



SUDBURY CONSERVATION COMMISSION MINUTES
Meeting Minutes of Monday, March 13, 2023

Present: David Henkels, Chair; Ken Holtz, Vice Chair; Jeremy Cook; Bruce Porter; Kasey Rogers; Mark Sevier; and Lori Capone, Conservation Coordinator

Absent: Bruce Porter

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

Minutes:

On motion by Comm. Rogers to accept the minutes of the January 9, 2023 meeting, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

In the absence of a quorum, no vote was held on the minutes of the January 23, 2023 meeting.

Wetland Applications:

Abbreviated Notice of Intent: 19 Robert Frost Road, DEP #301-1388

Chair Henkels opened the Abbreviated Notice of Intent hearing to construct a deck and patio within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Angela Kearney, of the ecological planning and design firm, Minglewood, LLC, and representative to the applicants, Lindsay & Marco Steinsieck, was recognized for her presentation.

Ms. Kearney stated that the project site is in the south end of Sudbury. There are Bordering Vegetated Wetlands along the back of the property. VTP Associates surveyed and delineated the wetlands in May, 2021. There is a tight wooded line along the back of the house. The entire property is within the Buffer Zone. The project is on the southwest side of the house, on existing lawn. There is a knoll along the left side, dropping down to the wetland below. All drainage goes towards the street and away from the wetland.

She stated that they propose to replace three windows with a door. There will be a small landing down to a small patio. The wetland is bordering an intermittent stream. All surfaces will be porous, and all runoff is expected to infiltrate on-site. There will be an area of invasive removal and mitigation planting. The current plan is about 10-15% smaller than previously submitted plan, and well over 50% smaller than the original plan. They have pulled everything away from the wetland as much as possible.

She further stated that erosion controls will be installed at the top of the knoll. In Phase I, they will install 95 square feet of deck, and 360 square feet of patio, for 455 square feet total. Stone will be laid underneath for infiltration. About 880-1000 square feet of invasive removal and replanting will take place in this phase. They will provide a more exact planting plan once the invasives are cleared.

She further stated that in Phase II, they will remove a section of existing lawn and plant it with native plant, for a total of 1,400 square feet of restoration. It will stay at existing grades because of the septic tank, D-box and leach pit. The location was confirmed with the Board of Health and the Town Engineer.

She further stated that, for the deck, helical piers will be used. These screw into the ground, causing very little soil disturbance.

Coordinator Capone stated that the plan balanced concern for wetlands and naturalizing the area while also giving the owners access to outdoor recreational space. She noted the absence of a planting plan, although a planting list was provided. One condition of the Order should require the submission of a site-specific planting plan for review

prior to implementation. As an Order has not been drafted, she recommended that the Commission seek a continuance.

In response to Comm. Holtz, Coordinator Capone stated that an Abbreviated Notice of Intent is a reduced form used for small projects altering less than 1,000 square feet and not within the floodplain.

In response to Comm. Holtz, Ms. Kearney stated that they hope to get a budget for Phase II within the three years allowed by the permit. Phase I would take place this spring, and they hope to implement Phase II within the next year or two. It is possible that an Extension will be needed. However, the goal is to complete both phases within the time frame of this permit.

In response to Chair Henkels, Coordinator Capone stated that growing seasons are clocked for two years after the planting is completed. Plantings in the two phases will be clocked separately. The Certificate of Compliance would not be released until two years had lapsed on the Phase II plantings.

In response to Comm. Rogers, Ms. Kearney stated that she would be in touch with Coordinator Capone if the Phase II deck is not completed. This would then become a planting area. Phase II is primarily focused on installing the second part of the deck. They will implement the planting as time and budget allow.

In response to Chair Henkels, Ms. Kearny agreed to continue the hearing to March 27, to allow the Order to be drafted.

There were no public comments.

On motion by Comm. Rogers to continue the Hearing to the March 27, 2023 meeting, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

Request for Determination of Applicability: Lyons-Cutler Property- SVT, #23-3

Chair Henkels recognized Dan Stimson, Assistant Director of Stewardship for the applicant, Sudbury Valley Trustees, for his presentation to replace two boardwalks at Landham Road & Raymond Road (Parcels L08-0013 and L09-0002) within the 200-Riverfront Area and Bordering Vegetated Wetlands, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw.

