

Town of Uxbridge  
Conservation Commission  
21 South Main Street  
Uxbridge, MA 01569  
508-278-8600 x 2020



Conservation Commission Meeting Minutes  
Monday October 16, 2017  
Board of Selectman's Room, Uxbridge Town Hall

*Rec'd*  
~~Posted by~~  
Uxbridge  
Town Clerk

**Present:** Chair Andrew Gorman, Vice Chair Jim Hogan, Clerk Jeff Shaw, Members Dale Bangma, Russell Holden, and Lauren Steele and Conservation Agent Melissa Danza

**Absent:** Member Rick Tobin

It being 6:30 pm, the meeting being properly posted, duly called and a quorum being present, the Chair called the meeting to order.

- \* *Mr. Hogan moved to take the agenda out of order to hear Wetland Updates and Issues (1) 200 South Main St. Seconded by Mr. Shaw the motion passed by vote of 5-0-0.*

**WETLAND UPDATES/ISSUES**

1. Certificate of Compliance (CoC)- DEP #312-1035, 200 South Main Street (00:01:00 - 00:02:41)
  - \* Jim Legg, DPW Waste Water, attended to request the CoC. He informed the Commission the work is complete, the project was constructed as designed and the soil is stable. Several members observed the work during a site visit within an adjacent parcel.
  - \* MOTION: Mr. Shaw made a motion to issue a Certificate of Compliance for DEP #312-1035, 200 South Main Street. Mr. Hogan seconded the motion and it passed by vote of 6-0-0.
- \* *Mr. Hogan moved to take the agenda out of order to hear Public Hearing (4) the RDA for 283 Hazel St. Seconded by Mr. Bangma the motion passed by vote of 5-0-0.*

**PUBLIC HEARINGS**

4. **Request for Determination of Applicability (RDA), 283 Hazel Street (Map 17, Parcels 4536 & 4466) (00:02:58 – 00:28:58)**  
Applicant: Eric Bazzett  
Project Description: Replacement of the existing septic system within the buffer zone to a BVW

*\* Mr. Bangma recused himself because he installed the original septic system and Ms. Steele joined the meeting in progress.*

Discussion: Eric Bazzett, 283 Hazel St. the owner/applicant, filed to determine applicability for the replacement of a 27 yr. old septic system. Resource areas on the property include Farrell Brook and a Bordering Vegetated Wetland (BVW). The house, driveway and septic system are all located within the buffer zone. Mr. Bazzett's request included two parts, the first of which being a negative determination on a portion of Farrell Brook as a perennial stream. Mr. Bazzett provided photographs to document the stream is sporadically dry throughout the year and said the requirements state it must be dry for 4 days or more within a 12 month period. Through Ms. Danza's reported observations, correspondence with a circuit rider and Mr. Gorman's stream stats calculations (it is below 1 square mile), members agreed this portion of the brook meets criteria outlined in 310 CMR 10.58 for intermittent streams.

The second part of the request is for the Commission to issue a negative determination of applicability for the installation of the new septic system. Mr. Bazzett's reasons for not requiring an NOI included the following: (i) it is a minor activity (ii) the proximity to the BVW is over 50' away, with a driveway and parking area in between. He also noted the new system has a smaller footprint and is more environmentally friendly. Mr. Bazzett also reviewed the plan and pointed out the proposed ECBs between the work and the BVW. Mr. Gorman expressed reservations in not requiring an NOI because septic replacement is not identified as a "minor activity" in the regulations and the Commission has consistently required a NOI to be filed for such work with one exception where the system was out of jurisdiction. Additionally, members voiced concerns with setting a precedence for future projects. They reviewed 310 CMR 10.02 (2) (b) Activities Subject to Regulations w/in the buffer zone and

## Conservation Commission Meeting Minutes continued – Tuesday, October 16, 2017

10.03 (7) (c) Cat 1 e. where septic systems are identified as activities subject to NOI Fees. After discussion, Commissioners agreed this work could be viewed as a minor activity due to the unique conditions of the site.

