

**ANDOVER CONSERVATION COMMISSION MEETING MINUTES
JUNE 18, 2019**

Town of Andover
36 Bartlet Street
3rd Floor Conference Room
7:50PM



Conservation Members in Attendance:

Chairman Donald Cooper, 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:

60 Chandler Road

Present in Interest: Dennis Griecci, Janet Bernardo, Matthew Loundean, and Barb Pathak
Staff Recommendation: Continue to a date uncertain for peer review

Public Hearing on a Notice of Intent filed by **New England Bible Church** 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 parking lot and stormwater management area at **60 Chandler Road**.

Mr. Douglas presented this to the Commission. The application is for reconstruction of the parking lot and stormwater management.

Dennis Griecci presented the project on behalf of the applicant. The expansion of the parking area is on the side of the lot for a net of 55 spaces added. A stone recharge trench along the driveway will catch the runoff and sheet flow from the impervious area. The 25 foot non-disturb setback is being met with a small encroachment in the low lying bank area into the 50 foot no-build setback. The setback for more than 4 parking spaces is 50 feet. A sidewalk will be added for access to the church. The wetland flagging was done by Norse Engineering and field located by Andover Consultants. There is existing parking spots within the 50 foot no-build from the prior work. The B series flagging is at the bottom of the bank and the C series flagging is the replicated wetland from the prior work.

Mr. Douglas informed the Commission that Janet Bernardo will be doing the peer review for this project.

Vice Chairman Porter asked what the setback is for the stormwater detention system. Mr. Douglas responded that according to the regulations, 25 feet is the setback.

Commissioner Driscoll asked that there be more trees or a rain garden to mitigate the water in a more natural way.

Commissioner Brady asked if the alterations being done on this property would impact the wetland system and homeowners at 66 and 68 Chandler Road as the wetland system on these 2 properties heads towards this property. Mr. Douglas responded that there is no change in grade and the runoff from this parking lot and driveway will be captured in the stone trench proposed. Discussion regarding continuing to a date uncertain or a date certain occurred.

Chairman Cooper asked for a Motion. Commissioner Townson made a Motion to continue to August 20, 2019; it was seconded by Commissioner Driscoll and unanimously approved.

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

- Existing Conditions Plan Proposed Parking Expansion 60 Chandler Road Andover, Mass dated 5/28/19

7 Tantallon Road

Present in Interest: Stu Moncrieff, Janet Bernardo, Dwight Dunk, Bob Lavoie and Eric Davis

Staff Recommendation: Continue

Continued Public Hearing on an Amendment to the Order of Conditions filed by **Neil Rosenberg** 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 redevelopment of an existing industrial building into 24 residential housing units at **7 Tantallon Road**.

Mr. Douglas presented this to the Commission. This was continued from April 16, 2019 for peer review. The new building will be located within the 10 year floodplain.

Janet Bernardo presented her review to the Commission. With the new datum, the new building will be located within the 10 year flood plain. The existing building is to be removed and reconfigured. In this area the River can come up multiple feet. The building will be shifted out of the floodway, however she is concerned with this being a residential building and cars parked over an extended period. Janet checked with a few communities and some have regulations that cars cannot be parked within a flood plain, however Andover does not. Janet agrees that this project will improve the existing conditions on this lot, however she has reservations about it being a residential building.

Chairman Cooper asked if this was considered redevelopment under the regulations. Janet informed the Commission that this is considered redevelopment. Chairman Cooper then asked if residential parking within the 10 year flood plain count towards the volume. Janet responded

that it does. The site is currently a parking lot so this is an improvement over existing conditions.

Chairman Cooper stated that the redesign is improving the existing conditions and providing more flood storage within the 10 year flood plain than currently exists. He asked if there was anything in the regulations that would provide guidance regarding cars parked in the flood plain and if they are required to be moved.

Janet Bernardo informed the Commission that she could not find anything specific in the regulations. She suggested signage could be put in place, however there could be cars parked for a long duration of time. She also questioned whether the Commission wants to set this precedence for any future redevelopment in this area which historically has a lot of flooding. Chairman Cooper read a portion of Standard 7 of the Stormwater Regulations addressing "maximum extent practicable". Janet Bernardo advised the Commission that this meets the stormwater standards with regard to the stormwater regulations, which is different than flood storage. Also under standard 7 "actions to improve the existing conditions...should be geared to addressing known water quality problems such as repeated flood events". Is this met under the maximum extent practicable? Janet Bernardo responded that if it was the same use yes, but this is a change of use so she is not sure the criteria is being met.

