



**SUDBURY CONSERVATION COMMISSION MINUTES**  
**Meeting Minutes of Monday, October 17, 2022**

**Present:** David Henkels, Chair; Ken Holtz, Vice Chair; Bruce Porter (8:00 PM); Kasey Rogers; Mark Sevier; and Lori Capone, Conservation Coordinator

**Absent:** Richard Morse; Jeremy Cook, Luke Faust, Associate Member

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

**Wetland Applications:**

**Request for Determination of Applicability: Sudbury Department of Public Works, Peakham Road and Concord Road, RDA #22-23**

Chair Henkels recognized Mr. Scott Salvucci of Woodard & Curran, representative for the applicant, Mr. Dan Nason of the Town of Sudbury Department of Public Works, for his presentation to replace, rebuild, and install new drainage and associated structures within the 100-foot Buffer Zone, 200-foot Riverfront Area, and 100-year Floodplain at Peakham Road and within the 100-foot Buffer Zone at Concord Road, pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw.

Mr. Salvucci stated this is one of several town-wide drainage improvement projects, and all proposed work would take place within Peakham & Concord Road. The work on Peakham Road will be done between Meadowbrook Circle and Pratts Mill Road. The proposed work will repair and/or replace existing structures and install two manholes. The outflow and pipe sizes will not change, but treatment of stormwater being discharged to Hop Brook will be improved. A new catch basin will be installed upstream to capture flow. This will include a pre-treatment deep sump which will discharge to the new manhole.

Coordinator Capone stated that the road near Hop Brook is almost entirely within the Floodplain, Riverfront, and Buffer Zone to the Bordering Vegetated Wetlands. The area where the riprap will be installed is in Adjacent Upland Resource Area. This project will improve the quality of water entering the brook. The DPW should ensure that pavement thickness match pre-existing conditions, to avoid filling in the Floodplain.

Mr. Salvucci stated that a riprap area is proposed adjacent to the road in one area. The earthen berm will be reshaped and stabilized.

In response to questioning from Comm. Holtz, Mr. Salvucci replied that the catch basin across the street will be replaced with a deep sump basin, and instead of being piped across the street it will be pumped to a new manhole.

In response to questioning from Comm. Sevier, Mr. Salvucci replied that the new catch basin will be slightly upgradient of the existing catch basin. There will be an approximately six-inch change in elevation between the catch basins. Mr. O'Rourke, DPW Deputy Director for the Town of Sudbury, added that the converted catch basin is proposed at the low point in the road. Additionally, to prevent an area of ponding, the plan is to lower the berm adjacent to the road and let water flow controlled down towards Hop Brook.

In response to questioning by Chair Henkels, Coordinator Capone replied that measurements of the pavement thickness will be required in advance to confirm that the amount of asphalt removed equals that replaced. Mr. O'Rourke elaborated on the workings of a sump, stating that the four-foot sump will allow sediment to drop out of suspension, adding deep sumps will remove sediment currently passing through in-line catch basins into Hop Brook.

Mr. Salvucci stated that catch basins at a crossing on Concord Road will be rebuilt. It is near the intersection with Goodman's Hill Road. They drain directly into the stream. Because there is a 115kV electrical utility line in the shoulder, they can't do the same as on Peakham Road.

Coordinator Capone stated that this will be very minor work, and is the best that can be done.

In response to questioning by Chair Henkels, Mr. Salvucci stated that the project will take place within the next few weeks. The Concord Road portion will take about a day, while Peakham Road will take somewhat longer.

There were no public comments on this application.

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

**Request for Determination of Applicability: Quarry North Road LLC, 16 North Road and along North Road, RDA #22-24**

Chair Henkels recognized Attorney William Henchy, representative to the applicant, Mr. Chris Claussen of Quarry Road North, LLC, for his presentation to install a power line conduit within the 100-foot Buffer Zone, 200-foot Riverfront Area and the 100-year Floodplain, pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw.

Atty. Henchy stated that the property is on Route 117. There have been discussions with the Towns of Sudbury, and Concord regarding housing in Concord that will be accessed through Cold Brook Crossing. The applicant is in the process of obtaining permission from the Concord Zoning Board of Appeals and the Concord Conservation Commission to construct the units. Concord requires these units be serviced by Concord Municipal Light.

The plan is to bring power from Concord Municipal Power & Light (CMPL) from Concord along Route 117 across the town-line into Sudbury, cross the road into the site, then cross back into Concord. The portion along Route 117 will be on poles.

Resource areas in the vicinity include the Riverfront Area for Cold Brook. There are also wetlands bordering Cold Brook. The work will take place within Buffer Zones to these wetlands.

