

Clayton Hutchinson, Chair  
Linsie Dillon, Vice Chair  
Patricia Wash, Secretary



Clifford Bassett  
Deborah Cato  
Jillian Miller  
Steven Farquharson

Shannon Palmer, Conservation Administrator

Town of North Attleborough  
**CONSERVATION COMMISSION**

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**MINUTES**  
**PUBLIC MEETING**  
49 Whiting Street, North Attleboro, MA  
**August 16, 2022 6:30 PM**

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**A. ROLL CALL**

**Members Present:**

Clayton Hutchinson  
Clifford Bassett  
Jillian Miller  
Steven Farquharson

**Members Absent:**

Deb Cato  
Linsie Dillon  
Patricia Wash

**Staff Present:** Shannon Palmer, Conservation Administrator

**B. COMMISSION BUSINESS (6:21PM)**

1. Request for partial Certificate of Compliance, 98 Ruest Road (Harris Farms), Chaitanya Kuthigeni and Pavani Medarametla, SE 243-0195

Motion to issue a partial Certificate of Compliance for 98 Ruest Rd, Harris Farms, SE 243-0195 made by Jillian Miller and seconded by Steven Farquharson. Motion carried 4-0.

2. Request for partial Certificate of Compliance, 98 Ruest Road (Harris Farms), Chaitanya Kuthigeni and Pavani Medarametla, SE 243-0196

Motion to issue a partial certificate of compliance for 98 Ruest Rd, Harris Farms, SE 243-0196 made by Jillian Miller and seconded by Steven Farquharson. Motion carried 4-0

3. Request for Certificate of Compliance, 98 Ruest Road (Harris Farms), Chaitanya Kuthigeni and Pavani Medarametla, SE 243-0228

Motion to issue a Certificate of Compliance for 98 Ruest Rd, Harris Farms, SE 243-0228 made by Jillian Miller and seconded by Steven Farquharson. Motion carried 4-0.

**C. OTHER BUSINESS:**

1. Minutes: Motion to approve minutes for June 21, 2022, made by Clifford Bassett and seconded by Steven Farquharson. Motion carried 4-0.
2. Commission Updates: Shannon Palmer updated the Commission on projects:

- Funding for the Falls Dam CIP project has been received. DPW has started the removal of the Japanese Knotweed. Project Engineer has developed a multi-step plan for regrowth control.
- Whiting's Pond has closed by the BOH due to the algae bloom and testing will be done to confirm.
- Encroachment issues on Conservation property are being identified. Letters sent to Depot Street resident requesting the property owner to remove structures and fences from conservation land with due date of 90 days.

#### **D. HEARING AND MEETING ITEMS (6:30PM):**

1. CONT. Request for Determination (RDA), 20 Jonathan Drive, Linda Kokoszka, RDA #22-06:

Clay Hutchinson states the Commission visited the property and saw the rock wall, the wetlands line towards the back and saw the areas where trees had been cleared. The Commission had questions on the wetland line also noted the rock wall looked like it had been previously moved.

Shannon Palmer presents exhibits on screen including the original approved plan (June 2004) along with aerial photos from spring 2018 and spring 2022 using a new program called Near Map. The photos from 2018 compared to 2022 show apparent expansion of the backyard, removal of trees, relocation of the rock wall, and other activities. The Commission needs to make a determination on how to proceed on the Request for Determination which is to allow more work on the driveway and patio and also address the existing Violation Notice which covers the unauthorized work in the backyard.

Clay Hutchinson states the application did not have an updated wetland delineation and it's hard to gauge the distance from the proposed work to the buffer zone that is being disturbed. The rock wall may be right at that wetland edge and there may be wetland impacts associated with that rock wall.

Rick Prattis, Project Representative, explained he was proposing to bring the wall forward and restack further from the wetlands. He was surprised by the photos presented and said to his knowledge the wall had not been moved and was had always been in that location.

Clay Hutchinson recommends a wetland delineation before future work to minimize any impacts to the wetlands, something updated that determines the extent of the wetland encroachment.

Jillian Miller had similar observations at the site visit and is unsure how much impact that rock wall has done to the wetlands. It is important to know where that wetland line is, and it should be flagged for the future so not to be impacted by any future work.

