

**TOWN OF HARVARD
CONSERVATION COMMISSION AGENDA
THURSDAY NOVEMBER 2, 2023 @7:00PM**

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.

THVolGovt Pro is inviting you to a scheduled Zoom meeting.

Topic: Conservation Commission

Time: Nov 2, 2023 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/85949199680?pwd=ZEJhc3JlZXV4R1p0dXI3MTNQWlIGUT09>

Meeting ID: 859 4919 9680

Passcode: 085397

One tap mobile

+16469313860,,85949199680# US

+19294362866,,85949199680# US (New York)

Dial by your location

- +1 646 931 3860 US
- +1 929 436 2866 US (New York)
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US

Meeting ID: 859 4919 9680

Find your local number: <https://us02web.zoom.us/u/k2fZY1bqP>

New Business:

1. Review Process for Minor Activities
2. Discuss Engaging a Minute Clerk
3. Role of Conservation Commission Members

Public Hearings:

7:25pm **Abbreviated Notices of Intent Hearing – Harvard Conservation Trust, Muller Land, Littleton County Road (Map 18 Parcel 42)**, for invasive plant removal, native plant re-introduction and wildlife habitat restoration within the 100’ wetland buffer zone and 200’ riverfront area – **Request for Waiver**

7:27pm **Abbreviated Notices of Intent Hearing – Harvard Conservation Trust, Coke-Newsham Land, Whitney & Littleton Roads (Map 17B Parcels 31, 32 & 38)**, for invasive plant removal, native plant re-introduction and wildlife habitat restoration within the 100’ wetland buffer zone – **Request for Waiver**

7:30pm **Notice of Intent Hearing – Juno Construction LLC, Ayer & Old Mill Roads, (Map 4 Parcels 52, 52.1, 52.2 & 53), DEP#177-33, Harvard#0923-01**, 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– **Request for Waiver**

7:45pm **Notice of Intent Hearing – Travis Dery, 62 Old Littleton Road, DEP#177-729, Harvard#1023-01**, for the installation of a pool within the 100’ wetland buffer zone

8:00pm **Notice of Intent Hearing - Chestnut Tree & Landscape, 320 Ayer Road, Harvard#1023-02**, for the restoration of land within the 100’ wetland buffer zone after enforcement – **Request for Waiver**

8:15pm **Continuation of a Notice of Intent Hearing - Rachel Broadhurst, 41 Pinnacle Road, DEP#177-728, Harvard#0823-03**, for the construction of a paddock within 100’ of a wetland resource area and the restoration of the resource area after enforcement – **Request for Waiver**

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.

Old Business:

1. Update on DEP Appeal of Bare Hill Pond Watershed Management Committee Order of Conditions, DEP#177-726
2. Status Report Pine Hill Village, DEP#177-586
3. Status Report 90 Warren Ave, DEP#177-719, Harvard#1122-02

Standard Business:

1. Update from Representatives/Liaisons
2. Approve Minutes
3. Approve Invoices

NEXT MEETING: NOVEMBER 16, 2023

AS

REGULATIONS ADOPTED BY THE LUNENBURG CONSERVATION COMMISSION PURSUANT TO
LUNENBURG'S BYLAW FOR GENERAL WETLANDS PROTECTION, ARTICLE XXI

4.2.1 Administrator's Determination

Applicants must contact the Conservation Administrator for a site visit in order to make a determination. The decision on whether a project needs a filing is based upon the following considerations:

- Type of resource area involved. - Distance from the project to the resource area.
- Topography of the area leading to the resource area.
- Types of equipment or products being used in the project.
- Types of techniques being used in the project.
- Amount of disturbance or fill used in the resource area or buffer zone.

Using these considerations, the agent may make a decision on small projects that have little or no impact to resource areas. The Conservation Administrator will complete an "Administrator's Determination Form" and submit it to the Commission at the next scheduled Commission meeting. The Commission can endorse the Agent's recommendation or require the applicant to file either a Request for Determination of Applicability or Notice of Intent. The Agent may make a decision on the following types of projects:

- (limited to top-dressing), Loam
- Plantings
- Fence repair only
- New Wells over 50 feet
- Septic Test Holes
- Removal of dead trees
- Limbing of trees to ensure crown remains

The Conservation Administrator shall submit this form at the next scheduled meeting of the Conservation Commission. The Commission may override the Administrator's decision and require a full filing with the Commission. No work is to be done prior to the ratification of the determination by the commission.



Canton Conservation Commission
 Pequitside Farm, Main House
 79 Pleasant Street, 2nd Floor
 Canton, MA 02021
 781-821-5035

PERMIT INQUIRY FORM

To be completed by Applicant:

Applicant Name: _____ Date _____
 Company: _____
 Phone: _____ Email: _____
 Project Address: _____
 Parcel ID Number: _____ Contractor _____
 Specific questions/Project Description: _____

Does the project disturb 20,000 s.f. or more of land? Yes ___ No ___ N/A ___
 Does the project discharge stormwater to the town drainage system? Yes ___ No ___ N/A ___

Note: This form must be accompanied by a site plan and photographs, if necessary. Any changes to the proposed plans require a new inquiry.

Presence of wetland resource areas and floodplain data are based upon MassGIS data layers and are not site specific. In order to accurately determine if floodplain or wetlands are present on an individual parcel, a professional land surveyor and/or wetland professional must be hired to delineate resources.

To be completed by Conservation Department:

- Based up submitted/available information, it does NOT appear the property contains a wetland resource area, nor is it within a jurisdictional buffer zone.
- Wetland Resources Areas or buffer zones ARE present on the property
 - Bank or wetland is present and has a 100-foot buffer zone
 - Riverfront Areas is present and has a 200-foot jurisdictional buffer area
 - 100-year floodplain is present
 - The property may contain isolated wetlands, requiring engineering calculations to determine jurisdiction.
- The property is within Priority Habitat as determined by the MA Natural Heritage and Endangered Species Program (NHESP)
- The property is within an Area of Critical Environmental Concern (ACEC)
- The property contains a certified vernal pool
- The property has an open permit(s) that needs to be finalized. DEP File # 124-____ LDP#____ SMP#____
- A Conservation Commission permit IS required for this project. Type(s) _____
- A Conservation Commission permit is NOT required for this project.

 Regen Milani, Conservation Agent

 Date

Applicant: Please submit this form to the Canton Conservation Commission and once signed by the Agent and returned to you, please bring to the Building Commission's office, Town Hall, 801 Washington Street.

NEWTON CONSERVATION COMMISSION ADMINISTRATIVE APPROVAL

CITY HALL, 1000 COMMONWEALTH AVE., NEWTON, MA 02459

617-796-1152 | CONSERVATION@NEWTONMA.GOV

Approved Project and Location

Project Location: 176 Dedham Street

Approved Project: Remove 2 hazard trees (1 large pine tree and 1 small pear tree) from within flood zone.

Approved Date: 7/7/2023

Approved by (name): Jennifer Steel

Date of Attached Approved Plan: 7/7/2023

Applicant or Owner (name, email, phone)

Kaitlin Spiegel, kaspiegel86@gmail.com, 617-532-9854

Wetland Jurisdiction: According to our maps:

- There are no Wetlands or Buffer Zone on your property.
- The property has 200' riverfront area (RFA), bordering vegetated wetland, stream bank, pond, flood zone).
- The property has Buffer Zone (BZ) to a Wetland Resource Area (land within 100' of a qualifying wetland).

