



SUDBURY CONSERVATION COMMISSION MINUTES

Meeting Minutes of Monday, November 18, 2024

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

Absent: Kasey Rogers

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

Minor Modification:

Department of Conservation and Recreation: Mass Central Rail Trail, DEP #301-1287

Chair Henkels initiated the discussion seeking clarification and potential modification of the following special conditions of the Order of Conditions, specifically, Parts I p. and q., and Part I. Conditions Related to Endangered Species Management h.

Amber Christoffersen introduced herself as a representative from the Department of Conservation and Recreation (DCR) and mentioned she was joined by Vivian Kimball from VHB, an environmental consulting team. Ms. Christoffersen outlined the scope of the project, noting she had taken over from a previous project manager and had been overseeing the work since August, after DCR secured funding to complete the project within the 2025 fiscal year.

Ms. Christoffersen explained that the construction includes paving, fencing, road crossings, signage, and benches. She highlighted that while Eversource handled initial earthwork, her team's tasks are more surface-level but are constrained by specific environmental conditions outlined in the Order of Conditions, particularly Condition h. This condition prohibits work within 450 feet of vernal pools between March 1 and June 1, unless monitored vehicular traffic is the only viable alternative. Ms. Christoffersen expressed concerns about the labor intensity of monitoring all construction vehicles and requested clarification or relief from this requirement to streamline operations.

Ms. Kimball provided additional context based on observations from other consultants (Epsilon, SWCA, and AECOM). She noted a decline in amphibian interaction in the corridor, attributed to the presence of fewer puddles, as well as improved visibility due to woody debris clearing. Ms. Kimball proposed monitoring only the front vehicle of a construction convoy rather than every vehicle, as the paving process would involve concentrated convoys rather than sporadic traffic.

Ms. Christoffersen also clarified that Condition h was listed under endangered species management, although no endangered species under Natural Heritage jurisdiction were present. Chair Henkels invited Coordinator Capone to comment, and she agreed that the condition, initially tailored for Eversource's phase one operations, could be modified to allow initial convoy sweeps, provided this approach could be reassessed if significant impacts on vernal pool species were observed.

Chair Henkels then opened the floor to the Commissioners for questions.

Comm. Sevier asked if all site work had been completed, with only paving equipment needing to pass through the area once. Coordinator Capone confirmed this was correct. Comm. Sevier inquired about the standard practice of applying a binder course followed by additional work and a finish coat, which Ms. Christoffersen affirmed. She explained that the process would involve initial grading with a vibratory roller to achieve the desired grade, followed by two paving courses, each requiring separate passes.

Comm. Holtz sought clarification on whether DCR was also requesting a modification to the time-of-year restriction that prohibits work from March 1 to June 1. Ms. Christoffersen confirmed this, noting that the wording

of the condition seemed ambiguous, as it simultaneously prohibits work but references the need for environmental monitors. She explained that the paving timeline is constrained by the funding deadline.

Comm. Holtz observed that the condition appeared to require both avoiding the timeframe and employing environmental monitors when work occurs. Ms. Christoffersen reiterated the need for paving during this period due to funding and logistical constraints.

Chair Henkels asked Ms. Kimball to explain the convoy process, including the direction, duration, and whether multiple convoys would be required. Ms. Kimball clarified that the specific logistics, such as direction, would depend on the contractor's schedule. However, the project plan involves a single paving crew operating in a linear manner, unlike Eversource's approach of deploying multiple crews simultaneously. The paving would require multiple phases, as described earlier, but the intention is to manage these sequentially.

Ms. Christoffersen added that the distribution of vernal pools along the corridor does not favor a specific direction for the work, leaving the decision to the contractor. Chair Henkels inquired if the paving activities would coincide with Natural Heritage and Endangered Species Program (NHESP) time-of-year restrictions. Ms. Kimball confirmed some overlap and explained ongoing coordination with NHESP.

