

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Held Monday, May 22, 2017

Present: Tom Friedlander, Chairman; Dave Henkels; Mark Sevier; Kasey Rogers; Bruce Porter; Charlie Russo; Debbie Dineen, Coordinator

Minutes:

On a motion by C. Russo; 2nd B. Porter; the Commission voted unanimously in favor of approving the minutes of April 24, 2017 as drafted.

WPA & Bylaw Notice of Intent: 810 Concord Rd.; D. Lee

Present: David Lee, applicant; David Burke, wetland specialist; and prospective buyers

Mr. Burke presented a plan showing the extent of lawn area that has encroached into the recorded conservation restriction (CR) on the property. The CR was required as mitigation for house construction within 100' of the wetland associated with Cold Brook. The plan shows that the area will be restored with lawn removal and the planting of native vegetation in an area approximately 30' wide along the entire rear yard. A minimum of 35 plantings will be installed. The plantings will go through two growing seasons before the Certificate of Compliance request to ensure they are viable long-term.

D. Dineen suggested some of the shrubs be replaced with native trees to provide a canopy area in the area to be restored to be more similar to the adjacent wetland. C. Russo had it confirmed that stone bounds are in place at the edge of the CR area.

On a motion by C. Russo; 2nd M. Sevier; the Commission voted unanimously in favor of closing the hearing.

On a motion by D. Henkels; 2nd K. Rogers; the Commission voted unanimously in favor of issuing the Order and including the requirement to have the plantings installed and lawn removed by June 30, 2017 in addition to standard restoration conditions.

WPA & Bylaw Request for Determination of Applicability: 170 Wayside Inn Rd.; Shapanka

Present: Michael Shapanka

Mr. Shapanka presented plans for another small addition to house. The addition will be for a kitchen pantry and the footprint will not extend beyond the furthest rear wall of the house. The addition is located all on existing lawn and surrounded by house on three sides. It is within the outer riparian area.

On a motion by D. Henkels; 2nd K. Rogers; the Commission voted unanimously in favor of a negative Determination.

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

Present: Renee McDonough of Goddard Consulting; Scott Sneath, applicant

Ms. McDonough presented a plan for wetland mitigation for the removal of 26 2" – 4" caliper trees and 6- 6" caliper trees in a bordering vegetated wetland. The trees were removed because they were mostly dead and all were entangled in oriental bittersweet. The tree trunks were left in the woods. A town drainage easement through the property had recently been cleared by the town. A mapped stream shows on the Sudbury GIS but it is not shown on the USGS maps. Mr. Sneath would like to continue to remove the bittersweet, buckthorn, and honeysuckle. No herbicides or other chemicals

will be used. No machinery will be used. He does not plan to do any replanting, as many of the cut trees will stump sprout. Mr. Sneath would like to continue the removal in the fall when the vegetation dies down. D. Dineen noted that the invasive plant removal should be on going for the duration of the Order and then in the Certificate of Compliance. Work in the fall and early spring makes sense.

Commissioners will require a progress report after 2 growing seasons. This would be by Oct. 15 at the latest. Wood may be removed from the wetland to the extent that it is inhibiting the flow of water of the invasive species removal activities. Hand work only with no equipment except hand-held equipment. No herbicides or use of any chemicals. A condition in perpetuity will be placed in the COC to allow the on-going removal of invasive plants.

On a motion by C. Russo; 2nd B. Porter; the Commission voted unanimously in favor of closing the hearing.

On a motion by D. Henkels; 2nd B. Porter; the Commission voted unanimously in favor of issuing the Order as discussed.

Violation Update: 3 Goodnow Rd.; Dishnica

Present: Renee McDonough of Goddard Consulting; Irma Dishnica

Ms. McDonough was present to provide an update to the status of the paving violation at 3 Goodnow Rd. Ms. Dishnica stated that they will pay the fine but they did not think the violation was theirs. It was the paving contractor who did the work and the area was already a driveway. Ms. McDonough stated that Dan Wells of Goddard Consulting was on site today and will begin the NOI process. The applicant must get a land surveyor to develop a base plan.

