

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Held Monday, January 22, 2018

Present: Tom Friedlander, Chairman; Dave Henkels, Vice-Chairman; Mark Sevier; Richard Morse; Charlie Russo; Kasey Rogers; Debbie Dineen, Coordinator

WPA & Bylaw Request for Determination of Applicability: 3 Teakettle Ln.

Present: Mike DiModica for the applicant J. Brown

Mr. DiModica presented a plan for a large addition and driveway relocation associated with an existing single-family house. Only a small portion the driveway is within wetland jurisdiction. The wetland resource is a vernal pool. The street end of the driveway is approximately 92' from the vernal pool per the Sudbury GIS maps. Teakettle Lane lies between the proposed work and the vernal pool. The increase in stormwater runoff is being infiltrated. The current driveway has no infiltration. This appears to be an upgrade over existing conditions. The Stormwater Management permit will require on-going maintenance of the driveway infiltration trenches. There is no increase in bedroom count in the addition so no septic system enlargement is required.

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

WPA & Bylaw Notice of Intent: 3 Goodnow Rd.; Violation Mitigation

Present: Irma Dishnica, applicant; Sokrat Dishnica; Ardi Rrapi, engineer for applicant; Bill O'Rourke, Town Engineer

T. Friedlander announced the hearing continuation and noted that a revised plan showing an enlargement of the vernal pool habitat restoration mitigation was never received. Mrs. Dishnica stated that the area in question was approved for regrading when the retaining wall was approved. T. Friedlander noted that the approval was after-the-fact to address a violation of work within 100' of a vernal pool, along with other multiple site violations, including disposal of debris behind the wall. The other site violation is the paving of the driveway and other areas of the site without a permit.

Mrs. Dishnica stated that she would prefer to remove the driveway than restore any additional area near the vernal pool. T. Friedlander stated that removal of the pavement is also activity within 100;' of the vernal pool and will need to be permitted. D. Dineen added that a timeline for removal and erosion control requirements would need to be conditioned. The work should not be done during migration season for the vernal pool breeders.

C. Russo stated that although he sympathizes with the homeowners, they have performed multiple violations, even after they had been informed by the Commission by letter of the need for permitting for site activities. Mrs. Dishnica's response that she assumed the driveway was grandfathered as the gravel driveway already existed.

Ardi Rrapi, Cheney Engineering for the applicant, stated he became involved due to the asphalt. He developed a design plan for the infiltration of runoff from the paved surfaces. His clients feel that the only violation on site is the paving. They would prefer to keep the retaining wall than keep the pavement. T. Friedlander stated that if the pavement is to remain, mitigation to offset loss of values and functions of the area within 100' of the vernal pool is required. The options appear to be 1) keep the retaining wall and lose the pavement; or, 2) keep the pavement and lose the retaining wall and restore a meaningful area to habitat adjacent to the pool. Mrs. Dishnica stated that she would prefer to remove the driveway and keep the wall. D. Dineen noted that even if the pavement is removed, the

footprint of the gravel driveway has been significantly expanded. The gravel area was historically only a small pullout on Goodnow Road to allow the parking of one car. No further expansion of the gravel driveway was ever submitted to the Commission for permitting by this owner or any previous owner.

B. O'Rourke suggested there might be a middle ground with the use of pervious pavement types. He stated the wall could remain from his perspective, but he would need to be sure that it does not create flooding onto Goodnow Road. He would like to see the pipe under the wall raised to be approximately 1' below the roadway elevation. This would allow for a functioning vernal pool and provide flooding relief with a discharge to the town catch basin in times of high water.

Mr. O'Rourke added that the DPW has received complaints on the use of the vertical granite curbing installed by a prior owner of 3 Goodnow. The Town prefers using a bituminous berm to channel runoff along public ways. He would like to see approximately 50' of this granite curbing removed along Goodnow Road. The Town would be willing to perform this removal and reuse the granite where appropriate.

Ardi Rrapi, the engineer for the applicant, stated he would like to see the applicant keep the pavement. He believes the pavement with the infiltration chambers will provide for treatment and infiltration that will produce cleaner runoff entering the groundwater that feeds the vernal pool. D. Dineen replied that keeping the pavement is an option; however, mitigation to replace lost functions and values of the adjacent upland resource is a requirement of the regulations. In the case of the pavement scenario, upland habitat would need to be reestablished in an area and of a large enough size to produce an area containing leaf litter, burrows, and other features used by the obligate vernal pool species. 677 sq' ft' of upland habitat will not be able to produce any meaningful upland habitat for the populations of wood frogs and spotted salamanders that have been confirmed in the vernal pool. Even doubling the 677 sq. ft. is marginal at best, but reasonable in light of the size of the ½-acre property. Some pavement could be removed to create more lawn close to the house. Mr. Rrapi stated his client has decided to not offer additional mitigation in the form of habitat restoration.

