

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

January 4, 2016

WORCESTER CITY HALL – ESTHER HOWLAND CHAMBERS

Conservation Commission Members Present: Stephanie Wood
Peter McKone
Joe Charpentier
Amanda Amory
Jordan Berg Powers - Arrived late
Henry Fields

Member Absent: None

Staff Present: Michelle Smith, Planning & Regulatory Services Division
Ed Kochling, Department of Public Works & Parks

CALL TO ORDER – 5:30 pm

REQUESTS FOR CONTINUANCES, POSTPONEMENTS, WITHDRAWALS

1. 0 & 9 Hemans Street and part of 40 Milton Street (MBL 09-030-007-2, 09-030-00009 & 09-030-00004) - (CC-2015-055)

Application: Notice of Intent

Applicant: John Boggia of JNBB, LLC,

Project: For the demolition of the existing structure on-site and the construction of three multi-family high-rise dwellings (a total of 93 dwelling units) and associated off-street parking along with related grading, utilities, and site work

Jurisdiction: The City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the Stormwater Protection Zone

Public Hearing Opening Deadline: WPA – n/a; WWPO – 1/4/2016

Upon a motion by Commissioner Charpentier and seconded by Commissioner McKone, the Commission voted 6-0 to postpone the item until the January 25, 2016 Conservation Commission meeting and to extend the constructive grant deadline until February 23, 2016.

List of Exhibits:

Exhibit A: 0 & 9 Hemans Street; submitted by John Boggia of JNBB, LLC; received September 1, 2015; dated June 16, 2015.

Exhibit B: 0 & 9 Hemans Street plan; prepared by H.S.&T. Group Inc.; dated September 2, 2015.

Exhibit C: Request for Postponement dated December 10, 2015; received December 10, 2015.

2. Salisbury Hill (CC-2004-059) - Request for Determination of Action Required due to a Project Change

Upon a motion by Commissioner Charpentier and seconded by Commissioner McKone, the Commission voted 6-0 to allow a Leave to Withdraw for the item.

3. Requests for Certificate of Compliance:

a. 501-505 Mill Street (CC-2001-027)

b. Whippoorwill Drive (CC-2004-059)

c. Whippoorwill Drive (CC-2014-020)

Upon a motion by Commissioner Charpentier and seconded by Commissioner McKone the Commission voted 6-0 to postpone items a.b.c. until the January 25, 2016 Conservation Commission meeting and to extend the constructive grant deadline until February 23, 2016.

NEW BUSINESS – Requests for Determination of Applicability:

4. 939 Southbridge Street (MBL 26-036-00001) & Southbridge Street Right of Way (CC-2015-077)

Application: Request for Determination of Applicability

Applicant: Massachusetts Electric Company

Project: To seek determination as to whether or not the work/area associated with the installation of an asphalt berm in the existing parking area along with associated site-work and vegetation maintenance, on the northern portion of the property located at 939 Southbridge Street and partially within the Southbridge Street Right-of-Way is subject to the Commission's jurisdiction.

Jurisdiction: The City of Worcester Wetlands Protection Ordinance - the proposal shall occur partially within the storm-water protection zone.

Public Hearing Opening Deadline: WPA – n/a; WWPO – 1/29/2016

Melissa Kaplan from BSC Group and Gerry Augustine representing National Grid appeared on behalf of the application.

Ms. Kaplan stated that National Grid is planning to install a berm around the northern part of their parking lot to help with storm-water control.

Chair Wood asked Ms. Kaplan to review the phasing of the project and Ms. Kaplan reviewed the proposal.

Upon a motion by Commissioner Charpentier and seconded by Commissioner Armory the Commission voted 6-0 to issue a Negative Determination of Applicability.

List of Exhibits:

- Exhibit A: 939 Southbridge Street Request for Determination of Applicability; submitted by Massachusetts Electric Company; received December 15, 2015; dated December 15, 2015.
- Exhibit B: 939 Southbridge Street Berm installation plan; prepared by BSC Group; not dated received December 8, 2015.
- Exhibit C: Memorandum from the Department of Public Works & Parks to the Conservation Commission re: 939 Southbridge Street; dated December 8, 2015.

5. 8 Teddy Road (MBL 42-020-00005) (CC-2015-079)

Application: Request for Determination of Applicability

Applicant: Uyen Nguyen

Project: To seek determination as to whether or not the work/area associated with repair of the existing structure's foundation walls, and associated ground disturbance and site work, on property located at 8 Teddy Road, is subject to the Commission's jurisdiction.