Ms. Kimball stated that turtle monitoring and sweeps would continue during paving. For the whippoorwill, measures would aim to avoid disturbance by starting work in those areas before nesting season begins. However, NHESP had not yet approved the specific language of the mitigation measures.

Ms. Christoffersen then shared a map highlighting the intersections of NHESP-restricted areas with the construction zones, showing how the time-of-year restrictions and species habitat concerns (box turtle, vernal pool species, and whippoorwill) vary along the corridor. She explained the distribution of these areas, emphasizing the challenges of avoiding them entirely during the project's timeframe.

Chair Henkels thanked Ms. Christoffersen for the map and invited commissioners to ask additional questions.

Comm. Sevier addressed Chair Henkels' earlier question by suggesting that paving crews might start from road access points and proceed linearly into the corridor, using a monitor to lead the way. He noted that paving crews generally move at walking speed or slower, which would allow time to address any issues, such as encountering wildlife on the trail.

Chair Henkels asked Ms. Christoffersen and Ms. Kimball if this approach aligned with their expectations, and they confirmed that it did. Ms. Kimball added that paving generally doesn't occur in heavy rain, which coincides with times when animals are most active, reducing the likelihood of encounters.

Comm. Sevier inquired about the protocol if a creature were to cross the trail near the paving crew. Ms. Kimball explained that, in such cases, the animal would be carefully moved in the direction it was heading to ensure it continues safely on its way. Comm. Sevier shared his own experience assisting turtles crossing roads, agreeing with this method.

Chair Henkels opened the discussion on water quality monitoring and the duration for which it should continue. Ms. Christoffersen explained that they sought clarification regarding the appropriate timeline for this monitoring, given the construction activities and findings to date. Chair Henkels invited input from Coordinator Capone, who explained that the condition was linked to cold water fisheries and the clearing conducted at the crossings. She noted that quarterly data indicated no significant changes in water quality but recommended continuing monitoring until a Certificate of Compliance (COC) is issued, allowing time for the planted vegetation to establish. Coordinator Capone emphasized that the condition permits extending monitoring if changes are observed, even after the COC is issued.

Comm. Sevier asked whether further site work, such as excavation, would occur during the Department of Conservation and Recreation (DCR) portion of the project. Ms. Christoffersen responded that most activities would involve minimal site work, such as drilling fence posts and installing traffic signal infrastructure. Ms. Kimball added that bridge-related work was largely complete, with Eversource already installing fencing up to a certain distance from the bridges. Coordinator Capone clarified that some earthwork, including shoulder preparation, seeding, and additional plantings, was still pending.

Comm. Sevier asked whether the remaining planting work would involve machinery like bobcats or be primarily done by hand. Ms. Christoffersen confirmed that most of the work would be hand-driven, as it primarily involves shrubs rather than trees.

Chair Henkels shifted the discussion to a conceptual proposal for repaving a parking area near the Diamond Junction. Ms. Christoffersen presented the idea of repaving the parking spaces within the Massachusetts Bay Transportation Authority (MBTA) Right-of-Way, which could improve trailhead parking and allow for handicapped-accessible spaces. She emphasized that the proposal was still in the early stages, pending MBTA approval. Coordinator Capone supported the concept, noting that while part of the work would fall within the Riverfront Area, it would involve repaving an existing surface without new alterations to resource areas. She stated that such work could qualify as a minor project modification rather than requiring an amendment to the Order.

Chair Henkels opened the discussion on proposed modifications to the parking area, seeking input from the Commissioners. Comm. Holtz asked whether the addition of handicap parking spaces would necessitate adjustments to the trail connection. Ms. Christoffersen replied that the grade appeared consistent, though a closer inspection might be required. Comm. Sevier noted the site seemed essentially flat, and Coordinator Capone added that minor modifications might be needed to connect to the existing paved sidewalk but did not anticipate significant work.

