

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Held Monday, Sept. 25, 2017

Present: Tom Friedlander; Chairman; Dave Henkels, Vice-Chairman; Mark Sevier; Kasey Rogers; Bruce Porter; Charlie Russo (7:55pm arrival)

WPA & Bylaw Request for Determination of Applicability: 11 Murray Dr., deck construction

Present: Tim McDonough, homeowner

Mr. McDonough presented a plan for a 16' x 24' deck addition to the rear of the house. All work is on existing lawn. D. Dineen stated that the resource area is a presumed perennial stream with steep banks that flows from drainage in Framingham.

On a motion by D, Henkels; 2nd B. Porter; the Commission voted for a negative Determination contingent upon no expansion of lawn and no tree removal. C. Russo abstaining.

WPA & Bylaw Request for Determination of Applicability: 23 Stone Root Ln.; landscape improvements;

Present: Peter Ferland of Sudbury Design Group; Mr. & Mrs. Dallas, homeowners

Mr. Ferland presented plans the installation of new footings and frost wall under the existing porch and deck to meet current code and to enclose the area for use as storage, a new terrace with fire pit, stepping stone walkways, stonewall, minor grading, and removal of one tree. They may need to slightly move the septic system distribution box. The tree to be removed is rotting. The regrading is to level the mound where the tree now is located.

D. Dineen stated that the work in the side and back yard is within 100' of bordering vegetated wetland. Except for the one tree, all work is on existing lawn or area under a deck. Haybales are proposed for erosion control. No expansion of lawn beyond the small area around the tree to be regraded.

On a motion by K. Rogers; 2nd D. Henkels, the Commission voted unanimously in favor of a negative Determination.

WPA & Bylaw Request for Determination of Applicability: 96 Plympton Rd., septic system repair

Present: Mike Sullivan, Sullivan Connors & Associates

Mr. Sullivan presented a plan for the repair of an existing failed septic system. The system is being as located as far from all wetland resource areas as possible. The capacity of the system is not being increased.

D. Dineen explained that the property is bordered on one side by a perennial stream and intermittent stream that flows into the perennial stream. Bordering vegetated wetland is located along these streams. There is a pond in the rear of the house also with bordering vegetated wetland. The new system will be in riverfront area and within 100' of bordering vegetated wetland, however, it is sited as far from these resource areas as possible. The new functioning system will be an improvement over the failed system.

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

6:50pm -PUBLIC HEARING: Sudbury Wetland Administration Bylaw Regulation Revisions

The Commission held a public hearing to hear comments on the proposed language to be added to the wetlands bylaw Regulations to possibly alert prospective property buyers that they may be inheriting a violation by a previous owner and that they may be responsible for bringing the property into compliance.

No public questions or comments were offered. The hearing was closed and the Commission voted to adopt the amendment to the Regulations as worded. D. Henkels and K. Rogers in favor. B. Porter and C. Russo abstaining.

Request for Amendment of Order of Conditions: Mahoney Farms #301-874

Present: Daniel Ruiz of Capital Properties Group

Mr. Ruiz requested the commission consider eliminating the requirement for perpetuity Conservation Restrictions on several open space parcels within the Mahoney Farms development and substitute already-recorded Restrictive Covenants, as required by the Planning Board.

D. Dineen advised the Commission that the Order was very clear that a CR was required. It has been over 12 years since this Order was issued. Changes were made to the plans and were never brought before the SCC for approval. A Conservation Restriction signed by the state (EEA) is the only recognized document for a perpetuity restriction on property. The recorded Restrictive Covenant only grants powers of enforcement to the Planning Board. The Planning board and the owners of the units in the condo development can change the terms of a Restrictive Covenant. A Conservation Restriction is held under MGL chapter 40 section 8C, the Conservation Commission Act and MGL Chapter 184 s, 31-33, Conservation Restrictions under EOEEA. Once signed by all parties, including the State EOEEA, it takes a vote of the ConCom, the Bd. of selectmen, Town Meeting, and the state Legislature to abolish a CR.

The CR was intended to protect and important wildlife corridor from Nobscot Mountain and the Boy Scout land east to Landham Road. This CR was offered a mitigation for the ability to fill a isolated wetland that was jurisdictional only under the wetlands bylaw. The Commission at the time of the hearing felt that permanent protection of the large wildlife corridor was more environmentally valuable long-term than the preservation of a small isolated wetland that was not a vernal pool, had value only for flood storage, and would be surrounded by housing units. Additional flood storage was required and constructed.

On a motion by C. Russo; 2nd D. Henkels; the Commission voted unanimously in favor denying the request for Order amendments.

Request for Amendment to Order of Conditions #301-1209: Rt. 20 Improvements related to MeadowWalk

Present: Meredith Avery, VHB, Inc.

Ms. Avery explained that National Development wanted to install water quality units for stormwater treatment within the Rt. 20 layout as part of their proposed Rt. 20 improvements. MA DOT rejected this design because they did not want to maintain them. Therefore, the design is being amended to use deep sump catch basins. Not as effective but it is the next best option that DOT will accept.

