

HARVARD CONSERVATION COMMISSION
MINUTES OF MEETING
July 15, 2010
APPROVED: August 5, 2010

Vice Chair Wendy Sisson called the meeting to order at 7:00pm in the Town Hall Meeting Room

Members Present: Wendy Sisson, Charlie Gorss, Jim Breslauer, Patrick Doherty and Lewis Beilman (Associate Member)

Others Present: Liz Allard (LUB Admin), Matt Johnson (Bluefin Development), Bruce Ringwall (GPR, Inc.), Dave Crossman (B&C Associates), Nat Beale, Jim & Karen Piper, Julie Sniffen, Marie & Larry Finnegan, Eric Peterson (Eric Peterson Landscape & Construction), Ellie & Tom Callahan

Harvard Hemlocks/Woolly Adelgid

Wendy Sisson stated that she had noticed during a recent site walk on Bare Hill Pond that the young hemlocks on this particular site have been infested by the woolly adelgid. Ms. Sisson is concerned that when the infestation spreads to other hemlocks around the pond, untreated trees will die off leaving the banks of the pond prone to erosion. Ms. Sisson explained some of the available treatments including a tree injection treatment that is safe to use adjacent to open water. Ms. Sisson stated that both Lincoln and Weston have treated hemlock groves on town owned land and Weston has obtained Community Preservation Act funds to pay for treatment. Ms. Sisson believes the Commission should decide what would be recommended for homeowners in regards to treatment. Ms. Sisson suggested the first thing is to have the town-owned areas around the pond surveyed to see how wide spread it is around the pond. Second, Ms. Sisson would suggest checking with the Park & Recreation Department to determine what their plan is for the area around the beach. Once surveyed, an arborist would need to be consulted about treatment options. Ms. Sisson will continue researching the topic for further discussion at the next meeting. Jim Breslauer asked that any information collected in the meantime could be forwarded to the members before the next meeting, as well as the treatments Ms. Sisson spoke about.

Ayer Road Meadow Easement/Agreement

Liz Allard stated Cindy Russo had made a minor revision to the Agreement (See Attachment A) by removing the words “due to” in the second line of item #4 and adding “or demonstrates”. Ms. Russo explained to Ms. Allard that there could be an increase which would not be caused by non-compliance and that would make it difficult for Harvard Office Park LLC to take corrective action, which being promised in this agreement. The Commission was not agreeable to the change. Jim Breslauer recommended Town Counsel review the document prior to the Commission approving it for signature by the Chairman.

Request for Determination of Applicability Hearing – Bluefin Development, LLC, Lot 2 Mill Road (Map 12 Parcel 26). Opened at 7:30pm

Notice of Intent Hearing – Bluefin Development, LLC, Lot 4 Mill Road (Map 12 Parcel 26). Opened at 8:24pm

Notice of Intent Hearing – Bluefin Development, LLC, Lot 5 Mill Road (Map 12 Parcel 26). Opened at 8:53pm

Notice of Intent Hearing – Thomas & Eleanor Callaghan, 70 Warren Avenue.
Opened at 9:00pm

Conservation Land Regulations

Due to the lateness of the meeting the Commission agreed to continue this discussion to the next meeting

Review and Discuss Tree Cutting Policy

Due to the lateness of the meeting the Commission agreed to continue this discussion to the next meeting

Discuss How to Deal with Questions Regarding Setbacks, Chapter 147-16 and other Request from Applicants

Due to the lateness of the meeting the Commission agreed to continue this discussion to the next meeting

Request of Certificate of Compliance – Del Tredici, 24 Mill Road, DEP#177-572

Liz Allard stated that a Request for a Certificate of Compliance was received in May from Peter Del Tredici of 24 Mill Road for the installation of a septic system. At the time the lawn area still had not completely stabilized. The applicant's representative re-contacted Ms. Allard this week to state the area is now stable. Ms. Allard reviewed the site and found it to be stable and recommends the issuance of a Certificate of Compliance. Jim Breslauer made a motion to issue a Certificate of Compliance to Peter Del Tredici of 24 Mill Road, DEP#177-572. Charlie Gorss seconded the motion. The vote was unanimously in favor of the motion.

