



SUDBURY CONSERVATION COMMISSION MINUTES
Meeting Minutes of Monday, June 5, 2023

Present: David Henkels, Chair; Ken Holtz (7:42 PM), Vice Chair; Jeremy Cook; Luke Faust; Bruce Porter; Kasey Rogers; Mark Sevier; and Lori Capone, Conservation Coordinator

Absent: None

The meeting was called to Order by Chair Henkels at 7:00 pm.

Minutes

On motion by Comm. Cook to accept the minutes of the April 10, 2023 meeting, seconded by Comm. Rogers, with Comm. Porter abstaining due to his absence at said meeting, and Comm. Faust abstaining due to his Associate Member status during said meeting, via roll call the vote was unanimous in the affirmative. Comm. Holtz was not present for this vote.

Wetland Applications:

Notice of Intent: 1 Liberty Ledge (Camp Sewataro), DEP #301-1393

Chair Henkels re-opened the Notice of Intent Hearing to construct handicap accessible parking, walkways, and picnic areas within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw, continued from May 8, 2023.

Coordinator Capone stated that the Hearing had been continued to allow for the stormwater review to be completed. There was an initial rush to get the project done before the camp opened for the summer. This was not possible, so the project start date is now scheduled for September. The engineer requested a continuance to allow time to address comments from the stormwater review. The Commission's concerns have been relayed to the Planning Office. The preference was that as much water as possible could be captured in the proposed bioretention area. The peer review has not been received yet and recommended the hearing be continued to June 26th.

She further stated that there was a water line burst over the weekend. Immediate action was taken, but some siltation travelled down the driveway. This is in same general location as the parking lot. They have re-seeded the area of disturbance. There is a chance of additional siltation, so the Coordinator asked them to install erosion controls in front of the wooden grate. There is a discharge pipe that discharges stormwater into an overflow area between the swim and fish pond, near the waterfall. There is no visible siltation at the outfall.

She further stated that she received a complaint regarding work on the path around the fishing pond. The Camp said there were some small depressions filled with stone dust. Vegetation was cleared around the path which is part of the general maintenance.

Sandra Duran, Town of Sudbury Director of Facilities, stated that the start date of the project might be in mid-August.

In response to Comm. Rogers, Coordinator Capone stated that she will inspect the erosion controls tomorrow. Comm. Rogers expressed her hope that the Camp would be better about communication in the future.

On motion by Comm. Rogers to continue the Hearing to June 26, 2023, seconded by Comm. Porter, via roll call the vote was unanimous in the affirmative. Comm. Holtz was not present for this vote.

Notice of Intent: 4 Demarco Road, DEP #301-1392

Chair Henkels re-opened the Notice of Intent Hearing to construct an addition and expand the septic system and driveway within the 100-foot Buffer Zone and 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw, continued from May 8, 2023.

Coordinator Capone stated that additional work had been done since the last meeting with the Commission. They have installed a pervious walkway and apron to the garage. She made the consultant aware that any further activity will likely result in the issuance of an Enforcement Order. She didn't issue an Enforcement Order for the walkway and garage because it is in front of the house.

In response to Chair Henkels, Coordinator Capone stated that she did not believe that the consultant knew the work was occurring.

On motion by Comm. Rogers to continue the Hearing to June 26, 2023, seconded by Comm. Porter, via roll call the vote was unanimous in the affirmative. Comm. Holtz was not present for this vote.

Notice of Intent: 58 Massasoit Avenue, DEP #301-1376

Chair Henkels re-opened the Notice of Intent Hearing to demolish and reconstruct a single-family home within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw, continued from September 12, October 3, and October 17, 2022.

Coordinator Capone stated that the applicant has submitted drainage calculations as required for the stormwater permit. They are currently working with the Planning Office to complete this review and have requested a continuance to June 26th.

On motion by Comm. Porter to continue the Hearing until June 26, 2023, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative. Comm. Holtz was not present for this vote.

Notice of Intent: 438 Concord Road, DEP #301-1395

Chair Henkels opened the Notice of Intent Hearing to replace the septic system and shed within the 100-foot Buffer Zone, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Mr. Matt Marro, environmental consultant, and representative to the applicants, Mr. & Mrs. Raffi & Silva Kotikian, was recognized for his presentation.

Mr. Marro stated that the project is to replace a septic system within the Buffer Zone. The existing system will be abandoned in place per Title V requirements. The applicant is also requesting permission to regrade a small area of the lawn. This will consist solely of evening it out with 1-2 feet of loam. The shed will be removed and replaced in-kind, a little further from the edge of wetland. The existing shed is within 50 feet of the wetland, but the proposed shed will be outside of this zone. The septic system will be about 1,000 square feet in area. The yard grading will be about 2,045 square feet, for a total of 3,045 square feet of disturbance within the Buffer Zone. The erosion controls will be wattles and silt fence.

