



SUDBURY CONSERVATION COMMISSION MINUTES

Meeting Minutes of Monday, September 8, 2025

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

Absent: Jeremy Cook; Harry Hoffman, Associate Member

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

Minutes

On motion by Comm. Rogers to approve the minutes of the July 21, 2025 meeting, seconded by Comm. Sevier, via roll call, the vote was unanimous in the affirmative.

On motion by Comm. Holtz to approve the minutes of the August 4, 2025 meeting, seconded by Comm. Sevier, with Comms. Faust and Rogers abstaining, via roll call the vote was unanimous in the affirmative.

On motion by Comm. Porter to approve the minutes of the August 18, 2025 meeting, seconded by Comm. Faust, via roll call the vote was unanimous in the affirmative.

Wetland Applications:

Notice of Intent: 177 Marlboro Road, DEP #301-1450

Chair Henkels resumed the Hearing for the project to remove 12 trees within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Charles & Lara Urso were the applicants. This Hearing was continued from August 4 and 18, 2025.

Coordinator Capone explained that following the last meeting, legal counsel had been consulted regarding the Conservation Restriction and whether its language allowed for the removal of living trees within the Restriction. She stated that Town Counsel, in consultation with the Division of Conservation Services, concluded that if the Commission determined the trees presented a safety risk to the structure, removal could be permitted, with the condition that any material removed must remain within the Conservation Restriction rather than being taken offsite, and that appropriate mitigation must be provided to maintain the integrity of the restricted land.

Chair Henkels asked if Commissioners had questions.

Comm. Holtz inquired whether all proposed trees had been identified as hazards and whether any remained for discussion. Coordinator Capone replied that the applicant had submitted an opinion from a consultant regarding the risks posed by the trees, and that some Commissioners had visited the site to review them. Chair Henkels then asked if there were further questions from the Commission or the audience.

Mr. Urso of 177 Marlboro Road, explained that he had received the Order of Conditions and had spoken with Coordinator Capone about some of the procedural details. He said he had questions about certain perpetual conditions included in the Order and asked if this was the appropriate time to raise them. Chair Henkels invited him to continue. Mr. Urso stated that he wished to go through specific conditions in Order, providing his rationale for each.

He began with Perpetual Condition c, which required that fertilizers used on lawns and landscaped areas be of a low-nitrogen variety. Mr. Urso emphasized that he was not opposed to the intent of the condition but expressed concern about the implications of recording such conditions at the Registry of Deeds, where they would attach to the property. He explained that when transferring the home, such language could create unnecessary questions

unless drafted very carefully. He argued that since the current project related only to tree removal with a mitigation plan already in place, conditions such as fertilizer restrictions might be unnecessary to include.

Chair Henkels asked Mr. Urso whether he was aware of the Order of Conditions issued in October 1996 to Briarwood Construction for the construction of the homes, and whether he had reviewed that document. Mr. Urso confirmed that he had. He reiterated that his concern was not with the Wetlands Protection Act or the Commission's oversight but with the recording of additional conditions unrelated to the tree removal project.

Chair Henkels asked Coordinator Capone to respond. She explained that the fertilizer restriction was already part of the perpetual conditions recorded on the property associated with earlier the house construction and would therefore already appear on the property deed. She noted that the recorded condition limited fertilization to low-nitrogen varieties, restricted use to spring only, and prohibited fertilization within 100 feet of a wetland resource area.

Mr. Urso asked why the same condition needed to be included again in the new Order. Chair Henkels acknowledged his point but stated that the Commission had a responsibility to enforce the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw, and that such conditions had been consistently applied in Orders of Conditions over many years to protect resource areas. He said that in his view, the condition should remain.

Comm. Sevier observed that Mr. Urso's main point was that the restriction already existed in the record. Chair Henkels agreed but noted that this was a new Order of Conditions with a new DEP file number.

