

**HARVARD CONSERVATION COMMISSION
MINUTES OF MEETING
MAY 17, 2012
APPROVED: June 6, 2012**

Chairman Paul Willard called the meeting to order at 7:06pm in the Town Hall Meeting Room

Members Present: Paul Willard, Wendy Sisson, Jaye Waldron, Jim Breslauer and Patrick Doherty.

Others Present: Liz Allard (LUB Admin), Bill Johnson, Carl Warren, Scott Hayes (Foresite Engineering), Michelle Catalina, Steve Strong, Worth Robbins, Bruce Ringwall (GPR, Inc.), Jim Elkind and Tony Shaw

Request to discuss status of Determination of Applicability – South Shaker Road (Map 4 Parcel 44, Harvard#0108-01

Scott Hayes, of Foresite Engineering, was present along with Carl Warren to discuss the Permit Extension Act (PEA) in regards to the Determination of Applicability issued to P&E Trust in February 2007. The PEA allows for an additional two years to permits issued between August 2008 and August 2010; therefore extending the previously mentioned permit to February 2013.

The new property owner has made changes to the approved plan by resized the septic system and house, which are both smaller than previously approved. Liz Allard noted that the revised plan moves the location of the swale. It is Ms. Allard understanding from the 2007 hearings the Commission required the addition of the swale to maintain connectivity between the isolated wetlands on the property. Jim Breslauer asked why the swale was moved. Mr. Hayes stated the swale was previously located at the toe of the slope of the septic system fill, which no longer exists on the revised plan. Mr. Hayes argued that the revised plan is an improvement from the previously approved plan. Mr. Breslauer was still not satisfied with the response as to why the swale was moved and asked again why it was moved. Mr. Hayes repeated that the swale was at the limits of the filling previously and if the Commission so desires he could add an additional swale.

Paul Willard stated that it has been long time since the Commission has been out to the site and he never thought anything was going to be built there due to the constraints on the site. Mr. Willard would like an opportunity to re-visit the site prior to making any comments on the revised plan. Mr. Hayes stated the property owner would like to move forward with the project and would like the Commission to take action this evening. Other members of the Commission stated they agreed with Mr. Willard and would like an opportunity to review the site. Mr. Hayes stated he could revert back to the 2007 approved plan which will require more fill within the buffer zone. Mr. Willard stated the options before them, allow the Commission to review the site before approving the revised plan or move forward with the approved 2007 plan. After a brief consultation with his client, Mr. Hayes stated he would allow for the review of the site by the Commission. Wendy Sisson informed Mr. Hayes that Ms. Allard would be in touch on Monday with a date and time for the site walk, along with a time on the June 6th agenda to further discuss this issue.

Bare Hill Pond Watershed Management Committee Update on Beach Improvements

Bill Johnson was present to show the Commission the conceptual design for BHP-9 (stormwater management facility) and receive quick feedback on any questions the Commission might have on the design prior to its final drawing. Mr. Johnson explained that this facility will take water off the existing slope and collects it in the trench, which will then transport it through a pipe to a wet vegetated area or the waters edge, which ever works best. The facility has been designed and sized for a ten year rain event. Jim Breslauer asked about his concern and the slope of the parking area in regards to BHP-8, which will be part of the Notice of Intent application along with BHP-9. Mr. Breslauer is concerned that water will sheet flow off the parking lot and into the boat

launch area. Mr. Johnson stated that he had not yet received a response from Horsley Witten addressing this question, but he would have the answer before the next meeting. The Commission was pleased with the design of BHP-9 and look forward to the Notice of Intent and the improvements to the stormwater runoff issues from Pond Road into Bare Hill Pond.

Request for Determination of Applicability Hearing – Harvard Community Solar Garden, 285/295 Ayer Road, Harvard#0512-01. Opened at 7:36pm

Request for a Certificate of Compliance – D’Boss, 133 Clinton Shore Drive, DEP#177-563
Liz Allard stated she had conducted a site visit at 133 Clinton Shore Drive for compliance with the Order of Conditions. Ms. Allard stated the work is complete, areas are stable along the slope to Bare Hill Pond as required by the plan. With no questions or comments, Jim Breslauer made a motion to issue a Certificate of Compliance for 133 Clinton Shore Drive. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion.

