



SUDBURY CONSERVATION COMMISSION MINUTES

Meeting Minutes of Monday, August 18, 2025

Present: David Henkels, Chair; Ken Holtz, Vice Chair; Jeremy Cook; Luke Faust; Bruce Porter (7:05 PM); Kasey Rogers; Mark Sevier; Harry Hoffman, Associate Member; Victor Sulkowski, Associate Member; and Lori Capone, Conservation Coordinator

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

Wetland Applications:

Notice of Intent: 20 Tavern Circle, DEP #301-TBD

Chair Henkels resumed the Hearing for the project to remove trees within the 100-foot Buffer Zone and 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Matthew Drew was the applicant. This Hearing was continued from January 27, 2025.

Coordinator Capone stated that the applicant had not appeared before the Commission since January while awaiting a DEP file number. She reported that both she and DEP had informed the applicant of the steps needed to complete the application. Despite three to four attempts to contact him, there had been no progress, and DEP had advised that at this point the applicant would need to refile entirely. She explained that the Commission could either vote to continue the hearing further or determine that the Notice of Intent had expired due to the applicant's lack of diligence. She noted that neighbors, who could be impacted if the trees fell, had been working to encourage the applicant to complete the filing also.

Chair Henkels invited questions from Commissioners.

Comm. Holtz asked whether this situation was unusual, since a DEP file number typically exists by this stage. He inquired whether any fees would be forfeited if the hearing were closed. Coordinator Capone confirmed that DEP had cashed the applicant's check, but absent complete plans, the application could not proceed, and closure of the Hearing would result in loss of the fees already submitted.

Comm. Sevier asked when the process began, and Coordinator Capone confirmed January.

Comm. Holtz expressed that under normal circumstances he would support closing the matter, but given the neighbors' concerns, he was uncertain. Coordinator Capone agreed that it was reasonable to continue the matter, as she could continue efforts to obtain a response from the applicant.

Comm. Rogers suggested the applicant might be away, and Coordinator Capone noted that she had been using email for contact, which should be accessible regardless of location. Comm. Faust asked whether the Commission could extend the continuance to longer intervals to avoid repeatedly revisiting the matter at every meeting. Coordinator Capone responded that this was possible, although she had kept the continuances short out of respect for the neighbors' concerns.

On motion by Comm. Rogers to continue the Hearing to September 29, 2025, seconded by Comm. Faust, 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 and October 21, 2024.

On motion by Comm. Faust to continue the Hearing to October 20, 2025, seconded by Comm. Porter, via roll call the vote was unanimous in the affirmative.

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, 2025.

Daniel Cathcart, of Plant Healthcare Consultants Inc., a representative for the applicant, reported that following a recent site visit with Commissioners, the plan had been revised from 12 to 13 trees for removal, which included an additional oak tree overhanging the Urso residence. Correspondingly, the mitigation plan was expanded: instead of 6 replacement trees and 6 shrubs, the applicant now proposed 10 replacement trees and 15 shrubs. He emphasized that the mitigation was intended to offset the removals and enhance habitat value.

Mr. Cathcart also described invasive species management. The updated plan now calls for manual removal of buckthorn and other invasives in a swath roughly 20 feet wide running 60–70 feet along the removal area, extending back toward the wetlands.

Chair Henkels then noted that, while the mitigation plan was more robust, the overriding issue was the Conservation Restriction (CR) on the property, which prohibits removal of any trees, live or dead, as well as pruning and other alterations.

Coordinator Capone explained that the mitigation now met the Commission's usual expectations under the Wetlands Protection Act and local Bylaw. However, the CR language was explicit and did not allow any tree cutting. She had referred the matter to Town Counsel, who in turn was in contact with the State. She noted that while there had not been a definitive ruling yet, there was at least no immediate denial, and discussions were ongoing to determine whether and how the CR might be modified or an allowance granted. She recommended that if the Commission was satisfied with the mitigation, to wait for Town Counsel's official opinion before taking action.

