



TOWN OF WESTWOOD
COMMONWEALTH OF MASSACHUSETTS

TOWN COUNSEL

April 1, 2022

Heidi M. Zisch, Counsel
MassDEP-Office of General Counsel
Northeast Regional Office
205B Lowell Street
Wilmington, MA 01887

Dear Attorney Zisch,

Re: Request of Superseding Order
DEP #338-706
Joanne Delapa, Applicant
14 Mill Street, Westwood

I write this letter on behalf of the Town of Westwood and its Conservation Commission.

Ms. Delapa recently filed a request for a Superseding Order of Conditions ("SOC Request") for property at 14 Mill Street in Westwood. The Westwood Conservation Commission denied the proposed project because it does not comply with the State and Town of Westwood wetlands regulations.

My purpose is to seek clarification of several points raised by the appeal, and to insure a complete record. Dan Bailey at Pierce Atwood is the Town's outside permitting and environmental counsel and he suggested that I write to you.

This is the third attempt in approximately the last ten years to obtain wetlands approvals for a single family dwelling at this property. All three applications have been denied by the Commission.

At least one of the prior Commission decisions was appealed to the Department. The Town does not have complete records of the applicant's and its predecessors' submissions to the Department. Accordingly, we would request proof of submittals of all correspondence from the DEP and the applicant to the Westwood Conservation Commission regarding the 14 Mill Street property. This should cover the time frame from 2016 to the present. The Commission appears to have no records of receipt and we wish to inquire why the re-application was delayed for 4 years. We also are

curious as to the significant change in the Statement of Conditions written by the DEP. Gary Bogue was the environmental scientist assigned by the DEP.

It also appears as though the change reversed the Commission's clear finding that the pond is not a pond for the purpose of riverfront regulations and therefore the riverfront boundaries continued through the impoundment. The new plan does not flag and extend the riverfront boundaries upstream off the roadway as required by the DEP. Further, there is no discussion that the Town has determined in the past that the lot may not be buildable.

Flood plain elevation has been recently questioned again by DEP, as well as the Commission, based on mapping in the Oliver system and apparently recent changes made by FEMA. I would point out their own plans show, for example, a spot shot water level under normal conditions is a half foot higher than the floodplain elevation they show at the same location.

I would also point out the changed condition so the impoundment elevation and the discharge is only via the swale closest to the proposed house, and that there is an active beaver dam at the dam spillway. The changed condition is a valid point to the environmental and regulatory aspect of the project's impact.

Also, now that DEP action is required, is a MEPA filing also required?

We look forward to hearing your response to these issues and whatever else you believe helps explain the situation.

Sincerely,



Patrick J. Ahearn, Esq.
Town Counsel
Town of Westwood
50 Carby Street
Westwood, MA 02090

Cc: Daniel J. Bailey III (via e-mail)
Matthew Watsky (via e-mail)
Scott Goddard (via e-mail)
Karon Catrone (via e-mail)
Brian Donahoe (via e-mail)

TOWN OF WESTWOOD

Commonwealth of Massachusetts

Joseph E. Previtera, Chairman
Leo J. Crowe
Eugene E. Elmes
Barry D. Hoffman
John C. Masterson

Christopher Poreda
Richard P. Thompson
Suzanne R. Wall, Associate
Anne T. Cadigan, Associate



CONSERVATION COMMISSION

MEMORANDUM

TO: Westwood Conservation Commission

FROM: Alice P. Smith

SUBJECT: DEP 338-0303 – Review Lot 2B Mill Street
Plan: Proposed Site Plan of Land, Lot 2B Mill Street in Westwood, MA:
Dated: March 9, 2001

DATE: April 23, 2001

Executive Summary

Recommendations

The site is an interesting one from a regulatory perspective. There are several resource areas including Land Subject to Flooding, Riverfront area, 100 foot buffer to bordering vegetated wetlands, Restricted Wetlands, and 10 foot no disturb buffer. The proposal currently before the commission is for a single family residence on a small rise of land surrounded by wetlands. Access to the house is via a proposed driveway requiring a wetland crossing.

The plan and Notice of Intent filing lacks sufficient information for the Commission to be able to make a decision concerning the impacts related to this development. I have requested several modifications to the NOI and revisions to the plan submitted with the NOI. I recommend that the Commission vote to request that the applicant provide the information detailed in the Plan Review and that the public hearing be continued to a date which allows sufficient time for the applicant to make the revisions.

Plan Review

The plan does not show either the 100' buffer to BVW or the 10' no disturb buffer around any wetlands, streams, etc.

The driveway access requires a wetland crossing. No information is provided in the NOI filing to address the 10' no disturb issues.

The plan indicates that the proposed utilities are brought to the house via a right of way on the adjacent lot. The Notice of Intent does not indicate that work is proposed on another map and parcel. This may influence the abutter list and subsequently the proper notification of abutters for a public hearing.

The proposed utilities and work in the driveway require a stream crossing of Mill Brook. No detail is provided as to how the stream crossing is to be undertaken. No detail is provided concerning the work required to install the utilities, (i.e. trenching, bedding to be used, size and type of pipe, ground water elevations, plans for dewatering etc.)

Flood Control and Storm Damage Prevention: This site is extremely susceptible to flooding. The proposed house is on a very small island and the foundation takes up most of the square footage of the land above the 100 year floodplain. The basement may be below the annual high groundwater elevation. I have asked the engineer to provide a soil profile at the location of the proposed house.

This should give the Commission some indication of the annual high groundwater elevation

*NOTIFICATION of Abutters
NCT filed under*

Wetland Delineation

I conducted a review of the wetland flagging on April 10, 2001. The site was not flagged. The applicant's representative was notified immediately after my site visit and again on April 23, 2001. To date nothing has been done to address the flagging situation and the wetlands cannot be verified until the flags are in the field.

Restricted Wetlands

310 CMR 10.53(2) General Provisions: provides that "When the site of a proposed project is subject to a Restriction Order which has been duly recorded under the provisions of M.G.L. c. 131 §40A, such a project shall conform to both the provisions contained in that Order and 310 CMR 10.51 thru 10.60."

On April 24, 1974 the State recorded a Restriction Order on several wetlands in the Town of Westwood (See Book 5033, Page 256 at the Norfolk Registry of Deeds). The Order Under M.G.L. c. 131 § 40A regulates and restricts the inland wetlands for the purpose of preserving flood plain areas, water resources, wildlife, etc. Under the Restriction Order, few uses are permitted on land affected by the order. With respect to roadways to be constructed after 1974, the Order permits only

"the construction and maintenance of a driveway of minimum legal and practical width where alternative means of access from a public way to unrestricted land of the same owner is unavailable."

Little written information concerning the minimum legal and practical width of a private driveway is available. However, the Town Engineer has indicated that the minimum legal and practical width of a private driveway is 12 feet. Typically, driveways run 12 to 14 feet. This is distinct from the minimum width of 18 feet for a *fire lane* as described by Chief Scoble defined.

Lot 2B contains Restricted Wetland #44 on site. A copy of the Order is attached to this report. The plan does not reflect the location of the Restricted Wetland. The NOI page 5 of 8, question number 3 asks whether there are restricted wetlands on the site. The applicant has answered that no to this question. This needs to be changed to reflect the existence of restricted wetlands on the site. I have asked the engineer for a copy of the plan filed at the registry of deeds showing the restricted wetland. I have also asked the engineer to revise the plan and provide an overlay of the restricted wetland boundary on the wetlands as they are flagged in the field.

Riverfront Area

A large portion of the lot is in riverfront area. Riverfront area regulations, like regulations related to limited status projects, require the commission to investigate reasonable, equivalent alternatives that minimize impacts to the resource areas. The alternative of using the 20' wide driveway and utilities easement as the driveway access to the house presents a design that significantly reduces the impacts to *all* resource areas.

310 CMR 10.58(3) Riverfront Area: Presumption. states that where a proposed activity involves work within the riverfront area, the Commission *shall* presume that the riverfront area is significant to protect the interests under the Act. "This presumption is rebuttable and may be overcome by a clear showing that the riverfront area does not play a role in the protection of one or more of these interests."

This is the first thing that needs to be decided in reviewing projects within the riverfront area. Has the applicant proven that the riverfront area does not play a role in the protection of the interests stated M.G.L. c. 131, § 40 and 310 CMR 10.58(3)?

If the answer is yes, then the Commission is charged with writing an Order of Conditions in which the grounds for its determination are documented. If the answer is no, then the commission must proceed through the performance standards to find a substantially equivalent economic alternative to the proposed work that minimizes impacts to the resource areas.

310 CMR 10.58(4) Riverfront Area: General Performance Standard. Where the presumption is not overcome, the applicant is required to prove that "there are no practicable and substantially equivalent economic alternatives to the proposed project with less adverse effects on the interests identified in M.G.L. c. 131 §40 and that the work, including proposed mitigation, will have no significant adverse impact on the riverfront area to protect the interests identified in" the Act.

Westwood Wetland Protection Bylaw, Article 18, 10 Foot No Disturb Buffer

Members of the Commission are urged to re/read Article 18, Section 2, 3, (paragraph 3) and section 8k concerning the 10' no disturb zone as it applies to this filing. The Commission will need a vote to issue a decision on work in the buffer.

The applicant has not provided information showing how the work proposed in the 10 foot buffer will "materially benefit" the wetland as required by Article 18, section 8k. The applicant has yet to present information to overcome the presumption under Article 18, section 3, paragraph 3 that work within the no disturb zone will alter the wetland.

Comments

The Commission may wish to request that the applicant continue the public hearing until the requested information is provided and the plans are revised.



TOWN OF WESTWOOD

COMMONWEALTH OF MASSACHUSETTS

TOWN COUNSEL

April 1, 2022

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Town of Westwood
Commonwealth of Massachusetts



John Rogers, Chairman
Stephen David
Helen Gordon
Vesna Maneva
Todd Sullivan
Todd Weston

Karon Skinner Catrone, Conservation Ag.
kcatrone@townhall.westwood.ma
(781) 251-25

CONSERVATION COMMISSION

Minutes: Conservation Commission Meeting Date:
Wednesday, November 10, 2021
Remote Meeting

7:00 p.m. - Call to Order

The Westwood Conservation Commission meeting of Wednesday November 10, 2021, at 7:00 PM. is being held through Zoom due to the COVID-19 state of emergency and in compliance with the Governor's March 12, 2020 Order suspending certain provisions of the Open Meeting Law MGL C. 30A, §18 and the Governor's March 23 Emergency Order imposing limitations on the number of people that may gather in one place.

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/81985176514?pwd=QTdGOHINSTR5bXpZb1ByL2tFa1cyQT09>

Passcode: 110152

Or Telephone:

877 853 5257 (Toll Free) or 888 475 4499 (Toll Free) or 833 548 0276 (Toll Free) or 833 548 0282 (Toll Free)
Webinar ID: 819 8517 6514

The following members are present: Stephen David (acting chairperson), John Rogers, Todd Sullivan, Todd Weston, and Vesna Maneva. Conservation Agent, Karon Skinner Catrone was also present.

Mr. David announces this meeting is being recorded.

Action Items:

1. Request for Minor Modification – DEP #338-0700 – 230 High Street - Ms. Catrone states under Order of Conditions DEP #338-0700, the applicant was required to complete the following:

The first phase of invasive plant removal shall be performed prior to start of construction, then at least twice a year for three years. After the first phase of removal has been completed the area shall be either seeded with an approved seed mix, or revegetated with approved plants and covered with 3 inches of shredded bark mulch, to minimize the regrowth of the invasive plants. A monitoring report must be submitted to the Commission twice a year (before June 1 and November 1) describing the health of the new plantings and the status of the invasive removal plan.

Ms. Catrone states on 12/1/2020 she met on site with Jack Grey for a pre-construction meeting. At that time Mr. Grey was informed of this special condition. This work was not completed prior to construction. In early October the invasive plants were removed and the area and the area was covered with mulch. The applicant has contracted Parterre Ecological to manage the invasive removal. Miles Connors of Parterre, present, has recommended planting be done in late spring after the area has been treated (if needed) in early spring.

The modification is a request to deviate from the requirements of the Order and plant in the late spring of 2022. The applicant is currently being fined under the Special Permit issued by the Zoning Board. This modification would cease these fines.

Mr. David asks Mr. Connors if he is under contract with the owner of 230 High Street.

Mr. Connors responds he is under contract with the owner.

Motion made by Mr. Rogers, seconded by Ms. Maneva, to approve the Request for Minor Modification to allow planting to be done in the spring of 2022. Unanimous.

2. Request for Minor Modification – DEP #338-0688 – 169 Mill Street - Applicant not present. Tabled to the meeting of December 8, 2021 at 7:00 pm.
3. Request for Minor Modification and Certificate of Compliance – DEP #338-0406 – 105 Beechnut Road - The applicant is requesting a minor modification for deviations to the approved plan which include: A pavestone patio was installed to the rear of the dwelling (700 sq. ft.), a paved section of the driveway along

the southerly side of the dwelling goes into the 100' buffer zone (300 sq. ft.) and the edge of the lawn is slightly larger than what is shown on the approved plan (600 sq. ft.).

Motion made by Mr. Sullivan, seconded by Mr. Rogers to accept the modification as minor and issue a Certificate of Compliance. Unanimous.

4.

Approval of Minutes: Consideration of Minutes for Meeting of October 13, 2021 and October 27, 2021.

Public Hearings:

Mr. David recuses himself from the next hearing.

42 Mill Street – Notice of Intent - DEP #338-0706 – Delapa – continued from 9/8/21

The Commission opened the public hearing and reviewed copies of the Notice of Intent for 42 Mill Street for proposed construction of a single- family dwelling, including the following:

1. WPA Form 3 – Notice of Intent, submitted by Goddard Consulting of 291 Main Street, Suite 8, Northborough, MA 01532 dated June 18, 2021 revised October 8, 2021, including twenty-four (24) pages;
2. Plan titled “PROPOSED SITE PLAN OF LAND LOT 2B – MILL STREET WESTWOOD, MASSACHUSETTS” dated 11/2/18 revised 7/3/21 drawn by GLM Engineering Consultants, Inc. of 19 Exchange Street, Holliston, MA 01746, including three (3) sheets;

Present is Tim McGuire of Goddard Consulting LLC representing Joanne Delapa, owner of 42 Mill Street.

Mr. Rogers states the Commission has discussed this project in great length. We have a draft decision. He asks if there are any questions from the commission or the public before he makes a motion to deny the project.

Mr. McGuire asks if the Commission received his request to withdraw the Notice of Intent under the bylaw.

Ms. Catrone states the Commission is aware and (according to Town Counsel) they can accept the request to withdraw at their discretion.

Mr. Weston states he would like to deny under the state and bylaw.

Mr. McGuire states he would like to request a continuance for the Notice of Intent under the bylaw.

Mr. Sullivan states we have spent a lot of time on the project.

Mr. McGuire states we did not receive correspondence from the town that both the state and bylaw were going to be denied. He states if he had known both were going to be denied he would have requested another continuance to discuss this internally at his office.

Mr. Rogers states he is making a final request for comment from the Commission or the public.

Artur Yudzinsky asks if the applicant have the ability to keep coming back to the Commission.

Mr. Rogers explains if DEP upholds the Commission’s decision, they can come back to the Commission in three years.

Mr. McGuire states he would like to clarify that we have asked that the Notice of Intent be withdrawn under the bylaw and we have requested a continuance of the Notice of Intent under the bylaw and both have been denied.

Motion made by Mr. Rogers, seconded by Mr. Weston, to deny the request to withdraw the Notice of Intent under the bylaw, to deny the request to continue the Notice of Intent under the bylaw and to deny the Order of Conditions under both the state and the bylaw. The site is very difficult and the applicant has not demonstrated that the project can meet the performance standards of the Wetland Protection Act or the Westwood Wetland Bylaw. Unanimous.

Mr. David joins the meeting.

346 Gay Street – Notice of Intent - DEP #338-0729 – Forrester – continued from 9/8/21

The Commission opened the public hearing and reviewed copies of the Notice of Intent for 346 Gay Street for proposed construction of a new garage, including the following:

1. WPA Form 3 – Notice of Intent Application and Wetland Resource Area Analysis, submitted by LEC Environmental Consultants, Inc. of 380 Lowell Street, Suite 101 Wakefield, MA 01880 dated October 20, 2021, including forty-five (45) pages;
2. Plan titled “PROPOSED SITE PLAN 346 GAY STREET WESTWOOD, MA” dated 10/15/21 revised 11/8/21 drawn by R J O’Connell and Associates, Inc. of 80 Montvale Avenue, Stoneham, MA 02180 including one (1) sheet;

Present is Julia Hoogebom representing Robert and Rebecca Forrester, owners of 346 Gay Street, also present.

Ms. Hoogebom states the Forresters are proposing to demolish a portion of the existing garage, reconstruct a larger garage addition, construct a breezeway and extend and expand the driveway with pervious pea stone. She explains the compost sock is shown tighter to the work at the request of Ms. Catrone and infiltration has been added to the

plan. The project will result in a net reduction of impervious surfaces on the site by 120 sq. ft. so overall runoff will decrease.