Discussion followed on what the next steps will be if the applicant wants to remove pavement. C. Russo stated that a new NOI will be required as pavement removal is not part of the current filing.

With the concurrence of the applicant and unanimous vote of the SCC, the hearing was continued to Feb. 5th. Motion by M. Sevier; C. Russo 2nd.

Road Salt DPW practices information from staff meeting

Present: Bill O'Rourke, Town Engineer

A staff meeting was held on Jan. 16 to discuss the issue of salt use on public ways. Attendees included the Melissa Rodrigues, Town Manager, Dan Nason, DPW Director; Bill O'Rourke, Town Engineer; Debbie Dineen, Conservation Coordinator. The meeting was in response to concerns voiced by a number of residents on the perceived use of greater amounts of salt on the roadways.

Mr. Nason explained at the meeting that the amount of road salt has not increased, and in fact, may have decreased over past practices. Calibration of the gates on the truck spreaders has been an issue but has been addressed to the extent it can with the current equipment. Salt is now used for pre-treatment, which requires less repeated applications. A public statement is being developed.

B. O'Rourke explained that sand is an insulator, which forces more salt to be used. The green color associated with the salt is not sodium chloride, it is magnesium chloride which does not have the harmful environmental effects of sodium. The mag chloride can only be used in certain temperature conditions. The DPW is looking into the using of roadway brining as the next step is providing public safety while not adversely impacting the environment. Right now brine is used at 22%. He added that

no records on salt use specifically had been kept in the past. M. Sevier noted that we do not know the amount of salt previously used so and thought that there might be way to reconstruct the amount of past salt use as long as it was normalized to weather conditions. R. Morse thought there should be a way to track and measure the salt used. He thought the town's salt supplier should be able to assist with gathering this data.

Bylaw Notice of Intent: 69-71 Brewster Rd; A. Sumito, applicant

Present: Molly Obendorf, Stamki & McNary for the applicant

Ms. Obendorf presented a plan for common driveway and drainage construction within 100' of an intermittent stream and associated bordering vegetated wetland. This wetland is the uppermost portion of the intermittent stream and therefore not subject to the WPA.

The drainage system will accommodate the 1" of runoff except for approximately 50' of the driveway within wetland jurisdiction. There is 23' of vegetated area between the driveway and the wetland.

D. Dineen commented that all runoff from new impervious pavement discharging to the wetland should be treated. Ms. Oberdorf stated they could add a drainage structure to take care of this. D. Dineen also informed Commissioners that no mitigation for the work within wetland jurisdiction has been proposed. She suggested a Conservation Restriction in perpetuity be placed on all areas outside the limit of disturbance necessary for development of the two lots.

All parties agreed to continue the hearing to Feb. 5th to allow the applicant to address these two issues. Motion by D. Henkels; 2nd M. Sevier, voted unanimously in favor

WPA & Bylaw Abbreviated Notice of Resource Area Delineation: EVERSOURCE- MBTA R.O.W

Due to site conditions resulting from the weather, a continuance was approved by the applicant.

On a motion by C. Russo; 2nd M. Sevier; the Commission voted unanimously to continue the ANRAD without discussion to continue to Feb. 26 due to site conditions. K. Rogers abstaining; D. Henkels (not in room at time of vote).

Certificate of Compliance: 163 Boston Post Rd, Eversource Substation Expansion

Present: David Halliwell of VHB, Inc. for Eversource

D. Dineen reported that the invasives plants have now been removed to the degree reasonable and photographic proof was submitted showing the listed species migration corridor features.

On a motion by; D. Henkels; 2nd M. Sevier; the Commission voted unanimously to issue the COC.

WPA & Bylaw Notice of Intent: 137 Mossman Rd., D. Smith, new house construction

Due to site conditions resulting from the weather, a continuance was approved by the applicant.

On a motion by C. Russo; 2nd M. Sevier; the Commission voted unanimously to continue the ANRAD without discussion to continue to Feb. 26 due to site conditions.

Land Acquisition: Offer of First Refusal for Land Purchase: 34 Barton Dr., Meixsell property

This discussion is in response to a letter received from town resident Lael Meixsell offering to give the town a right of first refusal to purchase his property on Barton Drive prior to his listing the parcel with a realtor. The intent is for the Commission to discuss the merits of town ownership for conservation purposes and see if they would like to invite Mr. Meixsell to a subsequent meeting to discuss the details of any potential purchase.

The property is a 1.8-acre lot with 165+ feet of frontage on Stearn's Mill Pond/Hop Brook. The house is in disrepair with apparently little or negative value. The assessed value of the land is \$367,600. Assessors value the structure at \$33,200. Mr. Meixsell states the property is adjacent to the TOS Barton Pool lot. The Meixsell lot is actually not directly adjacent to town-owned land. The town land was a former swimming area for town residents before the early 1970's. It is not clear if the public can use the privately owned Stearn's Mill Pond.

