

**SUDBURY CONSERVATION COMMISSION**  
**Minutes of the Meeting Held February 8, 2010**

Present: John Sklenak, Chairman; Victor Sulkowski, Vice-Chairman; Ethan Jessup; Sam Webb; Richard Bell; Parker Coddington; Debbie Dineen, Coordinator; Victoria Parsons, Technical Assistant

**WPA & Bylaw Request for Determination of Applicability: 73 Goodman's Hill Rd.**

Present: Alyssa Stango

Ms. Stango presented plans for a 12' x 40' addition to her house. All work will be on existing lawn area with the addition only 12' beyond the existing house.

The Coordinator reported that the yard has a slight slope but no excavation will be done as the addition is on sonna tubes. No erosion control should be necessary. She recommended a negative Determination.

On a motion by R. Bell; 2<sup>nd</sup> J. Sklenak; unanimous in favor of negative Determination.

**WPA & Bylaw Notice of Intent: Maple Meadows; Maple Ave.**

Present: Robert Roth; Robert McGinty; Dave Burke

This Order of Conditions is in addition to DEP File #301-838 for the development of the Maple Meadows Senior Residential Community.

The property consists of 28.76 acres of which all of it has experienced disturbance at different times in the past due to farming operations, and more recently, the installation of site infrastructure and several of the condominium units as permitted under Order of Conditions #301-838. This previous Order was extended several times and eventually was allowed by the applicant to expire. Due to economic reasons site work was halted before final grading was complete. The temporary grading and topsoil stockpiling resulted in collection of drainage and the growth of obligate and facultative wetland plant species in the temporary low areas, forming new jurisdictional wetland resources. These new resource areas are shown on the plan referenced in this Order.

Current resource areas of the site, under both the state and local wetlands laws, consist of:

- riverfront area;
- land under water body;
- bank;
- adjacent upland resource area (bylaw only)
- isolated vegetated wetland (bylaw only)
- bordering vegetated wetland; and
- bordering land subject to flooding.

The applicant has revised the siting of the remaining units to maximize distance between the units and the new resource areas. With infrastructure already in place, including all drainage, septic, utilities, etc., options for revised layout of the buildings were limited. The Conservation Commission's approach to permitting the remaining work involved both wetland replication and enhancement to transitional zones located between the former

and current wetland boundaries. The final plan results in an overall increase in wetland resource area in excess of 1,500 sq.ft. above the current wetland resources.

Mr. Burke presented a plan and status of the recommencement of construction after the expired Order of Conditions. Work was proceeding as permitted under an Enforcement Order issued in November 2009. The wetlands on site have migrated 100'+- north of the wetland delineation done in 2004. Prior to the expiration of the previous Order of Conditions the site infrastructure was installed before construction halted for several years due to the economy. The Order has expired.

Wetlands have formed in the low area on the west side of the site where topsoil was removed and stockpiled. Approximately 2,999 sq. ft' of bordering vegetated wetland of which 500 sq. ft. is isolated vegetated wetland (jurisdictional under the local wetlands bylaw only) hat have formed. A total of 5,200 sq. ft' of compensating wetland will be permanently established. Some of this wetland will result from the removal of large soil stockpiles in the rear of the site to 6" below grade. Monitoring and removal of invasive plants will occur. Russian olive and buckthorn will be kept out by mowing every two years or as needed to prevent woody growth from establishing.

The Coordinator noted that the newly formed wetland areas do not show evidence of hydric soils, however they contain several obligate wetland plant species, wool grass and cattails. They appear to have formed as a result of the temporary grading and channeling of runoff to the low areas and compaction of soils. Once the final grades are complete and the site is stabilized, these new wetlands, if left in their current state, are likely to disappear with no surface runoff to support the obligate wetland plants.

J. Sklenak moved to close the hearing. R. Bell 2<sup>nd</sup>; unanimous in favor

On a motion by J. Sklenak; 2<sup>nd</sup> by S. Webb; the Commission voted unanimously to issue the standard Order with the following Special Conditions:

1. Rescind the Enforcement Order on proof of recording of the this new Order;
2. The meadow areas, including the wet meadow, shall be mowed after 7/15 when conditions are optimal (the existing conservation restriction allows for the mowing);
3. An environmental monitor shall be employed during construction to provide a minimum of three written reports annually to the Commission to report on the status of the wetland replication and site construction status.

