

**Regular Meeting
Billerica Conservation Commission
June 12th, 2013
Town Hall, Room 210
365 Boston Road, Billerica, MA**

ATTENDANCE: Commission Members Paul Hayes (Chair), Diane DePaso (Secretary) (6:03pm), Betsy Gallagher, Peter Martell, JoAnne Giovino and staff members Adam Bossi (Director of Environmental Affairs), Isabel Tourkantonis (Land Use Assistant) and Janine Depper-Nash (Senior Clerk)

CALL TO ORDER: 6:00pm

I. 6:00pm - PUBLIC COMMENT – no comments

II. DISCUSSION: MA DEP #109-1205/BBL #1205 – 72 Salem Road
Correction of Orders of Conditions

Attorney Martin Healy, Goodwin Procter, LLP, attended. Terry Bennett, Director of Operations, gave an example of a reason for the requested change. Attorney Healy went over a proposed change to condition Number 24 which Commission Members had been provided copies of in advance of the discussion. Discussion included adding a line “if trucks stored for longer than 84 hours notice must be given to the Conservation Commission or the Agent with the reason and the expected duration of storage” and that the word “trailers” be added.

Attorney Gail Lynch questioned the Commission’s jurisdiction outside of the buffer zone.

The Director will draft the proposed condition incorporating the changes as discussed, and send it to both the Commission Members and to the Applicant for final approval of the language.

III. 6:27pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Continued Public Hearing - Kelley Conway, DPW - Townwide Paving Program – DEP File No. 109-1212/Billerica File No. BBL-1212

Documents submitted: 5-31-13 – Correspondence from Kelley Conway, Town Engineer to Conservation Commission re. Notice of Intent, DEP Annual Paving Program
- 5-31-13 – Correspondence from Philip Paradis, BETA Group to Billerica Conservation Commission re. Notice of Intent for Annual Paving Program

- 6-12-13 – Correspondence from Philp Paradis, BETA Group, to Billerica Conservation Commission re. Notice of Intent for Annual Paving Program

Town Engineer Kelley Conway and Philip Paradis, BETA Group, attended. Ms. Conway provided an update. They have received additional feedback from the DEP, and submitted additional information that will address the DEP's comments. Mr. Paradis added the design hasn't changed, and went on to explain what the Town is proposing to do to meet stormwater management standards. The document submitted will show the Town is doing the maximum amount to meet the standards. They are requesting the Commission include a condition that the Commission agrees with the testing and that is done before the work begins.

Members discussed including a condition or a finding that would allow the DPW to begin the paving work but to also allow time to review the Orders for the generic permit.

Member of the audience Ed Reiner, 1 Pinewood Avenue, voiced concern about the design because of possible damage to tree roots, but does want the road paved and asked the Commission to issue the Order.

MOTION: TO close this Hearing, sign and issue an Order of Conditions with 21 days, and to include the findings as discussed. An amendment request is anticipated to discuss generic conditions. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Carried. All in favor.

IV. 7:20pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Request for Determination of Applicability – New England Power – Off Billerica Avenue

Documents submitted: Request for Determination of Applicability dated May, 2013, prepared by BSC GROUP for New England Power Company

- Correspondence from Michael Toohill, BSC Group to Billerica Conservation Commission re Request for Determination of Applicability, New England Power Company, dated May 28, 2013, revised June 11, 2013

Mike Toohill, BSC Group, attended and explained they are replacing an existing conductor, a 3-pole wooden structure, with a higher rated strength conductor a single-pole steel structure. The existing structure sits adjacent to the wetland. They will restore all disturbed areas.

MOTION: TO issue a negative determination which will include the letter and conditions included in Isabel Tourkantonis' report dated June 11th, 2013.