Ms. Catrone states the applicant must file with the Zoning Board for 3-bay garage and accessory apartment. After some discussion the Commission agrees to continue the project to January 26, 2022 to allow the applicant to present to the Zoning Board.

Mr. David states if the applicant decides to pave the driveway we will need to revisit the calculations.

Motion made by Mr. Rogers, seconded by Ms. Maneva to continue the hearing to January 26, 2022 at the request of the applicant. Unanimous.

Discussion Items:

1. Commissioners' observations around town and next scheduled site visits
2. Current significant projects
3. Reserved for topics not reasonably anticipated to be discussed
4. Actively make buyers, property owners and realtors aware of WPA, wetland ordinance and stormwater ordinance
5. Brief Select Board on Concom and need for Conservation Land Management Plan

Upcoming Meeting: 12/8/2021 REMOTE PARTICIPATION

Note: Agenda items and order subject to change

Motion made by Mr. Sullivan, seconded by Mr. David, to adjourn the meeting. Unanimous.



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

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner

December 19, 2016

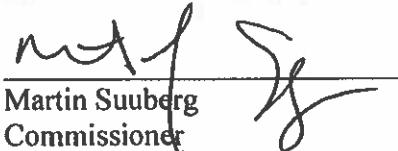
In the Matter of
Anthony Delapa, Delapa Properties

Docket No. WET-2016-022
File No. 338-0594
Westwood

FINAL DECISION

I have reviewed the attached Settlement Agreement signed by the applicant's representative Matthew Watsky, Esq. on November 10, 2016, and by Eric Worrall, Regional Director for the Department on November 21, 2016. The Department issues this Final Decision incorporating the Settlement Agreement and Final Order of Resource Area Delineation, which I have also reviewed.

Under the terms of 310 CMR 1.01(8)(c), these proceedings are dismissed with the parties waiving whatever rights they may have to further administrative review before the Department as well as appeal to court.


Martin Suuberg
Commissioner

SERVICE LIST

In The Matter Of:

Anthony Delapa, Delapa
Properties

Docket No. WET-2016-022

File No. SORAD/338-0594
Westwood

Representative

Matthew Watsky, Esq.
30 Eastbrook Road, Suite 301
Dedham, MA 02026
matt@watskylaw.com

Party

APPLICANT/PETITIONER
Anthony Delapa, Delapa
Properties

Dana Muldoon

DEPARTMENT

Mass DEP Office of General
Counsel
One Winter Street
Boston, MA 02108
Dana.Muldoon@state.ma.us

Cc:

Gary Bogue
MassDEP Northeast Regional
Office
205B Lowell Street
Wilmington, MA 01887
Gary.Bogue@state.ma.us

DEPARTMENT

Westwood Conservation
Commission
c/o Karon Skinner Catrone
50 Carby Street
Westwood, MA 02090
kcatrone@townhall.westwood.ma.us

CONCOM

Date: December 19, 2016



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 4B – Final Order of Resource Area Delineation
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:
338-0594
Provided by DEP

B. Order of Delineation

The Department has determined the following (check whichever is applicable):

- Accurate:** The boundaries described on the referenced plan(s) above and in the Abbreviated Notice of Resource Area Delineation are accurately drawn for the following resource area(s):

- Bordering Vegetated Wetlands
 Other Resource Area(s), specifically:
-
-

- Modified:** The boundaries described on the plan(s) referenced above, as modified by the Department from the plans contained in the Abbreviated Notice of Resource Area Delineation, are accurately drawn for the following resource area(s):

- Bordering Vegetated Wetlands
 Other Resource Area(s), specifically:

Mill Brook perennial stream/Riverfront Area. Note that Riverfront associated with portions of Mill Brook off site extending north of wetlands flag GC37 has not been delineated. Prior to submission of an NOI, the culverted portion of Mill Brook will be survey located and the extent of riverfront, and whether it impacts the site, will be determined.

- Inaccurate:** The boundaries described on the referenced plan(s) and in the Abbreviated Notice of Resource Area Delineation were found to be inaccurate and cannot be confirmed for the following resource area(s):

- Bordering Vegetated Wetlands
 Other Resource Area(s), specifically:
-
-

The boundaries were determined to be inaccurate because:



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 4B – Final Order of Resource Area Delineation
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:
338-0594
Provided by DEP

B. Order of Delineation (cont.)

This Final Order of Resource Area Delineation determines the boundaries of those resource areas noted above and is binding as to all decisions rendered pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c.131, § 40) and its regulations (310 CMR 10.00) regarding such boundaries. This Order does not, however, determine the boundaries of any resource area or Buffer Zone to any resource area not specifically noted above, regardless of whether such boundaries are contained on the plans attached to this Order or to the Abbreviated Notice of Resource Area Delineation.

Signature:

Martin Suuberg
Commissioner, MassDEP

This Order is valid for three years from the date of issuance.

This Order is issued to the applicant and the property owner (if different) as follows:

by hand delivery on _____

Date _____

by certified mail

12/19/16 #7003 3110 0001 6100 0942
Date _____



**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 4B – Final Order of Resource Area Delineation
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40**

DEP File Number:
338-0594
Provided by DEP

C. Appeals

NOT APPLICABLE



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

ATTACHMENT B

Department of Environmental Protection

Northeast Regional Office • 205B Lowell Street, Wilmington MA 01887 • 978-694-3200

Charles D. Baker
Governor

Matthew A. Beaton
Secretary

Karyn E. Polito
Lieutenant Governor

Martin Suuberg
Commissioner

August 25, 2016

Anthony Delapa
Delapa Properties
511 Washington Street
Norwood, MA 02062

RE: WETLANDS/WESTWOOD
DEP File# 338-0594
42 Mill Street
Superseding Order of
Resource Area Delineation

Dear Mr. Delapa:

The Northeast Regional Office of the Massachusetts Department of Environmental Protection, Wetlands Program (MassDEP), has completed its review of the above-referenced file in preparation to issuing a Superseding Order of Resource Area Delineation. Pursuant to the provisions of Massachusetts General Laws, Chapter 131, Section 40, MassDEP is issuing the attached Superseding Order of Resource Area Delineation (SORAD), confirming the delineated wetland boundaries on the site as inaccurate based upon a review of the information contained in the file and observations made during site evaluations. In addition, Mill Brook is determined to be a perennial stream.

The Westwood Conservation Commission (WCC) issued an Order of Resource Area Delineation (ORAD) on November 9, 2015, finding the delineation of the Bordering Vegetated Wetland (BVW) as inaccurate and also finding Mill Brook as a perennial stream. The WCC also indicated that there might be a potential vernal pool on the site.

On November 20, 2015, you appealed the ORAD claiming that the WCC had no basis in fact to make their decision. Your claim that Mill Brook is intermittent is based on four photographs covering the dates of September 1-4, 2014 showing a dry stream bed at the outlet below the dam of the impoundment. No photographs were taken of the impoundment and its inlet at this time. You also claim that a portion of the intermittent stream channel along the driveway to the 44 Mill Street residence is not a BVW and therefore not jurisdictional.

On December 16, 2015, MassDEP conducted a site inspection and met with your consultant and representatives of the WCC. At this time, water was observed in the impoundment and Mill

Westwood, 42 Mill Street

DEP File # 338-0594

Superseding Order of Resource Area Delineation

Page 2

Brook. Additionally, two more site visits were made with this group to confirm wetland boundaries at the site using soils and vegetation.

The undeveloped site contains approximately half of a 2.55 acre shallow impoundment of Mill Brook and both wooded upland and BVW. An existing driveway from Mill Street to 44 Mill Street is parallel to the 42 Mill Street property line. An intermittent stream channel that was probably originally dug for drainage runs alongside the driveway on the 42 Mill Street property and joins Mill Brook. The intermittent stream flows through a small, partially-blocked culvert under what appeared to be a vehicle crossing from the driveway. Flowing water was not observed in the intermittent stream channel during any of the site visits.

The Riverfront regulations at 310 CMR 10.58(2) define a perennial stream using different criteria depending on the information known about the stream and its watershed. Specific criteria include the following: the stream is shown as perennial on a USGS topographic map, has a watershed size greater than or equal to one square mile, has a watershed area of at least one-half (0.50) square miles and a predicted flow rate greater than or equal to 0.01 cfs at the 99% flow duration using the USGS StreamStats program, and is perennial under natural conditions. This definition is further refined by 10.58(2)(a)1.d. which specifies that streams significantly affected by drawdown from withdrawals of water supply wells, direct withdrawals, impoundments, or other man-made flow reductions or diversions, then it shall be considered perennial.

Mill Brook is shown as a perennial stream on the 1985 Norwood Mass USGS Quadrangle and is within the Neponset River watershed. There are three impoundments on Mill Brook which includes the impoundment on the site. Two of the impoundments are located above the site impoundment. Historically, based on a 1941 USGS Norwood topographic quadrangle, there is no impoundment at 42 Mill Street but just the brook flowing through a wetland area. Furthermore, there is only one impoundment located along Mill Brook on this map.

The USGS StreamStats program calculated the drainage area of Mill Brook to be 1.36 square miles from the dam outlet on the site. The predicted flow rate was calculated at 0.0241 cubic feet per second at the 99% flow duration. Mill Brook enters the impoundment through a shallow channel of wetland vegetation and then flows approximately 400 feet through the impoundment to the dam outlet.

A significant portion of Mill Brook including the impoundment at the site is within the Interim Wellhead Protection Area of a Public Water Supply (PWS) well at Buckmaster Pond in Westwood. In the absence of an approved Zone II recharge area, DEP has adopted the Interim Wellhead Protection Area (IWPA) as the primary, protected recharge area for PWS groundwater sources. The IWPA radius for the PWS well at Buckmaster Pond is 0.5 miles.

Although not a declared drought during the period of time that the photographs were taken of a dry channel below the dam, the region was experiencing a dry period as evidenced by low stream flows and groundwater tables. Data from the USGS for the Water Year 2014 that ran from

Westwood, 42 Mill Street
DEP File # 338-0594
Superseding Order of Resource Area Delineation
Page 3

October 1, 2013 to September 30, 2014 showed very low flows for the Neponset River and low groundwater levels at a USGS Norfolk well during September of 2014. The US Drought Monitor showed the region that includes Mill Brook and its watershed as being abnormally dry on September 2, 2014.

Based on the above information that Mill Brook is shown as a perennial stream on a USGS topographic map with a watershed area greater than one square mile, a predicted flow rate greater than 0.01 cfs, is within the recharge area of a PWS, has two impoundments above the site, and observations were made during an abnormally dry season with below average stream flows and groundwater levels in the area, it is MassDEP's opinion that Mill Brook is a perennial stream subject to the Riverfront regulations pursuant to 310 CMR 10.58.

It is also MassDEP's contention that the impoundment at 42 Mill Street is a run-of-the river impoundment and has primarily riverine characteristics based on its extremely shallow depth (estimated average depth of about 2 feet), small impoundment size compared with its watershed (341 times smaller than the watershed), the short distance between the brook inlet and the dam outlet (approximately 400 feet) which effectively short-circuits the impoundment; and the 1941 USGS quad shows a channel through a wetland area with no impoundment on the site. Therefore, it is MassDEP's opinion that the impoundment is subject to the riverfront regulations at 310 CMR 10.58.

The intermittent channel begins in a wetland area designated by flag D6 on the revised plan dated June 13, 2016 and continues to wetland flag GC52-1 (note that the intermittent channel from D6 to GC54 is located outside of the site's property line). The intermittent stream channel banks were examined for hydric soils and wetland vegetation. Hydric soils were found as well as wetland vegetation along the entire channel with the exception of a short section approximately 10 feet long where the channel lost its definition and then picked up again at its confluence with Mill Brook. It was clear, however, that the entire channel from D6 to its confluence with Mill Brook conveys water during large storm events along its entire length. It is MassDEP's opinion that the intermittent stream channel has bank with BVW.

Concerning vernal pools on the site, there are no confirmed potential or designated vernal pools registered by the Natural Heritage Program.

Please be advised that it is MassDEP's responsibility to address only those interests identified in the Wetlands Protection Act, M.G.L. Chapter 131, Section 40. However, the MassDEP reserves the right, should there be further proceedings in this case, to raise additional issues and present further evidence as may be appropriate. Should any party dispute these findings, please consult the language in the SORAD that specifies your rights and procedures for appeal.

If you have any questions concerning this SORAD, please do not hesitate to contact Gary Bogue at 978-694-3372.

**Westwood, 42 Mill Street
DEP File # 338-0594
Superseding Order of Resource Area Delineation
Page 4**

Sincerely,

A handwritten signature in black ink, appearing to read "Rachel Freed".

Rachel Freed, Deputy Regional Director
Bureau of Water Resources

cc: Westwood Conservation Commission, 50 Carby Street, Westwood, MA 02090
Scott Goddard, Goddard Consulting, 291 Main Street, Suite 8, Northborough, MA 01532
Brian Donahoe, Goldman Environmental Consultants, 60 Brooks Drive, Braintree, MA 02184



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 4B – Superseding Order of Resource Area Delineation

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

DEP File Number:

338-0594

Provided by DEP

A. General Information

From:

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Issuing Authority

This Issuance is for (check one):

- Superseding Order of Resource Area Delineation
 Amended Superseding Order of Resource Area Delineation

To: Applicant:

Anthony Delapa

Name

Property Owner (if different from applicant):

Salvatore Vinci

Name

Delapa Properties
511 Washington Street
Mailing Address

67 Hazelwood Drive
Mailing Address

Norwood	MA	02062
City/Town	State	Zip Code

Norwood	MA	02062
City/Town	State	Zip Code

1. Project Location:

42 Mill Street
Street Address
28
Assessors Map/Plat Number

Westwood
City/Town
013
Parcel /Lot Number

2. Title and Revised Date of Final Plans and Other Documents:

"Wetland Delineation Plan 42 Mill Street Westwood, MA"
Title

Last revised
Date 6/13/2016

3. Final Plans and Documents Signed and Stamped by:

Joyce Hastings, PLS
Name

4. Dates:

11/10/2014
Date ANRAD Filed

Date Public Hearing Closed

11/9/2015
Date of Local Order

5. \$200
Total Filing Fee Paid

\$87.50
State Fee Paid

\$112.50
City/Town Fee Paid



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 4B – Superseding Order of Resource Area Delineation

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

DEP File Number:

338-0594

Provided by DEP

B. Order of Delineation

The Department has determined the following (check whichever is applicable)

- Accurate:** The boundaries described on the referenced plan(s) above and in the Abbreviated Notice of Resource Area Delineation are accurately drawn for the following resource area(s):

- Bordering Vegetated Wetlands
 Other Resource Area(s), specifically:
-
-

- Modified:** The boundaries described on the plan(s) referenced above, as modified by the Department from the plans contained in the Abbreviated Notice of Resource Area Delineation, are accurately drawn for the following resource area(s):

- Bordering Vegetated Wetlands
 Other Resource Area(s), specifically:
-
-

- Inaccurate:** The boundaries described on the referenced plan(s) and in the Abbreviated Notice of Resource Area Delineation were found to be inaccurate and cannot be confirmed for the following resource area(s):

- Bordering Vegetated Wetlands
 Other Resource Area(s), specifically:

Riverfront Area

The boundaries were determined to be inaccurate because:

Inaccurate BVW delineation

Incorrect stream determination



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 4B – Superseding Order of Resource Area Delineation

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

DEP File Number:

338-0594

Provided by DEP

B. Order of Delineation (cont.)

This Order of Resource Area Delineation determines the boundaries of those resource areas noted above and is binding as to all decisions rendered pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c.131, § 40) and its regulations (310 CMR 10.00) regarding such boundaries. This Order does not, however, determine the boundaries of any resource area or Buffer Zone to any resource area not specifically noted above, regardless of whether such boundaries are contained on the plans attached to this Order or to the Abbreviated Notice of Resource Area Delineation.

Signature:

Rachel Freed, Deputy Regional Director
Bureau of Water Resources, NERO

This Order is valid for three years from the date of issuance.

This Order is issued to the applicant and the property owner (if different) as follows:

by hand delivery on _____

by certified mail

Date

8/25/2016

Date



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

**WPA Form 4B – Superseding Order of Resource Area Delineation
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40**

DEP File Number:

338-0594

Provided by DEP

C. Appeals

The applicant, the landowner, any person aggrieved by the Superseding Order, Determination or other Reviewable Decision as defined at 310 CMR 10.04, who previously participated in the proceedings leading to this Reviewable Decision, the conservation commission, or any ten (10) residents of the city or town where the land is located if at least one resident was previously a participant in the permit proceeding, are hereby notified of their right to appeal this Reviewable Decision pursuant to M.G.L. c.30A, § 10, provided the request is made by certified mail or hand delivery to the Department, along with the appropriate filing fee and a MassDEP Fee Transmittal Form within ten (10) business days of the date of issuance of this Superseding Order or Determination, and addressed to:

Case Administrator
Office of Appeals and Dispute Resolution
Department of Environmental Protection
One Winter Street, 2nd Floor
Boston, MA 02108

A copy of the request (hereinafter also referred to as Appeal Notice) shall at the same time be sent by certified mail or hand delivery to the Conservation Commission, the applicant, the person that requested the Superseding Order or Determination, and the issuing office of the MassDEP at:

MassDEP – Northeast Regional Office
Wetlands Program
205B Lowell Street
Wilmington, MA 01887

In the event that a ten resident group requested the Superseding Order or Determination, the Appeal Notice shall be served on the designated representative of the ten resident group, whose name and contact information is included in this Reviewable Decision (when relevant).

