

**MINUTES OF THE PROCEEDINGS OF THE
CONSERVATION COMMISSION OF THE CITY OF WORCESTER**

July 2, 2012

WORCESTER CITY HALL – LEVI LINCOLN ROOM

Conservation Commission Members Present:

Joseph Wanat – Chair
Stefanie Wood – Vice-Chair
Jordan Berg Powers
Jeremy Theerman
John Donahue
Paul Franco
Mia McDonald

Staff Present:

Jonathan P. Gervais, Department of Public Works & Parks
Luba Zhaurova, Division of Planning & Regulatory Services
Nancy Tran, Division of Planning & Regulatory Services

CALL TO ORDER:

Chair Wood called the meeting to order at 5:35 p.m., thanked Joseph Wanat for his service to the country and stepped down as Chair. Commissioner Wanat assumed position as Chair of the Commission.

Approval of the Minutes

Ms. Zhaurova stated the minutes for the March 19 would be ready by the next meeting and that the May 21 and June 11 minutes were ready for votes by the Commission.

Upon a motion Commissioner Franco and seconded by Commissioner Powers, the Commission voted 7-0 to approve the minutes of May 21, 2012 and June 11, 2012.

Unfinished Business

Public Hearing

1. 1098 West Boylston Street (CC-2012-023) – Notice of Intent:

Attorney Don O’Neil and surveyor Robert O’Neil appeared on behalf of the applicants, Rick and Kelly Sampson, for a Notice of Intent to construct a three family dwelling with associated-off-street parking spaces that is proposed near a catchbasin located on West Boylston Street.

Mr. O’Neil stated that the applicants had appeared before the Zoning Board of Appeals and were going to provide six parking spaces as well as stormwater storage on the currently vacant property. He said a 15’ RCP catchbasin will be within 10’ of the project entrance, haybales/siltation fences will be installed around all disturbed areas and that they remain in place until all slopes are stabilized.

Commissioner Franco said he visited the site with Commissioner Theerman and was concerned about the drainage pipe causing problems. Mr. O’Neil responded that it was illegally installed on the applicants’ property and will be removed.

Chair Wanat asked whether the roof would be fed into an underground cistern. Mr. O’Neil said the proposed catchbasin will be connected to a stormceptor or an approved equivalent stormwater management system.

Mr. Gervais stated he had no comments.

Susan Healey, an abutter to the subject property, expressed her concerns regarding existing drainage and issues causing water to seep into her basement.

Chair Wanat stated that according to applicant the water will be directed to cistern underground.

Mr. O'Neil said the grading will direct water into an underground cistern away from Ms. Healey's property. He also said that runoff affecting neighboring properties will be addressed with the removal of the illegal drain.

Commissioner Theerman asked what would be the remedy for the properties affected by this illegal drain. Mr. Gervais stated he was not familiar with the runoff issue caused by the illegal drain but said it was likely a civil matter. Commissioner Wood asked that staff further research the issue.

Rose Porcaro, abutter, expressed concerns that runoff would affect her property, to which Mr. O'Neil said that water will be directed to an underground cistern.

Ms. Porcaro asked who abutters should contact if issues arise after the project is completed. Chair Wanat said no problems should arise if built to plan, otherwise abutters may contact the City of Worcester. She also asked if the Commissioners have visited the site, to which Chair Wanat replied in the affirmative.

Upon a motion by Commissioner Franco and seconded by Commissioner Wood, the Commission voted 7-0 to close the public hearing.

Upon a motion by Commissioner Berg-Powers and seconded by Commissioner Wood, the Commission voted 7-0 to issue an Order of Conditions. Discussion regarding issuance of Order of Conditions was held to the end of the meeting.

List of Exhibits:

Exhibit A: Notice of Intent application for 1098 West Boylston Street; submitted by Ricky Sampson; received on May 23, 2012.

Exhibit B: Plan of Land prepared by Robert D. O'Neil, Jr. and signed by James F. Malley, Jr. P.E., dated June 15, 2012, received May 23, 2012.

Exhibit C: Memorandum from Department of Public Works to the Worcester Conservation Commission; re: 1098 West Boylston Street – NOI; dated June 11, 2012.

New Business

Public Hearing

2. 21 Millbrook Street (aka 87 Gold Star Boulevard) (CC-2012-025) – Notice of Intent:

Engineer Michael Andrade from Graves Engineering, Inc. appeared on behalf of the applicant, Brett Haven of Cellular Sales of Massachusetts, LLC for a Notice of Intent to reduce the footprint of the existing 9,540 SF building and expand parking area to accommodate 22 off-street parking spaces.

