



Request for Determination of Applicability (RDA) Application

Tree Removal in Buffer Zone

15 Wild Pasture Lane
Rowley, MA

November 21, 2022

Prepared for:

15 WP LLC
PO Box 531
Rowley, MA 01969

Design Team:

DeRosa Environmental Consulting, Inc.
PO Box 716, Rowley MA 01969



150 Newburyport Turnpike
Suite C-9
Rowley, MA
01969

978.948.7717 Office

derosaenvironmental.com

November 21, 2022

BY HAND DELIVERY AND ELECTRONIC MAIL

Town of Rowley Conservation Commission
Rowley Town Hall
139 Main Street
Rowley, MA 01969

Attn: Brent Baeslack, Conservation Agent
978.948.2330
conservation@townofrowley.org

**RE: After-the Fact Request for Determination of Applicability
Tree Removal and Proposed Planting Plan
15 Wild Pasture Lane | Rowley, MA 01969**

Dear Mr. Baeslack and Members of the Commission,

Our office has prepared and attached the following narrative letter in support of the After-the-Fact Request for Determination of Applicability (ATF RDA) Application to meet the requirements of the Massachusetts Wetlands Protection Act (MGL Ch. 131 Sec. 40) and its regulations (310 CMR 10.00, et seq), and the Town of Rowley Wetland Protection Bylaw (Section VI). We were authorized to prepare this filing at the request of 15 WP LLC, owner of the property located at 15 Wild Pasture Lane in Rowley, Massachusetts (the "Site").

We are requesting that the Commission issue Negative Determination No. 2 or 3. Number 3 offers the opportunity to the Commission to issue special conditions if they desire:

Section from MassDEP Form 2, page 3 of 5:

- 2. 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.
- 3. The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).

Executive Summary

Response to Notice of Violation

On September 27, 2022, the town of Rowley issued a Notice of Violation for the “clearing of trees within the 100’ Buffer Zone to Bordering Vegetated Wetlands without obtaining a Wetlands Permit.” The commission ordered a restoration plan to be filed and presented at the December 23, 2022 Conservation Commission hearing. The purpose of this After-the-Fact Request for Determination (ATF RDA) is to provide a restoration plan to address the cutting of trees in the buffer zone (Figure 2) for the commission’s review, comment, and anticipated approval.

Site Description

The 3.5-acre project site is located at 15 Wild Pasture Lane in the Town of Rowley, further identified by the Rowley Assessor's Office as Map 23, Parcel 19, Lot A (Figure 1). The property Site is bordered by residential properties to the north, east, and west and vacant forest to the south. A single-family home is located on the Site in the southern portion.

A Bordering Vegetated Wetland (BVW) is present on the northern portion of the property. The boundary of the BVW was flagged by DeRosa Environmental Consulting, Inc., as part of the initial subdivision plan and reviewed on November 11, 2022 (Figure 2a. Areas of Jurisdiction).

Project Summary

Work in this ATF RDA includes the removal of twenty (20) trees within the 100 foot buffer zone which took place summer of 2022, and the proposed planting of eight (8) replacement trees in the 100’ buffer zone to Bordering Vegetated Wetland (BVW). Eight (8) native hardwood trees may include red oak, red maple, an/or shagbark hickory.

The stumps of the previously cut trees currently remain on the property. These stumps will be ground in place to reduce the likelihood of resprouting. Any soil that is disturbed during the installation of the trees will be seeded with an upland seed mix including red fescue, switchgrass and little blue stem and then hay-mulched

Existing Wetland Resource Areas

Buffer Zone – 310 CMR 10.02(2)(b)

Although not a resource area by definition, the Act identifies the buffer zone as that jurisdictional area which extends 100 feet from the edge of a wetland boundary. The area of buffer zone that is regulated by the Act and falls within the limits of work is associated with the bordering vegetated wetland on the property, as discussed below. All proposed work is located within this buffer zone.

