



SUDBURY CONSERVATION COMMISSION MINUTES

Meeting Minutes of Monday, May 13, 2024

Present: David Henkels, Chair; Ken Holtz, Vice Chair (7:08 PM); Jeremy Cook; Luke Faust; Bruce Porter; Mark Sevier; and Lori Capone, Conservation Coordinator

Absent: Kasey Rogers

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

Certificate of Compliance:

Sullivan, 29 Paddock Way, DEP #301-1053

Coordinator Capone explained that she had been collaborating with Lynn Sullivan and her attorney for the past couple years to finalize a Conservation Restriction required by the Order of Conditions issued in 2011. This restriction was necessary for the demolition and reconstruction of a house, for which a Certificate of Compliance had been issued in 2012. There were scribner errors and modifications needed to prevent contradictory language in the Restriction and the Certificate, primarily concerning the acreage of the lot and the description of the land under the Restriction.

Coordinator Capone recommended that the Commission vote to issue a new Certificate, removing the language about a perpetual condition related to the drainage easement and conservation easement, and replacing it with a statement that a permanent Restriction shall be placed on the area as shown on the As-Built Plan dated October 15, 2012. This change aimed to eliminate any contradictions with the Special Conditions.

Coordinator Capone also mentioned a second item in the Certificate regarding a perpetual condition that prohibited an irrigation system on the site. The As-Built Plan from 2012 showed an irrigation well, which Ms. Sullivan had installed following Conservation Coordinator Debbie Dineen's requirements. Coordinator Capone recommended that the Commission issue a revised condition stating that there should be no expansion of the irrigation system on site, but the existing system could remain. This revision aimed to avoid contradictions in the documents recorded on the property.

Chair Henkels thanked Coordinator Capone and inquired about the impact of proceeding with a clean Certificate on the original language of the Order. Coordinator Capone clarified that it was merely a matter of clarifying the intentions of the original Order and referencing the approved plan. This approach would make the documentation cleaner moving forward without contradicting any existing conditions.

Chair Henkels asked if a baseline report was required as part of the process of getting the Restriction. Coordinator Capone confirmed that the office had taken on the responsibility of drafting the baseline report, which was currently in draft form. Chair Henkels then inquired if there were any other obstacles for the Commission in issuing the Certificate. Coordinator Capone explained that the draft Restriction had been submitted to the State, which had provided comments. They were working on addressing these comments before resubmitting for local review by the Conservation Commission, the Select Board, and Town Counsel, with the aim to finalize it within the next year or so.

Chair Henkels acknowledged the process and opened the floor to the Commissioners for any questions or observations.

Comm. Porter asked if the information about the irrigation system was also included in the state review. Coordinator Capone clarified that the contradiction in the Order did not affect the Restriction because the irrigation system was not on the land held under the Restriction.

Comm. Porter then inquired if the in-ground hardware for the irrigation system would remain. Coordinator Capone confirmed that the existing irrigation system would stay in place as it was tacitly approved as part of the

As-Built Plan when the Certificate was issued in 2012. Comm. Cook noted that the system could not be expanded, and Coordinator Capone confirmed this.

Chair Henkels thanked Comms. Cook and Porter and then asked if any other commissioners had questions. He also invited anyone in the audience to ask questions or make comments.

Arthur Anderson, Lynn Sullivan's attorney, introduced himself, and stated that Coordinator Capone had expressed everything well and that the revisions would align nicely with the Restriction they were working on with the State.

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

Dishnica, 3 Goodnow Road, DEP #301-1219

Coordinator Capone recounted the history of Enforcement Orders issued by the Commission. In 2015, the Commission issued an Enforcement Order for the unauthorized construction of a retaining wall. However, the homeowner was excused from further action because the wetland was not flagged during the septic system design, so the homeowner was unaware of the violation.

In 2016, a new Enforcement Order was issued for placing landscape debris and wood piles between the retaining wall and the vernal pool. In 2017, two additional Enforcement Orders were issued for paving the driveway, raising the height of the retaining wall, backfilling and raising the grade behind the retaining wall, installing stone pavers along the driveway, and expanding the residential use above the retaining wall.

The Commission then required the homeowner to file a Notice of Intent to restore the area. This restoration included removing the retaining wall, re-grading the slope towards the vernal pool, revegetating the area with a Restoration Plan approved by the Commission, and marking the restoration area permanently for future homeowners. The homeowner completed this work but was unaware that final approval from the Commission was needed and recently put the house on the market.

