

**SUDBURY CONSERVATION COMMISSION**  
**Minutes of the meeting Held Monday, Nov. 7, 2016**

Present: Tom Friedlander, Chairman; Beth Armstrong; Vice-Chairman; Dave Henkels; Bruce Porter; Mark Sevier; Charlie Russo (arrival 6:44pm); Debbie Dineen, Coordinator

**Minutes:**

On a motion by B. Porter; D. Henkels, 2<sup>nd</sup>; the Commission voted unanimously in favor of approving the Minutes of the Sept. 26 Regular Session. M. Sevier abstaining.

On a motion by B. Armstrong; B. Porter 2<sup>nd</sup>; the Commission voted unanimously in favor of approving the Minutes of the Sept. 26 Executive Session. M. Sevier abstaining.

The Sept. 26 Executive Session minutes are not for public release at this time as litigation is still pending.

On a motion by D. Henkels, B. Porter 2<sup>nd</sup>; the Commission voted unanimously in favor of approving the Minutes of the October 24, 2016 as revised by C. Russo. T. Friedlander abstaining.

**WPA & Bylaw Request for Determination of Applicability: 102 Warren Rd.**

Present: Larry Cohen, contractor from Archadeck  
Annette & Louie Langley, applicants

Mr. Cohen presented a plan for the construction of deck and 3-season porch on the rear of the house. All work is on existing lawn area and partially on an area of a former deck that has been removed. D. Henkels and D. Dineen visited the property and confirmed work on existing disturbed area. D. Henkels noted the lawn extends to the wetlands and the wetlands contain an excessive amount of invasive plant species. They did not feel the scope of the proposed project warranted an invasive plant removal mitigation, especially where most of the invasive plants extend off the property.

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

**WPA & Bylaw Notice of Intent: 526-528 Boston Post Rd.; Village Retail @ Meadow Walk**

BPR Development LLC, applicant

On a motion by D. Henkels; 2<sup>nd</sup> B. Porter; the Commission voted unanimously in favor of continuing the hearing to Dec. 5, 2016 to allow for the Commission's peer review of the stormwater system.

**WPA & Bylaw Notice of Intent: 526-528 Boston Post Rd.; Bridges @ Epoch Assisted Living**

BPR Development LLC, applicant

On a motion by D. Henkels; 2<sup>nd</sup> B. Armstrong; the Commission voted unanimously in favor of continuing the hearing to Dec. 5, 2016 to allow for the Commission's peer review of the stormwater system.

### **Meeting Schedule**

The Commission agreed to the following dates for the next several months of meetings: Dec. 5, Dec. 19, Jan 3 (Tues), Jan 23.

### **WPA & Bylaw Abbreviated Notice of Resource Area Delineation (ANRAD): 150 Wayside Inn Rd.**

Charles Jandl, applicant

On a motion by D. Henkels; 2<sup>nd</sup> B. Armstrong; the Commission voted unanimously in favor of continuing the hearing to Nov. 21, 2016 to allow for the Commission's peer review of the wetland delineation.

### **Conservation Restriction: 34 Musket Lane; Soja, applicant**

A Conservation Restriction has been received from Atty. Stephen Grande for the CR required as part of wetland permitting on 2.6 acres at 34 Musket Lane. The area of the CR is all wetland that abuts the CR on much of the Summerfields subdivision to protect the state-listed species identified in the area. This Summerfields Cr abuts the town's Barton Farms conservation land. The CR has been approved by EEA and Town Counsel.

On a motion by B. Armstrong; 2<sup>nd</sup> C. Russo; the Commission voted unanimously in favor of signing the CR.

### **Certificates of Compliance: Sudbury Village #301-902**

The Coordinator explained that this project was 72-unit 40b development that never began construction. The Order has expired. The COC will state that "work never commenced".

The Commission voted unanimously in favor of issuing the COC. Motion by B. Porter; 2<sup>nd</sup> B. Armstrong.

### **Violation Status: 168 Horse Pond Rd. – status of required action & reporting**

The Coordinator reported that an update was received today from Rich Kirby of LEC. The plants have been delivered and are being installed this week. The fence has been moved. All is on track with the requirements in the Order.

### **WPA & Bylaw Abbreviated Notice of Resource Area Delineation (ANRAD): continued: Proposed Bruce Freeman Rail Trail**

Sudbury Planning and Community Development, applicant

Present: Chris Wagner, VHB; Beth Suedmeyer, Sudbury Planning & Community Development; Dave Burke, SCC wetland delineation peer reviewer

Revised plans have been received following the Oct. 5, 2016 site inspection. The changes include the addition of mean annual high water near the Davis Farm conservation land entrance, culvert identification, changes in mean annual high water behind Sudbury Kitchens on Union Ave., and reconciliation of bvw/bank flagging in areas where both occur. D. Dineen and D. Burke both concur with the changes shown on the revised plans. D. Burke noted that the job was a massive undertaking and he commended VHB on the overall accuracy of the delineation. All flagging was in place and legible in the field. T. Friedlander and D. Henkels both agree that the flagging was well done.

