

**Regular Meeting  
Billerica Conservation Commission  
January 9, 2019  
Town Hall, Room 210  
365 Boston Road, Billerica, MA**

**ATTENDANCE:** Commissioner Members Paul Hayes (Chairman), Joanne Giovino (Vice-Chairman), Diane DePaso (Secretary), Betsy Gallagher, Marlies Henderson, Jack Bowen, Jeff Connell and staff members Isabel Tourkantonis (Director of Environmental Affairs), Michael DeVito (Land Use Assistant) and Liz Ells (Senior Clerk).

**CALL TO ORDER: 7:00 PM**

(Salute the flag)

**I. 7:00 PM - PUBLIC COMMENT** – no comments

**II. 7:01 PM - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING** - Notice of Intent – Ernest Road, (Map 91, Parcel 81-1) Daniel C. Rosa, Jr. – DEP File No. 109-1371/Billerica File No. BBL-1371

**Documents submitted:**

- 12-26-18** Notice of Intent for Ernest Road (Map 91, Parcel 81-1) prepared by Dresser, Williams & Way, Inc. with attached plan titled Notice of Intent Site Plan, dated 12/20/18, signed and stamped by Stephen Dresser. Scale: 1"=20'. Variance request 3.03.3c.a
- 1-9-19** Received revised plans dated 1/9/19, signed and stamped by Stephen Dresser for Ernest Road, DEP 109-1371. Scale 1"=20'
- 1-9-19** Received certified mailing receipts for Ernest Road from Steve Dresser.

Steve Dresser (Dresser Williams and Way, Inc.) presented the project on behalf of applicant Dan Rosa. The subject lot, which is located to the rear of 30 Glenvale Avenue, has been subdivided. A garage will be demolished and a new single home is proposed. Restoration of the 50 foot No Alteration Zone is proposed with a post and rail fence as a visual barrier. Infiltration of roof run off is included in the design. Impervious surface area will be reduced compared to existing conditions. Steve Dresser further explained that an Administrative Approval was granted by the Conservation Department to back fill the in-ground pool due to safety concerns since the lot is vacant. The Director indicated that staff inspected the wetland boundary and confirmed that the delineation appears to be accurate in the field and on the site plan. Discussion ensued about the appearance of landscaping debris dumping. The Commission requested mowing within the roadway Right- of- Way (ROW) cease and to allow the area to naturalize. The vegetated ROW will act as a buffer for plowing and sanding

during the winter months. There was a suggestion of a letter being sent to the neighbor to cease dumping as it is close to the wetland.

**MOTION:** TO grant a variance under Section 3.03.C3(a) to allow restoration work in the 50-foot No Alteration Zone. Moved by Commissioner Giovino, seconded by Commissioner DePaso. All in Favor. Carried.

**MOTION:** TO close this Hearing, sign and issue an Order of Conditions within 21 days and to include the conditions as discussed. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Carried. All in favor

**III. 7:11 PM - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING** - Notice of Intent – 258/260 Nashua Road – Paul Marcus – DEP File No. 109-1373/Billerica File No. BBL-1373

**Documents submitted:**

- 12-20-18** Notice of Intent for 258/260 Nashua Road prepared by Seekamp Environmental Consulting, Inc. with attached plan titled Site Plan in Billerica, MA, prepared for Paul Marcus of PJM Construction, dated 10-29-18, prepared by Gala Simon Associates, Inc., signed and stamped by Alberto M. Gala, scale: as shown
- 12-20-18** Variance request for 258/260 Nashua Rd Billerica (section four of the regulations 4-01 C.2)
- 12-20-18** Engineering Drainage Calculations for 258/260 Nashua Road Notice of Intent, prepared by Gala Simon Associates, Inc., signed and stamped by Alberto M. Gala, dated 10-31-18
- 12-28-18** Received email from Mike Seekamp with attached Green Engineering Flood map for 258/260 Nashua Road.
- 1-9-19** Received email from Director Tourkantonis to applicant Paul Marcus detailing site observations from Board of Health and Conservation Department for DEP File No. 109-1373 (258/260 Nashua Road)
- 1-9-19** Received email from Mike Seekamp requesting continuance per applicant's request to January 23, 2019 for DEP File No. 109-1373 - 258/260 Nashua Road

**MOTION:** TO continue hearing to January 23, 2019 at the request of the Applicant. Moved by Commissioner Bowen, seconded by Commissioner Gallagher. All in Favor. Carried.

