



## TOWN OF UPTON, MASSACHUSETTS

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### Conservation Commission

Meeting Minutes – Wednesday June 14, 2023 – Remote Meeting (Teams)  
To: Members of Upton Conservation Commission  
CC: Denise Smith,  
From: Grace Brownell

#### **Members Participating:**

Chair: Christine Scott, Vice Chair: Mike Penko

Members: Sandy Lajoie (treasurer), Alan Miano, Tom Jango, Marcella Stasa & David Szczebak

Absent:

Agent: Mary Overholt

Administrative Assistant: Grace Brownell

Visitors: William Taylor (Open Space Committee), Bill Taylor, Joseph Laydon,  
Tanner Famia, Jonathan Rose, Matthew McFarland

#### **7:30p.m Remote Meeting Opened- Christine Scott is facilitating the meeting.**

7:30 EO Community Center Project/VFW Update

- Mary noted how Dave Kennedy had asked whether gravel can be put down by the side slope. For this, there would need to be a determination filing.
- There still needs to be discussion about placing fence on the edge.
- Mike suggested utilizing boulders as opposed to fence. Chris noted they would need to be larger than those in the photo.
- Alan noted rocks should be independent of markers. Sandy agreed.
- Mike asked if equipment is still on property. Mary said yes.
- Mary will notify that there needs to be signage, as well as how the Commission is fine with boulders with some bounds interspersed.
- *Continued until July 12, 2023 at 7:00p.m.*

93 Elm St. Beavers

- Resident Bill Tessmer was present to discuss the permit he has applied for to trap beavers.

- Bill noted he plans to trap and remove the beavers as well as breach the dam.
- Chris noted beaver trapping is the Board of Health's jurisdiction and issues pertaining to water regulation is Conservation Commission's jurisdiction.
- Mary suggested Bill to contact national Grid, since the National Grid Access Road is completely flooded.
- David asked how long the beavers have been at this location. The issue is just starting to expand.
- Tom noted the beavers have been in and out of that area for the past few years. No water control device would work, as it is too large. One would have to put pond levelers across the road. He thought National Grid trapped them at this location in the past. Tom also suggested Bill to reach out to them.
- Bill noted he paid for beavers to be removed twice.
- Tom noted BOH can issue the permit to trap and remove the beavers. Conservation Commission can then issue a permit to breach the dam.
- The Commission's overall recommendation was to have him go to BOH and have his neighbor's sign a landowner consent form.
- *Tom motioned to issue emergency certification for the breaching of the dam. David seconded. All voted in favor by roll call vote.*

7:45 NOI - Robertson family Conservation Restriction – installation of a trail bridge and boardwalks

- Mike referenced DEP's comments. The issue was identified as the wetland crossing design which would alter about 240 square feet with shading impacts. DEP provided two alternatives: 1. Build mitigation wetland or 2. Utilize helical piles to support the boardwalk. The replication alternative is not feasible, because there are several performance standards they could not be met as well as due to issues with impact area.
- Mike's recommendation as the applicant's representative was the second option, helical piles.
- Mary suggested native stones to reduce number of helical piles used. Mary noted Commission does not necessarily need to comply to DEP's recommendations if they do not see it as alteration to the existing wetland. The Commission has right to interpret the law independently. However, the Commission needs to state reasoning for decision.
- Mike noted DEP had concerns about impacts on riverfront vegetation caused by Trail Bridge. He does not see it as issue, because there are a few sections from the regulations which cover riverfront trails.

- Mary suggested amendment since the plans are not finalized.
- Mike noted there will be proposal request summer of 2024.
- Tom asked if machinery is needed for stone. No, pavers would be used to support boardwalk. Another suggestion SVT had was to use double wall PVC conduit.
- Mary will require amendment for review of plans. Within the orders of conditions, helical piles, stones, and double wall PVC conduit can be used, upon further investigation. Separate condition: review by Conservation Commission following further review.
- Chris asked if erosion controls would be needed. Yes, by bridge, not by boardwalk.
- *Alan motioned to close public hearing. Marcella seconded. Majority voted in favor. Alan, aye; David, aye; Marcella, aye; Sandy, aye; Mike abstained.*

