



**SUDBURY CONSERVATION COMMISSION**  
**Minutes of the Meeting Held Nov. 16, 2009**

Present: John Sklenak, Chairman; Sam Webb; Parker Coddington; Richard Bell; Victor Sulkowski; Ethan Jessup; Debbie Dineen, Coordinator

**WPA & Bylaw Request for Determination of Applicability: 16 Forest St., Wade**

Present: Linda & Greg Wade

Ms. Wade presented a plan for an addition to a house built in 1971. The lot abuts a backwater area of Hop Brook and is not within a riverfront area. Currently the porch supports are giving way as there are not enough support columns. The house addition plans to extend to edge of deck approx 3.5 feet and make it wider take part of laundry room for an expansion. No foundation is proposed other than additional sonna tubes. No tree removal will occur but some potential branch trimming might be necessary. The house has no rear lawn presently and no lawn new will be established.

On a motion by J. Sklenak; 2<sup>nd</sup> by S. Webb, the Commission voted unanimously in favor of a negative Determination of Applicability

**WPA & Bylaw Request for Determination of Applicability: 50 Hopestill Brown Rd., Morgan**

Present: Jim Morgan, property owner; Jody Schwartz and Barry Reopell of Encore Construction

Ms. Schwartz presented a plan showing a 5' deep x 15' wide addition for small deck connecting two areas in the rear of the house. All work is on existing lawn. The wetland area is contained within a perpetuity conservation restriction and no work with occur within the restricted area.

**Wetlands Bylaw Notice of Intent: Lot 56 Bigelow Dr.:Brentwood Constr., Wm. Senecal;**

Present: Matthew Watsky, attorney for applicant; Scott Goddard, wetland scientist; Wm Senecal

Chairman Sklenak noted that a stenographer was present on behalf of the applicant. He asked Atty. Watsky if the Commission could receive a full copy of the transcribed proceedings. Mr. Watsky agreed.

Mr. Watsky presented background on the applicant's process to date to secure permits for new house construction on this lot. In 2004 the Conservation Commission issued a Wetland Bylaw denial for work within 100' of vernal pools. The 2004 WPA filing was approved with changes under a DEP SOC.

The applicant has now redesigned the lot and relocated all work outside of 100' of the two vernal pools on the lot. There is only grading work and part of the driveway proposed within 100' of the vernal pool located across Bigelow Drive.

The filing before the Commission tonight is a filing only under SWAB which demonstrates wildlife habitat is no longer a concern. The NHESP agrees that vernal pool habitat will not be significantly altered by the new plan. An NRAD dated 9/07 is valid confirming vernal pools, bordering vegetated wetland, and intermittent streams.

Mr. Goddard presented the revised plan showing a 4 bedroom house, driveway, septic system, lawn, foundation drain, and retaining wall along the back side of the leachfield. He noted that there are 2 vernal pools to north and one to the south across the street. The haybales show the proposed limit of work line.

The DEP SOC changes to the plan included a modification to the CR line and a modified limit of erosion control for the material stockpile as the stockpile area was cut in  $\frac{1}{2}$ . The distance from the front retaining wall was increased from 1' to 7'. The wetland crossing was reduced to 220 sq ft. Under the SOC DEP had agreed to the replication alternative of enhancement within the vernal pools by sediment removal of approximately 900 sq ft of silt caused by lack of maintenance to the town drainage structure. The previous plan denied in 2004 showed 25,000 sq. ft. of alteration. Alteration has now been reduced to just under 17,000 sq. ft.

The entire site is under Wetlands Bylaw jurisdiction. A recent change to the bylaw regulations states that the important habitat features on the site should be identified and assessed using the DEP habitat guidance. Mr. Goddard noted that the DEP guidance pertains only to wetland habitat. No important habitat features were noted within the area to be disturbed for proposed lot development. Only 19% of the site is to be altered and these areas are the least significant for wildlife habitat due to past alteration; compacted soils, sparse vegetation, etc. related to soil testing activities. He noted there are habitat values for migration but no significant adverse effect will result due to preservation of natural buffers, including the vernal pool 100' buffer to the northerly pools. The plan minimizes further disturbance and provides for permanent protection of undisturbed areas. 74% of the site is in a CR with the addition of more undisturbed area to the existing CR shown on the new plan.

