

**SUDBURY CONSERVATION COMMISSION**  
**Minutes of the Meeting Held Monday, November 5, 2018**

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

**Minutes:**

On a motion by K. Rogers; 2<sup>nd</sup> R. Morse; the Commission voted unanimously in favor of approving the minutes of Oct. 22, 2018 as drafted.

**WPA and Bylaw Notice of Intent: 54 Bigelow Dr.;** Margaret Markland, applicant

Present: Mike Sullivan, Sullivan & Connors

Mr. Sullivan presented a plan for a septic system repair and after-the fact enlargement to reflect the current size and bedroom count. The septic failed inspection 8/2/2018. It also failed a 12/5/2016 Title V inspection due level of liquids in distribution box above the outlet invert. D-box replaced in 2011. (Note: 2016 inspection notes a 5-bedroom system in place.) The new system design was approved by B. Murphy, BOH Director, on 9/11/2018. The current trenches are underwater and under the driveway. There is no other area to locate the system. It is being moved closer to the wetland by 22' but the vertical separation to groundwater is being increased by 1' -1.5'. M. Sevier had M. Sullivan confirm that the downward movement of infiltration is more effective for water quality than the vertical movement with the new system and will provide greater filtration of effluent. C. Russo had M. Sullivan confirm that this increase in elevation is considered mitigation and not part of a requirement of system design. D. Henkels asked if denitrification should be added. M. Sevier stated it is outside 100' from the vernal pool. Responding to B. Porter, M. Sullivan stated denitrification would be considered if the system had to be within 100' of a vernal pool or was less than 4' to groundwater.

D. Dineen added that the original system approved by the Conservation Commission was designed for 4-bedroom system. This was approved 4/10/1986 and installed in 1987. The actual number of bedrooms in the house is five. A water softener discharge for hook up to leach field was also not approved.

The original design shows trenches 100' to standing water. This design was permitted under an OOC by the SCC for a 4-bedroom system. No vernal pool was identified in 1986. There was no wetlands bylaw in 1986. There is an easement on abutting lot (#4) for breakout grading.

A site visit was held today with T. Friedlander, R. Morse, D. Dineen and M. Sullivan. It was determined that the system is 152' at the closest point to the vernal pool. The vernal pool elevation is controlled by an outlet of the wetland to a stream. The stream was flowing earlier today.

D. Dineen suggested that the OOC could require jute netting for slope stabilization over the winter.

On a motion by R. Morse; 2<sup>nd</sup> M. Sevier; the Commission voted to close the hearing.

On a motion by M. Sevier, 2<sup>nd</sup>K. Rogers; the Commission voted unanimously in favor of issuing the OOC with the requirement for jutting netting on the slope over the winter until the soil is stabilized.

**WPA and Bylaw Notice of Intent: 87 Water Row;** Michael Facemire, applicant; septic replacement

T. Friedlander recused from the discussion and vote as he is a direct abutter to the property and a friend of the applicant.

Present: Mike Sullivan, Sullivan & Connors

Mr. Sullivan presented a plan for the repair and reconstruction of a septic system that failed inspection on 5/16/18. The new system is being replaced in the same location as the old system. It is 73.5' from the bordering vegetated wetland and within the inner riparian area of the Sudbury River. There will be greater vertical separation to groundwater by 2.5' as the new system will be raised.

There was a backup of sewage and level of fluid in the Distribution box due to overloaded and clogged SAS. The homeowner did not apply for WPA/SWAB permit until house went under sale contract in Oct 2018. The plan for new system was done June 13, 2018 and approved and construction permit issued by B. Murphy July 6, 2018. The new design goes from galleys to trenches and 1000 gal to 1500 gal tank. The new design does not enlarge the capacity and is for a 4-bedroom system.

D. Dineen noted that the current failed system failed previously and was reconstructed in May 1990 with a 73.5' setback to bvw across street. There was no riverfront resource area in 1990.

