

**HARVARD CONSERVATION COMMISSION  
MINUTES OF MEETING  
JULY 18, 2013  
APPROVED: August 1, 2013**

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

**Members Present:** Paul Willard, Jim Breslauer, Charlie Gorss, Jaye Waldron, Joanne Ward, and Jim Saalfield (Associate Member)

**Others Present:** Liz Allard (LUB Admin), Ken Van Wormer, Shiowoei Hastings, Dennis Ring, Brian Madden, Bill Hannigan, Robert Hughes and Joe Pettirossi

**Discuss Wetland Issues with Ken Van Wormer – 129 Oak Hill Road**

Ken Van Wormer was present at the Commission's request to discuss the activity taking place on his property, which involves activities within the buffer zone and potentially within resource areas. Mr. Van Wormer stated he has been working the land for 49 years. His work was visible to the entire Town of Harvard including the Conservation Commission (Concom); the work he is doing has been the same for 49 years. Paul Willard explained the types of activities that require the filing of an application with the Commission. Mr. Willard stated much of the area has been changed over the years rather than maintained. Mr. Van Wormer contended he has been conducting the same activities for the past 49 years.

Jaye Waldron stated the Commission is made up of volunteers and we do not drive around Town looking for violations; it is not the Commission's responsibility to patrol the Town looking for violations, however when they come to our attention we must act on them. Mr. Willard suggested Mr. Van Wormer file a Request for Determination of Applicability for continuing maintenance of his property so there will be documentation of the activity, if approved, being allowed. This will set guidelines in writing as well.

Mr. Van Wormer stated the parcel contains two large mounds of dirt that came out of the pond when it was dug in 1969; he needs to do something with those. Mr. Van Wormer explained the land is upland except for water that comes from across the street. Mr. Van Wormer stated he had attended a number of Concom meetings over the years, which allowed him to maintain the land. Mr. Willard explained that he is allowed to maintain, but when one goes beyond that is when it goes too far. Charlie Gorss explained the 200' buffer zone associated with the pond under the Harvard Wetland Protection Bylaw.

Mr. Willard suggested the Conservation Agent and he conduct a site visit with Mr. Van Wormer to review what he can and can not do as far as maintenance and then decide from there what Mr. Van Wormer should file with the Concom. Joanne Ward thinks everyone agrees Mr. Van Wormer cares much for his property, but maybe the Concom can do something to make it better. Mr. Van Wormer was in agreement with the site visit. The Conservation Agent will be in touch to arrange the visit.

**Discuss Thurston's Cove Issue with the Hastings**

Shiowoei Hastings was present to discuss the issues surrounding the use of the drive to Thurston's Cove, which is also the access to her property at 110 Warren Avenue. Mrs. Hastings stated there are times she and other family members are unable to get out of the driveway due to it being blocked by the cars of users at Thurston's Cove. She is not comfortable approaching strangers or calling the police every time this occurs, which is quite often. At times people park at the top of the drive, which makes exiting impossible. In addition, people drive too fast on the drive and visibility is very limited.

Paul Willard stated it seems we have a problem with the police not wanting to take action with violators. Mr. Willard stated he would speak with the Chief of Police and determine if they are

willing to enforce the signage, which states there is to be no parking. The sign does not state 'do not block driveway'; it was suggested that a sign stating that be added as well. Mrs. Hasting would like to have a sign installed at the beach area as well. The Commission agreed they had no issue with additional signage and are willing to pay for them. Mr. Willard will follow up with the Police Chief to determine if they are willing to enforce the violations occurring.

### **Approve Minutes**

Jim Breslauer made a motion to approve the minutes of June 20, 2013 as amended. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion.

### **Approve Bills**

Liz Allard stated the following bill has been received and needs approval to be included on the next bill warrant:

- ❖ MACC - \$790.00 (annual membership)

Charlie Gorss made a motion to approve the above mentioned bill. Jim Breslauer seconded the motion. The vote was unanimously in favor of the motion.

### **ZBA Request for Comments – 171 Bolton Road**

Liz Allard stated the Commission has received a request for comments from the ZBA for a Special Permit application for 171 Bolton Road. Jim Breslauer has reviewed the application on behalf of the Planning Board and stated there are no wetland issues on the site. Ms. Allard will send a letter to ZBA indicating the Commission has no issues with the application as submitted.

