

**Billerica Conservation Commission
MEETING AGENDA
January 12, 2022
6:00 PM**

ZOOM MEETING

This Public meeting will be held virtually pursuant to Senate Bill No. 2475, Suspending Certain Provisions of the Open Meeting Law. Specific information for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting is provided below.

The Conservation Commission meeting will be held remotely via a Zoom Meeting

6:03PM - Please click the link below to join the Zoom Meeting/Webinar:

<https://us02web.zoom.us/j/83929975266>

To call-in dial: 1-929-205-6099

Webinar/Meeting ID: 839 2997 5266

6:05PM - ATTENDANCE: Commissioner Members Paul Hayes (Chair), JoAnne Giovino (Vice Chair), Jack Bowen and Jeff Connell. Staff Members Isabel Tourkantonis (Director of Environmental Affairs), Mike DeVito (Conservation Land Use Assistant) and Kristina Bernard (Senior Clerk). Absent: Commissioners Betsy Gallagher and Diane DePaso.

I. 6:00 PM – PUBLIC COMMENT: None

II. NEW WETLAND HEARINGS:

- **6:05PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Katie Durand Memorial Park – 8 Carter Ave – Applicant: Town of Billerica – DEP File No. 109-1475/BBL-1475

Documents Submitted:

12/29/2021 Received a Notice of Intent from Jonathan Niro from Beta on behalf of the Town of Billerica Department of Public Works Engineering Division, Permit Set Plan 1 of 10 pages, stamped and signed by Scott Ridder, RLA, ASLA dated December 28, 2021, scale 1" – 1,000' for the Katie Durand Memorial Park on Carter Avenue (DEP #109-1475)

01/10/2022 Received an email from Jonathan Niro from Beta Group with the Supplemental Notice of Intent Submission for the Katie Durand Memorial Park on Carter Avenue (DEP# 109-1476)

Scott Ridder, Engineering Landscaper with BETA Group Inc., presented the site plans for the Katie Durand Memorial Park on behalf of the applicant, the Town of Billerica, including the collaboration between the Engineering Department and Conservation Commission, to construct the project on town property located at 8 Carter Avenue. The river access park includes a circular drive to allow vehicles with a canoe/kayak trailer to easily negotiate the site and park around the perimeter, stormwater management features, educational/interpretive signs, picnic tables, a memorial area with benches, pollinator garden, and native plantings to restore and enhance the floodplain, Riverfront area and Buffer Zone along the Concord River.

Jonathan Niro, Environmental Scientist with BETA Group Inc., described the wetland resource areas associated with the project site. There is a pocket of isolated vegetated wetland south of the project site, at the end of Carter Avenue. The entire site falls within local Green Engineering Floodplain and FEMA floodplain. He explained that when designing the project, the team assessed all the applicable performance standards, and the project meets all performance standards under the Act. He also clarified that no work is proposed within vegetated wetland. The work within floodplain areas largely consists of minor grading to establish the circular drive and the stormwater management areas and verified that the project will result in a net increase in flood storage capacity. He noted supplemental information was submitted to the Commission that included a cut and fill analysis addressing work in floodplain. In terms of the local by-law, he noted the project meets all performance standards except for the 50-foot "No Alteration Zone" and that a waiver request was submitted in the NOI package. Work within the 50-foot buffer zone setback is unavoidable due to site access, which is needed off of the existing Carter Avenue roadway.

Isabel Tourkantonis, Conservation Director, summarized staff review comments and noted that the property previously supported an old single-family dwelling with sheds, cleared yard space, and paved driveway when the Town purchased it. There is an existing, cleared elevated footpath that extends from Carter Avenue to the riverbank that is currently utilized by the public for canoe/kayak access. The house and sheds were subsequently demolished in accordance with a wetlands permit after the town's purchase of the land to address safety concerns. She noted that the wetland boundaries remain flagged in the field. She explained the Commission reviewed three different concepts of the proposed Katie Durand Memorial Park in the Fall of 2021 and that the Department is excited to see the project at the permitting stage. She noted the department has been working with Kelley Conway, Town Engineer, and Beta Group Inc. on this great opportunity to facilitate easier access to the river. Diane DePaso and JoAnne Giovino, two of our Commission members, have been working on efforts to design a memorial stone to honor Katie Durand that will be placed in the memorial section of the park. There will also be picnic benches, which will also include a handicap accessible walkway.

