



## **SUDBURY CONSERVATION COMMISSION MINUTES**

### **Meeting Minutes of Monday, August 21, 2023**

**Present:** David Henkels, Chair; Jeremy Cook (7:17 PM); Luke Faust; Kasey Rogers; Bruce Porter (7:07 PM); Mark Sevier; and Lori Capone, Conservation Coordinator

**Absent:** Ken Holtz, Vice Chair;

The meeting was called to Order by Chair Henkels at 7:03 pm.

Chair Henkels recognized the newly-hired Land Manager, Mr. Joe Miller. Formerly employed at the Land Trust in Lincoln, he has assumed the position of Conservation Land Manager for the Town. His responsibilities center around the hands-on aspects of conservation and land management, encompassing activities such as trail establishment and upkeep, as well as the management of invasive species. Furthermore, he expresses his commitment to participating in the creation and maintenance of multiple pollinator gardens within the town.

#### **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. This Hearing was continued from September 12, October 3, October 17, 2022 and August 7, 2023.

On motion by Comm. Faust to continue the Hearing to September 11, 2023, seconded by Comm. Rogers, 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. This Hearing was continued from May 8 and August 7, 2023.

Coordinator Capone was recognized by the Chair. She stated that, at the previous meeting, three crucial matters were discussed. First, there was a proposal to expand the mitigation area. Second, the need for providing infiltration for the driveway expansion was addressed. The third issue concerned marking the restoration area for future owners. Today, a revised plan was received to address some of these concerns. Mr. Marro provided the revised plan, and it was noted that the gas line has been removed from the project. As a solution to the question about the driveway expansion, it is now proposed to use pervious pavers, which will facilitate infiltration.

The restoration area has been expanded by an additional 100 square feet, with the primary outstanding issue being how this area will be delineated. Another query pertained to the mitigation area and its future maintenance. It was originally intended to be a meadow, prompting questions about whether there are plans for mowing or other maintenance to preserve its meadow-like qualities, or if it will be allowed to naturally evolve into shrubbery and trees.

Mr. Matt Marro of Marro Environmental Consulting, representative to the applicant, was recognized by the Chair. He addressed the concerns raised during the previous meeting. The planting area has been expanded to cover an area of 1,800 square feet. To address potential runoff issues, they have decided to opt for a permeable or semi-permeable driveway with pavers. Regarding the gas line, it was determined to be unnecessary for replacement, and it was subsequently removed from the plans.

The planting plan includes 23 shrubs distributed across the designated area. It was carefully planned to ensure that the shrubs outcompeting the meadow portion of the planting area, as the meadow is designed to naturalize and provide seasonal interest throughout the growing season.

In terms of demarcation, a fence has been installed in the back of the property with openings to allow for the movement of small animals. Mr. Marro assured the Commission that there is ample space for wildlife movement throughout the site. Additionally, demarcation posts will be placed at specified intervals, with further details to be coordinated with the Coordinator, as mentioned in her draft order of conditions.

Chair Henkels thanked Mr. Marro, and recognized the Commissioners for their comments.

Comm. Faust sought confirmation regarding the existence of a mowing schedule for the meadow. In response, Mr. Marro stated that there is no mowing schedule, as the intention is for the meadow to remain in a naturalized state.

Comm. Rogers sought clarification regarding the proposed driveway. She inquired if the previously planned pavers would maintain the same size as initially proposed. Mr. Marro confirmed this, stating that the driveway would indeed consist of pavers, with the purpose of efficiently managing stormwater from the street and the existing driveway.

Comm. Rogers then sought clarification regarding the existing driveway, inquiring whether it would remain asphalt. Matthew Marro explained that the project aimed to minimize extensive work, implying that the existing driveway would likely remain asphalt for practical reasons.

Coordinator Capone mentioned that she had supplied a draft Order of Conditions to the Commission and shared it with Mr. Marro for his review before the meeting. She invited any comments or feedback.

