

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Held Monday, Aug. 28, 2017

Present: Tom Friedlander, Chairman; Dave Henkels, Vice-Chairman; Mark Sevier; Charlie Russo; Kasey Rogers (by remote participation); Debbie Dineen, Coordinator

Minutes

On a motion by D. Henkels; 2nd C. Russo; the Commission voted unanimously in favor of approving the minutes of Aug. 14, 2017 as drafted.

WPA & Bylaw Request for Determination of Applicability: 210 Plympton Rd., septic repair

Present: Kelly Wennick, applicant

Ms. Wennick explained that she is purchasing the property at 210 Plympton Rd. The house needs a new septic system. The new system has been designed by Sullivan Connors and is located as far as possible from the wetland.

D. Dineen added that the current system is a cesspool that is much closer to the wetland both horizontally and vertically. The wetland consists of bordering vegetated wetland and an intermittent stream. The new system will be approximately 90+ feet from the bordering vegetated wetland and outside 100' of the stream.

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

WPA & Bylaw Notice of Intent: 451 Peakham Rd., grading and retaining wall construction; Chris Davey, applicant

Present: Chris Dave; David Cowell, Hancock Associates

Mr. Cowell presented a plan for a project that includes construction of a retaining wall, removal of invasive plant species, native planting restoration, and debris removal on the slope to a bordering vegetated wetland (bvw). This wetland contains a vernal pool. The applicant would like to install a retaining wall on the slope to the bvw with a 5' setback to the wetland. The slope will have the landscape and trash debris removed and will be revegetated with native plants, including several trees.

D. Dineen stated that it has been confirmed that wood frogs breed in deeper pockets of the vernal pool. The closest pocket appears to be about 100' from the bottom of the slope at 451 Peakham, behind 102 Blueberry Hill Lane. The slope to the bvw has a few nice native trees but otherwise is invasive species of buckthorn, oriental bittersweet, and Japanese knotweed. Trash is buried in the slope and probably dates back to old fill when house was built and property leveled. Erosion control is shown on plan. She recommended the following conditions be included in the OOC: row of dense native plantings at top of slope; work on slope not be permitted between March 1 and Sept. 1 due to migration of wood frogs during these times; jute netting on slope after trash and invasive plant removal completed; no expansion of lawn beyond top of slope. Timing of work to provide optimum stabilization based on season. C. Russo suggested a condition be added that states no debris disposal below the retaining wall.

Responding to K. Rogers, Mr. Cowell confirmed that no changes in drainage patterns or volumes would occur due to the retaining wall. The wall is designed with perforated drainage holes to allow continued flow into the wetland.

T. Friedlander expressed concern that he is uncomfortable with the work due to lack of a significant setback to the wetland. He stated that other properties have had issues with work in close proximity to wetland. M. Sevier explained that in this case, the net effect of the project overall is a benefit to the wetland through habitat improvement. He felt that there are mitigating circumstances in

this situation that allow the homeowners to accomplish their goals while improving the current conditions for the wetland. K. Rogers agreed and added that the area where work is proposed is not pristine. D. Dineen added that if no work is done, the oriental bittersweet would stress and kill the trees. This will result in loss of shading and loss of habitat function for vernal pool species.

D. Henkels confirmed that installation of erosion control will be done.

On a motion by M. Sevier; 2nd C. Russo; the Commission voted unanimously to close the hearing.

On a motion by M. Sevier; 2nd C. Russo; the Commission voted to issue the order as discussed. T. Friedlander opposed.

