

Town of Uxbridge
Conservation Commission
21 South Main Street
Uxbridge, MA 01569
508-278-8600 x 2020



Conservation Commission Meeting Minutes
Monday March 5, 2018
Board of Selectman's Room, Uxbridge Town Hall

Received by
Uxbridge
Town Clerk

Present: Chair Andrew Gorman, Vice Chair Jim Hogan, Clerk Jeff Shaw, Treasurer Russell Holden, Member Lauren Steele and Conservation Agent Melissa Danza

Absent: Member Dale Bangma

* Mr. Hogan moved to take the agenda out of order, per the request of the applicant, and hear Tea Party Drive under REPORTED/ONGOING VIOLATIONS first. Mr. Shaw seconded and the motion passed by vote of 5-0-0.

REPORTED/ONGOING VIOLATIONS

5. Tea Party Drive (00:01:18 – 00:14:47)

- Dale McKinnon, Guerriere & Halnon, attended at the request of Uxbridge Multi Family Realty (UMFR). Mr. McKinnon stated that Mike Harrington, Fafard, had been working with Mrs. Danza about doing work and they discussed the possibility of doing it under a NOI, which they plan prepare. He agreed the recent work of paving the roadway before an Order of Conditions (OOC) was issued was a mistake and due to a communication issue. He also said they will be requesting an amended OOC for Hyde Park Circle, revising the lots and reducing the total # of home units from 18 to 16 (4 lots with 4 units on each lot). Mr. McKinnon was also asked by the applicant to request the ability to add an additional silt fence without an order. Mr. Hogan noted a positive RDA was issued in 2016 because work from site had affected the bordering wetland and that the Commission was told more than once an NOI would be submitted but a roadway base course was laid down without one. He further described the 2 ECBs currently on site: the first by the road approximately 30%-40% down and 10%-15% overtopped with silt going beyond it - providing some level of protection and the second 40-50 feet back into the woods at the bottom of that slope. It was difficult to assess the effectiveness of the second ECB. Mr. Gorman emphasized the urgency to having a formal submittal and additional erosion control measures installed both of which they could accomplish via an enforcement order. A 30-day deadline to submit an NOI was discussed and Mr. McKinnon said that would not be an issue. Mr. Holden highlighted the special soil on site – it is especially fine when dry and like quicksand when wet. It was also mentioned that there are areas where silt is channeling directly into the catch basins.

Mr. Gorman read the following into record... "Based on the observed site conditions and the Determination of Applicability issued in November 2016 the Uxbridge Conservation Commission hereby orders that you Cease and Desist all work on Tea Party Drive and take the following corrective actions to install *and maintain** additional erosion control measures to prevent the siltation of the adjacent wetland and cold water fishery to the satisfaction of the Conservation Commission and you are hereby required to file a Notice of Intent within 30 days from the issuance of this order in support of the existing and proposed work on Tea Party Drive. If no such submittal is received at the conclusion of the 30-day period you shall be required to restore Tea Party Drive and land disturbances associated with the work to pre-project conditions to the satisfaction of the Conservation Commission." *and maintain was added after discussion.

Members had a brief discussion confirming the only work allowed is the stabilization until the NOI is approved which could be another 30-60 days after the submittal while details are worked out. Mr. McKinnon acknowledged he understood what the Commission was looking for and would contact Mrs. Danza.

Motion: Mr. Hogan moved to take up Mr. Gorman's statement as read into the record above. Ms. Steele seconded, and the motion passed unanimously by vote of 5-0-0.

* The meeting returned to the order of the published agenda.

PUBLIC HEARINGS

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1. **Notice of Intent (NOI), DEP #312-1054**, 0 Newell Road & 0 South Main Street (Map 25, Parcels 2065 & 4434) (00:14:53 – 00:15:20)
Applicant: ForeFront Power, LLC Representative: TRC Environmental Corporation
Project Description: Construction of a 4-megawatt ground mounted solar facility with work in bordering vegetated wetlands and associated buffer zones.

Discussion: (PH opened 9.19.17) Mr. Gorman noted the applicant formally requested to continue.

MOTION: Mr. Hogan made a motion to continue DEP #312-1054, 0 Newell Road & 0 S Main Street until the next scheduled meeting. Mr. Shaw seconded, and the motion passed by vote of 4-0-1.

