

**Andover Conservation Commission Meeting Minutes  
January 6, 2009**

Town of Andover  
36 Bartlett Street  
3<sup>rd</sup> Floor Conference Room  
7:45pm

**Conservation Members in Attendance:**

Chairman Donald Cooper, Vice Chairman Howard Kassler, Commissioner Alix Driscoll, Commissioner Al French, Commissioner Paul Finger, Commissioner Mike Walsh and Commissioner Gail Ralston. Staff Members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

**SCHEDULED ITEMS:**

**1 Inwood Lane**

**Present in Interest: Fred Snell and Jack Nguyen**

*Staff Recommendation: Agreement with property owner regarding clean up.*

Discussion with property owner relative to an Enforcement Order issued for altering and filling of a bordering vegetated wetland under the custody and control of the Andover Village Improvement Society.

Agent Cleary presented this to the Commission. An Enforcement Order was issued by the Commission on December 16, 2008 requesting that the owner of 1 Inwood Lane appear before the Commission after a complaint was filed by AVIS regarding illegal dumping which had occurred on AVIS property. Mr. Nguyen informed the Commission that a neighbor's landscaper had been putting lawn material in the wetland, so he assumed it was OK. Mr. Nguyen agreed to clean up the bordering vegetated wetland as soon as the snow melts. Commissioner French recommended the Commission send a letter to the neighbor regarding their landscaper dumping yard waste in the BVW on AVIS property.

Chairman Cooper asked for a Motion. Vice Chairman Kassler made a Motion to have Mr. Nguyen clean up the BVW by April 1, 2009 or an Enforcement Order will be issued and to send a letter to the neighbor informing them that dumping yard waste into the BVW is prohibited. The Motion was seconded by Commissioner Driscoll and unanimously approved.

**14 off Webster Street**  
**Present in Interest: Gayle Wells**

*Staff Recommendation: Approve as Pos.2b, Neg.3 and Neg.6.*

This is a Public Meeting on the Request for Determination of Applicability filed to determine if the resource areas are accurately delineated and if the proposed installation of a subsurface sewage disposal system is subject to the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law.

Agent Cleary present this to the Commission. The filing is complete and under the WPA only. No waivers are requested. This is an upgrade of an existing septic system with BVW upgradient of the proposed work. The non-disbturb zone is basically at one corner of the front lot line. Erosion control is not necessary as there is no resource area in the rear of the property. Not ruling on the flagging of BVW which appeared acceptable, but was under snow cover.

Chairman Cooper asked for a Motion. Vice Chairman Kassler made a Motion to Approve as Pos.2b, Neg.3 and Neg.6, it was seconded by Commissioner French and unanimously approved.

**250 Andover Street**  
**Present in Interest: Richard Mazzaresse**

*Staff Recommendation: Not subject to regulations.*

This a Public Meeting on the Request for Determination of Applicability filed to determine if the proposed paving of an access way to property from 248 Andover Street, removal of an existing wall and proposed paving from boundary of 250 Andover Street to exiting paved way on 248 Andover Street at 250 Andover Street is subject to the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law.

Mr. Douglas presented this to the Commission. The Applicant is building a garage and must relocate the driveway. The only access is the driveway on Conservation land. No resource areas will be impacted. The house was built in 1847 and the driveway proceeded ownership of the land by the Conservation Commission. The Town is researching for an easement. Commissioner Finger stated that this project is not subject to regulations, however they will need Conservation permission to make sure the work is done within the easement. This will entail obtaining survey work and staff to check with Town Counsel to confirm the rights of the applicant to proceed.

Chairman Cooper asked for a Motion. Vice Chairman Kassler made a Motion that the Commission has no objection to the proposed paving of a small portion of Conservation land pending approval by Town Counsel, with the work area of approximately 18 feet

wide by 4 feet long. The Motion was seconded by Commissioner Driscoll and approved. Commissioner Finger was opposed to the RDOA.

### **7 Skopelos Circle**

**Present in Interest: Dylan Cadwaldader and Larry Casha**

*Staff Recommendation: Continue until Applicant files requested waivers per the By-Law, provides more specific detail of proposed work on a stamped plan, including location of fencing and other structures relative to the 25 foot non-disturb zone, place stakes in location of markers which were previously accepted by the Commission, etc.*

This is a Public Meeting on the Request for Determination of Applicability filed to determine if the proposed construction of a four season room under the existing deck and the replacement of existing decking and hand rails is subject to the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law.

