

TOWN OF FALMOUTH
SELECT BOARD
REVISED AGENDA
MONDAY, NOVEMBER 7, 2022 – 6:30 P.M.
SELECT BOARD MEETING ROOM
TOWN HALL
59 TOWN HALL SQUARE, FALMOUTH, MA 02540

The Select Board may discuss and vote appropriate action on any item listed on this Agenda unless a different disposition is noted. At the discretion of the Chair, agenda items may be taken out of order.

6:30 p.m. OPEN SESSION

6:30 p.m. EXECUTIVE SESSION

1. M.G.L. c.30A s.21(a)(3) – To discuss strategy with respect to collective bargaining – Firefighters Union Minimum Shift Staffing

7:00 p.m. OPEN SESSION

1. Call to Order
2. Pledge of Allegiance
3. Proclamation – Native American Heritage Month
4. Recognition
5. Announcements
6. Public Comment

7:05 p.m. TOWN MANAGER'S PRELIMINARY REPORT

7:15 p.m. PUBLIC HEARINGS

1. Fee Hearing – Discuss and Vote to Establish and Promulgate Fees for 2023 (15 minutes)
2. Flow Neutral Bylaw – Evaluation of Request for Variance – New Creek LLC – 13 Davis Straits, Falmouth (parcel 39 15 049D 004), continued from August 22, 2022, September 26, 2022, October 24, 2022 (15 minutes)
3. Wetlands/Dock Hearing – Daniel H. and Mary E. Webb – Permit an existing seawall and construct a ramp from the seawall to a small float in Sider's Pond, located at 51 Siders Lane, Falmouth (10 minutes)
4. Approve application for multiple amendments to an All Alcoholic Common Victualler License including Change of Manager, Change of LLC Manager and Change of Beneficial Interest – Train Bridge View, LLC d/b/a/ Sweet Rice, located at 167 Teaticket Highway, East Falmouth (10 minutes)
5. Shade Tree Hearing – on application of Mary Van Holde Todd, and David and Steven Van Holde for the removal of two (2) Norway Maple trees at 8 Orchard Street, Woods Hole (10 minutes)

8:15 p.m. BUSINESS

1. Vote Interim Town Manager Agreement (5 minutes)
2. Report – Solid Waste Advisory Committee (15 minutes)
3. Report – School Committee (15 minutes)
4. Request for Variance to Sign Code – §184-26 Illumination – Cape Cod Church, 1205 Nathan Ellis Highway, East Falmouth (5 minutes)

5. Approve Annual License Renewals for 2023: (5 minutes)

**ALL ALCOHOL RESTAURANT LICENSE and
COMMON VICTUALLER LICENSE**

Casa Vallarta, 70 Davis Straits
East End Tap, 734 Teaticket Highway

ALL ALCOHOL CLUB LICENSE

Cape Cod Curling Club, 37 Highfield Drive

**WINE, MALT & CORDIAL INNHOLDER LICENSE
and INNHOLDER LICENSE**

Palmer House Inn, 81 Palmer Avenue

WINE & MALT PACKAGE STORE

Jack in the Beanstalk, 800 Gifford Street
Windfall Market, 77 Scranton Avenue

COMMON VICTUALLER LICENSE

Le Bon Jour, 420 East Falmouth Highway

New Golden Dynasty, 13 Davis Straits, Unit 2
Pie in the Sky, 10 Water Street

INNHOLDER LICENSE

Admiralty Inn, 51 Teaticket Highway
Falmouth Inn, 824 Main Street
Shoreway Acres Inn, 50 Shore Street

ENTERTAINMENT

Casa Vallarta, 70 Davis Straits
East End Tap, 734 Teaticket Highway

SUNDAY ENTERTAINMENT LICENSE

Casa Vallarta, 70 Davis Straits

USED CAR DEALER LICENSE

Intergas, 10 North Main Street
O'Hara Motors, Inc., 50 Spring Bars Road

9:00 p.m. **CONSENT AGENDA**

1. Administrative Orders

- a. Vote to approve motion submitted by The 300 Committee on the request from The 300 Committee for a Conservation Restriction for the Ed Brown-Leger 3.72-acre property at 0 Boxberry Hill Road
- b. Vote to Accept FY2022 Bulletproof Vest Partnership Program Award in the Amount of \$6,525.00
- c. Initiate naming process to dedicate the beach side of the Menauhant Bridge to Bruce G. Mogardo
- d. Authorize Letter to Eversource in Opposition to Herbicide Spraying for Vegetation Management
- e. Set date for April 2023 Town Meeting

2. Committee Appointments:

- a. Veterans Council Committee – William Doherty, Amvets Post 70 Representative
- b. Veterans Council Committee – Ron Nasif – DAV Representative

9:05 p.m. **MINUTES**

1. Review and Vote to Approve Minutes of Meetings

- a. Executive Session – June 21, 2022; June 27, 2022; July 5, 2022; July 11, 2022; July 25, 2022; August 15, 2022; August 22, 2022

9:15 p.m. **TOWN MANAGER'S SUPPLEMENTAL REPORT**

9:20 p.m. **SELECT BOARD REPORTS**

9:30 p.m. **DISCUSSION OF FUTURE AGENDA ITEMS**

9:40 p.m. **ADJOURN**

Nancy R. Taylor, Chair
Select Board

OPEN SESSION

3. Proclamation – Native American Heritage Month



PROCLAMATION

Native American Heritage Month

WHEREAS, Native Americans, including the Herring Pond Wampanoag Tribe, Mashpee Wampanoag Tribe, Aquinnah Wampanoag Tribe have inhabited the land now known as the Town of Falmouth, and many additional tribes such as Quissett have inhabited Cape Cod and the Islands, the Commonwealth of Massachusetts and the United States since time immemorial; and

WHEREAS, American Indians, Alaska Natives, and Native Hawaiians are a special part of the tapestry of our Nation's history. As keepers of a rich and ancient cultural heritage, Native Americans share with all of us the beauty of their art, the power of their songs, and the grace of their people. As individuals, they have distinguished themselves in virtually every field, from the arts to the sciences, from the world of sports to the world of commerce; and

WHEREAS, November is recognized by the United States as Native American Heritage month; and

WHEREAS, We celebrate the culture and contributions of the first Americans to all areas of life, we also remember with sorrow the suffering they endure because of Federal actions and policies that have long-term and often devastating consequences for Native Americans and their culture.

WHEREAS, While we cannot erase the tragedies of the past, we can create a future where all people share in America's great promise. The month is a time to celebrate rich and diverse cultures, traditions, and histories and to acknowledge the important contributions of Native people. Heritage Month is also an opportune time to educate the general public about tribes, to raise a general awareness about the unique challenges Native people have faced both historically and in the present, and the ways in which tribal citizens have worked to conquer these challenges.

WHEREAS, The Wampanoag Nation once included what is now the Town of Falmouth along with all of Southeastern Massachusetts and Eastern Rhode Island, and we honor those who are still here and the sacrifices of those who are not.

WHEREAS, While many communities no longer have the connection to their land's Native peoples, Falmouth is fortunate to have the Herring Pond Wampanoag Tribe, Mashpee Wampanoag Tribe, and Aquinnah Wampanoag Tribe still present to enrich Falmouth's diverse culture, invigorate our community and strengthen our economy.

NOW THEREFORE, the Falmouth Select Board does hereby proclaim November as Native American Heritage Month and we call on all residents of the Town of Falmouth to observe this month with appropriate programs, ceremonies, and activities.

Nancy R. Taylor, Chair

Douglas C. Brown

Onjalé Scott Price, Vice Chair

Edwin (Scott) P. Zylinski II

Samuel H. Patterson

SELECT BOARD

OPEN SESSION

4. Recognition

The Cape Cod Bridges Program



Issue Date: 11/1/2022

The Cape Cod Bridges Program

This notice is to inform you of the upcoming Virtual Public Information Meetings for the Massachusetts Department of Transportation's (MassDOT's) Cape Cod Bridges Program. This Program will include the replacement of the Bourne and Sagamore bridges, as well as improvements to the approach roadway networks to address the multimodal deficiencies within the Cape Cod Canal area. MassDOT invites you to attend the following Virtual Public Information Meetings to learn more about the Program scope, status, schedule, and ask the Program team questions.

Virtual Public Information Meeting

Two live, identical virtual public information meetings will be hosted on:

Tuesday, November 15th, 2022

Thursday, November 17th, 2022

Time: 6:00 PM EST

Location: Online

To register for this meeting please visit the following registration link:

<https://www.mass.gov/massdot-highway-design-public-hearings>

After registering, you will receive a confirmation email containing information about joining the webinar.

To sign up to receive program updates please visit: <http://tiny.cc/CapeCodProgramSub>. For more information on the program please visit the program web site: <https://www.mass.gov/cape-bridges>. Please feel free to extend this meeting invitation to others that may have an interest in attending. In the interim, please use the Program's comment form for any questions or concerns at: <http://tiny.cc/CapeCodProgramCF>.

If information is needed in another language, please contact the MassDOT Title VI Specialist by phone at (857) 368-8580.

Caso esta informação seja necessária em outro idioma, favor contar o Especialista em Título VI do MassDOT pelo fone 857-368-8580.

Si necesita información en otro lenguaje, favor contactar al especialista de MassDOT del Título VI al 857-368-8580.

如果需要使用其它语言了解信息, 请联系马萨诸塞州交通部 (MassDOT) 《民权法》第六章专职人员, 电话 857-368-8580。

如果需要使用其它語言了解信息, 請聯系馬薩諸塞州交通部 (MassDOT) 《民權法》第六章專職人員, 電話 857-368-8580。



Questions?
[Contact Us](#)

STAY CONNECTED:



This email was sent using PIMA on behalf of the: Massachusetts Department of Transportation - 10 Park Plaza - Boston, MA 02116 877-623-6846

If you would like to unsubscribe please click [here](#).

OPEN SESSION

5. Announcements

Diane Davidson

From: Mary Ryther
Sent: Friday, November 4, 2022 10:43 AM
To: Peter Johnson-Staub
Cc: Peter McConarty
Subject: Announcement of Textile-Clothing Collection on Nov 19-20

Good Morning Peter,

DPW will host a special Clothing and Textile Collection event later this month to support and raise awareness of Mass DEP's new policy banning these materials from disposal in the landfill or by incineration. *They are not acceptable in curbside recycling either.*

I spoke to SWAC about this at their monthly meeting on Tuesday evening, and Alan Robinson suggested that I ask you to announce this at the next Select Board Meeting. Will you please add this to your announcements on Monday night?

The vendor for the collection is Baystate Textiles, which operates collection boxes at some of the Falmouth Public Schools. As with their school programs, Baystate will make a monetary donation based on the weight of materials collected at this event to benefit the school PTOs. The vendor will deliver a large trailer to the event site one or two days prior to the event and pick it up again after the weekend.

Residents will be welcome to drop-off materials all day on Saturday and Sunday. It will be a self-serve event, and staffing is not required.

Collection Event Details:

Fall Textile & Clothing Collection

Date: November 19-20

Location: 790 Main Street, Falmouth (Parking area in front of Falmouth Senior Center and Gus Canty Recreation Center)

Accepted Materials: clothing, shoes, accessories, linens, curtains, etc. (See link below for details)

Materials must be dry and not soiled.

Organized by Falmouth DPW

Collection by Baystate Textiles

Full list of accepted/ not accepted materials is on the Baystate Textiles website.

<https://www.baystatetextiles.com/what-we-do-dont-accept/>

There is an updated list of long-term clothing and textile collection boxes on the Town "Textile Recycling" page.

<https://www.falmouthma.gov/1253/Textile-Recycling>

Please let me know if you have any questions. I will send out a press release and event flyer next week.

Best,

Mary

Mary B. Ryther
Recycling & Solid Waste Coordinator
Department of Public Works
Town of Falmouth, MA
508-457-2543 ext. 3107
mary.ryther@falmouthma.gov

Learn about Falmouth's new Recycling Cart program here- <https://www.falmouthma.gov/1328/Recycling-Carts>

OPEN SESSION

TOWN MANAGER'S PRELIMINARY REPORT



TOWN OF FALMOUTH
Office of the Town Manager & Select Board
59 Town Hall Square, Falmouth, Massachusetts 02540

TO: Select Board
FROM: Peter Johnson-Staub, Acting Town Manager *PJS*
SUBJECT: Preliminary Report for November 7, 2022
DATE: November 4, 2022

AGENDA TOPICS – PRELIMINARY REPORT:

Executive Session:

We have an executive session posted for 6:30pm to address Firefighters union minimum shift staffing.

Public Hearings:

1. Fee Hearing:

There are a number of increases being proposed for the fee schedule. In your packet you will find explanations provided by the respective departments. I have reviewed the proposed fees and find them all to be reasonable and justified. We generally seek to set fees to recover costs so that the users of Town services pay for the cost rather than the taxpayer. In some instances, there may be policy reasons for subsidizing a particular service – i.e. a community benefit shared by taxpayers generally. We also look at fees charged by neighboring communities as a point of reference. We will have staff members present for the hearing to answer any questions the Board may have.

2. Flow Neutral Variance – 13 Davis Straits (Falmouth Plaza) housing:

This hearing will need to be continued yet again. As of today, The Town has not received a response to the proposal submitted to the applicant on October 11th. We have not yet received from the applicant a preferred date for the continuance. I suggest the Board continue to December 9th.

3. Wetlands Hearing – 51 Siders Lane, Daniel H. and Mary E. Webb.

The applicant seeks to replace an existing seawall and construct a ramp from the seawall to a float. Conservation Commission has issued an order of conditions. There are no shellfish or navigation concerns. I recommend approval.

4. All Alcohol License Changes – 167 Teaticket Highway Sweet Rice:

- As of Friday afternoon, there was one required document missing from this application – the Secretary of State 'Business Structure' document. The applicant's counsel indicated it would be submitted before the hearing on Monday.

5. Shade Tree Hearing – 8 Orchard Street:

Park Superintendent/Tree Warden Jeremiah Pearson has provided a memo recommending approval of this request to remove two street trees due to the potential hazard to the abutting property.

Business:

1. Vote Interim Town Manager Agreement:

Thank you for your support with respect to my Interim Town Manager Agreement. The agreement has been signed by Town Counsel as to form, the Town Accountant has certified availability of funds, and I have signed as well. An original is in your signature folder.

2. Report – Solid Waste Advisory Committee (SWAC):

This is the Board's annual meeting with the SWAC.

3. Report – School Committee:

This is the Board's annual meeting with the School Committee.

4. Request for Sign Variance – 1205 Nathan Ellis Highway, Cape Cod Church:

The Cape Cod Church is asking for a variance for an internally lit sign which is not allowed by right in an agricultural (or residential) zone. To our knowledge, this may be the first request for an internally lit sign in either an agricultural or residential zone. The Board may wish to consider this precedent. Another consideration is that the technology of today's internally lit signs is quite different from when the sign bylaw was written – they are less bright. I would also note that we will be submitting a variance for an internally lit sign for the Sandwich Road Fire Station which is also in an agricultural zone.

5. Approve Annual License Renewals:

This year, staff sent license renewal reminders to licensees in August - a month earlier than prior years. There are a few license renewal applications that were completed in time for this agenda. Hopefully, there will be many more complete applications for the next two agendas. Last year there were many that were not completed until the last week or two of December. I recommend approval.

Consent Agenda:

Staff have reviewed all items under Administrative Orders and raised no concerns. I recommend approval of these items. There are two Veterans Council appointments on the consent agenda. Per the enclosed Veterans Council policy, certain veterans organizations including Amvets Post 70 and Disabled American Veterans may each nominate one candidate for appointment to the council and the Select Board will appoint the candidates nominated unless the Board "...specifically disapproves of a nominee for good cause."

Minutes:

There are seven executive session minutes for your review and approval. I recommend the executive session minutes not be released at this time.

//SB Meeting Report 11-07-2022

PUBLIC HEARINGS

1. Fee Hearing – Discuss and Vote to Establish and Promulgate Fees for 2023 **(15 minutes)**

**TOWN OF FALMOUTH
SELECT BOARD
PUBLIC HEARING NOTICE**

As provided under Chapter 119, of the Code of Falmouth, a Public Hearing will be held in the Select Board Meeting Room, Falmouth Town Hall on MONDAY, NOVEMBER 7, 2022 at 7:15 PM to establish and promulgate fees, which are EFFECTIVE AS OF JANUARY 1, 2023 to be charged by Town Departments and agencies, except as provided by M.G.L., School Department, Planning Board, Library, Town Clerk, Town Treasurer and Collector of Taxes.

The proposed changes in fees are listed below:

Nancy R. Taylor, Chair
SELECT BOARD

<u>DEPARTMENT</u>	<u>PRESENT FEE</u>	<u>PROPOSED FEE</u>
<u>BEACH DEPARTMENT</u>		
<u>SWIMMING LESSON FEES</u>		
First Child	\$30.00	\$5.00
Second & Third Child	\$20.00/each	\$5.00/ each
Family Cap	\$70.00	\$20.00
Lifeguard Training	\$225.00	\$100.00
<u>DEPARTMENT OF PUBLIC WORKS</u>		
<u>WATER DEPARTMENT</u>		
<u>TAPPING CHARGES</u>		
6" Tap	\$1,600.00	\$3,800.00
8" Tap	\$2,000.00	\$3,800.00
Fee per foot over 60'	\$15.00	Remove
Fee per foot over 40'	N/A	\$45.00
<u>SERVICE INSTALLATION FEES</u>		
1" Tap and Service	\$1,500.00	\$2,800.00
2" Tap and Service	\$1,850.00	\$3,200.00
<u>REPLACEMENT OF BROKEN CURB STOP</u>		
	None	\$2,000.00
<u>CLOSING/TRANSFER FEE</u>		
	\$10.00/reading	\$70.00/reading
<u>METER FEES</u>		
5/8" Meter	\$275.00	\$550.00
1" Meter	Cost of meter	\$720.00
Costs for other meters (1", 1.5", 2, 3", 4" or 6") will be determined at time of installation. Cost will be the cost of meter plus 15% for labor and administrative fees.		Remove
Costs for other meters (1.5", 2", 3", 4" or 6") will be determined at time of Installation. Cost will be cost of meter, meter valve, meter tail, plus \$65.00 for labor and administrative fees.		Add
<u>FIRE HYDRANT USE</u>		
Opening/Closing Hydrant (after hours)	\$25.00	\$150.00
<u>TURN-ONS / TURN-OFFS</u>		
Fee per service call: Regular working hours	\$25.00	\$75.00
Fee per service call: After hours	\$50.00	\$150.00
<u>CROSS CONNECTIONS</u>		
Backflow device test--cost of test plus \$5.00 administrative fee per test device		Remove
Backflow device test--cost of test plus \$10.00 administrative fee per test device		Add
Backflow device re-test	\$30.00	\$65.00
Device plan approval (per device, includes initial test)	\$90.00	\$125.00
Facility survey, per hour charge (1 hour minimum)	\$55.00/hr.	\$110.00/hr.

HEALTH DEPARTMENT

DISPOSAL WORKS CONSTRUCTION AND MAINTENANCE PERMITS

Commercial and multi-family septic systems >2000 gallons per day	\$350.00	Remove
Commercial and multi-family septic systems >2000 to 5000 gallons per day	N/A	\$350.00
Commercial and multi-family septic systems >5000 gallons per day	N/A	\$500.00

OTHER PERMITS

Campground Permit	\$50.00	\$100.00
Motel Permit	\$50.00	\$100.00
Rental Permit, 1 st unit	\$25.00	\$50.00
Rental Permit, each additional unit on the property	N/A	\$25.00/each
Rental Permit, affordable units (deed restricted)	\$25.00	\$0
Tobacco Permit	\$75.00	\$100.00

INSPECTIONAL SERVICES DEPARTMENT

Re-Inspection fees (Plumbing/Gas and Electrical)	\$50.00	\$100.00
Swimming Pools (in-ground and above ground)	\$100.00	Remove
Swimming Pools, Hot Tubs and Spas (in-ground and above ground)	N/A	\$100.00
<u>MISCELLANEOUS PLUMBING/GAS FEES:</u>		
Gas fired water heater replacement combination fee (residential)	\$40.00	Remove
Gas fired water heater replacement combination fee (commercial)	\$70.00	Remove

MARINE AND ENVIRONMENTAL SERVICES

HARBOR MASTER/WATERWAYS

SLIPS/WHARFAGE

<u>Transient Slips (per day rates):</u>		
(30 foot minimum applies in July & August)		Remove
(30 foot minimum applies in June, July & August)		Add
May	\$1.00/ft.	\$1.50/ft.
Seasonal Slips (April 15 th to Nov. 15 th)		
<u>Main Marina & Davis Floating Dock Section:</u>		
Resident	\$161.00/ft.	\$163.00/ft.
Non-Resident	\$184.00/ft.	\$186.00/ft.
<u>Charter Boat Section:</u>		
Resident	\$161.00/ft.	\$163.00/ft.
Non-Resident	\$184.00/ft.	\$186.00/ft.
<u>Green Pond:</u>		
Resident	\$147.00/ft.	\$149.00/ft.
Non-Resident	\$168.00/ft.	\$170.00/ft.

SELECT BOARD

One-Day Entertainment License (Monday-Saturday)	None	\$25.00/day
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SPECIAL EVENTS PERMIT FEES

Use of Town Beaches for Weddings/Ceremonies, Resident	\$75.00	Remove
Use of Town Beaches for Weddings/Ceremonies, Non-Resident	\$150.00	Remove
Use of Town Beach Parking Lots, Resident	\$75.00	Remove
Use of Town Beach Parking Lots, Non-Resident	\$150.00	Remove
Use of Town Beach and/or Parking Lot for Wedding/Ceremony, Resident	N/A	\$75.00
Use of Town Beach and/or Parking Lot for Wedding/Ceremony, Non-Resident	N/A	\$150.00

Falmouth Enterprise: Friday, October 28, 2022

Account #: 2056

Diane Davidson

From: Maggie Clayton
Sent: Monday, October 17, 2022 10:58 AM
To: Diane Davidson
Cc: Brooke McMillan
Subject: Re: Fees for 2023

Hi, Diane:

I understand if missing the deadline means these recommendations from the Dept. don't get moved forward...

The Beach Dept. requests no changes in sticker or daily parking permit ticket prices for 2023

We would like the Swim Lessons fees to become part of the official fee schedule, and adjust our current practice

- in 2022 (and recent years), \$30 for 1st child, \$20 for 2nd and 3rd child, family cap of \$70 & Lifeguard Training \$225
- in 2023, \$5/child, family cap of \$20 & Lifeguard Training \$100

We see this offering as a responsibility of the Town to educate those who live near the water, and as a feeder program for our hiring process, of lifeguards especially. The program's cost to run is the increased pay of the swim instructors, pool rental & American Red Cross materials for lifeguard certification; as much of this is already allotted for in the operating budget, we don't feel the need to make a profit from the program.

Best,

Maggie Clayton
Beach Superintendent
Town of Falmouth
(774)392-6900



TOWN OF FALMOUTH

Utilities Division
416 Gifford Street
Falmouth, MA 02540
508-457-2543

October 19, 2022

To: Peter McConarty, DPW Director

From: Stephen Rafferty, Water Department Project Manager

Re: Current Water Department Fee Structure and proposed fees as of 2022.

CC: Michael Reghitto, Interim Water Superintendent

I have reviewed the 2022 cost to the water department to perform services for the private sector and have compared that cost to the current fee structure for those services. Accompanying this memo you will find a workbook that documents the basis for my assessment of current cost of services. You will also find a draft word document with proposed revisions to the current fee schedule incorporating my recommendations. Both of these documents are also being transmitted electronically for ease of editing as final fees are established.

My evaluation is that current fees only cover a portion of the actual cost of service. This is due to the time that has elapsed since the last comprehensive evaluation of the fees. Going back to my tenure as Water Superintendent the fees have not be evaluated for at least 8 years. During that time the cost of labor, the cost of materials, and the hourly rates for equipment have increased substantially.

One new fee has been added. That is the cost to repair/replace a broken curb stop. Only Town of Falmouth Water Department Staff are to operate any portion of the system. However, many seasonal homeowners contract with local firms to winterize their property and these firms often operate the curb stop to the home. Annually, we get a call that a curb stop is "broken". Staff has to go out, excavate and replace the curb stop. The new fee is to recover our costs and would be assessed against the owner of record.



TOWN OF FALMOUTH

Utilities Division
416 Gifford Street
Falmouth, MA 02540
508-457-2543

The following table summarizes for the major elements the type of fee, the current fee, and the proposed fee. There are several unit costs in the fee table and those have also been adjusted and are included in the draft word document.

Fee description	Current Fee	Proposed Fee	Comment
Tapping Charge	\$2,000.00	\$3,800.00	Price is same for 8" and 6" tap
1" service tap and line	\$1,500.00	\$2,800.00	
2" service tap and line	\$1850.00	\$3,200.00	
5/8" meter fee	\$275.00	\$550.00	
1" meter fee	Cost of meter	\$720.00	
Turn on – off regular hours	\$25.00	\$70.00	
Turn on – off OT hours	\$50.00	\$150.00	
Closing Transfer Fee	\$10.00	\$70.00	Same effort as turn on daytime
Replace broken curb stop	0	\$2,000.00	

The costs for materials are based on actual material quotes from October of 2022. Labor rates are current staff rates as of October 2022. It is noted that there will be an increase in hourly rates in January of 2023. Costs do not reflect those rates. Equipment costs rates are based on the current MassDOT hourly rates for equipment.

Currently there are two different fees for a 6 inch or 8 inch tap. The permittee is required to furnish the tapping sleeve and valve for the work. The only difference in level of effort is the cost of 6" and 8" pipe. We seldom do a 6 inch tap so I have only calculated the cost for an 8 inch tap.

Please contact me if you want additional input on the fee structure.

10/24/2022 8:56

COST TO INSTALL A 2 INCH TYPICAL SERVICE

50%
Indirect

Task/individual	Direct Hourly Rate	Overtime Hourly Rate	50% Indirect Cost hourly Rate	Total billing rate	hours	extension
Labor Cost - installation						
Utility Supervisor	\$ 53.18		\$ 26.59	\$ 79.77	1.5	\$ 119.66
Crew Leader	\$ 33.41		\$ 16.71	\$ 50.12	4	\$ 200.46
Utility Worker	\$ 29.20		\$ 14.60	\$ 43.80	4	\$ 175.20
Utility Worker	\$ 29.20		\$ 14.60	\$ 43.80	4	\$ 175.20
Labor Cost - pave & Loam and Seed						
Utility Worker	\$ 29.20		\$ 14.60	\$ 43.80	1.5	\$ 65.70
Utility Worker	\$ 29.20		\$ 14.60	\$ 43.80	1.5	\$ 65.70
Labor Cost - review application/enter to system						
Administrative Staff	\$ 29.20		\$ 14.60	\$ 43.80	1	\$ 43.80

Equipment- installation

Utility Truck	28wmrt	\$ 85.00	4	\$ 340.00
CAT Back hoe	MassDOT	\$ 60.00	4	\$ 240.00
10 Wheel Dump	MassDOT	\$ 92.11	4	\$ 368.44

Equipment-pave & Loam and Seed

Utility Truck	28wmrt	\$ 85.00	1.5	\$ 127.50
10 Wheel Dump	MassDOT	\$ 92.11	1.5	\$ 138.17

Material

Material	Units	unit cost	units	
2 inch corp stop	EACH	\$92.34	1	\$ 92.34
2 inch curb stop	EACH	\$506.12	1	\$ 506.12
2" Pipe saddle	EACH	\$138.00	1	\$ 138.00
Erie curb box w/cover	EACH	\$40.12	1	\$ 40.12
Erie rod	EACH	\$27.69	1	\$ 27.69
2" PE tubing	LF	1.3075	30	\$ 39.23
Loam and Seed	Each	\$ 75.00	1	\$ 75.00
3" pave - 4'x20' =2.5 tons	TON	\$ 83.00	2.5	\$ 207.50

Cost to install new service

Total	\$ 3,185.82
Proposed fee	\$3,200.00
Current fee	\$1,850.00
	(\$1,350.00)

1" Meter With 2" Service

Labor Cost - installation

Utility Worker	\$ 29.20	\$ 14.60	\$ 43.80	1.5	\$ 65.70
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Material

Material	Units	unit cost	units	
1" Meter (10/22 cost)	EACH	\$452.50	1	\$ 452.50
1" Meter Valve	EACH	\$155.00	1	\$ 155.00
1" Meter Tail	EACH	\$30.00	1	\$ 30.00
			Total	\$ 703.20

Proposed fee	\$720.00
Current fee	\$275.00
	(\$445.00)



Falmouth Health Department

Falmouth Town Hall • 59 Town Hall Square • Falmouth, Massachusetts 02540
(508) 495-7485 • health@falmouthma.gov

2023 Health Department Fees Changes:

Septic system Commercial Installations:

Currently

Commercial and multi-family septic systems <2000 gallons per day	\$200.00
Commercial and multi-family septic systems >2000 gallons per day	\$350.00

Proposing

>2000 to 5000 gallons per day	\$350.00
NEW -Commercial and multi-family septic systems > 5000 gallons per day	\$500.00

The new category for over 5000 GPD is related to the time being spent on the more complicated and intricate designs and multiple inspections required for larger systems. A significant amount of time gets spent as the systems become more complicated as the system gets larger. Recent examples of large systems are the Tides Motels, Autocamp and 511 Brick Kiln Road septic designs.