## 2 Dogwood Ave Easement-

- Mary presented letter to be sent to town counsel.
- Bill noted there are three easements over 2 Dogwood Drive. Two were created by Crosswinds: a 30-foot access easement and an additional 50-foot-wide access and utility easement. The third easement was created by owners of 2 Dogwood Drive to be used in lieu of 50-foot easement. He presented the questions for the town counsel:
  - Were Crosswinds access easements conveyed to the Town by Crosswinds? If not, can Crosswinds convey those easements to the town now.
  - Was the Pedestrian Easement properly conveyed to the Town? It was never accepted by the Board of selectmen; can this be resolved?
  - What rights do the Commission have to maintain trail access?
- Bill pointed out the flaw of how easement entrance is on a steep stone outcrop, which limits accessibility. Also noted, the pedestrian easement is blocked by pine trees, which will need to be pruned. Thus, Bill noted the need-to-know what obligations the Commission has to the owners of Dogwood.
- Chris asked for clarification that if the pine trees are to be removed, will the trimmings be discarded away from the site? Yes.
- Mike and Alan noted some of fencing is on railroad property. Marcella expressed concern for trespassing. Marcella noted Alan's previous suggestion to reroute the easement altogether, so it is positioned in between 2 Dogwood Drive and their neighbor.

- Bill commented how One Dogwood Avenue and Three Dogwood Avenue have another access easement which straddles the boundary between the two properties. He suggested a conceptual trail which runs behind the two properties.
- Mike suggesting offering to the residents of 2 Dogwood Avenue to move fence or build a new one.
- Mike motioned to submit the package to Joe Layndon for town counsel review. Marcella seconded. All voted in favor by roll call vote.

8:00 NOI - Governor's Landing

- *Continued until June 28, 2023, at 8:00p.m.*

8:30 RDA 10 Warren St. – addition to a single-family house

- Mary read legal notice for the 10 Warren Street Request of Determination of Applicability for the construction of an addition to a single-family home.
- Applicant Jonathan Rose noted current construction for a family home addition with a half bathroom off the right side of the property. Construction is taken place about 86-feet from wetland itself and 70-feet from disturbance.
- Mary noted she requested silt fence and erosion controls. She asked what plans are for gutters. Jonathan was unsure. There is already a dry well on site. Also noted the wetland was delineated as part of Bill Andrews project on School Street.
- *Alan motioned to close the public hearing. Marcella seconded. All voted in favor by roll call vote.*

8:40 343 Mendon St.

- Mary noted how she presented two options for applicant: 1. certifying the vernal pool or 2. Placing Conservation Restriction on property.
- Applicant, Matthew McFarland expressed disinterest in two options.
- Mary noted Matthew has put clover on slope. Mary will conduct a site visit early July 2023 to check on this.
- Mike noted there would be no cost to owner to certify vernal pool, as Commissioners could do the certification. Also noted, it would need to be done next spring.
- Mary noted if there is no agreement with vernal pool certification, enforcement order remains.
- Mike motioned to close the enforcement order as soon as slope is adequately stabilized with vegetation with condition to certify pool spring of 2023. Motion recused.
- The Commission determined to leave enforcement order open until next Spring.

- Mike asked if DEP has been informed. Mary noted the enforcement order has been sent to DEP.
- Mary will contact DEP to gather further information.
- *Continued until July 12, 2023, at 7:25 p.m.*

### **Administrator's Report:**

#### 126 Elm Street-

- Mary noted this is an already approved order of conditions in which homeowner requested a modification.
- Changes included minimizing the size of the house- now there is only 1311 square feet within the 100-foot buffer. Additionally, the house was moved further 57.3 square feet from wetland and the septic was slightly modified to have straight pipes.
- Tom motioned to approve minor modifications to the order of conditions for 126 Elm Street. Sandy seconded. All voted in favor by roll call vote.

### **New Items:**

#### Reed Property Appraisal

- Mike had sent the contract which Gail Mann had prepared. However, he is waiting to hear from Town Manager.
- Mary will follow up with Town Manager.

#### 110 Christian Hill Road- Stormwater Permit

- Conservation Commission previously determined this is a neighborhood dispute to be handled amongst the neighbors. The town planner requested Mary to present this again to the Commission due to issues of flooding and dirt sock pilings.
- At the Compost Facility, there has been a hole dug to collect stormwater.
- There is channel that goes 50 to 75 feet into woods. According to neighbor, it goes to neighbor's house. They are trying to retain area, but it overflows during storm.
- Bill noted the detention basin would not be sufficient during storms. He noted that this is a potential nuisance for abutting property, to be dealt through Code Enforcement. Tom agreed.
- Mike noted property may be within Chapter 61.
- The long-term intent is to get rid of stockpiles, subdivide, and sell. Mary will request a stockpiling permit.

