

**SUDBURY CONSERVATION COMMISSION**  
**Minutes of the Meeting Held Monday, January 8, 2018**

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

Chairman Friedlander called the meeting to order at 6:45pm.

**Minutes:**

On a motion by B. Porter; 2<sup>nd</sup> D. Henkels; the Commission voted unanimously in favor of approving the minutes of 11/20/17 as drafted.

On a motion by M. Sevier; 2<sup>nd</sup> D. Henkels; the Commission voted unanimously in favor of approving the minutes of 12/4/17 as drafted.

On a motion by D. Henkels; 2<sup>nd</sup> B. Porter; the Commission voted unanimously in favor of approving the minutes of 12/18/17 as drafted as edited by C. Russo and corrected by M. Sevier.

**WPA & Bylaw Request for Determination of Applicability: 40 French Rd.;** Stephen Prince, applicant

Present: Corey Everleigh & Andy (?), Environmental Pools representatives

This is an RDA for pool installation. The work will all be located on existing landscaped or grassed area. Nothing was submitted to indicate the distance to the wetland or quantify the amount of disturbance for the decking and spa. The area of fencing is not defined. The GIS aerials show a 12'+- change in grade from the back of the house to the edge of the wetland as mapped on GIS. This 12' change is over approximately 80'. The plan does not indicate that any grading will occur.

Environmental Pools representatives presented a new sketch based on the Sudbury GIS wetland data layer. This sketch indicates the pool will be constructed in a wetland area. The representatives noted that the area for pool installation is all lawn area; however, the homeowners removed trees last fall after they moved in.

Commissioners agreed that it appears the tree clearing and lawn expansion was done without a permit. Until this possible violation is resolved, the Commission will need find positive for the Determination. This will result in the need for the applicant to file and NOI. The NOI will require a wetland delineation that will include soil investigation to determine if there has been recently filled wetland. The applicant can move withdraw if they do not wish to have a positive Determination issued.

The applicant's representatives withdrew the RDA.

**WPA & Bylaw Request for Determination of Applicability: Warren Rd., Well #4**

Sudbury Water District, applicant

Present: Vin Roy, SWD Superintendent; Amanda Houle, Tighe & Bond for the applicant

Ms. Houle made the presentation for an RDA for drainage work at the well #4 pump house. A dry well and 120' of 4" pvc connecting pipe will be installed within the AURA. A 5' wide trench will be dug for this purpose. 15' of an existing discharge pipe will be replaced as well. An area of approximately 1200 sq. ft. around the pump house will have the vegetation grubbed and a chain link fence installed. All work is on existing disturbed area and no work will involve the clearing or disturbance of undisturbed, naturally vegetated land. Well #4 is generally only used in the summer months.

D. Dineen stated that public, private and ground water supply are interests of the WPA and Bylaw. This project furthers these interests by maintaining adequate, working drainage at an existing facility and securing the site.

Two abutters, Mr. Johnson at 71 Clifford Road and Mr. Holwasser at 48 Warren Road both raised concerns that a gas line was installed last year. This installation required the removal of a number of mature trees. The SWD did not file for a wetlands permit for this work. D. Dineen and V. Roy will look at this on site once the snow melts. Mr. Roy was not working for SDW when this work occurred.

On a motion by D. Henkels, 2<sup>nd</sup> B. Porter; unanimous in favor of a negative Determination

**WPA & Bylaw Notice of Intent: 50 Land's End Ln.**

Present: Dennis Goldberg, applicant; Drew Timmins, Goddard Consulting for applicant, and architect

Mr. Timmins presented a Notice of Intent plan for:

- removal of existing deck and construction of a new deck over an existing paved patio area;
- construction of a screened-in sitting area with roof on the new deck;
- installation of roof downspouts to an infiltration trench;
- removal of an existing flagstone surface.

Work is well within 100' of bordering vegetated wetland at 25'+- from the edge of bvw with erosion control 5' off the bvw. All work will be done within the existing lawn and deck footprint. Mitigation includes the installation of a 30' long surface inceptor trench designed to capture and infiltrate the first one-inch of roof runoff.

Commissioners agreed they not accepting the wetland resource delineation, including the riverfront area, as shown on the referenced plan as part of this Order of Conditions as it is unnecessary with all work is on existing disturbed areas.

The architect added that there will be 11 pier foundations installed. Only small equipment, such as a small bobcat, will be used.

