



## **SUDBURY CONSERVATION COMMISSION MINUTES**

### **Meeting Minutes of Monday, May 23, 2022**

**Present:** David Henkels, Chair; Ken Holtz, Vice Chair; Bruce Porter; Mark Sevier; Richard Morse; Jeremy Cook; Luke Faust, Associate Commissioner; and, Lori Capone, Conservation Coordinator

**Absent:** Kasey Rogers

The meeting was called to Order by Chair Henkels at 6:45 pm.

#### **Minutes**

On motion by R. Morse to accept the minutes for the February 28, March 14 and March 28, 2022 meetings, seconded by B. Porter, via roll call the vote was unanimous in the affirmative.

On motion by R. Morse to accept the minutes for the April 11 and April 25, 2022 meetings, seconded by K. Holtz, with J. Cook abstaining, via roll call the vote was unanimous in the affirmative.

#### **Wetland Applications:**

##### **Notice of Intent: 73 Weir Hill Road, US Fish and Wildlife Service, DEP # 301-1368:**

Chair Henkels re-opened the Notice of Intent hearing to implement a long-term vegetation management plan for invasive water chestnut in the Sudbury River, between Sherman's Bridge Road and Route 27, Sudbury MA, within the Land Under Water and Waterways, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw, continued from the May 9, 2022 meeting.

Coordinator Capone reported that MassWildlife's Natural Heritage & Endangered Species Program has reviewed the Notice of Intent and provided conditions, which are incorporated into the Order of Conditions, to protect marsh shorebirds. Coordinator Capone stated that the special conditions are similar to those issued for water chestnut treatment in the Hop Brook mill ponds, but the water quality sampling program requirements are tailored for riverine nature of the project location. The applicant has reviewed the Order and requested two modifications/clarifications: timing of treatment and water quality testing requirements, which were discussed. The herbicide treatment timeline was adjusted to minimize the amount of decaying biomass and setting of seeds. Ms. Koch states that there was concern that herbicide applied after September 1 could impact marsh bird chicks. There were no questions from the public.

On motion by R. Morse to close the Hearing, seconded by B. Porter, via roll call the vote was unanimous in the affirmative.

On motion by K. Holtz to issue the Order of Conditions, seconded by B. Porter, via roll call the vote was unanimous in the affirmative.

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

Chair Henkels re-opened the Notice of Intent hearing to construct a roadway and associated drainage system and utilities within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw, continued from the April 11, 2022 meeting.

Chair Henkels stated that the applicant has requested this Hearing be continued to August 22, without discussion.

On motion by B. Porter to continue the Hearing to August 22, 2022, seconded by J. Cook, via roll call the vote was unanimous in the affirmative.

**Request for Determination of Applicability:96 Cutler Farm Road, RDA #22-10:**

Chair Henkels recognized the Applicants for their presentation to reconstruct after-the-fact an existing patio, construct a retaining wall and construct a new patio within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw.

Coordinator Capone stated she received an inquiry about heavy machinery operating on the site. A site visit revealed that work was being done to replace the patio and build a retaining wall, with machinery accessing the site via a path across the backyard. The applicants were unaware of the 100-foot buffer, and stopped work immediately upon request. An infiltration system will be needed to intercept drainage from the new patio, and the applicants have agreed to remove buckthorn along the tree line, to mitigate for the project.

Mr. Heckler shared a plan to install a retaining wall roughly 3 feet from the back of the new patio. A shed will be relocated to behind the driveway, further from the pond. Their engineer recommended the installation of an infiltration trench to infiltrate run off from the new patio. Mr. Heckler indicated the he measured 65 feet from the trench to the pond edge.

B. Porter asked about mitigation efforts to date. Mr. Heckler replied that there was an existing dry well that will be replaced by a 4-inch diameter drainage pipe running from the patio to the trench. Some buckthorn and burning bush have been removed already. B. Porter further asks about the disturbed area of lawn. Mr. Heckler replied that there was an incident where the lawn was damaged from removing a truck that had gotten stuck, so fill was brought in to stabilize the area. Mr. Heckler confirmed that all this material would be removed following construction and the yard would be restored to pre-existing conditions.

After confirming that the Hecklers will be installing new plants, K. Holtz recommends that they refer to the native species list. Further discussion determined that the shed is 10-feet by 12-feet, and would be placed on blocks. Also, the new patio will be higher than the original. R. Morse observed that most of the structures on the property are within the 100-foot Buffer Zone. There were no questions from the public.

On motion by M. Sevier to issue a Negative Determination of Applicability #3, seconded by J. Cook, via roll call the vote was unanimous in the affirmative.

**Notice of Intent: 58 Longfellow Road, DEP #301-1369:**

Chair Henkels opened the Notice of Intent hearing to construct a handicap accessible addition within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw.

Coordinator Capone reported that the DEP File number for this project has recently been received. The Chair then recognized the applicant for their presentation. Mr. Sorett stated that the goal of the project was to improve handicap accessibility in his home. The work is being done in an area where trees had been removed previously. The plan includes a provision for the removal of invasives and lawn, to be replaced with native plants to create a native buffer to the pond. No basement is planned for the addition, and heavy equipment will enter directly from the street. Runoff will be captured in a gravel trench running alongside the house. Coordinator Capone confirmed that there is no other location on the property that would be suitable for this project.

The Chair then recognized the Commissioners for their questions. R. Morse expressed concern about run off. The following discussion determined that the roof will pitch to the side of the addition, and that runoff will infiltrate into gravel around the addition. The two sloping sides will face away from the pond, and the land between the project site and pond is flat. K. Holtz asked if there will be rain gutters installed, and whether a special condition is required to ensure future homeowners do not remove them. Coordinator Capone re-emphasized the flatness of local topography, which negates the need for gutters. The Chair recommended the continuation of the Hearing to allow for the development of a planting plan. There were no questions from the public.

