



SUDBURY CONSERVATION COMMISSION MINUTES
Meeting Minutes of Monday, October 3, 2022

Present: David Henkels, Chair; Ken Holtz, Vice Chair; Jeremy Cook; Richard Morse (7:00 PM); Bruce Porter; Kasey Rogers; Mark Sevier; and Lori Capone, Conservation Coordinator

Absent: Luke Faust, Associate Member

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

Other Business:

Administrative Approval: 9 Trevor Way, DEP #301-1247, Invasive Species Management

Chair Henkels recognized Brian Colleran of Ecological Land Management for his presentation to modify the invasive species management strategy within the 100-foot Vernal Pool Habitat to a constructed vernal pool.

Mr. Colleran proposed to use herbicide treatments for eradicating Japanese knotweed and Phragmites on the site, since management efforts under the originally approved plan have been unsuccessful. For phragmites, glyphosate in a 50% concentration will be injected. Knotweed will be managed by spraying a 3% concentration of glyphosate. The surfactant to be added to the mix has not been decided upon. A tube or pipe will be used to contain spraying to the target plant, although some nearby grass may be affected.

Coordinator Capone reported that a previous Order for a project at this site required that a partially-filled vernal pool was to be excavated, which was done. A Notice of Violation was issued in 2010 to address stockpiling and a sprinkler system installed at the site, which was successfully resolved.

She added that a population of knotweed remains at the corner of Trevor Way and Horse Pond Road. Early attempts to mitigate it with landscape fabric was effective but not fully successful. Phragmites was not identified in the mitigation plan, but this species has been identified on site and was likely introduced during the excavation of the vernal pool. The population is currently small enough to be managed, but could dominate the vernal pool if left unchecked. Bittersweet has not been completely removed, and larger specimens might be managed with the glyphosate spot treatment. There is a large barren area remaining that should be stabilized and seeded with a native seed mix.

In response to Comm. Rogers, Mr. Colleran stated that one round of injections might be sufficient, given that the phragmites population is small. Treatments will be carried out in the Fall, and the results evaluated in May. A decision will then be made as to whether additional treatment is required. Manual management might be an effective option at that point.

In response to Chair Henkels, Coordinator Capone stated that the Order would have expired in April 2022 but is still active due to the COVID extension. The Commission will have a chance to evaluate the success of the mitigation efforts prior to the expiration. She recommended following up again in the Spring.

There were no public comments.

On motion by Comm. Cook to issue an administrative approval, seconded by Comm. Rogers, with Comm. Morse abstaining due to late arrival and Comm. Porter abstaining due to technical difficulties, via roll call the vote was unanimous in the affirmative.

Continued Wetland Applications:

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

Chair Henkels re-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.

Joyce Hastings, of GLM Engineering Consultants, was recognized for her presentation on behalf of the applicant, Jonatas Storck.

Ms. Hastings addressed multiple comments from the previous hearing and subsequent site walk with the Commissioners. The design plan was revised to reduce the width of the house by four feet. A deck has been added to the back of the house, with a six-inch layer of crushed stone beneath for drainage. A bulkhead and two air-conditioning units have also been added. The infiltration system has been moved eight feet back from the existing location. Additional plantings are planned along the edge of the property. The erosion control barrier has been extended to encompass the debris piles. Impervious surface calculations have been revised. There will be no additional activity in previously undisturbed areas. She added that only a four-bedroom house has ever been proposed, and concluded by stating that the impervious surface has been reduced by 133 square feet, over existing conditions.

Coordinator Capone stated that the septic design is still awaiting a decision by the Board of Health. If they require a ten-foot separation between the leaching field and the retaining wall, this could require modifications to the footprint of the house. Any change that moves the house closer to the wetlands should be reviewed by the Commission. Since the site is in the Buffer Zone, adding bedrooms could result in additional nutrient loading and degradation.