Contents of Appeal Notice

An Appeal Notice shall comply with the Department's Rules for Adjudicatory Proceedings, 310 CMR 1.01(6) and 310 CMR 10.05(7)(j), and shall contain the following information:

- (a) the MassDEP Wetlands File Number, name of the applicant, landowner if different from applicant, and address of the project;
- (a) the complete name, mailing address, email address, and fax and telephone numbers of the party filing the Appeal Notice; if represented by consultant or counsel, the name, fax and telephone numbers, email address, and mailing address of the representative; if a ten residents group, the same information for the group's designated representative;
- (b) if the Appeal Notice is filed by a ten (10) resident group, then a demonstration of participation by at least one resident in the previous proceedings that led to this Reviewable Decision;
- (c) if the Appeal Notice is filed by an aggrieved person, then a demonstration of participation in the previous proceeding that lead to this Reviewable Decision and sufficient written facts to demonstrate status as a person aggrieved;
- (d) the names, telephone and fax numbers, email addresses, and mailing addresses of all other interested parties, if known;
- (e) a clear and concise statement of the alleged errors contained in the Department's decision and how each alleged error is inconsistent with 310 CMR 10.00 and does not contribute to the protection of the interests identified in the Wetlands Protection Act, M.G.L. c.131, § 40, including reference to the statutory or regulatory provisions that the party filing the Appeal Notice alleges has been violated by the Department's Decision, and the relief sought, including any specific desired changes to the Department's decision;
- (f) a copy of the Department's Reviewable Decision that is being appealed and a copy of the underlying Conservation Commission decision if the Reviewable Decision affirms the Conservation Commission decision;
- (g) a statement that a copy of the request has been sent by certified mail or hand delivery to the applicant and the conservation commission; and if asserting a matter that is Major and Complex, as defined at 310 CMR 10.04(1), a statement requesting that the Presidne Officer make a designation of Mainr and Complex, with snpecific reasons



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 4B – Superseding Order of Resource Area Delineation

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

DEP File Number:

338-0594

Provided by DEP

Filing Fee and Address

A copy of the Appeal Notice along with a MassDEP Fee Transmittal Form and a valid check or money order payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100) must be mailed to:

Commonwealth of Massachusetts
Department of Environmental Protection
Commonwealth Master Lockbox
P.O. Box 4062
Boston, Massachusetts 02211

The request will be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver. The filing fee is not required if the appellant is a city or town (or municipal agency), county, district of the Commonwealth of Massachusetts, or a municipal housing authority. The Department may waive the adjudicatory hearing filing fee pursuant to 310 CMR 4.06(2) for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file an affidavit setting forth the facts believed to support the claim of undue financial hardship together with the hearing request as provided above.

Karon Catrone

From: Brian Donahoe <bdonahoe@goldmanenvironmental.com>
Sent: Monday, March 28, 2022 3:08 PM
To: Karon Catrone
Cc: Patrick Ahearn
Subject: RE: 42 Mill Street

CAUTION: This email originated from outside of the Town of Westwood Email System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Here are my thoughts as we had discussed last week. I would attach the original DEP SOC and any other pertinent correspondence.

To your point, the proof of submittal of all of the correspondence from DEP and the applicant to the Westwood Conservation Commission regarding their appeal to an adjudicatory hearing.. That would go back to 2016 or so. The Commission has no records of receipt as far as you know and you have checked. Curious as to why the re-application was delayed for 4 years. Where is the acknowledgement/explanation of the significant change to the original SOC written by the DEP, Gary Bogue as the environmental scientist assigned by DEP. The change apparently reversed the clear finding that the pond was not a pond for the purposes of the Riverfront regulations and therefore the riverfront boundaries continued through the impoundment.

The new plan does not flag and extend the riverfront boundaries upstream of the roadway as required by DEP.

There is no discussion that the Town has determined the lot is not buildable.

Flood plain elevation has been recently questioned again by DEP as well as the Commission based on mapping in the Oliver system and apparently changes made by FEMA recently. I would point out their own plans show, for example, a spot shot water level under normal conditions is a half foot higher than the floodplain elevation they show at the same location.

I would also point out the changed condition so the impoundment elevation and the discharge is only via the swale closest to the proposed house, and that there is an active beaver dam at the dam spillway. The changed condition is a valid point to the environmental and regulatory aspect of the projects impact. Should MEPA be asked to review?

Brian Donahoe, Vice President
Environmental Services, Engineering & EHS
Goldman Environmental Consultants, Inc.
100 Grandview-Suite 102
Braintree, MA 02184
Mobile: 617-947-0957
Direct: 781-552-4645
Office: 781-356-9140 ext 114
Fax: 781-328-9205

From: Karon Catrone <kcatrone@townhall.westwood.ma.us>
Sent: Monday, March 28, 2022 10:07 AM
To: Brian Donahoe <bdonahoe@goldmanenvironmental.com>
Cc: Patrick Ahearn <pahearn@townhall.westwood.ma.us>
Subject: [EXTERNAL] 42 Mill Street

Hi Brian,
Just a reminder, can you email the outline we discussed Thursday?
Thank you,
Karon

The Attorney General has determined that email correspondences are public records unless the content of the email falls with one of the stated exemptions under the Public Records Laws

The Attorney General has determined that email correspondences are public records unless the content of the email falls with one of the stated exemptions under the Public Records Laws

Plan #394 H 1469
Book 4594 Page 671

70 - J

Mill & High Street
May 20, 1969

981.3-14

(955-26)

Karon Catrone

From: Kerry Snyder <snyder@neponset.org>
Sent: Monday, July 06, 2020 10:25 AM
To: Karon Catrone
Subject: 42 Mill St. NOI

Good afternoon, Karon,

We've recently been made aware of a proposal to develop the parcel at 42 Mill St. in Westwood. As you know, the parcel includes Mill Brook, a waterway that has been identified as a cold-water fishery by the Division of Fisheries and Wildlife, and is therefore a critical area for preservation. The proposal as written raises several concerns for us:

- The footprint of the proposed project intrudes into the riverfront area, as does the proposed sewer line. It is therefore hard for me to believe that the project can be accomplished without significantly impacting Mill Brook. The addition of impervious surface on this parcel (particularly without appropriate stormwater controls) will add not only polluted runoff to the surrounding resource areas, but also increased temperatures which could critically impact a cold-water fishery.
- The sewer line is proposed to run through a deep marsh to Mill St. This would endanger not only the marsh but also Mill Brook (which runs through it) and is of serious concern to the health of these resource areas.
- While the proposal includes the use of an existing driveway, that driveway lies well within the floodplain, which presents an environmental and public safety hazard. Westwood has been proactive in planning for the impacts of climate change. As you know, climate change is expected to significantly alter precipitation patterns and cause increased flooding events. The fact that the project proposes to use the only elevated portion of the parcel does not eliminate the danger of flood impacts to the resulting development. In fact, we are aware of several high hazard dams in the area which could add to the public safety implications.

In short, this project is problematic in several respects, and the parcel is inappropriate for such development.

Thank you very much for your consideration of this matter. Should you have any questions, please do not hesitate to contact me.

Best,
Kerry

Kerry Malloy Snyder, JD

Advocacy Director



2173 Washington Street

Canton, MA 02021

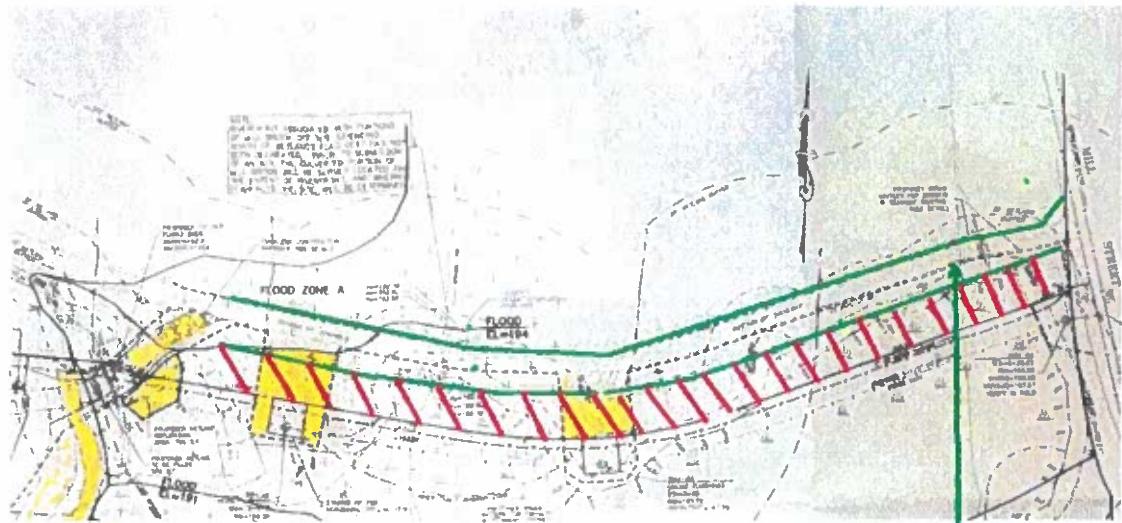
snyder@neponset.org

Office: 781-575-0354 ext. 300

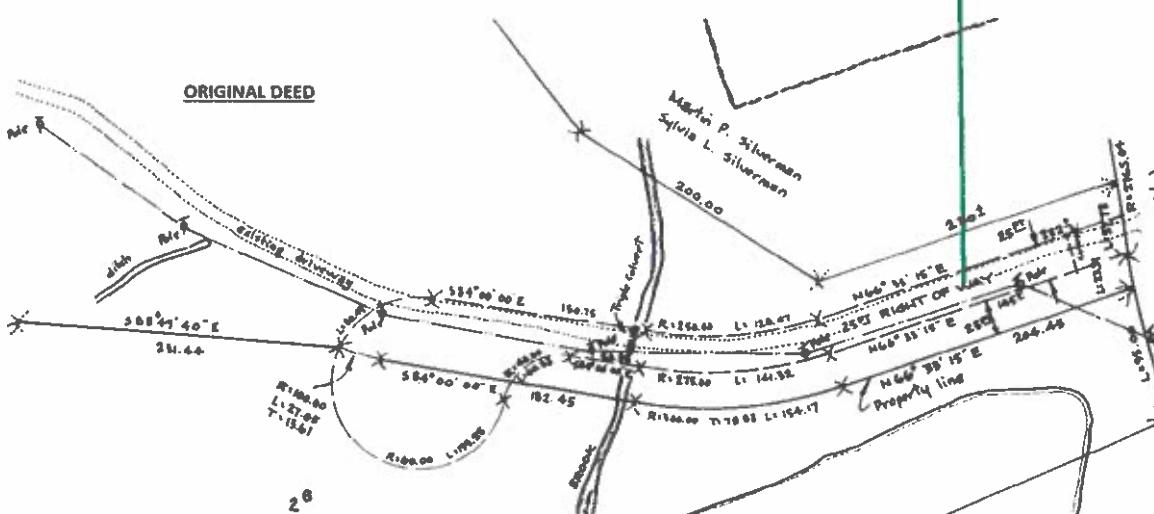
Mobile: 215-260-5610

Pronouns: she/her/hers

The Attorney General has determined that email correspondences are public records unless the content of the email falls with one of the stated exemptions under the Public Records Laws



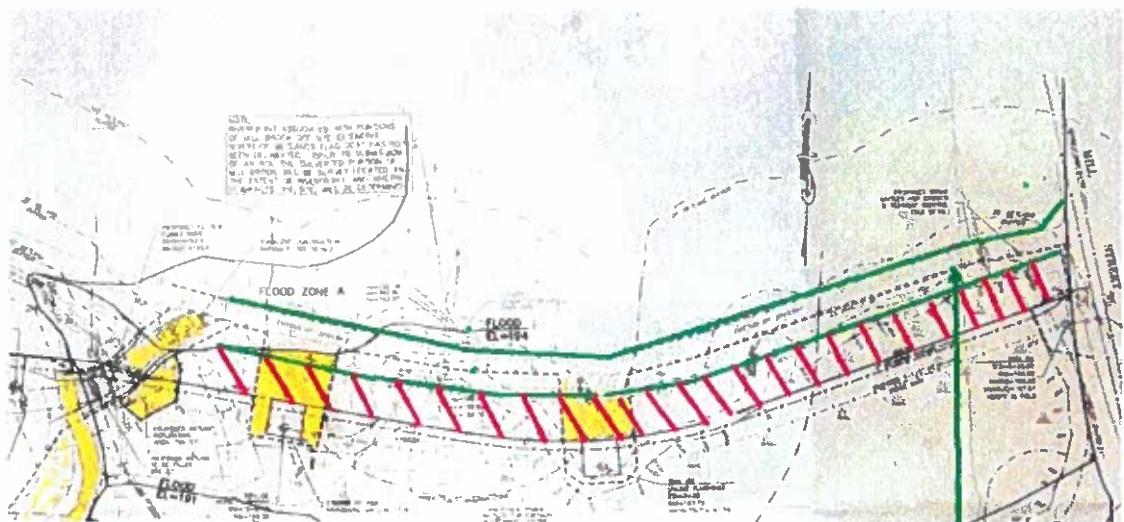
This plan is dated with respect to the surveying and mapping of the property
as of [REDACTED]
and contains a general survey as of such date.



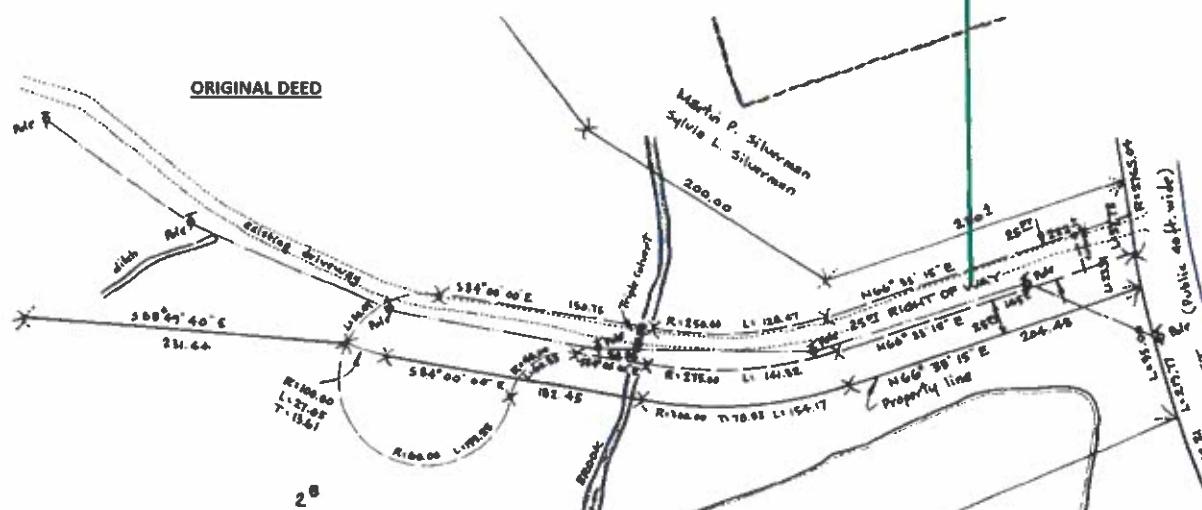
Said premises are bounded by the following Right of Way agreement, hereto:

- (a) To the 14' Common with the Gannett and others, lawfully entitled thereto for purposes of ingress and egress to and from said Lot 28 West portion, crossing the Gannett property, and the 25' Right of Way, as shown on the plan hereinafter mentioned which lies within the limits of a parcel of land situated on Wall Street in Westwood, Norfolk County, Massachusetts, being designated and shown as Lot 7, or a place entitled "Plan of Land in Westwood, Mass."
- (b) The appointment right to pass and repass is limited to private passenger automobiles, trucks, for delivery, delivery trucks, vans, sedans, and non-private passenger vehicles are restricted to passage for fuel delivery, estimated time to end construction of a proposed single family residence.
- (c) The appointment right to pass over said "right of way" on Lot 7 requires the grantee to conduct pump removal of all sand and ice from all personnel and the vehicle and all materials used in the installation of bilge house concrete foundation, on lot 7, in a reasonable condition for passage as aforesaid of a standard similar to acceded streets and ways in the Town of Westwood.
- (d) No vehicles or bicycles may be left standing or parked at any time on the aforesaid "right of way".
- (e) The appointment right conveyed above does not include any right to lay pipes, shovels, dredges, or other structures in, on, or under the aforesaid "right of way".