MOTION: Mr. Gorman moved that the commission issue a negative RDA finding that the septic system is a minor activity because it is placed on the opposite side of the driveway to that of the wetland system. Ms. Steele seconded and the motion passed 4-1-0.

MOTION: Mr. Hogan moved that the Commission consider that this portion Farrell Brook, upstream of Hazel Street and specific to this property, be considered intermittent per 310 CMR 10.58 and the Commissions' review of the watershed size. Mr. Shaw seconded and the motion passed by vote of 4-1-0.

\* *The agenda returned to published order Public Hearing (1). Mr. Bangma returned to the meeting.*

1. **Notice of Intent (NOI), DEP#312-1039** 620 Aldrich Street (Map 48, Parcel 4524) (00:29:10 – 00:37:39)  
Applicant: Jonathan E. Tibbetts Representative: Andrews Survey & Engineering, Inc.  
Project Description: Construction of a single-family home with associated septic system, earthwork, landscaping with a wetland crossing to construct a driveway.

Discussion: JP Connolly, Andrews Survey & Engineering, Inc. attended on behalf of the applicant. He presented members with a new plan at the meeting. Revisions were decided upon after investigating the access issue; they decided to widen the driveway from 10' to 12', with a 1' shoulder on the short end. They also reversed the direction of the grading of the slope off the driveway so runoff will go under 2 swales and then underneath the road through 2 culverts. The decision to widen the driveway was made with vehicle safety and passage in mind, particularly in the wintertime. Additionally, the plans now show a sized-up septic system and will include the well location on the plan. Mr. Connolly stated they will submit the revised plans to the peer reviewer within the next couple of days and requested continuing the hearing. Members briefly discussed potential time of year restriction on development. No members of the public commented.

MOTION: Mr. Hogan moved to continue DEP #312-1039 to the next meeting of the Conservation Commission. Mr. Shaw seconded and the motion passed by vote of 6-0-0.

\* *Mr. Hogan moved to take the agenda out of order to hear Public Hearing (2) NOI for 0 Newell Rd and 0 S. Main later in the meeting and go onto (3) 56 Tucker Hill Rd. Mr. Shaw seconded and the motion passed by vote of 6-0-0.*

3. **Notice of Intent (NOI), DEP #312-1052**, 56 Tucker Hill Road (Map 29, Parcel 537) (00:37:53 – 00:42:30)  
Applicant: TTK Real Estate, LLC Representative: Andrews Survey & Engineering, Inc.  
Project Description: Construction of a single family home and associated septic system, earthwork, utilities, and landscaping

Discussion: JP Connolly, Andrew's Survey and Engineering, attended on behalf of the applicant and provided a brief overview of the plan and the ECB's. After discussion, members & the representative agreed to add a second FENO spike by the building setback line where it crosses the ECB. There was no public comment on the hearing.

MOTION: Mr. Hogan moved to close the Public Hearing for DEP#312-1052 the NOI for 56 Tucker Hill Road. Ms. Steele seconded and the motion passed by vote of 6-0-0.

MOTION: Mr. Hogan made a motion to approve NOI DEP#312-1052 with the Uxbridge Standard Special Conditions and the added conditions that an additional Conservation Marker shall be placed from the furthest point from the dwelling along the 25' no disturb line and that FENO spikes shall be used as the markers with language approved by the Conservation Commission and maintained in perpetuity. Mr. Shaw seconded and the motion passed 6-0-0.

5. **Notice of Intent (NOI)**, 373 Mendon Street (Map 20, Parcel 1015) (00:42:32 – 00:50:04)  
Applicant: Pauline Chevalier Representative: Andrews Survey & Engineering, Inc.  
Project Description: Repair of existing sewage disposal system with associated grading and landscaping within the buffer zone to a BVW.

