



SUDBURY CONSERVATION COMMISSION MINUTES

Meeting Minutes of Monday, June 17, 2024

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

Absent: Luke Faust

The meeting was called to Order by Chair Henkels at 7:01 PM via roll call.

Other Business:

Danielle Marini-King, Sustainability Coordinator:

Dani Marini-King, the Sustainability Coordinator, introduced herself and provided an overview of the Municipal Vulnerability Preparedness (MVP) 2.0 project. She explained the MVP program, initiated by former Governor Baker in 2017, which provides funding for assessing climate change vulnerabilities and developing resilience action plans. The initial MVP program focused on infrastructure, societal, and environmental features, leading to Sudbury being designated an MVP community in 2019.

Ms. Marini-King stated that the MVP 2.0 aims to center equity by engaging the entire community, particularly the most vulnerable populations. The program includes robust engagement strategies and allows communities to design and implement projects based on community feedback. Sudbury, part of the MVP 2.0 pilot program, received a \$95,000 grant to fund the planning process and hire the Metropolitan Area Planning Council (MAPC) as a consultant.

The core team for the MVP 2.0 includes five municipal representatives and five community liaisons. The team underwent climate resilience and equity training, and is currently gathering input from the community through a climate resilience survey. Ms. Marini-King emphasized the importance of this survey, which seeks feedback on residents' past experiences with extreme weather, climate change concerns, and ideas for future actions. The survey is available online, and paper copies can be requested.

Chair Henkels thanked Ms. Marini-King for her presentation, stating that it was extremely helpful. He suggested not taking questions due to the extensive agenda for the evening. Chair Henkels encouraged those with questions to contact her directly. He expressed gratitude for her time and effort in meeting with them.

Minutes:

May 13, 2024

On motion by Comm. Cook to accept the minutes of the May 13, 2024 meeting, seconded by Comm. Porter, with Comm. Rogers abstaining due to absence from said meeting, via roll call the vote was unanimous in the affirmative.

Certificate of Compliance:

Congregation B'nai Torah, 225-227 Boston Post Road, DEP #301-0600

Coordinator Capone stated that they had prepared the agenda with the expectation of issuing the new Order of Conditions. However, they would need to table this item once more to the next meeting until they are ready to issue the Order.

Goulet, 27 Middle Road, DEP #301-1199

Coordinator Capone explained that the approved plan from a few years ago was a hand drawing. She had requested a similar plan for the As-built, noting slight modifications. The addition was slightly smaller than approved, but a very small deck was added in an area previously used as a lawn, and no closer to the wetlands. She considered the changes minor enough not to impact the wetlands, allowing for the issuance of a Certificate of Compliance for the project.

Chair Henkels thanked her for the narrative and summary, and asked if any Commissioners or audience members had questions.

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

Wetland Applications:

Notice of Intent, 73 Hickory Road, DEP #301-1417

Chair Henkels resumed the Hearing for the project to replace septic system and remove a radio tower within the 100-foot Buffer Zone and 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. David Hoaglin was the applicant. The Hearing was continued from June 3, 2024.

Coordinator Capone stated that the modification was presented to the Commission at the last meeting, awaiting the revised plan. The modification involved moving the leach field more than 50 feet away from the wetlands to meet State Act requirements, resulting in significantly less fill in the 100-year floodplain or bordering land subject to flooding, reduced from over 1,700 cubic yards to a little over 200. She prepared an Order of Conditions for issuance, noting it was a standard Order for a septic system with no special requirements or mitigation needed.

Chair Henkels thanked her and invited questions from the Commissioners and the audience. Mr. Hoaglin commented that the amateur radio tower had been removed that day. Coordinator Capone reassured the Commission that the work was done by hand, negating the need for erosion controls.

On motion by Comm. Porter to close the Hearing, seconded by Comm. Sevier, with Comm. Rogers abstaining due to her absence at the previous meeting, via roll call the vote was unanimous in the affirmative.

On motion by Comm. Porter to issue the Order of Conditions, 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 the existing building, and install a playground area 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 and May 13, 2024.