Other towns:

- Mashpee – \$100 for up to 1500 gallons per day (GPD) and \$25.00 per 1000 GPD above 1500 GPD
- Bourne - \$100 - \$250 based on type of septic system (such as pump chambers and I/A technology is higher than gravity systems)
- Barnstable – review fees \$50-\$60 and hour then permit fees vary \$150 - \$225.
- Sandwich – all septic fees \$100

Tobacco:

Currently \$75

Proposing \$100

The Health Department works with Barnstable County regional tobacco control in regulating tobacco sales. The fee increase stems from that continued work and the increased time spent staying on top of the ever changing product lines that often make determining violations more challenging esp. when determining a product is a violation of the flavor ban.

Other towns:

- Bourne - \$150
- Mashpee - \$50
- Barnstable - \$85
- Sandwich - \$100
- Yarmouth - \$110



Falmouth Health Department

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Hotels and Campgrounds:

Currently \$50

Proposing \$100

Health routinely receives hotel complaints and the fee increase is to offset the time spent inspecting and following up on complaints.

Other towns:

- Bourne - \$100
- Mashpee - campgrounds \$50/ Hotels and other lodging house \$200
- Barnstable – hotels \$50/ camps \$75
- Sandwich – camps and hotels \$75
- Yarmouth - \$55 Lodge/Inn and \$110 Motel

Rental Registration:

Currently \$25

Proposing \$50 for the first unit and \$25 for each additional unit on the property and \$0 for affordable

Permit fee has been stagnant for many years as the fee was set in a bylaw from 1975. In 2013 (ATM 48-2013, Art 28), the set fee was repealed. The fee has not changed since that bylaw modification. Health spends a lot of time performing housing inspection at the request of tenants and fee collected helps support it. Additionally, as rents continue to increase and the inventory shifts towards short-terms rentals there is an increase in sub-standard dwellings being utilized putting more burden on the Health Department to ensure compliance with the state Housing Code.

Other towns:

- Barnstable \$90 for the first unit and \$25 for each
- Mashpee – Short term rental certificate \$25/ inspection \$75 per unit
- Sandwich - nothing
- Bourne – housing voucher inspection fee \$75 (most likely when HUD or some similar agency requires the owner to provide an inspection) per unit
- Yarmouth – \$80 per unit
- Dennis – registration \$50/ reinspection \$30 per unit



Town of Falmouth

Inspectional Services

59 Town Hall Square Falmouth, Massachusetts 02540
(508)-495-7470 Fax (508) 548-4290

Gary Street, C.B.O.
Building Commissioner

2023 Building Department Fee Changes

	<u>Current Fee</u>	<u>Proposed Fee</u>
Re-Inspection fees Building, Plumbing/Gas and Electrical	\$50.00	\$100.00
Swimming Pools (in-ground and above ground)	\$100.00	Remove
Swimming Pools, Hot Tubs and Spas (in-ground and above ground)	N/A	\$100.00
Gas fired water heater replacement combination fee (residential)	\$40.00	Remove
Gas fired water heater replacement combination fee (commercial)	\$70.00	Remove

Inspectional Services is proposing to increase the reinspection fees for Building, Plumbing, Gas and Electrical due to the increase in time and labor.

Combination fees for residential and commercial gas permits do not apply to most permits and causes confusion and delays in the permitting process.

Diane Davidson

From: Gregg Fraser
Sent: Wednesday, October 26, 2022 10:32 AM
To: Diane Davidson
Cc: Gregg Fraser
Subject: RE: MES proposed 2023 fees.docx

Hello Diane,

The Waterways Committee reviewed the commercial rates for the harbor which are in the \$225/ft range and discussed the anticipated operating costs associated with gas and electrical rates. Based on the issues they elected to recommend a small increase in the seasonal rates across the board.

The May transient fee increase is based not having a slip minimum length charge. (30' minimum applies only in June, July and August) Some small boats were renting at rates much less than mooring rentals. This will increase the daily rental fee off season in May to less than \$10.00.

I will plan on attending the meeting to answer any questions the board may have.

Thank you,
Gregg

From: Diane Davidson <diane.davidson@falmouthma.gov>
Sent: Wednesday, October 26, 2022 10:07 AM
To: Gregg Fraser <gregg.fraser@falmouthma.gov>
Cc: Paula Cushman <paula.cushman@falmouthma.gov>
Subject: FW: MES proposed 2023 fees.docx

Hi Gregg,

May we request a memo with an explanation as to why the Waterways committee is recommending the following fee changes for 2023? We will include this in the Select Board packets in advance of the fee hearing on Monday, November 7.

Thank you,

Diane

From: Gregg Fraser
Sent: Friday, September 9, 2022 7:56 AM
To: Diane Davidson <diane.davidson@falmouthma.gov>
Cc: Gregg Fraser <gregg.fraser@falmouthma.gov>; Paula Cushman <paula.cushman@falmouthma.gov>
Subject: MES proposed 2023 fees.docx

Hello Diane,

We are a little early this year, but the Waterways already voted to recommend the following fee changes for 2023: (in red on attached sheet)

Transient Slips/Wharfage

30' minimum fee, add **June** with July and August

May Current \$ 1.00/ft New \$1.50/ft

Seasonal Slips/Wharfage (all increased by \$2.00 per foot)

Main Marina & Davis & Charter Sections

Resident	Current \$161.00	New \$163.00
Non Resident	\$184.00	\$186.00

Green Pond		
Resident	Current \$147.00	New \$149.00
Non Resident	\$168.00	\$170.00

Thank you,
Gre3gg

**MARINE AND ENVIRONMENTAL SERVICES DEPARTMENT
ANIMAL CONTROL**

Pick-up Fee	\$25.00
Pick-up Fee, subsequent time in same calendar year	\$35.00
Care and Custody Fee	\$15.00
Care and Custody Fee, subsequent time in same calendar year	\$25.00
No. I.D. Tag or Microchip Identifying Owner	\$5.00
Dead Animal Disposal, Up to 49 Lbs.	\$25.00
Dead Animal Disposal, 50 Lbs. and Over	\$50.00

**MARINE AND ENVIRONMENTAL SERVICES DEPARTMENT
HARBOR MASTER / WATERWAYS**

MOORINGS

Private	
14' and under	\$105.00
15' to 19'	\$110.00
20' to 28'	\$115.00
29' and over	\$45.00 + 2.50/ft
Commercial Yacht Club	\$140.00
Commercial / Boatyard	\$225.00
Demand / Late Fee	\$50.00
Mooring Tackle Removal Fee	\$100.00
Permit Reinstatement	\$50.00
Wait list application fee*	\$10.00
Wait list renewal fee, deadline March 15 th *	\$10.00
(*See chapter 269-3A (3) & (6))	
Mooring Permit Transfer/Change Fee	\$100.00
Dingy Rack	\$25.00

SLIPS / WHARFAGE

Transient Slips (per day rates):

(June-August: Nights 1-14 regular rate, 15-22 double rate, 23 plus triple rate, Max 30 nights)

(30 foot minimum applies in **June**, July & August)

April	\$1.00/ft.
May	\$1.50/ft
June	\$2.00/ft.
July & August	
All except Tide's Bulkhead	\$3.00/ft.
Tide's Bulkhead	\$2.25/ft
September	\$1.50/ft.
October & November	\$1.00/ft.
Transient processing transaction fee	\$3.50/each

Power Charges (for transient)	
30 amp cord/110V	\$20.00/day

50 amp cord/220V	\$40.00/day
100 amp cord	\$90.00/day

Seasonal Slips (April 15th to Nov. 15th)

Wait list application fee*	\$10.00
Wait list renewal fee, deadline March 15 th *	\$10.00

(*See chapter 231-6)

Main Marina & Davis Floating Dock Section:

Resident	\$163.00/ft.
Non-Resident	\$186.00/ft

Charter Boat Section:

Resident	\$163.00/ft.
Non-Resident	\$186.00/ft.

Green Pond:

Resident	\$149.00/ft.
Non-Resident	\$170.00/ft.

(No parking space provided)

Power Charges (Seasonal Slips All Areas):

30 amp/110V	\$415.00 for the season
50 amp/220V	\$950.00 for the season
100 amp per cord	\$1,950.00/season

Simpson's Landing (Loading and Unloading Area Only):

Contract rate (yearly)	\$1,000.00
Fueling Truck (yearly)	\$2,500.00

Tide's Bulkhead (Loading and Unloading Area):

Contract rate (yearly)	\$1,000.00
Fueling Truck (yearly)	\$2,500.00
Fueling Vessel (per event)	\$100.00
Transient Commercial Fishing (monthly)	\$250.00

*No passengers for hire

Eel Pond Dock Outhauls:

Contract April 15 th to Nov. 15 th	\$300.00
--	----------

Great Harbor Woods Hole Commercial Fishing Dock (Year Round):

Transient Dockage / per night	\$.50/ft.–min. \$30.00/night
Annual rate for self propelled	\$20.00 / ft. – Resident
Annual rate for self propelled	\$40.00/ft. – Non-Resident
Loading and Unloading	\$600.00/month or \$4,500.00/yr.
Per load over one ton	\$100.00/load

3 hour tie-up (crew change, loads under one ton)
*No passengers for hire or sailboats.

No Charge

**MARINE AND ENVIRONMENTAL SERVICES DEPARTMENT
SHELLFISHING LICENSES**

Commercial	\$300.00
Non-Resident Recreational	\$100.00
Resident/Tax Payer Recreational	\$30.00
Senior Resident	\$6.00
Replacement of Lost Permits	\$5.00

**MARINE AND ENVIRONMENTAL SERVICES DEPARTMENT
AQUACULTURE RENTAL FEES**

<u>Rented Equipment/Supplies</u>	<u>Unit</u>	<u>Fee per 1,000 Oysters Landed</u>
Upweller	Upweller	\$14.00
Field Gear	Site	\$8.00
Overwintering Facility	Tote	\$8.00
Work Float	8'x20' Float	\$9.00
Gear Storage	2,000 sq. ft. space	\$3.00
Floating Bags	Bag	\$28.00

Approved by Select Board vote on 11/22/2021



TOWN OF FALMOUTH
Office of the Town Manager & Select Board
59 Town Hall Square, Falmouth, Massachusetts 02540
Telephone (508) 495-7320 · www.falmouthma.gov

MEMORANDUM

TO: Select Board
FROM: Diane Davidson, Office Manager/Licensing
DATE: October 26, 2022
SUBJECT: Request for Fee Changes - Select Board Licensing and Special Events

1. One-day entertainment license (Monday-Saturday):

Presently, there is only an annual entertainment license type at \$100.00 per year.

This request is to create a one-day entertainment license type at \$25.00 per event.

Occasionally, a restaurant or an individual will request a one-day license only for a single event.

2. Use of Town beaches for weddings/ceremonies and Use of Town beach parking lots:

Presently we charge a fee for use of the beach and a fee for use of the parking lot.

Use of Town Beaches for Weddings/Ceremonies, Resident:	\$75.00
Use of Town Beaches for Weddings/Ceremonies, Non-Resident:	\$150.00
Use of Town Beach Parking Lots, Resident:	\$75.00
Use of Town Beach Parking Lots, Non-Resident:	\$150.00

Since parking is on a first-come first-serve basis, and cannot be guaranteed, the separate fees for use of the parking lot and the separate fees for use of the beach were eliminated.

One combined, reduced fee for use of the beach and/or parking lot is requested.

Use of Town Beach and/or Parking Lot for Wedding/Ceremony, Resident:	\$75.00
Use of Town Beach and/or Parking Lot for Wedding/Ceremony, Non-Resident:	\$150.00

3. We are also requesting a change of wording, under Special Events Permit Fees, Road Races, to reflect current practice. Not only do we calculate the permit fee for road races by the distance of the race and the number of participants, but we also calculate the permit fee for Runs, Walks and Bike events using the same formula.

Change from "Road Races (by distance)"
Change to "Road Races, Run, Walk, Bike (by distance)"

Thank you.

TOWN OF FALMOUTH
Proposes Select Board Fee Changes for 2023

SELECT BOARD

ALCOHOL LICENSES

Year Round All Alcohol

Common Victualler, Inn Holder	\$1,750.00
Club	\$1,350.00
Veterans Clubs	\$675.00
Retail Package Goods Store	\$1,850.00
Druggist	\$525.00
Filing Fee	\$50.00

Year Round Wine and Malt

Common Victualler, Inn Holder	\$1,200.00
Retail Package Goods Store	\$1,150.00
Club	\$425.00
On-Premise Farmer-Brewery (49 seats or fewer)	\$400.00
(50 seats or more)	\$800.00
On-Premise Farmer-Winery (49 seats or fewer)	\$400.00
(50 seats or more)	\$800.00
Filing Fee	\$50.00

Seasonal All Alcohol

Common Victualler, Inn Holder:	
Until November 30 th	\$1,650.00
Until January 15 th	\$1,700.00
Club	\$1,275.00
Seasonal Wine Only	\$825.00
Filing Fee	\$50.00

One-Day Liquor License \$25.00/Day

Agricultural Event Liquor License for Farmer/Winery \$50.00

ENTERTAINMENT LICENSES

Non-Motorized Conveyance	\$25.00
Fortune Tellers	\$50.00
Juke Box	\$75.00
One Entertainer	\$75.00
Dancing, Band, Floor Shows, Theater, Movies	\$100.00
Movie Theater License	\$500.00
Amusement Devices (Video Games) PER MACHINE	\$100.00
Amusement Devices Seasonal (Video Games) PER MACHINE	\$75.00
Bowling Alleys 1 st Alley	\$30.00
Per Additional Alley	\$15.00
Pool Table	\$100.00

Add: One-Day Entertainment License (Monday – Saturday) \$25.00/day

SUNDAY ENTERTAINMENT

By Week	
Straight Sundays	\$5.00
Saturday Night – 1:00 a.m. – Plus Sunday	\$10.00
By Year	
Straight Sundays	\$75.00
Saturday Night – 1:00 a.m. – Plus Sunday	\$150.00

AUTO DEALERSHIP LICENSES

Class I	\$100.00
Class II	\$75.00
Class III	\$50.00
Junk Yard	\$25.00

VEHICLE FOR HIRE LICENSES

Taxi, Livery, Limousine	\$50.00
-------------------------	---------

OTHER LICENSES

Common Victualler	\$60.00
Lodging House License	\$35.00
Inn Holder	\$60.00
Second-Hand Dealer	\$25.00
Collection Container Permit	\$75.00
Vending Machine (Printed Matter, Per Machine)	\$25.00
Yard Sale Permit	\$10.00

FILING FEES

Wetlands, Aquaculture, Fuel Storage	\$25.00
All other licenses and permits (except as noted above)	\$10.00

ADVERTISING FEES

Wetlands, Liquor Licenses	\$50.00
Aquaculture, Fuel Storage, Shade Tree, Building Code Board of Appeals	\$35.00

FINGERPRINT PROCESSING FEE (Town):

Manager of Alcoholic Beverage License	\$30.00
Owner or Operator of Public Conveyance	\$30.00
Dealer of Second-Hand Articles	\$30.00

SPECIAL EVENTS PERMIT FEES

Events of up to 49 people	\$25.00/day, including set-up days
Events of 50 or more people	\$200.00/day, including set-up days

Add: Road Races, Run, Walk, Bike (by distance):

Less than 5K:	Up to 49 people	\$50/day
	50 – 300 people	\$150/day
	300+ people	\$250/day
5K up to 10K:	Up to 49 people	\$150/day
	50 – 300 people	\$200/day
	300+ people	\$350/day

10K – Marathon	Up to 49 people	\$200/day
	50 – 300 people	\$250/day
	300+ people	\$450/day

Add: Use of Town Beaches and/or Parking Lots for Weddings/Ceremonies, Resident \$75.00

Add: Use of Town Beaches and/or Parking Lots for Weddings/Ceremonies, Non-Resident \$150.00

Delete:

~~Use of Town Beach Parking Lots, Resident \$75.00~~

~~Use of Town Beach Parking Lots, Non-Resident \$150.00~~

UTILITIES LICENSE AGREEMENTS

\$200.00 plus the cost of recording at the Barnstable Registry of Deeds (BCRD)

PUBLIC HEARINGS

2. Flow Neutral Bylaw – Evaluation of Request for Variance – New Creek LLC – 13 Davis Straits, Falmouth (parcel 39 15 049D 004), continued from August 22, 2022, September 26, 2022, October 24, 2022 **(15 minutes)**



TOWN OF FALMOUTH

Office of the Town Manager & Select Board

59 Town Hall Square, Falmouth, Massachusetts 02540

Telephone (508) 495-7320

Fax (508) 457-2573

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Select Board of the Town of Falmouth will hold a public hearing on Monday, August 22, 2022 at 7:30 p.m. in the Select Board Meeting Room, Town Hall, Falmouth, MA on the application of New Creek LLC for a wastewater flow variance under Chapter 180, Section 56 of the Code of Falmouth, the so-called Flow Neutral By-law, for mixed residential commercial overlay district development with affordable rental housing at 13 Davis Straits in said Falmouth (parcel 39 15 049D 004).

Per Order of the Select Board

Publication date: Friday, August 5, 2022, Falmouth Enterprise

AMENT KLAUER LLP

Attorneys at Law
39 Town Hall Square
Falmouth, MA 02540

Robert H. Ament, Esq.
Kevin P. Klauer II, Esq.
Matthew M. Terry, Esq.

Telephone (508) 540-6555
Fax (508) 457-1293
Website: www.amentklauer.com

August 31, 2022

Maura O'Keefe, Town Counsel
Brian Tobin, Assistant Town Counsel
Office of the Falmouth Town Counsel
157 Locust Stret
Falmouth, MA 02540

Re: Suggested Motion for Select Board variance for New Creek LLC, 13 Davis Straits, under Flow Neutral Bylaw

Dear Maura and Brian:

On August 22 the Select Bord continued its hearing on the request of my client New Creek LLC for a variance under Code Sections 180-55 and 180-56 to allow increased redevelopment at Falmouth Plaza. New Creek proposes to build an apartment building under the Mixed Residential Commercial Overlay District, as well as a bank on Davis Straits. A continuance for six months was suggested by Wastewater Superintendent Amy Lowell in her memo to the Select Board on August 17, 2022, to give the Town time to evaluate the capacity of the Robbins Road lift station to receive and forward the increased volume of sewer flow from the redevelopment of Falmouth Plaza and from other properties. However, in order to move the MRCOD project along, I asked the Select Board to consider granting the requested variance, but conditioned on the lift station issue being evaluated and addressed before a Sewer Connection Permit would issue. The Select Board then continued the matter until September 26, 2022, which would allow the Select Board to receive your advice. I believe the intent was that a draft variance decision might be prepared that, if adopted by the Select Board, would allocate increased sewer flow to the New Creek project, but on appropriate protective conditions due to the lift station issue.

I've attached a copy of the variance request letter I sent Peter Johnson-Staub on July 18, 2022, and Ms. Lowell's memo of August 17, 2022.

Attached is a suggested motion for your consideration. I look forward to hearing from you regarding this mater.

Very truly yours,

Robert H. Ament

cc. Donny Lo, Kimco Realty
Amy Lowell, Wastewater Superintendent
Peter Johnson-Staub, Acting Town Manager

**Proposed motion for Select Board grant of variance under Falmouth Town
Code Sections 180-55 and 180-56 (“Flow Neutral Bylaw”)**

1. WHEREAS, New Creek LLC proposes to construct an apartment building at 13 Davis Straits (“the Property”) with up to 156 rental apartments (“the Apartment Building”) and a bank of about 3,432 square feet (collectively “the Project”);
2. WHEREAS, (a) the apartments are proposed to be developed in accord with the Mixed Residential Commercial Overlay District Zoning Bylaw adopted by Falmouth Town Meeting in November 2021, Town Code Section 240-256 et sec., and (b) such housing will include a minimum of 25% affordable rental units; and (c) the Project will be redevelopment of an existing commercial parcel almost fully covered by structure and pavement, and (d) the Project is located in an appropriate location in terms of availability of public transportation, shopping, job opportunities and recreational facilities that tenants may utilize;
3. WHEREAS, the Property is served by the Town of Falmouth Municipal Sewer System (“the Sewer System”) and effluent from the Property passes through a lift station in Robbins Road (“the lift station”) on its way to the Sewer System’s treatment and discharge facility in West Falmouth (“the treatment facility”);
4. WHEREAS, while the capacity of the treatment facility has been reported by the Wastewater Superintendent to be sufficient to accept the Project’s wastewater; the lift station may not have the capacity to receive and send onto the treatment facility the proposed increase in wastewater from the Property that will result from occupancy of the apartment building; and
5. WHEREAS, New Creek agrees with the Town that the Project can be constructed and occupied only if the capacity of the lift station is determined by the Town to be adequate to receive and forward the Project’s wastewater flow, or if the lift station’s capacity is expanded to be sufficient to receive such flow in the opinion of the Wastewater Superintendent, or if such flow can be directed into and through the Sewer System other than through the lift station, by a method satisfactory to the Wastewater Superintendent.

NOW, THEREFORE the Select Board grants to New Creek LLC a variance pursuant to Town Code Sections 180-55 and 180-56 to allow an increase in sewer flow for premises located at 13 Davis Straits, Falmouth, MA, to serve the following redevelopment at 13 Davis Straits, Falmouth, MA:

- Up to 156 apartments of which 25% will be affordable as defined in the Zoning Bylaw, with up to 250 bedrooms, for which Title 5 design flow is 27,500 gallons per day
- A bank of about 3,432 square feet, for which Title 5 design flow would be about 258 gallons per day

As construction of the apartments will replace restaurant, retail and salon uses which have design flow of 7,936 gallons per day, the net increase in flow hereby allowed by this variance, is 19,822 gallons per day.

APPROVED with the following conditions:

1. A Sewer Connection Permit will be issued by the Wastewater Superintendent only when she has determined that the capacity of the lift station is adequate to receive and forward the Project's wastewater flow, or if the lift station's capacity is expanded to be sufficient to receive such flow, or if such flow can be directed into and through the Sewer System other than through the lift station, by a method satisfactory to the Wastewater Superintendent.
2. The Town shall not be obligated to design, allocate funds for nor construct expansion of the lift station or any other improvements deemed by the Town to be required and sufficient for the connection of the Project to the Sewer System, on a schedule that would coincide with New Creek's preferred time frame for the Project.
3. The Property Owner will need to apply to the Wastewater Division for a sewer connection modification permit, and the application will need to include engineered plans for revision to the existing sewer connection and/or revisions to the Sewer System for the Project, such plans to be satisfactory in all respects to the Wastewater Superintendent.
4. Nothing set forth herein shall preclude connection of the proposed bank to the Sewer System, if such development precedes construction of the proposed apartments, without complying with the foregoing conditions, as the increase in flow associated only with the bank would be allowed under Section 180-55C.(1)(a) without requiring a variance.

Continued to 10/24/22

PUBLIC HEARINGS

1. Flow Neutral Bylaw – Evaluation of Request for Variance – New Creek LLC – 13 Davis Straits, Falmouth (parcel 39 15 049D 004), continued from August 22, 2022 (15 minutes)

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Select Board of the Town of Falmouth will hold a public hearing on Monday, August 22, 2022 at 7:30 p.m. in the Select Board Meeting Room, Town Hall, Falmouth, MA on the application of New Creek LLC for a wastewater flow variance under Chapter 180, Section 56 of the Code of Falmouth, the so-called Flow Neutral By-law, for mixed residential commercial overlay district development with affordable rental housing at 13 Davis Straits in said Falmouth (parcel 39 15 049D 004).

Per Order of the Select Board

Publication date: Friday, August 5, 2022, Falmouth Enterprise

Account #: 2056

Diane Davidson

From: Peter Johnson-Staub
Sent: Thursday, September 15, 2022 3:59 PM
To: Diane Davidson
Cc: Phyllis Downey
Subject: FW: [EXTERNAL] - Flow Neutral Bylaw Variance for 13 Davis Straits
Attachments: Town Counsel 8 31 22.doc; Select Board Variance RHA draft 8 30 22.docx

Diane,
Please include these in the Board packet for Sept 26th.

Thanks,
Peter

Peter Johnson-Staub
Acting Town Manager
Town of Falmouth, MA
O: 508-495-7320

www.falmouthma.gov

Be advised that most emails to, and from, municipal offices and officials are public record. Confidentiality should not be expected.

From: Bob Ament <bob@amentklauer.com>
Sent: Wednesday, August 31, 2022 1:43 PM
To: Maura O'Keefe <maura.okeefe@falmouthma.gov>; Brian Tobin <brian.tobin@falmouthma.gov>
Cc: Amy Lowell <amy.lowell@falmouthma.gov>; Peter Johnson-Staub <peter.johnson-staub@falmouthma.gov>
Subject: [EXTERNAL] - Flow Neutral Bylaw Variance for 13 Davis Straits

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please see attached correspondence and draft motion. Thanks.

Bob Ament

Robert H. Ament
Ament Klauer LLP
39 Town Hall Square
Falmouth, MA 02540

Phone: (508) 540-6555
Fax: (508) 457-1293
Email: bob@amentklauer.com
Website: www.amentklauer.com

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PUBLIC HEARINGS

2. Flow Neutral Bylaw – Evaluation of Request for Variance – New Creek LLC – 13 Davis Straits, Falmouth (parcel 39 15 049D 004) (15 minutes)

Documents from
August 22, 2022
packet

§ 180-56 Variances in sewer service areas.

A.

The Board of Selectmen, after a public hearing of which notice has been given by publication 1) in a newspaper of general circulation and 2) posting with the Town Clerk and on the Town website for a period of no less than fourteen (14) days prior to the date of hearing, may grant a variance, provided both Subsection **A(1)** and **(2)** below are satisfied:

(1)

Sufficient capacity exists in the treatment facility, as determined by the Wastewater Superintendent. If sufficient capacity does not exist then no variance shall issue.

(2)

Should the Wastewater Superintendent determine sufficient capacity exists the applicant must then demonstrate, through a positive referral from the Board of Health, that a septic system for the total number of bedrooms or nonresidential flow requested, meeting the provisions of 310 CMR 15.000 (Title 5) without significant variances, can be sited on the parcel. If the Board of Health does not make a referral within 45 days of receipt of the request, it shall be considered a positive referral.

B.

The Board of Selectmen may, at its sole and absolute discretion, issue a variance that in its judgment could be granted without substantially derogating from the intent or purpose of this bylaw should the applicant fail to satisfy criteria in § **180-56A(2)** above.

FLOW NEUTRAL BYLAW
GUIDELINES TO SELECT BOARD FOR WAIVER/VARIANCE CONSIDERATION
Presented to Select Board for Discussion Purposes 6-4-18

Suggested Process:

1. Select Board receives confirmation from Board of Health that proposed development can be accommodated with an on-site Title 5 system as well as confirmation from wastewater superintendent that sufficient capacity exists in the treatment facility.
2. Select Board holds Public Hearing on proposed development.
3. Priority areas for waiver/variance consideration:
 - Economic Development. Wastewater connections that will provide significant year-round economic benefit to the Falmouth community. This should be documented with supporting data on employment, revenue generated, taxes paid, etc.
 - Affordable Housing. Wastewater connections that address affordable housing goals as described in the Local Comprehensive Plan and Housing Production Plan. In the case of a project subject to the MGL Ch. 40B comprehensive permit process, the Zoning Board of Appeals assumes the power of the Select Board and grants or denies the waiver/variance request.
 - Mixed Use Development in Business Redevelopment Zone. Wastewater connections which include mixed commercial use on the lower level with residential units above. This is consistent with the zoning bylaw and the Local Comprehensive Plan envisioned by the Planning Board for the eastern portion of the Main Street corridor.
 - Municipal Use.

Note: Process above adopted by Falmouth Select Board on 6-4-18.

AMENT KLAUER LLP

Attorneys at Law
39 Town Hall Square
Falmouth, MA 02540

Robert H. Ament, Esq.
Kevin P. Klauer II, Esq.
Matthew M. Terry, Esq.



Telephone (508) 540-6555
Fax (508) 457-1293
Website: www.amentklauer.com

July 18, 2022

Peter Johnson-Staub, Acting Town Manager
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540

Re: Application under Flow Neutral Bylaw for Mixed Residential Commercial Overlay District development with affordable rental housing at 13 Davis Straits Assessors Parcel 39 15 049D 004

Dear Peter:

Our client, New Creek LLC, an ownership entity of Kimco Realty, a publicly traded real estate investment trust, owns the 9.267± acre property on Davis Straits known as Falmouth Plaza. The street addresses of New Creek's property extend from 5 Davis Straits to 35 Davis Straits, with the exclusion of 11 Davis Straits. Attached is a copy of the Town GIS map showing the New Creek property.

Falmouth Plaza is in the Business 2 Zoning District and the Mixed Residential Commercial Overlay District adopted by Town Meeting in November 2021. New Creek proposes to redevelop a portion of the property pursuant to the MRCOD bylaw. The former Friendly's restaurant building (5 Davis Straits), Staples (7 Davis Straits), and three additional storefronts will be removed, making room for a new multi-family dwelling, designed in compliance with the MRCOD bylaw, with up to 156 rental apartments having a total of up to 250 bedrooms. One-fourth of the apartments (39 of 156 apartments) will be affordable units, and all of the apartments will be added to the Town's Subsidized Housing Inventory.

In addition to the proposed housing, New Creek is considering constructing a small commercial building along Davis Straits, for a bank or financial services. That building, with a footprint of about 3,000 square feet, would be on some of the current excess parking along Davis Straits. It would also be designed in accordance with the MRCOD bylaw, as applicable.

Falmouth Plaza is connected to the municipal sewer. The Title 5 design flow for an apartment building with 250 bedrooms is 27,500 GPD. The design flow for the proposed bank building would be about 250 GPD. Together the design flow from the two proposed buildings is up to 27,750 GPD.

