

**TOWN OF HARVARD  
CONSERVATION COMMISSION AGENDA  
THURSDAY APRIL 20, 2023 @7:00PM**

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Pursuant to Chapter 2 of the Acts of 2023, An Act Making Appropriations for the Fiscal Year 2023 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects, and signed into law on March 29, 2023, this meeting will be conducted via remote participation. Interested individuals can listen in and participate by phone and/or online by following the link and phone number below.

TOHpro1 is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

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Passcode: 681723

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**New Business:**

1. Open Space Committee – Littleton County Road Land Protection Project Update
2. Deer Management Subcommittee 2022 Season Report
3. Climate Initiative Committee Request for Support Letter for MVP Grant
4. Select Board Annual Appointment Recommendations – Janet Waldron, Jim Burns, Mark Shaw and John Iacomini
5. Zoning Board of Appeals Request for Comments – 133 Clinton Shore Drive; 7 Peninsula Road; 200 Still River Road
6. Planning Board Request for Comments - 131 Brown Road
7. Approve Minutes
8. Approve Invoices

**Public Hearings:**

7:30pm **Continuation of an 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**, for the confirmation of the delineation of a Bordering Vegetated Wetland and the Mean Annual High Water of Bower's Brook

The listing of matters are those reasonably anticipated by the chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

- 7:45pm **Notice of Intent Hearing – Maxwell Bridges, 43 Brown Road, Harvard#0323-03**, for upgrade of a sewage disposal system for an existing, single-family home within the 100' buffer zone
- 8:00pm **Notice of Intent Hearing – Kelsey Nickerson, 133 Clinton Shore Drive, DEP#177-722 Harvard#0323-04**, for two small additions to an existing single-family home, water proofing, drainage improvements to the existing foundation, reconstruction of the existing deck and sonotube supports, reconstruction of a small timber retaining wall, installation of a mechanical lift along a new walkway, construction of a detached garage and the extension of the existing driveway within 200' of Bare Hill Pond– ***Waiver Request***
- 8:30pm **Continuation of a Notice of Intent Hearing – Yvonne Chern, 203 Ayer Road, DEP#177-711, Harvard#0322-01**, for the construction of commercial structures with associated parking, grading and drainage within the 100' wetland buffer zone – ***Waiver Request***

**Old Business:**

1. Review Amendments of the Memorandum of Understanding for Ann Lees Field with Parks & Recreation Commission
2. Update on Enforcement Order – 320 Ayer Road
3. Draft Impact Report (DEIR) for Proposed Research/Industrial Park at 1414 Massachusetts Avenue, Boxborough (Joanne Ward)
4. Pine Hill Village Status Update

**lpk**

**NEXT MEETING:  
MAY 4, 2023**

OFFICE OF THE  
**CONSERVATION COMMISSION**

13 AYER ROAD HARVARD, MA 01451

978-456-4100 EXT.321

www.harvard-ma.gov



April 20, 2023

Kara Runsten  
MVP Program Manager  
Executive Office of Energy and Environmental Affairs  
100 Cambridge Street, Suite 900  
Boston, MA 02114

RE: Town of Harvard FY24 MVP Grant Application

Dear Ms. Runsten,

The Town of Harvard Conservation Commission voted on April 20, 2023 to support the Town's application for an MVP Action Grant to protect 39 acres of land on Littleton County Road. This land has been identified as being some of the highest priority open space to protect by the Harvard Open Space Committee (OSC) because of its farmland, ecologically significant and climate resilient land, forests and wetlands. The land is especially important as it abuts a large tract of already protected open space in an area identified by the Harvard Climate Action Plan and Apple County Plan as being a priority area to protect.

The Conservation Commission voted to support OSC's application to the Community Preservation Committee (CPC) for \$200,000 which CPC approved. If approved by the Spring Town Meeting, the Conservation Commission will use these funds, along with other CPA funds already approved, to purchase a Conservation Restriction on this land to protect it *in perpetuity* for conservation and agricultural use. If awarded, the MVP grant will be used to reimburse the Community Preservation Act Conservation Fund for 75% of the Town's expenses.

The Conservation Commission is grateful to the Harvard Conservation Trust (HCT) for organizing the deal to protect this land – one in a long history of collaboration between HCT and the Town.

We are also excited to welcome Gaining Ground to Harvard with their mission of providing healthy, locally grown produce to the food insecure.

Thank you for considering this important land protection project.

