

Billerica Conservation Commission
MEETING AGENDA
March 24, 2021
6:00 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 will be 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 can be found below. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means.

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

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

<https://us02web.zoom.us/j/84804289674>

To call-in dial: 1-929-205-6099

Webinar/Meeting ID: 890 9628 2478

6:03 PM - REMOTE ATTENDANCE: Commissioner Members: Chair Paul Hayes, JoAnne Giovino (Vice-Chair), Diane DePaso (Secretary), Jack Bowen, and Marlies Henderson. Staff Members Isabel Tourkantonis, (Director of Environmental Affairs), Mike DeVito, (Conservation Land Use Assistant) and Liz Ells (Sr. Clerk). Absent: Commissioner Betsy Gallagher. Commissioner JoAnne Giovino (Vice-Chair) joined the meeting at 6:18 p.m. after experiencing technical audio difficulties. Commissioner Jeff Connell joined the meeting at 6:36 pm.

I. 6:06 PM – PUBLIC COMMENT – No public comments.

II. NEW WETLAND HEARINGS:

- **6:10 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent – Roadway Management 2021 – Applicant: Kelley Conway, Billerica DPW – DEP File No. 109-1440/BBL-1440**

Documents submitted:

3/10/2021 Received Notice of Intent from Kelley Conway, DPW for 2021 Roadway Management for various streets (DEP 109-xxxx)

Kelley Conway provided an overview of various 2021 roadway improvements proposed within local and state jurisdictional areas. She noted two variance requests were submitted, one addressing the abutter notification which was completed in accordance with the MA WPA of 100' verses 300' and the other for unavoidable work within the 25' No Alteration Zone Ms. Conway shared more detailed plans on the Zoom screen and explained that these plans had not been provided in the NOI submittal. The Commission requested the plans be submitted as hard copies and formal record with the NOI, and that additional wetlands delineation in the field be completed where excavation work and earth disturbing activities would occur near vegetated wetlands and bank. They also requested more details on any proposed stormwater BMPs and the Operations and Maintenance Plan for best management practices. The plans should also reference the location of required sediment controls and that some of the detailed drawings show sediment

controls within the wetland boundary and those areas should be re-assessed or corrected on the plans. There was discussion about potential boulders to protect restored inner Buffer Zone on McClennan Way. More details on the location of a proposed grass swale on Marshall St. was also requested. Ms. Conway clarified the Engineering Division will provide more detailed plans that are available for certain streets and more information on GIS images regarding the location of sediment controls and any drainage improvements and proposed BMP features.

NOTE: Commissioner Jeff Connell joined the meeting at 6:35 p.m.

MOTION: TO continue the hearing to April 14, 2021. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, and M. Henderson and J. Connell. All in Favor. Carried unanimously.

- **7:17 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – 49 Heritage Road – Applicant: Joseph Cloghessy – DEP File No. 109-xxxx/BBL-xxxx

Documents submitted:

3/10/2021 Received Notice of Intent from Jonathan Schuster, Oxbox Associates, for 49 Heritage Road. Notice of Intent Site Plan signed and stamped by Stephen Dresser, dated 3/3/2021. Scale: 1"=20'. Two (2) variance requests: 3.03.C.2, Limit on Impervious Surface, and 3.03.C.3 (b) 25' No Alteration Zone. (DEP 109-xxxx)

Scott Smyers of Oxbox presented the project and gave a brief history concerning the recent unauthorized tree clearing and resulting wetlands violation. The project includes additional clearing and an inground pool with substantial restoration plantings to mitigate the violation of tree and shrub clearing within the inner buffer zone. Scott explained that the trees cut to date and the additional trees proposed for cutting pose a safety hazard on the property, particularly the unstable white pines. The Commission requested the plans be revised to show the proposed staging and stockpiling area for the onsite work and the existing tree line. The Commission requested 4-inch PVC pipe observed onsite be assessed and information provided to the commission. Some members of the Commission expressed concern on the degree of tree and canopy clearing completed and proposed within the buffer zone and requested an arborist assess the condition of the trees, particularly the hardwoods. Scott explained a post and rail fence is proposed as the visual barrier and clarified that it is presumed the pipe is related to a foundation drainpipe and that the project team will assess it in more detail. The Commission required additional information on the reason for the tree clearing and some of the hardwoods, particularly if those are farther away from the pool and healthy. The end of the PVC pipes needs to be reviewed for stabilization and erosion concerns. The Commission requested an increase in the restoration tree plantings and required debris piles and restoration on the other side of the stream.