The Title 5 design flow from the structures to be removed is calculated as follows:

• Restaurant, 139 seats:	4,865 GPD
• Retail (Staples and Olympia Sports), 31,425 s.f.:	1,571 GPD
• Barber shop and nail salon (15 chairs):	<u>1,500 GPD</u>
Total Existing Flow from Structures to be Removed	7,936 GPD

Falmouth Plaza is connected to the municipal sewer, of course, and the proposed uses must also utilize the sewer. The increased design flow associated with the proposed redevelopment will be up to 19,814 GPD.¹ That increase will require a variance from the Select Board under the Flow Neutral Bylaw, Falmouth Code Section 180-51 et sec.² However, under Code Section 180-55.B., in a Business district, a new multifamily dwelling with six units per acre is allowable, and three bedrooms per permitted unit are allowed by right. Thus, on a 9.27-acre parcel, 55 units could be allowed, with 165 bedrooms and design flow of 18,150 GPD. While New Creek requests a variance to allow increased flow of up to 19,789 GPD, the additional flow beyond what would be allowed by right plus the credit for flow from existing structures to be removed will be only 1,639 GPD.

Per Code Section 180-56A.(1), to grant a variance the Select Board must obtain the determination of the Wastewater Superintendent that sufficient capacity exists in the municipal treatment facility. Being able to connect to the sewer is a prerequisite for MRCOD projects such as we are proposing, which Town Meeting contemplated in adopting the overlay district.

The number of proposed apartments is such that the design flow exceeds 10,000 GPD and therefore the redevelopment could not be served by a Title 5 septic system.

Please make the appropriate referrals so that this request for a variance under the Flow Neutral Bylaw can be scheduled for hearing as soon as possible, and let me know the hearing date. Please contact me with any questions. Thank you for your assistance.

Very truly yours,



Robert H. Ament

RHA/gmb

cc: Donny H.F. Lo, LEED AP,
Director of Development/Regional Construction, Kimco Realty
Jed Cornock, Town Planner
Scott McGann, Health Agent
Amy Lowell, Wastewater Superintendent

¹ Flows from the existing commercial uses (restaurant, fitness and retail) shown as 25-35 Davis Straits on the attached GIS map are not included in these calculations and will continue.

² The small increase in flow from the proposed bank, by itself, would not require a variance, under Code Section 180-55.C.



TOWN of FALMOUTH

DEPARTMENT OF PUBLIC WORKS, WASTEWATER DIVISION
416 GIFFORD STREET, FALMOUTH, MASSACHUSETTS 02540
TELEPHONE (508) 457-2543

AMY LOWELL
WASTEWATER SUPERINTENDENT

Date: August 17, 2022

To: Select Board, Acting Town Manager

cc: Health Agent, Town Planner, Attorney Bob Ament

Re: Flow Neutral Bylaw Variance Request – 13 Davis Straits

I received a referral under the Flow Neutral Bylaw regarding proposed redevelopment of the above property. The property is within an existing sewer service area and the existing buildings are connected to the municipal sewer system. Based on the previous and proposed uses for this property described in a letter from Attorney Robert Ament to the Town Manager dated July 18, 2022, the previous and proposed Title 5 design flows for the property are as follows, in gallons per day (gpd):

Previous		Proposed	
Use	Flow (gpd)	Use	Flow (gpd)
Friendly's restaurant (139 seats)	4,865	Residential (250 bedrooms)	27,500
Retail 31,425 sq ft (Staples + Olympia)	1,571	Office 3,000 sq ft (bank)	225
Barber shop + nail salon (total 15 chairs)	1,500		
Total	7,936	Total	27,725

This would be a Title 5 design (i.e. peak) wastewater flow increase of 19,789 gallons per day. Because this is a more than 10% increase in Title 5 design flow, this redevelopment requires a flow neutral bylaw variance. A precondition for the Select Board to grant a variance to the flow constraints of the Flow Neutral Bylaw is that "Sufficient capacity exists...as determined by the Wastewater Superintendent."

Previous flow neutral bylaw variance referral letters from the Wastewater Division have referred to the limitation imposed by the groundwater discharge permit for the Main WWTF because in most areas of the sewer system that is the most limiting factor. However, wastewater from 13 Davis Straits flows to the Inner Harbor sewer lift station on Robbins Road, and peak flow to the Inner Harbor lift station is near lift station capacity. Addition of the peak flow from the proposed redevelopment at 13 Davis Straits could cause total peak flow to the Inner Harbor lift station to exceed the station's capacity, which could cause sewer back-ups/overflows.

To address this issue, the Wastewater Division has developed a scope for an engineering evaluation of the current capacity of the Inner Harbor lift station, of future projected flow under current zoning (including the new MRCOD overlay), and of alternative options to address this capacity limitation. This evaluation will take six months to complete. **It is recommended that the Select Board postpone a decision on this variance request until this evaluation is completed.**

Diane Davidson

From: Scott McGann
Sent: Friday, August 12, 2022 11:28 AM
To: Diane Davidson; Bob Ament
Cc: Peter Johnson-Staub; Amy Lowell; Maura O'Keefe; Brian Tobin
Subject: 13 Davis Straits Flow Neutral Bylaw

Per the Flow Neutral Bylaw, the Board of Health does a referral to the Selectboard on whether a Title 5 system would or would not fit on the lot. However, this proposal is over 10,000 gallons per day and a septic system would not be allowed as that capacity triggers a groundwater discharge permit through MADEP. I don't see a need to have a referral as that disposal system, if proposed, would not fall under Title 5.

Let me know if anything else is needed on this.

Scott McGann R.S.
Director/ Agent
Falmouth Health Department
59 Town Hall Square
Falmouth, MA 02540
508-495-7485
scott.mcgann@falmouthma.gov

Diane Davidson

From: Joe Netto [REDACTED]
Sent: Monday, August 22, 2022 11:51 AM
To: Falmouth Selectboard
Cc: Peter Johnson-Staub; Peter McConarty
Subject: flow neutral bylaw

To the Honorable Board of Selectmen;

I see that your Board is being asked for a variance to the flow neutral bylaw for 13 Davis Straits. I would ask your board to delay making any decision on another variance for our sewer system. As someone who has a home on this system-"Little pond sewer project" I am familiar with how the addition of the Heights sewer was planned. All of the properties to be tied into the "new" system where given an ESU equivalent sewer unit to plan for further expansion of our present sewer system.

Since the completion of this project LARGE developments have been created or are in the plans, as seen by tonights agenda item. Also we have tragically learned that our sewer system plant was not up to code,not removing enough nitrogen from from the treated water 40% of its operational time. Hence we see the tragic degradation of West Falmouth Harbor receiving this extra nitrogen from our sewer plant. As a Town Meeting member I have voted for millions of dollars to be spent upgrading our sewer plant-so I ask is it fixed?? If not 100% operational we should not be contemplating adding any MORE hook ups that where not planned. It takes 8 years for the groundwater that leaves the plant to reach West Falmouth Harbor.

My question to your Board is "How many more units have been connected to the plant that where not planned for"? Case in point is Helmis Circle- 7 ESU where the original plan-but guess what-40B came along and 28 house are being built instead of 7. Was Little Pond Landing planned for or did they get in increase variance?? Also the corner of Main St. and Scranton Avenue is now going to be senior Housing-what where the ESU associated with that parcel. Plus the Planning Board Bylaw change at last T.M. is severely over working our sewer plant that cannot discharge ALL the wastewater that this bylaw has created. Why should the FALMOUTH taxpayer foot this bill-let the developers pay their way.

Your Board is being asked to grant a Flow neutral variance tonight-but where is the plan? I ask you to not vote this tonight-we need many of these questions answered and a full projection of future growth of our sewer system that the Planning Board DID NOT PLAN FOR!

From the land of the retired
Joe Netto

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Select Board of the Town of Falmouth will hold a public hearing on Monday, August 22, 2022 at 7:30 p.m. in the Select Board Meeting Room, Town Hall, Falmouth, MA on the application of New Creek LLC for a wastewater flow variance under Chapter 180, Section 56 of the Code of Falmouth, the so-called Flow Neutral By-law, for mixed residential commercial overlay district development with affordable rental housing at 13 Davis Straits in said Falmouth (parcel 39 15 049D 004).

Per Order of the Select Board

Publication date: Friday, August 5, 2022, Falmouth Enterprise

August 5, 2022

PUBLIC HEARINGS

3. Wetlands/Dock Hearing – Daniel H. and Mary E. Webb – Permit an existing seawall and construct a ramp from the seawall to a small float in Sider's Pond, located at 51 Siders Lane, Falmouth **(10 minutes)**



TOWN OF FALMOUTH

Office of the Town Manager & Select Board

59 Town Hall Square, Falmouth, Massachusetts 02540

Telephone (508) 495-7320

Fax (508) 457-2573

PUBLIC HEARING NOTICE

The Falmouth Select Board will hold a public hearing under Section 240-14.8 (Wetlands Regulations) of the Zoning Bylaws of the Town of Falmouth on Monday, November 7, 2022 at 7:15 p.m. in the Select Board Meeting Room, Falmouth Town Hall, 59 Town Hall Square on the application of Daniel H. and Mary E. Webb for permission to permit an existing seawall and construct a ramp from the seawall to a small float in Siders Pond, located at 51 Siders Lane, Falmouth, MA. Area affected is Siders Pond. Interested parties may review the file on this hearing at the Office of the Select Board.

Per Order of the
Select Board

Publication dates: Friday, October 14, 2022 and Friday, October 21, 2022; Falmouth Enterprise.

PUBLIC HEARING NOTICE

The Falmouth Select Board will hold a public hearing under Section 240-14.8 (Wetlands Regulations) of the Zoning Bylaws of the Town of Falmouth on Monday, November 7, 2022 at 7:15 p.m. in the Select Board Meeting Room, Falmouth Town Hall, 59 Town Hall Square on the application of Daniel H. and Mary E. Webb for permission to permit an existing seawall and construct a ramp from the seawall to a small float in Siders Pond, located at 51 Siders Lane, Falmouth, MA. Area affected is Siders Pond. Interested parties may review the file on this hearing at the Office of the Select Board.

Per Order of the
Select Board

October 14, 21, 2022

RECEIVED

OCT - 5 2022

TOWN OF FALMOUTH
BOARD OF SELECTMEN FALMOUTH TOWN CLERK



APPLICATION FOR PERMIT TO DREDGE, FILL OR OTHER ALTER WETLANDS
(As required under Section 240-77 (Wetland Regulations) of the Zoning Bylaw)

To the Board of Selectmen
Falmouth, MA

Date: 9/22/2022

The undersigned hereby applies to the Board of Selectmen as required by Section 240-77 of the Zoning Bylaws, for a permit to alter, as indicated below, the following described premises:

OWNER: Daniel H. & Mary E. Webb PO Box 547, West Falmouth, MA 02574
(full name) (address)

AGENT: Thomas J. Bunker, PLS 164 Katharine Lee Bates Road, Falmouth
(full name) (address)

APPLICANT: Daniel H. & Mary E. Webb PO Box 547, West Falmouth, MA 02574
(full name) (address)

1. Location of Property: Map 47A Section 06 Parcel 072 Lot 010

Street Name and House Number 51 Siders Lane, Falmouth

2. Body of water, marsh or stream affected: Siders Pond

3. Description of property and project site: Developed with Single Family
house

a. Dimensions, Acreage of total parcel: 53,143 sf (1.22 Acres)

b. Length of water marsh frontage: 68'

c. Dimensions of area to be dredged: None Depth N/A

d. Dimensions of area to be filled: None

e. Volume of dredging spoil to be moved: None

APPLICATION FOR PERMIT TO DREDGE, FILL OR OTHERWISE ALTER WETLANDS
(As required under Section 240-77 (Wetland Regulations) of the Zoning Bylaw)

Disposition of Spoil: No Spoils

f. Describe proposed riprap or bulkheading, if any: Existing stone seawall to remain

g. Other (docks, piers and etc.) Proposed ramp from seawall to 8' x 12' float

h. Method (equipment to be used) for proposed work: Hand power tools to fasten ramp to seawall and drive two pipes to hold float

4. Purpose of proposed work: Small recreational swim float and boating

5. Zoning which governs area: General Residence

6. Date of application for permit to dredge or fill from the Commonwealth of Mass. No dredging Army Engineers N/A

7. Has a permit ever been approved or refused for this location by State, Federal or Local Authority? Approved Order of Conditions

8. Remarks _____

9. Project Summary for legal notice: This project is to permit an existing seawall and construct a ramp from the seawall to a small float in Sider's Pond

Owner: Daniel H & Mary E Webb

Agent: Thomas J. Bunker, PLS

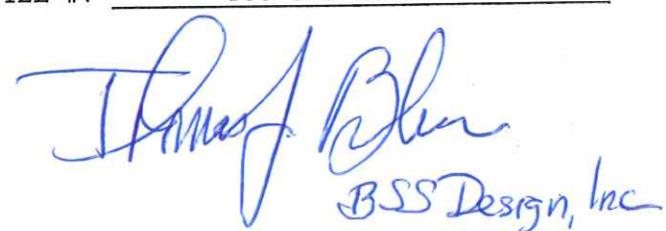
PO Box 547, West Falmouth, MA 02574
(Name & Address)

164 Katharine Lee Bates Rd., Falmouth
(Name & Address)

TEL #: 508-566-1882

TEL #: 508-540-8805

Applicant: Daniel & Mary Webb



PO Box 548
West Falmouth, MA 02574
(Name & Address)

TEL #: 508-566-1882

August 12, 2022

Town of Falmouth
Board of Selectmen
59 Town Hall Square
Falmouth, MA 02540

Re: 51 Siders Lane

To whom it may concern:

We, Daniel & Mary Webb, being the owners of the property at 51 Siders Lane, Falmouth, MA, give permission to Thomas J. Bunker, PLS, of BSS Design, Inc. to represent us regarding the application and hearing for the Selectmen's Wetland Permit.

Sincerely,

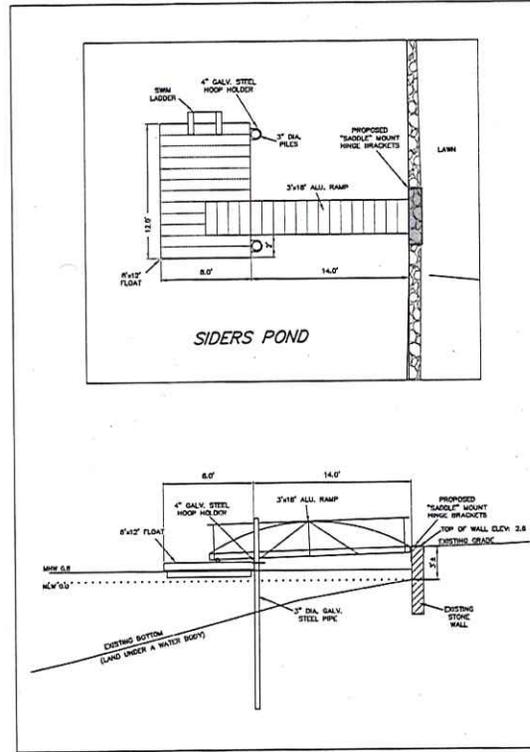
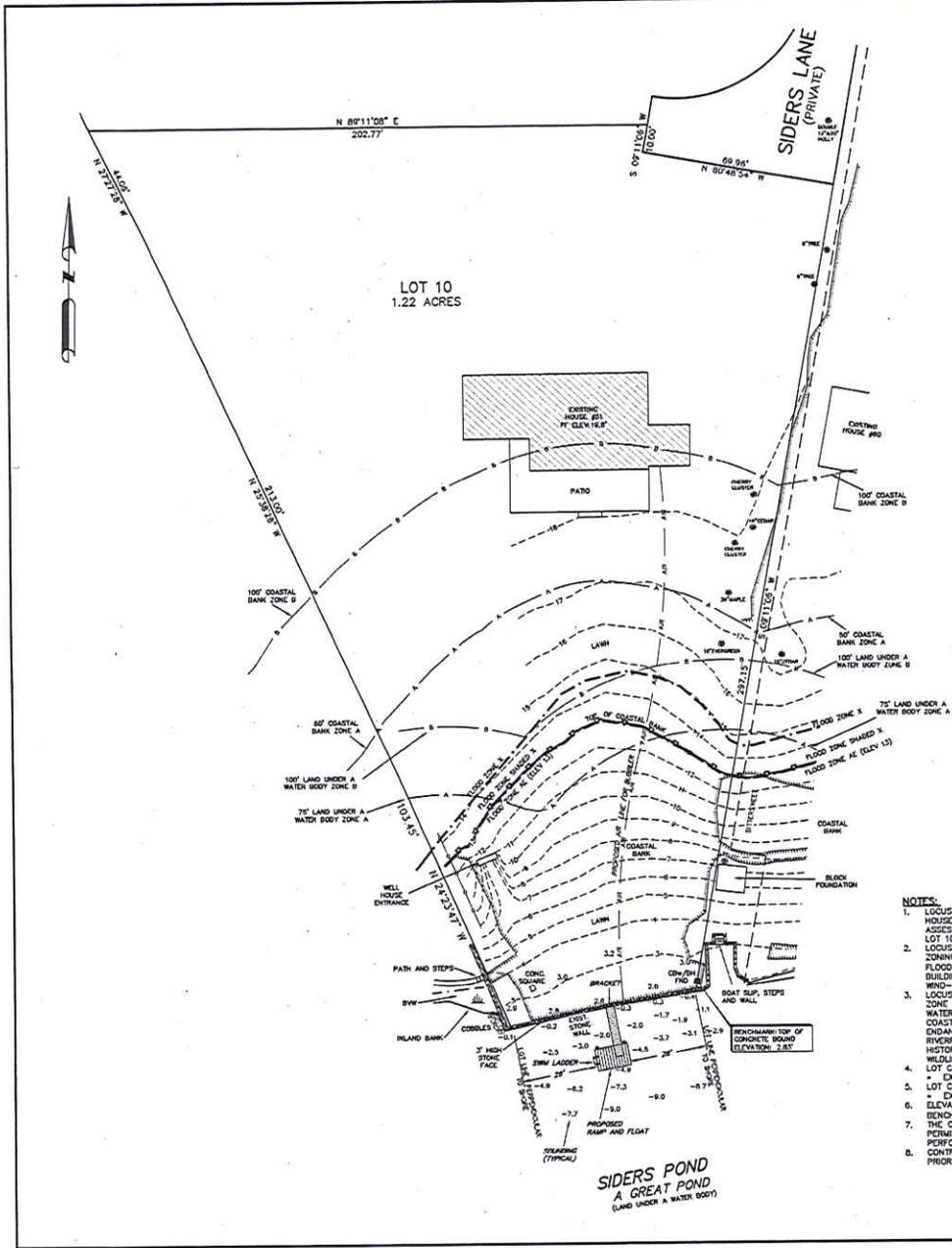


Daniel & Mary Webb
PO Box 547
West Falmouth, MA 02574

cc: BSS Design, Inc.

BSS
DESIGN
ENGINEERING
& SURVEYING

www.bssdesign.com
BSS Design, Incorporated
164 Katharine Lee Bates Rd
Falmouth, Massachusetts 02540
508.540.8805 Fax 508.548.8313



PLAN AND PROFILE
SCALE: 1"=5'

- NOTES:**
- LOCUS IDENTIFICATION:
HOUSE No. 51 SIDERS LANE
ASSESSORS No. 47A 06 072 010
LOT 10 LAND COURT PLAN 16312 C
LOCUS IS WITHIN:
ZONING DISTRICT: CR
FLOOD ZONES (A-E), (X), SHADED X, X
BUILDING CODE WIND EXPOSURE CATEGORY: II
WIND-BORNE DEBRIS REGION
LOCUS IS NOT WITHIN:
ZONE II OF A PUBLIC WATER SUPPLY
WATER RESOURCE PROTECTION DISTRICT
COASTAL POND OVERLAY DISTRICT
ENDANGERED SPECIES HABITAT
RIVERFRONT AREA
HISTORIC DISTRICT
MELUSIC CORRIDOR OVERLAY DISTRICT
 - LOT COVERAGE BY STRUCTURES:
= EXISTING: 2,293 SF ± 2.1%
= EXISTING: 2,617 SF ± 4.8%
ELEVATIONS ARE FROM ON-THE-GROUND SURVEY BASED ON NAVD, BENCHMARK: TOP OF CONCRETE BOUND ELEVATION 2.82'
 - THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING A TRENCH PERMIT FROM LOCAL MUNICIPALITY IN WHICH THE WORK IS BEING PERFORMED IF REQUIRED.
 - CONTRACTOR SHALL NOTIFY DIG-SAFE AT 811 AT LEAST 72 HOURS PRIOR TO ANY EXCAVATION.

LEGEND

	PROPERTY LINE
	EDGE OF LAWN
	FENCE
	TOP OF COASTAL BANK
	PROPOSED AIR LINE
	FLOOD ZONE
	EXISTING SPOT GRADE
	EXISTING SOUNDING
	WETLAND
	CONCRETE BOUND w/ DRILL HOLE
	EXISTING STRUCTURES



BSS DESIGN
ENGINEERING & SURVEYING

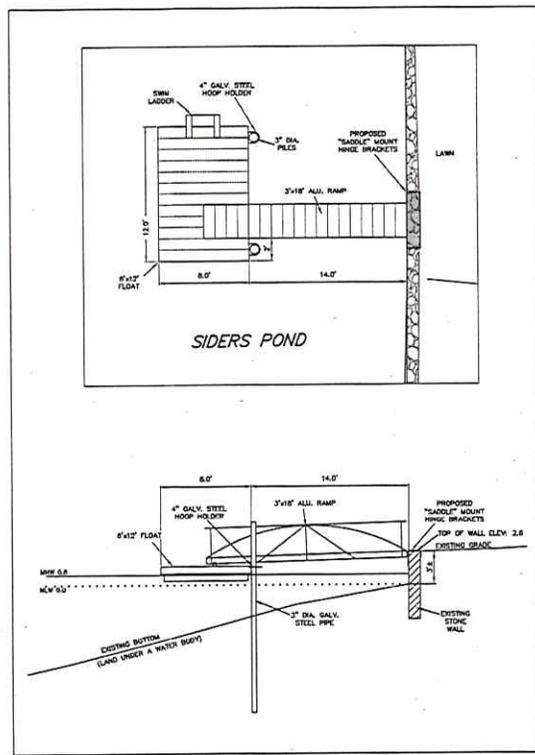
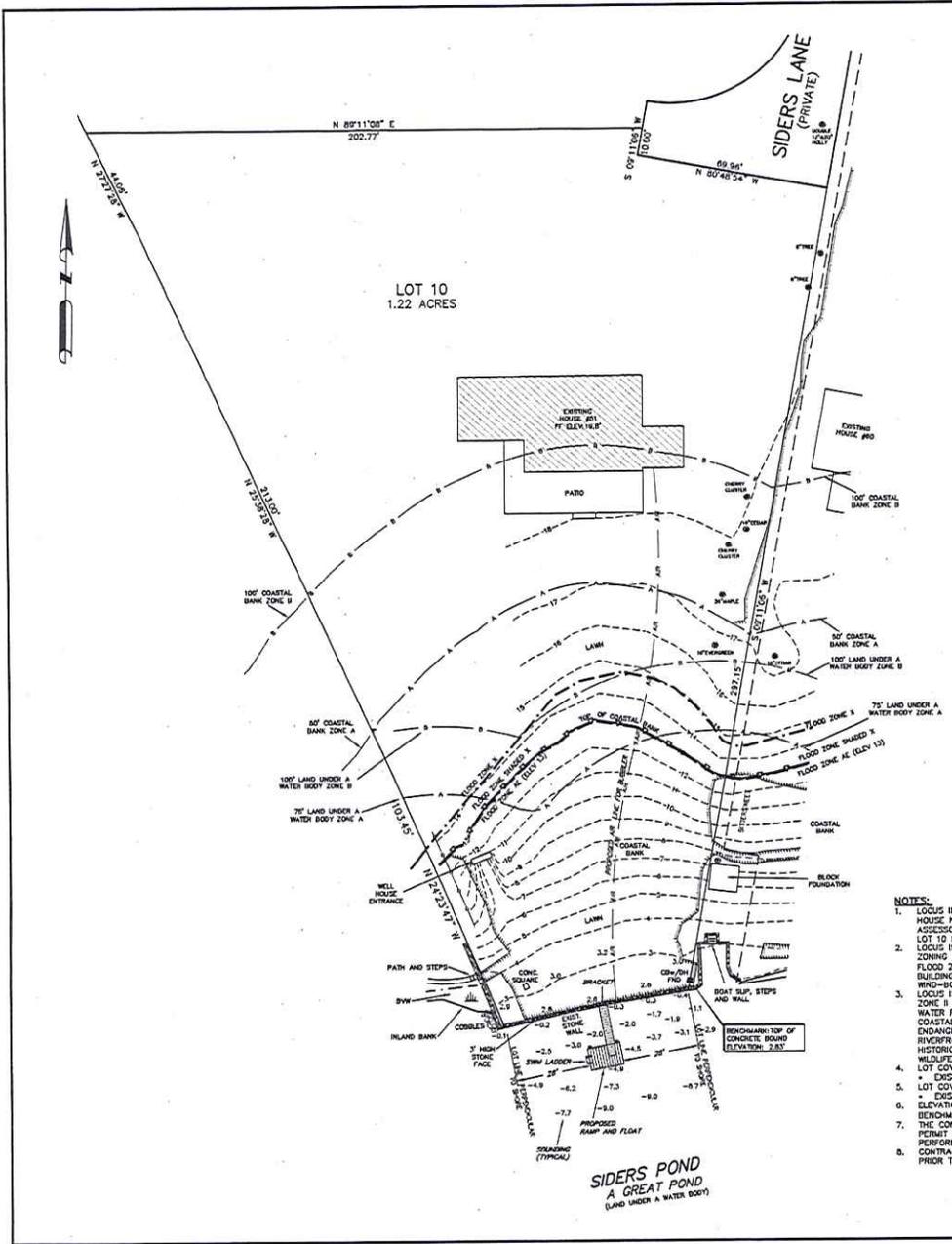
www.bsdesign.com
BSS Design, Incorporated
124 Salubria Lane Suite 101
Falmouth Massachusetts 02540
603.541.0800 FAX 603.541.0513

LOCUS MAP

PLOT PLAN - PROPOSED DOCK
AT
51 SIDERS LANE
FALMOUTH, MASSACHUSETTS
PREPARED FOR
DANIEL AND MARY WEBB

scale 1" = 20'
date JULY 20, 2022
drawn JER, RAR, TJB
checked TB
job number 21214
revisions

title SITE PLAN & DETAILS
drawing number B29-21



- NOTES:**
- LOCUS IDENTIFICATION:
HOUSE No. 51 SIDERS LANE
ASSESSORS No. 47A 06 072 010
LOT 10 LAND COURT PLAN 16912 C
LOCUS IS WITHIN:
ZONING DISTRICT OR
FLOOD ZONES(AE), (X), SHADDED X, X
BUILDING CODE WIND EXPOSURE CATEGORY: B
WIND-BORNE DEBRIS REGION
 - LOCUS IS NOT WITHIN:
ZONE B OF A PUBLIC WATER SUPPLY
WATER RESOURCE PROTECTION DISTRICT
ENDANGERED SPECIES HABITAT
RIVERFRONT AREA
HISTORIC DISTRICT
WELSH CORRIDOR OVERLAY DISTRICT
 - LOT COVERAGE BY STRUCTURES:
= EXISTING: 2,203 SF 4.31%
 - LOT COVERAGE BY STRUCTURES, PAVING AND PARKING:
= EXISTING: 2,617 SF 4.91%
 - ELEVATIONS ARE FROM ON-THE-GROUND SURVEY BASED ON NAVO,
BENCHMARK: TOP OF CONCRETE BOUND ELEVATION 2.83'
 - THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING A TRENCH
PERMIT FROM LOCAL MUNICIPALITY IN WHICH THE WORK IS BEING
PERFORMED IF REQUIRED.
 - CONTRACTOR SHALL NOTIFY DIG-SAFE AT 811 AT LEAST 72 HOURS
PRIOR TO ANY EXCAVATION.

LEGEND

	PROPERTY LINE
	EDGE OF LAWN
	FENCE
	TOP OF COASTAL BANK
	PROPOSED AIR LINE
	FLOOD ZONE
	EXISTING SPOT GRADE
	EXISTING SOUNDING
	WETLAND
	CONCRETE BOUND w/ DRILL HOLE
	EXISTING STRUCTURES



BSS DESIGN
ENGINEERING & SURVEYING

www.bsdesign.com
300 Design, Incorporated
164 Salubriter Lee Drive Rd
Falmouth Massachusetts 02546
508.546.8908 FAX 508.546.8333

LOCUS MAP

PLOT PLAN - PROPOSED DOCK
AT
51 SIDERS LANE
FALMOUTH, MASSACHUSETTS
PREPARED FOR
DANIEL AND MARY WEBB

Scale	1" = 20'
Date	JULY 20, 2022
Drawn	JER, RAR, TJB
Checked	TJB
Job Number	21214
Revisions	



Site Plan & Details
Drawing number
B29-21

Diane Davidson

From: Alissa Bergeron
Sent: Tuesday, October 25, 2022 4:56 PM
To: Diane Davidson
Cc: Jennifer Lincoln
Subject: RE: Special Permit Application - Wetlands/Docks - 51 Siders Lane
Attachments: Siders Ln 51 (Webb) 25-4773 DMF letter.pdf; Siders Ln 51 (Webb) 25-4773 Plot Plan 07 20 22.pdf; Siders Ln 51 (Webb) OOC 25-4773.pdf

Hi Diane,

Everything here appears to be in accordance with what was approved by the Conservation Commission. I have attached the approved plan, Order of Conditions, and letter from the Division of Marine Fisheries for reference.