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

On a motion by C. Russo, 2<sup>nd</sup> R. Morse; the Commission voted unanimously in favor of issuing the OOC with the Findings section reflecting the mitigation and improvements due to the vertical separation being provided by the new design.

**WPA and Bylaw Notice of Intent: 159 Concord Rd., Rachael Donalds; violation**

Present: Neri Donalds for applicant

Ms. Donalds had submitted information from Eco Tec, Inc. dated 10/19/18 on the specific work requested and details of the restoration planting areas and the walkway construction. Work includes the removal of only one hickory tree, the trimming of branches over the roof and wires, after-the fact deck and patio construction, and new walkway construction. Two small areas of restoration planting were identified along with the specific native shrubs to be planted.

On a motion by R. Morse; 2<sup>nd</sup> B. Porter; the Commission voted unanimously to close the hearing.

On a motion by R. Morse; 2<sup>nd</sup> K. Rogers, the Commission voted to issue the OOC with the condition that work be accomplished in accordance with the EcoTec. Inc. report of 10/19/18.

**WPA and Bylaw Notice of Intent: 35 Maple Ave., Maple Meadows; violation**

Present: Paul Finger; Marilyn Sorvillo

Richard Morse abstained from the discussion and vote

Mr. Finger updated the Commissioners that the DEP File number has been issued and a site walk was held Nov. 4, 2018. The Notice of Intent was filed for the restoration of a native species meadow area required under DEP #301-0838, and DEP File #301-1035, and subject to a perpetuity Conservation Restriction recorded Book 50748, page 398. The following resource areas are located on this site: bordering vegetated wetlands, riverfront, bordering land subject to flooding, and upland resource area (100' buffer zone in WPA). The applicant seeks a permit necessary to complete the mitigation of the condominium development project previously approved to comply with Section 10.58(5) of the Wetland Regulations that allows redevelopment if there is an improvement over existing conditions of the capacity of the riverfront area to protect the interests of the Act. A total of 7000 sq. ft. of lawn area was established within the riverfront area and of which 2,300 sq. ft. was in the conservation restricted area. The lawn area within the Conservation Restriction will be removed and allowed to transition to a meadow condition leaving approximately 4,700 sq. ft. of lawn to remain in the Riverfront. In addition, a

small driveway encroachment is within the Riverfront on the property of 35 Maple Ave. for the benefit of 54 Maple Ave. through an easement. This encroachment will also be allowed to remain.

The Notice of Intent includes a Meadow Operation and Maintenance Plan by SWCA Environmental Consultants. The goal of this Five-Year Plan is the establishment, operation and maintenance of the meadow within the five years to get it to the point of consisting of native plant

Mitigation includes a study for wildlife habitat protection and enhancement for the purpose of developing a plan for protect turtle and bluebird habitat. The applicant will engage a qualified professional for the wildlife study, who will be approved by the Commission. Scope of work of the study shall be presented to the Commission for review and approval. Funds could also be available for habitat enhancement for other species as well as for educational components, seasonal area closures, etc. The total sum of \$6,000 was offered for study and preparation of a report with recommendations on habitat and enhancement work. The report should also establish sensitive timeframes to avoid mowing and heavy machinery during breeding seasons. The Meadow Funding for the plan will be as follows, \$3,000 by 35 Maple Ave. under DEP file #301-1243 and \$3,000 under DEP File# 301-1242. Additional mitigation includes the CR monument markers as a physical and visual limit of the Conservation Restriction area (except in area underwater), and large boulders placed at the CR boundary. The boulders shall be placed approximately 5' apart .to allow mowing to occur.

**WPA and Bylaw Notice of Intent: 54 Maple Ave., Richard Berardino**; violation

Present Paul Finger; Rick Berardino

Mr. Finger updated the Commissioners that the DEP File number has been issued and a site walk was held Nov. 4, 2018. The Notice of Intent was filed for the after-the-fact approval of 2,600 sq. ft. of lawn area within the Riverfront, the retention of a portion (75 sq. ft.) of a paved driveway, and walkway trail easement relocation within the riverfront area. The Commission finds riverfront area is the impacted resource area for this NOI. Mitigation is being offered with the plantings of a minimum of thirty (30) high bush blueberries to be planted between the former greenhouse structures tiered foundation walls.

