

**ANDOVER CONSERVATION COMMISSION MEETING MINUTES
AUGUST 16, 2016**

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

Conservation Members in Attendance:

Vice Chairman Kevin Porter, Commissioner Alix Driscoll, Commissioner Ellen Townson, Commissioner Jon Honea and Commissioner Tom Brady. Staff members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

SCHEDULED ITEMS:

4 Twin Brooks Circle

Present in Interest: Jack Sullivan

Staff Recommendation: Approve as Pos. 2a, Neg.3, and Neg.6

Public Hearing on a Request for Determination of Applicability filed by Bruce and Sally Littlefield under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed construction of an addition at **4 Twin Brooks Circle**.

Agent Cleary presented this to the Commission. The filing is under the WPA only. The proposed addition and foundation will be on existing lawn area (previously disturbed). Some flags were relocated by staff. The proposed work meets all Commission's setbacks. No trees will be removed.

Jack Sullivan also informed the Commission that the existing generator will be relocated to outside the 50 foot no-build zone. There will be limited grading changes for the relocation and it will be no closer than the proposed addition to the wetlands.

Chairman Porter asked for a Motion. Commissioner Driscoll made a Motion to approve as a Pos.2a, Neg. 3 and Neg.6; it was seconded by Commissioner Honea and unanimously approved with Commissioner Brady abstaining.

2 Doyle Circle

Present in Interest: James Fallon

Staff Recommendation: Approve as Neg.3

Public Hearing on a Request for Determination of Applicability filed by James Fallon under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed construction of a deck at **2 Doyle Circle**.

Agent Cleary presented this to the Commission. The filing is subject to the WPA only and deck is greater than 50 feet from the BVW. The decision includes a condition that the exiting lawn area at 15 feet from the BVW remain in perpetuity. The proposed deck will be constructed on an existing patio and a portion of the patio will be removed.

Chairman Porter asked for a Motion. Commissioner Townson made a Motion to Approve as Neg. 3; it was seconded by Commissioner Driscoll and unanimously approved with Commissioner Brady abstaining.

10 Westminster Roadway

Staff Recommendation: continue for further information

Public Hearing on a Request for Determination of Applicability filed by Ray Larney under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed construction of a retaining wall at **10 Westminster Roadway**.

Mr. Douglas presented this to the Commission. The project is for the construction of a long retaining wall with a large amount of fill (1,000 yards). The property is located in the Fish Brook Watershed Protection Overlay District. The application is deficient due to missing Assessors map and lot, exemptions requested, area description, plan references, sedimentation control line and/or limit of work. The large amount of fill requires a building permit. Commissioner Driscoll asked for an engineered plan since the property is located in the Fish Brook WPOD. Staff to contact the applicant to inform him of the additional information needed.

Chairman Porter asked for a Motion. Commissioner Townson made a Motion to continue to September 6, 2016 for additional information; it was seconded by Commissioner Honea and unanimously approved.

35 Lucerne Drive

Present in Interest: John and Ann DiBenedetto

Staff Recommendation: Approve as Neg.3

Public Hearing on a Request for Determination of Applicability filed by John DiBenedetto under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed installation of an in ground pool at **35 Lucerne Drive**.

Agent Cleary presented this to the Commission. The filing is under the WPA only with waivers for plan requirements. The Town wetland map is incorrect as there is no BVW in the rear yard and no evidence of fill or encroachment. The required fencing for the pool is not depicted, but can be no closer than 25 feet from the wetland line. This shall be staked out and approved prior to installation. The location of the erosion control will be determined by staff. No trees are to be cut.

Chairman Porter asked for a Motion. Commissioner Townson made a Motion to approve the waivers; it was seconded by Commissioner Driscoll and unanimously approved. Commissioner Townson made a Motion to approve as Neg. 3; it was seconded by Commissioner Driscoll and unanimously approved.

79 Harold Parker Road

Present in Interest: Michael Longo

Staff Recommendation: Approve as Neg.3

Public Hearing on a Request for Determination of Applicability filed by Michael and Racheal Longo under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed installation of an inground pool, fence and paver patio at **79 Harold Parker Road**.

