



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

**Monday July 03, 2023**

Worcester City Hall - Levi Lincoln Chamber,  
with remote participation options available via WebEx online at  
<https://cow.webex.com/meet/conservationcommissionwebex> and  
call-in number 415-655-0001 (Access Code: 1609734358).

**Commissioners Present:** Joseph Charpentier, Chair *Participated remotely*  
Devin Canton, Vice Chair  
Amanda Amory – Commissioner  
Timothy Magliaro, Commissioner  
Lindsay Nystrom, Commissioner *Participated remotely*

**Commissioners Absent:**

**Staff Present:** Eric Flint, Division of Planning & Regulatory Services (DPRS)  
Olivia Holden, Division of Planning & Regulatory Services, *Participated remotely* (DPRS)

**Call to Order**

Commissioner Canton chaired the meeting because Chair Charpentier participated remotely.  
Commissioner Canton called the meeting to order at approximately 5:31 p.m.

**Requests for Continuances, Postponements and Withdrawals**

- 3) **25 & 35R Tobias Boland Way, 0 McKeon Road, and 0 Millbury Street – Notice of Intent (CC-2022-069 & DEP#349-13XX)**  
*Request to Postpone to 7/24/2023*  
*Request to Extend the Constructive Grant Deadline to 8/15/2023*
- 4) **Salisbury Street Right-of-Way and 633 & 646 Salisbury Street – Notice of Intent (CC-2023-002 & DEP#349-1350)**  
*Request to Postpone to 7/24/2023*  
*Request to Extend the Constructive Grant Deadline to 8/15/2023*
- 5) **34-38 Blackstone River Road – Notice of Intent (CC-2023-020)**  
*Request to Postpone to 7/24/2023*  
*Request to Extend the Constructive Grant Deadline to 8/15/2023*

**8) 26 (Lots 2A & 2B) Apthorp Street – Notice of Intent (CC-2023-041 & DEP#349-13XX)**

*Request to Postpone to 7/24/2023*

*Request to Extend the Constructive Grant Deadline to 8/15/2023*

Mr. Flint read the requests for continuances, postponements, and withdrawals into the record.

*Upon a motion by Commissioner Amory, Seconded by Commissioner Magliaro the Commission voted 5-0 to postpone the public hearings and extend the constructive grant deadlines to the dates noted.*

**Old Business – Notices of Intent**

**1) 305 Chandler Street (aka Foley Stadium) – Notice of Intent (CC-2023-032)**

Michael Liu (participating remotely) of Berkshire Design on behalf of the applicant, City of Worcester Department of Public Works and Parks, presented the changes made since they were last in front of the Commission. An underground infiltration system made up of “r tanks” was added at the southwest of the backstop area to handle excess runoff in the natural grass area. The existing drainage for the track system will also be rerouted to this 46’x100’ infiltration system and will reduce peak runoff except at 100-year storm. Two outlet control structures and two stormwater treatment chambers were also added on each side of the culvert because pipes cannot run over the culvert. Mr. Liu addressed staff and DEP comments.

Commissioner Magliaro asked if they looked into placing a check valve to come off the culvert to mitigate backup; Mr. Liu stated they did not put in a check valve and explained the reasoning.

Commissioner Canton asked about maintenance for the proposed infiltration system; Mr. Liu stated the proposed has four maintenance observation ports. The system can be cleaned by pressure washing and is built to last for a long time but should be monitored at least once a year to be sure all is functioning properly.

Commissioner Magliaro voiced concerns regarding water not having an opportunity to percolate into the soil with 100% of the water going into the drainage system; Mr. Liu stated they placed these control structures to balance out the site and some water will still have a chance to infiltrate.

Commissioner Amory asked for the percentage of water that would be infiltrated; Mr. Liu stated he would have to get that information from the project engineer.

Commissioner Magliaro asked why there is only 3” of stone at bottom of the pipe; Mr. Liu stated that he believes this is standard but will check with applicant to see if they are open to adding more depth to the stone to increase infiltration capacity. Mr. Liu added that they could potentially add 6” of stone and is asking for approval tonight with those conditions; Chair Charpentier stated that if the applicant is amenable to adding 6” of stone, the Commission could grant approval with that condition; The Commission agreed unanimously.

