



## SUDBURY CONSERVATION COMMISSION MINUTES

Meeting Minutes of Monday, September 23, 2024

**Present:** David Henkels, Chair; Ken Holtz, Vice Chair; Luke Faust; Harry Hoffman, Associate Member; Bruce Porter; Kasey Rogers; Mark Sevier; and Lori Capone, Conservation Coordinator

**Absent:** Jeremy Cook

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

### Minor Modification:

#### Eversource Underground Transmission Line – Mass Central Rail Trail, DEP #301-1287

Chair Henkels began the meeting to consider a Minor Modification request under the current Order of Conditions for Eversource's underground transmission line along the Mass Central Rail Trail.

Coordinator Capone explained that one of the conditions for the transmission line project required the installation of wildlife habitat features to mitigate the removal of trees and woody debris along the corridor. The project involved creating brush piles along the trail for wildlife cover, and she had worked with the consultant to modify the habitat features throughout construction. Some of the removed trees were repurposed in vernal pools to serve as egg attachment sites, reducing the need for all the brush piles.

As the project neared completion, they reassessed the corridor and found that many of the proposed brush pile locations were near residences, which might not be ideal for wildlife or the abutters. Instead, they proposed alternative wildlife features, including the reuse of snags and the addition of plantings around vernal pools. Currently, out of 60 proposed brush piles, 39 had been replaced with snags, and the plan was to reduce the remaining brush piles to nine by proposing alternative wildlife features that would offer more diverse habitats.

Mark Bergeron, from Epsilon Associates, took the floor and reiterated Coordinator Capone's summary. He explained that their approach to addressing the remaining brush piles included the installation of two rock piles for snake habitat—one in the desert area near the town line and another near Peakham, black racer snakes were documented near the town line. Additionally, they planned to install two osprey nest platforms at the Hop Brook bridge crossings and plant an additional 106 plants at eight different locations along the corridor. Mr. Bergeron also mentioned the removal of invasive species in Segment 14, which would further improve the habitat. Nine brush piles would be installed in an area that had no understory or cover for wildlife, away from residents.

Mr. Bergeron expressed that, after observing the project during construction, these revisions would create more diverse wildlife habitats in the Sudbury corridor than the original plan. He offered to go through the details of the table and plan set if the Commission wished but remained mindful of the time.

Chair Henkels expressed appreciation for the wildlife feature mitigation plan, acknowledging the collaborative efforts between Mr. Bergeron and Coordinator Capone. Comm. Faust echoed Chair Henkels' sentiments, complimenting the creativity and variety of wildlife features being implemented. Mr. Bergeron credited Coordinator Capone for her ongoing support and input throughout the project, highlighting her dedication to improving the overall habitat.

Chair Henkels inquired about the distance between the two planned osprey nests. Mr. Bergeron estimated they were about a mile apart, but Coordinator Capone clarified they might be closer to two or three miles apart, considering the corridor's length. Chair Henkels mentioned the presence of two active osprey nests on power lines near the substation, which had been active for years, to which Mr. Bergeron confirmed their continued activity.

Chair Henkels then asked if there were further questions from the commissioners or the audience. After a brief pause, he requested clarification on the administrative process, asking whether a vote was needed for the Minor Modification.

Coordinator Capone explained that a vote was required to issue the Minor Modification to confirm the changes would not require reopening the Order of Conditions. However, she had a few comments regarding the proposal. She clarified that the rock piles were intended to serve as snake nesting sites and suggested modifications to their construction, including using larger rocks and covering them with soil and vegetation to create a cold, moist environment suitable for snakes. She also recommended extending one of the rock piles from the proposed six feet to 21 feet to better recreate the ledge environment that had been removed from the construction. Additionally, she suggested modifying the plantings to include more shade-tolerant species due to the increased shade from saved trees.

Mr. Bergeron agreed to incorporate Coordinator Capone's feedback, emphasizing that the final approval of the habitat features would be under her guidance. He assured the Commission that the installation would be supervised by environmental monitors and that any modifications to the plant assemblage would be approved by Coordinator Capone.

Chair Henkels inquired about the timeline for the construction of the proposed wildlife habitat features, specifically regarding snake hibernation. Mr. Bergeron stated that the goal was to complete the installations by the end of October, with brush piles potentially extending into November. He explained that the focus was on completing the woody material plantings before the weather turned unsuitable for planting.

Comm. Sevier expressed his approval of the plan. Chair Henkels again asked if there were any questions or comments from the commissioners or audience, but none were raised.

