

**Regular Meeting
Billerica Conservation Commission
April 24, 2019
Town Hall, Room 210
365 Boston Road, Billerica, MA**

ATTENDANCE: Commissioner Members Paul Hayes (Chairman), Marlies Henderson, Jack Bowen, Jeff Connell and staff members Michael DeVito (Land Use Assistant) and Liz Ells (Senior Clerk). Diane DePaso (Secretary) arrived at 7:01 PM. Absent: Commissioners Joanne Giovino (Vice-Chair) and Betsy Gallagher and Isabel Tourkantonis (Director of Environmental Affairs)

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 - 39 Marshbrook Road – Raymond & Susan Burgett – DEP File No. 109-1380/Billerica File No. BBL-1380 (Continued to May 8, 2019)

Documents submitted:

4-10-2019 Received Notice of Intent for 39 Marshbrook Road prepared by Steve Dresser, Dresser, Williams & Way Inc., with attached plan titled Notice of Intent Plan, dated April 9, 2019, signed and stamped by Stephen R Dresser. Scale: 1”=20’. DEP No. 109-xxxx
4-10-2019 Variance Request 3.01.B.1 Alteration of Resource Area from Steve Dresser, Dresser, Williams & Way, Inc. for 39 Marshbrook Rd. DEP No. 109-xxxx
4-24-2019 Received via email continuance request from Steve Dresser for DEP No. 109-1380 – 39 Marshbrook Road to continue to May 8, 2019

MOTION: TO continue this Hearing to May 8, 2019 per the request of the Applicant. Moved by Commissioner Bowen, seconded by Commissioner Henderson. All in favor. Carried.

III. 7:06 PM WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING- Notice of Intent – Continued Public Hearing - 258/260 Nashua Road – Paul Marcus – DEP File No. 109-1373/Billerica File No. BBL-1373 (Continued to May 22, 2019)

Documents submitted:

4-23-19 Received via email continuance request from Paul Marcus/Mike Seekamp for DEP -No. 109-1373 – 258/260 Nashua Rd. to continue hearing to May 22, 2019

MOTION: TO continue this Hearing to May 22, 2019 per the request of the Applicant. Moved by Commissioner Bowen, seconded by Commissioner Henderson. Carried. All in favor.

IV. 7:13 PM - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent - Continued Public Hearing - Elsie Ave (Map 59 Parcel 97) – Gary Litchfield, Richfield Company, LLC - DEP File No. 109-1356/Billerica File No. BBL-1356 (Continued to May 8, 2019)

Documents submitted:

4-23-19 Received via email from Gary Litchfield requesting a continuance for DEP No. 109-1356 – Elsie Ave to continue hearing to May 8, 2019.

MOTION: TO continue this Hearing to May 8, 2019 per the request of the Applicant. Moved by Commissioner Bowen, seconded by Commissioner Henderson. All in Favor. Carried.

V. 7:15 PM - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING - Notice of Intent – Continued Public Hearing - 0 Rear Tower Farm Road – Phillip Farmer – DEP File No. 109-1372/Billerica File No. BBL-1372 (Continued to May 22, 2019)

Documents submitted:

4-17-2019 Received email from Scott Symers requesting continuance for DEP File No. 109-1372 - 0 Tower Farm Rd. – to continue hearing to May 22, 2019.

MOTION: TO continue this Hearing to May 22, 2019 per the request of the Applicant. Moved by Commissioner Henderson, seconded by Commissioner Bowen. All in favor. Carried

VI. 7:20 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:

4-17-2019 Received email from Scott Symers letting the commission know they will be at the 4/24/2019 meeting and are working on the comments from the recent technical meeting for DEP No. 109-1362 – 2 Old Elm Street

4-22-2019 Received from Jonathan Shuster of Oxbow Associates Peer Review Comment Responses for DEP File No. 109-1362 – 2 Old Elm Street – Revised Stormwater Report dated 4/12/19 – Attached plan titled Existing Conditions dated 4/1/19, signed and stamped by Robert Michael Gill, Scale: 1"= 20' – attached plan titled Notice of Intent dated 4/12/19, signed and stamped by Robert Michael Gill, scale: 1"=30' – attached plan titled Detail Sheet, dated 4/12/19, signed and stamped by Robert Michael Gill - See Scale

