

**SUDBURY CONSERVATION COMMISSION**  
**Minutes of the Meeting Held Monday, October 19, 2015**

Present: Beth Armstrong, Vice-Chairman; Dave Henkels; Rob Elkind; Charles Russo; Bruce Porter; Mark Sevier; Debbie Dineen, Coordinator

**Discussion and Vote: Chairman appointment**

On a motion by C. Russo; 2<sup>nd</sup> B. Porter; the Commission voted unanimously in favor of electing Dave Henkels as temporary Chairman for the purposes of this meeting. Chairman Tom Friedlander was out of town and Vice-Chairman Beth Armstrong, although present, had recent surgery and did not feel up to chairing the meeting.

**Discussion: Chairman Rotation**

Discussion took place concerning the benefits and drawbacks of a shorter term of the Chairman and Vice-Chairman. Town Counsel has opined that there is nothing in the Town By-laws or the Act that requires that the term of the Chairman be one year, this is generally based on custom and that the Commission may vote to elect a Chairman for a term of less than one year.

Commissioners felt that a shorter term might encourage more Commissioners to take on the role and allow more Commission members to gain the experience of more detailed involvement in Commission matters, however the position does benefit from knowledge gained over time. Both R. Elkind and B. Porter stated that they were not interested in these positions at this time due to other commitments. The Commission agreed to keep its election of officers as an annual election for an annual term.

**WPA & Bylaw Notice of Intent: 456 Peakham Rd.; Philip Ward, applicant**

Present: Philip & Abby Ward, applicants

Mr. Ward presented his plan for septic expansion; house reconstruction, tree removal and mitigation. The project includes an expansion of house and septic system to accommodate an additional bedroom, tree removal for solar, and mitigation in the form of garage removal and restoration of an area closest to the stream (Hop Brook).

The Coordinator summarized the issues for this review as whether or not Commissioners feel the extent of mitigation offered offsets the new work of expanded septic trenches and tree removal within wetland jurisdiction.

The garage and driveway relocation to a Forest Street entrance involves moving the garage to the other side (non-wetland jurisdiction) of the house, and restoration directly adjacent to Hop Brook. Although it will not eliminate the common driveway access, it will eliminate parking directly on the top of the bank to the brook and supplement the wildlife habitat values of the area with new shrubs, trees and herbaceous plants.

On the other hand, the expansion of the septic system is within 100' of the wetland in the rear of the property (not the riparian area of Hop Brook). This wetland may be a vernal pool with associated bordering vegetated wetland and small intermittent stream. It appears that the septic system was reconstructed in 1996, prior to the Wards purchasing this property. A wetland filing was required at that time and none was filed. The Wards (purchased property this summer) are looking to add a

bedroom and this will require one additional trench. There are no other practical alternatives to locate the new trench without a pumped system and major regrading in the front yard.

Some of the trees planned for removal are a hazard per the letter from a certified arborist that was included in the NOI. Invasive euonymus will be removed.

Mr. Ward stated that the septic expansion consists of adding one 38' long trench. He looked at other options but the only other option outside of wetland jurisdiction involved significant site grading and relying on a mechanical pumped system. His plan is to restore a total of approximately 3,000 sq. ft. of disturbed area adjacent to Hop Brook (550+ sq. ft. in the current garage location and 2,400+ sq. ft. of parking area along the brook. He presented a comprehensive list of native plantings that will be installed. No chemicals will be used as part of the invasive plant removal. D. Henkels and D. Dineen visited the property last week. D. Henkels stated that the mitigation details were impressive and it is clear that the applicant looked at all options to move new construction as far from the wetland as possible. He stated the preference for gravity vs. mechanical pump when dealing with septic discharge. He noted most of the oak trees to be removed showed visible damage.

B. Armstrong questioned if the driveway should include a drainage swale to infiltrate runoff. Commissioners questioned if the elevation and slope of the driveway could impact the septic system due to runoff. Mr. Ward explained that the new driveway off Forest St. will have permeable pavers to the new 2-car garage. No asphalt pavement is being requested.

In response to questions from B. Porter, Mr. Ward stated that the garage to be removed is a one-car 12' x 20' structure on a slab. The slab will be removed and the area is part of the revegetation. B. Porter felt the proposed improvements to the property are not intrusive and will have positive impacts to the wetlands.

An abutter across Peakham Road stated that he is in favor of the proposed improvements.

On a motion by R. Elkind; 2<sup>nd</sup> M. Sevier; the commission voted unanimously in favor of closing the hearing.

On a motion by C. Russo; 2<sup>nd</sup> R. Elkind; the Commission voted unanimously in favor of issuing the Order as discussed.

### **WPA & Bylaw Abbreviated Notice of Resource Area Delineation: 999 Concord Rd.; Vote on Request for Continuation**

Present: Dan Wells of Goddard Consulting

On behalf of his clients, Mr. Wells requested a continuation to 21 days from date of receipt of correct wetland delineation plan. He stated that there is no dispute that the wetland flagging needed to be redone and resurveyed. The applicant is currently in the process of hiring a surveyor for the new wetlands. They would like to get the ARNARD completed before winter.

