

Regular Meeting
Billerica Conservation Commission
April 10th, 2013
Town Hall, Room 210
365 Boston Road, Billerica, MA

ATTENDANCE: Commission Members Jon Metivier (Chair), Paul Hayes (Vice Chair), Diane DePaso (Secretary), Betsy Gallagher, Peter Martell, Stephen Aziz, 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. 7:00pm - PUBLIC COMMENT – A member of the audience asked questions regarding Commissioners’ eligibility to vote on the 72 Salem Road NOI case as one Commission missed the first public hearing on the case and another Commissioner was absent from tonight’s hearing. The Commission discussed the procedures they follow to ensure members voting on a case are legally able to do so.

II. 7:04pm – WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Continued Public Hearing - Waste Management of Massachusetts, Inc. – 72 Salem Road – DEP File No. 109-1205/Billerica File No. BBL-1205

Documents submitted: 3-29-13 – Correspondence from Brian Dunn, MBL Land Development & Permitting, Corp. to Town of Billerica, Conservation Commission re. Peer Review Notice of Intent Application, 72 Salem Road

- 4-4-13 – Correspondence from Robert Gemma, President and Brian Nelson, Project Engineer, Metrowest Engineering, Inc. to Town of Billerica Conservation Commission re. Response to Review Letter from MBL Land Development & permitting Corp, 72 Salem Road, Billerica, MA, with Revised Stormwater Report and revised plans titled Proposed Erosion Control Plans, Proposed Layout Plans, Proposed Grading Plans, Proposed Utility Plans, Proposed Detail Plans, dated 2-15-13, revised 3-29-13, signed and stamped by Robert Gemma, Scale as shown

- 3-29-13 – Correspondence from Brian Dunn, MBL Land Development & permitting, Corp. to Town of Billerica, Conservation Commission re. Peer Review Notice of Intent Application, 72 Salem Rd, Billerica, MA

Fred Confalone of Waste Management of Massachusetts, Inc., appeared before the Commission and introduced the team that accompanied him: Peter Richer, Area Manager, from MetroWest Engineering, Inc. Brian Nelson, project Engineer and Robert Gemma, President, as well as Counsel for Waste Management, Martin Healy, Goodwin Procter, LLP.

The Commission noted that since the last hearing on the case, the Commission's peer review consultant had completed his peer review of the proposed project. The Commission noted that the second peer review letter had not been issued until a few hours before the hearing. The Commission noted they would need additional time to review this new information prior to feeling comfortable making a decision on the NOI.

Peer Reviewer, Brian Dunn of MBL Land Development & Permitting Corp. summarized his review of the proposed project. The Commission and Mr. Dunn discussed the findings of his peer review.

Brian Nelson of MetroWest Engineering reviewed changes made to the project plans based on the initial and secondary review comments issued by Mr. Dunn. Revisions made to the plans primarily consisted of changes to the proposed stormwater treatment and infiltration systems as well as updates to the proposed stormwater maintenance and operations plan.

Mr. Dunn noted the revisions were positive and proposed some recommended special conditions the Commission could consider including in an Order of Conditions. Mr. Dunn noted the applicant has claimed the 10% TSS removal credit for the vacuum sweeping of the site proposed as part of the stormwater operations and maintenance plan. Mr. Dunn noted allowing the 10% TSS removal credit is a discretionary call for the Commission to allow or not. The Commission, Mr. Dunn and applicant's team discussed the proposed sweeping best management practice. Waste Management noted a sweeper would be kept on site. The Commission determined that the 10% TSS removal credit is appropriate for the proposed site sweeping.

The Commission requested some form of emergency shut offs be added at appropriate locations on the proposed site drainage system to ensure any spill of fuel or similar material can be isolated on-site prior to any discharge to stormwater ponds or wetlands. The applicant's engineer and Mr. Dunn agreed that adding emergency shut offs was a valuable change to include in the design. The Commission also requested the applicant to clarify proposed frequency of stormwater operations and maintenance activities, such as the frequency of street sweeping, inspections of stormwater structures, etc. The Commission also requested that the existing site fencing be maintained. All parties discussed and agreed upon clarifications that would need to be included in a revised stormwater operations and maintenance plan.

