

**ANDOVER CONSERVATION COMMISSION MEETING MINUTES
DECEMBER 1, 2015**

Town of Andover
36 Bartlet Street
2nd Floor Conference Room
7:45pm

Conservation Members in Attendance:

Chairman Donald Cooper, Vice Chairman Kevin Porter, Commissioner Alix Driscoll, Commissioner Ellen Townson, Commissioner Jon Honea, Commissioner Floyd Greenwood and Commissioner Phil Sutherland (8:25pm). Staff member present was Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

SCHEDULED ITEMS:

93 Haggetts Pond Road

Present in Interest: Danny Thompson

Staff Recommendation: Approve with Plan revision

Public Hearing on a Request for Determination of Applicability filed by Danny Thompson under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed replacement 2 decks with 1 larger deck at **93 Haggetts Pond Road**.

Mr. Douglas presented this to the Commission. The Application is under the WPA only for a replacement deck. The plans presented do not match and the distance from the wetland cannot be determined. Mr. Douglas will meet with the Applicant to come up with one consistent plan for the decision.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to approve the project with the plan revisions discussed; it was seconded by Vice Chairman Porter and unanimously approved.

Route 495 Drainage Improvements

Present in Interest: Sandi Sprague, Keith Saxon

Staff Recommendation: Approve

Public Hearing on a Request for Determination of Applicability filed by Mass DOT Highway Division under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection

By-Law for the proposed drainage maintenance improvements at Fish Brook wetland crossing on Interstate 495 near the I-93 Interchange at **Route 495**.

Mr. Douglas presented this to the Commission. MassHighway is seeking to do maintenance improvements to the headwalls. The work is necessary and our Engineering Department agrees. Sandi Sprague presented the project on behalf of MassDOT. The existing headwalls cannot be located because they are covered with dirt. The headwalls will be moved up the slope, further away from the resource area, and will be easier to maintain in the future. The existing pipe will be filled in and capped. Erosion controls will be in place. This project will be part of a repaving project for Route 495.

“Mr. Douglas to inspect erosion controls prior to the commencement of work” to the Special Conditions.

Commissioner Honea asked that the maintenance be explained. The deep sumps catch the sedimentation which then goes into a stone bowl before moving over the grass swale which will help remove all the sediment. The new placement will make it easier to maintain and clean. Vice Chairman Porter asked the Applicant to confirm that deep sump catch basins were located in this area and asked to review the maintenance plan.

Mr. Douglas stated that mandating deep sump catch basins is beyond the scope of the application before the Commission.

Chairman Cooper clarified that there are catch basins existing, new catch basins will not be installed as part of this project.

Marc Fournier agreed that the stormwater maintenance plan and specs of the catch basins should be received for the record.

Keith Saxon asked if the work was directly in a resource area; if there is an Operations and Maintenance Plan for the stone bowls and he asked that the approval be continued to the next scheduled meeting until all documentation received.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to continue to December 15, 2015; it was seconded by Commissioner Honea and unanimously approved.

Mohawk Road

Present in Interest: Amanda Neville

Staff Recommendation: Approve Waivers and Approve as Pos.5, Neg.3 and Neg.5

Public Hearing on a Request for Determination of Applicability filed by Mass Electric Company under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed installation of two electrical pull boxes at **Mohawk Road**.

Agent Cleary presented this to the Commission. The application is for a minor activity exempt under the WPA, because is it linear in nature under CMR 10.02(2)(b)2.i., but not the By-Law.

Waivers are requested for plan requirements. The area of work is in the Riverfront, BLSF and Buffer Zone. There will be no adverse impacts to resource areas, no net loss of flood storage and no change in contours. They will be excavating down 18 inches and will replace the dirt and reseed.

Chairman Cooper asked for a Motion. Vice Chairman Porter made a Motion to approve the waivers; it was seconded by Commissioner Honea. Vice Chairman Porter made a Motion to approve as Pos.2b, Pos.5 and Neg.3; it was seconded by Commissioner Driscoll and unanimously approved.

Ledge Road Landfill

Present in Interest: Marc Fournier, Magdalena Lofstedt, Keith Saxon, Andrew Miller and Thomas Peragallo

Staff Recommendation: Close Public Hearing and Issue ORAD as drafted

Continued Public Hearing on the Abbreviated Notice of Resource Area Delineation filed by the Town of Andover, Municipal Services Public Works under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, to confirm the boundary of bordering vegetated wetland area at **Ledge Road Landfill**.

