

**TOWN OF FALMOUTH**  
**SELECT BOARD**  
**REVISED AGENDA, #2**  
**MONDAY, FEBRUARY 22, 2021 – 7:00 P.M.**  
**SELECT BOARD MEETING ROOM**  
**TOWN HALL**  
**59 TOWN HALL SQUARE, FALMOUTH, MA 02540**

*In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the February 22, 2021 public meeting of the Falmouth Select Board 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 Select Board utilizing the Zoom virtual meeting software for remote access. This application will allow users to view the meeting and send a comment or question to the Chair via the Chat function. Submitted text comments 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/BOS>.*
    - 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 [selectboard@falmouthma.gov](mailto:selectboard@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 Board may appear remotely and are not required to be physically present. Applicants, their representatives and individuals with enforcement matters before the Board may contact the Town Manager/Select Board's Office 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 the Town Manager's Office at [townmanager@falmouthma.gov](mailto:townmanager@falmouthma.gov) so they may be displayed for remote public access viewing.*

**AGENDA**

**7:00 p.m. OPEN SESSION**

1. Call to Order
2. Pledge of Allegiance
3. Recognition
4. Announcements
5. Public Comment

**7:15 p.m. SUMMARY OF ACTIONS**

1. Licenses
  - a. Change of License Type Lodging House License – Inn on the Square – 40 North Main Street, Falmouth
  - b. Pledge of Collateral (Wine and Malt Package Store License) – M.A. Friends, Inc. d/b/a Jack in the Beanstalk – 800 Gifford Street Extension, Falmouth
2. Administrative Orders
  - a. Approve request for Grant of License for existing stone wall within the public right of way at 200 Moorland Road
  - b. Vote to lease Emerald House to Cape Cod Cape Verdean Museum and Cultural Society

- c. Authorization to accept RDP recycling grant funds and execute intergovernmental agreement between the Commonwealth of Massachusetts Department of Environmental Protection and the Town of Falmouth
- d. Vote to authorize application for 2021 Municipal Cybersecurity Awareness Grant Program funds
- e. Vote to authorize Intergovernmental Agreement and Lease Agreement between Plymouth County and Town of Falmouth for rental of dredge excavator, and authorize the Town Manager to sign the agreements
- f. Vote and execute Notice of Lien for demolition of unsafe structure at 630 Waquoit Highway
- g. Vote to approve expenditure of \$500.00 from the Human Services Donation Account for a jointly sponsored program with Gosnold
- h. Vote to adopt and execute Confirmatory Order of Taking for William Road
- i. Vote to authorize application to Massachusetts Department of Environmental Protection (MassDEP) for an electric vehicle charging station grant

**7:30 p.m. PUBLIC HEARINGS**

1. Wetland/Dock Hearing – Nikolas J., John S., Anthony P. Pentikis/James N. Pentikis Trust UDT for permission to license and maintain two floats comprising a total of 4' x 35' in and over the waters of Eel Pond Canal, located at 5 Canapitsit Drive, East Falmouth, continued from 2/1/21
2. Wetland/Dock Hearing – Steven Balas for permission to maintain an existing concrete bulkhead and to construct and maintain a 4' x 25' float adjacent to the bulkhead in and over the waters of Eel Pond Canal, located at 64 Muskegat Road, East Falmouth
3. Wetland/Dock Hearing – S. Michael Kachadoorian for permission to maintain an existing concrete bulkhead and to construct and maintain a 4' x 25' float adjacent to the bulkhead in and over the waters of Eel Pond Canal, located at 50 Muskegat Road, East Falmouth
4. Wetland/Dock Hearing – Frank & Patricia Dundulis for permission to relocate the existing licensed floats. There is no construction that will take place. The floats will be detached from the bulkhead, relocated by floating them a few feet to the east and then reattaching them to the bulkhead. There is an existing Waterways License for the bulkhead and floats, No. 6715, located at 18 Tashmoo Drive, East Falmouth, MA, in and over the waters of Eel Pond Canal.
5. Application for a New Seasonal All Alcoholic Beverages Common Victualler License – 71 Water Street, Inc. dba The Woods Hole Wharf, 71 Water Street, Woods Hole. Application has also been made for Entertainment and Sunday Entertainment Licenses.

**8:00 p.m. BUSINESS**

1. Discussion/update on COVID-19 issues
2. Interview, vote and appoint committee member: Council on Aging – Elizabeth (Betsy) Hike
3. Discussion on Litter – Solid Waste Advisory Committee, Alan Robinson
4. Acting as Trustees of the Falmouth Affordable Housing Fund, Presentation and Vote on application from Falmouth Housing Trust for \$260,000 to construct four affordable, single-family houses on Lewis Neck Road
5. Vote authorization to proceed to Planning Board for ANR Plan for 86,000 SF lot as shown at 860 Sandwich Road for future new fifth fire station
6. Presentation of Petition Articles for April 2021 Town Meeting (5 minutes each)
  - a. Present Petition Article # 29 – The Quissett Association, Inc. – James Durocher
  - b. Present Petition Article # 30 – Sandra Faiman-Silva
  - c. Present Petition Article # 31 – Ronald D. Zweig
  - d. Present Petition Article # 32 – Sandra Faiman-Silva
  - e. Present Petition Article # 33 – Patricia Oshman

7. Status update/discussion on disposition of wind turbines
8. Discussion with Beach Committee on proposal to expand membership
9. Status update – former Senior Center building at 300 Dillingham Road and request to authorize issuance of Request for Proposal
10. Status update – proposed Diversity Officer position job description
11. Summary of Town Manager Evaluation
12. Review and Vote to Approve Minutes of Meetings: Public Session – January 11, 2021
13. Individual Select Board Members' Reports
14. Town Manager's Report
15. Adjourn

Megan English Braga, Chair  
Select Board

## SUMMARY OF ACTIONS

### #1 LICENSES

- a. Change of License Type Lodging House License – Inn on the Square – 40 North Main Street, Falmouth

#### Note:

Inn on the Square is changing its license type from “Innholder” to “Lodging House”.

An Innholder has sleeping accommodations and has food service available to guests and to the public.

A lodging house has sleeping accommodations and either serves food to guests only, or no food service.



# TOWN OF FALMOUTH

Office of the Town Manager & Selectmen  
59 Town Hall Square, Falmouth, Massachusetts 02540  
Telephone (508) 495-7320

## APPLICATION – RENEWAL APPLICATION

### LODGING HOUSE LICENSE

M.G.L. Chapter 140, Sections 22 - 31

*Fields outlined in **RED** are required*

APPLICATION FOR NEW LICENSE:  RENEWAL APPLICATION:

NAME APPLICANT/OWNER:

BUSINESS NAME:

BUSINESS ADDRESS:   
(if different from Home Address)

TOWN:  STATE:  ZIP CODE:

MAILING ADDRESS: (if different)

MANAGER: (if any)

FID #:  EMAIL: required

TELEPHONE - Business:  Home:

NO. OF ROOMS:  NO. OF LODGERS:

BED & BREAKFAST: - YES/NO  OWNER OCCUPIED: - YES/NO

**TAX ATTESTATION:** I certify under the penalties of perjury that the information provided in this application is true and that, to my best knowledge, I have filed all state tax returns and paid all state and local taxes as required under law. I understand that Licensees who fail to correct their non-filing or delinquency will be subject to license suspension or revocation:

DATE **SIGNATURE:** OWNER or MANAGER

**TOTAL TOWN OF Falmouth FEES: \$45.00**  
**LICENSE FEE: \$35.00 FILING FEE: \$10.00**

b. Pledge of Collateral (Wine and Malt Package Store License) –  
M.A. Friends, Inc. d/b/a Jack in the Beanstalk – 800 Gifford  
Street, Extension

**Note:**

M.A. Friends applied for a transfer of license, which was approved by the Select Board on 2/1/21 and sent to the ABCC. M.A. Friends has also applied for a pledge of license. The ABCC requested a list of required documents and document corrections. Those documents and corrections have been delivered to this office by the applicant's attorney.



The Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission

For Reconsideration

LICENSING AUTHORITY CERTIFICATION

Falmouth

City/Town

Reconsideration

ABCC License Number

TRANSACTION TYPE (Please check all relevant transactions):

The license applicant petitions the Licensing Authorities to approve the following transactions:

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

APPLICANT INFORMATION

Name of Licensee: M.A. Friends, Inc      DBA: Jack in the Beanstalk

Street Address: 800 Gifford Street Extension      Zip Code: 02540

Manager: Sarav Patel

Granted under Special Legislation? Yes  No

If Yes, Chapter \_\_\_\_\_ of the Acts of (year) \_\_\_\_\_

\$15 Package Store      Annual      Wines and Malt Beverages

Type (i.e. restaurant, package store)      Class (Annual or Seasonal)      Category (i.e. Wines and Malts / All Alcohol)

DESCRIPTION OF PREMISES Complete description of the licensed premises

One story building. Four total rooms.

LOCAL LICENSING AUTHORITY INFORMATION

Application filed with the LLA: Date 02/17/2021 Time 10:40 am

Advertised Yes  No  Date Published 12/24/20 Publication Falmouth Enterprise

Abutters Notified: Yes  No  Date of Notice 12/18/2020

Date APPROVED by LLA 02/22/2021 Decision of the LLA Approves this Application

Additional remarks or conditions (E.g. Days and hours)

For Transfers ONLY:  
Seller License Number: 0021-PK-0390 Seller Name: Falmouth Fruit and Produce Co., Inc.

The Local Licensing Authorities By:

Alcoholic Beverages Control Commission  
Ralph Sacramone  
Executive Director

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

**LEBHERZ & LEBHERZ**

Attorneys at Law

Christopher G. Lebherz

Of Counsel

Hon. George H. Lebherz, Jr. (Ret.)

(508) 548-6600

FAX (508) 457-0268

EMAIL: lebherzlaw@gmail.com

January 17, 2021

Falmouth Board of Selectmen and Selectwomen  
Town Hall Square  
Falmouth, MA

Hand delivered

Attention Phyllis Downey:

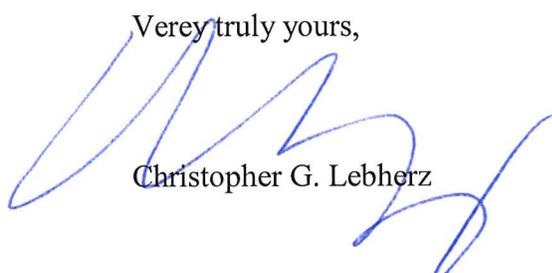
Dear Ms. Downey:

I will be unavailable tonight but I was able to scramble and obtain the paperwork you asked for yesterday by email. Enclosed please find the following:

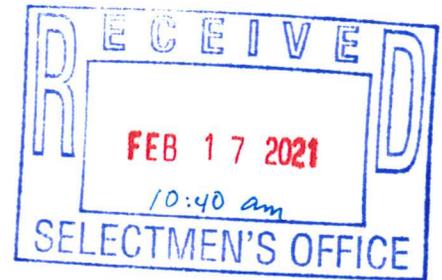
1. Copies of drivers license - Sarav Patel and Doma Sherpa
2. M.A. Friends Vote - authorizing pledge of license
3. Form Commercial Promissory Note sent to me from Rockland Trust
4. Form Pledge sent to me from Rockland Trust
5. Cori Request form - Doma Sherpa
6. Revised page 6 manager application correcting SS # for Sarav Patel

I hope and trust all is now in order. Thank you for your kind attention.

Very truly yours,

  
Christopher G. Lebherz

CGL:cl



# RECOMMENDATION OF THE INVESTIGATOR

LICENSEE: M.A. Friends, Inc. TOWN: Falmouth

APPLICATION FOR:  New License  New Officer/Director  Pledge of License  Transfer of License  
 Change of Location  Pledge of Stock  Alter Premises  Change of Manager  Other \_\_\_\_\_

\_\_\_\_\_ I have reviewed the application and recommend APPROVAL

\_\_\_\_\_ I have reviewed the application and recommend APPROVAL of all aspects of the application excluding the applicant's criminal history which I respectfully request that the commission review.

\_\_\_\_\_ I have reviewed the application and recommend DISAPPROVAL

XXX

\_\_\_\_\_ This Investigator respectfully recommends that this application be returned to the Local Licensing Authorities with No Action for the following reason(s)

I am unable to make a favorable recommendation the way this application is presented:

The application was approved by the local board for a Transfer of License and a Pledge of License to Rockland Trust.

This application is missing or needs the following documents corrected:

Vote for the Pledge is missing

Copy of the Pledge of License is missing

Copy of Promissory Note for Pledge is missing

CORI form for Doma Sherpa is missing.

Please provide copies of drivers licenses for both directors proving proof of residency.

The manager form is missing the full SS# for the applicant.

Please forward all corrections and/or documents to the Falmouth Licensing Board. After review and approval, the board will forward all documents to the ABCC licensing division. No further fee is required.

*Caroline L. Guarino*

*2/12/2021*

\_\_\_\_\_  
Investigator

\_\_\_\_\_  
Date

## #2 ADMINISTRATIVE ORDERS

- a. Approve request for Grant of License for existing stone wall within the public right of way at 200 Moorland Road

## GRANT OF LICENSE

The TOWN OF FALMOUTH, a Municipal Corporation and political subdivision of the Commonwealth of Massachusetts having its usual place of business at 59 Town Hall Square, Falmouth, Barnstable County, Massachusetts acting by and through its duly elected Select Board, in consideration of One and 00/100 (\$1.00) Dollar and of the covenants contained herein, does hereby grant to Robert S.C. Munier and Jan C. Munier, whose mailing address is 200 Moorland Road, Falmouth MA 02540, the following license to place, erect and maintain a stone wall to be located within the town layout of Moorland Road, Falmouth, MA. The proposed locations are shown on the attached plans prepared by BSS Design Engineering & Surveying, titled: "Plot Plan – Proposed Accessory Apartment at 200 Moorland Road, Falmouth, Massachusetts, prepared for Robert and Jan Munier Scale: 1" - 20', Dated: October 15, 2020."

This license is granted upon the following expressed conditions:

- a. Said license is revocable by the Select Board at any time when they deem it appropriate to revoke the same in the best interest of the Town of Falmouth and/or public convenience, safety and needs; the Town may revoke this license by sending a notice to the grantees, their successors and assigns at the above-referenced property address and by thereafter within a reasonable time recording a Notice of Revocation of License in the Barnstable County Registry of Deeds;
- b. Upon such revocation, the grantee, its successors and assigns shall, if and when directed by the Select Board, remove said stone wall from within the Town's road layout;
- c. If the grantees, their successors and assigns, fails to remove said stonewall all the expenses of the Town to do same or have the same done or any expenses arising from the failure to comply with this license, including attorney's fees, costs and expenses and contractor fees shall be paid by the grantees, their successors and assigns to the Town upon demand, and if not so paid, shall, upon the recording of a Notice thereof in the Registry of Deeds or Registered Land Division constitute a lien on said property, without limiting any other rights of the grantor;
- d. Until such revocation, this License shall continue in force and effect;
- e. The grantees, their successors and assigns shall be forever obligated to indemnify, defend and hold harmless the Town of Falmouth, its agents, officers, officials and employees for any and all claims, actions, suits, or demands for personal injury or property damage arising out of all activity undertaken by the grantees in reliance upon the grant of this License.

- f. Nothing contained in the License shall authorize the grantees, their successors and assigns to do any work or undertake any activity or to continue any activity not otherwise in full compliance with all applicable laws, rules and regulations;
- g. The terms, conditions, agreements and covenants contained herein shall be binding on the grantee, its successors and assigns.
- h. For title see Document No. 193198. The property address is 200 Moorland Road, Falmouth, MA.

IN WITNESS WHEREOF, the seal of the Town of Falmouth is affixed hereto and these presents executed and delivered in its name and behalf by its Board of Selectmen, hereto duly authorized this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Town of Falmouth  
By its Select Board

\_\_\_\_\_  
Megan English Braga, Chairman

\_\_\_\_\_  
Douglas C. Brown, Vice Chairman

\_\_\_\_\_  
Doug H. Jones

\_\_\_\_\_  
Samuel H. Patterson

\_\_\_\_\_  
Nancy R. Taylor

Commonwealth of Massachusetts

County of Barnstable

On \_\_\_\_\_, before me, the undersigned notary public

personally appeared

\_\_\_\_\_  
name(s) of signer(s)

personally known to me

proved to me on the basis of satisfactory evidence of identification which was

\_\_\_\_\_  
to be the person(s) whose name(s) is/are subscribed

to the within instrument and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of (his)(her) knowledge and belief.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public



## Falmouth Planning Board

59 Town Hall Square, Falmouth, MA 02540

Telephone: 508-495-7440 Fax: 508.495.7443 email: [planning@falmouthma.gov](mailto:planning@falmouthma.gov)

December 9, 2020

Rod Palmer, Building Commissioner  
Falmouth Town Hall  
59 Town Hall Square  
Falmouth, Massachusetts 02540

Re: Site Plan Review Decision for Robert Munier  
200 Moorland Rd – 48 13 011 030A

Dear Rod,

At its meeting of December 8, 2020, the Planning Board voted to approve the application of Robert Munier, under Article XXXIX (39) Site Plan Review of the zoning bylaw for a plan entitled: "Plot Plan - Proposed Accessory Apartment at 200 Moorland Road Falmouth Massachusetts" prepared for Robert & Jan Munier, prepared by BSS Design Engineering & Surveying, dated October 15, 2020, scale of 1"=20', along with floor plans for the detached structure entitled "Munier Studio Apartment (above garage)" prepared Beatrice Bunker, scale of ¼'=1'-0", and architectural elevations entitled "Munier Studio Apartment (above garage)", scale of ¼'=1'-0", as well as photographs:

### **FINDINGS:**

The applicant, Robert Munier, seeks to construct a studio apartment above an already existing detached garage located at 200 Moorland Road, which contains an existing single family residence. The parcel is zoned Residence B (RB) and in the Oyster Pond Coastal Pond Overlay and contains 31,709 square feet of land. The proposed accessory studio apartment within the garage is 320 square feet. The existing finished square footage of the primary residence is 3,940 square feet and contains four (4) bedrooms. The proposed percentage of total floor area of the accessory apartment is 8.12% percent of the total finished floor area of the principal structure. The applicant's attention is directed to the Engineering Department's referral dated November 10, 2020 and the Health Department Referral dated November 3, 2020. The referral indicates that the septic system installed in 2010 is suitable for a 5 bedroom property. The Engineering Department's review included that the stonewall located on the property is in the public right of way. The Board reviewed the stone wall and stated the wall is part and parcel of what the property is and would like to see the wall remain.

The Planning Board considered the above-referenced referrals and the applicant's response and plan revisions in its decision in this matter, the Board will condition its decision accordingly.

The Board finds that the information provided by the Applicant conforms to all the requirements and findings pursuant to section 240-23.I of the zoning bylaw.

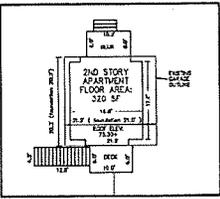
**CONDITIONS:**

1. The plan shall be constructed as approved. Any changes shall be reviewed by the Planning Board to determine if a modification of this decision is necessary. Pursuant to §240-183.B. of the zoning bylaw, no permit for full or partial occupancy shall be issued until the Planning Board is satisfied that the conditions of this approval and predecessor approvals have been met.
2. Either the principal dwelling or accessory apartment must be owner-occupied for a period of seven months in every calendar year, or owned by a nonprofit organization or government authority whose purpose is to provide affordable housing. An affidavit shall be submitted annually to the building commissioner, signed by the property owner, attesting that the principal dwelling or accessory apartment has been owner-occupied for a period of seven months and not otherwise rented as set forth above.
3. Either the principal dwelling or accessory apartment may be rented, but not both during the five months the owner occupant may be absent. Rental periods shall be no less than six (6) months and weekly/monthly rentals (summer rentals so called) are expressly prohibited. Neither the principal dwelling nor accessory apartment shall be used as commercial accommodations at any time.
4. "Upon completion of construction, the Applicant shall post the address for this residence per §99-1 Affixing of legible numbers required; time limit for compliance.
5. The applicant shall install a new 1" water service connection for this project.
6. The applicant shall submit a license for the stonewall that is located in the public right way. If the applicant does not have a license for the wall then they shall apply to the Board of Selectmen for a license.