- 1) My deeded property right is infringed
- 2) Lot 28 proposal exceeds boundary of allowed work WITHIN the 25 ft right of way
- 3) Point e doesn't allow changing grades of the land, which will happen during a trespass as heavy machinery in a marsh, section, will modify the grade.
- 4) Point d doesn't allow standing in the right of way even for a minute, which would be a requirement to clear the area for machinery
- 5) Point b states owner of 2b can pass, and repass over right-of way to construct a house. Not construct test pits, trespass beyond right of way, or stand anywhere in the right of way, or beyond the right of way, or to use the right of way for access in that area to his property.



After the first year, the teacher can choose the best parts of the curriculum and add them to his/her own.



Bad practices are ~~encouraged~~ Following right as opportunity arises.

- (b) The right is common with the Grantor and others lawfully entitled thereto for passage of ingress and egress to and from said land, to all lands, pastures, meadows, fields, orchards and other lands comprising a strip or right of way on the north side of the road leading from the highway to the limits of a parcel of land situated on Hill Street in the town of Northampton, Massachusetts, being designated and shown as lot # 1 in a plan entitled "Plan of Land in Newfield, Mass."

(c) The appurtenant right to pass over said "right of way" on Lot # 1 is granted to the Commonwealth of Massachusetts, its agents and the State Toll Department and the State and private owners of the now existing bituminous concrete pavement, on Lot # 1, for the purpose of allowing free and unimpeded passage of a standard trailer or occupied vehicle along the way in the town of Northwood.

(d) No vehicles or bicycles may be left standing or parked at any time on the aforesaid "right of way."

(e) The appurtenant right expressly above does not include any right to enter upon or cross over or under the aforesaid "right of way" except as hereinabove provided.

- 1) My deeded property right is infringed
 - 2) Lot 2B proposal exceeds boundary of allowed work **WITHIN** the 25 ft right of way.
 - 3) Point e doesn't allow changing grades of the land, which will happen during a trespass as heavy machinery in a marsh, section, will modify the grade
 - 4) Point d doesn't allow standing in the right of way even for a minute, which would be a requirement to clear the area for machinery
 - 5) Point b states owner of 2b can pass, and repass over right of way to construct a house. Not construct test pits, trespass beyond right of way, or stand anywhere in the right of way, or beyond the right of way, or to use the right of way for access in that area to his property.

Karon Catrone

From: Tim McGuire <tim@goddardconsultingllc.com>
Sent: Tuesday, September 7, 2021 9:41 AM
To: Karon Catrone
Cc: Thomas Schutz; Scott Goddard
Subject: Re: 42 Mill St., Westwood

Hi Karon,

I hope you had a nice holiday weekend. We would like to request a continuance on behalf of the applicant of 42 Mill St. from tomorrow's scheduled hearing date to the next available. Can you please confirm when the next meeting date is?

After consultation with the directional drilling company, we have removed the directional drilling pits from the plans as they were previously pointed out to be outside of the right of way. At this time we are finalizing updated impact numbers for the riverfront area and buffer zone and should have all of the revised information submitted this week.

Also, do you have any update on the above mentioned detailed invoice from Brian? Please let us know if you have any questions or concerns.

Thank you,

On Wed, Aug 25, 2021 at 3:31 PM Tim McGuire <tim@goddardconsultingllc.com> wrote:
Hi Karon,

I hope you are having a good summer as well, as quickly as it seems to be going by. Thank you for following up, we are finalizing revisions at this point and should be on track to have the revised information submitted prior to the September 8 hearing date.

Has Brian had the opportunity to pull together the detailed invoice on all work done to date, including time, materials, and deliverables submitted to the Commission that we have requested?

Thank you,

On Wed, Aug 25, 2021 at 10:11 AM Karon Catrone <kcatrone@townhall.westwood.ma.us> wrote:

Hi Tim,

I hope you're enjoying your summer.

Just checking in to see if you have any new material for 42 Mill Street.

Karon

From: Tim McGuire [mailto:tim@goddardconsultingllc.com]
Sent: Wednesday, July 28, 2021 2:38 PM
To: Karon Catrone <kcatrone@townhall.westwood.ma.us>
Subject: Re: 42 Mill St., Westwood

Great, thank you.

On Wed, Jul 28, 2021 at 12:19 PM Karon Catrone <kcatrone@townhall.westwood.ma.us> wrote:

They will vote to continue the hearing to September 8, 2021 at 7:00pm.

Karon

From: Tim McGuire [mailto:tim@goddardconsultingllc.com]
Sent: Wednesday, July 28, 2021 12:15 PM
To: Karon Catrone <kcatrone@townhall.westwood.ma.us>
Subject: Re: 42 Mill St., Westwood

Hi Karon,

Can you please confirm that you have continued the hearing for this project as requested from tonight's meeting to the next available date?

Thank you,

On Mon, Jul 26, 2021, 12:38 PM Karon Catrone <kcatrone@townhall.westwood.ma.us> wrote:

Hi Tim,

I am waiting to hear from the Commission as to whether they want to continue. I'll let you know ASAP.

Karon

Karon Catrone

From: Brian Donahoe <bdonahoe@goldmanenvironmental.com>
Sent: Tuesday, April 27, 2021 10:36 AM
To: Karon Catrone
Subject: RE: 42 Mill Street

Hi Karon, as discussed I have reviewed the package of information submitted to me by the applicant. The submittal does not change any of the design or regulatory parameter except for the relocation of the access driveway onto the applicant property. So the report originally submitted reflects my interpretation of the regulations and the changed conditions due to the water flow blockage and the beaver dam. Also the floodplain map per Mass GIS is not changed in the re-submittal. I will need an increase in the budget to cover the review and attendance at the next hearing. I estimate that will require \$1,000. Let me know if you have any questions. Thanks.

Brian Donahoe, Vice President
Environmental Services & Engineering
Goldman Environmental Consultants, Inc.
60 Brooks Drive
Braintree, MA 02184
Mobile: 617-947-0957
Office: 781-356-9140 x 114
Fax: 781-356-9147

From: Karon Catrone <kcatrone@townhall.westwood.ma.us>
Sent: Monday, April 26, 2021 11:03 AM
To: Brian Donahoe <bdonahoe@goldmanenvironmental.com>
Subject: 42 Mill Street

Hi Brian,

Just checking in on the status of the review for 42 Mill Street in Westwood. Are you waiting for information from the applicant?

FYI – the hearing was scheduled for 4/28/21 but the date was changed to 5/5/21 at 7 pm due to an election on 4/28.

Karon

The Attorney General has determined that email correspondences are public records unless the content of the email falls with one of the stated exemptions under the Public Records Laws

The Attorney General has determined that email correspondences are public records unless the content of the email falls with one of the stated exemptions under the Public Records Laws

Karon Catrone

From: Brian Donahoe <bdonahoe@goldmanenvironmental.com>
Sent: Monday, January 4, 2021 12:16 PM
To: Karon Catrone
Subject: FW: additional review material
Attachments: Combined Attachments Reduced.pdf

Hi Karon, I sent this to you on December 14. If . If u are OK with it then its final. Please call with any questions. The bottom line is the plan still doesn't reflect the true set back and boundary line.

Brian Donahoe, Vice President
Environmental Services & Engineering
Goldman Environmental Consultants, Inc.
60 Brooks Drive
Braintree, MA 02184
Mobile: 617-947-0957
Office: 781-356-9140 x 114
Fax: 781-356-9147

From: Brian Donahoe
Sent: Monday, December 14, 2020 2:23 PM
To: kcatrone@townhall.westwood.ma.us
Subject: additional review material

GEC has continued its review of the materials submitted after the initial documentation was submitted. We are aware that some additional plans may or are being submitted soon that were expected to be submitted for the Commission's last hearing in December. The follow up hearing has been continued until January 2021.

The original plan submitted with the application was resubmitted to address the apparent scale discrepancy. There are additional finding discussed below regarding the review of the plan. Attachments to this email report are noted above.

Attachment A is Figure 6 from the original report in January 2016 show the Brook following a channel for more than 140 feet south into the area of the 'pond' and therefore extends the bank of the perennial stream for that distance. The corresponding river front setbacks will also change due to that condition. The second attachment, B, shows the concrete dam and the dry stream channel in October 2020. Debris of the beaver dam can be seen upstream of the concrete dam. Also note the stream channel in the foreground is approximately 35-40 feet wide. The bank of this channel seems to be shown on the submitted plan following contour 184 whereas the channel that was measured is only 5 feet wide. (See Attachment I) This changes the riverfront setback by about 25 feet closer to the proposed house. The third attachment, C, shows the channel flowing at the same time the concrete dam was dry indicating that it now is the likely perennial stream due to the beaver dam. These two photos were taken during an official drought monitoring period. (see attachment G) The fourth photo D, shows the same channel on December 2 2020 after a 2.5 inch rain fall event from December 1. The fifth picture E, shows the same channel looking downstream. Based on this picture the level of the water at the main channel is approximately elevation 188 using the plan of record. This further expands the point of the perennial stream edge, 25 +/- feet closer to the project site because the edge if the perennial stream is the annual high water mark per the regulations. We continue to maintain as well that this stream is the perennial stream due to the changed condition of the beaver dam and the resulting pathway for the water is this channel as documented here. See attachment J. Furthermore based on this information the Commission has the right to consider the pond to not exist if it is not named on the USGS plan and if the characteristic of the steam can be documented through the impoundment.

Attachment F is the latest FEMA flood map for the 100- and 500- year elevations from the MASS GIS system. Note that the entire site is within the 100 year flood plain including the house location. In fact the entire lot as shown is within the 100 year flood plain.

Attachment H is marked up from the plan of record. We note that the access road to the house is not from the owners lot but from the interior of the abutters lot. The only access from the Right of way is in the proposed location of the force main. This will cause additional wetland impacts to cross the stream located there.

The last attachment is some background regarding the relationship of beavers with the intestinal disease known as Giardia for reference.

Brian Donahoe, Vice President
Environmental Services & Engineering
Goldman Environmental Consultants, Inc.
60 Brooks Drive
Braintree, MA 02184
Mobile: 617-947-0957
Office: 781-356-9140 x 114
Fax: 781-356-9147

The Attorney General has determined that email correspondences are public records unless the content of the email falls with one of the stated exemptions under the Public Records Laws

List of Attachments

- A. Figure 6 from original report – indicating the stream channel flows approximately 140 feet through a vegetated wetland before entering the ‘pond’.
- B. Main concrete dam and channel October 2020 during drought. Note stream bed is 30 -40 feet wide not 5 feet wide.
- C. Spillway channel in earthen dam flowing during drought on same day as main channel was dry.
- D. Same spillway on 12/1 2020 after 2.6 inches of rain confirm that this is the main river and should be treated as such in association with number 10 below
- E. Looking downstream of channel indicating annual high water level of 1888 feet not 184 feet per regulations 10.58 2 (2)
- F. Current 100- and 500-year floodplain per FEMA FIRM from Mass GIS - entire site is in floodplain
- G. Fall 2020 Drought monitor plan indicating extensive drought condition
- H. Plan of land submitted with application indicating the proposed access location is not from the Right of way but within abutter’s property
- I. Plan of land indicating the stream channel width (5 feet) used to establish riverfront setback rather than the channel shown on the plan adjusted per the annual high water elevation of 188 feet.
- J. Regulation 10.58 2 (1) h describing when a pond can be a river which seems to apply to this area and would extend the river front setback.
- K. Background on beavers and the high incidence of Giardia, a contagious disease.



Google Earth Imagery date 4/9/2008

Pond at Mill Brook behind old dam. Note riverine characteristics flowing through the area from north to southwest.



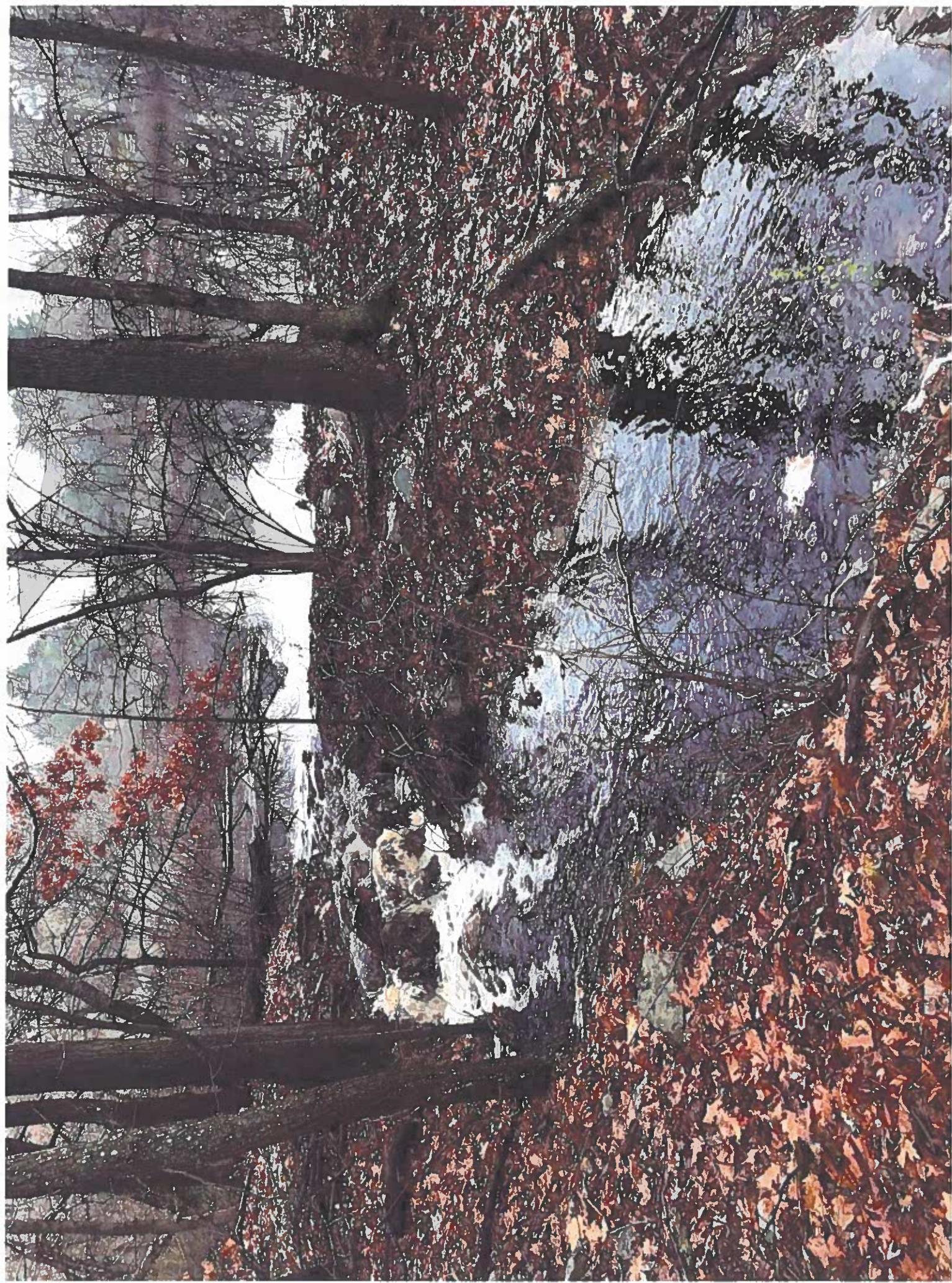
Goldman Environmental Consultants, Inc.
60 Brooks Drive
Braintree, MA 02184
(781)356-9140 Fax (781)356-9147
www.goldmanenvironmental.com



