



Billerica Conservation Commission

TOWN HALL, 365 BOSTON ROAD
BILLERICA, MASSACHUSETTS 01821
TELEPHONE (978) 671-0966



MEETING AGENDA

December 11, 2024

6:30 PM

Room 210, Town Hall/365 Boston Road, Billerica MA

Remote Public Participation Available

Please click the link below to join the Zoom webinar:

<https://us02web.zoom.us/j/84779821041> or Telephone: 1-929-205-6099

Attendance: Commission Members - Bill Bulens (Chair), JoAnne Giovino (Vice Chair), Diane DePaso (Secretary), Jack Bowen, Christine Aras, and Tom Nellson. Staff Members – Isabel Tourkantonis (Director of Environmental Affairs), Mike DeVito (Conservation Land Use Assistant), and Kristina Bernard (Head Administrative Clerk).

I. 6:30 PM – PUBLIC COMMENT - None

II. 6:32PM - NEW WETLAND HEARING:

- **MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Public Hearing – 78 Dudley Road – Applicant: Thomas Nellson – DEP File No. 109-1586/BBL-1586

Documents Submitted:

11/06/2024 - Received a Notice of Intent from Stephen Dresser with Dresser, Williams, and Way for 78 Dudley Road, stamped and signed by Stephen Dresser, dated on November 4, 2024, scale 1" = 30' (DEP #109-1586)

12/02/2024 Received Revised Site Plans from Stephen Dresser with Dresser, Williams, and Way for 78 Dudley Road, stamped and signed by Stephen Dresser, dated on December 1, 2024, scale 1" = 30' (DEP #109-1586)

Member, Tom Nellson recused himself on the matter before the Commission and left the room. Before he left the room he noted that his engineer, Stephen Dresser with Dresser, Williams, and Way, Inc. was unable to attend the meeting.

Isabel Tourkantonis, Director of Conservation, stated that she discussed the proposed project to construct an inground pool within the 100-foot Buffer Zone to the Bordering Vegetated Wetlands with Stephen Dresser, Engineer, with Dresser, Williams, & Way, Inc. She discussed the NOI and provided an update on the previous Order of Conditions issued in July 2023 (DEP #109-1537) to construct a greenhouse, garage, and a breezeway. That project was completed, and the Certificate of Compliance had been issued in October 2024. This new project is about 60 plus feet from the visual barrier and will not affect the degree of Buffer Zone restoration completed at the site or the location of the existing post and rail fence that serves as a visual barrier. All proposed work is to take place outside of the No Alteration Zone, and a variance has been requested under Section 3.03.C.2 for a minor increase in impervious area, related to the proposed pool. A drywell is proposed to handle and manage any pool discharge and maintenance that may be required.

Staff reviewed the proposed plan and submitted preliminary review comments which were addressed in time for the hearing. These included: add the DEP File # from the earlier project on the plan; add the delineation date to the plan; reference the variance request on the plan; and clarify the different lines on the plan, for example make the 100' Buffer Zone Boundaries darker.

The Commission discussed the project and the mini drywell for the outflow of the pool, along with an O&M Plan and fence around the pool. A significant amount of inner buffer zone restoration was completed previously onsite and is doing well. The Commission conditioned that the required security and safety fence around the pool be located inside the proposed sedimentation barrier or limit of work as shown on the plan since the safety fence was not shown on the Plan of Record; and submit an O&M Plan for the pool drywell.

Motion: TO grant variance 3.03.C.2 Limit on Impervious Surface made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

Motion: TO close, sign, and issue with all special conditions as discussed, made by Commissioner JoAnne Giovino, seconded by Commissioner Christine Aras. All in Favor. Carried Unanimously.