Sincerely,

Don Ritchie,  
Chair

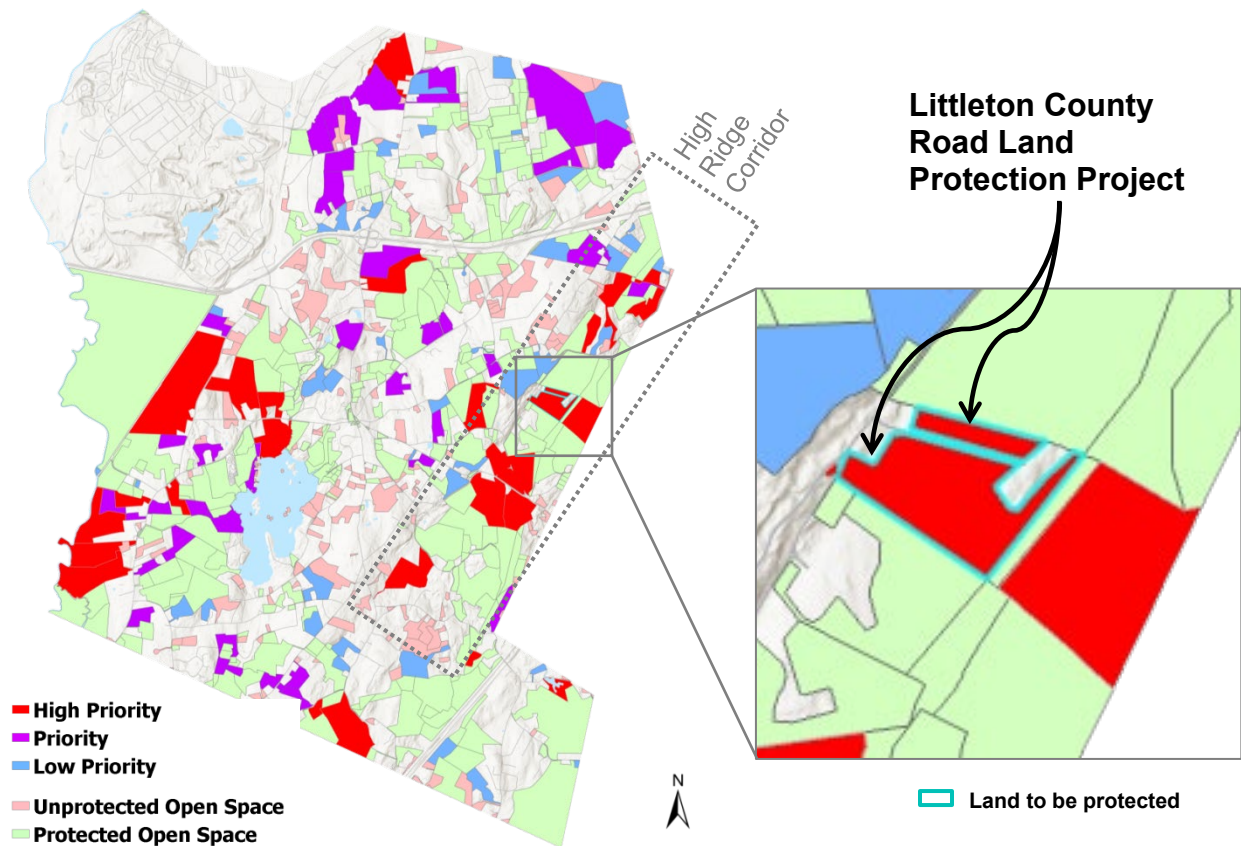


# Littleton County Road Land Protection Project

*Warrant Article 19-3 – request by the Conservation Commission and Open Space Committee for \$200,000 from the Fiscal 2024 CPA Fund to purchase a Conservation Restriction on 39 acres of land on Littleton County Road.*

The “High Ridge” corridor contains large swaths of protected open space and farmland, and contains significant areas of ecologically sensitive and climate resilient land. It is identified as a unique feature and a priority habitat by the Apple Country Plan which is part of Harvard’s Climate Action Plan (CAP).

Several of the parcels of unprotected open space in this area have been identified by the Harvard Open Space Committee (OSC) as high priority for protection because of their ecological significance, climate resilience, farmland and farm soils, water and wetlands, and their adjacency to a 345 acre protected open space corridor.



**Harvard OSC Open Space Protection Model**

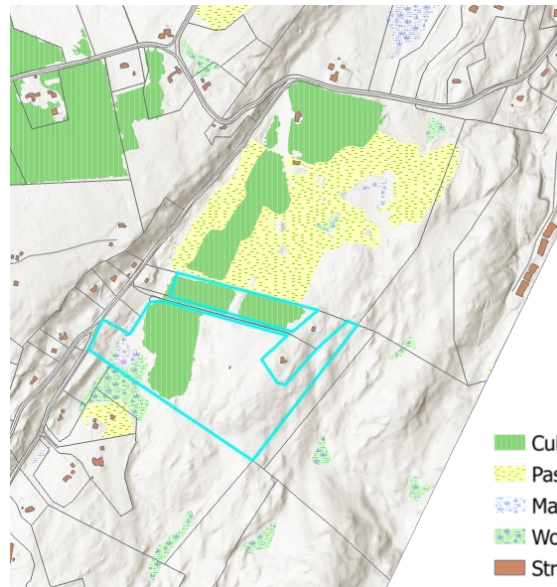
The project’s goal is to use Community Preservation Act funds to protect two parcels of open space, totaling 39 acres, in order to:

- protect the ecologically sensitive and climate resilient land
- preserve the active farmland
- provide locally grown produce to the food insecure
- ensure the existing open space corridors do not become fragmented

The parcels to be protected contain 12 acres of cultivated land and 8 acres of prime farm soils, and about a 345 acre protected open space corridor. It is an ecologically sensitive area, and contains land identified as being climate resilient. It also contains 14 acres of forest and 2 acres of wetlands.



Aerial View



Cultivated Area

- Cultivated
- Pasture/Hay
- Marsh/Bog
- Wooded marsh
- Structures
- Land to be protected

### Littleton County Road Land Protection Project

#### Project Structure and Funding

The project is a joint effort by the Town of Harvard, the Harvard Conservation Trust (HCT), and Gaining Ground – a non-profit organization who raises food for the food insecure. HCT will purchase the land as it has more flexibility in entering into a long term lease for cultivation of the land. The Town of Harvard will purchase a Conservation Restriction (CR) on the parcels protecting them *in perpetuity* for conservation and agriculture uses. Gaining Ground intends to farm the cultivated land under a long term lease with HCT.

HCT will sell a CR to the Town at the appraised CR value, which will be held by the Conservation Commission. The Conservation Commission and OSC are asking Town Meeting to approve \$200,000 from the Fiscal 2024 Community Preservation Act Fund to purchase the CR. The \$200,000 will be held in the CPA Conservation Fund, and will be supplemented by funds from the CPA Conservation Fund which have already been approved at previous Town Meetings.