Agent Cleary presented this to the Commission. This was continued from November 3, 2015 for the applicant's consultant and the Commission's peer reviewer to arrive at a consensus to the resource areas present on site. The plans have been finalized and the ORAD drafted with findings. The Town is mandated by DEP to cap the landfill.

Magdalena presented the revisions to the Commission. The wetlands on the western side of the landfill were reviewed, culverts located, top of bank, an intermittent stream, Isolated Land Subject to Flooding were also reviewed. LEC made two minor adjustments to flagging and the wetland area demarcated as an isolated wetland is less than 500 square feet.

Tom Peragallo pointed out that flags were added and Natural Heritage Map showed potential vernal pools which will need to be evaluated in Spring, 2016 to determine if the vernal pools are certifiable.

Keith Saxon provided the Commission with a list of Comments/Questions/Concerns for this project. He questioned how the Commission would follow up on the vernal pools in the Spring and if Land Under Water Body was reviewed by LEC. LEC reviewed the entire stream system and ran the stream stats as part of the review. Mr. Saxon stated that the drainage from Chandler Road and beyond drains into the same drainage system as the land fill. Does this make the stream perennial or change the stream stats? The stream is intermittent and no stream stats change. Is the Isolated Wetland connected through drainage? It is not an isolated wetland

because it does not meet the criteria. Mr. Saxon also asked that a revised plan be provided to reflect the lots delineated which Magdalena agreed to do.

The following Findings are included in the decision of the Commission:

1. The Conservation Commission is in partial reliance upon a peer review completed by Thomas A. Peragallo of LEC Environmental Consultants, Inc. Documentation for this review is contained within the Wetland Boundary Peer Review Report dated November 17, 2015 and is incorporated by reference into this Order.
2. The boundaries of BVW, IVFW and Bank are accurate as modified and depicted on the plans referenced in section A7 of this Order.
3. IW-A through IW-F are not protectable under the Massachusetts Wetlands Protection Act or the Andover Wetlands Protection By-law (the Bylaw).
4. IW-B through IW-F are protectable under the federal Clean Water Act.
5. CDM Smith ran engineering calculations as described in their letter dated November 16, 2015 to determine that the depression associated with IW-7 jurisdictionally qualifies for protection as Isolated Land Subject to Flooding. CDM Smith did not run the calculation to determine the boundary of the ILSF. The Applicant must provide calculations in accordance with 310 CMR 10.00 and DEP Program Policy 85-2 to establish the boundary of the ISLF as part of any future permitting efforts.
6. Streams located on or within 200 feet of the project site as evaluated and documented by CDM Smith and LEC are intermittent.
7. Four potential vernal pools (PVP) are located on or proximate to the project site as identified by CDM Smith Plans. A fifth PVP, depicted on MAGIC by the Massachusetts Natural Heritage and Endangered Species Program (NHESP), is located within the utility right-of-way west of the project site. In the spring of 2016, the Andover Conservation Commission will examine these five PVP's to determine their status and certify if they qualify for protection as Vernal Pools.
8. Fish Brook is an Outstanding Resource Water and the entire project site is located within the Fish Brook Watershed and the Andover Watershed Protection Overlay District. Therefore, the site is subject to the increased setbacks and restrictions established in the Bylaw and Bylaw Regulations.

Chairman Cooper asked for a Motion. Vice Chairman Porter made a Motion to close the Public Hearing; it was seconded by Commissioner Townson and unanimously approved.

Commissioner Greenwood made a Motion to issue the ORAD with the revised plans; it was seconded by Commissioner Sutherland and unanimously approved. Vice Chairman Porter made a Motion to include the Findings by LEC Environmental Consultants, Inc., specifically #5, in the approval; it was seconded by Commissioner Driscoll and unanimously approved.

353 Salem Street

Present in Interest: Joan and Nick Orrick, Pam and David Gourley, Susanne Poschmann, Rich Fitzgerald and Bill MacLeod

Staff Recommendation: Continue

Public Hearing on a Notice of Intent filed by Nicholas and Joan Orrick under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed construction of a single family dwelling, sewage disposal system and associated site construction at **353 Salem Street**.

Agent Cleary presented this to the Commission. The filing is under both the WPA and By-Law. There was an OOC issued in the 1970s, however nothing was ever built.

The site conditions do not comport precisely with the plan pertaining to the resources such as possible Riverfront, any flood plain or bordering land subject to flooding, question of accuracy of wetland delineation. Waivers are requested regarding setbacks under the By-Law for not meeting structure setbacks and non-disturb setbacks for new construction. The site is very wet with lots of vegetation and two streams on site.

