



# *Billerica Conservation Commission*

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



*Conservation of Natural Resources  
in  
Billerica, Massachusetts*

## **MEETING AGENDA**

**August 12, 2024**

**6:30 PM**

**Town Hall, Auditorium  
365 Boston Road, Billerica MA**

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

### **I. 6:30 PM – PUBLIC COMMENT - None**

### **II. 6:32PM - REORGANIZATION OF COMMISSION**

**Motion:** To nominate Bill Bulens to the Chair of the Billerica Conservation Commission, made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

**Motion:** To close nominations for Chair, made by Commissioner JoAnne Giovino, seconded by Commissioner Diane DePaso. All in Favor. Carried Unanimously.

7-0 "AYE"

**Motion:** To nominate Joanne Giovino to Vice Chair, made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

**Motion:** To close nominations for Vice Chair, made by Commissioner Diane DePaso, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

7-0 "AYE"

**Motion:** To nominate Diane DePaso for Secretary, made by Commissioner JoAnne Giovino, seconded by Commissioner Tom Nellson. All in Favor. Carried Unanimously.

**Motion:** To close nominations for Secretary, made by Commissioner Diane DePaso, seconded by Commissioner JoAnne Giovino. All in Favor. Carried Unanimously.

7-0 "AYE"

**Motion:** TO re-Appoint Jack Bowen to the Open Space and Recreation Commission made JoAnne Giovino, seconded by Commissioner Diane DePaso. All in Favor. Carried Unanimously.

### **III. NEW WETLAND HEARINGS:**

- **6:35PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Public Hearing – 48 Buckingham Drive – Applicant: Kevin Kennedy & Sarah Allgier – DEP File No. 109-1579/BBL-1579

### **Documents Submitted:**

07/29/2024 Received a Notice of Intent from Stephen Dresser with Dresser, Williams, and Way for 48 Buckingham Drive, stamped and signed by Stephen Dresser, dated on July 24, 2024, scale 1" – 40' (DEP #109-XXXX)

Stephen Dresser, Dresser, Williams, & Way, Inc. presented the project to replace and upgrade the existing septic system that had failed. Work is proposed within the 200-foot Riverfront Area, Bordering Land Subject to Flooding (floodplain) and the Buffer Zone.

Isabel Tourkantonis, Director of Conservation, discussed the project and stated that work proposed within floodplain is regulated as Bordering Land Subject to Flooding and needed to be clarified on the plan to show any temporary alteration of floodplain and full restoration of elevations. Per the performance standards there must be no net loss of compensatory flood storage. The temporary impacts also need to be reflected on the NOI WPA Form 3. She noted staff agreed with the delineation. She also confirmed conversations with the Stormwater Engineer and the Board of Health Director regarding the project.

There was discussion regarding the 25-foot No Alteration Zone boundary that needed to be demarcated in the field with 4 posts with environmental placards and a 3' to 4' wide natural footpath for access to the river. Any formal access to the river such as a dock would require a separate wetlands permit.

The Commission and staff noted the following information was missing and was required on the plan and/or NOI File:

- NOI WPA Form 3 must be revised to reflect temporary impacts and full replacement of the 100- year floodplain area.
- Add notes to the plan regarding local and FEMA designated floodplain and elevations.
- The old chicken wire that runs along flag series "A" must be removed
- Add dimensions on all structures to the plan
- Add the datum used to the plan
- Add an additional bullet to the construction sequence; about how final grades should match pre-existing grades, loam, seed, and stabilized
- Add visual barrier along No Alteration Zone boundary
- Reference the existing path to the river on the plan
- Cease from mowing to the river
- Correct the scale on the plan
- show the temporary stockpile and staging area for construction on the plan
- Clean up debris (tires) near wetland flags 2 and 3
- Submit a variance request to work within the Buffer Zone to remove debris and reference the site plan

**Motion:** TO continue to the September 9, 2024, meeting made by Commissioner JoAnne Giovino, seconded by Jack Bowen. All in Favor. Carried Unanimously.

