



SUDBURY CONSERVATION COMMISSION MINUTES

Meeting Minutes of Monday, January 8, 2024

Present: David Henkels, Chair; Ken Holtz, Vice Chair (7:18 PM); Luke Faust; Jeremy Cook; Bruce Porter; Kasey Rogers; Mark Sevier; and Lori Capone, Conservation Coordinator

The meeting was called to Order by Chair Henkels at 7:00 pm via roll call.

Wetland Applications:

Notice of Intent: 25 Bridle Path, DEP #301-1407

Chair Henkels re-opened the Hearing for the after-the-fact removal of trees and installation of a playset, and to replant trees and shrubs, remove invasive plants, prune trees, rebuild an existing deck, remove a hot tub, install a new deck, replace existing patio, and expand porch within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Mr. David & Mrs. Eva Watson were the applicants. This Hearing was continued from November 13, 2023.

Coordinator Capone indicated that she awaited the Commission's on-site evaluation to assess recent changes and proposed mitigation strategies. She provided a draft of the Order for the applicants' review.

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

Chair Henkels sought clarification on the landscape restoration plan and invasive species management, highlighting the necessity of hands-on intervention. A consensus was reached on the importance of manual efforts in ensuring ecological balance.

There were no public comments.

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.

Mr. Watson sought confirmation on the timelines for restoration activities and flexibility in project execution. Coordinator Capone elucidated the three-year window provided for completion and suggested pre-construction meetings for each project phase to ensure adherence to erosion control measures.

Mr. Watson expressed a preference for planting in April and committed to timely notification in case of weather-related delays. Coordinator Capone emphasized the importance of conducive conditions for plant survival and set a deadline before the onset of summer for optimal results.

Notice of Intent: 38 Stubtoe Lane, DEP #301-1405

Chair Henkels re-opened the Hearing to demolish an existing garage and porch, and construct an addition with garage, driveway, associated grading and utilities, within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Ms. Yang Jin & Mr. Scott Tingley were the applicants. This Hearing was continued from October 30, 2023.

On motion by Comm. Sevier to continue the Hearing to January 22, 2024, 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. Mr. Joel Gordon was the applicant. This Hearing was continued from July 10, 2023, and October 2, 2023.

On motion by Comm. Faust to continue the Hearing to February 5, 2024, seconded by Comm. Rogers, via roll call the vote was unanimous in the affirmative.

Notice of Intent: 143 Union Avenue, DEP #301-1402

Chair Henkels re-opened the Hearing to construct an addition to a single-family home within the 100-foot Buffer Zone and the local 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Faye Zou was the applicant.

On motion by Comm. Rogers to continue the Hearing to January 22, 2024, seconded by Comm. Cook, 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 in 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. John Derderian was the applicant. This Hearing was continued from June 7, August 9, September 27, 2021, August 22, 2022 and July 24, 2023.

On motion by Comm. Porter to continue the Hearing to January 22, 2024, seconded by Comm. Rogers, via roll call the vote was unanimous in the affirmative.

Request for Determination of Applicability: 25 Plympton Road, RDA #23-18

Chair Henkels initiated a discussion on the Request to replace a septic system within the 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw. David Barone was the applicant.

Representing the applicant, Mr. Vito Colonna of Connorstone Engineering outlined the plan for a septic repair at 25 Plympton Road, emphasizing that the existing five-bedroom house necessitated the replacement due to the failure of one of its two septic systems. The proposed solution involved abandoning the failed system, tapping into existing lines, and installing a new tank and leach field within the lawn area, while ensuring minimal impact on surrounding trees and maintaining distance from the well.

Coordinator Capone voiced approval for the construction proposed, highlighting its compliance with existing regulations. However, she suggested a condition contingent upon Board of Health approval, anticipating no substantial alterations to the plan.

Comm. Sevier expressed concern regarding the distance to the septic tank, considering future maintenance issues. Mr. Colonna explained the constraints imposed by the proximity of the well and outlining access options for maintenance. Comm. Cook inquired about the system's capacity, to which Mr. Colonna clarified that it could handle 550 gallons per day, suitable for the five-bedroom house.

