

**HARVARD CONSERVATION COMMISSION
MINUTES OF MEETING
APRIL 20, 2023
APPROVED: JULY 6, 2023**

Chair Don Ritchie called the meeting to order at 7:00pm, 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: Don Ritchie, Eve Wittenberg, Jaye Waldron, Jim Burns (arrived at 7:09pm), Mark Shaw, and John Iacomini (Associate Member)

Others Present: Liz Allard (Conservation Agent), Kelsey Nickerson, Peter Dallaire, Dan Wolfe (Ross Associates), Marty Green (Harvard Press), Walter Ericson, Maureen Herald (Norse Environmental Services, Inc.), Marty Feehan, Bruce Ringwall (GPR, Inc.), Don Osmer, Bob Douglas (Deer Management Subcommittee), Megan Crawford, Tom Cotton (Deer Management Subcommittee) and Wendy Sisson (Land Stewardship Subcommittee)

Open Space Committee – Littleton County Road Land Protection Project Update

Peter Dorward stated with Town Meeting next week he has created a flyer detailing the funding necessary to protect the above-mentioned property as open space. Mr. Dorward is hoping the Commission would be willing to pay for the flyers at cost of \$157.23. Joanne Ward made a motion to allocate \$157.23 from the Conservation fund for the previously mentioned flyers. Eve Wittenberg seconded the motion. The vote was unanimously in favor of the motion by a roll call, Mark Shaw, aye; Jaye Waldron, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Mr. Dorward detailed the current timeframe for completing the above-mentioned project should an MVP grant be provided by the State. Although the timeframe will be tight, Mr. Dorward is confident all required steps in the process can be achieved. Mr. Dorward had provided a draft letter of support from the Conservation Commission for the MVP grant. Jaye Waldron made a motion to approve the letter for the Open Space Committee for an MVP grant as part of protection the Littleton County Road land. Joanne Ward second the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Mark Shaw, aye; Jaye Waldron, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Mr. Dorward provided an update on the recommended reconfigure the Open Space Committee (OSC) from a nine-member to a five-member committee, as it has been difficult to obtain a quorum for meetings. Mr. Dorward feels this would be an improvement, however he would still like to see passive & active open space separated out. The recommendation still is being vetted by the current OSC before being brought to the Select Board.

Climate Initiative Committee Request for Support Letter for MVP Grant

Jaye Waldron made a motion to approve the support letter for the Climate Initiative Committee for an MVP grant. Eve Wittenberg seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Mark Shaw, aye; Jaye Waldron, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Select Board Annual Appointment Recommendations – Janet Waldron, Jim Burns, Mark Shaw and John Iacomini

Don Ritchie noted that all members of the Commission are required to take the new State ethic training regardless of status of previous completion of the training. When asked by Mr. Ritchie, Jaye Waldron, Mark Shaw and Jim Burns all stated they are interested in being re-appointed to the Commission. When asked by Mr. Ritchie if he was interested in being appointed to another term as the associate member,

John Iacomini stated he did not want to stay on as a non-voting member. Mr. Ritchie explained that there are no open seats currently, therefore he would remain as the associate. Mr. Iacomini stated he would think about it. Mr. Ritchie asked that he let Julie Doucet in the Select Board office know; however, Liz Allard reminded Mr. Ritchie the item for this evening was to allow the Commission an opportunity to provide recommendation to the Select Board. With that said, Mr. Iacomini stated he would let Ms. Allard know his intention the next day. Recommendations will be made at the May 4th meeting.

Zoning Board of Appeals (ZBA) Request for Comments – 133 Clinton Shore Drive; 7 Peninsula Road; 200 Still River Road

The Commission had no comment on the application for 200 Still River Road. An Order of Conditions had been issued for 7 Peninsula Road; with an Order potentially being issued this evening for 133 Clinton Shore Drive. The Commission will request a reference to those Orders be made within the ZBA decision.

Planning Board Request for Comments - 131 Brown Road

The Commission had no comments.

Approve Minutes

Jim Burns made a motion to approve the minutes of January 5, 2023 as amended. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Mark Shaw, aye; Jaye Waldron, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Approve Invoices

There were no invoices for approval this evening.

Review Amendments of the Memorandum of Understanding for Ann Lees Field with Parks & Recreation Commission

This item was on the agenda in error – no action taken.

