

Regular Meeting
Billerica Conservation Commission
February 13, 2019
Town Hall, Room 210
365 Boston Road, Billerica, MA

ATTENDANCE: Commission Members JoAnne Giovino (Vice Chairman - Acting Chair), Diane DePaso, (Secretary), Betsy Gallagher, Marlies Henderson, Jack Bowen, Jeff Connell (arrived at 6:55PM) and staff members Isabel Tourkantonis (Director of Environmental Affairs), Mike DeVito (Land Use Assistant) and Liz Ells (Senior Clerk) Absent: Commissioner Paul Hayes (Chairman).

CALL TO ORDER: 6:30 PM

(Salute the flag)

I. 6:30 PM - PUBLIC COMMENT – no comments

II. 6:31 PM - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING - Request for Determination of Applicability – 8 Carter Avenue – Kelley Conway, Billerica Department of Public Works

Documents submitted:

2/12/19 Received Letter of Approval for 8 Carter Ave Demolition, from Rich Berube-Director of Board of Health, dated February 12, 2019.

Kelley Conway, Billerica Town Engineer, explained the town recently purchased this property and adjacent riverfront parcel now deeded to the Conservation Commission. Due to safety concerns, the Town would like to demolish the old house and shed. Normal protocols will be followed prior to beginning demolition. The Engineering Department will provide construction oversight. Orange fencing and straw wattles will be installed to define the limit of work, including any temporary staging and stockpiling area, and to protect wetland resources. Demolition debris will be loaded on trucks and removed from the site in accordance with local and state laws. The foundation will be removed and clean fill will be used, if needed, to smooth grade any depression resulting from the removal of the foundation blocks. The disturbed area(s) will be enclosed with straw wattles and the areas properly stabilized with loam and seed mix in the spring when it is appropriate to seed. The Director explained this approval is for the demolition and removal of the house and shed at this time. A separate Notice of Intent will be required to modify any portion of the site for future use and/or river access. Dan Burns (resident and Town Meeting Member, 10 Nolte Rd.) spoke during the hearing and indicated that he wants to encourage the use of this property to include access to the Concord River. The Commission explained this is the goal of the Commission as well. It was also explained that a subcommittee of the Commission was established to evaluate the property layout and assess a design plan that will incorporate restoration, preservation, means of parking and access to the river. In the meantime the subcommittee and Commission will assess what minimal accommodations such as basic parking and access could be potentially provided or may exist to allow kayaks/canoe access while also protecting onsite and adjacent wetland resource areas.

MOTION: TO issue a Negative Determination with special conditions to also include pre-construction meeting, project oversight by the Engineering and Conservation Departments, and discussion during the pre-construction meeting to determine if there is a need for additional fencing along Carter Ave. Moved by Commissioner DePaso, seconded by Commissioner Henderson. All in Favor. Motion carried.

III. 6:46 PM - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING - Notice of Intent - 95 ½ Bridle Road – Paul and Susan Ferguson – DEP File No. 109-1376/Billerica File No. BBL-1376

Documents submitted:

- 1/24/19** Received Notice of Intent for 95 ½ Bridle Road prepared by Dresser, Williams & Way, Inc., with attached plan titled Notice of Intent Site Plan, signed and stamped by Stephen Dresser, dated January 21, 2019. Scale: 1"=40' DEP File No. 109-1376
- 1-25-19** Received letter from Rich Berube, Board of Health dated 1-25-19 stating Administrative Determination of Applicability is required by the Board of Health for 95 ½ Bridle Road. DEP File No. 109-1376.

Stephen Dresser (Dresser Williams & Way) represented the applicant and explained the project includes constructing an addition to the existing house. Hand removal of debris and removing the old dock is proposed. The project also includes tree and shrub plantings in proposed restoration areas. The Director stated an inspection by Conservation staff was completed and noted the tree line is not shown on the plan. There is also a perennial stream with a vegetated inner riparian area on the property that flows into the Concord River. Miscellaneous debris along the wetland boundary and inner buffer zone and wire fencing by water's edge should be removed as part of the project. Two metal posts within the No Alteration Zone (NAZ) should be removed if feasible and also discarded wooden pallets and shingles should also be removed from the inner buffer zone. The Commission indicated the hauling of sand onto the property to establish beachfront is not permitted. Commission requested a condition that if the shed or gazebo are ever replaced, they be moved out of the 25 ft. NAZ. The Director explained the general process and that a separate wetland permit would be required if another dock were to be planned. There was a brief discussion about the condition and age of the retaining wall along the river and that review and approval by the Commission would be required to repair and/or replace said wall. There was discussion of the existing chain link fence along the property boundary and potential to remove it as part of mitigation.

