

**HARVARD CONSERVATION COMMISSION
MINUTES OF MEETING
APRIL 1, 2021
APPROVED: MAY 20, 2021**

Chair Don Ritchie called the meeting to order at 7:01pm, virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20, under MGL Chapter 131 §40 Wetland Protection Act and Code of the Town of Harvard Chapter 119 Wetland Protection Bylaw

Members Present: Don Ritchie, Wendy Sisson, Jaye Waldron, Joanne Ward, Jim Burns (arrived at 7:30pm), Mark Shaw and Eve Wittenberg (Associate Member)

Others Present: Liz Allard (Land Use Boards Administrator/Conservation Agent), Bob O'Shea (Parks & Recreation Commission), Alice Thayer, Brandon Ducharme (Ross Associates), Matt Perry (The Engineering Corp), Jody Trunfio (The Engineering Corp), John Lee (Harvard Conservation Trust), Lucas Thayer, Marc Sevigny, Karen Levitt, Steve Morris, Guy Oliver and Faith Cross

Request for Certificates of Compliance – Department of Public Works, Pond Road, DEP#177-663 and Stow/Codman Hill Roads, DEP#177-664

Jaye Waldron made a motion to issue the Certificates of Compliance to the Department of Public Works, DEP#177-663 and 664. Mark Shaw seconded the motion. The vote was unanimously in favor of the motion by a roll call, Wendy Sisson, aye, Jaye Waldron, aye; Joanne Ward, aye; Mark Shaw, aye; and Don Ritchie, aye.

Approve MACC Invoices for Annual Conference

Joanne Ward made a motion to approve the invoices from MACC in the amount of \$460.00 for attendance of members at the annual conference. Wendy Sisson seconded the motion. The vote was unanimously in favor of the motion by a roll call, Paul Willard, aye; Wendy Sisson, aye, Jaye Waldron, aye; Joanne Ward, aye; Mark Shaw, aye; and Don Ritchie, aye.

Land Stewardship Subcommittee Request to Allocate Funds for Trail Maintenance

Joanne Ward made a motion to approve the allocation of funds not to exceed \$120.00 for boardwalks at the Williams Land and Herman Orchard. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by a roll call, Wendy Sisson, aye, Jaye Waldron, aye; Joanne Ward, aye; Mark Shaw, aye; and Don Ritchie, aye.

Discuss Warilla Land as a potential area to be included in the Forest Legacy Program

Don Ritchie explained Lucy Wallace, from the Wild & Scenic Land Committee for Nashua River Watershed Association, asked if the Commission would be interested in retaining management of the Warilla land along Stow Road in order for it to be included in the Forest Legacy Program currently under way by the Committee. Wendy Sisson stated the parcel would be a good addition to the program and made the motion to support Warilla becoming conservation land through the Forest Legacy Program. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by a roll call, Wendy Sisson, aye, Jaye Waldron, aye; Joanne Ward, aye; Mark Shaw, aye; and Don Ritchie, aye.

Review 310 CMR 10.03(3) - Presumption Concerning 310 CMR 15.000: The State Environmental Code, Title 5

Liz Allard has reached out to the Department of Environmental Protection for additional guidance on this provision of the Wetland Protection Regulations, but has not heard back as of yet.

Update on Pine Hill Village Stow Road

Liz Allard stated in her review of the site last week she observed the grading for the installation of rain gardens 3, 4 and 5, and the bio-retention cell within the cul-de-sac. Ms. Allard also observed

an increase in silt under the wetland crossing. Ms. Allard will reach out to the developer for his plan to create a better substrate under the crossing. With an increase in activity Ms. Allard has requested Nitsch Engineering resume monitoring the site on a regular basis.

Continuation of a Notice of Intent Hearing – Parks & Recreation Commission, Harvard#0221-02. Opened at 7:25pm

Continuation of a Request for Determination of Applicability Hearing – Marc Sevigny, 74 Shaker Road, Harvard#0221-01. Opened at 7:31pm

Request for Determination of Applicability Hearing, Pan Am Railway, Harvard#0321-02. Opened 7:49pm

Notice of Intent Hearing – Thayer Family Farm, 92 South Shaker Road, Harvard#0321-03. Opened at 7:56pm

Notice of Intent Hearing – Harvard Department of Public Works, Harvard#0321-04. Opened at 8:30pm

Adjournment

Mark Shaw made a motion to adjourn the meeting at 8:56pm. Jim Burns seconded the motion. The vote was unanimously in favor of the motion by a roll call, Wendy Sisson, aye, Jaye Waldron, aye; Joanne Ward, aye; Mark Shaw, aye; Jim Burns, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard,
Land Use Administrator/
Conservation Agent

EXHIBITS & OTHER DOCUMENTS

- Conservation Commission Agenda, dated April 1, 2021
- Site Plan Alice Thayer Family Trust, 92 So. Shaker Road Harvard, MA, Job No.: 33265, Plan No.: L-14306, prepared by David E. Ross Associates, Inc., 4/1/2021
- NOI Resource Area Impact Plan, Old Mil Road Over Bowers Brook Bridge Rehabilitation, Project No. T1048, prepared for Harvard Public Works, prepared by The Engineering Corp., 3/12/2021

**Harvard Conservation Commission
Continuation of a Notice of Intent Hearing
Parks & Recreation Commission, Harvard#0221-02
April 1, 2021**

The public hearing was opened at 7:25pm 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 in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20.

