



# TOWN OF UPTON, MASSACHUSETTS

## Conservation Commission

---

Meeting Minutes – Wednesday October 11, 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, Sandy Lajoie (treasurer), David Szczebak

Administrator: Mary Overholt

Administrative Assistant: Grace Brownell

Visitors: John Nenart (Imperial Gas Upton), William Taylor (Open Space Committee), Annie Righter (Dogwood Drive), Laura Mattei & Tony Scibelli (Sudbury Valley Trustees/SVT), & Kelley Conrad  
Abutting residents of 47 Main Street Dick & Mary Allen Kennedy, Sue Perry,

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

### **AGENDA ITEMS/HEARINGS**

7:00 p.m. Public Hearing-Revisions to Upton Wetland Protection Bylaw Chp. 280

- Mike Penko opened the public hearing. Mary Overholt noted the amendments are to alleviate confusion, as the Town of Upton Wetlands Protection Bylaw Regulations do not require abutter notification for RDAs, but the Bylaw potentially does. The following revisions were noted: 1) Amend Section 280-5 to remove Request for Determinations (RDA) from the list of applications which require abutter notification via certified mail. 2) Amend Section 280-4.D to remove the limits on filing fees as well as the replacement of septic systems. 3) Amend Section 28-7H to indicate that any permit may be renewed once for an additional three-year period, conditioned upon a written request provided to the Conservation Commission (CC).
- *Alan Miano motioned to accept the changes as discussed for presentation at Town Meeting. Tom Jango seconded. Motion approved by a unanimous roll call vote. (7-0)*

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

144 West River Street-

- Mary Overholt noted she had received complaints from neighbors as the landowner had started excavating and removing trees. He has an existing Order of Conditions (OOC). There are a few locations where stockpiles are against the erosion controls. Ms. Overholt has asked him to move them away from the erosion controls. If he needs to take any excess dirt off site, he will need to receive permission from the Board of Selectmen (BOS). He is storing retaining wall pieces outside the limit of work. Mary indicated that this is fine due to the limited work area.
- Mr. Penko suggested for Ms. Overholt to advise him to use caution since it is still turtle season.

Lots 3 & 4 Westboro Road, Lot 2 North Street-

- Ms. Overholt completed an erosion control inspection and walked the property with the builder. They had looked at the location of the replication area for lots 3 and 4. It may need to be adjusted due to the large rock in the middle of the area. The lot 2 crossing from the road is unusual as the culvert has been placed uphill on the lowest point in which the intermittent stream is being rerouted to go through the culvert.

Cobbler's Creek-

- Ms. Overholt noted it appears soil is being removed from the site. The Town Planner contacted the contractor as BOS approval is required.

11 Farm Street Emergency Cert.-

- Ms. Overholt noted the beaver dam at 11 Farm Street is causing flooding which is impacting a septic system. An emergency cert. was drafted so the DPW can breach the dam.
- Mr. Penko asked if a pond leveler could be used to protect the culvert. Mr. Jango noted there is too much water to use a pond leveler and suggested acquiring services from Beaver Solutions.
- *Sandy Lajoie motioned to issue the emergency order. Tom Jango seconded. Motion approved by a unanimous vote.*
- *Alan Miano motioned for the CC to acquire services from Mike Callahan of Beaver Solutions, with funds to derive from the CC Beaver Control Account. Tom seconded. All voted in favor by roll call vote (7-0)*

7:30 p.m. NOI-44 Milford Street-Imperial Gas-Construction of an addition DEP # 311-0813

John Nenart with Imperial Gas Upton was present to represent the applicant Imperial Gas Upton.

- *Public hearing continued from September 27, 2023.*
- Mr. Nenart noted the following changes to the plan: Typha Angustifolia (Narrow Leaf Cattail) was eliminated from the bioretention area species list as well as the addition of a reference table for the total number of plants which includes 15 shrubs and 10 sedges and grass varieties.

- *Alan Miano motioned to close the public hearing. Tom Jango seconded. Motion approved by a unanimous roll call vote (7-0)*

**Continuation of Administrator’s Report:**

Samreen Villa Homeowners Association-

- They had reached out to Ms. Overholt inquiring about receiving plans.

