

Regular Meeting
Billerica Conservation Commission
May 22nd, 2013
Town Hall, Room 210
365 Boston Road, Billerica, MA

ATTENDANCE: Commission Members Paul Hayes (Acting Chair), Diane DePaso (Secretary), JoAnne Giovino, Betsy Gallagher, 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 – Martin Healy, Attorney for Waste Management advised the Commission he was requesting an administrative correction and clarification of special condition #24 of the Order of Conditions recently issued for the 72 Salem Road project. Mr. Healy and Commission briefly discussed the intent of this special condition. The Commission requested Mr. Healy to propose a language change in the special condition and agreed to add a discussion on this matter to their next regularly scheduled public hearing.

II. 7:23pm - Discussion: Bay Circuit Trail – Marlies Henderson of the Bay Circuit Trail Alliance appeared before the Commission and gave a power point presentation on the history and potential future of the Bay Circuit Trail in Billerica and the state. The Commission thanked Ms. Henderson for the information and her work on the trail project.

III. 7:42pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Kelley Conway, DPW - Townwide Paving Program – DEP File No. 109-1212/Billerica File No. BBL-1212

Documents submitted: Notice of Intent for DPW, Annual Paving Program dated May 8, 2013

- **5-10-13** – Correspondence from Kelley Conway, Town Engineer to Property Owner re. Roadway Management 2013

- **5-20-13** – Correspondence from Kelly Conway, Town Engineer to Conservation Commission re. DPW Annual Paving Program, Local Bylaw Variance Request

Kelley Conway, Town Engineer discussed the NOI for proposed roadway paving work. Ms. Conway explained this NOI was different than ones submitted in previous years for town paving work as it not only presented this year’s planned paving work but also requested the Commission to issue a 5-year Order of Conditions to allow for a more streamlined review of yearly paving work. Ms. Conway and the Director reminded the Commission of the DPW’s effort to seek a “generic” Order of Conditions earlier in the year that MA DEP had expressed concerns about. This NOI addressed MA DEP’s concern as it focused an annually occurring series of projects that are very similar in scope. Ms. Conway referenced two active Orders of Conditions issued by the Commission for the previous two year’s paving program work and noted that most work permitted by those Orders had been successfully completed.

The Commission and Ms. Conway discussed the 2013 paving program work proposed in the NOI. The Commission noted that as some work is proposed within the “No Disturbance” Buffer Zone that a Bylaw variance request must be filed and reviewed. The Commission and Ms. Conway discussed the proposed work’s compliance with MA Stormwater Management Standards focusing on issues associated with the increase of impervious surface stemming from the paving of gravel roadways. The Commission requested additional information regarding stormwater operations and maintenance protocols and additional detail on proposed LID stormwater measures. The Commission referenced MA DEP’s comments on the NOI and requested Ms. Conway to address them. The Commission and Ms. Conway discussed DPW conducting test pits and locations of proposed infiltration basins and Ms. Conway requested the Commission require such work prior to construction as a condition of the Order of Conditions.

Member of the audience, Christina Forsythe of Elsie Avenue, asked about the scope of proposed paving on Old Middlesex Turnpike. Ms. Conway responded to the question.

The Commission requested the Director to provide copies of previous Orders of Conditions issued for paving projects for their reference at the next hearing on the case. The applicant requested to continue the public hearing.

MOTION: TO continue this Hearing to June 12th, 2013. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Carried. All in favor.

IV. 8:19pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Continued Public Hearing - New Locust Realty Trust – Quaker Lane – DEP File No. 109-1207/Billerica File No. BBL-1207

Documents submitted: 5-14-13 – Correspondence from Doug Lees, Land Engineering & Environmental Services, Inc. to Billerica Conservation Commission re. Quaker Lane, Map 85, Parcel 173 with attached plan titled Site Grading Plan, prepared by New Locust Realty Trust,

signed and stamped by Douglas Lees, dated March 12, 2013, revised May 14, 2013, Scale: 1"=20'

Doug Lees of Land Engineering & Environmental Services attended and noted that additional information requested at the last hearing on the case had been submitted, including soils data to supplement the wetlands report. Mr. Lees reviewed revisions made to the NOI plans including a 20% reduction in the size of the proposed house, moving of the proposed house further from the River, addition of drainage swales and increase in proposed mitigation plantings.

The Commission inquired about the status of the Board of Health application for the proposed project. Mr. Lees noted that the Board of Health had denied the project a permit and that the applicant was in the process of appealing that decision.

Several abutters of the site voiced concerns about the potential for the project to exacerbate existing flooding issues in the neighborhood, concerns regarding the loss of mature trees and potential neighborhood disruption from construction vehicles. Abutters questioned the accuracy of the wetland delineation. The Conservation Assistant and Mr. Lees discussed the wetland delineation. Commission staff noted that they initially disagreed with the location of several wetland flags but that they had met with the project wetland scientist at the site and delineation was adjusted. The adjustment was incorporated in the revised NOI plan and flags relocated in the field.

The Commission discussed the proposed project noting it appeared to have been designed in accordance with the applicable performance standards of the Act and Bylaw. The Commission noted a series of special conditions to be included in the Order of Conditions.

MOTION: TO close, sign and issue an Order of Conditions within 21 days and to include the conditions about the tree, construction material and erosion controls as discussed. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Carried. All in favor.

