

DeVellis Zrein Inc.
PO Box 307
Foxboro, MA 02035
www.develliszrein.com

Foxborough Conservation Commission
Attn: Robert W. Boette, Chairman (c/o Diana Gray)
Foxborough Town Hall
40 South Street
Foxborough, MA 02035

November 20, 2023

Dear Chairman Boette and Members of the Conservation Commission,

On behalf of the Town of Foxborough and their Recreation Department, DeVellis Zrein Inc. (DZI) is pleased to provide a **Request for Determination of Applicability** (RDA) with supporting documents for the Recreation Department to be able to continue their Fishing Derby that has been held along the banks for the Neponset Reservoir at the "Lane Property" since 2008.

Pease find enclosed:

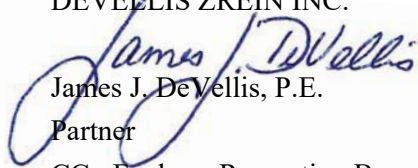
1. RDA Town Form & State Form. A copy will be mailed to the DEP Southeast Regional Office
2. Summary of Request, History, Protocol & Deed Overview
3. Map
4. Supporting Photographs

Thank you for your consideration and we look forward to presenting this project at your **December 11th** meeting. If you have any questions, please do not hesitate to contact me at jim@develliszrein.com or at 781-771 8104.

Thank you for your continued assistance.

Sincerely,

DEVELLIS ZREIN INC.



James J. DeVellis, P.E.
Partner

CC: Foxboro Recreation Board



Massachusetts Department of Environmental Protection
Bureau of Water Resources - Wetlands

WPA Form 1- Request for Determination of Applicability Foxborough Municipality
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:
Town of Foxborough
First Name Last Name
40 South St
Address
Foxboro MA 02035
City/Town State Zip Code
508887-0412
Phone Number hharding68@yahoo.com
Email Address

2. Property Owner (if different from Applicant):
First Name Last Name
Address
City/Town State Zip Code
Phone Number Email Address (if known)

3. Representative (if any)
James DeVellis, PE
First Name Last Name
Company Name
DeVellis Zrein Inc
PO Box 307
Foxborough MA 02035
City/Town State Zip Code
781-771-8104
Phone Number jim@develliszrein.com
Email Address (if known)

B. Project Description

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

North St. Neponset Reservoir Foxborough/MA
Street Address City/Town
42.08157 -71.25087
Latitude (Decimal Degrees Format with 5 digits after decimal e.g. XX.XXXXX) Longitude (Decimal Degrees Format with 5 digits after decimal e.g. -XX.XXXXX)
34 480
Assessors' Map Number Assessors' Lot/Parcel Number

How to find Latitude and Longitude

and how to convert to decimal degrees

b. Area Description (use additional paper, if necessary):
Shoreline of Neponset Reservoir

c. Plan and/or Map Reference(s): (use additional paper if necessary)
Foxboro Fishing Derby Exhibit 1 11/20/23
Title Date
Title Date



Massachusetts Department of Environmental Protection

Bureau of Water Resources - Wetlands

WPA Form 1- Request for Determination of Applicability Foxborough

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

Municipality

B. Project Description (cont.)

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

Continue with the annual maintenance of the Lane Property by cutting back the brush along the shore of Neponset Reservoir as we have been since 2008 for our annual Kids and Family Fishing Derby and to allow continued access to the water.

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).

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).



C. Determinations

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

- a. whether the **area** depicted on plan(s) and/or map(s) referenced above 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 above are accurately delineated.
- c. whether the **Activities** depicted on plan(s) referenced above is subject to the Wetlands Protection Act and its regulations.
- d. whether the area and/or Activities depicted on plan(s) referenced above is subject to the jurisdiction of any **municipal wetlands' ordinance** or **bylaw** of:

Town of Foxborough
Name of Municipality

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

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.

Signatures:

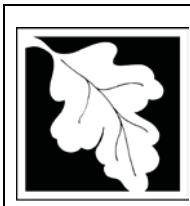
I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

James J. Dabulis
Signature of Applicant

11-20-23
Date

Heather Harding
Signature of Representative (if any)

11-20-23
Date



Massachusetts Department of Environmental Protection

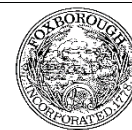
Bureau of Resource Protection - Wetlands

Foxborough

WPA Form 1- Request for Determination of Applicability

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

Foxborough Wetlands Protection Bylaw, Chapter 267



A. General Information

Important:
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1. Applicant or **Property Owner's Representative:**

DeVellis Zrein

Name / Firm

James J DeVellis

Representative Name (if applicable)

PO Box 307

Mailing Address

Foxborough

City/Town

MA

02035

State

Zip Code

781-771-8104

Phone Number

jim@develliszrein.com

Email Address

2. **Property Owner** (if different from Applicant):

Town of Foxboro

Name

hharding68@yahoo.com 508 887-0412

c/o Recreation Department 40 South St.