V. 7:31pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Request for Determination of Applicability – Michael and Stephanie Haley – 7 Governor Endicott Road

Documents submitted: Request for Determination of Applicability dated May 29, 2013 for 7 Governor Endicott Road, prepared by Dresser, Williams & Way, Inc. with attached plan titled Plan of Land, dated May 24, 2013, prepared by Dresser, Williams & Way, Inc., signed and stamped by Stephen Dresser, Scale: 1"=30'

- Plan titled Plan of Land, dated May 24, 2013, for 7 Governor Endicott Road, prepared by Dresser, Williams & Way, Inc., signed and stamped by Stephen Dresser, Scale: 1"=30', revised 6-10-13

Steve Dresser of Dresser, Williams & Way, Inc. attended. He explained they are proposing to install a 15' by 30' above ground pool with two decks. He revised the wetland line and submitted revised plans. Commission Members requested a visual barrier 5-8 feet from the wetland, and no dumping of yard waste.

MOTION: TO issue a negative determination and to include a cover letter requesting a visual barrier, no dumping of yard waste and no mowing beyond the visual barrier. Moved by Commissioner DePaso, seconded by Commissioner Giovino. Carried. All in favor.

VI. 7:40pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Shawsheen Valley Vocational Technical High School – 100 Cook Street – DEP File No. 109-1214/Billerica File No. BBL-1214

Documents submitted: Notice of Intent for 100 Cook Street prepared by Bergman & Associates, Inc., dated May 29th, 2013 with attached plan containing sheets titled Existing Conditions, Site Plan Proposed Conditions, Site Plan and Details Proposed Conditions, Planting and Guiderail Plan dated May 20, 2013 prepared by Bergman & Associates, Inc., signed and stamped by Paul Bergman, Scale: As Shown

- Correspondence submitted 6-12-13 titled Stream to the west of Shawsheen Valley Tech

Paul Bergman of Bergman Associates and Mike Williams attended. He explained they are proposing to repave the rear parking lot at the School and have filed as a redevelopment project. The school is hopeful to begin work during the last week of June. There is a stream to the west of the school, and they have submitted additional information to show it is intermittent. They are not increasing the impervious area and are not filling in floodplain. They will be handling snow removal differently.

The DEP has not issued comments yet. A lengthy discussion followed in which a peer review for stormwater management was discussed, and included suggestions of iron guards as a visual barrier and additional plantings beyond the headwall. A decision was made to hire a peer reviewer.

MOTION: TO continue this Hearing to June 26th, 2013. Moved by Commissioner DePaso, seconded by Commissioner Giovino. Carried. All in favor. Motion amended: TO continue this Hearing to July 17th, 2013. Moved by Commissioner DePaso, seconded by Commissioner Giovino. Carried. All in favor.

VII. 8:22pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – 36 French St – David Babineau – DEP File No. 109-1213/Billerica File No. BBL-1213

Documents submitted: Notice of Intent for 36 French Street prepared by Robert Douglas Associates with attached plan titled Topographic Plan of Land in Billerica, MA prepared by A.C. Nelson Cartography, signed by Alan Nelson
- Plan titled Topographic Plan of Land in Billerica, MA prepared by A.C. Nelson Cartography, signed by Alan Nelson, dated June 7, 2013

Wetland Scientist Bob Douglas appeared before the Commission representing the Applicant. He explained they are proposing to construct an 800 square foot addition. He submitted oversized plans today and went over the resources on the site. The wetland line was moved after a site inspection with the staff. Applicant Dave Babineau explained this addition was for his father who had dementia.

Commission Members requested enhancement plantings be added and that they provide a planting detail prior to construction; improve the visual barrier by installing a post and rail fence a minimum of 5 feet from the wetlands; if the shed is replaced or repaired it gets moved further from the wetlands; that the permit application dated 2004 be closed out.

MOTION: TO grant a variance to S3.03.C.3(b). 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.

VIII. 8:51pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Gibraltar Pools Corp. – 4 Minton Road – DEP File No. 109-1215/Billerica File No. BBL-1215

Documents submitted: Notice of Intent for 4 Minton Road with attached plan titled Plan of Land prepared by Dresser Williams & Way, Inc., signed and stamped by Stephen Dresser, dated May 29, 2013, Scale: 1"=40'
- Plan titled Plan of Land prepared by Dresser Williams & Way, Inc., for 4 Minton Road, signed and stamped by Stephen Dresser, dated May 29, 2013, Scale: 1"=40', revised 6-10-13
Jay Henshall, Gibraltar Pools, Corp, appeared representing the Applicant. He explained they are proposing to install an above ground pool with decking. He stated there is no other practical place for the pool other than what is shown on the plan.