V. 9:10pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Continued Public Hearing - 0 Elsie Avenue – Jonathan Gallant – DEP File No. 109-1211/Billerica File No. BBL-1211

Applicant Jonathan Gallant attended with his representative Matt Waterman from LandTech Consultants. Mr. Waterman explained the project. Mr. Waterman explained they are proposing to build a single family house on pilings with an attached deck, gravel driveway and utilities within the Riverfront Area and Floodplain of the Concord River. Mr. Waterman noted they were beginning the permitting process with the Board of Health and were informed of site plan changes the Board will require.

The Commission expressed numerous concerns with the proposed plan and noted that project plans were missing design details and other regularly required information. The Commission noted the NOI was missing a wetlands report and did not include sufficient information

regarding limits of site work, tree removals, grading and other information necessary to explain how the proposal may comply with the applicable performance standards of the Act and Bylaw. The Commission requested additional information be submitted and plans be revised. The Commission noted that the DPW was in the process of seeking permits to pave Elise Avenue and advised the applicant to contact the Town Engineer to discuss any street opening permitting that may be required prior to construction of the project if/when permitted.

Members of the audience spoke:

Kristina Forsyth, 44 Elsie Avenue, asked about the number of trees being taken down.

Dan and Kathryn MacNeil, 41 Elsie Avenue, voiced concern about flooding.

Pamela Gillespie, 40 Elsie Avenue, voiced concern about emergency vehicles being able to reach residents when it floods.

Deborah Squires, 42 Elsie Avenue, felt the project didn't meet a number of requirements.

The applicant requested to continue the public hearing noting additional information would be submitted and issues would be worked out with the Board of Health.

MOTION: TO continue this Hearing to June 12th, 2013. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Carried. All in favor.

VI. 9:54pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Continued Public Hearing - 16 Ravine Road – George Allen and Sons Construction – DEP File No. 109-1210/Billerica File No. BBL-1210

Stephen Dresser, of Dresser, Williams & Way, Inc. attended and discussed the proposed project. He advised the Commission they have been before the Zoning Board of Appeals and have received approval to split this property into 2 separate lots and to build 2 single family homes. Mr. Dresser also noted that septic systems have been approved by the Board of Health.

The Commission and Mr. Dresser discussed the proposed project. The Commission requested revised plans showing a visual barrier at the 50' No Alteration Zone and the new hay bale line around the shed. The Commission noted a variance for work proposed within the No Alteration Zone was necessary. Mr. Dresser wrote and submitted a variance requested to the Commission at the hearing. The Commission reviewed the request and noted the project could be conditioned to comply with the applicable performance standards of the Act and Bylaw.

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

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

VII. 10:19pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – REQUEST FOR DETERMINATION OF APPLICABILITY – Robert and Jamie Viscione – 4 Mary Road

Documents submitted: Request for Determination of Applicability dated May 8, 2013, prepared by Dresser, Williams & Way, Inc., with attached plan titled Plan of Land, prepared by Dresser, Williams & Way, Inc., signed and stamped by Stephen Dresser, dated May 7, 2013, Scale: 1"=40'

Stephen Dresser of Dresser, Williams & Way, Inc. attended. He explained the Applicant is proposing to build an above ground pool and a 20' x 20' deck. The Commission and Mr. Dresser discussed the proposed project and requested the deck be reduced to 12' x 12'; that the pool be shifted so it is 30' from the bordering vegetated wetland; that the landscaped area remain as is and that there be no further encroachment into the buffer zone; if the shed is ever moved it be moved outside of the 25' No Alteration Zone; and that there be no further debris or yard waste in the buffer zone. Mr. Dresser submitted a sketch/annotated plan documenting the shift in pool location and agreed the project could abide by the stipulations discussed. Mr. Dresser requested to close the public meeting.

MOTION: TO issue a negative determination and include conditions that were discussed and that this Determination shall be recorded at the Registry of Deeds. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Carried. All in favor.

VIII. ADMINISTRATIVE MATTERS/DIRECTOR'S REPORT

Enforcement / Violation Updates – Empire Recycling, 36 Sterling Road: The Director discussed violations of the Act, Bylaw and existing Order of Conditions, MA DEP #109-1166/BBL#1166 discovered at a recent joint department site inspection. The Director advised the Commission that the issuance of an Enforcement Order appeared warranted. The Commission instructed the Director to issue an appropriate Enforcement Order.

The Director provided a brief update on the open Enforcement Order issued for the Villages at Pinehurst project, MA DEP #109-911/BBL#911.

Land Donations – The Director reported that he attended a recent meeting of the Board of Selectmen who enthusiastically voted to accept the donation of land by Paul Pronco on Bellflower Road. The Director also noted that another land owner recently approached him about potentially donating a large parcel of approximately 17 acres and he is beginning to work on that.

Certificate of Compliance Requests:

DEP File No.109-398 - Pinehurst Substation No. 92, New England Power Co.

DEP File No.109-849 - Billerica Ave K-137E Line Tap, New England Power Co.

Tracy Duarte of Coneco appeared before the Commission representing National Grid. The Conservation Assistant noted site visits were conducted and she had some outstanding concerns

that could not be addressed without reviewing a surveyed as built plan. The requests for a Certificate of Compliance were submitted with no as built Plan, and National Grid is requesting a waiver from the requirements of the Orders of Conditions to submit said plans. The Commission reviewed the request for relief from the as built plan requirements and did not grant the requested relief. The Commission noted that as built plans must be submitted for the Requests for Certificates of Compliance to be complete and fully reviewable. Ms. Duarte noted she would advise her client regarding the need to produce and submit as built plans.

11:11pm MOTION: TO adjourn. Moved by Commissioner DePaso, seconded by Commissioner Gallagher. Carried. All in favor.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Janine Depper-Nash, Adam Bossi