Coordinator Capone explained that most of the work falls outside the Commission's jurisdiction. However, there were two outstanding items holding up the ability to issue an Order. The first item was the Stormwater Basin, which the applicant will be cleaning and restoring to its original condition to function properly for future stormwater. The second item was the driveway location, which the Planning Board requested to be relocated, bringing it into the Commission's jurisdiction. The applicant, represented by Josh Kline from Stonefield Engineering and Design, presented a plan to offset the new impervious surface by removing some parking within the Riverfront Area. The only new alteration to the Riverfront Area would be the conversion of a lawn area to pavement.

Mr. Kline then discussed the existing basin to be reconstructed and an invasive species management plan. The real discussion focused on the relocation of the driveway to meet the Planning Board's requirements, with the intention to balance the impervious surfaces by removing parking spaces.

Chair Henkels asked if MassDOT had any input beyond the entrance. Mr. Kline stated that while MassDOT approved the existing driveway location, the Planning Board required the move. An access permit from MassDOT would be needed if changes were required.

Comm. Holtz inquired about the plan for sidewalks along the front of the property, which Mr. Kline confirmed would be addressed per MassDOT's requirements. Comm. Holtz also asked about the invasive management plan for Japanese knotweed, which would require a licensed herbicide applicator for initial treatment and ongoing management through mowing.

Chair Henkels asked if these details would be included in the Order of Conditions, and Coordinator Capone confirmed.

Chair Henkels then opened the floor for any additional questions from the Commissioners.

Comm. Sevier inquired about the size of the new driveway compared to the existing one. Mr. Kline responded that the new driveway would be slightly narrower, about 24 to 26 feet wide, suitable for commercial use and accommodating necessary vehicles like fire trucks. He confirmed that the existing driveway is wider than needed, and the new one would be more appropriately sized. Comm. Sevier also asked about the fate of the existing parking spaces. Mr. Kline explained that the existing spaces would be relocated, and the area would be revegetated into lawn or landscaped areas.

Comm. Holtz asked for clarification on the driveway's position relative to a pine tree. Mr. Kline confirmed the driveway would be on the eastern side of the tree. Comm. Holtz expressed concern about potential street flooding and asked if this had been considered. Mr. Kline stated that there was no observation or indication of flooding impacting the property, noting a nearby inlet that might cause occasional surcharges but wouldn't affect the proposed driveway significantly.

Chair Henkels then asked if there were any further questions from the Commissioners or the audience. With no additional questions, Chair Henkels requested a continuation of the hearing. Mr. Kline agreed to continue to the next meeting on July 1st, 2024.

On motion by Comm. Porter to continue the Hearing to July 1, 2024, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

Notice of Intent, 11 Allene Avenue, DEP #301-1419

Chair Henkels resumed the Hearing for the project to construct a detached garage within the 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Jeffrey Gray was the applicant. This Hearing was continued from June 3, 2024.

Coordinator Capone provided an update on a project that had issues with encroachments onto adjacent town land within the Riverfront Area. At the previous meeting, it was requested that a modified plan be presented to address unauthorized work. The updated plan by Mr. Daniel Carr proposed to loam and seed the entire altered area and replant it with 40 native shrubs. Additionally, the mitigation location for the garage construction was modified, now including three pockets of mitigation instead of one.

Mr. Carr, from Stamski & McNary, presented the updated plan and explained the changes, highlighting the degraded off-site area and the proposed restoration efforts. The honeycomb hatch area, approximately 900 square feet, would be loamed, seeded, and planted with shrubs. He also detailed the separate mitigation areas, now divided into three sections as requested by the homeowner, which would include native shrubs and perennials.

Chair Henkels invited the Commissioners to ask questions.

Comm. Holtz asked for clarification on differentiating between the restoration and mitigation areas. Mr. Carr explained that the restoration area is marked with a honeycomb hatch and the mitigation area with a dot hatch.

Comm. Holtz inquired about the restoration process and whether it would be done by hand. Carr confirmed that both restoration and mitigation would be performed by hand, involving shrubs and perennials.