Update on Enforcement Order – 320 Ayer Road

Liz Allard had spoken with the Licensed Site Professional (LSP) to clarify the intent for the review of the site under the Enforcement Order (EO). Ms. Allard has reached out to the property owner to determine if they are willing to share the wetland delineation recently completed by LEC. Upon inspection of the site today Ms. Allard found pallets being burned in a barrel, the removal of material from the site, and a new trailer with pallets within the buffer zones on the site. Eve Wittenberg and John Iacomini were under the impression that the EO required that no material was to be removed or brought onto the site. Ms. Wittenberg stated at the previous meeting fines were not imposed, but clearly articulated. Don Ritchie asked if there was any formal written notice of the fines; there was not. Ms. Wittenberg recapped the previous meeting with Chestnut Tree & Landscape for those who were not present. Mark Shaw stated he visited the site recently with Grant McClean, owner of Chestnut Tree & Landscape. Mr. Shaw stated Mr. McClean is trying to fix the wrong doings on the site, but he is also trying to run a business. Mr. Shaw feels the Commission is being too harsh on small business in Town, but does not disagree the site is a mess. Jaye Waldron stated if the conditions of the EO could not be achieved then they should not agree to them. Ms. Wittenberg asked if Mr. Shaw's visit to the site was an official visit of the Commission, to which Mr. Shaw stated no.

The members began to discuss the proper path to take as there are two things happening here – the non-compliance of the EO and the requirement to obtain a LSP within 30-days. With a hearing to open, the Commission agreed to pause this discussion until later in the evening.

Continuation of an Abbreviated Notice of Resource Area Delineation Hearing - Juno Development corner of Old Mill and Ayer Roads (Map 4 Parcels 52, 52.1, 52.2, 53), Harvard#0323-01. Opened at 7:43pm.

Notice of Intent Hearing – Maxwell Bridges, 43 Brown Road, Harvard#0323-03. Opened at 7:50pm

Update on Enforcement Order – 320 Ayer Road, continued

After briefly discussing further Jim Burns suggested Don Ritchie speak with Grant McClean to clarify what was required under the EO within 30-days and the removal or addition of material, along with the potential for the Commission to impose fines as outlined within the Wetland Protection Act and the Wetland Protection Bylaw. This information shall be provided in writing as well to Mr. McClean.

Notice of Intent Hearing – Kelsey Nickerson, 133 Clinton Shore Drive, DEP#177-722 Harvard#0323-04.
Open at 8:00pm

Draft Impact Report (DEIR) for Proposed Research/Industrial Park at 1414 Massachusetts Avenue, Boxborough

Joanne Ward stated she has reviewed the proposal, which appears to be worse than the previous proposal for the site. The proposed plan increases the amount of impervious surface and reduces the number of buildings, but increases the footprint of existing buildings. Ms. Ward is working on a letter from the Commission, which she will have ready for approval at the May 4th meeting.

Pine Hill Village Status Update

Liz Allard was on site yesterday for the bi-annual water sampling. Ms. Allard stated Nitsch Engineering has provided final comments to their February 16, 2023 review letter pertaining to the issuance of the Certificates of Occupancy (CO) for Phase 2. There are still a number of outstanding items in order for the ZBA to issue COs, which should be achievable by the ZBA meeting on May 10th; none of the outstanding items are Conservation related. Ms. Allard also needs to circle back on the invasive plants as discussed at the previous meeting.

Circling back to: Select Board Annual Appointment Recommendations – Janet Waldron, Jim Burns, Mark Shaw and John Iacomini

Liz Allard explained to John Iacomini that under M.G.L. c.40 Section 8c the voting members of a commission cannot be less than three members and not more than seven; therefore, the number of voting members cannot be increased by the Town of Harvard.

Continuation of a Notice of Intent Hearing – Yvonne Chern, 203 Ayer Road, DEP#177-711, Harvard#0322-01. Opened at 8:30pm.

Deer Management Subcommittee 2022 Season Report

Bob Douglas, chair of the Deer Management Subcommittee, stated he, Tom Cotton from DMS and the DMS Scout, Don Osmer, were also present. Also, in attendance this evening is Martin Feehan, the State Biologist. Mr. Douglas stated the report is to share a few observations on the Deer Management Program and hunting activities for the past year. Mr. Douglas and Mr. Osmer read from the report, which can be read in its entirety [here](#). Mr. Douglas thanked everyone involved with the trespass activity in November and the DMS is very grateful for the quick response.

