

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Monday, Dec. 19, 2016

Present: Tom Friedlander, Chairman; Beth Armstrong, Vice Chairman; Mark Sevier; Bruce Porter; Kasey Rogers; Dave Henkels; Charlie Russo (6:50pm arrival); Debbie Dineen, Coordinator

Chairman Friedlander called the meeting to order at 6:30pm and welcomed new Commissioner, Kasey Rogers.

Minutes:

On a motion by D. Henkels; 2nd B. Porter; the commission voted unanimously in favor of approving the Minutes of Dec. 5, 2016. K. Rogers, abstaining.

WPA & Bylaw Notice of Intent: 27 Middle Rd., Michael Goulet

Present: Michael Goulet

Mr. Goulet presented plans for house reconstruction to address foundation issues. His garage, family room and deck will need to be removed and rebuilt. The deck will be slightly modified to accommodate an office area, adding 2'1" to the back of the house. Four feet in width will be added to the front of the house. The property abuts a perennial stream in the rear with associated bordering vegetated wetland (bvwm) and bvwm on one side of the house. The closest work is 52' from the wetland. All work will be done on existing lawn area. The house was built on a filled lot. Mr. Goulet would like to raise the grade on the wetland side of the house by a maximum of two feet to reduce the steepness around the side of the house. He will install a maximum 2' high, tapered, retaining wall to contain the fill on the side. Fill will be tapered into the rear yard to meet existing grade.

D. Henkels confirmed that the septic system is located on the opposite side of the house from the work and will not be affected.

Erosion control must be installed to the side and rear of the house around the limit of work. Commissioners will require any changes to come back to the Commission as precise soil conditions and other factors will not be known until work is underway and demo of the existing structure is completed.

On a motion by D. Henkels; 2nd B. Armstrong; the Commission voted unanimously to close the hearing.

On a motion by B. Armstrong; 2nd D. Henkels; the Commission voted unanimously to issue the Order as discussed with the 21-day timeframe for issuance beginning upon receipt of the DEP File number.

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

Charles Jandl, applicant

Present: Mr. Jandl; Dan Wells of Goddard Consulting for the applicant; and Dave Burke, wetland peer reviewer for the Commission

Mr. Wells stated that the off-site flags had been added back in the field for review and confirmation. Wetland flags across the street have been extended to show that the full extent, and the potential vernal pools have been added to the plan. These show the additional potential vernal pool as flag series "G". The 100' vernal pool buffer remains within the 100' of the overall bordering vegetated wetland.

He removed the interior flags for the area formerly identified as an intermittent stream but kept this area flagged as bvwm. The plan revision date is 12/7/2016 and a copy was provided to the Commission at the meeting.

D. Burke stated that he is in concurrence with all changes and they reflect all the changes discussed at the previous hearing session and in the field. he noted that the off-site stream could not be determined to be intermittent or perennial at this time due to the continuing state-declared drought. he noted that he had witness the stream flowing on three of the four occasions he saw it on site. The one time he witnessed it dry was at the height of the drought in late summer.

Commissioners discussed the area of the stone culvert under Wayside Inn Road along the property frontage. It is puzzling why there is such a significant structure intended to carry flow when there is no evidence of any flow occurring in this area. Mr. Jandl has researched the property thoroughly and stated that he never saw anything related to the past use of this area.

On a motion by B. Armstrong; 2nd B. Porter, the Commission voted unanimously in favor of issuing an ORAD concurring with the wetland delineation as shown on the 12/7/16 plan with no determination made on the status of the off-site stream.

Discussion: Agricultural Licenses

Present: Chris Kurth, owner Siena Farms CSA

T. Friedlander and D. Dineen had met with Mr. Kurth prior to this discussion. Mr. Kurth introduced himself and explained that Siena Farms is based on Haynes Road at his parent's property. He licenses three agricultural fields from the Conservation Commission; Poor Farm Meadow field, one of the Barton Farm fields, and the Davis Farm field. This is his first time in 20 years of farming that irrigation had become a serious issue due to the severe drought. In an emergency situation, he went forward with installing a pump in a wetland area. He hand-dug an area in which to place the pump. He still had 50% crop loss this season.

The Commission explained to Mr. Kurth that he needed permission of the commission, both on their land and on private land, to alter wetlands even in this emergency situation. They recognized that there were no Drought Emergency Procedures in place to help guide the actions.

The Commission was also aware that the annual license payment to the Lessee at Carding Mill field was waived as he did plant his seedlings due to the late June licensee awarding and the fact that the drought was very present that early in the season. The Commission extended his one-year provisional license for another year and will apply the 2016 payment to 2017.