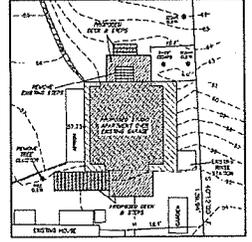
Sincerely,



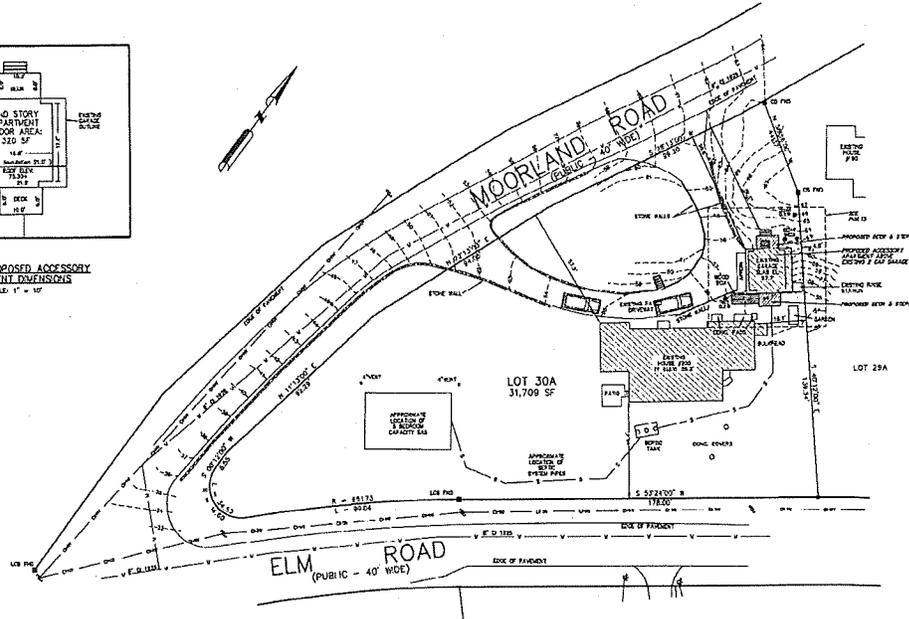
Thomas Bott, Town Planner  
cc: Applicant



INSET - PROPOSED ACCESSORY APARTMENT DIMENSIONS  
SCALE: 1" = 10'



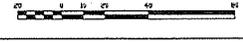
INSET - PROPOSED ACCESSORY APARTMENT  
SCALE: 1" = 10'



**LEGEND**

---	PROPERTY LINE
---	OVERHEAD NOTES
---	EXISTING CONDUIT
---	EXISTING WATER SERVICE
---	EXISTING ELECTRIC
---	EXISTING TREE
---	EXISTING UTILITY MOLE
---	EXISTING FIRE HYDRANT
---	CONCRETE BOUND
---	EXISTING STRUCTURES
---	EXISTING STRUCTURES TO BE REMOVED
---	PROPOSED STRUCTURE

- NOTES:**
- LOCUS IDENTIFICATION:  
LOCUS: 100, 100 MOORLAND ROAD  
FALMOUTH, MA 02541  
LOT 30A LAND COURT PLAN 6531-C
  - LOCUS IS WITHIN:  
STANDARD DISTRICT: 10  
FLOOD ZONE: 1  
SEASONAL FLOOD AND EXPOSURE CATEGORY: B  
WIND-BORNE DEBRIS REGION  
COASTAL FLOOD (PURELY BY DISTRICT) (SALT POND/ OYSTER POND)
  - LOCUS IS NOT WITHIN:  
ZONE I OF A PUBLIC WATER SUPPLY  
WATER RESERVATION PROTECTION DISTRICT  
COUNCILOR OF LOCAL GOVERNMENTS  
MILITARY DISTRICT  
MILITARY CORRIDOR OVERLAY DISTRICT  
BLANK BEACH / SUPERFICIAL SANDS SOFC
  - LOT COVERAGE BY STRUCTURES:  
PROPOSED: 2,715 SF BASE  
EXISTING: 1,565 SF BASE
  - LOT DEVELOPMENT BY SUBSIDIARY, PATIO AND PARKING:  
PROPOSED: 5,047 SF TO 45%  
EXISTING: 8,731 SF TO 45%
  - ELEVATIONS ARE FROM ON-THE-GROUND SURVEY BASED ON US MAP DATUM.
  - SPIC SYSTEM HAS DRAIN BASED DESIGN PLAN AND AS-BUILT SUBMITTALS BY OWNER.  
EXISTING BUILDING DETAILS ARE MEASURED TO CORNER BOUNDS, NOT FOUNDATION.



DATE: 10/15/2020  
DRAWN: RAR, TJM  
CHECKED: JRM  
JOB NUMBER: 20154  
DRAWING: 27-146

b. Vote to lease Emerald House to Cape Cod Cape Verdean  
Museum and Cultural Society

## RFP AWARD RECOMMENDATION MEMORANDUM

To: Julian Suso, Town Manager

From: Emerald House RFP Evaluation Committee:  
Melanie Bush, Assistant to Assessor Collector  
Michaela Shoemaker, Assistant Town Planner  
Peter Johnson-Staub, Assistant Town Manager

Date: January 27, 2021

Re: Request for Proposals – Emerald House, 67 Davisville Road, East Falmouth, MA 02536

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On December 4, 2020 the Town of Falmouth solicited a Request for Proposals (RFP) for the Emerald House, located at 67 Davisville Road, East Falmouth, MA 02536. The Town identified the following goals for this RFP and lease of the property:

- Promote public access to the interior of the historic structure;
- Compatibility with existing and planned adjacent uses including school grounds, community gardens, accessible play space and potential future affordable housing;
- Honor the history of Portuguese ancestry and farming at the property;
- Compliance with applicable zoning see Public Use Article VII §§240-29 through §§240-33 of the Falmouth Town Code;
- Seek a Lessee who is interested in a lease of up to 20 years;
- Minimize Town costs associated with the property; and
- Include educational opportunities for town residents, particularly school age children, to learn about the history of the property

The Town received one response to the RFP from the Cape Cod Cape Verdean Museum & Cultural Center. The proposal was evaluated by the Evaluation Committee which includes Peter Johnson-Staub, Assistant Town Manager, Michaela Shoemaker, Community Development Planner and Melanie Bush, Finance Department Assistant.

The Committee first determined that the response met the Technical Proposal and Minimum Requirements submission criteria. The Committee then evaluated the following criteria based on a ranking of Highly Advantageous, Advantageous and Not Advantageous:

- Respondent Experience
- Public Access
- Proposed Uses & Mission
- Educational Opportunities
- Price (Rent)

### **Respondent Experience**

Respondent experience was ranked as Advantageous – *In combination, the principals of respondent organization demonstrate at least 3 years of experience related to all aspects of the proposed uses of the Property.*

Five out of the seven principals identified in the proposal each possess at least three years of relevant experience, including serving as a board member of the Cape Verdean Club, co-founding the Harwich Cape Verdean Museum, administrative work for NOAA, donor relations work, establishing the Camara das Artes (Chamber of Arts) in support of the MASP Museum of Art in Sao Paulo, Brazil and several philanthropic endeavors. The two remaining principals possess some relevant experience; however, the Committee was unable to determine the length of their experience.

### **Public Access**

Public access was ranked as Highly Advantageous – *Proposal includes public access to the interior of the Emerald House for 20 hours or more per week, year-round.*

The proposal states that there will be public access to the interior of the Emerald House for 20 hours or more per week, year-round and will include open hours and by appointment access.

### **Proposed Uses & Mission**

Proposed Uses & Mission was ranked as Highly Advantageous – *A philanthropic entity whose primary purpose and activities at the leased premises directly relate to historic preservation and/or agriculture and meet zoning requirements under Falmouth Zoning Bylaw § 240-30 subsection A.*

The Cape Verdean Museum & Cultural Center meets the above zoning requirements and was designated as a 501(c)(3) charitable organization in 2019. They propose to use the Emerald House as a permanent space to house the museum's collection of artifacts and to serve as a resource center on Cape Verdean history and culture. The museum will display permanent and temporary exhibits, offer educational programs and workshops, as well as sponsor scholarships, educational prizes and public service programs.

### **Educational Opportunities**

Educational Opportunities was ranked as Highly Advantageous – *Proposal includes educational opportunities for children and adults related to the local history of Portuguese Americans and agriculture.*

The respondent proposes to host educational programs and workshops for both adults and children grades K-12 while incorporating the historical significance of the Emerald House and its contribution to the local agricultural community. Activities such as speaking engagements, essay contests, student interview projects, internships, as well as various workshops on farming practices, quilting, music, and language appreciation are among the list of educational opportunities the organization has planned.

**Price (Rent)**

Price was ranked as Advantageous – *Rent is greater than \$2,000 per year but less than \$4,000.*

The respondent proposes rent as follows:

Year 1 \$0  
Year 2 \$0-\$1,000  
Year 3 \$2,000  
Year 4 \$3,000  
Year 5 \$4,000  
Years 6-20, if renewed: \$4,000

Although years 1 and 2 are below \$2,000, the Committee feels that the proposed rent for years 3 through 5 and years 6 through 20, if renewed, substantiates the ranking of Advantageous.

***Recommendation***

The proposal was found to be consistent with the vision of the Town and its Select Board for this historic structure. The response reflects the goals of the RFP, met the technical proposal and minimum requirements criteria for submission and received rankings of either Highly Advantageous or Advantageous in all five categories. Therefore, the Evaluation Committee recommends that the Town award a five year lease to the Cape Cod Cape Verdean Museum & Cultural Center, with the option to extend the lease for three additional five year terms, for a total of up to twenty years, at the Town's sole discretion.

# LEASE

This is a lease agreement by and between the Town of Falmouth, a municipal corporation in Barnstable County, Massachusetts with an address of 59 Town Hall Square, Falmouth, Massachusetts 02540 (the Landlord) and the The Cape Cod Cape Verdean Museum & Cultural Center, Inc., 30 Highland Street, Mashpee, MA 02649 (the Tenant). Hereinafter follows the terms and conditions of the lease.

## 1. Granted Premises

Landlord hereby leases to Tenant an historic structure known as the 'Emerald House' and the associated parking area located 67 Davisville Road (hereinafter referred to as the "Premises") as depicted in 'Exhibit B'. The Landlord represents that it has good title to the premises and this representation is a condition of the Lease. Provided Tenant is not in default, Tenant shall have peaceable and quiet enjoyment and possession of the Premises herein demised during the term hereof without any hindrance or molestation from Landlord, its agents, servants or employees.

## 2. Term

The lease term shall commence on \_\_\_\_\_ (which date is hereinafter referred to as the "Commencement Date") and end on December 1, 2025. The Tenant may request an extension of the lease for up to three (3) additional 5-year terms for a total of up to twenty (20) years at mutually agreeable terms as hereinafter set forth.

To request an extension of the lease term, the Tenant shall notify the Landlord by written notice of the Tenant's desire to extend, said notification to be received by the Landlord no later than 90 days before the last day of the first term for the extension. The Landlord may grant or deny such request to extend the lease for any reason or no reason.

This Lease shall also be subject to termination in the event the Tenant ceases to have legal existence or is disincorporated by the Massachusetts Secretary of State.

## 3. Condition of the Premises

Landlord shall deliver to Tenant the Premises in as is condition. Tenant acknowledges that Landlord has made no representations as to the condition of the Premises. Tenant acknowledges that it has inspected the premises and is fully aware of the condition of the structure. Landlord shall have no obligation to repair the same. Tenant shall keep the Premises in good order and repair, including replacement of historic glass. In addition Tenant shall be responsible for any damages caused by the Tenant, its guests, invitees or trespassers to the Premises during the term of this lease.

## 4. Use of Premises

Tenant shall use the Premises for purposes specifically for purposes outlined in the proposal submitted by the Tenant to the Landlord in January of 2021.

A) Additional Tenant Covenants. It being the intention of the parties to this Lease that it be a fully and completely “net” lease, Tenant further agrees to conform to the following provisions during the entire term of this Lease:

- (1) Tenant shall be solely responsible for all, management, maintenance, repair, and upkeep of the Premises and shall not allow any trash or rubbish to accumulate on the Demised Premises during the Lease Term.
- (2) Tenant shall be solely responsible for compliance with all health, safety and building laws with respect to the Demised Premises, including but not limited to, compliance with all laws and regulations pertaining to health and safety and handicap acces..

#### 5. Tenant’s Improvements

Tenant may make, at its expense, interior non-structural alterations or improvements to the Premises, with the written consent of the Landlord. The Tenant shall be solely responsible for acquiring any and all necessary permits or orders of condition required for such improvements. No modification, alteration, demolition or repair of the exterior of the structure may be undertaken without first obtaining a certificate of appropriateness from the Falmouth Historical Commission if required. Tenant shall repair any damage to the Premises occasioned by such improvements to the satisfaction of the Landlord. Tenant shall promptly pay all contractors and suppliers hired by Tenant to furnish any labor or materials. Should any lien be made or filed, Tenant shall bond against or discharge same within (10) days after written request by Landlord. Landlord shall have no obligation to reimburse Tenant for the cost of any such improvements unless Tenant obtains written approval from Landlord prior to the undertaking of such improvements.

#### 6. Utility Charges

Throughout the term of the Lease, Tenant shall pay, either directly to the provider or as Additional Rent, the cost of all utilities furnished to the Premises, including, but not limited to, gas, electricity, public water and sewer, telephone and the like.

Tenant shall pay or cause to be paid as Additional Rent, before any fine, penalty, interest or cost may be added thereof for the non-payment thereof, all taxes, assessments, special use or assessment district taxes, excises, levies, license and permit fees and all other governmental charges of any kind and nature which during the Term may be assessed, levied, imposed upon or become due with respect to, or become a lien on, the Premises or the leasehold or any part thereof or any appurtenance thereto.

#### 7. Assignment Subletting

Tenant shall not have the right to assign or sublet the premises without prior written approval of the Town Manager.

8. Governmental Regulations

Tenant shall, at Tenant's sole cost and expense, comply with all of the requirements of all county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to its use of said Premises. Tenant acknowledges that Landlord has made no representations as to the suitability of the Premises for the licensing of any activity.

9. Access to Landlord

Landlord or Landlord's agent shall have the right to enter the Premises at reasonable times to examine same, and to make such repairs, alterations, improvements or additions as Landlord may deem necessary or desirable, provided such entry or repairs shall not unreasonably interfere with Tenant's occupancy of or business in the Premises.

10. Rent

The following payments shall be made no later than February 1<sup>st</sup> of each respective calendar year:

- 2022 - \$0 (Year 1)
- 2023 - \$0
- 2024 - \$2,000
- 2025 - \$3,000
- 2026- \$4,000
- Years 6 – 20, If renewed by mutual agreement: \$4,000

11. Insurance

Tenant agrees to maintain during the term hereof and until all of Tenant's responsibilities have been satisfied hereunder a policy of commercial general liability insurance on an occurrence basis under which the Landlord is named as an additional insured. Such policy shall not be cancelled, non-renewed or modified without at least thirty (30) days prior written notice to Landlord. The Tenant shall waive subrogation against the Landlord and the Tenant's insurance policy shall provide primary coverage and the Landlord's coverage shall not contribute to any claim for liability. The minimum limits of liability of such Tenant insurance shall be:

- a) Property/Building Coverage for Full Replacement Cost of the Building.
- b) General Liability of at least \$1,000,000 Bodily Injury and Property Damage Liability, Combined Single Limit with a \$1,000,000 Annual Aggregate Limit. The Town

should be named as an "Additional Insured". Products and Completed Operations should be maintained for up to 3 years after the completion of the project.

- c) Automobile Liability (applicable for any contractor who has an automobile operating exposure) of at least \$1,000,000 Bodily Injury and Property Damage per accident. The Town shall be named as an "Additional Insured".
- d) Workers' Compensation Insurance as required by law.
- e) Property Coverage for materials and supplies being transported by the contractor, as the Town's Property Contract provides coverage for personal property within 1000 feet of the premises.
- f) Umbrella Liability of at least \$1,000,000/ occurrence, \$1,000,000/aggregate.

The Landlord represents to the Tenant and the Tenant acknowledges that the Premises is a historic building, of significant cultural and historic value to the Landlord, but not required for the Landlord's day to day operation. Accordingly the Landlord may or may not wish to rebuild or repair the Premises in the event the Premises or any portion thereof is destroyed by fire or other casualty during the term of this lease. The decision to rebuild or repair any damage shall be solely the Landlord's. Whether or not the Landlord determines to rebuild or repair, this lease shall terminate in any event if the Premises are unsuitable for occupancy by the Tenant for its use of the Premises as defined in paragraph 4 hereof for a period of sixty (60) consecutive days after the fire or other destructive event.

## 12. Indemnification

The Tenant hereby indemnifies, and shall protect and hold the Landlord harmless from and against all liabilities, losses, claims, demands, costs, expenses, and judgments of any nature arising, or alleged to arise, from or in connection with the following: (a) any injury to, or the death of any person or loss or damage to property on or about the Premises or any adjoining property arising from or connected with the Tenant's use of the Premise during the term or (b) performance of any labor or services or the furnishing of any materials or other property in respect of the Premise or any part thereof by or at the request of Tenant. The Tenant will resist and defend any action, suit or proceeding brought against the Landlord by reason of any such occurrence by counsel designated by the Tenant and approved by Landlord.

## 13. Default of Tenant

Tenant shall be held in default of any term or provision of this Lease if:

(a) it violates any term or condition contained herein, which includes the operation of a Museum and Cultural Center; or

(b) it ceases to operate or qualify as a not for profit corporation in accordance with the Massachusetts General Laws or the Internal Revenue Code.

In the event of such default, Landlord may declare the term of Lease terminated, enter into possession of said Premises and sue for and recover all rents as they come due, or Landlord may sue and recover without entering into possession of said Premises, Landlord, further,

shall have all rights granted to it under the laws of the state in which the Premises are located including reimbursement for reasonable attorney's fees.

The Tenant shall have a thirty (30) day period in which to cure any default which period shall commence upon written notice from the Landlord to the Tenant identifying the default; provided, however, that any default relating to the Tenant's obligations to provide insurance or discharge liens on the property shall be cured immediately upon the happening of the event of default without any written notice from the Landlord to the Tenant.

14. Signs

Tenant shall have the right to erect signs on any portion of the Premises provided that such signs fully comply with Chapter 180 of the Code of Falmouth and are issued a certificate of appropriateness from the Falmouth Historical Commission.

15) Notices

All notices required to be sent under the provisions of this Lease to Landlord and Tenant by one another shall be in writing and sent by U.S. mail, certified, return receipt requested, to the addresses set forth on the first page of this lease or by hand delivery to said address.

16) Emergency

Landlord may, if an emergency shall exist, perform any obligation of Tenant hereunder for the account of Tenant after first notifying the Tenant of the same by telephone or written notice of such emergency. In such event, Landlord shall request Tenant to reimburse Landlord for any expenditure made by Landlord. If Tenant fails to reimburse Landlord within thirty (30) days after Landlord's request therefore, Landlord may treat such failure to reimburse as a default hereunder.

17) Successors and Assigns

This Lease shall be binding upon and shall inure into the benefit of the parties hereto and their respective legal representatives, heirs, successors and assigns.

18) Holdover

Should Tenant remain in possession of the Premises after the expiration of the term of this Lease, such holding over shall be deemed to have created and be construed to be a tenancy from month to month, terminable on thirty (30) days' written notice from either party to the other. During the holdover period, the landlord may charge a per diem rent up to \$100 a day.

19) Parking: There is no public parking associated with this premise.

20) Tenant Cancellation

In the event that the Tenant shall cancel this lease for any reason permitted hereunder, then the Landlord shall benefit from all repairs, improvements and enhancements, made by the Tenant up to the time of the notice of cancellation. The Landlord shall be under no obligation to refund or repay any portion of money paid by the Tenant for any such repair, improvement or enhancement made prior to notice of the cancellation.

This paragraph 20 is meant to pertain only to cancellations permitted under this lease for the failure to meet stated contingencies and shall not be interpreted in any way as affecting the Landlord's rights in the event of a default by the Tenant.

21) Authority to Sign and Commit

The Tenant hereby agrees and warrants that it has complied with its Articles of Organization and By-laws in entering into this lease agreement. Further, that those signing the lease agreement have the power and authority to sign this lease. A copy of the corporation vote authorizing the Tenant to enter into this lease agreement and accompanying clerk's certificate is attached hereto as Exhibit C.

IN WITNESS WHEREOF Landlord, and Tenant, have signed and sealed this lease this \_\_\_\_ day of February 2021.