Further queries arose regarding the type of system and potential future needs. Mr. Colonna detailed the conventional septic system being installed, which included provisions for potential future expansion or connection.

Clarifications were sought regarding the tank's location and the pitching requirements for the piping. Mr. Colonna explained that while the placement of the tank presented challenges for maintenance due to its distance from the well, it was a necessary compromise to adhere to local bylaws mandating a minimum distance from the well. He reassured the Commission that despite the inconvenience, provisions had been made for access paths to facilitate maintenance tasks.

Mr. Colonna outlined the steps involved in decommissioning, emphasizing the importance of proper procedures to ensure environmental safety and compliance with regulations. He emphasized the need to adhere to strict guidelines to prevent groundwater contamination and safeguard public health.

Regarding the routing of the new piping, Mr. Colonna elaborated on the proposed plan, explaining that the new sewer line would be tapped into the existing system and directed to the new septic tank location. He highlighted the importance of careful planning to ensure seamless integration with the existing infrastructure while minimizing disruption to the property.

There were no public comments.

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

Request for Determination of Applicability: 33 Ronald Road, RDA #23-17

Chair Henkels initiated a discussion on the Request to install a septic tank outlet line within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw. Christopher Giunta was the applicant.

Mr. Giunta began by introducing himself and providing an overview of his property, situated on the corner of Ronald Road and Firecut Lane. He explained that his home and existing septic tank were within the 100-foot setback from wetlands. His plan involved reusing the existing septic tank and installing a new line to a four-galley system located outside the 100-foot setback. He noted the removal of a vegetable garden to accommodate the new setup but assured that it would be the extent of the work.

Coordinator Capone highlighted that the access to the site would be from Firecut Lane, ensuring no disturbance near the wetlands. She mentioned the presence of an intermittent stream across Ronald Road, slightly expanding the Buffer Zone, but confirmed that the proposed system would maintain a safe distance from it. She also noted that the Board of Health had already reviewed and approved the design.

There were no public comments.

On motion by Comm. Holtz to issue a Negative Determination of Applicability #2, seconded by Comm. Rogers, via roll call the vote was unanimous in the affirmative.

Certificate of Compliance:

Precourt, 46 and 48 Union Avenue, DEP #301-1330

Chair Henkels initiated a discussion on the project at 46 and 48 Union Avenue

Coordinator Capone explained that this project redeveloped a degraded site into a stone cutting facility. She articulated that the upcoming final inspection scheduled for the following day would serve as the culmination of her assessment efforts. She elaborated on the project's environmental implications, noting the absence of mitigation measures due to the site's previously degraded state. She clarified that the project primarily focused on halting further degradation, thus warranting a streamlined approach to compliance assessment.

On motion by Comm. Holtz to issue the Certificate of Compliance pending a satisfactory final inspection, seconded by Comm. Porter, via roll call the vote was unanimous in the affirmative.

Other Business:

Warrant Articles

Coordinator Capone introduced three Warrant Articles related to revolving accounts managed by the Commission. She provided detailed explanations for each, starting with the Wetlands Funds. These funds were accumulated from fees associated with wetland applications, with approximately \$95,000 currently available. The

proposed warrant article sought approval to expend up to \$50,000 from this account in the coming year. These funds would be utilized for hiring consultants, legal action, or administrative purposes related to wetland applications beyond the regular operating budget.

Next, she discussed the Trail Maintenance Fund, where Agricultural License fees were deposited annually, amounting to around \$2,400 per year. The Warrant Article proposed permitted the Commission to expend up to \$15,000 from this account in the upcoming year. These funds would primarily be allocated for conservation projects or purchasing equipment such as a brush hog or chainsaw, essential for managing conservation properties.

Lastly, she outlined the Conservation Forestry Account, established years ago to manage forest management activities on conservation lands. Despite no funds currently being available in this account, the proposed Warrant Article aimed to allow the Commission to expend up to \$10,000 in the coming year, should the need arise for forestry-related projects.