WPA & Bylaw Notice of Intent: 31 Thunder Rd.; restoration planting, driveway work, grading and retaining wall construction; S. Narayanasam, applicant

Present: Debora Anderson, wetland consultant for applicant; Mr. & Mrs. Narayanasam

Ms. Anderson presented a plan for the revegetation of an area subject to wetland jurisdiction. An Enforcement Order and Notice of Violation was issued on June 17, 2017 for disturbance within wetland jurisdiction without a permit. The stream is being considered perennial for the scope of this NOI as no proof was submitted showing it dry. The restoration plan covers the area of disturbance in the rear and side of the property where debris had been removed. The revegetation is with native species only. The owners wish to rebuild and extend the retaining wall to level the backyard. They also wish to rebuild a walkway on the wetland side of the house. They are hiring Cheney Engineering to assist with a plan showing the pre and post grades for the walkway, retaining wall details, and proposed grading.

Commissioners discussed requiring completion of the restoration plantings by Oct. 15th under the NOV/EO. On a motion by M. Sevier; 2nd D. Henkels the Commission voted unanimously to continue the hearing to Oct. 16 for submission of the engineering information.

Comment Letter on Bruce Freeman RT 25% Design – review draft, vote & sign

Present: Beth Suedmeyer

Commissioners reviewed a draft of the comments. They felt that the issues relative to the wetlands bylaw are not relevant to the 25% design scope. D. Henkels noted that at the May 3, 2016 Board of Selectmen's meeting the Selectmen voted 3-2 to not subject the BFRT to the local bylaw. T. Friedlander stated that this topic is a separate discussion. D. Henkels noted it was a matter of policy.

K. Rogers felt that it was an important issue to raise at this time rather than raise wetland issues when the plans are much further along. She noted the need to be consistent with all decisions.

M. Sevier stated that he got the feeling that the Commission was being told to cooperate to get this done or project proponents will just work around the Commission.

B. Suedmeyer stated that the mitigation plan has not yet been developed. Mitigation might consist of invasive plant removal and culvert upgrades. She stated it was too early to make a determination on whether or not the local wetlands bylaw can be applied in any way. it is a MA DOT project to allow the town to receive state and federal funds. MA DOT is not subject to local bylaws. T. Friedlander, M. Sevier, and K. Rogers all did not know if it is too early in the process to consider the bylaws at this time.

Commissioners voted unanimously to send the letter as drafted minus the last three paragraphs. Motion by M. Sevier; 2nd C. Russo.

Bylaw Notice of Intent: 69-71 Brewster Rd.; A. Sumito, Trustee of Leeya Realty Trust

A request for continuation was received Aug. 22, 2017 for continuation to Sept. 11, 2017 to allow the stormwater peer reviewer time to respond to the latest plan changes.

On a motion by D. Henkels; 2nd C. Russo; the Commission voted unanimously in favor of continuing the hearing as requested.

Land Stewardship Update: Timing and funding for invasive species management at King Philip Woods & Davis Farm

D. Dineen informed the Commissioners that there is a total of \$2,749.78 available for land stewardship project. \$4,000 of these funds are earmarked only for King Philip Woods as it was grant funding for a specific purpose. Davis Farm could have heavy clearing of the old meadow in the fall of 2017 with harrowing and planting in the spring of 2018. The clearing is \$11,000.

KPW is on hold until the Commission can see if any groups are available who might be able to identify ceremonial landscape features to avoid during invasive plant removal.

Certificates of Compliance:

#301-1176, 26 Goodman's Hill Rd.

T. Friedlander and D. Dineen visited the site earlier today. As a result of the site inspection, the Certificates of Compliance are *denied* at this time for the following reasons:

- Although the site was stable, the restoration area contains a significant number of invasive phragmites plants.
- Several purple loosestrife plants were observed in the restoration area.
- There were a significant number of other non-native plants within the restoration area. The Orders require the goal of a native species meadow to be achieved (Special Conditions Part II. m.) Native species are defined in the Orders as plant species from the Sudbury Conservation Commission's Native Plant Species List (Special Conditions in Perpetuity j.)
- The silt fence was still in place within the restoration area.
- The Plan approved by the SCC was dated 12/1/2015. This plan did not show any expansion of lawn, nor was lawn expansion part of the scope of the NOI. Although it appears the intent of lawn expansion was to keep it out of wetland jurisdiction, the colonization of the restoration area by facultative wetland plants calls into question if the original non-permitted work in the upland resource area/buffer causing a change of hydrology resulting in an expansion of jurisdictional wetlands. It may be that the area does not contain hydric soils and the wetland plants resulted from soil compaction. Soils will need to be determined in the area of the phragmites and loosestrife to determine if the area of new lawn is actually located within wetland jurisdiction.
- No as-built plan was received.
- No confirmation of removal of in-ground irrigation components was included.

