



# Billerica Conservation Commission



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

Conservation of Natural Resources  
01

**MEETING AGENDA**  
**May 11, 2022**  
**6:30 PM**  
**Town Hall, Room 210**  
**365 Boston Road, Billerica MA**

**ATTENDANCE:** Commissioner Members Paul Hayes (Chair), Diane DePaso (Secretary), Jack Bowen, Bill Bulens. Staff Members Mike DeVito (Conservation Land Use Assistant), and Kristina Bernard (Senior Clerk).

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

II. **NEW WETLAND HEARINGS:**

- **6:30PM - 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

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)

04/21/2022 Email exchange between Kristina Bernard, Conservation Dept and Amanda Stamas, Lowell Sun, RE: Lowell Sun Legal Ad Error and verification the new publication date of the legal ad is 5/4/2022.

05/3/2022 Email from Director of Environmental Affairs, addressed to Julia Hoogeboom/LEC, RE: 24 Ferren Drive \_ DEP File 109-1485/BBL-1485 – Review Comments

Julia Hoogeboom, Wetland Scientist with LEC Environmental Consultants, Inc. presented the project to construct an above-ground swimming pool with a deck and associated grading on site within the 100' Bordering Vegetated Wetland. The Buffer Zone boundary cuts across approximately half of the dwelling, and the dwelling is surrounded by grass and landscaped areas. The eastern side of the property is forested and supports Bordering Vegetated Wetland associated with an intermittent stream. Julia provided the stream status analysis to document the intermittent stream status. She noted that the project is exempt from the MA Stormwater Management Standards; however, the Bylaw requires that applicants assess opportunities to help infiltrate pool discharge. The pool will be left uncovered and untreated for about 2-weeks so that the chlorine can dissipate from the pool water. Pool water will then be discharged to a small stormwater rip rap area to help promote infiltration and prevent erosion. A Variance from Section 3.03.C.2 of the By-law was submitted addressing an increase in impervious surface area within the Buffer Zone beyond the allowed 25 percent. The reason for this request is

because there is only a small amount of pre-existing impervious area within the Buffer Zone currently. To mitigate for that impervious area, an infiltration area for the pool discharge is proposed and mitigation plantings are proposed to restore and enhance the inner Buffer Zone.

Mike DeVito, Conservation Land Use Assistant noted that staff completed a site inspection. Landscaping debris piles were observed and should be removed from the inner buffer zone.

Members of the Commission confirmed that a post and rail fence for the visual barrier is required and reminded Julia that environmental placards on the fence are required, which the Conservation Department can provide. There was discussion regarding the species and location of saplings proposed to mitigate the cutting of a few dead or dying trees to the rear of the project. Julia clarified American Hornbeam is proposed for understory canopy trees in shaded areas and that plantings would be prioritized in the 25-foot Buffer Zone. The Commission requested that landscaping debris be removed from the inner Buffer Zone, which will be added as a special condition of the Wetlands Permit.

**Motion:** TO issue a variance under Section 3.03.C.2 of the Bylaw addressing an increase in impervious surface area with the mitigation proposed made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

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

- **6:49PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – 11 Bicknell Road – Applicant: Michael Dzineku – DEP File No.109-XXXX/BBL-XXXX

Documents Submitted:

04/27/2022 Received a Notice of Intent from Paul Kirchner with Stamiski and McNary, Inc. on behalf of the applicant Michael Dzineku for 11 Bicknell Road, Sewage Disposal Plan, stamped and signed by George Dimakarakos and Joseph March, dated on 04/22/2022 (DEP #109-XXXX)

Paul Kirchner with Stamiski and McNary, Inc., presented the project to construct a single-car garage/addition with above room and deck, expand the driveway, and replace and upgrade the septic system. The house is currently vacant, and the lot contains various debris. The existing house and driveway are in the Buffer Zone to BVW. The septic system is failing, and therefore they need to replace it and will upgrade the system for a 4-bedroom dwelling. He noted that the plan includes a stockpiling area, and they are not cutting down any trees.

