

**HARVARD CONSERVATION COMMISSION
MINUTES OF MEETING
APRIL 18, 2024
APPROVED: MAY 2, 2024**

Chair Eve Wittenberg called the meeting to order at 7:04pm, 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, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw, and Jessie Panek

Others Present: Liz Allard (Conservation Agent), Dan Wolfe (Ross Associates, Inc.), Gerry Gaw, Bob O'Shea (Harbor Master), Matt Marro, Anne McWaters (Recreation Director), John Cushing, Bruce Leicher (BHPWMC), and Joe Pettirossi (BHPWMC)

Continuation of a Notice of Intent Hearing – Gerald & Carole Gaw, 4 Wilroy Avenue, Harvard#0324-03. Opened 7:05pm.

Continuation of a Notice of Intent Hearing – John Cushing & Kristyna Reisberg – 10 Houghton Lane, Harvard#0324-04. Opened at 7:58pm.

Continuation of Notice of Intent Hearing – Bare Hill Pond Watershed Management Committee – Bare Hill Pond, 31 Pond Road, Harvard#0324-05. Opened at 8:17pm.

Continuation of Notice of Intent Hearing – Yellow Boots Property Trust – 351 Ayer Road, DEP#177-746, Harvard#0324-06. Opened at 8:21pm.

Continuation of Notice of Intent Hearing – Joseph Portuando –19 Warren Avenue, Harvard#0324-08. Opened at 8:40pm.

Continuation of Notice of Intent Hearing – Harvard Parks & Recreation – 31 Pond Road, DEP#177-745, Harvard#0324-02. Opened at 8:44pm.

Deer Management Hunter's Log, Annual Checklist and Policy & Procedures Revisions

Jessie Panek made suggestions on trimming down the Annual Checklist. Eve Wittenberg mentioned that the Checklist is to track and identify tasks, as well as remind everyone what needs to be done and why. With regards to Policy & Procedures, Ms. Wittenberg mentioned that equipment that has been purchased by the Deer Management Subcommittee (DMS) needs to be turned into the Town when not in use, specifically trail cameras, which cannot be accounted for. Ms. Panek stated she was unaware of this and will check with DMS regarding the whereabouts of the trail cameras. Liz Allard said she will make the changes to the policies and remove the Date of Birth requirement and change the mission statement once the document is set. There was also a discussion concerning removing some properties from the areas designated for hunting, with varying frequency. Ms. Wittenberg suggested the Commission consider removing some of the areas if the land was not conducive to hunting; although the frequency of hunting usually has to do with the personal situation and availability of individuals assigned to a parcel.

Act on Support & Comment Letter for the 2024 Open Space & Recreation Plan

As noted in the Conservation Agent report, a draft support and comment letter will be provided at the May 2nd meeting.

Updates from Representatives & Liaison

Community Preservation Committee (CPC) – John Lee was not present to give an update. Eve Wittenberg mentioned that the funds for the conservation fund were passed at Town Meeting.

Land Stewardship Subcommittee (LSS) – Jim Burns had no update to report.

Open Space Committee – An update on the draft 2024 Open Space & Recreation Plan was provided within the Conservation Agent's report.

Deer Management Subcommittee (DMS) – no further updates.

Harvard Climate Initiative Committee (HCIC) – Tree Bylaw is moving along. Ellen Leicher of the Climate Initiative Committee is in the process of gathering information from other communities that currently have a Tree Bylaw.

Wild & Scenic Grant - Eve Wittenberg gave an update on the Harvard Invasive Plant Program grant. . Mark Shaw will look into finding a Boy Scout who can make shelving for the Resource Library at Hildreth House as an Eagle Scout project.

Approve Minutes

Jim Burns made a motion to approve the minutes of November 2, 2023 and April 4, 2024 as amended. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by roll call: Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

Adjournment

Jim Burns made a motion to adjourn the meeting at 9:53pm. Jaye Waldron seconded the motion. By a show of hands, the vote was unanimously in favor of the motion.

