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CONSERVATION COMMISSION
LOWELL, MASSACHUSETTS
April 8, 2020

Note: These minutes are not completed verbatim. For further detail, video recordings are available at the Pollard Library, second floor reference desk or online at www.LTC.org.

This meeting occurred virtually in a conference call format during the Massachusetts State of Emergency due to the COVID-19 pandemic.

Members Present: Chairwoman Varnum, Commissioner Lovely, Commissioner Biedron, Commissioner Buitenhuys, Commissioner Downs, and Commissioner Standish.

Members Absent: Commissioner Dillon

Others Present:
Fran Cigliano, Associate Planner

CALL TO ORDER
7:00 PM

ORDER OF BUSINESS

Signatory Authority

The Lowell Conservation Commission shall vote by roll-call to allow Agents of the Commission to sign on behalf of the Commission during the COVID-19 outbreak while meetings are occurring virtually.

Motion

B. Buitenhuys motioned and K. Biedron seconded the motion to grant Eric Slagle, Director of Development Services, signatory authority for the duration of the State of Emergency due to the COVID-19 pandemic. The motion passed unanimously, (5-0).

CONTINUED BUSINESS

Notice of Intent

Norse Environmental Services Inc.
92 Middlesex Road Unit 4
Tyngsboro, MA 01879 c/o
Paul Mercier
6 L Street
Hampton, NH 03854

DEP#206-0796

Project Location: 51 + 57 Shirley Avenue 01854

A Notice of Intent has been filed by Paul Mercier for construction of a single family home located on the 100-year floodplain.

On Behalf:

None

Offered Comments:

None

Discussion:

None

Motion:

P. Downs motioned and K. Biedron seconded the motion to continue this petition to the May 13 meeting. The motion passed unanimously, (5-0).

Enforcement Order

RB Lowell Meadow Brook LLC

211 Plain Street

Lowell, MA 01852

Violation Location: 211 Plain Street 01852

Tree removal along River Meadow Brook without a permit.

On Behalf:

None

Offered Comments:

None

Discussion:

None

Motion:

K. Biedron motioned and W. Lovely seconded the motion to continue this petition to the May 13 meeting. The motion passed unanimously, (5-0).

NEW BUSINESS

Request for Determination of Applicability

City of Lowell

375 Merrimack Street

Lowell, MA 01852

Project Location: 501 & 611 Pawtucket Street 01854

The City of Lowell has filed a Request for Determination of Applicability for installation of outdoor fitness equipment at Sheehy Park within the 100-ft buffer of the Bank of the Merrimack River.

On Behalf:

Yovani Baez-Rose, Design Planner, City of Lowell

Offered Comments:

Y. Baez-Rose: Partnership we have been doing with Health Department, Parks Department. Applied for grant funding through Blue Cross Blue Shield. Focused on awarding funds to help communities improve access to fitness and health. Opportunity to introduce access to fitness equipment. Target in communities with higher levels of obesity and asthma. Trying to find locations that would be visible and be able to see and use it. We thought Sheehy park was nice location because there is already a walking path for people, would be able to install and not detract from people's view. Were specific on color selection, keeping greens and browns to blend in and not stand out like playground equipment. People can use free of charge. Could stand up to winter and tried to limit amount of moving pieces so that these things can have a long lifetime.

Discussion:

L. Varnum: Exciting. University students would be likely candidates.

Motion:

W. Lovely motioned and B. Buitenhuis seconded the motion to issue a Negative III Determination. The motion passed unanimously, (6-0).

Request for Certificate of Compliance

Donna Robinson

94 Lafayette Street

Lowell, MA 01854

Project Location: 94 Lafayette Street 01854

A Request for Certificate of Compliance has been filed by Donna Robinson for an Order of Conditions issued on 09/05/2007 (DEP #206-0618) for the construction of a single-family home within the 100-yr flood zone.

On Behalf:

Donna Robinson, the Applicant

Michael Robinson, the Applicant

Offered Comments:

None

Discussion:

L. Varnum: Drove by the house. Did require that you have foundation that was flow-through type, and required shrubs and things along the property line. Can you tell us about that construction?

M. Robinson: Put in 5 smart vents, one on the right side of the house, and a flow-through vent in the rear into the existing basement.

