



Billerica Board of Health

Town Hall
65 Boston Road
Billerica, MA 01821
Phone: 978-671-0931
Fax 978-671-1342

Web Site www.town.billerica.ma.us

Robert Reader, Chairman
Sandra Giroux, Vice Chair
Amit Gandhi, Ph.D., Secretary
Marie O'Rourke
Chris Ravin

Kristel Bennett, Director

BOARD OF HEALTH MINUTES February 6, 2023

Robert Reader, Vice Chairman called the meeting to order at 7:00 p.m. Also in attendance were Amit Gandhi, Ph.D., Secretary, Marie O'Rourke, Chris Ravin, Kristel Bennett, Director and Joanne White, Recording Clerk. Sandra Giroux, Vice Chair was absent.

OPEN MICROPHONE

Mr. Reader asked if anyone would like to comment on Open Microphone.

Mark LaLumiere. Building Commissioner for the Town of Billerica, identified himself. Mr. LaLumiere stated that he was present to give an update on 21 Canterbury Street and the building code violations. Mr. LaLumiere explained that Health Agent, Phavy Pheng has been working with this property for a long time. In August 2022, the exterior wall of the house collapsed. The Building Department responded and put caution tape around the property. This structure is a public nuisance. At the Select Board meeting of October 17, 2022 I brought this to the attention of the Select Board and they declared it a public nuisance. Under the Building Code and Massachusetts General Laws there are procedures that have to be followed to declare it a public nuisance. Mr. LaLumiere explained the process that had to be followed. I notified Town Counsel regarding the public nuisance. There are a number of heirs involved. Because of the number of heirs that have a right to the property Town Counsel informed me that we have to go before the court system and request that information be published in the newspaper instead of by certified mail. We are in the process of notifying the heirs. Right now, there are 33 heirs. I reached out to Mr. Cooke and as a new owner of a public nuisance he is required to have property demolished. The Town will have no further involvement with this property. The other property that I would like to update the Board on is 423 Middlesex Tpke. As you know there is a lawsuit against the Zoning Board of Appeal (ZBA), Kristel Bennett and myself regarding this property. The property is in the Green Engineering Flood Plain (GEFP). The owner applied for a Variance in 2015 and there were a couple of conditions in the variance regarding the flood plain. The owner went before the Conservation Commission in 2015 and received approval. In September of 2015 a Building Permit was issued. The project was built and completed in June 2016 and signed off by all departments. In the Spring of 2021, the abutter at 421 Middlesex Turnpike contacted the Town and expressed concerns about flooding problems. The Town has gone through all kinds of efforts to determine what the cause is and what the fix could be.

This project was completed prior to Kristel Bennett, being the current Director. I spoke with Richard Berube the Director of Public Health regarding this concern. The Board should talk to Mr. Berube. This is a good example of the Stormwater By-Law changes that I am in support of. This property is not in the FEMA Flood Plain and is therefore exempt from the Building Code requirements for construction in the flood plain. It is not recognized by the State. Kristel has no involvement in this project.

Mrs. O'Rourke asked is the GEFP stricter than our local flood plain?

Mr. LaLumiere replied it encompasses more area. I don't know when the GEFP was last updated.

Mr. Reader asked if there is anyone else that would like to comment on Open Microphone.

Kelley Sardina, identified herself. Ms. Sardina stated that she has two (2) concerns regarding the project that will be constructed at 279 Boston Road. I am hoping that this Board will put rigid conditions on this project. A Variance has been approved by the Conservation Commission. This project has also been approved by the Planning Board. I am concerned with the catch basins that will be installed. The building is going to be higher than the telephone poles on Bridge Street. Ms. Sardina expressed her stormwater concerns and runoff in that area. In 2015 there was flooding in that area. I just hope this Board is thorough when reviewing and approving this project.

Mr. Reader stated that 279 Boston Road is one of our hearings. Mr. Reader suggested that Ms. Sardina come back at 8:00 p.m. when the hearing is scheduled and present her concerns.

ACCEPTANCE OF MINUTES

Mrs. O'Rourke made a motion to accept the Meeting Minutes of January 9, 2023.

Dr. Gandhi seconded. So voted unanimously.

BOARD OF HEALTH BUSINESS

Next Meeting – March 6, 2023

Mr. Reader stated the next Board of Health Meeting is scheduled for March 6, 2023.

Health Department Activity Reports

Mr. Reader stated the next item under Board of Health Business is the Health Department Activity Reports.

Mr. Reader stated the first activity report is from the Public Health Nurse, Christine West. Mr. Reader asked the Board Members if they had any questions.

Dr. Gandhi stated that he is concerned because after May 11, 2023 the COVID-19 Public Health Emergency will end. The insurance company will start charging for vaccines, testing and treatments. Does the Board of Health have a lot of home testing kits available to give away?

Mr. Reader stated the next activity report is from Health Agent, Phavy Pheng. Mr. Reader asked the Board Members if they had any questions.

Mr. Ravin asked who the certified mail was sent to regarding the junk and debris at 4 Marshall Street. Mr. Ravin explained stated that currently the bank owns the property.

Mrs. Bennett replied that she will ask Phavy who she sent the certified mail to.

Mr. Reader stated the next activity report is from Health Agent, Shelagh Collins. Mr. Reader asked the Board Members if they had any questions.

Mrs. Bennett explained that Shelagh Collins was out sick with COVID so she was not able to inspect many Food Service Establishments.