Comm. Holtz asked whether the proposed removals had been designated as hazardous trees. Mr. Cathcart clarified that the industry no longer uses the term "hazard," but instead refers to "high risk." He stated that each of the proposed trees posed risk to property due to shallow root systems, poor live-crown ratios, or significant lean. He affirmed that he believed all identified trees were justifiably proposed for removal due to the risk they posed.

He further emphasized that the proposal was not intended to expand usable yard space or alter the character of the conservation restricted land, but solely to address safety concerns. He noted that snags and habitat features would be left where possible, and invasives would be managed, to preserve ecological value.

Coordinator Capone reiterated that the CR, as written, prohibits even invasive removal, though she hoped that if allowances were made for tree removals, they would extend to invasive management as well.

Comm. Faust asked Coordinator Capone if there was any precedent the Commission had regarding the matter, or whether approving it would establish one for future Conservation Restrictions. Coordinator Capone responded that this was the reason she had consulted Town Counsel, explaining that Conservation Restrictions are very strict about prohibited and allowed activities, leaving no flexibility outside of the written terms. She noted that most restrictions allow tree removal if hazardous, or for fire protection or invasive species management. However, she described this particular Restriction as the strictest she had encountered, permitting little more than signage for no trespassing, and offering no latitude for tree removal.

Mr. Urso, resident of 177 Marlboro Road and an attorney, said that although the Commission was waiting for the opinion of Town Counsel, he believed that poorly drafted Conservation Restrictions should not override public safety concerns. In his view, safety considerations are always implied exceptions, whether or not explicitly stated. He argued that the language of this Restriction actually gave the Commission latitude to interpret what actions could be permitted, and that the Commission retained authority to protect residents and property. He said he would welcome an opportunity to speak with Town Counsel directly regarding the interpretation.

Chair Henkels thanked Mr. Urso for his comments and invited questions from the Commission.

Comm. Sevier remarked that the Restriction appeared unusually strict given the realities of tree growth and said he would be surprised if no ability to remove trees was found permissible. Coordinator Capone stated that by awaiting legal guidance, the Commission would avoid setting a precedent without legal foundation. Comm. Sevier noted that in his view, precedent was part of the Commission's role, explaining that if every case were straightforward, the Commission would not be necessary. He said the Commission's role was to apply judgment consistent with the town's practices and values.

Chair Henkels again asked for questions and then opened the floor to the public.

Hearing none, he moved to continue the hearing with the applicant's permission until September 8, 2025. He explained that the continuance would allow time to obtain Town Counsel's opinion on whether tree removal was permissible under the Restriction, and also allow incorporation of any modifications required by the State into the plan. He asked if the applicant would consent to the continuance. Mr. Urso confirmed his agreement. Seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

Mr. Cathcart asked Coordinator Capone if she had any indication of when the opinion from Town Counsel might be expected. Coordinator Capone responded that Counsel was coordinating with the State and anticipated an answer within the week, or by the following week at the latest, and that she expected to have a response before the September 8 meeting. Mr. Cathcart said his concern was avoiding unnecessary delay if the opinion was not available for several weeks. Coordinator Capone assured him that she would notify the Commission if an extension became necessary.

Notice of Intent: 54 Cedar Creek Road, DEP #301-1452

Chair Henkels opened the Hearing for the project to replace existing driveway and install drainage within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. David and Lynn Coughlin, were the applicants.

Mr. Coughlin introduced himself as a resident of 54 Cedar Creek Road and stated that they were proposing to redo their driveway over a culverted creek, which would include the installation of a catch basin and asphalt paving. He also noted that Scott Johnston of Sudbury was present to answer any technical questions related to the project.

