

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Held Monday, Sept. 24, 2018
6:30 pm Rd., DPW Facility, 275 Old Lancaster Rd., Sudbury MA

Present: Dave Henkels, Vice-Chairman (acting Chairman for this meeting); Mark Sevier; Charlie Russo; Richard Morse; Kasey Rogers; Debbie Dineen, Coordinator

Absent: Bruce Porter; Tom Friedlander

Minutes:

On a motion by M. Sevier; 2nd K. Rogers; the Commissioners voted unanimously in favor of approving the minutes of July 9, 2018 as drafted.

On a motion by M. Sevier; 2nd K. Rogers; the Commissioners voted unanimously in favor of approving the minutes of Aug. 6, 2018 as drafted.

WPA & Bylaw Request for Determination of Applicability (cont.): 50 Allan Ave., James Ryan, applicant

Present: Ellen Attaliades and Jim Ryan

Ms. Attaliades presented a revised plan showing the garage and house addition in riverfront area. The revised plan outlines the proposed addition in red to make the area of the addition clear. Infiltration of roof runoff will a by stone drip trench at the base of the roof overhang. The addition is on the opposite side of the house from the wetland.

On a motion by R. Morse; 2nd M. Sevier; the Commissioners voted unanimously in favor of a negative Determination. D. Henkels abstained due to friendship with the applicants. K. Rogers abstained as she was not present when the project was first heard on Aug. 20. M. Sevier and R. Morse in favor with four Commissioners present and two abstaining.

The vote was rescinded and held until the arrival of another Commissioner.

WPA & Bylaw Request for Determination of Applicability: 4 Dawson Dr., Susan Berry, applicant

Present: Susan Berry

Ms. Berry explained that the project involves the removal of Tree removal 7 tress in the riverfront area. in riverfront area. The stumps will remain.

D. Dineen explained that the resource areas are Bank, Riverfront (presumed perennial stream), and adjacent upland resource area. The stream is formed from a drainage channel from drainage from Overlook Dr in Framingham. Peak rates and volumes were not contained on site (Overlook Dr development) when it was constructed maybe 30+- years ago. The excessive flow has carved an extremely incised channel (guessing 10' – 12' deep behind 4 Dawson). Photos were provided in the RDA filing. The trees abutting this channel have been collapsing into the channel over the years as the banks have been undermined due to the velocity of the flows from a substandard drainage design discharging from Framingham. The applicant and Sudbury DPW are trying to work with Framingham on a solution to this situation. If the trees are not removed, they will fall on their own. Although they do not appear as though they will fall toward the house, they will be uprooted and can cause adverse impact to the bank. "Bank" is a wetland resource area. Destabilization of the bank will cause even greater erosion in to the stream, impacting "Land under water body" resource as well.

On a motion by R. Morse; 2nd K. Rogers; the Commission voted unanimously in favor of a negative Determination. C. Russo abstaining due to missing the beginning of the discussion.

WPA & Bylaw Request for Determination of Applicability (cont.): 50 Allan Ave., James Ryan, applicant REVOTE

The discussion was reopened with Commissioner Charlie Russo now in attendance. The revised plan was reviewed by Mr. Russo.

On a motion by R. Morse; 2nd M. Sevier; the Commissioners voted in favor of a negative Determination. D. Henkels abstained due to friendship with the applicants. K. Rogers abstained as she was not present when the project was first heard on Aug. 20. R. Morse, M. Sevier, C. Russo in favor; D. Henkels, K. Rogers abstaining.

WPA & Bylaw Request for Determination of Applicability: 73 Blackmer Rd.; L. Lopez, applicant

Present: Lisa Lopez

Ms. Lopez described her project for the construction of carport in Riverfront area. Most of the work will be on existing driveway with on a 3' wide x 24' long section constructed on existing lawn area.

D. Dineen stated the resource areas are riverfront, bordering vegetated wetland, adjacent upland resource, and bordering land subject to flooding. This work will be located in riverfront area and adjacent upland resource. The closest point of disturbance is approximately 55' to bvw and within the inner riparian area. No work will occur within the small area of bordering land subject to flooding located in the northeast corner of the site. She suggested that with only <73' of increased impervious and the extent of lawn and vegetation between the carport and the wetland, waiving the requirement for infiltration of roof runoff could be considered. Ms. Lopez further explained that the area of lawn to be converted to carport will have gravel as a base. The impervious area that is now driveway will remain. The only new impervious area is the roof of the carport that extends beyond the existing driveway. The area under the roof will be gravel.

