

CONSERVATION COMMISSION

LOWELL, MASSACHUSETTS

May 25, 2022

**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](http://www.LTC.org).

**Due to the COVID-19 pandemic, this meeting was held both in person and virtually using Zoom.**

**Members Present:** Chairwoman Varnum, Brad Buitenhuys, Kevin Dillon, Perry Downs, Stephen Laput, William Lovely (Zoom)

**Members Absent:** None

**Others Present:** Francesca Cigliano, Senior Planner

**CALL TO ORDER**

**ORDER OF BUSINESS**

**CONTINUED BUSINESS**

**Enforcement Order**

Angkor Monastery  
39 Grove Street  
Lowell, MA 01851

Project Location: 205 Billerica Street, Lowell, MA 01851

The applicant is seeking to close out a previously issued enforcement order for tree removal within the 100 foot buffer zone at 205 Billerica Street.

Speaking on Behalf:

Vesna Nuon, Applicant's Representative

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum said two of the replacement trees may not make it. One definitely looks like it needs to be replaced already. There was some grass grown. In her mind, the path down to the river is going to be an attraction. The task is to ensure erosion does not occur. It looks like very poor soil. She suggests some flat stones that allow people to walk on a designated path without disturbing vegetation or causing

erosion. The stones should be flat so as to not add additional elevation to the site. Slate is a possible option. The other issue is that at least one of the trees needs to be replaced. There are unfortunately beavers eating the trees. Two of them are too much in the shade. There are two sumacs about 15ft tall that are not in great condition that are creating shade over the plantings that could potentially be cut back.

B. Buitenhuys said that proposed conditions seem reasonable. He agrees that erosion of the path down to the river could be an issue.

L. Varnum said that there is usually a one year warranty on purchased trees.

Motion:

W. Lovely motioned to rescind the Enforcement Order, with the condition of revisiting next spring to follow up on the two trees and the erosion related to the path down to the river. P. Downs seconded the motion and it passed unanimously, (6-0).

**Request for Determination of Applicability**

Zirlene Santos Correa  
534 Wentworth Avenue  
Lowell, MA 01852

Project Location: 534 Wentworth Avenue, Lowell, MA 01852

A Request for Determination of Applicability has been filed by Zirlene Santos Correa to repave and expand the driveway at 534 Wentworth Avenue within the 100-year floodplain.

Speaking on Behalf:

Ian Ainsle, Applicant's Engineer

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

None

Motion:

P. Downs motioned and B. Buitenhuys seconded the motion to continue the petition to the June 8 meeting. The motion passed unanimously, (6-0).

**NEW BUSINESS**

**Request for Determination of Applicability**

Gary J. Leger  
138 Rea Street  
Lowell, MA 01852

Project Location: 138 Rea Street, Lowell, MA 01852

A Request for Determination of Applicability has been filed by Gary Leger to construct an addition to their home at 138 Rea Street. The proposed work is located within the 100-year floodplain.

Speaking on Behalf:

Gary Ledger, the Applicant

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum said that over time, many of the lots on that side of the street have changed in elevation.

G. Ledger said that he had contacted the original surveyor showing that the structure is not in the flood zone.

L. Varnum said that with the elevations the way they are today, would the addition go beyond the slope? G. Ledger said no. L. Varnum said that the house is out of the flood plain but parts of the yard are within the flood plain. L. Varnum asked if there would be grading. G. Ledger said that a foundation would be installed. G. Ledger said that a full set of plans is available.

B. Buitenhuys and P. Downs commented that if it is not in the floodplain, it is not within their jurisdiction. L. Varnum has concerns about fill added to the floodplain down the line as part of the project. B. Buitenhuys added that no material may be stored in the floodplain.

Motion:

B. Buitenhuys motioned to issue a Negative III determination with the following condition:

1) No changes to elevations within the floodplain are permitted.

W. Lovely seconded the motion and it passed unanimously, (6-0).

**Enforcement Order**

S&R Corporation  
706 Broadway Street  
Lowell, MA 01854

Project Location: 204 River Road, Lowell, MA 01852

An Enforcement Order has been issued at the subject property for dumping fill within 100-feet of the Riverfront area on the Merrimack River without Conservation Commission approval.

Speaking on Behalf:

Steven Ploof, S&R Corporation

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum said that there was fill placed on a vacant lot that reaches down to the Merrimack River. L. Varnum asked about the purpose of the fill. S. Ploof said that he knows people who own property on either side of the property and he offered clean fill to them. It was actually on City property.

L. Varnum said in her view, it appears more needs to come out. L. Varnum is concerned about a ~200 year old oak and two other trees that are now filled in around the base. IF you look on the City GIS, it was basically a swale down to the river. Properties on either side are higher which is why there is room for fill. Can't say whether it is within the floodplain. We are concerned with anything within 100ft of a resource. There are two large boulders that were not there originally that have rolled down the slope. The trees are of great concern to me. Magnificent oak tree at least 200 years old. Think there is work to be done and the EO is certainly justified. S&R has the equipment to restore.

L. Varnum said that it appears that they had tried to remediate, but that there is still too much fill.

Greg LaBranch, 194 River Road

G. LaBranch said that he lives on the side of the "gully". As far as a drainage pipe, there is no such thing. It looked like a stream or brook, but there is no running water. R. LaBranch said that the boulders have been there for a long time. He spends every spring cleaning the vines off the trees. G. LaBranch is interested in protecting his and his brothers' property. G. LaBranch said that he has prevented ravine from becoming a dump site.

L. Varnum asked about the pipe. G. LaBranch said that there is a sewer line that runs through the property and into the river. B. Buitenhuys clarified that the pipe runs parallel along the river. W. Lovely discusses the location of the dumped fill relative to the location of the pipe.

L. Varnum said she still has concerns about the volume of the fill and reiterated that this is within the jurisdiction of the Conservation Commission.

F. Cigliano added that since the violation is located on City-owned property, the entire property needs to be restored.

S. Ploof said that his staff was unclear about property lines and the intention was to dump the fill on private property.

B. Buitenhuys suggested removal of soil and restoration to ensure stability to prevent erosion.

L. Varnum said that they must restore to original elevations. These are readily available on the City's GIS system. L. Varnum said that the fill is fairly loose. She would like to see them restore to original contours. Restoration around trees should be done by hand, with no machinery encroaching closer than 4-5 feet from trees. After contours are corrected, planting of shrubs and loam/seed should be established to stabilize the slope.

Motion:

B. Buintehuys motioned to ratify the Enforcement Order. Seconded by P. Downs and passed unanimously, (6-0). The Commissioners requested the following restoration actions:

- 1) Original contours shall be restored;
- 2) Removal of fill within 5-ft of trees shall be completed by hand;
- 3) A silt barrier shall be installed at the top of the river bank to ensure that fill does not enter the river;
- 4) Once the contours have been corrected, the slope shall be stabilized by planting shrubs and loam/seed.

#### **OTHER BUSINESS**

##### **Minutes**

May 11, 2022 Meeting Minutes

W. Lovely noted that for 51-57 Shirley Ave, the minutes state that a Negative III determination was issued but a Positive 5 determination was actually issued. B. Buitenhuis motioned to approve with edits, seconded by P. Downs, approved unanimously, (6-0).

#### **ADJOURNMENT**

W. Lovely motioned to adjourn, seconded by S. Laput. The time was 8:05PM.