



## TOWN OF BOXBOROUGH NOTICE OF PUBLIC MEETING

BOARD/COMMITTEE: Conservation Commission

MEETING DATE: August 19, 2020

TIME: 7:30 PM

PLACE: Remote Meeting pursuant to Current Executive Order of March 12, 2020.  
See instructions below.

All participants must identify themselves when speaking. All votes to be by rollcall.

7:30 TOPICS EXPECTED TO BE DISCUSSED (AGENDA):

Review Minutes and Correspondence New Business

For review and approval:

Minutes: August 5, 2020

Invoice: \$660.00 Places Associates (881 mass Ave)

Committee Reports: Chairman's Reports (Reip)

Boxborough Conservation Trust (Koonce)

Best Meeting Practices (Reip / Nadwairski)

Community Preservation Committee (Reip)

Land Stewardship Committee (Hanover)

Water Resources Committee (Schmitt)

7:45 Discussion: 881 Massachusetts Avenue 113-541 Request for Certificate of Compliance

8:00 Hearing Request for Determination of Applicability MBTA / Keolis Commuter Services  
Railroad Right-of-Way (ROW)

8:30 Hearing Continuation Notice of Intent 1172 Hill Road (Hanover)

Discussion as time allows: Chapter 61 Land Use  
Commission Study Topics

Ongoing: 199 Middle Road EO  
293 Mass Ave possible buffer zone activity  
313 Mass Ave OOC compliance and COC status  
498 Stow Road encroachment  
1102 Massachusetts Ave. EO

Calendar:

Sept. 2, 2020

Sept. 16, 2020

Correspondence:

C. Hunter email inquiry 153 Tamarack Lane tree removal

Join Zoom Meeting

<https://us02web.zoom.us/j/85657162905>

Meeting ID: 856 5716 2905

One tap mobile

+13017158592,,85657162905# US (Germantown)

+13126266799,,85657162905# US (Chicago)

Dial by your location

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

+1 929 205 6099 US (New York)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

Meeting ID: 856 5716 2905

Find your local number: <https://us02web.zoom.us/j/85657162905>



**TOWN OF BOXBOROUGH  
NOTICE OF PUBLIC MEETING  
Meeting Minutes**

Conservation Commission  
Aug. 5, 2020  
7:30 PM  
Zoom

Approved:

Members Present: Dennis Reip (Chair), Dave Follett, Norm Hanover, Steve Schmitt, and Hoff Stuart

Members Absent: David Koonce

At 7:42 PM, Dennis called the meeting to order and noted this meeting is being conducted via Remote Participation, pursuant to Governor Baker's Executive Order of March 12, 2020, due to the current State of Emergency in the Commonwealth due to the outbreak of COVID-19 a.k.a. the Coronavirus.

Motion was made by Dennis, seconded by Norm and voted unanimously by roll call to approve the minutes of July 15, 2020 as amended.

Reip yes; Follett yes; Hanover yes; Schmitt yes; Stuart yes.

Motion was made by Dennis, seconded by Norm and voted unanimously by roll call to approve the payment of \$1,080.00 to Places Associates for review of the Request for Determination at 100 Codman Hill Road.

Reip yes; Follett yes; Hanover yes; Schmitt yes; Stuart yes.

Motion was made by Dennis, seconded by Norm and voted unanimously by roll call to approve the payment of \$645.00 to MACC for yearly dues.

Reip yes; Follett yes; Hanover yes; Schmitt yes; Stuart yes.

Dennis reported on his site visit at 430 Depot Road. Cheryl Gould, property owner was in attendance.

Motion was made by Dennis, seconded by Norm and voted unanimously by roll call to issue the Certificate of Compliance 113-.508.

Reip yes; Follett yes; Hanover yes; Schmitt yes; Stuart yes.

**Chairman's Report:**

199 Middle Road

Dennis reviewed the draft letter and Enforcement Order to be sent to the property owners.

Motion was made by Dennis, seconded by Norm and voted by roll call to approve the letter and Enforcement Order.

Reip yes; Follett abstained; Hanover yes; Schmitt yes; Stuart yes.

313 & 293 Massachusetts Avenue

Dennis reviewed the plan showing the wetland flagging from a recorded Order of Conditions and images from the Town's webGIS. The Commission reviewed draft letters to both property owners. Motion was made by Norm, seconded by Hoff and voted unanimously by roll call to approve the letter.

Reip yes; Follett yes; Hanover yes; Schmitt yes; Stuart yes.

498 Stow Road

Using a webGIS image, the Commission discussed the encroachment and the draft letter requesting cooperation in protecting the Town's Conservation Land.

Motion was made by Dennis, seconded by Hoff and voted unanimously by roll call to approve the letter.

Reip yes; Follett yes; Hanover yes; Schmitt yes; Stuart yes.

8:00 PM Public Hearing Notice of Intent (NOI)

Location: 1172 Hill Road Assessor's Map 04-092-000

Project: new single-family home, driveway, and septic system

Lead reviewer: Norm Hanover

Owner: The Estate of Marguerite Hugel

Applicant: Rick Ogilvie, FTB Homes, LLC

Representative: Brian Geaudreau, Hancock Associates

Present: Rick Ogilvie and Brian Geaudreau

Also Present: Russell Tedford, Hancock Associates; David Cowell, Hancock Associates

Peter Chadzynaski, Abutter; Sally Taylor, Abutter; David Taylor, Abutter

Brian presented the NOI.

