

**HARVARD CONSERVATION COMMISSION  
MINUTES OF MEETING  
JANUARY 19, 2023  
APPROVED: MAY 4, 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, Jim Burns, Mark Shaw and John Iacomini (Associate Member)

**Others Present:** Liz Allard (Conservation Agent), Tony Shaw, Jim Lee (Harvard Conservation Trust), Peter Dorward (Open Space Committee), Sam Evonuk, Robin Carlaw (Harvard Conservation Trust), Margaret Nestler and John Lee (Harvard Conservation Trust)

**Open Space Committee Municipal Vulnerability Preparedness Grant Carlson's Land**

Peter Dorward, chair of the Open Space Committee (OSC), stated the OSC applied to the Community Preservation Committee for \$200,000 to purchase the conservation restriction (CR) on the Carlson Land. With Community Preservation Committee (CPC) applications totaling \$800,000 and CPC only having \$300,00 for available funding, it was suggested the OSC apply for a Municipal Vulnerability Preparedness grant for land protection. Mr. Dorward stated he submitted a letter of interest yesterday, with the grant due in May. The application will seek \$600,000 to protect not only the Carlson land along Littleton County Road, but the Campinelli parcels that are adjacent to Trail Ridge and part of the former Cisco property.

In order to have better leverage in receiving the grant, Harvard will apply along with Boxborough, who is seeking to protect adjacent land. Boxborough is able to meet criteria under the Environmental Justice, where Harvard does not. The grant details the Town owning the land and Harvard Conservation Trust holding the conservation restriction. Phase II of this land protection plan would be to determine how to best preserve the land. The Request for Proposal comes out in March, with grants awarded in July. Boxborough has still not fully committed to this joint application. Mr. Dorward noted assistance from the Commission come April/May will be necessary. Eve Wittenberg volunteered to help out.

**Informal Discussion with New Owner of 99 Ayer Road Re: Installing Fencing within Buffer Zone**

Sam Evonuk detailed the area in which he would like to install a fence for safety reasons as his property is bordered by Bower's Brook. Mr. Evonuk would allow the area outside the fence to be left to grow naturally, providing additional vegetated buffer to Bower's Brook. In addition, Mr. Evonuk would like to remove two trees. Mr. Evonuk shared photos of the area including the brook, the tree to be removed and a diseased tree at the entrance of the driveway. Mr. Evonuk detailed the types of fencing, which would be something that is natural to the landscape. John Iacomini stated more detail would be needed, including have a botanist detail the wetlands. In addition, Mr. Iacomini does not see animals as a reason to allow a fence so close to the brook. Mr. Evonuk stated although his dogs are elderly he has an infant son, therefore in the long term the area would be used by his children and he would like to have a safe place for them. Eve Wittenberg explained to Mr. Iacomini the Commission suggests people come to a meeting to float ideas and get feedback before submitting an application. Ms. Wittenberg thinks the applicant is following the Commission's recommendation. In addition, Ms. Wittenberg was not sure why a botanist would be helpful, as there is a well-defined boundary with the brook and pond. Paul Willard agreed on both points made by Ms. Wittenberg. Jaye Waldron expressed concern with every homeowner wanting to put a fence next to every pond, brook and wetland; maybe something temporary until the children are older. Ms. Waldron is concerned with a permanent fence being put up that close to the brook. Mr. Willard suggested a site walk before providing any additional advice. Jim Burns understands the concerns

expressed by the members and thanked home owner for detailing his proposal this evening. A site walk was scheduled for January 24, 2023.

**Continuation of a Notice of Intent Hearing – Yvonne Chern, 203 Ayer Road, DEP#177-711, Harvard#0322-01.** Opened at 7:37pm

#### **Ratify Wetland Enforcement Order at 30 Cruft Lane**

Eve Wittenberg made a motion to approve the Enforcement Order issued to Shaw Properties LLC for violations of the Wetland Protection Act M.G.L. c. 131 §40 and the Code of the Town of Harvard Wetland Protection Bylaw, Chapter 119. Paul Willard seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Paul Willard, aye; Jaye Waldron, aye; Eve Wittenberg, aye and Don Ritchie, aye.

#### **Discuss Unauthorized Trail on Rodriguez Land (Map 13 Parcels 3.2 & 4)**

Wendy Sisson, chair of the Land Stewardship Subcommittee (LSS), stated the recent activity on the Rodriguez land was not approved by LSS, nor would it have been allowed if requested. Tony Shaw, the abutter, stated he put the trail in to allow people to connect through his property to provide a loop between the Rodriguez Land and Herman Orchard. Mr. Shaw stated he improved upon a trail that was left from the loggers many years ago by opening the trail up. Don Ritchie explained it is an issue of not coming to the Commission for permission to conduct the activity on conservation land. Jaye Waldron, addressing Mr. Shaw, stated it is work on property you don't own regardless of the activity. Eve Wittenberg felt pretty strongly that the Commission needs to apply the same rules to everyone and it needs to be clear this cannot be done without the Commission's permission. Mr. Shaw stated Rodriguez land is Town-owned land and people should be allowed to use it; he does not see anything wrong with what he has done.

