



**SUDBURY CONSERVATION COMMISSION MINUTES**  
**Meeting Minutes of Monday, August 7, 2023**

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

**Absent:** Jeremy Cook

The meeting was called to Order by Chair Henkels at 7:01 pm.

**Wetland Applications:**

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

Chair Henkels re-opened the 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. He stated that the Commission had received new plans only several hours ago, so there has not been an opportunity for review. The Commission is considering several aspects of the project, including the reduction in the footprint of the project, the retaining wall height and how that relates to the new footprint measurement, stormwater calculations, the Cultec system's depth to water, invasive plants removal including Japanese knotweed, and the reduction of impervious surface.

Coordinator Capone stated that, when the Commission last heard this project, they were generally comfortable with the footprint. They referred the application to the Zoning Board of Appeals to be sure the proposal was in harmony with the neighborhood, and also to have a stormwater review completed. The applicant was then to return to the Commission to get approval for the final plan set.

She stated that the revised plans received today shows, for the proposed house, a 112 square foot reduction over existing conditions. The existing driveway connects the buildings and is extensive for a small lot. The revision shows a 714 square foot reduction in the driveway. The retaining wall has been reduced in scope by 55 square feet. What is being presented is a significant reduction in impervious surface over existing conditions, which is one of the mitigating factors for this project.

She stated that groundwater was also a concern. There were questions about the Cultec system, and whether groundwater had been determined appropriately. The Commission wanted to ensure that the system was not sitting in ground water. Since that time, the basement filled with water that was no longer pumped out to the street. The Town had replaced two catch basins in Massasoit Road. While replacing one of the catch basins, they realized there was a pipe running directly from the basement to the catch basin, which was the original pump system for basement. The elevation of water in basement was evaluated and shown on the revised plan. The elevation is about a foot higher than the estimated seasonal high ground water, as determined during the septic system review.

She stated that she has discussed the septic system with the Board of Health agent. Because the septic system was designed exactly four feet above groundwater at the original elevation, if it is assumed that ground water was about a foot higher, then the septic system will be only three feet above the groundwater elevation. There was no way to change the septic system or reduce the number of bedrooms that would change the three-foot separation to groundwater. The Board of Health is comfortable with issuing a Variance for three-foot versus four-foot separation to groundwater.

She stated that the other mitigating effort in the plan is the complete removal of invasive species from the property. Japanese knotweed is the most prominent and problematic. In addition to the complete removal of invasives, they will eliminate some existing lawn and plant 40 native shrubs, 12 native trees, and a wetland seed

mix. This is a 2,200 square foot mitigation and is an improvement to the site. There will also be markers installed at the edge of the mitigation area, ensuring that future homeowners know this area must be allowed to naturalize moving forward.

She stated that a large tree branch fell at the site a few weeks ago. It had been leaning towards the house, and she recommended that it be removed. It was not included in the submission, but it is probably now slotted for removal.

She stated that most of the Commission's concerns have been addressed through the Zoning Board of Appeals and stormwater review process. There is a question on the height of the retaining wall. The ZBA requires that the wall in front not exceed three feet, but the detail on the plan has it at 3'3". The front of the wall along the street will retain a three-foot height at the maximum. To the rear and the side an elevation of 3'2" will be reached. She requested confirmation from Mr. Truax.

She stated that the height of the Cultec system is at two different elevations as shown in the plan, 101.5 feet and 102.5 feet. She requested that Mr. Truax confirm the elevation at the top of the structure.

She thanked the abutters for keeping a close eye on the project throughout the process.

Mr. Robert Truax, a consultant with GLM Engineering, and representing the applicant, Mr. Jonatas Storck, confirmed that the wall will be three feet in the front. They will put some fill in along the front to meet the requirement. As you move along the driveway, there are a couple of spots that reach 3'3".

He stated that the Cultec chamber is in the backyard. The plan has a misprint. The 102.5-foot figure is the finished ground above the chamber, while the 101.5-foot figure is at the top of the chamber.

He stated that they have reduced the size of the house. The old footprint was approximately 1,800 square feet, but the new footprint is 1,774 square feet.

He stated that they have ZBA approval for a stormwater permit. They have also worked with the Board of Health on the septic system. They are not going to prepare a reserve area. This spares the tree line along the abutting property on the right-hand side looking from the street.

He stated that they have provided recharge for the house. There is a trench drain recharge system for the driveway, which sheet flows into the trench on the left-hand side of the driveway.

He stated that there will be plantings near the driveway and around the perimeter and rear.

