



SUDBURY CONSERVATION COMMISSION MINUTES

Meeting Minutes of Monday, December 16, 2024

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

Absent: Ken Holtz, Vice Chair; Jeremy Cook

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

Minutes:

November 18, 2024

On motion by Comm. Faust to accept the minutes of the November 18, 2024 meeting, seconded by Comm. Sevier, with Comm. Rogers abstaining, via roll call the vote was unanimous in the affirmative.

December 2, 2024

On motion by Comm. Porter to accept the minutes of the December 2, 2024 meeting, seconded by Comm. Sevier, with Comm. Faust abstaining, via roll call the vote was unanimous in the affirmative.

Wetland Applications:

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 4 and December 2, 2024.

Vito Colonna provided an update, noting recent modifications made to the construction sequencing plan, invasive removal protocol, and a submitted Request for a Certificate of Compliance for the prior Order of Conditions on the site. He outlined specific changes, including the timing of topsoil removal, stabilization measures for the basin with erosion control materials, and procedures for flagging trees to be preserved before clearing. He also highlighted adjustments for erosion control blankets on slopes and mentioned these updates were integrated into the site plans.

Mr. Mastroianni described adjustments to the invasive species management plan, including switching to a more environmentally friendly herbicide and focusing primarily on manual removal methods. He emphasized ongoing maintenance after the initial two-to-three-year plan and stated that chemical applications would only occur as a last resort, with prior notification to the Conservation Commission.

Coordinator Capone confirmed that the applicant addressed comments from the prior meeting. She explained that the use of an organic herbicide, while considered, was not effective against the root systems of certain species like bittersweet. Consequently, the plan was updated to include a wetland-friendly herbicide, Garlon, with minimal expected use. She detailed the enhancements to the sequencing plan to mitigate risks during winter and spring construction. She noted that additional shrub plantings were considered to be installed to buffer neighboring properties, though this was outside the Commission's jurisdiction.

Coordinator Capone stated that she had drafted an Order of Conditions, shared it with the applicant and abutters, and included provisions for an environmental monitor. She explained that if the environmental monitor failed to perform adequately, the Commission could hire an environmental monitor at the applicant's expense.

Chair Henkels opened the floor for questions or comments from the Commissioners and the public.

Connie Steward, 115 Old Sudbury Road, asked about monitoring and requested clarification on who would serve as the environmental monitor and how often site checks would occur. She also referenced a prior discussion about the Commission's ability to hire its own monitor and asked what process would trigger that action and how costs would be handled. Coordinator Capone explained that the applicant would initially hire the environmental monitor, who would perform inspections during critical construction phases, including grading, installation of erosion controls, and stabilization measures. Reports from the monitor would be submitted to the Commission to ensure compliance. Coordinator Capone further stated that if the Commission determined that the applicant's environmental monitoring was inadequate—for reasons such as insufficient frequency, poor documentation, or missed issues—it would notify the applicant of the need to engage a monitor chosen by the Commission. The applicant would bear the costs of this arrangement, as stipulated in the Order of Conditions.

Ms. Steward thanked the Commission for the opportunity to review the marked trees and participate in the process. She also expressed gratitude to those who visited the property, noting that seeing the proximity of the proposed work from her dining room highlighted the significance of her concerns. She emphasized the importance of conducting construction with consideration for her proximity to the work, especially regarding erosion control and the potential disruption to her daily life. She concluded by thanking the Commission for their attention to these concerns.

Chair Henkels requested Coordinator Capone to elaborate on the role of the environmental monitor. Coordinator Capone explained that the monitor, to be hired by the contractor, would inspect erosion controls weekly and after storm events, ensuring compliance and addressing any identified issues. She noted that weekly reports would be submitted to the Commission, detailing the inspections and corrective actions. The contractor would need to confirm the monitor's hiring before construction begins.

On motion by Comm. Faust to close the Hearing, seconded by Comm. Rogers, 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.

Notice of Intent: 74 and 80 Maynard Road: Bonnie Brook Realty Corp., DEP #301-1341

Chair Henkels continued the Hearing for the project to construct a roadway and associated drainage system and utilities in the 100-ft Buffer Zone and Adjacent Upland Resource Area for a 6-lot residential subdivision, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. John Derderian was the applicant. This Hearing was continued from June 7, August 9, September 27, 2021, August 22, 2022, July 24, 2023 and August 26, 2024.

Mr. Derderian discussed the proposed six-lot subdivision, explaining that he proposed to mitigate this by offering a 7.74-acre land parcel to the town. He sought confirmation from the Commission that this proposed mitigation was acceptable.

Mr. Derderian further elaborated that the proposed mitigation area included 4.95 acres of upland. He noted that the subdivision plan involved disturbing approximately 10,000 square feet within the 50-foot Buffer and 82,000 square feet between the 50- and 100-foot Buffers, totaling 92,000 square feet of disturbed area. The offset ratio of the mitigation land to the disturbed area was approximately 2.33:1. He stated that the goal was to move this plan forward with the Planning Board.