Landlord by the:  
TOWN MANAGER  
TOWN OF FALMOUTH

\_\_\_\_\_  
Julian M. Suso, Town Manager

Date \_\_\_\_\_

\_\_\_\_\_  
Frank Duffy, Town Counsel

Date \_\_\_\_\_

Tenant:  
Cape Cod Cape Verdean Museum & Cultural Center, Inc.

\_\_\_\_\_  
Wesley Leite, President

Date \_\_\_\_\_

\_\_\_\_\_  
Barbara Burgo, Clerk

Date \_\_\_\_\_

\_\_\_\_\_  
Wayne Lobo, Director

Date \_\_\_\_\_

## **EXHIBIT A**

### **Article 40 of April 3, 2006 Annual Town Meeting**

#### **ARTICLE 40:**

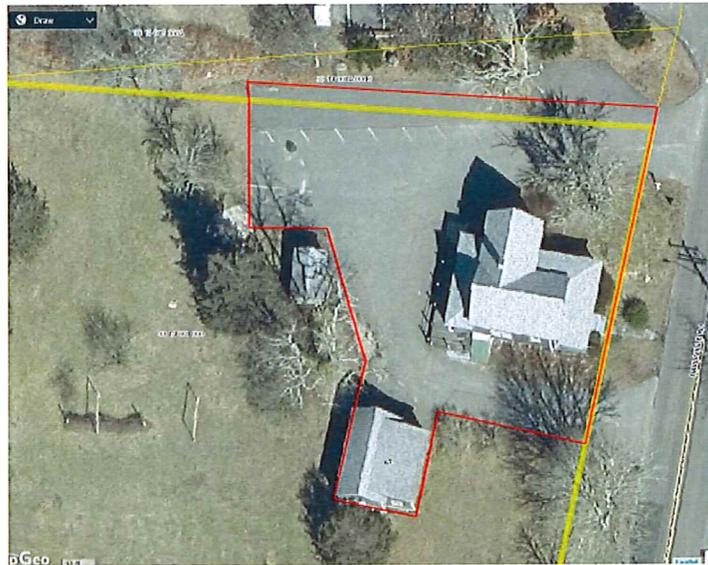
To see if the Town will vote to authorize the Board of Selectmen to let or lease town owned property at 67 Davisville Road in East Falmouth known as Emerald House, for a term in excess of ten (10) years upon such terms and conditions as the Board of Selectmen deem appropriate. Or do or take other action on this matter. On request of the Board of Selectmen.

**VOTED:** By a unanimous vote, a quorum being present on Wednesday, April 5, 2006 the Town voted to authorize the Board of Selectmen to let or lease part of the town owned property at 67 Davisville Road in East Falmouth known as Emerald House not to exceed two hundred (200) feet in depth, for a term in excess of ten (10) years upon such terms and conditions as the Board of Selectmen deem appropriate.

## EXHIBIT B

### GRANTED PREMISES

The Emerald House property that is included in this lease consists of an historic residential structure with a finished area of approximately 1,000 square feet, the adjacent parking area and the detached garage. The shed and the unpaved portion of the Town-owned parcel at 67 Davisville Rd that lies outside of the area highlighted in the image below are expressly excluded from the leased premises. The approximate area offered for lease is outlined in red in the images below.



**Exhibit C – Corporate Vote and Clerk’s Certificate**

To be supplied by Tenant if applicable

**ATTACHMENT C:  
CERTIFICATE OF CORPORATE VOTE**

**Attachment C:  
Certificate of Corporate Vote**

**Certificate of Vote**

This is to certify that at a special meeting of the Board of Directors of the Cape Cod Cape Verdean Museum & Cultural Center Inc, located at 30 Highland St., Mashpee, MA 02649, at January 5, 2020, with a quorum being present and voting, it was VOTED that Wesley R. Leite, Sr. is authorized to sign this proposal.

A TRUE COPY

Attest: Barbara Burgo  
Barbara Burgo, Clerk

Date: 1-18-2021

## **Exhibit E – Disclosure Statement (M.G.L. c. 7C, s. 38)**

### **INSTRUCTION SHEET**

**NOTE:** The Division of Capital Asset Management and Maintenance (DCAMM) shall have no responsibility for insuring that the Disclosure Statement has been properly completed as required by law. Acceptance by DCAMM of a Disclosure Statement for filing does not constitute DCAMM's approval of this Disclosure Statement or the information contained therein. Please carefully read M.G.L. c. 7C, s. 38 which is reprinted in Section 8 of this Disclosure Statement.

**Section (1):** Identify the real property, including its street address, and city or town. If there is no street address then identify the property in some other manner such as the nearest cross street and its tax assessors' parcel number.

**Section (2):** Identify the type of transaction to which this Disclosure Statement pertains --such as a sale, purchase, lease, etc.

**Section (3):** Insert the exact legal name of the Public Agency participating in this Transaction with the Disclosing Party. The Public Agency may be a Department of the Commonwealth of Massachusetts, or some other public entity. Please do not abbreviate.

**Section (4):** Insert the exact legal name of the Disclosing Party. Indicate whether the Disclosing Party is an individual, tenants in common, tenants by the entirety, corporation, general partnership, limited partnership, LLC, or other entity. If the Disclosing Party is the trustees of a trust then identify the trustees by name, indicate that they are trustees, and add the name of the trust.

**Section (5):** Indicate the role of the Disclosing Party in the transaction by checking one of the blanks. If the Disclosing Party's role in the transaction is not covered by one of the listed roles then describe the role in words.

**Section (6):** List the names and addresses of every legal entity and every natural person that has or will have a direct or indirect beneficial interest in the real property. The only exceptions are those stated in the first paragraph of the statute that is reprinted in Section 8 of this Disclosure Statement. If the Disclosing Party is another public entity such as a city or town, insert "inhabitants of the (name of public entity)." If the Disclosing Party is a non-profit with no individual persons having any beneficial interest then indicate the purpose or type of the non-profit entity. If additional space is needed, please attach a separate sheet and incorporate it by reference into Section 6.

**Section (7):** Check "NONE" in the box if none of the persons mentioned in Section 6 is employed by DCAMM or an official elected to public office in the Commonwealth of Massachusetts. Otherwise list any parties disclosed in Section 6 that are employees of DCAMM or an official elected to public office.

**Section (8):** The individual signing this statement on behalf of the Disclosing Party acknowledges that he/she has read the included provisions of Chapter 7C, Section 38 (formerly Chapter 7, Section 40J) of the General Laws of Massachusetts.

**Section (9):** Make sure that this Disclosure Statement is signed by all required parties. If the Disclosing Party is a corporation, please make sure that this Disclosure Statement is signed by a duly authorized officer of the corporation as required by the statute reprinted in Section 8 of this Disclosure Statement.

DCAMM's acceptance of a statement for filing does not signify any opinion by DCAMM that the statement complies with applicable law.

This completed and signed Disclosure Statement should be mailed or otherwise delivered to:

Deputy Commissioner for Real Estate  
Division of Capital Asset Management and Maintenance  
One Ashburton Place, 15<sup>th</sup> Floor, Boston, MA 02108

The undersigned party to a real property transaction with a public agency hereby discloses and certifies, under pains and penalties of perjury, the following information as required by law:

- (1) REAL PROPERTY: Emerald House and parking area located at 67 Davisville Rd
- (2) TYPE OF TRANSACTION, AGEEMENT, or DOCUMENT: Lease
- (3) PUBLIC AGENCY PARTICIPATING in TRANSACTION: Town of Falmouth
- (4) DISCLOSING PARTY'S NAME AND TYPE OF ENTITY: Cape Cod Cape Verdean Museum and Cultural Center
- (5) ROLE OF DISCLOSING PARTY (Check appropriate role):

Lessor/Landlord                       Lessee/Tenant  
 Seller/Grantor                               Buyer/Grantee  
 Other (Please describe): \_\_\_\_\_

- (6) The names and addresses of all persons and individuals who have or will have a direct or indirect beneficial interest in the real property excluding only 1) a stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation or 2) an owner of a time share that has an interest in a leasehold condominium meeting all of the conditions specified in M.G.L. c. 7C, s. 38, are hereby disclosed as follows (attach additional pages if necessary):

<u>NAME</u>	<u>RESIDENCE</u>
_____	_____
_____	_____

- (7) None of the above- named persons is an employee of the Division of Capital Asset Management and Maintenance or an official elected to public office in the Commonwealth of Massachusetts, except as listed below (Check "NONE" if NONE):

NONE

<u>NAME:</u>	<u>POSITION:</u>
_____	_____
_____	_____
_____	_____

- (8) The individual signing this statement on behalf of the above-named party acknowledges that he/she has read the following provisions of Chapter 7C, Section 38 (formerly Chapter 7, Section 40J) of the General Laws of Massachusetts:

*No agreement to rent or to sell real property to or to rent or purchase real property from a public agency, and no renewal or extension of such agreement, shall be valid and no payment shall be made to the lessor or seller of such property unless a statement, signed, under the penalties of perjury, has been filed by the lessor, lessee, seller or purchaser, and in the case of a corporation by a duly authorized officer thereof giving the true names and addresses of all persons who have or will have a direct or indirect beneficial interest in said property with the commissioner of capital asset management and maintenance. The provisions of this section shall not apply to any stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation. In the case of an agreement to rent property from a public agency where the lessee's interest is held by the organization of unit owners of a leasehold condominium created under chapter one hundred and eighty-three A, and time-shares are created in the leasehold condominium under chapter one hundred and eighty-three B, the provisions of this section shall not apply to an owner of a time-share in the leasehold condominium who (i) acquires the time-share on or after a bona fide arms length transfer of such time-share made after the rental agreement with the public agency is executed and (ii) who holds less than three percent of the votes entitled to vote at the annual meeting of such organization of unit owners. A disclosure statement shall also be made in writing, under penalty of perjury, during the term of a rental agreement in case of any change of interest in such property, as provided for above, within thirty days of such change.*

*Any official elected to public office in the commonwealth, or any employee of the division of capital asset management and maintenance disclosing beneficial interest in real property pursuant to this section, shall identify his position as part of the disclosure statement. The commissioner shall notify the state ethics commission of such names, and shall make copies of any and all disclosure statements received available to the state ethics commission upon request.*

*The commissioner shall keep a copy of each disclosure statement received available for public inspection during regular business hours.*

- (9) This Disclosure Statement is hereby signed under penalties of perjury.

Cape Cod Cape Verdean Museum and Cultural Center

PRINT NAME OF DISCLOSING PARTY (from Section 4, above)

\_\_\_\_\_  
AUTHORIZED SIGNATURE of DISCLOSING PARTY  
DATE:

\_\_\_\_\_  
PRINT NAME & TITLE of AUTHORIZED SIGNER

- c. Authorization to accept RDP recycling grant funds and execute intergovernmental agreement between the Commonwealth of Massachusetts Department of Environmental Protection and the Town of Falmouth



**TOWN OF FALMOUTH**  
**DEPARTMENT OF PUBLIC WORKS**



Peter M. McConarty, P.E., P.L.S.  
Director

416 Gifford Street  
Falmouth, MA 02540  
Cape Cod

Tel: 508-457-2543  
Fax: 508-457-1537  
Email: [peter.mcconarty@falmouthma.gov](mailto:peter.mcconarty@falmouthma.gov)

Date: February 18, 2021

To: Select Board  
Town Manager

From: Peter M. McConarty, Director of Public Works *P.M.M.*

Re: Authorization to accept a MassDEP RDP recycling grant.

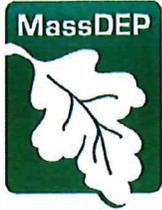
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The Massachusetts Department of Environmental Protection awarded the Town of Falmouth a Recycling Dividends Program (RDP) grant in the amount of \$35,000 (award letter attached). These grant funds can be used towards Town recycling initiatives. Similar grants have been awarded in recent years and funds are allowed to accumulate beyond fiscal years.

I will be in attendance at the Select Board meeting to answer questions.

Respectfully submitted,

Peter M. McConarty  
Director of Public Works



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker  
Governor

Kathleen A. Theoharides  
Secretary

Karyn E. Polito  
Lieutenant Governor

Martin Suuberg  
Commissioner

October 30, 2020

Mr. Julian M. Suso  
Town Manager  
Town of Falmouth  
59 Town Hall Square  
Falmouth, MA 02540

Dear Mr. Suso,

Congratulations! It is my pleasure to inform you that the Massachusetts Department of Environmental Protection (MassDEP) has awarded the Town of Falmouth Recycling Dividends Program funds under the Sustainable Materials Recovery Program. The Town of Falmouth has earned 10 points and will receive \$35,000.

The Sustainable Materials Recovery Program (SMRP) was created under 310 CMR 19.300-303 and the Green Communities Act, which directs a portion of the proceeds from the sale of Waste Energy Certificates to recycling programs approved by MassDEP. The Recycling Dividends Program (RDP) provides payments to municipalities that have implemented specific programs and policies proven to maximize reuse, recycling, and waste reduction. We are awarding over \$3.1 million in RDP payments to 227 municipalities in this round of funding.

Recycling programs play a vital role in limiting our dependence on landfills and incinerators, reducing greenhouse gas emissions and supporting economic activity in the Commonwealth. Recycling Dividend Program funds foster investment in local programs including recycling equipment, organics diversion, outreach and education, pilot programs, school recycling, toxics reduction and more. Please refer to the [RDP Approved Expenses List](#) for more information. MassDEP has invested in developing nationally recognized tools to assist municipalities with reducing recycling contamination and improving public awareness of smart recycling practices. We encourage you to utilize the [Recycling IQ Kit](#) and [Recycle Smart MA](#) website and to consult with your MassDEP [Municipal Assistance Coordinator](#) for assistance in implementing these best practices.

To accept your Recycling Dividends Program (RDP) award, please sign and return the RDP Contract as per the attached instructions. After we receive your signed contract, funds will be sent to your community. Should you have any questions, please email [Wilfred Mbah](#), our new program manager for RDP. Please note that awards for other SMRP grant categories will be announced separately.

These are extraordinary times. The increased challenge of maintaining our vital solid waste and recycling programs during a pandemic underscores the critical role of local government in keeping our communities safe and clean. Thank you for your continued commitment to recycling and waste reduction in Massachusetts.

Sincerely,

Martin Suuberg  
Commissioner

cc: Peter McConarty, Deputy Director/Solid Waste Manager

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: [www.mass.gov/dep](http://www.mass.gov/dep)

Printed on Recycled Paper

d. Vote to authorize application for 2021 Municipal  
Cybersecurity Awareness Grant Program funds

## Diane Davidson

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**From:** Moran, Susan (SEN) <Susan.Moran@masenate.gov>  
**Sent:** Monday, February 8, 2021 11:49 PM  
**Subject:** Fw: [External]: Municipal Cybersecurity Grants Opportunity - Application Deadline Extended to February 12

Good morning,

I wanted to bring this cybersecurity training grant to your attention, municipalities as well as public school districts are eligible to apply for this great opportunity.

I understand the information below has been sent to municipal and public-school IT leads across the Commonwealth, but please feel free to pass this along to your municipal contacts if you think there might be interest to participate.

Sincerely,

Susan L. Moran  
State Senator  
Plymouth and Barnstable

---

### Cybersecurity Awareness Training Grant

Updated Application Deadline – Friday, February 12 at 5:00 pm

The pandemic has drastically increased the number of remote workers. Unfortunately, because of this, the likelihood of organizations falling victim to cyber-attacks has increased. Knowing cybersecurity can help protect any organization and its members from these attacks.

The 2021 Cybersecurity Awareness Grant Program is a competitive grant program that will help local government to improve overall cybersecurity posture through end-user training, evaluation, and threat simulation. The program, including procurement and coordination, will be managed by the Executive Office of Technology Services and Security. The Cybersecurity Grant Program is open to municipalities and public-school districts. Awards can be made available for employees in all municipal functions that have a **government issued email address**, including municipal administration, school, and public safety officials.

<https://www.mass.gov/how-to/apply-for-the-cybersecurity-awareness-program>

#### 2021 Program Highlights

- Program start date: we anticipate awarding the grant in mid-February and will be working with Organizations to set up program shortly thereafter. Users will receive first assignment in March.
- Quarterly Threat Briefing by Proofpoint – The briefings will be conducted by a senior threat analyst and will cover the threat landscape of our communities and will offer detailed insight into the security posture of our organizations and the Commonwealth.

- Content has been refreshed for Round 2. If your organization was a part of the 2020 Cybersecurity Awareness Training – you will see new content in Round 2 to help keep users engaged. We have added videos to our assignments.
- MIIA Credits - Organizations in the Massachusetts Interlocal Insurance Association (MIIA) will receive credits towards their insurance premiums if their training assignment completion statistics are above 80%. Credits will be included in MIIA Rewards credits awarded July 1,2021.

Please feel free to contact me via email or phone with any questions.

**Cathy Marques** |

**Director, Office of Municipal & School Technology**

100 Cambridge Street, 7th Floor, Boston, MA 02108

Office: (617) 626-4634 | FAX: (617) 889-7834

**[catherine.marques@mass.gov](mailto:catherine.marques@mass.gov)** | **[www.mass.gov/eotss](http://www.mass.gov/eotss)**

**Executive Office of Technology Services and Security (EOTSS)**

EOTSS provides secure and quality digital information, services, and tools to constituents and service providers when and where they need them.

- e. Vote to authorize Intergovernmental Agreement and Lease Agreement between Plymouth County and Town of Falmouth for rental of dredge excavator, and authorize the Town Manager to sign the agreements

**Diane Davidson**

---

**From:** Frank Duffy  
**Sent:** Friday, February 5, 2021 2:00 PM  
**To:** Julian Suso; Peter Johnson-Staub  
**Cc:** Gregg Fraser; Mark Kasprzyk; Irie Mullin; Kim Fish; Diane Davidson  
**Subject:** FW: Plymouth County Dredge Excavator  
**Attachments:** 20210205113917928.pdf; 20210205114007060.pdf

Julian: I am forwarding to you for signature a Lease Agreement by and between Plymouth County and the Town of Falmouth for a long reach excavator for designated inlet dredging projects. I have approved the lease and intergovernmental agreement as to form.

Please note the following:

- 1) An intergovernmental agreement must be authorized by a vote of the Select Board as required by G.L. Ch. 40, s. 4A. The board should also authorize the town manager to sign the agreement.
- 2) The lease agreement requires the town to insure the equipment against loss or damage while in the town's possession and to provide liability insurance coverage naming Plymouth County as an insured party for \$1,000,000 per occurrence and aggregate. Please ask MIIA to provide a certificate of coverage as required.

---

Frank K. Duffy, Town Counsel  
Town of Falmouth  
157 Locust Street  
Falmouth, MA 02540  
(508) 548-8800 fax (508) 540-0881

**CONFIDENTIALITY NOTICE:** This communication and any accompanying document(s) are confidential and privileged. They are intended for the sole use of the addressee. If you receive this transmission in error, you are advised that any disclosure, copying, distribution, or the taking of any action in reliance upon the communication is strictly prohibited. Moreover, any such inadvertent disclosure shall not compromise or waive the attorney-client privilege as to this communication or otherwise. If you are not the intended recipient and have received this communication in error, please contact the sender immediately and delete the original message. Thank you.

**From:** Gregg Fraser <gregg.fraser@falmouthma.gov>  
**Sent:** Friday, February 5, 2021 11:45 AM  
**To:** Frank Duffy <frank.duffy@falmouthma.gov>; Julian Suso <julian.suso@falmouthma.gov>  
**Cc:** Peter Johnson-Staub <peter.johnson-staub@falmouthma.gov>; Gregg Fraser <gregg.fraser@falmouthma.gov>  
**Subject:** Plymouth County Dredge Excavator

Hello Frank,

Would you kindly review the attached documents as to form and then forward them to Julian for his execution?

These are the same documents we used last year to rent the Plymouth County long reach excavator to clean out the inlets at Trunk River, Fresh, Salt and Little Ponds.

We are schedule to use the dredge the last week of February.

Thank you,

**Gregg P. Fraser**  
**Director & Harbormaster**  
**Marine & Environmental Services**  
**180 Scranton Ave, Falmouth, MA 02540**  
**508-457-2550**



## RENTAL AGREEMENT

### **1. Addition of Accessories**

Lessee will not, without Lessor's written consent, install any accessories or devices on the Equipment if such installation will impair the originally intended function or use of the Equipment. All accessories or devices affixed to the Equipment will become the property of Lessor unless such accessory or device can be removed without in any way affecting the originally intended function or use of the Equipment. Any damage to the Equipment caused by the removal of such accessories or devices will be repaired at Lessee's expense.

### **2. Compliance with Regulations**

Lessee will comply with all laws and regulations relating to ownership, possession, use or maintenance of the Equipment.

