

**ANDOVER CONSERVATION COMMISSION MEETING MINUTES
JANUARY 5, 2016**

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 Jon Honea, and Commissioner Phil Sutherland (8:25pm). Staff member present was Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

SCHEDULED ITEMS:

Shawsheen Road

Present in Interest: Chris Sanderson

Staff Recommendation: Approve

Public Hearing on a Request for Determination of Applicability filed by Columbia Gas of MA under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed gas main replacement within existing roadways and/or edge of paved roadway at **Shawsheen Road**.

Mr. Douglas presented this to the Commission. The project is within the existing roadway and the open trench method will be used. Routine filing for this type of work.

Chairman Cooper asked that the waivers be specified in Finding #4.

Chairman Cooper asked for a Motion. Commissioner Honea made a Motion to Approve; it was seconded by Commissioner Driscoll and unanimously approved.

22 Fosters Pond Road

Present in Interest: Kenneth Spatala; Sandy Balway and Kemper Mazzarelli

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

Public Hearing on a Request for Determination of Applicability filed by Kemper Mazzarelli under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed construction of a replacement septic system at **22 Fosters Pond Road**.

Agent Cleary presented this to the Commission. Standard construction of a replacement septic system greater than 50 feet from the resource area. Not ruling on the edge of resource area. The system has been placed as far away from the pond as possible.

Staff also asked to issue Satisfactory Completion of Work Certificate for past work.

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

Commissioner Driscoll made a Motion to issue the Satisfactory Completion of Work Certificate; it was seconded by Commissioner Honea and unanimously approved.

254 Lowell Street

Present in Interest: Simon Hildt, William Stewart, Samantha Gajewski; Markus Pinney; Steve Hoar; L. M. Morgan; and Heather Lauten

Staff Recommendation: Approve

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. Mr. Douglas informed the Commission of the history of the filing for this site and that the applicant has requested to withdraw the original Request for Determination without prejudice due to lack of abutter notification of the first hearing. The Commission will only determine where the resource areas are on site and not the placement of buildings. Staff has visited the site a few times and Markus Pinney was brought in to conduct the peer review.

Simon Hildt presented the project on behalf of the Applicant. Simon presented a timeline of site visits to the property regarding wetland resource area.

April, 2014 site visit by Simon and determined no resource areas on site;

December, 2014 site visit with Mr. Douglas to review property and resource areas to confirm no resource areas on site and wetland area under 5,000 square feet;

November 2015 Markus Pinney on site with Simon to conduct peer review, which included soil testing GPS points taken on all wetland areas.

The small wetland area which is under 5000 square feet, is fed from runoff from the church parking lot. There is also a manmade ditch in the middle of the property with nothing feeding this ditch. The wetlands across the street do not impact this project as the 100 foot buffer does not come onto this site.

Markus Pinney informed the Commission that he viewed the site and suspected resource areas and the ditch. He determined the ditch is not a resource area and the small wetland area along the boundary by the church does not meet the 5000 square foot threshold, therefore it is a nonjurisdictional wetland.

Heather Lauten, an abutter, asked how the small wetland was measured. Both Mr. Douglas and Simon Hildt viewed the wetland in question and extra inches were given on the property side owned by the church in the calculations. The larger system shown on the GIS is a paved parking lot and not a wetland area. The graded lawn of the church slopes to create this small wetland area.

Heather Lauten stated that there is standing water between the wetland and Lowell Street and there are culverts running under Lowell Street going to the wetland across the street.

Simon presented Photo #1 of the application showing a small depression, however the area is relatively flat with no channels towards the culvert headwall and no sign of flow from the site. Heather Lauten questioned the bisecting ditch on the property. The ditch drains under Lowell Street to the wetland with active water which would make it an intermittent stream.

Simon presented Photo #9 of the application showing the manmade channel with material stored in the channel. There was no standing water or flow visible.

Markus Pinney agreed that he did not see any water in the stream on his visit.

The Commission requested the following changes to the Special Conditions

Make finding that we do not have jurisdiction and Waive #3; Waive #8 and Waive #10.

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

133 Holt Road

Present in Interest: Bud Watson

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

Public Hearing on a Request for Determination of Applicability filed by Joseph P. Watson under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed sewer connection at **133 Holt Road**.

Agent Cleary presented this to the Commission. Filing under WPA only for the abandonment of an existing septic system and tie into town sewer. The sewer tie in will go through existing lawn area approximately 30 feet from the wetland.