Request for Comments – Smith, 345 Ayer Road, Harvard#1007-02

Liz Allard explained to the members that in 2007 they had issued an Order of Conditions to Leon Smith for the construction of a garage. Mr. Smith has installed the foundation for the garage, but has not built the garage itself. Since the work involving ground disturbance has been complete Mr. Smith is wondering of the Commission would be willing to issue a Certificate of Compliance (COC). Members were hesitant to issue a COC for a partially completed structure, as it could turn into a use that would not be allowed under the Bylaw, such as a barn that houses live stock. The members agreed that they prefer that the structure be completely built out before issuing a COC.

Election of Officers

After a brief discussion Jim Breslauer made a motion to elect Paul Willard as chairman of the Commission. Wendy Sisson seconded the motion. The vote was unanimously in favor of the motion.

Paul Willard made a motion to elect Jim Breslauer as the vice chair of the Commission. Patrick Doherty seconded the motion. The vote was unanimously in favor of the motion.

Planning Board Request for Comments on Land Use Reform for Sustainable Economic Prosperity (LURSEP)

Liz Allard distributed “Why the LURSEP Bill is NOT Zoning Reform” document for the members to review and provide feedback at the request of the Planning Boards. Ms. Allard has unsuccessfully tried to obtain additional information about the bill; she will continue to do so. Ms. Allard asked the members to forward her any comments they may have so that the Commission can further discuss at the June 6th meeting if necessary.

2012 Reappointments

Liz Allard informed the members that Paul Willard and Patrick Doherty are up for reappointment this year. The Board of Selectmen (BOS) has asked for the Commissions recommendations in regards to these reappointments. Patrick Doherty informed the Commission that he would not be seeking reappointment at this time. Paul Willard stated he would be seeking reappointment. The members agreed that they are in favor of the reappointment of Paul Willard for an additional three year term. Ms. Allard will convey this to the BOS. The members expressed disappointment that Mr. Doherty will be leaving the Commission, but understanding as to his compelling reasons for so doing.

Discuss non-approved trail work on Dean’s Hill

Liz Allard explained that she had been contacted by the Director of the Harvard Conservation Trust in regards to clearing that had taken place on Dean’s Hill. Ms. Allard reviewed the site and found there to be no substantial clearing, rather the cutting of downed and dead trees to make way for a snowmobile trail. Tony Shaw, president of the Harvard snowmobile club, stated he

neglected to inform the Commission and get their approval prior to the work. Mr. Shaw explained that the loop trail allows snowmobilers the option of not having to climb the hill in not so ideal conditions. Mr. Shaw stated the club will be doing additional trail work this fall. The Commission requested the proposed trail be flagged for the Commission to review prior to the start of any work on that trail.

Findings on regards to earth work conducted on Littleton Road (Map 13 Parcel 1)

Liz Allard explained to the members that she had received photos indicating additional activity had taken place on the Shaw land at the corner of Littleton Road and Cruft Lane. Ms. Allard reviewed the site and has concluded that there has been additional work not only within the 100' wetland buffer zone, but within the wetland as well. Commission members reviewed photos submitted to the Commission as well as photos taken by Ms. Allard.

Jim Breslauer thinks everything needs to be restored to it original conditions. Wendy Sisson stated that only recently Mr. Shaw was before this Commission at which the allowable activities under the Wetland Protection Act were discussed, so she is wondering what it is Mr. Shaw is thinking. Mr. Shaw stated what it boils down to is free dirt from sewer project. Mr. Shaw wanted to be able to use the upper field that he never thought was wet except for one small area. He has filled in the trench he had previously dug in that area, however he left the pipe in the trench. Dave Crossman has conducted a wetland survey of the area and has delineated the wetland line in the upper field. Mr. Crossman observed the exposed pipe and stated to Ms. Allard that it was not installed properly and would not affect the wet areas in the upper portion of the field. Mr. Shaw stated that he did not intend to fill in wetlands; he just needed to level out areas to make it useable. Members agreed to a site walk before making any decisions on how to further proceed. Mr. Shaw has agreed to discontinue any activity in the areas indicated. A site walk was scheduled for Wednesday May 30, 2012. Patrick Doherty stated that it is his feeling that Mr. Shaw did not conduct the activities with any malice.