Chair Henkels then inquired about the location of the town land, which Mr. Carr identified as the area beyond the heavy rear property line. Chair Henkels asked if any erosion controls were proposed. Mr. Carr stated that erosion controls were in place around the garage but not around the mitigation areas since no machinery would be used there.

Chair Henkels questioned the staging area for the mitigation, which Mr. Carr suggested would be on the driveway. Chair Henkels also asked how the numbers for mitigation and restoration were determined. Mr. Carr explained that the mitigation plant list was tripled based on previous feedback, resulting in approximately 950 square feet for the restoration area, with 40 shrubs equating to about 24 square feet per shrub.

Chair Henkels opened the floor for any additional questions from the Commissioners.

Comm. Holtz inquired about a pathway marked on the plan between the shed and the mitigation area, initially mistaking it for a contour line. Mr. Carr clarified that it was indeed a pathway, with a stockade fence adjacent to it.

Comm. Holtz further asked about the town land beyond the shed and what amenities or features were present there. Mr. Carr explained that it primarily consisted of shrubs, with a path cut through it for the bike track, indicating the survey markers delineating the edge.

Comm. Holtz also noted blueberries in the planting plan and asked if they were intended for wildlife or human consumption. Mr. Carr confirmed they were for wildlife.

Chair Henkels then invited any additional questions from the Commissioners. Coordinator Capone suggested a site visit to assess the extent of disturbance and ensure the mitigation and restoration adequately addressed the issues, including the removal of brush piles and management of invasive species like bittersweet.

Chair Henkels asked Mr. Carr about the requirements regarding planting seasons and survival rates. Coordinator Capone clarified that the mitigation required at least two growing seasons for survival or replacement, and suggested additional time for the town land restoration.

Chair Henkels expressed his intention to conduct a site visit, which Comm. Holtz agreed with.

Chair Henkels then moved to continue the hearing until July 1, 2024, and asked for Mr. Carr's agreement, which was provided.

On motion by Comm. Sevier to continue the Hearing to July 1, 2024, seconded by Comm. Cook, 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 and May 13, 2024.

On motion by Comm. Cook to continue the Hearing to July 1, 2024, seconded by Comm. Porter, 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. Porter to continue the Hearing to July 1, 2024, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

Notice of Intent, 104 Plympton Road, DEP #301-1420

Chair Henkels opened the Hearing for the project to construct an addition, swimming pool, fencing, driveway, and walkway, reconstruct a deck, and relocate a shed within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Andrew & Emily Bouley, were the applicants.

Peter Bemis, of Engineering Design Consultants, representing the project, outlined the proposed addition and modifications to the property, emphasizing the existing wetland delineation by Norse Environmental Services. The plan includes constructing a single-car garage addition with a family room above, reconstructing an existing deck, relocating stairs, expanding the driveway with permeable pavers, walkways, and pool deck, and relocating a shed. Mr. Bemis highlighted the intention to create a buffer zone with maple trees and native wildflowers along the wetland boundary, compensating for prior development and providing habitat restoration.

Chair Henkels acknowledged Mr. Bemis's desire for expedited review, contingent on a potential site visit for better assessment. Coordinator Capone supported a site visit to verify the wetland delineation, noting historical land use changes and unauthorized installations like the shed and swing set. She also raised concerns about prior tree removal and managing groundwater during construction.

Mr. Bemis clarified that the addition would not include additional living space beyond a family room, ensuring no impact on the septic system's capacity. He also assured plans would address construction impacts on groundwater and include detailed landscape architecture plans.

Chair Henkels opened the floor for questions. Comm. Rogers inquired about the history of the wetlands near the house, questioning whether they had been filled in during construction or altered later by previous owners. Coordinator Capone indicated that the topography had likely not been altered but converted to lawn, with visible depressions, suggesting recent changes since around 2010.