Public Comment:

Tracy O'Connell Novick of 135 Olean Street stated that they were not aware this was coming before the Commission and expressed concerns regarding the paperwork submitted. The application filed reflects the owner of this property as DPW&P when it should in fact have Worcester Public Schools listed as the owner. Concerns regarding 100-year storm and the future effect on the entire site were also mentioned; Mr. Liu stated they are not impacting the runoff situation that exists in current conditions. Mr. Liu added that his team does not know if there is a problem with the culvert or to what extent there may be a problem as they were not tasked to find the problem and they were notified that the owner and applicant is the DPW&P.

Commissioner Magliaro stated that if there is a problem with a culvert then the problem should be identified before adding to the problem.

Chair Canton asked about performance expectations from the culvert; Mr. Liu stated that the culvert is currently functioning on a day-to-day level and the model they designed balances out the flow. Since they are increasing the flow going into culvert from the baseball field, they are taking flow out of the culvert by putting it in the underground subsurface system. Essentially, the effect of the water going into the culvert is not increasing because they have redirected other catch basins at the football field to the underground system.

*Upon a motion by Commissioner Magliaro, Seconded by Commissioner Amory the Commission voted 4-0 to close the public hearing. Commissioner Nystrom abstained from the vote.*

Mr. Flint described staff recommended conditions which include submitting a revised WPA form 3 listing proper ownership with authorized signature from school department, revised plans reflecting increase of 6" to the stone base beneath piping in athletic field, annual inspection records for stormwater maintenance be made available to the Commission and staff, infiltration unit inspection certified by professional engineer with written certification that the system has been installed in compliance with the plans and functions as designed, provide photos of the installed unit prior to backfill, conditions #49, #52, #63, in regards to the COC an as-built site plan be provided, stormwater system be cleaned out post construction, condition #65 , with deeded conditions #40 and #65 in addition to the standard conditions.

*Upon a motion by Commissioner Amory, Seconded by Commissioner Magliaro the Commission voted 4-0 to issue an Order of Conditions as discussed. Commissioner Nystrom abstained from the vote.*

*Commissioner Nystrom was not eligible to vote on item 1 due to absence at first hearing.*

**2) 348 Salisbury Street – Notice of Intent (CC-2023-037)**

Mike George of Wingspan Properties, LLC, stated that they received the DEP filing number and attended a site walk with the Commission last week so they are now looking to move forward with the NOI.

Commissioner Nystrom presented the findings from the site walk as Chair Charpentier was not able to attend.

Commissioner Canton asked about the proposed driveway over the drain connecting to the wetland; Mr. George stated that it's a preexisting car path according to their representative, Glenn Krevosky, so they intend to pave over it.

Commissioner Canton asked why they are requesting a waiver for performance standard 4.2.4; Mr. George stated the upland area on site is limited so the home ended up in the buffer zone; Mr. Flint clarified.

Mr. Flint stated staff comments have been addressed and DEP only provided one comment regarding the placement of permanent markers.

Public Comment:

Allie Hanrahan asked if they could make the driveway with permeable pavement; Mr. George stated he is not familiar with the product and they would have to learn more about it first.

Chair Charpentier asked how stormwater on the driveway will be managed; Mr. George stated the water will sheet flow off the driveway to the Salisbury Street side and into catch basins.

*Upon a motion by Chair Charpentier, Seconded by Commissioner Magliaro the Commission voted 4-0 to close the public hearing. Commissioner Amory abstained from the vote.*

Mr. Flint described staff recommended conditions which include finding for discretionary allowance from performance standard 4.2.4, old erosion controls be removed prior to starting work, conditions #24, #26, #45, #46, #49, #52, #53, #63, #64, #65, #66, with deeded conditions #40, #46, #64, and #66 in addition to the standard conditions.

*Upon a motion by Commissioner Magliaro, Seconded by Chair Charpentier the Commission voted 4-0 to issue an Order of Conditions as discussed. Commissioner Amory abstained from the vote.*

*Commissioner Amory was not eligible to vote on item 2 due to absence at first hearing.*

### **New Business – Abbreviated Notice of Resource Area Delineation**

#### **6) 4 Brandt Lane – (CC-2023-039)**

Patrick Healy of Thompson-Liston Associates, Inc. on behalf of the applicant, Brandt Lane Development, LLC, presented the proposal which is to confirm the delineation of jurisdictional wetland resource areas affecting the subject property. A site walk took place with Chair Charpentier and Commissioner Nystrom.

