



Billerica Conservation Commission

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



Billerica Conservation Commission MEETING MINUTES

**April 8, 2020
6:30 PM**

****The public may call in or use a computer to participate in this meeting****

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 and subsequent Orders imposing strict limitation on the number of people that may gather in one place, this meeting of the Billerica Conservation Commission was conducted via remote participation. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting was provided. No in-person attendance of members of the public was permitted, but every effort was made to ensure that the public could adequately access the proceedings in real time via technological means.

The Conservation Commission meeting was held remotely via a Zoom Meeting (Internet)

Please click the link below to join the Zoom Meeting/Webinar:

<https://us04web.zoom.us/j/840551276>

To call in dial: 1-312-626-6799

Meeting ID: 840 551 276

REMOTE ATTENDANCE: Commissioner Members Paul Hayes (Chairman), JoAnne Giovino (Co-Chair), Diane DePaso (Secretary), Jack Bowen, Betsy Gallagher and Marlies Henderson. Staff Members Isabel Tourkantonis, (Director of Environmental Affairs), Mike DeVito, (Conservation Land Use Assistant) and Liz Ells (Senior Clerk). Absent: Commissioner Jeff Connell.

MOTION VOTES WILL BE TAKEN BY ROLL-CALL CONDUCTED BY THE DIRECTOR.

6:30 PM – PUBLIC COMMENT – No comments.

- I. 6:31 PM – Given the evolving Covid 19 situation, the Commission discussed authorizing the Director, as the Acting Agent for the Billerica Conservation Commission, to be the approved “Temporary Signatory Authority” for permits, electronically or written, until the State of Emergency due to the Covid 19 Pandemic is lifted by Governor Baker. The vote should then be notarized and recorded with the Registry of Deeds.

MOTION: TO authorize the Director, Isabel Tourkantonis, to be the “Acting Agent Signatory Authority” on all permits, electronically or written, until the State of Emergency, due to the Covid 19 Pandemic, is lifted. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YAY’s: Chairman P. Hayes, Co-Chair, J. Giovino, Secretary, D. DePaso, J. Bowen, B. Gallaher, M. Henderson. All in Favor. Carried unanimously.

- II. **6:45 PM –WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING** – Notice of Intent – Various Roads – Applicant: Kelley Conway, Billerica DPW – DEP File No. 109-1407/BBL-1407

Documents submitted:

3/12/20 Received Notice of Intent for Roadway Management 2020 from Kelly Conway, Town Engineer.

Kelly Conway, Director of Engineering, DPW, updated the Commission on the town roadway paving project. There are four (4) areas of the town that will be impacted by the improvements to the roadway paving, as well as, new sidewalks and granite curbing as fully described in the Notice of Intent filing. This project will improve the stormwater runoff and drainage as well as road icing, specifically in the 231 Nashua Road area. The Town Fall Meeting further allotted funds to the town roadway improvement project which must also be used by June 30, 2020. The DPW will also replace the watermain pipe on Boston Road between Simmonds Lane and Stelio’s Restaurant.

Erosion controls will be installed along project areas to protect downgradient wetland and roadway shoulders stabilized. The Billerica Engineering Dept. is requesting waivers addressing unavoidable work within the No Alteration Zone and abutter notification. By-Law requirement of 300’ to 100’. Abutters verses the 100’ requirement permitted in the Massachusetts WPA as this in a linear project.

The Town Engineer indicated a separate filing for sidewalks on Nashua Road would be submitted at a later day.

MOTION: TO issue waiver under abutter notification (2.04.B.3.a). Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YAY’s: Chairman P. Hayes, Co-Chair J. Giovino, Secretary D. DePaso, J. Bowen, B. Gallaher, M. Henderson. All in Favor. Carried unanimously.

MOTION: TO allow work within existing roadways and issue a Variance under C.3.03.3 (a) No Alteration Zone. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YAY's: Chairman P. Hayes, Co-Chair J. Giovino, Secretary D. DePaso, J. Bowen, B. Gallaher, M. Henderson. All in Favor. Carried unanimously.

MOTION: TO close this hearing and issue the Order of Conditions with discussed conditions. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YAY's: Chairman P. Hayes, Co-Chair J. Giovino, Secretary D. DePaso, J. Bowen, B. Gallaher, M. Henderson. All in Favor. Carried unanimously.