MOTION: TO continue this hearing to February 27, 2019 at the request of the Applicant. Moved by Commissioner DePaso, seconded by Commissioner Henderson. All in Favor. Motion carried.

IV. 7:16 PM - WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING - Notice of Intent - 0 Tomahawk Drive (Map 18 Parcel 16) – Billerica Tomahawk, LLC – DEP File No. 109-1375/Billerica File No. BBL-1375

Documents submitted:

- 1-14-19** Received Notice of Intent for 0 Tomahawk Road prepared by Goddard Consulting, LLC, with attached plan titled Notice of Intent Plan, dated November 13, 2018, signed and stamped by Stephen Dresser. Scale: 1"=20'. DEP No. 109-1375
- 1-16-19** Received correspondence from Richard Berube, Board of Health, for 0 Tomahawk Drive NOI DEP File No 109-1375

- 1/25/19** Received via email 21 day waiver signed by Scott Goddard for 0 Tomahawk Drive dated 1/11/19. Stated original to follow via USPS mail. DEP File No. 109-1375
- 1-31-19** Received original 21-day waiver from Goddard Consulting for DEP File No. 109-1375 – 0 Tomahawk Drive
- 1-31-19** Received Supplemental Information for 0 Tomahawk Drive, DEP File No. 109-1375 to include photos
- 1-31-19** Received revised plan titled Notice of Intent Plan, 0 Tomahawk Drive, signed and stamped by Stephen Dresser, dated 1-17-19 based on Board of Health comments. Scale: 1"=20' DEP No. 109-1375.

Thomas Gould (Goddard Consulting) presented the project. A single-family dwelling with attached deck is being proposed entirely outside the No Alteration Zone and generally outside of the vegetated Buffer Zone. A driveway is being proposed with a portion falling within the 100 ft. Buffer Zone. The Commission required a condition to discuss and assess soils during the pre-construction meeting to determine the potential for infiltration and recharge of stormwater runoff from the new roof and driveway, and to also evaluate the enhancement of the NAZ with native tree and shrub plantings.

MOTION: TO close the hearing, sign and issue an Order of Conditions within 21 days and include the special conditions as discussed. Moved by Commissioner DePaso, seconded by Commissioner Bowen. All in Favor. Motion carried.

V. 7:25 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 4-10-19)

Documents submitted:

- 12-4-18** DEP No. 109-1356, Elsie Ave - Notice of Intent. Received email from applicant on 12-4-18 requesting to continue hearing to 2/13/19.
- 2/5/19** Received email from Patty Schuler, requesting continuance for DEP File #109-1356 (Elsie Ave) to April 10, 2019

MOTION: TO continue this hearing to April 10, 2019 at the request of the applicant. Moved by Commissioner DePaso, seconded by Commissioner Bowen. All in Favor. Motion carried.

VI. 7:26 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 2-27-19)

Documents submitted:

- 2/8/19** Received email from Scott Smyers, Oxbow Associates requesting continuance for DEP File No. 109-1372 (0 Tower Farm Rd.) to February 27, 2019

MOTION: TO continue this hearing to February 27, 2019 at the request of the applicant. Moved by Commissioner DePaso, seconded by Commissioner Bowen. All in Favor. Motion carried.

VII. 7:26 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 (Continued to 2-27-19)

Documents submitted:

2/8/19 Received email from Scott Smyers, Oxbow Associates requesting continuance for DEP File No. 109-1362 (2 Old Elm Street) to February 27, 2019

MOTION: TO continue this hearing to February 27, 2019 at the request of the applicant. Moved by Commissioner Henderson, seconded by Commissioner Bowen. All in Favor. Motion carried.

VIII. 7:27 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:

1/22/19 Received correspondence from Bohler Engineering dated January 21, 2019 in response to Board of Health and Conservation Commission peer review comments. Attached document titled Supplemental Drainage Report, dated January 21, 2019. Attached plan titled Site Development plan, stamped and signed by John A. Kucich, dated January 11, 2019. Scale: 1"=1000' DEP No. 109-1370

1-28-19 Received on 1-28-19 BETA response letter on revised documents from Bohler Engineering titled Building Expansion & Parking Lot Solar Arrays - 129 Concord Rd. DEP No. 109-1370

2-5-19 Received via FedEx Peer Review response correspondence from Bohler Engineering dated January 31, 2019 (Dep File No. 109-1370 – 129 Concord Rd) with attached plan titled Site Development Plans, signed and stamped by John Kucich, dated January 31, 2019. Scale: 1"=1,000'

2/6/19 Received via email from Nate Mahonen, Bohler Engineering, revised O&M plan for DEP File No.109-1370 (129 Concord Rd.)