Discussion: JP Connolly, Andrews Survey and Engineering attended on behalf of the applicant and described the project to replace a failed septic system. The proposed system will be within the 100' buffer zone of a BVW and

## Conservation Commission Meeting Minutes continued – Tuesday, October 16, 2017

bank in another area with the closest point being 41.8'. The existing system is closer (approx. 25' from the bank) and consists of a cesspool. Mr. Connolly also mentioned the new system is better for environmental and water quality. The work is limited to existing disturbed and lawn areas. Mr. Gorman inquired about the outcropping of ledge on the property and Mr. Connolly explained the location they chose was the first opening they have that is conducive to being more upland. He also said alternate locations were assessed and determined to be near the cesspool, which is closer to the bank and well within the 50' buffer zone. Ms. Danza has been to the site and displayed photos from her visit. There was no public comment on the hearing.

MOTION: Mr. Hogan moved to continue the NOI for 373 Mendon Street for a DEP number. Mr. Shaw seconded and the motion passed by vote 6-0-0.

- \* *Mr. Hogan moved to take the agenda out of order to hear Reported and Ongoing Violations (1) Commerce Drive. Mr. Shaw seconded and the motion passed by vote of 6-0-0.*

### REPORTED/ONGOING VIOLATIONS

1. Commerce Drive – Map 40, Parcels 3085 & 3086 (00:50:25 – 01:03:44)
  - JP Connolly, Andrews Survey and Engineering, attended on behalf of Crossen Realty Trust. On 10.12.17 a resident reported land clearing within a resource area to the east of Commerce Dr. to the agent. Ms. Danza was able to view the parcel from the Unilock property and provided photographs to the Commission. Andrew's Survey and Engineering was contacted 10.13.17 by the owner to look into the potential violation. Mr. Connolly explained that the owner's intent was for a tree clearing company to clean up the brush approximately 30-50 feet around a high yield well site that they are in negotiations for the sale of with the town. They state that the tree clearing company cleared much more than they were supposed to – essentially, they started at the sewer line and cleared the entire site. Resource Areas on site include 100 year Flood Plain, Bordering Land Subject to Flooding (BLSF), Riverfront and Priority Habitat and any clearing would have required an NOI. Natural Heritage has been notified. Mr. Connolly stated there is presently no intent to submit a NOI and the applicant is looking for guidance from the Commission on how to rehabilitate the existing disturbance. Commission members requested a copy of the agreement between the tree clearing company and the landowner and permission to visit the site before finalizing any Enforcement Orders. Members scheduled a site visit for November 4 at 9:00am and noted it would be helpful to have the jurisdictional areas flagged. Mr. Connolly also noted that Andrews will be involving a wetlands scientist.

- \* *The agenda returned to published order Public Hearing (2) 0 Newell Road.*

### PUBLIC HEARINGS

2. **Notice of Intent (NOI)**, 0 Newell Road & 0 South Main Street (Map 25, Parcels 2065 & 4434) (01:03:50 – 01:07:56)  
Applicant: ForeFront Power, LLC Representative: TRC Environmental Corporation  
Project Description: Construction of a 4 megawatt ground mounted solar facility with work in bordering vegetated wetlands and associated buffer zones.

- \* *Mr. Holden recused himself from the hearing because he is an abutter.*

Discussion: The applicant did not attend and requested to continue. Since the previous meeting, a site walk was conducted and Mr. Allen's (EcoTec, Inc.) peer review was received. Commissioners discussed whether they had any other items to be addressed as the applicant updates the project based on the recent reviews. They agreed to allow the agent to request that the plans be labeled in accordance with the Mass WPA in place of the Army Corps of Engineers definitions currently included. This will clear up an ambiguity as to what gets a buffer zone for example. Mr. Shaw mentioned his concerns with the stockpiling area and others agreed. The applicant is aware of the stockpiling area, will look at alternatives, and will be clarifying the entrance to the site.

