

**HARVARD CONSERVATION COMMISSION
MINUTES OF MEETING
NOVEMBER 3, 2016
APPROVED: DECEMBER 15, 2016**

Chairman Paul Willard called the meeting to order at 7:00pm in the Old Library 7 Fairbank Street under MGL Chapter 131 §40 The Wetland Protection Act and The Code of the Town of Harvard Chapter 119 the Wetland Protection Bylaw

Members Present: Paul Willard, Don Ritchie, Charlie Gorss, Wendy Sisson, Joanne Ward, Jaye Waldron and Jim Burns (Associate Member)

Others Present: Liz Allard (LUB Admin), Peter Dorward (HCT), Dan Wolfe (Ross Assoc.), Bruce Ringwall (GPR, Inc.), Tom Cotton (HCT), Scott Wilkins, Jennifer Wilkins, Joshua T. Gould, Margaret Kusner, Steve Gordon, Seth Donohoe (Ducharme & Dillis), Connie Woolcock, Allen Hoffman, Carol Hoffman, Tim Turnbull, Kathleen Turnbull, Bruce Leicher (BHPWMC), Marina & Mikhail Zheleznyak, Dmitry Bykhovsky, Alex Munteanu, Bob Donaldson, Carrie Fraser, Chris Ashley, Brian McClain, Mardis Dunton, Ezra Dunton, Jenny Gormley, Tom Gormley, Bill Laursen, Laura Johnson, Bill Johnson, Ron Ricci, Peter von Loesecke, Alice von Loesecke, Stephanie Opalka, George Cote and Dorothy Pappas

Executive Session

Don Ritchie made a motion to go into Executive Session to discuss the possible purchase of real property, the public discussion of which could have detrimental effects on the negotiating position, only to return to the public meeting once completed. Joanne Ward seconded the motion. A roll call vote was taken: Charlie Gorss, aye, Joanne Ward, aye; Don Ritchie, aye; Wendy Sisson, aye; Jaye Waldron, aye; Paul Willard, aye.

Review Order of Conditions with New Owner, 19 Tahanto Trail, DEP#177-603

Steve and Jennifer Wilkins were present to review the Order of Conditions with the Commission for 19 Tahanto Trail. Site work will be completed by Joshua Gould, who was also present. The erosion control barrier will need to be re-installed and re-inspected prior to the commencement of any new activity. Mr. Wilkins asked about the maintenance of the wet meadow along Tahanto Trail. This area can be mowed annually at the end of the growing season in September. The Commission thanked the Wilkins for attending this evening.

Determination of Applicability Hearing – Michael Woolcock, 24 Littleton Road, Harvard#1016-01. Opened at 7:32pm

Notice of Intent Hearing Mikhail Zheleznyak, 23 Peninsula Road, DEP#177-651, Harvard#1016-02. Opened at 7:48pm

Notice of Intent Hearing – Stephanie Opalka, Depot Road (Map 12 Parcel 5), Harvard#1016-03. Opened at 8:27pm

Address Concerns with the Annual Draw Down of Bare Hill Pond

Bruce Leicher, chairman of the Bare Hill Pond Watershed Management Committee, explained advice for the State has been received in regards to the annual draw down of Bare Hill Pond. Drought warnings issued by the State do not apply to draw downs; warnings are issued in order to protect the aquifer and ground water supplies. What the State did recommend is to consider the refill in the spring as opposed to the drawing down of the pond.

A large number of residents turned out to voice their opinion on whether or not the Conservation Commission (ConCom) should reconsider its vote to allow the draw down this year. There was some confusion as to what had been communicated at the previous ConCom meeting in regards to the status of the draw down. The ConCom had the impression the draw down had been

suspended until advice from the State was received; when it was determined last week that the draw down had not been suspended, the ConCom requested it be suspended, as that was what they were told.

Comments were made by a number of residents who were in favor of continuing the draw down. Two letters received were read into the record, with one in favor of continuing the draw down and the other opposed.

The ConCom has supported the draw downs for years and wanted advice from the State before making a decision on whether or not the draw down should be suspended for the season. The information provided allowed the ConCom to make the informed decision to continue with the 2016 draw down of Bare Hill Pond.

