

HARVARD CONSERVATION COMMISSION
MINUTES OF MEETING
February 5, 2009
APPROVED: June 18, 2009

Chairman Paul Willard called the meeting to order at 7:00pm in the Town Hall Meeting Room

Members Present: Paul Willard, Wendy Sisson, Charlie Gorss, Don Ritchie, Jaye Waldron, George Watkins and Joshua Gould (Associate Member)

Others Present: Liz Allard (LUB Admin), Bruce Ringwall (GPR, Inc.), Tom Cotton (LSS), William Clougherty (MassHighway), Dan Wolf (Ross Assoc.), Gary Shepard (Ross Assoc.) and Sydney Blackwell (Harvard Press)

Interview with Potential Land Stewardship Subcommittee Member – Ron Kusner

Ron Kusner was present to discuss the potential of being appointed to the Land Stewardship Subcommittee (LSS). He has read the LSS brochure and believes the activities would be something he would be learning over time. Wendy Sisson asked if he knows the differences between one tree and another. Mr. Kusner stated he did and is an avid hiker and biker. Tom Cotton, the current chairman of the LSS, asked what his professional background was. Mr. Kusner stated he is a physicist, preparing to retire. Mr. Kusner moved to Harvard in 1987 and resides on South Shaker Road. Ms. Sission suggested he attend the upcoming LSS meeting on Monday morning to determine if this is a committee he would like to be a part of; if so the Commission can appoint him at a later meeting.

Site Assessment & Management Plan for Prospect Hill Conservation Area and the Baseline Documentation Report for Dean's Hill Conservation Restriction

Tom Cotton, chairman of the Land Stewardship Subcommittee (LSS), was present to discuss the reports prepared by Nick Holland of Land Stewardship, Inc. Mr. Holland attended a LSS meeting in November to present his reports. Mr. Cotton is under the impression that the Commission wants to review the reports before signing off on them. George Watkins has begun reviewing the documents and stated they seem a bit light in recommending a direction that should be taken on the properties. Mr. Cotton stated Mr. Holland commented that as far as forestry work a State forester should be contacted. Tony Shaw, a member of the LSS, has previously stated that some of land had been logged in the 70's.

Wendy Sisson's main thought is that the reports contain very valuable GIS information, but they do not take it to the next step to make a recommendation. Ms. Sisson noted that some of the native information was not in the reports. The other useful bit of information is how all the parcels were obtained. Ms. Sisson would like to see some tracking data that was collected last winter.

Ms. Sisson stated that Mr. Holland has noted that private land owners are encroaching on Conservation Land. It is the understanding of the LSS that the land is being surveyed by the owners at this point. Mr. Cotton noted that he has found a tree stand on Deans Hill that may not have been used in some time. It was also noted that the Highway Department may be creating dump creep and this should be assessed.

Amendments to Chapter 147 Wetland Protection Bylaw Rules of the Code of the Town of Harvard Hearing. Opened at 7:30pm

Request for Determination of Applicability Hearing – MassHighway, Route 2, Harvard#0109-01. Opened at 7:48pm

Notice of Intent Hearing – William Laursen, 13 Peninsula Road, DEP#177-558, Harvard#1208-02. Opened at 8:00pm

Sprague Land

Paul Willard informed the members that two years ago the Commission agreed to allow the use of the Sprague land for farming. To date the individual given the permission has done nothing at that location. Mr. Willard has been contacted by another individual who is interested in starting a hay field. Charlie Gorss does not think the Commission can make a five year agreement without Annual Town Meeting (ATM) vote and State approval. Other members disagreed with that statement, as the current agreement was previously reviewed by Town Counsel and did not require an ATM vote. Wendy Sisson would like the Commission to keep in mind that the area could be used for a community gardens some time in the future.

