



SUDBURY CONSERVATION COMMISSION MINUTES

Meeting Minutes of October 19, 2020

Present: Thomas Friedlander, Chair; David Henkels, Vice Chair; Ken Holtz, Mark Sevier, Bruce Porter, Richard Morse, and Kasey Rogers. Jeremy Cook, Associate Member, and Lori Capone, Conservation Coordinator were also present.

The Chairman opened the meeting at 6:45 PM.

Extension Request:

Bonnie Brook Realty: Order of Resource Area Delineation, DEP #301-1220: One-year Extension Request. The Chair welcomed Deshang Wang on behalf of the applicant. He said they had been working on this project for some time but they still are not prepared to submit an NOI due to additional work needing to be finished. They are asking for an extension so the approved wetland delineation does not expire prior to filing the Notice of Intent for the subdivision. There were no comments from the Commission or public. On motion by D. Henkels, seconded by R. Morse, the Commission voted unanimously, via roll call vote, to grant a one-year Extension.

Minutes

The Chair stated that due to some technical issues, the minutes did not get sent to the Commissioners until late in the day, so they would be moved to the next meeting.

Continued Wetland Applications:

Notice of Intent: 199 Goodman's Hill Road, DEP #301-:

Chair Friedlander opened the continued Notice of Intent hearing for after-the-fact vegetation removal and restoration within the 100-foot Buffer Zone pursuant to the Wetlands Protection Act and the Sudbury Wetland Administration Bylaw

Jarrett Rennie, Applicant, stated the last remaining item was to submit the measurements to better identify the location of the proposed stone border and to confirm the location of the tree discussed at the last meeting in relation to the restoration area. The Chair asked the Coordinator for her comments to which she responded by concurring that the applicant has addressed the concerns raised at the last meeting and that the DEP number was the only outstanding item. The Chair stated the hearing would need to be continued, or the Commission could vote to issue the Order pending the DEP number. There were no public comments.

On motion by D. Henkels, second by Ken Holtz, the Commission voted unanimously to continue the hearing, via Roll Call vote, to November 2.

Notice of Intent: 70 Firecut Road, DEP File 301-1310:

Chair Friedlander opened the continued Notice of Intent hearing for tree pruning and removal within the 100-foot Buffer Zone pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Coordinator Capone stated that many of the Commissioners had been to the site to see the proposed tree removal area and where mitigation plantings could go as well as invasive species removal along the tree

line. She suggested a replacement ratio of 1:1 for trees and/or 3:1 for shrubs be placed in the isolated basin where the bulk of trees were proposed to be removed. The Chair asked Mr. Goodman if he concurred with this assessment, to which he stated he did. The Chair asked for comments from the Commission, and D. Henkels asked what the size of the area of the Isolated Land Subject to Flooding (ILSF) was, to which the Coordinator answered 200 s.f. The Bylaw was discussed and the Coordinator did not feel this area was subject to the Bylaw as it did not meet the size requirements for ILSF. There were no public comments.

On motion by R. Morse, seconded by B. Porter, the hearing was closed via unanimous vote. The Coordinator stated the applicant needed to meet with her prior to beginning the project to discuss terms of the Order. On motion by D. Henkels, seconded by R. Morse, the Commission voted unanimously by roll call vote to issue the Order.

Notice of Intent: 34 Barton Drive, DEP #301-1308:

Chair Friedlander opened the continued hearing for the demolition and reconstruction of a single family house with associated driveway, grading, and utilities, within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw.

The Coordinator stated the Commission had conducted a site walk of the area since the last hearing and a DEP number has been issued for the project. Mr. Henkels asked about the non-conforming nature of the lot and Applicant, Marcel Maillet, responded that the lot did not have sufficient frontage so they needed to go to the Zoning Board of Appeals. The Coordinator stated there was now a row of boulders that will provide permanent demarcation between the edge of lawn and area of no disturbance. The applicant will do invasive species removal as well. Mr. Holtz asked about a Deed Restriction. The Coordinator replied that in the Order of Conditions she had placed a perpetuity condition that the area downgradient of the boulders would be a permanent No Disturb Zone and this restriction would be reflected in the Deed. There were no public comments.