Review & Approve Letter for Harvard Snowmobile Club

Liz Allard had previously circulated a draft letter to the Devens Enterprise Commission (DEC) in regards to support of the Harvard Snowmobile Club (HSC). Wendy Sisson thinks it is premature to send this letter before the HSC has provided any information on the trail location to Devens to the Conservation Commission. Members agreed they would rather see a proposal for the trail connection before making a recommendation to DEC to allow snowmobiles on there. There was also a concern that the expansion of the trail into Devens would increase use of the trails in Harvard.

While on the subject of snowmobile trails, Wendy Sisson followed up on the issues of the Holy Hill trail that was discussed at the last meeting. Ms. Sisson has viewed the site to determine the best way reduce the safety issues between snowmobiles and other users of the trails. After a lot of consideration, a new conceptual trail was presented that would aid reducing the erosion that is taking place. Ms. Sisson suggested asking the HSC to assist financially with the restoration of the eroding slope.

Don Ritchie made a motion to allow the new trail as proposed by Wendy Sisson on Holy Hill and to allow the restoration of the eroding slope by requesting financial support from the Harvard Snowmobile Club. Charlie Gorss seconded the motion. The vote was unanimously in favor of the motion.

LAND Grant Update

Liz Allard had previously circulated the review letter received from the State in which there are eight items that need to be addressed in order to have final approval on the proposed Open Space & Recreation Plan (OSRP). Ms. Allard asked the members to review the items and volunteer to complete the tasks necessary to finalize the OSRP.

Approve Invoice

Don Ritchie made a motion to approve the invoice for Steve & Deborah Damn in the amount of \$1,300.00. Jaye Waldron Seconded the motion. The vote was unanimously in favor of the motion.

Charlie Gorss left the meeting at 9:38pm.

Approve Minutes

Members did not have an opportunity to review the minutes for approval this evening.

Update on Gifts of Land

- Stone Cutter's Path – Liz Allard received a message from Town Counsel today who has been dealing with a death in his family, but will get the information requested to her by tomorrow.
- Still River Road – The Commission is waiting to hear from the Harvard Conservation Trust on their interest in accepting this parcel as a gift as it abuts existing Trust land.

Update of the FY17 1st Quarter Conservation Funds

Members had not had an opportunity to review the documents and will discuss at the next meeting.

Willard Land Conservation Restriction & Trail Easement

No update was available this evening.

Bylaw Amendment – Land Subject to Flooding

No update was available this evening.

Adjournment

Don Ritchie made a motion at 9:48pm to adjourn the meeting. Joanne Ward seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

Harvard Conservation Commission
Continuation of the Request for Determination of Applicability
Hearing Meeting Minutes
Michael & Connie Woolcock, 24 Littleton Road, Harvard#1016-01
November 3, 2016

The public hearing was opened at 7:32pm by Chairman Paul Willard under the Massachusetts Wetland Protection Act, Ch. 131 §40 and the Harvard Wetland Protection Bylaw, Chapter 119 of the Code of the Town of Harvard in the Old Library at 7 Fairbank Street, Harvard

Members Present: Paul Willard, Charlie Gorss, Don Ritchie, Wendy Sisson, Jaye Waldron, Joanne Ward and Jim Burns (Associate Member)

Others Present: Liz Allard (LUB Admin), Seth Donohoe (Ducharme & Dillis) and Connie Woolcock

This hearing was continued from October 20, 2016 for a Request for Determination of Applicability filed on behalf of Michael & Connie Woolcock for the construction of landscaped and hardscaped areas around the existing dwelling within the 100' wetland buffer zone at 24 Littleton Road, Harvard.

Seth Donohoe, from Ducharme & Dillis, was present, along with the property owner, Connie Woolcock. Mr. Donohoe explained the house was built prior to the Riverfront Protection Act and the Town wetland setbacks under the wetland bylaw. The entire house is within the wetland buffer zone; the Woolcock's are seeking to create a useable area for outdoor activity and landscaping around the house in an existing lawn area.

During the recent site walk members asked about reducing the width of the walkway and patio on the west side of the house. Mr. Donohoe stated it is beneficial to assist in keeping the area stable, as well as the overall design. Members discussed reducing the remaining lawn area to allow for the increase of natural vegetation within the buffer zone to reduce runoff into the wetlands. The existing septic system limits the ability to allow natural vegetation to be restored. In addition, Ms. Woolcock was concerned with maintaining the existing drainage swale along the west side of the property. It was agreed that with advice from the Conservation Agent, low growing woody vegetation will be planted between wetland flags A9 and A13.

