

Sudbury Conservation Commission
Minutes of the Meeting Held April 28, 2014

Present: Greg Topham, Chairman; Beth Armstrong, Vice-Chairman; Tom Friedlander; Rob Elkind; Bruce Porter; Debbie Dineen, Coordinator *Charlie & Mark??*

Conservation Restriction: Tall Pines- The Preserve at Dudley Brook

The Commission reviewed the wording of the CR and found it to be acceptable. The Coordinator noted that the CR was to encompass and restate the original, undefined CR placed on the wetland areas of the site several decades ago. She recommended any vote be subject to legal language modifications necessary to merge these two CRs.

On a motion by B. Armstrong; 2nd T. Friedlander; the Commission voted unanimously in favor of accepting the CR for Tall Pines subject to any corrections necessary to merge this CR with an older CR on a portion of the site.

WPA & Bylaw Certificates of Compliance:

1. 164 Morse Rd.

The Coordinator reported that the project has been completed and the site has been stabilized. Work involved the backfilling and leveling of an area in the rear of the house within 100' of bordering vegetated wetland. She reported visited the site last week and that the area leveled was significantly reduced over what was approved and the new retaining wall is preventing any erosion down the slope into the wetland. The native shrubs planted between the base of the retaining wall and the wetlands were thriving.

On a motion by G. Topham; 2nd T. Friedlander; the Commission voted unanimously in favor of issuing the COC.

2. 379 Concord Rd.

The Coordinator reported that an earlier site inspection did not show spring growth on the restored slope. It is important that the slope is fully stabilized prior to the issuance of the COC. She suggested a vote in favor of issuing the COC subject to a site inspection later in the growing season.

On a motion by G. Topham; 2nd T. Friedlander; the Commission voted unanimously in favor of issuing the COC later in the growing season subject to a confirmation site inspection that the slope was fully revegetated and stable.

Discussion: Wetland Peer Review Policy

T. Friedlander informed the Commission that a number of other MA Conservation Commissions have a single wetland peer reviewer under contract for review of wetland filings. This person does not appear before the Commission representing applicants. He noted that Sudbury uses several different peer reviewers and that these peer reviewers also appear before the Commission representing applicants. He believes this could be a perceived conflict.

D. Dineen explained that there is a legal process in place where a town can designate someone as a “special municipal employee (SME)”. While under this designation, the person may enter into a contract with the town and may also represent private clients in front of town boards while not under contract with the town. An SME, or designated SME position, must be approved by the Board of Selectmen. Sudbury Selectmen have designated conservation wetland and stormwater peer reviewers as SMEs. This allows the town to have the most flexibility to choose the person they feel is best qualified for any particular situation. Wetlands specialists have various areas of expertise, hydric soils, wetland vegetation, stormwater, wildlife issues, riverfront issues, etc. Having flexibility to fit the situation, and look to contract with someone who is familiar with the local wetlands bylaw, has the advantage of getting the best person for the job.

T. Friedlander felt that the Commission did not always have to strive for perfection in who it chooses and must be aware of any conflicts, real or perceived. Commissioners did not feel that the current practice of hiring designated SMEs was flawed. B. Armstrong felt that it gave the Commission the best person for the task. Any conflict is only “perceived”; it is addressed by state law; Sudbury has followed the requirements to the letter of the law; peer reviewers do not have any issues with the SME designation; and the process has worked well to date.

WPA & Bylaw Request for Determination of Applicability: 19 Raynor Rd., Gittleman

No applicant present

The Coordinator presented a plan for the construction of a 6’ wide deck on three sonna tubes in the rear of the house. No equipment will be used in the rear of the house. A previous, expired Order had approved a house addition in this area that was never constructed. All work is on existing disturbed garden and walkway area. The property is elevated above Hop Brook/Stearn’s Mill Pond with a steep drop to the pond. The work area is level. The only excavation will be hand work for the sonna tubes. She recommended a negative Determination

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

WPA & Bylaw Request for Determination of Applicability: 20 Dakin Rd.

Present: Mrs. LI, homeowner

The Commission reviewed a plan for the construction of a deck on existing lawn in the rear of the house. The resource area is outer riparian area and the lot was in existence prior to August 1996. Alternative deck placement off the house will not remove the deck from the riverfront area. The deck will permit infiltration of water between the boards.

On a motion by B.Porter; 2nd T.Triedlander; the Commission voted unanimously in favor of a negative Determination.

WPA & Bylaw Notice of Intent: 8 Dawson Dr.

Present: Mr. & Mrs. Yelamed; Karon Skinner Catrone

Mr. Catrone presented a plan for the complete tear down and reconstruction of a larger house on a lot which contains riverfront area, bordering vegetated wetland, and upland resource area. Bank and land under water body are also associated with the wetland. The new house will be locate entirely

in the outer riparian area with only a small portion of the new driveway outside of wetland jurisdiction. There will be 3,867 sq. ft. of new impervious surface added to the site. No tree removal is planned. The current house is a 3-bedroom house and will remain a 3-bedroom house. A new 3-bedroom septic was installed last year. D. Dineen had questioned the calculations of proposed alteration that was presented as 7.7% in the NOI. She had not as yet received clarification of the percentage of overall and new disturbance. Information to ascertain this amount is missing from the chart in the NOI. She has had several email discussions with Ms. Catrone concerning this issue.

Mitigation is proposed in the form of burning bush and buckthorn removal with replanting of elderberries, red maple, witch hazel, and bayberry along with a 10' strip of native ground cover added on the existing lawn area. Infiltration of runoff from new impervious areas is proposed in the front of the house.

D. Dineen informed the Commission that the applicants had to obtain ZBA approval. They did not request a further reduced setback to the street in order to maximize the distance to the wetland. They only requested enough of a variance to add a front step entry. As part of the alternatives analysis and as required in the WPA regulations, the applicants should have documented attempts to increase the distance to the wetland as well. She added that the planting plan did not appear to restore and wetland values and functions. The placement of the new vegetation appears to maximize screening from neighbors rather than enhancing the natural area adjacent to the wetland resource. The strip of ground cover contains wetland plants proposed for a dry, upland area (i.e. marsh marigold).

In summary, the Coordinator stated that information on the planting plan, soil and depth to groundwater for infiltration of runoff, quantification of invasive plant removal, percentage of new and overall disturbance, a full alternatives analysis to include ZBA action, and other information yet to be reviewed that has not yet been received but is required, remains outstanding. She recommended either continuing the hearing, or closing and denying the project for lack of information if the applicants do not agree to a continuation. She reminded the Commissioners that the bylaw permits the Commission to continue the hearing up to 6 weeks in the future when the NOI is lacking critical information.

Chairman Topham suggested a continuation to May 12, 2014 with all information to be received at minimum of 4 business days prior to this continuation (per the bylaw). All parties agreed.

Conservation Restriction: 54 Moore Rd.

On a motion by R. Elkind; 2nd B. Porter; the Commission voted unanimously in favor of approving the CR at 54 Moore Road to include all of Parcel B and the area directly around the pond on 54 Moore.

Warrant Review: Article 32 Bruce Freeman Rail Trail

Commissioners decided that if asked directly at Town Meeting, they could make a statement as to their regulatory jurisdiction in the permitting of the BFRT. They felt comfortable stating that it appears, from information currently available, that the trail, per full-build AASHTO standards would not comply with the performance standards of the local wetlands bylaw and that the trail appears to present challenges to compliance with the Wetlands Protection Act. Nothing further could be stated at this time as no design is available for review.

The meeting adjourned at approximately 9:10pm.