

**HARVARD CONSERVATION COMMISSION
MINUTES OF MEETING
MARCH 7, 2024
APPROVED: MARCH 21, 2024**

Chair Eve Wittenberg called the meeting to order at 7:01pm, 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, Mark Shaw, Jessie Panek and John Lee (Associate Member)

Others Present: Liz Allard (Conservation Agent), Dan Wolfe (Ross Associates, Inc.), Alice von Loesecke, Jaye Waldron, Lance Rasnake, Brendon Kelly (Clinchfield), Brian Marchetti (McCarthy Engineering Inc), and Paul Cavicchio

Continuation of a Notice of Intent Hearing – Shakers’ Quarry Property Owner’s Association, Inc., Stonecutters Path and Quarry Lane, DEP#177-742, Harvard#0124-01. Opened at 7:06pm.

Request for Determination of Applicability Hearing – Alice von Loesecke, 84 Warren Ave, Harvard#0124-05. Opened at 7:07pm.

Continuation of a Notice of Intent Hearing – Paul Cavicchio, 39 Turner Lane, DEP#177-741, Harvard#0124-02.
Opened at 7:26pm.

Continuation of a Notice of Intent Hearing – CSX Transportation, Inc, CSXT Railway Right-of-Way at Route 2, Harvard#0124-03. Opened 8:01pm.

Request for Determination of Applicability Hearing - Janet Waldron, 76 Warren Avenue, Harvard#0224-01. Opened at 8:14pm.

Continuation of a Notice of Intent Hearing – Shakers’ Quarry Property Owner’s Association, Inc., Stonecutters Path and Quarry Lane, DEP#177-742, Harvard#0124-01. Opened at 8:29pm.

Discuss Annual Reappointments to the Conservation Commission

Two positions are up for reappointment: Joanne Ward (Permanent member) and John Lee (Associate Member). Reappointment applications are due to Town Hall by March 15th. The Town has asked for the Commission to provide input on all applicants. Volunteer applications are due by May 1st. All applications will be discussed at the meeting on May 2, 2024.

Request to Extend an Order of Conditions – Harvard Department of Public Works (DPW), DEP#177-662
The DPW has an open standing Order of Conditions for the maintenance they perform in Town. The current order expires in April and would like to extend for another 3 years.

Don Ritchie made a motion to Extend an Order of Conditions for Harvard Department of Public Works, DEP#177-662. Jaye 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; Mark Shaw, aye; and Jessie Panek, aye.

Request for a Certificate of Compliance – 38 Lovers Lane, Harvard DEP#17-727

Don Ritchie made a motion to issue the Certificate of Compliance for 38 Lovers Lane, Harvard DEP#177-727. 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; Mark Shaw, aye; and Jessie Panek, aye.

MAC Annual Environmental Conference Round-up

Postponed to next meeting.

Act on Nashua Rivers Wild & Scenic Stewardship Council Community Grant Program 2024 Application – Harvard Invasive Plant Project (HIPP)

Don Ritchie made a motion to approve the Nashua Rivers Wild & Scenic Stewardship Council Community Grant Program 2024 Application-Harvard Invasive Plant Project (HIPP). Jaye 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; Mark Shaw, aye; and Jessie Panek, aye.

Update on Warrant Article for Wetland Protection Bylaw Fees

The Warrant Article will not be on Spring Town Meeting. Further discussion postponed to next meeting.

Update on Action Items from the Strategic Planning Session

Postponed to next meeting.

Update on Enforcement Order – 351 Ayer Rd

Liz Allard spoke with Matt Marro, who will be filing the Notice of Intent by 3/21/24 for the first meeting in April.

Status Report Pine Hill Village, DEP#177-586

Liz Allard did a site visit earlier today and everything seems to be working as planned.

Status Report 90 Warren Avenue, DEP#177-719, Harvard#1122-02

Work is still being done on the interior, so no outside work is happening at this time.

Updates from Representatives & Liaison

Deer Management Subcommittee (DMS) – Jesse Panek and Don Ritchie have completed a draft of the updated mission statement and have circulated it for review. Ms. Panek also mentioned a letter was received from the Department of Environmental Police thanking the subcommittee for assistance in catching illegal hunters. Mission statement and annual report will be discussed at next meeting.

Community Preservation Committee (CPC) – John Lee stated CPC is awaiting Town Meeting approval.

Land Stewardship Subcommittee (LSS) – no update from Jim Burns as he was unable to attend the meeting tonight.