MOTION: TO continue the hearing to April 14, 2021. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, and M. Henderson and J. Connell. All in Favor. Carried unanimously.

- **8:05 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Request for Determination of Applicability** – 13 Sterling Road – Applicant: JMS Realty, LLC –

Documents submitted:

3/10/2021 Received Request for Determination of Applicability (RDA) from David Cowell, Hancock Associates, for 13 Sterling Road. Site Plan NOT signed and stamped, dated 2/5/2021. Scale: 1"=20'

3/24/2021 Received via email from Joseph Peznola, Hancock Associates, Stormwater O&M Plan, dated 3/24/2021, for 13 Sterling Road RDA. Received certified green cards for 13 Sterling Rd.

David Cowell of Hancock Associates and Joseph Petzola of JMS Realty presented the project for the property formerly owned by Trans Mate. Joe explained the property is being sold and he was retained to conduct an as-built review associated with wetlands permit (DEP File No. 109-802), submit the Request for Certificate of Compliance needed to close out the permit and remove the encumbrance from the property title. He further explained the stormwater basin approved under that previous wetlands permit was not constructed to specification and does not meet the required volumetric capacity and therefore does not meet the Stormwater Management Standard. The purpose of the current RDA is to correct the basin by reconstructing and expanding the basin to accommodate the proper stormwater volumes. He noted the plan also includes a visual barrier to protect a degree of inner buffer zone onsite and an updated Operation and Maintenance Plan was submitted. The Commission noted the plan should reflect the 25' No Alteration Zone boundary and a variance request is required. Some members expressed concern over lapse in the original permit and noted that they would not support a negative determination since they did not have the supporting drainage calculations nor the means for peer review to verify the current proposal meets the standards.

MOTION: TO issue a Positive Determination. Moved by Commissioner Giovino, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, and M. Henderson and J. Connell. All in Favor. Carried unanimously.

III. CONTINUED WETLAND HEARINGS:

- **8:41 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – 0 Pond Street – Applicant: Billerica Pond Street, LLC. – DEP File No. 109-xxxx/BBL-xxxx (*Previously continued to 3-24-2021*)

Documents submitted:

3/16/2021 Received MassDEP NOI Project e-Comments - technical comments for 0 Pond St. (DEP 109-1437)

3/17/2021 Received revised Site Layout plans (C.2 and C.3) for 140 Pond St. from Gene Sullivan, Eugene T. Sullivan, Inc. Signed and stamped by Eugene T. Sullivan, dated 1/29/2021. Scale: 1"=50'. (DEP 109-1437)

John McKenna presented an update on revisions to the site layout to avoid work within the 50' No Alteration Zone. He also clarified that address is 140 Pond St. He explained the two plans submitted to date and shown on the Zoom screen are for discussion purposes only to make the Commission aware of the substantial site layout modification to avoid new work within the 50' No Alteration Zone. The Commission thanked the project team for modifying the layout to completely avoid work within the No Alteration Zone. The Commission pointed out the incorrect scale and requested clarification on snow storage. The project team noted the stormwater peer review was initiated with BETA Group. The Director requested an updated plan set and Stormwater Report for the NOI file and the Commission. The Commission reiterated the need for a comprehensive Operations and Maintenance Plan.

MOTION: TO continue the hearing per the applicant's request to 4/28/2021. Moved by Commissioner Giovino, seconded by Commissioner Henderson. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, and M. Henderson and J. Connell. All in Favor. Carried unanimously.

- **9:22 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – 20 Linnell Circle – Applicant: Ronald Topping –DEP File No. 109-1435/BBL-1435 (*Continued to 3-24-2021*)

Documents submitted: No new information has been submitted.

3/18/2021 Received via email from Stephen Dresser, request to continue 20 Linnell Circle to 4/14/2021 (DEP 109-1435)

MOTION: TO continue the hearing, per the applicant's request, to 4/14/2021. Moved by Commissioner Henderson, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, J. Connell, and M. Henderson. All in Favor. Carried unanimously.

