



SUDBURY CONSERVATION COMMISSION MINUTES
Meeting Minutes of Monday, July 24, 2023

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

The meeting was called to Order by Chair Henkels at 7:02 pm.

Minutes

On motion by Comm. Holtz to accept the minutes of the May 22, 2023 meeting, seconded by Comm. Faust, with Comm. Cook and Kasey Rogers abstaining due to being absent at said meeting, via roll call the vote was unanimous in the affirmative.

On motion by Comm. Porter to accept the minutes of the June 5, 2023 meeting, seconded by Comm. Faust, via roll call the vote was unanimous in the affirmative.

Wetland Applications:

Notice of Intent: 1 Liberty Ledge (Camp Sewataro), DEP #301-1393

Chair Henkels re-opened the Hearing to construct handicap accessible parking, walkways, and picnic areas within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw, continued from May 8, and July 10, 2023.

Coordinator Capone stated that there has been one additional modification to the plan which the Commission had not seen at the previous meeting. An infiltration trench was added to the area in front of the wooden box, which is to accept drainage coming down the driveway. This is part of an additional effort to infiltrate drainage. Everything else in the plan remains the same. The stormwater review has been completed.

In response to Chair Henkels, Mr. Keith Murray, of Graves Engineering, stated that the crushed stone area is 3 feet long, 24 inches deep, and is the width of wooden structure. It leads to the outlet.

There were no public comments.

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

In response to Mr. Murray, Coordinator Capone stated that she had not sent the draft Order of Conditions to him for review. It has the standard conditions for stormwater and erosion control. There will be no mitigation. It dictates the project as it was presented in plans, including the short- and long-term O&M plan. Mr. Murray stated that this was his expectation. In response to Chair Henkels, Mr. Murray granted approval to the Commission to vote to issue the permit.

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

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.

On motion by Comm. Sevier to continue the Hearing to August 7, 2023, seconded by Comm. Sevier, 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.

On motion by Comm. Faust to continue the Hearing to August 7, 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 Hearing to construct a roadway and associated drainage system and utilities within the 100-ft Buffer Zone and Adjacent Upland Resource Area for a 6-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.

Coordinator Capone stated that it had been almost a year since the last Hearing. Houses were proposed to be built on upland islands and the peninsula, served by common driveway. There were to be three lots on the side near to Maynard Road. A total of 11 lots were proposed. This then was reduced to nine when it submitted to the Commission, including a potentially buildable lot on one of the islands.

She stated that the current plan shows a six-lot subdivision. Lot 1 is completely outside of jurisdiction. The proposed Lot 2 has been reduced down from two to one house, with some Buffer Zone impact. A single family is now proposed in the north of the lot, as opposed to two houses, but there is more intrusion into the Buffer Zone to move the house away from the property line. Otherwise the layout is roughly the same.

She stated that the biggest alteration to the Buffer Zone is that the common driveway has been reduced from two lots to one. There was concern expressed by an abutter over the amount of disturbance required to fit two lots. The house was slightly modified to be closer to the wetland to maintain a more vegetated area between the adjacent lots.

Mr. John Derderian stated that they worked with the Planning Board and the neighbors. At the last meeting, it was recommended that they contact the Fire Department and Conservation Commission. They are trying to work collaboratively, reduce the lots, and reduce the impact on the land, so that there is less area that's being developed.

Coordinator Capone stated that she has not been provided with the calculation to compare the previously proposed disturbance with the new proposal. Mr. Derderian stated that he wants to get an informal approval from the Commission before spending the money on calculations.

Coordinator Capone stated that overall, the new proposal was better, with less disturbance to the site as a whole, and presumably Buffer Zone as well, but they need the calculations to be certain of this. Mr. Derderian stated that they need to do a full stormwater plan as well.

