



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

Monday February 26, 2024

Worcester City Hall – Levi Lincoln Chamber,
with remote participation options available via WebEx online at
<https://cityofworchester.webex.com/meet/conservationcommissionwebex> and
call-in number 1-844-621-3956 (Access Code: 2631 737 2697).

Commissioners Present: Andrew Truman, Chair
Lindsay Nystrom, Commissioner
Joseph Charpentier, Commissioner
Stuart Kirshner, Commissioner
Devin Canton, Vice Chair

Commissioners Absent: Timothy Magliaro, Commissioner

Staff Present: Eric Flint, Division of Planning & Regulatory Services (DPRS)
Mattie VandenBoom, Division of Planning & Regulatory Services (DPRS)

Call to Order

Chair Truman called the meeting to order at approximately 5:33 p.m.

Requests for Continuances, Postponements and Withdrawals

Item 2 – 265 Lake Avenue – Notice of Intent (CC-2023-055 & DEP#349-1373)

Request to postpone the public hearing to 03/18/24 & extend the constructive grant deadline to 04/09/24

Item 3– 487 Park Avenue – Notice of Intent (CC-2023-058)

Request to postpone the public hearing to 05/06/24 & extend the constructive grant deadline to 05/27/2024

Item 5 – 1256 West Boylston Street – Notice of Intent (CC-2023-076 & DEP#349-1379)

Request to postpone the public hearing to 03/18/24 & extend the constructive grant deadline to 04/09/24

Item 6 – 357 Granite Street – Notice of Intent (CC-2024-002 & DEP#349-13xx)

Request to postpone the public hearing to 03/18/24 & extend the constructive grant deadline to 04/09/24

Item 8 - 26 (Lots 2A & 2B) Apthorp Street – Notice of Intent (CC-2023-041 & DEP#349-1366)

Request to postpone the public hearing to 03/18/24 & extend the constructive grant deadline to 04/09/24

Item 9 – 116 Northeast Cutoff Notice of Intent (CC-2023-068 & DEP#349-1378)

Request to postpone the public hearing to 03/18/2024 & extend the constructive grant deadline to 04/09/2024

Item 10 – 5 Gates Road – Notice of Intent (CC-2024-009)

Request to postpone the public hearing to 03/18/2024 & extend the constructive grant deadline to 04/09/2024

Item 11 – 382 Plantation Street – Notice of Intent (CC-2024-011 & DEP#349-13)

Request to postpone the public hearing to 03/18/24 & extend the constructive grant deadline to 04/09/24

Chair Truman read the requests for continuances, postponements, and withdrawals into the record.

Upon a motion by Commissioner Canton, seconded by Commissioner Charpentier, the Commission voted 5-0 to postpone the public hearings and extend the constructive grant deadlines to the dates noted.

New Business – Requests for Determination of Applicability

1) 253 Providence Street (MBL 35-035-00001, & 35-00002)

Anthony Damiano of GZA GeoEnvironmental, on behalf of the applicant, National Grid, reviewed the proposed work to replace two existing utility poles, install one new utility pole and underground conduit between existing poles. Eight trees will need to be removed to accommodate the new transmission lines. The work is located within a 100' of a vegetated wetland.

Mr. Flint had no additional comments from staff.

Commissioner Charpentier asked if the stumps would be removed. Mr. Damiano believed that the stumps would be left in place but would look into it. Commissioner Charpentier requested a condition that stumps be left in place for any trees removed within the 100' buffer.

Commissioner Canton asked about the timeline for the project and where the excavated material would be stored. Mr. Damiano expects the project to begin a month or so after receiving the appropriate permits. Once work begins, it should take about a week. The excavated material would be stored along the gravel pull-off which is down gradient of the wetland.

No public Comment.

Upon a motion by Commissioner Charpentier, seconded by Commissioner Canton, the Commission voted 5-0 to issue a Negative Determination of Applicability.