Cliff Bassett states he was not at the site visit but agrees the rock wall should be moved back and have a wetland delineation to determine where the wetland line may be the best way to move forward.

Steven Farquharson agreed with Mr. Bassett's comment.

Clay Hutchinson stated the will of the Commission is to issue a positive determination and have the applicant file a Notice of Intent and that would require the wetlands be flagged. He explained that would also potentially allow the applicant to pursue work with conditions to avoid adverse impacts to wetlands moving forward. Mr. Hutchinson further explained if there were wetland impacts previously there will be opportunity to restore wetlands and pull project back into compliance.

Mr. Prattis stated he did not see a detriment to the wetlands and has not had an issue working in buffer zone before. One of the trees was removed due to a safety issue.

Motion to issue a Positive Determination of Applicability for 20 Jonathan Dr., Linda Kostka, RDA #22-06 made by Jillian Miller and seconded by Steven Farquharson. Motion carried 4-0

2. CONT. Notice of Intent (NOI), 461 East Washington Street, Michael Gazdacko, SE 243-0966:

Danielle Dufault, Esq., Adler, Pollock and Sheehan representing the applicant Colbea Enterprises, LLC. briefly explained to the Commission they appeared previously as did the peer reviewer from Horsley Witten who provided comments at the July 12th meeting. With the deadline to replace the USTs that are currently at the site there has been some discussion about our preliminary comments to the Commission and to Horsley Witten. Subsequently Horsley Whitten responded with their second peer review report to the Commission and has read through the second peer review report. Since the last meeting, the ZBA did request for an additional landscape buffer to be added on the southern border of the property to be constructed and between the Walgreens building and it has been incorporated into the plans to satisfy the conditions of the ZBA's decision.

Clay Hutchinson appreciates the short summary given the amount of review that has been thoroughly completed by Horsley Whitten and it appears the Commission's concerns regarding the Riverfront Area have been addressed.

Shannon Palmer agrees based on Horsley Witten's review that although there is a slight increase in impervious coverage in the Riverfront Area, the project will result in a net benefit overall.

Motion to close public hearing for 461 East Washington St, SE 243-0966 made by Jillian Miller and seconded by Steven Farquharson. Motion carried 4-0.

3. CONT. Notice of Intent (NOI), 50 Alice Agnew Dr., James Scanlon, AER Realty, LLC., SE 243-09 (No DEP File No):

Eric DeNardo, Environmental Strategies & Management, on behalf of applicant AER Realty addressed the Commission. This was first presented to the Commission at the last meeting by our engineering director Jeff Plant. Mr. DeNardo explained what has transpired since the last hearing:

- Following the meeting on August 5th the comments provided by Beals and Thomas with responses and revisions to the plan were relatively straightforward moving some disturbance lines and rehashing of areas.
- The erosion control plan was modified to show the soil stockpile outside the 100-foot buffer line on the plans.
- Reevaluated the stormwater controls based on the NOAA rainfall intensities (in accordance with town bylaw) which in turn revised the stormwater report and the associated HydroCAD.
- The watershed area was further delineated to the neighboring properties to better suit the stormwater management on site.

Stacy H. Minihane, PWS, Senior Associate, Beals and Thomas, addressed the Commission. B&T received the applicant's responses to comments on Friday however did not have a chance to review them in depth. Ms. Minihane stated it appears many of the comments have been addressed and were more administrative or documentation for the record like the soil stockpile that was mentioned. For stormwater items there are still comments requiring follow up and

requests for information including test pits to verify the required 4-foot offset to groundwater. A revised letter will be issued with any remaining comments identified.

Clay Hutchinson asked Ms. Minihane, regarding any potential outstanding stormwater comments, based on a very preliminary review, could those remaining items be addressed before the next meeting or is it larger in scope.

Stacy H. Minihane responded the engineer conducting the review is looking for more information on the groundwater offset for one of the detention basins. B&T can coordinate with the applicant to discuss remaining comments and memorialize it in a letter. She mentioned one additional comment would be the green landscaping area, a large area in the buffer zone that is proposed to be seeded. Ms. Minihane recommended the applicant consider native landscaping and pointed out the response didn't really address the native landscaping portion with little detail on the plantings.

Clay Hutchinson in this case is comfortable with the applicant moving forward to administratively talk with Beals and Thomas with the preference that they include Shannon Palmer in those communications.