Reason for Administrative Approval

- The work is **NOT WITHIN WETLAND OR BUFFER ZONE**.
- The work **WILL NOT ALTER** a jurisdictional wetland area.
- The work is in **BZ or RFA** but is **EXEMPT** under the regulations (310 CMR 10.02(b)(1)) if erosion is controlled.
 - Converting lawn to accessory to residential structure
 - Installation of private unpaved pedestrian walkway
 - Fencing, stonewalls, or wood (don't bar wildlife)
 - Planting native trees, shrubs, groundcover-not lawn
 - Conversion of impervious surfaces to vegetation
 - Temporary, negligible activities -planning/ monitoring
 - Maintaining parking lots *within Riverfront Area ONLY*
 - Maintaining clearings and landscaping *w/in RFA ONLY*
 - Pavement repair and resurfacing
 - Driveway replacement
- The work is **HAZARD TREE REMOVAL**.
 - ___ tree is approved for removal. 1-2 trees may be cut on SR-1, SR-2, SR-3, & MR-2 lots.
 - _____ trees are approved for removal. Up to 5 trees may be removed from all other lots.
- The work is **MANDATORY & WILL NOT ALTER LAND/VEGETATION** (e.g., replacing water line in lawn/pavement).
- The work results in **DE MINIMIS FILL IN FLOODPLAIN** (< 1 cu yd, with documentation of fill and removal).
- The work is **INVASIVE SPECIES REMOVAL**.
- The work is **MAINTAINING OR REPAIRING AN EXISTING STRUCTURE**. No grade or landscape changes are hereby allowed.

Requirements/Conditions

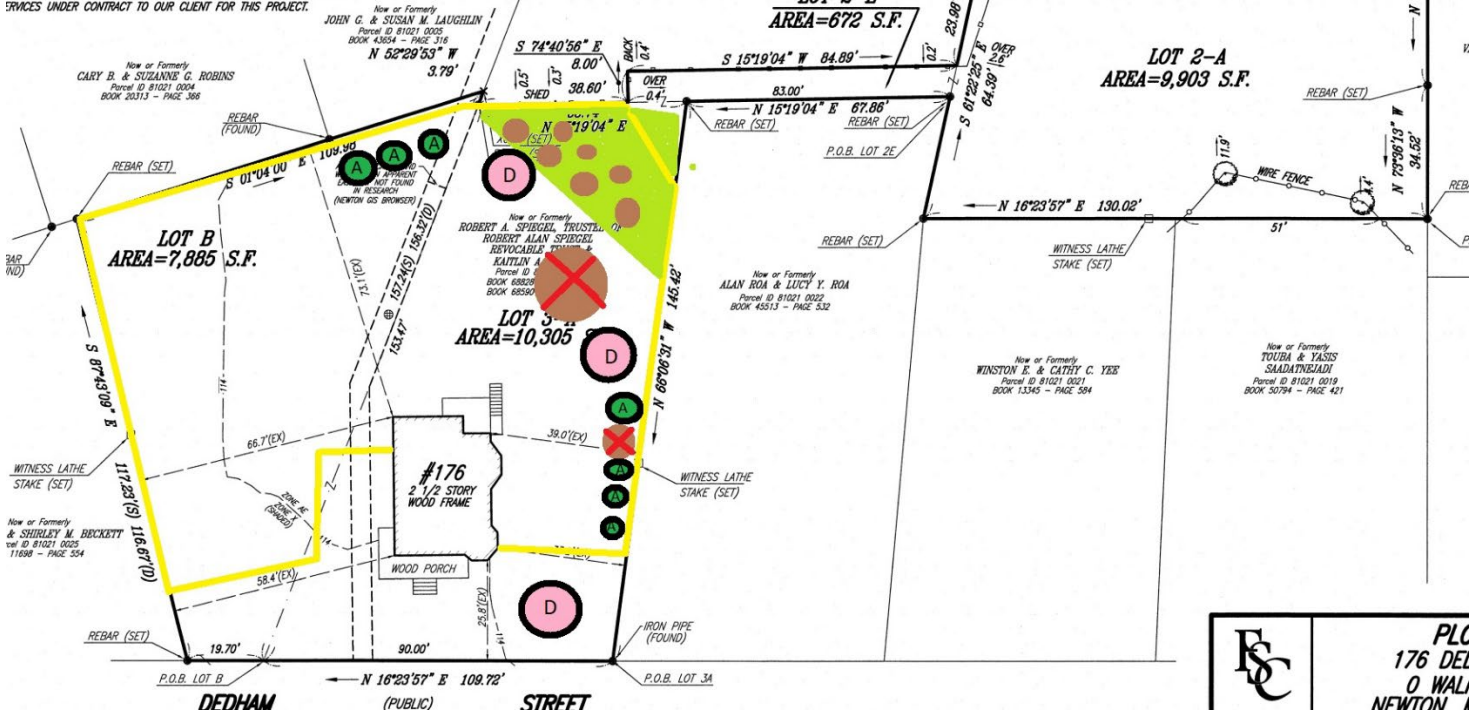
Note: This approval does not exempt you, your property, or activities on your property from the State Wetlands Protection Act and its Regulations. Cutting vegetation, grading, filling, etc. beyond the activities cited in this approval may require a full permit from the Conservation Commission.

- Approved invasive removal contractor _____
- Approved invasives to be removed: _____
- Required native plantings are: _____
- Photos of the planting(s) must be submitted to the Conservation Office on or before _____ to avoid enforcement.
- No additional clearing of understory vegetation has been requested or is hereby approved.
- No cut wood or brush shall be left on site in the flood zone.
- A mitigation planting plan shall be implemented and shall include at least 8-10 caliper inches of native trees and shrubs (it shall include at least 3 native understory trees such as *Swida alternifolia* and at least 5 native evergreens such as *Thuja occidentalis*).
- _____ native saplings shall be planted on the site. 1 for each 8-16", 2 for each 16-24", 3 for each >24" tree cut.
- _____ native shrubs shall be planted on the site. 2 for each 8-16", 3 for each 16-24", 5 for each >24" tree cut.
- Photos of plantings must be submitted to Conservation by September 30, 2023 to avoid enforcement.

USE FLOOD ELEVATION IS THE WATER-SURFACE ELEVATION OF THE 1% ANNUAL CHANCE FLOOD; BASE FLOOD ELEVATIONS DETERMINED AND ZONE X (SHADED) AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN ONE SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD; SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD SURFACE RATE MAP (F.I.R.M.) FOR MIDDLESEX COUNTY, MASSACHUSETTS, MAP NUMBER 101700544E, EFFECTIVE DATE JUNE 4, 2010.

THIS PLAN WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT

THIS DOCUMENT IS AN INSTRUMENT OF SERVICE OF FRAMINGHAM SURVEY CONSULTANTS ISSUED TO OUR CLIENT FOR PURPOSES RELATED DIRECTLY AND SOLELY TO FRAMINGHAM SURVEY CONSULTANTS SCOPE OF SERVICES UNDER CONTRACT TO OUR CLIENT FOR THIS PROJECT.



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Where Chapter 235 of the Code of Falmouth, states that the Commission is to receive a request or Permit application, Commission means an individual designated by the Conservation Commission to receive such request or Permit application.

