

SUDBURY CONSERVATION COMMISSION
Minutes of the Regular Meeting Held Monday, April 2, 2018

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

6:45 pm – Chairman called regular meeting to Order and the Commission immediately voted to enter **Executive Session** for the purpose of 1) discussing and voting appeal and adjudication of the DEP Superseding Order of Conditions for 47 Bigelow Drive., 2) possible action on law suit filed for 168 Horse Pond Rd. (received 3/30/18) where discussion in public session could jeopardize the Conservation Commission’s negotiation strategy. Motion by C. Russo; 2nd R. Morse. Unanimous by roll call vote.

7:00pm – Vote to close **Executive Session** and reconvene regular meeting.

Regular Meeting:

WPA & Bylaw Request for Determination of Applicability: 55 Chanticleer Rd.

Lee Murphy, applicant (present)

Ms. Murphy presented plans for pool installation and after-the-fact tree removal. Trees are all within the existing lawn area and not contiguous the wetland (pond). They were within 100’ of the pond. The bank of the pond very well defined with very little bordering vegetated wetland. The pool and all components will be located on existing lawn area.

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

WPA & Bylaw Request for Determination of Applicability: 332 Goodman’s Hill Rd.,

Leah Carey Scholz; applicant (present)

The wetland permit application is for septic system replacement of a failed system. The septic capacity is staying the same. The septic has been relocated further from wetland as far as possible on this small lot. Board of Health approval has been received.

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

Minutes:

On a motion by R. Morse; 2nd C. Russo; the Commission voted unanimously in favor of approving the minutes of Feb. 5, 2018 as drafted.

On a motion by R. Morse; 2nd K. Rogers; the Commission voted unanimously in favor of approving the minutes of Feb. 26, 2018 as drafted.

On a motion by K. Rogers; 2nd R. Morse; the Commission voted unanimously in favor of approving the minutes of March 12, 2018 as drafted.

Bylaw Notice of Intent: Morse Rd. E08-0013; (across from #275); Natalie Haight

Violation: Removal of vegetation in Adjacent Upland Resource Area without permit

A request to continue to 4/23 was received 4/2/18. On a motion by D. Henkels; 2nd B. Porter; the Commission voted unanimously in favor of continuing the hearing.

WPA & Bylaw Notice of Intent: 137 Mossman Rd.; D. Smith, applicant

New house construction-

A request to continue to 4/23 was received 3/30/18. On a motion by M. Sevier; 2nd D. Henkels; the Commission voted unanimously in favor of continuing the hearing.

Bylaw Notice of Intent: 0 Willis Rd.; Mark Merullo, applicant

New house construction

A request to continue to 4/23 was received 3/26/18. On a motion by R. Morse; 2nd M. Sevier; the Commission voted unanimously of continuing the hearing.

Drone Use and Policy

T. Friedlander updated the Commission on the status of drone use by town departments. He met with Town Manager Rodrigues, D. Dineen, and Police Chief Nix. Other departments have expressed an interest in the use of drones. These include Police, Fire, and DPW, as well as Conservation. Lincoln Sudbury has a drone that they use.

M. Rodrigues felt the Selectmen should take the lead in establishing a Drone Use Policy by town departments.

On a motion by D. Henkels; 2nd C. Russo; the Commission voted unanimously to support the pursuit of a drone policy by the Board of Selectmen.

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

Driveway and stormwater construction to serve two new houses

Present: Molly Obendorf, Stamski & McNary; Atty. Watsky for the applicant

Ms. Obendorf presented a plan showing a pump station added on the driveway to provide additional water pressure. A culvert will be installed under the pump station to connect to the proposed drainage system in the driveway. Drainage calculations show the pump station can be accommodated within the existing system.

The limit of work and restricted area is shown on the revised plan. Approximately 25,000 sq. ft. has been added to the restricted areas around the septic reserves. The restricted area will be bounded.

T. Friedlander stated that Town Counsel recommends a Conservation Restriction rather than a Deed Restriction on the areas to be restricted. Atty. Watsky expressed concern that if the Order required EOEEA approval, the timing of the restriction is out of his control. He would like the Commission to agree that work may begin once a draft conservation restriction (CR) is applied for with EOEEA. D. Dineen cautioned the Commission that simply applying for a CR and allowing work to begin without approval of the wording by the town or EOEEA means the only leverage to get a final, approved CR recorded would be the issuance of the Certificate of Compliance. Properties have transferred ownership without a COC. Allowing construction before the CR is signed by the town and EOEEA and recorded is not the normal process and does not protect the town. T. Friedlander suggested following the normal process of all signatures and recording prior to the start of work. He noted that if EOEEA is not responding to the request for final review and signature in a timely manner, the applicant can always ask the Commission to allow work to proceed at that point through an extension of time for recording. M. Watsky stated that he would prefer the CR is only applied for prior to the start of work. D. Dineen suggested that that is EOEEA has not responded to a request for signature on a final

document within 45 days of submission, the Commission should consider allowing work to proceed and extending the timeframe for recording. She noted there was standard language for this purpose the Commission has included in several other Orders. She noted that the next item on the agenda for this exact purpose. Commissioners agreed.

On a motion by D. Henkels; 2nd C. Russo, the Commission voted unanimously in favor of closing the hearing.

On a motion by D. Henkels; 2nd K. Rogers; the Commission voted unanimously in favor of issuing the Order as discussed.

Vote requested: Extend timeframe for submission of CR on 322 and 328 Maynard Rd.

The applicant for the above properties has requested a 45-day extension for the submission of the conservation restriction recording information. D. Dineen stated that several drafts have been received and reviewed by Town Counsel, EOEEA, and the Conservation office. They are waiting for EOEEA final review before presenting the final CR to the town for signature. The delay was due to a change in personnel at EOEEA and there is a new CR reviewer now in place.

On a motion by D. Henkels; 2nd M. Sevier; the Commission voted unanimously in favor of extending the timeframe for submission of the recording information on the CR for 45 days.

Hop Brook Protection Association – Plans for Use of Herbicides in Hop Brook Ponds

B. Porter attended the HBPA Annual Meeting and found that HPBA is considering the possible use of the herbicide imazamox. It is 10x less costly than using the harvester. Studies on the chemical are initially not very comprehensive on its impacts. Reference was made to other towns that have used this chemical in their ponds. D. Henkels suggested the representative of the firm recommending the chemical be invited in to a Commission meeting.

D. Dineen and T. Friedlander mentioned this possibility to Town Manager Rodrigues who the town would be opposed to the use of chemicals in their ponds. T. Friedlander noted the CPC allocated \$15,000 for the harvester and the cost was presented as the operator-only. The harvester is owned by USFWS and is loaned at no cost.

On a motion by B. Porter; 2nd K. Rogers; the Commission voted to oppose the use of herbicides in the Hop Brook ponds based on the level of information currently available.

D. Dineen recommended a book entitled: "Whitewash" by Carey Gilliam. It is a look into the corporate world and manipulation of approvals for the use of herbicides and pesticides.

Commission and Staff Reports:

Broadacre Farm – D. Dineen reported that the soil testing is on-going to determine the number of lots for fair market value.

Update on Town Counsel changes – T. Friedlander reported that Town Counsel, Barbara St. Andre, is leaving KPLaw and will not be continuing as Sudbury Town Counsel. Another attorney from KPLaw will replace her.

On a motion by D. Henkels; 2nd M. Sevier, the Commission voted unanimously in favor of adjourning the meeting. 8;22pm