

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Held Monday, Nov. 20, 2017

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

Chairman Friedlander called the meeting to order at 6:45pm with a quorum present.

Minutes

On a motion by D. Henkels; 2nd K. Rogers; the Commission voted unanimously in favor of approving the Minutes of Nov. 6, 2017 as drafted.

River Stewardship Council Sudbury River Plan

Present: Anne Slugg of the River Stewardship Council

Ms. Slugg explained that the RSC is seeking input from the SCC to draft Sudbury River Stewardship Conservation Plan. The RSC is updating the Conservation Plan and looking for public input. She presented a brief history of the RSC and identified the new issues we identified by the RSC that are facing the Rivers and the strategies to tackle these issues.

In 1999, a 19-mile segment was given the federal designation of Wild & Scenic. It is now time to update the 20-year plan for this segment. Discussion suggested incorporating a policy on the use of herbicides to eliminate non-target impacts; river clean-ups; and access and recreational infrastructure.

D. Dineen questioned if the RSC would be weighing-in on the Eversource transmission line issue as a main tributary, Hop Brook, will be altered by the transmission line. She also noted that the Town's EPA/DEP MS4 permit did not cover the Sudbury River area so drainage upgrade focus is forced to other areas of town. She suggested that the Town work with the RSC and The Ponds and Waterways Committee to look at drainage upgrades in areas with runoff discharges to the River.

WPA & Bylaw Request for Determination: 45 Woodmere deck construction

Present: Fred Chi

Mr. Chi presented a plan for the 16' x 22' addition to an existing deck. The expansion will take place entirely on existing lawn. No trees or other vegetation will be removed for the construction.

D. Dineen stated that the work will occur within 100' of bordering vegetation which borders on an intermittent stream that is a tributary to Pantry Brook. The lawn area has a slight slope to the wetland. The only disturbance on the ground will be hand digging for sonna tubes.

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

WPA & Bylaw 30 & 40 Lincoln Lane roadway maintenance

Present: Henry Opland & Daniel Leinweber, applicants; several abutters

D. Dineen explained that the Request for Determination was filed seeking permission to repair a gullied area on the slope near the frontage of #30 and #40 Lincoln Lane. The area will be filled with gravel and compacted. D. Henkels stated the work is in the riverfront area of the Sudbury River. Erosion and sedimentation has occurred in or close to the 100' upland resource area (bylaw) and possibly the floodplain. No exact delineations or distances were submitted.

The applicant, Mr. Opland, stated that he would just fill and compact the rutted areas on the private roadway. D. Dineen and D. Henkels had visited the site earlier in the year. It was evident that the erosion to the roadway was occurring as a result of runoff from Mr. Opland's driveway. The runoff leaves the paved drive and exits to the gravel roadbed, which is on a slope. They suggested he look at controlling the runoff from the driveway by the use of pavers to help infiltrate and slow down runoff. They also suggested he might want to explore a detention basin that would catch the driveway runoff.

Atty. Mark Lanza for Mr. Opland stated he researched the title to the private road and found his clients own to the centerline. The Commission discussed approving the roadway maintenance, however it would be necessary to address the cause of the erosion and sedimentation so it did not reoccur and create sedimentation into more resource areas. Audrey Opland stated that time is of the essence to fix the road before winter. D. Dineen suggested allowing the road to be repaired immediately but requiring a permanent resolution of the cause of the erosion by next spring.

D. Henkels motioned for a negative Determination conditional on the a plan to be submitted to the Commission for review and approval within six months that addresses the runoff from the driveway that is causing the erosion of the gravel private road. K. Rogers 2nd. Motion passed with C. Russo opposed, all others in favor.

Wetlands Bylaw Notice of Intent: 322 & 328 Maynard Rd. (Livermore Cir.); drainage

Present: Vin Gately, applicant; Vito Colonna, Sullivan Connors, Inc.