Agent Cleary presented this to the Commission. The work is under the WPA and By-Law and requires further waivers for plan requirements-50 foot offsets and waivers for a professionally stamped plan. There needs to be a more specific detail of the proposed work with dimensions of proposed work depicted on plan and distances from wetland, including any change in contours, the location of the new erosion control line and tree line needs to be depicted along the wetland line. The location of existing structures (6 foot stockade fence at/near/or over the 25 foot non-disturb, large trellis and shed) not previously approved by the Commission needs to be shown on the plan. The 25 foot non-disturb markers were not located for staff to determine if fencing and additional structures are within the 25 foot non-disturb. Since the Notification of Satisfactory Completion of Work was issued on October 31, 2002 there has been a change in ownership of the property.

Commissioner Finger recommended we determine the work that has been done since the Notification of Satisfactory Completion of Work Certificate was issued in October 2002. The proposed work is OK, but we need existing conditions on the submitted plan or an as-built plan. The Applicant may want to withdraw until the as-built plan is done showing the fence placement, non-disturb markers, size of addition, grading and the sedimentation control line is revised.

Chairman Cooper asked for a Motion. Vice Chairman Kassler made a Motion to Approve the Motion to Withdraw Without Prejudice, it was seconded by Commissioner Ralston and unanimously approved.

### **Riverina Road**

**Present in Interest: Bill DeLuca and John Murphy**

*Staff Recommendation: Close Public Hearing and Issue Order of Conditions.*

This is a Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed reconstruction of a wall and fence within the 100 foot buffer zone and Riverfront at Riverina Road.

Mr. Douglas presented this to the Commission. The filing is complete and under both the WPA and By-Law. Waivers are requested for plan requirements, contours and tree-line. The project is well inside our usual setbacks but is limited in scope. The historic wall along the Shawsheen River is in need of repair. The project is on Town land but will be repaired by a private party. Part of the fence has been compromised and is now a safety issue. The project should not affect the River. The work is within the Riverfront and within flood plane, so vertical limbing within 2 feet of the wall only will be allowed.

Chairman Cooper asked for a Motion. Vice Chairman Kassler made a Motion that bordering land subject to flooding is in a previously disturbed area, the work within the Riverfront will be to repair the existing fence with no requirement for the 25 foot non-disturb zone, trees may be removed within 2 feet of the wall, a lockable gate to be installed for access and no erosion control is necessary. The Motion was seconded by Commissioner Ralston and unanimously approved.

Commissioner Finger made a Motion to close the public hearing and issue the Order of Conditions, it was seconded by Commissioner Ralston and unanimously approved.

#### **407 South Main Street**

*Staff Recommendation: Continue to confirm wetland boundary.*

This is a Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed demolition of an existing dwelling and the construction of a new single family dwelling and driveway.

Agent Cleary presented this to the Commission. The filing is not complete and is under the WPA and By-Law. Agent Cleary viewed the project on two different days, both of which presented the site with snow cover. Upon some "spot" augering, staff does not agree with the flagging from 3A on as it appears to be too far back. Since the setback line has not been agreed upon, we cannot determine whether waivers will be required or if our setbacks and regulations will be met. A small red maple swamp runs in the rear of the property as well. The Applicant has requested a continuance to a date uncertain.

Chairman Cooper asked for a Motion. Commissioner Finger made a Motion to Continue to a date uncertain, it was seconded by Commissioner Ralston and unanimously approved.

## **11 Prides Circle**

**Present in Interest: Lisa and Mark Lapp and Steve Erikson**

*Staff Recommendation: Approvable at Commission's discretion.*

This is a continued Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed construction of an in-ground swimming pool, Jacuzzi, patio, retaining wall, grading and associated sitework.

Mr. Douglas presented this to the Commission. This was continued to allow the Commission a site visit. This is a complete filing under the WPA and By-Law. Waivers are requested for the setbacks for the pool and no-cut zone. This project is much closer than normally permitted, however as discussed on the site visit, the new homeowner had an expectation of a larger yard and pool which was shown on a previous plan. The lawn has been moved up to the buffer and 2 trees have been removed, in violation of an SOC.