Chair Charpentier stated the site is very large with many interesting features and he did not take any specific concerns with flags placed, however, DEP recommended third-party review since it is a large and complex site.

Scott Goddard of Goddard Consulting stated the site is heavily disturbed and the wetland area is well defined. He is happy to walk the site again with the Commission because in his opinion, the wetland area is clear and peer review does not seem like an efficient use of time and resources but either way is happy to comply with what the Commission decides is needed.

Mr. Flint stated the applicant would be responsible for paying up to \$2,500 for third-party review and after that the fee is capped by the ordinance. The remainder would need to be paid with WPA funds; Mr. Healy added that they have already paid significant fees to the Commission.

Mr. Flint stated the site is large and complex, however, he did not personally take issues to any of the wetland flags noted during the 2.5-hour site walk; Chair Charpentier stated he agrees with Mr. Flint's comments but would ultimately defer to the balance of the Commission.

Mr. Flint explained that if the Commission decides to have third-party review the process going forward will take several months; Commissioner Canton asked if the applicant had any issues with the timeline Mr. Flint laid out; Mr. Healy stated they are amenable to push out to one more meeting date but would not want to delay any longer than that.

Mr. Healy asked if there is any way they can assist with the process to have it move more quickly and efficiently; Mr. Flint stated that City staff would have to obtain the quotes and provide options to the Commission.

Chair Charpentier stated that based on observations made during the site walk, they will need to make significant engineered changes and that will need to be presented at a future meeting and therefore feels comfortable moving forward to the next phase of engineering as it would be more beneficial to the site than having a third-party come in to review existing wetland lines.

Public Comment:

Donna Dickey, abutter to the property, brought up concerns regarding test pits from years ago that showed the site is contaminated across 17 acres and asked what will happen to underground streams once they remove contaminated soils.

Ron Dickey, abutter to property, stated the applicant is failing to mention what is in the fill. The drill pits from years ago show toxic waste including batteries and garbage buried in the ground on site.

Commissioner Canton confirmed that the applicant is only looking to confirm wetland delineation and no work is being done at this time; Mr. Healy added that Mr. and Mrs. Dickey have also provided this information to them and when a design is presented, they will fully inspect and engineer plans to ensure the changes made will be for the good of the City, property owners, abutters and resource areas.

Commissioner Amory asked if there will be a current day comparison to what was tested in the past; Mr. Goddard stated there is plenty of room for improvement and part of the redesign process may include capping off areas of the site. Professionals will be on site to determine levels of contamination and how to best remediate that.

Mrs. Dickey stated topsoil or gravel is currently being dumped on the site to cover soils and feels uncertain that no work is happening; Mr. Healy stated they have since notified owners to stop and the clients they are representing were not aware that the dumping was happening.

Commissioner Magliaro stated that there appears to be a stream on site, but he is not seeing it on the plans; Mr. Goddard stated that during the site visit, the wetland scientist explained that he flagged either the wetland bank or the BVW battery, essentially whatever was further out. The stream is not delineated but the BVW that surrounds it was delineated.

Mr. Goddard stood up and pointed out stream on plans.

Mr. Flint noted that DEP had also commented that only the BVW was depicted on the map and there are potentially other resources that could be present on site within the BVW battery or at its edge. It could be relevant to have the bank delineated if there are portions of the project down the line with direct resource area impacts.

Commissioner Magliaro stated that he feels a third-party review presents an opportunity to identify all resource areas on site; Mr. Healy stated that there are additional resource areas identified on the second sheet of the plan set.

Commissioner Canton stated that he is torn because an engineered survey was done laying out current conditions and a third-party is not going to go out and confirm whether or not a stream was there 30 years ago.

Commissioner Amory reiterated that she would like to see a comparison of current day conditions vs. conditions when the test pits were dug; Chair Charpentier stated the Commission is only charged with seeing where things are now and how to move forward; Commissioner Amory stated she does not disagree, but it would be useful to have the historical knowledge for planning in the future.

