



SUDBURY CONSERVATION COMMISSION MINUTES
Meeting Minutes of Monday, November 28, 2022

Present: David Henkels, Chair; Jeremy Cook; Richard Morse; Bruce Porter; Kasey Rogers; Mark Sevier; Luke Faust, Associate Member; and Lori Capone, Conservation Coordinator

Absent: Ken Holtz, Vice Chair

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

Minutes

August 22, 2022

On motion by Comm. Porter to accept the minutes for the August 22, 2022 meeting, seconded by Comm. Morse, with Comm. Cook abstaining, via roll call the vote was unanimous in the affirmative.

Other Business:

Recreation Department: Feeley Field Renovation: Community Preservation Act Application

Chair Henkels recognized Mr. Dennis Mannone, Director for the Parks & Recreation Department, for his presentation seeking Support for Community Preservation Act (CPA) application for field improvements at Feeley Field.

Mr. Mannone stated that there are no updates on the application before the Community Preservation Committee (CPC), but that he expects the design and permitting process to generate a number of questions. The final design hasn't been worked out to date. The plan was to design Phase I as a single package, however, the CPC wanted it split in two. They have built in some design monies to facilitate permitting from various committees. Phase II has not been fully designed yet, but that will happen if money is allocated. Chair Henkels added that the project is to upgrade the softball diamonds to standards observed in other Towns, including installing drainage in the lower field, which is perennially wet.

Coordinator Capone stated that they are seeking comments on the CPC application, and will try to identify items of concern, or if any concerns can be addressed early in the design phase.

She added that the softball diamond is surrounded by streams. Soil data suggests the area was probably wetlands originally. The field does not dry out in a timely manner, and is therefore not often useable before June.

She added that the proposal is to install a drainage system in the field, which will collect and channelize surface water towards the resource area. The project is an allowable use under the Act and Bylaw, given that the field was constructed prior to the enactment of this legislation. She expressed concerns about the use of fertilizers and chemicals to manage the field, however, as long as the design is sensitive to this, and does not discharge directly into the wetlands and treats the drainage before it gets to the resource area, then there are no major issues with allowing them to continue the application with the support of the Commission.

In response to Comm. Rogers, Mr. Mannone replied that they are anticipating a split drain system, and will use a Ditch Witch to put slits in the ground. They will install PVC piping on a sand base to facilitate drainage, and will try to minimize disturbance. They will also install a swale in the manner recommended. He does not anticipate sodding, but some overseeding is possible. While they will not rework the entire field, some routine work in the infield area is possible. No top soil will be removed.

In response to Comm. Morse, Mr. Mannone stated that the field will remain at the current elevation. A review of a topographic map will likely confirm that there is a slope from the second base towards the outfield. Chair Henkels concurred with Comm. Morse regarding the presence and location of the slope.

In response to Chair Henkels, Coordinator Capone stated that the project will introduce some impervious materials to the dugouts to make them ADA accessible. This is not enough to require the applicant to seek a Stormwater permit. If the design alters more than 5,000 square feet, it will fall under the Bylaw and the project will need to comply with Department of Environmental Protection (DEP) standards.

On motion by Comm. Cook to support the application, seconded by Comm. Morse, via roll call the vote was unanimous in the affirmative.

Hop Brook Protection Association: Community Preservation Act Application for a Watershed Based Plan
Chair Henkels recognized Mr. Jeff Winston, President of the Hop Brook Protection Association, for his presentation to seek support for a CPC application for a Watershed Based Plan.

Mr. Winston stated that the Association is a group of volunteers and abutters working towards the restoration of Hop Brook and its ponds. Their first project involved controlling the water chestnut population. With the support of the Commission, eradication of this invasive aquatic plant is now well underway.

The next project will entail working with the Organization for the Assabet River (OARS) by collecting data that will better define the problems with the ponds and brook. The data has been collected, and the Association is now looking to have it analyzed by an expert. The expert will advise the Association on what the next steps should be, and will provide a prioritized list of recommendations with associated costs. This will be used to develop a Watershed-Based Plan (WBP). This will help the Association determine next steps towards improving water quality.