### **3. Inspection**

Lessee will, whenever requested, advise Lessor of the exact location of the Equipment. Lessor and its representatives may, for the purpose of inspection, enter upon any job, building or place where the Equipment is located at any reasonable time. Lessor may remove the Equipment without notice to Lessee if, in the opinion of the Lessor, it is being used beyond its capacity or in any other manner improperly cared for or abused.

### **4. Default**

If Lessee fails to make any rental payment when due, attempts to sell or encumber the Equipment, ceases operating, institutes or has instituted against it proceedings under any bankruptcy or insolvency law, makes an assignment for the benefit of creditors or fails to comply with any other provision of this Rental Agreement, or if any attachment, execution, writ or process is levied against the Equipment or any of Lessee's property, or if for any reason Lessor deems itself insecure or the Equipment unsafe, Lessor may terminate the rental term hereunder by giving Lessee written notice thereof, in which event Lessee will deliver the Equipment to Lessor on demand, and Lessor may enter upon any job, building or place where the Equipment is located and take possession of it without notice to Lessee. In the event of such termination, Lessee agrees to pay all guaranteed rentals and all other rentals due, damages for any injury to the Equipment, legal expenses, costs of removal of the Equipment from the possession of Lessee, and all freight, storage, transportation and other charges incurred in such removal and return to Lessor at its place of business.

### **5. Construction**

This is an agreement for rental only. Nothing herein will be construed as conveying to Lessee any right, title or interest in or to the Equipment, except as a lessee.

### **6. Guaranteed Rental - Return of Equipment**

Provided the guaranteed rental set forth on the reverse side is or has been paid, Lessee may return the Equipment and terminate the rental term hereunder on three days notice to Lessor.

### **7. General**

Time is of the essence of this Rental agreement. Lessor's failure at any time to require strict performance by Lessee of any provision of this Rental Agreement will not waive or diminish Lessor's right thereafter to demand strict compliance with that or any other provision. Waiver by Lessor of any default will not waive any other default. This Rental Agreement may not be modified except by a written revision signed by the parties hereto. Lessee acknowledges receipt of a signed copy of this Agreement.

### **8. Insurance**

Every customer renting equipment must provide General Liability Insurance. General Liability coverage must be provided protecting both Plymouth County and the Town in the event that persons or property are injured or damaged as a result of an accident.

#### **General Liability Insurance Requirements**

##### **Minimum Requirements:**

- \$1,000,000 each occurrence General Liability including Contractual Liability.
- Plymouth County named as additional insured on General Liability Policy.

The General Liability Insurance requirements do not cover the equipment and is separate and exclusive from machine coverage.

##### **Physical Damage Coverage Requirements:**

- In order to avoid fire, theft, and vandalism charge on rental equipment we must have an insurance policy on file that meets our standard General Liability requirements above and All Risk Physical Damage Coverage must be provided which will pay for loss of damage to the rented/leased dredge excavator.
- County of Plymouth named as a Loss Payee as respects to the rented/leased dredge excavator.
- Blanket Policies must have coverage greater than the total value of the dredge excavator.
- If machine specific, the certificate must reference the model, serial number and the full replacement value of the dredge excavator.
- The Certificate must name the actual insurance company providing the coverage.

INTERGOVERNMENTAL AGREEMENT  
BETWEEN PLYMOUTH  
COUNTY AND  
THE TOWN OF FALMOUTH

THIS AGREEMENT, is made and entered into this Sixth day of February 4, 2021 by and between the County of Plymouth, hereinafter called the "County," and the Town of Falmouth, hereinafter called the "Town."

WHEREAS, Plymouth County received financial assistance in the form of a capital equipment grant from the Commonwealth, to create and develop a regional maintenance and improvement dredging program, including the purchase and acquisition of a dredge and associated capital equipment; and

WHEREAS, Plymouth County is authorized to enter into agreements with other governmental units, within or without the County to perform any service, activity or undertaking which such governmental unit is authorized to perform for itself, pursuant to the General Laws of the Commonwealth; and

WHEREAS, the expenditure of local funds for dredging for maintenance or improvement of the waterways of the Commonwealth is authorized under Chapter 33 of the Acts of 1991; and

WHEREAS, the Town wishes to have the County contract for the dredging projects covered by this agreement to provide equipment necessary to perform the project.

**ARTICLE I. STATEMENT OF WORK**

NOW THEREFORE, in consideration of the above premises and in the interest of the mutual advantage in attainment of common objectives, the parties hereto agree as follows:

**PLYMOUTH COUNTY AGREES:**

1. To lease a John Deere 210G LC for the term of up to twenty-one days, which may be extended in writing, for the cost of \$1,400 per seven-day period, or any portion thereof, for dredging work to be performed in Falmouth, MA. Transportation costs to Falmouth and back to Plymouth will be paid by Falmouth.
2. To provide a mechanical dredge to conduct maintenance dredging for the Town, according to and guided by the specifications, plans, drawings as provided.
3. To comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage injury or loss or on dredging or handling of dredge materials.

4. To the extent permitted by law, to indemnify and hold harmless any party sustaining damage or loss resulting from the negligence of the County and its employees with respect to the County's performance of its obligations under this Agreement. Nothing in the previous sentence shall be construed as a waiver of the limitations on the Town's liability under the Massachusetts Tort Claims Act or under other provisions of this agreement.

**THE TOWN OF FALMOUTH AGREES:**

1. To execute the Plymouth County Dredge Excavator Rental Agreement and to only allow properly licensed qualified operators to move and operate the dredge excavator.
2. To obtain all required federal, state, county and local permits and approvals to conduct the dredge project.
3. To furnish all specifications, drawings, and plans required to perform the dredge project at the execution of this document. Said documents will be incorporated by reference as Attachment I.
4. To conduct required inspections and testing consistent with federal, state and local permits and approvals.
5. To obligate funds to conduct the dredging work specified in Attachment I.
6. To indemnify and hold harmless any party sustaining damage or loss resulting from the negligence of the Town with respect to the Town's performance of its obligations under this Agreement. Nothing in the previous sentence shall be construed as a waiver of the limitations on the Town's liability under the Massachusetts Tort Claims Act or under other provisions of this agreement.

**BOTH PLYMOUTH COUNTY AND THE TOWN OF FALMOUTH AGREE:**

That nothing herein shall be construed as obligating either Plymouth County or the Town of FALMOUTH to expend funds or to be obligated to spend funds beyond the scope of this contract.

This AGREEMENT may only be modified in the form of amendments in writing by mutual agreement by both parties. Request for modification will be forwarded to one party by the other party by written notice.

**ARTICLE II. TERM OF AGREEMENT**

This AGREEMENT shall be effective when signed by all parties and shall remain in effect until the dredging identified in Attachment I is completed.

### **ARTICLE III. PAYMENT TO COUNTY:**

The cost of the project shall be based on a rental of the dredge excavator as per the Plymouth County Dredge Excavator Rental Agreement for the period of use of the dredge excavator.

The Town shall submit payment within 30 days of date of invoice to the County. Failure to pay said invoice within 30 days will result in the assessment of a late fee in the amount of 1% per month (12% annually) on the unpaid balance remaining after the 30th day. Said late fee will be assessed daily 0.033%. Failure to pay invoice within 90 days may result in legal action. The Town shall be responsible for all legal costs incurred by the County in collection of unpaid debts.

### **ARTICLE IV. CHANGES IN WORK**

No changes in the work covered by this Agreement shall be made without having prior written approval of both the Town and County.

### **ARTICLE V. INSURANCE**

The Town of Falmouth shall maintain the following insurance coverages with limits set in the Rental Agreement while conducting the dredge project:

1. Compensation insurance. The County shall maintain during the life of this Agreement Workmen's Compensation Insurance as required by applicable state law.
2. Protection and Indemnity insurance.
3. General liability and excess liability insurance.
4. Pollution insurance.
5. Contingent watercraft liability insurance.

### **ARTICLE VII. INDEMNIFICATION**

To the extent permitted by law, Plymouth County agrees to defend, indemnify, defend and hold harmless the Town of Falmouth from any claims, demands, suits or judgments by third parties which may arise out of the negligent activities of Plymouth County or its employees while performing its obligations under this Agreement. Nothing in the previous sentence shall be construed as a waiver of the limitations on the County's liability under the Massachusetts Tort Claims Act or under other provisions of this Agreement.

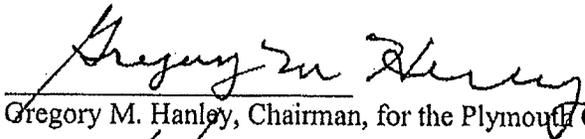
To the extent permitted by law, the Town of Falmouth agrees to defend, indemnify, defend and hold harmless Plymouth County from any claims, demands, suits or judgments by third parties which may arise out of the negligent activities of the Town of Marshfield or its employees while performing its obligations under this Agreement. Nothing in the previous sentence shall be construed as a waiver of the limitations on the Town's liability under the Massachusetts Tort Claims Act or under other provisions of this Agreement.

**ARTICLE VIII. TERMINATION**

Either party may terminate this Agreement by providing ten (10) days written notice to the other. The Town shall pay the County all costs incurred by the County to the date of termination, including staff time, review of documents and any other costs associated with the project up to said termination.

IN WITNESS WHEREOF, the TOWN and the COUNTY execute this Agreement this Fourth day of February 2021.

**PLYMOUTH COUNTY:**

  
\_\_\_\_\_  
Gregory M. Hanley, Chairman, for the Plymouth County Commissioners

2/4/21  
\_\_\_\_\_  
Date

**TOWN OF FALMOUTH:**

\_\_\_\_\_

\_\_\_\_\_  
Date

- f. Vote and execute Notice of Lien for demolition of unsafe structure at 630 Waquoit Highway

COMMONWEALTH OF MASSACUSETTS

Barnstable, ss

Town of Falmouth  
Select Board

NOTICE OF LIEN  
G.L. Ch. 139, § 3A

TO ALL PERSONS, we, the Select Board of the Town of Falmouth, in Barnstable County, Massachusetts serve notice that the owner of land in said Falmouth identified herein, has failed to comply with an Order issued pursuant to G.L. Ch. 139, § 3 to demolish and make safe a dangerous structure and safely secure the parcel of land and as a result the Town of Falmouth has performed the necessary work and claims a lien as follows:

Owner: Cape Harbor Homes, Inc. with a last known address of P.O. Box 154, Mashpee, MA 02649.

Property: 630 Waquoit Highway, East Falmouth (Waquoit), MA

Assessors Map Identification: 30 04 001 000A

Title Reference: Book 20820, Page 272

Amount of Lien:

ARCADIS U.S., Inc.	\$ 43,500.00
Strategic Environmental Services, Inc.	\$67,235.00
Mass. Department of Environmental Protection (permit fees)	\$ 1,470.00
Falmouth Police Department (police detail)	\$ 208.00
Falmouth Publishing Company (legal notices)	\$ 113.04
<b>TOTAL</b>	<b>\$112,526.04</b>

The Town of Falmouth asserts a lien in said amount in accordance with G.L. Ch. 143, § 9 and any other legal authority.

Voted and executed this 22<sup>nd</sup> day of February, 2021

Town of Falmouth  
By its Select Board

\_\_\_\_\_  
Megan English Braga, Chairman

\_\_\_\_\_  
Douglas C. Brown, Vice Chairman

\_\_\_\_\_  
Doug H. Jones

\_\_\_\_\_  
Samuel H. Patterson

\_\_\_\_\_  
Nancy R. Taylor

Commonwealth of Massachusetts

County of Barnstable

On \_\_\_\_\_, before me, the undersigned notary public

personally appeared

\_\_\_\_\_  
name(s) of signer(s)

personally known to me

proved to me on the basis of satisfactory evidence of identification which was

\_\_\_\_\_  
to be the person(s) whose name(s) is/are subscribed to the within instrument and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of (his)(her) knowledge and belief.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

- g. Vote to approve expenditure of \$500.00 from the Human Services Donation Account for a jointly sponsored program with Gosnold



# SEPARATING FACT FROM FICTION: TALKING WITH YOUR TEEN ABOUT MARIJUANA USE

Learn how to talk to your teen about their marijuana use without prompting defensive behavior.

Explore the impacts of chronic use.

Understand recent changes to marijuana laws and the resulting attitudes.

**Thursday,  
February 11  
6:00-7:30pm ET**  
Virtual via Zoom

Free & Open to the Public

**Join Here**

Workshop led by **Rick Cresta, LICSW**, member of the faculty at Boston University's School of Social Work (BUSSW), trainer/consultant for DCF, DYS and DPH, who also works with court-involved youth in private practice.

For more information, please contact Deb Berglin, Director of BUSSW's Cape Cod Campus, at [dberglin@bu.edu](mailto:dberglin@bu.edu).

[www.bu.edu/ssw](http://www.bu.edu/ssw)  
[busswad@bu.edu](mailto:busswad@bu.edu)



Boston University School of Social Work



# CHRONIC MARIJUANA USE IN TEENAGERS: WHAT'S THE BIG DEAL?

## STRATEGIES FOR HELPING PROFESSIONALS

Learn how to engage youth in an exploration of their marijuana use without prompting defensive reactions. Explore the impacts of chronic use in multiple functional areas, including physical, behavioral, psychological and emotional. Understand recent changes to marijuana law and the resulting attitudes.

**Wednesday, Feb. 10**  
**1:00-4:00 pm ET**  
Virtual via Zoom

**Free & Open to the Public**

**3 CECs for social workers  
& LMHCs (pending)**

**Register: [teen-use.eventbrite.com](https://teen-use.eventbrite.com)**

Workshop led by **Rick Cresta, LICSW**, member of the faculty at Boston University's School of Social Work (BUSSW), trainer/consultant for DCF, DYS and DPH, who also works with court-involved youth in private practice.

For more information, please contact Deb Berglin, Director of BUSSW's Cape Cod Campus, at [dberglin@bu.edu](mailto:dberglin@bu.edu).

EARN YOUR MSW FROM BOSTON UNIVERSITY  
IN OUR PART-TIME CAPE COD PROGRAM.

The application for Fall 2021 opens soon!

[www.bu.edu/ssw](http://www.bu.edu/ssw)  
[busswad@bu.edu](mailto:busswad@bu.edu)

**TOWN OF FALMOUTH**  
**BOARD OF SELECTMEN**

**AGENDA**

**MONDAY, APRIL 6, 2020 – 7:00 P.M.**

**SELECTMEN'S MEETING ROOM**

**TOWN HALL**

**59 TOWN HALL SQUARE, FALMOUTH, MA 02540**

*In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the April 6, 2020 public meeting of the Falmouth Board of Selectmen 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 Board of Selectmen utilizing the Zoom virtual meeting software for remote access. This application will allow users to view the meeting and send a comment or question to the Chair via the Chat function. Submitted text comments 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.falmouthmass.us/BOS>.*
    - 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 [selectmen@falmouthma.gov](mailto:selectmen@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 Board may appear remotely and are not required to be physically present. Applicants, their representatives and individuals with enforcement matters before the Board may contact the Town Manager/Board of Selectmen's Office 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 the Town Manager's Office at [townmanager@falmouthma.gov](mailto:townmanager@falmouthma.gov) so they may be displayed for remote public access viewing.*

**AGENDA**

**7:00 p.m. OPEN SESSION**

1. Call to Order
2. Pledge of Allegiance
3. Proclamation: Rachel Carson Day / 50<sup>th</sup> Anniversary of Earth Day
4. Recognition
5. Announcements:
  - a. Woods Hole Waterfront Park Water Bottle Refill Station – Falmouth Water Stewards
  - b. Emergency removal of dead tree on Palmer Avenue near Queens Buyway (related to proceeding with approved Palmer Avenue reconstruction project)
6. Public Comment
7. Update/Discussion on Coronavirus Issues

**7:15 p.m. SUMMARY OF ACTIONS**

1. Administrative Orders
  - a. Vote to Accept Donation from Gosnold in the amount of \$500.00 to the Human Services Donation Account
  - b. Approve Request for Change in Shellfish Regulations – Southern Bournes Pond (family area)
  - c. Approve Letter to Governor Baker regarding Plymouth Pilgrim Nuclear Power Plant

h. Vote to adopt and execute Confirmatory Order of Taking for William Road

**Please Note:**

The DPW mailed the Order of Taking and Plan to the Registry of Deeds in November. They were lost by the Post Office and never arrived, so this has to be done over.

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS.

TOWN OF FALMOUTH  
SELECT BOARD

CONFIRMATORY  
ORDER OF TAKING  
FOR THE LAYOUT OF  
WILLIAM ROAD, NORTH FALMOUTH

We, Megan English-Braga, Douglas C. Brown, Doug H. Jones, Samuel H. Patterson and Nancy R. Taylor as duly elected and qualified members of the SELECT BOARD of the Town of Falmouth, acting for and on behalf of said town, under the provisions of Chapters 79 and 82 of the Massachusetts General Laws and in accordance with the provisions of Article 23 of the Town Meeting held on June 22, 2020 and September 14, 2020 (a copy of which is annexed hereto as Exhibit A), and by virtue of every other power, having complied with all preliminary requirements prescribed by law, DO HEREBY ADOPT AND DECREE THIS ORDER OF TAKING and do hereby take by eminent domain for public purposes, easements for the layout of William Road as a town way in the land described herein.

**I. DESCRIPTION.** The descriptions are set forth in Exhibit B attached hereto. See also plans recorded herewith.

**II. INTEREST TAKEN.** An easement for all purposes for which roads and ways are commonly used in the Town of Falmouth, including all drainage, slope and turning easements as shown on said plans. This taking shall not disturb any existing easements of record to public utility companies nor claim any interest in the personal property of said utility companies.

**III. NAMES OF OWNERS.** A list is attached hereto as Exhibit C. The 1333 S.F. "area of easement taking" shown on said plan is believed to have been formerly owned by Henry Healer and now by his heirs or by parties unknown.

**IV. PURPOSE.** For the laying out of William Road as a town way.

**V. DAMAGES AWARDED.** None except for an award of \$2,700.00 to the owners of the 1333 S.F. "area of easement taking" upon satisfactory proof of ownership.

**VI. TREES AND STRUCTURES.** Trees and structures, including any streetlights, are not included in the taking and may remain undisturbed. Periodic pruning of trees will be permitted to prevent encroachment into the layout or other hazards.

**VII. NO BETTERMENTS ASSESSED.**

**VIII. CONFIRMATORY ORDER.** This Order of Taking is a Confirmatory Order of Taking. The original Order of Taking was adopted, voted and executed by the Select Board on October 26, 2020. The original Order of Taking was then deposited in the U.S. Mail and sent to the Barnstable County Registry of Deeds for recording, but never arrived. The U.S. Postal Service cannot locate the original and it is presumed lost.

**IN WITNESS WHEREOF**, the said Town of Falmouth has caused its corporate seal to be affixed hereto and these presents to be executed by its Select Board, duly authorized this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Town of Falmouth  
By its Select Board

\_\_\_\_\_  
Megan English Braga, Chairman

\_\_\_\_\_  
Douglas C. Brown, Vice Chairman

\_\_\_\_\_  
Doug H. Jones

\_\_\_\_\_  
Samuel H. Patterson

\_\_\_\_\_  
Nancy R. Taylor

Commonwealth of Massachusetts  
County of Barnstable

On \_\_\_\_\_, before me, the undersigned notary public

personally appeared

\_\_\_\_\_  
name(s) of signer(s)

personally known to me

proved to me on the basis of satisfactory  
evidence of identification which was

\_\_\_\_\_  
to be the person(s) whose name(s) is/are  
subscribed

to the within instrument and who swore  
or affirmed to me that the contents of the  
document are truthful and accurate to the  
best of (his)(her) knowledge and belief.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

EXHIBIT A

ARTICLE 23  
AND THE VOTE THEREON AT  
THE ANNUAL TOWN MEETING  
CONVENED IN FALMOUTH, MASSACHUSETTS  
SEPTEMBER 14, 2020

**ARTICLE 23:** To see if the Town will vote to accept the doings of the Board of Selectmen in the laying out of the following road according to a plan on file with the Town Clerk for taking as a public way:

<u>Street</u>	<u>Length</u>
William Road	921.4± ft.

And further to appropriate a sum of money for this purpose, to determine how the same shall be raised and by whom expended. Or do or take any other action on this matter. On request of the Board of Selectmen.