She then highlighted the most significant condition outlined in the draft Order. This condition was intended to address concerns raised during the Hearing regarding the further expansion of the structure, particularly in relation to the proposed expansion of the driveway. The condition specified that, as the new plan had exceeded the allowable alteration limit within the Riverfront Area, it would necessitate the placement of a deed restriction on the property. This restriction would prevent any future expansion of structures or modifications to the existing impervious surfaces and structures on the site.

Chair Henkels inquired about the conditions specified in the draft Order that might be contingent upon the completion of outstanding work. He mentioned the demarcation and whether the plan needed revisions to include new details that had recently been provided. He added that he was unsure whether the plan required any revisions to accommodate the new details.

Coordinator Capone explained that one condition required the placement and perpetual maintenance of boundary markers around the restoration area. Additionally, all other landscaping on the property was mandated to consist of native species.

There were no public comments.

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

On motion by Comm. Faust to issue the Order of Conditions, seconded by Comm. Rogers, 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. Robert Ladas, Applicant. This Hearing was continued from June 26, 2023.

On motion by Comm. Rogers to continue the Hearing to September 11, 2023, seconded by Comm. Faust, 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. This Hearing was continued from July 10, 2023.

On motion by Comm. Faust to continue the Hearing to September 11, 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. This Hearing was continued from October 17 and December 12, 2022.

On motion by Comm. Rogers to continue the Hearing to November 13, 2023, seconded by Comm. Faust, via roll call the vote was unanimous in the affirmative.

**Request for Determination of Applicability: 821 Boston Post Road, RDA #23-8**

Chair Henkels opened the meeting to determine jurisdiction of a Vegetated Wetland, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. He recognized the representative for the project.

Mr. Ryan Roseen of Goddard Consulting, LLC provided an overview of the property located at 821 Boston Post Road. The property comprises a single-family house, a driveway, lawn, landscaping, a small shed, and a barn toward the north end. The remainder of the property is characterized by forested areas, sloping down from the southeast corner towards the road. In the middle of the property, there is a relatively flat portion, which was marked with flags to delineate an isolated, vegetated wetland. The purpose of this discussion was to determine the jurisdiction of this wetland whether it is regulated by the Wetlands Protection Act and/or the local Bylaw.

The floor was then opened to Mr. William Conti, the applicant, of 12 Patricia Road, Sudbury, who mentioned that his conversation with Scott Goddard of Goddard Consulting LLC regarding the non-jurisdictional nature of the wetland.

Chair Henkels thanked Mr. Conti for his comments and recognized Coordinator Capone.

Coordinator Capone began by noting that the site had been presented before the Commission twice in the past, once in 2004 and again in 2008, in the context of a two-lot subdivision, or three lots altogether. She mentioned that two of those lots needed to cross the wetland to access the buildable area in the rear. She explained that in both previous applications, the wetland had been classified as a Bordering Vegetated Wetland due to the identification of a Bank within the wetland. She also pointed out that the wetland had appeared significantly larger in the past compared to the flagged delineation in the field today.

Coordinator Capone recommended that, since the site appeared unchanged since 2008, the Commission should conduct an on-site review to confirm whether there were banks within the delineated wetland area. In response, Chair Henkels asked if she could arrange a site visit in the next several weeks, considering that the next hearing was scheduled for September 11, 2023, providing sufficient time for such an assessment. Coordinator Capone confirmed her readiness to organize the visit.

Coordinator Capone, inquired if any calculations had been conducted to determine if the wetland qualified as Isolated Land Subject to Flooding (ILSF). Mr. Roseen clarified that no calculations were performed because the site did not retain enough water to meet the criteria for ILSF. He agreed to provide the square footage of the area.

There were no public comments.

Chair Henkels then inquired about the procedural aspect and confirmed that this was not a formal hearing. Coordinator Capone clarified that the meeting needed to be continued to September 11, 2023.

On motion by Comm. Cook to continue the Hearing, seconded by Comm. Faust, with Comm. Porter abstaining due to technical difficulties, via roll call the vote was unanimous in the affirmative.