Chair Henkels sought clarification regarding potential changes in fee structures and revenue generation. Coordinator Capone clarified that while the proposed expenditure limit was \$50,000 for the Wetlands Funds, the actual revenue collected annually from Bylaw fees averaged around \$2,500.

On motion by Comm. Cook to approve the articles, seconded by Comm. Porter, via roll call the vote was unanimous in the affirmative.

Discuss Bylaw Fee Structure

Chair Henkels initiated a discussion concerning revision to the Bylaw fee structure.

Coordinator Capone presented a revised fee structure proposal for the commission's consideration, focusing on simplifying the discussion by condensing the comparison chart to highlight the proposed changes. She began by outlining the current fee structure for Category A, which includes single-family minor projects, such as additions, swimming pools, and tennis courts, which currently stands at \$25 per project. She proposed adjusting this fee by introducing a base fee ranging from \$25 to \$100, with an additional 50 cents per square foot impact fee for unaltered Adjacent Upland Resource Areas.

She clarified that the intent behind the proposed fee structure was to encourage applicants to carefully consider whether they truly needed to alter adjacent upland resource areas, while also ensuring that the fees adequately covered the Commission's administrative costs associated with processing applications. She emphasized that the proposed fees were still on the lower end compared to other communities, with the intention to strike a balance between cost recovery and affordability for applicants.

Commissioners engaged in a discussion regarding the proposed fee structure, expressing varying perspectives. Some Commissioners voiced support for the proposed changes, considering them reasonable and necessary to cover administrative costs. Others raised questions about the range of the base fee and the per square foot impact fee, seeking clarification on how these figures were determined and whether they adequately reflected the Commission's costs.

Coordinator Capone addressed these concerns by explaining that the proposed range allowed for flexibility in determining an appropriate fee level, taking into account the Commission's operating budget and the complexity of different projects. She also provided insight into the estimated costs associated with administering applications, highlighting the challenges in providing a precise figure due to the variability in workload and project requirements.

The Commissioners expressed overall agreement with the proposed Category A fee structure, with some acknowledging initial concerns but ultimately finding the rationale behind the per square foot impact fee reasonable and necessary. With consensus reached, the discussion concluded with a general consensus to move forward with the proposed fee adjustments, pending any further deliberation or adjustments.

Coordinator Capone then proposed adjustments to the fee structure for Category B projects, which encompassed brand-new single-family houses. Currently, the fee for such projects is \$250, with an additional \$262 collected in

state fees. Coordinator Capone suggested increasing the fee to \$300 and introducing a 50-cent per square foot impact fee for altered Adjacent Upland Resource Areas.

Commissioners engaged in a discussion regarding the proposed changes, with some expressing concerns about the potential impact on affordable housing initiatives and the feasibility of passing on increased costs to homebuyers. Others emphasized the need to ensure that the fees adequately covered the Commission's administrative costs and encouraged careful consideration of alterations to adjacent resource areas.

After considering various perspectives, the Commissioners reached a consensus to increase the per square foot impact fee from 50 cents to 75 cents for Category B projects. They recognized the importance of adjusting the fee to reflect the larger scope and potential impact of new single-family house projects on Adjacent Upland Resource Areas.

The discussion also touched upon the process for implementing fee changes, including the need for Town Meeting approval and the possibility of granting waivers for certain circumstances, such as affordable housing projects. The Commissioners agreed to proceed with the proposed Category B fee adjustments, pending further deliberation and approval.

During the discussion on Category C fees for subdivisions involving only roads and utilities, Coordinator Capone indicated that no changes were proposed to the current fee structure, which stands at \$500 plus \$2 per linear foot of road line within the resource area. She pointed out that this fee structure was already substantial and had resulted in significant fees for previous subdivision projects, such as the Bonnie Brook development. She noted that even relatively short roadways could accumulate high fees under the existing structure.