The Director confirmed the project triggers review under the MA Stormwater Management Standards, and that she is working with the Board of Health to retain peer review services from Brian Dunn from MBL Land and Development to complete a joint stormwater and floodplain review.

Kelley Conway, Town Engineer, said the team is hoping to complete the design quickly after approval from the Commission, then advertise for the construction contract to get the work started, hopefully, in the Spring.

Commission member Giovino said she is really excited to see this project take place and cannot wait for it to get started as soon as possible. She noted that under the by-law an alternative analysis is required for a variance and asked if pervious pavers were assessed as a potential alternative. Jonathan explained overall the site has very compacted and poor-quality soil and that ground water was quite close to the surface, which limits the use of this alternative on certain sites. This option would require additional fill and materials and since the site is entirely within floodplain it is not practical. He also clarified that the property is fairly large with wooded areas, and that the project is below the allowable increase of impervious surface area under the Bylaw. There was a brief discussion regarding parking on Carter Avenue. Chair Paul Hayes asked if the access drive and the gravel next to it would be level; the answer was that it will all be level and flush. The applicant was also asked about the parking at the bottom of Carter Avenue. Scott Ridder explained that the area will not be used because the intent is to pave the minimum possible yet provide adequate access for emergency vehicles and smooth flow of cars in and out of the site. The parking area is about eight (8) feet

wide with boulders on the outside of the access drive to keep cars within that space. The Director noted that the Fire Department reviewed the plans as part of the Engineering/BETA Group Design. Commission member Bowen inquired about snow removal and stockpiling and that it should be addressed on the Operation & Maintenance Plan.

Two audience attendees spoke on the project. The first, Ed Reiner, mentioned that the site is already being used as a canoe access along the existing path to the river. He asked if there would be canoe racks at the park and if the DPW could possibly snowplow further to the end of Carter Avenue to facilitate access and address safety concerns. He suggested the interpretive sign at the end of Carter Ave be shifted to avoid damage from snow plowing. Mr. Reiner stated that he is supportive of the project.

The next audience member to speak was Marlies Henderson. Mrs. Henderson inquired about parking spots. BETA clarified that there would be seven (7) spots in the stone area and one (1) in the paved handicap accessible area. Also, she questioned if the infiltration basins were vulnerable to foot or vehicular traffic. Scott explained there would be post and rail fencing and signage in strategic areas to protect said areas from encroachment. Mrs. Henderson also inquired about a dock as a part of the project and noted that the site design should accommodate a future shed that would be needed for storage of a seasonal dock in the future. The Director explained the current design does not preclude siting of a small shed in the future if needed, but that it would need to be reviewed and coordinated with various departments. There was a discussion about the existing water and sewer services to 8 Carter Avenue that could potentially be used for future bathrooms and to rinse canoes/kayaks. Kelley Conway, Town Engineer, said that the current memorial park project does not include those features due to budgeting, but that they could be discussed as a future phase possibly. Mrs. Henderson noted she is very supportive of the project.

Motion: TO continue the hearing to the February 9, 2022 per the applicant's request, moved by Commissioner JoAnne Giovino, seconded by Commissioner, Jack Bowen. All in Favor. Carried unanimously.