- **6:53PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Public Hearing – 56 Dudley Road, Lot 2 – Applicant: Fran McCarthy, Kasher Corporation – DEP File No. 109-1578/BBL-1578

**Documents Submitted:**

07/29/2024 Received a Notice of Intent from Stephen Dresser with Dresser, Williams, and Way for 56 Dudley Road-Lot 2, stamped and signed by Stephen Dresser, dated on July 17, 2024, scale 1" – 20' (DEP #109-XXXX)

08/07/2024 Received an email from Stephen Dresser with Dresser, Williams, and Way for 56 Dudley Road Lots 2 & 3 with the Recorded Approval Plans from the Planning Board (DEP #109-XXXX)

Stephen Dresser with Dresser, Williams, and Way presented the project to construct a single-family home with associated septic system, driveway, and utilities. He discussed the erosion controls, limit of work and the proposed post and rail fence with signage. An infiltration system and a 2x2 stone trench along the driveway are included in the design to infiltrate stormwater runoff from the new roof and driveway. They have also applied to the Board of Health for approval of the septic system. This project meets all the standards of the Wetland By-Law and does not require a variance.

Isabel Tourkantonis, Director of Conservation, discussed brief comments from Kristel Bennett, Director of the Board of Health, she then reminded the Commission that the delineation was previously approved under the Order of Resource Area Delineation (ORAD) MassDEP File No. 109-1569/BBL-1569. The Director requested an overall site plan to show how the property is subdivided under the Approval Not Required Plan (ANR) under the Planning Board. The initial proposed subdivision plan for the property was denied by the ZBA in June 2024.

The Commission discussed the condition of the No Alteration Zone and that it was previously maintained as lawn. This section of the inner buffer zone should be restored to a health, natural vegetated state. Maureen Herald with Norse Environmental did confirm that they could restore the No Alteration Zone to a natural vegetation condition.

Upon discussion of various components, the Commission and staff noted the following information was missing and required on the plan and/or NOI File.

- Update the Permit Status form to include the status of the ZBA and the Planning Board reviews and approvals
- Submit the ANR Plan showing how the overall property and subdivided lots associated with the 56 Dudley Road property.
- Submit a variance request to remove miscellaneous debris and restore the 50' No Alteration Zone.
- The wetland report and ORAD approving the delineation is missing from the NOI application.
- Reference notes to remove any miscellaneous debris from the wetland boundary and Buffer Zone by hand.
- Show the temporary construction staging and stockpiling area on plan
- Restoration plan for the No Alteration Zone, to restore back to a vegetation state with native plant species
- Reference the address - 56 Dudley Road to the plan
- Reference Green Engineering Floodplain

**Motion:** TO continue to the September 9, 2024, meeting made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- **7:09PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Public Hearing – 56 Dudley Road, Lot 3 – Applicant: Fran McCarthy, Kasher Corporation – DEP File No. 109-1577/BBL-1577

**Documents Submitted:**

07/29/2024 Received a Notice of Intent from Stephen Dresser with Dresser, Williams, and Way for 56 Dudley Road-Lot 3, stamped and signed by Stephen Dresser, dated on July 17, 2024, scale 1" – 20' (DEP #109-XXXX)

08/07/2024 Received an email from Stephen Dresser with Dresser, Williams, and Way for 56 Dudley Road Lots 2 & 3 with the Recorded Approval Plans from the Planning Board (DEP #109-XXXX)

Stephen Dresser with Dresser, Williams, and Way, Inc. presented the project to construct a single-family home with associated septic system, driveway, and utilities. He discussed the erosion controls, limit of work and the proposed post and rail fence with signage. There will be an infiltration system and a 2x2 stone trench along the driveway to infiltrate stormwater runoff from the roof and driveway. They have also applied to the Board of Health for approval of the septic system. This project meets all the standards of the Wetland By-Law and does not require a variance.

