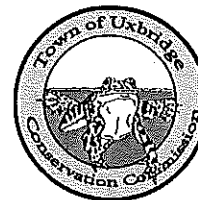


Town of Uxbridge  
Conservation Commission  
21 South Main Street  
Uxbridge, MA 01569  
508-278-8600 x 2020



## Conservation Commission Meeting Minutes November 15, 2021

**Present:** Jeff Shaw, Russell Holden, Lauren Steele Paul Balutis, Jessica Cleary, and administrator Melissa Shelley

**Absent:** Mark Richardson, Tomas Etzold and Philip Bertuglia

### CERTIFICATE OF COMPLIANCE REQUESTS (00:10:00 – 00:19:50)

#### 1. DEP #312-804, 38 Tabor Road

- **Discussion:** Members reviewed the as-built plans submitted with the application and agreed to visit the site on November 20 at 9:00am to view progress before issuing a Certificate of Compliance.
- **Motion:** Mr. Balutis made a motion to continue the CoC request for DEP #312-804 38 Tabor Road to the December 6 meeting of the Conservation Commission. Ms. Steele seconded, and the motion passed unanimously by vote of 5-0-0.

#### 2. DEP #312-1091, 437 East Street

- **Discussion:** Members reviewed the as-built plans submitted with the application and agreed to visit the site on November 20 at 9:00am to view progress before issuing a Certificate of Compliance.
- **Motion:** Mr. Holden made a motion to continue the CoC request for DEP #312-1091 437 East Street to the December 6 meeting of the Conservation Commission. Ms. Steele seconded, and the motion passed unanimously by vote of 5-0-0

### PUBLIC HEARINGS

#### 1. Request for Determination of Applicability (RDA) FY2022-02 278 N. Main Street (Map 12C Parcel 4334 )

**Applicant:** Razzy Realty LLC

**Project Description:** Removal of trees (00:20:04 – 01:03:50)

**Discussion:** Rob Chaille, property owner and applicant attended the public hearing. The public hearing had been continued during the previous meeting to allow Commissioners to visit the site prior to the determination.

Members discussed their observations: (i) the resource area is river front to a cold-water fishery (Cold Spring Brook) located on the northerly portion of the property (ii) may be a town sewer easement on the property because there is a sewer manhole cover and drain on the road (iii) red and blue ribbons on the backside possibly related to an old anrad per the dpw water main project (iv) historical aerials seem to depict clearing – this was challenged by the applicant – the previous owner stored firewood that was removed when he bought the property, he also said the state's trucks were all parked there during the roadway work (v) trees marked to be removed are tall, spindly, leaning over and may pose a safety concern.

Mr. Holden's said his opinion is that it is a permissible project but that there are too many elements for the Commission to say that the WPA doesn't apply. Mr. Shaw noted that they have allowed tree cutting to a certain height in the past via the RDA process with conditions and this may apply here.

There was discussion about the potential follow up project that was mentioned during the initial public hearing – a covered patio area for customers to sit outside. Everyone agreed that an NOI would be required for any ground disturbance associated with the construction of the patio/seating area. The applicant was given the opportunity to withdraw the request to remove the trees and submit an NOI to permit the entire project – all the elements included in his plan. He is anxious to remove the trees and was not prepared at this time to submit an NOI so he decided to just go ahead with the RDA.

**Motion:** Mr. Holden made a motion to issue a Positive Determination of Applicability for the work proposed in RDA FY22-02. Mr. Balutis seconded the motion. After discussion, Mr. Balutis withdrew his second.

**Discussion:** It was mentioned that the Commission has permitted the removal of hazardous trees on various occasions through the RDA process. The description on the RDA application was reviewed and discussed with the applicant. Members discussed options to allow for removing the hazard with the minimal impact to the resource area (cutting trees to a certain height, no grubbing, leave the Oak tree). There was review of the past uses on the property. Members

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discussed need for a NOI for any future work and the option of providing an NOI for all the work vs a segmented project approach. Potential conditions were identified and discussed.

**Motion:** Mr. Balutis made a motion to close the public hearing. Ms. Steele seconded, and the motion passed unanimously by vote of 5-0-0.

**Motion:** Ms. Cleary made a motion to issue a Negative Determination of Applicability for the work proposed in RDA FY22-03 with the following conditions. Ms. Steele seconded, and the motion passed by vote of 4-1-0.

- The only trees permitted to be cut have been marked by the owner and identified as Poplar, however they could be considered Ash and/or Cherry. There is one Poplar tree that was unable to be marked due to its location but is permitted to be cut.
- No ground disturbance is permitted - this includes the removal of rocks, leaves, brush and/or dirt anything in the the natural habitat.
- There is an Oak tree that was marked for removal that may not be removed at this time.
- The trees may not be completely removed from the ground they may only be cut down to a height of 6-10'.
- The tree removal company shall use all measures not to disturb the ground and machinery shall remain on the paved portion of the property.