A total of \$3000 will be contributed to 35 Maple Avenue, Maple Meadows, meadow wildlife enhancement study and improvements under DEP File # 301-1243. These funds could also be available for educational components, seasonal area closures, etc. Maple Meadows will be responsible for retaining consultants and implementing improvements.

On a motion by D. Henkels; 2<sup>nd</sup> K. Rogers, the Commission voted to issue the OOC as discussed for both 35 and 54 Maple Avenue.

D. Dineen will bring the individual OOCs drafts for review and vote at the 11/19/18 meeting.

**Review Work Proposed Under EO/NOV: Singing Hill Circle & Powers Rd. Ext.**

Present: Tyler Ferrick, DeRosa Environmental for applicant

Ken Fenton, property owner of two parcels has been filling bordering vegetated wetland and working within other wetland jurisdictional areas on his lots. D. Henkels, R. Morse and D. Dineen responded on Oct. 5 to a report from a resident that filling of a wetland was occurring. The property was viewed from the abutting town-owned parcel. On a motion by D. Henkels; 2<sup>nd</sup> R. Morse, the Commission voted unanimously in favor of ratifying the Enforcement Order and Notice of Violation issued by D. Henkels.

Mr. Ferrick stated that Mr. Fenton involved DeRosa Engineering and a site inspection was made by DeRosa on Oct. 16. They found encroachment into the bordering vegetated wetland and work in bylaw-presumed riverfront area had occurred. They would like permission to perform investigatory trenching in the filled area to identify the extent of fill. The depth of fill is too deep to use and auger so a small machine will be required. A tennis court has also been installed within wetland jurisdiction without a permit. A pond and several intermittent streams are also located on the property. They would like to perform the trenching before the ground freezes.

On a motion by C. Russo; 2<sup>nd</sup> D. Henkels; the Commission voted unanimously in favor of approving the investigatory trenching as described by DeRosa Environmental.

D. Dineen will inform and coordinate with the Zoning Enforcement Agent, Mark Herweck, as the work appears to violate zoning regulations as well due to the storage of business materials and trailers.

T. Friedlander will meet with Town Counsel to discuss ticketing, enforcement, and legal remedies for flagrant violations. R. Morse added that photographs are a good tool for further enforcement.

### **Violations:**

#### **12 Maynard Rd.**

Present: Ben and Alex (?), property owners from Shkben Dev LLC

A perimeter drain has been installed. The owners were informed through their contractor back on Sept. 8 that a revised plan showing the drain must be submitted to the SCC for approval. The drain was installed after this notification and no request for revision was submitted. Alex stated that he did not feel he needed a perimeter drain. D. Dineen stated that the Building Inspector required it as well as replacement of fill under the foundation to provide a stable base. She said that the issue of the drain could have been dealt with easily with conditions added to the Order, however this bigger issue seems to be failure of the applicant to provide the request for the amendment and the revised plan.

M. Sevier questioned why structural fill was required. He would like that question to be addressed. R. Morse expressed concern for the outfall of the drain and what type of filtering is proposed. D. Dineen noted that no Environmental Monitor reports have been submitted as required in the Order and no work has begun on the invasive species removal and planting restoration. As these tasks require the passage of two growing season after planting, the applicant is running out of time to complete the planting to allow two growing seasons within the 3-year Order.

On a motion by R. Morse; 2<sup>nd</sup> M. Sevier the Commission voted unanimously in favor of: issuing an enforcement Order and Notice of violation and requiring:

- Engineering report indicating why the perimeter drain was required and a plan showing the location and discharge;
- A written report from the Environmental Monitor on current status of the property and number of visits performed;
- Timetable for the invasive species removal and restoration plantings.