Motion to continue public hearing for 50 Alice Agnew Dr., Aer Realty, LLC, to August 30, 2022, at 6:30PM made by Steven Farquharson and seconded by Jillian Miller. Motion carried 4-0.

4. Notice of Intent (NOI), 71 Mary Kennedy Dr, Mark Hollowell, DPW, SE 243-0967: The proposal is for construction of a 2,800 square foot PFAS treatment facility, paved access road, and stormwater management measures on town property adjacent to the McKeon Treatment Facility. Portions of proposed work are within Riverfront Area, Bordering Land Subject to Flooding, and 100-foot buffer zone to Bordering Vegetated Wetlands. The Chair, Clay Hutchinson, read the legal notice into the record. Certificates of mailing were presented to the Commission in accordance with abutter notification requirements.

Sarah Scaglione and Leyna Tobey, PE, Woodward and Curran, presented the project to the Commission with a discussion of the compliance of the Stormwater Handbook and discussion on the resource area impacts of the project:

- Proposing to install a permanent PFAS treatment facility to remove PFAS from the drinking water found at the McKeon facility that is above the Massachusetts limit of 20 parts per trillion. The goal of this treatment facilities to remove it down to non-detectable levels.
- The project is to incorporate treatment runoff and designs for stormwater mitigation.
- Currently there is a gravel access road to the McKeon facility that incorporate two wells at the McKeon facility, Kelley well one and Kelley two. There is also an emergency generator on site and above ground propane tanks.
- Resource areas on site are three different bordering vegetated wetland systems, one to the east, one to the north and one to the west of the site. The Bungay River runs to the east of the site and the boundary is approximated from Mass GIS data as well as a 200-foot riverfront buffer in addition to the wetlands 25 and 100-foot buffers.
- FEMA regulatory floodway goes around the site and the limits of the FEMA flood zone AE per GIS information with the base flood elevation that is 126.
- Proposed site improvements include a 2800 SF PFAS treatment facility on the southern end of this site, 12,600 SF paved access drive with new water gas and storm water piping to the new building.
- Relocating the existing generator pad in above ground propane tanks on site to get full access drive turn radius needed for big trucks.
- Managing stormwater runoff on site by installing a sand filter, two different riprap trenches and bypass that runs behind the back of the building.

- The project is a combination of new development and redevelopment per the MA Stormwater Handbook.
- Entire site is located within a Medium Yield Aquifer Zone and Zone one Public Water Supply Protection Area.
- Site improvements were designed to maintain existing drainage patterns to the MEP. These improvements will have no adverse hydrologic impacts and all standards of the stormwater handbook are met except for standard 2 and standard 3. Standard 2 not met, unable to attenuate flows leaving the site constraints to install storage BMPS. In the 100-year storm event, the increased peak flow to that eastern wetland system by 2.3 CFS. Standard 3, the recharge standard, unable to meet 2-foot separation of groundwater required.
- The building is a critical facility and needs to be 2800 SF to fit the infrastructure to remove the PFAS from the water.
- Wetlands on all sides of the site except for the southern side and have a high seasonal high groundwater table between 3.3 to 3.5 feet below grade.
- Avoid any sort of filling in the Flood zone AE or the regulatory floodway.
- Proposing to install erosion and sediment controls on the downstream limits of the site to reduce pollution during construction.

Shannon Palmer asks based on that increase in flows to the eastern wetland is there anything that can be done to reduce the amount of impervious, so there is not an increase in flows.

Leyna Tobey responded alternatives were considered including narrowing the access drive but with large tractor trailers needed to deliver the carbon for the PFAS facility, the access drive needs to be wide. Other options to reduce impervious were considered but not feasible.

Shannon Palmer asked regarding the slope, which is significant, what are the plans to stabilize it.

Leyna Tobey answered looking at any slopes that are going to be disturbed over 15% which that area is, the contractor will install erosion control blanket over to establish grass.

Clay Hutchinson questions the elevation and the FEMA zones regarding the site.

Leyna Tobey explains in depth the FEMA Flood Zone AE and the base flood elevation assigned to that the area with a slide shown on screen. FEMA has it mapped based on the Mass GIS topography, but it actually is based on the survey data within that 126 contour that shows a smaller portion of the site is within that FEMA flood zone as mapped by FEMA.

