

**NATURAL RESOURCES COMMISSION**  
**Meeting Minutes**  
**January 20, 2016**

Pursuant to the notice filed with the Town Clerk, the meeting of the Natural Resources Commission was held at 141 Keyes Road, first floor conference room, Concord, MA at 7:00 p.m. on Wednesday, January 20, 2016. The following Commissioners were present: Greg Higgins, Chair, Jeff Adams, Lynn Huggins, Chip Poutasse, and Judy Zaunbrecher. Delia Kaye, Natural Resources Director and Lori Capone, Assistant Natural Resources Director, were also present.

Chair Higgins opened the meeting at 7:00 p.m. in accordance with the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and the Concord Wetlands Bylaw.

Town of Concord Public Works, Assabet Avenue, DEP File #137-1323	7:00 PM
Damonmill Square Properties, LLC, 9 Pond Lane, DEP #137-1307	7:00 PM
Frank McGillin, 68 and 18 Cambridge Turnpike, DEP #137-1330	7:00 PM
Symes Development, 140 Commerford Road, DEP #137-1269	7:00 PM
MassDOT, Bruce Freeman Rail Trail, DEP File #137-1322	7:00 PM
Mark Brennan, 310 Lexington Road, DEP #137-1064	7:02 PM
Aho Development, 874 Elm Street, DEP #137-1331	7:19 PM

**CONTINUANCES**

**Notice of Intent Application for the Town of Concord - CPW Engineering, Assabet Avenue, DEP #137-1323**

Chair Higgins reopened the hearing for approval to install two overflow pipes and rip-rap swales on Assabet Avenue within Bordering Vegetated Wetlands, Land Under Waterbodies and Waterways, Bordering Land Subject to Flooding, the 200-foot Riverfront Area to the Assabet River, and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Adams moved to continue the hearing to February 2, 2016. Commissioner Zaunbrecher seconded. All so voted.

**Notice of Intent Application for Damonmill Square Properties, LLC, 9 Pond Lane, DEP #137-1307**

Chair Higgins reopened the hearing for approval to repair and maintain an existing dam, stabilize the embankment, repair a section of wall, remove trees, and close the headrace and tailrace, a portion of which work is within Bordering Land Subject to Flooding, the 200-foot Riverfront Area to the Assabet River, and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Adams moved to continue the hearing to February 2, 2016. Commissioner Zaunbrecher seconded. All so voted.

**Notice of Intent Application for Frank McGillin, 68 and 18 Cambridge Turnpike, DEP #137-1330**

Chair Higgins reopened the hearing for approval to demolish the existing shed and construct a two-car detached garage within the 100-foot Buffer Zone to Bordering Vegetated Wetland and the 200-foot Riverfront Area to Mill Brook.

At the request of the Applicant, Commissioner Adams moved to continue the hearing to February 2, 2016. Commissioner Zaunbrecher seconded. All so voted.

**Notice of Intent Application for Symes Development, 140 Commerford Road, DEP #137-1269**

Chair Higgins reopened the hearing for approval to demolish the existing dwelling, associated septic and gravel driveway at 140 Commerford Road and construct a 22-unit Planned Residential Development. Work within jurisdictional areas includes constructing a portion of the driveway with stormwater controls and grading; site preparation within four lots and common land; and partial construction of four dwellings within the Riverfront Area of Baptist Brook, Certified Vernal Pool Habitat, and the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

At the request of the Applicant, Commissioner Adams moved to continue the hearing to February 2, 2016. Commissioner Zaunbrecher seconded. All so voted.

**Notice of Intent Application for Massachusetts Department of Transportation, Bruce Freeman Rail Trail - Phase 2C, DEP #137-1322**

Chair Higgins reopened the hearing for approval to build a multi-use recreational trail to include paving with stone dust graded shoulders, markings and signage; construction of three parking areas; reconstruction of a pedestrian underpass; rehabilitation and/or construction of two bridges; construction of stormwater BMPs and culvert replacement; earthwork, landscaping, and rest areas with associated pavement markings and signage, and interpretive signs within Land Under Waterbodies and Waterways, the 200-foot Riverfront Area to Jennie Dugan Brook, the Assabet River, and Nashoba Brook, and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands

At the request of the Applicant, Commissioner Poutasse moved to continue the hearing to February 17, 2016. Commissioner Adams seconded. All so voted.