Coordinator Capone clarified that the open space parcel included upland islands and that areas outside the developed portions of the lots would be placed under a Conservation Restriction, preventing future development. While the exact square footage of the restricted areas was not yet calculated, she estimated that approximately two-thirds of the 30-acre total parcel would be permanently protected.

Chair Henkels thanked Coordinator Capone and invited the Commissioners to provide their comments on the proposal.

Comm. Rogers raised a question about the potential liability for the town if the beaver population in the area caused flooding, either to the new neighborhood or adjacent properties, should the town take ownership of the 7.74-acre mitigation parcel. Coordinator Capone explained that the town would only be responsible for addressing flooding that posed public health or safety concerns, such as flooded roads or septic systems. Coordinator Capone noted that the parcel included an existing small beaver dam that had previously been identified for manual management. Mr. Derderian added that the area had been dry since spring, and was uncertain if the beavers were still present.

Chair Henkels asked whether there was a need to re-delineate any part of the wetlands on the backside of the property. Coordinator Capone confirmed that this meeting aimed to gauge the Commission's comfort with the proposed open space and its relation to the development, enabling Mr. Derderian to proceed with stormwater management plans, wetland reflagging, and further approval processes.

Comm. Faust inquired whether the proposed conservation restriction and town conservation land provided equivalent protections against future development. Coordinator Capone affirmed that both would prohibit any future alterations, though town conservation land could potentially include trails if the town chose to develop them. The conservation restriction area, however, would be entirely no-disturb.

Comm. Rogers raised a follow-up question regarding demarcation of property boundaries if the development moved forward. Coordinator Capone clarified that the Order of Conditions would include requirements for marking the edge of conservation-restricted areas with monumentation, to ensure clarity for future property owners.

Chair Henkels invited comments from the audience.

Doreen Neale, a resident of 75 Wake Robin Road, expressed concerns about the beaver population in the area. She reported that water levels near her property had risen, despite a dry spring and summer, and that Middlesex Mosquito Control had identified multiple beaver dams, including a large berm in the area. She highlighted potential risks to her septic system and pool and urged continued awareness of the beaver issue, emphasizing the challenges of managing flooding and development in the area. Chair Henkels thanked Mrs. Neale for her observations and reiterated the importance of monitoring the issue.

Chair Henkels stated that he had no objections and sought feedback from the Commissioners. Comm. Rogers expressed her support, and Comm. Faust found the plan satisfactory. Comm. Sevier also approved the plan but revisited the earlier question about responsibility for managing beaver-related issues. Chair Henkels asked about interdepartmental protocols for addressing beaver dams.

Coordinator Capone explained that existing beaver dams, including those referenced by Mrs. Neale, were on Wake Robin Conservation Land, which the town already managed. She detailed the town's process of collaborating with the Department of Public Works and the Board of Health to address flooding caused by beaver activity, noting that action is taken only when flooding affects infrastructure, septic systems, wells, or roadways. Measures include installing flow devices in dams or trapping beavers during the permitted season, with emergency permits obtained as needed for trapping outside the regular season.

Comm. Porter supported the plan, praising its transparency and detailed descriptions. Comm. Sevier reiterated his approval. Chair Henkels confirmed that the Commissioners were in agreement and asked Coordinator Capone if anything further was needed. Coordinator Capone stated that the discussion provided sufficient information for the applicant, John Derderian, to proceed with the application.

Mr. Derderian then raised a question about the 2.33-acre conservation-to-upland ratio in the proposal, asking if the Commission was comfortable with this balance. He also mentioned Mrs. Neale's concerns and expressed a willingness to explore a resolution with her. Chair Henkels advised that such discussions should occur outside the Commission's proceedings.

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

Chair Henkels continued 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.

Matt Marro of Matthew S. Marro Environmental Consulting explained that the 100-foot Buffer Zone extends through part of the proposed leach field. The addition will primarily be built on existing impervious pavement, with 100 square feet of new impervious surface. A stockpile area with erosion protection was marked, and a gravel apron was proposed for construction purposes. He noted that the 200-foot Riverfront Area, which falls under local jurisdiction, covers most of the property.

Coordinator Capone commented that the project had been delayed due to waiting for the septic system design. She noted a 100-square-foot increase in impervious area from the addition. She also raised a concern about potential tree removal due to grading for the raised septic system, but confirmed that the applicant had assured that no trees would be removed. She prepared a draft Order of Conditions, which included a provision prohibiting tree removal.

Chair Henkels asked for questions from the Commissioners.

Comm. Sevier inquired whether the project involved adding bedrooms, which Mr. Marro confirmed, explaining that the addition was for a family moving into the house, thus necessitating a septic system replacement. Mrs. Zou confirmed that the addition would add three bedrooms and one bathroom above the garage, but no new occupants would be added.

No further questions from the Commissioners or the audience were raised.

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

The draft Order of Conditions was reviewed, and there were no further questions or comments.

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.

