

**HARVARD CONSERVATION COMMISSION  
MINUTES OF MEETING  
NOVEMBER 2, 2023  
APPROVED: APRIL 18, 2024**

Chair Eve Wittenberg called the meeting to order at 7:04pm, 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, Jim Burns, Mark Shaw, Jessie Panek and John Lee (Associate Member)

**Others Present:** Liz Allard (Conservation Agent), Bruce Leicher, Diandrea Bilodeau,

**Review Process for Minor Activities**

Liz Allard will compile a list of minor activities which the Conservation Agent can approve, or present a recommendation to the Commission for approval, based on her review of duties of her peers from other communities. She will present this list to the Commission at a later meeting for them to discuss and/or approve.

**Discuss Engaging a Minute Clerk**

Liz Allard gave an overview of reasons for the need to outsource the minutes to a contractor, similar to how it is now being done with the Planning Board and Zoning Board Minutes. She stated there are ample funds in both the Bylaw Fees and State Fees accounts. Eve Wittenberg asked for a motion to go forward with the search for a Minute Clerk. Mark Shaw stated it needs to be discussed further, therefore it was tabled until the next meeting.

**Abbreviated Notices of Intent Hearing – Harvard Conservation Trust, Muller Land, Littleton County Road (Map 18 Parcel 42).** Opened at 7:28pm

**Abbreviated Notices of Intent Hearing – Harvard Conservation Trust, Coke-Newsham Land, Whitney & Littleton Roads (Map 17B Parcels 31, 32 & 38).** Opened at 7:31pm

**Continuation of a Notice of Intent Hearing – Juno Construction LLC, Ayer & Old Mill Roads, (Map 4 Parcels 52, 52.1, 52.2 & 53), DEP#177-33, Harvard#0923-01.** Opened at 7:35pm

**Notice of Intent Hearing – Travis Dery, 62 Old Littleton Road, DEP#177-729, Harvard#1023-01.** Opened at 8:04pm

**Notice of Intent Hearing - Chestnut Tree & Landscape, 320 Ayer Road, DEP#177-735, Harvard#1023-02.** Opened at 8:06pm

**Continuation of a Notice of Intent Hearing - Rachel Broadhurst, 41 Pinnacle Road, DEP#177-728, Harvard#0823-03.** Opened at 8:30pm

**Update on DEP Appeal of Bare Hill Pond Watershed Management Committee (BHPWMC) Order of Conditions, DEP#177-726**

Bruce Leicher, chair of the Bare Hill Pond Watershed Management Committee, provided an update to the Commission, which included the site visit by the Department of Environmental Protection. They detailed the repopulation in the draw down zone and compared it to the excessive growth in the area of the non-

draw down area. MA Fish & Wildlife (F&W) has since responded and BHPWMC has submitted a response back to F&W. BHPWMC has requested a consultation with F&W but have not heard back from them. Mr. Leicher discussed whether or not the gravity draw down should be happening. Liz Allard advised there is not a valid Order of Conditions to conduct a draw down as it is still under an appeal. Jaye Waldron asked for, and Mr. Leicher provided, a clarification of the requirements under the Generic Environmental Impact Report. Mr. Leicher also stated he has put out an Request For Proposals (RFP) for bids to repair the pump.

#### **Approve Minutes**

Jim Burns made a motion to approve the minutes of September 7, 2023 as amended. Jaye Waldron seconded the motion. By a show of hands, the vote was unanimously in favor of the motion.

#### **Adjournment**

Jim Burns made a motion to adjourn the meeting at 10:04pm. Jessie Panek seconded the motion. By a show of hands, the vote was unanimously in favor of the motion.

Following Items were passed over this evening:

Role of Conservation Commission Members

Status Report Pine Hill Village, DEP#177-586

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

Update from Representatives/Liaisons

Respectfully submitted,  
Celia Jornet,  
Recording Secretary

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

- Conservation Commission Agenda, dated November 2, 2023

**Harvard Conservation Trust  
Abbreviated Notice of Intent Hearing Meeting Minutes  
Harvard Conservation Trust, Muller Land,  
Littleton County Road (Map 18 Parcel 42), Harvard#1023-02  
November 2, 2023**

The public hearing was opened at 7:28pm 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 October 19, 2023 for an Abbreviated Notice of Intent filed on behalf of Harvard Conservation Trust, for invasive plant removal, native plant re-introduction and wildlife habitat restoration within the 100' wetland buffer zone and 200' riverfront area on the Muller Land, Littleton County Road (Map 18 Parcel 42), Harvard.