Mr. Andrade stated the project involves the redevelopment of a 23,608 SF parcel that currently houses the abandoned P.W. Sherman building. The project proposes reducing the building by approximately 36.5% from 9,611 SF to 6,100 SF, renovating it for retail use and expanding parking which will not reduce impervious area.

Chair Wanat asked if any wetlands were within proximity to the site and further elaboration regarding site grading, runoff as well as snow storage.

Mr. Andrade said no wetlands were within the vicinity, changes to grading were minor, an existing catchbasin that will remain and that no snow will be stored on site.

Mr. Gervais asked the type of infiltration system to be used, to which Mr. Andrade replied he did not prepare the report and therefore, did not know.

Mr. Gervais stated a grass channel was listed for TSS removal but was not shown on the plan. He recommended that the report preparer should review the section and provide an updated stormwater report to the Commission.

Commissioner Wood stated she was uncomfortable voting until DPW&P's comments are addressed.

Mr. Andrade requested that the project be continued to July 23, 2012.

Upon a motion by Commissioner Wood and seconded by Commissioner Berg-Powers, the Commission voted 7-0 to continue the item until the July 23, 2012 Conservation Commission meeting.

List of Exhibits:

- Exhibit A: Notice of Intent application for 21 Millbrook Street submitted by Brett Haven of Cellular Sales of Massachusetts, LLC; received June 7, 2012.
- Exhibit B: Parking Plan Approval for 21 Millbrook Street (87 Gold Star Boulevard) prepared by Graves Engineering, Inc.; dated May 7, 2012, received June 7, 2012.
- Exhibit C: Stormwater Report for Retail Building Renovation, 21 Millbrook Street (AKA 87 Gold Star Boulevard); dated June 4, 2012
- Exhibit D: Parking Plan Approval for 21 Millbrook Street (87 Gold Star Boulevard) prepared by Graves Engineering, Inc.; revised July 9, 2012 and received July 19, 2012.
- Exhibit E: Stormwater Report for Retail Building Renovation, 21 Millbrook Street (AKA 87 Gold Star Boulevard); revised July 17, 2012, received July 19, 2012.
- Exhibit F: Memorandum from Department of Public Works; re: 21 Millbrook Street (87 Gold Star Boulevard); dated July 2, 2012.

3. 140 Higgins Street (CC-2012-026) – Notice of Intent:

Engineer Michael Andrade from Graves Engineering, Inc. appeared on behalf of the applicant, Lutco International, Inc. for a Notice of Intent to construct a 6,835 SF building addition with associated parking lot, drainage and stormwater systems.

Mr. Andrade said the contractor will coordinate with the city to relocate a 30" drain line and install a stormceptor unit and stabilize the construction entrance at the pavement sawcut area to the work area.

Commissioner Donahue stated he was abstaining from the vote.

Upon a motion by Commissioner Franco and seconded by Commissioner Berg-Powers, the Commission voted 6-0-1 to close the public hearing.

Upon a motion by Commissioner Wood and seconded by Commissioner Berg-Powers, the Commission voted 6-0-1 to issue an Order of Conditions. Discussion regarding issuance of Order of Conditions was held to the end of the meeting.

List of Exhibits:

- Exhibit A: Notice of Intent application for 140 Higgins Street submitted by Lutco International, Inc.; received June 12, 2012.

Exhibit B: Parking Plan – Lutco, Inc. Building Addition prepared by Graves Engineering, Inc.; dated and received June 12, 2012.

Exhibit C: Revised Parking Plan – Lutco, Inc. Building Addition; revised September 4, 2012 and received September 5, 2012.

4. 231 & 249 Lake Avenue (CC-2012-027) – Notice of Intent:

Frederick Mosley along with Jennifer Ducey from Fay, Spofford & Thorndike appeared on behalf Rob Pine of the Middlesex Corporation for a Notice of Intent to demolish two cottage buildings east of a principal building located at 249 Lake Avenue and provide temporary construction access from Quinsigamond Lake at 231 Lake Avenue for the Burns Bridge construction project.

Ms. Ducey presented plans and gave an overview of the project stating that work will not affect normal lake-related recreational activities. She said mitigation measures were designed to avoid impacts to wetland resources. The temporary access will be used throughout the Burns Bridge construction for approximately 3 years. The proposed work will result in the temporary alteration of Land Under Water, Bank, Bordering Land Subject to Flooding as well as the buffer zone to bank and bordering vegetated wetlands. There will be a 30' wide temporary access ramp and trestle for transferring equipment and materials on a barge from the staging area to the bridge site.

