

**HARVARD CONSERVATION COMMISSION
MINUTES OF MEETING
NOVEMBER 16, 2023
APPROVED: MAY 2, 2024**

Chair Eve Wittenberg called the meeting to order at 7:03pm, 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 (arrived at 8:35pm) and John Lee (Associate Member)

Others Present: Liz Allard (Conservation Agent), Diandrea Bilodeau, Wendy Sisson, Mark Adams, Anne McWaters (Recreation Director), Matt Marro, Rachel Broadhurst, Limhout Tiv (GPR, Inc.), Bruce Ringwall (GPR, Inc.) and Walter Eriksen (Juno Development)

Harvard Snowmobile Club Annual Pre-Season Update

Mark Adams, President, explained trail work has begun on the Small trail behind the Hildreth Elementary School. Mr. Adams has been discussing with Wendy Sisson, chair of the Land Stewardship Subcommittee, doing some improvements over the next couple of weeks on the Clapp Cove Trail, which is perennial muddy. Eve Wittenberg brought up the point of having a documented procedure for snowmobile activity on conservation land, including a point of contact when issues arise. Mr. Adams says trail users will contact the Snowmobile Club to communicate issues when the Conservation Agent is not available. Mr. Adams will provide Liz Allard with an updated snowmobile trail map.

Act on Littleton County Road Project Conservation Restriction Municipal Certification

Joanne Ward made a motion to accept the Municipal Certification for the Littleton County Road Conservation Restriction. Don Ritchie 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; and Mark Shaw, aye.

Discuss Engaging a Minutes Clerk

After a brief discussion, Jaye Waldron made a motion to engage a minutes clerk, with approval of the minutes by the Conservation Agent before they are provided to the Commission for approval. Jim Burns seconded the motion. The vote was 4-1 in favor of the motion by a roll call: Don Ritchie, aye; Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, aye; and Mark Shaw, nay.

Approve Invoice

Jim Burns made a motion to approve the invoice for Bear Hill Landscaping (Herman Orchard) in the amount of \$4,000.00. 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 an Abbreviated Notices of Intent Hearing – Harvard Conservation Trust, Muller Land, Littleton County Road (Map 18 Parcel 42), DEP#177-736, Harvard#1023-02. Opened at 7:25pm

Continuation of an Abbreviated Notices of Intent Hearing – Harvard Conservation Trust, Coke-Newsham Land, Whitney & Littleton Roads (Map 17B Parcels 31, 32 & 38), DEP#177-37, Harvard#1023-03. Opened at 7:27pm

Request for Determination of Applicability Hearing – Harvard Parks & Recreation Commission, McCurdy Track, 34 Lancaster County Road, Harvard#1023-03. Opened at 7:30pm

Continuation of a Notice of Intent Hearing – Juno Construction LLC, Ayer & Old Mill Roads, (Map 4 Parcels 52, 52.1, 52.2 & 53), DEP#177-733, Harvard#0923-01. Opened at 7:45pm

Continuation of a Notice of Intent Hearing – Travis Dery, 62 Old Littleton Road, DEP#177-729, Harvard#1023-01. Opened at 8:30pm

Continuation of a Notice of Intent Hearing - Rachel Broadhurst, 41 Pinnacle Road, DEP#177-728, Harvard#0823-03. Opened at 9:04pm

Role of Conservation Commission Members

Liz Allard reminded the Commission that they have the same authority as the Conservation Agent to issue an Enforcement Order (EO) should they observe someone violating the Wetland Protection Act or the Wetland Protection Bylaw. Ms. Allard will provide Commission members with a link to the Enforcement Order form and noted it is also on the Department of Environmental Protection (DEP) website.

Status Report Pine Hill Village, DEP#177-586

Work continues on the installation of the septic leach field/system for East Serpentine Way, along with the foundations for both East and West Serpentine Ways. Debris piled on the wetland side of the silt fence has been removed; and the area at the toe of the slope continues to pool water. The siltation barrier is in good working order.

Status Report 90 Warren Ave, DEP#177-719, Harvard#1122-02

The logistics of installing the bridge have been determined as it will require the staging of equipment on both sides of the crossing. Supporting beams from the temporary bridge will be used during the installation of the bridge for foot traffic across the wetland. Ways to best run the pipes for the septic system are being explored as the original plan had them within the driveway, which contains ledge. The dwelling itself has been framed. The siltation barrier remains in good shape.

Update from Representatives/Liaisons

Community Preservation Committee (CPC) – John Lee stated two applications were submitted to the CPC: \$200,000 for the Conservation Fund and a request from Land Stewardship for \$35,000 (which was amended by CPC to \$50,000) for invasive plant management. CPC approved both and both will be sent to Town Meeting for approval.

