



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



Conservation Commission Meeting Minutes
July 20, 2020
Remote Meeting

REC'D UXB TOWN CLERK
2020 AUG 12 PM 2:40

Present: Chair Andrew Gorman, Vice Chair Jim Hogan Clerk Jeff Shaw, Treasurer Russ Holden, Members Mark Richardson and Lauren Steele and Conservation Agent Holly Jones

Absent: Member Dale Bangma

CALL TO ORDER

It being approximately 6:30pm, the meeting being properly posted, duly called, and a quorum being present digitally, the Chair called the meeting to order. He stated the following to explain the purpose for the remote meeting: Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Uxbridge Conservation Commission is being conducted via remote participation. Although, no in-person attendance of members of the public will be permitted, the Town of Uxbridge has made every effort to ensure the public can adequately access the proceedings in real time via technological means. This meeting is being streamed on Uxbridge Community Television and Zoom per the instructions on the agenda alternatively members of the public can call in by calling 301-715-8592 and using meeting i.d. 924 1316 7287. All motions will be voted on with roll call vote in alphabetical order by last name.

Member roll call of attendance: Gorman – here, Hogan – here, Richardson – here, Shaw – here, Steele – here.

PUBLIC HEARINGS

1. **Notice of Intent (NOI) DEP No. 312-1095, 300 Mendon St. (Map 19, Parcels 2413, 2475, & 2467) (00:02:40 – 00:03:38)**

Applicant: Cook's Crossing, LLC. Representative: Kristen Labrie, Andrews Survey & Engineering
Project Description: A subdivision comprising 50 housing units contained within 25 duplex buildings, with associated utilities, grading, paving, and stormwater system in the buffer zone to a bordering vegetated wetland.

Note: the applicant has requested a continuance to the next regularly scheduled meeting

Motion: Mr. Shaw moved to continue DEP 312-1095 to the next meeting. Ms. Hogan seconded, and the motion passed unanimously by roll call vote of 5-0-0 (Gorman – aye, Hogan – aye, Richardson – aye, Shaw – aye, Steele – aye).

2. **Notice of Intent (NOI) DEP No. 312-1096, 0 Old Elmdale Rd (Map 25 Parcel 3979) (00:03:39 – 00:04:40)**
Applicant: Aris Group, LLC Representative: Jude Gauvin, Andrews Survey & Engineering
Project Description: Construction of a roadway, drainage, and gravel removal in the inner and outer riverfront area, bordering land subject to flooding, and the buffer zone to a bordering vegetated wetland.

Mr. Holden entered the meeting during discussion.

Note: the applicant has requested a continuance to the next regularly scheduled meeting.

Motion: Mr. Shaw moved to continue DEP 312-1096 to the next meeting. Ms. Hogan seconded, and the motion passed unanimously by roll call vote of 5-0-0 (Gorman – aye, Hogan – aye, Holden – aye, Richardson – aye, Shaw – aye, Steele – aye).

3. **Notice of Intent (NOI) DEP No. 312-11XX, 176 Rivulet St (Map 11 Parcel 1599) (00:04:44 – 00:17:09)**
Applicant: Mellisa Watson Representative: Margaret Bacon, Civil Site Engineering
Project Description: replacing a failing septic system in the 100 ft buffer zone to a bordering vegetated wetland on an existing lawn area.

Discussion: Margaret Bacon, Civil Site Engineering, attended on behalf of the applicant. The replacement septic system will be in the same location, approximately 80' from a resource area. She evaluated other locations but couldn't identify a more suitable option. The work area is essentially all lawn. Ms. Bacon proposed a straw wattle barrier for erosion control. Mr. Holden noted the property abuts town owned land with a Conservation Restriction and recommended utilizing a silt fence due to the proximity. Mr. Richardson agreed, and because of the slope downhill. Ms. Bacon thought that may add to the disturbance and suggested using additional wattles on the back side. Stockpiling of any soil outside

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100' buffer was also discussed and agreed upon by Ms. Bacon. DEP has not yet issued a file number. No members of public commented during the meeting.