**Amended Notice of Intent for Mark Brennan, 310 Lexington Road, DEP #137-1064**

Chair Higgins reopened the hearing for approval to amend an existing Order of Conditions to construct granite steps and retaining wall, installing an irrigation system and grading in Bordering Land Subject to Flooding and the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Letter dated January 8, 2016 from Richard Harrington regarding the Waiver Request

Richard Harrington of Stamski and McNary Inc. and Applicant Mark Brennan attended tonight's meeting.

Mr. Harrington explained how the project met the waiver requirements set forth in the Concord Wetlands Bylaw for work within the 25-foot No Disturb Zone. The Commission found

that the project, when viewed in its entirety, results in a net improvement to the resource area given that the applicant has removed the original masonry steps, shed, dog house, and a portion of the original dwelling with covered fenced areas from the 25-foot No Disturb Zone; the new dwelling had been constructed further from the resource area than the existing house; the applicant has reduced impervious surfaces within the Buffer Zone beyond what was previously approved by the Commission with the installation of a pervious driveway; and the applicant has improved the wetlands with the removal of invasive species and will continue to manage the area to prevent invasive species from re-establishing.

There were no public comments.

Commissioner Adams moved to issue an Amended Order of Conditions for DEP File #137-1064 with Findings A and B, Standard Conditions 1-19 and Special Conditions 20-54. Commissioner Huggins seconded. All so voted.

### Director's Report

- **Request for Determination of Applicability for Off Harrington Road:** Director Kaye referred the Commission to a letter of withdrawal for a Request for Determination of Applicability to fill potholes in Off Harrington Avenue. Staff had reviewed the Request and determined that the proposed work fell under an exemption under the Wetlands Protection Act (310CMR 10.58(6)(a)) for work within the Riverfront Area. DEP concurs with staff's determination.
- **Barrett Mill Farm Greenhouse:** Director Kaye informed the Commission that the farmers at the Barrett Mill Farm have an application in front of the Historic Districts Commission to install a temporary greenhouse (26 feet by 48 feet) on the adjacent conservation land that they farm. The greenhouse will be placed on filter fabric and will be anchored with sonatube footings. Commissioner Zaunbrecher asked if the structure would only be up in the spring. Director Kaye stated that it would remain in use year round. Chair Higgins asked who would pay for this structure and whether it would remain with the property in the future. Director Kaye informed the Commission that the farmers have received a grant to purchase the greenhouse and would take it with them should they no longer farm the Barretts Mill property. Commissioner Poutasse asked if the farmers could use Town water instead of the river to water in the greenhouse. Director Kaye stated that that use of Town water for irrigation is not preferred and that would have to be discussed with the Water/Sewer Superintendent. The Commission requested this item be placed on the February 2<sup>nd</sup> NRC meeting agenda for a vote.
- **Solar array at 214Y Main Street:** Director Kaye presented a conceptual plan of the proposed 6 megawatt solar array proposed at 214Y Main Street to be constructed by Kearsage. Staff met with the development team yesterday and they are anticipating construction this spring/summer. The plan requires Site Plan Review but the Applicant believes all of components of the facility will be outside NRC jurisdiction. Director Kaye has requested the applicant file an Abbreviated Notice of Resource Area Delineation to confirm the wetland boundary to ensure all work is outside jurisdiction. Commissioner Adams requested the status of the Tree Preservation Committee as the lot is heavily forested while appreciating that this property was purchased for this specific use. Director Kaye stated that that Committee is presently being formulated.

Commissioner Poutasse asked if this property was being used for the bus depot and Director Kaye indicated on the plan where this would be located.

### **NEW APPLICATIONS**

#### **Notice of Intent for Aho Development, 874 Elm Street, DEP #137-1331**

Chair Higgins opened the hearing for approval to remove an existing dwelling and detached garage and construct a new single family dwelling with associated septic system, grading, and paved driveway with access on Assabet Avenue, a portion of which work falls within the 200' Riverfront Area to the Assabet River.

#### **List of Plans and documents discussed at this meeting:**

- Notice of Intent Application prepared by Stamski & McNary Inc., dated January 4, 2016; and,
- Sewage Disposal Plan prepared by Stamski & McNary, Inc., revised January 4, 2016.

Richard Harrington of Stamski and McNary presented the plan indicating that the imperviousness of the Riverfront Area on site is being reduced by 281 square feet and the structure is being moved eight feet further from the Assabet River. The new access is proposed off Assabet Avenue and a berm will be installed along Route 2 to alleviate noise. Chair Higgins asked if the portion of the berm within the Riverfront Area could change to a fence to minimize alteration of the Riverfront Area and requested that the existing catch basin in Assabet Avenue be protected during construction. Commissioner Adams further suggested that the area be revegetated. Mr. Harrington confirmed that the catch basin would be protected during construction and stated that the berm would be planted with native species and not manicured but a landscape plan has not yet been developed. Commissioner Zaunbrecher asked Mr. Harrington to confirm that only one tree was been removed to which Mr. Harrington verified. Director Kaye acknowledged that the driveway is outside jurisdiction but asked if its width could be reduced to minimize impervious surface. Mr. Harrington said that he would confer with his client.