Margaret Nessler, also an abutter, provided photos showing the cut trees and evidence of heavy equipment having been brought onto conservation land. Ms. Nessler stated this new trail goes from the conservation land to land that is restricted by a conservation restriction (CR). Ms. Nessler stated the public good has already been established on the land Mr. Shaw owns through the CR; it should not be down to one individual to put in a trail and bring in snowmobiles; the scope of activity is not minimal. Ms. Wittenberg stated that the Commission is responsible for the land; she was concerned with the thought process that the snowmobile club, or anyone, has the right to decide what should or should not be done on conservation land. Ms. Wittenberg suggested an Order of No Trespass on the conservation land be issued, and the access of the snowmobile club on conservation land is in jeopardy. Mr. Shaw contended the work he has done is "nice" and Commission should come and take a look at it. Ms. Wittenberg stated it would be a free-for-all if it is decided that everyone can do whatever they want to do on Town-owned land. Ms. Sisson wanted it to be clear that should the proper process be followed permission may not be granted; it is a major decision on conservation land and needs a process. Ms. Sisson stated the Commission has spent 10 years of trying to establish a working relationship with the Harvard Snowmobile Club (HSC); it is too bad this infraction as occurred now.

Jim Burns stated we all have lived in this Town; let's not get too clouded up in the personal emotions of this situation and what are the rules. If we have strong feelings about not having a motorized trail in that area then we let those involved know that we are not going to have an access at this time. John Iacomini asked why a No Trespass Order and not just a simple letter stating the trail is not to be used. Mr. Shaw stated he would not use the trail. Ms. Wittenberg stated she is working on revisions to the Memorandum of Understanding (MOU) with Park & Recreation for the use of the Ann Lee's Field; perhaps an MOU with HSC to help memorialize what has been allowed previously and going forward; then we are all in complete understanding. Ms. Sisson thought it was wise to put something in writing as the LSS has done in the past for others who have encroached onto conservation land. Ms. Nessler agreed with a letter and asked about the stone wall that has been breached. Mr. Shaw stated he did not breach the wall, that there was an opening already, and further that the stone wall on his land. Ms. Wittenberg agrees to a letter and wants view the site.

### **Monitoring of Conservation Restrictions by Harvard Conservation Trust**

Marc Sevigny, of the member of the Harvard Conservation Trust, is offering members of the Commission the opportunity to participate in the monitoring of conservation restrictions. Members of the Commission who were interested can requested advance notification from Mr. Sevigny as to when he will be conducting the monitoring.

### **State Ethics Training March 14, 2023 @ 6pm**

Due to recent events members of the Commission were strongly advised to attend this training session, that will include training on the new process of achieving the required certification.

### **Approve Minutes**

There were no minutes for approval this evening.

### **Approve Invoices**

Eve Wittenberg made a motion to approve the invoices for Oxbow Associates in the amount of \$4,700.00. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion by a roll call, Paul Willard, aye; Jaye Waldron, aye; Mark Shaw, aye; Eve Wittenberg, aye and Don Ritchie, aye. Jim Burns was not available at the time of this vote.

### **Approve 2022 Annual Report**

Jaye Waldron made a motion to approve the 2022 annual report as drafted. Paul Willard seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Paul Willard, aye; Jaye Waldron, aye; Mark Shaw, aye; Eve Wittenberg, aye and Don Ritchie, aye.

### **Climate Action Plan Natural Resources Priority Actions to Implement Update**

The Climate Initiative Committee (CIC) has indicated Municipal Vulnerability Program grants are available to update the Wetland Protection Bylaw to include language to combat climate change. Jaye Waldron stated she is working with the CIC on other grants and could look into this as well.

### **Pine Hill Village Update**

Members of the Commission visited the site last week. Don Ritchie visited the site yesterday to observe the pumping of water out of the constructed wetland in order to remove the silt, which is not to be stock piled on site. Liz Allard is concerned things are not being constructed properly due to the responses received from Peter Cricones; she will continue to try to clarify what is necessary to remediate the issues.

Mr. Cricones has requested the ability to clear the trees within Phase 3. Ms. Allard has informed Mr. Cricones that an update on the construction sequence needs to be provided in order for Commission to make a determination. At this point Ms. Allard would advise against allowing the clearing until outstanding issues with the first phase are resolved.

### **Adjournment**

Paul Willard made a motion to adjourn the meeting at 8:34pm. Jim Burns seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Jaye Waldron, aye; Mark Shaw, aye; Eve Wittenberg, aye; Paul Willard, aye; and Don Ritchie, aye.

Respectfully submitted,

Liz Allard,

Land Use Administrator/  
Conservation Agent

#### **EXHIBITS & OTHER DOCUMENTS**

- Conservation Commission Agenda, dated January 19, 2023
- Figure 2. Beaver Brook Office Park – Proposed Build-out, 1/16/2023
- Undated photos of 99 Ayer Road and fence types

**Harvard Conservation Commission**  
**Continuation of a Notice of Intent Hearing**  
**Yvonne Chern, 203 Ayer Road, DEP#177-711, Harvard#0322-01.**  
**January 19, 2023**

The public hearing was opened at 7:37pm 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, Jim Burns, Mark Shaw and John Iacomini (Associate Member)

**Others Present:** Liz Allard (Conservation Agent)

This hearing was continued from December 15, 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

At the request of the applicant's representative, Bruce Ringwall, Mark Shaw made a motion to continue the hearing to February 2, 2023 at 7:30pm. Eve Wittenberg seconded the motion. The vote was unanimously in favor of the motion by a roll call, Jim Burns, aye; Jaye Waldron, aye; Paul Willard, aye; Mark Shaw, aye; Eve Wittenberg, aye and Don Ritchie, aye.

Respectfully submitted,

Liz Allard,  
Conservation Agent