



## SUDBURY CONSERVATION COMMISSION MINUTES

Meeting Minutes of Monday, October 21, 2024

**Present:** David Henkels, Chair; Ken Holtz, Vice Chair; Jeremy Cook; Luke Faust (7:49 PM); Bruce Porter; Kasey Rogers (7:06 PM); Mark Sevier; Harry Hoffman, Associate Member; and Lori Capone, Conservation Coordinator

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

### Wetland Applications:

#### **Notice of Intent: 9 Southwest Circle, DEP #301-TBD**

Chair Henkels resumed the Hearing for the project to remove and plant trees within the 100-foot Buffer Zone and 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. John Bleuer was the applicant. This Hearing was continued from October 7, 2024.

Coordinator Capone stated that the Commission was waiting on three items from the previous meeting. First was the DEP number, which was now pending issuance. Second, the applicant, Mr. Bleuer, had agreed to increase mitigation plantings to 40 shrubs to compensate for the trees being removed, ensuring Riverfront Area maintenance without expanding the lawn. Lastly, an open Order of Conditions from the house construction remained unresolved, and she incorporated a condition in the current Order to require bounds for the limit of lawn as specified in the previous Order. Capone recommended that the Commission close the Hearing and issue a decision contingent on receiving the DEP number.

Chair Henkels asked if Commissioners had any comments. He invited Mr. Bleuer to speak, who had no further comments.

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

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

At this point, Comm. Kasey Rogers joined the meeting.

#### **Request for Determination of Applicability: 18 Wolbach Road, RDA #24-26**

Chair Henkels resumed the meeting for the project to repair and construct retaining walls associated with the greenhouse within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Sudbury Valley Trustees was the Applicant.

Jane Maloney, Land Steward for SVT, described the proposed project. She shared a plan illustrating the work site, which involved reinforcing a crumbling stone wall that once served as a greenhouse foundation. This foundation now borders SVT's founders' garden, a native plant garden that experiences heavy foot traffic. The plan proposed the installation of two support beams made of steel and concrete to stabilize the wall, with a mini-excavator accessing the area from designated paths.

Ms. Maloney explained that the mini-excavator would enter via a mowed lawn area, using plywood to create a durable surface and minimize ground impact. Access required a temporary earthen berm to navigate the slight grade on the north side of the wall. A silt fence would be installed to capture sediment and prevent erosion. She noted that removing tree stumps, initially mentioned in the plan, was no longer necessary.

In response to Chair Henkels' request, Ms. Maloney shared additional views and images. She displayed a FEMA flood map, identifying the project area near the SVT main office and a barn. She then shared a photograph marking the area between two foundations where the stabilization work would occur.

Coordinator Capone provided her assessment, agreeing with Ms. Maloney's summary. She confirmed that the work aimed solely at maintaining an existing structure without expanding impervious surfaces. She noted that the structure was in disrepair and would deteriorate further without intervention. She highlighted the applicant's efforts to minimize construction impacts by using clean fill for the temporary berm, which would be removed post-construction, and by ensuring that all impacts were temporary.

Coordinator Capone recommended issuing a Negative Determination #3, as the project was within the Buffer Zone but would not affect the resource area. She suggested two conditions: first, that she meet with the contractor before work begins to review project details and confirm erosion controls, and second, that the applicant provide photo documentation upon completion to confirm compliance.

Chair Henkels opened the floor for Commissioner questions.

Comm. Holtz inquired about highbush blueberry plantings marked on the plan, asking if they were part of the current proposal. Ms. Maloney clarified that the highbush blueberries were from an earlier project and were already planted on-site.

Comm. Porter asked if there was any evidence to explain the wall's collapse. Ms. Maloney responded that the wall was old and potentially poorly constructed, leading to failing mortar and crumbling stones. The current plan included resetting loose stones and re-mortaring them. She also noted that the wall was on a slope, which contributed to outward pressure from the gardens. She expressed optimism that the proposed work would stabilize the structure long-term.

Comm. Sevier inquired about the age of the other buttresses associated with the greenhouses, recalling a past project related to them. Ms. Maloney admitted she did not know their age. Comm. Sevier speculated that the wall might be settling over time.

Chair Henkels prompted further questions from the Commissioners and opened the floor to the audience for inquiries.