Mr. Reader stated the next activity report is from Bethany Slack, Community Services Coordinator. Mr. Reader asked the Board Members if they had any questions.

Dr. Gandhi complimented Bethany on her efforts to coordinate and work with the COA and Library staff on the “Decluttering your home” event that took place at the Library on January 31, 2023.

Mr. Reader stated the last activity report is from Kristel Bennett, Director of Public Health. Mr. Reader asked the Board Members if they had any questions.

Mrs. O’Rourke asked what business is located at 44 Dunham Road.

Mrs. Bennett replied that it is a commercial building that failed Title 5 inspection and needed a new septic system. There is a lot of ledge in that area so they needed to blast before installing the new septic system.

Mrs. O’Rourke asked why was a new septic system needed at 417 Treble Cove Road.

Mrs. Bennett replied that 417 Treble Cove Road is a single family home and the septic system failed the Title 5 inspection. The owners are selling their home and needed to repair the system.

Dr. Gandhi asked what are the changes to the 2022 Food Code.

Mrs. Bennett replied that one of the changes is that the hot water temperature range at Food Service Establishments will be between 80-100 degrees instead of being at 110 degrees. The friction of the soap and rubbing will kill the bacteria so they changed the temperature. A new allergen product is sesame seeds so that will be added to packaged goods.

Dr. Gandhi asked when will the food code changes take place?

Mrs. Bennett replied that before the changes can take place Massachusetts has to adopt the code changes.

Mr. Reader asked were the Condo Trustees at 216 Rangeway Road satisfied with the Boards decision.

Mrs. Bennett replied the Condo Trustees were happy with the decision the Board made. They thought the time frame was very reasonable.

Mr. Reader commented that FB Realty Investments has purchased the property at 480 Boston Road from the Farmer's.

Mrs. Bennett replied there is wetlands and Green Engineering Flood Plain on the property where the drain line is going. FB Realty Investments will be presenting the plans to have the crushed drainpipe repaired or replaced.

FY024 Budget

Mr. Reader stated the next item under Board of Health Business is the FY024 Budget.

Mrs. Bennett explained that she wanted to provide the Board with a copy of the Fiscal Year 2024 budget. The budget is level funded except for a promotion of a staff member, cost of living increases and contractual obligations.

Mr. Reader asked the Board Members if they had any questions.

Dr. Gandhi asked how many years do you have to be employed with the Town to get longevity?

Mrs. Bennett replied you have to be employed with the Town for five (5) years..

BioBot Report

Mr. Reader stated the next item under Board of Health Business is the BioBot Report.

Mrs. Bennett explained that the BioBot Report indicates that the load of COVID in the wastewater system was higher last month. The load has decreased but it is still elevated.

Discussion of an Appeal for Denial of a Request for Variance Enforcement 423 Middlesex Turnpike

Mr. Reader stated the last item under Board of Health Business is the discussion of an Appeal for a Denial of a request for Variance Enforcement at 423 Middlesex Turnpike.

Mrs. Bennett explained that Mr. Berube is not available on Monday nights to come before the Board however if the Board has any questions, he will email them his response. Mr. LaLumiere has given me a report that a camera has been put in the drain line past the garage and the water went through and a dye test was done. As Mr. LaLumiere explained earlier notification was sent to us that we are being sued for this project. Town Counsel has recommended that the Board do nothing at all because this a court case.

Mr. Reader stated that the neighbors at 421 Middlesex Turnpike were against the project at 423 Middlesex Turnpike.

Mrs. Bennett explained that Mr. LaLumiere has sent a letter to the abutter, Shannon DeOliviera, 421 Middlesex Turnpike quoting what she stated during the variance hearing in 2015. Mr. LaLumiere responded to her in 2021 when she was complaining about the water on her property.

Mr. Reader commented that he is not surprised that the abutter is suing.

Mrs. Bennett explained that she is suing based on failure for the enforcement of the conditions of the original variance. The only condition that is outstanding is the flood vents in the garage. However, the amount of water on her property is from drainage not caused by the structure that was built.

Dr. Gandhi asked should we discuss this case because it is in the court system?

Mrs. Bennett explained that the Town's attorney from KP Law stated that we have two (2) options for responding to this request. One is to reject their request for the reasons stated or have a hearing with notice to the property owner holding the variance.

Mr. Reader asked the Board Members for their opinion.

Mr. Ravin stated that the Board do nothing.

Mrs. O'Rourke agreed.

Dr. Gandhi agreed.

Mr. Reader requested that a motion be made.

Mr. Ravin made a motion that the Board of Health Members do not take any action.

Mrs. O'Rourke seconded. So voted unanimously.

7:15 p.m. Bromate Letter Water Discussion

Mr. Reader stated the first hearing is a discussion regarding the Bromate Letter that was sent to all residents.

Mrs. Bennett explained that the Department of Public Works (DPW), Water Department followed proper protocol according to the State Regulations and the law. They provided notices to all residents and town departments. If the Board still has questions, I can invite the Water Department to come to the next Board of Health meeting.

Mr. Reader asked has the problem been corrected?

Mrs. Bennett explained the level of Bromate is the range for the whole year. The Water Dept. is constantly monitoring the water and increasing their sampling frequency. When they took water samples in October 2022, the Water Dept. noticed the Bromate was higher. They have put in

corrective measures to identify why the Bromate was higher. If the Board would like I can invite Fred Russell, Director of DPW to come to the next meeting.

