#### TOWN OF HARVARD CONSERVATION COMMISSION AGENDA THURSDAY JUNE 3, 2021 @7:00PM

The Conservation Commission meeting is being held virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L.c.30A. S.20. Interested individuals can listen in and participate by phone and/or online by following the link and phone # below.

UpperTH ProWebinar is inviting you to a scheduled Zoom meeting.

#### Join Zoom Meeting

https://us02web.zoom.us/i/83071401808?pwd=UXNZY2p1Q0RrRTFnRy82UDBOcnAxZz09

Meeting ID: 830 7140 1808

Passcode: 800048 One tap mobile

+19294362866,,83071401808# US (New York)

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Dial by your location

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Meeting ID: 830 7140 1808

Find your local number: https://us02web.zoom.us/u/kitAuJDJJ

#### **New Business:**

- 1. Discuss Haskell Land Management
- 2. Discuss Letter Received from Jason Cole re: Deer Management Report
- 3. Request for a Certificate of Compliance 94 Tahanto Trail, Harvard#1112-03
- 4. Approve Minutes

#### **Public Hearings:**

- 7:25pm Continuation of a Notice of Intent Hearing Harvard Department of Public Works,
  Harvard#0321-04, the bridge crossing of Bower's Brook between 6 and 22 Old Mill Road for the
  replacement of traffic safety features and minor patching along the substructure within the resource
  area and its 100' riverfront area at the bridge crossing of Bower's Brook between 6 and 22 Old Mill
  Road, Harvard.
- 7:30pm Request for Determination of Applicability Hearing Rebecca Dilthey, 124 Depot Road, Harvard#0521-01, for the expansion of an existing deck within the 100' buffer zone of a wetland resource Requested Waiver
- 7:45pm Continuation of a Notice of Intent Hearing of Alma Gregory & Kristiina Sorensen, 23
  Peninsula Road, Harvard#0421-03, for the replacement of existing steps and railings with new stairs and deck platform, the addition of boulder steps, stone pavers, landscape walls, new landscaping throughout, extension of an existing shed, removal of nine trees and replacing the existing dock with a bigger prefab pier structure

#### Old Business:

- Pump Bike Track Proposal Pond Road
- 2. Wetland Violations Update
  - 96 Ayer Road
  - 71 Lancaster County Road
  - 232 Still River Road

- 28 Shaker Road
- 193 Old Littleton Road
- Peninsula Road

3. Pine Hill Village Update

**NEXT MEETING: JUNE 17, 2021** 

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.

May 19, 2021

# Dear Conservation Commission members:

As you know, I left the Deer Management Subcommittee at the end of last year for personal reasons. In my resignation letter, I expressed my strong support for the Deer Management Program and my desire to serve again in the future. It is in that spirit that I write again, this time to draw your attention to an issue that I think should be of concern.

About three months ago, associate commissioner Eve Wittenberg submitted to the Commission a document titled "Deer Management Program Recap" (the "Recap," copy attached), dated "2-20-21." The Recap was submitted prior to the subcommittee's official report on the program's 2020 season, which was sent in April.

Eve's Recap contains analysis of the 2020 season along with a summary of the Harvard "deer browse surveys," which were conducted by the Dept. of Fish & Wildlife ("DFW") and our own "deer pellet surveys." Expert analysis of these surveys was performed by DFW. The results are fundamental to the Deer Management Program, as they document the estimated deer population density and impacts on vegetation in our town.

Unfortunately, the Recap document contains important factual misstatements regarding these survey results. It understates the numerical deer population estimates that were given to us by DFW, incorrectly represents the comments that accompanied them, and omits important survey data linking hunting to reduced deer impacts. These issues create misunderstanding around fundamental aspects of the program.

# Pellet Surveys:

Last year, the Subcommittee conducted two "deer pellet surveys," which count deer droppings as a tool for population estimation. DFW's Deer Biologist, David Stainbrook, analyzed the data and provided us with a spreadsheet report and a cover letter (attached). In his letter, Stainbrook estimates the deer population density for the two surveyed areas,

"Grid 127" and "Grid 128," to be 36 and 9 deer per square mile, respectively:

Grid 127: 36 deer per square mile (21-56 as min-max)

Grid 128: <15 deer per square mile. 9 (0-21).