**VOTED:** By a unanimous vote, a quorum being present on Monday, September 14, 2020 the Town voted to approve the layout of William Road by the Board of Selectmen as a public way, including the taking of an easement by eminent domain for road purposes across a parcel of land containing 1333 sq. ft. within the traveled way now or formerly owned by H. Healer, as shown on a plan titled "Roadway Layout Plan William Road N. Falmouth, MA 02556" dated March 4, 2020 prepared by the Town of Falmouth Department of Public Works, and to appropriate the sum of two thousand seven hundred (\$2700.00) from certified free cash for the purposes of this article to be expended under the jurisdiction of the Board of Selectmen.

A TRUE COPY ATTEST



MICHAEL PALMER, TOWN CLERK  
FALMOUTH, MASSACHUSETTS

Exhibit B  
Written Description for  
WILLIAM ROAD

A certain variable width roadway in Falmouth known as William Road, more particularly described as follows:

Beginning on the easterly sideline of Quaker Road, a public way, and the northwest corner of Lot 10 as shown on the plan recorded in the Barnstable County Registry of Deeds at Plan Book 343 Page 26, said lot also known as 615 Quaker Road, said point of beginning being N 05°31'00" E 77.00 feet from a concrete bound located on said easterly sideline of Quaker Road,

thence running S 88°58'30" E 128.84 feet to a point on William Road,

thence running N 79°30'30" E 113.23 feet to a point at the westerly sideline of Barbara Lane,

thence running S 80°49'30" E 159.79 feet to a concrete monument,

thence running S 73°23'00" E 479.00 feet to a point,

thence running N 77°17'17" E 92.81 feet to a point,

thence running N 75°43'02" W 108.88 feet to a point,

thence running N 73°36'42" W 128.78 feet to a drill hole,

thence running N 73°20'52" W 428 .93 feet to a point,

thence running S 86°50'38" W 107.49 feet to a point,

thence running S 38°37'23" W 13.81 feet to a point,

thence running S 82°57'23" W 66.41 feet to a point,

thence running N 89°03'07" W 48.26 feet to a point,

thence running N 78°44'04" W 39.93 feet to a point,

thence running S 48°26'00" W 1.96 feet to a point,

thence running N 48°18'28" W 59.96 feet to a point on easterly sideline of Quaker Road,

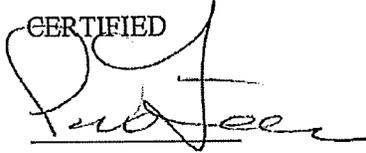
thence running S 09°25'30" E 62.82 feet along the easterly sideline of Quaker Road to a point,

thence running S 05°31'00" W 22.85 feet by the easterly sideline of Quaker Road to the point of beginning.

The boundary of said layout is shown on plan titled Town of Falmouth, Plan of William Road, as Laid OUT by the Selectmen, prepared by the Town of Falmouth Department of Public Works Engineering Division, dated October 26, 2020.



**WILLIAM RD ABUTTERS**

CERTIFIED  


Patricia A Favulli  
Director of Assessing  
Town of Falmouth  
March 13, 2020

- i. Vote to authorize application to Massachusetts Department of Environmental protection (MassDEP) for an electric vehicle charging station grant



# TOWN OF FALMOUTH

## DEPARTMENT OF PUBLIC WORKS



Peter M. McConarty, P.E., P.L.S.  
Director

416 Gifford Street  
Falmouth, MA 02540  
Cape Cod

Tel: 508-457-2543  
Fax: 508-457-1537  
Email: [peter.mcconarty@falmouthma.gov](mailto:peter.mcconarty@falmouthma.gov)

Date: February 18, 2021

To: Select Board  
Town Manager

From: Peter M. McConarty, Director of Public Works

Re: Authorization to apply for an electric vehicle charging station grant.

---

The Massachusetts Department of Environmental Protection announced a competitive grant program (attached) for electric vehicle charging stations. This incentive grant program is available to property owners or managers of non-residential locations that are accessible by the general public 24 hours per day. The grants will cover hardware and installation costs up to \$50,000 per charging station for the following:

- ✓ 100% reimbursement for publicly-accessible stations on government-owned property.
- ✓ 80% reimbursement for publicly-accessible stations on non-government-owned property.
- ✓ 60% reimbursement for educational campuses.

The Town of Falmouth currently has a public single-head electric charging station in the Marina parking lot on Scranton Avenue. An additional dual-head charging station is located behind Town Hall for Municipal vehicles only.

Several properties have been identified as possible locations for charging station.

If this authorization is approved, Public Works will work with Department Heads and the Falmouth Energy Committee to finalize installation locations.

I will be in attendance at the Select Board meeting to answer questions.

Respectfully submitted,

Peter M. McConarty  
Director of Public Works

December 2020

The Massachusetts Department of Environmental Protection (MassDEP) is pleased to announce a new electric vehicle charging infrastructure program and enhancements to three existing programs under the Massachusetts Electric Vehicle Incentive Program (MassEVIP) banner!

MassDEP has added a new DC Fast Charging Station Program.

The [Direct Current Fast Charging Program](#) (DCFC) is a competitive grant with an **application deadline of March 19, 2021**. This program is open to property owners or managers of non-residential locations that are accessible for use by the general public 24 hours per day, or to educational campuses with at least 15 students on site and available to all students and staff. The program provides hardware and installation costs (up to \$50,000 per charging station) as follows:

- 100% for publicly-accessible stations on government-owned property,
- 80% for publicly-accessible stations on non-government-owned property, and
- 60% for educational campuses.

MassDEP has enhanced its three rolling grant programs, as described below. See the [matrix](#) for a handy one-page summary comparing the new MassEVIP charging infrastructure grants.

[Workplace & Fleets Charging Program](#) (WPF) is an open enrollment grant that provides up to 60% of hardware and installation costs of a Level 1 (120 volt) or Level 2 (240 volt) EV charging station, up to \$50,000 per address. This program is open to employers with 15 or more employees in a non-residential place of business, and to fleet applicants garaging electric vehicles in a non-residential location.

- Improvements over the prior Workplace Charging (WPC) and Fleets programs include allowing private and non-profit fleet owners to apply, adding Level 1 stations as eligible equipment for fleets and adding coverage of installation costs for workplaces. Note that the [Fleets](#) program under which public entities could previously acquire EVs and charging infrastructure is now for EV acquisition only: public and private entities seeking charging stations for vehicle fleets should apply to the new WPF program.

[Multi-Unit Dwelling & Educational Campus Charging Program](#) (MUDC) is an open enrollment grant that provides up to 60% of hardware and installation costs of a Level 1 (120 volt) or Level 2 (240 volt) EV charging station, up to \$50,000 per address. This program is open to buildings with five or more residential units, or to educational campuses with at least 15 students on site.

- Improvements over the prior MUD program include reducing the minimum number of residential units from 10 to 5, allowing educational campuses to apply and adding coverage of installation costs.

[Public Access Charging Program](#) (PAC) is an open enrollment grant that provides up to 100% for stations on government-owned property, and up to 80% for other locations, of the hardware and installation costs of a Level 1 (120 volt) or Level 2 (240 volt) EV charging station, up to \$50,000 per address. This

program is open to property owners or managers for locations that are accessible for use by the general public a minimum of 12 hours per day.

- Improvements over the prior PAC program include accepting applications on a rolling basis and adding Level 1 stations as eligible equipment.

For more information and to apply see the links to the program webpages listed above or email your questions to [MassEVIP.MassDEP@mass.gov](mailto:MassEVIP.MassDEP@mass.gov).

## **PUBLIC HEARINGS**

- #1. Wetland/Dock Hearing – Nikolas J., John S., Anthony P. Pentikis/James N. Pentikis Trust UDT for permission to license and maintain two floats comprising a total of 4' x 35' in and over the waters of Eel Pond Canal, located at 5 Canapitsit Drive, East Falmouth, continued from 2/1/21

## PUBLIC HEARING NOTICE

The Falmouth Select Board will hold a public hearing under Section 240-77 (Wetland Regulations) of the Zoning Bylaws of the Town of Falmouth on Monday, February 22, 2021, continued from February 1, 2021, at 7:30 p.m. in the Selectmen's Meeting Room, Town Hall\* on the revised application of Nikolas J., John S., Anthony P. Pentikis/James N. Pentikis Trust, UDT for permission to license and maintain two floats comprising of a total of 4' x 35' in and over the waters of Eel Pond Canal. There is an existing Waterways License for the bulkhead, No. 4471, at 5 Canapitsit Drive, East Falmouth, MA. Interested parties may review the file on this hearing in the Town Manager/Select Board Office at Town Hall.

*\*In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the February 22, 2021 public meeting of the Falmouth Select Board shall be physically closed to the public to avoid group congregation; the Select Board will meet remotely via Zoom virtual meeting software. **\*\*See Select Board NOTICE of MEETING for February 22, 2021 to be posted on the Town of Falmouth website, [www.falmouthma.gov](http://www.falmouthma.gov), Agenda Center, on February 18, 2021 at 4:00 PM for detailed participation information.\*\****

Per Order of the Falmouth Select Board

*Publication dates: Friday, February 5, 2021 and Friday, February 12, 2021; Falmouth Enterprise.*

*Account #: 2056*

Glenn A. Wood  
Direct Dial: 617-330-7016  
E-mail: [GWood@rubinrudman.com](mailto:GWood@rubinrudman.com)  
Return Address: Boston



February 18, 2021

**By Email and Overnight Mail**

[diane.davidson@falmouthma.gov](mailto:diane.davidson@falmouthma.gov)

Diane S. Davidson  
Office Manager  
Office of Town Manager  
59 Town Hall Square  
Falmouth, MA 02540

**FOR SETTLEMENT PURPOSES ONLY**

RE: Anthony P. Pentikis, Nikolas J. Pentikis, John S. Pentikis and James N. Pentikis Trust UDT v. Members of the Town of Falmouth Board of Selectmen and Town of Falmouth, Land Court Case No.: 20 MISC 000410

Dear Ms. Davidson:

On behalf of the applicants, Nikolas J., John S. and Anthony P. Pentikis/James N. Pentikis Trust udt (collectively the "Applicant" or "Pentikis") request is made that the Town of Falmouth Board of Selectmen ("Board") consider the attached revised plan prepared by Cape and Islands Engineering, Inc., dated December 17, 2020, at the Board's upcoming February 22, 2021 hearing on Pentikis's Application for a Special Permit. The revised plan has been agreed upon by Pentikis and the neighboring property owners so as to address concerns of those parties relative to navigation in Eel Pond Canal.

The revised plan proposes to decrease the length of Pentikis's floats from forty (40) to thirty-five (35) feet and increase the distance from the western edge of Pentikis's floats to his neighbor's, Michael Kachadoorian ("Kachadoorian"), bulkhead from thirteen (13) feet to seventeen (17) feet. This increased distance, teamed with the condition that Pentikis dock his western most boat on his dockage with the bow of the boat facing the western face of the bulkhead no less than seventeen (17) feet from Kachadoorian's bulkhead, would create that much more additional space in the canal for both Pentikis and Kachadoorian to navigate, access, and dock

Diane S. Davidson  
Office Manager  
Office of Town Manager  
February 18, 2021  
Page 2



safely thereby addressing any navigational concerns relative to § 240-77 through § 240-79 and 310 CMR 9.36(2).

Pentikis hopes that the Board will consider the revised plan and it's Special Permit Application at the same time as those special permit applications made by neighboring homeowners on Eel Pond Canal, Michael Kachadoorian, 50 Muskegat Road, and Steven Balas, 64 Muskegat Road.

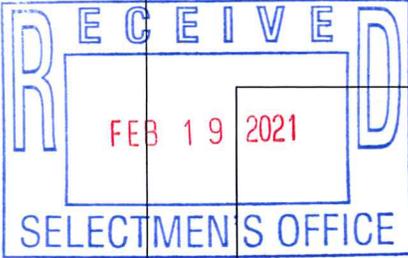
Sincerely,

A handwritten signature in black ink, appearing to read "G.A. Wood".

Glenn A. Wood

Enclosure

cc: Nikolas J., John S. and Anthony P. Pentikis/James N. Pentikis Trust udt  
Matthew Costa, P.L.S., Cape & Islands Engineering, Inc.  
Brian Wall, Esq.

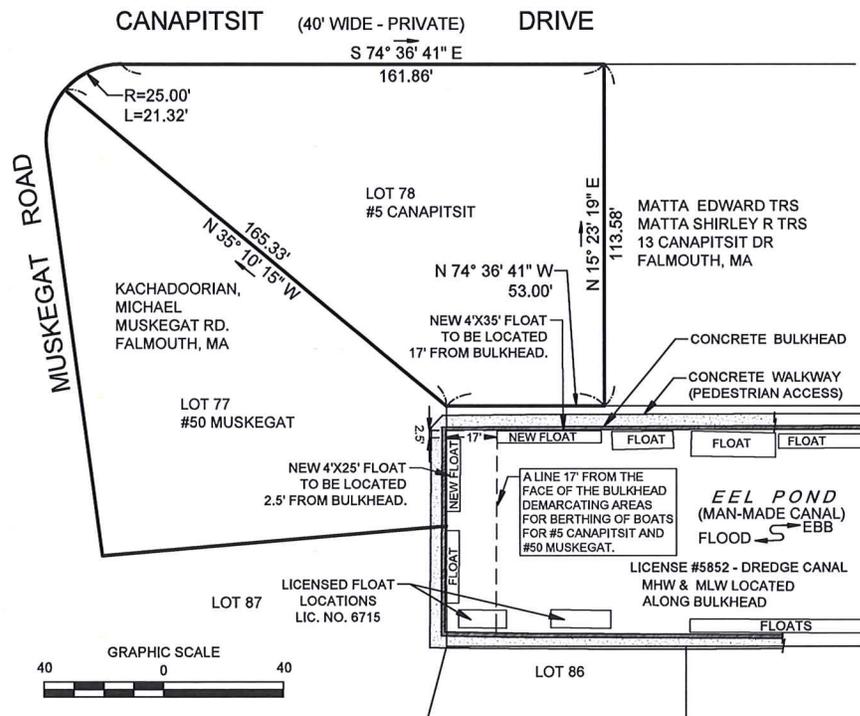


I HEREBY CERTIFY THAT THIS PLAN DOES CONFORM WITH THE REQUIREMENTS FOR RECORDING OF PLANS IN THE REGISTRY OF DEEDS.

MATTHEW C. COSTA, P.L.S.



LOCUS MAP N.T.S.



**PROPOSED FLOAT LOCATIONS AND BERTHING AREAS**

PARCEL ADDRESS: 5 CANAPITSIT DRIVE  
FALMOUTH, MA (BARNSTABLE COUNTY)  
OWNER: ANTHONY P. PENTIKIS

PURPOSE OF PLAN IS TO DEMARCAT BERTHING AREAS FOR PROPERTY OWNERS OF #5 CANAPITSIT DRIVE AND #50 MUSKEGAT ROAD, FOR AREAS WITHIN A MANMADE CANAL CONNECTING TO THE WATERS OF EEL POND, LOCATED IN EAST FALMOUTH, MASSACHUSETTS

PLAN BY: CAPE & ISLANDS ENGINEERING, INC.  
508.477.7272 DATE: 12/17/20

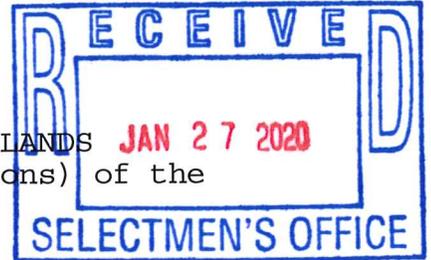
TIDE RANGE: ±1.7  
LATITUDE 41.572402  
LONGITUDE -70.546010  
DATUM: NAVD88 = 0.00 FT.  
ELEVATIONS IN FEET

PARCEL ID MAP 32-04-008-078 SHEET 1 OF 1

Original application for your reference only.

The plan has been revised.

Town Of Falmouth  
BOARD OF SELECTMEN



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

JAN 27 2020

To the Board of Selectmen  
Falmouth, Mass.

FALMOUTH TOWN CLERK

Date: January 27, 2020

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

**Owner:** Nikolas J., John S. and Anthony P. Pentikis/James N. Pentikis Trust udt  
(Full name) (Address) P.O. Box 901, E. Falmouth, MA 02536

**Agent:** Matthew C. Costa, P.L.S., R.S., 800 Falmouth Rd., Mashpee, MA 02649  
(Full name) (address) 02109

**Applicant:** SAME AS ABOVE  
(full name) (address)

1. **Location of Property:** Map 32 Section 04 Parcel 008 Lot 078

**Street Name and House Number:** 5 Canapitsit Drive, East Falmouth

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

3. **Description of property and project site:** The project site is located at 5 Canapitsit Drive, East Falmouth, MA, a private residential waterfront property with frontage on Eel Pond Canal, a tidal coastal embayment that flows into the waters of Vineyard Sound. The subject parcel consists of 13,767 (+/-) sq. ft. upland area and is on the eastern shore of Eel Pond Canal. The property has been a lot on record since on or about April 28, 1971 and has been developed as a legal single-family residence as of 1974, per the Town Assessors records. The property includes a single-family dwelling deck with stairs, septic system, timber steps, landscape steps, stepping stones, stone wall, post and rail fence, manicured lawn and landscape areas, concrete walkway, concrete bulkhead (License #4471) and floats in Eel Pond Canal. The floats were approved by Falmouth Conservation 06-13-11 (attached approval)

*Original application  
Plans have been revised*

a. **Dimensions, Acreage of total parcel:** 13,767 +/- sq. ft.

b. **Length of water marsh frontage:** N/A

c. **Dimensions of area to be dredged:** N/A **Depth:** N/A

d. **Dimensions of area to be filled:** N/A

e. **Volume of dredging spoil to be moved:** N/A  
**Disposition of Spoil:** N/A

APPLICATION FOR PERMIT TO DREDGE  
SECTION 4300, FILL OR OTHERWISE ALTER WETLANDS

f. Describe proposed riprap or bulkheading, if any: NONE

Other (docks, piers and etc.): License, retain and maintain  
two floats in and over the waters of  
Eel Pond which was previously approved by Falmouth  
Commission on 06-13-12. There is an existing  
Waterways License No. 4471, the bulkhead, No. 4471,  
at 5 Canapitsit Drive, East Falmouth, MA.

h. Method (equipment to be used) for proposed work: Barge and  
most work to be done by hand

4. Purpose of proposed work: PRIVATE FLOAT SYSTEM

5. Zoning which governs area: RESIDENTIAL

6. Date of application for permit to dredge or fill from the  
Commonwealth of Mass: N/A Army Engineers: N/A

7. Has a permit ever been approved or refused for this location  
by State, Federal or Local Authority: Yes

8. Remarks: Chapter 91 License No. 4471

9. Project Summary for legal notice:

For permission to maintain two (2) existing  
floats over the waters of Eel Pond  
under an existing Waterways License  
No. 4471 at 5 Canapitsit Drive,

Owner: Nikolas J., John S. and Anthony P.  
Pentikis/James N. Pentikis Trust udt

P.O. Box 901

East Falmouth, MA 02536

Agent: Matthew C. Costa,  
P.L.S., R.S.  
Cape & Islands Engineering

800 Falmouth Rd., Suite 301C

Mashpee, MA 02649

Applicant: Nikolas J., John S. and Anthony P. Pentikis/James N. Pentikis  
Trust u/d/t

  
(applicant/signature/date) Cape & Islands Engineering, Inc.

DO NOT WRITE BELOW THIS SPACE, FOR SELECTMEN'S OFFICE USE ONLY

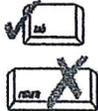
Falmouth Conservation Commission Determination of Applicability



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**WPA Form 2 – Determination of Applicability**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
Falmouth Wetlands Protection Bylaw Chapter 235 and FWR 10.00

**A. General Information**

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



From:

Falmouth  
Conservation Commission

To: Applicant

James Pentikis  
Name  
P.O. Box 901  
Mailing Address  
East Falmouth MA 02536  
City/Town State Zip Code

Property Owner (if different from applicant):

Name  
Mailing Address  
City/Town State Zip Code

1. Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

Title Date  
Title Date  
Title Date

2. Date Request Filed: 5/25/2012

**B. Determination**

Pursuant to the authority of M.G.L. c. 131, § 40, the Conservation Commission considered your Request for Determination of Applicability, with its supporting documentation, and made the following Determination.