2. **Notice of Intent (NOI), DEP#312-1039**, 620 Aldrich Street (Map 48, Parcel 4524) (00:15:21 – 41:48)
Applicant: Jonathan E. Tibbetts Representative: Andrews Survey & Engineering, Inc.
Project Description: Construction of a single-family home with associated septic system, earthwork, landscaping with a wetland crossing to construct a driveway.

Discussion: (PH opened 5.1.17) Steve O'Connell, Andrews Survey and Engineering, attended on behalf of the applicant. He walked the members through the changes in the plan since the last hearing which were based on the last comment of the third-party review regarding the well. They added a slurry pit for drilling mud and proposed additional ECB down the grading of the well. In response to comment 2d. Mr. O'Connell said wetland flags 60 and 61 were located via an accurate instrument survey and they are drawn where they located them. There was discussion about comment 3 regarding crossing the intermittent stream and everyone agreed it was practical to have a single point of crossing to be established in the field prior to the start of work. The self-created hardship issue was also discussed. Based on site specific conditions and the fact they are going to a higher replication ratio. Mr. Holden brought attention to the numerous incursions into the 25' setback along the driveway and that wetland area effected is about 20% the site itself. No members from the public provided comment.

Motion: Mr. Hogan moved to close the public hearing for DEP#312-1039 620 Aldrich Street. Mr. Shaw seconded and the motion passed by vote of 5-0-0.

During deliberations, Mr. Gorman said this project will require hands-on approach from the Commission in terms of success of the replication area and he acknowledged Mr. Holden's concerns. Members discussed the possible additional special condition of establishing a single point of crossing and that the crossing be restored to the pre-crossing state.

Motion: Mr. Hogan made a motion that the Commission issue an Order of Conditions for DEP #312-1039 620 Aldrich Street with the Uxbridge Standard Special Conditions and the added condition that the point of stream crossing, to the replication area, shall be established in the field and verified by the Conservation Agent and at the conclusion of the project the stream crossing shall be restored to pre-crossing conditions. Mr. Shaw seconded, and the motion passed by vote of 4-1-0.

3. **Notice of Intent (NOI), DEP #312-106X**, 0 Quaker St (Map 51, Parcel 2341) (00:41:50 – 1:05:52)
Applicant: ZPT Energy Solutions, LLC Representative: LEC Environmental Consultants, Inc.
Project Description: Construction of a 2 MW photovoltaic solar array and associated site work within the 100' Buffer Zone to a BVW.

Discussion: Rich Kirby, LEC Environmental and Ernie Mellow, ZPT both attended the meeting. Mr. Kirby provided key points regarding the project: it is a 20 acre site; the Town of Millville runs along the eastern property boundary; the array will be on the northern 2/3rd of the site; the site is mostly forested with relatively young trees; there are 2 primary areas of wetlands; the array measures about 11 ½ acres and about 2 acres of which will be located in the buffer zone; access will be off Albert Dr. in Millville; electricity associated will connect to the existing infrastructure associated w/ an easement along the northern property boundary. The project is proposed in 3 phases the first being clearing and preparing for the array. He stated the array will be on existing grade and the only grading involved is in the NE corner for the detention pond which is proposed to accommodate the change in runoff during construction. Two diversion swales are proposed to take the runoff to the basins which will be cleaned up and restabilized with vegetation after the construction. Proposed work in the second area (area between the chain link fence also identified as limit of work and the 25' buffer zone) is to remove the trees but the understory will remain – a sort of transition area between the meadow habitat of the array and forested areas. A portion of the site is in

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priority habitat according to NHESP for the Papillose Nut Sedge which requires a separate filling process. They plan do an analysis this summer during fruiting season. Mr. Kirby stated they fully expect and would be open to any special conditions requiring them to comply with any NHESP requirements and provide the Commission with any related documents.

Mr. Gorman asked if there a height threshold they are trying to establish to which Mr. Mellow responded they try to keep it under 15 feet so the array is not impacted by shade but they are open to conditions. Other comments noted were whether it is possible to move the stockpile in the buffer as noted in In CS102 and that haybales are not allowed in Uxbridge and compost filter tubes would be preferred. Mr. Kirby agreed to look at both issues. Mr. Gorman mentioned that it was checked off as limited project but solar systems themselves do not qualify as limited and Mr. Kirby agreed it was a valid point. Mr. Holden inquired about the rational for adding the storm water management basin. Mr. Kirby explained LEC delineated the wetlands and prepared the application and the project engineer was not here but calculations are completed to determine what type of storm water management is needed. Approximate elevation gradients are 100' between the high and low points to the north from and 60' between high and low points to the south. They discussed the possibility of mandatory inspections from the Commission during the various phases of the project via conditions that the Commission visit the site after the ECBs are installed and again after the clearing is done. Mr. Kirby verified that a SWPPP will need to be developed because they exceed the threshold and so potential condition could be required compliance with SWPPP. SWPPPs require erosion control monitoring and the Commission could be copied on these reports. Everyone agreed to set up site visit for the week of 3/15 around 5:30 at Albert Drive. No DEP number has been assigned yet. No public comment during the hearing.

