

**Regular Meeting
Billerica Conservation Commission
February 27, 2019
Town Hall, Room 210
365 Boston Road, Billerica, MA**

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

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 – 26 Pines Road – Sawyer Contracting, Inc. – DEP File No. 109-1377/Billerica File No. BBL-1377

Documents Submitted: 2/13/19 - Received Notice of Intent for 26 Pines Road submitted by Steve Dresser of Dresser, Williams & Way, Inc. with attached plan titled “Notice of Intent Site Plan,” signed and stamped by Stephen Dresser, dated February 11, 2019. Scale: 1”=40’. Variance request 3.03.C.3.a, No Alteration Zone. (DEP #109-1377/BBL-1377), 2/14/19 - Received email correspondence from the Board of Health on NOI for 26 Pines Road (DEP #109-1377), 2/27/19 - Received revised (2-26-2019) plan for 26 Pines Road from Steve Dresser, Dresser Williams & Way Inc., DEP file No. 109-1377/BBL-1377.

Steve Dresser (Dresser, Williams & Way) presented the project on behalf of the applicant, Sawyer Contracting. The proposal is to tear down the existing dwelling and to rebuild a new home that is within the 50 ft. no build zone/No Alteration Zone. There is a variance request to tear down the shed which is within the no build zone, as well as an area for the post and rail fence within the 50 ft. NAZ; Steve noted he would like to shift the post and rail fence to square off the yard in exchange. The shed and existing chain link fence would be removed by hand. The Director noted that there is visible scrap metal, glass and other debris along the wetland boundary and within the buffer zone. She explained that typically that some level of restoration and mitigation is required by the Commission when seeking a variance and relief from full compliance with the 50 ft. buffer setback. However, mitigation was not proposed on the latest plan but there were opportunities available. Regarding Board of Health comments, local GEFP has

been addressed on the plan. There was discussion about removing a controlled patch of Japanese knotweed along rear chain link fence area. The Director recommended removal by mechanical means in this case to aid in the removal of as much rhizomes possible provided sediment controls were added downgradient of the work area and added to the site plan. The Commission requested both planting and restoration details added on revised site plan.

MOTION: TO continue this hearing to March 13, 2019 at the request of the Applicant. Moved by Commissioner Henderson, seconded by Commissioner Bowen. All in Favor. Motion carried.

III. 7:11 PM – WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLANDS HEARING – Notice of Intent – Continued Public Hearing – 95 ½ Bridle Road – Paul and Susan Ferguson – DEP File No. 109-1376/Billerica File No. BBL-1376

Documents Submitted: 2/27/19 - Received revised Wetland Restoration Report for 95 ½ Bridle Road from Steve Dresser, Dresser and Williams & Way Inc, DEP file No. 109-1376/BBL-1376, dated 2-26-2019. Received revised plan for 95 ½ Bridle Road from Steve Dresser, Dresser and Williams & Way Inc., dated 2-26-2019, DEP file No. 109-1376/BBL-1376.

Steve Dresser (Dresser, Williams and Way, Inc.) re-capped the project, which includes construction of a proposed in-law addition to the existing home. He stated there are wetlands and Riverfront Area associated with two separate rivers (Concord River and a perennial stream) on the property. Dresser explained revisions have been made since the last hearing and the restoration details and notes have been added to the site plan. There was confirmation from Dresser and the applicant that the retaining wall along the Concord River will not be disturbed and understanding that if any work to the wall or a dock installation is proposed in the future that a separate wetlands filing pursuant to the Act and Bylaw is required. The Director advised restoration work, which includes excavating piles of landscaping debris from bank and at the edge of wetland should be completed during low-flow conditions given the proximity of excavation and flowing water. The Commission noted if existing shed is to be replaced in the future it must be removed out of the 25' NAZ setback. The boat and camper are to be moved out of the NAZ. A variance request addressing restoration work with the NAZ was provided and added to the file.

MOTION: TO grant the variance for removal of debris removal and restoration activities within the NAZ, Billerica By-Law Section 3.03.C.3(b). Moved by Commissioner Bowen, seconded by Commissioner Gallagher. All in Favor. Motion carried.

MOTION: TO close this hearing, sign and issue an Order of Conditions within 21 days. Moved by Commissioner Henderson, seconded by Commissioner Bowen. All in Favor. Motion Carried.

IV. 7:26 PM – WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLAND 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 3-13-19)

Documents submitted: 2/25/19 - Email Correspondence from OXBOW Associates, Inc. – Request to Continue – 0 Rear Tower Farm Road NOI, DEP File No. 109-1372/BBL-1372

MOTION: TO continue this hearing to March 13, 2019 at the request of the Applicant. Moved by Commissioner Henderson, seconded by Commissioner Bowen. All in Favor. Motion carried.

V. 7:27 PM WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BY-LAW WETLAND 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: 2/20/20 - Email correspondence from Oxbow Associates, Inc., with attachments – revised site plan and additional information. Letter –Supplemental Materials Update, NOI Submittal, DEP File No. 109-1362- 2 Old Elm Street (Parcels 10-231-2 and 10-231-1), dated 2-20-19; Document - SPEC Engineering - Middlesex Canal Museum and Visitor RE: Stages of Construction; Letter from Paul A. Phelan, Jr., PE, Phelan Engineering, LLC, RE: Construction Sequence Concerning the Renovation of the Building Known as 2 Old Elm Street, Billerica MA, Addressed to: Betty M. Bigwood, dated 11-2-18; Revised Site Plan – NOI Plan -2 Old Elm Street, Billerica MA; Prepared by LandPlex, Signed & Stamped by Robert Gill, PE No. 24181, revised date: 2-20-19, Scale = 1”=30’.

