



# Billerica Conservation Commission

TOWN HALL, 365 BOSTON ROAD  
BILLERICA, MASSACHUSETTS 01821  
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**MEETING AGENDA**  
**April 27, 2022**  
**6:30 PM**  
**Town Hall, Room 210**  
**365 Boston Road, Billerica MA**

ATTENDANCE: Commissioner Members Paul Hayes (Chair), JoAnne Giovino (Vice Chair), Diane DePaso (Secretary), Bill Bulens. Staff Members Isabel Tourkantonis, (Director of Environmental Affairs), and Mike DeVito (Conservation Land Use Assistant).

## I. 6:31 PM – PUBLIC COMMENT

Marlies Henderson spoke during the Public Comment period to inform the Commission about the ongoing effort and coordination to develop and install an interpretative sign at Bartlett's Landing canoe/kayak Concord River access point. She explained that the sign will be 3 feet wide by 2 feet long. She thanked the Commission for their input and edits on the draft sign. Marlies also thanked the volunteers, including the Girl Scout Brownies Troop who helped clear and pull weeds, spread conservation seed mix, and beautify the parking area. She announced the ribbon cutting will take place on Father's Day. She noted that she had also been coordinating with direct abutters, so everyone is aware of the work and ribbon cutting ceremony. Everyone is mindful of not blocking any nearby residential driveways. The Commission thanked Marlies and noted they appreciated her efforts.

## NEW WETLAND HEARINGS:

- **6:36PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – 110 Pheasant Road – Applicant: Roxanne and Lance Worob – DEP File No.109-XXXX/BBL-XXXX

### Documents Submitted:

04/07/2022 Received a Notice of Intent from Roxanne and Lance Worob for 110 Pheasant Road, Certified Plot Plan stamped and signed by Alan C. Nelson, dated on November 19, 2021, scale 0" = 40', (DEP #109-XXXX)

Mary Trudeau presented the project for a proposed 28' x 30' two-car garage/family room addition to their existing house. The addition will be located on the east side of the existing dwelling. The existing property is developed as a single-family home with town water and a private sewerage system. The wetland system on this project site is located to the North of the existing house and consists of the woodland that runs along the landscape portion of the yard. The nearby Bordering Vegetated Wetland is associated with intermittent stream channels. The project includes removing the current deck and installing a new deck on the new addition that will keep out of the 25-foot No Alteration Zone. The limit of work will remain within the existing lawn area of the property; no clearing of vegetation is required to build the new addition.

Isabel Tourkantonis, Director of Conservation spoke on the project and informed the Commission that staff completed a site inspection and concur with the wetland delineation. However, the plan does not reflect an additional wetland area that exists on the Northeast corner of the property, approximately 40-feet off the rear corner of the fence post around the existing pool. Concrete debris was observed about 25-feet upgradient from Wetland Flag 7-WF9 and cut log debris between WF-3 through WF-7. Also, an old telephone pole is located between WF-3 and WF-4. Vegetated wetlands also exist directly across the property on the other side of the road, which results in the entire project site falling within the 100-foot Buffer Zone. The Director noted the applicant may need to go before the BOH for review and that the BOH and Wetlands Protection Bylaw requires the applicant assess opportunities to help capture, infiltrate and recharge stormwater runoff from the roof and paved surfaces.

The Commission spoke on the project and requested the following on the site plan and for the NOI record: a larger and easier plan to read; a variance request addressing the No Alteration Zone, including demolition work and any short-term and long-term mitigation measures; calculations addressing compliance with the Limit on Impervious Surface Section of the By-law; show wetlands across the street and related Buffer Zone boundaries; show direct abutters information; any stormwater BMPs to infiltrate stormwater runoff; clarify if the new addition will use the current driveway or will a new driveway be proposed; add dimensions of the existing house; and provide a construction sequence plan notes. The Commission clarified that a visual barrier along a protected No Alteration Zone boundary is required and that a condition will be included in the wetlands permit requiring all miscellaneous debris removed from the wetland boundary and vegetated Buffer Zone. The revised plan should include restoration of inner Buffer Zone areas. The Commission appreciated the explanation of why the addition is proposed on the east side of the house and not closer to the street. The Commission also requested that the addition and leach field be staked in the field so that during construction larger equipment, can avoid and prevent any damage to the leaching field. Members of the Commission requested a stream stats analysis verifying the intermittent status of the stream.