Discussion:

More detailed buffer demarcation will be added to the plan.

Brian reviewed Places Associates NOI review report to the Commission dated July 15, 2020.

Possible Vernal Pool will be added to the plan.

Alteration area (ft<sup>2</sup>) will be added to the plan.

Peter Chadzynaski expressed concern about the water table and run-off into his property and

Brian discussed the water management aspects of the plan.

Peter Chadzynaski proposed relocating the house and septic system and Dennis replied, explaining the limits of the Commission's jurisdiction.

David & Sally Taylor expressed run-off concern and Brian replied the likely flow of water should not represent an issue.

Motion was made by Norm, seconded by Dennis and voted unanimously by roll call to continue on August 19, 2020 at 8:30 PM.

Reip yes; Follett yes; Hanover yes; Schmitt yes; Stuart yes.

8:48 PM Public Hearing Request for Determination of Applicability (RDA)  
Location: 218 Liberty Square Road Assessor's Map 15-031-000  
Lead reviewer: Dennis Reip  
Owners: Jeffrey Miller and Leticia Miller  
Project: new septic  
Representative: David Scofield, Capstone Design Build, Inc,  
Present: Jeffrey & Leticia Miller; David Scofield,

David Scofield presented the plan.

Discussion:

Old septic system failed. The only viable option is to replace existing system

Motion was made by Dennis, seconded by David and voted unanimously by roll call to close the hearing.

Reip yes; Follett yes; Hanover yes; Schmitt yes; Stuart yes.

Motion was made by Dennis, seconded by David and voted unanimously by roll call to issue a negative Determination of Applicability with conditions.

Reip yes; Follett yes; Hanover yes; Schmitt yes; Stuart yes.

At 9:38 PM, motion was made by Norm, seconded by Hoff and voted unanimously by roll call to adjourn. Reip yes; Follett yes; Hanover yes; Schmitt yes; Stuart yes.

Documents used during this meeting:

Agenda

Draft Minutes July 15, 2020

Invoices: Places Associates and MACC

Web images and draft letters to property owners at

199 Middle Road, 313 & 293 Massachusetts Avenue and 498 Stow Road

1172 Hill Road NOI Application and materials

1172 Hill Road NOI Places Assoc. peer review report

218 Liberty Square Road RDA Application and Materials



**PLACES Associates, Inc.**

256 Great Road, Suite 4  
Littleton, MA 01460

**INVOICE**

**BILL TO**

Mary Nadwairski  
Town of Boxborough CC  
29 Middle Rd.  
Boxborough, MA 01719

**PROJECT NAME: Box CC- 881 Mass Ave**

INVOICE NUMBER	INVOICE DATE	PAYMENT DUE DATE	OUR PROJECT NO.	BALANCE DUE
5230B.03	Aug 03, 2020	Sep 02, 2020	5230B	<b>\$660.00</b>

**Basic Services**

<u>Date</u>	<u>Employee</u>	<u>Phase</u>	<u>Description</u>	<u>Hrs</u>	<u>Rate</u>	<u>Extensio</u>
<i>Administration</i>						
7/31/2020	SC	Construction Inspections	discuss with WEM, review comments	0.50	\$120.00	\$60.0
				<b>Administration Total:</b>	<b>0.50</b>	<b>\$60.0</b>
<i>Basic Services</i>						
7/28/2020	WEM	Project Review	Coordin OOC issuance with Mary	0.50	\$120.00	\$60.0
7/30/2020	WEM	Project Review	Telecall and emails with Mary & Bruce R.	0.50	\$120.00	\$60.0
7/30/2020	WEM	Project Review	Review OOC and submitted materials.	0.50	\$120.00	\$60.0
7/31/2020	WEM	Project Review	Report to Commission	2.50	\$120.00	\$300.0
7/31/2020	WEM	Project Review	Site Visit	1.00	\$120.00	\$120.0
				<b>Basic Services Total:</b>	<b>5.00</b>	<b>\$600.0</b>
				<b>Basic Services Sub Total:</b>	<b>5.50</b>	<b>\$660.0</b>

**Invoice Total: \$660.0**

Please make payments to Places Associates, Inc.. Late payments are subject to penalty fees.

## Mary Nadwairski

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**From:** Catherine Hunter [REDACTED]  
**Sent:** Wednesday, August 12, 2020 8:30 PM  
**To:** Mary Nadwairski  
**Cc:** D ROSS HUNTER, [REDACTED]; Catherine Hunter  
**Subject:** Fwd: 153 Tamarack Lane: Tree Removal

To the Conservation Commission  
c/o Mary Nadwairski, Department Assistant  
Town of Boxborough

Hello Mary,

Thank you for speaking with me on August 12th regarding the process of proposing tree removal on our property, especially trees that are in the wetlands.

On July 10th, we consulted Dean Charter, Certified Arborist ISA# NE-0333A, on our property at 153 Tamarack Lane. Mr Charter recommended removing several trees, as well as pruning branches that approach the house. He made the following recommendations:

North side, from house to sidewalk:

1. Close to sidewalk: Remove a maple tree that is growing at a 45 degree angle over the yard and towards the sidewalk.
2. Prune pine branches overhanging the yard.
3. At the northwest corner of the house, remove an oak with a Y-trunk because it is a hazard concern; next to the oak, remove a maple that is also a threat.

