



SUDBURY CONSERVATION COMMISSION **Meeting Minutes of Monday, September 27, 2021**

Present: David Henkels, Chair; Ken Holtz, Vice Chair; Jeremy Cook; Bruce Porter; Richard Morse; Kasey Rogers; Mark Sevier (6:49 PM); Luke Faust, Associate Member; and, Lori Capone, Conservation Coordinator

Chair Henkels opened the meeting under the MA Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw at 6:45 PM, via roll call vote.

Chair Henkels asked for comments or edits on draft minutes of the July 26, 2021 and August 9, 2021 meetings. On motion by J. Cook, seconded by R. Morse, to approve the minutes from both meetings, the roll call vote was unanimous.

Chair Henkels asked for comments on the draft minutes of the August 23, 2021 meeting. On motion by R. Morse, seconded by J. Cook, to approve the minutes of August 23, 2021, the motion passed 5-0 via roll call. K. Rogers and K. Holtz abstained as they did not attend the August 23rd meeting.

Notice of Intent: 74 and 80 Maynard Road: Bonnie Brook Realty Corp., DEP #301-1341:

Chair Henkels opened the Notice of Intent hearing for the construction of a roadway and associated drainage system and utilities in the 100-foot Buffer Zone and Adjacent Upland Resource Area for a 9-lot residential subdivision, last continued from August, 2021.

The Chair requested an update from the Applicant on their meeting with the Planning Board. Desheng Wang, Creative Land and Water Engineering, Inc., said the Planning Board requested the Stormwater Application be submitted before they hear the entire presentation, and continued the hearing to October 27. The Chair asked if the Planning Board had requested the subdivision be redesigned into a Conservation Cluster. Mr. Derderian expressed concern that the plan had not been heard. The Coordinator said if a Cluster Subdivision was requested, this would substantially change the plan being presented.

Mr. Wang presented the current design, which expanded the amount on land being set aside for open space. He noted the amount of land offered as mitigation is almost akin to an Open Space development and allowed for wildlife connectivity between two conservation holdings. The Chair asked about the development of Lot 5. Mr. Wang said 7.41 acres would be protected in perpetuity: Lot 5 would be retained by the developer as an unbuildable lot under current regulations. Coordinator Capone said she felt the proposal was an improvement from the previous plan. She said it did connect the two conservation areas and felt the proposed impact to buffer zone was substantially in compliance with the Commissions expectation. M. Sevier questioned what would happen on Lot 5, to which Mr. Wang stated with the current bylaw the lot could not be built on. The Owner was going to hold on to the land until and if laws changed that could open this lot for development. Chair Henkels asked if there was a significant amount of fill being brought in or removed from the site. Bruce Saluk, Bruce Saluk and Associates, Inc., stated that the front portion of the site would provide most of the fill needed for the middle of the site. K. Rogers asked if there was concern about approval now due to the outstanding Stormwater Management peer review that would be completed through the Planning Office. Coordinator Capone said this application would be continued until the Stormwater Permit was issued and the Planning Board had vetted the project. The Applicant asked for some indication about the Commissions sense of the project with the added mitigation, as they felt any positive input would be helpful for the Applicant.

J. Cook moved to table the hearing until later in the evening due to technical issues the Chair was having, seconded by K. Rogers, via roll call, the discussion was tabled. At 7:57 PM the Commission returned to the hearing that had been deferred previously. Coordinator Capone said the public comments could be considered at this point. The Chair asked if the responses were on the web, to which the Coordinator stated they were. The

Chair then recognized Anna Bhattacharya, 84 Maynard Road, for her comment. She asked questions about grading, retaining walls, and impacts to vegetation of abutting properties. Coordinator Capone said the area was not densely vegetated, she said erosion controls were being placed at the edge of disturbance and grades would be tied into existing grades so there are not impacts to vegetation outside the limit of work. Mr. Wang did not feel there would be negative impacts to upland trees upgradient of erosion controls. M. Sevier expressed concern with placing a retaining wall and grading up to the lot line. Mr. Saluk explained that the wall would be about one foot off the lot line and excavation was only needed eight inches below the existing grade to install the retaining wall. Coordinator Capone explained that the Planning Board could request a tree protection plan for trees on adjacent properties to protect them during construction.

Peter Luciano, 48 Maplewood Avenue, questioned the applicant response to the loss and reestablishment of snags, asking how that would be accomplished. Coordinator Capone explained that was proposed on a recent project and was found not be awfully feasible.

