

**NATURAL RESOURCES COMMISSION
Meeting Minutes
September 21, 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**, September 21, 2016. The following Commissioners were present: Lynn Huggins, Chair, Greg Higgins, Jeff Adams, Chip Poutasse, and Judy Zaunbrecher. Delia Kaye, Natural Resources Director, Lori Capone, Assistant Natural Resources Director, and Natural Resources Administrative Assistant Karen Bockoven were also present.

Chair Huggins 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.

Karen Kirsten, 280 Estabrook Road, DEP File #137-1339	7:00 pm
Town of Concord, CPW Engineering, Assabet Avenue, DEP File #137-1323	7:00 pm
Everett Bramhall, 607 Main Street, DEP File #137-1361	7:02 pm
Massachusetts Port Authority, 777 Virginia Road, DEP File #137-1366	7:10 pm
Thomas Charlton, 47 Harrington Avenue, RDA File #16-15	7:20 pm
Sudbury Valley Trustees, 10X Old Bedford Road, DEP File #137-1363	7:25 pm
Industrial Tower and Wireless, LLC, 1400 Lowell Road, DEP File #137-1364	7:55 pm
Jason and Carmela Gee, 328 Border Road, DEP File #137-1365	8:12 pm

APPLICATION WITHDRAWN

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

Chair Huggins reopened the hearing 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.

Director Kaye informed the Commission that the Applicant has submitted a request to withdraw their Notice of Intent Application at this time.

Commissioner Zaunbrecher moved to accept the withdrawal of the Notice of Intent Application for Karen Kirsten, 280 Estabrook Road, DEP File #137-1339. Commissioner Higgins seconded. All so voted.

CONTINUANCES

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

Chair Huggins reopened the hearing 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 Higgins moved to continue the hearing to November 2, 2016. Commissioner Zaunbrecher seconded. All so voted.

Notice of Intent Application for Everett Bramhall, 607 Main Street, DEP File #137-1361

Chair Huggins reopened the hearing to construct an addition and convert an existing covered porch into living space within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Wetland Permitting Plan prepared by Stamski and McNary, Inc. revised on September 9, 2016; and
- Correspondence from Stamski and McNary, Inc. dated September 9, 2016.

Molly Obendorf from Stamski and McNary attended tonight's meeting. Ms. Obendorf informed the Commission of the location of the steps for the proposed conversion of the two-story deck. The proposed steps will be further away from the resource area than the existing steps. Chair Huggins asked for clarification regarding the size of the steps. Ms. Obendorf explained that the existing steps were oversized for the door. At the request of the Commission, Ms. Obendorf said she would look into the possibility of using wooden pavers.

Ms. Obendorf explained that there would be no roof overhang associated with the rear addition but the Applicant would like to install a pervious sun shade which extends two feet closer to the wetland than existing conditions. Commissioner Adams was concerned that the Building Department will interpret the sun shade as being part of the structure and therefore this element moves work closer to wetlands. The Commission would consider that a structure under the definition and setback regulations of the Wetlands Bylaw.

Commissioner Zaunbrecher asked how the existing flagstones around the sunroom relate to the location of the sun shade in terms of proximity to the wetlands. Commissioner Zaunbrecher's understanding is that the flagstones are going to be removed. Ms. Obendorf agreed but was unsure of the distance from wetlands.

Commissioner Adams requested the Applicant seek an opinion from the Building Inspector on whether the sun shade is considered part of the structure. If so, the setback applies. If it is not considered a structure, there still may be some discussion and some qualifications to it. Alternatively, the Applicant could consider putting shades on the inside.

There were no public comments.

The Applicant agreed to continue the hearing until October 5, 2016.

Notice of Intent Application for Massachusetts Port Authority, 777 Virginia Road, DEP File #137-1366

Chair Huggins reopened the hearing to make improvements to the perimeter fence including installation of a wildlife deterrent skirt along the bottom of the fence within Bordering Vegetated Wetland, Bordering Land Subject to Flooding, the 200-foot Riverfront Area to Elm Brook and the 100-foot Buffer Zone to Bank and Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Permitting - Perimeter Fence Concord Plan prepared by Hoyle, Tanner & Associates, Inc. revised on September 8, 2016; and
- Notice of Revision Memo dated September 8, 2016.