Adjournment

Jim Breslauer made a motion to adjourn the meeting at 9:47pm. Patrick Doherty 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
Bluefin Development, LLC, Lot 2 Mill Road (Map 12 parcel 26), Harvard#0610-01
July 15, 2010

This public hearing was opened at 7:30pm by Vice Chair Wendy Sisson under the Massachusetts Wetland Protection Act, Ch. 131 §40 and the Harvard Wetland Bylaw Chapter 119 of the Code of the Town of Harvard in the Town Hall Meeting Room

Members Present: Wendy Sisson, Charlie Gorss, Jim Breslauer, Patrick Doherty and Lewis Beilman (Associate Member)

Others Present: Liz Allard (LUB Admin), Matt Johnson (Bluefin Development), Bruce Ringwall (GPR, Inc.), Dave Crossman (B&C Associates), Nat Beale, Jim & Karen Piper, Julie Sniffen, Marie & Larry Finnegan

This hearing is for a Request for Determination of Applicability filed on behalf of Bluefin Development, LLC for the construction of a single family dwelling outside the 100' wetland buffer zone on Lot 2 Mill Road (Map 12 Parcel 26), Harvard

A site walk was conducted on June 28th with Bruce Ringwall, Greg Johnson and members of the Commission. Mr. Ringwall stated that during the site walk Wendy Sisson questioned an area between wetland flags BC 17 and BC 19. Field data sheets were submitted for the delineation that indicates the soils are not hydric on the upland side of the wetland line. Mr. Ringwall stated that the wetland on the site drains to the north east corner of the property to the existing pond. All of the work proposed is outside the 100' wetland buffer zone and confined to the flat area of the lot. The wetland is located at the bottom of a steep embankment. The application included the fee to review the wetland line. Dave Crossman, of B&C Associates, further explained his process of delineating a wetland, whereas within his transects of the upland he includes an area of the wetland vegetation. Mr. Crossman added that from a vegetative standpoint there usually is 50% wetland vegetation, where as this transect had a significantly lower percentage.

Ms. Sisson wondered why the application was not for a Notice of Intent (NOI) rather than a Request for Determination of Applicability (RDA). Mr. Ringwall explained that with no activity within the Commission's jurisdiction there would be nothing within an NOI application to mark off as the activity. Jim Breslauer asked how the Commission can ensure that the future owners do not clear-cut the wetland or use fertilizers within the buffer zone. Mr. Ringwall stated that there have been numerous house lots developed within Town that contain wetlands on the property, but all of the construction has been kept outside of the 100' buffer zone and questioned how are those sites being regulated?

Liz Allard explained that comments sent to the Planning Board during their application process with Bluefin stated the Commission would like to have an Abbreviated Notice of Resource Area Delineation (ANRAD) filed to determine an accurate location of the wetland line. The applicant chose not to file an ANRAD and is asking the Commission to approve the line under this RDA.

Nat Beale, an abutter of the property, stated that he walks the cart path often and notices standing water in the spring, he wondered if this could be a vernal pool. Mr. Beale would like a consultant to review the site to determine the possibility of a vernal pool. Julie Sniffen, an abutter of the property, stated what she has also observed on the adjoining site a potential vernal pool. Mr. Crossman stated he did not see anything that he was concerned enough with to alert Mr. Ringwall to after his review of the wetland line. Ms. Sniffen indicated on the plan where she thought the pool was on her property. The 200' line of the potential area was depicted by Mr. Ringwall. Ms. Allard maintained that even if there was a vernal pool this project would not have an adverse impact on that pool, nor would the 200' buffer zone under the Bylaw be within any of the proposed activity.

Ms. Sisson would like to see language that disallows activity beyond the existing stone wall at the rear of the property. Ms. Sisson thinks if there was a vernal pool this application could be permitted. Charlie Gorss thinks the application could be denied and an NOI could be filed that would flush out the vernal pool. Again it was stated that there would be no activity to file under an NOI. Mr. Gorss believes the Commission needs to determine if there is a vernal pool. Mr. Crossman explained that this project did not have to file at all, so this matter would not have come up at all. Mr. Crossman added that at this time of year it is impossible to determine the existence of vernal pools. He added the applicant has done good faith to demonstrate the wetland line.

Mr. Ringwall stated the applicant will inform a new owner that a wetland exists on the property and there is a potential vernal pool on the adjoining property.

Jim Breslauer asked if he would be willing to install markers to indicate the edge of the wetland. Greg Johnson stated he did not have a problem installing metal markers indicating the wetland. Ms. Sisson wondered if there is any way to record on the deed where the wetland line is. No one had any ideas.

Jim Breslauer made a motion to issue a Negative 1 Determination of Applicability. Wendy Sisson seconded the motion. The vote was 3 to 1 in favor of the motion, with Charlie Gorss opposing the motion.