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

### **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-foot 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.

Stephen Poole from Lakeview Engineering introduced himself and outlined the proposal, indicating that the lot was vacant and planned for development. He directed attention to the 100-foot Buffer Zone from the wetlands across Goodnow Road, describing how it arcs through the area. He highlighted a modification to the plan where a detention basin was expanded to accommodate 100-year storm runoff, which added nearly 1,300 square feet of area within the Buffer Zone. This adjustment was made to ensure that runoff does not exceed current levels flowing to the roadway.

Mr. Poole noted that the area between the basin and the roadway consists of existing woods, which would remain undisturbed, and an erosion control barrier would be installed to prevent erosion. He also mentioned that the downhill side of the basin would be a grass slope that would revegetate over time.

Chair Henkels confirmed that the Stormwater Review had been completed and asked if the Planning Board and Board of Health had signed off on the project. Mr. Poole confirmed that the Planning Board had approved the plan, and he explained adjustments made to the septic system to comply with regulations, moving it further up the hill to ensure a 50-foot distance from the stormwater features, which repositioned the leach field outside the Buffer Zone.

Chair Henkels inquired about the purpose of a sediment manhole located in the project plan. Mr. Poole clarified that it functions as a trap for debris coming from a trench drain, operating similarly to a deep sump catch basin that requires maintenance. He stated that an Operations and Maintenance (O&M) plan exists for the stormwater management system, mandating cleaning of the sediment manhole twice a year and ensuring property owners provide the town with annual reports.

Coordinator Capone stated that the Commission had been waiting for the Stormwater review to be completed, as that was the primary element within their jurisdiction. She noted that the leach field was previously within the Buffer Zone in the original application but had since been removed from jurisdiction. Capone recommended that the Commission issue a Negative Determination, #3, confirming that the work is within the Buffer Zone but will not affect the resource area located across Goodnow Road.

She outlined conditions for the Determination, including her meeting with the contractor before the start of construction following the installation of erosion controls. She requested that she be allowed to review the site again before the contractor demobilizes and removes the erosion controls, and that a stamped as-built plan be provided to the Conservation Office upon completion of the work.

Chair Henkels thanked Coordinator Capone and invited comments from the Commissioners. He then addressed Mr. Poole, asking when the sediment sump would start functioning. Mr. Poole responded that it would start working immediately, as any water flowing into the trench drain would flow through the sediment manhole, where most sediment would settle out. He also mentioned that there is a sediment basin in the detention basin for additional settling.

Chair Henkels expressed his concern regarding the exposure across the way and reiterated the importance of understanding how quickly the sump would begin functioning. He then opened the floor for any further comments or questions from the Commissioners and audience but received no responses.

On motion by Comm. Rogers to issue a Negative Determination of Applicability #3, 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.

Stephen Poole presented the options, stating they had carefully examined what could be done on the site. He introduced option #1, which involved minor disturbance in the Riverfront Area, specifically cutting down an 18-inch maple and relocating the back part of the garage within the Riverfront Area. He explained that this layout allowed for access to back into the garage. He indicated that the applicant preferred this option, noting that the total disturbance would be 384 square feet, comprising 182 square feet of permanent disturbance and 202 square feet of temporary disturbance, which could be restored with plantings afterward.

Mr. Poole then described option #2, which would move the garage entirely out of the Riverfront Area, resulting in temporary disturbance for construction purposes and the removal of the 18-inch maple. He remarked that this tree was the only significant one in the area, surrounded by ground vegetation. This option would entail 176 square feet of temporary disturbance, which would also be replanted as determined by the Commission.

The third option proposed turning the garage 90 degrees to run parallel to the Riverfront within the existing grass lawn area. Mr. Poole explained that this configuration would complicate access, requiring multiple maneuvers to back into the garage. He expressed that while it would minimize the impact on the Riverfront, it would reduce usable lawn space, which the applicant preferred to maintain for family use.

Ultimately, Mr. Poole advocated for option #1, which he believed would allow for minor disturbance with subsequent restoration after the tree removal.

Coordinator Capone noted that the impacts associated with options #1 and #2 were quite similar in terms of the Riverfront Area, although option one included a larger driveway. She expressed skepticism about the feasibility of

making the turn required in option #2 and suggested that if option two were indeed viable, it would minimize temporary impacts to the Riverfront Area and be the preferred choice for the Commission.

