

**ANDOVER CONSERVATION COMMISSION MEETING MINUTES
APRIL 2, 2019**

APPROVED

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

Conservation Members in Attendance:

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

SCHEDULED ITEMS:

6 Countryside Way

Present in Interest: Tom and Denise Keough

Staff Recommendation: Approve

Public Meeting on a Request for Determination of Applicability filed by **Thomas Keough** 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 at **6 Countryside Way**.

Mr. Meade presented this to the Commission. The application is under the WPA only. Staff has confirmed with the homeowner the existing septic system will be abandoned. The closest point to the wetland is 50 feet. The corridor of the proposed sewer connection is all upland maintained as landscaped areas or lawn. Erosion controls will be placed at the limit of work. The abandonment of the existing septic system is addressed in the Special Conditions.

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

23 Pomeroy Road and 0 Foster's Pond Road

Present in Interest: Maureen Herald, Dotty Tyler, James and Kathleen Crier

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

Public Hearing on a Notice of Intent filed by **Thomas Fuerst** 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 extension to an existing gravel driveway to include an 18" wide gravel parking/driveway area, drainage trench, cut and remove trees, proposed plantings and associated grading at **23 Pomeroy Road and 0 Foster's Pond Road**.

Mr. Meade presented this to the Commission. Mr. Meade reviewed the history of the Enforcement Orders for 24 Pomeroy Road with the Commission. This project is for the construction of a 18'x50' parking area on a separate parcel owned by Mr. Fuerst. The parking area is partially on a parcel owned by the Applicant and partially by an abutter. The closest point of the parking area to Foster's Pond is 30.7 feet, which meets the 30 foot setback. The 30 feet between the parking area and the Pond is heavily vegetated by a mature forest and a dense shrub layer. This application also includes a 2'x2' drainage trench to be filled with crushed stone. 12 mature trees will need to be removed and 12 eastern red cedars will be planted for screening purposes. Excess soil will not be stockpiled onsite, but removed by dump truck.

Chairman Cooper asked if the two Enforcement Orders would impact this project. Mr. Meade stated they would not since the parking area is on a separate parcel.

Maureen Herald presented the project to the Commission. She acknowledged the 2 Enforcement Orders on the site the home is located on. Maureen reviewed the expansion of the parking area and the drainage trench. The project meets the 30 feet setback and there will be minor grading.

Ben expressed his concern with the soil management for this project. Excess soil shall be removed and not stockpiled onsite. The tree removal is also concerning, but necessary for this project.

Commissioner Townson asked if the Applicant should be required to apply for an "After-The-Fact" NOI for the unpermitted foundation work. Ben advised that staff chose not to take that route and have spoken with the homeowner regarding any future work. There is a cease and desist order now from the Building Department so no further work can take place.

Jim Crier, an abutter, spoke in support of the homeowner and asked for a boundary of shrubs along the lot line and more screening trees.

Commissioner Brady asked if during a big storm the water would overtop the 2% pitch in the parking area and go to the wetlands. Maureen Herald responded that with the 1 foot contours and very mature growth in the 30 foot buffer, no erosion is anticipated from runoff. The gravel driveway will also infiltrate the water during a storm event and there are excellent soils for drainage in this area.

Maureen also informed the Commission that access will not be impeded by this parking area. There is an existing foot path for access for neighboring lots.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to close the public hearing and issue the Order of Conditions' it was seconded by Commissioner Townson and unanimously approved.

Per the Open Meeting Law, the list of documents used for this hearing is:

- Proposed Parking Plan

100 Federal Street

Present in Interest: Mark Johnson and Larry Beals

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

Public Hearing on a Notice of Intent filed by **Sarepta Therapeutics** 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 5'x20' sign, 3 flag poles, associated landscaping and extension of electrical conduit at **100 Federal Street**.

Mr. Douglas presented this to the Commission. The application is for a corporate sign to be visible from Route 93. There will be trenching for a 2 inch electrical conduit and the limit of work will protect the 25 foot no-disturb area. Both the electrical conduit and sign will be outside the 50 foot no-build area.

Larry Beals presented the project to the Commission. The trench for the conduit will be dug from the edge of the parking lot to the proposed location of the sign. Vegetation will be cleared outside the 25 foot no-disturb for the sign, flag poles and plantings. There are some diseases hemlocks in the area that will be taken down and replaced with plantings.

Commissioner Greenwood requested that 7 winter berry trees be planted.

Vice Chairman Porter asked if this project was in the same area as the picnic area previously approved. Larry Beals informed the Commission that the picnic area is separate from this project area.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to Close the Public Hearing and Issue the Order of Conditions; it was seconded by Commissioner Townson and unanimously approved.