Coordinator Capone added that her concern was that earlier Orders of Conditions were often overlooked. She explained that at property closings, such documents might not be carefully reviewed, and homeowners were unlikely to consult older Orders when evaluating current obligations. For that reason, reiterating conditions in each new Order was important, as the last Certificate of Compliance was typically the one referenced by homeowners in the future.

Mr. Urso stated that he objected to the suggestion that he had not read the prior Order of Conditions. He explained that he had reviewed the document thoroughly, which was why he had not attempted to cut trees on his own and instead had chosen to appear before the Commission at his own expense to ensure compliance. He added that this fertilizer restriction was his least concerning issue among the conditions he wished to review.

Comm. Sevier acknowledged Mr. Urso's point but explained that many applicants did not carefully review conditions, which was why the Commission often chose to reiterate them. He noted that while Mr. Urso's diligence was appreciated, redundancy served as a safeguard for future homeowners. He said he supported keeping the condition, provided Mr. Urso did not strongly object. Mr. Urso indicated he was willing to move on to other concerns.

He then raised Condition G, which required that future homeowners be made aware at the time of purchase that any alterations to the lot could be subject to review under the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw. Mr. Urso argued that this was redundant, as the property already had a Conservation Restriction on file and Condition A covered the same requirement by clearly stating that alterations within a wetland resource area required Commission approval. For this reason, he requested that Condition G be removed.

Chair Henkels asked Coordinator Capone to comment. She acknowledged that the condition was redundant but explained that it had been a longstanding standard condition of the Commission. She said it served a clarifying purpose, making the obligations under the Act and the Bylaw more explicit to future homeowners. Comm. Sevier added that in practice, many homeowners claimed not to have been aware of these requirements, and that redundancy helped to prevent misunderstandings. He said he supported keeping the condition, as long as it was consistent and did not contradict other provisions.

Mr. Urso asked whether recording the Order of Conditions with the Registry of Deeds would itself constitute making future homeowners aware, thereby fulfilling the intent of the condition. Chair Henkels replied that such recording was consistent with all Orders and was intended to ensure the obligations were public and enforceable. Comm. Sevier agreed, stating that the requirement imposed no additional burden on the applicant and only served to emphasize existing obligations. Mr. Urso responded that some of his objections stemmed from differing interpretations of the language, but acknowledged the redundancy and agreed to move forward.

He then raised Condition H, prohibiting the use of coal tar-based driveway sealants. Mr. Urso said he had no issue with the restriction itself but explained that his driveway was under an Easement shared equally with his neighbor, who was not a party to the Notice of Intent. He expressed concern that the condition might create a contradiction, since he could not unilaterally impose it on his neighbor.

Chair Henkels asked Coordinator Capone to respond. She explained that this condition had not been in the original Order but was now a standard requirement of the Commission. She stated that the Easement did not dictate how the driveway was to be managed, and the condition was meant to protect nearby wetlands from harmful substances migrating into the resource area. She added that if the applicant and his neighbor applied to repave the driveway, the Commission would impose this same condition on that project, so it was not an additional burden.

Mr. Urso replied that because the responsibility for the driveway was shared, this condition effectively asked him to agree to a restriction that could bind his neighbor, who was not before the Commission. Coordinator Capone acknowledged the concern but reiterated that the condition was intended as guidance for future driveway work and was consistent with the Commission's protective measures. She said she would defer to the Commissioners to decide whether it should remain.

Comm. Sevier asked Mr. Urso to clarify his concern, noting that the driveway was asphalt. He stated that while he understood the difficulty posed by the shared Easement, it seemed unlikely that sealing the driveway would cause a significant spill impacting the wetlands. Chair Henkels then invited other comments.

Comm. Faust asked if the prohibition on coal tar-based sealants was a standard condition. Coordinator Capone confirmed. Comm. Faust remarked that if it was standard practice, he did not see why an exception should be made in this case, unless the Commission determined that the condition itself needed broader reconsideration.

