



## TOWN OF UPTON, MASSACHUSETTS

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### Conservation Commission

Meeting Minutes – Wednesday July 12, 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), Tom Jango, Marcella Stasa & David Szczebak

Absent: Alan Miano,

Agent: Mary Overholt

Administrative Assistant: Grace Brownell

Visitors: William Taylor (Open Space Committee), Steve Saucier (VFW), Matthew McFarland (343 Mendon Street)

#### **7:00p.m Remote Meeting Opened- Christine Scott is facilitating the meeting.**

7:00p.m EO Community Center Project/VFW Update

- Steve Saucier was present to provide a project update. He noted the pile within the middle of the leveled portion has been moved. Stones are lined up along the edge and a fence was installed.
- Chris inquired about grass. It has been seeded and has been growing.
- Steve noted the top portion of the slope will be addressed after their meeting to take place August 2, 2023.
- Mary noted remaining items to address are bounds and signage to say, “Wetland Resource Area: No Dumping”.
- Steve noted the VFW’s next meeting to go over these issues is the first week of August 2023. Steve will send reference photos of signage to Mary. Mary noted Steve should order two signs.

- Mike noted that that the company *Signs Plus* of Milford would be able to create a custom sign for the VFW.
- *Continued until August 9, 2023 at 7:00p.m.*
- *Bill Taylor joined at 7:14p.m.*

**Administrator's Report:**

126 Elm Street

- Mary noted property owners are actively working. They put it in part of the restoration area. All rocks and debris were cleared out and the area is seeded.

Five Forks Farm

- Mary noted Five Forks Farm has started digging the irrigation pond and are trying to dewater it, to start work. There is an access road that extends near the irrigation pond, but there does not seem to be any issues with that. Also noted, will ask for more erosion controls on far northwestern corner of the field.
- Mike confirmed that they are working on the pond.

Cobbler's Creek

- Mike displayed images of erosion controls. Mary noted some improvements and areas with room for improvement. The gully was fixed with wood chips and there is still dirt accumulating on silt fence.
- Mike asked if they had a point of contact for erosion controls. Yes, they had previously met with Mary.
- Mary will inquire to see if there is a condition in place.

24 East Street

- Mary went to site and confirmed that the erosion controls are in good condition. Work is done just within the work area and there are no wetlands close by.
- Mary spoke to a neighboring resident of 26 East Street who is filing appeal. Mary noted how the legal advertisement was submitted to the newspaper, but it was never published. Therefore, there was no proper notification. Part of the neighbor's appeal is his belief that the property was completely built on wetlands.
- Mike asked if the resident of 26 East Street needs permission to access property for wetland research. Mary will indicate to the neighbor that he must request permission. Also noted, wetlands are 300-feet back from work.
- Mary noted that the Commission's options are as follows: 1. To wait until the DEP acts or 2. To redo the Public Hearing process.
- Chris noted preference for waiting to hear back from DEP. Tom agreed.
- *Mike motioned to wait until Mary heard from DEP to act and to not to move forward with issuing a stop work order on 24 East Street property. All voted in favor by roll call vote.*

7:25p.m        343 Mendon Street- Enforcement Order

- Property owner Matthew McFarland was present to discuss the enforcement of the order on his property, 343 Mendon Street.
- Mary noted the right side of the embankment had been smoothed out with wood chips and was seeded. The left side of the embankment still needs to be smoothed out and rocks need to be removed. It was discovered within the northernmost part of the fill, a gully an inch deep formed which has led to some silt within the wetland. Mary had discussed with him ways to mitigate this in the future such as the creation of a berm and more erosion controls, which will need to be monitored. Mary inquired with DEP. The DEP responded saying there were several approaches that could have been done. The Commission could have asked for an NOI and Engineered plans for the fill near the wetland. There is no official protection for vernal pools and the Commission has no jurisdiction to certify it without the homeowner's permission.
- Mary also noted some erosion in the vernal pool. Matthew has plans to place rip rap in road crossing to make it firmer.
- Mike voiced his request for the homeowner to respect the resource area going forward. The property owner responded in agreement.
- Dave inquired about the plantings on the slope. Matthew noted he seeded it with clover.
- *Continued until September 13, 2023, at 7:25p.m.*

**Continuation of Administrator's Report:**

Dean Pond Deed

- Mary noted there are two pieces from the final documentation that need signatures from members of the Commission.

Robertson Conservation Restriction

- Mary had drafted the order. Mary noted the main points which are different from the standards order: drop requirement of As Built Plan as well as no continuing conditions. Two new conditions are to include 1. Commission to request an amendment once the plan for the bridge is complete and 2. Boardwalks to be supported by helical piles or native local rock from site. Others include National Heritage conditions- installation of trail bridge shall only occur from October 15 to April 15 of any year, as well as the monitoring of material deliveries and a final plan report prior to any work.
- Commission will get any additional conditions to Mary within a week of July 21, 2023.