Commissioner Ralston's concern is that the previous plan for the pool in that area had been approved and if the Commission did not approve the project, they would be second guessing a previous Commission's decision. She would like more protection in the backyard near the stream and some buffering along the border as a visual separation between the backyard and the wetland.

Commissioner French agreed that the new homeowners were not informed of the wetland conditions by the 1<sup>st</sup> homeowner. He would like to see permanent markings or monuments installed.

Commissioner Finger suggested monumentation at 15 feet, approve the pool where it is and the swing set is OK.

Chairman Cooper asked for a Motion. Vice Chairman Kassler made a Motion to install permanent markers at 10 foot no-disburb in proportion to the existing lawn, with the constrained conditions, the five feet is relatively important. 2 trees to be removed and the swing set to removed eventually. The Motion was seconded by Commissioner French and approved. Commissioner Finger abstained.

## **52 Williams Street**

**Present in Interest: Steve Rosenberg, Paul Russo and Ben Osgood**

*Staff Recommendation: Approve.*

This is a continued Public Hearing on an Abbreviated Notice of Resource Area Delineation filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law, to determine the accuracy of the boundary of bordering vegetated wetland.

Agent Cleary presented this to the Commission. This was continued from October 7, 2008 for consultant to depict flagged bank, bordering vegetated wetland, Mean Annual High Water, and 200 foot Riverfront Area. Staff contacted Homeowners Association to resolve outstanding dam issues. The property is in the Riverfront and the new plan depicts riverfront, 100 foot buffer and bank which has been flagged.

Chairman Cooper asked for a Motion. Commissioner Finger made a Motion to Approve, it was seconded by Commissioner Ralston and unanimously approved.

### **ACTION ITEMS:**

#### **40 Dale Street**

*Staff Recommendation: Approve.*

Ratification of Emergency Certification issued per order of the Board of Health for a blocked sanitary sewer line which was affecting drinking water.

Commissioner Finger made a Motion to Approve, it was seconded by Commissioner Ralston and unanimously approved.

#### **8 Acorn Drive**

Sign Certificate of Compliance voted on at the meeting of December 16, 2008.

#### **Commission Seats**

Commissioner French would like to see Land Management done on a team basis rather than assigned to individually Commissioners. This is too much for one Commissioner. Commissioner French submitted an alternative proposal to the Chairman's.

### **CONSENT AGENDA:**

#### **Minutes**

Approval of minutes for meeting of December 2, 2008

#### **536 Lowell Street**

Issuance of a Certificate of Compliance, which includes the release of the Enforcement Order.

### **60 York Street**

Request for a 3 year extension to the Order of Conditions.

### **12 Fosters Pond Road**

Issuance of a Notification of Satisfactory Completion of Work Certificate.

Commissioner Finger made a Motion to approve the above portion of the Consent Agenda; it was seconded by Commissioner Ralston and unanimously approved.

### **264 South Main Street & 4 Bancroft Road**

Issuance of a Certificate of Compliance.

### **20 Stevens Street**

Issuance of a Certificate of Compliance.

Commissioner Finger made a Motion to table these requests; it was seconded by Commissioner Ralston and unanimously approved.

## **DISCUSSION ITEMS:**

### **Town Meeting Articles**

The amount for the warrant at Town Meeting has been reduced to \$800,000.00 and the RFP needs to go out.

## **INFORMATION ITEMS**

### **Wetlands By-Law & By-Law Regulations Information from Town Counsel**

Town Counsel has provided a copy of new regulations for a comprehensive review.

### **Boy Scout Eagle Project Requirements**

Bob DeCelle submitted requirements for all Eagle Scout Projects providing a timeline and what is expected.

Vice Chairman Kassler made a Motion to Approve, it was seconded by Commissioner French and unanimously approved.

**The next meeting will be held at 7:45pm on January 20, 2008.**

**The meeting was adjourned at 9:45pm by Motion of Commissioner Finger, seconded by Commissioner Ralston and unanimously approved.**

**Respectfully submitted by:**

**Lynn Viselli,  
Recording Secretary**