



SUDBURY CONSERVATION COMMISSION
Meeting Minutes of Monday, September 13, 2021

Present: David Henkels, Chair; Ken Holtz, Vice-Chair; Jeremy Cook; Richard Morse; Kasey Rogers (6:51PM); Mark Sevier; Luke Faust, Associate Member; and, Lori Capone, Conservation Coordinator. Absent: Bruce Porter.

Chair Henkels opened the meeting virtually, under the MA Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw at 6:45 PM, via unanimous roll call vote. (K. Rogers was not in attendance for this vote.)

Chair Henkels asked if there were any comments on the minutes of June 21 and/or July 12, 2021, as drafted. No changes were noted. R. Morse moved to accept both sets of minutes, seconded by M. Sevier. Motion passed 5-0 by roll call vote. (J. Cook abstained, as he was not a Commissioner at the June 21st meeting and absent at the July 12th meeting. K. Rogers was not in attendance for this vote.)

Wetland Applications:

Notice of Intent: 34 Briant Drive: DEP #301-1352

Chair Henkels opened the Notice of Intent hearing to remove and replace trees within the 100-foot Buffer Zone. Coordinator Capone stated the Commission had closed the hearing, pending the DEP number, which we had not received within 21 days of closing the hearing, so a vote needed to be made to reopen the hearing. On motion by M. Sevier, seconded by R. Morse the hearing was reopened via unanimous roll call vote. There were no additional comments from the Commission or public.

R. Morse moved to close the hearing, seconded by K. Holtz, via unanimous roll call vote, the hearing was closed. R. Morse, seconded by M. Sevier, moved to issue the Order of Conditions. Via roll call vote the motion passed 5-0. (J. Cook abstained as he was not a Commissioner when this application was presented. K. Rogers was not in attendance for this hearing.)

Notice of Intent: 239 Concord Road: DEP #301-1351

Chair Henkels opened the Notice of Intent Hearing for the implementation of a Land Management Plan, and installation of a fence, within the 100-foot Buffer Zone. Coordinator Capone stated this was similar to the previous item, as it had been awaiting a DEP number.

On motion by R. Morse, seconded by K. Holtz, the hearing was reopened via unanimous roll call. The Chair opened the comments to the public, and as there were none, M. Sevier, seconded by R. Morse, the hearing was closed via roll call. (J. Cook abstained as he was not a Commissioner when this application was presented.)

R. Morse moved to issue the Order of Conditions, seconded by K. Holtz, via roll call, the vote was unanimous. (J. Cook abstained as he was not a Commissioner when this application was presented.)

Notice of Intent: 21 Phillips Road, DEP #301-1348:

Chair Henkels opened the Notice of Intent hearing for the removal of five trees and replanting of native trees and shrubs within the 100-foot Buffer Zone, continued from August 25, 2021. The Chair requested an update from the Coordinator. She stated some of the Commissioners attended the site visit to observe the work, which she was not able to attend. She said the mitigation was increased with additional shrub plantings. DEP had issued a comment about the tree that was in the wetland, asking that the lower portion remain in place as a snag and encouraged the Commission include this suggestion into the Order.

K. Holtz, reported he had been on site, he felt one tree could be left as a snag. He noted an addition of 20 shrubs and leaving the snag would be acceptable mitigation. He was concerned about the Knotweed, saying it was extensive. L. Faust (Associate member), said they had also asked about access to the trees being removed. Some access points were more challenging.

David Cowell, Hancock Associates, representing the homeowner, said the plan was to replant four shrubs per tree taken down around the cut stumps. The white pines seemed to be the highest priority. If the crane could access the trees from the driveway, the Applicant wanted to remove them, however, if they could not be accessed, she would abandon the additional two. R. Morse asked if that stipulation would be in the Order. There was discussion about whether the homeowner was willing to leave the snag as suggested by DEP. Mr. Cowell stated the snag could be left. Coordinator Capone indicated in the Special Conditions she had added both suggestions. There was discussion by the Commission about habitat coverage, and invasive management. The Applicant stated she did not want to use herbicides on her property. K. Holtz opined the treatment of the invasive species could be very costly and felt there was sufficient mitigation without adding invasive removal to the Order. Coordinator Capone added there was some dumping of materials which would be removed and a required Pre-Construction meeting with the Tree Service. There were no public comments.