Continuation of a Notice of Intent Hearing – David and Karen Cruise, 12 Cove Road, DEP#177-556, Harvard#1108-01. Opened at 8:30pm

Continuation of a Request to Amend an Order of Conditions – Mark Saganich, 21 Depot Road, DEP#177-452. Opened at 8:54pm

Zone 1 Well Radius - Pleasant Properties, Ayer Road and Old Mill Road

Bruce Ringwall was present to discuss the proposed assisted living complex at the corner of Ayer and Old Mill Road and the potential for the Zone 1 well radius that will be needed for the public water supply well. The radius will encroach on to an abutting piece of Conservation Land. Wendy Sisson is concerned with the work done to install the well. Mr. Ringwall explained that he is only here tonight to get a letter from the Commission that allows the use of a portion of Conservation land for the required well radius and not for the actual installation of the well. That filing will come before the Commission at a later date. Jaye Waldron asked about the permitting requirements for the well. Mr. Ringwall explained those requirements. Ms. Waldron asked if a dry summer will affect the brook. Mr. Ringwall explained it would not. Liz Allard asked if there are any issues with the entire area being with in priority and estimated habitat according to Natural Heritage and Endangered Species Program (NHESP). Mr. Ringwall stated NHESP is just another step in the process. Ms. Sisson stated this site will deserve a high level of

protection with all of the factors and the applicant should be aware of that. Don Ritchie asked if there would be any compensation for allowing this use on Conservation Land. Mr. Ringwall stated no because it had not been suggested for previous locations. Charlie Gorss does not think the Commission should take any money, because that would imply a value of the land. Ms. Allard suggested a donation to the Conservation Fund would be greatly appreciated. Charlie Gorss made a motion to send a letter to the Department of Environmental Protection (see Attachment A) in regards to the Zone 1 well radius. George Watkins seconded the motion. Don Ritchie and Wendy Sisson abstained from voting. The vote was 4-0.

Notice of Intent Hearing – Mary Anne Boynton, 12 Peninsula Road, DEP#177-559, Harvard#0109-03. Opened at 9:25pm

Open Space and Recreation Plan Update

Liz Allard explained to the members that although the State has given conditional approval of the Open Space and Recreation Plan there are a number of items that need to be completed before it is fully approved. Some of the items needed to be complete are beyond the time Ms. Allard has available. Items include the Americans with Disabilities Act requirements as well the requirement for additional information on the purchase of Conservation Land for open space. Ms. Allard will obtain additional information and will discuss this in greater detail at the next meeting.

Adjournment

George Watkins made a motion to adjourn the meeting at 9:55pm. 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
Amendments to Chapter 147 Wetland Protection Bylaw Rules of the
Code of the Town of Harvard
Public Hearing Meeting Minutes
February 5, 2009**

The public hearing was opened at 7:30pm by Chairman Paul Willard under the Massachusetts Wetland Protection Act, Ch. 131 §S40 and the Code of the Town of Harvard, Chapter 119 the Wetland Protection Bylaw in the Town Hall Meeting Room

Members Present: Paul Willard, Wendy Sisson, Charlie Gorss, Don Ritchie, Jaye Waldron, George Watkins and Joshua Gould (Associate Member)

Others Present: Liz Allard (LUB Admin) and Sydney Blackwell (Harvard Press)

This hearing is for Amendments to Chapter 147 Wetland Protection Bylaw Rules of the Code of the Town of Harvard.

Jim Breslauer had submitted a final draft of the revision to Chapter 147 for the member's approval. Liz Allard stated that she would suggest a requirement be added that any filing within 200' of Bare Hill Pond requires a copy of the application be sent to the Bare Hill Pond Watershed Management Committee. After a brief discussion, members agreed to include this requirement.

Members discussed the wording on Form F as it pertains to filing for a Notice of Intent. Members agreed that the intent of the statement "New construction or alteration of 500sf or less of total construction" and "New construction or alteration of 500sf or more of total construction" was being misconstrued. Ms. Allard suggested removing the words "new" and "total" from each statement. The members agreed.

A final question for the members was the wording to the definition of alter in §147-4A(8). Members agreed "the introduction of invasive species" was appropriate.