Motion: Mr. Holden moved to continue 0 Quaker Street to the next regularly scheduled meeting. Ms. Steel seconded, and the motion passed 5-0-0.

** The agenda was taken out of order to COC request for DEP #312-527 under WETLAND UPDATES/ISSUES.*

WETLAND UPDATES/ISSUES

- Request for Certificate of Compliance, DEP #312-527, High Ridge Development (01:05:53-01:11:10)
 - Faith Lane, Lane and Hammer, attended on behalf of the applicant and explained the OOC lapsed and the work was never started. Mr. Gorman reviewed the information Mrs. Danza compiled, that it was an undeveloped subdivision, a different layout was approved almost a year later, and she recommends issuing an invalid Order of Conditions. Commission members reviewed aerial images of the site, which clearly show the development was not built.
 - Ms. Steele moved to issue the Certificate of Compliance with an invalid Order of Conditions as the work was never done as shown on the plan DEP# 312-527, High Ridge Development. Mr. Hogan seconded, and the motion passed unanimously by vote of 5-0-0.

** The agenda was taken out of order to discuss Commerce Drive first under REPORTED/ONGOING VIOLATIONS*

REPORTED/ONGOING VIOLATIONS

1. Commerce Drive – Map 40, Parcels 3085 & 3086 (01:11:28 – 01:56:13)
 - Steve O'Connell, Andrews Survey and Engineering, attended on behalf of the applicant. He referenced revised restoration plan, prepared by EcoTek dated 2/7/17 and reviewed the comments regarding monitoring work and the additions to the plantings (added 50 saplings to the slope area between the industrial park and 40 saplings to the Potential Vernal Pool). They are asking for the Commission support of the plan, so they can move forward with selecting contractors and scheduling the work. Mr. O'Connell stated they have had little response from DEP but in his discussions with NHESP, Lauren Glorioso indicated it was a better habitat in the state it is in now with some additional plantings and the eventual conservation restriction document. He also mentioned the site may be sought out as a public water supply in the future which could be easily worked into that type of a restriction agreement. Mr. Gorman explained he and Mrs. Danza were both notified that comments are forthcoming from DEP. He outlined a possible path to move forward could be to pull the current enforcement order for the ecb stabilization, which they have done, and issue a new order allowing the restoration work with conditions that the requirements could be changed at the discretion of DEP wetland staff. Mr. Holden asked the following questions: will they permit the evaluation of the potential vernal pools (VP)?; will the planting activity impact a spring migration?; is there a need for some herbaceous plantings also?; have they considered matching the plantings to the neighboring site that was not cleared?; we are planting with 4 different species but what was there?

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There was discussion on how to address the overlap of the spring planting and vernal pool breeding seasons without leaving the site open too long. Everyone also agreed that it could take several planting seasons until the enforcement order is satisfied and there will be opportunities to address things such as areas of success and failure and invasives for example. Mr. Gorman suggested they issue the EO to allow them to do the restoration work with a condition that the evergreen plantings at the applicant's discretion during the growing season, but the plantings associated with the perimeter of the vernal pool shall be established no sooner than the first of May. Also, add a condition/memorandum that the Commission will also recognize any changes requested by DEP. Mr. Holden recommended they try to maintain flexibility in the trees and shrubs being planted, as they still do not have an inventory of what was taken down or what is on the bordering lot – there may have been many more species that were there that are not being added back in. After further discussion, they agreed to move forward with adjustments to the type of shrubs (25 Pussy Willow, 25 Silky Dogwood, 25 Highbush Blueberry, 25 Arrowwood).

Motion: Mr. Hogan made a motion to revoke the Enforcement Order issued for the property in 2017 and issue a new Enforcement Order to perform the plantings as listed in the restoration plan as amended by the Commission into the record, with the added condition that the evergreen plantings for screening are planted shall be done as early as practicable during the 2018 growing season and the perimeter vernal pool plantings shall be performed no earlier than the start of May 2018. A second condition that the Commission will recognize any amendments DEP Central Regional Office Wetland Division shall require of the applicant on the property as it pertains to the wetland restoration. Ms. Steele seconded, and the motion passed unanimously by vote of 5-0-0.