D. Henkels questioned if the cow culverts, box culverts, and clay pipes found along the rail bed were any indication of hydrological connections. D. Burke replied that definitely the box culverts and pipes indicated hydrology. The cow two culverts were not located to convey water.

D. Henkels motioned "to approve the wetland delineation as shown on the revised plans entitled: *MA DOT Plan of Topographic Survey of Proposed Bike Path in the Town of Sudbury as ordered by MA DOT Highway Division*, dated May 19, 2016 and revised on or about Oct. 24, 2016 subject to:

1. receipt of dated revised plans which are duplicates of the plans emailed to the Commission Oct. 24, 2016; and

2. recognition that the ORAD is only a partial ORAD and does not include the identification of all perennial streams or vernal pools, and that a request for an amended ORAD will be submitted to the Conservation Commission once site conditions permit the identification of these additional resource areas." Motion seconded by C. Russo.

Len Simon questioned the discrepancy between the state and bylaw wetland delineation. D. Dineen clarified that the Selectmen's contract with VHB required the ANRAD to be submitted under both the state and bylaw requirements. L. Simon stated it was not the Selectmen's contract. it was the Town Manager's contract.

Beth Suedmeyer noted that that Planning & Community Development is hopeful that the project will be at 75% design with the next year and a half.

Motion voted unanimously in favor.

Discussion continued with C. Wagner responding to Len Simon that he is not aware of how much area is subject to unknown wetland jurisdiction at this point. M. Sevier questioned what will occur if site conditions do not allow further wetland resource identification. B. Suedmeyer and C. Wagner stated that the plan will proceed based on information available and conservative assumptions. B. Suedmeyer stated that the town realizes the ORAD findings are incomplete and subject to later revisions. She added that the preliminary alignment will be brought to the Conservation Commission at the next meeting for input. T. Friedlander mentioned that the Commission also has a member on the Task Force.

### **Conservation Restriction: 306 Lincoln Rd., Ballou**

Present: Christa Collins, SVT

The Commission reviewed the Municipal Certification section of the CR for signature & possible comments to Selectmen on CR. C. Collins stated that she felt the CR as written has merit. The property owner is planning to take advantage of the \$75,000 is state tax credit. She stated that SVT would not typically consider a property this small but due to the connectivity and abutting protected parcels SVT moved ahead with this one.

T. Friedlander noted that a site inspection was held today to look at whether or not there are public benefits associated with this CR. D. Henkels, B. Porter, T. Friedlander, M. Rodrigues, and D. Dineen attended.

D. Dineen summarized the situation and made her recommendations as follows:

The CR states it is over 5.1 acres of land of which approximately 2.5 acres is wetland; 1.4 acres (Building Envelope) is improved with an existing house, lawn, lawn, tennis court; and .84 acre of an area that is mowed regularly (Managed Landscape). It is not currently in a natural state.

What this CR WILL do is prevent the construction of another single-family residence. However, with the Reserved Rights, alteration of the land and destruction of the natural features from the permitted significant expansion of the existing residential use can have equal negative impacts on the public conservation values of this site. It doesn't matter to the environmental values if it is a new separate house or expansion of an existing dwelling with a pool, sports courts, utilities, etc.

Almost 50%+- of the Premises will allow extensive expanded residential use with the ability to:

1. Unlimited add onto the house as long the historic section remains unchanged;
2. Allow a swimming pool of unlimited size;
3. Install a recreational play pad area up to 7,200 sq. ft. which includes the existing tennis court and permits expansion;
4. Construct a 200 sq. ft. shed/cabana;
5. Install in-ground irrigation wells;
6. Expand lawn;
7. Relocate and/or expand utilities, including septic, within 50% of the CR area (total area of CR minus the wetlands)

She stated that the question Commissioners need to ask is "How are the public values of this area protected with the reserved rights as stated?" What distinguishes unique public benefits of this property from any other property in town?". She did not recommend signing the Municipal Certification for these reasons.

C. Russo believed that it is crazy to say no to any plan that protects any land. M. Sevier concurred. D. Henkels stated that the parcel was only 5 acres and 2.5 acres are wetland and the balance is not in a natural state and is not protected in any way by the CR. He stated that he did not feel there was a protectable public benefit. T. Friedlander concurred and noted that permitting house expansion, swimming pool, tennis court expansion, utility construction, etc. was not furthering any conservation purpose.

D. Henkels noted that there is an undeveloped one-acre parcel under the same ownership across the street and adjacent to the SVT Fay Fields. He felt this area had great public benefit but was not included in the CR. C. Collins stated that this additional developable one acre is not part of the area under consideration.