T. Friedlander stated that the Notice of Violation requires pavement removal without the need for an NOI. D. Dineen added that the NOI would be necessary if the applicant wishes to have a civil engineer attempt to show that the runoff from the pavement can be collected, treated and infiltrated without harm to the wetland and vernal pool. Paving cannot be done unless the runoff quality and quantity remains the same or is improved as it pertains to wetland values and functions.

R. McDonough requested a 60-day extension for filing the NOI. C. Russo felt the update tonight was good and he recognized that it is a busy season for surveyors and engineers. He thought the request for an extension was reasonable as long as dialogue was continued as to progress. T. Friedlander pointed out the violations should not have happened as the homeowners have received 6 letters from the Commission for past violations and the letters made it very clear and specifically stated that no work should occur on the property without a wetlands permit. Ms. Dishnica stated that the driveway was already there so they assumed they could pave it.

T. Friedlander questioned what the Commission should expect to receive in 60 days if the extension is granted. Ms. McDonough replied that the Commission will receive an NOI within the 60 days. M. Sevier and D. Henkels agreed that a 60-day extension would be acceptable as long as updates are provided in the interim and an NOI is received by July 22.

D. Henkels motioned to extend the timeframe for NOI receipt for violation corrections at 3 Goodnow Rd for 60 days provided communications and updates are provided to the Commission in the interim. No further tickets will be issued in these 60 days unless these terms are not adhered to and the NOI addresses pavement removal or an acceptable engineering solution. M. Sevier 2nd; unanimous in favor

Certificates of Compliance: 41 Oak Hill Rd.

At the request of the applicant, today's site inspection was postponed.

Bylaw Notice of Intent: 47 Bigelow Dr. (Lot 56) continued

Present: Renee McDonough of Goddard Consulting

Ms. McDonough informed the Commission that the DEP has still not responded with the ACOP findings. On a motion by C. Russo; 2nd K. Rogers; the Commission voted unanimously in favor of continuing the hearing to June 5, 2017.

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

At the request of the applicant, the hearing was continued to June 5, 2017. Motion by C. Russo; K. Rogers; 2nd unanimous in favor

WPA Notice of Intent: Coolidge at Sudbury, Phase II; Commonwealth Covenant Corp.; continued

Present: Rich Kirby, LEC Environmental; Holly Grace and others for applicant; Joe Peznola, Hancock Associates for applicant; Janet Bernardo of Horsley Witten, SCC stormwater peer reviewer

This is a continued hearing for a 56-unit senior rental housing under MGL Chapter 40b.

Ms. Bernardo stated that she reviewed the stormwater design for the ZBA and again reviewed the plans for the SCC. The SCC plans had more detail and addressed some of the outstanding issues remaining from the ZBA review. She stated there is bordering vegetated wetland in the rear of the property. Stormwater from the site enters a proposed detention basin. Outflow from this basin will increase the volume of water in the wetland. Eventually larger storm events will cause the basin to overtop the adjacent railroad bed. It will take 24 to 72 hours for the water in the wetland to infiltrate. This results in the wetland acting as an infiltration system. The applicant could enhance the wetland plantings in the bordering vegetated wetland so they will be more tolerant of standing water. From a stormwater standpoint, it is permissible to increase the volume of water in a wetland.

R. Kirby noted that the rise in elevation of water in the wetland will be 3" in a 100-year storm event. He does not believe that this increase will destroy or impair the existing wetland values and functions. J. Bernardo corrected Mr. Kirby. The 3" rise in water elevation will occur in the 10-25 year storm event. J. Peznola agreed with Ms. Bernard that the increase will be 3" in the 10-25 year event, which equates to 2.0 to 2.5 inches of rain. He added that the system was designed with the assumption of no infiltration in the wetland. That is conservative as there will be infiltration. D. Dineen questioned if the soils in the wetland had been investigated to be sure they would allow infiltration. He stated they had been and would also be planted with shrubs to take up water. C. Russo stated that the wetland was therefore acting as a second detention basin.