Mr. Dickey asked the Commission to hire third-party and get drill pits.

Commissioner Amory stated she agrees with members of the public but thinks this is outside of the current application review.

Mr. Flint restated that this application is exclusively to review wetland boundary.

Mrs. Dickey repeated concerns regarding building and construction; Commissioner Canton restated that the applicant would have to come back before the Commission when they propose site work and this meeting is only to determine what is out there right now.

*Upon a motion by Commissioner Magliaro, Seconded by Commissioner Amory the Commission voted 2-3 to require a third-party review of the wetland. Chair Charpentier, Commissioner Nystrom, and Commissioner Canton voted against the third-party review. The motion failed as a majority of the Commission voted against.*

*Upon a motion by Chair Charpentier, Seconded by Commissioner Nystrom the Commission voted 4-1 to close the public hearing and issue the ORAD. Commissioner Magliaro voted against issuing the ORAD.*

## **New Business – Notices of Intent**

### **7) 66 & 68 Heywood Street – Notice of Intent (CC-2023-040)**

Brian MacEwen of GRAZ Engineering, LLC on behalf of the applicant, Heywood Partners, LLC, presented the proposed work which is to construct two single-family semidetached duplexes with access to public municipal utilities and perform related site work. There is a catch basin located centrally between the two existing parcels at 66 and 68 Heywood Street. Comments from staff as well as other City departments have been received and Mr. MacEwen addressed the comments from staff. Other changes based on other City department comments include sidewalk installation at the front of the property which will affect the stormwater calculations and will therefore be incorporated into the stormwater calculations once the revisions have been made. Regarding trees on site, they are requesting a waiver because the back of the lot will be excavated and any existing trees will not be able to be maintained. The soils on site will be tested prior to issuance of building permits.

Commissioner Canton asked if the downspouts are tied into infiltration beds; Mr. MacEwen confirmed that they are.

Commissioner Canton asked about the retaining walls; Mr. MacEwen stated the wall will catch the grade at the property line and they will be revising the grade wall at the corner to the adjacent lot based on DPW and Planning comments. They will remove, replace, and regrade to meet zoning requirements.

Chair Charpentier asked if there are any concerns about placing the infiltration unit behind the retaining wall at the southwest corner; Mr. MacEwen stated the setback meets the standard requirement of 10' but they can't confirm if that's exactly where it will be until they test the soil. If needed, they will move it further once soil results come back.

Commissioner Magliaro asked if the perforated drain behind the retaining wall is tied into the infiltration bed or the foundation drain; Mr. MacEwen stated it will not route through the infiltration units and it will instead be a separate discharge line down to the main line going out to the storm drain in the street.

*There were no comments from the public.*

*Upon a motion by Commissioner Amory, Seconded by Commissioner Magliaro the Commission voted 5-0 to close the public hearing.*

Mr. Flint described staff recommended conditions which include test pit data from the locations of the proposed infiltration be provided prior to starting work, revised plans for approval if the location is deemed unsuitable for infiltration, conditions #25, #26, #45, #49, #52, #65, with deeded conditions #40 and #65, in addition to the standard conditions.

*Upon a motion by Commissioner Amory, Seconded by Commissioner Magliaro the Commission voted 5-0 to issue an Order of Conditions as discussed.*

## Other Business

### 9) Requests for Certificates of Compliance

#### a. 445A Granite Street (CC-2022-006)

Mr. Flint stated the order was issued in 2022 for single-family construction. As-built site plans and certification from the engineer have been received and were in accordance with OOC. Mr. Flint did not have a chance to do a thorough site inspection.

Commissioner Canton asked if riprap was in place; Mr. Flint and Chair Charpentier stated they were not able to look at the back of house.

Chris Hayward, participating remotely, stated he is the owner of the property and can answer any questions the Commission might have.

*Upon a motion by Chair Charpentier, Seconded by Commissioner Amory, the Commission voted 5-0 to issue the Certificate of Compliance.*

#### b. 510-512 Southbridge Street (CC-2020-068 & DEP#349-1290)

Mr. Flint stated the order was issued in 2020 to reconstruct a portion of the building that was damaged by fire. The applicant had proposed 1,100 cubic feet of compensatory flood storage and ended up adding 1,500 cubic feet. As-built site plans and certification from engineer have been received.