MOTION: Mr. Hogan moved to continue NOI, 0 Newell Road & 0 South Main Street to the next meeting of the Conservation Commission. Mr. Shaw seconded and the motion passed by vote of 5-0-0.

- \* *Mr. Holden returned to the meeting.*

### REPORTED/ONGOING VIOLATIONS

2. 64 Balm of Life Spring Road, 126 & 148 Ironstone (01:08:01 – 01:09:11)
  - Ms. Danza informed the commission that the all the trees are planted, the berm is complete and the only work left is removing the gas line, which is out of their jurisdiction.

## Conservation Commission Meeting Minutes continued – Tuesday, October 16, 2017

- MOTION: Mr. Hogan moved to lift the Enforcement Order for 64 Balm of Life Spring Road, 126 & 148 Ironstone St. Mr. Shaw seconded and the motion passed by vote of 6-0-0.
- 3. 290 Millville Road (01:09:12 - 01:11:36)
  - \* *Mr. Gorman recused himself from discussion for potential involvement regarding the wetland delineations on-site.*
    - The representative informed Ms. Danza they are still finalizing plans after errors were identified. They did acknowledge they missed the deadline the Commission imposed.
    - MOTION: Mr. Shaw moved to authorize the agent to send a reminder to the property owner of 290 Millville Rd. that the Commission requires the plans posthaste as the original deadline was missed. Mr. Holden seconded and the motion passed by vote of 5-0-0.
  - \* *Mr. Gorman returned to the meeting*
- 4. 142 South Street (01:11:49 – 01:20:02)
  - Mr. Gorman provided a draft letter and attachments to send to Mass DEP Environmental strike force. The packet includes the following appendices (a) enforcement orders, follow up letters and responses and notices of violations, (b) photos submitted to the Commission (c) the building inspector determination and correspondence and (d) DEP Freedom of Information Act (FOIA) documents and the determination Bacon Brook is perennial after it's confluence with Cold Spring Brook. Natural Heritage will be copied on the packet. No members of the public have ever attended any Conservation meetings to discuss this property. No new activity has been reported.
  - MOTION: Mr. Hogan moved to approve the sending of the letter and associated appendices to the Environmental Strike Force and other parties, including Natural Heritage, as written and amended by the Chair. Seconded by Mr. Holden the motion passed by vote of 6-0-0.
- 5. 9 Balm of Life Spring Road (01:20:02 – 1:21:04)
  - Mary Jude Pigsley, Regional Director Mass DEP, confirmed receipt of the packet submitted and provided a new contact person to Mr. Gorman. There has been an update on site activity (new container being moved on and off the site) and photos were forwarded and the agent and Board of Health.
- 6. DPW Facility (Hecla Street) (01:21:05 – 01:37:30)
  - While attempting to obtain DEP's input, Mr. Gorman was informed (by DEP) that a phone exchange and follow up occurred with the Town Manager and Mr. Sherman on 9/29 and provided with some of the details of their conversations. Smith and Wessel Associates tested some of the stored materials and did not find any asbestos or anything of suspect – samples tested were not from a core sample. Additionally, as this is an Enforcement Issue, an Administrative Consent Order is being negotiated with the Town of Uxbridge. There is a reserve fund transfer on the warrant to fund a survey and historical and topographical analysis of the site. The study should indicate whether any flood plain was lost or gained as well as establish a new method and location for storage of materials. Members agreed to wait and review the results of the survey and the subsequent plan and then issue any applicable Enforcement Orders. Also noted was that BLSF is subject to performance standards and the Commission's purview is habitat and compensatory flood storage therefore any action taken should have language drafted to that effect.