Isabel Tourkantonis, Director of Conservation, discussed the project with the Board of Health Director who confirmed the project requires an administrative determination review from the BOH for new foundation for work within 100 feet of the floodplain, there were no reservations regarding the septic plans. The Director reminded the Commission that the wetland delineation was previously approved under ORAD DEP File No. 109-1569/BBL-1569. The Director requested an overall site plan to show how the property as subdivided under the Approval Not Required Plan (ANR). The initial proposed subdivision plan for the property was denied by the ZBA in June 2024.

Upon discussion of various components, the Commission and staff noted the following information was missing and required on the plan and/or NOI File.

- Update the Permit Status form to include the status of the ZBA and the Planning Board reviews and approvals
- Submit the ANR Plan showing how the overall property and subdivided lots associated with the 56 Dudley Road property.
- The wetland report and ORAD approving the delineation is missing from the NOI application.
- Reference notes to remove any miscellaneous debris from the wetland boundary and Buffer Zone by hand.
- Show the temporary construction staging and stockpiling area on plan
- Restoration plan for the No Alteration Zone, to restore back to a vegetation state with native plant species
- Reference the address - 56 Dudley Road to the plan
- Reference Green Engineering as a note.

**Motion:** TO continue to the September 9, 2024, meeting made by Commissioner JoAnne Giovino, seconded by Commissioner Tom Nellson. All in Favor. Carried Unanimously.

- **7:17PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Public Hearing – 309 Boston Road – Applicant: Joseph Arria, JMA Properties, LLC – DEP File No. 109-XXXX/BBL-XXXX

**Documents Submitted:**

07/29/2024 Received a Notice of Intent from Stephen Dresser with Dresser, Williams, and Way for 309 Boston Road, stamped and signed by Stephen Dresser, dated on July 29, 2024, scale 1" – 20' (DEP #109-XXXX)

08/5/2024 Received Drainage Report for 309 Boston Road from Stephen Dresser with Dresser, Williams, and Way, dated August 3, 2024, (DEP #109-XXXX)

08/09/2024 Received a Memo from Christina Papadopoulos with DPW Department for 309 Boston Road (DEP #109-XXXX)

Commissioner Jeff Connell spoke on the project regarding the Board of Health notes and discussed the property and how it used to be a junk yard.

Stephen Dresser with Dresser, Williams, and Way, Inc. presented the project to repair the existing parking lot, add an oil grease separator in conjunction with the auto repair shop business. There are ongoing improvements to the interior of the existing building. He noted the project qualifies as a re-development project. The design includes removing some pavement to install a 2'x2' stone infiltration trench at the edge of the parking lot closest to the wetland boundary..

Isabel Tourkantonis, Director of Conservation, noted the MassDEP has not yet issued a DEP File or comments. She briefly reviewed other reviews and comments submitted as part of the wetland review including the request from the Board of Health Director to obtain a variance from the BOH regulations for work within the floodplain. Additionally, the DPW's Stormwater Engineer, Christina Papadopoulos commented that the project involves a change in use associated with land use with higher potential pollutant loads and triggers a stormwater peer review under local drainage regulations. Page 7 of the WPA Form 3 NOI incorrectly states the project is exempt from the MassDEP Stormwater Management Standards and must be revised for the record. The NOI and description of project compliance with the stormwater regulations is brief and was initially missing a signed Stormwater Report and the required Redevelopment Checklist. That information was subsequently submitted for the NOI record and review before the hearing, and she reminded the information must also be submitted to the MassDEP Northeast Regional Office – Wetlands Division as part of the review.

There was discussion on the type of business proposed on the site. Steve Dresser noted all auto repair work will take place inside the building with no outdoor storage of vehicles. The property owner Joe Arria, who was present, clarified that vehicles waiting to be serviced would need to be stored outside on the parking lot. He further clarified that the project entails more than restoring or patching areas of pavement, they must remove the old pavement and replace it fully and that new floor drains will be installed inside the building.

There was further discussion about the degree of stormwater management associated with the site and that some cars waiting to be serviced are likely to include vehicles with leaky oil and other fluids that pollute stormwater runoff and discharges in the adjacent stream. The stream ultimately flows to the Concord River, the town's water supply. The Commission noted that based on their review the project site appears to qualify as a land use with higher pollutant loading (LUHPP) under the MA Stormwater Management Standards and it appears additional measures to treat and manage stormwater are warranted. They also confirmed the project is subject to a stormwater peer review, and the applicability of LUHPPL can also be reviewed as part of the peer review. The Director noted the peer review can be streamlined with the DPW/BOH for compliance with local drainage regulations as well.

