

**Sudbury Conservation Commission  
Minutes of the Meeting Held June 19, 2017**

Present: Tom Friedlander, Chairman; Dave Henkels, Vice-Chairman, Mark Sevier; Bruce Porter; Kasey Rogers; Charlie Russo; Debbie Dineen, Coordinator

**Wetlands Bylaw Abbreviated Notice of Resource Area Delineation (ANRAD): 208 Concord Rd.**

David Fitzgerald, Trustee, applicant

Present: David Fitzgerald: Ed Frelander, Dave Burke

An on-site wetland delineation was done by Dave Burke that showed two areas of isolated vegetated wetland that are jurisdictional under the local wetlands bylaw. They do not border on another resource area s they are not jurisdictional under the state Wetlands Protection Act. The over story is mostly white pine and there are no hydric soils. At present all construction is proposed outside any wetland jurisdictional areas.

D. Dineen noted that the reserve area of the septic system shows no change in contours. The Board of Health Director indicated that this may be acceptable.

Betty Meckler of Pennymeadow Road asked where the runoff would go from the new construction. Chairman Friedlander reminded her that the hearing was only for the wetland delineation. It appears all alteration will stay out of wetland jurisdiction. D. Dineen added that the plan shows rain gardens for infiltration. She could discuss this directly with the builder.

On a motion by D. Henkels; 2nd K. Rogers; the Commission voted unanimously in favor of closing the hearing.

On a motion by D. Henkels; 2nd B. Porter; the Commission voted unanimously in favor accepting the wetland delineation plan submitted with the ANRAD filing.

**WPA and Bylaw Request for Determination of Applicability: 14 Dawson Dr.; Peter Abair,**  
applicant

No one present for this filing

D. Dineen presented the plan for a second story addition to an existing single-family house. The resource area is an intermittent stream, associated bank, and adjacent upland resource area. The property is level and the only alteration on the ground will be enclosing the area under the deck and creating an impervious surface so the area can be used for storage. Work is approximately 60' from the bank of the stream.

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

**WPA and Bylaw Abbreviated Notice of Resource Area Delineation: Nashawtuc Country Club** (continued)

Present: Dave Burke, peer reviewer for the Commission; Mike Toohill of BSC Group; Ric Schultz and Troy Noble for Nashawtuc

This is a continuation of the hearing that has been continued numerous times due to late April snowstorms and then high flooding in the area. D. Burke has been working with the wetland scientist representing Nashawtuc, Phil London, on concurrence with wetland flags once they were visible. The bordering vegetated wetland required much soil auguring. Mr. Burke and Mr. London have reached agreement on most of the wetland areas. The only remaining item is the delineation of mean annual high water (MAHW) associated with the perennial streams in the northwest corner of the property. The bylaw MAHW was agreed to as the bank of the bordering vegetated wetland as this defined the transition from aquatic to terrestrial habitat.

The WPA MAHW is shown as concurrent with the delineation done on the Concord side of the wetland. StreamStats indicate a series of impoundments along the streams which affect MAHW. D. Dineen stated that the impoundments along with the back-flooding of the Sudbury River, Pantry Brook, and possibly Cold Brook all influence the high water elevation. These factors also make it difficult to determine the extent of forces that shape the stream bed. She suggested looking at the edge of the woody vegetation line as woody vegetation is not likely to be present where there is enough stream flow to effect the actual low flow stream bed. Dave Burke concurred and stated that it is reasonable to assume that the change/break in the type of vegetation is good representation of MAHW as defined in the WPA.

D. Henkels motioned to accept the wetland delineation as discussed tonight and as shown on the most recent plans from BSC Group. 2nd K. Rogers. Unanimous in favor

### **WPA and Bylaw Notice of Intent: 2-23 Farmstead Lane, Highcrest at Meadow Walk**

Pulte Homes, applicant

Present: Meredith Avery of VHB, Inc; Steve Senna of National Development

Ms. Avery explained the discrepancy between the 8.09 acres for development as cited in the NOI and the 5.77 actual site work acreage. The Commission had also received a memorandum from Ms. Avery and Karen Staffier, engineer of record, responding to the final comments of Fred King, the Commission's stormwater peer reviewer.

On a motion by D. Henkels; 2nd M. Sevier; the Commission voted unanimously in favor of closing the hearing.

Commissioners, the applicant, National Development, and their representatives reviewed a draft Order of Conditions. On a motion by D. Henkels; 2nd B. Porter; the Commission voted unanimously in favor of issuing the red-line draft Order as reviewed and discussed tonight.