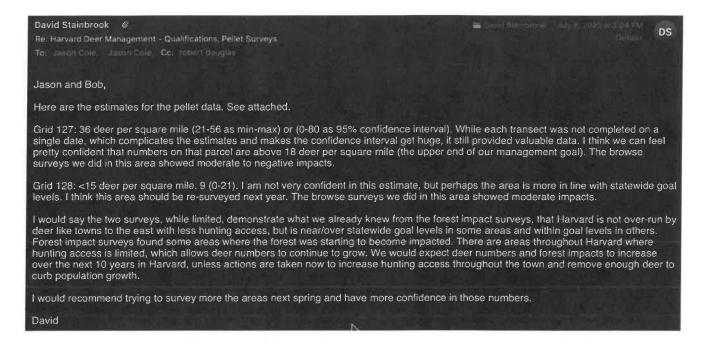
Eve's Recap document substitutes different population estimates for Grids 127 and 128, stating them to be 31 and 8 deer per square mile:

Grid 127: 31 deer/square mile, minimum 21, maximum 56 Grid 128: 8 deer/square mile, minimum 5, maximum 14

I believe that the numbers "31" and "8" come from the "Summary" page of the spreadsheet, which displays two population density estimates, "Density Estimate" and "Density Estimate 2." Stainbrook used the "Density Estimate" values of 36 and 9, and these were the official values that he presented in his letter. Although Eve's Recap document makes reference to the letter in other places, she apparently chose to present you with the "Density Estimate 2" values of 31 and 8 instead. These are lower than Stainbrook's values, they are not the official estimates, and there is no rationale provided for this substitution. The "Summary" table is below:

Grid	Density Estimate (deer/mi²) *	Density Estimate 2 (deer/mi²) **	
Grid 127	36	31	
Grid 128	9	8	

Eve's Recap contains a contradiction regarding Stainbrook's statements on how Harvard deer densities compare to the state goal of 12-18 deer/sq mi. It correctly quotes his assessment that Harvard is "near/over statewide goal levels in some areas and within goal levels in others," but it also states that the pellet survey results "suggest [deer] density below MA goal in one area and above in another." This contradicts Stainbrook's letter. He does not suggest that any areas are below goal. He writes "I am not very confident in [the Grid 128] estimate [of 9 deer/sq mi], but perhaps the area is more in line with statewide goal levels," and he suggests that we repeat the survey of this area. He adds that Harvard's deer numbers and forest impact will continue to grow in the absence of deer management. Stainbrook's cover letter is below and is included in the attachment:



Establishing deer population levels is fundamental to deer management, and the above issues create confusion on this important point.

Eve's Recap also refers to the pellet surveys as "incomplete," which is inaccurate. There is no reference in the report to the surveys being incomplete. I checked with DFW and was assured that our surveys were "complete."

# **Browse Surveys:**

In 2017 and 2019, DFW conducted "deer browse surveys" of 10 Harvard areas and provided us with reports (attached), which describe the extent of "browse impact" on vegetation due to deer.

Eve's Recap summarizes the results of DFW's browse surveys, but it only includes 8 of these 10 reports.

The first of the omitted reports is the survey of the Harvard portion of the Delaney Wildlife Management Area (WMA), at the southeastern end of town. As a WMA, it is managed by the state and open to all forms of legal deer hunting. Whereas browse surveys for the other 9 areas of town showed impacts in the range of 3-4 on a 7-point scale, this property,

perhaps as a result of open hunting, had an impact of only 2 – the only surveyed property with such a low score.

The low score for this property suggests that hunting helps to manage deer populations and mitigate deer impacts. This relationship is fundamental to deer management, and it suggests that our hunting program could have a similar beneficial effect. Omitting this report leaves out this important relationship and provides an imbalanced summary to the Commission.

The other omitted browse survey report was for the Bower's Springs Conservation Area. The text of this report states that the survey took place in "Bolton," whereas all of the other reports (including the Delaney report) state "Harvard." In fact, the survey took place in both towns, and mostly in Harvard, but it would have been reasonable to think that this survey did not apply to Harvard and to omit it on that basis.