**WPA & Bylaw Notice of Resource Area Delineation: 189 Boston Post Rd.**

Filing was withdrawn

**WPA & Bylaw Request for Determination of Applicability: 80 Jarman Rd.**

Present: Chris Blanchette

Mr. Blanchette presented a plan for tree removal and deck construction at 80 Jarman Rd. The 12' x 16' deck will be built over an existing block patio. The patio allows for infiltration of runoff between the blocks. He would like to remove 2 large white pine trees which are leaning toward the house. An arborist was to fax a report on these trees to the Commission. The Coordinator reported that no report was received.

Mr. Blanchette agreed to continue the meeting to Feb. 22, 2010 to allow the arborists report to be considered.

### **WPA & Bylaw Notice of Intent (cont.): Nashawtuc Country Club**

Present: Will Stephenson and Joy Liptak of, Lycott Engineering; Rick Schultz; Brian McCluskey; and others from Nashawtuc; Mike Toohill of ENSR

Chairman Sklenak opened the hearing on the proposal for herbicide application to two of the golf course ponds. He added that NCC promised last year that they would be developing an overall management plan for the golf course and the new plan would address alternative means to the sole use of chemicals as a way to control invasive aquatic plants.

Mr. Schultz noted that the management plan was to include pumping stations to control and aerate runoff, however the NCC board did not vote to fund the management plan in this economy.

Mr. Stevenson presented the plan to treat ponds 6 & 17 for filamentous algae with copper and crispis with diquat. Two treatments were done last year under the one-year Order of Conditions. Ms. Liptak added that best management practices were strictly following for these applications.

P. Coddington noted that the best management practices should include reduction of nutrients at the source. He questioned if berming the ponds might help with the control of added nutrients. V. Sulkowski questioned if aeration and dredging were considered. Mr. Schultz responded that there is a cost consideration to aeration and dredging is part of the master plan. Mr. Stevenson noted that sediment removal might not result in the reduction in plant growth.

The Chairman asked to Coordinator, D. Dineen, to give her report and recommendations.

D. Dineen reviewed the regulations under which the Notice of Intent had been filed. The NOI was filed as a limited project under the Wetlands Protection Act (WPA) for wetland enhancement. There is no limited project status under the local wetlands bylaw. She noted that even if the DEP performance standards are met for the project it does not mean that there is no adverse impact to the wetland values and functions. The burden is on the applicant to demonstrate “no adverse impact”. The local bylaw places greater emphasis on wildlife and wildlife habitat.

The WPA gives the Commission discretion to permit limited wetland enhancement projects only in cases where the natural capacity of the resource area is improved. Even though the literature on the herbicides state that they bind to the organic matter, this does not eliminate the possibility of exposure and uptake of these chemicals. NCC is not proposing to remove the dead plant organic matter after chemical treatment. This will result in a promotion of more algal blooms and build up of any chemical residue in the sediment.

The NOI contained only a very general discussion of mechanical removal techniques. When were they tried? How many attempts? Timing? Results over time? She noted the project by the Hop Brook Protection Association to manually remove invasive aquatics from Carding Mill Pond is beginning to show positive results after a number of years.

It is clear that invasive aquatic plants can degrade a habitat, however to what degree are other habitat functions lost when there is no replacement with native, non-invasive plants for temperature regulation, cover from predators, etc. No information

was provided in the NOI to address these lost functions. She questioned what native plants might exist and what remain after treatment. There was no discussion of dredging and limited replanting to replace lost functions.

Dineen stated that the NOI did not contain documentation of any on-site, non-chemical alternatives. An aerated pond in Stratton VT was discussed in the NOI, showing that aeration was not totally effective. She questioned what the variables are or if the aeration system might have been undersized.

She also noted that the existence and viability of any constructed clay linings in the ponds are unknown. If the clay liners do not exist or are not providing a barrier, chemicals may find their way just downstream in the groundwater to the Sudbury River.

