



SUDBURY CONSERVATION COMMISSION
Meeting Minutes of September 24, 2020

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

Chair Friedlander opened the meeting under the MA Wetlands Protection Act and the Sudbury Wetlands Administrative Bylaw at 6:45 PM.

Wetland Applications:

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

Chair Friedlander notified those attending the Zoom meeting for this matter to remove 13 trees from the 100-foot Buffer Zone cannot be opened tonight because the abutters were not properly notified. This matter will be opened at the October 19, 2020 meeting.

Certificate of Compliance for, Avalon, DEP File #301-1190:

Coordinator Capone stated the Applicant had substantially completed the remaining items with the exception of removing some of the remaining wattles. The applicant has since confirmed they have been removed but the Coordinator said she has not been able to re-inspect. She recommended issuing a Certificate of Compliance pending her site visit to confirm all wattles have been removed.

The Chair asked for questions and comments from the Commission. Hearing none, K. Rogers moved to issue a Certificate of Compliance for DEP#301-1190, seconded by M. Sevier. The Commission so voted unanimously, by roll call vote.

Notice of Intent: Massachusetts Bay Transportation Authority Right-of Way, DEP File #301-1287:

At the request of the applicant, Chair Friedlander requested a motion to continue the hearing for the installation of a new 115kV underground electrical transmission line and the construction of a portion of the Mass Central Rail Trail, from the existing Sudbury Substation to the Hudson town line, along the inactive Massachusetts Bay Transportation Authority Right-of-Way, in Sudbury, MA, under the State Wetlands Protection Act and the Sudbury Wetlands Administrative Bylaw to October 22, 2020. K. Rogers recused herself as an abutter to the project.

B. Porter moved to continue the hearing to October 22, 2020, seconded by D. Henkels. The Commission voted 5-0, by roll call vote, to continue the hearing to October 22, 2020. (Ken Holtz abstained as a new member of the Commission.)

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

Chair Friedlander reopened the 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, continued from August 24, 2020.

Applicant, Jarrett Rennie, presented his revised plan which proposes to restore 6,828 s.f. of the 7,600 s.f. of altered buffer zone with 20 native trees, blueberry shrubs, and cinnamon fern and native seed mix, and the conversion of 1,798 s.f of buffer zone to a native grass mix.

Coordinator Capone provided an explanation of the difference between jurisdictions under the Wetlands Bylaw versus the Wetlands Protection Act for isolated wetlands and bordering vegetated wetlands. She detailed the areas of restoration and aspects of buffer zone impacts for the Commission. The Coordinator pointed out that additional areas outside the buffer zone would be restored to offset the request for lawn.

The Chair then questioned R. Morse about his thoughts after visiting the site, to which Mr. Morse stated he was comfortable with the new proposal. K. Rogers asked about the large tree and where it fell with respect to the 30-foot wide strip of additional mitigation area. The Applicant said he did not know where it was. K. Holtz asked about the buffer line in relation to the rock border. There was further discussion about the area of restoration and isolated wetland vs. bordering wetlands. The Commission wanted further assurance about the rock wall location to ensure it was properly placed. The Chair encouraged the Coordinator work with the Applicant to further confirm the placement of the rock wall. The Coordinator stated a DEP number has not been issued yet.

There were no public comments.

The Chair then asked for a motion to continue the hearing. On motion by B. Porter, seconded by K. Rogers, the Commission voted unanimously to continue the hearing to October 19, 2020, via roll call vote.

Request for Determination of Applicability: CSX Corridor:

Chair Friedlander recognized Beth Suedmeyer, Town of Sudbury Environmental Planner for her Request for Determination of Applicability to conduct shallow exploratory soil borings within the 100-foot Buffer zone and the 200-foot Riverfront Area, pursuant to the Sudbury Wetland Administration Bylaw.

Ms. Suedmeyer stated the Town is investigating, as part of its environmental site assessment due diligence for acquisition, the soils within the CSX corridor. Rob Berger, LSP from Capital Environmental, is assisting the Town with this work. Ms. Suedmeyer stated they are going to be examining both the North and South side of Route 20. She stated the sampling would be conducted entirely on the elevated embankment but is within the Buffer Zone and Riverfront Area. Each boring hole is 12 inches deep or less. He will also use ground penetrating radar to ensure all railroad ties had been removed. She stated the access on the South side is easily accessed for the boring rig, but the North is more challenging. She asked the Commission to consider allowing some clearing of invasive species and small trees.

The Chair asked Coordinator Capone for her comments. The Coordinator felt the temporary alteration of buffer zone and riverfront area to provide access to conduct due diligence would not negatively impact the resource areas. The area is predominately invasive vegetation. She did not feel any negative impact to the resource area was going to occur, and recommended the Commission issue a Negative Determination.