### Other Business:

#### Vote Regarding 2023 Bow Hunting Season

Chair Henkels began by expressing his gratitude to everyone who participated in the August 16th, 2023 discussion, which lasted approximately 2.5 hours. He acknowledged the variety of ideas, concepts, and information shared during the meeting. Chair Henkels offered special thanks to Dr. Martin Feehan, a deer and moose specialist from Massachusetts Fish and Wildlife, for providing valuable information to the Commission and the public.

He then set some ground rules for the ongoing discussion. Given the extensive prior discussion, Chair Henkels limited the entire community discussion to 15 minutes in total, allowing each person 2 minutes to speak. He prioritized individuals who hadn't previously had a chance to speak on August 16th.

After this initial discussion, Chair Henkels planned to take a straw vote from the Commission and gather their insights and comments. He invited attendees to raise their hands to ask questions or make comments.

He also mentioned that only Sudbury residents would be allowed to participate in the discussion, emphasizing the local importance of the topic to the community. Although a few non-residents had previously presented interesting ideas and facts, their participation was not permitted in this meeting.

Chair Henkels recognized Mr. Dino Farina and granted him two minutes to speak.

Mr. Dino Farina introduced himself and stated that he lives at 3 Cail Farm Road with his wife, Sue. He expressed his gratitude to everyone for attending and sharing their comments. Mr. Farina mentioned that they had some questions and that his wife would be addressing them since she had been more involved in the matter.

Mrs. Farina began by expressing her thanks to Coordinator Capone for responding to her emails and mentioned that they weren't able to attend the previous meeting but had watched the videotape. She explained that they had some questions and concerns that they felt were not addressed in the previous meeting.

Their first question was regarding the Cail Farm section, which they felt was referred to as Davis Farm but appeared separately on the map. They sought confirmation about whether the map was accurate, and they wanted to know if hunting was allowed in that area.

They also inquired about the rail trail going through the Davis Farm and Frost Farm conservation areas and whether hunting was allowed in those areas. The Farinas expressed concern about hunting signs and the proximity of bow hunters to their property.

Lastly, they wanted to understand how deer population numbers were obtained to ensure that hunting was not excessive.

Coordinator Capone affirmed that hunting is indeed permitted on the Cail Farm conservation land. She pointed out that the rail trail run in close proximity to several properties without specified setback requirements from these

trails. Coordinator Capone considered these rail trail akin to regular trails and emphasized that hunters should not be visible from the rail trails, although there are no designated setback regulations in place.

Furthermore, Coordinator Capone mentioned that the Commission would engage in discussions regarding the inclusion of signage in the program.

Coordinator Capone clarified that the stipulated distance of 500 feet from a dwelling is applicable while hunters are actively engaged in shooting activities. She clarified that hunters could physically approach nearer than 500 feet.

Coordinator Capone expressed the commitment of ensuring that hunters adhere to the prescribed setbacks and refrain from approaching residential areas. She also discussed the source of deer population numbers, which are obtained from regional counts by the Massachusetts Department of Fish and Wildlife, as deer are known to be transient and not confined to Sudbury's conservation land. The figures presented in her earlier presentation pertained to the actual number of deer harvested on the conservation lands.

Mrs. Farina sought confirmation that the percentages mentioned by Dr. Feehan were indeed regional percentages. She concluded expressing gratitude for the information provided.

Chair Henkels outlined the process of the upcoming discussion and straw vote regarding the continuation or modification of the program.

He candidly acknowledged his extensive research and the wealth of resources available on the topics of deer management and bow hunting. He noted the multiple resources, such as Tufts, Columbia University, CDC, and the Lyme Institute, that the community could access for information related to these subjects.

