

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Held Monday, May 23, 2019

Present: Tom Friedlander, Chairman; Bruce Porter; Kasey Rogers; Richard Morse; Charlie Russo (6:50 PM); and Debbie Dineen, Conservation Coordinator

Absent: Mark Sevier, Dave Henkels, and Ken Holtz, Associate Member

T. Friedlander called the meeting to order at 6:45 PM.

Minutes

On motion made by R. Morse, seconded by B. Porter, the Commission voted unanimously to accept the minutes of April 22, 2019.

Violation: 105 Boston Post Rd. - Bill Clougherty, MADOT District 3, representative. Coordinator Dineen, K. Rogers and R. Morse made inspection at the site. Bill Clougherty introduced himself and spoke of the violation at the MADOT Maintenance Depot on Boston Post Road. After meeting with Coordinator Dineen and Commission members, they immediately addressed concerns; removing the debris and dump truck. They addressed erosion issues near wetland and agreed to install stones and geo tech fabric to help with soil erosion. Per R. Morse comments, he said berm needed to be extended due to salt that was coming out of barn out to wetlands. B. Clougherty concurred. They plan to install an asphalt curb to prevent direct discharge into wetlands. Work would start in next couple of weeks. No finish date. Coordinator Dineen suggested issuing an Enforcement Order and Notice of Violation. Clean up and erosion controls were allowed by Coordinator Dineen to correct the Violation. No Notice of Intent, or RDA would be required if work done under the Enforcement Order. Discussion continued about berm, salt removal, possibility of a sloping drainage way from the wetland.

Chairman Friedlander suggested MADOT return on 6/17 to verify work schedule but if work completed, there was no need to return.

C. Russo moved to issue an Enforcement Order with conditions suggested by Coordinator, and R. Morse, seconded by R. Morse, unanimous vote to the affirmative.

WPA & Bylaw Request for Determination: 105 Boston Post Road, Town of Wayland applicant. Sarkis Sarkisian presented the Request to use the parking lot for school bus overflow for Wayland Public Schools. Current location is being sold for a 40B development at Septage Facility. Busses need new location. S. Sarkisian spoke to MADOT about using the lot. He mentioned that Herb Chambers Auto Dealership was also interested in purchasing the lot. After a series of conversations, MADOT has agreed to let Wayland use this lot for two years. MADOT wants to regionalize services areas, so this particular site would close. The Chair asked what work had to be done on the property to make it ready for use, and Sarkisian stated that they

wanted to do as little work as possible; mostly clean up and repair of the curbing. S. Sarkisian mentioned there were 21 busses that needed parking. They are not maintained on site. Only sweeping the busses at end of day. Coordinator stated that road on South side of driveway has debris that must be removed. This would allow for more room for bus parking. Placing an infiltration trench was discussed, but dismissed. Also on SW side of site there were some invasives near wetland. Bus parking would be on already disturbed area.

The Chair voiced concern that because of the proximity to a BVW, this proposal should be reviewed under a Notice of Intent (NOI). He felt if this were a private business, a NOI would be expected. The Coordinator stated that unless you see the site, it is difficult to explain the exact location of bus parking relative to BVW. She did not feel that it needed a Notice because the parking was only temporary. She noted MADOT vehicles are currently on site and some are leaking. The old vehicles would be removed, replaced with new vehicles. The chair reiterated his concerns about an RDA vs. NOI, which he felt was in order but was open to other comments and recommendations by the Commission.

The Coordinator stated this facility has been there for 60 years, and there are no current restrictions. She asserted this project would clean up the site, specifically debris, which was preferable. The violation on site by MADOT was for erosion control. A discussion was held about the impact on the site vis a vis wetland impacts no matter who would be on the site. S. Sarkisian assured the Commission he would not occupy the site until the Commission inspects the area. C. Russo asked if there was new surface area being paved, S. Sarkisian stated no. C. Russo questioned what was being asked of the Commission actually. S. Sarkisian stated he would put in writing that they do not intend on paving any additional area. R. Morse stated he was not as concerned about the request because he visited the site. His only concern is future use, and the impact this decision would have on a different applicant. Coordinator Dineen stated any future use would have to go through a process that included the Planning Board; a site plan would be required.

K. Rogers said there was so much trash currently on site that this particular applicant would be an improvement. She suggested some form of monitoring in order to make sure no spillage occurred. Discussion centered on RDA's with conditions vs. Notice of Intent due to change of use. Time is an issue however. There were no abutters present.

The Chair asked for a motion to issue a Negative Determination. The discussion was continued about conditions. S. Sarkisian asked if he provided a letter confirming an O&M plan, prior to beginning project, would that be acceptable. If so, he was willing to do that.