Per the Open Meeting Law, the list of documents used for this hearing is:

- Notice of Intent Plan dated 3/8/19

CONSENT AGENDA:

Minutes

Approval of Minutes from March 19, 2019.

Commissioner Driscoll made a Motion to Approve the Consent Agenda with the Minutes amended; it was seconded by Vice Chairman Porter and approved with Commissioner Townson abstaining.

DISCUSSION ITEMS:

Heffron Right of Way

Present in Interest: Tom Urbelis and Susan Stott

Tom Urbelis provided the history of this site to the Commission. The Deeds, Agreement and Easements will grant access across the Heffron Right of Way to the Merrimack River and the conservation property with the boat house. By accepting and signing these documents, years of discussions and negotiations will have come to an end with the Town getting the access they have been seeking.

Chairman Cooper stated that this has been going on for many years and now we will have legal access to our property. Funding is still needed for the improvements.

Commissioner Driscoll made a Motion to accept and execute the documents presented; it was seconded by Commissioner Greenwood and unanimously approved.

Overseer Nomination

Approval of Michael Robichaud, Jane Gifun, Craig Liversidge, Ed Anson, Keith Kessler and Jennifer Thalhauser as Overseers.

Vice Chairman Porter made a Motion to approve the Overseers; it was seconded by Commissioner Townson and unanimously approved.

Town Meeting Warrant Article

Polystyrene Reduction By-Law

Present in Interest: Amy Smith and Selen Akar

Chairman Cooper informed the Commission and audience members that the Commission is not trying to anticipate problems before they happen and we are not aware of any problems or pushback from the effected parties.

Amy Smith informed the Commission that Tom Carbone, Director of Public Health, is doing a great job of assisting the restaurants with compliance with the By-Law. He even held a walk-in clinic so people could stop in to speak with him and he could demonstrate different option for compliance. According to Ms. Smith, most placed have already come into compliance by removing the polystyrene from their restaurants/stores etc. This proposed Amendment creates a loop hole to allow for inventory of polystyrene to be used before complying. This would allow restaurants etc., to stock up on polystyrene containers and be able to use them all.

Commissioner Greenwood agreed that there is too much plastic.

Commissioner Townson stated that anything that can be recycled by the Town is permissible.

Chairman Cooper declared that Town Meeting 2019 Warrant Article to Amend Article 12, Section 57 of the Town By-Law, that we do not know the exact Article number, all that showed up for the public hearing had an opportunity to speak.

Commissioner Honea made a Motion to disapprove of the Amendment described by Chairman Cooper; it was seconded by Commissioner Driscoll and unanimously approved.

Invasive Plant Management

Present in Interest: Amy Janovsky

Discussion regarding invasive plant management.

Amy Janovsky is seeking to move forward with the removal of invasive species in areas that are not detrimental to resource areas. She would like to be able to do this work without having to file an application each time. Amy questioned if the removal of invasive species is considered altering a buffer zone which would then trigger a filing with Conservation.

Chairman Cooper asked is there is a precedent for issuing a general permit and what would be the mechanism for getting this done?

Amy had emailed a copy of the permits and documents used in Weston to accomplish this work. Mr. Douglas will forward the email to the Commission and staff for review.

Amy Janovsky informed the Commission that she has spoken with a number of other communities regarding management of invasives and trails. The Town of Weston is using a blanket permit for trail activities that specifies best practices to be followed.

Chairman Cooper stated that we would need a draft of a blanket permit that would withstand an appeal procedurally as there is no threshold to alteration in the WPA.

Amy Janovsky added that alteration of wetlands will be avoided and these activities are closer to replication than alteration.

Commissioner Townson informed the Commission that other Towns have the used the blanket permit for the current year listing the properties to be treated and the plan for treatment.

Amy Janovsky added that it is sometimes difficult to determine a year ahead which properties will need treatment and it often takes more than one treatment.

Chairman Cooper stated the permit is good for 3 years and it would be better to get a general permit for 3 years if the Commission puts boundaries and exceptions in the conditions.

Commissioner Townson would like to make sure setbacks are enforced, especially around vernal pools.

Commissioner Greenwood asked that herbicides and pesticides not be exempted.

Chairman Cooper would like to have a specific proposal before the Commission. He would also like the names of Towns who use this policy. Commissioner Townson agreed to ask the DEP circuit writer.

Emergency Certification

Ratification of Emergency Certification for breaching of a beaver dam. There was flooding at Dean Circle due to a beaver dam. The dam will be breached and the beaver trapped.

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

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 April 16, 2019 at 7:45pm.

Respectfully Submitted,

**Lynn Viselli,
Recording Secretary**