

**SUDBURY CONSERVATION COMMISSION**  
**Minutes of the Meeting Held Monday, October 22, 2018**  
**DPW Facility, 275 Old Lancaster Rd., Sudbury MA**

Present: Dave Henkels, Vice-Chairman (Acting Chairman); Bruce Porter; Mark Sevier; Richard Morse; Kasey Rogers; Charlie Russo; Tom Friedlander (remote participation for part of the meeting); Debbie Dineen, Coordinator

**Minutes:**

On a motion by M. Sevier; 2<sup>nd</sup> C. Russo; the Commission voted unanimously by roll call vote to approve the minutes of Aug. 20, 2018 as drafted.

On a motion by C. Russo; 2<sup>nd</sup> R. Morse; the Commission voted unanimously by roll call vote to approve the minutes of Sept. 24, 2018 as drafted. B. Porter abstaining

On a motion by B. Porter; 2<sup>nd</sup> K. Rogers; the Commission voted unanimously by roll call vote to approve the minutes of Oct. 15, 2018 as drafted.

**WPA & Bylaw Request for Determination of Applicability: 60 Greenhill Rd; Michel Arney**

Present: Michel Arney

Mr. Arney presented plans for the construction of a 10' x 20' deck off the rear of his house. There is currently a small shed on the property as well.

D. Dineen explained that the deck will be constructed in Riverfront area and AURA of bordering vegetated wetland, however all work is on existing lawn and landscaped area. Mr. Arney added that only three sonna tubes will be installed.

On a motion by R. Morse; 2<sup>nd</sup> M. Sevier; the Commission voted unanimously by roll call vote in favor of a negative Determination.

**WPA & Bylaw Request for Determination of Applicability: 4 Confidence Way, Marek Mizeracki, applicant**

Mr. Mizerski presented plans for a 30' x 80' house addition with infiltration of roof runoff from new impervious surfaces. The driveway will be relocated to the new addition and will remain as gravel. M. Sevier stated that there will be an additional 2, 100 sq. ft. of impervious area from the new addition with 300 sq. ft. of the addition already part of the existing house.

D. Dineen stated that the wetland resource area is an intermittent stream with a small amount of bordering vegetated wetland. The stream is generated by runoff from Concord Road drainage and possibly drain on the east side of Concord Road. A drainage outfall pipe discharges behind the existing house at 4 Confidence Way. The flow is contained within an intermittent stream channel that flows with the slope downhill until it reaches a more level area where there is a larger area of bordering vegetated wetland (bvw). The narrowest part of the intermittent stream and bwv is located directly behind the house. There is a large lawn area and all work is shown on existing lawn.

On a motion by M. Sevier; 2<sup>nd</sup> C. Russo; the Commission voted unanimously by roll call vote for a negative Determination.

**WPA & Bylaw Notice of Intent: 33 Maynard Rd. violation correction; Evan Kyparissoudes**

Present: Evan and Judith Kyparissoudas

D. Burke prepared the NOI but was not present as he is now under contract with the Conservation Commission for Environmental Monitoring.

Mr. Kyparissoudas stated that they moved bushes from the wetland area to an area near the house foundation and fence. They planted a garden in the wetland restoration area. They have not maintained the garden and the grasses are re-growing. They were not aware that there were any restrictions on their property for wetlands. They added that they would like permission to cut a number of additional trees they feel are dangerous. They presented some insurance company material and letters from tree companies.

D. Dineen stated that the tree removal request for not part of the NOI and therefore could not be heard tonight. She asked that they leave the material for the Chairman to review and determine if a new Notice of Intent is required or if the trees qualify as imminent threats.

D. Dineen further explained that the previous violation by an earlier owner of the property resulted in restoration and a Certificate of Compliance with perpetuity conditions on the property. She added that this COC was recorded at the Registry of Deeds and was on record when the Kyparissoudas purchased the property.

D. Henkels stated that the garden areas should be replanted with FAC and FAC-wet plants. Soils should be checked to be sure the proper hydric soils are still in place.