On motion by Comm. Porter to approve the Minor Modification, seconded by Comm. Sevier, via roll call the vote was unanimous in the affirmative.

#### Wetland Applications:

##### **Request for Determination of Applicability: 24 Goodnow Road, RDA #24-16**

Chair Henkels resumed the meeting for the project to alter grade within the 100 Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Goodnow Partners, LLC was the applicant. This meeting was continued from July 1, 2024.

On motion by Comm. Holtz to continue the meeting to October 7, 2024, seconded by Comm. Sevier, 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. Faust to continue the Hearing to October 21, 2024, seconded by Comm. Sevier, via roll call the vote was unanimous in the affirmative.

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

Chair Henkels resumed the Hearing for the project 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. Faust to continue the Hearing to October 21, 2024, seconded by Comm. Porter, via roll call the vote was unanimous in the affirmative.

##### **Notice of Intent: 87 Moore Road, DEP #301-1424**

Chair Henkels resumed the Hearing for the project to construct a garage with associated driveway and drainage, relocate an existing fence, and remove trees within the 200-foot Riverfront Area, pursuant to the Wetlands

Protection Act and Sudbury Wetlands Administration Bylaw. Dwight D. Henderson was the applicant. This Hearing was continued from August 26, 2024.

On motion by Comm. Holtz to continue the Hearing to October 7, 2024, seconded by Comm. Sevier, via roll call the vote was unanimous in the affirmative.

**Request for Determination of Applicability: 38-40 Station Road, RDA #24-24**

Chair Henkels began the meeting for the project to replace septic systems within the 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. George Sherman was the applicant.

Vito Colonna presented the details of the project, explaining that the site consisted of two buildings: a front auto repair garage and a rear building. Across the street, an intermittent stream regulated under the local Bylaw as perennial influenced the project's 100-foot Buffer Zone and 200-foot Riverfront Area. He also identified a floodplain on parts of the property.

The two cesspools currently on-site were in failure. One cesspool, located in the parking area, would be abandoned by filling it with flowable fill to minimize disruption. The second cesspool, located farther back, would be crushed and backfilled. A new leach field would be installed outside the regulated areas, with the interior plumbing of the building being redirected accordingly. Only the septic tanks and pump chamber work would take place within the Riverfront Area and Buffer Zone, minimizing disturbance.

Coordinator Capone provided her assessment, describing the site as highly degraded and acknowledging the improvement that the new functional septic system would bring. She confirmed that the Board of Health had approved the system and recommended the issuance of a Negative Determination, #3, with the condition that an as-built plan be submitted upon completion of the work.

Chair Henkels opened the floor to the Commissioners for questions or comments.

Comm. Holtz asked for clarification on what flowable fill was, wondering if it was similar to mud. Mr. Colonna explained that flowable fill is a material similar to concrete but not as hard. It fills voids, hardens without settling, and requires no compaction, though it could be excavated in the future if necessary.

Comm. Holtz further inquired about the presence of a tank and whether it would be filled. Mr. Colonna confirmed that a cesspool, essentially a tank with perforations, would be filled with the material to avoid disturbing the parking area. Comm. Holtz then asked if the cesspool would ever need to be excavated, to which Mr. Colonna replied that it would likely stay in place unless a utility or construction project necessitated its removal.

Comm. Sevier asked why only one cesspool would be filled with flowable fill. Colonna explained that since the second cesspool was in the area where a new pipe would be installed, they would need to dig through it, making the standard crush-and-backfill method more appropriate in that case.

Comm. Porter expressed that the plan looked fine. Chair Henkels asked if anyone else had questions, but none were raised. Chair Henkels then asked Mr. Sherman, the applicant, if he had any comments, but Sherman did not provide additional input.

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

**Notice of Intent: 20 Musket Lane, DEP #301-1426**

Chair Henkels opened the Hearing to install an addition and replace an existing deck within the 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Chris Logan was the applicant.

Coordinator Capone noted that the only outstanding item was the DEP number. The DEP portal indicates that they are just waiting for the check to clear but the applicant has provided proof that the check has been. She suggested that the Commission could choose to close the hearing and issue a decision pending the DEP number or continue it to the next meeting on the 7th.

Tom Ragan, of Logan Construction, described the project as removing a deck and constructing a great room in the same area, with an adjacent deck.