**Motion:** TO continue to the May 11, 2022, meeting made by Commissioner JoAnne Giovino, seconded by Commissioner Bill Bulens. All in Favor. Carried Unanimously.

- **7:02PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – 24 Ferren Drive – Applicant: Sandra Mackey – DEP File No.109-1485/BBL-1485 (Continue to 5-11-2022)

Documents Submitted:

04/13/2022 Received a Notice of Intent from LEC Environmental Consultants, Inc. on behalf of the applicant Sandra Mackey with 24 Ferren Drive, Site Plan stamped and signed by Michael Novak dated on 04/11/2022, scale 20' = 40' (DEP #109-XXXX)

**Motion:** TO continue to the May 11, 2022, meeting per the applicant's request made by Commissioner JoAnne Giovino, seconded by Commissioner Diane DePaso. All in Favor. Carried Unanimously.

**II. CONTINUED WETLAND HEARINGS:**

- **7:03PM - 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 (Continue to 6-22-2022)

Documents Submitted:

Received an email from Anthony Stella with the Office of fishing and Boating to Request a Continuance to the June 22, 2022, meeting (DEP #109-XXX)

**Motion:** TO continue to the June 22, 2022, meeting per the applicant's request made by Commissioner Diane DePaso, seconded by Commissioner JoAnne Giovino. All in Favor. Carried Unanimously.

- **7:04PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 92 Billerica Avenue – Applicant: Jon Metivier – DEP File No. 109-1467/BBL-1467 (*Continue to 05-11-2022*)

Documents Submitted:

04/12/2022 Received an email from Stephen Dresser with Dresser, Williams, and Way to Request a Continuance for 92 Billerica Avenue until the April 27, 2022, meeting (DEP #109-1467)  
04/20/2022 Received a revised Site Plan from Stephen Dresser with Dresser, Williams, and Way for 92 Billerica Avenue, stamped and signed by Stephen Dresser, dated on 04/19/2022, scale 1" = 20'  
04/27/2022 Received an email from Stephen Dresser with Dresser, Williams, and Way to Request a Continuance for 92 Billerica Avenue until the May 11, 2022, meeting (DEP #109-1467)

**Motion:** TO continue to the May 11, 2022, meeting per the applicant's request made by JoAnne Giovino seconded by Commissioner Bill Bulens. All in favor. Carried unanimously.

- **7:05PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 48 Little John Road – Applicant: Robert Catherwood – DEP File No. 109-1483/BBL-1483

Documents Submitted:

04/20/2022 Received a revised Site Plan from Stephen Dresser with Dresser, Williams, and Way for 48 Little John Drive, stamped and signed by Stephen Dresser, dated on 04/20/2022, scale 1" = 30', (DEP #109-1483)  
04/27/2022 Received a revised Site Plan from Stephen Dresser with Dresser, Williams, and Way for 48 Little John Drive, stamped and signed by Stephen Dresser, dated on 04/12/2022, scale 1" = 30'

Stephen Dresser with Dresser, Williams, and Way spoke on the project on behalf of his applicant Robert Catherwood. He reminded the Commission that the project is for a proposed garage addition within 100-feet of the BVW. The garage is generally proposed on the existing driveway and will result in an increase of 5.4 percent of impervious area. Stone infiltration trenches are proposed to collect and infiltrate stormwater runoff. Since the last meeting, they have added posts with signage along the property line as a visual barrier and construction sequence. There was brief discussion regarding the proposed garage and how the driveway would be pitched to the garage doors.

Isabel Tourkantonis, Director of Conservation noted it appeared the applicant had addressed the Commission's concerns, and site plan requirements and clarification needed on the site plan. It was mentioned that the fill on the property is most likely historic, and that the department can work with the applicant/ contractor to address the removal of historic debris during the pre-construction meeting and construction of the project.

The Commission requested the homeowner remove the wire fence line between WF 2A and 5A and clarified that mowing on the adjacent town property shall cease. The Commission noted the project will result in inner buffer zone protection and thanked the applicant for their cooperation. The Commission requested a condition clarifying that if the existing shed were to be replaced, it shall be relocated outside the 25' No Alteration Zone and the visual barrier be adjusted accordingly.