Jurisdiction: Massachusetts Wetlands Protection Act and the City of Worcester Wetlands Protection Ordinance - the proposal shall occur within the 100 ft. buffer zone to the bank of an unnamed stream and/or associated bordering vegetated wetlands

Public Hearing Opening Deadline: WPA – n/a; WWPO - 1/29/2016

Constructive Grant Deadline: WPA – 1/5/2016

Joe Blair appeared on behalf of the application. He stated that he wants to fix a retaining wall which is about 75 from the stream.

Chair Wood stated that the application references using a machine.

Mr. Blair stated that is a possibility and once they remove the dirt from the outside he will go in with a smaller machine to do work.

Chair Wood asked if machine needs to be used will he need to dig down to get in.

Mr. Blair stated no as it all at grade.

Chair Wood stated that she had concern that if they need to use the machine they might not be able to get around.

Mr. Blair stated that shouldn't be a problem as they do not need to use any dump trucks as excavator can work right on top and dump truck can back up and pick up the material.

Chair Wood stated that they had received a letter from DPW stating that the erosion controls needed to be shown on the plan. Mr. Blair stated that had been submitted.

Commissioner Armory stated that she would like to see that silt fence on a plan with the topographic information.

Upon a motion by Commissioner McKone and seconded by Commissioner Charpentier the Commission voted 6-0 to issue a Negative Determination of Applicability with the condition that the erosion controls be inspected by DPW before the work is done.

List of Exhibits:

- Exhibit A: 8 Teddy Road Request for Determination of Applicability; submitted by Uyen Nguyen; received December 15, 2015; dated December 15, 2015.
- Exhibit B: Memorandum from the Department of Public Works & Parks to the Conservation Commission re: 8 Teddy Road; dated December 28, 2015.

6. 102 Shore Drive (MBL 37-027-00005) (CC-2015-082)

Application: Request for Determination of Applicability

Applicant: James Chacharone of Lakeview Court, LLC

Project: To seek determination as to whether or not the work/area associated with the construction of a ~240 SF concrete pad associated with a proposed telecommunications facility, along with associated grading and site work, on property located at 102 Shore Drive, is subject to the Commission's jurisdiction and whether or not the boundaries of the resource areas, as delineated on the plans, are accurate.

Jurisdiction: The Massachusetts Wetlands Protection Act and the City of Worcester Wetlands Protection Ordinance - The proposal shall occur within the 100 ft. buffer zone to a bordering vegetated wetland and within the stormwater protection zone.

Public Hearing Opening Deadline: WPA – n/a; WWPO - 1/29/2016

Constructive Grant Deadline: WPA – 1/5/2016

Glenn Krovosky from EBT Environmental Consulting appeared on behalf of the application.

Mr. Krovosky stated that he had provided some additional photos and stated that a few note changes had been done to the plan and he has provided that to Ms. Smith and then proceed to review the scope of the work with the Commissioner.

Commissioner Berg-Powers asked if there would be any stock-piling. Mr. Blair stated that there will be no stock-piling.

Upon a motion by Commissioner Berg-Powers and seconded by Commissioner Armory the Commission voted 6-0 to issue a Negative Determination of Applicability.

List of Exhibits:

- Exhibit A: 102 Shore Drive Request for Determination of Applicability; submitted by Lakeview Court LLC, James Chacharone; received December 15, 2015; dated December 15, 2015.
- Exhibit B: 102 Shore Drive; prepared by B&R Survey, Inc.; dated December 14, 2015

Exhibit C: Memorandum from the Department of Public Works & Parks to the Conservation Commission re: 102 Shore Drive; dated December 8, 2015.

7. 34 (aka 20) Sherburne Avenue or Indian Lake Park (MBL 13-006-00001) (CC-2015-083)

Application: Request for Determination of Applicability

Applicant: The City of Worcester Department of Public Works – Sewer Division

Project: To seek determination as to whether or not the work/area associated with the construction of a ~640 SF porous concrete slab in the existing parking area along with associated drainage infrastructure and site work, on property located at 34 (aka 20) Sherburne Avenue, is subject to the Commission's jurisdiction.

Jurisdiction: Massachusetts Wetlands Protection Act and the City of Worcester Wetlands Protection Ordinance - The proposal shall occur within the 100 ft. buffer zone to the Bank of Indian Lake and associated bordering land subject to flooding.

Public Hearing Opening Deadline: WPA – n/a; WWPO - 2/1/2016

Constructive Grant Deadline: WPA – 1/8/2016

Jon Gervais from DPW appeared on behalf of the application. He stated that this work is proposed to deal with historic erosion issues associates with runoff from the parking area that runs across the street into the beach area. He stated that there is limited excavation and the existing concrete will be cut and removed.