Coordinator Capone explained that the residence was located at the top of the plan, with the driveway entering from Cedar Creek Road. A stream flowed from the east of the site, crossing beneath the driveway through an existing culvert, and continued through a mitigation area that had been created during a prior driveway and tree removal project. That earlier project was also scheduled for review later in the evening under a request for a Certificate of Compliance. She noted that a section of the driveway closest to the house was currently constructed with pavers, while the remainder was asphalt. The pavers, she said, were subsiding, creating depressions that caused ponding, poor drainage, and icing problems in winter.

The Coughlins were proposing to remove the paver section and repave the entire driveway with asphalt. No work would be done on the culvert itself. Because the original driveway had included a permeable section, they also proposed to install a leaching catch basin in front of the garage to provide infiltration for stormwater. This basin would be connected to a perforated overflow pipe that would direct excess water toward the stream during large storm events, allowing for filtered discharge.

Coordinator Capone explained that, as part of the earlier Order still awaiting a Certificate of Compliance, mitigation plantings had been required along the west side of the driveway. That area had since revegetated with mostly native species, though some invasives were present. Plantings installed along the eastern portion of the stream had largely failed, leaving only one surviving tree, and the area had become open lawn. Because the original Order had expired, the Coughlins had agreed to incorporate this previously unsuccessful mitigation into

the current proposal, providing a revised palette of native plantings better suited to the now sunnier conditions. The goal would be to restore a native buffer along the stream channel.

She further noted that turf grass had grown directly into the stream channel in the intervening years. As part of the new conditions, she proposed that the grass either be removed manually or that native seed be introduced through slice-seeding to naturalize the area and enhance riverine habitat.

Chair Henkels thanked Coordinator Capone for her explanation and invited questions from the Commissioners.

Comm. Holtz asked whether the existing culvert was still in good functional condition or whether any work would be required as part of the driveway project. Mr. Coughlin responded that the town had replaced the culvert about twenty-five years ago. He explained that the old culvert had been a tin structure, which was removed and replaced with a large concrete culvert. He stated that he would be surprised if it were not still in good working order.

Comm. Sevier asked Coordinator Capone what had caused the pavers to subside and whether a bituminous driveway could also develop divots. He questioned whether water draining through the surface was removing underlying material. Coordinator Capone responded that she did not believe significant infiltration was occurring through the existing driveway and suggested that the issue was more likely the result of frost heaving, combined with a lack of maintenance to preserve porosity. She stated that the proposed catch basin should properly capture runoff and allow infiltration, preventing similar issues in the new driveway.

Chair Henkels asked whether any grading would be required for the driveway as designed. Mr. Johnston identified himself as the owner of Johnston Paving Corporation and explained that the project required a 2% slope toward the catch basin. He confirmed that excavation work would be necessary to install the basin and achieve the proper slope.

Chair Henkels asked whether erosion controls would be required to protect resource areas, including the stream and culvert. Mr. Johnston responded that his excavation process was typically clean and that materials would remain contained. Chair Henkels then asked Coordinator Capone for her opinion. She explained that since the stream was not currently flowing and the work was expected to be completed quickly in the fall, erosion controls were not likely to be necessary. However, she had included a condition requiring work to be performed under no-flow conditions in case circumstances changed.

Chair Henkels invited questions from commissioners and the public but received none.

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

Chair Henkels then asked Coordinator Capone whether the proposed Order of Conditions contained any special provisions. Coordinator Capone stated that she had provided the draft to the applicants in advance. She highlighted requirements including stream restoration under no-flow conditions, survival of plantings for two years with replacement if necessary, and a three-year monitoring period for invasive species, which would need to be removed by hand if they became established. She noted that the remainder of the conditions were standard construction requirements. Chair Henkels asked the applicants if they had questions about the conditions, and both indicated they did not.

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

Request for Determination of Applicability: 24 Woodside Road, RDA #25-08

Chair Henkels began the meeting for the project to remove 11 trees within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Mark Trone was the applicant.