Update on Drainage Improvements on the Tully Land

Liz Allard explained that she had submitted a Reserve Fund Transfer to the Finance Committee (FinCom) for the work associated with the drainage improvements at the rear of the Department of Public Works (DPW) property. The FinCom wanted to know if the Commission could use its own funds for the project. Members stated the reason why they are not willing to use the Conservation Fund money for this expenditure is the problem has been created by poor water management at the DPW property. Ms. Allard will inform the Finance Director of the Commissions concerns; Paul Willard is willing to attend the FinCom meeting if necessary.

Discuss Communications amongst other Boards/Committees/Employees/Volunteers

Liz Allard as well as other members of the Commission feel there is still a poor line of communication between the Commission, its staff and other Town employees and volunteers. Some employees are under the impression that Ms. Allard is making the decisions that later fall on them requiring additional tasks in their day to day activities, such as the improvements that have recently taken place at the transfer station. In addition, there is still an old school mentality when it comes to speaking with the Commission. Recently for example, the Fire Chief was advised to discuss with Paul Willard improvements he is seeking to do at the gravel pit on Stow Road. Once the Fire Chief determined who Paul Willard was, Mr. Willard directed him to Ms. Allard to review the site. Had the Fire Chief been directed to Ms. Allard things would have moved forward at a better pace. As for the recent discussions of a Town Planner, Paul Willard had a recent conversation with a member of the Board of Selectmen (BOS) who had been misinformed of the willingness of Ms. Allard as it pertains to a potential reorganization of her job description. Members agreed that they too would like to see communications improve across the board. Jim Breslauer stated he is willing to speak with members of the BOS is see how this can happen and report back to the Commission in a timely manner.

Informational Updates

Ms. Allard informed the members of the following:

- Just Cause Breast Cancer Walk taking place on Friday May 18th on the Bare Hill Wildlife Sanctuary land. Pink ribbons will be placed along the trail for the event and will later be removed.
- Loaves & Fished Food Pantry has invited the Commission to tour their facility on May 24th at 9:00am.
- National Grid is replacing in-kind a utility pole on Poor Farm Road. Details of the activity are outlined in the letter received from National Grid, dated May 1, 2012.
- Pan Am Railways will be conducting their 2012 Post-Emergent herbicide application on or after June 1, 2012 and will conclude on or about July 1, 2012 along the railway in Harvard.
- A Chapter 91 application has been received from Mike Sawyer at 44 Peninsula Road. Ms. Allard has reviewed the site with Mr. Sawyer, who will be installing a dock that will simply be placed on the shore with no anchors or ground disturbance.

Update on Hoch Land Purchase

Liz Allard informed the members that she received a message from Town Counsel Mark Lanza, who stated he himself had not heard back on the Commissions counter offer to purchase the Hoch Land. The Commission discussed the limited amount of action that has taken place during this process by Town Counsel. Members discussed hiring their own attorney for land purchases. Jim Breslauer will seek other counsel for the Commission. In the mean time Ms. Allard will continue to try and move the process along with Town Counsel.

FY13 Division of Conservation Services Grant Round Announcement

Liz Allard stated she attended the workshop in Amherst on Tuesday morning in regards to the Local Acquisitions for Natural Diversity (LAND) grants currently available from the State. Ms. Allard has some follow up questions for the Division of Conservation Services (DCS) in regards to the amount the Commission can request for the grant. Ms. Allard will follow up with DCS next week. The deadline for the grant application is July 12, 2012,

Working with the Agricultural Advisory Committee and the Wetland Protection Act

Paul Willard distributed a one page hand out that he and Chairman of the Agricultural Advisory Committee, Wendell Willard, have drafted in regards to a guide for farmers on how their activities relate to the Wetland Protection Act. Mr. Willard asked the Commission to review the document for further discussion at the June 6th meeting.

Invasive Species Control Update

Wendy Sisson stated the invasive species control funded through Community Preservation Committee started today on the selected Conservation lands. Additionally, Ms. Sisson was approached by the Harvard Garden Club, who asked her if she would be willing to apply for a grant from the Club to become a licensed sprayer. Ms. Sisson stated she has looked into what it takes to do so and there is an annual fee of \$100.00. Ms. Sisson would like to know if the Commission willing to pay for the annual license fee. Members had several questions in regards to the request. Ms. Sisson stated she would send the information that she has gathered to the members for their review and discussion at the June 6th meeting.

