



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



**Conservation Commission Meeting Minutes  
May 1, 2023**

**Present:** Jeff Shaw, Paul Balutis, James Clancy, Philip Bertuglia, & Russell Holden attended in person, Lauren Steele attended remotely

**CALL TO ORDER:**

It being approximately 6:30 pm, the meeting being properly posted, duly called, and a quorum being present, the meeting was called to order by the Chairperson followed by the pledge of allegiance. The Chairperson announced all votes would be taken by roll call because Ms. Steele was attending remotely.

*Member Roll Call: Steele – here, Shaw – here, Balutis – here, Bertuglia – here, Clancy – here (Mr. Holden arrived at the meeting during the 39 Tabor Road public hearing)*

**PUBLIC HEARINGS**

**1. Notice of Intent (NOI) DEP #312-1147, Elmstreet Extension, Map 11, Parcel 2436**

**Applicant:** James Smith

**Representative:** Mark Allen, Allen Engineering & Associates, Hopedale, MA

**Project Description:** Installation of an infiltration basin and roadway construction within 100-feet of a Bordering Vegetative Wetland (BVW). *Continued, public hearing opened 3/6/23*

**Motion:** Mr. Balutis made a motion to re-open the public hearing for DEP #312-1147. Mr. Clancy seconded, and the motion passed unanimously by roll call vote of 5-0-0 (Steele – aye, Shaw – aye, Balutis – aye, Bertuglia – aye, Clancy – aye)

**Discussion:** Jonathan Scanlon, Allen Engineering attended the meeting on behalf of the applicant. Mr. Scanlon submitted the third-party wetland delineation of the wetland line performed by Civil Site Engineering and provided the wetland data sheets & colored plan to the Commission. Ms. Bacon's demarcation agreed with the initial review from B&C Associates.

There was discussion about the use of sediment controls around the existing manhole on Elmstreet and since it was not noted on the plan everyone agreed to add it as a condition. Members agreed all other expectations have been met.

No members of the public provided any comment during the public hearing.

**Motion:** Mr. Balutis made a motion to close the public hearing for DEP 312-1147 Elmstreet Extension. Mr. Clancy seconded, and the motion passed unanimously by roll call vote of 5-0-0 (Steele – aye, Shaw – aye, Balutis – aye, Bertuglia – aye, Clancy – aye)

**Motion:** Mr. Bertuglia made a motion to issue an Order of Conditions for DEP 312-1147 Elmstreet Extension with the Uxbridge Standard Special Conditions and one additional condition that sediment controls are installed around any work around the existing catch basin on Elmstreet. Mr. Balutis seconded, and the motion passed unanimously by roll call vote of 5-0-0 (Steele – aye, Shaw – aye, Balutis – aye, Bertuglia – aye, Clancy – aye)

**2. Notice of Intent (NOI) DEP #312-1148 56 Tucker Hill Road, Map 29, Parcel 537**

**Applicant:** Craig Haringa & Felicia Brown

**Representative:** Karen Keegan, Allen Engineering & Associates, Hopedale, MA

**Project Description:** Construction of an approximately 1,024 square foot detached garage building within the 100-foot Buffer Zone to a Bordering Vegetated Wetland.

**Motion:** Mr. Clancy made a motion to open the public hearing for DEP #312-1148 56 Tucker Hill Road. Mr. Balutis seconded, and the motion passed unanimously by roll call vote of 5-0-0 (Steele – aye, Shaw – aye, Balutis – aye, Bertuglia – aye, Clancy – aye)

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**Presentation:** Karen Keegan, Allen Engineering, presented the application on behalf of the applicant (Craig Haringa) who was also in attendance. The applicant is looking to build a 32x32 garage off the side of the house. There is a wetland in the rear of the parcel. Ms. Keegan said this parcel is located in a fairly new subdivision and that there is a house, pool and septic system on the lot. The proposed erosion controls is a mulch sock and there is a soil stockpile area outside the 100' buffer zone. The resource area is a bordering vegetative wetland (bvww) and the garage is located just under 50' from the wetland edge.

**Discussion:** Members reviewed the submitted plan and did not have any questions or concerns with the placement with the garage. Members asked about the timeframe for the project and Mr. Haringa estimated one to two weeks. It was noted that CoC was issued for the construction of the house (DEP312-1052). Members asked about whether the inground pool was permitted and Mr. Haringa told them he was told by B&L Pools a permit was not necessary if the pool was kept to a certain size and distance the house (it is 65' from the wetland). Members explained a permit was required because it is within the 100' buffer zone to a bvww. Mr. Clancy noted that it may have qualified as a minor activity since it was installed in *existing lawn*, it was an accessory to an existing home, over 50' from the resource area – so long as measures to control erosion are taken. Everyone agreed the pool was a separate issue from the request in front of the Commission.