As the Department of Environmental Protection (DEP) number has not been issued, Don Ritchie made a motion to continue the hearing to November 16, 2023 at 7:25pm. 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.

Respectfully submitted,  
Celia Jornet,  
Recording Secretary

**Harvard Conservation Trust  
Abbreviated Notice of Intent Hearing Meeting Minutes  
Newsham Land, Whitney & Littleton Roads (Map 17B Parcels 31, 32 & 38),  
Harvard#1023-02  
November 2, 2023**

The public hearing was opened at 7:31pm 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 October 19, 2023 for an Abbreviated Notice of Intent filed on behalf of Harvard Conservation Trust, for invasive plant removal, native plant re-introduction and wildlife habitat restoration within the 100' wetland buffer zone on the Newsham Land, Whitney & Littleton Roads (Map 17B Parcels 31, 32 & 38), Harvard.

As the Department of Environmental Protection (DEP) number has not been issued, Don Ritchie made a motion to continue the hearing to November 16, 2023 at 7:27pm. 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.

Respectfully submitted,  
Celia Jornet,  
Recording Secretary

**Harvard Conservation Commission**  
**Continuation of a Notice of Intent Hearing Meeting Minutes**  
**Juno Construction LLC, Ayer & Old Mill Roads, (Map 4 Parcels 52, 52.1, 52.2 & 53),**  
**DEP#177-733, Harvard#0923-01**  
**November 2, 2023**

The public hearing was opened at 7:35pm 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), Walter Ericson (Juno Construction), Bruce Ringwall (GPR, Inc.) and Wendy Sisson

This hearing is for a Notice of Intent filed on behalf of Juno Construction LLC for the construction of one duplex unit, deck, drainage, public water supply wells, tree clearing, grading and associated utilities within the 100' wetland buffer zone and the 200' riverfront area on Ayer & Old Mill Roads, (Map 4 Parcels 52, 52.1, 52.2 & 53), Harvard.

Beals + Thomas, peer consultant for the Commission, has responded to GPR's response, who is now working on a secondary set of responses. Bruce Ringwall, of GPR Inc., highlighted the waivers the applicant is requesting. Don Ritchie expressed his concerns pertaining to Department of Environmental Protection (DEP) comments regarding the wells. Mr. Ringwall stated Beals + Thomas have expressed the same concerns.

Wendy Sisson has concerns pertaining to the Conservation Land across from Bower's Brook. The Conservation Commission has typical setbacks for wetlands, Bower's Brook is a special wetland in her view. Here there is not a dense vegetated wetland to assist in filtering water before entering the Brook. Ms. Sisson asked the Commission to take the time review the application and the site, to maintain the ecology of the site, which is constantly in flux, and for creative ways to vegetate the slope and control runoff.

Eve Wittenberg opened a discussed on the waivers of Harvard Bylaw fees. Mr. Ritchie does not think a waiver of fees is necessary. Jaye Waldron agreed. Jessie Panek asked what was the rationale behind asking for waiver of the fee. Mr. Ringwall explained the slim profit margin as a 40B development. Ms. Waldron stated the fees are the cost of doing business in Harvard. Liz Allard noted fees would cover 22 hours of her time for this development and that she will be spending less time inspecting this project than others projects. Walter Ericson, from Juno Construction, explained the bulk of disturbance in the buffer zone is the wells, which is temporary. Mr. Ringwall stated they are willing to make a compromise on the fee amount. Ms. Allard recommended a reduction in the fees. Jim Burns said members are not ready to make a decision on relief of the fees this evening. Ms. Wittenberg asked the Commission to come up with a basis for adjusting fees not only for this project but in general for all projects going forward.

