



**SUDBURY CONSERVATION COMMISSION MINUTES**  
**Meeting Minutes of Monday, September 12, 2022**

**Present:** David Henkels, Chair; Jeremy Cook; Richard Morse; Bruce Porter (7:07 PM); Kasey Rogers; Mark Sevier; and Lori Capone, Conservation Coordinator

**Absent:** Ken Holtz, Vice Chair

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

**New Wetland Applications:**

**Request for Determination of Applicability: 53 Firecut Lane, RDA #22-19**

Chair Henkels recognized the applicant, Mr. William Granger Atkeson, for his presentation to replace after-the-fact a retaining wall, removal of trees, and construction of a patio within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw.

Mr. Atkeson stated that the retaining wall was collapsing when they purchased the home. The intent was to replace the wall and take down a handful of trees that were leaning towards the house, while minimizing impact.

In response to questioning from Chair Henkels, Mr. Atkeson further stated that, in order to prevent future disturbance, he would restrict work to the existing footprint, and take down as few trees as possible. A replacement patio was originally planned, but has been excluded from the project.

Chair Henkels then expanded upon Mr. Atkeson's presentation. He stated that there are two wetlands on the property. One is on the side, and the other is in the rear. Much of the rear is within the Buffer Zone or Adjacent Upland Resource Area. The applicant recently purchased the house, and noticed the cinder block retaining wall was collapsing, pulling the deck away from the house. The footings for the deck are about nine feet from the wall. Work on the wall was underway when it came to the Commission's attention. Some trees had been removed. The work is about 15 feet from the wetland. Given the risk posed by a complete collapse, the work was allowed to proceed, except for tree work, which was stopped.

Coordinator Capone stated that two small trees and one larger tree were removed.

In response to questioning by Comm. Rogers, Mr. Atkeson stated that the patio area will be seeded with grass.

In response to questioning by Chair Henkels, Coordinator Capone stated that she doesn't anticipate a lot of water to the pipes draining to the rear of the retaining wall. Mr. Atkeson adds that there are drainage pipes, each connecting to a gutter. Mr. Atkeson states that only unhealthy trees were removed, and no additional trees will be removed.

In response to questioning by Comm. Morse, Mr. Atkeson stated that the deck and stairway have been stabilized by the new wall.

There were no abutters present speaking for or against the project.

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

**Minutes**

On motion by Comm. Cook to accept the minutes for the June 27, 2022 meeting, seconded by Comm. Sevier, with Comm. Rogers abstaining, via roll call the vote was unanimous in the affirmative.

On motion by Comm. Rogers to accept the minutes for the July 11, 2022 meeting, seconded by Comm. Cook, with Comm. Morse abstaining, via roll call the vote was unanimous in the affirmative.

On motion by Comm. Morse to accept the minutes for the July 25, 2022 meeting, seconded by Comm. Rogers, with Comm. Cook abstaining, via roll call the vote was unanimous in the affirmative.

### Continued Wetland Applications:

#### Notice of Intent: 1 Nobscot Road, DEP #301-1375

Chair Henkels reopened the Notice of Intent hearing to carry out trail restoration including grading, fill removal, placement of gravel, drainage upgrades, replacement of wooden bridges, and tree removal within the 100-foot Buffer Zone, Bank, and Bordering Vegetated Wetlands, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw.

Coordinator Capone reported that a walkthrough of the site was conducted on Friday, September 9, 2022, with the Commissioners and Janet Bernardo of Horsley Witten in attendance. Ms. Bernardo will review the stormwater documents for the project. The applicant has requested a continuation to the October 17, 2022 meeting to allow time for the review and comments.

She added that, with the recent heavy rain event, sedimentation was observed to have occurred in the Bordering Vegetated Wetlands on the site. She will schedule another on-site meeting with the ranger and a representative from the Sudbury Valley Trustees to review the applicable terms in the Wetland Protection Act, the Bylaw, and the Conservation Restriction. The applicant is planning to fix the erosion controls in the near future.

There were no abutters present speaking for or against the project.

On motion by Comm. Morse to continue the hearing to October 17, 2022 seconded by Comm. Rogers, via roll call the vote was unanimous in the affirmative.

### New Wetland Applications:

#### Request for Determination of Applicability: 196 North Road, RDA #22-20

Chair Henkels recognized Mr. David Schofield of Capstone Design Build, Inc., representative for the applicant, Mary B. Brennan, for his presentation to replace a failed subsurface sewage disposal system within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw.

