



# TOWN OF UPTON, MASSACHUSETTS

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## Conservation Commission

### Meeting Minutes – Wednesday 2/8/23 -- Remote Meeting (teams)

To: Members of Upton Conservation Commission  
CC: Denise Smith, Town Clerk  
From: Mary Overholt, Conservation Administrator

#### **Members Participating:**

Chair: Chris Scott, Vice Chair: Mike Penko

Members: Alan Miano, Tom Jango, Marcella Stasa, Sandy Lajoie

Absent: Dave Szczebak

Administrator: Mary Overholt

Visitors: Bill Taylor, Grace Lam & Jim Lattanzi (Five Forks Farm), Keng Ta, Barbara Lundbom, Peter Lavoie

#### **7:00 Remote Meeting Opened - Vice Chair Mike Penko is facilitating the meeting**

**Five Forks Farm** – Grace Lam is present. Jim Lattanzi (contractor) is also present. Grace got updated plans around 2:25 today. The plans are not yet finalized. The updated plans show that they are diverting flow from the existing irrigation pond. Then the water will go back into the drainage channel. Marcella has a question about what water does. Is rain considered a separate water source from the water that is in the pond now? Does the water source have any bearing on the irrigation pond? The plan we saw before does not include connection from the other irrigation pond. If an agriculturally exempt activity has an impact on a resource area on an adjacent property Mike wonders how town council would see that. It could be designed to maintain some flow in the existing stream and then capture high water events. It is an intermittent stream. The irrigation pond captures most of it anyway. The second pond would be catching over flow. Go back to town council question whether this is considered agriculturally exempt or not. If it is not exempt Mike would want to ask Grace to design it so it only captures high flows. An irrigation pond/reservoir would capture the water during dry years. Marcella at what point would you decide it is not working and restore the area. How many years would it be 1-3. Grace states they use water during the summer. During the dry spells and when you need to holding capacity. If the pond has a sandy bottom it may drain immediately. Marcella asks “what is your confidence that this is going to work?” Grace notes that drilled wells and shallow wells are not going to work here. Mike agrees that the new pond could be designed to hold water. Mike's concern is regulatory. SVT has not seen the current plan with the diversion. The purposes section of the CR includes agriculture, protection of water resources is also included. SVT should have another look at this. If the engineering is done correctly, it should be possible to maintain an acceptable flow in the intermittent stream. Ask DEP about the exemption as well. The Concom has two roles here, protect

resources in CR and also regulate under the Wetlands Protection Act. Jim Lattanzi, notes the exemption has always trumped offsite impact. There should be no disruption to the intermittent stream on the site or wetlands off the site. Jim will use a clay material to line the pond bottom. This is all about holding capacity. The ground did not have the holding capacity for a shallow well. Mike asks the commissioners what is the next step. Marcella believes it is worth wasting resources on town council. Sandy thinks that there is enough information. Mike, disagrees. Mike believes this design will dewater the intermittent stream and the stream on public property. Chris agrees with Mike. Tom does not have a strong view one way of the other. Marcella will this provide enough water in a drought situation. Jim? Jim says it should take two weeks to fill the pond. Holding capacity is one million and a half gallons of water. Grace can regulate usage, to try and conserve water. There is cost sharing available to Grace, but may lose funding window. Conservation can make their own decision, no need to wait for SVT. Grace states the funding round is next Friday. They don't want to miss the opportunity to catch the spring rain this year. Jim is wondering if we can do a conditional approval given that DEP and town council may say it is exempt. Tom is open to a conditional approval. Mike agrees. Mike motion that commission has determined that pond is consistent agricultural purposes of the conservation restriction if SVT agrees. There is a need for further clarification about the Wetland Protection Act requirements. Pond is conditionally approved, if it is exempt. Sandy second. Vote all in favor by roll call vote.

**7:15 Robertson trail bridge** – Mike states they are still waiting for info about getting a mitigation area on the Robertson property. An alternative is to create a replication area at Stefans or Mechanic St. There are at least two stream crossing there. This should be continued for a month to March 8. It is easier to evaluate potential mitigation sites once the soil is thawed. The trails grant application is submitted.

**7:30 91 Glen Ave.** - The chairman opens the public meeting. Mary reads the notice. Kheng Ta is representing applicant Barbara Lundbom who is also present. They propose to build a deck about 20 feet from an intermittent stream. There is an existing brick patio present which will be removed. There will be a decrease in impervious area because of the removal of the patio. The deck is slightly smaller than the patio. Footings will be hand dug for the deck. An existing retaining wall between the proposed deck and the stream will prevent any erosion from getting into the stream. Marcella motion to issue a Negative Determination of Applicability for 92 Glen Ave. Tom second. Vote all in favor by roll call vote. Mary notes that the homeowner is a friend and believes there is no conflict of interest but wanted to note that for the record.

**7:45 11 Hartford Ave. N.** - The chairman opens the public meeting. Mary reads the notice. Peter Lavoie is representing the applicant. There is an existing home at 11 Hartford Ave. It has a walkout basement. The mowed grass goes up to the wetland line. A small intermittent stream that goes through the back. The addition will have a walkout basement on the righthand side. There will be no grading from the house to the 50 ft. buffer. They have received a special permit from the zoning board. The roof runoff is to go into the culvert chambers. (The chambers will hold runoff just from the addition). Wattles will be placed through the whole back yard, the backyard is flat. They have provided for bounds at the 30 no disturb line, with the idea that there will be no mowing beyond the bounds in the future. The modular home was to be delivered on Feb. 13<sup>th</sup> but they pushed it to the 22. Mary notes that leaves have been dumped in the BVW next to the intermittent stream and this need to be cleaned up. The applicant has already started excavation for the foundation even though they have not been approved yet, after being advised to wait until the meeting had past. Marcella motion to issue a negative determination for 11

Hartford Ave. for the construction of a modular home addition. Marcella second. Vote all in favor by roll call vote.

**8:00 Governor's Landing** -The applicant has requested a continuance to provide more time to respond to the peer review comments. Mike motion to continue Governor's Landing to March 8. Sandy second. Vote all in favor by roll call vote.

**Administrator's Report** – Mary noted that there had been an inquiry into 97 Grove St. and whether the stream is considered intermittent or perennial there. The stream is perennial according to the USGS and stream stats. The applicant would have to prove 4 consecutive days dry when there is no drought. The Administrative position has been filled and Grace Brownell will be starting in March.

**Administrative Report** – Sandy motion to pay the bills, Mike second. Vote all in favor by roll call vote.

**Open Space** – They are starting to work on the land off of Barbara's Path.

**Land Stewardship** - They are working on developing trails at the Mechanic street property. Mike and Marcella will flag them. The Warren brook parking area now has a sand path through the wet area. It is complete.

**85 Crockett Rd.** – The building dept. has issued a letter for nuisance items on the property. Since the property is within the buffer zone there is concern that there may also be wetlands violations as well. The file is large and there have been issues here in the past. Mary should research the file and also look on Nearmap.

**8:30 pm** Chris motion to adjourn. Alan second. Vote all in favor by roll call vote.

#### **Document list**

2/8/23 Meeting Packet

#### **Minutes approved on: March 8, 2023 (remote meeting)**

*Chris Scott      Mike Penko*  
*Tom Jango      Sandy Lajoie*  
*Alan Miano      Marcella Stasa*  
*David Szczebek*