After no further questions were raised by the Commissioners or audience members, Coordinator Capone advised that the vote should address modifications to Condition h, retaining Condition q as written, and allowing the parking area repaving as a minor project modification.

Comm. Holtz clarified that Condition q already required water quality monitoring through the issuance of the Certificate of Compliance and allowed for its extension if necessary. He confirmed that the intent was to leave this condition unchanged. He then moved to modify Condition h by removing the time-of-year restriction while requiring a monitor to sweep ahead of each convoy, to permit the repaving of the parking area near the historic yellow building as a minor modification, and to keep Condition q as written. This motion was seconded by Comm. Sevier, with Comm. Porter abstaining due to technical difficulties. Via roll call, the vote was unanimous in the affirmative.

Wetland Applications:

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 and October 21, 2024.

On motion by Comm. Faust to continue the Hearing to December 2, 2024, seconded by Comm. Cook, with Comm. Porter abstaining due to technical difficulties, via roll call the vote was unanimous in the affirmative.

Notice of Intent: 71 Chanticleer Road, DEP #301-1430

Chair Henkels resumed the Hearing for the project to remove trees after-the-fact, renovate a patio, and install plantings within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Aycha White was the applicant. This Hearing was continued from November 4, 2024.

On motion by Comm. Sevier to continue the Hearing to December 2, 2024, seconded by Comm. Cook, with Comm. Porter abstaining due to technical difficulties, via roll call the vote was unanimous in the affirmative.

Notice of Intent: Harvey's Farm Lane (Lots 1 and 2, ROW), DEP #301-1429

Chair Henkels resumed the Hearing for the project to improve the existing roadway and associated stormwater infrastructure to service a new agricultural operation, within the 100-foot Buffer Zone, pursuant to the Wetlands

Protection Act and Sudbury Wetlands Administration Bylaw. Phil Mastroianni was the applicant. This Hearing was continued from November 18, 2024.

On motion by Comm. Holtz to continue the Hearing to December 2, 2024, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

Notice of Intent: 32 Emerson Way, DEP #301-1431

Chair Henkels resumed the Hearing for the project to install a patio and pergola, repair a fence, repair an eroded area, and install native plants within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Frank Vincentelli was the applicant. This Hearing was continued from November 18, 2024.

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

Chair Henkels invited Coordinator Capone to address any specific points regarding the Order of Conditions. Coordinator Capone explained that all required restoration work had been completed and that the Order pertained solely to the construction of the pergola and the fence installation. She noted that the only condition of importance was a required pre-construction meeting with the contractor to review logistics, as no additional mitigation was associated with the project.

On motion by Comm. Faust to issue the Order of Conditions, 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. Sevier to continue the Hearing to December 2, 2024, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

Coordinator Capone noted that the application had been ongoing for more than a year without a substantive hearing. She informed the Commission that she had requested the applicant to provide the necessary materials by the next meeting or withdraw the application.

Request for Determination of Applicability: 115 Austin Road, RDA #24-33

Chair Henkels began the meeting for the project to install trees within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. David Gibbs was the applicant.

Mr. Gibbs, an abutter to the Eversource bike trail project, introduced himself and his proposal to plant trees for screening on his property at 115 Austin Road. He explained that Eversource had offered to fund the installation of trees to block the view of the trail from his back deck. Mr. Gibbs presented a plan featuring three Norway spruce trees on one side of the yard and nine green giant trees along the bottom of the backyard for screening purposes.

Chair Henkels asked Mr. Gibbs to describe the trees he intended to install. He explained that the three Norway spruce trees were to be placed on the left side of the property to block a significant line of sight to the trail, while the nine green giants were planned for the bottom of the backyard for more substantial screening.