Alissa Bergeron
Conservation Agent
Town of Falmouth, MA
alissa.bergeron@falmouthma.gov
Office: (508) 495-7492

From: Diane Davidson <diane.davidson@falmouthma.gov>
Sent: Thursday, October 20, 2022 12:12 PM
To: Falmouth Conservation Commission <concom@falmouthma.gov>; Gregg Fraser <gregg.fraser@falmouthma.gov>; Charles Martinsen <chuck.martinsen@falmouthma.gov>
Subject: Special Permit Application - Wetlands/Docks - 51 Siders Lane

To All,

The Select Board has received the attached application for a special permit:

Applicant: Daniel H. and Mary E. Webb
Location: 51 Siders Lane
Proposed Work: Permit an existing seawall and construct a ramp for the seawall to a small float.
Body of Water: Siders Pond

May I request a copy of the Order of Conditions and a copy of comments, if any, on file from the Harbor Master or Shellfish Constable by Wednesday, October 26?

The hearing is scheduled at the Select Board meeting on Monday, November 7, 2022 at 7:15 p.m.

Thank you!

Diane

Diane S. Davidson
Office Manager/Licensing
Office of the Town Manager and Select Board

Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540
diane.davidson@falmouthma.gov
(508) 495-7321



FALMOUTH CONSERVATION COMMISSION

59 Town Hall Square, Falmouth, Massachusetts 02540
(508) 495-7445

October 3, 2022

Daniel and Mary Webb
PO Box 547
West Falmouth, MA 02574

RE: 51 Siders Lane, Falmouth, MA 02540
DEP# 25-4773

Dear Daniel and Mary Webb:

Enclosed please find a copy of the Order of Conditions. Please obtain the plan of reference for your approved project from your representative. This Order is valid for three years from its date of issuance. The original permit will need to be registered at the Registry of Deeds. Proof of Recording must be submitted to the Conservation Commission office.

Please read the Order of Conditions and Plan carefully and refer to them often. Your contractor must have a copy of the Order of Conditions and the Conservation Permit posted on-site throughout the duration of the project. As the property owner it is ultimately your responsibility to ensure that work be done according to all Standard and Special Conditions and according to the Plan of Reference. If you decide to sell your property, please transfer the Order and the Plan of Reference to the new owner.

When all work under the approved permit, including landscaping, has been completed on the project, the proper procedure is for your representative (the engineer) to apply to the Conservation Commission for a Certificate of Compliance. The engineer must submit a signed statement that all work has been completed according to the Plan of Reference and noting any deviation from the plan. The representative (engineer) is the point of contact with the Conservation Commission and should coordinate with you throughout the duration of the project until a Certificate of Compliance is issued. Your representative will register the Certificate of Compliance in the Registry of Deeds. Proof of Recording must be submitted to the Conservation Commission office.

Thank you for taking the time to read this letter. By complying with the Wetland Protection Act and the Falmouth Wetland Bylaw and Regulations you are helping to maintain a high quality of life for yourself and others in the Town of Falmouth.

Sincerely,


Jennifer L. Lincoln
Conservation Administrator

CC: BSS Design, Inc.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
25-4773
MassDEP File #
1356708
eDEP Transaction #
Falmouth
City/Town

A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
BARNSTABLE 2I3398
a. County b. Certificate Number (if registered land)
- c. Book d. Page
7. Dates: 7/21/2022 8/10/2022 10/3/2022
a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
PLOT PLAN PROPOSED DOCK
a. Plan Title
BSS DESIGN, INC. Thomas Jackson Bunker
b. Prepared By c. Signed and Stamped by
7/20/2022 1" = 20'
d. Final Revision Date e. Scale
- f. Additional Plan or Document Title g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a. Public Water Supply b. Land Containing Shellfish c. Prevention of Pollution
d. Private Water Supply e. Fisheries f. Protection of Wildlife Habitat
g. Groundwater Supply h. Storm Damage Prevention i. Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 25-4773
 MassDEP File #
 1356708
 eDEP Transaction #
 Falmouth
 City/Town

B. Findings (cont.)

Denied because:

- b. the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. A description of the performance standards which the proposed work cannot meet is attached to this Order.
- c. the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).
- 3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) _____ a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	_____ a. linear feet	_____ b. linear feet	_____ c. linear feet	_____ d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
	_____ e. c/y dredged	_____ f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
	_____ e. cubic feet	_____ f. cubic feet	_____ g. cubic feet	_____ h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____ a. square feet	_____ b. square feet		
	_____ c. cubic feet	_____ d. cubic feet	_____ e. cubic feet	_____ f. cubic feet
9. <input type="checkbox"/> Riverfront Area	_____ a. total sq. feet	_____ b. total sq. feet		
	Sq ft within 100 ft	_____ c. square feet	_____ d. square feet	_____ e. square feet
	Sq ft between 100-200 ft	_____ g. square feet	_____ h. square feet	_____ i. square feet
			_____ j. square feet	



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B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> cu yd c. nourishment	<u> </u> cu yd d. nourishment
14. <input type="checkbox"/> Coastal Dunes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> cu yd c. nourishment	<u> </u> cu yd d. nourishment
15. <input type="checkbox"/> Coastal Banks	<u> </u> a. linear feet	<u> </u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u> a. square feet	<u> </u> b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	<u> </u> a. c/y dredged	<u> </u> b. c/y dredged		
21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	238 <u> </u> a. square feet	1. <u> </u> b. square feet		
22. <input type="checkbox"/> Riverfront Area	<u> </u> a. total sq. feet	<u> </u> b. total sq. feet		
Sq ft within 100 ft	<u> </u> c. square feet	<u> </u> d. square feet	<u> </u> e. square feet	<u> </u> f. square feet
Sq ft between 100-200 ft	<u> </u> g. square feet	<u> </u> h. square feet	<u> </u> i. square feet	<u> </u> j. square feet



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B. Findings (cont.)

* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. Restoration/Enhancement *:
 a. square feet of BVW _____ b. square feet of salt marsh _____

24. Stream Crossing(s):
 a. number of new stream crossings _____ b. number of replacement stream crossings _____

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on _____ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number 25-4773 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
- (1) is subject to the Massachusetts Stormwater Standards
- (2) is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

See Attached

20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No
2. The Falmouth hereby finds (check one that applies):
 Conservation Commission
- a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw	2. Citation
---------------------------------	-------------

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:
- | | |
|---------------------------------|-------------|
| Falmouth Wellands Bylaw | 10.00 |
| 1. Municipal Ordinance or Bylaw | 2. Citation |

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.
- The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

See Attached



FALMOUTH CONSERVATION COMMISSION

59 Town Hall Square, Falmouth, Massachusetts 02540
(508) 495-7445

Daniel and Mary Webb
51 Siders Pond Rd
DEP # 25-4773

FINDINGS:

1. The applicant proposes to construct a 14' aluminum ramp and float with attached ladder and bubbler system.
2. The Division of Marine Fisheries has recommended a Time of Year (TOY) restriction to protect diadromous fish passage, migration, and spawning habitat for alewife (*Alosa pseudoharengus*) and American eel (*Anguilla rostrata*).
3. Resource areas onsite and within 100 feet of the proposed project includes Coastal Bank, Land Subject to Coastal Storm Flowage (LSCSF), Bordering Vegetated Wetland, Land Under Waterbodies, and Resource Area Buffer.

STANDARD CONDITIONS

1. Permission is granted to Daniel and Mary Webb, 51 Siders Pond Rd, Falmouth to construct and maintain an aluminum ramp and float according to the plans by BSS Design dated July 20, 2022 and entitled "Site Plan and Detail" subject to the following Standard and Special Conditions.
2. This Order is issued pursuant to Mass. General Laws, Chapter 131, sec. 40, the Wetlands Protection Act and Chapter 235 of the Code of Falmouth the Wetlands Bylaw. The Wetlands By-law is more stringent than the Wetlands Protection Act as permitted by that Act. The Conservation Commission reserves the right to impose additional or other conditions to protect the Interests of the Massachusetts Wetlands Protection Act and Falmouth Wetlands Bylaw.
3. All work shall be done according to the plan of reference noted in paragraph 1. Any proposed changes will require that the applicant first obtain all necessary permits and approvals from the Conservation Commission. Any changes undertaken without obtaining approval from the Commission are not permitted and subject to an Enforcement Order. Violations of the Wetlands Protection Act are subject to a maximum fine of \$25,000.00 per day.
4. The determinations of the Falmouth Conservation Commission are made solely to determine

issues arising under the Massachusetts Wetlands Protection Act and the Town of Falmouth Wetlands By-Law, and are therefore concerned exclusively with the question whether any proposed activity will have an adverse effect on the wetlands resource interests listed in the applicable statutes, regulations, by-laws and rules. Nothing contained in this determination is intended in any way to grant to any person any title, easement or other interest in lands, public or private, and the Falmouth Conservation Commission is without legal authority to make any grant of title, easement or other property interest, or to make any determination of property interests. See Tindley v. D.E.Q.E. 10 Mass. App. Ct. 623 (1980).

5. By the acceptance and recording of this Order, the applicant hereby grants the commission and its duly authorized agents the right to enter onto the land governed by this Order to examine the project and ensure Compliance. Such visits shall be made in a reasonable manner.
6. Any work taking place prior to all administrative and legal appeal periods expiring or during the pendency of any such appeal is at the risk of the applicant and/or owner of the property. At the risk of means that should an administrative agency or court find this order and permit were granted in error all work may have to be restored to its original condition (at the time work was instituted) at the expense of the applicant and/or owner.
7. Issuance of this Order of Conditions does not relieve the applicant from obtaining all other necessary municipal, county, state or federal permits, permission or other approvals required.
8. The Conservation Commission reserves the right to impose additional or other conditions to protect the Interests of the Massachusetts Wetlands Protection Act and Falmouth Wetlands Bylaw.
9. Prior to any work commencing:
 - a. Proof of recording of this Order of Conditions including the plan of reference at the Barnstable County Registry of Deeds must be received by the Conservation Commission.
 - b. At least 10 days advance written notification shall be provided to the Conservation Commission.
 - c. The Town of Falmouth Conservation Commission Pier Maintenance or Construction Form for Marine Contractors (which ever applies) must be completed and returned to the Conservation Commission.
 - d. Copies of any other permits and licenses including building permit, special permit, variances, and Chapter 91 license shall be submitted to Conservation Commission.
 - e. The DEP File Number shall be posted on a sign on the street side of the lot and maintained in a visible condition throughout the project. A copy of this Order of Conditions is to be posted onsite, to be maintained in a visible location and condition throughout the project. Copies of this Order of Conditions are also to be provided to all outside contractors, to be kept onsite during work at all times.
 - f. Photographs shall be taken within 20 feet parallel to both sides of the dock alignment of any areas crossing freshwater wetlands or salt marsh. Post construction photographs shall be taken and submitted to the Conservation Commission. Any areas of wetland

that have been damaged or destroyed shall be restored immediately to the satisfaction of the Conservation Commission.

10. Unless otherwise specified, all Conditions cited herein will apply to any and all Amendments to this Order of Conditions.
11. The applicant shall use all means to effectively prevent erosion into the wetland or other Resource Area and to encourage the growth of protective vegetation on ground draining into the wetlands or other Resource Areas.
12. All cuttings and debris from permitted clearing of the lot prior to construction shall be removed offsite immediately. No debris can be stored, even temporarily, in a resource area or within 100 feet of any resource area.
13. All fill or excavated material not required to backfill and grade to the approved plan of reference shall be immediately removed offsite or to an appropriate upland location more than 100 feet from any resource area.
14. No chemically treated wood may be used. The use of non-toxic materials is mandatory and shall be certified in writing by a professional engineer.
15. Equipment, vehicles or other objects are not allowed to be placed or stored on any wetland or resource area at any time.
16. Any additional work, not identified at the time this permit was granted, within the Limit of Work, in a resource area or within 100 feet of any resource area will require that the applicant first obtain all necessary permits from the Conservation Commission before proceeding with such work.
17. All work shall be done by hand or from a barge-supported crane during high tide.
18. Piles shall be driven, not jetted.
19. All seasonal floats shall be stored in a predetermined upland location per application and the plan of reference.
20. All construction debris shall be removed off-site to an approved upland disposal site.
21. All disturbed areas are to be re-vegetated using either native plant species (or drought-tolerant fescues on 8-10 inches of loam). Re-vegetation is to be done immediately following completion of construction.
22. The street number and address and the DEP number of the dock approved by this Order shall be affixed to the seaward face (end) of the dock using three inch (3") digits of bright contrasting color. This number shall be maintained in clear visible condition throughout the lifetime of the dock.

23. Water lines and attached hoses shall have nozzles attached.
24. Boats at the dock shall not be allowed to leak oil or other pollutants into the water, nor shall oil or fuel be stored on the dock or pier.
25. Motorboats shall not be run in gear while tied to the dock, since prop wash disturbs shellfish beds, stirs up sediment and causes bank erosion.
26. No Certificate of Compliance will be issued until the entire project, including landscaping, is completed and the site is permanently stabilized with vegetation.
27. This Order of Conditions will not be fully complied with unless and until a duly executed Certificate of Compliance is recorded or registered, as appropriate, in Barnstable Registry of Deeds. A request for a Certificate of Compliance must be accompanied by and "Existing Conditions" plan and Engineers written certification of compliance certifying the dock or pier has been constructed and completed in accordance with the conditions contained herein and notes any deviation from the approved plans.
28. The dock must be properly maintained in a safe and functioning manner. Docks and piers are coastal structures requiring continual maintenance or else lend themselves to causing significant damage to property at the time of storms. If not properly maintained docks and piers pose a significant danger to public safety. Docks and piers not properly maintained, which in the opinion the Commission have a potential of being destroyed in a storm, may be ordered removed at the owner's expense. You have a right to hearing prior to any such order being issued.

SPECIAL CONDITIONS:

1. A time of year restriction from March 15th – June 30th shall be observed on all in water, silt producing activities.
2. All floats and piers if designed to be in continual use shall have adequate bubblers protecting piles during winter months.

VOTE AUTHORIZING SIGNATURES OF COMMISSIONERS

In accordance with the unanimous vote of the Falmouth Conservation Commission, Jennifer L. Lincoln, Conservation Administrator is authorized to sign on behalf of each individual Commissioner as reflected in the recorded Land Court Document: 1,393,706 dated 04-03-2020 9:24 Barnstable Land Court Registry



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E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

10/3/2022

1. Date of Issuance

Please indicate the number of members who will sign this form.
 This Order must be signed by a majority of the Conservation Commission.

5
 2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Jennifer L. Lincoln
 Signature
Jamie Mathews
 Signature
Courtney Bird
 Signature
Elizabeth Gladfelter
 Signature
Kevin O'Brien
 Signature

Jennifer L. Lincoln, Conservation Administrator
 Jamie Mathews, Chair
 Courtney Bird, Vice Chair
 Elizabeth Gladfelter
 Kevin O'Brien

Signature _____ Printed Name _____
 Signature _____ Printed Name _____
 Signature _____ Printed Name _____

by hand delivery on _____
 by certified mail, return receipt requested, on 10/3/2022
 Date _____

7021 2720 0002 0832 0354

For Signature Authorization 639
 Doc: 1,393,708
 BARNSTABLE LAND COURT REGISTRY



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

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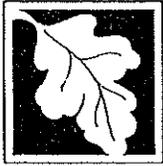
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F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 25-4773
 MassDEP File #
 1356708
 eDEP Transaction #
 Falmouth
 City/Town

G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Conservation Commission

Please be advised that the Order of Conditions for the Project at:

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for:

Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP

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

A. Request Information

1. Location of Project

a. Street Address

b. City/Town, Zip

c. Check number

d. Fee amount

2. Person or party making request (if appropriate, name the citizen group's representative):

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

Name

Mailing Address

City/Town

State

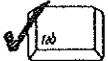
Zip Code

Phone Number

Fax Number (if applicable)

4. DEP File Number:

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



B. Instructions

1. When the Departmental action request is for (check one):

- Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- Superseding Determination of Applicability – Fee: \$120
- Superseding Order of Resource Area Delineation – Fee: \$120



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

**Request for Departmental Action Fee
Transmittal Form**

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

DEP File Number:

Provided by DEP

B. Instructions (cont.)

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection
Box 4062
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a copy of this form and a copy of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>).
4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.



The Commonwealth of Massachusetts
Division of Marine Fisheries

251 Causeway Street, Suite 400, Boston, MA 02114
p: (617) 626-1520 | f: (617) 626-1509
www.mass.gov/marinefisheries



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor

BETHANY A. CARD
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

August 8, 2022

Falmouth Conservation Commission
Town Hall
59 Town Hall Square
Falmouth, MA 02540

Dear Commissioners:

The Division of Marine Fisheries (MA DMF) has reviewed the Notice of Intent (NOI) by Daniel and Mary Webb, to construct a ramp and float at 51 Siders Lane in the Town of Falmouth. The project was reviewed with respect to potential impacts to marine fisheries resources and habitat.

Siders Pond has been identified by MA DMF as diadromous fish passage, migration, and spawning habitat for alewife (*Alosa pseudoharengus*) and American eel (*Anguilla rostrata*).

MA DMF offers the following comments for your consideration:

- As much work as possible should be conducted from the upland portion of the project site to minimize impacts to marine resource areas; and
- A time-of-year (TOY) restriction should be observed on all in-water, silt-producing activities to protect sensitive life stages of the above-mentioned species. No in-water, silt-producing activities should take place from **March 15th – June 30th** of any year.

Questions regarding this review may be directed to Amanda Davis in our New Bedford office at Amanda.davis@mass.gov.

Sincerely,

Amanda Davis
Environmental Analyst
MA Division of Marine Fisheries

cc:

Thomas J. Bunker, BSS Design, Inc..
John Logan, Emma Gallagher, MA DMF
Robert Boeri, CZM

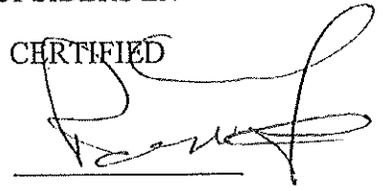
AD/eg

References:

1. ASMFC. 2020. Southern New England Mid-Atlantic Winter Flounder 2020 Assessment Update Report. http://www.asafc.org/uploads/file/6008bd822020_SNEMA_WinterFlounderAssessmentUpdate.pdf.
2. Evans, N.T., K.H. Ford, B.C. Chase, and J. Sheppard. 2011. Recommended Time of Year Restrictions (TOYs) for Coastal Alteration Projects to Protect Marine Fisheries Resources in Massachusetts. Massachusetts Division of Marine Fisheries Technical Report, TR-47. <https://www.mass.gov/doc/time-of-year-recommendations-tr47/download>.

51 SIDERS LN

CERTIFIED

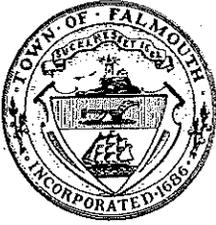
A handwritten signature in black ink, appearing to read 'Patricia A. Favulli', written over a horizontal line.

Patricia A Favulli
Director of Assessing
Town of Falmouth
OCTOBER 11, 2022

62 LOCUST ST CAPE COD UNITED CHURCH HOMES INC 62 LOCUST ST C/O CAPE COD APARTMENTS INC FALMOUTH, MA 02540-2884	47A 06 082 001 LUC: 959	103 MAIN ST PARISH OF SAINT BARNABAS PO BOX 203 FALMOUTH, MA 02541	47A 07 063 000 LUC: 961
60 SIDERS LN CARY MARY KATHERINE 60 SIDERS LN FALMOUTH, MA 02540	47A 07 058 000D LUC: 101	47 SIDERS LN PETERSON EDWARD F PETERSON DOROTHY M 47 SIDERS LN FALMOUTH, MA 02540-2882	47A 06 073 009 LUC: 101
47 MAIN ST CASSELBURY NAN R 47 MAIN ST FALMOUTH, MA 02540	47A 06 075 000AU LUC: 102	82 SIDERS POND RD RANKIN RUSSELL D RANKIN CYNTHIA M 82 SIDERS POND RD FALMOUTH, MA 02540-2864	47A 05A 084 000C LUC: 101
47 MAIN ST ELSEN ANDREW LEON MILAGRITOS 9 JENCKES ST APT 3 PROVIDENCE, RI 02908	47A 06 075 000CU LUC: 102	47 MAIN ST STURDIVANT EMILY JAMES MORALES CARLOS ENRIQUE DOBLER 47 MAIN ST UNIT D FALMOUTH, MA 02540	47A 06 075 000DU LUC: 102
57 MAIN ST JOHNSON TRUSTEE JAMES E JOHNSON TRUSTEE KATHRYN M 57 MAIN ST FALMOUTH, MA 02540-2852	47A 07 060 000A LUC: 104	47 MAIN ST TECHET ALEXANDRA H 152 ALLEN AVE WABAN, MA 02468	47A 06 075 000BU LUC: 102
84 SIDERS POND RD JONES III ESTATE OF DEWITT CLINTON JONES MARGARET HANNA 84 SIDERS POND RD FALMOUTH, MA 02540-2884	47A 05A 083 000A LUC: 101	31 SIDERS LN TOW JAMES LYONS TOW ALICE A 31 SIDERS LN FALMOUTH, MA 02540	47A 06 074 003 LUC: 101
27 MAIN ST LAUBHAN TRUSTEE RANDOLPH G LAUBHAN TRUSTEE PATRICIA F 27 W MAIN ST FALMOUTH, MA 02540	47A 06 076 000 LUC: 302	41 SIDERS LN TOW TRUSTEE JAMES L TOW TRUSTEE ALICE ABRAMS 41 SIDERS LN FALMOUTH, MA 02540	47A 06 073A 008 LUC: 101
71 MAIN ST MCGRATH TRUSTEE ALICIA MCGRATH TRUSTEE JAMES 71 MAIN ST FALMOUTH, MA 02540	47A 07 061 001 LUC: 101	51 MAIN ST TRODDEN TRUSTEE JAMES M TRODDEN TRUSTEE MAUREEN A 51 MAIN ST FALMOUTH, MA 02540	47A 07 059 007 LUC: 101
34 SIDERS LN OGILVY JR STEPHEN H 318 ELM RD FALMOUTH, MA 02540	47A 07 059A 002 LUC: 106	51 SIDERS LN WEBB DANIEL H WEBB MARY E PO BOX 647 W FALMOUTH, MA 02574	47A 06 072 010 LUC: 101
91 MAIN ST PARISH OF SAINT BARNABAS 97 MAIN ST FALMOUTH, MA 02540-2852	47A 07 062 000 LUC: 960		

PUBLIC HEARINGS

4. Approve application for multiple amendments to an All Alcoholic Common Victualler License including Change of Manager, Change of LLC Manager and Change of Beneficial Interest – Train Bridge View, LLC d/b/a/ Sweet Rice, located at 167 Teaticket Highway, East Falmouth **(10 minutes)**



TOWN OF FALMOUTH

Office of the Town Manager & Select Board

59 Town Hall Square, Falmouth, Massachusetts 02540

Telephone (508) 495-7320

Fax (508) 457-2573

LIQUOR LICENSE HEARING

Notice is hereby given under Chapter 138 of the General Laws, as amended, that Train Bridge View, LLC. d/b/a Sweet Rice has applied for multiple amendments to its All Alcoholic Common Victualler License located at 167 Teaticket Highway, Teaticket, MA including a Change of Manager, Change of LLC Manager, and Change of Beneficial Interest.

A hearing will be held in the Select Board Meeting Room, Falmouth Town Hall on Monday, November 7, 2022 at 7:15 p.m. on the above application.

Per order of the Select Board

LICENSING BOARD

Nancy R. Taylor

Onjalé Scott Price

Samuel H. Patterson

Douglas C. Brown

Edwin (Scott) P. Zylinski II

Publication date: Friday, November 28, 2022; Falmouth Enterprise

LICENSING BOARD

Notice is hereby given under Chapter 138 of the General Laws, as amended, that Train Bridge View, LLC. d/b/a Sweet Rice has applied for multiple amendments to its All Alcoholic Common Victualler License located at 167 Teaticket Highway, Teaticket, MA including a Change of Manager, Change of LLC Manager, and Change of Beneficial Interest.

A hearing will be held in the Select Board Meeting Room, Falmouth Town Hall on Monday, November 7, 2022 at 7:15 p.m. on the above application.

Per order of the Select Board

LICENSING BOARD
Nancy R. Taylor
Onjalé Scott Price
Samuel H. Patterson
Douglas C. Brown
Edwin (Scott) P. Zylinski II

October 28, 2022

LICENSE APPLICATION REVIEW

Restaurant/Business: Sweet Rice

Address: 167 Teaticket Highway

License Type: All Alcohol Common Victualler

New or Transfer of License _____

or

Change of License Multiple Amendments: Change of Manager, LLC Manager, and Beneficial Interest

- Police No objection pending background check
- Fire _____
- Building No issues
- Health No issues
- Zoning _____
- Planning _____
- DPW _____
- _____
- _____
- _____
- _____
- _____

NOTES:

As of 11/4/2022 the applicant had not completed the required update of the Business Structure document obtained from the Secretary of State's Office. Applicant's attorney advises that this requirement will be completed before the application is submitted to the ABCC no later than November 10th.



The Commonwealth of Massachusetts
 Alcoholic Beverages Control Commission
 95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
 www.mass.gov/abcc

RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION
 MONETARY TRANSMITTAL FORM
 APPLICATION FOR MULTIPLE AMENDMENTS

APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL LICENSING AUTHORITY.

ECRT CODE: RETA

Please make \$200.00 payment here: [ABCC PAYMENT WEBSITE](#)

PAYMENT MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL AND INCLUDE THE PAYMENT RECEIPT

ABCC LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY)

ENTITY/ LICENSEE NAME

ADDRESS

CITY/TOWN STATE ZIP CODE

For the following transactions (Check all that apply):

- New License
- Change of Location
- Change of Class (i.e. Annual / Seasonal)
- Change Corporate Structure (i.e. Corp / LLC)
- Transfer of License
- Alteration of Licensed Premises
- Change of License Type (i.e. club / restaurant)
- Pledge of Collateral (i.e. License/Stock)
- Change of Manager
- Change Corporate Name
- Change of Category (i.e. All Alcohol/Wine, Malt)
- Management/Operating Agreement
- Change of Officers/ Directors/LLC Managers
- Change of Ownership Interest (LLC Members/ LLP Partners, Trustees)
- Issuance/Transfer of Stock/New Stockholder
- Change of Hours
- Other
- Change of DBA

THE LOCAL LICENSING AUTHORITY MUST SUBMIT THIS APPLICATION ONCE APPROVED VIA THE ePLACE PORTAL

Alcoholic Beverages Control Commission
 95 Fourth Street, Suite 3
 Chelsea, MA 02150-2358



The Commonwealth of Massachusetts
 Alcoholic Beverages Control Commission
 95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
 www.mass.gov/abcc

APPLICATION FOR MULTIPLE AMENDMENTS

1. BUSINESS ENTITY INFORMATION

Entity Name	Municipality	ABCC License Number
Train Bridge View LLC dba Sweet Rice	Falmouth	06028-RS-0390

Please provide a narrative overview of the transaction(s) being applied for. On-premises applicants should also provide a description of the intended theme or concept of the business operation. Attach additional pages, if necessary.

inter-family business transaction to sell existing restaurant "Sweet Rice" located at 167 Teaticket Highway in Falmouth.

APPLICATION CONTACT

The application contact is the person who should be contacted with any questions regarding this application.

Name	Title	Email	Phone
Randall Collette		randall@capelawyer.net	7745216813

2. AMENDMENT-Change of License Classification

<input type="checkbox"/> Change of License Category All Alcohol, Wine and Malt, Wine Malt and Cordials	Last-Approved License Category	
	Requested New License Category	
<input type="checkbox"/> Change of License Class Seasonal or Annual	Last-Approved License Class	
	Requested New License Class	
<input type="checkbox"/> Change of License Type* i.e. Restaurant to Club *Certain License Types CANNOT change once issued*	Last-Approved License Type	
	Requested New License Type	

3. AMENDMENT-Change of Business Entity Information

<input type="checkbox"/> Change of Corporate Name	Last-Approved Corporate Name:	
	Requested New Corporate Name:	
<input type="checkbox"/> Change of DBA	Last-Approved DBA:	
	Requested New DBA:	
<input type="checkbox"/> Change of Corporate Structure LLC, Corporation, Sole Proprietor, etc	Last-Approved Corporate Structure	
	Requested New Corporate Structure	

4. AMENDMENT-Pledge Information

<input type="checkbox"/> Pledge of License	To whom is the pledge being made:	
<input type="checkbox"/> Pledge of Inventory		
<input type="checkbox"/> Pledge of Stock		

5. AMENDMENT-Change of Manager

Change of License Manager

A. MANAGER INFORMATION

The individual that has been appointed to manage and control the licensed business and premises.

Proposed Manager Name Date of Birth

Residential Address

Email Phone

Please indicate how many hours per week you intend to be on the licensed premises Last-Approved License Manager

B. CITIZENSHIP/BACKGROUND INFORMATION

Are you a U.S. Citizen?* Yes No *Manager must be a U.S. Citizen
 If yes, attach one of the following as proof of citizenship US Passport, Voter's Certificate, Birth Certificate or Naturalization Papers.