Don Ritchie made a motion to accept Chapter 147 Wetland Protection Bylaw Rules as amended by Jim Breslauer to include amendments agreed upon this evening. 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
Request for Determination of Applicability Hearing Meeting Minutes
MassHighway, Route 2, Harvard#0109-01
February 5, 2009

The public hearing was opened at 7:48pm by Chairman Paul Willard under the Massachusetts Wetland Protection Act, Ch. 131 §S40 in the Town Hall Meeting Room

Members Present: Paul Willard, Wendy Sisson, Charlie Gorss, Don Ritchie, Jaye Waldron, George Watkins and Joshua Gould (Associate Member)

Others Present: Liz Allard (LUB Admin), Bruce Ringwall (GPR, Inc.), Tom Cotton (LSS), William Clougherty (MassHighway), Dan Wolf (Ross Assoc.), Gary Shepard (Ross Assoc.) and Sydney Blackwell (Harvard Press)

This hearing is for a Request for Determination filed on behalf of MassHighway for the resurfacing of Route 2 just west of Route 110/111 to the Littleton town line with work within the 100' wetland buffer zone.

William Clougherty, of MassHighway, was present to present the application to the Commission. Mr. Clougherty stated the project is a grind and pave operation. All work will be within the existing paved areas. The only additional pavement that may be required would be if drains have to be raised. Exit 38 will have additional curbing work done. Don Ritchie asked that the extra mix that is usually left on the side of the road be removed at the completion of work. Mr. Clougherty had no objection to this requirement.

Charlie Gorss made a motion to close the hearing and issue a Negative #3 Determination of Applicability with the above mentioned condition. Don Ritchie seconded the motion.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

**Harvard Conservation Commission
Notice of Intent Hearing Meeting Minutes
William Laursen, 13 Peninsula Road, DEP#177-558, Harvard#1208-02
February 5, 2009**

The public hearing was opened at 8:00pm by Chairman Paul Willard under the Massachusetts Wetland Protection Act, Ch. 131 §40 and the Code of Harvard, Chapter 119 the Wetland Protection Bylaw in the Town Hall Meeting Room

Members Present: Paul Willard, Wendy Sisson, Charlie Gorss, Don Ritchie, Jaye Waldron, George Watkins and Joshua Gould (Associate Member)

Others Present: Liz Allard (LUB Admin), Dan Wolf (Ross Assoc.) and Sydney Blackwell (Harvard Press)

This hearing is for a Notice of Intent filed on behalf of William Laursen for the paving of an existing driveway, reconstruction of an existing walkway, installing retaining walls, stone light post and cobblestone aprons within 200' of Bare Hill Pond and within 100' of a bordering vegetated wetland at 13 Peninsula Road, Harvard.

Dan Wolfe was present to represent the applicant. Mr. Wolfe gave a history of the sites previous filing with the Commission. Last summer the homeowners repaved the driveway, added cobble stone on the edges, two stone light posts, vegetation and extended the existing retaining wall. The retaining walls on either side of the driveway are new as well. A pipe was installed to drain water off the driveway toward the wetland. The driveway was not previously paved. Wendy Sisson stated the native vegetation has been removed from the road side edge and replaced with landscaping; she believes this activity had not been brought before the Commission and now there is dirt and a slope with rhododendrons on it. The woodchips used to stabilize the area may not be enough; more vegetation may be needed, such as high bush blueberries. Ms. Sisson is also concerned that the lawn has increased from the time of the original filing and it looks well fertilized, which is not allowed under the Order of Conditions as a permanent condition. Ms. Sisson reviewed a letter from the Bare Hill Pond Watershed Committee (BHPWMC) in regards to the activity across the street at 12 Peninsula Road. The BHPWMC states no fertilizers are to be used within the buffer zone. Salts and de-icers on the driveway will also be an issue with the Commission. Charlie Gorss stated had this come before the Commission previously we might have required a pervious surface for the driveway. Mr. Wolfe explained that drainage is now equal or negative, any requirements to install additional trenches would create additional disturbance. Paul Willard thinks vegetation would help, but digging up the area for trenches would be counter productive. The Commission would like to visit the site in better weather.

