

ANDOVER CONSERVATION COMMISSION MEETING MINUTES
MARCH 5, 2019

APPROVED

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

Conservation Members in Attendance:

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

SCHEDULED ITEMS:

1 Andover Country Club Lane

Present in Interest: John Nardoza

Staff Recommendation: Approve

Reopening of a Public Meeting on a Request for Determination of Applicability filed by **Adam and Emily Harder** under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed renovation of the existing deck, stairs and retaining wall; replacement of existing paving under the deck; installation of new patio; retaining wall, planting and grading at **1 Andover Country Club Lane**.

Mr. Meade presented this to the Commission. Mr. Meade reviewed the history of the project and reviewed the outcome of the prior hearing on February 5, 2019. FEMA maps were reviewed by Staff and it is their opinion that no activities proposed will encroach into or affect the regulatory floodway. There has been lawn encroachment into the wetland sometime between 2012-2014. The wetland has been flagged and an updated plan has been provided. The undisturbed wetland buffer is between 6 and 13 feet wide. The placement of the non-disturb markers has been discussed with the Applicants at length. The Applicant has agreed to move the edge of lawn back 4 feet in some areas to maintain a 10' buffer between the lawn and the flagged wetland line, and to the placement of non-disturb markers. Also proposed are native plantings to enhance the buffer. This is a pre by-law house and if appealed, we will lose control over the placement of the non-disturb markers and mitigation plantings.

Vice Chairman Porter stated that the patio and deck meet our setbacks. The lawn encroachment was discovered during the review of the application. The Commission cannot deny based upon the lawn encroachment and cannot issue an enforcement order since the encroachment was done over 2 years ago. If the Applicants appeal, DEP will find in their favor. This compromise is the best solution.

Commissioner Townson believes the Applicants should not apologize for expanding their lawn after the fact. GIS is showing the stream as a blue line, which is perennial and makes the yard Riverfront. The original Order of Conditions referenced the wetland line. The Commission needs to set a precedence with lawn encroachment.

Commissioner Driscoll asked if the house was built prior to the Riverfront Act.

Commissioner Greenwood stated the 25 foot is an important setback. We should not negotiate less.

Bob Douglas stated that enforcing the 25 foot line under the WPA is not applicable because it is strictly a by-law setback. The Commission found the stream intermittent both upstream and downstream. Stream stats were inconclusive due to the size of the watershed area.

Commissioner Townson reiterated that the Commission needs to honor the blue line (Riverfront) on the GIS Map.

John Nardoza, representing the Applicants, stated that the 25 foot line is in the middle of the existing lawn. Hazardous trees were removed with permission from Staff, there was no filling of a wetland. The Applicants are agreeable to giving back 5 feet of their lawn and plantings as a buffer for the river.

Commissioner Greenwood stated that plantings are not a long term mitigation solution. All the other neighbors are honoring the 25 foot non-disturb buffer.

Vice Chairman Porter asked for the reasons for a denial.

Commissioner Driscoll asked if the Applicant would be agreeable to a 12 foot setback.

Mr. Meade stated that lawn encroachment happens frequently. How has this been handled in the past? Is there a precedent?

Commissioner Brady added that any loss of buffer is a concern.

Vice Chairman Porter asked for a Motion. Commissioner Greenwood made a Motion to Approve the project with non-disturb markers at the 25 foot buffer; it was seconded by Commissioner Townson and approved by a 4-1 vote with Vice Chairman Porter opposed.

16 Moreland Avenue

Present in Interest: Larry McCargar

Staff Recommendation: Approve

Public Meeting on a Request for Determination of Applicability filed by **Larry McCargar** under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover

Wetlands Protection By-law, Article XIV, for proposed connection to Town sewer and decommission of existing septic system at **16 Moreland Avenue**.

Mr. Meade presented this to the Commission. The filing is under the WPA only. The current leach field is within 50 feet of a wetland and will be abandoned in place with no excavation or ground disturbance. To decommission the existing septic, it will be collapsed and filled with sand.

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

30 Burt Road

Present in Interest: Andy

Staff Recommendation: Approve

Public Meeting on a Request for Determination of Applicability filed by **Proctor & Gamble** 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 7 foot high, 2600 feet long chain link fence at **30 Burt Road**.

Mr. Douglas presented this to the Commission. Fences are generally not regulated unless they are an impediment to major migration. This fence goes through a small wetland.

Andy, representing the Applicants, presented the project to the Commission. There is no intent to cross a wetland with the fence. We will walk with Staff to determine the placement. The Commission would like the following Findings added to the Special Conditions:

- No digging within the wetland;
- Poles only in the buffer zone;
- Site walk with Agent to determine placement of the fence

Commissioner Greenwood recommended there be a gap under the fence for wildlife to move from place to place and not impede wildlife.

Vice Chairman Porter would like the post holes to be dug without using machinery.

Vice Chairman Porter asked for a Motion. Commissioner Greenwood made a Motion to Approve using best practices for wildlife passage, and no use of heavy machinery; it was seconded by Commissioner Townson and unanimously approved.

