



Diane N. Tradd
Assistant City Manager/Director

R. Eric Slagle
Director of Development Services

CONSERVATION COMMISSION
LOWELL, MASSACHUSETTS
May 13, 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 web call format during the Massachusetts State of Emergency due to the COVID-19 pandemic.

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

Members Absent: None

Others Present: Fran Cigliano, Associate Planner

CALL TO ORDER

7:01 PM

ORDER OF BUSINESS

CONTINUED BUSINESS

Notice of Intent

Norse Environmental Services Inc. c/o Paul Mercier
92 Middlesex Road Unit 4
Tyngsboro, MA 01879

Project Location: 51-57 Shirley Ave 01854

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

On Behalf:

Steve Eriksen, Norse Environmental
Paul Chisholm, Peer Reviewer, KNA

Discussion:

L. Varnum: Compensation appears to be achieved through mound of dirt on one side of the property. We had discussion on this before, there have been some changes over time. The latest change on this plan was including stairs in the compensation, and making it clear where the compensation for 94-95 interval was on the mounded area. You have submitted a NOI that references some of the information that came through the first time the

project was proposed, given superseding order from MassDEP. You included the letter DEP sent to you at that time. About halfway through the letter, it basically tells about the site visit, since it appears that this mound is not a historic, original contour of land. I did take a look at that mound today and it does appear to be typical urban fill. Sand, stone, cement blocks, pieces of asphalt, in my mind this is something that was done illegally at some point in the past. I know it was there in 2014 when you referenced it in the filing. Looks like there was a dump of fill. Doesn't look like part of the topography of this particular lot. On the original earlier plan, you proposed regrading. Now it appears that the compensation is relying entirely on the mounded area to give you the compensation you need. So I am having a difficult time justifying the two situations here where the DEP who I tend to respect originally said that this mound that couldn't be relied on for compensation and yet this recent plan relies entirely on this mound for the compensation for the site. It's not a tremendous amount but still not being taken care of in the manner that apparently DEP thought it should be.

S. Eriksen: DEP issued superseding order approving the plan.

L. Varnum: They did not include the mound, even though they had given you an order.

S. Eriksen: They used a superseding Order of Conditions. Compensatory storage is there, it doesn't matter how it got there.

L. Varnum: It does matter. Compensation assumes you are starting with a lot of land that hasn't been altered by way of dumping something there. We would be able to find ample compensation in many lots this way.

S. Eriksen: Nowhere near couple of truckloads. We meet the performance standards of the WPA.

P. Chisholm: If I can hop in as the peer reviewer. It's only a handful of cubic feet. Site grading at lowest level is 120 cubic feet which more than compensates. One thing I did not take into consideration was the amount of trees removed out of property. I believe there's pictures where they were cleared quite a bit. With those trees being removed I think that would more than make up with the volume. Not going to adversely impact the floodplain.

L. Varnum: We had quite a time with the trees being removed. I'm at odds here because the trees were soaking up a lot of water in that neighborhood and mitigating flood issues on those streets. Did have those trees replaced and now with this plan, potentially have to remove those trees as well.

P. Chisholm: In flood plains, any flowing water that goes through a parcel, they are going to slow down flow, and they do take up a certain volume of area, space. However, they do soak up a lot of water. If 100-year flood were to occur, it would be several feet of water, the trees would not be able to soak it up in short amount of time. They do have a net benefit but it's a little counter intuitive.

S. Eriksen: Flood season is in the spring.

L. Varnum: This is failing to take into account that this neighborhood is in flood season year round. Residents are living day to day with flooding in those basements. Every little bit is an issue in this particular neighborhood because of the situation they are in.

S. Eriksen: We are increasing the amount of compensation. If you are looking to reduce flooding, we are reducing flooding.

B. Buitenhuys: We are unlikely to take compensatory from the mound. We are having the same conversation from the last meeting. I may consider that the impact and the displacement that this project adds with the beams and columns is minimal, but it is hard to take into consideration this mound. It is unlikely to satisfy requirements we are set to enforce.

L. Varnum: Its origin is suspect.

W. Lovely: This project has been contentious over the years. The mound has been a longstanding issue, but the way we left it last with the peer reviewer - I would like to hear from the consultant, is the net gain in flood storage only accomplished with the mound or without?

