

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Held Monday, March 24, 2014

Present: Greg Topham, Chairman; Beth Armstrong; Vice-Chairman. Tom Friedlander; Charlie Russo; Rob Elkind; Debbie Dineen, Coordinator

Adjudicatory Proceedings and Comments to DEP: Johnson Farm

At the suggestion of Town Counsel, the Commissioners agreed to formally vote outcome of discussions held in Executive Session Jan. 27 and Feb. 10, 2014. The agenda item tonight was posted as a "Vote: Executive Session". The Commission determined that there was no purpose to go into Executive Session as the information to be discussed by the Commission was already public, although the matter is still in adjudication. The Commission voted unanimously not to enter Executive Session. Motion by G. Topham; 2nd T. Friedlander.

On January 27, 2014 the Commission reviewed the plans and offered the following comments to be submitted to the hearing officer for consideration at the Feb. 11 conference call of all parties.

1. A limit of lawn should be added to the plans;
2. The standard conditions in the SCC Order should be included (no use of sodium-based deicing chemicals, no herbicides or pesticides due to proximity to vernal pools, etc);
3. All areas beyond the limit of disturbance should be placed within a perpetuity conservation restriction or gifted to the Town of Sudbury for conservation purposes in accordance with M.G.L. Chapter 40 section 8C. If the Conservation Restriction is used, the restriction should limit public access in the more sensitive areas of the site;
4. The drainage calculations should be peer reviewed by a DEP hydrology/stormwater expert;
5. A denitrification component should be added to the septic system. It is known from the information presented at the hearing that the direction of ground water flow is in a generally westerly direction. With a system at the maximum size for a Title V system, the project should address additional nitrogen loading to the ultimate receiving waters. In conclusion, the Commission believes that with the proposed revisions to the plans, the development will have no significant adverse impact on wetland values and functions as determined by the performance standards of the Wetlands Protection Act.

On a motion by G. Topham; 2nd T. Friedlander; the Commission voted unanimously in favor of formally ratifying the above recommendation by vote, and on the official public record.

At the Feb. 10, 2014 meeting, the Coordinator informed the Commission that they had been requested by DEP Counsel, Elizabeth Kimball, to agree that the DEP would be the official reviewing body for the revised plans. This is in accordance with DEP Policy 91-1. The Coordinator provided a copy of this policy to the Commission. 91-1 states that revised plans submitted as part of an adjudicatory hearing did not need to go back to the Commission provided the Commission agrees to allow the review as part of the adjudicatory proceedings *and* that the Commission agrees that the project as revised has less wetland impact.

Commissioners agreed that the project as revised has less wetland impact. B. Armstrong noted that the revised plans show the changes the Commission had requested in its Order. Commissioners agreed that DEP could be the reviewing body of the revised plans as part of the adjudicatory process contingent upon the revised plans being further revised and included in the

final Settlement Agreement to include the changes identified by the Commission at the January 27, 2014 Executive Session meeting.

On a motion by G. Topham; 2nd by T. Friedlander, the Commission voted in favor of formally ratifying the above the recommendation by vote, and on the official public record. R. Elkind abstaining.

Lisa Vernagard, SVT Director, questioned why the Commission would not just “say no” to help the abutters fight the project. Chairman Topham stated that the Commission’s job is not to “throw a decision at the wall and see what sticks”, nor is it to “take sides” in a project approval process. They need to carefully evaluate all plans for compliance with the Wetlands Protection Act. In the case of the revised Johnson Farm plan the development type may not be what the Town desires, however it has significantly less wetland impact over the plan referenced in the Order of Conditions. The ZBA is the appropriate board charged with reviewing the development from a non-wetlands perspective. Abutters will have an opportunity to voice their concerns with ZBA.

Barbara Huggins, attorney for an abutter group, requested permission to make a statement to the Commission. Chairman Topham, with the agreement of the other Commissioners, denied the request as there was no attorney present to represent the Commission and the matter was still in litigation. The discussion by the Commission was simply to ratify by vote decisions made in previous Executive Sessions. No public comments were entertained although one man made an unsolicited reference to “being in Russia”, and another woman said “Heil Hitler” as she existed the meeting room. Commissioners took offense to these inappropriate comments.