- **6:50PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – 113B Bridle Road – Applicant: Betsy Casella – DEP File No.109-1476/BBL-1476

Documents Submitted:

12/23/2021 Received a Notice of Intent from Stephen Dresser to demolish a home and construct a new one located at 113B Bridle Road on behalf of the applicant Betsy Casella, Notice of Intent Site Plan stamped and signed by Stephen Dresser dated November 30, 2021, scale 1" = 30' (DEP #109-1476)

01/12/2021 Received an email from Kristel Bennett the Director of the Board of Health with the Town of Billerica regarding comments for 113B Bridle Road (DEP# 109-1476)

Stephen Dresser from Dresser, Williams and Way presented the project on behalf of the applicant, Betsy Casella. The house currently sits in the outer riparian zone (Riverfront Area) of the Concord River. The intent is to demolish the house and replace it with a new home situated outside of the 200-foot Riverfront Area. As a result, this will be outside of the jurisdiction of the Conservation Commission as well. Steve noted the project also includes removal of the gravel driveway on the property. Said areas will then be graded smooth, stabilized, returned to pervious, vegetated land. A post and rail fence is proposed upgradient of the floodplain limit and 50' Buffer Zone setback. There are also sheds on the property that will be removed as well. Steve noted there are no variances required because there will be no work within the 50-foot No Alteration Zone. Steve noted, the design includes restoration plantings up gradient of FEMA floodplain. Steve

noted that the current site plan before the Commission was revised to address staff comments, including the labeling the 100-foot buffer zone, adding the 50-foot No Alteration Zone, foot path to the river, and clarification on the location of the post and rail fence. He indicated the project is a significant improvement as structures, including the dog kennel, will be relocated farther from the river.

Isabel Tourkantonis, Director of Conservation, mentioned that the project would yield protection to wetland resource areas since the new dwelling is proposed farther from the river and outside the Riverfront Area. Although a formal wetlands delineation by a qualified wetland scientist was not provided to the Commission as required, Stephen appears to have defined the limit of bank based on the first observable break in slope method of the MA Wetlands Protection Act. Staff generally concurs with the limit of Riverfront; however, no soils were assessed by a qualified wetland scientist to verify the presence of Bordering Vegetation Wetland, particularly since much of the land area had been historically cleared and maintained as lawn. There was discussion about the insufficient wetlands delineation and the requirement for a qualified wetlands professional to submit the information as part of a wetlands application. Members noted that the limit of all wetland resource areas associated with a project should be identified and delineated in the field by a Professional Wetland Scientist. Given the scope of work is generally limited to the removal of structures and restoring said areas as previous vegetated areas, the Commission could consider it for this case only. Commission member Giovino noted as part of the Commission's review, a finding should clarify that the Commission only reviewed the outer limit of bank and did not confirm the presence of BVW for the property.

The Commission requested additional restoration plantings, including trees, to restore overlapping resource areas, including floodplain, inner riparian, and buffer zone be added to the plan. Plantings should be installed between the post and rail fence and the river. Steve noted that the applicant is already proposing plantings and clarified that he developed the plan and not a botanist or wetland scientist. Commission members noted the planting plan should be developed by a qualified botanist or wetland professional to ensure the right plant species are well suited and adapted for the type of soils and conditions on the site. The Commission explained that consistent with other project reviews along the river, tree plantings are included in reviews in an effort to restore riparian areas that have been mowed along the water's edge. Members noted that the site is adjacent to the Town's water supply, so any opportunity to install trees within the inner riparian zone, particularly areas that have been mowed, is a significant improvement to site conditions and the environment. The Commission requested different species, including trees interspersed on either side of the proposed natural footpath and along the bank.

Motion: TO continue the hearing per the applicant's request to the January 26, 2022, moved by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried unanimously.

III. CONTINUED WETLAND HEARINGS:

- **7:16PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – Notice of Intent – K137E, L138E and 337 Transmission Line – Applicant: New England Power Company – DEP File No. 109-1472/BBL-1472

Documents Submitted:

12/16/2021 Received an email from a direct abutter - 10 Twin Pines Avenue, to the project corridor regarding the K137, L138 and 337 Transmission Line Right of Way (ROW), - Property owner Ligia Pineros stressed concerns regarding previous maintenance work completed by National Grid. (DEP #109-1472)

12/17/2021 Received an email from MassDEP regarding the Memo of Agreement regarding the type of work and use of mats used for the utility projects. (K137, L138 and 337 Transmission Line Right of Way) (DEP #109-1472)

12/20/2021 Received an email from Alison Milliman from BSC Group with an attached letter summarizing the CWQC/NOI process and guidance NEP received from the MassDEP. Regarding K137, L138 and 337 Transmission Line Right of Way (DEP #109-1472)