Concord has a Bylaw that requires all utilities to be buried. This requires that the conduit be buried to town line with Sudbury. The line will then ascend to a pole in Sudbury. The original proposal was to continue the buried conduit into Sudbury. Everything south of road is wetlands. Sudbury Department of Public Works (DPW) will not permit an underground conduit because of the potential for interfering with existing utilities under the roadway. The applicant proposes to run the electrical line underground to town line, then run it up to newly installed poles. There will be 3-4 poles between town line to where the line crosses the road to the easement. It will cross the road in a trenched conduit which will run through the Buffer Zone along the existing roadway to project site, then out of jurisdiction.

Coordinator Capone stated that her biggest concern was regarding the necessity of the project. There is already electric service to the Cold Brook Crossing site. However, Concord has a Bylaw requiring that homes must be served by Concord municipal power. She recommended approval be conditioned that the applicant provide documentation that there is no feasible way to serve power to the site directly from Concord.

A second condition is that the line be installed on poles unless underground installation is approved by Sudbury Public Works. There is not much of shoulder in this location, so there is potential for disruption to wetlands, albeit minimal.

A third condition is no longer relevant unless the conduit travels underground into Sudbury. There is a culvert under Route 117 which conveys the brook. However, if conduit should go under this culvert, it will require the filing of a Notice of Intent.

Due to steep slopes on the embankment which exceed a 2:1 ratio, erosion control blankets should be installed on disturbed slopes.

Atty. Henchy stated that CMPL has a monopoly on service, and will not permit a direct line from Concord. Additionally, a direct line from the White Pond Well would have to traverse wetlands.

In response to questioning by Coordinator Capone, Atty. Henchy stated that it is not possible to bring power into the site on overhead lines, because the Sudbury DPW will not allow it to travel underground. Mr. Nason adds that the Select Board opposes overhead wires crossing roadways. Additionally, duct banks limit future utility installations like catch basins. However, he does not oppose running the lines underground to cross the street.

In response to questioning by Comm. Rogers, Coordinator Capone stated that she is in communication with the Concord Natural Resources Director about this project.

In response to questioning by Comm. Rogers, Mr. Nason clarifies that the Select Board has the authority to grant permission for the installation of new utility poles. There has been a trend towards not allowing new pole installations that carry wires across the street.

In response to questioning by Comm. Sevier, Atty. Henchy stated that existing poles owned by Eversource would be replaced with new poles. He clarified that the poles will run along the road, but the line will cross under the road to enter the site.

In response to questioning by Chair Henkels, Coordinator Capone stated that the Concord Conservation Commission would support the current plan, because a direct line to the site would disrupt wetlands in Concord.

In response to questioning by Comm. Sevier, Atty. Henchy stated that Eversource would be responsible for the poles should they fall in a storm.

In response to questioning by Comm. Rogers, Coordinator Capone stated that she would determine whether the Concord Conservation Commission might encourage CMPL to allow on-site power usage.

In response to questioning by Atty. Henchy, Coordinator Capone clarified that Condition #1 of the drafted Determination of Applicability requires that CMLP provide a document stating that they will not permit alternative options for bringing power to site.

There were no public comments on this application.

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

**Notice of Intent: 102 Barton Drive, DEP #301-1379**

Chair Henkels opened the Notice of Intent hearing to construct an addition, driveway, and patio and repair an existing deck and porch within the 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Mr. Mark Arnold of Goddard Consulting was recognized for his presentation on behalf of the applicants, Mr. Glenn Pransky and Ms. Terry Snyder.

Mr. Arnold stated that resource areas are located in the rear or north end of property. These are Pratts Mill Pond, a perennial river, Bordering Vegetated Wetlands, Banks, and Adjacent Upland Resource Area (AURA). The back of the yard has a steep slope, which levels out onto open lawn. The outer riparian zone goes through the front of property.

The property has an existing single-family dwelling with one car side-loading garage. There is an extensive driveway with turnaround, deck, covered porch, front walkway and paved walkway. The proposed work is outside

the Buffer and AURA, but is within the Riverfront Area. The plan is to redevelop the existing driveway and garage, replacing it with two-car front-loading garage and a reconfigured front walkway. Most activity is within existing impervious surfaces. The existing driveway is to be kept during construction for access, and be removed afterward. This will result in 1,075 square feet of additional impervious surface area. European Buckthorn in the Buffer Zone/Riverfront Area will be removed by hand by the owner. All work is in existing lawn and impervious surfaces

Coordinator Capone stated that with the removal of original driveway, there will essentially be no net increase in impervious surface. There is a small increase of about 200-30 square feet, but this is a patio which is exempt. The Riverfront area is not being degraded any more than existing conditions and the work meets performance standards.

