



Billerica Conservation Commission

TOWN HALL, 365 BOSTON ROAD
BILLERICA, MASSACHUSETTS 01821
TELEPHONE (978) 671-0966



MEETING AGENDA

April 13, 2022

6:30 PM

Town Hall, Room 210
365 Boston Road, Billerica MA

Attendance: Commissioner Members Paul Hayes (Chair), JoAnne Giovino (Vice Chair), Diane DePaso (Secretary), Jack Bowen and Bill Bulens. Staff Members Isabel Tourkantonis (Director of Environmental Affairs), Mike DeVito (Conservation Land Use Assistant), and Kristina Bernard (Senior Clerk)

I. **6:30 PM – PUBLIC COMMENT** - None

II. **6:31PM - NEW WETLAND HEARINGS:**

- **MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING –**
Notice of Intent – 5 Morningside Drive: Applicant: Daniel LaMarca – DEP File No.109-XXXX/BBL-XXXX

Documents Submitted:

03/30/2022 Received a Notice of Intent from Norse Environmental on behalf of the applicant Daniel LaMarca for 5 Morningside Drive, Site Plan signed and stamped by Timothy Revellese, dated on March 8, 2022, scale 1" = 20', (DEP #109-XXXX)

Maureen Herald with Norse Environmental presented the project for a garage/family room addition with a new driveway, walkway, and basement flood vents within the 100-year floodplain, which is regulated as Bordering Land Subject to Flooding under the MA Wetlands Protection Act and the Billerica Wetlands By-Law.

Isabel Tourkantonis, Conservation Director, noted staff completed a site inspection and confirmed the project area does not support any BVW, but that work is proposed within BLSF, since most of the site is FEMA floodplain. The Director noted that MassDEP has not issued a DEP File number or comments to date, but that MassDEP has provided technical comments for projects proposed within the 100-year floodplain stating flood vents do not meet the performance standards for work within BLSF. Specifically, the part that says *unrestricted hydraulic connection with restricting flows*. Isabel suggested that the Commission wait for comments, if any, from DEP to stay consistent regarding the use of flood vents She did note that this is not a new single-family house, but a proposed addition.

Staff and the Commission comments included: clarify the easement on the site plan, provide the square footage and cubic yards of proposed impact and mitigation of floodplain and compensatory flood storage on the WPA Form; clarify the limit of work and add sediment control barrier on the plan; clarify the existing easement and type of easement on the site plan; add direct abutters with addresses; show the proposed staging/stockpiling area(s); add dimensions of the existing house and deck.

The Commission requested clarification on the mitigation to compensate work within the floodplain, including permanent fill. Clarify the cut and fill proposed as a table and on the plan. The plans should be updated to show sewer and water lines, and the proposed grading for compensatory flood storage area should be sited to avoid the cutting of large trees where feasible. Dumped grass clipping piles should be removed from the limits of floodplain and construction monitored to avoid the tracking of sediment onto the roadway.

The Director noted that it could be stipulated in the Order of Conditions that the roadway be inspected and swept up at the end of the construction day, along with the protection of the existing catch basins on the road.

MOTION: TO continue to the April 27, 2022, meeting made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- **6:48PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – 48 Little John Road: Applicant: Robert Catherwood – DEP File No.109-1483/BBL-1483

Documents Submitted:

03/30/2022 Received a Notice of Intent from Stephen Dresser with Dresser, Williams, and Way on behalf of the applicant, Robert Catherwood for 48 Little John Road, Site Plans signed and stamped by Stephen Dresser, dated on March 21, 2022, scale 1" = 30', (DEP #109-1483)

Stephen Dresser with Dresser, Williams, and Way, Inc. presented the project for a 30' X 30' garage with a new paved driveway within the 100-foot Buffer Zone to BVW. He noted that the garage is proposed on the existing driveway and the new driveway will be located in front of the garage further away from the wetlands. He mentioned there will be a slight increase in the impervious area of 5.4 percent. A stone infiltration trench is proposed downgradient of the driveway and around the garage, a post and rail fence is proposed, and Variance Request has been submitted for restoration of the No Alteration Zone. There is an existing shed, and the post and rail fence has been located so they can still maintain access to the shed.

Isabel Tourkantonis, Director of Conservation noted staff concurred with the wetland delineation. Mike DeVito, Conservation Assistant noted the following observations: chicken wire fence between wetland flags WF-7A to WF-13A, asphalt and concrete debris along portions of the upland/wetland slope, tires along the intermittent stream; small soil pile upgradient from WF4A; gravel fill and concrete blocks next to WF6A. There was brief discussion regarding a drainage easement on the plan and that Billerica Town or Jones Forest directly abuts the site from the rear. The Commission noted that there appears to be historic encroachment of the Town's Forest, including mowing that must cease and discontinue.