Agent Cleary presented this to the Commission. The filing is under the WPA only and waivers are requested for plan requirements. No trees will be cut. The pool will be surrounded with paver patios and vegetation. The steep slope will be filled once the pool is installed to stabilize the slope. A variable permanent buffer strip is conditioned. Staff will determine erosion control placement on site with the applicant.

Commissioner Brady asked if the pool would be backwashed into a dry well. The applicant explained that the chlorine would be created from the salt, this is not a “salt water pool”. The backwash condition will be added to the special conditions.

Chairman Porter asked for a Motion. Commissioner Townson made a Motion to Approve as Neg.3 with the addition of the backwash special condition; it was seconded by Commissioner Driscoll and unanimously approved.

170 Salem Street

Present in Interest: Maureen Herald

Staff Recommendation: Close Public Hearing and Issue Order of Conditions

Public Hearing on a Notice of Intent filed by Michael Welch, Quality Additions & Remodeling under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover

Wetlands Protection By-law, Article XIV, for proposed installation of a septic system and associated grading at **170 Salem Street**.

Agent Cleary presented this to the Commission. The filing is under the WPA only. The septic system meets the 50 foot setback with grading up to the 25 foot non-disturb line. Almost the entire lot is within the 100 foot buffer zone. The site is historically disturbed. A variable buffer strip in perpetuity is conditioned.

Commissioner Honea asked if permanent protection could be installed to protect the area in between the flags. He also discussed changing flags which are off the lot. A portion of the chain link fence will be removed for the septic installation. Work will stop at the erosion control line. This will be conditioned in the decision. Any other work other than the replacement of the septic system will require approval of the Commission.

Chairman Porter asked for a Motion. Commissioner Townson made a Motion to close the Public Hearing; it was seconded by Commissioner Driscoll and unanimously approved. Commissioner Townson made a Motion to issue the Order of Conditions with the changes discussed; it was seconded by Commissioner Driscoll and unanimously approved.

63 Reservation Road

Present in Interest: Bill MacLeod, Bob Lavoie and Tom Urbelis

Staff Recommendation: Continue to September 6, 2016

Public Hearing on a Notice of Intent filed by 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 construction of a new dwelling on the foundation of the original dwelling, including additions with installation of a driveway, patios and related site construction at **63 Reservation Road under Article XIV, Andover Wetlands Protection By-Law. By-Law No. 00009**. Request for an Amendment to an Order of Conditions at **63 Reservation Road under the Wetlands Protection Act, M.G.L. Chapter 131 § 40 DEP File No. 090-1237**.

Agent Cleary presented this to the Commission. The filings are a new NOI under the By-Law and an Amendment to the NOI under the WPA. At the request of the Attorney for the applicant, the Court has remanded this back to the Commission with the condition that mutual parties are in agreement. No waivers are required under the Amendment as these were granted in the original Order of Conditions. The NOI under the By-Law requires waiver approval for the inability to meet required setbacks for patios, portions of the house and additions, retaining wall, garage and driveway.

The revised plan submitted for both filings comports exactly to the plan Town Counsel and staff presented to the Commission after lengthy negotiations with the exception of the paver patio and the proposed patio in the rear of the house. The paver patio is 64 square feet instead of the 12

square feet suggested by the Commission. The proposed rear patio is unmortared stone instead of the pavers requested.

Bill MacLeod presented the project on behalf of the applicant. The non-disturb markers were removed as discussed. The unmortared stones to be used in the rear patio will act just like pavers as the runoff will go between the flat stones. The paver patio is 8'x8' and is not solid.

Chairman Porter reminded the Commission that the original size of the paver patio was 96 square feet and this is a substantial reduction. Commissioner Honea agreed and added the pervious pavers are being used. He also asked if the applicant could provide a narrative for the file regarding the non-disturb bounds and history of the project.