Coordinator Capone visited the site and found that the retaining wall, grading, and restoration area were in good shape. The restoration area required 75% coverage of native vegetation but had about 50%, with some bittersweet mixed in. The homeowner planted additional blueberry shrubs and a red maple tree, installed iron rods to mark the restoration area, and confirmed the functionality of a required pipe in the vernal pool, which was tied to the town's drainage system.

Coordinator Capone also asked the homeowner to spread leaf litter over bare areas to stabilize them and make the area look more natural, preventing future infringement. With these actions completed, Coordinator Capone believed the Commission could issue a Certificate of Compliance.

The homeowner requested a modification to a perpetual condition that prohibited irrigation in the Buffer Zone, as the irrigation system was already in place when the Order was issued. Coordinator Capone recommended modifying the condition to prohibit expansion of the irrigation system on site.

Chair Henkels thanked Coordinator Capone for the administrative clarification and asked if the Commission could vote on all the Enforcement Orders in totality rather than individually. Coordinator Capone confirmed that they could indeed be considered together.

Chair Henkels asked if there were any questions from the audience, inviting them to raise their hand. He then turned back to the Commissioners, asking if they had any further questions.

Chair Henkels specifically inquired if Mr. Sokrat Dishnica, the applicant, had a question or comment. After a brief pause due to audio difficulties, Mr. Dishnica attempted to speak, but his voice was not audible. Chair Henkels apologized for the difficulty and suggested they proceed with the meeting unless Mr. Dishnica wanted to try speaking again.

On motion by Comm. Sevier to lift previous Enforcement Orders and issue the Certificate of Compliance, seconded by Comm. Porter, via roll call the vote was unanimous in the affirmative.

Wetland Applications:

Abbreviated Notice of Intent: 69-71 Brewster Road, DEP #301-1414

Chair Henkels resumed the Hearing to approve the Bordering Vegetated Wetland delineation, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Yuchun Lee was the applicant. This Hearing was continued from April 29, 2024.

Coordinator Capone reported on the progress since the last meeting, mentioning a site visit with Wetland Scientist Dave Crossman to address three areas of concern. One area involved tying the delineation to an outfall at the end of Brewster Road, aligning with the original approval from around 2004. Additionally, two new areas were evaluated and added to the plan: one to encompass a stream seeping from a hillside and another for an intermittent stream emerging from the hillside.

Coordinator Capone confirmed that the plan had been revised to include all three areas and that they were now ready to issue an Order of Resource Area Delineation.

Chair Henkels then invited the Commissioners to ask any questions they might have.

Montgomery Nsamba from Stamsky & McNary at 1000 Main Street in Acton introduced himself and briefly summarized the revisions made on the revised plan discussed by Coordinator Capone. He mentioned extending the delineation to include certain areas, adding new flags to account for springs and channels, and provided a visual presentation on screen.

Chair Henkels thanked Mr. Nsamba and asked for a zoomed-in view of the channel mentioned, requesting an estimate of its linear footage. Mr. Nsamba offered to provide a more precise estimate later and suggested sending an email to Coordinator Capone for details. Chair Henkels clarified that it was just a curiosity and not necessary to follow up with an email.

Comm. Holtz confirmed with Mr. Nsamba that the Buffer Zone was currently shown on the plan, and Mr. Nsamba pointed out that it was indicated by a dotted line. Comm. Faust asked if the inside dotted line represented the previous Buffer Zone, to which Mr. Nsamba clarified that it was for the proposed Buffer Zone for the intermittent streams.

Chair Henkels asked if there were any further questions from the Commissioners. Seeing none, he then looked to the audience, but no one raised any questions or comments.

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

On motion by Comm. Holtz to issue the Order of Resource Area Delineation, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

Notice of Intent: 225 Boston Post Road, DEP #301-1415

Chair Henkels resumed the Hearing for the project to renovate an existing building, and install playground areas with associated equipment, parking area and pavement remediation, septic and other utility upgrades and stormwater infrastructure within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Matt Taylor was the applicant. This Hearing was continued from April 29, 2024.

Joshua Kline, a partner and licensed engineer with Stonefield Engineering, discussed the adaptive reuse of a former Temple into a daycare facility. He explained that since the last meeting, they had worked with traffic engineers and stormwater reviewing consultants. They received a letter from the peer reviewer stating all comments had been addressed, recommending the Board move forward with their decision. The traffic letter, still pending, would not impact the Commission's decision.