The Commission and applicant discussed the potential use of the existing rail spur into the site. Commissioners noted they had heard some conflicting information regarding the potential rehab and use of the rail spur now versus at some unknown date in the future. Representatives from

Waste Management clarified that there was currently no proposal being made to rehab or use the existing rail spur but that they may consider its use in the future. The Commission reiterated that any proposal to rehab and use the rail spur for their operation would require some form of additional review by the Commission. The Commission discussed general concerns related to traffic and potential neighborhood impacts from the renewed active use of the site. The Commission requested the Director to obtain a copy of the Building Commissioner's letter regarding the zoning of the site as it relates to Waste Management's proposed use. Questions from the Commissions and audience members regarding potential hours of operations, number of truck trips in and out of the site per day, etc; were discussed with the applicant's team.

Members of the audience spoke:

Robert Casey, 15 Blanchard Avenue, requested details on the projected traffic. Members of the Waste Management project team discussed information regarding estimated vehicle trips per day and timing of operations at the site.

David Johnson, 113 Gray Street, submitted a series of photos he took of drainage features around the perimeter of the site and asked questions regarding features illustrated in photos. Mr. Johnson expressed concern regarding the potential use of the rail spur and requested clarification as to Waste Management's proposed use of the spur. Mr. Johnson expressed concerned and asked questions regarding truck traffic associated with the proposed operations and expressed concerns regarding potential hours of operation. Mr. Johnson requested clarification be sought from the Building Commissioner regarding allowed hours of operation at the site. Mr. Johnson questioned the clarity of the locus plan submitted as part of the NOI package. Members of the Waste Management project team and Commission responded to Mr. Johnson's questions and concerns.

Saul Santana, 23 Floyd Street, asked several questions regarding site drainage and TSS removal. Mr. Santana also questioned if a secondary or backup stormwater system was necessary and expressed concern regarding the potential for odors from the operation. The Commission and Waste Management team responded to questions.

George Simolaris, 38 Andover Road, voiced concern about truck traffic and location selected for the business. Mr. Simolaris questioned if the business could be located elsewhere in town and noted he was not supportive of the current plan.

Andrew Barakos, 26 Floyd St, voiced concern about traffic.

Elaine Santana, 23 Floyd St, asked if any other town boards were involved with this project. The Commission noted that to the best of their knowledge no other review would be required for this proposed project by other permitting boards. Building permits would be required.

The Commission summarized their discussion and listed the additional revisions that were determined to be necessary to project documents. Martin Healy, legal counsel for Waste Management, suggested the Commission seemed to have everything necessary to make a decision on the case and requested the public hearing be closed. The Commission and Mr. Healy discussed the requested and Commission noted revised documents needed to be submitted per

the evenings conversation and Commission noted they were not comfortable making a decision on the case based on the materials submitted to them earlier that day. The Commission noted they needed additional time to review this new information.

MOTION: TO continue this Hearing to April 24th, 2013. Moved by Commissioner DePaso, seconded by Commissioner Gallagher. Carried. 5 in favor, 1 opposed (Commissioner Aziz)

III. 8:37pm - 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: 4-3-13 – Correspondence from Douglas Smith to Janine Depper-Nash re. 24 Marshbrook

MOTION: TO continue this Hearing to May 8th, 2013 at the request of the Applicant. Moved by Commissioner DePaso, seconded by Commissioner Hayes. Carried. All in favor.

IV. 8:38pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – 7 March St – Gold Star Homes – DEP File No. 109-1206/Billerica File No. BBL-1206

Documents submitted: Notice of Intent for 7 March Street, Gary Litchfield of Gold Star Homes, with attached plan titled Site Development Permit Plan prepared by Eastern Land Survey Associates, Inc., signed and stamped by Christopher Mello, PLS, dated 2-11-13, Scale 1”=20’ - **4-3-13** – Correspondence from Patty Schuler to Adam Bossi re. April 10, Con-Com Meeting

MOTION: TO continue this Hearing to April 24th, 2013 at the request of the Applicant. Moved by Commissioner DePaso, seconded by Commissioner Gallagher. Carried. All in favor.

V. 8:38pm – WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – 52 Forest Park Avenue – Paul & Laurie Brennan – DEP File No. 109-1208/Billerica File No. BBL-1208

Documents submitted: Notice of Intent for 52 Forest Park Avenue, dated 3-12-13, prepared by Land Engineering & Environmental Services, Inc. with attached plan titled Grading Plan in Billerica, Massachusetts, #52 Forest Park Avenue, dated 3-12-13, prepared by Land Engineering & Environmental Services, Inc., signed and stamped by Douglas Lees, Scale: 1”=20’

Doug Lees of Land Engineering & Environmental Services, Inc. attended and described the proposed project to construct an addition, garage and deck onto the existing house. Mr. Lees

reviewed the two Bylaw variances requested as part of the NOI and discussed proposed site mitigation and enhancement work, including the removal of debris from inner buffer areas.