Coordinator Capone stated that, whereas the system is currently in failure, she has prepared an Order of Conditions for approval tonight. The system could potentially be moved a little further away from the wetland, however, it has been located to ensure they don't encounter the existing system. Also, it is under a patio, and they don't want to remove that to install the new system. The homeowners are good stewards of the property.

She further stated that there are invasive plants that they would like permission to manually remove. There are two sizeable Norway maple trees on the resource area-side of the erosion controls, near the top of the slope. They would also like to remove these. As long as this is done carefully, and the stumps remain, she has no concerns.

She further stated that the drafted Order has incorporated the Perpetual Conditions from the prior Order. These include no expansion of lawn, no sprinkler system within the jurisdiction area, and no yard waste stockpiled within 50 feet of the wetland.

She further stated the size of the new shed should be determined. It will be sited outside of the 50-foot zone, so it is exempt under the Bylaw and the Act. The septic system is within the existing landscaped area and more than 50-feet from the wetland. The leach field is to be surveyed located prior to installation, only because it will be right at the 50-foot offset. Any closer than that and it will not be in conformance with wetland regulations.

In response to Chair Henkels, Coordinator Capone confirmed that the Board of Health has approved the septic design.

In response to Comm. Rogers, Mr. Marro stated that the existing lawn is basically flat, and regrading is just to even it out. The plan implies a 2-foot rise, but it will actually be a 6-inch to 2-foot rise. At the 94-foot elevation, no regrading is proposed. He further confirmed that no retaining wall will be needed.

In response to Comm. Faust, Mr. Marro stated that the area of the existing shed will be loamed and seeded. Mr. Kotikian added that the existing shed is about 4-feet by 8-feet in area, and the new shed will be 8-feet or 12-feet by 10-feet.

On motion by Comm. Cook to close the Hearing, seconded by Comm. Porter, 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. Comm. Holtz was not present for this vote.

Notice of Intent: 110 Codjer Lane, DEP #301-1394

Chair Henkels opened the Notice of Intent Hearing to construct a storage building within the 100-foot Buffer Zone and 200-foot Riverfront Area, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Mr. Brian Marchetti of McCarty Engineering, and representative to the applicant, Mr. Paul Cavicchio, was recognized for his application.

Mr. Marchetti stated that the property is 20.8 acres in size. Last October, there was a fire in one of the storage buildings. They propose the exact replacement of that building, with the exact same footprint. After the fire, there was some damage to the Bordering Vegetated Wetland immediately adjacent to the building. The building is at the top of a slope, in a paved area. Last fall, EcoTec was employed to do restoration work approved by the Commission. The restoration plan will be implemented by the end of this week, or the beginning of the next.

Mr. Marchetti further stated that they are requesting the replacement of the burned structure, which is 5,665 square feet. It will not have a foundation. It will be a plastic greenhouse, similar to others on the property. Metal tubes drilled into the ground provide a structural frame. The structure is only used for storage of bagged peat moss and mulch. It will not be used as a greenhouse.

Mr. Marchetti further stated that the structure will be within the Buffer Zone. There is a floodplain nearby, but is down the embankment, and the building is not in the flood zone. It is within the Outer Riparian Zone, in previously disturbed area that is currently paved. The plan shows the concrete pad and surrounding asphalt pavement. There will be no expansion of the building or increase of impervious area. The edge of the Bordering Vegetated Wetland was flagged by EcoTec last fall.

Mr. Marchetti further stated that they will core through existing pavement to insert metal poles. Erosion controls will be controlled by a row of silt fence and wattle positioned downslope of the building.

Coordinator Capone stated that where this is a building that was in existence prior to the Act or the Bylaw, the applicant has more leeway with the project. This is not the preferred location for the building, however, there is nothing to prohibit the plan from being approved.

She further stated that mitigation plantings are underway. Her main concern was that the restoration was not completed as required by Emergency Certification. If this is completed this week or the next, the conditions of the

Emergency Certification will be satisfied.

Mr. Marchetti stated that the restoration work will be done this week. Due to lack of availability of the tree species proposed in the plan, alternative tree species have been identified by EcoTec. Coordinator Capone added that there are already a lot of red maples in the restoration area. Diversity of tree species is the preference of the Commission. Mr. Marchetti stated that he would report tomorrow on what species are available for planting.

Coordinator Capone stated that there is some trash and invasives in the restoration area. Phragmites is widespread and therefore too difficult to control. However, there is also honeysuckle in the area which is not present anywhere else nearby. She encouraged the applicant to carry out invasives removal prior to planting.