Have you ever been convicted of a state, federal, or military crime? Yes No
 If yes, fill out the table below and attach an affidavit providing the details of any and all convictions. Attach additional pages, if necessary, utilizing the format below.

Date	Municipality	Charge	Disposition

C. EMPLOYMENT INFORMATION

Please provide your employment history. Attach additional pages, if necessary, utilizing the format below.

Start Date	End Date	Position	Employer	Supervisor Name
9/15/2020	current	Manager	Sweet Rice	Chanrith Uy
10/01/2019	9/14/2020	Server/Bartender	Stir Crazy	Chanrith Uy
10/01/2019	09/14/2020	Cashier	Freshroll	Chanrith Uy

D. PRIOR DISCIPLINARY ACTION

Have you held a beneficial or financial interest in, or been the manager of, a license to sell alcoholic beverages that was subject to disciplinary action? Yes No If yes, please fill out the table. Attach additional pages, if necessary,utilizing the format below.

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation

I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate:

Manager's Signature Date

6. AMENDMENT-Change of Officers, Stock or Ownership Interest

Change of Officers/Directors
 Change of Ownership Interest (LLC Managers/LLP Partners, Trustees)
 Change of Stock (E.g. New Stockholder/ Transfer or Issuance of Stock)

List all individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.). Attach additional page(s) provided, if necessary, utilizing Addendum A.

- The individuals and titles listed in this section must be identical to those filed with the Massachusetts Secretary of State.
- The individuals identified in this section, as well as the proposed Manager of Record, must complete a CORI Release Form.
- Please note the following statutory requirements for Directors and LLC Managers:
On Premises (E.g. Restaurant/ Club/Hotel) Directors or LLC Managers - At least 50% must be US citizens;
Off Premises (Liquor Store) Directors or LLC Managers - All must be US citizens and a majority must be Massachusetts residents.
- If you are a Multi-Tiered Organization, please attach a flow chart identifying each corporate interest and the individual owners of each entity as well as the Articles of Organization for each corporate entity. Every individual must be identified in Addendum A.

Name of Principal	Residential Address	SSN	DOB
Amy Thuck	13 Tangelwood Drive, East Falmouth, MA 02536		

Title and or Position	Percentage of Ownership	Director/ LLC Manager		
Manager	50	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
Yeng Ly	13 Tanglewood Drive, East Falmouth, MA 02536		

Title and or Position	Percentage of Ownership	Director/ LLC Manager		
Member	50	<input type="radio"/> Yes <input checked="" type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Additional pages attached? Yes No

CRIMINAL HISTORY

Has any individual listed in question 6, and applicable attachments, ever been convicted of a State, Federal or Military Crime? If yes, attach an affidavit providing the details of any and all convictions.

Yes No

MANAGEMENT AGREEMENT

Are you requesting approval to utilize a management company through a management agreement? Please provide a copy of the management agreement.

Yes No

7. AMENDMENT-Change of Premises Information

Alteration of Premises: (must fill out attached financial information form)

7A. ALTERATION OF PREMISES

Please summarize the details of the alterations and highlight any specific changes from the last-approved premises.

N/A

PROPOSED DESCRIPTION OF PREMISES

Please provide a complete description of the proposed premises, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. You must also submit a floor plan.

Sweet Rice is a single story restaurant located at 167 Teaticket Highway in Falmouth. The restaurant has six rooms totaling 2,400 square feet, including a dining room, kitchen, office, men's restroom, women's restroom and an employee restroom. There is no outdoor seating and the premises is not being altered. Please see attached floor plan.

Total Sq. Footage

Seating Capacity

Occupancy Number

Number of Entrances

Number of Exits

Number of Floors

Change of Location: (must fill out attached financial information form)

7B. CHANGE OF LOCATION

Last-Approved Street Address

Proposed Street Address

DESCRIPTION OF PREMISES

Please provide a complete description of the premises to be licensed, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. You must also submit a floor plan.

N/A

Total Sq. Footage

Seating Capacity

Occupancy Number

Number of Entrances

Number of Exits

Number of Floors

OCCUPANCY OF PREMISES

Please complete all fields in this section. Please provide proof of legal occupancy of the premises. (E.g. Deed, lease, letter of intent)

Please indicate by what means the applicant has to occupy the premises

Landlord Name

Landlord Phone

Landlord Email

Landlord Address

Lease Beginning Date

Rent per Month

Lease Ending Date

Rent per Year

Will the Landlord receive revenue based on percentage of alcohol sales?

Yes No

APPLICANT'S STATEMENT

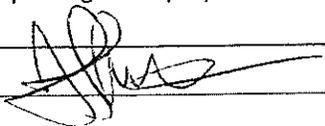
I, Amy Thuck the: sole proprietor; partner; corporate principal; LLC/LLP manager
Authorized Signatory

of Train Bridge View LLC dba Sweet Rice
Name of the Entity/Corporation

hereby submit this application (hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statements and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- (1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;
- (2) I state that the location and description of the proposed licensed premises are in compliance with state and local laws and regulations;
- (3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
- (4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the ownership as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
- (5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
- (6) I understand that all statements and representations made become conditions of the license;
- (7) I understand that any physical alterations to or changes to the size of the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;
- (8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and
- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.
- (10) I confirm that the applicant corporation and each individual listed in the ownership section of the application is in good standing with the Massachusetts Department of Revenue and has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

Signature: 

Date: 09/14/2022

Title: Manager

ADDITIONAL INFORMATION

Please utilize this space to provide any additional information that will support your application or to clarify any answers provided above.

This is an inter-family transaction. Current owner, Saron Thuck, is father to new owner Amy Thuck and uncle to new co-owner Yeng Ly. Both Amy and Ly have been working at Sweet Rice for over a year. Both have been mentored and trained by existing owners. Amy and Yeng are both Falmouth residents.

ENTITY VOTE

The Board of Directors or LLC Managers of Entity Name
duly voted to apply to the Licensing Authority of and the
City/Town
Commonwealth of Massachusetts Alcoholic Beverages Control Commission on
Date of Meeting

For the following transactions (Check all that apply):

- New License
- Change of Location
- Change of Class (i.e. Annual / Seasonal)
- Change Corporate Structure (i.e. Corp / LLC)
- Transfer of License
- Alteration of Licensed Premises
- Change of License Type (i.e. club / restaurant)
- Pledge of Collateral (i.e. License/Stock)
- Change of Manager
- Change Corporate Name
- Change of Category (i.e. All Alcohol/Wine, Malt)
- Management/Operating Agreement
- Change of Officers/
Directors/LLC Managers
- Change of Ownership Interest
(LLC Members/ LLP Partners,
Trustees)
- Issuance/Transfer of Stock/New Stockholder
- Change of Hours
- Other
- Change of DBA

"VOTED: To authorize Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

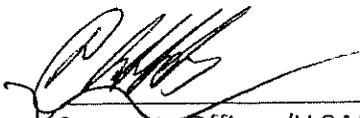
"VOTED: To appoint Name of Liquor License Manager

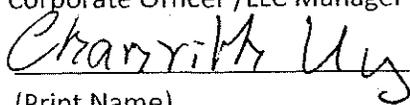
as its manager of record, and hereby grant him or her with full authority and control of the premises described in the license and authority and control of the conduct of all business therein as the licensee itself could in any way have and exercise if it were a natural person residing in the Commonwealth of Massachusetts."

A true copy attest,

For Corporations ONLY

A true copy attest,



Corporate Officer /LLC Manager Signature

(Print Name)

Corporate Clerk's Signature

(Print Name)

PUBLIC HEARINGS

5. Shade Tree Hearing – on application of Mary Van Holde Todd, and David and Steven Van Holde for the removal of two (2) Norway Maple trees at 8 Orchard Street, Woods Hole (10 minutes)



TOWN OF FALMOUTH

Office of the Town Manager & Select Board

59 Town Hall Square, Falmouth, Massachusetts 02540

Telephone (508) 495-7320

Fax (508) 457-2573

TOWN OF FALMOUTH PUBLIC HEARING NOTICE SHADE TREE REMOVAL

Notice is hereby given of a Public Hearing to be held by the Falmouth Select Board in the Select Board Meeting Room, Monday, November 7, 2022, at 7:15 p.m. on the application of Mary Van Holde Todd, and David and Steven Van Holde for the removal of two (2) trees at the following location:

8 Orchard Street (2) Norway Maples weak branching structure caused by codominant stems and included bark

Removal is necessary because of the probable likelihood of failure if a large wind event were to occur. If a large failure were to happen the house is a likely target.

SELECT BOARD

Nancy R. Taylor

Onjalé Scott Price

Samuel H. Patterson

Douglas C. Brown

Edwin (Scott) P. Zylinski II

Publication Date October 21, 2022

almouth Public Schools
 ure from the D.A.R.E. donations account in the
 e purpose of supplies for the RAD Kid's Class
 tments:
 nittee - Richard Boles, Recreation Committee

vation Committee - Robert Brown, Recreation
 tive

o Approve Minutes of Meetings
 eptember 26, 2022; October 1, 2022
 - March 22, 2022; March 29, 2022; May 17, 2022;
 22; June 21, 2022; and October 3, 2022
 ager's supplemental report
 reports
 1 of future agenda items

A revamped version of the
 Barnstable County Community
 Septic Management Loan Program
 is projected to be ready for re-
 lease by mid-December, Senior
 Environmental Specialist Brian
 Baumgaertel reported at the
 county's Board of Regional
 Commissioners' meeting on
 Wednesday, October 12.

The new version of the loan pro-
 gram will feature newly developed
 software as well as updated policies
 and procedures and a rebranded
 name and logo.

the time-restricting piece of the
 work that we have, and that's really
 what is dictating our final time-
 line," Mr. Baumgaertel told the
 commissioners.

The loan program aims to upgrade
 failed residential septic systems to
 Title 5 standards by providing loans
 for septic system repair to home-
 owners. For more than 15 years, the
 Barnstable County Department of
 Health and Environment has ad-
 ministered the loan program on
 behalf of all 15 Cape Cod towns. As
 a way of streamlining the program,

tion in 2006, a
 to borrow mon
 Massachusetts



Traci



189 Ma

Legal Notices

of Appeals or Novem-

Little Pond Village at Falmouth Heights), Worces-
ter Court & Alma Road, Falmouth, MA (DEP File
#SE 025-4349)

APPLICANT: Helms Circle, LLC

The Applicant has filed an amendment request to the Superseding Order of Conditions (DEP File #SE 025-4349) issued by the Massachusetts Department of Environmental Protection. The proposed amendment involves structural updates to decks, patios, and/or associated steps. The Limit of Work remains the same. The amendment request is currently before the Massachusetts Department of Environmental Protection for review under the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and its implementing Regulations (310 CMR 10.00).

All persons wishing to comment on the amend-
 ment request within 21 days of this public notice
 should write to the Massachusetts Department
 of Environmental Protection at SERO_NOI@
 mass.gov, referencing DEP File #SE 025-4349.

October 21, 2022

The FALMOUTH CONSERVATION COMMISS-
 ION will hold a public hearing under Section
 40, Chapter 131 of the general laws of the
 Commonwealth of Massachusetts Wetlands
 Protection Act and/or the Town of Falmouth
 Wetlands Protection Bylaw on **Wednesday,**
November 2, 2022, at 7:00 PM.

In accordance with Chapter 107 of the Acts of
 2022, relating to the 2020 novel Coronavirus
 outbreak, the **November 2, 2022, public**
meeting of the Falmouth Conservation
Commission shall be physically closed to
the public to avoid group congregation.
 Alternative public access to this meeting shall
 be provided in the following manner:

1. The meeting will be televised via Falmouth
 Community Television.
2. Real-time public comment can be addressed to
 the Conservation Commission utilizing the
 Zoom virtual meeting software for remote ac-
 cess. This application will allow users to view
 and participate in the meeting. Text comments
 submitted with the Chat function will be read
 into the record at the appropriate points in the
 meeting.
 a. Zoom Login instructions:
 i. Instructions and the meeting link for this
 specific meeting can be found at the following
 web address: <http://www.falmouthma.gov/Conservation>
 ii. Please plan on 10-15 minutes of preparation
 time to log in though it may be less if you have
 previously used Zoom on the device you will
 use to access this meeting.
3. Additionally, public comments may be sent in
 advance of the meeting to concom@falmouthma.gov
 at least 5 hours prior to the beginning
 of the meeting. Documents and audio or video
 files may also be submitted via email. Submitted

email comments and documents will be made a
 part of the meeting record and may be read into
 the record, summarized, or displayed during the
 meeting at the discretion of the chair.

4. Applicants, their representatives, and
 individuals with enforcement matters before
 the Conservation Commission may appear
 remotely and are not required to be physically
 present. Applicants, their representatives, and
 individuals with enforcement matters before
 the Conservation Commission may contact
 the Conservation Department to arrange an
 alternative means of real-time participation
 if unable to use the Zoom virtual meeting
 software. Documentary exhibits and/or visual
 presentations should be submitted in advance
 of the meeting to concom@falmouthma.gov
 so they may be displayed for remote public access
 viewing.

Complete applications are available by
 request and will be sent via email.

REQUESTS FOR DETERMINATION OF AP- PPLICABILITY

Mindy Pollack-Fusi, 193 Coonamessett Circle,
 Falmouth, MA - For permission to vista prune
 according to FWR 10.18(10)(b).

Voyager Family Trust, 5 Canapitsit Drive, East
 Falmouth, MA - For permission to install a
 generator and mitigation plantings.

REQUESTS FOR A HEARING UNDER A NO- TICE OF INTENT

Norman Zarsky, 406 Seacoast Shores Boule-
 vard, East Falmouth, MA - For permission to
 replace the existing timber retaining wall with a
 vinyl sheet piling bulkhead, remove an existing
 pier, and construct an elevated walkway for
 improved access to an existing, licensed dock.

Andrew Park, 554 West Falmouth Highway,
 Falmouth, MA - For permission to raze an
 existing single family dwelling and construct
 a new single family dwelling, reconfigure the
 driveway, install drywells, with all associated
 grading, clearing, and landscaping.

By Order of: Jamie Mathews, Chairman
 Falmouth Conservation Commission

October 21, 2022

TOWN OF FALMOUTH PUBLIC HEARING NOTICE SHADE TREE REMOVAL

Notice is hereby given of a Public Hearing to be
 held by the Falmouth Select Board in the Select
 Board Meeting Room, Monday, November 7,
 2022, at 7:15 p.m. on the application of Mary

Van Holde Todd, and David and Steven Van
 Holde for the removal of two (2) trees at the
 following location:
 8 Orchard Street(2) Norway Maples
 weak branching structure caused by codomi-
 nant stems and included bark
 Removal is necessary because of the probable
 likelihood of failure if a large wind event were
 to occur. If a large failure were to happen the
 house is a likely target.

SELECT BOARD

Nancy R. Taylor
 Onjalé Scott Price
 Samuel H. Patterson
 Douglas C. Brown
 Edwin (Scott) P. Zylinski II

October 21, 2022

PUBLIC HEARING NOTICE

You are hereby notified that a hearing will
 be held at Falmouth Town Hall in the Small
 Conference Room at 3:00 p.m. on Thursday,
 November 3, 2022, upon the petition of NSTAR
 Electric Company d/b/a Eversource Energy for
 permission to install a new handhole to be
 labelled 214H/7 and to install approximately
 93' (feet) of conduit and cable under town road
 starting at existing pole 214/7 to new handhole
 214H/7.

This work is necessary to provide electric ser-
 vice to 101 Allen Avenue.

Per Order of the Falmouth Select Board

October 21, 2022

PUBLIC HEARING NOTICE

The Falmouth Select Board will hold a public
 hearing under Section 240-14.8 (Wetlands
 Regulations) of the Zoning Bylaws of the Town
 of Falmouth on Monday, November 7, 2022 at
 7:15 p.m. in the Select Board Meeting Room,
 Falmouth Town Hall, 59 Town Hall Square on
 the application of Daniel H. and Mary E. Webb
 for permission to permit an existing seawall
 and construct a ramp from the seawall to a
 small float in Siders Pond, located at 51 Siders
 Lane, Falmouth, MA. Area affected is Siders
 Pond. Interested parties may review the file on
 this hearing at the Office of the Select Board.

Per Order of the
 Select Board

October 14, 21, 2022



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QUEST TO \$ ORDER OF

ll Court (formerly

Submit in Duplicate

Town of Falmouth



Application for Hearing & Removal of Town Shade Tree

To: Falmouth Board of Selectmen

(To be filled out by applicant)

Name of Applicant (Owner): Mary Van Holde Todd, David and Steve Van Holde (8 Orchard St. LLC)

Street Address: 8 Orchard St. , Woods Hole, MA 02543

Section of Town: woods hole

Telephone Number: [Redacted]

Reason for Tree Removal Request: concern for 2 old Norway maples falling on house, esp during storms

ms); trees have been seen by Jeremiah Pearson and previously addressed by chief town treecutter with removal of "widow-maker" limbs.

Legal Advertising Fee to be paid by applicant: \$25.00

Signature of Applicant: Mary Van Holde Todd

(To be filled out by DPW Tree Warden)

Variety of Tree [Redacted] Condition of Tree [Redacted]

Approximate Height [Redacted] Diameter of Tree [Redacted]

Can Tree be Removed [Redacted] Estimated Cost/Moving [Redacted]

Estimated Cost/Removing [Redacted]

Recommendation of DPW Tree Warden [Redacted]

Action Taken by Board of Selectmen [Redacted]

[Redacted signature boxes for Board of Selectmen]

Board of Selectmen

Date of Posting of Tree [Redacted]

Date of Legal Advertising in Newspaper [Redacted]

Date of Removal of Tree [Redacted]



Town of Falmouth

Department of Public Works

Parks & Forestry Division

416 Gifford Street
Falmouth, MA 02350

Telephone: (508) 457-2543
Fax: (508) 548-1537

Jeremiah Pearson
Parks Superintendent

Tree Wardens Opinion letter for removal of two trees located at 8 Orchard Street

Two Norway maples trees have been requested to be removed by homeowner after repeated occurrences of branch failure during wind events. To mitigate the issue, in 2021 Parks extensively pruned both trees to allow less wind resistance. Since then more damage has occurred within the canopy. It is my professional opinion after performing a tree risk assessment that both maples have a probable likelihood of failure if a large wind event were to occur. Both maples have weak branching structure caused by codominant stems and included bark. This is when the diameter of the branch and parent stem have multiple branches similar in size causing uneven weight distribution connected by a weak branching union. If a large failure were to happen the house is a likely target. As Tree Warden my recommendation is to remove both maples and re-plant with an appropriate species.



Town of Falmouth

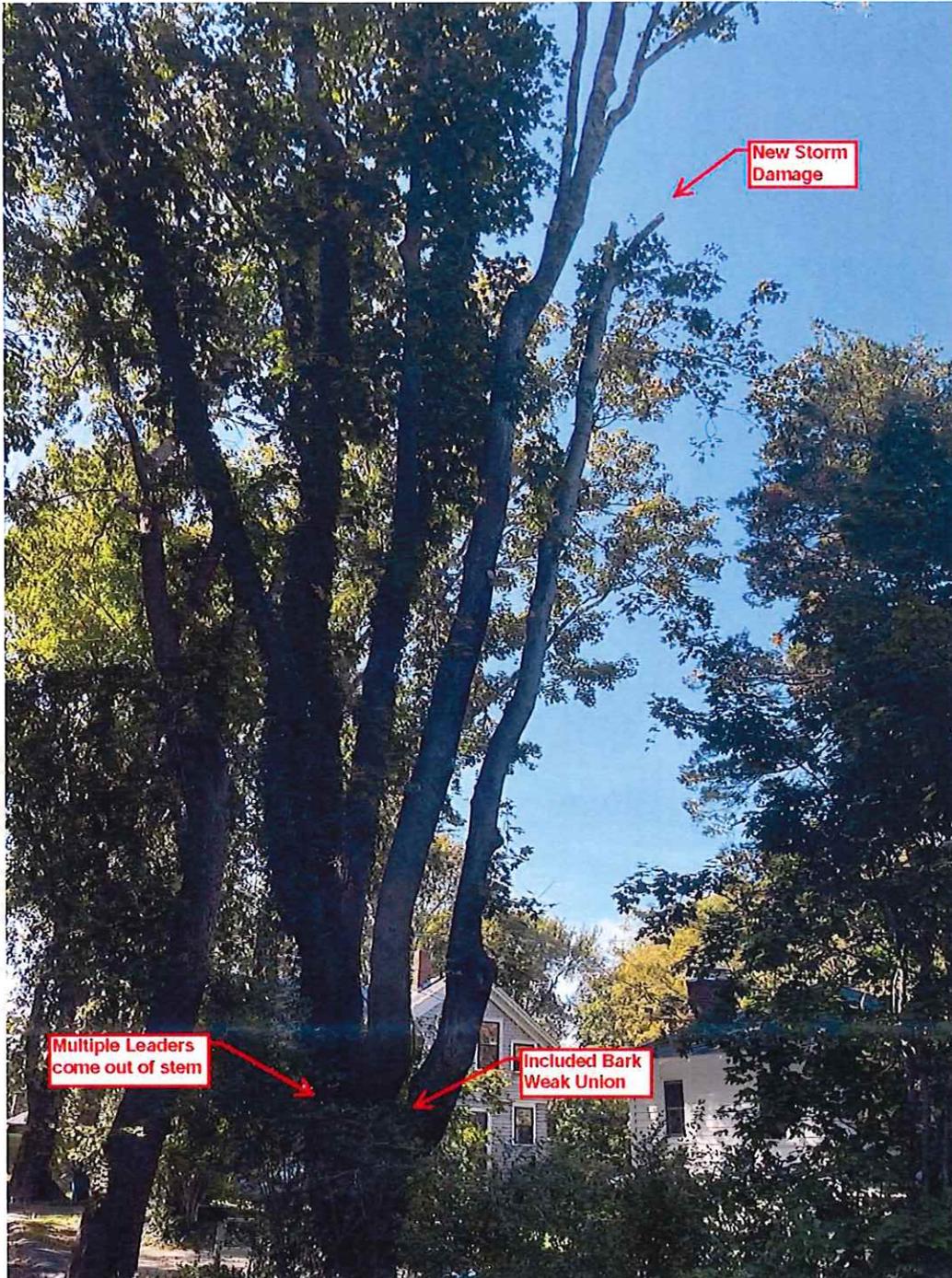
Department of Public Works

Parks & Forestry Division

416 Gifford Street
Falmouth, MA 02350

Telephone: (508) 457-2543
Fax: (508) 548-1537

Jeremiah Pearson
Parks Superintendent



New Storm
Damage

Multiple Leaders
come out of stem

Included Bark
Weak Union



Town of Falmouth

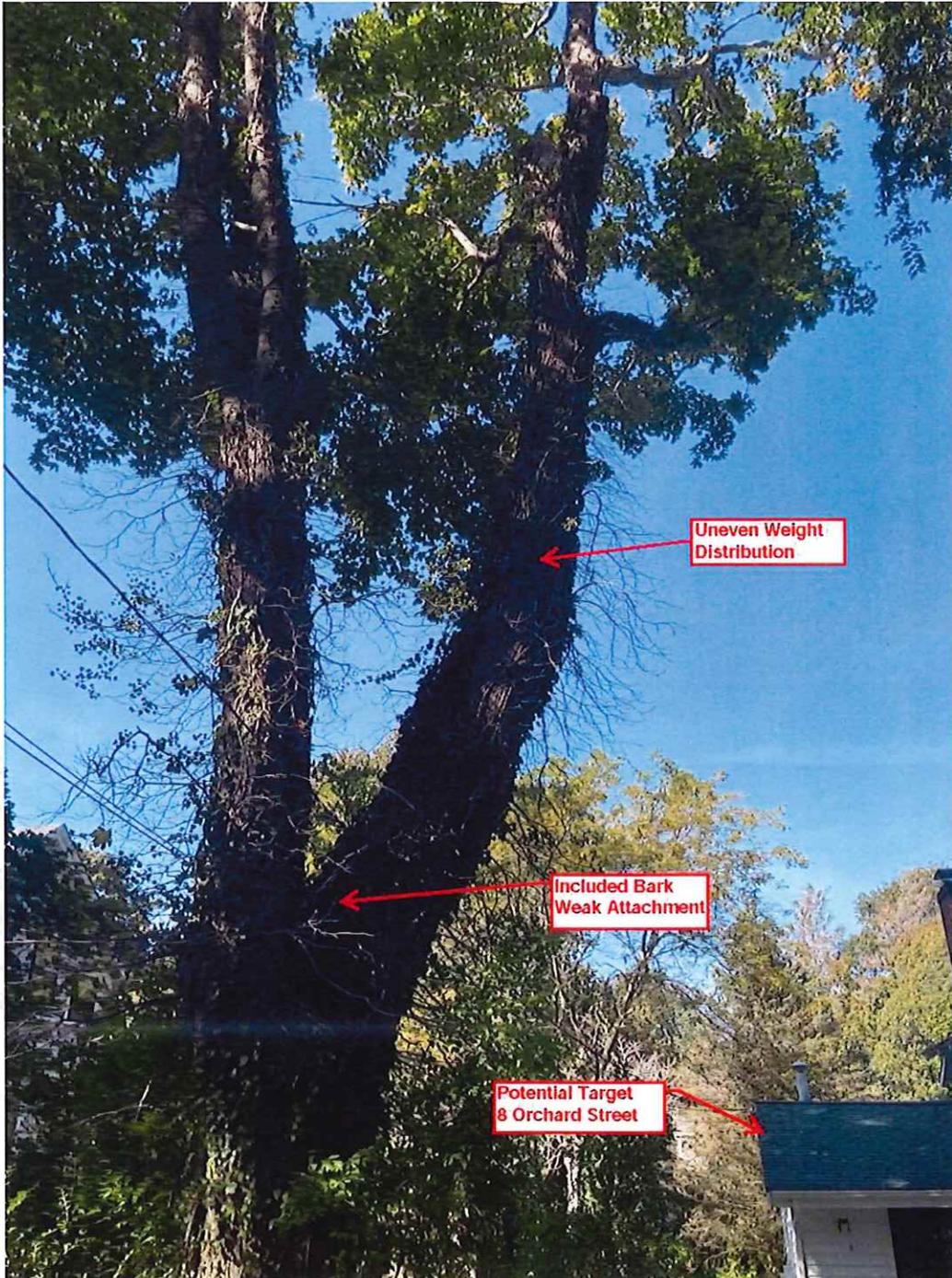
Department of Public Works

Parks & Forestry Division

416 Gifford Street
Falmouth, MA 02350

Telephone: (508) 457-2543
Fax: (508) 548-1537

Jeremiah Pearson
Parks Superintendent



BUSINESS

1. **Vote Interim Town Manager Agreement (5 minutes)**

EMPLOYMENT AGREEMENT

between
Town of Falmouth
and
Interim Town Manager

THIS AGREEMENT, pursuant to Chapter 41, Section 108N of the Massachusetts General Laws, made and entered into this 7th day of November by and between the Town of Falmouth, Commonwealth of Massachusetts, a municipal corporation, hereinafter called the "Town," by and through its Select Board, hereinafter called the "Board", and Peter Johnson-Staub hereinafter called the "Interim Town Manager", as follows:

WITNESSETH:

Whereas, the Select Board desires to appoint Peter Johnson-Staub to serve as Interim Town Manager of the Town of Falmouth while the Town Manager position remains vacant; and,

Whereas, the Board, under Chapter 41, Section 108N of the Massachusetts General Laws, may contract with the Interim Town Manager regarding his conditions of employment; and

Whereas, Peter Johnson-Staub has agreed to accept the appointment as Interim Town Manager of said Town.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

Section 1. Duties

- 1.1 The Interim Town Manager shall perform the duties of Town Manager as a result of a vacancy in the office of the Town Manager in accordance with the provisions of Section C5-13B of the Town Charter. The Interim Town Manager shall be the Chief Administrative Officer of the Town and shall implement the goals and carry out the policies of the Select Board as required by Section C5-3 of the Town Charter. The Interim Town Manager shall be responsible for carrying out the provisions of Section C5-3B of the Town Charter.
- 1.2 Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Board to rescind the appointment of Interim Town Manager. In the event that the appointment is rescinded, the Interim Town Manager shall return to the position of Assistant Town Manager.

Section 2. Salary

The Town shall pay the Interim Town Manager a salary of \$3,365.38 per week, retroactive to July 1, 2022, for the period he serves as Interim Town Manager. The Interim Town Manager shall have the right to "cash out" up to three weeks of vacation time on or before December 1, 2022 and, in return, receive compensation equivalent to the value of three weeks of salary of the Assistant Town Manager. In addition to the foregoing, the Interim Town Manager shall continue to receive all of the benefits that accrue to the position of Assistant Town Manager and no others.

Section 3. Indemnification

- 3.1 The Town shall defend, save harmless and indemnify the Interim Town Manager against any tort, professional liability, claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of his duties as Interim Town Manager, even if said claim is brought/filed following his termination from employment. For purposes of indemnification and defense under this paragraph only, the Interim Town Manager is deemed to have commenced his duties as Interim Town Manager as of May 13, 2022, provided that at the time of the alleged act or omission the Interim Town Manager was then Interim within the scope of his/her approved duties. Under these circumstances only, the Town (and/or its insurer) shall pay the amount of any settlement or judgment rendered thereon, and further, the Town (and/or its insurer) may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon without recourse to the Interim Town Manager.
- 3.2 This Section shall survive the termination of this Agreement.

Section 4. Term

- 4.1 This Agreement shall become effective on the date of execution of this Employment Agreement and shall be in full force and effect until a Town Manager is appointed by the Select Board and commences employment with the Town.

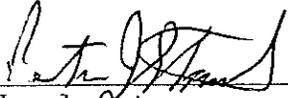
Section 5. General Provisions

- 5.1 If any provision, or any portion thereof, contained in this Agreement, is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.
- 5.2 This Employment Agreement is entered into in the Commonwealth of Massachusetts and shall be construed and interpreted in accordance with its laws.

5.3 During the term of the Interim Town Manager, he shall be on a leave of absence from his position of Assistant Town Manager and shall automatically revert back to such position upon completion of his term as Interim Town Manager. The preceding sentence shall not preclude the Select Board from appointing the Interim Town Manager as Town Manager pursuant to Section C5-1 of the Town Charter.

IN WITNESS WHEREOF, the Town of Falmouth, Massachusetts has caused this Agreement to be signed and executed in its behalf by its Select Board, and duly attested by its Town Clerk, and the Interim Town Manager has signed and executed this Agreement on the day and year first above written.

INTERIM TOWN MANAGER



[Name] Peter Johnson-Staub

11/2/2022

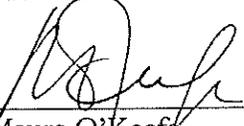
Date

Approved:

SELECT BOARD

Date

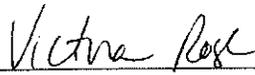
Approved as to Legal Form:



Maura O'Keefe
Town Counsel
10/31/22

Date

Certification of sufficient appropriation:



Victoria Rose
Town Accountant
11/1/22

Date

BUSINESS

2. Report – Solid Waste Advisory Committee **(15 minutes)**

BUSINESS

3. Report – School Committee **(15 minutes)**

BUSINESS

4. Request for Variance to Sign Code – §184-26 Illumination – Cape Cod Church, 1205 Nathan Ellis Highway, East Falmouth (5 minutes) Report – School Committee **(15 minutes)**



Nov 3, 2022

Dear Ms. Davidson,

Cape Cod Church located at 1205 Nathan Ellis Highway, East Falmouth, MA, has been issued a sign permit to update our existing sign with our new logo (Permit No S-22-2720, issued 10/07/2022) – see attached drawings. The PROPOSED sign was permitted with exterior lighting. We are seeking to light the LED letters from within which requires a variance in our zoning (Agriculture) per Jonathan Dickinson.

We are working with Locust Street Sign Company for the design and production of our new sign. I have attached a photo of current sign (permit number 2013-05776), a rendering of the proposed sign (permit no S-22-2720), and a site map with sign location.

We believe that the sign with interiorly-lit LED letters will be more aesthetically pleasing and will allow the sign to be more visible from Nathan Ellis Highway allowing for more immediate and safer recognition from passing cars - the road is not lit from above in our area. We have regular night time activities at our church for members and guests. We also host nighttime events for our community such as our annual Trunk or Treat Halloween Family Festival

We are located across the street from Cape Cod Fairgrounds who also are our abutting neighbor to the west. Plum Hollow Road located about 150 yards to our east is a residential neighborhood set back from Nathan Ellis Highway. There are no residential homes on Nathan Ellis Highway for over 1/2 mile west to Sandwich Road and about 1/2 mile east to the Mashpee town line.

Please let me know if we can provide any more information and let me know the date that we are to be on the schedule for the Selectman's meeting.

Thank you,

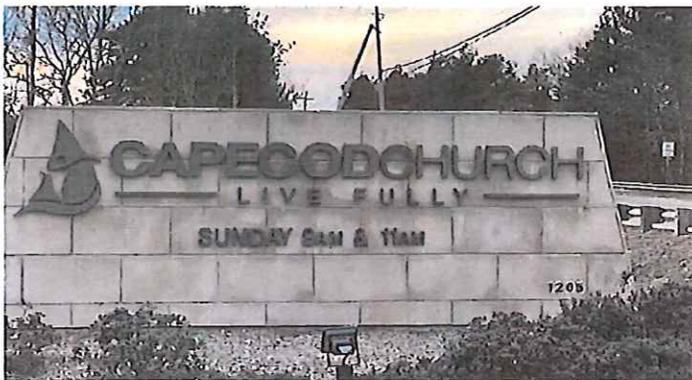
Mark McSherry
Executive Director
Cape Cod Church
Mark@CapeCodChurch.com
[Redacted]



Michael McGowan
 121 LOCUST STREET
 FALMOUTH
 508-457-1777

Project Location: 1205 Nathan Ellis Hwy
Scope of project: Update existing sign with new logo and colors

EXISTING



PROPOSED

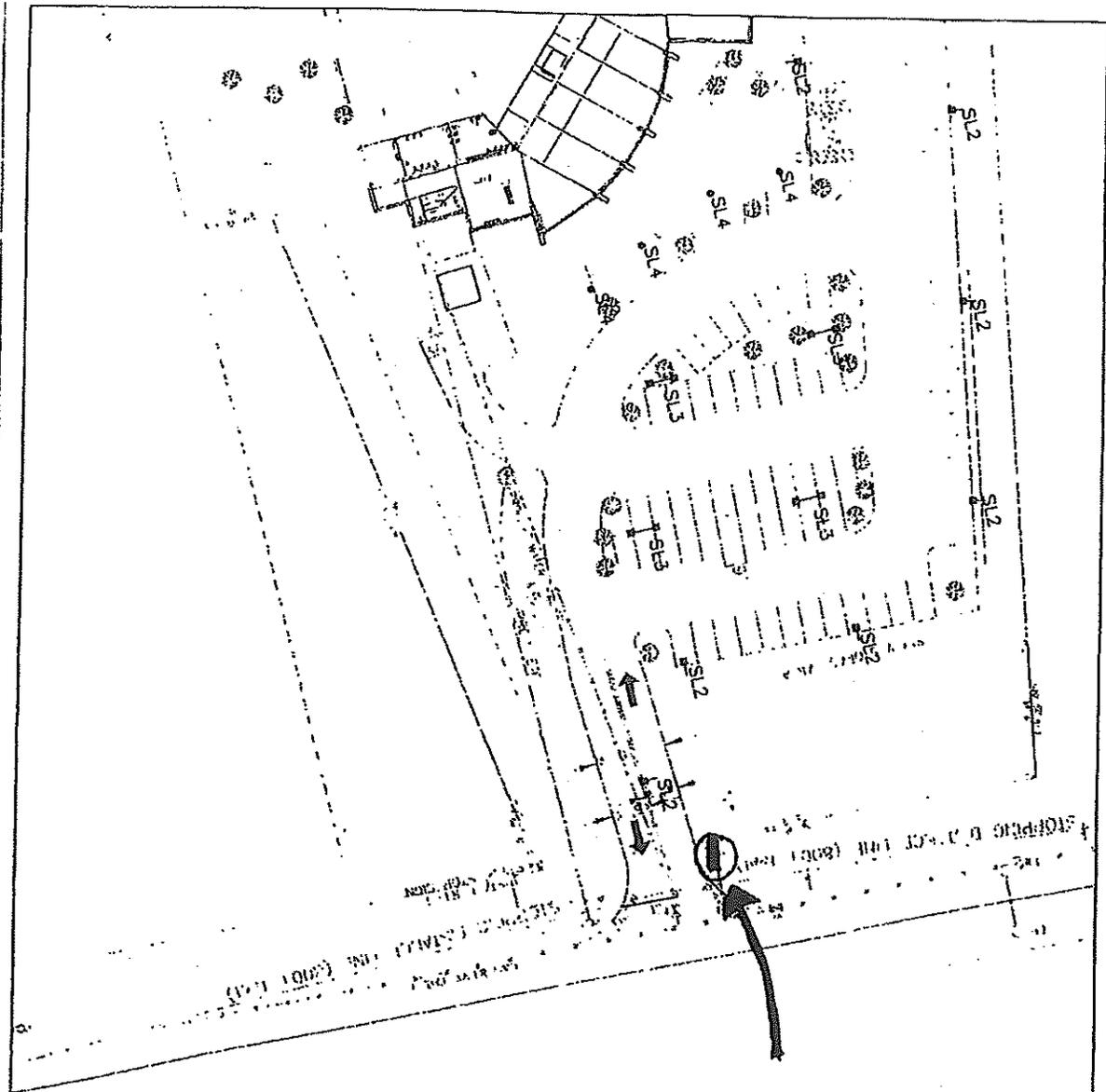


Proposed sign panels to be mounted to existing sign structure. Panels to be constructed of painted marine grade aluminum with raised acrylic letters. Letters to be illuminated from within with LED modules. Area of letters and graphic to be 15.26 s/f



Area of Lettering and Graphics

"Cape Cod"	5.9 Square Feet
"Church & Live Fully"	5.72 Square Feet
Sailboat Graphic	3.64 Square Feet
Total	15.26 Square Feet



Cape Cod Church – Sign Location

Freestanding Double-Sided Sign

Original Town of Falmouth Permit Number 2013-05776

Installed 2014, Permit Closed

Setback – 42' ft from center line Nathan Ellis Highway



E004

**ELECTRICAL
SITE LIGHTING PLAN**

SCALE: AS NOTED
DATE: 1/2/12

PERMIT SET

Cape Cod Church
1205 Nathan Ellis Hwy. East Falmouth, MA

DEAN KNOWLES & ASSOCIATES
64 Northwood Court
Falmouth, MA 01935

Dean Knowles & Associates, Inc.
Professional Engineer
E004212

Revisions:

Diane Davidson

From: Jonathan Dickinson
Sent: Thursday, October 20, 2022 7:37 AM
To: Diane Davidson
Subject: Re: Cape Cod Church Sign Application

Good Morning Diane,

§ 184-26 Illumination.

B.

Internal illumination is permitted for up to forty (40) square feet of area for any sign, except that no internal illumination is permitted for residential and/or home occupation signs and for all signs in the Historic Districts other than time-and-temperature signs, Residential Districts and Agricultural Districts, regardless of the use of the property. In no case shall internally illuminated signs cause a glare.

As the Church is located in an AGA Zone, it is not allowed without a variance.

I will include in the sign application, if approved by the Select Board, details on the LEDs and the lumens. I will also request a dimmer or settings selection. The current type of internal illumination that have been included in current sign applications do not present glare.

Respectfully,

Jonathan Dickinson
Assistant Zoning Compliance Agent
Town of Falmouth
O:508-495-7468

From: Diane Davidson <diane.davidson@falmouthma.gov>
Sent: Wednesday, October 19, 2022 4:30 PM
To: Jonathan Dickinson <jonathan.dickinson@falmouthma.gov>
Subject: FW: Cape Cod Church Sign Application

Hi Jonathan,

We have received a request for a variance to the sign code from Cape Cod Church, located at 1205 Nathan Ellis Highway, East Falmouth, to update their sign with internally-lit letters. Would you please provide me with the section of the sign

code that requires approval for a variance? Also, if you have any comments for the Select Board on the application, please forward those as well.

This hearing is scheduled for the Monday, November 7, 2022 Select Board meeting.

Thank you,

Diane

Diane S. Davidson
Office Manager/Licensing
Office of the Town Manager and Select Board
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540
diane.davidson@falmouthma.gov
(508) 495-7321

From: Mark@CapeCodChurch.com [mailto:Mark@CapeCodChurch.com]
Sent: Friday, October 7, 2022 3:05 PM
To: Diane Davidson <diane.davidson@falmouthma.gov>
Subject: Cape Cod Church Sign Application

Dear Ms. Davidson,

Cape Cod Church located at 1205 Nathan Ellis Highway, East Falmouth, MA, is applying for a sign permit to update our currently permitted sign with our new logo. We have submitted a permit application which is being reviewed which includes exterior lighting, and are herein seeking a variance to subsequently light the LED letters from within which requires a variance in our zoning (Agriculture) per Jonathan Dickinson.

We are working with Locust Street Sign Company for the design and production of our new sign. I have attached a photo of current sign (permit number 2013-05776), a rendering of the proposed sign, and a site map with sign location.

We believe that the sign with interiorly-lit LED letters will be more aesthetically pleasing and will allow the sign to be more visible from Nathan Ellis Highway allowing for more immediate and safer recognition from passing cars - the road is not lit from above in our area. We have regular night time activities at our church for members and guests. We also host nighttime events for our community such as our annual Trunk or Treat Halloween Family Festival

We are located across the street from Cape Cod Fairgrounds who also are our abutting neighbor to the west. Plum Hollow Road located about 150 yards to our east is a residential neighborhood set back from Nathan Ellis Highway. There are no residential homes on Nathan Ellis Highway for over 1/2 mile west to Sandwich Road and about 1/2 mile east to the Mashpee town line.

Please let me know if we can provide any more information, and let me know the date that we are to be on the schedule for the Selectman's meeting.

Thank you,

Mark McSherry
Executive Director
Cape Cod Church
Mark@CapeCodChurch.com



Town of Falmouth, MA
Wednesday, October 19, 2022

Chapter 184. Signs

Article IV. Standards for Specific Types of Signs

§ 184-26. Illumination.

- A. Signs shall be illuminated only with steady, stationary, shielded light sources directed solely onto the sign without causing glare.
- B. Internal illumination is permitted for up to forty (40) square feet of area for any sign, except that no internal illumination is permitted for residential and/or home occupation signs and for all signs in the Historic Districts other than time-and-temperature signs, Residential Districts and Agricultural Districts, regardless of the use of the property. In no case shall internally illuminated signs cause a glare.
- C. Neon window signs may be permitted as in § 184-38.
- D. Gas-filled light tubes shall be allowed for indirect illumination and when placed in such a manner that the tubes are not exposed to view from any point along the public roadway or sidewalk.

BUSINESS

5. Approve Annual License Renewals for 2023 (5 minutes)

ALL ALCOHOL RESTAURANT LICENSE and COMMON VICTUALLER LICENSE

Casa Vallarta, 70 Davis Straits
East End Tap, 734 Teaticket Highway

ALL ALCOHOL CLUB LICENSE

Cape Cod Curling Club, 37 Highfield Drive

WINE, MALT & CORDIAL INNHOLDER LICENSE and INNHOLDER LICENSE

Palmer House Inn, 81 Palmer Avenue

WINE & MALT PACKAGE STORE

Jack in the Beanstalk, 800 Gifford Street
Windfall Market, 77 Scranton Avenue

COMMON VICTUALLER LICENSE

Le Bon Jour, 420 East Falmouth Highway
New Golden Dynasty, 13 Davis Straits, Unit 2
Pie in the Sky, 10 Water Street

INNHOLDER LICENSE

Admiralty Inn, 51 Teaticket Highway
Falmouth Inn, 824 Main Street
Shoreway Acres Inn, 50 Shore Street

ENTERTAINMENT

Casa Vallarta, 70 Davis Straits
East End Tap, 734 Teaticket Highway

SUNDAY ENTERTAINMENT LICENSE

Casa Vallarta, 70 Davis Straits

USED CAR DEALER LICENSE

Intergas, 10 North Main Street
O'Hara Motors, Inc., 50 Spring Bars Road

November 7, 2022

ALL ALCOHOL RESTAURANT LICENSE and COMMON VICTUALLER LICENSE

Casa Vallarta, 70 Davis Straits
East End Tap, 734 Teaticket Highway

ALL ALCOHOL CLUB LICENSE

Cape Cod Curling Club, 37 Highfield Drive

WINE, MALT & CORDIAL INNHOLDER LICENSE and INNHOLDER LICENSE

Palmer House Inn, 81 Palmer Avenue

WINE & MALT PACKAGE STORE

Jack in the Beanstalk, 800 Gifford Street
Windfall Market, 77 Scranton Avenue

COMMON VICTUALLER LICENSE

Le Bon Jour, 420 East Falmouth Highway
**New Golden Dynasty, 13 Davis Straits, Unit 2
Pie in the Sky, 10 Water Street

INNHOLDER LICENSE

Admiralty Inn, 51 Teaticket Highway
Falmouth Inn, 824 Main Street
Shoreway Acres Inn, 50 Shore Street

ENTERTAINMENT

Casa Vallarta, 70 Davis Straits
East End Tap, 734 Teaticket Highway

SUNDAY ENTERTAINMENT LICENSE

Casa Vallarta, 70 Davis Straits

USED CAR DEALER LICENSE

Intergas, 10 North Main Street
O'Hara Motors, Inc., 50 Spring Bars Road

***This restaurant is not renewing its liquor license*

CONSENT AGENDA

1. Administrative Orders

- a. Vote to approve motion submitted by The 300 Committee on the request from The 300 Committee for a Conservation Restriction for the Ed Brown-Leger 3.72-acre property at 0 Boxberry Hill Road

MOTION: That the Select Board approve a Conservation Restriction from Edward J. Brown-Leger (grantor) to The 300 Committee Land Trust, Inc. (grantee), over approximately 3.7 acres of land located at 0 Boxberry Hill Road in East Falmouth, Property ID 10 03 010 002, for conservation purposes. Approval granted shall allow for non-substantive changes, meaning without significant impact to the terms of the conservation restriction, based on final review by the state Executive Office of Energy and Environmental Affairs.

Explanation for Select Board:

As we are facing delays with the required state Executive Office of Energy and Environmental Affairs Conservation Restriction review, and we have a closing deadline of December 2022 under the terms of the State Conservation Land Tax Credit Program, we respectfully request that your approval vote allow for non-substantive changes, meaning without significant impact to the terms of the conservation restrictions, based on final review by the state agency.

Diane Davidson

From: Peter Johnson-Staub
Sent: Friday, October 7, 2022 10:58 AM
To: jwhritenour 300committee.org; Diane Davidson; Jennifer Lincoln
Cc: kelly@thecompact.net; Diane Davidson
Subject: RE: [EXTERNAL] - Re:November 7 Select Board meeting

Ok, thanks Jessica. We'll pencil it in for Nov 7th.

Peter Johnson-Staub
Acting Town Manager
Town of Falmouth, MA
O: 508-495-7320

www.falmouthma.gov

Be advised that most emails to, and from, municipal offices and officials are public record. Confidentiality should not be expected.

From: jwhritenour 300committee.org <jwhritenour@300committee.org>
Sent: Friday, October 7, 2022 8:17 AM
To: Peter Johnson-Staub <peter.johnson-staub@falmouthma.gov>; Diane Davidson <diane.davidson@falmouthma.gov>; Jennifer Lincoln <jennifer.lincoln@falmouthma.gov>
Cc: kelly@thecompact.net
Subject: [EXTERNAL] - Re:November 7 Select Board meeting

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Peter,

There are no controversial items or concerns that The 300 Committee is aware of for this project. Ed Brown-Leger is conserving his 3.72-acre lot next to his residential property at 398 Boxberry Hill Road. This CR is voluntary and the owner is eligible for a Conservation Land Tax Credit (CLTC) through the the MA Division of Conservation Services due to the donation of the 3.72-acre CR to The 300 Committee.

Thanks,
Jessica

From: Peter Johnson-Staub <peter.johnson-staub@falmouthma.gov>
Sent: Thursday, October 6, 2022 12:21 PM
To: jwhritenour 300committee.org <jwhritenour@300committee.org>; Diane Davidson <diane.davidson@falmouthma.gov>; Jennifer Lincoln <jennifer.lincoln@falmouthma.gov>
Cc: kelly@thecompact.net <kelly@thecompact.net>
Subject: RE: [EXTERNAL] - November 7 Select Board meeting

Hi Jessica and Jennifer,

November 7 Consent Agenda seems doable. Is there anything at all controversial about the terms of the CR for this parcel?

Peter

Peter Johnson-Staub
Acting Town Manager
Town of Falmouth, MA
O: 508-495-7320

www.falmouthma.gov

Be advised that most emails to, and from, municipal offices and officials are public record. Confidentiality should not be expected.

From: jwhritenour 300committee.org <jwhritenour@300committee.org>
Sent: Thursday, October 6, 2022 10:51 AM
To: Diane Davidson <diane.davidson@falmouthma.gov>
Cc: Peter Johnson-Staub <peter.johnson-staub@falmouthma.gov>; kelly@thecompact.net
Subject: [EXTERNAL] - November 7 Select Board meeting

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Diane and Peter:

The 300 Committee Land Trust would like to pencil in a Conservation Restriction (CR) for Select Board review and approval on November 7. This is for Ed Brown-Leger's 3.7 acre property at 0 Boxberry Hill Road. The Con Com will review the CR on October 19. We will send the CR package, including recommendation letter from the Con Com, after October 19.

Please let us know if this item can be included on the Summary of Actions for the Select Board's November 7 meeting.

Note, The 300 Committee is working to get State approval to record this Conservation Restriction before the 12/31/22 deadline for MA Conservation Land Tax Credits (CLTC).

Thanks,
Jessica

Jessica K. Whritenour, AICP
Executive Director
The 300 Committee Land Trust
157 Locust Street
Falmouth, MA 02540
p: 508-540-0876
f: 508-457-6406
e: jwhritenour@300committee.org

GRANTOR: Edward J. Brown-Leger
GRANTEE: The 300 Committee Land Trust, Inc.
ADDRESS OF PREMISES: 0 Boxberry Hill Road, East Falmouth, MA 02536
FOR GRANTOR'S TITLE SEE: See Exhibit A.
FOR GRANTOR'S PLAN SEE: See Exhibit B.

GRANT OF CONSERVATION RESTRICTION

I. STATEMENT OF GRANT

Edward J. Brown-Leger, Surviving Tenant by the Entirety, 398 Boxberry Hill Road, East Falmouth, Barnstable County, Massachusetts 02536, being the sole surviving owner of the Premises as defined herein, for my successors and assigns ("Grantor"), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grant, with QUITCLAIM COVENANTS, to **THE 300 COMMITTEE LAND TRUST, INC.**, a Massachusetts charitable corporation, having an office and mailing address at 157 Locust Street, Falmouth, Barnstable County, Massachusetts, 02540, its permitted successors and assigns ("Grantee"), for nominal consideration as a gift, **IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES**, the following Conservation Restriction on land located in Falmouth, Barnstable County, Commonwealth of Massachusetts containing a 3.723-acre± parcel of land ("Premises"), which Premises is more particularly described in Exhibit A and shown in the attached reduced copy of a survey plan in Exhibit B, both of which are incorporated herein and attached hereto.

II. PURPOSES:

This Conservation Restriction is defined in and authorized by Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws and otherwise by law. The purposes of this Conservation Restriction ("Purposes") are to ensure that the Premises will be maintained in perpetuity in its natural, scenic, or open condition, and to prevent any use or change that would materially impair the Conservation Values (as defined below).

Conservation Land Tax Credit. The Conservation Restriction was acquired utilizing, in part, the Conservation Land Tax Credit Program (CLTC#0503) authorized under the Chapter 509 Acts of 2008 Sections 1-4 as amended by Chapter 409 Acts of 2010 Sections 4-13 of the Massachusetts General Court.

The Conservation Values protected by this Conservation Restriction include the following:

- Open Space Protection. The Premises contributes to the protection of the scenic and natural character of East Falmouth and the protection of the Premises will enhance the open-space value of these and nearby lands. The Premises is proximal to the Frances A. Crane Wildlife Management Area (over 1,800 acres of open space), Braeburn Farms Conservation Area, and to a significant expanse of additional publicly-owned property.
- Working Farmland and Forest. This Conservation Restriction will ensure that the Premises will be permanently available for agriculture activities that are consistent with the protection of conservation values present on the Premises.
- Protection of Wildlife Habitat. The Premises falls entirely within a Massachusetts Natural Heritage & Endangered Species Program- (“NHESP”) designated Priority Habitat of Rare Species as well as entirely within an NHESP-designated Estimated Habitat of Rare Wildlife. Moreover, the Premises falls entirely within NHESP BioMap2-designated Critical Natural Landscape, containing the Landscape Block Core Component. BioMap2, published in 2010, was designed to guide strategic biodiversity conservation in Massachusetts over the next decade by focusing land protection and stewardship on the areas that are most critical for ensuring the long-term persistence of rare and other native species and their habitats, exemplary natural communities, and a diversity of ecosystems. BioMap2 is also designed to include the habitats and species of conservation concern identified in the State Wildlife Action Plan. Therefore, the protection of the Premises aligns with NHESP’s wildlife and habitat protection objectives and would ensure perpetual protection for each of these state-recognized habitats.
- Water Supply Protection. The Premises falls approximately 100% within a Zone II Area of Contribution to a Public Water Supply. Therefore, permanent protection from further human development of the Premises with this Conservation Restriction will assist in maintaining public water supply quality in area of the Premises.
- Soils and Soil Health. The Premises includes a majority of Prime Forest Land of Statewide Importance as identified by the USDA Natural Resources Conservation Service. The protection of the Premises will promote healthy soils and healthy soils practices as such terms are defined in Chapter 358 of the Acts of 2020, which added definitions of these terms to Section 7A of Chapter 128 of the Massachusetts General Laws.
- Wetlands. The Premises contains wooded deciduous wetlands protected under the Massachusetts Wetlands Protection Act. Wetlands contribute to flood control, prevention of pollution, reduced storm damage, and protection of public water supplies (Coonamessett Pond).

- Climate Change Resiliency. The Premises is identified as an area of average Terrestrial Resilience according to The Nature Conservancy's (TNC) Resilient Land Mapping Tool, including slightly above average Landscape Diversity and average Local Connectedness. TNC's Resilient Land Mapping Tool was developed in order to map 'climate-resilient' sites that are 'more likely to sustain native plants, animals, and natural processes into the future.' The protection of these climate resilient sites is an important step in both reducing human and ecosystem vulnerability to climate change and adapting to changing conditions.
- Consistency with Clearly Delineated Barnstable County Conservation Policy. Protection of the Premises will assist in achieving Barnstable County conservation goals. In July 1991, the Barnstable County Assembly of Delegates, pursuant to the Cape Cod Commission Act (Chapter 716 of the Acts of 1989), adopted a *Regional Policy Plan*, amended in 1996, 2002 2009, and 2012, which provided, *inter alia* (references are to the 2012 Plan):
 - "To preserve and enhance rural land uses, including agriculture, that are environmentally compatible with the Cape's natural resources in order to maintain opportunities to enjoy the traditional occupations, economic diversity, and scenic resources associated with rural lands, and to support activities that achieve greater food independence for Cape Cod" (Land Use Goal LU3, p.18);
 - "Open space has helped define Cap Cod's heritage and economy. Open space, and the rural character it imparts, is one of the region's most valuable assets. Marshes, beaches, farms, and woodlands contribute directly to key industries on Cape Cod, attracting tourists and providing areas for farming and cranberry growing, hunting, fishing, and swimming" (Open Space and Recreation introduction, p. 62);
 - Investigate "programs for the Cape to ensure protection of the most sensitive resources, as an incentive for protecting working agricultural lands, and to provide contiguous open space" (Open Space and Recreation Goal OS1-C3, p. 64);
 - "The Cape Cod Commission will continue to inventory the region's distinctive cultural landscapes, including historic agricultural lands, and will make recommendations to preserve these significant resources through land protection, preservation or conservation restrictions, educational efforts to increase public awareness, and other means" (Heritage Preservation and Community Character Goal HPCC1-C1, p. 88);
 - Regional Rural Lands Protection Tools: "The Commission will investigate the use of land use protection tools, including DCPCs and TDR, as well as conservation restrictions, toward the goal of protecting significant soils, natural resources, or working agricultural landscapes" (LU3-C2, p. 18);
 - Businesses such as high technology, clean, light manufacturing, and resource-based industries (e.g., shellfishing, ecotourism, farming) can foster economic development that is dependent upon the preservation of open space and protection of natural resources (p. 18); and,
 - Land Use Goal 1.3.2: Development unrelated to agricultural operations shall be designed so as to avoid or minimize development on lands capable of sustained agricultural production as evidenced by soils, recent agricultural use, and/or surrounding agricultural use (p. 25).

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Each of these objectives will be fulfilled with this Conservation Restriction because it will ensure that the Premises value as a farming and conservation resource is maintained in perpetuity. This Conservation Restriction will ensure that the Premises remains protected open space that is available for agricultural activities that are consistent with preserving its conservation values.

- Consistency with Clearly Delineated Town of Falmouth Conservation Policy. Protection of the Premises will further the Town of Falmouth's documented goals regarding conservation of land. In fact, the use of the Premises for farming comports with zoning, as the Premises falls within an Agricultural District. Additionally, in 2014, the Town of Falmouth outlined its open space and recreation goals in its updated *Open Space and Recreation Plan*, identifying goals, policies, and actions to guide conservation efforts, among them the to "acquire 30% of Falmouth's total land area as high quality, permanently protected open space" (Goal 1, p. 77). Further, permanently protecting the Premises with this Conservation Restriction also comports with the Town of Falmouth's goals and policies for growth in the next 50 years as outlined by the Town Planning Board's 2016 *Local Comprehensive Plan*. The Planning Board established goals to guide management of open space and farmland in Falmouth, including: "to protect the things about Falmouth to be treasured and kept, such as our natural resources and heritage" (p.1) . . . and to protect "remaining farmlands [which] are critical to our community's resiliency and open space network" (p. 3).

In 1991, the Town of Falmouth adopted a *Conservation Restriction Policy*, consisting of policies and guidelines approved by the Board of Selectmen, Assessors and Conservation Commission (updated and reaffirmed in 2001), which encourages the use of conservation restrictions in perpetuity as a means of "preserving open space . . . and providing scenic enjoyment . . ." and:

- to ensure that land remains available for farming;
- to permanently protect open space;
- to limit or prevent construction on land of natural resource value; and,
- to add to existing restricted land which is contiguous to the land proposed to be restricted.