01/11/2022 Received an email from Alison Milliman from BSC Group with updated Notice of Intent Maps and a Wetland Delineation Report for K137, L138 & 337 Transmission Line Right of Way (DEP #109-1472)

01/12/2022 Received from hard copies of the updated Notice of Intent Maps and a Wetland Delineation Report from Alison Milliman from BSC Group for K137, L138 & 337 Transmission Line Right of Way (DEP #109-1472)

Alison Milliman from BSC Group reviewed the supplemental information submitted since her co-worker, Lindsay Carl, presented the project at the first hearing in December 2021. Per the Commission's request, BSC submitted a wetlands report and BVW data plot forms, revised project plans – Environmental Resource Maps with corresponding wetland labels, and written documentation addressing review of proposed temporary impacts associated with the installation of construction mats. She noted a memo on the Comprehensive Water Quality Certification and agreement that New England Power has with the MassDEP concerning the view of temporary construction mats placed in wetland resource areas. She clarified that approximately 43 soil boring holes are associated with the project, but only those borings proposed in Billerica and within resource areas were identified as impacts on the NOI form. These include 12-square feet of temporary impact to BVW resulting from proposed boreholes.

Alison Milliman referenced recent email correspondence shared between the Northeast MassDEP office and the Billerica Conservation Department and that the MassDEP had acknowledged it did not have any further comments addressing proposed temporary impacts identified on the NOI form. She noted a street name was updated on the maps. All disturbances will be temporary and restored back to pre-construction condition to the extent feasible.

Isabel Tourkantonis, Director of Conservation, also referenced the recent correspondence between the applicant and MassDEP. She noted based on the follow up from MassDEP Northeast reviewer on the current project and written information provided by the applicant that the Commission appeared to have completed its review and due diligence. There was discussion between Commission members to include a condition in the wetlands permit that a wetland scientist shall be retained to monitor and review the installation of construction mats and restoration of all resource areas once construction BMPs were removed from the project corridor.

Motion: TO close the hearing and issue an Order of Conditions with the conditions discussed and supplemental information provided by the applicant, moved by Commissioner JoAnne Giovino, seconded by Commissioner, Jack Bowen. All in Favor: Carried unanimously.

**7:28PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW
WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 581 Boston Road –
Applicant: Jeff O'Rourke – DEP File No. 109-1466/BBL-1466

Documents Submitted:

12/17/2021 Received an email from the Director, Isabel Tourkantonis who had attached a peer review from Stephen Borgatti and Philip Paradise of Beta for 581 Boston Road (DEP #109-1466)

01/07/2022 Received an email from Stephen Dresser to Request a Continuance for 581 Boston Road until the February 9, 2022, meeting (DEP #109-1466)

Motion: TO continue the hearing to the February 9, 2022 meeting per the applicant's request, moved by Commissioner, JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor: Carried Unanimously

- **7:29PM - 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:

12/14/2021 Received an email from Stephen Dresser with the Peer Review - Proposed Stormwater Management Design and other Development Features above the referenced project for 92 Billerica Avenue by Brian Dunn (DEP #109-1467)

01/07/2022 Received an email from Stephen Dresser to Request a Continuance for 92 Billerica Avenue until the January 26, 2022, meeting (Dep #109-1467)

Motion: TO continue the hearing to the January 26, 2022 per the applicant's request, moved by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor: Carried Unanimously

- **7:30PM - 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

Documents Submitted:

01/11/2022 Received an email from Mark Arnold, Wetland Engineer on behalf of Bryan Duby with Goddard Consulting LLC to Request a Continuance for 0 Market Street (DEP #109-1436)

The Director noted the applicant's representative submitted an email request to continue the meeting to the February 9, 2022, meeting. Members of the Commission discussed that the project has been continued for several months with limited input and information provided to the Commission since August 2020, including a response to peer review comments. The Commission requested a verbal update from the applicant addressing the substantial delays, since the project hearing continues to take up space on meeting agendas.