Chair Henkels then provided a brief history of the Conservation Commission, tracing its origins back to the 1950s when there was a growing awareness of the need for local land preservation and clean water resources for wildlife, fisheries, and drinking water. This led to the formation of various committees and commissions dedicated to preserving open spaces and natural areas. In 1957, the Conservation Commission Act was passed, allowing municipalities to establish commissions responsible for planning natural resource protection and land acquisition, as well as managing these properties for conservation and passive recreational uses. He emphasized the importance of understanding the various sources of authority governing Conservation Commissions.

He continued by listing some of the functions of the Commission, such as planning, preservation, stewardship, regulation, education, coordination with other bodies, and assessing the economic and productive impacts on conservation.

Chair Henkels acknowledged the challenges faced by volunteers who join such commissions, highlighting the steep learning curve required to fulfill their roles.

Transitioning to the topic of bow hunting and the upcoming regulation renewal in October 2023, Chair Henkels mentioned that the Commission had heard various opinions and concerns from the public. He emphasized the importance of public input and the diverse issues raised, including deer management, immunology, deforestation, invasive species, overpopulation, tick-borne diseases, and various methods of control.

Chair Henkels recounted a personal experience involving a coyote predation event on a fawn in his front yard, which led him to research the ecological aspects of such occurrences. He noted that predators like coyotes and black bears are also subject to hunting in the Commonwealth.

He elaborated on the rationale for deer hunting, referencing resources like Yale, CDC, the Humane Society, and the Lyme Disease Association to support the argument that deer do not transmit Lyme disease. Instead, he pointed to the role of black-legged ticks as disease vectors.

Chair Henkels briefly mentioned PZP, a non-lethal population control method, and its experimental use on wild horses and burros.

Finally, Chair Henkels sought the opinions and thoughts of the audience, stressing the importance of gathering their input to inform the upcoming vote on whether to continue or discontinue the bow hunting program and explore potential modifications to the regulations.

Comm. Cook expressed his gratitude for Dave Henkels' comprehensive presentation, particularly noting that the historical context provided a well-rounded perspective. Jeremy shared his positive view of the data presented by Coordinator Capone and Dr. Feehan, highlighting the quality and credibility of the information. He concluded his remarks by indicating that he had nothing further to add at that time. Chair Henkels thanked him for his input.

Comm. Faust provided context about his background in biology and ecology, mentioning his college studies and thesis on population dynamics. He expressed a deep interest in and care for the subject matter discussed.

Comm. Faust emphasized that the most critical issue for him is the impact on the land being conserved. He drew parallels with his wife's experience in New Jersey, where high deer densities have resulted in various problems, including dead deer in backyards and along roadsides, as well as vultures roosting on houses to feed on deer carcasses. He expressed a strong desire to avoid such issues in their local area. Comm. Faust believed that the current bow hunting program is effective in controlling the deer population. Chair Henkels thanked him for his perspective and contributions to the discussion.

Comm. Rogers shared her background in environmental science and her experiences with deer populations while attending school in Western Pennsylvania. She mentioned that in Western Pennsylvania, the first day of buck season was a holiday due to the high deer population and the environmental destruction caused by it.

Comm. Rogers also discussed her graduate degree in immunology and expressed concerns about the PZP drug used for fertility control. She pointed out that this drug is not approved for animals ingested by humans and is not currently attainable in Massachusetts, making it an impractical option for the current situation.

Comm. Rogers appreciated the community's involvement in the discussion and the ideas presented by those living near the hunting properties. She expressed a desire to continue the hunting program with some modifications and looked forward to further discussions on the topic. Chair Henkels thanked her for her input.

Comm. Sevier found the ongoing discussion to be quite interesting and mentioned that while the ideal scenario might involve some form of family planning for deer, it is not a practical reality. He acknowledged that the community generally does not prefer to see deer hunted in their town, but he felt that there are additional considerations to be taken into account.

Comm. Sevier expressed his general support for the continuity of the hunting program, suggesting that the preference of the community might not be the sole determining factor in this situation. Chair Henkels thanked him for his input.

