

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

November 2, 2015

WORCESTER CITY HALL – ESTHER HOWLAND CHAMBERS

Conservation Commission Members Present: Stefanie Wood, Chair
Peter McKone
Joe Charpentier
Amanda Armory

Members Absent: Jordan Berg Powers

Staff Present:

Michelle Smith, Division of Planning & Regulatory Services
Edmund Kochling, Department of Public Works & Parks (DPW&P)

Call to Order – 5:30 pm

Requests for Continuances, Postponements, Withdrawal

Unfinished Business – Notices of Intent

1. 79 Joppa Road (MBL 47-004-00060) (CC-2015-006)

Application: Notice of Intent

Applicant: James Spahiu

Project: Construct a single-family detached dwelling along with associated grading, paving, site work, and landscaping on property located at 79 Joppa Road.

Jurisdiction: Massachusetts Wetlands Protection Act and City of Worcester Wetlands Protection Ordinance – the proposal shall occur within 100-ft buffer to a Bordering Vegetated Wetland and within the Stormwater Protection Zone

Public Hearing Opened: 3/2/2015

James Spahiu appeared on behalf of the application.

Mr. Spahiu stated that this project began in February 2015 with plans to construct two single-family dwellings and to improve a portion of the Rockrimmon Road right-of-way but that his plans changed and he is now proposing to construct one single-family detached dwelling with an attached two garage. He stated that the water will be diverted to allow for continued infiltration and re-charge or to allow runoff to flow towards the wetlands. He stated that the slopes on either side of the house will be constructed with rip rap.

Mr. Spahiu stated that he met with DPW&P staff and revised the plans based on their comments with the exception of the sewer- and drain-main extensions. Mr. Spahiu expressed concerns about the process for obtaining a sewer connection permit in association with the Commission's

approval of the plans. Chair Wood stated that the type of sewer connection and the associated work would not be a substantive change to the plans before Commission. Mr. Kochling affirmed.

Chair Wood stated that they did a site walk on Sunday and that all of the questions and concerns she had from the previous version of the plans had been addressed with the revised plans.

Dana Lewis, of 38 Joppa Road, stated that he abuts the property and has concerns about the height of the structure as the back side of the proposed house as it looks like it is three stories.

Chair Wood stated that the Commission does not have purview over dimensional compliance.

Mr. Lewis asked about the limit of clearing. Chair Wood asked Mr. Spahiu if he planned to do any clearing as part of this proposal. Mr. Spahiu stated that he will use Rockminon Road for access and that a few trees will be removed but that additional tree clearing would be limited to what is needed for the construction of the house.

Commissioner McKone clarified that all the work will be done within the hay bales lines showed on the plan. Mr. Spahiu affirmed.

Upon a motion by Commissioner McKone and seconded by Commissioner Charpentier the Commission voted 4-0 to close the public hearing.

List of Exhibits:

Exhibit A: Notice of Intent Application for 79 Joppa Road; submitted by James Spahiu; received February 11, 2015.

Exhibit B: Road Extension Plan for 79 Joppa Road; prepared by Finlay Engineering Services; dated January 29, 2015; received February 11, 2015.

Exhibit C: Proposed Site Grading and Erosion Control Plan for 79 Joppa Road; prepared by Finlay Engineering Services; dated March 9, 2015; last revised October 15, 2015.

Exhibit D: Proposed Buildout Site Plan for 79 Joppa Road; prepared by Finlay Engineering Services; dated January 30, 2015; revised April 6, 2015; received April 9, 2015.

Exhibit E: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 79 Joppa Road -NOI- (CC-2015-006); dated February 25, 2015; revised October 15, 2015.

Exhibit F: Request to continue; various dates.

New Business – Notices of Intent

Chair Wood recused herself; Commissioner Charpentier assumed the role as Chairperson.

2. 0 (aka 3R) Bowker Street (MBL18-036-15-3R) (CC-2015-060)

Application: Notice of Intent

Applicant: KLA Holdings

Project: For construction of a single-family detached dwelling and associated off-street parking, along with associated site work, on property located at 0 (aka 3R) Bowker Street.