However, Coordinator Capone indicated that if option #2 were not feasible, the Commission could permit option #1, as the stormwater management system was designed to handle runoff from both the garage and driveway, thereby mitigating impacts. She highlighted that both options would result in the loss of one tree and mentioned that the slope leading down to the resource area was well vegetated. Therefore, she did not foresee any negative impacts from the impervious surface on the riverfront's capacity to provide its necessary functions.

Coordinator Capone commented on option #3, stating that while it fell outside jurisdiction, it would result in greater impacts and potential future effects on the Riverfront Area due to increased impervious surface. She concluded that option #3 would likely not be preferred by the Commission or the applicant.

Coordinator Capone emphasized that the Commission needed to decide which option to allow the applicant to pursue. The applicant would then be required to return with a revised plan addressing the unauthorized installation of a fence in the Riverfront Area, as well as mitigation and restoration plans for alterations to the Riverfront Area, especially concerning the presence of buckthorn, which had proliferated as a result of the house's construction.

Chair Henkels invited further questions or comments from the Commissioners.

Comm. Cook inquired about the necessity of removing the 18-inch maple tree in option two. Mr. Poole responded that the tree was tall and posed a potential danger to the structure due to its proximity. He described it as a tall, skinny tree with minimal branching below the canopy, suggesting it was not particularly healthy or valuable.

Comm. Cook then sought Coordinator Capone's opinion on the tree. She indicated that losing the tree would not be significant, noting that a few other trees on the site had been damaged but were no longer part of the proposal. Mr. Poole confirmed that the maple was the only tree that needed to be taken down, although there were other dead trees that could be removed if requested. Coordinator Capone expressed concerns about the health of the maple tree, stating that construction might further impact its root system, implying that it would eventually need to be removed even if not done immediately.

Comm. Sevier asked about a healthy 36-inch pine tree located in the corner of the property, noting its size and proximity to the proposed garage. Mr. Poole reassured the Commission that the pine tree was healthy and would not be disturbed, explaining that it was on the opposite side of the fence from where the garage would be constructed.

Comm. Sevier raised a concern regarding the potential for branches from the pine tree to fall onto the garage in the future, suggesting that it might be better to address this issue before construction rather than wait until branches start falling. Mr. Poole acknowledged the concern but maintained that the tree's strong root system would likely prevent any major issues. He offered to assess the tree further to identify any branches that might be problematic.

Comm. Sevier suggested that the distance between the proposed garage and the healthy 36-inch pine tree should be considered in their decision-making process. Comm. Rogers agreed, stating that if the applicant preferred to keep the tree, then it should remain.

Comm. Holtz asked for turning radius details for option two and option three, noting that only option one had been provided. Mr. Poole admitted he did not have those specifics but suggested that turning in option #2 would be difficult, requiring significant maneuvering.

Comm. Holtz then inquired if the garage footprint was the same across all options. Mr. Poole confirmed this, noting the challenges of stacking trailers and boats lengthwise within the garage.

Comm. Holtz questioned whether the garage's footprint could be modified to allow for side-by-side parking instead. Mr. Poole explained that side-by-side parking would complicate the process, as it would necessitate moving the boats manually to make room for others. Comm. Hoffman sought clarification on this process. Comm. Holtz expressed confusion regarding why the boats needed to be moved manually if parked side by side.

Mr. Poole elaborated, stating that backing in would mean entering through the garage's middle, then unhooking the boat to maneuver it if parking side by side. Comm. Sevier clarified that he assumed the idea was for a two-bay

garage, one for a boat and another for a vehicle, to which Mr. Poole responded that they were actually considering two boats.

Comm. Rogers then suggested a possible arrangement where boats could be angled to optimize space. Mr. Poole clarified that while the truck didn't have to be stored in the garage, the applicant had various equipment related to boating and fishing that would also need space, thus requiring a combination of storage for both boats and miscellaneous equipment.

Ben Maiden pointed out that extending the garage to accommodate a two-car width would require further encroachment into the backyard, resulting in more paved and disturbed lawn space, which was why they did not propose that option.

Comm. Sevier requested a rough drawing of how the boats would fit inside the garage, expressing confusion about the plan. Mr. Maiden confirmed that the garage dimensions were approximately 20 by 40 feet. Mr. Poole calculated that with two trailers, each about 6 to 7 feet wide, there would be around 14 feet occupied, leaving very limited space on either side for maneuvering.