George Watkins made a motion to continue the hearing to April 16, 2009 at 7:30pm. Don Ritchie seconded the motion.

Respectfully submitted, Liz Allard Land Use Administrator/Conservation Agent

Harvard Conservation Commission
Continuation Notice of Intent Hearing Meeting Minutes
David and Karen Cruise, 12 Cove Road, DEP#177-556, Harvard# 1108-01
February 5, 2009

The public hearing was opened at 8:30pm by Chairman Paul Willard under the Massachusetts Wetland Protection Act, Ch. 131 §40 and the Code of the Town of Harvard, Wetland Protection Bylaw, Chapter 119 in the Town Hall Meeting Room

Members Present: Paul Willard, Wendy Sisson, Charlie Gorss, Don Ritchie, Jaye Waldron, George Watkins and Joshua Gould (Associate Member)

Others Present: Liz Allard (LUB Admin), Bruce Ringwall (GPR, Inc.) and Sydney Blackwell (Harvard Press)

This hearing was continued from January 15, 2009 on a Notice of Intent filed on behalf of David and Karen Cruise for the construction of a four-bedroom dwelling, gazebo, dock and driveway with the removal of the existing dwelling within 200' of Bare Hill Pond at 12 Cove Road, Harvard.

Bruce Ringwall, of GPR, Inc., presented the change to the plan, which included a change to the wording of Note 1, installation of the porches and gazebo on sona tubes and Note 5 in reference to the plantings on the slope of the new driveway has been added. George Watkins is still curious how the watering system works. Mr. Ringwall explained the roof leaders and foundation drains come together to a leader, then to a series of rain barrels that will be buried in the ground that will have irrigation lines to distribute the water. Mr. Ringwall added the design was modeled on the one at the Discovery Museum in Acton.

Josh Gould asked about the gazebo being constructed inside the 50' no disturb zone, as well as the plan to leave the existing driveway down to the pond. Mr. Ringwall stated the applicant wants to return the site back to a more vegetated area since this site is going to have a large amount of disturbance. There is no intension to keep and use the existing driveway. As for the gazebo, it will occupy a location that is currently occupied by the existing house, so it would not be considered new disturbance. Wendy Sisson thinks it is a good idea that once work is completed to dig up the old driveway and let it re-vegetate it naturally.

Wendy Sisson made a motion to close the hearing and write an Order of Conditions that included the conditions as agreed upon at the January 15 meeting of the Commission and the following additional conditions, the existing driveway is to be returned to a natural state and vegetated with woody species as approved for the re-vegetation of new slope created by the installation of the new driveway (see Note 5 on approved plan); Vegetation within 50ft of the pond, with the exception of the landscape area, is to be left undisturbed in perpetuity; The gazebo is being allowed to be constructed within 75ft of the wetland as it will be located in an area that is presently disturbed by the existing dwelling.

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
Continuation of a Request to Amend an Order of Conditions Hearing
Meeting Minutes
Mark Saganich, 21 Depot Road, DEP#177-452
February 5, 2009

The public hearing was opened at 8:54pm by Chairman Paul Willard under the Massachusetts Wetland Protection Act, Ch. 131 §40 and the Code of the Town of Harvard, Wetland Protection Bylaw, Chapter 119 in the Town Hall Meeting Room

Members Present: Paul Willard, Wendy Sisson, Charlie Gorss, Don Ritchie, Jaye Waldron, George Watkins and Joshua Gould (Associate Member)

Others Present: Liz Allard (LUB Admin) and Sydney Blackwell (Harvard Press)

This hearing was continued from January 15, 2009 on a Request to Amend the Order of Conditions filed on behalf of Mark Saganich for the revised placement of a proposed garage within 100' wetland buffer zone.