List of Exhibits:

Exhibit A: RDA Request; dated 02/06/2024; Anthony Damiano of GZA GeoEnvironmental

Old Business – Notices of Intent

4) 50 Lafayette Street (aka 2A & 2B Lodi Street) (MBL 05-014-00040) – Notice of Intent (CC-2023-073 & DEP# 349-1383)

Mark Elbag of M.A. Elbag Engineering, Inc., on behalf of the applicant, Rodrigo Pires, proposed the construction of a two-family dwelling located at the upper boundary of the floodplain. Mr. Elbag has

updated the plans since last meeting based on the previous discussion. Flood opening were designed into the structure rather than placing the dwelling on piers.

Mr. Flint explained his concerns for the project not meeting the performance standards for Bordering Land Subject to Flooding.

DEP's comment stated that performance standards are not being met. Flood openings cannot be used as compensatory storage. Flood openings may still act to restrict the rate at which floodwaters can enter a building and would still result in the displacement of floodwaters.

Commissioner Charpentier felt the applicants provided what was asked of them during the last Commission meeting.

Mr. Elbag stated that 50 percent of the structure at the floodplain level is open. Mr. Elbag provided compensatory storage table for the project as well.

Chair Truman asked about the design of the flood openings. Mr. Elbag proposed the project with screens but was willing to adjust the design. The screens are there for security to prevent unwanted entry to the dwelling. Mr. Flint explained that the flood openings need to have at least 1" of opening per 1 sf of enclosed area beneath the structure. Adding grates would reduce the size of the flood openings and restrict the flow of floodwaters. The openings do not have to be as tall as they are shown on the plan. The top of the openings could go as low as the base flood elevation which is 449.3'. Mr. Elbag was open to reducing the height of the openings.

Commissioner Canton asked if there was a plan to remove water after a flooding event. Mr. Elbag explained that he would not expect the area to flood often but the design is to allow the floodwater to flow through the structure. Mr. Flint expressed concerns that the design does not seem to allow free flow of the water and water will likely pool on the front/low side where there are no flood openings.

No public Comment.

Upon a motion by Commissioner Charpentier, Seconded by Commissioner Canton, the Commission voted 5-0 to close the public hearing.

Mr. Flint explained that a project can be issued an Order of Conditions to approve the work with conditional approvals or the project can be denied based on it not meeting the performance standard for Bordering Land Subject to Flooding.

Mr. Flint went over the conditions that would be issued with an approval. This included the standard conditions along with several other conditions:

- Prior to construction, an Elevation Certificate, based on proposed conditions, signed and stamped by a qualified professional, shall be provided to the Office of the Commission. The Elevation Certificate shall document compliance with applicable provisions of state building code related to construction within the floodplain. The purpose of this condition is to ensure construction is performed in a manner that promotes the interests of storm damage prevention and flood control.

- Prior to construction, a revised set of architectural plans shall be provided that depict elevations at grade and at the height of the top of the flood openings. The top of the flood openings can be as low as 449.3' (NAVD 88) provided the sizing allows for compliance with state building code.
- The garage area designated as flood storage shall only be used for parking of vehicles. No other storage is permitted below the base flood elevation of 449.3'. (NAVD 88) (ongoing condition).
- The flood openings are to remain open and unblocked in perpetuity (ongoing condition).
- As-built site plan with 1' contours and spot grades for garage floor elevation after construction.
- Elevation Certificate based on finished construction documenting compliance with applicable provisions of state building code related to construction in the floodplain.

Certification from a PE or PLS that confirms compensatory storage was provided to offset displaced flood storage volume at each incremental elevation.

- Condition 64 pesticides, condition 65 sand/salt, and condition 66 snow storage will apply.

Upon a motion by Commissioner Charpentier, Seconded by Commissioner Canton, the Commission voted 4-0 to issue the Certificate of Compliance. Commissioner Kirshner was ineligible to vote.