Executive Session Minutes: Jan. 27, 2014 and Feb. 10, 2014

On a motion by G. Topham; 2nd T. Friedlander; the Commission voted in favor is releasing the ES minutes of 1/27 and 2/10/14 as the information discussed at these sessions have now been made public through the adjudicatory proceedings. R. Elkind abstaining.

Request for Determinations of Applicability: Lot 9 Cutting Lane

Present: Beth Cosgrove; Jesse Johnson

Mr. Johnson presented the Conservation Restriction Plan as revised to reflect previous discussions of overall mitigation within the Arboretum development. This CR, added to the CR required as part of subdivision approval, will serve as mitigation for work within 100’ of wetlands.

Mr. Johnson then presented a plan showing the development of Lot 9 with a single-family house, driveway, septic system, and lawn area. The closest point of disturbance will be 85’ from the edge of wetlands. This design minimizes disturbance to the extent feasible on the lot.

Request for Determinations of Applicability: Lot 10 Cutting Lane

Present: Beth Cosgrove; Jesse Johnson

Mr. Johnson then presented a plan showing the development of Lot 10 with a single-family house, driveway, septic system, and lawn area. The closest point of disturbance will be 65’ from the edge of wetlands. This design minimizes disturbance to the extent feasible on the lot. Existing trees will be kept between the proposed lawn and the wetland as much as possible. The septic location is driving the house siting and grading so the footprint presents the least

amount of disturbance. As with Lot 9, mitigation for work within 100' of wetlands has been presented in the form of a Conservation Restriction expansion.

Conservation Restriction Arboretum Way

Present; Jesse Johnson; Beth Cosgrove

The Commission reviewed the revised plan for the CR on the Arboretum Way subdivision. This CR includes the original 7.5-acres required as part of the Cluster Zoning bylaw plus an additional 3+acres added as mitigation for work within 100' of the wetland on most of the lots.

The Commission voted unanimously in favor of approving the CR as shown on the plan and approved the commencement of construction on the lots.

Request for Amendment to Order of Conditions: Memorial Forest Burn, Sudbury Valley Trustees

Present: Laura Mattei, Joel Carlson

Ms. Mattei explained that SVT would like to maximize their opportunities to conduct the habitat enhancement burn for increasing biodiversity at the Memorial Forest off Dutton Rd. The Order permits only a fall burn and SVT has found that a spring burn has a better chance of achieving the conditions necessary to allow the burn to occur.

Mr. Carlson stated that a fall burn is acceptable, however a better quality burn can occur in the spring. The Memorial Forest accidental burns have occurred mostly in the spring. It has not seemed to have any negative effect on the local population or ecosystem. Commissioners noted that the restriction in the Order was due to SVT's NOI narrative stating that a fall burn would be less of an impact on the local species and ecosystem due to the fact that migration would not be occurring at such a great rate. The Order was conditioned in accordance with the information presented in NOI.

Following further discussion of the new information presented by Mr. Carlson, G. Topham moved to amend the OOC to all for an all-season burn to occur when optimum conditions are present and to extend the Order by 2 years to increase the chances of having optimal conditions before the OOC expires. The OOC permits only a single burn and it must follow the burn plan as referenced in the Order. T. Friedlander 2nd; unanimous in favor

Minutes

On a motion by T. Friedlander; 2nd G. Topham, the Commission voted unanimously in favor of approving the minutes of Feb. 10, 2014 as drafted.

32 Skyview Lane Appeal – Comments of DEP on Revised Plan and Information

The Commission reviewed the revised plan for 32 Skyview Drive and voted unanimously in favor, on a motion by R. Elkind, to offer the following comments to DEP.

The SCC does not feel that the revised plan shows much improvement in minimizing the work in the buffer zone on the slope to the wetland.

The significant enlargement of the lawn in the buffer area (almost double), and requiring ledge removal, remains part of the plan.

The pool decking, drainage infiltration chambers, drainage pipes,

retaining wall, and trench clam all remain in the buffer zone on the sloped area to the wet land.

