

4



### Billerica Board of Health

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Marie O'Rourke, Vice Chair  
Mike Grady, Secretary  
Robert Reader  
Elizabeth Villar, Ph D

Richard Berube, Director



Bk: 31367 Pg: 10 Page: 1 of 4  
Recorded: 08/10/2017 10:54 AM

### TOWN OF BILLERICA BOARD OF HEALTH COVENANT FOR VARIANCE STORMWATER MANAGEMENT APPROVAL

LOCUS: Treble Cove Road (Vietnam Veterans Park), N. Billerica, MA  
Assessor's Plate 67, Parcel 189-1  
NMRD: Book 7230, Page 121

APPLICANT/  
OWNER: Billerica Recreation Department  
c/o Billerica Dog Park Committee  
248 Boston Road  
Billerica, MA 01821

NATURE OF  
RELIEF SOUGHT: Applicant seeks a variance of Board of Health Rules and Regulations, Chapter 5, Sections 5.5.005 (1) and (2) in order to redevelop a site for use as a dog park in and within one hundred (100) feet of Flood Plain. Also the applicant seeks stormwater management approval pursuant to Board of Health Rules and Regulations, Chapter 6.

HEARING DATE: July 10, 2017

APPROVAL DATE: July 10, 2017

VOTE OF  
THE BOARD: The Board members voted unanimously to grant a variance and stormwater management approval based on the following findings of fact and pursuant to the following conditions:

#### FINDINGS OF FACT

- 1) The work described in the applicant's request is within an area subject to protection under the Billerica Health's Rules and Regulations, Chapter 5, Section 5.5.005 (1) (2) and Chapter 6 inclusive.
- 2) The Board of Health conducted a public hearing on July 10, 2017 and properly notified abutters in accordance with Billerica Health Regulations, Chapter 1, Section 1.2.007.

LOCUS: Treble Cove Road (Vietnam Veterans Park), N. Billerica, MA  
Assessor's Plate 67, Parcel 189-1

- 3) The Recreation Department in conjunction with the Billerica Dog Park Committee proposes to develop an area located within Vietnam Veteran's Park for an enclosed dog park. The proposed site will be located across from Equestrian Park along the access road to the Water Treatment Plant. The site was previously used to stockpile soils from the Parker School Project. The proposed project will include fencing, walkways, peastone ground cover, a gravel parking lot, shade trees and associated park amenities and utilities. The applicant is requesting a variance for work within the Flood Plain. A portion of the site falls within the FEMA Flood Plain and the Green Engineering Flood Plain. The site will be graded to prepare the site for the dog park and parking area. The grading will slightly alter the Flood Plain. However, there will be no loss of flood storage. The applicant is also seeking a relief from strict compliance with the Stormwater Management Regulations. The applicant has made a good faith effort to comply with all the requirements. The proposed project will maintain the existing drainage patterns.
- 4) The project was reviewed by Brian M. Dunn of MBL Land Development & Permitting, Corp., the Board of Health's Consulting Engineer, for potential impacts to the Flood Plain as well as compliance with applicable drainage regulations and the Board of Health Rules and Regulations, Chapters 5 and 6.
- 5) The Board of Health will impose reasonable conditions to ensure the project is constructed in accordance with approved plans.
- 6) The Board of Health has determined that the actions proposed by the applicant are adequate measures to protect the public health and environment and complies with the intent of Board of Health Rules and Regulations. Further, approval of the applicant's request will not be detrimental to the public health and environment.

#### CONDITIONS

- 1) All construction must be in accordance with plans submitted for review and approval, prepared by The Morin-Cameron Group, Inc., dated April 7, 2017 and revised to June 20, 2017 and stamped by Michael C. Laham, RPE#52053.
- 2) This variance shall not take effect until it is properly recorded at the Registry of Deeds and a certified copy of this variance is returned to the Board of Health office indicating that a marginal reference was made on the original deed.
- 3) Any changes in the plan submitted and approved shall require immediate notification to the Board of Health by the Design Engineer and applicant. Further review and approval may be required at that time and may require the submission of the changes to the approved plans to the Board of Health for additional review and approval.
- 4) An as built plan shall be submitted to the Board of Health before the approval of any occupancy permit, or other documentation to satisfy the intent of the Board of Health's approval of any project. A certification from the design engineer should be shown on the plans identifying that the plan is within substantial conformance with the approved plans. If not, then the design engineer should state the differences on the as-built plan vs the approved plans along with a description in writing to the Board of Health about the changes.
- 5) There shall be no further encroachment into the Flood Plain as delineated and approved on the plan submitted. This restriction shall be deemed a deed restriction and extend to all future owners of the property.