The addition of the shed on the property without the proper permitting from the Commission was discussed. Ms. Woolcock stated it is a shame that realtors do not explain the constraints such as wetlands to potential buyers. The Commission agreed and tries to keep up on the sale of properties known to have wetland resources areas.

Wendy Sisson made a motion to close the hearing and issue a Negative#3 Determination of Applicability to include the following conditions:

- 1) The site shall be reviewed by the Conservation Agent for the location of low-growing woody vegetation within the 25' buffer zone between wetland flags A9 and A13; and
- 2) The erosion control barrier shall be inspected by the Conservation Agent prior to the start of activity.

Don Ritchie seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard Land Use Administrator/Conservation Agent

**Harvard Conservation Commission
Notice of Intent Hearing Meeting Minutes
Mikhail Zheleznyak, 23 Peninsula Road, DEP#177-651, Harvard#1016-02
November 3, 2016**

The public hearing was opened at 7:48pm by Chairman Paul Willard under the Massachusetts Wetland Protection Act, Ch. 131 §40 and the Harvard Wetland Protection Bylaw, Chapter 119 of the Code of the Town of Harvard in the Old Library at 7 Fairbank Street, Harvard

Members Present: Paul Willard, Don Ritchie, Charlie Gorss, Wendy Sisson, Jaye Waldron, Joanne Ward and Jim Burns (Associate Member)

Others Present: Liz Allard (LUB Admin), Bruce Ringwall (GPR, Inc.), Marina & Mikhail Zheleznyak, Dmitry Bykhovsky, Mardis Dunton, Ezra Dunton, Tim Turnbull, Kathleen Turnbull, Bruce Leicher (BHPWMC) and Bill Laursen

This hearing is for a Notice of Intent filed on behalf of Mikhail Zheleznyak for the remodeling of an existing single family dwelling maintaining the existing foundation within the 200' wetland buffer zone of Bare Hill Pond at 23 Peninsula Road, Harvard

Bruce Ringwall, of GPR, Inc., was present to represent the applicant, Mikhail Zheleznyak, who was also present. Mr. Ringwall explained the existing and proposed structure will be non-conforming and therefore requires a special permit from the Zoning Board of Appeals. The proposal is to level the existing building to the existing foundation, and rebuild a new dwelling, which will be 30% larger than the existing dwelling. Although the existing septic system has passed Title V the owner is planning on replacing the existing pump chamber and septic tank. The expansion of the house will take place on the west side of the house, closest to the pond, in an existing lawn area. The entire site is within the jurisdiction of the Conservation Commission under the Town's Wetland Protection Bylaw. Stormwater runoff will drain to an infiltration chamber and two stone chambers. Two existing trees will need to be removed for the installation of a deck and patio.

Mr. Ringwall stated the applicant is seeking a waiver from the 75' setback for structures on the basis that the activity within the 75', a portion of the house and deck, will be done in area that is existing manicured lawn. Mr. Ringwall noted the patio will be constructed in a manner that allows for the infiltration of stormwater.

Don Ritchie stated he does not like the removal of the tree canopy so close to the water; he feels the size of the proposed house is not appropriate for the site. Mr. Ringwall stated there have been a lot of improvements to other homes along this road that include the removal of vegetation that have been allowed by the Commission.

Paul Willard is not in favor of a waiver for new construction; he suggested making the dwelling fit the existing foundation rather than increasing it. Mr. Ringwall stated other houses along the road have been allowed to be closer to Bare Hill Pond and have increased in size. In addition, smaller lots have been allowed relief for larger houses. As designed the dwelling is 72' from the edge of the pond, as opposed to the required 75'. Mr. Ringwall presented other locations along Peninsula Road, in which structures were allowed within the setback of 75', including 27, 31 and 37 Peninsula Road.

Wendy Sisson explained that each site has its own set of circumstances for being allowed certain relief. Members felt it is feasible to keep the house at the existing distance.

Bruce Leicher, chairman of the Bare Hill Pond Watershed Management Committee, stated the Committee is not opposed to the development as long as the questions detailed in their letter dated, October 29, 2016 are answered.

In response to the removal of the existing tree canopy, Mr. Ringwall stated his client would not be opposed to planting additional trees.

Mr. Willard stated he would like a chance to review previous waivers to determine the reasoning behind permitting the waiver. It was strongly recommended the house be reduced by three feet to be able to meet the 75' setback.

