

**Billerica Conservation Commission**  
**MEETING AGENDA**  
**April 28, 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/86188779899>

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

**Webinar/Meeting ID: 861 8877 9899**

**6:01PM - REMOTE ATTENDANCE:** Commissioner Members: Chair Paul Hayes, JoAnne Giovino (Vice-Chair), Diane DePaso (Secretary), and Jack Bowen. Staff Members Isabel Tourkantonis, (Director of Environmental Affairs), Mike DeVito, (Conservation Land Use Assistant) and Liz Ells (Sr. Clerk). Commissioner Connell joined the meeting at 6:09 PM. Absent: Commissioner Betsy Gallagher.

**NOTE:** Due to technical difficulties, Chair Hayes instructed Vice-Chair Giovino to conduct the meeting.

I. **6:03PM – PUBLIC COMMENT** – No comments.

II. **NEW WETLAND HEARINGS:**

- **6:03 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – 13 Sterling Road – Applicant: JMS Realty, LLC – DEP 109-xxxx/BBL-xxxx

Documents submitted:

4/14/2021 Received Notice of Intent from Kristen Farr, Hancock Associates for 13 Sterling Road. As-built Plan and Completion Work Site Plan signed and stamped by Joseph D. Peznola, dated 4/12/2021. Scale: 1"=20' Variance request 3.03.C.3(b) 25' No Alteration Zone. Received via email electronic copy of NOI and certified mailing slips (DEP 109-xxxx)

Joseph Peznola of Hancock Associates presented the site plan to the Commission, which generally consisted of the same information submitted with the recent Request for Determination of Applicability application. The NOI includes onsite work to correct the existing onsite stormwater basin by reconstructing and expanding the basin to accommodate the proper stormwater volumes approved under the original wetlands permit issued in 2001. He explained that Mr. Steven Stockman purchased the property in 2016 unaware of the open wetlands permit and is proposing to resolve any outstanding issues for the new owner. Staff conducted a site visit and agreed with the wetland delineation, however, extensive trash and debris was observed throughout the stream and Bordering Vegetated Wetland including

steel drums and numerous tires. The Commission noted that no drainage calculations or stormwater management report was submitted as part of the NOI and should have been. The BCC also pointed out the proposed post and rail fence is still shown along the proposed reconstructed slope of the stormwater basin and should have been addressed since the RDA review. The Commission requested the plan be updated to reference the concrete headwall and culvert size, stream flow direction off Sterling Road, and an additional outlet observed to the rear of the property that is not reflected on the site plan. All easements should also be shown on the plans. The Commission noted several small PVC pipes appear to have been added to the stormwater basin over the years potentially, the applicant must verify that additional volume was included in the original design of the basin. t. The applicant's engineer was advised to re-assess opportunities to infiltrate and recharge roof runoff onsite outside of the basin, given the degree of what appears to be the unpermitted addition of pipes and roof runoff, and to also assess opportunities to restore, stabilize and enhance sections of the inner buffer zone over existing conditions and what is shown on the current plan. The Commission pointed out the site is not in compliance with the previous wetland permit. Construction equipment was observed by some members located at the rear of the existing building along with evidence of erosion directly adjacent to wetlands that needs to be addressed. The Commission reiterated the NOI warrants independent engineering review of proposed design and reconstruction of the onsite stormwater basin. There was discussion about utilizing Brian Dunn, MBL Land Development to review the proposed basin and site conditions. The Commission noted that there has been an overall neglect and lack of site management, including maintenance of stormwater BMPs and the parking lot, and that a current Operation and Maintenance Plan addressing snow management, sweeping, proper maintenance of the stormwater basin must be submitted as part of the NOI review including a BMP Plan to be attached. The NOI was missing a wetlands letter report and should be submitted as well. A revised variance request should be submitted including removal of substantial trash and debris from the wetland and stream, basin reconstruction, stabilization and restoration activities proposed within the 25' No Alteration Zone. The stormwater review may be streamlined with the Board of Health for compliance with BOH drainage regulations.

**MOTION:** TO continue the hearing to May 26, 2021 per the applicant's request. Moved by Commissioner DePaso, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen and J. Connell. All in Favor. Carried unanimously.