Dr. Gandhi commented that the numbers were high in October 2022. Has the Town changed its technique? I would like the Water Dept. to make sure this incident does not happen again and what can we do to prevent it from happening again. I also want to know why the Board of Health was not notified and involved? I am satisfied that the numbers are back to normal.

Mr. Reader stated that he would like Mr. Russell to come and explain what happened. I would like to know where we are currently at and where do we go from here.

Mrs. Bennett stated that she would invite Fred Russell, Director of DPW to attend the next Board of Health meeting as long as the agenda is not too long.

7:30 p.m. Stormwater Regulations Presentation – Christina Papadopoulos

Mr. Reader stated the next hearing is the Stormwater Regulations Presentation.

Ms. Papadopoulos provided the Board Members with a slideshow of the Stormwater proposal.

Christina Papadopoulos, Stormwater Engineer for the Department of Public Works (DPW) identified herself. Ms. Papadopoulos explained that she is a Civil Engineer that specializes in stormwater. Ms. Papadopoulos explained that she worked in Chelmsford for 8 years as the Town Engineer, Westborough for 7.5 years as a Civil Engineer and did consultant work before that. I have been doing stormwater compliance since 2003. I worked on the MS4 program for compliance with stormwater management. I helped Westborough and Chelmsford develop Stormwater Bylaws. I am presently helping Billerica with their Stormwater Bylaws. Ms. Papadopoulos presented a slide show to the Board Members regarding the bylaw changes and explained: What is changing, Why do we need to change, When will it change, Who will it affect, Where the changes will happen, How much it will cost and What do we need to do. In the Spring, Town Meeting will need to vote on the changes to the Bylaws. If approved the Board of Health should hold a public hearing to discuss changes to their regulations. Ms. Papadopoulos also explained what the benefits would be to the Town.

Mrs. O'Rourke asked if the Board of Health will not be holding anymore stormwater hearings, who will?

Ms. Papadopoulos replied that there will no longer be public hearings for stormwater. DPW will collect input from the residents. DPW will send out notifications to residents informing them of the hearing and the residents can contact DPW with any concerns they may have regarding stormwater.

Mrs. O'Rourke asked what if they wanted to have a hearing?

Ms. Papadopoulos replied that they can bring up their stormwater concerns at other hearings.

Mrs. Bennett replied that this was discussed with the Planning Board and they are open to comments being given at a public hearing for the project. Ms. Papadopoulos will be responsible for

collecting the comments and responding to them. There is no law that states that you have to have a stormwater hearing for a project. The law requires that residents are provided written notification of the hearing.

Ms. Papadopoulos replied that DPW has to receive public input.

Mrs. Bennett replied that we are trying to reduce the redundancy for the applicant. The Board of Health meeting will be one less meeting the applicant will have to attend. The process can be done internally.

Mrs. O'Rourke commented that this will be better for the applicant.

Mrs. Bennett replied yes, it will reduce their time for a project to be approved. I usually schedule the project once the peer review is completed and Conservation has closed the project.

Mrs. O'Rourke asked will this process be as thorough.

Mrs. Bennett replied yes, Ms. Papadopoulos has the knowledge to approve stormwater projects.

Dr. Gandhi stated that he agrees and totally supports this process. However, the Board of Health still needs to be involved because stormwater involves public health. The DPW should not have total authority. I can support that DPW is the best qualified authority for stormwater regulations but the expertise in health related matters are the jurisdiction of the Board of Health. Most importantly stormwater and the presence of bacteria, viruses, contaminants also affects human health. In my view, the Board of Health should be involved with the revised stormwater regulations and discussions.

Mrs. Bennett asked do you think the Health Department should be involved or the Board Members should be involved with the projects.

Dr. Gandhi replied that DPW can go forward with this if there are any changes that involve public health the Board of Health should be involved. DPW would not have total authority.

Stephen Dresser, Dresser, Williams & Way identified himself. Mr. Dresser asked are the Board of Health Regulations going to be monitored by DPW or are they going to be DPW regulations?

Mrs. Bennett explained that the Board of Health Regulations, Chapter 5 & 6 will be revised and also used as well as the DPW Regulations.

Ms. Papadopoulos explained that in 2003 Environmental Protection Agency (EPA) established the National Pollution Distribution Elimination (NPDES) program because the leading cause of water pollution is stormwater pollution. The leading cause of stormwater concerns is construction activity or land disturbances. The materials that are being put on the ground are getting washed into the storm drains that is why a lot of towns are using DPW as the stormwater agents.

Dr. Gandhi stated that he agrees that DPW is the best qualified authority, however the Board of Health needs to be involved. I would like the language in the regulations to include the Board of Health.

Mr. Dresser stated that the subdivision law requires that the Board of Health be the authority for drainage under Massachusetts General Laws. I agree that that the Engineering Department be involved. It is a great direction to go in.

Ms. Papadopoulos explained that the Stormwater Management By-Law for DPW is currently Chapter XXV under the General By-Laws. It will be changed to be in full compliance with MS4 regulations. These regulations will apply to all construction activity or land disturbances. Ms. Papadopoulos explained where the changes would happen in the regulations. Once the regulations have been approved by Town Meeting the Board of Health will then hold a public hearing to explain the changes in the Board of Health Regulations for Stormwater.

