

SUDBURY CONSERVATION COMMISSION
Minutes of the Meeting Held Monday, July 1, 2019

Present: Tom Friedlander, Chairman; Dave Henkels, Vice-Chairman; Bruce Porter; Richard Morse; Kasey Rogers; Charlie Russo; Ken Holtz, Associate Member; Lori Capone, Conservation Coordinator
Absent: Mark Sevier

The Chairman called the meeting to Order at 6:45pm with a quorum present.

The Commission welcomed the new Conservation Coordinator, Lori Capone.

Notice of Violation: 48 Old Lancaster Road

Carolyn Hannauer of 48 Lancaster Road attended tonight's meeting in response to a Notice of Violation letter, dated May 20, 2019 regarding the removal of vegetation within wetlands jurisdiction. She informed the Commission, with photo documentation, that numerous pine trees fell in a wind storm in February. Ms. Hannauer said she was aware of the presence of an intermittent stream through the area. She had the trees chipped up and scattered throughout the area of tree removal to keep the biomass on site. She would like to manually remove bittersweet and winged euonymus and mow the area to keep undesirable weeds out, with the goal of allowing ferns to vegetate the area. The Commission agreed that work that occurred was storm damage and not a Violation of the Wetlands Protection Act or local Bylaw. On motion by R. Morse; seconded by D. Henkels, the Commission voted unanimously to rescind the Notice of Violation.

Notice of Intent: DEP File #301- 1260, 44 Belcher Road

Present: Arthur Allen on Ecotec, Inc., and Applicant Matthew Kathman

Chair Friedlander opened the Hearing pursuant to the Wetlands Protection Act and Sudbury Wetlands Administrative Bylaw.

Mr. Allen presented the after-the-fact Notice of Intent for reconstructing a deck within the 100-foot Buffer Zone to the Commission, on behalf of the applicant. Mr. Allen explained that the homeowner intended to repair the existing deck when he found that part of the deck was on the septic system. The deck footprint was modified and new footings dug when Conservation Coordinator Dineen was notified of work in the Buffer Zone. An Emergency Certification was issued to allow the footing work to proceed due to safety concerns. The erosion control barrier was installed at the limit of lawn and all additional work has ceased. The remainder of work is to construct the deck, place crushed stone under the deck, and return the area to grass. To mitigate for expanding and moving the structure closer to the Bordering Vegetated Wetland, the applicant will convert a 120 s.f. area of pachysandra to native shrubs and saplings and seed the area with a native conservation seed mix. There was discussion on how much larger the new deck would be. It was determined that a 240 s.f. mitigation area should be created to offset the deck expansion and that an additional erosion control barrier would be needed between the wetland boundary and mitigation area. There were no public comments.

On motion made by D. Henkels; seconded by B. Porter, the Commission unanimously voted to close the Hearing. On motion made by C. Russo; seconded by R. Morse, the Commission voted unanimously to issue an Order of Conditions approving the project with the condition that twice the mitigation (240 s.f.) be provided.

Notice of Intent: DEP File #301-1262, 293 Concord Road

Chair Friedlander opened the Hearing for habitat restoration due to unmerited removal of vegetation within Bordering Vegetated Wetlands and the 100-foot Buffer Zone, 200-foot Riverfront Area under the Wetlands Protection Act and the Sudbury Wetlands Administrative Bylaw.

Present: Dan Wells of Goddard Consulting LLC and Applicant James Andrews.

Dan Wells explained that this Notice of Intent is in response to a Notice of Violation issued May 15, 2019 for vegetation removal when a path was found while investigating an abutting property. Mr. Wells explained that he delineated the wetland boundary and found seven cut stumps in the Bordering Vegetated Wetland, two of which came down while the Andrews owned the property: one came down in a storm and a second dead one that he cut down. The path runs along the edge of the wetland with a board and a pallet across seasonally wet areas; these have been removed. The homeowner would also like to remove two additional dead or dying trees in the Buffer Zone.

To restore the wetland functions and values, the applicant will plant four trees, manually remove invasive species along the tree line, will maintain the area of tree removal as a wet meadow and remove stacked logs. Mr. Andrews also asked for a continuing conditions to allow manual removal of invasive in perpetuity.

There was discussion on whether it would be better to keep the pallet in place, to minimize soil disturbance. It was agreed that Mr. Andrews would use his discretion: to limit access when wet and/or place a board or pallet when muddy.

There were no public comments.

On motion by D. Henkels to close the Hearing; seconded by K. Rogers, the Commission unanimously voted to close the Hearing. Following evaluation of habitat improvements from proposed work, the Commission unanimously voted on motion made by K. Rogers and seconded by D. Henkels to issue an Order of Conditions approving the project.