Comm. Henkels invited further questions from the Commissioners. Comm. Hoffman inquired about the presence of a drain in the garage, recalling that a workshop was part of the plan. Mr. Maiden clarified that the garage would only have a tackle space and Mr. Poole confirmed there would not be a drain or any plumbing installed.

Chair Henkels then raised a concern about potential future impacts to the Buffer Zone associated with option #3, suggesting that the planned removal of the unpermitted fence would help mitigate those concerns.

Coordinator Capone indicated her concern for future scenarios where trees could grow in the area near the 200-foot mark, leading future owners to request their removal. She noted that while there were currently no trees in that area, it could become problematic over time as the area remained undisturbed and trees naturally began to grow.

Chair Henkels acknowledged her points and asked if there were any additional questions from the Commissioners.

Comm. Cook stated his support for option one, while Comm. Rogers acknowledged the tight turning radius but expressed a preference for option two. Comm. Holtz indicated a preference for option #2, given that option #3 might not be viable.

Comm. Faust noted that he missed some discussions but leaned toward option #2 to keep the setup further away from potential future tree growth, despite not having the complete context about option #3.

Chair Henkels shared that he preferred option #2 but had concerns regarding the required mitigation, expressing hope that the applicant would strengthen their mitigation proposals significantly. He summarized that three commissioners indicated support for option #1 during the discussions.

Comm. Sevier clarified that while he conceptually preferred option #2, he acknowledged that the practical execution for the applicant might be challenging, likening the experience to backing up a large U-Haul. He emphasized that although option #2 might be preferred, option #1 could be tolerated under the circumstances.

Comm. Cook expressed concern about the risks associated with maneuvering large trailers and the potential for future damage to structures, which could result in additional disturbances. He acknowledged the merits of option #3 for keeping things out of the jurisdiction but pointed out the practical challenges that could lead to long-term disturbances.

Chair Henkels concluded that, given the unresolved issues, the Hearing would need to be continued for further review and resolution. He sought assistance from Coordinator Capone regarding the next steps.

Coordinator Capone suggested that the applicant should evaluate both options #1 and #2 and provide the Commission with additional information regarding the feasibility of option #2. This would allow the Commission to thoroughly review both options along with proposed mitigation strategies for each. Capone noted that there might be mitigation strategies applicable to option #1 that could enhance the overall package, potentially benefiting the wetlands through a more substantial protection of the Riverfront Area compared to option #2, which would involve only temporary changes.

Chair Henkels sought confirmation from Mr. Poole regarding whether the client approved of continuing the hearing to a future date. Dwight Henderson confirmed that they agreed with the continuation. Chair Henkels mentioned the available dates in November, noting that Mr. Henderson would not be available on the 4th, and it was decided that the continuation would occur on the 18th of November. Mr. Poole added that it would take time to prepare the necessary mitigation plans, indicating that they likely would not be ready for the 4th.

On motion by Comm. Sevier to continue the Hearing to November 18, 2024, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

**Notice of Intent: 47 Stonebrook Road, DEP #301-1427**

Chair Henkels resumed the Hearing for the project to upgrade and expand the existing driveway and install a new culvert within the 100-foot Buffer Zone and the 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Jianquan Liu was the applicant. This Hearing was continued from October 7, 2024.

On motion by Comm. Faust to continue the Hearing to November 4, 2024, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

**Request for Determination of Applicability: 72 Wayside Inn Road, RDA #24-12**

Chair Henkels resumed the meeting for the project to construct a porch, ramp and steps within the 100-foot Buffer Zone and 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Steve Pickford was the applicant. This meeting was continued from June 3, 2024.

On motion by Comm. Cook to continue the Hearing to November 4, 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. Porter to continue the Hearing to November 18, 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. Sevier to continue the Hearing to December 16, 2024, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

**Request for Determination of Applicability: 75 Harness Lane, RDA #24-27**

Chair Henkels opened the meeting for the project to construct a deck within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Joseph Tyrell was the applicant.

Mr. Tyrell introduced his request to build a 16 by 16-foot deck over existing lawn, indicating that all work would be conducted over the lawn. He presented a picture of the existing deck and outlined where the new deck would be located, noting that grass would remain between the conservation restriction and the new structure, with Willis Lake approximately 120 feet from the end of the lawn.

