

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Held Monday, Sept. 11, 2017

Present: Tom Friedlander, Chairman; Kasey Rogers; Charlie Russo; Bruce Porter (7:53pm arrival); D. Dineen, Coordinator

Absent: Dave Henkels; Mark Sevier

Chairman Friedlander called the meeting to order on the arrival of Commissioner Porter at 7:53pm.

WPA & Bylaw Abbreviated Notice of Resource Area Delineation: 74 & 80 Maynard Rd.

John Derderian, Bonnie Brook Realty Corp.; applicant

On a motion by C. Russo; 2nd B. Porter the Commission voted unanimously in favor of continuing the hearing without discussion to allow wetland scientist and SCC wetland peer reviewer to meet on site to discuss discrepancies.

WPA & Bylaw Request for Determination of Applicability: 73 Goodman's Hill Rd., Shetiya

Present: Anand Shetiya

Mr. Shetiya presented a plan for driveway expansion at his property. The expansion will eliminate the need to back on onto Goodman's Hill Road. The expanded area will be 5' wide by 41' long. A trench will be installed to infiltrate runoff from the additional impervious surfaces. Calculations for the 1" storm event have been provided. D. Henkels and D. Dineen confirmed the soil suitability for infiltration on site.

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

WPA & Bylaw Notice of Intent: 188 Newbridge Rd.; Barker

Present: David Cowell of Hancock Associates; Julie Barker, homeowner

Mr. Cowell presented the plan showing a house addition and driveway relocation. The addition is 610 sq. ft. to be located on the side of the house within the outer riparian area and the upland resource of bordering vegetated wetland. All work is on existing lawn except for a small area containing 4 white pines and one white oak that must be removed for the construction of the addition.

The driveway will be relocated to match the new proposed driveway. The area of the existing driveway will be revegetated as lawn. Driveway drainage will have the first 1" of runoff infiltrated through the use of Cultec chambers. An erosion control barrier will be installed at the limit of work.

Mitigation will consist of hand removal of the invasive plants species in the upland resource area, riverfront area, and bordering vegetated wetland. The number of invasive plants is limited so long-term success is likely to be achieved. D. Dineen did not feel replanting of native plants was necessary as the understory is dense native ferns that should recolonize the area quickly. She recommend issuing the OOC with the following conditions:

- requirement for obtaining a Driveway Permit from the Engineering Dept. for the driveway relocation;
- use of herbicides is prohibited;
- the invasive plant removal shall be monitored with reports submitted each growing season for the duration of the OOC.

On a motion by C. Russo; 2nd B. Porter; the Commission voted unanimously in favor of closing the hearing.

On a motion by K. Rogers; 2nd C. Russo; the Commission voted unanimously in favor of issuing the Order with the special conditions as discussed.

Request for Amendment of Order of Conditions:

DEP File #301-1217; 45 Mossman Rd.; M. Frias

Present: Arthur G. Krusinski

Mr. Krusinski asked that the Commission include additional tree removal on his property (39 Mossman) for work necessary for septic replacement on the abutting property (45 Mossman Rd.). A letter from Mike Frias, owner at 45 Mossman was included with Mr. Krusinski's request along with a letter from the tree company indicating the need for tree removal on both properties for the septic work at 45 Mossman.

The Commission unanimously voted (motion by B. Porter) to approve the removal of the additional trees on 39 Mossman necessary for access for septic replacement. This amendment will be approved as a field change under the Order for DEP File #301-1217.

WPA & Bylaw Notice of Intent (continued): 1011 Boston Post Rd.; Chris Torti

Present: Chris Torti, applicant

Common driveway & drainage for 2 new single-family houses & confirmation of wetland delineation

Chairman Friedlander stated that there still has been no evidence presented by the applicant to show the stream is intermittent. Mr. Torti requested a continuation of the hearing to allow additional time to present information that supports their findings.

Chairman Friedlander informed the applicant that the stream must be documented to be dry for at least 30 consecutive days to be considered and treated as intermittent under the bylaw. D. Dineen stated that the evidence to substantiate findings of intermittent are usually required as part of the NOI filing. She had advised Mr. Torti's representative, Robert Murphy, of this prior to submission of the NOI. She did not recommend on-going continuations of the hearing to allow the applicant to submit information that should have been collected and submitted as part of the NOI. She suggested the Commission close the hearing and act on the information available now. This is likely to result in a denial due to incomplete information. She suggested the applicant withdraw and refile following the collection of the necessary documentation. This would result in new filing fees and consultant costs. She did not recommend waiving any future filing fees as the town staff and peer review consultants have spent many hours already on this filing. C. Russo questioned if the hearing could be continued. D. Dineen responded that the commission could vote to continue again, however each continuation shifts a burden onto the Commission to comply with the Mullin Rule on quorums and increases the risk of procedural error.