On a motion by C. Russo; 2<sup>nd</sup> R. Elkind; the Commission voted unanimously in favor of continuing the ANRAD hearing until 21 days following receipt of the new surveyed plan.

### **Minutes**

On a motion by C. Russo, 2<sup>nd</sup> M. Sevier; the Minutes of Sept. 14, 2015 were approved as drafted. Four in favor, 2 abstained.

On a motion by C. Russo, 2<sup>nd</sup> R. Elkind; the Minutes of Sept. 28, 2015 were approved as drafted. Three in favor, 3 abstained.

**WPA & Bylaw Notice of Intent (cont.): 443 Peakham Rd.; Marimon Violation**

Present: Dan Well of Goddard Consulting and Zenith Marimon

Mr. Wells presented a Buffer Zone Restoration Plan dated 10/13/2015. The plan includes establishment of the 100' restoration area by mathematics; erosion control; staking of the area to be excavated; winter stabilization; planting in the spring; and monitoring for two growing seasons.

D. Dineen reviewed her suggested inclusions in the Order of Conditions Special Conditions. She noted that the Order should be performance-based to achieve the goals of restoring the pre-existing (or greater) values and functions of the adjacent upland resource area.

- deadlines for completion of milestones in the restoration process fill removal, soil amendments if needed, plant installation, winter stabilization, etc;
- approval of final grading following fill removal with the intent of "substantially" achieving former grades and/or drainage patterns
- site stabilization before plantings take effect (i.e. jute fencing); and
- removal of invasive as they occur; etc.
- On site environmental monitor during fill removal, grading, planting with 2x per year (at the completion of each growing season) written reporting
- 90% (not 75% as in the Goddard restoration plan) viable plantings be required before COC considered
- reserved right of Commission to require soil augmentation and/or addition plantings if the density is insufficient to meet the project goals of restoration.

On a motion by B. Armstrong; 2<sup>nd</sup> B. Porter; the Commission voted unanimously in favor of closing the hearing.

On a motion by B. Armstrong; 2<sup>nd</sup> R. Elkind; the Commission voted unanimously in favor of issuing the order as discussed.

**WPA & Bylaw Request for Determination of Applicability: King Philip Woods; Conservation Commission applicant**

D. Dineen presented the plan for conservation land trail and parking improvements in the King Philip Woods conservation land between Water Row & Old Sudbury Rds. This wetland RDA for work under the recent SuAsCo River Stewardship Council grant award. No work is proposed in a wetland area except as needed in the location of the beaver dam. All other work will take place within the 100' adjacent upland resource area. Work includes the clearing of vegetation and minor grading between the stone walls lining the Old Berlin Road from Water Row to Coddington Pond. An approximate 35' long by 5' wide boardwalk will be built adjacent to Coddington Pond in the area of a former beaver dam. Erosion control will be installed is needed should grading occur along the edge of the pond.

On a motion by C. Russo; 2<sup>nd</sup> D. Henkels; the Commission voted unanimously in favor of a negative Determination.

**Comments to Selectmen: Village at Sudbury Station** 40B residential development

The Commission discussed comments for consideration by the Selectmen for inclusion in their letter to MassHousing.

C. Russo provided an outline of a number of issues of concern that go beyond the Commission's regulatory authority under wetlands laws but need to be taken into consideration for the development of this site. The ANRAD has been completed and the Commission expects a wetlands filing for the

upgrading of Peter's Way. The review will be limited to reviewing wetland alteration under the WPA. Other concerns to mention are: most of the site is covered by the MA Endangered Species Act and will need a MESA permit from the state; drainage is unknown and slope, soils, etc will impact the drainage design.

### **Raytheon Site Redevelopment**

The Coordinator provided a brief introduction to the general redevelopment concept plans proposed by National Development and Avalon and the expected timing of wetland filings for the redevelopment at the Route 20 Raytheon site. A new grocery store, assisted living housing; senior housing; and a 250-unit 40B affordable housing development are planned. She noted that the project redevelopment will be staged with the initial demolition, wetland delineation confirmation, and utility relocations planned to come before the Commission within the next 30 days in the form of a Notice of Intent. The grocery store development will be in phase II. Annual Town Meeting 2016 will be looking at zoning changes to accommodate some of the proposed housing uses.

Commissioners noted that this project is truly a complete redevelopment of an already developed site. There may be opportunity to further enhance wetland values and functions through the permitting of the proposed uses.

### **Certificates of Compliance:**

#### **145 Lincoln Rd., Cummings (partial)**

The Coordinator stated that the revegetation work had been completed and inspected previously and found to be satisfactory. Mr. Cummings has informed the Commission that he does not intend to follow through on the construction of a new garage which was approved as part of his Order.

On a motion by M. Sevier; 2<sup>nd</sup> B. Armstrong; the Commission voted unanimously in favor of issuing the COC and noting that the garage was never constructed.

#### **150 Wayside Inn Rd.; J. Delli Priscoli, applicant**

The Coordinator explained that the Order has expired and work never commenced. This is the site that was sold to Buddy Dog. If any development plan is pursued for this site in the future, a new Notice of Intent will need to be filed.