**Motion:** TO issue a variance to Section 3.03.C.3.b 25-foot No Alteration Zone made by Commissioner JoAnne Giovino, seconded by Commissioner Bill Bulens. All in Favor. Carried Unanimously.

**Motion:** TO close, sign and issue an Order of Conditions made by Commissioner JoAnne Giovino, seconded by Commissioner Diane DePaso. All in Favor. Carried Unanimously.

- **7:18PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 86 Andover Road – Applicant: Kenneth Murnane – DEP File No. 109-1482/BBL-1482

Documents Submitted:

04/20/2022 Received a revised Site Plan from Stephen Dresser with Dresser, Williams, and Way for 86 Andover Road, stamped and signed by Stephen Dresser, dated on 04/14/2022, scale 1" = 30', (DEP #109-1482)

04/27/2022 Received a revised Site Plan from Stephen Dresser with Dresser, Williams, and Way for 86 Andover Road, stamped and signed by Stephen Dresser, dated on 04/12/2022, scale 1" = 30'

Stephen Dresser with Dresser, Williams, and Way, Inc. presented the project on behalf of the applicant Kenneth Murnane to demolish the existing house and construct a new single-family dwelling farther from the wetland. A drywell is proposed at the rear of the house to help collect and infiltrate stormwater runoff. Steve noted the plan was revised to address the comments from the last hearing, including the addition of: direct abutters, water and sewer utilities, stockpile/staging area, and a post and rail fence proposed along a 35' buffer zone setback to protect restored inner buffer zone.

Isabel Tourkantonis, Director of Conservation noted that it appeared Steve had covered all the Commissions concerns and clarification that was required on the site plan.

There was a brief discussion about debris related to the subject site possibly encroaching on town property near the driveway. The applicant said it will be removed as part of the project. The Commission requested a condition to stabilize any disturbed areas with a Conservation Wildlife seed mix.

**Motion:** TO issue a variance to section 3.03.C.3.a 50-foot No Alteration Zone, that a restored 35-foot No Alteration Zone is provided with native plantings made by Commissioner JoAnne Giovino, seconded by Commissioner Bill Bulens. All in Favor. Carried Unanimously.

**Motion:** TO close, sign and issue an Order of Conditions made by Commissioner JoAnne Giovino, seconded by Commissioner Diane DePaso. All in Favor. Carried Unanimously.

- **7:23PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 5 Morningside Drive – Applicant: Daniel Lamarca, – DEP File No. 109-1484/BBL-1484 (*Continued to 5-11-2022*)

Documents Submitted:

04/21/2022 Received an email from Kristel Bennett, Board of Health Director for 5 Morningside Drive with an attached letter for a variance request to have work done within the floodplain. (DEP #109-1484)

04/25/2022 Received an email from Maureen Herald with Norse Environmental to Request a Continuance for 5 Morningside Drive (DEP #109-1484)

**Motion:** TO continue to the May 11, 2022, meeting per the applicant's request made by Commissioner JoAnne Giovino, seconded by Commissioner Diane DePaso. All in Favor. Carried Unanimously.

**III. PREVIOUSLY CONTINUED HEARINGS:**

- **MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 0 Market Street – Applicant: Bryan Duby – DEP File No. 109-1436/BBL-1436 (*Continued to 05-25-2022*)

**IV. 7:24PM - ADMINISTRATIVE MATTERS / DIRECTOR'S REPORT:**

- **Request for Certificate of Compliance**
  - DEP File No. 109-0656 (270 Concord Road)

Documents Submitted:

03/30/2022 – Received a Request for Certificate of Compliance from Bryan Sutherlin and Lawrence Beals with Beals Associates Inc. for 270 Concord Road, Request Letter, WPA Form 8A, Engineer's Certification, and an As-Built Plan designed by MCY, scale 1" = 20', dated on March 24, 2022 (DEP #109-656)

04/22/2022 Received an email from Brian Sutherlin with Beta Group in support of Certificate of Compliance Request for 270 Concord Road (DEP #109-0656)

04/26/2022 Received a Stormwater Management Operations and Maintenance Manual from Beals Associates for 270 Concord Road (DEP #109-0656)