She requested permission to continue the hearing to October 31, 2022, to allow time to draft an Order of Conditions. This was granted by Mr. Arnold, who requested an original copy be sent to him.

In response to questioning by Chair Henkels, Coordinator Capone stated that she was not recommending any extraordinary conditions. The proposal is sensitive to the concerns of the Commission.

There were no public comments on this application.

On motion by Comm. Rogers to continue the Hearing to October 31, 2022, seconded by Comm. Holtz, via roll call the vote was unanimous in the affirmative.

**Notice of Intent: 5 Hunt Road, DEP #301-TBD**

Chair Henkels opened the Notice of Intent hearing to construct an addition to an existing single-family house within the 100-foot Buffer Zone and the 100-foot Adjacent Upland Resource Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw.

On motion by Comm. Holtz to continue the hearing without discussion to October 31, 2022, seconded by Comm. Rogers, via roll call the vote was unanimous in the affirmative.

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

Chair Henkels reopened 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 stated that they have added a location for construction dewatering where it won't overflow onto the abutting property, behind existing driveway. The area will be contained with straw bales and silt fence lined with crushed stone, which allows for dissipation. This might be needed for during the installation of the footings, but the foundation will be two feet above the groundwater, so is unlikely.

A temporary stockpile area has been added, with erosion controls, if required. This will consist of a staked silt fence, which will provide better protection. The only time this will be needed is during the construction of the foundation, so that material is available for backfill. It will be located in the area of the septic system expansion, so that compaction and soil disturbance aren't a concern.

The Board of Health requires a 10-foot distance between the septic system and the retaining wall. To meet this, they have moved the house back a distance of one foot, and moved the wall closer to street. This also increases the distance to 20 feet from the house. The infiltration system was moved over about a foot and half.

The impervious surface area was recalculated for a longer retaining wall and a smaller driveway, resulting in an overall decrease of 32 square feet.

The erosion control barrier now encompasses the entire project.

There is a cumulative reduction of 165 square feet of impervious surface.

Coordinator Capone stated that the revision moves the retaining wall to the lot line with 18 Allen Place. This is the location where the neighbors have concerns about damage to tree root system. This change increases that threat. Ms. Hastings stated that they don't need to excavate for retaining wall, as no footing is needed.

In response to further questioning from Coordinator Capone, Ms. Hastings stated that, instead of weep holes, there would be a PVC liner on the inside of wall. The wall is only three feet tall, and effluent goes downwards out of pipe. There is no pressure against the wall, which is above the groundwater level. The septic system must be four feet above groundwater.

Coordinator Capone stated that the septic system still requires a Variance from the Board of Health, which will be on their agenda in early November. The Town Engineer has provided minor comments on the stormwater management plan, which were being addressed through the Stormwater Permitting process.

In response to Coordinator Capone's questioning regarding the plan for managing knotweed, Ms. Hastings stated that these areas will be treated by a licensed landscaper. She requested that their plan be approved before starting work. Coordinator Capone indicated that the Commission is sensitive to the use of herbicides and the plan should be reviewed and approved. There is also concern about how seeds in the soil may be accidentally redistributed. Ms. Hastings replied that the subsoil under the driveway will be removed down to a suitable base, and backfilled with clean gravel. Excavated soil does not have to be used. They are willing to start with mechanical removal to see how the knotweed responds, and herbicide use can be revisited, if needed. Comm. Holtz requested that a licensed professional draft a very detailed plan for herbicide use, and cautioned against pre-approving herbicide usage.

Coordinator Capone stated that the area where the new driveway is going has dense knotweed, with some present elsewhere. The goal should be 100% eradication of knotweed, as well as the buckthorn and burning bush. Plants and top soil should be manually removed. Those areas should be monitored, and if the knotweed returns, the applicant should return before Commission for permission to use spot treatment of herbicide. Ms. Hastings stated that the removal would be one of first steps in the project. As it will take nearly a year to finish project, the treated areas can be monitored in the interim.

Coordinator Capone stated that, if the Commission is ok with the proposal, they should continue the hearing to allow for the Zoning Board of Appeals (ZBA) to continue their process. It could result in further reductions to the project footprint. The Commission should issue the Order based on the final design. The ZBA hearing will be on November 14, 2022.