OSC has applied for a Municipal Vulnerability Program (MVP) Action Grant from the State. The MVP Action Grant is designed to help municipalities implement their Climate Action Plan. Harvard's plan targets protection of farmland and areas of "high climate value", and identifies the High Ridge Corridor as an area of focus. The MVP Action Grant also strives to provide help to those most at risk from climate change – including people experiencing food insecurity. If awarded, the MVP Action Grant will be used to reimburse the CPA Conservation Fund for 75% of the Town's expenses.

# 2022 Season Report: Deer Management Subcommittee

Harvard, Massachusetts

The Deer Management Subcommittee (DMS) has been entrusted by the Conservation Commission to conduct a controlled archery hunt on designated Town parcels to control the deer population. The 2022 deer hunting season concluded at dusk on December 31. This report is to share a few observations on the deer management and hunting activity from the past year.

In an effort to effectively site our resources, the DMS continued a survey on conservation lands in the Town of Harvard. DMS volunteers checked each property for different criteria. They made note of access points, distance to dwellings, trails and roadways, and evaluated if the property had signs of deer activity. These results were reported to the DMS, who used this information to make recommendations to the Conservation Commission. The DMS consulted with the Conservation Stewardship group and advanced the Coke Land for approval. The Commission then voted to approve the Coke Land for inclusion in the program. This property is in addition to the previously approved properties that include Barrett, Blomfelt, Damon/Stephenson, Dunlap, Gillette, Great Elms, Hermann Orchard/Rodriquez, Maxant, Perini, Shaker Spring House, Vesenska Willard/Poitras

DMS began preparation for our third season by hosting qualification sessions at the Harvard Sportsman's Club, which is large enough for archers to be socially distanced at all times. Each qualifier was supervised by certified Archery instructors and required to follow proper range protocols. DMS member and Rangemaster, Joe Pulido, was present at all qualifiers, and recorded their paperwork, as well as performed a poundage-pull check on each of their bows.

Participants were required to hit a six-inch round target at 25 yards with at least three of five arrows, which is the strict requirement specified in our original report. Seven new archers successfully passed the test. A total of 19 qualified hunters were issued Harvard Hunter ID numbers for the 2022 season, and 18 actively participated. The Maxant and Barrett properties were assigned a team of two hunters to increase the level of hunting activity on these properties, and the Maxant team harvested the first deer of the Season.

Each hunter has taken a State mandated hunter safety class and has a current Massachusetts hunting license. Each hunter is requested by DMS to purchase antlerless deer permits, commonly known as "doe tags" in addition to the buck tags that come with the hunting license. Harvesting a doe is more effective in controlling deer population.

The approved hunters were allowed to hunt on designated conservation properties and required to complete a daily log after each hunt or scouting activity. Each hunter was issued a photo ID with their Hunter number on it and a dashboard parking placard, as well as two bright orange numbered stand tags. Each hunter had been vetted by the Harvard Police Department and the Environmental Police Officer (EPO). The hunters carried the contact numbers of the Harvard Police, Environmental Police, the Conservation office and a DMS member number. They also were required to have in their possession their Hunter ID, Hunting License, doe and buck tags, and a map of their assigned properties. Hunters also follow the regulations and rules as stated by the MA Division of Fisheries & Wildlife. DMS has had discussions regarding the best way to distribute hunters over designated properties. The majority of towns in the Commonwealth open their designated properties so that qualified hunters may choose

where to set their stands. A minority of towns and Land Trusts assign hunters to specific properties. Both distribution strategies have their benefits. DMS has interviewed and surveyed the qualified hunters from previous seasons and several different towns and Land Trusts in an effort to determine which method would best serve the Town of Harvard conservation lands.

DMS and the Conservation Commission decided to continue to assign the hunters to specific properties. For 2022 DMS made a concerted effort to match hunters with their desired parcels. Each hunter would have their own lot, or in the case of larger lots, share with one or more other hunters. This allowed each hunter to have responsibility and 'ownership' of each property assigned to them. They were given the contact information of those they shared the property with and could coordinate hunts if they chose to. Hunters were asked to select their top five preferred properties and given the best match available. The properties were then assigned based on participation in the previous year program, Harvard residency or a Town of Harvard employee. Those that participated more were given a priority for their properties of choice. In two cases, recently qualified hunters came to the qualifier hunt with an existing hunting buddy. The DMS saw this as an opportunity to increase hunting on the properties by issuing the two pairs onto a single parcel. This made sense as the "buddies" were familiar with each other's hunting style and there was already good communication in place.

When asked how the new system worked this year for the archery crew, DMS received the following replies:

- I liked working with the other hunter(s) that were assigned. I like that we were encouraged to keep in touch and share info. I love that the people in charge have advocated for hunting in Harvard and have been effective. I like the continued effort to hunt new conservation areas. I like to effort to form community and foster discussion within the group.
- To have an area that was just ours and to have some ownership of our area. It was great.
- Having captains at each spot allows you to partner with people and share the land cause obviously not many people put time into the hunting season like some of us who are very serious about it.
- It's a great program. Seems to be working well.
- The program offers people the opportunity to enjoy the outdoors and more importantly, become a part of the long term solution of protecting of the habitat.
- I'm able to hunt almost in my backyard.
- The opportunity to hunt, and aid and assist with the conservation program.
- Great communication with hunters!
- Provides an opportunity to hunt properties with a higher chance of seeing deer.
- I generally like how the program is run. I like that I get to hunt properties with little or no access to other hunters.
- The ability to have an area where I knew I could go and would not have the pressure of a traditional public land site.
- It encouraged me to get out and explore some of the conservation lands in town and see what deer and wildlife is there.
- I like that each Hunter has his own site to hunt.



When asked what improvements could be made for a future hunt the hunters were concerned about: properties that were under-hunted for the season, opening up more land, having an earlier qualifier to allow for earlier site assignment and scouting.

