



SUDBURY CONSERVATION COMMISSION MINUTES
Meeting Minutes of Monday, August 8, 2022

Present: David Henkels, Chair; Ken Holtz, Vice Chair; Jeremy Cook (7:28 PM); Richard Morse; Kasey Rogers; Mark Sevier; and Lori Capone, Conservation Coordinator

Absent: Bruce Porter and Luke Faust, Associate Member

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

Wetland Applications:

Request for Determination of Applicability: Lincoln Road and Lincoln Lane, RDA #22-14

Chair Henkels recognized Mr. Jeremy Degler of Tighe & Bond, Inc for his presentation to install a gas main within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw.

Mr. Degler stated that a gas main will be installed within Lincoln Road, running 9,090 feet from west to east. To avoid road closures, a short, two-foot wide trench section will be excavated and then filled as the installation proceeds. Installation work will also take place on the Lincoln Lane spur. He described five jurisdictional resource areas near the project site. The total impact will be 3,228 square feet within the 100-foot buffer zone.

Coordinator Capone reported that there is little infrastructure in the road that would interfere with the project. One exception is a culvert in front of the Lincoln-Sudbury High School.

Coordinator Capone asked for additional information regarding erosion controls. It is unclear how and when the controls would be installed given that only a small section of the road will be excavated at any given time. Specific mention was made of silt sacs. Additional clarification was requested regarding the availability of suitable space for dewatering. Mr. Degler replied that silt sacs would only be installed as needed, such as during a rain event. He will request the additional information from the contractors. Coordinator Capone expressed support for the issuance of the Determination of Applicability with standard conditions, except that she is to be contacted if dewatering is required.

A discussion between the Commissioners and Mr. Degler further clarified several additional points. The erosion controls will generally be taken away as each excavated section is resurfaced, with limited exception. Coordinator Capone explained that the culvert in front of the high school is buried deeply enough that the shallow excavation should not interfere with it. Mr. Degler confirmed that this will be a new line for residential use only.

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

Request for Determination of Applicability: 96 Warren Road, RDA #22-17

Chair Henkels recognized the representative for the applicant, Mr. Ted Doucette of Doucette Engineering, Inc., for his presentation wherein he proposed to replace a residential septic system within the 100-foot Buffer Zone and 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw.

Mr. Doucette stated that the residential septic system for this property is in failure. Much of the existing lot was wetland which was filled when the property was built. There is a perennial brook on the site. A lot of fill must be excavated and replaced with septic sand. The system will serve a four-bedroom home. The plan is to put a new septic tank in roughly the same location as the current tank. The new tank will be a 2-compartment, 1,500 gallon

model. The entire system will be just outside the Buffer Zone, with the exception of the tank. This will be a Presby innovative/alternative system, which allows for a smaller size and will reduce the groundwater offset. It is believed to be an improvement over the existing system.

Coordinator Capone reported that the proposed location for the project is the most logical. It is entirely covered with lawn. One tree will be removed during the excavation. The impact on the Riverfront and Buffer will be minimal since there is no change in use. The Board of Health has reviewed and approved the plan. There is a small area of lawn which has encroached into the wetlands which should be revegetated with native shrubs to discourage yard waste dumping. There are also 4-5 piles of lawn clippings and branches that should be manually removed. She recommends that the shrubs be planted in a scattered pattern with 1-2 shrubs along the new edge of the lawn.

Chair Henkels asked whether boundary markers out to be installed. Coordinate Capone stated that the native plantings should make the boundary obvious.

On motion by Comm. Holtz to issue a Negative Determination of Applicability #2 and #3, seconded by Comm. Rogers, via roll call the vote was unanimous in the affirmative.

Notice of Intent: 57 Willis Lake Drive, DEP #301-TBD:

Chair Henkels opened the Notice of Intent hearing to install landscape improvements, including removing an existing retaining wall, construction of new retaining walls, steps, front walkway and terrace within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Mr. Peter Ferland of Sudbury Design Group, was recognized for his presentation on behalf of the applicants, Kraig Theriault & Ellen Goldstein. As he is a neighbor to the applicant, Comm. Sevier recused himself from the hearing.