In response to Chair Henkels, he clarified that the trench drain on the driveway allows for sheet flow into a 2X2 stone trench that provides some recharge for the driveway area. Some of the plantings are between the trench and the property line. They will build the primary component of the septic system and re-oriented it, allowing for expansion along the property line. This way they don't have to disturb the tree-line, and it allows them to reduce the length of the wall.

He stated that the landscaping plan shows plantings around the perimeter and in front of the wall. There are foundation plantings, and the wall will be screened by plantings.

In response to Coordinator Capone, Mr. Truax confirmed that all landscape plantings are native.

In response to Chair Henkels, Coordinator Capone clarified that the calculation for stormwater was based on the reduction in the footprint.

In response to Comm. Holtz, Mr. Truax clarified that the elevations for the Cultec system as they appear in the revised plan are not correct. The actual top of unit is at 101.5 feet, and the lawn area over the top is at 102.5 feet,

which is about one foot of cover. The bottom is a six-inch stone bed, and the unit sits on top. It is a plastic chamber, sitting at 100.5 feet. The bottom of the stone is at 100 feet. The unit is only 12.5 inches top to bottom. The elevation of the groundwater is 97.7 feet.

In response to Comm. Holtz, Mr. Truax confirmed that the water in the basement was at 98.5 feet. The test pit at that chamber showed the elevation at 2.3 feet above groundwater. Going by the water in the basement, it's 1.5 feet to the stone, and 0.5 feet (or 6 inches) to the chamber. The Cultecs are sized for ten cubic feet in addition to the anticipated roof run-off.

In response to Comm. Holtz, Coordinator Capone stated that increasing the size of the unit would be better, but that the review engineer did not raise this as a concern with the design.

In response to Coordinator Capone, Mr. Truax confirmed that the overhang of the roof is included in the calculation. They are putting in four chambers, but can add a fifth chamber. They are very small chambers for a very shallow system. They will make them longer, not deeper. Coordinator Capone expressed her approval, given the known drainage issues on the site.

In response to Chair Henkels, Coordinator Capone stated that the plan shows a lot of knotweed, close to the garage and the road. It has been growing for years or even decades, and is very healthy and dense. They are mature plants, and probably extend into the ground up to 7-10 feet. It is not feasible to dig all that material out. She recommended removing the material above the ground by cutting and removing it from the site. Additionally, at least a few inches of soil should be removed, as that will contain the majority of seed dropped over the years.

She added that the rhizomes are very aggressive, and there is no way other than herbicide treatment to get rid of knotweed. This will involve a drip application directly into the cut stems. The herbicide will stay in the plant, that is it does not spread into the soil. As this is not a foliar spray, it won't drift to other locations. After the rhizomes are treated, the area will be paved over. Knotweed can come through the pavement; however, herbicide treatment should eliminate the majority of the plant. This treatment will be combined with a management plan. After a couple years of monitoring, with all sprouts being removed quickly, she is hopeful that the plant will be eliminated. This is the best option given the density.

In response to Chair Henkels, Coordinator Capone stated that there is usually two years on a planting plan. However, the Commission may wish to require a third year for the invasives. This would extend it to the full three years for which the Order will be open. They can extend the Order if construction does not begin immediately. The Commission should require that the work is done by a licensed herbicide applicator or invasive species specialist, given the specialized nature of the work.

She added that the Commission should require that the removed materials are disposed of properly. There are facilities that will burn plant material. Others will mulch it, causing a potential problem elsewhere. The Order might be conditioned so that the Commission is informed of the ultimate destination of the material.

She added that if knotweed is in seed during removal, special measures should be taken to remove it directly into a dumpster, without stockpiling on site. The driveway is an impervious barrier, so if the work is done carefully by a specialized firm, any seed that might drop onto it would be spotted.

Mr. Michael Cameron, of 18 Franklin Place, thanked Mr. Truax and Mrs. Hastings for their consideration throughout process, noting that they have been very responsive to the comments made by everyone in the neighborhood. They made changes quickly to plans and listened to the feedback from various Boards,

He added that his biggest concern is with water levels, noting that this year the water has been very high. He has had flooding through his yard in the seven years he has lived in his current location. His biggest concern is if the Cultec system gets clogged. He questioned whether a homeowner would have the knowledge or ability to

fix that problem. When the Town restored the drainage system under the street, they found a pipe from the basement in the existing house emptying directly into the drainage pipe. No one knew it existed until it filled the trench with water. He expressed concern that a future homeowner might never know if the Cultec was clogged.

He added that when they first started working, they tied a chain around the knotweed and left it lying for several weeks. The hiring of a professional for this work will alleviate concerns over proper removal of invasives.

