

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Held Monday, February 11, 2019

Present: Tom Friedlander, Chairman; Dave Henkels, Vice-Chairman; Bruce Porter; Mark Sevier; Kasey Rogers; Richard Morse; Charlie Russo ((6:52pm arrival)); Debbie Dineen, Conservation Coordinator; Ken Holtz; Associate

The Chairman called the meeting to Order at 6:45pm with a quorum present.

Minutes

On a motion by R. Morse; 2nd D. Henkels; the Commission voted unanimously in favor of approving the minutes of Jan. 7, 2019.

On a motion by B. Porter; 2nd D. Henkels; the Commission voted unanimously in favor of approving the Minutes of Jan. 14, 2019

WPA & Bylaw Request for Determination of Applicability: 9 Marlboro Rd., Michael LaGue

Present; Michael LaGue, property owner

Mr. LaGue presented a plans for the removal of three trees within 100' of bordering vegetated wetlands. Two of the trees are storm damaged and one is decayed.

On a motion by D. Henkels; 2nd B. Porter; the Commission voted unanimously in favor of a negative Determination. C. Russo abstaining due to late arrival.

Request for Certificates of Compliance: Eversource Soil Borings: #301-1231; MBTA ROW

Present: Katie Kinsella, VHB, Inc.

Commissioner Rogers abstained from the discussion as an abutter to the MBTA

Ms. Kinsella informed the Commission that the soil borings were successfully completed in accordance with the Order. Fewer vegetation than anticipated need to be cut. VHB has submitted a full narrative of the project. The Commission's Environmental Monitor also submitted a final report indicating that the Order was adhered to completely during the activity. No damage or restoration of any area was required. No contaminants were found.

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

Bruce Freeman Rail Trail: Review of status under the WPA for Soil Borings

Present: Susan MacArthur, MA DOT; James Barnack and Mike Turgeon of Jacobs Engineering, Beth Suedmeyer of Planning Dept.; Amy Kwesell of KPLaw

A site inspection of portions of the BFRT was held on Feb. 9, 2019. Several Commission members as well as other town staff and consultants were present.

The Town of Sudbury, project proponent, has requested review of impacts of soil borings for determination/vote of exempt status under WPA. The WPA allows for an exemption of activities for site investigations necessary to design a project if those activities have negligible impacts on the wetland values and functions in the WPA. Sudbury Special Counsel, Amy Kwesell, has opined that it is the Conservation who makes that determination.

S. MacArthur stated that a valid ORAD is in place for the delineation of Bordering Vegetated Wetland and bank resource areas. Much of the testing is in the area of the proposed 750' boardwalk. There will be no crossing of any streams for the testing. The size of the equipment first identified can be reduced. All trees within the wooden ties will be removed. Cribbing may be needed in some areas. Borings will be 21' to 41' in depth.

In response to T. Friedlander, the staging areas for the equipment are yet to be determined. Input from the drilling contractor is needed. The staging areas should be outside resource areas and buffers to prevent adverse impacts.

D. Henkels had questions on typical protocols for sequencing, sanitary facilities, dewatering, refueling and monitoring. M. Turgeon replied that refueling will be done where needed but will have double containment. No Environmental Monitor is planned but best environmental specifications for best management will be used. Equipment may be kept on the ROW overnight. Work will take approximately three weeks.

Responding to B. Porter and K. Rogers, Mr. Turgeon stated he did not know where the fuel would be stored. He noted that in an area with water on both sides of the track he thought the contractor would remove the ties if necessary for access.

R. Morse and M. Sevier both questioned why there was not an Environmental Monitor (EM) planned. They stated that the SCC might feel an EM is necessary, and if so, they can require it as part of the contract to ensure negligible impacts.

T. Friedlander asked for clarification of the statement that very few trees would be removed. Mr. Turgeon stated that mostly shrubs and vines will be removed.

T. Friedlander asked Atty. Kwesell to define "negligible impact". She stated they would have only minor impact and that these projects are usually exempt. T. Friedlander questioned the sequencing of the work on the ROW and that the Commission needs all the conditions to be pre-defined in order to determine negligible impact. He added that the Commission need something to rely on to be sure activities occur as described. That is usually a Notice of Intent followed by an Order of Conditions where work can be tracked and monitored. The Commission needs details before a decision on negligible impact.

Responding to B. Porter, Mr. Turgeon stated the test pits as the bridge abutments would be located as close as possible to the abutments.