Kimberly Peace of Hoyle, Tanner & Associates, Inc. and James Stolecki of MassPort attended tonight's meeting. Ms. Peace referred to the plan where 182 feet of fencing will be replaced.

She said the original plan had the fence going two feet closer to the wetland. However, now their revised plan shows that it will be replaced on the airfield side of the fence. The existing fence will then be removed.

Commissioner Higgins asked if the 10-foot maintenance strip adjacent to the fence will now extend 12 feet or remain at 10 feet. Ms. Peace confirmed that they would maintain 10 feet from the new fence.

Chair Huggins asked the Applicant to follow up with DEP since a number has not yet been assigned.

There were no public comments.

The Applicant agreed to continue the hearing until October 5, 2016.

NEW APPLICATIONS

Request for Determination of Applicability for Thomas Charlton, 47 Harrington Avenue, RDA File #16-15

Chair Huggins opened the meeting for approval to connect a house and a garage with a roof within the 200-foot Riverfront Area to the Second Division Brook.

List of plans and documents discussed at this meeting:

- Request for Determination of Applicability Application; and
- Plan of Land prepared by Middleton Survey Service dated January 7, 1980.

Thomas Charlton presented the proposed roof project explaining that it would span from the house to the garage over an existing patio and would not require any ground disturbance. The roof is approximately 150 feet from Second Division Brook.

There were no public comments.

Commissioner Adams moved to issue a Negative Determination of Applicability #2 with the following conditions: 1) A preconstruction site visit shall be held to review the limit of work; and 2) After the project has been completed, the Applicant shall submit a letter to the Natural Resources Commission stating that all work has been conducted in accordance with all conditions of this Determination of Applicability. Any changes from the RDA shall be described. Commissioner Higgins seconded. All so voted.

Notice of Intent Application for Sudbury Valley Trustees, 10X Old Bedford Road, DEP File #137-1363

Chair Huggins recused herself from this hearing as a trustee of the Concord Land Conservation Trust who are co-applicants on the project and asked Commission Adams to chair the hearing in her absence.

Acting Chair Adams opened the hearing for approval to conduct invasive species management within Bordering Vegetated Wetlands and the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Notice of Intent dated August 31, 2016;
- Correspondence from the Division of Fisheries & Wildlife dated June 29, 2016; and

- Correspondence from Louise Berliner received September 21, 2016.

Laura Mattei, Director of Stewardship, Sudbury Valley Trustees, attended tonight's meeting. Ms. Mattei informed the Commission that she is working in partnership with the Concord Land Conservation Trust and Cherrie Corey who has been doing botanical work at Gowing's Swamp. Ms. Corey developed an initial plan for invasive management. Ms. Mattei said that they have also been working in conjunction with Ripley Playscape to improve access to Gowing's Swamp through the management of invasive species. Ms. Mattei said they selected Polatin-Ecological Services to conduct work. Ms. Mattei explained what type of invasives they wanted to remove, where they are located, and the methodology for each management area.

Ms. Mattei explained the different types of treatment for different areas. In areas that have a high percentage of invasives, and where they want to maintain with mowing, they are proposing to clear. These areas would be followed up with a foliar treatment. In the northeast corner of the swamp where there are trees, they do both manual removal and cut and dab for larger specimens. Sections with Japanese knotweed will be cut and then each stalk will be stem injected with an herbicide. The second year would consist of foliar spray of regrowth. Ms. Mattei said that the initial mechanical treatment will occur either this fall or early next spring. The follow-up treatments for the Japanese knotweed with herbicides will be in early summer.

Commissioner Poutasse inquired about the native poison ivy and how they deal with that. Ms. Mattei said the mechanical work will cut everything and then the spray treatments will be targeting the regrowth of invasive plants. Commissioner Poutasse asked if poison ivy will spread more without any competition for other plants. Ms. Mattei said that could happen.