Mr. Ferland stated that this is a ½ acre site, with a 1995 colonial-style home. A line of vegetation extends along the south border from the driveway to the shed. There is an existing fence running north to south, a vernal pool in the northwest corner, and open lawn on the remainder. All but the southeast corner is within 100 feet of the vernal pool. He proposes to install a concrete block wall along the existing fence line, with a new fence above it. A permeable paver terrace will be installed under the existing deck, and a small retaining sitting wall north of the terrace. Additionally, the existing front steps will be replaced with masonry steps and a portico, and the front walkway will be replaced with permeable paver. Three trees on the south side will be removed, as they are leaning towards the house. Invasive plants will be removed and replaced with 1,200 square feet of native plants. A bat house will also be installed.

Coordinate Capone reported that access will be to the left of the house, furthest from the wetlands. There will be no equipment operating below the wall near the vernal pool. There is a question of whether there is sufficient space for the 282 plants included in the mitigation plan. Regrading will not substantially reduce flow to the vernal pool, as most is entering from other directions. Since there is no DEP File#, she recommends continuing the hearing until the next meeting.

In response to questions from Comm. Rogers, Mr. Ferland replied that the retaining wall is needed to prevent the erosion of the backyard towards the wetlands. There will be no regrading in the space between the vernal pool and the 6” stone pad required for the wall. Dirt will be hauled out as it is removed. Coordinator Capone added that, due the relatively shallow grade on the property compared to others nearby, the loss of flow would be relatively little.

In response to questions from Comm. Morse, Mr. Ferland replied that this is a standard gravity wall consisting of concrete blocks resting on a crushed stone pad, with filter fabric behind the wall. The height will vary but not exceed 4 ½ feet at any point. He was uncertain as to whether tiebacks would be used to fortify the wall.

In response to questions from Comm. Holtz, Mr. Ferland replied that the retaining wall blocks are purpose-designed, with grooves for interlocking. Regarding the trees to be removed, they are healthy but very large, with

two are leaning towards the applicants' house and the third towards an abutters' house. There is a chance that one near the garage would also hinder access.

In response to questions from Chair Henkels, Mr. Ferland replied that the plan is to use straw wattles for erosion control, but they are open to alternatives. In his capacity as a member of the public, Mark Sevier clarified that since the wall is on gravel, will use filter fabric, and has gaps to allow flow, infiltration will not be meaningfully impeded by this wall. Regardless, any reduction in flow would not impact the vernal pool, which retains its level regardless of weather and is likely connected to nearby Willis Lake.

With no questions from the audience, on motion by Comm. Cook to continue the hearing to August 22, 2022, seconded by Comm. Holtz, with Comm. Sevier abstaining, via roll call the vote was unanimous in the affirmative.

Certificates of Compliance:

199 Goodman's Hill Road, DEP #301-1316:

Coordinator Capone reported that the wetlands resource area and buffer were stripped of vegetations several years ago. An Order of Conditions was subsequently issued for a restoration project. The applicant has recently moved out of the house and has requested that the Order be closed. A condition was two full growing seasons, which would expire in October of 2022. Given the impressive results of the restoration project, which included a native grass and clover lawn, and a line of boulders demarcating the wetlands edge, Coordinator Capone recommends that the Commission issue the Certificate of Compliance without waiting for the growing season to end.

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

Wetland Violations:

151 Boston Post Road: Tree Removal

Coordinator Capone reported that there has been a previous application to modify the building and build a second structure on this property. Herb Chambers owns the abutting property. The trees in question were arrayed in a row along the narrow space between buildings on the two properties. Some of the stumps left behind suggested that many of the trees were still living when removed, a possibility that was corroborated by consulting the 2019 aerial photography of the site. There is a wetlands complex towards one end of the same area, and all the trees are in the buffer, with the dead trees closest to the wetlands. The current vegetation remaining at the site is primarily invasives. The arborist determined that removing the dead trees would predispose the remaining trees to failure. The site is completely outside the scope of the existing Order. Coordinator Capone recommends an Enforcement Order to restore the site. This should include planting native species and removing invasives.