Motion: Mr. Hogan moved to continue the hearing for 176 Rivulet Street to the next meeting of the Conservation Commission in anticipation of a DEP #. Ms. Steele seconded, and the motion passed unanimously by roll call vote of 6-0 (Gorman – aye, Hogan – aye, Holden – aye, Richardson – aye, Shaw – aye, Steele – aye).

4. Notice of Intent (NOI) DEP No. 312-11XX, 502 and 486 Douglas St (Map 23 Parcels 4364 and 4424)

Applicant: Uxbridge Gas & Market

Representative: CMG Environmental Inc. (00:17:11 - 01:51:05)

Project Description: Demolishing a single-family dwelling and constructing a 5,000 s.f. filling station and convenience store with a drive-through and two fuel pump canopies along with associated parking and stormwater treatment. The work is within the 100 ft buffer zone to a bordering vegetated wetland.

Discussion: David Faist, project civil engineer, and Robert Lussier, CMG Environmental, presented the project on behalf of the applicant. Mr. Faist explained the date on the abutter notifications was incorrect but they corrected it and mailed a second notice. He informed members that the project is also under review with the ZBA, the Uxbridge Planning Board and Grave's Engineering, the third-party review engineer appointed by the town. He noted the 2 property owners have entered into an agreement to lease a portion of their property for the project. He provided an overview of the existing conditions, the resource areas and the drainage patterns. He noted that David Crossman, wetland scientist, flagged the area and that the wetland flags stopped at #10 because that is where the earlier designs of the project area ended. The proposed erosion control line is a combination of straw bales and silt fence. The site naturally drains to the east so two (2) stormwater basins are being proposed, on that side, with a discharge pipe at the lowest point – the SE corner. He explained to get to this low point, they have to encroach on the 25' no disturb zone and they are proposing a compensatory no disturb area as a tradeoff. They had to comply with additional Stormwater Standards because the site is considered a High Potential Pollutant Load with discharge near a "critical area" the cold-water fishery downstream. The site will have deep sump hooded catch basins collecting all of the site's stormwater. Any runoff, on most of the rear of the property, will be directed to 3k gallon oil grit separator tank that discharges to onsite infiltration basin in the lower SE corner. They are providing 44% pretreatment before it makes it to the basin. The front portion of the property will have the catch basins which discharge to a smaller basin beyond that discharges to an infiltration basin to capture all the impervious area to meet the recharge and treatment requirements for the stormwater management standards. The stormwater basin is able to provide infiltration for a 2-year storm event – greater than the 1' water quality and type A soils recharge requirement. Mr. Faist said they were onsite with Graves to perform soil testing to determine estimated seasonal ground high water and that they provided stormwater management report with long-term maintenance plan detailing compliance with all the standards.

Member Discussion/Questions: Mr. Gorman inquired whether they are able to meet the cold-water fishery requirement of treatment for a 1" rain event. Mr. Faist said yes, they can meet it. It was also mentioned that the wetland boundary delineation appears to be incomplete and Mr Gorman asked whether could they finish the delineation? Mr. Faist said, yes definitely he'll have the wetland scientist extend the delineation. Mr. Gorman noted that it is a priority to quantify and understand what the impact will be disturbance in the 25' area. Ms. Jones brought up a second requirement for a cold-water fishery is that the stormwater outlets be set back from that resource. Mr. Faist said couldn't find a setback distance in the stormwater standards but said he would look it more and also explore moving it. He also noted that the outlet structure location was chosen because it's the natural low point and discharge at the existing dwelling at 486 is at the existing stone pile – where the discharge will be. There was a review of the compensatory area located in the SW corner to remain undisturbed to compensate for the buffer zone are they are disturbing. Members agreed on the importance of completing the wetland flags and to have a site visit.