The Commission and Mr. Lees discussed the proposed project, variance requests and proposed mitigation measures. The Commission requested some additional debris removal work that must be completed as part of the project and also stipulated future restrictions for any proposed replacement of the existing stone wall in the inner buffer zone. The Commission and Mr. Lees discussed adding an additional drywell to infiltrate additional roof runoff. The applicant agreed to infiltrate additional roof runoff and to address the additional debris removal and other mitigation measures.

MOTION: TO grant the variance to S 3.03.C.3. Moved by Commissioner DePaso, seconded by Commissioner Gallagher. Carried. All in favor.

MOTION: TO grant the variance to S 3.03.C.2. Moved by Commissioner DePaso, seconded by Commissioner Martell. Carried. All in favor.

MOTION: TO close this Hearing, sign and issue an Order of Conditions within 21 days. Moved by Commissioner DePaso, seconded by Commissioner Gallagher. Carried. All in favor.

VI. 9:00pm - PROTECTION ACT & BILLERICA WETLANDS

PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – 7 Morningside Drive – Dominic & Jennifer Montesanti – DEP File No. 109-1209/Billerica File No. BBL-1209

Documents submitted: Notice of Intent for 7 Morningside Drive, dated March 8, 2013, prepared by Land Engineering & Environmental Services, Inc. with attached plan titled Grading Plan in Billerica, Massachusetts, 7 Morningside Drive, dated March 13, 2013, prepared by Land Engineering & Environmental Services, Inc., signed and stamped by Douglas Lees, Scale: 1"=20'

- Correspondence from Board of Health re. Covenant for Variance, 7 Morningside Drive
- 11x17 plan, Scale: 1/4"=1"

Doug Lees of Land Engineering & Environmental Services, Inc. attended and reviewed the proposed project to construct an addition to the existing dwelling. Mr. Lees reviewed a variance request submitted as part of the project. Mr. Lees noted the Board of Health had previously issued a variance for the proposed project. Proposed mitigation included relocation of the existing shed further from wetlands, leave the existing chain link fence in place, adding another visual barrier such as a post and rail fence and installing shrubs between the two fences/visual barriers to further enhance the buffer zone.

The Commission, applicant and Mr. Lees discussed the proposed project and variance request. The Commission requested the layout of the proposed visual barrier be slightly shifted and noted the proposed plans need to be revised to reflect this and the flood vents required on the structure

by the Board of Health. The Commission also requested that additional plantings be installed in the location where the shed is to be removed. The applicant concurred.

MOTION: TO grant a variance to S 3.03.C.3. Moved by Commissioner DePaso, seconded by Commissioner Martell. Carried. All in favor.

MOTION: TO close this Hearing, sign and issue an Order of Conditions within 21 days of receipt of new plan. Moved by Commissioner DePaso, seconded by Commissioner Hayes. Carried. All in favor.

VII. ADMINISTRATIVE MATTERS/DIRECTOR'S REPORT

Discussion: Enforcement Order-2 Nashua Road – The Director and Conservation Assistant updated the Commission on the status of the latest enforcement action at this site. Staff met with the owner and had discussions with the owner's consultants regarding outstanding work that needed to be completed. Staff reported that initial requirements of the EO had been complied with and staff anticipated the owner's consultants would follow up soon with additional required information and plans.

312 Concord Road EO / Court Actions - the Director distributed copies of the Summons issued by superior court to the property owner and updated the Commission on the status of EO.

General - Enforcement Orders – the Director reported staff will be following up with property owners with outstanding remedial work that could not be completed over the winter months.

Clean Up/Green Up and Conservation Land Management Issues – the Director updated the Commission on the Clean Up Green Up event and discussed future coordination with Commissioners to plan and execute some conservation land enhancement projects.

DEP Proposed Regulation Changes – The Director advised the Commission the DEP will be accepting comments on proposed changes to 310 CMR 10.00 until May 10th.

9:40pm MOTION: TO adjourn. Moved by Commissioner DePaso, seconded by Commissioner Aziz. Carried. All in favor.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Janine Depper-Nash, Adam Bossi