Tom Urbelis suggested as part of the decision an explanation and history of the Amended OOC be included. The applicant should draft the narrative and send to staff and Tom Urbelis for review for both orders as not set a precedence.

Bill MacLeod inquired if the builder could frame the house. A site monitor needs to be on site to begin the framing.

Chairman Porter asked for a Motion. Commissioner Townson made a Motion to approve the revised plan; it was seconded by Commission Driscoll and unanimously approved.

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

Commissioner Townson made a Motion to re-establish the erosion control and no further earth disturbing work to occur, framing only; it was seconded by Commissioner Driscoll and unanimously approved.

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

Commissioner Townson made a Motion to continue to September 6, 2016; it was seconded by Commissioner Driscoll and unanimously approved.

Merrimack College

Present in Interest: Felipe Schwarz, Chris Lovett, Jim Chiavelli

Staff Recommendation: Approval

Public Hearing on an Amendment to a Notice of Intent filed by Merrimack College under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed academic buildings instead of resident and student common buildings at **Merrimack College North Campus**.

Mr. Douglas presented this to the Commission. The request is to change the approved units from residential units to different sized academic buildings. Janet Bernardo from Horsley Witten has reviewed the change and confirmed the changes are minor and complied with the prior approval. Mr. Douglas read her opinion letter aloud to the Commission.

Felipe Schwarz explained that the project has been redesigned to be more academic than residential. The IDR process has been completed with minor changes made.

Chris Lovett presents the project on behalf of the applicant. Currently, the 2 residential buildings constructed in North Andover are complete with students living in them. The next phase will include 3 academic buildings with a plaza which will have a slight decrease in stormwater. All of the stormwater will go into the 48" pipe and into the detention basin. Catch basins along Rock Ridge Road and a berm will be added to keep the water on campus and off Rock Ridge Road.

Chairman Porter asked if the original drainage addressed in the original Order of Conditions will remain in affect under the Amended Order of Conditions. Yes, all the original conditions carry forward with the Amendment.

Commissioner Driscoll reminded the Commission about the abutters concerns regarding runoff and drainage. She asked the applicant to provide a list of things done to reduce the runoff onto Rock Ridge Road. The Master Plan for stormwater management is in place to stop runoff from going onto Rock Ride Road. The water is being piped away from Rock Ridge Road to the 48" pipe, water will be rerouted away from Rock Ridge Road with the berms and there is 1 additional catch basin to be installed and Merrimack is working with a neighbor prior to installation.

Chairman Porter walked the site with Dave Dargie this morning. He is satisfied with the improvements made to catch the runoff from the site. Rock Ridge Road has been regraded and crowned so the water flows along Rock Ridge Road on the campus side of the road and not across the road.

Chairman Porter asked for a Motion. Commissioner Townson made a Motion to close the Public Hearing and issue the Amended Order of Conditions; it was seconded by Commissioner Honea and unanimously approved.

178/182 Jenkins Road

Present in Interest: Patrick Seekamp, John Ely

Staff Recommendation: Continue to a date uncertain.

Public Hearing on the Abbreviated Notice of Resource Area Delineation filed by SSB Properties, LLC under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40, to confirm the boundary of bordering vegetated wetland area at **178/182 Jenkins Road**.

Agent Cleary presented this to the Commission. The application is for confirmation of the BWV only, although there may be other resource areas present on site, under the WPA and By-Law. This is a historically disturbed site. The neighborhood has complained of flooding in the past. Resource areas should be looked at very carefully and stream stats run by Pat Seekamp to be confirmed by the peer reviewer. Land survey should be clarified if it was by instrument or GPS and if by GPS what is the accuracy or margin of error.

Both Jeff Bridge and Tom Peragallo of LEC Environmental have been engaged as peer reviewers. LEC has sent a proposal and we are awaiting funding from the applicant. Pat

Seekamp asked that he be present at all site visits with the peer reviewers.

Pat Seekamp presented the project on behalf of the applicant. The wetland delineation has been updated, the isolated wetland area identified and a ponded area on site which may not be a pond by definition. The applicant will amend the plans if other resource areas are found on site.