Mr. Kline mentioned the idea of shifting a driveway, which had been resolved with DOT agreeing to maintain the existing driveway with minor improvements. He highlighted the existing basin on the property, which had become a natural feature over the years, providing natural stormwater detention. The project proposes reducing impervious surfaces and installing a water quality unit to pretreat stormwater. They plan to remove trash and

obstructions from the basin, allowing it to remain in its natural condition, with routine inspections to ensure no adverse impacts. Mr. Kline noted that restoring the basin to its original condition would require clear-cutting the entire rear area.

Chair Henkels thanked Mr. Kline for his comments and invited Coordinator Capone to speak. Coordinator Capone mentioned that the original approval for the Temple in 1998 required an Operations and Maintenance (O&M) Plan for the basin, which was never done. The current O&M Plan included standard mowing language, which seemed contradictory if the area was not to be mowed. She suggested revising the O&M Plan to reflect the intended maintenance accurately. She also raised the issue of Japanese knotweed, an invasive species expanding on the site, and sought confirmation on whether the applicant intended to manage it.

Coordinator Capone brought up an outstanding Conservation Restriction from 1998 requiring public access. She initially recommended removing this requirement due to the terrain and wetland impact but deferred to the Commission for a final decision.

Chair Henkels asked for any questions from the Commissioners.

Comm. Holtz inquired about the location of the system intended to clean the water entering the basin. He noted it seemed to be near the driveway at the front of the property. Joshua Kline responded by pulling up the latest plans and agreed with Coordinator Capone's suggestion to update the O&M. He highlighted the water quality unit's location downstream of existing inlets, explaining that all impervious areas drain into these inlets and then to the water quality unit. The unit will be installed by cutting an opening in the existing pipe. He also mentioned the replacement of a parking area with a playground, reducing impervious surfaces.

Comm. Holtz asked if the unit would be covered with a manhole and inquired about its maintenance. Mr. Kline confirmed the manhole cover and stated that maintenance would follow manufacturer guidelines, typically involving periodic inspections and vacuuming.

Comm. Holtz questioned the maintenance of the basin, suggesting regular checks and cleanups, and asked about access considering the invasive overgrowth. Mr. Kline explained there was an opening in the fence and that light hand clearing could allow access for inspections and trash removal without heavy equipment.

Comm. Holtz asked about the depth of the pond. Mr. Kline estimated it to be 2 to 3 feet based on contouring, noting that maintenance could be done with waders if necessary.

Comm. Holtz brought up an issue of knotweed near the building, mentioning that Coordinator Capone had previously raised the matter. Mr. Kline confirmed they had informed the client, who is exploring options but has no current plan. If they decide to take formal action, they would return to the Commission.

Finally, Comm. Holtz asked about the building's foundation. Mr. Kline speculated it was likely a traditional concrete foundation slab on grade, as he hadn't inspected it himself.

Comm. Porter asked if the pipe was sourcing material from three points and bringing it to the basin. Mr. Kline clarified that there were actually four inlets in the parking area collecting runoff and sending it to the basin.

Comm. Porter then inquired about the dimensions and lengths of these pipes and the nature of the materials they would draw down. He asked if the flowing water would bring relatively clean water or if it would involve sandy or clay soil. Mr. Kline responded that the soils in the area, as determined by a septic approval with the Board of Health, were not high infiltrating soils like sands. He noted that the units have a TSS removal efficiency of 88 to 90%, capturing fines and materials from the parking lot, which would otherwise reach the pond and wetland.

Chair Henkels addressed the Commissioners, asking if they had any questions and then directed a comment to Coordinator Capone about the Conservation Restriction (CR) and the original language regarding public access. He sought clarification on whether they needed to define this going forward. Coordinator Capone acknowledged the need to ensure the decisions made by the Commission were not contradictory.

Chair Henkels asked Coordinator Capone to repeat her explanation. Coordinator Capone explained that the original Order of Conditions required the CR to provide public access from the top of the slope to the Mass Central Rail Trail. However, given the terrain, which is a big bowl, making the path ADA compliant would be challenging. Additionally, because the CR area is primarily wetlands, creating public access would require wetland alterations. The third issue is that the site is currently used as a school, making public access problematic.