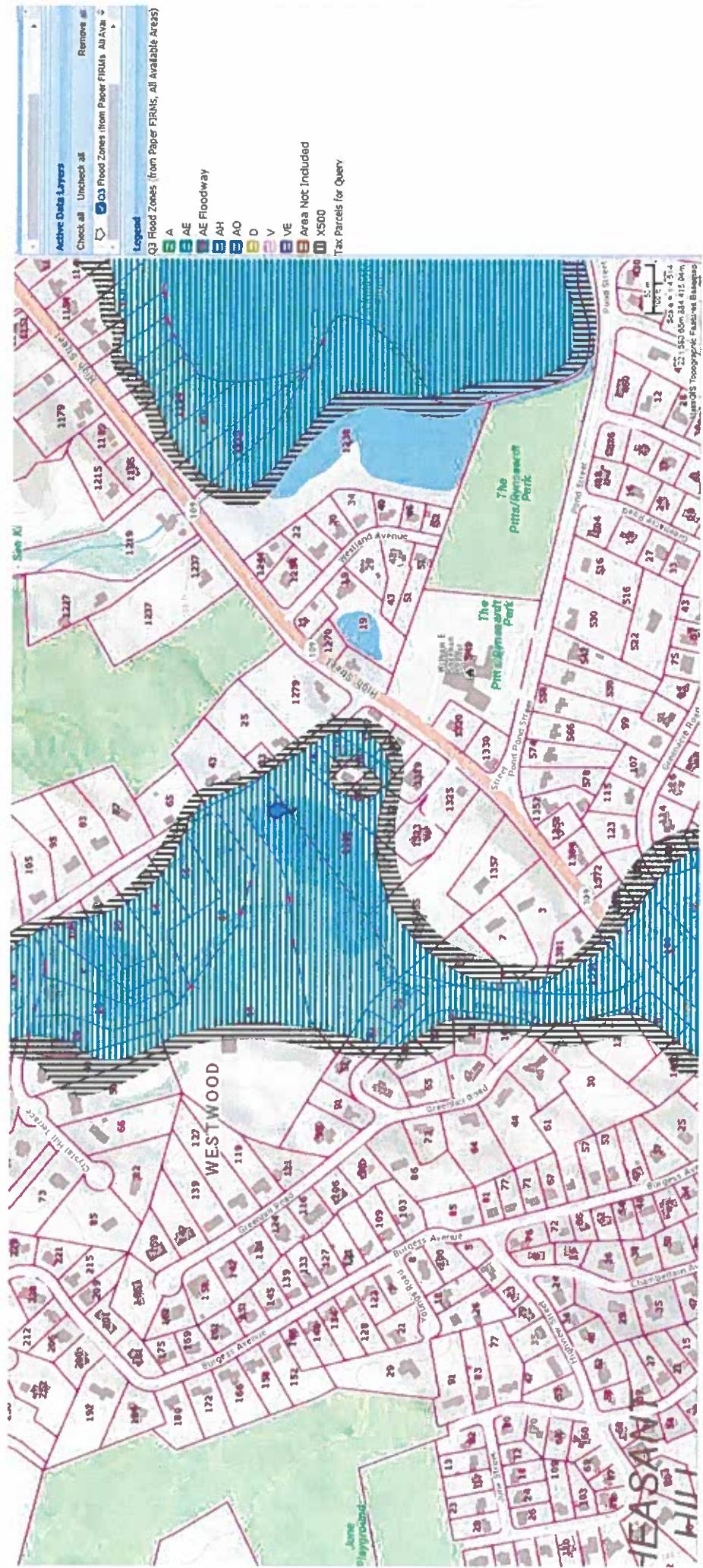
Figure 6









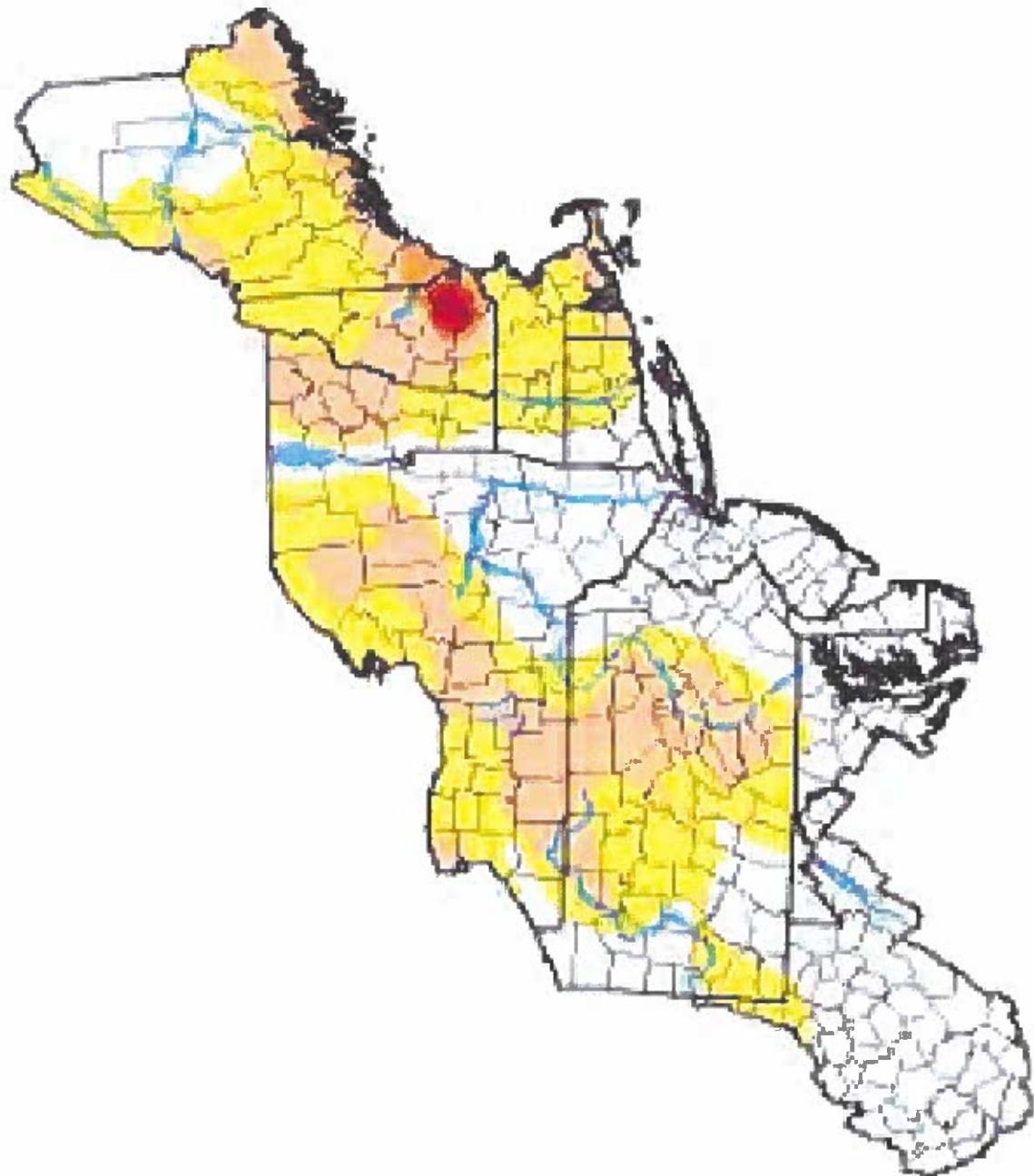


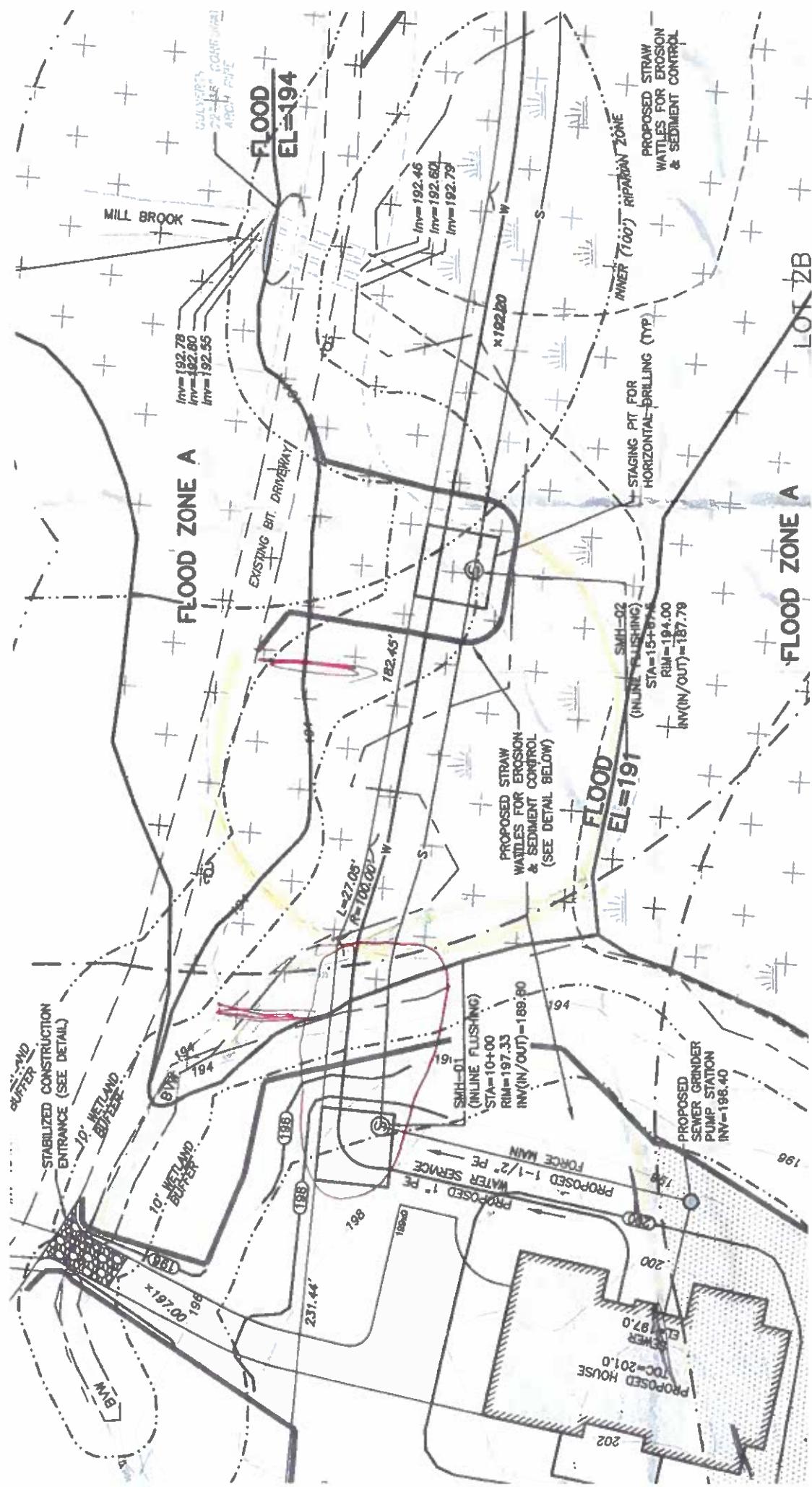
U.S. Drought Monitor

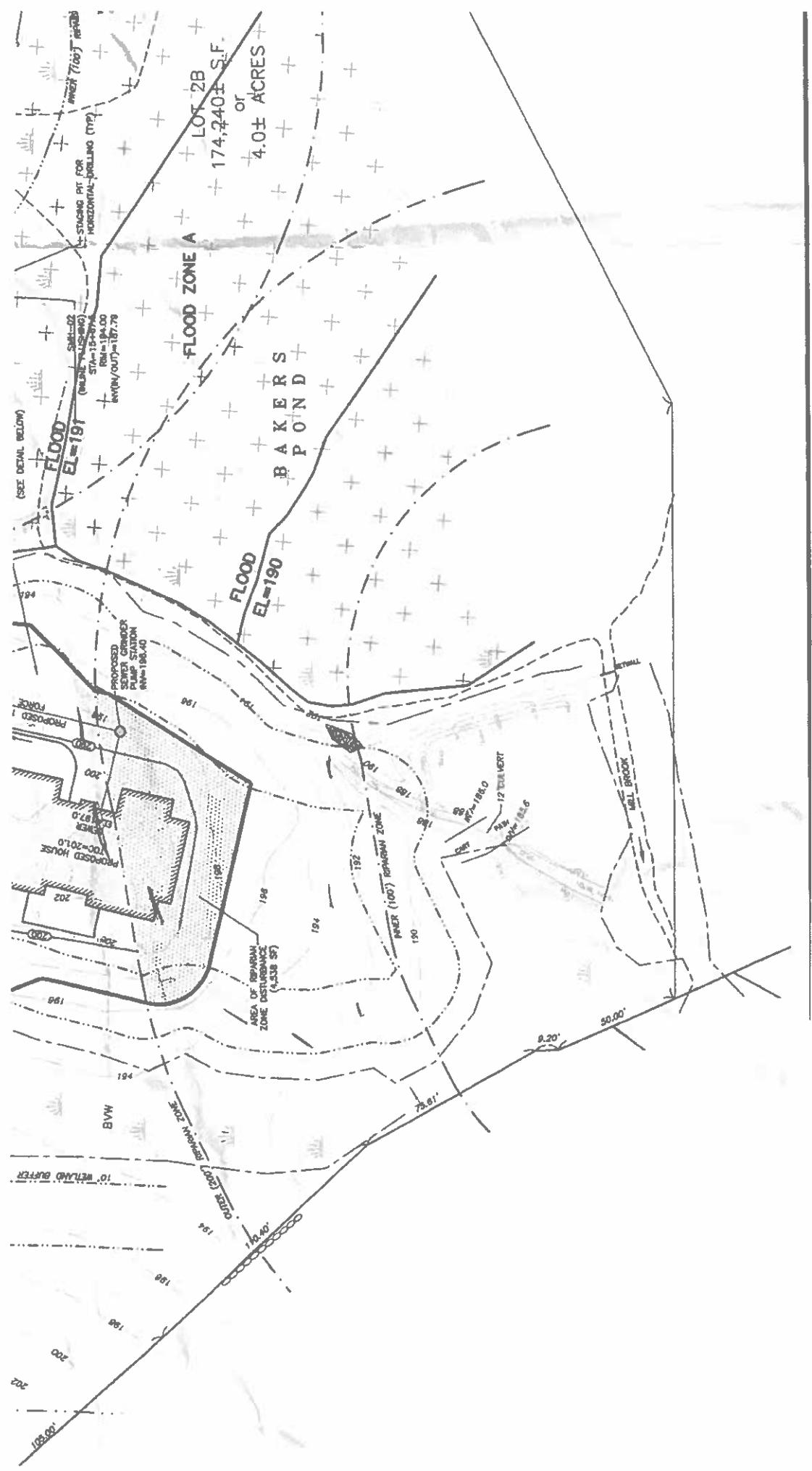
Northeast

December 1, 2020

(Released Thursday, December 3, 2020)
Valid 7 a.m. EST







10.58: continued

2(2) h.

f. Rivers include perennial streams that cease to flow during periods of extended drought. Periods of extended drought for purposes of 310 CMR 10.00 shall be those periods, in those specifically identified geographic locations, determined to be at the "Advisory" or more severe drought level by the Massachusetts Drought Management Task Force, as established by the Executive Office of Energy and Environmental Affairs and the Massachusetts Emergency Management Agency in 2001, in accordance with the Massachusetts Drought Management Plan (MDMP). Rivers and streams that are perennial under natural conditions but are significantly affected by drawdown from withdrawals of water supply wells, direct withdrawals, impoundments, or other human-made flow reductions or diversions shall be considered perennial.

g. Human-made canals (e.g., the Cape Cod Canal and canals diverted from rivers in Lowell and Holyoke) and mosquito ditches associated with coastal rivers do not have riverfront areas.

h. Where rivers flow through lakes or ponds, the Riverfront Area stops at the inlet and begins again at the outlet. A water body identified as a lake, pond, or reservoir on the current USGS map or more recent map provided by the Department, is a lake or pond, unless the issuing authority determines that the water body has primarily riverine characteristics. When a water body is not identified as a lake, pond, or reservoir on the current USGS map or more recent map provided by the Department, the water body is a river if it has primarily riverine characteristics. Riverine characteristics may include, but are not limited to, unidirectional flow that can be visually observed or measured in the field. In addition, rivers are characterized by horizontal zonation as opposed to the vertical stratification that is typically associated with lakes and ponds. Great Ponds (*i.e.*, any pond which contained more than ten acres in its natural state, as calculated based on the surface area of lands lying below the natural high water mark; a list is available from the Department) are never rivers.

2. Mean Annual High-water Line of a river is the line that is apparent from visible markings or changes in the character of soils or vegetation due to the prolonged presence of water and that distinguishes between predominantly aquatic and predominantly terrestrial land. Field indicators of bankfull conditions shall be used to determine the mean annual high-water line. Bankfull field indicators include but are not limited to: changes in slope, changes in vegetation, stain lines, top of pointbars, changes in bank materials, or bank undercutts.

a. In most rivers, the first observable break in slope is coincident with bankfull conditions and the mean annual high-water line.

b. In some river reaches, the mean annual high-water line is represented by bankfull field indicators that occur above the first observable break in slope, or if no observable break in slope exists, by other bankfull field indicators. These river reaches are characterized by at least two of the following features: low gradient, meanders, oxbows, histosols, a low-flow channel, or poorly-defined or nonexistent banks.

c. In tidal rivers, the mean annual high-water line is coincident with the mean high water line determined under 310 CMR 10.23.

3. The Riverfront Area is the area of land between a river's mean annual high-water line measured horizontally outward from the river and a parallel line located 200 feet away, except that the parallel line is located:

a. 25 feet away in Boston, Brockton, Cambridge, Chelsea, Everett, Fall River, Lawrence, Lowell, Malden, New Bedford, Somerville, Springfield, Winthrop, and

***Giardia* and Wildlife**
SCWDS Briefs, July 1998, 14.2

Intestinal infection with the protozoan parasite *Giardia lamblia* is the second leading cause of outbreaks of waterborne disease in people in the United States. This one-celled parasite is common world-wide and occurs in humans, domestic animals, and wildlife. Although some people and domestic animals carry *G. lamblia* with no symptoms, others may develop severe debilitating diarrhea. Disease in free-ranging wildlife has not been reported.