Upon discussion of various components, the Commission and staff noted the following information was missing and required on the plan and/or NOI File.

- Revise Page 7. Page 7 of the WPA Form 3 – NOI and submit the signed stormwater report and Redevelopment Checklist for the project.
- The O&M Plan should be accompanied by a BMP Plan addressing snow storage, and reference the No Alteration Zone
- The Illicit Discharge form signed by the property owner needs to be submitted as part of the wetland review and stormwater report.
- Add North Arrow to the plan
- Show Sewer Manhole on plan
- Show location of the proposed oil and grease separator
- Add address to site plan
- Needs to clarify interior use of repair shop
- Reference note that all miscellaneous trash and debris will be removed from the stream channel and Buffer Zone by hand. This work shall be completed immediately.
- Clarify the location of the post and rail fence on the plan and add the installation of the visual barrier/post and rail fence to the construction sequence.
- Construction sequence should include note to obtain a Certificate of Compliance to remove the permit encumbrance from the property title and close out the wetlands permit.

**Motion:** TO continue to the September 23, 2024, meeting made by Commissioner JoAnne Giovino, seconded by Commissioner Tom Nellson. All in Favor. Carried Unanimously.

#### **IV. CONTINUED PUBLIC HEARINGS:**

- **7:48PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 7 Marriott Place – Applicant: John Mercer – DEP File No. 109-1575/BBL-1575

#### **Documents Submitted:**

07/31/2024 Received Revised Notice of Intent Plans for 7 Marriott Place from Stephen Dresser with Dresser, Williams, and Way, stamped and signed by Stephen Dresser, dated on June 27, 2024, scale 1" = 20' (DEP #109-1575)

08/12/2024 Received Revised Notice of Intent Plans for 7 Marriott Place from Stephen Dresser with Dresser, Williams, and Way, stamped and signed by Stephen Dresser, dated on August 12, 2024, scale 1" = 20' (DEP #109-1575)

Stephen Dresser with Dresser, Williams, and Way, Inc. presented the continued project to construct an addition and went over the revisions to the plan. He upgraded the size of the shrubs (24-48 inch ), relocated the post and rail fence as requested, added a stockpiling location to the plan as well.

The Commission made a special condition to remove the old treehouse from the 25' No Alteration Zone, inner Buffer Zone.

**Motion:** TO approve variance 3.03.C.3(B) 25-foot No Alteration Zone for restoration and the infiltration made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

**Motion:** TO approve variance 3.03.C.3(2) Limit of Impervious Area Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

**Motion:** TO close, sign, and issue the Order of Conditions with the special conditions made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- **7:53PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 52 Glengariff Circle – Applicant: Laura Schultz – DEP File No. 109-1576/BBL-1576

**Documents Submitted:**

07/30/2024 Received an email from Krystal Bennett, Director of Board of Health for 52 Glengariff Circle with comments on obtaining a variance for work near the floodplain (DEP #109-XXXX)

08/5/2024 Received a List of Revisions to the Plan, dated August 5, 2024, an Operation & Maintenance Plan dated August 5, 2024, and a Revised Proposed In-Law addition plan dated August 5, 2025, for 52 Glengariff Circle from Norse Environmental (DEP #109-1576)

08/06/2024 Received Comments on 52 Glengariff Circle from Christina Papadopoulos with the DPW Department (DEP #109-1576)