Coordinator Capone recommended against using this location for public access to the rail trail due to these challenges. Chair Henkels asked the Commissioners if they had any strong feelings about the matter. Comm. Porter expressed agreement that the right points were being addressed and appreciated the focus on these issues. He mentioned his interest in seeing the access terrain firsthand. Chair Henkels acknowledged the difficulty of the terrain, and Comm. Faust opined that they should not provide access to that area. Comms. Sevier and Cook concurred.

Chair Henkels turned to Coordinator Capone to inquire about any outstanding Boards or Commissions that needed to review the project. Coordinator Capone mentioned that only the traffic review by the Planning Board remained pending, but it was expected to be resolved soon and would not impact their decision. The Board of Health had already approved the project.

Chair Henkels then mentioned the outstanding items, including the revised O&M and closing out the original Order of Conditions from 1998 to avoid having two open Orders on the property. He confirmed that Mr. Kline would need to come back with a Request for a Certificate of Compliance, which could be submitted for the next meeting.

Mr. Kline sought clarification on whether they could proceed with closing the old Order even if the State's review of the CR took a few more months. Coordinator Capone confirmed they could proceed and incorporate the CR into the new Order.

Chair Henkels asked if anyone in the audience had questions or comments, and then sought Mr. Kline's permission to continue the discussion until the third of June. Mr. Kline agreed, and they clarified that the Public Hearing would not be closed yet to allow for the revised document. Coordinator Capone emphasized that closing the Public Hearing before receiving the revised document would prevent them from considering new information.

On motion by Comm. Porter to continue the Hearing to June 3, 2024, seconded by Comm. Holtz, via roll call the vote was unanimous in the affirmative.

Notice of Intent: 87 Cudworth Lane, DEP #301-1411

Chair Henkels resumed the Hearing for the project to construct a garage within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Jehangir Jungalwala was the applicant. This Hearing was continued from January 22, February 5, and April 29, 2024.

Mr. Jungalwala discussed the addition of stone pits to handle water from the roof. He then elaborated on driveway modifications and discussed concerns about the building's proximity to a Drainage Easement, seeking clarification on certain construction aspects from Dan Nason, the Director of Department of Public Works.

Regarding erosion control, Mr. Jungalwala confirmed that it would not obstruct the flow of a nearby channel. He then discussed the remediation plan for areas within the Buffer Zone, expressing uncertainty about planting trees due to space constraints and existing vegetation. He sought guidance on where and how to plant the required number of trees for remediation while complying with regulations.

Coordinator Capone and Chair Henkels thanked Mr. Jungalwala for the detailed information and provided feedback and suggestions on tree planting locations within the Buffer Zone. They discussed options and clarified regulatory constraints to help Mr. Jungalwala determine the best approach for proper remediation. Mr. Jungalwala expressed challenges with planting trees on the septic system and sought advice on off-site mitigation options like osprey stands, kestrel boxes, or plantings in conservation areas or other properties.

Chair Henkels invited comments or questions from the Commissioners regarding the remediation plan and mitigation efforts.

Chair Henkels asked Coordinator Capone if she thought Mr. Jungalwala could realistically add more trees to the Buffer Zone, mentioning a specific number of trees. Coordinator Capone responded, noting the current number of trees and suggesting intermixing shrubs to increase the count. She also mentioned the possibility of adding trees in the backyard. Mr. Jungalwala expressed agreement with Coordinator Capone's assessment and raised concerns

about the soil depth in the backyard, suggesting collaboration with her to plan the tree placement. Chair Henkels reassured Mr. Jungalwala, and Coordinator Capone agreed to work with him on a plan for the next meeting.

Comm. Holtz raised concerns about the 4-foot pits' ability to capture roof runoff and asked if an engineer had reviewed the plans. Mr. Jungalwala deferred to Amanda Hicks, his representative, who explained that while there wasn't an engineered rainwater plan, they were confident in the setup with 4-foot gutters, 4-inch pipes, and stone pits for runoff dispersion. Comm. Holtz further inquired about soil infiltration and potential overflow issues, suggesting the need for assurance on the design. Ms. Hicks mentioned the proposal of a diffuser pit for overflow mitigation if necessary. Comm. Holtz expressed concern based on past experiences with overflowing systems. Chair Henkels thanked Comm. Holtz for the observations and invited comments from the other Commissioners on the concerns raised.