### **Land Stewardship Subcommittee Appointments**

Liz Allard stated the Commission needs to re-appoint Phil Knoettner and Wendy Sisson for a three year term to the Land Stewardship Subcommittee. Wendy Sisson had indicated earlier today to Ms. Allard that both she and Mr. Knoettner are willing to serve another term. Joanne Ward made a motion to re-appoint Wendy Sisson and Phil Knoettner to the Land Stewardship Subcommittee for a three-year term. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion.

### **Continuation of a Notice of Intent Hearing- Fairway Partners, LLC, Trail Ridge Way, DEP#177-621, Harvard#0613-02. Open at 7:30pm**

### **Issue Certificate of Compliance – 115 Tahanto Trail, DEP#177-615**

Liz Allard explained to the members she has received a Request for a Certificate of Compliance for Michael McGarty at 115 Tahanto Trail, DEP#177-615. Ms. Allard explained that during construction a number of large boulders were encountered; these boulders were left on-site down gradient of the proposed retaining wall and just shy of the existing culvert. When Ms. Allard conducted the final review of the site she noticed the area between the retaining wall and the boulders was seeded with grass; the Order of Conditions indicated this area was not to become lawn or covered with bark mulch. After a discussion with the engineer, Bill Hannigan, it had been agreed that a New England wildflower mix would be used to stabilize the area; however a review of the site today showed no signs of wildflowers.

After brief discussion on a resolution to the situation it was agreed the Certificate of Compliance can be issued and a request be made to the potential buyers of the property to come and see the Commission so that they understand the nature of the area. With that said, Jim Breslauer made a motion to issue the Certificate of Compliance. Charlie Gorss seconded the motion. The vote was unanimously in favor of the motion.

### **Request for Determination of Applicability Hearing – Joseph Pettrossi, 64 Warren Avenue, Harvard#0713-01. Opened at 8:15pm**

### **Issue Certificates of Compliance**

Liz Allard stated the Commission has received the following Requests for Compliance:

- ❖ Bare Hill Pond Committee, DEP#177-609 for BMP# 8 and 9 at the Town Beach;
- ❖ Thomas and Heidi Sinka, DEP#177-578, 23 Mill Road

Ms. Allard has reviewed both sites for compliance and determined work has been completed in compliance with the Order of Conditions. Jaye Waldron made a motion to issue the Certificates of Compliance for DEP#177-578 and 609. Joanne Ward seconded the motion. The vote was unanimously in favor of the motion.

Two Certificates of Compliance (COC) for 133 Clinton Shore Drive need to be issued as well; DEP#177-563 is a re-issuance of the COC for the septic system; DEP#177-608 is a COC for work that was not completed on a proposed perimeter drain. Liz Allard explained the property owners have decided to re-construct the existing house, which will require the filing of a new Notice of Intent. Jim Breslauer made a motion to issue the Certificates of Compliance for DEP#177-563 and 608. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion.

In addition, Ms. Allard continues to reduce the files in the office for the move of Town Hall. As previously stated there are a large number of files that had Certificates of Compliance (COC) issued, but never returned a recorded copy for the file. Ms. Allard has been able to locate the information on the Registry of Deeds (ROD) website and is able to destroy the files as allowed by State law. Additional files had COC issued, but they are not recorded at the ROD; Ms. Allard requested these files, DEP#177-009, 069, 121, 131, 158 and 163 have the COC re-issued.

Jim Breslauer made a motion to re-issue the above mentioned Certificates of Compliance. Charlie Gorss seconded the motion. The vote was unanimously in favor of the motion.

### **Discuss Use of Herbicides at Town Beach for Weed Control**

Liz Allard explained to the members she had been contacted by a Stow Road resident who has concerns in regards to beach employees using herbicides to kill weeds on the beach at Bare Hill Pond. Ms. Allard drafted a letter to the Park and Recreation Commission in regards to the matter indicating the Commission's disapproval of herbicides being used within 200' of Bare Hill Pond. Jim Breslauer had previously reviewed the letter and made minor changes. Members reviewed the letter. Jim Breslauer made a motion to approve the letter as drafted. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion.