Comm. Sevier responded that the shared nature of the driveway was what distinguished this situation. He said it appeared Mr. Urso's objection arose only because his neighbor would also be bound, despite not being a party to the application. He questioned whether the restriction was truly necessary in this instance, given that the driveway was already paved with asphalt.

Comm. Rogers asked whether the neighbor's property fell within jurisdictional resource areas. Mr. Urso replied that he did not know whether his neighbor's property was subject to its own restriction but clarified that the neighbor was not part of his project. Coordinator Capone explained that both properties had been subject to the same original Order of Conditions when the houses were built. She said most of the driveway lay on 177 Marlboro Road, though Mr. Urso confirmed that under the Easement, maintenance responsibilities were divided equally between himself and his neighbor.

Comm. Porter said he did not see the repetition of conditions in successive Orders as problematic and therefore supported keeping the language in place. Coordinator Capone clarified that this driveway sealant condition had not been included in the original Order. Comm. Porter indicated that he nonetheless supported the Commission's practice of repeating protective language.

Mr. Urso stated that leaving the condition as written would require him to consult with legal counsel, as he was uncertain what effect it might have on the Easement. He suggested the possibility of alternative language, such as tying driveway maintenance explicitly to Condition A. Comm. Faust asked whether any driveway work would have to be brought before the Commission. Coordinator Capone replied that most of the driveway was likely within jurisdiction but said she would need to confirm with the site map.

Comm. Sevier noted that most future driveway work would probably fall under Commission review. He raised the question of whether the two neighbors could end up in different regulatory positions, given their shared maintenance obligation, and said he continued to see Mr. Urso's point. Chair Henkels then asked the Commissioners whether they had strong positions on retaining Condition H.

Chair Henkels stated that he agreed with Comm. Sevier's position. Comm. Holtz added that he also agreed and thought the line could be removed if it was objectionable. Chair Henkels called on Comm. Faust, who said the change seemed acceptable.

Mr. Urso then noted that the draft conditions prohibited installation of in-ground irrigation systems. He explained that an irrigation system already existed on his property and had been there long before he arrived. He questioned

whether it might have been approved at some earlier time and mentioned that his neighbor also had one. Coordinator Capone clarified that the original Order contained similar language, prohibiting underground sprinklers within resource areas or within 100 feet of them, and that no approvals for irrigation appeared on record. She explained that many systems were installed without consultation, which was why this had become a standard condition.

Mr. Urso asked if the language could be changed to prohibit only new systems. He said he would be fine with language either barring new installations or limiting expansion. Chair Henkels asked the Commissioners for their views.

Comm. Sevier responded that, generally, the Commission would require such systems to be disabled or removed, including those on neighboring properties. He said this was consistent with past situations where restrictions had been ignored or overlooked after a Certificate of Compliance was issued. He explained that the relevance was not whether the prior owner knew of the restriction but that the system was present and not allowed, and therefore became the responsibility of the current owner.

Mr. Urso replied that the Commission had not always operated under the same standards, particularly before 1996, and said he was not ready to concede that approval had never been given. Comm. Sevier answered that there was no record of approval. He emphasized that unapproved work in the field remained unlawful regardless of past practices, comparing it to disregarding the law in general.

Chair Henkels said he felt the same as Comm. Sevier, noting that the Commission had encountered many instances of work, including irrigation systems, installed contrary to outstanding Orders of Conditions or Bylaws. He explained that often such violations were not discovered until years later, as was the case here. He stated that while the Commission empathized with Mr. Urso, the property owner bore full responsibility for compliance with conditions, including any past violations, and that such situations could require enforcement.

Mr. Urso stated that he disputed there was any violation regarding the irrigation system, arguing that the absence of a record did not necessarily prove disapproval and that he did not know what research had been done. He said the matter could be dealt with another day and turned to his last question, which concerned a condition stating that no yard waste or other materials should be placed within jurisdictional areas. He said he did not understand what "other materials" meant and asked for clarification, giving the example of whether a tree branch falling into the Wetlands Protection Area would count.

