

ANDOVER CONSERVATION COMMISSION MEETING MINUTES
VIA TELECONFERENCE
June 18, 2020 4:00pm

APPROVED

Conservation Members in Attendance:

Chairman Donald Cooper, Vice Chairman Kevin Porter, Commissioner Tom Brady, Commissioner Ellen Townson, Commissioner Jon Honea, Commissioner Alix Driscoll and Commissioner Floyd Greenwood. Staff members present were Robert Douglas, Conservation Director and Ben Meade Conservation Agent.

Chairman Cooper opened the Meeting with stating the protocol for remote participation and questions from the public.

SCHEDULED ITEMS:

2 Trinity Court

Present in Interest: Jay Swamy

Staff Recommendation: Approve

Public Meeting on a Request for Determination of Applicability filed by **Jayashankar Nanjundaswamy Murthy** under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed removal of an existing deck and landing and construction of a sunroom addition with a deck at **2 Trinity Court**.

Mr. Meade presented this to the Commission. The project is under both the WPA and By-Law for a 12x16 foot sunroom addition and 12x20' deck. The closest point of the project to the wetland is 60 feet, which meets our setback. No trees or vegetation will be removed. Chairman Cooper remarked that the plan provided was a plot plan from the construction of the home. Mr. Meade informed the Commission that the wetland line was correct and he would ask the Applicant for permission to mark "as-built" on the plan. Jay Swamy, the Applicant added that the house shown on the plan provided is existing and agreed to allow Mr. Meade to mark "as-built" on the plan. Vice Chairman Porter asked if there were waivers to be voted. Mr. Meade explained that the plan provided was an older engineered plan.

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

Rollcall Vote:

D. Cooper – yes
T. Brady – yes
J. Honea – yes
A. Driscoll – yes

K. Porter – yes
E. Townson – yes
F. Greenwood – yes

Wild Rose Drive/Holly Terrace

Present in Interest: Dana Altobello

Staff Recommendation: Approve

Public Meeting on a Request for Determination of Applicability filed by **Columbia Gas of MA** under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed gas line replacement with the existing paved roadway at **Wild Rose Drive and Holly Terrace**.

Mr. Douglas presented this to the Commission. The entirety of the project is within the existing paved roadway. The wetland is a lawn area. Sedimentation control will be in place and the Open Trench Method will be used.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to Approve; it was seconded by Commissioner Townson and unanimously approved by Rollcall Vote:

Rollcall Vote:

D. Cooper – yes
T. Brady – yes
J. Honea – yes
A. Driscoll – yes

K. Porter – yes
E. Townson – yes
F. Greenwood – yes

14-16 Willard Circle

Present in Interest: Craig Garcia

Staff Recommendation: Approve

Public Meeting on a Request for Determination of Applicability filed by **Craig Garcia** 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 replacement septic system at **14-16 Willard Circle**.

Mr. Douglas presented this to the Commission. The septic system meets the required 50 foot setback and has the approval of the Board of Health. The large stand of white pine trees can be preserved.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to Approve; it was seconded by Commissioner Townson and unanimously approved by Rollcall Vote:

Rollcall Vote:

D. Cooper – yes

T. Brady – yes

J. Honea – yes

A. Driscoll – yes

K. Porter – yes

E. Townson – yes

F. Greenwood – yes

1 Archer Lane

Present in Interest: George Flaherty

Staff Recommendation: Approve

Public Meeting on a Request for Determination of Applicability filed by **George Flaherty** 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 2 car garage and removal of pine trees at **1 Archer Lane**.

Mr. Meade presented this to the Commission. The project is under the WPA only for a 2 car garage that overlies the current footprint of the existing driveway. The garage will be constructed no closer than 55 feet from the wetland. Also included is the removal of 2 pine trees adjacent to the house. The trees are barely within the 100 foot buffer. No further disturbance will be necessary.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to approve, it was seconded by Commissioner Greenwood and unanimously approved by Rollcall Vote:

Rollcall Vote:

D. Cooper – yes

T. Brady – yes

J. Honea – yes

A. Driscoll – yes

K. Porter – yes

E. Townson – yes

F. Greenwood – yes

43 Gray Road

Present in Interest: Katie and David Strollo

Staff Recommendation: Approve

Public Meeting on a Request for Determination of Applicability filed by **David Strollo** under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed of an existing deck and construction of an addition and deck with stairs at **43 Gray Road**.

Mr. Meade presented this to the Commission. The project is under the WPA only for the removal of an existing deck and construction of a 15x17' addition and a 15x15' deck. The closest point to the wetland is 89 feet. Staff also reviewed a location for a shed. The shed will not require a building permit, but the location is jurisdictional.

Chairman Cooper asked if the shed would be included in the approval. Mr. Meade explained that the shed did not require a building permit, but is in a jurisdictional area. Chairman Cooper stated that the Applicant will need permission to place the shed in the jurisdictional area and it should be added to the plan and in the decision.

David Strollo, the applicant, explained that the shed came up after the initial filing.