Chair Higgins advised the Commission that they are in receipt of a draft Memorandum of Understanding from the landowner's attorney regarding an encroachment issue at 311 Laws Brook Road.

There were no public comments.

The Applicant agreed to the Commission continuing this hearing to February 2, 2016.

### **OTHER BUSINESS**

#### **Middlesex School: Temporary Cell Tower at 1400 Lowell Road**

Matt Crozier and Steve McKeown of Middlesex School and Frank Holmes of Stantec attended tonight's meeting.

Matt Crozier addressed the Commission regarding how the Commission would like changes to the proposed cell tower facility presented for approval, including the installation of a second equipment shelter. Mr. Crozier presented a letter and photo of the Music Center site and informed the Commission that they have determined that the approved site for the temporary and permanent cell tower is not suitable for the permanent tower and are hoping to find a

suitable site outside NRC jurisdiction. In the interim, they would like to use the approved site for the temporary tower as time is of the essence to move the utilities in order to continue with the construction of the Music Center. Commission Adams asked how long the temporary tower would be needed. Mr. Crozier stated FAA regulations require that a temporary pole cannot be used for more than 18 months but the school would like three years to remove the temporary facility.

Chair Higgins asked if any site work had been completed yet. Mr. Crozier said no work has started. They requested a pre-construction meeting with DNR staff when DNR staff informed them that the project has expanded beyond what the Commission approved and requested they file an Amendment for the change. Chair Higgins asked if there might be a more suitable location outside NRC jurisdiction if this tower is only going to be temporary now. Commission Adams suggested that it could be installed in the hockey rink parking area or near the theater. Mr. Crozier stated that there are other viable locations but since the school has already purchased the temporary tower for this specific site, it cannot be changed now. Additionally, they are in the process of redesigning the theater so that area is not available.

Mr. Holmes informed the Commission that the footprint of the fenced area has not changed and the stormwater has been designed to accommodate a full build out of the area. Commissioner Adams stated that that was not a fair comparison and not how the Commission reviews projects, though understood the practicality of that statement. When asked how much more impervious surface is being proposed, Mr. Holmes stated that they could provide that to the Commission. Assistant Director Capone asked Mr. Holmes if there still might be a third building proposed for the temporary site. Mr. Holmes confirmed that there would be no more than two buildings.

Chair Higgins asked the Commission under what process they would like to see these modifications presented for approval. Director Kaye advised the Commission to consider the precedence this could set if approved as a Minor Modification, which is not appropriate when there is an increase in impervious cover. Commissioner Zaunbrecher said that the Commission would need to reassess the mitigation now that the entire area will need to be restored. Mr. Crozier urged the Commission that time is crucial to keep the project moving. Commissioner Huggins stated that timing is not the Commission's concern but process should be followed appropriately and consistently. Commissioner Zaunbrecher concurred that all changes should be properly documented.

The Commission discussed the various options including a Minor Modification or Amendment and associated requirements and timelines. Commissioner Poutasse asked if conditions could be modified under a Minor Modification and staff explained that the only way to modify the permit was through the Amendment process. Mr. Crozier implored the Commission to look at the big picture and the investments the school has put into the property for everyone to enjoy. Director Kaye informed the Commission that whether they decide a Minor Modification or an Amendment was appropriate, staff could have approvals ready for the February 2<sup>nd</sup> NRC meeting.

Mr. Crozier asked what the Commission would like to see with an Amendment Request. The Commission requested revised impervious calculations with a robust restoration plan including planting some sizable trees, to revegetate all disturbed areas (including the unauthorized alteration of the Zamboni area) with trees planted 10 feet on center with a shrub understory planted five feet on center to be submitted tomorrow.

There were no public comments.

Commissioner Adams moved to approve the January 6, 2016 NRC meeting minutes, as amended. Commissioner Zaunbrecher seconded. All so voted.

Commissioner Adams moved to adjourn. Commissioner Poutasse seconded. All so voted. This meeting adjourned at 8:08 p.m.

Respectfully submitted,

Lori Capone  
Assistant Natural Resources Director