*Upon a motion by Chair Charpentier, Seconded by Commissioner Amory, the Commission voted 5-0 to issue the Certificate of Compliance.*

### 10) Requests for Extension of Time

#### a. Coes Reservoir (CC-2018-014 & DEP#349-1191)

Mr. Flint stated the applicant is seeking a one-year extension request for aquatic management of Coes Reservoir.

*Upon a motion by Commissioner Amory, Seconded by Commissioner Magliaro, the Commission voted 5-0 to grant the one-year extension through 7/15/24.*



**11) Enforcement Order and Violation Updates**

- a. **217 Lake Avenue (CC-EO-2020-004)**
- b. **449 Massasoit Road (CC-EO-2020-006)**
- c. **Across from 133 North Lake Avenue – East side of Lake Avenue North Right-of-Way (between Dominion Road & Belcourt Road) and Lake Quinsigamond (CC-EO-2020-007)**
- d. **Across from 175 North Lake Avenue – East side of Lake Avenue North Right-of-Way (between Belcourt Road & Sonoma Drive) and Lake Quinsigamond (CC-EO-2020-008)**
- e. **99 Wildwood Avenue (CC-EO-2020-009)**
- f. **166 Moreland Street (CC-EO-2020-011)**
- g. **522 Grove Street (CC-EO-2020-014)**
- h. **0 Myrick Avenue (CC-EO-2020-015)**
- i. **75 Harrington (CC-EO-2021-003)**
- j. **40 June Street Terrace (CC-EO-2021-004)**
- k. **12 AKA 0 Balis Avenue (CC-EO-2021-005)**
- l. **269 James Street (CC-EO-2021-007)**
- m. **90 AKA 100 Camelot Street AKA Farber Field (CC-EO-2021-008)**
- n. **0 McKeon Road, 0 Millbury Street & 25 & 35R Tobias Boland Way (CC-EO-2021-009)**
- o. **Providence & Worcester Railroad (0 Tobias Boland Way)**
- p. **70 North Parkway AKA Burncoat Park (CC-EO-2022-002)**
- q. **3 Aster Place (CC-EO-2022-005)**
- r. **Hospital Drive ROW (CC-EO-2022-006)**
- s. **215 Lake Avenue (CC-EO-2022-007)**

Mr. Flint stated the applicant informed him that the portion of the wall and fence panels within the 30' buffer zone have been removed but the posts have not yet been removed. Staff is currently waiting on the as-built site plan to confirm the work has been completed as well as the report from the wetland scientist regarding the completion of the plantings.

Scott Morrison, representative for the property owner, confirmed what work has been completed and stated they need the Commission to approve the turf so they can provide the as-built plan and the report for the plantings.

Commissioner Canton asked about findings regarding contaminants in the proposed turf; Mr. Morrison stated they were able to get a spec sheet and it does not show any evidence of PFAS; Commissioner Canton recommended that they find a company that can confirm with complete certainty that the product is PFAS free.

Mr. Flint asked if the Commission is comfortable with approving the turf project change while in discussion of Enforcement Order; The Commission confirmed they are comfortable proceeding.

*Upon a motion by Commissioner Amory, Seconded by Commissioner Magliaro, the Commission voted 5-0 to approve the turf installation.*

- t. **88 Randolph Road (CC-EO-2022-008)**
- u. **4 Tiffany Avenue (CC-EO-2023-001)**
- v. **0 Mcavey Way & 1393 Grafton Street (CC-EO-2023-003)**
- w. **255 Lake Avenue (CC-EO-2023-005)**
- x. **265 Lake Avenue (CC-EO-2023-006)**

*Items 11.w and 11.x were taken contemporaneously.*

Mr. Flint stated that a new violation notice was issued for clearcutting the slopes behind 255 and 265 Lake Avenue. The 255 Lake Avenue property has an active OOC for construction of a single-family house. The 265 Lake Ave property had an OOC which was closed out with a COC earlier this year. They had been required to mitigate tree cutting with additional shrub plantings. The shrub plantings were all cleared as part of the work recently completed.