Behind the house, in the wetlands:

1. Top and drop 30 feet of an 80 foot tall tree. The top portion is dead and without bark.
2. Directly behind the middle of the house, there is an 80 foot pine tree with lightning damage at the base of the trunk. The tree is a hazard concern to the house and should be removed.
3. Remove the maple in front of the pine (#2) due to a Y-trunk that is a threat.

South side

1. Prune branches overhanging the yard.

Mr. Dean Charter is available to discuss his recommendations or to submit a supporting letter. His contact information follows: [REDACTED]

If this request is approved, we plan to proceed with this project in September or October. We look forward to hearing from you after the Conservation Commission Meeting next week.

Yours truly,

Catherine and Ross Hunter  
153 Tamarack Lane, Boxborough  
[REDACTED]  
[REDACTED]



**WPA Form 8A – Request for Certificate of Compliance**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

113-541  
Provided by DEP

**A. Project Information**

**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



Upon completion of the work authorized in an Order of Conditions, the property owner must request a Certificate of Compliance from the issuing authority stating that the work or portion of the work has been satisfactorily completed.

1. This request is being made by:

Breezy Ridge LLC

Name

PO Box 376

Mailing Address

Lincoln

City/Town

MA

State

01773

Zip Code

781-259-3331

Phone Number

2. This request is in reference to work regulated by a final Order of Conditions issued to:

Brett Gutheil (Breezy Ridge LLC)

Applicant

01/04/2017

Dated

113-541

DEP File Number

3. The project site is located at:

881 Massachusetts Avenue

Street Address

14

Assessors Map/Plat Number

Boxborough

City/Town

20-000

Parcel/Lot Number

4. The final Order of Conditions was recorded at the Registry of Deeds for:

Property Owner (if different)

Middlesex South

County

88808

Book

425

Page

Certificate (if registered land)

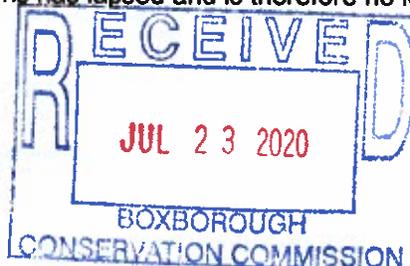
5. This request is for certification that (check one):

the work regulated by the above-referenced Order of Conditions has been satisfactorily completed.

the following portions of the work regulated by the above-referenced Order of Conditions have been satisfactorily completed (use additional paper if necessary).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

the above-referenced Order of Conditions has lapsed and is therefore no longer valid, and the work regulated by it was never started.





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### A. Project Information (cont.)

6. Did the Order of Conditions for this project, or the portion of the project subject to this request, contain an approval of any plans stamped by a registered professional engineer, architect, landscape architect, or land surveyor?

Yes      If yes, attach a written statement by such a professional certifying substantial compliance with the plans and describing what deviation, if any, exists from the plans approved in the Order.

No

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### B. Submittal Requirements

Requests for Certificates of Compliance should be directed to the issuing authority that issued the final Order of Conditions (OOC). If the project received an OOC from the Conservation Commission, submit this request to that Commission. If the project was issued a Superseding Order of Conditions or was the subject of an Adjudicatory Hearing Final Decision, submit this request to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html>).



Engineering Solutions  
for Land & Structures

Boxborough Conservation Commission  
29 Middle Road  
Boxborough, MA 01719

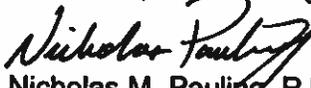
**Subject: Request for Certificate of Compliance  
DEP File Number 113-541  
881 Massachusetts Avenue, Boxborough, MA**

- References:
1. Plan entitled "Commercial Development- Construction Record Drawing- 881 Massachusetts Avenue Boxborough, MA" prepared for Breezy Ridge LLC by Goldsmith, Prest, & Ringwall, Inc. Dated July 2016. Revised through 03/01/17. Job #161009.
  2. "Order of Conditions for 881 Massachusetts Avenue Boxborough, MA" Issued by the Town of Boxborough Conservation Commission to Breezy Ridge LLC. Dated January 04, 2017. Mass. DEP file #113-541.

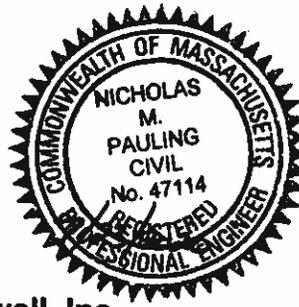
I hereby certify that, based on the visual observations and plan information noted above, to the best of my knowledge and belief, the slopes have been stabilized on the subject property in substantial conformance with the Order of Conditions issued by the Town of Boxborough Conservation Commission. With the following deviating from the originally accepted plan [Plan Ref. #1]:

1. The Flared End Section at the end of the 6" roof drain discharging from the rear left corner of the constructed building was not installed. Rip Rap has been placed at the pipe outlet.
2. At the connection with Mass. Ave. of the driveway, the west side if pulling onto the site, does not have a curb installed. The curb now ends at the northern limit where the curb cut was proposed. The stone diaphragm was still installed.
3. Missing cape cod berm sections as shown on plan Ref #1. These berms are to be constructed, with additional grading adjustment at the time of finish paving.