Open Space Committee – Liz Allard provided an update. The committee met today and things are progressing well. With the addition of Anne McWaters, things are now moving forward with recreation section of the Open Space & Recreation plan updates. The Conservation Restriction on the Littleton County Road parcel has been submitted to the state.

Deer Management Subcommittee (DMS) – Jessie Panek stated the hunt has been going well; some hunters not able to hunt who will be replaced with previously approved qualifiers. A tree stand on Harvard Conservation Trust (HCT) land with an old DMS tag on it was discovered. It was found that he did have permission to hunt on the abutting land and was unaware his stand was on HCT land. Liz Allard gave an update on the illegal hunter that was discovered at the gravel pit. The individual has been identified and an incident report has been filed. Ms. Allard also mentioned another illegal hunter was discovered on the Perini land and that incident is being investigated.

Land Stewardship Subcommittee (LSS) – Jim Burns provided an update on Japanese Knotweed being treated on Stow Road and Mass Ave, with follow-up treatment next year, as well as glossy buck thorn on the Powell land.

Approve Minutes

Minutes were unavailable for approval this evening.

Adjournment

Jim Burns made a motion to adjourn the meeting at 9:39pm. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by a show of hands.

Respectfully submitted,
Celia Jornet,
Recording Secretary

EXHIBITS & OTHER DOCUMENTS

- Conservation Commission Agenda, dated November 16, 2023
- Chapter 40B Residential Development The Village at Robin Lane Harvard, MA prepared for Juno Development, JOB 21140, prepared by GPR, Inc., 9/20/2023
- Topographic Plan of Land in Harvard, MA 41 Pinnacle Road prepared for Rachel Broadhurst prepared by Summit Surveying, Inc, 22-0147, 11-13-23

**Harvard Conservation Trust
Abbreviated Notice of Intent Hearing Meeting Minutes
Harvard Conservation Trust, Muller Land,
Littleton County Road (Map 18 Parcel 42), DEP#177-736, Harvard#1023-02
November 16, 2023**

The public hearing was opened at 7:25pm 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 and John Lee (Associate Member)

Others Present: Liz Allard (Conservation Agent)

This hearing was continued from November 2, 2023 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.

Jim Burns made a motion to waive the Town Bylaw fee as well as the Town's portion of the State fee. Mark Shaw 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; and Mark Shaw, aye.

Now that a Department of Environmental Protection (DEP) File Number has been received and comments addressed, Jim Burns made a motion to close the hearing and issue an Order of Conditions that include the standard special conditions, along with the additional condition that any future plantings on the property shall be limited to plants native to Worcester County. Don Ritchie 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; and Mark Shaw, aye.

Respectfully submitted,
Celia Jornet,
Recording Secretary

**Harvard Conservation Trust
Abbreviated Notice of Intent Hearing Meeting Minutes
Coke-Newsham Land, Whitney & Littleton Roads (Map 17B Parcels 31, 32 & 38),
DEP#177-737, Harvard#1023-02
November 16, 2023**

The public hearing was opened at 7:31pm 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 and John Lee (Associate Member)

Others Present: Liz Allard (Conservation Agent)

This hearing was continued from November 2, 2023 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 Coke-Newsham Land, Whitney & Littleton Roads (Map 17B Parcels 31, 32 & 38), Harvard.

Don Ritchie made a motion to waive the Town's Bylaw fee as well as the Town's portion of the State fee. 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; and Mark Shaw, aye.

Now that a Department of Environmental Protection File Number has been received and comments addressed, Jaye Waldron made a motion to close the hearing and issue an Order of Conditions that include the standard special conditions. 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; and Mark Shaw, aye.

Respectfully submitted,
Celia Jornet,
Recording Secretary

**Harvard Conservation Commission
Request for Determination of Applicability Hearing Meeting Minutes
Harvard Parks & Recreation Commission,
McCurdy Track, 34 Lancaster County Road, Harvard#1023-03
November 16, 2023**

The public hearing was opened at 7:34pm 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 and John Lee (Associate Member)

Others Present: Liz Allard (Conservation Agent) and Anne McWaters (Recreation Director)

This hearing is for a Request for Determination of Applicability filed by Harvard Parks & Recreation Commission for the installation of a new drain to tie into an existing drainage system, sun-shade, and the regrading and planting of an area to prevent erosion within the 100' wetland buffer zone 34 Lancaster County Road, Harvard.

Anne McWaters, the Recreation Director, detailed the need to add a drain within the playground that will tie into the existing drainage system as rain events cause pooling of water. Ms. McWaters also detailed the installation of a Sunshade, as well as plantings along the slope near the parking area to mitigate the erosion that occurs as a result of rainstorms. Suggested native plants can be reviewed with the Conservation Agent or Commission member Jessie Panek. Ms. McWaters also mentioned adding a pathway on top of woodchips to make the American Disabilities Act (ADA) swing more easily accessible by wheelchair users. The material to be used has not been determined, but Eve Wittenberg stated the path is not a concern if it is something that will not require disturbance to the existing area.