(3) Administrative Review

- (a) Scope. Some proposed projects that fall within the Commission's jurisdiction are of such small scale as to not Remove, Fill, dredge, build upon, degrade, or otherwise Alter an Area subject to protection under the Bylaw even though they may be proposed in a Resource area. Such projects should not undergo the scrutiny of a formal hearing before the Commission and can be adequately reviewed by the Administrator.
- (b) Applicability. If a project meets the criteria in FWR 10.05(3)(b) 1. or 2., the work may be approved by the Administrator without the filing of a Request for a Determination of applicability or a Permit application. If the Administrator has any doubt that a project meets these Conditions, the Applicant will be required to request a hearing and file a Request for a Determination of applicability or Permit application.
1. A project may be approved by the Administrator pursuant to FWR 10.05(3) if it meets all of the following Conditions:
 - a. No work is proposed in any Resource area defined in FWR 10.02(1)(a) through (e), and/or (j) through (k);
 - b. No work is proposed in the Velocity Zone portion of Land Subject to coastal storm flowage;
 - c. Work is not proposed within 75 feet from the inland edge of any Resource areas defined in FWR 10.02(1)(a) through (e), and the Resource area buffer is flat or nearly so;
 - d. No uprooting of vegetation and no mowing to the ground or clear cutting is proposed;
 - e. Any proposed addition to a principal structure does not exceed 5% of the first floor footprint, and no alteration to an existing septic system is proposed or required by other local or state agency; and
 - f. No stormwater management system is required by the provisions of FWR 10.16(3) and FWR 2.00
 2. A project may be approved by the Administrator pursuant to FWR 10.05(3) if it meets any one of the following Conditions:

- a. All work is within the A-Zone portion of Land subject to coastal storm flowage and over 100 feet from those Resource areas specified in FWR 10.02(1) (a) through (e);
 - b. Ordinary repair (but not substantial repair) or maintenance of an existing single family house that is located over 25 feet from the edge of all those Resource areas specified in FWR 10.02(1) (a) through (e); or
 - c. The project is an upgrade of a septic system that does not require or involve an increase in design flow or number of Bedrooms, provided the system components will be over 50 feet from those Resource areas specified in FWR 10.02(1) (a) through (e).
3. Notwithstanding the provisions of FWR 10.05(3)(b) 1. and 2., if the Administrator is of the opinion that in their professional judgment that the project is not appropriate for Administrative Review, the Administrator may not approve the project.
- (c) Procedure. The process is as follows:
1. The Applicant will submit on Form AR⁹ sufficient information to determine where the project is located and whether it meets the requirements set forth in (b) above;
 2. The Conservation Administrator will visit the site;
 3. The Conservation Administrator will determine whether all Conditions of this regulation are met;
 4. The Conservation Administrator will issue an Administrative Review Decision (Form ARD¹⁰) within 21 days of receipt of a written request that fulfills the information requirements.
 5. The decision will be filed as a permanent record with the Commission.
- (d) Appeal. If the decision rendered by the Administrator is opposed by any party in interest, they may apply for a Request for a Determination of applicability.
- (4) Determinations of Applicability.
- (a) Requests for Determination of Applicability.
1. Any Person who desires a Determination as to whether Chapter 235 of the Code of Falmouth, applies to land, or to work that may affect an Area subject

⁹Editor's Note: Form AR is on file in the Conservation Administrator's office and may be examined there during regular office hours.

¹⁰Editor's Note: Form ARD is on file in the Conservation Administrator's office and may be examined there during regular office hours.

TOWN OF FRANKLIN CONSERVATION COMMISSION

MINOR BUFFER ZONE ACTIVITY APPLICATION AS PER FRANKLIN BY-LAW CHAPTER 181

In order to be considered complete, all information, requirements and conditions must be completed and the \$50.00 filing fee submitted with the application.

Applicant: (Please Print the following information)

Applicant's Name

Mailing Address

City/Town

State

Zip Code

Telephone Number and e-mail address of primary contact for this application.

Property & Plan Information:

Land Owner's Name (If Different from Applicant)

Project Location (Street Address)

Assessor's Map & Parcel Number

Plan Name and date

All plans and information submitted for an MBZA must contain information to adequately depict the following: (NOTE: 2 hard copies of all material must be submitted to the Town Hall and an electronic copy of the entire application to the Conservation Agent's email.)

1. Plans:

1.1. Existing conditions of the property showing all existing structures;

1.2. Area of proposed work including total area of disturbance and whether the disturbances are permanent or temporary;

1.3. Location of all wetlands and buffer zones, including the 25', 50' and 100' buffers;

1.4. Location, type and size of any vegetation being removed and any vegetation to be planted as a mitigation measure;

1.5. Existing slopes and direction of drainage; and

1.6. Location of any required erosion control.

2. Narrative:

2.1. Detailed description of the activity to take place; and

2.2. Detailed description of how and when the work will be performed.

3. Other:

3.1. A photograph of the area where the activity is to take place.

3.2. A filing fee of \$50.00.

Authorization:

I hereby request that the Franklin Conservation Commission review this Application for a Minor Buffer Zone Activity. I (we) affirm that the project will comply with all criteria as stated in Section 14 of the Franklin Wetlands Protection Regulations as well as all information submitted. I (we) also grant authority to the Franklin Conservation Commission members and agent to go onto my (our) property solely for purposes directly related to the inspection and approval of this application

Property owner's Signature

Date

2. PERFORMANCE STANDARDS

2.1. These are the requirements for a Minor Buffer Zone Activity (MBZA)

2.1.1. The Conservation Commission (The Commission) shall presume that activity proposed to occur:

- Exclusively within a previously disturbed or clearly delineated buffer zone; and
- The alteration is less than 1,000 Square Feet or 5% of the buffer zone on the lot, whichever is less; and
- At a minimum, a 25 foot wide area is preserved between the activity and the resource area boundary; and
- The buffer zone does not contain estimated wildlife habitat which is indicated on the most recent Estimated Habitat Map of State listed Rare Wetlands Wildlife; and
- Erosion and sedimentation controls, if required, are provided at the limit of work to protect the resource areas, and
- Shall constitute activities within the buffer zone that would be eligible for a Negative Determination of Applicability with conditions.

2.2. The Commission may determine that this presumption should not apply based on unusual circumstances such as steep slopes, the potential for negative impacts over time or because the proposed project would require oversight through continuing conditions. The Commission may waive any or all of the above requirements if they find that there is an emergency situation. In order for the site to be declared an emergency, a vote of the Commission shall be required.

2.3. In order for a property owner to apply for an MBZA they must meet all of the above requirements and provide a plan of the activity, a detailed project narrative and photographs of the project area. The distance between the proposed project and the wetlands must be noted on the plan and may require delineation if requested by the Commission or Agent. Additional items detailed on the MBZA form or requested by the Commission, or its Agent, may be required. The applicant is required to prove by a preponderance of the evidence that their proposed MBZA will not result in a negative impact to the wetlands.

2.4. The minor nature of these projects will not require the Commission to hold an advertised public hearing on the matter. The Agent shall review the application and may perform a site visit to confirm information provided in the plan, project narrative and photographs. The Agent may request additional information if s/he deems necessary. Upon review of the MBZA application, the commission may issue an approval, with or without conditions, a denial, or require the applicant to provide further information. If the commission issues a denial, the applicant shall be required to file a Notice of Intent if they wish to pursue the activity.