Commission Members requested the debris be cleaned up; a visual barrier; mitigation as shown on Plan A; and that the shed be moved out of the 25 foot No Alteration Zone if it ever needs to be repaired or replaced, provided it is not on a foundation.

Member of the audience David Gordon, 6 Minton Road, voiced concern about the contours of the property, the water from the pool going into the wetlands and commented on boulders that were on the property at one time.

MOTION: TO grant a variance to S3.03.3C(b). 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.

IX. 9:33pm - 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

Documents submitted: 5-28-13 – Correspondence from Jonathan Gallant to Isabel Tourkantonis re. Conservation Hearing-0 Elsie Avenue

MOTION: TO continue this Hearing to July 17th, 2013 per request of the Applicant. Moved by Commissioner DePaso, seconded by Commissioner Giovino. Carried. All in favor.

X. ADMINISTRATIVE MATTERS/DIRECTOR'S REPORT

Discussion – 11 Swan Lane – MA DEP #109-1163/BBL#1163 – The Director gave the Members the background to this issue and stated he believes the project was done in compliance with the Order that was issued. Bill Abrams, direct abutter, was in attendance and expressed concern about water problems on his lot, which he says has been happening since the Commission granted a permit for the project. After some discussion, Members agreed to do a site inspection then discuss it at the next meeting.

Minutes: 4-24-13 **MOTION: TO** accept the minutes as written. Moved by Commissioner Giovino, seconded by Commissioner Martell. Carried. All in favor

Request for Certificate of Compliance

Lot 3, Zackney Estates MA DEP File #109-1055/BBL#1055 – The Director reported a site inspection showed that there very minor deviations to the plan and that overall the project was built in compliance. The Applicant has requested a partial Certificate of Compliance. The Commission opted to take no action now because of questions they had with compliance with the project as a whole.

Recent Appeals of Orders of Conditions

Quaker Lane – MA DEP #109-1207/BBL#1207 – Documents submitted: Correspondence from Sharon DiPerna-Bouffard re. Request for Departmental Action, Quaker Lane – The Director reported several neighbors appealed to the DEP. He has not received anything from the DEP yet.

72 Salem Road – MA DEP #109-1205/BBL#1205 – The Director reported the Applicant filed the appeal to preserve their right if discussions on the project did not go as well as they hoped they would. He will get clarification from the Applicant that they are withdrawing the appeal as they indicated they would.

Enforcement Updates

312 Concord Road – The Director reported the Sheriff's department did pick up Mr. Gianacopolis and since that time he has attempted to set up a time to do a site inspection on his property. Mr. Gianacopolis is under a judgment by the Court to take corrective action within 30 days.

Villages at Pinehurst – MA DEP #109-911/BBL#911 – The Director reported they have received 2 proposals from Pat Garner and LEC. Mr. Garner submitted the lowest proposal. **MOTION:** TO grant the contract to Pat Garner. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Carried. All in favor.

36 Sterling Road – MA DEP #109-1166/BBL#1166 – The Director reported that since the Enforcement Order was issued, Empire Recycling has been very responsive, and have cleaned up the site.

Yankee Doodle Bike Path Committee – the Director advised the Commission they needed to appoint someone to this Committee, and that Marlies Henderson had submitted an application. **MOTION:** To appoint Marlies Henderson to the Yankee Doodle Bike Path Committee. Moved by Commissioner DePaso, seconded by Commissioner Gallagher. Carried. All in favor.

Bartlett's Landing – Potential Cub Scout Project – the Director reported the Scout Leader was interested in a project to clean up Bartlett's Landing.

10:58pm **MOTION:** TO adjourn. Moved by Commissioner Gallagher, seconded by Commissioner DePaso. Carried. All in favor.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Janine Depper-Nash, Adam Bossi