III. 7:33 PM – WETLANDS PROTECTION ACT WETLANDS HEARING – Notice of Intent – Continued Public Hearing – 1000 High Street – Applicant: Massachusetts Bay Transportation Authority (MBTA) - DEP File No. 109-1396

Documents submitted:

3/6/20 Received Revised Notice of Intent Site Plans for 1000 High St., MBTA Track Rehab. from Jacobs Engineering. Signed and stamped by Jonathan P. Bruneau, dated 3/3/2020. Scale: ? (DEP 109-1396)

External representatives participating in ZOOM video/conference call: Holly Palmgren - MBTA, Kyle Purdy – Jacobs Engineering, Inc., Patrick Gardner – Peer Reviewer.

Kyle Purdy presented revised plans which incorporated the Commission's comments and requested information.

The Commission clarified that the historic Middlesex Canal should be noted on the plans where applicable, and the (20) trees to be replicated, the height requirement is 6-8' verses the noted replication of 4'-5' in height on the plan.

MOTION: TO close this hearing and issue the Order of Conditions within 21 days with discussed conditions. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YAY's: Chairman P. Hayes, Co-Chair J. Giovino, Secretary D. DePaso, J. Bowen, B. Gallaher, M. Henderson. All in Favor. Carried unanimously.

IV. 7:53 PM - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Abbreviated Notice of Resource Area Delineation – Continued Public Hearing - 67 High Street – Applicant: Ballston Grid, LLC - DEP File No. 109-1403/BBL-1403

Documents submitted:

3/3/20 Received revised construction plans from Mass Dept. of Transportation for RDA FOR 67 High St., (DEP 109-1403)

3/9/20 Received email from Maria Firstenberg, TRC, requesting a continuance for 67 High Street to 3/25/2020. (DEP 109-1403)

4/3/20 Received email correspondence from Maria Firstenberg, TRC, for 67 High St. ANRAD with updated plans with peer review edits incorporated (P.Gardner). Existing Conditions Plan off Pond St. signed and stamped by Norman G. Hill, dated 3/2/2020. Scale: 1"=50'. (DEP 109-1403

4/6/20 Received email from Maria Firstenberg, TRC, updated plan for 67 High St. ANRAD (no requested were changes made)

4/13/20 Received mail from Maria Firstenberg, TRC, revised updated plan for 67 High St. ANRAD with date change from 3/2/2020 to 4/6/2020 as requested from the Billerica Conservation Commission at the 4/8/2020 ZOOM mtg. Corresponding email from Director confirming it is the Plan of Record provided no other changes were made; just the date.

Maria Firstenberg of TRC Associates, Inc., represented the applicant on the ZOOM video/conference call. Patrick Garner, Peer Reviewer, for the Commission, participated as well. Maria Firstenberg presented an overview of the project updates with the Commission requirements and peer reviewer edits. Patrick Garner presented his peer review report to the Commission. The Wetland Flag #5 area was briefly discussed as a potential vernal pool (PVP) but would need to be Certified. The last revised date of plan is March 2, 2020. The Commission requested that the plan be updated with recommendations and changes exchanged on emails with the Director and Pat Garner and reflect the most current date of April 6, 2020 with discussed revisions.

MOTION: TO close this hearing and issue the Order of Resource Area Delineation with discussed conditions. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YAY's: Chairman P. Hayes, Co-Chair J. Giovino, Secretary D. DePaso, J. Bowen, B. Gallaher, M. Henderson. All in Favor. Carried unanimously.

V. 8:30 PM - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Continued Public Hearing - 313 Boston Road – Applicant: Rick Soly, 313 Boston Road Realty, LLC – DEP File No. 109-1402/BBL-1402

Documents submitted:

3/2/20 Received NOI Comments memo from Billerica Engineering Dept. for 313 Boston Rd. (DEP 109-1402)

3/6/20 Received email from Stephen Dresser requesting a continuance for 313 Boston Rd. to 3/25/2020 (DEP 109-1402)

3/18/20 Received email from Stephen Dresser requesting a continuance for 313 Boston Rd. to 4/8/2020 (DEP 109-1402)

3/9/20 Received joint Board of Health/Conservation Commission Peer Review letter from Matt Crowley, BETA, for 313 Boston Road. (DEP 109-1402)

3/18/20 Received email from Stephen Dresser requesting a continuance for 313 Boston Rd. to 4/8/2020 (DEP 109-1402)

4/3/20 Received email from Stephen Dresser, Dresser, Williams & Way, with signed extension request dated 4/3/2020 for 313 Boston Rd. to 5/27/2020. (DEP 109-1402)

4/6/20 Received email from Stephen Dresser, Dresser, Williams & Way with corrected signature line scanned extension request dated 4/6/2020 for 313 Boston Rd. to 5/27/2020. (DEP 109-1402)

MOTION: TO continue this hearing, to May 27, 2020 or within 45 days of the lift of the State of Emergency under Governor Baker’s State of Emergency due to the Covid 19 Pandemic. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YAY’s: Chairman P. Hayes, Co-Chair J. Giovino, Secretary D. DePaso, J. Bowen, B. Gallaher, M. Henderson. All in Favor. Carried unanimously.

