

**HARVARD CONSERVATION COMMISSION  
MINUTES OF MEETING  
MARCH 21, 2024  
APPROVED: APRIL 4, 2024**

Chair Eve Wittenberg called the meeting to order at 7:02pm, 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 (departed meeting at 10:05pm), Jim Burns, Mark Shaw, Jessie Panek and John Lee (Associate Member)

**Others Present:** Liz Allard (Conservation Agent), Dan Wolfe (Ross Associates, Inc.), Fred Alach, Bob O'Shea (Harbor Master), Matt Marro, Anne McWaters (Recreation Director), Lou Russo, Nick Pauling (GPR, Inc.), and Scott Smyers (Oxbow Associates)

**Continuation of a Notice of Intent Hearing – CSX Transportation, Inc, CSXT Railway Right-of-Way at Route 2, Harvard#0124-03.** Opened 7:02pm.

**Request for Determination of Applicability Hearing – Fred Alach, 26 Bolton Road, Harvard#0324-01.** Opened at 7:05pm.

**Notice of Intent Hearing – Harvard Parks & Recreation – 31 Pond Road, Harvard#0324-02.** Opened at 7:41pm.

**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 8:14pm.

**Deer Management Subcommittee (DMS) Annual Report**

The executive summary was read into the record and can be viewed [here](#). Joanne Ward requested the executive summary be amended to read ".....deer harvested on private, Federal, state and local land in Harvard."

Don Ritchie made a motion to accept the Deer Management Subcommittee Annual Report with the associated executive summary as read by Jessie Panek. 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; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

**Review Update of Deer Management Mission**

The mission statement was read by Jessie Panek and revisions were made. Liz Allard stated that in addition to the mission statement, the Deer Management Subcommittee Charter will also need to be updated. Ms. Allard stated she will work on the Membership and Terms section. Ms. Panek and Don Ritchie will work on the Background section.

Don Ritchie made a motion to approve the Deer Management Mission Statement (DMS) as revised this evening. 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; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

Eve Wittenberg thanked Ms. Panek for her work on the Annual Report and Executive Summary, as well as her work, along with Mr. Ritchie on the Mission Statement. She also asked them to convey her thanks to the DMS for their work in putting together the Annual Report.

### **Wetland Enforcement Restoration Plan – 8 Willow Road**

Scott Smyers, with Oxbow Associates, presented a proposed restoration plan for the property. The plan details the infractions within the 50' Wetland buffer zone, that had resulted in Liz Allard issuing a Wetland Enforcement Order. Planting beds and leaf mulch in the wetland area will need to be removed by hand to bring the property into compliance, as well as seeding in the disturbed areas will need to be done. Jessie Panek expressed interest in visiting the property before further discussion. The Commission scheduled a visit to the property with Mr. Smyers on April 25<sup>th</sup> at 8:30am. Mr. Smyers will notify the homeowners. The restoration plan will be discussed in detail at the May 2<sup>nd</sup> meeting.

### **203 Ayer Road**

- **Discuss Engaging Site Monitor**

Nick Pauling, from GPR, Inc. questioned the need for a Site Monitor when he was hired by Lou Russo, the property owner, to be the engineer of record. Liz Allard explained that in the Order of Conditions, it was stated that a Site Monitor would be engaged at the expense of the applicant and it's up to the Commission whether or not they want to hire the consultant. Eve Wittenberg further explained the Site Monitor would be a "clerk of the works", giving third party oversight on the project, and will report directly to the Commission.

Don Ritchie made a motion to engage Beals + Thomas for site monitoring of the wetland replication drainage components and any other area within the Commission's jurisdiction. 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; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

- **Act on Approval of Bond Amount for Wetland Replication.**

Eve Wittenberg explained that Wetland Replication and plantings are normally covered by a bond should the applicant fail to meet the conditions of the Order. Lou Russo, the property owner, has offered a \$20,000 bond.

Don Ritchie made a motion to request a bond estimate from Beals + Thomas should the applicant fail to complete the wetland replication. 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. (Note: Jim Burns has stepped away during this vote)

- **Act on Approval of Qualified Wetland Scientist**

Matt Marro gave a concise snapshot of his qualifications that would qualify him to be hired as the Wetland Scientist to oversee the wetland replication.

