



Billerica Conservation Commission

TOWN HALL, 365 BOSTON ROAD
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*Conservation of Natural Resources
in
Billerica, Massachusetts*

MEETING AGENDA

March 13, 2024

6:00 PM

Town Hall, Room 210
365 Boston Road, Billerica MA

Attendance: Commission Members Bill Bulens (Chair), Diane DePaso (Secretary), Paul Hayes, Jack Bowen, and Christine Aras. Staff Members Isabel Tourkantonis (Director of Environmental Affairs), Mike DeVito (Conservation Land Use Assistant), and Kristina Bernard (Principal Clerk).

I. **6:00 PM – PUBLIC COMMENT** - None

II. **NEW WETLAND HEARINGS:**

- **6:01PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Public Hearing – 70 & 76 Treble Cove Road – Applicant: Molly Pidgeon/Pidgeon and Co. – DEP File No. 109-1559/BBL-1559

Documents Submitted:

02/27/2024 Received a Notice of Intent from Mary Rimmer with Rimmer Environmental Consulting LLC. for 70 & 76 Treble Cove Road, stamped by Frank Holmes, dated on December 2, 2022, scale 1" = 20' (DEP # 109-XXXX)

03/05/2024 Received Revised Plans from Mary Rimmer for 70-76 Treble Cove Road, stamped and signed by Frank Holmes, dated on March 5, 2024, scale as shown on plans (DEP #109-1559)

Mary Rimmer with Rimmer Environmental Consulting LLC and Connor Nolan, General Contractor with Pigeon and Company presented the project to construct a 13'7" x 10' concrete pad to support a cooling tower with utility connection to the existing building. The pad is proposed fourteen (14) feet west of the existing generator pad. She mentioned that there was an intermittent stream onsite with a large wetland system as well. There is no work proposed within the twenty-five (25)-foot No Alteration Zone with the exception of access. The five (5) arborvitae trees around the pad will be removed.

Isabel Tourkantonis, Director of Conservation discussed the project and said staff agreed with the delineation. Mike DeVito, Conservation Land Use Assistant, noted he observed windblown trash near the intermittent stream, and two wooden pallets near wetland flag 7A.

The Commission discussed the visual barrier and suggested a guardrail with signage due to the truck traffic in that area and that it should be extended to protect the intermittent. There was discussion on adding more plantings to enhance the inner buffer zone. The Commission clarified that each arborvitae removed as part of the project should be replaced on site.

Upon discussion of various components, the Commission and staff noted the following information is missing and required on the plan and/or NOI file:

- dimensions of the proposed concrete pad
- Revise the O&M Plan to include specific timeframes for cleanings and inspections, address maintenance of all stormwater BMPs for the entire site, as well as snow management, parking lot sweeping, etc.,

- by whom and when the delineation was completed
- restore a portion of the inner Buffer Zone
- provide planting plan and details.
- inner and 100' buffer zones boundaries
- sediment/erosion controls with detail
- clearly show the full visual barrier and signage on plan
- add site locus.
- remove trash and debris from the intermittent stream and surrounding wetland and buffer zone.
- add a construction sequence, variance request reference and locus and the temporary staging and stockpiling, and snow storage to the plan.

Motion: TO continue to the March 27, 2024 meeting made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in favor. Carried Unanimously.

- **6:23PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Public Hearing – 129 Concord Road – Applicant: Neil Gillen-Nuvera Fuel Cells, LLC. — DEP File No. 109-XXXX/BBL-XXXX

Documents Submitted:

02/28/2024 Received a Notice of Intent from Angela Botto with Bohler for 129 Concord Road, stamped and signed by Zachary Richards, dated on January 31, 2024, scale as shown on plans (DEP #109-XXXX)

0312/2024 Received Updated Information for Flag Inspections and O&M Plan from Alex Horgan with Bohler Engineering for 129 Concord Road (DEP #109-XXXX)

Alice Horgan, Assistant Project Manager with Bohler Engineering, presented the project to construct a ±3,074 square foot concrete pad (that will eventually hold a hydrogen tank), and associated site improvements in the parking lot of Building One (1). She said there will be stockpiling and erosion controls in place. Alice stated that the delineation was field verified and confirmed last week. There will be three (3) feet of crushed stone installed around the whole pad perimeter to help capture and infiltrate stormwater runoff. The resource areas onsite include the 200-foot Riverfront Area, 100-foot wetland buffer zone, and 25-foot No Alteration Zone.