**IV. 7:15 PM - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING** - Notice of Intent – 0 Rear Tower Farm Road – Phillip Farmer – DEP File No. 109-1372/Billerica File No. BBL-1372

**Documents submitted:**

- 12/26/18** Notice of Intent for 0 Rear Tower Farm Rd prepared by Oxbow Associates, Inc. with attached plan titled Compiled Plan of Land, signed and stamped by Stephen Dresser, dated 12-11-18. Scale: 1"=40'
- 1-7-19** Received Board of Health input email for 0 Rear Tower Farm Road NOI.

Scott Smyers of Oxbow Associates representing the applicant summarized the project, which is generally located behind the Billerica Mall property. He described the property area and noted there is various debris present and invasive vegetation throughout. The objective of the

project at this stage is to get rid of the thick brush, invasive understory vegetation to allow a topographic survey of the property to be completed.

The Director reviewed staff notes and stated that staff conducted a site inspection. The site has signs of significance historic filling, disturbances, and presence of miscellaneous debris throughout, including partially buried debris along fill slopes. The Director recommended that the plan reference the nearby storm water drainage basin associated with the mall, which is adjacent to this lot and the related drain pipes that transect the subject lot. The Director provided a brief update concerning the ongoing DPW maintenance work being conducted on and adjacent to the subject lot off Tower Farm Road. She inspected the area of the DPW-related drainage work underway between the houses located at 22 and 24 Tower Farm Road. She also explained that the DPW had been in the process of replacing a manhole and attempting to line the existing drainage pipe, but the condition of the old pipe prevented the lining work to occur within a small section between the houses. That section of drain pipe will now need to be replaced with open trenching between the houses, which results in greater disturbances to land. The Director indicated she recently instructed DPW and the contractor to immediately install sediment controls and enclose all stockpiles. Disturbed areas will be temporarily stabilized and restored by the contractor in the spring with loam and seed.

Regarding the proposed NOI site plan, the Director noted that the Commission typically requires temporary stock pile areas, access roads, grades and contours, particularly when there are substantial differences in slopes and grades present on a site and the location of existing drainage infrastructures depicted on a site plan. The headwater area for Webb Brook is just north of the property. It is not clear when the brook was piped using a 30-inch to 36-inch corrugated metal pipe. This pipe traverses the entire property and connects to drainage along Frost Street generally between the houses at 22 and 24 Tower Farm Road. She reviewed the BOH comments, which included Green Engineering Flood Plain as delineated on GEFP Map 84. The Green Engineering Flood Plain has been altered due to the development of the Billerica Mall and the construction of dwellings in the Tower Farm Road area back in the early 1970s. Also, the plan should be revised to show the existing grading. There is also a drop from the parking lot area into the site as well.

The Commission confirmed with Scott Smyers that a representative from Oxbow would be onsite to monitor vegetation cutting and removal activities. Scott Smyers mentioned that according to Mr. Farmer, there is no formal easement agreement in writing with the Town concerning the current DPW related activities on the subject property. The Commission and Scott Smyers discussed the type of equipment that will be used to remove the thick brush from the property. Scott Smyers referred to the NOI narrative and indicated that only trees and saplings with 3-inch diameter breast height (DBH) or smaller will be cut as part of the vegetation clearing.

Bill Porpes (22 Tower Farm Road) a direct abutter inquired if there is a project or development proposed and stated that he is concerned about future development and drainage problems that would get worse. Scott Smyers explained he was not aware of a planned project at this time, the current NOI is for the removal of vegetation largely outside the buffer zone and some within the buffer. The Director advised Mr. Porpes that if there were to be a project proposed, it would require the proper wetlands application process, storm water management planning, as well as notification to abutters. Mr. Porpes reiterated what he feels is an extreme

water condition on properties # 20 & 22 with areas of standing water, more than what was described during the hearing so far. He inquired if an investigation of the drain pipes and whether they are still operable could be a requirement. The Director advised it was a question with DPW potentially and the mall, and clarified that the drain pipes to which he was referring are likely related to the storm water management system for the mall. Danny Ciatti (20 Tower Farm Road) a direct abutter, voiced concern with water management on his property. There is water around the entire house at times, which lifts up the fence line, walkway, and driveway. Mr. Ciatti explained that water from #18 and 20 runs off and floods the street. He suggested that if a project is proposed, something should be installed to direct water away from these two properties. Mr. Ciatti explained he has been on the adjacent property to investigate his water issues and there is a pipe that is collapsed. The Commission advised that he consult with the DPW for guidance concerning drainage infrastructure and potentially the mall, since the pipe may be connected to the mall's stormwater basin.