P. Chisholm: When you look at the total volume that is going to be displaced, it is met not including mound area. I believe they meet those performance standards. We could have the applicant revise the table on the plan to provide an additional table.

W. Lovely: Elevation review - that's been another contentious issue. Flood storage compensation must be accomplished on a foot by foot interval across the site and not somewhere else.

P. Chisholm: Trees were significant. Extended from ground up past flood elevation.

W. Lovely: If that was done, while I may be critical and frustrated with the applicant, if the performance standard is met, I would be willing to move on provided that this info can be provided. Putting aside contentiousness of the project, if we are not losing any net value in flood storage, then approving the project is possible.

P. Chisholm: Yes. To add, I would be happy to work with Steve to get a visual, table, along those lines, so he has the burden of proof you might need.

P. Downs: I'm with Bill, we need to see that table.

John Hamblet, Pawtucketville Citizen's Council: I haven't worked with peer reviewer. I don't believe he is aware of sensitivity of the neighborhood. This property was six feet underwater. Applicant has not shown good faith, has filed for superseding order because the time wasn't met. We measure fill by the teaspoonful in this neighborhood. The trees were illegally removed in the floodplain without permission overnight. We are strongly opposed to this. We are hoping the Board will deny.

S. Eriksen: Trees were removed with a permit.

J. Hamblet: You could not be more wrong. I do want to reiterate to the Commission, this has been 9, 10 years working on this project. We stand opposed to it and would like your support. You will remember the 74 homes damaged during the flood. We are trying to help our neighbors and neighborhood.

Deb Forgione, Pawtucketville Citizen's Council: I agree with everything John has said. Tree situation, we were practically throwing our bodies in front of the equipment that was cutting down trees illegally. We called the Conservation Commission. They were cut illegally, there was a \$20,000 bond because the trees were cut down illegally. The city was generous in not keeping the \$20,000. That mound was not always there. Those are the two things I want to say. Truth is, I don't know how many trees were taken down because so many were taken down illegally.

L. Varnum: Notice was submitted in December, it's been 5 months. Plenty of time to submit more information. I expressed in December that the mound was not acceptable compensation. We have a proposal in front of us, we could continue for more information but not sure what that would gain us. Lots of documents in front of us. We could deny or write an order.

W. Lovely: I would appreciate more information in the table. That way if we deny, there's more clarity on the facts in case of appeal. I am trying to be objective and just look at our obligations as a Commission; we would be in better condition with that technical memo. I would advocate for a continuance.

W. Standish: I am brand new to the Board. The trees should not be included in the calculations.

P. Chisholm: Should be able to include volume of trees because they existed and took up space. I think they should be allowed.

B. Buitenhuys: Could make the same argument about how you need to create some fill to remove, can remove tree or add dirt. If you weren't allowed to cut down, the request could be made. Now trees are gone and they were removed illegally.

W. Lovely: To follow up, I think if we could have a report that looks at flood storage, with the trees, and without, both scenarios. We can then decide as a Board, recognizing that our decision could be appealed. If we could have a scenario with the trees in a technical memo, we can make the decision whether to include or deny. I'm fine with that. If they want to appeal, MassDEP can look at the same data. At least we did our due diligence.

W. Standish: I agree with Bill, we can see the numbers and make a clear decision then.

P. Downs: I think that would give us the information we need to make a decision.

L. Varnum: I am curious to know how many of the trees to include since they've disappeared. At this point I guess we are looking for action.

Motion:

W. Lovely motioned and W. Standish seconded the motion to continue the petition to the next Conservation Commission meeting on May 27, 2020. The motion passed unanimously, (6-0).

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:

Timothy Williams, RB Property Management
George Eliades, Applicant's Attorney

T. Williams: Some background on the project: back in March of 2012, a DOA was issued for clearing of invasive species and vines on site. In spring 2019, unknown to the property manager, the DOA expired. They were under the impression that they could still do work under the permit. Got carried away with tree clearing. We believe the plan should be enough to address the Enforcement Order.