Commissioner Honea asked how close to the wetland the shed would be located. 50 feet from the wetland.

The additional information was not forwarded to the Commission. The Applicant will resend the information and the Commission will provide a separate decision regarding the shed.

Chairman Cooper asked for a Motion. Commission Greenwood made a Motion to approve; it was seconded by Commissioner Townson and unanimously approved by Rollcall Vote:

Rollcall Vote:

D. Cooper – yes

T. Brady – yes

J. Honea – yes

A. Driscoll – yes

K. Porter – yes

E. Townson – yes

F. Greenwood – yes

8 Millstone Circle

Present in Interest: Daniel Swatson

Staff Recommendation: Approve

Public Meeting on a Request for Determination of Applicability filed by **David Swatson** under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed removal of 18 pine trees at **8 Millstone Circle**.

Mr. Meade presented this to the Commission. The project is under the WPA only for the removal of 18 pine trees in the rear yard. At a site visit, staff observed many of the pines were mature and tall and easily a hazard to the home if they were to fall. No other landscaping or earthwork is included in the application. The trees are 36-40 feet from the wetland with dense buffer. The wetland will not be disturbed and all the trees are marked. A limit of work boundary will be put in place.

Chairman Cooper asked that the trees not be disposed of in the wetland. Staff agreed to communicate with the Applicant and add to the Special Conditions.

Dan Swatson, the Applicant, stated that no landscaping was mentioned, but minor grading, clearing of brush and planting of grass as in the picture provided will take place.

Chairman Cooper stated the Commission would approve the tree removal tonight, but not the regrading. The Commission needs to know how much and where the grading will take place.

Mr. Meade added that due to the topography earthwork will be required and the slope is towards the wetland.

Dan Swatson added that 18-19" of earth will be removed, no fill would be brought in. He wants to level out the area with no change in drainage.

Chairman Cooper asked that he submit the information in writing to staff and staff can determine if an amendment would be sufficient.

Commissioner Honea asked that the tree contractor be advised of the special conditions. The Applicant has advised the contractor already about the wetland restrictions.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to Approve the tree removal only with no soil movement; it was seconded by Commissioner Townson and unanimously approved by Rollcall Vote:

Rollcall Vote:

D. Cooper – yes

T. Brady – yes

J. Honea – yes

A. Driscoll – yes

K. Porter – yes

E. Townson – yes

F. Greenwood – yes

CONSENT AGENDA:

Minutes

Approval of Minutes from June 9, 2020.

19 Stinson Road

Request for a Certificate of Compliance.

Commissioner Townson made a Motion to approve the Consent Agenda, it was seconded by Commissioner Driscoll and unanimously approved by Rollcall Vote:

Rollcall Vote:

D. Cooper – yes

T. Brady – yes

J. Honea – yes

A. Driscoll – yes

K. Porter – yes

E. Townson – yes

F. Greenwood – yes

DISCUSSION ITEMS/ LATE ITEMS:

Overseers- Reappointment of Alan French, Robert Pincus, Dwight Cooper, Willow Cheeley and Christopher Sullivan as overseers.

Commissioner Greenwood made a Motion to Approve; it was seconded by Commissioner Townson and unanimously approved by Rollcall Vote:

Rollcall Vote:

D. Cooper – yes

T. Brady – yes

J. Honea – yes

A. Driscoll – yes

K. Porter – yes

E. Townson – yes

F. Greenwood – yes

Emergency Certification

Present in Interest: Carlos Jaquez

Lowell Street culvert repair. Two 24 inch culverts under Lowell Street needed to be repaired/replaced. The culvert flows through a vegetated wetland to Haggetts Pond. A sinkhole formed and DPW became aware that the existing galvanized metal culvert pipes had failed, both were in very poor condition and needed to be replaced. The two 24 inch galvanized metal pipes were successfully replaced with 24 inch HDPE corrugated pipes. Rip rap was placed to stabilize the slopes adjacent to the newly constructed headwall. The bulk of the work was completed by June 15, 2020.

Commissioner Townson made a Motion to ratify the Emergency Certification; it was seconded by Commissioner Driscoll and approved by a vote of 6-1 by Rollcall Vote:

Rollcall Vote:

D. Cooper – yes

T. Brady – no

J. Honea – yes

A. Driscoll – yes

K. Porter – yes

E. Townson – yes

F. Greenwood – yes

Emergency Certification

Tucker Road breach of a beaver dam. We received a beaver dam breach from the Board of Health. The water was threatening the roadway. Beaver Solutions will slowly breach the dam and there will be no trapping at this time.

Commissioner Greenwood made a Motion to ratify the Emergency Certification; it was seconded by Commissioner Townson and unanimously approved by Rollcall vote:

Rollcall Vote:

D. Cooper – yes

T. Brady – yes

J. Honea – yes

A. Driscoll – yes

K. Porter – yes

E. Townson – yes

F. Greenwood – yes

Enforcement Order

11 Knollcrest Drive

Present in Interest: Timothy Pitta

Ratification of Enforcement Order issued for the import of several dump truck loads of fill, grading and vegetation removal in the buffer. Staff site visit confirmed the soil in the buffer, but not in the wetland. Staff is in communication with the homeowner. We will hear this at a future meeting to discuss a restoration plan.