D. Dineen explained the difference in Base Flood Elevations, Flood Profiles, the 100-year floodplain, and bordering land subject to flooding. It is the FEMA Flood Profiles that govern the proper elevation for bordering land subject to flooding. Although the floodplain maps show the area where work is proposed to be located within the 100-year floodplain, work is not proposed below the Base Flood Elevation shown in the Flood Profiles. She questioned the type of equipment proposed for the borings and if the equipment used water pressure for drilling. If so, was the water within a contained system. R. Morse added his concern that the water used for drilling not be discharged into the wetland.

T. Friedlander asked who would hold the contracts for the project. The driller would contract with Jacobs Engineering and Jacobs would contract with the town.

K. Rogers questioned if abutter notification and outreach was planned. It is not. M. Sevier noted that although Eversource provided abutter notification and outreach, they had a whole team where the town does not.

D. Dineen asked that the contract include the requirement to notify the Conservation Commission if any reportable conditions for hazardous or toxic material is found. She also questioned

the location for disposal of any cut vegetation. Jacobs Engineering responded that very little vegetation will be cut. The equipment will not need to turn around. Although it does not swivel on its tracks, it can move in both directions. Ties will be removed to the side of the track. They will be properly disposed of as part of the construction phase.

T. Friedlander read a letter from BFRT abutter, Dan DePompei into the record. Mr. DePompei questioned if the MADOT was the proper applicant. Atty. Kwesell replied that MADOT ~~could be the~~ is a proper applicant.

M. Sevier and D. Henkels asked what the procedure would be if the SCC found the project exempt but subject to conditions to allow that exemption. Atty. Kwesell replied that the SCC would need to approve the conditions that would become part of the contract with the town.

m. Sevier motioned, D. Henkels 2nd; that the SCC find the project is exempt from WPA due to negligible impacts subject to the conditions as discussed.

Wetlands Bylaw Notice of Intent: 74, 80 Maynard Rd., John Derderian, applicant

Present: Desheng Wang; Creative Land Development

T. Friedlander, D. Henkels, R. Morse, and D. Dineen visited the site several weeks ago. With Mr. Wang.

Mr. Wang presented a plan for access within the adjacent upland resource area (AURA) for soil testing for septic system placement. No soils will be disturbed for access. Sections for leaf mats will be saved and reinstalled after the work with the equipment is complete. Two small trees will need to be removed and there will be three areas of the AURA that will be crossed. No test pits will be done within 100' of wetlands.

Responding to M. Sevier, Mr. Wang stated that if the soil tests are favorable for septic systems, subdivision planning will be done. C. Russo added that equipment spill kits should be present while the equipment is on site. R. Morse noted that significant downed trees and branches must be cut for access. No vegetation debris should be permitted to be placed in a wetland area.

Lana Schultz, 72 Maynard Rd., expressed concern for any impact to the aquifer under the property as they have a well. D. Dineen noted that only a small portion of her property and 74, 80 Maynard Rd. property is located within Zone III of the Sudbury Water Resource Protection District.

On a motion by D. Henkels; 2nd M. Sevier; 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 OOC as discussed.

WPA & Bylaw Notice of Intent: 39 Griscom Rd., Stephen Garanin; applicant

Present: Steve Garanin; Dan Wells of Goddard Consulting for the applicant

Mr. Wells presented a plan for the restoration of riverfront area altered in violation without a permit. 11,734 sq. ft. of vegetation has been removed in the riverfront area of Guzzle Brook. A total of 20 native 3' – 4' high trees and 40 native shrubs will be planted. No planting is proposed under the red pine trees. The restoration plantings will be densely planted and closely monitored for two years. They request a condition in the Certificate of Compliance that permits on-going mechanical removal of invasive plants.

D. Dineen noted that the SCC standard for restoration is 90% success following two growing seasons. If this is not achieved, monitoring should continue and the SCC may require additional plantings. T. Friedlander noted that some of the cut vegetation was pre-existing from earlier work on the site. Chipping or burning of the brush might spread the seeds. He added that a fence and shed have been installed in riverfront without a permit as well as the vegetation clearing. C. Russo expressed concern that the fence may impede the movement of animals along the stream corridor. Mr. Wells felt that the fence establishes a corridor at the extent of the vegetation along the stream and that it is sufficient.

D. Dineen suggested planting of native ferns under the red pine. She has seen a fern layer establish successfully under red pine.

An updated management plan for the area will be necessary based on the anticipated OOC.