2.5. The work must conform to the plans submitted in the Minor Buffer Zone Activity application and all applicable conditions or modifications imposed by the Commission in the approval. If the applicant fails to perform the work according to the approved plan or in conformance with the applicable conditions of the approval, the permit will be revoked. Failure to conform to the plans and specifications shall constitute grounds for requiring a Notice of Intent and/or an Enforcement Action, including fines, by the Commission.

2.6. Upon completion of the project the applicant shall notify the Agent. The Agent shall inspect the work for and inform the Commission of the results.

2.7 Minor activities within Riverfront Zone, the 100' buffer zone, but not within the 25' "no touch" zone, and not within 25' of a perennial stream, may be authorized by the Conservation Agent under the following conditions:

2.7.1. The proposed activity will not run counter to the interests of the Wetlands Protection Act;

2.7.2. The proposed activity shall collectively not encompass more than 150 ft² of land area;

2.7.3. The proposed activity shall be only those activities permitted under 310 CMR 10.02 (2) (b) as well as the removal of vegetative debris and trees;

2.7.4. These activities shall be outlined on a MBZA application providing all required information and accompanied by the required filing fee;

2.7.5. All decisions of the Conservation Agent may be appealed to the Conservation Commission following the procedures outlined in section 8 of these regulations;

2.7.6. The agent shall prepare and submit a report, at least monthly, to the Commission on all permits approved under this section.

Position Purpose:

This position drafts and distributes typed minutes of regular and special meetings for committee and board meetings.

Essential Functions:

(The essential functions or duties listed below are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.)

- Review video and/or attend board and commission meetings and take accurate and detailed notes.
- Record all decisions and votes accurately and objectively, record names and actions of all votes taken in accordance with the Open Meeting Law.
- Prepare minutes after meetings with detail and accuracy. Produce draft meeting minutes in a timely manner (approximately within 72 hours of a meeting) and work with relevant Board/Committee/Commission and Town staff to edit and revise minutes as necessary prior to the next meeting.
- Distributes copies of minutes to board and committee members.
- Maintains the confidentiality of deliberations/discussions occurring in Executive Session.
- Perform similar or related work as required, directed, or as the situation dictates.

Recommended Minimum Qualifications:**Education, Training and Experience:**

High School diploma; three years clerical or secretary experience.

Knowledge, Ability and Skill:

Knowledge: Thorough knowledge of office procedures/practices, office equipment and terminology. General familiarity with public hearing requirements, conflict of interest law, and open meeting law requirements.

Ability: Ability to compose minutes, organize time, work independently, and accomplish tasks. Ability to maintain confidentiality. Ability to communicate effectively with the public, other employees, officials, and other agencies. Detail-oriented. Ability to produce documents which are free from typographical and grammatical errors, and proof-read before submitting draft minutes.

Skill: Superior administrative and secretarial skills, as well as organizational skills. Expertise and skill in utilizing personal computers and word processing applications. Proficiency in Microsoft Office.

Physical Requirements:

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Average vision and hearing, finger dexterity and ability to operate a keyboard at an efficient speed. Occasional lifting, standing, bending, and carrying of files, documents and records. May spend extended periods of time seated at computer terminal or desk.

Supervision:

Supervision Scope: Performs varied and responsible duties requiring a knowledge of departmental operations and the ability to analyze and distill facts or circumstances surrounding individual problems in situations not clearly defined by precedent or established procedures.

Supervision Received: Works under the general direction of the Town Administrator, working closely with the appropriate Board/Committee/Commission members and relevant Town staff.

Supervision Given: None.

Job Environment:

- Work is performed at home and/or in an office setting not subject to extremes of temperature; the noise level is moderately quiet.
- Errors could cause significant confusion and delay of service.

(This job description does not constitute an employment agreement between the employers and is subject to change by the employer as the needs of the employer and requirements of the job change.)

**OFFICES OF THE
SELECT BOARD and
TOWN ADMINISTRATOR**

13 Ayer Road, Harvard, Massachusetts 01451
(978) 456-4100

www.harvard-ma.gov
(978) 456-4107 fax



To: Andrew Richards / a1richards@outlook.com
774-226-0917

Re: Remote minute taker position

This is to confirm that Andrew Richards will be serving as our contracted vendor for remote minute-taking. He will be responsible for submitting a W9 (<https://www.irs.gov/pub/irs-pdf/fw9.pdf>) to:

Finance Director Jared Mullane at jmullane@harvard-ma.gov (978-456-4100 x320)

For this position, we will be compensating at the rate of \$145 for each 2-hour meeting of the Planning Board. Should the meetings extend beyond 2-hours, time will be rounded up to the 15-minute interval and compensated at \$36.25/15-minute block.

Mr. Richards will be submitting his draft minutes to:

Planning Director, Frank O'Connor foccor@harvard-ma.gov (978-456-4100 x323)

It is at Mr. Richard's discretion when to invoice the Town for his draft minutes product.

Sincerely,

A handwritten signature in blue ink, appearing to read "Marie Sobalvarro".

Marie Sobalvarro
Assistant Town Administrator
msobalvarro@harvard-ma.gov
978-456-4100 x330



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581

p: (508) 389-6300 | f: (508) 389-7890

[MASS.GOV/MASSWILDLIFE](https://www.mass.gov/masswildlife)

October 26, 2023

Bare Hill Watershed Committee
3 Ayer Road
Harvard, MA 01451

The Massachusetts Division of Fisheries and Wildlife (MassWildlife) is the agency responsible for the protection and management of the fish and wildlife resources of the Commonwealth. As such, we monitor projects within the Commonwealth which will affect fish and wildlife and their habitats. The MassWildlife fisheries section has reviewed the NOI application for the winter drawdown of Bare Hill Pond in Harvard to control phosphorus and invasive species. The comments below pertain only to possible impacts to non-MESA listed aquatic resources.

Comments

The project proponent, Bare Hill Watershed Committee, proposes to perform a winter drawdown of up to 6.5 feet in Bare Hill Pond in order to control phosphorus and invasive species. Analysis of bathymetry data collected at Bare Hill Pond indicate that a 6.5 foot drawdown will expose roughly 57 percent of the surface area or 184 of the 320 surface acres of the pond. The loss and or alteration of such a large fraction of the available littoral habitat will have critical impacts to fish, mammals, mussels, and macroinvertebrates inhabiting the pond. Littoral habitats are used extensively by fish for spawning, rearing, refuge, and foraging. Through large scale dewatering or failure to meet refill dates, the loss of or alteration to these areas can result in lowered body condition in fish, reproductive failure, and ultimately declines in fish abundance. Further, fish concentrated by this action will be more susceptible to winter kill as oxygen demand will have to be met by a much smaller water volume. Beaver lodges and muskrat dens can be exposed to freezing conditions at a time when the animals cannot relocate to thermally safe environments. Native freshwater mussels, snails, and other invertebrates die from exposure to the dry, freezing conditions in the dewatered zone as they are unable to fully relocate (Carmignani et al. 2019).

Downstream impacts can be equally severe. Failure to meet downstream flow requirements under drawdown or when refilling reduces or eliminates instream habitat and in the worst cases results in a dry stream bed. Increased flows during drawdown can result in large scale erosion and disrupt migratory cues in fishes. To protect in-lake and downstream flora, fauna, and habitat it is critical that drawdowns are performed in compliance with guidance provided in the GEIR.