Mr. Schofield stated that the project will replace the current septic system in the rear of the property, which is about 50 feet from wetlands. The wetlands were flagged by David Burke in April, 2022. There is a lot of historic fill on the site. Soil testing in a location offering the greatest offset from the resource area revealed loamy sand down to about nine feet, no groundwater, and a good percolation rate. There is very little area available for siting. The proposed Geomatrix GST system will provide a far greater leaching area to footprint. Overall footprint is 320 square feet. A traditional septic system would require the removal of a 36+ inch diameter tree and would be closer to the wetland. Bill Murphy of the Board of Health did not approve an earlier plan with two trenches, so a variance was granted for a third trench about five feet from the property line.

He added that the existing cesspool is a vertical bee-hive structure which is regularly at inlet level, suggesting hydraulic and technical failure. This will be pumped and filled. The proposed new system does not support denitrification. A 1,500-gallon tank provides physical settling and biological treatment before effluent is sent through the distribution box to the trenches. The leaching system is a stone channel similar to a septic trench. The design maximizes surface area, similar to a heat exchanger, which is used in difficult sites.

Coordinator Capone reported that the leach field pit was excavated and stockpiles deposited prior to seeking required permitting with the Commission or the Board of Health. The Board of Health determined that there was no emergency, so work was stopped. The homeowners immediately installed erosion controls and covered the stockpiles, and there had been no alterations to the resource area. The septic system might have been better sited where the garage is currently proposed.

She added that the existing system is in very bad failure, with some leaching in the direction of the wetland likely. The proposed project would prevent further degradation of the resource area. The leach field would maintain setbacks under the Act, but the Bylaw allows for stricter controls. Because the site is elevated and on sandy materials, extra denitrification is not necessary. The Board of Health has approved the application pending payment.

Lastly, she expressed concern for the survivability of the adjacent tree. It is currently healthy, but the root system was damaged when the pit was dug, and the proximity to the leach field could be problematic.

In response to questioning by Comm. Rogers, Mr. Schofield argued for keeping the new system in the proposed location. While moving closer to the house might straighten the piping, there is no concern that a bend would increase the chance for blockage. The waste is primarily liquid when it reaches the pipe. It is common for septic systems to have 90-degree elbows with no issues. Moving the system closer to the house might increase the offset to the wetland by about 8 feet, but it would represent a lost benefit to the homeowner, who would be without a garage.

In response to Comm. Morse, Mr. Schofield stated that the leach field would not be damaged by cars traversing the driveway above it, while allowing oxygenation of the effluent. The existing fenced gate along the street makes this the easiest location for a driveway. Additionally, running the driveway straight in is not feasible due to lack of space. The driveway will be gravel to allow for infiltration to the soil-stone interface, oxygen is required to promote bacterial activity. There will be 2 ½ feet of gravel and crushed stone between driveway and leach field, so compaction will not be an issue. (Clay soils are prone to compaction.) Comm. Sevier affirmed the veracity of Mr. Schofield's statement on compaction.

Mr. Brennan, the homeowner, argued for the need for the driveway in the current location, citing safety concerns. He will submit an application for a garage installation project at a future date. Mr. Schofield confirmed that the current septic project will leave adequate room for a future 3-car garage. Comm. Sevier agreed that the proposed layout was sensible.

There were no abutters present speaking for or against the project.

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

**Request for Determination of Applicability: 83 Maynard Farm Road, RDA #22-21**

Chair Henkels recognized Mr. Matthew Marro of Marro Environmental Consulting, representative for the applicants, Arden & Suzanne Steinbach, for his presentation to replace a failed subsurface sewage disposal system within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw.

Mr. Marro stated that proposed septic system will be in a similar location to the existing system, and will be an in-kind replacement. The only work within the Buffer Zone will be a 4- to 5-foot overdig. The old system will remain in place. Straw wattles will be used for erosion control. Some small saplings, measuring about 1- to 2- inches in diameter, will be removed, and some limbs will be pruned to allow access for equipment.

Coordinator Capone reported that the application is fairly straightforward. The Board of Health has approved the plan. Although it is in a Zone II Wellhead Protection Area, it is almost 100 feet from the Resource Area. Therefore, no denitrification is necessary.

There were no abutters present speaking for or against the project.

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

**Notice of Intent: 58 Massasoit Avenue, DEP #301-1376**

Chair Henkels opened the Notice of Intent hearing to demolish and reconstruct a single-family home within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw.

