



Billerica Conservation Commission

TOWN HALL, 365 BOSTON ROAD
BILLERICA, MASSACHUSETTS 01821
TELEPHONE (978) 671-0966



MEETING AGENDA
March 8, 2023
6:30 PM
Town Hall, Room 210
365 Boston Road, Billerica MA

Attendance: Commission Members Bill Bulens (Chair), JoAnne Giovino (Vice Chair), Diane DePaso (Secretary), Paul Hayes, and Jack Bowen. Staff Members Isabel Tourkantonis (Director of Environmental Affairs), Mike DeVito (Conservation Land Use Assistant), and Kristina Bernard (Senior Clerk)

I. **6:30 PM – PUBLIC COMMENT** - None

II. **NEW WETLAND HEARINGS:**

- **6:32PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – 69 Treble Cove Road – Applicant: Corey Lang – DEP File No. 109-1531/BBL-1531

Documents Submitted:

02/22/2023 Received a Notice of Intent from Stephen Dresser with Dresser, Williams, and Way for 69 Treble Cove Road, Site Plans, stamped and signed by Stephen Dresser, dated on February 17, 2023, scale 1" – 20' (DEP #109-XXXX)

Stephen Dresser with Dresser, Williams, & Way, Inc. presented the project to construct a detached garage and driveway. The garage and driveway will be bordered by a stone trench to promote infiltration of stormwater and ground water recharge. There is a proposed post and rail fence at or close to the 25-foot No Alteration Zone. A variance was also requested for addressing work within the 25-foot NAZ for the restoration work and an increase in impervious surface area. Steve Dresser pointed out that there is a mapped Natural Heritage Endangered Species Program (NHESP) for rare species habitat behind the subject property. However, no work is proposed within the NHESP mapped habitat.

Isabel Tourkantonis, Director of Conservation discussed the site inspection and mentioned that there was snow cover at the time of the visit and there was standing water at wetland flag 3A, which is exactly where the edge of the wetland was flagged. Based on the site inspection and various observations, the wetland delineation appears low by about 5 to 10 feet in some areas and likely to be coincident with the limit of Green Engineering Flood Plain near the 123-foot contour. Soils should be reviewed. Staff noted that the scale is incorrect and discussed native trees and shrubs be planted to restore mowed portions of the wetland boundary and inner buffer zone.

Corey Lang, applicant spoke on the project and mentioned that there are approximately 8 to 10 trees that are about 40-feet tall in the No Alteration Zone they intend to preserve.

Review comments from the Commission members and staff included: stake out proposed project, correct the scale on plan, reference required variance requests on plan, use wildlife seed mix for the restoration area where gravel and tarp must be removed, correct the Operation and Maintenance Plan (O&M Plan) to reflect one garage not two; add the new section regarding the No Alteration Zone, and in the Notice of Intent under By-Law, section C page 2 of 5, project impacts of impervious areas needs to be completed.

Motion: TO continue to the March 22, 2023, meeting made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

III. CONTINUED WETLAND HEARINGS:

- **6:50PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 331 Treble Cove Road – Applicant: Richard Maclean, Lantheus Medical Imaging – DEP File No. 109-1517/BBL-1517

Documents Submitted:

03/2/2023 Received a revised Stormwater Management Report with an O&M Plan and a revised site plan set from Pare Corporation. Plan set signed and stamped by James A. Jackson JR. Civil No. 42563 Scale as soon on plans for 331 Treble Cove Road (DEP File No. 109-1517)

03/08/2023 Received Revised Plans, Jelly-Fish Bro-Web pdf., Rain Guardian Bunker Turret Handout, from James Jackson with Pare Corporation for 331 Treble Cove Road (DEP #109-1517)

03/08/2023 Received a Stormwater Peer Review Update from Philip Paradis with BETA Group for 331 Treble Cove Road (DEP #109-1517)

03/08/2023 Received an email with attached Revised General Plans, Grading and Drainage Plan, and an O&M Plan from Jim Jackson with the Pare Corp for 331 Treble Cove Road (DEP #109-1517)

Jim Jackson, Managing Engineer with the Pare Corporation reviewed the revised plan including the edits and improvements to the project. He noted the plan was revised to include the 100-foot buffer zone boundary, four rain guardians and Jelly fish filtration stormwater devices on the site to pre-treat the storm water before it enters the proposed grass swale. The applicant has been working with BETA, the peer reviewer, and feel they have addressed all of BETA's and the Commission's comments to improve the project. They will also be removing 5,000 square feet of pavement from the front of the building and adding a bioretention area.

Isabel Tourkantonis, Director of Conservation went over information that she and Christina Papadopoulos from the DPW discussed. She reviewed the DPW comments, some of which pertain to the O&M Plan and BMP Plan. There was discussion regarding an O&M Plan required for the whole campus, not just the subject lot.