Abutter Comments and Questions: The following abutters shared their concerns and comments during the meeting:

1. Evelyn & Joe Marchand, 30 Nicki Way – looking for ways to mitigate noise, lighting, and loss of trees and also asked what would happen if there was a spill occurring during a delivery highlighting concerns for the resource areas if that were to occur. Mr. Faist explained the purpose of the storage tanks and the manners of catching a spill (2 catch basins; 2 deep sump catch basins; required to have on site monitoring; rear catch basins connect to an oil grit separator (can contain 1000 gall of oil)).
2. Ed Allcock, Counsel for the Summerfield at Taft Hill Condominium Association – he submitted a letter documenting the Association's concerns to the Commission on 7/20/20. He highlighted the issue with misinformation provided on the legal notifications (incorrect dates, missing parcel, affidavits filed were incorrect). Mr. Gorman noted that our Town Counsel did look into the issue. On the merits of the application, Mr. Allcock's clients do not believe the application satisfies the filing requirements for the Town's 25' no disturb/buffer zone policy. Other areas of concern mentioned were intrusions into wetlands or resource areas, an aquifer downstream and the irrigation wells. The association would like to protect a natural buffer between

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the properties and have no intrusion into the resource area. They requested that the Commission deny the project, but at minimum asked they offer a public site walk and possibly an independent consultant review. Mr. Gorman explained the Commission doesn't have permission from landowners to invite members of the public so site walks are generally kept to members of the Commission. He said he foresees members visiting the site and will be reviewing the wetland boundary as the delineation is continued so informed decisions about the 25' can be made.

3. Kathleen Hadden, Summerfield Drive - not opposed to the gas station and market at the location. She thought it would be benefitting the community and sees no negative impact as long as all the rules are followed.
4. Paul Balutis, Taft Hill Lane - objects to the project in its entirety. His basis for the objection is the intrusion into the active wetlands, the potential damage to an active cold-water fishery, potential aquifer contamination and the potential for 4 wells to be impacted. It noted that it's a HPPL (higher potential pollution load) project and requested a third-party on-site review of the applications details.
5. Patrick Stephan, 44 Andrews Drive, Chairman of the Board of Trustees for the Summerfields at Taft Hill – mentioned the 25' no disturb zone and associated policy and questioned how a project like this can even be evaluated. He confirmed there are 4 wells on site for irrigation. He sent note to Ms. Jones about 2019 statistics for underground storage tanks noting the risk is not zero. He also provided a list of the other gas stations owned by the applicant - between 20 & 30 and all but one has environmental issues. Mr. Gorman explained the WPA does not provide a lot of regulatory guidance on how to interpret impacts to ground water and that he's not sure the Conservation Commission is the best board to speak to potential issues underground storage tank leakage. He further said, if peer review is agreed upon, then they may be able to provide some guidance also.
6. Vinny Cataldo, Andrews Drive – inquired whether a study was done to identify any endangered species in the area and associated with the cold-water fishery. Mr. Gorman explained as it's currently presented, the project doesn't trigger a wildlife assessment because the area is not mapped as NHESP and the applicant is not directly impacting resources identified under the 2 related tiers in the WPA (appendix a and b).
7. Rory St. Pierre, 42 Taft Hill Lane - looking for the Commission to ensure our water does not become contaminated and preserve the way of life we have in our unique town.
8. Patrick Garner, Wetland Scientist and Hydrologist representing the Summerfield at Taft Hill Condominium Association – believes the project calls out for a thorough environmental peer review due to the threat that comes from a any kind of a spill. He noted that a ground water movement study was not submitted with the application and that without this information any discussion about spillage is inadequate. He noted a concern with the large stormwater basin in the south east corner which picks up flows from all of the paved areas - the hydrology seems to be accurate but it doesn't account for the flush of hydrocarbons, and all the drippings that are going into the basin which is to be emptied into the adjoining wetland.
9. Randy Fields, Summerfield Drive – interested in the post-development drainage calculations – most of which is going into Basin 2. He also described stormwater drainage and high ground water in the area and is looking for assurance that the basins will function properly. Mr. Gorman noted the Commission has an interest that the basins infiltrate as designed and that 3rd party review will verify that during the design and construction phases of the project if it is approved.
10. Bob Contursi, 16 Nicki Way – was asked by the Trustees to head up a committee to investigate the proposal - and he pointed out a petition they delivered today with 183 resident signatures opposing the development. They have been told they are a private community and as such they are responsible for infrastructure for their development (including sewer, water and culverts) – if they own the culvert would permission to use it be required by the Trust? Mr. Gorman explained under Mass Stormwater Standards the basins have to be designed and constructed so that they cannot discharge beyond pre-project conditions – which is why we hire third party engineering review to ensure it's designed and constructed to the standard.