Chair Henkels asked for feedback on the proposed mitigation. The Commission expressed support that the proposed mitigation offsets the proposed impacts to the Adjacent Upland Resource Area but continued to have concerns with the buildability of Lot 5.

With no additional discussion, on motion by K. Rogers to continue the hearing to November 1, 2021, seconded by B. Porter, the vote was unanimous, via roll call.

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

Due to Chair Henkels having had technical difficulties, Vice Chair Holtz opened the Notice of Intent hearing for the construction of an addition and deck within the 100-foot Buffer Zone, last continued from September 13, 2021.

David Cowell, Hancock Associates, provided a project update. He stated in response to the Commission request, the Applicant proposed to place a dry well to the west of the addition. He stated a third discharge was discovered which they believed was from the walk-out basement. He said they have also reoriented the proposed mitigation area to restore an area adjacent the wetland that was currently degraded.

There was much discussion about existing and proposed discharge of drainage. M. Sevier felt strongly that the project provided the opportunity to infiltrate all drainage, eliminating the direct discharge occurring to wetlands. Looking at the architectural plans, it was determined that the proposed dry well would capture half of the roof runoff from the proposed addition, but would also capture and infiltrate runoff from the existing house, that is currently being discharged to wetlands, to offset the new runoff from the proposed addition that was not being infiltrated.

There was discussion on the design and capacity of the dry well and it was determined that drainage calculations would be provided for review and approval prior to commencement of work. The Commission deliberated whether the information presented was sufficient to move forward.

With no additional discussion or public comments, R. Morse moved to close the hearing, seconded by J. Cook. Via roll call vote, the Commission voted unanimously to close the hearing. On motion by R. Morse, seconded by J. Cook to issue the Order of Conditions as discussed, via roll call, the vote was unanimous.

Notice of Intent: 48 Maplewood Avenue, DEP #301-1357:

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, which was heard at the September 13, 2021, and was continued for the issuance of a DEP number. Coordinator Capone stated the project has received a DEP number, and encouraged the Commission to close the hearing and issue the Order of Conditions.

With no Commissioner or public comments, on motion by K. Holtz, seconded by R. Morse, the hearing was

closed by unanimous roll call vote. K. Holtz moved to issue the Order of Conditions, seconded by J. Cook, via unanimous roll call vote, the Order was issued.

Notice of Intent: 18 Tavern Circle, DEP #301-1356:

Chair Henkels opened the Notice of Intent hearing to construct an addition within the 100-foot Buffer Zone and 200-foot Riverfront Area, continued from September 13, 2021. Coordinator Capone updated the Commission on a change to the request to construct the additional on a foundation as opposed to the previously discussed pilings. The Contractor stated a foundation made more sense to avoid any shifting of the addition. The footprint would remain the same, but the equipment would change. She said the plan had been amended to reflect the changes. She gave some detail about the new erosion controls and said the only thing she would encourage the Commission to discuss further was if there should be a dry well to infiltrate roof runoff from the addition. There was discussion about the changes. The Wetland Scientist, Patrick Garner of Patrick C. Garner Co. Inc., and the Contractor Duffy McNulty were present to address questions. Mr. McNulty explained that he did not believe there was much more excavation involved with a foundation. Mr. Garner explained that the applicant was willing to install a dry well to infiltrate roof runoff from the proposed addition, which has been sized and included on the revised plan.

The Chair opened the hearing to the public. There were no comments. M. Sevier moved to close the hearing, seconded by J. Cook, the vote was unanimous via roll call. R. Morse moved to issue the Order of Conditions, with the Special Condition to include the dry well, seconded by K. Holtz, the vote was unanimous via roll call.

Notice of Intent: 40 Powers Road, DEP #301-1354:

Chair Henkels opened the Notice of Intent hearing to remove two trees within the 100-foot Buffer Zone and Adjacent Upland Resource Area. The Chair recognized the applicants, Doug and Geri Potter, for their presentation. Mr. Potter said there were two large pine trees across the street from their property which they wanted to remove with the permission of the homeowners, the Tupta family. He said the trees are extremely large and loom over their home. They feared if there were a weather event the trees could come down. He stated they would replace these trees with White Cedars as mitigation. The Chair thanked him and recognized Coordinator Capone for comment. She said these trees are located right on the wetland line, the trees were not unhealthy, but she understood the fear the homeowner had. The wetland and area adjacent to the wetland was otherwise well vegetated.

On motion by B. Porter to close the hearing, seconded by M. Sevier, all voted in the affirmative via roll call. On motion by B. Porter, seconded by R. Morse, to issue the Order of Conditions, the motion passed 6-1 via roll call, K. Rogers voting nay.