In response to Comm. Holtz, Mr. Derderian stated that, at the last meeting, the Commission was unsure about whether to install trails and a boardwalk on the open space component of the development. They agreed to defer any decision about trails until a later point in time. This was offered as a possibility under the assumption that it would be of interest to the Commission. In response to Comm. Holtz, Coordinator Capone stated that this land would be 10.26 acres of open space gifted to the Town, with access and parking. This is still to be determined. Each lot would have a Conservation Restriction outside the LOW to prevent further disturbance on those lots. In response to Comm. Holtz and Chair Henkels, Coordinator Capone stated that they would install monumentation at the edge of the limit of disturbance to prevent further encroachment, which should further protect the back land. CRs would be presumably be held by the Commission.

In response to Comm. Porter, Mr. Derderian stated that there is an intermittent stream in left corner of the back land. Coordinator Capone stated that this is Mineway Brook, and an Abbreviated Notice of Resource Area Delineation determined that it was intermittent.

In response to Chair Henkels, Coordinator Capone stated that the applicant is only asking the Commission to indicate that they do not have major concerns with the layout for six lots. Chair Henkels stated that he was in favor of the changes and requested a response to the Commission's questions.

Comm. Faust stated that the least disturbance to the wetlands is putting the houses close to the road. The new arrangement works and it would reduce disturbance. He suggested moving one of the other houses closer to Maynard Road.

Comm. Rogers stated that the new sketch plan is better than the previous plan with nine houses, but she has similar concerns with the one house being moved closer to the wetlands. It is a better balance between the interests of the neighbors and the Commission.

Mr. Derderian stated that there is a lot less disturbance on Lot 2 than before. Coordinator Capone agreed, but if more disturbance can be eliminated that should be considered.

Comm. Sevier stated that the project proposal is going in the right direction by balancing interests of the different boards.

There were no public comments.

In response to Chair Henkels, Mr. Derderian granted permission to continue the Hearing to October 30, 2023. They will provide complete drawings, a stormwater design, and will meet with the Fire Department and the Planning Board over the next couple of months.

On motion by Comm. Holtz to continue the Hearing to October 30, 2023, seconded by Comm. Cook, 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. Sevier to continue the Hearing to August 7, 2023, seconded by Comm. Porter, via roll call the vote was unanimous in the affirmative.

Notice of Intent: 502 Concord Road, DEP #301-1398

Chair Henkels re-opened the Hearing to construct a new school building with parking, grading and associated utilities within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw, continued from July 10, 2023.

On motion by Comm. Faust to continue the Hearing to August 21, 2023, 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 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.

On motion by Comm. Porter to continue the Hearing to August 21, 2023, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

Request for Determination of Applicability: 247 Dutton Road, RDA #23-7

Chair Henkels recognized Chris Cantin of Metrowest Engineering to present the Request to upgrade a septic system within the 100-foot Buffer Zone and 200-foot Riverfront, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Mr. Ken Vona, of KS&C Builders, clarified that the applicant's name was incorrectly listed as "KVC Builders" in the application.

Mr. Cantin stated that the project site is located on the north side of Dutton Road, approximately 1,000 feet west of the intersection of Dutton Road and Garrison Road. The parcel is 7.3 acres of land, and has been improved with a two-story house, wooden barn, inground pool, carports, paved driveway, subsurface disposal system, retaining walls, utilities, hardscape and landscaped areas. Hop Book, a perennial stream, flows south to north along the northwest property line. The 100-foot Buffer Zone and 200-foot Riparian Zone extend towards the existing house. Bordering Vegetated Wetlands are located on the property. The wetland borders A portion of sewage disposal system is within the Riverfront Area and Buffer Zone.

He stated that the proposed project will involve the construction of an 811 square foot one-bedroom in-law apartment, a stormwater system, and a new sewage system. Mr. Cantin continued, stating that the in-law apartment will be outside of jurisdiction. A portion of the sewage system is within the Riverfront and Buffer Zone. No stormwater permit is required, since the project is below the 5,000 square foot threshold. The work will occur greater than 50 feet from the edge of the wetland, and erosion controls will be in place. No existing trees will be removed within the Buffer Zone or Riverfront Area, but one tree will be removed outside of jurisdiction: a 16-inch yellowwood within the footprint of the addition. A new septic system will provide additional separation between the bottom of the system and the seasonal high ground water table. All work is located within existing turf or maintained meadow area.