On a motion by M. Sevier; motion seconded; the Commission voted unanimously to not issue the COC at this time and express concern to the applicant that the wetland line may have been incorrect.

#301-1129, Eversource Substation Expansion

D. Henkels and D. Dineen visited site 8/25. Significant purple loosestrife remains within wetland on south side of retaining wall. Motion to deny COC by M. Sevier; 2nd D. Henkels. Unanimous

Violation Status:

168 Horse Pond Rd.; fence relocation

Still no response. Commissioners agreed to continue to send daily tickets to the homeowners by regular mail as it does not appear they are picking up certified mail.

41 Lincoln Ln.: COC and CR violation status

D. Henkels provided an update of the meeting with the homeowner, Kris Bursik, last week. D. Dineen also present. Ms. Bursik was extremely cooperative and they wish to comply. They requested time to develop a plan that will work. This is the second time the planted mitigation shrubs have not survived. Motion by C. Russo; 2nd D. Henkels to extend the timeframe for the NOI to the first meeting in October 2017. Commissioners approved a temporary gate to block unauthorized access to the lower meadow area.

267 Landham Rd., Safar

Commissioner agreed to extend the timeframe for submission of the NOI for 60 days to Oct. 16, 2017 to allow time for the engineers to develop a plan showing the remaining fill in the wetland and how they will bring the property into compliance.

Other Business:

Signatures:

Warrant Articles:

October 2017 Special Town Meeting on Oct. 16 (8/9 – 8/31/17 submission window)

- Revolving Fund for Forestry proceeds
Motion to submit by D, Henkels; 2nd K. Rogers. Unanimous in favor
- Selectmen designation of Landham Brook Marsh as conservation land per MGL Chapter 4 s. 8C (may be signed by Town Manager or Selectmen)
Motion to submit if necessary C. Russo; 2nd D. Henkels. Unanimous in favor

Fall Walks- finalize dates and leaders

Commissioners discussed including Nobscot, D. Henkels; Ford's Folly, D. Dineen; King Philip Woods, T. Friedlander; and several other walks for the fall schedule. C. Russo offered to hold a Sunday "pop-up" walk at Landham Brook Marsh. Time and Date to be determined.

Proposed Revision to Wetland Bylaw Regulations- Discuss and set hearing date

D. Henkels suggested the addition of wording to the SWAB regulations to address acquisition of property with pre-existing violations. The new owners would be inheriting the responsibility to bring the property into compliance as the violation travels with the land. This is already the case, however adding it to the regulations is an attempt to make it clearer and more prominent. The Commission is hoping this may bring attention to the issue of properties being sold with violations as the Commission is now being advised that they should not record Enforcement Orders at the Registry of Deeds.

On a motion by C. Russo; 2nd D. Henkels; the Commission voted unanimously in favor of scheduling and advertising a public hearing to amend the Regulations as discussed.

Reports from Commissioners and Staff

Coordinator:

Eversource ANRAD filing is to be submitted in late October or early November. Sudbury Water District is planning a building project to add a new office building. The project has the potential to provide upgrades to current stormwater conditions.

The Community Garden is working smoothly this year with all gardeners using the appropriate types of more wildlife-friendly fencing.

The Nobscot Boy Scout land should have had the national Guard on site this past summer to complete some trail work. She suggested a site inspection of the Commission to review the status.

No other reports

On a motion by D, Henkels; 2nd M. Sevier; the commission voted unanimously in favor of adjourning the meeting. 8:45pm