

**Regular Meeting**  
**Billerica Conservation Commission**  
**February 27<sup>th</sup>, 2013**  
**Town Hall, Room 210**  
**365 Boston Road, Billerica, MA**

**ATTENDANCE:** Commission Members Diane DePaso (Acting Chair), Betsy Gallagher, JoAnne Giovino, Peter Martell and staff members Adam Bossi (Director of Environmental Affairs), Isabel Tourkantonis (Land Use Assistant) and Janine Depper-Nash (Senior Clerk)

**CALL TO ORDER:** 7:00pm

- I. 7:01pm - PUBLIC COMMENT** – no comments
  
- II. 7:01pm – WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING** – Notice of Intent – Steve Welch – 10 Governor Saltonstall Road – DEP File No. 109-1204/Billerica File No. BBL-1204

Documents submitted: NOI for 10 Governor Saltonstall Road prepared Dresser, Williams & Way, Inc. dated 2-11-13 with attached plan titled Notice of Intent Site Plan, prepared by Dresser, Williams and Way, Inc., signed and stamped by Stephen Dresser, dated February 6, 2013, Scale: As shown

- **2-22-13** – Correspondence from Stephen Dresser of Dresser, Williams & Way, Inc. to Billerica Conservation Commission re. Variance Request, 10 Governor Saltonstall Road, Billerica, MA

Stephen Dresser of Dresser, Williams & Way, representing the applicant, explained the proposed project to build an addition onto the existing home within the 50' buffer zone. Mr. Dresser noted that the proposed increase in impervious surface area is under the thresholds of the Bylaw but request a variance from the "No Alteration Zone" requirements of the Bylaw. The variance was requested to seek relief to allow a visual barrier to be installed closer than 25' to the wetland and to allow the continued mowing of an existing patch of Japanese knotweed.

The Commission and Mr. Dresser discussed the proposed project and discussed other potential management regimes that could be used in lieu of mowing to control the knotweed. After some discussion, parties agreed that mowing of the knotweed and installation of native plantings to compete with the knotweed was likely the best management strategy to implement. Other options

would have required significant disturbance of the site or use of chemical controls at the edge of wetlands, which were not preferred options in this case. Commission Members requested the existing, dilapidated shed and wood pile be removed from the onsite wetland. The Commission stipulated that the project plan must be revised to include the agreed upon location of a visual barrier and additional buffer zone enhancement plantings. The plan is to be submitted for review and approval by the Commission staff by March 30, 2013.

**MOTION:** TO grant a variance to S3.03.3.3. Moved by Commissioner Giovino, seconded by Commissioner Martell. Carried. All in favor.

**MOTION:** TO close this Hearing, sign and issue an Order of Conditions including the special conditions as discussed within 21 days. Moved by Commissioner Giovino, seconded by Commissioner Martell. Carried. All in favor.

**III. 7:34pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Continued Public Hearing - Steve Mullane – 24 Marshbrook Road – DEP File No. 109-1202/Billerica File No. BBL-1202**

Documents submitted: **2-22-13** – Correspondence from Douglas Smith to Janine Depper-Nash re. Update on 24 Marshbrook

**MOTION:** TO continue this Hearing at the Applicant's request. Moved by Commissioner Giovino, seconded by Commissioner Martell. Carried. All in favor.

**IV. ADMINISTRATIVE MATTERS/DIRECTOR'S REPORT**

**Minutes:** 1-9-13, 1-23-13 and 12-12-12 Executive Session

**MOTION:** TO accept the minutes of 1-23-13 with revisions. Moved by Commissioner Giovino, seconded by Commissioner Martell. Carried. All in favor.

**MOTION:** TO accept the minutes of 12-12-12. Moved by Commissioner Giovino, seconded by Commissioner Martell. Carried. All in favor.

Minutes of 1-9-13 moved to next agenda.

**Discussion on Administrative Review Process** – The Director distributed revised versions of the two previous reviewed NOI administrative review forms. The Commission reviewed the revised forms and had no additional edits. The forms will be used in the review of new NOIs.

