

**SUDBURY CONSERVATION COMMISSION**  
**Minutes of the meeting Held Monday, June 4, 2018**  
**DPW Facility, 275 Old Lancaster Rd.**

Present: Tom Friedlander, Chairman; Dave Henkels, Vice-Chairman; Bruce Porter; Mark Sevier; Richard Morse; Kasey Rogers; Charlie Russo (6:35pm arrival); Debbie Dineen, Coordinator

**Minutes**

On a motion by D. Henkels; 2<sup>nd</sup> B. Porter; the Commission voted unanimously in favor of approving the Minutes of April 30, 2018.

On a motion by R. Morse; 2<sup>nd</sup> K. Rogers; the Commission voted unanimously in favor of approving the Minutes of May 14, 2018.

**Sudbury Water District Well #3; off Pratt's Mill Rd.**

Present: Vin Roy, Sudbury Water District Superintendent

Mr. Roy presented plans to connect Well #3 to the water treatment plant off East St. Connection will involve extending an 8" water pipe 700' from the well to the treatment building. This work is within the riverfront area of Hop Brook and within 100' of bordering vegetated wetland in some areas along the 700' length. All work on already disturbed areas under an existing gravel access road. Mr. Roy asked if this work could be considered normal improvement to a water utility and therefore exempt from the need to file for a wetland permit under the state Wetlands Protection Act. Mr. Roy asked if it could also be determined as exempt under the local wetlands bylaw.

On a motion by D. Henkels; 2<sup>nd</sup> M. Sevier; the Commission voted unanimously in favor of permitting the work as exempt from a wetland filing under the local wetlands bylaw. C. Russo abstaining.

**WPA & Bylaw Request for Determination of Applicability: 231 North Rd., Garage construction**

Present: Tom King, applicant; Bud Haworth, builder

Mr. Haworth presented plans for the construction of a 24' x 36' garage on existing lawn area. A drip edge will be installed for infiltration of roof runoff. The wetland resource area is bordering vegetated wetland approximately 40+ feet from the closest corner of the garage. No changes to existing grades will occur.

On a motion by M. Sevier; 2<sup>nd</sup> B. Porter; the Commission voted unanimously in favor of a negative Determination.

**WPA & Bylaw Request for Determination of Applicability: 241 Old Sudbury Rd., Garage construction;**

Present: Bernice and Matt Ryan, applicant; Rebecca Edson, architect

Ms. Edson presented a plan to demolish an existing garage and reconstruct a slightly larger new garage. The new garage will add only 160 sq. ft. of impervious surface as part of the garage will be built over the new driveway. Roof runoff will be connected to French drains that will discharge to dry wells. No basement will be constructed.

Commissioners questioned if a new driveway section will be added to access the new garage entrance. Ms. Edson replied that a new section of asphalt driveway is proposed. It was not included in her calculation of the additional 160' of impervious area. Commissioners stated that the new driveway

should consist of permeable material or they will need to incorporate the new impervious area into the runoff infiltration system. Matt Ryan stated that he did not want pavers due to the cost and the plowing problems.

Chairman Friedlander permitted the applicants to take a break to discuss how they wished to address the additional drainage.

Following the break, the discussion continued. M. Sevier stated that based on the size of the new driveway, infiltrating the first one inch of runoff would require infiltrating about 12 cu. Ft. of water. This would be roughly an 18' long x 9" wide 1" deep trench with appropriate soils. Further discussion clarified that this trench for the additional area of driveway did not need to be incorporated into the infiltration system for the roof runoff.

On a motion by C. Russo; seconded; the Commission voted unanimously in favor of a negative Determination conditional on the trench as discussed and specified installed for runoff from the additional area of asphalt and the garage roof runoff collected into downspouts that discharge the first 1" of runoff to appropriately sized drywells.

#### **Extension Permit Requests:**

#### **Determination of Applicability: Sudbury Station; Christopher Claussen, applicant**

Present: Atty. William Henchy

Mr. Henchy withdrew the request for the extension of the negative Determination for wetland delineation. He conferred with Lealdon Langley of DEP who advised that extension of Determinations are not an option.

#### **#301-1163, Sudbury Station ORAD**

Present: Atty. William Henchy

Atty. Henchy stated that the request is only under the WPA for an extension permit for three years as permitted under the WPA when there is a pending appeal. He stated that there are two appeals pending on this project; one in Land Court and one before the Housing Appeals Committee as the project is an affordable development under Chapter 40b.

