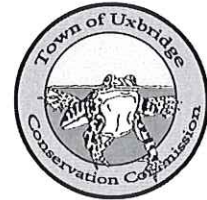




Town of Uxbridge  
Conservation Commission  
21 South Main Street  
Uxbridge, MA 01569  
508-278-8600 x 2020



**Conservation Commission Meeting Minutes**  
**June 17, 2019**  
**Board of Selectmen Room, Uxbridge Town Hall**

POSTED UXB TOWN CLERK  
2019 AUG 6 AM 8:04

**Present:** Chair Andrew Gorman, Vice Chair Jim Hogan, Clerk Jeff Shaw, Treasurer Russell Holden, Members Dale Bangma, Lauren Steele & Conservation Agent Holly Jones

**Absent:** Member Brad Allspach

**CALL TO ORDER**

It being approximately 6:30pm, the meeting being properly posted, duly called, and a quorum being present, the meeting was called to order by the Chair, who led the Pledge of Allegiance.

\* Mr. Gorman noted that Mr. Shaw would be arriving late to the meeting.

**PUBLIC HEARINGS**

1. **Notice of Intent (NOI), DEP #312-1081, 0 Old Elmdale Road (Map 25, Parcel 2979)** (00:00:50 – 00:02:16)  
Applicant: Aris Group LLC Representative: Andrews Survey & Engineering, Inc.  
Project Description: 23 lot subdivision with associated roadway, drainage, and utilities

**Note:** The hearing has been continued to the July 1st, 2019 meeting of the Conservation Commission

**Discussion:** The applicant requested another continuance to the second meeting in July. Members agreed to authorize the agent to request an outline of the outstanding items from the representative prior to the next meeting.

**Motion:** Mr. Hogan moved to continue DEP#312-1081 to the July 15<sup>th</sup> meeting of the Conservation Commission and authorize the agent to request an update from the representative. Ms. Steele seconded, and the motion passed by majority vote of 4-0-1. (*Mr. Bangma abstained from voting*).

2. **Notice of Intent (NOI), DEP #312-10XX, Tea Party Drive Grading** (00:02:18 – 00:03:42)  
Applicant: Uxbridge Multi Family Realty, LLC Representative: Guerriere & Halnon, Inc.  
Project Description: Cutting and filling of land within the 100' buffer of a bordering vegetated wetland and construction of a 1 to 1 riprap slope.

**Discussion:** The applicant formally requested continuance to allow time to review the geotechnical materials forwarded to DEP and the Commission.

**Motion:** Ms. Steele moved to continue the hearing for Tea Party Drive. Mr. Hogan seconded, and the motion passed by majority vote of 4-1-0. (*Mr. Holden voted nay*)

3. **Notice of Intent (NOI), DEP #312-10XX, 639 Hartford Avenue East** (00:03:43 – 00:25:43)  
Applicant: Worcester County Real Estate Investments, LLC Representative: Andrews Survey & Engineering, Inc.  
Project Description: Single-family house, patio, in-ground pool, cabana, private well and private septic with associated earthwork, landscaping paving and utilities within the wetland buffer zone and riverfront area.

Description: John Medeiros, Andrews Survey and Engineering attended on behalf of the applicant to present the application. Key points noted include: (i) the septic design is Title 5 approved; (ii) trees identified during the site walk have been added plan. Two trees will need to come down and one falls w/in the 50' buffer; (iii) the ECB has been moved closer to LOD because the house was moved forward; (iv) there is an extensive amount of bittersweet on the property; (v) riverfront calculations have been completed; (vi) the house as proposed is approximately 48' from the wetland edge; (vi) they are still working on the revising the WPA form w/ the riverfront area disturbance numbers and alternatives analysis. Mr. Medeiros described the difficulty of adding the stone wall to the plan because it is so overgrown and difficult to pinpoint. He stated that a portion of the wall would be graded over to maintain the grading for the house. The portion of the wall near the root cellar will remain and it

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will be exposed for safety reasons. Mr. Holden requested the stone wall as well as the narrative as to what is happening with it be incorporated into the plan which Mr. Medeiros agreed to. Conservation markers were discussed and everyone agreed to two (2) – one on the house side of the root cellar and one where the house is closest to the wetland. There was discussion about what to do with the root cellar - Mr. Medeiros' recommendation was to crush it for safety reasons and agreed to consult with owner to confirm the plan. A concrete cap/old drainage structure (near the top right corner of the house) was also discussed and Mr. Medeiros agreed to add it and some related narrative to the plan. Mr. Medeiros estimated once approved, the project to be wrapped up and seeded by fall. Mr. Gorman recapped the Commission's expectations of plan revisions (i) to depict how the stone wall itself and include a narrative of how will be handled, particularly from an erosion control perspective; (ii) determine stability of the root cellar and include any plan to demolish or fill in and; (iii) to identify the other drain structure and include a narrative of how it is to be handled. No members of the public attended with comments