As stated in the GEIR, drawdowns must:

- Limit drawdown to three feet or less or consult with MassWildlife in case of deeper drawdown.
- Commence on or after November 1st.

MASSWILDLIFE

- Limit inlake water level reductions to a maximum of 3 in per day.
- Keep outflow during drawdown below a discharge equivalent to 4 cubic feet/second per square mile of watershed (cfsm).
- Achieve the target drawdown depth by the beginning of December.
- Match inflow and outflow while under drawdown to the greatest extent possible to stabilize water level.
- Keep outflow during refill above a discharge equivalent to 0.5 (cfsm).
- Achieve full refill by April 1st.

The drawdown as currently proposed can begin as early as September 15th which is counter with GEIR guidelines which stipulates a November 1st start date at the earliest. MassWildlife understands that flexibility in the start of the drawdown is advantageous to managers and also permits longer exposure time thus we would not be opposed to an October 1st start date at the earliest.

Drawdown rate of water levels in the pond should not exceed 3 inches per day, with slower rates of drawdown preferred. Downstream flow during drawdown should not exceed 4 cfsm, or approximately 15.2 cfs, and outflow during refill should not be less than .5 cfsm or approximately 1.9 cfs. Downstream flow monitoring will be required to ensure flow is within GEIR guidelines. MassWildlife suggests the installation of a water level monitoring device at the outlet or immediately downstream and the development of a rating curve to be able to quickly access compliance. Given that mechanical pumping is required to reach the proposed drawdown depth, frequent monitoring of flows and equipment is essential as equipment failure or neglect could result in noncompliance and or dewatering of downstream areas.

MassWildlife recognizes the amount of water quality and aquatic plant monitoring that has occurred during the last decade at Bare Hill Pond. However, these data have failed to show a consistent long-term trend across years and sites in nutrient concentrations and aquatic plant densities. Research has shown that drawdowns tend to select for plant communities that reproduce from seed each year (annuals) and are thus not impacted by drawdowns (Carmignani 2019). In these instances, aquatic plant densities change little but the composition of the communities shift from perennial plants (grow each year from rhizomes, stolons or tubers) to annual plants (sprout from seed each year). This may be occurring in Bare Hill Pond as noted in the Bare Hill Pond In-lake Water Quality & Plant Survey 2022 that Fanwort in the drawdown zone has decreased but non-native annual, brittle naiad has increased (ARC 2022).

If this drawdown is permitted under the Ecological Restoration Limited Project pathway with the goal of restoring fish habitat, then the removal of an invasive plant community without the restoration of a native plant community does not constitute restoration. The drawdown should aim to replace the non-native invasive plant community with a native vegetated community in the drawdown zone. Within depths greater than the maximum drawdown depth, vegetation is not affected. Some of these areas within Bare Hill Pond saw an increase in fanwort density in 2021 (ARC 2022). The GEIR includes alternative management techniques that are more effective at controlling invasive species at all depths.

In summary, per the proposed 6.5 foot winter drawdown of Bare Hill Pond, MassWildlife is concerned that:

MASSWILDLIFE

1. The drawdown exposes a large (57%) percentage of available lake habitat which is critical to numerous species of flora and fauna inhabiting the lake.
2. The NOI Lacks clarity regarding operational details of the drawdown and monitoring of downstream flows to ensure compliance with recommendations, especially during times when mechanical pumps are employed to enhance the depth of drawdown.
3. the drawdown has not resulted in an improvement to fish habitat or resulted in long term reductions in nutrient concentrations or aquatic plant densities as intended during its implementation over the past 15 years.

For these reasons, MassWildlife recommends considering alternative aquatic vegetation management techniques to restore plant communities that contain greater percentages of native species and to address nutrient loading in the pond.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Stolarski", with a long horizontal line extending to the right.

Jason Stolarski

Aquatic Biologist, MassWildlife

References:

Carmignani, J.R. 2019. Investigating the effects of winter drawdowns on the ecological character of littoral zones in Massachusetts lakes. Doctoral Dissertation. University of Massachusetts, Amherst.

Carmignani, J.R, A. Roy, P.D. Hazelton, and H. Giard. 2019. Annual winter water level drawdowns limit shallow-water mussel densities in small lakes. *Freshwater Biology*.

Aquatic Restoration Consulting. 2022. Bare Hill Pond In-Lake Water Quality and Plant Survey – 2022. Report for: Town of Harvard, Bare Hill Pond Watershed Management Committee, Harvard Massachusetts.

MASSWILDLIFE


FW: MassWildlife Comment letter Bare Hill Pond Harvard- Second Request for Consultation

bruceleicher@aol.com <bruceleicher@aol.com>

Thu 10/26/23 6:38 PM

To:jason.stolarski@mass.gov <jason.stolarski@mass.gov>

Cc:Wendy Gendron <wcgendron@gmail.com>;'Schmitz, Judith (DEP)' <judith.schmitz@mass.gov>;Bruce A. Leicher <bruceleicher@aol.com>;Liz Allard <lallard@harvard-ma.gov>;'Eve Wittenberg' <ewittenberg01451@gmail.com>

 1 attachments (190 KB)

bare_hill_Pond_MassWildlife.pdf;

Dear Dr. Stolarski

Thank you for your response to our notification of a draw down on Bare Hill Pond. We would like to follow up on our Wetlands Consultant, Wendy Gendron's prior request to consult with your office and have a site visit. We believe that the habitat and the methods utilized in our Order of Conditions are consistent with the publications that you cite and with the requirements for ecological restoration.

This deeper draw down project was funded by DEP and the Town of Harvard (over \$500K over the years) under the Section 319 program and we believe that your review may not have considered all of the over 20 years of data supporting the ecological restoration of Bare Hill Pond, the thriving fish population in Bare Hill Pond, and the avoidance of the substantial risk of eutrophication. This was achieved based on a thorough Habitat Assessment conducted in 2002 that guided the timing and conduct of carefully monitored and controlled draw downs since the project was funded. Differences from the GEIR were based on data based habitat decisions designed to protect the Pond and its habitat. For example, while the Order of Conditions allows the draw down to begin on September 15, a date chosen by the Conservation Commission to ensure a very gradual rate of draw down, over time it was learned that the gradual rate could be achieved by beginning on October 1. The GEIR recommendation would require a rate of decline that was harmful to mussel populations and we believe the data shows that there is no evidence of harm from the October start date. The Habitat Assessment is updated annually by reports to the Conservation Commission to ensure that the project was achieving such restoration.

Notably the depth and the impacts associated with the depth were gradually increased in the early years from 1.5-3.5 feet without the use of the pump and then in 6" increments each year from 5 feet after the pump was installed so that it could be determined what was necessary to control the invasive species, allow for re-population of native plants, and reduce phosphorous below the endangerment level in the DEP 1999 TDML Report. We have not uncovered evidence of impacts on fish, amphibians and reptiles over the past 20 years and have consistent reports from the fishing derbies on Bare Hill pond of a thriving and attractive fishing destination. We are concerned however, that if we were to stop controlling phosphorous and the invasive species, that a return to the endangerment level of 1999 would be the outcome. We have as part of the project taken years off or had mechanical failures (like last year) to see if periodic draw downs could work, and in those years, there was a rebound in phosphorous, and invasive plants. I believe you noted that there was not an efficacious result this year, and that is correct in areas deeper than 3.5 feet where the Pond refilled last winter prior to the freeze due to a mechanical issue with the pump. Similarly in 2019-20 and 2020-21 there were shallower draw downs and the phosphorous reduction was less leading to the first two hazardous algal blooms in Bare Hill Pond from heat and in lake loading. This past summer, after having a deep draw down that refilled too early, we lowered phosphorous enough to help create resiliency to avoid a repeat of the algal blooms as we did in 2022 and likely in the years prior to that.