Members Present: Don Ritchie, Paul Willard, Wendy Sisson, Jaye Waldron, Joanne Ward, Mark Shaw and Eve Wittenberg (Associate Member)

Others Present: Liz Allard (Land Use Administrator/Conservation Agent) and Bob O'Shea (Parks & Recreation Commission)

This hearing was continued from March 15, 2021 for a Notice of Intent filed by Harvard Parks & Recreation Commission for the generalized operation and maintenance of parks and recreation fields and trails within 100' of a wetland resource area at the following locations: 19 & 34 Lancaster County Rd, 55 & 71 Depot Rd, Ann Lees Rd, 14 & 27 Mass Ave, and 4 & 15 Pond Rd, Harvard.

The Department of Environmental Protection has not yet issued the file number, allowing for the Commission to close the hearing. Wendy Sisson made a motion to continue the hearing to April 15, 2021 at 7:25pm. Mark Shaw seconded the motion. The vote was unanimously in favor of the motion by a roll call, Wendy Sisson, aye, Joanne Ward, aye; Jaye Waldron, aye; Mark Shaw, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

**Harvard Conservation Commission
Continuation of a Request for Determination of Applicability
Marc Sevigny, 74 Shaker Road, Harvard#0221-01
April 1, 2021**

The public hearing was opened at 7:31pm 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 in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20.

Members Present: Don Ritchie, Wendy Sisson, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw and Eve Wittenberg (Associate Member)

Others Present: Liz Allard (Land Use Administrator/Conservation Agent) and Marc Sevigny

This hearing was continued from February 18, 2021 for a Request for Determination of Applicability filed by Marc Sevigny for the installation of a 96' boardwalk within a wetland resource area to access an upland area at 74 Shaker Road, Harvard.

Mark Shaw asked how Mr. Sevigny intends to level out the footings of the boardwalk. Mr. Sevigny stated the area is level enough there is really no need to level out the footings. Jaye Waldron does not think this is a good idea to start allowing individuals to cross wetlands to gain access to uplands unless it is for construction purposes, not to mention the potential of degrading of the material over times. Eve Whittenburg stated people may be doing it anyway and this may be a good example of how one could cross a wetland in a less impactful way. Joanne Ward agreed with Ms. Waldron to a certain point – is there a way to mitigate the crossing in a better way? Ms. Waldron believes it should not be an activity that is encouraged by the Commission. Ms. Whittenburg is advocating for it to be allowed, better to encourage this type of crossing. Ms. Ward asked why he was trying to gain access to the area. Mr. Sevigny stated for a peaceful place and added the location of the boardwalk is in an area of least disturbance. Wendy Sisson stated most people are not even going to ask to conduct such an activity, therefore she would like to commend Mr. Sevigny for applying with the Commission. Ms. Sisson is also not in favor of allowing access for activity within an upland area. Ms. Sisson would not recommend this type of crossing; if this was conservation land she would not recommend this type of boardwalk, which will shade out the vegetation underneath it. Ms. Sisson requested Mr. Sevigny keep in mind when creating this boardwalk to reduce the shaded area. Mr. Sevigny explained that the boardwalk can be taken out when not in use and will only be out there when he is seeking access, which will be spring, summer and fall. Mr. Sevigny will take Ms. Sisson's suggestion into account.

Wendy Sisson made a motion to close the hearing and issue a Negative #2 Determination of Applicability. Mark Shaw seconded the motion. The vote was in favor of the motion by a roll call, Wendy Sisson, aye, Jaye Waldron, nay; Joanne Ward, aye; Jim Burns, aye; Mark Shaw, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

**Harvard Conservation Commission
Request for Determination of Applicability
Pan Am Railway, Harvard#0321-02
April 1, 2021**

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 in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20.

Members Present: Don Ritchie, Paul Willard, Wendy Sisson, Jaye Waldron, Joanne Ward, Mark Shaw and Eve Wittenberg (Associate Member)

Others Present: Liz Allard (Land Use Administrator/Conservation Agent)

This hearing is for a Request for Determination of Applicability filed by Pan Am Railway for verification of wetland boundaries in preparation for rights-of-way management along the existing railroad track within Harvard.

Liz Allard explained the representative was unable to attend the meeting this evening. Wendy Sisson asked to be informed of when the work will be conducted for the Commission to observation results after the work is complete. Jim Burns rides that stretch of the railway and can keep his eye out when work is complete.

Joanne Ward made a motion to close the hearing and issue a Positive#2a Determination with the condition that the Conservation Agent is notified when the spraying occurs. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Wendy Sisson, aye, Jaye Waldron, aye; Joanne Ward, aye; Mark Shaw, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

**Harvard Conservation Commission
Notice of Intent Hearing
Thayer Family Farm, 92 South Shaker Road, Harvard#0321-03
April 1, 2021**

The public hearing was opened at 7:56pm 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 in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20.