**Motion:** Mr. Hogan moved to continue the hearing for 639 Hartford Avenue East to the next meeting of the Conservation Commission in anticipation of a DEP number and updates to the plan. Mr. Bangma seconded, and the motion passed by majority vote of 5-0-1. (*Mr. Shaw abstained*)

*\* Mr. Shaw arrived towards the end of the discussion.*

*\* The Chair administratively took the agenda out of order to accommodate audience members in attendance.*

### REPORTED/ONGOING VIOLATIONS

1. Fairwoods Christian Recreation, Hartford Ave W tree cutting (00:28:54 – 00:35:55)
  - Ms. Jones received an anonymous complaint on June 10<sup>th</sup> about tree cutting at the Fairwoods Recreation Center that has beach on Rivulet Pond. She visited the property that afternoon, met with the arborist, and advised not to cut any more trees in the buffer zone without approval from the Commission or administrative approval in the case of hazardous trees. Ms. Jones noted that two trees had been already cut down and one had been topped – all having appeared to be killed by Gypsy Moths. The arborist ceased activity and referred her to Tim Harringer, Fairwoods Board Member. Ms. Jones met with Mr. Harringer on 6/13/19 and gave him administrative approval to remove two (2) more hazardous trees in the buffer zone. It was her impression that they were not aware of the regulations and she mentioned her appreciation for the willingness of Fairwoods to work with the Commission. Mr. Harringer attended the meeting and also said they were unaware of the requirements. He pointed out the two additional trees within the buffer zone they would like to remove for safety reasons. Members reviewed photographs of the area and trees in question. Mr. Gorman explained that in typical situations, work would require a filing but Conservation Commissions have some discretion to allow through the administrative process tree cutting when it poses a hazard to safety and general risk to property. It was confirmed by Mr. Harringer that there are no plans to remove the stumps of any of the trees cut.

**Motion:** Mr. Bangma moved to recognize this activity as necessary administrative tree removal to prevent hazard. Mr. Hogan seconded, and the motion passed unanimously by vote of 6-0-0.

### WETLAND UPDATES/ISSUES

1. Cold Water Fishery presentation from Blackstone River Coalition (00:36:06 – 00:46:08)
  - Peter Coffin, Coordinator for the Blackstone River Coalition (BRC) and a member of the Mendon Conservation Commission attended the meeting to present information to the Commissioners. He explained the BRC received a small grant from the Massachusetts Environmental Trust/Blackstone Valley License Plates to provide outreach for Coldwater Fish Resources (CFR). CFRs are considered one of the three Outstanding Waters of Massachusetts, which gives it a heightened level of protection. The MA Division of Fisheries and Wildlife maintains a list of waters that are identified as a CFR (streams documented to support native brook trout, slimy sculpin and/or a few other species). Trout and the other fish need the cold water because they require more oxygen. Mr. Coffin had a map of the Blackstone and indicated that Bacon, Emerson, Laurel Brook, later in the discussion, Cold Spring Brook are all considered CFRs – they are all relatively undeveloped, have good coverage of shade to keep it cool, and no dams.
  - The Massachusetts Stormwater Handbook Vol. 1 Ch1. Stormwater Regulation #6 outlines the following requirements. Mr. Coffin provided some the following detail: if a *new development* has an outlet to a wetland it needs to to treat ½" of all the water that falls on that site – if the discharge is to a CFR a full 1" of all the water

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must be treated – double the bmp. Adam Kautza, PhD is the contact person at the state level. Mr. Coffin emphasized that *thermal* pollutant is a threat to CFRs and the importance of keeping the shade in the buffer. He also highlighted the importance of heightened awareness of these resource areas. He encouraged all BMPs to be infiltrative. Mr. Gorman explained the Commission is working on a Wetland Bylaw and the CFR is something that they have discussed and look to increase protection for. Everyone also agreed to ensure an accurate inventory of CFR's in Uxbridge compiled and on file with the state.

### 2. Order of Conditions extension request; Cobbler's Knoll (DEP No. 312-1013) (00:46:19 – 00:54:58)

- Mr. Medeiros, Andrews Survey and Engineering attended on behalf of the applicant. Mr. Gorman recommended a one (1) year extension instead of the typical three (3) and wait for DEP's enforcement. Mr. Hogan recommended a 6-month extension with the assurance that the commission would waive the first extension fee and extend to a year if they are meeting the Commission's requirements. Members agreed with Mr. Hogan's idea and the majority of the stormwater infrastructure should be completed. It was also mentioned that if they can get that working to DEP's and the peer reviewer's satisfaction the order may even be extended longer. Ms. Jones confirmed an order can be extended one (1) or more times for a period of up to three (3) year period.