Philip Paradis, Peer Reviewer with Beta Group spoke on the Stormwater Peer Review and confirmed that the applicant has responded to their comments and revised the plan to meet various stormwater standards.

Review comments from the Commission members and staff included: label and show limits of the 15-foot grass swale, 5-rain guardians, the stormwater swales, snow storage location, add no salt use, no snow dumping signage, revise the O&M Plan to include spill containment kit on site and the location, specify times of year for jellyfish and rain guardian inspections on the BMP and O&M plan, add construction sequence on the plan, and an Environmental Monitor is needed during installation of stormwater management BMPs.

The Commission made a condition that if any changes are made to the plan, the change(s) would need to be approved by the Commission prior to any work being completed. This would include the potential sidewalk that was required as part of the Planning Board process.

The Commission had a very lengthy discussion regarding the O&M Plan and snow storage, the Jellyfish filtration and rain guardians BMPs, visual barrier/ with signage, spill containment kit, de-icing, and snow removal. The construction sequence was briefly discussed as well. They addressed the visual barrier and would like to see a fence and or a guard rail at the limit of the parking lot to protect the vegetated stormwater swale from trucks, cars, and plowed snow. Environmental signage and placards must be installed along the visual barrier and existing chain link fence.

Motion: To continue to the March 22, 2023, meeting made by Commissioner JoAnne Giovino, seconded by Commissioner Diane DePaso. All in Favor. Carried Unanimously.

- **7:35PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 805 Middlesex Turnpike – Applicant: Factorial, Inc. c/o The Morin-Cameron Group Inc. – DEP File No. 109-1528/BBL-1528

Documents Submitted:

03/1/2023 Received a revised Long Term Stormwater Best Management Practices O&M Plan, a Response to Comments letter, and a revised site plan set from The Morin-Cameron Group, Inc. Plan set signed and stamped by Scott P Cameron Civil No. 47601, Scale as soon on plans for 805 Middlesex Turnpike (DEP File No. 109-1528)
3/2/2023 Received the Peer Review from DPW – Engineering Department for 805 Middlesex Turnpike (DEP #109-1528)
3/6/2023 Received a DPW Review email from 805 Middlesex Turnpike dated March 6, 2023 (DEP #109-1528)
03/7/2023 Received a Revised Long Term Stormwater Best Management Practices O&M Plan, a Response to Comments letter, and a revised site plan set from The Morin-Cameron Group, Inc. Plan set signed and stamped by Scott P Cameron Civil No. 47601, Scale as soon on plans for 805 Middlesex Turnpike (DEP File No. 109-1528)

Jarret Bastys, Assistant Project Manager with The Morin-Cameron Group Inc, presented the continued hearing and went over all of the requested revisions made by the Commission, as well as the Town Engineering Department. The following information was added to the plans: easement lines, extended guardrails at the edge of the parking lot and the basin location, environmental placards/signage along the guardrails, notes to the plan to replace any broken curbing as necessary. Additionally, an Operation and Maintenance plan was submitted.

Isabel Tourkantonis, Director of Conservation informed the Commission that there was additional review by the Engineering Department due to existing nearby water line, fire hydrant and drainage, including a manhole. She noted the Engineering Department reviewed and was on board with the revised plan. Overall review comments from the Commission members and staff included: Add: do not use pesticides, fertilizers etc. within 25-feet of No Alteration Zone, clarify in a revised O&M Plan that parking lot sweeping is to be done no later than April 15th and no later than October 30th.

Motion: TO approve variance 3.03. C.3.b 25-foot No Alteration Zone made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

Motion: TO close, sign, and issue the Order of Conditions made by Commissioner, JoAnne Giovino, seconded by Commissioner, Jack Bowen. All in Favor. Carried Unanimously.

- **7:48PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent– Continued Public Hearing – 46 Elsie Avenue – Applicant: Semehar Tesfaye– DEP File No. 109-1474/BBL-1474

Documents Submitted:

03/6/2023 Received denial letter and appeal application for 46 Elsie Avenue from the Building Department (DEP File no. 109-1474)

The applicant was not in attendance and no formal request to continue the hearing was submitted to the Commission prior to the hearing. The Commission briefly discussed the NOI materials and supplemental information that the applicant had submitted to-date, including the denial letter issued by the Building Department. After careful review and consideration, the Commission determined that the applicant had not met the burden of proof or demonstrated the project would contribute to the protection of interests in the Act and the Bylaw, and that the applicant has not submitted the information requested by the Commission to demonstrate the project will not have a negative impact to the associated resource areas, specifically Bordering Lands Subject to Flooding (310 CMR 10.57).