Commissioners discussed waiving the license fees for all four agricultural licensees for 2016. They agreed to waive the fee for 3 of the 4 licensees. Cavicchio Greenhouses had access to a water source (deep well) all season so they were not as impacted as the other 3 licensees.

In response to M. Sevier, D. Dineen stated that the Licensees pay an annually amount of approximately \$3600 for the field rentals. \$1,550 of this total is paid by Siena Farms. He noted that water requirements are based on the crop that is planted. Mr. Kurth replied that the water requirement is based on season needs which are based on the moisture in the soil and the time of planting. D. Henkels confirmed that Mr. Kurth is dependent on rainfall for irrigation. There are no wells on any of the properties licensed to Siena Farms. Mr. Kurth might seek approval for well installation in the future. D. Dineen noted that a well at Poor Farm Meadow will require a drawdown test to make sure no water is being drawn from the surface waters, especially the vernal pool.

T. Friedlander suggested that Mr. Kurth provide mitigation for the wetland violation by assisting the Commission with culvert replacement and trail repair at Davis Farm in the spring. Mr. Kurth agreed to do so.

On a motion by B. Armstrong; 2nd D. Henkels; the Commission voted unanimously to waive the 2016 licensee rental fees for Siena Farms; Fairbank Farms; and including the previously approved waiver for L. Rodriques on Carding Mill field.

In future discussion regarding a drought protocol, M. Sevier questioned how the Commission could determine when a drought had a negative impact on farming. He noted that this year it was based on state declaration of drought which is wetland-based. D. Henkels suggested looking to crop insurers, NWS, NOAA, and others to provide input on drought status that might affect farmers. C. Russo

added that the Commission should not count on next spring's snowmelt to provide drought relief. The Commission should be prepared is the drought continues or returns. Policies are needed to guide future actions. T. Friedlander suggested it could be looked at on a year-to-year basis based on annual conditions. D. Dineen added that the policy should also address authorizations for emergency work in wetlands based on drought. B. Porter noted that the drought declaration was a state declaration and might be able to be applied more specifically to this area.

D. Dineen noted that the small pooling area created by Mr. Kurth's wetland alteration for pump installation created a mini-refuge for numerous animals during the worst of the drought.

Orders of Conditions: Review and Vote:

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

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

Present: Steve Senna, National Development; Dave Burke, SCC wetland peer reviewer

The applicant, Commissioners, Mr. Senna, VHB, Dave Burke, and Fred King (SCC stormwater peer reviewer) had all received draft copies of the Orders for the two projects at Meadow Walk. Discussion involved clarifications on the need for off-site improvement completion before a Certificate of Compliance is issued. Off-site work, governed by other Orders of Conditions, is required to be installed/stabilized before the stormwater improvements for Village Retail and Bridges at Epoch drainage can be placed on line. Further soil testing is required on the Bridges at Epoch site before work may commence.

On a motion by D. Henkels; 2nd B. Porter; the Commission voted unanimously in favor of issuing the Order for #301-1195 Village Retail as drafted and amended by discussion at this meeting.

On a motion by B. Porter; 2nd B. Armstrong; the Commission voted unanimously in favor of issuing the Order for #301-1196 Bridges at Epoch as drafted and amended by discussion at this meeting

Violation Status:

Review status of unpaid wetland citations –

K. Roopenian had worked with the Town Clerk to develop a record of all paid and unpaid wetland citations. Commissioners reviewed the list of outstanding citations. A letter had previously had been sent to the property owners on these citations asking them to pay or the court will be notified of failure to do so.

Mr. Fenton, Distinctive Acton Homes, was present and stated he paid all of his outstanding tickets. The records show that there were 2 unpaid tickets. Staff will look into this and report back to Mr. Fenton and the Commission.

Jim Boyd, Boyd Landscaping, responded to the letter and informed the Commission that he had sent an appeal of his citation to the court. He never heard back on a hearing date and when he called them last week, they had no record of his letter being received. Mr. Boyd is seeking dismissal of the citation as he stated that his crew was not pumping water from the brook on Marlborough Road and would not do so. They were out of the truck on the phone getting directions to their next job site.

D. Dineen stated that we have no proof they were pumping from the brook. Mr. Boyd was very professional and pleasant and sounded sincere that he did nothing wrong. Due to lack of proof, she recommended withdrawing the citation.

On a motion by C. Russo; 2nd D. Henkels; the Commission voted unanimously in favor or withdrawing the citation.

Certificates of Compliance:

DEP #301- ; 73 Firecut Lane

The Coordinator reported that the work to replace the septic and add an addition over the garage was completed and stabilized according to the approved plan.