Giardia cysts are shed in feces and are infective immediately when ingested in contaminated water or food, although symptoms may not appear for 7-10 days. The infective cysts are very susceptible to desiccation and heat; however, they may survive for 2 to 3 months in cool water. Once ingested, cysts release trophozoite stages in the intestine, and the cycle is repeated.

The role of wildlife in transmitting *Giardia* to humans has been controversial. A variety of *Giardia* species have been isolated from wild mammals, birds, amphibians, and reptiles. Beavers are the most well known wildlife host for *Giardia*, to the extent that waterborne outbreaks of human giardiasis have sometimes been called "beaver fever." Experimental studies clearly show that beavers can become infected with *Giardia* of human origin, and beavers shedding *Giardia* cysts were found upstream of contaminated municipal water supplies. However, it still is not clear what species of *Giardia* infects beavers in the wild.

Wildlife other than beavers also have been suspect, but new information has relieved some concerns. DNA analyses recently has disclosed that muskrats and voles are carriers of *G. microti*, a species which does not affect humans. Wading birds such as herons and egrets were once thought to be potential sources of water contamination. Again, genetic analyses have shown that they actually harbor *G. ardeae*, another distinct non-human species. Researchers have found that amphibians and reptiles also carry species distinctly different from the human *G. lamblia* and are not important in causing human giardiasis.

No one can say whether beavers originally contracted *Giardia* from humans or if beavers harbor *Giardia* naturally. Either way, all blame for human giardiasis cannot be focused on the beaver because there is a plethora of important non-wildlife sources that may be of the *G. lamblia* type. Wilderness areas can be heavily contaminated due to improper disposal of human feces. Furthermore, genetic studies have shown that domestic dogs, cats, cattle, and sheep are also capable hosts of *Giardia* similar to that of human origin.

The most important factor in preventing *G. lamblia* infection is avoiding contaminated water. Large-scale waterborne outbreaks of human giardiasis usually occur due to the lack of water filtration or a breakdown in the filtration system. Conventional water treatment plants that use coagulation-sedimentation-filtration methods should prevent waterborne giardiasis outbreaks, regardless of the presence of *Giardia* cysts in the source water. Higher concentrations of chlorine and longer contact times are required to inactivate *Giardia* cysts compared to most other intestinal pathogens, especially in cold water. Boiling water easily inactivates cysts, as the thermal death point of cysts is 130-140° Fahrenheit. Reduction of contamination in streams and wells will depend upon a conscientious effort to dispose of

human and domestic animal feces. Because of the possibility of *G. lamblia* contamination by humans, domestic animals, or beavers, one should never assume that surface water, even in remote areas, is safe to drink without boiling or filtration. (Prepared by Dr. Joe Gaydos)

Karon Catrone

From: Brian Donahoe <bdonahoe@goldmanenvironmental.com>
Sent: Thursday, October 08, 2020 2:40 PM
To: Karon Catrone
Subject: 42 Mill Street summary of review

GEC has reviewed the package of information submitted for the proposed construction of a single family house at 42 Mill Street, Westwood MA. GEC made a site visit to confirm the existing site conditions and note any changes from the last review done by GEC for the Town. It was noted that the revised wetlands boundary approved by DEP were used for this NOI. It was also noted that unlike the former site condition when the area was in a severe drought and there was no flow in Mill Brook a slight flow estimated at 0.5 to 1.0 cfs was evident even in the current severe drought. Scattered thunderstorms earlier in the week may have resulted in that low flow. It was also noted that a beaver dam has been constructed on the pond side of the concrete dam remnants and that the base flow was now existing the pond at the previously noted spillway channels lying with the wetland resources described in the approved DEP plan. This change may be significant because it suggest that the bank of the perennial stream is different and approximately 50 - 60 feet closer to the proposed home location. This would change the river front impacts to increase by thousands of square feet. We continue to point out that the dam is in poor condition and has the potential to cause significant damage to immediate downstream abutters and residences. With the main flow now discharging through the earthen portion of the dam this situation is more acute.

We note that there are no stormwater or erosion controls for analysis prepared for the project. We also note the sewer line is to be constructed outside of the 40 foot right of way described by the road layout as opposed to the 25 foot right of way noted in the deed. This may be in conflict with the deed.

GEC began to analyze the submittal in more detail and question some of the interpretation made regarding riverfront impact. It appeared that the riverfront impact were being segregated between the road proposal and the home site. We believe that this segmentation is not appropriate and the combined impacts, since they are not on previously developed land. The new driveway is through unaltered wetland and wooded swamp. We also note that there may be a discrepancy between the flood plain shown on the plan and the revised 100 year flood plan indicated on the DEP GIS web page at Oliver. This would need to be verified.

However in reviewing the submitted plan in detail we checked the buffer zone lines and riverfront setbacks and noted the scale of the drawing is 1"= 30 feet. When we checked the scale on the drawing all setback boundaries for BVW and riverfront for example are at 1" = 40 feet. This results in the boundary being 20 feet shorter. We checked the 30 foot scale with the 40 roadway layout and it checks out correctly. So it appears to be a significant drafting error. Combined with the perennial stream re-location suggested above the error will be even more significant.

This error of scale represents a significant under calculation of the impact to riverfront, buffer-zone and other regulatory analysis and the project should be withdrawn and revised if possible. We also believe a more thorough legal review of the deed and its restriction is needed to insure that encumbrances of title are addressed

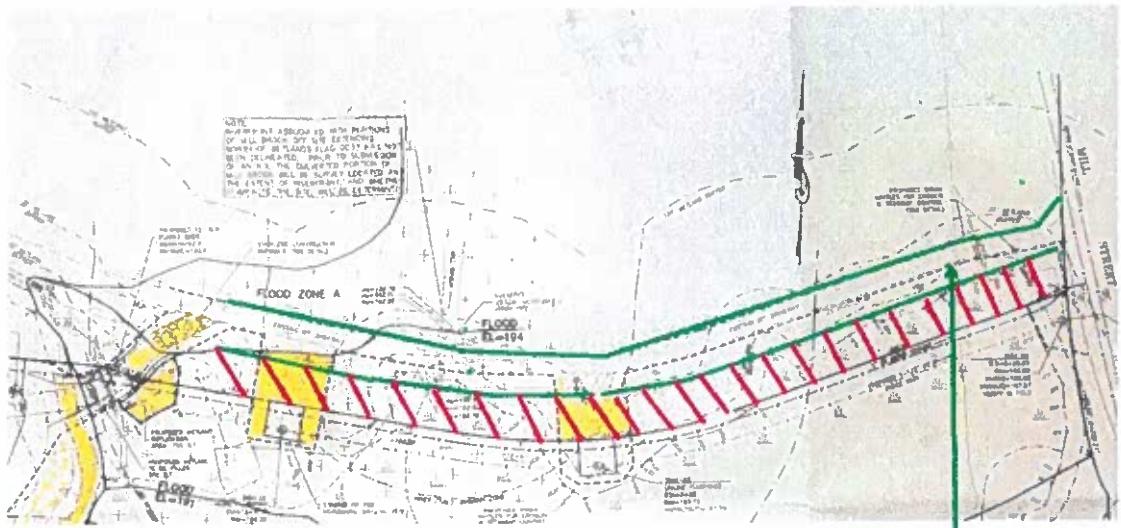
Please feel free to call to respond to any question or concerns.

Brian Donahoe, Vice President
Environmental Services & Engineering
Goldman Environmental Consultants, Inc.
60 Brooks Drive
Braintree, MA 02184
Mobile: 617-947-0957

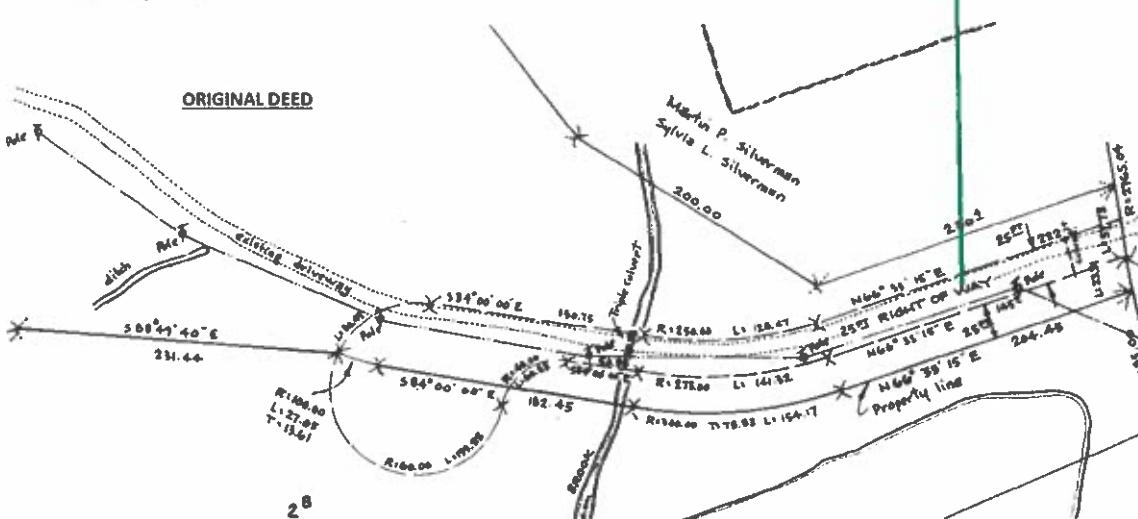
Office: 781-356-9140 x 114

Fax: 781-356-9147

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The area marked with red dashes is showing the territory on my land A111 the right way
Move the Green Road is where applicant has Moved



Land premises are described as follows: following right of appearance:

(a) To use in common with the Grantees and others lawfully situated therin for purposes of ingress and egress to and from said Lot 2B those portions crossing the Grantees herein described herein which lie within the limits of the plan heretofore recorded in the Land Office of a parcel of land situated on Hill Street in Westwood, Norfolk County, Massachusetts, being designated and shown as Lot 2 on a plan entitled "Plan of Land in Westwood, Mass."

(b) The appurtenant right to pass and repass is limited to private passenger automobiles and farm machinery, non-commercial vans, machinery, and such non-private passenger vehicles are restricted to passage for fuel delivery, maintenance and repairs to and construction of a proposed single family dwelling.

(c) The appurtenant right to pass over said "right of way" on Lot 2B reserves the grantee to conduct prompt removal of all snow and ice from all pavement and the repair and maintenance of all paved or unpaved sidewalks and concrete pavements, on Lot 2B in a reasonable condition for passage as aforesaid of a standard similar to occupied streets and ways in the Town of Westwood.

(d) No vehicles or bicycles may be left standing or parked at any time on the aforesaid "right of way".

(e) The appurtenant right conveyed above does not include any rights to lay pipes, change grades, erect structures, or otherwise to hinder the aforesaid "right of way".

- 1) My deeded property right is infringed
- 2) Lot 2B proposal exceeds boundary of allowed work **WITHIN** the 25 ft right of way.
- 3) Point e doesn't allow changing grades of the land, which will happen during a trespass as heavy machinery in a marsh, section, will modify the grade.
- 4) Point d doesn't allow standing in the right of way even for a minute, which would be a requirement to clear the area for machinery
- 5) Point b states owner of 2b can pass, and repass over right-of way to construct a house. Not construct test pits, trespass beyond right of way, or stand anywhere in the right of way, or beyond the right of way, or to use the right of way for access in that area to his property.

Abby McCabe

This lot is not buildable. This lot (Map 28, Lot 013) has not received the necessary approvals from the Planning Board to create a new lot. The subdivision roadway was never constructed in accordance with the approved 1969 Subdivision Plan. Since the 1969 plan shows a significant portion of the proposed roadway within the area that is now known to be wetlands, the roadway can no longer be constructed as approved in 1969.

To develop this lot a new Definitive Subdivision Approval and Shared Driveway Special Permit from the Planning Board is required. However, the Planning Board's Subdivision Regulations were updated in 2016 to include Section 4.4.7 that says no new ways can be created closer than 40 ft. to any lot line of any lot situated outside the subdivision. This lot can not meet this requirement due to it's shape which narrows where it meets Mill Street. To propose a buildable lot it must meet the Planning Board's Subdivision Standards for road and lot design, unless waived by the Planning Board. However, this requirement is unlikely to be be waived by the Planning Board.

The Planning Board's Subdivision Rules & Regulations can be found here:

<https://www.townhall.westwood.ma.us/home/showpublisheddocument/8192/63701252276693000>

Property Location
on ID 3440

MILL ST

Map ID 28/013/

Bldg	Name		
Sec #	1 of 1	Card #	1 of 1

State Use 1320
Print Date 11-1

CURRENT OWNER

DELA PA REALTY TRUST
ANTHONY F & JOANNE C DELAPA T
511 WASHINGTON STREET

NORWOOD MA 02062

WESTWOOD, MA



Karon Catrone

From: A Y <ayudzinsky@gmail.com>
Sent: Tuesday, May 25, 2021 11:15 AM
To: Brian Donahoe; Karon Catrone
Cc: Todd DeMelle; Greg Buckley
Subject: Re: Baker's Pond

Hi Brian,

<https://www.youtube.com/watch?v=-v8zaxl40ek> - this video is of the flooding we now see in the winter. It is the shared driveway after the rain has stopped and the water receded. It used to cover the road, remnants of that water can be seen when I pan away towards where the applicant wants to build. Date of this video is 2020-12-25

<https://www.youtube.com/watch?v=IGee0yLg944> - this video is dated to my neighbor across the baker pond 2020-12-5 and is from the Dam area. The dam had been flooded for over a month at that point and was expelling water at large volumes. I was out there because she stated that the water level across the pond on HER property was starting to sit in the backyard and she was worried it would reach her house (I have her dated messages). On the GIS map, her house sits higher than the applicant's proposed construction site.

<https://www.youtube.com/watch?v=vBgn1kJiRZA> - another shot of the dam on 2020-12-5. No obstruction, it had crossed over the beaver dam at this point.

<https://www.youtube.com/watch?v=a1HIafcpuS0> - this video is from 2020-3-14 . The video is taken at the small outlet for the pond . The problem is that it is no longer a small outlet and between september to April it swells to over 6-15 wide depending on the section, and completely overwhelmes the culvert that it's supposed to flow into. In fact it spills up and across that area like a small river, eventually joining the undrawn stream sitting behind the properties at MILLBROOK (Greg's property). Several trees have now fallen due to soggy soil, large mature 40 ft trees.

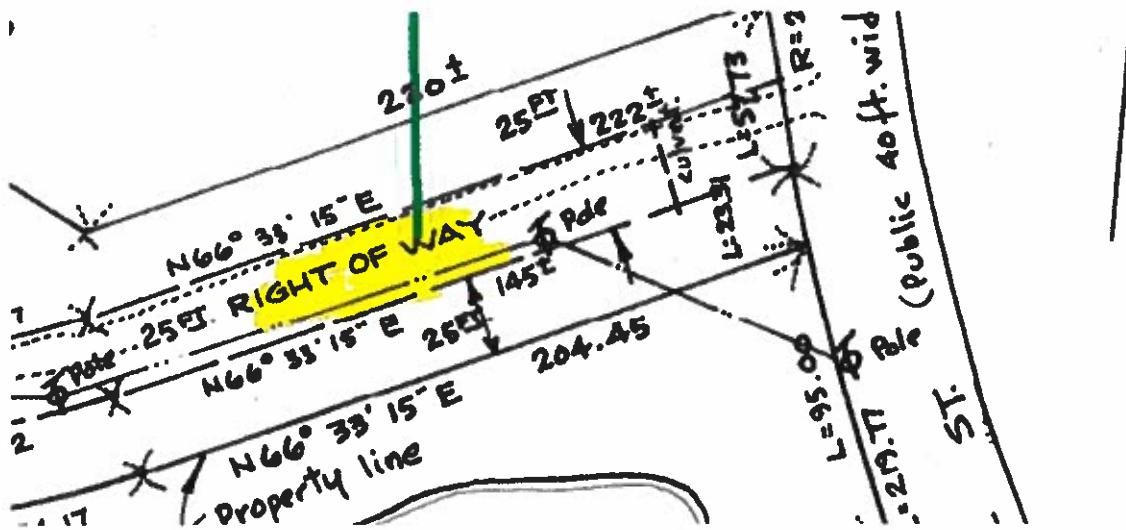
Now for some issues in the plans provided by the applicant and trespass etc...

- (b) The appurtenant right to pass and repass is limited to private passenger automobiles, bicycles and foot passage only; trucks, vans, machinery and such non-private passenger vehicles are restricted to passage for fuel delivery, maintenance and repairs to and construction of a proposed single family residence.
- (c) The appurtenant right to pass over said "right of way" on Lot 2^A requires the grantees to conduct prompt removal of all snow and ice from all pavement and the repair and maintenance of the now existing bituminous concrete pavement, on Lot 2^A, in a reasonable condition for passage as aforesaid of a standard similar to accepted streets and ways in the Town of Westwood.
- (d) No vehicles or bicycles may be left standing or parked at any time on the aforesaid "right of way."
- (e) The appurtenant right conveyed about does not include any rights to lay pipes, change grades, erect structures in, on, over or under the aforesaid "right of way."

