

**Billerica Conservation Commission**  
**MEETING AGENDA**  
**May 12, 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/82914627232>**

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

**Webinar/Meeting ID: 829 1462 7232**

**6:00PM - REMOTE ATTENDANCE:** Commissioner Members: Chair Paul Hayes, JoAnne Giovino (Vice-Chair), Diane DePaso (Secretary), Jack Bowen, Jeff Connell, and Betsy Gallagher. Staff Members Isabel Tourkantonis, (Director of Environmental Affairs), Mike DeVito, (Conservation Land Use Assistant) and Liz Ells (Sr. Clerk). Commissioner Gallagher left the meeting at 8:31 pm.

**6:02 PM – PUBLIC COMMENT – No comments.**

**I. NEW WETLAND HEARINGS:**

- **6:03 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent – 221 Boston Road – Applicant: Gregory Lombardi Design Inc.– DEP File No. 109-1448/BBL-1448**

Documents submitted:

4/28/2021 Received Notice of Intent from Brian Geaudreau, Hancock Associates, for 221 Boston Rd. Notice of Intent Site Plan, signed and stamped by Brian G. Geaudreau, dated 4/28/2021. Scale: As Shown. Existing Conditions Plan of Land, signed and stamped by Brian G. Geaudreau, dated 1/20/2021. Scale: 1"=20'. Site Plan, signed and stamped by Brian G. Geaudreau, dated 4/28/2021. Scale: As Shown. Site Details Plan signed and stamped by Brian G. Geaudreau, dated 4/28/2021. Scale: As Shown. Planting Plan not signed and stamped, dated 4/28/2021. Scale: 1"=20'. (DEP 109-xxxx)

Attorney Steven Nelson introduced the applicant, Gregory Lombardi, who is proposing to partially reconstruct an existing parking lot with a proposed rain garden to help mitigate for runoff. Also in attendance were Brian Geadreau and David Cowell of Hancock Associates. The project includes improvements to the site, including removal of debris, substantial enhancement of the inner buffer zone, and improvements to stormwater runoff. Greg Lombardi expressed the importance of making this new office location a good representation and commitment to the kind of work they do. He is planning on moving 30 staff members from the Cambridge office to Billerica. David Cowell reviewed the existing

site conditions, including the various resource areas. Brian Geadreau reviewed the stormwater management component of the project. Stormwater management does not currently exist on this site and the proposed project includes (2) raingardens, greenspace, and management of invasives species, and overall improvement to inner buffer zone compared to existing conditions. Miles Conners, with Lombardi Landscaping, presented details on the restoration work proposed. Staff indicated the wetland delineation is correct in the field. The applicant is also proposing a 4 foot wide passive path/trail for employees and a seating area. Commission members requested the walkway design be re-assessed and shifted farther from the wetland boundary and the No Alteration Zone where possible. The Commission verified a variance is required for work proposed within the No Alteration Zone and peer review for compliance with the MA Stormwater Management Standards. The Commission requested the delineation date, staging, stockpiling, and snow storage area(s) be identified on the plan. An Operations and Maintenance Plan with BMP's will also need to be submitted.

**MOTION:** TO continue the hearing to June 23, 2021, per the applicant's request. Moved by Commissioner Giovino, seconded by Commissioner Bowen. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, J. Connell, and B. Gallagher. All in Favor. Carried unanimously.

## **II. CONTINUED WETLAND HEARINGS:**

- **7:11 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – 9 Eubar Circle – Applicant: Marc & Mellisa Lombardo – DEP 109-1446/BBL-1446

Documents submitted:

5/5/2021 Received revised Notice of Intent Site Plan & plan revision list from Stephen Dresser for 9 Eubar Circle. Signed and stamped by Stephen Dresser, dated 5/5/2021. Scale: 1"=30' (DEP 109-1446)

Stephen Dresser updated the Commission about changes made to the plan, including the wetland delineation which was corrected in the field by Oxbow Associates due to the time of year the original delineation was completed. The garage size was reduced and shifted closer to the road slightly. He clarified the proposed garage cannot be moved any closer to the road due to existing underground utilities. A post and rail fence is proposed as a hard barrier that will be connected to the chain link fence. Additional restoration plantings are proposed to restore portions of the No Alteration Zone that was previously required under the previous wetlands permit issued for the construction of the onsite 3-car garage and in-law addition. The Commission clarified the site must be returned to full compliance with the requirements of the previous wetlands permit regardless of the review status of the new wetlands application for new work on the property. The restored No Alteration Zone was to remain in perpetuity as a natural, healthy vegetated inner buffer zone with a conservation wildlife herbaceous cover and restoration plantings. Furthermore, the Commission noted additional violations due to unpermitted alteration to the 100' Buffer Zone in the backyard area, specifically, the construction of an artificial turf area and two paver patios. There was a lengthy discussion about the Commission's ability as part of a wetlands application review, to consider the cumulative adverse effects of loss and/or degradation of protected wetland resource areas, including the Buffer Zone, resulting from past activities. Some members of the Commission noted there appears to be viable alternatives to provide safe and adequate access to the existing house during winter months and buffer zone mitigation. The Commission requested an alternative analysis be submitted as part of the variance request per the variance request outline provided in the Bylaw. Commission members clarified the current mitigation plan is generally comprised of restoration areas that were a requirement under the previous wetland permit issued for the onsite 3-car garage and in-law addition project. The property in its current state is not in compliance with the previous permit as the No Alteration Zone is currently maintained as lawn. Additionally, the backyard was subsequently altered to include a turf putting area, crushed stone, and patio paver area and did not undergo any form of wetlands review. Members of the Commission noted the current site plan does not include any higher or greater mitigation as part of a second request for variance.

