



Billerica Conservation Commission

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Conservation of Natural Resources
in
Billerica, Massachusetts

Billerica Conservation Commission MEETING AGENDA

June 9, 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/89570120937>

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

Webinar/Meeting ID: 895 7012 0937

6:00 PM - REMOTE ATTENDANCE: Commissioner Members: Chair Paul Hayes, JoAnne Giovino (Vice-Chair), Diane DePaso (Secretary), Jack Bowen and Jeff Connell; Betsy Gallagher joined the meeting at 6:02 p.m. Staff Members Isabel Tourkantonis, (Director of Environmental Affairs), Mike DeVito, (Conservation Land Use Assistant) and Liz Ells (Sr. Clerk).

I. **6:00 PM – PUBLIC COMMENT** – No comments.

II. **NEW WETLAND HEARINGS:**

- **6:03 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – 300 Concord Road – Applicant: Kambiz Shahbazi, KS Partners – DEP File No. 109-1450/BBL-1450

Documents submitted:

5/24/2021 Received Notice of Intent from Bohler Engineering for 300 Concord Rd. Proposed Site Plan Documents signed and stamped by Zachary L. Richards, dated 5/14/2021. Scale as shown. Drainage Report signed and stamped by Zachary L. Richards, dated 5/14/20241. (DEP 109-xxxx)

Zachary Richards, Steve Martorana, and Jay Emperor of Bohler Engineering presented the Notice of Intent on behalf of the applicant, KS Partners, the new owner of the site. The applicant is proposing an approximate 151,270 square foot Good Manufacturing Practice (GMP) lab facility building with modifications to existing parking areas, utilities, and new stormwater management features. The lab facility will be constructed on the existing paved parking lot to the rear of the #300 Building. It is noted that a prior Order of Conditions and Certificate of Compliance was previously issued for this site for the parking lot (DEP 109-1048/BBL-1048).

Mill Brook and associated wetland resource areas including riverfront area, BLSF, Buffer Zone, BVW, etc., fall within and are adjacent to the project site. Mr. Martorana briefly reviewed the plantings plan as part of the Green Space proposed around the modified parking areas as shown on the plan

Staff conducted a site visit and documented a substantial amount of debris, substantial breaks in the slope and gullies along the eroding bank and roadway shoulder. It was stressed that the roadway shoulder must be properly stabilized due to the degree of erosion occurring within the stream and BVW under current conditions. Catch basins were filled with water and may need inspection and cleaning, and sediment accumulation was observed within the parking lot and driveway, indicating that the parking lot and road are not being swept. Staff noted some flags were missing and appeared to be low in a few areas, particularly where there is reference to a potential future parking lot at the corner of the access driveway and Concord Road. The commission requested an independent review of the onsite and adjacent resources areas, and review of a restoration plan the applicant will be required to submit to address the erosion of the bank and roadway shoulder along the access drive. Staff recommended the Commission streamline the stormwater peer review with the Board of Health for compliance with the Stormwater Management Bylaw permit. BETA Group was recommended for the stormwater peer review and Patrick Garner for the wetlands peer review. The Commission also requested a letter of support to the Planning Board requesting relief from parking to avoid the need to clear cut the remaining forested area that currently exists between the developed site and Concord Road, including Buffer Zone for a "potential future parking lot" at the corner of Concord Road and the access driveway.

The Commission required an updated O&M Plan to include inspection forms to be signed and recorded at the Registry of Deeds by the new property owner. The O&M plan should be thorough and easy to follow given the lack of stormwater maintenance on the property to-date and other activities such as snow plowing that have disturbed the stability of the bank and roadway shoulders. The Commission requested a restoration plan to stabilize and vegetate the bank and roadway shoulders be submitted as part of the wetlands review. A visual barrier (guardrail barrier) is required at the limit of the parking lot closest to the wetland/Mill Brook. The applicant must also show and label the existing drainage infrastructure and BMP's on the site plans.