Goldsmith, Prest & Ringwall, Inc.

  
Nicholas M. Pauling, P.E.  
License No. 47114

Copy: Breezy Ridge LLC  
GPR File - 161009



Goldsmith, Prest & Ringwall, Inc.

Boxborough Conservation Commission  
29 Middle Road  
Boxborough, MA 01719

**Subject: Request for Certificate of Compliance  
DEP File Number 113-541  
881 Massachusetts Avenue, Boxborough, MA**

- References:**
1. Plan entitled "Commercial Development- Construction Record Drawing- 881 Massachusetts Avenue Boxborough, MA" prepared for Breezy Ridge LLC by Goldsmith, Prest, & Ringwall, Inc. Dated July 2016. Revised through 03/01/17. Job #161009.
  2. "Order of Conditions for 881 Massachusetts Avenue Boxborough, MA" Issued by the Town of Boxborough Conservation Commission to Breezy Ridge LLC. Dated January 04, 2017. Mass. DEP file #113-541.

I hereby certify that, based on the visual observations and plan information noted above, to the best of my knowledge and belief, the slopes have been stabilized on the subject property in substantial conformance with the Order of Conditions issued by the Town of Boxborough Conservation Commission. With the following deviating from the originally accepted plan [Plan Ref. #1]:

1. The Flared End Section at the end of the 6" roof drain discharging from the rear left corner of the constructed building was not installed. Rip Rap has been placed at the pipe outlet.
2. At the connection with Mass. Ave. of the driveway, the west side if pulling onto the site, does not have a curb installed. The curb now ends at the northern limit where the curb cut was proposed. The stone diaphragm was still installed.
3. Missing cape cod berm sections as shown on plan Ref #1. These berms are to be constructed, with additional grading adjustment at the time of finish paving.

Sincerely,



Breezy Ridge LLC. (Brett Guthell, Manager)

Boxborough Conservation Commission  
29 Middle Road  
Boxborough, MA 01719

**Subject: Request for Certificate of Compliance  
DEP File Number 113-541  
881 Massachusetts Avenue, Boxborough, MA**

References: 1. Plan entitled "Commercial Development- 881 Massachusetts Avenue Boxborough, MA" prepared for Breezy Ridge LLC by Goldsmith, Prest, & Ringwall, Inc. Dated July 2016. Revised through 03/01/17. Job #161009.  
2. "Long Term Pollution Prevention & Stormwater System Operation and Maintenance Plan- 881 Massachusetts Avenue Boxborough, MA" prepared for Breezy Ridge LLC by Goldsmith, Prest & Ringwall, Inc. Dated July 2016. Revised through 11/22/2016. Job #161009.

To the Boxborough Conservation Commission:

As required by Section C(19)(c) General Conditions Under Massachusetts Wetland Protection Act, of the Order of Conditions issued to Breezy Ridge LLC, DEP file #113-541, dated 01/09/17, I hereby certify to the following pertaining to an issuance of a certificate of compliance:

- i. The O&M Plan is complete and will be implemented upon the receipt of the Certificate of Compliance;
- ii. The future responsible parties shall be notified in writing of their ongoing legal responsibilities to operate and maintain the stormwater management BMP's and implement the Stormwater Pollution Prevention Plan.

  
Owner's signature

7-23-20  
Date

Breezy Ridge LLC (Brett Guthell, Manager)  
PO Box 376  
Boxborough, MA 01719





July 31, 2020

Mary Nadwarski,  
Boxborough Conservation Commission  
29 Middle Road  
Boxborough, MA 01719

via email: mnadwarski@boxborough-ma.gov

Re: Request for Certificate of Compliance  
881 Massachusetts Ave, Boxborough, MA  
DEP File No. 113-541  
Places Project No. 5230

Dear Commission Members;

As requested, a member of our staff has reviewed the submitted materials, reviewed the issued permit and walked the property located at 881 Massachusetts Ave in Boxborough. The purpose of this review is to establish if the applicant has met all applicable criteria to allow the Commission to issue Certificate of Compliance (CoC).

Summary:

Based on our review of the Order of Conditions, the site walk and other information provided, we do not believe that the project is completed sufficiently to allow the Commission to issue a CoC.

Our above summary that the site is not ready for a CoC is based on the following:

1. As Reported in our Construction Observation Report:
  - a. The pavement has been completed only to the binder course. The catchbasins are set to finished pavement grade, such that they are more than 1" above the current pavement surface and are not draining the site as designed. This also means that the drainage is flowing to the wetlands adjacent to the vernal pool without the benefit of sediment/oil removal devices from paved areas.
  - b. Cape Cod berms have been placed around most of the paved areas, except in two locations: the bottom of the drive and a second break is to the north of the large basin. It is our belief that the placement of these breaks are to allow the base course of pavement to drain as the catchbasins are too high to collect the water.
  - c. The Cape Cod Berms have not been backed up with soil. Additional soils and top soil with seed need to be placed behind the curbing. As noted in our report, the erosion controls are still in place but have disintegrated to the point of non-effectiveness. If exposed soils are to be placed in the buffer zone, new erosion controls should be placed prior to that operation.
  - d. We question the extent of placement of loam and seed on areas originally delineated to receive it. It appears that no loam has been spread and the plants that are growing are naturalized, weed species only.