Respectfully submitted,
Celia Jornet
Recording Secretary

EXHIBITS & OTHER DOCUMENTS

- Conservation Commission Agenda, dated April 18, 2024
- Revised Site Plan Gerry & Carole Gaw, 4 Wilroy Avenue, Plan L-14734, Job 34406, prepared by Ross Associates Inc., dated 4/18/2024
- Photos of 4 Wilroy Avenue undated
- John Cushing & Kristyna Reisberg, 10 Houghton Lane – Site Plan prepared by David E Ross Associates Inc., Plan M-6756, Job 34424, March 2024
- Yellow Boots Property Trust, 351 Ayer Road – Site Plan prepared by McCarty Engineering, Inc, Plan L-1, Job 350, April 16, 2024
- Revised Site Plan Joseph Portuondo, 19 Warren Avenue, Plan L-14724, Job 34420, prepared by Ross Associates Inc., dated 4/18/2024

**Harvard Conservation Commission
Notice of Intent Hearing Meeting Minutes
Gerald & Carole Gaw, 4 Wilroy Avenue, DEP#177-748, Harvard#0324-03,
April 18, 2024**

The public hearing was opened at 7:05pm 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, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw, and Jessie Panek

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

This hearing was continued from April 4, 2024 for a Notice of Intent for the demolition and reconstruction of a single-family home and attached garage within 200' of Bare Hill Pond at 4 Wilroy Avenue, Harvard.

Dan Wolfe, with Ross Associates, presented an update on 4 Wilroy Avenue. Mr. Wolfe explained the driveway will now be a permeable paver driveway instead of paved; and existing trees and the neighbor's septic field preclude the garage doors from being relocated away from the front of the property.

A discussion ensued regarding removal of trees as indicated on the site plan versus leaving most of the trees. Mark Shaw argued that removing the trees would allow younger growth in those areas to thrive, thus reducing the need for additional trees, outside of those on the site plan. Jessie Panek would like to revisit the site to see the types of newer trees that are currently growing on the sloped area.

Eve Wittenberg asked Mr. Wolfe to address the Department of Environmental Protection's (DEP) comments regarding the existing dock and the floodplain. Mr. Wolfe said in his opinion these are overbearing as the dock has been there for quite a long time and the property is well above the floodplain level. Liz Allard stated the DEP's comments need to be addressed before the next meeting.

Jim Burns made a motion to grant a waiver to Chapter 147-12 setbacks to no disturbance within 50'. 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, nay.

Mark Shaw made a motion to grant the waiver to the Chapter 147-12 setbacks to no structures within 75' no disturb area for a preexisting structure that is being replaced. Jim Burns 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.

Joanne Ward made a motion to continue the hearing at the next meeting May 2, 2024 at 7:05pm. Jaye Waldron 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,
Celia Jornet,
Recording Secretary

Harvard Conservation Commission
Continuation of a Notice of Intent Hearing Meeting Minutes
John Cushing & Kristyna Reisberg, 10 Houghton Lane, Harvard#0324-04,
April 18, 2024

The public hearing was opened at 7:58pm 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, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw, and Jessie Panek

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

This hearing was continued from April 4, 2024 for a Notice of Intent for the construction of a pervious paver walkway and patio within the 100' wetland buffer zone at 10 Houghton Lane, Harvard.

Dan Wolfe, with Ross Associates, gave an update of the discussion at the last meeting regarding the homeowners request to install a deck versus a paver patio. Liz Allard stated the requested patio area is so close to the wetland that she is concerned it would have an adverse effect on the wetland. Jaye Waldron expressed that the lawn already goes up to the wetland flags and feels it is bad to encourage more use of that area by putting in a patio, and instead the area should go back to its natural state. Eve Wittenberg stated that since there is no general consensus on the waiver and no Department of Environmental Protection (DEP) number has been issued, it is best to move on and continue the hearing at the next meeting.

Mr. Wolfe stated that currently, due to the slope of the back yard, the safest area to walk around the back of the house is through the wetland. Putting in a paver patio or wood deck would contain people in that area away from the wetland as well as provide a safe and stable area for anyone doing work on the back of the house to walk on. Jim Burns said this house is a unique situation with its proximity to the wetland and he believes the Commission shouldn't be telling people where they can and cannot walk on their own property. Ms. Wittenberg said the application before the Commission is for the building of a patio within the no disturb zone and not for where people can and can't walk on their property. Jessie Panek suggested that if the waiver is granted, we could issue a condition that part of the lawn near the wetland is removed and allow the area to revegetate to its natural state. Ms. Allard added that they could require additional plantings beyond the patio.

With no comments from the DEP and no file number issued, Jessie Panek made a motion to continue the hearing at the next meeting May 2, 2024 at 7:25 pm. Joanne Ward 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,
Celia Jornet,
Recording Secretary

**Harvard Conservation Commission
Continuation of a Notice of Intent Hearing Meeting Minutes
Bare Hill Pond Watershed Management Committee,
Bare Hill Pond, 31 Pond Rd, Harvard#0324-05,
April 18, 2024**

The public hearing was opened at 8:17pm 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, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw, and Jessie Panek

Others Present: Liz Allard (Conservation Agent), Bruce Leicher (BHPWMC), and Joe Pettirossi (BHPWMC)

This hearing was continued from April 4, 2024 for a Notice of Intent for diver assist suction hose removal of invasive fanwort and milfoil within the swim area, boat launch and moorings areas within a wetland resource area at 31 Pond Road, Harvard.