Notice of Intent: 182 Wayside Inn Road, DEP #301-1434

Chair Henkels continued 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. This Hearing was continued from November 18, 2024.

On motion by Comm. Faust to continue the Hearing to January 6, 2024, seconded by Comm. Sevier, via roll call the vote was unanimous in the affirmative.

Notice of Intent: 331 Hudson Road, DEP #301-1428

Chair Henkels continued 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. This Hearing was continued from October 21, 2024.

On motion by Comm. Faust to continue the Hearing to January 27, 2024, seconded by Comm. Porter, via roll call the vote was unanimous in the affirmative.

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

Chair Henkels continued 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. Rogers to accept the withdrawal, seconded by Comm. Faust, via roll call the vote was unanimous in the affirmative.

Request for Determination of Applicability: 59 Highland Avenue, RDA #24-36

Chair Henkels began the meeting for the project to rebuild and expand an existing deck within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Kevin MacKinnon was the applicant.

Dan and Ada Moy, the residents of 59 Highland Ave, presented a proposal to expand their deck. The deck, originally 12 feet by 14 feet, would be extended 11 feet along the house, maintaining the same offset to the wetland as the existing deck. The work would not encroach further into the undeveloped area, and minimal disturbance is expected due to the use of helical piers for the footing. Coordinator Capone noted that the property is under a Conservation Restriction, with a pond and Bordering Vegetated Wetland in the undeveloped area. She confirmed that no additional mitigation would be needed for the deck expansion.

On motion by Comm. Faust 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: 193 Peakham Road, RDA #24-37

Chair Henkels began the meeting for the project to remove trees within the 100-foot Buffer Zone and the local 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. James Lesko was the applicant.

Mr. Lesko presented a proposal to remove six trees around his home, which he considers a threat due to their proximity to the house and their deteriorating condition. He described the trees as either dead or dying, with one being a bifurcated pine. Two of the trees were dead, and the other four posed a potential risk to the home. He noted that the removal would be carried out with a crane positioned on the driveway, with stumps left in place.

Coordinator Capone recommended planting native shrubs to replace the trees, though she stated that it was up to the Commission to decide whether this was necessary. Three of the trees could have been approved for removal administratively due to their dead state, but the additional live trees required a Determination. The removal was also prompted by the desire to take advantage of the crane, which is a significant expense.

The Commissioners raised questions regarding the types of trees, with Mr. Lesko confirming that the trees are pine, except for one maple at a 45-degree angle. There was also a question about leaving some portion of the trunks standing for wildlife habitat, but Mr. Lesko declined this option, citing the nuisance caused by woodpeckers. The area around the trees is already densely populated with shrubs, and there are no immediate plans for additional planting. The property is near a Conservation/Drainage Easement area and a brook.

Comm. Porter questioned whether the trees being a threat to the house would exempt them from the obligation of mitigation. Coordinator Capone clarified that the Commission needed to assess the impact of the tree removal on the resource area, not just on the house. She explained that while the trees were near the wetlands, they did not provide significant benefit to the resource area, and since the understory was well-vegetated, the space would likely fill in quickly without the need for mitigation.

Comm. Sevier mentioned that the healthy trees lacked low foliage due to the dense understory and suggested that the dead trees might be better suited for snag habitat for woodpeckers. However, he did not feel strongly about the need for snags in this case. The Commission also discussed whether to require replacement shrubs to mitigate the removal of the three live trees. Coordinator Capone felt that shrubs were not necessary, given the dense vegetation already present.

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.

Certificate of Compliance

Santilli, 33 Barbara Drive, DEP #301-1381

Coordinator Capone provided an update on a property where the new owners had removed several large pine trees around the house as part of a previous project. The removal required mitigation, which included planting trees and shrubs. Additionally, the side yard where pine trees were removed was converted into a meadow habitat, rather than expanding the lawn. While the grasses in the meadow had taken over, the owner planned to add wildflower seeds for more color next year, but this did not require keeping the Order open.

Coordinator Capone recommended issuing a Certificate of Compliance for the project, as the work had been completed successfully, and the trees planted as mitigation had survived.

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

Mackinnon, Boston Post Road (Lot 3), DEP #301-753

Coordinator Capone provided details about a Request for Certificate of Compliance for a property on Boston Post Road, Lot 3, now known as 59 Highland Ave. The property had an old Order of Conditions from 2001, for the construction of the house which she recommended being closed out. The property was constructed per the approved plan and the Conservation Restriction was being adhered to.

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

Dinno, Harvey Farm Lane, DEP #301-1387

Coordinator Capone explained that this request was related to Harvey Farm Lane having an open Order of Conditions. The road upgrade for two houses was no longer needed, as the houses would not be constructed. Instead, the property would be used by an agricultural landscaping company, requiring the new Order of Conditions, issued earlier in the meeting.

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

Adjourn Meeting

On motion by Comm. Porter to adjourn the meeting at 8:11 PM, seconded by Comm. Sevier, via roll call the vote was unanimous in the affirmative.