Adjournment

Patrick Doherty made a motion to adjourn the meeting at 10:006pm. Jim Breslauer 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
Harvard Community Solar Garden, Harvard#0512-01
May 17, 2012**

Chairman Paul Willard opened the public hearing at 7:36pm under the Massachusetts Wetland Protection Act M.G.L. Chapter 131 §40 and the Harvard Wetland Protection Bylaw, Chapter 119 of the Code of the Town of Harvard in the Town Hall Meeting Room

Members Present: Paul Willard, Wendy Sisson, Jim Breslauer, Jaye Waldron and Patrick Doherty

Others Present: Liz Allard (LUB Admin), Michelle Catalina, Steve Strong, Worth Robbins, Bruce Ringwall (GPR, Inc.), Jim Elkind and Tony Shaw

This hearing is for a Request for Determination of Applicability filed on behalf of Harvard Community Solar Garden for the removal of woody vegetation within the outer 50' wetland buffer zone for the installation of a solar garden at 285/295 Ayer Road, Harvard.

Bruce Ringwall, of GPR, Inc., was present along with Worth Robbins to represent Harvard Community Solar Gardens. Mr. Ringwall explained that all work for the solar panels is outside the 200' riverfront and 100' wetland buffer zone. Work within those areas includes the clearing of vegetation that would shade the solar panels. The plan has been revised since it was previously submitted to incorporate comments made by Natural Heritage Endangered Species Program (NHESP). The number of racks for the panels has been reduced within the limit of NHESP priority habitat of rare species and estimated habitat of rare wildlife, as well as the location of the transformers and inverters. NHESP has requested that the fencing be raised at the west and the eastern portions and exit points be established on the northern and southern points on the east side of the fence. The revised plan shows selective clearing within hatching areas, with shrubs trimmed to shoulder height and any thing below shoulder height to remain, also at the request of NHESP. Additionally, at the request of NHESP, the erosion controls have been changed from hay waddles to silt fencing. NHESP has required that a botanist be retained to conduct a turtle sweep to be sure there are none within the area before cutting is commenced. The revised plan indicated within the Plan Notes the annual cutting. Wendy Sisson asked if cutting would be required on an annual basis. Mr. Ringwall stated he has set an annual cutting, but that may not be necessary year to year. Mr. Ringwall added that additional sand will be imported for the turtles.

Paul Willard asked why they did not submit a Notice of Intent (NOI). Mr. Ringwall stated that the only activity on the site within the Commission's jurisdiction is the cutting within the buffer zone; in addition the filing fees associated with the NOI would have put the application in excess of a few thousand dollars. Jaye Waldron asked if National Grid had allowed for the tie into the system. Worth Robbins stated they have not yet applied for that.

Liz Allard stated the line wetland line was delineated in 2005. Mr. Ringwall made a case for the line should there be any changes to it; he indicated that changes to the wetland line would have little to no effect on the activity in the buffer zone. Paul Willard feels there is a huge environmental impact here that has not been addressed. Jim Elkind stated it takes 43 trees to offset one carbon of solar capacity. Steve Strong added that it would take 20,000 mature trees over the life of the system to reduce the carbon footprint. In regards to wildlife habitat restoration, Ms. Allard asked what the square footage of alteration will be within the riverfront area. Mr. Ringwall stated 4,414 square feet. Ms. Allard asked if a National Pollutant Discharge Elimination System permit would be required. Mr. Ringwall stated that is a gray area that has yet to be determined. Ms. Allard asked if an alternatives analysis was completed for work within the riverfront area. Mr. Ringwall stated that several alternatives were considered, however that information was not submitted with the application.

Jim Breslauer asked if it is feasible to raise the panels. Mr. Strong stated there would be no difference for the amount of tree clearing, as well as it would compromise the stability of the panels. Ms. Allard asked if NHESP would be submitting a final report. Mr. Ringwall stated he would assume so. Patrick Doherty asked if there was a corporate entity that will be responsible for the life span of the panels. Mr. Robbins stated the Limited Liability Corporation (LLC) would be responsible for the maintenance of the panels and the site. There would be a lease agreement between the LLC and the property owner. The Lease agreement requires the system be removed and the area returned to its original state once the panels are no longer in use.