III. CONTINUED PUBLIC HEARINGS:

- **6:43PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 309 Boston Road – Applicant: Joseph Arria, JMA Properties, LLC – DEP File No. 109-1581/BBL-1581 (*Continue to 01-27-2025 Meeting per Applicant's Request*)

Documents Submitted:

12/06/2024 Received a Request for Continuance from Stephen Dresser with Dresser, Williams, and Way for 309 Boston Road to the January 27, 2025, meeting (DEP #109-1581)

Motion: TO continue to the January 27, 2025, meeting per the applicant's request made by Commissioner Jack Bowen, seconded by Commissioner Diane DePaso. All in Favor. Carried Unanimously.

- **6:44PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 223 Boston Road – Applicant: Luke Bouchard, Enterprise Bank & Trust Company – DEP File No. 109-1574/BBL-1574 (*Continue to 01-13-2025 Meeting per Applicant's Request*)

Documents Submitted:

11/14/2024 Received a Request for Continuance from Kevin Sanders with EBI Consulting for 223 Boston Road to the January 13, 2025, meeting (DEP 109-1574)

Motion: TO continue to the January 13, 2025, meeting per the applicant's request made by Commissioner Jack Bowen, seconded by Commissioner Christine Aras. All in Favor. Carried Unanimously.

- **6:45PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – Faulkner Street (Talbot Mills Dam Removal /Concord River Ecological Restoration Project) – Applicant: Robert Martin, CRT Development Realty, LLC – DEP File No. 109-1585/BBL-1585 (*Continue to the 01-13-2025 Meeting per Applicant's Request*)

Documents Submitted:

12/05/2024 Received a Request for Continuance to January 13, 2025, meeting from Jill Griffiths with Gomez and Sullivan for CRT Development Realty LLC., the Talbot Mills Dam Removal (DEP #109-1585)

Motion: TO continue to the January 13, 2025, meeting per the applicant's request made by Commissioner Jack Bowen, seconded by Commissioner Christine Aras. All in Favor. Carried Unanimously.

IV. ADMINISTRATIVE MATTERS / DIRECTOR'S REPORT:

▪ Requests for Certificates of Compliance (As-Built Reviews)

- 6:54PM - DEP File No. 109-1480/BBL-1480 – 6 Heather Circle

Documents Submitted:

10/21/2024 Received an As-Built Plan from Stephen Dresser with Dresser, Williams, and Way for 6 Heather Circle, stamped and signed by Stephen Dresser, dated on October 21, 2024, scale 1" = 30' (DEP #109-1480)

Isabel Tourkantonis, Director of Conservation, discussed the project to construct a single-family home. She stated that the complete RCOC package including revised As-Built Plan had been submitted. The site in compliance with conditions including buffer zone restoration and the visual barrier. All review comments and concerns have been addressed.

Motion: TO close, sign, and issue the Certificate of Compliance made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- 6:55PM - DEP File No. 109-938/BBL-938 – 21 Woodside Road

Documents Submitted:

08/28/2024 Received an As-Built Plan from Ludwig Survey Solutions, LLC. for 21 Woodside Road, stamped and signed by Scott T. Ludwig, dated on August 9, 2024, scale 1" = 20' (DEP #109-0938)

Isabel Tourkantonis, Director of Conservation, discussed the project to construct a garage with a breezeway. She stated that the complete RCOC package including revised As-Built Plan had been submitted. The site in compliance with conditions including buffer zone restoration and the visual barrier. All review comments and concerns have been addressed.

Motion: TO close, sign, and issue made by Commissioner JoAnne Giovino, seconded by Commissioner Christne Aras. All in Favor. Carried Unanimously.