Open Space Committee (OSC) – Liz Allard stated OSC is working on the Municipal Vulnerable Preparedness grant for the purchase of the conservation restriction on Carlson Orchards on Littleton County Road. The Open Space & Recreation Plan should be done by the next meeting. OSC is working with the Select Board to get the Conservation Agent reinstated as a non-voting member, which the Select Board changed in error.

Harvard Climate Initiative Committee (HCIC) – The HCIC has money from their Municipal Vulnerable Preparedness grant to draft a Tree Clearing Bylaw which will be proposed at Fall Town Meeting. Liz Allard and Eve Wittenberg along with Ellen Leicher, chair of the HCIC, are working together with a consultant to draft the bylaw. The warrant article will be submitted by the Planning Board.

Updates from the Conservation Agent

- **Recording Secretary**
Celia Jornet has been contracted to draft the Commission's minutes starting with the meeting this evening. Ms. Jornet has also agreed to complete previous meetings' minutes. The Conservation Agent is working with Ms. Jornet to provide her the necessary information to complete any outstanding minutes.
- **Transfer Station Committee Request for Comments**
The Conservation Agent is requesting members of the Commission provide her any comments that pertain to the protection and health of the wetland that surrounds the transfer station to her no later than March 19th for inclusion in a comment letter that will be reviewed by the Commission at the March 21 meeting.
- **Merrimack Restoration Partnership Meeting**
Postponed to next meeting.
- **MCA Land Protection Workshop**
Postponed to next meeting.
- **Walk-in Office Hours**
In an effort to improve time-management, the Conservation Agent has established walk-in hours and by appointment hours as a part of normal business hours as follows:
Office hours:
Monday – Thursday 8:00am – 4:30pm;
Walk-in hours:
Monday 2:30pm – 4:30pm
Tuesday 9:00am – 11:00am
Thursday 8:00am – 12:00pm;
All other times by appointment only.
- **203 Ayer Road Pre-Construction Meeting**
The Conservation Agent and Don Ritchie, along with representatives from L.D. Russo and GPR, Inc., attended the pre-construction meeting at 203 Ayer Road this past Tuesday. A high-level overview of the site work was discussed, including access routes within the site for the movement of the soils from the isolated wetland to the replication area. The Stormwater Pollution Protection Plan was provided by GPR, Inc. for the record. Special Conditions were reviewed along with the regulations associated with the wetland replication. The need to approve the qualified wetland scientist to oversee the replication, along with engaging a site monitor will be discussed at the March 21st meeting of the Commission.

Approve Minutes

There were no minutes to approve.

Approve Invoice

Joanne Ward made a motion to approve the invoice from Alpha Graphics in the amount of \$875.00 for Wetland signs. 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; Mark Shaw, aye; and Jessie Panek, aye.

Adjournment

Don Ritchie made a motion to adjourn the meeting at 9:24pm. Jessie Panek 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 March 7, 2024
- Proposed Addition 39 Turner Lane Harvard, MA Notice of Intent Plan, Job 316.02, prepared by McCarthy Engineering, Inc., 2/23/2024
- Tree Work, 76 Warren Ave., Harvard, MA Sketch Plan showing trees to be removed, undated

Harvard Conservation Commission
Continuation of a Notice of Intent Hearing Meeting Minutes
Shakers' Quarry Property Owner's Association, Inc.,
Stonecutters Path and Quarry Lane, DEP#177-742, Harvard#0124-01
March 7, 2024

The public hearing was opened at 7:06pm 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, Mark Shaw, Jessie Panek and John Lee (Associate Member)

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

This hearing was continued from February 15, 2024 on a Notice of Intent filed on behalf of Shakers' Quarry Property Owner's Association, Inc., for the grinding and removal of existing asphalt, repairs to gravel base, and resurfacing the roadways, and the replacement of an 18" culvert and reforming portions of the existing open channel drainage system within the 100' wetland buffer zone on Stonecutters Path and Quarry Lane, Harvard.

Don Ritchie made a motion to continue the meeting to 8:10pm this evening. Jaye 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; Mark Shaw, aye; and Jessie Panek, aye.

Respectfully submitted,
Celia Jornet,
Recording Secretary

**Harvard Conservation Commission
Request for Determination of Applicability
Hearing Meeting Minutes
Alice von Loesecke, 84 Warren Avenue, Harvard#0124-05,
March 7, 2024**

The public hearing was opened at 7:07pm 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, Mark Shaw, Jessie Panek and John Lee (Associate Member)

Others Present: Liz Allard (Conservation Agent) and Alice von Loesecke

This hearing is for a Request for Determination of Applicability for emergency electrical and gas line replacement within 200' of Bare Hill Pond at 86 Warren Avenue, Harvard.