### **Community Preservation Committee FY15 Applications**

Liz Allard stated the applications for Community Preservation Act funds are now available and due September 30<sup>th</sup>. Last year the Commission requested \$200,000 for the Conservation fund. Wendy Sisson has indicated the Land Stewardship Committee will be seeking an addition \$50,000 for continued invasive plant species control on Conservation Land. The members agreed an application in the amount of \$200,000 for the Conservation Fund should be submitted for FY14.

### **Quarterly Conservation Funds Update**

Liz Allard had previously distributed the Conservation Commission accounts detailing money received and spent over the last quarter of Fiscal Year 2013. There were no questions from any of the members in regards to these reports.

### **Approve Master Plan Steering Committee Representative**

Jim Breslauer explained the meetings for the Master Plan Steering Committee will most likely take place in the evening, thereby allowing for Jaye Waldron to be the liaison from the Commission. Mr. Breslauer further explained that liaisons will not be voting members of the Committee, but they are still encouraged to attend the meetings to provide input in the process.

Jim Breslauer made a motion appointing Jaye Waldron as the Commission's liaison to the Master Plan Steering Committee. Joanne Ward seconded the motion. The vote was unanimously in favor of the motion.

#### **Invasive Species Special Conditions**

Members have still not had an opportunity to review the conditions for approval. This item will remain on the agenda under old business.

#### **Request for a *De Minimus* Change – Town of Harvard, Ayer Road, DEP#177-592**

Liz Allard explained to the members she has been contacted by GRP, Inc. in regards to a change in the plans for drainage improvements and repaving of Ayer Road, DEP#177-592. The original plan called for the installation of rip rap swales to the bottom of the slopes along Ayer Road. The amendment includes the installation of two catch basins and a drain manhole at the intersection of Ayer and Mill Road to reduce erosion along the slopes of Ayer Road, as the quantity of water is more than the rip rap swales can maintain. Ms. Allard recommends this change as *De Minimus* rather than an amendment to the Order of Conditions.

Jim Breslauer made a motion to allow the change to the plan as *De Minimus*. Joanne Ward seconded the motion. The vote was unanimously in favor of the motion.

#### **Adjournment**

Jim Breslauer made a motion to adjourn the meeting at 8:50pm. 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  
Continuation of a Notice of Intent Hearing Meeting Minutes  
Fairway Partners, LLC, Trail Ridge Way, DEP#177-621, Harvard#0613-02  
July 18, 2013**

The public hearing was opened at 7:30pm by Chairman Paul Willard under the Massachusetts Wetland Protection Act, Ch. 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, Jim Breslauer, Charlie Gorss, Jaye Waldron, Joanne Ward, and Jim Saalfeld (Associate Member)

**Others Present:** Liz Allard (LUB Admin), Dennis Ring, Brian Madden and Bill Hannigan

This hearing was continued from June 20, 2013 for a Notice of Intent filed on behalf of Fairway Partners, LLC for the construction of six residential buildings, utility connection, final paving and landscaping within the 100' wetland buffer zone at Trail Ridge, Harvard.

Bill Hannigan, of Hannigan Engineering, along with Dennis Ring and Brian Madden were present. A site walk was conducted on July 8<sup>th</sup> with members of the Commission. Mr. Hannigan explained the work that has been completed to date and has received a Certificate of Compliance from the Commission. The applicant is here now for the final phase of the project. The applicant has been before the Zoning Board of Appeals for an amendment to the Comprehensive Permit to change the buildings from four unit buildings to two unit buildings. Market analysis shows an improvement in sales with two unit buildings rather than four unit buildings. Under this Notice of Intent the applicant will be finishing the remaining buildings, sixteen in total, the landscaping and the roadway berm. The site consists of a very large area that is held under a Conservation Restriction (CR) to aid in the protection of wildlife habitat. This CR was part of the requirements by Natural Heritage Endangered Species Program (NHESP). Mr. Hannigan explained in the area of building 13A there will be some grading work done within the CR area. Mr. Hannigan has filed the new plan with NHESP, who is in agreement with the use of the area for grading as long as the Commission is also in agreement.