G. Eliades: It was wonderful to hear Target was coming along. They wanted to be seen from the connector. Between the Planning Board, ZBA and Conservation Commission, we managed to work out a deal where the sign that you see here is the tallest in the City of Lowell. That's what got Target to back off. Target has been wonderful. Our client purchased the center, Target never wanted to handle it. They have put in all kinds of new operators, the difference is almost staggering. Now they are paying over \$200,000. Finally, the thing that changed the whole vernacular, XFINITY and all the other tenants, we need more visibility from the highway. With the coronavirus situation, we have places like Chuck E Cheese, we can't afford to lose these people. Chuck E Cheese has hired bankruptcy counsel. That's my background information.

T. Williams: Intent is to file with this plan formalized.

Discussion:

L. Varnum: There is a planting plan being presented to us. I was pretty pleased with this planting plan. It has a variety of plantings and appear to be things that will do well in that location. A lot of shrubs so that if you have a problem with a snow plow, you're not losing an entire tree if it is damaged. Pretty impressed with the plan. Is planting to take place this season?

G. Eliades: As soon as possible.

W. Lovely: Assuming we get the RDA, I see no reason why we couldn't make a Negative III determination given the scope of work. These type of projects get approved with a Negative III determination. I would suggest getting on the agenda.

L. Varnum: Take action or leave? I am inclined to leave.

W. Lovely: Can approve RDA and rescind order concurrently.

Motion:

None

Order of Conditions

Benjamin Rivera
172 Eighteenth Street
Lowell, MA 01854
DEP #206-0795

Project Location: 172 Eighteenth Street 01854

The Order of Conditions was issued on December 13, 2019. The applicant is proposing to relocate boulders, repair ruts, install a 6' privacy fence, above ground pool, extend deck and stairs, install a 8'x6' storage shed and utilities within the 100' Buffer Zone of Bordering Vegetated Wetlands.

On Behalf:

Scott Eriksen, Applicant's Attorney

L. Varnum: We started with the Enforcement Order and its come down now to the work has begun and there were some issues with how it was being done. Neighbors are concerned with the type of activity there. The applicant agreed to wait until we could discuss at this meeting tonight. We did get a letter from someone in the neighborhood. K. Dillon is recusing himself. We do have additional request for removal of three trees. Asking for an amendment for that. Someone here that would like to take the lead?

S. Eriksen: You accurately summarized where we are. This was an OOC issued in December. Work is underway. Anxious to get resolved and completed. They have come up with an issue related to the boulders. Located along property boundary. You're familiar with the rocks. Looking on clarification relative to removing rocks. Clear that rocks are on their property. Wanted to make sure that they are clear with Commission's expectations. Needed written permission from neighbor to remove rocks. Did not get permission. Wanted to cut rocks to install fence. Would like clarification of Special Condition #14 to allow that to go forward.

Discussion:

W. Lovely: If I understand correctly, instead of moving the rocks that encroach on both properties, you would be looking to cut a portion of rock on Mr. Rivera's property. Would that be analogous to removing tree limb cutting overhanging?

S. Eriksen: There is body of case law on tree removal, not much on rocks.

W. Lovely: Agreed, this is a unique situation.

L. Varnum: The applicant has not received permission to remove boulders. Would have been easier to give some to one and the other, rather than cutting in two. I'm not seeing that we need to amend #14, they did not receive permission.

S. Eriksen: We are looking for smallest amount of relief necessary. You could take the position that we are not going to disturb rocks on neighbor's yard, drilling holes and using pan.

L. Varnum: We do keep a record of these proceedings on file in a set of minutes. LTC keeps a record of the meeting. I was of the opinion that part of the rock hanging into their yard is their half and they can certainly remove it.

W. Lovely: I do remember this issue. It sounds like it's a challenge between the neighbors. We were hoping to have the applicant act in good faith to get permission. Sounds like it was not able to be done. How was outreach made with the neighbor? For the sake of argument, what I'm hearing is first option was unsuccessfully tried. The second option is you could cut and remove the rocks from your side of the property similar to what one would do with overhanging tree limbs. I see no reason why the Commission should opine on the methodology to remove the rocks from their side of the property.