Chair Wood asked what would be the follow up after work completed. Mr. Gervais stated that there will be inspections of property and they will monitor for what needs to be removed and clean out and stated that he had provided an updated plan that showed the erosion control barriers.

Upon a motion by Commissioner Berg-Powers and seconded by Commissioner Armory the Commission voted 6-0 to issue a Negative Determination of Applicability.

List of Exhibits:

Exhibit A: 34 (aka 20) Shereburne Avenue or Indian Lake Park Request for Determination of Applicability; submitted by City of Worcester, DPW; received December 18, 2015; dated December 17, 2015.

Exhibit B: Memorandum from the Department of Public Works & Parks to the Conservation Commission re: 34 (aka 20) Sherburne Avenue; dated December 28, 2015.

NEW BUSINESS – Notices of Intent:

8. 500 Salisbury Street (MBL 55-004-00001) (CC-2015-078)

Application: Notice of Intent

Applicant: Assumption College

Project: For construction of a ~59,594 SF academic center and associated pedestrian and vehicular access, along with grading, paving, utilities, and site work on property located at 500 Salisbury Street.

Jurisdiction: The City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the storm-water protection zone.

Public Hearing Opening Deadline: WPA – n/a; WWPO – 1/29/2016

Paul McManus from EcoTec appeared on behalf of the item.

Mr. McManus stated that this is for a proposed new academic center. Mr. McManus reviewed on the plans where the new building would be located and reviewed on the plans the proposed work areas

Commissioner Armory asked how long the stock-pile would be there and when will work commence.. Mr. McManus stated that the hope is to begin work this Spring and it will remain during the duration of the work.

Chair Wood asked if the stock pile was outside the 100’ buffer. Mr. McManus stated that it was.

Mr. McManus stated that this item is scheduled to go before the Planning Board so he would request to continue this item to the next Conservation Commission meeting so Planning Board has time to review but he wanted to make sure he came before Conservation Commission so they could review the first set of plans.

Upon a motion by Commissioner Berg-Powers and seconded by Commissioner McKone the Commission voted 6-0 to continue the item until the January 25, 2016 Conservation Commission meeting.

List of Exhibits:

Exhibit A: 500 Salisbury Street; Notice of Intent Application submitted by Assumption College; received December 15, 2015; dated December 15, 2015.

Exhibit B: 500 Salisbury Street; prepared by Quinn Engineering, Inc.; dated November 12, 2015.

Exhibit C: Memorandum from the Department of Public Works & Parks to the Conservation Commission re: 500 Salisbury Street; dated December 28, 2015.

9. 661 (aka 663) Salisbury Street (MBL 50-022-00002) (CC-2015-080)

Application: Notice of Intent

Applicant: Temple Emanuel Sinai

Project: For the construction of a ~3,025 SF addition to the existing temple and the repairs/improvements to portions of the existing lower parking areas, reconfiguring associated pedestrian amenities, and related grading, utilities, and site work on property located at 661 (aka 663) Salisbury Street.

Jurisdiction: City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the 100 ft. buffer to a Bordering Vegetated Wetland associated with an unnamed intermittent stream and pond and within the Storm-water Protection Zone

Public Hearing Opening Deadline: WPA – 1/5/2016; WWPO – 1/29/2016

Mike Andrade from Graves Engineering appeared on behalf of item. He stated this is for a new addition and the access to the building is off Whisper drive and there is a pond at the bottom of the hill and two isolated wetlands within 100' of the buffer zone and there will be no disturbance to the wetlands. He stated the project consists of a 3,000 SF addition and part of the improvements is to provide accessibility. He stated that it about 5,000 SF of impervious surface mainly from the roof and sidewalks and that runoff will be collected by an underground infiltration and overflows to a rip rap area within the 100' buffer away from the pond location. He stated that they did receive DPW comments and will make the changes requested.

Mr. Andrade stated right now the area has no drainage system so they plan to do a rip rap sump to improve water quality from the parking lot.

Commissioner McKone asked for a review of the erosion controls. Mr. Andrade showed on the plan where they would be located and stated that there will be no tree clearing and the existing tree line will have hay bales and silt fence.

Commissioner McKone asked about the driveway area. Mr. Andrade stated that they can

Chair Wood asked about the timeline for the work. Mr. Andrade stated that there are funding concerns that the applicant needs to take care of first but hope to begin in Spring and it be about an eight month project.

Jamie Vander Salm stated that as an abutter to the property he has concerns with the pollutants. Mr. Andrade stated that DPW also had same comments and they believe the sump will address that.