Steve Burt, representative of Buddy Dog Humane Society, stated they were concerned about the potential for the trees to injure staff and the animals in his care. They acted upon the advice of the arborist, who held that the living pines were at risk of toppling do to the softness of the soil. Mr. Burt expressed his remorse that he did not request permission before proceeding with the removal.

In response to questions from Chair Henkels, Coordinator Capone stated that the current Order does indeed address invasive species management, but the current site is beyond the scope of the Order. With regards to the details of the planting plan, she recommended native shrubs due to the tightness of the site.

In response to statements by Comm. Sevier and Chair Henkels, Coordinator Capone suggested that a one-year extension could be granted to the Order to adjust for time lost to the pandemic and financial issues.

With no questions from the audience, on motion by Comm. Morse to issue an Enforcement Order, seconded by Comm. Rogers, via roll call the vote was unanimous in the affirmative.

592 Hudson Road: Vegetation Removal

Coordinator Capone reports that four trees fell into the parking lot, blocking access to the rear of the building. The stumps were on the abutting DCR property and have since been cut down to grade. There is evidence of heavy machinery and regrading in the area. The DCR has noted the presence of fill and has requested its removal. A property boundary marker is missing and presumably removed with the trees. The DCR has requested that the marker be replaced, in the correct position as determined by a surveyor. They will agree to any restoration plan that the Commission orders. There is a large wetland complex nearby, with all clearing being done within the Buffer. Violation letters sent to Michael Mase, the property owner, and Dennis Tree, were not received as of this meeting. However, they have expressed a willingness to cooperate with the Commission. Coordinator Capone recommends the issuance of an Enforcement Order with the condition that mitigation be carried out in the fall.

In response to Chair Henkels, Coordinator Capone stated that most of the clearing was done on DCR property, and reiterated that the DCR defers to the Commission on a mitigation planting plan.

In response to Comm. Rogers, Coordinator Capone stated that it has not been determined whether Dennis Tree deposited fill on the site. Chair Henkels suggested that an Enforcement Order, if issued, be conditioned with a plan for managing the fill.

On motion by Comm. Holtz to issue an Enforcement Order, seconded by Comm. Morse, via roll call the vote was unanimous in the affirmative.

Other Business:

137 Brimstone Lane: Right of First Refusal

Coordinator Capone reported that this property had come before the Commission previously in December of 2019, when a proposed land swap was discussed. The land swap was originally proposed and accepted in 1978. However, the transfer never occurred. In 2019, the Aronson family requested 1,033 square feet of adjacent Nobscot Conservation Land along Brimstone Lane, in exchange for a considerably larger amount of land along the back of the parcel. This would create a 40-foot buffer for a hiking trail running along the edge of the Conservation Land. The swap would provide the frontage required to subdivide the parcel into two new lots. The landowners would construct a new home on the upper lot and sell the lower lot.

She further reported that the entire property is under 61B for recreation, which offers Right of First Refusal to the Town. An offer has been made to the amount of \$1,000,000. It is unclear if this is a bonafide offer, given that the land swap has not been finalized. The Town Counsel has requested that the Commission discuss the offer and make a recommendation. There are a number of buildings on the proposed lower lot already, and a perennial stream runs through the back of the property. Therefore, the development potential and conservation value are limited. The Town should be made aware of this consideration.

In response to questions from Comm. Holtz and Comm. Rogers, Coordinator Capone replied that the 200-foot Riverfront Area would cover much of the back of both lots, although there may be enough room for a new house on the upper lot.

Coordinator Capone further clarified that much of the property is also estimated and priority habitat for rare species, further limiting the development potential.

On motion by Comm. Sevier to recommend that the Town not exercise the Right of First Refusal, seconded by Comm. Holtz, via roll call the vote was unanimous in the affirmative.

Adjourned:

With no further business, on motion by Comm. Morse, seconded by Comm. Sevier, the Commission voted unanimously to adjourn the meeting at 8:18 PM.