In response to Chair Henkels, Mr. Truax stated that the Cultec system might sometimes be clogged with leaf litter. Generally, roof runoff is clean, unlike the road or parking lot. They give homeowners a maintenance plan with instructions for cleaning the gutters twice a year, once before winter after the leaf fall, and again in springtime. The downspouts go to a Y-type structure, so if the system backs up it comes out there. There is a screen in the Y. If leaf litter enters the system, it hits the screen and washes out on the ground rather than down the pipe and into the leaching system. There are proposed inspection ports on the leaching system that are inspected for build-up. This is an on-going issue with any drainage system: how will maintenance be enforced? It does not always happen on every site, but sometimes homeowners don't inspect it until they have a problem.

Ms. Mary Lester, of 10 Allen Place, stated that this was the first time she had seen the planting plan, although she has been at all of the Planning Board meetings. She requested that this be included in materials that they can review for a longer period of time. The drawings were very muddled. She wanted to see a plan to compare it to the drawings, to gain clarity on the location of the retaining wall with respect to the street. She wants to see the plant materials match each other.

With regards to the extent of tree removal along the back of the house, Ms. Lester questioned whether specific trees will be marked, and how that gets decided. Coordinator Capone replied that, at the site visit, she indicated a number of trees that would make good candidates for removal. However, the applicant was not proposing to remove any trees. The abutters should not see anything but trees being added to perimeter.

In response to Mr. Truax, Coordinator Capone confirmed that, before the next meeting on August 21, she was willing to work with Mr. Truax on a draft Order. She stated that they should get a planting plan soon. Mr. Truax granted permission to continue the Hearing to August 21, 2023.

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

#### **Notice of Intent: 4 Demarco Road, DEP #301-1392**

Chair Henkels re-opened the Hearing to construct an addition and expand the septic system and driveway within the 100-foot Buffer Zone and 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw, continued from May 8, 2023.

Coordinator Capone stated that the Commission has been waiting for the mitigation plan. This is to offset the proposed work and the unpermitted work that has occurred since applicant filed their application, including disturbance of 1,200 square feet of the yard.

She added that there has been removal of trees and construction of a walkway. The walkway has been added to the plan. It wraps around the side of the building to the deck in the rear. One of the decks has been removed from the proposal, and a gas line has been added to the plan in the last iteration.

Mr. Matt Marro, of Marro Environmental Consulting, stated that the proposal was for a replacement of the septic system. It was approved by Board of Health for a single-family home. They have revised the plan down to one deck. The proposed stairs are same square footage as the existing stairs, but moved in the opposite direction. Some of the proposed walkway was installed prior to one of the continued Hearings, but work was stopped, and the area cleaned up. They have worked with Coordinator Capone to be certain that everything stayed at the status quo until the plans were finished.

He added that the plans were redrawn by the New England Engineering Group, and stamped by Carlos Quintell, a registered professional engineer with the Commonwealth. The original plans were drafted by Evan Carloni, a registered surveyor, but it was easier to have a professional engineer do the review, to ensure it was up to standards.

He added that a gas line was being installed on the property. It will be an underground utility. They are looking to widen the driveway to the existing dimension of 480 square feet, and add another 480 square feet of impervious surface. The walkway is semi-impervious pavers. Per the Rivers Protection Act, the total impervious surface is about 63 square feet over the 10% allowable. The deck is slightly closer to the perennial stream, and they accounted for the whole deck in the mitigation proposal.

He added that a total of 1,650 square feet will be set aside for the planting area, which will be surrounded by an L-shaped fence as a protective measure. In addition, at the edge of the backyard there are ten evenly-spaced burning bushes. These will be removed from the site, and 23 shrubs will be added. The understory will be an upland meadow herbaceous mix, featuring grasses and cultivars. This essentially re-naturalizes the side yard. The planting plan will require two years of monitoring to ensure the plantings are successful. A third year can be added at the request of the Commission.

In response to Chair Henkels, Coordinator Capone stated that the mitigation area, if subtracting the portion for the disturbed area, is only 412 square feet of mitigation. This doesn't offset the impervious surface being introduced to the site. The Commission requires 1:1 mitigation. With it being in the Riverfront Area, the performance standard is that the site has to be an improvement over the existing conditions.

She added that the biggest alteration is the driveway expansion. The garage is for one car. She questioned whether a two-car driveway would mean that the next owner would want a two-car garage. She also questioned if the main purpose was to allow for the stacking of cars, whether that couldn't be achieved with a parking turnaround.

She added that there is still some opportunity to reduce what is being proposed, and to provide mitigation for that allowance. The 23 shrubs in the planting would cover about 600 square feet, and 1,000 square feet of grass will be a benefit. The concern is with how that will be maintained over time. The house will be flipped, and there is concern that the new homeowner will see an area with herbaceous cover and mow it down. The fence helps in the back, but at a minimum, there should be something on the other side to allow for that to remain.

