

CONSERVATION COMMISSION

LOWELL, MASSACHUSETTS

June 28, 2023

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.

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, Marie Burns

Members Absent: Garrett Beaulieu

Others Present: Dylan Ricker, Associate Planner

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

Request for Determination of Applicability

David Hok and Linda Ham
116 West Street
Lowell, MA 01850
Project Location: 116 West Street, 01850

A Request for Determination of Applicability has been filed by David Hok and Linda Ham to cut down trees within the 100-foot buffer zone of a protected wetland.

On Behalf:

None

In Favor:

None

In Opposition:

None

Discussion:

L. Varnum said she is comfortable with what needs to be done, and said the trees along the bank of the stream appear to be in poor condition. L. Varnum expressed support for the removal of 5 trees, but said

the stumps and roots should be kept in place at ground level. L. Varnum said removing the stumps would impact the stream bank and could cause erosion potentially blocking the stream.

B. Buitenhuis asked if replacement plantings should be done. L. Varnum said the area is fairly shady and said there are other trees in the area. L. Varnum said replacement trees or shrubs along the bank would be a good idea. B. Buitenhuis said replanting is reasonable, K. Dillon agreed.

B. Buitenhuis suggested 1 native shrub be planted per tree removed. L. Varnum and P. Downs agreed.

Motion:

B. Buitenhuis motioned to issue a Negative 3 Determination with the following conditions:

1. The applicant shall plant 5 native New England shrubs along the stream bank; and
2. The tree stumps shall not be cut below ground level.

K. Dillon seconded the motion. The motion passed unanimously, (6-0).

Notice of Intent

Steve Marshall
191 Freda Lane
Lowell, MA 01854
DEP #: 206-0822

Project Location: 191 Freda Lane, 01854

A Notice of Intent has been filed by Steve Marshall to construct an addition to their home within 100 feet of a wetland.

On Behalf:

Ian Ainslee, Applicant's Representative

I. Ainslee summarize the proposal. I. Ainslee noted the precedent not allowing structures within 50 feet of a wetland, and said the new plans have the addition more than 50 feet from the wetland. I. Ainslee said the revised plans do not require the removal of the existing tree. I. Ainslee said the tree has a large canopy and they will retain the tree unless absolutely necessary to remove. I. Ainslee added that the driveway is now further from the wetland as well.

Steve Marshall, Applicant

In Favor:

None

In Opposition:

None

Discussion:

L. Varnum said she was pleased to see the addition cut back, and said she is hopeful the tree will remain. L. Varnum expressed support for the new plans.

P. Downs said his primary concern was the 50 feet from the wetland, and this has been addressed.

L. Varnum said there should be a condition that all efforts be made to preserve the existing tree. S. Marshall said they would prefer to keep the tree, and said the contractor believes the tree can be saved.

Motion:

P. Downs motioned to grant the Order of Conditions with the Standard Conditions and the following Special Condition:

1. The applicant shall make every effort to save the existing tree.

B. Buitenhuys seconded the motion. The motion passed unanimously, (6-0).

NEW BUSINESS

Request for Certificate of Compliance

Robert Howard Jr.

163 Pawtucket Boulevard

Lowell, MA 01854

DEP #: 206-286

Project Location: 163 Pawtucket Boulevard, 01854

A Request for Request for Certificate of Compliance has been filed by Robert Howard for the OOC issued February 24, 1988 for 163 Pawtucket Boulevard.

On Behalf:

Robert Howard, Applicant

Discussion:

L. Varnum said the project was originally in the floodplain, and said the addition appears to not have impacted the resource area the Commission was trying to protect.

Motion:

M. Burns motioned, and B. Buitenhuys seconded the motion to grant the Certificate of Compliance. The motion passed unanimously, (6-0).

OTHER BUSINESS

Minor Modification: 2 Prince Avenue, Lowell, MA 01852

The Markley Group is requesting a minor modification to their previous OOC approval at 2 Prince Ave to adjust the parking layout and stormwater management system.

On Behalf:

Theo Kindermans, Applicant's Representative

T. Kindermans said the new OOC was issued a little over 1 year ago and they are now working toward completion of the project. T. Kindermans said they are looking for approval for some plan changes so when they request a COC it can be granted on a plan that the Commission has seen. T. Kindermans explained the differences between the initial plan and the revised plans. T. Kindermans summarized the work that has been completed and noted the next steps for the project. T. Kindermans said the building addition has not been built yet, but this will come later on. T. Kindermans explained changes to the stormwater system and noted it still holds the correct volumes. T. Kindermans noted communication from the City Stormwater Team requesting a O&M Plan, and said they have a previous O&M Plan they are following.

Anna Jones, Applicant's Representative

In Favor:

None

In Opposition:

Jacob Forsyth

J. Forsyth said he is concerned about changes to the south side of the property which is near his home. J. Forsyth expressed concerns that the plan will continue to change, and expressed concern about the location of the generators. J. Forsyth asked why generators on the south side of the property are not being moved to the north side. J. Forsyth said he is not concerned with the parking area, only the generator locations.

Discussion:

L. Varnum asked if the building addition will not be able to be built with less impact, T. Kindermans confirmed. T. Kindermans said when they plan to construct the addition they will come back before the Commission. L. Varnum said the green space in the middle of the parking area is an improvement.