Notice of Intent: 22 Fox Run Road, DEP #301-1353:

Chair Henkels opened the Notice of Intent hearing for after-the-fact permission for tree removal and restoration within the 100-foot Buffer Zone and Adjacent Upland Resource Area. The Chair recognized Mr. Brindisi for his presentation. Mr. Brindisi apologized for the tree removal without a permit, he did not understand he needed a permit for his front yard. He stated he noticed a split in several trees in his yard. The tree service recommended these trees be removed. They were considered damaged and a danger to the home if they fell. As such, they had the trees removed on August 9. He stated there had been other incidents of trees falling near their home in the past. He proposed planting 32 blueberry shrubs that are native to the area as mitigation. He stated he was open to doing some invasive removal as well.

Coordinator Capone explained there had been some saplings removed and one large pine tree in the process of being removed, when she arrived on-site. She evaluated the additional two trees that were going to be removed. These two trees were clearly diseased so she had approved their removal. She felt the mitigation would offset any impact this removal had. Luke Faust recommended the mitigation plantings consist of half lowbush blueberry and half highbush blueberry. R. Morse asked about the tree company bearing any responsibility for the wetlands, to which Coordinator Capone stated the Act places responsibility directly on the homeowner.

As there were no questions from the public, K. Holtz moved to close the hearing, seconded by J. Cook. The vote via roll call was unanimous. On motion by R. Morse, seconded by M. Sevier, the Order of Conditions was issued via unanimous roll call vote.

Notice of Intent: 191 Landham Road, DEP #301-1355:

Chair Henkels opened the Notice of Intent hearing to remove invasive shrubs and replace with native meadow/shrubland species within the 100-foot Buffer Zone and 200-foot Riverfront Area. K. Holtz abstained from sitting on the Commission for this hearing, as he is an abutter to the project. The Chair recognized the Applicant, Stephen Wilkinson, and his consultant, Ryan Corrigan of Parterre Ecological Consultants.

Ryan Corrigan presented the plan to remove invasive species and replant the area with native species, within the buffer zone and outer riparian zone. He noted the invasives that were overtaking the existing vegetation. He displayed photos of the site and shared a plant list to be added to the meadow. He stated it would create a healthier more diverse wetland buffer. The Chair asked about the method for removing the invasives. Mr. Corrigan said it would be conducted using a cut and dab approach to minimize disturbance of the area. He stated the herbicide treatment would be conducted when there no rain in the forecast. The material would be removed from the site, however, woody debris would be used to create habitat piles. Coordinator Capone asked about the proposed application of herbicide to the mugwort, identified in the Notice of Intent as a stem swipe application. Mr. Corrigan stated ideally, they would apply foam just to the stem of the cut mugwort. Coordinator Capone said this is a very dense area and will require an enormous amount of work. She stated the only alternative to using herbicide is to completely remove them by digging up the entire area, which she did not recommend. She recommended approval, noting the homeowner also had a mowing plan when the meadow was established. She appreciated the homeowner being willing to enter into this challenging project.

The Chair asked for questions from the public. As there were none, on motion by B. Porter, seconded by R. Morse the hearing was closed via unanimous roll call vote. On motion by B. Porter, seconded by J. Cook, the Order of Conditions was issued via unanimous roll call vote.

Extension Request: Ken Holtz: 175 Landham Road, DEP #301-1248: One-year Extension Request for addition.

Ken Holtz abstained from the acting on this request, as petitioner of this project.

Coordinator Capone stated most of the work has been completed, including the required mitigation, but more time was needed to complete construction and stabilize the site, recommending the Commission issue a one-year extension to the Order of Conditions. On motion by J. Cook, seconded by K. Rogers, via unanimous roll call vote, the Extension was granted.

Request for Certificate of Compliance Jo-Ann Howe: 38 Birchwood Avenue, DEP #301-814: For the construction of a house.

Coordinator Capone stated the Commission was waiting for the Conservation Restriction to be recorded before issuing the Certificate of Compliance, which has just been completed.

On motion by B. Porter, seconded by R. Morse, via unanimous roll call vote, the Certificate of Compliance was issued.

Request for Certificate of Compliance: Bryan Coffey: 24 Tippling Rock Road, DEP #301-1210: For construction of an addition.

Coordinator Capone stated this also required a Conservation Restriction which had all documentation needed. She recommended issuing the Certificate. This property was currently under a Purchase and Sales Agreement and all documents would be recorded at the time of closing.

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

With no further business, on motion by R. Morse, seconded by M. Sevier, the meeting was adjourned via roll call vote at 9:05 PM.