Coordinator Capone followed with her comments, describing the area as a peninsula with a conservation restriction protecting most of the property. She explained that the wetland edge was at the base of a slope and confirmed that the proposed work was entirely within the lawn area, requiring no vegetation removal. The construction would be performed using either helical piers or Sonotube footings, and all work would be done by hand, ensuring no permanent impact to the resource area.

She presented a map showing the property, highlighting the Conservation Restriction area, and praised the homeowner for maintaining the property well, including the manual removal of buckthorn. She recommended that the Commission issue a negative Determination of Applicability # 3, with conditions requiring a pre-construction meeting with the contractor to discuss erosion controls based on the type of footing used. Additionally, she requested that photo documentation of the completed deck be provided to confirm compliance with the determination.

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

Comm. Holtz made a comment expressing appreciation for the homeowner's efforts in maintaining a significant Conservation Restriction.

Chair Henkels opened the floor to the audience for any questions or comments. There were no further comments.

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

#### **Request for Determination of Applicability: 451 Peakham Road, RDA #24-28**

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

Mr. Davey introduced himself as the applicant residing at 451 Peakham Road, stating he had previously presented to the Commission with positive results. He shared that this current request is likely the least exciting topic of discussion for the evening. He then proceeded to share his screen to provide visual context.

Mr. Davey explained that the tree in question is a white spruce, approximately 100 feet tall, which he plans to remove from his neighbor's driveway, ensuring the work will be conducted entirely on a paved area. He described the area around the tree as consisting of lawn, spruce needles, and rocky soil. His intention is to rehabilitate the area post-removal by adding loam and topsoil, planting micro clover, and allowing existing bushes to grow into the space. He noted that removing the tree would also increase sunlight in the area, potentially enhancing the growth of vegetation and grass.

After his initial remarks, Mr. Davey continued discussing additional trees he wants to remove, noting that two nearby dead trees would also need to be taken down. He explained these dead trees did not leaf throughout the year and have minimal ecological value since they are situated in his front lawn. He clarified that other trees he considered for removal are conifers near his front yard and closer to the road, which are taller and also block sunlight to his roof and backyard.

Coordinator Capone inquired about the other trees Mr. Davey mentioned, emphasizing that many appear to be within the Buffer Zone. Comm. Holtz then asked for clarification on whether questions should be posed after the presentation or if they could engage during it. Chair Henkels opted for Mr. Davey to continue with his presentation.

Comm. Holtz asked Mr. Davey about the first tree he presented, noting that it appeared close to the property line and sought clarification on its exact location. Mr. Davey responded that while it might look like it is not on his property, a survey would confirm it is indeed within his boundary. He expressed that the property lines in the area are somewhat skewed.

Comm. Holtz then inquired whether Mr. Davey had permission from his neighbor to use the driveway for the tree removal, to which Mr. Davey confirmed that his neighbor was not only agreeable but also enthusiastic about the removal.

Comm. Porter followed up with a question regarding the risk associated with the trees. He asked if any of them posed a risk of falling. Mr. Davey acknowledged that the two dead trees were definitely at risk, while the white spruce, although unhealthy, was not currently leaning or in immediate danger of falling. He mentioned that if it did fall, it would land on his neighbor's property. Comm. Porter then expressed that he did not see a compelling reason for the removal of the other trees.

Chair Henkels invited further questions from the other Commissioners.

Chair Henkels prompted Mr. Davey to reiterate his plans for the area once the trees were removed. Mr. Davey explained that he intended to remove the two dead trees and would plant new vegetation in their place, as they had provided privacy for his bedroom window. He mentioned that he would keep the stump of the white spruce, rake out the needles, add loam and topsoil, and plant micro clover and grass to stabilize the area. He also expressed a desire to let the area develop naturally over a year to see how the existing bushes could fill in. He further detailed his plans for the other side of the property, indicating that he would incorporate more topsoil, loam, and possibly flowers to attract pollinators, aiming for a more natural aesthetic rather than just a manicured lawn.

Comm. Sevier requested Coordinator Capone to comment on the 100-foot Buffer concerning the trees located in Mr. Davey's front yard. She clarified that a delineation was conducted when the retaining wall was installed, which was positioned close to the wetland edge. She noted that there is a slight slope behind the wall leading to the wetland, and according to the provided plan, the 100-foot Buffer Zone extended to the driveway, indicating that at least five trees were within this Buffer Zone. The tree closest to the street might be just outside it.

