



TOWN OF UPTON, MASSACHUSETTS

Conservation Commission

Meeting Minutes – Wednesday July 26, 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: Timothy McPherson (47 Grafton Rd.) William Taylor (Open Space Committee), Brian Lewis & Ryan Rosen (144 West River St.), Cindi Alexander (Dogwood Drive), Sean Malone & Patrick Garner (DGT), & David Pickart (Ecological Resource Consultants)

7:00 Remote Meeting Opened- Christine Scott is facilitating the meeting.

AGENDA ITEMS/HEARINGS

7:00 RDA- 47 Grafton Rd.- Paving an existing dirt driveway- Timothy McPherson

- Mary read public hearing notice. Applicant Timothy Mcpherson was present to discuss his project for the paving of an existing dirt driveway. Mr. Mcpherson had specified that a portion of the driveway extends to the property of 45 Grafton Road.
- Mary displayed plans of when housing was originally built and noted there was a previously issued certificate of compliance. She asked if grading would take place. Yes. Large rocks will be removed, and a smoother surface will be integrated. No alteration of the current wetland crossing will take place.
- Mary made the following suggestions 1) Issue Negative Determination 2) Request that a silt fence be put up and 3) Use caution for drainage.
- Dave inquired about material graded on site. Mr. McPherson noted they may bring new material to build up what they remove. They will make a firm and solid base for the asphalt.
- Mike asked if the driveway will be crowned so water will flow both directions. Mike made recommendation for small compost tubes as opposed to a silt fence for erosion controls.

- *Chris motioned to close public hearing and issue negative determination. Alan seconded. All voted in favor by roll call vote.*

Administrator's Report:

6 Phylmor Drive

- Mary noted homeowner inquired about letter that was sent to his property by in regards to 4.5 acres of tree clearings. He had indicated his plans for an open meadow. He had hired a contractor to implement a stormwater basin, as stormwater from his property had been extending to his neighbor's.

5 Henry's Path

- Mary noted work is complete and no bounds were installed. Mary had reached out to homeowner to provide reminder about installing bounds and a final inspection.

24 East Street

- Mary noted DEP had requested the public hearing to be reopened, properly advertise, and reissue determination.
- Resident of 26 East Street had requested for a Court injunction to do an independent wetlands review and aquifer study at 24 East Street. The court date is August 1, 2023. Resident of 26 East Street had asked the Commission to wait to rehold
- the 24 East Street Hearing until after August 1, 2023.
- Marcella inquired about previous evaluations. Mary noted various studies were conducted such as those done by Ecotec.
- Tom expressed opposition for waiting.
- Mike asked if the applicant needs to file a new request. No, old request will be used. However, a new determination will be issued once finalized.
- Chris suggested out of caution, to wait to hold the hearing until the Commission receives more information from the State.
- Mike made recommendation to open the public hearing for August 9, 2023, and keep it open if the Commission does decide to wait to hold hearing until after the homeowner of 26 East Street's public hearing.
- *Public Hearing will be opened on August 9, 2023 at 7:15p.m.*

85 Crockett Road

- Homeowner will submit requests for a certificate of compliance. He will research into his Chapter 91 Permit. Mary will provide him with a date on which he must complete requests.

Administrative Report:

Approve Minutes-

- *Marcella motioned to approve minutes from October 26, 2022. Alan seconded. All voted in favor by roll call vote.*
- *Marcella motioned to approve minutes from June 28, 2023. Alan. seconded. All voted in favor by roll call vote.*
- *Marcella motioned to approve minutes from July 12, 2023. Alan seconded. All voted in favor by roll call vote.*
- Grace noted that it was previously discovered that it is a requirement under the Municipal Modernization Act for one board member to approve and sign off expense vouchers. The Town Accountant had granted grace during the pandemic but would like to start reinforcing this.
- Mike volunteered to be the point member for signing expense vouchers via E-signature.

Financial Update-

- Grace reported no new invoices and displayed the balance sheet.

7:30 NOI- 144 W. River St.-

- Mary read public hearing notice. Applicant Brian Lewis and his consultant Ryan Rosen were present to discuss their project pertaining to the construction of a single-family home and driveway. Home will be accompanied with a pool and septic system within a riverfront area.
- Ryan Rosen explained the overall anticipated scope of work. The proposed driveway will be a porous driveway as part of storm water management. For further stormwater management there will be a stone trench and a storm tech to the front and back of the house. All work will be approximately 140 to 145 feet away from wetland. There will be a new septic system within the existing lawn. There, there is an existing dwelling that will be converted to an accessory structure. Mr. Rosen proposed about 500 sf of mitigation-proposing to plant dogwood, blueberries, or native plants approved by the Commission.
- Also noted, a project checklist review was submitted through Natural Heritage, as the site is listed for wood turtles. A turtle protection plan was proposed in which a silt fence would be installed prior to any tree clearing. Qualified biologists will sweep. Lastly, regular inspections would be enforced to ensure the silt fence is properly maintained.
- Chris inquired about time limits. Mr. Rosen noted the work must be done within five years or will have to receive reapproval. Protective measures for state-listed turtles are required for any construction activities occurring between October 15 and April 15.
- Mr. Rosen proposed the adding of bounds along the riverfront to mark the limit. Also noted, proof of abutter notifications was sent to Mary.
- Mary discussed her observations from her site visit. There is a woods road that goes along the river. Mr. Lewis noted on occasion, road would be utilized to transport equipment.
- Mary noted they are utilizing maximum disturbance within the riverfront area. The suggestion was made to push work ten feet back which would require zoning variance.
- Mary expressed concern for excavation work within the tight space between the erosion control line in the house. Mr. Lewis noted work is positioned within no substantial trees

and there is no grading past the foundation. The most concern able area for excavation is back of the garage. He reiterated he does not believe there are any trees within 15-feet of the silk fence on the riverfront portion and further expressed preference for using the water tower without any compromises to it.