The applicant was not present, nor was there any communications received. Paul Willard proposed denying the request as the structure has changed into something completely different than what was originally proposed to the Commission some time ago. Paul Willard made a motion to deny the Request to Amend the Order of Conditions, DEP#177-452. 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
Mary Anne Boynton, 12 Peninsula Road, DEP#177-559, Harvard#0109-03
February 5, 2009

The public hearing was opened at 9:25pm by Chairman Paul Willard under the Massachusetts Wetland Protection Act, Ch. 131 §40 and the Code of the Town of Harvard Wetland Protection Bylaw, Chapter 119 in the Town Hall Meeting Room

Members Present: Paul Willard, Wendy Sisson, Charlie Gorss, Don Ritchie, Jaye Waldron, Jim Breslauer, George Watkins and Joshua Gould (Associate Member).

Others Present: Liz Allard (LUB Admin), Gary Shepard (Ross Assoc.) and Sydney Blackwell (Harvard Press)

This hearing is for a Notice of Intent filed on behalf of Mary Anne Boynton in response to an Enforcement Order for the cutting of several trees within 200' of Bare Hill Pond at 12 Peninsula Road, Harvard.

Gary Shepherd, of Ross Associates, was present to represent the applicant. Mr. Shepard explained the existing site conditions and how and why the trees were cut. The Commission asked if there was a proposal for remediation. Mr. Shepard stated there is no proposal for remediation; Mr Shepard feels the tree canopy is still fairly extensive and will aid in protection. Wendy Sisson asked if most of the activity took place on the road side of the dwelling. Mr. Shepard and Liz Allard agreed that was correct. Ms. Sisson would like to see a solution to protecting the wetland across the road by planting some woody shrubs as the replanting of large trees would be difficult. The applicant is not requesting any additional work under this Notice of Intent. Paul Willard stated if the Boynton's are willing to plant some woody shrubs then everything else is to be left as is. Mr. Shepherd agreed that the planting of six non-invasive woody shrubs would be acceptable.

Wendy Sisson made a motion to close the hearing and write an Order of Conditions that included the following special condition: six non-invasive woody shrubs shall be planted on the road side of the dwelling, there will be no further cutting and there will be no grinding of the remaining trees stumps, and all work will be done by hand. George Watkins seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

ATTACHMENT A

OFFICE OF THE CONSERVATION COMMISSION

13 AYER ROAD HARVARD, MA 01451 978-456-4106 EXT.3 FAX: 978-456-1119

February 5, 2009

Massachusetts Department of Environmental Protection
Central Region Office
627 Main Street
Worcester, Massachusetts 01608

Re: Public Water Supply
The Falls at Old Mill
Old Mill Road, Harvard, Massachusetts

Dear Sir or Madam:

Pursuant to Department of Environmental Protection's request for public water restrictions on the land shown on an Exhibit Plan titled Public Water Supply Zone 1, by Goldsmith, Prest and Ringwall, Inc. dated February 2, 2009, relative to The Falls at Old Mill, Old Mill Road, Harvard MA, the Harvard Conservation Commission feels that such restrictions in the Zone 1 area, as shown on the plan, are compatible with this land which is woodland controlled by the Harvard Conservation Commission for conservation purposes.

The Conservation Land borders land owned by Pleasant Properties, c/o Robert Marhefka of 484 Main Street, Suite 330, Worcester, MA and Foxglove Housing Association Limited Partnership. The Commission has voted to authorize Pleasant Properties to include the Conservation Land as a part of the Zone 1 protective area for the public water supply at The Falls at Old Mill, Harvard, as shown on the above referenced plan. The Conservation Commission agrees to these restrictions associated with the public water supply which are consistent with the existing restrictions on the use of the Conservation Land.

The Conservation Commission agrees to permit a portion of this Conservation Land to serve part of the Zone 1 Protective Area pursuant to Massachusetts Laws and Regulations including but not limited to 310 CMR 22.00 revised through May 2, 2008.

Very truly yours,

Paul Willard, Chairman
Harvard Conservation Commission

Cc: Pleasant Properties
Goldsmith, Prest & Ringwall, Inc.
File