Ms. Conway explained that the Board of Health Stormwater Regulations Chapters 5 & 6 will be used as a base for the DPW regulations.

Mr. Dresser reiterated that the Board of Health will have a public hearing to change the regulations to the new regulations.

Mrs. Bennett stated that the Board needs to vote to discontinue the Board of Health regulations. Mrs. Bennett explained that we are going to follow the process.

Mr. Dresser asked are the regulations going to apply to the scope of the work? The regulations are very important.

Ms. Sardina asked have the regulation changes been brought before the Bylaw Review Committee.

Mrs. Bennett replied that is part of the process.

Dr. Gandhi asked why do we need to change?

Ms. Papadopoulos replied even though Board of Health is the authorizing agent, they can authorize other departments to help. No additional staff is needed, DPW has the professional staff.

Mrs. Bennett explained that when an application is received the Board of Health will be notified so the project can be reviewed and make comments.

Dr. Gandhi asked do we have to vote on a decision today.

Mrs. Bennett replied no.

Ms. Papadopoulos explained that she is just presenting the information and looking for feedback. Ms. Papadopoulos explained the benefits of the changes.

Dr. Gandhi thanked Ms. Papadopoulos for her excellent presentation. As long as DPW is requesting Board of Health input, I can support the changes.

8:00 p.m. Golfo, LLC – 279 Boston Road – Request for Stormwater Approval

Mr. Reader stated the next hearing is the Golfo, LLC, 279 Boston Road, requesting Stormwater approval.

Mr. Dresser provided the Board Members with a large scale drawing of the proposed project to be located at 279 Boston Road.

Stephen Dresser, Dresser, Williams & Way, Inc. representing Golfo, LLC. identified himself. Mr. Dresser explained that present tonight is Michael Colomba, owner of Golfo, LLC and Brelundi Restaurant. The applicant proposes to demolish the existing building and parking lot and construct a multi-use building containing a restaurant, retail space and 21 residential units as per Section 5.E.11-Mixed Use Overlay Zoning District of the Billerica Zoning Bylaws at 279 Boston Road. The Planning Board and Conservation Commission have approved this project. The project has been reviewed and approved by BETA Group for stormwater management. The current drainage system on-site consists of two catch basins in the parking lot that drain directly out to the river. Mr. Dresser pointed to the plans and explained the location of the proposed drainage design that will consist primarily of deep sump catch basins and infiltration structures including a MASTep approved Isolator Row by Stormtech, LLC for the majority of the proposed paved surfaces. The drainage will come from the parking lot into the infiltration system and recharge. There are overflows in case of a 100-year storm. Mr. Dresser explained that the Isolator Row is a row of Storm Tech chambers that is completely encased in geotextile filter fabric and acts as a sediment trap. Mr. Dresser pointed to the plans and explained the pavement removal plan. The 3750-square foot reduction of impervious area meets the design standards. It will be a significant improvement to the environment. All the work is outside the Flood Plain. Mr. Dresser stated that Phil Paradis from BETA Group is present to answer any questions that the Board may have.

Phil Paradis, Project Engineer for BETA Group identified himself. Mr. Paradis explained that the project will reduce the existing impervious area that will reduce drainage to the river. The Isolator Rows will treat pavement runoff that provides the required 44% TSS removal and the recharge itself will provide the combination of 80% TSS removal. It will recharge greater than 1 inch of runoff. It will meet the phosphorous flow reduction requirements. The applicant has provided an Operation and Maintenance Plan and an Erosion and Sediment Control Plan. This project meets all the MassDEP Stormwater Standards as well as MS4. Mr. Paradis recommended that the 5 special conditions in his memo dated December 7, 2022 be included in the Board's decision.

Mrs. O'Rourke asked Mr. Paradis if he could explain SW33.

Mr. Paradis explained that the applicant needs to provide an Illicit Discharge Statement.

Dr. Gandhi asked Mr. Paradis to explain SW11 and the soil test.

Mr. Paradis explained that all the test pits have not been provided so BETA is requesting a test pit be provided for the location of each infiltration unit, so we know what the soils are prior to construction.

Mr. Reader asked Mr. Dresser if he agrees with the additional five (5) conditions recommended by BETA Group?

Mr. Dresser replied yes.

Mr. Reader asked if there were any abutters present that would like to comment.

Ms. Sardina asked about the snow removal plan and where would the snow be stored and after a snowstorm. How soon will the snow be removed?

Mr. Dresser pointed to the plans and explained where the snow would be stock piled. It was discussed at the Conservation Meeting. One person will be held accountable for the snow removal.

Ms. Sardina asked if the Board of Health can put a condition in their decision regarding snow removal.

Mr. Reader commented that the snow will be removed as soon as a snowstorm is over.

Ms. Sardina asked about the sidewalks that are being installed on Boston Road.

Mr. Dresser replied that anything that involves the curb cut on Boston Road goes through MASSDOT.

Ms. Sardina asked about the stairs and the curb cut.

Mr. Dresser pointed to the plans and explained the location of the stairs and that it would not extend into the sidewalk area. The Handi-Cap ramp will be an extension of the existing sidewalk. We are looking into putting in a bus stop.

Mrs. O'Rourke asked will there be a bus stop for the school children.

Mr. Dresser explained that the bus stop for children will be up on Bridge Street.

Dr. Gandhi asked will there be any reduction in the sidewalk?