List of Exhibits:

- Exhibit A: NOI Application; dated 10/25/2023; submitted by Mark Elbag, M.A. Elbag Engineering
- Exhibit B: Building Plan; dated 10/24/2023; revised 02/06/2024; revised 02/12/2024; prepared by M.A. Elbag Engineering
- Exhibit C: Site Plan; dated 10/24/2023; revised 02/06/2024; revised 02/12/2024; prepared by M.A. Elbag Engineering
- Exhibit D: Staff Comments; dated 11/02/2023 ; dated 02/15/2024; Eric Flint, Conservation Planner/Agent
- Exhibit E: DEP Comments; dated 01/11/2024; MassDEP

7) 0 Myrick Avenue and the Myrick Avenue Right-of-Way (MBL 33-019-154-5) – Notice of Intent (CC-2024-008 & DEP# 349-13xx)

Glenn Krevosky, EBT Environmental Consultants, Inc., on behalf of the applicant, Kendall Homes Inc., proposed a 4-lot subdivision. Mr. Krevosky asked for a continuance of the hearing and plans on having the engineer attend the next meeting. The project is an extension of Myrick Ave and includes a detention structure. Based on feedback from the Fire Department, the engineer is working on changing the hammerhead turnaround to be a cul-de-sac. When this project was proposed in the past, lot four was proposed to be in an isolated vegetative wetland. However, DEP determined that there was 76 acres that drained to that area. Mr. Krevosky went out during a 2.5" rain event and staked the highwater mark and Graves Engineering ran calculation for the drainage to that spot. Based on the observations and calculations, only about an eighth of an acre drains to that spot. Lot four is still up in the air for now. These are the last four remaining lots that are to be developed on Myrick Ave.

Mr. Flint confirmed that revised plans were received with biggest revision being the addition of the detention basin added at the end of Phoebe Way. The stormwater report listed Worcester's Department of Public Works (DPW) as the responsible party for maintaining the detention basin. DPW commented that they will not be responsible for the maintenance of a privately owned detention basin. The plan is going through a revision to address the concerns of the Fire Department and staff will wait to make additional comments on the revised plans.

Commissioner Charpentier would welcome wetland mitigation for this project. Lot four could be developed in a different way that can still be profitable to the developer but have less of an impact to the resource area.

Chair Truman brought up concern on who would be responsible for maintaining the basin. Would an association be created to maintain the basin? Agreements and waivers from the abutters would be needed to establish a responsible party for maintaining the detention basin.

Mr. Krevosky explained the road has been shifted closer to the property lines to keep it as far from the resource area as possible and to keep it on the original fill.

No public Comment.

Upon a motion by Commissioner Charpentier, Seconded by Commissioner Nystrom, the Commission voted 5-0 to continue the hearing to the March 18th meeting.

List of Exhibits:

- Exhibit A: NOI Application; dated 01/11/2024; submitted by Glenn Krevosky, EBT Environmental Consultants, Inc.
- Exhibit B: Site Plans; dated 12/20/2023; revised 02/15/2024; prepared by Graves Engineering, Inc.
- Exhibit C: Stormwater Report; dated 12/18/2023; revised 02.15.2024; prepared by Graves Engineering, Inc.
- Exhibit D: DPW Comments; dated 01/19/2024; dated 02/22/2024; Richard Saltrick, Assistant Commissioner of Engineering
- Exhibit E: Staff Comments; dated 01/25/2024; Eric Flint, Conservation Planner/Agent
- Exhibit F: Abutter's Comment; dated 02/04/2024; Submitted by Lisa Wilson
- Exhibit G: ILSF Calculation Plan; dated 09/18/2023; prepared by Graves Engineering, Inc.
- Exhibit H: StreamStats Report; dated 01/25/2024

New Business – Notices of Intent

All items were postponed

Other Business

12) Requests for Certificates of Compliance

a. Institute Park (CC-2018-052 & DEP#349-1212)

Mr. Flint explained the project involved a boardwalk and wetland replication area at Institute Park. This work had direct wetland impacts and created compensatory flood storage areas to offset the displaced flood waters

as a result of the work. An as-built plan and flood calculations were provided. The last monitoring report stated that wetland replication area to be fully functioning as a wetland. The square footage meets what was required by the Order of Conditions.

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

List of Exhibits:

Exhibit A: COC Request; dated 02/16/2024; submitted by Brandon Kunkle, Weston & Sampson

Exhibit B: As-Built Site Plan; dated 04/21/2023; prepared R.A.D. Sports

b. Coes Boardwalk (CC-2020-035 & DEP# 349-1283)

Mr. Flint explained the project involved a boardwalk and wetland replication area at Columbus Park. This project was done to offset a failed replication attempt by a previous project. Approximately 7,101 sf of wetland area was replicated and there were no direct impacts to the BVW. The consultant, Weston and Sampson, provided as-built site plans and calculations confirming the compensatory flood storage was met.