Maureen Herald with Norse Environmental presented the continued project and referred to the recent letter with a description of the revisions made to the plan which included: label the “B” series as the BVW; show applicable increase of impervious area ; adjust the Buffer Zone boundaries to the “B” series wetlands; show culvert beneath the driveway and label as twin 20-inch RCP culvert; note to stop mowing the adjacent town Conservation property; note to remove the stored boat and any stored materials or debris from town land and seed with conservation wetland seed mix; stormwater infiltration unit detail was added to the plan; show a visual barrier, add a visual barrier southeast of the driveway bump out and edge of the driveway upgradient of the restoration area; remove outer edge of the gravel driveway to restore a degree of inner buffer zone with native shrubs; submit an O&M Plan; show posts with environmental signs, and label the stone infiltration trench along the driveway. Maureen noted she was not certain about the DPW comments pertaining to the infiltration system

Isabel Tourkantonis, Director of Conservation, reviewed the email from DPW commenting on the sizing of the proposed stormwater infiltration unit and suggested she contact Christina Papadopoulos to clarify, it appeared minor information was required.

The Commission specified three (3) special conditions beyond the standard conditions included a wetlands permit: to remove the boat from town land and cease from mowing that area and additional placards/signage extended along the “B” series and along the driveway to the culvert. Additionally, some of the plantings specified on the current plan including hydrangeas do not meet the requirements of a natural buffer zone, submit a revised restoration plan with buffer zone shrubs prior to the preconstruction meeting.

**Motion:** TO approve variance 3.03.C.3(B) 25-foot No Alteration Zone to remove the gravel from the inner Buffer Zone, made by Commissioner JoAnne Giovino, seconded by Commissioner Christine Aras. All in Favor. Carried Unanimously.

**Motion:** TO close, sign, and issue the Order of Conditions with the special conditions made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

- **8:17PM - 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

**Documents Submitted:**

07/18/2024 Received an email with Supplemental Information from Matthew Costa with Beals Association for 315, 317, and 319 Treble Cove Road, Revised Notice of Intent (wetland relocation), O&M Plan, Comments to Beta Peer Review, Comments to Patrick Garner Peer Review, Revised Sanitary Sewer Connection & Pump Station, stamped and signed by Todd Morey, dated on June 21, 2024, scale as shown on plans (DEP #109-1557)

07/22/2024 Received Supplemental Information from Matthew Costa with Beals Association for 315, 317, and 319 Treble Cove Road, Revised Notice of Intent (wetland relocation), O&M Plan, Comments to Beta Peer Review, Comments to Patrick Garner Peer Review, Revised Sanitary Sewer Connection & Pump Station, stamped and signed by Todd Morey, dated on June 21, 2024, scale as shown on plans (DEP #109-1557)

07/29/2024 Received Supplemental Information from Matthew Costa with Beals Associates for 315, 317, and 319 Treble Cove Road, Peer Review Response Letter 2A, O&M Plan (Revised July 29, 2024), Stormwater Management Report (Revised July 29, 2024), Revised Sanitary Sewer Connection & Pump Station, stamped and signed by Todd Morey, dated on July 29, 2024, scale as shown on plans (DEP #109-1557)

08/02/2024 Received a Stormwater Peer Review from Phil Paradis with Beta, dated July 31, 2024, and a Second Wetlands Peer Review from Patrick Garner with Patrick Garner Company, Inc, dated July 24, 2024, for 315, 317, 319 Treble Cove Road (Dep #109-1557)

08/06/2024 Received a Stormwater Memo from Christina Papadopoulos with the DPW Department for 315, 317, 319 Treble Cove Road (DEP #109-1557)

Todd Morey with Beals and Associates spoke on the continued public hearing and presented the revisions to the plan. He noted they addressed all the comments from BETA Group, the Stormwater Peer Review.. They were also approved by the Planning Board for the site plan and special approvals. Some of the revisions included they added a sidewalk per the Planning Board requirements to connect to a future sidewalk along the Lantheus Campus property and revised the Operation and Maintenance plan to specify dates of parking lot sweeping.

Isabel Tourkantonis, Director of Environmental Affairs, discussed the new sidewalk and possible impacts to resource areas. The impacts were reflected in a revised NOI form and plans, reviewed by Patrick Garner and staff. She noted that a construction project of this size does trigger an Environmental Monitor, particularly given the amount of work proposed within and adjacent to wetland and the required wetland replication. She introduced Phil Paradis with Beta Group who summarized the projects compliance with the MA Stormwater Management and Patrick Garner who completed the wetland peer review.