2/8/19 Received via email from Matt Crowley, FINAL BETA Review Letter, dated 2/7/2019 for DEP File No. 109-1370 (129 Concord Rd.)

Nathan Mahonen from Bohler Engineering accompanied by Nick Trocci of Jumbo Capital Management provided an update from the last time they met with the Commission. The Planning Board approved the project. The BOH meeting is on March 4, 2019. Peer review was received and recommended improvements were made to the plans. The Director reported that a subsequent site visit was conducted to assess the outlet/discharge point labeled as No.5, she and Richard Berube, Director of BOH, determined it is sufficient as is, and it would be more invasive to pull it back closer to the parking lot. Spring time clean-up, including parking lot sweeping and removal of windblown litter, is required as part of the O&M Plan. Signage throughout the parking lot to identify designated snow storage areas and to identify nearby sensitive areas is required by the Commission. Matt Crowley of BETA Group, reviewed the overall project compliance with the stormwater management standards. He feels the applicant has addressed his concerns and comments raised during the review process. The Commission inquired about snow removal from the proposed solar arrays on the parking area. The applicant explained the solar vendor will have the appropriate equipment to remove accumulated

snow from the panels if needed and snow will then be placed in designated snow storage areas. The Commission requested adherence with the O&M Plan and the removal of accumulated sediment and litter near the stream, from the vegetated Buffer Zone and Riverfront area at the edge of parking lot areas. Restoration seed mix is required along the back of the parking lot where there is country drainage – no curb or shoulder. Snow storage areas were clarified and shall be defined in the field with signs indicating where it is permissible to store snow and where it is prohibited along the river edge. The Commission and Director discussed a special condition be included to assess during the pre-construction meeting and determine if any erosion and areas of hillside Riverfront are in need of stabilization, and for the Director to instruct the contractor to address accordingly.

MOTION: TO close the public hearing, sign and issue an Order of Conditions within 21 days, and to include the special conditions as discussed, as well as signage. Motion by Commissioner DePasio, seconded by Commissioner Gallagher. All in Favor. Motion carried.

IX. 7:59 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

Documents submitted:

2/6/19

Received revised plans from Gala Simon Associates (GSA) titled Existing Conditions, signed and stamped by Alberto Gala, dated 10/29/2018 and revised through 2/29/19. Scale: As Shown. DEP File No. 109-1373 (258/260 Nashua Rd.)

Al Gala from Gala Simon Associates accompanied by Paul Marcus, who is the owner of the property, and Mike Seekamp from Seekamp Environmental provided an overview of the project. This includes demolishing the existing 3-family dwelling, removing the large concrete pad, shed, and driveway. A rain garden is proposed with various plantings at the front of the property along Nashua Road. A portion of stormwater runoff will be discharged into the rain garden, which will have an overflow pipe. The Director reported that the project needs to be reviewed by the BOH. The project requires a variance for restoration and mitigation activities, as well as reduced set back from the 50' No Alteration Zone due to the proposed house layout. The Commission acknowledged that each subsequent buyer of the property will be provided with a brochure of how to manage the rain garden. However, an O&M Plan should be provided with a detailed narrative on the rain garden. Mike Seekamp explained the existing house is a 3 family home and the new dwelling is for 2 condos. The Commission requested the applicant seek a variance from the Zoning Board of Appeals to move the proposed dwelling closer to the road and out of the 50 ft. NAZ. Mr. Seekamp explained they are attempting to shrink the usable portion of the property and they are not disturbing the NAZ any more than it is already being used. The Commission noted the current, original house is closer to the street today than the proposed dwelling, which is designed within the 50 ft. NAZ and farther into the FEMA floodplain. The Commission had a discussion and referenced the Bylaw and state Act do not allow existing designated floodplain area to be used as compensation flood storage areas. The Commission requested the applicant evaluate reducing the scale of the house, moving the decks from the back of the house to the sides, potentially to avoid encroachment of the NAZ, and to provide an O&M Plan addressing long-term maintenance of the rain garden so that it can be attached and recorded at the Registry of Deeds as part of the Commission's permit decision.

MOTION: TO continue this hearing to March 27, 2019 at the request of the Applicant. Moved by Commissioner DePaso, seconded by Commissioner Henderson. All in Favor. Motion carried.