Jaye Waldron made a motion to continue the hearing to November 16, 2023 at 7:45pm. 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.

Respectfully submitted,

Celia Jornet,  
Recording Secretary

**Harvard Conservation Commission  
Notice of Intent Hearing Meeting Minutes  
Travis Dery, 62 Old Littleton Road,  
DEP#177-729, Harvard#1023-01  
November 2, 2023**

The public hearing was opened at 8:04pm 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 Bruce Ringwall (GPR Inc.)

This hearing is for a Notice of Intent filed by Travis Dery for the installation of a pool within the 100' wetland buffer zone at 62 Old Littleton Road, Harvard.

At the request of Bruce Ringwall, the applicant's representative, Jessie Panek made a motion to continue the hearing to November 16, 2023 at 8:30pm. 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.

Respectfully submitted,  
Celia Jornet,  
Recording Secretary

**Harvard Conservation Commission  
Notice of Intent Hearing Meeting Minutes  
Chestnut Tree & Landscape, 320 Ayer Road,  
DEP#177-735, Harvard#1023-02  
November 2, 2023**

The public hearing was opened at 8:06pm by Vice 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 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:**

Don Ritchie, Jaye Waldron, Joanne Ward, Jim Burns, Mark Shaw, Jessie Panek and John Lee (Associate Member)

**Others Present:** Liz Allard (Conservation Agent), Eve Wittenberg, Bruce Ringwall (GPR, Inc.), Grant MacLean

This hearing is for a Notice of Intent filed on behalf of Chestnut Tree & Landscape for the restoration of land within the 100' wetland buffer zone after enforcement at 320 Ayer Road, Harvard.

Bruce Ringwall, of GPR, Inc., attended the site walk on September 18, 2023. Mr. Ringwall detailed the site. When Grant MacLean, the applicant, was before the Planning Board in 2020, he was provided an envelope he could work within, which was 200' from the ponds and 100' from the wetland. Mr. Ringwall explained the wetland line has expanded since its delineation in 2011. The applicant did encroach on the new wetland line, but barely on the old wetland line. Everything has been moved back as requested by the Commission.

Don Ritchie mentioned the shrub planting that was recommended by EcoTech. Mr. Ringwall stated things are naturally revegetating and the applicant decided to allow that to continue. Jessie Panek couldn't identify the area but it appears there is plenty of natural vegetation in the disturbed areas. The waiver requested is for temporary work in the 50' and 75' buffer zones to remove material.

Jaye Waldron is concerned there are no additional plantings; she suggested a condition be added to the Order of Conditions that native vegetation would need to be replaced, and seeded with New England wildflower mix and any invasive plants be removed.

Mr. Ringwall made a request that the fees not be doubled as required after enforcement. The Applicant has hired multiple professionals (EcoTech and Licensed Site Professional) and he has been cooperative during the process. Jessie Panek clarified the violation and sees it reasonable not to double the fees. Mark Shaw and Jim Burns agreed. Jim Burns made a motion to require standard Town fees in the amount of \$2,292.75 and to not double the fee. 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 recused herself from the vote.

Jessie Panek made a motion to allow the waiver for the purpose of restoring the buffer zones. 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. Eve Wittenburg recused herself from the vote.

Jaye Waldron made a motion to close the hearing and issue an Order of Conditions with the additional special conditions of an inspection by the Conservation Agent within 2024 to ensure native plants are

repopulating the area, if they are not, additional plantings will be required, along with ensuring there are no invasive plants in the area. Jessie Panek seconded the motion. The vote was unanimously in favor of the motion by a roll call: Jaye Waldron, aye; Joanne Ward, aye; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye. Eve Wittenberg recused herself from the vote.

Respectfully submitted,  
Celia Jornet,  
Recording Secretary



**Harvard Conservation Commission  
Continuation of a Notice of Intent Hearing Meeting Minutes  
Rachel Broadhurst, 41 Pinnacle Road, Harvard#0823-03  
November 2, 2023**

The public hearing was opened at 8:30pm 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), Matt Marro and Rachel Broadhurst (the Applicant)

This hearing was continued from October 19, 2023 for a Notice of Intent filed on behalf of Rachel Broadhurst for the construction of a paddock within 100' of a wetland resource area and the restoration of the resource area after enforcement at 41 Pinnacle Road, Harvard.