### PROCESSING

1. 10/2/17 Minutes (01:37:31-01:43:03)

MOTION: Mr. Hogan moved to approve the 10/2/17 meeting minutes as amended. Mr. Shaw seconded and the motion passed by vote of 6-0-0.
2. New Item (01:43:04-01:46:45)
  - Mr. Holden requested a follow up comment on an item discussed earlier in the meeting and explained that one of the reasons "Processing" was included is to be able to check up on things and discuss decisions, etc. Specifically, Mr. Holden thought Mr. Gorman had valid reservations when they were deciding whether to issue a negative RDA for the septic replacement. He was not requesting any action be taken he just wanted to discuss it so if members have these reservations in the future to remember they are valid.

### ANY OTHER BUSINESS, WHICH MAY LAWFULLY COME BEFORE THE CONSERVATION COMMISSION

- Open Space Committee (01:46:53 – 01:49:18)
  - The Committee has been officially created and talent bank forms must be submitted to the Town Manager to be considered as a member. Three members from the Commission are planning to be part of this committee. Ms. Steele will ask the BOS to announce there are openings at their next meeting.

## Conservation Commission Meeting Minutes continued – Tuesday, October 16, 2017

- Consider adopting a policy for Amended Orders of Conditions (01:49:19 – 02:01:33)
  - Mr. Gorman drafted a policy for Amended Orders of Conditions that would define what a minor correction is (such as Scribner's errors), what can be handled under an amended NOI and what requires a new NOI. The intended purpose of the policy was to be a tool an applicant to help provide an understanding/expectation of what is required and what they need to ask for from the Commission. As part of their analysis, members looked at the proposed policy against an actual request as well as a variety of possible scenarios and they found it did not provide the clarity they had hoped for. They concluded that it might be difficult to develop a policy because each case will be determined on its perspectives and situation. A "guidelines" document – a questionnaire in a flow chart type format – was recommended and Mr. Gorman offered reformat the information for the board to review.
- Legg Farm Abutter Concerns (02:01:35 – 02:05:07)
  - Ms. Danza talked with the abutters and they agreed to move the structures and not to encroach on the conservation restriction. An abutter on Charles Ave has made a request that the Commission consider posting signs, on that side, notifying hunters that dwellings are within 500 feet and removing an old barb wired fence that deer often become entangled in. Ms. Danza will investigate the cost of the signs and look into the budget to see if funds are available.
- 619 Quaker Highway (02:05:08 – 02:11:31)
  - The Commission received notification and observed of the clearing of shrubs and trees on the property. Mr. Gorman noted that approximately 24% of the site contains Ridgebury Series soil, a poorly drained hydric soil that is generally indicative of wetlands and there is a stream on site. A Special Permit was recently issued from the ZBA to operate a contractor's yard on the property and the applicant was informed of the resource areas onsite and notification requirements for work done within jurisdiction of the Conservation Commission. Members reviewed a letter drafted by the agent and agreed to send with some minor amendments.
  - MOTION: Mr. Hogan moved that the Commission send the letter, amended as discussed during the meeting, to the property owner, Johnson Farm, LLC. Mr. Shaw seconded and the motion passed by vote of 6-0-0.

### **ADJOURNMENT-NEXT MEETING SCHEDULED FOR NOVEMBER 6, 2017**

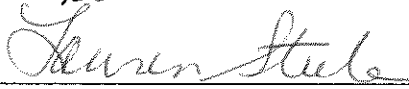
Mr. Hogan moved to adjourn the October 16<sup>th</sup> meeting of the Conservation Commission. Seconded by Mr. Bangma the motion passed by vote of 6-0-0.

Conservation Commission Meeting Minutes continued – Tuesday, October 16, 2017

Respectfully submitted,  
Melissa Shelley

  
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Andrew Gorman, Chairman

  
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Jim Hogan, Vice Chair

  
\_\_\_\_\_  
Lauren Steele, Member

ABSENT

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Rick Tobin, Member

November 6, 2017  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Jeffrey Shaw, Clerk

  
\_\_\_\_\_  
Russell Holden, Treasurer

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Dale Bangma, Member