Project Description (if applicable):

Proposed to install revised existing bulkhead

Project Location:

5 Canapitsit Drive  
Street Address  
33 04  
Assessors Map/Plat Number

East Falmouth  
City/Town  
008 078  
Parcel/Lot Number



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

## WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
Falmouth Wetlands Protection Bylaw Chapter 235 and FWR 10.00

### B. Determination (cont.)

6. The following area and/or work, if any, is subject to a municipal ordinance or bylaw but not subject to the Massachusetts Wetlands Protection Act:

7. If a Notice of Intent is filed for the work in the Riverfront Area described on referenced plan(s) and document(s), which includes all or part of the work described in the Request, the applicant must consider the following alternatives. (Refer to the wetland regulations at 10.58(4)c. for more information about the scope of alternatives requirements):

- Alternatives limited to the lot on which the project is located.
- Alternatives limited to the lot on which the project is located, the subdivided lots, and any adjacent lots formerly or presently owned by the same owner.
- Alternatives limited to the original parcel on which the project is located, the subdivided parcels, any adjacent parcels, and any other land which can reasonably be obtained within the municipality.
- Alternatives extend to any sites which can reasonably be obtained within the appropriate region of the state.

#### Negative Determination

Note: No further action under the Wetlands Protection Act is required by the applicant. However, if the Department is requested to issue a Superseding Determination of Applicability, work may not proceed on this project unless the Department fails to act on such request within 35 days of the date the request is post-marked for certified mail or hand delivered to the Department. Work may then proceed at the owner's risk only upon notice to the Department and to the Conservation Commission. Requirements for requests for Superseding Determinations are listed at the end of this document.

1. The area described in the Request is not an area subject to protection under the Act or the Buffer Zone.
2. The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent. **Under the State and bylaw, as proposed.**
3. The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).

4. The work described in the Request is not within an Area subject to protection under the Act (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act.



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands

**WPA Form 2 – Determination of Applicability**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
 Falmouth Wetlands Protection Bylaw Chapter 235 and FWR 10.00

**B. Determination (cont.)**

The following Determination(s) is/are applicable to the proposed site and/or project relative to the Wetlands Protection Act and regulations:

**Positive Determination**

Note: No work within the jurisdiction of the Wetlands Protection Act may proceed until a final Order of Conditions (issued following submittal of a Notice of Intent or Abbreviated Notice of Intent) or Order of Resource Area Delineation (issued following submittal of Simplified Review ANRAD) has been received from the issuing authority (i.e., Conservation Commission or the Department of Environmental Protection).

- 1. The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.
- 2a. The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid.

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- 2b. The boundaries of resource areas listed below are not confirmed by this Determination, regardless of whether such boundaries are contained on the plans attached to this Determination or to the Request for Determination.

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- 3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.
- 4. The work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to protection under the Act. Therefore, said work requires the filing of a Notice of Intent or ANRAD Simplified Review (if work is limited to the Buffer Zone).
- 5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by:

Falmouth

Name of Municipality

Pursuant to the following municipal wetland ordinance or bylaw:

Falmouth Conservation Commission

Name

Ordinance or Bylaw Citation



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 2 – Determination of Applicability**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
Falmouth Wetlands Protection Bylaw Chapter 235 and FWR 10.00

**B. Determination (cont.)**

- 5. The area described in the Request is subject to protection under the Act. Since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required:

Exempt Activity (site applicable statutory/regulatory provisions)

- 6. The area and/or work described in the Request is not subject to review and approval by:

Falmouth  
Name of Municipality

Pursuant to a municipal wetlands ordinance or bylaw.

Falmouth Conservation Commission  
Name Ordinance or Bylaw Citation

**C. Authorization**

This Determination is issued to the applicant and delivered as follows:

- by hand delivery on  by certified mail, return receipt requested on
- 1/25/12 James M. Pontealis  
Date Date

This Determination is valid for **three years** from the date of issuance (except Determinations for Vegetation Management Plans which are valid for the duration of the Plan). This Determination does not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.

This Determination must be signed by a majority of the Conservation Commission. A copy must be sent to the appropriate DEP Regional Office (see <http://www.mass.gov/dep/about/region.findyour.htm>) and the property owner (if different from the applicant).

Signatures:

Michelle J. Curt Eugene H. Gladstone  
Michael J. ... ...  
... ...

6/13/2012  
Date



License No. 4471

Page 2

The structures hereby authorized shall be limited to the following use: shoreline stabilization for the protection of existing structures.

In accordance with any license condition, easement, or other public right of lateral passage that exists in the area of the subject property lying between the high and low water marks, the Licensee shall allow the public in the exercise of such rights to pass freely around all structures within such intertidal area.

Accordingly, the Licensee shall place and maintain, in good repair, a public access sign along the Mean High Water shoreline at each property line. The signs shall include any statement and/or logo specified by the Department and shall otherwise conform to the "Signage Specifications of the Waterways Regulation Program", as may be amended hereafter. A Licensee's copy of such written specifications is provided with this license, and an additional copy shall be kept in the Department's permanent license file (No. 4471). Nothing in this condition shall be construed as preventing the Licensee from excluding the public from portions of said structure(s) or property not intended for lateral passage.

This license is valid for ninety-nine (99) years from the date of license issuance.

The project authorized herein has been completed in conformance with the accompanying License Plan. The issuance of this License, therefore, fulfills the Licensee's obligation to obtain a Certificate of Compliance pursuant to 310 CMR 9.19.

Please see page three for additional conditions to this license.-----

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Duplicate of said plan, number 4471 is on file in the office of said Department, and original of said plan accompanies this License, and is to be referred to as a part hereof.

STANDARD WATERWAYS LICENSE CONDITIONS

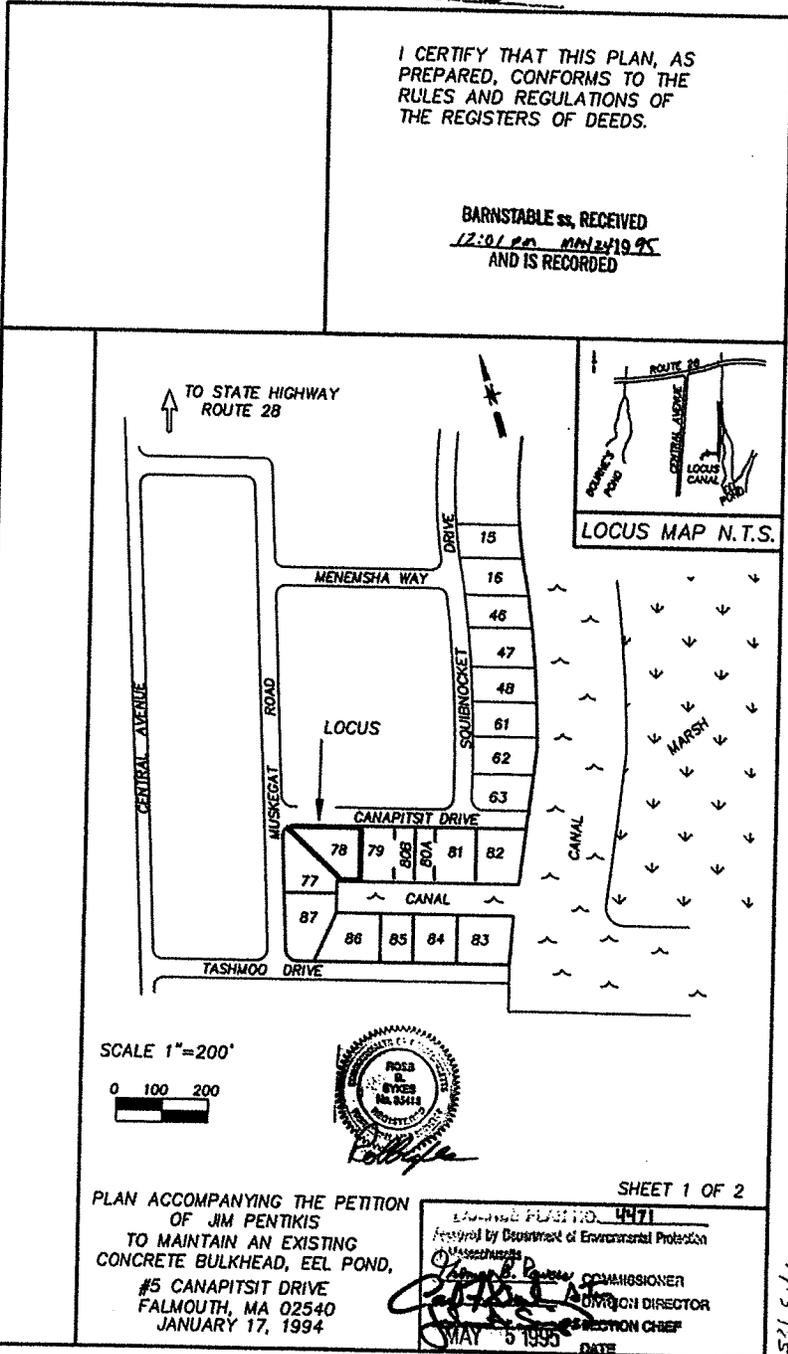
1. Acceptance of this Waterways License shall constitute an agreement by the Licensee to conform with all terms and conditions stated herein.
2. This License is granted upon the express condition that any and all other applicable authorizations necessitated due to the provisions hereof shall be secured by the Licensee prior to the commencement of any activity or use authorized pursuant to this License.
3. Any change in use or any substantial structural alteration of any structure or fill authorized herein shall require the issuance by the Department of a new Waterways License in accordance with the provisions and procedures established in Chapter 91 of the Massachusetts General Laws. Any unauthorized substantial change in use or unauthorized substantial structural alteration of any structure or fill authorized herein shall render this Waterways License void.
4. This Waterways License shall be revocable by the Department for noncompliance with the terms and conditions set forth herein. This license may be revoked after the Department has given written notice of the alleged noncompliance to the Licensee and those persons who have filed a written request for such notice with the Department and afforded them a reasonable opportunity to correct said noncompliance. Failure to correct said noncompliance after the issuance of a written notice by the Department shall render this Waterways License void and the Commonwealth may proceed to remove or cause removal of any structure or fill authorized herein at the expense of the Licensee, its successors and assigns as an unauthorized and unlawful structure and/or fill.
5. The structures and/or fill authorized herein shall be maintained in good repair and in accordance with the terms and conditions stated herein and the details indicated on the accompanying license plans.
6. Nothing in this Waterways License shall be construed as authorizing encroachment in, on or over property not owned or controlled by the Licensee, except with the written consent of the owner or owners thereof.
7. This Waterways License is granted subject to all applicable Federal, State, County, and Municipal laws, ordinances and regulations including but not limited to a valid final Order of Conditions issued pursuant to the Wetlands Protection Act, G.L. Chapter 131, s.40.
8. This Waterways License is granted upon the express condition that the use of the structures and/or fill authorized hereby shall be in strict conformance with all applicable requirements and authorizations of the DEP, Division of Water Pollution Control.
9. This License authorizes structure(s) and/or fill on:
  - Private Tidelands. In accordance with the public easement that exists by law on private tidelands, the licensee shall allow the public to use and to pass freely upon the area of the subject property lying between the high and low water marks, for the purposes of fishing, fowling, navigation, and the natural derivatives thereof.
  - Commonwealth Tidelands. The Licensee shall not restrict the public's right to use and to pass freely, for any lawful purpose, upon lands lying seaward of the low water mark. Said lands are held in trust by the Commonwealth for the benefit of the public.
  - a Great Pond of the Commonwealth. The Licensee shall not restrict the public's right to use and to pass freely upon lands lying seaward of the high water mark for any lawful purpose.No restriction on the exercise of these public rights shall be imposed unless otherwise expressly provided in this license.
10. Unless otherwise expressly provided by this license, the licensee shall not limit the hours of availability of any areas of the subject property designated for public passage, nor place any gates, fences, or other structures on such areas in a manner that would impede or discourage the free flow of pedestrian movement thereon.



I CERTIFY THAT THIS PLAN, AS PREPARED, CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

BARNSTABLE ss, RECEIVED  
12:01 PM MAY 24 1995  
AND IS RECORDED

513-67



SCALE 1"=200'

0 100 200

PLAN ACCOMPANYING THE PETITION OF JIM PENTIKIS TO MAINTAIN AN EXISTING CONCRETE BULKHEAD, EEL POND, #5 CANAPITSIT DRIVE FALMOUTH, MA 02540 JANUARY 17, 1994

SHEET 1 OF 2

MASSACHUSETTS REGISTER OF DEEDS No. 85418

MAINTENANCE PERMIT NO. 4871

Approved by Department of Environmental Protection Massachusetts

COMMISSIONER

DIVISION DIRECTOR

SECTION CHIEF

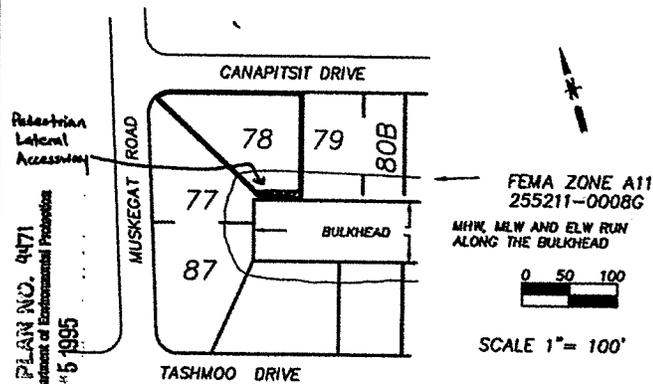
MAY 5 1995 DATE

513-67  
94-3725  
14471

I CERTIFY THAT THIS PLAN, AS PREPARED, CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

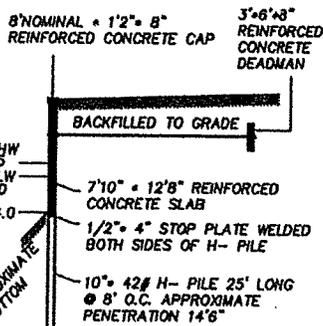
BARNSTABLE ss, RECEIVED  
 12:06pm **MAY 24 1995**  
 AND IS RECORDED

513-68

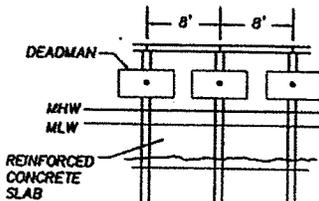


ENCLOSURE PLAN NO. 9471  
 Approved by Department of Environmental Protection  
 Date: **MAY 15 1995**

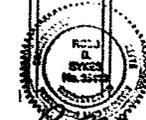
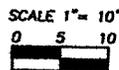
LOT/ ABUTTORS NAMES, ADDRESSES  
 87, 77/ LORRAINE KOHOUT, #64 MUSKEGAT ROAD, FALMOUTH, MA 02536  
 79, 80-B/ EDWARD AND SHIRLEY MATTA, TRS., L.J. REALTY TRUST,  
 #311 NORTH WARREN AVE., BROCKTON, MA 02401



NOTE: CONSTRUCTION DETAILS FROM PLAN ACCOMPANYING THE PETITION OF SALT WATER SHORES TRUST 8/21/73



PLAN ACCOMPANYING THE PETITION OF JIM PENTIKIS TO MAINTAIN AN EXISTING CONCRETE BULKHEAD, EEL POND, #5 CANAPITSIT DRIVE FALMOUTH, MA 02540 JANUARY 7, 1994



SHEET 2 OF 2

94-3705

Bk 26691 Ps166 \$54628

09-21-2012 @ 09:24a

Property Location: 5 Canapitsit Drive, East Falmouth, Barnstable County, Massachusetts  
Title not examined

**QUITCLAIM DEED**

I, James N. Pentikis with a mailing address of P.O. Box 901, East Falmouth, Barnstable County, Massachusetts, 02536,

for consideration of less than Ten (\$10.00) Dollars,

grant all of my right, title and interest to Nickolas J. Pentikis of Franklin, Massachusetts, John S. Pentikis of Timonium, Maryland, and Anthony P. Pentikis of East Falmouth, Massachusetts, co-Trustees of the James N. Pentikis Trust w/d/t August 9, 2012, with a mailing address of P.O. Box 901, East Falmouth, Barnstable County, Massachusetts, 02536,

with **QUITCLAIM COVENANTS**, that certain lot or parcel of land, together with the buildings thereon, situated in East Falmouth, Barnstable County, Massachusetts, bounded and described as follows:

- NORTHERLY by Canapitsit Drive, 161.86 feet;
- EASTERLY by Lot 79, 113.58 feet;
- SOUTHERLY by a canal as shown on hereinafter mentioned plan, 53 feet;
- WESTERLY by Lot 77, 165.33 feet; and

*Prepared by the Law Office of Patricia J. Mello, P.C.  
766 Falmouth Road, Mashpee, MA 02649  
508-477-0267*

3

NORTHWESTERLY by Canapitsit Drive, 21.32 feet.

Containing 13,670 square feet more or less and being shown as LOT 78 on a plan of land entitled "Revised Subdivision Plan of Land in Falmouth - Mass. For Robert B. Pacheco, scale 1" = 30', March 26, 1974, John P. Doyle, R.L.S."

James N. Pentikis reserves a life estate in the above referenced property.

The Grantor reserves the power to appoint the premises, or any portion thereof, outright or upon trusts, conditions, or limitations, to any one or more of the children of the Grantor or the spouses or surviving spouse of any of the foregoing persons or to a charitable organization other than governmental entities, by specifying either via power of appointment deed, executed and acknowledged during the Grantor's lifetime and delivered to the Barnstable County Registry of Deeds, or if the Grantor specifies in a duly probated Last Will and Testament. Failure to record notice of any such exercise of this power in the Barnstable Probate Court within ninety (90) days of the Grantor's death shall be conclusively treated as exercise of the power. The Grantor shall not exercise this power in favor of himself or his spouse. This power shall be exercisable during the lifetime of the Grantor by deed making express reference to this power and executed and recorded prior to the death of the Grantor. A release of the power reserved and granted hereunder, in whole or in part, shall be effective when registered with the Barnstable County Registry of Deeds. Any lifetime exercise or release of the foregoing power may be made by an attorney in fact acting under a durable power of attorney. No exercise of this appointment shall be deemed to release a Grantor's life estate unless such a release is explicitly made. The exercise of this power shall not exhaust it and the deed recorded last shall control as to any ambiguities or inconsistencies. No notice to, or assent by, the Grantees herein or their assigns shall be necessary in connection with any exercise of the rights retained by the Grantor herein.

Subject to any and all existing restrictions and encumbrances still in force and effect.

For Grantor's title see Deed to James N. Pentikis and Elizabeth L. Pentikis, recorded with said Registry of Deeds in 26495, Page 121.

*Prepared by the Law Office of Patricia J. Mello, P.C.  
766 Falmouth Road, Mashpee, MA 02649  
508-477-0267*

WITNESS my hand and seal this 9<sup>th</sup> day of August, 2012.

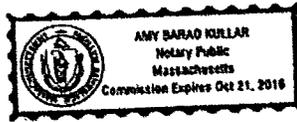
James N. Pentikis  
James N. Pentikis

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

On this 9<sup>th</sup> day of August 2012, before me, the undersigned notary public, personally appeared James N. Pentikis, proved to me through satisfactory evidence of identification, which was X personal knowledge of identity or \_\_\_\_\_, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Amy Barad Kullar



Prepared by the Law Office of Patricia J. Mello, P.C.  
766 Falmouth Road, Mashpee, MA 02649  
508-477-0267

SPKLEH

BARNSTABLE REGISTRY OF DEEDS

#2. Wetland/Dock Hearing – Steven Balas for permission to maintain an existing concrete bulkhead and to construct and maintain a 4' x 25' float adjacent to the bulkhead in and over the waters of Eel Pond Canal, located at 64 Muskegat Road, East Falmouth



# TOWN OF FALMOUTH

Office of the Town Manager & Selectmen

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 240-77 (Wetland Regulations) of the Zoning Bylaws of the Town of Falmouth on Monday, February 22, 2021 at 7:30 p.m. in the Selectmen's Meeting Room, Town Hall\* on the application of Steven Balas for permission to maintain an existing concrete bulkhead and to construct and maintain a 4' x 25' float adjacent to the bulkhead in and over the waters of Eel Pond Canal, located at 64 Muskegat Road, East Falmouth, MA. Interested parties may review the file on this hearing in the Town Manager/Select Board Office at Town Hall.

