

**Andover Conservation Commission Meeting Minutes  
August 18, 2009**

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

**Conservation Commission Members in Attendance:**

Chairman Donald Cooper, Vice Chairman Howard Kassler, Commissioner Alix Driscoll and Commissioner Al French. Staff members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

Pam Thorton, chairperson of the Andover Community Gardens introduced herself to the Commission. The first community garden has been established at the senior center for senior citizens and disabled people. There are trellis vegetables, high vegetable beds, perennials and herbs. The plan is to have more gardens planted on land owned by the Andover Housing Authority.

At 7:50pm on a Motion by Vice Chairman Kassler, seconded by Commissioner Driscoll the Conservation Commission entered into Executive Session to discuss pending litigation and then return to public session.

**SCHEDULED ITEMS:**

**1 Bancroft Road**

**Present in Interest: John Pearce**

*Staff Recommendation: Approve as Neg.3 and Neg.6.*

This is a Public Meeting on the Request for Determination of Applicability filed to determine if the proposed abandonment of an existing septic system and tie into town sewer is subject to the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law.

Agent Cleary presented this to the Commission. The filing is complete and under the WPA only. A refund of \$250.00 is due the Applicant for submittal under the By-

Law. No waivers are requested. The project does not comply with our regulation setbacks. This is a standard sewer tie-in except that this is one of the three lots that had a drainage pipe put in on South Main Street. The proposed work is 20 feet, more or less, from a bog garden which is doing well. The sewer pipe location at drainage crossing will be determined by the Town Engineer which will be dependent on the elevation of the sewer stub. The Applicant needs to "x" out the Engineer's stamp and initial as plan was modified for sewer connection.

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

**170 Cardigan Road**

**Present in Interest: John and Heidi Marino**

*Staff Recommendation: Approve as Neg.3 and Neg.6*

This is a Public Meeting on the Request for Determination of Applicability filed to determine if the proposed construction of a 26' x 34' addition (884 sq. ft.) including a 24' x 90' driveway is subject to the Massachusetts Wetlands Protection Act.

Mr. Douglas presented this to the Commission. The filing is complete and under the WPA only. Waivers have been requested for engineered plans. The wetlands are further away than shown on the Town Topo map. The project is over 75 feet from an unflagged wetland. Staff recommends monument boundary along the current tree line, this is the 50 foot line. A limit of work needs to be established.

Chairman Cooper asked for a Motion. Commissioner French made a Motion to Approve (with monumentation) as Neg.3 and Neg.6; it was seconded by Commissioner Driscoll and unanimously approved.

**6 Newman Hill Drive**

**Present in Interest: Christopher Welch**

*Staff Recommendation: Approve as Pos.2b and Neg.3 with waiver for engineered plan.*

This is a Public Meeting on the Request for Determination of Applicability filed to determine if the proposed construction of a patio under an existing deck with screening is subject to the Massachusetts Wetlands Protection Act.

Agent Cleary presented this to the Commission. The filing is complete and under the WPA only. Waivers have been requested. This is a "Backyard Project". The Applicant is using a plan for this simple project that was approved by the Commission for a retaining wall (see Consent Agenda for NOSCW for this project by a previous homeowner). Although wetland flagging was not visible, the previously approved retaining wall is 25 feet from the wetland. The previous homeowner has been mowing in the 25 foot non-disturb zone. Staff advised the new homeowner to allow the areas behind the retaining wall to naturalize per the previous conditional DA and upon a subsequent site visit, there is evidence that the new homeowner is not mowing in the non-disturb area.

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

### **3 Black Horse Lane**

**Present in Interest: Richard and Lucia Baldassari, Ralph Sabatino, Jack Sullivan and Arthur Broussard**

*Staff Recommendation: Continue to a date uncertain.*

This is a Public Hearing on the Notice of Intent filed under the Massachusetts Wetland Protection Act and/or the Andover Wetlands Protection By-Law for the proposed construction of an inground pool, patio, retaining wall, and associated site grading.

Mr. Douglas presented this to the Commission. The filing is complete and under both the WPA and By-Law. Waivers have not been requested. The project does not comply with our setback requirements as the retaining wall is 26 feet and does not meet our 30 foot setback. The project has a large separation from the resource areas by a swale and large mowed lawn area. The project consists of squaring off the sloping parts of the property so the

areas of disturbance are already disturbed. The retaining wall will be 6 inches inside the property line to allow for footings. The retaining wall will be as high as 8-10 feet in some sections. The pool is only 15 feet from the lot line. The Applicants have an application before the ZBA for a variance. The pool will have a drywell for excess water. Erosion control will be placed along the lot line by the detention basin. The Applicant is also open to the idea of putting a drainage pipe along the retaining wall to capture any excess runoff.