Scott Smyers and Jonathon Schuster from Oxbow Associates acknowledged they understand that they just submitted a packet with additional information and plans to the Department and Commission on April 22nd, but wanted to attend the hearing to provide an overview of the packet information and highlight changes or new information, including the written response letter addressing the peer review completed by Brian Dunn, MBL Land Development. Scott Symers indicated soil sampling will be done at the very beginning of the project to assess soil conditions

immediately adjacent to the building and not on or near the bank. Changes were made to the deck layout and reduced the number of pilings which were moved landward and further from the bank. There was discussion over the state of the building's deterioration and structural stability, and public safety concerns during construction and rehabilitation of the building. The Commission Chair noted the applicant has yet to submit a formal report from a structural engineer providing his/her professional opinion the building is structurally sound to withstand the scope of work proposed by the applicant. The plans have not been signed or stamped by the structural engineer. He and other members of the Commission reiterated the Commission is in support of preserving the building; however, the Commission is concerned about the protection of wetland resources areas surrounding the building, including the short and long-term stability of the bank and that work is safely completed as well. The deck remains a concern due to the bank stability and potential for trash. Scott stated that they have a structural engineer working on the project who provided a construction sequence and plans submitted to the Commission. For the record, the Conservation Assistant raised the email from the Conservation Director that was sent on behalf of the Commission. The email requested another alternative be evaluated as part of the alternative analysis, given the need for a variance. The alternative includes steps from doors at the rear of the building leading down to a patio area versus constructing an observation deck. Scott Symers stressed the deck is an important feature to the Middlesex Canal Association. Jeremiah Breen indicated the contractor noted he can do the demolition work within a month timeframe. There was further discussion amongst the applicant and Commission regarding the structural stability of the building.

MOTION: TO continue this hearing to May 8, 2019 at the request of the applicant. Moved by Commissioner DePaso, seconded by Commissioner Henderson. All in Favor. Carried.

VII. 7:02 PM - ADMINISTRATIVE MATTERS/DIRECTOR'S REPORT

Request for Administrative Approval - Tree Safety 28 Pequot Street:

Resident is requesting to remove seven (7) large pine trees due to substantial safety concerns and tree overhang above the small dwelling. The property owner proposes to restore vegetation on the property, within the buffer zone and bank with new native tree and shrub plantings.

MOTION: TO allow the Conservation Department to administratively review and approve the tree removal work and monitor restoration work. Moved by Commissioner DePaso, seconded by Commissioner Bowen. All in Favor. Carried.

Minor Modification Request - DEP File No. 109-1352/BBL-1352 (97 Andover Road):

The Conservation Assistant referred to an email submitted by a resident who recently received a wetlands permit from the Commission to demolish the existing dwelling and build a new house at 97 Andover Road. The resident stopped in the Conservation Department to discuss slightly realigning the post and rail fence that was recently installed so that it could be a straight line and provide additional area at the southeast corner of the lot and provide sufficient space for a small swing set for the kids. The requested change would allow the applicant to move the visual barrier into the No Alteration Zone. Commissioner DePaso expressed concern over the grade and slope next to the wetland boundary and the Commission concurred the applicant should submit a formal request to modify or amend the variance that was approved for the project.

MOTION: TO deny this request and request the resident attend a regularly scheduled meeting and properly document the request to amend/modify the previously approved variance associated

with the No Alteration Zone. Moved by Commissioner Connell, seconded by Commissioner DePaso. All in Favor. Carried.

Minutes: January 9, 2019 and February 27, 2019

MOTION: TO accept the January 9, 2019 minutes with corrections. Moved by Commissioner DePaso, seconded by Commissioner Bowen. All in Favor. Carried.

February 27, 2019 Minutes – The Director will provide meeting minutes for review prior to the next meeting.

Miscellaneous Updates:

Mike DeVito will be participating in the Billerica Clean Up/Green Up taking place on May 4, 2019.

VIII. 8:02 PM – ADJOURN

MOTION: TO ADJOURN the hearing. Moved by Commissioner Bowen, seconded by Commissioner Connell. All in Favor. Carried.

Respectfully submitted:

Diane DePaso
Secretary

Prepared by Liz Ells, Mike DeVito and Isabel Tourkantonis