

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Held Monday, July 23, 2018
DPW Facility, 275 Old Lancaster Rd.

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

Minutes

On a motion by B. Porter; 2nd K. Rogers; the Commission voted unanimously in favor of accepting the minutes of June 4, 2018.

On a motion by K. Rogers; B. Porter; 2nd; the Commission voted unanimously in favor of accepting the minutes of June 18, 2018

WPA & Bylaw Abbreviated Notice of Resource Area Delineation ANRAD MBTA ROW

Review of surveyed Bordering Land Subject to Flooding (BLSF)

On a motion by K. Rogers; B. Porter; 2nd; the Commission voted unanimously in favor of continuing the hearing to Aug. 6, 2018 to allow for review of final, stamped and signed plans.

WPA & Bylaw: Notice of Intent: Eversource: Soil Borings on MBTA ROW

Soil borings, soil samplings and other exploratory testing along the MBTA ROW from the Sudbury Substation at 183 Boston Post Road to the Sudbury-Hudson line

On a motion by B. Porter; K. Rogers 2nd; the Commission voted unanimously in favor of continuing the hearing to Aug. 6, 2018.

WPA & Bylaw Request for Determination: 42 Village Rd., house addition reconstruction

Present: Kerri Weinstein, applicant

Mr. Weinstein presented plans for house addition reconstruction and tree removal. He explained that a tree fell on an addition at the back of the house during the March storm. The addition was constructed in 1987, before he purchased the property, however it was just discovered that it did not meet code, had no foundation, and must be rebuilt. He plans to rebuild in the same footprint. He would also like to remove four trees that are overhanging the roof and are compromised at the base.

D. Dineen explained that the work is in the outer riparian area with a steep drop of approximately 30+ to the edge of bordering vegetated wetland (bvwm) associated with the stream. The work is well outside the adjacent upland resource of the bvwm.

On a motion by D. Henkels; 2nd B. Porter, the Commission voted unanimously in favor of issuing a negative Determination. C. Russo abstaining due to arrival timing.

WPA & Bylaw Notice of Intent: Sudbury Water District, 199 Raymond Rd.

Headquarters expansion

Present: Vin Roy, Sudbury Water District Superintendent; JP Parnas and Elena - of Weston and Sampson

Mr. Parnas of Weston & Sampson presented plans for the renovation and expansion of the existing Sudbury Water District headquarters facility. Stormwater has been designed to capture and treat runoff from the entire site with the exception of a small section of existing driveway.

Mitigation under the Bylaw for increased structures and activity was achieved with the relocation of the septic system and removal of impervious surface outside of wetland jurisdiction. Three areas of infiltration are provided. One is exclusively for roof runoff and does not include pre-treatment as it is not required.

The northern driveway entrance is the only area of impervious surface where runoff is not collected and treated or infiltrated. D. Dineen noted that this runoff flows along the side of Raymond Road and into the wetland within Zone I of a municipal drinking water well. She asked that the engineers take another look at providing some level of pre-treatment or infiltration so the runoff does not pick up particulates and pollutants from the side of the traveled way. The engineers thought it would be difficult to do so and did not offer a solution.

Mr. Parnas confirmed that on site test pits for soils data were done in the areas where infiltration is proposed.

D. Henkels questioned if there are any Estimated or Priority NHESP habits on the site. There are not.

B. Porter received confirmation that the septic system is currently within wetland jurisdiction and is being moved well outside jurisdiction.

C. Russo received confirmation that the vehicle storage garage will be on an impervious slab. He questioned if the northern part of the driveway could be constructed of permeable pavement. Mr. Parnas stated that maintenance of a small section of permeable pavement is difficult and costly. It is not recommended for this small area and type of use.

K. Rogers received confirmation that the existing shed will be removed.

D. Dineen asked what the plan was for stabilizing the cut into the steep slope just outside wetland jurisdiction. Should there be a slope failure, jurisdictional areas could be impacted. Mr. Parnas explained that the retaining wall will be constructed immediately after the cut is made. D. Dineen suggested jute netting if the slope will remain unstabilized during the winter as there will still be a large area of disturbed slope above the wall.

Commissioners agreed the wetland as delineated on the referenced plans will not be accepted by the Conservation Commission as a formal delineation at this time. All proposed work is to be located on already disturbed areas for the scope of the work covered by this Order.

