

**Andover Conservation Commission Meeting Minutes
September 1, 2009**

Town of Andover
36 Barlett Street
3rd Floor Conference Room
7:45pm

Conservation Commission Members in Attendance:

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

SCHEDULED ITEMS:

9 Olympia Way

Present in Interest: Alan Zucchini

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 proposed removal of 6 trees 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 plan and cutting trees within 25 feet of BVW. This is a Backyard Project. The trees proposed to be removed are at the edge of a wetland near the Applicant's house. Recently two other large trees were felled by storms. The surrounding area is well treed so it would not be a loss of habitat. The Applicant has agreed to leave the stumps in place and do no grading or earthwork. The trees to be felled by a bucket truck or crane to minimize disturbance. Chairman Cooper requested some sort of monumentation at the edge of lawn.

Chairman Cooper asked for a motion. Vice Chairman Kassler made a Motion to Approve as Pos.2b, Neg.3, Neg.6 and installation of monumentation at the edge of lawn; it

was seconded by Commissioner French and unanimously approved.

1 Montclair Avenue

Present in Interest: Bill Foster

Staff Recommendation: Approve as Pos.2a, confirming flags 2a through 12A inclusive, Neg. 3 and Neg.6.

This is a Public Meeting on the Request for Determination of Applicability filed to determine if the boundaries of resource areas are accurate and if the proposed demolition of an existing sunroom and screen porch and the construction of 2 additions and a deck are 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. No waivers are requested. This is a Backyard Project. The site has a historically disturbed wetland. The flagging is in the correct location, but sequencing did not comport to plan, but has been corrected in the field. Agent Cleary recommends bounds at the edge of tree line in vicinity of flagging. Yard waste appears to be outside flagged line, but homeowner should ensure that it remains so.

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

268 River Road

Present in Interest: Yang Sie

Staff Recommendation: Approve as Neg.3.

This is a Public Meeting on the Request for Determination of Applicability filed to determine if the proposed construction of a deck 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 for a professional engineered plan. The deck is depicted using the Town Wetland Maps as being closer than 50 feet from the wetland, but in fact, the

wetland is greater than 50 feet from the proposed work. This is a Backyard Project. The wetland is somewhat disturbed, but not by the current homeowner. The edge of lawn is very close to the wetland in the rear of the property. Staff recommends bounds be placed at the edge of lawn to prevent any encroachment into the BVW.

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

**31, 25 & 23 Sunset Rock Road
Celestial Circle (Lot 8)**

Present in Interest: Steve Eriksen, Colin Perry, Mary Ann Perry, John Cronin, Paul Floyd, Jeanine Liddel and T. Ritter

Staff Recommendation: Continue to a date uncertain for peer review.

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 single family dwelling, driveway, driveway culvert, walkways, patio, grading and associated utilities.

Mr. Douglas presented this to the Commission. This is part of the Celestial Estates Subdivision which is under review by our consultants. Mr. Eriksen presented the project to the Commission so the Commission could open the hearing and then continue it to run parallel with the other Celestial Estate filings. A site visit was set for September 13, 2009 at 8:30am.

John Cronin advised the Commission that he recommended a conservation restriction at the first meeting for this subdivision over 5 years ago. If the lots are reorganized or one lot removed, there would be room for a conservation restriction or open space.

Calvin Perry inquired if each lot will be looked at individually or if the subdivision will be looked at as a whole. The lots will be reviewed together but will be filed for a Notice of Intent separately and each lot will get its own Order of Conditions.

Maryann Perry would like to go on the site visit. Steve Eriksen agreed to check with the Applicant and let Don know.

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.

350 Lowell Street Raytheon

Present in Interest: Mike Phillips, Bill Cummings, Janet Bernardo, Tom Liddy and Paul Finger

Staff Recommendation: Close Public Hearing and issue Order of Conditions.

This is a continued 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 construction of 2 additions, site and stormwater improvements.

Mr. Douglas presented this to the Commission. The filing is complete and under both the WPA and By-Law. Waivers have been requested. The project involves new construction and replumbing the areas flows. Paul Finger spoke to the Commission that the entire site is comprised of historic drainage structures, so work is permissible in these jurisdictional areas. The jurisdictional areas are pipes which carry water across the campus and are considered wetlands because they carry water. DEP suggested the Commission not consider this use as a limited project, but the Commission needs to find the structures were built to move water.

Janet Bernardo, who conducted the peer review, agreed that the goal was to improve the flooding issues and the changes proposed imply that there will be an improvement. She also requested that the Commission include as a condition the installation of a splash pad at the outfall from the 36" culvert to mitigate the additional flows through the culvert.