Chair Henkels requests the Commissioners preference for a three- or four-bedroom home, with respect to jurisdictional areas, stormwater mitigation, plantings, and septic design. In response, Comm. Rogers asks whether the BOH has a recommendation for the number of rooms. Coordinator Capone states that there is no regulation on room number, but the retaining wall requires a variance. If the BOH does not issue a variance, the septic would need to be graded out, which moves the house closer to the wetlands. The BOH is expected to approve the variance in early November. Comm. Holtz indicated no preference on the number of bedrooms.

Mr. Glen Merrill-Skoloff, an abutter at 18 Allen Place, recognized the developer's effort at controlling water issues. He stated that his hemlock trees have roots which are close to surface, and a two-foot cut could impact them. Coordinator Capone added that a protective barrier should be installed around the trees to keep work away from roots. Mr. Merrill-Skoloff added that his trees provide a significant privacy barrier. Development is coming very close and will impact roots.

Mr. Merrill-Skoloff, questioned the impervious surface calculation, noting that the house is 1,424 square feet total, but impervious surface is 1,305 square feet. Ms. Hastings stated that the impervious surface includes a roof overhang, but does not include the ramp and deck. She broke out driveway, garage bulkheads and concrete walk. She added that her numbers come from measuring the exterior, not from the Assessor's card. Comm. Sevier stated that he is in agreement with Ms. Hastings.

Michael Cameron, of 18 Franklin Place, stated that the footprint being shown is for six bedrooms, not four. The current septic plan creates issues which will lead to shutdown of utilities during construction. He added that it makes sense to “flip” the septic plan. He also warns against the use herbicide, as he keeps bees and they are attracted to knotweed. Ms. Hastings stated that flipping the system makes no difference because the BOH requires the septic reserve area only to protect against a possible future failure of the system.

Comm. Sevier noted that it is not common for utilities to be shut off for whole areas, and any utility impact will probably go unnoticed.

Comm. Porter expressed concern with herbicide use.

On motion by B. Porter to continue the hearing to November 28, 2022, seconded by M. Sevier, via roll call the vote was unanimous in the affirmative.

On motion by Comm. Rogers to break for five minutes, seconded by B. Porter, via roll call the vote was unanimous in the affirmative.

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

Chair Henkels reopened 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, continued from October 3, 2022.

Coordinator Capone stated that this property is 9.9 acres, and was created in the 1950s before the Act. The applicant seeks approval for the construction of house with limit of work within ten feet of wetlands. The Sudbury Valley Trustees will receive 4.9 acres as a donation, with the remainder set aside for the residence with a portion protected under a Conservation Restriction (CR). A total of 9.47 acres would be protected. The proposal is very sensitive to the constraints of the site. The house is a three bedroom with a Presby septic system, the smallest possible in this case. The site would be brought up in grade. As the site is relatively flat, this would not create a steep slope. The construction site is almost all in Adjacent Upland Resource Area. Disturbed areas outside the small lawn area, will be replanted with native vegetation up to the edge of CR. A demarcation of CR will be installed. This proposal is for the purposes of deciding the market rate only; the current owner would not develop it themselves. Disturbance will very close to wetlands. There will be no basement; the foundation will be slab-on-grade.

Comm. Holtz stated that he believed it is possible to build on the land and respect the wetlands. Comm. Sevier would like to see the site remain undeveloped, but would not object to the proposal being heard. Comm. Rogers noted that there has been a lot of thought and care put in siting the house. She likes the fact that most of the property will be donated or set aside as a CR. Her only concern is that once the property is sold, that the future builder actually takes the same amount of care as went into design. Chair Henkels concurred with Rogers.

In response to questioning by Chair Henkels, Coordinator Capone stated that applicant’s representative will be on vacation until October 31, 2022, so there will no changes to review between now and then. The Commissioners should look at footprint and confirm it is reasonable given the constraints.

Comm. Sevier expressed concern that the plan is conceptual and what constraints and oversight will there be on the developer to implement the plan as discussed.

In response to questioning from Comm. Sevier, Coordinator Capone stated that a strict Order should be drafted to ensure that a future developer respects the constraints. Before they pull a building permit, the Building Department will check in with Conservation. The footprint could be modified, but it can’t be larger or closer without coming back before the Commission.

In response to questioning by Chair Henkels, Coordinator Capone stated that the BOH approval for the septic system is contingent upon the Commission's decision. Approval from Scenic Roadways is anticipated soon. The Stormwater Management Plan is under review and a permit is expected by mid-week.

She noted that there was a lot of buckthorn in the area to be developed, with only a little in the back area. She recommends that the Commission require that the entire property be cleared of buckthorn.