Hunter comments included:

- I personally believe there's a lot of people not hunting enough hours in their spots while there is plenty of deer sign.
- Opening up more areas: more conservation areas, but also more than one plot for each hunter - perhaps two plots.
- I would explore allowing the participants to invite a qualified guest to join them when so desired, both for the safety factor of not being alone and for the potential advantage of increasing the harvest.
- Having more areas for additional hunters may be nice.
- Reduced the dwelling and trail setback distances. Ask neighboring abutters approval to hunt within Conservation property. Dwelling setback should be reduced to 250ft and trail setback should be reduced to 35ft. This would allow more huntable areas in our relatively small properties.
- I feel it's been a work in progress improving every year. I think finalizing properties and permission to set stands and cameras should be done by mid-late august.
- I had no difficulties with the program. I thought it was very well organized and gave hunters the expectations for the program clearly so that we knew we were hunting how we should be. The maps with set backs that you gave were extremely helpful when doing initial scouting for stand locations.
- I live next to a conservation area that I wish was in the program so I could go hunting there. I qualified late but I think it is a good idea to do the June qualifiers so we have time to get out and scout before the hunt.

One stated goal of the individual parcel assignment method was to increase the number of individual stand visits by each hunter. Of the 180 hunter log entries that were collected through Google Forms, 75% of all hunting and scouting activity was on 8 parcels: Barrett, Blomfelt, Daman/Stephenson, Gillette, Great Elms, Hermann Orchards/Rodriquez, Vesenka and Willard/Poitras.

18 of the 19 approved hunters did get out to hunt. Of these, 10 accounted for 75% of the trips to scout or hunt. Some approved hunters only hunted once or twice due to other time commitments, hunting opportunities at other locations, plan changes due to Covid, or personal challenges. In consultation with other programs and the State Deer Biologist, Dr. Feehan, it is common that the majority of people actively hunting will be a minority within the group of hunters. Our selection of hunters is a meritocracy in that hunters that put in the most time scouting and hunting are more likely to receive their preferred choices of hunting areas for the next year.

Four deer were harvested by approved hunters on Town conservation property. Three adult does were harvested from Damon/Stephenson and one from Maxant.



DMS continues to evaluate methods of estimating the number of deer in Harvard. The initial studies were deer pellet counts, however there are other methods that the state Deer Biologist prefers. DMS has been in contact with the Harvard Conservation Stewardship Subcommittee regarding the placement of two pilot "Oak Sentinels" monitoring stations. The premise is that oak seedlings are placed on a property with some of them protected from being browsed by herbivores by small fences and others left unfenced and available to be browsed by deer. The rate of browsing can be used to estimate the number of deer in an area. White-tailed deer can have a significant impact on the vegetation in local woodlands. With high deer populations, more stress is put on native tree seedlings that are preferred food sources of deer. Following a recommendation from the State Deer Biologist, the DMS is also looking into the AVID (Assessing Vegetation Impacts from Deer) method for estimating deer density.

Incidents of hunter harassment and vandalism have declined, and we have had no reports of it occurring to program members this year. There were on occasions hikers and dog walkers going off trails and into nearby hunting locations as seen by our hunters and their trail cameras. The hikers and walkers were not visibly affected to the hunter presence and stand locations.

Unpermitted hunting and poaching on Conservation Land continues to be observed and reported by our Hunters. We would like to commend the hunters, the Harvard Police, and State Environmental Police and the Conservation and Town Administrator's office, and the Conservation Chairman for their quick and hard work in their involvements in stopping the illegal hunting. In one case, one of our hunters discovered a bait-pile and camera. This was confiscated and turned in to the Harvard police. In other cases, suspicious cars were reported to the EPOs and Harvard PD. We commend the Harvard Policeman who responded to a neighbor's call and caught red-handed two career poachers removing a deer from Conservation land. They were reported to the State Environmental Police. We also commend Conservation staff for very quick coordination with the Harvard Police, Town Counsel and the Conservation Chair in drafting and issuing a "Trespass Notice" which will bar these criminals from Harvard Conservation land. The State Environmental Police logged no complaints or incidents involving the participants in our program.

The DMS is satisfied that the program was a continued success this year. While we wish the harvest numbers were higher, bowhunting is an inherently difficult activity. We have been told both by the State deer biologist and our participants that only one in every three hunters will successfully take a deer in a season. We are grateful that more properties were approved to expand the managed area. MassWildlife has shared with DMS that by opening more of the landscape to hunting, it is a way to increase the season's yield.

A number of hunters who qualified for the hunt requested a longer period to scout and setup their tree stands/equipment. Hunter assignments to the same parcel year after year provides a hunter more time to study the terrain and "pattern" the deer activity. The skilled hunter looks for deer prints in the winter's snow. They check pathways, grazing patterns, bedding areas, territorial marking "rubs" and "scrapes". Before the season begins, they are able to predict where the deer may be at a given time. Ideally, their hunting stands are installed weeks or months before the season begins - so the deer become used to them - and are not alarmed by their sudden presence. In order to be successful, hunters continue to use their scouting observations throughout the Season to know where the deer would be at a given time and make stand location adjustments appropriately. We can reasonably expect

a continuing increase in harvested deer each year going forward due to our seasoned hunters having a better command and knowledge of the properties and the deer movements across them.

An example of how information learned from scouting can be useful in predicting deer movements can be seen in the information gathered last fall at the new “Coke” property that was added this year. Early reconnaissance showed the forested portion of the property on the edge of its field to have a rich population of deer. However, this year’s early season research showed that the population is apparently very dependent on the corn and silage that is grown in the field. Observations showed that as soon as the field area was cleared of its vegetation by the farmer, the deer sightings on the Coke property dropped away completely. As in this case and others the hunters will adjust using data they have gathered and plan their hunting location and timing accordingly for the Fall 2023 Season, and future seasons.