Mr. Colonna presented a plan for the development of two new single-family houses where the drainage will connect to the Town's drainage system in Maynard Road. This system discharges to a wetland on Fairbank. A previous Order was issued for this project to a former landowner, however that Order has expired.

A perpetuity conservation restriction will be placed on the entirety of the hillside outside the footprint of development. The roof runoff will drain to drywells sized for the 100-year storm event. #322 will have a rain garden that overflows to the Town drainage system in the 25-year storm event. This will be a net reduction of .1 cfs in the 25-year storm. #328 is designed with a large drywell with an overflow to the Town system. The base of the hill will have a trench drain installed. The trench drain will connect to the Town's drain system after flowing through check dams and a sediment forebay. It was questioned if the forebay will be included in a drainage easement to the town. B. Porter noted he has seen puddling on Maynard Road in this area.

Lynne Kreutz of 125 Maynard Rd., questioned the overall loss of permeability on the lots and the potential for flooding downhill. Mr. Colonna replied that the design for the drainage exceeds the minimum state standards for stormwater management.

Dan McCarthy, 334 Maynard Rd., questioned the timing of the trench drain installation and suggested it be functional prior to the spring runoff season. Joyce Minkoff, 175 Fairbank Road, was also concerned for the timing due to historic spring flooding in the area. D. Dineen suggested that a temporary sediment basin be installed to capture site runoff if the drainage components are not functional at the time of spring runoff.

Becky Cutting, 381 Maynard Rd., question the Operation and Maintenance Plan and who would be responsible for maintaining these drainage structures. She also suggested a sediment forebay should be installed at the Fairbank Road outfall. She showed photos of this outfall and the need for maintenance.

C. Russo noted that the plants chosen for the rain garden should have at least a one-year guarantee.

On a motion by M. Sevier; 2nd B. Porter; the Commission unanimously in favor of closing the hearing.

On a motion by M. Sevier; 2nd B. Porter; the Commission voted unanimously in favor of issuing the Order as discussed and with the additional following conditions:

- 1) The applicant shall develop a Homeowner's Operation & Maintenance Plan that shall include a plan showing the location of the structures along with a timetable and description of the required maintenance for each component;
- 2) A temporary sediment basin(s) shall be constructed on site to capture runoff during construction.
- 3) Prior to the start of any further site alterations, a perpetuity conservation restriction shall be placed on the area above the base of the slope as defined by the limit of lawn line as shown on the referenced plan dated 10/24/2017 by Connorstone Engineering with the recording information of this restriction document, including the recordable metes and bounds plan, submitted to the Commission.

Wetlands Bylaw Notice of Intent: 370 Maynard Rd. (Lots E & F); drainage

Present: Vin Gately, applicant; Vito Colonna, Sullivan Connors, Inc.; Desheng Wang

Mr. Colonna presented plans for the construction a one house on two lots on Maynard Rd. The slope work has been completed. A large infiltration system with an overflow to the Town's Maynard Road drainage system has been designed. There will be no increases in peak rates or volumes of runoff leaving the site. D. Wang stated that the drainage system as designed is an improvement over existing conditions.

D. Dineen noted that the drainage from Maynard Road discharges to a detention basin on the Arboretum Subdivision. Part of the basin is located with the conservation restricted area of that subdivision. It is not clear who is responsible for the maintenance of that basin, as it is not contained within a drainage easement to the Town. Currently, the owner of the land containing the basin is Redspire, Inc. It is unknown if they are maintaining the basin and outfall.

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

On a motion by M. Sevier; 2nd C. Russo; the Commission voted in favor of issuing the order as discussed with the requirement for a temporary sediment basin; and a statement or other legally-binding conditions, that the two lots can only support one house.

D. Henkels opposed due to the outstanding issue of the maintenance of the detention basin that receives the water from this site.