Respectfully submitted,

Liz Allard,
Land Use Administrator/Conservation Agent

**Harvard Conservation Commission
Notice of Intent Hearing Meeting Minutes
Bluefin Development, LLC, Lot 4 Mill Road (Map 12 parcel 26), Harvard#0610-02
July 15, 2010**

This public hearing was opened at 8:24pm by Vice Chair Wendy Sisson under the Massachusetts Wetland Protection Act, Ch. 131 §40 and the Harvard Wetland Bylaw Chapter 119 of the Code of the Town of Harvard in the Town Hall Meeting Room

Members Present: Wendy Sisson, Charlie Gorss, Jim Breslauer, Patrick Doherty and Lewis Beilman (Associate Member)

Others Present: Liz Allard (LUB Admin), Matt Johnson (Bluefin Development), Bruce Ringwall (GPR, Inc.), Dave Crossman (B&C Associates), Nat Beale, Jim & Karen Piper, Julie Sniffen, Marie & Larry Finnegan

This hearing is for a Notice of Intent filed on behalf of Bluefin Development, LLC for the construction of a driveway and site grading within the 100' wetland buffer zone and the 200' riverfront area of Bowers Brook on Lot 4 Mill Road (Map 12 Parcel 26), Harvard.

Bruce Ringwall explained that the wetland discussed in the previous hearing (Lot 2 Mill Road) is in the rear of Lot 4 and all work is outside that wetland buffer zone. However, a wetland area on the property at 24 Mill Rd. creates a buffer zone on the front portion of Lot 4 along with riverfront area from Bowers Brook. Mr. Ringwall explained there is an existing culvert at the front of the lot in which there is a proposed 6" check dam. The driveway will be within the 100' wetland buffer zone and riverfront area. Wendy Sisson questioned an area adjacent to the road in front of Lot 3 that had been graded. Mr. Ringwall said it had been graded to smooth out test holes. Ms. Sisson believes this area was once wet and was at one point graded and seeded with grass. Dave Crossman, of B&C Associates, said he had checked that area thoroughly. Field data sheets were submitted and indicated non-hydric soils. Mr. Crossman stated there was indeed more wetland vegetation than upland vegetation in that area, but the soils are not correspondingly hydric. Transect C is closer to the property line of Lot 4 and B is closer to the culvert. Ms. Sisson was satisfied with Mr. Crossman's evaluation of the area.

The check dam will consist of stone arch 6" in height and 15' from the edge of culvert. The check dam will act as a sediment trap and control the flow of water. The existing culvert is 12" in diameter. Patrick Doherty asked how the construction would affect the drainage of water from this site. Mr. Ringwall stated it would all still flow in the same direction and there will not be an increased rate of run off. He also stated that drainage calculations had been submitted to the Planning Board previously and had been reviewed by the PB's consultant.

Filtermitt will be used during the installation of the check dam as well as on the entrance to the driveway during construction. Ms. Sisson would recommend woody vegetation along the grading of the septic system to help stabilize the slope. Mr. Ringwall stated it will be stabilized with loam and seed and is only a 3:1 slope. Ms. Sisson stated that the members did not review the rear of the site during the site visit. Ms. Sisson wanted to know what areas would be lawn. Mr. Ringwall indicated the front area is lawn and the rear is wooded. The plan is to only clear an area of 40' at the back of the house.

Jim Breslauer made a motion to close the hearing and issue an Order of Conditions to include Filtermitt to be used on the driveway during construction. 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
Bluefin Development, LLC, Lot 5 Mill Road (Map 12 parcel 26), Harvard#0610-03
July 15, 2010**

This public hearing was opened at 8:53pm by Vice Chair Wendy Sisson under the Massachusetts Wetland Protection Act, Ch. 131 §40 and the Harvard Wetland Bylaw Chapter 119 of the Code of the Town of Harvard in the Town Hall Meeting Room

Members Present: Wendy Sisson, Charlie Gorss, Jim Breslauer, Patrick Doherty and Lewis Beilman (Associate Member)

Others Present: Liz Allard (LUB Admin), Matt Johnson (Bluefin Development), Bruce Ringwall (GPR, Inc.), Dave Crossman (B&C Associates), Nat Beale, Jim & Karen Piper, Julie Sniffen, Marie & Larry Finnegan

This hearing is for a Notice of Intent filed on behalf of Bluefin Development, LLC for the construction of a driveway and site grading within the 200' riverfront area of Bowers Brook on Lot 5 Mill Road (Map 12 Parcel 26), Harvard.

Bruce Ringwall explained that the property has a small portion of riverfront area on the front of the property which will be crossed by the proposed driveway for a single family dwelling. Filtermitt will be used across the drive during construction to contain any erosion that may occur.