Members Present: Don Ritchie, Wendy Sisson, Jaye Waldron, Joanne Ward, Mark Shaw and Eve Wittenberg (Associate Member)

Others Present: Liz Allard (Land Use Administrator/Conservation Agent), Alice Thayer, Brandon Ducharme (Ross Associates), John Lee (Harvard Conservation Trust), Lucas Thayer, Karen Levitt, Steve Morris, Guy Oliver and Faith Cross

This hearing is for a Notice of Intent filed on behalf of Thayer Family Farm for the construction of fencing around an agricultural field within the 100' wetland buffer zone at 92 South Shaker Road, Harvard.

Brandon Ducharme, of Ross Associates, provided the Commission an overview of the site, which is an existing fruit farm, with a conservation restriction (CR) on a portion of the property. The Historical Commission has approved fencing within the historic district. The Harvard Conservation Trust, grantee of the CR, has requested the fencing be moved outside of the area protected by the CR. The existing bridges over the stream have been added to the plan as requested. To assist in reducing the nutrification happening within that stream a 1' high earthen berm will be created. The request to add blueberry and/or raspberry bushes along the 50' buffer zone has also been added to the plan. In regard to the waiver request for a structure within 75' of a wetland resource area, Mr. Ducharme explained as agricultural fields the fencing is necessary to keep animals out.

Jaye Waldron asked if this activity falls under the definition of agriculture within the Wetland Protection Act (WPA). Mr. Ducharme stated they chose to file the Notice of Intent with the Commission as opposed to trying to determine if the activity would in fact be exempt. Liz Allard explained exemptions to agriculture under the WPA are for existing areas already in production and not new areas. The main area in question here is a new area, whereas the field on the east side of the stream has been in existence for many years.

A discussion in regard to the location of the fence on the east side of the stream was had and resulted in the applicant agreeing to move the fence away from wetland flags A13-A15 as much as possible and regain that area by increasing the fencing to the north, but not any closer to wetland flag A18.

Steve Morris asked what would be grown within the fenced-in area as he is concerned with large amount of water use and fertilizers. Lucas Thayer stated fruits and vegetables. Jim Burns asked Mr. Thayer if the farm was organic. Mr. Thayer stated it was and the area has good soils so there is no need for additional feed or fertilizers beyond that of manure and worm castings.

Comments received from Department of Environmental Protection were read into the record.

Jim Burns made a motion to close the hearing and issue an Order of Conditions with the condition that the fencing on the east side of the intermittent stream be moved away from the bordering vegetated wetland along the southwest corner, and allow for the increase of the fencing in a northwest direction toward South Shaker Road and the adjacent intermittent stream. Wendy Sisson seconded the motion. The vote was unanimously in favor of the motion by a roll call, Wendy Sisson, aye, Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, aye; Mark Shaw, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

**Harvard Conservation Commission
Notice of Intent Hearing
Department of Public Works,
Old Mill Road, Harvard#0321-04
April 1, 2021**

The public hearing was opened at 7:25pm 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 in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20.

Members Present: Don Ritchie, Paul Willard, Wendy Sisson, Jaye Waldron, Joanne Ward, Mark Shaw and Eve Wittenberg (Associate Member)

Others Present: Liz Allard (Land Use Administrator/Conservation Agent), Matt Perry (The Engineering Corp), Jody Trunfio (The Engineering Corp) and Guy Oliver

This hearing is for a Notice of Intent filed on behalf of Harvard's Department of Public Works to replace traffic safety features and minor patching along the substructure within the resource area and its 100' riverfront area at the bridge crossing of Bower's Brook between 6 and 22 Old Mill Road, Harvard.

Jody Trunfio, of The Engineering Corp (TEC), was present to represent the applicant. Mr. Trunfio explained the Town of Harvard received a grant to engineer and repair the bridge along Old Mill Road. Most of the proposed work is along the existing water line to Bower's Brook and includes the patching of the existing substructure. The existing guardrail will be upgraded as well. In order to allow for continued traffic flow, the project will be done in phases, starting with the upstream side repairs. A sandbag coffer dam will be placed within the stream during the repairs to the concrete substructure, creating temporary impacts to land under water. The owners of an upstream dam are willing to assist in reducing the water flow during construction.

Erosion was noted during the site walk on the slope on the upstream side of the roadway. Mr. Trunfio explained paving milling mulch will be placed under the new guardrail to reduce the potential for erosion and vegetation growth. After briefly discussing, it was agreed a site walk with TEC, Tim Kilhart, Liz Allard and Don Ritchie shall take place to determine the best solution for the existing erosion and material under the guardrail.

Without comments and a file number from the Department of Environmental Protection, Jim Burns made a motion to continue the hearing to April 15, 2021 at 8:00pm. Jay Waldron seconded the motion. The vote was unanimously in favor of the motion by a roll call, Wendy Sisson, aye, Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, aye; Mark Shaw, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent