

**Billerica Conservation Commission
MEETING AGENDA
January 13, 2021
6:00 PM**

The public may call in or use a computer to participate in this meeting

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 and subsequent Orders imposing strict limitation on the number of people that may gather in one place, this meeting of the Billerica Conservation Commission will be conducted via remote participation. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found below. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means.

The Conservation Commission meeting will be held remotely via a Zoom Meeting (Internet)

Please click the link below to join the Zoom Meeting/Webinar:

<https://us02web.zoom.us/j/84804289674>

To call-in dial: 1-929-205-6099

Webinar/Meeting ID: 848 0428 9674

6:00 PM - REMOTE ATTENDANCE: Commissioner Members: Chair Paul Hayes, JoAnne Giovino (Vice-Chair), Diane DePaso (Secretary), Jack Bowen, Jeff Connell and Marlies Henderson. Staff Members Isabel Tourkantonis, (Director of Environmental Affairs), Mike DeVito, (Conservation Land Use Assistant) and Liz Ells (Sr. Clerk). Absent: Commissioner Betsy Gallagher.

I. 6:05 PM – PUBLIC COMMENT:

Commissioner Henderson informed the Commission and staff that she pulled nomination papers for the open Planning Board seat and stated that if she is successful in her bid to fill the open vacancy, she would resign from the Billerica Conservation Commission.

II. NEW WETLAND HEARINGS:

- **6:06 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent – 232 Nashua Road – Applicant: DH Realty Trust - DEP File No. 109-1434/BBL-1434**

Documents submitted:

12/29/2020 Received Notice of Intent from Stephen Dresser, Dresser, Williams & Way, Inc. for 232 Nashua Rd. Notice of Intent Site Plan, signed and stamped by Stephen Dresser, dated 12/21/20. Scale: 1"=20'. (DEP 109-xxxx)

Stephen Dresser, Dresser, Williams & Way, Inc., represented the applicant who is proposing to construct a single-family dwelling with associated driveway and utilities. Staff conducted a site visit and agreed with the wetland boundary and observed some windblown trash within the BVW along the edge of the roadway. Stormwater management infiltration units are proposed to capture and infiltrate stormwater runoff from roof and driveway surface areas. The Commission requested that the limit of clearing be clarified on the site plan, as well as the long-term methods of stabilizing the slope. Vegetation or boulders/riprap was suggested. The applicant was reminded to

remove the environmental placards that were placed on trees, as part of a visual barrier on the adjacent lot, they are to be placed on wood posts only.

MOTION: TO close the hearing, sign and issue the Order of Conditions pending Operation and Maintenance plan submission and with special conditions as discussed. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

- **6:23 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent – 20 Linnell Circle – Applicant: Ronald Topping - DEP File No. 109-1435/BBL-1435**

Documents submitted:

12/29/2020 Received Notice of Intent from Stephen Dresser, Dresser, Williams & Way, for 20 Linnell Circle. Variance request 3.03.C.3 (a), 50' No Alteration Zone. Site Plan signed and stamped by Stephen Dresser, dated 12/1/20. Scale: 1"=30'. Watershed Plans signed and stamped by Stephen Dresser, dated 12/30/20. Scale: 1"=30'. (DEP 109-xxxx) Received Certified Abutter's List from Stephen Dresser.

Stephen Dresser, Dresser, Williams & Way presented the project which includes development utilizing the foundation that was constructed on the property as part of a previous wetlands filing. The previous owner stopped construction and recently sold the property to a landscaping business owner. He indicated that the property was the subject of previous NOI reviews in the past including the most recent DEP File No. 1131/BBL-1131 from 2012. He explained only certain portions of the previous approved project were constructed, particularly a foundation and some stormwater management infrastructure and that the site remains disturbed and not stabilized. He also noted a degree of encroachment of buffer zone beyond the approved limit of work that was previously approved in 2012. The current proposed project includes restoration of encroached buffer zone, similar mitigation proposed in 2012 and an overall reduction in impervious surface area compared to the previous project approved in 2012.

The Director reported that staff completed a site inspection and verified previous disturbance and expansion beyond the original approved Limit of Work on the property. Those areas are shown on the current NOI site plan as proposed restoration areas. The existing silt fence and straw wattle barrier is in disrepair and must be completely replaced. Regarding the delineation, the flags associated with flag series WF A1 through WF A11 were not observed/found in the field. This flag line has not been updated since November 2002 and should be delineated, particularly since a conservation restriction is proposed. She indicated detailed notes from staff addressing the wetlands delineation were emailed to the Commission and the applicant's representative. The Commission briefly discussed the baseline information that is needed for the Commission to review a draft conservation restriction proposed for mitigation under a variance request. Members of the Commission indicated the conservation restriction would need to be further discussed. The Commission concurred with Steve Dresser that a stormwater peer review is required, as well as an updated wetland delineation including the centerline channels of various streams onsite which should be shown on the site plan. The need for a detailed Operation and Maintenance Plan addressing the proposed site use for the property was also discussed. The Commission also noted that Requests for Certificates of Compliance should be submitted to document the status of older wetland permits associated with the property before the Commission issues a decision on the current Notice of Intent. The Commission agreed to allow the Director to proceed with securing a peer reviewer to review the site and conduct a peer review of the stormwater management design.

MOTION: TO approve the Director, in conjunction with the Board of Health, to select a peer reviewer for the stormwater management. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

MOTION: TO continue the hearing to 2/10/2021 per the applicant's request. Moved by Commissioner Giovino, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

III. CONTINUED WETLAND HEARINGS:

- **6:57 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – 18 Lakeview Drive – Applicant: Daniel Lee – DEP File No. 109-1432/BBL-1432

Documents submitted:

1/6/2021 Received revised variance request (3.03.C.3 (a), 50' NAZ) from Stephen Dresser, Dresser, Williams & Way, for 18 Lakeview Drive. Revised Site Plan dated 1/4/2021 signed and stamped by Stephen Dresser. Scale: 1"=20'. (DEP 109-1432)

1/13/2021 Received revised Notice of Intent Site Plan for 18 Lakeview Drive, signed and stamped by Stephen Dresser, dated 1/13/2021. Scale: 1"=20'. (DEP 109-1432)

Stephen Dresser presented an update of the project which includes the demolishing the fire-damaged house and constructing a new house on the property. There is an existing detached garage and shed that will remain. He noted a structural engineer has verified the existing foundation is not suitable for construction as initially proposed. He noted the proposed dwelling was moved farther from the bank compared to existing conditions but was unable to move the proposed house further from the resource areas due to extensive visible ledge and closer to the road. He reviewed an updated plan dated 1/13/2021 and submitted just prior to the meeting that shows added plantings, dock repair details, and a post and rail fence with path to the lake and dock. The plan shows canoe and storage outside a designated No Alteration Zone. Stone infiltration trenches are proposed to infiltrate runoff from the roof and driveway. Attorney McKenna spoke on behalf of the applicant and noted the Board of Health approved the project on January 11, 2021.

MOTION: TO grant variance 3.03.C.3 (b), 25' No Alteration Zone. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

MOTION: TO close the hearing, sign and issue the Order of Conditions, including special conditions as discussed. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

- **7:19 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – 9 Allen Road – Applicant: Todd Brunner – DEP File No. 109-1431/BBL-1431

Documents submitted: No new documents submitted.

Matthew Hamor provided an update and presented the plan dated 12/1/2020. The Director noted the plan as shown on the screen appears to be the same presented during the hearing on 12/16/2020 by Robert Gill. Staff referred to notes from the prior hearing. Members of the Commission noted the plan still does not show the details addressing the inner Buffer Zone restoration, visual barrier extended to the property line, and stated that none of the information required at the last hearing has been provided.

MOTION: TO continue the hearing to 2/10/2021 pending receipt of a revised plan and information requested by the Commission. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

- **7:35 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – 66 Gray Street (Lot 1) – Applicant: Gary Litchfield – DEP File No. 109-1421/BBL-1421

Documents submitted:

1/6/2021 Received via email, BOH Drainage & Flood Plain Regulations Review for 66 and 68 Gray Street by peer reviewer, Brian Dunn, with revised date of 12/29/2020 (original dated 11/16/2020). (DEP 109-1420 and DEP 109-1421).

1/6/2021 Received email from James Dangora, Jr., Esq. requesting a continuance for 66 Gray St. to 1/27/2021. (DEP 109-1421)

MOTION: TO continue the hearing to 1/27/2021, per the applicant's request. Moved by Commissioner Henderson, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

- **7:36 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – 68 Gray Street (Lot 2) – Applicant: Gary Litchfield – DEP File No. 109-1420/BBL-1420

Documents submitted:

1/6/2021 Received via email, BOH Drainage & Flood Plain Regulations Review for 66 and 68 Gray Street by peer reviewer, Brian Dunn, with revised date of 12/29/2020 (original dated 11/16/2020). (DEP 109-1420 and DEP 109-1421).

1/6/2021 Received email from James Dangora, Jr., Esq. requesting a continuance for 68 Gray St., to 1/27/2021. (DEP 109-1420)

MOTION: TO continue the hearing to 1/27/2021, per the applicant's request. Moved by Commissioner Henderson, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

- **7:37 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Abbreviated Notice of Resource Area Delineation** – Continued Public Hearing – 0 Pond Street – Applicant: Steven Goodman, Billerica Pond St, LLC – DEP No. 109-1430/BBL-1430
(Previously Continued to 1-27-2021)

Documents submitted:

1/5/2021 Received revised Resource Area Restoration Plan from LEC Environmental Consultants, LLC., for 0 Pond St. ANRAD, dated 1/4/2021, (original dated 12/9/2020). (DEP 109-1430)

1/6/2021 Received revised Resource Area Delineation Plan for 0 Pond St. ANRAD signed and stamped by Eugene T. Sullivan, dated 1/5/21. Scale: 1"=50'. (DEP 109-1430)