Larry Beals with Beals Associates spoke on the Request for Certificate of Compliance and mentioned that he had a trail of emails relating to the original project and that a Certificate had never been properly obtained and recorded to remove the wetland permit encumbrance from the property title. He stated he was involved in the original filing and found the original Notice of Intent from 1997. He explained how they worked with the previous owners to produce a master plan for the Notice of Intent for the entire development, which included the subject building. He briefly reviewed an operation and maintenance plan that was submitted with the current RCOC and said that the vegetation has been well maintained on the side of the stormwater swales. He mentioned that the Director had indicated an updated and more comprehensive O&M Plan would be required by the BCC, since an original dated back to 1997 and was barebones. He feels the drainage system and swales have all been maintained throughout the years. He said there is a new owner of the property, and he wants to make sure that they have a good maintenance plan and that it be easily followed. He said the maintenance plan should be around \$5,000 a year to maintain. There was discussion about routine trash removal, trash storage, snow removal, and parking lot sweeping, etc. Detention basins should be inspected and maintained per the DEP Stormwater Policy. He clarified the Order of Conditions covered the whole business park, not just the hotel building. The Order included conditions relating to required wetland replication mitigating wetland filling from work related to the overall business park and potentially the roadway. Mr. Beals noted the desire was to obtain a partial certificate for just the hotel site.

Isabel Tourkantonis, Director of Conservation stated that it appeared the applicant's representative is requesting a partial certificate and that should be clarified in writing, the current request does not specify that detail. She reminded the Commission that a separate Order of Conditions was issued for the roadway entering the business park and any related drainage infrastructure and BMPs. There appears to be overlapping drainage and wetland replication requirements between the two Orders (one for the business park and the other for the roadway). She stressed wetland replication and drainage requirements must be documented on an as-built plan and that the current plan submitted did not address many of the items the Commission needs documented on a site plan pertaining to wetland replication, for example. She suggested the applicant working with the business park submit a Request for Certificate of Compliance and the As-Built plan for the construction of the roadway permitted under DEP file #109-0652 as well.

The Commission clarified they would not issue a partial certificate given the overlapping wetland impacts and required mitigation and stormwater management system for the projects (both the building site and the roadway) and requested all relevant as-built plans be submitted for review before they could approve and issue a Certificate.

Members of the Commission requested the O&M Plan be revised to include specific timeframes for required inspections throughout the year, such as specific months and seasons. They prefer it to be specific, so no one is confused on when the work must be implemented.

**Motion:** TO take no formal action to deny or approve at this time made by Commissioner JoAnne Giovino, seconded by Commissioner Bill Bulens. All in Favor. Carried Unanimously.

▪ **Request for an Extension**

- DEP File No. 109-1262/BBL1262 (Sumner Farms - Nashua Road)

Documents Submitted:

04/10/2022 Received an email from Bill Cooke with Sumner Farms, 225 Nashua Road to Request for an Extension for 2 years, (DEP #109-1262)

04/20/2022 Received a Request for an Extension from Stephen Dresser with Dresser, Williams, and Way for Sumner Farms, 225 Nashua Road (DEP #109-1262)

Isabel Tourkantonis, Director of Conservation spoke on the request for the 2-year extension submitted by Stephen Dresser with Dresser, Williams, and Way to finish the project at Sumner Farms. The extension would cover the time needed for final stabilization, post construction monitoring of the wetland replication area, etc. . Because this is such a large project, she suggested to the Commission that they grant the 2-year extension.

The Commission inquired about the removal of old chain link fence from the Sumner Farms project site. She noted it appeared the developer had removed chain link fencing as requested by the Commission to date. The Commission requested the Director inform the applicant/developer that they will approve the extension with the understanding that they remove all or as much as possible of the chain linked fencing around the Sumner Farms property.

**Motion:** TO grant the 2-year extension as requested by the applicant's made by Commissioner JoAnne Giovino, seconded by Commissioner Diane DePaso. All in Favor. Carried Unanimously.

- **Miscellaneous Updates**

- Fox Hill Summit, Fox Hill Cemetery - Bay Circuit Trail Link

Documents Submitted:

04/21/2022 Received an email from Marlies Henderson regarding the Intermittent Stream Crossing – Bay Circuit with an attached memo from Michael Rosa, Chairman, OSRPC, RE: Trail Connectivity, and a brochure on the stream.

04/26/2022 Received email from Marlies Henderson noting additional coordination is required between the Traffic Safety Officer and Board of Selectmen before appearing before the Conservation Commission.