Notice of Intent: DEP File #301-1261, 151/183 Boston Post Road

Chair Friedlander opened the Notice of Intent Hearing for Buddy Dog Humane Society to construct a new animal shelter building and parking lot with associated grading and drainage, within the 100-foot Buffer Zone under the Wetlands Protection Act and the Sudbury Wetlands Administrative Bylaw.

Present: Dan Wells, Goddard Consulting LLC, and Steve Burett, on Board of Trustees of Buddy Dog, and Vito Colonna of Sullivan, Connors and Associates.

Steve Burett provided a brief background on the 100-year history of Buddy Dog in the community. Mr. Wells explained on-site resource area; a Bordering Vegetated Wetland with a low quality uncertified vernal pool. The proposed work in the 100-foot Buffer Zone has been greatly scaled back from its previous iteration. They are proposing to permanently impact 10,840 s.f. of the Buffer Zone through the removal of trees and installation of the parking lot. To mitigate for work in the Buffer Zone, the applicant proposed revegetating a comparably sized degraded area and conducting 8,500 s.f. of invasive species removal to

improve overwintering habitat for wood frogs (species found in vernal pool). The Commission requested information on how many trees within jurisdiction would be removed.

Mr. Colonna presented the proposed work. They have significantly reduced impacts to the Buffer Zone by reducing the width of the driveway by making it one-way traffic and creating angled parking spaces. The closest point of work to the wetland is 65 feet. The project team wanted to obtain informal acceptance of the proposed design from the Commission before filing with the Planning Board and/or Zoning Board of Appeals. The Commission requested the applicant provide the previous site plan for comparison. The Applicant also needs to obtain approval from the Board of Health on the septic design. The stormwater management design and calculations will be reviewed by a third party consultant through the Planning/Zoning process. Beth Suedmeyer, Environmental Planner, confirmed that the third party reviewer would also be evaluating pollutant loading and the applicability of the Dover Amendment.

The Commission discussed concerns with the potential introduction of pollutants from the management of the dog run, located in the Buffer Zone. The Commission requested the applicant provide information on how the dog run would be managed, and look at a means to collect and treat run off. The Commission also requested the applicant look at opportunities to approve management of the existing dog run, located directly adjacent to Bordering Vegetated Wetland.

There were no public comments.

On motion made by B. Porter; seconded by D. Henkels, the Commission unanimously voted to continue this Hearing to the August 26, 2019 Commission Meeting.

Request for Determination of Applicability: 505 Boston Post Road, Shaw's Plaza

Present: Michael Doherty of Gravelstar Inc., managers of the plaza, and Nick Burrows, Manager of Aubuchon

Mr. Doherty explained that since the last meeting, they have provided engineering plans for the proposed garden center showing no change in stormwater flow from proposed work. They also provided a list of items that would be stored in the outdoor space confirming that fertilizers, pesticides, and herbicides will be stored inside the building. The Commission expressed concern with the discharge of materials from broken bags and also requested rock salt be stored inside the building. Mr. Burrows confirmed that neither rock salt nor erodible materials would be stored outside.

On motion made by R. Morse; seconded by K. Rogers, the Commission voted unanimously to issue a Negative Determination of Applicability.

Notice of Violation with Enforcement Order

Present: Robert Boermeester, landowner, and Lisa Tursi of 61 Maynard Farm Road

Ms. Tursi explained that Mr. Boermeester has complied with what the Commission has asked of him associated with the Notice of Violation and Enforcement Order. They filed two Notice of Intent applications, which have been rejected as incomplete, and are here to find out what the Commission needs to resolve this matter.

Chair Friedlander explained that both applications were found to be insufficient and expressed frustration with how long the landowner has taken to try to resolve this Violation, suggesting that the applicant should hire a professional to develop a restoration plan. Beth Suedmeyer, Environmental Planner, explained the guidance she provided the applicant, based on site visit that she and D. Henkels conducted with the applicant. 1:1 restoration for removal of briars, a shed addition, fire wood storage and playstructure for the Commission to evaluate. A restoration plan was not provided with the most recent submittal. After much discussion, it was determined that Coordinator Capone would meet with the applicant and provide assistance with filing the Notice of Intent application with the deadline of filing by July 29th or the Commission would vote at that meeting whether to issue additional fines.

Certificate of Compliance

DEP File #301-1218: 451 Peakham Road

Coordinator Capone reported that the retaining wall constructed under this Order was constructed per plan, mitigation reports have been filed, and disturbed areas are stabilized with vegetation; recommending issuance of a Certificate of Compliance.

On Motion made by C. Russo; seconded by D. Henkels, the Commission unanimously voted to issue a Certificate of Compliance for DEP File #310-1218.