R. Morse moved to close the hearing, seconded by M. Sevier, the hearing was closed via roll call vote. On motion by K. Holtz to issue the Order of Conditions as discussed, seconded M. Sevier, the Order was issued via roll call.

Notice of Intent: 51 Woodmere Road, DEP #301-1350:

Chair Henkels opened the Notice of Intent hearing for the construction of an addition and deck within the 100-foot Buffer Zone, continued from August 25, 2021 and recognized Coordinator Capone for her comments. She said they had been awaiting revised plan based on the discussion at the last meeting including mitigation to offset the construction, construction details site access, a dewatering plan, and that all outfalls be shown on the. She said the office had received the revised plans and mitigation included planting a four foot by 125-foot area of native shrubs adjacent to the wetland. She stated the source of the outfall has yet to be addressed.

David Cowell and Keith Downing of Hancock Associates, and Chris Curtin, the contractor, attended tonight's meeting on behalf of the applicant. Mr. Cowell updated the Commission on new information. He said the outfalls were not sump pumps, and opined they were for a French Drain around the foundation of the house. A photo was displayed of the site. Mr. Cowell proposed to tie the new French drain into one of the existing outfalls. Mr. Cowell said the majority of the addition is over existing house. M. Sevier expressed concern about the calculation provided for the new surface area, as well as the outfall not being identified, and questioned whether a dry well should be installed to manage the additional runoff. The Commissions discussed at length, the proposed increase in impervious surface and stormwater management, both improvements to the existing drainage and infiltration for any new runoff. Mr. Cowell briefly reviewed the planting mitigation area. The Commissioners recommended continuing the hearing to the next meeting to conduct a site visit with Mr. Cowell.

With no further discussion or public comments, on motion by R. Morse, seconded by K. Rogers, via roll call, the hearing was continued to September 27, 2021.

Notice of Intent: 18 Wolbach Road, DEP #301-1349:

Chair Henkels opened the Notice of Intent hearing to conduct tree removal and implement accessibility improvements within the 100-foot Buffer Zone, continued from August 25, 2021. The Chair stated the Applicant had requested a continuation to October 18, 2021 without discussion.

J. Cook moved the continuation, seconded by K. Holtz, via roll call, the hearing was continued to October 18, 2021.

Request for Determination of Applicability: 10 Wright Road, RDA #21-11:

Chair Henkels recognized the applicant to present his Request to install a geothermal well within the 100-foot Buffer Zone and 200-foot Riverfront Area.

Mr. Anwar Kashem presented his proposal to install a geothermal well to replace his gas heating system. The well would be 600 feet deep, accessed from his existing driveway. All other work would be inside the home. Coordinator Capone said this work is within lawn area outside the buffer zone, but within the outer riparian zone, and poses no negative impacts to resource areas. She requested erosion controls be installed to contain drillings and slurry generated by the installation. M. Sevier asked about a plan to remove drillings and soil from the site. Mr. Kashem stated the company he was planning on using would be amenable to removing this from the site. Coordinator Capone advised a Pre-construction meeting with the Company installing the geothermal well in order to ensure the project follows the requirements of the Determination. There was discussion about controls in the bore holes, if there was secondary containment, to which there appeared to be none.

With no further comments or public comments, on motion by J. Cook, seconded by M. Sevier to issue a Negative Determination #2 with conditions as discussed, the vote was unanimous via roll call.

Request for Determination of Applicability: 196 Greystone Lane, RDA #21-12:

Chair Henkels recognized the Applicants representative, Mike DiModica, for his presentation to replace the existing septic system within the 100-foot Buffer Zone. Mr. DiModica indicated the septic system had failed a Title 5 inspection, necessitating a replacement. He displayed the location of the new system and leach field. The alternative would be in an area that would increase disturbance to the lot. Coordinator Capone said the new system was closer to the wetland, but considering the existing site conditions, she concurred that this was the better alternative. She said under the Bylaw, the requirements could be more restrictive if the Commission desired. The Board of Health has reviewed and approved this design. She recommended a Negative Determination. There was no public comment.