Discussion followed concerning whether to move the relocated bushes or replant the area with new plants. M. Sevier stated that it makes sense to know what is currently recolonizing the area. The applicant must meet the 90% regrowth after two growing seasons with appropriate wetland species as determined by a wetland specialist and accepted by the SCC.

On a motion by C. Russo; 2<sup>nd</sup> B. Porter; the Commission voted unanimously by roll call vote to close the hearing.

On a motion by M. Sevier; C. Russo; 2<sup>nd</sup>; the Commission voted unanimously by roll call vote to issue the Order as discussed.

**WPA & Bylaw Notice of Intent: 35 Maple Ave.; violation correction; Maple Meadows**

Richard Morse abstaining as a Commission member from the voting.

Present: Paul Finger

Mr. Finger explained that Maple Meadows has an open Order of Conditions and a Conservation Restriction (CR) on a large portion of the site that both require maintenance of the meadow area as a native plant meadow. This maintenance has not occurred as required and woody vegetation and invasive plants are now found in the area. There is a small easement in place for the benefit of the abutter at 54 Maple Ave. for driveway purposes. A small portion of lawn is within the CR area and some lawn is within the riverfront area. These easements were recorded, including an easement for relocation of a walking path, however an amendment for these changes was never brought before the SCC for approval. Maple Meadows has agreed to now post property boundary markers and CR area markers.

Mr. Finger presented 5-year Maintenance Plan to restore the meadow as was intended in the original Order. Large dead trees along the edge of the area will be removed, invasive plants will be removed, and regular mowing will occur. No herbicides or other chemicals will be used.

D. Henkels strongly suggested that a site walk take place and the hearing be continued. D. Dineen suggested that the applicant be given some direction now on what to prepare for the next meeting as no deliberation may occur on site. She questioned if the Commission was inclined to permit the lawn to remain in the riverfront area or if a restoration plan for this area should be prepared for the next meeting. If the lawn may remain, mitigation is required under both WPA and SWAB for alteration of riverfront.

C. Russo suggested the mowing occur right away as it will be easier to restore the area if the growth is kept down. Mr. Finger added that more than mowing is needed for restoration, but no digging will be done to keep soil disturbance at a minimum. He added that regular report of progress on the restoration will be made to the SCC.

The areas of lawn within the CR must absolutely be restored. Commissioners felt that the lawn area outside the CR on the Maple Meadows property must also be restored. D. Henkels asked Mr. Berardino what the value was of the lawn for residents of the area for recreational purposes.

C. Russo stated his concern for what issues may arise with future ownerships and future possible encroachments. M. Sevier agreed as one area is lawn and the other is a grassy field. Mr. Finger suggested a split rail fence and visible markers. M. Sevier thought appropriate mitigation might be able to be offered to allow some of the lawn outside the CR to remain.

R. Morse, speaking as a member of the public, suggested cutting should be done this fall or it will be much worse in six months. He thought mitigation should be seriously considered. He noted that DEP has not yet issued file numbers and he requested a continuation to Nov. 5.

On a motion by M. Sevier; 2<sup>nd</sup> C. Russo; the Commission voted unanimously by roll call vote to continue the hearing to Nov. 5.

#### **WPA & Bylaw Notice of Intent: 54 Maple Ave.; violation correction; R. Berardino**

R. Morse abstaining as a Commission member from the voting

Present: Paul /finger; Rick Berardino

Mr. Finger presented a plan showing encroachment of lawn area on 54 Maple Ave into the riverfront area. No wetland filing was ever submitted for the development of 54 Maple Avenue as the property was proposed to be developed all outside of wetland jurisdiction. The subsequent easement of a portion of the driveway and the lawn expansion were done without obtaining a wetland permit for the alterations in wetland jurisdiction.

C. Russo asked to see a proposal for mitigation of the lawn area within riverfront on 54 Maple Ave.

Mr. Finger requested a continuation to Nov. 5 to provide mitigation as well as a DEP file number for Nov. 5.

(T. Friedlander signed off from remote participation at this point in the meeting.)

On a motion by C. Russo; 2<sup>nd</sup> M. Sevier; the Commission voted unanimously in favor of the continuation.