Ms. Ducey stated two cottages will be demolished but their existing stone foundations will remain due to slope stability concerns. No impacts to wetland resource areas are anticipated as an off-shore crane will be used for demolition.

Chair Wanat asked if the three year time frame will disturb any recreational use and whether a fence will be installed. Ms. Ducey replied that a perimeter chain link fence will be installed to secure the site and there would be no impact to recreation use.

Chair Wanat asked whether the cottage demolition would remove any large trees. Ms. Ducey stated there will be pruning but no tree removal.

Commissioner Wood stated there was a property site walk and that the Lake Quinsigamond Commission was aware of the application and is satisfied that the two cottages will be removed.

Commissioner Franco asked if any hazardous materials would be stored on site, to which Ms. Ducey replied no.

Commissioner Berg-Powers asked how debris from the demolition will be prevented from entering the lake. Ms. Ducey said traps and netting will be used.

Sean Fitzpatrick, property abutter, expressed his support of the cottage demolition and asked what were the next steps. Chair Wanat said after closing of the public hearing, the Commission will issue an order of conditions. The applicant can commence work with reviews by city inspectors.

Mr. Fitzpatrick asked if they can address noise control. Chair Wanat said that issue was not under the Commission's jurisdiction.

Timothy Loew and several abutters asked that the item be continued because the applicant had not discussed the project with the public regarding concerns relative to property value, traffic, safety and the brook area. Chair Wanat said some items are outside the Commission's purview and it cannot force applicant to request a continuance. He then asked applicant to respond to the question relative to the brook area. Ms. Ducey stated there would be no impact to the brook.

Commissioner Franco stated the Commission must only focus on the wetland issue.

Chair Wanat said abutters could meet with the applicant outside the meeting to discuss their concerns.

Commissioner Wood stated there were several meetings at the vocational school regarding this project and there was a future one that abutters could attend to discuss their concerns.

Upon a motion by Commissioner Donahue and seconded by Commission Franco the Commission voted 7-0 to close the public hearing.

Upon a motion by Commissioner Berg-Powers and seconded by Commissioner Franco, the Commission voted 7-0 to issue an Order of Conditions. Discussion regarding issuance of Order of Conditions was held to the end of the meeting.

List of Exhibits:

Exhibit A: Notice of Intent application for 231 & 249 Lake Avenue submitted Rob Pine of The Middlesex Corporation; received June 13, 2012.

Exhibit B: Notice of Intent Plans, prepared by Fay, Spofford & Thorndike, LLC; dated June 11, 2012, received June 13, 2012.

Exhibit C: Minor Changes to the Notice of Intent Plans; revised and received August 8, 2012.

5. 500 Salisbury Street (CC-2012-028) – Notice of Intent:

Chair Wanat recused himself from hearing the item and Commissioner Wood assumed position as Chair of the Commission.

Craig Liatsis from Vanasse Hangen Brustlin, Inc. (VHB) appeared on behalf of Assumption College for Notice of Intent to improve the entrance to Assumption College by modifying the driveway location and providing new stormwater management facilities, a new guard house and landscaping.

Mr. Liatsis presented plans of the proposed changes and showed the proposed wetland boundaries. He said the project proposes to reconstruct and shift access/egress drive locations and improve overall roadway geometry. The project includes full depth reconstruction of the driveway within the project limits and improvements to the existing stormwater management facilities, including rain gardens to improve water quality. A new guard house will be constructed at its new location and new landscaping will be provided to enhance the overall appearance of the gateway to Assumption College. The project does not involve any direct impacts to wetland recourse areas but proposed work will occur in the buffer zone to bordering vegetated wetlands.

Commissioner Donahue inquired about the rain garden surface area. Mr. Liatsis stated he believed it to be ~3,400 SF.

Commissioner Theerman asked whether a traffic study was performed with traffic engineers. He also said he did not see the reason for increasing impervious area. Mr. Liatsis said VHB conducted a site line study of the area was completed traffic engineers on staff and that it had met with city engineers on multiple occasions to review the plans.

Commissioner Wood inquired where the impervious areas were on site. Mr. Liatsis pointed the areas on the plan. Commissioner Wood asked whether the area could be reconfigured.

Commissioner Theerman stated the proposal seemed like an aesthetic project and did not believe it was necessary to move forward with this project.

Mr. Gervais asked the applicant to provide some information relative to vehicle queuing. Mr. Liatsis stated he did not have the information at present but could provide it at a later date.