Motion: TO close the hearing and issue a denial made by Commissioner JoAnne Giovino, seconded by Commissioner Paul Hayes. All in Favor. Carried Unanimously.

- **7:51PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – Yankee Doodle Bike Path – Applicant: Town of Billerica DPW – DEP File No. 109-1524/BBL-1524 (*Continue to 3-22-2023*)

Documents Submitted:

02/8/2023 Received the Stormwater Peer Review from Beta and a Peer Review from Patrick Garner with Patrick Garner Company Inc. for the Yankee Doodle Bike Path Project (DEP #109-1524)

Motion: TO continue to the March 22, 2023, meeting per the applicant's request made by Commissioner Jack Bowen, seconded by Commissioner Paul Hayes. All in Favor. Carried Unanimously.

IV. PREVIOUSLY CONTINUED HEARINGS:

- **MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING –** Notice of Intent – Continued Public Hearing – 298 Concord Road – Applicant: Kombis Shahbazi – DEP File No. 109-1526/BBL-1526 (*Continued to 3-22-2023*)
- **MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING –** Notice of Intent – Continued Public Hearing – 250 Boston Road (Concord River Boat Launch Facility) – Applicant: Anthony Stella, MA Office of Fishing & Boating Access – DEP File No. 109-XXXX/BBL-XXXX (*Continued to 4-12-2023*)

V. ADMINISTRATIVE MATTERS / DIRECTOR'S REPORT:

- **7:53PM - Requests for Certificates of Compliance (As-Built Reviews)**
 - DEP File No. 109-1211/BBL – 1211 (46 Elsie Avenue)

Isabel Tourkantonis, Director of Conservation reviewed the Request for Certificate of Compliance that had been submitted to the Commission to close out the original permit issued to construct the single-family dwelling at 46 Elsie Avenue. She explained it was brought before the Commission previously but not approved due to changes and discrepancies associated with overall site stabilization, visual barrier and more recently, discrepancies related to the installation of concrete walls beneath the ground surface that were never depicted on the as built or presented as part of the project. There was discussion that the concrete walls were not included or shown on the site plan for the development and construction of the single-family dwelling and constitute as additional fill in floodplain never presented to the Commission. The concrete walls result in additional fill within BLSF in addition to the concrete piers.

The Commission discussed the project and how it does not comply with the performance standards for Bordering Land Subject to Flooding and that the as-built plan should be revised, and mitigation presented. The Commission also discussed changes to the site related to a second driveway and associated changes in elevation without review or approval. The Commission requires grading information to determine the degree of any impact to the floodplain. The work may have altered the flood compensation in the front of the property as well.

Motion: TO deny the Certificate of Compliance due to lack of compliance and issue a letter, made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in favor. Carried Unanimously.

- DEP File No. 109-087 (331 Treble Cove Road, Lantheus Campus)

Isabel Tourkantonis, Director of Conservation informed the Commission that the next few items were old Order of Conditions that are being requested to be closed out and that Regan Andreola with Beals and Associates and Jim Dangora Jr. Attorney would present on behalf of Lantheus. Attorney Jim Dangora, Jr., spoke on the request and stated how Lantheus has been doing good things and is trying to close out all the open RCOC's on the property. Regan Andreola with Beals and Associates discussed the very old Order of Conditions and went over the 1978 approval for the North Campus extension.

Isabel Tourkantonis, Director of Conservation discussed the project a little further in detail and then recommended the Commission close out the RCOC.

Motion: TO close, sign, and issue the Certificate of Compliance made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in favor. Carried Unanimously.

- DEP File No. 109-690 (331 Treble Cove Road, Lantheus Campus)

Regan Andreola with Beals and Associates discussed the 1998 Order of Conditions for the approval of a mechanical room addition to Building 200. A RCOC was submitted with a plan. The prior RCOC review in 1999 was put on hold requiring the seeding of grass, installation of a visual barrier and cease mowing behind the visual barrier. According to the current RCOC request, this work was completed. She confirmed the mowing beyond the visual barrier has ceased and there is a naturalized area of growth now. There were also pictures to confirm the site condition.

Isabel Tourkantonis, Director of Conservation discussed the project further. She noted in some areas a visual barrier is missing, including along the edge of the access road and parking lots behind the applicable buildings and suggested she review in more detail with the applicant in the field. The applicant is cooperating and willing to install the visual barrier in the summer. The Commission spoke on the project and said they remembered this project and that a visual barrier was indeed required, such as a post and rail fence or guardrail from way back then was accepted. There was discussion about completing the visual barrier work with a summer 2023 deadline.