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

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

WPA & Bylaw Notice of Intent: 415 Boston Post Rd., Stormwater Discharge; OSPD Realty LLC

Present: George Connors of Sullivan Connors & Associates

Mr. Connors presented plans for the redevelopment of the former town police station headquarters. The Notice of Intent was submitted for the redevelopment of this 0.63-acre parcel. The redevelopment has designed stormwater to provide overall improvements to the site through infiltration of most of the runoff from the proposed impervious surfaces. Impervious surface will be reduced by 2,000 sq. ft. over existing conditions with the new development. Infiltration is provided on

site in three separate areas with the new development. The design complies with the MA Stormwater Standards for redevelopment. Only a small section of runoff will flow to Boston Post Road.

Mr. Connors explained that due to grading and site constraints at the outfall, it is not possible to upgrade the discharge point. The current 36" outfall pipe overtops. A fore bay or other best management practice is not possible; however, the project reduces the volume of water being discharged in the 100-year storm by .06 cfs.

The Commission voted unanimously in favor of closing the hearing and issuing the standard drainage order as discussed.

Request for Amendment to Order of Conditions: #301-1226; 98 Haynes Rd., Willow Hill School; increase in scope of work and footprint of disturbance

Present: Tom Peterman, architect; Marilyn Reid, Willow Hill School; Andrew Fournier & Peter ? of C.E. Floyd contractors; and Willow Hill Building and Grounds Supervisor

Mr. Peterman stated that the school would like to begin construction in mid-August. They received an Order of Conditions several months ago, however adjustments now need to be based on the contractor's input. A revised plan has been submitted that shows a contractor parking and staging area for deliveries of materials, crane location and area for concrete truck access. The proposed contractor parking is mostly outside the riverfront area. Toilets have been moved outside of the riverfront area. They plan to leave the existing loam and grass in place and install filter fabric and gravel on top. It will remain impervious. No overnight parking will be permitted in this new disturbance area. The concrete truck will only be accessing the site for several days. The crane will be on site for ten days.

T. Friedlander stated that he and the Coordinator were on site this afternoon. He expressed concern for construction equipment and spills or leaks from vehicles parked on the gravel. D. Dineen noted that the area has a high water table and contaminants could leach into the groundwater. Peter ? replied that a spill kit would be kept on site at all times and the parking area would be monitored daily for signs of spills and leaks. No overnight parking will be permitted.

D. Henkels questioned if dewatering will be required. The contractor replied that it is likely and a wash out box will be provided.

Compacting of loam will occur with the vehicle traffic on the gravel area. Snow may need to be hauled off site. No stockpiling of snow will be permitted within wetland jurisdictional areas. Deicing of the path may need to occur in the winter. The decision to deice will be decided on the Superintendent's walk through. Steel plates will be placed over the septic force main and the drainage pipe. D. Henkels further stated that the traffic should avoid the underground detention area.

B. Porter stated that no on-site vehicle maintenance or equipment maintenance should be permitted in wetland jurisdiction. D. Dineen added that this should include areas that drain to the wetland.

D. Dineen questioned the method of restoration of the field area as well as the plowing of the gravel area in the winter and the spread of gravel from the plows. The contractor stated all areas will be restored. D. Dineen suggested tall orange fencing in addition to the erosion control barrier to better clearly define the approved area for disturbance. She questioned how drainage off the existing building would be dealt with during construction as access to the infiltration pits will be unavailable.

Responding to K. Rogers, the contractor stated that approximately 30 concrete truck trips, 3 steel deliveries, deliveries of materials such as drywall, windows and other finishes will be necessary, as well as emptying the dumpster.

A pre-construction meeting and erosion control review will be required.

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

On a motion by D. Henkels; 2nd K. Rogers; the Commission voted unanimously to issue an Amended Order to include the conditions discussed.

WPA & Bylaw Notice of Intent: 267 Landham Rd., Gaston Safar

Restoration after violation

Present: Dave Burke, Wetland Resource Specialist

The Notice of Intent was filed for restoration of a portion of the upland and wetland resource area disturbed without a permit. A retaining wall was required in DEP File #301-983 following removal of fill in a bordering vegetated wetland. The Conservation Commission accepted the location of this wall as shown on the referenced plans as in compliance with #301-983. The Notice of Intent was filed for additional unpermitted work at the base of the wall. Mr. Burke explained that an Order of Conditions has been requested to permit the removal of soil and debris at the base of the wall to restore the contours and native vegetation in the disturbed area. The request includes replacement of two gates.

Mitigation under the Bylaw was offered in the form of permanent protection of the area of land owned by the applicant beyond the limits of the retaining wall. C. Russo explained that the mitigation is required to offset the increase in use in close proximity to the wetland for better enforcement and to reduce the risk of further encroachment.

