

**HARVARD CONSERVATION COMMISSION
MINUTES OF MEETING
OCTOBER 20, 2022
APPROVED: FEBRUARY 16, 2023**

Chair Don Ritchie called the meeting to order at 7:01pm, virtually, pursuant to Chapter 107 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on July 16, 2022, under MGL Chapter 131 §40 Wetland Protection Act and Code of the Town of Harvard Chapter 119 Wetland Protection Bylaw

Members Present: Don Ritchie, Eve Wittenberg, Paul Willard, Jaye Waldron, Joanne Ward, Jim Burns and John Iacomini (Associate Member)

Others Present: Liz Allard (Land Use Boards Administrator/Conservation Agent), Ben Urquhart (Deer Management Subcommittee), Dan Tracey, Mannie Lando, Bob Douglas (Deer Management Subcommittee), Jamie Geothlich, Dan Wolfe (Ross Associates) and Dan Van Schalkwyk (Ayer Department of Public Works Director)

Deer Management Subcommittee Presentation of the Massachusetts Camera Study

Jamie Geothlich, a graduate student from Wisconsin, stated he is part of a study on Managing Suburban Wildlife, in New York and Massachusetts. This interdisciplinary team is working together on the dynamics of wildlife. Within Massachusetts suburban, as well as less suburban, areas are being studied. The focus areas of the study include deer populations, vegetation communities and town perspective. This three-year project started in 2021 and runs through 2024. For the town perspective the study is looking at understanding different concerns of deer in a community. The areas being studied are very diverse and create a sampling design. Motion activated cameras, along with vegetation surveys at each camera assists with assessing impacts on vegetation. Access to private lands is harder to obtain than that of public lands. The output from this research would provide the Town with data from the findings, which would assist with decision making. Mr. Geothlich stated he would only be able to provide the data; he is unable to provide goals or predict what could happen if deer management is not taken into consideration.

Don Ritchie asked how many cameras are needed. Mr. Geothlich stated he has a few available cameras; although he is unable to assist with the on-the-ground items, he could assist in assessing locations and setting up a study area. Eve Wittenberg asked what is the output of the research study. Mr. Geothlich stated the results may assist in estimating deer density; recommended if there is a specific issue Harvard wants to address then that would be the focus of the study as opposed the determining the density of deer. Ms. Wittenberg suggested the output would be the damage to the understory in Harvard forests.

Bob Douglas, chair of the Deer Management Subcommittee (DMS), stated the DMS was looking at the number of deer in the forest. The ability to survey private land, along with public lands, would provide good estimates of the entire Town. Mr. Douglas stated he likes this study and has looked into the ability to place camera on private lands. Dan Tracey asked how you know you are not seeing the same deer. Mr. Geothlich stated there are a few different methods; the Jacobson method identifies bucks by their antlers, which are unique to each buck; others methods use math to determine population counts.

The Commission determined additional information would be necessary in order to make a determination as whether or not this study is right for Harvard. A proposal of costs, outreach of private properties owners and location of the cameras was requested from the DMS.

Request for Determination of Applicability Hearing - Paul Cavicchio, 39 Turner Lane, Harvard#1022-01.
Opened at 7:34pm

Discuss the Care & Maintenance of the Shaker Herb House, Shaker Road with Historical Commission

Mannie Lando stated the Harvard Historical Commission (HHC) had tried several times to raise funds to preserve the Shaker Herb House on Shaker Road. With continued failures to do so the HHC thought it was time to turn the matter over to Select Board and allow them to determine what could be done with the building. The Town Administrator has stated that it is Conservation Commission who has the authority over this building. Liz Allard corrected Mr. Lando, stating in an October 6th email from the Town Administrator, Tim Bragan, he states "the land is Conservation's, but further states the Historic Commission has always been the one to care for and champion the historic relics such as the Herb House, the Shaker Cemetery, and the Powder House". Mr. Bragan further stated "The main purpose for your Commission is to protect the character of the Historic Districts and you are responsible for community-wide historic preservation planning". Mr. Lando stated HHC is waiting for a response to their original letter to the Select Board on this matter. Jim Burns asked what the desire is of those in Shaker Village. Mr. Lando thinks he some would like to see it go away. Mr. Burns asked if the building has been a source of trouble over the years or has it just been sitting there? Mr. Lando stated there have been no issues.