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

List of Exhibits:

Exhibit A: COC Request ; dated 02/16/2024; submitted by Brandon Kunkle, Weston & Sampson

Exhibit B: Additional information for COC Request ; dated 02/16/2024; submitted by James Pearson, Weston & Sampson

Exhibit C: As-Built Site Plan; dated 08/15/2022; prepared Summit Surveying, Inc.

13) Project Change Request

a. 378 Plantation Street (CC-2023-059 & DEP #349-1339)

Derek Masionis of VHB, on behalf of UMass Memorial Health Care Inc, submitted a project change request to expand the limit of work by approximately 14'. The temporary limit of work would be within the 15' buffer zone and will be 6.5' from the resource area. Mr. Masionis provided a red line plan showing the location of the temporary limit of work.

Commissioner Canton had concerns if the tree located near the expanded limit of work would be impacted by the excavation in that area. Mr. Masionis confirmed that there would not be excavation within the dripline of that tree.

Mr. Flint added that the existing Order of Conditions stated the project would have direct impacts to the wetland resource area. This project change request would not require an amendment to the Order of Condition but does require a vote from the Commission.

Upon a motion by Commissioner Charpentier, Seconded by Commissioner Nystrom, the Commission voted 5-0 to allow the Project Change Request.

List of Exhibits:

- Exhibit A: Modification Memo; dated 02/23/2024; submitted by Derek Masionis, VHB
- Exhibit B: Red line plan; dated 02/23/2024; prepared by Perkins & Will

b. 181 Lake Avenue (CC-2020-002 & DEP#349-1264)

Mr. Flint provided a background of the project. The project involves replacing an existing retaining wall with the original Order of Conditions requiring the replacement wall to extend no further than the current wall. The plans provided for the project change request show the new wall extending past the old wall.

Kenneth Nadolski of K&N Construction Services LLC, on behalf of Marine Corps League, submitted a project change request to deviate from the approved plan. The request included an adjustment to the wall's corner angles from two 45-degree bends to a single 90-degree turn, a request for the top of the wall to have a consistent elevation height of 360.00' (NAVD88) and request to not have to rebuild a stonewall due to the lack of available stones.

Chair Truman asked if the flood zone comes onto the property. Mr. Flint confirmed that the flood zone does come onto the property and having the wall at a height of 360.00' (NAVD88) would restrict the flow of flood waters. The project change request does not meet the performance standards for Bordering Land Subject to Flooding.

The Commission did not have concerns with the other project changes that were presented by Mr. Nadolski.

After a discussion of the project changes, the Commission was willing to approve the following deviations:

- The angle of the wall on the south side of the proposed stairs is permitted to be placed at a 90-degree angle as shown on the "Retaining Wall Design" plan prepared by SFC Engineering dated November 1st, 2023.
- The Commission will not require the re-construction of the stonewall on the northern side of the site as shown on the approved plan.
- Modifications to the top of wall height are permitted provided they do not exceed the Base Flood Elevation of 358.62' (NAVD88) or the height proposed on the approved plan, whichever is higher.

Upon a motion by Commissioner Charpentier, Seconded by Commissioner Canton, the Commission voted 5-0 to allow the Project Change Request.

List of Exhibits:

- Exhibit A: Modification Request; dated 02/21/2024; submitted by Kenneth Nadolski, K&N Construction Service LLC
- Exhibit B: Modified Plan; dated 11/01/2023; prepared by SFC Engineering