Coordinator Capone explained that the plan was smaller than originally proposed, indicating the footprint of the existing deck, which had been removed, and that the footings remained in place. The addition and deck would occupy the same location as the former deck. Coordinator Capone clarified that the addition depicted in the application would not be constructed, and that the footprint would be very similar to the existing deck. She noted that Pantry Brook runs along the back of the property, and the project is located in the outer Riverfront Area, but outside of the Buffer Zone.

Chair Henkels invited questions from the Commissioners.

Comm. Holtz asked if there was any proposed mitigation for the new impervious surface. Coordinator Capone responded that no mitigation was proposed, as the project was small and located far from the resource area. She indicated that gutters would be installed on the proposed addition, which would connect to the existing drainage system. The downspouts discharge onto the ground, but noted that the site was flat, which minimized the potential of erosion from the downspouts.

Chair Henkels asked if there were any further questions from the Commissioners.

Mr. Ragan explained that the addition would extend three to five feet further than the previous deck for aesthetic reasons. Comm. Sevier asked if the new structure would include a roof as part of the great room. Mr. Ragan confirmed that it would feature a gable roof. Comm. Sevier inquired about the dimensions of the great room addition compared to the deck. Mr. Ragan clarified that the great room would extend 11 feet and the existing deck was approximately 16 to 17 feet. He stated that the new addition would push out to 19 feet.

Comm. Holtz asked if there were plans available for comparison to ensure that the constructed project aligned with what was agreed upon. Coordinator Capone mentioned that they had an aerial photo showing the footprint, along with architectural plans. She assured that they would have the plans to confirm the discussed footprint.

Comm. Sevier asked if the architectural plans reflected Mr. Ragan's earlier statements about the dimensions. Coordinator Capone replied that the details Mr. Ragan provided were submitted that day, and she did not have those for the Commission. Mr. Ragan indicated he had a floor plan but was unsure how to present it during the meeting.

Chair Henkels confirmed that they did have an updated plan but noted he only had a hard copy, not an electronic version. Coordinator Capone confirmed that the hard copy corresponded with Mr. Ragan's discussion regarding the project intent. Chair Henkels invited any further questions from the commissioners.

Comm. Holtz asked for clarification regarding the urgency of the project. Chair Henkels inquired about the check for the application and whether they had a receipt confirming it was cashed. Mr. Ragan explained that he visited the DEP office that day to verify the changes to the plan and was informed that the check had initially not been recorded. However, upon returning to his office, he confirmed that the check had been cashed by the State and brought a copy of the receipt to the Conservation Commission.

Chair Henkels asked Coordinator Capone if she was satisfied with the details provided for the discussion. Coordinator Capone affirmed that, considering the project's small scope, there was enough information provided.

Chair Henkels then asked the Commissioners for their thoughts on proceeding with the hearing despite not having the DEP file number but with evidence that the check was cashed. Comm. Sevier questioned whether the DEP was likely to return with comments or if the process would be primarily administrative. Coordinator Capone clarified that the only comment from the DEP portal was related to waiting for the fees to clear and that there were no technical questions.

Comm. Sevier followed up by asking if there was any disagreement regarding whether the funds had reached the state. Coordinator Capone explained that Mr. Ragan had the canceled check showing it was cashed, and the delay occurred because the funds needed to be processed between Boston and Woburn. She expressed confidence that

the DEP had received the money and that a file number would be forthcoming, possibly as soon as the next day. She noted that this was the only outstanding item affecting their decision timeline.

Comm. Sevier indicated that the situation did not seem like a significant issue. Chair Henkels pointed out that work could not commence until the DEP file number was issued and the Order of Conditions recorded, acknowledging a lag time on their end. He then invited any additional questions from the Commissioners.

Comm. Holtz inquired about the absence of proposed erosion controls, noting the flatness of the site. Coordinator Capone explained that the construction would utilize helical piers, which would not disturb the ground, and therefore, no erosion controls were deemed necessary. She reiterated that the project was situated 190 feet away from the river and that the site was flat.

Comm. Holtz followed up, confirming that the Notice of Intent referred to "techno post foundation piers" and asked if this was synonymous with helical piers. Mr. Ragan confirmed that it was.

Comm. Porter asked about the possibility of delays in assigning the DEP number. Coordinator Capone indicated that she had contacted the State to confirm that the only outstanding item was the receipt of funds, and she did not anticipate further issues.

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

On motion by Comm. Sevier to issue the Order of Conditions pending issuance of a DEP file number, seconded by Comm. Porter, via roll call the vote was unanimous in the affirmative.