- e. The Design Engineer should re-analyze the function of the basins using the as-built information and certify that they will work as designed and meet Stormwater Regulations.
2. Condition No. 19, b, i: Requires that all BMP's be cleaned and prepared for post-construction observation. No information was provided to this office.
3. Condition No. 33 Required that the Potential Vernal Pool be assessed to determine if it is an actual Vernal Pool. If determined to be suitable for Certification, it shall be submitted to the Natural Heritage and Endangered Species Program (NHESP). Copies of all correspondence is to be forwarded to the Conservation Commission.

After consulting with the Applicant's Engineer and the Conservation Commission's Administrator, the investigation and report were completed, but not forwarded to the NHESP. The report, conducted by Oxbow Associates, Inc. concluded that it meets the standards for Certification as a Vernal Pool.

Accordingly, the requirements of this condition have not been met.

4. Order Expired: The original Order of Conditions was issued on January 9, 2017.. It expired prior to the current State of Emergency and is not protected by regulations which prevent the expiration of permits during the State of Emergency. It is our belief that additional construction is needed to comply with the Orders of Conditions and we defer to the Commission as to whether a new filing will be needed for those activities.

Should the Commission have any questions or require any additional information relative to the above, please do not hesitate to contact the undersigned.

Sincerely,  
Places Associates, Inc.  
By:

  
William E. Murray, RLA  
Project Manager

Enc: as noted Construction Observation Report

# PLACES Associates, Inc.



Planning • Landscape Architecture • Civil Engineering • Surveying

## Construction Observation Report

PROJECT NO:	5340	CLIENT:	Boxborough Conservation Comm.
OBSERVATION DATE:	7/31/2020	WEATHER:	79°F, clear, sunny
LOCATION:	On-site Merrimac Police HQ		
ARRIVAL TIME:	10:30 AM	DEPARTURE TIME:	11:00 AM
REPORT BY:	Wm Murray, Project Manager		

PERSONNEL ON SITE: None, checked at door, no answer

CONTRACTOR EQUIPMENT: Backhoe, not operating, parked on gravel area above leach field

REFERENCE PLAN: GPR As-built Plan, dated 7/23/2020, Job No. 161009, plan 1 of 1

### SITE WORK OBSERVED -

Erosion Control	<input checked="" type="checkbox"/>	Road Subbase	<input type="checkbox"/>	Drainage	<input checked="" type="checkbox"/>	Other: _____
Limit of Clearing	<input type="checkbox"/>	Pavement	<input type="checkbox"/>	Wastewater	<input type="checkbox"/>	
Clearing	<input type="checkbox"/>	Binder Only	<input checked="" type="checkbox"/>	Sidewalk	<input type="checkbox"/>	
Excavation	<input type="checkbox"/>	Water	<input type="checkbox"/>	Final Grading	<input type="checkbox"/>	
Fill	<input type="checkbox"/>	Gas	<input type="checkbox"/>	Surface Stabilization	<input checked="" type="checkbox"/>	
Compaction	<input type="checkbox"/>	Electric	<input type="checkbox"/>	Monuments	<input type="checkbox"/>	
Gravel Base	<input type="checkbox"/>	Telephone	<input type="checkbox"/>	Cleanup	<input type="checkbox"/>	

PHOTOS TAKEN -  Yes  No

### GENERAL SITE COMMENTS -

- 1 The site has been paved to binder, installed catchbasins are 1" above base course pavement elevation. While the catchbasins (silt prisons) are holding water, it appears that runoff cannot readily get into the drainage system.
- 2 A break in the installed curbing appears to be needed to allow runoff from the paved areas to drain into the basin.
- 3 The cape cod berm has been installed, except as noted on the plan and the engineer's certification, but it is not backed up by any earth. The earth behind the curb is clearly not topsoil. Curbs require earth to "back them up".
- 4 Erosion controls have disintegrated to the point where they are no longer providing any protective purpose. They remain in place.
- 5 The front central basin (south-easterly) has sufficient weed growth to call it mostly stabilized. I do question whether it was loamed and seeded or simply left to "weed up", as a variety of weed species seem to be the predominant ground cover. (See condition # 50)
- 6 Portions of the basin have rills, areas where the side of the basin has slumped and create a flow path and minor erosion.
- 7 Runoff from the driveway is by-passing the catchbasin located half-way up the driveway and is flowing directly to the wetlands, not to the basin as intended and designed.

**ACTION ITEMS -**

- 1 Back up berm and loam and seed to stabilize.
- 2 Install erosion controls where loam and seed operations are within the 100' buffer.
- 3 Final pave and finish berm construction so that all surfaces so that the designed drainage system is functioning
- 4 Post Construction Analysis of Stormwater system to confirm it still meets design standards and criteria

Signature: W E Murray

Date: 7-31-2020

Printed Name/Title: WILLIAM E. MURRAY, RLA

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**Report Distribution -**

Places: FILE

**External:** Boxborough Conservation Commission, Boxborough Planning Board

**TOWN OF BOXBOROUGH  
Conservation Commission  
29 Middle Road  
Boxborough, MA 01719  
978. 264.1722**

**LEGAL NOTICE OF PUBLIC HEARING  
Request for Determination of Applicability**

A public hearing will be held on Wednesday, August 19, 2020 at 8:00 PM at the Boxborough Town Hall, 29 Middle Road, Boxborough, MA before the Boxborough Conservation Commission to consider the request for a Determination of Applicability pursuant to the provisions of MGL Ch. 131, Section 40 to renew the wetland delineation along the commuter railroad right-of-way in Boxborough. The application was filed by Fair Dermody Consulting Engineers, on behalf of their client, Keolis Commuter Services, Boston, MA.

