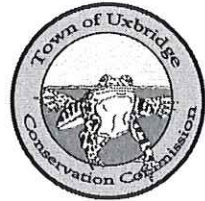




Town of Uxbridge
Conservation Commission
21 South Main Street
Uxbridge, MA 01569
508-278-8600 x 2020



**Conservation Commission Meeting Minutes
December 16, 2019
Board of Selectmen Room, Uxbridge Town Hall**

Present: Chair Andrew Gorman, Vice Chair Jim Hogan, Treasurer Russell Holden, Clerk Jeff Shaw, Members Dale Bangma, Mark Richardson and Conservation Agent Holly Jones

Absent: Member Lauren Steele

REC'D UXB TOWN CLERK
2020 JAN 23 AM 9:06

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.

PUBLIC HEARINGS

1. Request for Determination of Applicability FY19-4, 6 Maslow's Way (Map 29, Parcel 535) (00:00:30 – 00:04:24)

Applicant: Anthony Francesshelli

Project Description: Shed was installed on property in back left corner about 35 feet away from the wetland edge. Six inches of loam was removed and filled with a ¾" gravel base to support the shed. Additionally, during house construction, a deck was built about 80 feet from the wetland edge. The deck is attached to the house and sits on 3 concrete sonotube footings.

Discussion: Mr. Gorman explained the RDA was requested was after deviations of the approved plan were discovered during the CoC request for the house. Mr. Francesshelli the homeowner attended the meeting and described the installation. He said they excavated down approximately 6 inches to level the area, added a gravel base and placed the shed on the timbers it is constructed on. Ms. Jones observed the area and her opinion was it is stable and level. It was also confirmed that the shed is inside the permitted limit of work.

Motion: Mr. Hogan moved to issue a negative determination of applicability for FY19-4 6 Maslow's Way. Mr. Bangma seconded, and the motion passed unanimously by vote of 5-0-0.

2. Request for Determination of Applicability FY19-5, 99 Hartford Ave E (Map 12 Parcel 2275) (00:04:40 – 00:16:47)

Applicant: Uxbridge-Millville Regional Housing Association

Representative: Michael Potaski

Project Description: Upgrade an existing stormwater management system at the foot of a slope to direct the downward sheeting water into an existing swale to be improved by installing approximately 80 linear feet of 8" perforated pipe and a swale, upgraded swale to be lined with rocks to direct all of the storm water flow into existing catch basins.

Discussion: Mr. Potaski, with the Uxbridge-Millville Regional Housing Association attended the meeting and described the upgrade. The purpose for the project is to improve safety by eliminating the water that freezes on the parking lot. Sediment controls were discussed and Ms. Jones thought ECB's around the work would be sufficient. Mr. Gorman noted that in some cases drainage improvement projects can pass as minor activities but was not sure if it extends far enough to the landscape features. He stated he thought this activity was approvable through the RDA process because it seems like a net improvement based on what is being described as opposed to discharging right into the river without any type of settling.

Motion: Mr. Hogan moved to issue a negative determination of applicability for FY19-5 99 Hartford Ave East with the following conditions (i) sediment controls shall be installed surrounding the work area on the down gradient side as dictated by the conservation agent and (ii) the Conservation Agent shall perform a construction inspection following the conclusion of the project construction after a 1" rain event. Mr. Holden seconded, and the motion passed unanimously by vote of 5-0-0.

3. Notice of Intent (NOI) DEP No. 312-1089, 21 Constitution Rd (Map 11 Parcel 4652) (00:16:49 – 00:24:00)

Applicant: Cora Lane Group LLC

Representative: Andrews S&E

Project Description: A porch attached to a previously approved single-family home in the 50' buffer zone of a bordering vegetated wetland.

Discussion: Ms. LaBrie, from Andrews S&E, attended on behalf of the applicant. Ms. Jones explained this is an "after the fact" NOI and that during her inspection for the Certificate of Occupancy (CO) she discovered the discrepancy in

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plans and requested the builder resubmit to permit the porch. She reported that the ground is stabilized and there are no wetland impacts. In addition, the porch is closer to the wetland than permitted but not within the 25' no disturb.

Mr. Gorman noted the increase in frequency for these types of requests and members agreed to keep remedies in mind.

Motion: Mr. Hogan moved to close the public hearing for DEP 312-1089, 21 Constitution Road. Mr. Bangma seconded, and the motion passed unanimously by vote of 5-0-1 (*Mr. Holden abstained from vote*).

Deliberations: Members agreed no new conditions were necessary.

Motion: Mr. Bangma moved to issue an Order of Conditions for DEP 312-1089, 21 Constitution Road with the Uxbridge Standard Special Conditions. Mr. Hogan seconded, and the motion passed unanimously by vote of 5-0-0.