The Order of conditions will require an inspection of the installation and of the regular monitoring at least 2x per month and after major storm events, of the erosion control.

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

On a motion by D. Henkels; 2<sup>nd</sup> C. Russo; the Commission voted unanimously in favor of issuing the Order as discussed.

**WPA & Bylaw Notice of Intent: 137 Mossman Rd.** new house construction; Doris Smith, applicant

At the request of the applicant, and due to snow cover, the Commission voted unanimously in favor of continuing the hearing without discussion to Jan. 22, 2008.

**WPA & Bylaw Notice of Intent: 41 Lincoln Ln.** vegetation restoration; Kris Bursik, applicant

The Notice of Intent was filed for the restoration of a native vegetation area required under DEP #301-1043 for approval of activities associated with the reconstruction of an existing house, driveway and garage, and septic system, all located within wetland jurisdictional resource areas. The Commission finds that the following resource areas are located on this site:

- bordering vegetated wetlands
- riverfront
- floodplain
- upland resource area (100' buffer zone in WPA)

The NOI was filed as the result of an NOV and will provide the permit necessary for the property owner to complete the mitigation of the house reconstruction project previously approved to comply with Section 10.58 (5) of the Wetland Regulations that allows redevelopment if there is an improvement over existing conditions of the capacity of the riverfront area to protect the interests of the Act. A total of 6,500 sq. ft. of existing non-maintained lawn area was to be restored with native shrubs as shown on the referenced plan.

Previous attempts at restoration have failed. Although native shrubs were in place at the time of the issuance of the Certificate of Compliance, they failed to thrive. The current property owner is seeking expert assistance with the restoration project to ensure a viable natural area results from the planting and maintains compliance with the Order and the Certificate of Compliance. Under the NOV, most of the planting was allowed to be done in the fall of 2017. Plantings must be 90% viable after two growing seasons for the Commission to consider a Certificate of Compliance.

On a motion by D. Henkels; 2<sup>nd</sup> C. Russo; the Commission voted unanimously in favor of issuing the Order as discussed.

**Certificate of Compliance:** 49 Brimstone Lane

Present: Debbie Simon, applicant

D. Dineen advised the Commissioners that this project dates to an NOI for original house construction in 1982. DEP File #301-102. The resulting 1982 Order required a 25' buffer of plantings. Note: forsythia was a listed plant. That plant is now considered a non-native invasive plant. We have a copy of the OOC, a revised septic system plan due to a failure in 1991, and the as-built septic plan following septic reconstruction. Note: the driveway has been moved to the side of the house opposite the wetland. Much of the large yard area is over a large septic field.

We do not have any plans of the 25' restoration area. Snow cover makes it impossible to determine current plant conditions. The house has been sold in a divorce and significant funds were withheld for the COC. We could wait until snow melt to see if there is evidence of the 25' planting buffer, however I am not sure we would be able to determine this after 36 years. Additionally, the species of plants would not all be approved today. She recommended issuing the COC as we have no basis on which to dispute existing conditions. The site is stable and much of the lawn is over an exceptionally large septic leaching field.

On a motion by D. Henkels; 2<sup>nd</sup> M. Sevier; the Commission voted unanimously in favor of issuing the COC.

**ANRAD Eversource Transmission line on MBTA ROW** – additional peer reviewer contract

D. Dineen requested ratification by the Commission of the decision to bring in a second peer reviewer on the Eversource MBTA ROW project. The second peer reviewer, Nover-Armstrong, would be mostly involved to review the floodplain and bank issues and assist Dave Burke on the overall delineation review. Nover-Armstrong is under contract with the Board of Selectmen to provide review of the plans submitted for the MEPA ENF and the DEIR. The Town Manager and Town Counsel have approved the Commission using Nover-Armstrong for the stated purpose. They have already spent a great deal of time reviewing the plans, in particular as they relate to floodplain and bank. Rather than duplicate efforts, Nover-Armstrong will work with Mr. Burke on these specific issues.

Funds for both consultants are being paid for with the wetland and bylaw filing fees.

On a motion by D. Henkels; 2<sup>nd</sup> M. Sevier; the Commission voted unanimously in favor of contracting with Nover-Armstrong to assist David Burke in some aspects of the ANRAD.