These materials must be submitted for the Nov. 19, 2018 meeting.

#### **3 Goodnow Rd.;** Irma Dishnica; status of restoration plantings

Present: Sokrat Dishnica

Mr. Dishnica reported that the contractor is at his property this week installing the Cultec chambers and the riser pipe. He asked for a small extension for completion of the drainage work. Contractor's schedules caused the delay.

On a motion by M. Sevier; 2<sup>nd</sup> D. Henkels; the Commission unanimously approved an extension for the completion of drainage work to Dec. 3, 2018.

**Violation: 19 Middle Rd., Marie Loranger**

Ms. Loranger requested permission to remove the large tree trunk that remained in her yard after work was stopped for failure to obtain a permit for the tree removal. D. Dineen advised the Commissioners that the applicant has contracted with LEC Environmental, Rich Kirby, and he will be submitting the NOI within the week.

On a motion by B. Porter; 2<sup>nd</sup> R. Morse; the Commission voted unanimously to allow the removal of the downed tree trunk.

**WPA and Bylaw Request for Determination of Applicability: 39 Dawson Dr., tree removal**

The applicant was not present.

C. Russo abstaining from discussion as he is friends with the abutters to this property.

Commissioners were unclear on the scope of tree removal proposed. They continued the RDA to Nov. 19<sup>th</sup> to ask Mr. Li to attend and further explain his project.

**Ratify Issuance of Enforcement Order/Notice of Violation: 191 Moore Rd., R. Heininger, Vegetation Removal and Grading**

The property owners are being very cooperative in resolving the driveway relocation they began without a permit. They have requested the ability to pave the driveway for stabilization reasons before the paving plants shut down for the winter.

On a motion by C. Russo; 2<sup>nd</sup> D. Henkels, the Commission voted to: ratify the issuance of the EO/NOV. They granted reviewing authority of a sketch plan for new driveway location and drainage to R. Morse. The sketch must incorporate infiltration of runoff. A survey will not be required.

**Request for Certificate of Compliance: DEP File #301-1170; 16 October Rd., Morrison**

A final report was received from the environmental consult indicating the work was done in accordance with the revised plan.

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

**Other Business:**

**Committee Appointments**

SCC voted the following appointment recommendations:

- Master Plan Steering Committee - Dave Henkels. Motion C. Russo, 2<sup>nd</sup> M. Sevier
- Land Acquisition Review Committee – Richard Morse unanimous
- Ponds & Waterways Committee – K. Rogers and R. Morse are considering this appointment

Meeting Schedule through July 1, 2019

For planning purposes, T, Friedlander proposed the following meeting schedule through July 1, 2019:

1/28

2/11

2/25

3/11

3/25

4/8

4/22

5/6

5/20

6/3

6/17

7/1

K. Rogers is unavailable 1/7 and 5/9-5/13

**Sudbury Valley Trustee dog brochure**

Richard Morse was approached by SVT to see if the SCC would endorse display their dog guidelines on conservation land brochure. D. Dineen thought it was good idea but some of the wording will need to be changed. For example; the brochure refers to designated on –leash and off-leash trails. Sudbury town conservation land does not have these posted designations.

R. Morse will obtain an electronic copy of the brochure for modification.

**Land Stewardship:**

Property inspections:

The larger conservation properties will be walked to develop a current list of Priority, Maintenance and New Initiative projects on the larger conservation areas. Assignments are as follows with reports due for the Dec. 3 meeting:

Landham Brook Marsh - Richard Morse

King Philip Woods/Piper Farm/Libby-Dickson - Tom Friedlander

Davis Farm, Frost Farm, Lincoln Meadows - Dave Henkels

Poor Farm and Barton Farm - Charlie Russo

Haynes Meadow - Debbie Dineen

Hop Brook - Bruce Porter

Nobscot and Tipling Rock Trail - Kasey Rogers

On a motion by B. Porter; 2<sup>nd</sup> K. Rogers; the commission voted unanimously to adjourn the meeting.  
9:28pm