Dry wells will infiltrate roof runoff. Mr. Goddard stated that it is not reasonable to further minimize impacts when the altered area does not contain significant habitat features. The plan meets all SWAB standards as shown. This plan, dated 5/21/09, would have to go back to DEP for approval under SOC.

Mr. Goddard further noted that on a site visit today (attended by D. Dineen, S. Webb, S. Goddard, and W. Senecal) the issue of further minimizing lawn was raised. The lawn is 65' from the wetland on the east side of the house on the proposed plan.

An asphalt driveway will crown to sheet flow runoff to a vegetative edge stabilized with a native seed mix. Chairman Sklenak questioned if native grasses could be used for the lawn area. He also suggested permeable pavers for the drive. He did not feel that best reasonable efforts have been made due to the ability to further reduce the lawn area and better infiltrate stormwater runoff.

The Coordinator, D. Dineen, was asked to comment and provide her recommendations. She stated she was not concerned about the alteration within 100' of the vernal pool located across Bigelow Drive. Where the 100' upland resource area is

fragmented by a 24' wide paved subdivision roadway the area beyond the roadway is little value for obligate vernal pool habitat.

She further noted that this project was denied under the Wetland Bylaw in 2004. The only major change in the project from then to now is to remove disturbance from within 100' of 2 of the 3 vernal pools on site. Much of the previous denial was based on loss of habitat within 100' of the vernal pools. However, there is still a loss of a total of 15,690 sq.' (over ¼ acre) of upland habitat on the 2-acre site. Although this loss does not occur within 100' (the adjacent upland resource area) of the vernal pools, it does occur within 100' of bordering vegetated wetland (bvww). Under the bylaw, BVWW is important for wildlife habitat values and functions. Impacts to wildlife habitat includes "a measurable decrease in biological composition, structure, or richness of the site.....". There will be a loss of these site features with the current plan.

She explained that the other issue under the Wetland Bylaw is the "cumulative impact" aspect. Significant wetland alteration has already occurred within the subdivision with two road and one driveway crossings of wetlands and many homes located in very close proximity to the edge of bvww. Most of these were permitted in the 1980's and several in the early 1990's. Most were reviewed and permitted under pre-Bylaw regulations.

The 2004 denial was based heavily on the alteration within 100' of vernal pools and loss of directly adjacent habitat for obligate vernal pool species. This argument is addressed in the new plan, however there is still a significant (over ¼ acre) loss of jurisdictional upland habitat containing habitat features, however these features do not represent "significant" habitat due to the location of the disturbance *mostly* within previously disturbed areas.

D. Dineen noted that most troubling about the new plan is that excessive lawn is proposed within 6' – 7' of the edge of bvww on the southeast side of the proposed house. She did not believe the project has been designed to minimize disturbance to the extent feasible. The area proposed as lawn over the septic leach field reserve area could be restored to mimic a naturally vegetated area which would contribute to the upland habitat for vernal pool obligate species. Leaf litter, downed logs, small shrubs, rock and boulder relocation, could be accomplished to restore or enhance needed habitat features or mitigate the loss of habitat. Further, lawns will increase runoff peak flows and cannot be policed to be sure pollution is prevented if inappropriate lawn care and maintenance is performed.

Although there are grounds for denial, it is not as clear cut as the previous denial in 2004 with now no work in the vernal pool upland. This is the remaining lot of a 40+ lot subdivision which contains significant habitat features that were destroyed on the other developed lots. Loss of these habitat features will decrease the biological structure, composition, and richness but it is not clear if the on-site wildlife population will be decreased.

She also informed the Commission that cumulative impacts have not been addressed. Cumulative impact means that other houses where lawns might want to be extended to within 6' of the wetland would have to be approved unless the Commission can demonstrate that the mitigation provides better overall habitat quality post-construction. She felt in case that could be done with condition.

If the Commission approves the plan, she would strongly recommended the following conditions:

1. Lawn be limited on the east side of the lot to above the finished 208' contour;
2. A CR is placed beyond the lawn area as amended (a DR over the reserve area if preferred by EEA)
3. It would be nice to get denitrification as part of the septic, however the septic is over 100'. Mr. Goddard stated that denitrification IS provided and is noted on the plan.
4. The driveway be constructed of permeable pavers
5. A Stormwater Management Permit is will be required.

