



Billerica Conservation Commission

TOWN HALL, 365 BOSTON ROAD
BILLERICA, MASSACHUSETTS 01821
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Conservation of Natural Resources

MEETING AGENDA
February 9, 2022
6:30 PM
Town Hall, Room 210
365 Boston Road, Billerica MA

- **Chairman Paul Hayes held a Moment of Silence for Nick Rosa before attendance was taken.**

Attendance: Commissioner Members Paul Hayes, (Chair), JoAnne Giovino (Vice-Chair), Diane DePaso (Secretary), Jack Bowen, Jeff Connell. Staff Members Isabel Tourkantonis (Director of Environmental Affairs), Mike DeVito, (Conservation Land Use Assistant), Kristina Bernard (Senior Clerk). Commissioner Jeff Connell left the meeting at 8:35PM.

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 – 225 Nashua Road – Applicant: Kim Bloomfield & Douglas Baumgartner – DEP File No. 109-1477/BBL-1477

Documents Submitted:

01/26/2022 Received a Notice of Intent from Stephen Dresser from Dresser, Williams, and Way, Inc., for 225 Nashua Road on behalf of the applicants Kim Bloomfield and Douglas Baumgartner, Notice of Intent Site Plan stamped and signed by Stephen Dresser on January 21, 2022, scale 1" = 20' (DEP #109-1477)

02/03/2022 EEA (Energy and Environmental Affairs) Wetlands Portal webpage—the DEP has the project listed and commented it is still awaiting the fees for 225 Nashua Road (DEP #109-1477)

Stephen Dresser from Dresser, Williams, and Way Inc. presented the project on behalf of the applicant Kim Bloomfield and Douglas Baumgartner to install a hot tub/therapy pool in her backyard to help with recovery from an upcoming surgery. He noted that additional wetland flagging, and direct abutter information were added to the site plan after submitting the NOI and presented an updated plan to the Commission. He noted that the proposed therapy pool was part of Phase 1 of the project and that a Phase 2 included a proposed attached garage with breezeway. Phase 1 will also include the installation of a drywell, which will connect to the existing gutters and the future garage, relocation of existing chain link fences to protect vegetated and restored inner buffer zone. During Phase 2, the garage will be constructed and the driveway re-shaped to drain into the drywell. There was discussion regarding the chain link fences and restriction to wildlife movement. Steve noted the applicant works with at risk dogs during a transitional stage with the hopes of training them and having them placed in new homes instead of them being euthanized. The chain link fences on the property are paramount to providing the service and safety for the dogs and others so that the dogs remain on the property.

The applicant Kim Bloomfield spoke again regarding the placement of the pool. She noted that the pool would need to be shifted because of bringing the outdoor house stairs up to code. Also, there is a removable ladder on wheels that will be used to get in and out of the pool. The removable ladder will also keep animals and children out. Stephen Dresser noted this change is not reflected on the current site plan and explained that a portion of the pool, specifically the pavers around the pool, would encroach into the 25-foot No Alteration Zone.

Isabel Tourkantonis, Director of Conservation, noted staff previously visited the site as part of the building application review and discussed with the property owner at that time that a wetlands permit would be required due to the extent of wetlands, site lay out and scope of work proposed. The Director noted the limit of bank and/or BVW on the other side of the stream should be reflected on the plan and had submitted review comments to the project engineer prior to the hearing. She noted that the wetland boundary generally follows a portion of the chain link fence except between 3b and 4b. Although the project is exempt from the MA Stormwater Management Standards, the applicant has included stormwater features to help manage stormwater runoff, particularly off the steep driveway, which will minimize and avoid erosion. The Commission requested the following be clarified and added to the site plan: the North arrow, direct abutters, datum and elevation of Green Engineering Floodplain or clarify if GEFP is an overlay, the 100-foot buffer zone boundary and delineate the entire limit of BVW on both sides of the stream, label the existing chain link fence in the back yard, and relocate the existing chain link fence as discussed during the hearing. The Director noted that a degree of review by the BOH will be required.

There was discussion regarding the footbridge that had been installed for access to the rear, upland portion of the property. The Commission noted that any future work to the bridge would require their review and requested the chain link fence at the rear portion of the property be relocated to protect more of the inner buffer zone, instead of the fence inside or at the wetland boundary. The Commission clarified that a wetlands or buffer zone restoration plan should be prepared and/or reviewed by a wetland scientist and not just the project engineer before it is submitted as part of an NOI. There was additional discussion regarding the existing PVC pipe discharging near the stream and the Commission requested that the pipe outlet be inspected and potentially cut back or removed, since it appeared to be contributing to erosion. Steve said the pipe is currently connected to the gutters and that it will be disconnected with the new drywell system that is proposed. He clarified both the current roof and proposed garage will be connected to the new drywell unit. The Commission further requested additional plantings in the area where the shed would be removed to help protect the stream, and that the sewer and water lines be reflected on the site plan.