4. **Notice of Intent (NOI) DEP No. 312-10XX, 250 Chocolog Rd (Map 44 Parcel 345)** (00:24:21 – 00:25:01)
Applicant: Michael Healy Representative: Andrews S&E
Project Description: A single family home with private well and private septic with associated earthwork, landscaping and utilities within the wetland buffer zone.

Discussion: The applicant requested discussion be continued to the next Conservation Commission meeting.

Motion: Mr. Hogan moved to open and continue DEP312-10XX, 250 Chocolog Rd. to the next meeting of the Conservation Commission as requested by the applicant. Mr. Richardson seconded, and the motion passed unanimously by vote of 5-0-0.

** The agenda was taken out of published order to Wetland Updates and Issues #6 Cobbler's Knoll OoC extension request to accommodate an audience member.*

WETLAND UPDATES/ISSUES

1. OoC extension request: DEP No. 312-1013, Cobbler's Knoll/Turner Farm Rd. (00:25:25 – 00:44:28)
 - Byron Andrews, Andrews S&E, attended on behalf of the owner. He provided some background information and referenced the most recent recommendations from David Crossman with B&C Associates. He stated there is an "agreement in principle" between DEP and the owner and they are just awaiting final restoration plans. Mr. Andrews also said the basin that was the source of the original blowout has been finished. Ms. Jones pointed out that this was to be an infiltration basin and it is not infiltrating – possibly, because it was loamed and seeded this summer. Additionally there are still temporary pipes placed which is where all the water is leaving the basin and travelling down the hill. Mr. Andrews agreed this needs to be addressed.
 - New complaints regarding stormwater issues received the morning of the meeting were reviewed. Mr. Andrews was aware of the complaint and his initial assessment was that the blockages of the swales were in the areas of the new house construction. He conferred with Mr. Marinella and they would like to address it after the house construction is complete. Members did not agree with this approach.
 - Members discussed moving forward and identified the following reasons not to extend the OoC (i) the current OoC and the way the respondent has interacted with those permit conditions have not protected the statutory interests of the WPA and a new permitting interaction needs to happen for the Commission to effectively protect the resource areas (ii) lack of compliance throughout the entire construction phase and blatant violations of the OoC; (iii) there are still ongoing interactions with DEP and unresolved violations and unfulfilled requests for information; (iv) the only time the respondents came before the Commission was during the Cease and Desist. It was also mentioned that any corrective action owed by the state or ongoing corrective action to fix the stormwater infrastructure could be undertaken under the current Enforcement Orders.

Motion: Mr. Holden moved to deny the request to extend the Order of Conditions for DEP 312-1013, Cobbler's Knoll/Turner Farm Road finding that the site is in violation of the OoC as stated on the record and due to the lack of compliance with the OoC and the mandates set forth by DEP. Mr. Hogan seconded, and the motion passed unanimously by vote of 5-0-0.

- After the motion there was brief discussion with Mr. Andrews and everyone agreed a site visit, that includes Ms. Jones and Denise Childs with DEP would be helpful. It was noted that Commissioners would not have access to the site after January 5 when the order expires. Members recommended the respondent do as much work as they can do with the storm water infrastructure and any restoration guidance from DEP especially the blockage in the stream. Additionally, ECB's should be placed around all the stormwater basins – especially the one up top that was just roughed out.

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** The agenda was taken out of published order to Reported and Ongoing Violations while awaiting Town Counsel and Commissioner Shaw for the Executive Session discussion of Church Street.*

REPORTED/ONGOING VIOLATIONS

1. Medline (DEP No. 312-1066) (00:44:45 – 00:45:33)
 - Ms. Jones did not have any new updates she had visited the site that day and reported everything was stable. She also mentioned that the level spreader has not yet been moved and that she confirmed the engineer has provided Kennedy excavating with the design
2. Cobbler's Knoll Development (DEP No. 312-1013)
 - Covered under the OoC extension request discussion.

WETLAND UPDATES/ISSUES

1. Discussion of site compliance regarding active and expired Orders of Conditions (00:45:58 – 00:57:38)
 - *Item not on the Agenda – it pertains to a call received within the last 48 hours that could not be reasonably anticipated.* A caller reported a potential siltation event of the cold-water fishery between Tea Party Drive and Crownsheld Avenue – specifically down gradient where it goes under a culvert. Ms. Jones investigated several areas on site and reported her findings to the Commission. She did not find evidence major siltation event but she did notice a perforated pipe with a high velocity outflow next to the outlet structure for the infiltration basin. The basin and its outlet were dry and the water down gradient appeared more turbid than the rest of the stream. It is unknown in what ways it is attached to the stormwater structure. Members agreed to investigate with the engineer. Ms. Jones added that there was a complaint received on November 25 related to the discharging of silty water onto the power lines. Because this is outside the Commission's purview, she will forward the information and photograph to the EPA representative overseeing the construction general permit.