- **9:25 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing –19 Kazimer Drive – Applicant: John Travato – DEP File No. 109-xxxx/BBL-xxxx (*Continued to 3-24-2021*)

Documents submitted: No new information has been submitted.

3/18/2021 Received via email from Stephen Dresser, request to continue 19 Kazimer Dr. to 4/14/2021 (DEP 109-xxxx)

MOTION: TO continue the hearing, per the applicant's request, to 4/14/2021. Moved by Commissioner Henderson, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, J. Connell, and M. Henderson. All in Favor. Carried unanimously.

- **9:25 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – 446 Middlesex Turnpike – Applicant: Thomas B. Shea – DEP File No. 109-1423/BBL-1423 (*Continued to 3-24-2021*)

Documents submitted: No new information has been submitted.

MOTION: TO continue the hearing, per the applicant's request, to 4/14/2021. Moved by Commissioner Henderson, seconded by Commissioner DePaso. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, J. Connell, and M. Henderson. All in Favor. Carried unanimously.

- **9:26 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – 66 Gray Street (Lot 1) – Applicant: Gary Litchfield – DEP File No. 109-1421/BBL-1421(*Previously continued to 3-24-2021*)

Documents submitted: No new information has been submitted.

3/18/2021 Received via email from James Dangora, Jr., Esq., request to continue 66 Gray St. to 4/14/2021 (DEP 109-1421)

MOTION: TO continue the hearing, per the applicant's request to 4/14/2021. Moved by Commissioner Henderson, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Vice-chair Giovino, Secretary DePaso, J. Bowen, J. Connell, and M. Henderson. All in Favor. Carried unanimously.

- **9:26 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – 68 Gray Street (Lot 2) – Applicant: Gary Litchfield – DEP File No. 109-1420/BBL-1420 (*Previously continued to 3-24-2021*)

Documents submitted: No new information has been submitted.

3/18/2021 Received via email from James Dangora, Jr., Esq., request to continue 68 Gray St. to 4/14/2021 (DEP 109-1420)

MOTION: TO continue the hearing, per the applicant's request, to 4/14/2021. Moved by Commissioner Henderson, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, J. Connell, and M. Henderson. All in Favor. Carried unanimously.

- **9:27 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing - 38 Blackwood Avenue – Applicant: Michael and Amanda Fantauzzi – DEP File No. 109-1439/BBL-1439 (*Previously Continued to 4-14-2021*)

Documents submitted: No new information has been submitted.

Per the Director, a formal vote to continue was not necessary as the continuance request to 4/14/2021 was accepted and voted at the 3/10/2021 meeting.

IV. 9:27 PM - ADMINISTRATIVE MATTERS / DIRECTOR'S REPORT:

- **Request for Certificate of Compliance:**
 - DEP File No. 109-259 (61 River Street)

There are no wetlands on the property or within 100' Buffer Zone. An-Built Plan prepared by Stephen Dresser was submitted with the RCOC.. Staff recommends issuing the Certificate of Compliance to remove the permit encumbrance from the property title..

MOTION: TO issue the Certificate of Compliance. Moved by Commissioner Henderson, seconded by Commissioner Giovino. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, J. Connell, and M. Henderson. All in Favor. Carried unanimously.

- **Violations/Enforcement Orders:**

Staff continue to work with various property owners with violations. The restoration plan for 143 Pollard St. is under review.

Staff was requested by the Commission to investigate the visible encroachment of BVW, stream bank with heavy equipment, trash, and debris on the direct abutting property south of 13 Sterling Road associated with Marquis Tree Service operations.

The Director updated the Commission on the Pond Street/Railroad Bridge sewer break. Patrick Garner was retained to oversee the repair work and required restoration work under an Emergency Certification Order.

- **Minutes: 2/24/2021**

Minutes were tabled to the next meeting.

- **Miscellaneous Updates**

The Director indicated the Commission was provided with copies of the Forestry Management Plan submitted to the state for 268 Rangeway Road. The plan was submitted by Leo Garneau. Under state law, the Commission needs to be informed of the Memorandum of Understanding and is allowed a 10-day comment/review period.

V. **9:37 PM - ADJOURN**

MOTION: TO adjourn. Moved by Commissioner Bowen, seconded by Commissioner Henderson. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, J. Connell, and M. Henderson. All in Favor. Carried unanimously.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Liz Ells and Isabel Tourkantonis