#### **Request for Determination of Applicability: 49 Hopestill Brown, RDA #24-25**

Chair Henkels began the meeting for the project to replace an existing septic system with the 100-foot Buffer Zone and the 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Stephen & Lindsay Nicholson was the applicant.

Mike DiModica, of M.J. DiModica Excavating, proceeded to explain that the project involved replacing a failed septic system at the property, which is approximately one acre and was developed in 1986. The existing system consists of two leaching trenches that have failed, along with a 1,500-gallon septic tank. He clarified that the work area is outside the 100-foot inner riparian zone but within the 200-foot outer riparian zone, approximately 75 feet from the wetland edge. The proposal includes reusing the existing septic tank and installing new rectangular dry wells with a smaller footprint but similar leaching area. He mentioned the installation of a silt fence on the northern side of the dwelling and a silt sack in the catch basin at the street.

Coordinator Capone noted that the project is within landscaped yard space, replacing a failed septic system with a working one, which she considered self-mitigating. She observed that the work area is generally flat, sloping down to the wetlands at the back and the street in front.

Chair Henkels opened the floor to Commissioner questions.

Comm. Holtz inquired about the nearby stream, asking if it had ever been observed to be dry. Mr. Nicholson responded that it had been dry years ago but not recently.

Chair Henkels asked Coordinator Capone if this application fell under categories 1, 2, or 3. She confirmed that it was categories 2 and 3, indicating it was in the riverfront area and the buffer zone.

On motion by Comm. Sevier to issue a negative Determination of Applicability #2 and 3, seconded by Comm. Faust, via roll call the vote was unanimous in the affirmative.

#### **Notice of Intent: 178 Horse Pond Road, DEP #301-1425**

Chair Henkels opened the Hearing to install a new gas line and standby generator and remove trees within the 100-foot Buffer Zone and the 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Anthony Kraus was the applicant.

Anthony Kraus identified himself as the applicant and shared that he resides at 178 Horse Pond Road. He provided an overview of the property layout, indicating the house's location and nearby features, including Horse Pond Road and Dudley Brook. He noted discrepancies between the Sudbury GIS data and actual FEMA and DEP floodplain designations, asserting that his understanding of the floodplain did not align with the blue area marked on the Sudbury GIS map. He assured that no work would occur within the floodplain.

Mr. Kraus explained that the current oil-fueled furnace was nearing the end of its life, and the oil tank's location posed a risk of leaking into the sump pump and then into the wetlands. To mitigate this, he proposed installing a buried gas line through National Grid. He highlighted that the gas line's placement is constrained by existing features on the property, including a driveway and septic systems.

He showed the septic plan, rotated 90 degrees for clarity, and described the proposed gas line installation along the edge of the house and riverbank. He emphasized the careful planning to avoid underground utilities and highlighted the backup generator's placement on a concrete footing next to the gas meter, ensuring it is slightly offset from the house due to window placement.

Mr. Kraus paused his presentation before discussing tree removal to allow for questions. Chair Henkels invited the Commissioners to ask questions regarding the gas line proposal.

Chair Henkels continued the discussion, asking Mr. Kraus whether he had spoken with National Grid regarding alternative options for the gas line installation. Mr. Kraus responded that he had multiple discussions with National Grid but received minimal feedback. He explained that he was instructed to choose a site for the gas line, and a technician later confirmed that the proposed location was the only sensible option based on the septic plan.

Chair Henkels expressed concern about the potential for National Grid to conduct work unannounced without prior communication about the specifics of the installation. Mr. Kraus clarified that he had initially scheduled an appointment with National Grid for September 20 but informed them they could not proceed with installation until he obtained Conservation Commission approval. He mentioned he had coordinated with the Conservation Coordinator and planned to have the septic tanks marked by his inspector to facilitate the process.

Chair Henkels inquired about the distance between the proposed gas line and the septic system. Mr. Kraus estimated the distance to be approximately 35 to 40 feet from the septic field and about 15 feet from the septic tanks.

Chair Henkels then asked about the anticipated depth of the gas line. Mr. Kraus estimated it would be about 2 to 3 feet deep. Conservation Coordinator Capone confirmed that due to the grade of the land approaching the river, she agreed with Mr. Kraus's depth estimate. She added that the installation process typically involves quickly digging a trench, placing the line, and backfilling on the same day, eliminating the need for test pits or dewatering.

Chair Henkels asked if Coordinator Capone had any further comments on this part of the presentation. She stated that she had worked with Mr. Kraus to explore options for the gas line's placement but found that, given the circumstances, there were no viable alternative routes. He then invited further questions from the Commissioners regarding this portion of the presentation.