Coordinator Capone reviewed the submitted plan and provided further details. She shared a map with the Commission, highlighting the location of the property, the Eversource corridor, and nearby wetland areas. She explained that the green giants would fill a gap in the screening, while the Norway spruce would be placed on a hillside where additional vegetation was needed. Coordinator Capone confirmed that the work would be done by hand, ensuring no impact to the resource area, and noted that the trees would be planted within the lawn area, not in the vegetated buffer. She recommended changing the Norway spruce to black or white spruce, as these species are native to the area and would be more appropriate given the proximity to a resource area.

Chair Henkels thanked Coordinator Capone and invited questions from the Commission. Comm. Sevier asked if Norway spruce was specifically requested or suggested by the contractor, to which Mr. Gibbs confirmed that it was the contractor's suggestion and that they were open to changing it to black or white spruce.

Chair Henkels asked if there were any questions from the audience, with none forthcoming.

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

Request for Determination of Applicability: 285 Concord Road, RDA #24-34

Chair Henkels began the meeting for the project to install a bulkhead within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Ian Halbert was the applicant.

Mr. Halbert introduced himself as the property owner at 285 Concord Road in Sudbury. He explained that the application was for refinishing the basement, which required the addition of a bulkhead for egress purposes. Due to the layout of the house, including a garage and a slab playroom, the only suitable location for the bulkhead was on the north side of the house, which he believed was the most ideal location from a conservation perspective.

Coordinator Capone explained that the bulkhead was proposed on the north side of the property, which was approximately 80 feet away from the resource area. She confirmed that while there were no exemptions for the project under the Act or the Bylaw, there would be no negative impacts to the resource area. She recommended issuing a negative Determination number 3 with conditions, including a pre-construction meeting with the contractor and providing photo documentation following the completion of the work.

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

Notice of Intent: 182 Wayside Inn Road, DEP #301-TBD

Chair Henkels opened the Hearing for the project to install a gravel driveway and stream crossing after-the-fact, renovate and expand an existing garage, construct an accessory out-building, exterior pool, and replace an existing culvert within the 100-foot Buffer Zone and 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Andrew Leverone was the applicant.

Greg Roy introduced himself as a civil engineer from Dillis & Roy Civil Design Group. He explained that his firm was hired by the applicant to address a Notice of Violation issued in July. He clarified that the delay in presenting the application was due to his firm's schedule, and apologized for the late submission. Mr. Roy stated that the applicant had been responsive, engaging with the firm promptly after receiving the notice.

He described the delineated wetlands, a perennial stream on the property, as well as a pond with associated Buffer Zones and Riverfront Areas. The project had two main components: one being an after-the-fact filing for a gravel driveway constructed across the stream, and the other involving future work such as the renovation and modest expansion of an existing detached garage, a new studio office structure, and a proposed pool. These improvements were planned within previously developed lawn areas but fell within the 100-foot Buffer Zone and Riverfront Area.

Mr. Roy proposed mitigation for the gravel driveway, specifically addressing its construction over the stream. He presented plans for a restoration area along the stream where lawn had been historically maintained, which would be converted back to a naturalized area. He acknowledged the need for compliance with Massachusetts stream crossing standards and emphasized that the plan included erosion control and other necessary specifications. Mr. Roy briefly summarized the project and requested initial feedback from the Commission, anticipating the need for plan revisions and a continuation due to the lack of a file number.

Coordinator Capone responded by suggesting that the Commission should visit the site and raised several points for clarification. She asked for a breakdown of the existing and proposed alterations to the riverfront area, particularly regarding the gravel driveway and its inclusion in the calculations. She also noted that the stream crossing proposal required an alternatives analysis, including an evaluation of the possibility of coming off Prides Crossing instead of the current stream crossing. Furthermore, she pointed out the absence of stormwater

management in the plan, which could trigger a stormwater permit due to the scale of alterations. She stressed the need for a more robust mitigation plan, including denser plantings and potential invasive species management, as well as a more detailed evaluation of the impacted area.