** Mr. Shaw joined the meeting during discussion.*

EXECUTIVE SESSION (00:57:39 – 01:01:06)

1. Meeting with Town Counsel and Town Manager to discuss imminent litigation strategy regarding potential wetlands violations at 32 Church St (Assessor's map 6 parcel 4452)

Motion: Mr. Hogan made a motion that the Conservation Commission go into Executive Session to discuss strategy with Town Counsel with respect to possible imminent litigation as it relates to 32 Church Street with business to follow. The Conservation Agent was invited to join in the discussion and the Commission will reconvene at approximately 8:00pm. Mr. Shaw seconded and the motion passed unanimously by roll call vote (Mr. Shaw – yes, Mr. Holden – yes, Mr. Bangma – yes, Mr. Gorman – aye, Mr. Hogan – yes, and Mr. Richardson – yes).

The Chair declared that having this discussion in open session could hinder, impede, or negatively influence the ligating position potential of the town and called the Commission into executive session.

The agenda returned to the published order.

WETLAND UPDATES/ISSUES

2. Discussion of Catalog of Town Owned Property (01:01:20 – 01:02:32)
 - Ms. Jones generated a list of the properties of interest identified during prior meetings and members agreed to schedule dates for site visits after the holidays.
3. 170 Rivulet St complaint follow-up (01:02:33 – 01:05:00)
 - Ms. Jones went to the area and from the street observed a large leaf pile with some brush. It appears to be from the several properties whose backyards abut the area. Everyone agreed to notify the applicable parties, via letter, that this is a regulated resource area, that leaf dumping is prohibited and offer options for discarding the material.
4. CoC request: DEP No. 312-1076, 6 Maslow's Way (01:05:00 – 01:09:08)
 - Mr. Gorman explained that this request is related to the negative RDA issued earlier in the meeting. The CoC request was initially deferred because there were some features in the field that exceeded the originally permitted work. It was confirmed that the area is stabilized. Ms. Jones noted the fee was not provided with the CoC request which was submitted by the builder who is no longer the holder of the Order of Conditions (the homeowner is).

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Members discussed the following options: (i) approving the CoC with the condition that it will not be issued until payment is received (ii) denying the CoC request and/or (iii) requiring the homeowner to pay the fee. They agreed to table the item until the agent has the opportunity to contact the original applicant.

Motion: Mr. Holden moved that the Commission table issuing the CoC until the next meeting of the Conservation Commission. Mr. Hogan seconded, and the motion passed unanimously by vote of 6-0-0.

5. OoC extension request: DEP No. 312-1029, Waste Water Treatment Plant (01:09:09 – 01:11:09)
- Ms. Jones informed members that the work is expected to be completed by June 2020 and the remaining items are related to stabilization. Based on the record of compliance, members agreed to extend the Order.

Motion: Mr. Hogan moved to extend the Order of Conditions for DEP312-1029 for one (1) year. Mr. Shaw seconded, and the motion passed unanimously by vote of 6-0-0.

PROCESSING (01:11:09 – 01:16:45)

- 11/4/2019 Meeting Minutes
 - Passed over due to lack of quorum.
- 11/18/2019 Meeting Minutes
 - Mr. Hogan moved to approve the 11/18/19 Conservation Commission meeting minutes as amended. Mr. Shaw seconded, and the motion passed by vote of 5-0-1 (Mr. Bangma abstained)

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

- Pout Pond General Discussion (01:16:50 – 01:35:10)
 - The PPRC submitted their annual report to Town Hall. It was also noted that the gate was open and members agreed to look into it.
- CR & Conservation land Monitoring
 - No new discussion as it goes hand in hand with the discussion of the Town Owned Land Catalog.
- Proposed amendments to 310 CMR 10.00: Massachusetts Wetlands Protection Regulations (November 2019)
 - The following new requirements were discussed: (i) the date of issuance of an Order of Conditions will be defined as when the issuing authority issues it to DEP through **certified mail** and (ii) being in receipt of an abutter notification does not automatically confer standing to an appeal process therefore the petitioner in an appeal still has the burden of proving they are aggrieved party in the appeal process (iii) switching to the 2016 plant list. It was also mentioned that DEP and MACC are both receiving comments on the changes.

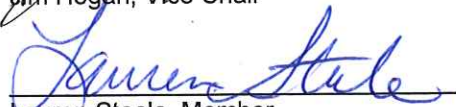
ADJOURNMENT-NEXT MEETING SCHEDULED FOR MONDAY, January 6th, 2020

Motion: Mr. Shaw moved to adjourn the December 16, 2019 Meeting of the Conservation Commission. Mr. Hogan seconded and the motion passed unanimously by vote of 6-0-0.

Respectfully submitted,
Melissa Shelley


Andrew Gorman, Chairman



Jim Hogan, Vice Chair


Lauren Steele, Member


Mark Richardson, Member


Jeffrey Shaw, Clerk


Russell Holden, Treasurer


Dale Bangma, Member

Date _____