Commissioners expressed agreement with maintaining the current fee structure for Category C projects. They acknowledged that the fees varied widely among different towns and were generally higher than what the Commission currently charged. However, they felt that the existing fees were reasonable and did not require adjustment.

After confirming the Commissioners' consensus, the discussion concluded with unanimous support for retaining the current fee structure for Category C projects.

Coordinator Capone noted that no changes were proposed for Category D and E fees, which cover drainage and retention basins, as well as multiple dwelling structures, respectively.

For drainage and retention basins, the current fee structure is \$500 plus \$2 per 100 cubic feet of the basin within the resource area. She emphasized that this fee structure adequately compensates for the time and effort required to review and assess drainage projects, especially considering the cumulative impact of cubic volume fees.

Likewise, for multiple dwelling structures, the current fee is \$500 plus \$100 per unit. She highlighted that the workload for reviewing multiple dwelling projects is comparable to that of single-family houses, with the only difference being the number of units within a larger building.

She provided additional information about the fees charged by other towns, mentioning that Acton's fee for similar projects was \$525 and Medfield's fee was \$1,050.

After considering this information, Commissioners did not express any objections or suggestions for changing the fee structures for Category D and E projects, indicating general agreement with maintaining the current fees.

Coordinator Capone proposed adjustments to the fee structure for Category F projects, which cover commercial and industrial developments. Currently, the base fee for these projects is \$500, with an additional charge of 50 cents per square foot of disturbance to Adjacent Upland Resource Areas. She suggested doubling the base fee to \$1,000.

Comm. Faust raised the point that it might seem unfair to charge less per square foot for industrial projects compared to new single-family dwellings. He proposed increasing the per square foot charge for industrial projects to match that of new single-family dwellings, which is currently at 75 cents. Other commissioners also signaled their agreement with the proposal.

Overall, there was consensus among the Commissioners to increase the base fee for Category F projects to \$1,000 and raise the per square foot charge to 75 cents for both commercial/industrial and new single-family dwelling developments.

Coordinator Capone proposed introducing a filing fee of \$75 for Determinations of Applicability (Category H). Currently, there are no fees associated with these Determinations. The proposed fee is intended to cover administrative costs and provide some revenue for the office as there is currently no State or Bylaw fee for this application.

Comm. Holtz suggested increasing the fee to \$100, emphasizing that the value of Coordinator Capone's assistance to applicants justifies the fee. However, Comm. Faust expressed concerns that a higher fee might deter some applicants from seeking guidance from the Commission.

After deliberation, the majority of Commissioners agreed to set the fee at \$75, with the possibility of revisiting the amount in the future. Comm. Porter and others noted that while they would have liked to see more revenue, they felt \$75 was a reasonable starting point and that the fee could be adjusted later if needed.

The discussion also touched on the idea of tying the fees to inflation or reviewing them more regularly. While it was acknowledged that these options could be explored in the future, it was noted that the fees are ultimately set by Town Meeting and could be revised as needed.

Coordinator Capone proposed increasing the fee for remediation of contaminated sites or enhancement of degraded resources (Category I) from the current \$25 to \$500. The rationale behind this proposed increase was to better reflect the time-consuming nature of overseeing such projects, which often span several years and require extensive monitoring.

Commissioners expressed agreement with the proposed increase, noting that the current fee of \$25 was significantly low given the duration and complexity of remediation projects. Comm. Sevier raised a concern about whether the fee increase could discourage remediation efforts, but others pointed out that the fee could be waived or adjusted on a case-by-case basis, depending on factors such as the nature of the contamination and the financial situation of the applicant.

Ultimately, the Commissioners agreed to increase the fee to \$500, acknowledging the need for a more appropriate fee structure that reflects the workload involved in overseeing remediation projects. They also emphasized the importance of regularly reviewing these fees in the future to ensure they remain fair and reasonable.