14) Enforcement Order and Violation Updates

- a. 99 Wildwood Avenue (CC-EO-2020-009)
- b. 166 Moreland Street (CC-EO-2020-011)
- c. 522 Grove Street (CC-EO-2020-014)
- d. 0 Myrick Avenue (CC-EO-2020-015)
- e. 75 Harrington Way (CC-EO-2021-003)
- f. 40 June Street Terrace (CC-EO-2021-004)
- g. 12 AKA 0 Balis Avenue (CC-EO-2021-005)
- h. 269 James Street (CC-EO-2021-007)
- i. 90 AKA 100 Camelot Street AKA Farber Field (CC-EO-2021-008)
- j. 70 North Parkway AKA Burncoat Park (CC-EO-2022-002)
- k. 3 Aster Place (CC-EO-2022-005)
- l. Hospital Drive ROW (CC-EO-2022-006)
- m. 215 Lake Avenue (CC-EO-2022-007)
- n. 4 Tiffany Avenue (CC-EO-2023-001)
- o. 0 Mcavey Way & 1393 Grafton Street (CC-EO-2023-003)
- p. 265 Lake Avenue (CC-EO-2023-006)
- q. 0 Harrington Way (CC-EO-2023-009)
- r. 570 Lincoln Street (CC-EO-2023-010)
- s. 3 Knollwood Drive

Mr. Flint had no updates to report for the listed Enforcement Orders.

15) Communications

Mr. Flint reported that all communications received required no action from the Commission.

a. Notice of Abatement – Spotted Lanternfly; from MDAR; received 1/29/2024

MDAR reported Spotted Lanternfly egg masses on two Conservation properties including Perkins Farm and Broadmeadow Brook Wildlife Sanctuary. USDA and MDAR will be monitoring the infestation and will notify if treatments are necessary.

b. Comment Letter on National Grid EENF; from NHESP; received 1/29/2024

Staff had no comments on this communication item.

c. Extension of Public Comment Period for WPA regulation updates; from MassDEP; received 2/08/2024

Mr. Flint explained that DEP is working on strengthening the stormwater standards. DEP is purposing an increase to precipitation totals required in drainage calculations to more closely match the stormwater standards to the MS4 permit standards.

Commissioner Charpentier asked if this would be more stringent than the stormwater calculations that the City requires. Mr. Flint confirmed that this would be stronger than what the Commission requires. Currently, the Commission requires NOAA Atlas 14, Cornell's Northeast Regional Climate Center data, or other newer sources that greater precipitation totals. DEP want the stormwater calculations to be done on NOAA Atlas 14 Plus which has 90% confidence interval.

DEP has extended the public comment period from March 1 to April 30, 2024 – a 60-day extension.

16) Approval of Minutes – 12/18/2023, 1/8/2024

Commissioner Charpentier made a motion to approve the two sets of minutes as presented. Commissioner Nystrom seconded the motion. It passed 5-0.

17) Open Space Discussion

a. Cooks Pond North Forest CR

Colin Novick of Greater Worcester Land Trust proposed a joint project with the Commission to acquire 7.84 acre parcel on the north side of Cooks Pond. The current property owners are looking to get a tax credit through the State. The property would be held in fee by the Greater Worcester Land Trust, but there is a requirement for municipality held Conservation Restriction. Mr. Novick would like the Commission to hold the Conservation Restriction on this parcel. The Commission holds the Conservation Restriction on the Cooks Pond property, and this parcel would be an expansion to this area of conservation land.

Commissioner Charpentier made a motion to partner with the Greater Worcester Land Trust and endorse holding a Conservation Restriction on Cooks Pond North Forest, Commissioner Nystrom seconded the motion. It passed 5-0.

b. 2024 Earth Day Cleanup

In the past, the Commission has committed to participating in the annual Earth Day clean up, focusing on Commission owned properties with at least one being in the Broad Meadow Brook Sanctuary complex. Mr. Flint asked the commissioners to think of areas that they would like to clean up this year and a discussion will be held at the next meeting.

18) Policies and Procedures

a. Vote to designate Agents of the Commission

Mr. Flint announced that Mattie VandenBoom has been hired as additional staff for the Conservation Commission. He recommended the Commission to vote to designate agents that can act on behalf of the Commission. Staff recommendation is to designate Michelle Smith, Eric Flint, and Mattie VandenBoom as agents of the Commission.

Upon a motion by Commissioner Charpentier, Seconded by Commissioner Nystrom, the Commission voted 5-0 to designate agents of the Commission.

Adjournment

Upon a motion by Commissioner Charpentier, seconded by Commissioner Kirshner, the Commission unanimously voted to adjourn at approximately 7:15 PM.