Chair Henkels invited Mr. Kraus to continue with the presentation. Mr. Kraus explained the proposal to remove several trees on his property that were dead, dying, or hazardous. He mentioned that two trees had already struck the house and that the proposed removals were necessary for safety, particularly concerning the electrical lines crossing the yard and the lines leading to the house.

Mr. Kraus presented a map indicating five trees designated for removal: two dead trees, one that would be pruned, one living tree overhanging the master bedroom, and another dead tree. He described the removal process, noting that the tree removal service would park in the driveway and use an overhead crane to section the trees before removal, as driving over the septic field was not an option.

Mr. Kraus shared photos of the trees, pointing out the dead trees, the tree to be pruned, and the larger tree that would not be removed as it posed no risk to the house. He discussed the health of the trees, mentioning that some were covered in bittersweet and had no active foliage.

Mr. Kraus then asked if he could include the potentially salvageable tree in his proposal for removal, noting that if the tree worsened over the next three years, he would need to return to the Commission for permission to remove it. Coordinator Capone responded that she would not mind including it in the proposal. She acknowledged the tree's condition, stating it had a peculiar shape and damage to its root system.

Chair Henkels inquired if Coordinator Capone had any further comments on this part of the project. She confirmed that the proposed removals made sense, emphasizing that the roots would remain intact. She noted that three of the trees would be left as snags to provide habitat and mentioned a recent fallen tree that left an area bare. She suggested planting shrubs in that space to mitigate the impact of the removals and stabilize the bank.

Chair Henkels then opened the floor for questions from the Commissioners regarding this portion of the presentation.

Comm. Holtz inquired about the bittersweet choking the trees slated for removal, asking if there were plans to manage it. Mr. Kraus responded that he had been actively cutting the bittersweet vines using a pole trimmer to reach as high as possible and scoring the roots, all while avoiding pesticides due to the property's location on the watershed. He expressed openness to suggestions for better management strategies.

Comm. Holtz followed up, asking about the thickness of the bittersweet trunks at the base. Mr. Kraus indicated that some were as thick as six inches, though many of those had already been cut, and now it primarily consisted of new vines climbing the trees. He acknowledged that eradicating the bittersweet entirely would be challenging, particularly since the property was heavily infested, including areas within the Riverfront and conservation easement.

Comm. Holtz then asked how far into the woods the pipes from the downspouts extended. Mr. Kraus explained that when they moved in, water was running down the side of the hill directly toward the foundation, prompting them to extend the downspout pipes by 20 feet to divert water away. He noted that these pipes also directed water toward the sump pump drainage to prevent it from seeping directly into the crawl space.

Mr. Kraus mentioned plans to convert this area into a rain garden to improve drainage and manage the sump pump discharge more effectively. He characterized the current setup as a temporary fix rather than a permanent solution.

Comm. Holtz asked where the current sump pump exit was located. Mr. Kraus clarified that the previous exit line no longer existed; the current sump pump discharge bubbles up through the ground about halfway down the hill.

Comm. Holtz then pointed out that there had been old pipes leading from the house directly into the brook, most of which had been capped or cemented. Mr., Kraus expressed a desire to understand more about these old pipes, speculating they may have been used for sewage discharge at some point.

Comm. Porter sought clarification on the number of trees proposed for removal, initially mentioning four but later confirming with Mr. Kraus that it was actually five trees, plus one that would be pruned, bringing the total to six. He emphasized the serious safety risks associated with the trees and expressed a preference for erring on the side of caution when it comes to tree removal, particularly due to the potential for disease and damage that could occur.

Assoc. Comm. Hoffman then inquired about the plans for the area from which the trees would be removed, asking if any native species, bushes, or other trees would be planted in their place. Mr. Kraus responded that while it might seem excessive to remove a significant number of trees, some of the work was overdue, contributing to the perception of excess. He expressed his commitment to working with Coordinator Capone to reference a list of native species for potential planting. Mr. Kraus conveyed his concern about preventing erosion and flooding in the area, emphasizing the importance of maintaining the beauty of living adjacent to the brook.

Chair Henkels reiterated the invitation for questions from the other commissioners and the audience.

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

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

### Adjourn Meeting

On motion by Comm. Sevier to adjourn the meeting at 8:29 PM, seconded by Comm. Holtz, via roll call the vote was unanimous in the affirmative.