Bruce Porter shared his perspective as a non-hunter and someone not closely associated with hunting culture. He noted that his initial reaction was opposition to hunting due to his general appreciation for animals and emotional attachment to them. Bruce emphasized that this emotional connection to animals was a significant factor for him and was not often discussed in the context of the ongoing discussion.

He recognized that his role as a member of the Conservation Commission meant that he had a responsibility to consider the needs and views of the citizens of Sudbury. Bruce also pointed out that the Commission's role was not to set trends but to overlay their particular needs and implement the broader state regulations on hunting.

Comm. Porter acknowledged that the missing ingredient in his perspective was the emotional attachment to animals and mentioned that he personally would not enjoy going on a hunting trip. However, he recognized that his responsibility extended to the entire town and that his decision needed to be made impartially.

Comm. Porter also highlighted his background as a physicist, which allowed him to understand the scientific process, and commended the quality of the information and presentations provided during the discussion. He expressed gratitude to all the presenters and felt that they had the necessary information to make a decision. Chair Henkels thanked him for his comments, noting that they were helpful and insightful.

Chair Henkels expressed his support for the program, concurring with the views presented by others. He mentioned that he didn't want to reiterate points made earlier. He then turned the discussion to the commissioners, stating that they had the options to either continue the program, discontinue it, or continue it with modifications.

On motion by Comm. Faust to continue the program as currently structured, with subsequent modifications to be discussed, seconded by Comm. Faust, via roll call the vote was unanimous in the affirmative.

Dave Henkels requested that Coordinator Capone outline the proposed modifications.

Coordinator Capone, responded by discussing the predominant topics of the evening's deliberations, primarily emphasizing the need for education and signage to inform other users of the conservation land about the activity and regulations. She suggested implementing an annual notification system for the approximately 250 neighboring property owners. Additionally, she proposed posting notifications at trailheads and posting signs at other trails within the properties, extending to major public trails accessible from streets, especially for those not using the primary entrances. She acknowledged that not all trails needed posting, particularly private ones originating from residents' backyards.

Furthermore, Coordinator Capone addressed the issue of old signs within the conservation area that prohibited hunting. She suggested collaboration with hunters and neighboring property owners to replace these old signs with new ones, explicitly stating that hunting was permissible, but only with permits from the Conservation Commission. She clarified that the original purpose of these signs was not to deter participants in hunting programs but to inform other hunters about the prohibition on hunting within the conservation lands.

Comm. Cook inquired whether there were substantial differences in color, font, or presentation between the old signs that prohibited hunting and the new signs that allowed it. He pointed out that there was currently a mix of different signs in the field, expressing concerns about how a concerned citizen might react if they witnessed a hunter removing a sign that stated "no hunting." He suggested that standardizing the font color could help avoid confusion, differentiating between old and new signs. This approach, he argued, would eliminate the need for staff to go to the field for sign replacements.

Coordinator Capone mentioned that determining the precise boundaries was a challenge and that the Town Surveyor's assistance would be required. She also noted that the Town had experienced the departure of two out of three surveyors recently, making it necessary to fill those positions before addressing this issue. The Coordinator expressed a commitment to making the boundaries and signage clear.

Comm. Rogers proposed considering the installation of signs along the boundaries of rail trails and relevant areas to deter individuals from wandering off the trails or allowing their dogs to run off the trails.

Coordinator Capone acknowledged the merit of this suggestion, indicating that the boundaries of the rail trails would coincide with the boundaries of the land, making it a logical addition. She also addressed a request to mark the 500-foot offset to all houses in the woods, deeming it unreasonable due to the extensive length that would need to be marked within the woods. However, she offered to work with hunters to confirm the 500-foot setbacks if deemed necessary by the Commission.

Coordinator Capone further discussed the proposal to post rules and regulations at the kiosk to provide information about the purpose of allowing hunting in the town and to enhance the educational component.

She also mentioned the discussion of proficiency testing, emphasizing that the current proficiency test is one of the most stringent in the Commonwealth, but suggested the possibility of conducting additional proficiency testing every few years, similar to renewing a driver's license.