Bordering Vegetated Wetland – 310 CMR 10.55

Bordering vegetated wetland is defined under the Massachusetts Wetlands Protection Act as "...freshwater wetlands which border on creeks, rivers, streams, ponds, and lakes." (310 CMR 10.55(2)). The boundaries of the existing wetland resource areas were delineated according to methodology described in the Massachusetts Wetlands Protection Act (MGL Ch. 131 Sec. 210) and its Regulations at 310 CMR 10.00, et seq., as well as guidance documents prepared by the MADEP, including The Guide to Inland Vegetated Wetlands in Massachusetts, dated March 1988, as well as, Appendix G of Delineating Bordering Vegetated Wetlands Under the MA Wetlands Protection Act, dated March 1995.

FEMA Floodplain

According to the Federal Emergency Management Agency's (FEMA) most recent Flood Insurance Rate Map (FIRM), portions of the site are within FEMA 100-year floodplain (Figure 6). More specifically, portions of the Site are within FEMA Zone X, which is "0.2% annual chance of flooding." All work occurred outside the FEMA 100-year flood plain.

Jurisdiction & Procedural Matters

Local Bylaws

In addition to the Massachusetts Wetlands Protection Act, the project is subject to the rules and regulations outlined in the Bylaw. The Bylaw enforces a "No Disturbance Zone" that is determined by the Conservation Commission and typically extends between 25 to 50-feet from a resource area. No activities or work, other than non-motorized passage, are permitted within the No Disturbance Zone, and it must remain unchanged from its natural, vegetated state.

Portions of the proposed work are located within 50-feet and within 25-feet of the edge of the Bordering Vegetated Wetland. Accordingly, we request a waiver for work within restricted buffer zones.

Forms and Fees

A single copy of this application has also been forwarded to the MassDEP/NERO to await the issuance of a file number. A filing fee check for \$150 has been submitted to the Rowley Conservation Commission and a redacted copy of the check is included in this application.

Request for a Negative Determination of Applicability

We request that the Commission issue a Negative Determination of Applicability (No. 2 and/or 3) which allows work within areas of jurisdiction that will not adversely affect the function and value of the surrounding resource area. In our professional opinion, the proposed removal of the trees and installation of new trees does not adversely affect downgradient wetland resource areas.

Should you have any questions, please call any time at (978) 948-7717.

Respectfully submitted,

DeRosa Environmental Consulting, Inc.



Keeley McCall-Tunell
Ecological Horticulturalist

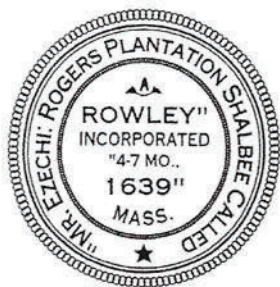


Michael J. DeRosa, Principal
Wetland Ecologist, LSP, LEED AP, PWS
Cell Phone: 978-265-9298

MJD/KMT/kmt

Attachments:

1. Rowley RDA Checklist and Signature Page
2. WPA Form-1 Request for Determination of Applicability
3. Town of Rowley Wetlands Protection Bylaw Fee Worksheet
4. Copy of Filing Fee Check
5. Copy of Assessor's Map
6. Figure 1 - USGA Topographic Map
7. Figure 2a – Areas of Jurisdiction
8. Figure 2b – Restoration Plan
9. Figure 3 - Aerial Photograph
10. Figure 4 - Wetlands Map
11. Figure 5 - Natural Heritage and Endangered Species Program Map
12. Figure 6 - FIRMette Map
13. Professional Qualifications



Town of Rowley

Conservation Commission

Phone: (978) 948-2330 Fax: (978) 948-7196

Conservation@townofrowley.org

REQUEST TO DETERMINE APPLICABILITY CHECKLIST

Send the following by certified mail, return receipt requested, or hand deliver to:

Rowley Conservation Commission, PO Box 24, or 39 Central Street, Room #4, Rowley MA 01969

- Two copies of the Application including:
 - Completed WPA Form 1 – revised July 2020
 - Section of U.S. Geologic Survey (USGS) quadrangle locating site (8 1/2" x 11")
 - An appropriately sized section of the Assessor's map clearly identifying the property and all others within a hundred feet
 - Plans and calculations clearly describing the location and the nature of the proposed work
 - Proof of mailing or hand delivery of Application to DEP NE regional office (address below)
 - One copy of permission to enter form with original signature of property owner
 - Proof of mailing or delivery of Application to property owner if not applicant
 - One electronic submission in "PDF" form of all Application documents and plans.
 - One copy of the Wetland Bylaw Fee Calculation Form with check for appropriate fee.

