

**Billerica Conservation Commission**  
**MEETING AGENDA**  
**February 24, 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/84654413910>

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

**Webinar/Meeting ID: 846 5441 3910**

**6:04 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. 6:18 PM – PUBLIC COMMENT – No comments.**

**II. NEW WETLAND HEARINGS:**

- **6:18 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent – 0 Pond Street – Applicant: Billerica Pond Street, LLC. – DEP File No. 109-xxxx/BBL-xxxx**

Documents submitted:

2/10/2021 Received Notice of Intent from Richard Kirby of LEC Environmental for 0 Pond St. Variance request 3.03.C.3(a) 50' NAZ. Storm Drainage Management Report, dated 1/29/2021, prepared by Eugene Sullivan. Plan Set, titled Proposed Buildings, 146 Pond St., signed by Eugene T. Sullivan, dated 10/1/2020, revised through 1/29/2021. (DEP 109-xxxx)

2/22/2021 Received email from Kristel Bennett to Richard Kirby, LEC Environmental, regarding 0 Pond St. stormwater management application and variance form (DEP 109-xxxx)

Attorney John McKenna provided a brief introduction on the project which is to construct two (2) distribution warehouses for light manufacturing. Richard Kirby of LEC Environmental reviewed the limit of wetland resource areas. Gene Sullivan briefly reviewed the project and new stormwater management system associated with the project. Commission members noted that the design as shown on the plan does not include the existing or proposed tree line,

nor does the design comply with the 50' No Alteration Zone section of the By-law, which was discussed at length during the recent ORAD review process and Enforcement Order.

The Commission requested the plans be revised to clarify the limit of work within the Buffer Zone, including a better scale to assess the degree of grading and any other impact within the Buffer Zone, particularly adjacent to the 50' No Alteration Zone boundary. The Commission also requested clarification of the property line and overall project site on the plans and to provide the correct address for the property. The site entrance/exit access road was discussed and the Commission requested a re-evaluation on relocating the proposed site entrance and driveway. A construction sequence needs to be added to the plan and the access path for construction associated with the Enforcement Order corrective action work. The plan should also show distances from the wetland boundary to structures and site feature basins. BETA, the peer reviewer, must review the Operations and Maintenance Plan for specific maintenance and inspection timeframes associated with stormwater BMP's and street sweeping compliance, for example. The Commission required a re-evaluation of Basin #2 to be located outside the buffer zone potentially by including additional subsurface infiltration under proposed parking lot areas, and the submittal of a landscaping plan. An abutter, Paul Santos of 1 Gove Road, expressed his concern of daily truck access during the construction phase and noted he would prefer to have the proposed site entrance farther from his property.

**MOTION: TO** continue the hearing to 3/24/2021 per the applicant's request and pending peer review comments and the Planning Board review. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, and M. Henderson. All in Favor. Carried unanimously.

- **7:26 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent – 0 Market Street – Applicant: Bryan Duby – DEP File No. 109-1436/BBL-1436**

Documents submitted:

2/1/2021 Received Notice of Intent for 0 Market Street, from Goddard Consulting. Existing Conditions Map, signed and stamped by Robert M. Gill of Landplex, dated 1/25/2020. Scale: 1"=30'. Proposed Plot Plan, signed and stamped by Robert M. Gill of Landplex, dated 1/25/2020. Scale: 1"=20'.

2/23/2021 Received email from Mark LaLumiere dated 2/23/2021 regarding 0 Market St. (parcel 33-13-0), regarding the NOI pertaining to whether the lot is considered a "buildable lot" as defined in the building/zoning regulations (DEP 109-xxxx)

Scott Goddard presented the project for a proposed duplex with a driveway within local Green Engineering Floodplain and noted the property does not support any other wetland resource areas. The Director reviewed staff notes, which included information that there was an extensive wetlands peer review completed for a prior proposed project on the subject lot in November 2013 and Spring 2014. The NOI for that project was later withdrawn. She also noted a more recent separate and independent wetlands delineation associated with the sewer contract in that section of Town also shows the subject lot supporting wetland resource areas. The Director also reviewed comments from the Building Department and the Board of Health regarding buildable lot status under the zoning regulations and variance required under the Board of Health regulations. The Commission required a determination from the Building Department regarding lot status before any further resources of the Conservation Department and Commission are utilized. Mark LaLumiere, Building Commissioner, briefly clarified that there is a 2 to 3 month review process associated with determining grandfather status and coordination with Town Counsel. There was further discussion with the applicant's representative about extending the continuance to a later time to allow for coordination with the Building Department before the Commission would discuss the proposed project further. .

**MOTION: TO** continue the hearing to 5/12/2021, pending the Building Department determination. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, and M. Henderson. All in Favor. Carried unanimously.

