

**SUDBURY CONSERVATION COMMISSION**  
**Minutes of the Meeting Held Monday, April 24, 2017**

Present: Tom Friedlander, Chairman; Beth Armstrong, Vice-Chairman; Mark Sevier; Bruce Porter; Dave Henkels; Kasey Rogers (remote participant); Charlie Russo (6:40pm arrival); Debbie Dineen, Coordinator

**Minutes:**

On a motion by D. Henkels; 2<sup>nd</sup> by B. Porter; the Commission voted unanimously in favor of approving the minutes of April 3, 2017.

**WPA & Bylaw ANRAD Nashawtuc Country Club, Concord Rd. *continued***

On a motion by B. Armstrong; 2<sup>nd</sup> M. Sevier; the Commission voted unanimously in favor of further continuing the hearing to May 8 due to high water conditions that make it impossible to view the flags for bordering vegetated wetland.

**WPA & Bylaw Notice of Intent: 321 Old Lancaster Rd.;** restoration planting and retaining wall construction;

Present: Chris Morely, applicant

Mr. Morely explained that the NOI was submitted for previous minor tree clearing within 100' of wetlands and proposed landscaping work within wetland jurisdiction. The natural area and the area under residential use are separated by the right-of-way for the public to the Haynes Meadow conservation land parking area. He presented a plan showing restoration planting at the base of the slope as well as just beyond the slope on the house side of the driveway. D. Dineen informed the Commissioners that the wetland resource area is bordering vegetated wetland. There is not riverfront involved as Hop Brook is well over 200' away from the proposed work in this area.

On a motion by D. Henkels; 2<sup>nd</sup> by B. Armstrong; the Commission voted unanimously in favor of closing the hearing.

On a motion by K. Rogers; 2<sup>nd</sup> by B. Armstrong; the Commission voted unanimously in favor of issuing the Order as discussed and requiring mitigation planting completed by Oct. 15, 2017 at the latest. C. Russo abstaining.

**WPA & Bylaw Request for Determination of Applicability: 60 Camperdown; C. Toomey;** house addition

Present: Chris Toomey

Mr. Toomey presented a plan for a 16' x 24' garage and breezeway addition on existing lawn area and on a portion of his driveway. D. Dineen stated that the wetland resource areas include a detention basin built before 1997, bordering vegetated wetland, and floodplain just off the site. She noted that all runoff from new existing impervious surfaces will be infiltrated with the sizing of the infiltration areas determined by an engineer.

On a motion by B. Armstrong; 2<sup>nd</sup> D. Henkels; the Commission voted unanimously for a negative Determination.

**WPA & Bylaw Request for Determination of Applicability: 46 Abbottswood;** house addition

No applicant present

D. Dineen presented the plan for conversion of an existing deck/porch to a 4-season sunroom. A four-foot frost wall will be installed. All work is within the existing structure and no new impervious surface is to be added to the ground.

On a motion by B. Armstrong; 2<sup>nd</sup> D. Henkels; the Commission voted unanimously in favor of a negative Determination.

**WPA & Bylaw Request for Determination of Applicability: 38 Willard Grant Rd.;** landscape debris disposal

**Present: Rob Elkind**

Mr. Elkind explained that a number of trees fell on his property in some previous storms. He cut up the logs at the edge of the wetland. Commissioners agreed that the cutting of the trees was acceptable and the logs should remain for the habitat value. The logs should not be relocated in the wetland. Mr. Elkind noted that previous Commission decisions have allowed logs to remain for habitat value.

On a motion by C. Russo; 2<sup>nd</sup> M. Sevier; the Commission voted unanimously in favor of a negative Determination.

**WPA & Bylaw Notice of Intent and Stormwater Management Bylaw: Route 20 Roadway Realignment;** National Development; addition of turning lanes on Rt. 20 near Meadow Walk, 526-528 Boston Post Rd

On a motion by M. Sevier; 2<sup>nd</sup> D. Henkels; the Commission voted unanimously in favor of continuing the hearing to May 8 to allow for review by the Commission's stormwater peer reviewer. The applicant has approved the continuation.

**WPA & Bylaw Request for Determination of Applicability: Sudbury Plaza 505-525 Boston Post Rd.;** **Gravestar, Inc.;** minor parking lot modifications

On a motion by B. Porter; 2<sup>nd</sup> D. Henkels; the Commission voted unanimously in favor of continuing the hearing to May 8 to allow this project to be heard at the same time as the Rt. 20 roadway Improvements at the request of the applicant, as these projects are related.

**WPA & Bylaw Notice of Intent: 4 Maynard Rd.;** new house construction; Jeff Walker, Walker Development, applicant

Present: Renee McDonough of Goddard Consulting

Ms. McDonough presented a plan for the construction of a new single family house near the intersection of Maynard and Hudson Roads. Wetland resource areas include bordering vegetated wetland, floodplain, and a stream that is perennial only under the local bylaw criteria. Documentation of the floodplain elevation at 169' will be presented at a later date. The site of the proposed house, driveway and septic system is a disturbed area that contains some native and some invasive plants. The total disturbance of the lot is 5,600 sq. ft. No removal of trees will occur. 3.5 acres, or 87% of the site, is proposed to be placed under a perpetuity conservation restriction. Infiltration is planned for driveway and roof runoff.