On a motion by C. Russo; 2nd D. Henkels; the Commission voted unanimously in favor of issuing the COC.

SWAB #2009-2: Lot 56 (#47) Bigelow Drive

T. Friedlander summarized the egregious violations of the Order of Conditions on this lot. He, D. Henkels, B. Porter, D. Dineen, and Scott Goddard had met on site on Dec. 14 following discussion with builder Wm. Senecal and Scott Goddard regarding deviations from approved plans on Dec. 13. Fill has been placed in a wetland area, temporary grading areas were not restored in accordance with the plan, the house angle was shifted, finished grades and retaining wall height was not as proposed, additional disturbance beyond the approved limits of disturbance, and a Notice of Intent is to be submitted requesting additional wetland fill. According to the builder, William Senecal, the fill will provide a better angle of entry/exit to a garage bay that resulted from the unauthorized change in house angle. A Notice of Violation was issued on 12/13/16.

On a motion by D. Henkels; 2nd B. Armstrong; the Commission voted unanimously in favor of ratifying the Notice of Violation.

810 Concord Rd.

This violation consisted of grading and lawn establishment within 100' of wetlands and within a conservation restriction area. Mr. Lee, homeowner, has requested an extension to file an NOI as the several wetland specialists he contacted could not do the work within the next eight weeks.

Commissioners agreed to give Mr. Lee an extension for NOI filing to March 1, 2017 as no restoration work can take place on the property this time of year.

Status of SVT Memorial Forest tree removal & Kinder Morgan Pipeline Clearing

Commissioners reported that they have visited the Memorial Forest and viewed the work done to date. T. Friedlander, D. Henkels, and D. Dineen viewed the area west of the sand pit. Work had just begun and had appeared to stay outside of 100' of wetlands. Another site inspection will be held this week to look at the work that is on-going in the sand pit area and easterly toward Hop Brook.

Public Outreach:

Sudbury TV:

T. Friedlander and D. Dineen met with Matt Cranston of Sudbury TV. He is the new outreach coordinator. He is very interested in working with the Commission to develop PSA spots and longer educational videos to help Sudbury residents become familiar with the natural resources in Town. He is suggesting short "Chronicle-like" programs focusing on different aspects of the environment.

Commissioners enthusiastically supported this project. Details will be developed over the next several months and perhaps some winter filing can begin for a segment on wildlife and tracking.

Homeowner's Brochure:

Meg Armstrong has developed a first draft of a new 3-fold homeowner's brochure so see if the Commission liked the design concept and layout. It was found to be very well done. M. Sevier suggested going to an 11 x 17 format to allow for more information. K. Rogers suggested keeping the wording down so readers will not lose interest. D. Henkels thought the smaller format of 8.5 x 11 would make a good mailer or could possibly be inserted into the spring Town Warrant. C. Russo supported the project as it will raise awareness of wetland laws.

Commissioners questioned if local wetland fees could be used to pay Ms. Armstrong. D. Dineen will follow up on this.

D. Dineen will work with Ms. Armstrong on cutting down the language and finding local photographs to include.

Order of Conditions: 197 and 0 Old Sudbury Rd.

Commissioners discussed the special conditions to be included in the Order. The standards conditions for new house construction include a limit on the extent of lawn with no lawn in jurisdictional areas without mitigation. Standard conditions require the use of native plants only in jurisdictional areas, and prohibit the use of herbicides and pesticides within jurisdiction.

M. Sevier and C. Russo expressed concern that these standards conditions were not discussed with the applicant at the hearing. The majority of Commission voted to include the standard conditions.

Shaw's Plaza Sewage Spill

The Coordinator reported that the Board of Health had been called to a sewage spill on the Nobscot access road to Shaw's Plaza. The spill was contained on the pavement area and there was no evidence of any sewage entering the wetland. She will track any updates with the Board of Health. The Commission agreed no action was necessary at this time.

0 Willis Road DEP appeal

The Coordinator reported that the office is in receipt of a response to DEP's request for revised plans from Goddard Consulting. The response did not offer any revisions to the original plan as requested by DEP. She drafted a letter for the Commission's consideration to be sent to DEP encouraging DEP to deny the project for failure to redesign the plan to limit work directly adjacent to wetland resources.

On a motion by C. Russo; 2nd D. Henkels; the Commission voted unanimously in favor of endorsing the SCC letter to DEP as drafted. K. Rogers abstaining.

9:25pm

Motion by B. Porter; 2nd D. Henkels to enter into Executive Session to discuss outstanding litigation; not to return to regular session. Chairman Friedlander declared that discussion in open session could be detrimental to negotiations. The roll call vote to enter Executive Session was unanimous.