He stated that they have received initial comments from Coordinator Capone. She had concerns about access for the excavation of the footprint for the addition, as well as how stormwater would be managed. They clarified that they will make a ramp within the driveway, to be used by equipment to access the site.

Mr. Vona stated that when he had the pool installed a couple of years ago, he built a ramp over the 1-foot high wall, and put protection down to the other side to get to where the pool is located.

Coordinator Capone stated that her main concern was with the constructability of the addition. The application was filed as a Request for Determination of Applicability and not a Notice of Intent, because the project is outside of jurisdiction. However, it is only about one foot outside. There is a question of how they do this if the erosion controls are installed on the Buffer Zone line. She did not think it would have negative impact on the resource area.

Mr. Vona stated that they will install shore pilings on those two sides. These are a form of sheet piling. These will hold dirt back and sit right against the setback. This is how they construct buildings in Boston. Coordinator Capone stated that one condition should be that the erosion controls and foundation are survey-located to ensure they are outside of jurisdiction. Once the foundation is constructed, they should submit an As-built plan to confirm that it is outside of jurisdiction. Mr. Vona agreed to this.

In response to Coordinator Capone, Mr. Cantin stated that he calculated just under 5,000 square feet of alteration.

Coordinator Capone questioned whether the calculation accounted for disturbance caused by accessing the site. Mr. Vona replied that the access path will be protected by laying Geotextile matting and plywood with a road base covering, which will all be removed. Coordinator Capone suggested that the applicant consult with Planning to confirm that a stormwater permit is not required for this. In response to Coordinator Capone, Mr. Cantin stated that the same method will be used for accessing the leach field, towards the right of the house. Mr. Vona stated

that they are raising the septic system by about 12-18 inches, a vast environmental improvement over the two existing cesspools.

In response to Comm. Sevier, he stated that the shore pilings will be part of the foundation, and that the forms are right up against it. There will be a ramp running up the wall to access the site. The square section of the building will be on a foundation, but the rest is just on helical piers. It will be a modular building. Once that is set in place, the work will be 85% done. The walkway will sit on helical piers. A crane will be used to install the modular house. The total footprint of the of the main part of the addition is about 600 square feet.

In response to Comm. Sevier, Coordinator Capone stated the building is proposed to be outside of jurisdiction. If excavation is five feet closer, it would not impact the resource area. The Commission can approve this work as a Negative Determination of Applicability, with the condition that if the foundation is found to be within jurisdiction, they would have to modify it before the modular unit is installed.

She stated that the other side of the erosion control is meadow. If they needed a ladder, it would not negatively impact the wetland. She expressed a concern that, while it could be constructed, it might not be practical. However, if the applicant has built these before, she recommends starting with a Negative Determination, and if not built per plan, the work will be stopped.

Mr. Vona stated that when the hole is dug, the corners are pinned. The shoring piles are installed ahead of that. They can dig without impacting the Buffer Zone. The pilings will be in front of them, and the walls will be poured against it. If it is done improperly, the building won't fit.

In response to Comm. Rogers, Mr. Cantin stated that there is an existing deck around the pool. Comm. Sevier observed that there will be a walkway between the in-law apartment and the main house. Mr. Cantin stated that there will be 1.5+ feet between the foundation and deck. Mr. Vona stated that there will be sheet pilings on three sides.

In response to Comm. Holtz, Mr. Cantin stated that they tested for ground water for the septic system. They will not intercept the water table with the construction.

In response to Comm. Porter, Coordinator Capone stated that if the addition is within jurisdiction, the Commission should require a Notice of Intent instead of a Request for Determination of Applicability.