Grant money for clean-up is available, but applying for it usually requires a WBP. To do this right, they need someone to work with them to select and oversee a vendor. OARS is willing to take on this role at low cost. The Association believes that the grant request will be favorably viewed, given that the Sudbury River is a federally recognized Scenic River.

A vendor, CEI, has been selected. They have an office in Bolton, and have worked throughout New England developing WBPs. The Association will ask the CPC for \$75,000, and they hope to get approval this winter or spring. Plan development will start on July 1, 2023. Grant applications will begin two years from now, with remediation expected in the summer of 2025. The proposal is supported by Coordinator Capone, OARS and their contact at the DEP. The Association is meeting with the CPC next week, but wanted to get the Commission's support of this application.

Comm. Rogers voiced her support for the project.

In response to Comm. Morse, Mr. Winston clarified that CEI stands for Comprehensive Environmental, Inc. Mr. Glenn Pransky, a member of the Association and resident at 102 Barton Drive, stated that Hop Brook is loaded with nutrients, especially phosphorus, which originated from the East Marlborough Waste Water Treatment Plant. Excess nutrients cause a lot of problems. In the summer there is visible growth of weeds and algae. As Hop Brook is the largest tributary of the Sudbury River, the Association's goal is to improve the Brook's water quality.

Comm. Porter voiced his support for the Association and this project.

In response to Chair Henkels, Coordinator Capone stated that in order to determine if permitting will be required, she will need to see the proposals. A Stormwater Permit Application is likely to be needed, and since the project would be in a jurisdictional area, so to would a Notice of Intent.

On motion by Comm. Morse to support the project, seconded by Comm. Porter, via roll call the vote was unanimous in the affirmative.

In response to Mr. Winston's request for an endorsement letter, Chair Henkels stated that Coordinator Capone will draft a letter to be signed by the Commission in advance of the October 7, 2022 CPC meeting.

Wetland Applications:

Minor Modification: 31 Lincoln Lane, DEP #301-1364

Chair Henkels recognized Coordinator Capone for her presentation on a well installation project requiring a minor modification to the Order of Conditions.

Coordinator Capone stated that the applicant was in front of the Commission last year for a new well project. The Commission worked with the homeowner to find a location for the well. There was previously a shallow well, and the applicant requested permission to install a new artesian well. There have been some issues with the installation. The current well has leaks, and the quality of water is not up to drinking water standards. A second artesian well is needed.

The site is limited on where the well can go, due to a need for maintaining an offset to the septic system and wetlands. The only area left is behind the garage, about 41' from wetlands and at edge of a floodplain. She recommends approving this as a minor modification, and requiring that erosion controls be survey-located to ensure no impact to the flood plain. The existing well should be decommissioned so that it cannot be used for irrigation in the future.

The applicant, Mr. Jatinder Gill of 31 Lincoln Lane, stated that he has been living on the property for six years. The problem has caused some difficulty, and after spending a lot of money, he still has no clean drinking water. He is trying to get a new, working well as soon as possible.

In response to Comm. Sevier, Mr. Gill explained that the current artesian well is 55' down to bedrock, with a casing down to 90'. They observed a leak in the casing, which was sealed and cemented, but this was unsuccessful at restoring clean water. He has spoken to a hydrologist, who was unable to explain why the well failed. The contractor has done a lot of work in Sudbury without experiencing a similar issue. The well is 405' deep.

In response to Comm. Morse, Mr. Gill stated that the original dug well had no issue with groundwater, but river water was coming up to the brim of well. Groundwater is only an issue with the current artesian well. Everyone in the neighborhood has well water, so the hope is that this new installation will be successful. The spot was chosen because it is the furthest from the current, failed well.