It was agreed that any other resource areas on site, the 100 year flood plan and elevation will be depicted on the final plan.

Pat Seekamp asked for some relief from the cost of the peer reviews where the By-Law fee was paid and staff is not reviewing the line. The Commission asked staff to come up with a proposal and email it to them for approval.

Chairman Porter asked for a Motion. Commissioner Townson made a Motion to engage Tom Peragallo and Jeff Bridge to perform a peer review; it was seconded by Commissioner Driscoll and unanimously approved.

Commissioner Townson made a Motion to have Pat Seekamp run the stream stats to be confirmed by the peer reviewer; it was seconded by Commissioner Driscoll and unanimously approved.

Commissioner Townson made a Motion to clarify the land survey and if done by GPS what is the margin of error; it was seconded by Commissioner Driscoll and unanimously approved.

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

ACTION ITEMS:

15 Geneva Road

Present in Interest: Beth Arnold

Request for one year Extension to Order of Conditions.

Project was permitted as a result of an Enforcement Order for a large patio in the buffer zone.

The work was not done.

Beth Arnold informed the Commission that she has contracted to have the work done, but due to scheduling the work could not begin this summer. The water level must be low to access the banks to complete the repairs.

Commissioner Honea stated that a substantial amount of time has passed and that due to the severe drought the water levels should be low enough to do the work and he wants it done this year.

Commissioner Honea made a Motion to approve a 4 month extension; it was seconded by Commissioner Townson and approved with Chairman Porter opposed.

Merrimack College

Request for temporary cessation of reporting.

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

Trinity Court

Request for Insignificant Change. Fencing, relocation of house, relocation of driveway and rip rap.

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

1 Glenn Cove Road

Request for Insignificant Change. Installation of chain link fence in lieu of non-disturb markers. If fence to be removed then non-disturb markers to be installed.

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

83 Porter Road

Present in Interest: Tom Urbelis

Commissioner Townson recused herself from this item.

Request for a Certificate of Compliance. The applicant owes additional site monitoring funds and she has asked that the amount be waived and the Certificate of Compliance issued. Tom Urbelis stated that in order to issue a Certificate of Compliance all items contained in the Order of Conditions must have been complied with. Paragraph 16 of the Amended Order of Conditions states there will be payments for site monitoring fees and she is not in compliance with this section of the Amended Order of Conditions.

Commissioner Honea reminded the Commission that they have already paid some inspections and some inspections have been credited. We should not pay for this. Commissioner Driscoll agreed.

Commissioner Honea made a Motion to deny the issuance of the Certificate of Compliance until the site monitoring funds are paid; it was seconded by Commissioner Driscoll and unanimously approved.

CONSENT AGENDA:

Minutes

Approval of Minutes from July 19, 2016.

Lot 2, Fraser Drive

Request for a Certificate of Compliance.

Lot 3, Fraser Drive

Request for a Certificate of Compliance.

28 Foster Circle

Request for a Satisfactory Completion of Work Certificate.

15 Stevens Street

Request for a partial Certificate of Compliance.

4 Charles Circle

Present in Interest: Imran Ali

Request for a partial Certificate of Compliance.

100-110 Corbett Street

Request for a Certificate of Compliance.

18 Sugarbush Lane

Request for a Certificate of Compliance.

2 Doyle Circle

Request for a Satisfactory Completion of Work Certificate.

2 Doyle Circle

Request for a Satisfactory Completion of Work Certificate.

298 South Main Street, Lot 3B

Request for a partial Certificate of Completion.

1 Glenn Cove Road

Request for a Satisfactory Completion of Work Certificate.

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

LATE DISCUSSION ITEMS

AVIS

Commissioner Driscoll wrote a letter to support AVIS and their application for a grant to purchase the Franciscan Property.

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

The next meeting will be held on September 6 at 7:45pm.

The meeting was adjourned at 10:05pm to by Motion of Commissioner Driscoll; seconded by Commissioner Townson and unanimously approved.

Respectfully submitted by,

**Lynn Viselli,
Recording Secretary**