Supplemental information was requested, including the location, and labelling of existing stormwater BMP's on-site plans, stabilization of the eroding bank and roadway shoulder, show location of onsite Potential Vernal Pool mapped by the Natural Heritage, and providing a stream stat analysis for the stream along the access drive. There was also a brief discussion regarding snow storage and the need to locate it on the plan. The Operation and Maintenance Plan must include an easy-to-read BMP map showing the location of stormwater features that must be maintained and appropriate snow storage areas.

MOTION: TO continue the hearing to July 14, 2021, per the applicant's request. Moved by Commissioner Giovino, seconded by Commissioner Gallagher. 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.

- **6:57 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent – 22 Vincent Street – Applicant: Robert and Marialena Gaska – DEP File No. 109-1451/BBL-1451**

Documents submitted:

5/26/2021 Received Notice of Intent from Stephen Dresser, Dresser, Williams & Way, for 22 Vincent St. Notice of Intent Site Plan signed and stamped by Stephen Dresser, dated 5/17/2021. Scale: 1"=20'. Variance request 3.03.C.3(b), 25' NAZ and 3.03.C.2 Limit on Impervious Surface (DEP 109-xxxx)
6/9/2021 Received Board of Health letter dated 6/9/2021 requiring an ADOA for 22 Vincent St. (DEP 109-1451)

Stephen Dresser, Dresser, Williams & Way, presented the project to construct a 27'x30' addition to the side of the house. The 2'x2' stone aprons areas are proposed to aid in capturing and infiltrating roof runoff. The applicant received a variance from the Zoning Board of Appeals for the project and is also required by the Board of Health to submit an application for an Administrative Determination on Applicability for work proposed near floodplain. A site inspection was conducted, and landscaping debris and wooden timbers were observed. Portions of the inner buffer zone are being maintained as lawn. A variance request was submitted addressing a proposed increase in the amount of impervious area greater than 25% and a variance to provide restoration to the 25' No Alteration Zone. The Commission requested clarification on the shed and if it was properly permitted. Steve clarified the shed will be removed from the inner buffer zone to new area outside the No Alteration Zone. The existing septic system and utilities should also be shown on the plan. The Commission requested the debris and wood timbers be removed from the inner buffer zone. The site plan should also show also reference FEMA and Green Engineering floodplain elevations and plan datum. Steve noted the plan datum is NGVD29.

MOTION: TO continue the hearing to June 23, 2021, pending requested plan revisions. Moved by Commissioner Giovino, seconded by Commissioner Gallagher. 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.

- **7:20 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent – 43 Highview Street – Applicant: Richard Boutwell – DEP File No. 109-1452/BBL-1452**

Documents submitted:

5/26/2021 Received Notice of Intent from Stephen Dresser, Dresser, Williams 7 Way, for 43 Highview St. Notice of Intent Site Plan, signed and stamped by Stephen Dresser, dated 5/24/2021. Scale: 1"=20'. Variance request 3.03.C.3(b), 25' NAZ and 3.03.C.2 Limit on Impervious Surface (DEP 109-xxxx)
6/9/2021 Received Board of Health letter dated 6/9/2021 stating the Board of Health has no reservations to the Notice of Intent Site Plan for 43 Highview St. (DEP 109-1452)

Stephen Dresser, Dresser, Williams & Way presented the project to construct an inground pool that falls within the 50' buffer zone and noted he revised the plan before the hearing to include an approximated extension of the wetland boundary based on visual inspection on the adjacent privately-owned property because adjacent owner did not grant permission to go on the property. A mini dry well for pool related discharges was also added to the site plan. Restoration plantings and a visual barrier comprised of a 6' vinyl fence is proposed on the site plan to protect the 25' No Alteration Zone. The Commission requested clarification on the extent of patio and pavers proposed as part of the project and noted that a large addition was constructed within the buffer zone without the proper wetlands review. The Director clarified that in 2018, the Department was short staffed and as part of the Building Application review process for the addition staff's review was limited to aerial review of the property and surrounding area. The addition appeared to be proposed along the buffer zone boundary. The addition was constructed in the outer buffer zone and should have been subject to the Massachusetts Wetlands Protection Act and the Town of Billerica By-Law permitting. It was noted that the chain link fence needs to be removed and is not currently reflected on the plan. The Commission requested the applicant seek input from the Building Department regarding the location of the pool and the possibility to construct it on the other side of the house, farther away from wetland resource areas. Also, the applicant should review the size of the pool and a reduction in overall size. Mr. Dresser confirmed there are no plans to build a deck off the pool. The Commission further requested that the septic system/pervious patio be added to the plan and verification that all abutters received notification.