On motion by B. Porter to close the hearing, seconded by D. Henkels, roll call vote was unanimous to close the hearing. Dave Henkels moved to issue the Order of Conditions approving the project, seconded by K. Rogers. The Commission so voted unanimously, by roll call vote.

Notice of Intent: 137 Mossman Road, SWAB #091520:

Chair Friedlander opened the continued hearing to construct a new single family house within the 100-foot Buffer Zone and Adjacent Upland Resource Area pursuant to the Sudbury Wetlands Administration Bylaw.

The Chair stated there had been a site walk with several Commissioners and welcomed Dan Wells of Goddard Consulting for his presentation. Mr. Wells stated that they had just received Stormwater Permit comments that afternoon. He reviewed the new minor changes added to the plan and expansion of the invasive species management site wide. D. Henkels, asked if the vernal pool had been certified, to which Mr. Wells responded in the affirmative. Coordinator felt the proposed plan satisfied the concerns the Commission had articulated in the prior denial. R. Morse asked about protecting the land from future encroachments. Dan Wells stated the homeowners had agreed to a Deed Restriction. There were no public comments.

On motion by R. Morse, seconded by K. Rogers, the hearing was closed by unanimous roll call vote. Coordinator Capone stated that she had not drafted an Order for issuance tonight and recommended the Order be issued at the next meeting. Mr. Wells agreed to wait for the November 2nd meeting for the issuance of the Order approving the project.

New Wetland Applications:

Notice of Intent: 270 Old Lancaster Road, DEP File 301-1309:

Chair Friedlander opened the Notice of Intent hearing to remove 13 trees from the 100-foot Buffer Zone pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw.

Alicia and Brett Clancy, applicants, introduced themselves and began the presentation on the tree removal. They stated they did not feel safe in their home as many trees have already fallen on their property and has damaged cars. Dan Cathcart, Certified Arborist with Plant Health Care Consultants, discussed the plan to remove the trees that he felt posed a safety concern to the house. He stated all the trees with one exception were Pines. Mr. Cathcart explained that they have tripled the amount of mitigation plantings that had been proposed in the original application.

Ms. Capone stated she is also concerned for the safety of the owners of the property as she has seen firsthand the damage to their property, as it is directly across the street from the Conservation Offices. She felt the enhanced replanting plan along with leaving some snags were sufficient to protect the resource area. M. Sevier asked about the stumps being left to which the applicant responded that they would leave all stumps but grind down the two in the lawn. There was some discussion about the height and location of the stumps and snags. K. Holtz asked about the replanting zone. Mr. Cathcart said the majority of the plantings are behind the pool area. Mr. Holtz asked for further clarification on the location of the replantings, and asked the Coordinator about how to ensure the plan is verified. She stated there would be a condition placed in the Order that dictates where mitigation plantings would be installed.

The Chair asked for public comments. Doug Barth of 286 Old Lancaster Road asked if trees could be cabled to address safety concerns instead of removed. Mr. Cathcart did not recommend this approach as it would not prevent to pine from uprooting. The Chair recognized Lisa Vitale, 286 Old Lancaster Road, who asked about the plantings and the monitoring of them. The Coordinator stated those all would need to survive two growing seasons or be replaced. Dan Goldfarb, 9 Brownstone Lane, said he supported the removal of the trees and asked the height of the new plantings. Mr. Cathcart said each species had different heights in order to provide cover and buffer. Doug Barth stated how the noise and visual impact would be abated, and would the trees provide buffer in a reasonable amount of time. Mr. Cathcart stated after two growing seasons the trees would be sufficiently effective. M. Sevier did not think that the noise concern directly was an appropriate expectation for the Commission to consider.

On motion by M. Sevier, seconded by K. Rogers, the Commission voted unanimously, by roll call vote, to close the hearing. After review of the special conditions, on motion by D. Henkels, seconded by M. Sevier, the Commission voted unanimous, via roll call vote, to issue an Order approving the work.