WPA & Bylaw Notice of Intent: 150 Wayside Inn Rd.; (continued) driveway and landscaping

Present: Ted Jandl, applicant

The hearing was continued to tonight to allow the applicant to address the drainage issues associated with the runoff from the proposed driveway. Mr. Jandl explained that although he would ultimately like to pave the driveway, he has no need to pave it at this time. He agreed to allow it to remain as presumed impervious sand and gravel. At this time, he has not designed the full extent of

impervious surfaces that may drain into any wetland jurisdictional areas so he will plan to come back for with designs and calculations for further approvals when the design is complete and he is ready paving.

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

On a motion by D. Henkels; 2nd C. Russo; the Commission voted unanimously in favor of issuing the Order for the driveway and landscaping work provided the driveway remains pervious until further design and calculations are formally approved by the Commission.

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

J. Derderian, applicant

Present: Desheng Wang; Dave Burke, SCC wetland peer reviewer

Mr. Wang presented a plan showing the wetland delineation for the 30+- acre property at 74-80 Maynard Rd. Wetlands include bordering vegetated wetland, intermittent stream (Mineway Brook), bordering land subject to flooding, and potential vernal pools. Natural Heritage and Endangered Species Program has estimated and priority habitat identified on the site.

Mr. Burke reviewed all flags in the field. The site delineation relied heavily on soils. Much of the property is a pit/mound topography with an over story of white pine. He adjusted several wetland flags at A21-A48 to include a ditch. He noted there is an old well on the site that has a 12' drop. Mr. Wang presented photographic evidence of the stream dry for 30 days. Only one day was missed to bee stings. Mr. Burke confirmed he saw the stream dry. This observation applies to the portion of Mineway Brook on the subject property only. He also believes there are vernal pools within the wetland areas. He concurs with the revised plan as it is before the commission tonight.

On a motion by D. Henkels; 2nd M. Sevier; the Commission voted unanimously in favor of accepted the wetland delineation as shown on the revised plan, noting the presumed presence of vernal pools within the bordering vegetated wetland.

WPA & Bylaw Notice of Intent: 47 Bigelow Dr.; DEP File #301-1216 (cont.) violation remediation

J. Shanamugan, applicant;

Present: Jayabal Shanamugan; Scott Goddard

Mr. Shanamugan read a summary of the issues that have resulted in his inability to easily access one garage bay with a car. He offered additional mitigation of invasive plant species removal for the ability to maintain the 156 sq. ft. of unauthorized wetland fill and fill another 108 sq. ft. of bordering vegetated wetland.

T. Friedlander stated that he appreciates the applicant's position; however, the Commission speaks for the preservation of the wetland and upland values and functions. He noted that the Commission looks at disturbance and risk to the values. It appears to be the Commission may be willing to allow the 156 sq. ft. of unauthorized fill already in place due to the risk of removal and retaining wall relocation that would result. D. Dineen added that Commission must also consider cumulative impacts and that approving additional wetland fill might open the door for other property owners along the stream and wetlands to request the same.

S. Goddard stated that the effort on this site to mitigate impacts is the most extensive he has ever seen. The plan has been vetted by DEP. It was found that the plan meets the standards with the additional mitigation. D. Dineen noted that DEP's approval under the Administrative Consent Order

was DEP action based on violations and DEP's approval of the plan is predicated on Commission approval.

S. Goddard opined that the small area of wetland in the AURA (adjacent upland resource area under the wetlands bylaw) is not the same value as the other wetlands on site. D. Dineen responded that the AURA is just as important as the wetlands on this site due to the three vernal pools in the area and the need to preserve what is already very limited upland habitat for the obligate species. B. Porter added that each amount of small fill adds up and is a systematic chopping away of resource areas.

M. Sevier stated that the SCC does not just say no, but should listen to the applicant. In this case, he cannot "unbuild" and is offering measures to mitigate.