Coordinator Capone further stated that the asphalt in place is in disrepair and questioned whether this would need to be resurfaced. She stated that this is a tight site, but encouraged the applicant to look for opportunities to move the project away from the wetlands. She noted a 30-foot gap between the buildings. In response, Mr. Marchetti stated that this gap was present previously. The fire code minimum is a 10-foot gap, which is required for accessibility for machines and trucks. They didn't want to move the building and risk triggering different permitting requirements. Furthermore, the smaller the gap, the higher the risk that heavy equipment won't fit.

In response to further questioning by Coordinator Capone, Mr. Marchetti stated that a greenhouse is preferable to a wooden structure because there is less combustible material. There will be no sprinkler installed, but the building is just steel post and plastic shell. The footings will be installed using a drill to auger an approximately 4-inch diameter hole. They will force a steel sleeve into the ground, into which they will slide the pipes.

In response to further questioning by Coordinator Capone, Mr. Marchetti confirmed that the large dumpster that was near the building prior to fire will be kept in the same location. Coordinator Capone stated that a fence would prevent trash entering and contributing to the degradation of the wetland. Additional mitigation is not needed to offset the project, however, any opportunities to clean up the site are encouraged. She recommended that the Commission request a continuance to June 26 to allow for the drafting of the Order.

In response to Chair Henkels, Coordinator Capone stated that the only item outstanding from the Emergency Certificate was the planting. If that is completed this week or the next, the Emergency Certificate will be satisfied prior to the issuance of the Order of Conditions.

In response to Comm. Porter, Mr. Marchetti stated that doors will be on the south side of the building. There is no room to access the building on the east side, near the wetlands. Mr. Marchetti stated that Hop Brook is located to the North and East. The 100-year Flood Plain is down slope from the site and doesn't reach the paved area. He confirmed that the shed is safe from flooding.

Chair Henkels stated that his principal concern is protecting the integrity of Hop Brook. He expressed a hope that this project protects the resource areas more so than in the past.

In response to Comm. Porter, Coordinator Capone stated that the project is located in the middle of the stretch of Hop Brook that runs through town.

On motion by Comm. Cook to continue the Hearing to June 26, 2023, seconded by Comm. Faust, with Comm. Holtz abstaining due to his late arrival, via roll call the vote was unanimous in the affirmative.

Abbreviated Notice of Resource Area Delineation: Concord Road (Parcel E12-0007), DEP #301-1396

Chair Henkels opened the Abbreviated Notice of Resource Area Delineation Hearing to approve the Bordering Vegetated Wetland delineation, pursuant to the Wetlands Protection Act and Sudbury Wetlands Administration Bylaw. Mr. David Crossman, a wetland consultant for B&C Associates, and Mr. Aidan Schlotman of Stamski and McNary, Inc., representative to the applicant, Mr. Daniel Dillon, were recognized for their presentation.

In response to Chair Henkels, Mr. Crossman confirmed that it was he who completed the wetland delineation.

Mr. Schlotman stated that there are numerous wetlands on-site, and that they are requesting confirmation of the delineation. The total wetlands area measures about 7,000 linear feet. They have narrowed the scope of the project.

Mr. Crossman stated that Lori and he will visit the site on Thursday.

In response to Chair Henkels, Mr. Crossman stated that the site is an existing farm field. The soils are very distinctive, hydric soils with some bright, upland brownish soils. These extend into the farm field. Along Concord Road is a wet area. There is a pond in the middle, to the right of the westmost field. It drains the wetlands out of the woods. The frontage for all three fields is wet. At the bottom right corner of field there is a cart road entrance. There is a hedgerow separating the eastern two fields, which has a gully about 2-3 feet deep that drains water towards the front of the street. The field is wet along the right side.

In response to Chair Henkels, Mr. Crossman stated that the delineation was performed last summer. The gully doesn't hold water but rather directs it towards the front of the site. Some areas could be considered vernal pools but they are not on this part of the property. There are numerous potential resource areas in the woods, which is the reason they are not presenting the whole property to the Commission. There are some trails for hiking. He confirmed that the property across the street is owned by the United States Fish & Wildlife.

Coordinator Capone stated that it was hard to determine the wetland line, and expressed the intention to walk the field on Thursday to evaluate the boundary. The site has been altered for decades. It is an agricultural field with churned-up soil, which is hard to read, and all wetland vegetation is removed. If the Thursday site visit is unsuccessful, she will recommend that the Commission request a peer review. There was one test for a septic system, which estimated seasonal high ground water to be 28 inches below grade. This is very high, and the flagging was done under drought conditions.

She further stated that the majority of field is within the 100-year Floodplain. There is a wetland in the woods that may be a vernal pool.