With information required to make a final decision and request made to redesign the dwelling, Don Ritchie made a motion to continue the hearing to November 17, 2016 at 7:30pm in the Old Library. Charlie Gorss seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

**Harvard Conservation Commission
Notice of Intent Hearing Meeting Minutes
Stephanie Opalka, Depot Road (Map 12 Parcel 5), Harvard#1016-02
November 3, 2016**

The public hearing was opened at 8:27pm by Chairman Paul Willard under the Massachusetts Wetland Protection Act, Ch. 131 §40 and the Harvard Wetland Protection Bylaw, Chapter 119 of the Code of the Town of Harvard in the Old Library at 7 Fairbank Street, Harvard

Members Present: Paul Willard, Don Ritchie, Charlie Gorss, Wendy Sisson, Jaye Waldron, Joanne Ward and Jim Burns (Associate Member)

Others Present: Liz Allard (LUB Admin), Dan Wolfe (Ross Assoc.), Stephanie Opalka, George Cote and Dorothy Pappas

This hearing is for a Notice of Intent filed on behalf of Stephanie Opalka for the construction of a single family dwelling within the 100' wetland buffer zone on Depot Road (Map 12 Parcels 5), Harvard

Dan Wolfe, of Ross Associates, was present, along with the property owner, Stephanie Opalka. Mr. Wolfe explained earlier this year the previous owner was issued a Determination of Applicability for the property. Ms. Opalka has since purchased the property and finalized the house design; this increased the activity within the 100' wetland buffer zone associated with building a new dwelling, which has elevated the process to a Notice of Intent. Mr. Wolfe stated grading, the proposed deck and driveway will all be within the 100' wetland buffer zone.

A comment made during the site walk in regards to the type of driveway has lead Ms. Opalka decide to pave the driveway as opposed to a gravel driveway that would need annual maintenance and could have an adverse impact on the wetland associated with snow removal. The grading at the rear of the house will be stabilized with boulders found on the site as opposed to grass or other vegetation.

Dorothy Pappas an abutter, had concerns with runoff onto her property due to the development of this property. Mr. Wolfe reviewed the plan with Ms. Pappas and explained the water does not flow in the direction of her property.

Liz Allard requested the erosion control barrier be re-inspected before work resumes on the site.

With out a Department of Environmental Protection file number the Commission was unable to close the hearing. Wendy Sisson made a motion to draft an Order of Conditions to include the special condition that the slope at the rear of the house is not to be mowed more than once a year. Don Ritchie seconded the motion. The vote was unanimously in favor of the motion.

Wendy Sisson made a motion to continue the meeting to November 17, 2016 at 7:25pm. Don Ritchie seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

DOCUMENTS & OTHER EXHIBITS

Determination of Applicability Hearing – Michael Woolcock, 24 Littleton Road, Harvard#1016-01

- Request for Determination of Applicability Plan, 24 Littleton Road, Harvard, Massachusetts, Job No. 5014, prepared by Ducharme & Dillis Civil Group, Inc., dated 10/20/16

Notice of Intent Hearing Mikhail Zheleznyak, 23 Peninsula Road, DEP#177-651, Harvard#1016-02

- Residential Redevelopment, Special Permit Site Plan, 23 Peninsula Road, Harvard, MA 01451, prepared for Mikhail Zheleznyak c/o Olga Bykhovsky, 649 Mass Ave., Boxborough, MA 01719, Job 161057, prepared by GPR, Inc., dated October 2016
- Letter from Bare Hill Pond Watershed Management Committee, dated October 29, 2016

Notice of Intent Hearing – Stephanie Opalka, Depot Road (Map 12 Parcel 4 & 5), Harvard#1016-03

- Sewage Disposal System, Stephanie Opalka, Depot Road, Harvard, MA, Job No. 31358, prepared by David E. Ross Associates, Inc., dated October, 2016

Address Concerns with the Annual Draw Down of Bare Hill Pond

- Email received by Liz Allard from Diane Rayla, Subject: Re: ConCom Meeting, dated Nov 03, 2016
- Email received by Liz Allard from Patricia Ruze, Subject: In Support Of Bare Hill Pond Draw Down, dated Oct 31, 2016
- Email received by Liz Allard from Bruce Leicher, Subject: Do we have a quorum at 7pm tonight? AND update from the state, dated Oct 24, 2016