A site visit was completed to see what the project entailed and determine any remediation that would be required by the Commission. Alice von Loesecke stated she did not know that the Commission needed to be notified before they relocated the generator, which was too close to the home and was emitting carbon monoxide fumes into the home. Also, a new electrical line was run to the boat house.

It was determined that erosion control mitigation would need to be put in place, and there would need to be measures taken to reestablish vegetation growth in the area. An erosion control barrier would need to be installed until grass stabilizes the area to prevent soil from running off into the pond. The hearing was opened to the Commission for questions and comments. Mark Shaw stated woodchips/bark would encourage new growth and keep rainwater from moving dirt downhill into the pond. Jessie Panek stated a thin layer of mulch over compost is better than compost alone, in response to a question from Ms. von Loesecke as to whether she could use compost instead of mulch.

Don Ritchie made a motion to close the hearing and issue a Negative #3 Determination of Applicability with the following conditions: straw wattles are to be installed in front of the boat house within 10-days and are to be inspected by the conservation agent; these wattles are to remain in place until all disturbed areas are stable; a thin layer of compost and woodchips or mulch shall be used around existing vegetation in areas of exposed soil; and other disturbed areas are to be hydro-seeded. Jessie Panek 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; 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
Paul Cavicchio, 39 Turner Lane, Harvard#0124-02
March 7, 2024

The public hearing was opened at 7:26pm 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, Mark Shaw, Jessie Panek and John Lee (Associate Member)

Others Present: Liz Allard (Conservation Agent), Brian Marchetti (McCarthy Engineering Inc.), Paul Cavicchio and Dan Wolfe (Ross Associates)

This hearing was continued from February 15, 2024 for a Notice of Intent filed on behalf of Paul Cavicchio for the addition of a mudroom, shower, and deck within the 200' wetland buffer zone of Bare Hill Pond, at 39 Turner Lane. Harvard.

Brian Marchetti, of McCarthy Engineering, presented the revised plan to the Commission. The deck was removed from the plan; a drip edge was added to the roof to collect rainwater; a drywell was proposed to collect rainwater; restore crushed stone walkway to front porch; seeding other areas.

The hearing was opened to comments and questions from the Commission. Jessie Panek agreed with the changes. Eve Wittenberg asked Mr. Marchetti if there were any other options he could present with regards to the mudroom. Mr. Marchetti stated the entire project is within the 75' no build zone. The only other option would be to totally gut the current structure and redo the layout. The purpose of the mudroom is to facilitate entry to the house, instead of stepping right into the kitchen. Mr. Marchetti stated there will be no further disturbance to the area as the addition is where the cesspool had been located. Dan Wolfe, of Ross Associates, stated he completed the site plan for the tight tank previously approved by the Board of Health and has been inside the house, which is very small; he believes that the extra space from the mudroom addition is invaluable to the property. Liz Allard requested the Harvard siltation barrier be added to the plan, along with a provision that all disturbed areas on the north side of the house be loaned and seeded. Ms. Wittenberg requested the mini dry well be located outside the 50' no disturb zone, which Mr Marchetti agreed to do.

Don Ritchie made a motion to waive Chapter 147-12 of the Code of the Harvard, which requires a 75' setback from the wetland resource area for a structure. 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; Mark Shaw, aye; and Jessie Panek, aye.

Don Ritchie made a motion to close the hearing and issue an Order of Conditions with standard special conditions and the additional condition of installing the stairs into the mudroom on the south side of the house should the setback allow. Jessie Panek 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; 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
CSX Transportation, Inc., CSXT Railway Right-of-Way at Route 2,
Harvard#0124-03
March 7, 2024

The public hearing was opened at 8:01pm 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, Mark Shaw, Jessie Panek and John Lee (Associate Member)

Others Present: Liz Allard (Conservation Agent) and Brendon Kelly (Clinchfield)

This hearing was continued from February 15, 2024 for a Notice of Intent filed on behalf of CSX Transportation, Inc., for improvements to the existing bridge clearance within the 100' wetland buffer zone along the CSX Railway Right-of-Way at Route 2, Harvard.

Eve Wittenberg stated no DEP number has been issued yet, so the hearing cannot be closed. Therefore, the only issue to be addressed is the Harvard imposed fee.

Brendon Kelly, of Clinchfield, stated CSX believes they are not beholden to local fees and are asking the Commission to either waive or reduce the Harvard imposed fee. (The state fee of \$1,450, of which \$737.50 goes to Harvard, has already been paid by CSX). The Harvard fee currently stands at \$6,000 and CSX would like it reduced to \$1,000 if it cannot be waived. The discussion was opened to comments and questions from the Commission. Mark Shaw stated he felt the \$6,000 fee was not reasonable since there will be less of an impact to the wetlands. Liz Allard explained the Notice of Intent application fee is \$1,500, with the buffer disturbance fee of \$4,760.