D. Henkels questioned if a performance bond should be required as the applicant has a history of non-compliance. D. Dineen stated that performance bonds are meant to provide funds for the Town to complete the work should the applicant fail to do so. She stated that even if the funds are received, without an easement of entry for the purpose of the Order, the Town cannot access the site. If it does obtain an easement for access to the site, liability for the Town could result if there are damages from the work. The Town is not in the business of wetland restoration on private property. C. Russo agreed and stated that the Order should make clear that no further alterations of any kind within jurisdictional areas, except as permitted in the Order may occur. Current site conditions may be maintained once the restoration area is completed.

Commissioners discussed the conditions for allowing the restoration work to occur. No equipment or machinery will be permitted in the area below the wall. Any use of equipment requires access from the top of the wall.

Following removal of excess soil and debris to the original contour below the wall, the area shall be loamed and seeded with a native seed mix of appropriate species that will thrive in the underlying soil conditions.

Within sixty (60) days of the date of issuance of the Order, the applicant shall have completed the soil and debris removal and have all disturbed areas seeded with the native seed mix.

The Conservation Commission reserved the right to require additional plantings to provide greater coverage, deter invasive plant species, or restore any wetland or upland protected values and functions impacted by the illegal disturbance at the base of the retaining wall.

Mike DiModica, speaking on behalf of his parents who are abutters, stated that the ZBA did not issue a special permit for an accessory apartment due, in part, to the outstanding wetland violations. The Commission will inform ZBA that an Order for restoration is being issued, however, they will request that the permit for the accessory use not be issued until the restoration work is complete and approved by the Commission. This will be an incentive to have the restoration work done within the required

timeframes. Mr. DiModica noted that the number of bedrooms for the septic design may not be as described by Mr. Safar to the ZBA. The Coordinator will inform the Board of Health of this concern.

A qualified professional Environmental Monitor shall supervise the soil and debris removal as well as the loaming and seeding of the area at the base of the retaining wall. Monitoring reports be submitted on the status of the restoration area in the spring and fall of each year, beginning in fall 2018, until a Certificate of Compliance is issued. The restoration shall be considered successful once the area is covered by 90% native plants from the Sudbury Native Plant List. Invasive plants within the restoration area shall be managed by regular hand removal without the use of herbicides.

The applicant has offered mitigation, required under the local Bylaw, in the form of permanent protection of the land owned by the applicant beyond the base of the wall. This includes parcel K10-0004, minus the area above the retaining wall.

The applicant may either 1) place a perpetuity Conservation Restriction on this land; or, 2) deed the land in fee to the Town of Sudbury for conservation purposes in accordance with M.G.L. Chapter 40 section 8C.

The applicant has thirty days (30) from the issuance of this Order to inform the Commission of the method of mitigation preferred (transfer in fee or Conservation Restriction). Following these thirty (30) days, the applicant has sixty (60) to present the plan of the land to be deeded/restricted and the recording information for the fully executed Conservation Restriction or present the Deed for recording.

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

On a motion by C. Russo; 2nd K. Rogers, the Commission voted unanimously in favor of issuing the order as discussed.

WPA & Bylaw Notice of Intent: Nashawtuc Country Club Golf Course Improvements

Present: Mike Toohill of BSC for applicant; Ric Schultz and Troy Noble for NCC; and Brian Vacasey, irrigation consultant for NCC

Mr. Toohill presented plans for the reconstruction of the golf course in both Sudbury and Concord. An NOI has been submitted to the Concord natural Resources Commission as well as both Zoning Board of Appeals. The work will involve the changing of the topography to improve course play. Existing to proposed topography was compared on a 1':1' basis. To accomplish the improvements, flood plain alteration is required. Compensatory storage will be provided that exceeds current site-wide flood storage. A total of five compensatory storage areas will be created site-wide with two in Sudbury. Twelve of the eighteen holes are located in Sudbury. They would like to completely replace the irrigation system and reconfigure the two man-made ponds. This will result in an increase in Land Under Water body. Bank and bordering vegetated wetland will remain the same, although under water shelves with plantings will be added to the new ponds for additional habitat and pollution attenuation.

C. Russo questioned if tree removal will occur. M. Toohill stated that they may need to remove up to four trees behind hole #10 for the compensatory storage area. They will try to save the trees on the mound at holes #10 and #11. The restored compensatory storage area will have additional trees planted plus a comprehensive planting of native shrubs and grasses.

No file # has been issued yet by DEP. D. Dineen suggested continued the hearing in this case as DEP may have some input into the floodplain alteration and compensatory storage creation.