Phil Paradis with Beta Group summarized the peer review and noted that overall, the project complies with the MA Stormwater Management Standards. and the Town Stormwater Regulations. He referenced the conditions BETA recommends which are outlined in the final peer review letter dated July 31, 2024.

Patrick Garner with Garner Associates discussed his Peer Review and summarized the wetland impacts and replacement proposed. The NOI initially lacked information and details pertaining to wetland replication but all his and staff comments have been addressed. He referenced his final review letter dated July 27, 2024 and the condition to confirm the groundwater elevation at the edge of the wetland prior to constructing the wetland replication adjacent to it. Patrick Garner noted the project involves the filling of two small isolated vegetated wetland that do not provide the high function and value that the replication of Bordering Vegetated Wetland will offer on this site.

The Commission discussed that they normally do not allow for the filling of vegetated wetland even if it is regulated to the Billerica Wetlands Protection Bylaw only. Given the evaluation of these isolated areas and extremely low function and value, they are satisfied with the degree Bordering Vegetated Wetland replication proposed since it will be a much higher value but to justify their approval. They thanked Phil and Patrick Garner for their peer review work.

The Commission made a special condition requiring an Environmental Wetlands Monitor during the construction of the project and post construction to monitor the wetland replication for at least three (3) years. The wetland replication should be constructed at the start of the construction project and that a stormwater monitor is also required and may be streamlined with other Board or Department approvals.

**Motion:** TO approve variance 3.03.C.3(A) 50-foot No Alteration Zone made by Commissioner JoAnne Giovino, seconded by Commissioner Tom Nellson. All in Favor. Carried Unanimously.

**Motion:** TO close, sign, and issue an Order of Conditions with all special conditions made by Commissioner JoAnne Giovino, seconded by Jack Bowen. All in Favor Carried Unanimously.

- **8:50PM - MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Continued Public Hearing – 296 Concord Road – Applicant: Kambiz Shahbazi (KS Partners) - CRCC Equity Partners, LLC. – DEP File No. 109-1563/BBL-1563

**Documents Submitted:**

08/5/2024 Received Supplemental Information from Bohler Engineering for 296 Concord Road, Culvert Repair Letter dated July 11, 2024, and Order of Conditions for DEP File 109- (DEP #109-1563)

Zachary Richards with Bohler Engineering provided an update and noted sheets C-302 site layout and grading and drainage plan C-401 were revised to include the stream along the driveway between 294 and 296 Concord Road. This was added per the discussion and comments with the Town staff and the Commission. He noted that all other comments and concerns have also been addressed, including the emergency certification for repair of the culvert. They addressed all the stormwater peer review comments and DPW as well.

Isabel Tourkantonis, Director of Environmental Affairs, reminded everyone that the Board of Health has stated the applicant needs to apply for a variance under BOH regulations for work near the floodplain. She also mentioned the note that was added to the plan to show the resource area as requested by the Commission.

Phil Paradis with Beta Group went over the project and how they have complied with the MA Stormwater Management Standards and Town Standards. He had stated that the applicant had to design systems to comply with the TSS and Phosphorus removal. He also mentioned a second test pit location, and suggested a condition to make sure this happens prior to construction since the existing building restricted proper access. He referred to his final peer review letter which included other recommended conditions.

The Commission conditioned a second test pit being completed prior to construction, and a condition per section: SW-17, to have a Stormwater O&M Plan Inspection Report submitted to the town annually on or before May 3<sup>rd</sup>.

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

**Motion:** TO close, sign, and issue an Order of Conditions with all special conditions made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.

**Motion:** TO move the discussion on the Emergency Culvert Repair forward made by Commissioner Diane DePaso

- **9:24PM - 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: None**

Isabel Tourkantonis, Director of Environmental Affairs, stated that there had been no information received to date, nor a request for continuance, staff requested to continue.

**Motion:** TO continue to the September 23, 2024, meeting made by Commissioner JoAnne Giovino, seconded by Commissioner Jack Bowen. All in Favor. Carried Unanimously.