Steve Dresser spoke again to explain that the applicant has no issue cleaning up the debris since he will have a dumpster but clarified that the owners are new and purchased the property in this condition. The Commission was happy to hear that the debris will be picked up from the applicant, but they would like to see the cleaned-up areas restored and stabilized where needed. These areas should be re-assessed in the field by the project team. They addressed the lawn debris and noted that the owner will need to find a new place to place grass clippings. It was also asked if the applicant would consider removing the shed since it is old. At a minimum, they would like to include a Condition that if the shed is ever to be removed/replaced, that it is outside of the 25-foot No Alteration Zone. The Commission requested signage proposed along the rear property boundary line and paper road to prevent encroachment activities within the Town Forest area. The chicken wire fence and debris must be removed from the wetland boundary.

Motion: TO continue to the April 27, 2022, meeting made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- **7:13PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – 86 Andover Road: Applicant: Kenneth Murnane – DEP File No.109-1482/BBL-1482

Documents Submitted:

03/30/2022 Received a Notice of Intent from Stephen Dresser with Dresser, Williams, and Way on behalf of the applicant, Kenneth Murnane for 86 Andover Road, Site Plans signed and stamped by Stephen Dresser, dated on March 22, 2022, scale 1" = 30', (DEP #109-1482)

Stephen Dresser with Dresser, Williams, and Way presented the project to demolish an existing house and construct a new single-family dwelling with a driveway and associated utilities. A variance request was submitted for work within the No Alteration Zone, including restoration plantings, a post and rail fence, and a reduced setback less than 50-foot Buffer Zone setback due to the lot configuration. Isabel Tourkantonis, Director of Conservation, note that infiltration units are being proposed to help capture stormwater run-off from the roof and paved surface. Staff agrees with the delineation. Concrete blocks were seen by WF3A, and upgradient to WF5A there is a wooden pallet that should be removed.



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The Commission requested restoration include a conservation/ wildlife seed mix and that the plan be revised to show direct abutters, proposed staging/stockpile area, water/sewer lines, and clarify if the driveway will be paved. There was discussion regarding the overall No Alteration Zone; the applicant agreed to increase the setback to a 35' buffer setback.

Motion: TO continue to the April 27, 2022, meeting made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

CONTINUED WETLAND HEARINGS:

- **7:30PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 0 Shedd Road – Applicant: Paul Litchfield, Merrimack Valley Builders, Inc. – DEP File No.109-1481/BBL-1481

Chris Mello with Eastern Land Survey Associates, Inc. reviewed the revisions made to the plan based on comments from the initial hearing, including: relocated the post and rail fence to provide greater protection of forested Buffer and Riverfront Area; referenced the Variance associated with the water utility; referenced the previous wetland delineation approved under the ORAD(DEP 109-1470/BBL-1470); added the proposed staging area and construction sequence plan. There was brief discussion regarding the placement of a post and rail fence and restoration plantings on the front portion of the lot.

The Commission discussed the variance request and noted this is a rare and unusual case due to lack of municipal water supply available in the project area. The proposed disturbance to the 50' No Alteration Zone setback to install a well pipe will be temporary. As designed, the water well is set back from the septic system and minor disturbance to the 50' No Alteration Zone will be fully restored and protected with a post and rail fence with signage. Additionally, the project includes the long-term protection of extensive forested Riverfront and Buffer Zone throughout the property.

Motion: TO issue a variance 3.03.CA 50-foot No Alteration Zone to access water for the property made by Commissioner JoAnne Giovino, seconded by Commissioner Diane DePaso. All in Favor. Carried Unanimously.

Motion: TO close, sign, and issue the Order of Conditions with any conditions discussed made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- **7:47PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 92 Billerica Avenue – Applicant: Jon Metivier – DEP File No. 109-1467/BBL-1467

Documents Submitted:

04/12/2022 Received an email from Stephen Dresser with Dresser, Williams, and Way to Request a Continuance for 92 Billerica Avenue until the April 27, 2022, meeting (DEP #109-1467)

Motion: TO continue the hearing until the April 27, 2022, meeting per the request of the applicant made by Commissioner Jack Bowen, seconded by Commissioner JoAnne Giovino. All in Favor. Carried Unanimously.