On a motion by R. Elkind; 2<sup>nd</sup> C. Russo; the Commission voted unanimously in favor of issuing a COC for work never commencing prior to expiration of the Order.

#### **336 Hudson Rd.; Jaber**

The homeowner had a tree company come in and take down large mature white pines well within the inner riparian (first 100') area of the stream without a wetland filing. The > stream is Run Brook, a perennial stream. A Notice of Violation was issued and a resulting Order required restoration.

D. Henkels and B. Porter had visited the site. They reported that the removal of wood chips from the wetland in the rear of the house had been completed. Replanting of native shrubs in accordance with the plan submitted in the NOI had been done. Blueberry and Arrowhead bushes had been planted on the edge of the tree line, behind and on the east side of the property. Well over a dozen of each planted. Four additional shrubs had been planted for stream shading as required in the Order. Amelanchier Canadensis was planted for stream shading and are growing well on the east side of the property down slope. Restoration of the forest floor with leaf litter or bark mulch compost was

completed and clearly apparent. They felt the overall performance standards in the Order had been met. Wildlife food value was increased. The floor of the forested area appears free of invasives. The native plantings are taking root and appear healthy. The leaf litter/bark has visually diminished invasive plants. They concluded that it appears that all of the conditions have been complied with. The native plantings are taking hold, appear healthy. Within the riparian area in the back of house, tree limbs, natural debris, some downed trees border the tree line. Several log piles exist on the east side of the property, upslope, within the 100 ft. area.

On a motion by B. Armstrong; 2nd R. Elkind; the Commission voted unanimously in favor of issuing the COC.

### **Duplicate Original of Order of Conditions:**

The Commission signed duplicate Order for recording for Dunkin Donuts #301-347 & #301-490.

### **Violations Update:**

#### **26 Goodman's Hill Rd. - Ratify**

The Coordinator reported that an NOV was sent Oct. 13, 2015. She is requesting ratification of this action. New house construction on this site had represented to the Commission that there would be no work within 100' of wetlands for this new house.

The Town has an Irrigation Bylaw that does not permit installation of private wells within 100' of wetland. Board of Health is the issuing authority for this Irrigation bylaw. Since this bylaw went into effect the Commission has not granted permission for well installation within 100'. The Board of Health waived the 100' irrigation bylaw setback but informed installer he could not continue with installation until he received ConCom approval. The installer did not want to incur the expense of shutting down the drilling rig and proceeded with the install. This was 4 -6 weeks ago. The lawn irrigation installer continued with the installation of a well within 100' of the wetlands after he was informed by the Board of Health Director that he needed to contact the conservation commission immediately. The Conservation office received call on Oct. 8, 2015 from well installer effectively saying "whoops" how do I get his approved after-the-fact.

As with 443 Peakham Road where a ticket and an NOV were issued, this was blatant disregard for wetlands laws. The Coordinator recommended the NOV be ratified and include the requirement for immediate (by next Wednesday) removal of the well and a plan to restore all disturbed areas with the 100' upland resource be submitted to the Commission for approval by Oct. 19. If well is not removed by next Wed 10/14 I recommend a \$100 ticket be issued daily until it is removed.

On a motion by D. Henkels; 2<sup>nd</sup> R. Elkind; the Commission voted unanimously in favor of ratifying the NOV and issuing tickets as discussed.

### **Land Stewardship:**

#### **Landham Brook Marsh**

The Coordinator informed the Commission that a police lieutenant informed her that there had been several deer/car collisions this year on Landham Road at near the Landham Brook culvert and the new Landham Brook Marsh (LBM) conservation land. He had also reported evidence of illegal deer baiting in LBM. D. Dineen questioned if based on this new information the Commission wished to revisit bowhunting the year at LBM, especially in light of the fact that the trail construction has been completed.

Commissioners discussed the pros and cons of adding LBM to the lands permitted for deer hunting this year. A motion was made and a vote taken that resulted in a tie vote of 3:3 with Elkind, Russo, Porter opposed; Armstrong, Henkels, Sevier in favor. Motion failed.

#### King Philip Woods

The Commission authorized work under SuAsCo River Stewardship Council grant to commence with the clearing of the trail this fall.

#### **Bow Hunting Applicants**

The Coordinator informed the Commission that there were five timely applicants for openings in the Sudbury bow hunting program for the 2015 season. A proficiency test and interview was set up for these applicants last Tuesday. Three of the five applicants were present for the testing. Commissioner Henkels witnessed the testing, spoke to the applicants and approved their permits.

The two applicants who were not present have since contacted the Commission with reasons why they did not attend the testing. One applicant was on his honeymoon and was not aware of the test. The second applicant's wife had a baby over the holiday weekend. The Commission felt that these were both very viable excuses for not appearing for the test. They will set up a new test and interview subject to the availability of person who brings and sets up the targets.

On a motion by R. Elkind; 2<sup>nd</sup> M. Sevier, there being no further business on the agenda, the Commission voted unanimously in favor adjourning the meeting. 9:00pm