Eve Wittenberg reviewed the events to date: the enforcement order was issued in August 2022. A newly-constructed fence on the back-most property line has been observed in violation of the enforcement order though the Commission received an email from Matt Marro that the fence has since been removed. The Conservation Agent was on an adjacent property this morning and observed the fence in place and horses present in the 100' wetland buffer zone area, and also observed a new electric fence was installed. Mr. Marro stated after speaking with the applicant, part of the property-line fence has not been removed by the contractor and will be totally removed tomorrow. Mr. Marro confirmed the new electric fence is on the edge of the wetland. Ms. Wittenberg reiterated this is in violation of the enforcement order and the Wetland Protection Bylaw setbacks.

The Conservation Agent sent a Violation Notice with a \$300.00 finestating the fence installed within the wetland resource area was in violation of State's Wetland Protection Act, the Town's Wetland Protection Bylaw and the Enforcement Order issued on August 18, 2022. The letter required the fence within the wetland resource area be removed within 7 days. , The Commission needs to determine if any additional fines should be applied for continuing to not complying with the enforcement order.

Jim Burns stated Ms. Broadhurst needs some assistance as to where the buffer zone is and that if she complied with the lines that he would not impose fines. Jessie Panek agreed with Mr. Burns assessment of the situation. Jaye Waldron does not agree with Ms. Panek, as it is clear this electric fence is at the wetland edge and not at 100' buffer zone. Ms. Wittenberg stated the Commission is willing to wait an additional 24-hours for the remainder the property-line fence to be removed and the electric fence be moved at a minimum of 100' from the wetlands, and then no fines will be imposed. Don Richie questioned if one strip of electric fence is sufficient. Ms. Broadhurst stated it is as they are ponies and not horses.

Don Ritchie made a motion to require removal the existing property line fence by 5pm tomorrow and establish an appropriate fence 100' from the wetlands and if not met, fines will begin being imposed. 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.

Mr. Marro and Ms. Broadhurst wanted to discuss her horse breeding operation. Ms. Wittenberg stated the Commission is here to discuss the Notice of Intent that is in front of the Commission which is for the

removal of the fence and restoration of disturbed wetland area. Ms. Allard advised the applicant that she can either revise the current application or file a new application regarding her desire to run commercial business of breeding horses.

Ms. Wittenberg opened the hearing to comments from the abutters. Diandra Bilodeau, 134 Old Littleton Road, requested maple trees be replanted on the property line that was left bare by the removal of the trees (area between wetland flags 11 – 15). Ms. Broadhurst stated there were no trees removed from the area between wetland flags 11 – 15; Ms. Bilodeau stated she has photographic evidence showing freshly cut stumps, which she will send to the Conservation Agent.

Ms. Wittenberg requested that Mr. Marro update the plan to show the removal of the fence, the addition of trees in the area of wetland flags 11-15 as well as the disturbed area that will be reseeded with a New England seed mix. Mr. Marro said he will inspect the area to ensure the fence is removed and determine if additional reseeding will be needed in that area, and will then add that to the plan if necessary as well.

Ms. Wittenberg stated the hearing cannot be closed due to the Commission not receiving evidence of abutters receiving notification. She also reminded the applicant that she has until End of Business Day on November 3<sup>rd</sup> to remove the fence, relocate the electric fence outside the 100' wetland buffer zone, and to keep the horses out of the wetland and the 100' wetland buffer zone.

Don Ritchie made a motion to continue the hearing to November 16, 2023 at 8:45pm. 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; Jim Burns, aye; Mark Shaw, aye; and Jessie Panek, aye.

Ms. Wittenberg asked Ms. Broadhurst if the Commission had permission to come on her property tomorrow, November 3d at 5:15pm to do a site visit to verify the removal of the fence. Ms. Broadhurst agreed to the inspection time and will meet with Don Ritchie.

Respectfully submitted,  
Celia Jornet,  
Recording Secretary