

**Regular Meeting  
Billerica Conservation Commission  
September 11<sup>th</sup>, 2013  
Town Hall, Room 210  
365 Boston Road, Billerica, MA**

**ATTENDANCE:** Commission Members Paul Hayes (Chair), Stephen Aziz (Vice Chair), Diane DePaso (Secretary) (5:35pm), Betsy Gallagher, Jack Bowen, 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:** 5:30pm

- I. **5:30pm - PUBLIC COMMENT** – no comments
  
- II. **5:31pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING** – Notice of Intent – 9 Eubar Circle – Marc Lombardo – DEP File No. 109-1226/Billerica File No. BBL-1226

**Documents submitted:** Notice of Intent for 9 Eubar Circle, dated August 28, 2013, prepared by Oxbow Associates, Inc., with attached plan titled Residential Site Plan, prepared by Bruce Saluk & Assoc., Inc., signed and stamped by Bruce Saluk, dated August 27, 2013, Scale: 1”=20’  
**-9-4-13** – Correspondence from Scott Smyers, Oxbow Associates, to Billerica Conservation Commission re. Request for Variance, Notice of Intent

Scott Smyers of Oxbow Associates and Bruce Saluk of Bruce Saluk & Associates, Inc. attended with Applicant Marc Lombardo. Mr. Smyers explained the Applicant is proposing to construct an in-law addition with a porch and a garage with associated walkway and driveway. He went through the details of the project as well as the resource areas on the site. Mr. Saluk explained how he obtained the amounts for the impervious calculations.

Discussion centered on the amount of impervious surface and what the allowed increase of impervious was, as stated in the Bylaw. The project, as presented, was over the amount allowed. Members requested the project be revised to get closer to the allowed amount of 25%, and advised the Applicant that a variance request would be required. They asked that the visual barrier be extended, yard waste be removed, that the size of the shrubs be increased, and a condition that should the fence be replaced in the future that it be moved to allow for a 25’ buffer.

Member of the audience Dan McClusky stated he was in full support of the project.

**MOTION:** TO continue this Hearing to September 25<sup>th</sup>, 2013. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Carried. All in favor.

**III. 6:09pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING** – Notice of Intent – 98 Billerica Avenue – Three Billerica Avenue Realty Trust – DEP File No. 109-1225/Billerica File No. BBL-1225

**Documents submitted:** Notice of Intent for 98 Billerica Avenue dated August 28, 2013, prepared by Oxbow Associates, Inc. with attached plan titled Site Plan dated 7-26-13, prepared by ASB Design Group, LLC, signed and stamped by Thad Berry, Scale: 1”=20’

Scott Smyers, Oxbow Associates, appeared before the Commission with Applicant Jon Metivier. Mr. Smyers described the site and explained they are proposing to construct a parking lot, out of gravel, on which to store vehicles and equipment. The DEP is still reviewing the application. The Applicant stated he was willing to clean up the site and increase the buffer zone.

Commission Members advised the Applicant they needed additional information. They requested details on the use of the parking lot in a more detailed narrative.

**MOTION:** TO continue this Hearing to October 23<sup>rd</sup>, 2013. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Carried. All in favor.

**IV. 6:34pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing - 297 Boston Road – Gibbs Oil Company – DEP File No. 109-1219/Billerica File No. BBL-1219

**Documents submitted: 9-4-13** – Correspondence from C. Anthony Fruchtl, Ayoub Engineering, Inc. to Mr. Adam Bossi, Director of Environmental Affairs and Mr. Richard Berube, Director of Public Health re. Notice of Intent and Site Improvement Plans-Peer Review with attached plans titled Site Improvement Plans prepared by Ayoub Engineering, Inc., signed and stamped by Alan Micale, Dennis McManus, Richard DeFusco, dated 4-3-12, revised 9-4-13, Scale: as shown

**-9-6-13** – Correspondence from Philip Paradis, BETA Group to Mr. Adam Bossi and Mr. Richard Berube re. Site Improvement Plans, Gibbs Oil Company, 297 Boston Rd, Conservation Commission and Board of Health Peer Review #2

Tony Fruchtl of Ayoub Engineering, Inc. attended. He reviewed the project and explained the project had been continued because of outstanding comments from the peer reviewer, Phil Paradis, which they have now addressed.