Mailing Address

Foxborough

City/Town

MA

02035

State

Zip Code

3. **Foxborough Wetlands Protection Bylaw filing fee** enclosed:

Single Family House: \$75 Industrial / Other: \$200 Habitat Restoration / Scout Project: \$0

B. Determinations

1. I request that Foxborough Conservation Commission make the following determination(s).

- a. whether the **area** depicted on plan(s) and/or map(s) referenced below is an area subject to the jurisdiction of the State Wetlands Protection Act.
- b. whether the **work** depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
- c. whether the **area and/or work** depicted on plan(s) referenced below is subject to the jurisdiction of the Foxborough Wetlands Protection Bylaw.
- d. (if located in a **Riverfront Area**) whether the following scope of alternatives is adequate for work in the Riverfront Area as depicted on referenced plan(s).

C. Project Description

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

Laprelot Road / North
Street

Foxborough
Town

34
Assessors Map/Plat Number

480
Parcel/Lot Number

- b. **Area Description** (i.e. back yard, lawn, wooded area, conservation area, industrial, etc.):

Shore of Neponset Reservoir

- c. **Plan and/or Map Reference** (Hint: hand-draw proposed project onto Assessor, Google or MassGIS map)

Foxboro Fishing Derby Exhibit 1
Title

11-20-23
Date

Title

Date

C. Project Description *(continued)*

2. a. **Detailed Description of Proposed Work**, shown in the above plans:

Continue with the annual maintenance of the Lane Property by hand trimming the brush along the shore of Neponset Reservoir as we have been doing since 2008 for Recreation's annual Kids and Family Fishing Derby and to allow continued safe access to the water by residents. No excavation, root removal or excavation into the soil of any kind. No increase of bare soil, stormwater impacts or erosion and sedimentation change.

b. Identify provisions *(if any)* of the MA 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.

3. a. **Riverfront Requirements** *(if applicable)*

If the proposed project is located within 200 feet of a river, indicate the one classification below that best describes the project:

For lots recorded on or before 8/1996:

- Single family house on a lot recorded on or before 8/1/96
- Project, other than a single family house or public project, where the applicant owned the lot before 8/7/96

For lots recorded after 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

Other Projects:

- Municipal project
- Public project where funds were appropriated prior to 8/7/96
- District, county, state, or federal government project
- 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
- New agriculture or aquaculture project
- Project required to evaluate off-site alternatives in more than one municipality for an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. ACOE or 401 Water Quality Certification from the MassDEP.

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

Evidence: Summary attached

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 MassDEP Regional Office (see below) were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

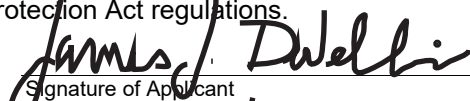

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Name and Address of Property Owner:

Town of Foxboro			
Name			
80 South St	Foxboro	MA	02035
Mailing Address	City/Town	State	Zip Code

Signatures:

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

	11-20-23
Signature of Applicant	Date
	11-20-23
Signature of Representative (if any)	Date

Tax Collector's Release and Signature: The above referenced applicant is applying for a permit from the Conservation Commission and is in good standing with respect to any taxes, fees, assessments, betterments or other municipal charges as recorded with the Foxborough Treasurer's Office.

Signature of Foxborough Tax Collector or Agent	Date
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Submittal Requirements:

For the Conservation Commission:

One (1) original and seven (7) copies of this completed Request (including all plans, other documentation, and Town filing fee payment), by mail or hand delivery to:

Foxborough Conservation Department
40 South Street
Foxborough, MA 01035

For MassDEP:

One (1) copy of the completed Request (including all documentation; no State filing fee is required) by certified mail or hand delivery to:

MassDEP, Southeast Regional Office
20 Riverside Drive
Lakeville, MA 02347

Recreation's Fishing Derby Summary

1. Each June since 2008, for the past 15 years, the Foxboro Recreation Department holds a community Fishing Derby for families with volunteer partnerships, various town departments and staff. In the past the Foxboro Tree and Park, the Conservation Commissioners and agents, Bass Pro, National Honor Society, The Fish and Game, Stop and Shop, Got Bait and many others have assisted this event and plan to continue following approval.
2. There are no current plans to run the Fishing Derby differently.
3. Recreation has about 250 participating families and the average age of the kids is 5-10 years old. They are given a free T-shirt, bait, lunch and Bass Pro and the guys from The Fish and Game are on hand to educate and help the kids. Small fish, small kids, no disturbance, big healthy recreation opportunity.
4. Recreation oversees this event and walks the property several times a year. We are confident that the past trimming has not had any negative impacts, erosion, or disturbance and by continuing to trim the brush back it will not in the future. In October of this year DZI viewed the area on land and from a boat looking for erosion and sedimentation areas and neither were observed.
5. Early on, Recreation coordinated with Esther, Dave and Bill in the Conservation Office and can continue in the same fashion.
6. The TOWN has been selectively clearing the underbrush by hand to allow the children to fish safely. The TOWN purchased this "Lane Property" for the specific intent of using it for passive recreation such as this (Refer to Deed summary). This is the least impactful deeded activity considering the many permanent and obtrusive activities that the town had in mind and allowed on the deed.
7. Having 250 children and parents with the average child being between 5-10 fish along the banks without clearing cannot be done successfully without selective pruning.
8. The **2023** OSRP survey which was completed in October shows that 60% of respondents felt that access to public bodies of water in town was insufficient.

The Reason for this Submission

1. After 15 years of the same program, last April Recreation was informed by the Commission that they can no longer selectively clear, so regrettably Recreation had to cancel the derby with very little notice or a suggested plan to continue.
2. In April, the Conservation Commission on their own went out and selectively cleared but their attempt, although well intentioned, failed to achieve what was needed for the event. Rather than having the Conservation Commission try again without proper permits or assistance, the Recreation is formally submitting this RDA to continue, agree to protocol and standards and formalize the process with respect to the Wetlands Protection Act.

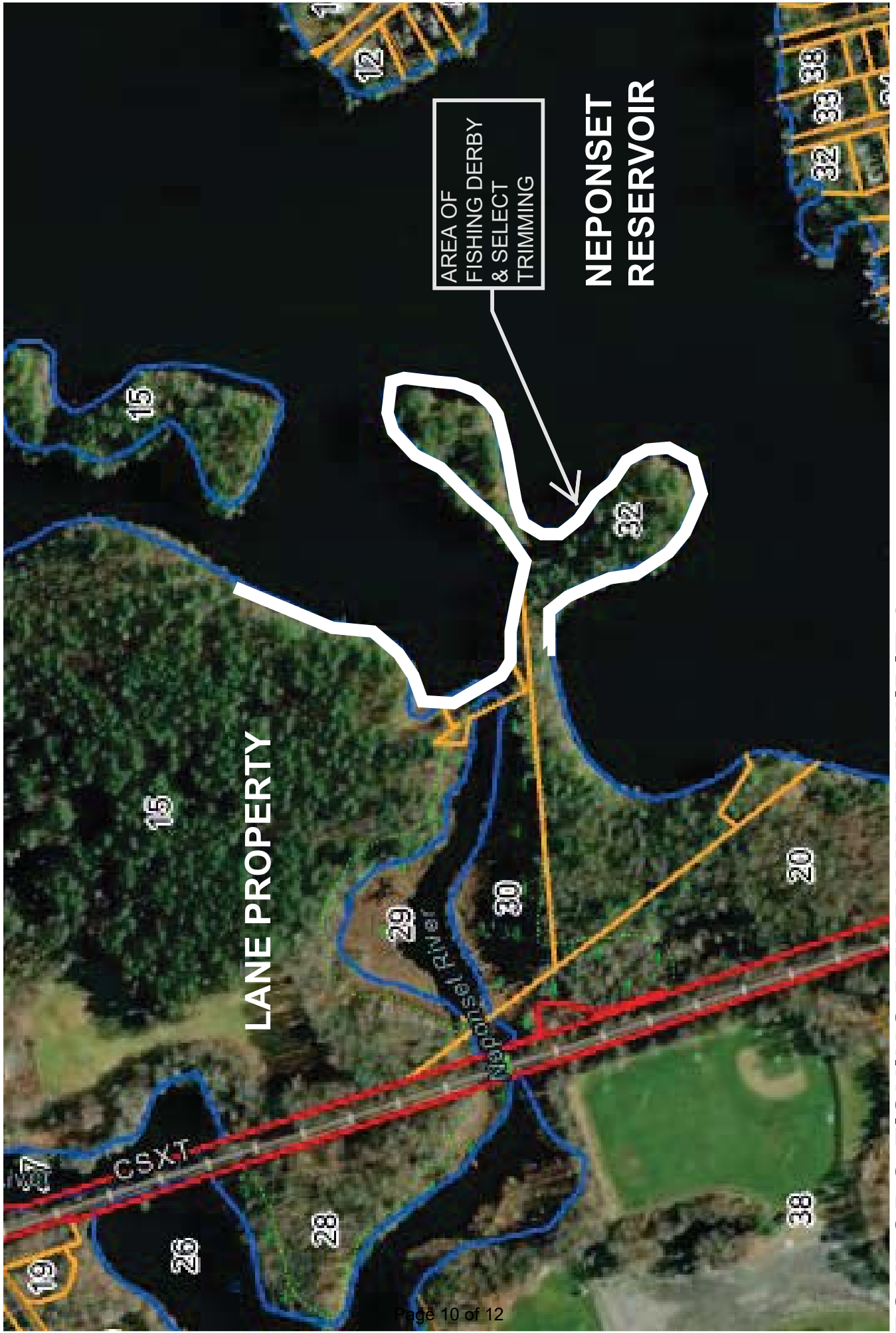
3. Another cancellation will again disappoint many but will end a long-standing community tradition. The Recreation Department uses the fishing derby as an opportunity to market and strengthen other Recreation programs and the Recreation Department and families lost an opportunity to enjoy their property last year.
4. Since cancellation, Recreation spent considerable time walking the area, viewing it by land and from the water in a boat and comparing it to other town's similar programs along shores. We are confident the derby is not impacting the shoreline. In fact, Recreation is promoting the responsible use of Town recreation areas and just like the other areas around the "Lane Property" such as boat ramps, decks, learning centers / educational programs along the edges this fishing derby compliments the resource areas.