VI. 8:32 - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Continued Public Hearing – 27-29 Rogers Street, 7-9 Millstone Way & 1-6 Millstone Way – Applicant: 27 Rogers Street, LLC and Millstone Way, LLC – DEP File No. 109-1406/BBL-1406

Documents submitted:

3/5/20 Received NOI Comments/Plans from Billerica Engineering Dept. for Millstone Village (DEP 109-1406)
3/5/20 Received Board of Health and Conservation stormwater peer review comments from BETA for Millstone Village (DEP 109-1406)
3/6/20 Received email from Stephen Dresser requesting a continuance for Millstone Village/Rogers St. to 3/25/2020 (DEP 109-1406)
3/18/20 Received email from Stephen Dresser requesting a continuance for Millstone Village/Rogers St. to 4/8/2020 (DEP 109-1406)
4/3/20 Received email from Stephen Dresser, Dresser, Williams & Way, with signed extension request dated 4/3/2020 for Millstone Way to 5/27/2020. (DEP 109-1406)
4/6/20 Received email from Stephen Dresser, Dresser, Williams & Way with corrected signature line scanned extension request dated 4/6/2020 for Millstone Way to 5/27/2020. (DEP 109-1406)
4/9/20 Received email from Stephen Dresser, Dresser, Williams & Way, Response to BETA addressing Conservation and Board of Health Peer Review comments, dated 4/9/2020 for Millstone Village. Drainage and Subcatchments Plan, signed and stamped by Stephen Dresser, dated 4/9/2020. Scale: 1”=30’. Operations & Management Plan, dated 4/9/2020. Revised Notice of Intent Plan signed and stamped by Stephen Dresser, dated 4/8/2020. Scale: 1”=30’. Revised Calculations, dated 4/9/2020. (DEP 109-1406)

MOTION: TO continue this hearing, to May 27, 2020 or within 45 days of the lift of the State of Emergency under Governor Baker’s State of Emergency due to the Covid 19 Pandemic. Moved by Commissioner Giovino, seconded by Commissioner Hernderson. Roll call is as follows: YAY’s: Chairman P. Hayes, Co-Chair J. Giovino, Secretary D. DePaso, J. Bowen, B. Gallaher, M. Henderson. All in Favor. Carried unanimously.

VII. 8:33 PM - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Continued Public Hearing - 279 Boston Road – Applicant: Nick Aalerud, 279 Boston Road, LLC - DEP File No. 109-1404/BBL-1404

Documents submitted:

3/6/20 Received email from Stephen Dresser requesting a continuance for 279 Boston Rd. to 3/25/2020 (DEP 109-1404)

3/18/20 Received email from Stephen Dresser requesting a continuance Millstone Village/Rogers St. to 4/8/2020 (DEP 109-1406)

4/3/20 Received email from Stephen Dresser, Dresser, Williams & Way, with signed extension request dated 4/3/2020 for 279 Boston Rd. to 5/27/2020. (DEP 109-1404)

4/6/20 Received email from Stephen Dresser, Dresser, Williams & Way with corrected signature line scanned extension request dated 4/6/2020 for 279 Boston Rd. to 5/27/2020. (DEP 109-1404)

MOTION: TO continue this hearing, to May 27, 2020 or within 45 days of the lift of the State of Emergency under Governor Baker’s State of Emergency due to the Covid 19 Pandemic. Moved by Commissioner Giovino, seconded by Commissioner Hernderson. Roll call is as follows: YAY’s: Chairman P. Hayes, Co-Chair J. Giovino, Secretary D. DePaso, J. Bowen, B. Gallaher, M. Henderson. All in Favor. Carried unanimously.

VIII. 8:35 PM - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Continued Public Hearing - 68R Baldwin Road – Applicant: Robert Belanger – DEP File No. 109-1394/BBL-1394

Documents submitted:

4/13/2020 Received email from Robert Belanger with signed extension request dated 4/3/2020 for 68R Baldwin Rd. to 5/27/2020. (DEP 109-1394)

The Commission briefly touched upon the fact that it has been 45 days since the applicant or their representative presented the Commission with any new, updated or revised information. There was a brief discussion on the need to issue a formal Enforcement Order if no new updates are provided.