Mr. Dresser replied that there will be no reduction in the sidewalk area. The applicant is going to provide bicycles for the occupants to share.

Dr. Gandhi asked will the bicycles be for the neighbors.

Mr. Dresser replied the bicycles are only for the tenants.

Dr. Gandhi made a motion to grant the Stormwater Management Permit for 279 Boston Road and include the additional five (5) conditions recommended by BETA Group based upon the following findings of fact and pursuant to the following conditions:

FINDINGS OF FACT

- 1) The work described in the applicant's request is within an area subject to protection under the Billerica Health's Rules and Regulations, Chapter 5, Section 5.5.005(1) and Chapter 6 inclusive.
- 2) The Board of Health conducted a public hearing on February 6, 2023 for the proposed project and properly notified abutters in accordance with Billerica Health Regulations, Chapter 1, Section 1.2.007.
- 3) The 1.77 acre project site is located at the south corner of the intersection of Boston Road and Bridge Street. The site is currently developed, with the majority of the site consisting of impervious surfaces (pavement and an existing commercial building). The site abuts the Concord River to the east and is partially located within a FEMA Flood Zone. NRCS soil maps indicate the presence of Merrimac-Urban Land Complex rated in Hydrologic Soil Group (HSG) A (high infiltration), Windsor Loamy Sand with an HSG of A, and open water.
- 4) The applicant proposes to demolish the existing building and parking lot and construct a multi-use building containing a restaurant, retail space, and 21 residential units. Access to the site will be reuse of existing driveways off Boston Road and Bridge Street. The project includes reducing overall impervious surfaces and constructing a stormwater management system.
- 5) The project is subject to the requirements of Chapter 5 and 6 of the Board of Health (BOH) Regulations. Per the Stormwater Management Bylaw, Chapter 6 of the BOH Regulations applies to the project as it will disturb greater than 1 acre of land.
- 6) A portion of the parcel is located within a FEMA mapped 100-year flood plains for the Concord River with an elevation of 118.0. The Green Engineering Flood Plain (GEFP) Map No. 52, indicates a flood elevation of 122. With the rollback of 3 feet (§5.5.005(8)) and adjustment to NAVD88 the elevation is similar at 118.2. Based on the site plans, work within the flood plain will include a riprap apron associated with the stormwater management system. Limited grading and tree clearing is also likely to occur within the flood plain. Work within 25 feet of the flood plain includes paving, grading, drainage pipes, and a subsurface infiltration system. Work within 100 feet of the flood plain includes the construction of the proposed building. Chapter 5 of the BOH Regulations applies to the project for development within the Flood Plain.
- 7) The stormwater management design proposes to collect stormwater runoff into three new subsurface stormwater systems located on the eastern portions of the Site. Conveyance to these systems is provided via a new closed drainage system consisting of catch basins, drain manholes, and roof leaders. System overflow will be discharged towards the Concord River to the east via a new outfall. There is a small area (4,300 sq. ft.) between the proposed building and Boston Road that will not be captured by the site drainage system. This area includes the proposed walkway and landscape area. Stormwater runoff will sheet flow off the walkway, across the landscape area and then to the existing catch basins in Boston Road. It is proposed that there will be no noticeable impact to the street

drainage system.

- 8) An independent peer review of the proposed project for stormwater management was completed by Philip Paradis of BETA Group the Board of Health's Consulting Engineer. The peer review was streamlined with the Conservation Commission for compliance with Wetland Regulations, Stormwater Management Standards, and Flood Plain Regulations. The following documents were received and reviewed by BETA:
 - a. Site Plan and Plans (7 sheets) entitled *Concord Shores in Billerica, Mass*, dated September 22, 2022, final revision date December 13, 2022, prepared by Dresser, Williams & Way, Inc. Signed and stamped by Stephen Dresser RPE# 49202.
 - Sheet 1 – Cover
 - Sheet 2 – Existing Conditions
 - Sheet 3 – Site Grading Plan
 - Sheet 4 – Erosion Control Plan
 - Sheet 5 – Drainage Profiles
 - Sheet 6 – Detail Sheet 1
 - Sheet 7 – Detail Sheet 2
 - b. Stormwater Drainage Report with drainage calculations and Stormwater Management Maintenance Manual for Concord Shores, 279 Boston Road, Billerica, MA: Prepared by: Dresser, Williams & Way, Inc.; dated: September 2, 2022, final revised date: December 12, 2022.
- 9) The Public Works Engineering Department has reviewed the stormwater project design for compliance with stormwater management standards.
- 10) The Board of Health will impose reasonable conditions to ensure the project is constructed in accordance with approved plans.
- 11) The Board of Health has determined that the actions proposed by the applicant are adequate measures to protect the public health and environment and complies with the intent of Board of Health Rules and Regulations. Further, approval of the applicant's request will not be detrimental to the public health and environment.

CONDITIONS

Special Conditions #1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 24, 25, 26, 27, 28, and 29.