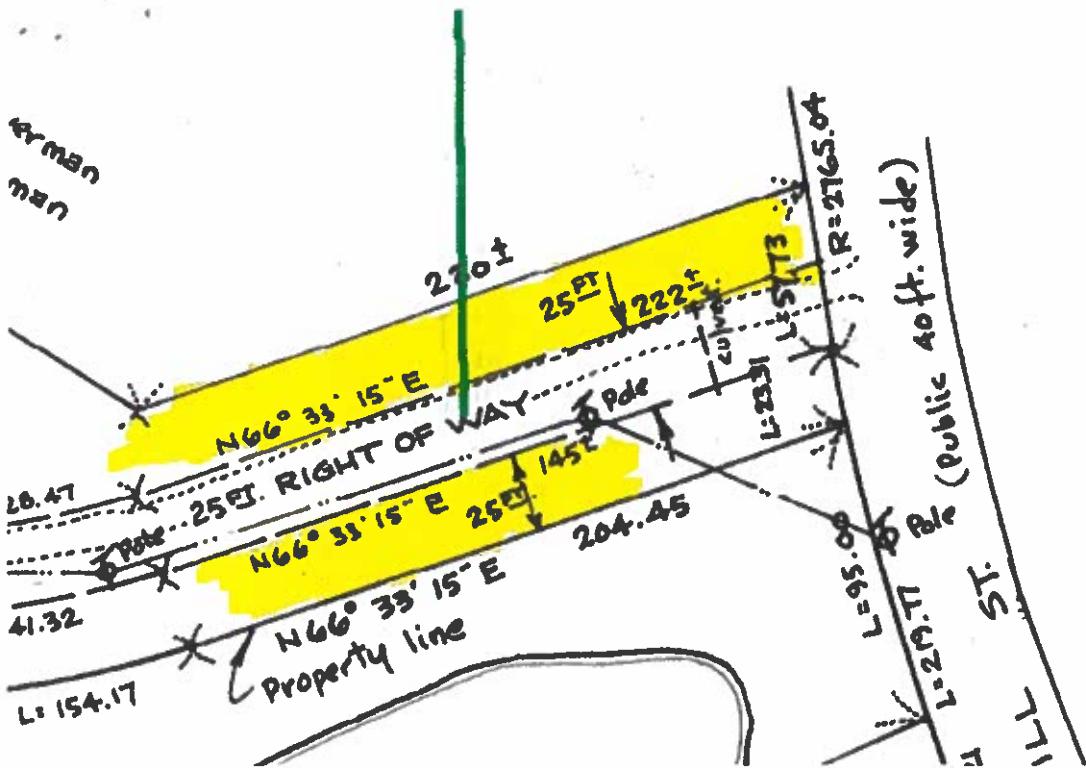
They will have no permission to stop on the road which is part (D), there will be no option to build those temporary structures they're talking about. Part (E) does not allow changing grades erecting structures etc on the right of way. Part (b) is for interpretation, but does not mention excavators to come build temporary structures in the wetland, or to allow them to cross over the right of way.

What is the right of way?

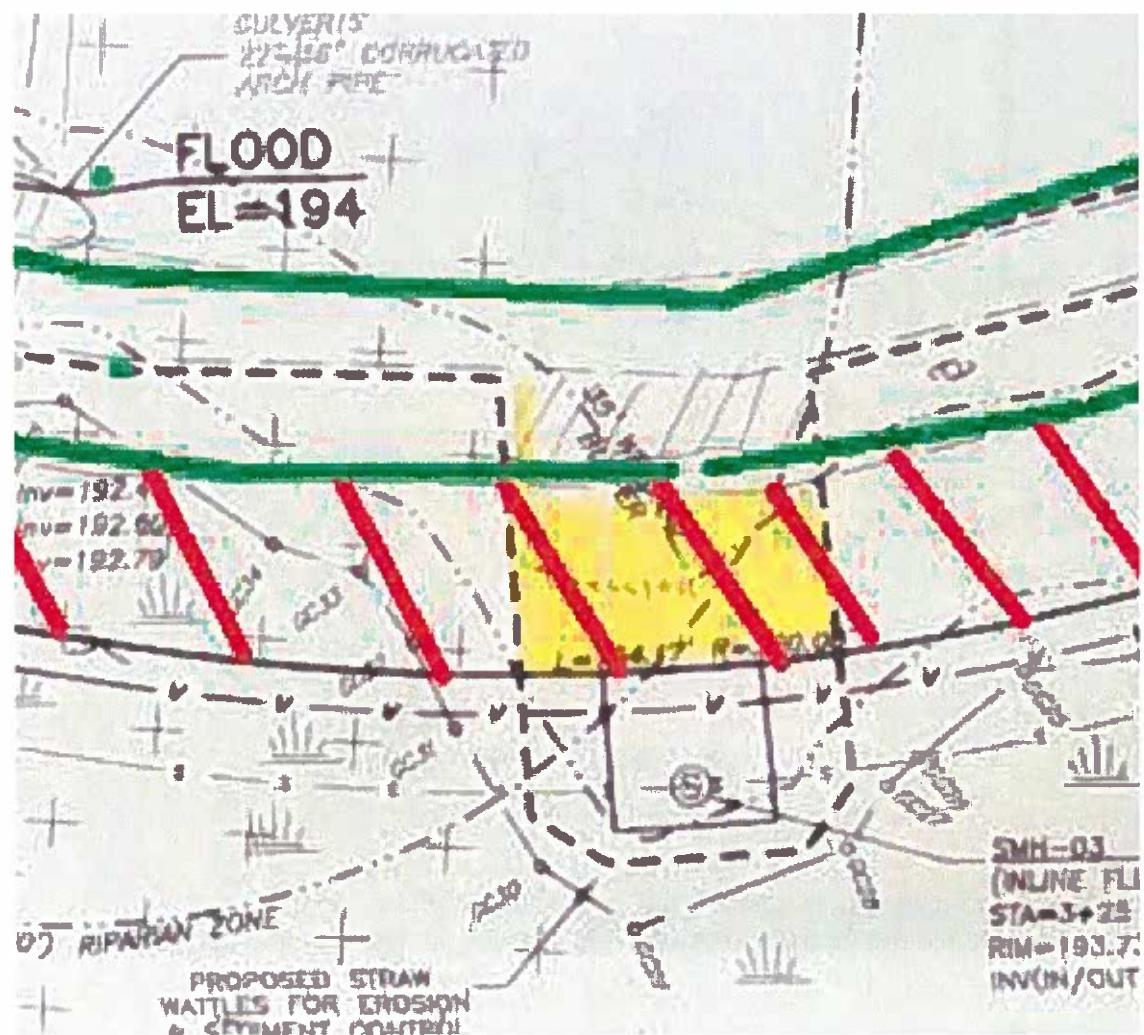
The right of way is a 25 ft wide section of paved and unpaved road running through my deeded property, pictures below show in yellow, the right of way



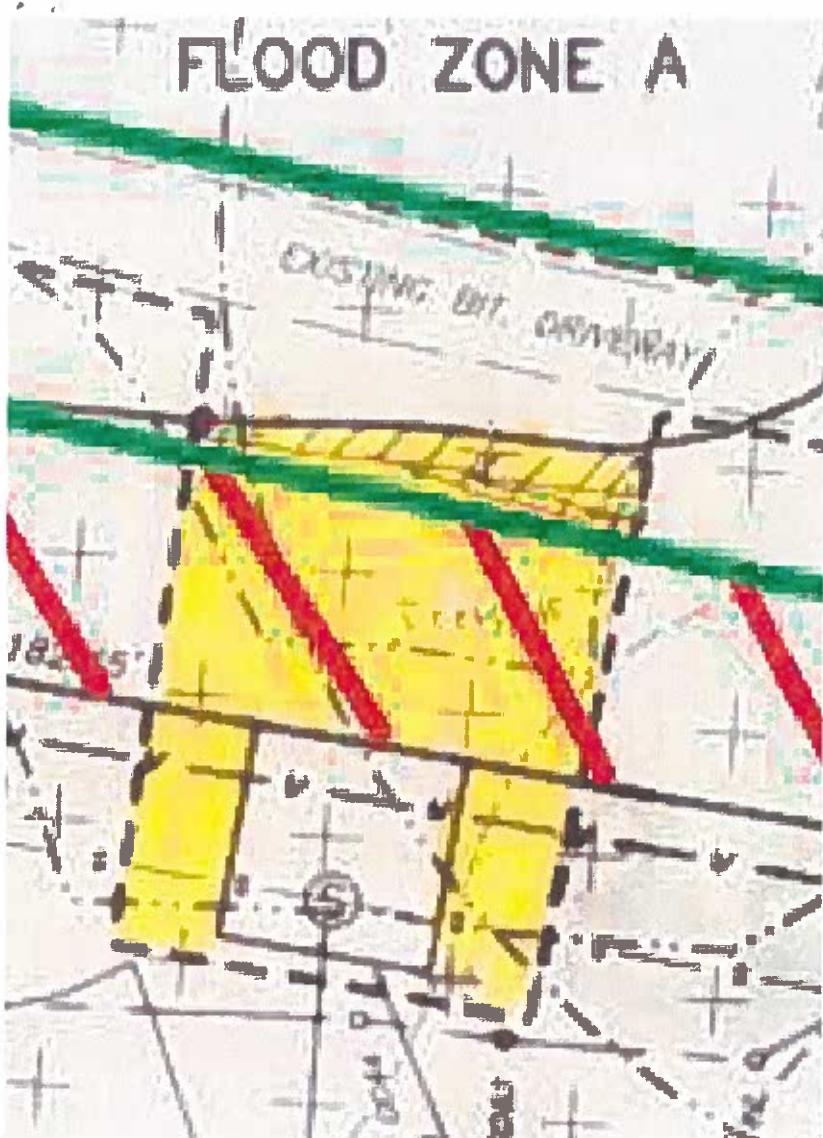
The highlight in the next picture shows ALSO my deeded land, but highlights area no longer part of the "right of way". The road total width is 75 feet. of which 25 ft are considered "right of way"



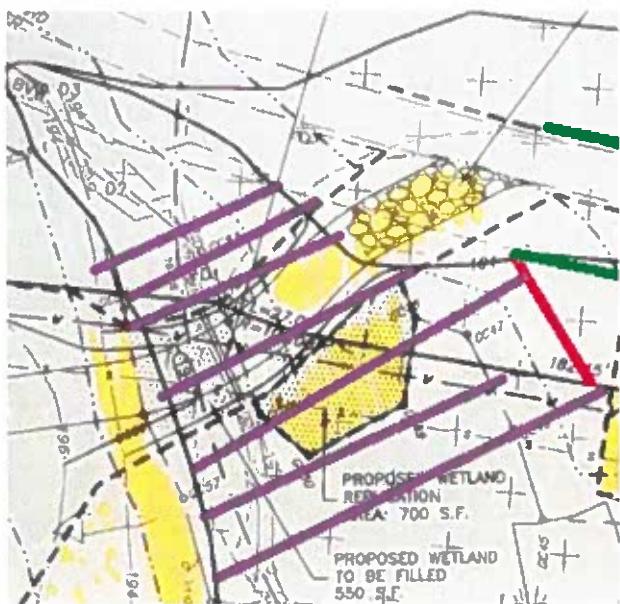
In the next pictures we start running into egregious trespass and destruction of private land..
 Proposed temporary structure 1 would require getting off of the right of way and destroying marked in red lines
 an area on my property to construct temporary structures IN THE WETLANDS.



Proposed temporary structure 2 would require getting off of the right of way and destroying marked in red lines an area on my property to construct temporary structures IN THE WETLANDS.



Proposed wetland intrusion to construct a road (picture below) is not possible. During months of early October - Late April is flooded by approximately 1-2.5 feet of water at a minimum, not taking into account the amount of water that would pool there if applicant clears land for construction.



The small outflow at bakers pond is not longer a small outflow, it is new river-front when considering the amount of water that traverses through there. As winters get warmer with heavier rainfall it will get worse with more volume.

On Tue, May 25, 2021 at 10:26 AM Brian Donahoe <bdonahoe@goldmanenvironmental.com> wrote:

I cant seem to be able to open this folder due to cookies issue?

Brian Donahoe, Vice President

Environmental Services & Engineering

Goldman Environmental Consultants, Inc.

60 Brooks Drive

Braintree, MA 02184

Mobile: 617-947-0957

Office: 781-356-9140 x 114

Fax: 781-356-9147

From: Todd DeMelle <tdemelle@gmail.com>
Sent: Monday, May 24, 2021 10:20 PM
To: ayudzinsky@gmail.com; Greg Buckley <gwbuckley@verizon.net>; Brian Donahoe

<bdonahoe@goldmanenvironmental.com>

Subject: Re: Baker's Pond

Apologies, resending with what I hope is your correct address, Brian.

On Mon, May 24, 2021 at 10:16 PM Todd DeMelle <tdemelle@gmail.com> wrote:

Hello Brian and Artur,

My name is Todd DeMelle and my family and I live at 1355 High St which overlooks Bakers Pond. Artur, Greg passed on your email address. Brian, I got your info from the westwood conservation commission meeting. Nice to meet you both.

Greg asked me today if I would be available for the meeting coming up on June 9th, but I will be out of town and unable to attend. So I wanted to reach out and offer any assistance that might be helpful in preparing for the meeting.

I sent the below email to Karon prior to the last meeting which I thought would be of interest. If there's anything more I can do with reference photos or video or image editing/preparation, I'd be happy to do so.

Just let me know... thank you!

Todd

----- Forwarded message -----

From: Todd DeMelle <tdemelle@gmail.com>

Date: Sun, May 2, 2021 at 11:34 PM

Subject: Baker's Pond

To: Greg Buckley <gwbuckley@verizon.net>, Karon Catrone <kcatrone@townhall.westwood.ma.us>

Hi Karon,

I was talking with Greg this afternoon about the Conservation Committee meeting coming up Wednesday, when the proposal for construction on the lot by Baker's Pond off Mill St will be discussed.

The pond is as high this year as we've seen it in the 17 years that we've lived in the house. I thought I'd take some video and pictures for the meeting and then it occurred to me, I should dig up some pictures from before we got the Purple Loosestrife under control to show the before and after.

Looking at those old pictures now, it was even worse than I remember! We were able to regain a lot of open water! I also came across some shots from the Summers the beetles were released (can't believe that was 13? 14? years ago now...)

I put everything in a folder on Google Drive (linked below) along with some images showing the lot and the proposed construction plan superimposed onto the lot. (I was trying to get a better sense of where the proposed construction would go)

<https://photos.app.goo.gl/K6Unm29vK9vhHPuDA>

Please let me know if there's anything more I can provide that would be helpful for the meeting.

I hope all's well!

Sincerely,
Todd

The Attorney General has determined that email correspondences are public records unless the content of the email falls with one of the stated exemptions under the Public Records Laws

application so that it could let the state law process play out. We have filed our appeal in Superior Court of the Bylaw decision. We have not yet served it in the hope we can resolve this with a global agreement to address the Commission's error as well as the established rights granted by the Planning Board approval of subdivision and waiver of construction.

I will suggest that if the DEP does issue an SOC approving the project, that just like with the prior proceeding, the Commission also approve it under the Bylaw consistent with the DEP approval as a settlement of the Superior Court appeal.

Matt

From: Patrick Ahearn <pahearn@townhall.westwood.ma.us>
Sent: Tuesday, January 4, 2022 12:57 PM
To: Matthew Watsky <Matt@Watskylaw.com>
Cc: scott@goddardconsultingllc.com
Subject: RE: Mill Street

I am not planning on attending and I would have to move some things around to go.

Pat

From: Matthew Watsky [<mailto:Matt@Watskylaw.com>]
Sent: Tuesday, January 4, 2022 11:32 AM
To: Patrick Ahearn <pahearn@townhall.westwood.ma.us>
Cc: scott@goddardconsultingllc.com
Subject: Mill Street

CAUTION: This email originated from outside of the Town of Westwood Email System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Pat:

I understand that the DEP is holding its site meeting on the appeal of the Conservation Commission's decision.
Are you planning to be there?

I was not planning to go, but if you are there it would be an opportunity for us to talk about this property as a whole, and finally in person.

Karon Cattrone

From: Patrick Ahearn
Sent: Monday, February 7, 2022 3:57 PM
To: Nora Loughnane; Abigail McCabe; Karon Cattrone; Joe Doyle
Subject: FW: Mill Street

FYI let's discuss.

Pat

From: Matthew Watsky [mailto:Matt@Watskylaw.com]
Sent: Monday, February 7, 2022 3:22 PM
To: Patrick Ahearn <pahearn@townhall.westwood.ma.us>
Cc: scott@goddardconsultingllc.com; Rachel Watsky <rachel@watskylaw.com>
Subject: Mill Street

CAUTION: This email originated from outside of the Town of Westwood Email System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Pat:

We should try to set a time to meet and go over this.