K. Rogers moved to issue a Negative Determination of Applicability with Conditions, amended by C. Russo to contain conditions including a spill kit, O&M plan, any hazards report to Commission. The Coordinator stated Board of Health had to be notified of any spills. Discussion on conditions continued, then seconded by R. Morse. The motion passed: four favor, one opposed (T. Friedlander).

WPA & Bylaw Request for Determination; 271 Boston Post Road: Applicant, Elizabeth Geisinger, presented the Request to use an empty lot as a doggie day care area. The landowner has given the applicant permission to have this area fenced for dogs. Access would be through an existing driveway. Dogs would go to run and play in area, for 45 minutes, 3 times per day. It has been determined to be outside of buffer zone. Coordinator Dineen stated a small part of fencing may just barely enter the buffer zone. Applicant also stated no change to surface. Coordinator Dineen said she had no problem. Approvals by the Board of Health and Zoning Board of Appeals is still needed. There were no abutters present.

On motion to issue a Negative Determination of Applicability by C. Russo, seconded by B. Porter 2nd, the Commission voted unanimously.

WPA & Bylaw Notice of Intent; 96 Plympton Road: Joanne Chadwick, Applicant. Bob Parente, representing applicant, presented the plan to add a deck and small addition to the existing porch. Resource area is a pond to the East of proposed work, plus perennial stream near driveway. Work is approximately 32.5 feet from the stream. Coordinator Dineen stated the work is on existing lawn. She stated there should be additional infiltration of runoff due to new impervious surface, and applicant agreed to install a drainage system for infiltration. Coordinator Dineen confirmed no vegetation or trees would be removed. There were no abutters present.

On motion made to close the hearing by B. Porter, seconded by K. Rogers, the Commission voted unanimously. On motion made by C. Russo to issue Order of Conditions, with understanding that no trees would be cut, seconded by K. Rogers, the Commission voted unanimously.

WPA & Bylaw Notice of Intent; 555 Dutton Road: Applicants, Sylvia and Shaun Nersessian. This application is to correct an after-the-fact violation for clearing trees within the Hop Brook riverfront area. The applicant was unaware of wetland bylaw pertaining to their property, so in order to remedy removal of trees a restoration and replanting plan was being submitted. Shrubs and bushes were being planted. Coordinator Dineen stated the holly bushes were satisfactory as they were native. She had no issue with the replanting plan. T. Friedlander asked the applicant how many trees were removed, to which she answered about 21. Total trees/bushes to be replanted were 31. The Coordinator questioned what would happen to the stumps, and applicant replied they wanted to grind the stumps. The Coordinator showed on the map the area of riverfront next to Stearns Mill Pond. C. Russo asked what species were cut, and the reply was all white pines. Several had large branches that had fallen during storms that were also removed. Coordinator said she would recommend the Commission place a time frame on this as well as no lawn expansion. The role trees played were to provide shade, so a specific time frame for replanting should be followed. Her suggestion was to have a phased planting plan. The applicant agreed to plant the first phase in the fall. These trees were hemlock about five feet according to the Arborist when questioned by C. Russo. R. Morse asked about how to better notify homeowners they are on the wetlands. Applicants suggested new homeowners be notified, to which Coordinator stated the office now issues Wetland Brochures to new homeowners. There were no abutters present.

On motion made by R. Morse to close the hearing, seconded by C. Russo, the Commission voted unanimously. On motion to issue an Order of Conditions made by R. Morse, seconded by B. Porter, the Commission voted unanimously.

WPA & Bylaw Request for Determination; 590 Hudson Road: Matthew Mase, applicant, presented the Request for equipment storage and fencing. Wants to remove existing fence and replace with new fence. Abutter, Sandra Peck, was present.

A plot plan was developed in 2012 showing easement to place fence in particular location. Applicant stated fence was 112 feet long. This was to block neighbor's vision and work as a noise buffer. The applicant requested to clear 5-6 feet wide area of vegetation to install the fence. Fence stops 20 feet from wetlands. Coordinator discussed her site visit. Wire she saw was the abutters. Her issues were how the fence would be installed. Applicant stated they would use post hole diggers by hand. There would be 15 posts. The Coordinator mentioned very large trees being in the way of fence posts. Root interference is an issue in keeping line straight. Lots of invasive in area, and there was quite a bit of debris on the site. Applicant stated they would do the best they could to avoid roots.

T. Friedlander stated an RDA does not impact environment, tree damage is potentially an issue. There was a discussion about siting of fence, and where the wetland actually was. The original plan was to install fence to keep equipment out of wetland.

