor of the motion by a roll call: Don Ritchie, aye; Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

Respectfully submitted,
Celia Jornet,
Recording Secretary

**Harvard Conservation Trust
Abbreviated Notice of Intent Hearing Meeting Minutes
Harvard Conservation Trust, Muller Land,
Littleton County Road (Map 18 Parcel 42), Harvard#1023-02
October 19, 2023**

The public hearing was opened at 8:00pm by 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, Don Ritchie, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw, Jessie Panek and John Lee (Associate Member)

Others Present: Liz Allard (Conservation Agent), Peter Foley (Harvard Conservation Trust) and Miles Connors (Parterre Ecological Services)

This hearing is for an Abbreviated Notice of Intent filed on behalf of Harvard Conservation Trust, for invasive plant removal, native plant re-introduction and wildlife habitat restoration within the 100' wetland buffer zone and 200' riverfront area on the Muller Land, Littleton County Road (Map 18 Parcel 42), Harvard.

Peter Foley, representing Harvard Conservation Trust (HCT), provided an overview of the Muller property, including the vital connection it makes to other adjacent areas of open space. HCT has been working to improve and reclaim this property from invasives. After working on it for the last three years on their own, they have come to realize the need for professional assistance to complete this. HCT has hired Parterre Ecological Services to assist them and HCT will assist Parterre where able. Miles Connors, director of Parterre Ecological, stated the focus is on removing the invasive barberry along the stream and doing ecological restorations. Jessie Panek asked Mr. Foley to explain the area of focus. He explained they are focusing on the area along the stream corridor approximately 25' on either side. Mark Shaw asked if there was any fog type spraying or just cut and dab, as some areas are very thick and high up and will be hard to access. Mr. Connors explained since it is late in the season the cut and dab method is the most effective. There may be some resprouts from root stock or seed bank, but the goal is to take away the invasive layer. Mr. Foley said it is a long-term project, with a projected complete date of three years. Mr. Connors explained that in future years they would use a low volume foliar spray during the warm and dry time of year, usually July into early August. Jim Burns asked about the vines in the trees and expanded on Mr. Shaw's question about dense areas close to the water. Mr. Connors said this time of year due to lack of foliage they would cut and dab the vine stumps and cut out as much as possible, and in time the vines in the trees would dry out and eventually shake themselves out of the trees. Ms. Panek commented that bittersweet is less destructive; it's better to leave it and let it disintegrate as Mr. Connors is proposing.

As there has been no Department of Environmental Protection file number issued, Don Ritchie made a motion to continue the hearing to November 2, 2023 at 7:25pm. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by a roll call: Don Ritchie, aye; Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, Aye; Mark Shaw, aye; and Jessie Panek, aye.

Respectfully submitted,
Celia Jornet,
Recording Secretary

**Harvard Conservation Trust
Abbreviated Notice of Intent Hearing Meeting Minutes
Newsham Land, Whitney & Littleton Roads (Map 17B Parcels 31, 32 & 38),
Harvard#1023-02
October 19, 2023**

The public hearing was opened at 8:22pm by 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, Don Ritchie, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw, Jessie Panek and John Lee (Associate Member)

Others Present: Liz Allard (Conservation Agent), Peter Foley (Harvard Conservation Trust), and Naomi Valentine (SWCA Environmental Consultants)

This hearing is for an Abbreviated Notice of Intent filed on behalf of Harvard Conservation Trust, for invasive plant removal, native plant re-introduction and wildlife habitat restoration within the 100' wetland buffer zone on the Newsham Land, Whitney & Littleton Roads (Map 17B Parcels 31, 32 & 38), Harvard

Peter Foley, representing Harvard Conservation Trust (HCT), explained this area is of great interest to the HCT as it is close to and accessible from Town Center. It can also provide educational opportunities to students and others to show we can rehabilitate and revegetate with native species. Similar to Muller project, the job was too big complete on their own and would need professional help to complete. HCT was awarded a grant in the amount of \$20,000 for this project from Nashua River Watershed Association (NRWA). The focus would be on invasives removal along the stream area. Long-term plan is to relocate portions of the existing trail off private property and out of wetland areas. Naomi Valentine, with SWCA Environmental Consultants explained this time of year they would use the cut stem and dab application. In future years, they would use the least impactful method due to the amount of wetland areas on the property and applications will be done as if the entire property is wetlands.

Jessie Panek asked for clarification on the red and pink lines on the map that was provided. Ms. Valentine explained the red line is a rough estimate of where the future trail would be; the blue line was taken from MASS GIS showing the stream; and the pink line is a rough estimate of where the scope of work would be. Ms. Panek also questioned the green and yellow areas on the first map and Ms. Valentine explained the green area is Phase 1 of the project and yellow is Phase 2.

As there is no Department of Environmental Protection file number, the hearing will need to be continued. Don Ritchie made a motion to continue the hearing to November 2, 2023 at 7:27pm. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by a roll call, Don Ritchie, aye; Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, Aye; Mark Shaw, aye; and Jessie Panek, aye.

Respectfully submitted,
Celia Jornet,
Recording Secretary