K. Rogers stated that it is not clear how the homeowner and builder did not realize the garage issue mistake and come to the Commission when they realized they would need to fill wetland. She noted that not all house have garages, hers is an example.

C. Russo stated that in this case, he believes the project has adequately mitigated for the current and proposed resource area alteration. He also does not believe a precedent will be set for future approvals because the details of this situation and offered mitigation would not likely be repeated.

D. Henkels stated that the Commission's first obligation is to the integrity of the wetlands, not to maximize property use and approve violations where the work would not be approved to begin with. B. Porter stated that the builder appears to be at fault in this situation for not halting work, and seeking approvals or making changes when it was appropriate.

C. Russo motioned to close the hearing. M. Sevier 2nd.

M. Sevier motioned to issue an Order of Conditions approving the current and additional wetland fill and accepting all mitigation. K. Rogers 2nd. T. Friedlander, D. Henkels, B. Porter opposed. M. Sevier, C. Russo, K. Rogers in favor. Tie vote. Motion fails. D. Dineen asked for clarification that the motion was under the WPA and the Bylaw. Commissioners confirmed it was.

T. Friedlander motioned to issue an Order allowing the 156 sq. ft. of fill to remain and to require the plantings and restoration in accordance with the original Order. D. Henkels 2nd. T. Friedlander, D. Henkels, B. Porter in favor. M. Sevier, C. Russo, K. Rogers opposed.

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

Irma Dishnica, applicant

The applicant's representative had confirmed to D. Dineen that they are still working on the plan for the retaining wall removal and the restoration plantings. They have asked for a continuation to Dec. 6, 2017.

On a motion by C. Russo; 2nd M. Sevier; the hearing was unanimously continued to Dec. 6, 2017.

WPA & Bylaw Notice of Intent: 31 Thunder Rd.; Narayana, DEP File #301-1221

Present: Sundar and Christine Narayana

Ms. Narayana confirmed that all restoration plantings had been installed by Oct. 2, 2017. They are now requesting only the following:

1. repair the walkway and retaining wall;
2. extend the walkway to the existing patio;
3. regrade around the catch basin and fix the slope off the driveway;
4. extend the retaining wall and regrade per the plan.

It was noted that the walkway as it now exists has a minor encroachment into the floodplain.

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

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

Bylaw Notice of Intent: 69-71 Brewster Rd.; new driveway to serve two new house lots

The applicant has requested a continuation to Dec. 6, 2017 to resolve issue with the Planning Board and Fire Chief.

On a motion by D. Henkels; 2nd C. Russo; the Commission voted to continue the hearing to Dec. 6, 2017.

Certificates of Compliance: #301-765, 61 Dakin Rd.

On a motion by D. henkels; 2nd M. Sevier; the Commission voted unanimously in favor of issuing the COC. The final as-built plan has been received.

Violations:

267 Landham Rd. – update on NOI submission – D. Burke has been hired as the new wetland specialist

168 Horse Pond Rd. – The Court hearing date for 30 days to allow discussion with the homeowner's attorney. A meeting is schedule for 11/27 between Town Counsel and the Blank's new attorney. d. Dineen to be present.

25 Union Ave. –continued violation after OOC issued for restoration

On a motion by B. Porter; 2nd D. henkels; the Commission voted unanimously in favor of issuing one ticket for the violation.

Landham Brook Marsh Agricultural Use

Commissioners discussed permitting continued agricultural use on the one small field on this property. Although no bidders came forward for agricultural use for the last RFP, the SCC did not want to eliminate the ability for future agricultural use of the field.

On a motion by B. Porter; 2nd M. Sevier; the Commission voted unanimously in favor of including agricultural use on the one field of approximately one acre in the conservation restriction.

Meetings

Future meeting dates were set at 1/8, 1/22, 2/5, 2/26, 3/12/18

On a motion by D. Henkels; 2nd K. Rogers; the Commissioners voted unanimously in favor of adjourning the meeting. 10:25pm.