28 Salem Street

Present in Interest: Dennis Griecci and Jennifer Smith

Staff Recommendation: Close Public Hearing and Issue Order of Conditions.

Commissioner Driscoll recused herself from this hearing.

Public Hearing on a Notice of Intent filed by **Trustees of Phillips Academy** under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for the proposed construction of a duplex dwelling with appurtenant site grading, landscaping, driveways and utilities. Work will include relocating existing underground electrical and communication utilities at **28 Salem Street**.

Mr. Douglas presented this to the Commission. This project is under the By-Law and WPA for the construction of a duplex, and 2 driveways. Both the 25 foot and 50 foot setbacks are met. Dennis Griecchi presented the project on behalf of the Applicant. There will be 2 driveways, 1 off Salem Street and 1 at the rear connecting off Watson Avenue through an existing driveway. There is a 24" culvert that runs under the property which daylight at Highland Ave. There is also an intermittent stream which is a manmade ditch into which a pipe discharges field drainage into Rogers Brook. There is no flow in the pipe now, but it will be kept open. The foundation of the duplex will be high enough that the foundation will not impact the pipe running underneath.

Vice Chairman Porter asked for a Motion. Commissioner Greenwood made a Motion to close the public hearing; it was seconded by Commissioner Townson and unanimously approved. Commissioner Greenwood made a Motion to approve the Order of Conditions; it was seconded by Commissioner Townson and unanimously approved.

ACTION ITEMS

37 Fleming Avenue

Request for insignificant change.

The buyer wishes to reduce the size of the home which will increase the distance from the wetland. Commissioner Brady asked if the Commission could approve changes if the Enforcement Order was still in effect. Most of the items in the Enforcement Order have been brought into compliance. This is NOT an authorization to conduct any exterior work. Vice Chairman Porter asked if construction was beginning immediately. There is no construction while the site is under shut down due to the Enforcement Order. This is approval of the change only. There is no new earth disturbance or construction.

Commissioner Townson made a Motion to find the change insignificant to the WPA and our By-Law; it was seconded by Commissioner Greenwood and unanimously approved.

CONSENT AGENDA:

Minutes

Approval of Minutes from February 5, 2019 and February 19, 2019.

8 Mercury Terrace

Request for a Partial Certificate of Compliance.

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

DISCUSSION ITEMS:

Elm Street Conservation Restriction

Present in Interest: Carol McGravey and Stephanie Kiefer

Stephanie Kiefer informed the Commission that EOEA made a small revision which had been reviewed by Town Counsel. The Commission agreed with the revisions to the Conservation Restriction.

Commissioner Greenwood made a Motion to approve and accepts the Conservation Restriction with the most recent revisions; it was seconded by Commissioner Townson and unanimously approved.

Bald Hill

Present in Interest: Joe and Stacey Albuquerque and Joseph Jammallo

Joseph Jammallo, an LSP, provided the timeline of the hydraulic spill on behalf of the Town. The hydraulic release happened on January 5, 2019, a Saturday, and was reported to DEP on January 7, 2019. The hydraulic fluid in the reservoir of the wood chipper release occurred when the machine was started after being serviced. It appears the filter was not property attached. The machine was immediately shut down and wood chips put down. There are asphalt millings under the wood chipper and there was snow and ice underneath as well. The gauge on the outside of the machine showed half full, the estimated amount of the release is closer to 10 gallons than the 50 gallons reported by DEP. The snow, wood chips and millings were removed and excavated about a foot down and normal results were found when tested. The report was sent to DEP. The release has been effectively closed out with no limitations or restrictions on the property.

Commissioner Greenwood believes the millings are more of a problem than then spill.

Joe Jammallo informed the Commission that when the spill occurred, it hit the snow and ice ad spread horizontally instead of vertically.

Commissioner Townson asked who is responsible for changing the filters on site. The wood chipper is not moved and is serviced in place. It appears the filter was not attached correctly, the spill did not happen when it was serviced.

Commissioner Brady asked is there is a Spill Prevention Plan in place for this site? This would apply more to gas or oil migration into the soil. Having absorbent pads on site would be helpful. Joe Jammallo agreed to let the Town employees know to report ASAP to DEP, within 2 hours of a spill.

Joe Albuquerque provided a handout to the Commission. Vice Chairman Porter reminded him that we were only discussing the spill. Mr. Albuquerque asked if there is an O&M Plan or Spill Prevention Plan for the site. This is Article 97 land located within the Watershed. He brought up the millings at a meeting in December, 2017. The questions have not been answered by DPW. This is not a DPW yard but it is being used as one.

Mr. Douglas replied that the state gave permission to run a compost facility which does not need an O&M plan.

Vice Chairman Porter agreed that the incident warrant a Spill Prevention Plan and an O&M Plan. We have responded to the spill.

Stacey Albuquerque expressed her concern that if this happened during the summer months it may have contaminated the compost.

The meeting was adjourned at 9:25pm by Motion of Commissioner Townson; seconded by Commissioner Driscoll and unanimously approved.

The next meeting is scheduled for March 19, 2019 at 7:45pm.

Respectfully Submitted,

**Lynn Viselli,
Recording Secretary**