



TOWN OF UPTON, MASSACHUSETTS

Conservation Commission

Meeting Minutes – Wednesday September 27, 2023 – Remote Meeting (Teams)
To: Members of Upton Conservation Commission
CC: Denise Smith,

Members Participating:

Chair: Christine Scott, Vice Chair: Mike Penko

Members: Alan Miano, Tom Jango, Marcella Stasa

Absent: Sandy Lajoie (treasurer), David Szczebak

Administrator: Mary Overholt

Administrative Assistant: Grace Brownell

Visitors: Gene Diptoto (93 Crocket Rd.), John Federico (Guerriere and Halon Inc.), Peter Lavoie (D&L Design Group), Nichole Hayes (Goddard Consulting), Henry Lane, John Nenart (Imperial Gas Upton), William Taylor (Open Space Committee), & Benjamin Yeskey (52 Elm St.)

Abutting residents of 47 Main Street: Joy Foster, Pat Hurley, Marcia Kalowski, Mary Allen Kennedy, Rick, Sue Perry, Craig Weinfuss, & Chris wolf

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

AGENDA ITEMS/HEARINGS

Administrator's Report:

7:00 p.m. 52 Elm St.

Homeowner Benjamin Yeskey was present to discuss the letter which was sent to his residence.

- Mary Overholt noted that she had sent a letter to the homeowners due to the expansion of the lawn into the 100-foot buffer zone. The pond on the property is listed as a potential vernal pool. Also noted, there is connectivity to Pratt Pond through an intermittent stream or stream bed. However, Upton Wetland Bylaw is not applicable due to the age of the house.

- The Conservation Commission (CC) was in favor of requiring 30 feet of no disturbance, the addition of plantings within the NDZ, and permission for the CC to monitor and potentially certify the vernal pool within spring of 2024.
- As for plantings, Ms. Overholt provided the suggestion of 2 or 3 sweet pepper bushes.
- *Discussion continued until November 8, 2023 for an update on the plantings.*

7:15 p.m. NOI-44 Milford Street-Imperial Gas-Construction of an addition

John Nenart with Imperial Gas Upton and Nichole Hayes with Guided Consulting were present to represent the applicant Imperial Gas Upton.

- The public hearing was continued from August 23, 2023.
- Mr. Nenart noted the following changes to the plan: The addition of plantings within the 15 foot grass strip behind the building- blueberries, witch hazel, and sweet fern in addition to wetland mix and shrubs; the addition of a small bioretention system within the south easterly corner of the site to allow for water recharge; the combination of 15 shrubs and 10 to 15 sedges within bioretention area; and the bioretention area will have a 7 inch berm which will hold no more than 6 or 7 inches of water. When the addition is put in, they intend to remove the pavement at the corner of the addition and replace it with 74 square feet of grass.
- Mary Overholt requested the CC's opinion on logging the retention area for three years. Chris Scott provided comment that two years should be sufficient.
- Mr. Penko requested that Typha Angustifolia be eliminated from the species list for the bioretention area.
- *Public hearing continued until October 11, 2023 at 7:30 p.m.*

Administrator's Report:

220 Mechanic Street

- Mary Overholt noted the homeowner is looking to put a second dwelling on his lot and had inquired about the type of filing he should pursue. The work is in the Riverfront area, including the riparian zone. The work would all be in previously disturbed area and would potentially include the removal of a barn. Ms. Overholt had advised him to pursue a zoning variance prior to going in front of the CC. Also noted, the lot is not conducive to extensive mitigation work.
- Mike Penko noted Warren Brook is intermittent within this location.
- Ms. Stasa inquired about driveway access. Ms. Overholt noted Grafton Road may be the second access.

91 Glen Avenue

- Ms. Overholt noted she had completed the final inspection for the RDA and the deck is now complete. The contractors had used the wide walk above a retaining wall by the stream for access. It was asked for them to clean up the subsequent sedimentation and repair the damage to the wall. Lastly, they have installed a filter sock to prevent future erosion. The wattle is to be up all Winter.

FlveForks Farm

- Ms. Overholt conducted a site visit on September 22, 2023. The men on site had said work is complete. They have hydro-seeded around the pond and other various areas. The stone wall has been left intact.

75 High Street

- Mary noted there had been complaints about noises, fumes, and excess cars on site regarding the auto body shop at this location. There are wetlands around most of the property. Ms. Overholt will conduct a site visit to check whether there are wetland issues.

Enforcement Issue Log

- Mary displayed the enforcement issues underway.

