

**NATURAL RESOURCES COMMISSION
Meeting Minutes
June 15, 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**, June 15, 2016. The following Commissioners were present: Greg Higgins, Acting Chair, Jeff Adams, and Chip Poutasse. Delia Kaye, Natural Resources Director, Lori Capone, Assistant Natural Resources Director, and Natural Resources Administrative Assistant Karen Bockoven, were also present.

Acting 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, CPW Engineering, Assabet Avenue, DEP File #137-1323	7:00 pm
Karen Kirsten, 280 Estabrook Road, DEP File #137-1339	7:00 pm
Normandy Baker LLC, 300-310 Baker Avenue, DEP File #137-1342	7:00 pm
Milltarry Offices Registered LLP, 91 Lowell Road & 105 Keyes Road, DEP File #137-1315	7:00 pm
Massachusetts Department of Transportation, Route 2, DEP File #137-1344	7:05 pm
Douglas Kaplan, 253 Sudbury Road, DEP File #137-1345	7:35 pm

CONTINUANCES

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

Acting Chair Higgins reopened the hearing for approval to install two overflow pipes and rip-rap swales 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 August 10, 2016. Commissioner Poutasse seconded. All so voted.

Notice of Intent for Karen Kirsten, 280 Estabrook Road, DEP File #137-1339

Acting Chair Higgins reopened the hearing seeking approval to remove trees and vegetation, plant a meadow, and remove invasive species within the 200-foot Riverfront Area of a tributary to Dakins Brook 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 July 6, 2016. Commissioner Poutasse seconded. All so voted.

Notice of Intent Application for Normandy Baker LLC, 300-310 Baker Avenue, DEP File #137-1342

Acting Chair Higgins reopened the hearing seeking approval to construct 114 additional parking spaces with associated grading and drainage within Bordering Land Subject to Flooding 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 July 6, 2016. Commissioner Poutasse seconded. All so voted.

Notice of Intent Application for Military Offices Registered LLP, 91 Lowell Road & 105 Keyes Road, DEP File #137-1315

Acting Chair Higgins reopened the hearing seeking approval to construct a commercial market/office building, with associated parking, walkways, and drainage, a portion of which work is within Bordering Land Subject to Flooding, the 200-foot Riverfront Area to Mill Brook, and the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Site Layout Plan prepared by Oak Consulting Group dated June 3, 2016;
- Material Plan prepared by Brown, Sardina, Inc. dated June 3, 2016; and
- Site Planting Plan prepared by Brown, Sardina, Inc. dated June 3, 2016.

Thomas Kearns, Dewing Schmid Kearns and Thomas Hughes, Hughes Environmental Consulting attending tonight's meeting.

Mr. Kearns informed the Commission that on June 7, 2016, the applicant received a positive vote from the Planning Board. The hearing before the Zoning Board of Appeals (ZBA) was on June 9, 2016 and that was also a positive meeting. Their ZBA meeting was continued until July 14, 2016. Mr. Kearns believes they have addressed all the issues concerning the Natural Resources Commission (NRC). They have reviewed the Special Conditions.

Commissioner Adams commented that with regard to the new information the only changes he saw was with the curbing. Mr. Kearns responded that there were two issues. One issue was an additional pad for a transformer for Rite Aid. The other was a required change of the northern most curb cut on Lowell Road. The change will be a right turn in only. There will be no left turn northbound and no exit from that particular curb cut. They have made those modifications and have submitted to the Planning Board and the NRC.

There were no public comments.

Commissioner Adams moved to close the hearing and issue an Order of Conditions for DEP File #137-1315 for 91 Lowell Road and 105 Keyes Road, with Findings A, B, C and D, Standard Conditions 1-19, and Special Conditions 20-52. Commissioner Poutasse seconded. All so voted.

NEW APPLICATIONS

Notice of Intent Application for Massachusetts Department of Transportation, Route 2, DEP File #137-1344

Acting Chair Higgins opened the hearing for approval to install Best Management Practices including drainage swales, infiltration swales, and infiltration basins within the 200-foot Riverfront Area to Nashoba Brook and within the Buffer Zone to Bordering Vegetated Wetlands and Bank.

List of plans and documents discussed at this meeting:

- Notice of Intent Application; and
- Plan of Stormwater Improvements on a Section of Route 2 prepared by Stantec dated May 31, 2016.

Annie Bastoni from MassDOT, Andrea Kendall from LEC Environmental Consultants and David Glenn of Stantec, attended tonight's meeting.

Ms. Kendall explained to the Commission that she had the opportunity to meet with Director Kaye and the Town Engineer to review this project prior to submission. Ms. Kendall explained that the two bodies of water relating to this project are both Impaired Waterways: Nashoba Brook and the Assabet River.