Scott Smyers of Oxbow Assoc., and Jim Bagtz, General Contractor, summarized changes to the site plan. A schematic was distributed to the Commission members. Scott clarified that soil sampling and testing is proposed near the foundation both interior and exterior of the building and will be completed during the initial onsite mobilization and building rehab work. During that time there will be a Structural Engineer and Wetlands Scientist on site to address any potential concerns and issues to the bank. The Director mentioned the Commission had previously deemed it necessary to have both a wetlands peer review and storm water peer review during the NOI review process but held off on the wetlands peer review given the extra coordination and to allow for wetlands monitoring during construction. Oxbow and Conservation Department staff visited the site and clarified the extent of restoration work along the bank and re-assessed the floodplain compensation area. Commissioner Bowen inquired if a glass wall/oversized window has been considered and assessed in lieu of the proposed deck. Scott Smyers relayed the deck feature is very important to the applicant as an observation area. A conversation ensued about the size and placement of the deck. Jeremiah Breen (President of Middlesex Canal Association) explained the Historic Districts Commissions approved the appearance of the building including the deck. A lengthy discussion followed about various comments on the plans and corrections on notes from LandPlex. The existing condition and overall stability of the bank was discussed and the Director mentioned the peer reviewer could also offer his professional opinion on the proposed deck. There was discussion about the structural integrity of the building. Scott relayed his opinion that the Conservation Commission is not taking responsibility on the structural integrity of the building if a wetlands permit is approved; he stated other permits will still be needed by various departments and boards, including the Building Department. The Commission requested a planting chart be submitted as part of the file and reiterated certain information that has been repeatedly requested by staff and the Commission remains outstanding such as the details for the deck and bridge. The Commission and applicant discussed the status of the site plan and level of project information

provided to-date and agreed the file at this stage could be sent to the peer reviewer for proposed work including stormwater management review, construction sequencing, proposed work along the bank, and overall site layout.

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

VI. ADMINISTRATIVE MATTERS / DIRECTOR'S REPORT

Minutes:

9-13-17 – **MOTION:** TO accept the minutes with corrections as discussed. Moved by Commissioner Bowen, seconded by Commissioner Gallagher. All in Favor. Motion Carried.

12-13-17 - **MOTION:** TO accept the minutes. Moved by Commissioner Bowen, seconded by Commissioner Gallagher. All in Favor. Motion Carried.

5-23-18 – **MOTION:** TO accept the minutes with corrections as discussed. Moved by Commissioner Henderson, seconded by Commissioner Bowen. All in Favor. Motion Carried.

1-23-19 – **MOTION:** TO accept the minutes with corrections as discussed. Moved by Commissioner Bowen, seconded by Commissioner Connell. All in Favor. Motion Carried.

Miscellaneous Updates:

Potential Warrant Article – Town Meeting Spring 2019 - The Director advised that Trek Reef came by the office and wanted to make the Commission aware of the effort that he is working on for a Tree Protection and Preservation By-Law Warrant Article.

Shawsheen River Watershed Association - The Director relayed to the Commission that the a representative, Sharon Lapham of Shawsheen River Watershed Association (SRWA) stopped by the department as she was preparing to leave for a scheduled meeting. The SRWA wanted to make the department aware they were planning to go before the BOS at the next meeting to present signs prepared for various canoe launch/put in areas in Billerica. The signs were donated as part of a grant and in coordination with EMD Serono. The Director will forward the documentation she received from the SRWA – sample signs on paper to the Commission. In light of the recent conflict associated with the Buckingham Drive put-in and other abutter concerns, the Director indicated she recommended the SRWA hold off presenting the information to the BOS until the Commission and/or the department had an opportunity view the proposed signs and sign locations. The SRWA representative explained not all signs are for canoe put-in locations, some signs are for identifying the Shawsheen River waterbody where roadways/bridges exist and those would be presented to the BOS.

Conservation Land - The Director reported to the Commission that the Department sent a memorandum to the Board of Selectmen seeking approval and formal signatures for the deeds associated with the former Cabot property, specifically the 10⁺acre Riverfront portion (Parcel B) of the property, which must be transferred to Conservation Commission as part of the wetlands mitigation requirements (per MassDEP Wetlands Variance Permit) for the MassDOT Middlesex Turnpike Ph III Project. The riverfront parcel was the subject of a Town Meeting vote and signing the deed is the final step of the process. The second deed is associated with the two parcels of land at the end of Sheridan Street and along the Shawsheen River recently donated to the Conservation Commission. However, the BOS held

off on signing the deed associated with the former Cabot property because a selectman wanted to receive further input from Town Counsel about potential for adding language for a boat launch in the future. Input from Counsel is being pursued.

VII. 8:44 PM: ADJOURN

MOTION: TO adjourn meeting. Moved by Commissioner Connell seconded by Commissioner Bowen. All in Favor. Motion Carried.

Respectfully Submitted,

Diane DePaso, Secretary

Prepared by Mary Ann Schafer, Isabel Tourkantonis and Mike DeVito