Jessie Panek made a motion to delay the approval of Matt Marro as the Qualified Wetland Scientist until the Commission receives additional information on Mr. Marro's qualifications. 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; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

- **Japanese Knotweed Removal**

Lou Russo presented an alternate removal method for the invasive species. Mr. Russo stated it would be cut and gathered at the stems; plants would be hand removed; soil would be raked; and plants would be placed in a storage container covered by a black tarp for 90 days to dry out.

Then they would be taken to a composting disposal site. Eve Wittenberg stated the normal disposal is to bury the dried out invasive at least 5 feet underground. Ms. Wittenberg advised Mr. Russo to revise the plan and address 3 issues: where on the property the storage containers will be located; washing of vehicles to avoid cross contamination; and where the composting site is located. Ms. Wittenberg stated Mr. Russo can be on the agenda for the April 4<sup>th</sup> meeting provided they submit all documentation by noon on the Tuesday before the meeting.

**Transfer Station Committee Request for Comments.**

Jaye Waldron made a motion to approve the [Transfer Station Comment letter](#). Don Ritchie seconded the motion. The vote was unanimously in favor of the motion by a roll call: Don Ritchie, aye; Jaye Waldron, aye; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

**Allocation of Additional Funds for Prospect Hill Conservation Area Boardwalk Installation by Eagle Scout Jack Stahl (\$44.43).**

Don Ritchie made a motion to approve additional funds in the amount of \$44.43. Jessie Panek seconded the motion. By a show of hands, the vote was unanimously in favor of the motion.

**Approve Minutes**

Jim Burns made a motion to approve the minutes of March 7, 2024 as amended. Jessie Panek seconded the motion. The vote was unanimously in favor of the motion by roll call: Jaye Waldron, aye; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

**Due to the lateness of the meeting the following items were passed over:**

- Update on Warrant Article for Wetland Protection Bylaw Fees
- Update on Action items from the Strategic Planning Session
- Status Report Pine Hill Village, DEP#177-586
- Status Report 90 Warren Avenue, DEP#177-719, Harvard#1122-02
- Updates from Representatives & Liaison
- Updates from the Conservation Agent

**Adjournment**

Jim Burns made a motion to adjourn the meeting at 10:30pm. 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 March 21, 2024
- Garden Plan and Photos for 26 Bolton Road
- Deer Management Subcommittee Mission Statement
- Harvard Town Beach Improvements, March 6, 2024

**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 21, 2024**

The public hearing was opened at 7:02pm 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, Jim Burns, Mark Shaw, Jessie Panek and John Lee (Associate Member)

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

This hearing was continued from March 7, 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 CSXT Railway Right-of-Way at Route 2, Harvard.

With no Department of Environmental Protection file number as of yet, Joanne Ward made a motion to continue the hearing to April 4, 2024 at 7:02pm. 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; Jim Burns, 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  
Fred Alach, 26 Bolton Road, Harvard#0324-01,  
March 21, 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, Don Ritchie, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw, Jessie Panek and John Lee (Associate Member)

**Others Present:** Liz Allard (Conservation Agent) and Fred Alach

This hearing is for a Request for Determination of Applicability for the addition of fill to create a flower and vegetable garden within the 100' wetland buffer zone at 26 Bolton Road, Harvard.

A site visit was completed by the Commission. Fred Alach, the homeowner, gave an overview of the project. His intention is to plant a vegetable and flower garden by adding fill to an area in the backyard, bringing it level with the septic mound. Mr. Alach has installed a silt fence and has been relocating fill as it migrates close to the fence near the stream. After speaking with Liz Allard, he added additional silt fencing and wattle. The top soil is currently under a tarp until the spring, when he will lay it down and plant the garden.

The hearing was opened to questions and comments from the Commission. Don Ritchie questioned how much fill has migrated to the silt fence. Mr. Alach stated he has moved 90% of the fill back away from the fence. Jessie Panek and John Lee both asked Mr. Alach what his intentions were to contain the area to prevent a continuous washout. Mr. Alach stated his plan was to put 6-8 inches of top soil on top of the sand. Ms. Allard stated there is no further immediate remediation needed other than what he has already done to capture the eroding silt as Mr. Alach has gone above and beyond what she asked. Jaye Waldron suggested plantings to stabilize the slope. Ms. Panek suggested a cover or fabric layer to protect soil from washing. Mr. Alach stated he is okay with placing fabric over the fill and then top soil on top of fabric until growth happens. Ms. Panek also suggested a taller planting closer to the stream rather than mowing grass short.