### **WPA Notice of Intent 187-189 Boston Post Rd.; Coolidge at Sudbury Phase II**

Covenant Commonwealth Corp., applicant

Present: Holly Grace; Joe Peznola; Josh Fox; Rich Kirby, all representing the applicant; Dave Burke for the Commission

The hearing had been continued to investigate the feasibility of mitigation in the form of funding for the construction of several osprey/eagle nesting platforms along the Sudbury River, Landham Brook, or suitable tributaries. D. Dineen had looked into locating the platforms on USFW property along Landham Brook. Libby Herland, refuge Manager at Great Meadows NWR, was in support of the project, however could not authorize use of USFW properties. Due to budget cuts currently leaving them with only 12 people to cover 8 National Wildlife Refuges, they are in the process of removing infrastructure and cannot permit any new structures at this time.

D. Henkels and D. Dineen spent time reviewing aerial and property maps for suitable locations off NWR properties but on protected lands for the platforms. Two locations on permanently-protected town properties were identified. One was located on the southern edge of the former Newfell property off Concord Road and one was at the northeastern corner of the back field on the former Lettery property off Landham Road. Dave Burke, who had worked with the town of Lincoln on siting and constructing these platforms was consulted. Mr. Burke confirmed these two sites as viable areas with abundant food supplies. He noted Eagles are nesting in north Framingham along the reservoir.

Atty. Fox thought the platforms were great solution for mitigation. The applicant will agree to place \$30,000 in an escrow account to be used for this purpose, including the hiring of a consultant by the Commission to oversee the project. Any funds remaining after platform construction and monitoring will be used at the discretion of the Commission for other habitat enhancements projects.

On a motion by M. Sevier; 2nd K. Rogers; the Commission voted unanimously in favor of closing the hearing.

C. Russo questioned if bidding of the project was required sue to the overall amount of \$30,000. D. Dineen did not believe it was because the funds were acquired for mitigation ad will be placed in an escrow account. She will check with the Town Manager or Town Counsel and report back. B. Porter stated there is no known reason not to move forward.

Following a review of the draft Order and agreement on several suggested revisions by Atty. Fox; on a motion by B. Porter; 2nd M. Sevier; the Commission voted unanimously in favor of issuing the Order as drafted, discussed and revised. D. Dineen and Atty. Fox will work on the final version that will include spelling and other minor changes not affecting the intent.

#### **WPA and Bylaw Notice of Intent: 69-71 Brewster Rd.**

The applicant has requested a continuation to the last meeting in July to allow time to respond to the Planning Board and Conservation Commission's Stormwater peer reviewer and address comments from a meeting of the applicant with town staff.

On a motion by D. Henkels; 2nd M. Sevier; the Commission voted unanimously in favor of the continuation.

#### **Bylaw Notice of Intent: 47 Bigelow Drive (continued)**

On a motion by M. Sevier; 2nd K. Rogers; the Commission voted unanimously to again continue the bylaw hearing to July 17 to wait for the formal written ruling from DEP on the violation restoration requirements and penalties.

#### **Certificate of Compliance: DEP File #301-420, Willis Hill Subdivison road & drainage**

This Order was for the road & drainage for Briant Dr., Cudworth Ln., and Widow Rite's Road. As-built plans are on file in the DPW Dept. The Town accepted the streets over a decade ago and would now be the party liable for any repairs or revisions to the roads and drainage, if any.

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

#### **Davis Farm Meadow Reclamation Project**

D. Henkels and D. Dineen walked the site of a former meadow at the Davis Farm conservation land with Rusty Bent of Rusty's tree service last Friday. Mr. Bent would be able to clear the approximate 1-acre area of all vegetation and stump it. It would then need to be grubbed to remove roots and then plowed and harrowed to get it ready for planting of native meadow species. They are waiting for costs and a contract from Mr. Bent. No wetland jurisdiction is involved with this project,

This project is to replace the planned forestry project at King Philip Woods (KPW) so as not to lose the \$9,900 in FY 2017 funding for land stewardship. T. Friedlander explained that the KPW had to be placed on hold at least until this fall to address concerns of the Native Americans who have identified the KPW as having Native American ceremonial landscape features. He and D. Dineen met with Lyn McLean of the Historical Commission this morning to discuss how to move forward. He stead the SCC would like to get help from the HC to identify areas that should not be disturbed. T. Friedlander, and D. Dineen have all spoke to Doug Harris, native America preservation officer for the area. He will not assist with the specific on-site identification of the ceremonial landscape features for spiritual reasons.