Some of our hunters also chose to hunt on non-program lands that they had already scouted where they had permission to hunt – in Harvard and other towns. Of all of the program hunters, two were successful in harvesting a deer on Harvard land outside of the program. All of the other hunters also stated that they hunt private property. This group harvested 7 deer from those properties.

Statistics from MassWildlife showing the number of deer harvested in the Town of Harvard both on public and private lands was recently released. Although most of the harvested deer are outside our Program, we like to monitor the number of all deer harvested within the Town of Harvard. The Harvard Police in 2022 logged 6 incidents of vehicles colliding with deer.

Town	Adult Male	Female	Antlerless Male	Total
Harvard	34	32	6	72

Season	Female	Male	Total
Archery	16	21	37
Primitive	8	9	17
Shotgun	7	10	17
Youth	1	0	1
<b>Total</b>	<b>32</b>	<b>40</b>	<b>72</b>

Land Type	Female	Male	Total
Private	20	32	52
Public	9	4	13
Town Hunt	1	1	2
Other Controlled Hunt	2	3	5
<b>Total</b>	<b>32</b>	<b>40</b>	<b>72</b>

Martin Feehan of MassWildlife explained the “Land Types” categories are not well defined and there may be some confusion at the data entry portal between Public, Town Hunt and Other Controlled Hunts. For the 2023 season we will work with the deer biologist and our archery hunt volunteers to assure each hunter reports in the Town Hunt block.

We are satisfied with many important aspects of the program. First, there were no reported safety incidents involving participants in the hunt. Secondly, there were no conflicts or negative interactions that we are aware of in the woods between hunters and the general public. The Commission's Deer Management program has contributed to reducing the deer population. While our hunters are free to harvest bucks and does, we have asked that they focus on removing the does – as that is a direct way to control reproduction and the population. With the notable exception of a buck harvested the first season, all of the other deer harvested by the program have been does (87.5%). Archery continues to show itself as a very effective means to hunt deer. Based on the State's Harvard data reported above, the majority of deer (37) were harvested during the Archery Season - as compared to 35 taken during Youth, Primitive Firearms, and Shotgun Season's combined. Keep in mind that the count of 35 deer during the firearm seasons also includes some archery harvested deer – including three from the town Conservation Hunt.

In a recent correspondence with the State Deer Biologist, Dr. Martin Feehan, he stated that the town overall harvest was a “glaring measure of success”, and he offered the following observations; *“The 3-year average from before the CC hunt began was 54 deer and in the three years since 67 deer, a 24% increase far exceeding the 9% increase we have seen across WMZ 9 during the same time. One of the common trends of many municipal land hunts is that they lead to increased overall harvests because they get deer moving, as the municipal controlled hunts reduce the amount of refugia for deer. In my professional opinion the program is successful for both the deer taken on Conservation Commission managed lands, but also on the lands surrounding due to these impacts on movement. From 2017 to 2022 there was a 50% increase in harvest across the town and there continues to be an acceleration that is likely due in part to the expansion of available land to the hunting program increasing the deer movement across other huntable properties. Hopefully, there will be continued access to grow the success of the program.”*

Our mandated goal to manage the deer population has taken another step forward. It is estimated that an adult deer can consume as much as 2000 pounds of vegetation every year. The removal of four adult deer is a step toward that management goal. It is particularly valuable from a land management standpoint that our hunter team harvested does, as that is an affirmative way to assist in controlling population. Also, the addition of more Conservation parcels to hunt and increasing the hunting areas of existing properties keeps us moving forward.

We are grateful for the continued support of the Commission and we are looking forwards to next year's deer season!

Robert Douglas, Chair

Tom Cotton

Ben Urquhart

Paul Willard

Joe Pulido, Rangemaster/Hunt Coordinator

OFFICE OF THE  
**CONSERVATION COMMISSION**

13 AYER ROAD HARVARD, MA 01451

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April 20, 2023

Kara Runsten, MVP Program Manager  
Executive Office of Energy and Environmental Affairs  
100 Cambridge Street, Suite 900  
Boston, MA 02114

Dear Ms. Runsten,

The Harvard Conservation Commission fully supports the MVP application, (*INSERT TITLE HERE*), submitted on behalf of the Town's Climate Initiative Committee for public outreach and education associated with updates to the Town's Wetland Protection Bylaw (WPB) and Regulation, Chapters 119 and 147, Code of the Town of Harvard.

Wetlands play a crucial role in combating the impacts of climate change, including extreme heat, increased precipitation, and drought. Wetlands are home to an abundance of plant life that release oxygen, while also capturing and storing huge amounts of carbon in their soils, known as carbon sequestration, by taking in more carbon than they release. Healthy wetlands are biodiversity hotspots that can greatly contribute to building climate resilience. In addition, wetlands are nature-based solution constructed and maintained by nature itself. Through outreach and education, the Conservation Commission hopes to further engage the community in protecting these vital resources.

The 2022 Climate Action Plan for the Town of Harvard recommends bylaws and regulations that encourage sustainable land use and development. As part of updating WPB and Regulations with climate-smart provisions the Commission will be engaging in public outreach through mailings, public meetings and a user-friendly website tools to help guide homeowners to better understand the values of protecting wetland resource areas within the Town of Harvard.

Thank you for considering funding for this important step toward meeting the Town's Climate Action Plan Goals.

