

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Held Monday, November 19, 2018

Present: Tom Friedlander, Chairman; Dave Henkels, Vice-Chairman; Bruce Porter; Richard Morse; Kasey Rogers; M. Sevier (8:00pm approximate arrival); Charlie Russo (6:55pm arrival); Debbie Dineen, Coordinator

WPA & Bylaw Request for Determination of Applicability: 18 Arrowhead Rd.; Bryan Gothie; shed construction

Mr. Gothie presented plans for a 14' x 8' shed in riverfront area and within 100' AURA on existing lawn. His entire property is within riverfront area.

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

WPA & Bylaw Request for Determination of Applicability: 255 Marlboro Rd.; Alexander Gruentzig; shed/barn construction in riverfront & AURA

Mr. Gruentzig presented plans for a 16' x 27' shed construction on existing lawn in riverfront area. It is approximately 120' to bordering vegetated wetland and 150' to the brook.

D. Dineen advised the Commission that she worked with the homeowners to investigate soil and depth to water table from Board of health records in order for the homeowner to install infiltration from the roof runoff. The new impervious will generate 339 gallons in a one-year storm. This can be accommodated through a drip trench due to good soils and sufficient depth to water table. Mr. Gruentzig has incorporated this drip trench into his proposal.

R. Morse asked what would be stored in the barn. Mr. Gruentzig stated the barn would house quilting equipment. No animals are proposed to be housed in the barn. K. Rogers questioned if a driveway or other access to the barn would be created. It will remain grassed. C. Russo received confirmation that there would be no fuel storage in the building. B. Porter received confirmation that there would be no machines regularly accessing the barn.

T. Friedlander stated that electrical service would be governed by electrical requirements with permitting through the Building Dept. C. Russo stated that any trenching for electrical service should not exceed the scope of electrical trenching required to meet code. B. Porter expressed concern that future change in use of the building may occur and have greater impact on the wetland.

On a motion by K. Rogers; 2nd R. Morse; the Commission voted for a negative Determination with the condition that the scope of trenching for electrical service shall not exceed what is required to meet code.

WPA & Bylaw Request for Determination of Applicability: 94 Butler Rd.; Marcel Maillet

Present: Marcel Maillet

Mr. Maillet presented plans for a small house addition on existing lawn within the 100' AURA of the bordering vegetated wetland associated with Willis Lake. Previous house renovation established a permanent limit of lawn/disturbance and included a significant area of native plants restoration. All work is within the previously approved limit of lawn.

D. Dineen questioned the method of infiltration of runoff from new impervious areas. Mr. Maillet will tie the new addition into the existing infiltration system that was recently installed as part of the house reconstruction. This will be done by adding to the existing gutter system. The existing system has excess capacity to accommodate the small additional volume.

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

WPA & Bylaw Request for Determination of Applicability: 39 Dawson Dr., Gang Li; applicant

Present: Gang Li

Mr. Li clarified his request for tree removal in removal riverfront & AURA. Only one tree next to the house will be removed in its entirety. The three trees in the wooded area at the edge of lawn closest to the wetland will only be topped enough to eliminate the danger of falling into the yard, or on the house. The trees to be topped are 70' white pines. Approximately the top ¼ of the tree will be removed. D. Dineen cautioned that topping of white pines may kill the trees, resulting in the remaining trunks becoming more vulnerable to falling. Commissioners advised Mr. Li that he could proceed at his own risk.

On a motion by B. Porter; 2nd D. henkels; the Commission voted unanimously in favor of a negative Determination.

WPA & Bylaw Orders of Conditions: Review and Vote:

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

WPA & Bylaw Notice of Intent: 54 Maple Ave.; Rick Berardino, violation

R. Morse recused himself from the discussion and vote as he is an owner in the Maple Meadows development.

Commissioners reviewed the OOC drafts for both Order as drafted by d. Dineen. She noted that the Findings section documents the circumstances and mitigation allowing the lawn expansion in riverfront area on 54 Maple Ave. C. Russo noted that the lawn was allowed to expand to the natural barrier created by the old greenhouse foundations.

On a motion by C. Russo; 2nd by K. Rogers; the Commission voted unanimously to approve the Order as drafted and discussed for 35 Maple Ave., Maple Meadows.

On a motion by K. Rogers; 2nd C. Russo; the Commission voted unanimously to approve the Order as drafted and discussed for 54 Maple Ave., R. Berardino.

WPA DEP Superseding Order of Conditions: DEP File #301-1229 137 Mossman Rd.