D. Dineen reminded the Commission that the ORAD delineation was considered conservative on the part of the wetland and the ORAD does not address the issue of the stream for a portion of its length on the site. As a result, it is presumed perennial.

C. Russo raised concern for the lack of knowledge on how the stream might be impacted by development. Atty. Henchy stated that stormwater development studies were provided to the ZBA for review.

Scott Smigler, neighbor near the development, stated that the neighbors did not have time to understand the issues with an Extension Permit. He requested no action be taken by the commission tonight. D. Dineen stated that the Commission has only 21 days to act on an Extension request. Waiting until the next meeting could put the Commission over the 21-day limit.

M. Sevier motioned to issue and Extension Permit for the ORAD for Sudbury Station for 3 years. K. Rogers 2<sup>nd</sup>.

C. Russo requested DEP be consulted on the appropriateness of the withdrawal of the Determination.

Motion passed unanimously.

**Bylaw Request for Determination of Applicability: 74, 80 Maynard Rd. Soil Testing**

Bonnie Brook Realty Trust, applicant

Present: Desheng Wang; John Derderian

Mr. Wang presented a plan showing the proposed lots on the vacant land. The filing is under the local Wetlands bylaw for soil testing. Access to all lots will require equipment and soil borings in the adjacent upland resource areas. An 8' wide mini-excavator will be used. Test pit locations will be staked.

D. Dineen questioned the extent of tree removal for access. T. Friedlander noted that this exploratory work is more complex do to the locations of the wetlands throughout the site. He suggested a positive Determination where more details could be submitted as part of an NOI. D. Henkels noted that the site also contains at least one vernal pool.

On a motion by D. Henkels; 2<sup>nd</sup> M. Sevier; the commission voted unanimously in favor of a negative Determination for access as described to Lots 1, 2, 3 and 10, conditional on the equipment access route being staked prior to any activity and the Conservation Commission be notified for a site inspection and approval of the equipment path prior to the testing.

**WPA & Bylaw: Abbreviated Notice of Resource Area Delineation: Eversource; MBTA ROW**

Confirmation of all jurisdictional resource areas along the MBTA ROW from the Sudbury Substation at 183 Boston Post Road to the Sudbury-Hudson line

The applicant has requested a continuation to June 18. On a motion by R. Morse; 2<sup>nd</sup> B. Porter; the Commission voted unanimously in favor the continuation. K. Rogers abstaining

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

Present: Natalie Haight, applicant; Dan Wells of Goddard Consulting LLC

The hearing is a continuation to allow a revision to the Invasive Species Management Plan (ISMP). A revised Plan was received from Dan Wells prior to the hearing. The amended Plan is dated May 21, 2018. The violation consisted of removal of vegetation in Adjacent Upland Resource Area (AURA) without permit.

Mr. Wells explained that the ISMP covers three areas of the property. The area along Marlboro road to the north only had evidence minor cutting of native species. Most of the cutting was of several dozen non-native species. They are requesting that the area be allowed ot revegetate with hand removal of the non-native plants as they appear. Most of the native plants were silky dogwood.

Following further discussion, the Commission concluded that the following items shall be included in a further revised ISMP:

Prior to any further work on the property, a revised Invasive Species Management Plan must be submitted to the Commission for review and approval. The revisions shall include:

- No use of herbicides or pesticides;
- Include a method to document progress of the regrowth of the native species;
- The annual mowing in the fall of the area around the pond (as opposed to the "silky dogwood" area) is permitted with the encouragement of the growth of native trees and shrubs in this area. Native trees and shrubs in this area are to be marked following one growing season (in fall of 2018) to prevent mowing of these species.

- The two trees that fell into the pond may be removed provided at least a 20' section of tree trunk remains in the pond from at least one of the trees to provide basking and perching area.
- The one tree that has snapped with a large branch (es) hanging, may be topped.
- An annual report is required from a qualified environmental monitor in the late fall of each year with a full status review after two growing seasons. This report shall include the status of regrowth of native species throughout the site, the extent of invasive plants removed and the status of regrowth of native species in the "silky dogwood" area. The Conservation Commission reserves the right to require supplemental replanting of native shrubs or trees if the silky dogwood or other similar native species have not shown significant regrowth by fall of 2018.
- The use of the lawn tractor is permitted within the upland resource area. It may not be used within the bordering vegetated wetlands areas or in the stream. No tractor cutting shall be performed in the areas where native species are being encouraged to regrow.