Implementing this Conservation Restriction will assist in achieving each of the objectives listed above because it will add to the protected open space network in Falmouth, it will be permanently available for agricultural uses, and its valuable scenic and rural character will be preserved.

- Consistency with Clearly Delineated Federal Conservation Policy. Protection of the Premises meets the definition of "conservation purposes" as defined in 26 CFR 1.170A-14(d)(1), because its conservation would: promote protection of neighboring state-recognized habitats as well as the ecosystem contained on and contiguous to the Premises; preserve open space and maintain the scenic and rural character of the farm for enjoyment by the public.

- Consistency with Clearly Delineated State Conservation Policy. The Premises possesses significant open space, natural, aesthetic, ecological, plant and wildlife habitat, solid and water resource quality, watershed, and scenic values (collectively "Conservation Values") of great importance to the Grantee and the people of Falmouth and the Commonwealth of Massachusetts.
- Historical Purposes. This Conservation Restriction will ensure that the Premises not only remains protected open space, but that the Premises will be available for Agricultural Activities as defined herein which are consistent with maintaining its conservation value.

III. PROHIBITED and PERMITTED ACTS AND USES

A. Prohibited Acts and Uses

The Grantor will not perform or allow others to perform the following acts and uses which are prohibited on, above, and below the Premises:

1. Structures and Improvements. Constructing, placing, or allowing to remain any temporary or permanent structure including without limitation any building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, graveled area, roads, sign, gate, billboard or other advertising, antenna, utilities or other structures, utility pole, tower, wind turbine, solar panel, , conduit, line, septic or wastewater disposal system, storage tank, or dam;
2. Extractive Activities/Uses. Mining, excavating, dredging, withdrawing, or removing soil, loam, peat, gravel, sand, rock, surface water, ground water, or other mineral substance or natural deposit, or otherwise altering the topography of the Premises;
3. Disposal/Storage. Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings, liquid or solid waste or other substance or material whatsoever;
4. Adverse Impacts to Vegetation. Cutting, removing, or destroying trees, shrubs, grasses or other vegetation;
5. Adverse Impacts to Water, Soil, and Other Features. Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, natural habitat, archaeological conservation, or ecosystem function;
6. Introduction of Invasive Species. Planting or introducing any species identified as invasive by the Massachusetts Invasive Plant Advisory Group or identified as invasive in such recognized inventories as the Massachusetts Introduced Pests Outreach Project, the Northeast Aquatic Nuisance Species Panel, or other such inventories, and any successor list as mutually agreed to by Grantor and Grantee;

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7. Motor Vehicles. Using, parking, or storing motorized vehicles, including motorcycles, mopeds, all-terrain vehicles, off-highway vehicles, motorboats or other motorized watercraft, snowmobiles, launching or landing aircraft, or any other motorized vehicles, acknowledging that vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) may have a legal right to enter the Premises;
8. Subdivision. Subdividing or conveying a part or portion of the Premises (as compared to conveyance of the Premises in its entirety which shall be permitted), it being the Grantor's and Grantee's intention to maintain the entire Premises under unified ownership;
9. Use of Premises for Developing Other Land. Using the Premises towards building or development requirements on this or any other parcel;
10. Adverse Impacts to Stone Walls, Boundary Markers. Disrupting, removing, or destroying stone walls, granite fence posts, or any other boundary markers;
11. Residential, Commercial, or Industrial Uses. Using the Premises for residential, industrial, or for more than *de minimis* commercial recreation purposes;
12. Inconsistent Uses. Using the Premises for Purposes that would materially impair the Conservation Values.

B. Permitted Acts and Uses

Notwithstanding the Prohibited Acts and Uses described in Paragraph III.A, the Grantor may conduct or permit the following acts and uses on the Premises, provided they do not materially impair the Purposes and/or Conservation Values. In conducting any Permitted Act and Use, Grantor shall minimize impacts to the Conservation Values to ensure any such impairment thereto is not material.

1. Vegetation Management. Maintaining vegetation, including pruning, trimming, cutting, and mowing, and removing brush, all to prevent, control, and manage hazards, disease, insect or fire damage, and/or in order to maintain the condition of the Premises as documented in the Baseline Report, including pasture for animals, historic paths, trails and meadows, fences, and horticultural tree specimens. (see Paragraph XV);
2. Non-native, Nuisance, or Invasive species. Removing non-native, nuisance, or invasive species, interplanting native species, and controlling species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;
3. Composting. Stockpiling and composting stumps, trees, brush, limbs, and similar biodegradable materials originating on the Premises. provided that such stockpiling and composting is in locations where the presence of such activities will not impair the conservation values (including scenic values) of this Conservation Restriction. No such

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activities will take place closer than one hundred (100) feet from any wetland, waterbody or stream. All exercise of this reserved right shall take into account sensitive areas and avoid harm to nesting species during nesting season;

4. Natural Habitat and Ecosystem Improvement. With prior written approval of the Grantee, conducting measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, ecosystem function, or rare or endangered species including planting native trees, shrubs, and other vegetation;
5. Archaeological Investigations. Conducting archaeological activities, including without limitation archaeological research, surveys, excavation and artifact retrieval, but only in accordance with an archaeological field investigation plan, which plan shall also address restoration following completion of the archaeological investigation, prepared by or on behalf of the Grantor and approved in advance of such activity, in writing, by the Massachusetts Historical Commission State Archaeologist (or appropriate successor official) and by the Grantee. A copy of the results of any such investigation on the Premises is to be provided to the Grantee;
6. Signs. Constructing, installing, maintaining, and replacing site previous signs and informational kiosks with respect to the Permitted Acts and Uses, the Purposes, the Conservation Values, trespass, public access, identity and address of the Grantor, sale of the Premises, the Grantee's interest in the Premises, boundary and trail markings, any gift, grant, or other applicable source of support for the conservation of the Premises;
7. Motorized Vehicles. Using motorized vehicles by persons with mobility impairments provided however the manner of such motorized vehicle use is approved in advance by Grantee, or as necessary for engaging in Agricultural Activities as permitted herein, and for mowing the historic pathway across the Premises to the cul-de-sac;
8. Outdoor Passive Recreational and Educational Activities. Horseback riding, hiking and other non-motorized outdoor recreational activities that do not materially alter the landscape, do not degrade environmental quality, and do not involve more than minimal use for commercial recreational activities;
9. Solar Arrays. Ability to access, repair and maintain solar array panels (16) as exist on Premises and as described in Baseline Report.
10. Right-of-Way. The Conservation Restriction shall not interfere with Grantor's use or maintenance of pre-existing easements.
11. Agricultural Activities.
 - a. Permitted Activities. "Agricultural Activities" are collectively defined as "Animal Husbandry" and "Horticulture," defined below:
 - i. Animal Husbandry. Raising animals, including but not limited to dairy cattle, beef cattle, poultry, sheep, swine, horses, ponies, mules, goats,

and bees, for the purpose of using, consuming, or selling such animals or a product derived from such animals in the regular course of business; or when primarily and directly used in a related manner which is incidental thereto and represents a customary and necessary use in raising such animals and preparing them or the products derived therefrom for use, consumption, or market.

- ii. Horticulture. Raising fruits, vegetables, berries, nuts, and other foods for human consumption, feed for animals, flowers, trees, nursery or greenhouse products, and ornamental plants and shrubs, all for the purpose of selling such products in the regular course of business; or when primarily and directly used in raising forest products under a Forest Stewardship Plan designed to improve the quantity and quality of a continuous crop for the purpose of using, consuming, or selling these products in the regular course of business; or when primarily and directly used in a related manner which is incidental to those uses and represents a customary and necessary use in raising such products and preparing them for use, consumption, or market.
- b. Requirement to Follow Best Agricultural Practices. Agricultural Activities shall be conducted in a manner consistent with generally accepted best management practices for sustainable farming as those practices may be identified from time to time by appropriate governmental or educational institutions such as the USDA Natural Resources Conservation Service (NRCS), UMass Extension, Northeast Organic Farming Association (NOFA), Massachusetts Department of Agricultural Resources, and the like, (collectively, "Best Agricultural Practices") and in a manner that promotes healthy soils and healthy soil practices, as such terms are defined in Chapter 358 of the Acts of 2020, which added definitions of these terms to Section 7A of Chapter 128 of the Massachusetts General Laws ("Healthy Soils and Practices"), and in a manner that does not hinder the ability of future generations to engage in Agricultural Activities on the Premises;
 - c. Requirement for a Farm Conservation Plan. Agricultural Activities shall require a farm conservation plan, such as an NRCS Conservation Plan ("Farm Conservation Plan"), prepared for the Premises, and approved in writing by the Grantee. The Farm Conservation Plan shall be developed in accordance with generally-accepted Best Agricultural Practices, and shall, at a minimum, address the following:
 - i. establish wetland buffers and/or filter strips to prevent adverse impacts to the water quality of existing wetlands and waterways;
 - ii. in the event animal husbandry activities are proposed, establish and govern the type and number of each type of animal unit permitted on the Premises, and analyze the pasturage potential of the Premises and establish and govern the cycling of pasturage, and any other measures necessary to ensure the carrying capacity of the Premises is not

- exceeded in order to protect water quality, prevent soil erosion, and otherwise protect the Conservation Values; and
- iii. describe how Agricultural Activities will maximize soil and water conservation, and promote Healthy Soils and Practices.
- d. Agricultural Structures and Improvements. Constructing and maintaining ±structures and improvements to conduct Agricultural Activities, including:
- i. the installation of fencing or other similar infrastructure to manage livestock or protect agricultural resources;
 - ii. the installation and maintenance of an irrigation system that serves only the Premises;
 - iii. with the Grantee's approval, the construction, use, maintenance, repair, relocation, and replacement of minor and temporary structures, without cement, subsurface, or other permanent foundations that result in the excavation or disturbance of the soil, only to the extent necessary, effective, and efficient to engage in Agricultural Activities provided that said structures shall, in aggregate, not cover an area greater than two thousand (2,000) square feet.
 - iv. the removal of trees, saplings, shrubs, stumps, and roots preliminary to and including the preparation of surface topography and soils for the purposes of accommodating and instituting Agricultural Activities as described above (hereinafter "Land Conversion"), provided that any such Land Conversion does not convert any land classified as wetlands by the Massachusetts Department of Environmental Protection ("Mass DEP") or the US Fish and Wildlife Service, or any land classified as Priority Habitat of Rare Species by the Massachusetts Natural Heritage and Endangered Species Program, and further provided that any such Land Conversion in excess of one (1) acre over any given five (5) year period is described in the Farm Plan (as described herein);

C. Site Restoration

Upon completion of any Permitted Acts and Uses, any disturbed areas shall be restored substantially to the conditions that existed prior to said activities, including with respect to soil material, grade, and vegetated ground cover.

D. Compliance with Permits, Regulations, Laws

The exercise of any Permitted Acts and Uses under Paragraph III.B shall be in compliance with all applicable federal, state and local laws, rules, regulations, zoning, and permits, and with the Constitution of the Commonwealth of Massachusetts. The inclusion of any Reserved Right requiring a permit, license or other approval from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit, license, or other approval should be issued.

E. Notice and Approval

1. Notifying Grantee. Whenever notice to or approval by Grantee is required, Grantor shall notify or request approval from Grantee, by a method requiring proof of receipt, in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question, unless a different time period is specified herein. The notice shall:
 - a. Describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity;
 - b. Describe how the proposed activity complies with the terms and conditions of this Conservation Restriction, and will not materially impair the Purposes and/or Conservation Values;
 - c. Identify all permits, licenses, or approvals required for the proposed activity, and the status of any such permits, licenses, or approvals.
 - d. Describe any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the Purposes and Conservation Values.
2. Grantee Review. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within sixty (60) days of receipt of Grantor's request. Grantee's approval shall only be granted upon a showing that the proposed activity will minimize impacts to the Conservation Values and will not materially impair the Purposes and/or Conservation Values. Grantee may require Grantor to secure expert review and evaluation of a proposed activity by a mutually agreed upon party.
3. Resubmittal. Grantee's failure to respond within sixty (60) days of receipt shall not constitute approval of the request. Grantor may subsequently submit the same or a similar request for approval.

IV. INSPECTION AND ENFORCEMENT

A. Entry onto the Premises

The Grantor hereby grants to the Grantee, and its duly authorized agents or representatives, the right to enter the Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction.

B. Legal and Injunctive Relief

1. Enforcement. The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain compensatory relief, including without limitation, compensation for interim losses (i.e., ecological and public use service losses that occur from the date of the violation until the date of

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restoration) and equitable relief against any violations, including, without limitation, injunctive relief and relief requiring restoration of the Premises to its condition prior to the time of the injury (it being agreed that the Grantee will have no adequate remedy at law in case of an injunction). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee for the enforcement of this Conservation Restriction.

2. Notice and Cure. In the event the Grantee determines that a violation of this Conservation Restriction has occurred and intends to exercise any of the rights described herein, the Grantee shall, before exercising any such rights, notify the Grantor in writing of the violation. The Grantor shall have thirty (30) days from receipt of the written notice to halt the violation and remedy any damage caused by it, after which time Grantee may take further action, including instituting legal proceedings and entering the Premises to take reasonable measures to remedy, abate or correct such violation, without further notice. Provided, however, that this requirement of deferment of action for thirty (30) days applies only if Grantor immediately ceases the violation and Grantee determines that there is no ongoing violation. In instances where a violation may also constitute a violation of local, state, or federal law, the Grantee may notify the proper authorities of such violation.
3. Reimbursement of Costs and Expenses of Enforcement. Grantor covenants and agrees to reimburse to Grantee all reasonable costs and expenses (including counsel fees) incurred by the Grantee in enforcing this Conservation Restriction or in taking reasonable measures to remedy, abate or correct any violation thereof. In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey by a Massachusetts licensed professional land surveyor and to have the boundaries permanently marked.

C. Non-Waiver

Enforcement of the terms of this Conservation Restriction shall be at the sole discretion of Grantee. Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

D. Disclaimer of Liability

By acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or its agents.

E. Acts Beyond the Grantor's Control

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring any actions against the Grantor for any injury to or change in the Premises resulting from

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natural causes beyond the Grantor's control, including but not limited to fire, flood, weather, climate-related impacts, and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. In the event of any such occurrence, the Grantor and Grantee will cooperate in the restoration of the Premises, if desirable and feasible.

V. PUBLIC ACCESS

This Conservation Restriction does not grant any right of access to the general public and the Grantor retains its rights to prohibit access to the Premises by the general public.

VI. TERMINATION/RELEASE/EXTINGUISHMENT

A. Procedure

If circumstances arise in the future that render the Purposes impossible to accomplish, this Conservation Restriction can only be terminated, released, or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, or successor official ("Secretary"), and any other approvals as may be required by Section 32 of Chapter 184 of the Massachusetts General Laws.

B. Grantor's and Grantee's Right to Recover Proceeds

If any change in conditions ever gives rise to termination, release, or extinguishment of this Conservation Restriction under applicable law, then Grantee, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Paragraph VI.C, subject, however, to any applicable law which expressly provides for a different disposition of the proceeds, and after complying with the terms of any gift, grant, or funding requirements. The Grantee shall use its share of any proceeds in a manner consistent with the Purposes or the protection of the Conservation Values.

C. Grantee's Receipt of Property Right

Grantor and Grantee agree that the conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction, determined at the time of the conveyance, bears to the value of the unrestricted Premises. The proportionate value of the Grantee's property right as of the Effective Date (See Paragraph XII) was determined to be 10 %. Such proportionate value of the Grantee's property right shall remain constant.

On a subsequent sale, exchange, or involuntary conversion of the subject property, the Grantee organization will be entitled to a portion of the proceeds at least equal to that proportionate value of the perpetual conservation restriction. All of the Grantee organization's proceeds from a subsequent sale or exchange of the property must be used by the Grantee organization in a manner consistent with the conservation purposes of the original contribution.

D. Cooperation Regarding Public Action

Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee in accordance with Paragraph VI.B and Paragraph VI.C. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantee shall use its share of any proceeds in a manner consistent with the Purposes or the protection of the Conservation Values.

VII. DURATION and ASSIGNABILITY

A. Running of the Burden

The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

B. Execution of Instruments

The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction. The Grantor, on behalf of itself and its successors and assigns, appoints the Grantee its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.

C. Running of the Benefit

The benefits of this Conservation Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, except when all of the following conditions are met:

1. the Grantee requires that the Purposes continue to be carried out;
2. the assignee is not an owner of the fee in the Premises;
3. the assignee, at the time of the assignment, qualifies under and 26.U.S.C. 170(h), and applicable regulations thereunder, if applicable, and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the Massachusetts General Laws; and
4. the assignment complies with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

VIII. SUBSEQUENT TRANSFERS

A. Procedure for Transfer

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, including a leasehold interest and to notify the Grantee not less than twenty (20) days prior to the effective date of such transfer. Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction. If the Grantor fails to reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, then the Grantee may record it in the Barnstable County Registry of Deeds, and at the Grantor's expense, a notice of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

B. Grantor's Liability

The Grantor shall not be liable for violations occurring after their ownership. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation of this Conservation Restriction shall survive the transfer. Any new owner shall cooperate in the restoration of the Premises or removal of violations caused by prior owner(s) and may be held responsible for any continuing violations.

IX. ESTOPPEL CERTIFICATES

Upon request by the Grantor, the Grantee shall, within thirty (30) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance or non-compliance with any obligation of the Grantor contained in this Conservation Restriction.

X. NON MERGER

The parties intend that any future acquisition of the Premises shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant, and the Grantee agrees that it will not take title, to any part of the Premises without having first assigned this Conservation Restriction following the terms set forth in Paragraph VII.C to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

XI. AMENDMENT

A. Limitations on Amendment

Grantor and Grantee may amend this Conservation Restriction only to correct an error or oversight, clarify an ambiguity, maintain or enhance the overall protection of the Conservation Values, or add real property to the Premises, provided that no amendment shall:

1. affect this Conservation Restriction's perpetual duration;
2. be inconsistent with or materially impair the Purposes;
3. affect the qualification of this Conservation Restriction as a "qualified conservation contribution" or "interest in land" under any applicable laws, including 26 U.S.C. Section 170(h), and related regulations;
4. affect the status of Grantee as a "qualified organization" or "eligible donee" under any applicable laws, including 26 U.S.C. Section 170(h) and related regulations, and Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws; or
5. create an impermissible private benefit or private inurement in violation of federal tax law, as determined by an appraisal, conducted by an appraiser selected by the Grantee, of the economic impact of the proposed amendment; or
6. alter or remove the provisions described in Paragraph VI (Termination /Release/Extinguishment); or
7. cause the provisions of this Paragraph XI to be less restrictive; or
8. cause the provisions described in Paragraph VII.C (Running of the Benefit) to be less restrictive

B. Amendment Approvals and Recording

No amendment shall be effective unless documented in a notarized writing executed by Grantee and Grantor, approved by the Town of Falmouth and by the Secretary in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, and recorded in the Barnstable County Registry of Deeds.

XII. EFFECTIVE DATE

This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the Massachusetts General Laws have been obtained, and it has been recorded in the Barnstable County Registry of Deeds.

XIII. NOTICES

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

*Brown-Leger Conservation Restriction
East Falmouth, MA*

To Grantor: Edward Brown-Leger
398 Boxberry Hill Road
East Falmouth, MA 02536-4124

To Grantee: The 300 Committee Land Trust, Inc.
157 Locust Street
Falmouth, MA 02540

or to such other address as any of the above parties shall designate from time to time by written notice to the other or, if notice is returned to sender, to an address that is reasonably ascertainable by the parties.

XIV. GENERAL PROVISIONS

A. Controlling Law

The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

B. Liberal Construction

Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in order to effect the Purposes and the policy and purposes of Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the Purposes that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability

If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Restriction shall not be affected thereby.

D. Entire Agreement

This instrument sets forth the entire agreement of the Grantor and Grantee with respect to this Conservation Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Restriction, all of which are merged herein.

XV. BASELINE DOCUMENTATION REPORT

The Conservation Values, as well as the natural features, current uses of, and existing improvements on the Premises, such as, but not limited to, trails, woods roads, structures, meadows or other cleared areas, agricultural areas, and scenic views, as applicable, are described in a Baseline Documentation Report ("Baseline Report") prepared by Grantee with the cooperation of the Grantor, consisting of maps, photographs, and other documents and on file with the Grantee

*Brown-Leger Conservation Restriction
East Falmouth, MA*

and included by reference herein. The Baseline Report (i) is acknowledged by Grantor and Grantee to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury Regulations, (iii) is intended to serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein, and (iv) may be supplemented as conditions on the Premise change as allowed over time. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant in addition to the Baseline Report.

XVI. MISCELLANEOUS

A. Pre-existing Public Rights

Approval of this Conservation Restriction pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws by any municipal officials and by the Secretary, is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

B. Release of Homestead

The Grantor hereby agrees to waive, subordinate, and release any and all Homestead rights pursuant to Chapter 188 of the Massachusetts General Laws it may have in favor of this Conservation Restriction with respect to any portion of the Premises affected by this Conservation Restriction, and hereby agrees to execute, deliver and/or record any and all instruments necessary to effectuate such waiver, subordination and release. In all other respects, the Grantor reserves and retains any and all Homestead rights, subject to this Conservation Restriction, pursuant to Section 10(e) of Chapter 188 of the Massachusetts General Laws.

C. Subordination

The Grantor shall record at the Barnstable County Registry of Deeds simultaneously with this Conservation Restriction all documents necessary to subordinate any mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

D. Executory Limitation

If Grantee shall cease to exist or to be qualified to hold conservation restrictions pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, or to be qualified organization under 26 U.S.C. 170(h), and applicable regulations thereunder, if applicable, and a prior assignment is not made pursuant to Paragraph VII, then Grantee's rights and obligations under this Conservation Restriction shall vest in such organization as a court of competent jurisdiction shall direct pursuant to the applicable Massachusetts law and with due regard to the requirements for an assignment pursuant to Paragraph VII.

*Brown-Leger Conservation Restriction
East Falmouth, MA*

E. Prior Encumbrances

This Conservation Restriction shall be in addition to and not in substitution of any other restrictions or easements of record affecting the Premises.

F. The following signature pages are included in this Grant:

Grantor – Edward Brown-Leger

Grantee Acceptance – The 300 Committee Land Trust, Inc.

Approval by Select Board

Approval of the Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts.

G. The following exhibits are attached and incorporated herein:

Exhibit A: Legal Description of Premises

Exhibit B: Reduced Copy of Recorded Plan of Premises

*Brown-Leger Conservation Restriction
East Falmouth, MA*

WITNESS my hand and seal this ____ day of _____, 2022,

Edward Brown-Leger

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss:

On this ____ day of _____, 2022, before me, the undersigned notary public, personally appeared Edward Brown-Leger, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

ACCEPTANCE OF GRANT

The foregoing Conservation Restriction from Edward Brown-Leger was accepted by The 300 Committee Land Trust, Inc. this _____ day of _____, 2022.

By: _____
Anne-Marie Runfola

Its: President, duly authorized

By: _____
Richard Dotson

Its: Treasurer, duly authorized

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss:

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared Anne-Marie Runfola, President, The 300 Committee Land Trust, Inc., and Richard Dotson, Treasurer, The 300 Committee Land Trust, Inc., and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

Mark H. Robinson, Notary Public
My Commission Expires: 8 July 2027

APPROVAL OF TOWN OF FALMOUTH SELECT BOARD

We the undersigned, being a majority of the Select Board of the Town of Falmouth, hereby certify that at a public meeting duly held on _____, 2022, the Select Board voted to approve the foregoing Conservation Restriction from Edward Brown-Leger to The 300 Committee Land Trust, Inc. in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

TOWN OF FALMOUTH SELECT BOARD

Nancy R. Taylor, Chair

Onjalé Scott Price, Vice Chair

Samuel H. Patterson

Douglas C. Brown

Edwin P. Zylinski II

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss:

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared Nancy R. Taylor, and proved to me through satisfactory evidence of identification which was _____ to be the persons whose names are signed on the proceeding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

*Brown-Leger Conservation Restriction
East Falmouth, MA*

**APPROVAL OF SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS OF
THE COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby approves the foregoing Conservation Restriction from Edward Brown-Leger to The 300 Committee Land Trust, Inc. in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

Dated: _____, 2022

Bethany A. Card
Secretary of Energy and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss:

On this ____ day of _____, 2022, before me, the undersigned notary public, personally appeared Bethany A. Card, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

EXHIBIT A

Legal Description of the Premises

Being tract of registered and unregistered land situated in Falmouth (East Falmouth) Massachusetts, with a total acreage of 3.72±, shown on the Town of Falmouth Assessors Map 10 Section 03 Parcel 10 Lot 002, and further described as follows:

Being Lot 2 shown on the plan entitled, "*Plan of Land in Hatchville, Falmouth, Mass. Being a Resubdivision L.C#12349 for Loch Spruce Realty Trust*", dated 5/1/1991 (Rev 6/19/1991), by Mm. M. Warwick & Assoc. Inc., 213 Old Main Road, Box 801, North Falmouth, Mass, 02556, and recorded in Barnstable County Registry of Deeds in Plan Book 482, Page 19 ("Plan of Record"); more particularly described as follows:

Registered Land (0.98 acres±)

Being Lot 194 shown on the above referred to Plan Book 482, Page 19, also shown as Lot 194 on Land Court Plan 8838V, and formerly as a portion of Lot 53 on Land Court Plan 8838L.

For Grantors title see Deed in the Barnstable Registry District of the Land Court Certificate#: 81618, Document#: 265426.

AND,

Being Lot 180 shown on the above referred to Plan Book 482, Page 19, also shown on Land Court Plan 12349-8, said Lot 180 comprising Lot 146 shown on Land Court Plan 12349-1, excluding the fee in Loch Spruce Lane shown on said plan, and Lot 53 shown on Land Court plan 8838-L.

For Grantors title see Deed in the Barnstable County Registry of Deeds in Book 7629, Page 338.

AND,

Being Lot 179 shown on the above referred to Plan Book 482, Page 19, also shown on Land Court Plan 12349-8. Lot 179 comprising Lot 144 and Lot 145 shown on Land Court Plan 12349-1.

For Grantors title see Deed in the Barnstable Registry District of the Land Court Certificate#: 81618, Document#: 265424.

Unregistered Land (2.74 acres±)

Being the unregistered portion of Lot 2 as shown on the above referred to Plan Book 482, Page 19.

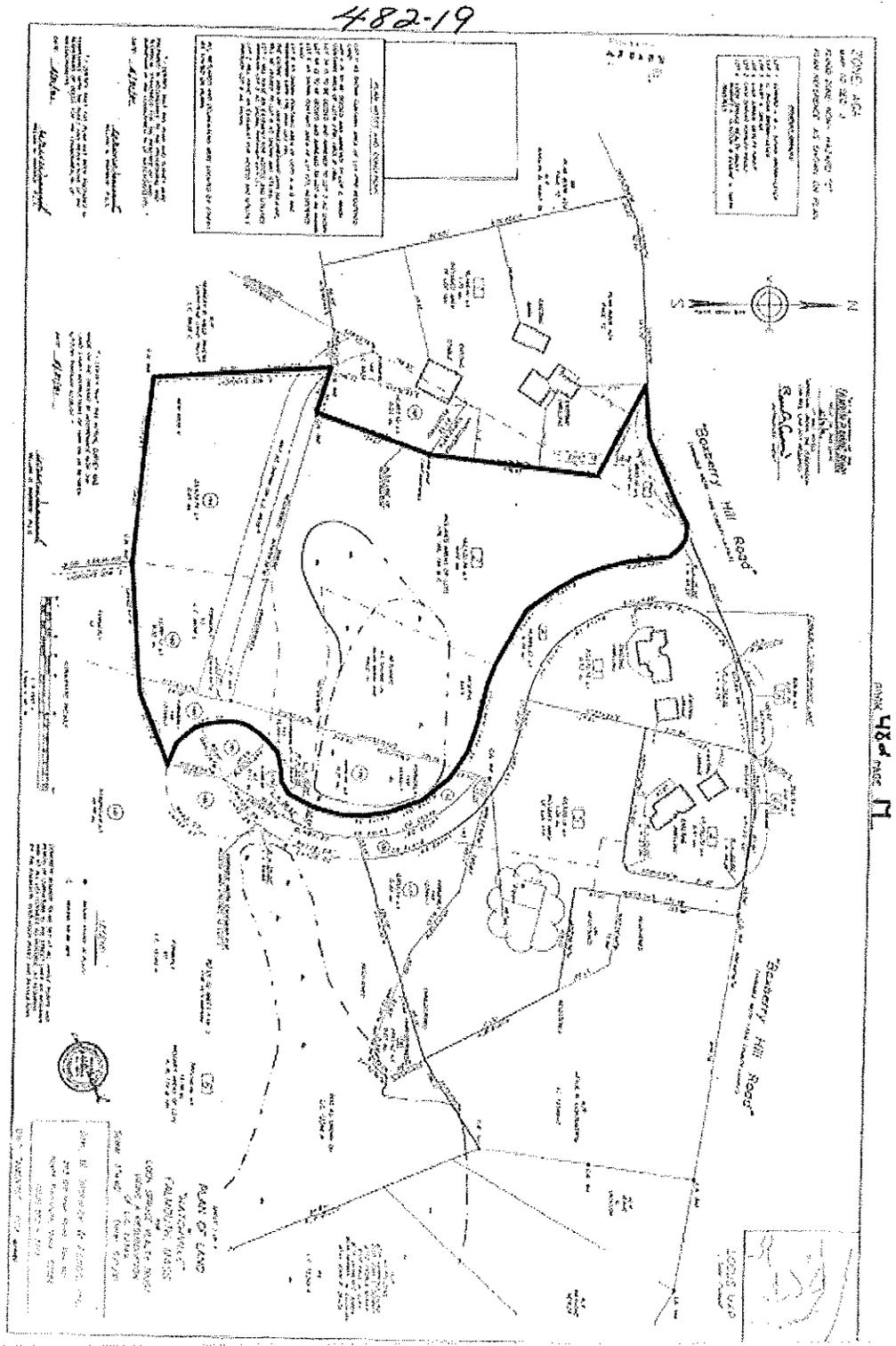
For Grantors title see Deeds in the Barnstable County Registry of Deeds in Book 3090, Page 314 and Book 3090, Page 316, and Book 2617, Page 60.