MOTION: TO continue the hearing to June 23, 2021, per revised plans. Moved by Commissioner Giovino, seconded by Commissioner Gallagher. 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.

III. CONTINUED WETLAND HEARINGS:

- **7:47 PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – 9 Eubar Circle – Applicant: Marc & Melissa Lombardo – DEP 109-1446/BBL-1446

Documents submitted:

6/7/2021 Received request from Stephen Dresser to continue 9 Eubar Circle to 6/23/2021 (DEP 109-1446)

MOTION: TO continue the hearing to June 23, 2021, per the applicant's request. Moved by Commissioner Giovino, seconded by Commissioner Gallagher. 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.

- **7:48 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:

6/7/2021 Received request from Stephen Dresser to continue 31 Baker St. to 6/23/2021 (DEP 109-1443)

MOTION: TO continue the hearing to June 23, 2021, per the applicant's request. Moved by Commissioner Giovino, seconded by Commissioner Gallagher. 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.

- **7:50 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:

6/2/2021 Received from Gene Sullivan, response letter to Fire Dept./DPW – Engineering/peer review comments for 0 Pond St. Storm Drainage Mgmt. Report, signed and stamped by Eugene Sullivan, dated 5/18/2021. Drainage and Utilities Plan, signed and stamped by Eugene Sullivan, dated 1/29/2021. Scale: 1"=30'. (DEP 109-1437)

6/7/2021 Received from Gene Sullivan, signed BOH Application for Plan review, dated 6/1/2021 and BOH Variance Application, dated 6/1/2021 for 0 Pond St. (DEP 109-1437)

6/8/2021 Received Stormwater peer review letter update from Philip Paradis, BETA Group, dated 6/8/2021 for 140 Pond St. (DEP 109-1437)

6/9/2021 Received variance request 3.03.C.3 (a) 50' No Alteration Zone from Gene Sullivan for 140 Pond St. (DEP 109-1437)

Gene Sullivan, the applicant's engineer provided an update on the project and revisions to the plan. He noted that BETA had concluded their stormwater management review and is satisfied based on their recent peer review letter. Attorney John McKenna provided an update on the Enforcement Order and verified that due to the time of year the restoration plantings are scheduled to occur in Fall 2021. The Director referred to a recent review letter issued by Patrick Garner on the Enforcement Order and concurred that the restoration plantings should occur in the Fall 2021, but that other work to remove fill and materials, and restore grades should be ongoing. Mr. Garner also recommended plantings in the Fall. The commission discussed a bond from the applicant to cover the outstanding work, which would include final grading, fill removal, restoration, and monitoring. The bond amount associated with the Enforcement Order

and Corrective Action was determined to be \$15,000.00, contingent upon full compliance prior to any occupancy sign off. It was discussed that overall, the project as redesigned includes restoration of previously disturbed inner buffer zone per a recent enforcement order and that the full 50' buffer setback (No Alteration Zone) will be protected and preserved on the property.

MOTION: TO grant variance 3.03.C.3 (a), 50' No Alteration Zone, to address corrective action required under the Enforcement Order, including removal of fill and restoration of wetland and inner buffer zone. Moved by Commissioner Giovino, seconded by Commissioner Gallagher. 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.

MOTION: TO close, sign and issue the Order of Conditions. Moved by Commissioner Giovino, seconded by Commissioner Gallagher. 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.