- **7:48PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 581 Boston Road – Applicant: Jeff O'Rourke – DEP File No. 109-1466/BBL-1466

Documents Submitted:

04/12/2022 Received an email from Isabel Tourkantonis with an attached Peer Review – Stormwater on 581 Boston Road dated 03/18/2022 from BETA (DEP #109-1466)

Stephen Dresser with Dresser, Williams, and Way Inc. provided an update on behalf of Mr. O'Rourke. The project includes redeveloping the old gas station site with a new office building and parking lot. He noted the stormwater peer review is complete and the design meets all the requirements and addresses comments issued by the Commission at the first hearing.

Isabel Tourkantonis, Director, mentioned that Stephen Borgatti from BETA Group Inc. was present to answer any questions from the Commission and would summarize the stormwater peer review. She noted two comments from the review, One related to the environmental remedial status or the current remedial designation of the site and highlighted that the prior designation was based on an unoccupied/vacant property. The second is the comment pertaining to DPW regarding adequate sewer capacity in the system for the new development sewer capacity and any other water/sewer utility requirements. Stephen Dresser stated the site's remedial designation and/or 21E status is not a Conservation issue.

The Commission noted that they did have some concerns regarding the site's remedial status and stated they want to ensure that the proposed construction activities including excavation work and proposed stormwater infiltration system do not have the potential to exacerbate any contamination of groundwater or conditions at the site. The project falls within Conservation jurisdiction, and as such, the potential for adverse impacts related to groundwater and site conditions does fall under the Commission's review.

Stephen Borgatti from BETA Group confirmed the stormwater peer review was completed and referenced the final stormwater review letter dated March 18, 2022. He reviewed portions of the letter addressing compliance with the MA Stormwater Management Standards and reviewed Comment G1 related to the Release Tracking Number and environmental remedial status under MassDEP. BETA stressed that based upon the current MassDEP listing of the site, the presence of soil and groundwater contamination remaining on the site, that a Licensed Site Professional (LSP) or similar qualified professional should review the available environmental reports and design and provide a statement that the proposed infiltration will not exacerbate or facilitate the migration of any soil or groundwater contamination. Stephen/BETA also recommended the Commission include a special condition to have a town agent or representative verify soil conditions at proposed stormwater BMP locations during construction.

Upon further discussion, the Commission concluded that that a condition must be included in the wetlands permit requiring follow up from a Licensed Site Professional on the remedial status and review of the project prior to sign-off of any Building Permit by the Conservation Department to ensure that the groundwater and environment are protected. The Commission also requested the O&M Plan be revised to be specific about the frequency and times of year the proposed stormwater forebay must be inspected.

Motion: TO grant a variance under Section 3.03.C.2 addressing an Increase in impervious surface made by Commissioner, JoAnne Giovino seconded by Commissioner Diane DePaso. All in Favor. Carried Unanimously.

Motion: TO close, sign, and issue an Order of Conditions with all conditions discussed made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- **8:08PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 0 Market Street – Applicant: Bryan Duby – DEP File No. 109-1436/BBL-1436 (*Continued to 05-25-2022*)

Documents Submitted:

04/13/2022 Received an email from Mark Arnold with Goddard Consulting, LLC. To Request a Continuance for 0 Market Street until the May 25, 2022, meeting (DEP #109-1436)

The Commission reviewed the written request to continue the hearing and noted that any well monitoring work on the site should have been reviewed and approved by the Commission in advance and that never occurred. The Commission requested information regarding the location and of the wells and that the wetlands peer reviewer should also receive the information. The Commission requested an update on the location and depth of the monitoring wells, along with a Peer Review Report.



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Motion: TO continue the hearing to the May 25, 2022, meeting per the applicant's request made by Commissioner JoAnne Giovino seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

III. PREVIOUSLY CONTINUED HEARINGS:

- **MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING –**
Notice of Intent – Continued Public Hearing – 250 Boston Road (Concord River Boat Launch Facility) – Applicant:
Anthony Stella, MA Office of Fishing & Boating Access – DEP File No.109-XXXX/BBL-XXXX (*Continued to 4-27-2022*)

IV. ADMINISTRATIVE MATTERS / DIRECTOR'S REPORT:

- **8:15PM - Requests for Certificates of Compliance**

- DEP File No. 109-1417/BBL-1417 (New England Power Fly-Over Switch)

Isabel Tourkantonis, Director of Conservation spoke on the request and reminded the Commission that the project is complete and that some minor debris had been removed.