Isabel Tourkantonis, Director of Conservation, discussed the delineation being completed back in 2018 but that the flags were back surveyed, and field verified and referred to the wetlands report included in the NOI. She noted the Operation and Maintenance Plan (OMP) was limited to the parking lot for the Nuvera Building and did not address the entire property as required for similar sites. There was a discussion about the need to update the O&M Plan to address the entire site and reminded the applicant it should include a snow management plan that avoids stockpiling of snow or plowing of snow toward the Concord River.

As part of the hearing discussion, the Commission and staff noted the following information is missing and required on the plan and/or NOI file:

- add construction sequence,
- Plan note referring to the variance request/section.
- Revise a comprehensive O&M plan addressing the entire property, all parking lots.
- Show the location of temporary stockpiling and staging and overall access.
- Assess location of dewatering if needed.

Motion: TO continue to the March 27, 2024, meeting made by Commissioner Diane DePaso, seconded by Commissioner Paul Hayes. All in Favor. Carried Unanimously.

- **6:49PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Public Hearing – 296 Concord Road – Applicant: Kambiz Shahbazi (KS Partners)-CRCC Equity Partners, LLC. – DEP File No. 109-XXXX/BBL-XXXX

Documents Submitted:

02/28/2024 Received a Notice of Intent from Angela Botto with Bohler for 296 Concord Road, stamped and signed by Zachary Richards, dated on February 21, 2024, scale as shown on plans (DEP #109-XXXX)

Zachary Richards with Bohler Engineering presented the project to construct a ±77,700 square foot Good Manufacturing Practice (GMP) Lab Facility with associated parking lot and stormwater management system. He stated that test pits were completed, and they concluded a high ground water table. They will be seeking relief from the Board of Health drainage regulations. Zachary reviewed the stormwater management system and the pedestrian connectivity/walkway between the properties. The need to conduct an emergency repair on a collapsed culvert on the property was briefly discussed. The culvert along the driveway access between two parking lots is collapsed and damaged the road. and poses a safety hazard for pedestrian and vehicular traffic.

Isabel Tourkantonis, Director of Conservation, reviewed staff notes and also touched upon the collapsed culvert. She noted the culvert and paved driveway between 294 and 296 Concord Road is substantially compromised and concurred the current condition poses a dangerous situation. It poses a safety hazard for both pedestrian and vehicular traffic. The Commission acknowledged the need to immediately repair and/or replace the culvert associated with the intermittent stream system. The Director reviewed that the overall project is subject to compliance with the MA Stormwater Management Standards and triggers a stormwater peer review, which is being coordinated and streamlined with the Board of Health and the Planning Departments. The Commission discussed the culvert repair and were concerned about a vernal pool across the way from the collapsed culvert and stated the sediment controls and catch basin protection are required.

The Commission requested information regarding alternatives to potentially reduce the scale of the project and discussed the need for a visual barrier to protect a vegetated buffer between the wetland and the walkway path and the parking area.

As part of the review and hearing discussion, the Commission and staff noted the following information is missing and/or required on the plan:

- Need variance for work in applicable 25.1
- Revise the O&M Plan to include specific times/months of inspections, cleaning, and the proper use of fertilizers.
- Culvert needs to be repaired as soon as possible.
- Project triggers a stormwater peer review,
- Need visual barrier with signage.
- Sitewide O&M plan is required.