W. Standish: Agree with Bill. Same application as trees in my eyes.

L. Varnum: Adding amendment to order for trees they requested to remove. It's possible that perhaps a third choice on #14, agreement with neighbor, can remove the portion of rock residing on their side of the property line, or fence. Would that legally take care of your concern?

W. Standish: Without disruption to the adjacent property's half of the rock.

L. Varnum: We can craft that.

W. Lovely: Can you slide the rock?

L. Varnum: Would need a Bobcat at least. Statement from neighbor. Asked to be read into minutes of meeting. Sent to Commission individually. We are aware. This will be on our document website as well. Reads letter:

I am a resident of Eighteenth Street and I have a few concerns regarding the NOI and OOC for MassDEP #206-0795 at 172 18th St.

Concern #1: Applicant was drilling into multiple large boulders on the side rock wall on 5/6/20. This was not permitted in the NOI or OOC by the city and the rocks are located in the 50' buffer zone of the wetlands. Drilling of rocks, in my interpretations, would need to be included in an NOI if I am understanding this correctly. If permission is granted, I would pose the question of how the fragments are to be handled and would like the commission to think about my next point in connection to granting any type of permission to cut through/break/chip/drill the boulders.

Concern #2: Applicant was using compressed air to blow rock dust out of the drilled holes of the multiple large boulders on the side rock wall on the evening of 5/6/20. This action is not part of the NOI or OOC. This act poses both a health risk to local animals and humans and causes a mess on the neighboring properties. I urge that this act be specifically prohibited in the future and added as such to the OOC.

Concern #3: I wonder whether the applicant is in violation of Special Condition #14 on the Order of Conditions. This states, "applicant shall provide, in writing, an agreement from adjacent property owners to the Commission prior to removing any rock and other material that are partially located on adjacent private property." Applicant has not provided a written agreement, yet he is in the process of attempting

to disturb the rocks that sit on both properties. The OOC also gives 2 specific options. Option A is moot since he does not have written permission. Option B is the only other listed option which clearly states, "the applicant shall install the fence in such a manner as to not disturb the rocks and impact adjacent property owners."

Concern #4: Installation of the fence in the 50 foot no-disturb zone not clearly addressed in the OOC. Under Special Conditions in the OOC, item #17, there is detail for the shed to be non-permanent and constructed on footings. What are the details and conditions of the fence? Would it be similar: non-permanent and on footings? The property line on the east side is very close to wetlands and the wildlife frequently traverse between the properties over this side rock wall. Additionally, privacy fencing is not the neighborhood norm. All the property owners along the edge of these wetlands have kept their backyards open and animals have been free to wander between properties. Any fencing that has been installed in the past year has allowed continued passage of wildlife. I ask the commission to please add some limitations on the installation of fencing to be less disturbing to the animals and land.

We had received that earlier in the day. I think we have perhaps reached a way to deal with Special Condition #14 by adding a third option. I am sad that the rocks are having to be cut rather than relocated in some way that would please both parties. But I think that if there is something on your property such as a rock, you do have the right to remove it. I don't see that the rock wall was intended as a boundary walls. I am concerned about the dust issue that was raised in this letter. I'm wondering if we can request, is there a way to put up screening or something of that sort that can keep dust contained so it doesn't blow on other properties?

W. Lovely: Couple things. Standard practice is light misting with water. To have a health hazard, need in excess of 15 mg/ m³ for 8 hour period of time. Misting is a common industry practice and I doubt cutting the rocks with misting would result in a sustained dust cloud.

P. Downs: Not enough exposure to harm anybody.

W. Standish: From natural rock. Wetting rock will do it.

L. Varnum: Can still drill if wet?

W. Lovely: Yes and if anyone has any questions can look at OSHA website for exposure limits.

L. Varnum: Does it wash off easily? I know one of the neighbors has a garden.

W. Lovely: I don't know the type of rock. I can tell you when I put a patio around a swimming pool and used a wet cutter, there was no dust. Preventing dust with misting is not something that is difficult to do.

L. Varnum: We are looking for dust abatement by using water during drilling.

B. Buitenhuys: We haven't addressed wildlife.

L. Varnum: I believe the property owner is not planning to put a rear fence so it will be open to the back.

B. Buitenhuys: One condition I've been given is to keep the fence 6 inches off the ground so that if there's small insects we know they can pass through anywhere.