Chair Charpentier stated that considering all the time and effort spent on these sites with the owners, it should have been very clear what the requirements are for removal of trees and feels that the Commission should require a certain caliper be conditioned to replace the trees that were removed.

Commissioner Canton asked how many large trees were cut; Mr. Flint stated it seems to be mostly shrubs and herbaceous vegetation that were cut at 255 Lake Avenue but needs to make another site visit to confirm. At 265 Lake Avenue, there had been historic tree cutting which is why so many shrubs were conditioned to be replaced in the old OOC. Mr. Flint stated it makes sense to require they replace at a 1 for 1 ratio.

Chair Charpentier stated that they should require a retroactive NOI for the work and a restoration plan with clear minimum requirements.

Scott Goddard of Goddard Consulting, separately representing both applicants, agreed that this is disappointing and stated that both owners are seeking a resolution. With respect to 255 Lake Avenue, this was a result of an overzealous landscaper. Erosion controls were properly placed and the applicant's representative is open to a restoration plan with a retroactive NOI. They are also amenable to the Commission issuing an EO and they will then present a mitigation plan within timeframe decided by the Commission which would ultimately allow restoration to take place more quickly. With regards to 265 Lake Avenue, they would like to evaluate the site to see what is surviving. Mr. Goddard will recommend monitoring in some areas and restoring in other areas depending on observations made at the site.

Commissioner Canton noted that the current season is not ideal for restoration so it may be beneficial to hold off the restoration process; Mr. Goddard stated they are open to what the Commission feels is best.

Commissioner Canton feels they should take some action now to prevent further erosion as well as develop a long-term plan.

Commissioner Amory stated the retroactive NOI may make more sense for 255 Lake Avenue.

Chair Charpentier suggested the NOI because they cannot add conditions to an existing OOC.

Attorney Anthony Vigliotti, representing owner of 265 Lake Avenue, offered apologies on behalf of owner. This was a mistake made by a landscaper that got carried away and cut down \$6,000 worth of non-invasive plantings. Attorney Vigliotti reiterated that the violation was not intentional and asked for a timeframe for the restoration to take place once Mr. Goddard is able to assess the site.

Mr. Goddard asked for 30 days to do a proper assessment and return to staff with findings; Commissioner Magliaro stated he would prefer that it comes back through the Commission.

Mr. Flint asked if the Commission would prefer to see two new NOI's issued or have staff work with the applicant and their representative under an enforcement order.

Commissioner Magliaro recommended immediate stabilization with annual rye grass at 255 Lake Avenue.

*Upon a motion by Chair Charpentier, Seconded by Commissioner Amory, the Commission voted 5-0 to issue the enforcement order for item 11w and require a NOI filing for retroactive clearing by the 8/23/2023 filing deadline.*

*Upon a motion by Chair Charpentier, Seconded by Commissioner Amory, the Commission voted 5-0 to issue the enforcement order for item 11x and require a NOI filing for retroactive clearing by the 8/23/2023 filing deadline.*

*There was no discussion of items 11 a-r or 11 t-v.*

## **12) Communications**

### **a. 2023 Yearly Operational Plan for Railroad ROW; from CSX Transportation; received 6/12/2023**

Mr. Flint stated a vote is not needed and this is just a communication.

**13) Approval of Minutes** – 1/25/2021; 4/12/2021; 1/3/2022; 6/6/2022; 6/27/2022; 7/18/2022; 8/8/2022; 8/29/2022; 9/19/2022; 10/17/2022; 6/12/2023

*There was no discussion of Item 13*

## **14) Community Preservation Committee Appointment**

Mr. Flint stated the Commission should take a vote to appoint a member to the CPC now that all Commission members are present.

*Upon a motion by Commissioner Canton, Seconded by Commissioner Magliaro, the Commission voted 5-0 to appoint Joseph Charpentier to the Community Preservation Committee.*

## **15) Open Space Discussion**

Mr. Flint stated the land grant application for Brattle Street will be submitted next week.

## **16) Policies and Procedures**

*There was no discussion of Item 16*

**Adjournment**

Upon a motion by Commissioner Canton, the Commission unanimously voted to adjourn at approximately 8:51PM.