

**Regular Meeting
Billerica Conservation Commission
September 25th, 2013
Town Hall, Room 210
365 Boston Road, Billerica, MA**

ATTENDANCE: Commission Members Paul Hayes (Chair), Diane DePaso (Secretary), Betsy Gallagher, JoAnne Giovino, Jack Bowen and staff members Isabel Tourkantonis (Land Use Assistant) and Janine Depper-Nash (Senior Clerk)

CALL TO ORDER: 7:00pm

7:00pm - PUBLIC COMMENT – No comments. The Chair thanked Peter Martell for his years of service on the Commission.

7:00pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Continued Public Hearing - 9 Eubar Circle – Marc Lombardo – DEP File No. 109-1226/Billerica File No. BBL-1226

Documents submitted: 9-19-13 – Correspondence from Scott Smyers, Oxbow Associates, Inc. to Billerica Conservation Commission re. Request for Variance, Notice of Intent with plan titled Residential Site Plan, #9 Eubar Circle, prepared by Bruce Saluk & Assoc., Inc., signed and stamped by Bruce Saluk, dated 8-27-13, revised 9-18-13, Scale: 1”=20’

Scott Smyers, Oxbow Associates, Attorney Steve Lentine and Applicant Marc Lomardo attended. Mr. Smyers explained that since the last hearing they have submitted revised plans showing the adjustment of the planting area. The primary issue of the last hearing was the interpretation of the impervious area.

Attorney Lentine distributed copies of the Bylaw and spoke in favor of Mr. Smyer’s letter. He went on to explain his interpretation of the bylaw.

Discussion followed on ways to lower the amount of impervious surface. Changing the driveway from paved to crushed stone would lower the impervious but a variance would still be required. They have submitted revised plans showing new impervious calculations with the driveway out of crushed stone.

Commission Members requested revised plans showing the visual barrier extended along the contour of the property to provide more room around the garage, pervious driveway, inlaw addition, the additional plantings that are being provided as mitigation, the size of the garage reduced to a 3-car garage, and the dimensions of the house added.

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

8:05pm - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING - REQUEST FOR

DETERMINATION OF APPLICABILITY – MassDOT-Highway Division – Rte. 3 Mainline
Documents submitted: Request for Determination of Applicability from MassDOT -9-24-13 – Correspondence from Andrea Norton to Adam Bossi, Janine Depper-Nash re. Request for Determination of Applicability, request for continuance

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

ADMINISTRATIVE MATTERS/DIRECTOR'S REPORT

Discussion: 4 Minton Road –Admin. Request for Relief 109-1215/BBL 1215 – Staff provided an update to the Commission and reviewed the plan and proposed mitigation. The Applicant is requesting relief from the condition concerning the visual barrier location and the 25' No Alteration Zone mitigation and is proposing other mitigation in lieu of strict adherence to the terms of the Order. The plan shows 4 areas of proposed mitigation within the No Alteration Zone and the proposed pool location. In total the proposed mitigation is 1, 408 square feet and the proposed pool and deck are 720 square feet in total. Additionally the Applicant is proposing to plant 4 shrubs along the edge of the wetland. The Commission needs to vote to either approve the request or to deny the request. A vote was taken which resulted in 4-1 against granting the request: NO (Commissioners DePaso, Giovino, Gallagher, Bowen) and YES (Commissioner Hayes). The request was denied.

Discussion: Warrant Articles 46 & 47 with Recreation Director – Peggy Hannon-Rizza, Director of Recreation, attended. She explained to the Commission that she was going before Town Meeting to request a change in the language for the purpose of 2 parcels within 22 acres of land at Micozzi Beach and wants to add language to include additional use of the parcels. She needs both the approval and support of the Conservation Commission. Commission Members requested a line showing the 25' Buffer Zone be added to the plans. **MOTION:** TO add additional language of parks, playground and recreational use to the deed for approximately 2 parcels. Moved by Commissioner DePaso, seconded by Commissioner Gallagher. Carried. All in favor.

Certificate of Compliance Request-7 Pleasant St-109-1180/BBL-1180 – Staff recommended issuing a Certificate of Compliance after a site inspection revealed the site had stabilized.

MOTION: TO issue a Certificate of Compliance. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Carried. All in favor.

Certificate of Compliance Request-45&51 Nashua Rd-109-1195/BBL-1195 – the outstanding issue was the submitted plan which did not include a reference scale. Revised plans have been submitted which include a scale. Minor changes were outlined and staff recommended issuing a Certificate of Compliance. **MOTION:** TO issue a Certificate of Compliance. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Carried. All in favor.

Appointment to Cabot Land Use Committee – **MOTION:** TO appoint Betsy Gallagher. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Carried. All in favor.

Enforcement Updates

46 Cook Street – Ms. Tourkantonis updated the Members. She has met with the homeowner who has since hired a wetland consultant, Leo Garneau, to delineate the historic wetland line on the property. Mr. Garneau will compile a wetland restoration and replication plan.
Gianacopolis – since the Director’s last update he has met with Beals and Mr. Gianacopolis who has removed some items and remedied some areas.

Policy on Remote Participation – the Chair advised the Members that the Planning Board voted against accepting the policy and that he was not in favor of it. After some discussion the Members voted on acceptance of the policy. **MOTION:** NOT to accept remote participation. Moved by Commissioner Giovino, seconded by Commissioner Gallagher. All in favor.

Duplicate Certificate of Compliance. **MOTION:** TO sign a duplicate copy of a Certificate of Compliance for 109-54 for recording purposes. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Carried. All in favor.

Discussion: Meeting Length – The Director will be meeting with Town Counsel on ways to shorten the length of meetings. Commission Members were asked to consider ways to shorten the length of meetings.

9:00pm MOTION: TO adjourn. Moved by Commissioner Bowen, seconded by Commissioner Gallagher. Carried. All in favor.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Janine Depper-Nash, Isabel Tourkantonis