- A. All construction must be in accordance with the plans submitted for review and approval:
 - a. Site Plan and Plans (7 sheets) entitled *Concord Shores in Billerica, Mass*, dated September 22, 2022, final revision date December 13, 2022, prepared by Dresser, Williams & Way, Inc. Signed and stamped by Stephen Dresser RPE# 49202.
 - i. Sheet 1 – Cover
 - ii. Sheet 2 – Existing Conditions
 - iii. Sheet 3 – Site Grading Plan
 - iv. Sheet 4 – Erosion Control Plan
 - v. Sheet 5 – Drainage Profiles
 - vi. Sheet 6 – Detail Sheet 1

- vii. Sheet 7 – Detail Sheet 2
 - viii. Stormwater Management Maintenance Manual, dated September 2, 2022 and final revised date: December 12, 2022.
- B. The applicant shall submit a cash bond or surety to the Board of Health prior to the preconstruction meeting. The amount of the cash bond or surety will be determined by the Director of Public Health. Bonds required for projects shall be equal to ten (10) percent of the estimated projection stormwater construction cost (including excavation and backfilling, structures, and piping). The cash bond shall be deposit in a bank selected by the Board of Health with release signed by the applicant. The bond shall be kept for a minimum period of one (1) year after the date of issuance of a certificate of compliance. Said bond shall be posted and used by the Board of Health correct any violations as determined by the Board of Health, if an applicant refuses to correct a violation or public health nuisance after notice has been provided. The bond shall be posted prior to the approval of permits.
- C. In coordination with the Conservation Department and the Board of Health, the applicant shall retain the services of an independent Consulting Environmental Stormwater Monitor to monitor construction activities and conduct inspections. The Consulting Environmental Stormwater Monitor must be qualified and pre-approved by the Board of Health Director and the Director of Environmental Affairs. The applicant shall pay the cost of the scope of services fee for stormwater monitoring provided by the Consulting Environmental Stormwater Monitor for the duration of the project, said fee shall be paid prior to the preconstruction meeting. The role of the Consulting Environmental Stormwater Monitor shall be to assist the Board of Health in its oversight of construction activities including but not limited to 1) installation of drainage/ stormwater management system; 2) inspect construction activities occurring within the local floodplain; and 3) overall compliance with the conditions listed in this approval. Specific duties include:
- (a) Review the Stormwater Pollution Prevention Plan and make recommendations for proposed changes if necessary.
 - (b) Advise on current erosion and sedimentation control practices and make recommendations for proposed changes, if necessary.
 - (c) Ensure adherence to this approval letter and report any non-compliance to the Board of Health.
 - (d) Attend the pre-construction meeting and conduct periodic inspections during stormwater/drainage construction, test pits to verify subsurface soil conditions and groundwater elevations, buffer zone restoration activities, and dewatering activities; periodically inspect erosion controls; oversee any emergency placements of controls and regular inspection or replacements of erosion and sedimentation control devices.
 - (e) Provide weekly to bi-weekly monitoring reports/memorandums during the period(s) when work is being conducted or as directed by the Director of Public Health. Said memos shall include photographic documentation of on-going work.

- (f) activities and summarize work complete, any problems that arise and corrective measures needed in the field. The Applicant will be supplied with all reports submitted by the Board of Health Consulting Environmental Stormwater Monitor. The Applicant will be expected to make said changes immediately as identified and requested by the Board of Health Consulting Environmental Stormwater Monitor.
 - (g) Conduct review of the as-built plan required as part of the Request for Certificate of Compliance review.
- D. The Board of Health Consulting Stormwater Monitor shall monitor all stormwater activities and conduct inspections to ensure compliance with approved plans and conditions. All inspections shall be conducted in accordance with an inspection schedule approved by the Director of Public Health.
- E. If dewatering is determined to be necessary during work, the applicant shall submit a dewatering plan to the Board of Health for review and approval prior to any dewatering activity occurring.
- F. An as built plan shall identify the new existing conditions of the site as they relate to the as-built conditions, be submitted to the Board of Health before the approval of any occupancy permit, or other documentation to satisfy the intent of the Board of Health's approval of any project. A certification from the design engineer should be shown on the plans identifying that the plan is within substantial conformance with the approved plans. If not, then the design engineer should state the differences on the as-built plan vs. the approved plans along with a description in writing to the Board of Health about the changes.
- G. The Board of Health Consulting Environmental Stormwater Monitor shall review the as built to ensure compliance with approved plans and conditions. The applicant shall pay the cost of the scope of services fee for the stormwater as built, said fee shall be paid to the Board of Health prior to issuance of an occupancy permit or Certificate of Compliance.
- H. The applicant shall provide soil tests within footprint of proposed infiltration system prior to installation.
- I. The soil conditions in the area of the proposed infiltration basin are to be observed by an agent of the Town following excavation to subgrade elevation to verify soil conditions.
- J. The applicant shall provide copies of the final signed SWPPP, Notice of Intent, and EPA letter of approval Billerica Board of Health Regulations 6.6.013(1) per NPDES General Permit for Stormwater Water Discharges from Construction Sites including requirements of Billerica Board of Health Regulation 6.6.013 prior to the preconstruction meeting.
- K. The approved and signed Operations and Maintenance Plan Agreement shall be recorded with the Middlesex Northern Registry of Deeds and a recorded copy shall be submitted to the Board of Health prior to the issuance of a Certificate of Compliance with the Board of Health.

L. The applicant shall provide a signed illicit discharge statement prior to the preconstruction meeting.

Mr. Ravin seconded. So voted unanimously.

8:10 p.m. Patrick Pulliam – 3 Jordan Road – Request for a Variance

Mr. Reader stated the next hearing is Patrick Pulliam, 3 Jordan Road, requesting a Variance.

Mr. Dresser provided the Board Members with a large-scale drawing of the proposed project to be located at 3 Jordan Road.