Jurisdiction: City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the stormwater protection zone

Public Hearing Opening Deadline: WPA – n/a; WWPO – 11/14/2015

Andrew Baum, from New England Land Surveying, appeared on behalf of the applicant, KLA Holdings. Mr. Baum stated that they are before the Commission due only to the local ordinance and that the proposal consists of the construction of a single family home on an undeveloped lot that has been disturbed with filling activities. He stated that there are catch-basins right in front of the lot and some of the work will be occurring within the 100' buffer zone. He explained that the road is elevated and the site is sloped downhill, dropping substantially along the back of the parcel. He stated they are proposing a walk out basement and a rip-rap treatment to the slope in the rear. He stated that the erosion control barriers will be the limit of work and they are proposing silt-saks in the abutting catch-basins and have added a tracking pad in the driveway.

Commissioner Charpentier referred to the memorandum from the DPW&P and asked if all the concerns have been resolved. Mr. Kochling stated that the concerns had been addressed with the exception of those regarding the filling both in proximity to the mature trees and the debris located in the fill. He explained that DPW&P would like to see the stumps, brush, and rubble to be removed from the fill and cleaned out. Mr. Baum stated that he added a note to the plan regarding the fill but that they didn't want to do any further work until they had Commission approval.

Commissioner Charpentier asked if there were photos of the site pre-fill so they would know what was buried. Mr. Baum stated that his office doesn't any such photos but that aerial photos indicate that the limit of clearing/work.

Commissioner Charpentier asked how the topography of the site compares to what existed previously. Mr. Baum stated that the way they designed the site is to work with the existing topography and noted that the walk out basement would be at the existing grade.

Commissioner Charpentier asked if the grades shown on the plan were pre or post fill. Mr. Baum stated that they are post fill. Commissioner Charpentier stated that he did site view yesterday and expressed concerns about the filling at this site and on the abutting property.

Commissioner Armory asked how that type of filling could take place without some type of permitting in the first place. Ms. Smith stated that there is an application process in place for sites requiring filling but noted that the appropriate permits were not pulled at the time when the filling took place so it seems like this slipped through the cracks and applicant was able to obtain a building permit.

Commissioner Charpentier stated that the responsibility lies with the applicant and noted that he was talking about both the proposed lot and the abutting lot as it seems like the filling of this lot took place at the same time this lot was filled.

Mr. Lu stated that they just flattened the lot out with the fill and that he didn't fill anything on the site and had purchased the site cleared.

Commissioner Armory stated that she had a concern with the embankment behind the adjacent house and the project that is before Commission as the slope doesn't appear to be stable.

Ms. Smith stated that Inspectional Services Department spoke with the property owner and informed him that some type of remediation to the slope must be done in order to comply with the City's Ordinances. She explained that the owner would need to demonstrate that clean fill

was used in the construction of the slope but noted that the Inspectional Services Department would be responsible for enforcement given the site has not triggered review or enforcement under the Commission's jurisdiction.

Commissioner Charpentier stated that house next door should be taken separately and whether they have jurisdiction over it they will discuss later.

Commissioner Armory asked if both properties were owned by same owner and expressed concerns about imposing conditions on the property before them which may restrict the property owner's ability fix the abutting property. Ms. Smith stated that Commission's order would only apply to the specific lot before the Commission tonight and wouldn't apply to the adjacent lot.

Stephanie Wood, of 265 Hamilton Street, stated that she is an abutter and has various concerns, the first being housekeeping during construction. She explained that the Bowker Street catch-basins discharge to Fitzgerald Brook which feeds Lake Quinsigamond, noting that sedimentation in the road could have a direct effect on the Lake. She stated that ledge is shallow in the area and noted that there are several points where ground water bubbles up during heavy rain or snow melt. She noted that the abutting property owner, who was unable to attend, has concerns about runoff from the steep slope in the rear of the lot. She expressed concerns about the rip-rap slope noting that trapping the water behind that rock could undermine the rip rap over time and result in erosion impacting her as an abutter.

Mr. Baum stated that the contractor will be required to keep the site clean and they added a construction tracking pad to prevent sediment from leaving the site. He explained that they've tried to pitch some of the site to the north in order to mitigate some of the water that was previously directed to the south of the site and that sediment filters will be provided in the catch basins and that they could add protection to the catch-basins on the north side of Bowker Street. He stated that, in terms of stability of the slope, the rip rap is porous and will allow water to escape and noted that he did not believe that they will have an issue with the slope. He explained that they are trying to stay shallow, using the rip-rap, to avoid encountering any ledge.