▪ Request for Minor Modification

- 6:47PM - DEP File No. 109-1549/BBL-1549 – 700 Boston Road (Market Basket)

Documents Submitted:

12/05/2024 Received a Request for Minor Modification from Eric Gerard from VHB for 700 Boston Road, Overall Grading, Drainage, and Utilities Plan, dated November 10, 2023 (DEP #109-1549)

12/10/2024 Received Revised Information for the Minor Modification from Eric Gerard from VHB for 700 Boston Road, Overall Grading, Drainage, and Utilities Plan, dated November 10, 2023 (DEP #109-1549)

Isabel Tourkantonis, Director of Conservation, discussed the request for the Minor Modification to shift stormwater basins proposed north and northeast of the building due to the findings in the field during the pre-construction meeting that showed they were a lot closer to the existing sewer lines than originally anticipated from the plans that were originally submitted. There were differences and issues with plans previously recorded for the easement causing miscalculations according to Eric Gerard with VHB. He stated the stormwater intent remains the same and in compliance with local and state regulations for water quality and peak rate controls and the basins are in the same general locations with minor reconfigurations to remove the limits outside of the sewer easement as requested by DPW. Basin modifications provide at least the same volume as previously approved and do not require any additional work within the 25' No Alteration Zone. The revised plan was thoroughly reviewed and approved by DPW- Engineering; Brian Dunn, MBL serving as the stormwater/environmental monitor for the Town; and staff. The request and revised plan submitted by VHB addressed all the proposed field changes as a minor modification.

The Commission noted the following conditions are required as part of the minor modification review and approval:

- Condition to add restoration plantings to restore altered inner buffer zone/No Alteration Zone as reviewed and determined necessary by the Conservation Director and construction monitor in Spring 2025; this includes the northerly corner.
- Condition to continue with stormwater/construction monitor in the Spring 2025 (Brian Dunn with MBL Land and Development) and throughout the project as conditioned in the OOC.
- The change /minor modification must be described as a deviation in the Request for Certificate of Compliance and properly depicted on the as-built plan.

Motion: TO approve the Minor Modification made by Commissioner JoAnne Giovino, seconded by Commissioner Tom Nellson. All in Favor. Carried Unanimously.

▪ **Building Application Review**

- 6:56PM - 8 Putney Circle

Documents Submitted:

12/05/2024 Received Supplemental Information for Building Permit from John Boland with Boland Contracting for 8 Putney Circle.

Isabel Tourkantonis, Director of Conservation explained to that the application filing is for a Building Permit application seeking to fill in an inground pool located in the very outer Buffer Zone to Bordering Vegetated Wetland on the property. The pool and backyard are fenced in. The work will require heavy equipment and clean fill to be brought on site. The applicant submitted an aerial and plot plan showing the location of temporary sediment control barrier, access route for heavy equipment and the temporary construction staging and stockpiling area during demolition work. The inground pool area will be fully restored with clean fill, loamed, and seeded as lawn within the fenced portion of the yard.

The Commission conditioned environmental placards be placed on the existing fence line to identify the inner buffer setback "No Alteration Zone" at the rear of the property.

Motion: To allow the project to be administratively approved under the Conservation Department with the special condition, made by Commissioner Joanne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

▪ **Miscellaneous Updates**

- 7:02PM - Conservation Preservation Fund Eligibility Form – Conservation Fund

Isabel Tourkantonis, Director of Conservation, reviewed the draft Eligibility form prepared by the Conservation Department and Town Manager's Office requesting funds from the CPC in the amount of \$5,000 to support the Conservation Fund. She reviewed the different expenses the fund may assist the town to pursue opportunities associated with conservation/open space land through donations and purchase as soon as they become available. These include costs associated with the land appraisals, title searches, legal fees for deed preparation, and title transfer, environmental assessments (Phase I and II) sometimes required as part of the town's due diligence before acquiring land for conservation and open space. The Commission discussed the high costs associated with land surveys and property markers.

Motion: TO modify the request of \$5,000 to \$10,000 for the grant made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

Motion: TO direct Isabel Tourkantonis, Director of Conservation in collaboration with the Town Manager's Office to apply on behalf of the Conservation Commission to the CPC, made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

Documents Submitted:

12/4/2024 Memorandum with attachments from Dave Grubb, Director of Recreation, RE: Kohlrausch Park Improvement Project, addressed to Isabel Tourkantonis, Conservation Director.