### **Violations Update:**

- 267 Landham Rd. – The Commissioners agreed to require an update from Gaston Safar by the Jan. 22, 2018 meeting. They expect the NOI to be filed by Feb. 5 for a hearing on Feb. 26. C. Russo suggested fines if these deadlines are not met. These fines are not likely to be rescinded as the first set of fines had been.
- 47 Bigelow Dr. – The Commissioners discussed the situation that has resulted in the applicant still being in violation under the Bylaw for the illegal filling of 156 sq. ft. of bordering vegetated wetland. D. Dineen suggested working with the applicant to bring this illegal filling into compliance so the remaining issue is only concerned with the proposed additional fill and no one is dealing with a violation and after-the-fact approvals. Once DEP issues an SOC on the appeal of the failure to act, the Commission will have an opportunity to appeal the SOC and go to adjudication.
- 322 & 328; 370 Maynard Rd. – D. Dineen informed Commissioners that the driveways were paved prior to OOC being recorded and possibly prior to the temporary sediment basins being installed. C. Russo felt that this project is a for-profit project done by a builder. It is the builder's responsibility to know the requirements for their project. T. Friedlander reminded Commissioners that builders and homeowners must abide by the same set of regulations. After further discussion, the Commission voted to issue a Warning ticket to the builder, this being his first offense. C. Russo opposed the motion because he felt the Commission should act more stringently in this builder situation. D. Dineen will be in contact with the developer to discuss the situation and set up a site meeting as soon as the ground is visible.

### **Commissioner and Staff Updates**

CC Appointment – T. Friedlander updated the Commission on the status of Mr. Morse's appointment. The concern that the Town Manager and Town Counsel expressed was with the proximity of his house to the MBTA ROW and whether or not he would have to abstain. He is not a direct abutter. One Commissioner, Kasey Rogers, is already a direct abutter and must abstain for anything related to activities on the MBTA ROW. Having two Commissioners would must abstain could create a quorum problem. It is hopeful that this will be resolved and Mr. Morse will be appointed tomorrow night.

MACC Annual Conference – T. Friedlander informed Commissioners of the MA. Assoc. of Conservation Commissions annual meeting on March 3 at Holy Cross in Worcester. It is a good opportunity, especially for newer Commissioners, to acquire knowledge of wetlands-related topics that will help with their roles as Commissioners. Sign up is through Kirsten Roopenian at the office and travel and registration fees are reimbursed.

Budget Hearing outcome - D. Dineen reported that the 2019 Budget remained intact at level service with the addition of an extra 4 hours per week for the Office Manager. This is an increase from 15 to 19

hours per week as needed. These extra hours are now being paid for through the wetland administration fees received from wetland filings. The reactivation of the ½ time technical position was denied. Due to budget constraints, new positions are not being funded for FY 2019. \$4000 was offered if it would help. D. Dineen did not feel \$4000 would make a difference toward the hiring of someone on contract. The need is for a town employee at 17.5 hours per week to assist with technical reviews, site inspections, and responding to resident's requests for on-site questions and investigations. D. Henkels suggested an intern, however D. Dineen did feel that would solve the problem as interns tend to be temporary and will need training. The Town, in general, does not hire interns unless they are seasonal or with the Health Dept.

Davis Farm Meadow Restoration Project – D. Dineen invited Commissioners to a meeting with Angela Kearney, Minglewood Designs, in a few weeks where the discussion will focus on the steps involved with the proposed meadow restoration. It is hoped that conditions will be favorable to perform the tree clearing in the near future so the project of restoration can begin this spring.

Sudbury TV- PSA development – D. Dineen reminded Commissioners of a project begun last year to film wetland public service announcements for Sudbury TV. Dave Henkels was involved in on program with school children and the environment that was filmed for TV. Charlie Russo had developed a possible outline of topics for the PSAs. Now that there will be full 7-member board, it may be a good time to reactivate this project.

Eversource Transmission Line Project ANRAD – D. Dineen informed Commissioners that Eversource has granted a continuation to Feb. 26 for the ANRAD review work due to site conditions. A formal vote will be on the agenda at the next meeting.

Road Salting – D. Dineen reported that the office has received numerous complaints concerning the salt on the roads this year. She would like to have a meeting with Dan Nason and Vin Roy to discuss the situation so she can respond the complaints.

On a motion by M. Sevier; 2<sup>nd</sup> B. Porter; the Commission voted unanimously of adjourning the meeting. 8:27pm.