With no questions from the Commission or the public Jim Breslauer made a motion to close the hearing and issue an Order of Conditions to include Filtermitt to be used on the driveway during construction. 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
Thomas and Eleanor Callahan, 70 Warren Avenue, Harvard#0610-04
July 15, 2010**

This public hearing was opened at 9:00pm by Vice Chair Wendy Sisson under the Massachusetts Wetland Protection Act, Ch. 131 §40 and the Harvard Wetland Bylaw Chapter 119 of the Code of the Town of Harvard in the Town Hall Meeting Room

Members Present: Wendy Sisson, Charlie Gorss, Jim Breslauer, Patrick Doherty and Lewis Beilman (Associate Member)

Others Present: Liz Allard (LUB Admin), Matt Johnson (Bluefin Development), Bruce Ringwall (GPR, Inc.), Eric Peterson (Eric Peterson Landscape & Construction), Ellie & Tom Callahan

This hearing is for a Notice of Intent filed on behalf of Thomas and Eleanor Callahan for the construction of a stone walk way, patio, deck and stairs within the 200' buffer zone of Bare Hill Pond at 70 Warren Avenue, Harvard.

Bruce Ringwall explained that the original plan had a wooden staircase going down to the pond on the south side of the slope; revised plans shows the staircase on the north side of the slope. Mr. Ringwall further explained that stepping stones shall be set on the ground and stabilized by crushed stone along the northeast side of the house to a proposed stone patio. Landscape plantings will be added to the northeast side of the house as well. The slope of the septic area will be planted with woody plants and perennials. Mr. Ringwall stated the slope going down to the pond is very steep; what is being proposed is safer and better for the environment as the area has been trampled upon over the years. A new deck is proposed at the base of the slope supported by sono tubes. The plan was to come up with the path of least resistance considering slope and avoidance of tree roots and rocks. The Commission suggested the steps from the proposed patio to the first landing of the wooden staircase be changed to stone steps rather than wood steps

In response to the Commission's concern that the stand of hemlock trees on the slope not be injured in the process of constructing the proposed stairs, deck and patio, Mr. Ringwall stated that an arborist will review the site to determine what roots should not be cut so as to not disturb existing trees. Wendy Sisson asked what size root would be cut. Eric Peterson stated up to 1" – 2". Ms. Sisson stated in her mind it is good to have stairs that will help leave the other areas undisturbed but there needs to be some flexibility in the final location of the stairs due to ledge and roots. Ms. Sisson asked if the applicant

had an open mind to move the path if the arborist recommend that. Mr. Ringwall stated yes.

The Commission asked Mr. Peterson how he intends to carry out the work. Mr. Peterson stated by hand on the slope and a small skidder on the flat area. The Commission asked how big the stones will be for the patio. Mr. Peterson stated 1 ½” to 3” thick and 3-4’ in width. Mr. Peterson planned to excavate the organic layer, add crushed stone and then add the large stone top. It was noted that the organic layer is a mat of superficial hemlock roots that may not be excavated. It was agreed the patio can be constructed without excavation. The stone steps and landscaping to the northeast of the house down to the patio area will be limit of mechanical equipment. Ms. Sisson would like to hear from an arborist that the patio construction as planned will not smother the tree roots. Ms. Sisson stated in regards to the deck, the Commission is trying to establish vegetation by the edge of the pond, there is no vegetation there now and it is very rocky. Reducing the size of the deck was discussed along with the potential of planting of woody vegetation. The applicant would be willing to plant where possible in front (pond side) of the deck. The deck is designed to be a maximum of 18 x 20, but may be smaller due to the location of sono tubes. Ms. Sisson asked in terms of design is there any way to make the landing for the dock a part of the deck. Mr. Ringwall stated the project would be very flexible.

Mr. Ringwall stated the existing dock is removed annually and that no record exists of it ever being permitted under MGL Chapter 91. An application is being submitted to the State.

It was mentioned that the Commission had noticed sign of wooly adelgid on the small hemlocks on the north pond side of the property and suggested that the owners consult an arborist about caring for these trees and evaluating the rest of the stand.