Commissioner Berg-Powers expressed his agreement with Commissioner Theerman but said he would support the project because of the proposed rain garden. However, he expressed his concern that snow

storage would be located next to the rain garden. Mr. Liatsis said its location would allow snow to melt into the garden.

Ms. Wood asked Ms. Zhaurova to redistribute the filing for the master plan as she did not believe all Commissioners had a copy. Ms. Zhaurova said she would resend it.

Landscape architect Bill Koetteritz of H.K. Dodge Associates stated he had met with the City to review the project and landscaping plan.

Mr. Gervais stated he had no comments.

Upon a motion by Commissioner Donahue and seconded by Commissioner Franco the Commission voted 6-0 to close the public hearing.

Upon a motion by Commissioner Donahue and seconded by Commissioner Franco, the Commission voted 4-2 to issue an Order of Conditions (Commissioners Theerman and Berg-Powers voted against). Discussion regarding issuance of Order of Conditions was held to the end of the meeting.

List of Exhibits:

- Exhibit A: Notice of Intent application and stormwater report for 500 Salisbury Street submitted by Assumption College; received June 13, 2012.
- Exhibit B: Assumption College Access Improvements Plan, prepared by Vanasse Hangen Brustlin, Inc.; dated June 1, 2012, received June 13, 2012.
- Exhibit C: Memorandum from Department of Public Works; re: 500 Salisbury Street – Notice of Intent; dated July 2, 2012.

Commissioner Wanat returned and assumed position as Chair of the Commission.

6. 36 Lanesboro Road (CC-2012-029) – Notice of Intent:

Environmental scientist John Rockwood of EcoTec, Inc. appeared on behalf of the applicant, Mark Tomaiolo for a Notice of Intent to construct a single family residential dwelling with a garage. Mr. Rockwood said revised plans showing wetland delineation were submitted and that the Commission had conducted a site visit. He said a tire scrubber will be installed during construction at the proposed 22' wide driveway area.

Chair Wanat asked if the house would be connect to city sewers, to which Mr. Rockwood replied in the affirmative and added that a cul-tec infiltrator will be used for roof runoff.

Commissioner Wood asked whether the wetland delineation was changed prior to the site walk, to which Mr. Rockwood replied in the affirmative.

Commissioner Theerman asked for updated plans and Commissioner Berg-Powers asked if there were any permanent bound markers.

Mr. Rockwood stated the applicant is amenable to submitting revised plans

Mr. Gervais stated he had no comments.

Upon a motion by Commissioner Berg-Powers and seconded by Commissioner Theerman, the Commission voted 7-0 to close the public hearing.

Upon a motion by Commissioner Powers and seconded by Commissioner Berg-Powers the Commission voted 7-0 to issue an Order of Conditions for 36 Lanesboro Road.

Upon a motion by Commissioner Berg-Powers and seconded by Commissioner Franco, the Commission voted 7-0 to issue an Order of Conditions. Discussion regarding issuance of Order of Conditions was held to the end of the meeting.

List of Exhibits:

- Exhibit A: Notice of Intent application for 36 Lanesboro Road submitted by Mark L. Tomaiolo; received June 13, 2012.
- Exhibit B: Site Plan for Lot #1 Lanesboro Road, prepared by Robert D. O’Neil Jr. and signed by James F. Malley Jr., P.E.; dated June 9, 2012, received June 13, 2012.
- Exhibit C: Memorandum from Department of Public Works; re: 36 Lanesboro Road – Notice of Intent; dated July 2, 2012.
- Exhibit D: Delineation Field Data Form for Lanesboro Road; dated June 29, 2012, received July 2, 2012.
- Exhibit E: Site Plan for Lot #1 Lanesboro Road, prepared by Robert D. O’Neil Jr. and signed by James F. Malley Jr., P.E.; dated June 9, 2012, revised July 12, 2012.

Other Business

7. 1121 Grafton Street (CC-2006-088) – Enforcement Order Update:

Mr. Gervais stated he visited the property and saw no evidence of any work having been done.

Ms. Zhaurova stated she will send a letter to the property owner to get an update for the next meeting.

Upon a motion by Commissioner Wood and seconded by Commissioner Berg-Powers, the Commission voted 7-0 to continue item until the next meeting.

8. 187 Greenwood Street (CC-EO-2012-001) – Enforcement Order:

Mr. Gervais said he received a copy of the plans, reviewed it and provided comments the engineer for revisions.

Upon a motion by Commissioner Wood and seconded by Commissioner Berg-Powers, the Commission voted 7-0 to continue item until the next meeting

9. 126 Sears Island Drive (CC-EO-2012-002) – Enforcement Order:

Ms. Zhaurova said at the request of the Commission, she researched whether the Commission had authority to fine property owners after enforcement order issuance; she discovered that they did not have the authority.