Cliff Basset expressed he does not agree with an asphalt parking lot in the middle of the woods when the gravel lot would be sufficient.

Leyna Tobey responded the reason for that asphalt is to provide a curb and catch runoff for TSS removal or TSS sheet flowing off the parking lot.

Mark Hollowell, DPW Director, stated at the other treatment facility on Adamsdale, there was no paving but the concerns for this site were snow plowing and displacement of gravel into the wetlands which are in very close proximity. He also said if needed or preferred by Commission, the gravel would be acceptable.

The Commission requested an alternative proposal showing reduced asphalt as well as the supplemental narrative items requested by Shannon Palmer.

Motion to continue public hearing for 71 Mary Kennedy Dr, SE 243-0967 to August 30, 2022, at 6:30PM made by Steven Farquharson and seconded by Jillian Miller. Motion carried 4-0

5. Notice of Intent (NOI), 395 Ellis Road, Kevin Kelleher, SE 243-0968. The proposal is for installation of a 16' x 35' in-ground swimming pool with a 4' wide surrounding patio within the 100-foot buffer zone to Bordering Vegetated Wetlands and 200-foot Riverfront Area (Seven Mile River). The Chair, Clay Hutchinson, read the legal notice into the record. Certificates of mailing were presented to the Commission in accordance with abutter notification requirements.

Shaun Barry, Level Design Group, representing the applicant Kevin and Catherine Kelleher briefly explains the proposal to install a 16 x 35' in-ground fiberglass pool with a patio and self-locking fence in compliance with the NA building codes. Near the 25 ft buffer zone they are proposing a 38 ft articulated block retaining wall that would be 27 ft from the wetlands with erosion controls all outside the 25 ft no disturb zone. The design is optimal to limit the potential for more fill moving the pool closer to the house. The position of the pool is within an existing lawn area and there are a few trees to be remove and vary in species. The disturbance totals within the Riverfront Area of 2,959 SF with 2,756 SF is between the 100 and 200 buffer zones.

Shannon Palmer asks about the existing stone wall and the need for the proposed retaining wall.

Shaun Barry responded the pool could be moved closer to the house to avoid the installation of the retaining wall but without the additional retaining wall grading would be pushed into the no disturb zone. The existing stone wall is within the 25ft no disturb zone.

Clay Hutchinson asked about removal of trees in relation to the pool.

Kevin Kelleher, owner, states the plan is to plant trees right down the property line, not onto the road but as a privacy border.

Clay Hutchinson recommended native species wherever planting in the buffer zone and for the record any future removal of trees would need to come before the Commission.

Motion to close public hearing for 395 Ellis Road, Kevin Kelleher, SE 243-0968 made by Jillian Miller and seconded by Steven Farquharson. Motion carried 4-0

Motion to issue a Standard Order of Conditions for 395 Ellis Road, SE 243-0968 with special conditions for stockpiling area and plantings be added to the plans as well as the notation that the planting schedule should include at minimum 4 new trees of native species made by Jillian Miller and seconded by Steven Farquharson. Motion carried 4-0.

6. Notice of Intent (NOI), Luther Reservoir, Paul Heroux, City of Attleboro, SE 243-09 (No DEP File No): The proposal is to implement a water chestnut management plan to reduce the presence of invasive water chestnut that has colonized the reservoir using mechanical and hand harvesting. Proposed work will alter Land Under Waterbodies (Luther Reservoir). The Chair, Clay Hutchinson, read the legal notice into the record. Certificates of mailing were presented to the Commission in accordance with abutter notification requirements.

Matt Ladewig, TRC Companies, on behalf of the City of Attleboro who operates the Luther reservoir as part of their drinking water supply system, addressed the Commission and summarized the project:

- As recently as three or four years ago approximately 15-20% of the reservoir was covered with water chestnut. Using a drone flew early last fall the reservoir is now covered with water chestnut by about 70%.
- The goal is to prevent it from expanding further and to get control of it so the reservoir can be more a what you would expect a drinking water reservoir to be, which is more open water with smaller native plants growing.