Acting Chair Adams said that the Commission tries to avoid foliar spray whenever feasible. He said it would be helpful to the Commission to understand other alternatives such as cut and dab or stem swipe. Ms. Mattei explained that the cut and dab works on shrubs with a significant base. On areas with mechanical clearing, cut and dab cannot be done. Perhaps they can cut the bigger shrubs before any mechanical clearing and they will then be able to cut and dab. Ms. Mattei said she had not considered swiping for this site and was not sure if it is feasible. Acting Chair Adams asked that Ms. Mattei consider reviewing the management plan and augment the write up to support the recommendation for foliar spray as the only tenable strategy. Director Kaye noted that stem swiping is the primary means of buckthorn removal.

Commissioner Zaunbrecher asked if the work they would be doing would also include the tree damage from the recent tornado. Ms. Mattei said they are not sure what they are going to do. She has not had a chance to look at it with a contractor. Ms. Mattei said it would be very expensive to remove all the downed debris.

Commissioner Poutasse requested information on the flail mower. Ms. Mattei said she could get details regarding the machinery.

Commissioner Zaunbrecher asked if Ms. Mattei has talked to St. Bernard's Cemetery about the invasives that seem to be perpetuating by the cemetery practices. Ms. Mattei said that they plan on cleaning up that area and having the cemetery maintain it with mowing.

Louise Berliner, 179 Independence Road, read from a letter that she submitted to the Commission about her concern regarding a herbicide approach.

Acting Chair Adams requested Ms. Mattei submit a waiver request for work in the 25-foot No Disturb Zone, provide justification for foliar spray and evaluate whether there are alternatives for those areas and requested that concerns in Ms. Berliner's letter be addressed.

Cherrie Corey, 277 Old Bedford Road, said that she has lived next to the bog since the 1970's and within the last 10 years the invasive growth has compounded upon itself at a phenomenal rate. Currently there is such a dense seed source next to the bog that buckthorn and bittersweet are establishing in the bog. The best thing to do now is to bring the seed source down so the birds are not proliferating the distribution of invasive plants in and around Gowing's Swamp. Ms. Corey wanted the Commission to know that there has been extensive storm damage to the southeastern and southwestern corner of the bog. The southwestern steep slopes and the pine trees on the southeastern side were sheared off and the additional light penetrating the area will result in an expansion of invasives in that area.

Stuart Freeman asked if there will be any need for monitoring to ensure that chemicals are not translocating into the groundwater unintentionally. Ms. Mattei said the studies that she has read show that it does not. Director Kaye said that at Old Calf Pasture there are rare violets and there was a large buckthorn infestation. They did do test plots to understand if there was any migration of the herbicide from the plant it was applied to underground through the root system to where the violets were growing underneath it. The test plots confirmed the translocation of the herbicide to the violets.

The Applicant agreed to continue the hearing until October 5, 2016.

Notice of Intent for Industrial Tower and Wireless, LLC, 1400 Lowell Road, DEP File #137-1364

Chair Huggins opened the hearing for approval to construct a 120-foot tall monopole telecommunications tower, equipment shelters, generator, and utilities with associated tree removal within a fenced compound within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Notice of Intent dated September 2, 2016;
- Site Plan prepared by Hudson Design Group LLC dated August 9, 2016; and
- Correspondence from the Division of Fisheries & Wildlife dated September 21, 2016.

The following attended tonight's meeting: Kevin Fadden, Richard Voci, and Thomas Lennon of Industrial Tower and Wireless, LLC; Audra Klumb of A&D Klumb Environmental, LLC; Jose Xavier of Hudson Design Group; Thomas Swaim of Holland & Knight LLP; and Steve McKeown of Middlesex School.

Mr. Xavier explained that at the school currently there are three cell carriers located on the smokestack. Their associated shelters are temporarily positioned at the base of the smokestack. They would like to install a 64 x 64 foot fenced in compound north of the ice rink that will house these carriers on a new 120-foot steel monopole.

Commissioner Adams and Commissioner Higgins asked for an explanation of the difference between this project and the prior approval. Mr. Xavier replied that the new design is moving the area outside of the 50-foot No Build Zone. Director Kaye said there is slightly more tree removal with the new proposal and mitigation proposed for the Zamboni area.