D. Henkels motioned to continue the hearing to Aug. 6; C. Russo 2nd;

D. Dineen noted that the plan was developed using LiDAR to establish existing and proposed topography. Although it is not as accurate as an instrument survey, in this case it is establishing the difference between existing and proposed elevations in order to determine compensatory volume. This differs from other projects, such as the Eversource ANRAD, that is seeking to establish the extent of bordering land subject to flooding.

Motion passed unanimously

Violation Status:

3 Goodnow Rd.

Present: Sokrat Dishnica

D. Dineen informed the Commissioners that tickets have been issued for failure to meet the requirement of providing a timeframe by April 15, 2018 for performance of the required conditions. Mr. Dishnica had visited the Conservation office last week to discuss the ticket he received. At that time, they reviewed the requirements in the Order and she discovered that two additional violations of the Order have now occurred. Replanting was required by June 30, 2018 and the Order had not been recorded within thirty days of issuance. That brought the violation total to three. Mr. Dishnica has since recorded the Order and provided the recording information. Two violations remain.

Mr. Dishnica presented timeframes for approval. He had wall removal to begin immediately and completed by Aug. 31, 2018. Planting of the restoration area would begin Sept. 1 and occur between Sept. and Sept 30 as the plants become available. To take advantage of the fall growing season. The driveway infiltration system will be installed by Nov. 30. Commissioners suggested this date be moved up to Nov. 15 at the latest in case of an early frost. They felt it could be risky to wait until Nov. 30.

C. Russo reminded Mr. Dishnica that the plantings must be 90% established after two years. If this is not successful, the Commission can require additional plantings that must remain viable.

Mr. Dishnica questioned the issuance of the tickets. T. Friedlander stated that the project began as a violation and violations continue with the failure to adhere to the Order. D. Dineen stated that the ticketing policy is used as a last resort to get the attention of the violator. It now appears the Commission has Mr. Dishnica's attention and he is working on bringing the property into compliance with his most recent actions. She noted that the Commission has the option of placing ticket payment on hold and reactivate required payment of already issued tickets and possibly additional tickets for failure to perform per the Order. K. Rogers and C. Russo agreed and stated that would give the property owner a great incentive to comply. T. Friedlander countered that the property owner has had numerous opportunities to comply over the last several years without much response. C. Russo responded that if the failure to comply continues, the cost of the tickets will exceed the cost of the work to be accomplished under the Order. He would prefer the money went to on site correction of environmental harm. He suggested Mr. Dishnica reduce his risk and try for compliance by Nov. 1. D. Henkel agreed and suggested the Commission defer the collection of the ticket payments as an incentive to complete the work within the new timeframes.

On a motion by D. Henkel; 2nd B. Porter; the Commission voted unanimously to waive current due ticket payments until Aug. 31 to see if the first phase of work as outlined in Mr. Dishnica's timeframe is done on time, and to stop issuing additional tickets at this time.

159 Concord Rd.

D. Dineen reported that the Notice of Intent was received Friday but has not yet been reviewed for completeness. The hearing will be scheduled for Aug. 6, 2018.

168 Horse Pond Rd.

T. Friedlander stated that K. Rogers had reported work occurring within the fence in the backyard. D. Dineen went by the site and it appeared a new shed was being installed. The next day, the shed location was visible above the fence and appeared to be outside of wetland jurisdiction. The extent of total disturbance was not visible. She has sent an email to Mrs. Blank for confirmation that additional work did not occur with wetland jurisdiction. No response to date.

Certificates of Compliance:

4 Powder Mill Rd., R. Newton

D. Dineen reported that the confirmation was received from Cutler Construction stating that the dry well was installed according to the plan. The as-built had already been received. All appears to conform to the approved plan.

On a motion by D. Henkels; 2nd C. Russo; the Commission voted unanimously in favor of issuing the COC.

Other Business:

The Commission signed a duplicate Certificate of Compliance 36 Babe Ruth Drive at the request of the property owner for recording purposes.

Reports for Commissioners and Staff

D. Dineen reported that two appeals have been received. One is an appeal to DEP for a Superseding Order of Conditions on 137 Mossman Rd. No appeal under the bylaw has been received to date.

The second is a request for an Adjudicatory hearing by DEP on DEP's decision to take no action on the request for an appeal of the issuance of an Extension Permit for the ORAD for Sudbury Station. DEP had stated on the first appeal that an Extension Permit is not appealable.

On a motion by D. Henkels; 2nd B. Porter; the Commission voted unanimously in favor of adjourning the hearing. 9:30pm.