Bill MacLeod presented the project on behalf of the applicants. Test pits and perc tests have been done and a new septic design has been approved by the Board of Health. Waivers are being requested for inability to meet 25 foot setbacks, but providing mitigation areas which are exceeding the areas not meeting the setback. A post and rail fence is proposed as the limit of work. Stream stats have been done and will be provided.

Annette Fitzgerald, an abutter, stated that the streams run more quickly than they are now due to extreme dry conditions. Has the topography been checked? She would like as many trees preserved as possible.

Susanne Poschmann, an abutter, expressed her concern about the placement of the house and driveway as well as the runoff and flooding in the spring.

Rich Fitzgerald, asked what the setbacks are for septic systems. The setback is 20 feet from the edge of pavement.

Chairman Cooper asked the applicants if they would like to wait until April 1, 2016 for staff to review the wetland line or have a peer review done.

Mr. MacLeod asked if the scope of the peer review could be narrowed.

Commissioner Greenwood stated that even if the applicants wait until April for staff to review the wetland line, a peer review may still be necessary.

Commissioner Sutherland stated that the neighbor's hydrological and flooding issues would be addressed with a peer review.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to continue to January 5, 2016; it was seconded by Commissioner Driscoll and unanimously approved.

211 Andover Street

Present in Interest: Billy Foster, George and Audrey Nason, Bill Dufresne, Devin Afshin, Will and Jenn Ezell

Staff Recommendation: Continue

Public Hearing on a Notice of Intent filed by Mike and Bonnie Haley under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed historic building restoration, addition and site grading at **211 Andover Street**.

Mr. Douglas presented this to the Commission. An Enforcement Order with a \$200 fine was issued asking the property owners to file a Notice of Intent, which they have done. We have jurisdiction over the entire slope due to the impact of the slope to portions of the property within our jurisdiction. Part of enforcement order was to stabilize the slope.

Bill Foster provided information regarding slope stabilization to the Commission. Grading will be done going away from 213 Andover Street and a geotextile mat will be placed with loam on top to secure the mat. A guardrail will be installed for safety at the top of the slope. This property has historically had slope and drainage problems and the applicants are working to correct this.

Neighbors expressed concern about wash outs on the slope and the future flow of water from the site.

Bob Douglas stated that a peer review will be done for drainage, runoff and the trench at the top of the slope.

It was discussed that the fine will be rescinded at a later date when the stabilization is completed.

Vice Chairman Porter made a Motion to allow temporary stabilization of the slope as presented with geotextile fabric, loam and guard rail for safety purposes and authorize a peer review for drainage, runoff and trench; it was seconded by Commissioner Driscoll and unanimously approved.

ACTION ITEMS:

146 Dascomb Road

Update on issuance of Order of Conditions.

LEC is reviewing latest comments and plan set. Continue to December 15, 2015.

Commissioner Driscoll made a Motion to continue to December 15, 2015; it was seconded by Commissioner Townson and unanimously approved.

165 Haverhill Street

Request for Temporary Cessation of Reporting.

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

16 Off Webster Street and 18 Off Webster Street

Request for Certificates of Compliance.

Due to the number of incorrect As-Built Plans which were received and reviewed by the site monitor causing additional site visits, additional site monitoring funds are due by the applicant. Jeff Bridge is forced to provide a credit in the amount of \$1,060.00 to meet the proposal amount. Commissioner Greenwood stated that the expenses were incurred and need to be paid prior to any Certificates of Compliance being issued. Chairman Cooper agreed and did not want to set the precedent of issuing COCs with site monitoring or peer review funds being owed. Vice Chairman Porter made a Motion to deny issuance of the Certificates of Compliance until the site monitoring funds are received; it was seconded by Commissioner Greenwood and unanimously approved.

CONSENT AGENDA:

Minutes

Approval of Minutes from November 17, 2015.

307R Lowell Street

Issuance of a Confirmatory Certificate of Compliance.

18 River Road

Issuance of a Certificate of Compliance.

Commissioner Sutherland made a Motion to Approve the Consent Agenda; it was seconded by Commissioner Greenwood and unanimously approved.

LATE DISCUSSION ITEMS

Eagle Scout Project

Present in Interest: Nikolas Bradshaw, Caroline Page, Marc Fournier and Robert DeCelle

Nikolas provided a sketch of the proposed bench around a tree at the Dog Park. It will be a hexagon shape 2 feet from the trunk of the tree with 6 legs dug 4 feet into the ground.

Commissioner Honea stated that putting posts 4 feet down could harm the roots of the tree.