Isabel Tourkantonis, Director of Conservation, discussed the improvements proposed by the Recreation Department, to install two additional playground features (swings and a zipline-like structure) adjacent to the existing playground, and a 16' x 20' picnic pavilion near the existing Braille Trail. Some of the work straddles the 100' Buffer Zone boundary to Bordering Vegetate Wetland on the property. As mitigation, Conservation staff is collaborating with Fred Russell, DPW Director and David Grubb, Recreation Director to remove a section of the old, dilapidated chain link fence that cuts through forested wetland and upland area. The fence poses a hazard and entrapment of wildlife and impedes wildlife movement from vegetated wetland areas to vegetated upland areas.

The Commission noted the work may proceed under and administrative approval provided the work complies with the following conditions:

- Condition to cut and remove section of chain link fence as reviewed in the field. Work, including access is to be overseen by Conservation staff.
- Condition to add signage, placards, and one larger sig for educational purposes and at the direction of the Conservation Director. Wetland/environmental signs or placards will be provided by the Conservation Department.
- Assess opportunity to add a stone drip edge around the concrete pad to help capture and infiltrate roof runoff from the pavilion. This will also prevent muddy condition around the pad since the field is wet a lot due to high groundwater.
- Thank the Director of Recreation for communicating and collaborating with the Conservation Commission.

Motion: To allow staff to administratively approve the project with all special conditions made by Commissioner JoAnne Giovino, seconded by Commissioner Tom Nellson. All in Favor. Carried Unanimously.

▪ **Miscellaneous Updates**

- 7:22PM - DEP File No. 109-1409/BBL-1409 – Replication Monitoring – 495R Billerica Ave
(Home Depot Site)

Documents Submitted:

9/25/2024 Inspection Report (Home Depot) Monitoring 8 (Final), prepared for 495R Woburn Street, Billerica, submitted by Patrick Garner Company, Inc.

11/4/2024 VHB Memorandum – Fall 2024 Monitoring (Final), prepared by Jay Quattrocchi, PWS; RE: 495R Woburn Street, MassDEP File No. 109-1409/BBL-1409; addressed to the Town of Billerica Conservation Commission.

Isabel Tourkantonis Director of Conservation discussed the Fall 2024 Monitoring report submitted by VHB for the wetland replication area at the 495R Woburn Street/Home Depot. The report covers the 3rd growing season of monitoring since the wetland replication work was completed in Spring 2022 / She discussed requirements associated with the wetland replication area including the monitoring of invasive species. She noted the inspections and monitoring by Patrick Garner and VHB reported invasive species, particularly *Phragmites Australis* has expanded within the replication area. She reviewed the conclusion and recommendations presented in the monitoring reports including:

“At the conclusion of the third growing season, VHB is recommending the following: Due to the increase in Phragmites (invasive), the species (within and along the edge of the wetland) should be treated with an appropriate herbicide treatment by a qualified professional and in coordination with the wetland scientist. Generally, Phragmites is best treated in mid- to late summer, as the plant typically uptakes more of the applied herbicide during hotter temperatures and while it is actively growing.”

Upon review, the Commission determined the applicant must address the expansion of invasive species via a management program implemented and overseen by VHB wetlands professional and monitored by Patrick Garner for an additional two growing seasons. No Certificate of Compliance shall be issued until this requirement has been met. The management must be implemented in Spring/summer 2025.

Motion: TO enforce the recommendation in the wetlands inspection and monitoring reports regarding the invasive Species Management and Treatment Program and that work must be implemented in Spring/Summer 2025, made by Commissioner Diane DePaso, seconded by Commissioner JoAnne Giovino. All in Favor.

