

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Held Monday, April 7, 2014

Present: Greg Topham, Chairman; Beth Armstrong, Vice-Chairman; Tom Friedlander; Rob Elkind; Charles Russo; Mark Sevier; Bruce Porter; Debbie Dineen, Coordinator

WPA & Bylaw Request for Determination of Applicability: 68 Dakin Rd.

Present: Ralph Sabatino, Pools by Andrews

Mr. Sabatino presented a plan for the construction of a swimming pool on existing lawn area with the deck of the pool planned 81' to the wetland. There is a 25' slope between the elevations of the lawn/pool to the wetland. The wetland is a vernal pool jurisdictional under the local wetland bylaw. A fence will be placed at the top of the slope. The pool uses a cartridge filter that does not need backwashing. All extra material will be trucked off-site. C. Russo confirmed that only a small section of existing lawn will extend beyond the proposed fence.

On a motion by R. Elkind; 2nd G. Topham; the Commission voted unanimously in favor of a negative Determination.

Certificates of Compliance: 54 Moore Rd. (2)

On a motion by G. Topham; 2nd T. Friedlander; the Commission voted unanimously in favor of issuing the COC for the septic system upgrade at 54 Moore Rd. The Coordinator had reported that the Board of Health had approved the work and the site was fully stabilized.

On a motion by G. Topham; 2nd T. Friedlander; the Commission voted unanimously in favor of issuing the COC for the house addition, subject to the recording of an acceptable Conservation Restriction as required in the Order. The CR covers parcel B and an area immediately adjacent to the pond bank and stream.

WPA & Bylaw Request for Determination of Applicability: 90 Longfellow Rd.

Present: Marcel Maillet

Mr. Maillet presented a plan for a house/garage addition and expanded driveway to be constructed on existing driveway, lawn, or landscaped areas. Driveway runoff from new impervious areas will be channeled to a crushed stone trench.

D. Dineen noted that the wetlands consist of bordering vegetated wetland and a stream located in the wooded portion of the property to the east of the lawn area, approximately 60' from the closest point of proposed construction.

On a motion by R. Elkind; 2nd G. Topham; the Commission voted unanimously in favor of a negative Determination.

Proposed Police Station Potential Alternative Construction Access

Present: Mike Melnick, Permanent Building Committee

The Commission reviewed a sketch plan showing construction access for the proposed Police Station from Colonial Road. The steep grades off the end of Colonial Road will require grading within 100' of wetland. The coordinator noted that there is currently a severe erosion problem off Colonial Road. Constructing a secondary emergency access that could be used

during construction and then be gated for emergency use only would stabilize the area and protect the wetland. Commissioners agreed and stated that they would entertain a revision to the Police Station plans to incorporate the secondary access.

Vote: Executive Session - Johnson Farm Adjudicatory Proceedings: Review and Vote Settlement Agreement

Chairman Topham stated that the action before the Commission was to vote whether or not to go into Executive Session for the purpose of discussing on-going litigation. He felt that although the discussion involved litigation, the topics to be discussed:

- DEP's Final Superseding Order of Conditions review;
 - Review and Vote on the Settlement Agreement; and,
 - Review and Vote of the Side Agreement with the developer;
- could be discussed in open session without jeopardizing litigation and any negotiation position at this point.

He added that only the 3 above items are scheduled on the agenda to be discussed and there will be no discussion any abutter correspondence received today. In addition, Town Counsel had opined that the commission should not be entering into discussion with the abutters or their attorney (parties to the appeal) without the SCC having counsel present.

Blenda Jeffrey, abutter, refused to wait for recognition by the Chair to speak. The Chairman stated that he will take short public comment at the conclusion of the Commission's discussions and votes. Ms. Jeffrey was out of order with her comments that continued even after the Chairman called for Order. Chairman Topham stated that he expected an open, cordial, and polite discussion from the SCC and the public.

Len Simon, 40 Meadowbrook Road, speaking as a member of the public and not as a Selectmen, stated that the Johnson Farm development was a high profile project with a high degree of concern. He felt the Commission should not discuss the project tonight, it should re-post the discussion as a public discussion for another meeting, and allow open and transparent public discussion.

The Commission had deadlines to respond to the request for comments from DEP Office of Dispute Resolution as part of the adjudicatory proceedings. Comments had to be developed at tonight's meeting to meet these deadlines.

G. Topham moved to enter into Executive Session for the purpose of discussing the DEP final Superseding Order; the Settlement Agreement; and the Agreement between the Town and the developer. T. Friedlander 2nd. Vice-Chairman Beth Armstrong suggested the Commission remain in open session as any negotiating position would not be compromised by doing so. She added that the open session should be strictly limited to discussion the three items on the agenda. Chairman Topham's motion failed unanimously.

C. Russo stated that he felt there were public questions as to where the Johnson Farm development was in the appeal process. It is in adjudication with DEP where the two major parties are the developer and the abutters. DEP has drafted a Superseding Order (SOC) permitting the project as revised to move forward. The SCC may comment on this SOC to the extent that that the new plan impacts wetlands. B. Armstrong stated that at this point in the process the Commission cannot and will not go back and reopen discussion on what transpired in over one year of public hearings. M. Sevier questioned if there was a downside to a short delay in the SCC commenting to DEP. G. Topham stated that they risk having no comments on record without a formal comment extension period from the adjudicatory hearing officer. B. Armstrong

added that the SCC does not control the process and a delay was not a productive use of anyone's time at this point in the process. C. Russo noted that if a comment extension is not granted, the town stands to lose the side agreement with the developer. This side agreement requires over 60% of the property to be placed within a perpetuity conservation restriction. Focusing on wetland protection, particularly protection of upland habitat around the known productive vernal pools, losing the conservation restriction is one of the worst outcomes. B. Armstrong added that the public has to have more faith in town boards and know that they are doing the responsible jobs they were sworn to do.

Chairman Topham stated that there has been 45 minutes of discussion without getting to the three items on the agenda. Len Simon stated that he wanted the discussion tabled until a full public discussion with Town Counsel present could occur.

Chairman Topham recognized Colleen LaBibe, an abutter. She noted that DEP had denied the project. She stated that the project was not a limited project, and that the Wastewater Treatment plant will not work.

G. Topham stated that the Commission has tough decisions to make but they must be made with integrity and under the oath of which each Commissioner took office.

On a motion by T. Friedlander; 2nd R. Elkind; the Commission voted unanimously in favor approving the side agreement with Madison Place, LLC.

On a motion by B. Armstrong; 2nd T. Friedlander; the Commission voted unanimously in favor approving the DEP Settlement Agreement. M. Sevier abstaining.

Parker Coddington

Chairman Topham wished to say a few words about Commissioner Parker Coddington, who recently passed away. He stated that Parker's wisdom, knowledge of the Town, level of integrity, stories, calmness, and differing opinions will be sadly missed by the Commission and town residents. Commissioners agreed to name the pond at King Philip Woods "Coddington Pond" and raise funds for a memorial bench at the water's edge so all could enjoy and see the beauty in nature that Parker saw.