Don Ritchie made a motion to close the hearing and issue a Negative #3 & 6 Determination of Applicability with the additional condition of using native plants. 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; and Mark Shaw, aye.

Respectfully submitted,
Celia Jornet,
Recording Secretary

Harvard Conservation Commission
Continuation of a Notice of Intent Hearing Meeting Minutes
Juno Construction LLC, Ayer & Old Mill Roads, (Map 4 Parcels 52, 52.1, 52.2 & 53),
DEP#177-733, Harvard#0923-01
November 16, 2023

The public hearing was opened at 7:49pm 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 (arrived at 8:35pm) and John Lee (Associate Member)

Others Present: Liz Allard (Conservation Agent), Walter Ericson (Juno Development), Bruce Ringwall (GPR, Inc.) and Limhout Tiv (GPR, Inc.)

This hearing was continued from November 2, 2023 for a Notice of Intent filed on behalf of Juno Construction LLC for the construction of one duplex unit, deck, drainage, public water supply wells, tree clearing, grading and associated utilities within the 100' wetland buffer zone and the 200' riverfront area on Ayer & Old Mill Roads, (Map 4 Parcels 52, 52.1, 52.2 & 53), Harvard.

Bruce Ringwall, of GPR, Inc., stated the plan changes from Beals + Thomas were minor and have been completed with revised plans and resubmitted to Beals + Thomas this afternoon. Mr. Ringwall briefed the Commission on the process of granting waivers under a Comprehensive Permit before the Zoning Board of Appeals. Mr. Ringwall stated filing fees are based on the administrative cost to process an application and noted the previous cap on the some of the bylaw fees. Mr. Ringwall also mentioned that Juno Construction is donating \$18,000.00 to the Municipal Affordable Housing Trust.

Eve Wittenberg provided options to the Commission members regarding the waiver of Town Fees and the Town's portion of state fees. Liz Allard suggested total fees of \$3,000, but the Commission turned it down. Mr. Ringwall then negotiated \$3,800, which was also turned down by the Commission.

Don Ritchie mad a motion reducing the total fees to \$8,000, which includes the State fee. 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; and Mark Shaw, aye.

Mr. Ringwall and the Commission discussed the waiver regarding work within the 50' no disturb zone. Ms. Wittenberg asked Mr. Ringwall how the equipment will be brought in for the drilling of the wells. Mr. Ringwall explained an access road will be in place, covered in gravel, and after the wells are dug, the access road will be covered with loam and allowed to revegetate. Don Ritchie expressed his concern with serious grading issues in the detention area – 8 feet from top of bank to toe of the slope. Ms. Wittenberg asked for detail on the unit closest to the 50' buffer zone, which Mr. Ringwall provided. Jessie Panek had concerns with the tree clearing necessary to construct the access road to the well construction site. Mr. Ringwall explained the clearing and how it can be reviewed by the Conservation Agent once the limits of work are determined.

Don Ritchie made a motion to continue the hearing to November 30, 2023 at 7:05pm. Jim Burns seconded the motion. The vote was unanimously in favor of the motion by a roll call: Don Ritchie, Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

Respectfully submitted, Celia Jornet, Recording Secretary

**Harvard Conservation Commission
Notice of Intent Hearing Meeting Minutes
Travis Dery, 62 Old Littleton Road,
DEP#177-729, Harvard#1023-01
November 16, 2023**

The public hearing was opened at 9:01pm 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 Bruce Ringwall (GPR, Inc)

This hearing was continued from November 2, 2023 for a Notice of Intent filed by Travis Dery for the installation of a pool within the 100' wetland buffer zone at 62 Old Littleton Road, Harvard.

At the request of the applicant's representative, Don Ritchie made a motion to continue the hearing to December 7, 2023 at 7:35pm. Mark Shaw 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 Commission
Continuation of a Notice of Intent Hearing Meeting Minutes
Rachel Broadhurst, 41 Pinnacle Road, DEP#177-728, Harvard#0823-03
November 16, 2023

The public hearing was opened at 9:03pm 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), Matt Marro and Rachel Broadhurst

This hearing was continued from November 2, 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.

Eve Wittenberg provided an update on the compliance with the Enforcement Order. Matt Marro detailed the revisions to the plan which includes an additional planting area for where the fence had been installed within the wetland area.

Don Ritchie made a motion to approve the waiver to do restorative plantings within the 50' no disturb area. 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.

Jaye Waldron made a motion to close the hearing and issue an Order of Conditions. 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