Coordinator Capone presented proposed adjustments to the fee structure for Abbreviated Notice of Resource Area Delineation (ANRAD) applications. Currently, the fee structure includes a \$500 base fee with an additional \$2 per linear foot of resource area for new construction projects. For existing developed single-family lots, there is a flat fee of \$25. She highlighted the time-consuming nature of wetland boundary delineation, emphasizing the need for fees to adequately cover the costs associated with this process.

Coordinator Capone's proposal focused on maintaining the fee structure for new construction projects while introducing a more nuanced approach for existing developed single-family lots. She suggested retaining the \$25 base fee for these lots but adding a 50-cent charge per linear foot of resource area to better reflect the effort required for boundary delineation.

Commissioners engaged in a thorough discussion regarding the proposed adjustments. They expressed agreement with Coordinator Capone's rationale for the fee adjustments, acknowledging the importance of ensuring that fees align with the level of effort and resources required for each type of project. Additionally, Commissioners considered the potential need for a separate fee structure for commercial and industrial sites, recognizing the distinct characteristics and complexities associated with these projects.

To address this, Coordinator Capone proposed a new fee structure for commercial and industrial sites, suggesting a base fee of \$100 plus 75 cents per linear foot of resource area. This proposal aimed to better capture the costs and efforts involved in wetland boundary delineation for larger-scale developments.

Commissioners deliberated on the fairness and effectiveness of the proposed fee adjustments. They sought to strike a balance between covering the costs of regulatory oversight and ensuring that fees remained reasonable

and equitable for applicants. Ultimately, the consensus among Commissioners was to support the Coordinator's proposal with minor adjustments to accommodate different types of projects and sites.

By considering factors such as project complexity, resource area size, and the level of effort required for wetland delineation, the Commissioners aimed to establish a fee structure that effectively supported environmental conservation efforts while facilitating responsible development practices within the community.

Coordinator Capone proposed introducing inspection fees for hazardous tree assessments. Currently, there are no inspection fees except for a \$50 fee for status inspections conducted as a follow-up to a notice of violation. She explained that she conducts pre-construction meetings with applicants and performs regular site inspections before and during projects. She also conducts certificate of compliance inspections at the project's conclusion.

Her proposal suggested imposing a \$50 re-inspection fee if an applicant requested an inspection and failed to be ready for it, causing her to return to the site. However, she intended for regular inspections to be covered under the Notice of Intent fee.

Regarding hazardous trees, she proposed a new administrative fee of \$25 per tree for assessments and approvals. Commissioners discussed the proposal, with some expressing concern about imposing fees on applicants who are trying to do the right thing by addressing hazardous trees promptly. Others argued that the increase in hazardous tree removal activities warranted some form of fee to cover the time and resources spent on these assessments.

Commissioners debated whether to charge fees only for hazardous trees that require formal approval through an administrative process or to waive fees for straightforward cases where trees clearly pose a hazard and can be removed promptly. Some expressed concerns about the potential consequences of not charging fees, including the possibility of applicants avoiding the administrative process to save money.

Coordinator Capone outlined the proposal to introduce fees for Amendment requests to existing Orders of Conditions within the jurisdiction of the Commission. Currently, no fees are associated with Amendment requests, leading to concerns about the potential for abuse or oversight in the process. Her proposal sought to address these concerns by introducing a structured fee system that aligns with the nature and complexity of the proposed amendments.

She explained that under the current system, amendment requests undergo a similar review process as new Notices of Intent (NOIs), despite potentially involving minor modifications to existing projects. This places a burden on the Commission's resources without commensurate compensation for the additional administrative work required.

The proposed fee structure for amendment requests was designed to mitigate these issues while ensuring fairness to applicants. The fee would be based on the specific activity being proposed for amendment, taking into account factors such as the scope and complexity of the proposed modification. For example, if an applicant seeks to add a fence to an already approved project for a new single-family house, the fee would be determined based on the cost associated with installing the fence, as a stand-alone project.

Commissioners engaged in a thorough discussion regarding the necessity and implications of introducing fees for Amendment requests. Some expressed concerns about imposing additional financial burdens on applicants, particularly for minor modifications. They also considered the potential impact on the efficiency and transparency of the application process.