There was discussion during the motion of adding a third condition regarding certifying the vernal pools but Mr. O'Connell preferred to confirm with the landowner first before agreeing to that condition.

2. 395 West Street (01:56:15 – 02:03:47)

- Anonymous complaint was submitted on 2/21/18 regarding numerous vehicles being worked and possible oil leaking within wetlands and buffer zones. Members acknowledged there is a wetland system to the south and west identified during previous permitted work on adjacent lots. Members agreed to notify property owner that a complaint has come through and request permission to access the property and copy the BOH and ZEO in case they feel this is a matter that requires their intervention.

Ms. Steele read a text message from Mrs. Danza who was watching the meeting from home "the dwelling was built in 1990's; there may have an NOI but they are all lot numbers and she is still piecing together".

Motion: Mr. Hogan moved to issue a letter to the property owner regarding the potential violation with language at the agent's discretion and request permission to access the property. Ms. Steel seconded and the motion passed unanimously by vote of 5-0-0.

3. 619 Quaker Highway (02:03:50 – 02:05:17)

- *Mr. Gorman recused himself because the firm he works for established the wetland boundary on the property. Mr. Hogan informed members that they were notified that an NOI is in the works that shows the limit of clearing and the proposed work. Mr. Shaw said there did not appear to be anymore work done. Members agreed to wait until the next meeting before contacting Mr. Power. Mr. Gorman returned to the meeting.*

4. 77 Industrial Drive (02:05:50 – 02:09:23)

- The agent had sent a follow up letter and had a discussion with the property owner who said they will be staking out the property. She will be verifying and reporting back to the commission. Members tentatively scheduled to visit site 3/17/18 before they stop some of the Vernal Pools.

WETLAND UPDATES/ISSUES

- Discussion on Active Sites (02:09:35 - 02:10:05)
 - The agent is working on creating a more complete list and members liked the example she sent for review.

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PROCESSING

1. 2/5/18 & 2/20/18 Meeting Minutes review (02:10:06 – 02:14:14)

Motion: Mr. Shaw moved to approve the 2/5/18 Meeting Minutes of the Conservation Commission as amended during the last meeting. Mr. Holden seconded, and the motion passed by vote of 4-0-1.

Motion: Mr. Holden moved to approve the 2/20/18 Meeting Minutes of the Conservation Commission as amended. Mr. Hogan seconded, and the motion passed by vote of 4-0-1.


ANY OTHER BUSINESS, WHICH MAY LAWFULLY COME BEFORE THE CONSERVATION COMMISSION

1. Next steps on Pout Pond Cottage (02:14:15 – 02:28:13)
 - Once the cottage is boarded up the insurance will be stopped. Members reviewed observations from the site visit mainly the poor physical exterior conditions. Mr. Holden wanted to note that it's a project with future potential to build up a historical structure and offer a place where a person could live, pay rent and also have some responsibilities for making a circuit around the pond. Members discussed this option and who is ultimately responsible. Please note PPRC member and BOS Mrs. Modica texted a link to the article Mr. Gorman mentioned during discussion. They also reviewed the comments by the fire chief during the site visit. Members also agreed to reach out to the Town Clerk and ask her poll the audience at the Spring Town Meeting to gauge interest in restoring/salvaging the structure.
2. General discussion regarding vernal pool certification (02:28:14 – 02:29:20)
 - Quick discussion on supplies needed and potential dates to visit some of the potential sites.

ADJOURNMENT-NEXT MEETING SCHEDULED FOR MARCH 19, 2018

Mr. Holden moved to adjourn the 3/5/18 meeting of the Conservation Commission. Mr. Shaw seconded, and the motion passed unanimously by vote of 5-0-0.

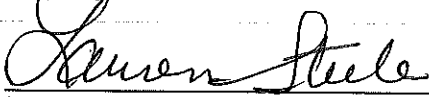
Respectfully submitted,
Melissa Shelley



Andrew Gorman, Chairman



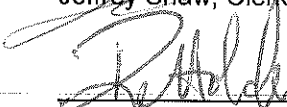
Jim Hogan, Vice Chair



Lauren Steele, Member

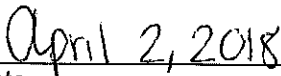


Jeffrey Shaw, Clerk



Russell Holden, Treasurer

Dale Bangma, Member



Date