Mr. Davey interjected to indicate the location of his driveway, confirming that it included a semicircular section at the front and a jog that extended upwards. This prompted Coordinator Capone to confirm the tree locations in relation to the driveway and the 100-foot Buffer line.

Comm. Holtz then sought Coordinator Capone's thoughts on the proposal, particularly regarding the trees situated in the front yard. She responded that since all the trees appeared to be within the Buffer Zone and were not imminent threats to the house, the Commission would typically require a mitigation plan. She suggested that Mr. Davey could present a planting plan within about six months after the trees were removed, which would include planting shrubs where the tree closest to the wetland stood, as that area would need the most revegetation.

Mr. Davey confirmed the positions of the two dead trees and clarified that while one tree appeared split, they were actually the same tree. He indicated that the trees were overtaking his house and expressed a need for their removal. Coordinator Capone remarked that while replacing trees with herbaceous plants might not fully compensate for their removal, transitioning to clover and pollinator-friendly plants in the lawn area could be an acceptable alternative, particularly given the small size of the lot.

Mr. Davey elaborated on his intention to plant new vegetation in place of the dead trees, leaning towards conifer trees for their growth patterns. Coordinator Capone acknowledged that during the retaining wall project, approximately 120 plants had been installed, emphasizing the commitment to maintaining vegetation in the area.

Coordinator Capone expressed that any vegetation incorporated into the space would benefit the wetlands. She noted that it would be up to the Commission to decide whether they were comfortable with a flexible mitigation plan to be presented in the spring or if they preferred a more concrete proposal, including a minimum planting number for Mr. Davey to execute immediately.

Comm. Porter expressed sympathy for Mr. Davey's concerns about the trees encroaching on the house, stating that although the trees were not currently dangerous, they could pose future risks. He suggested that removing them would be a proactive measure to prevent potential problems.

Chair Henkels inquired whether the Commission could conditionally set a timeline for Mr. Davey to provide a planting plan and execute it. Coordinator Capone confirmed that a deadline could be established, recommending that Mr. Davey should submit his plan by April 15th, with the understanding that planting should occur by June 1st or, if delayed, in the fall.

Mr. Davey indicated that he preferred to plant in the fall as he wanted to allow enough time for the area to recover and assess conditions before planting.



Comm. Holtz asked Mr. Davey if he was familiar with the native plant list and whether he could commit to selecting plants from that list. Mr. Davey affirmed his familiarity and expressed willingness to choose from a selection provided by the Commission or to receive guidance on suitable plants.

Comm. Holtz clarified the typical guidance regarding tree removal, indicating that it is usually one tree replaced with one tree or four shrubs for each tree removed. He acknowledged that Mr. Davey's plan included grass, clover, and pollinator flowers. Mr. Davey agreed to plant at least four shrubs in the area leading to the wetland and asked if they should be placed close to the wetlands or if they could be positioned within the lawn area. Coordinator Capone commented that the shrubs did not necessarily need to be planted where the trees were removed but emphasized that positioning them closer to the resource area would be more beneficial than placing them in the front yard.

Comm. Holtz pointed out that Mr. Davey had proposed to remove five trees, which would necessitate a corresponding increase in plantings. Mr. Davey acknowledged this and clarified that he would plant at least one additional tree along with the other plantings. He discussed his plans to create a more natural area with wildflowers and clover on one side of the property and suggested that he would also consider adding perimeter bushes next year.

Chair Henkels sought clarification from Coordinator Capone regarding the planting ratio, confirming that the requirement was either a one-to-one replacement for trees or four shrubs for each tree removed. Mr. Davey agreed to adhere to these requirements.

Chair Henkels indicated that if they were to proceed, a condition would be added for Mr. Davey to provide details about the types of plantings and their planting schedule within a specified timeframe. Coordinator Capone proposed that Mr. Davey submit his planting plan by July 15th, allowing him time to assess the site conditions over the summer, with implementation set for no later than September 15th, 2025. Mr. Davey agreed to this timeline and suggested working with Coordinator Capone throughout the process.

Chair Henkels then opened the floor for questions from the other Commissioners and the audience, but no further inquiries were raised.

On motion by Comm. Sevier 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: 60 Balcom Road, RDA #24-30**

Chair Henkels began the meeting for the project to remove a pool and convert the area to lawn, within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Claudia Brandon was the applicant.