Stephen Dresser, Dresser, Williams & Way, Inc. representing Patrick Pulliam, identified himself. Mr. Pulliam proposes to construct an addition on the side of his home. There is an isolated Green Engineering Flood Plain (GEFP) in this location. Based on historic information and current conditions the water has not risen in this area. Mr. Dresser explained the isolated flood plain study was done between 1971 and 1979 and how it was determined that the GEFP was only an isolated pocket in that area. The applicant proposes to construct a 2 ft by 2 ft stone trench with an infiltration system around the perimeter of the driveway to capture runoff from the driveway.

Mr. Reader asked is the proposed addition in the flood plain.

Mr. Dresser explained that the proposed addition is not in the flood plain. The driveway is in the alleged flood plain.

Mrs. Bennett explained that the stone trench will capture runoff from the garage and the infiltration system will capture roof runoff from the addition.

Mr. Reader asked if any abutters were present and would like to express their concerns.

Barbara Newell, 7 Jordan Road identified herself. Ms. Newell stated that she lives next door to 3 Jordan Road. There is an empty lot in between the two houses. I have never had water flood my property. I want to make sure the addition is not going to create any water problems on my property.

Mr. Dresser explained that there will be stone around the driveway so the runoff will go into the ground and not on anyone's property.

Ms. Newell stated that she has lived there a long time and has never had water and does not want any water problems.

Mrs. O'Rourke made a motion to grant a Variance to construct an addition with a garage within one hundred feet (100) of the Flood Plain at 3 Jordan Road, based on the following findings of fact and pursuant to the following conditions:

FINDINGS OF FACT

- 1) The work described in the applicant's request is within an area subject to protection under the Billerica Health's Rules and Regulations, Chapter 5, Section 5.5.005 (1).

- 2) The applicant proposes to construct a 30' x 36' addition and driveway on the northwestern side of the existing dwelling. The proposed addition will be located approximately four (4) feet from the Green Engineering Floodplain. The applicant proposes to construct a 2' x 2' stone trench around the perimeter of the driveway to capture runoff from the driveway and an SC-310 Infiltration Unit to capture the roof runoff from the addition.
- 3) The Board of Health has determined that the actions proposed by the applicant are adequate measures to protect the public health and environment and complies with the intent of Board of Health Rules and Regulations. Further, approval of the applicant's request will not be detrimental to the public health and environment.

CONDITIONS

Special Conditions #1, 2, 3, 4, 5, 6, 9, 10, 13, 14, 15, 24 and 25.

- A) All construction must be in accordance with plans submitted for review and approval, entitled Plot Plan of Land – 3 Jordan Road prepared by Dresser, Williams & Way, Inc. dated October 25, 2022, and stamped by Stephen Dresser Registered Professional Engineer # 49202.

Dr. Gandhi seconded. So voted unanimously.

8:20 p.m. Melvin Martinez – 34 Riveredge Road – Request for a Variance for work within the Flood Plain

Mr. Reader stated the next hearing is Melvin Martinez, 34 Riveredge Road, requesting a Variance for work within the Flood Plain.

Mr. Kemmett provided the Board Members with a large-scale drawing of the proposed project to be located at 34 Riveredge Road.

Dominic Kemmett, Oxbow Associates, representing Melvin Martinez identified himself. Mr. Kemmett explained that the applicant proposes to construct a deck and patio within the Green Engineering Flood Plain (GEFP) at 34 Riveredge Road. The applicant has gone before Conservation and approval has been granted with conditions. The patio will utilize the existing footings from a previously removed deck. The existing concrete dock and walkway will be removed and replaced with a natural pathway and removable floating dock. The proposal is to naturalize portions of the inner wetland buffer zones with native plantings. The existing dwelling and its associated structures currently occupy about 3,364 cubic feet of flood plain. The construction of the foundation for the rear of the building will be within the existing footprint of the house. There will be some reconstruction of the deck and some minor grading where the previous retaining wall was to the southwest of the house. Proposed grading will move the retaining wall further into the slope. The plan is to remove material in the flood plain so that there will be no net loss of flood plain storage. Removal of the concrete dock and walkway will result in a 9.79 cubic foot reduction of material within the flood plain.

Mr. Reader asked the Board Members if they had any questions.

Mrs. O'Rourke asked Mr. Kemmett to point to the plans explain what is being proposed.

Mr. Kemmett pointed to the plans and explained where the project was going to be located.

Mr. Reader asked if the foundation behind the deck was going to remain?

Mr. Kemmett replied yes.

Dr. Gandhi asked has anything changed since the pictures were taken in June 2022.

Mr. Kemmett replied nothing has changed.

Dr. Gandhi asked will the wetlands scientist be present during all work related to the removal of the dock?

Mr. Kemmett replied that is one of the conditions that was stipulated in the Conservation's approval.

Mr. Reader asked if any abutters were present.

No abutters were present.