Request for Determination of Applicability Hearing - Town of Harvard, West Main Street, Harvard, between the Ayer and Shirley town lines, Harvard#1022-02. Opened at 7:49pm**Approve Minutes**

This item was passed over this evening

Approve Invoices

There no invoices for approval this evening

Proposal for 400 Beaver Brook, Boxborough (former Cisco property)

Joanne provided an overview of some bylaw amendments being proposed for the Town of Boxborough. Ms. Ward suggested if members of the Commission know anyone in Boxborough they should encourage them to vote for the proposed bylaws.

Continuation of a Notice of Intent Hearing – John Iacomini, 310 Ayer Road, Harvard#0922-05. Opened at 8:00pm**Ayer Road Meadow Access Improvements**

There was no update on this item this evening.

Pine Hill Village Update

Liz Allard noted there has been a lack of including the invasive work in the weekly report from the developer; she has reached out to him to remind him that all work on the site should be included within the weekly report.

Adjournment

Paul Willard made a motion to adjourn the meeting at 8:45pm. Jim Burns seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Jaye Waldron, aye; Joanne Ward, aye; Paul Willard, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard,
Land Use Administrator/
Conservation Agent

EXHIBITS & OTHER DOCUMENTS

- Conservation Commission Agenda, dated October 20, 2022
- Sewage Disposal System Holding Tank Paul Cavicchio 39 Turner Lane Harvard, MA, Job No.: 34066, Plan No.:L-14582, prepared David E. Ross Associates, Inc., 10/3/2022
- Site Plan John Iacomini #310 Ayer Road Harvard, MA, Job No.: 32614, Plan No.: L-14610, prepared David E. Ross Associates, Inc., September 2022

**Harvard Conservation Commission
Request for Determination of Applicability Hearing
Paul Cavicchio, 39 Turner Lane, Harvard#1022-01
October 6, 2022**

The public hearing was opened at 7:34pm by Chair Don Ritchie under MGL Chapter 131 §40 Wetland Protection Act and the Code of the Town of Harvard Chapter 119 Wetland Protection Bylaw virtually, pursuant to Chapter 107 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on July 16, 2022.

Members Present: Don Ritchie, Eve Wittenberg, Paul Willard, Jaye Waldron, Joanne Ward, Jim Burns and John Iacomini (Associate Member)

Others Present: Liz Allard (Land Use Administrator/Conservation Agent) and Dan Wolfe (Ross Associates, Inc.)

This hearing is for a Request for Determination of Applicability filed on behalf of Paul Cavicchio for the installation of a sewage disposal system holding tank within the 200' of Bare Hill Pond at 37 Turner Lane, Harvard.

Dan Wolfe, of Ross Associates, stated the application before the Commission is for the replacement of an old system that may be a cess pool. The proposed holding tank will be as far as possible from Bare Hill Pond, while maintaining other regulatory offsets. A well is proposed on the parcel across the roadway. All work will be outside of the 75' wetland buffer zone. An erosion control barrier has been proposed around the existing house to encompass the area of work.

Jim Burns made a motion to close the hearing and issue a Negative #3 Determination of Applicability with the condition that the erosion control barrier is to be inspected by the Conservation Agent or a member of the Commission prior to activity commencing. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Jaye Waldron, aye; Joanne Ward, aye; Paul Willard, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard,
Land Use Administrator/
Conservation Agent

**Harvard Conservation Commission
Request for Determination of Applicability Hearing
Town of Harvard, West Main Street, Harvard, between the Ayer and Shirley town lines
Harvard#1022-02
October 17, 2022**

The public hearing was opened at 7:49pm by Chair Don Ritchie under MGL Chapter 131 §40 Wetland Protection Act and the Code of the Town of Harvard Chapter 119 Wetland Protection Bylaw virtually, pursuant to Chapter 107 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on July 16, 2022.

Members Present: Don Ritchie, Eve Wittenberg, Paul Willard, Jaye Waldron, Joanne Ward, Jim Burns and John Iacomini (Associate Member)

Others Present: Liz Allard (Land Use Administrator/Conservation Agent) and Dan Van Schalkwyk (Ayer Department of Public Works Director)

This hearing is for a Request for Determination of Applicability filed on behalf of the Town of Harvard for the replacement of an existing sidewalk within the 100' wetland buffer zone on West Main Street, between the Ayer and Shirley town lines, Harvard.

Dan Van Schalkwyk, Ayer Department of Public Works Director, stated the proposed work will take place along West Main Street in Ayer, with a small section (the bridge over the Nashua River) being within the Town of Harvard. The Town of Ayer is managing this project as part of improvements along West Main Street. The existing sidewalk, that is in need of repair, will be replaced with a Shared Use Path that will connect with the Shared Use Path in Shirley. All work is being paid for by MassDevelopment. Straw wattles on the slope to the Nashua River, along with silt sacks in the existing catch basins, will be utilized to control erosion.