Mr. Glenn gave a brief overview of the Stormwater BMP proposed for the project. A portion of the infiltration trench and a portion of the water quality swale fall within the Nashoba Brook Riverfront Area. The work in the Assabet River Riverfront Area consists of constructing two stormwater infiltration basins within the existing median areas. They will be working on the section of the pipe that is going through the median. They will break the drain line, build the basin and excavate down about 3 or 4 feet, putting in a forebay outlet control structure and the rest of the drain line will be retained. Currently run-off from Route 2A discharges directly into the river. The project will provide pretreatment within the median areas prior to being discharged. Commissioner Adams asked if the water will only go into the overflow pipe during major storm events, otherwise it will infiltrate in those basins. Mr. Glenn explained that they were sized for the 10-year storm. Anything below 4.4 inches in 24 hours will get infiltrated.

Commissioner Poutasse inquired about maintenance of the basins. Mr. Glenn replied that it will be mowed.

Commissioner Adams said this project was not subject to the Town's Wetlands Bylaws. However, he asked about invasive species in the area where they are working and if there is any intention of removing them. Ms. Bastoni said that MassDOT does have an invasive species control plan. She did go out and identify, approximate to the work areas, invasive species and there is an invasive species control plan that identifies polygons of invasive species to alert the contractors. She believes there will be a landscape architect that will go out during construction and will oversee the management of the invasive species. Commissioner Adams asked for something in writing about an invasive species removal management plan. Ms. Bastoni said they could provide the special provision that is included in the contract. Commissioner Adams inquired about the dewatering plan that was included in the narrative but not on the plan. He asked if that could be included. Ms. Bastoni replied that she did not anticipate intercepting groundwater but a dewatering plan will be included in the Stormwater Pollution Prevention Plan.

There were no public comments.

Commissioner Adams moved to close the hearing and issue an Order of Conditions for DEP File #137-1344 for Massachusetts Department of Transportation, Route 2 (Union Turnpike), with Findings A, B and C, Standard Conditions 1-19, and Special Conditions 20-46, with the addition of Special Condition 47 which is the submittal of Invasive Species Management Plan that was discussed, and Special Condition 48 for a dewatering plan to be submitted by the subcontractor. Commissioner Poutasse seconded. All so voted.

Notice of Intent Application for Douglas Kaplan, 253 Sudbury Road, DEP File #137-1345

Acting Chair Higgins opened the hearing for after-the-fact approval to reconstruct an existing field stone wall, remove trees, and replant within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Notice of Intent Application.

Mr. Kaplan attended tonight's meeting.

Mr. Kaplan explained that he is trying to restore the retaining wall on the southeast side of his house so it is safe. He said that he moved into the house last November. At that time, the retaining wall was degraded. Last winter, the wind blew down many trees. He has already removed the trees and started repairing the wall to its original state. He now knows that he should have gotten approval prior to doing any work from the Commission. Acting Chair Higgins asked Mr. Kaplan if it was his intention to restore the property back to the way it was based on the As-Built Plan dated June 6, 2012. Mr. Kaplan explained that the previous owners had installed sprinkler systems which led to some of the retaining wall problems. The sprinkler systems have been removed. He is seeking to return the wall to its original state and replant some trees.

Commissioner Poutasse said it states retaining wall, but the diagram does not show contour lines. Mr. Kaplan explained that the wall is about 1 to 1.5 feet high. It will not be completely flat so the water can flow. They have a landscaper, Frank Maurer, who has done this in a number of cases.

Commissioner Adams said that if he understood correctly, the Applicant is seeking to restore the wall to what was originally approved and what it was when it was initially built other than the replacement of some trees. Mr. Kaplan agreed. Assistant Director Capone explained that the original purpose of the wall, when permitted, was to have an edge of lawn clearly delineated and below the wall a naturalized annual mow area.

There were no public comments.

Commissioner Adams moved to close the hearing and issue an Order of Conditions for DEP File #137-1345 for 253 Sudbury Road, with Findings A, and Standard Conditions 1-19 and Special Conditions 20-45. Commissioner Poutasse seconded. All so voted.

CLOSE AND ISSUE PERMITS

Notice of Intent Application for Mary Crowley, 75 Ayrshire Lane, DEP File #137-1343

Acting Chair Higgins reopened the hearing for approval to replace the existing sewage disposal system within the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

Commissioner Adams moved to close the hearing and issue an Order of Conditions for DEP File #137-1343 for 75 Ayrshire Lane, with Findings A, Standard Conditions 1-19, and Special Conditions 20-45. Commissioner Poutasse seconded. All so voted.

EXTENSION REQUEST

Wedgewood Common LLC, 17A Lawsbrook Road, DEP File #137-1227

Director Kaye informed the Commission that the Applicant has an open Order of Conditions for repaving and drainage improvements. The work has not started and the permit expires this year. The Applicant requested a three-year extension to complete improvements in phases. Commissioner Adams moved to grant a 3-year extension for 17A Lawsbrook Road, DEP File #137-1227. Commissioner Poutasse seconded. All so voted.