Marc Fournier informed the Commission that the tree is already under duress and digging holes would only cause further damage. He suggested installing a bench on feet without posts, but

secured to a frame covered with 4-6 inches of compost on the ground. Nikolas agreed to consult with his master carpenter mentor regarding the design change.

Bob DeCelle agreed that more seating is needed at the dog park and while an unusual design, he endorses the project.

Caroline Page, the coordinator for the dog park, supports the project.

Commissioner Driscoll made a Motion to approve the project; it was seconded by Commissioner Honea and unanimously approved.

Commissioner Driscoll made a Motion to match up to \$150 of funds raised; it was seconded by Commissioner Townson and unanimously approved.

Community Garden

Present in Interest: Ann Knowles, Oceanna Schumann, Steve Fink and Marc Fournier

Oceanna presented the plan for the Community Garden to the Commission. The Master Plan states that the Town should support the community garden. The two reservations being considered are the Hammond Reservation or the Retelle Reservation. There will be no pesticides or fertilizers used. The Gardening Board would like two Conservation Commission to act in advisory roles. A survey was conducted and over 80% of the residents expressed an interest in the community garden. The plots will be rented with a portion of this money put aside for closure of the garden.

Commissioner Greenwood expressed his concern with the garden becoming an eyesore on scarce meadowlands. He questioned who would hold the escrow money for the closure.

Marc Fournier suggested the Hammond Reservation as the best location since it is located across from Bald Hill. A micro tunnel can be dug under the road for a 1" water line with a spigot on a post and a water meter. He will look into the Town donating the water or maybe a portion of the rental fee could be used to pay for the water. In the fall the line would be winterized. The compost pile is readily available for use as fertilizer.

Steve Fink added that community gardens are on the upswing in this area, with Lowell being the latest community on board.

Commissioner Townson made a Motion to approve the Community Garden at the Hammond Reservation with further conditions to be provided at a later date; it was seconded by Commissioner Driscoll and unanimously approved.

26 Orchard Street

Update on new beaver dam.

Vote to authorize Enforcement Order. New dam has been reviewed by the Town beaver expert and confirms the current dam is made of gravel and boulders with no localized tree gnawing marks or air bubbles. He concludes the dam is most likely non-beaver in its origin. The dam is on Mr. Ikemoto's property and he is concerned that work was done on his property without his consent.

The new dam is considered an act of vandalism. It was built in a jurisdictional area without the necessary permits nor permission of the land owner. The Commission will issue a friendly Enforcement Order for the removal of the dam. We will be clear that while the vandalism may be on his property, we know that he and his family are not responsible for it. In the Enforcement Order, we require the man-made dam to be gradually de-constructed, this will allow for the gradual lowering of the pond. This was discussed during the site walk and will take place over several weeks. We will notify DEP, Andover PD and Mass Environmental PD and the homeowners surrounding the pond of the enforcement order. We will make a narrow approach trail on our land and resume observation of the pond and dam to assure there is no further human based interference.

Commissioner Driscoll made a Motion to issue the friendly Enforcement Order with conditions listed above; it was seconded by Commissioner Honea and unanimously approved.

Conservation Properties

Discussion of the allowance of metal detectors on Conservation Property.

Tabled to December 15, 2015.

Pustell Reservation

Approval of memorial bench to be placed on the Pustell Reservation.

Commissioner Driscoll made a Motion to approve; it was seconded by Commissioner Townson and unanimously approved.

63 Reservation Road

Present in Interest: Chris Clementi and Ken LaRose

Issuance of Enforcement Order. The building inspector informed staff that the house at 63 Reservation Road was demolished with only a portion of one wall standing the first floor decking. Our permit was for an addition and renovation, not demolition and rebuilding of the dwelling. Mr. Clementi has spoken with the contractor and he misunderstood that dropping the house would trigger a further conservation filing.

Ken LaRose asked that the discussion be postponed until the next meeting to allow the concerns of the Commission to be addressed and the project brought into compliance.

Chairman Cooper stated there was no reason not to issue the Enforcement Order to get the project in compliance as soon as possible and file for the future work.

Vice Chairman Porter made a Motion to issue the Enforcement Order and continue to January 5, 2016; it was seconded by Commissioner Townson and unanimously approved.

The next meeting will be held on December 15, 2015 at 7:45pm.

The meeting was adjourned at 11:15pm by motion of Commissioner Sutherland; seconded by Commissioner Townson and unanimously approved.

Respectfully submitted by,

**Lynn Viselli,
Recording Secretary**