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

15 Dascomb Road

Staff Recommendation: Approve

Public Hearing on a Request for Determination of Applicability filed by Paul Bernardin under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed construction of off street parking and landscaping at **15 Dascomb Road**.

Mr. Douglas presented this to the Commission. The applicant is seeking to remove a hedgerow of landscape plants and install a road side parking area which will be 25 feet away from a stream. The paved area will be 20x40 feet. Chairman Cooper stated it appeared to be more of a parking lot which would be a zoning issue. He also inquired as to what the hardship is to meeting the setbacks.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to Deny without Prejudice due to lack of compliance with setbacks; zoning approval for parking lot; and parking in Town right-of-way and lack of engineered plans; it was seconded by Vice Chairman Porter and unanimously approved.

28 Boutwell Road

Present in Interest: Srinivasa Rao

Staff Recommendation: Approve

Public Hearing on a Request for Determination of Applicability filed by Srinivasa Rao under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed construction of an addition and deck at **28 Boutwell Road**.

Mr. Douglas presented this to the Commission. The distance from the project to the wetlands is not shown on the plan provided. Vice Chairman Porter informed the applicant that he could use MiMap and draw in the project. Chairman Cooper agreed that the plans need to show the project proposed. He asked for revised plans showing the wetland line, a taped distance from the wetland line to the addition and erosion control on the plan. Staff to assist the applicant with the revised plans.

Commissioner Honea stated that if the project is less than 50 feet from the wetland, he would like mitigation provided and non-disturb markers in place.

Chairman Cooper asked for a Motion. Vice Chairman Porter made a Motion to approve under the condition that the addition is 50 feet from the resource area, revised plans be received with the revisions discussed, and if the project is less than 50 feet from the resource area, the applicant

will come back to the Commission; it was seconded by Commissioner Driscoll and unanimously approved.

63 Reservation Road

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

Staff Recommendation: Continue

Public Hearing on a Notice of Intent filed by Michael Lombard, Trustee of MNH Realty Trust under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed improvement, renovation and construction of an addition on an existing dwelling at **63 Reservation Road**.

63 Reservation Road

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

Staff Recommendation: Continue

Public Hearing on an Amendment to a Notice of Intent filed by Michael Lombard, Trustee of MNH Realty Trust under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed improvement, renovation and construction of an addition on an existing dwelling at **63 Reservation Road**.

Chairman Cooper opened both hearings simultaneously.

Agent Cleary presented this to the Commission. Agent Cleary provided the history of the site including the Order of Conditions issued under the WPA only and an Enforcement Order issued on December 1, 2015 by the Commission requiring a new Notice of Intent under the By-Law and a Request for an Amendment to the Order of Conditions under the Act for unauthorized work of demolishing the existing structure. Staff was alerted that the structure had been taken down and that the house existing upon which the original application was based, does not exist.

The wall and roof of the structure have been removed which means the scope of work has changed. The proponent's position is that nothing has changed. Staff notified the proponent via email that the submittal was not adequate for approval, in fact it was the same exact submission received in for the April 7, 2015 hearing.

Vice Chairman Porter agreed that the existing dwelling has been demolished leaving only the subfloor and foundation which make it a new dwelling requiring a filing under the By-Law.

Don Borenstein, representing the applicant, stated that the construction done was consistent with the Order of Conditions issued.

Chairman Cooper stated that the issue is the difference between maintenance and renovation of an existing dwelling and a new dwelling.

Don Borenstein stated that what is out there now is an existing dwelling with a foundation and first floor decking in place. There will be no further disturbance to the wetland areas.

Chairman Cooper explained that the permitting process based on an addition or maintenance to an existing dwelling is different than a new dwelling and the nature of the project dictates the filing necessary. Mr. Borenstein replied that the By-Law should define an existing dwelling and that staff should have requested building plans (which are the same plans staff received). He also stated that the By-Law does not prohibit what has occurred.

Bill MacLeod presented the plan to the Commission. If the project is subject to the By-Law, the 50 foot no-build line encroaches the lot substantially. He stated the applicant would agree to additional buffer zone markers. Mr. MacLeod also stated that according to the Building Code, this is a level 3 alteration.

Vice Chairman Porter read a paragraph from the Rules and Regulations, “shall not include demolition of an existing single or two-family structure for purposes of constructing a new and larger house”.

Ken LaRose stated that the walls had to come down to meet new additions safety and code compliance as well as energy efficiency.

Don Borenstein stated that the footprint remains the same therefore it is a renovation. The By-law does not define addition. The impact to the wetland is the same.