S. Eriksen: Don't think that would be an issue as long as grade works that way.

B. Buitenhuys: Doesn't have to be exactly six inches.

W. Lovely: Agree, good suggestion.

L. Varnum: We do have a request for tree cutting. Red maple trees. Boulders stacked around, not recently perhaps. Trunks damaged because trying to grow against the rock. Three trees taken down in center of yard at some point. Asked that those three trees be replaced. Not a lot of room in this particular lot to plant six trees for instance, so I am thinking perhaps some shrubs or something smaller might be a good replacement. What do we think about the trees?

W. Standish: I can't pull the plans up. Where are the trees located?

L. Varnum: Surrounded by rocks. In the rock wall, two in the corner and one in the center of the rear rock wall. 10-12 inches in diameter. Not huge.

P. Downs: Some replacement with shrubs would be good.

L. Varnum: I don't believe we talked at length about replacement of three earlier trees that were cut. Three trees replaced and couple of shrubs, what would be an equal compensation? It is a red maple swamp to the rear. Quite a few trees out back as it is.

Benjamin Rivera, property owner of 172 18th Street: I want to say that last time we talked, there were more shrubs along the back wall. I am open to planting shrubs, bushes, small fruit trees or shrubs, whatever you prefer.

Jennifer Rivera, property owner of 172 18th Street: In discussion with an arborist and a nursery. Have been in constant communication with J. Alves about work.

L. Varnum: Have you submitted a planting plan with what you'd like to see back there, keeping in mind compensating for trees coming down to replace those in part?

S. Eriksen: Should they work with the agent?

L. Varnum: We have that as part of our minutes here, don't think it needs to be added to OOC.

B. Buitenhuys: Stock list for approval?

L. Varnum: Let them propose something and we will see how we like it.

S. Eriksen: Will submit something for their consideration.

L. Varnum: Brings us back to #14, would like to add?

W. Lovely: I'm not sure there's need to amend OOC. I think through this meeting you got the clarity you were looking for. I don't feel strong need to amend. Would want applicant's perspective.

S. Eriksen: At the outset, we wanted to make changes that the Commission felt were appropriate. As long as the Commission thinks drilling can proceed without modification.

L. Varnum: How much more work?:

B. Rivera: It matters on how quickly I can start getting back to work. How fast I get rock out. Waiting for rock to get out of way and fence up. Could be done by the end of next week literally, without interruption.

L. Varnum: And you will add water to keep dust down?

B. Rivera: Yes ma'am.

L. Varnum: One of the major problems. We have the minutes/notes where we explained how we are going to get into compliance with #14, planting plan submitted to us for replacement of trees.

Donald Provencher, neighbor of 172 18th Street: Can I make a suggestion – can they use shock vac to vacuum dust so it doesn't get all over property?

B. Rivera: That's fine, not a problem.

D. Provencher: Can they put the fence up to the rocks? More on my property than theirs. What about stability after they cut them, what's that going to do? Why can't the fence go to the edge of the rocks?

W. Standish: It's his right as a landowner to cut whatever is on his property.

L. Varnum: I think one of the issues is they have a child they don't want to get into the rocks.

J. Rivera: It's time to recognize that we are trying to do what's right for us on our property. We have been abiding by the Commission any time we do work. We agreed to stop all work including not mowing our lawn, not cleaning up. Could not clean up.

L. Varnum: It's obvious the applicant has asked to do work. Have attempted to alleviate those problems, perhaps not the extent that neighbor would be happy. Only another week or so of work and then the fence and that should be the end of the work. I know it's unfortunate that its causing issues and I'm a rock lover, I would adopt those rocks. Certainly you have the right to protect your own property. We have made it clear to everyone what we expect going forward. We will hear should something go awry in the next couple weeks.

Motion:

L. Varnum motioned and W. Lovely seconded the motion to authorize the removal of three trees in the rear of the property. The motion passed unanimously, (5-0), with K. Dillon abstaining from the vote.

NEW BUSINESS

Enforcement Order

Adailton Salvego
52 Cunningham Street
Lowell, MA 01852

Violation Location: 52 Cunningham Street 01852

Building and storing of large machinery and other materials within the 100-ft buffer of the wetlands and on property owned by the City of Lowell.