Mr. Stimson stated that the project will revitalize the western access to the Lyons-Cutler property. The location is south of Route 20, east of Raymond Road, and west of Landham Road. There is an existing trail to the west and south of the reservation that hikers have been able to use without driving to the formal parking area on Landham Road. A couple years ago, a large tree took out the bridge, which was already undersized and in need of repair. They have reached an agreement with the Water District to maintain the trail. They are gathering funding and making designs for the location #2 bridge on Trustees property, which is more complex.

He further stated that location #1 has a secondary bridge, and is the simpler of the two crossings. The site is seasonally mucky, with relatively firm soils. Location #2 is more of a real stream crossing, with very mucky soils, deeper, and with more organics. The design for location #1 is used frequently in Wayland, and is based on a design used by the Acton Conservation Commission. Double-walled plastic corrugated plastic piling will be used for sills, which allows water to flow through them. It also keeps the wood from contacting the surface of wet soils, so it is longer lasting. It is easy to transport to the site and install. They will build a box structure from 2 x 6 pressure-treated construction lumber. The bridge will be 52 feet long and 32 inches wide, with wood decking.

For the location #2 bridge, a consultant helped with the design. This design relies on helical piers for the foundation. It will be attached to sills, with a box structure of pressure-treated wood on top. It will be an elevated board walk across a wetland and stream, and will have a total length of 110 feet. It will be lengthier and raised higher than the bridge at location #1.

Coordinator Capone stated all work will be done by hand. Pieces will be constructed and cut off site. Any impacts are temporary, and mostly due to people walking. After work is done, vegetation will quickly fill in.

In response to Chair Henkels, Coordinator Capone stated that one condition should be that photos are submitted during construction.

In response to Comm. Sevier, Mr. Stimson stated that a 32-inch width is the same used in other spots. It is easily cut from construction lengths, and is used in a lot of places. He has had no experience with people going around it, even with dog walkers. The height is below the threshold that would call for a railing, which means it is relatively low.

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

Notice of Intent: 25 Singletary Lane, DEP #301-1389

Chair Henkels opened the Notice of Intent Hearing to improve the landscape and stormwater management within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Matthew Gallagher of the Sudbury Design Group, and representative for the applicants, David & Heather Larson, was recognized for his presentation.

Mr. Gallagher stated that the site is incredibly steep, with wetlands to the far south. Stabilizing the site is the goal of the project. There is a steep driveway running down to a garage bay. The whole upper slope is eroded with every rain storm. The main goal is to stabilize this slope. The site also gets runoff from 31 Singletary Lane. The water comes down the driveway and erodes the slope behind the garage. There is about 10+ feet of grade change from road to garage. Attempts at planting on the slope have been unsuccessful thus far. There is a lot of erosion, which is exposing tree roots.

He further stated that they are planning on reconstructing an existing retaining wall. They will increase the height of the retaining wall, and line it with a stone channel with a pervious pipe below. This will filter into a CULTEC chamber located beneath the driveway. They will line the existing trees with boulders, and plant the slope with ground cover and shrubs known to stabilize steep slopes.

He further stated that the next problem area is near the edge of the neighbor's driveway. There is a water channel, and each rainfall causes a significant amount of washout. They are proposing to install a stone pit with boulders. This would help infiltrate water and slow down runoff instead of sheet flowing. Below the deck and below the Japanese maple there is a steep slope coming down from the upper deck to the lower lawn. This is the only access to this location. Based on the steepness, they propose to add a few fieldstone steps and a stone landing to get to the lawn area.

He further stated that the next part of the project is to extend from the stone landing a series of field stone steps leading to the lower entry way into the house. They would sit at a grade with lawn between them to encourage infiltration and minimize the hardscape footprint. They are also looking to reconstruct an existing vegetable garden with cobble banding and pea stone infill.

He further stated that for the final part of the project, they will remove burning bush and replace it with natives. There is a small patch up by the water capture point with bittersweet and burning bush, which will also be removed and replanted. The only hardscape within the Buffer Zone will be a part of the stairs, walkway and landing.

Coordinator Capone stated that this is a very tough site, with no drainage structures in the roadway. Therefore, drainage is a problem on the site. The applicant is trying to infiltrate water as much as possible, and in a sensitive manner so as to minimizing alteration. What they are proposing would improve the site overall with regards to the wetlands and the constant erosion. They are incorporating a lot of native planting into the Buffer Zone. She

recommended a condition to provide a planting plan. The resource area is protected by erosion controls at the edge of lawn. There will be no expansion of lawn, which was a condition of the original approval for the site.