Send by certified mail, return receipt requested, or hand deliver to:

DEP NERO, Wetlands Div. 205B Lowell Street, Wilmington, MA 01887

- One copy of the Application including:
 - Completed WPA Form 1 – revised July 2020.
 - Section of U.S. Geologic Survey (USGS) quadrangle locating site (8 1/2" x 11").
 - An appropriately sized section of the Assessor's map clearly identifying the property and all others within a hundred feet.
 - Plans and calculations clearly describing the location and the nature of the proposed work.

PERMISSION TO ENTER

I, 15 WP LLC, (NAME OF PROPERTY OWNER) hereby grant the Rowley Conservation Commission and its

officials permission to enter upon my property at 15 Wild Pasture Lane MAP 23 Lot 19A to (STREET ADDRESS AND ASSESSOR'S MAP/PARCEL/LOT)

review the filed Request to Determine Applicability and future site conditions for compliance with the issued Determination of Applicability. The sole purpose of this document is to allow Commissioners and their officials to perform their duties under the Wetlands Protection Act (M.G.L. c. 131 s. 40) and the Town of Rowley Wetlands Protection Bylaw.

Signed: *James Deery* (PROPERTY OWNER)

11-8-22 (DATE)

Rev. 7/30/20

Town Hall Annex • Room 4 • 39 Central Street • P.O. Box 24 • Rowley, MA 01969



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:

15 WP LLC

Name

jgeorgoulakos@msn.com

E-Mail Address

PO BOX 531

Mailing Address

Rowley

City/Town

MA

State

01969

Zip Code

Phone Number

Fax Number (if applicable)

2. Representative (if any):

DeRosa Environmental Consulting, Inc.

Firm

Michael DeRosa

Contact Name

michaelderosaj@gmail.com

E-Mail Address

150 Newbury Turnpike, Suite C-9

Mailing Address

Rowley

City/Town

MA

State

Zip Code

978-948-7717

Phone Number

Fax Number (if applicable)

B. Determinations

1. I request the Rowley 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:

Rowley

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):

15 Wild Pasture Lane	Rowley
Street Address	City/Town
23	19A
Assessors Map/Plat Number	Parcel/Lot Number

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

3.5-acre project site is located at 15 Wild Pasture Lane in the Town of Rowley. A Bordering Vegetated Wetland (BVW) is present on the northern portion of the property.

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

Project Elements Plan	11/21/2022
Title	Date
_____	_____
Title	Date
_____	_____
Title	Date

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

After-the-Fact Request for Determination for the proposed planting of eight (8) native trees to replace the previously removed twenty (20) trees in the 100-foot bufferzone to the Bordering Vegetated Wetland.



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).

We believe this work is exempt under the state wetland regulations Section 310 CMR 10.02 (2)(b) in that the work will only take place within the buffer zone and in a manner that will reduce any impacts to the nearby resource area. Additionally, under Section 310 CMR 10.02 (2)(b) 1 we believe that the proposed work is a "minor activity" consisting of the planting of 8 (eight) native trees to replace the twenty (20) previously removed trees in the buffer zone to the BVW.

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:

15 WP LLC
Name

PO Box 531
Mailing Address

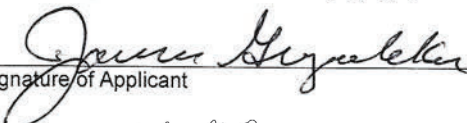
Rowley
City/Town

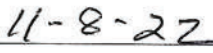
MA
State


01969
Zip Code

Signatures:

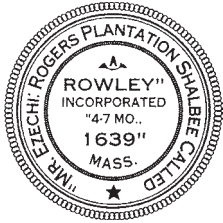
I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.