The street address for all parcels is 0 Boxberry Hill Road, (East) Falmouth, MA 02536.

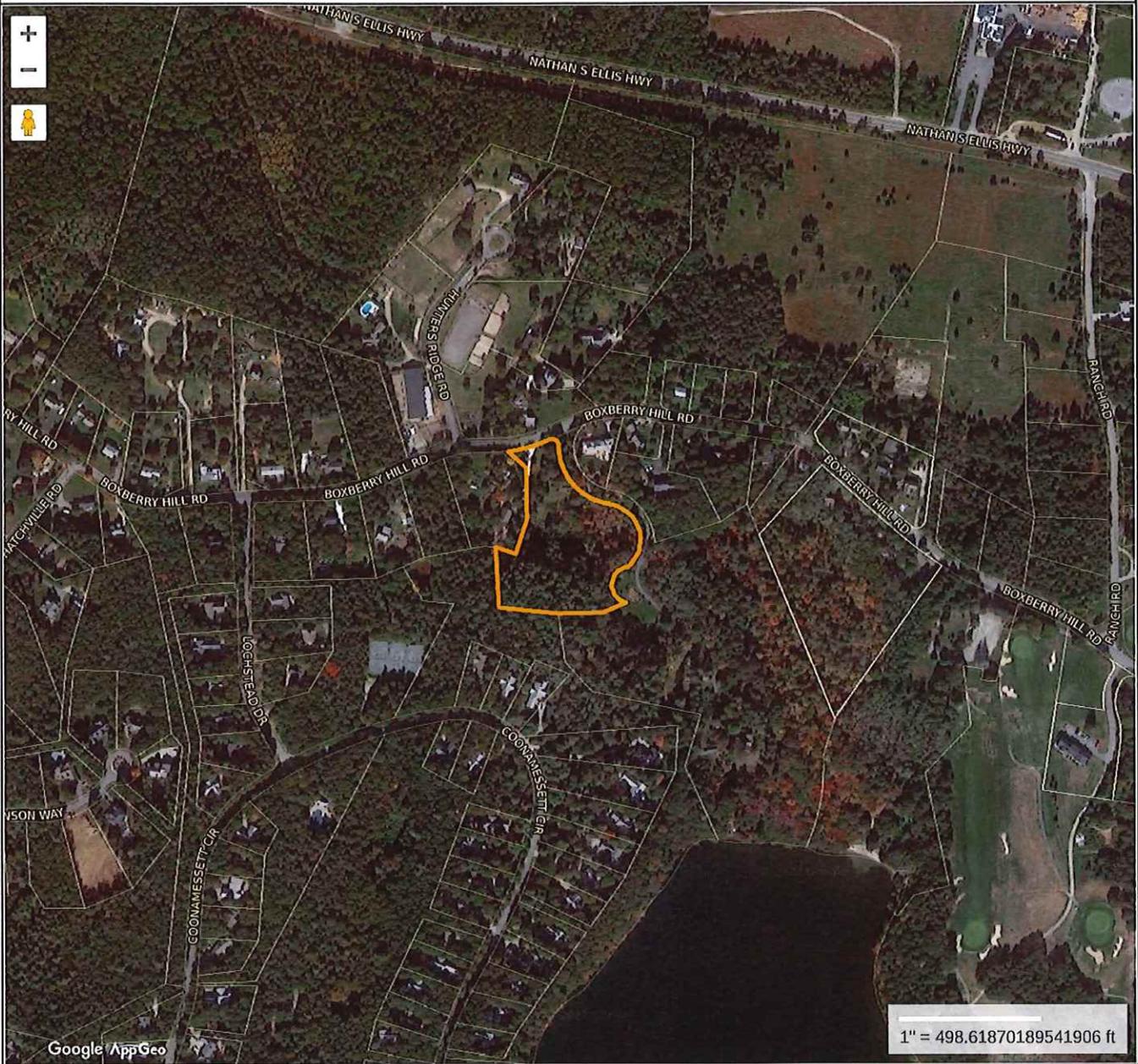
EXHIBIT B

Reduced Copy Plan of Premises

For official full size plan see Barnstable Registry of Deeds Plan Book 482 Page 19.



0 Boxberry Hill Rd, Brown-Leger - Conservation Restriction



**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

Town of Falmouth, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 05/05/2022
Data updated 07/21/2022

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.



FALMOUTH CONSERVATION COMMISSION

59 Town Hall Square, Falmouth, Massachusetts 02540
(508) 495-7445

October 27, 2022

Town of Falmouth Select Board
59 Town Hall Square
Falmouth, MA 02540

To the Select Board,

At its October 19, 2022 meeting, the Town of Falmouth Conservation Commission voted in favor of recommending your approval and signature of the attached conservation restriction (CR) that is being coordinated by The 300 Committee Land Trust, Inc. Your approval of the CR will help facilitate the natural resource protection of the following property:

Brown-Leger CR – 0 Boxberry Hill Road. East Falmouth. This approximately 3.7 acre property is proximal to the Frances A. Crane Wildlife Management Area (over 1,800 acres of open space), falls within a Zone II area of contribution to public water supply, and contains wooded deciduous wetlands that contribute to flood control, prevention of pollution, and protection of water quality (Coonamessett Pond).

The conservation restriction outlines the ecological values (e.g., wildlife habitat, water resource protection, biodiversity, trail connectivity, climate resiliency), prohibited and permitted acts and uses, public access, and legal description of the premises.

Your approval and signing of this conservation restriction will help preserve the property to ensure many conservation benefits as described in the document. Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jennifer Lincoln".

Jennifer Lincoln
Conservation Administrator

CONSENT AGENDA

1. Administrative Orders

- b. Vote to Accept FY2022 Bulletproof Vest Partnership Program Award in the Amount of \$6,525.00



Falmouth Police Department

750 Main Street Falmouth, MA 02540

Phone: 774-255-4527 | Fax: 508-457-2566

www.falmouthpolice.us



October 20, 2022

Ms. Nancy R. Taylor, Chair
Select Board
Falmouth Town Hall
59 Town Hall Square
Falmouth, MA 02540

Subject: Acceptance of FY 2022 Bulletproof Vest Partnership = \$6,525.00

Dear Select Board Members,

We have been designated to receive an award under the Fiscal Year 2022 Bulletproof Vest Partnership Program in the amount of \$6,525.00. We are requesting that the Board of Selectmen formally accept this award.

The FY 2022 award may be used for National Institute of Justice (NIJ) compliant armored vests which were ordered after April 1, 2022. The deadline to request payments from the FY 2020 award is August 31, 2024, or until all available funds have been requested. We have certified that a mandatory wear policy for vests is in place for our jurisdiction, a requirement of the Bulletproof Vest Partnership Program.

Thank you in advance for your attention to this matter.

Sincerely,

Edward A. Dunne
Chief of Police

CONSENT AGENDA

1. Administrative Orders

- c. Initiate naming process to dedicate the beach side of the Menauhant Bridge to Bruce G. Mogardo

November 7, 2022

Diane Davidson

From: Nancy Taylor
Sent: Friday, October 7, 2022 9:48 AM
To: Joe Netto
Cc: Doug Brown; Peter Johnson-Staub; Greg Souza; Diane Davidson; Jessica Mogardo;
Falmouth Selectboard
Subject: Re: **Menhaunt Bridge**-reply

Thank you Joe! I appreciate your clarification. I will speak with Acting Town Manager Johnson-Staub regarding the process.

Thanks again,
Nancy

Sent from my iPhone

> On Oct 7, 2022, at 8:51 AM, Joe Netto [REDACTED] wrote:
>
> Chairperson Taylor;
>
> Sorry for the delay but I am just returning from Maine, where I do not have any internet connectivity.
>
> I feel that something should be done to commemorate Bruce's' life long devotion to the Town of Falmouth, 1963-2021. In 1963 he started working "for the beaches" and in 1969 became a teacher/coach in the Falmouth Public School system school system. Bruce did not work for any other entity! Naming something associated with the "beaches", to me, would be ideal. The bath house is already named and I would not propose renaming a beach for Bruce. The inlet to Bournes Pond is going to be widened and a new bridge will be built. The current bridge was named for "our best shellfish warden ever" George Souza. George also was a very remarkable man who dedicated his life to the shellfish industry of Falmouth.
> Seeing as a bridge has "2" sides then I would like to propose that when the new bridge is built the the pond side still remain dedicated to George and the the beach side be dedicated to my life long friend Bruce G. Mogardo.
>
> I would appreciate the BOS take a positive recommendation on this proposal.
>
>
> <pre>From the land of the retired
> Joe Netto</pre>
>
>> On 10/06/2022 7:13 PM Doug Brown <doug.brown@falmouthma.gov> wrote:
>>
>>
>> Hi Peter and Nancy
>> Thanks for your response. As I have included Joe on this email, I will wait to hear from him as to next steps. Thanks
>>
>> Thank You,
>>
>> Doug Brown
>> Select Board Member
>> 59 Town Hall Sq

**Town of Falmouth
Select Board
NAMING POLICY FOR PUBLIC FACILITIES AND PLACES**

Adopted, December 6, 2010

Policy:

This policy is adopted pursuant to the naming of public facilities and places in honor and/or in memory of those who served the greater Falmouth community.

Guidelines:

It is the policy of the Town of Falmouth, that the naming of public facilities and places is a significant event and should be done rarely, and only in accordance with the following guidelines:

Public facilities or places shall be considered for naming or renaming by written request, accompanied by background information and rationale, to the Select Board;

The Board shall consider naming based upon:

- Persons who were residents or town employees of excellent character and reputation who made significant contributions to the town. Attributes include:
 - Unusually effective and dedicated service to or on behalf of the town;
 - Efforts to sustain the high quality of life and service within the community;
 - Demonstrated understanding and activities within the essential functions of town government;
 - Service in the defense of freedom or other examples of effective citizenship;
- A geographic or functional name related to the facility or area;
- Names provided as part of trust arrangements, donations, bequests or other related activities;
- Tradition;
- Some combination of the above mentioned attributes.

Procedure:

In order to avoid personal or collective prejudice, favoritism, political pressure and/or temporary popularity, the Board shall take no action on an application to name a public facility or place for a period of at least one (1) year following submission of said application;

After the waiting period has elapsed, a subcommittee of two (2) selectmen shall seek the input and advice of whichever department, board, committee, or commission oversees the public facility or place to be named or renamed, and hold a public hearing to seek input from the community;

The recommendation of the subcommittee shall be considered and voted by the full Select Board in an open regular meeting. Naming the public facility or place shall require a vote of four (4) members of the Select Board;

Changing the name of a public facility or place already named shall require a vote of four (4) members of the Select Board AND a two-thirds vote of Town Meeting.

Eligibility:

All public facilities and places under the jurisdiction of the Select Board and/or any of its direct and indirect appointees are eligible to be named. These facilities and places include, but are not limited to: town buildings or parts thereof, undeveloped parcels of land, recreation areas, intersections, streets and roads, and other landmarks.

Exceptions:

Exceptions to this policy shall be made for:

- The Memorial Bench Policy;
- Where state or national laws, or regulations pertaining thereto, require that a facility or place be named in any manner inconsistent with this policy. For example, the Massachusetts LAND grant program requires that property acquired with these funds be named before they will reimburse the town for said purchase;
- Where naming is utilized as part of a capital campaign to raise funds. For example, the capital campaign which supported the 2007 renovation of the main branch of the Falmouth Public Library.

CONSENT AGENDA

1. Administrative Orders

- d. Authorize Letter to Eversource in Opposition to Herbicide Spraying for Vegetation Management



TOWN OF FALMOUTH

Office of the Town Manager & Select Board

59 Town Hall Square, Falmouth, Massachusetts 02540

Telephone: (508) 495-7320

townmanager@falmouthma.gov

November 7, 2022

Mr. Clayton Edwards, Director
Rights-of-Way Programs
Massachusetts Department of Agricultural Resources
225 Turnpike Road
Southborough, MA 01772

Clayton.L.Edwards@mass.gov

Subject: Eversource Five-Year, 2023-2027, Vegetation Management Plan for Cape Cod

Dear Mr. Edwards,

The Falmouth Board of Selectmen is writing to confirm our opposition to Eversource's Five-Year VMP to manage vegetation on or about the electric power transmission line rights-of-way in Falmouth, as it involves the potential use of toxic pesticides/herbicides.

Cape Cod is designated by the US Environmental Protection Agency as a sole source aquifer. This single aquifer is the principal source of clean drinking water for the Town of Falmouth. Due to the highly permeable soil, this aquifer is extremely susceptible to contamination from multiple land uses, including storm water runoff. Contamination of this aquifer could create a catastrophic situation that would be difficult or impossible to completely and responsibly remedy. Representative of the Town of Falmouth's commitment to fresh, clean drinking water is the recent construction of a state-of-the-art \$46.5 Million water filtration facility serving Falmouth residents. The needless spraying of toxic pesticides and herbicides in the Town of Falmouth places this major public investment on behalf of the citizens of Falmouth at inappropriate risk.

Thank you for your consideration of our concerns on this critical environmental issue.

Sincerely,

Nancy R. Taylor, Chair

Douglas C. Brown

Onjalé Scott Price, Vice Chair

Edwin (Scott) P. Zylinski II

Samuel H. Patterson

FALMOUTH SELECT BOARD

Hello Nancy ~

Email Nov 2, 2022

Please see the #2 attached documents.

This email is a request to allow this important matter onto your next Select Board agenda, to have your board write and send a comment letter to the Massachusetts Department of Agriculture by the deadline of November 7th at 5pm. Also would you please email me the comment letter written from your town for my records, thank you very much.

Pursuant to the Rights-of-Way Management Regulations (333 CMR 11.00) in order to apply pesticides to control vegetation to maintain Rights-of-Ways, the Massachusetts Department of Agricultural Resources (MDAR) must approve a Vegetation Management Plan (VMP) and a Yearly Operational Plan (YOP). The VMP is intended to justify the need to control vegetation, identify target vegetation, describe the intended methods of control, describe methods for identifying sensitive areas, describe operational guidelines for applicators, outline a program of Integrated Pest Management (IPM) designed to reduce the use of herbicides, and describe alternative land use activities.

The Massachusetts Department of Agricultural Resources will accept written testimony concerning the Eversource Energy, Cape Cod and Islands VMP until the close of business (5pm): Monday, November 7, 2022.

Commentary should be sent to:

Rights-of-Way Program Massachusetts Department of Agricultural Resources

251 Turnpike Road

Southboro, Mass. 01772

Thank you for continuing to get onto Mass. state records on this important matter.

Note:

Please know Eversource's Yearly Operational Plan (YOP) will be out within the next 6 months or so. This plan will list the current towns to be maintained in 2023, with a list of herbicides they plan to use. There will be 21 or 30 days allowed for comment once that is submitted to MDAR.

Below is last year's YOP 2022 so you can see the language:

https://www.eversource.com/content/docs/default-source/tranmission/yearly-operational-plan-cape-veg-management.pdf?sfvrsn=4bd58d62_0

<<https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.eversource.com%2fcontent%2fdocs%2fdefault-source%2ftranmission%2fyearly-operational-plan-cape-veg->

management.pdf%3fsfvrsn%3d4bd58d62_0&c=E,1,01dVYOr4H-
fZ164054zUJS0mMk24TKNbcZzTEDYgMhjFjh69_ydVpLqJD_QwSfmXHOEFRGLQCuPyW
1mj6sVhmgKJT0UnnD-e7IiBS2giOChogbc1ThVBao5KLBQ,&typo=1>

Remember now is the time to comment on only the VMP 2023-2027.

Thank you very much for your participation before the November 7th deadline.

It is important to keep your town involved through the years to show the State you don't want
vegetation managed along power lines with herbicides when they are above our aquifer.

If you have any questions, please reach me at:
poccapecod@gmail.com<mailto:poccapecod@gmail.com>
Thank you ~

Best,

Laura Kelley

--
Laura Kelley
[REDACTED]

Landscape Design & Organic Land Care
Littlefield

Landscapes<https://linkprotect.cudasvc.com/url?a=http%3a%2f%2fwww.littlefieldlandscapes.co
m%2f&c=E,1,2Na9x3L_IPm9Yu73TrqvInLZIHDEZiGsPk1GI7hocMlqeMyBJj18jNsJ8X0Byyo
AqrL7Jbb7l88svmyhqHoqZ5WvhuPkYJlr9IHB3kOLCmpV&typo=1>, Owner

POCCA Cape

Cod<https://linkprotect.cudasvc.com/url?a=http%3a%2f%2fwww.poccapecod.org%2f&c=E,1,
mmq3fP_J16FanLhpMURC87uiw4vhOMeYREbJvp8BdcaZnfuVfcwKITrp_vYXBd80W1kQH
OKDDyX3g5iDJ5S-hLEneCWGVYSEY0PlwKYm&typo=1>, President

Bee

Future<https://linkprotect.cudasvc.com/url?a=http%3a%2f%2fwww.BeeFuture.com&c=E,1,aIZl
p73MRbjvQn5awOeAurRblQs-
sh1I1yy8Cux5RZORqQilp6dcfQz8_MtryfR9ASWIce1AVMJ_ar9mmjFZDEKW3q7N7R2-
uoZCf5wDobE9nw2ManxK6IJ&typo=1>, Honeybee Keeper

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

251 Causeway Street, Suite 500, Boston, MA 02114
617-626-1700 fax: 617-626-1850 www.mass.gov/agr



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor

BETHANY A. CARD
Secretary

JOHN LEBEAUX
Commissioner

NOTICE: PUBLIC HEARING FOR VEGETATION MANAGEMENT PLAN

Pursuant to the Rights-of-Way Management Regulations (333 CMR 11.00) in order to apply pesticides to control vegetation to maintain Rights-of-Ways, the Massachusetts Department of Agricultural Resources (MDAR) must approve a Vegetation Management Plan (VMP) and a Yearly Operational Plan (YOP). The VMP is intended to justify the need to control vegetation, identify target vegetation, describe the intended methods of control, describe methods for identifying sensitive areas, describe operational guidelines for applicators, outline a program of Integrated Pest Management (IPM) designed to reduce the use of herbicides, and describe alternative land use activities.

The following municipalities are advised that Eversource Energy, proposes to utilize herbicides to treat their Rights-of-Way on Cape Cod and Martha's Vineyard:

MUNICIPALITIES		
BARNSTABLE	EDGARTOWN	SANDWICH
BOURNE	FALMOUTH	TISBURY
BREWSTER	HARWICH	TRURO
CHATHAM	MASHPEE	WELLFLEET
DENNIS	OAK BLUFFS	YARMOUTH
EASTHAM	ORLEANS	

PUBLIC HEARINGS SCHEDULED:

In accordance with 333 CMR 11.05 MDAR will conduct a regional public hearing to receive public comment on the proposed Vegetation Management Plan for the Eversource Energy, Cape Cod and Islands as submitted by Eversource Energy.

To provide all interested parties an opportunity to comment on the proposed VMP, a public hearing will be held via Zoom:

November 3, 2022, 11:00am-12:00pm

Meeting ID: 854 2364 7314

Passcode: 190512

<https://us02web.zoom.us/meeting/register/tZEpdquqjwpG9AVRqHO4d7yNOYwty08ReEZ>

Available for Public Review Prior to Hearings:

Section 11.05 (3)(d) of the ROW Management Regulations provide: "At least 21 days prior to the end of the public comment period, the applicant shall send a copy of the proposed VMP to the chief elected official, the Board of Health, and the Conservation Commission in affected communities upon their request." Such request should be made to:

William Hayes, Senior Arborist
Eversource Energy, Eastern MA
Vegetation Management
247 Station Drive, SE-370
Westwood, MA 02090-9230
781-441- 3932 (office)

The proposed VMP is posted at <http://www.mass.gov/eea/agencies/agr/pesticides/vegetation-management-and-yearly-operation-plans.html> and <https://www.eversource.com/content/ema-c/residential/about/reliability/vegetation-management/transmission-system-vegetation-management/transmission-vegetation-management-projects> for reviewing. It is also available for review at the Reference Desk of the following public library:

Jonathan Bourne Library, 19 Sandwich Road, Bourne, Massachusetts

Written Comments Requested

The public hearings listed above will give interested parties the opportunity to present data, views or arguments, orally or in writing concerning the proposed VMP. Persons giving testimony are also requested to provide written comments. Written comments in advance of the hearing dates are welcome. The Department will accept written testimony concerning the Eversource Energy, Cape Cod and Islands VMP until the close of business (5pm): Monday, November 7, 2022.

Commentary should be sent to:

Rights-of-Way Program
Massachusetts Department of Agricultural Resources
251 Turnpike Road
Southborough, MA 01772

Comments period closes end of business (5pm): Monday, November 7, 2022

CONSENT AGENDA

1. Administrative Orders

- e. Set date for April 2023 Town Meeting

April 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2 <i>Palm Sunday</i>	3	4	5 <i>Passover begins at Sundown</i>	6	7 Good Friday	8
9 <i>Easter</i>	10	11	12	13	14	15
16	17 Patriot's Day	18	19	20	21	22
23	24	25	26	27	28	29
30						

CONSENT AGENDA

2. Committee Appointments

Falmouth Board of Selectmen
Veterans Council Policy

The Veterans Council is established pursuant to G.L. c. 115, s. 12 and consists of five to 15 members at the discretion of the Board of Selectmen. The Board of Selectmen is the appointing authority for the Council. The statute provides no procedure for appointments.

Over the years, the Board of Selectmen has deferred to various veterans organizations to nominate members of the Council. These organizations are the Veterans of Foreign Wars (VFW), Joe Q Veteran Coffee Break, Inc., AMVETS, Disabled American Veterans (DAV), the Elks Lodge and the Military Support Group. The statute does not require that a member of the Council be a veteran. It has been the practice of the Board of Selectmen to appoint members of the Council nominated by these organizations and not to solicit applications for membership from the community-at-large.

The Falmouth Home Rule Charter contains sections C7 – 1A and C7 - 1B. These sections apply to Committees established or continued by the Charter. As a statutory committee, the Veterans Council is not specifically governed by the Charter. Section C7 – 1A requires the Board of Selectmen to publicize vacancies on committees to solicit application and promote diversity on appointed committees. Section C7 – 1B authorizes the Board of Selectmen to consult with committees to obtain the names of persons willing to serve.

In an effort to reconcile past practices with the spirit and intent of the Falmouth Home Rule Charter, the Board of Selectmen adopts this policy. The Veterans Council shall have nine members at the discretion of the Board of Selectmen appointed to one-year terms. Whenever there is a vacancy on the Veterans Council, the Board of Selectmen will (a) publish the vacancy in accordance with section C7 – 1A of the Charter and (b) solicit nominations from the veterans organization. Each of the above mentioned veterans' organizations may nominate one member of the council to serve at any time. Candidates nominated by a veteran's organization will be appointed unless the Board of Selectmen specifically disapproves of a nominee for good cause, under which conditions the nominating

organization will be approached for another nomination. Thereafter, the Board of Selectmen will appoint the remaining 3 members of the Council in the same manner it appoints members of other committees.

Preference shall be given to those with a personal interest in the affairs of veterans, such as a Gold Star Parent.

CONSENT AGENDA

2. Committee Appointments:

- a. Veterans Council Committee – William Doherty, Amvets Post 70 Representative

Veterans Council Committee (1-year terms)

Amvets Post 70 Representative

- 1 nominee for re-appointment: William Doherty – with a term ending 6/30/23

Julie Cadogan



From: Patierno, Guy [REDACTED]
Sent: Monday, September 26, 2022 10:42 AM
To: Falmouth Veterans Council
Cc: capecodbill@outlook.com
Subject: Appointment
Attachments: [REDACTED].20220926_100437.pdf

Good morning,

My name is Guy Patierno and I am the commander of Amvets Post 70 in Falmouth. We would like to appoint William Doherty, our 3rd vice president, to the veterans council. Please find an letter of appointment attached to this email.

Kind Regards,
Guy

Guy P Patierno
Value Stream Manager
[REDACTED]



This e-mail is intended solely for the intended recipient or recipients. If this e-mail is addressed to you in error or you otherwise receive this e-mail in error, please advise LFOPrivacy@idexcorp.com as well as the sender, do not read, print, forward or save this e-mail, and promptly delete and destroy all copies of this e-mail. If you would like additional information regarding how your data is collected, used and/or disclosed by IDEX or its business units please consult the IDEX Business Contact Privacy Notice <https://www.idexcorp.com/business-contact-privacy-notice/>.

This email may contain information that is confidential, proprietary or secret and should be treated as confidential by all recipients. This e-mail may also be a confidential attorney-client communication, contain attorney work product, or otherwise be privileged and exempt from disclosure. If there is a confidentiality or non-disclosure agreement or protective order covering any information contained in this e-mail, such information shall be treated as confidential and subject to restriction on disclosure and use in accordance with such agreement or order, and this notice shall constitute identification, labeling or marking of such information as confidential, proprietary or secret in accordance with such agreement or order.

The term 'this e-mail' includes any and all attachments.

Veterans Council @ PALMOUTH MA. 90V
TOWN OF PALMOUTH

SUBJECT: REAPPOINTMENT

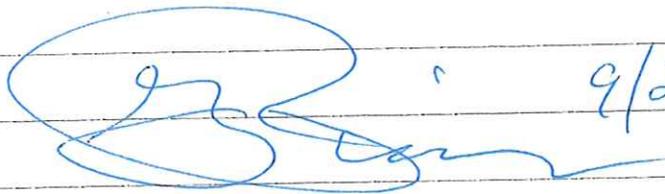
PLEASE ACCEPT WILLIAM DOHerty
OUR 3RD VICE COMMANDER
AS OUR REPRESENTATIVE

GUY PATIENARD

COMMANDER

POST 70

AMUSTS-



9/26/2022

CONSENT AGENDA

2. Committee Appointments:

- b. Veterans Council Committee – Ron Nasif – DAV Representative**

Veterans Council Committee (1-year terms)

DAV Representative

- 1 vacant position with a term ending 6/30/23
- 1 nominee: Ron Nasif



DISABLED AMERICAN VETERANS

FALMOUTH Memorial Chapter 81

P.O. Box 2319

Mr. Donald Lincoln
Veterans Agent
Falmouth Town Hall

Mr. Lincoln:

This letter is to notify you of the Disabled American Veterans (DAV) appointment of Dr. Ronald Nasif as DAV Chapter 81's representative to the Falmouth Veterans Counsel.

Dr. Nasif can be reached at (508) 922-8000.

Respectfully submitted,

A handwritten signature in blue ink that reads 'Ronald C Dyer'.

Ronald C Dyer

Commander

DAV Chapter 81

Falmouth, MA 02536

TOWN MANAGER'S SUPPLEMENTAL REPORT

November 7, 2022



TOWN OF FALMOUTH
Office of the Town Manager & Select Board
59 Town Hall Square, Falmouth, Massachusetts 02540

TO: Select Board
FROM: Peter Johnson-Staub, Acting Town Manager *PJS*
SUBJECT: Supplemental Report for November 7, 2022
DATE: November 4, 2022

Sandwich Road/Hatchville Fire Station:

The bid for construction of the new fire station will be advertised next week. Filed sub-bids are due November 30th and general bids are due December 14th. The Building Committee has worked with the Owner's Project Manager and architect to bring the specifications in line with the budget based on the estimated cost of construction. The bidding environment continues to be highly volatile so despite having sound professional support and a highly qualified Building Committee there is a greater than normal chance the bids could come in over budget.

102 Grand Ave, Richard Bowen License Agreement:

The Building Commissioner sent the enclosed letter to Mr. Bowen on 09/14/0222 identifying two violations of the special permit for the property. The Building Commissioner ordered the property owner to apply to the Zoning Board of Appeals (ZBA) for approval of the non-compliance. Separately, the Engineering Department notified Mr. Bowen that a property bound had been removed and needed to be replaced and documented by a professional land surveyor. Since that time, Mr. Bowen has retained legal counsel to assist with the application to the ZBA. We are told the plan required for this application is being prepared. Mr. Bowen has also indicated that the property bound has been replaced by a professional land surveyor and that documentation of same will be submitted to the Town. This appears to be a good faith effort to bring the property into compliance but if progress stalls the Board may wish to consider revoking the license agreement which authorized Mr. Bowen to install a parking space within the Town right of way.

Staffing Updates:

- A Local Building Inspector has been hired. The Building Department now has all inspector positions filled.
- The part-time Administrative Clerk in the Accounting Office has resigned her position and is moving out of state.

Next Meetings:

- November 14, 2022
 - 6:30pm Select Board Meeting
 - 7:00pm Annual Fall Town Meeting
- November 21, 2022
- December 5, 2022
- December 19, 2022
- *January 7, 2023 – Saturday Budget Workshop*

//Supplemental Report 11-07-22