Coordinator Capone explained that the language referred to foreign or added materials not naturally occurring in the resource area. She said that if a tree within the resource area dropped a branch, that was acceptable, but materials dragged in from the buffer zone or landscaped areas would not be allowed. She added that the original Order specified that dumping lawn clippings, landscape prunings, and other organic or non-organic materials within the 100-foot Buffer Zone was prohibited. Mr. Urso said that version made more sense and preferred it over the vague reference to "other materials."

He also asked what was meant by "jurisdictional areas," wondering if it meant his entire property. Comm. Sevier responded that jurisdictional areas referred only to those portions of the property subject to Commission authority. Mr. Urso replied that this was exactly why the wording needed to be clearer, because the phrase made him think it could apply to anything on his property, such as items in his garage. He reiterated his preference for the original language. Comm. Sevier agreed but then returned to the irrigation matter, saying he did not believe it could simply be set aside. He asked Mr. Urso what his plan was to dispute the requirement to disable or remove the system.

Mr. Urso said he had not expected that response and would likely need to hire a lawyer to research the matter, which would be costly. He added that he might also pursue claims against the previous owner for misrepresentation in the purchase-and-sale agreement and consider seeking a tax abatement, as the more he learned about the property, the more he regretted purchasing it. Comm. Sevier asked whether it was really worth pursuing the matter over a small irrigation system. Mr. Urso said he thought it was, describing it as only a few zones, mostly in the front of the property with a few sprinkler heads in the back. Comm. Sevier questioned whether he believed he could prevail, pointing out that the costs of pursuing legal remedies likely outweighed the benefit and that the chance of success appeared low. He emphasized that the Commission's records had been

reviewed and that similar issues arose frequently, which was why the condition was repeated in Orders of Conditions. He concluded that the simpler and more practical approach would be to disable the system.

Chair Henkels thanked Comm. Sevier for his comments and asked whether the language concerning condition J should be modified to the original version or kept as is. Coordinator Capone proposed that it be changed to read that dumping of lawn clippings, landscape prunings, and other organic or non-organic materials within the 100-foot Buffer Zone was prohibited in perpetuity. Chair Henkels asked if Mr. Urso had any further questions, and Mr. Urso replied that he did not, remarking that the process had been more involved than he anticipated.

Chair Henkels then asked the Commissioners if they had any further questions or comments and invited members of the public to do the same. Comm. Porter commented regarding the designated trees being removed, asking whether they had been inspected by an arborist. Chair Henkels confirmed that they had. Coordinator Capone added that the inspections had been conducted by Plant Healthcare, under Dan Cathcart, and asked him to confirm for the record that he was an arborist. Mr. Cathcart confirmed that he was, and Coordinator Capone thanked him.

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

Chair Henkels confirmed that the Commission had just discussed the draft Order of Conditions, which Mr. Urso had been given the opportunity to review and comment on. He asked Mr. Urso if he had any further questions or comments. Mr. Urso replied that he did not.

Chair Henkels then asked for a motion to issue the Order of Conditions as stated. Comm. Sevier paused to confirm with Mr. Urso whether there was any reason the Commission should not issue it. Mr. Urso responded that he had no objection and agreed with the issuance as discussed. Chair Henkels stated that the Order would be issued with amended language for Item J, as outlined by Coordinator Capone, and with the deletion of Item H. Comm. Holtz noted that both Items H and J were to be addressed, and Chair Henkels confirmed.

Comm. Porter added that safety was a primary concern and emphasized that every day without the Order in place left the homeowner at risk while the trees remained. He urged prompt action to remove the trees as soon as possible. Mr. Urso agreed, saying that was the reason he was accepting the Order of Conditions.

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.

Request for Determination of Applicability: 148 North Road (Frost Farm), RDA #25-09

Chair Henkels began the meeting for the project to install bog bridges within the 100-foot Buffer Zone and the 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Marissa Cooley was the applicant.