L. Varnum: These vents would come into play only in a flooding event?

M. Robinson: Yes. Other request was to allow water to flow around house, did that also.

L. Varnum: Did see rose shrubs there, would help hold water along property line.

Motion:

K. Biedron motioned and B. Buitenhuis seconded the motion to authorize a Certificate of Compliance. The motion passed unanimously, (6-0).

Request for Determination of Applicability

Linda Caporale

293 Wentworth Ave

Lowell, MA 01852

Project Location: 293 Wentworth Ave 01852

A Request for Determination of Applicability has been filed by Linda Caporale for the removal of eight (8) dead/diseased trees within the 100-ft buffer of the wetlands.

On Behalf:

Zoe Bellio, Resident

Offered Comments:

Z. Bellio: Our home is abutting wetlands. There were eight dead/diseased trees in the buffer zone. When there was a storm one of the trees fell on our neighbors garage. Submitted RDA. Contacted Commission to issue Emergency Certificate to get the trees cut down. They have been cut down but the stumps and root systems remain. Two remaining trees and 20 small fruit trees that have been planted in the past couple of years, ten on each side planted by a previous owner.

Discussion:

L. Varnum: Was going to ask if you were interested in planting new trees. Perhaps property is getting pretty shady with ten trees on each side.

Z. Bellio: Only 4-5 feet tall. Trying our best to take care of them but they border the entire length of the backyard.

L. Varnum: I'll defer to the other Commissioners. It looks like they may have been maples which maybe are too big of a tree for that area.

Z. Bellio: Two were large and the others were in clusters and were much smaller.

L. Varnum: Does anyone from the Commission have questions or comments about this project? Do have a RDA. I think we should follow through with as far as approving, then they have the Emergency Certificate which we should ratify.

Motion

B. Buitenhuys motioned and W. Lovely seconded the motion to issue a Negative III determination. The motion passed unanimously, (6-0).

Emergency Certification

Project Location: 293 Wentworth Ave 01852

An Emergency Certification has been issued for 293 Wentworth Ave for the removal of eight (8) dead/diseased trees that posed a safety risk. The trees are within the 100-ft buffer of the wetlands.

On Behalf:

Zoe Bellio, Resident

Offered Comments:

None

Discussion:

None

Motion:

K. Biedron motioned and W. Lovely seconded the motion to ratify the Emergency Certification. The motion passed unanimously, (6-0).

Enforcement Order

Roman Catholic Archbishop of Boston Cemeteries
117 Boston Road
Lowell, MA 01852

Project Location: 117 Boston Road 01852

An Enforcement Order has been issued to the Roman Catholic Archbishop of Boston Cemeteries for earthmoving and storage of tree trunks/mulch within the 100-ft buffer of the wetlands without permission from the Conservation Commission.

On Behalf:

Michael DeRosa, Wetland Scientist
Deacon Steve Papik, Holy Trinity Church
Father Nick, Holy Trinity Church

Offered Comments:

L. Varnum: One of the worst violations I've seen in many, many years. Recent activity at the site. Saw fresh mulch being spread around, branches dumped over the edge. Wetland delineation marking along edge of the wetland. Perhaps you can tell me what's going on out there.

M. DeRosa: Have been in business in 25-26 years. Work with wetland and invasive species management. Consultants with Church since 1986 and have worked with environmental issues in those years. I agree with your assessment, the work that I observed on my site visit – I was the one to delineate the wetland – there's a fair amount of fill, everything has been covered with fresh birch chips, edge of the fill is about 10-12 feet deep. There were cars, debris that have been cleaned up. Step in the right direction. Certainly the most concerning piece to me is that we don't know what's in the fill, likely bark, majority appears to be off the cemetery property and on to the City property. Needs to be outlined in survey. Need to put it back to what it was. Screened, disposed of, hoping a lot can be composted that's in a more appropriate place for stockpiling. There's a fair amount of work to put this right. To start, have gotten prices from the surveyor we work with. We are urging the parish to hire them to do land survey, topography, and basically put an existing conditions plans together. We will take that plan and put together a restoration plan, getting costs from contractors to do work. Review plan with you all, explain what we are doing and why we are doing it, why we are putting it in place. We are going to need some time to get that planning and work together. Hoping to keep to second meeting in May, first meeting in June, to give two weeks to put together, review with the Parish, get pricing and costs to make sure affordable and then come to Commission with thought out plan that will meet objectives with the enforcement order. Parish is behind what we are enforcing. They understand work needs to be done and are willing to make it happen.