Chair Henkels noted that a number of issues outside of the Commission's jurisdiction remain to be resolved with Engineering Department, Planning Board, and the Zoning Board of Appeals. The Commission has yet to complete a site walk. He requested that, should this hearing be continued, that the Commissioners review the Wetlands Administration Bylaw and Stormwater Bylaws. He then recognized Ms. Joyce Hastings of GLM Engineering Consultants, Inc., representative for the applicant, Jonatas Storck.

Ms. Hastings stated the existing house is in poor condition, such that renovation is unrealistic. The applicant proposes to replace the 4-bedroom house and relocate the existing driveway, install a conventional septic system, a retaining wall, and walkway.

She added that the Board of Health was unable to determine the location and type of the existing septic system. It may be abandoned depending on whether it can be located. An application has been submitted to the Zoning Board of Appeals since this is a non-conforming lot. A stormwater application has also been submitted with the Planning Board, but the applicant was directed to continue that hearing until the Conservation Commission was able to provide its comments. An application will be submitted to the Board of Health for the septic system.

She added that the applicant proposes planting along the edge of lawn, and removing some lawn areas. Invasives will be removed along the edge as well. Run off from the roof will be infiltrated in the rear of the house. A test pit in that area showed suitable soils with sufficient depth to groundwater. A 2 X 2 stone-filled infiltration trench will be installed along the driveway. Existing debris will be removed from the property.

Coordinator Capone stated that better quantification of impervious surfaces for the existing and proposed plans is needed. Also unclear was how the project was meeting the Bylaw. Since debris removal will be done outside of the erosion controls, how will this be accomplished without altering the Adjacent Upland Resource Area? Additional confirmation of the number of bedrooms was requested, since this relates to the size of the septic system and could increase impacts to the resource area. As drainage is a major concern of the abutters, more details are needed on how groundwater will be managed. More scrutiny is needed on the risk to nearby trees from proposed excavation. Japanese knotweed is the dominant invasive plant at this site, and the mitigation plan will need to detail how it will be dealt with.

In response to questioning by the Commissioners, Coordinator Capone stated that areas where invasives or debris are removed will be replanted with native plants. Ms. Hastings added that the revised mitigation plan will include 26 shrubs and 8 trees around the perimeter.

Chair Henkels invited questions from the audience.

Michael Cameron, an abutter on 18 Franklin Place, noted that the proposed new structure is not similar in size to the existing structure, which has a 6-bedroom floorplan. He added that a Cultec septic system was added and the grade elevated. He questioned the timing of the test pit, which was dug during a drought and very low water levels. He expressed concern that the system could be overwhelmed in early spring during peak snowmelt.

Glenn Merrill-Skoloff, an abutter at 18 Allen Place, expressed concern about the unknown extent of hardscape. He noted that the plan has no details on the patio or driveway, and that the new structure will be 25 feet closer to wetlands. He presented his own calculations for the proposed hardscape, which showed a 50% increase. He also expressed concern about the potential for regrading to impact the wetlands.

Desi, last name unknown, and speaking from the residence of Panagiotis Akrivellis at 19 Franklin Place, expressed concerns about the location of the septic system.

On motion by Comm. Sevier to continue the Hearing to October 3, seconded by Comm. Morse, via roll call the vote was unanimous in the affirmative.

#### Certificate of Compliance:

#### Herb Chamber 105 Boston Post Road, DEP #301-1336:

Chair Henkels recognized Dave Newhall, of Crocker Design Group, and representative for the applicant.

Mr. Newhall stated that they are requesting a Partial Certificate of Compliance because the substantial plantings, done as mitigation along the chain-link fence in the Buffer Zone, have not had a sufficient number of growing seasons to become established. All other work on the site has been completed. Inspections by the Planning Board's consultant Janet Bernardo of Horsley Witten have been satisfactorily completed. The work included installation of porous pavement, regrading, installation of a retention system, and landscaping within the Buffer Zone. Weekly Stormwater Pollution Prevention Plan reports have been submitted to the Planning Office. Plantings are to be inspected again after they have had time to become established.

In response to questioning by Chair Henkels, Mr. Newhall stated that an irrigation system being used for the plantings is temporary, and will be turned off and left in place after they are established. The system was not in the original Order as approved by the Commission, but was added in response to the current drought. It is tied into the system used to irrigate at the Jaguar Dealership on 83 Boston Post Road. Coordinator Capone noted that the system is in fact full-service, not temporary, and recommends that the applicant confirm that it has been decommissioned before ultimately issuing the full Certificate of Compliance.