She further stated that the dewatering plan should address the high local groundwater. Locations for stockpiling and storing machinery should be determined. A plan for protecting trees on the abutting lot is needed. There was concern among the abutters about how groundwater elevation was determined, given the season and drought. A more detailed invasives management plan is needed, which should specifically address the knotweed prevalent in the area.

In response to Comm. Holtz, Ms. Hastings explained the process by which the groundwater level was determined. This included modelling and digging test pits. Despite the dry conditions, water was observed in the test pits. This won't make a difference, as the CULTEC system is a shallower system with about one-foot depth. A four-foot separation from septic to groundwater is required. She confirmed that fill would be brought in to the front and back of the house for regrading. The grade will gradually slope towards the edges.

In response to Chair Henkels, Coordinator Capone stated that the Department of Public Works has determined that a nearby catch basin has not been cleaned for some time. It will be cleaned regularly going forward, and since there will be no sump pump installed in the house, there should be a reduction in flooding on the street. The Town Engineer will review the retaining wall as part of a broader stormwater review process. Ms. Hastings stated the infiltration chamber has been moved back from the house, and further added that additional soil testing has been conducted for the roof infiltration area.

In response to Comm. Holtz, Ms. Hastings confirmed that roof drains would be capturing water from the front and back of the house. The size of the CULTEC was based on the volume of water to be captured.

In response to Chair Henkels, Coordinator Capone confirmed that the proposed mitigation plantings are reasonable and would be in an area currently covered with trash and not vegetated. A wetland seed mix will be sown. She recommended permanent demarcation between the mitigation and lawn area be included.

Chair Henkels invited questions from the audience.

Glenn Merrill-Skoloff, an abutter at 18 Allen Place, stated that the excavation line was very close to a stand of hemlocks on his property. He also requested clarification about the retaining wall height and grading. Ms. Hastings replied that there is a rise from the top of the wall to the house. The height of the wall varies. Grading is required to ensure suitable separation between the septic system and the groundwater. Comm. Sevier stated that he believes the grading is satisfactory as proposed.

Mary Lester, an abutter at 10 Allen Place, stated that the proposed floor plan implies two additional bedrooms above the four being proposed. She also asked about what consideration was being given to protect the wetlands.

Ms. Hastings replied that plans submitted to the Zoning Board of Appeals were incorreced and will be revised before their next hearing. The wetlands are being protected with mitigation plantings, a footprint reduction, carrying out construction activity as far away as possible, and cleaning up debris.

Michael Cameron, an abutter at 18 Franklin Place, expressed concern that the footprint of the proposed home implies more than four bedrooms. Additionally, the septic system design includes 50% capacity for future use, which might allow for additional bedrooms in the future. The position of the water line to the north of the property will hinder access to his driveway. Ms. Hastings replied that additional septic capacity is required with new construction. It is for use in a system failure, not for an increase in usage. Construction will be staged to avoid blocking traffic, and the site will be kept clean. The water line will be replaced in coordination with the Department of Public Works.

In response to questioning by Chair Henkels, Coordinator Capone stated that any impact to the resource area from a 10-foot offset to the retaining wall can't be determined until a revision is submitted. If an increased setback from the retaining wall is required, the footprint should be reduced rather than pushing the house further back. Ms. Hastings clarified that while there is already a separation in the plan, the Board of Health wants a ten-foot separation. The house was shifted one foot to achieve this.

In response to Comm. Holtz, Ms. Hastings stated that there was no requirement that the septic system be located closer to the property line rather than the driveway. Coordinator Capone added that the location as shown in the plan keeps the septic system as far from the wetlands as possible.

Chair Henkels requested that the Commissioners indicate their preference for a three- or four-bedroom house, or otherwise indicate concerns with the footprint. Comm. Holtz stated that if the calculations are accurate, there is no increase. (In response to questioning by Comm. Sevier, Coordinator Capone clarified that the Commission has an interest in the septic system because it is within the buffer zone. An increase in the number of bedrooms leads to an increase in nitrification.) Comm. Rogers stated a preference for three bedrooms given the small separation from groundwater. Comm. Morse stated a preference for three bedrooms, but suggested that the house size is the jurisdiction of the Zoning Board. Ms. Hastings added that the applicant prefers four bedrooms, and noted that they are trying to improve the site, and that there are several larger houses on the street.