Commissioner Townson informed the Commission that the homeowner reached out to her via social media and she advised them that staff would work with them.

Commissioner Driscoll made a Motion to ratify the Enforcement Order; it was seconded by Commissioner Townson and unanimously approved by Rollcall Vote:

Rollcall Vote:

D. Cooper – yes

T. Brady – yes

J. Honea – yes

A. Driscoll – yes

K. Porter – yes

E. Townson – yes

F. Greenwood – yes

Enforcement Order

39 Dale Street

Present in Interest: Matthew MacKenzie and Keith Saxon (via email)

Ratification of Enforcement Order issued for steps installed at the Dale Street parking lot to the river's edge without permission or a permit. DEP was contacted and their recommendation was to have the site stabilized; remedial action taken and file for an RDA. Chairman Cooper advised the Commission they should decide if the EO should be issued and what it should say.

Mr. Douglas asked the building inspector to review stairs for safety and he is concerned with the height and the treads which may be irregular and be a tripping hazard.

Chairman Cooper added that landscaping stairs from one flat area to another never have to inquire if they meet the building code, however steps on public property controlled by the Conservation Commission are different.

Commissioner Greenwood stated that the Commission and the public did not have an opportunity to review the project on public property. Had there been public input the project may have been different and not a safety hazard.

Chairman Cooper added the RDA filing will require the project meet the guidelines.

Commissioner Honea stated he found the project inexcusable that stairs were built on public land without a public hearing. This makes it difficult for the Commission to do their jobs.

Commissioner Honea made a Motion to censure the leaders of this project; hire peer reviewers of our choice to review our questions:

- Is the area less safe than before
- Are they as safe as we want them to be
- What is the environmental impact
- Additional disturbance to make adjustments to the site.

Commissioner Driscoll added that if we allow this work with an RDA within the Riverfront, we could be setting a precedent to allow work on public land without a permit and apologize later. Vice Chairman Porter wants the environmental impacts addressed by a peer reviewer in addition to the RDA filing. The excavation of the stairs would be an impact. The building inspector's comments need to be considered and the stairs blocked off immediately.

Commissioner Greenwood added that scouts are able to present to the Commission for permits for similar projects. He stated that blocking off the stairs punishes people who want to put in a canoe.

Tom Urbelis, Town Counsel, read the email from the Building Inspector. He suggested the stairs be made immediately non-accessible to the public as they are a hazard per the building inspector. Commissioner Townson stated this action was disrespectful to Town Officials and the best interest of the public was not put first. She would like the peer review done and to add to the EO that the steps be blocked off; no more kayak racks installed; no more clearing for racks; the Conservation Commission disks removed from the kayak racks; and to separate the Conservation Commission from Andover Trails.

Keith Saxon sent an email containing questions which was sent to the Commission and Mr. Golden for answers. Tom Urbelis stated that it did not need to be read into the record as the Commission has a copy and there is a copy in the file.

Matt MacKenzie informed the Commission that the work was done on the River for access for the public and the stairs help stop the erosion into the River.

Chairman Cooper asked if they were willing to submit an RDA.

Matt MacKenzie agreed to the filing. He also informed the Commission that there are similar projects in line for access.

Chairman Cooper reviewed the items to be added to the EO:

- Cease and desist;

- RDA filed by a date of staff's choosing;
- Separate Andover Trails from the Conservation Commission;
- Censure Mr. Golden;
- Address the additional kayak racks;
- Peer review as part of the RDA;
- Access to stairs blocked due to the hazard as specified by the building inspector.

The procedure for blocking the stairs and signage was discussed, including a physical barrier preventing access to stairs by the public.

Commissioner Honea made a Motion to issue the Enforcement Order to cease and desist; require the filing of an RDA by a specific date; prepare a separate paragraph condemning the action and encouraging it not to happen again; peer review at Applicant's expense of our choice to environmental impacts and structural safety of stairs on public land; stairs blocked off with consultation with public safety; stabilization of the slope and disturbed areas with loam, seed and jute mat with landscape staples; and signage up regarding closure of the stairs; it was seconded by Commissioner Townson and unanimously approved by Rollcall Vote:

Rollcall Vote:

D. Cooper – yes

T. Brady – yes

J. Honea – yes

A. Driscoll – yes

K. Porter – yes

E. Townson – yes

F. Greenwood – yes

The meeting was adjourned at 6:03 pm by Motion of Vice Chairman Porter; seconded by Commissioner Townson and unanimously approved by Rollcall Vote:

The next meeting is scheduled for June 25, 2020 at 4:00pm.

Respectfully Submitted,

**Lynn Viselli,
Recording Secretary**

Documents:

Consent Agenda

- Draft Minutes of June 9, 2020