K. Rogers questioned the rational for the Davis Farm meadow project. D. Dineen explained that the Commission developed a comprehensive list of priority projects for conservations lands approximately two years. Each property was walked and a list of the projects broken down by priority, routine maintenance, and new initiatives was developed.

On a motion by D. Henkels; 2nd M. Sevier; the Commission voted unanimously to proceed with the Davis Farm Meadow restoration project subject to an acceptable quote and contract.

**Violations Status:**

**3 Goodnow Rd., Dishnica**

A representative came to the Conservation office to pay the ticket. He was informed that tickets can only be paid to the Town Clerk. He was upset that he had to go to another building to pay. As of this meeting, the ticket has not been paid.

**267 Landham Rd., Safar**

No response from either Gaston Safar, who is likely out of the country, or from his wetland scientist, DeSheng Wang. Commissioners agreed that an official letter from Town Counsel should be sent.

**443 Peakham Rd., Marimon**

There has still been no evidence of the restoration planting. This was required, after numerous extensions including last year's drought, to be done as easy as possible in the 2017 spring planting season. This season is almost over. The discussion and further enforcement action will be moved to the July meeting. A formal letter from Town Counsel was suggested.

**168 Horse Pond Rd., Blank**

The Commission has not received a response from the letter sent after the last meeting informing the Blanks that they had to move the fence to the approved location. Further discussion will be held at the July meeting. On a motion by M. Sevier; 2nd B. Porter; the Commission voted to issue a ticket. Sevier, Porter, Friedlander in favor. Russo, Henkels opposed.

**Other Business:**

**Meeting Schedule Revisions**

Conservation Commissions were revised to be held on the following dates: 7/17, 7/31, 8/14, 8/28, 9/11(M. Sevier out), 9/25, 10/16(T. Friedlander out), 10/30(T. Friedlander out), 11/13

**Commissioner Training**

It was decided to wait to hold the wetlands training until a new Commissioner was appointed by the Town Manager.

**Sudbury TV Filming**

D. Henkels will be working with Sudbury TV to film a camp outing on Conservation land. These short films will help educate the public on the values of wetlands.

**Haynes Meadow Trail Clearing**

B. Porter reported that he has made good progress on clearing the overgrown trail off Blueberry Hill Rd to the Hop Brook location with a small stone replica of the Wayside Inn. This replica was constructed by a former owner of the Haynes Meadow land, John Powers.

**Meeting with Town Manager**

T. Friedlander and D. Dineen met with Melissa Rodrigues to discuss several items.

Revolving Fund for Forestry Projects- M. Rodrigues was in favor of setting up this revolving fund to allow forestry work to be financially self-sustaining.

Trails Committee- T. Friedlander suggested the Selectmen create a separate committee for land stewardship of the conservation land trails. M. Rodrigues will discuss this with the Selectmen.

Landham Brook Marsh- D. Dineen explained to issue with LBM not being an official conservation land. Town Counsel had discovered that although the Town Meeting vote to acquire this property included the use of Open Space CPA funds, the vote and Deed did not formally designate the land in accordance with MGL Chapter 40 s8C. The Conservation Restriction (CR) developed by Sudbury Valley Trustees with the help of a grant from the Sudbury Foundation, needs to be rewritten to remove reference to "conservation purposes" and the Selectmen, rather than Conservation Commission should review the CR. The Land Management Plan should also be reviewed and approved by the Selectmen. The alternative is to have the Selectmen designate the land for conservation purposes per the statute at the next Town Meeting. M. Rodrigues all discuss this with the Selectmen.

Mailing of Homeowner Brochure- M. Rodrigues believes it may be possible to include the Brochure in the Fall Town Meeting warrant mailing.

Town Counsel Letter to Violators – T. Friedlander updated the Town Manager as to the status of several violations. She agreed that a formal letter from Town Counsel may help move the properties toward compliance.

#### Conservation Office

D. Dineen thanked Commissioner Bruce Porter for working 100 hours in the Conservation Office as part of the senior tax program. B. Porter worked on a project to identify properties that are presumed to be permanently protected but have Deeds that do not require them to remain protected. His focus was on Sudbury Valley Trustee property. He set up a database that will now be expanded to include town conservation land status. It is hoped that SVT will now agree to place their properties under a perpetuity conservation restriction and the Town will agree to record confirmatory deeds as needed on all conservation properties to ensure permanent protection.

Meeting adjourned at 8:30pm. Motion by D. Henkels; 2nd B. Porter