Mrs. Brandon began by introducing herself and her husband, stating that they reside at 60 Balcom Road in Sudbury. She explained that they intend to remove a 40 by 20-foot swimming pool that had been present since they moved into their home in 1989. Their goal is to maintain the surrounding area, which is enclosed by arborvitae and Canadian hemlocks, and to create an open space where the pool and its concrete deck currently exist.

Coordinator Capone then presented an aerial photo of the property. She described the layout, noting that a stream runs along the property line with a bordering vegetated wetland adjacent to the pool area. She explained that the contractor would access the site via the driveway, remove sections of the fence, jackhammer the concrete patio, take down part of the pool walls, and backfill the area to restore it for lawn or garden use. She emphasized that the mature hemlocks and arborvitae around the site would remain untouched.

She stated that there would be no significant ground disturbance from the concrete removal. While some soil would be disturbed, erosion controls would not be necessary during construction due to the time of year. However, she recommended that erosion controls or hay be applied over the exposed soils throughout the winter to prevent soil erosion during spring rain events, noting the area's flat terrain.

She also pointed out that the pool was installed in the 1960s, prior to current regulations, and described it as self-mitigating since the removal of the impervious surface would restore the area to a pervious state, allowing for grass to be planted.

Regarding the pool's current condition, she clarified that it had not been in use for the past seven years and only contained rainwater, meaning there were no chemicals of concern. She identified a suitable area for dewatering, where the water could be diverted and naturally infiltrated before reaching the wetland.

Chair Henkels opened the floor for questions from the Commissioners. Chair Henkels then called for any questions or comments from the audience.

Coordinator Capone stated that she wanted to meet with the contractor before work commenced to discuss the project's logistics. She emphasized the need for photo documentation to confirm compliance with the Determination once the site was stabilized.

Chair Henkels then inquired whether Coordinator Capone preferred hay or another method for covering the disturbed area. She explained that she had discussed options with the homeowner but was uncertain about the contractor's end-of-project plans. She suggested that either hydroseeding, which would incorporate tackifier to hold the seed in place, or laying hay over the entire disturbed area would be ideal.

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

### **Notice of Intent: 331 Hudson Road, DEP #301-TBD**

Chair Henkels opened the Hearing for the project to construct an addition, remove outbuildings, modify the driveway, and install plantings within the 100-foot Buffer Zone and 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Frederick Hanna was the applicant.

Montgomery Nsamba, of Stamski and McNary, introduced himself as representing the applicant for the wetland permitting plan for 331 Hudson Road, Sudbury. He began sharing his screen to present the existing conditions, noting the presence of an existing dwelling, driveway, storage trailer, tarp storage building, small deck, brick walk, concrete patio, and an existing shed. He highlighted the perennial stream on the site and its impact on the 200-foot Riverfront Area and Floodplain. He stated that the existing dwelling is approximately 31 feet from the mean annual high-water line.

He outlined the proposed conditions, which include an addition to the dwelling. This addition would feature a new second-floor deck and a small new deck. He mentioned plans to remove the storage trailer and tarp storage building and modify the existing driveway using previous pavers, along with mitigation efforts to offset the addition of impervious surfaces. He emphasized that the proposed work is within a disturbed area and does not significantly change the landscape.

Coordinator Capone noted the complexity of the site, with various resource areas and structures. She emphasized the need for clarity on the total impervious surfaces in relation to degraded areas in the Riverfront Area compared to the proposed changes. She explained that the lot was created before the Rivers Act, allowing for a 5,000 square foot or 10% allowance for work in the Riverfront Area.

She raised concerns about the storage buildings, which may not have been permitted and are now being proposed as mitigation. She pointed out that much of the driveway removal is located on a paper street, and a third of the proposed pollinator garden is on town land, not the subject property. She requested more information on the current site status versus the proposed structures and offsets for impervious surfaces.

Regarding the proposed addition, she highlighted that it is only 6 feet from the lot line, requiring Zoning Board of Appeals approval. She stressed the importance of understanding the ZBA's position as it would impact the proposed footprint and necessary mitigation.

She also mentioned the Board of Health's potential involvement in determining how many bedrooms are being proposed in relation to the septic system's capacity for the addition. Lastly, she reminded the Commission that the property had previously been before them regarding tree removal due to a fallen tree that had damaged the house.

She expressed concern that the required tree mitigation from that incident may not have been implemented, further complicating the current proposal.