Mr. Paradis, the consultant, was also in attendance and stated the Applicant has addressed all his comments. The Applicant is willing to increase the vegetation in lieu of a visual barrier. He suggested the Commission include a condition that boulders be added along the back to keep the plows on the road. He explained there was a cleanup operation in progress and wanted confirmation that the infiltration system wouldn't exacerbate the situation.

**MOTION:** TO grant a variance to S3.03C(3) Moved by Commissioner Giovino, seconded by Commissioner Aziz. Carried. All in favor.

**MOTION:** To close, sign and issue an Order of Conditions and to include all conditions as discussed. Moved by Commissioner, seconded by Commissioner DePao. Carried. All in favor.

**V. 6:49pm – WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING** – Notice of Intent – 9 Brick Kiln Road – Swaminarayan World Organization – DEP File No. 109-1221/Billerica File No. BBL-1221

**Documents submitted:** Notice of Intent for 9 Brick Kiln Road, dated 8-21-13, prepared by Ducharme & Dillis Civil Design Group with attached plan titled Notice of Intent Plan dated 3-29-13, revised 8-15-13, prepared by Ducharme & Dillis, signed and stamped by Gregory Roy, Scale 1"=20'

**-9-9-13** – Correspondence from Stanley Dillis, Ducharme & Dillis Civil Design Group, Inc. to Billerica Conservation Commission re. response to review comments

Stan Dillis of Ducharme & Dillis Civil Design Group, Inc. attended. He described the site and explained they are proposing to add a kitchen to the existing building which involves installing a new septic system.

Commission Members advised the Applicant that a variance request for temporary work within the 25' No Disturb zone was required. Discussion also included yard debris be removed; the fence, acting as a visual barrier, be replaced; an area be designated for snow storage and that a vegetated buffer along the back be created.

**MOTION:** TO continue this Hearing to October 9<sup>th</sup>, 2013. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Carried. All in favor.

**VI. 7:03pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing - 41 Glad Valley Drive – Lee Cappucci – DEP File No. 109-1217/Billerica File No. BBL-1217

Mr. and Mrs. Cappucci attended with their neighbor Mr. Turcotte who spoke on their behalf. Mr. Turcotte explained there was no way to design the garage if they moved it and that they will lose the windows in the house if it is moved. The Applicant is requesting the Commission accept

the original plan they submitted, with additional mitigation. Mr. Capucci discussed the definition of a river.

Commission Members wanted the garage downsized, mitigation increased and advised the Applicant to submit a variance request. They requested revised plans and suggested staff members meet with the Applicant and their engineer.

**MOTION:** TO continue this Hearing to October 9<sup>th</sup>, 2013. Moved by Commissioner DePaso, seconded by Commissioner Bowen. Carried. All in favor.

**VII. 7:27pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Market Street/Broadleaf Street – Steven McGarry – DEP File No. 109-1223/Billerica File No. BBL-1223**

**Documents submitted:** Notice of Intent for Market Street/Broadleaf Street prepared by Norse Environmental Services, Inc., dated August 2013 with attached plan titled Proposed Subsurface Septic Disposal System dated 2-20-13, prepared by LJR Engineering, Inc., signed and stamped by Luke Roy, Scale: as noted  
-21 8.5x11 photos  
-plan titled Proposed Subsurface Septic Disposal System dated 2-20-13, revised 5-8-13, prepared by LJR Engineering, Inc., signed and stamped by Luke Roy, Scale: as noted

Maureen Hanley, Norse Environmental Services, Inc. attended with the Applicant. Ms. Hanley explained they are proposing to build a single family home with a paved driveway. She reviewed the resource areas on the site. The project still needs Board of Health approval and they are still in discussions with the Town.