The question of whether the detention basin was considered a wetland was raised. If the detention basin was constructed under the Order of Conditions, it is not considered a wetland, but Bob will check with DEP.

Arthur Broussard voiced his concerns over the standing water on his property during rainstorms. A previous developer installed a swale angled toward the detention pond to try to divert the water, but he still has much more water than before the construction. He would like to see a peer review done.

Mr. Douglas recommended Janet Bernado. The subdivision is under a Superseding Order of Conditions. The main concern is bringing in fill and adding impervious area and how will that change the runoff from the property. The cost for this would be about \$500 to the Applicant.

Chairman Cooper asked for a Motion. Vice Chairman Kassler made a Motion to continue to a date uncertain with Janet Bernado to visit the property to determine if a full peer review is necessary and the Applicant to send \$500 to cover the cost. The Motion was seconded by Commissioner Driscoll and unanimously approved.

#### **4 Willoughby Lane**

**Present in Interest: Steve Eriksen**

*Staff Recommendation: Continue to a date uncertain.*

This is a Public Hearing on the Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or Andover Wetlands Protection By-Law for the proposed construction of a Carriage House, inground pool, patio, grading and associated utilities.

Agent Cleary presented this to the Commission. This lot is part of the Prides Circle Subdivision which was originally part of a SOC. The lot was created prior to the By-Law with 15 foot setbacks. The plan before the Commission tonight is the same plan approved under the OOC (090-0895 issued by the Commission, not an SOC) with the exception of the addition of the proposed carriage house and inground pool. The filing is complete and filed under both the WPA and by-law. Waivers have been requested for setback of a structure and encroachment into the 25 foot non-disturb zone. Waivers are also necessary for not depicting the tree line and for submittal of a digital file for wetland boundary. The setback for the carriage house is 23 feet, it should be 50 feet; 25 feet for the garage, should be 50 feet; and 31.6 feet for the pool and it should be 35 feet. The Notice of Intent plan filed comports to the original approval by the Commission in all aspects except the inground pool and carriage house. Erosion control is punched out and needs to be replaced. Some wetland flagging may also need to be re-established. The proposed work does comply with the 15 foot setback for the subdivision under the SOC, but does not meet current setback requirements. No mitigation has been offered or provided.

The Commission provided Mr. Eriksen with a list of items to be addressed:

1. Proposed mitigation, planting scheme for naturalized area;
2. 6 foot stockade fence at limit of work line to prevent further encroachment. Mr. Ericksen told the Commission that the Applicant would agree to fencing, just not stockade.

Chairman Cooper suggested a site visit may be in order. Vice Chairman Kassler, Commissioner Driscoll and Agent Cleary will make a site visit. Vice Chairman Kassler would also like the Applicant to redesign the carriage house to better fit the lot.

Chairman Cooper asked for a Motion. Vice Chairman Kassler made a Motion to continue to a date uncertain, it was seconded by Commissioner Driscoll and unanimously approved.

**85 Haggetts Pond Road**

**Present in Interest: Curt Young and Stephanie Sohigian**

*Staff Recommendation: Continue to a date uncertain.*

This is a Public Hearing on the Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed clearing of land, construction of a deck, retaining wall and fence associated with an above ground pool.

Mr. Douglas presented this to the Commission. The filing is not complete at this time and the filing is under the WPA and By-Law. The project does not fully comply with our setback requirements as work will be done within wetlands and this is not mentioned in the Notice of Intent. The Applicant is seeking to comply with our Enforcement Order, and build her desired project. The Applicant has cut trees on Conservation land and dumped material in our wetlands. Plan revisions were submitted at the meeting.

Curt Young informed the Commission that the Applicant has removed the material from the wetland and will replant and seed when the erosion control is in place. Natural Heritage has been notified, but they have not returned any comments yet. The 50 foot setback will be revegetated and the neighbor's property will be cleaned up. Commissioner Driscoll commented that 33 trees had been taken down, some on Conservation land. She also inquired if they were taken off the property by the logger. The Commission informed the Applicant that they would like to see in the restoration plan that invasive species are controlled, and the wetland resource area restored after removal of material by hand.

Chairman Cooper asked for a Motion. Vice Chairman Kassler made a Motion to continue to a date uncertain, it was seconded by Commissioner Driscoll and unanimously approved.