We would like to show you the actual ecological restoration and review the data with you so that the significant efforts of our community volunteers, the work of the Conservation Commission in overseeing the project, and funding by DEP is not lost.

Please let Wendy Gendron or me know when you could be available for a consultation and a site visit.

Thank you

Bruce Leicher
Chair, Bare Hill Pond Watershed Management Committee
Town of Harvard
617.417.0892

From: Stolarski, Jason (FWE) <jason.stolarski@mass.gov>
Sent: Thursday, October 26, 2023 2:02 PM
To: bruceleicher@aol.com; kshrives01451@gmail.com
Cc: W G <wcgendron@gmail.com>
Subject: MassWildlife Comment letter Bare Hill Pond Harvard

Attached are the fisheries section comments per the Bare Hill Pond winter drawdown.

Jason

[Jason Stolarski Ph.D](#) | Aquatic Biologist
Massachusetts Division of Fisheries & Wildlife
1 Rabbit Hill Road, Westborough, MA 01581
p: (508) 389-6334 | f: (508) 389-7890
mass.gov/masswildlife | facebook.com/masswildlife

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**HARVARD CONSERVATION COMMISSION
MINUTES OF MEETING
SEPTEMBER 7, 2023**

Chair Eve Wittenberg called the meeting to order at 7:02pm, virtually, pursuant to Chapter 2 of the Acts of 2023, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on March 29, 2023, under MGL Chapter 131 §40 Wetland Protection Act and Code of the Town of Harvard Chapter 119 Wetland Protection Bylaw

Members Present: Eve Wittenberg, Don Ritchie, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw, Jessie Panek and John Lee (Associate Member)

Others Present: Liz Allard (Conservation Agent), Bob Douglas (Deer Management Subcommittee), Don Osmer, Joseph Portuando, David Pinard, Tom Cotton (Deer Management Subcommittee), Peter Dorward (Open Space Committee), Henry Gjestby, Wendy Sisson (Land Stewardship Subcommittee), Kelvin Weibe, Wendy Gendron (Aquatic Restoration Consultants), Rob Ricker, Bruce Leicher (Bare Hill Pond Watershed Committee), Kara McGuire (Select Board), Seth Donahoe (Dillis & Roy Civil Deign), Matt Marro, Kerry Shrives (Bare Hill Pond Watershed Committee), John Hunt, Suzanne Smiley (Girl Scouts of Central & Western Massachusetts), Diandra Bilodeau, Racheal Broadhurst, Anthony Culmone, Kerro Frost, David Latham, Carolyn Porter (Girl Scouts of Central & Western Massachusetts), Grant Maclean (Chestnut Tree & Landscape) and William Buckley

Harvard Conservation Trust Request for the use of Conservation Land for the “Run for the Hills” Event
On a motion made by Jim Burns and seconded by Don Ritchie, the Commission approved the use of the Prospect Hill Conservation Area for the Harvard Conservation Trust “Run for the Hills” event on October 29, 2023. 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.

Review Input from Deer Management Annual Process and Procedures

With a few minor edits of the draft Deer Management Annual Process and Procedures, Jaye Waldron made a motion to approve the document. 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; Mark Shaw, aye; and Jessie Panek, aye.

Continuation of a Notice of Intent Hearing – Bare Hill Pond Watershed Management Committee, DEP#177-726, Harvard#0523-03. Opened at 7:34pm

Continuation of a Notice of Intent Hearing - John & Laura Hunt, 61 Stow Road, Harvard#0823-04. Opened at 7:46pm

Approve Minutes

Jessie Panek made a motion to approve the minutes of August 22, 2023 as amended. Jay Waldron seconded the motion. The vote was unanimously in favor of the motion by a roll call, Don Ritchie, aye; Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

Approve Invoice – Oxbow Associates, \$525.00

Joanne Ward made a motion to approve the invoice for Oxbow Associates in the amount of \$525.00. 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.

Continuation of a Notice of Intent Hearing - Rachel Broadhurst, 41 Pinnacle Road, Harvard#0823-03. Opened at 8:00pm

54 **Request for Determination of Applicability Hearing – Girl Scouts of Central & Western Massachusetts,**
55 **69 Still River Road, Harvard#0823-05.** Opened at 8:43pm

56
57 **Abbreviated Notices of Intent Hearing – Harvard Conservation Commission, Mass Ave (Map 23 Parcel**
58 **35) and Stow Road (Map 32 Parcel 55), Harvard#0823-01 & 02.** Opened at 8:59pm

59
60 **Bare Hill Pond Watershed Management Committee Annual Report and Drawdown Request**

61 Bruce Leicher, chair of the Bare Hill Pond Watershed Committee (BHPWMC), stated the draw down was
62 overshot last year due to a human error; then there was an issue with the valve and the pump. With not
63 enough time for the freeze there was a regrowth of invasive species. BHPWMC will increase the level of
64 monitoring to take steps to avoid algae blooms. Two successful drawdowns over the last two years
65 allowed for a decrease in phosphorus, which assisted in avoiding algae blooms. Wendy Gendron, of
66 Aquatic Restoration Consulting provided her annual findings, which can be viewed [here](#).

67
68 On behalf of the BHPWMC, Mr. Leicher requested a 6.5-foot drawdown for 2023 with the standard
69 protocol of no more than 2"/day by November and then it hold at that depth until January when the pond
70 will begin to refill by the end of March.

71
72 Don Ritchie made a motion to approve the annual draw down of Bare Hill Pond to 6.5 feet for 2023. Jessie
73 Panek seconded the motion. The vote was unanimously in favor of the motion by a roll call, Don Ritchie,
74 aye; Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

75
76 **Discuss Wetland Violation – 19 Warren Ave**

77 Liz Allard provided an update of the lack of activity on the site; the property owner has been trying to get
78 S&K Logging & Clearing to remove the logs but they have been unresponsive. The property owners have
79 been very responsive and are looking at getting a different company to assist with removing the logs.
80 After discussing what the next steps should be, Don Ritchie made a motion to notify S&K Logging &
81 Clearing to remove the trees that been felled within one week of receipt of the notification or a fine of
82 \$400.00 will be issued. Jessie Panek seconded the motion. The vote was 5-1 in favor of the motion by a
83 roll call, Don Ritchie, aye; Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, aye; Mark Shaw, nay; and
84 Jessie Panek, aye.