In response to Coordinator Capone, Mr. Cantin confirmed that the edge of lawn and the Limit of Work are the same. Also, they will take out part of the fence to allow for grading. It will be replaced in the same spot. The fence delineates existing meadow and lawn area. Coordinator Capone requested that they include it on the As-built.

Coordinator Capone stated that the Board of Heath just received the plan today, and are likely to approve it. They have no major concerns.

In response to Chair Henkels, Coordinator Capone state that they should require as a fourth condition that the Geotextile matting be used for both access locations.

There were no public comments.

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

Enforcement Order:

Jatinder Gil – 31 Lincoln Lane, DEP #301-1364:

Coordinator Capone stated that the Commission had met a couple meetings ago to discuss a proposed restoration plan provided by Goddard Consulting. They agreed that the irrigation system would be removed and updated. A

mitigation plan was provided for the irrigation system and other unpermitted alterations, including driveway resurfacing, dumping on an adjacent property within a Conservation Restriction, modifying the grading within a floodplain, and a grass strip along driveway. Goddard has updated their mitigation proposal.

Ms. Nicole Hayes, of Goddard Consulting, stated that the Commission requested an As-built plan at the last hearing. A Notice of Intent Plan and As-built Plan have been provided by Connorstone Consulting. The Notice Plan shows grading and the wetland and flood zone lines, as does the As-built plan. The surveyors indicated that there were not a lot of survey points taken behind the garage area, so they don't have the baseline detail to do an accurate comparison of conditions before and after the work was done. Goddard dug six test pits to determine fill.

She stated that they examined photos taken before and after the work was completed. They determined elevations by looking at soil and trees. With this method, they determined that the slope and grassy areas are similar or the same. The soil pile was removed off site. There is no evidence of fill from test pit, survey, or photographs. If there is fill, it's de minimis.

In response to Coordinator Capone, Ms. Hayes stated that there was not a survey done before the work to compare with the As-built. Connorstone used a computer to generate lines between survey points. Coordinator Capone confirmed with Connorstone that the As-Built Plan only confirms the location of the well and they did not reshoot the elevations.

She stated that the applicant agreed at the last Hearing to dismantle the irrigation system. They will disconnect and cut the supply pipe, remove the valves and sprinkler heads, backfill soil, and disable or remove the controller.

She stated that for mitigation, they are removing invasives species along the wetlands edge and planting highbush blueberry shrubs. Removal will be done by hand.

Ms. Hayes stated that the grass strip along the driveway is visible in a photo dating to 2020. The soil and debris on the neighbor's property will be removed by hand, the area seeded, and five Witch hazels shrubs planted to restore the area. In response to Coordinator Capone, Ms. Hayes stated that she will get the written permission of the neighbor.

In response to Coordinator Capone, Ms. Hayes stated that they had not decided on whether to hire a professional to carry out the mitigation, or if the applicant would do it, possibly with assistance from Goddard. Coordinator Capone stated that the area is a dense mix of invasives and natives, therefore mitigation would be beyond the ability of the homeowner to successfully implement. A number of invasive plants were not identified, including tree of heaven, black swallowwort, and Japanese barberry. These should be included in the plan. Since the invasives are intertwined with the natives, it is hard to estimate the extent of disturbance. She recommended that there be some consideration to allow the Commission to evaluate the progress after two growing seasons.

Coordinator Capone stated that the goal is to achieve 90% native cover. In response to Ms. Hayes, she clarified that this figure is the percentage used in prior Orders with conditions requiring mitigation. It is not written in the Bylaw. Since they are dealing with invasives, this degree of native cover will make it less likely that invasives reestablish themselves.

In response to Chair Henkels, Coordinator Capone state that there are a number of haybales in wetlands near the shed. These should be removed as part of the mitigation. Ms. Hayes agreed to this.

Coordinator Capone stated the shoreline is heavily infested with invasives. If mitigation is successful, the resource area will be improved.

In response to Comm. Holtz, Ms. Hayes confirmed that the planting plan only consists of five blueberry bushes and native seed. She offered to include different species, such as sweet pepperbush.