- **6:47 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent – 6 Abanaki Drive – Applicant: Robert & Karen Gallagher – DEP 109-1445/BBL-1445**

Documents submitted:

4/14/2021 Received Notice of Intent from Stephen Dresser, Dresser, Williams & Way, for 6 Abanaki Dr. Notice of Intent Site Plan, signed and stamped by Stephen Dresser, dated 4/12/2021. Scale: 1"=20'. Variance request for 3.03.C.2, Limit on Impervious Surface in Buffer Zone. (DEP 109-xxxx)

4/28/2021 Received from Stephen Dresser revised variance request dated 4/27/2021 (3.03.C.2, Limit on Impervious Surface in Buffer Zone) for 6 Abanaki Drive. Revised Notice of intent Site Plan, signed and stamped by Stephen Dresser, dated 4/27/2021. Scale: 1"-20'. (DEP 109-1445)

4/29/2021 Received revised Notice of Intent Site Plan signed and stamped by Stephen Dresser, dated 4/28/2021 for 6 Abanaki Drive. Scale: 1"=20' (DEP 109-1445)

Stephen Dresser, Dresser, Williams & Way, presented the project to construct an inground pool with an associated paver patio, a retaining wall and removal of several trees. A variance request was submitted addressing a proposed increase in the amount of impervious surface area greater than 25%, which Steve explained is unavoidable due to the site layout and extent of existing impervious surface within the Buffer Zone. Staff conducted a site visit and concurred with the wetland delineation, but landscaping debris piles were observed between some of the flags. The project may require a Board of Health review for work near the floodplain. The Commission requested a post and rail fence with

signage and additional enhancement plantings to be staggered within the 25' No Alteration Zone. There was discussion about extending the visual barrier to preserve vegetated Buffer Zone along the eastern portion of the site, beyond the No Alteration Zone, using wooden posts with environmental placards. A revised plan with an extended visual barrier with environmental signage to be installed at the existing tree line along the eastern side of the property must be submitted prior to issuance of the Order of Conditions. The revised plan should also include the location of the enhancement plantings.

**MOTION: TO** grant variance 3.03C.2, Limit on Impervious Surface in Buffer Zone. Moved by Commissioner DePaso, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen and J. Connell. All in Favor. Carried unanimously.

**MOTION: TO** grant variance 3.03.C.3(b), 25' No Alteration Zone, to allow for debris clean up and enhancement. Moved by Commissioner DePaso, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen and J. Connell. All in Favor. Carried unanimously.

**MOTION: TO** close, sign and issue the Order of Conditions including the discussed special conditions. Moved by Commissioner DePaso, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen and J. Connell. All in Favor. Carried unanimously.

- **7:07 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent – 9 Eubar Circle – Applicant: Marc & Melissa Lombardo – DEP 109-1446/BBL-1446**

Documents submitted:

4/14/2021 Received Notice of Intent from Stephen Dresser, Dresser, Williams & Way, for 9 Eubar Circle. Notice of Intent Site Plan, signed and stamped by Stephen Dresser, dated 3/28/2021. Scale: 1"=20'. Variance request 3.03.C.2 Limit on Impervious Surface in Buffer Zone. (DEP 109-xxxx)

Stephen Dresser, Dresser, Williams & Way presented the project to construct a garage with an addition above on the north side of the existing dwelling. The project requires a variance under Section 3.03.C.2 regarding the limit on impervious surface area in the Buffer Zone. He noted a stormwater infiltrator is proposed on the site plan, and stone trenches are proposed along the driveway and along the new proposed addition to help infiltrate stormwater runoff. The Director indicated staff reviewed the wetland delineation along with Commission members who observed a substantial amount of wetland vegetation extending beyond flagging between WF-8 to WF-10, and WF 15 to WF-17. The Commission requested the wetland scientist re-evaluate those delineated wetland areas, since the delineation appears to have been completed during snow cover. The Commission also requested clarification of the type of proposed driveway, and that the dimensions of proposed and existing structures be added to the site plan.

There was discussion about the previous wetlands permit (DEP File No. 109-1226/BBL-1226) that had been issued authorizing the construction of a 3-car detached garage with driveway and a separate in-law addition on the south side of the existing dwelling. The project was completed, but members pointed out the site is not in compliance with the conditions of that previous wetlands permit and Certificate of Compliance that was subsequently issued in 2017, particularly restoration of the No Alteration Zone, which was conditioned to be protected as a vegetated, natural buffer to the adjacent Bordering Vegetated Wetland in perpetuity. Additionally, the Commission noted subsequent work had been completed within the backyard that directly abuts wetlands without review or approval for work in the Buffer Zone. It was noted that the designated No Alteration Zone required as mitigation under the previous wetlands permit is not in compliance with the permit as it is currently maintained as lawn and is missing many of the restoration plantings previously required. Mr. Marc Lombardo explained the area has been inadvertently cleared by the landscaper when the family was away on vacation. The Commission noted the scale presented on the site plan appears to be incorrect and

should be double-checked, particularly the dimensions of the proposed garage/addition. The Commission also indicated that an alternative analysis must be submitted as part of the variance request. Discussion ensued regarding alternatives presented to the Commission under the previous wetlands permit, and that at that time it was noted that the applicant claimed that the in-law apartment could not be built on the north side of the dwelling where the current garage is proposed. There was discussion concerning the proposed project and potential cumulative effects and impacts to the Buffer Zone. The Commission requested the Director send section information addressing cumulative effects under the Bylaw to Steve Dresser.