Ms. Smith stated that Department of Environmental Protection had one comment with regard to the plan and that with was “Existing Conditions, Site Demo, and Sediment & Erosion Control Plan” appears to be lacking the proposed erosion and sedimentation control lines west of the main building and south of the proposed sidewalk. Please provide an updated sheet to the Commission and the Department.” and Ms. Smith stated that had been provided.

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

List of Exhibits:

- Exhibit A: 661 Salisbury Street; submitted by Temple Emanuel Sinai; received December 16, 2015; dated December 14, 2015.
- Exhibit B: 661 Salisbury Street plan; prepared by EcoTec, Inc.; dated October 21, 2015
- Exhibit C: Memorandum from the Department of Public Works & Parks to the Conservation Commission re: 661 Salisbury Street; dated December 28, 2015.

OTHER BUSINESS:

10. Enforcement Order Updates:

a. Arboretum Village Estates (CC-EO-2015-005)

Ms. Smith stated that at least meeting the Commission voted to issue an Enforcement Order which has been ratified and requested the Commission vote on the ratified Enforcement Order.

Upon a motion by Commissioner McKone and seconded by Commissioner Berg-Powers the Commission voted 6-0 to accept the ratify the Enforcement Order.

b. 181 Lake Avenue (CC-EO-2015-006)

No update.

c. Goldthwaite Road (Burncoat Gardens Phase I & V) (CC-EO-2015-007)

Ms. Smith stated that they did receive a letter of credit and the bond has been issue and she believed building permits have been issued for Lots #1 through #13 and there still cease and desist on the rest of the lots with erosion controls in place.

d. Pierce Avenue (Burncoat Gardens Phase IV) (CC-EO-2015-008)

No update.

e. 27 New Street Extension (CC-EO-2015-009)

Ms. Smith stated that a special permit was approved but has not been recorded and staff will follow up with additional measures that need to be taken up by the Commission.

f. 149-151 Lake Avenue (CC-EO-2015-010)

No update.

g. 604 Burncoat Street (aka Burncoat Heights) (CC-EO-2015-011)

No update.

h. 21 Quaboag Street (CC-EO-2016-001)

Ms. Smith stated that an enforcement order has been issued for site due to debris and storage of various materials such as rubber, tires, fencing that appear to be located within the 15' buffer and a violation letter was sent beginning of December but have not receive a response. The violation letter was sent certified mail return receipt and a signed receipt was sent back but staff has not heard from anyone so an enforcement order needs to be issued.

Commissioner Berg-Powers asked what would happen if they did not file. Ms. Smith stated that if application is not filed the Commission can begin fining.

Upon a motion by Commissioner Berg-Powers and seconded by Commissioner Armory the Commission voted 6-0 to ratify the Enforcement Order.

11. Communication:

a. Notice of Forum on the Emerald Ash Borer on 1/6/2016; by the Massachusetts Pest Taskforce; received 12/7/2015.

No comment.

- b. Memorandum to the City Manager re: the Emerald Ash Borer in Worcester; from Paul Moosey, Commissioner of DPW&P; dated 12/9/2015.

No comment.

- c. Notice of MassDEP Review of Recent Studies on Precipitation Rates in MA; from MassDEP; received 12/15/2015.

No comment.

- d. Executed, recorded, Bond Agreement for Burncoat Gardens Phase I & V (aka 72 Goldthwaite Road); W.R.O.D. Book 54719, Page 57; per Order for CC-2013-057 & CC-EO-2015-007.

No comment.

- e. Salisbury Hill 2015 Stormwater System Monitoring; from Peoples Engineering; received 12/23/2015; per Order for CC-2001-071.

No comment.

12. **Violation Letter – Arboretum, Phase IV***

Scott Morrison from EcoTec appeared on behalf of the item. He stated that he was quite surprised to receive the letter as he was expecting a ratified Enforcement Order to be issued based on the December 7, 2015 Conservation Commission meeting when Commission voted to relax some of the conditions and was surprised to receive the letter that some of the conditions that have not been addressed and he believed that those issues had already been addressed and has prepared response letter which he provided to the Commission.

Mr. Morrison stated that the letter cited that information had not been provided on the temporary sedimentation ponds and on December 2, 2015 they had provided a sketch of the temporary basins and on December 6 the Commission did a site-walk and observed the conditions at the site and on December 7, 2015 they discussed this in great detail including removing several conditions especially with regard to Slope A. so the information was provided prior to December 6 and reviewed on December 7 by the Commission so it shocking that Commission has issued a new letter threatening enforcement.