10 Oak Knoll Lane-

- Mary Overholt noted this is an RDA application the CC will hold a public meeting for on October 25, 2023. It is for the removal of an existing septic system and the installation of a new septic system. If Board of Health (BOH) approval is obtained prior to the public meeting, an Emergency Cert. will be issued to ensure rapid repair.

**Administrative Report:**

Approve Minutes-

- *Alan Miano motioned to approve the minutes from September 27, 2023. Tom Jango seconded. All voted in favor by roll call vote. (7-0)*

2 Dogwood Avenue- Potential Modifications to Trail Easement-

The Righter’s were present to discuss the potential modifications to the trail easement.

- Ms. Overholt led a discussion on potential alterations to the trail easement as approved by the Righter’s. Ms. Overholt noted the easement would go along the existing trail, with the need for the formation of a new trail. The Righter’s are willing to provide access through the fence and to allow DPW staff to prune the trees.
- Annie Righter noted the access from the road would be further from the cul-de-sac.
- Mr. Jango inquired about signage. Ms. Righter noted small signage would be fine.
- Mr. Penko suggested that the fence be removed by the Town. Ms. Righter was in favor.
- *Tom Jango motioned to allow Town Staff to acquire a cost estimate for surveying the new easement and the installment of bounds at the southern end of Dogwood Drive. Alan Miano seconded. Motion approved with a unanimous roll call vote. (7-0)*

**Continuation of Administrative Report:**

Approve Financials-

- *Marcella Stasa motioned to approve bills for payment. Tom Jango seconded. All voted in favor by roll call vote. (7-0)*

Website Update-

- Ms. Brownell noted the new CC webpage does not have any images. Members can send CC staff images they would like to see reflected on the CC webpage.

### **Discussion Items:**

#### 47 Main Street-40B Comment Letter-

- Mary Overholt presented the letter she had previously drafted and briefly discussed each main point: An ANRAD was filed in April 2022. Within such process, it was identified that there is not a vernal pool on site and the wetland line was approved. The applicant made a mistake with abutter notifications as one residency was not notified. There are no endangered species, flood plains, or critical habitat. The drain off the site leads into Centerbrook which is a cold-water fishery resource. The project is subject to review under the State Wetlands Protection Act (WPA), not the Town Bylaw. The applicant has for the most part honored the 30 foot no disturb zone (NDZ) with the exception of one area. The applicant however has not honored the 50 foot no build zone (NBZ). CC has advised the Zoning Board of Appeals (ZBA) to hire a peer review engineer to ensure compliance with State Stormwater Regulations. Additionally, the applicant is advised to consider climate resilience for runoff, flooding, and vegetative plantings.
- Abutting resident Dick Kennedy provided comment that the surrounding site conditions are very wet. Ms. Overholt reiterated that under WPA the applicant is allowed to build within a certain proximity to the wetland. The applicant will be required under the State Stormwater Law to ensure there is no increased runoff from the property. Mr. Kennedy further inquired as to whether there would be on-going monitoring following the construction of the development. Ms. Overholt noted it is standard to have an operation and maintenance plan as a part of the OOC.
- Ms. Scott noted within the OOC, the roadway and infrastructure should be completed prior to the construction of the development.
- Mr. Penko requested to have the letter reflect how the CC requests there be a detailed sequencing plan which would protect buffers from potential loading impacts. It should reference a detailed sequencing plan to protect the neighbors.
- Abutting resident Mary Ellen Kenndy provided public comment that it was raised at the previous Planning Board meeting that there is a parcel of land that is in a flood zone between the Grange and the 47 Main Street property.
- Mr. Penko noted FEMA flood zones and lands subject to flooding under the WPA are different entities.
- *Tom motioned to approve the letter and issue it to the Zoning Board of Appeals. Alan seconded. Motion approved by a unanimous roll call vote. (7-0)*

### **Land Stewardship Committee:**

## Mechanic Street Property-Conservation Restriction (CR)-

Laura Mattei and Tony Scibelli from Sudbury Valley Trustees (SVT) were present to answer LSC's questions on the draft CR.