T. Friedlander stated he was inclined to suggest a Positive Determination. C. Russo stated if fence goes in, no trees cut, but if roots were encountered, they would come back to Commission. The fence could follow existing fence line. If this was the case, he was disposed to recommend a Negative Determination. C. Russo mentioned clearing should be minimal. The applicant stated he would use Round Up on invasives but Commission reminded him that due to the proximity to wetlands, no herbicides are allowed. A 2-foot swath was allowed to be cleared for fencing. R. Morse then made a motion to issue a Negative Determination with the condition that if they encounter tree roots the applicant would come back to the Commission. Seconded by C. Russo. Vote carried 4-1 with T. Friedlander voting in the negative.

WPA & Bylaw Request for Determination; 11 Crestview Drive: Applicant, Keith Dennis, was not present for this Request to remove four trees close to a vernal pool. Coordinator Dineen said one tree was in need of removal, several were outside of jurisdiction. Applicant also wanted to clear large branches from driveway and over a swing set. Coordinator is in favor of continuing hearing to gain more information. R. Morse stated in his conversation the applicant stated he would not do any improvements to lawn and/or deck that had been removed. Applicant should be asked about scope of work, as Commission felt they did not have enough information to make any determination. Coordinator stated the applicant would be willing to replant bushes. C. Russo did not see any reason not to issue a Negative Determination. He felt there was sufficient information to make a determination. T. Friedlander disagreed. He felt there was enough question to continue or issue a Positive Determination. B. Porter moved to continue hearing,

seconded C. Russo. The Commission voted unanimously to continue the meeting to June 3, 2019 for the applicant to be in attendance.

Request for Order of Conditions Revision, 16 August Road: William Curley, Applicant, was not present. Took existing house, rebuilt it with a Stormwater detention basin in front of house. When Mr. Curley went to dig infiltration pits, he hit water, so in working with Town Engineer they found a new location to put a swale in order that water would not go out to the street. Coordinator stated plan was the only real option. Infiltration into swale was the best option, but there was some confusion about the actual plan and where the new flow would go.

On motion by T. Friedlander to continue for Mr. Curley to attend, seconded by C. Russo, the Commission voted unanimously in favor of continuing this matter to June 3, 2019.

Exemption Request – Bruce Freeman Rail Trail Soil Boring, Present Beth Suedmeyer, Town of Sudbury Environmental Planner. Beth updated the Commission on progress since the February 11th meeting. Information was shared from that meeting with Town Counsel and Jacobs Engineering, who are the awardees of contract for soil borings. At the previous meeting, it had been agreed that the project was subject to the exemption under the WPA, as impacts are negligible. A list of conditions from that meeting was shared with Town Counsel, Jacobs Engineering and MADOT. A work plan was drafted and a contract drafted by Jacobs. After contract initiated and prior to implementation, the conditions from SCC were reviewed for feasibility and conditions could be met, the result was sent to SCC for review, as well as Town Counsel. Contract was awarded so that work could start. If there are revisions, the work plan can be revised. Chair asked if the SCC had some revisions, did the contractor have to agree. The Coordinator stated that at the February 11, 2019 meeting the SCC determined that they would agree to the exemption as long as the concerns drafted were incorporated in to the contract. She then highlighted the conditions, discussed at meetings. In the Coordinators review of contract, there were missing items from the list. The Commission discussed the missing stated issues and decided that the work could commence in July/August timeframe, without impact to species in vernal pool. The Commission was positive about the current contract and did not want to delay the boring project, if a new location was determined for a boring; it had to avoid resource areas. The Pre-construction meeting would address other conditions, such as staging and containment, sanitary facilities, dewatering and fill. The incoming Coordinator would receive daily reports when the boring begins. B. Suedmeyer continued to update the Commission on the project relative to the list from the SCC, which was discussed in detail. The Commission appeared to be positive in general to the Work Plan as outlined by B. Suedmeyer, with suggestions by the Coordinator. The Commission agreed the Chair would review the final work plan.

R. Morse moved to permit work to proceed under the Exemption provision. Seconded by B. Porter, subject to Chair approval of revised work plan per discussion. Vote was unanimous to approve.

Land Stewardship- Review of Proposal for Invasive species removal and meadow creation at King Phillip Woods and Meadow Restoration contract at Davis Farm. Coordinator stated she had

received proposal from DeRosa and SWCA for Davis. She stated DeRosa does not do monitoring; rather they use volunteers as monitors. Professional monitoring should be done, The Chair opened up discussion for King Phillip Woods. King Philip SWCA proposal for project was close to \$80,000. This includes clearing. DeRosa proposed to do similar project for \$38,000. They train volunteers during the implementation which SWCA does not. Currently the Commission does not have the money in the budget per the Coordinator. To fund this work, the suggestions were to apply to the Community Preservation Fund. Come July, there would be another \$10,000 in budget for trail maintenance.