For the Commission,

Don Ritchie  
Chairman

DRAFT  
**HARVARD CONSERVATION COMMISSION**  
**MINUTES OF MEETING**  
**JANUARY 5, 2023**

Chair Don Ritchie called the meeting to order at 7:03pm, 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, Paul Willard, Jaye Waldron, Joanne Ward, Jim Burns (7:09pm), Mark Shaw and John Iacomini (Associate Member)

**Others Present:** Liz Allard (Conservation Agent), Dan Wolfe (Ross Associates), Susan Tarrant, Margaret Nestler, Dan Wolfe (Ross Associates), John Lee (Harvard Conservation Trust), Daniel Tracey, Robin Calderwood, Molly Cuttler, Bob & Corrine Kody (Envision Homes), Alissa Weiss and Maya Minkin

**Discuss the Climate Action Plan Natural Resources Priority Actions to Implement – Educate and advise residents on the management of private land near/in wetlands**

Eve Wittenberg had previously provided a list of educational material from the MACC website that could be used as ~~part a way~~ of educating the public on the management of private wetlands. Most of the material are guidebooks, with some being laminated guides. The Commission discussed the best way to disseminate this material to the general public and agreed having informational guides from both MACC and DEP linked on the Commission’s page of the Town website would be best. The availability of this information will need to be publicized. Liz Allard suggested purchasing the laminated guides for sale to the general public such as the Commission has done in the past with trail guides. Ms. Wittenberg will further review the electronic resource library on the MACC website as well as the DEP website.

**Discuss Deer Management Subcommittee**

Eve Wittenberg stated she has concerns with the level of corporation between ~~the~~ Commission and the Deer Management Subcommittee (DMS), which appears to be obstructive on the part of DMS. Joanne Ward had similar concerns to Ms. Wittenberg, including concerns with how the personal information of the hunters is being stored. Ms. Ward noted in a previous discussion with DMS things being described as Personal Identifiable Information (PII) is not considered PII. Ms. Ward added there has been a great deal of disrespect toward the Conservation Agent. Don Ritchie agreed. John Iacomini stated there has been a lot of disrespect going both ways; he would be happy to work towards dissipating the animosity. Mr. Ritchie believes over the next year the Commission, along with DMS, can prepare a better layout of what is expected of each group. Jim Burns thinks it is probably worth reviewing the whole process and have an open discussion about the whole thing; is the program accomplishing what Commission had wanted to do? Mr. Burns continued by saying the last meeting was unfortunate as to how it unfolded; there needs to be an affirmation of how the whole program works. Jaye Waldron stated the need for personal information needs to be addressed; what is it necessary for; how can it be kept ~~confidentia~~confidential, and what is required to be kept confidential. Ms. Wittenberg feels strongly that any information gathered by DMS needs to reside on a Town-~~owned~~ database and not on a personal computer of a volunteer. Both Ms. Wittenberg and Ms. Ward agreed this matter needs to be addressed before next ~~year~~season.

**Discuss Wetland Violation at 30 Cruft Lane**

Mark Shaw, although not the property owner, but a relative of, explained what had occurred on the site, which included the addition of fill around an existing well house and the repair of ruts within the field created by a Fire Truck responding to a brush fire of the previous owners. Margaret Nestler, an abutter, explained what she observed, which was a dump truck amount of fill used in the wetlands or at the very edge of the wetlands around the abandon spring house. Ms. Nestler thought there was a 50’ setback on fill within the Wetland Protection Bylaw and wondered why the activity was not reviewed by the

54 Commission or its Agent. Ms. Nestler was also concerned with a sitting Conservation Commissioner was  
55 not recusing themselves from this discussion. Mark admitted to doing some of the work.  
56

57 Don Ritchie explained that as a Commissioner Mr. Shaw should know the work could not be done without  
58 a permit. Mr. Shaw stated “we are always pushing the boundaries on the Commission.” Eve Wittenberg  
59 asked if the work was permissible to be done. Mr. Ritchie stated not without consent of the Commission.  
60 Ms. Wittenberg addressed Mr. Shaw by stating with all due respect as members of the Commission we  
61 need to be cognizant of what we do ourselves and need to set a higher ~~optie~~ visual bar for ourselves. Ms.  
62 Nessler agreed that optics are very important and members should be role models for the Wetland  
63 Protection Act. Ms. Nessler noted the entire meadow is within the buffer zone; in addition, work on the  
64 site included pulling out trees and bushes. John Iacomini suggested tabling the discussion as no one on  
65 this Commission has any data related to these claims and allow for time for the owner to provide  
66 information. Susan Tarrant, 136 Oak Hill Road, was shocked at Mr. Shaw’s statement of “we are always  
67 pushing the boundaries on the Commission”. Ms. Tarrant has great respect for the Commission and what  
68 they do. Mr. Shaw stated he understands and appreciated the responsibilities he has as a commissioner.  
69

70 After discussing next steps, Paul Willard made a motion to contact Tony Shaw, owner of the property, to  
71 inform him that no additional work is to take place on the site until the Commission has an opportunity to  
72 review the site and arrange said site visit with Mr. Shaw. Eve Wittenberg seconded the motion. The vote  
73 was unanimously in favor of the motion by a roll call, Jim Burns, aye; Jaye Waldron, aye; Joanne Ward,  
74 aye; Eve Wittenberg, aye; Paul Willard, aye; and Don Ritchie, aye.  
75

76 **Continuation of a Notice of Intent Hearing – Mary Maxwell, 90 Warren Avenue, Harvard#1122-02.**  
77 Opened at 7:41pm  
78

79 **Request for a Certificate of Compliance – 94 Ayer Road, DEP#177-667**  
80 Mark Shaw made a motion to approve the Certificate of Compliance for 94 Ayer Road, DEP#177-667. Jaye  
81 Waldron seconded. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Jaye  
82 Waldron, aye; Joanne Ward, aye; Mark Shaw, aye; Eve Wittenberg, aye; and Don Ritchie, aye. Paul  
83 Willard was not available at the time of this vote.  
84

85 **Approve Minutes**  
86 Joanne Ward made a motion to accept the minutes of September 1, 2022 as amended. Eve Wittenberg  
87 seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Jaye  
88 Waldron, aye; Joanne Ward, aye; Mark Shaw, aye; Eve Wittenberg, aye and Don Ritchie, aye. Paul  
89 Willard was not available at the time of this vote.  
90