Motion: TO continue the hearing to the February 23, 2022, meeting, moved by Commissioner Joanne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried unanimously.

- **7:16PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – 29 Argonne Road – Applicant: Ann Marie Miles – DEP File No. 109-1478/BBL-1478

Documents Submitted:

01/26/2022 Received a Notice of Intent from Stephen Dresser from Dresser, Williams, and Way for 29 Argonne Road on behalf of the applicant Ann Marie Miles, Notice of Intent Site Plan stamped and signed by Stephen Dresser on January 21, 2022, scale 1" = 20' (DEP #109-1478)

02/03/2022 EEA (Energy and Environmental Affairs) Wetlands Portal webpage—the DEP has the project listed and commented it is still awaiting the fees for 29 Argonne Road (DEP #109-1478)

Stephen Dresser from Dresser, Williams, and Way, Inc. presented the project to replace the existing porch and deck with a larger version of each on behalf of his client, Ann Miles. He noted that even though there is a proposed larger addition, there is a slight reduction within the impervious area within the buffer zone. The plan includes a degree of

restored buffer zone and a post and rail fence in a straight line behind the existing shed, so the owner maintains a square backyard. There is a 30-foot gas easement in the backyard and an existing shed.

Isabel Tourkantonis, Director of Conservation, noted staff concurred with the wetland delineation in the field, but that the Green Engineering Floodplain and its elevation, if applicable, should be referenced on the site plan. Additionally, there is a sewer manhole near wetland flag 7A that should be identified on the plan along with the sewer easement associated with the property. Landscaping debris was observed by wetland flags 5 and 6. The applicant is seeking a variance for a reduced set-back on the property, which has multiple easements, including the Tennessee Pipeline easement.

Commission members requested information added to the site plans including the sewer easement, stone trench, Green Floodplain, different types of lines to distinguish the 25-foot No Alteration Zone, and dimensions of the dwelling and proposed structures added to the site plan. Commission members noted ATV ruts were observed in the backyard in the wetland area and noted the area should be protected from ATV use. The Commission requested that the old wire fence be removed from the wetland boundary since it can trap wildlife. The Commission requested restoration plantings be increased between 6A and 8 and to bring up the visual barrier to the 25' No Alteration Zone boundary. There was a brief discussion regarding the location of the visual barrier. The Director noted the lot supports different utility easements and suggested holding off determining where a post and rail fence would be feasible until the sewer easement was reflected on the site plan. The Commission requested Steve have Norse Environmental, the wetlands professionals review the proposed planting plan to ensure the plants being proposed are adequate and will survive based on the site conditions.

Motion: TO continue to the hearing to the February 23, 2022, meeting, moved by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried unanimously.

CONTINUED WETLAND HEARINGS:

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

Documents Submitted:

02/08/2022 Received an email from Emma Lord, Natural Resource Specialist with the National Park Service with attached letter stating support for the Katie Durand Memorial Park – Carter Ave Project.(DEP #109-1475)

2/4/2022 Received email for from Jonathan Niro, BETA Group Inc., requesting the hearing for the 8 Carter Ave NOI be continued to the 2/23/2022 meeting (DEP File no. 109-1475/BBL-1475)

Motion: TO continue the hearing to the February 23, 2022 meeting per the applicant's request, moved by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried unanimously.

- **8:06PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – 92 Billerica Avenue – Applicant: Jon Metivier – DEP File No. 109-1467/BBL-1467

Documents Submitted:

02/07/2022 Received email from Stephen Dresser from Dresser, Williams, and Way, Inc. with request to continue project hearing for 92 Billerica Avenue to the March 9, 2022, meeting (DEP #109-1467)

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

- **8:07PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – 581 Boston Road – Applicant: Jeff O'Rourke – DEP File No. 109-1466/BBL-1466

Documents Submitted:

02/07/2022 Received an email from Stephen Dresser from Dresser, Williams, and Way requesting a continuance on 581 Boston Road to the March 9, 2022, meeting (DEP #109-1466)

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

- **8:08PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – 0 Market Street – Applicant: Bryan Duby – DEP File No. 109-1436/BBL-1436

Isabel Tourkantonis, Director of Conservation reminded the Commission that during the last continuance request, it had required an in-person update from the applicant or his representative due to the significant amount of time that has passed since the project was last presented in August 2021. Numerous requests for continuance have been submitted by the applicant with no new information provided to the Commission.