Motion: To continue the hearing to the February 9, 2022 meeting per the applicant's request, moved by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. **All in Favor:** Carried Unanimously

IV. PREVIOUSLY CONTINUED HEARINGS:

- **7:32PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – Notice of Intent – 600 Technology Park Drive – Applicant: TPD 600 Equity Partners, LLC c/o KS Partners, LLC – DEP File No. 109-1473/BBL-1473 (*Previously Continued to 1-26-2022*)

V. ADMINISTRATIVE MATTERS / DIRECTOR'S REPORT:

- **7:33PM - Request for Certificate of Compliance:**
 - DEP File No. 109-1315/BBL1315 – Billerica Dog Park (Vietnam Veterans Park)

Documents Submitted:

12/29/2021 Received and email from Matthew Crowley from Beta with a Request for Certificate of Compliance for the Billerica Dog Park and an updated As-Built Plan stamped and signed by Matthew J. Crowley dated December 29, 2021, scale 1" = 20' (DEP #109-1315)

Isabel Tourkantonis, Director of Conservation, provided an update addressing the Request for Certificate of Compliance previously submitted for the dog park project. She mentioned a few months back that the BETA Group submitted an As-Built plan and that subsequently, the Billerica Dog Park Committee requested to make some minor revisions to add a retaining wall between the fence line and parking area to address erosion along the fence. She reported that all sediment control barriers were also removed from the project site. She noted the as-built plan was updated to reflect the recent work completed by the Dog Park Committee and recommended that the Commission close out the wetland permit with ongoing conditions for continued management of the site per the Operation & Maintenance Plan approved under the Order of Conditions.

Motion: TO issue the Certificate of Compliance, Moved by Commissioner JoAnne Giovino, seconded by Commissioner, Jack Bowen. **All in Favor:** Carried Unanimously

- **7:35PM - Request for Extension:**

- DEP File No. 109-1371/BBL1371 – Earnest Road

Documents Submitted:

12/28/2021 Received an email from Daniel C. Rosa with an attached letter to Request an Extension on the Order of Conditions issued by the Commission on January 30, 2019, for Ernest Road (DEP #109-1371)

Isabel Tourkantonis, Director of Conservation briefly explained the request submitted by Daniel C. Rosa for a two (2) year extension to the Order of Conditions to construct a single-family dwelling. Construction started has been delayed due to various delays, including COVID -19.

Motion: TO grant the extension for two (2) years, Motion by Commissioner JoAnne Giovino, seconded by Commissioner, Jack Bowen. **All in Favor:** Carried Unanimously

- **7:37PM - Miscellaneous Updates**

The Annual Town Report is due February 18th. Staff will update the Report and submit it on behalf of the Commission.

7:37PM - Violations/Enforcement Orders

- 22 Springwell Road, Wetland & Buffer Zone Restoration Report

Isabel Tourkantonis, Director of Conservation, updated the Board on an inquiry from the property owner to address expansion of the yard and the need for restoration before a Certificate of Compliance for DEP File No. 109-0982 is reviewed and issued by the Commission. She explained that as part of a recent as-built plan prepared by Steve Dresser, it was discovered that the owner had expanded the yard to the rear, which resulted in the filling of FEMA floodplain. S. Dresser submitted a restoration plan in October 2021 to restore the floodplain elevation and the other resource areas including inner buffer zone to return the site into compliance with the original wetlands permit. The plan includes restoration plantings and long-term protection

of a 50 foot No Alteration Zone with a post and rail fence. The Director shared the plan and noted items such as the limit and labeling of the 50' No Alteration Zone and the 100' Buffer Zone is required on the site plan. The Commission concurred that the restoration work must be completed and that an Enforcement Order shall be issued if the work is not completed in the Spring 2022. A revised plan is required with the labeling of the Buffer Zone.

- **7:41PM - Minutes:** 9-22-2021, 10-13-2021

Meeting Minutes have been tabled until the January 23, 2022 meeting.

VI. 7:41PM – ADJOURN

Motion: TO adjourn by Commissioner Jeff Connell, seconded by Commissioner JoAnne Giovino; All in Favor: Carried Unanimously