Comms. Porter, Cook, and Faust all indicated their agreement with Comm. Holtz's concerns and the need for further review. Comm. Cook mentioned the complexity of the situation, and Chair Henkels concurred, acknowledging the need for a continuance to address outstanding issues such as discussions with DPW regarding easement plantings and the drainage system. Chair Henkels also asked Coordinator Capone if she was available to discuss the plans further with Mr. Jungalwala.

Chair Henkels asked Mr. Jungalwala for permission to continue the discussion until June 3rd, 2024, and Mr. Jungalwala agreed.

On motion by Comm. Cook to continue the Hearing to June 3, 2024, seconded by Comm. Porter, via roll call the vote was unanimous in the affirmative.

Notice of Intent: Lot 2 Brimstone Lane, DEP #301-1409

Chair Henkels resumed the Hearing for the project to construct a new single-family home with associated pool, shed, stormwater management system, yard and landscaping within the 100-foot Buffer Zone and 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Carrie Maciel was the applicant. This Hearing was continued from December 18, 2023 and February 5, 2024.

George Connors, of Connorstone Engineering, discussed a proposed five-bedroom house on Brimstone Lane, detailing revisions made to the plan. These revisions included the elimination of substantial grading, replaced by a retaining wall and a riprap slope, reducing the grading impact from 8,500 to 2,800 square feet. Adjacent forested areas would be supplemented with shrubs for mitigation to restore the sparse understory. The stormwater drainage system for the driveway would direct stormwater into a stormwater drywell system capable of handling up to a 100-year storm, with an overflow for emergencies. Mr. Connors also noted a reduction in the house footprint by about 130 square feet and provided details about the retaining wall and septic system.

Chair Henkels thanked Mr. Connors and asked if he had any further comments. Mr. Connors deferred to questions. Coordinator Capone then commented, noting that the applicant had substantially reduced their footprint, eliminated the pool and patio, and made modifications to the garage. She clarified a point about tree removal, stating that no trees were to be removed in the speckled area, only additional planting to supplement the existing forest as mitigation, along with the removal of Japanese barberry from the site.

Coordinator Capone acknowledged the applicant's efforts to reduce their footprint and suggested that further modifications to the house design were not feasible without impacting the architectural design or requiring a front-loading garage. She recommended that the applicant seek approvals from other Boards, such as the Board of Health for the septic design and the Planning Board, before returning to the Commission. Chair Henkels invited questions from the Commissioners.

Chair Henkels had a few questions for Mr. Connors, specifically about the grading and tree removal, particularly the 20% grade in the back and the potential for erosion during construction, which could impact the wetlands and tributary at the base. He inquired about the extent of the clearing. Mr. Connors explained that an erosion control plan had been created, involving temporary berms, sediment traps, and swales during construction. He outlined the locations of these measures, including a basin berm system above the wall, a sediment trap, and a crushed stone apron for site access near the driveway.

Chair Henkels clarified his concern, asking if the erosion control barrier would be sufficient to protect against heavy rain events and prevent sediment from impacting the wetlands. Mr. Connors responded that the plan included more than just the barrier. There would be a sediment trap and a swale, essentially a depression in the ground to collect and trap sediment during rainstorms. Chair Henkels confirmed that his question had been answered and asked if there were any further questions from the Commissioners.

Chair Henkels raised a question he had previously asked at another hearing, inquiring about the necessity of blasting to assist in removing rock formations. He referred to the stormwater report, which indicated that soil levels were not very deep, ranging from 42 to 68 inches. Visible outcroppings and shallow rock areas prompted his question about whether any blasting would be needed to accommodate the home and associated systems.

Mr. Connors responded by referencing test holes, noting some as deep as 12 feet, while others were at 50 inches, 63 inches, and 42 inches. He believed the project could be constructed without the need for blasting. Chair Henkels thanked him for the clarification and then asked Coordinator Capone if she was satisfied with the mitigation provided.

Coordinator Capone discussed the supplemental shrubs being provided in the speckled area where trees are remaining on the slope, noting that 36 shrubs were proposed for that space. She evaluated the mitigation concerning the impact area on the Resource Areas, calculating a disturbance of about 3,300 square feet. Considering the existing trees and the 36 shrubs, the coverage would be about 2,400 square feet. She suggested supplementing with an additional 30 or so shrubs to adequately cover the area, noting it was a minimal increase needed.