Motion: TO continue to the April 24, 2024, meeting made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

III. CONTINUED PUBLIC HEARINGS:

- **7:22PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – New DPW Facility – 250 Treble Cove Road – Applicant: Town of Billerica – DEP File No. 109-1552/BBL-1552

Documents Submitted:

03/05/2024 Received Supplemental Information Submission #2 for Notice of Intent from Megan Kearns with Weston & Sampson for DPW Facility Site - 250 Treble Cove Road, stamped and signed by James Pearson, dated on February 28, 2024, scale as shown on plans (DEP #109-1552)

03/06/2024 Received a Stormwater Peer Review from Philip Paradis with Beta Group for the DPW Facility Site – 250 Treble Cove Road (DEP #109-1552)

03/06/2024 Received Supplemental Information Submission #3 for additional responses to Beta Group Response Letter, Revised O&M Plan, and a Plan Sheet Showing a Cross Section of the Culvert from Megan Kearns with Weston and Sampson for the DPW Facility Site - 250 Treble Cove Road, stamped and signed by James Pearson, dated on March 6, 2024, scale as shown on plans (DEP #109-1552)

Tony Weisman with Wesson & Sampson presented the continued project and updated the Commission that they met with the Board of Health on March 4, 2024, and that hearing was continued to the April 1, 2024 meeting, and the Planning Board closed that hearing on March 11, 2024. He clarified that the culvert design that was subsequently added to the project during the permitting review process was also reviewed by those boards and the stormwater peer reviewer. That feature will be installed along the driveway entrance from Richardson Ave Extension to help manage drainage and stormwater runoff River Street Extension. He briefly discussed the conservation restriction associated with the property and the related land swap that was approved at the Town Fall Meeting in October of 2019. The visual barrier was discussed, and it was stated that guardrail and retaining walls with added wetland protection signage serve as the visual barrier.

Isabel Tourkantonis, Director of Conservation noted she arranged a technical review meeting with the project engineer, project wetland scientist, stormwater peer reviewer and town staff including Conservation to discuss the driveway culvert and Buffer Zone and Riverfront Area restoration. It was discussed that the restoration needed to be expanded and include management of woody vines to prevent the choking of trees and saplings, and the regulations /performance standards require two full growing seasons of monitoring.

Philip Paradis, Peer Reviewer with Beta Group spoke on the project and noted it is a challenging project site for various reason but that the project design meets the required TSS, and phosphorus removal and a comprehensive Operation and Maintenance Plan was created for the site. Phil stated the applicant had addressed all concerns and provided a stamped and dated plan.

As part of the review and hearing discussions, the Commission noted the following conditions, some of which were also recommended in the stormwater peer review report:

- Submit a final stamped plan for the retaining wall,
- final Stormwater Pollution Prevention Plan (SWPPP),
- independent observation and confirmation of subsurface soil conditions and soil depths in the locations of proposed infiltration systems,
- a recording of the O&M Plan at the Registry of Deeds.
- Independent wetlands monitor and stormwater monitor to be streamlined with the BOH requirements.
- Submitted revised O&M Plan before construction to include specific dates/months for inspections and cleaning of stormwater BMPs, address vine management and overall general care and protection restored Buffer Zone and Riverfront Area on the site.

The Commission discussed the potential to add the limits of the conservation restriction land section of the property to the Billerica GIS system and clarified the applicable 25' foot No Alteration Zone due to existing structures associated with the overall property.

Stephen Dresser with Dresser, Williams, and Way, 572 Boston Road, inquired about the location of the project.

Rob Correll, an abutter from the far side of Riverside Street Ext., inquired about the elevation change near River Street Extension after tree removal and overall site clearing. It was stated there will be a vegetated buffer between the site and road.

Motion: TO approve variance under Section 3.03.C.2 - Limits on Impervious Surface Area was made by Commissioner Diane DePaso, seconded by Commissioner Christine Aras. All in Favor. Carried Unanimously.