Pool construction is viable without the need for the lawn expansion on the slope and the removal of ledge. Bringing the drywell up the slope and grading appropriately will eliminate the need to alter the slope (excavate and/or remove ledge) for drainage pipe installation. The drywell would also provide a greater separation both vertically and horizontally from the wetland and groundwater.

The drywell detail shows the bottom of the chamber at 229' and the bottom of the stone at 228.5'. The assumed groundwater is at elevation 227.5'. This provides the required 2' separation to the assumed water table. However, the plan view shows the top edge of the drywell at elevation 230'. This would place the bottom of the drywell at only 1' above the assumed water table. Was ledge encountered in this area?

There is an unused lawn area of approximately 1400 sq. ft. on the left side of the driveway outside of wetland jurisdiction. Easy access to this area could be achieved with a set of stairs.

The revised plan shows alteration for accessory uses (lawn, pool) on a slope to bordering vegetated wetland and intermittent stream. A vernal pool with wood frogs and spotted salamanders is located approximately 320' to the north, with the area around the intermittent stream providing important habitat for obligate vernal pool species.

The intermittent stream is a first-order headwater stream in the Frost Farm sub-watershed of the SuAsCo Watershed basin. Headwater streams play an important corridor role in connecting fragmented habitats and conserving biodiversity. Permitting accessory uses on this slope is likely to result in additional filings for accessory uses on additional lots abutting the intermittent stream.

Using DEP's policy of "Avoid, Minimize, Mitigate"; there appear to be alternatives to siting a pool on this lot with minimal incursion into the buffer zone. Reconfiguration of the pool and proposed terrace in a manner that will have minimum alteration in the wetland buffer and eliminate the need to remove ledge continues to be a viable alternative.

Discussion: Sudbury Weed Education & Eradication Team (SWEET, Inc.)

Present: Rebecca Chizzo, SWEET, Inc.

Ms. Chizzo had requested a meeting with the Commission to present on the status of work in the King Philip Woods Conservation Lane; to request a Permit Extension for some remaining work; and to allow the commission to have a discussion with several Boy Scouts in attendance on upcoming project opportunities.

Eagle Scout candidate Chris Helgeson presented his completed project to the Commission. The project involved the reconstruction of the King Philip Woods kiosk. The new kiosk is constructed of with an asphalt roof and door. Smaller posts were used and all non-cedar wood is ACQ-treated.

The Commission thanked Mr. Helgeson for his work and agreed to contribute funds to the materials, up to \$300, that were unable to be obtained through fund-raising and material donations.

Robert Curtis presented his project for a comprehensive pond survey with SWEET, a trail map box, and bittersweet removal. The Commission thanked Mr. Curtis for his work and interest.

Ms. Chizzo informed the Commission that greater than 200 bags of garlic mustard were removed from KPW. This is an on-going problem as it is located within the trails and gets tracked through the property. In 2012 a chemical application was applied to the bittersweet and other invasives along the Old Berlin road to open up the historic walls and clear the trail. In 2013, with \$600 remaining from a grant, they were unable to apply additional herbicides. Their Order of Conditions had expired. They would like to continue the invasive plant eradication program at KPW. Ms. Chizzo showed a map of the area where the worst bittersweet is killing trees. This area is moving toward the vernal pool behind the pond. The trees provide shading and protection for the pool. She understands that chemicals should not be used near vernal pools. She would like to continue had removal in this area but she is concerned that chemicals may be necessary in other areas to control the bittersweet.

The Commission permitted SWEET, Inc. to continue had removal of invasive plants on the KPW property. With the extent of bittersweet in some areas, the use of chemicals on an on-going basis is of concern to the Commission as the full effects of these chemicals on specific wildlife known to be in the area have not been fully studied. This is a policy decision the commission will need to discuss in the future based on review of up-to-date non-biased studies. Commissioners did agree to walk the property with SWEET to observe current issues and provide more specific guidance on specific actions.

Interview Candidates for Commission Vacancies - Recommendations

Commissioners did not interview Mr. Porter or Mr. Sevier for recommendations to the Town Manager as their appointments had already been approved. A short discussion was held to learn of their interests what they would like to accomplish while on the Commission. Mr. Porter and Mr. Sevier were welcomed as new members.

The meeting adjourned at approximately 9:40pm.