**Project description:** Review of wetland maps as part of the five-year Vegetation Management Plan. Control will conform to the guidelines set forth in the Massachusetts Rights-of-Way Management Regulations. (333 CMR 11.00) and the preface to the Wetlands Protection Regulations (310 CMR 10.00) relative to rights-of-way management.

Based on current COVID-19 circumstances, this public hearing will be held in the Town Hall **or otherwise** will be held via Zoom videoconferencing. All details will be made available on the Conservation Commission agenda when posted, a minimum of 48 hours prior to the meeting on the town web site, [www.boxborough-ma.gov](http://www.boxborough-ma.gov).

Published: August 13, 2020

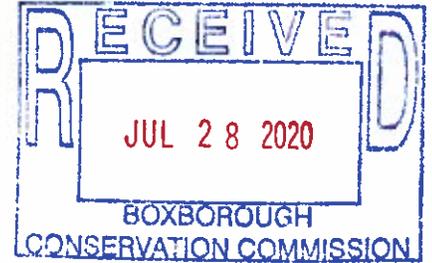
**DO NOT PUBLISH BELOW THIS LINE**

Billing Information:

Tim Dermody  
Fair Dermody Consulting Engineers  
19 Ocean St. Unit 5  
Portland, Maine 04103  
Ph: 207.747.4651



**FAIR DERMODY**  
CONSULTING ENGINEERS



15 July 2020

Boxborough Conservation Commission  
Boxborough Town Hall  
29 Middle Road  
Boxborough, MA 01719

Re: Request for Determination of Applicability (RDA)  
*MBTA Right-of-Way Operated by Keolis Commuter Services (Purple Lines)*

Dear Commission Members:

On behalf of the Massachusetts Bay Transportation Authority ("MBTA") and Keolis Commuter Services, LLC. ("Keolis") owner and operator of the Commuter Rail passenger service in Massachusetts, FDCEngineers is submitting the enclosed RDA for the review of the wetland map(s) along the railroad right-of-way (ROW) within your community as part of the renewal of the five-year Vegetation Management Plan (VMP).

Keolis is obligated under Federal regulation to implement controls for vegetation along the railroad Right-of-Way ("ROW"). Under the jurisdiction of the Rights of Way Management Program [333 CMR 11.00], Keolis implements a Vegetation Management Plan ("VMP") approved every five years by the Massachusetts Department of Agricultural Resources (MDAR) in consultation with a multi-agency Advisory Council including the Massachusetts Department of Environmental Protection (MassDEP). The objective of the VMP is to eliminate, control and manage vegetation along the ROW that represents "*any real or potential condition that can cause injury, illness, or death; damage to or loss of the facilities, equipment, rolling stock, or infrastructure of a public transportation system; or damage to the environment*" as required by the Federal Transit Administration ("FTA") and Federal Railroad Administration ("FRA") to ensure safe operations and in doing so, ensure the protection of the general interests of the Commonwealth of Massachusetts. [49 CFR 673.5; 49 CFR 237].

By way of background information, the final Rights of Way Management regulation effective since 1987 [333 CMR 11.00] was the result of an extensive review initiated by the Department of Food and Agriculture (DFA) in consultation with a technical advisory task force of environmentalists, state agencies and rights of way managers who assisted in the General Environmental Impact Report (GEIR) preparation. Based on results of the study, they recommended to the Secretary of Environmental Affairs a framework for a *coherent state-wide rights of way regulatory program*. During the GEIR process, MassDEP and DFA (now MDAR) worked closely to include provisions which give maximum protection for water supplies and provide protection for wetlands as prescribed within M.G.L. c. 131, § 40 and 310 CMR 10.00. Specifically, the Rights of Way Management regulations presume that work performed in accordance with a VMP [Vegetation Management Plan] and YOP [Yearly Operational Plan], as required under the 333 CMR 11.00 regulations, **will not alter an area subject to protection under M.G.L. c. 131, § 40.**

In 2016, your commission approved the attached wetlands map for the section of land adjacent to the railroad Right-of-Way (ROW). The determination that was issued has allowed Keolis to conduct vegetation management activities over the last five years in accordance with the 333 CMR 11.00 and Keolis' Vegetation Management Plan (VMP). Each year since the determination was issued, you have been supplied with Keolis' Yearly Operational Plan (YOP) and ROW map(s) including the wetlands locations and sensitive receptors.

15 July 2020

Keolis is currently in the process of renewing the five-year VMP that will expire on December 31, 2020. In accordance with the Wetlands Protection Act, RDA's issued for work conforming to 333 CMR 11.00 are in effect for the five-year life of the VMP and must be renewed with the VMP. Accordingly, enclosed please find the RDA to renew the wetland map(s) along the ROW in your municipality. The enclosed map(s) represent the location of the permanent marking setbacks prescribed by 333 CMR 11.00 to protect the resources in your community. There are no proposed changes to the existing maps and permanent markings in the field from the previous filing. The map(s) included in the filing are provided in USGS 1:25,000, as required by 333 CMR 11.02. The maps have been revised to reflect the latest revisions to all surface/drinking water supply zones as identified on maps supplied by MassGIS.

