

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Held Monday, December 17, 2018

Present: Tom Friedlander, Chairman; Dave Henkels, Vice-Chairman; Richard Morse; Kasey Rogers; Charlie Russo; Mark Sevier (7:05pm arrival); Ken Holtz, Associate Member; Debbie Dineen, Conservation Coordinator

Absent: Bruce Porter

Minutes:

On a motion by K. Rogers; 2nd R. Morse; the Commission voted unanimously in favor of approving the minutes of Nov. 5, 2018.

On a motion by D. Henkels; 2nd C. Russo; the Commission voted unanimously in favor of approving the minutes of Nov. 19, 2018.

On a motion by R. Morse; 2nd D. Henkels; the Commission voted unanimously in favor of approving the minutes of Dec. 3, 2018.

Request for Amendment to Order of Conditions: DEP File #301-803; 22 Bowditch Rd.

Present: Homeowner Mrs. Munnangi and Atty. Paul Piazza

Atty. Piazza stated that the Munnangis are recent purchasers of 22 Bowditch. The home has had several owners, however there is still no Certificate of Compliance issued on the outstanding Order. Each Deed reserved the right and stated the requirement for the CR to be placed on a portion of the lot. The current homeowners would like to resolve this 20+-year outstanding issue and, record a CR, and ultimately receive the Certificate of Compliance.

The Order required a Conservation Restriction on areas outside the approved limit of disturbance. No CR has yet been recorded on the lot and pool construction resulted in encroachment into the original proposed CR area. He proposed a reduction in area subject to CR and presented plans showing a reduction of 4,000+ sq. ft. removed from the originally proposed CR area. The new CR limit will encompass all of the area that is undisturbed outside the current fence line.

D. Dineen noted that this is not a request to modify an existing recorded CR as no CR is yet recorded. She walked the lot with Atty. Piazza and the homeowner. The new CR line makes sense as there is an existing fence around a pool and play area. To require removal of the play area and some front lawn and relocate the fence is likely to disturb soils. This is likely to result in the growth of invasive plant species. Right now, the area outside the fence is free of invasive plants and has a good over-story of native oaks and hickory trees adjacent to the vernal pool on the abutting conservation land. She felt the risk of introducing invasive plants to this area was greater than any gain from restoration of the approximately 4,000 sq. ft. area now in residential use inside the fence. She noted that there had been some Japanese knotweed on the side of the house that had been removed several years ago and has not come back. Soil disturbance may activate rhizomes and/or seeds in the soil and create a larger issue than the proposed small reduction in the CR area.

On a motion by D. Henkels; 2nd R. Morse; the Commission voted unanimously to accept the revised plan showing the reduction in CR area. M. Sevier abstained from the vote.

WPA & Bylaw Notice of Intent: 243 Maynard Rd.; Vincent & Janis Gately

Present: Mike Sullivan of Sullivan Connors

Mr. Sullivan presented a revised plan for a septic repair to replace a failed septic system. The revised plan, dated 12/17/18, shows an increased setback of the leaching trenches to the edge of wetland. The current system is 20' to wetland edge. The original plan of the new system showed a 53' setback, and the revision to the new plan now has the option of increasing the setback to 75'. The revised plan with the greater setback will require removal and reinstallation of the paved driveway. It will also require the system components to be H2O-rated. Each of the options still has the septic components within presumed inner riparian of the riverfront area. There are no other increases in setbacks, such as vertical distance to groundwater, to offset the work in riverfront.

C. Russo received confirmation that there is no increase in house size or driveway area as part of the plan. T. Friedlander asked what the cost differential was to the property owner to install the system under the driveway. Mr. Sullivan thought it would add approximately \$1200 for the necessary H2O components and an additional \$1000 to repave. D. Henkels received confirmation that the erosion control used will be straw wattles and they will remain the same with each of the plan designs.

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

On a motion by R. Morse; K. Rogers 2nd; the Commission voted unanimously to issue an Order of Conditions on the 12/17/2018 plan with the greater setback and include the standards septic repair conditions.

WPA & Bylaw Notice of Intent: 19 Middle Rd., Marie Loranger, applicant

Present; Rich Kirby, LEC Environmental for the applicant

Mr. Kirby presented plans for the restoration of an area within riverfront that was the subject of a violation for the removal of five trees and one tree leader in the riverfront area. The replanting plan consists of the installation of twenty 2' – 3' high shrubs of five different species of native shrubs within a proposed planting area just upland of the boundary of the bordering vegetated wetland. One 15' tree trunk remains and will be cut back to 10' and left for wildlife value. Four of the stumps will be ground in place.