Mike DeVito, Conservation Land Use Assistant noted that staff concurs with the delineation of wetland resources and that there is a large amount of debris scattered throughout the wetland boundary and within the 25-foot Buffer Zone. There is a tire and a metal drum upgradient of WF-1 and WF-2. Mike mentioned that this project still needs to be approved by the Board of Health. Paul asked that if a portion of the driveway was removed and there was a net reduction in impervious surfaces, would stormwater still be required. The Commission clarified BMPs to help collect and infiltrate runoff should be assessed.

Members of the Commission noted that the plan was extremely busy and difficult to read and suggested a supplemental plan. The following information was requested on the site plan: direct abutters information; reference variance required for work in the 25' NAZ to remove debris and restore inner Buffer Zone; add dimensions of the existing house; location of water and gas utilities; dimensions of proposed garage and deck;

construction sequence on the plan; signage on a post and rail fence along the 25' NAZ, and stormwater BMPs to infiltrate stormwater runoff from roof and paved surface areas.

The Commission noted clarification on the impervious calculations is required, and that the deck will be conditioned to remain open so that it does not change the impervious area calculations. A visual barrier was requested, such as a post and rail fence with signage.

**Motion:** TO continue to the May 25, 2022, meeting made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

### III. CONTINUED WETLAND HEARINGS:

- **7:05PM - 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

#### Documents Submitted:

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)

05/10/2022 Received an email from Brian Dun with MBL Land Development & Permitting with an attached Peer Review for 92 Billerica Avenue (DEP #109-1467)

Stephen Dresser with Dresser, Williams, and Way, Inc., provided an update on the project and noted that all comments from the Commission and stormwater peer reviewer have been addressed and reflected on the revised plan, particularly compliance with Standard 5 addressing Land Use with Higher Potential Pollutant Loads (LUHPPL) of the Massachusetts Stormwater Management Standards.

Brian Dunn with MBL Land Development noted that the applicant addressed infiltration and treatment comments issued by MBL and MassDEP.

The Commission spoke and said they appreciate everyone working together and getting this project completed.

**Motion:** TO grant a variance for 3.03.c.3a to work within the 50-foot No Alteration Zone made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

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

- **7:15PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – 110 Pheasant Road – Applicant: Roxanne and Lance Worob – DEP File No.109-1486/BBL-1486

#### Documents Submitted:

05/10/2022 – Received an email from Mary Trudeau with an updated plan addressing the 110 Pheasant Road project (DEP #109-1486)

05/10/2022 Received an email from Mary Trudeau with an attached Waiver Request for 110 Pheasant Lane and a Continuance Request to the May 25, 2022, meeting (DEP #109-1486)

**Motion:** TO continue to the May 25, 2022, meeting per the applicant's request made by Commissioner Jack Bowen, seconded by Commissioner Bill Bulens. All in Favor. Carried Unanimously.

- **7:16PM - 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

Documents Submitted:

4/21/2022 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)

4/25/2022 Received an email from Maureen Herald with Norse Environmental to Request a Continuance for 5 Morningside Drive (DEP #109-1484)

5/04/2022 Received Revised Plans from Maureen Herald with Norse Environmental for 5 Morningside Drive, stamped and signed by Timothy Revellese, date on 04/27/2022, scale 1" = 20' (DEP #109-1484)

The homeowner, Daniel Lamarca presented the project at this continued hearing because Maureen Herald from Norse Environmental could not make the meeting. Mike DeVito, Conservation Land Use Assistant noted it appeared that Norse Environmental addressed all of the comments provided by the BCC at the last hearing.