Notice of Intent: 47 Camperdown Lane, DEP File #301-1307:

Chair Friedlander opened the Notice of Intent hearing to remove trees within Vernal Pool Habitat, pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw

The Chair recognized the Applicants, John and Christine Kelly, for their presentation. Mrs. Kelly stated that they would like to remove four trees and trim others that are very close to the house. She highlighted the trees on a plan. Coordinator Capone stated there was a Conservation Restriction on the property, which she showed on a diagram. The trees were outside that area. On the east side of the property, she said these trees were on the edge on the 100-foot vernal pool habitat but were close and leaning towards the house. The remainder of the vernal pool habitat remained well vegetated. She mentioned some trash and construction fencing that was in the area of the vernal pool, to which the homeowner was willing to remove. There was some sign of invasive species to which Mrs. Kelly was also open to removing as part of the mitigation. There was some discussion about a recent tree that broke and was leaning on another tree in the CR and wondered if that tree should also be removed. The Coordinator stated she was comfortable with cutting the tree and leaving it within the resource area. There were no public comments.

On motion by D. Henkels, seconded by K. Holtz, the Commission voted unanimously, by roll call vote, to close the hearing. After review of the Special Conditions, on motion by M. Sevier, seconded by R. Morse, the Commission voted unanimously, by roll call vote, to issue an Order approving the project.

Notice of Intent: 102 Blueberry Hill Lane, DEP File #301-:

Coordinator Capone explained that the applicant Robert Duker had something come up and was not available tonight to present his application to remove a portion of his pool and conduct landscaping in the 100-foot Buffer Zone pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw. The Coordinator recommended this matter be tabled until the November 2 meeting.

Notice of Intent: 44 Maplewood Avenue, DEP File #301-1311:

Chair Friedlander opened the Notice of Intent hearing to install a generator within the 100-foot Buffer Zone to Bordering Vegetated Wetlands, pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw.

The Chair welcomed the Applicant Michael Mirman. He showed a sketch of the generator placement. Coordinator Capone stated that this was within an existing altered buffer zone area, with one shrub to be removed. The generator will be installed on a crushed stone pad and the area was easily accessed, so no additional site disturbance would be needed. No mitigation was needed to protect the resource area. There were no comments by abutters.

On motion by R. Morse, seconded by D. Henkels, via roll call vote, the Commission voted unanimously to close the hearing. There was some discussion about the size of the generator and machinery that may be needed. After some discussion, the Applicant was asked to see if his electrician was available to provide clarity. The Chair stated the Commission would move on to the next hearing and come back to this one. On motion by B. Porter, seconded by R. Morse, the hearing was re-opened, via unanimous roll call vote.

The Commission came back to this matter later in the meeting. The Applicant was not successful in reaching his electrician, but did discuss how he believed the generator would be installed. He stated he was open to conditions, but M. Sevier stated he was concerned about damage to the resource area. Coordinator Capone suggested a special condition requiring that plywood be used for any machinery access to minimize ground disturbance. Both the Commission and the applicant were amenable to this condition.

On motion by M. Sevier, seconded by D. Henkels the hearing was closed via unanimous roll call vote. On motion by D. Henkels to issue the Order with the condition that plywood be placed in the area of work to preserve the ground, seconded by K. Holtz, the vote was unanimous via roll call vote to issue the Order of Conditions.

Notice of Intent: 18 Arrowhead Road, DEP File #301-1313:

Chair Friedlander opened the Notice of Intent hearing to remove trees within the 100-foot Buffer Zone and 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw.

The applicant, Bryan Gothie, presented his project and showed a sketch of the trees to be removed. He showed photos of the overhanging trees. He did have one tree he wanted to remove for aesthetic purposes, however all the rest he felt should be removed for safety purposes. His photos demonstrated the trees that were leaning very heavily towards the home.

The Chair asked the Coordinator for her comments. She stated she had been on the site and reviewed the trees. She said the trees are not very big, and not in great health and agreed that trees proposed for removal were leaning towards the house. She had discussed with the applicant about removing the invasive species that were under these trees and plantings native shrubs. The Applicant agreed to remove the invasives as mitigation. K. Rogers asked about stump removal to which the Applicant stated he planned on leaving the stumps. Coordinator Capone stated she had a draft Order of Conditions prepared as the application had been at DEP for over three weeks, so the Commission could close the hearing and vote to issue the Order pending the issuance of the DEP number. The Chair voiced his agreement and asked for a motion. There were no public comments.