91 **Review Ann Lees Field Memorandum of Understanding (MOU)**  
92 Eve Wittenberg had revised condition#3 of the MOU as discussed at the previous meeting. Members  
93 present were in agreement with the language. Bob O’Shea, chair of the Parks & Recreation Commission,  
94 will be invited to the next meeting as part of the annual review within the MOU and to further discuss the  
95 revisions made by the Conservation Commission.  
96

97 **Pine Hill Village Update & Request to Clear trees in Phase 3**  
98 Liz Allard shared the update from the developer, Peter Cricones. Ms. Allard stated the responses concern  
99 her as to whether or not things are not being constructed in the proper manner. Mr. Cricones has  
100 requested to clear the trees in the area of Phase 3. Ms. Allard has reminded Mr. Cricones that he is  
101 required to provide an update of the construction sequence to assist the Commission in making a  
102 determination. At this time Ms. Allard would recommend against the request until outstanding issues  
103 within the Phase 1 are resolved.  
104  
105  
106

107 **Adjournment**  
108 Eve Wittenberg made a motion to adjourn the meeting at 8:41 pm. Paul Willard seconded the motion.  
109 The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Jaye Waldron, aye; Joanne  
110 Ward, aye; Mark Shaw, aye; Eve Wittenberg, aye; Paul Willard, aye; and Don Ritchie, aye.  
111

112  
113 Respectfully submitted,  
114

115  
116 Liz Allard,  
117 Land Use Administrator/  
118 Conservation Agent  
119

120 **EXHIBITS & OTHER DOCUMENTS**  
121

- 122 • Conservation Commission Agenda, dated January 5, 2023
- 123 • Sewage Disposal System Mary Maxwell 90 Warren Avenue Harvard, MA Job No.: 33970, Plan No.:  
124 L-14604, prepared by David E. Ross Associates, Inc., 01/03/2023
- 125 • Ann Lees Field Memorandum of Understanding, Updated 12-29  
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**Harvard Conservation Commission**  
**Continuation of a Notice of Intent Hearing**  
**Mary Maxwell, 90 Warren Avenue, Harvard#1122-02**  
**January 5, 2023**

The public hearing was opened at 7:41pm 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, Paul Willard, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw and John Iacomini (Associate Member)

**Others Present:** Liz Allard (Conservation Agent), Dan Wolfe (Ross Associates), Bob & Corrine Kody (Envision Homes), Alissa Weiss and Maya Minkin

This hearing was continued from December 15, 2022 for a Notice of Intent filed on behalf of Mary Maxwell the demolition of an existing cottage and the reconstruction of a new single-family home, driveway, bridge, wells and septic system with portions within the 100' wetland buffer zone and the 200' of Bare Hill at 90 Warren Avenue, Harvard

Dan Wolfe, of Ross Associates, explained the request made by the Commission at the previous meeting to shift the house out of the 50-foot wetland buffer zone creates a grading issue, alters the existing contours and would require retaining walls. With some members concerned with the setbacks being maintained a revised plan shows an increase of disturbance within the buffer zones. This revised plan shows the house shifted toward Bare Hill Pond (BHP) would increase the fill and disturbance within the 50-foot wetland buffer zone by 274 square feet on the left side of the proposed driveway ~~on to~~ the house ~~of from~~ the bridge. There would also be an increase in the overall fill and disturbance within the 100-foot wetland buffer zone by 2,298 square feet. The overall increase in fill and disturbance within the 200-foot buffer zone to BHP would be 3,667 square feet.

Pertaining to the comments received from the Department of Environmental Protection (DEP), Mr. Wolfe explained the force main will be installed within a conduit attached to the underside of the bridge and not through the wetland. In addition, DEP has commented on impacts to wetland vegetation which may result from crossing installation or continued shading qualify as wetland impact per the definitions of "Alter" contained in 310 CMR 10.04. Mr. Wolfe had provided a memo from a wetland scientist detailing the vegetation in the area near the north edge of the bridge, as well as the bridge will be located in area of ledge with little or no vegetation.

Eve Wittenberg stated she appreciates the deep thought and effort put forth to address the concerns raised at the previous meeting and the detail that has been provided of the differences in the two plans. Ms. Wittenberg understands this is not the first time the Commission has seen a proposal to construct a larger house on this site, however it is her first time being involved in the redevelopment of the site, therefore her insight is based on the plan presented for the Ms. Maxwell. Mr. Wolfe stated this house is slightly larger than those previously approved by the Commission, however there is an additional design factor with this house as it needs to be handicapped-accessible, and needs to include a garage. Mr. Wolfe stated as it relates to zoning the house is conforming.

Jaye Waldron understands that house conforms to zoning, however the setting is not good for the structure. Ms. Waldron added just because it can be done does not mean it should as it pertains to wetlands. Ms. Waldron is less concerned with the steep slope on the BHP side of the house and more concerned with protecting the wetland between the house and the driveway side of the house.

212 Jim Burns was uncomfortable with making a judgement on the size of the house. Mr. Burns prefers the  
213 original plan and sees the revised plan as being more detrimental to the wetland due to the additional  
214 earthwork that would be necessary. Mark Shaw also preferred the original plan, as the revised plan  
215 required a lot of fill and retaining walls to achieve. Mr. Shaw added the original plan would save a lot of  
216 work, effort, and trucking of fill.  
217

218 Mr. Wolfe stated the applicant's family is in the business of bridge installation, therefore they have a  
219 better understanding of the work involved to install the bridge, unlike the former applicants who had no  
220 idea how the bridge was going to be properly installed. Mr. Wolfe further stated the family is very  
221 environmentally responsible. Maya Minkin, a family member, stated the design of the house lacks  
222 flexibility due to an ALS diagnosis of a family member, which requires not only a wheelchair, but a  
223 companion apparatus as well. Ms. Minkin wanted to acknowledge the need for the increased size of the  
224 house due to the need for medical assistance. Paul Willard stated Mr. Wolfe has provided an alternative  
225 that clearly shows more disruption to the wetlands.  
226