The Commission discussed both proposals in depth with various suggestions for grant applications by C. Russo. The recommendation was to hold off on awarding either party the bid due to no funding at the time. The Coordinator suggested they evaluate how SWCA does up at Davis, then revisit this project once monies are available.

Certificates of Compliance- Coordinator Dineen stated that these all were past projects done by the Town that she recommends the Commission issue Certificates of Compliance for.

301-48 North Road - On motion by K. Rogers and seconded by C. Russo, the Commission voted unanimously to issue a Certificate of Compliance.

301-456 Dutton Road and - On motion by C. Russo and seconded by K. Rogers, the Commission voted unanimously to issue a Certificate of Compliance.

301-150 North Road - On motion by C. Russo and seconded by K. Rogers, the Commission voted unanimously to issue a Certificate of Compliance

Draft Contract – DWF Burke, for Eagle/Osprey nesting project, as gifted by Coolidge for \$30,000. There would be two properties: one by the Lettery Property off Landham Road and the other at Newfell Property by Frost Lane. The Chair questioned the cost, and the Coordinator stated the cost is for supplies, transport and set up. On motion by B. Porter, seconded by K. Rogers, the vote was unanimous to award contract to D. Burke.

Violations:

31 Beckwith: Coordinator Dineen stated the landowner, Robert Boermeester, had submitted an NOI but needed some work. There was a concerted effort to respond to the violation. Her suggestion to stop issuing tickets was unanimously approved by a motion from C. Russo, seconded by R. Morse.

29 Hudson – Septic work was not permitted, it was a replacement. Coordinator Dineen met with Board of Health Director and applicant. They will file an NOI. On motion by C. Russo, seconded by R. Morse to ratify an Enforcement Order for unpermitted work, the Commission voted unanimously.

While K. Rogers and Coordinator were out at 29 Hudson, they discovered a new violation at 29 Hudson by C. J.'s Pizza. There was an oil drum leaking oil w/in 100 ft. of resource area, as well

as trash. Therefore, in addition to septic, this violation is separate from the new restaurant. K. Rogers asked that with a Notice of Violation letter asking for NOI, there be a requirement to have an O&M plan and monitoring program. On motion made by C. Russo and seconded by R. Morse, the Commission voted unanimously to ratify the Notice of Violation.

196 North Rd. – Coordinator Dineen stated she had gotten a response from homeowner, Mr. Brennan. The violation is that materials have moved too far into the wetland area. The Chair and Coordinator will conduct a site visit.

48 Lancaster – Coordinator Dineen stated that trees have been removed by intermittent stream; homeowners have been notified.

340 Maynard Rd. – Coordinator Dineen stated that a fence has been installed and there is mowing in resource area; the homeowner's have been notified to file Notice of Intent.

293 Concord Rd. - K. Rogers stated that while at 29 Hudson Road a pallet boardwalk over the wetland was found, which led to the property. There had been several trees removed by wetland and wood was stored in wetland. Alteration of about 10,000 sf of BVW. A letter was sent and the Coordinator spoke to homeowner. He stated he would file a Notice of Intent. A vote must be taken to ratify violation. She further stated for each violation, the owner was notified that it was on the agenda, none showed to meeting. On motion by C. Russo, seconded by R. Morse, the violations were ratified. Vote was unanimous.

44 Belcher – This project was a deck replacement, but the homeowner discovered the sono tubes for the deck would be on septic. They proceeded to move the deck closer to the wetland. The work stopped but holes dug filled up with water after significant rain. Because this was a safety issue, an Emergency Certification was issued to allow footings to be installed and backfilled. Now they are in the process of filing a Notice of Intent. A vote had to be taken to ratify the Emergency Certificate, so moved by B. Porter, seconded by K. Rogers, unanimous to ratify.

328 Hudson Rd. - Removing brush in resource area, (Dudley Brook), all vegetation was cleared to the Brook. Needs a permit, have not heard from homeowners at this point. On motion by B. Porter, seconded by C. Russo, the Commission voted unanimously to ratify the Enforcement Order.

Commissioner and Staff Updates:

Spring Walks – Did not make L/S brochure, but will revisit in the Spring.
Chair, discussed D. Dineen final party. Final meeting date on June 3.

Executive Session: Chair stated he needed a motion to end regular session to go into Executive Session not to return to regular session, for the purposes of discussing litigation and potential settlement for 0 Washington. Motion by C. Russo, seconded by B. Porter, via roll call vote, unanimous. Regular session adjourned at 9:37 pm.