Eve Wittenberg proposed to the Commission the following options: waive fee, \$1,000, \$2,500 or \$6,000. Don Ritchie said to split the difference, and asked Ms. Allard if they paid the \$1,500 application fee yet. Ms. Allard stated she asked CSX to hold off until the Commission discussed the fee. Mr. Ritchie then proposed \$1,500 application fee and \$500 buffer disturbance fee.

Don Ritchie made a motion to cap the Harvard Wetland Protection Bylaw fee at \$2000.00. Jessie Panek 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; Mark Shaw, aye; and Jessie Panek, aye.

Still with no Department of Environmental Protection File Number, Joanne Ward made a motion to continue the hearing to March 21, 2024 at 7:02pm. Jaye 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; Mark Shaw, aye; and Jessie Panek, aye.

Respectfully submitted,
Celia Jornet,
Recording Secretary

**Harvard Conservation Commission
Request for Determination of Applicability Hearing
Janet Waldron, 76 Warren Avenue
Harvard#0224-01
March 7, 2024**

The public hearing was opened at 8:14pm 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, Joanne Ward, Mark Shaw, Jessie Panek and John Lee (Associate Member)

Others Present: Liz Allard (Conservation Agent) and Jaye Waldron

This hearing is for a Request for Determination of Applicability for the removal of ten trees causing a threat to human health and property safety within the 200' wetland buffer zone to 76 Warren Avenue, Harvard.

A site walk was completed and Jaye Waldron shared a plan showing the location of the ten (10) trees in question. The hearing was opened to the Commission for questions and comments. Don Ritchie asked if the three (3) trees that were snapped off were going to be left undisturbed and Ms. Waldron said yes. Mark Shaw asked that during the removal of the ten (10) trees that any younger growth not be disturbed. Eve Wittenberg asked if Ms. Waldron was going to leave the stumps. Liz Allard stated that the stumps can be no less than grade level. Ms. Waldron said she was going to leave the stumps.

Jessie Panek made a motion to waive the 50' no disturb of natural vegetation. Joanne Ward seconded the motion. The vote was unanimously in favor of the motion by a roll call: Don Ritchie, aye; Joanne Ward, aye; Mark Shaw, aye; and Jessie Panek, aye.

Don Ritchie made a motion to close the hearing and issue a Negative #3 Determination of Applicability with the Condition of notifying the Conservation Agent when the activity is conducted. Joanne Ward seconded the motion. The vote was unanimously in favor of the motion by a roll call: Don Ritchie, aye; Joanne Ward, 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
Shakers' Quarry Property Owner's Association, Inc.,
Stonecutters Path and Quarry Lane, DEP#177-742, Harvard#0124-01
March 8, 2024**

The public hearing was opened at 8:29pm 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, Mark Shaw, Jessie Panek and John Lee (Associate Member)

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

This hearing was continued from earlier this evening (see 7:06pm hearing above) on a Notice of Intent filed on behalf of Shakers' Quarry Property Owner's Association, Inc., for the grinding and removal of existing asphalt, repairs to gravel base, and resurfacing the roadways, and the replacement of an 18" culvert and reforming portions of the existing open channel drainage system within the 100' wetland buffer zone on Stonecutters Path and Quarry Lane, Harvard.

Dan Wolfe, of Ross Associates, representing the homeowner's association (HOA), received a late email from July Schmidt, with the Department of Environmental Protection (DEP), with comments:

- Additional filing fee of \$500 since the project doesn't fit in a specific category, which they are okay with.
- If the replacement culvert conveys to a stream, the applicant needs to convey that stream crossing standards are met. The culvert conveys to a stormwater runoff, not a stream.
- Stormwater management checklist needs to be completed.
- Erosion controls at the culvert. This was a drafting error which Mr. Wolfe will correct.

Eve Wittenberg stated the only issue for the Commission to discuss is the Stormwater Management checklist. Mr. Wolfe stated the DEP is requesting too much for a small, one day project. And he feels the project is exempt as it is a utility, to which the DEP disagreed. Liz Allard suggested the Commission continue the hearing one more time so she can reach out to her peers with more knowledge on Stormwater Management to ensure that the Commission's decision is responsive to DEP's concerns.

Jessie Panek made a motion to continue the hearing to March 21, 2024 at 7:45pm. Jaye 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; Mark Shaw, aye; and Jessie Panek, aye.

Respectfully submitted,
Celia Jornet,
Recording Secretary