



Charles River Watershed Association

September 21, 2006

Ben Lynch
Program Chief, Waterways Regulation Program
One Winter Street, 6th Floor
Boston, MA 02108

Re: Chapter 91 Waterways License Application Number W06-1685, 19 Bernard Street, LLC, for the Construction and Maintenance of a Seasonal Float in the Charles River

Dear Mr. Lynch:

The Charles River Watershed Association appreciates the opportunity to comment on the request for this Chapter 91 License. CRWA is a leading research and advocacy watershed organization, using science, law, and advocacy to protect and restore the health, beauty and accessibility of the Charles River and its watershed.

The Charles River reach flowing through the proposed project area provides over 14 miles of unimpeded flow from the Cochrane Dam to the Silk Mill Dam and is frequently boated, fished and otherwise publicly enjoyed. This stretch of the river has generally good water quality, predominantly vegetated banks, and large wetland areas. As a result, it is a quiet and peaceful section of the river, and a haven for birds and wildlife, despite its proximity to major highways and commercial and industrial development. Existing boat traffic in the area is mainly canoes and kayaks, which can navigate the areas of shallow water.

The large private dock proposed in this Chapter 91 License application is not in keeping with the existing conditions in this section of the river. If licensed as proposed, the dock will negatively impact the public's use and enjoyment of this segment of the Charles River. The proposed dock is quite large for single family, private use (it is wider, for example, than the public dock at Nahanton Street, which is wheelchair accessible). Design specifications have the dock extending between 10 and 15 feet into the river and abutting 15 feet of riverbank, with a total of nearly 200 square feet of dock and gangway (the Nahanton Street dock, with just under 400 square feet of dock and gangway area, feels like a sizable structure in this part of the river). A large boat tied up on the river side of the dock will extend the impingement on the river even further.

CRWA is concerned that such a large private dock will detract from the public's use, enjoyment and the aesthetic beauty of the river, and may encourage similar development for other private residences abutting the river in this area. The size of the dock should be dramatically reduced and a license, if issued, should explicitly prohibit long-term boat docking. A patio-type setup should not be allowed on the dock.

CRWA supports the use and enjoyment of the Charles River and advocates increased public access to it. In general, we believe the best way to provide access to the river is for private residents, acting as neighborhood associations or other representative groups, to propose the building of one discrete dock that can serve many residents, rather than seeking individual docks to serve only several individuals. This will minimize the physical and aesthetic impacts to a publicly-enjoyed treasure, thus maintaining the integrity of this resource while encouraging its use by people not fortunate enough to have the river as their back yard.

While the proposed dock falls under the simplified procedures set forth in 310 CMR 9.10, the project nonetheless must preserve the public's trust rights and meet the standards in 310 CMR 9.35. We note that the Department of Conservation and Recreation holds a permanent surface easement along the bank. The license should explicitly provide for unfettered on-foot passage within the easement, be conditioned to ensure the public's rights to fishing, fowling, navigation, and ensure that the rights to pass freely upon the waterway are not impaired. Pursuant to 310 CMR 9.35(2)(1)(f), where there are no adjacent structures, the project must not extend beyond the length required to achieve safe berthing. The applicant should be required to show affirmatively that the dock size as proposed is absolutely necessary for safe berthing. Nor can it generate water-borne traffic that would interfere with other water-borne traffic under 310 CMR 9.35(2)(1)(g). If use of the dock is intended for motor boat berthing, CRWA is concerned about the impacts to kayakers and canoeists who use this stretch of the river.

Please do not hesitate to call me or Margaret Van Deusen, CRWA's General Counsel, if you have any questions or would like to discuss this further.

Sincerely,

David S. Kaplan
Environmental Scientist

cc: Dan Driscoll, DCR
Martha Horn, Newton Conservation Commission
Newton Planning Board
John Thomas, Beals and Thomas