Jim Burns made a motion to close the hearing and issue a Negative #3 Determination of Applicability with the condition that the erosion control barrier is to be inspected by the Conservation Agent or a member of the Commission prior to activity commencing. Eve Wittenberg seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Jaye Waldron, aye; Joanne Ward, aye; Paul Willard, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard,
Land Use Administrator/
Conservation Agent

**Harvard Conservation Commission
Continuation of a Notice of Intent Hearing
John Iacomini, 310 Ayer Road, Harvard#0922-05
October 20, 2022**

The public hearing was opened at 8:00pm Chair Don Ritchie under MGL Chapter 131 §40 Wetland Protection Act and the Code of the Town of Harvard Chapter 119 Wetland Protection Bylaw virtually, pursuant to Chapter 107 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on July 16, 2022.

Members Present: Don Ritchie, Eve Wittenberg, Paul Willard, Jaye Waldron, Joanne Ward and Jim Burns

Others Present: Liz Allard (Land Use Administrator/Conservation Agent), Dan Wolfe (Ross Associates) and John Iacomini

This hearing was continued from October 6, 2022 for a Notice of Intent filed on behalf of John Iacomini for the construction of an in-ground swimming pool and patio area, surrounded by a security fence within the 100' wetland buffer zone to a wetland resource area 310 Ayer Road, Harvard

Dan Wolfe, of Ross Associates, stated an issue at last meeting of a number of the members that had not seen the site, so an additional site walk was conducted. Mr. Wolfe stated the proposed pool is within an area that was previously disturbed. Mr. Wolfe reviewed the other suggested areas for locating the pool and why they are not optimal. Jaye Waldron stated her comments from the previous meeting remain the same; suggesting the 50' buffer zone be allowed to return to its natural state by eliminating mowing in that zone. Ms. Waldron is concerned as coming across as arbitrary in allowing structures within the 75'. Eve Wittenberg understands there are limitations on the property, but there needs to be a compelling reason for issuing a waiver to a regulation. Ms. Wittenberg stated the Commission just had an application before them with some similar aspects in which the Commission did not desire to issue a waiver. Ms. Wittenberg does not see a compelling reason to issuing waiver. Paul Willard stated his comments would be the same for any waiver and with alternatives on the site he would not be in favor of a waiver.

Mr. Wolfe reviewed the language with §147-2B of the Wetland Protection Bylaw Regulations; he does not see a pool and patio impacts as enumerated under this section. Mr. Wolfe feels this affords his client a waiver to §147-12 Setbacks, as requested. John Iacomini stated the encroachment within the setback area is in an area of fill that was recently approved by this Commission to be re-graded. Don Ritchie felt a pool area is a much different impact then a lawn area. Ms. Waldron noted she abstained from voting on the previous application. Mr. Ritchie asked if the impacts to the 50' wetland buffer zone could be removed. Mr. Iacomini stated the patio area could be shifted outside the 50' wetland buffer zone. Mr. Iacomini asked what impacts would there be to the wetlands? Paul Willard objected to it being suggested that harm will or will not result from this. For Mr. Willard it is just a question of the rules. Mr. Iacomini wondered why the Commission would accept an application and the associated fees if it has hard and fast rules. Mr. Willard reiterated it's about the ability to look at the alternative locations for the pool. Jim Burns and Joanne Ward agreed with Mr. Willard pertaining to exploring the alternative locations.

After briefly discussing not wanting to cause undue cost to an applicant, the ability to continue the hearing and perhaps moving the pool closer to the house, Eve Wittenberg made a motion to deny the requested waiver to allow for the pool within 75' of a wetland resource area. Joanne Ward seconded the motion. The vote was 4 in favor and 2 abstained of the motion by roll call vote, Jim Burns, aye; Jaye Waldron, abstained; Joanne Ward, aye; Paul Willard, aye; Eve Wittenberg, aye; and Don Ritchie; abstained.

With the suggestion of exploring alternative locations for the pool, a Department of Environmental Protection File Number not yet received and permission of the applicant, Joanne Ward made a motion to continue the hearing to November 17, 2022 at 7:30pm. Jim Burns seconded the motion. The vote was 4 in favor and 2 abstained of the motion by a roll call, Jim Burns, aye; Jaye Waldron, abstained; Joanne Ward, aye; Paul Willard, aye; Eve Wittenberg, aye; and Don Ritchie; abstained.

Respectfully submitted,

Liz Allard,
Land Use Administrator/
Conservation Agent