On Behalf:

Adailton Salvego, property owner

A. Salvego: I recently bought this house about 2 years ago. I have a trailer and a few other things, when I lost my eyes in my accident, I had to store everything here. Fortunately I'm still working. There was mud and dirt, I did level that out. I did dump material there, gravel. I removed everything. I sold a few things. I don't know how far I can go but it's a process to clean everything. Machines are out. Camper of a friend of mine, he finally removed that too. The only thing I have out back now is a box truck, small box truck. I also have a box for storage.

Discussion:

L. Varnum: In addition to disruption of the bordering vegetated wetlands, we are finding things are being dumped into the wetlands. This is a kiddie corner project similar to one at Holy Trinity Cemetery. They butt up against each other. Have cemetery people coming at next meeting. This is a new Enforcement Order for a different citizen. In the course of going through the EO with the neighbor, we noticed that your side of wetland was being encroached and a lot of things were being pushed over the edge. Quite a drop from level of land where humans are to the wetlands, a 15 foot drop. We had the situation where all kinds of things were being thrown over the edge. You can see trunks of trees on the edge of the wetland. Some debris going 15 feet up trunk of tree. I can't even imagine an individual homeowner, unlike a business, having the equipment to deal with a violation like this. How did this come about? Where did all that material come from?

A. Salvego: I am in the pavement business. I used to work for a company when I decided to open my own business, and three months later, I got into accident and lost my eyes 100%. First thing I tried to do was cut bills. Parked everything in the back of my land. Owned by the City. Didn't know until now. When I do excavating, stone walls, dump it in there to level it out. It didn't go the way I thought. I was wrong of course. When I received the letter I removed everything. No trees have been cut down.

L. Varnum: Just removing what was on top of fill isn't really what we had in mind. There's a lot of material that needs to be pulled back and pulled out. Don't know at what point you realized it wasn't your property. More important to restore where it belongs to the City of Lowell. Not private property. To say no trees were cut, certainly can't live when they are filled 10 feet up their trunk. Have you spoken with the people who are going to restore the area next to you? Get together with them somehow. Something needs to be restored there. Very unstable. Loose fill and looks like it's been pushed recently. Looks to me like there's been work pushing things around in the last month at least. All work needs to stop. Need to remove trucks and other containers and things on the property. So what we need is a proposal of how you can restore this area. Can't just move off the top and say you've taken care of it. Perhaps you don't even know what's in that fill. Shouldn't be next to wetland or falling into wetland.

W. Lovely: No questions, just comment. Now – that's not something you can do. Let's get over this and submit a "restoration plan" - you work with an environmental aid to figure out what needs to be done. Need buy in on what you can do.

A. Salvego: I do still have the truck, box with tools, trying to find a place for those things. In a week I can remove. At this point, is it ok to bring loam and hydroseed until next meeting?

L. Varnum: Not how to deal with this. A lot of material need to come out. Wasting loam by spreading on top. We don't want you pushing dirt around. Don't want anything brought in or out until we have a plan. Where are you going to take this material? Cant end up at a different wetland. We need a plan, we usually ask the property owner to come in with a plan. If you understand what we need to be done. We need material pulled back out of wetland and removed from site. Cant have 15 foot drop into wetland and expect that to be stable. Spreading loam on top doesn't change the loose fill, branches, trunks of trees.

W. Lovely: Another way to look at it, there are 3-4 questions: 1) How much material was disposed of, that needs to come out? 2) Where are you going to dispose of material? 3) How are you stabilizing the site during and post construction? The plan needs to address those three questions for us to consider as a Commission.

L. Varnum: Staff will help with the plan. Need to be in contact with City Hall, Conservation Office. Bill has expressed questions as well. We need to talk about the whole restoration. Before we get that plan, we don't want you out there pushing things around and doing things piecemeal. Can remove box truck. Don't want you seeding, bringing in dirt, any of that type until we have a written plan we have approved. Work with office, get proposal ready to bring to us before our meeting and we will look it over and if it looks like it takes care of the problem then it will work. Coordinate if we can with the neighboring property.