Chair Henkels acknowledged the outstanding reviews needed from the Board of Health and the Planning Department. Coordinator Capone confirmed that both departments, particularly the Planning Department for the Stormwater Review, needed to resolve their components before the Commission could take any action.

Chair Henkels asked if any Commissioners or audience members had questions, then reiterated the need for departmental reviews. Chair Henkels requested Mr. Connors' permission to continue the matter until June 3, 2024, which Mr. Connors granted.

On motion by Comm. Sevier to continue the Hearing to June 3, 2024, seconded by Comm. Faust, via roll call the vote was unanimous in the affirmative.

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

Chair Henkels resumed the Hearing for the project 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. Richard Albee was the applicant. This Hearing was continued from October 17 and December 12, 2022.

On motion by Comm. Holtz to continue the Hearing to June 3, 2024, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

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

Chair Henkels resumed the Hearing for the project 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. Joel Gordon was the applicant. This Hearing was continued from July 10, 2023, and October 2, 2023.

On motion by Comm. Sevier to continue the Hearing to June 3, 2024, seconded by Comm. Faust, 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 resumed the Hearing for the project 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 July 15, 2024, seconded by Comm. Sevier, via roll call the vote was unanimous in the affirmative.

Notice of Intent: 32 Skyview Lane, DEP #301-TBD

Chair Henkels opened the Hearing for the project to remove trees and install fence within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Irena Webster was the Applicant.

Joanna McCoy, a landscape designer from A Blade of Grass, based in Sudbury, introduced the project concerning 32 Skyview Lane in Sudbury. She explained that Irene and David had filed a Notice of Intent (NOI) to remove 11 trees and install a fence within the 100-Foot Buffer Zone uphill of an intermittent stream at the back of the Websters' property.

The survey presented was initially prepared for a pool project clear of the 100-foot Buffer Zone. The Websters sought permission to remove certain trees primarily for safety reasons. Ms. McCoy detailed the types and locations of the trees, highlighting white pines, oaks, hemlocks, and a birch. She noted the safety concerns, such as the height and top-heaviness of the pines and structural damage to the oaks, as assessed by arborist Patrick Taylor from Everything Botanicals.

Ms. McCoy then described the proposed fence location and purpose. The fence aimed to enclose the backyard, including the new pool, for safety, particularly for keeping dogs and children within the property. She mentioned the challenges posed by the rocky terrain and ledge, which would require zigzagging the fence and requiring core drilling to secure the posts into the ledge.

Mitigation plans included addressing invasive plants identified by Coordinator Capone. Ms. McCoy proposed removing invasives by hand, planting ground cover in disturbed areas to prevent regrowth of unwanted vegetation, and monitoring the site for two growing seasons. She emphasized that all work, including tree removal and fence installation, would be conducted with minimal machinery to avoid further disturbance.

Chair Henkels thanked Joanna McCoy for her detailed presentation and asked Coordinator Capone for her comments.

Coordinator Capone noted the site's unique characteristics, including ledge formations and a steep slope leading to a stream at the base. She referenced a previous application from 2013 for a more elaborate plan that proposed altering about 5,000 square feet of the Buffer Zone. That plan included retaining walls and stormwater management and was denied by the Commission and upheld by DEP due to the site's unique environment and potential impact on the wetlands.

Given the site's sensitivity, Coordinator Capone recommended that the Commission conduct a site visit to better understand the project and assess the Buffer Zone. She emphasized the importance of examining the trees slated for removal, supported by the arborist's report detailing defects in all the trees to varying degrees. She suggested the Commission determine if all the trees should be removed or if some could be preserved and address any additional concerns about the overall project.

Coordinator Capone acknowledged that removing the trees would alter the area's light dynamics. She also expressed concerns about the future use of the space by children and dogs, given the lack of soil and grass due to the predominant ledge. She worried that the use of the space at the top of the hill might lead to migration downhill and impact the wetlands. Therefore, she reiterated the need for the Commission to visit the site and assess the situation directly.

Chair Henkels asked Ms. McCoy about the type of fence being considered, specifically its distance from the ground.

Joanna McCoy described the proposed fence as a split rail with a wire back. She explained that, according to the Building Department, the fence needed to meet pool code requirements. This meant it had to conform to the same requirements as chain link fences, which included being four feet tall and having the wire mesh extend all the way to the ground level to prevent it from being pulled up. The fence would need to pass a test involving a four-inch ball to ensure the gap at the bottom was tight enough. The wire mesh would have one-inch openings.