Mr. Trone of 24 Woodside Road presented his request regarding tree removal along his street frontage. He explained that the proposal involved removing eleven trees in total, eight of which were within the 100-foot

buffer zone. He noted that the wetlands on the property are located across the driveway from the trees in question. Using images, he showed the trees slated for removal, highlighting those with co-dominant trunks and included bark that posed a structural risk. The area where the trees are located has been maintained as a landscaped bed measuring about 67 feet in length, fully within the Buffer Zone.

Mr. Trone described his mitigation plan, which had been revised based on prior Commission feedback. He proposed planting nine replacement trees within the Buffer Zone: five red maples, 2 to 2.5 inches in caliper, to be spaced 12 to 15 feet apart and set back approximately 25 feet from the road, along with four tri-stemmed gray birch, each 6 to 7 feet tall, to be staggered in front of the maples about 15 feet from the road. He explained that these species were selected because they would remain lower in height and be less likely to interfere with the adjacent power lines, which had necessitated repeated pruning of the current trees.

Coordinator Capone confirmed that the wetland was a lower-quality system influenced by groundwater interception and stormwater runoff from the road. She noted that the two largest trees closest to the wetland, both co-dominant, were the primary concern, while the remaining buffer-zone trees were smaller. Given the replacement plantings proposed, she found the overall benefit to the resource area comparable and recommended a Negative Determination with conditions.

Comm. Holtz inquired about the stability of gray birch, noting their tendency to lean. Mr. Trone responded that their growth habit is fairly upright and narrow, with a mature height of 25 to 30 feet and spread of about 20 feet, and that they were to be planted far enough from both the road and power lines to avoid conflicts. Chair Henkels asked whether the proposed species would tolerate acidic soils, and Mr. Trone confirmed that both would perform well under such conditions.

There were no further questions from the Commission or public.

Coordinator Capone summarized the proposed conditions: a pre-construction meeting with the tree service, mitigation plantings to be installed no later than October 1, survival of the plantings for at least two growing seasons with replacements as needed, and photo documentation at installation and again after two years to confirm compliance. Mr. Trone acknowledged these requirements and confirmed his understanding.

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.

Certificate of Compliance:

Coughlin: 54 Cedar Creek Road, DEP File #301-1036

Coordinator Capone explained that the project involved tree removal and the replacement of a culvert on the Coughlin property. She stated that the culvert under Cedar Creek had been undersized compared to the culvert that had existed under the driveway of the property, which had caused the stream to back up and flood the surrounding area. Because of this, the Town had become involved with the replacement. She confirmed that the culvert work had been completed successfully and was functioning well. The only outstanding item from the Order of Conditions had been the mitigation plantings located east of the driveway, which had been incorporated into the new Order of Conditions.

She clarified that with the work now complete and the Order expired, the purpose of this request was to clear the title so the new Order of Conditions could be properly recorded. For this reason, she recommended issuing a Certificate of Compliance.

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

Other Business:

Deer Management Program

Chair Henkels provided extensive background to remind the Commission and the public of the prior deliberations on this subject. He recalled that on August 16, 2023, the Commission had held a lengthy two-and-a-half-hour meeting with members of the public and a state wildlife biologist specializing in deer and moose populations.

That meeting, he said, had covered a broad range of topics, including the rationale for deer management in Massachusetts and specifically in Sudbury, the responsibilities of bowhunters in maintaining trail systems where stands are located, and the historical development of the program dating back to its inception in 1999. The group also reviewed regulations and discussed community concerns, with a strong emphasis on outreach and transparency. He noted that the recording of that meeting was available on Sudbury TV and encouraged anyone unfamiliar with the details to watch it, calling it both educational and informative.

He also summarized the action items that had come out of the 2023 meeting, including requiring hunters to pass proficiency testing every five years, conducting annual inspections of tree stands to confirm setback requirements, and improving communication through signage at trailheads and kiosks as well as annual notification letters to abutters of conservation lands. He emphasized that over 400 such letters had been mailed this year. He cautioned that tonight's discussion would focus less on history and more on current program adjustments, noting that public comments would be limited to one minute per speaker, with additional concerns to be submitted via email to the Commission.