**Clean Up/Green Up Project Ideas** – The Director suggested several small clean up and landscape improvement projects be formally proposed as projects for the event. Potential projects suggested consisted of the clean up of trash and debris at Ranlett's Grove Conservation Area, clean up of trash and debris, repairing the existing parking spaces, installing plantings

brush removal and potential fence repair or replacement at Bartlett's Landing and similar clean up/repair work at Dudley Park, focusing on the parking lot and campsite areas. The Commission approved of the project ideas and approved moving forward with them.

**Riverfest/Water Chestnut Harvest** – The Director reported that Conservation and Recreation staffs met with staff from the National Park Services and all groups are working on planning a water chestnut pull at the Mill Pond area of the Concord River in North Billerica. A water chestnut pull was done at the site several years ago. The pull is planned for the summer.

**Discussion: COC Request:** 109-0911/BBL-911 – Villages at Pinehurst – Stanley Davis, resident of 91 Pinehurst Avenue (in the Villages development) and Steve Dresser of Dresser, Williams & Way, representing developer Fran McCarthy, attended. The Director provided the background to the project and outstanding Certificate of Compliance request. The Director distributed an email sent to the developer, Mr. Davis and Mr. Davis' attorney that outlined the history of this project. Mr. Davis' deed to his property within the subdivision is encumbered by the Order of Conditions issued for the entire project in 2004. Mr. Davis discussed his experience attempting to refinance his mortgage and financial hardship suffered as a result of the Order being an encumbrance on his deed.

All parties discussed the project. The Director provided a summation of issues already identified as outstanding on the project and reported the largest problems is that wetland replication work required by the Order of Conditions had not been completed. The Director noted that in previous discussions, the developer argued that wetlands at the site had naturally expanded since construction was completed and that the expansion of wetlands essentially fulfilled the requirement to create more wetlands on the site. The Director reported he discussed this argument with MA DEP and that they indicated the argument was not valid and wetland replication work as required by the Order of Conditions is required. DEP suggested the Commission consider issuing an Enforcement Order to require outstanding issues associated with the Order of Conditions be completed.

Mr. Dresser advised the Commission that Mr. McCarthy was anxious to move forward and willing to comply with any direction the Commission chooses to take. The Commission asked if a requiring the developer to post a bond as part of an Enforcement Order could be required. The Director noted he did not believe so but indicated he would follow up on the question with the Town's attorney. The Commission directed the Director to draft an Enforcement Order on this matter to be discussed at the next Commission hearing. The Commission discussed the general Enforcement Order process with Mr. Davis.

**GIS Internship** – The Director reported that the job description for the position was completed and he was waiting approval from the Town Manager's Office to post the position. The Director anticipated the Internship would be posted shortly.

**Enforcement Update: 300/312 Concord Road** - The Director reported that Town Counsel and the Conservation Department were moving this outstanding enforcement matter forward through the legal process. The Director provided and reviewed copies of the "Verified Complaint for Civil Contempt" recently filed by Counsel at Superior Court on this matter.

**2 Nashua Road Emergency Certification Update:** The Director reminded the Commission that the Conservation Department issued an Emergency Certification in January allowing immediate removal of the (now previously) existing dilapidated white house on the lot. The Director noted that the Building Commissioner and Fire Department deemed the house a public safety hazard. The Director also reminded the Commission that they had recently issued an Order of Conditions that denied the removal of the same house and replacement of it with a parking area for the commercial operation at the site. The Director and Commission discussed the issue, noting that the Emergency Certification stipulated that the area could not be converted to a parking lot. The Director noted that he recently observed that the house had been removed and gravel parking area was installed and being used for parking associated with the onsite excavation business. The Director also noted he was discussed the issue with the Building Commissioner as there may be zoning compliance issues associated with the parking area being installed.

The Commission noted an Enforcement Order should be drafted for review at their next public hearing. The Director noted a draft would be prepared for review.

**9:10pm MOTION TO ADJOURN.** Moved by Commissioner Gallagher, seconded by Commissioner Martell. Carried. All in favor.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Janine Depper-Nash, Adam Bossi