*\*In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the February 22, 2021 public meeting of the Falmouth Select Board shall be physically closed to the public to avoid group congregation; the Select Board will meet remotely via Zoom virtual meeting software. **\*\*See Select Board NOTICE of MEETING for February 22, 2021 to be posted on the Town of Falmouth website, [www.falmouthma.gov](http://www.falmouthma.gov), Agenda Center, on February 18, 2021 at 4:00 PM for detailed participation information.\*\****

Per Order of the Falmouth Select Board

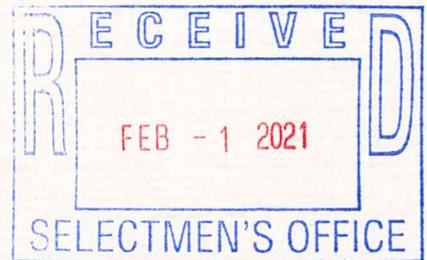
*Publication dates: Friday, February 5, 2021 and Friday, February 12, 2021; Falmouth Enterprise.*

**TW** **TROY WALL ASSOCIATES**  
ATTORNEYS AND COUNSELLORS AT LAW  
A PROFESSIONAL ASSOCIATION OF INDIVIDUAL PRACTITIONERS\*  
90 ROUTE 6A, SANDWICH, MASSACHUSETTS 02563  
TELEPHONE: (508) 888-5700

ROBERT S. TROY  
rst@troywallassociates.com

BRIAN J. WALL  
bjw@troywallassociates.com

January 30, 2021



Megan English Braga, Chair  
Falmouth Select Board  
59 Town Hall Square  
Falmouth, MA 02540

Re: **Steven Balas and S. Michael Kachadoorian**  
**64 and 50 Muskegat Road, East Falmouth**  
**Applications for Special Permit – § 240-77 - § 240-79**

Dear Chair Braga and Members of the Board:

Please find enclosed the following documents regarding the above-referenced matters:

1. Application for Special Permit, under §240-77 – §240-79, seeking permission to maintain an existing concrete bulkhead and to construct and maintain a 4' x 25' float in the waters of a man-made canal regarding Steven Balas, **64 Muskegat Road**, East Falmouth; and
2. Application for Special Permit, under §240-77 – §240-79, seeking permission to maintain an existing concrete bulkhead and to construct and maintain a 4' x 25' float in the waters of a man-made canal regarding S. Michael Kachadoorian, **50 Muskegat Road**, East Falmouth; and

Each application includes the Select Board Application form, a written narrative describing the project and demonstrating compliance with §240-77 – §240-79, and a check for \$75.00 for the filing fee. Full-sized copies are being delivered separately by Falmouth Engineering, Inc. The full-sized copies will be deposited into the Falmouth Town Hall Drop Box.

We respectfully request that the applications be scheduled for hearing before the Select Board on **February 22, 2021**.

January 30, 2021  
Page 2

Please contact me if there are any questions or if anything further is needed to process the applications. Thank you.

Respectfully submitted,



Brian J. Wall

Enclosures

Cc: Steven Balas  
S. Michael Kachadoorian  
Michael Borselli, P.E.  
Irie Mullin, Associate Town Counsel  
Glenn Wood, Esq.  
Drew Hoyt, Esq.  
Matthew Terry, Esq.

TOWN OF FALMOUTH  
BOARD OF SELECTMEN

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: January 30, 2021



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: Steven Balas, 64 Muskegat Road, East Falmouth, MA 02536  
(full name) (address)

AGENT: Brian J. Wall, Esq., Troy Wall Associates, 90 Route 6A, Sandwich, MA 02563  
(full name) (address)

APPLICANT: Steven Balas, 64 Muskegat Road, East Falmouth, MA 02536  
(full name) (address)

1. Location of Property: Map 32 Section 04 Parcel 008 Lot 87

Street Name and House Number 64 Muskegat Road

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

3. Description of property and project site: Fully developed residential neighborhood. Property is improved with a single-family dwelling. The shoreline consists of an existing concrete bulkhead that surrounds an existing man-made canal.

a. Dimensions, Acreage of total parcel: 13,750 square feet

b. Length of water marsh frontage: n/a - no marsh at site

c. Dimensions of area to be dredged: n/a Depth n/a

d. Dimensions of area to be filled: n/a

e. Volume of dredging spoil to be moved: n/a

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: n/a

f. Describe proposed riprap or bulkheading, if any: Existing bulkhead.

g. Other (docks, piers and etc.) 4' x 25' float

h. Method (equipment to be used) for proposed work: float to be brought in by boat

4. Purpose of proposed work: non-commercial recreational boating/access to navigable waters

5. Zoning which governs area: AGB

6. Date of application for permit to dredge or fill from the Commonwealth of  
Mass. n/a Army Engineers n/a

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

8. Remarks Order of Conditions SE 25-4579 issued by Conservation Commission on  
12/21/20 approving proposed 4' x 25' float.

9. Project Summary for legal notice: The applicant proposes to maintain and existing  
concrete bulkhead and to construct and maintain a 4' x 25' float adjacent to the bulkhead.

Owner: Steven Balas

64 Muskegat Road

East Falmouth, MA 02536

(Name & Address)

TEL #:

Agent: Brian J. Wall, Esq.

Troy Wall Associates, 90 Route 6A

Sandwich, MA 02563

(Name & Address)

TEL #: (508) 888-5700

Applicant: Steven Balas

64 Muskegat Road, East Falmouth, MA 02536

(Name & Address)

TEL #:

DO NOT WRITE BELOW THIS SPACE, FOR SELECMEN'S OFFICE USE ONLY



# TROY WALL ASSOCIATES

ATTORNEYS AND COUNSELLORS AT LAW  
A PROFESSIONAL ASSOCIATION OF INDIVIDUAL PRACTITIONERS\*

90 ROUTE 6A, SANDWICH, MASSACHUSETTS 02563  
TELEPHONE: (508) 888-5700

ROBERT S. TROY  
rst@troywallassociates.com

BRIAN J. WALL  
bjw@troywallassociates.com

January 30, 2021

Megan English Braga, Chair  
Falmouth Select Board  
59 Town Hall Square  
Falmouth, MA 02540

Re: **Steven Balas**  
**64 Muskegat Road, East Falmouth**  
**Application for Special Permit – § 240-77 - § 240-79**

Dear Chair Braga and Members of the Board:

Please be advised that I represent Steven Balas, owner of property at 64 Muskegat Road, East Falmouth (“Balas”). This serves as an application for Special Permit, under §240-77 – §240-79, to maintain an existing concrete bulkhead and to construct and maintain a 4’ x 25’ float in the waters of a man-made canal adjacent to Balas’ property.

## **BACKGROUND**

### **1. The Site.**

Balas’ property is 13,750 square feet in area and is improved with a single-family dwelling. At the rear of the property is a concrete bulkhead that borders a canal (“Canal”) that has access to Eel Pond.

The Canal is made man-made and surrounded on three sides with an existing concrete bulkhead. The construction of the Canal was permitted in or about 1970 by the Massachusetts Department of Natural Resources. **Exhibit A.** In 1971, a subdivision plan was recorded creating an extensive residential development, including eleven (11) lots fronting upon the Canal. **Exhibit B.** Currently, many of the owners of properties on the Canal have floats and boats in the Canal.

## **2. Previous Dock Proposal and Litigation.**

Balas and his neighbor to the north, S. Michael Kachadoorian (“Kachadoorian”), previously applied for and obtained wetlands permits and a Special Permit for a common dock at their shared property boundary extending perpendicularly from the bulkhead into the canal. This configuration was proposed because floats that neighbors had in the water precluded Balas and Kachadoorian from having floats parallel to their bulkheads. It was assumed that the neighbors’ floats were lawful and approved by permits and that the perpendicular configuration was the only one that was workable.

The neighbors on the south of the Canal, Mr. and Mrs. Frank and Patricia Dundulis (“Dundulis”), and the neighbor on the north, Mr. Anthony Pentikis (“Pentikis”), objected to the perpendicular dock and asserted that it would interfere with their ability to access their existing floats. Appeals of the wetlands permits and the Special Permit were filed, and litigation ensued.

Balas and Kachadoorian subsequently learned that their neighbors’ floats were not authorized by Special Permits. They sought zoning enforcement and the Zoning Board of Appeals issued decisions holding that the Dundulis floats and the Pentikis floats violated zoning and ordering the floats to be removed.

## **3. Settlement of Litigation.**

The parties have reached agreements that will resolve all their disputes and the pending litigation. The agreements provide, in essence, the following:

- Dundulis will seek permits and licenses to reconfigure their floats so that they are 17 feet away from the Balas bulkhead.
- Balas will seek permits and licenses for a 4’ x 25’ float parallel to his bulkhead.
- Pentikis will seek permits and licenses to reconfigure his floats so that they are 17 feet away from the Kachadoorian bulkhead.
- Kachadoorian will seek permits and licenses for a 4’ x 25’ float parallel to his bulkhead.
- The parties will support each other’s permit applications.
- If they are granted permits for parallel floats, then Balas and Kachadoorian will abandon their common dock permits and the parties will dismiss all pending litigation.

#### **4. Wetlands Permits.**

Balas and Kachadoorian applied to the Conservation Commission for wetlands permits and obtained Orders of Conditions approving 4' x 25' floats parallel to their existing bulkheads. A copy of Balas' wetlands permit is attached as **Exhibit C**.

As part of the Conservation Commission's review, Balas was required to submit his plan to the Harbormaster and obtain the Harbormaster's comment. The Harbormaster responded by submitting a Memorandum to the Commission dated July 17, 2020 stating that he had no concerns with navigational issues or mooring issues and that he prefers the parallel floats to the previously approved perpendicular common dock. A copy of the Harbormaster's Memorandum is attached as **Exhibit D**.

### **THE PROPOSED PROJECT**

The proposed project is to install a 4' x 25' float parallel to the existing bulkhead and to secure it to the bulkhead with two 3-inch diameter galvanized pipes as depicted in a plan entitled: "Site Plan – Proposed Float For #64 Muskegat Road, prepared for Steven Balas, in Falmouth, dated July 17, 2020, revised October 19, 2020." A copy of the plan is attached as **Exhibit E** and a full-sized plan has been submitted separately.

The total area of the proposed float will be 100 square feet. The float will be located on Balas' canal frontage as shown on the plan and it will be a minimum of 2.5' from his property line with Kachadoorian. Balas will not affix anything to Dundulis' bulkhead.

Anticipated impacts are expected to be temporary and limited. The entire area is a man-made dredged canal that was created to provide each lot with the amenity of recreational boating. Many of the owners on the Canal have similar floats to which they berth boats. In addition, the Harbormaster reviewed the proposed plan and commented that he had no concerns with regard to navigation or mooring and that he prefers the parallel float over the perpendicular common dock and the Conservation Commission approved the float with an Order of Conditions.

The abutting neighbors, Kachadoorian, Dundulis and Pentikis, support the approval of Balas' proposed float.

**REVIEW UNDER SECTIONS 240-77 THROUGH 240-79**

When reviewing an application for Special Permit under § 240-77 through § 240-79, the Select Board evaluates whether the proposal -- in this case a 4' x 25' float -- will have an adverse impact upon the aquatic resources of the Canal "for the benefit and welfare of the present or future inhabitants of the Town." Traditionally, the Select Board implements this review by considering the effect of the proposed project upon navigation and shellfish.

The proposed float parallel to the existing bulkhead will not adversely impact navigation or the ability of Balas' neighbors to have floats and enjoy recreational boating. This is evidenced by the Harbormaster's Memorandum confirming that he has no concern with navigation or mooring and by the Conservation Commission's approval of the project. This is further demonstrated by the support of Kachadoorian and the agreements with Dundulis and Pentikis regarding the configuration of all the floats at the terminal end of the Canal and upon the support of Dundulis and Pentikis for the proposed parallel float.

There will similarly be no adverse impacts upon shellfish. The Canal is man-made and populated with numerous floats and boats. Balas' float will have no impact on shellfish in this already actively used waterway. This conclusion is further supported by the fact that the Conservation Commission is specifically charged with protection of shellfish resources and the Commission approved the proposed project with an Order of Conditions.

The existing bulkhead will likewise have no impacts on navigation or shellfish. The bulkhead has been in existence since, approximately, 1971. Its existence allowed for the Canal to be created and it facilitates and enhances navigational interests. As an inanimate object, the bulkhead has no impact upon shellfish.

**CONCLUSION**

For the reasons set forth herein, Balas respectfully requests the Select Board to grant his application for a Special Permit authorizing the continued maintenance of the existing concrete bulkhead and the construction and maintenance of a 4' x 25' float as depicted on the project plan.

January 30, 2021  
Page 5

Thank you for your consideration.

Respectfully submitted,



Brian J. Wall

Enclosures

Cc: Steven Balas  
S. Michael Kachadoorian  
Michael Borselli, P.E.  
Irie Mullin, Associate Town Counsel  
Glenn Wood, Esq.  
Drew Hoyt, Esq.  
Matthew Terry, Esq.

# **EXHIBIT A**

## DEPARTMENT OF NATURAL RESOURCES

BOOK 1524 PAGE 1096

100 CAMBRIDGE STREET  
BOSTON, MASSACHUSETTS 02202

## PERMIT UNDER

G.L. c.130 s.27A

FILE NUMBER: DF-588 PROJECT LOCATION: Falmouth  
 TO: Robert B. Pacheco, 136 Acapesket Road  
 Robert H. Moore, 83 Walker Street CERT. MAIL NO.: 332141  
 Falmouth, Massachusetts 332142  
 John R. Augusta, Susan Lane Their successors 332143  
 Teaticket, Massachusetts & assigns.  
 RE: NOTICE OF INTENT AND PLANS DATED: October 13, 1970 - Locus, Muriel Lane  
*Salt Water Shores Trust / the*

Pursuant to the authority of G.L. c.130 s.27A, the Director of the Division of Marine Fisheries has considered your notice of intent and plans submitted therewith, and has determined that the proposed project described therein should be approved. However, the Director finds that in order to protect shellfish and other marine fisheries, the following conditions are necessary, and all work must be performed in strict conformance therewith. Therefore, the said Director issues this permit, and upon the recording thereof in the appropriate Registry of Deeds, work may commence.

CONDITIONS

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 permit.
2. The provisions of G.L. cc.91 and 111, and any regulations adopted thereunder, must be fully complied with.
3. This permit does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
4. This permit does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state or local statutes, ordinances, by-laws and/or regulations.
5. The work authorized hereunder shall be completed within one (1) year from the date of this permit. A one (1) year extension of this period may be obtained by the submission of plans to the Director of the Division of Marine Fisheries which indicate the remaining work to be performed.
6. Any fill used in connection with this project shall be clean fill containing no trash, refuse, rubbish or debris, including, without limiting the generality of the foregoing, lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles or parts of any of the foregoing.
7. All septic systems of dwellings adjacent to the proposed canal should be placed at a minimum distance of one hundred (100') feet away from the edge of the canal.
8. In order to improve circulation within the proposed canal a cut will be made connecting the canal with the existing brook near the head of Eel Pond. This cut will be approximately ten (10') feet wide and six (6') feet deep.
9. The minimum distance between the canal and the brook will be ten (10') feet.
10. All construction must conform in every respect with the plan submitted entitled, Subdivision Plan of Land in Falmouth, Massachusetts, for Salt Water Shores Trust, by John P. Doyle, R.L.S., dated April 28, 1971, revised May 25, 1971.

See Plan Book 2 47 Page 146

FILE NUMBER: DF-588

PERMITTEE: Robert B. Pacheco  
Robert H. Moore  
John R. Augusta  
Their successors & assigns

In the event that the permittee is aggrieved by the terms and conditions of this permit, he is entitled pursuant to G.L. C.30A, to file a petition for Judicial Review in the Superior Court within thirty (30) days after the receipt thereof or, if a petition for rehearing has been timely filed with the Department, within (30) days after the receipt of any notice from the Department denying such petition for rehearing.

**PRIOR TO COMMENCEMENT OF WORK HEREUNDER, THIS PERMIT MUST BE RECORDED AND/OR REGISTERED IN THE APPROPRIATE REGISTRY OF DEEDS IN THE NAME OF THE OWNER OF THE PROPERTY UPON WHICH THE WORK IS TO BE PERFORMED.**

PREPARED BY:

ISSUED BY:

George R. Sprague  
Director George R. Sprague  
Div. of Conservation Services

Frank Grice  
Director Frank Grice  
Div. of Marine Fisheries

APPROVED:

Arthur W. Brownell  
Arthur W. Brownell, Commissioner

10350

On this 22nd day of July 1971, **FRANK GRICE** before me personally appeared to me known to be the person described in and who executed the foregoing Instrument and acknowledged that he executed the same as his free act and deed.

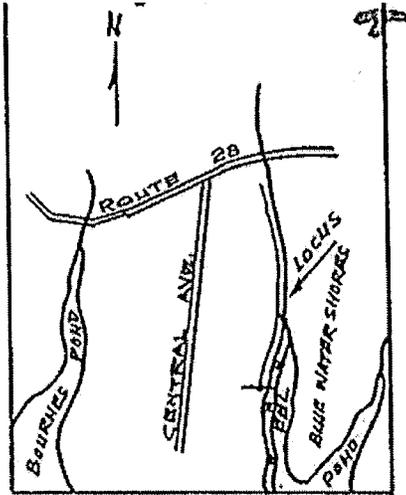
Silvia Ferrante  
Notary Public

My commission expires: Aug. 6, 1976

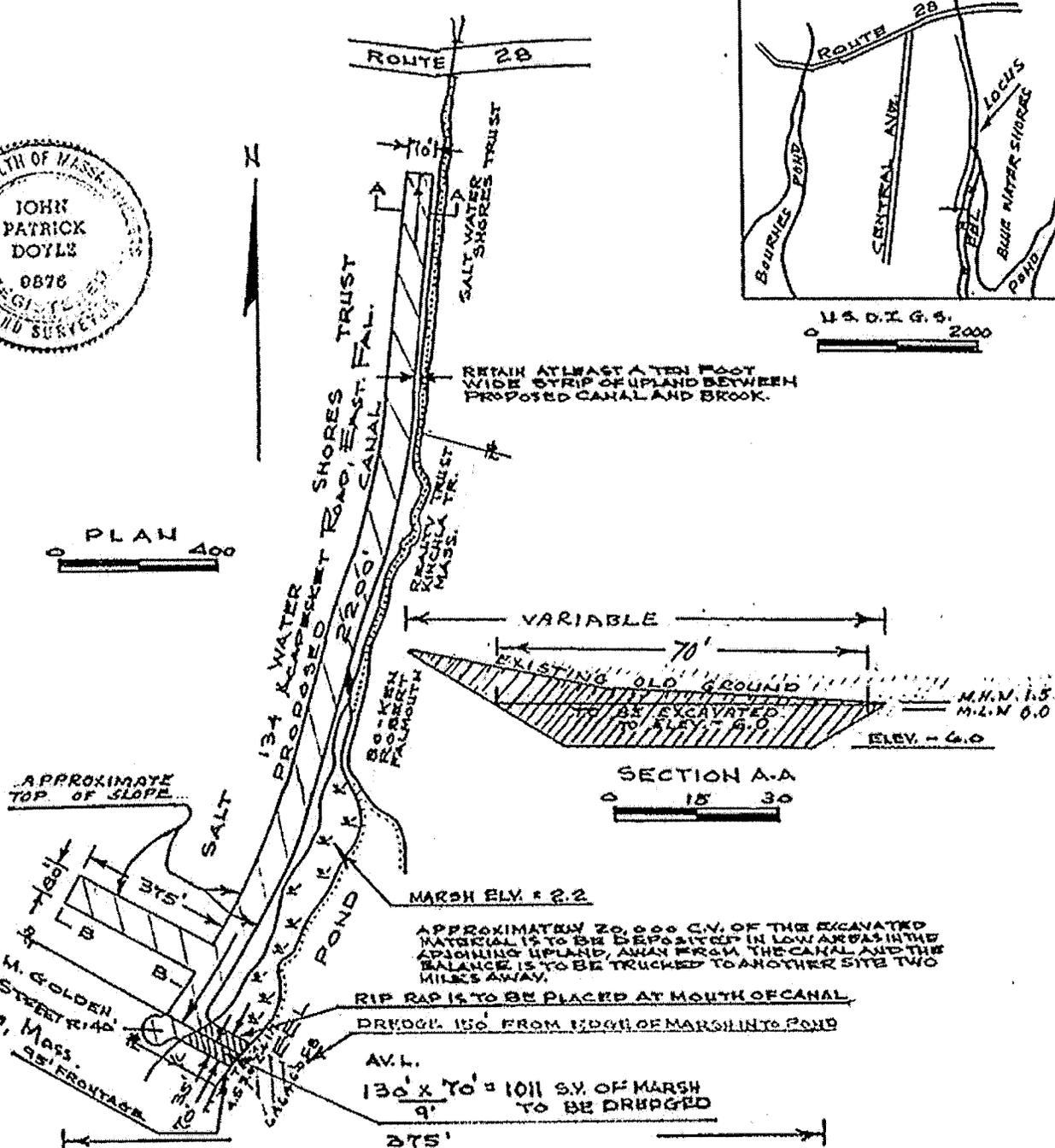
BOOK 1524 PAGE 1097

REC'D AUG 26 1971

247-196



U.S. D.I.G.S. 0 2000



PLAN 0 400

SECTION A-A 0 15 30

BARNSTABLE  
REGISTRY OF DEEDS  
AUG 26 1971  
2:45 PM  
RECORDED

PLAN ACCOMPANYING PETITION  
OF  
SALT WATER SHORES TRUST  
AND  
IRWIN M. GOLDEN  
TO DREDGE A CANAL AND EXTEND  
EEL POND BY DREDGING OF MARSH  
IN FALMOUTH  
DECEMBER 1970

LICENSE PLAN NO. 5852  
APPROVED BY DEPARTMENT OF PUBLIC WORKS OF MASSACHUSETTS MARCH-10-1971  
COMMISSIONER DEPT. OF PUBLIC WORKS  
*John P. Doyle*  
*Robert S. Foster*  
*Rita Donadio*  
ASSOCIATE COMMISSIONER

# **EXHIBIT B**



# **EXHIBIT C**





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:

25-4579

MassDEP File #

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

a. County

30222

c. Book

b. Certificate Number (if registered land)

84

d. Page

7. Dates: 09/09/2020 12/02/20 12/21/2020  
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):

Site Plan - Proposed Float for #64 Muskegat Rd prepared for Steven Balas

a. Plan Title

Falmouth Engineering, Inc

b. Prepared By

10/19/2020

d. Final Revision Date

Michael J. Borselli, P.E., Gary S. Labrie,

P.L.S.