The Order shall require the monitoring of regrowth of the area of cut buckthorn and silky dogwood and will establish an Invasive Species Management Plan for continued removal of invasive plants from the property

On a motion by B. Porter; 2<sup>nd</sup> D. Henkels; 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 including no crossing of the stream with any vehicles.

**DEP File #301- ; Revision to Orders of Conditions: 72 Wagonwheel Rd. mitigation**

Present: Mr. & Mrs. Miller, homeowners

D. Dineen explained that the order contained a conditions for the Millers to provide the structure for an upgraded catch basin retrofit to include grease/gas traps and a deep sump. The DPW Director and Town Engineer have assessed the catch basin to determine the type of structure required and have determined that a retrofit is not possible. They would prefer a complete replacement of the catch basin by the town to ensure consistency and ability to maintain over time.

On a motion by D. Henkels; 2<sup>nd</sup> B. Porter; the Commission voted unanimously in favor of amending the Order to remove the requirement for the catch basin retrofit on the recommendation of the Town. C. Russo cautioned that the reasons for doing so should be well-documented.

**Bylaw Notice of Intent: 0 Willis Rd. (continued) ; New house construction**

Present: Mark Merullo, applicant; Mark Arnold, Goddard Consulting, LLC

Mr. Arnold presented further information on the wildlife habitat evaluation and corridor. He noted that there are no proposed alterations of bordering land subject to flooding (blsf). He suggested the Commission could condition the Order to require porous pavement or gravel on the driveway. They can also remove the fence around the rain garden to provide a wider wildlife corridor. C. Russo noted that porous pavement requires routine maintenance. There is no guarantee that will occur.

D. Dineen presented her detailed corridor assessment that went beyond that provided in the NOI. She showed a maps of protected upland and wetland areas that, with only one minor gap in the linkage, connected areas from the Assabet River Wildlife Refuge on the west side of Sudbury to the Great Meadows Nation Wildlife Refuge on the eastern border. B. Porter noted that the 0 Willis lot was already a "pinch-point in the corridor and development of a residential house on the lot will further reduce the corridor width in this area of high value for wildlife. The site contains two streams, multiple

layer canopy, native species of vegetation, old rock walls, and bordering land subject to flooding. R. Morse added that the actual location of the bordering land subject to flooding is still unknown. The blsf is presume to be the 100-year floodplain elevation, however flooding has occurred regularly in excess of this elevation. Documentation of normal flood levels have been provided by abutters and witnessed by Commissioners and staff.

Irina Dubinchik, 159 Willis Rd., stated that the flooding is every year and extensive. She added that the DEP approval under the WPA was detailed and extensive, but it is difficult to protect a wetland after the fact.

On a motion by B. Porter; 2<sup>nd</sup> D. Henkels; the Commission voted unanimously to close the hearing. Further discussion began and on a motion by D. Henkels; 2<sup>nd</sup> by C. Russo; the Commission voted unanimously in favor of reopening the hearing to add to the discussion on bordering land subject to flooding. B. Porter and T. Friedlander abstaining from the vote.

The Commission discussed the fact that the DEP SOC did not address the issue of bordering land subject to flooding. M. Arnold stated that bordering land subject to flooding was not checked as a resource area on the WPA NOI because no work was proposed below the 100-year floodplain. The Commission again noted that is a presumption that they questioned with the evidence documented through photographs of flooding reaching at or above the 100-year flood elevation in a normal rainfall spring.

On a motion by C. Russo; 2<sup>nd</sup> D. Henkels; the Commission voted unanimously to close the hearing.

The Commission discussed the fact that the only mitigation was a conservation restriction on the undevelopable wetland or inaccessible upland portion of the site remaining after the lot was developed and the adverse impact to wildlife had already taken place through the significant reduction of the wildlife corridor with elimination of the undeveloped upland on Willis Road and the introduction of human activity.

On a motion by C. Russo; 2<sup>nd</sup> K. Rogers; the Commission voted unanimously in favor of denial of the work under the NOI. C. Russo noted that only a very small area of the property (<100 sq. ft.) is outside of bylaw jurisdiction as a protected resource area.

#### **14 Tall Pine Dr. – Violation**

Present: Allegra Aquino

Mrs. Aquino requested an extension of time to File an NOI. They have contacted with a wetland professional who can have the NOI submitted by 6/14/2018.

