

**ANDOVER CONSERVATION COMMISSION MEETING MINUTES  
DECEMBER 15, 2015**

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

**Conservation Members in Attendance:**

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:**

**366 River Road**

*Staff Recommendation: Issue Enforcement Order*

Continued Public Hearing on a Request for Determination of Applicability filed by Mark Guziejka under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed removal of fill and materials from resource area and replication of resource area at **366 River Road**.

Mr. Douglas presented this to the Commission. A site walk was done with the applicant and his wetland consultant. Revisions to the plan were requested by the Commission, but never received. Staff recommends issuing an Enforcement Order for violation of the agreement to provide a restoration plan and a third Enforcement Order for work on the property within a resource area and not providing a remediation plan.

Commissioner Greenwood stated that we have been “ordering” the applicant for over 6 months to resolve this issue.

Vice Chairman Porter asked for a Motion. Commissioner Driscoll made a Motion to issue the two Enforcement Orders; it was seconded by Commissioner Honea and unanimously approved.

Fines were discussed and the Commission can fine only under the third Enforcement Order only. Vice Chairman Porter stated that the plan must be received by Monday, December 21, 2015 or fines would begin in the amount of \$200 per day until the plan is received.

Commissioner Driscoll made a Motion to approve fines in the amount of \$200 per day beginning December 21, 2015 if plan not received and continuing every day until received; it was seconded by Commissioner Honea and unanimously approved.

**254 Lowell Street**

**Present in Interest: Simon Hildt; Will Morgan, William Stewart Heather Lauten and Samantha Gajewski**

*Staff Recommendation: Continue*

Continued Public Hearing on a Request for Determination of Applicability filed by National Development Acquisitions, LLC under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed construction of 2 senior housing facilities, parking, storm water management systems and landscaping at **254 Lowell Street**.

Mr. Douglas presented this to the Commission. The peer review of the resource areas is complete. There was an error in notifying abutters to this project. The applicant did not notify the abutters of the first hearing, but did subsequently notify the abutters of this hearing. Heather Lauten, an abutter, confirmed no notices were received for the first hearing and per the By-Law, notices are to be mailed at the time of filing and a new filing should be made by the Applicant.

Simon Hildt asked that the Applicant be able to restate the project and not refile as no decision was made nor was there any discussion other than to continue for a peer review.

After much discussion, Samantha Gajewski, representing National Development Acquisitions, LLC, asked to continue to January 5, 2016 to confer with Counsel if a refiling is necessary.

Vice Chairman Porter asked for a Motion. Commissioner Townson made a Motion to continue to January 5, 2016; it was seconded by Commissioner Honea and approved by a vote of 4-1 with Commissioner Greenwood voting against and Commissioner Sutherland abstaining.

**18R Old Campus Road**

**Present in Interest: Bill MacLeod**

*Staff Recommendation: Approve*

**Commissioner Driscoll recused herself from the discussion and sat in the audience.**

Public Hearing on a Request for Determination of Applicability filed by Trustees of Phillips Academy under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed site grading at **18R Old Campus Road**.

Mr. Douglas presented this to the Commission. The project is minor in scope and at the outer limits of our jurisdiction.

Mr. MacLeod presented the project on behalf of the Applicant. There is 2 feet of grading in the outer 20 feet of the 100 foot buffer zone. The existing drainage system is not being disturbed. There will be a new foundation drain which will discharge into the upland over 150 feet from the wetland. The wetland is a wooded area with no clearing. If 25 foot non-disturb markers were to be placed for this project, they would be placed in the forested area.

Commissioner Honea asked if there would be any change in drainage. No change in the drainage.

Vice Chairman Porter asked for a Motion. Commissioner Honea made a Motion to Approve and waive the 25 foot non-disturb markers; it was seconded by Commissioner Townson and unanimously approved.

### **Route 495 Drainage Improvements**

**Present in Interest: Sandi Sprague**

*Staff Recommendation: Approve*

Continued 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. We received the O&M plan details and Mass Dot has agreed to replace the existing catch basins with 4 foot deep sump catch basins. A detailed spec sheet of the catch basins was received. Town Engineer, Brian Moore, agrees that this will be an improvement to the system.

Vice Chairman Porter asked for a Motion. Commissioner Honea made a Motion to close the Public Hearing and issue the Determination of Applicability; it was seconded by Commissioner Driscoll and unanimously approved.

### **ACTION ITEMS:**

#### **3 Manning Way**

Request for Temporary Cessation of Reporting.

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

#### **344 River Street**

Request for Temporary Cessation of Reporting.

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

### **146 Dascomb Road**

Issuance of Order of Conditions.

Ann Marton is doing a comparative study of the plans and has asked to continue to January 19, 2016.

Commissioner Driscoll made a Motion to continue to January 19, 2016; it was seconded by Commissioner Townson and unanimously approved.

### **CONSENT AGENDA:**

#### **Minutes**

Approval of Minutes from December 1, 2015.

#### **20 Elysian Drive**

Issuance of a Satisfactory Completion of Work Certificate.

#### **213 River Road**

Issuance of a Satisfactory Completion of Work Certificate.

#### **400, 600, 800 Bullfinch Drive**

Issuance of a Certificate of Compliance. **Tabled to January 5, 2016**

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

### **LATE DISCUSSION ITEMS**

#### **Conservation Properties**

Discussion of the use of metal detectors on Conservation Properties. The use would be under the Rules and Regulations. Commissioner Greenwood believed this to be a passive use.

Commissioner Driscoll inquired if the artifacts found could be of historical value. Vice Chairman Porter asked if there were any laws governing these artifacts. Commissioner Townson agreed to follow up with the state and with MACC regarding the use of metal detectors on Conservation Land. There will be a Land Group discussion at a future time.

## **Bald Hill**

Discussion regarding animal waste problem at Bald Hill. There have been animal waste bags left behind on most Conservation properties. The Commission agreed to post signage and check with Bob DeCelle and Commissioner Townson will reach out with a public service campaign.

## **63 Reservation Drive**

**Present in Interest: Don Borenstein, Bill MacLeod and Ken LaRose**

An Enforcement Order was issued at the last meeting. Don Borenstein represents the owner of the property and Bill MacLeod presented the plan to the Commission. Vice Chairman Porter stated that the scope of the project has changed as the plans show an existing dwelling, not a proposed dwelling. Ken LaRose informed the Commission that the existing foundation remains with the new additions which were more cost effective to take down to abut to the new areas. The existing floor structure and foundation remain and there is no altering of the footprint or impact to the wetlands.

Don Borenstein stated that this is by-law exempt as “ordinary maintenance” and “building additions” with the studs 8 feet off the ground and not earth disturbing.

Vice Chairman Porter replied that the Order of Conditions did not include demolition of the dwelling and an Enforcement Order was issued because the scope of the project changed dramatically.

Commissioner Greenwood disagreed that the work being done was not ordinary maintenance. Commissioner Sutherland stated that the project is not significantly different than the project we approved.

Don Borenstein asked if the framing could continue on the dwelling. The Commission stated that no work could occur with the exception of “buttoning up the site for safety”. The Enforcement Order contained a cease and desist which was not lifted.

**The next meeting will be held on January 5, 2016 at 7:45pm.**

**The meeting was adjourned at 9:15pm by motion of Commissioner Greenwood; seconded by Commissioner Townson and unanimously approved.**

**Respectfully submitted by,**

**Lynn Viselli,  
Recording Secretary**