Chair Wood stated that she thinks what happens is that multiple issues had got jumbled out and they need to address that. Chair Wood asked if the ratified Enforcement Order. Ms. Smith stated yes.

Chair Wood stated that the issue with the temporary basin is separate issue involving the slope.

Commissioner Berg-Powers stated that he thought it was change of from where the Commission were shown they were located during the site-walk.

Commissioner McKone stated that his concern is that there is an illicit discharge from to the sewer. Mr. Morrison stated that was missing from letter.

Ms. Smith stated that the issue before Commission is that the plan deviates from what the Commission approved and any change requires applicant to inquiry to the Commission

whether the change is minor or inconsequential and what action if any is required by the Commission.

Mr. Morrison stated that was provided in the December 2, 2015 letter so the Commission could vote now.

Ms. Smith stated that she would recommend that the Commission receive a sketch to review and take everything into consideration and staff is looking for specifics of the storage capacity of the catch basins.

Chair Wood stated that apparently there was a discharge to the city sewer and DPW is upset and the concern is moving temporary basins the potential likelihood that something like that could happen again where having a set basin where it would be less to have an illicit discharge to the city sewer.

Mr. Morrison stated that as soon as Mr. Gallo was notified he had crew go in and plugged that and he believes that is a DPW issue not a Conservation Commission issue.

Chair Wood stated that is a concern to Commission as it a temporary basin that was approved by the Commission and the temporary basin out there is not the one approved by the Commission.

Mr. Morrison stated that the Commission needs to keep in mind that the whole intent for temporary sediment pond to demonstrate that there was adequate control the site during construction as construction occurs those ponds are not needed anymore but if Mr. Gallo is required to come before the Commission every time he changes some type of storm water condition they will be before the Commission potentially daily for approval and does not think is what the Commission intends.

Commissioner McKone stated that he understands where Mr. Morrison coming from but there was a discharge and what happens next time. Mr. Morrison stated that there are two temporary ponds and then it discharges into the street and then gets routed through the storm-water system located in the roadway.

Chair Wood stated that part of the concern is the road is the main access and if equipment needs to pass over the basins then the basin is constantly getting demolished and rebuilt and how do they know every time it gets rebuilt they know it will be rebuilt correctly. If there was an area that a temporary basin was located where it could not be constantly reworked, she thinks that would work better and could avoid additional problems going forward.

Commissioner Berg-Powers stated that he doesn't think Mr. Gallo needs to come before Commission every time there are changes but a plan should be able to provide sequence plans to the Commission and he agrees with Chair Wood that there was one clear location for one basin and revised plans be provide to the Commission.

Chair Wood stated that a letter of inquiry can just be sent via email to the Commission and Mr. Gallo does not need to attend the meeting it would just be provided for the Commission review.

Mr. Morrison stated that what Commission is asking is different from DPW and staff is asking and not described in the Enforcement Order.

Ms. Smith stated that staff would be looking for information of the location of the basins, any changes to grading or proposed grading changes as well as any changes capacity of the proposed basins.

Mr. Morrison asked if any little change to Planning Board change needs to be brought before the Conservation Commission. Ms. Smith stated that a change of sediment basin would be substantial.

Chair Wood stated that it would be any changing to grading, the location of a temporary sediment basin or any other change Mr. Gallo thinks is going to happen if Mr. Gallo could provide so the Commission would not be caught unaware.

Chair Wood stated that if Mr. Gallo could provide information on where the long term basin would be and for how long it would be located that would be okay and could be provided by email.

Commissioner McKone stated that given the history of the site they wouldn't be where they are at now and while they want to flexible they need to hold the client to some type of standard.

Commissioner Berg-Powers stated that they are a forgiving group and they have always just asked people to just tell of them of the change and they are only asking when changes are made that the Commission be told.

Mr. Kochling stated that the big issue DPW has is that there in working plan showing the transition of the work and they have had a number of problems with the moving pond and the drainage system was over-taxed and overflowed the manholes and causes a surcharge in the system. Mr. Kochling stated that he was on site today and there was no pond and all there was a big hole on one side which is recipe for disaster and a rain event is predicted for this weekend could be potential problem so it not a question to ask where the pond is and how it will be monitored and once area is more developed that they can move the pond.

Commissioner Charpentier stated that he understands the rationale behind using the road basin as detention pond as when it was originally detention pond there was no work being done up there.

13. Issuance of Orders of Conditions

14. Discussion and Signing of Decisions

ADJOURNMENT

Upon a motion the Commission adjourned the meeting at 8:00 p.m.