Signature of Applicant


Date


Signature of Representative (if any)

November 21, 2022
Date



Town of Rowley Conservation Department

Town Hall Annex – Room 4
 39 Central St, P.O. Box 24, Rowley, MA 01969
 Phone: 978-948-2330 Fax: 978-948-7196
conservation@townofrowley.org

WETLAND BYLAW FEE CALCULATION FORM

Property Address:	Map:	Parcel:	Lot:
APPLICATION NAME / ACTIVITY	LOCAL BYLAW FEE	# of Activities or Measurement	Subtotal
Request for a Determination of Applicability (RDA)	\$75	1	\$75
Abbrev. Notice of Resource Area Delineation (ANRAD)			
Single Family House Project	\$1/linear foot, first 100'; \$0.50/lf, second 100'; \$0.10/lf, each additional foot		
All Other Projects	*\$1/linear foot, first 1000'; \$0.50/lf, second 1000'; \$0.10/lf, each additional foot		
Notices of Intent (NOI)			
Category 1 Activity	\$100		
Category 2 Activity	\$250		
Category 3 Activity	\$525		
Category 4 Activity	\$725		
Category 5 Activity	\$2/foot		
Category 6 Activity - If no ANRAD was filed for the project site, then a local Cat. 6 fee must be paid in accordance with the ANRAD fee schedule	See ANRAD fee schedule		
Request to Amend an OOC (RAOC)	\$100		
Resource Area Alterations (for NOI & RAOC)			
Buffer Zone, 50'-100' from resource area boundary	\$0.05 / square foot		
Buffer Zone, 25'-50' from resource area boundary	\$0.10 / square foot		
Buffer Zone, 0'-25' from resource area boundary	\$0.25 / square foot		
Bordering Vegetated Wetlands & Salt Marsh Bank	\$0.35 / square foot		
Land Under Water & Waterways	\$5 / linear foot		
Bordering Land Subject to Flooding & CLSSF**	\$0.35 / square foot		
***Riverfront Area only	\$0.05 / square foot		
Isolated Vegetated Wetlands	\$0.05 / square foot		
Land within Groundwater Protection Area Zone I	\$0.35 / square foot		
Land within Groundwater Protection Area Zone II	\$0.25 / square foot		
Other Local-only Jurisdictional Resource Areas	\$0.05 / square foot		
Extension Permit	\$100		
Certificate of Compliance	Projects under one acre in size: \$100 - over an acre in size \$250		
For filings resulting from enforcement action, double the Local Bylaw Fee Total			X
LOCAL BYLAW FEE TOTAL			\$150
As Determined by the Commission, Fee Total not to exceed \$15,000 except Enforcement			
NOTES:			
*Local Bylaw Fee maximum of \$100, if, when determined necessary by Commission, applicant agrees to ANRAD review by outside consultant under M.G.L. Ch. 44, sec. 53G			
**Coastal Land Subject to Storm Flowage			
***Local Bylaw Fees for RDA, NOI, & RAOC increase 50% when project is also proposed within a Riverfront Area			
Local Bylaw Fees passed by a Unanimous vote of the Commission on 10/1/2019, effective 10/2/2019			

INSTITUTION FOR SAVINGS

11318

53-7094/2113

CHECK ARMOR
04
PRAT PROTECTION

DEROSA ENVIRONMENTAL CONSULTING, INC

PO BOX 716
167 MAIN STREET
ROWLEY, MA 01969

11/18/22

PAY TO THE
ORDER OF

Town of Rowley

\$ 150.00

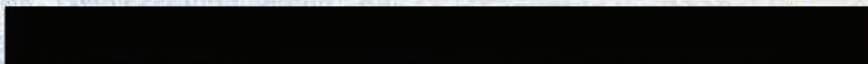
One hundred fifty and $\frac{00}{100}$

DOLLARS

MEMO ROA - 15 Wild Pasture Ln.



[Handwritten Signature]
AUTHORIZED SIGNATURE



Details on Back. Security Features Included