A. Salvego: I will call the office.

L. Varnum: Big project but it needs to be done. Safety issue.

Motion:

W. Lovely motioned and B. Buitenhuys seconded the motion to ratify the Enforcement Order. The motion passed unanimously, (6-0).

Request for Certificate of Compliance

Dave Murphy
131 Fairmount Ave
Lowell, MA 01852

Project Location: 3 Chambers Street 01852

Dave Murphy has submitted a Request for Certificate of Compliance for a building constructed in 1989 located within the 100-ft buffer from River Meadow Brook.

On Behalf:

David Murphy, the Applicant

Discussion:

W. Lovely: Did this slip through the cracks? There was a letter requesting a COC in 1992.

D. Murphy: They did the OOC. I never filed it. I realized that it wasn't posted at the Registry. I called them, they did it, but it's not posted at the Registry. Posting COC. The certificate would be a reissue.

Motion:

W. Lovely motioned and K. Dillon seconded the motion to reissue a Certificate of Compliance. The motion passed unanimously, (6-0).

Order of Conditions Extension

City of Lowell
375 Merrimack Street
Lowell, MA 01852

Project Location: Lord Overpass – Thorndike Street and Jackson Street 01852

The City of Lowell has filed for an extension of the Order of Conditions scheduled to expire on January 16, 2021. The applicant has requested for extension of three (3) years to January 16, 2024 to allow ample time for the project to be completed. Prior to the COVID-19 pandemic, the project was slated to be completed in January 2023. The extension to January 2024 should accommodate any delays from COVID-19 and any delays due to unforeseen circumstances during construction.

On Behalf:

Joe Giniewicz, Urban Renewal Project Manager, City of Lowell

Discussion:

L. Varnum: Three years is up in 2021. I believe they are behind schedule already, or expect to be. I don't see any reason not to issue this. Projects are behind.

W. Lovely: I agree. This situation put a little bit of a monkey wrench in the schedule as well.

Motion:

W. Lovely motioned and P. Downs seconded the motion to issue the OOC Extension to expire on January 16, 2024. The motion passed unanimously, (6-0).

Enforcement Order

Leonel Galvez
5 Billings Street
Lowell, MA 01852

Violation Location: 5 Billings Street 01850

Dumping and storing mulch within bordering vegetated wetlands and the 100-ft buffer zone to the bordering vegetated wetlands.

On Behalf:

None

Discussion:

L. Varnum: Slight ponding area at rear of house. Usually very endangered, usually because the owner wants dry land. Has been a mound of mulch in vegetated area, several truckloads. It would appear that dumping was in order to dry out land and make more usable for homeowner. That can't happen because house was built with an OOC. Might be worth a trip out there if you get no response. Saw people were home during the day. We will make another attempt to get in touch with homeowner. Mulch, easier to remove.

Motion:

W. Lovely motioned and W. Standish seconded the motion to ratify the Enforcement Order. The motion passed unanimously, (6-0).

OTHER BUSINESS

Lowell Vegetation Management Plan, Yearly Operational Plan, and Herbicide Application Notice

Pursuant to the provisions of the Rights-of-Way Management Regulations, 333 CMR 11.00, to apply herbicides to control vegetation along rights-of-way (ROW), a five year Vegetation Management Plan (VMP) and Yearly Operational Plan (YOP) must be approved by the Massachusetts Department of Agricultural Resources (MDAR). In regulated sensitive areas, Lowell will only use herbicides recommended by MDAR for use in these sensitive areas. Pursuant to 333 CMR 11.04, no herbicides will be sprayed within any designated "no spray sensitive area" instead mechanical only methods will be used to control vegetation. The MDAR seeks to verify the location of sensitive areas defined in Section 11.02 reported in the YOP. MDAR requests and urges the assistance of in reviewing the completeness and accuracy of the map contained in the submitted YOP.

Minutes

April 22, 2020

B. Buitenhuys motioned and W. Lovely seconded the motion to approve the April 22, 2020 minutes. The motion passed unanimously, (6-0).

ADJOURNMENT

K. Dillon motioned and W. Lovely seconded the motion to adjourn the meeting. The motion passed unanimously, (6-0).