227 Jim Burns made a motion to approve the waivers requested to allow for the disturbance of natural  
228 vegetation within the 50-foot wetland buffer zone. Paul Willard seconded the motion. The vote was  
229 unanimously in favor of the motion by a roll call, Jim Burns, aye; Joanne Ward, aye; Paul Willard, aye;  
230 Mark Shaw, aye; Eve Wittenberg, aye and Don Ritchie, aye. Jaye Waldron abstained.  
231

232 Paul Willard made a motion to approve the waiver requested to allow for the driveway and bridge within  
233 the 75-foot wetland buffer zone. Jim Burns seconded the motion. The vote was unanimously in favor of  
234 the motion by a roll call, Jim Burns, aye; Joanne Ward, aye; Paul Willard, aye; Mark Shaw, aye; Eve  
235 Wittenberg, aye and Don Ritchie, aye. Jaye Waldron abstained.  
236

237 Mark Shaw made a motion to reduce the filing fee by 20%. Paul Willard seconded the motion. Vote was  
238 4-2 in favor of the motion by a roll call vote: Jim Burns, aye; Jaye Waldron, nay; Joanne Ward, aye; Paul  
239 Willard, aye; Mark Shaw, aye; Eve Wittenberg, nay.

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241 Ms. Wittenberg asked for a rationale for the waiver to be entered into the minutes to provide reference  
242 for future fee waiver requests. Mr. Shaw explained that he considered the applicant to be "upstanding"  
243 and likely to "follow through with their plans." He went on to say that the 20% reduction was based on  
244 the total fee being "quite steep" and that a percentage is a "cleaner way to adjust than a flat number  
245 because it allows everything to be there." Ms. Ward explained her support for the waiver based on the  
246 extensive investment of time, effort, and thought by the applicant to address the unique issues of the  
247 property. Ms. Waldron expressed disagreement with the basis of an applicant being a "good person" or  
248 "upstanding" for granting a waiver, and also noted that while a percentage reduction was reasonable the  
249 amount of the percentage (20%) was arbitrary.

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250 ~~Mark Shaw made a motion to reduce the filing fee by 20%. Paul Willard seconded the motion. The vote~~  
251 ~~was 4-2 in favor of the motion by a roll call, Jim Burns, aye; Jaye Waldron, aye; Joanne Ward, aye; Paul~~  
252 ~~Willard, aye; Mark Shaw, aye; Eve Wittenberg, nay and Don Ritchie, aye.~~  
253

254 Paul Willard made a motion to close the hearing and issue an Order of Conditions to include a  
255 construction sequence be provided and approved by the Commission. Eve Wittenberg seconded the  
256 motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Jaye Waldron, aye;  
257 Joanne Ward, aye; Paul Willard, aye; Mark Shaw, aye; Eve Wittenberg, aye and Don Ritchie, aye.  
258

259 Respectfully submitted,

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Liz Allard,  
Conservation Agent

**Memorandum of Understanding between the Harvard Conservation  
Commission and Harvard Parks and Recreation Commission  
for Ann Lees Field**

April 6, 2023

This inter-board Memorandum of Understanding (MOU) is entered into by the Harvard Conservation Commission (ConCom) and the Harvard Parks and Recreation Commission (P&R), collectively referred to as the "Parties."

Whereas the Ann Lees playing field (3.08 acres, Harvard Assessor's Map 5, Parcel 104) is on Town conservation land, and;

Whereas the Harvard ConCom authorizes Harvard P&R to conduct recreation programs and activities on this site consistent with the original deed and confers management of the playing field itself to the Harvard P&R;

NOW, THEREFORE, the Parties agree as follows:

1. Term and Termination - the MOU will continue in effect from year to year unless either of the Parties chooses to withdraw or both parties agree to amend.
2. The ConCom will monitor site conditions and hold annual winter meeting with P&R to review conditions, maintenance, activity in the past year, and plans for the coming year. Any changes to the agreed upon activities during the year may be approved by the Conservation Agent or the ConCom as necessary.
3. ConCom allows P&R to conduct softball recreation programs and activities on the Ann Lees recreation field limited to Harvard residents only and their opposing teams. Any activities outside of softball use, including rental of the site to non-residents, must be approved by the ConCom (note: activities organized by and for Harvard residents, such as "pick-up" games, walks, and neighborhood gatherings, are not covered by this MOU).
4. The playing field is defined as the area from and including the backstop fence to the outfield fence line extending 200' from the back of home plate (see Diagram 1).
5. The outfield will be bound by temporary fencing (200' from home plate) that will be removed when the field is not in regular use or at the end of the playing season.
6. P&R will maintain a mowed swath outside the outfield fence up to 215' from the back of home plate.
7. P&R agrees to manage operation and routine maintenance of the playing field and the contiguous area from the field to the main parking lot (see Diagram 1).

8. Work done on the field and in this contiguous area that is proposed, funded or donated by any private group or Town department, board or committee must be approved by P&R. Changes to the field or contiguous area will require approval by ConCom.
9. The land outside the playing field plus the mowed outfield swath and outside the contiguous area up to the parking lot is managed by ConCom.
10. Storage or disposal of equipment, construction materials (including soils), or litter is not permitted on the surrounding land managed by ConCom.
11. Operation and maintenance activities for the playing field are documented in a Mass DEP Notice of Intent (NOI) approved by ConCom, DEP File#177-701, to permit itemized activities in the wetland buffer.
12. Any projects/activities that are not covered in the NOI will be presented to ConCom for approval with possible modification to the NOI or this MOU.

Signed and dated by:

Harvard Conservation Commission

Harvard Parks and Recreation Commission