EMERGENCY CERTIFICATION

Crosby, 552 Cambridge Turnpike (Crosby's Pond)

Director Kaye informed the Commission that the breach at Crosby's Pond has been blocked and the Office of Dam Safety has ordered the homeowner lower the impoundment. She issued an Emergency Certification today to lower the impoundment in a measured fashion with a siphon. As soon as the impoundment is lowered the homeowner will remove some of the debris. Commissioner Poutasse asked if it was originally a man-made dam. Director Kaye said it was a man-made dam from the late 1880's. Last year the beavers blocked up a 40-foot wide opening in the dam. The beavers have been trapped out since that time per approval by the Board of Health. The Office of Dam Safety wants the pond not to be in an impounded condition until the homeowner comes up with a permanent solution, which will need to be permitted as a Notice of Intent. Commissioner Poutasse inquired as to why this was an Emergency Certification. Director Kaye replied to allow the homeowner to lower the impoundment so there is not a potential for catastrophic failure to Cambridge Turnpike or downstream properties .

Commissioner Adams moved to ratify the Emergency Certification for Crosby at 552 Cambridge Turnpike. Commissioner Poutasse seconded. All so voted.

OTHER BUSINESS

Director's Report

- Director Kaye said the Heywood Meadow posts have been reset and the project is nearly complete, with the only outstanding items being confirmation of the Portland cement in the stone dust sidewalk and the stone dust stabilizer. Red flags have been placed where the new plantings (butterfly milkweed and New Jersey tea plants) have been installed.

Administrative Approvals

- **Division of Natural Resources: 176X Main Street (Second Division Brook Conservation Land):** Bog Bridges
Assistant Director Capone explained to the Commission that there is an old dam on the Second Division Conservation Land. The channel downgradient of the dam is mucky. The Trails Committee wants to install a bog bridge to provide access across the old channel. No fittings will be required. The bridges are made of cedar. Approval was granted.
- **Reynolds, 42 Shore Drive:** Tree Removal
Assistant Director Capone said there is a tree at 46 Shore Drive that is leaning towards the Reynolds' property. The Reynold's would like to remove the tree, leaving the stump, and have obtained permission from the neighbors. Approval was granted.
- **Division of Natural Resources 55A Walden Street, Hapgood Wright Town Forest:** Bog Bridge

Assistant Director Capone said there is an existing bog bridge that was built years ago which is laying on the ground. The bridge is made out of pressure treated wood. Beavers have blocked up the area. Assistant Director Capone asked for approval to raise up the bog bridges. Approval was granted.

- **Division of Natural Resources, 86A Monument Street (Punkatasset Conservation Land):** Beaver Diversion Spillway Replacement
Director Kaye informed the Commission that in 2004 Beaver Solutions put in the first beaver deceiver spillway at Punkatasset and it is starting to fail. The spillway works to allow enough water to remain for the beavers while also lowering it enough to not flood the trail. There are two beaver deceiver spillways at Punkatasset. Mr. Callahan of Beaver Solutions will do the work and maintain the spillways. Approval was granted.
- **Lazar, 211 College Road:** Deck Demolition
Assistant Director Capone said 211 College Road is the property that recently was destroyed by fire. Prior to the fire, work was being done on the deck (exploratory work). No permit was in place. The builder has subsequently asked the Division of Natural Resources to sign off on the deck (which no longer exists) which falls within their jurisdiction. Assistant Director Capone explained that in order to sign off on the building permit, the Commission will have to approve the project. The existing deck was 30 feet away from the wetland and the builder would have rebuilt the deck in kind. Commissioner Adams said if the deck had been in the same footprint, the Commission in all probability would have approved. Assistant Director Capone agreed. Director Kaye informed the Commission that there was a pine tree that was charred due to the fire that the homeowners also want to remove, which is at least 50-feet from the wetlands. Commissioner Adams asked that the builder install silt socks soon, given the proximately to the wetlands. Approval was granted.
- **Garofalo, 51 Coolidge Road:** Tree Removal
Assistant Director Capone said that this homeowner came before the Commission previously to install a swingset within the 25-foot NDZ. A triple ash tree has since fallen on the play structure. The homeowner wants to remove the triple ash that no longer has a top. The homeowner would also like to remove a tree that is on the edge of her lawn which is also on the edge of the wetlands. They would leave the stumps. Approval was granted.

Commissioner Adams moved to approve the May 4, 2016 NRC meeting minutes, as amended. Commissioner Poutasse seconded. All so voted.

Commissioner Adams moved to adjourn. Commissioner Poutasse seconded. All so voted. The meeting was adjourned at 8:05 p.m.

Respectfully submitted,

Karen Bockoven
Administrative Assistant