A site inspection was discussed for Sunday, Nov. 4 at 2pm, however to make sure that the time accommodated the most Commission members, Commissioners were asked to send their availability to the Coordinator for final scheduling.

#### **WPA & Bylaw Notice of Intent (continued) : 159 Concord Rd. violation, Rachael Donalds**

Violation correction for deck and patio construction without a permit in adjacent upland resource area

The Commission discussed the status of wetland filing to correct the violation. They agreed to continue the hearing as Mr. Donalds indicated his wife, Neri Donalds, were sick and unable to attend. He did not stay for the discussion.

On a motion by C. Russo; K. Rogers 2<sup>nd</sup>; the Commission voted by roll call to continue the hearing one more time to the **Nov. 5** meeting. Additional information must be submitted to the Commission by the required 4 business days prior to the hearing to avoid \$100/day fines. (The additional information requested was submitted to the Commission on Friday, Oct. 19, well beyond the required 4 business days before the hearing. It will be considered on Nov. 5.).

**Certificates of Compliance:**

**26 Briant Dr., #301-1137**

R. Morse informed the Commission that a site inspection was performed on Oct. 19<sup>th</sup> with D. Dineen. The site was completely stable and the work was in accordance with the approved plan and the as-built.

On a motion by R. Morse; 2<sup>nd</sup> K. Rogers; the Commission voted unanimously by roll call vote to issue the COC.

**Violation Status:**

**3 Goodnow Rd.**

It appears that all of the retaining wall has been removed and some planting may have been done. What is unknown is if the engineer verified the grades prior to planting as required.

**0 Washington Dr. – Review Planting Plan**

The Commission looked at the planting plan dated Sept. 18, 2018 by Goddard Consulting. The entire area shown in yellow was to be part of a comprehensive planting plan. The 9/28/18 plan by Goddard Consulting only added an additional 300' circular area of planting, "Area C".

The Commission questioned the significance of the three 300' circles. They appear to be arbitrary. The 9/18 correspondence also notes that the balance of the slope is "well-established" with native plant species and "dense vegetation" to the wetland. There was no inventory of the species, coverage, or number of plants existing. They would like an assessment of the existing plants to determine if the new planting plan provides the comprehensive native plant coverage of the entire slope as required in the Orders.

**36 Hampshire Rd. – status of receipt of NOI for violation correction**

The homeowner contacted the Conservation office by email to advise that Goddard Consulting has been out to the site and surveyed the Conservation Restriction area. The Commission agreed that the NOI must be submitted by Nov. 6 for the Nov. 19 meeting. This violation has been pending since 8/9/18.

**19 Middle Rd. tree removal – Ratify EO/NOV issuance (NOI due 10/22)**

D. Dineen reported that the homeowner has contracted with Rich Kirby of LEC Environmental to file an NOI to include replanting.

On a motion by C. Russo; 2<sup>nd</sup> R. Morse; the Commission voted unanimously by roll call vote in favor if ratifying the issue of the EO/NOV.

**Powers Rd. Ext & 8 Singing Hill Circle** fill in wetland – Ratify EO/NOV (NOI due 10/22)

The alteration without a permit involves fill in bordering vegetated wetland, riverfront area and AURA. The property owner has contracted with Michael DeRosa Consulting to file and NOI for full restoration. They will request a meeting with the Commission to seek permission to conduct activities to investigate the extent of fill.

**Land Stewardship: Davis Field Restoration Status and next steps**

R. Morse & D. Dineen reported from their Oct. 19 site inspection that much of the cleared areas has shrub regrowth occurring. Some shrubs are 2' – 3" tall, including some buckthorn. The next step would be one more cutting, then harrowing and seeding. The concern is that seeding in Nov. may leave the exposed soils subject to erosion over the winter. They recommended completing the project in the spring as soon as the area is dry enough for cutting. Commissioners agreed.

**Other Business:** The 2019 Meeting Schedule as proposed by T. Friedlander will be sent and reviewed on Nov. 5.

On a motion by C. Russo; 2<sup>nd</sup> B. Porter; the Commission voted unanimously to adjourn the meeting.  
9:02pm