C. Russo confirmed that the lawn will not be expanded and no additional landscaping is proposed.

On a motion by C. Russo; 2nd M. Sevier; the Commission voted unanimously in favor of a negative Determination as the project impacts were de minimis.

WPA & Bylaw Request for Determination of Applicability: Longfellow's Wayside Inn, applicant

Present: Steve Pickford, Innkeeper

R. Morse and D. Dineen visited the property with Mr. Pickford last week to look at the Invasive plant removal in riverfront and adjacent upland resource areas.

Mr. Pickford explained that the project involves two major areas of removal of invasive plants. One is along the stream flowing through Josephine's Pond behind the Inn, the other adjacent to Grist Mill Pond emergency overflow spillway and the adjacent frontage along Wayside Inn Rd. Wetland resource areas and specifics of the plan are included in the narrative attached to the RDA filing. Mowing will be used to keep the invasives from spreading and recolonizing on a broad basis. No herbicides or pesticides will be used.

D. Dineen noted that she had assisted Mr. Pickford with the development of the RDA after approval to do so from the Town Manager. Native shrubs and live, viable trees will remain within the identified areas. Most areas are 100% invasive plants, except for some Virginia creeper on the stone wall along Wayside Inn Rd. These areas are either field edges that have not been maintained, roadside vegetation, or vegetation growing up on the emergency spillway and within the downstream channel. The only exception is the area labeled on the plans are subarea B along the service road to the back of

the Inn. Subarea b will have the native shrubs to remain flagged prior to the work proceeding. Once the invasives are removed in these areas, maintaining them will be with by mowing on a regular basis. Herbicides will not be used. Mr. Pickford stated the Inn does not use herbicides at all.

On a motion by R. Morse; 2nd M. Sevier; the Commission voted unanimously in favor of a negative Determination as the work is a positive change for the environment.

WPA & Bylaw Request for Determination of Applicability: 96 Atkinson Ln., Ken Koblan, applicant;

Present: Matt Sullivan, Sudbury Design Group

Mr. Sullivan presented a plan for a covered porch on existing deck, walkway and patio expansion within riverfront and adjacent upland resource on existing lawn and deck areas. Cultec chambers will be used to infiltrate the first 1" of runoff from new impervious surface. The storage in the chambers is 2x the sizing needed for this project. He provided calculations to demonstrate. The new patio and walkways will be installed on a sand base to allow for infiltration. There will be no expansion of lawn area. No stockpiling of soils will be necessary as any excess material will be trucked off site.

The wetland resource areas include work within 40' +/- of a bordering vegetated wetland and within riverfront area. The steep slopes will act as barriers for equipment movement and limits of construction.

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

WPA & Bylaw Request for Determination of Applicability: Lot A Walker Farm Rd.; Ali and Afra Hayat, applicants

Present: Ali Hayat

Mr. Hayat presented a plan showing grading within 100' of wetland and within upland resource area for new house construction.

D. Dineen explained that the wetland resource area is a detention pond on the opposite side of Walker Farm Road from the proposed development. Because this detention basin was designed and built prior to Nov. 1996, DEP considers it wetland resource area. Detention basins designed and built after this date are designed to DEP stormwater standards and therefore are not considered jurisdictional. The project has received approval under the Sudbury Stormwater Management Bylaw.

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

WPA & Bylaw Request for Determination of Applicability: 94 Pride's Crossing Rd.; First Colony Dev.,

Jon Delli Prescoli, applicant

Present; Jon DelliPrescoli

Mr. DelliPrescoli presented plans to reconstruct a house within adjacent upland resource area. Approval has previously been obtained for this project and an OOC issued, however that Order has expired. The old house, which was damaged by fire, had been removed under the old Order. It is not until now that he is ready to start construction on a new house.

D. Dineen informed Commissioners that mitigation for this project and for the construction of a barn on property the owner owns next door was offered previously, and has been completed for this project. Mitigation was substantial in the form of an Agricultural Restriction on 10 acres of land abutting the Wayside Inn property. Mr. DelliPrescoli is a Wayside Inn Trustee. The new house is 5-bedroom with the septic moved outside of wetland jurisdiction for the new construction. Erosion

control is shown on the plan. A stone drip trench is proposed to infiltrate roof runoff into the pervious gravel spoils.