Bruce Leicher, chair of the Bare Hill Pond Watershed Management Committee (BHPWMC), stated he took the advice of Liz Allard and completed the stormwater management check list and had it certified by a certified Civil Engineer and submitted it to the Department of Environmental Protection (DEP). Mr. Leicher also announced that the BHPWMC received a grant from the Scenic Rivers council to fund a portion of the project.

With no comments from the DEP and no file number issued, Jessie Panek made a motion to continue the hearing at the next meeting May 2, 2024 at 7:45pm. Jim Burns 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,
Celia Jornet,
Recording Secretary

**Harvard Conservation Commission
Continuation of a Notice of Intent Hearing Meeting Minutes
Yellow Boots Property Trust, 351 Ayer Road, DEP#177-746, Harvard#0324-06,
April 18, 2024**

The public hearing was opened at 8:21pm 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, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw and Jessie Panek

Others Present: Liz Allard (Conservation Agent) and Matt Marro

This hearing was continued from April 4, 2024 for a Notice of Intent for the replacement of a septic line and 3,500 square feet of restoration in the form a rain garden within the 100' wetland buffer zone after enforcement at 351 Ayer Road, Harvard.

Matt Marro presented updates made to the site plan as requested by the Commission at the previous meeting. Mr. Marro also stated he has visited the work area several times a week and there is no work going on at the area. Mr. Marro also addressed the question from the last meeting regarding whether there currently is a tenant in the house. He stated there is no tenant, however the property owner does have someone say in the house one to two times a week to deter squatters.

Jessie Panek made a motion to allow the waiver under Chapter 147-12 setbacks to allow restoration within the 50' no disturb zone. Jaye Waldron 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.

Jessie Panek made a motion to close the hearing and issue an Order of Conditions to include the standard special conditions including: work shall be conducted on the site from west to east, starting with the installation of the septic system in order to not disturb the rain garden once constructed; all shall be completed no later than October 31, 2024; and the rain garden will be reviewed both Spring and Fall during a three year period, starting in Fall 2024, to ensure that the health of the vegetation is successful, and issue the Order for four years as opposed to the standard three years. Jaye Waldron 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,
Celia Jornet,
Recording Secretary

**Harvard Conservation Commission
Continuation of a Notice of Intent Hearing Meeting Minutes
Joseph Portuando, 19 Warren Avenue, Harvard#0324-08,
April 18, 2024**

The public hearing was opened at 8:40pm 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, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw and Jessie Panek

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

This hearing was continued from April 4, 2024 for a Notice of Intent for the cleanup and restoration of previous tree clearing, repair of existing pool/patio area, construction of a new patio, farmer's porch and side egress stairs, along with overall drainage improvements zone within the 100' wetland buffer zone at 19 Warren Avenue, Harvard.

With no comments from the Department of Environmental Protection and no file number issued, Jaye Waldron made a motion to continue the hearing at the next meeting May 2, 2024 at 7:50pm pm. 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,
Celia Jornet,
Recording Secretary

**Harvard Conservation Commission
Continuation of Notice of Intent Hearing Meeting Minutes
Harvard Parks & Recreation, 31 Pond Road, DEP#177-745, Harvard#0324-02
April 18, 2024**

The public hearing was opened at 8:44pm 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, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw, and Jessie Panek

Others Present: Liz Allard (Conservation Agent), Bob O'Shea (Harbor Master) and Anne McWaters (Recreation Director)

This hearing was continued from April 4, 2024 for a Notice of Intent for public safety improvements, stormwater management and handicapped access within the 200' wetland buffer zone to Bare Hill Pond at 31 Pond Road, Harvard.

Jessie Panek made a motion to grant the waiver to Chapter 147-12 setbacks no structures with 75' of a wetland resource area. Jim Burns 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.

Jim Burns made a motion to grant the waiver to Chapter 147-14C Plan Requirements of Stormwater Management. Jessie Panek 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, aye.

Jessie Panek made a motion to close the hearing and issue the Order of Conditions with the standard special conditions. Jim Burns 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,
Celia Jornet
Recording Secretary