Mark Arnold with Goddard Consulting attended the hearing and noted there have been significant delays due a few different issues, including the passing of the project surveyor. He noted the project team needed to survey the flag line placed by the wetlands peer reviewer, Art Allen of EcoTech. They are also in the process of collecting soil and groundwater data to support the original delineation submitted as part of the NOI. He noted it takes several weeks to collect this data. There was discussion about a continuance to a meeting that will allow time for the information to be submitted. Mark requested the hearing be continued to the April 13th meeting.

The Commission thanked him for coming in and providing an update in person. The Commission reiterated new and additional information should be submitted well in advance of the meeting and must be reviewed by the peer reviewer.

Motion: TO continue the hearing to the April 13, 2022 meeting per the applicant's request, moved by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried unanimously.

III. PREVIOUSLY CONTINUED HEARINGS:

- **MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS 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 (***Continued to 2-23-2022***)

IV. ADMINISTRATIVE MATTERS / DIRECTOR'S REPORT:

- **7:40PM - Request for Minor Modification:**

- DEP File No. 109-1437/BBL-1437 – 140 Pond Street (Building B Review)

Documents Submitted:

1/25/2022 Letter Request for Minor Modifications to Approved Plans from Eugene T. Sullivan, Professional Engineer from Eugene T. Sullivan, Inc. RE: Order of Conditions DEP File #109-1437, BBL-1437, Stormwater Permit Bd of

Health #21-24-200-1-023, 140 Pond Street with Building B, Partial Site Layout Plan, stamped and signed by Eugene T. Sullivan on January 29, 2021, scale 1" – 30'-0", and Drainage and Utilities Plan, stamped and signed by Eugene T. Sullivan on January 29, 2021, scale 1" = 30'-0" (DEP #109-1437)

12/29/2021 Letter from Phil F. Paradis, Jr., PE, BETA Group Inc., RE: 140 Pond Street Building B - Stormwater Peer Review (DEP File No. 109-1437/BBL-1437).

Isabel Tourkantonis, Director of Conservation, updated the Commission about a request for minor modification that was submitted for the 140 Pond Street project. She introduced Gene Sullivan from Eugene T. Sullivan, Inc., who was in attendance to discuss the matter. She noted that Beta Group Inc. completed a stormwater peer review addressing the proposed project changes and verified continued overall project compliance with the MA Stormwater Management Standards required under the wetlands permit. She noted that the changes were peer reviewed and recommended that the Commission review the changes as a minor modification to the project under the wetlands permit that remains valid.

Gene Sullivan, Engineer with Eugene T. Sullivan, Inc., presented an overview of the proposed changes to Building 2 and associated parking lot as detailed in his letter dated January 25, 2022. He noted that there are fewer loading doors, and the southeast corner of the building has been squared off resulting in a slightly smaller building footprint. The change was recently submitted to the Planning Board with BETA as the peer reviewer. Gene said that now he was coming before the Commission to make sure they were in the loop and that everyone was happy with the changes.

The Commission asked how the restoration area was progressing as part of the Enforcement Order and reiterated that the work should have been completed by now. Gene said it's not where they would like it, but that work is scheduled to continue and be completed in this spring. He also mentioned that the area is all cleaned up and all the debris has been removed. The Commission also was concerned about the visual barrier that was shown on the plan, which is difficult to see because all the colored lines appear to tie directly to the back side of Building No. 1. They noted the NOI review for this project was completed over Zoom and the line representing the visual barrier is difficult to see on the plan. They also noted that the visual barrier on the southeast side of Building No. 2 should have been extended all the way to the southwest side of the building. There was discussion regarding the location of the visual barrier behind Building No. 1 and concern by the Commission that there would be encroachment of the 50 foot No Alteration Zone if maintenance of the building was required in the future. Gene clarified the visual barrier fence keeps everything out of the wetlands and then connects to each side of the building so no one could gain access. He clarified there is also a retaining wall that was constructed adjacent to the building. Members of the BCC noted their concerns about back of the building serving as the visual barrier. After further discussion, it was agreed upon to put posts with environmental signage that the area is off limits between both ends of the visual barrier behind Building No. 1, and to extend the visual barrier along the entire southside of Building No. 2. There was also discussion regarding the post and rail fence proposed over the riprap spillway of the proposed stormwater basin.

After further discussion, the Commission noted the site plans should be revised to include eight to ten posts with the larger environmental signs behind Building No. 1 and along the visual barrier for Building No. 2, and that a 3-foot gap on the riprap spillway could remain for stormwater maintenance purposes.

Motion: To approve the project change(s) as outlined in the request letter as a Minor Modification per the required revisions to the visual barrier and upon the receipt of a revised plan, moved by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen, All in Favor. Carried unanimously.