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

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

Libby Dickson Conservation Restriction

Present: Christa Collins, SVT

The SCC reviewed the draft of the Libby Dickson CR and the preliminary comments by the Coordinator. This CR is from the Town to SVT as Grantee due to the use of CPA funds in the purchase of these two adjacent parcels. The Coordinator's comments were accepted and C. Collins will make the minor changes and resubmit to Town Counsel and the EEA for final review.

Discussion: Glyphosate Ban: possible article for Town Meeting in May 2019

Commissioners discussed the possibility of submitted a warrant article to Town Meeting banning glyphosate in Sudbury due to the most recent studies that have identified the product as being a probable human carcinogen. It was noted that the SCC has banned it use within wetland jurisdiction

for the past several years. SVT and SuAsCo CISMA still use the weed killer but are working to identify alternatives for most uses.

Commissioners stated they will keep track of what CISMA will be doing in the near future as it would be good to offer alternatives should a ban be proposed. The discussion continued later in the meeting.

Violation Status: 4 Maynard Rd., Shkben Dev. LLC

Present: Alex (Canton?) and Devon (?colleague)

The Commission is in receipt of the revised plan from Sullivan Connors Associates showing a 4' the house has been extended on one side by 4' and on the other side by 2'. Originally, the foundation was 44' and has been extended to 48' and from 22' x 26' to 24' x 26'. This increase was not approved by the commission. Alex stated he did not know how the error was made but thought it was by either the Engineer, Sullivan Connors Associates, or by the foundation installer. The porch size has been reduced from 6' x 22' to 4' x 13'. C. Russo stated that it is important to determine how the error occurred to prevent it from happening in the future.

D. Dineen informed the Commission that the applicant needs to comply with the Order. This can be done by either removing the encroachments under the enforcement action or with a new or modified filing, or by providing mitigation to offset the larger footprint of disturbance in the riverfront area. M. Sevier suggested the lot owners hire a qualified wetland scientist to assist them in identifying appropriate mitigation to present to the Commission. D. Henkels suggested looking into wildlife enhancements. D. Dineen added that the Commission, on rare occasion, has permitted offsite mitigation. She suggested investigating stormwater upgrades in the vicinity to see if there are any substandard structures that would make a positive impact on wetland values if replaced.

The first Environmental Monitor report was received earlier today. It notes that the invasive species removal had begun by Dec. 14, 2018 but was incomplete. He suggested that it was not the appropriate time of year to remove vegetation as it can be difficult to identify the species at this time. He also noted that the erosion control barrier was not in satisfactory conditions and did not comply with what was shown on the approved plan.

On a motion by M. Sevier; 2nd C. Russo, the Commission voted unanimously in favor of continuing the discussion to the Jan. 28, 2019 meeting to allow the owners to submit a written request for Amendment to Order of Conditions for the perimeter drain and to either submit a plan to reduce the foundation to its approved size or provide mitigation to support enhancement of wetland functions. The ability to make the structure weather-tight as discussed at the last meeting was extended to Jan. 28, 2019 as well.

Violations- Continued Discussion

39 Griscom Rd.

Present: Stephen Garanin, owner

Mr. Garanin was reported by a resident for clearing brush and trees within the riverfront area of Guzzle Brook and within 100' of bordering vegetated wetlands. A shed and possibly a fence was also installed within wetland jurisdiction. No wetland permits were obtained. Mr. Garanin explained that he wanted to remove invasive plants so he hired a brush hog and operator. He planned to replant the area. He questioned if the portion of Guzzle Brook next to his property was riverfront as there was a dam just

to the west. D. Dineen explained that a dam is considered and impoundment and therefore does not eliminate the riverfront designation.

T. Friedlander stated that the work he has been would likely have been issued a permit as the Commission encourages the proper removal of invasive plants. The permit would have required a replanting plan of native plant species. The landscaper, Eric Healy, should have known he was working adjacent to a stream and required the homeowner to obtain a permit before he performed the work.

Commission agreed that an NOI and restoration plan are required and should be submitted. They wanted to see and update toward compliance and a contract with a wetland specialist or other qualified professional by Jan. 28, 2019.

On a motion by D. Henkels; 2nd R. Morse; the Commission voted unanimously in favor of issuing an NOV/EO and requiring and update and wetland consultant contract at a minimum by Jan. 28, 2019 for an NOI that includes restoration.