Comm. Sevier expressed his surprise at the opposition to the project, given the number of improvements that would be made over the existing situation.

Mary Lester stated that the trash in the front yard is from the current work. The trash in the back yard was put there by the previous owner.

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

On motion by Comm. Cook to adjourn for a five-minute recess, seconded by Comm. Holtz, via roll call the vote was unanimous in the affirmative.

New Wetland Applications:

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

Chair Henkels recognized Michael DiModica, of M. J. DiModica Excavating, representative for the applicant, Ann Vanderslice, for his presentation to install a new septic system within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw.

Mr. DiModica stated that the project will be the simple replacement of a failed septic system. The Bordering Vegetated Wetlands was flagged previously, with the filing of a Notice of Intent in 2005 to repair the septic system. At that time, an Order was issued, but work never commenced.

The system has been redesigned to provide a greater offset to the Resource Area. The previous plan showed grading to within 40 feet of the wetland. Modeling based on soil tests conducted in 2005 suggested a water table elevation

at about 52 inches, with weeping evident at 60 inches, and a perc rate less than 2 minutes per inch. The previous design placed the leach field back near the deck, but the current plan moves it to the front of the parcel. The leach bed will be 40 x 18 feet with a four-foot offset to groundwater. A new sewage pipe will connect with a 1,500-gallon septic tank. Two birch trees near the existing cesspools will be removed.

Coordinator Capone stated that the 2005 Order was still open but expired. She recommends issuing a Certificate of Compliance to close that Order. One requirement of the Order was to move or a remove a shed. The shed was removed, but work never commenced.

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

Coordinator Capone stated that the work area is entirely lawn with the exception of two birch trees. The Board of Health has approved the proposed septic system.

There were no public comments.

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.

Notice of Intent: 219 Wayside Inn Road, DEP File #301-TBD

Chair Henkels opened the Notice of Intent Hearing to construct a single-family house with associated grading, utilities, and stormwater management within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Mr. Fredric King of DGT Associates, was recognized for his presentation on behalf of the applicant, Ms. Elizabeth Rudenberg.

Mr. King stated that the property is 9.9 acres. Nearly half of this area to the rear of the property would be conveyed to the Sudbury Valley Trustees. The applicant wishes to set a value for the remaining front portion, either to sell it as a single-family house lot to a developer, or as open space to a land trust. It is in the Wayside Inn Historic District, where a viable building lot must be at least 5 acres. The center line of Hop Brook forms the rear property line, putting much of the property within the Riverfront Area. Much of the land is wetlands. The area to be developed is very tight and close to the wetlands. Only a small corner area is outside of jurisdiction, about 1,000 square feet. About 18,700 square feet is to be disturbed under the plan. However, the driveway access will not disturb the street trees, and there is a detailed plan for protection of trees to be saved.

The house cannot exceed three bedrooms. The Board of Health has approved an Innovative/Alternative Septic System, itself approved for general use in Massachusetts. Specifically, it will be a Presby system, which avoids the need for retaining walls. It is very efficient, and the footprint is half the size of a conventional system.

The applicant has also filed for a General Stormwater Permit with the Planning Department. Roof runoff will be directed into two small rain gardens in the front of the house. A portion of the driveway will consist of porous pavers, which will maintain the hydrology of the current site. The soils are good with shallow groundwater. It consists of sand and gravel. The topsoil and subsoil are loamy sand, which act as an effective filter. A drainage ditch runs along the front of the property along the road and drains eastward, and is maintained by the Town. The crossing for access over the ditch will be a four-foot box culvert, which will allow for easy maintenance by the homeowner.