Mr. DelliPrescoli confirmed that all new activity is on the footprint of the lawn area. The plan shows erosion control. The new dwelling shown on the plan is the maximum footprint of the proposed. The wetland was re-delineated a few years ago by Dave Burke. The edge of wetland is well defined by a grade change. R. Morse noted that the grade change, as well as the stream bed being very dry was observed on the site visit. Mr. DelliPrescoli added that the stream is usually dry and is controlled by an outlet from the pond on the adjacent property that was designed to have an overflow to the stream when necessary.

On a motion by D. Henkels; 2nd R. Morse; the Commission voted in favor of a negative Determination. C. Russo opposed.

WPA & Bylaw Notice of Intent: 175 Landham Rd.; Ken Holtz, applicant

Present: Ken Holtz

Mr. Holtz presented a plan for the construction of a house and garage addition within outer riverfront area. The project will be constructed in phases with a 3-car garage with a carriage house being phase I and a master bedroom above a family room as phase II. Phase I will add 2,255 sq. ft. of impervious area. Phase II will add 1,908 sq. ft. impervious for a total of 4,163 additional impervious for the entire scope of the project. The existing house is 2,000 sq. ft. It was built in 1787 and 3 acres of the land is under a perpetuity conservation restriction (CR). This CR was placed as mitigation on the land by a former owner when the rear section of the property was developed as a single family lot on a paper street, Kayla Court.

Cultec infiltration chambers will collect and infiltrate the first one inch of runoff from the new impervious surfaces. No tree removal will occur as part of this project as it is on existing lawn area.

Mitigation proposed includes the planting of native species of shrubs in a portion of the area where the lawn encroaches into the bordering vegetated wetland. Shrubs will include sweet pepper bush, high bush blueberry, and red osier dogwood. In addition to the restoration of current lawn area as a natural area, the extensive aggressive oriental bittersweet vines that are strangling the trees in the wetland will be removed by hand cutting. No herbicides will be used. Matt Reardon, 66 Cutler Farm Road thought that the removal of the bittersweet vines would help protect the wetland.

On a motion by M. Sevier; 2nd R. Morse; the Commission voted unanimously in favor of closing the hearing.

On a motion by K. Rogers; 2nd D. Henkels; the Commission voted to issue the Order as discussed.

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

Present: Neri Donalds

The hearing was continued to allow the applicant to address outstanding questions and concerns raised by the Commission at the hearing on Aug. 20. The NOI was required in response to a violation for deck and patio construction without a permit in the adjacent upland resource area to an intermittent stream and bordering vegetated wetland. The NOI is also requesting the removal of trees and the construction of a new walkway.

Ms. Donalds stated that there are two separate issues. One is the patio and deck construction and one is the new proposed walkway and tree removal. Commissioners noted that the deck and patio construction was issued a Notice of Violation and Enforcement Order back on April 9, 2018. The NOI

does not include any mitigation for this work. Additionally, the information submitted by the arborist does not state that the trees to be removed are imminent threats.

D. Dineen stated that one area that still needs clarification is the number of trees to be removed. The NOI page 2 of 3 states you are seeking permission to remove 6 ash trees. This conflicts with the arborist's assessment of the number of trees to be removed. He stated that the number of trees to be removed are three, however he did not state that any of these trees are imminent threats. That requires mitigation or clarification from the arborist as to the state of these trees. This also conflicts with what Ms. Donalds stated at the last meeting, which was that she wanted to remove only one tree and trim branches overhanging wires on several others. It also conflicts with the cover letter on the material she submitted for the meeting tonight which states you want to remove three trees.

Commissioners stated that the mitigation is deficient. The proposal on the revised plans shows 6 mountain laurels. The choice of species is fine but the location does not offer any mitigation as they are not contiguous with the wetland but are essentially landscaping shrubs on the side of a proposed walkway. This does not enhance the wetland in any way. Mitigation is still needed for the violation of the deck and patio construction within 100' of wetland without a permit. Mitigation is something necessary to enhance wetland values and functions and loss of upland resource and must be valid, functional offsets to expansion of residential use and structures and loss of trees and canopy. Six mountain laurel shrubs along a walkway, not contiguous with the natural area, and with half of them located outside of the upland resource area does not qualify as sufficient mitigation. Mitigation is also required for the tree removal as the arborist did not note the condition of the trees as "imminent threats

A new walkway has been added to the plan. It looks like about one-half of this walk will be located within 100' of the wetland. The Commission will need details on the materials and construction method.