On a motion by D. Henkels; 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 in favor of issuing the Order as discussed with the inclusion of after-the-fact approval of the fence and shed. R. Morse opposed.

Request for Determination of Applicability: 50 Woodmere Dr., B. Huck, appl.

No applicant or representative present

D. Dineen presented the plan for expansion of an existing deck by 11' on existing lawn area within upland resource area (100' of bordering vegetated wetlands). The deck expansion will be on helical piers.

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

WPA & Bylaw Request for Determination of Applicability: 200 Bay Dr., Meadow Walk

No applicant or representative present

D. Dineen presented a plan from National Development and VHB. Inc. for a pedestrian trail relocation and new footbridge construction over an intermittent stream with bordering vegetated wetland. The bridge will be a bank-to-bank crossing with no disturbance in a wetland resource area. The trail relocation is on existing or permitted lawn areas. R. Morse and D. Dineen visited the site last week.

On a motion by R. Morse; 2nd M. Sevier; the Commission voted unanimously in favor of a negative Determination.

WPA & Bylaw Notice of Intent: 9 Trevor Way; Al Maillet, Maillet & Son, Inc.; applicant

A request for continuation was received 2/7 to allow time for plan changes to remove any work associated only with the development of Lot 4.

On a motion by D. Henkels; 2nd M. Sevier; the Commission voted to continue the hearing to Feb. 25, 2019.

WPA & Bylaw Notice of Intent: 36 Hampshire Dr., correction of violations; Dhruv Bhandary

A request for continuation received 2/7 to allow development of the restoration plan.

On a motion by B. Porter; 2nd D. Henkels; the Commission voted to continue the hearing to March 11, 2019.

WPA & Bylaw Requests for Certificates of Compliance:

R. Morse and D. Dineen performed a site inspection of the entire Meadow Walk development, reviewed the as-built plans, and looked specifically on the parcels requesting the Certificates of Compliance. All work was substantially in compliance with the Orders of conditions.

Meadow Walk, Boston Post Rd.:

#301-1181; Whole Foods – On a motion by D. Henkels; 2nd C. Russo; the Commission voted unanimously in favor of issuing the Certificate of Compliance.

#301-1209; Rt. 20 off-site roadway improvements- On a motion by K. Rogers; 2nd R. Morse; the Commission voted unanimously in favor of issuing the Certificate of Compliance.

#301-1196; Bridges at Epoch- On a motion by R. Morse; 2nd K. Rogers; the Commission voted unanimously in favor of issuing the Certificate of Compliance.

#301-1195; Village Retail- On a motion by C. Russo; D. Henkels; 2nd the Commission voted unanimously in favor of issuing the Certificate of Compliance.

35 Maple Ave. filings: (R. Morse abstaining from participation in discussion and vote)

#301-838 3/30/04 original OOC – On a motion by B. Porter; 2nd M. Sevier; the Commission voted unanimously in favor of issuing the Certificate of Compliance.

#301-1035 4/4/2010 subsequent OOC after expiration of #301-838 - On a motion by D. Henkels; 2nd K. Rogers; the Commission voted unanimously in favor of issuing the Certificate of Compliance.

Violation follow-up: Pantry Brook beaver dam removal at BFRT bridge

D. Henkels reported that a review of reestablishment of vegetation after 2 years following release of silt and debris on the railroad bed at the Pantry Brook shows that the silt has created a barren area in the wetland where wetland revegetation has not reestablished. He will provide photos. D. Dineen will inform the DPW.

Violation Status:

Sudbury Water District: The restoration work will require an NOI as a result of the NOV/EO. A final Emergency Protocol and Work Plan for silt removal must be included in the NOI. The silt has extended at least 100' downstream from the culvert.

Other Business:

Discussion and Action: Eversource ROW application of herbicide notification – Commissioners decided to once again send letter of concern for the wetland delineation as well as the use of herbicides.

Discussion and Action: Invasive Species Management Legislation will be reviewed at an upcoming meeting after Commissioners have an opportunity to review the legislation.

2019 Spring Walks – The SCC Spring Walks were left out of the LS Adult Ed calendar and sign-up this year. Commissioners would like to hold the walks and advertise them on the Town website, the LS webpage and with SVT. D. Henkels, T. Friedlander, and R. Morse will lead walks with B. Porter possibly able to do so.

The meeting adjourned by unanimous vote at 9:25pm. Motion by D. Henkels; 2nd K. Rogers

1. Sign: Lincoln Meadow South Agricultural License Renewal

Next Meetings: Feb. 25 and March 11