Ms. Keegan noted that Mr. Haringa may make a slight alteration to the existing vinyl fence to abut the foundation of the garage. Members asked whether it is outside what is listed as the limit of disturbance and Ms. Keegan said it is. They then suggested that the agent confirm on site that the limit of disturbance includes whatever other activity the owner does with the fence. Ms. Steele inquired whether any conservation markers are present on the property – Ms. Keegan and Mr. Haringa said they did not see any but that it may be in the woods. The as-built was reviewed and one conservation marker was indicated. Everyone agreed the agent could confirm whether a marker is present during the erosion control inspection.

No members of the public offered comments during the hearing.

**Motion:** Mr. Balutis made a motion to close the public hearing for DEP 312-1148 56 Tucker Hill Road. Mr. Bertuglia seconded, and the motion passed unanimously by roll call vote of 5-0-0 (Steele – aye, Shaw – aye, Balutis – aye, Bertuglia – aye, Clancy – aye)

**Motion:** Mr. Bertuglia made a motion to issue an Order of Conditions for DEP 312-1148 56 Tucker Hill Road with the Uxbridge Standard Special Conditions an additional condition to extend the erosion control limit of disturbance to encompass work on the vinyl fence. Mr. Clancy seconded, and the motion passed unanimously by roll call vote of 5-0-0 (Steele – aye, Shaw – aye, Balutis – aye, Bertuglia – aye, Clancy – aye)

### 3. Request for Determination of Applicability (RDA) 39 Tabor Road, Map 41, Parcel 1281

**Applicant:** Josh Wood

**Representative:** N/A

**Project Description:** The proposed project is for the construction of an inground swimming within 100-foot Buffer Zone to a Bordering Vegetated Wetland. *Continued, public hearing opened 3/6/23*

*Please Note: Mr. Holden arrived at the meeting and Mr. Clancy stepped out for approximately 20 minutes during this public hearing.*

**Presentation:** Mr. Wood, the homeowner, attended the meeting on behalf of the petition to install a 16x30' swimming pool inside the 100' but outside the 50' buffer zone of a BVWW. Members inquired about the amount of ground disturbance required and Mr. Wood said, according to the contractor only 1 (8" dia) tree will be removed and some grading for the left back corner of the pool because the rear of the property slopes down – toward the wetland. Mr. Wood pointed out on aerial images where the pool is proposed to be located which is approx. 6' from the left rear side of the house. Mr. Wood said the contractor uses S&M Farms for all the erosion controls and the pool uses a cartridge filter system and sanitized with a saltwater system so there will be discharge to the wetland.

**Discussion:** Members asked for how steep the drop off is in the back of the property and how much grading is needed. Mr. Wood said he was told grading of 7' would be required to bring the lowest point up to level. Due to the amount required, members recommended providing a more detailed engineered plan with a construction sequence, soil storage and staging areas and erosion control detail. Mr. Wood said he was told there would not be any need to stockpile material and as far as grading – they plan to use backfill provided by S&M farms. Members acknowledged, but were not comfortable issuing a determination, particularly a negative, without the information.

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**Motion:** Mr. Bertuglia made a motion to make a positive determination of applicability due to lack of information. Motion not seconded.

**Discussion:** There was some additional conversation with the applicant about his options moving forward and everyone agreed to allow the applicant time to obtain the information requested. Mr. Wood gave permission for Commissioner's to visit the property.

**Motion:** Mr. Holden made a motion to continue the public hearing to the May 15<sup>th</sup> meeting of the Conservation Commission. Mr. Balutis seconded, and the motion passed by roll call vote of 5-0-1 (Steele – aye, Shaw – aye, Balutis – aye, Bertuglia – aye, Holden – aye, Clancy – abstained)

#### 4. Request for Determination of Applicability (RDA) 97 Old Millville Road, Map 35, Parcel 4719

**Applicant:** Brian Cormier

**Representative:** Joey St. Germain, Franca Services

**Project Description:** Construction of a deck and a spa within the 200-foot Riverfront Area and Bordering Land Subject to Flooding associated with the Blackstone River.

**Motion:** Mr. Balutis made a motion to open the public hearing for the RDA for 97 Old Millville Rd. Mr. Bertuglia seconded, and the motion passed unanimously by roll call vote of 6-0-0 (Steele – aye, Shaw – aye, Balutis – aye, Bertuglia – aye, Clancy – aye, Holden - aye)

**Presentation:** Joey St. Germain, Franca Services and Brian Cormier, the homeowner attended the public hearing on behalf of the RDA. The homeowner is extending the existing deck down the backside of the house and hoping to place a swim spa off the back of the deck in the future. Franca services is only involved in the deck construction.

**Discussion:** Members asked for a little more detail about the swim spa and Mr. Cormier said it is essentially a hot tub that would be placed on grade on either a concrete pad (recommended by the manufacture) or compacted dense grade (if preferred by the Commission). Aerial images were reviewed. The area is existing lawn and Mr. Cormier said the only area of ground disturbance is the area where the swim spa will go and that he'd like to replace the lawn with crushed stone under the new portion of the deck. Mr. Cormier and Mr. St. Germain estimated the auguring of the deck footings and excavation for the concrete pad could occur in one day and any material taken out would be hauled off.