Audra Klumb said 37 shrubs and four trees are proposed to mitigate for the 32 trees proposed to be removed, two of which are already dead. The plantings will go in the Zamboni area. They would be willing to add more trees and/or shrubs to achieve the appropriate mitigation density. They would also be willing to move some plantings to other parts of the campus.

Commissioner Higgins suggested that since several trees came down at the Ripley Playscape in the tornado, the school should consider planting some trees there. Steve McKeown from Middlesex School said they would be happy to talk with them.

Chair Huggins said Middlesex School should look onsite to plant any trees necessary before looking at other possibilities.

Chair Huggins said there has been ongoing issues regarding grass clipping dumping that needs to be resolved. Mr. McKeown said that concerns have been addressed and going forward that will not happen.

Chair Huggins said that CPW needs to review the drainage. Also, the Commission needs to hear back about the plantings plan and the grass clippings.

Commissioner Higgins said the Applicant is designing the pole for four carriers but asked if more can fit within the compound. Mr. Xavier replied that currently the pole is designed for four carriers. Commissioner Higgins asked if there would be any objection to conditioning the work that there could be only four carriers in perpetuity. Ms. Klumb said the compound will stay the same size whether there are four or five carriers. Commissioner Adams commented that the Commission would be approving what is on the plan. If the Applicant wants to add additional structures that are not identified on the current plan, they would need to come back. Mr. Fadden said what they are proposing now is on the plans.

Dan Stapleton, 39C Autumn Lane, inquired about the lighting. Mr. Fadden said that the FAA at this time has no requirements for the pole to be lit. Chair Huggins asked if the school intends to light it. Mr. Fadden said they are not.

The Applicant agreed to continue the hearing until November 16, 2016 to provide revised information.

Notice of Intent for Jason and Carmela Gee, 328 Border Road, DEP File #137-1365

Chair Huggins opened the hearing for approval to construct a new garage, porch, addition, patio, and pool, and expand the driveway within the 200-foot Riverfront Area to the Second Division Brook and within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

List of plans and documents discussed at this meeting:

- Notice of Intent dated September 7, 2016;
- Correspondence from David W. Burke dated September 7, 2016; and
- Site Plan dated September 1, 2016.

David Burke, Wetland Specialist, Brian Zagorites, contractor, and Jason and Carmella Gee of 328 Border Road, attended tonight's meeting. Mr. Burke explained the project to the Commission which consists of work primarily within the outer Riverfront Area. A small part is within the 100-foot Buffer Zone. Mr. Burke said their proposal is to install an in-ground swimming pool, a small addition to fill an alcove at the rear of the house, and a new garage with some additional pavement on the southern end of the driveway. Mr. Burke informed the Commission that the total Riverfront area on the property is 85,553 s.f. Their proposal for new regulated work is 1,951 s.f. Mr. Burke said there will be minor removal of some landscape trees.

Chair Huggins requested that an invasive species management plan be developed to mitigate for the proposed work. Director Kaye explained that the invasives plan should be **commensurate with the scope of work**. A 1½:1 ratio for mitigation to proposed alteration should be developed because work is within the Riverfront Area. Chair Huggins requested Mr. Burke evaluate invasives on site and illustrate on the plan where invasives will be removed, noting species and methodology, as well as native species that will be planted in the invasive removal areas.

There were no public comments.

The Applicant agreed to continue the hearing until October 5, 2016 to provide revised information.

CLOSE AND ISSUE PERMITS

Normandy Baker LLC, 300-310 Baker Avenue, DEP File #137-1342

Chair Huggins reopened the hearing for approval to construct 130 additional parking spaces with associated grading and drainage within Bordering Land Subject to Flooding and the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

Commissioner Poutasse moved to close the hearing and issue an Order of Conditions for Normandy Baker LLC, 300-310 Baker Avenue, DEP File #137-1342 with Finding A, Standard **Conditions 1-19 and Special Conditions 20-49**. Commissioner Higgins seconded. All so voted.

CERTIFICATE OF COMPLIANCE

Walters, 67 White Avenue, DEP File #137-425

Commissioner Poutasse moved to issue a Certificate of Compliance for Walters, 67 White Avenue, DEP File #137-425. Commissioner Higgins seconded. All so voted.