B. Porter felt that the CR should not be considered simply as a "why not?" situation. He doesn't see much difference in environmental value or public benefit with or without the CR. C. Russo stated he will definitely sign the CR because he sees it as a small win at no cost.

B. Armstrong stated she has an opposing view. She said the CR was very broadly written and she doesn't want to encourage giving protection to land where the reserved rights detract to such a large degree from the public and environmental values.

C. Collins stated she thought SVT was being held to a double standard. She noted several small parcels where the SCC approved CRs. The Commission noted that these parcels were in a natural state and any reserved rights did not detract from the natural state. C. Russo added that maybe if we give away too much maybe it does take away from the public benefit. B. Armstrong questioned how the neighbors would feel if they were under the impression that the land was under a CR only to find a swimming pool and expanded sports court, and house addition be constructed within the CR. D. Dineen added that too many reserved rights that do not further the CR purposes undermines the integrity of CRs.

C. Russo motioned to approve and sign the Municipal Certification; M. Sevier 2<sup>nd</sup>. M. Sevier, B. Porter, C. Russo in favor; B. Armstrong; T. Friedlander; D. Henkels opposed. Motion fails.

C. Collins stated that the Sudbury Conservation Commission has “reached the low of the low” with this vote. C. Russo felt that recent dealings with SVT have been leading down the wrong path. C. Collins stated she will be going to the Selectmen on Dec. 5 for their approval of the CR. B. Armstrong explained that SVT and SCC have similar mandates. The SCC has to treat everyone the same and hold them all to the same standards. The SCC does this. T. Friedlander stated he did not believe SVT’s request met the standard of public benefit in this case.

**Violation Status:**

**443 Peakham Rd.**

D. Dineen informed the Commission that they have asked to revisit the site and approve the final grading. This was done last fall by herself and D. Henkels. Apparently additional grading has been done and the homeowners are seeking another approval of the revised grading. She noted that there was no plan required to determine the exact elevations so final grading is subjective as long as post-disturbance grades do not alter drainage patterns. At issue is the timing of the final approval of finished grades.

Commissioners agreed D. Dineen and D. Henkels should revisit the site to see the extent of grade changes from last year and to be sure drainage patterns have not been altered. C. Russo added that the planting should be done as soon as possible.

**Lakeshore & Great Lake Dr. –**

Commissioners were updated to the status of response to NOV and ticket payment. The homeowner has contacted the Commission and understands the requirements for compliance.

**197 Old Sudbury Rd. –**

The Notice of Intent has not been received but communication with the owner indicates that it will be submitted very shortly. They have not been able to hold to the 100’ from roadway no-disturbance area as their stockpiles of fill are located within this zone.

B. Armstrong suggested sending a letter with a deadline for filing the NOI and advising them that they will receive additional citations once the deadline is exceeded. All work must stop until the NOI is received and OOC is issued.

D. Henkels motioned to send the letter as discussed. 2<sup>nd</sup> B. Porter; unanimous in favor.

**Reports from Commissioners/Staff on Meetings & Site Inspections Attended**

**Status: Allene/Allan Ave drainage issues**

D. Dineen reported that one homeowner has not given permission for the town to install drainage within the private way. He is looking for the town to do additional drainage work on the private roadway. She has referred him to the DPW Department for further discussion on what the town can do within the private way.

In the meantime, the trail down the slope with the washout should be temporarily closed due to safety concerns. Erosion control should be installed.

#### Hop Brook Conservation Land – Bridge construction status

Eagle Scout Candidate Michael Cavanaugh has completed the bridge at the outlet of Duck Pond. It looks very professional and is already being enjoyed by visitors to this area. A write up and photos will be published in the next Town Manager's newsletter and perhaps the Town Crier.

#### Discussion: Wetland PSA for Sudbury TV

Commissioners were all in favor of filming an informational video on wetlands and permitting to assist and educate homeowners. The video could have an on-site component about the values of wetlands and a discussion portion with questions and answers on the permitting process. Details will be discussed at an upcoming meeting.

#### Eversource Meeting and affiliation with MACC

After the Selectmen's meeting with Eversource several weeks ago, D. Dineen wanted to inform the Commissioners that the MA Association of Conservation Commissions has Eversource as a major sponsor. Eversource is the only platinum sponsor of the MACC annual meeting. Commissioners acknowledged this affiliation but felt the benefits of MACC outweigh the involvement of Eversource. M. Sevier added that is actually ISO New England who is driving the transmission line project in Sudbury.

#### Appointment to Bruce Freeman Rail Trail Task Force

On a motion by B. Armstrong; 2<sup>nd</sup> M. Sevier; the Commission voted unanimously in favor or approving Chairman Friedlander's recommendation of Charlie Russo as the Commission's appointee to the BFRT Task Force.

On a motion by B. Porter; 2<sup>nd</sup> C. Russo; the Commission voted unanimously in favoring of adjourning the meeting. 8:47pm.