Agent Cleary stated the reasons the filing is insufficient for not showing existing conditions on the plan. She also stated that in the General Conditions is states that if anything should change the applicant should ask in writing if subject to a filing with the Conservation Commission.

A site visit was scheduled for January 9, 2016 at 9:00am.

Don Borenstein advised the Commission that the applicant is open to mitigation on the lot as they do not wish to lose the project which is well under way.

Chairman Cooper asked for a Motion. Vice Chairman Porter made a Motion to close the public hearing and issue the OOC at the next meeting; it was seconded by Commissioner Driscoll and unanimously approved.

353 Salem Street

Present in Interest: Pamela Gourley and David Gourley

Staff Recommendation: Continue to a date uncertain.

Continued Public Hearing on a Notice of Intent filed by Nicholas and Jane 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 home, sewage disposal system and associated site construction at **353 Salem Street**.

Agent Cleary presented this to the Commission. The applicant has requested to continue to a date uncertain.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to continue to a date uncertain in April a peer review of the resource areas is not ruled out due to inability to make By-Law setbacks and current site conditions; it was seconded by Commissioner Honea and unanimously approved.

211 Andover Street

Present in Interest: Bill Foster, Mike Reilly, Mike Haley

Staff Recommendation: Close Public Hearing and Issue Order of Conditions

Continued 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. The peer review is complete and the slope has been stabilized with the mitigation matting. The site is in compliance with the Enforcement Order issued. In a large storm, the water will be caught in the trench at the roadway and directed to flow away from the slope while reducing the velocity.

Commissioner Driscoll inquired about replanting the slope. Revegetation is part of the plan with the matting. Mr. Haley stated that the slope is seeded to stabilize it and in the spring bushes and trees will be replanted. Chairman Cooper requested a planting plan and schedule be provided to the Commission.

Chairman Cooper asked for a Motion. Vice Chairman Porter made a Motion to close the public hearing and issue the Order of Conditions to include the planting plan and schedule; it was seconded by Commissioner Driscoll and unanimously approved.

Commissioner Honea made a Motion to lift the fine issued with the Enforcement Order; it was seconded by Vice Chairman Porter and unanimously approved.

ACTION ITEMS:

100-110 Corbett Street

Request for 3 year Extension to Order of Conditions.

Commissioner Honea made a Motion to extend; it was seconded by Commissioner Sutherland and unanimously approved.

Lot 5 Jillian Way

Request for Insignificant Change.

Commissioner Sutherland made a Motion to find the change insignificant; it was seconded by Commissioner Honea and unanimously approved.

CONSENT AGENDA:

Minutes

Approval of Minutes from December 15, 2015.

254 Lowell Street

Approval of Withdrawal without Prejudice.

Lot 2 Fraser Drive

Issuance of a Certificate of Compliance

Site monitor advised the lot is not fully vegetated or stable enough for a Certificate of Compliance. Staff visited site today and found a recent scour from the driveway through the rear yard from runoff. There is a significant area of sod, however additional infiltration will be needed.

Commissioner Sutherland made a Motion with withdraw without prejudice; it was seconded by Commissioner Driscoll and unanimously approved.

6 Warwick Circle

Issuance of a Certificate of Compliance. **Tabled to January 19, 2016**

Newport Circle Subdivision

Issuance of a Certificate of Compliance.

400, 600, 800 Bullfinch Drive

Issuance of a Certificate of Compliance. **Table site monitoring funds due.**

100-110 Corbett Street

Issuance of a Partial Certificate of Compliance. Please vote to lift the Enforcement Order, but not issue the Partial Certificate of Compliance.

12 Sagamore Drive

Issuance of a Satisfactory Completion of Work Certificate.

Vice Chairman Porter made a Motion to Approve the Consent Agenda; it was seconded by Commissioner Honea and unanimously approved.

LATE DISCUSSION ITEMS

Executive Session - Tabled

Girl Scout Gold Award Project

Present in Interest: Sarah MacGregor and Robert DeCelle

Sarah provided handouts of her design and construction of a dog agility course at the Dog Park. There will be 5 basic elements made up of PCP pipes and pressure treated wood. These will be low maintenance obstacles which will be constructed off site and transported to the dog park. The obstacles will then be buried underground and filled with dirt. Sarah is fundraising with the Andover Dog Park.

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

The next meeting will be held on January 19, 2016 at 7:45pm.

The meeting was adjourned at 10:15pm by motion of Commissioner Driscoll; seconded by Commissioner Honea and unanimously approved.

Respectfully submitted by,

**Lynn Viselli,
Recording Secretary**