- Chris asked if the current layout would present the least amount of disturbance. Yes.
- Mike inquired if the public hearing notice was published within the Newspaper. Yes.
- Mike noted if bounds were to be connected, there would be a small portion of riverfront area that would be unprotected. Mike suggested an As Built Plan to ensure those areas are protected. Mike noted he would not be in favor of asking applicant to go to Zoning Board of Appeals for variance, as he believes the current plans are sufficient.
- *Marcella motioned to close public hearing and issue order of conditions. Mike seconded. All voted in favor by roll call vote.*
- Mary will start drafting order of conditions for review. Mike requested to add a condition for the bound issue.

8:00 NOI- Governor's Landing-

- Sean Malone and Patrick Garner of DGT Associates as well as Davit Pickart from Ecological Resource Consultants were present.
- Mr. Malone noted he had met with Mary and David Pickart to discuss issues of the project. Site Plans and Stormwater Study were amended based upon Planning Board and Conservation Commission's final comments.
- Mr. Malone noted Revisions include: 1) 2A and 3A reaches were revised in the Hydro CAD model to 40' wide as well as a less than 1 cf increase in post-development flow. Roadway grading was revised in plan to match profile. 2) The revision of a 50' long stone farmer's walls on each side of the wildlife crossing to guide wildlife and 3) the addition of catch basin grates to be added to wildlife crossing culvert for more allowance of light and moisture within the crossing.
- Mr. Pickart noted the design now incorporates significant amount of measures to minimize impacts to organisms utilizing the vernal pool, and no work is being conducted within 100-feet of the vernal pool. He made the suggestion to include a condition in which the applicant submit a monitoring plan for the vernal pool which includes at least two reference vernal pools, one of which must be within a similar hydrologic setting.
- Mike expressed preference for three reference pools as well as some procedures to mitigate contamination to reference pools.
- Mr. Garner inquired the reasoning for three reference pools. Mike provided comment that in his previous experiences, having only two can provide issues. The third would arbitrate between the others. Mr. Garner inquired about what monitoring should look like. Mike responded: examining egg masses as well as some hydrology studies. Monitoring is done in spring or breeding season. Mr. Garner had previously provided a draft monitoring proposal to review.
- Mike suggested the applicant to choose five options and select two or three in which the Commission is in favor. Mike also suggested using a monitor system which measures the intermittency of streams.
- Mike noted there are some certified vernal pools within the state forest property.

- Mr. Pickart suggested a condition for vernal pool monitoring to be sent to the Commission 60 days prior to breeding season for a minimum of two years.
- *Alan motioned to close public hearing and issue order of conditions. Tom seconded. All voted in favor by roll call vote.*
- *Draft order of conditions will be reviewed by the Commission on August 9, 2023.*

Open Space:

- Bill reported Gale Mann who is doing appraisal of reed property- will complete site inspection on July 31, 2023.

Land Stewardship:

- Marcella noted a meeting took place to confirm trails with SVT. There may be more acreage added to parcel within DCR collection of parcels off Westboro Road.
- Mary and Marcella walked the Dogwood Drive open space parcel that abuts 7 Dogwood Drive to confirm boundaries. Resident had concerns about individuals trespassing their property. Signage indicating start of trail will be installed.
- There was discussion of survey. Marcella does not find it necessary for the Commission.
- Resident of 7 Dogwood Drive Cindy Alexander spoke to her concerns. Her concern is to put up signage that will prevent individuals from accessing open space from plain street across the railroad train tracks.
- Marcella noted No Trespassing signs already exist within the railroad property. Cindy noted there are signs by railroad train tracks but not by the entrance of the open space. Marcella will put this on the agenda for August 3, 2023 the Land Stewardship meeting.
- Ms. Alexander requested a letter to be sent to an individual who had been trespassing her property indicating where he is able to access.
- Chris advised Cindy to notify the Commission if this continues.

On-Going Items:

Robertson's Bridge-

- *Alan motioned to issue order of conditions. Tom seconded. Majority voted in favor. Chris, aye; Tom, aye; Alan, aye; David, aye; Sandy, aye; Marcella, aye; Mike abstained.*

Previous Minutes-

- Mary noted staff is waiting to receive three sets of minutes in order to complete the missing minutes from Fall of 2022.

Five Forks Farm-

- Mike asked if a pond cross section was available. Mary will look into the final plans.

Continuation of Dogwood Drive Discussion

- Tom noted his preference for the Commission to not involve themselves with the situation regarding railroad access, as it is not the property of the Commission. The Commission was in overall agreement.
- Mike suggested for the concerned resident to ask the railroad property to post no trespassing signs within 50-foot intervals.

9:03p.m Marcella motioned to adjourn. Tom seconded. All voted in favor by roll call vote.

Document List

07/26/2023 Meeting Packet

Minutes approved on: 08/10/2023 remote meeting

Chris Scott Mike Penko

Tom Jango Sandy Lajoie

Alan Maino Marcella Stasa

David Szczebek

Meeting Packet Contents:

- Agenda
- Agent Report
- 47 Grafton Rd. RDA
- 47 Grafton Rd. Plot Plan
- 47 Grafton Rd. Staff Review
- 47 Grafton Rd. Original Driveway plans
- 144 W. River NOI Booklet
- 144 W. River Revised Plans
- 144 W. River DEP #
- 144 W. River Staff Review
- 144 W. River plot plan with Flood elevation
- Governors landing Cover letter
- Governor's landing plans
- Draft Conditions Robertson CR
- Draft minutes 7/12/23, 6/28/23, 10/26/22
- Financials/ Invoices