Motion: TO approve variance under Section 3.03.C.3(b) - 25-foot No Alteration Zone was made by Commissioner Diane DePaso, seconded by Commissioner Christine Aras. All in Favor. Carried Unanimously.

Motion: TO close, sign, and issue the Order of Conditions and include special conditions discussed made by Commissioner Diane DePaso, seconded by Commissioner Jeff Connell. All in Favor. Carried Unanimously.

- **7:50PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 3 Morningside Drive – Applicant: Adam Bejtlich – DEP File No. 109-1547/BBL-1547

Documents Submitted:

03/12/2024 Received Updated Plans from Gordon Rogerson with Hayes Engineering for 3 Morningside Drive, stamped by Peter Ogren, dated on March 12, 2024, scale 1" = 20' (DEP #109-1547)

03/13/2024 Received Updated Plans from Gordon Rogerson with Hayes Engineering for 3 Morningside Ro, stamped and signed by Peter Ogren, dated on March 12, 2024, scale 1" = 20' (DEP #109-1547)

Gordan Rogerson presented the continued project with Hayes Engineering and went over the revised calculations for addressing fill within floodplain and the required compensation to mitigate the fill. The site supports both the FEMA 100-year flood plain and Green Engineering Floodplain. They propose to add an addition with a garage and remove the existing driveway of about 1,000 square feet, and reducing the new driveway will be around 925 square feet. The design was revised to include a trench along the driveway and infiltration system consisting of Cultec units behind the house to help capture and infiltrate stormwater runoff.

Isabel Tourkantonis, Director of Conservation, stated she reviewed proposed impacts to floodplain, which is regulated as Bordering Land Subject to Flooding under the MA Wetlands Protection Act and Bylaw. She met with the BOH Director to review the revised calculations and that they concurred the compensatory storage areas mitigate the fill. She noted the areas proposed for compensatory flood storage are conservative and are larger than what is required.

The Commission discussed restoration and stabilization of the site and the areas that would need to be graded, stabilized, using loam and conservation wildlife seed mix.

Motion: TO close, sign, and issue made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- **8:12PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 700 Boston Road – Applicant: Valley MB, LLC C/o Demoulas Super Market Inc. – DEP File No. 109-1549/BBL-1549

Documents Submitted:

03/06/2024 Received Updated an updated Stormwater Water Report, Responses to Stormwater Peer Review, Updated By-Law Application, and Site Plans from Eric Gerarde with VHB for 700 Boston Road, stamped and signed by Eric Gerarde, dated on March 6, 2024, scale as shown on plans (DEP #109-1549)

03/11/2024 Received a Stormwater Peer Review Update Letter from Philip Paradis with Beta for 700 Boston Road (DEP #109-1549)

Eric Gerard, Civil Engineer with VHB, presented the continued project. He noted additional wetland protection measures as specified during the previous hearing including visual barriers and signage, new 1500-gallon oil separators were added to the plans. Also, an updated O&M Plan was submitted. Eric stated all comments and concerns regarding the peer review have been addressed.

Isabel Tourkantonis, Director of Conservation briefly discussed the peer review and clarified the extent of proposed visual barrier on the site plans.

Phil Paradis, Peer Reviewer with Beta summarized the peer review, and stated that the site is particularly challenging. It was said that the engineer did a great job working with the town to revise the plans and improve the treatment and management of stormwater runoff associated with this site. This is a very large site with excessive pavement and is a high pollutant contributor but that the project will greatly improve the quality of stormwater discharges. The project meets the Massachusetts Stormwater Management Handbook and the EPA MS4 requirements. There are three conditions for this project: soils for BMP to be observed prior to development, final stamp on a Stormwater Prevention Plan, and an O&M Plan to be recorded at the registry of deeds.

The Commission discussed the pocket wetlands and chain link fences and confirmed the fences should be at least 6-inches off the ground to allow for wildlife passage.

Dennis Carcelle, resident of Arcadia Road, had concerns about the oil separators and was also concerned about the water runoff.