7:45 p.m. NOI-10 (lot 2) Kiwanis Beach Road-Construction of a single-family house

Peter Lavoie with D&L Design Group was present on behalf of the applicant New Generation Costume Homes.

- The public hearing was continued from September 13, 2023.
- Mary Overholt noted the CC now has a DEP number. DEP's primary comment was that they are looking for delineation forms due to the lot being on the lake. Mr. Penko provided comment that there is no need for delineation forms.
- Mr. Lavoie noted the following additions to the plan from the previous meeting: reduced land disturbance from 3,600 square feet to 1,200 square feet, the delineation of roughly 400 square feet of temporary disturbance, and the addition of four bounds along the property line.
- Mike Penko requested that a note of the width of the path to the doc be included in the plan.
- Ms. Overholt will note within the order of conditions (OOC) a permanent condition in which the path stays the same width.
- *Tom motioned to close the public hearing. Marcella seconded. Motion was approved by a unanimous voice vote.*

Administrator's Report:

12 Plain Street

- Ms. Overholt had met with the homeowner to discuss mowing in wetland areas. The homeowner had agreed to stop mowing a diagonal line from the corner to the tree.
- Chris suggested the integration of bounds. Mr. Penko noted the requirement of bounds would be less suitable in this situation as it is not a formal filing.
- The CC was in favor of requiring that native blueberry bushes be planted in the disturbed area.

8:00 p.m. NOI-93 Crockett Road- Demolition and Construction of a single-family house

John Federico of Guerriere and Halon Inc. and the applicant Gene DiPoto were present.

- The public hearing was continued from September 13, 2023. Ms. Overholt noted the DEP number has been received.
- John Federico noted the following comments received from DEP: North Pond may not qualify as a river, and thus, the Riverfront Act. If the CC determines North Pond has riverine characteristics, it may be reviewable under the Riverfront Act as the area of work does not appear to be degraded. If considered degraded and is lacking topsoil impervious area, the applicant should provide information on how the project complies with Riverfront Act; and if not graded, the applicant needs to demonstrate how the project meets the Riverfront Act Section 4D. A secondary comment noted that the existing dock and retaining walls require Chapter 91 licensing. Mr. Federico further noted the applicant would like to keep the dock and will do additional filings with DEP if needed. Mr. Federico noted he had added a mulch sock, a stockpile area outside the 100-foot buffer, and two roof infiltration chambers per the CC's request. Lastly, erosion controls have been extended.
- Mary Overholt noted that dock permits only last 15 to 20 years, so they would need to apply for a new one. The retaining wall would only need a permit if the bottom was below the annual high-water mark. Ms. Overholt noted the following to be included in the OOC: proper permitting be done through Chapter 91 and the installment of two bounds along the southern side of the undisturbed shoreline by shed.
- *Alan motioned to close the public hearing. Tom seconded. All voted in favor by roll call vote.*

Dogwood Drive Easement

- Ms. Overholt noted she had met with Ms. Stasa, Ms. Scott, the Town Planner, and the Town Manager to discuss different options. The Town Manager thought the best option would be to move the easement away from the Righter's property with the concern being cost. Ms. Overholt and Mr. Antonellis will work together to acquire an estimate from a surveyor.

Pleasant Woods Property

- Ms. Overholt noted the Housing Advisory Board (HAB) is interested in the property for potential affordable housing development. They wanted to know if the CC would consider doing a land swap.
- Chris noted there are vernal pools on the site of the Pleasant Woods property. A potential land swap could be Forest Heights on North Street.
- Ms. Stasa recommended for the HAB to walk to the property, as the conditions are less conducive for development.
- Mr. Penko suggested for the CC to certify vernal pools within the Pleasant Woods property come Spring. The CC was in favor.

8:20 p.m. 343 Mendon Street- Enforcement Order

- The homeowner was not present to discuss the EO. Mary Overholt noted she will get in contact with him.

Administrative Report:

Approve Minutes

- *Alan motioned to approve the minutes from September 13, 2023. Marcella seconded. All voted in favor by roll call vote.*

Approve Financials

- Tom motioned to approve bills for payment. Alan Seconded. All voted in favor by roll call vote.

Website Update

- Ms. Brownell provided an update that the website goes live September 28, 2023.

Stopped at 1:21.43

Land Stewardship Committee:

Mechanic Street Property-CR

- Marcella noted that the Land Stewardship Committee (LSC) has identified a potential parking area for the Mechanic Street property.