With no further discussion, Charlie Gorss made a motion to close the hearing and issue an Order of Conditions that include the additional special conditions: an arborist is consulted in the construction of the whole project by staking out location of footings, steps, and deck to avoid root disturbance and evaluating the effect of the stone patio on the existing trees; no mechanical machine beyond the stone patio, or 90’ from the pond; the Commission is to be notified when area is staked out for their review and approval before construction, the plan as drawn is not specifically approved, but is to be considered a work in progress to be amended as needed during the construction period in order to protect the health of trees. No root shall be cut larger than 1” – 2”. Patrick Doherty seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard,
Land Use Administrator/Conservation Agent

ATTACHEMNT A
7/15/2010

Whereas the Harvard Office Park LLC, Ayer Road Realty LLC and Bowers Brook LLC, owners of the facility land at 196, 198 and 200 Ayer Road (collectively the “owners”) wish to construct 42 units of affordable elderly housing (the Project) on the facility land and need adjoining land with a Nitrogen Loading Restriction in order to be able to proceed with the Project;

And, whereas the Town of Harvard wishes to increase the number of affordable elderly housing units within the Town limits and land adjoining the Project is owned by the Harvard Conservation Commission;

The undersigned parties hereby contract as follows:

In consideration for the granting by the Harvard Conservation Commission (“the Commission”) of a Nitrogen Loading Restriction and Easement on the non-facility credit land (the “conservation land”), the owners hereby agree as follows:

1. The Owners will conduct all testing the facility land and the non-facility credit land as may be directed by the Massachusetts Department of Environmental Protection and the Harvard Board of Health.
2. The Owners will notify the Commission of all tests it is directed to conduct by the Massachusetts Department of Environmental Protection and/or the Harvard Board of Health, within one week of being directed to conduct a test or of conducting a directed test.
3. The Owners will provide copies of all test reports to the Commission within one week of receiving each and every test report.
4. In the event that any test results demonstrate any increase in nitrates or nitrites or demonstrates any non-compliance in the sewage disposal systems located on the facility land, the Owners will: (A) notify the Massachusetts Department of Environmental Protection and the Harvard Board of Health; (B) notify the Commission of the test results as stated in 3. above; (C) within one month of receiving the test results notify the Commission of corrective action it plans to take including a time line for implementation and completion; (D) promptly implement the corrective action; (E) notify the Massachusetts Department of Environmental Protection and the Harvard Board of Health and the Commission as soon as the corrective action has been complete; and (E) re-test the facility land as directed by Massachusetts Department of Environmental Protection and/or the Harvard Board of Health.
5. This Agreement shall be effective upon the recording of the Nitrogen Loading Restriction and Easement.

Harvard Office Park LLC
Ayer Road Realty LLC
Bowers Brook LLC

Harvard Conservation Commission

By: _____
Louis D. Russo
Duly Authorized

By: _____
Paul Willard
Chair

Date: _____

Date: _____

DOCUMENTS & OTHER EXHIBITS

Request for Determination of Applicability Hearing – Bluefin Development, LLC, Lot 2 Mill Road (Map 12 Parcel 26)

- WPA Form 1 – Request for Determination of Applicability Application dated June 2010
- Residential Development Determination of Applicability Site Plan Lot 2 31 Mill Road Harvard, MA Plan dated June 2010
- DEP Bordering Vegetated Wetland (310 CMR 10.55) Delineation Field Data Form, dated 4/27/07

Notice of Intent Hearing – Bluefin Development, LLC, Lot 4 Mill Road (Map 12 Parcel 26)

- WPA Form 3 Notice of Intent Application dated June 2010
- Residential Development Notice of Intent Site Plan Lot 4 31 Mill Road Harvard, MA Plan dated June 2010
- DEP Bordering Vegetated Wetland (310 CMR 10.55) Delineation Field Data Form, dated 5/10/10

Notice of Intent Hearing – Bluefin Development, LLC, Lot 5 Mill Road (Map 12 Parcel 26)

- WPA Form 3 Notice of Intent Application dated June 2010
- Residential Development Notice of Intent Site Plan Lot 5 31 Mill Road Harvard, MA Plan dated June 2010
- DEP Bordering Vegetated Wetland (310 CMR 10.55) Delineation Field Data Form, dated 5/10/10

Notice of Intent Hearing – Thomas & Eleanor Callaghan, 70 Warren Avenue.

- WPA Form 3 Notice of Intent Application dated June 2010
- Residential Improvements Notice of Intent Site Plan 70 Warren Avenue Harvard, MA Plan dated 7/15/2010

Request of Certificate of Compliance – Del Tredici, 24 Mill Road, DEP#177-572

- WPA Form 8A Request for Certificate of Compliance, undated dated
- Sewage Disposal Plan, 24 Mill Road Harvard, MA, As-built added April 2010
- WPA Form 8B Certificate of Compliance, dated July 15, 2010