Motion: TO close, sign, and issue the Certificate of Compliance made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- DEP File No. 109-852 (331 Treble Cove Road, Lantheus Campus)

Regan Andreola with Beals and Associates discussed the 2002 Order of Conditions for the approval to add an addition to Building 200 with drywells for stormwater runoff. An RCOC was submitted with an as-built plan stating the project was complete with two minor deviations between the approved and as-built plans which include a concrete pad for the transformer and the extension of the driveway. Bob Holmes, Real estate Director for Lantheus spoke on some of the issues that had been of concern to the Commission, and confirmed they would address all the concerns brought up by the Commission.

Isabel Tourkantonis, Director of Conservation stated some concerns regarding the existing drywells being removed and relocated, the information being based on an old delineation, the road needs repairs, maintenance of impervious area, visual hard barrier (guardrail and or wooden post and rail fence) is needed upgradient of the wetland that wraps around the back section of the lot.

The Commission discussed the area in question and members recalled the access road behind Building 200 was presented to the Commission as a fire access only road. The road was approved as a pervious road with a stone and paver system. The Commission requested follow up from Lantheus regarding ongoing maintenance of drywells and the road and that the applicant update the Conservation Department on these items.

The Commission made a condition that all work discussed would need to be completed by July 31st2023, which includes the hard visual barrier and the O&M Plan updates discussed at the meeting. The Operation and Maintenance Plan, which addresses snow management, maintenance of stormwater BMPs, parking lot sweeping, etc., should be applicable to the whole site, comprehensive, easy to follow and include a BMP Plan for contractors and landscapers.

Motion: TO close, sign, and issue made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- DEP File No. 109-1338/BBL-1338 (331 Treble Cove Road, Lantheus Campus)

Regan Andreola with Beals and Associates discussed the 2018 Order of Condition for the approval of a Shared Driveway on the eastern portion of the Lantheus Medical Imaging Campus located at 331 Treble Cove Road (near former baseball field). The shared driveway was constructed to provide access to the subdivided lot (former baseball field with new building) and the North Campus section of the property from Treble Cove Road. The project included improvements to existing stormwater management infrastructure and new stormwater BMPs, including a water quality structure and bio-retention area with a sediment forebay to capture and treat stormwater runoff associated with the shared driveway; and native tree and shrub plantings to restore and enhance the inner riparian and Buffer Zone associated with Dolly Brook.

Isabel Tourkantonis, Director of Conservation reminded the Commission that BETA Group was the onsite environmental peer review monitor/engineer and conducted a partial as-built review of the project during the Occupancy review process for the

adjacent lot. Staff require time to review the file and to coordinate with BETA on final comments on the as built and verify field conditions without snow cover. There was one deviation during construction that she recalled associated with needing to leave the existing headwall in place instead of pulling it back from the wetland boundary due to location of existing underground utilities adjacent to this particular work. Also, sediment controls are still on site and those will need to be removed after overall site stabilization has been completed.

The Commission determined that they would neither accept nor deny at this time to allow time for BETA to review further and for site inspection in the spring without snow cover to verify full site stabilization and condition of restoration plantings. The plan also needs to be updated to reference the project located at 301 Treble Cove Road under DEP File No. 109-1357/BBL-1357, which overlaps information about the shared driveway and stormwater BMPS.

Motion: TO take no formal action to accept and or deny the Request for Certificate at this time to allow for additional review made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- **8:58PM - Administrative Review/Approval**

- 36 Concord Road – Clara Sexton House

Isabel Tourkantonis, Director of Conservation reminded the Commission that they reviewed this project at the last meeting and just needed a formal vote from the Commission to allow the proposed driveway repair and minor expansion (pavers) to address safety concerns to proceed under administrative review per what was submitted by the contractor. Additionally, the work will also include installation of a stone trench to help control and infiltrate stormwater runoff and buffer zone plantings.

Motion: TO approve the project to be administratively reviewed by staff made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- **9:00PM - Land Management**

- Cedarwood Road Donation – Quitclaim Deed

Isabel Tourkantonis, Director of Conservation reminded the Commission of their prior approval for staff to move forward with the land donation process. All the paperwork needed from the St. Anne’s Episcopal Church to finalize the deed has been submitted. and She recommended that the Conservation Commission sign the deed acceptance page. The next step is to present the deed and signature page to the Select Board for final acceptance of the land to the town for the purposes of conservation and preservation.

Motion: TO sign and accept the deed made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- **Miscellaneous Updates – None**

- **9:02PM - Minutes:** 11-16-2022, 1-25-2023

Minutes were tabled until the March 22, 2023 meeting.

VI. 9:02PM - ADJOURN

Motion: TO adjourn made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Kristina Bernard and Isabel Tourkantonis