A major factor that is missing in the Lycott analysis is the reduction of nutrients at the source. She referred to the article she handed out about Fenway Park reducing the nutrients. A larger non-fertilized buffer; the use of organic low nitrogen fertilizers; along with combinations of varied other non-chemical treatments have not been attempted by NCC. The Commission has requested these alternatives be tried and the results documented for over 8 years.

In conclusion, Dineen stated that the herbicides proposed to be used are not harmless, especially to amphibians as noted in the three separate studies on record done in 2004. With no reduction in source nutrients, questionable connections to the groundwater, very limited and undocumented mechanical techniques, she did not feel that NCC has done what the Commission has been requesting to demonstrate that chemical control of the aquatic weeds is the only viable option. Therefore, her recommendation to the Commission is to deny the use of herbicide treatment as proposed and to permit on-site mechanical removal techniques with further information to be submitted to the Commission for approval. The information submitted in the NOI has not met the burden to prove the resource area will be enhanced. Loss of invasive vegetation is good but total loss of vegetation can be harmful. The goal is to achieve a balance of oxygen in the ponds. This has not been addressed.

Sudbury resident Mark Shocken stated that diquat and glyphosate are non-selective. He added that a larger, vegetated, non-fertilized buffer of at least 25' around the ponds will allow for greater hold back of runoff.

In response to Chairman Sklenak, Mr. Stevenson stated that they might also consider the use of alum which is used in water supplies.

R. Bell stated that he did not feel the Commission was in a position to second-guess the EPA on the safety of the herbicides. He added that some mechanical harvesting should be tried and the results documented. Mr. Schultz again stated that the master plan addresses the Commission's concerns, however there is no funding in this tough economic time to implement the plan.

J. Sklenak motioned to deny the use of herbicides but to allow other approaches to be tried. E. Jessup 2<sup>nd</sup>; J. Sklenak, V. Sulkowski, E. Jessup in favor; R. Bell, S. Webb, P. Coddington, apposed. Motion fails.

In further discussion D. Dineen asked what is the acceptable aesthetic level of algae and plant growth that NCC can tolerate in tough economic times. She noted that herbicide costs money and is only a very temporary solution that requires reapplication.

V. Parsons noted that dye and aeration has been effective in other ponds and asked what the timeframe is for master plan implementation.

Chairman Sklenak stated that the Commission has made many efforts to work with Nashawtuc over the years. T. Stevenson agreed and noted the Commission is asking for other vegetation removal processes to be tried before the use of chemicals.

All parties agreed to continue the hearing for four weeks to allow NCC to develop a plan where the use of chemicals is considered only after other methods have failed.

### **Minutes**

On a motion by R. Bell, 2<sup>nd</sup> by P. Coddington; the Commission voted unanimously in favor of accepting the Minutes of 12/14/2009.

### **WPA & Bylaw Certificates of Compliance**

1. SVT Memorial Forest Bridge

The Coordinator reported that the bridge has now been completed and is in accordance with the approved design and location. On a motion by J. Sklenak; 2<sup>nd</sup> R. Bell; the Commission voted unanimously in favor of issuing the COC with V.Sulkowski abstaining

2. 11 Kendra #301-915

The Coordinator reported that this Order has been superseded by the recently issued #301-1030. On a motion by J. Sklenak; 2<sup>nd</sup> V. Sulkowski; the Commission voted unanimously in favor of issuing the COC

3. 135 Peakham Rd.

The Coordinator reported that the additional plantings necessary to restore non-permitted lawn area to a natural area adjacent to the vernal pool have been successful. After the first year, additional ferns were planted in place of several shrubs. On a motion by J. Sklenak; 2<sup>nd</sup> R. Bell; the Commission voted unanimously in favor of issuing the COC with V.Sulkowski abstaining

4. 424 Concord Rd.

This filing was for the repair of a septic system. V.Parsons advised that the Board of Health Director has approved the installation. D. Dineen reported that the site has been stabilized in accordance with the plan. On a motion by R. Bell; 2<sup>nd</sup> ; P. Coddington; the Commission voted unanimously in favor of issuing the COC

The meeting was adjourned at approximately 9:20pm.