R. Kirby stated that the culvert under the railroad bed could not be found although hit had been found several years ago. He thought it might have collapsed. He added that there is a mix of facultative wetland and upland plants in the area. He added that the applicant is open to installing plants and enhancing the wetland and a portion of the buffer zone within 25' of the buffer.

D. Henkels questioned if greater than 5,000 sq. ft. of bordering vegetated wetland is being altered by the proposed drainage design. Ms. Bernardo responded that the wetland is only 2,500 sq ft. in size. She expressed concern for the sequencing of the rain garden removal and the temporary sediment basin construction. J. Peznola replied that there is a ridgeline on the Phase I site to prevent

additional runoff from entering the temporary basin. The rain garden had an underdrain and beehive grate. Both outfalls join and drain to the detention basin. The catch basin has additional temporary sedimentation control in the area of the new phase of construction. Ms. Bernardo expressed concern for the type of soil media in the rain garden. D. Dineen agreed and stated that any runoff should be directed to either permanent or temporary sediment capture areas for containment or treatment. No impervious surface should be added to Phase II until the stormwater system is properly functioning.

Ms. Bernardo noted that the 2010 ORAD is valid until July 2017. Wetland flags 5A and 12 A were added in 2015 by LEC. This is not holding the old wetland line. D. Dineen agreed and stated that some wetland flags could not be revised unless the entire delineation was updated. In response to D. Dineen, R. Kirby stated that the invasive species removal will be selective in areas where they believe they will have the best success.

Responding to questions from D. Henkels, J. Peznola stated that they cannot use wetland for runoff volume storage but it can be used for runoff rate control as long as it does not alter the wetlands. He felt that the alteration was negligible and the wetland can handle it. D. Dineen noted that it is not wetland alteration that is the concern; it is alteration of the wetland values and functions. This has not been addressed.

C. Russo questioned the wetland enhancement and planting plan. He noted that it must result in strong enhancement of wetland values and functions.

D. Henkels noted that if the plan to store extra runoff in the wetland results in alteration of greater than 5,000 sq. ft. of wetland, a 401 and 404 permit may be necessary.

M. Sevier was concerned that the invasive plant removal not spread the seed bank in the soils.

On a motion by M. Sevier; 2nd C. Russo; the Commission agreed to continue the hearing to June 5, 2017 at the request of the applicant.

WPA & Bylaw Request for Determination of Applicability: 236 Hudson Rd.; B. Ryan

No applicant present

D. Dineen presented the applicant's plan for tree removal of 6 mature trees within 100' of the vernal pool. The trees are overhanging the house and the trunks are in very close proximity to the side of the structure. The applicant, who is a new owner of the property, submitted a letter from their insurance company stating the trees must be removed.

D. Dineen visited the property and thought that the edge of the vernal pool presented an opportunity for replanting shrubs that will help shade the water. She recommended 12 large native shrubs.

On a motion by D. Henkels; 2nd B. Porter; the Commission voted unanimously in favor of a negative Determination contingent on the replanting of the 12 native shrubs at the edge of the pond.

Bylaw Notice of Intent: 69-71 Brewster Rd.; A. Sumito, Trustee of Leeya Realty Trust

At the request of the applicant, the hearing was continued to June 5, 2017. Motion by C. Russo; D. Henkels; 2nd unanimous in favor

WPA & Bylaw Notice of Intent: 2-23 Farmstead Lane; Highcrest at Meadow Walk

At the request of the applicant, the hearing was continued to June 5, 2017. Motion by C. Russo; K. Rogers 2nd unanimous in favor; D. Henkels abstaining

WPA & Bylaw ANRAD Nashawtuc Country Club, Concord Rd.)