There was some discussion on a dispute over property with an abutter which the Applicant feels has been resolved.

Commission Members requested additional mitigation and requested calculations be provided that prove a swale will work. They discussed continuing the hearing to allow time for stormwater review.

Members of the audience spoke:

Patrick Garvey, 13 Market St, provided pictures of the water on the property. He asked about maintenance of the swale. Mrs. Garvey voiced concern about drainage.

Teresa Casey, 15 Market St, voiced his concern about the Town being in charge of maintenance on the swale.

Mary Stenquest, 17 Broadleaf, voiced concern about flooding.

**MOTION:** TO continue this Hearing to October 9<sup>th</sup>, 2013. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Carried. All in favor.

**VIII. 8:08pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING** – Notice of Intent – 23 Allen Road – George Allen & Sons Construction – DEP File No. 109-1222/Billerica File No. BBL-1222

**Documents submitted:** Notice of Intent for 23 Allen Road prepared by Dresser, Williams & Way, Inc., dated August 23, 2013 with attached plan titled Notice of Intent Site Plan, dated August 22, 2013, prepared by Dresser, Williams & Way, Inc., signed and stamped by Stephen Dresser, Scale: As shown.

**-9-10-13** – Correspondence from Stephen Dresser, Dresser, Williams & Way, Inc. to Billerica Conservation Commission re. Variance Request, 23 Allen Road, with attached plan titled Notice of Intent Site Plan dated 8-22-13, revised 9-10-13, prepared by Dresser, Williams & Way, Inc., signed and stamped by Stephen Dresser, Scale: As Shown

Stephen Dresser from Dresser, Williams & Way, Inc. attended. He explained they are proposing to demolish a house, driveway, shed, barn structures and horse corral and other structures and plan on restoring the buffer zone. They will install a visual barrier at the 50' No Alteration Zone.

Commission Members requested conservation seed mix be put down throughout the entire 50' No Alteration Zone.

**MOTION:** TO grant a variance for work within the 50' NAZ. 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 Aziz. Carried. All in favor.

**IX. 8:17pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING** – Notice of Intent – 5 Baker Street – JACGO, LLC – DEP File No. 109-1224/Billerica File No. BBL-1224

**Documents submitted:** Notice of Intent for 5 Baker Street dated August 26, 2013, prepared by Dresser, Williams & Way, Inc. with attached plan titled Site Plan in Billerica, MASS, 5 Baker Street dated August 26, 2013, prepared by Dresser, Williams & Way, Inc., signed and stamped by Stephen Dresser, Scale: 1"=20'

-Plan titled Site Plan in Billerica, MASS, 5 Baker Street dated August 26, 2013, revised 9-11-13, prepared by Dresser, Williams & Way, Inc., signed and stamped by Stephen Dresser, Scale: 1"=20'

Stephen Dresser from Dresser, Williams & Way, Inc. attended. He explained they are proposing to raze the existing house and construct a single family house with attached garage, deck and associated driveway and utilities in the same location. The proposed house will be outside of the 50' No Disturb Zone. They will be requesting a variance to have the visual barrier at 42'.

After Staff met with Steve Eriksen of Norse Environmental, revised plans were submitted that showed a revised wetland line and floodplain. The Applicant will have to meet with Staff for approval of trees to be taken down. Members agreed debris could be removed by hand.

Member of the audience Alan Reese, 4 Baker Street, commented on the disrepair of the lot, parking for workers and asked for additional details on the project.

**MOTION:** TO grant the variance for work within the buffer zone and to install the visual barrier at the 42' line. Moved by Commissioner DePaso, seconded by Commissioner Giovino. Carried. All in favor.

**MOTION:** TO close this Hearing, sign and issue an Order of Conditions with 21 days, and to include comments and conditions brought up by office staff. Moved by Commissioner DePaso, seconded by Commissioner Giovino. Carried. All in favor.