C. Russo motioned to continue the hearing for 30 days. B. Porter, 2nd. C. Russo; B. Porter in favor; T. Friedlander, D. Henkels, and K Rogers opposed. Motion fails.

Chairman Friedlander gave Mr. Torti a few minutes to consult by phone with his representative. Mr. Torti returned to the meeting.

K. Russo moved to close the hearing. C. Russo 2nd. unanimous in favor

Mr. Torti stated that he wished to withdraw his Notice of Intent. He will provide this request in writing.

WPA & Bylaw Request for Determination of Applicability: 105 Greystone Ln.; P. Metha

No applicant was present

D. Dineen presented the plan for swimming pool installation. The pool is proposed all on existing lawn area. She recommended a negative Determination provided there was no tree removal, no lawn expansion, and pool chemicals are allowed to dissipate for a minimum of two weeks prior to any full or partial drainage of the pool.

On a motion by K. Rogers; 2nd B. Porter; the Commission voted unanimously in favor of a negative Determination with the stated conditions.

Violation Status:

41 Lincoln Ln.; Kris Bursik, present

Kris Bursik, property owner, requested approval under the NOV/EO for fall planting of the conservation restriction area prior to the filing of the NOI. She would like to install a temporary gate to the lower area to keep people from parking in this area. She would like to begin the plantings with 7' – 9' river birch, mature native winterberry and inkberry shrubs. These plants were chosen because they are more deer resistant. They would like more time to work with the landscape architect to determine the best type of soil enhancements and other plantings that will survive.

On a motion by B. Porter, the Commission voted unanimously in favor of allowing the plantings as described under the Notice of Violation and extending the timeframe for submission of the NOI to Jan. 31, 2018.

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

Common Driveway construction and drainage for two new single-family house

On a motion by C. Russo; 2nd K. Rogers; the Commission voted unanimously in favor of continuing the hearing without discussion to allow stormwater peer reviewer to review revised plans received 9/6/17. Hearing to be continued to 9/25/17.

Wetlands Administration Bylaw Revision: Review wording pertaining to pre-existing violations

Commissioners reviewed the draft language and Town Counsel's comments on the language to be added to the wetland bylaw. The new language makes it clearer that violations travel with the property and new owners may be responsible for past violations. The original language had a three-year timeframe for action by the Commission. Town Counsel questioned if this timeframe was intended and desired.

On a motion by C. Russo; 2nd by K. Rogers; the Commission voted unanimously in favor of striking the sentence on timeframes for Commission action.

Violation Status (cont.):

3 Goodnow Rd.

D. Dineen updated the Commission on the discussion and action outcome from the Aug. 29 staff meeting and town culvert investigation. The violations involve the Conservation Commission, Board of Health, DPW, and Engineering Departments. C. Russo stated that the Commission could focus only on the conservation issues or take a more holistic approach and work with other boards to solve all issues to everyone's satisfaction.

T. Friedlander stated that the property owners need to restore the property by removing the pavement, removing the debris within the vernal pool. He questioned how long the Commission should wait for these actions that are harming wetland resources to occur. The NOV was issued in April 2017. K. Rogers expressed concern with pavement removal and stabilization this time of year. She stated the area needs to be stable for the spring season. D. Dineen added that if the connection to the town drainage gets bricked-up, we should know the consequences for flooding and vernal pool impacts first.

C. Russo stated there should be a uniform deadline for the owners to comply with all permits of all boards and a unified penalty paid. T. Friedlander suggested a firm deadline for compliance be set. Another discussion will be held on progress made on Sept. 25.

168 Horse Pond Rd.

There has been no response to any letters or citations to date. Commissioners agreed to request Town Counsel send a letter requesting compliance and payment of tickets.

On a motion by C. Russo; 2nd B. Porter; the Commission agreed unanimously to send the outstanding tickets to Superior Court for further action.

Other Business:

Warrant Articles: Sign Amended Article for Forestry Revolving Fund & Assign TM speakers

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

- Revolving Fund for Forestry proceeds – D. Dineen reported that the Article is to set up the fund, not ask for appropriations into the fund at this time.
- Update: Selectmen designation of Landham Brook Marsh as conservation land per MGL Chapter 4 s. 8C- Article is being submitted by the Town Manager

Finalize Fall Walk Schedule for publication

B. Porter expressed reluctance to lead the walk at the Water District land behind Curtis MS without the assistance of a Water District employee to present the water supply information.

Set October Meeting Schedule

Oct. 23 and Nov. 6 were confirmed for additional meetings beyond those already confirmed.

On a motion by B. Porter; 2nd C. Russo; the meeting was adjourned at 8:30pm.