Members acknowledged the abutters concerns and agreed 3rd party review of the project is appropriate. Additionally, they are anticipating revised application material pursuant to the setback policy. The agreed not to renotify abutters at this time, based on Mr. Gorman's interpretation of the wetland regulations and Town Counsels advice. It was confirmed that certified receipts of second new notices were provided to the office.

Motion: Mr. Hogan made a motion that the Commission seek third party review for the NOI filing for 502 and 486 Douglas St. relating to the application material submitted by the project proponent, the forthcoming application materials discussed during the meeting, the third-party review of the wetland boundary as to be completed by the applicant's consultants and in consideration of any comments provided by Mass DEP on this filing. Mr. Holden seconded, and the motion passed unanimously by vote of 6-0-0 (Gorman – aye, Hogan – aye, Holden – aye, Richardson – aye, Shaw – aye, Steele – aye).

Member Discussion: Mr. Richardson asked whether it is an accepted practice for the Commission to allow for an area to compensate for disturbances inside 25' of a resource area and expressed his concern for disturbing this area. Mr.

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Gorman said is it a-typical and provided a few different examples noting the commission tries to minimize these disturbances within the extent possible. Ms. Jones further explained commission created the 25' no disturb policy w/ the presumption that those 25' are needed to protect the interest and values in the WPA so in order to go into the 25' the applicant should provide info to rebut the presumption. Additionally, if they want to offer a compensatory area they should show how it serves the same purpose. Everyone agreed the following plan of action is for the applicant to complete flagging the wetland boundary, then have our third-party peer review that and any additional application materials in addition to any comments provided with the DEP file number. They also agreed to schedule the site visit once the wetland is flagged.

Motion: Mr. Holden moved to continue discussion to the August 17 meeting of the Conservation Commission in anticipation of a complete wetland review and a DEP # file number. Mr. Hogan seconded, and the motion passed unanimously by roll call vote of 6-0-0 (Gorman – aye, Hogan – aye, Holden – aye, Richardson – aye, Shaw – aye, Steele – aye).

REPORTED/ONGOING VIOLATIONS

1. DEP No. 312-1086—Tea Party Drive (01:51:07 – 02:05:37)

- Mr. Gorman informed members that the EO was revised pursuant to the guidance of Town Counsel and DEP in regards to the ability of the Commission to request 3rd party review funds. Ms. Jones explained the only way they could request the funds was if a new NOI was submitted for the clean-up. The EO was modified to allow the applicant to hire their own professionals with adequate credentials and reporting. Ms. Jones confirmed the dates of the obligations - name and qualifications of the professional by 7/23 and recommendations due 8/9 which members agreed to move to 8/10 (a weekday).
- Dale McKinnon entered the meeting explained they reached out to LEC who've sent a proposal into Fafard. He will let Ms. Jones know the following day if LEC is selected. Members were familiar with LEC's qualifications. Mr. Gorman emphasized the need to monitor the basins with the appropriately qualified professional – Mr. McKinnon indicated they have the staff with the suitable certifications.
- Mr. McKinnon provided a brief overview of the recent mitigation efforts – they've created a second swale inside the swale of the armored slope to ensure it doesn't get filled w/ soils, a loam berm was created on the westerly side of the road, planning to improve the waddles that were placed along side of the road, everything has been loamed and seeded again and are watering it w/ the clean water from the basin, fixed the wall by putting in an interceptor swale along the armored slope along Hyde Park, larger materials will be added to the riprap so it doesn't become flushed down the armored slope, and they will be cleaning the swale on the easterly side.

