

CONSERVATION COMMISSION

LOWELL, MASSACHUSETTS

July 13, 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, Stephen LaPut, Perry Downs

**Members Absent:** Kevin Dillon

**Others Present:** Peter Cutrumbes

**CALL TO ORDER**

A quorum of members was present, and L. Varnum called the meeting to order at 7:01pm.

**ORDER OF BUSINESS**

**CONTINUED BUSINESS**

**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.

On Behalf:

None

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum asked for the City to obtain a timeline for the violator's work to remediate the fill dumped on the site. B. Buitenhuys asked if it is reasonable to open the conversation about fining the violator if they

are not in attendance at the next meeting. L. Varnum said we should relay that we strongly want them to attend.

Motion: B. Buitenhuys motioned, and S. Laput seconded the motion, to continue the matter to the August 10 meeting. The vote was unanimous (4-0).

**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 Ainslie, the engineer, spoke on behalf of the project. He briefly described how the driveway pitches down into the garage. The repaving will widen the driveway and pitch it to the street so that it does not drain into the garage. He said that after calculations, the overall flood storage will increase.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum said the plan is much more reasonable. S. Laput asked if there were updated comments, and P. Cutrumbes said no. L. Varnum said they are not expanding much of the pavement. She also asked if it would make sense to have a grate at the bottom of the driveway for draining. I. Ainsley said it is in the City's ROW so they would need permission. He elaborated that the drainage would currently flow down the street to a catch basin. B. Buitenhuys asked to ensure all Engineering comments are met.

Motion:

B. Buitenhuys motioned, with P. Downs seconding the motion, to issue a negative 3 determination with the following condition:

- The applicant will ensure that the dimensional requirements for parking spots in the driveway are confirmed with the Engineering Department.

The vote was unanimous (4-0).

**Request for Determination of Applicability**

Andrew Goddard  
327 Davis Street  
Northborough, MA 01532

Project Location: 10 Toupi Lane, Lowell, MA 01854

A Request for Determination of Applicability has been filed by Andrew Goddard to determine whether there are resource areas subject to the Wetlands Protection Act on the site.

Speaking on Behalf:

A. Goddard said that the peer reviewing process is ongoing and requested a continuance. P. Cutrumbes explained that a peer reviewer has been chosen, and that the contract is being reviewed by the Law Department.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum asked for the timeline of when the work will be completed. P. Cutrumbes said the contract specified that the work will be done by the end of August. An abutter asked if the peer reviewer will take into consideration that it is a current drought. L. Varnum confirmed this. A different abutter asked about who is responsible for cleaning up the site, as there is overgrowth going into the public street. B. Buitenhuys said they should call the Inspectional Services Department.

Motion:

P. Downs motioned, and S. Laput seconded the motion, to continue the matter to the August 10 meeting. The vote was unanimous (4-0).

**Request for Determination of Applicability**

Alcino Gaspar Neto  
107 New York St  
Lowell, MA 01854

Project Location: 107 New York St, Lowell, MA 01854

A Request for Determination of Applicability has been filed by Alcino Gaspar Neto for retroactive approval for paving done on the property that is located within the 100-year Flood Plain.

Speaking on Behalf:

A. Gaspar Neto spoke on behalf.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum asked to clarify which side of the driveway the new paving was on. A. Gaspar Neto said it is the side closest to the front door. A. Gaspar Neto said that they added around 2 feet of new pavement and that the walkway is not new, they just made it flat via pressure washer.

Motion:

P. Downs motioned, and S. Laput seconded the motion, to issue a negative 3 determination. The vote was unanimous (4-0).

## **NEW BUSINESS**

### **Enforcement Order**

Alcino Gaspar Neto  
107 New York Street  
Lowell, MA 01854

Project Location: 107 New York Street, Lowell, MA 01854

An Enforcement Order has been issued at the subject property for paving within 100 feet of Beaver Brook and for dumping the fill from this project into the brook.

#### **Speaking on Behalf:**

Alcino Gaspar Neto spoke again on behalf.

#### **Speaking in Favor:**

None

#### **Speaking in Opposition:**

None

#### **Discussion:**

A. Gaspar Neto said the material didn't come from his property. He said they have a dumpster onsite that they use, and suggested the accusation may be a neighbor dispute. L. Varnum asked if this neighbor saw anything to help figure out who did it. A. Gaspar Neto said no, but offered to remove the fill if necessary. B. Buitenhuys said that the Commission cannot enforce that, as they have no evidence Mr. Neto was the violator.

**Motion:** B. Buitenhuys motioned, with S. Laput seconding the motion, to rescind the enforcement order. The vote was unanimous (4-0).

### **Enforcement Order**

Leonard DeSousa  
256 Trotting Park Road  
Lowell, MA 01854

Project Location: 256 Trotting Park Road, Lowell, MA 01854

An Enforcement Order has been issued at the subject property for storage of gasoline and other contaminants in an open space within 100 feet of a protected wetland.

#### **Speaking on Behalf:**

L. DeSousa spoke briefly to summarize the issue. There was a barn fire on the property and gasoline was stored in the barn. He said the containers were 3 years old.

#### **Speaking in Favor:**

None

#### **Speaking in Opposition:**

None

Discussion:

P. Cutrumbes clarified that the Enforcement Order was revised to be issued to Mr. DeSousa's daughter, Audrey, as she is the owner of the property now. B. Buitenhuys said that 3 year old gas does not catch on fire, so it was probably washed away or sank into the soil. Casey Phelan, a resident of Trotting Park Road, spoke about his concerns that the oil and gasoline in the shed could be contaminating his well water. B. Buitenhuys said that the wetlands should be tested and that the Conservation Commission is responsible for ensuring the well safety and the integrity of the wetlands. L. Varnum asked if the shed will be rebuilt. L. DeSousa said no. L. Varnum said she is concerned that any work on the shed will allow contaminants to spread. B. Buitenhuys suggested speaking with an environmental remediation company. They will test the soil and figure out what can be done to fix the issue. He stressed that a licensed professional needs to get contaminants out from the topsoil layer. B. Buitenhuys expressed that testing of the well water should be done as soon as possible, and that testing of the wetlands should be seen as a second step.

S. Laput suggested reaching out to MassDEP for guidelines on this issue, or to the City. P. Cutrumbes suggested Sarah Brown, the City's Senior Environmental Planner. B. Buitenhuys said that the timing is urgent and he would like the remediation to start before the next meeting. He stressed that if the company says the family can do it themselves, that they get some kind of letter documenting this.

Motion:

B. Buitenhuys motioned, with P. Downs seconding the motion, to ratify the enforcement order with the following condition:

- Before the August 10 meeting, the applicant shall receive information from the City of Lowell's Senior Environmental Planner, Sarah Brown, and from an environmental remediation company about next steps.

The vote was unanimous (4-0).

**OTHER BUSINESS**

**Minutes**

June 22, 2022 Meeting Minutes

P. Downs motioned, and B. Buitenhuys seconded the motion, to approve the June 22, 2022 minutes with the following correction:

- The minutes should indicate that Member Stephen Laput was absent

The vote was unanimous (4-0).

**ADJOURNMENT**

B. Buitenhuys motioned to adjourn, with P. Downs seconding. The meeting was adjourned at 8:12 PM.