On a motion by C. Russo; 2<sup>nd</sup> D. Henkels; the Commission voted unanimously in favor of granting the extension.

#### **Certificates of Compliance:**

DEP File #301-838 & #301-1035; Maple Meadows; Maple Ave.

R. Morse recused himself from participating as a Commissioner as he resides in the Maple Meadows development.

Commissioners T. Friedlander and D. henkels, along with D. Dineen and D. Burke visited the site just prior to the meeting this evening. They noted violations that appear to be from and abutter at 54 Maple Ave. These violations include expansion of lawn a, lawn mowing, and disposal of lawn clippings all with the riverfront area of Hop Brook.

As the violations on the Maple Meadows property appear to be the result of a butter encroachment, D. Henkels motioned to issue both Certificates of Compliance with the requirement for annual mowing of the native species meadow in accordance with the Orders and the Conservation Restriction, but with annual frequency. C. Russo 2<sup>nd</sup>. Voted unanimously in favor.

C. Russo requested that the violation be pursued with the owner of 54 Maple Avenue and asked staff to reach out.

**DEP File #301-871-, DeMarco Rd., Anne Fogarty**

D. Dineen reported that the house addition has been completed several years ago. The area is stable and not all work permitted by the Order had been started.

On a motion by B. Porter; 2<sup>nd</sup> K. Rogers; the Commission voted unanimously in favor of issuing the COC.

**Conservation Restriction: 322/328 Maynard Rd., Conservation Restriction**

The Coordinator reported that she has been involved in the drafting of the CR to be sure it met the requirements in the Order. The CR has been reviewed and approved by Town Counsel and EOEEA.

On a motion by D. Henkels; 2<sup>nd</sup> C. Russo, the Commission voted unanimously to accept the CR. The Commission reviewed, voted and signed the Conservation Restriction.

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

New house construction-

The applicant has requested a continuation to June 18. On a motion by C. Russo; 2<sup>nd</sup> D. Henkels; the Commission voted unanimously in favor the continuation.

**Violation Status:**

**267 Landham Rd.**, Gaston Safar; NOI due 6/18 – ZBA Application and request to rescind the ticket.

Commissioners authorized the coordinator to draft a letter to the ZBA informing them of the outstanding wetland violations that remain on the property after ten years and asking that they consider deferring issuance of a special permit for an accessory apartment until the violations are corrected.

**33 Maynard Rd.** - The NOI still has not been received. Outreach to the homeowner will be attempted again prior to any further formal action on the violation.

**159 Concord Rd.**- Commissioners extended the due date for the after-the-fact NOI for deck construction within 100' of a wetland to July 9. Ticketing will begin if no NOI is received by July 9, 2018.

**Land Stewardship**

**King Philip Woods Meadow Restoration status & letter from Sudbury Historical Commission**

The Sudbury Historical Commission submitted a letter of approval for the invasive species work at King Philip Woods, providing stone walls and stone piles are not moved. The Commission agreed that the stones will not be moved as part of the invasive plant removal project. They discussed the next steps of re-involving the forester and getting the wetlands flagged.

**Davis Farm Meadow Restoration status**

Rusty's Tree Service is contracted to remove the overgrowth of invasive plants in the old meadow beginning right away.

#### Trees on Tipling Rock Trail Conservation Land

New England Wildflower Society's Bill Brumback responded and indicated the hemlocks were impacted by a mite and possibly the wooly adelgid. He stated he had showed the hemlock images to Mark Richardson at Garden in the Woods, and he thinks the trees are on their way out from a combination of two spotted mite and wooly adelgid. Although the leaves in the images did not show any adelgid, the insects might have been there previously and weakened the trees. Hemlocks in general are having a tough time with these pests and a warming climate. The bark images show large holes, presumably from woodpeckers, going after insects in dead or near dead trees. To investigate further, he suggested consulting a forester. Several Commissioners had viewed the trees very recently and noted that the damage was confined to the small stand of hemlocks and did not appear to present a threat to other areas at this time. They will keep watch on the area to catch any signs of spread.

#### Trail Clearing

Commissioners suggested involving the bow hunters in trail clean up remaining after the spring storms.

On a motion by R. Morse; 2<sup>nd</sup> C. Russo; the Commissioners voted unanimously in favor of adjourning the meeting. 10:30pm.