- **8:18 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

Documents submitted:

6/4/2021 Received request from Joseph Peznola to continue 13 Sterling Road to 6/23/2021 (DEP 109-1447)

MOTION: TO continue the hearing to June 23, 2021, per the applicant's request. Moved by Commissioner Giovino, seconded by Commissioner Gallagher. 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.

- **MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – 221 Boston Road – Applicant: Gregory Lombardi Design Inc. – DEP File No. 109-1448/BBL-1448 (*Previously Continued to 6-23-2021 per applicant's request*)
- **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 (*Previously Continued to 6-23-2021 per applicant's request*)
- **MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING – Notice of Intent** – Continued Public Hearing – 24 Pelham Street – Applicant: Mei Huang – DEP 109-1449/BBL-1449 (*Previously Continued to 6-23-2021 per applicant's request*)

IV. 8:20 PM - ADMINISTRATIVE MATTERS / DIRECTOR'S REPORT:

- **Requests for Certificates of Compliance:**
 - DEP File No. 109-830 (9 Myers Lane)

The Director recommended no formal action to approve or deny a Certificate of Compliance to allow the applicant and the representative to provide an update on the status of the stormwater maintenance and homeowner's association.

MOTION: TO take no formal action to approve or deny a Certificate of Compliance. Moved by Commissioner Giovino, seconded by Commissioner Gallagher. 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.

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

The Director provided a brief update of the project, which is complete and in substantial compliance with the Order as outlined by the engineer in the Request for Certificate of Compliance submitted. She confirmed that old sediment

controls associated with soil stockpiling for the Parker School project, however, remain on the site. The Order required full removal of all sediment controls, including old, staked silt fence and/or straw wattles, which restrict the movement of wildlife, including vernal pool species in the area. The Commission requested that all sediment controls be removed prior to approving the Certificate. The Director also discussed the memorandum submitted by the Dog Park Committee for minor repairs and improvements, which is also listed later in the agenda. The Commission requested the as-built plan for the Dog Park project be updated to reflect the proposed repairs in the field.

MOTION: TO take no formal action to approve or deny a Certificate of Compliance until all sediment controls and stakes are moved from the site and the as-built plan is updated to reflect the minor repairs and small retaining wall. Moved by Commissioner Giovino, seconded by Commissioner Gallagher. 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.

- **Minutes:** 4-14-2021, 4-28-2021

MOTION: TO accept the 4-14-2021 minutes with minor corrections. Moved by Commissioner DePaso, seconded by Commissioner Giovino. 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.

MOTION: TO accept the 4-28-2021 with minor corrections. Moved by Commissioner DePaso, seconded by Commissioner Gallagher. 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.

- **Miscellaneous Updates**

- Minor Repairs & Improvements - Billerica Dog Park, Vietnam Veterans Park

The Director reviewed the memorandum prepared by Mark Reid - Dog Park Committee dated May 24, 2021. The Committee is proposing minor repairs and improvements to the walkway including a small retaining wall to address some the eroding walkway material. The scope of work is shown in red on a copy of the as-built plan submitted for the dog park project (DEP File No. 109-1315/BBL-1315). The Director noted the proposed work is well contained within the park limits. Given the work is relatively minor in scope, she recommended the Commission consider the work proceed under administrative review with conditions such as proper containment of staging and stockpiling of materials on the existing parking lot during construction. She noted the dog committee has been doing a great job maintaining the park and are aware of the need for good environmental stewardship due to the degree of wetlands surrounding the area.

The Director also briefly discussed resuming in-person meetings. She noted the Governor signed S 2475, an act relative to extending certain COVID-19 measures adopted during the state of emergency. The act allows boards and commissions the ability to extend zoom/remote participation meetings to April 2022. Under previous Open Meeting Law there is also the option for the Billerica Conservation Commission to utilize the conference call feature if needed by a member once the BCC meets in person at Town Hall.

V. 8:35 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, J. Connell and B. Gallagher. All in Favor. Carried unanimously.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Liz Ells and Isabel Tourkantonis