I believe that the issues described above should be of concern to the Commission. As the authorizing body for the Deer Management Program, it is very important that you receive accurate information, so that you can make informed decisions. Eve's Recap document presents you with understated deer density estimates and incorrectly represents commentary from the state deer biologist, and it omits important survey data. These issues create misunderstanding around deer population estimates and deer impact mitigation, which are fundamental aspects of the Deer Management Program. Although the document was labeled "Draft," I believe that no final version was submitted to you and no corrections were made, and this leaves open the possibility that you could make future decisions using inaccurate information.

Eve may be under consideration for renewal as an associate or for promotion to a voting seat on the Commission. I believe the above issues are concerning, and I hope you will consider this in your discussions as you decide on a recommendation to the Select Board.

Sincerely,

Jason Cole Warren Avenue

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# DRAFT HARVARD CONSERVATION COMMISSION MINUTES OF MEETING **JANUARY 7, 2021**

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Chair Don Ritchie called the meeting to order at 7:08pm, virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20, under MGL Chapter 131 §40 Wetland Protection Act and Code of the Town of Harvard Chapter 119 Wetland Protection Bylaw

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Members Present: Don Ritchie, Paul Willard, Wendy Sisson, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw and Eve Wittenberg (Associate Member)

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Others Present: Liz Allard (Land Use Boards Administrator/Conservation Agent), David Pinard. Dan Tracey, Dan Wolfe (Ross Associates), Peter Cricones (Pine Hill Village), Paul Maki, Vicky LoChiatto, Bob Kody (Envision Homes), Susan Palmateer and Ryan Smith

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# Interview Candidates for Deer Management Subcommittee - David Pinard and Daniel **Tracev**

David Pinard stated he has lived in Harvard for the past ten years and believes everyone has a right to enjoy public lands. Dan Tracey stated he was a long-term resident of Harvard with an alternative view on the allowance of hunting on conservation land. Mr. Pinards involvement to date with the subcommittee was at town meeting in 2018 and has attended some of the public meetings. Mr. Tracey stated he has been involved in the process since the beginning. Mr. Pinard skills include ten years in hunting education that could bring a sensible approach to the logistics of hunting and interacting with the public. Mr. Tracey skills include 30 years of research. which would assist in educating the public and plan for future activities.

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The Commission thanked both Mr. Pinard and Mr. Tracey for their interest and time this evening. Recommendations from the Subcommittee will be sought before the Commission makes a final decision.

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A discussion of the candidates was had later in the evening (see Interview Candidates for Deer Management Subcommittee, continued below).

## Pine Hill Village Report on Phase 1 of Construction

The Commission reviewed the Phase 1 construct sequence for Pine Hill Village with the developer Peter Cricones. Disturbed areas within the Pine Bank neighborhood were not stabilized prior to the onset of colder weather. Mr. Cricones stated at this point everything is frozen and therefore it is unnecessary to take any additional measure to stabilize these areas. Mr. Cricones is seeking permission from the Commission to stump and grub the Tucks Way neighborhood so he can begin installing foundations. Before allowing additional activity on the site the Commission agreed to consult with and visit the site with Nitsch Engineering.

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# Land Stewardship Subcommittee Update and Allocation of Funds

Wendy Sisson explained with the Haskell Land is no longer being used for the cultivation of pumpkins Rob Duzan will be growing hay for the cows on the property. As an educational project Ms. Sisson is recommending the Commission pay for the testing of the soil. In addition, clove seed will be spread to improve the pasture. Ms. Sisson additionally recommends the Commission pay for this expense to improve the land as well. Jim Burns made a motion to allocate \$136.00 for seed and \$20.00 for nails. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by roll call, Paul Willard, aye, Wendy Sisson, ave: Jave Waldron, aye; Joanne Ward; aye; Jim Burns; aye; Mark Shaw, aye and Don Ritchie, aye.