#### 85 Crockett Road

- Mary noted there are two open orders of conditions for a retaining wall and for house. Neither have certificates of compliance. In 2010, they started to go through the Chapter 91 process. The boat house is not included in Chapter 91. The dock is non-conforming. Mary will ask them to provide Chapter 91 permit for the additional features of the boat house and dock.
- Bill asked if the dock would be subject to building setback requirements. Mary noted she does not believe setbacks apply in the water.
- Mike suggested to send copies of previous orders.
- Chris requested Mary to send letter with certificate of mailing.
- Bill asked if the orders need to be recorded before work can start. Mary said yes, it would be violation.
- Mike suggested issuing an enforcement order as well as requiring a new filing. Mary will inquire about this with DEP.
- *Alan motioned to allow Mary to write letter to 85 Crockett Road which outlines the discussed points. Sandy seconded. All voted in favor by roll call vote.*

#### Site Visits While Mary is on Vacation-

- Grace will send notifications for site visits to "Conservation Member."

#### Administrative Report Continued:

##### 108 Grove Street-

- Mary identified the Freemans Maple which is not invasive.

##### Five Forks Farm

- Work has commenced.

##### Glen Avenue-

- DPW is breaching dam at Zach Pond. Mary will follow up with DPW and BOH.
- Marcella asked how much water was drawn down. Mary noted 18-inches.

##### Knowlton Circle-

- Mary noted the Homeowner's Association is looking into having someone inspect the stormwater system.

##### Memorial School Field Trip-

- Mary led a short lesson on why protecting Wetlands is important.

#### Ethics Training

- All Commissioners are to complete training by June 16, 2023.

#### MSMCP Annual Meeting

- Grace and Mary attended together June 7, 2023.
- The homeowner would like the town to take some action on the Beavers. Question was raised of whether a pond leveler could be used.
- Mike asked if Mike Callahan could come to build out around the culvert.
- Mary noted how Dennis had though the Town had previously helped with the Beavers at this location.
- Bill noted how culvert goes out between the shared driveways.
- Tom suggested to reach out to Mike.
- Mike noted the pond is under a Conservation Restriction. Thus, he requested for Conservation Commission to review plan prior to its start to ensure it is in compliance with Conservation Restriction.
- The Commission determined it is the responsibility of the homeowner to address the beavers.

#### 11 Hartford Avenue

- Bounds were moved to the thirty-foot mark.

#### Dean Pond Restriction-

- Mary noted the provision of document to reflect that resident may only utilize the dirt access road, away from wetland.
- *Tom motioned to approve on document modified by KP law. Marcella seconded. All voted in favor by roll call vote.*

#### **Administrative Report:**

#### Approve Minutes-

- *Tom motioned to approve the minutes from September 14, 2023; September 28, 2023; October 12, 2023, minutes; and May 24, 2023. Marcella seconded. All voted in favor by roll call vote.*

#### Financial Update:

- *Marcella motioned to pay bills. Sandy seconded. All voted in favor by roll call vote.*
- Commission discussed potential of using remaining revenue in Expense Account for soil or lumber.
- Mike suggested using funds to put up fencing at Rockland Meadows.
- Marcella motioned to use remaining funds in Expense Account for materials to build fence, contingent on the approval from Rockland Meadows Homeowners Association.

Land Stewardship: On June 14, 2023, mowing took place at Stefans Farm.

*9:43p.m. Tom motioned to adjourn. David seconded. David Voted all in favor by roll call vote.*

Document List

6/14/23 Meeting Packet

Minutes approved on 6/28/23 remote meeting)

*Chris Scott      Mike Penko*

*Tom Jango      Sandy Lajoie*

*Alan Maino Marcella Stasa*

*David Szczebek*



**Document list:**

6/14/23 Meeting Packet

- Agenda
- Agent Report
- NOI Robertson Family Conservation Restriction
- Narrative Robertson Family Conservation Restriction
- Staff Review Robertson Family Conservation Restriction
- DEP # Robertson Family Conservation Restriction
- Natural Heritage Robertson Family Conservation Restriction
- 10 Warren St. RDA and Plan
- Staff Review 10 Warren St.
- 343 Mendon St. Site Plan
- Enforcement Order 343 Mendon St.
- Dogwood Easements Legal Opinion
- Draft Deed Restriction
- Righter e-mail 5-19-23
- 2 Dogwood Dr. Easement
- 2 Dogwood Easement Overlays
- Field Notes 2 Dogwood Dr.
- Preserve at Dean Pond License
- 85 Crockett Rd. property history
- 126 Elm St. updated plans and e-mail
- Draft minutes 5/24/23, 9/14/22, 9/28/22, 10/12/22

- Financials/ Invoices