There was discussion among the Commission to request additional topographic information added to the site plan. The Commission requested additional information, including a revised site plan depicting the limits of a proposed construction access road; add a 10' foot No Clearing Zone upgradient of the 50' foot No Alteration Zone for a modified 60-foot No Clearing/Touch Zone; approximate location of the stormwater basin associated with the mall; additional topo and grade elevations; construction sequence summaries; stabilization and sediment control details; and provide a written access permission agreement from the mall. The Commission reminded the applicant that the revised site plan, topo and supporting narrative should be submitted at least one week prior to a scheduled hearing.

**MOTION:** TO continue this hearing to February 13, 2019 at the request of the Applicant. Moved by Commissioner Giovino, seconded by Commissioner Henderson. All in Favor. Carried.

**V. 8:22 PM - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING - Abbreviated Notice of Resource Area Delineation – Continued Public Hearing - Staples Street (Map 35, Parcel 36-9) – Shannon Eosco – DEP File No. 109-1369/Billerica File No. BBL-1369**

**Documents submitted:**

- 1-4-19** Received revised plans for Staples Street 109-1369, signed and stamped by Stephen Dresser, dated 12-4-18. Scale: 1"=20'
- 1-10-19** Received revised plans for 109-1369, Staples Street ANRAD. Stamped and signed by Stephen Dresser, dated 1-10-19, scale: 1"=20'

Steven Dresser (Dresser, Williams and Way, Inc.) represented the applicant, Shannon Eosco. The ANRAD was filed to verify the limit of resource areas. He explained that there is Green Engineering Flood Plain and Bordering Vegetative Wetlands on the site. The Director reported a revised plan was submitted addressing the staff review comments and subsequent onsite inspection meeting. The wetland boundary was revised accordingly. There was a brief discussion about the property and the Middlesex Canal feature listed in National Register of Historic Districts. Therefore, development of the parcel should likely be reviewed by the Billerica Historic District Commission as well.

**MOTION:** TO close the hearing, sign and issue an ORAD as delineated on the revised plan within 21 days. Moved by Commissioner Giovino, seconded by Commissioner DePaso. All in Favor. Carried.

**VI. 8:31 PM - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING** - Notice of Intent – Continued Public Hearing - 129 Concord Road – Jumbo Capital Management, LLC – DEP File No. 109-1370/Billerica File No. BBL-1370

**Documents submitted:**

**1-3-19** Received email from Nathan Mahonen, Boehler Engineering, requesting continuance for 129 Concord Rd. 109-1370 to January 23, 2019.

**MOTION:** TO continue this hearing to January 23, 2019 at the request of the Applicant. Moved by Commissioner Bowen, seconded by Commissioner Giovino. All in Favor. Carried.

**VII. 8:32 PM - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING** - Abbreviated Notice of Resource Area Delineation – Continued Public Hearing - Rangeway Road (Map 29 Parcel 9) – Jennifer Falcone - DEP File No. 109-1349/Billerica File No. BBL-1349

**Documents submitted:**

**1-8-19** Received email from Ken Lania, Cornerstone Land Associates with attachments: Final ANRAD Plan Set for Rangeway Road with additional buffer zones as requested by the Commission. Received full size plans dated January 4, 2019, signed and stamped by John A. Visniewski, scale: as shown.

The Director summarized status of the review for the Commission; the last hearing resulted in a request for revision of the buffer zone line associated with the wetland that appears to support a potential vernal pool.

**MOTION:** TO close the hearing and sign and issue an ORAD as delineated on the revised plan within 21 days. Moved by Commissioner Giovino, seconded by Commissioner Bowen. All in Favor. Carried.

**VIII. 8:37 PM - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING** - Notice of Intent – Continued Public Hearing - 2 Old Elm Street – Middlesex Canal Association – DEP File No. 109-1362/Billerica File No. BBL-1362

**Documents submitted:**

**1-3-19** Received email from Scott Smyers, Oxbow Associates requesting continuance for 2 Old Elm St. 109-1362 to February 13, 2019

**MOTION:** TO continue this hearing to February 13, 2019 at the request of the Applicant. Moved by Commissioner Henderson, seconded by Commissioner Giovino.