Commissioner Greenwood stated that "practicable" is subjective in this case and he would like additional analysis done.

Commissioner Brady stated the change in use is critical to having further analysis done because the Shawsheen River is a fast flooding body of water.

Commissioner Driscoll asked if 40-48 cars taking up space in the flood storage area would make the water rise due to their mass and space. She is also concerned that pollutants will run into the river.

Vice Chairman Porter also expressed his concern with the release of oil and grease into the Shawsheen.

Bob Lavoie, representing the Applicant, compared this project to Powder Mill Square.

Dwight Dunk, on behalf of the Applicant, provided a flood plain profile to the Commission. He believes there is no need for a No Rise Certificate because the building is being pulled out of the floodway. He also presented to the Commission that elevation 34 is the elevation of the parking lot and the cars will not be inundated with water. The water may rise to roughly a foot high.

Commissioner Greenwood added that a foot of water would wash pollutants from the cars into the River.

Commissioner Townson stated that this is the first development in this area and the Commission needs to proceed carefully with the precedence it is setting for future development and she would like additional analysis done as well as a No Rise Certificate.

Chairman Cooper stated that he had not heard enough to his satisfaction what standards are being applied and he doesn't want to make a rash decision. The questions that needs to be answered is does redevelopment include a change in use.

Commissioner Greenwood believes this project would be a negative impact on the area. He would like the additional analysis done and if it shows no negative impact that would go a long way with the Commission.

Chairman Cooper would like to know if the whole volume of the car is calculated or only 1 foot regarding the volume for flood storage improvement.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to continue to July 16, 2019; it was seconded by Commissioner Townson and unanimously approved.

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

- The Tantallon Proposed Multifamily Redevelopment Project 7 Tantallon Road Andover, Mass revised 6/4/19

161 River Road/1 Minuteman Road

Present in Interest: Ann Marton and Austin Turner

Staff Recommendation: Close Public Hearing and Issue Order of Conditions

Continued Public Hearing on an Amendment to an Order of Conditions filed by **One Minuteman, LLC** 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 multi-use commercial development consisting of 3 buildings along with associated parking, landscaping and other appurtenant structures at **161 River Road/1 Minuteman Road**.

Mr. Douglas presented this to the Commission. This was continued from February 5, 2019 for peer review. The original project did not meet our setbacks, but with the help of the peer reviewer, it now does.

Austin Turner presented the project on behalf of the Applicant. Wetlands occupy roughly 55-60% of the site area. The Applicant needed zoning relief for encroachments into the zoning setbacks with the shift in the parking spaces. The parking is now outside the 50 foot setback and the retaining wall is outside the 35 foot setback.

Ann Marton presented her peer review to the Commission. Originally 3 waivers were needed for this project. The proposed project now has the parking lot edge close to the 50 foot setback, but it is met and the retaining wall is at the 35 foot setback. She is concerned with the closeness to the setbacks and this must be built as designed.

Vice Chairman asked if the existing stormwater basin meets the setbacks. Ann advised that all setbacks are now met.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to Close the Public Hearing; it was seconded by Commissioner Driscoll and unanimously approved.

Commissioner Greenwood made a Motion to issue the Order of Conditions; it was seconded by Commissioner Driscoll and unanimously approved.

ACTION ITEMS:

400 Federal Street

Present in Interest: Mark Beaudry

Issuance of Order of Conditions.

Mr. Douglas reviewed an email regarding changes to the Order of Conditions from Mark Beaudry, including not recording the O&M Plan. Chairman Coper wants the O&M recorded. The Commission agreed with the other proposed minor revisions.

Vice Chairman Porter made a Motion to issue the Order of Conditions as revised; it was seconded by Commissioner Townson and unanimously approved.

125 Bailey Road

Request for temporary cessation of site monitoring.

Vice Chairman Porter made a Motion to approve the temporary cessation of site monitoring; it was seconded by Commissioner Townson and unanimously approved.