D. Henkels and D. Dineen have both been on site. They agreed that mitigation in the form of the CR presented an opportunity to expand an area of other town-owned important natural habitat areas that contain state-listed species. D. Dineen requested the plan include a physical barrier at the limit of the house disturbance to help avoid future encroachment into what will be part of the CR area.

With the agreement of all parties, the hearing was continued to May 8 to allow the flood plain elevation to be further documented and to address other outstanding items including alternatives analyses, infiltration capabilities, permanent limits of disturbance, and address DEP's comments.

**WPA & Bylaw Notice of Intent: 279 Old Sudbury Rd.,** tree removal mitigation, S. Sneath

On a motion by C. Russo; 2nd D Henkels; the Commission voted unanimously in favor of continuing the hearing to May 8 to allow the applicant to address the requirements in DEP's comments and have a DEP file number issued.

**WPA Notice of Intent: 187-189 Boston Post Rd.; Coolidge Phase II**

Present: Rich Kirby of LEC Environmental; Max Glickman, Holly Grace, and others representing the applicant

Mr. Kirby presented a plan for the construction of a new 56- unit senior apartment complex under the state 40b affordable housing bylaws. The project was filed only under the state WPA. An 18,000 sq. ft. structure will be constructed in the eastern part of the site. An ORAD was issued in July 2014 for delineation of the bordering vegetate wetlands on the site. D. Dineen noted that the ORAD will expire in July 2017, however Town Counsel has determined that the Commission must proceed based on the July 2014 ORAD as it is still valid.

Parking will be expanded by 10 spaces and access will be through the existing entrance that serves the existing building. Grass pavers will be installed for fire and emergency access around a portion of the rear of the building. Underground parking is planned. Grass pavers will be extended for access to maintain the detention basin. Catch basins and isolator chambers will be used to capture runoff. Clean roof runoff is directed to the detention basin.

D. Dineen noted that the state LID guidance recommends detaching roof runoff from the treated drainage system and infiltrating it directly. R. Kirby responded that the septic area and lack of suitable area for infiltration requires the roof drainage to go to the detention basin. They are also trying to match the utilities and infrastructure with the existing construction phase I part of the site.

C. Russo questioned if the roof runoff could be infiltrated in the islands within the parking areas. He also questioned if the detention basin was to be fenced.

R. Kirby stated that they plan to use the chemical glyphosate for removal of invasive oriental bittersweet. They are not planning any other enhancement is the remaining wetland buffer around the bv. D. Dinnen recommended the Commission not approve the use of glyphosate due to its recent classification as a possible carcinogen by the World Health Organization. In addition, the area to be treated is located within a NHESP estimated and priority habitat area for state-listed species and abuts the Great Meadows National Wildlife Refuge. She suggested that the plants in the area to remain untouched in the buffer be inventoried and a restoration plan be developed that will result in an invasive-free, high quality wetland buffer to provide wildlife habitat and pollution attenuation. C. Russo suggested smothering plants with black plastic rather than using glyphosate. He questioned the runoff treatment in the garage. R. Kirby replied that the runoff in the garage will drain to a tight tank and will be pumped. Snow removal will be off-site.

On a motion by B. Porter; 2<sup>nd</sup> K. Rogers; the Commission continued the hearing to May 22, 2017 with the approval of the applicant in order to allow the Commission's stormwater peer reviewer to complete the review.

Discussion on the motion: D. Dineen noted that F. King is unavailable for this review due to other project commitments in the same timeframe. The Commission will be using Janet Bernardo of Horsley Witten.

Motion passed unanimously.

**Certificate of Compliance: Lot 14 (#11) Cudworth Lane; Kelleran/Armbruster**

D. Dineen reported that the as-built plan (on-site measurements) indicated the limit of lawn was exactly where it should be.

On a motion by D. Henkels; 2<sup>nd</sup> C. Russo; the Commission voted unanimously in favor of issuing the COC. K. Rogers abstaining.

**WPA & Bylaw Request for Extension Permit: #301-1149 Lots 4 & 5 Fairbank Rd.**

Present: Beth Cosgrove for Greenspire and Atty. Robert Dionisi

Atty. Dionisi stated they are seeking a 3-year Order of Conditions (OOC) extension under the WPA and a 1-year extension under the wetlands bylaw. He stated that it took time to provide the Conservation Restriction and the Deed Restriction as well as develop the Homeowner's O & M drainage handbook. Ms. Cosgrove stated that she did not want to market the property until all the documentation requirements were in place. She wanted a cushion of time for any developer who might purchase the land.