Paul Finger provided a summary of the key points that were included in the Order of Conditions. The Order began with findings associated with waivers from

setbacks, requirements from the drainage swales and drainage pipes, that the drainage swales and pipes were constructed drainage features and that strict compliance with the WPA performance standards would be waived and the requirement for monumentation be waived. Tom Liddy suggested the inclusion of the word "Native" in the requirement for establishment of 75% growth of "Native" vegetation.

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 French and unanimously approved.

ACTION ITEMS:

100 Woburn Street

Staff Recommendation: Approval.

Request for a Certificate of Compliance.

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

31 Lowell Street

Present in Interest: Paul Finger and Leslie Frost

Staff Recommendation: Issue Certificate of Compliance

Vice Chairman Kassler abstained from voting. Request for a Certificate of Compliance. The project is clearly not placed per the sketch drawing approved by the Commission. It is not disputed that the second pond was built without the Commission's approval, and the pond is actually on a neighbor's land. The project appears to be built within a wetland area. If the Commission issues an order, it does not grant any property rights.

Paul Finger informed the Commission that the work was not done in BVW and that the pond was located by Jim Greer. It consists of an ornamental garden, trees, shrubs and perennials and if the deer fence were to come down, it would be ruined. The Applicants will do all required maintenance to keep the water fresh and irrigated and maintain the area around the pond.

The question was raised if the deer fence excludes all wildlife. The pond was originally to be used as a wildlife pond.

Commissioner Driscoll made a Motion to approve the Certificate of Compliance with the fencing down, there was no second.

Commissioner Walsh made a Motion to approve the Certificate of Compliance with the fencing as it is, there was no second.

There was more discussion regarding the exclusion of wildlife by the deer fence. The fence does not allow wildlife to cross directly across the property, but they can move around the fence and go around the property.

Commissioner Driscoll made a Motion to issue the Certificate of Compliance with the complete enclosure fence; it was seconded by Commissioner French and unanimously approved.

Newport Circle

Present in Interest: William MacLeod, Deedee O'Brien and Dick Donovan

Staff Recommendation: Approve.

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

The water line easement issues have been addressed and the culvert has been addressed by a professional engineer. Stormwater management issues have been addressed on how to come up to compliance with current standards.

Ms. O'Brien inquired if the right of way will remain "as is" during the three year extension.

There is no assigned inspector now. The Commission will have to assign an inspector and the silt must be removed from the detention pond as needed.

Vice Chairman Kassler made a Motion to grant the three year extension with routine silt removal and staff to assign an inspector; it was seconded by Commissioner Driscoll and unanimously approved.

CONSENT AGENDA:

Minutes

Approval of Minutes from meeting of July 21, 2009 and August 4, 2009. Approval of Executive Session Meeting Minutes from July 21, 2009.

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

DISCUSSION ITEMS:

Enforcement Orders

Mr. Douglas asked for some input from the Commission for the cutting of trees on Conservation land. Should we require mitigation with a small fine, not jurisdictional fines or take them to Court. Vice Chairman Kassler added that if a large tree was cut down, a tree of the same size should be replanted as mitigation and commercial loggers should be taken to Court. Mr. Douglas suggested hiring an Arborist to let the Commission know what the damages are, then approach the logger with the value to settle or we would take them to Court for treble damages.

Vice Chairman Kassler made a Motion to use \$2,000 out of the Commission's fund to hire an Arborist; it was seconded by Commissioner Driscoll and unanimously approved.

Consultant Inspectorial Fee Schedule

Discussion of fee schedule relative to single family homes. Discussion on requiring 2 months of inspectional fees deposit vs. the current 3 month required at this time. The savings to the homeowner would be roughly \$900.00.

23 Sunset Rock Road
(Lot 1 Aisling Estates)
7 Harwich Lane

Attorney Mark Johnson forwarded a letter to Staff that construction on both lots has stopped and a request was made to review the 3 names and quotes of the individuals providing the future inspections.

INFORMATION ITEMS THAT MAY REQUIRE A VOTE:

Town of Andover

DPW @ Mortimer Dam

Issuance of an Emergency Certification for breaching of a beaver dam.

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

Commissioner Candidates

Resumes for potential replacements for Paul Finger are available for review by the Commission. Chairman Cooper asked that the Commission reach on consensus of three or four candidates then research those candidates. Then two or three Commissioners will meet with those candidates and make a recommendation to Buzz.

Deer Discussion

There will be an informational meeting regarding hunting for deer to control the population on Town land. Strictly bow hunting only.

The next meeting will be held on September 15, 2009 at 7:45pm.

The meeting was adjourned at 9:45pm by Motion of Vice Chairman Kassler, seconded by Commissioner Driscoll and unanimously approved.

Respectfully submitted by:

Lynn Viselli,
Recording Secretary