Others emphasized the importance of ensuring that the fee structure accurately reflects the administrative costs associated with reviewing and processing amendment requests. They argued that introducing fees could incentivize applicants to provide comprehensive project plans upfront, reducing the need for subsequent Amendments and streamlining the overall review process.

After deliberation, Commissioners reached a consensus to introduce a fee for Amendment requests, with the fee amount set at half the cost of filing a new NOI for the proposed activity. This decision aimed to strike a balance between recovering administrative costs and maintaining fairness to applicants.

On motion by Comm. Cook, to amend the Bylaw fee structure, seconded by Comm. Rogers, with Comm. Porter abstaining due to technical difficulties, via roll call the vote was unanimous in the affirmative.

Discuss Conservation Land Regulations Revisions

Chair Henkels initiated a discussion regarding revisions to the Conservation Land Regulations.

Coordinator Capone highlighted a pressing need to update regulations that had remained unchanged since 2009. She underscored the importance of ensuring alignment with current Town Bylaws and addressing any ambiguities, particularly in the realm of dog regulations and leash control on conservation lands.

The discussion delved into several key proposed changes, with a focus on enhancing clarity and efficacy. Among these proposals was a call to clarify dog regulations to conform to the Town's existing Bylaws on leash control and pet etiquette. This entailed revising language to reflect the precise requirements and responsibilities of dog owners while on conservation lands.

Another focal point of the conversation was the inclusion of non-motorized boat launches in the regulations. There was deliberation on whether the listed boat launches accurately reflected the Commission's jurisdiction, prompting consideration of potential adjustments or exclusions to ensure accuracy.

Furthermore, the discussion touched upon the need to update language regarding fishing permissions. The aim was to accurately represent designated fishing areas on conservation lands, thereby ensuring consistency and clarity for visitors.

Additional proposed revisions encompassed updating language on campfires to align with current regulations. This involved specifying that permits for open fires would not be issued while still permitting camp stove usage, thereby balancing safety considerations with recreational opportunities.

The discussion also addressed the inclusion of information on bow hunting activity and trail etiquette in the revised regulations. Commissioners emphasized the importance of providing comprehensive guidance to visitors while ensuring the responsible management of conservation lands.

Throughout the deliberations, the Commissioners expressed a commitment to carefully considering the potential implications of the proposed changes. Concerns were raised regarding enforcement challenges and the potential impact on community members accustomed to existing regulations.

In response, Commissioners agreed to take time for individual review of the proposed revisions and to reconvene for further discussion at future meetings. It was recognized that thorough consideration of the proposed amendments' potential impacts on the community was essential before finalizing any changes to the conservation land restrictions.

Bow Hunting Program

Coordinator Capone reported that the bow hunting program for the season had concluded, with 10 harvests recorded, including an unusual number of six bucks. This harvest rate was consistent with previous years, reflecting the program's ongoing success in managing local wildlife populations.

Trail Maps

Coordinator Capone reported that significant improvements had been made to the conservation trail maps, which were now available on the Commission's website. Notably, the map for Tippling Rock had undergone substantial enhancements, providing visitors with clearer and more detailed information about the trails. These improved trail maps aimed to enhance visitor experience and facilitate better navigation of the conservation areas.

She announced plans to develop trail guides for each property. These guides would offer valuable insights into the histories and features of the conservation areas, further enriching visitors' understanding and appreciation of these natural resources.

Website

Concerns were raised about ensuring effective communication of updates to the website, such as new invasive species lists and updated trail maps. Commissioners acknowledged the importance of notifying the public about

such updates and expressed intentions to explore methods for improving communication channels, including leveraging social media platforms and sending out news blasts.

Adjourn Meeting

On motion by Comm. Faust to adjourn the meeting, seconded by Comm. Rogers, via roll call the vote was unanimous in the affirmative. (Commissioner Cook was not present for this vote.) The meeting adjourned at 9:06