F. King, the Commission's stormwater peer reviewer for Meadow Walk submitted a letter for the record indicating that the original design was better but the proposal is the best option MA DOT will accept based on their policy of not using proprietary units. This included consideration and rejection by DEP of tying into an existing oil and gas separator as well. This plan revision will change the treatment from stormwater water quality units to deep sump catch basins. D. Henkels noted that the extent of TSS removal is almost the same.

The Commission voted unanimously in favor of a motion by M. Sevier; 2nd B. Porter; to approve the revision as a field change rather than requiring a full OOC amendment.

Continued Wetland Filings:

Bylaw Notice of intent: 69-71 Brewster Rd; common driveway construction for two new house lots

On a motion by D. Henkels; 2nd B. Porter; the Commission voted unanimously in favor of the applicant's request to continue to Oct. 23, 2017.

WPA & Bylaw Notice of Intent: 47 Bigelow Dr.; J. Shanamugan, applicant; violation remediation

On a motion by M. Sevier; 2nd B. Porter; the Commission voted unanimously in favor of the applicant's request to continue to Nov. 6, 2017.

WPA & Bylaw Notice of Intent: 3 Goodnow Rd., after-the fact driveway paving; Irma Dishnica

No applicant present

The Commission discussed the fact that the paving violation continues. Although progress is being made on a possible compliance solution, T. Friedlander expressed frustration that the pavement has been in place for many months and the NOV/EO was issued back in April 2017 and yet there is still no compliance. C. Russo agreed and stated that he was less amenable to further extensions without real progress. He is frustrated by the time it has taken to get to the point we are at now. The Commission needs to consider all options and update expectations. M. Sevier added that it was important for the Commission to stand by their requirements and items requested for compliance. The Commission needs to work on the whole plan with the other involved town departments. D. Dineen agreed and added that the Conservation issues are not in a vacuum. The next hurdle will be confirmation of the treatment of all impervious surfaces. D. Henkels agreed that looking at the greater picture as it applies across the boards to all departments is necessary. Commissioners discussed shorter timeframes for resolution of particular issues. These include the following submitted or addressed by Oct. 23rd:

- contract for inspection and maintenance of the FAST system;
- elevations of the pipe inlet;
- confirmation that all stormwater runoff is treated before it leaves the site;
- confirmation that peak rates or runoff are contained/detained on site;
- update on the ability to drive over the septic tank;
- Town Counsel opinion on town liability if the pavement over the septic tank is required to be removed

The hearing was continued to Oct. 23. 2017.

WPA & Bylaw Order of Conditions: STATUS 1011 Boston Post Rd.; C. Torti, applicant

Written request for withdrawal hand delivered by applicant on 9/25/2017

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

Hearing continued without discussion at the request of the applicant to allow wetland scientist and SCC wetland peer reviewer to meet on site to discuss discrepancies.

1. **Land Stewardship**

- Davis Farm Meadow Restoration

Commissioners agreed to hire a specialist in meadow restoration to assist with the replanting next spring at Davis Farm.

King Philip Woods invasive plant removal

Commissioners discussed the invasive plant removal and felt that the project could be completed without disturbance of rock features or any digging. This should address Native American concerns. Commissioners are waiting for suggestions or comments from the Town Manager on how to move forward with this project. D. Henkels will contact other towns to see if they have faced similar issues. D. Dineen will continue to try to reach the Forester, Gary Gouldrup.

- MA Forest Stewardship Program Grant – Commissioners agreed to apply for funding for invasive plant removal without the use of herbicides.

Certificates of Compliance:

2. **DEP File #301-1144** Sudbury Valley Trustees Greenhouse Repair
T. Friedlander visited the site and reported about 50% of the mitigation plantings did not survive. The Commission determined they must be replanted and survive into next spring to be sure they are viable.
3. **DEP File #301-1129** ; Eversource Substation Expansion
Invasive plants are still present at the base of the retaining wall. These are mostly oriental bittersweet.

Violation Status: 168 Horse Pond Rd.

Commissioners agreed to begin copying the tickets and letters to other out-of-state owners to see if any response is generated. Copies of all tickets to date will be sent to Superior Court.

Other Business:

4. Warrant Articles: October 2017 Special Town Meeting on Oct. 16
Determine presenters:
 - Revolving Fund for Forestry proceeds – D. Dineen
 - Selectmen designation of Landham Brook Marsh as conservation land per MGL Chapter 4 s. 8C & US Fish & Wildlife parcel transfers: D. Dineen will be available to answer questions if Town Manager is presenting
5. Discuss/Confirm Final Fall Walk Schedule
Confirmed walks are Nobscot, Ford's Folly, and King Philip Woods so far.
6. Reports from Commissioners and Staff
7. T. Friedlander – reported on the new opinion from Town Counsel on the use of drones. C. Russo added that use of drones would give the Commission a new tool to perform due diligence on violations and compliance. At this time, no use of drones will be implemented.
D. Henkels – would like to add a second meeting in Oct. A second meeting was added for Oct. 11. Commissioners Henkels, Russo, Sevier and Porter committed to attend. The meeting will begin at 7pm.

On a motion by M. Sevier; 2nd K. Rogers; the meeting was adjourned by unanimous vote at approximately 8:45pm