D. Dineen noted that the current permit is valid until July 2018. The DEP and MACC guidance documents state that OOCs should only be extended when the delay is not caused by the applicant and is out of the applicant's control. In this case, the applicant did not even apply for a permit from the Board of Health until the Order was already one year into its 3-year period. They should have known this would take time, as the septic permit required a variance from BOH regulations.

K. Rogers suggested that it was premature for the applicant to be asking for an extension permit when the current permit is valid for another 15 months. M. Sevier disagreed and felt that it was better to ask for the extension now than to come down to the wire and create a messy problem when the property is likely to be under construction. In response to C. Russo, Ms. Cosgrove stated that she has not yet begun to market the property to builders. D. Henkels questioned why they waited so long before seeking the septic permit. The applicant replied that they were working on other issues related to the lot. D. Dineen noted that the septic permit application could have been done concurrently.

On a motion by B. Porter; seconded; the Commission voted to extend the Order for one-year from the date of expiration under both the WPA and the wetland bylaw.

**Ratify Issuance of NOV/EO at 3 Goodnow Rd.**

An NOV/EO was issued on April 18, 2017 for driveway paving within 100' of wetland and a vernal pool without a permit. On a motion by C. Russo; 2<sup>nd</sup> B. Armstrong; the Commission voted unanimously in favor of ratifying the issuance.

T. Friedlander questioned if the Commission wished to take additional action on other activities that occurred without a permit, including changing of grades, increasing the height the retaining wall, and expansion of residential use area onto the area leveled. He noted that the Commission could require a new NOI for any or all of these activities. The EO/NOV requires the driveway pavement to be removed by May 3. D. Henkels suggested giving the homeowners until May 18<sup>th</sup> to remove the driveway pavement.

C. Russo stated that the homeowner has had blatant, continuing violations of the wetland regulations even after six letters (5 of them NOV/EOs) informing them of the need to obtain a wetlands permit for all changes within wetland jurisdiction.

B. Armstrong motioned to follow up with another NOV/EO for the additional issues and require an NOI by May 22. M. Sevier 2<sup>nd</sup>. Unanimous in favor

### **2017 Town Meeting:**

1. Review Warrant for possible Positions/Speakers  
The Commission decided not to take a formal position or speak on any Warrant Articles.
2. Distribute Homeowner's Brochure – Commissioner's will hand out the brochures in the lobby of Town Meeting if permission is granted by the Moderator and Town Manager.

### **Other Business:**

3. Request for Endorsement of SWEET proposal for funding from Sudbury Foundation  
On a motion by M. Sevier; 2<sup>nd</sup> D. Henkels; the Commission voted unanimously in favor of supporting the proposal.
4. Discussion of formation of a trails committee  
T. Friedlander suggested the Commission consider asking the BOS to form a Trails Committee, similar to those in Weston and Groton. This would be independent of the Conservation Commission and members would be appointed by the BOS. D. Dineen questioned if this would remove the trail maintenance budget line item from the Commission's budget. C. Russo asked if the Trails Committee would oversee trails on all protected land, including trails on private property, or just on trails on town land. T. Friedlander suggested this Trails Committee could review and renew all conservation land boundary marking. he noted most towns have staff to maintain public trails and lands.
5. Discussion of a wetland violation "amnesty" period  
T. Friedlander suggested the Commission consider an "amnesty" period to allow violators of wetland laws to come forward without fear of having fines assessed. They would still have to meet the wetland regulations and correct any violations but fines would be waived for period of time. Commissioners did not take action on this suggestion.
6. Question of adopting language on use of herbicide and mosquito/tick sprays  
D. Dineen suggested language be added to the standard Order of Conditions that prohibits the use of herbicides and pesticides within wetland jurisdiction in light of the new scientific information from recent studies on common herbicides. Commissioners agreed and asked her to draft language for review at an upcoming meeting. K. Rogers stated that any application of pesticides should use a measured approach and careful application.
7. Discussion relative to consistency of decision making (homeowner/developer issues)  
T. Friedlander stated the need for the Commission to apply uniform standards in its decision-making. B. Armstrong noted that there are different standards of development vs. redevelopment. C. Russo stated his belief that most homeowner's actions are the result of lack of knowledge and developers have an expectation of profit and should be aware of the rules under which they conduct their business. b. Armstrong replied that the approaches to homeowners vs. developers may be different, but the outcome for wetland protection must be the same. M. Sevier stated that information provided to the Commission, such as design details,

should be consistent in all cases. C. Russo replied that “winging it” may be acceptable in some situations where the project is small and the impact is not obvious.

8. Reports from Commissioners and staff

D. Henkels reported that he assisted/supervised informally, the construction of an eagle-nesting platform in Lincoln. He suggested that this type of habitat enhancement should be considered in Sudbury when off-site mitigation is necessary.

On a motion by B. Porter, 2<sup>nd</sup> C. Russo, the Commission voted unanimously to adjourn the meeting at 8:55pm.