In response to Comm. Rogers, Mr. Gill stated that it is unknown whether the new well would be drilled as deeply as the current well. Wells on neighboring properties extend to various depths. Where water will be hit is hard to know beforehand. He is not sure if multiple wells in close proximity will affect water pressure and the ability of a well to fill up, but his understanding is that there is a tremendous amount of water available.

In response to Chair Henkels, Coordinator Capone stated that the well is just outside the floodplain, and therefore outside of the jurisdiction of the Federal Emergency Management Agency. The approval for this would be granted as a minor modification to an existing Order.

On motion by Comm. Rogers to issue the Minor Modification approving the new location, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

Notice of Intent: 219 Wayside Inn Road, DEP File #301-1378

Chair Henkels re-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, continued from October 3, October 17 and October 31, 2022.

On motion by Comm. Sevier to continue the hearing without discussion to December 12, 2022, seconded by Comm. Porter, via roll call the vote was unanimous in the affirmative.

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, continued from September 12, October 3, and October 17, 2022.

On motion by Comm. Morse to continue the hearing without discussion to January 9, 2023, 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 re-opened the Notice of Intent hearing to construct a roadway and associated drainage system and utilities in 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, September 27, 2021 and August 22, 2022.

On motion by Comm. Cook to continue the hearing without discussion to January 9, 2023, seconded by Comm. Morse, via roll call the vote was unanimous in the affirmative.

Notice of Intent: 1 Nobscot Road, DEP #301-1375 & Mayflower Council Inc.: 1 Nobscot Road, SWMP #22-13

Chair Henkels re-opened 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, October 17 and October 31, 2022.

Concurrently, Chair Henkels re-opened the Stormwater Permit Application 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, continued from October 17 and October 31, 2022.

In response to Chair Henkels, Coordinator Capone stated that each of the stormwater peer review comments have been addressed, except that the Commission must consider whether the alterations for the bog bridge installation should be considered temporary or permanent. The site has been visited again since the last meeting. Ms. Janet Bernardo of the Horsley Whitten Group, is comfortable with either decision as long as there is suitable mitigation. The crushed stone will not impact stormwater. The mitigation under consideration is for invasive species management. This is not included in the Stormwater Permit.

Coordinator Capone has drafted a strict Order which gives flexibility to the applicant to implement a plan with oversight, but the Commission has recourse should oversight or workmanship prove inadequate. The Commission can either require that construction professionals oversee the work, or request funds to retain an environmental monitor. A copy of the draft Order has been provided to applicant for review.

Some conditions will stay in perpetuity, including invasive species management. Also, the stormwater components are to be maintained over time, and the applicant is to provide reports upon request.

A condition requires that an annual maintenance plan shall be provided to the Commission and the Sudbury Valley Trustees for all work in a given year.

A condition requires that within ten days of the issuance of this order, the applicant shall submit a Request for Certificate of Compliance for the previous Order, which remains open as of this date.

A condition requires that a plan for the latrine is submitted by March 1, 2023.

A condition requires that each phase of the project is to be completed before the next one begins.

A condition requires that all of the earthwork, primarily on steep trails, is to be overseen by a professional engineer to ensure proper grading. Also, wetland replication and other related work is to be overseen by a wetland scientist.

A condition requires a 15-foot threshold from the edge of disturbance for invasives removal. The applicant will remove substantial invasive pockets if they are observed beyond the threshold.

A condition requires an as-built plan, which is needed to confirm that there is no expansion of trails since the unauthorized work last summer.

Mr. Downing of Howard Stein Hudson, and Mr. Hank Rauch of the Mayflower Council, both expressed their approval of the conditions as listed by Coordinator Capone. Mr. Downing further added that he would provide an update regarding the latrine plans.

In response to Chair Henkels, Coordinator Capone stated that there is to be invasive mitigation adjacent to work that was done, but there will also be a mitigation component for any work within the jurisdictional area. There will be an invasive species management plan that would identify areas outside the 15-foot area that would be a target for removal before Phase 1 begins. This is quantified as 0.6 acres of additional land.