LOCUS: Treble Cove Road (Vietnam Veterans Park), N. Billerica, MA  
Assessor's Plate 67, Parcel 189-1

- 6) There shall be no stump dump or dumping of any solid waste or liquid waste on site. Such activity shall constitute a violation of Massachusetts General Laws Chapter 111, Section 150A.
- 7) These conditions, imposed by the Board of Health, cannot be changed without the written approval by the Board of Health and only after a proper public hearing is held.
- 8) All drainage and stormwater management structures shall be installed and functioning in accordance with design standards prior to the approval of an occupancy permit. A status letter may be submitted as proof of compliance with this condition, to satisfy the intent of the Board of Health.
- 9) Upon completion of the work described herein, the applicant shall forthwith request in writing that a Certificate of Compliance be issued stating that the work has been satisfactorily completed.
- 10) This order does not relieve the applicant, permittee or any other person of the necessity of complying with all other applicable federal, state or local statutes, ordinances, by-laws or regulations.
- 11) The work authorized by these conditions shall be completed within two years from the date of this order, unless the time for completion has been extended to a specific date more than two years from the date of issuance and both that date and the special circumstances warranting the extended time period are set forth in this order.
- 12) This order may be extended by the issuing authority upon application to the issuing authority at least 30 days prior to the expiration date of this order.
- 13) Any fill used in connection with this project shall be clean fill, containing no trash, refuse, rubbish or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles or parts of any of the foregoing.
- 14) This order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
- 15) Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this order.
- 16) The applicant and his construction supervisor/contractor and project engineer shall request and attend a preconstruction meeting with the Director of Public Health and any other interested parties prior to beginning any construction in order to review the construction sequence for the project, establish an inspection schedule and address any other concerns. The meeting request and written Notice of Construction Commencement shall be submitted to the Board of Health at least fourteen (14) days prior to beginning construction.
- 17) The applicant, or his agent, shall notify the Board at least forty-eight (48) hours in advance of scheduled inspections, or completion of construction operations requiring inspection, and prior to starting work on the succeeding construction operation.
- 18) Proof that a NPDES (National Pollutant Discharge Elimination System) Notice of Intent has been filed with the EPA (Environmental Protection Agency) shall be provided to the Board of Health prior to the approval of any permits. The applicant must provide a copy of the Stormwater Pollution Prevention Plan (SWPPP) to the Board of Health.

LOCUS: Treble Cove Road (Vietnam Veterans Park), N. Billerica, MA  
Assessor's Plate 67, Parcel 189-1

- 19) A proper Operation and Maintenance Plan for the stormwater drainage system must be approved by the Board of Health and the Board's Consulting Engineer/Consultant prior to the approval of any occupancy permits.
- 20) The stormwater drainage and infiltration systems shall not be back filled until an inspection has been conducted by Board of Health's Consulting Engineer/Consultant or a representative of the Board of Health and permission has been granted to backfill.
- 21) Erosion and sediment control measures shall be implemented and maintained in all areas disturbed by construction activity including but not limited to construction and waste material storage areas. Erosion and sediment control structures shall be installed prior to beginning construction.
- 22) Agents of the Board of Health or its designee's, such as the Board of Health Consulting Engineer, or others so designated, shall have access to property covered by these conditions to make inquiries, conduct inspections, or take actions deemed necessary to protect the public health and the environment.
- 23) The applicant must provide final approved plans for any project covered by the conditions. Final plans are considered plans approved by all town departments.
- 24) Any approval, variance or waiver granted by the Board will not become effective until all outstanding invoices from the Consulting Engineer/Consultant have been paid by the applicant.
- 25) A COC will not be issued until all outstanding invoices from the Board of Health Consulting Engineer/Consultant for inspections or other services rendered during construction have been paid by the applicant.
- 26) These conditions must be properly recorded at the Registry of Deeds and a certified copy of these conditions must be returned to the Board of Health office indicating that a marginal reference was made on the original deed, prior to the Health Department approval of any building permit, occupancy permit, certificate of compliance, etc.
- 27) Any Order of Conditions issued by the Billerica Conservation Commission and special conditions for the project apply to this permit. Any and all conditions of the Order of Conditions shall be met in order to obtain a Certificate of Compliance under this permit.

Billerica Board of Health

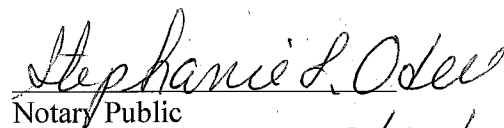


Richard Berube  
Director of Public Health

Then personally appeared Richard Berube, Director of the Town of Billerica Board of Health and acknowledged the foregoing to be his free act and deed before me.



**STEPHANIE L. ODELL**  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
September 21, 2023



Notary Public

My commission expires: 9/21/23