X. ADMINISTRATIVE MATTERS/DIRECTOR'S REPORT

▪ Requests for Certificates of Compliance:

DEP File No. 109-1256/BBL-1256 (Nicholas Avenue). Documents Submitted: 1-31-19 Received correspondence from Douglas Lees, Land Engineering & Environmental Services, Inc. dated 1-30-19, RE: DEP File No. 109-1268 & 109-1256 (Nicholas Ave & Doris Ave) with attachments – Stormwater Management As-Built Analysis and plan titled As-Built, stamped and signed by Douglas E. Lees, dated 7-21-18. Scale 1"=30'. The Director reported the majority of the project has been completed. The as-built plan has been submitted. She recommend no formal action to approve or deny; to allow for the continued monitoring and as-built updates requested by Brian Dunn of MBL Land Development and Permitting Corp., stormwater peer reviewer for both the Board of Health and Conservation Commission. **MOTION:** TO take no formal action to approve or deny the request for the Certificate of Compliance. Moved by Commissioner DePaso seconded by Commissioner Bowen. All in Favor. Motion carried.

DEP File No. 109-1290/BBL-1290 (328 Boston Road) - The Director reported an as-built has been reviewed by Brian Dunn, stormwater peer reviewer for the BOH and Commission. The catch basin issue has been addressed and the surrounding pavement corrected to allow for proper collection of runoff. However, the rear side of the property along the stream requires additional monitoring by staff to determine if it is properly stabilized, vines addressed, and areas adequately vegetated. **MOTION:** TO take no formal action to approve or deny the request for the Certificate of Compliance to allow for further monitoring due to the time of year and snow cover. Moved by Commissioner DePaso, seconded by Commissioner Gallagher. All in favor. Motion carried.

DEP File No. 109-1287/BBL-1287 (223 Rangeway Road) - The Director reported the as-built has been received and reviewed by Brian Dunn, stormwater peer reviewer for BOH and Commission. Further inspection of the storm water drainage is warranted due to sediment build up observed in the stormwater basin late in the fall and there is a need to verify it is properly functioning. **MOTION:** TO take no formal action to approve or deny the request for Certificate of Compliance to allow for monitoring due to the time of year and snow cover. Moved by Commissioner DePaso, seconded by Commissioner Gallagher. All in Favor. Motion carried.

▪ Conservation Land Management Updates:

Deed Acceptances:

Sheridan Street Parcels – The Director reported Mr. Crowley signed the Deed and is requesting the Chair to sign the Deed on behalf of the Commission as prepared by Town Counsel, which is a common practice in other municipalities. The Director wants the record to show that today the Commission has formally accepted this land and authorize Chairman Paul Hayes to sign the Deed. The Deed will then go before Board of Selectman for acceptance. **MOTION:** TO approve Paul Hayes, Chair to

sign the Deed. Motioned by Commissioner DePaso, seconded by Commissioner Gallagher. All in Favor. Motion carried.

Riverfront Mitigation /Preservation Parcel (former Cabot Property) for the MassDOT Middlesex Turnpike Phase 3 Project – The Director explained the final deed was before the Commission for all members to formally accept and sign as Conservation land. The deed is only for the 10⁺ acre riverfront section of the former Cabot property, which is now owned by the Town. **MOTION:** TO sign the deed. Motioned by Commissioner Bowen, seconded by Commissioner DePaso. All in Favor. Motion carried.

- **Minutes:** 12-13-17, 9-13-17, 1-23-19 – The Director reported that they are in the process and drafts be will distributed prior to the next meeting for the Commission to review and approve.
- **Miscellaneous Updates:** Annual on-line Conflict of Interest training is underway. All Commission Members are required to complete the course as well as staff. The Director requested members complete the training by the end of March. The Certificates of completion must be printed and a copy provided to the Department. The consolidated certificates will be turned into the Town Hall Clerks Office. The Director offered the use of office computer if any Commission member requires assistance.
- **SuAsCo Conservation Plan Update – Billerica Section:** The Director updated the Commission and noted Commission members revised the document. However, the SuAsCo representative requested further explanation and want to work with previous draft. The Director had a conference call with SuAsCo /National Park Service representative Sarah Bursky to discuss the original draft and determine what sections should be clarified, corrected, edited, and/or potentially removed. The Director will review Sarah’s recently edited version per the conference call and coordinate with Commission members Giovino and DePaso, tasked with reviewing the document accordingly.
- **Hidden Oaks Conservation Restriction (DEP File No.109-1289):** The Director stated the draft CR including the state EEA’s edits will be forwarded to Town Counsel. Adherence to state EEA’s CR template format is important. Commission members DePaso and Giovino handed over their recommendations and suggested edits to the draft CR. The Commission confirmed a Baseline Report should be completed by the applicant.

8:50 PM ADJOURN - MOTION TO adjourn meeting. Moved by Commissioner Gallagher, seconded by Commissioner Connell. All in Favor. Motion carried.

Respectfully Submitted,

Diane DePaso

Prepared by: Mary Ann Schafer, Isabel Tourkantonis, Mike DeVito