Ms. Cooley introduced herself as a member of Troop 65, Sudbury's all-female troop, and explained that she was presenting her proposed Eagle Scout project at Frost Farm. She stated that the project's goal was to provide a tangible community benefit while demonstrating leadership, planning, and development skills. She explained that she intended to construct bog bridges in areas that become muddy due to proximity to wetlands, thereby improving accessibility for pedestrians, dog walkers, and bikers. She identified two locations, one requiring approximately 20 feet of bridge and another approximately 50 feet.

She showed photos of the sites taken in the spring, noting the existing structures were rotted and the ground was muddy. She emphasized that use of the Bruce Freeman Rail Trail had increased traffic through Frost Farm, making access improvements more important, and that the bridges would help prevent people from going off-trail, thereby protecting wetlands.

She presented a digital sketch of the proposed bridges, explaining that they would be constructed in six-foot segments, approximately three feet wide, using pressure-treated exterior-grade wood with 4x4 supports. Ramps would be included to accommodate bikes. She planned to pre-cut the wood at her home, then transport and assemble it on-site with the help of scouts, friends, and adult volunteers. She estimated costs at about \$1,200 and intended to seek donations and possibly discounts from Sudbury Lumber.

Chair Henkels thanked her for the presentation, commenting that the area was indeed muddy and that the project would benefit both the local community and trail users.

Coordinator Capone explained that the photos showed wet spring conditions, but the areas in question were ephemerally wet. She noted that existing bog bridges already in place had demonstrated the benefit of protecting the wetlands by allowing vegetation to regrow, whereas unprotected areas were barren from trampling. She recommended designing the 50-foot section to allow limited water flow underneath to avoid creating a dam. She noted that Frost Farm was experiencing significantly increased use due to the Bruce Freeman Rail Trail, nearby business park, Frost Farm Village, Northwoods, and Cold Brook Crossing, amounting to several hundred potential users. She added that ramps, which past bog bridges had lacked, would be particularly helpful for bikers and strollers.

Chair Henkels opened the floor to Commissioners for questions.

Comm. Holtz asked about the bridge design, noting the proposed one-inch gap between deck boards seemed large. He inquired if there was a standard recommendation for spacing. Coordinator Capone stated that no two boardwalks were built the same but that the gap should be wide enough for water flow yet narrow enough to avoid trapping a small dog's paw. She suggested three-quarters of an inch would likely be sufficient, and Marissa Cooley confirmed that the spacing could be adjusted.

Comm. Porter raised concerns about tire width if board spacing was too wide, but Coordinator Capone clarified that the boards would be installed perpendicular to wheel travel. She added that riders would likely be using mountain bikes with wider tires rather than road bikes due to the terrain.

Comm. Faust asked if the same vehicles allowed on the rail trail were permitted on the conservation land. Coordinator Capone replied that motorized vehicles were prohibited, and the Commission would need to decide in the future whether to regulate e-bikes, which are currently allowed on the rail trail but fall into a gray area between bicycles and motorized vehicles.

Comm. Holtz asked whether the bridges would be placed directly on the ground or set on footings. Ms. Cooley explained that the design used 4x4 supports resting on the ground, not concrete footers, and confirmed that the lumber would be pressure treated.

Comm. Sevier questioned whether the bridges might float during wet conditions and asked if they would be secured. Coordinator Capone replied that existing smaller bog bridges in the area had not shifted, and she did not anticipate movement with the larger design, though screw anchors could be installed if needed.

Comm. Sevier also asked how the bridge sections would be joined in the field. Ms. Cooley confirmed they would be carried in separately and assembled on site. Comm. Sevier suggested connecting sections by scabbing 2x4s to the sides of the 4x4 supports to span the joints, which Ms. Cooley agreed was a good idea. Comm. Holtz confirmed the sections would not be carried in as one piece.

Chair Henkels asked if there were further questions from Commissioners. Comm. Porter asked about the staging location, and Chair Henkels clarified it would be in the Frost Farm Conservation Land. Chair Henkels then invited public comments.