K. Holtz moved, seconded by M. Sevier, to issue a Negative Determination #3. Via roll call, the vote was unanimous.

Notice of Intent: 48 Maplewood Avenue, DEP #301-13##:

Chair Henkels opened the Notice of Intent hearing to remove non-native trees and to convert a portion of existing lawn into a pollinator meadow, within the 100-foot Buffer Zone. The Chair recognized the Applicant, Joseph Luciano, for the presentation. Mr. Luciano displayed the plan, to replace the lawn with meadow, remove invasive species and replanting with native shrubs. He stated he wanted to remove Black Locust and replace with Silky Dogwood at some other point in the future. Coordinator Capone asked if the shed would be removed. The Applicant indicated he did not wish to remove it at this time. There was a ground hog living there, and they did not wish to disturb it at this time. Coordinator Capone stated there were some very large snags in the area, which she mentioned would remain in place. She commended the homeowner for the plan, and requested he install erosion controls using straw wattles, to which the Applicant agreed to. She explained the path that had been mowed to the water by the prior owner had revegetated itself well. There had been pallets placed in the trail because it was wet, to which the Applicant agreed to remove. There was discussion about the location of the buffer zone. The Commission had no further questions.

For public comment, the Chair recognized Mr. Kevin Plante, 27 Crystal Lake Drive. He wanted validation of the prior Notice of Violation from the previous homeowner, having mowed a path on his property to the water, saying he did not agree to adding a path over his private property, and hoped Mr. Luciano honored the terms of that Violation. Mr. Luciano agreed to removing the pallets, and would not trespass.

With no further discussion, as there was no DEP number issued for the project, R. Morse moved to continue the hearing to September 27, 2021, seconded by J. Cook. Via roll call, the vote was unanimous.

Notice of Intent: 18 Tavern Circle, DEP #301-13##:

Chair Henkels opened the Notice of Intent hearing to construct an addition within the 100-foot Buffer Zone and 200-foot Riverfront Area. The Chair recognized Mr. Patrick Gardner, representative for the Applicants, Shafiqul

and Shahnaz Islam.

Mr. Garner began the presentation with a plan of the proposed project. The entire site is within riverfront. The addition is proposed to be constructed on piers, within a disturbed area of lawn. Coordinator Capone stated the site was a peninsula, surrounded by wetlands, developed prior to the Wetlands Protection Act. She had no concerns about the addition, as any equipment would be small, drainage would be allowed to infiltrate under the structure, and mitigation had been provided. She was unsure about the need for a deck being added. The Applicant agreed to a Perpetual Condition that would restrict the deck from being enclosed in the future. Given the site complexities and the small impact to the resource area, she encouraged issuing an Order.

There was a question whether the additional would require any septic upgrades, which it did not. R. Morse had questions about elevations, to which the applicant stated there was no proposed grade change. There would be a small change to the downspout with the extension. There was discussion about the additional roofing, for draining purposes. Mr. Gardner indicated there would be no erosion as the result of this project. L. Capone stated she was satisfied with mitigation, which included the restoration of a portion of the yard to native species, but recommended the area be seeded with a native seed mix. Mr. Gardner stated the plan was to leave the area undisturbed rather than adding soil. Coordinator Capone was agreeable to leaving the area as is as it was more moss than lawn.

With no further discussion or public comment, as DEP has not issued a file number yet, R. Morse made a motion to continue the hearing until September 27, 2021. Seconded by J. Cook, the vote was unanimous, via roll call.

Certificate of Compliance:

Ronald Ham: 135 Union Avenue, DEP #301-887: Construction of an addition and screened porch.

Chair Henkels asked for comments from Coordinator Capone. She stated the additional was constructed per plan and a vegetated buffer was established between the wetland and lawn, which met with the requirements of the Order. She recommended issuing a Certificate of Compliance.