**Motion:** TO close, sign, and issue an Order of Conditions made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. 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 – 0 Market Street – Applicant: Bryan DUBY – DEP File No. 109-1436/BBL-1436 (*Continued to 05-25-2022*)
- **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*)

**V. 7:21PM - ADMINISTRATIVE MATTERS / DIRECTOR'S REPORT:**

- **Request for Certificate of Compliance**

- DEP File No. 109-1382/BBL-1382 (23 Green Acre Drive)

Documents Submitted:

04/26/2022 Received a Request for Certificate of Compliance from Stephen Dresser with Dresser, Williams, and Way for 23 Green Acre Drive, As-Built Plan stamped and signed by Stephen Dresser, dated April 26, 2022, scale 1" = 20' (DEP #109-1382)

Mike DeVito, Conservation Land Use Assistant informed the Commission that staff is still in the process of reviewing the as-built plan, which appears to have deviations from the site plan approved by the Commission. The Commission voted to neither approve nor deny the project at this time to allow time for staff to review the plan and the applicant to address deviations and discrepancies from the plan.

**Motion:** TO neither approve nor deny the Request for Certificate of Compliance made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

The owner was present and asked what happens next. Mike informed him that there are compliance items that need to be addressed in the field and on the as-built plan before the Commission would approve and issue a Certificate of Compliance.

- DEP File No. 109-1420/BBL-1382 (68 Gray Street)

Documents Submitted:

04/22/2022 Received a Request for Occupancy from Gary Litchfield with Richfield Company, LLC. To Request an Occupancy for 66 Gray Street (DEP #109-1421) and 68 Gray Street (DEP #109-1420), As-Built Plans were submitted for both, stamped, and signed by Christopher Mello, dated on April 22, 2022, scale 1" = 20'

Mike DeVito, Conservation Land Use Assistant informed the Commission that Brian Dunn from MBL Land Development, stormwater peer reviewer is still in the process of reviewing the as-built plan and field conditions. The Commission noted they would neither approve nor deny at the moment to allow for peer review process.

**Motion:** TO neither approve nor deny the Request for Certificate of Compliance made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- DEP File No. 109-1421/BLL-1421 (66 Gray Street)

Documents Submitted:

04/22/2022 Received a Request for Occupancy from Gary Litchfield with Richfield Company, LLC. To Request an Occupancy for 66 Gray Street (DEP #109-1421) and 68 Gray Street (DEP #109-1420), As-Built Plans were submitted for both, stamped, and signed by Christopher Mello, dated on April 22, 2022, scale 1" = 20'

Mike DeVito, Conservation Land Use Assistant informed the Commission that Brian Dunn from MBL Land Development, stormwater peer reviewer is still in the process of reviewing the as-built plan and field conditions. The Commission noted they would neither approve nor deny at the moment to allow for peer review process.

**Motion:** TO neither approve nor deny the Request for Certificate of Compliance made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- **Request for Emergency Certificate**

- Wetlands Variance - DEP File No. 109-1059 (Middlesex Turnpike Ph 3 Project, 829 Middlesex Turnpike – Beaver Dam Removal)

Documents Submitted:

04/25/2022 Received a letter from Gene Crouch from Vanasse Hangen Brustlin, Inc. (VHB) to inform the Commission about the beaver dam removal at 829 Middlesex Turnpike (DEP #109-1059)

Mike DeVito, Conservation Land Use Assistant spoke on this and informed the Commission about the emergency request.

The Commission said they would like to be a part of the procedure and to be kept in the loop and see the procedure of it all. They were also concerned about the 10 days because they did not seem ready to start the project.

**Motion:** TO ratify and certify the Request for the Emergency Certificate for the beaver dam removal made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- **Miscellaneous Updates**

- Violations/Enforcement Orders – none discussed

- **7:28PM - Minutes:** 1-26-2022

**Motion:** TO approve the January 26, 2022, meeting minutes with minor corrections made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

**VI. 7:29PM – ADJOURN**

**Motion:** TO adjourn made by Commissioner Jack Bowen, seconded by Commissioner Bill Bulens. All in Favor. Carried unanimously.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Kristina Bernard and Isabel Tourkantonis