She further stated that the Commission is typically provided with an as-built plan at the end of a project. However, there is some concern for Phase I. It is up to the Commission if an interim as-built plan is needed after Phase I. An interim as-built would make it easier to fix any issues that arise. Likewise, proper oversight will minimize issues. The Commission could require an interim as-built plan if needed.

There were no public comments.

On motion by Comm. Porter to close the Notice of Intent and Stormwater Permit Application Hearing, seconded by Comm. Morse, with Comm. Rogers abstaining, 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, with Comm. Rogers abstaining, via roll call the vote was unanimous in the affirmative.

On motion by Comm. Morse to issue the Stormwater Permit, seconded by Comm. Cook, with Comm. Rogers abstaining, via roll call the vote was unanimous in the affirmative.

Other Business:

Emergency Certification: 110 Codjer Lane, Cavicchio Greenhouses, Inc.:

Coordinator Capone reported on remediation work proposed for the site following a fire. She stated that the fire occurred in October, and damaged a building on the edge of wetlands. While the fire was being put out, water ran off into the wetlands, carrying debris, ash, and potentially some fertilizer.

The Department of Environmental Protection has allowed the clean-up of this contamination. A Licensed Site Professional (LSP) has been hired and, on Wednesday, they requested an Emergency Certification from the Town to also allow the clean-up, which is to be done with sensitivity in the resource area. Any equipment will stay in the paved area. Workers will go into the wetlands with rakes, shovel, and a truck-mounted Vactor hose to remove debris. Also, there was a row of trees that are now charred and dead. These present a safety hazard, and the LSP wants to remove 10-12 trees on edge of wetlands. They will also be providing a restoration plan. Chair Henkels has issued the Emergency Certification. The Commission is asked to vote to ratify the Certification of this project. Two conditions are included, which are that a restoration plan is to be provided within 60 days, and that restoration work be completed by June 1, 2023.

In response to Chair Henkels, Coordinator Capone stated that restoration work will consist of plantings only, and as long as these are done by hand, there will be no need to submit a Notice of Intent (NOI). However, the Commission may request one.

In response to Comm. Sevier, Coordinator Capone stated that she not aware of an intention to replace the building. An investigation is still under way, but the Commission can ask the applicant to state their intentions when they submit a restoration plan. If they do plan to replace the building, it will require an NOI because it's right on the edge of the wetland.

In response to Comm. Morse, Coordinator Capone stated that the cause of the fire is not known. The building was used for storing cardboard.

On motion by Comm. Morse to ratify the Emergency Certification, seconded by Comm. Rogers, via roll call the vote was unanimous in the affirmative.

Certificate of Compliance:

26 Musket Lane: DEP #301-1334

Coordinator Capone reported on the completion of a tree removal project. The applicant has discovered that native plants are better able to survive the drought. The tree work was done sensitively, and incorporated more plantings for mitigation than were required by the Order. Two years have elapsed since the plantings were put in, so the project is ready for a Certificate of Compliance. The applicant has asked that it include a condition allowing for, but not obligating, the removal of invasives in perpetuity. This has been added to the perpetual conditions.

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

35 Stone Root Lane: DEP #301-1276

Coordinator Capone reported on the completion of a sunroom construction project. This was a very small addition on the back of the house, in a location originally occupied by a deck. The work involved enclosing the existing deck. The work has been completed as conditioned in the Order, with the exception of a 1-foot difference in the footprint, as displayed in the as-built plan. This lot is mostly under a Conservation Restriction, and is very shady in the back yard. Since the area is small and cannot support a lawn, the applicant has requested permission to install crushed stone in place of grass to stabilize the surface. As the area is flat, Coordinator Capone granted the request. Two duck boxes were also installed.

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

Adjourn Meeting

With no further business, on motion by Comm. Sevier, seconded by Comm. Cook, the Commission voted unanimously to adjourn the meeting at 8:06 PM.