Mr. Ravin made a motion to grant a Variance to construct a deck and patio within one hundred (100) feet of the Flood Plain at 34 Riveredge Road based on the following findings of fact and pursuant to the following conditions:

FINDINGS OF FACT

- 1) The work described in the applicant's request is within an area subject to protection under the Billerica Health's Rules and Regulations, Chapter 5, Section 5.5.005 (1).
- 2) The applicant proposes the following construction activities that is located within the Green Engineering Flood Plain and FEMA Flood Plains. There will be no filling in of the floodplains.
 - Construct an 8' x 10' brick patio at the end of the western driveway.
 - Install a 2' x 2' stone drainage trench at the low side of the patio to capture runoff from the driveway and patio.
 - Install a 2' x 2' stone drainage trench at the low side of the eastern driveway.
 - Construct a 14' x 11.83' deck connected to southern side of dwelling. There will be a crushed stone surface below the deck and there will be ¼" spacing between decking materials to allow for water to drain off the deck.
 - Remove the concrete walkway and dock.
 - Install a floating dock. The off-season storage for the floating dock will be adjacent to the concrete wall on the eastern side of the property.
- 2) The Board of Health has determined that the actions proposed by the applicant are adequate measures to protect the public health and environment and complies with the intent of Board of Health Rules and Regulations. Further, approval of the applicant's

request will not be detrimental to the public health and environment.

CONDITIONS

Special Conditions #1, 2, 3, 4, 5, 6, 9, 10, 13, 14, 15, 24 and 25.

- A) All construction must be in accordance with plans submitted for review and approval, entitled Plan of Land - 34 Riveredge Road prepared by Places Associates, Inc. dated August 30, 2022 last revised dated January 30, 2023 and stamped by Susan E. Carter Registered Professional Engineer # 41270.

Mrs. O'Rourke seconded. So voted unanimously.

8:30 p.m. FB Billerica Realty Investors – 480 Boston Road – Project Update

Mr. Reader stated the next hearing is FB Billerica Realty Investors, 480 Boston Road, project update.

Mr. Williams provided the Board Members with a large-scale drawing showing the update of the project to be located at 480 Boston Road.

Tim Williams, Civil Engineer, Allen & Majors Associates, identified himself. Mr. Williams introduced Jim Silva, representing the developer and Tim Bennett contractor for the project. Mr. Williams explained that in 2021 the applicant presented the Shops of Billerica project for Stormwater Management and received approval. In November 2022, the applicant came back before this Board for an amendment of the Stormwater Management System on the site. Mr. Williams pointed to the plans and explained that the areas in green have been completed. The yellow is what is currently being worked on. Mr. Williams pointed to the plans and explained the two (2) infiltration systems and the additional soil testing that was witnessed by BETA Group. There was a retaining wall that ran behind the pond that the developer of the Shops bought from the Farmers family. That enabled us to eliminate the retaining wall and grade out to the property that is owned by the developer. The Conservation Commission granted approval. One of the conditions required by this Board was to camera the 18-inch line that came out of the detention pond. The contractor camera the first 75 feet of the line and it wasn't in great shape, so the developer decided to replace the entire line in kind. Mr. Williams pointed to the line and explained that the first stretch of the line was 82 feet, then 186 feet and 72 feet. Mr. Williams pointed to the plans and explained the pipeline that would be replaced. The pipe is down really deep, so we thought it would be in the best interest of the project to limit the disturbance within the easement and raise the pipe to a higher elevation and then fill in the existing pipe. I have been working with BETA Group on the calculations. Raising the pipe will not cause any more disturbance. It will be in the exact same alignment but just a little higher.

Mrs. O'Rourke asked is that the crushed pipe that a camera is going to be used for?

Mr. Williams replied yes, it is the one out of the former detention pond. When they finally cleared the pipe and were able to get a camera down it, there was an obstruction in the pipe down 75-80 feet and at first they were just going to fix the obstruction. The pipe is old and was installed in the 1970's. When talking to the developer he stated that he just wanted to replace the entire line in kind.

We are outside the Conservation buffer zone. I am requesting that this Board approve replacing the pipe at a higher elevation.

Mr. Reader asked where is the pipe going to go?

Mr. Williams explained the pipe runs behind St. Theresa's Church and ties into the culvert at Webb Brook. The stream goes down Tower Farm Road and crosses over to Frost Street and out to Whittier Street. We are not changing the direction of the flow of water, we are just replacing the pipe.

Phil Paradis, Project Engineer for BETA Group identified himself. Mr. Paradis explained that the Town is replacing the drainpipe at Frost Street they have already replaced two (2) portions of that pipe. There are two (2) major changes. The first thing is elimination of the retaining wall, the reduction in maintenance and the increase the safety factor of the berm. The second thing is raising the elevation of the pipe. There is no reason why the pipe cannot be raised. It is open land and there is no traffic.

Mrs. Bennett suggested that a motion be made to approve the changes from the original Stormwater Management permit that was issued.

Mrs. O'Rourke made a motion to approve the changes to 480 Boston Road project.

Mr. Ravin seconded. So voted unanimously.

8:40 p.m. Guilherme Domingues – Bella Pizza – 113 Boston Road – Continued Hearing

Mr. Reader stated the last hearing is Guilherme Domingues, Bella Pizza, 113 Boston Road continued hearing for a Waiver of Regulations for an exterior grease trap.

Mrs. Bennett explained that Mr. Domingues, Bella Pizza is not ready to come before the Board with the information that the Board requested at the last meeting.

Mrs. O'Rourke made a motion to continue the hearing until Mr. Domingues has all the necessary information that the Board requested.

Dr. Gandhi seconded. So voted unanimously.

Mrs. O'Rourke made a motion to adjourn.

Mr. Ravin seconded.

The Board adjourned at 9:15 p.m.

Respectfully submitted,

Sandra Giroux
Secretary

Joanne M. White
Recording Clerk