The DEP has over-turned the SCC denial under the WPA for new house construction. The lot contains the 100; upland of at least one vernal pool. The house is within the 100' buffer of bordering vegetated wetlands. D. Dineen noted that there is a pattern developing with Goddard Consulting's clients on these lots that are marginal. They refuse to include basic design elements such as drainage infiltration on the local level and then readily offer them to DEP on appeal. T. Friedlander noted that the regulations state the project should be remanded back to the Commission in such cases. The SCC requested it be remanded, however DEP refused with no reason given. That could be grounds for adjudication.

The Commission reviewed the SOC and decided not to take adjudicatory action. The project still needs to go through permitting under the local bylaw where the buffer zone is considered a resource

area with stricter performance standards for alterations. to be taken. C. Russo suggested a discussion with Town Counsel as we seem to be seeing a pattern of manipulation and a flawed DEP process.

Violations:

12 Maynard Rd.

D. Dineen reported that the material requested on 11/5 has not been received. This material includes:

- 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.

She advised the owners that the Commission would be discussing the violation status this evening and possibly taking additional enforcement action and they would be advised to attend. C. Russo suggested work on the site be stopped. D. Dineen stated that a court injunction could halt work if the EO/NOV does not.

D. Henkels moved to stop work by way of an injunction. K. Rogers 2nd. Unanimous in favor.

267 Landham Rd.; Gaston Safar

The Commission has not received a response from Mr. Safar on septic installation possibly in wetland jurisdiction. D. Burke will be flagging the additional wetland area to the south and determining if there is any new disturbance within 100' of this bordering vegetated wetland. Commissioners questioned if the distance needs to be surveyed rather than measured due the garage between the disturbance and the wetland. M. Sevier suggested we see what D. Burke finds for a margin of error.

If additional work is found to have occurred within wetland jurisdiction an EO and NOV will be issued.

Precourt Stone, Union Ave. and Station Rd.

T. Friedlander reported that he and D. Dineen viewed the site from across Hop Brook on Library property and from Station Road. There was no apparent wetland violation as it looked like the area delineated as the limit of disturbance has been held. Use appears to have changed from stockpiling of stone materials to new car storage for BMW. C. Russo suggested a spill kit should be available on site.

The old Order of Conditions is still outstanding with the Conservation Restriction and several other items not addressed. A Notice of Responsibility to obtain a COC will be sent.

Certificate of Compliance: DEP File #301-1234 Mill Village Septic System, 365 Boston Post Rd.

D. Dineen reported that the as-built plan has been received. The site is stable and repaved as proposed. The Board of Health Director had no issues with the project.

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

Project Update: Eversource Soil borings

D. Burke had sent a written report that indicated the soil boring work was complete ahead of schedule and with less impact than originally anticipated. The only situation that occurred was the drill rig almost tipped over, but that was avoided with some quick action on Dave's part.

Associate Membership Policy

T. Friedlander noted that an application has been submitted to appointment by the SCC of an Associate Commission Member (AM). He felt a clear, written policy was needed that defined the role of the AM Associate member. He also was in favor of not having the Associate sit at the table with the Commissioners as that could confuse the public of who had what role in the meetings. He found an AM policy form another town and he and D. Dineen made some edits and that is before the SCC tonight for action.

B. Porter questioned if the AM would be assigned specific tasks or would their involvement be broader in scope. D. Henkels stated that there are advantages to having an AM, especially with site visits, although an AM would need permission of the property owner to enter a site. C. Russo felt that the SCC should encourage AMs but with clear boundaries. K. Rogers agreed with T. Friedlander that AMs should not sit with Commissioners at meetings to make it clearer to the applicants. R. Morse stated he was in favor of having AMs. M. Sevier agreed but also agreed with others that they should not sit at the table.

D. Dineen will draft a final AM policy for vote at the next meeting.

Committee Appointment to Ponds and Waterways Committee

On a motion by D. Henkels; 2nd M. Sevier; the Commission voted unanimously in favor of appointing Richard Morse to be the SCC representative to the PWC. K. Rogers is still considering if she wishes to also be appointed.

Commission and Staff Updates

T. Friedlander Update: Meeting on Enforcement Action & recording of EO/NOVs with Town Counsel-

T. Friedlander would like to see the SCC request Town Counsel send a letter to a violation sooner rather in the enforcement process when the SCC is not getting the necessary response or getting a timely response. He noted that Town Counsel was not opposed to recording EOs or NOVs, however he was cautioned that if the recording causes a delay of a property transfer there could be legal complications. Town Counsel has not experienced any complications to date from this action.

T. Friedlander Update: 168 Horse Pond Rd. Litigation

T. Friedlander informed the SCC that the Superior Court date for 168 Horse Pond Road was again postponed. This time it was done by the Court. The new date is not yet known.

On a motion by C. Russo; 2nd M. Sevier; the Commission voted unanimously in favor of adjourning the meeting. 8:45pm