Comm. Rogers clarified that junior bow hunters are required to fulfill the same proficiency requirements as adult bow hunters, expressing satisfaction with their performance if they meet the required standards. Coordinator Capone confirmed that she had witnessed the proficiency tests of junior bow hunters, finding them equally qualified as adult hunters.

Comm. Faust presented an idea, suggesting a potential approach to managing the deer population in the town by tying the amount of hunting allowed to the population exceeding recommended levels. He inquired whether such a system could be implemented, where adjustments to the hunting program would correspond to changes in the deer population.

Coordinator Capone explained that the town's program is intertwined with the deer population taken on State and Federal lands, as well as private lands. She noted that they lack records for private land but acknowledged that the State may have access to such information. Regarding the deer population in Zone 10, she indicated that the desired range is between 12 to 18 but mentioned that it currently stands at around 50, exceeding the carrying capacity.

She further elaborated that increasing the hunting program might be constrained by the limited land available for both hunting and the interference between hunters. Coordinator Capone noted that additional hunting activity might not necessarily lead to a reduction in the deer population, as deer could disperse to other areas due to increased activity. She also mentioned that the capacity to accommodate more hunters is limited by the available square footage of land.

Coordinator Capone expressed a commitment to monitoring the deer population numbers and ensuring that they are maintained or reduced, if necessary. She also expressed a willingness to discuss the possibility of ramping down the program when the situation calls for it, taking into consideration the hunters' perspectives on the matter.

Chair Henkels inquired about Coordinator Capone's perspective on the sufficiency of the 2-hour requirement for stewardship.

Coordinator Capone expressed her willingness to accept any assistance available due to staffing limitations. She mentioned the recent addition of the Land Manager to the team and the challenges in obtaining volunteer support for trail maintenance from the public. Coordinator Capone concluded that while additional hours would be beneficial, it might not be necessary to change the program's requirements, as many hunters willingly contribute more than the stipulated time.

Chair Henkels expressed gratitude for Coordinator Capone's response and referred to past conversations where archers had inquired about performing specific work on certain properties. He indicated his agreement with her perspective on the matter.

Comm. Rogers inquired about the potential timeframe for repeat testing, suggesting the need to establish a specific number for the duration between proficiency tests. Chair Henkels endorsed the idea of setting a specific timeframe for repeat testing, comparing it to the renewal of driver's licenses. He then proposed a 5-year timeframe for repeat testing. Comm. Cook expressed agreement with the 5-year interval, emphasizing the need to maintain the safety of the program and acknowledging that archers' skills might change over time.

Coordinator Capone added to the discussion, suggesting that a review of the locations of the stands by staff before the hunting season might be included in the vote, with the rest of the changes being the responsibility of the staff.



Comm. Rogers supported the idea of a review to ensure that stands are located at least 500 feet away from dwellings, considering it an important baseline.

Comm. Cook proposed an overview of the major points for the motion and listed the proposed modifications, including updating signage, marking trailheads, posting kiosk rules and regulations, and conducting proficiency tests every 5 years. He sought confirmation from the Commissioners that these were the key modifications discussed. Chair Henkels affirmed that these points had been captured, and Luke Faust also confirmed their agreement with the proposed modifications. He then invited any further comments or questions from the Commissioners.

Chair Henkels proposed the motion as outlined and suggested that Comm. Cook reiterate the recommendation.

On motion by Comm. Cook to modify the Sudbury Bow Hunter Program to include updating signage, marking all major trailheads and trails at the discretion of the Conservation Coordinator, and posting all information, including rules and regulations, at kiosks. The motion also included the requirement of a proficiency test every 5 years for the program's participants, seconded by Comm. Rogers, via roll call the vote was unanimous in the affirmative.

### Adjourn Meeting

With no further business, on motion by Comm. Porter, seconded by Comm. Faust, the Commission voted unanimously to adjourn the meeting at 8:25 PM.