### **2. Notice of Intent (NOI) DEP #312-1123 0 Old Elmdale Road (Map 25, Parcel 3979) (01:04:09 – 01:11:00)**

**Applicant:** Aris Group, LLC, 100 Church St. Whitinsville, MA

**Representative:** Andrews Survey & Engineering, Mendon St., Uxbridge MA

**Project Description:** The proposed project is for the development of a subdivision, "Elmdale Estates", within 100 feet of Bordering Vegetated Wetlands, including Bordering Land Subject to Flood and alteration within the 100ft and 200ft of the West River riverfront.

**Discussion:** The applicant requested the public hearing be continued to the January 3 meeting of the Conservation Commission. Members agreed too much time has passed with no action (hearing opened in February 2021 and no discussion during a meeting since July). They decided to close the public hearing and deny the project due to lack of activity.

**Motion:** Mr. Holden made a motion to close the public hearing for DEP312-1123, 0 Old Elmdale Road. Mr. Balutis seconded, and the motion passed unanimously by vote of 5-0-0.

**Motion:** Mr. Holden made a motion to deny the NOI 312-1123 due to lack of activity on the part of the Applicant. Ms. Cleary seconded, and the motion passed unanimously by vote of 5-0-0.

### **3. Notice of Intent (NOI) DEP #312-1130 90 Elmdale Road (Map 31 Parcel 185) (01:11:09 – 01:13:10)**

**Applicant:** Jonathan Whipple, Webster, MA

**Representative:** Insite Engineering Services, LLC, North Smithfield, RI 02896

**Project Description:** The construction of a single-family home with driveway, septic system, and private well within a Riverfront area.

The applicant requested to continue the public hearing to the next meeting as they work to address DEP comments (whether the driveway will pass through the 100yr flood plain).

**Motion:** Ms. Cleary made a motion to continue DEP #312-1130, 90 Elmdale Road to the December 6 meeting of the Conservation Commission. Mr. Holden seconded, and the motion passed unanimously by vote of 5-0-0.

### **4. Notice of Intent (NOI) DEP #312-1129 35 Commerce Drive (Map 40 Parcel 3855) (01:13:15 – 01:15:10)**

**Applicant:** Jay Lemire, Unilock, Uxbridge MA

**Representative:** Farland Corporation, Dartmouth MA

**Project Description:** The expansion of their complex with a 44,700+/- S.F. building and necessary site improvements within the Buffer Zone of a Bordering Vegetated Wetland.

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The applicant requested to continue the public hearing to the next meeting as they are still waiting for their response from Natural Heritage.

**Motion:** Mr. Holden made a motion to continue DEP #312-1129, 35 Commerce Drive to the December 6 meeting of the Conservation Commission. Ms. Steele seconded, and the motion passed unanimously by vote of 5-0-0.

### 5. Notice of Intent (NOI) DEP #312-1128 434 Elmwood Avenue, Lot 2 (Map 49 Parcel 3998) (01:15:11 – 02:05:26)

**Applicant:** Ron Knapik, Knapik Builders, Grafton, MA

**Representative:** Land Planning Inc., N. Grafton MA

**Project Description:** The construction of a single-family home with driveway, septic system, and private well within Buffer Zone to a Bordering Vegetated Wetland.

**Discussion:** The public hearing was continued while awaiting a DEP number – the number was assigned w/ comments that a required the applicant to file an approved Turtle Protection Plan with Natural Heritage. Lot 2 (this filing) is part of a larger lot being developed inside priority habitat for the eastern box turtle. The applicant provided a plan and was approved to begin work on Lot 1. A portion of lot 2's driveway is located between the 50–100-foot buffer zone to a BVW.

Members reviewed the turtle protection plan & because it doesn't address protection beyond the construction phase, they considered options to ensure there is no further disturbance beyond the limit of work. The three options discussed in detail with the applicant were: (i) conservation markers (Feno spikes) (ii) some type of condition that attaches to the deed to inform any (iii) conservation restriction be placed on the other segment of the property that is not being built. The applicant mentioned they spent over a year working with Natural Heritage and assumed they addressed everything they had to and that the Commission should be addressing the area within Buffer Zone.

Abutters Lisa and Shirley Mosczynski, 404 Elmwood, attended the meeting and also provided a document to the Commission suggesting a Conservation Restriction be added to the deeds for lot 1 and 2 to ensure the ability for inspections and protection of the priority habitat.

Mr. Holden provided some additional information about conservation restrictions in general. Members reviewed aerial images of the property. There was further review of the document Natural Heritage provided and discussion about how to attach it to the deed. After discussion the applicant agreed to add the conservation restriction. Members indicated they could provide contacts that could offer assistance in developing the restriction.

**Motion:** Mr. Balutis made a motion to close the public hearing for DEP#312-1128. Ms. Steele seconded, and the motion passed unanimously by vote of 5-0-0.

**Motion:** Mr. Holden made a motion to issue an Order of Conditions for DEP#312-1128, 434 Elmwood Avenue, Lot 2, with the Uxbridge Standard Special Conditions and one additional condition that the homeowner will file a Conservation Restriction for the remainder of the parcel that is not being built upon. Mr. Balutis seconded, and the motion passed unanimously by vote of 5-0-0.