M. Sevier felt the cost/benefit value of town purchase and ownership of a one-acre lot within a subdivision was not there. Public land is close by. Even if the lot is redeveloped as a single-family house lot, wetlands regulations will be in effect to limit disturbance near the water. D. Dineen stated that purchase at or near market value would then have this property, which is not on the Open Space and Recreation Plan, compete with other parcels that may be coming up for purchase that are on the OSRP. K. Rogers thought that because of limited public activities and limited funds, purchase was not preferred. R. Morse thought that neighbors might be interested in purchasing. C. Russo stated that there might be a conservation interest if the cost for acquisition was significantly discounted or the parcel was gifted to the town.

On a motion by M. Sevier; 2nd; 2nd R. Morse; the Commission voted unanimously to pass on the offer if the cost for acquisition is at or near market value. They did not feel it was necessary to meet with Mr. Meixsell at this time.

Violations:

267 Landham Rd., G. Safar;

D. Dineen updated the Commission with the current status of compliance on the wetland consultant contract for the 2/5 submission of NOI. Dave Burke has met on site with Mr. Safar. She has also met with Mr. Burke to go over the file and history. They developed a list of the steps needed for NOI information. Mr. Burke has determined that more field flagging is needed. Due to the extreme cold and recent snow cover, he has been unable to proceed. Site conditions may be ok to begin work this week. The first step is for D. Burke to flag current wetlands in the area of the wall. A surveyor is needed to then pickup Dave's fieldwork. This data must be brought into a computer, reviewed and a draft plan released. At this point, we will have an idea if the wall was placed correctly and the wetland restoration is successful and complete. At that point, Mr. Burke can begin the NOI paperwork for the site activities remaining.

Due to site conditions, work could not begin during the time since our last meeting. It is not likely the NOI can be submitted by the 2/5 deadline.

On a motion by D. Henkels; 2nd K. Rogers; the commission voted unanimously in favor of extending the deadline to file the NOI for a hearing on March 12, 2018.

322/328 Maynard Rd.

The commission has been unable to hold a site inspection to confirm the presence of the temporary sediment basins. A site inspection will be scheduled for later this week now that most of the snow has melted.

Signatures:

Commission signed the 2017 Annual Report and the 2 Revolving Fund Warrant Articles.

Minglewood Design Contract

On a motion by M. Sevier; 2nd D. Henkels; the Commission voted unanimously in favor of approving a contract for Town Manager signature for an amount not to exceed \$6,000 for meadow restoration at Davis Farm.

Superior Court decision: Oyster Creek Preservation

Commissioners held a general discussion of the ramifications of Bylaw Orders of conditions as it relates to the bylaw appeal *process*. If a Commission defaults on issuing an Order within the requisite timeframes (21 days unless extended by applicant), and the project goes to DEP on appeal for the Commission's failure to act, that project is not required to obtain a decision on Superior Court appeal. The DEP superseding Order will control. The DEP SOC is able to be appealed for adjudication.

Upcoming Meeting Date revisions due to 3/23 Election Day

Commissioners revised the meeting dates for SCC meetings as follows: Feb. 5, Feb. 26, March 12, April 2, April 23, May 14, and June 4. Additional meetings may need to be scheduled to conform to statutory timeframes for action on wetland filings.

General Discussion: Wildlife habitat and wildlife protection under WPA vs. Wetlands Bylaw

Beth Suedmeyer, Environmental Planner, listening by remote participation

D. Dineen presented a brief overview of the how wildlife habitat is protected under the state Wetlands Protection Act regulations and how that protection differs from protections under the Wetlands Bylaw. An in-depth discussion will be held at the Feb. 5th meeting.

Bank, bordering vegetated wetland, bordering and isolated land subject to flooding, and riverfront area are all wetland resource areas that have wildlife habitat as a presumed value and function. Each of these resources has a threshold below which disturbance is presumed not to harm wildlife habitat. The Bylaw does not have minimum thresholds and presumes the entirety of all resource areas are important for both wildlife itself and wildlife habitat. There are provision in the Bylaw that allow an applicant to present evidence to overcome these presumptions.

B. Suedmeyer explained that she would like the Commission to review the Stantec Scope of Services for a wildlife habitat evaluation on the Bruce Freeman Rail Trail. No RFP was sent out for this response as MassDOT is paying for this evaluation.

Site Inspections

Site inspections are being scheduled for Friday Jan. 26 beginning at 11am at 168 Horse Pond Rd., 137 Mossman, and 322, 328 and 370 Maynard Rd.

On a motion by M. Sevier; 2nd K. Rogers, the Commission voted unanimously in favor of adjourning the meeting. 8:44pm