Coordinator Capone provided an update on the program's performance since 2023. She reported that last year the program had included 21 hunters, but only six deer were taken, which was roughly half of the program's average in prior years. She explained that neighboring communities experienced similar declines, possibly due to environmental factors such as drought and an abundant acorn crop that reduced deer movement.

She highlighted the added value of the program beyond hunting, since each participant was required to perform at least two hours of service on conservation land annually. Notably, hunters had discovered and reported two significant violations: one resident who had cleared a section of conservation land to build a motorbike track and campground, and another instance of illegal hunting on protected property. Both issues were quickly resolved thanks to the hunters' involvement.

She went on to note that four hunters had left the program, leaving 17 returning participants. This attrition would result in the removal of two properties from the program: Barton Farm, which lacked suitable hunting space within required setbacks, and a parcel behind 999 Concord Road, which could only be accessed through an arrangement with neighboring landowners. Both parcels had been monitored by the departing hunter, but without his participation they would no longer be included. She added that the Commission was also considering the addition of a new property, and that Land Manager Joe Miller, who had taken on a leading role in overseeing the program, was present to explain further. He is responsible for monitoring tree stands, working directly with hunters, and ensuring compliance with program standards.

She concluded by stating that, should the Commission vote to continue the program, the hunting season would run from October 6 through December 31, 2025.

Land Manager Joe Miller began his remarks by introducing Landham Brook as a property purchased by the town in 2015 that had not yet been incorporated into the deer management program. He explained that the parcel contained substantial huntable acreage as well as two large meadows with extensive native plant communities. He cautioned that without management, increasing deer activity posed a threat to those meadows and to the surrounding understory, similar to what the Commission had already observed at Piper Farm, where heavy browsing had eliminated much of the ground layer vegetation.

He also pointed out that the property had shown evidence of past illegal hunting activity, such as the placement of trail cameras, and he argued that allowing licensed hunters to manage the land would not only help control deer impacts but also provide an official presence that could discourage such illegal use. He estimated that Landham Brook could reasonably support two hunters, given the approximately 17 acres available for hunting.

At this point, Comm. Holtz, who owns property abutting Landham Brook, announced that he would recuse himself from the vote on whether to open Landham Brook to hunting, though he planned to participate in the vote on the deer management program as a whole.

He expressed concern that hunters might mistakenly cross onto his land and asked how such boundaries would be marked. Land Manager Miller responded that the Town had been systematically posting boundary markers on its conservation parcels, although the process was slow and ongoing. He explained that landowners could post their own private property signs to supplement Town signage. In addition, he said hunters were carefully instructed on the limits of each parcel, they were required to use GPS-based mapping apps to ensure they remained within the legal boundaries, and any requests to relocate tree stands required prior approval.

Coordinator Capone added that the Commission would assist with placing Town-issued boundary signs where feasible, but the Town did not provide signage directly to abutters. Land Manager Miller emphasized that in addition to boundary management, the program enforced strict setbacks: hunters were not permitted within 200 feet of roads, within 500 feet of residences, and must remain out of the line of sight of trails. He concluded that with those rules and oversight in place, opening Landham Brook would expand the program responsibly while protecting sensitive natural resources.

Comm. Faust asked about the trail network at Landham Brook and how it compared to other hunting sites. Land Manager Miller responded that while there was only one main trail through the town-owned portion, the property abutted additional parcels with trails, including SVT and Water District lands. He emphasized that the vast majority of the huntable area was outside the setback zones and that all tree stands would be positioned to avoid impacting people using the trails. Hunters generally preferred to remain deep in the woods to minimize disturbance and maximize effectiveness.