A small finished lawn will be kept near the house and walkway. All other open space will be planted with native vegetation. On the sloping areas beyond the limit of lawn, a conservation wildlife seed mix will be planted for stabilization. A wildflower seed mix will be planted over the septic system. In other areas both seed mixes will be planted together. Four trees will be planted, and shrubs will be planted to revegetate areas outside the limit of lawn. This will create a transition zone between human use and wetland areas. The narrowest distance between the wetlands and limit of work will be ten feet. The lawn will be about 2,500 square feet.

Upon request from Chair Henkels, Mr. King agreed to allow a continuation of the hearing pending a site visit by the Commissioners.

In response to questioning by Chair Henkels, Coordinator Capone stated that the project is entirely within the Adjacent Upland Resource Area, except for about 1,000 square feet. The project is permissible under the Act, but would typically not be permitted under the Bylaw. However, the Commission does have some discretion. She recommended that the limit of work and house and driveway footprint be staked out in advance of the site visit. She noted the impressive amount of mitigation being provided. The fact that property has been within the family since the 1950s is a major reason for allowing development.

In response to questioning by Comm. Morse, Mr. King indicated that he didn't know whether the Trustees would allow public use of the property should it be conveyed to them. There is no trail system on the abutting 1.6-acre property under their ownership. Coordinator Capone indicated that she would communicate with the Trustees in advance of the next hearing regarding plans.

There were no public comments.

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

Notice of Intent: 136 Horse Pond Road, DEP File #301-TBD

Chair Henkels opened the Notice of Intent Hearing to install a new septic system within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Mr. Matthew Marro, of Matthew S. Marro Environmental Consulting, was recognized for his presentation on behalf of the applicant, Mr. Bruce Rankin.

Mr. Marro stated that the project is a septic system replacement for an existing three-bedroom single-family home. The edge of the Buffer Zone would go through the leach field. The existing system is behind the deck, and is a cesspool which will be pumped out and filled in place. A new main will connect to a 1,000-gallon tank and Presby system. Two of four large trees being removed are within the Buffer Zone. Erosion controls will consist of wattles and silt fence.

Coordinator Capone stated that this project requires a Notice of Intent because of the tree removal. The installation is as far from the wetlands as possible, and represents an improvement over the existing conditions. The Board of Health has approved the septic design plan.

There were no public comments.

On motion by Comm. Holtz to close the Hearing, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

On motion by Comm. Sevier to issue the Order of Conditions, seconded by Comm. Morse, via roll call the vote was unanimous in the affirmative.

Certificates of Compliance:

Dillon, 1011 Concord Road, DEP #301-0927:

Coordinator Capone states that a site visit confirmed that work on this project never commenced. Issuance of the Certificate will release the lien on the property.

On motion by Comm. Holtz to issue a Certificate of Compliance, seconded by Comm. Rogers, with Comm. Porter abstaining due to technical difficulties, via roll call the vote was unanimous in the affirmative.

Extension Request:

Amended Order of Resource Area Delineation – Bruce Freeman Rail Trail, DEP File #301-1193

Chair Henkels reports that the Town of Sudbury has requested a one-year Extension to the Amended Order of Resource Area Delineation approved for the Bruce Freeman Rail Trail project.

Coordinator Capone states that the Extension will keep the Order of Resource Area Delineation active. The current delineation is valid with the issuance of the Order of Conditions for the construction of the trail. The Planning Office has requested the Extension in the event of changes to that status. This extends the Order of Resource Area Delineation from November 14, 2022 to November 14, 2023. The Order of Conditions expires on March 2, 2025.

On motion by Comm. Morse to issue a one-year Extension, seconded by Comm. Cook, with Comm. Porter abstaining due to technical difficulties, via roll call the vote was unanimous in the affirmative.

Other Business:

Bowhunting season has begun, and will continue until the end of December.

Chair Henkels encouraged the Commissioners to attend the upcoming annual conference of the Massachusetts Association of Conservation Commissioners.

Adjourned:

With no further business, on motion by Comm. Morse, seconded by Comm. Cook, the Commission voted unanimously to adjourn the meeting at 9:09 PM.