Chair Henkels concurred with Coordinator Capone, emphasizing the need for a site visit and the involvement of the Planning Board, particularly regarding the stormwater permit and potential zoning questions. He then asked the Commission members if they had any specific questions or preferred to address them after the site visit. The Commission agreed that a site visit was necessary before further action.

Comm. Sevier asked why the applicant had chosen to build the gravel driveway over the stream instead of using Prides Crossing Road. Mr. Leverone responded by explaining that the previous owner had used the path for a horse farm, and there were remnants of a previous crossing. He noted that the crossing was clogged, causing flooding, and the culvert was added to address this issue.

Comm. Holtz asked if the proposed pool would include any patio or fencing. Mr. Leverone explained that the pool plans were still in the conceptual stage, and further details would be provided in future submissions. He clarified that the pool was part of a broader master plan for the property. Comm. Holtz suggested that the Commission would need to review the pool's design, including any associated structures.

Comm. Sevier expressed concerns about the pool's placement and how it might appear isolated from the rest of the house. Mr. Leverone agreed to refine the plans and provide more details in subsequent submissions.

Chair Henkels emphasized the importance of a well-defined plan, including all aspects of the proposed structures and stormwater management. He suggested that the applicant work on a comprehensive plan to avoid delays and unnecessary revisions in future hearings.

The Commission agreed that a site visit was necessary to better understand the property and to address the remaining concerns. The applicant was asked to submit revised plans, including stormwater management details, alternatives analysis, and more specific information on the proposed mitigation and structures.

Comm Holtz inquired about the expansion of the driveway. He noted that there is an existing 24-foot driveway and a proposed 36-foot garage, asking if the driveway would be expanded. Mr. Leverone confirmed that the driveway would need to be expanded but noted that the existing driveway already reaches the edge of the garage. He mentioned that there would be a slight expansion at one corner.

Chair Henkels then asked whether the applicant planned to add a bathroom to the outbuilding in the back. Leverone confirmed that a bathroom was part of the more detailed architectural plans. Chair Henkels asked if the Board of Health would need to review this, and Lori Capone, the Conservation Coordinator, clarified that confirmation would be needed to ensure the existing septic system could accommodate the additional facility.

Chair Henkels acknowledged that there was still much work to be done and opened the floor to further questions from the Commission or the public. There were no additional questions. Chair Henkels asked for permission to continue the hearing to December 16th, and Leverone agreed.

On motion by Comm. Cook to continue the Hearing to December 16, 2024, seconded by Comm. Sevier, via roll call the vote was unanimous in the affirmative.

Certificate of Compliance:

Sheehan, 1 Liberty Ledge, DEP #301-1393

Coordinator Capone provided an overview of the project, which primarily involved installing handicapped parking at the swimming pond at Camp Sewataro. She explained that there had been concerns about drainage coming down the steep driveway, which was eroding the beach area of the pond. Modifications were made to address the drainage, including the installation of a berm. However, since there had been no rain to test the system, it was uncertain whether the modifications would be sufficient. She noted that if additional drainage issues arose in the spring, the applicant would install riprap on top of the berm. She stated that if any substantial changes were needed, the applicant would return to the Commission. She concluded that the engineers had reviewed the modifications and believed they would resolve the issue.

Chair Henkels asked the Commissioners for questions. There were no questions or comments from the audience. On motion by Comm. Faust to issue the Certificate of Compliance, seconded by Comm. Sevier, via roll call the vote was unanimous in the affirmative.

Issue Order

47 Stonebrook Road, DEP #301-1427

Chair Henkels noted that the Hearing had been closed at the previous meeting, and the only remaining step was to vote on the issuance of the Order. Coordinator Capone confirmed that the applicant had reviewed the Order in advance and had no comments.

Chair Henkels asked the Commissioners if they had any comments or questions. There were no further inquiries.

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

Adjourn Meeting

On motion by Comm. Sevier to adjourn the meeting at 8:15 PM, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.