Liz Allard suggested reviewing the timing of certain action items, such as addition of new hunting areas, qualification of hunters and scouting of assigned locations, as it seems to be a very tight timeframe each year. Wendy Sisson, chair of the Land Stewardship Subcommittee (LSS), stated she is happy the assignment of lands is working out so well and likes the idea of hunters being assigned to one place. Ms. Sisson stated it has taken almost no work on the part of LSS other than posting signs. LSS will think about other parcels, but has no suggestions today. Ms. Sisson stated one long-term suggestion would be to contact private property land owners who abut conservation land who may agree to a reduced setback. Don Ritchie asked if the State would have to approve that. Martin Feehan stated with bow hunting if you have permission from the homeowner you could expand the areas that are accessible. Eve Wittenberg stated an article at Town meeting addresses hunting on private property so it may be premature to

discuss this matter. However, collectively a conversation about information storage and collection, and communication between the Commission, the DMS and the Town will be on an upcoming agenda of the Commission.

Mr. Ritchie thanked Mr. Douglas and the DMS for their efforts this season; with a good point made pertaining to the program assisting in the movement of deer around Town. Dan Tracey asked about the movement of deer as a result of the program and could it also work in reverse and therefore expect an increase harvest on conservation land. Dr. Feehan stated the only change over the past three years is the increase in hunters and lands being hunted in Harvard; an increase in deer harvested has tripled since the establishment of the program. In absence of this program, you could see the trends remain similar to those around the State. Dr. Feehan expressed his confidence that the program is having an impact on the deer population in Harvard.

Adjournment

Jim Burns made a motion to adjourn the meeting at 9:08pm. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Mark Shaw, aye; Jaye Waldron, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard,
Conservation Agent

EXHIBITS & OTHER DOCUMENTS

- Conservation Commission Agenda, dated April 20, 2023
- Littleton County Road Land Protection Project Flyer, 4/18/23
- Abbreviated Notice of resource Area Delineation Existing Conditions Plan Old Mill Road Harvard, MA prepared for Walter Eriksen, JOB 211140, prepared by GRP, Inc., 4/18/23
- Sewage Disposal System Maxwell D. Bridges #43 Brown Road Harvard, MA, Job No.: 34226, Plan No.: L-14639, prepared by David E. Ross Associates, Inc., February, 2023, 3/28/23
- Site Plan Kelsey Nickerson #133 Clinton Shore Drive Harvard, MA, Job No.: 34130, Plan No.: L-14641, prepared by David E. Ross Associates, Inc., February, 2023
- Commercial Development 203 Ayer Road Harvard, MA L-1.01 Planting Plan, prepared by Fisher Design Group, March 1, 2023

Harvard Conservation Commission
Continuation of an Abbreviated Notice of Resource Area Delineation Meeting Minutes
Juno Development, corner of Old Mill and Ayer Roads
(Map 4 Parcels 52, 52.1, 52.2, 53), Harvard#0323-01.
April 20, 2023

The public hearing was opened at 7:43pm 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 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: Don Ritchie, Eve Wittenberg, Jaye Waldron, Jim Burns, Mark Shaw, and John Iacomini (Associate Member)

Others Present: Liz Allard (Conservation Agent), Walter Ericson and Maureen Herald (Norse Environmental Services, Inc.)

This hearing was continued from March 16, 2023 for an Abbreviated Notice of Resource Area Delineation filed on behalf of Juno Development, for the confirmation of the delineation of a Bordering Vegetated Wetland and the Mean Annual High Water of Bower's Brook at corner of Old Mill and Ayer Roads (Map 4 Parcels 52, 52.1, 52.2, 53), Harvard

Maureen Herald, Norse Environmental Service, stated at a recent review of the wetland delineation by the Commission added one flag to the plan. Ms. Herald has also added the Bordering Land Subject to Flooding and the Floodplain as requested by the Department of Environmental Protection. Ms. Herald stated the only delay currently is the final plan as not yet been signed and stamped by the engineer.

After a brief discussion, Joanne Ward made a motion to close the hearing and issue an Order of Resource Area Delineation pending the receipt of a signed and stamped plan. Mark Shaw seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Mark Shaw, aye; Jaye Waldron, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard,
Conservation Agent

**Harvard Conservation Commission
Notice of Intent Hearing Meeting Minutes
Maxwell Bridges, 43 Brown Road, Harvard#0323-03,
April 20, 2023**

The public hearing was opened at 8:00pm 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 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: Don Ritchie, Eve Wittenberg, Jaye Waldron, Jim Burns, Mark Shaw, and John Iacomini (Associate Member)

Others Present: Liz Allard (Conservation Agent) and Dan Wolfe (Ross Associates)

This hearing is for a Notice of Intent filed on behalf of Maxwell Bridges for upgrade of a sewage disposal system for an existing, single-family home within the 100' buffer zone 43 Brown Road, Harvard

Dan Wolfe, of Ross Associates, stated the existing septic system is in failure for a single-family home. Mr. Wolfe explained the plan, noting test holes had been conducted in a small area between the 100' wetland buffer zone and well radius, but was unsuccessful, therefore additional test holes were conducted, which resulted in a location closer to the wetland, but maintains the 50' no disturb zone. Mr. Wolfe added an access way to the area may need to be widened but is outside the 100' wetland buffer zone.