1/6/2021 Received via mail, peer review findings letter #2 from Patrick Garner for 0 Pond St. ANRAD. (DEP 109-1430)

1/7/2021 Received via email, revised Resource Area Restoration Plan, dated 1/7/2021, from Richard Kirby, LEC Environmental for 0 Pond St. ANRAD in response to Patrick Garner Peer Review Letter #2 Comments (DEP 109-1430)

1/11/2021 Received 9 hard copies of Resource Area Restoration Plan for 0 Pond St. ANRAD, from Sharon Sullivan, LEC Environmental, revised date of 1/7/2021 (DEP 109-1430)

MOTION: TO continue the hearing to 1/27/2012, per the applicant's request. Moved by Commissioner Henderson, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

- **7:38 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – 19 Kazimer Drive – Applicant: John Travato – DEP File No. 109-xxxx/BBL-xxxx (*Previously Continued to 1-27-2021*)

Documents submitted: No new documents submitted.

MOTION: TO continue the hearing to 1/27/2012, per the applicant's request. Moved by Commissioner Henderson, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

- **7:39 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – 446 Middlesex Turnpike – Applicant: Thomas B. Shea – DEP File No. 109-1423/BBL-1423 (*Previously Continued to 1-27-2021*)

Documents submitted: No new documents submitted.

MOTION: TO continue the hearing to 1/27/2012, per the applicant's request. Moved by Commissioner Henderson, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

IV. 7:40 PM - ADMINISTRATIVE MATTERS / DIRECTOR'S REPORT:

Requests for Certificates of Compliance:

- DEP 109-1112/BBL-1112 (147 Rangeway Road, Aspen Apartments)

This is a request for a Partial Certificate of Compliance at this time because of the Conservation Restriction that needs to be updated. It is recommended to release the bond for the stormwater management and wetland replication and secure a smaller bond until the modified Conservation Restriction is reviewed and approved by the Commission and subsequently the Executive Office of Energy and Environmental Affairs – Division of Conservation Services. . The Commission also stated that the Conservation Restriction is to remain in perpetuity.

MOTION: TO take no formal action to accept or deny a Certificate of Compliance pending peer reviewer's comments. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

- DEP 109-1297/BBL-1297 (36 Sterling Road, America's Auto Auction / formerly Lynnway AA)

The Director recommended no formal action to accept or deny a Certificate of Compliance at this time to allow for formal peer review of project compliance with the stormwater management and other requirements of the Order of Conditions.

MOTION: TO take no formal action to accept or deny a Certificate of Compliance. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

- DEP 109-1408/BBL-1408 (900 Middlesex Turnpike, Building 2)

The Director recommended no formal action to accept or deny a Certificate of Compliance pending peer review.

MOTION: TO take no formal action to accept or deny a Certificate of Compliance. Moved by Commissioner Henderson, seconded by Commissioner Giovino. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

- DEP 109-1357/BBL-1357 (301 Treble Cove Road)

The Director recommended no formal action to accept or deny a Certificate of Compliance to allow for full site stabilization, particularly within the Buffer Zone and Riverfront Areas, stormwater basin, and subsequent removal of sediment controls. A peer review was completed by BETA Group and will be forwarded to the Commission.

MOTION: TO take no formation action to accept or deny a Certificate of Compliance. Moved by Commissioner Henderson, seconded by Commissioner Giovino. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

▪ **Violations/Enforcement Orders:** 8 Jon Mar Road; Fox Hill Conservation Land

The Director noted an Enforcement Order is being issued and a wetland scientist will be retained to oversee the restoration plan and restoration work required at 8 Jon Mar Road.

Fox Hill Conservation Land – the Department received a complaint /tip regarding tire ruts and damaged tree(s) observed near the top of Fox Hill trail. Staff along with DPW and Police inspected the damage but there was not enough information or leads to help determine the person(s) responsible for the disturbance. It is likely the violator(s) accessed the area via the adjacent utility corridor easement. The Director noted the tire ruts observed may be raked smooth along the trail and recommended environmental and Conservation signage in strategic areas of the property.

▪ **Minutes:** 9/9/2020, 10/14/2020, 10/28/2020

MOTION: TO accept the 9/9/2020 minutes with minor edits as discussed. Moved by Commissioner Henderson, seconded by Commissioner DePaso. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

MOTION: TO accept the 10/14/2020 minutes as presented. Moved by Commissioner Henderson, seconded by Commissioner DePaso. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

MOTION: TO accept the 10/28/2020 minutes as presented. Moved by Commissioner Henderson, seconded by Commissioner DePaso. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

▪ **Miscellaneous Updates** – None discussed.

V. 8:05 PM - ADJOURN

MOTION: TO adjourn. Moved by Commissioner Henderson, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Co-Chair Giovino, Secretary DePaso, M. Henderson, J. Bowen and J. Connell. All in Favor. Carried unanimously.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Liz Ells and Isabel Tourkantonis