### III. CONTINUED WETLAND HEARINGS:

- **7:54 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:

2/17/2021 Received cover letter dated 2/16/2021, from Matthew Hamor, Landplex for 9 Allen Rd. Revised Notice of Intent Plan, signed and stamped by Robert M. Gill, dated 2/16/2021. Scale: 1"=20'. Proposed Plantings for the 25' NAZ from Norse Environmental. (DEP 109-1431)

Matt Hamor presented the revised plan and changes, the Plan of Record should show the 3' verses 3" bushes. The Commission also clarified the applicable No Alteration Zone is the 25' Buffer Zone setback, not the 50', and a variance is associated with restoring a small section of mowed Bordering Vegetated Wetlands and full inner 25' Buffer Zone.

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

**MOTION: TO** close the hearing, sign and issue the Order of Conditions pending receipt of an updated plan with the planting size correction and corrected Bylaw variance reference. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, and M. Henderson. All in Favor. Carried unanimously.

- **8:07 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:

2/10/2021 Received via email from Leah Basbanes, revised lot 1 waiver request and buffer restoration, lot 1 restoration and enhancement, revised lot 2 waiver request and buffer restoration, lot 2 restoration and enhancement, area D, area A restoration, areas B & C, area E & B, soil data information sheets for wetland flags A7N and A9N from Fall 2020 for 66-68 Gray Street (DEP 109-1420 & DEP 109-1421)

2/23/2021 Received from Brian Dunn, Scope Amendment #1 Letter, dated 2/23/2021 for NOI and BOH Review, Drainage and Flood Plain for 66 & 68 Gray St. (DEP 109-1420 and DEP 109-1421)

2/23/2021 Received email from Gary Litchfield request to continue for 66 & 68 Gray St. to 3/24/2021 (DEP 109-1420 & DEP 109-1421)

**MOTION: TO** continue the hearing to 3/24/2021, per the applicant's request. Moved by Commissioner Henderson, seconded by Commissioner DePaso. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, and M. Henderson. All in Favor. Carried unanimously.

- **8:08 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:

2/10/2021 Received via email from Leah Basbanes, revised lot 1 waiver request and buffer restoration, lot 1 restoration and enhancement, revised lot 2 waiver request and buffer restoration, lot 2 restoration and enhancement, area D, area

A restoration, areas B & C, area E & B, soil data information sheets for wetland flags A7N and A9N from Fall 2020 for 66-68 Gray Street (DEP 109-1420 & DEP 109-1421)  
2/23/2021 Received from Brian Dunn, Scope Amendment #1 Letter, dated 2/23/2021 for NOI and BOH Review, Drainage and Flood Plain for 66 & 68 Gray St. (DEP 109-1420 and DEP 109-1421)  
2/23/2021 Received email from Gary Litchfield request to continue for 66 & 68 Gray St. to 3/24/2021 (DEP 109-1420 & DEP 109-1421)

**MOTION: TO** continue the hearing to 3/24/2021, per the applicant's request. Moved by Commissioner Henderson, seconded by Commissioner DePaso. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, and M. Henderson. All in Favor. Carried unanimously.

- **8:09 PM - A WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – 20 Linnell Circle – Applicant: Ronald Topping – DEP File No. 109-1435/BBL-1435

Documents submitted:

2/18/2021 Received email from Stephen Dresser request to continue for 20 Linnell Circle to 3/10/2021 (DEP 109-1435)

**MOTION: TO** continue the hearing to 3/10/2021, per the applicant's request. Moved by Commissioner Henderson, seconded by Commissioner DePaso. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, and M. Henderson. All in Favor. Carried unanimously.

- **8:10 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

Documents submitted:

2/18/2021 Received email from Stephen Dresser request to continue for 446 Middlesex Turnpike to 3/10/2021 (DEP 109-1423)

**MOTION: TO** continue the hearing to 3/10/2021, per the applicant's request. Moved by Commissioner Henderson, seconded by Commissioner DePaso. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, and M. Henderson. All in Favor. Carried unanimously.

- **8:12 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

Documents submitted: No new information has been submitted.

Per the Director, a formal vote to continue was not necessary as the continuance request to 3/10/2021 was accepted and voted at the 1/27/2021 meeting.

**IV. 8:12 PM - ADMINISTRATIVE MATTERS / DIRECTOR'S REPORT:**

- **Requests for Certificates of Compliance:**
  - DEP File No. 109-259 (61 River Street)

The Director recommended no formal action to accept or deny a Certificate of Compliance at this time due to snow cover on the ground.

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

- DEP File No. 109-1112 (147 Rangeway Road – Aspen Apts. CR Modification Review)

This property is currently still under peer review for stormwater management by Woodward & Curran, as well as internal review by other departments. Patrick Garner submitted a peer review letter and concluded the wetlands have been successfully replicated. Attorney Deborah Eliason was present and updated the Commission on the modified boundary which is increased verses the original proposed.

**MOTION: TO** acknowledge the Commission reviewed the Conservation Restriction boundary and support it as presented to the Commission on 2/24/2021. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, and M. Henderson. All in Favor. Carried unanimously.

- **Minutes:** 2/10/2021 – the Commission postponed review and vote to 3/10/2021
- **Miscellaneous Updates** – None to report at this time.
- **Violations/Enforcement Orders** - The Director reported that staff is following up on several complaints and tips received by the Department.

**V. 8:49 PM - ADJOURN**

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

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Liz Ells and Isabel Tourkantonis