**Motion:** Mr. Hogan moved to extend the Order of Conditions for DEP#312-1013 for a period of 6 months at which time the Conservation Commission will waive the consideration fee for extending the Order of Conditions for a single time. Ms. Steele seconded, and the motion passed unanimously by vote of 6-0-0.

- Ms. Jones agreed to forward the information to Mr. O'Connell so he as the project manager is aware of the Commissions requirements. The current OoC currently ends July 3<sup>rd</sup> so the next renewal deadline will be thirty (30) days prior to January 3, 2020.

### 3. Beavers at BJ's update (00:54:59 – 01:08:36)

- Mike Callahan with Beaver Solutions and Matthew Bombaci with Bohler Engineering attended the meeting to discuss plans to address the flooding on Ms. Aubin's property on Nancy Lane in Burrville, RI's – threatening her well and septic system. She was able to connect with BJ's Facility Manager who hired Mr. Callahan and Bohler Engineering. Through some further investigation they identified three dams one (1) being the primary dam causing the flooding because of recent rapid growth (6" over the past year) – this is where the lodge is / where they are living. Mr. Callahan's plan to mitigate the situation, at least by preventing it from getting any higher and hopefully reducing it by about 12", is to install a flexible pond leveler. An inlet will go on the high side, somewhat away from the beaver dam and a pipe will be run 6' to 12" below the top of the dam that allows the water to flow through and the beaver's. They reached out Natural Heritage Endangered Species Program and they received consent from Jessie Lettick, Chief Regulatory Officer. His only request was for monitoring once installed and every spring to ensure its operating properly. Mr. Callahan described the work and explained it is all hand done and there is no risk of downstream flooding or a release of materials or sediment. He agreed that is just one dam that is backing the water up to Ms. Aubin's property and that dropping the water about 12" should pull it back about 20-25 from Ms. Aubin's property from where it is now. Luke Gallant, Manager of Facilities and Security for BJ's distribution centers. Mr. Gallant just wanted to say on behalf of BJS that they engaged in Mr. Callahan and Bombaci's services and want to be a good neighbor and are committed to handling this the right, environmentally responsible way. They plan to enter into an agreement with Beaver Solutions for the monitoring requirement.

Members discussed whether the work should be permitted via an Emergency Certification (provides up to 30 days) or an RDA. Mr. Callahan estimated the work should be completed in a day. Mr. Gorman explained when they are ready to start work, they submit a request to the Conservation Office, and they have 24 hours respond in which the 30 day clock starts. Everyone seemed pleased with the low impact solution and thanked BJ's for stepping up to provide a solution.

**Motion:** Mr. moved to allow the agent to issue an emergency certificate for the work described tonight for the resolution of the beaver dam problems as described. Mr. Shaw seconded motion passed by vote of 5-0-1. (Mr. Holden abstained)