Commissioners suggested Ms. Donald enlist the assistance of a wetland specialist to help her in complying with the wetland regulations and proving the necessary information for the Commission to review the project.

On a motion by M. Sevier; 2nd R. Morse; the Commission voted unanimously in favor of continuing the hearing to the next meeting conditional upon Ms. Donalds engaging a wetland specialist within two weeks to submit the information necessary to correct the violation and provide acceptable mitigation for both the existing violation and the new proposed work. This includes a planting plan with the intent and timeframe that the plantings will be installed this season.

Certificates of Compliance:

82 Butler Rd., R. Lewitus #301-929

Commissioners visited the property on Aug. 30, 2018. The slope was well stabilized with mostly native vegetation. Several purple loosestrife plants and two buckthorns were observed. Mr. Lewitus agreed to remove those by hand immediately. All work was done in accordance with the plan and Mr. Lewitus had received a Waterway Chapter 91 License for his dock, subject to public passage at the shoreline.

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

25 Singletary Lane; David Howe, applicant

D. Dineen reported that she has not heard back with a response to questions about the as-built condition of the property. The outstanding concerns are:

- Confirmation of the final number of bedrooms for the septic design;
- Lawn appears to have exceeded the pre-existing lawn area in violation of the Order.
- Confirmation that no underground sprinklers exist within wetland or upland jurisdiction.
- The basin in the backyard was to be constructed as a rain garden. Details of the construction of the under layers and an inventory and assessment of the plants in the basin as required as part of the as-built conditions.

Commissioners agreed not to issue the COC but to reconsider once the above information is received and is found to be in accordance with the Order.

Violation Status:

3 Goodnow Rd.

D. Dineen reported that the retaining wall has been removed and Mr. Dishnica stopped in the office to report the haybales have been installed.

33 Maynard Rd.

D. Dineen reported that the Notice of Intent has been received and will be heard at the Oct. 22 meeting.

168 Horse Pond Rd.

A Nov. 20 Court date on Motion for Hearing to Dismiss is scheduled for 2pm. T. Friedlander and D. Dineen will attend along with Counsel.

WARRANT REVIEW FOR FALL TOWN MEETING:

Article #1 - Melone Property disposition

Commissioners discussed the proposal for Quarry North, which is a relocation of Sudbury Station to Melone with the town acquiring the Sudbury Station, \$1,000,000, and a negotiated 40B development at Melone through the LIP affordable housing program.

M. Sevier and R. Morse were in favor of the Article as it solves acrimonious problems which they felt outweighs the other two RFP responses for agricultural use and solar energy production. D. Henkels agreed. K. Rogers stated she prefers the agricultural use proposed by Cavicchio Greenhouses but believes the Quarry North/Sudbury Station developers have the town over a barrel so she is hesitantly in favor of Quarry North. C. Russo stated he is concerned that the Selectmen may not support Sudbury Station as conservation land. He stated the Commission should focus on obtaining some of Sudbury Station as designated conservation land. He stated that moving the 40B development from Sudbury Station to Melone was a good environmental move as it reuses an already disturbed site rather than a fully wooded one.

The Commission agreed to speak in favor based on the environmental value of shifting development to a disturbed site. D. Henkels, D. Dineen, and K. Rogers will speak at Town Meeting.

Article #2 – Broadacre Farm Purchase

C. Russo abstained from the discussion as a Commission member, but participated after making it clear he was speaking as a member of the public and an abutter.

D. Dineen stated she has received a copy of the town's appraisal but due to on-going negotiations she cannot share the content. The last update she received from the Town Manager indicated a gap in asking price and appraised value. Negotiations are continuing. C. Russo questioned if the parcel would have SCC support at all costs.

M. Sevier stated the parcel is important as the south side of Morse Road abuts other contiguous town parcels all the way to Town Center. R. Morse stated that town ownership of the parcel will have many benefits to the community. K. Rogers agreed and stated that the contiguous parcels are also important for wildlife, the purchase will provide both passive and active recreation along with a potential for indoor recreation, and the town may recover some costs of the purchase if it decides to resell the house and barn parcel.

Commissioners all agreed that town ownership of the parcel addressed a number of town needs and wants, especially with the ability to create a much larger corridor of natural open space. They requested D. Dineen monitor the negotiations and begin to develop talking points for a Town Meeting presentation. They may have to post another meeting before Town Meeting to vote a final position based on the outcome of the negotiations.

No positions or discussion on other Articles were held at this time.