In order to ensure a developer adheres to the Order, they would be issued a partial Certificate of Compliance upon the completion of construction, and the owner would be issued a full Certificate after the yard space was stabilized.

The major variables are whether a garage is needed or not, and whether it would front or side.

Mr. Fred King of DGT Associates, representative for the applicant, Ms. Elizabeth Rudenberg, stated that the Planning Department has asked for an extension to issue their review, and is not sure when it will be completed. Mr. Bill O'Rourke, Town Engineer, had questions about the driveway and culvert. For the next hearing, Mr. King will submit sketches of different layouts.

Ms. Elizabeth Rudenberg of Falmouth Maine, applicant, spoke about the history of the property. Her hope is that a trail can be built that will allow the public to visit in small numbers and appreciate the property the way her family did.

Robert Mays, an abutter at 202 Wayside Inn Road, expressed concern that the Trustees might allow parking along the ROW near his house. In response, Comm. Holtz stated that the Trustees have frontage further east along the road suggesting that they might allow parking in that location.

In response to Chair Henkels, Coordinator Capone confirmed that a Baseline Documentation Report would be needed for the CR but not the donated land. It would be worked out between the owner and the CR holder.

Paul Rudenberg of Falmouth, Maine, described the beauty of the property, and noted the water fowl and open wetlands. He wants to see it preserved for wildlife and recreation. He added that the Trustees would not be provided with frontage on the property. Any trails would connect to those already in existence on adjacent Trustees property. He and his sister are looking for a buyer that values the preservation of this land.

On motion by Comm. Sevier to continue the Hearing to October 31, 2022, seconded by Comm. 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 reopened the Notice of Intent Hearing to construct a roadway and associated drainage system and utilities within the 100-ft Buffer Zone and Adjacent Upland Resource Area for a 9-lot residential subdivision, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw, continued from June 7, August 9, and September 27, 2021, and August 22, 2022.

On motion by Comm. Holtz to continue the hearing to November 28, 2022 without discussion, seconded by Comm. Rogers, via roll call the vote was unanimous in the affirmative.

#### **Notice of Intent & Stormwater Management Bylaw: 1 Nobscot Road, DEP #301-1375 & SMWP #22-13**

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, continued from August 22, 2022.

Chair Henkels concurrently reopened the Stormwater Management Bylaw hearing to rehabilitate trails, replace three existing timber foot bridges, install two new bog bridges, conduct minor regrading around existing cabins and associated improvements which will disturb approximately 54,391 square feet of land, including 10,379 square feet on slopes greater than 10%, with no net increase in impervious area on a 250.68-acre parcel.

In response to Chair Henkels, Coordinator Capone stated that the applicant received the stormwater review on Monday. The Commission should share their observation from the recent site visit, then allow the applicant time to address their concerns. One major concern is the large area of washout in a wetland resource area. Another is the apparent lack of maintenance of erosion controls. The applicant has stated that these have been upgraded, but this has not been confirmed yet.

James Downing of Howard Stein Hudson, stated that in response to sedimentation in the wetland, additional erosion controls have been put in place. Another area of concern was the removal of stones, which will be addressed in the plan revision. A trail going through existing wetlands has been reduced in size, and the wetlands will be replicated. Supplemental information has been added to the Notice of Intent. Janet Bernardo's comments from last Tuesday will be digested and addressed. The goal will be to get the plans out this week, with a preference to continue to October 31, 2022. A check for the Bylaw fee will be issued by that time.

There were no public comments on this application.

On motion by Comm. Sevier to continue the Notice of Intent hearing to October 31, 2022, seconded by Comm. Rogers, via roll call the vote was unanimous in the affirmative.

On motion by Comm. Holtz to continue the Stormwater Management hearing to October 31, 2022, seconded by Comm. Rogers, via roll call the vote was unanimous in the affirmative.

### Certificates of Compliance:

#### **Marcel Maillet: 137 Mossman Road, SWAB 091520:**

Coordinator Capone stated that the applicant filed under Act and the Bylaw, but the Commission denied the application. The Department of Environmental Protection (DEP) then issued a superseding Order of Conditions that permitted construction of a single-family house. The applicant did not appeal under the Bylaw, but submitted a modified plan, which the Commission did approve. They issued a partial Certificate of Compliance when the house was being sold. The site is now completely stable, and new owners are respecting the no disturb zone. She recommended that the Commission issue a complete Certificate under the Bylaw. The DEP will issue its own Certificate under the Act.

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

### Adjourned:

With no further business, on motion by Comm. Sevier, seconded by Comm. Rogers, the Commission voted unanimously to adjourn the meeting at 9:24 PM.