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

Request for Determination of Applicability: 1011 Boston Post Road, RDA #25-10

Chair Henkels began the meeting for the project to install test holes within the 100-foot Buffer Zone and the 200-foot Riverfront Area, pursuant to the Sudbury Wetlands Administration Bylaw. Reinaldo Faria was the applicant.

Coordinator Capone clarified that the filing was only under the local Bylaw, as the activity was exempt under the state Act. She reported that the applicant had failed to notify abutters in time for the Hearing, and therefore the matter would be tabled to the September 29 meeting. Chair Henkels acknowledged.

Certificates of Compliance:

Zhang: 77 Powder Mill Road, DEP #301-1359

Chair Henkels explained that the Order of Conditions had authorized the removal of thirteen trees, consisting of white pine and oak, with a requirement to replant eighteen cedar trees. The trees had been located primarily along the lot line where their roots were impacting the foundation. A large oak had been removed adjacent to the wetland, but the majority of the site otherwise remained in its natural state. He noted that the required plantings had survived the two-year monitoring period.

Coordinator Capone reported that the only deviation from the approved plan was that three oaks, which were originally required to be replanted along the shoreline to replace the three oaks removed in that location, had instead been substituted with five cedar trees. She explained that the area supported a high beaver population and that oaks planted there would likely have been removed by beaver activity. For this reason, she was comfortable with the applicant's modification, though she acknowledged that it was not consistent with the approved Order of Conditions.

Chair Henkels invited questions or comments from the Commissioners and from the public.

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

Whitfield: 27 Sawmill Lane, DEP #301-836 and #301-1335

Chair Henkels explained that there were two open Orders of Conditions for the property. The first, issued in 2004, was for the construction of a house and included a requirement to establish a Conservation Restriction. The second, issued in 2021, was for tree removal. At the time the 2021 Notice was filed, the work associated with the prior Order had been completed, but the Conservation Restriction remained outstanding, so the Order was kept open while additional tree work was permitted.

Coordinator Capone reported that the Conservation Restriction and its baseline report had now been completed, and the applicant was seeking closure of both outstanding Orders of Conditions.

Chair Henkels then invited questions or comments from Commissioners and the public; none were raised.

On motion by Comm. Holtz to issue the Certificate of Compliance for project #301-0836, seconded by Comm. Sevier, via roll call the vote was unanimous in the affirmative.

On motion by Comm. Faust to issue the Certificate of Compliance for project #301-1335, seconded by Comm. Sevier, via roll call the vote was unanimous in the affirmative.

Other Business:

Department of Public Works – Paving Program Additional Areas

Chair Henkels began the meeting for the Department of Public Works' paving program and additional areas proposed for inclusion. Coordinator Capone shared her screen and explained that Director Tina Rivard had previously presented the roads program, which involved milling and repaving without structural or drainage modifications. The DPW now requested to include additional areas, including the intersection of Maynard Road and Hudson Road, where wetlands are present to the northwest and southwest, but no drainage structures discharge directly to the resource areas, so no negative impacts were anticipated. Additionally, North Road near Mary Catherine would be repaved, with the closest wetlands located on Mary Catherine. Only Buffer Zone work would occur, with no direct impact to resource areas.

Chair Henkels invited questions from Commissioners and the public, and none were raised.

On motion by Comm. Porter to allow additional work zones, seconded by Comm. Faust, via roll call the vote was unanimous in the affirmative.

Coordinator Capone then acknowledged Comm. Holtz for assisting in relocating a large wasp nest at Frost Farm to a safer location, noting that the effort was successful and no injuries occurred. Comm. Holtz confirmed the nest was successfully relocated and still active.

Comm. Porter offered his availability for consultation if needed for the project at 148 North Road.

Adjourn Meeting

On motion by Comm. Sevier to adjourn the meeting at 8:01 PM, seconded by Comm. Holtz, via roll call the vote was unanimous in the affirmative.