In response to Comm. Porter, Mr. Marro stated that the coverage provided by the plants will be over 1,600 square feet. They are proposing to distribute 23 shrubs, as well as seed the area with a standard New England wetland plant mix. This is a substantial planting area on a small lot. The house itself is only 1,260 square feet, and the planting area is larger than the domicile.

He added that there is no intention to add a second garage. The walkway is constructed to come out to the deck area, and they would have to tear that whole area out. They would therefore have to come before the Commission. They could put posts around it with a sign. This would be a perpetual condition.

Coordinator Capone stated that the area is covering up to 400 square feet to offset the proposed work. The driveway is 480 square feet. The mitigation area almost covers the driveway. Mr. Marro added that he deliberately overestimated the 1:1 mitigation. He offered an additional 80-100 square feet. He bounding the area with permanent posts set every 20 feet. He stated that the lawn around the planting area would be a mixture of lawn, shrubs, and trees along the sidewalk. It is mostly lawn, and the area will be well-shaded. The meadow mix has a variety of species that will grow at different times of the growing season.

He confirmed that there would not be any other vegetation management needed to put in the gas line. They will just dig a trench and put a line in, then reestablish the grade.

He confirmed that they will not remove any trees.

Coordinator Capone stated that, with the increased planting areas and the boundary markers for it, the Commission can be comfortable that this is an improvement.

In response to Comm. Holtz, Mr. Marro stated that the haybales are at the top of the slope, where it goes down very quickly to wetlands. This is a totally forested area. They are doing a planting area for Riverfront mitigation, and the expansion of the structure. It locks the patio in this area. There is a two-fold purpose.

He added that there will be no mitigation plantings over the septic system. The lot is pretty limited, and this is the only useable expansion area left. The tiny backyard keeps it naturalized and limits the expansion capacity. It forces any further expansion to go in front of Commission.

In response to Comm. Holtz, Coordinator Capone stated the erosion control barrier was put in place when the earthwork was done. They are straw bales. Mr. Marro added that the lawn area will be reestablished, and that was part of the mitigation.

In response to Comm. Holtz, Mr. Marro stated that no trench is being proposed to manage runoff from the driveway. It's a short driveway, and right now it runs through the lawn area. He will ask for a gravel trench.

In response to Chair Henkels, Comm. Rogers stated she prefers the driveway to remain in its current configuration, or that it be modified for a turnaround. She is concerned about the driveway extending past the house.

Mr. Marro stated that part of the end of the driveway is a paver walkway. There is limited room to move because of the planting area. The client wants the driveway in this configuration.

In response to Comm. Sevier, Mr. Marro confirmed that no trees would be removed to install the gas line.

In response to Comm. Faust, Mr. Marro stated that the fence would have a space off the ground for small animal movement. Large mammals will move in a different direction to get to their food sources. The fence won't be in the way. The bushes will be serviceberry and others. These will attract some wildlife. He can talk to the client if the Commission prefers that the fence be removed.

In response to Chair Henkels, Mr. Marro suggested that the planting area might be monumentalized every 20 feet, as the Commission has required in the past. This won't block large animals, and emphasizes that this is a protected area.

Comm. Porter stated the property across the street is the northern tip of an extensive undeveloped tract of land that runs down to Memorial Forest.

There were no public comments.

In response to Chair Henkels, Mr. Marro granted permission to continue the Hearing to August 21, 2023.

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

**Notice of Intent: 86-92 Boston Post Road, DEP #301-1397**

Chair Henkels re-opened the Hearing to construct a Valvoline Instant Oil Change garage with parking lot within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw, continued from June 26, 2023.

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

### Extension:

#### **Stone: 35 Taintor Road, DEP File 301-1302:**

In response to Chair Henkels, Coordinator Capone confirmed that the applicant has requested a two-year Extension. They have constructed a sports court. The mitigation requirement for that was a planting plan to remove lawn of generally the same square footage as the sports court. Given the drought last year, they did not implement the plan and have asked for two more years. They will plant this fall, and then have two years for the mitigation to make sure the plants survive. The current Order expires this month.

On motion by Comm. Porter to issue the Extension, seconded by Comm. Faust, via roll call the vote was unanimous in the affirmative.