▪ **8:13PM - Requests for Certificates of Compliance**

- DEP File No. 109-1341/BBL-1341 – 44 Nashua Road, Update (Kennedy Meadows Retirement)
- DEP File No. 109-1353/BBL-1353 – Rangeway Road (Kennedy Meadows Sewer Project)

Documents Submitted:

Received 1/5/2022 email with Letter dated 12/28/2021 from Robert McSorley, PE, Sebago Technics, Inc. RE Request for Certificate of Compliance for the Rangeway Road Force Maine portion (DEP #109-1353), Request for reduction in bond from \$70,000 to \$5,000 (DEP #109-1341), (DEP #109-1353)

:to Conservation with updates on compliance status for both the development site and the sewer project and attachments including copy of response letter to the Department of Public Works comments, signed illicit discharge compliance statement, stormwater and operations & maintenance (O&M) plan, pump station standard operating procedures (SOP), Revised Grading and Utility Plan As-Built 1-5 for 44 Nashua Rd. (*Hawthorn Development, LLC.*) stamped and signed by Robert McSorley on January 11, 2022, scale "1 = 20'

Isabel Tourkantonis, Director of Conservation, noted that the Commission received a comprehensive package with an update on the compliance status of the as-built reviews for both the development site at 44 Nashua Road and the Rangeway Road sewer project. The package included photos regarding the status of various items that came up on the stormwater peer review, staff review, and the Commission's review. Revised as-built plan addressing Town staff comments were also submitted.

Rob McSorely of Sebago Technics, Inc. was present and provided an overview of the information submitted, including the As-Built Plan, maintenance and operation report, and the standard operating procedures for the pump station. The photos submitted were of the fence area in which the Commission required wildlife passage openings. He clarified he was requesting that the Commission concur the sewer project that is off site is completed and approve a Certificate of Compliance for that project. Secondly, he noted the onsite project has one more round of wetlands replication monitoring in the fall 2022. To date the wetlands monitor, Basbanes Wetland Consulting, has noted the replication and buffer zone restoration areas are in good shape. He would like an acknowledgement that everything submitted to the Commission is acceptable and would like a reduction in the bond, from \$70,000 down to \$5,000. He noted the remaining \$5,000 may be held until the final report is completed by the wetland monitor in the Fall, at which time he will return to request the project be closed and a Certificate of Compliance approved by the Commission.

There was discussion regarding the remaining bond amount and the Commission concluded \$8,000 would be acceptable, given the extent of buffer zone plantings and wetland replication that was required for the project.

Motion: TO approve a partial release of the Bond obtained for wetlands replication and buffer zone restoration, including that the Commission will hold \$8,000 of the \$70,000 bond and the remaining \$62,000 will be returned to the applicant from Kennedy Meadows Retirement made by JoAnne Giovino, seconded by Jack Bowen. All in Favor. Carried unanimously.

Motion: TO approved and issue a Certificate of Compliance for the Kennedy Meadows Sewer Project, moved by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried unanimously.

▪ **8:26PM - Violations/Enforcements: 71 Alexander Road**

The Director informed the Commission of complaints received by the department regarding the commercial stockpiling of plowed snow along the frontage of 71 Alexander Road. The property is located at the corner of Islington Road and Alexander Road. There is a new property owner who is using the site for snow storage. There are residents concerned about the large mountains of black snow stockpiled at the front of the property spilling onto the Alexander Road right of way and stockpiled on top of the septic system. Staff conducted a preliminary site visit and briefly spoke to the property owner and noted there is a septic system, and that the operation falls within buffer zone

to Bordering Vegetated Wetland. There are disturbed inner buffer zone areas that will need to be stabilized in the spring. The Department will be working with the Board Health moving forward, since the snow piles are considered contaminated material on top of the septic system and portions of the site fall within a well-head protection zone.

- **8:30PM - Minutes:** 11-17-2021, 12-15-2021, 1-12-2022

Motion: TO accept minutes for November 17, 2021, with minor changes and modifications as reviewed and discussed during the meeting, moved by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried unanimously. (Jeff Connell did not vote; he left the meeting at 8:35PM)

Meeting minutes for December 15, 2022, and January 12, 2022, were tabled until the February 23, 2022, meeting.

There was a brief discussion regarding the status of the subcommittee working to clarify and edit sections of the Billerica Wetlands Protection Regulations and arrangements for the subcommittee to meet and complete the draft.

V. 8:39PM – ADJOURN

Motion: To adjourn was made by Commissioner Jack Bowen, seconded by Commissioner Diane DePaso, All in Favor. Carried unanimously.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Kristina Bernard and Isabel Tourkantonis