In response to Comm. Holtz, Mr. Gallagher confirmed that access to the lower lawn area to bring in hardscaping materials would be along the side of the house. This is mostly through existing lawn. There is an existing septic area and leach field, so caution will be exercised to avoid these. Any disturbed lawn will be repaired. The chambers are sized so that they should not fill but any overflow could infiltrate into the existing French drain.

In response to Comm. Sevier, Mr. Gallagher stated that there was a recent addition installed at the southeast corner of house, added in 2012, which was prior to the current owners. They moved the septic field farther out from wetland when they did that renovation.

In response to Chair Henkels, Mr. Gallagher stated that grading would only be done to stabilize the upper hill, with the removal of the upper stone parking area, and to add a staircase down from the deck to the lawn. The driveway would be resurfaced, and only regraded for the CULTEC chamber. The CULTEC is not very deep, but they would add a couple feet of crushed stone beneath the structure to help with infiltration. The existing septic is down at the bottom of the property, and the leach field is up where parking area was.

In response to further questioning by Chair Henkels, Mr. Gallagher stated that plantings will be added to the lower slope, which is currently eroding. This is a major planting area. The second area is the upper slope. Some additional planting will be done where the invasives are removed, and some lawn will be removed and converted to planting.

There were no public comments.

In response to Chair Henkels, Mr. Gallagher agreed to continue the hearing until the March 27, 2023 meeting.

On motion by Comm. Holtz to continue the Hearing to the March 27, 2023 meeting, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

Notice of Intent: 150 Wayside, 80, 94, 100 Pride's Crossing, DEP #301-1383

Chair Henkels re-opened the Notice of Intent hearing for the after-the-fact filing to clear trees and create a pasture within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw, continued from February 6 and February 23, 2023.

Coordinator Capone stated the discussion at the last meeting centered on how to craft an Order to meet the intent of the Bylaw. The Commission can require a Deed Restriction on land that is converted to agricultural use, especially if it was in a natural state initially. She drafted the Special Conditions and provided it to all parties before the meeting. The findings in the Order specify that the work was done after the fact, but under a prior Order. It describes how much of the land within the Buffer Zone was altered and is being converted to agricultural use. It describes how a portion of Buffer Zone is to be restored to native vegetation, with removal of invasives. They must keep the land in agricultural food production for a minimum of 10 years from the issuance of the Order. If the land is not maintained in agricultural use, the Commission reserves the right to require that the owner return the land back to a forested state. The findings state that the remainder of the property is being used for pasture, and is not in agricultural use under the Act. This Order does not allow the applicant to take credit for agricultural exemptions.

She further stated that there is a condition to require the applicant to provide evidence that he is producing a commodity, by planting of gourds or pumpkins annually. He is required to provide proof of sale of these vegetables.

She further stated that there is a condition that the edge environment is monitored for invasive species. This is to be managed so that the forested space does not become degraded by invasive species.

She further stated that there is a condition that the pasture shall not be mown before July 31. This is to protect ground nesting birds, which was a requirement of the existing Agricultural Easement.

She further stated that the applicant is will close out the existing Order after the appeal period lapses. And following the removal of invasives near Wayside Inn Road, the applicant will incorporate additional plants, if necessary.

In response to Chair Henkels, Coordinator Capone stated that the Order will not be recorded until 10 days have lapsed. The applicant will submit a Request for a Certificate of Compliance on the old Order. Both the Certificate of Compliance and the new Order will be recorded at the Registry at the same time. There will not be two open Orders.

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. Cook, via roll call the vote was unanimous in the affirmative.

Notice of Intent – Harveys Farm Lane, DEP #301-1387

Chair Henkels re-opened the Notice of Intent hearing to improve the roadway within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw, continued from February 27, 2023.

Coordinator Capone stated that the Commission had requested that a revised site plan, modified so that the erosion controls encompass the earthwork and vegetation removal associated with establishing stormwater features. They also requested an operation and maintenance plan for the roadway. Both of these items were submitted.

She further stated that there is an abutter at the corner of Old Sudbury Road and Harvey Farm Lane who expressed concern that farm equipment would use the roadway. The applicant has confirmed that the road is only to be used by residents of the two lots. If the third lot was developed into a residence, it would have direct access from the roadway. The plan is only for two lots to be developed.

There were no public comments.

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

On motion by Comm. Cook to issue the Order of Conditions, seconded by Comm. Holtz, 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.

At the request of the Applicant, on motion by Comm. Sevier to continue the Hearing to the April 10, 2023 meeting, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

Notice of Intent: 5 Hunt Road, DEP #301-1380

Chair Henkels re-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, continued from October 17 and December 12, 2022.