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

**REPORTED/ONGOING VIOLATIONS**

1. 32 Church St (01:08:50 – 01:09:01)
  - Ms. Jones requested an update from Town Counsel and is awaiting their response.
2. Cobbler's Knoll Development (DEP No. 312-1013) (01:09:02 – 01:09:27)
  - The Commission just decided to extend the order (see notes above). DEP has not taken any additional action as far as we know and the 30 day period to act from the enforcement conference will be ending soon.
3. Commerce Drive (ACOP-CE-18-6W004-NT) (01:09:28 – 01:09:40)
  - The Commission is waiting for final reports (with a July 1<sup>st</sup> deadline) from Arthur Allen.
4. Forest Glen (DEP No. 312-1022) (01:09:41 – 01:11:19)
  - Ms. Jones confirmed the culvert is installed. They are working on adding the required 2' of dirt in the bottom. Ms. Jones was informed that they are going to begin the excavating for the wetland replication.
5. 350 North Main St. (DEP No. 312-1023/1025) (01:11:20 – 01:19:02)
  - Ms. Jones visit the site and reported that she did see the sign and there were some vehicles are still parked there but she did not see any signs of activity or any disturbance outside the silt fence which is still in place. The Rivers Act exempts "uses" that predate it and because it's an existing parking lot members did not believe there was an enforcement issue from the wetlands act perspective. It was mentioned that the area has been much improved since it was recently cleaned up in response to the initial EO. Everyone agreed to remove the item from agenda.
6. Uxbridge High School (DEP No. 312-919) (01:19:03 – 01:29:40)
  - Ms. Jones inspected the site and brought the violation to the attention of the superintendent Dr. Tiano, who worked w/ Facilities Director, Brian Hyde and they removed 178 tires from the canal and buffer zone around the canal. There are different theories on how they got there (mountain bikers; used as part of a PE curriculum). Members mentioned they were impressed on how quickly they got the tires out of the river. In the interim, as far as the Commission is concerned, the tires should be moved upland, away from jurisdictional areas and cover them with a tarp, until a long-term solution for removing them is developed. Members expressed concern that it may be a "dumping ground" (not a PE activity) due to the number and the nature of the difficulty in reaching the area. Ms. Jones agreed to coordinate w/ the school and the BOH on where the best stored.
  - It was also discovered that the Commission may hold a Conservation Restriction (CR) on a portion of the HS property and giving it to a land trust was discussed. Mr. Holden explained when the HS was permitted the State required a breeding area to be established for the wood turtles and the area where the new Town well is protected with a CR. The town did an initial draft of the CR that was in limbo for a few years then Metacomet Land Trust started to take action. They require the limits clearly demarcated which Ben Sherman, Uxbridge DPW completed and a shape file exists. The most recent hold up is in regard to Metacomet internal protocol calling for two 2 "non town" people to be on site. There have been some revisions to the CR. A CR does not actually exist – it was signed off on by Town Council and DCR, but it wasn't handed off quickly enough. Ms. Jones agreed to review documents that hold the commission responsible because they can not be the holder and administrator. The Commission would have an "interest" but Metacomet would go in ensure what the Town asked for is happening on the property during their annual inspections.

**WETLAND UPDATES/ISSUES**

1. Whittin Pond (01:29:43 – 01:30:06)
  - Discuss Possibility of Diagnostic/RFP for Pond and Watershed. Mr. Gorman started a rough draft or an RFP for review and was input from members.
2. CoC request: 95 Buffum Rd (DEP No. 312-949) (01:30:08 – 01:31:17)
  - Ms. Jones inspected the site and recommended granting the CoC. She reported everything looked good except the conservation markers had deteriorated over time. She requested they be replaced and confirmed they have been replaced with something more durable.
  - **Motion:** Mr. Hogan moved to issue a Certificate of Compliance for DEP #312-949 95 Buffum Road. Ms. Steele seconded, and the motion passed unanimously by vote of 6-0-0.
3. CoC request: 41 Tucker Hill Rd (Lot 8) (DEP No. 312-1056) (01:31:18 – 01:32:25)

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- Ms. Jones had a site visit and recommends issuing the CoC. She said the grass is grown in and the conservation markers are installed. She had conversation with Jim Smith, the developer, and requested removing any remaining silt fencing materials to which he agreed.
  - **Motion:** Ms. Steele moved to issue a Certificate of Compliance for DEP #312-1056 41 Tucker Hill Road. Mr. Hogan seconded, and the motion passed unanimously by vote of 6-0-0.
4. CoC request: 53 Tucker Hill Rd (Lot 9) (DEP No. 312-1057) (01:32:30 – 01:33:20)
- Ms. Jones inspected this site also and recommended issuing the CoC. She reported the grass has grown in well and the markers in place and all the conditions of the order have been met.
  - **Motion:** Ms. Steele moved to issue a Certificate of Compliance for DEP #312-1057 53 Tucker Hill Road. Mr. Hogan seconded, and the motion passed unanimously by vote of 6-0-0.
5. Discussion of site compliance regarding active and expired Orders of Conditions (01:33:22 – 01:59:27)
- Received a Graves report on Medline
    - 6/11/19: the peer reviewer observed and provided photographs of a discharge from a septage hauler into a wetland. The note indicated it was in the vicinity of the wetland crossing and swamp mats on the west side of the building. He was informed by the driver it was stormwater removed from the building pad that contained concrete and sediment. The reviewer also noted an odor of sewage coming from the vehicle or discharged water. Ms. Jones inspected the site and reported her findings; the former road that connects to West St. is covered with swamp mats and being used as temporary roadway and she found a significant large patches of 4" thick sediment in the wetland area. She talked w/ Michael Stephens about putting ECB's across the crossing and blocking it off and discontinuing the activities. The claim from Medline is they didn't know this was happening they are supposed to put it in a different pit which may have been blocked off which is why they dumped there. Ms. Jones couldn't say for sure whether the sediment was from this practice or erosion from the site but noted it mainly seemed to be on one side.
    - Members agreed it doesn't make sense to use a septic hauler to de-water a site and discussed how to proceed. A plan was reviewed to confirm the location. Members agreed at the very least they have a responsibility to copy DEP (the wetlands Circuit Rider and Waste Site Clean Up). Everyone also agreed to make this a formal agenda item and issue an EO.
- Motion:** Mr. Hogan moved to issue an Enforcement Order for the Medline Order of Conditions to (i) cease all activity within the historic wetland crossing associated with former High St. (ii) to place a permanent barrier to prohibit vehicle access to the disturbed area (iii) to retain wetland scientist to characterize the disturbance and siltation event of the wetland (iv) that that same scientist provide written report of a restoration protocol that the respondents shall adhere to and that site work be completed within 30 days and (v) request an explanation of the function of that truck on that site and why it was being used for dewatering. Ms. Steele seconded, and the motion passed by majority vote of 5-1-0. (*Mr. Holden voted nay*)

