

CONSERVATION COMMISSION  
LOWELL, MASSACHUSETTS  
June 22, 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

**Members Absent:** Stephen Laput

**Others Present:** Serena Gonzalez, Assistant Planner

**CALL TO ORDER**

Chairwoman Varnum called the meeting to order at 7:01pm.

**ORDER OF BUSINESS**

**CONTINUED BUSINESS**

**Notice of Intent**

Anka Homes, LLC  
34 Arcola Street  
Lexington, MA 02420

**DEP #: 206-0809**

Project Location: 87 Lafayette Street, Lowell, MA 01854

A Notice of Intent has been filed by Anka Homes, LLC to construct a single-family home, and driveway within the 100-year floodplain. **The applicant has requested a continuance to the June 22, 2022 Conservation Commission meeting.**

**On Behalf:**

Attorney  
Michel El-Ashkar, Ashkar Engineering

**In Favor:**

None

**In Opposition:**

Janet Pars, Abutter  
Concerned about flooding on the site and in the neighborhood.

**Discussion:**

L Varnum asked if they are taking anything out above 64.4 elevation.

M El-Ashkar said they are taking out from 64.4 to 61.1.

B Buitenhuis clarified that compensation needs to be done at each interval, not all below.

B Buitenhuis said that there is no compensatory flood storage shown at each interval.

M El-Ashkar said he would do whatever necessary to satisfy the board.

**Motion:**

B Buitenhuis made a motion to deny the project. Seconded by K Dillion. Denied (3-1).

The Commission found that there is no potential for compensatory storage at the site because there is no soil to remove between the top of the grade and the flood zone. The compensatory storage did not appear to be available incrementally.

**NEW BUSINESS**

**Enforcement Order**

Wat Lao Mixayaram of NE Inc.

45 Bernier Street

Lowell, MA 01852

Project Location: 45 Bernier Street, Lowell MA 01852

Tree removal and the construction of a concrete pad within 100 feet of protected wetland and within the 100-year floodplain. The work was completed without Conservation Commission approval.

**On Behalf:**

President of Wat Lao Mixayaram Temple

Donald Anderson

**In Favor:**

None

**In Opposition:**

None

**Discussion:**

L Varnum said that this temple has been before the Commission in 2009 for a similar issue.

L Varnum asked how many trees were removed.

D Anderson said that there were two trees that were in poor condition that were removed.

L Varnum said that the Commission had previously asked for the Temple to delineate the wetland line and that there should be no other encroachment, but removing the trees without approval causes a problem. She said the Enforcement Order could have been avoided had the Temple filed an RDA. She noted that trees may be cut in the floodplain, it just needs to be discussed prior to removal.

P Downs asked to clarify if the cement pad was of concern to the Commission.

L Varnum said it was just the trees.

P Downs suggested the replacement of the trees.

K Dillion agreed with P Downs to replant two trees somewhere on the property.

**Motion:**

K Dillion motioned to replace the trees with two native trees. Seconded by P Downs. Approved unanimously (4-0).

P Downs motioned to ratify the enforcement order. Seconded by B Buitenhuis. Motioned passed unanimously (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.

**On Behalf:**

None

**In Favor:**

None

**In Opposition:**

None

**Discussion:**

L Varnum is concerned about dumping of fill into Beaver Brook, she suggested that an Enforcement Order be issued.

**Motion:**

None

**Request for Determination of Applicability**

Kenneth A. Dews

4 Melody Lane

Chelmsford, MA 01824

Project Location: 51-57 Shirley Avenue 01854

A Request for Determination of Applicability has been filed by Kenneth Dews to clear vegetation in the FEMA 100-Year Flood Plain.

**On Behalf:**

Kenneth Dews, owner

**In Favor:**

None

**In Opposition:**

None

**Discussion:**

None

**Motion:**

P Downs motioned to issue a Negative 3 determination with the following conditions:

1. Selective removal of invasive species using precision equipment or by hand to minimize disturbances;
2. Onsite composting of removed invasive species in a secure location, with current grades maintained and offsite disposal of any trash or debris;
3. Restore disturbed areas with a riparian buffer seed mix;
4. Provide a maintenance schedule moving forward to prevent invasive species from growing back;
5. Compare plantings observed during work with the original planting plan and note discrepancies; and
6. Work shall not proceed without prior notification to the Commission.

Seconded by B Buitenhuys. Passed unanimously (4-0).

**OTHER BUSINESS**

**Minutes**

June 8, 2022 Meeting Minutes

B Buitenhuys motioned to approve the minutes, seconded by P Downs. Passed unanimously (4-0).

**ADJOURNMENT**

B Buitenhuys made a motion to adjourn, seconded by P Downs. Adjourned at 8:16