- **MA WETLANDS PROTECTION ACT & BILLERICA WETLANDS PROTECTION BYLAW WETLANDS HEARING** – Notice of Intent – Public Hearing – 223 Boston Road – Applicant: Luke Bouchard, Enterprise Bank & Trust Company – DEP File No. 109-1574/BBL-1574 (*Previously Continued to 9-9-2024*)

## **V. ADMINISTRATIVE MATTERS / DIRECTOR'S REPORT:**

- **9:20PM - Request for Emergency Certificate**
  - Culvert Repair - KS Partners, 296 Concord Road

### **Documents Submitted:**

08/01/2024 Received Culvert Repair Information and a Stormwater Review Summary Letter from Zachary Richards with Bohler Engineering for 296 Concord Road (DEP #109-1563)

08/12/2024 Received Supplemental Information from Bohler Engineering for 296 Concord Road, Request for Emergency Certification Repair Letter dated August 12, 2024, with a Site Layout Plan signed and stamped by Zachary Richards August 12, 2024, for DEP File 109- 1563)

Isabel Tourkantonis, Director of Environmental Affairs, discussed the emergency repair for the culvert at 294- 296 Concord Road near the driveway for 294 Concord Road. The Director stated that staff would like to work with the DPW and the applicant to fix the culvert in a timely manner.

**Motion:** TO issue an Emergency Culvert Repair with Review from the Town Engineering Division, Christina Papadopoulos , made by Commissioner JoAnne Giovino, seconded by Diane DePaso. All in Favor Carried Unanimously.

- **Requests for Certificates of Compliance (As Built Reviews)**
  - DEP File No. 109-790 – 283 Rangeway Road

Isabel Tourkantonis, Director of Environmental Affairs discussed the Request for Certificate of Compliance for the large garage in the back of the site. She referred to email dated September 2023 to Mr. Mulcahy that stated there was information that still needed to be addressed prior to a COC being issued. The attached email had the meeting minutes from meetings where the commission required the wire fencing to be removed from the vegetated Buffer Zone, the post and rail fence installed with environmental placards and other information. The need for an updated wetland delineation where a documented violation occurred was also discussed and that had been stipulated in previously to the owners. Because of the 15-20 years that have passed since the request there may now be BVW that may have expanded in certain areas, particularly where the BVW meets the stream channel. She noted the RCOC is submitted for the garage but that there is the pending enforcement and violation associated with the property under DEP File No. 109-855 that needed to be addressed. MassDEP had provided comments on the violation and additional information from the applicant is required to properly conclude the review of that enforcement and any potential follow up.

Taj Engineering spoke on behalf of the applicant and stated this OOC was issued over 20 years ago for the construction of the garage and should be unrelated to the pending violation and enforcement issue associated with the site.

The Commission concluded that this has been an ongoing issue for many years but that they are not able to issue a Certificate of Compliance with a pending violation matter documented for the property. The applicant was instructed to obtain a wetlands delineation for the property to assess existing conditions along the subject stream bank and connecting Bordering Vegetated Wetland for the BCC to review. The applicant has not met all the requirements and did not communicate information necessary with the Commission.

**Motion:** TO neither approve and or deny allowing the applicant additional time to properly address the pending violation associated with the property, made by Commissioner JoAnne Giovino, seconded by Commissioner Christine Aras. All in Favor. Carried Unanimously.

**Motion:** TO issue a formal enforcement order to have a wetland delineation of the site made by Commissioner JoAnne Giovino, seconded by Jack Bowen. All in Favor. Carried Unanimously.

- DEP File No. 109-1139/BBL1139 – 20 Bennett Circle

Isabel Tourkantonis, Director of Environmental Affairs, discussed the Request for Certificate of Compliance that included the construction of an in-ground pool. The project design also included substantial restoration of onsite inner Buffer Zone and a visual barrier (post and rail fence with environmental signage) to aid in the preservation and long-term protection of the restored inner Buffer Zone. She noted all the information required as part of the RCOC had been submitted, including a revised plan and the restoration work completed in the field. .