Motion: Mr. Hogan moved to motion to ratify the EO as reviewed, with the amendment to the deadline from 8/9/10 to 8/10/20. Mr. Shaw seconded, and the motion passed unanimously by roll call vote of 6-0-0 (Gorman – aye, Hogan – aye, Holden – aye, Richardson – aye, Shaw – aye, Steele – aye).

2. DEP No. 312-1022—Forest Glen/Spring Hill Rd. (02:05:41 – 02:37:11)

- *Mr. Gorman recused pursuant to the Conflict of Interest Law and Mr. Hogan chaired this portion of the meeting.* Ms. Jones met w/ John O'Hearn on site last week and observed a scummy dirt in the stream that was similar to what Mr. Shaw had described at the last meeting. Mr. O'Hearn told Ms. Jones that quite a bit of material was from the culvert – which called for earth to be laid into the bottom now which appears to be going into the stream. Mr. O'Hearn had agreed to join the meeting but was not in attendance. Mr. Shaw referred to the NOI – the culvert was supposed to be 2' under grade and he did not believe it was installed per the plan – he described it as one end being basically cement and the other end looks like dirt was dumped in. He suggested that it is their responsibility to clean the inches of mud on the one side of the culvert, clean down the stream, and come up w/ a plan to make the culvert right. Ms. Jones could not attest to the fact of the grade at which the culvert was built. Members discussed options for enforcement – possibly an EO that calls for the installation of the box culvert as specified in the plans. A motion was made and seconded but Ms. Jones pointed out that Mr. O'Hearn insisted that it was built to plan and questioned whether the plan is correct and she also mentioned removing it and reinstalling could possibly cause more damage to the resource area. Members also discussed including the option of a practical alternative in lieu of replacing the box culvert as per the plans.

Vincent Caltaldo, Andrews Drive described his observations of problems and wetland violations during the duration of the project (dragging trees through wetlands, clear cutting in the buffer, the road grading does not seem correct, the culvert is too high, water cannot be contained on the site – water is flooding Taft Hill and causing problems with their infrastructure, etc.). Patrick Stephan, Andrews Drive, echoed all Mr. Caltaldo's concerns (mud coming from the development, down the hill, into the stream and into the Taft Hill development).and the need for oversight of the activities at this site. They both thanked the Commission for all their help.

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Members had further discussion and reviewed photographs of the site to determine the most effective way to move forward (enforcement order, stop work order, etc).

Motion: Mr. Holden moved to issue a stop work order until the culvert is made to the plans or until applicant comes before the Commission with an alternative plan. Ms. Steele seconded and the motion passed unanimously by roll call vote of 5-0-0 (Gorman – aye, Hogan – aye, Holden – aye, Richardson – aye, Shaw – aye, Steele – aye).

Mr. Gorman returned to the meeting

WETLAND UPDATES/ISSUES

1. Koopman Lumber, Douglas Street (02:37:28 – 02:59:42)

- Darrell Baker, Koopman Lumber, following up from the prior meeting with the request that the Commission exercise their authority to declare an Emergency which will allow for the repair of the underground culvert in the parking lot (just outside the yard gate). After an investigation, they determined that 15-20 years ago a granite culvert (possibly after a collapse) was replaced with a plastic culvert (a downgrade). They believe this is what is causing the upstream issues they are experiencing. Currently there are exposed sink holes which are putting their equipment, employees and the public at risk. They are proposing to excavate it (in a very focused area), insert a concrete precast culvert at the same dimensions as what is there now and a shop drawing would be provided prior to the repair. They agree & request having the Commission inspect once the culvert is cut and in place.
- Mr. Gorman shared the Emergency Certification regulations to ensure it is the appropriate mechanism to capture the work. Emergency Certification, an NOI and an RDA were all explored. Mr. Baker estimated it will take 3-days to repair this failure and agreed to submit related paperwork for the RDA.