### PROCESSING

1. 5/06/19 & 6/3/19 Meeting Minutes Review (01:59:28 – 02:04:17)
- **Motion:** Mr. Shaw moved to accept the 5/6/19 meeting minutes as written. Mr. Hogan seconded, and the motion passed by majority vote of 4-0-2. (*Mr. Holden and Ms. Steele abstained*)
  - **Motion:** Mr. Hogan moved to accept the 6/3/19 meeting minutes as written. Ms. Steele seconded, and the motion passed by majority vote of 3-0-3. (*Mr. Shaw. Mr. Bangma and Mr. Holden abstained*)

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

1. Right of First Refusal: Lot 6 and Lot 7, 1012 Hathaway Lane (02:04:20 – 02:14:30)
- Typically, the BOS makes this decision but due to the fact that this property has significant conservation value they are asking for a recommendation from the Commission. A plan of the lots from the Registry of Deeds that depicted the wetland area was reviewed. Mr. Gorman recommends a favorable recommendation the commission due to the fact that this is contiguous with a very high functioning wetland system the two parcels do provide significant conservation value. It was also mentioned that all of the abutting cedar swamp is already publicly owned in various ways. Another reason mentioned was that the State has interest is because there is a rare species only found here. Mr. Gorman reminded that the Commissions decision doesn't oblige the Town to anything they are just taking on an advisory role. Mr. Holden recommended notifying the State (and other land trust agencies) given that they have interest as well.

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- **Motion:** Ms. Steele moved to provide a correspondence through the agent stating that the Commission recommends the acquisition of these lots due the high conservation value, that it's continuous w/ other town owned land, and that it is contiguous with the Cedar Swamp which is habitat to a rare species as identified by NHESP. Mr. Hogan seconded, and the motion passed unanimously by vote of 6-0-0.

2. Pout Pond General Discussion (02:14:32 – 02:15:08)

- New Pout Pond Recreation Committee Members are needed for June and the end of the season. No new other updates everything seems to be up and running well and there is an uptick in/ attendance.

3. Pollinator Pledge Discussion (02:15:09 – 02:17:52)

- Members decided to carry over discussion to the July meeting for more thorough updates on progress. Ms. Steel mentioned she passed the pollinator pledge information to members of the Community Gardens because a couple members are beekeepers and may have interest in taking their own pledge – they are meeting next week. Mr. Gorman put a rough draft of solar conditions on Dropbox for members to review.

**AGENT UPDATES** (02:17:53 – 02:18:48)

- The only general update from the office was to potentially reschedule the walk at Legg Farm with DEP which Ms. Jones is coordinating.

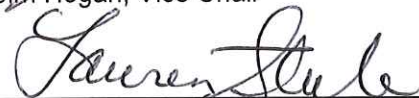
**ADJOURNMENT-NEXT MEETING SCHEDULED FOR MONDAY, July 1, 2019**

Mr. Hogan moved to adjourn the June 17 meeting of the Conservation Commission. Ms. Steele seconded, and the motion passed unanimously by vote of 6-0-0.

Respectfully submitted,  
Melissa Shelley

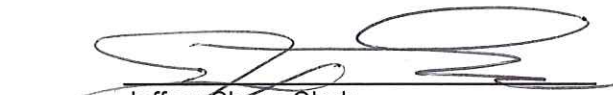
  
\_\_\_\_\_  
Andrew Gorman, Chairman

  
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Jim Hogan, Vice Chair


  
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Lauren Steele, Member

\_\_\_\_\_  
Brad Allspach, Member

8/5/19  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Jeffrey Shaw, Clerk

  
\_\_\_\_\_  
Russell Holden, Treasurer

~~absent~~   
\_\_\_\_\_  
Dale Bangma, Member