MOTION: TO continue this hearing, to May 27, 2020 or within 45 days of the lift of the State of Emergency under Governor Baker’s State of Emergency due to the Covid 19 Pandemic. Moved by Commissioner Giovino, seconded by Commissioner Hernderson. Roll call is as follows: YAY’s: Chairman P. Hayes, Co-Chair J. Giovino, Secretary D. DePaso, J. Bowen, B. Gallaher, M. Henderson. All in Favor. Carried unanimously.

IX. 8:36 PM - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Continued Public Hearing - 2 Beaconcrest Court – Applicant: Stacey Sweklo – DEP File No. 109-1389/BBL-1389

Documents submitted:

3/9/20 Received email from Kristan Farr, Hancock Associates, requesting a continuance for 2 Beaconcrest Ct. to 3/25/2020. (DEP 109-1389)

3/10/20 Received email from Mark LaLumiere, dated 3/10/2020 for 2 Beaconcrest Court- Rebuild NOI Document Memo (DEP 109-1389)

4/6/20 Received email from John Noonan, with signed extension request dated 4/6/2020 for 2 Beaconcrest Ct. to 5/27/2020. (DEP 109-1389)

MOTION: TO continue this hearing to May 27, 2020 or within 45 days of the lift of the State of Emergency under Governor Baker's State of Emergency due to the Covid 19 Pandemic. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YAY's: Chairman P. Hayes, Co-Chair J. Giovino, Secretary D. DePaso, J. Bowen, B. Gallaher, M. Henderson. All in Favor. Carried unanimously.

X. 8:38 PM - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Continued Public Hearing - 900 Middlesex Turnpike – Applicant: RHINO LLC – DEP File No. pending/BBL-xxxx

Documents submitted:

3/25/20 Received email from James Rheault of Whitman & Bingham requesting peer review (B. Dunn, MBL Land Development, Inc.) scope and cost for 900 Middlesex Tnpk (DEP 109-xxxx)

3/27/20 Received email from James Reheault of Whitman & Bingham with copy of peer review deposit check (check dated 3/27/2020) for \$3,800.00 for MBL services (B. Dunn)

4/6/20 Received email from James Reheault, Whitman & Bingham, with signed extension request dated 4/6/2020 for 900 Middlesex Tnpk to 5/27/2020. (DEP 1096-xxxx)

MOTION: TO continue this hearing to May 27, 2020 or within 45 days of the lift of the State of Emergency under Governor Baker's State of Emergency due to the Covid 19 Pandemic. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YAY's: Chairman P. Hayes, Co-Chair J. Giovino, Secretary D. DePaso, J. Bowen, B. Gallaher, M. Henderson. All in Favor. Carried unanimously.

XI. ADMINISTRATIVE MATTERS/DIRECTOR'S REPORT

- Miscellaneous Updates
 - Commissioner Giovino requested reappointment application from the Board of Selectmen for a 3 yr. term.
 - Commissioner Henderson requested a reappointment application for the Community Preservation Committee for a 3 year term.
- Violations/Enforcement Orders
 - The Director and Land Use Assistant briefly discussed a recent call notifying the Department of clearing activity associated with Lowell Street.
- Minutes: 8-15-18, 9-12-18, 12-11-2019, 2-12-2020, 2-26-2020

MOTION: TO accept the 8-15-2018 minutes with minor corrections/edits. Motion moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YAY's:

Chairman P. Hayes, Co-Chair J. Giovino, Secretary D. DePaso, J. Bowen, B. Gallaher, M. Henderson.
All in Favor. Carried unanimously.

MOTION: TO accept the 9-12-2018 minutes with minor corrections/edits. Motion moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YAY's: Chairman P. Hayes, Co-Chair J. Giovino, Secretary D. DePaso, J. Bowen, B. Gallaher, M. Henderson. All in Favor. Carried unanimously.

MOTION: TO accept 12-11-2019 minutes as written. Motion moved by Commissioner Giovino, seconded by Commissioner DePaso. Roll call is as follows: YAY's: Chairman P. Hayes, Co-Chair J. Giovino, Secretary D. DePaso, and Commissioner J. Bowen. Commissioners B. Gallagher and M. Henderson abstained. Four in favor, 2 abstentions. Carried unanimously.
MOTION:

XII. 8:53 PM – ADJOURN

MOTION: TO adjourn. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YAY's: Chairman P. Hayes, Co-Chair J. Giovino, Secretary D. DePaso, J. Bowen, B. Gallaher, M. Henderson. All in Favor. Carried unanimously.

ZOOM / VIDEO CONFERENCE CALL ENDED AT 8:53 PM, WEDNESDAY, APRIL 8, 2020.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Liz Ells and Isabel Tourkantonis