CONSENT AGENDA:

Minutes

Approval of Minutes from May 21, 2019 and June 4, 2019.

468 Lowell Street

Request for a Satisfactory Completion of Work Certificate. **Tabled indefinitely.**

128 Wildwood Road

Request for a Satisfactory Completion of Work Certificate.

2 West Knoll Road

Request for a Satisfactory Completion of Work Certificate.

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

DISCUSSION ITEMS/ LATE ITEMS:

5 Windemere Drive

Present in Interest: Barbara Pathak

The homeowner is concerned about flooding related to potential beaver activity. There are some open water and emergent areas of BVW. No beaver related signs were observed in or around the wetland areas. There is a high water table and high surface water.

The property owner provided photographs and asked if the water could be rerouted or diverted

from her property. Chairman Cooper advised her that under the WPA the Commission cannot proactively try to change or solve water drainage problems.

Chairman Cooper advised the homeowner to speak with DPW to see if there are any blocked culverts downstream which may be contributing to the excess water.

Overseer Appointment

Approval of Amy Patel as an Overseer.

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

52 William Street

Present in Interest: Mark Johnson, Ernest Simmons and Maioruo Simmons

Staff received information that heavy machinery was on site and tree removal was being conducted on site. Staff immediately made a site visit and spoke with one of the homeowners. Based on observations by staff, comments from the homeowner and photos, staff determined that multiple large trees were removed from the property, limbs on remaining trees were removed and ground disturbance had taken place. All of these activities are outside of the original permitted limit of work and erosion control line, which was non-existent at the time of staff's site visit. All the work was done in the Inner Riparian of Hussey' Brook which was to be left undisturbed as stated in the Order of Conditions issued for the construction of the house. An Enforcement Order was issued.

Chairman Cooper asked staff if the recommended a Notice of Intent for the restoration work. Ben Meade informed the Commission that it was staff's understanding that additional work would be done in the near future, so a Notice of Intent would be appropriate for the remaining work on site, but the restoration should be done under the Enforcement Order.

Mark Johnson, representing the homeowners, advised the Commission that a number of the items listed in the Enforcement Order have been complied with. He would like Maureen from Norse Environmental to take a look at the site before any other decisions are made as to a filing. Bob Douglas asked the homeowner to re-establish the erosion control line to keep the dirt from going into the Pond. Commissioner Townson also stated that nothing should be happening on site.

Mark Johnson agreed to file a restoration plan by July 2, 2019 to be placed on the July 16, 2019 Agenda for a follow up.

Vice Chairman Porter made a Motion to ratify the Enforcement Order and submit a restoration plan by July 2, 2019; it was seconded by Commissioner Driscoll.

120 Salem Street

Present in Interest: Matthew Hosmer and Darrel Short

Staff observed a large amount of soil placed outside of the erosion control line on a very steep slope within the wetland buffer during as site visit. This soil was placed there by an excavator

from the excavation that was underway for construction of a permitted pool. An Enforcement Order was issued to both the property owner and the pool company.

Matthew Hosmer informed the Commission that the placement of the soil from the excavation was not discussed prior to the beginning of the project with the contractor. He has ordered hay bales which will be delivered in the morning and he has hired Norse Environmental for the restoration.

Commissioner Townson would like the soil removed. Ben Meade responded that it will a challenge to remove the soil on such a steep slope.

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

Chairman Cooper asked if the fill is approvable where it is located. Ben Meade responded it could potentially be approved with immediate stabilization. Matthew Hosmer added that it was never intended to be placed there and they will do whatever the Commission asks.

Chairman Cooper asked Staff to issue an Amended Enforcement Order. Commissioner Greenwood wants the soil removal to be added. Commissioner Brady stated that with the heavy rain predicted the removal of the soil could make it worse.

Commissioner Greenwood made a Motion to issue an Amended Enforcement Order removing the soil and staff to determine placement; it was seconded by Commissioner Townson and approved by a vote of 4-2 with Chairman Cooper and Commissioner Brady opposed.

The meeting was adjourned at 10:00 pm by Motion of Commissioner Townson; seconded by Commissioner Greenwood and unanimously approved.

The next meeting is scheduled for July 2, 2019 at 7:45pm.

Respectfully Submitted,

**Lynn Viselli,
Recording Secretary**