Request for Minor Revision (septic tank relocation in riverfront) to OOC #301-1232, 54 Old Garrison Rd.; V. Rumble applicant (not present)

D. Dineen presented a plan from Ms. Rumble showing a reorientation of the new tank for the septic in a direction that will bring a 6' long section of the section it slightly closer to the wetland. It is changing the placement from vertical to horizontal to avoid work in the driveway.

On a motion by C. Russo; 2nd M. Sevier; the Commission voted unanimously in favor of accepting the revised plan as a minor field change.

Land Stewardship:

- King Philip Woods Wetland Flagging for Invasive Species removal &
- Davis Field Restoration Status and next steps

T. Friedlander requested the Commission discuss hiring a wetland scientist to flag the wetland on the section of invasive plant removal in KPW as the first step to the KPW forestry and meadow restoration project. D. Dineen estimated this would cost \$3,000 - \$5,000 depending on the expected large amount of soil investigation that must occur. This wetland delineation would be valid for 3 years. Once the wetland is flagged, a Notice of Intent for the work will need to be developed and submitted. A hearing will be held and an Order of Conditions issued.

Commissioners questioned the cost of the project. D. Dineen stated that a forester needs to be hired. It is not known if the cost of the extensive invasive species and dead tree removal will be borne in part by the sale of timber. She noted it will be time consuming to work with the forester, the wetland specialist, and development of the NOI and Order to get the project started. She reminded the Commission that the Davis Farm meadow restoration is not completed yet but she hopes to get it seeded this fall. The exact cost of harrowing and seeding is still not known. She stated both these projects at the same time are not realistic for the Conservation office to manage with the wetland permitting workload of the last year. She would prefer the Davis project was completed prior to beginning the KPW project. This is important if the KPW project is stalled wither by costs or lack of time to manage. The wetland delineation may need to be redone or refreshed if the project is not completed in the three years from date of wetland delineation.

Commissioners agreed unanimously that KPW should not be started until Davis is at least harrowed and seeded and the amount of work to keep it as a meadow is known next spring.

137 Mossman revised plans for DEP comments

Soil samples are necessary to comply with DEP's requirement for infiltration of runoff. Sullivan Connors agreed to accomplish the testing by hand auguring.

Commissioners agreed to allow hand auguring without the need for a wetlands bylaw permit.

D. Dineen also noted that DEP had decided, not reasons that they did not state, to not remand the project back to the Commission in spite of the fact that stormwater and runoff/flooding issues was listed in their regulations as a mandated reason for remanding.

Discussion & Vote: Bow hunting on Landham Brook Marsh 2018 season

Commissioners agreed that extending bowhunting for deer on Landham Brook Marsh conservation land deserves some consideration. C. Russo suggested not allowing it this season but planning for next season and holding a public hearing on the issue. K. Rogers agreed and felt it was too late for consideration and a hearing this season.

Eversource ORAD issuance (one ORAD)

D. Dineen informed the Commission that ultimately only one ORAD under both the WPA and SEAB was issued for the MBTA ROW wetland delineation for Eversource. This was contrary to the vote to issue individual ORADs. Only one ORAD was issued as the plans that were submitted by VHB identified both the WPA and the SWAB resource areas but did not distinguish between them on the plans. Therefore, it was not possible to issue two ORADS on the same set of plans.

Commissioners agreed that the one ORAD was the correct action.

Establish notification of Meeting Absence procedure or plan changes

As a result of the failure to achieve a quorum for the planned Sept. 10 meeting, D. Dineen asked that Commissioners send her an email if they plan to be on vacation, or if plans change and they could attend a meeting they had previously indicated they were not able to attend.

Commissioners agreed to do so.

Reports from Commissioners and Staff

- Commissioners were informed that Community Preservation Act Funding Applications are open. No applications are contemplated this year from the SCC.
- Planning Board decision on Powers Rd subdivision
D. Dineen informed the Commissioners that the Planning Board decision was to go with a three-lot subdivision with no required permanent protection of the rear land rather than the Commission's recommendation to allow 4 lots in exchange for a perpetuity CR on the balance of the property which could prohibit further development in the more sensitive area of the site.
- D. Dineen reported that at the Pre-Construction Site Inspection and Meeting at Willow Hill School on Aug. 27, the site was fully in compliance with all conditions of the Order. Work was authorized to begin subject to all other permits being obtained.

On a motion by D. Henkels; 2nd M. Sevier; the meeting was adjourned at 9:50pm.