Mr. Willard still feels an NOI will make it more formal. Mr. Breslauer asked if there would be an issue with some permanent markers to maintain the limit of cut. Mr. Ringwall had no issues with that request. Mr. Doherty agrees with Mr. Willard and thinks the Commission needs a legal framework around the activity being permitted. Ms. Sisson understands the concerns of Mr. Willard, however each case is site specific; this site will be developed for solar and will remain solar, there is not much more they will be able to do on the site. Unlike a single family house lot that has a potential for further encroachment into the buffer zone and associated wetlands. Ms. Sisson added that there is a big difference here as well because the water will be able to penetrate the area unlike that of a parking lot. Mr. Breslauer stated this kind of cutting at this distance does the Commission require more than a Request for Determination of Applicability, not normally.

Mr. Doherty is concerned with erosion and what the ground will be like over time. Ms. Sisson stated this is one of those cases where even with an NOI not until or unless something happens does the Commission have jurisdiction. Mr. Stone stated there is small runoff interference with these systems, which have been being installed since the 70's; therefore there are not many unknowns to the engineers designing them as there are to the general public. Mr. Breslauer asked if there would be a problem continuing the hearing to allow for comments from NHESP to be received. Mr. Robbins stated he would like to move forward, but would be okay with extending the time allowed. With that said, Jim Breslauer made a motion to continue the hearing to June 6, 2012 at 7:45pm in the Hildreth House. Wendy Sisson seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

EXHIBITS & OTHER DOCUMENTS

Request to discuss status of Determination of Applicability – South Shaker Road (Map 4 Parcel 44, Harvard#0108-01

- Sewage Disposal System Design Plan, Lot A South Shaker Road, Harvard, Massachusetts, Assessors Map 4 Parcel 44, prepared for Warren Design Build 268 West Street, Berlin, Massachusetts 01503, prepared by Foresite Engineering, revision date 5/1/12
- Proposed Sewage Disposal System, South Shaker Road, Harvard, Mass., P&E Trust, South Main Street, East Templeton, Mass., prepared by JLA Land Survey, revision date 12/17/07

Bare Hill Pond Watershed Management Committee Update on Beach Improvements

- Memorandum from Horsley Witten Group re: Bare Hill Pond – BHP-9 Concept, dated May 17, 2012
- Bare Hill Pond Stormwater Retrofit Project Harvard, Massachusetts, 25% Concept Plan, Prepared for Town of Harvard, prepared by Horsley Witten Group, dated May 16, 2012

Request for Determination of Applicability Hearing – Harvard Community Solar Garden, 285/295 Ayer Road, Harvard#0512-01

- Solar Photovoltaic Farm, Request for Determination of Applicability, off of Ayer Road (US 110 & 111), Harvard, MA, prepared for Harvard Community Solar Gardens, prepared by GPR, Inc., Job 121030, revision date 5/17/2012

Request for a Certificate of Compliance – D’Boss, 133 Clinton Shore Drive, DEP#177-563

- WPA Form 8B - Certificate of Compliance, issued to D’Boss & Son Builders, Inc., dated May 17, 2012

Planning Board Request for Comments on Land Use Reform for Sustainable Economic Prosperity (LURSEP)

- Why the LURSEP Bill is NOT Zoning Reform, undated

Findings on regards to earth work conducted on Littleton Road (Map 13 Parcel 1)

- Potential Wetlands Violation map indicating location of potential violation at Littleton & Cruft Lane, undated
- 16 Photos labeled “Shaw Property, Cruft Lane, Wetlands Filling” , undated
- 6 Photos, dated 5/17/2012

Informational Updates

- Email message from Joanne Edmunds, subject: Just Cause Breast Cancer Walk, dated April 25, 2012
- Invitation from Loaves & Fishes, undated
- Letter from National Grid, RE: Poor Farm Road Electric Distribution Pole Replacement, dated May 1, 2012
- Letter from Keith Morris, RE: 2012 Post-Emergent Vegetation Management Pan Am Railways, Inc., dated April 15, 2012
- Simplified License BRP WW06, Mike Sawyer, received May 15, 2012

Working with the Agricultural Advisory Committee and the Wetland Protection Act

- Harvard Conservation Commission, General Guidelines for Farming in Wetland Resource Areas, undated