Ms. Wood asked how roof-runoff would be handled. Mr. Baum stated that they intend to use splash pads at the discharge points from the roof-leaders and that the front portion of the house will drain to front, toward Bowker, and the back portion will drain to the rear of the lot.

Upon a motion by Commissioner McKone and seconded by Commissioner Armory the Commission voted 3-0 to close the public hearing.

List of Exhibits:

- Exhibit A:** Notice of Intent Application for Lot 3R submitted by New England Land Survey, Inc.; received October 29, 2015 and dated October 29, 2015.
- Exhibit B:** Definitive Site Plan prepared by New England Land Survey, Inc., dated October 16, 2015
- Exhibit H:** Memorandum from City of Worcester Department of Public Works & Parks to the Conservation Commission; re: Lot 3R, Bowker Street (CC-2015-060); dated October 15, 2015.

Commissioner Wood resumed her capacity as the chair.

Other Business:

3. Requests for Certificate of Compliance:

a. 38 Fox Meadow Drive (DEP #349-365)

Mr. Kochling indicated that everything appeared stabilized.

Upon a motion by Commissioner McKone and seconded by Commissioner Charpentier the Commission voted 4-0 to issue the Certificate of Compliance.

4. Enforcement Order Updates

Mr. Kochling stated that he had visited all the major sites after the last meeting as there was rain event of a little over two inches and that there were no major erosion issues at an of the sites.

Mr. Kochling provided an update that paving at Burncoat Gardens has been completed so all the catch basins were on line and noted that the grass is growing. He explained that the plastic near the intermittent stream where the proposed road crossing is located held up and that another piece of plastic was added to protect the area. He stated that there are some stockpiles near the Goldthwaite Road end of the site but that there was minimum sedimentation from runoff which was captured by the erosion controls.

Mr. Kochling stated that Pierce Avenue held up well but there was erosion and slumping on a portion of the site but that they were on site fixing it up.

Mr. Kochling stated that at Arboretum they had a little bit of issue with sloughing and that he would contact owner about adding some erosion control matting as they missed the growing season.

5. Issuance of Orders of Conditions

Chair Wood suggested a condition relating to construction phasing and inspections to ensure proper compaction, topography, etc. She suggested permanent, granite or concrete, markers, along the 30' buffer, with each of the markers spaced approximately 20 feet apart. She suggested that flagging remain in place during construction as well.

Commissioner Charpentier suggested a condition limiting the use of pesticides and sand and salt during the winter months.

Commissioner Wood suggested a condition regarding inspection of the slope treatment prior to final stabilization with rip-rap be explicit. Commission Charpentier requested a condition notify the Office of the Commission regarding beginning of construction of the slope and at subsequent intervals.

The Commission reviewed the closed item and upon a motion by Commissioner McKone and seconded by Commissioner Charpentier, the Commission voted 3-0-0 (Commissioner Amory was not present at all hearings and therefore was not eligible to vote per the "Mullin rule") to issue an Order of Conditions as discussed for 79 Joppa Road (CC-2015-006).

Commissioner Charpentier suggested a condition regarding stockpile maintenance. Commissioner McKone suggested an inspection of the slope after placement of the geotextile

fabric and prior to final construction of the rip-rap. Commissioner Charpentier requested trees to remain on site be marked as such on-site.

The Commission reviewed the closed item and upon a motion by Commissioner McKone and seconded by Commissioner Amory, the Commission voted 2-1-0 (Commissioner Wood recused herself and therefore was not eligible to vote on the item; with Commissioner Amory voting against) to issue an Order of Conditions as discussed for 0 (aka 3R) Bowker Street (CC-2015-060).

6. Signing of Decisions

- **79 Joppa Road (CC-2015-006) – Order of Conditions**
- **0 (aka 3R) Bowker Street (CC-2015-060) – Order of Conditions**
- **38 Fox Meadow Drive (DEP #349-365) – Certificate of Compliance**

Adjournment

Upon a motion by Commissioner and seconded by Commissioner, the Commission voted 4-0 to adjourn the meeting at 6:40 p.m.