J. Cook moved to issue a Certificate of Compliance, seconded by R. Morse, via roll call, the vote was unanimous.

G. Burton Mullen, 22 and 23 Union Avenue, DEP #301-117: Construction of an ATM and associated parking. Chair Henkels recognized Coordinator Capone who stated this Order was very old, having no actual file on record. She stated from the information retrieved, and upon inspection of the site, she recommended a Certificate of Compliance be issued.

On motion by J. Cook, seconded by R. Morse, to issue a Certificate of Compliance, via roll call vote, the vote was unanimous.

Conservation Restriction

24 Tippling Rock Road: Bryan Coffey: Acceptance of a 1+/- acre Conservation Restriction.

Coordinator Capone stated this CR was the result of an Order of Conditions to which one of the conditions was to place this particular area under a Conservation Restriction. She has worked with the applicant to complete the CR and the Baseline Documentation Report and recommended approval. All documents have been approved by the parties involved.

On motion by K. Holtz seconded by J. Cook, via unanimous roll call vote, the Restriction was accepted pursuant to M.G.L. Ch. 148 Sections 31, 32, and 33.

Other Business:

Baseflow and Baseline Water Quality Monitoring Program: Eversource Transmission Line – DCR Mass Central Rail Trail Project

Coordinator Capone reviewed the protocols for the Water Quality Monitoring Program developed for the Transmission Line – Rail Trail Project, to ensure work does not result in deleterious impacts to water quality. She

had made some slight modifications, including a pre and post-disturbance sampling for nitrogen and phosphorus, both up and down stream of the project site. She recommended approval of the program. The intent is to start as soon as possible to obtain baseline data. Marc Bergeron, Epsilon Associates, for Eversource, updated the Commission on the status of the Transmission Project. Coordinator Capone stated the results and analysis would be provided consistently throughout construction, if there were any issues, the Commission could choose action if deemed necessary. She said to have the baseline now is preferred, if, in the future the numbers are substantially different, then action could be taken quickly. There was discussion of who is monitoring this, who pays for it, and if OARS who evaluates the waterway could be engaged as a check. M. Bergeron stated he was comfortable with the process and the data to be shared. There were some general concerns about the possibility of issues that could be unreported. M. Bergeron stated the results would initially be weekly and then monthly. The Commission would have the ability to consider the information as it is presented. Mr. Bergeron stated the Applicant (Eversource), is amenable to sharing all information with the Commission, and that the Coordinator would be overseeing the flow of information.

On motion by M. Sevier, seconded by R. Morse, to approve with the Baseflow and Baseline Water Quality Monitoring Program. Vote was unanimous via roll call.

Nobscot Reservation: Notice of Violation

Coordinator Capone reviewed the recent violation that occurred at Nobscot Reservation. The Scout volunteer crew had used a backhoe to remove rocks and soil from the trails, widen some the areas, installed drainage swales, and removed large rocks that were impacting the ability of the trucks to traverse the area. They have destabilized a substantial area of trails, some directly adjacent to wetlands and some with steep slopes. There were no erosion controls put in place and subsequent heavy rain events lead to extensive erosion. She displayed the photos of the violation area, updating the Commission on actions to be taken. The Boy Scouts have since hired professional consultants, an engineer and environmental restoration firm, to develop a plan and install erosion control measures for the winter months. There would be a Notice of Intent filed after a restoration plan was developed. She invited the Commissioners to visit the site. She stated many of the people doing work on the Reservation are volunteers, and were not aware of the damage done. The restoration will be very involved. As there is new management, there will be more oversight in the future. The Coordinator expects the short-term plan to be ready within the month.

Community Preservation Act Applications

Coordinator Capone informed the Commission she had been asked to work with the Planning Office and Parks and Recreation to submit a CPC Application to complete an update of the Open Space and Recreation Plan. She is also submitting an application for monitoring funds for Sudbury Valley Trustees (SVT) to oversee the Libby/Dickson Conservation Restriction that has recently been signed. She said when SVT is involved with CR and/or land purchases they fund raise, but they did not have the opportunity to do that when these properties were purchased, so they were asking the Town to help offset the costs.

With no further business, on motion by M. Sevier, seconded by R. Morse, via roll call, the meeting was adjourned at 9:32 PM.