Commissioner Theerman said he was uncomfortable with lifting the enforcement order because it would not keep the Commission updated on the situation. He indicated his understanding that the Massachusetts Department of Environmental Protection (MassDEP) is involved but felt that the local commission they should be able to enact some type of fine.

Commissioner Wood stated MassDEP had notified the Commission that they had found violation. It usually takes months for MassDEP to issue a fine but the restoration at the site was complete the local commission has no authority to fine.

Commissioner Berg-Powers stated the Commission would have to fine property owners when at the time of enforcement order.

Mr. Gervais stated MassDEP is continuing to monitor the property.

Ms. Zhaurova recommended lifting the enforcement order as the property owner has complied with the Commission's order of conditions.

Upon a motion by Commissioner Franco and seconded by Commissioner Wood, the Commission voted 5-1-1 (Commissioner Theerman voted against, Commissioner Wanat abstained) to lift the enforcement order of 126 Sears Island Drive.

10. 25 Ellis Drive (CC-EO-2012-004) – Enforcement Order:

Chair Wanat said the Commission had not received a response relative to the enforcement order and that the City recommended filing a complaint for injunctive relief. He asked the Commission to review what the Worcester Law Department had provided and asked if it would like to make any changes.

Commissioner Wood said the injunctive relief would require the applicant to appear in court and if he did not appear he would be held in contempt.

Commissioner Berg-Powers asked about the fine. Ms. Zhaurova stated she believed this path would show whether or not the property is in compliance and lead to compliance. She said she would research about the fine.

Jack O'Connor, an abutter, stated the issue had been going on for years and two enforcement orders were ignored and asked the Commission to pass the motion.

Upon a motion by Commissioner Theerman and seconded by Commissioner Franco, the Commission voted 6-1 (Commissioner Berg-Powers voted against) to allow City of Worcester to file complaint for injunctive relief.

Exhibit:

Exhibit A: Memorandum from the Michael E. Traynor, Deputy City Solicitor – Worcester Law Department to Joel Fontane – Director of Planning & Regulatory Services re: 25 Ellis Dr. – Enforcement Options; dated June 13, 2012, received June 15, 2012.

11. 20 Jasmine Drive (CC-EO-2012-005) – Enforcement Order:

Mr. Gervais stated he reviewed property plans and said the work was done outside the 30' buffer.

Adam Roche, property owner of 20 Jasmine Drive, appeared on behalf of the item and said he was unaware he needed permission to grade on his property.

Chair Wanat stated this was accidental work within the buffer zone and Mr. Gervais concurred.

Mr. Roche presented plans to the Commission for them to review.

Chair Wanat stated a RDA filing would need to be filed, to which Mr. Roche said he was amenable with the suggestion.

Commissioner Wood recommended a site walk.

Upon a motion by Commissioner Wood and seconded by Commissioner Donahue, the Commission voted 7-0 to continue item until an RDA filing is submitted by Mr. Roche.

12. Discussion on ALB

The Commission discussed whether to allow the Asian Longhorned Beetle (ALB) crew have access to Conservation Commission-owned properties.

Commissioner Wood said the Commission issued blanket permission several years prior to the ALB program so it did not have to come before the Commission for every tree removal. However, it failed to include Conservation land as part of the permission.

Mr. Gervais said he was contacted by the ALB program regarding Commission-owned property at Wayside Road. Several trees on the property were infected; the ALB program submitted forms requesting permission to enter the property to remove them. Mr. Gervais said if the Commission does not give its approval, the ALB program will get a warrant to cut down the trees.

Chair Wanat asked if the paperwork specifies the ALB team agent and the tree removal contractor.

Mr. Gervais said ALB staff has identification and will mark trees for removal.

Chair Wanat inquired about the timetable to sign the paperwork.

Commissioner Wood stated the ALB program sought for immediate sign off. Commissioner McDonald recommended looking into tree replacement options.

Commissioner Berg-Powers expressed his desire for follow-up regarding tree replacement.

Jo Hart, Worcester resident, said the Commission should be notified of tree removal. Chair Wanat concurred.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Theerman, the Commission voted 7-0 to allow Chair Wanat the authority to sign the ALB form to allow them access to Conservation Commission property.

ADJOURNMENT

Upon a motion by Commissioner Franco and seconded by Commissioner Berg-Powers, the Commission voted 7-0 to adjourn the meeting at 8:45 p.m.