Recreation's Past Protocol

1. Tree and Parks will not be using any vehicles or heavy equipment.
2. A small chain saw to remove the large fallen trees that are obstructive to the deeded paths or a danger to the community. Weed whackers assist thin growth but at no time are plants uprooted. **This has been done since the beginning and the vegetation continues to return, thus the reason for this request. If it did not, there would not be a need to request brush trimming. History has shown us that erosion, sedimentation, bare areas and creating a void for habitat has not been affected over the past 15 years.**
3. They do not remove any plant roots; they simply trim it back to provide safe and adequate access to the shore.
4. Recreation surveys the area following each event to remove any trash or debris but this has never been an issue as the carry-in carry-out policy is well understood.

Deed Reference

In 1988 the Town purchased the property for the sole purpose of passive recreation and open space opportunities. To this end, the deed allows for boat docks, a nature center, pavilions, a boathouse, foot bridges, exercise trails, a children's playground, unlimited foot trails, recreation vehicle provisions all with parking and boat launching and associated maintenance provisions. **All of the 1998 deeded and important passive recreation allowances are there for the sole purpose of enjoying and accessing the Neponset Reservoir voted 25 years ago.** The Recreation Department has been a great steward of the property and will continue to do so. Clearly the construction allowances on the property have not been fully pursued, but responsible access to the water from the land and vice versa is a strong focus of the rights given to the public. Recreation wishes to continue this right and opportunity in cooperation with the Conservation Commission and the RDA process provides a proper and acceptable path to do this.

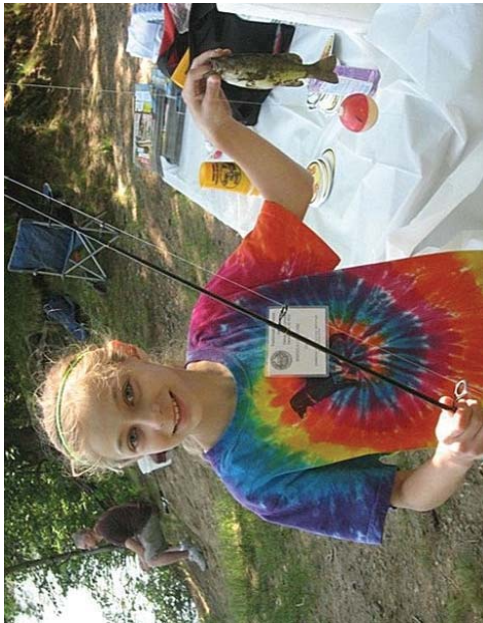


LANE PROPERTY

**AREA OF
FISHING DERBY
& SELECT
TRIMMING**

**NEPONSET
RESERVOIR**

FOXBORO FISHING DERBY (2008 - 2022). CANCELLED IN 2023



PASSIVE RECREATION OPEN SPACE AREAS SURROUNDING FOXBORO