**MOTION: TO** continue the hearing to May 12, 2021, per the applicant's request. Moved by Commissioner DePaso, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen and J. Connell. All in Favor. Carried unanimously.

### III. CONTINUED WETLAND HEARINGS:

- **7:52 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

Documents submitted:

4/14/2021 Received email from Patty Schuler, Litchfield Co., requesting a continuance for 66 Gray St. to 4/28/2021 (DEP 109-1421)

4/23/2021 Received email from Gary Litchfield/Patty Schuler requesting a continuance for 66 Gray St. to 5/12/2021 (DEP109-1421)

**MOTION: TO** continue the hearing to May 12, 2021, per the applicant's request. Moved by Commissioner DePaso, seconded by Commissioner Hayes. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen and J. Connell. All in Favor. Carried unanimously.

- **7:54 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

Documents submitted:

4/14/2021 Received email from Patty Schuler, Litchfield Co., requesting a continuance for 68 Gray St. to 4/28/2021 (DEP 109-1421)

4/23/2021 Received email from Gary Litchfield/Patty Schuler requesting a continuance for 68 Gray St. to 5/12/2021 (DEP109-1420)

**MOTION: TO** continue the hearing to May 12, 2021, per the applicant's request. Moved by Commissioner DePaso, seconded by Commissioner Hayes. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen and J. Connell. All in Favor. Carried unanimously.

- **7:55 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – Continued Public Hearing – 0 Pond Street – Applicant: Billerica Pond Street, LLC. – DEP File No. 109-1437/BBL-1437

Documents submitted:

4/22/2021 Received email from Gene Sullivan requesting a continuance for 0/140 Pond St. to 5/12/2021 (DEP 109-1437)

**MOTION: TO** continue the hearing to May 12, 2021, per the applicant's request. Moved by Commissioner DePaso, seconded by Commissioner Hayes. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen and J. Connell. All in Favor. Carried unanimously.

- **7:56 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. 109-1442/BBL-1442

Documents submitted:

4/27/2021 Received hard copies of site inspection letter with photos and receipts from Steven Eriksen, Norse Environmental, dated 4/13/2021 for 19 Kazimer Dr. (DEP 109-1316)

4/28/2021 Received email from Stephen Dresser requesting a continuance for 19 Kazimer Dr. to 5/12/2021 (DEP 109-1442)

**MOTION: TO** continue the hearing to May 12, 2021, per the applicant's request. Moved by Commissioner DePaso, seconded by Commissioner Hayes. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen and J. Connell. All in Favor. Carried unanimously.

- **7:57 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 (*Previously Continued to 5-12-2021*)
- **7:57 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – 31 Baker Street – Applicant: Gary and Christine Wedge – DEP File No. 109-1443/BBL-1443 (*Previously Continued to 5-12-2021*)

#### **IV. 7:58 PM - ADMINISTRATIVE MATTERS / DIRECTOR'S REPORT:**

- Request for Certificate of Compliance:
  - DEP File No. 109-1131/BBL-1131 (20 Linnell Circle)

It is recommended that no formal action to approve or deny the Certificate of Compliance be taken pending stabilization of the site. There was discussion that the site currently contains old and inadequate sediment control barriers that need to be replaced so that the site can be fully stabilized.

**MOTION: TO** take no formal action to approve or deny the Request for Certificate of Compliance to allow for site stabilization and submission of an as-built plan. Moved by Commissioner DePaso, seconded by Commissioner Hayes. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen and J. Connell. All in Favor. Carried unanimously.

- Miscellaneous Updates:

The Director referred to additional information and subsequent email submitted by Brian Henderson, Shawsheen River Watershed Association regarding samples of memorial and educational signs honoring former SRWA members at the Akeson Park canoe/kayak launch area and the proposed Sheridan Street canoe launch area. A copy of the email was included in the member meeting packets. The Director noted that signs and official dedication of canoe launch area associated with the Sheridan Street site remain on hold until formal wetlands permitting, including the abutter notification process, is completed for that site.

- Minutes: 3-24-2021; 4-5-2021

**MOTION: TO** accept the 3-21-2021 minutes with minor edits. Moved by Commissioner DePaso, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen and J. Connell. All in Favor. Carried unanimously.

**MOTION: TO** accept the 4-5-2021 public Executive Session minutes. Moved by Commissioner DePaso, seconded by Commissioner Hayes. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen and J. Connell. All in Favor. Carried unanimously.

**V. 8:07 PM - ADJOURN**

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

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Liz Ells and Isabel Tourkantonis