At the request of the applicant, the hearing was continued to June 5, 2017. Motion by C. Russo; K. Rogers 2nd unanimous in favor; D. Henkels abstaining

Certificate of Compliance: 34 Musket Lane

D. Dineen reported that the final town and EOEEA conservation restriction has been recorded. All other aspects of the project had been satisfactorily completed a number of years ago.

On a motion by B. Porter; 2nd M. Sevier; the Commission voted unanimously in favor of issuing the COC. D. Henkels abstaining.

Signatures:

OOO 24 Tippling Rock Trail that was voted at the last meeting was signed.

Violation Update: 267 Landham Rd.; Safar

D. Dineen reported that she continues to call, email, and write (tickets) to the applicant and engineer with no response.

Land Stewardship:

1. King Philip Woods/Piper Dickson Invasive Species Removal/Timber Removal

T. Friedlander reported the results of the site investigation with forester Gary Goldrup. He will be submitting a forestry proposal for the invasive species removal and limited timber harvesting to offset future stewardship costs. The Town Manager will be consulted to see if she approves the establishment of a revolving fund for proceeds from timber sales. No clear cutting of trees is planned; only very selective cutting to improve forest health.

C. Russo liked the idea but noted it was important to adhere to highest and best standards for the work. The cutting should be done for land stewardship purposes with any generation of funds as a secondary benefit, if any. He suggested a mission statement be drafted for the purpose of forestry work and the generation of funds.

Eversource MEPA ENF – Comments

Commissioners were informed by B. Porter that he attended and spoke at a 5/21 walk along the r.o.w. from Peakham Rd. to Hop Brook. There were over 100 participants.

Commissioners agreed that last year's SCC letter to Eversource was a good starting point for updating comments for the MEPA process. D. Henkels, C. Russo, B. Porter and D. Dineen will attend the MEPA walk and/or scoping session. C. Russo felt that a large issue is the need to balance the environmental costs with the alternatives available. He feels that Eversource undervalued the environmental costs and overstated the benefits of the preferred alternative. There was both incorrect information and incomplete information in the alternatives analysis. He referred Commissioners to Chapter 164.

D. Dineen stated that the Commission has a two-fold interest in this project. First as an abutter with a significant land boundary of the Hop Brook conservation land adjacent to the r.o.w.. Secondly, as a regulator of state and local wetland laws.

M. Sevier stated that we all use electricity and Sudbury's comes from Weston. He is not in favor of the tree clearing but he noted we are all invasive species. The project is infrastructure to support human invasives. He added that Eversource does not care about project cost. The more lines they have, the more money they make. It is a question of how much you would like your electric bill to increase. D. Henkels and B. Porter both noted that the CC position on the project is not an economic argument.

FY 2017 Budget

D. Dineen reviewed the line item balances that remain for FY 2017. She would like to request a carry-forward of the trail maintenance budget funds remaining to be used toward the King Philip Woods and/or Davis Farm invasive species removal projects. These projects are best done in the fall with less vegetation. C. Russo noted the need for more office administrative support hours.

On a motion by m. Sevier; seconded; the Commission voted unanimously to request the carry-forward and seek additional hours for administrative support from the wetland fee accounts.

Natural Heritage & Endangered Species Revised Estimated and Priority Habitat Maps

D. Dineen informed the Commission that draft new NHESP maps were available for review and comments. These maps show proposed changes to identified habitat areas for state-listed species.

0 Washington Dr.

George Pucci, attorney at KPLaw, has requested a 90-day stay of the court action on behalf of the Commission. This will allow more time for the property owner to submit a conservation restriction and planting plan and for the record to be compiled if further action is necessary. Commissioners expressed concern that this extension was requested without KPLaw consulting the SCC. The Commission would have preferred the applicant be required to submit these materials right away.

On a motion by D. Henkels; 2nd C. Russo; the meeting adjourned at 9:35pm by unanimous vote.