The safety of employees, passengers and neighboring communities is of high priority. Nonetheless, while the VMP railroad maintenance activities objective is to eliminate, control and manage vegetation along the rail ROW, these maintenance activities are executed with consideration of neighboring communities and the environment. To review the Vegetation Management Plan for the period of 2021-2025 please visit [www.fdcerrailroadvegetation.com](http://www.fdcerrailroadvegetation.com).

In the interests of the Commonwealth of Massachusetts and in accordance with M.G.L. c. 131, § 40, upon review of the enclosed RDA, please consider the following negative determination on WPA Form 2:

- Number (2) determination: "The work described in the Request is within an area subject to protection under the Act, but will **not remove, fill, dredge, or alter that area**. Therefore, said work does not require the filing of a Notice of Intent"; or
- Number (5) determination citing as exemption 310 CMR 10.02(2)(a)(2) "activities conducted to ***maintain***, repair or replace, but not substantially change or enlarge ***an existing and lawfully located structure or facility used in the service of the public..***".

If you have any questions, please do not hesitate to call Clary Coutu at (617) 874-6946 ([clary.coutu@Keoliscs.com](mailto:clary.coutu@Keoliscs.com)) and or you may reach me at (207) 747-4651 ([tim@FDCEngineers.com](mailto:tim@FDCEngineers.com)).

Very truly yours,  
FDCEngineers



Tim Dermody, EI  
President

Enclosure

cc: Clary Coutu, Keolis  
Janis O. Kearney, MBTA  
Regional Office, DEP



# WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

## A. General Information

**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Applicant:

Clary Coutu, Keolis Commuter Services, Director of ENV		Clary.coutu@keoliscs.com	
Name		E-Mail Address	
N/A			
Mailing Address			
470 Atlantic Avenue, Suite 500		MA	02210
City/Town		State	Zip Code
Boston			
Phone Number		Fax Number (if applicable)	

2. Representative (if any):

Fair Dermody Consulting Engineers			
Firm			
Tim Dermody		tim@fdcengineers.com	
Contact Name		E-Mail Address	
19 Ocean Avenue, Unit 5			
Mailing Address			
Portland		ME	04103
City/Town		State	Zip Code
207-747-4651			
Phone Number		Fax Number (if applicable)	

## B. Determinations

1. I request the Boxborough Conservation Commission make the following determination(s). Check any that apply:

- a. whether the **area** depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
- b. whether the **boundaries** of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.
- c. whether the **work** depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
- d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any **municipal wetlands ordinance or bylaw** of:

\_\_\_\_\_  
Name of Municipality

- e. whether the following **scope of alternatives** is adequate for work in the Riverfront Area as depicted on referenced plan(s).





**WPA Form 1- Request for Determination of Applicability**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**C. Project Description**

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

N/A	Boxborough
Street Address	City/Town
N/A	N/A
Assessors Map/Plat Number	Parcel/Lot Number

b. Area Description (use additional paper, if necessary):

The attached map is a USGS map of the Commuter Rail Line in your municipality. The map was created using MassGIS and the private well registry provided by the Department of Agricultural Resources. The rail line is depicted by the dark black line with cross hatches, the numbers represent mileposts.

c. Plan and/or Map Reference(s):

USGS Right of Way Maps by Rail Line and Community	July 15, 2020
Title	Date
_____	_____
Title	Date
_____	_____
Title	Date
_____	_____

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

The "work" is related to vegetation management, control and maintenance activities for the years 2021-2025 for the railroad right-of-way [FRA, 49 CFR 237]. The Vegetation management plan for the railroad incorporates the Integrated Pest Management (IPM) approach towards promoting a safer railroad for employees, passengers, and neighboring communities by means of implementing various approaches towards removal of nuisance vegetation along the ROW. This work includes both chemical and mechanical controls as represented within the VMP available for viewing at [fdcrailroadvegetation.com](http://fdcrailroadvegetation.com). The attached previously approved wetland maps are provided for your review and final maps will be incorporated into the VMP as part of the Rights of Way Management Program 333 CMR 11.00 which incorporates 310 CMR 10.03 (6) to ensure protection of resource areas within your community.



## WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

### C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

310 CMR 10.02 (2)(a)(2) - "activities conducted to maintain, repair or replace, but not substantially change or enlarge an existing and lawfully located structure or facility used in the service of the public..." in accordance with Presumption for the application of Herbicides 310 CMR 10.03 (6) (b) - Any application of herbicides within the Buffer Zone, other than as provided in 310 CMR 10.03(6)(a), shall be presumed not to alter and Area Subject to Protection under M.G.L. c. § 40,...