In response to Comm. Sevier, Ms. Hayes stated that the plastic piping will remain in the ground, but it can be removed if that is the Commission's decision. However, their proposal will disable the system, is easy, and does not disrupt the land. Comm. Cook stated that leaving it in the ground would cause less disturbance. In response to Comm. Sevier, Ms. Hayes stated that the system could not be put back into service.

In response to Chair Henkels, Comms. Holtz, Porter, Sevier, Cook, and Faust all agreed that the piping should be removed.

In response to Comm. Porter, Chair Henkels stated that the piping is probably about 6-12 inches underground. He expressed his preference to see it removed.

Chair Henkels stated that he supported requiring additional plantings should the initial removal of invasives disturb a more extensive area than the blueberry bushes would cover. There are a number of native plants that are obligate to wetlands. Ms. Hayes stated that the homeowner is agreeable to adding more plants. She confirmed that the invasives would be manually removed, and that an expert would do the work.

In response to Chair Henkels, Coordinator Capone stated that the existing Order of Conditions would remain open until work is completed under the new Enforcement Order. The Enforcement Order will dictate the work to be completed, and the Order of Conditions will remain open until mitigation is completed, at which point a Certificate of Compliance will be issued. It would also set the performance standard to be 90% native cover after a minimum of two growing seasons. They should keep the Order of Conditions open longer to achieve this. The initial removal and seeding should be completed by October 1, 2023.

On motion by Comm. Sevier to issue the Enforcement Order, seconded by Comm. Cook, with Comm. Rogers abstaining due to technical difficulties, via roll call the vote was unanimous in the affirmative.

Certificate of Compliance:

5 Taylor Road, DEP #301-1275:

Coordinator Capone stated that the homeowner at the corner of Union Ave. and Taylor Road had started a landscaping project that required Commission and Stormwater Management review, since more than 5,000 square feet were disturbed. His plan was to install a shed out of jurisdiction and a new fence along Union Avenue, to plant the existing yard with native plants, and to construct a patio outside of jurisdiction. The site is stable and looks wonderful. She recommended issuing a Certificate of Compliance.

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

11 Cedar Creek, DEP #301-1360:

Coordinator Capone stated that this project was a septic replacement in existing lawn area. There was no alteration to the resource area, except that it was physically located in the Buffer Zone, exactly 50 feet from wetlands.

The land was supposed to be graded out, but a retaining wall was installed instead. This does not affect the resource area and keeps activity away from the wetlands. It also does not affect the septic system design. A swing-set was installed over the leach field. There are no new impacts. The Board of Health did not take issue with any of the work. She recommended that a Certificate of Compliance be issued.

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

Other Business:

Emergency Certification Ratification:

Coordinator Capone stated that, on the morning directly following the last meeting, the Department of Public Works contacted her about a problem with a catch basin on Concord Road. The drainage system was completely

blocked, and the catch basins were surcharging and causing flooding. This was a safety concern because of the risk of hydroplaning. She talked to Dave Smith and issued an Emergency Order to allow emergency repairs to the drainage system. These were the same that had been discussed previously at the meeting. The DPW asked to remove the accumulated material in the ditch and flush the drainage pipes and culvert. The culvert was almost completely clogged. They installed check dams to slow the water and collect sediment. They used a vacuum truck to vacuum out the culvert under New Bridge Road. Afterwards, drainage was flowing and the water was clear. They put down straw matting and removed part of the berm on New Bridge Road, so that water can be released into the channel and resolve the drainage situation. The timing of this emergency was entirely coincidental.

On motion by Comm. Sevier to ratify the Emergency Order, seconded by Comm. Cook, with Comm. Rogers abstaining due to technical difficulties, via roll call the vote was unanimous in the affirmative.

Adjourn Meeting

With no further business, on motion by Comm. Porter, seconded by Comm. Sevier, the Commission voted unanimously to adjourn the meeting at 9:05 PM.