Brian Madden, of LEC Environmental, further explained the project is subject to a conservation management plan with NHESP, which requires the installation of turtle barriers should work take place during mating season. These barriers will be periodically checked for turtles. Jim Breslauer stated the CR prohibits the removal of soil. Mr. Madden explained under Section III B(d) of the CR, NHESP reserved the right to restore habitat. Mr. Madden further explained this CR is not your typical CR as it is an older version and does not have all of the bells and whistles that they now contain. Mr. Hannigan explained the changes made to the building, the spacing between each, caused the grading to encroach on the CR area. The spacing was agreed upon during the ZBA hearings with input from both the Fire Chief and the Building Commissioner.

Paul Willard stated it sounds like NHESP wants someone else to go first and then they will agree. Mr. Madden stated it is a matter of the Commission being the grantee. Jim Breslauer asked how much fill would be required for the proposed grading. Mr. Hannigan stated 40 – 50 cubic yards. Mr. Breslauer does not understand how you can get around prohibition on the removal of soil under the CR. Mr. Hannigan stated it really is the reshaping of the soil. Mr. Willard wondered if the Commission said “no” would we just be over ruled by NHESP. Members agreed a letter from NHESP would be called for. The applicant thought NHESP would prefer a letter from the Commission. Mr. Breslauer asked if there was any adjacent land that could be added to make up the difference lost by the grading. Mr. Hannigan stated he could do something to that effect.

Liz Allard asked if it is correct that the grading into the CR area would make no difference if the buildings were shifted in the other direction. Mr. Hannigan stated that was correct, as the CR area encompasses the area in which the buildings would be located, even if they were shifted.

Jim Breslauer made a motion that the applicant notify NHESP of the agreement to increase the existing CR area in an amount equal to or larger than the area of proposed CR grading in exchange for allowing the grading within the CR area and that upon receipt of NHESP approval, the Commission agrees the area can be altered. Charlie Gorss seconded the motion. The vote was unanimously in favor of the motion.

With confirmation from NHESP needed, Jim Breslauer made a motion to continue the hearing to August 1<sup>st</sup> at 7:05pm. Joanne Ward 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**  
**Joseph Pettirossi, 64 Warren Avenue, Harvard#0713-01**  
**July 18, 2013**

The public hearing was opened at 8:15pm by Chairman Paul Willard under the Massachusetts Wetland Protection Act, Ch. 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, Jim Breslauer, Charlie Gorss, Jaye Waldron, Joanne Ward, and Jim Saalfield (Associate Member)

**Others Present:** Liz Allard (LUB Admin), Robert Hughes and Joe Pettirossi

This hearing is for a Request for Determination of Applicability filed on behalf of Joseph Pettirossi for the removal of diseased trees within 200' of Bare Hill Pond at 64 Warren Avenue, Harvard.

Members conducted a site walk of the property on July 16<sup>th</sup> and agreed the trees requested to be removed are a danger to public safety. The area contains other trees that will increase their canopy once these trees are removed. With no questions or comments, Jim Breslauer made a motion to issue a Negative 2 Determination of Applicability. Joanne Ward seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard  
Land Use Administrator/  
Conservation Agent

## DOCUMENTS & OTHER EXHIBITS

### **Continuation of a Notice of Intent Hearing- Fairway Partners, LLC, Trail Ridge Way, DEP#177-621, Harvard#0613-02**

- ❖ Trail Ridge at Harvard, Littleton County Road, Harvard, Massachusetts, Developed under the Comprehensive Permit, November 22, 2002 revised through November 1, 2012, Sheets 1-18, prepared for Fairway Partners, LLC, prepared by Hannigan Engineering, Inc.
- ❖ Conservation Restriction to the Town of Harvard, recorded 08/06/2007 at the Worcester Registry of Deeds, Book 41810, page 144

### **Discuss Use of Herbicides at Town Beach for Weed Control**

- ❖ Letter to Park & Recreation Commission, RE: Use of Herbicides within 100' of Bare Hill Pond, dated July 18, 2013

### **Request for a *De Minimus* Change – Town of Harvard, Ayer Road, DEP#177-592**

- ❖ Roadway Improvements, Site Plan & Construction Details, prepared by GPR, Inc., Job 111015, dated July 2013