## **IX. ADMINISTRATIVE MATTERS/DIRECTOR'S REPORT**

### **▪ Requests for Certificate of Compliance:**

DEP File No. 109-1350/ BBL-1350 (93 Nashua Road) – The Director noted this was a septic replacement project. They have completed the project, areas are stabilized and the post and rail fence with environmental placards is installed as shown on the as-built. She recommended approval.

**MOTION:** TO issue Certificate of Compliance. Moved by Commissioner Henderson, seconded by Commissioner Giovino. All in Favor. Carried.

DEP File No. 109-301 (16 Esquire Road) and DEP File No. 109-359 (18 Esquire Road) - The Director explained there is a lengthy history involving these two properties and an Enforcement Order that has since been rectified. The Enforcement Order issued by a previous Director resulted from drainage issues, particularly the stormwater basin on 16 Esquire Road. The Director recommended no formal action until the as-built plan associated with both properties are revised to include all drainage features, pipes and connections to Town drainage infrastructure on Republic Road. The existing tree lines and invert and outlet elevations will also be added to the plan(s) for both properties.

**MOTION:** TO take no formal action to deny or approve a certificate associated with DEP File No. 109-301 until the as-built plans are revised as discussed. Moved by Commissioner DePaso, seconded by Commissioner Bowen. All in Favor. Carried.

**MOTION:** TO take no formal action to approve or deny a certificate for DEP File No. 109-359. Moved by Commissioner DePaso seconded by Commissioner Bowen. All in Favor. Carried.

### **Miscellaneous Updates:**

36 Dudley Road – Hazardous Trees – The Director explained that there are 3 pine trees that the property owner requested to cut down due to safety and hazardous conditions. Multiple large branches have fallen on the driveway to date with photo documentation. The home owner has agreed to replant three red maples or similar to the rear of the property in the buffer zone. The problem trees are on the property and not within the roadway right of way, which is a designated Scenic Road. The Director recommended approval of the proposed work due to the condition and location of the trees with the issuance of an administrative letter specifying construction and post-construction related conditions.

**MOTION:** TO direct the Conservation Director to send the homeowner an Administrative Approval letter as discussed with the Commission. Moved by Commissioner DePaso, seconded by Commissioner Henderson. All in Favor. Carried.

River Stewardship Council/SuAsCo Conservation Plan 2018 Update – Follow-Up – The Director relayed to the Commission that the Talbot Mill Dam as well as other information that was presented in the original draft should be referenced in any revised version according to the SuAsCo/National Park Service representative. Commissioner DePaso and Commissioner Giovino will work on revisions.

Buckingham Drive – Follow up – The Director reported that she had a conversation with a representative of the Shawsheen River Watershed Association. Signage and access were discussed during the call. The Director reported that there were some complaints from

abutters about parking and access concerns. It was discussed that when there is a future need for riverfront access and/or land management, it should be brought to the attention of the Conservation Department and the Conservation Commission to collaborate efforts, conduct outreach if needed, and to avoid conflicts. The Director pointed out that she received information that the recently installed sign at the Buckingham Drive Canoe Put In had been vandalized. There was further discussion that SRWA and Commission member Marlies Henderson had recommended the sign be installed at that location when the sign(s) was offered by an Eagle Scout from Tewksbury. There was discussion among board members about Eagle Scout participation in the past and that it was customary for Eagle Scouts to communicate proposed projects with the Commission either in writing and/or to present at a meeting before the Commission. The Commission agreed decisions regarding the installation of river access signage and/or conservation related signs, particularly in denser neighborhood areas, be coordinated with the Conservation Commission and Department.

DEP File No. 109-1289, Hidden Oaks Project – draft Conservation Restriction – The Director relayed to the Commission that she and the developer’s attorney have exchanged information regarding the draft CR. She noted the members have the draft CR, which also includes the first round of review comments from the state Executive Office of Energy and Environmental Affairs (EEA). Per the developer’s request, she inquired about the matter of potentially removing the baseline report portion of the CR documentation. The baseline report documents existing conditions and is provided by the applicant as part of the CR. Discussion ensued and the Commission determined that the baseline report is a requirement and must be provided by the applicant or developer as part of the CR documentation. Town Council should also review the draft CR. The Director noted review comments and/or edits on the draft should be provided at the next meeting.

- X. 9:25 PM – MOTION:** To adjourn meeting. Moved by Commissioner Bowen, seconded by Commissioner Gallagher. All in Favor. Carried.

Respectfully submitted,

Diane DePaso

Prepared by Mary Ann Schafer, Isabel Tourkantonis and Mike DeVito