85
86 **Discuss Land Stewardship Subcommittee Recommendations for Additional Deer Management Program**
87 **Lands: Tripp Land, Old Mill Land, Abbot-Reed-Powell Land, Clapp-Scorgie-Smith-Tufts Land, Gravel Pit**
88 **and Warilla Land**

89 Jessie Panek, the Commission's representative to the Deer Management Subcommittee, stated the
90 Tripp/Stevenson (West) land and Old Mill land would be very appropriate to add the program, along with
91 the Warilla land and Gravel Pit; both under the management of the Select Board. Wendy Sisson, chair of
92 the Land Stewardship Subcommittee, detailed the locations further as it pertains to use by others and the
93 ability to provide an opportunity for archery hunting. The LSS would recommend the addition of the
94 previously mentioned sites. Kerro Frost, a botanist from Natural Heritage Endangered Species Program
95 (NHESP) stated NHESP is most concerned about what deer are doing to our forest, rare plants most of all.
96 Ms. Frost is relatively concerned with the damage she is seeing in the forest; saplings of many species are
97 being destroyed by the deer, as well as native ground covers, such as orchids, are being decimated. Ms.
98 Panek stated what people do not understand is the deer problem is not solved by hunting, but managed
99 by hunting. Ms. Panek stated our forest are under threat by not only deer but invasives as well and now
100 the jumping worm. Ms. Panek stressed the concern of protecting our native plants in the forest and
101 recommends the expansion of the Deer Management Program to include the Tripp/Stevenson (West), Old
102 Mill and recommend to Select Board the Warilla land and Gravel pit.

103
104 Jessie Panek made a motion to extend the Deer Management Program to the Tripp/Stevenson (West)
105 lands, assuming Harvard Conservation Trust approves the Tripp Land, the Old Mill land, and recommend
106 to the Select Board that they allow deer hunting also at the Gravel Pit and the Warilla land. Don Ritchie

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

109
110 **Executive Session with Open Space Committee pursuant to Massachusetts General Law Chapter 30A,**
111 **Section 21(a)(6) to consider the purchase, exchange, lease, or value of real property because a public**
112 **discussion of this matter could have detrimental effects on the negotiating position only to return to**
113 **the open session of the public meeting**

114 On a motion made by Don Ritchie and seconded by Joanne Ward the Conservation went into executive
115 session with the chair of the Open Space Committee and members of the Harvard Conservation Trust and
116 to discuss the purchase, exchange, lease, or value of real property because a public discussion of this
117 matter could have detrimental effects on the negotiating position, only to adjourn the public meeting at
118 the end of executive session. The vote was unanimously in favor of the motion by a roll call, Don Ritchie,
119 aye; Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

120
121 At the end of the executive session a motion was made by Jim Burns and seconded by Joanne Ward to
122 adjourn the public meeting. The vote was unanimously in favor of the motion by a roll call, Don Ritchie,
123 aye; Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

124
125 **Adjournment**

126 Jim Burns made a motion to adjourn the meeting at 10:26pm. Jessie Panek seconded the motion. The
127 vote was unanimously in favor of the motion by a roll call, Don Ritchie, aye; Jaye Waldron, aye; Joanne
128 Ward, aye; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

129
130 The following items were passed over this evening:
131 Harvard Climate Initiative Committee 2023/2024 Collaboration and Liaison
132 ZBA Request for Comments – Village at Robin Lane (corner of Ayer & Old Mill Road)
133 Update on Enforcement Order – 320 Ayer Road
134 Pine Hill Village Status Update
135 MEPA Site Walk and Remote Meeting Aug 30- Park at Beaver Brook
136 Update on 90 Warren Ave, DEP#177-719, Harvard#1122-02

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139 Respectfully submitted,

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142 Liz Allard,
143 Conservation Agent

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145 **EXHIBITS & OTHER DOCUMENTS**

- 146 • Conservation Commission Agenda, dated September 7, 2023

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Harvard Conservation Commission
Continuation of a Notice of Intent Hearing Meeting Minutes
Bare Hill Pond Watershed Management Committee, DEP#177-726, Harvard#0523-03
September 7, 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, Jessie Panek and John Lee (Associate Member)

Others Present: Liz Allard (Conservation Agent), Bruce Leicher (Bare Hill Pond Watershed Management Committee), Wendy Gendron (Aquatic Restoration Consulting) and Kerry Shrives (Bare Hill Pond Watershed Management Committee)

This hearing was continued from August 17, 2023 for a Notice of Intent filed by Bare Hill Pond watershed Management Committee for the drawdown of Bare Hill Pond in accordance with the Massachusetts Lake & Pond General Environmental Impact Report (GEIR) to control phosphorus and invasive plant species.

Bruce Leicher, chair of the Bare Hill Pond Watershed Management Committee, stated he has provided a comprehensive response to the Department of Environmental Protection (DEP) as requested within the Notification of Wetlands Protection Act File Number. Wendy Gendron, of Aquatic Restoration Consulting, explained the GEIR and the methods suggested by that report. Ms. Gendron further explained the questions from DEP were standard for a draw down. The impact to habitat and other non-target plants have been addressed in the response. There is no regulator authority from Fish & Wildlife, but they do comment. With twenty years of data that details no direct impact to fisheries the thought is Fish & Wildlife will see the benefit of the deep draw down, something they are trying to get away from due to impact to fish and other wildlife.

Mark Shaw asked if the mechanical issues of the pump has been addressed. Mr. Leicher, stated the automated system never worked properly, therefore we are maintaining a manual process for monitoring of the drawdown depths.

Don Ritchie made a motion to close the hearing and issue an Order of Conditions with the standard conditions associated with the draw down. 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,

Liz Allard,
Conservation Agent

Harvard Conservation Commission
Continuation of a Notice of Intent Hearing Meeting Minutes
John & Laura Hunt, 61 Stow Road, Harvard#0823-04
September 7, 2023

The public hearing was opened at 7:46pm 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), Seth Donahue (Dillis & Roy Civil Design Group) and John Hunt

This hearing was continued from August 17, 2023 for a Notice of Intent filed on behalf of John & Laura Hunt for the addition of deck, porch, and patio to an existing single-family dwelling within the 200' riverfront area at 61 Stow Road, Harvard.

The Commission had previously suggested an additional site walk, however John Hunt stated timing had been not ideal for a site visit with the Commission, but willing to have a visit next week. Mr. Hunt wanted to address any issues with the application itself, beyond that of the additional vegetation within the 50' wetland buffer zone. Members did not have any issue with the application as submitted. Mr. Hunt will coordinate with Liz Allard for the site walk.

Jim Burns made a motion to continue the hearing to September 14, 2023 at 7:45pm. Mark Shaw seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

Respectfully submitted,

Liz Allard,
Conservation Agent

Harvard Conservation Commission
Continuation of a Notice of Intent Hearing Meeting Minutes
Rachel Broadhurst, 41 Pinnacle Road, Harvard#0823-03
September 7, 2023

The public hearing was opened at 8:00pm by Chair Eve Wittenberg under MGL Chapter 131 §40 Wetland Protection Act and the Code of the Town of Harvard Chapter 119 Wetland Protection Bylaw virtually, pursuant to Chapter 2 of the Acts of 2023, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on March 29, 2023.

Members Present: Eve Wittenberg, Don Ritchie, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw, Jessie Panek and John Lee (Associate Member)

Others Present: Liz Allard (Conservation Agent), Matt Marro, Rachel Broadhurst, Diandra Bilodeau, Anthony Culmone and David Latham

This hearing was continued from August 17, 2023 for a Notice of Intent filed on behalf of Rachel Broadhurst for the construction of a paddock within 100' of a wetland resource area and the restoration of the resource area after enforcement at 41 Pinnacle Road, Harvard.