- 7:27PM - Tree Safety Concerns – 98 Boston Road

Isabel Tourkantonis, Director of Conservation, discussed the property and the request by the property owner to remove four large pine trees pose a safety hazard given their condition and location to the house structure. The dead and/or unstable trees also border the historic Middlesex Canal, which supports wetland resource areas protected under the MA Wetlands Protection Act and Billerica Wetlands Protection Bylaw. Upon inspection, staff agreed that these are a safety hazard and should be removed given their condition. She also reviewed the encroachment of Bordering Vegetated Wetland observed at the rear of the property. The owner was advised during the site visit to remove the numerous tree stumps and dumping at the rear of the property, remove sedimentation with what appears to be snow plowing from the wetland boundary, and restore the area as discussed in the field. .

The Commission concluded the following conditions are required to properly address tree removal and the wetlands violation:

- 1:1 tree replacement is required for tree removal. Trees shall be at least 6-8 feet in height installed within the inner buffer zone.
- trees shall be cut low to the ground and tree stumps must remain in place.
- Abide by the standard conditions associated with tree removal as stipulated in the administrative approval letter
- Restore the altered BVW boundary,
- Add a continuous hard visual barrier along the 25' buffer setback at the rear of the property and along the Canal where possible.
- Add signage to the visual barrier and posts with signs along the canal if needed in lieu of continuous barrier.
- Identify a snow storage area on site and add no snow storage sign at the rear.

Motion: TO allow the administration to approve the removal of the four large pines for safety reasons, and to enforce compliance associated with wetlands encroachment /violation as discussed and conditioned, made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- 7:34PM - Tree Safety Concerns – 37 Waterview Avenue

Documents Submitted:

12/7/2024 Email with tree photos from Stephen Zyman, 37 Waterview Avenue/ Trees, addressed to Michael DeVito, Conservation Department.

12/10/2024 Email with attachments including aerials from Isabel Tourkantonis, Conservation Department, Re: 37 Waterview Trees- Request to Remove 4 Trees, addressed to the Conservation Commission.

Isabel Tourkantonis, Director of Conservation, discussed the request to remove four trees from the property that posed a safety hazard due to unstable and unhealthy condition and location near existing structures.. Upon review of the request and site visit, staff agreed the trees were a safety hazard.

The Commission concluded the following conditions are a requirement of tree removal:

- Special Condition - 1:1 tree replacement (at least 4-6 feet in height).

- Environmental signage along the vegetated inner buffer setback to protect a vegetated buffer. This shall be reviewed in the field with the Conservation staff prior to installation.
- All tree stumps must remain in place.
- Abide by the standard conditions associated with tree removal as stipulated in the administrative approval letter including tree company should have spill containment kit onsite.

Motion: TO allow the administration to approve the removal of four trees from the property with all special conditions discussed and stipulated on the administrative approval letter, made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

▪ **Violations and Enforcements**

- 7:43PM - 27 Topliff Road

Isabel Tourkantonis, Director of Conservation, discussed the complaint received from the direct abutter concerning 27 Topliff Road. Staff investigated, met the owners onsite to review conditions and the prior Order of Conditions and Certificate of Compliance associated with the property. She noted some of the No Alteration Zone had been altered with gravel and placement of tables, chairs, and other material and that the visual barrier had been removed at some point. The owners have been cooperative and understand the degree of restoration work that is required to return the site into compliance with perpetual conditions noted in the wetlands permit and Certificate of Compliance. A wetland violation/enforcement will be issued requiring removal of the gravel, restoration of the No Alteration Zone with loam, conservation /wildlife seed mix, and native plantings. A visual barrier with environmental placards is required per the original wetland permit.

Motion: TO approve the administration to issue a friendly enforcement with special conditions made by Commissioner Diane DePaso, seconded by Commissioner JoAnne Giovino. All in Favor. Carried Unanimously.

▪ **7:46PM - Minutes:** 08-12-2024, 10-15-2024, 10-28-2024, 11-13-2024

Motion: TO accept minutes 08/12/2024, 10/15/2024, 10/28/2024, and 11/13/2024 with minor modifications made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

V. 7:47PM – ADJOURN

Motion: TO adjourn made by Commissioner Christine Aras, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Kristina Bernard, and Isabel Tourkantonis