Discussion:

L. Varnum: One of my major concerns is that it seems that work is continuing. No new material should be placed in 100-foot buffer.

M. DeRosa: There has been a cease and desist order, should not be any more activity out there.

L. Varnum: Very large problem, going to take time to rectify. We do ask when we issue that the owner submit a restoration plan and I would be interested in that, keeping in mind we want 100 foot buffer. There is a 10-15 foot area directly on the edge of the wetland.

M. DeRosa: The wetland may go into fill area. Will identify when we remove fill from the area.

L. Varnum: We have maps available that the office sent of the wetland demarcation.

M. DeRosa: From Mass GIS which is close, but everything has to be done in the field. Not an absolute.

L. Varnum: I can understand the complexity of a restoration plan in this place, but I also see an urgency to it, as well as being an incredibly large amount of fill, looks to be unstable, safety issue as well.

M. DeRosa: I think the work will be undertaken this spring, after you see the plan you can vote to approve the plan and we can start work the next day. We need time to get everything put together.

W. Lovely: I just want to confirm what LV was saying about stability. It's going to take time to take plan, is the site stable?

M. DeRosa: The fill material appears to be a mix of things. It's probably 2.5-3 to one slope on wetland side, mostly vegetation, shrubs that have been cut and thrown over the edge, and it's all covered with bark chips and will keep rain from eroding anything. The parish is able and willing to do the work, I don't think that's more than a month, month and a half out. OK for the short term.

K. Biedron: So we are going to ratify the Enforcement Order tonight, and you guys are going to come back in May with a plan?

M. DeRosa: Exactly, yes.

B. Buitenhuys: Something that can be done in meantime to protect wetlands from fill?

M. DeRosa: Thick layer of wood chips. Suitable for now to stabilize for short term. Protect from rain, help infiltrate water through the pile, wetland will be fine. I don't see a problem for leaving until the plan. Fine til then?

B. Buitenhuys: What contractor will you be using for the work?

M. DeRosa: Have a couple they are looking at. Compare prices. Will be in touch with Fran when we select a contractor. Do you know the person you are thinking of using Deacon Steve?

Deacon Steve: The contractors working at Westlawn cemetery are interested in working on our project.

M. DeRosa: Person for Roman Catholic Cemeteries interested. It will be someone reputable.

B. Buitenhuys: Will it be the contractor on site previously?

M. DeRosa: Won't be him.

L. Varnum: Keep in touch with office and they will share updates over next few weeks. I would stress the urgency of this. I know it's not that easy to get contractors in peak season, stress it is important to get taken care of ASAP.

M. DeRosa: Parish will make this a priority.

L. Varnum: Will be looking for results of survey, topography, restoration plan. I will be looking for material taken out of 100-ft buffer and any stabilization that might be needed. I notice there appears to be a violation by a neighbor in the same location, can't say who's property that occurred on. That's something I would like the office to be kept informed of as well.

M. DeRosa: Hope to have restoration plan in a week before meeting.

Motion

K. Biedron motioned and B. Buitenhuys seconded the motion to ratify the Enforcement Order. The motion passed unanimously (6-0). The petitioner agreed to attend the May 27 Conservation Commission meeting.

Emergency Certification

Project Location: 10 Holt Circle 01854

An Emergency Certification has been issued for 10 Holt Circle to allow a small breach of the existing beaver dam to allow water to flow and abate the emergency. The dam was causing flooding of adjacent dwelling basements.

Discussion:

L. Varnum: This was a one-time thing? And if it happens again they will come back with another Emergency Certification?

F Cigliano: Yes.

Motion

B. Buitenhuys motioned and K. Biedron seconded the motion to ratify the Emergency Certification. The motion passed unanimously, (6-0).

OTHER BUSINESS

Minutes

February 26, 2020

Continued to the April 22 meeting to allow more time to review.

ADJOURNMENT

B. Buitenhuys motioned and K. Biedron seconded the motion to adjourn the meeting. The motion passed unanimously, (6-0). The time was 7:51 PM.