Matt Marro, the representative for the applicant, stated the work to install a fence along the rear property line is within the bounds of the property and is also partly in the wetland. Horses on the property are being penned well outside the wetland buffer zone. Flags found by the Commission were not that of the delineation. Area mowed to install fence is revegetating. The actual wetland area that has been flagged has re-vegetate well. The purposes of the use of this field is strictly to exercise the horses a few hours a day about five days a week, with the manure pile outside the buffer zone. Activities inside the buffer zone is to install fence along the 50' wetland buffer zone line.

Eve Wittenberg stated there is an Enforcement Order (EO) on the property and the fence that has been installed within the wetland while that EO was in effect. Ms. Wittenberg stated there are two things here: what is the Commission's opinion to the EO violation and what about the proposed fence at the 50' wetland buffer zone. Don Ritchie is still trying understand why the applicant would install a fence while under an EO. In his opinion any other fence should be installed at 100' wetland buffer zone line. Rachael Broadhurst was under the impression that the rear fence was not issue as she was completing the fencing that had been there for years. Ms. Broadhurst did not believe she needed a permit as she was repairing an existing fence. Ms. Wittenberg explained EO state no activity and that is why a fine was issued. Jaye Waldron question as to why the area up to the wetland was mowed down as that too was part of the EO. Ms. Broadhurst stated it has always been mowed and she continued to mow it twice a year with no prior issues. Ms. Wittenberg stated the Wetland Protection Bylaw requires a permit for activity within the wetland and its 100' buffer zone. Jessie Panek asked what is the point of the fence on the property line, as it is in the wetland and you would not want horse in that area. Ms. Broadhurst stated there is a deer blind on the adjacent property that she finds disturbing.

Ms. Panek stated she is not in favor of an enclosure, nor manure within the 100' wetland buffer zone. Ms. Waldron agreed; as for the fence at the rear property line it would not have been permitted and should be removed. Joanne Ward agreed the Commission cannot permit fence at 50' wetland buffer zone line and the back fence needs to be removed. Ms. Waldron suggested Ms. Broadbent install no trespassing signage if she is concerned with activity on the abutting property.

Jim Burns circled back to the original purpose of the application after enforcement which was the removal of vegetation within the wetlands. Mr. Marro detailed the suggested remediation for that area. Mr. Burns stated there should be a plan for remediation of the fenced at the rear of the property as well.

319 Ms. Broadhurst stated she has been taking care of her own horses for over 20 years, including manure
320 management, and is in a shocked state of mind right now as she has seen the area as a manicured lawn.
321 Ms. Broadhurst purchased property from the Carlson's who kept horses on the property. The limitations
322 by the Commission creates a financial hardship as well as an emotional hardship. Ms. Broadhurst pointed
323 out things others around her are doing things that are violations. Ms. Wittenberg understands it is a
324 difficult situation to be in however, protection the wetlands is the Commission's responsibility. Ms.
325 Wittenberg stated the fence at the property line is clearly brand new. Ms. Broadhurst stated it did exist
326 and she removed wood post. Ms. Wittenberg stated the Commission is not concerned with what had
327 happen on the property historically, it is what is occurring now.

328
329 Joanne Ward made a motion to continue the hearing to September 14, 2023 at 8:00pm. Don Ritchie
330 seconded the motion. The vote was unanimously in favor of the motion by a roll call, Don Ritchie, aye;
331 Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

332
333 With Mr. Marro stating he would not be available on September 14, 2023, Joanne Ward made a motion to
334 continue the hearing to October 5, 2023 at 7:00pm. Don Ritchie seconded the motion. The vote was
335 unanimously in favor of the motion by a roll call, Don Ritchie, aye; Jaye Waldron, aye; Joanne Ward, aye;
336 Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

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338 Respectfully submitted,

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341 Liz Allard,
342 Conservation Agent

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Harvard Conservation Commission
Request for Determination of Applicability Hearing Meeting Minutes
Girl Scouts of Central & Western Massachusetts,
69 Still River Road, Harvard#0823-05
September 7, 2023

The public hearing was opened at 8:43pm 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), Suzanne Smiley (Girl Scouts of Central & Western Massachusetts) and Carolyn Porter (Girl Scouts of Central & Western Massachusetts),

This hearing is for a Request for Determination of Applicability filed on behalf of Girl Scouts of Central & Western Massachusetts for the installation six-tiered seating and improvements to existing amphitheater within 200' of Bare Hill Pond at 69 Still River Road, Harvard

Suzanne Smiley and Carolyn Porter, from the Girl Scouts of Central & Western Massachusetts, were present. Ms. Porter stated the area falls within the 100' wetland buffer zone to Bare Hill Pond. Ms. Smiley stated the existing benches and camp fire area that is not safe, with a plan to replace what is there. Ms. Porter detailed the existing area using a hand drawn plan and then showed photo. The plan proposes tiered seating that would create the ability to gather in groups. The request is for four tiers and not six, as shown on the plan. To limit disturbance, work will be done around the existing concrete stair, with no trees to be removed or ledge to be chipped; may need to remove surface vegetation to find ledge. New step will be hand dug and there will be no digging for the gravel area.

Jim Burns stated this appears to be minimal work with no impact to the wetland resource area. Don Ritchie agreed and stated this will be an upgrade to what is already there. Mark Shaw stated it will be nice to have new infrastructure to the camp that is not a huge improvement. Jessie Panek stated the improvements will enhance the feel there.

Don Ritchie made a motion to close this hearing and issue a Negative#3 Determination of Applicability. 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,

Liz Allard,
Conservation Agent

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**Harvard Conservation Commission
Notice of Intent Hearing Meeting Minutes
Abbreviated Notices of Intent Hearing
Harvard Conservation Commission,
Mass Ave (Map 23 Parcel 35) and Stow Road (Map 32 Parcel 55)
Harvard#0823-01 & 02
September 7, 2023**

433 The public hearing was opened at 8:59pm by Chair Eve Wittenberg under MGL Chapter 131 §40 Wetland
434 Protection Act and the Code of the Town of Harvard Chapter 119 Wetland Protection Bylaw virtually,
435 pursuant to Chapter 2 of the Acts of 2023, An Act Relative to Extending Certain COVID-19 Measures
436 Adopted during the State of Emergency, and signed into law on March 29, 2023.
437

438 **Members Present:** Eve Wittenberg, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw, Jessie Panek and
439 John Lee (Associate Member)
440

441 **Others Present:** Liz Allard (Conservation Agent) and Wendy Sisson (Land Stewardship Subcommittee)
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443 This hearing was continued from August 17, 2023 for two Abbreviated Notices of Intent filed by the
444 Harvard Conservation Commission for the management of invasive plant species within wetland resource
445 areas and their associated buffer zone on Mass Ave (Map 23 Parcel 35) and Stow Road (Map 32 Parcel
446 55), Harvard
447

448 With no Department of Environmental Protection File Number, Eve Wittenberg made a motion to
449 continue the hearing to September 14, 2023 at 8:00pm. Don Ritchie seconded the motion. The vote was
450 unanimously in favor of the motion by a roll call, Don Ritchie, aye; Jaye Waldron, aye; Joanne Ward, aye;
451 Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.
452

453 Respectfully submitted,
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456 Liz Allard,
457 Conservation Agent