Motion: TO approve variance 3.03.C.3(B) 25-foot No Alteration Zone made by Commissioner Diane DePaso, seconded by Commissioner Paul Hayes. All in Favor. Carried Unanimously.

Motion: TO close, sign, and issue made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- **8:39PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 2 Crest Road – Applicant: Charles Van Kirk – DEP File No. 109-1558/BBL-1558

Documents Submitted:

03/13/2024 Received a Request for Continuance from Mitch Maslanka with Goddard Consulting for 2 Crest Road (DEP #109-1558)

Motion: TO continue the March 27, 2024, meeting per the applicant's request. Made by Commissioner Jack Bowen, seconded by Commissioner Paul Hayes. All in Favor. Carried Unanimously.

- **8:40PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 505 Boston Road – Applicant: McCue Outlet LLC – DEP File No. 109-1548/BBL-1548

Documents Submitted:

03/13/2024 Received a Request for Continuance from Stephen Dresser with Dresser, Williams, and Way for 505 Boston Road (DEP #109-1548)

Motion: TO continue the March 27, 2024, meeting per the applicant's request. Made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- **MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 315, 317, & 319 Treble Cove Road – Applicant: Dean Atkins, Northbridge Partners, LLC – DEP File No. 109-1557/BBL-1557 (*Previously continued to 03-27-2024*)

IV. ADMINISTRATIVE MATTERS / DIRECTOR'S REPORT:

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

- 8:40PM - DEP File No. 109-1348/BBL-1348 (29 Riverdale Road)

Isabel Tourkantonis, Director of Conservation, discussed the project and reminded the Commission that the project involved construction of an attached garage and stormwater features onsite. She confirmed that the applicant and their representative had addressed all comments that staff provided in an email dated March 7, 2024. She also stated that the applicant had requested a minor modification to exchange the infiltration system (Cultec Units) with stone trenches given the sandy subsurface condition of the site. Mike Rosa, the applicant, had his engineer stamp and sign the plans in approval. Staff concluded all required information was submitted.

Motion: TO close, sign, and issue the Certificate of Compliance. Made by Commissioner Diane DePaso, seconded by Commissioner Paul Hayes. All in Favor. Carried Unanimously.

- 8:42PM - DEP File No. 109-1502/BBL-1502 (44 Dunham Road)

Isabel Tourkantonis, Director of Conservation, discussed the project and reminded the Commission that the project involved repaving the site and adding stormwater features. She also indicated that BETA Group submitted a Peer Review letter on the stormwater construction monitoring in January. Based on their reports, there are some washouts on the basins etc. The applicant is still in the process of addressing comments by BETA and staff. Staff noted there are outstanding items that need to be addressed by the applicant.

Motion: TO neither approve or deny the Certificate of Compliance at this time to allow the applicant to address site conditions. Made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- **8:34PM - Miscellaneous Updates**

Isabel Tourkantonis, Director of Conservation updated the Commission on Mosquito Control, which is exempt of certain Environmental Regulations, including the Wetland Protection Act and the By-Law to address flooding safety concerns. The Town received notification of work being done near the culvert underneath the Lowell/Boston Road intersection, which conveys the Middlesex Canal and wetlands system. The Alpine Street neighborhood abuts the large wetland system, and several properties have reported excessive amounts of flooding on residential properties. She mentioned that Mosquito Control was proposing to excavate the center of the channel of the Middlesex Canal extending 300 feet downstream from Boston Road along Lowell street. Based on a staff site visit with Mosquito Control and various DPW staff, it was confirmed that Mosquito Control could not access the channel from the sidewalk side of the channel. Additional information will be provided by Mosquito Control.

- **8:49PM - Minutes:** 1-25-2023, 4-26-2023

Tabled to the March 27, 2024, meeting

V. 8:49PM - ADJOURN

Motion: TO adjourn. Made by Commissioner Paul Hayes, seconded by Commissioner Diane DePaso. All in Favor. Carried Unanimously.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Kristina Bernard, and Isabel Tourkantonis