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After discussing an additional allocation for boardwalks for ???, Jim Burns made a motion to allocate up to \$300.00. Mark Shaw seconded the motion. The vote was unanimously in favor of the motion by roll call, Paul Willard, aye, Wendy Sisson, aye; Jaye Waldron, aye; Joanne Ward; aye; Jim Burns; aye; Mark Shaw, aye and Don Ritchie, aye

# Approve Invoice & Reimbursement:

- Voss Sign Jaye Waldron made a motion to approve the invoice from Voss sign in the
  amount of \$76.95. Paul Willard seconded the motion. The vote was unanimously in favor of
  the motion by roll call, Paul Willard, aye, Wendy Sisson, aye; Jaye Waldron, aye; Joanne
  Ward; aye; Jim Burns; aye; Mark Shaw, aye and Don Ritchie, aye.
- Rob Traver, Haskell Land Information necessary to approve this reimbursement has not yet been received

### Input for 2020 Annual Report

Members of the Commission were reminded to provide any additional input they may want within the annual report. A final draft will be available for approval at the next meeting.

### **Approve Minutes**

Jim Burns made a motion to approve the minutes of August 20 and September 3, 2020 as amended. Mark Shaw seconded the motion. The vote was unanimously in favor of the motion by roll call, Paul Willard, aye, Wendy Sisson, aye; Jaye Waldron, aye; Joanne Ward; aye; Jim Burns; aye; Mark Shaw, aye and Don Ritchie, aye

Notice of Intent Hearing, Paul Maki, 113 Poor Farm Road, DEP#177-696, Harvard#1220-02. Opened at 7:33pm

Continuation of a Request for a Determination of Applicability Hearing, Harvard#1120-01, Victoria LoChiatto, 42 Old Mill Road. Opened at 7:54pm.

Continuation of a Notice of Intent Hearing – Dan Mesnick, 94 Ayer Road, DEP#177-695, Harvard#1020-0. Opened at 8:12pm

#### Interview Candidates for Deer Management Subcommittee, Continued

The members of the Commission discussed their thoughts on the candidates interviewed this evening and on December 17<sup>th</sup>. Although most agreed Joe Pulido would be the best choice, it was agreed to wait until recommendations from the Deer Management Subcommittee were provided to take a final vote.

Wendy Sisson wanted to address the animosity between the Commission and Deer Management Subcommittee (DMS). Further discussion indicated an inability for members of the public to speak at DMS meetings when Bob Douglas is chairing the meeting. Mr. Richie stated he will discuss this matter with Mr. Douglas. It seems the mission of the DMS may not be in line with that of the Commission.

Mr. Douglas, joined the meeting at this time to provide a recommendation to the Commission for the appointment to the DMS. Wendy Sisson stated it was conveyed to her that Don Osmer had a negative experience interviewing with the Commission and has since dropped out as an interested candidate. Ms. Sisson added the Commission was caught off guard by the fact Mr. Osmer is not a resident of Harvard and could he actually serve on the DMS.

Considering the significant amount of time and effort Mr. Osmer has already volunteered with the DMS Wendy Sisson made a motion to send Mr. Osmer a letter expressing the Commissions apology for making him feel insulted. Paul Willard seconded the motion. The vote was unanimously in favor of the motion by roll call, Paul Willard, aye, Wendy Sisson, aye; Jaye Waldron, aye; Joanne Ward; aye; Jim Burns; aye; Mark Shaw, aye and Don Ritchie, aye. Don Ritchie will draft the letter.

 After briefly discussing other volunteers, Wendy Sisson made a motion to appoint Joe Pulido to the Deer Management Subcommittee to fill the remaining term of Jason Cole. Jim Burns seconded the motion. The vote was unanimously in favor of the motion by roll call, Paul Willard, aye, Wendy Sisson, aye; Jaye Waldron, aye; Joanne Ward; aye; Jim Burns; aye; Mark Shaw, aye and Don Ritchie, ave

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# Deer Management Subcommittee (DMS) Update - Addition of Conservation Areas for 2021 **Bow Hunting Season**

Bob Douglas stated he is drafting a report on the 2020 hunt and should have it to the Commission by February. Don Ritchie stated the Commission will need to digest that report before discussing any potential to add additional lands to the program.