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- Single family house on a lot recorded on or before 8/1/96
- Single family house on a lot recorded after 8/1/96
- Expansion of an existing structure on a lot recorded after 8/1/96
- Project, other than a single family house or public project, where the applicant owned the lot before 8/7/96
- New agriculture or aquaculture project
- Public project where funds were appropriated prior to 8/7/96
- Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- Residential subdivision; institutional, industrial, or commercial project
- Municipal project
- District, county, state, or federal government project
- Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)



**WPA Form 1- Request for Determination of Applicability**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**D. Signatures and Submittal Requirements**

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Name and address of the property owner:

Massachusetts Bay Transportation Authority (MBTA: ATTN. Janis O Kearney)

Name

10 Park Plaza Suite 1607

Mailing Address

Boston

City/Town

Massachusetts

State

02210

Zip Code

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

*Tim Dermody*

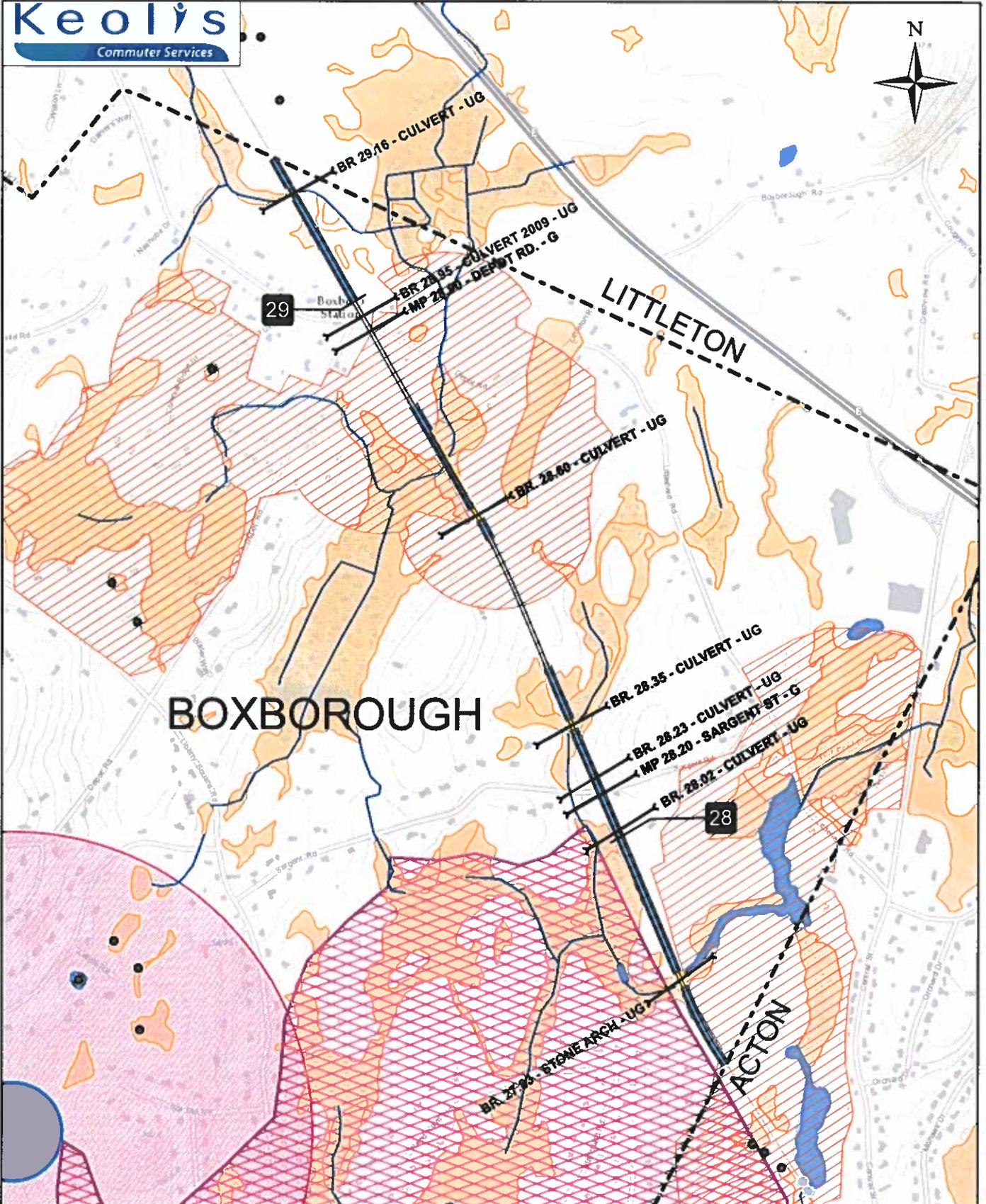
\_\_\_\_\_  
Signature of Representative (if any)

July 15, 2020

\_\_\_\_\_  
Date



FITCHBURG MAIN LINE



0 0.125 0.25 0.5 Miles  
© USGS, NOAA, NPS, NRCAN, Geobase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, Swisstopo, Mapbox India, © OpenStreetMap contributors, and the GIS User Community

TOWN:	<b>BOXBOROUGH</b>	LIMITED SPRAY ZONE (1 YEAR INTERVAL)	DEP APPROVED ZONE I	ZONE A	NATIONAL WETLANDS
DATE:	7/15/2020	LIMITED SPRAY ZONE (2 YEAR INTERVAL)	DEP APPROVED ZONE II	ZONE B	CERTIFIED VERNAL POOL
SCALE:	1:12,500	NO SPRAY ZONE	RWPA	NHPSP PRIORITY HABITATS	
SHEET:	1 OF 1				