- Water chestnut grows up to the surface and forms rosette and blocks out the sun as well as the free air exchange with the atmosphere, and with it loss of dissolved oxygen beneath those beds which is not good for aquatic life. It also shades out native plant growth that might be growing beneath so preferred plants can't compete with the water chestnut and gets choked out then becomes a water chestnut monoculture.
- Unfortunately, the reservoir is shallow so the potential for continued spread of water chestnut is still there if we do nothing.
- Proposing a primary management tool at least in the first few seasons, having mechanical harvester do most of the harvesting. We have mapped the water depth and at least during a normal water year, would be sufficient to get the harvester efficiently harvest more than 50% of the beds in the reservoir.
- The access would be from the southeastern part of the reservoir where the dam is and that is currently paved for access of the harvester.
- Hand harvesting is also proposed as water chestnut can be effectively hand pulled from the surface before seeds drop. Water chestnut seeds can remain viable for a decade.

Clay Hutchinson asks to be clear under this current application you not proposing any use of herbicides.

Matt Ladewig confirms no herbicides are proposed as the reservoir is a drinking water supply so that is not the preferred method.

Jillian Miller asks if the mechanical harvesting poses any threats or impacts to the wildlife and reservoir.

Matt Ladewig stated with any management in the lake, pond or reservoir there is always some potential impact. The harvester itself is a drum style that tugs on the plants, pulls them up, puts them on a conveyor to dewater. There would be some incidental minor impacts to what is living on the plants but the positive impacts for removing the water chestnut would far outweigh any incidental impacts. If we are successful with the mechanical harvesting for the first few years and get to the point where the use of the mechanical harvester is not needed, then it can switch over to just hand harvesting.

Shannon Palmer questioned the five-year plan to start, and is the entire reservoir covered each year or is it a phased approach and then what the opportune time for management is.

Matt Ladewig responded timing of year depends on when it pops up to the surface and they try not to harvest too soon because a lot can be missed. Ideally, it's a July or August activity but possibly as early as June depending on the season.

Clay Hutchinson asks is it generally one pulling per season or is this a plant that's likely to sprout back up almost like a Japanese knotweed when we're dealing with some of our terrestrial invasive species.

Matt Ladewig stated the water chestnut is an annual plant so when it sprouts from the seed if you're able to get whatever is sprouting from that seed you basically taking that out of the system. Usually, the plan includes first flush of harvesting and then come back with hand harvesting to clean up any regrowth because the first pass will never be perfect unless you have a very small bed.

Brian Kerr, abutter, is very supportive of project and expressed concerns with the continued growth of the water chestnut in the reservoir despite attempts to hand harvest.

Ben Cote, Ten Mile River advocate, stated for 20 years the organization has been watching the growth of the water chestnut within the 10-mile river watershed, and he feels that the water chestnuts are the largest natural threat to our water resources in this area.

Cindy Kerr, abutter, is very interested in the timeline for the project and when they intend to start since this impacts the wildlife and if there's anything they can do to facilitate this project.

Don Doucette, Attleboro, also very interested in the water chestnut problem as a colleague of Ben Cote and worked within 10-mile river watershed from Plainville to Narraganset Bay.

Clay Hutchinson stated it is encouraging to see members of the community, members of community groups, and residents all advocating for this project, and in agreement with the current methods proposed.

Motion to continue public hearing for Luther Reservoir, City of Attleboro, to August 30, 2022 at 6:30pm made by Jillian Miller and seconded by Steven Farquharson. Motion carried 4-0.

7. Notice of Intent (NOI), 3 Diamond Road, Weder Pereira, SE 243-09 (No DEP File No):

Motion to continue public hearing for 3 Diamond St, Weder Pereira, to *August 30, 2022*, at 6:30PM made by Jillian Miller and seconded by Steven Farquharson. Motion carried 4-0.

8. Notice of Intent (NOI), 81 Dodge Avenue, Robert Rodrick, SE 243-09 (No DEP File No):

Motion to continue public hearing for 81 Dodge Ave, Robert Roderick, to *August 30, 2022*, at 6:30PM made by Jillian Miller and seconded by Steven Farquharson. Motion carried 4-0.

#### **D. ADJOURNMENT**

Motion to adjourn public meeting at 8:17PM made by Jillian Miller and seconded by Steven Farquharson. Motion carried 4-0.

Respectfully Submitted,



Patricia Wash, Secretary