Jessie Panek made a motion to close the hearing and issue a Negative #3 Determination of Applicability with the following findings to allow for the planting of the garden: in order to control erosion, the mound of sand to be used as the base of the garden is to be covered with a burlap or other bio-degradable material; the stock pile of top soil shall be placed on top of the material that is used to cover the sand to prevent further mitigate erosion; and in the area closest to the stream, a taller meadow type planting will be used on the slope as a buffer to prevent runoff into the stream. 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; Jim Burns, abstained; Mark Shaw, aye; and Jessie Panek, aye.

Respectfully submitted,  
Celia Jornet,  
Recording Secretary

**Harvard Conservation Commission  
Notice of Intent Hearing Meeting Minutes  
Harvard Parks & Recreation, 31 Pond Road, Harvard#0324-02  
March 21, 2024**

The public hearing was opened at 7:41pm 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, Jim Burns, Mark Shaw, Jessie Panek and John Lee (Associate Member)

**Others Present:** Liz Allard (Conservation Agent) , Anne McWaters (Recreation Director), Bob O'Shea (Harbor Master) and Nick Pauling (GPR, Inc.)

This hearing is for public safety improvements, stormwater management and mobility access within the 200' wetland buffer zone to Bare Hill Pond.

Anne McWaters, Recreation Director, gave an overview of the project: reduce unmanaged sand, storm water issues by bathhouse, new vegetation where old was removed, ADA access, updated info on new ADA parking spots and ADA beach mats, picnic tables and swing. Don Ritchie questioned the accessible parking spot on the plan and Ms. McWaters explained there are two separate parking spots, one by the dock and one by the play area.

Bob O'Shea, Harbor Master, advised the Commission that he has hired GPR, Inc. to develop survey drawings for all the proposed work and since the area was just surveyed today, he would like to continue the hearing until the April 4<sup>th</sup> meeting.

Mr. O'Shea discussed storm water management around the beach house. The plan is to install gutters on the beach house and move rainwater to the swale. With regards to the parking spot by the kayak racks, Liz Allard asked about the size of the new impervious surface created by the parking spot. Mr. O'Shea said in Option A, the area is already on impervious ground. If the spot is constructed where the kayak rack is, the area would be 18'x16'. All runoff would be into the existing swale.

With regards to the new plantings in the drawing provided to Mr. O'Shea by Jessie Panek, he received a quote of \$10,000 for 60 varied plants. He instead proposes 6 hypericum plants and non-spreading low growth plants between the 6 bushes. Ms. Panek asked what the purpose of the plantings was and Mr. O'Shea explained they are strictly for cosmetic purposes. There is a cape cod berm on driveway side of planting that prevents draining into the area. Ms. Panek requested he use native New England plants.

Don Ritchie made a motion to continue the hearing to April 4, 2024 at 9:00pm. Jim Burns 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; 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  
Shakers' Quarry Property Owner's Association, Inc.,  
Stonecutters Path and Quarry Lane, DEP#177-742, Harvard#0124-01  
March 21, 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, Jaye Waldron, Joanne Ward, Jim Burns, 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 March 7, 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.

Dan Wolfe went over his responses to the four comments from Department of Environmental Protection (DEP):

- Refiled under the correct category and submitted the additional filing fee of \$500.
- Explained the culvert conveys to storm water runoff as part of the subdivision drainage and is not a stream.
- Completed Storm Water check list and submitted a storm water management plan.
- Corrected the drafting error regarding erosion controls at the culvert.

Don Ritchie questioned the need for a storm water management plan. Mr. Wolfe stated even though they are just replacing a culvert, the DEP still required one. Mr. Wolfe felt it was in his best interest to do one to expedite the project. The Property Owners Association will do inspections of the pipe to make sure it is functioning and submit a report periodically to the Conservation Commission.

Don Ritchie made a motion to close the hearing and issue an Order of Conditions with the added special condition of inspection of the pipe per the storm management plan in perpetuity. 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; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

Respectfully submitted,  
Celia Jornet,  
Recording Secretary