K. Rogers moved to close the hearing, second by R. Morse, the hearing was closed via unanimous roll call vote. On motion by D. Henkels to issue the Order of Conditions pending the DEP number, seconded by R. Morse, a roll call vote was unanimous to issue the Order.

Notice of Intent: 165 Marlboro Road, DEP File #301-:

Chair Friedlander opened the Notice of Intent hearing to remove trees within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw.

The Chairman recognized the Applicant, Vincent Cacciatore, who introduced himself and his wife Tracy. He stated his proposal included removing some very large trees as the result of some trees previously coming down dangerously close to the home. He showed a plan of the trees, one of which is in the Conservation Restriction, but the remainder are outside of the CR area. He showed the photos of the trees leaning very close to the home and stated he had consulted with an Arborist who indicated that the grade differential from the construction of the house seemed to be part of the cause for the tree instability. He showed a picture of a tree that had just recently fallen close to the house. He pointed out the invasive Buckthorn, which would be removed as part of the mitigation and the stumps would be left. He further stated his family were sleeping in their basement whenever there was a storm.

Coordinator Capone said the trees in the back were just outside the buffer zone. She agreed the grading impacted the trees. She stated the Applicant agreed to leave the tree in the area of the CR as a snag and was

comfortable that both the wetlands and CR land would not be negatively impacted by proposed work. M. Sevier expressed concern about the snag resprouting. There were no public comments.

On motion by M. Sevier, second by R. Morse, the hearing was closed via unanimous roll call vote. The Chair asked for a motion to issue the Order. Coordinator Capone stated that there was no DEP number issued for this application, but that the Commission could vote to issue pending the DEP Number being issued. On motion by D. Henkels to issue the Order, pending DEP number, seconded by R. Morse, the Commission unanimously voted, via roll call vote.

Certificate of Compliance:

Highcrest at Meadowwalk, DEP File #301-1213:

The Coordinator stated she was awaiting two documents on the stormwater management system, which she did not receive. They tabled this to the next meeting.

Joanne Chadwick: 96 Plympton Road, DEP File #301-1263:

The Coordinator stated all the obligations had been met, and she had noted no erosion coming from the new structure. There had been a suggestion and approval by the Commission to modify the mitigation that included a substantial area of invasive species removal and replanting which the Applicants had completed. On motion by B. Porter, seconded by M. Sevier, the Certificate of Compliance was issued via unanimous roll call vote.

Michael Audette: 604 Peakham Road, DEP #301-1268:

The Chair asked for comments from the Coordinator, who stated this property was located near the Bruce Freeman Rail Trail and that some of the Commissioners had visited. She recommended issuing the Certificate as the project had been completed to her satisfaction following the Order of Conditions adequately. On motion by R. Morse, second by D. Henkels, the Certificate was issued via unanimous roll call vote.

Other Business:

Conservation Restriction – Woodward Glen Realty Trust, Parcels A and B off Powers Road:

Attorneys Rachel and Matt Watsky, who represent the developer, Jeff Cronin, attended the meeting to give background on the subdivision and the Conservation Restriction (CR). Atty. Matt Watsky stated the Planning Board and abutters were in support of this CR. He stated the area had the ability to build homes even though there were wetlands. The Chair stated the question for the Commission was whether they had an interest in holding that CR.