Comm. Holtz raised concerns about the pool's location relative to the Buffer Zone, noting that the revised wetland line intersects with the pool. Coordinator Capone clarified that the pool's corner was 42 feet from the front property line, with the setback requirement being 40 feet due to the property's corner lot status, necessitating adherence to dual front yard setbacks. Mr. Bemis explained the zoning constraints and mentioned the potential to adjust the pool's position with more survey control if necessary.

Comm. Holtz further queried if rotating the pool or considering a different orientation had been explored to minimize Buffer Zone impacts. Mr. Bemis acknowledged considerations to minimize footprint impacts and confirmed the pool's likely use of saltwater, though specifics had not been finalized. He also stated that water from the pool would be hauled away when emptied, not discharged on-site.

Chair Henkels asked about the delineation history related to the project. Coordinator Capone clarified that the only previous application dated back to construction in 1978, which included a basic delineation. She noted that a more detailed delineation had been conducted recently, within the last several months, but both show the wetland projecting towards the house.

Chair Henkels sought permission from Peter Bemis to continue the hearing, proposing a meeting date of July 1, 2024, with subsequent dates on July 15 and 29, as suggested by Coordinator Capone.

Mr. Bemis expressed his preference for the July 1 date if possible, citing his availability constraints. He also inquired about the feasibility of conducting a site visit during the week versus weekends. Chair Henkels indicated a preference for weekday mornings or late afternoons for the site visit, considering Commissioners' schedules.

Chair Henkels assured Mr. Bemis that arrangements would be made promptly for the site visit and confirmed his placement on the agenda for July 1, 2024.

On motion by Comm. Cook to continue the Hearing to July 1, 2024, seconded by Comm. Porter, via roll call the vote was unanimous in the affirmative.

Notice of Violation:

Nobscot Scout Reservation, DEP #301-1375:

Coordinator Capone provided a detailed overview of the project's history, dating back approximately three years to an initial violation involving unauthorized trail work within wetlands jurisdiction. She highlighted significant trail damage caused during a wet summer, necessitating extensive restoration efforts. Working closely with scout groups and engineers, a phased plan under an Order of Conditions was developed to restore the area and address additional trail maintenance requests.

Coordinator Capone noted that phase one of the restoration, managed by a contractor, had been successfully completed. However, ongoing concerns arose regarding volunteers exceeding their permitted scope of work. During a recent site visit in preparation for phase two, she observed anticipated drainage enhancements, prompting a directive for engineering evaluation and Commission approval.

Despite explicit instructions, unauthorized drainage work continued, leading to Coordinator Capone's issuance of a Notice of Violation. She emphasized efforts to collaborate with new scout leadership to prevent further issues, including discussions on implementing an environmental monitor at the scout's expense, if necessary.

Coordinator Capone informed the Commission about recent discussions with Sudbury Valley Trustees and the Scouts, to reinforce compliance measures.

Ryan Piazza, the Camping Director for Mayflower Council, then addressed the Commission. He acknowledged the recent unauthorized land disturbance and apologized on behalf of the Council. He outlined measures being implemented to prevent future incidents, including increased volunteer oversight and collaboration with engineers for project compliance. He highlighted ongoing efforts to restore the disturbed area and reinforced the Council's commitment to adhering to project guidelines and involving the local community.

Juan Osorio, the new Scout Executive and CEO for Mayflower Council, echoed Mr. Piazza's sentiments, emphasizing their commitment to preventing future violations. He assured the Commission of their attention to the conservation restriction and their collaborative efforts with local authorities.

Chair Henkels asked about compliance measures outlined in the Order of Conditions. Mr. Piazza confirmed ongoing discussions with Coordinator Capone and stressed the Council's commitment to following approved plans and seeking commission approval for any changes. He also discussed training initiatives for volunteers and emphasized their dedication to maintaining a positive relationship with the community.

Chair Henkels praised the efforts during phase one of the project and stressed the importance of compliance moving forward. Mr. Piazza and Mr. Osorio reiterated their dedication to the project and emphasized their passion for the property's preservation and community engagement.

Chair Henkels invited comments from the Commissioners to conclude the discussion.