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

- DEP File No. 109-1202/BBL1202 – 24 Marshbrook Road

Isabel Tourkantonis, Director of Environmental Affairs, discussed the Request for Certificate of Compliance to close out the wetlands permit associated with the construction of a new septic system onsite. The project design also includes restoration of onsite inner Buffer Zone, Riverfront Area and floodplain, and a visual barrier (post and rail fence with environmental signage) to aid in the preservation and long-term protection of the restored inner Buffer Zone.

Outstanding items include: the No Alteration Zone will need to be reseeded with a wildlife conservation seed mix in the areas where the grass is burnt and in the areas that are bare.

- Fix the broken section of post and rail fence; environmental placards must be added to the post and rail fence; minor debris including the tarp must be removed from the No Alteration Zone.

**Motion:** TO neither approve nor deny at this time to allow the applicant to address the outstanding items, made by Commissioner JoAnne Giovino, seconded by Commissioner Tom Nellson. All in Favor. Carried Unanimously.

- DEP File No. 109-1446/BBL1446 – 9 Eubar Circle

Isabel Tourkantonis, Director of Environmental Affairs, discussed the Request for Certificate of Compliance submitted to close out the wetlands permit for permitting the construction of an addition with garage. The project design also includes substantial restoration of onsite inner Buffer Zone and a visual barrier (post and rail fence with environmental signage) to mitigate other work that had been completed at the site without a wetlands permit. The addition was never completed but all the restoration work was fully completed with oversight by Oxbow Associates. Bow Associates also monitored the restoration areas and plantings for two full-growing seasons, all the documentation is included in the RCOC file. The Director noted the all the information required under the RCOC was submitted and the applicant also installed the visual barrier which included the relocated chain link fence behind the house and new post and rail fence to aid in the preservation and long-term protection of the restored inner Buffer Zone.

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

- DEP File No. 109-1480/BBL1480 – 6 Heather Circle

Isabel Tourkantonis, Director of Environmental Affairs, discussed the Request for Certificate of Compliance associated with the construction of a new single-family dwelling and associated utilities. The project design also included restoration of onsite inner Buffer Zone and a visual barrier(post and rail fence with environmental signage) to aid in the preservation and long-term protection of the restored inner Buffer Zone.

The following information was reviewed and noted as outstanding. The review comments were discussed with the homeowner prior to the meeting and provided to the developer.

- Submit a Buyer Acknowledge Form to the department (Special Condition 52).

- Environmental placards are required on the post and rail fence. The department can provide these.
- The erosion controls and DEP sign must be removed.
- A section of the post and rail fence towards the rear is damaged and must be repaired or replaced per Special Condition 38 & 39.
- Asphalt pieces were observed in the NAZ and must be removed
- Revised the as-built plan to label the No Alteration Zone and reference to the restoration plantings. the as built plan

**Motion:** TO neither approve and or deny to allow the outstanding items discussed to be addressed by the developer and homeowner, by Commissioner JoAnne Giovino, seconded by Commissioner Chritine Aras. All in Favor. Carried Unanimously.

- DEP File No. 109-1502/BBL1502 – 44 Dunham Road

Isabel Tourkantonis, Director of Environmental Affairs, discussed the Request for Certificate of Compliance and stated the applicant submitted a revised as-built plan and thorough update with site photographs addressing all the outstanding field items and comments previously issued by staff. Additionally, BETA Group, the stormwater monitor had completed a review of the as-built plan, and the stormwater management infrastructure completed at the site. The peer review comments were also addressed.

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

- **Miscellaneous Updates** - None
- **Minutes:** 1-25-2023, 4-26-2023

\*Tabled until September 23, 2024, meeting\*

## **VI. 9:58PM - ADJOURN**

**Motion:** To adjourn made by Commissioner JoAnne Giovino, seconded by Jack Bowen. All in Favor. Carried Unanimously.

Respectfully submitted,

Diane DePaso, Secretary

Prepared by Kristina Bernard, and Isabel Tourkantonis