On motion by M. Sevier to continue the Hearing to June 6, 2022, seconded by R. Morse, via roll call the vote was unanimous in the affirmative.

**Request for Determination of Applicability:236 Old Lancaster Road, RDA #22-11:**

Chair Henkels recognized the Applicant for their presentation to remove vegetation after-the-fact, install mitigation plantings, reconstruct an existing retaining wall, and construct a new retaining wall within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw.

Mr. Cho reported that he inadvertently removed trees from the buffer in November, 2021, and he is eager to replant them. He would like to replace the existing retaining wall, which is degraded, and add a new retaining wall as well.

Coordinator Capone reported that the resource area is a certified vernal pool on the adjacent property. The trees that were removed were young pines. They will be replaced with berry-producing, native shrubs. Two wooden platforms will also be removed. A new swimming pool was installed and is exempt under the Act and Bylaw. The proposed retaining wall would support the pool. A bobcat will be used for work on the retaining walls, while planting will be done by hand. Burning bush and bittersweet on site will be removed. Most work is to be completed by June 15 of this year, except that disturbed areas around the pool will be replanted by October, 2022.

The Chair then recognized the Commissioners for their questions. A brief discussion followed, in which it was determined that erosion controls for the project are already in place. Access to the site is possible to the right of the house. Coordinator Capone reported that the erosion controls are performing adequately. The pool is filled with salt water and is does not require dewatering. There were no questions from the public.

On motion by R. Morse to issue a Negative Determination of Applicability #3, seconded by M. Sevier, via roll call the vote was unanimous in the affirmative.

**Other Business**

**Eversource Underground Transmission Line, DEP File #301-1287:**

Mr. Marc Bergeron of Epsilon Associates, on behalf of Eversource, provided an update on the review and approval of the Environmental Compliance Manual. This document is intended to be a reference manual for contractors and environmental monitors. It presents the key compliance issues of the project, organized by topic. A Stormwater Pollution Prevention Plan is also included. Some sections have been updated, including sections pertaining to erosion controls and baselines. Coordinator Capone has reviewed both documents and comments have been incorporated into the final draft.

There followed some discussion with the Commissioners and Coordinator. Coordinator Capone observed that the Riverfront and Buffer Zones were removed from the plan set and asked the Commission whether they were comfortable with this change. This change was intended to make the plans more readable since the majority of the site falls within these designated areas. The Commission was comfortable with these lines being removed from the plan with the understanding that the contractor will control the site with the assumption that work is within jurisdiction.

On motion by J. Cook to approve the Environmental Compliance Manual, seconded by B. Porter, via roll call the vote was unanimous in the affirmative.

**Notice of Violation**

**88 Warren Road**

Coordinator Capone stated that the owners have cleared undergrowth just beyond a stream running through the center of the property. Ground disturbance was minimal and no impervious surface was installed. There are a lot of invasives adjacent to the clearing, suggesting that much of the removed vegetation was invasive. The area is flat,

and the clearing extends to the edge of the stream. Restoration was recommended, in addition to demarcation of the wetland edge by a wetland scientist.

The homeowners' representative, Attorney Joshua Fox, stated that the stream is intermittent, and frequently dries up in the summer. It captures run-off from the street, and follows a drainage easement. The footbridge crossing the stream replaced an older, unsafe bridge that was present before the current owners purchased the property. No heavy machinery was used for clearing. The play areas are lined with woodchips. The surface area of all installed amenities is between 1,500-2,000 square feet, and is all pervious. The homeowners propose to install two dozen native shrubs in the cleared area to mitigate for the work that was conducted.

Atty. Fox went on to discuss the removal of trees on the property following a storm event in 2018. A large, mature tree fell on the house. Additionally, three or four other trees were subsequently determined to be dangerous by an arborist. These were all towards the front yard. Coordinator Deborah Dineen approved their removal on an emergency basis.

The homeowners, Thomas and Jill Sorrentino, expressed concern about the safety of their children if they could not use the backyard space to play. They are very eager to work with the Commission to resolve this violation.

Chair Henkels prompted the Commissioners for their questions. After some discussion, it was revealed that regrowth in the clearing includes ferns, garlic mustard, and poison ivy. There is a willow tree being strangled by climbing vines, but as this is not threatening the house, K. Holtz suggests that this be kept for its value as habitat. Consideration will be given to the location of the new native shrubs.

The Commission determined that the homeowners should proceed by filing a Request for Determination of Applicability with a planting plan.

### New Select Board Liaison

Lisa Kouchakdjian introduced herself to the Commission. She will replace Charles Russo as liaison.

### Certificates of Compliance

#### **36 Willis Road, DEP #301-1300:**

Coordinator Capone stated the project involved repairing and extending a deck, which was satisfactorily completed.

On motion by J. Cook to issue a Certificate of Compliance, seconded by K. Holtz, via roll call the vote was unanimous in the affirmative.

#### **40 Powers Road, DEP #301-1354:**

The Coordinator stated the project involved the removal of two pine trees threatening the house, with the condition that they be replaced. Mr. Doug Potter planted six, in the hopes that at least three would survive.

On motion by B. Porter to issue a Certificate of Compliance, seconded by R. Morse, via roll call the vote was unanimous in the affirmative.

### Adjourn Meeting

With no further business, on motion by B. Porter, seconded by J. Cook, the Commission voted unanimously to adjourn the meeting at 8:53 PM.