Comms. Sevier and Rogers raised concerns about oversight and compliance with the project's plans, noting previous issues despite discussions. They questioned the effectiveness of current monitoring and asked how future incidents would be prevented.

Mr. Piazza responded, detailing the Council's weekly volunteer work schedule and his personal commitment to overseeing the projects. He emphasized the importance of clear task assignments before each work session and thorough follow-ups afterward to ensure adherence to approved plans. Mr. Piazza also mentioned plans to hire a Camp Ranger to provide on-site oversight regularly.

Comm. Sevier sought clarity on the level of detail volunteers had regarding project plans and their capability to interpret them correctly. Mr. Piazza assured him that volunteers were guided strictly by engineering plans and that there were experienced individuals on-site capable of understanding and executing the tasks as specified.

Mr. Osorio added that the Council had faced challenges due to a CEO vacancy, but steps were being taken to prevent future violations. He highlighted the creation of a Conservation Restriction committee composed of knowledgeable volunteers to enhance oversight and ensure compliance.

Comm. Sevier reiterated the importance of strict adherence to defined plans and procedures to avoid misunderstandings that could lead to unauthorized work. He emphasized the need for clarity and consistency in project execution to prevent future incidents.

Comms. Porter and Rogers, and Mr. Osorio discussed the need for improved oversight and compliance measures following repeated violations. Comm. Rogers expressed disappointment over the lack of training provided to volunteers after previous violations and stressed the importance of educating them about project specifics and conservation restrictions.

Mr. Piazza acknowledged the need for enhanced training and oversight, noting current efforts to educate volunteers and ensure they adhere strictly to approved plans. He mentioned ongoing meetings with volunteers to review Conservation Restrictions and construction plans.

Mr. Osorio outlined additional steps being taken, including involving a volunteer Vice President of properties to approve projects before implementation. He emphasized the organization's commitment to preventing future violations through increased bureaucratic oversight, despite potential delays in maintenance.

Comm. Porter highlighted the importance of evaluating whether the system or individuals were at fault for the violations, suggesting a thorough review to address functional problems in the execution of protocols.

Chair Henkels expressed appreciation to Mr. Piazza and Mr. Osorio for attending and addressing the Commission regarding ongoing issues. He acknowledged the significant efforts of Coordinator Capone and her team, as well as the commitment shown by Mr. Piazza and Mr. Osorio, particularly highlighting the completion of phase one of the project.

Chair Henkels emphasized the importance of implementing stringent controls moving forward, echoing sentiments expressed by Comms. Sevier and Porter earlier in the meeting. He referenced the Violation Notice issued by Coordinator Capone as a critical guideline for ensuring compliance.

In closing, Chair Henkels thanked Mr. Piazza and Mr. Osorio again and expressed optimism for future interactions on a more positive note.

Other Business:

Landham Brook Conservation Land:

Coordinator Capone provided an update on a small area of Japanese knotweed recently found, noting it will rapidly spread, and the proposed solution of implementing a stem injection program using glyphosate herbicide. This method involves injecting herbicide directly into the plant stalks to prevent ground disturbance and unintended impacts to other plants, although eradication may take a few years due to potential seed persistence. She highlighted the need for Conservation Commission approval as per the property's Conservation Restriction held by Sudbury Valley Trustees, who has approved the treatment.

Comm. Holtz raised a query about the status of buckthorn management alongside the knotweed treatment. Coordinator Capone explained that while management for buckthorn is needed, its dense and extensive growth requires careful surveying and planning before any action can be taken. She emphasized the need for a management plan due to the scale of the infestation.

Following the discussion, Chair Henkels called for a vote to permit the herbicide treatment via stem injection, to be repeated next year as needed.

On motion by Comm. Sevier to motion to permit the herbicide treatment, seconded by Comm. Porter, via roll call the vote was unanimous in the affirmative.

Adjourn Meeting

On motion by Comm. Sevier to adjourn the meeting at 8:45 PM, seconded by Comm. Porter, via roll call the vote was unanimous in the affirmative.