**204 Beacon Street**

*Staff Recommendation: Close Public Hearing and issue draft order of conditions.*

This is a continued Public Hearing on the Notice of Intent filed under the Massachusetts Wetlands Protection Act for the proposed construction of a replacement septic system within the Riverfront Area.

Agent Cleary presented this to the Commission. This was continued from July 21, 2009 for purposes of approval by the Board of Health. The Board of Health has approved the plan before the Commission. The system was moved closer to the street, which is 7 feet further from the wetland. Flags RF8 and 7A are missing and need to be reestablished prior to commencement of work. Non-disturb bounds need to be installed at the current edge of lawn and a reduced plan depicting the same submitted to staff for attachment with the Order of Conditions. Applicant must submit approval from Board of Health under 310 CMR 15.000 as well as all applicable variances pertaining to the same prior to commencement of work.

Chairman Cooper asked for a Motion. Vice Chairman Kassler made a Motion to Close the Public Hearing and issue the order of conditions as drafted; it was seconded by Commissioner Driscoll and unanimously approved.

**ACTION ITEMS:**

**3 Manning Way**

**Lot 5**

*Staff Recommendation: Approve*

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

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

**CONSENT AGENDA:**

**6 Newman Hill Drive**

*Staff Recommendation: Approve*

Issuance of a Notification of Satisfactory Completion of Work Certificate.

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

## **8 Joyce Terrace**

*Staff Recommendation: Approve*

Issuance of a Notification of Satisfactory Completion of Work Certificate.

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

### **Minutes**

*Staff Recommendation: Approve*

Approval of minutes for meeting of July 7, 2009.

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

### **DISCUSSION ITEMS:**

#### **150, 168, 172 Holt Road**

**Present in Interest: Mark Johnson, Bill MacLeod and Maryann Marshall**

The lot does not meet the by-law regulations for the development of a lot. The Zoning Board asked the Applicant to come before the Conservation Commission to request waivers of the setbacks. The original owner obtained a variance from the Zoning Board to build a house closer to the street. The Marshalls purchased the property so they could control the project. The original plan had a larger footprint and was closer to the wetland. The revised plan has a reduced footprint and is further away from the wetlands. The lot consists of 3 parcels. To compensate for the encroachment, the Marshalls are willing to put a conservation restriction on the other 2 lots not comprising the house lot. According to the revised plan, the 25 foot no disturb zone and the 50 foot no build zone will be encroached. The Commission would prefer the conveyance of land instead of a restriction if the Zoning Board will approve.

### **INFORMATION ITMES THAT MAY REQUIRE A VOTE:**

**7 Harwich Lane - Lot 4**

**Present in Interest: Steve Eriksen**

Request from Steve Ericksen of Norse Environmental to continue with inspectional services for Harwich Estates (the OOC under the Act and By-Law calls for a Commissioner approved Inspector).

Vice Chairman Kassler made a motion to continue with the existing policy of Commission approved inspectors, it was seconded by Commissioner Driscoll and unanimously approved.

**15 Spencer Court**

**Present in Interest: Cindy DeAngelis**

Radification of Enforcement Order issued to property due to unlawful trespass, cutting of trees, removal of wood, dumping and operation of motor vehicles on Conservation land adjacent to 15 Spencer Court.

There was cutting of trees on Conservation land and an Enforcement Order was issued. Ms. DeAngelis informed the Commission that the house is under construction and there was a canopy of trees covering the back of the house. She was told the lot line was behind the stone wall, when the stone wall is actually the lot line. The last pine tree fell into the wetlands taking out other trees in the wetland. The tree was cut into logs and left there. She has contacted Steve Stapinski to come out and mark the lot lines.

Commissioner Driscoll made a Motion to ratify the Enforcement Order, it was seconded by Commissioner French and unanimously approved.

**23 Sunset Rock Road**

**Aisling Estates**

**Present in Interest: Steve Eriksen**

Request to approve Norse Environmental Service to conduct weekly inspections at this site.

Commissioner Driscoll made a Motion to continue with the existing policy of Commission approved inspectors, it was seconded by Commissioner French and unanimously approved.

## **Ratification of Beaver Dam Breach**

Blue Herron Area, ratify emergency certification per the Board of Health.

Vice Chairman Kassler made a Motion to Ratify the Beaver Dam Breach, it was seconded by Commissioner Driscoll and unanimously approved.

The next meeting will be held at 7:45pm on September 1, 2009.

The meeting was adjourned at 10:15pm by Motion of Vice Chairman Kassler, seconded by Commissioner Driscoll and unanimously approved.

Respectfully submitted by:

Lynn Viselli,  
Recording Secretary