Chair Henkels thanked Ms. McCoy for the explanation and agreed with Coordinator Capone that a site visit was necessary to better understand the project. He asked the other Commissioners if they had any further questions or comments.

Comm. Holtz asked Ms. McCoy to go back to the plan showing the proposed fence line, noting confusion about where the fence would terminate near the shed. Ms. McCoy explained that the plan given to the building department for the pool showed the proposed fence connecting to an existing wall near the shed and wrapping around to the house, enclosing the entire area.

Comm. Holtz sought clarification, noting that it seemed a fence protecting the pool was already planned. Ms. McCoy clarified that the pool project was still underway and no fence was yet installed. The Websters wanted a single fence enclosing the entire backyard for safety, which would also protect the pool.

Comm. Holtz questioned if constructing the outer fence as proposed meant the internal pool fence would not be necessary. Ms. McCoy confirmed this, explaining that the single proposed fence would replace the need for a separate pool fence. Comm. Holtz suggested clarifying this on the plan, as it currently appeared they were planning two fences, which was confusing.

Ms. McCoy acknowledged the need for clarification and apologized for the confusion, explaining that they had used an old survey and should have provided an updated plan showing only the proposed fence. Chair Henkels then asked if there were any other questions from the Commissioners.

Comm. Porter raised a concern regarding bringing fences to the ground, and asked if Sudbury had specific codes about clearance at the bottom of fences. He noted that large enclosed areas could trap animals and questioned whether the proposed fence design accounted for this.

Ms. McCoy responded, clarifying that for pool code requirements, the fence needed to meet specific standards, but she was unsure if there were more general fencing regulations in Sudbury concerning wildlife. She acknowledged the concern about trapping animals and mentioned they had considered the area along the proposed fence line as a potential wildlife corridor. Ms. McCoy was open to suggestions for different fence designs that would comply with pool code and address the concern about trapping animals. Comm. Porter appreciated the response and noted the importance of considering wildlife movement and safety in fence design.

Chair Henkels mentioned concerns about the fence being a few inches off the ground and its impact on compliance with regulations. Ms. McCoy explained the need for the fence to adhere to chain link rules, particularly regarding its height from the ground. Comm. Sevier and Ms. McCoy discussed the possibility of adjusting the fence's lower rail to meet the requirements.

Comm. Porter mentioned the risk associated with certain fence designs, prompting Comm. Holtz to inquire about alternative options given the terrain. Ms. McCoy proposed considering different fence styles that comply with pool codes, such as picket or aluminum fences. Comm. Sevier emphasized the importance of preventing children from getting stuck in the fence.

The discussion revolved around finding a balance between safety regulations and practicality given the landscape's challenges. Ms. McCoy agreed to discuss potential compromises with the Building Department regarding the fence's specifications.

Chair Henkels proposed a site walk for the Commissioners who could attend, which received positive responses from Comm. Holtz and others. Irena Webster from the Websters' family had questions about what aspects of the discussion would carry over to the next meeting. Chair Henkels clarified that the entire discussion would continue, including the trees and the fence.

Ms. McCoy and Comm. Sevier discussed the importance of assessing the landscape and fence scale during the site visit. Chair Henkels assured Mrs. Webster that they could be present during the site visit and encouraged their participation.

Mrs. Webster emphasized the goal of preserving the natural look of their yard while ensuring safety for their children. Chair Henkels expressed understanding and anticipation for the upcoming site visit. The Websters granted permission to continue the discussion until June 3, 2024.

On motion by Comm. Cook to continue the Hearing to June 3, 2024, seconded by Comm. Holtz, via roll call the vote was unanimous in the affirmative.

Other Business

Coordinator Capone mentioned that the fee structure had been approved at the Town Meeting and emphasized the importance of attendance at such meetings, noting her surprise at the low turnout this year.

Comm. Holtz pointed out that an Associate member had joined as an attendee and suggested they should join as a panelist to engage in the conversation unless there had been a decision against this that he missed. Coordinator Capone clarified that the Associate member had not been appointed yet. Comm. Holtz acknowledged this explanation, and Chair Henkels recognized the associate member, Karl Fries, in the audience, thanking him for his attendance.

Adjourn Meeting

On motion by Comm. Holtz to adjourn the meeting at 9:04 PM, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.