The Chair confirmed the work was exempt under the Act. D. Henkels wanted confirmation that no groundwater would be impacted, to which Mr. Berger stated they did not anticipate intercepting the groundwater table. He showed the tube they would use for sampling, which was 2-inch diameter. There would be minimum disturbance on soils, and they have made provisions for any minor disturbance. Ms. Suedmeyer stated the Town is looking to expand the soil testing to include other potential contaminants which is also a part of the ongoing discussions with CSX. The Chair recognized former Commissioner,

now Select Board member, Charlie Russo for comments. He stated the effort has the support of the Select Board, and they want to ensure a thorough due diligence. He stated there are some time constraints associated with the acquisition.

Ms. Suedmeyer requested permission to take samples from Town conservation land and Water District owned parcels in wetlands jurisdiction that abut the corridor, should negotiations with CSX, to investigate certain contaminants, not meet the Town's expectation for due diligence. The Coordinator asked for some latitude in determining appropriate soil locations.

On motion by R. Morse, seconded by K. Rogers, the Commission voted unanimously to issue a Negative Determination of Applicability, via roll call vote.

On motion by R. Morse, seconded by K. Rogers, the Commission unanimously voted to allow soil borings to be drilled on adjacent Town Conservation Land under the direction of the Coordinator.

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

Chair Friedlander opened the 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.

Applicant, Andrew Goodman, presented his project, showing a plan and photos of several trees he felt were safety hazards. To mitigate for tree removal, Mr. Goodman said he would plant one tree or three shrubs for each tree removed. He also would like to remove invasive species on the property. He also sought permission to prune dead branches over the swing set and rear yard.

Coordinator Capone explained on-site resource area, including both isolated and bordering wetlands. She stated the entire property is in the Buffer Zone. There was a small area in the front that is isolated wetland where the majority of trees to be taken down are. She did not believe, given the replacement plantings and invasive species management, that the proposed tree removal would negatively impact the functions and values of wetland resource areas.

The Chair asked if any Commissioners wanted to visit the site, since the DEP number has yet to be issued. He requested the Coordinator set up a visit for Commissioners should they want to see the property.

On motion by R. Morse, seconded by B. Porter, the Commission voted unanimously, by roll call vote, to continue the hearing to October 19, 2020.

Certificate of Compliance:

Shkben Development, 12 Maynard Road, DEP #301-1205:

The Chair recognized Ben Maiden for a summary of the Request for a Partial Certificate of Compliance. Mr. Maiden was requesting a Partial Certificate in order to sell the property, recognizing there still was a monitoring season remaining on the restoration area. The Coordinator stated the new homeowners are aware of the requirement of the mitigation area, but want to be reassured the remainder of Order of Conditions has been satisfied, prior to purchase. She recommended the Commission issue a Partial Certificate of Compliance.

On motion by B. Porter, seconded by M. Sevier, the Commission voted unanimously, by roll call vote, to issue a Partial Certificate of Compliance.

Other Business:

Community Preservation Committee Membership:

The Chair requested the Commission reconsider the vote for the Commission's representative to the Community Preservation Committee. Chair Friedlander said he would like to continue serving but as D. Henkels had expressed an interest in serving, he asked the Commission to reconsider this appointment. The Commission voted 6-1 for D. Henkels to serve as the Commission's representative.

Update on Outstanding Fines for Wetland Violations:

The Chair asked for a report on the status of unpaid fines.

The Coordinator stated there were only two outstanding matters. The first was for 140 Barton Road which was issued two tickets for tree clearing: one to the homeowners and one to the tree service, one of which was paid. Coordinator Capone recommended the Commission not seek payment of the second ticket regarding this matter.

On motion by D. Henkels, second by B. Porter, the ticket was rescinded via unanimous roll call vote.

The Coordinator explained that the second outstanding matter involved 267 Landham Road, Gaston Safar, where there was \$1,300.00 in outstanding tickets. The Coordinator stated she had to do some further research on this property before she made any recommendations. Discussion was tabled for the Coordinator to research the issue and contact the landowner.

Conservation Commission Associate Membership:

The Chair wanted to discuss the role of the Associate member and if they could be a voting member should a quorum not be achieved in certain instances. The Coordinator reported that when the Commission was established under the Conservation Commission Act it establishes a Commission, comprised of not less than three and no more than seven members, to oversee management of Town conservation lands, but is silent on Associate membership. When the authority under the Wetlands Protection Act was established, Conservation Commissions established Associate members to assist with the land management responsibility as much time of the Commission was devoted to enforcement of the Wetlands Protection Act. Associate members are allowed to partake in the Wetlands Protection hearings, but are not permitted to vote.

The Chair asked for a motion to adjourn. On motion by R. Morse, seconded by M. Sevier, the Commission voted unanimously, by roll call, to adjourn the meeting at 8:10 PM.