Notices of Violations (continued)

328 Hudson Road, Vincent Nascimento: Coordinator Capone reported that she visited the site. She asked the Commission to review the site because it appeared as though the disturbed area has revegetated.

29 Hudson Road: Coordinator Capone reported that she visited the 29 Hudson Road site today, in relation to a Notice of Violation and Enforcement Order issued April 29, 2019. She reported that the grease barrel is still leaking into the parking lot, and the drainage system still seems blocked.

The Commission discussed options to get the grease barrel resolved. K. Rogers suggested instituting daily tickets until resolved as this has not been the first time this barrel has been an issue and also to discuss this matter with the Board of Health. As the original Enforcement Order went to the management company, the Commission discussed issuing a one week warning to CJ's prior to implementing tickets. On motion made by K. Rogers to issue daily tickets of \$100 if the grease barrel is not addressed by July 8, 2019; seconded by D. Henkels, the Commission unanimously voted.

The Commission discussed the Enforcement Order for the septic system which the management company is responsible for. On motion made by K. Rogers; seconded by D. Henkels, the Commission voted unanimously to implement daily fines of \$100 until the office is contacted about filing a Notice of Intent for the septic system.

Commissioner and Staff Updates

Davis Farm Meadow Restoration

Coordinator Capone reported that she met with Scott Fisher of SWC, contractor on the project, and Beth Suedmeyer, Environmental Planner, regarding the meadow restoration project to restore an area at Davis Farm, into a pollinator meadow. Hand pulling of undesirable plant was the initial strategy when the property was visited in the spring. Now there are also substantial areas covered with invasive plants in addition to the previously identified undesirables. The restoration plan has been modified to implement a combination of various strategies, including hand pulling, mowing, seeding/planting, and solarization, in

six different areas, based on the condition of each area. The Commission discussed the possibility of a controlled burn. The Commission decided to proceed with the program as outlined by SWC. This modification did not impact the contract cost.

King Philip Conservation Area Flooding: Chair Friedlander reported that he met with DPW and Mike Callahan of Beaver Solutions to look at installing a beaver deceiver under the trail to replace a culvert installed previously. Coordinator Capone will evaluate whether funds are available for this project.

11 Crestview Drive: D. Henkels reported that he met with the homeowner of 11 Crestview Drive to discuss the planting plan required at the last meeting. A plan has been submitted to the office based on this site visit.

Issuing Negative Determination of Applicability with Conditions: Chair Friedlander reported that he inquired with Town Counsel on the enforceability of issuing conditions on a Negative Determination as opposed to requiring a Notice of Intent. Town Counsel confirmed that the Commission has the ability to condition Negative Determinations. The Commission asked the Coordinator how she has managed Negative Determinations in previous communities. Coordinator Capone stated that a standard condition on a Negative Determination was that a preconstruction meeting was held prior to work and a letter was required at the end of the project that would prompt a final inspection. The Commission thought that might resolve concerns with non-compliance and agreed to proceed with requiring site visits for Negative Determinations.

Conservation Commission Meeting Schedule: Commissioners confirmed their availability for Commission meetings through December 2, 2019.

Eversource Herbicide Program: T. Friedlander discussed the possibility of having a representative from Eversource attend a future meeting to discuss their herbicide program.

DEP Circuit Rider: T. Friedlander also discussed the possibility of having the DEP Circuit Rider meet with the Commission.

AMC Grant: C. Russo reported that a trails grant has been submitted to the Appalachian Mountain Club. He has not heard back on the grant request yet.

Nobscot Conservation Area:

Coordinator Capone reported that she was contacted about trail maintenance needed at Nobscot Conservation Area. The person who reported this trail issue, offered to inquire with the New England Mountain Bike Association about volunteering time to conduct this work. Commission agreed their assistance would be helpful.

Trail mapping: Coordinator Capone will discuss developing trail maps at the next meeting.

Broad Acre Farm Acquisition: The Commission signed the Deed for the 20.02-acre parcel of Broad Acre Farm that the Commission will hold for conservation open space and agricultural purposes.

Emergency Certification: Coordinator Capone requested the Commission ratify the Emergency Certificate that she issued to the Public Works Department to clear out a culvert that was blocked up by beaver debris at Ironworks.

11 Barbara Road: Coordinator Capone reported that she was notified of tree removal at 11 Barbara Road. There were three small trees removed near the edge of lawn, approximately 85 feet from an isolated wetland. The area of removal is still naturally vegetated with shrubs causing no potential impact to the adjacent wetland. The Commission agreed that this work does not require additional review.

On a motion by C. Russo; seconded by K. Rogers, the Commission voted unanimously in favor to adjourn the meeting. The meeting adjourned at 9:15pm