Coordinator Capone expressed concern about the additional work and obligation associated with monitoring CRs. The Coordinator explained that the lots would be developed up to the buffer zone but not within and inquired whether the applicant would be willing to install permanent demarcation of the 100-foot buffer zone on lots 2 and 3 to assist the Commission with ensuring the land remains undisturbed. Atty. Watsky stated he had never been approached with this idea, and that the applicant believed the 8.5 acres was sufficient as an offset. The Coordinator voiced her concern that none of the properties would need an Order of Conditions, so they may not realize they were in the Buffer Zone. Atty Rachel Watsky said the lots would also have a Declaration of Restriction under the Water Resource Protection Overlay which would be in every Deed. It restricts any increase of the impervious surface, to which Coordinator Capone

stated that it only limits impervious surface, not disturbance. She stated owners would want to expand the limit of lawn and so what assurance did the Commission have that this would not happen, as she had already noticed encroachments by abutters, and after the subdivision is built the Commission did not have the resources to monitor the activity. The Coordinator asked if there had been any other entities contacted about holding the CR, to which attorneys said no. Atty Watsky stated he could ask his client as to whether he would entertain permanently demarcating the 100-foot Buffer Zone and installing signs along the CR boundary to assist with future monitoring.

R. Morse stated he had reservations about a vote at this time, and why the Commission would be motivated to take on the CR. He felt the abutters had expressed some interest in working with the developer to perhaps purchase the site. The Chair stated this should not preempt a vote by the Commission in that the item before them was whether or not the Commission would want to hold the CR on behalf of the Town. There was further discussion about legal obligations of holding CRs.

K. Rogers moved to accept the Conservation Restriction with the condition of the permanent demarcation of the 100-foot buffer zone and CR signs along the boundary of the CR. Seconded by D. Henkels, and via roll call vote, the decision was unanimous to accept the Conservation Restriction.

The Chair then moved to discuss the Declaration of Restriction which the applicant also wanted the Commission to hold. The Coordinator stated the purpose of the Declaration of Restriction was to ensure that no more than 15% of the lots are covered by impervious surfaces in perpetuity. Her concern was that none of the work done within this Restriction was within Commission jurisdiction. She questioned why the Commission would take on this obligation. The Commission agreed.

M. Sevier moved that on the basis of the Conservation Commission having no jurisdiction in this particular area the Commission does not accept the Declaration of Restriction. Seconded by K. Rogers. Via roll call the motion passed unanimously. M. Sevier had a concern that the Counsel felt this motion was incorrect, to which Mr. Watsky stated he felt the Commission does not just deal with issues concerning wetlands, rather they also had the ability to accept grants of land under Chapter 40, Section 8c. Mr. Watsky stated that this restriction was primarily to prevent future development. The Commission is the only body in Town with the statutory authority to accept this type of Grant and the only other way to do this is through a Town Meeting vote. He encouraged the Commission discuss this further with Town Counsel. The vote remained unchanged.

2021 Meeting Schedule:

The Chair asked if anybody had conflicts with the proposed 2021 meeting dates to respond to the Coordinator for changes they anticipated due to holidays or otherwise.

Eagle Scout Project- Replace kiosk and clear trails at Lincoln Meadows:

The Coordinator stated that she has been approached by Eagle Scout Andrew Wenquin Zhao, who would like to replace the kiosk at Lincoln Meadows and do some trail improvements at SVT's Round Hill. The Commission was in support of the project.

Bird Survey at Davis Farm and Field:

Coordinator Capone, stated that Mass Audubon has a similar program to the Keystone program that several of the Commissioners had taken part in at Harvard Forest. This program requires a bird survey in

the Town that the student lives in. She has been contacted by Luke Faust who will conduct a bird survey at Davis Farm and Field over the next year. The findings would then be forwarded to the Commission. The Commission was in support of the project.

604 B Grant Proposal for Hop Brook Water Quality Monitoring:

Coordinator Capone stated they did not get the Grant for \$30,000. The program had many more requests than they expected, though the Town was encouraged resubmit this request again next year. In the meantime, the Hop Brook Protection Association was seeking a Grant from the River Stewardship Council Grant Program for a smaller scale water quality monitoring program for Hop Brook. The Association is looking for a letter from the Commission supporting the program for the Grant submittal. On motion by D. Henkels, seconded by R. Morse, the Commission unanimously voted through a roll call vote to submit a letter of support.

Discussion took place about next meetings with Eversource. The Chair then accepted a vote to adjourn.

On motion by B. Porter, seconded by M. Sevier, the Commission voted unanimously, by roll call vote, to adjourn at 9:10 PM.