- Mike Penko noted at the last meeting there were two questions that came up, whether or not to allow e-bike use, and foraging. Lauri Mattei then displayed the draft CR and walked through a majority of the document.
- Marcella Stasa proposed the potential of introducing a speed limit for motorized vehicles and that the regulation of such use be consistent throughout Upton Conservation owned properties. Ms. Stasa further requested for the Historic and Archeological Resources section to include "features identified as significant to indigenous culture". Ms. Stasa further noted after the finalization of the CR, a baseline report can be conducted to acquire inventory of indigenous significance.
- Tom Scibelli noted there is a document typically issued for conservation refuge sites which outlines basic regulations for motorized vehicles. It may be a useful reference.
- Laura Mattei provided a recommendation that both the mention of e-bikes and foraging not be in the CR but be established within the site's policies and regulations.
- Ms. Stasa inquired about Inspection and Enforcement: Section II. as to who would be responsible for addressing violations. Ms. Mattei noted it is the Town's responsibility.
- Mr. Scibelli will post on the MassLand Land Protection Listserv to acquire more information about allowing for e-bike and foraging uses within a CR. In addition, Mr. Penko will provide his Nipmuc contact to Ms. Mattei, so she can inquire whether they are interested in utilizing the land prior to finalizing the CR.

## Discussion Items:

### 84 Grove Street- Removal of a parcel from 61A-

- Mary Overholt noted that Margaret Stanton had sent a letter informing the CC of her intent to remove a parcel of land at 84 Grove Street from Chapter 61A.
- Chris Scott inquired about the size of the lot. Tom Jango noted about half an acre.
- *Tom Jango motioned to remove the property from Chapter 61A. Alan Miano seconded. Motion approved by a unanimous roll call vote. (7-0)*

### Solar Bylaw- Sec. 300-3.1 & Sec. 300-6.6-

- Mary Overholt noted the Planning Board had previously held a Public Hearing to see if the Town will vote to allow Large Scale Ground-Mounted Solar Photovoltaic Installations (LGSP) by Special Permit in the Agricultural (AR) District.
- Ms. Brownell noted the Planning Board has continued the Public Hearing to October 25, 2023.

- Mr. Penko noted there is a section in the bylaw which requires project lots to be cleared 5 years prior to installation. This would make agricultural land the most at risk. Mr. Penko proposed the potential of adding language within the bylaw to reflect environmental protection such as the concepts of BioMap habitat, prime soils, vernal pools, etc.
- *Mike Penko motioned to authorize Ms. Overholt to prepare a letter to the Planning Board with comments as discussed. Sandy Lajoie seconded. Motion approved by a unanimous roll call vote. (7-0)*

93 Crockett Road-

- Mary Overholt displayed the draft OOC and noted the following additions: the condition of obtaining a Chapter 91 permit and the condition in which the undisturbed shoreline remain undisturbed in perpetuity which shall also be reflected in the As-Built Plan.
- *Tom Jango motioned to issue the order of conditions. Sandy Lajoie seconded. All voted in favor by roll call vote. (7-0)*

*9:51pm. Tom Jango motioned to adjourn. Marcella seconded. Motion approved by a unanimous roll call vote. (7-0)*

Document List

10/11/2023 Meeting Packet

Minutes approved on: 10/25/23 remote meeting

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

## Meeting Packet Contents:

- Agenda
- Agent Report
- Article 20 STM 2023 Conservation Bylaw changes
- NOI 44 Milford St.
- Stormwater Checklist 44 Milford
- 44 Milford Updated site plan
- 44 Milford Updated staff review
- Dep # 311-0813
- 47 Main St. Zoning Board Comment letter
- Chapter Land removal 84 Grove. St.
- Upton Mechanic St. CR
- 2 Dog wood Dr. Proposed Easement change aerial
- 2 Dogwood Dr. Easement
- 2 Dogwood Dr. Easement and aerial
- 11 Farm St. EC
- OOC 93 Crockett Rd.
- Draft minutes 9/27/23
- Financials/ Invoices