**X. 8:32pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Continued Public Hearing - 31 Glad Valley Drive – Ed O'Mahoney – DEP File No. 109-1218/Billerica File No. BBL-1218**

**Documents submitted: 8-23-13** – Correspondence from Stephen Dresser, Dresser, Williams & Way, Inc. to Billerica Conservation Commission re. Variance Request, 31 Glad Valley Drive with attached plan titled Site Plan in Billerica, Mass, prepared for Ed O'Mahoney, prepared by Dresser, Williams & Way, Inc., signed and stamped by Stephen Dresser, dated 7-26-13, revised 8-29-13, Scale: 1"=20'

Stephen Dresser of Dresser, Williams & Way, Inc. attended. He reviewed the revisions made to the plans the Members requested after the previous hearing. Members requested a conservation seed mix be planted on the entire buffer zone, from the visual barrier on. Staff suggested a condition be included that staff will review the site to determine if enhancement plantings will be necessary.

**MOTION:** TO grant the variance request in order to remove debris within the 50' No Alteration Zone, restore the area with a conservation seed mix and to install a visual barrier. 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.

**XI. 8:38pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing - 2 Nashua Road – William French - DEP File No. 109-1220/Billerica File No. BBL-1220

**Documents submitted:** Correspondence from Stephen Dresser, Dresser, Williams & Way, Inc. re: 2 Nashua Road, containing a revised Project Narrative and Stormwater Drainage Report

Stephen Dresser, Dresser, Williams & Way, Inc. attended. He explained additional information has been submitted for this project, which is a paved employee parking lot, and assumes the project will be sent to a consultant for stormwater management review. He reviewed the drainage system with the Members. Because the project is a paved parking lot instead of a gravel parking lot, the amount of impervious surface is over the allowable amount so they will be requesting a variance.

The Commission discussed sending this project out for review and continuing this Hearing to allow time for peer review comments.

**MOTION:** TO continue this Hearing to October 23<sup>rd</sup>. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Carried. All in favor.

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

**11 Swan Lane** – The homeowner and abutter Bill Abrams were in attendance. Staff gave the Commission an update. The Director has reviewed the work. The Commission agreed to wait for the grass to grow in before issuing a Certificate of Compliance. This item will be placed on the November agenda for discussion. The Director will perform a site inspection at the end of October or beginning of November.

**72 Salem Road – Documents submitted: 9-6-13** – Correspondence from Robert Gemma, President, Metrowest Engineering, Inc. to Town of Billerica Conservation Commission re. 72 Salem Road, Billerica, Permit and Construction Set Drawings

**-9-10-13** – Correspondence from Ben Ross, Project Manager, Waste Management to Adam Bossi re. Site Visit and Minor Modifications

Ben Iobst, Project Manager, attended. He explained they are storing glass in 2 warehouses that are connected by a ramp, and that in order to ship the glass out they need to extend the pavement by 1450 square feet, and relocate the fence that is presently there as a visual barrier. Peer Reviewer Brian Dunn offered some initial comments. Commission Members decided to wait until the final comments from Mr. Dunn were submitted before making a decision as to whether or not the changes could be handled as an administrative change.

**COC Request:** DEP File #109-1195/BBL-1195 – 45 & 51 Nashua Road – The Director reported the As Built Plan submitted with the request lacked a scale. Commission Members, after some discussion, made the decision not to vote on the request until a new plan with a scale on it was

submitted.

**RATIFICATION OF ENFORCEMENT ORDER** – 11 Blades Circle – The Director gave a report on the enforcement order. He will be discussing options with Town Counsel. **MOTION:** TO ratify the enforcement order. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Carried. All in favor.

**WARRANT ARTICLE** – The Director gave a report on his meeting with the Rules Committee concerning the warrant article and recommended the Commission dismiss the article and review the language of it. **MOTION:** TO dismiss the warrant article and revisit this in the spring. Moved by Commissioner Giovino, seconded by Commissioner Gallagher. Carried. All in favor.

**9:55pm MOTION:** TO adjourn. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Carried. All in favor.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Janine Depper-Nash, Adam Bossi