With no questions from the Commission and no Department of Environmental Protection file number Eve Wittenberg made a motion to continue the hearing to May 4, 2023 at 7:25pm. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Mark Shaw, aye; Jaye Waldron, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard,
Conservation Agent

**Harvard Conservation Commission
Notice of Intent Hearing Meeting Minutes
Kelsey Nickerson, 133 Clinton Shore Drive,
DEP#177-722 Harvard#0323-04
April 20, 2023**

The public hearing was opened at 8:00pm 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 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: Don Ritchie, Eve Wittenberg, Jaye Waldron, Jim Burns (7:09pm), Mark Shaw, and John Iacomini (Associate Member)

Others Present: Liz Allard (Conservation Agent), Kelsey Nickerson, and Dan Wolfe (Ross Associates)

This hearing is for a Notice of Intent filed on behalf of Kelsey Nickerson, for two small additions to an existing single-family home, water proofing, drainage improvements to the existing foundation, reconstruction of the existing deck and Sono tube supports, reconstruction of a small timber retaining wall, installation of a mechanical lift along a new walkway, construction of a detached garage and the extension of the existing driveway within 200' of Bare Hill Pond at 133 Clinton Shore Drive, Harvard

Dan Wolfe, of Ross Associates, detailed the additions to the house, which includes an overhang at the entrance and an improved interior stairway for safety. The addition for the stairs will require the existing deck be pushed out to maintain its existing dimensions. This activity will require new Sono tubes should helix-screws not work due to ledge. A footing drain to a dry well is proposed to capture roof runoff. The existing walkway will be re-built with earthen materials, along with a mechanical lift; a footing system will be necessary in which helix-screws will be attempted to be installed. A new garage is proposed as well, which will have recharge trenches on either side, along with the driveway itself being pitched toward a stone recharge trench to a dry well. Mr. Wolfe detailed the requested waivers to the 50' no disturbed area and the 75' no structures setbacks under Chapter 147-12 of the Wetland Protection Bylaw.

Joanne Ward made a motion to issue a waiver to the 50' no disturb zone in which there shall be undisturbed natural vegetation. Mark Shaw seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Mark Shaw, aye; Jaye Waldron, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Jim Burns made a motion to issue a waiver to the 75' no Driveways, roadways, structures. Joanne Ward seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Mark Shaw, aye; Jaye Waldron, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Jim Burns motion to close the hearing and issue an Order of Conditions with standard conditions. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Mark Shaw, aye; Jaye Waldron, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard,
Conservation Agent

**Harvard Conservation Commission
Continuation of a Notice of Intent Hearing
Yvonne Chern, 203 Ayer Road, DEP#177-711, Harvard#0322-01
April 20, 2023**

The public hearing was opened at 8:30pm 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 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: Don Ritchie, Eve Wittenberg, Jaye Waldron, Jim Burns, Mark Shaw, and John Iacomini (Associate Member)

Others Present: Liz Allard (Conservation Agent) and Bruce Ringwall (GPR, Inc.)

This hearing was continued from April 6, 2023 for a Notice of Intent filed on behalf of Yvonne Chern for the construction of commercial structures with associated parking, grading and drainage within the 100' wetland buffer zone at 203 Ayer Road, Harvard

Bruce Ringwall, of GPR, Inc., explained he is in the process of submitting additional material to Beals and Thomas, the peer consultant for this application and the application before the Planning Board. Mr. Ringwall detailed revisions made to the plan explaining additional plantings have been added to the redefined wetland restoration area. In addition, a previous lawn area has been changed to a meadow grass reducing the lawn area on the site in favor of natural grasses. Mr. Ringwall expects to be able to provide a full update and move toward the issuance of an Order of Conditions at the next meeting of the Commission.

Jaye Waldron made a motion to continue the hearing to May 4, 2023 at 7:45pm. Jim Burns seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Mark Shaw, aye; Jaye Waldron, aye; Joanne Ward, aye; Eve Wittenberg, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard,
Conservation Agent