NOI- 144 West River Street

- Mary noted the applicant will be present during July 26, 2023, public hearing.

Updating Bylaw for Abutters Notice for RDA

- Mary noted how the current bylaw specifies the requirement of abutters notices for Requests for Determination of Applicability (RDA). However, the regulations do not have that specification. Thus, Mary noted suggestion to update the bylaw to reflect the regulations.
- Mary noted how the Wetlands Protection Act has the requirement of holding a public meeting as opposed to a public hearing for RDA's. However, the bylaw references everything as public hearings.
- Marcella noted that her understanding is that the public must be recognized at a public meeting. Whereas during a regularly posted meeting, the public does not need to be recognized.
- Chris suggested labeling everything as public hearings to minimize confusion. Marcella agreed.
- Mary noted the DEP's interpretation was that every time someone submitted a determination application, they would need to officially request a waiver and have the Commission vote on it.
- Mike voiced his opinion that the Commission has been following protocol correctly. However, a minor change within the bylaw is necessary.
- On July 26, 2023, Commission will hold an additional discussion prior to the public hearing.

#### Lackey Road

- Property was mainly forested, now it is cleared. Residents have noted that some of debris from clearings are on trail.
- Marcella noted clearings do not obstruct trail access but does block view of property in cleared area.
- Mary noted the road may have been discontinued, so the property owners on either side would own half of it.
- Bill noted the land abutting the road to the east is state forestland.
- Marcella inquired about the nature of the violation. Mary noted any kind of clearing that is more than 5,000 sq ft requires a permit. Also noted, under the Stormwater Bylaw, clearing vegetation from an area requires reporting to the Conservation Commission along with a minor permit.
- Mary will draft a letter to property owners to inquire more information about their work.
- Bill noted they may need to do some grading.
- Sandy inquired about size of lot. Mary noted about two acres.
- Chris left at 8:11p.m.

#### Shore Drive

CC Minutes 7/12/23

- Mary noted that three years ago a Shore Drive property cleared trees which were within the 100-foot buffer, with no permit.
- Marcella asked Mary to clarify location of wetland.
- Mary noted that she will send a letter to the property owner to request a notice prior to any additional tree clearing.

**Administrative Report:**

Approve Minutes-

- *Sandy motioned to approve the minutes from June 28, 2023. Marcella seconded. Majority voted in favor by roll call vote. Sandy, aye; Tom, aye; Marcella, aye; Mike, aye; David, aye; Tom, aye; Chris was not present to vote.*

Financial Update-

- *Tom motioned to approve the following expenditures: \$69.87 to Upton Postal Services, and \$749.00 for MACC annual dues. Sandy seconded. Majority voted in favor. Sandy, aye; Tom, aye; Mike, aye; Sandy, aye; Marcella, aye; David, aye. Chris was not present to vote.*
- Marcella noted the Koopman’s expenditure is for fiscal year 2023 and the MACC expenditure is for fiscal year 2024.
- Mike noted the Nearmap subscription expenditure is to be paid from the wetlands protections accounts.

**Open Space:**

- Bill noted Upton, Westboro, SVT, and DCR are meeting July 13, 2023, to walk property in Westboro and Upton that the DCR is considering purchasing.

**Land Stewardship:**

- Marcella noted the signs for Warren Brook will be ordered. Mike voiced preference for Red Cedar.
- Marcella also noted how bridge needs replacing at Warren Brook. She noted Land Stewardship will be cooperating with the Bay State Trail Riders Association and New England Mountain Bike Association.

**On-Going Items:**

**2 Dogwood Drive**

- Mary noted Town Manager Joe Laydon will follow up with attorney.
- Marella asked if Mary had heard anything from residents who have interest in the issue. Yes, a resident called inquiring about section along 7 Dogwood Drive. There is uncertainty of where the access of the trail begins.
- Bill noted there was speculation that he was interpreting the conservation bounds as opposed to property bounds. Bill suggested sending resident ariel imagery.
- 8:23 p.m. Chris rejoined the meeting.

*At 8:25 p.m. Marcella motioned to adjourn. Tom seconded. All in favor by roll call vote.*

#### Document List

07/12/2023 Meeting Packet

Minutes approved on 7/26/2023 remote meeting)

*Chris Scott      Mike Penko*

*Tom Jango      Sandy Lajoie*

*Alan Maino Marcella Stasa David Szczebek*

## Meeting Packet Contents:

- Agenda
- Agent Report
- 343 Mendon St. Site Plan
- Enforcement Order 343 Mendon St.
- 24 East St. Determination
- 24 East St. Appeal
- 24 East St. Ecotec Report
- 24 East St. legal ad submission
- 2004 Wetlands Bylaw
- 2004 Wetlands bylaw Amendment draft
- Bylaw regulations
- 6 Phylmor Dr.
- 31 Shore Dr.
- Draft minutes 6/28/23
- Financials/ Invoices