Members pointed out the property is in the flood plain and considered flood capacity and whether it is a large enough area to be compensated for. The area in question is approximately 126 square feet. Members reviewed the regulations to determine whether there was a minimum amount requirement but were unable to locate anything. The applicant asked whether the swim spa could be installed at a later date and everyone agreed it would be ok but the ground work should be completed at the same time as the deck footings. Members agreed the concrete pad under the swim spa was the better base option. There was discussion with the applicant about the appropriate placement of the erosion controls (curved around all work). There was also agreement to have the agent inspect the erosion control prior to work.

No members of the public offered comments during the hearing.

**Motion:** Mr. Balutis made a motion to close the public hearing for the RDA for 97 Old Millville Road. Mr. Holden seconded, and the motion passed unanimously by roll call vote of 5-0-0 (Steele – aye, Shaw – aye, Balutis – aye, Bertuglia – aye, Clancy – aye, Holden - aye)

**Motion:** Mr. Balutis made a motion to issue a Negative Determination of Applicability with the following conditions: (i) erosion control encompass the work area and (ii) an erosion control inspection is performed by the Conservation Agent prior to work. Mr. Bertuglia seconded, and the motion passed by unanimously by roll call vote of 6-0-0 (Steele – aye, Shaw – aye, Balutis – aye, Bertuglia – aye, Clancy – aye, Holden - aye).

#### WETLAND UPDATES AND ISSUES

##### 1. Discussion of site compliance regarding active & expired Orders of Conditions

- **Pout Pond:** Cindy Bly, Pout Pond Recreation Commission (PPRC), attended with the following plans for the upcoming season hoping to answer any questions or concerns the Commission may have: music on the pond, community day on the pond, science on the pond, cardboard boat race, Christmas in July, swimming lessons

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and yoga. She explained they may look to the Commission for input to ensure all the ADA compliant equipment (plastic mats walkways, large wheeled wheel chair and walker) placed appropriately. She noted that there will be training for the attendants and committee and invited commission members to attend. The facilities department is in the process of obtaining quotes to paint the building and Ms. Bly asked whether there was a specific type of paint to use (members suggested a latex based as opposed to an oil based).

- Ms. Bly had a request from a resident whether they could bring a bouncy house to the pond for a birthday party. Members didn't see a problem with it being the grass area but recommended she check with the Town Manager's office for input on the Town's liability if there were to be an injury.
- There was also a discussion about whether grills area allowed to be brought in – everyone agreed no charcoal grills for safety reasons but a gas grills should be ok on the paved area or lawn but not used on the beach.
- At this time there are no plans to add sand. Mr. Shaw explained if they do get sand an RDA should be filed.
- Ms. Bly agreed to ensure appropriate signage is installed (ecologically sensitive area, no dogs on beach, etc).
- It was also mentioned that they are in the process of getting new sinks in the bathroom which now require a hot water heater.
- Mass Wildlife will be stocking the pond on May 13<sup>th</sup> ahead of the fishing derby.
- **Balm of Life Spring Road/Quaker Highway:** Mr. Clancy asked whether DPW had implemented a fix yet and described the current conditions. Members were not sure and agreed to add the item to agenda as a reminder to follow up for updates.

### REPORTED/ONGOING VIOLATIONS

1. DEP# 312-1086 — Tea Party Drive
  - *Mr. Bertuglia recused himself from the discussion per conflict of interest law.* Members reviewed & discussed the most recent rain report provided by Pat Garner.
2. 620 Hartford Avenue East
  - No response from property owner yet
3. 650 Quaker Highway
  - No response yet from property owner yet
4. 102 Homeward Avenue
  - The homeowner is making progress
5. DEP File #312-1100 44 Hollis Street
  - Certified green cards have been returned but no response from owner or builder yet

### PROCESSING

1. Minutes 3/20/23 and 4/18/23

**Motion:** Mr. Holden made a motion to approve the March 20 meeting minutes as written. Mr. Balutis seconded and the motion passed by vote of 4-0-2 (Steele – aye, Shaw – aye, Holden – aye, Balutis – aye, Bertuglia – abstained, Clancy – abstained).

**Motion:** Mr. Bertuglia made a motion to approve the March 20 meeting minutes as written. Mr. Balutis seconded and the motion passed by vote of 5-0-1 (Steele – aye, Shaw – aye, Balutis – aye, Bertuglia – aye, Clancy – aye, Holden – abstained).

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

### ADJOURNMENT-NEXT MEETING SCHEDULED FOR Monday, May 15, 2023

**Motion:** Ms. Steele made a motion to adjourn the April 18 meeting of the Conservation Commission. Mr. Holden seconded, and the motion passed unanimously by roll call vote of 6-0-0 (Steele – aye, Shaw – aye, Balutis – aye, Bertuglia – aye, Clancy – aye, Holden – aye)

Respectfully Submitted,

Melissa Shelley, Land Use Administrative Assistant

  
Jeff Shaw, Chairman