- Mary displayed the draft Conservation Restriction (CR). Mr. Penko requested the CC's opinion on adding the permittance of foraging. He further inquired about the allowance of e-bikes.
- Mike motioned to amend section B12 to include foraging, e-bikes, and mountain bikes. Tom seconded. Marcella expressed the preference of waiting to send the document to SVT until the CC can further work on the CR. Motion revoked.
- *Discussion continued until October 11, 2023.*

Warren Brook Trail Bridge Restoration Project

- Ms. Stasa noted that Blackstone Valley New England Mountain Bikers Association (BVNEMBA) has agreed to contribute \$750.00, and the Bay State Trail Riders Association (BSTRA) has agreed to contribute \$3,000 to the total project.

Enforcement Sylvan Springs DEP311-0577-sedimentation in wetland

- Mary Overholt noted they had commenced work without notifying the CC. She had notified them that the wetland needs to be flagged and the brush and sedimentation needs to be cleared from the wetland.
- *Marcella motioned to issue an enforcement order. Alan seconded. Motion approved by a unanimous voice call vote.*

Town's Right of First Refusal-Kelly Farm

- Mary Overholt noted the Kelly's are pulling a house lot off a larger lot which is under an Agricultural Restriction (AR) and are requesting a vote from each Board as to whether or not they recommend it.
- Bill Taylor noted they intend to sell it for residential development. It is about 2 acres of the total twenty-acre parcel.
- Mr. Penko noted the letter does not meet Chapter 61 requirements.
- *Mike motioned for the Conservation Commission to provide the recommendation of not appraising the parcel. Tom seconded. All voted in favor by roll call vote.*

MVP Committee

- Mr. Penko noted the next action grant round will be in the middle of 2024. Thus, now would be time to reenergize the program.
- *Alan motioned for Conservation Commission to propose the establishment of a Municipal Vulnerability Committee to the BOS. Tom seconded. All voted in favor by roll call vote.*

47 Main Street-40B Comment Letter

- Ms. Overholt noted that she will be preparing a comment letter on behalf of the CC to provide thoughts to the ZBA for the proposed 40B project on 47 Main Street. Also noted, the CC will have the opportunity to review the project through a NOI filing.
- Resident Criag Weinfuss noted the following concerns: the preservation of neighborhood character, the displacement of wetlands as well as subsequent flooding, and the archeological preservation of the existing stone walls on the property.
- Resident Marcia Kalowski noted the following concerns: Access and health of drinking water as well as flooding and the displacement of wildlife.
- Resident Rick Mcguire requested that the CC consider a condition of 30-40 feet of buffer space of trees to eliminate light and noise pollution. Mr. Mcguire further requested a condition for the installation of swales for the draining water from Hill Street.
- Pat Hurley inquired about the previous filing of an area delineation (ORAD) for the property reviewed by the CC. He expressed further concern that the construction of the road will lead to significant wetland damage. Ms. Overholt noted the ORAD is good for three years and will be referenced for this project.
- Mary Allen Kennedy inquired whether abutters should have been notified for the ORAD public hearing. Ms. Overholt confirmed. Ms. Kennedy further inquired as to whether the residents are allowed to hire an independent consultant to perform an independent study. Ms. Overholt confirmed, as long as they permission from the landowner.
- Resident Sue Perry noted that a few houses in the neighborhood are not included within the map. Ms. Perry further expressed concerns for water, tree damage, and traffic to accommodate the schools.
- Ms. Overholt will draft a letter to the ZBA with consideration of the discussed resident concerns. Discussion Continued until October 11, 2023.

9:37 p.m. Marcella motioned to adjourn. Tom seconded. All voted in favor by roll call vote.

Document List

09/27/2023 Meeting Packet

Minutes approved on: 10/11/2023 remote meeting

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

Meeting Packet Contents:

- Agenda
- Agent Report
- NOI 44 Milford St.
- Stormwater Checklist 44 Milford
- 44 Milford Updated site plan
- 44 Milford Updated staff review
- NOI lot 2 Kiwanis Beach Rd.
- Plans lot 2 Kiwanis Beach Rd.
- Staff Review 2 Kiwanis Beach Rd.
- DEP # 311-0811
- NOI 93 Crockett Rd.
- Plans 93 Crockett Rd.
- Staff Review 93 Crockett Rd.
- Aerial Images 52 W. Elm
- Aerial Images 12 Plain St
- 14 Plain St. plans
- Chapter Land removal Kelly
- Upton Mechanic St. CR
- Mechanic St. Stream crossings
- Draft minutes 9/13/23
- Financials/ Invoices