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

- **7:49 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

Documents submitted:

5/3/2021 Received Notice of Intent Review, Stormwater Management Review Peer Review Services Response from Stephen Dresser for 20 Linnell Circle (DEP 109-1435). Proposed Conditions Plan Site Plan, signed and stamped by Stephen Dresser, dated 5/3/2021. Scale: 1"=30'. Wetlands Report – extended wetland flagging done by Norse Environmental, Revised Conservation Restriction. (DEP 109-1435)

5/11/2021 Received 3<sup>rd</sup> peer review letter from Brian Dunn dated 5/12/2021 for 20 Linnell Circle (Dep 109-1435)

5/12/2021 Received email from Steve Dresser noting that he will revise the plan to Drainage Ditch, not Wetlands for 20 Linnell Circle (DEP 109-1435)

Stephen Dresser presented revisions to the plan and Brian Dunn reviewed his stormwater peer review. The Director noted that staff concurred with the additional delineation and that the Conservation Restriction was drafted and preliminary reviewed by Town Counsel. Attorney James Dangora, Jr. noted he is in the process of submitting the Conservation Restriction to the State for review. The Commission clarified the Conservation Restriction is to be executed by the applicant/attorney and the project will require a bond of \$3,000.00 associated with the full review and execution of the Conservation Restriction. The project shall not receive department occupancy sign-off until the Conservation Restriction is reviewed and commented on by the State and approved by the Commission.

**MOTION: TO** grant the variance 3.03.C.3(a), 50' No Alteration Zone to perform the restoration work and grant relief from the buffer setback due to higher and greater mitigation and per previous permits and reviews associated with this particular property. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, J. Connell, and B. Gallagher. All in Favor. Carried unanimously.

- **8:14 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:

4/28/2021 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) (Received via email on 4/27/2021)

5/5/2021 Received revised Notice of Intent Site Plan & plan revision list from Stephen Dresser for 19 Kazimer Drive. Signed and stamped by Stephen Dresser, dated 5/5/2021. Scale: 1"=20'. (DEP 109-1442)

Stephen Dresser presented plan revisions and added additional mitigation and gutters on the rear of the house. The garage size has been reduced and additional plantings shown on the plan. The Director provided an update on the status of the restoration work required under a previous Order of Conditions and is currently being reviewed under a Request for Certificate of Compliance (DEP 109-1316/BBL-1316). There was discussion about the relocation of the vinyl fence with a path to the shed. The Commission requested that the vinyl fence be relocated to provide a greater degree of restored and protected inner riparian and buffer zone given the additional variance request for additional work proposed on the property. There was discussion about potential relocation of the shed outside the 25' buffer

setback. The Commission requested clarification regarding the patio proposed on the drainage easement and for coordination and review by DPW.

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

**NOTE:** Commissioner Gallagher left the meeting at 8:31 pm.

- **8:44 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. 109-1437/BBL-1437

Documents submitted:

4/28/2021 Received from Gene Sullivan, transmittal letter for 140 Pond St. Response letter dated 4/26/2021 to peer review memos by BETA Group. Long term Pollution Prevention Plan, signed and stamped by Eugene Sullivan, dated 4/26/2021. Revised Drainage and Utilities Plan, signed and stamped by Eugene T. Sullivan, dated 4/26/2021. Scale: 1"=30'. Pre and Post Development Watershed Plans, signed by Eugene T. Sullivan, dated 1/29/2021. Scale: 1"=50'. Storm Drainage Management Report, signed and stamped by Eugene T. Sullivan, dated 4/26/2021. Multiple Site plans, signed and stamped by Eugene T. Sullivan, dated 4/26/2021. Scales: As shown. (DEP 109-1437)  
5/12/2021 Received email from Gene Sullivan, Gene Sullivan, Inc., requesting a continuance for 0/140 Pond St to 5/26/2021 (DEP 109-1437)

**MOTION: TO** continue the hearing to May 26, 2021, per the applicant's request. 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 J. Connell. All in Favor. Carried unanimously.

- **8:45 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:

5/5/2021 Received revised Existing Conditions Plan Site Development Permit Plan from Gary Litchfield for 66 Gray St., signed and stamped by Christopher Mello, dated 4/26/2021. Scale: 1"=20'. Eastern Land Survey Associates response letter to peer review comments (Brian Dunn) from Christopher Mello, dated 4/27/2021. (DEP 109-1421)  
5/11/2021 Received 4<sup>th</sup> peer review letter from Brian Dunn dated 5/12/2021 for 66 Gray St. (DEP 109-1421)

**8:48 PM - MOTION: TO** open both hearings for 66 and 68 Gray Street. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, and J. Connell. All in Favor. Carried unanimously.