Motion: TO issue a Certificate of Compliance made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- DEP File No. 109-1385/BBL-1385 (72 Forest Park Drive)

Isabel Tourkantonis, Director of Conservation spoke on the request and reminded the Commission that the project is complete, and a complete package was submitted by the applicant's engineer documenting compliance with the wetlands permit. However, based on an inspection by staff, the new owner is mowing a small portion of the No Alteration Zone. Staff subsequently spoke to the owner and reviewed the environmental conditions associated with the wetlands permit and the requirement for a vegetated, healthy buffer setback to the wetland. The owner agreed to stop mowing the small section.

Motion: TO issue a Certificate of Compliance made by Commissioner JoAnne Giovino, seconded by Commissioner Diane DePaso. All in Favor. Carried Unanimously.

- **8:17PM - Miscellaneous Updates**

- Clermore Road, Emergency Culvert Replacement

Isabel Tourkantonis, Director of Conservation spoke on this emergency issue and let the Commission know there was a culvert that was compromised and that the DPW would like the approval of the Commission to move forward as they are pulling all the information together and waiting on the materials to fix the issue. There is a draft memo being prepared by DPW on how they will replace the culvert since there are wetlands on both sides of the road. Staff recommends the Commission work with the DPW on this emergency project since the collapsed culvert poses serious roadway and utility safety concerns. Utilities above and beneath the culvert include gas, water, and sewer pipes. They are currently working with vendors and manufacturers to expedite the materials needed replace the culvert.

The Commission asked if there was a water main break and why is this considered an emergency. Isabel explained that a culvert is partially collapsed and currently in place on the road to protect vehicular traffic and utilities. A big challenge is that little road cover exists between the road and culvert /utilities. In a normal situation, they would have submitted a Notice of Intent for the work to be complete, but since this was an emergency, they must address the safety concern as soon as possible. The Director noted BETA is reviewing the culvert design work and assessing the stream crossing standards for culvert replacement work. The Commission discussed the project and noted that it would support the culvert replacement under an Emergency Order, given the existing conditions and safety concerns. However, in lieu of traditional and after the fact NOI filing, the Commission agreed to a detailed memo addressing the construction, culvert sizing, stabilization and restoration and

construction monitoring by a Professional Wetland Consultant to inspect site preparation, any dewatering, stabilization, and final restoration.

Motion: TO instruct Isabel Tourkantonis, Director of Conservation, to send this information to the DPW in support of the emergency work needed. Motion made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- Land Donations

Isabel Tourkantonis, Director of Conservation, spoke on behalf of the land donations below to update the Commission on all three. She informed the Commission that they cannot accept the land donations until the Town Counsel can confirm titles are clean for each property and taxes are paid to date. The next step would be to draft the deed for land transfer to the BCC. The donations to the Commission are a wonderful opportunity to further protect floodplain, riparian and buffer zone corridor under Article 97. She referred to the email she provided to the Commission with location details on each property.

Motion: TO accept the land and move forward with the land donation process for Conservation purposes for Cedarwood Road – Map 40, Lot 150 (Parcel ID:40-150-0) was made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

Motion: TO accept the land and move forward with the land donation process for Conservation purposes for Crystal Street – Map100, Lot 156 (Parcel ID: 100-156-0) was made by Commissioner Diane DePaso seconded by Commissioner Jack Bowen. All in Favor. Carried unanimously.

Motion: TO accept the land and move forward with the land donation process for Conservation purposes for River Street ROW – Map 49, Lot 139 & Map 49, Lot 140 (Parcel ID's 49-139—0 & 49-140-0) made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

▪ **8:35PM - Minutes:** 1-26-2022, 2-9-2022

The meeting minutes for January 26, 2022, were tabled until the next meeting.

Motion: TO accept the meeting minutes for February 9, 2022, with minor corrections made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

Commissioner Jack Bowen updated the Commission on the Open Space and Recreation meeting, and that there was a 7-0 vote to not sell the Town owned parcel of land on Republic Road. This article will now go before Town Meeting.

Commissioner, Paul Hayes noted that there is nothing new to report from the Facilities Committee meetings,

Commissioner Diane DePaso updated the Commission on the Community Preservation Committee and reported additional funds were awarded to the Howe School, Peggy Hannon Rizza Recreation Complex, and the Clara Barton House. She encouraged the Commission consider opportunities for funding.

V. 8:38PM – ADJOURN

Motion: TO adjourn made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried unanimously.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Kristina Bernard and Isabel Tourkantonis