At the request of the Applicant, on motion by Comm. Sevier to continue the Hearing to the April 10, 2023 meeting, seconded by Comm. Rogers, via roll call the vote was unanimous in the affirmative.

Other Business:

Right of First Refusal Recommendation: 137 Brimstone Lane

Coordinator Capone stated this topic has been discussed multiple times previously. A second Right of First Refusal was received on Friday. There are two separate recommendations tonight for 137 Brimstone Lane, which is being subdivided into two lots. Lot 1 contains an existing single-family house, garage, shed, studio area, septic system, and cleared space. This property abuts the Nobscot Conservation Land. A public trail runs along the property line to Ford's Folly. An offer is in front of the Commission for this lot.

She stated that, for Lot 1, what is being proposed is the undeveloped space. There is a perennial stream through the back, which places much of the area within the Riverfront Area. There are additional wetlands to the south of the property, and a 100-foot Buffer Zone falls within the side yard. The offer is for \$200,000. There are restrictions on what can be done with the property. A project could alter 5,000 square feet or 10% of the Riverfront Area, whichever is greater, as the site was developed prior to the Rivers Act. The first 100 feet must remain undisturbed.

She further stated that the offer for Lot 2 arrived on Friday. The lot is completely undeveloped, and a perennial stream runs through the middle, so Riverfront Area is on either side. The first 100 feet of this Riverfront Area must remain unaltered, but the second 100 feet could be altered by up to 5,000 square feet. There are no exemptions, as this is a new lot created after the Rivers Act. The proposal would be for the Town to purchase the lot in its entirety for \$375,000. The Commission needs to make separate recommendations for each of the lots. The lot is entirely within endangered species habitat, which adds another level of protection if Lot 2 were to be developed. The only buildable area is by the roadway, and it is not known if surveying or septic test pits have been done. There is no known proposal for potential development at present. The Housing Trust may look at these lots for potential for affordable housing. The Land Acquisition Recommendation Committee is scheduled to meet on Wednesday. The Commission should take a position at least on Lot 1 tonight.

In response to Chair Henkels, Coordinator Capone stated that the Town has 120 days to decide. The offer will also go before Planning, Land Acquisition Recommendation Committee, and the Select Board. There is still plenty of time to decide on Lot 2. A decision on Lot 1 should be made by the March 27, 2023 meeting.

She further stated that there is a stream that needs further evaluation for perennial status. This has implications for the extent of the Buffer Zone. There is no wetland delineation yet. Some other areas appear wet in the aerial photo.

Comm. Sevier stated that there isn't a compelling reason for the Town to purchase Lot 1, as most of the lot is already protected.

In response to Comm. Holtz, stated that the Bay Circuit Trail goes through the area and on to Framingham. The Commission owns the Nobscot Conservation Area, which has a parking lot for 8 cars on Brimstone Lane, near the town line. Comm. Rogers and Comm. Sevier added that they have parked here without issue.

In response to Comm. Sevier, Coordinator Capone stated that these offers are in response to the land being in Chapter 61B for recreation.

In response to Comm. Holtz, Coordinator Capone confirmed that the Bylaw offers protection of this land, and not much development can occur on these lots.

She further stated that, for Lot 1, a developer could possibly remove some trees, expand the lawn, put in a pool, and other single-family use amenities in the second 100 feet of Riverfront Area. Lot 2 is more restricted because it is new, and therefore falls under Riverfront Area regulations. A stream goes right through middle, which protects the space in the majority of the lot.

Comm. Sevier stated that he agreed with Comm. Holtz.

In response to Comm. Henkels, Coordinator Capone confirmed that most projects on the lots would have to seek permission from the Commission and the Natural Heritage & Endangered Species Program. Projects in the front of Lot 1 are not within jurisdiction.

On motion by Comm. Sevier to recommend to the Select Board that they do not exercise their Right of First Refusal on Lot 1, seconded by Comm. Rogers, via roll call the vote was unanimous in the affirmative.

On motion by Comm. Sevier to recommend to the Select Board that they do not exercise their Right of First Refusal on Lot 2, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

Commissioner Comments:

Comm. Rogers congratulated Chair Henkels and Coordinator Capone for their contribution to the Town Newsletter. Chair Henkels stated that Robert Bosso provided editorial assistance.

Adjourn Meeting

With no further business, on motion by Comm. Sevier, seconded by Comm. Cook, the Commission voted unanimously to adjourn the meeting at 8:21 PM.