Motion: Mr. Hogan moved to issue an Emergency Certification for the work described on the record during this meeting pending the receipt revised scope of work limited to the repair of existing culvert structure and that a NOI will be submitted within 60 days of the issuance of the Emergency Certification documenting a long-term solution to the structural issues with the culvert structure. Mr. Holden seconded, and the motion passed by roll call vote of 5-0-0 (Gorman – aye, Hogan – aye, Holden – aye, Richardson – aye, Shaw – aye, Steele – aye).

2. Discussion of site compliance regarding active and expired Orders of Conditions

- No items discussed

3. Whitin Pond Clean-up (03:00:17 – 03:04:03)

- Mr. Shaw coordinated group of Boy Scouts to aggressively pull the Water Chestnut from Whitin Pond from row boats. They completely filled a DWP dump truck and will continue working for the next few days. All the members were very appreciative of his time and efforts.

PROCESSING

1. 7/6/2020 Meeting Minutes (03:04:05 – 03:04:41)

- Passed over to allow for additional time to review

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

1. Pout Pond Recreation Committee Update (03:04:42 – 03:11:25)

- Mr. Gorman noted that he would like to check on the revolving funds since we are not collecting fees. Mr. Shaw spoke with accounting and that estimated there is \$7600 in the account and the payroll is \$600 per week. With 6 weeks remaining in the season the account would end up around \$3000, Mr. Gorman recommended checking in with PPRC. Ms. Jones confirmed the beach raking occurred and Commissioners agreed to stop by to check whether the weeds are still persistent.

2. Open Space Committee Update (03:11:27 – 03:13:01)

- Mr. Holden gave an overview of the online survey just launched to determine residents' interest and priorities as it relates to Open Space in Uxbridge. After the survey closes, the committee is planning a 3 part conference including community members and utilizing all the various input to formulate an Open Space Plan.

3. Discussion of future zoom/in-person meetings (03:13:05 – 03:23:30)

- Mr. Gorman confirmed with the Town Manager that the Conservation Commission can continue meeting remotely over Zoom. The option of having separate meetings (dedicated meeting for public hearings and one for administrative business items) was mentioned if remote meetings become too cumbersome.


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- Obtaining member signatures was revisited to see if there is a better/faster way to facilitate. After discussion, it was decided that, for items that require wet signatures, Ms. Jones will have signature sheets available in town hall in the Conservation mailbox & members can also request an electronic copy to print, sign and mail in. Everyone agreed to coordinate individually with Ms. Jones.

ADJOURNMENT-NEXT MEETING SCHEDULED FOR Monday, August 3rd, 2020

Mr. Shaw made a motion to adjourn the July 20, 2020 meeting of the Conservation Commission. Mr. Hogan seconded, and the motion passed unanimously by roll call vote of 6-0-0 (Gorman – aye, Hogan – aye, Holden – aye, Richardson – aye, Shaw – aye, Steele – aye).

Respectfully submitted,
Melissa Shetley



Andrew Gorman, Chairman



Jim Hogan, Vice Chairman

Lauren Steele, Member

Mark Richardson, Member



Jeff Shaw, Clerk

Russel Holden, Treasurer

(ABSENT)

Dale Bangma, Member

Date

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Respectfully submitted,
Melissa Shelley

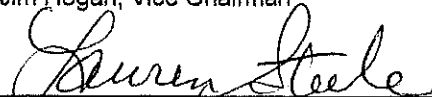
Andrew Gorman, Chairman

Jeff Shaw, Clerk

Jim Hogan, Vice Chairman

Russel Holden, Treasurer

(ABSENT)



Lauren Steele, Member

Dale Bangma, Member

Mark Richardson, Member

Date