## REPORTED/ONGOING VIOLATIONS

### 1. DEP# 312-1086 — Tea Party Drive (02:06:20 – 03:39:05)

- Elizabeth Manini Guerriere & Halnon attended the meeting in person, Dale McKinnon, Guerriere & Halnon attended via zoom. Wellington Pereira, Site Supervisor attended via zoom. Several Tea Party Drive homeowners also attended the meeting in person.
- A drainage as-built plan for Tea Party was submitted to the Commission explained by Ms. Manini. She noted that the plan was compiled from information they had (very confident in the green lines and fairly confident in the blue and red - shots were collected at different intervals – didn't see all of the construction but got points throughout and were confident they were installed as shown.
- Mike B., 49 Tea Party Drive noted that foundation drains for M2 and M3 also added but not shown on the map – Mr. McKinnon explained they couldn't confirm it, so they didn't depict it. There was discussion about needing to disturb the ground to be able to confirm drainage connections but also not wanting to create any unnecessary erosion.
- Mike B, 49 Tea Party asked why water is coming up through the infiltrators. Ms. Manini explained the infiltrators are only designed to recharge groundwater and that if they get too much water to overflow.
- Mike B, 49 Tea Party, asked whether the soil can even sustain growth – he has not had any growth over several growing seasons. Mr. Pereira said they had tested the piles and they are able to. Members questioned whether enough loam is

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being used or has too much silt been mixed in. Ms. Steele observed very little organic matter in the soils on Tea Party – it's very sandy – effecting drainage and the ability to grow grass for stabilization.

- Mr. Shaw visited the site on 11/6/21 weeks after the rain events and he observed water was percolating out the side of the hill (armored slope?). He questioned whether that is contributing factor to the flooding of the backyards and is concerned that the ground water is not being captured. He doubted whether the calculations were correct and if the construction techniques are adequate to convey the ground water to the base of the armored slope. Ms. Manini also observed weeping and agrees it needs to be addressed but didn't think it is contributing to the flooding. She also said fixing the underdrain may require excavation and she would prefer not to do that before spring because some of the area is stabilized. She added, based on the information they have is that it seems like there is a large amount of sandy material sitting top of clay (silt) type material and where it's weeping out is 1 to 2 feet up from the exposed ground. It's possible the underdrains were installed the sand and they should be in the silt/clay material. She reiterated she doesn't believe this is the cause for the backyard flooding but is causing the soggiess at the bottom of the armored slope. Something they wish to address in the spring.
  - Ms. Manini said they believe it's a combination of factors causing the flooding - low spots/grading in addition to the difficultly growing vegetation and also the silt sacks in the catch basins. They have removed the silt sacks and also added a berm on the backsides of lots on Crownshield to direct water away from the Tea Party lots. G&H did calculations to ensure piping was sized properly. G&H identified the low areas and can help regrade to ensure water flows to the catch basins.
  - There was discussion about the recent storms in the area, how storms are classified and stormwater design and engineering. Abutters also provided their observations of current conditions on site during recent and past rain events.
  - There was discussion as to whether what we are seeing are the impacts of cutting into the ground water table. Ms. Mainini believes the only evidence of that is the weeping at the bottom of the hill. The curtain drain is accepting ground water and discharging it to the level spreaders at the bottom of the armored slope. Ms. Mainini said she has seen evidence that the foundation drains are working as well. There was discussion whether a hydrologist or hydrogeologist review as requested by the commission may have alleviated some of the issues the homeowners are experiencing now.
  - Moving forward, the plan is to remove the silt sacks to limit the flooding, regrade areas the at are contributing to the ponding/flooding, installing jute mats for any exposed soil. G&H will be back w/ a defined process for moving forward.
  - Mr. Balutis made a motion to continue the EO for Tea Party Drive. Ms. Cleary seconded, and the motion passed unanimously by vote of 5-0-0.
2. DEP# 312-1013 — 255 Chocolog Road, Cobblers Knoll Subdivision
    - No new information discussed.
  3. DEP# 312-1104 — 515 Douglas Street
    - Reports have been provided timely and the clean-up is almost complete.
  4. Commerce Drive Well Site – request to close EO

### **WETLAND UPDATES AND ISSUES**

1. Review of Conservation Restrictions for portions of 515 Douglas Street and Lot 5 High Street related to the 515 Douglas Street/Amazon Project DEP#312-1104
  - Members agreed to review the documents and comment during the December 6, 2021 meeting.
2. Discussion of site compliance regarding active & expired Orders of Conditions
  - No new items discussed

### **PROCESSING**

1. Meeting Minutes Review 11/1/21
  - Passed Over
2. Annual Report for FY2021
  - Passed Over

### **ADJOURNMENT-NEXT MEETING SCHEDULED FOR Monday, December 6, 2021**

**Motion:** Ms. Cleary moved to adjourn the 11.15.21 meeting of the Conservation Commission. Mr. Balutis seconded, and the motion passed unanimously by vote of 5-0-0.

Respectfully Submitted,  
Melissa Shelley, Land Use Administrative Assistant

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Jeff Shaw, Chairman