Chair Henkels acknowledged the complexity of the proposal and asked Mr. Nsamba if he had sought advice from the Zoning Board of Appeals (ZBA) or the Board of Health. Mr. Nsamba responded that they intended to submit the plan to the ZBA but likely missed the deadline for the next meeting on November 4. He mentioned that they would aim to get on the agenda for the December 2 meeting, and once they had met with the ZBA, he believed they could return to discuss the plan further.

Chair Henkels emphasized the importance of addressing the issues outlined by Coordinator Capone and expressed his desire to visit the site. He asked Mr. Nsamba if arranging a site visit would be possible, to which he agreed and offered to coordinate a time that worked for everyone.

Chair Henkels then opened the floor for Commissioner questions, proposing two options: addressing questions immediately or allowing Montgomery to return after filling in the gaps identified by Coordinator Capone. He highlighted the value of a site visit to better understand the parcel and its proposed changes.

Coordinator Capone added that another important issue was the Stormwater Management Bylaw, noting that the proposal involved altering more than 5,000 square feet of land. She advised Mr. Nsamba to consult with the Planning Department regarding compliance with this Bylaw, as both temporary and permanent disturbances count toward the 5,000-square-foot limit. She pointed out that the removal of the trailers and other features would contribute to this disturbance, and there was currently no stormwater management plan included in the proposal.

Chair Henkels confirmed that the prior work proposed on the property was under a Determination. He then asked the Commissioners how they wished to proceed, inviting their comments on whether to continue the discussion or refrain from further discussion until they visit the site.

Comm. Sevier expressed concern that significant changes could occur from the Zoning Board of Appeals (ZBA) and suggested that the Commission should wait for more information from them before proceeding. Chair Henkels asked if anyone shared Comm. Sevier's sentiment, with Comm. Holtz recommending that questions be held off until after the site visit. Chair Henkels confirmed that others agreed, with both Comm. Cook and Comm. Faust indicating their support for this approach.

Coordinator Capone proposed postponing the hearing to December 18, 2024, stating that this would be the last date available on the current calendar before they transition to scheduling for 2025. Mr. Nsamba confirmed the new date of December 16, 2024.

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

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

Chair Henkels began 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.

On motion by Comm. Rogers to continue the Hearing to November 4, 2024, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

#### **Request for Determination of Applicability: 71 Robert Best Road, RDA #24-29**

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

On motion by Comm. Porter to continue the Hearing to November 4, 2024, seconded by Comm. Faust, via roll call the vote was unanimous in the affirmative.

### Certificate of Compliance:

#### **Bennett, 86 Robbins, DEP #301-1418**

Coordinator Capone provided an update on a previous case involving a septic system repair. She noted that the work involved relocating the system from within the buffer zone to outside of it, with the tank and pump chamber located within the Buffer Zone. She confirmed that all work has been completed, the site is stable, and no mitigation was required for the project.

Chair Henkels thanked Coordinator Capone for the information and asked the Commissioners for their comments.

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

#### **Hoaglin, 73 Hickory Road, DEP #301-1417**

Coordinator Capone informed the Commission that the current case involved the replacement of a septic system related to the sale of a house, and it also included the removal of a radio tower. She confirmed that all work has been completed, the site is stable, and it is now ready for a Certificate of Compliance.

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

### Conservation Restriction:

#### **Whitfield, 27 Sawmill Road, DEP #301-836**

Coordinator Capone explained that at 27 Sawmill Road, a house had been demolished and a new one constructed. As part of this project, 5.81 acres of forested land would be placed under a Conservation Restriction. She noted that a Baseline Documentation Report had been completed, finding no issues, and while some minor modifications are still being finalized, the report is in good shape. The homeowners have complied with the Conservation Restriction requirements, and the State has approved the draft, which has also been reviewed by the Town Counsel.

She sought a vote to accept the Conservation Restriction for 27 Sawmill Road and to recommend that the Select Board do the same. Chair Henkels commended Coordinator Capone on her efforts with the draft and inquired if the Commissioners had any questions or comments.

On motion by Comm. Cook to accept the Conservation Restriction and recommend the Select Board accept the same, seconded by Comm. Porter, via roll call the vote was unanimous in the affirmative.

### Adjourn Meeting

On motion by Comm. Porter to adjourn the meeting at 9:00 PM, seconded by Comm. Sevier, via roll call the vote was unanimous in the affirmative.