Attorney James Dangora, Jr., presented project updates with Christopher Mello, project engineer, and Leah Basbanes, wetland scientist. The Commission's peer reviewer, Brian Dunn, provided an overview of his review and project compliance with BLSF performance standards and degree of stormwater management. The Director noted that there have been two technical meetings. The project team clarified that no additional fill is proposed within FEMA floodplain associated with the project and that the project as designed will result in compensatory flood storage, substantial cleanup of the property, and the post and rail fence is to be extended on both properties to protect the inner buffer zone. The Commission required an independent monitor of the applicant's wetland scientist Leah Basbanes to monitor

construction, including new construction and grading within FEMA floodplain, removal of significant debris and junk from overlapping wetland resource areas, and restoration work. Gary Litchfield clarified two separate water services will be provided, one for each house. It was noted that there is to be no salt on the driveway and independent environmental monitoring required for the project.

**MOTION: TO** grant the variance 3.03.C.3 (a) 50' No Alteration Zone to perform the demolition and restoration work for 66 Gray Street. Moved by Commissioner Giovino, seconded by Commissioner DePaso. 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 with special conditions as discussed. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, and J. Connell. All in Favor. Carried unanimously.

- **8:48 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:

5/5/2021 Received revised Existing Conditions Plan from Gary Litchfield for 68 Gray St., signed and stamped by Christopher Mello, dated 4/26/2021. Scale: 1"=20'. Eastern Land Survey Associates response letter signed by Christopher Mello to peer review comments (Brian Dunn) dated 4/27/2021. (DEP 109-1420)

5/11/2021 Received 4<sup>th</sup> peer review letter from Brian Dunn dated 5/12/2021 for 68 Gray St. (DEP 109-1420)

**MOTION: TO** grant the variance 3.03.C.3 (a) 50' No Alteration Zone to perform the demolition and restoration work for 68 Gray Street. Moved by Commissioner Giovino, seconded by Commissioner DePaso. 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 with special conditions as discussed. Moved by Commissioner Giovino, seconded by Commissioner DePaso. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, and J. Connell. All in Favor. Carried unanimously.

- **9:19 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

Documents submitted:

5/11/2021 Received email from Stephen Dresser requesting a continuance for 31 Baker St. to 5/26/2021 (DEP 109-1443)

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

- **9:20 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – 0 Market Street – Applicant: Bryan Duby – DEP File No. 109-1436/BBL-1436 (*Continued to 6-23-2021*)

Documents submitted:

5/10/2021 Received email request from Mark Arnold, Goddard Consulting, to continue 0 Market Street to 6/23/2021 (DEP 109-1436)

**MOTION: TO** continue the hearing to June 23, 2021, per the applicant's request. Moved by Commissioner Bowen, seconded by Commissioner Giovino. Roll call is as follows: YEA's: Chair Hayes, Vice-Chair Giovino, Secretary DePaso, J. Bowen, 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 – 13 Sterling Road – Applicant: JMS Realty, LLC – DEP 109-1447/BBL-1447 (*Previously Continued to 5/26/2021*)

**III. 9:22 PM - ADMINISTRATIVE MATTERS / DIRECTOR'S REPORT:**

- **Requests for Certificates of Compliance:**

- DEP File No. 109-1315/BBL-1315 (Dog Park, Treble Cove Road)

The Director provide a brief update and noted sediment controls remain on the property. The Commission discussed taking no formal action be taken to approve or deny the Certificate of Compliance until the sediment controls are fully removed from the property.

**MOTION: TO** take no formal action to approve or deny the Certificate. 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 J. Connell. All in Favor. Carried unanimously.

- DEP File No. 109-1355/BBL-1355 (Locke School, 110 Allen Road)

The Director noted a peer review of the stormwater management system is generally completed for similar projects. The Commission discussed taking no formation action to approve or deny the Certificate of Compliance pending peer review of the As-Built plan by MBL Permitting & Land Development for compliance with stormwater management requirements.

**MOTION: TO** take no formal action to approve or deny the Certificate. 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 J. Connell. All in Favor. Carried unanimously.

- DEP File No. 109-1316/BBL-1316 (19 Kazimer Drive)

The Director provided an update and referred to the email sent documenting existing conditions. The Commission discussed additional time to allow for continued seed germination and additional growth to adequately stabilize the area. The site shall be re-inspected and reviewed again prior to the Commission's next meeting on May 26, 2021.

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

- **Minutes:** 4-14-2021 – tabled to May 26, 2021.
- **Miscellaneous Updates** - no formal updates discussed

- **Violations/Enforcement Orders** - the Director provided a brief update regarding 24 Buckingham and recent meeting onsite with all parties, including the Board of Health, to address the outstanding enforcement orders and schedule to complete the corrective action work required on the property.

**IV. 9:38 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