OTHER BUSINESS

- Director Kaye informed the Commission there is an Estabrook Woods Parking Access Study Committee that was formed at the beginning of the summer. They have been looking at how to alleviate the pressures of parking at Estabrook Road. Punkatasset is one of the town owned areas that abuts Estabrook Woods. Now that a new looped driveway has been put in by an abutter, several parking spaces have been eliminated from this access point. Commissioner Adams, who is on the committee, informed the NRC that there were twelve spaces and now with the new looped driveway there are about nine spaces. Director Kaye said that when Punkatasset was acquired there was a lot of discussion about parking in that area. It was voted and agreed to, at that time,

to allow parking in Punkatasset along the trail as you head to the pond in the field area. The Town voted to allow 15 to 20 parking spaces. The parcel to the right when facing Punkatasset is owned by the Trustees of Reservations and known as the Apthorp parcel. That property has a small house on it and a big open field. The Trustees of Reservations have expressed interest in a parking area which would provide better visibility and access. They are looking to put the parking on the Apthorp parcel up front closer to the road. Director Kaye asked the Commission if they would consider parking on the Punkatasset parcel. Director Kaye said she would let the Estabrook Woods Parking Access Study Committee know that the NRC is generally in favor of the Apthorp parking in preference to allowing parking on the Punkatasset land.

Director's Report

- Director Kaye reported that the Heywood Meadow Stewardship Committee recently had the wall reconstructed at Heywood Meadow and the Committee is concerned that the west side of the meadow looks a little unkempt. There is a lot of ragweed and foxtail. The Committee will be developing a management plan over the winter and will be looking for NRC feedback as the plan is developed.
- Director Kaye said that Kevin Hurley, who represents Thoreau Realty Trust, and Jack McBride who is with Abode Builders are looking to purchase a piece of the Thoreau Club property off Forest Ridge Road. Director Kaye said that she and Assistant Director Capone went out yesterday to look at the land that is being conveyed to the Town. Director Kaye thinks it would be worthwhile to ask for an adjustment to the open space component of the development or obtain a trail easement to protect the existing trail connections. Commissioner Zaunbrecher also commented that the area has a large population of pink lady slippers.
- Director Kaye informed the Commission that the Warner's Pond Dredging Feasibility Study was held on September 15th at the Harvey Wheeler Community Center. It was attended by 29 people and they were very enthusiastic about the dredge proposal area that will be targeted. Fiscal funding is in the capital plan for fiscal year 2020.

Administrative Approvals

- **Elton, 415 Lowell Road:** Director Kaye said that the pool is under construction and the homeowners have concern about drainage coming into the house or the pool. The homeowner is looking for approval to put a pipe along the patio directed into a dry well that is under a hot tub. Also, over the existing patio an extension by two feet of the pool house making it wider towards the house. Approval was granted.
- **Roeser, 194 Cambridge Turnpike:** Assistant Director Capone said the homeowner would like to remove a tree that got snapped off by the recent tornado. The homeowner will leave the snag. They would also like to remove a dead tree that leans over the driveway. Approval was granted.
- **Blodgett, 9 Edmonds Road:** Director Kaye said there was a tree damaged by the recent tornado and close to a structure that the homeowner would like to remove. Approval was granted.

- **55 Estabrook Road:** Assistant Director Capone said that there was a wetland that was restored in the early 2000's which was subsequently converted to lawn. This has since been restored back to wetland and the new homeowners want to put in some new plantings for screening. They are proposing all natives except for a hybrid juniper (Thuja 'green giant'). The Commission requested only native species be planted given the close proximity to wetlands.

Approve Meeting Minutes

Commissioner Zaunbrecher moved to approve the August 10, 2016 NRC meeting minutes, as amended. Commissioner Poutasse seconded. All so voted. (Commission Higgins abstained as he did not attend the August 10th meeting.)

Commissioner Adams moved to adjourn. Commissioner Zaunbrecher seconded. All so voted. This meeting adjourned at 9:00 p.m.

Respectfully submitted,

Karen Bockoven
Administrative Assistant