31 Beckwith St.

The Commission received a report of significant clearing over time along Guzzle Brook. The homeowner has not yet been able to be contacted. T. Friedlander viewed the property from the street and observed clearing and lawn expansion to the edge of the stream. It appears that a dock may have been installed on the stream bank as well. A comparison of the last ten years of aerial photos shows that the vegetation along the stream has definitely been cleared. No permit was obtained.

Discussion (continued): Glyphosate Ban: possible article for Town Meeting in May 2019

The Commission continued the discussion from earlier in the meeting concerning a possible ban on glyphosate for spring Town Meeting. R. Morse felt there may be a compromise position and more information is needed on the most recent research on glyphosate. K. Rogers thought more research on any current or proposed bans would be useful. M. Sevier felt a ban would be impossible to police. He felt getting the research out to the public to educate people on the potential impacts of the chemical might be the best approach at present. He was in favor of a "bottom-up" approach through education and potential harm to kids would be the way to gain the maximum benefit for the minimum effort. D. Dineen will check with the Board of Health agent to see if the BOH has had any similar concerns and discussions. C. Russo thought some exemptions might be considered such as the Water District, the schools and SVT. New Associate member, Ken Holtz agreed that if large landowners are exempt and the small property owners are not enforceable, it makes the most sense to educate. Education should include alternatives to the use of chemicals to control invasive plants and weeds.

A discussion followed on the best way to educate. Other groups, CISMA, WSCC and websites will help get the information to the public to be notified of issues and make their own decisions.

WPA & Bylaw Notice of Intent: 9 Trevor Way; Al Maillet, Maillet & Son, Inc.; applicant Site preparation and habitat restoration

On a motion by D. Henkels; 2nd C. Russo; the Commission voted unanimously in favor of the request from the applicant's wetland specialist for continuation to Jan. 7, 2019.

WPA & Bylaw Notice of Intent: 36 Hampshire Dr., correction of violations; Dhruv Bhandary Lawn expansion into Conservation Restriction, AURA and Riverfront area

On a motion by 2nd C. Russo; 2nd R. Morse; the Commission voted unanimously in favor of the request from the applicant's wetland specialist for continuation to Jan. 7, 2019.

WPA & Bylaw Certificates of Compliance: #301- 1223; 58 Lincoln Ln. Ronnie Kanarek

D. Dineen reported that the project is complete and the addition was constructed according to the approved plan. She took a look at it last week and the site is stabilized.

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

Violations- Continued Discussion

267 Landham Rd.; Gaston Safar

The Commission still does not have the plan and Deed for transfer of the back lawn to the town for conservation purposes. This was due several months ago and extended to Dec. 31, 2019. A contract with a surveyor was submitted by Mr. Safar earlier today. The surveyor informed the Commission that they have not received the signed contract or the required deposit. They will not be able to survey and produce a plan until Jan. 2019 at the earliest assuming they receive the contracts and funds immediately. The property owner will then be in default of meeting the OOC condition, even after a two- month extension and six months to have the work completed. There is also potentially additional work in wetland jurisdiction that can only be determined by survey.

Commissioners voted unanimously to keep the original, extended deadline of 12/31/2018 for the Deed and plan, or a ticket will be issued. Motion by D. Henkels; 2nd R. Morse.

31 Lakeshore Dr.,

D. Dineen informed the Commission that H. Wells, owner, responded and the NOI has been received. It will be on the Jan. 7, 2019 agenda.

FY 2020 Budget:

D. Dineen reviewed the draft budget with the Commission for their comments and suggested modifications. C. Russo felt that more funds may be needed for basic land stewardship such as trail clearing. He suggested we utilize the bow hunter hours for this. D. Dineen stated this is possible although she has used the bow hunters for the more specialized projects such as installation of bridge footings, or projects that cannot easily be done by untrained volunteers or Eagle Scout candidates.

Eagle Scout Candidate Bat Boxes Installation project

Eagle Scout Candidate Seamus McNulty wishes to construct bat boxes around Stearn's Mill Pond. Both on conservation land and appropriate property. Letter of approval from a number of home owners around the pond in favor of the project and offering their land as a possible location had been submitted. D. Henkels felt that the area around the pond was a good location for the boxes and he would be happy to work with the Scout.

On a motion by D. Henkels; 2nd R. Morse, the Commission voted unanimously in favor of approving the project.

On a motion by D. Henkels; 2nd C. Russo; the Commission voted unanimously in favor of adjourning the meeting. 9:27pm