**Tabled:** TO allow for continued coordination between Marlies Henderson, Board of Selectmen, and any other applicable town departments. The Bay Circuit Trail link would involve a small stream crossing and crossing of Andover Road to link the Fox Hill cemetery property to other town properties across the street at Cider Mill.

- DEP File No. 109-1221/BBL-1221 (9 Brick Kiln Road)

Documents Submitted: NONE

Isabel Tourkantonis, Director of Conservation spoke on the project next to the post office. The applicant requested additional work be proposed to construct a small bump out to install a freezer and an exterior oil/grease trap associated trench work to connect the new trap to the sewer manhole at the parking lot. Based on a recent site visit and discussion with David Kinsella. the work may be located outside of the approved No Alteration Zone but within the Buffer Zone on the southern side of the building, closest to the wetlands. He inquired if a NOI or an RDA is required for the additional work requested. The Director reported the previous project approved by the Commission was never closed out. A Request for Certificate of Compliance has been issued but was missing information the Department requested on behalf of the Commission, but never received including a cover letter with engineer's statement. Brian Dunn completed an As-Built review a while back and concluded that the parking lot, including stormwater management and other site work, were in general compliance with the Order of Conditions. At that time, Brian and staff advised the applicant that a formal letter needed to accompany the Request for Certificate of Compliance, but it was never received. During a recent inspection with David Kinsella to review the bump out and oil/grease trap, it was apparent the owner was not implementing the O&M Plan as required for the site, including to parking lot sweeping, inspections and maintenance of catch basins, and trash removal. The Director noted there was a lengthy discussion in the field with David Kinsella regarding the need to properly implement the O&M Plan and that a written update with inspection forms and receipts must be submitted to the Conservation Commission before a Certificate of Compliance would be issued.

The Commission requested more information on the location of the kitchen/grease trap to determine if an RDA or a NOI is needed.

- **Minutes:** 1-26-2022

Tabled minutes until the May 11, 2022 meeting

▪ **Violations & Enforcements:**

7 Sherwood Drive – The Director reported that the Department received email tips from a concerned resident regarding the use of heavy equipment along the bank of the Concord River at 7 Sherwood Dr. Upon investigation, Conservation staff confirmed that the resident was using a small backhoe to aid in the installation of concrete bollards for the purposes of anchoring the existing dock. The owner explained that he had obtained a wetlands permit and Chapter 91 waterways approval several years ago for a dock on the property. The dock over the years has been maintained and replaced by the owner, but never expanded according to the owner. A verbal cease and desist was issued on site and the owner was instructed to install sediment and erosion controls, stabilize disturbed areas, remove a partially installed concrete bollard, and coordinate with the department to conduct any dock maintenance work. An Enforcement Order was issued, and the owner is cooperating.

15 Brookdale Circle – The Director reported that the Department received a tip regarding the use of heavy equipment near a brook at the rear of 15 Brookdale Circle. Upon investigation, staff verified a small excavator was being used to haul off historic miscellaneous concrete and tree stumps from the rear of the property and remove debris from the stream. A verbal cease and desist was issued onsite. An Enforcement Order was issued to the contractor/owner, the homeowner was advised they needed a degree of wetlands review and approval to conduct activities near the brook, even debris removal. Both the contractor and property owner are working with the Department to complete the corrective action needed to stabilize and restore disturbed areas of the site and create a No Alteration Zone setback from the stream.

**Motion:** TO approve the administration to continue working with the two homeowners to continue enforcements made by Commissioner JoAnne Giovino, seconded by Commissioner Diane DePaso. All in Favor. Carried Unanimously.

Commissioner, Paul Hayes, thanked the Conservation Department and the DPW for helping to address a culvert blockage concern and associated flooding that was reported to him by the property owner of 14 Arcadia Road, Dennis Carsno. He noted that Dennis recently contacted him to thank him for helping to address the culvert blockage and flooding conditions. Paul wanted to make it a point to say how he appreciates how the different Town Departments work together to resolve an issue and resident concern.

**V. 8:37PM - ADJOURN**

**Motion:** TO adjourn made by Commissioner JoAnne Giovino, seconded by Bill Bulens. All in Favor. Carried Unanimously.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Kristina Bernard and Isabel Tourkantonis