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## Review letter to Committee Preservation Committee re: Recommendation for Application Park & Recreation Recommendation Letter

Wendy Sisson made a motion to approve the letter as revised. Jave Waldron seconded the motion. The vote was unanimously in favor of the motion by foll call, Paul Willard, aye, Wendy Sisson, aye; Jaye Waldron, aye; Joanne Ward; aye; Jim Burns; aye; Mark Shaw, aye and Don Ritchie, aye. Bare Hill Pond Watershed Management Committee should also receive a copy of this letter.

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# Review letter to Select Board/Finance Committee re: Full-time Conservation Agent Jim Burns made a motion to approve the letter as revised. Paul Willard seconded the motion. The vote was unanimously in favor of the motion by roll call, Paul Willard, aye, Wendy Sisson.

aye; Jaye Waldron, aye; Joanne Ward; aye; Jim Burns; aye; Mark Shaw, aye and Don Ritchie, aye

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# Adjournment

Mark Shaw made a motion to adjourn the meeting at 9:26pm. Paul Willard seconded the motion. The vote was unanimously in favor of the motion by roll call, Paul Willard, aye, Wendy Sisson, aye; Jaye Waldron, aye; Joanne Ward; aye; Jim Burns; aye; Mark Shaw, aye and Don Ritchie, aye.

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Respectfully submitted,

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148 Liz Allard.

149 Land Use Administrator/ 150 **Conservation Agent** 

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#### **EXHIBITS & OTHER DOCUMENTS**

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Conservation Commission Agenda, dated January 7, 2021

LoChiatto Residence 42 Old Mill Road 11/11/20

155 156 Site Plan Paul A. Maki & Susan C. Palmateer 113 Poor Farm Road, Harvard, Ma, Job. No.: 33269, Plan No.: L-14127, prepared by David E. Ross Associates, Inc., 1/7/2021

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01/07/2021

Harvard Conservation Commission
Notice of Intent Hearing Minutes
Paul Maki, 113 Poor Farm Road,
DEP#177-696, Harvard#1220-02
January 7, 2020

The public hearing was opened at 7:33pm 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 in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20.

**Members Present**: Don Ritchie, Paul Willard, Wendy Sisson, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw and Eve Wittenberg (Associate Member)

**Others Present**: Liz Allard (Land Use Administrator/Conservation Agent), Dan Wolfe (Ross Associates), Paul Maki, Bob Kody (Envision Homes) and Susan Palmateer

This hearing is for a Notice of Intent filed on behalf of Paul Maki for the construction of a detached garage with walkway and retaining wall within 100' of a wetland resource area at 113 Poor Farm Road, Harvard.

Dan Wolfe, of Ross Associates, along with Paul Maki and Susan Palmateer, the applicants and Bob Kody, the contractor, were all present. Mr. Wolfe detailed the project and the comments made during a site walk earlier today. A revised plan shows the garage shifted to be 46' from the wetland resource area. Jaye Waldon asked if the existing paved driveway would be extended to the new garage. Mr. Wolfe stated it would. Wendy Sisson asked if the proposed infiltration trench was on the original plan. Mr. Wolf stated it was. Ms. Sisson asked why the garage could not be located beyond the 50' wetland buffer zone. Mr. Wolfe stated as discussed on the site moving the proposed garage beyond the 50' wetland buffer zone would interfere with access to the existing garage under the house and existing walkway. Mr. Wolfe was under the impression that as long as he made an effort to move the garage as much as possible away from the wetland resource area the Commission would be amenable to the request to allow a structure within 75' of a wetland resource area. The shifting of the garage closer to the house was further discussed, resulting in no additional revision to the location of the garage. Mr. Wolfe agreed to extend the proposed infiltration trench located along south side of the garage along the edge of the new driveway to point where it connects to the existing driveway.

Mark Shaw made a motion to allow for a waiver of Chapter 147-17 Setbacks, specifically no disturb zone within 50' and no driveway, structures or roadways within 75' of a wetland resource area. The proposed detached garage will be located in an area of the site that is already disturbed, permanently maintained as lawn space, and provides proper alignment to the proposed garage from the existing driveway. Paul Willard seconded the motion. The vote was unanimously in favor of the motion by roll call, Paul Willard, aye, Wendy Sisson, aye; Joanne Ward; aye; Jim Burns; aye; Mark Shaw, aye and Don Ritchie, aye. Jaye Waldron abstained from voting.