The applicant felt that he needed to lawn area over the reserve leach field for marketability purposes. D. Dineen pointed out the Commission consistently requires lawn areas to be minimized to the extent feasible in all permits where the wetland and upland resource area is sensitive to development impacts. She noted Lot 7 Kato Drive was recently permitted without any rear lawn. Only permeable hardscape was permitted in a small area between the house and the intermittent stream. Lot 56 Bigelow will have approximately 25' of lawn between the rear of the house and the wetland *after* eliminating lawn over the reserve area.

P. Coddington expressed concern that the house is located on an "island" with heavy use and bright light likely to occur at night. He felt that the on-going residential use would take away from the value of the CR, thereby eliminating the required mitigation benefits of the CR. J. Sklenak that other OOCs have included lighting restrictions through the use motion sensors and timers. Illuminating the driveway and entries is fine for a brief period of time, but no lighting should be directed to or light up the CR areas and wetlands. He felt this requirement is very reasonable to maintain value in the CR and jurisdictional areas.

Following a brief recess, M. Watsky stated that his client would be more comfortable "splitting the difference" and eliminating lawn below elevation 207. With lawn to the 208' elevation there is approximately 6' between the house and the edge of lawn. If lawn is permitted to the approximate 207' elevation the distance from lawn to house increases to 24' and at the 206' elevation there will be 32' of lawn.

The Coordinator reminded everyone that there is still 25' of lawn in the rear of the house. She suggested increasing the distance slightly where the 208' contour meets the stone wall to provide a bit more room around the side of the house, however she would not recommend moving the entire lawn to the approximate 207' elevation.

R. Bell moved to close the hearing. J. Sklenak 2<sup>nd</sup> ; unanimous in favor. The OOC will be discussed and voted at the 11/30/09 meeting. The Coordinator will distribute a draft OOC to all parties prior to the 11/30 meeting.

### **Notice of Resource Area Delineation (cont.): 189 Landham Rd.; Robert Moss**

Present: Scott Morrison; Dave Burke; Robert Moss

Mr. Burke updated the status of the wetland peer review. One bordering vegetated wetland flag was relocated. The bvw delineation is effectively complete. An on-site review of the vernal pool boundaries will be scheduled for next week. Mr. Morrison has submitted Bankfull information and details on the drainage calculation to the Commission.

J. Sklenak noted that the site appears to have a high water wetland and significant wetlands throughout. Mr. Moss agreed and added that any development would be done with a sewage treatment plant or grouped septic systems out front along the street.

Abuttoner Joan Karol, Stagecoach Dr., questioned what the treatment plant would consist of visually. Mr. Moss stated that there would be a small building constructed with access to it.

Abuttoner Colleen Labibe questioned how much buildable area is on site. The Commission opined that there did not appear to be a significant amount of upland area available for development.

### **Order of Conditions Follow-up: Villages at Old County Road.**

Present: Ben Stevens

The Commission reviewed the revised plan dated 11/11/09 indicating the new wetland line adjacent to Building D. Soil testing showed the wetland line has advanced toward Building D, however the area of a recent fill violation was not located within the new wetland line. Mr. Stevens agreed to remove the back corner of fill area as shown on the new plan and place a boulder barrier at the new edge of lawn.

All other conditions in the OOC apply.

On a motion by S. Webb; 2<sup>nd</sup> R. Bell, the Commission voted unanimously in favor of accepting the revised plan dated 11/11/09.

### **ATM 2010 Warrant Article**

R. Bell moved to sign and submit the Warrant Article for FY2010 appropriation from the Wetland Revolving Fund. S. Webb 2<sup>nd</sup>; unanimous in favor

### **Miscellaneous:**

#### **Bittersweet Removal program at King Philip**

The Coordinator informed the Commission of the Sudbury Weed Education and Eradication Team's (SWEET) request to remove oriental bittersweet at the King Philip Conservation Land. The Commission approved the work subject to an on-site meeting on site with Sweet member(s) to confirm plant species and areas for removal. With an approved RDA, chemical treatment of the bittersweet will be approved.

#### **Girl Scout request for Community Garden plot**

The Commission unanimously voted to waive the fee for Grace VanValey for one plot for the 2010 growing season at the Community Garden. Ms. VanValey is a 9<sup>th</sup> grade Girl Scout who, with several troop members, will be growing food for the Sudbury Community Pantry next year on the plot.

The meeting adjourned at approximately 9:05pm.