On motion by Comm. Rogers to issue a partial Certificate of Compliance, seconded by Comm. Sevier, via roll call the vote was unanimous in the affirmative.

**Sullivan, 22 Buckmaster Drive, DEP #301-1277:**

Coordinator Capone stated that this project was to construct of pool, and added that the extensive mitigation required due to the proximity to wetlands, which included demarcation, was successfully completed.

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

**Other Business:**

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

Chair Henkels recognized Marc Bergeron of Epsilon Associates, Inc. representative for the applicant, to discuss the need for administrative approval to shift 150 feet of the Limit of Work to maintain historic features in front on the tool house south of Boston Post Road.

Mr. Bergeron stated the change being requested is minor, such that it doesn't require an Amended Order or a Hearing. The matter was brought before the Sudbury Historical District Commission to obtain a Certificate of Appropriateness for the alteration to 150 linear feet of project proposed within the George Pitts Tavern Historical District. Said Certificate was issued on August 4. A condition was that rail tracks in front of the tool house just east of Boston Post Road be relocated. To preserve this section of track, the bike path is being shifted, adding 800 square feet of impact to the Riverfront Area. This will not result in an alteration of the transmission corridor. This section is entirely within the outer riparian area of Hop Brook, and there is a 379 square foot overlap with the Adjacent Upland Resource Area. There will be no change to the amount of pavement, and there are no stormwater features in this area, which experiences sheet flow only. The increased impact to Upland will not require additional invasives mitigation, as the current plan was overdesigned and can accommodate the additional alteration.

Coordinator Capone stated that the area of work outside of what was originally proposed is minor, and there is nothing requiring protection in the area. As the alteration was not requested by the applicant, she doesn't recommend additional mitigation.

In response to questioning by Comm. Porter, Mr. Bergeron stated that the new area would not be uniform in width but would average roughly 5 ½ feet wide.

In response to questioning by Comm. Morse, Mr. Bergeron stated that, while the Limit of Work will expand, it remains within the Mass Bay Transit Authority Right of Way. The ROW is roughly 80 feet wide along the entire corridor. Vegetation clearing will be restricted to the limit of work. This leaves in place a good amount of existing canopy. Clearing will not extend above a 25-foot ceiling.

There were no questions from the audience.

On motion by Comm. Morse to issue administrative approval, seconded by Comm. Porter, with Comm. Rogers abstaining as an abutter, via roll call the vote was unanimous in the affirmative.

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

Coordinator Capone discussed the need for the establishment of a 53G account to engage Pare Corporation as the Town's Environmental Monitor for Phase I of the Eversource Transmission Line project. This is a financial mechanism with which the Town can accept funds to pay for peer reviewers and environmental monitors. The funds will be submitted by the applicant and deposited into the account. Invoices from the monitors will then be applied against these funds. The contract with Pare Corp. stipulates an 18-month term of work starting in October, for which a cost of \$133,600 is estimated. The contract will be reevaluated upon expiration depending on whether further monitoring will be needed. She recommends that the Commission approve a request for 50% of the funds up front, with the remainder to be allocated when the balance passes a threshold of 20%. There is a \$10,000 contingency for oversight of clean-up of contaminants, which would need to be refunded if not required.

There were no questions from the audience.

On motion by Comm. Morse to establish a 53G account, accept 50% of the funds up front, and accept the remainder after expending to 20%, seconded by Comm. Sevier, with Comm. Rogers abstaining as an abutter, via roll call the vote was unanimous in the affirmative.

**Violation Update:**

**Buddy Dog: 141 Boston Post Road:**

Coordinator Capone updated the Commission about the restoration ordered in response to an unauthorized tree removal. She has met on site with the property owner, Steve Burt, and identified invasives for removal in the fall and the spring. He has committed to replanting the full 2,000 square feet that was cleared, in the Spring of 2023.

In response to questioning by Chair Henkels, Coordinator Capone indicated that Mr. Burt was given a list of recommended native plantings.

There were no questions from the audience.

**Mase: 592 Hudson Road:**

Coordinator Capone updated the Commission about the restoration ordered in response to an unauthorized tree removal. Michael Mase has installed erosion controls and engaged with Lynch Landscaping to develop a planting plan to revegetate the area of tree removal on Department of Conservation and Recreation property. The DCR has approved the plan, and because of the drought, planting will likely wait until the spring.

**Adjourned:**

With no further business, on motion by Comm. Porter, seconded by Comm. Morse, the Commission voted unanimously to adjourn the meeting at 8:52 PM. **September 12, 2022**