Jim Burns made a motion to close the hearing and issue an Order of Conditions with the conditions the proposed infiltration trench located along south side of the garage shall be extended along the edge of the new driveway to point where it connects to the existing driveway and the two infiltration trenches shall be maintained and the owner shall provide annual reports to the Commission on their maintenance, condition and any improvements. This is a permanent condition. Mark Shaw Seconded the motion. The vote was unanimously in favor of the motion by roll call, Paul Willard, aye, Wendy Sisson, aye; Joanne Ward; aye; Jim Burns; aye; Mark Shaw, aye and Don Ritchie, aye. Jaye Waldron abstained from voting

Respectfully submitted,



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282	The public hearing was opened at 7:54pm by Chair Don Ritchie under MGL Chapter 131 §40
283	Wetland Protection Act and the Code of the Town of Harvard Chapter 119 Wetland Protection
284	Bylaw virtually in accordance with the Governor's Executive Order Suspending Certain Provisions
285	of the Open Meeting Law, MGL Chapter 30A §20.
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287	Members Present: Don Ritchie, Paul Willard, Wendy Sisson, Jaye Waldron, Joanne Ward, Jim
288	Burns, Mark Shaw and Eve Wittenberg (Associate Member)
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290	Others Present: Liz Allard (Land Use Administrator/Conservation Agent), Vicky LoChiatto and
291	Ryan Smith
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293	This hearing was continued from December 17, 2020 on a Request for Determination of
294	Applicability filed by Victoria LoChiatto for the installation of a culvert and bridge within a wetland
295	resource area at 42 Old Mill Road, Harvard.
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297	Vicky LoChiatto had submitted a revised plan as requested by the Commission. Ryan Smith, the
	Vicky Localitation and Submitted a revised plan as requested by the Commission. Nyan Smith, the
298	site contractor, was present and explained the details of the revised plan. Wendy Sisson felt this
299	was to much fill in a wetland resource area. Jaye Waldron thought the design of the crossing was
300	too wide. Paul Willard wanted additional detail. Don Ritchie wanted to the location of the existing
301	stone wall add to the plan, along with the distance of the culvert from that stone wall. With an
302	existing crossing already in place the Commission would like to see a plan that replaces that
303	crossing without increasing any impacts to the wetland resource area.
	crossing without increasing any impacts to the wetland resource area.
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305	Paul Willard made a motion to continue the hearing to January 21, 2021 at 8:15pm. Jaye
306	Waldron seconded the motion. The vote was unanimously in favor of the motion by roll call, Paul
307	Willard, aye, Wendy Sisson, aye; Jaye Waldron, aye; Joanne Ward; aye; Jim Burns; aye; Mark
308	Shaw, aye and Don Ritchie, aye.
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	Description, submitted
311	Respectfully submitted,
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314	Liz Allard
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333	Harvard Conservation Commission
334	Continuation on a Notice of Intent Hearing Minutes
335	Dan Mesnick, 94 Ayer Road,

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337	January 7, 2020
338 339 340 341 342 343	The public hearing was opened at 8:12pm 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 in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20.
344 345 346	<b>Members Present</b> : Don Ritchie, Paul Willard, Wendy Sisson, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw and Eve Wittenberg (Associate Member)
347	Others Present: Liz Allard (Land Use Administrator/Conservation Agent)
348 349 350 351	This hearing was continued from December 17, 2020 for a Notice of Intent filed on behalf of Dan Mesnick for the construction of a replacement septic system within 100' of a wetland resource area at 94 Ayer Road, Harvard.
352 353 354 355 356	Jack Maloney, of Dillis & Roy, requested the hearing be continued. Jim Burns made a motion to continue the hearing to January 21, 2021 at 7:45pm. Mark Shaw seconded the motion. The vote was unanimously in favor of the motion by roll call, Paul Willard, aye, Wendy Sisson, aye; Jaye Waldron, aye; Joanne Ward; aye; Jim Burns; aye; Mark Shaw, aye and Don Ritchie, aye
357 358 359	Respectfully submitted,
360 361 362 363 364 365 366 367	Liz Allard Land Use Administrator/ Conservation Agent
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