Comm. Porter inquired about the deer population at Landham Brook. Land Manager Miller stated that no formal counts were conducted, but deer were frequently observed, and the property displayed clear signs of deer activity. He noted that many deer move across adjacent properties, so a precise population estimate was not available.

Chair Henkels then opened the floor to public comment.

Margie Peppercorn of 28 Sawmill Lane, a longtime Sudbury resident and former pediatrician, expressed strong opposition to the program. She questioned the necessity of annual hunting, noting that only six deer had been taken the prior year, and argued that bow hunting was cruel and inhumane compared to sharpshooting. She maintained that there was no clear evidence that the program benefited undergrowth management, Lyme disease prevention, or deer-vehicle collision reduction.

Kanwal Usman of 12 Maynard Road asked about hunting on private lands. Land Manager Miller clarified that hunting on private property was governed by state law and not managed by the town, though Conservation Restrictions could impose additional conditions.

Ben Perrone of 38 Morgan Circle asked whether setbacks were measured from property lines or buildings. Land Manager Miller confirmed that setbacks were measured from structures, not property boundaries, and described coordination with adjacent SVT landowners to ensure hunters remained on town property. Mr. Perrone confirmed that the 500-foot setback from dwellings had been verified.

Comm. Rogers asked for clarification on whether there was a routine check to ensure hunters' skills remained current. Land Manager Miller explained that all hunters were required to pass a proficiency test every five years, and all participants had been recently verified under this requirement.

Before proceeding to the motions, Coordinator Capone noted a modification to the program regulations that Land Manager Miller wanted to present.

Land Manager Miller proposed capping the number of stands each hunter could maintain at four. He explained that while most hunters typically used one to three stands, some used more, and the cap would ensure equitable distribution of hunting areas for all participants. Additionally, the cap would reduce the time required for field inspections, which currently involved verifying over 100 potential stand locations across the properties.

Comm. Rogers asked how the cap would be applied, noting her unfamiliarity with deer hunting logistics. Land Manager Miller explained that the cap applied to total locations per hunter, and that hunters generally coordinate among themselves to ensure equitable coverage of the land. He emphasized that many hunters with smaller hunting areas would naturally use fewer stands.

Comm. Rogers questioned whether, given that 31 stands were counted at the end of the prior season, the cap should be set lower. Land Manager Miller clarified that the 31 stands reflected those remaining at the end of the season and that additional locations were inspected throughout the season to accommodate hunters' movement and deer behavior. He reiterated that the cap of four stands simplified administration without restricting hunters' effectiveness.

Chair Henkels outlined that there were three motions to be considered: renewal of the deer management program from October through December of the current year, approval of bowhunting on Landham Brook Conservation Land, and adoption of the new program requirements regarding the number of stands per hunter.

Comm. Porter asked for clarification regarding the number of hunters allowed on Landham Brook. Land Manager Miller confirmed that two hunters were proposed.

Comm. Holtz asked whether or not approving Landham Brook for hunting would prevent two new hunters from joining the program or redirect them to other parcels. Land Manager Miller responded that no new hunters had yet been contacted. Approval of Landham Brook would allow for two additional hunters to enter the program. If the property were not added, the prospective hunters would remain on the waiting list. New participants would first have an interview with staff, demonstrate alignment with program goals, and pass a proficiency test before being permitted to hunt.

On motion by Comm. Cook to continue the deer management program, seconded by Comm. Faust, via roll call the vote was unanimous in the affirmative.

On motion by Comm. Faust to limit hunters to four locations, seconded by Comm. Rogers, via roll call the vote was unanimous in the affirmative.

On motion by Comm. Cook to open Landham Brook Conservation Land to hunting, seconded by Comm. Rogers, with Comm. Holtz abstaining due to his status as a direct abutter, via roll call the vote was unanimous in the affirmative.

Adjourn Meeting

On motion by Comm. Faust to adjourn the meeting at 8:26 PM, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.