Mr. Crossman stated that, in the bottom left corner of the field, it appears that there may have been a structure a long time ago. This was suggested by the fact that he had dug up multiple bricks while auguring the soil.

In response to Comm. Holtz, Chair Henkels stated that the cart path is not greater than 10-feet wide, and is very narrow. Mr. Crossman added that the path is depressed from vehicle passage, and a large puddle forms there when it rains. It was difficult to delineate this area because the soils are very compacted from use by farmers and hunters. The soil underneath is not wet because compacted soil doesn't allow water to be absorbed. The soil is not indicative of hydric soils, and are on the brown side. In wetlands the ground water is close to the surface, and soils are gleyed.

In response to Chair Henkels, Mr. Crossman confirmed that there is another vehicle path, to the west in first field, in the bottom left corner. This entrance is in wetlands, as the soils here are very soft and hydric. The right-hand perimeter is also wet, and is the only passage to the middle field. There is a cart path along the tree line to the back.

In response to Chair Henkels, Mr. Dillon, of 1011 Concord Road, confirmed that the land had been in the Chapter 61A Program for a long time.

In response to Mr. Dillon and Chair Henkels, Mr. Schlotman stated that the wetland flagging was carried out in November of last year.

Nick Garofalo, 931 Concord Road, questioned whether the proposed activity might affect stormwater drainage patterns. Chair Henkels reiterated that the focus of this hearing was solely to confirm the delineation.

In response to Chair Henkels, Mr. Dillon agreed to a continuance.

On motion by Comm. Porter to continue the Hearing to June 26, 2023, seconded by Comm. Holtz, via roll call the vote was unanimous in the affirmative.

Other Business:

Associates Member Policy Amendment

Coordinator Capone stated that she has reviewed the Associate Member policy with Chair Henkels. The first three paragraphs are to remain unchanged. They proposed to update the fourth paragraph. Where it states that the Associates are not to sit at the head table during public meetings, the text was recommended to be eliminated.

She further stated that the only other recommended change is to require a minimum attendance of 12 public meetings per year, or half of the scheduled meetings. This will help members to understand the process and the projects before the Commission, and will facilitate a quick transfer to full membership.

In response to Comm. Rogers, Coordinator Capone stated that Mr. Tom Friedlander is not currently an Associate Member. He expressed a lack of interest in being reappointed when his term expired at the end of May. However, he subsequently submitted a letter requesting reappointment. The Commission's vote earlier this year did not include Mr. Friedlander. The Commission will need to take a vote and recommend him to the Select Board. There are no other Associate Members, but the positions were posted after Comm. Faust was appointed to full membership. There weren't any applications at that time, but the positions will be reposted.

In response to Comm. Porter, Coordinator Capone stated that the number of Associate Members was originally limited to two. Because of the low degree of turnover on the Commission, this avoids using limited funds to pay for the training of associates who wouldn't necessarily participate as full members. The Commission can increase or decrease this number at any time.

In response to Comm. Porter, Comm. Faust confirmed that his experience as Associate Member adequately prepared him for serving. He expressed his support for the revision that requires meeting attendance, stating that this is the best way to prepare new members. Comm. Holtz confirmed that he too was well-prepared by his experience as Associate Member.

Comm. Holtz stated that Associate Members should be encouraged to actively participate in the meetings, regardless of whether they are seated at the head table.

In response to Comm. Sevier, Comm. Holtz stated that Mr. Friedlander should review the revised policy before submitting a new application.

On motion by Comm. Faust to approve the Roles, Responsibility and Limits of Authority, as amended on June 5, 2023, seconded by Comm. Sevier, via roll call the vote was unanimous in the affirmative.

Vote for Chair and Vice Chair of Conservation Commission

Coordinator Capone stated that, at Town Meeting, every Committee rotates Chair and Vice Chair positions to give everyone the opportunity to lead each Committee. Chair Henkels has served for two years, and Comm. Holtz as Vice Chair, also for two years. Prior to that, Mr. Tom Friedlander was Chair for ten years. It is advisable to change up roles among Committee members. She added that Chair Henkels is willing to continue serving as Chair, but is also very encouraging of the other members to take on the position.

Comm. Henkels and Comm. Holtz expressed their encouragement for other members to assume leadership roles on the Commission.

Comm. Rogers expressed her appreciation for Chair Henkels' leadership.

On motion by Comm. Porter to nominate Comm. David Henkels to the position of Chairperson, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

On motion by Comm. Sevier to nominate Comm. Ken Holtz to the position of Vice Chairperson, seconded by Comm. Cook, via roll call the vote was unanimous in the affirmative.

Adjourn Meeting

With no further business, on motion by Comm. Sevier, seconded by Comm. Rogers, the Commission voted unanimously to adjourn the meeting at 8:20 PM.