1"=10'

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:

25-4579

MassDEP File #

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 _____ e. c/y dredged	_____ b. square feet _____ f. c/y dredged	_____ c. square feet	_____ d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
Cubic Feet Flood Storage	_____ 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		
Cubic Feet Flood Storage	_____ 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	_____ f. square feet
Sq ft between 100-200 ft	_____ g. square feet	_____ h. square feet	_____ i. square feet	_____ j. square feet



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:

25-4579

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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 checked="" type="checkbox"/> Land Under the Ocean	<u>100</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> <sup>cu yd</sup> c. nourishment	<u>          </u> <sup>cu yd</sup> d. nourishment
14. <input type="checkbox"/> Coastal Dunes	<u>          </u> a. square feet	<u>          </u> b. square feet	<u>          </u> <sup>cu yd</sup> c. nourishment	<u>          </u> <sup>cu yd</sup> 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	<u>125</u> a. square feet	<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            25-4579            "
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):

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- 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 Wetlands 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

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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.

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

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.

12/21/2020

1. Date of Issuance

2. Number of Signers

Signatures:

Jamie Matthews, Chair *by Jennifer L. Linnick* Conservation Administrator  
 Courtney Bird *by Jennifer L. Linnick*  
 Kevin O'Brien *by Jennifer L. Linnick*  
 Elizabeth Gladfetter *by Jennifer L. Linnick*  
 by hand delivery on  by certified mail, return receipt requested, on  
 Erica Buselle # 7012-0470-0001-3617-7903  
 Date 12-21-20 Falmouth Date

**F. Appeals** *Engineering, Inc.*

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.



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**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.  
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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



# Falmouth Conservation Commission

59 TOWN HALL SQUARE, FALMOUTH, MASSACHUSETTS 02540  
(508) 495-7445

Steven Balas

Address: 64 Muskegat Rd, Falmouth, MA  
DEP: 25-4579

## FINDINGS:

1. The applicant proposes to install a 4' x 25' float with float stops to the existing licensed bulkhead.
2. Resource areas onsite and within 100 feet of the proposed project include Land Under Salt Pond, Land Subject to Tidal Action, Land Subject to Coastal Storm Flowage (LSCSF) and Resource Area Buffer.

## STANDARD CONDITIONS

1. Permission is granted to Steve Balas, to install a 4' x 25' float at 64 Muskegat Drive, Falmouth MA according to the plans by Falmouth Engineering, Inc., dated July 17, 2020 and revised October 19, 2020, entitled "Site Plan- Proposed Float" and 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. No creosote-treated wood or CCA treated wood may be used. The use of non-toxic materials is mandatory and shall be certified in writing by a professional engineer.
13. All work shall be done by hand or from a barge-supported crane during high tide.
14. Any barge used for this project must float at all times.
15. All seasonal floats shall be stored in a predetermined upland location per application and the plan of reference.
16. The street number and address and the DEP number of the float 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.
17. Water lines and attached hoses shall have nozzles attached.
18. Boats shall only be tied up in those areas designated as the mooring field on the plan of reference.
19. Boats at the float 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.
20. Motorboats shall not be run in gear while tied to the float, since prop wash disturbs shellfish beds, stirs up sediment and causes bank erosion.
21. Photographic evidence of winter storage location of floats or seasonal dock parts on uplands shall be presented to the Conservation Commission within one year of completion of structure.
22. 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.
23. If this float is operated in such a fashion as to cause actual damage to resource areas, including prop dredging, you may be ordered, at your expense, to remove a portion or the entire dock and pier. You have a right to hearing prior to any such order being issued.

**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

VOTE AUTHORIZING SIGNATURES OF  
COMMISSIONERS

On March 18, 2020, the Falmouth Conservation Commission met in open session through publicly accessible video-conference software, pursuant to the Order Suspending Certain Provisions of the Open Meeting Law, issued by Governor Charles D. Baker on March 12, 2020. At this duly held meeting, the following action was taken by the Falmouth Conservation Commission.

Motion: To authorize Jennifer Lincoln, Falmouth Conservation Administrator, to physically sign Falmouth Conservation Commission documents on behalf of individual Falmouth Conservation Commission members.

Vote: Unanimous

Vice Chairman Russell Robbins—Aye  
Commissioner Elizabeth Gladfelter—Aye  
Commissioner Maureen Harlow-Hawkes—Aye  
Commissioner Courtney Bird—Aye  
Alternate Commissioner Kevin O'Brien—Aye  
Alternate Commissioner Peter Walsh—Aye  
Commissioner Mark Gurnee—Aye  
Chairman James Mathews—Aye

The above is a true and accurate account of the proceedings of the Falmouth Conservation Commission.

James C Mathews  
3-27-20  
James Mathews, Chairman  
Date

The Commonwealth of Massachusetts  
County of Barnstable

On this 27 of March, 2020, before me, Kimberly Fish  
(name of notary public), James Mathews personally appeared and proved to me through satisfactory evidence of identification, which were personally known to me, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated

purpose.

  
\_\_\_\_\_  
Notary Public Signature

**KIMBERLY FISH**  
NOTARY PUBLIC, COMM OF MASSACHUSETTS  
MY COMMISSION EXPIRES MARCH 5, 2021

# **EXHIBIT D**



MARINE & ENVIRONMENTAL SERVICES  
TOWN OF FALMOUTH  
180 SCRANTON AVENUE, FALMOUTH, MA 02540  
TEL: (508) 457-2550 • FAX: (508) 457-2525  
TOWN MARINA TEL: (508) 457-2551

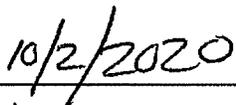
**Falmouth Wetlands – Chapter 235  
Wetlands Protection Act MGL 131:40  
Harbormaster Inspection Report**

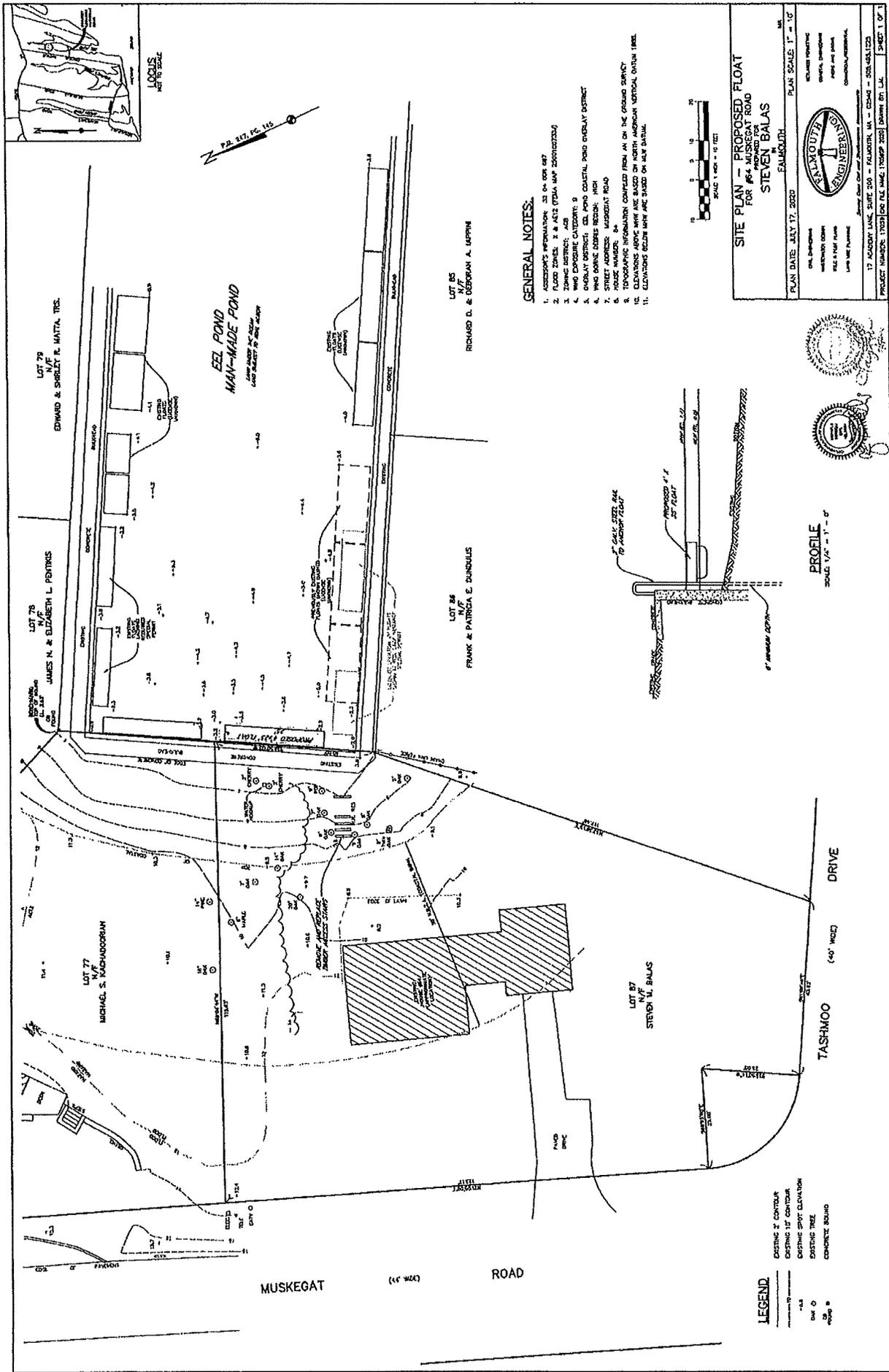
**Applicant:** Steven Balas  
**Date on Plan:** July 17, 2020  
**Property:** 64 Muskegat Rd  
**Assessors Map:** 32 04 008 087  
**Area of Impact:** Eel River West

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**Date of Inspection  
and/or Review:** Plan review October 2, 2020  
**Project Staking:** No  
**Navigational Issues:** None  
**Mooring Issues:** None  
**Comments:** I prefer this plan to the one dated 3/5/2008  
**Recommendation:** None

  
\_\_\_\_\_  
Gregg Fraser,  
MES Director/Harbormaster

  
\_\_\_\_\_  
Date

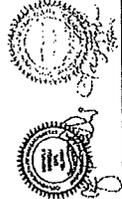


- GENERAL NOTES:**
1. ASSUMED INFORMATION: AS SHOWN ON SET
  2. FLOOD ZONES: 2 & A13 (FROM MAY 25/01/02/03)
  3. ZONING DISTRICT: A2B
  4. WIND EXPOSURE CATEGORY: 3
  5. DESIGN WIND SPEED: 100 MPH (AS PER LOCAL, WIND EXPOSURE DISTRICT)
  6. DESIGN WIND DIRECTION: AS SHOWN
  7. STREET ADDRESS: WILSON STREET
  8. HOUSE NUMBER: 64
  9. TOPOGRAPHIC INFORMATION COMPILED FROM: A) ON THE GROUND SURVEY
  10. ELEVATIONS ABOVE WATER ARE BASED ON NORTH AMERICAN VERTICAL DATUM 1988.
  11. ELEVATIONS BELOW WATER ARE BASED ON MEAN TIDE.

**SITE PLAN - PROPOSED FLOAT**  
 FOR #64 WILSON STREET ROAD  
**STEVEN BALAS**  
 FAIRHAVEN, MA  
 PLAN DATE: JULY 17, 2020 PLAN SCALE: 1" = 10'  
 PLAN SCALE: 1" = 10'

ONLINE ENGINEERING  
 CIVIL ENGINEERING  
 MECHANICAL ENGINEERING  
 ELECTRICAL ENGINEERING  
 PLUMBING ENGINEERING  
 MECHANICAL ENGINEERING  
 PILING AND FOUNDATION  
 CONSTRUCTION ADMINISTRATION

17 ALACRITY LANE, SUITE 200 - FAIRHAVEN, MA - 01924 - 508.463.1233  
 PROJECT NUMBER: 17039 (ON FILE NAME: 17039P 2020) SHEET 01 OF 01



**PROFILE**  
 SCALE: 1/4" = 1' - 0"

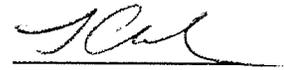
- LEGEND**
- EXISTING 2' CONTOUR
  - EXISTING 10' CONTOUR
  - EXISTING SPOT ELEVATION
  - EXISTING TREE
  - CONCRETE SOUND

# **EXHIBIT E**



64 MUSKEGAT RD

CERTIFIED

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

Bruce Cabral  
Assistant Assessor  
Town of Falmouth  
February 3, 2021

46 MUSKEGAT RD ANDERSON TRUSTEE CHARLENE V CHARLENE V ANDERSON IVEST TR 122 8 LOTS RD SUTTON, MA 01580-1022	32 04 008 068 LUC: 101	82 CENTRAL AVE FROMM GREGORY P 82 CENTRAL AVE EAST FALMOUTH, MA 02536	32 04 008 071 LUC: 101	32 TASHMOO DR SAUNDERS TRUSTEE SHIRLEY R GOSNOLD REALTY TRUST 933 CENTRE ST NEWTON, MA 02459-1235	32 04 008 083 LUC: 101
47 MUSKEGAT RD AUGUSTA RE MGMT LLC 670 TEATICKET HWY E FALMOUTH, MA 02536	32 04 008 072 LUC: 130	11 TASHMOO DR GOLDMAN TRUSTEE ALAN I GOLDMAN TRUSTEE MARILYNNE A 11 HOLLY WAY FRAMINGHAM, MA 01701-4854	32 04 008B 000A LUC: 101	28 TASHMOO DR SAUNDERS TRUSTEE SHIRLEY R 28 TASHMOO NOMINEE TRUST 933 CENTRE ST NEWTON, MA 02459-1235	32 04 008 084 LUC: 101
64 MUSKEGAT RD BALAS STEVEN M 64 MUSKEGAT RD EAST FALMOUTH, MA 02536	32 04 008 087 LUC: 101	4 SCALLOP COVE GOMATOS THEOPHILOS S GOMATOS SANDRA C 5 LANTERN LN LEXINGTON, MA 02421	32 04 005 002 LUC: 101	110 CENTRAL AVE SHAW DIANE 110 CENTRAL AVE EAST FALMOUTH, MA 02536	32 04 006 000 LUC: 101
53 MUSKEGAT RD CHAPMAN SHARON L CHAPMAN KENNETH S 57 MUSKEGAT RD E FALMOUTH, MA 02536-6243	32 04 008 073 LUC: 130	8 CANAPITSIT DR HYNES JOHN N HYNES JEANNE A 8 CANAPITSIT DR E FALMOUTH, MA 02536	32 04 008 067 LUC: 101	98 CENTRAL AVE SPIVEY GEORGE R SPIVEY RUTH B 98 CENTRAL AVE EAST FALMOUTH, MA 02536	32 04 008 089 LUC: 101
57 MUSKEGAT RD CHAPMAN SHARON L CHAPMAN KENNETH S 57 MUSKEGAT RD E FALMOUTH, MA 02536-6243	32 04 008 075A LUC: 101	2 SCALLOP COVE JONES ROSEMARY A PO BOX 86 E FALMOUTH, MA 02536-0086	32 04 005 001 LUC: 101	19 CANAPITSIT DR WALKER JAMES R WALKER SANDRA L 22 VILLAGE GREEN LN HOLDEN, MA 01520	32 04 008 081 LUC: 101
63 MUSKEGAT RD CHAPMAN STEPHEN CHAPMAN DAWN 63 MUSKEGAT RD EAST FALMOUTH, MA 02536	32 04 008 088 LUC: 101	50 MUSKEGAT RD KACHADOORIAN S MICHAEL PO BOX 751 E FALMOUTH, MA 02536	32 04 008 077 LUC: 101	22 TASHMOO DR WENTWORTH TRUSTEE JASON KUTTASHIMOO REALTY TRUST 1 MONTCLAIR DR AUBURN, MA 01501	32 04 008 085 LUC: 101
21 TASHMOO DR COLAGIOVANNI MARIO COLAGIOVANNI ELAINE 21 TASHMOO DR EAST FALMOUTH, MA 02536	32 04 008B 000B LUC: 101	13 CANAPITSIT DR MATTA TRUSTEE EDWARD MATTA TRUSTEE SHIRLEY R 311 N WARREN AVE BROCKTON, MA 02301-2623	32 04 008 079 LUC: 101	2 PAOLA DR WILSON TRUST JOANNE E JOANNE E WILSON TRUST 2 PAOLA DR EAST FALMOUTH, MA 02536-6138	32 03 011A 001 LUC: 101
18 TASHMOO DR DUNDULIS FRANK DUNDULIS PATRICIA E 18 TASHMOO DR E FALMOUTH, MA 02536	32 04 008 086 LUC: 101	88 CENTRAL AVE NELSON MARY E 3 CLEMENT PL MERRIMAC, MA 01860	32 04 008 074 LUC: 101		
12 CANAPITSIT DR FAY III JOHN J 12 CANAPITSIT DR E FALMOUTH, MA 02536-6211	32 04 008 066 LUC: 101	0 CANAPITSIT DR OFF PACHECO ROBERT B 25 CANAPITSIT DR E FALMOUTH, MA 02536	32 04 008E 000 LUC: 210		
18 CANAPITSIT DR FERHANI MALEK FERHANI NACHIDA 55 ALPENA AVE DEDHAM, MA 02026	32 04 008 064 LUC: 101	5 CANAPITSIT DR PENTIKIS ANTHONY P PO BOX 901 E FALMOUTH, MA 02536	32 04 008 078 LUC: 101		



## Diane Davidson

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**From:** Diane Davidson  
**Sent:** Wednesday, February 3, 2021 1:01 PM  
**To:** Jennifer Lincoln; Gregg Fraser - Marine & Environmental Services (gregg.fraser@falmouthma.gov); Charles Martinsen  
**Cc:** Amy Coughlin  
**Subject:** Wetlands/Dock Hearings  
**Attachments:** Wetlands-Dock - Pentikis - 5 Canapitsit Drive - 2-22-21.pdf; Wetlands-Dock - Balas - 64 Muskegat Road - 2-22-21.pdf; Wetlands-Dock - Kachadoorian - 50 Muskegat Road - 2-22-21.pdf; Wetlands-Dock - Dundulis - 18 Tashmoo Drive - 2-22-21.pdf

To all,

On Monday, February 22, 2021 the Select Board will hear four wetlands/dock special permit applications, all located in Eel Pond Canal.

Attached are copies of the following applications for your review:

1. Pentikis – 5 Canapitsit Drive, East Falmouth
2. Balas – 64 Muskegat Road, East Falmouth
3. Kachadoorian – 50 Muskegat Road, East Falmouth
4. Dundulis – 18 Tashmoo Drive, East Falmouth

If you have any additional materials or comments you would like to included in the meeting packet for the Select Board, please email to me by Wednesday, February 17, 2021.

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](mailto:diane.davidson@falmouthma.gov)  
(508) 495-7321*