### Certificate of Compliance:

#### **Steinsieck: 19 Robert Frost Road, DEP File 301-1388:**

Coordinator Capone stated that this project was before the Commission in late winter or early spring, and implemented in April. It is a two-phased project. Part of the deck was installed in Phase 1, and a substantial area of invasives and lawn was removed and replaced with native plantings around the patio space. The homeowners have opted not to do Phase 2, but have done all the mitigation requirements. The patio and deck have been completed. The plantings are in place, and the invasives are removed. All that is left is the monitoring. The consultant has asked for a partial release, confirming that all work was completed per the approved plan and that the only outstanding items are the monitoring of the plantings and invasives. The invasives can be hand-pulled.

In response to Chair Henkels, Coordinator Capone state that the Order will expire in April of 2026. The partial COC does not relieve them of any obligations. It only confirms that construction was done.

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

### Other Business:

#### **Eversource Vegetation Management Plan**

Coordinator Capone stated that, every five years, the utility companies have to provide a plan for vegetation management. There is no requirement under the Act or Bylaw for a Notice of Intent, but they do submit a Request for Determination of Applicability for confirming the delineation of the wetlands. The only chance for input is through the process of reviewing the 5-Year Plan.

She added that this plan is well laid-out, and describes three different methods. One is mechanical, including mowing and hand removal. It also includes cultural control, which encourages low growing plants, reducing the need for management. The third component is a chemical application, which includes foliar spray and cut stem application. Foliar spray is via a low-volume backpack sprayer, not aerial spraying. The corridor runs from the substation in the south, and does not include other utilities like the Rail Trail conduit. This is a good plan and, she did not recommend any comments from the Commission.

In response to Comm. Rogers, Coordinator Capone confirmed that they do not need to come before the Commission before using herbicide. The Commission is only submitting comments. The DEP has done studies on the impacts of mechanical versus chemical controls, and why chemical controls sometimes cause less disturbance.

Chair Henkels stated that five-year plans are very routine for all utilities. They modify the process depending on the town and natural resources in the area. It is a boilerplate document for many communities.

In response to Comm. Rogers, Coordinator Capone confirmed that they are not required to notify the Commission if they will be using herbicides. She recommended that the Commission encourage mechanical removal and only use herbicides as a last means.

In response to Comm. Holtz, Coordinator Capone confirmed that she would draft a letter on behalf of Commission requesting that they use that protocol. Comm. Rogers expressed her support for a letter, to put the Commission's view on the record. She agreed that it does not make sense to do mechanical controls in some places.

In response to Comm. Holtz, Coordinator Capone stated that this plan says they would use herbicide up to within ten feet of running or standing water.

### **Talbot Dam Removal Project: Letter of Support**

Coordinator Capone stated that the Wild and Scenic River Council contacted her and asked if the Commission would submit a letter of support for a dam removal project in Billerica on the Concord River. This is not directly related to Sudbury, but it is a conservation effort within our watershed. It will restore fish migration. The river is encumbered with water chestnut, which would be eliminated. Water chestnut does not like flowing rivers. They will manage water chestnut during the construction process to prevent it from going down stream. It will be allowed to dry out in place.

She added that the land will revert from a ponded area to a Bordering Vegetated Wetland. There will be some loss of wetlands as a whole. Because the dam will not be holding back water any longer, some wetlands will revert back to uplands. Overall, there will be a more diverse habitat than what currently exists.

She added that the area was a Native American site before it was dammed. Removing the dam will expose archeological resources. She recommended that the Commission issues a letter of support.

In response to Comm. Porter, Coordinator Capone confirmed that there was a study on the impacts of other dams. They evaluated a number of dams in the watershed and prioritized their removal.

Coordinator Capone stated that a response is due on Wednesday.

In response to Comm. Holtz, Coordinator Capone stated that the letter will be addressed to the proponents of the project, which are OARS, NOAA, and the USFWS. This is their initiative. This is an Environmental Notification Form, and it helps them with the MEPA process to demonstrate that they have support.

On motion by Comm. Holtz to submit a comment letter on the Eversource Five-Year Management Plan, seconded by Comm. Rogers, via roll call the vote was unanimous in the affirmative.

On motion by Comm. Faust to submit a letter of support for the Talbot Dam removal project, seconded by Comm. Holtz, via roll call the vote was unanimous in the affirmative.

Coordinator Capone stated that Joe Miller will be joining the Department tomorrow as the new Land Manager.

Coordinator Capone stated that there will be a Bowhunting Program Meeting next Wednesday. There has been a lot of feedback from the community. 237 abutters to Conservation Land have been notified. Hunters will be talking about program, as will a state biologist for MassWildlife who is familiar with our specific program. He will comment on the efficacy of what we are doing.

With no further business, on motion by Comm. Sevier, seconded by Comm. Faust, the Commission voted unanimously to adjourn the meeting at 8:40 PM.