B. Buitenhuis asked about the parking area. B. Buitenhuis said his concern is that a good amount of the landscaping near the wetland is being moved. B. Buitenhuis asked if the applicant would consider removing some parking spaces in close proximity to the wetland so a landscaped bumpout can be created.

A. Jones said the parking lot is graded away from the wetland and said there is a new increase of landscaped area. B. Buitenhuis asked if there was a way to put more landscaping near the wetland as a buffer from the pavement.

T. Kindermans said they followed the edge of the existing lot, A. Jones said the trees are existing. B. Buitenhuis said he'd rather the applicant save existing trees than plant new ones.

B. Buitenhuys said he'd like to see an overlay of the existing vs proposed plans. B. Buitenhuys said his concern is the drive aisle's proximity to the wetland. T. Kindermans showed the Commission the overlaid plan. B. Buitenhuys noted the proposed and existing drive aisle is a similar distance to the wetland.

L. Varnum said the additional plantings break up the heat island. B. Buitenhuys asked how the parking was increased and landscaping increased. T. Kindermans said this was because the addition has not been built yet. K. Dillon asked if when the addition is built it will reduce landscaped area. T. Kindermans said once this is built it will reduce both parking and landscaped area.

B. Buitenhuys said the applicant plans to remove the building addition, and they would need to reapply to the Commission to construct the addition. T. Kindermans confirmed.

B. Buitenhuys said in the future when the applicant applies before the Commission they may have to lose parking. B. Buitenhuys said the Commission will not permit a building within 50 feet of a wetland.

L. Varnum said she is concerned about how close the white pines are to the building and parking area and suggested a more suitable tree due to their location. T. Kindermans said they will consider this. L. Varnum request info on final proposed plantings.

B. Buitenhuys said there is enough landscaping for the Commission to request a review, and said he would like a copy of the final landscaping plan submitted the Commission. T. Kindermans agreed.

L. Varnum asked about the applicant's plans for the generators. T. Kindermans said 2 generators are in place and the plan is to build out the area. T. Kindermans said the applicant will return before the Commission to finish the building. T. Kindermans said if this is not built out before the COC then the work would fall out of the approval range for this OOC.

L. Varnum asked about the changes to the generators. A. Jones said they are technologically different and more advanced, but they will be in the same locations. A. Jones said if they are to be moved or if the ground is impacted they will make application before the Commission.

L. Varnum asked for confirmation that the current location of the generators is what the plan is now. T. Kindermans confirmed. T. Kindermans said a new application would be necessary if they need to make changes.

L. Varnum said the parking lot plan is an improvement.

B. Buitenhuys asked about the number of generators intended in this phase. A. Jones said the area is sized for 16 generators and the total to be installed is demand driven. T. Kindermans said at least 2 more will be installed in the next year. B. Buitenhuys said the COC would be in roughly 1-1.5 years. T. Kindermans agreed. B. Buitenhuys asked if the applicant would give up the upper generator pad. T. Kindermans said no because they will be needed eventually. T. Kindermans said interconnectivity with

the wiring is why the generators need to be located there. B. Buitenhuis said the generators will not be in place before the COC. A. Jones said the intent is to complete as much earth work as possible now, then add generators.

B. Buitenhuis asked whether the generators can be moved to a different location. A. Jones said this is because of an existing retaining wall. B. Buitenhuis expressed support for moving the generators further from the wetland. B. Buitenhuis expressed concern about giving up space in the buffer zone considering there is not a current need for the generators. T. Kindermans said the area with the generator pad was not landscaped before either. T. Kindermans said there was a building in this location before and they are not moving closer to the wetland.

B. Buitenhuis expressed concern about building a generator pad that may not even be needed. T. Kindermans explained the proposal as it relates to the wetland and prior plans. T. Kindermans said the proposal leaves the area in a better condition.

L. Varnum said the proposal appears to be an improvement to pull the generator pad back from the wetland. B. Buitenhuis said he believes the generators could be placed in another location. L. Varnum said placing the generators closer to homes could be problematic and thinks the resource area can be protected with the retaining wall.

B. Buitenhuis asked if a larger landscaped buffer can be provided in place of parking near the s curve. T. Kindermans he is unsure, and said the proposed plans are less impactful on the wetlands. T. Kindermans said if this cannot be done they will revert to the original plans.

B. Buitenhuis requested an additional landscaped area which will remove some parking near the s curve. The applicant agreed.

M. Burns asked for the distance from the retaining wall to the wetland. T. Kindermans said it is 12 feet at the shortest point. T. Kindermans agreed to remove 10 parking spaces and add a landscaped area.

Motion:

B. Buitenhuis motioned to approve the minor modification with the following condition:

1. The applicant shall remove 10 parking spaces near the S curve and add a landscaped area.

K. Dillon seconded the motion. The motion passed unanimously, (6-0).

June 14, 2023 Meeting Minutes

Motion:

B. Buitenhuis motioned, and P. Downs seconded the motion to approve the June 14, 2023 meeting minutes. The motion passed unanimously, (6-0).

ADJOURNMENT

K. Dillon motioned, and B. Buitenhuis seconded the motion to adjourn. The motion passed unanimously. (6-0). The time was 8:05pm.