I would of course like to have you confirm you agree with my conclusions as set out in my email on December 21. But we will need to also figure out how to deal with the appeal of the Conservation Commission's rulings under the Wetlands Protection Act and under the Bylaw. I anticipate the DEP will overturn the Commission's ruling under the Act. The question then will be how to deal with the Commission's decision under the Bylaw.

When this property previously was before the Commission, with an application seeking an ORAD, the Applicant withdrew the local Bylaw application in order to have the state law decision issued. The Commission apparently was not then aware that an applicant has the absolute right to withdraw an application before the hearing is closed and it is acted on, and went ahead with issuance of an ORAD under both the Act and the Bylaw. We appealed both decisions. DEP issued an SORAD, and we ended up settling with the Commission and agreed to dismiss the Certiorari and Dec J appeal of the Bylaw decision upon the issuance by the Commission of an amended local ORAD that set the wetlands boundaries and types of resource areas by adopting the DEP SORAD findings.

Now, here we are a few years later, and the same scenario has played out – with the Commission and its peer reviewer disregarding the wetlands boundaries that were set in the earlier proceeding, and remarkably again issuing what purports to be a local bylaw decision even after the applicant withdrew the local

October 27, 2020

Westwood Conservation Commission
Westwood Town Hall
50 Carby St
Westwood, MA 02090

Re: Response to Peer Review Comments from GEC
Lot 42 Mill St, Westwood, MA (Map: 28, Parcel: 013)

Dear Westwood Conservation Commission:

Goddard Consulting, LLC (Goddard), is pleased to submit letter to the Westwood Conservation Commission in response to comments from the peer reviewer, Goldman Environmental Consultants, Inc. (GEC). These comments were in regard to the Notice of Intent (NOI) for the property addressed as 42 Mill St., Westwood on behalf of the applicant, Anthony Delapa, for the construction of a single-family home, paving of a driveway, and construction of associated structures on the property.

Comments from Goldman Environmental Consultants, Inc.

"GEC has reviewed the package of information submitted for the proposed construction of a single family house at 42 Mill Street, Westwood MA. GEC made a site visit to confirm the existing site conditions and note any changes from the last review done by GEC for the Town. It was noted that the revised wetlands boundary approved by DEP were used for this NOI. It was also noted that unlike the former site condition when the area was in a severe drought and there was no flow in Mill Brook a slight flow estimated at 0.5 to 1.0 cfs was evident even in the current severe drought. Scattered thunderstorms earlier in the week may have resulted in that low flow. It was also noted that a beaver dam has been constructed on the pond side of the concrete dam remnants and that the base flow was now existing the pond at the previously noted spillway channels lying with the wetland resources described in the approved DEP plan. This change may be significant because it suggest that the bank of the perennial stream is different and approximately 50 - 60 feet closer to the proposed home location. This would change the river front impacts to increase by thousands of square feet. We continue to point out that the dam is in poor condition and has the potential to cause significant damage to immediate downstream abutters and residences. With the main flow now discharging through the earthen portion of the dam this situation is more acute."

The wetland line onsite is legally bound by a FORAD extended to 12/19/22 (DEP #338-0594). The applicant recognizes that beaver dam removal will likely be necessary and is open to doing so.

"We note that there are no stormwater or erosion controls for analysis prepared for the project. We also note the sewer line is to be constructed outside of the 40 foot right of way described by the road layout as opposed to the 25 foot right of way noted in the deed. This may be in conflict with the deed."

Erosion controls are proposed along the limit of work for this project. The proposed project design will be revised in accordance with the Westwood Stormwater Management Bylaw.

"GEC began to analyze the submittal in more detail and question some of the interpretation made regarding riverfront impact. It appeared that the riverfront impact were being segregated between the road proposal and the home site. We believe that this segmentation is not appropriate and the combined impacts, since they are not on previously developed land. The new driveway is through unaltered wetland and wooded swamp. We also note that there may be a discrepancy between the flood plain shown on the plan and the revised 100 flood plan indicated on the DEP GIS web page at Oliver. This would need to be verified."

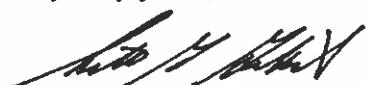
No new driveway is proposed. The applicant proposes the repaving of the existing driveway. This will not result in the widening of the existing driveway. The FEMA Floodplain line specifies the elevation at certain location which varies across the site.

However in reviewing the submitted plan in detail we checked the buffer zone lines and riverfront setbacks and noted the scale of the drawing is 1" = 30 feet. When we checked the scale on the drawing all setback boundaries for BVW and riverfront for example are at 1" = 40 feet. This results in the boundary being 20 feet shorter. We checked the 30 foot scale with the 40 roadway layout and it checks out correctly. So it appears to be a significant drafting error. Combined with the perennial stream re-location suggested above the error will be even more significant.

GC reviewed and discussed the scale with the peer reviewer which appears to not be an issue. GC mailed GEC a separate copy of the plan that is to scale. GEC's confusion was likely the result of a printing issue on the specific plan reviewed by GEC.

If you have any questions or concerns regarding this letter, please feel free to reach out to us.

Very truly yours,



Scott Goddard,
Principal & PWS

**Anthony Delapa, 511 Washington St., Norwood, MA 02062
Brian Donahoe, Goldman Environmental Consultants, Inc., 60 Brooks Drive, Braintree, MA
02184**

Karon Catrone

From: Brian Donahoe <bdonahoe@goldmanenvironmental.com>
Sent: Monday, January 04, 2021 12:16 PM
To: Karon Catrone
Subject: FW: additional review material
Attachments: Combined Attachments Reduced.pdf

Hi Karon, I sent this to you on December 14. If . If u are OK with it then its final. Please call with any questions. The bottom line is the plan still doesn't reflect the true set back and boundary line.

Brian Donahoe, Vice President
Environmental Services & Engineering
Goldman Environmental Consultants, Inc.
60 Brooks Drive
Braintree, MA 02184
Mobile: 617-947-0957
Office: 781-356-9140 x 114
Fax: 781-356-9147

From: Brian Donahoe
Sent: Monday, December 14, 2020 2:23 PM
To: kcatrone@townhall.westwood.ma.us
Subject: additional review material

GEC has continued its review of the materials submitted after the initial documentation was submitted. We are aware that some additional plans may or are being submitted soon that were expected to be submitted for the Commission's last hearing in December. The follow up hearing has been continued until January 2021.

The original plan submitted with the application was resubmitted to address the apparent scale discrepancy. There are additional finding discussed below regarding the review of the plan. Attachments to this email report are noted above.

Attachment A is Figure 6 from the original report in January 2016 show the Brook following a channel for more than 140 feet south into the area of the 'pond' and therefore extends the bank of the perennial stream for that distance. The corresponding river front setbacks will also change due to that condition. The second attachment, B, shows the concrete dam and the dry stream channel in October 2020. Debris of the beaver dam can be seen upstream of the concrete dam. Also note the stream channel in the foreground is approximately 35-40 feet wide. The bank of this channel seems to be shown on the submitted plan following contour 184 whereas the channel that was measured is only 5 feet wide. (See Attachment I) This changes the riverfront setback by about 25 feet closer to the proposed house. The third attachment, C, shows the channel flowing at the same time the concrete dam was dry indicating that it now is the likely perennial stream due to the beaver dam. These two photos were taken during an official drought monitoring period. (see attachment G) The fourth photo D, shows the same channel on December 2 2020 after a 2.5 inch rain fall event from December 1. The fifth picture E, shows the same channel looking downstream. Based on this picture the level of the water at the main channel is approximately elevation 188 using the plan of record. This further expands the point of the perennial stream edge, 25 +/- feet closer to the project site because the edge if the perennial stream is the annual high water mark per the regulations. We continue to maintain as well that this stream is the perennial stream due to the changed condition of the beaver dam and the resulting pathway for the water is this channel as documented here. See attachment J. Furthermore based on this information the Commission has the right to consider the pond to not exist if it is not named on the USGS plan and if the characteristic of the steam can be documented through the impoundment. Attachment F is the latest FEMA flood map for the 100- and 500- year elevations from the MASS GIS system. Note that the entire site is within the 100 year flood plain including the house location. In fact the entire lot as shown is within the 100 year flood plain.

Attachment H is marked up from the plan of record. We note that the access road to the house is not from the owner's lot but from the interior of the abutters lot. The only access from the Right of way is in the proposed location of the force main. This will cause additional wetland impacts to cross the stream located there.

The last attachment is some background regarding the relationship of beavers with the intestinal disease known as Giardia for reference.

Brian Donahoe, Vice President
Environmental Services & Engineering
Goldman Environmental Consultants, Inc.
60 Brooks Drive
Braintree, MA 02184
Mobile: 617-947-0957
Office: 781-356-9140 x 114
Fax: 781-356-9147

The Attorney General has determined that email correspondences are public records unless the content of the email falls with one of the stated exemptions under the Public Records Laws

List of Attachments

- A. Figure 6 from original report – indicating the stream channel flows approximately 140 feet through a vegetated wetland before entering the ‘pond’.
- B. Main concrete dam and channel October 2020 during drought. Note stream bed is 30 -40 feet wide not 5 feet wide.
- C. Spillway channel in earthen dam flowing during drought on same day as main channel was dry.
- D. Same spillway on 12/1 2020 after 2.6 inches of rain confirm that this is the main river and should be treated as such in association with ~~number 10~~ below
~~letter E~~
- E. Looking downstream of channel indicating annual high water level of 1888 feet not 184 feet per regulations 10.58 2 (2)
- F. Current 100- and 500-year floodplain per FEMA FIRM from Mass GIS - entire site is in floodplain
- G. Fall 2020 Drought monitor plan indicating extensive drought condition
- H. Plan of land submitted with application indicating the proposed access location is not from the Right of way but within abutter’s property
- I. Plan of land indicating the stream channel width (5 feet) used to establish riverfront setback rather than the channel shown on the plan adjusted per the annual high water elevation of 188 feet.
- J. Regulation 10.58 2 (1) h describing when a pond can be a river which seems to apply to this area and would extend the river front setback.
- K. Background on beavers and the high incidence of Giardia, a contagious disease.



Google Earth Imagery date 4/9/2008

Pond at Mill Brook behind old dam. Note riverine characteristics flowing through the area from north to southwest.



Goldman Environmental Consultants, Inc.
60 Brooks Drive
Braintree, MA 02184
(781)356-9140 Fax: (781)356-9147
www.goldmanenvironmental.com

42 Mill St
Westwood, MA
GEC Project Number 1826-5010

Figure 6

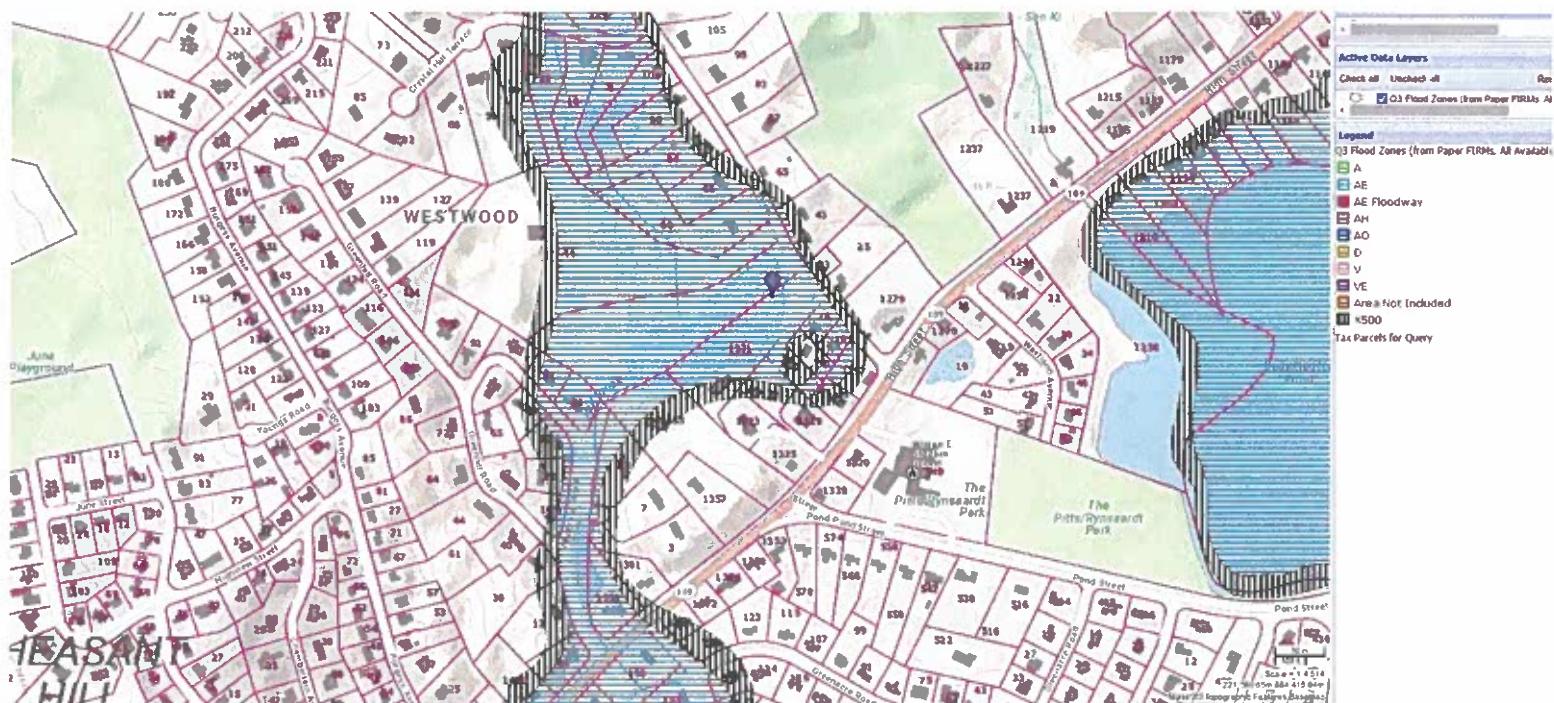








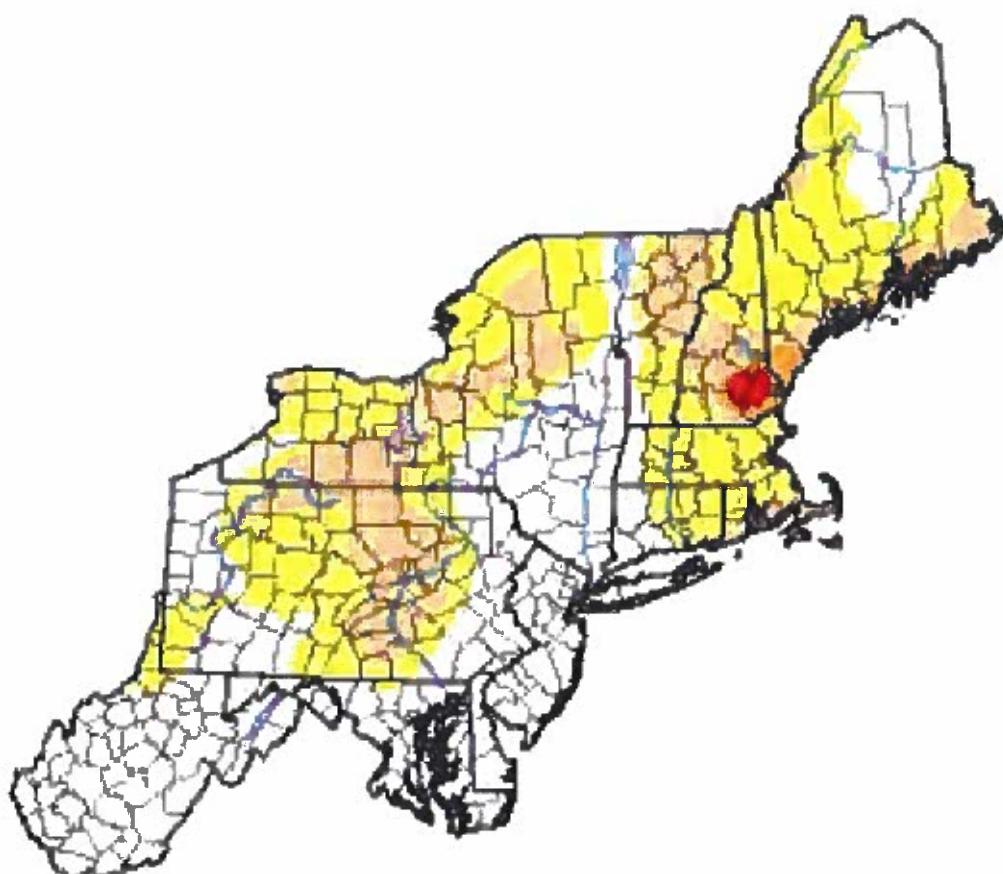




U.S. Drought Monitor

Northeast

December 1, 2020
(Released Thursday, Dec. 3, 2020)
Valid 7 a.m. EST



Intensity:

- None
- D0 Abnormally Dry
- D1 Moderate Drought
- D2 Severe Drought
- D3 Extreme Drought
- D4 Exceptional Drought

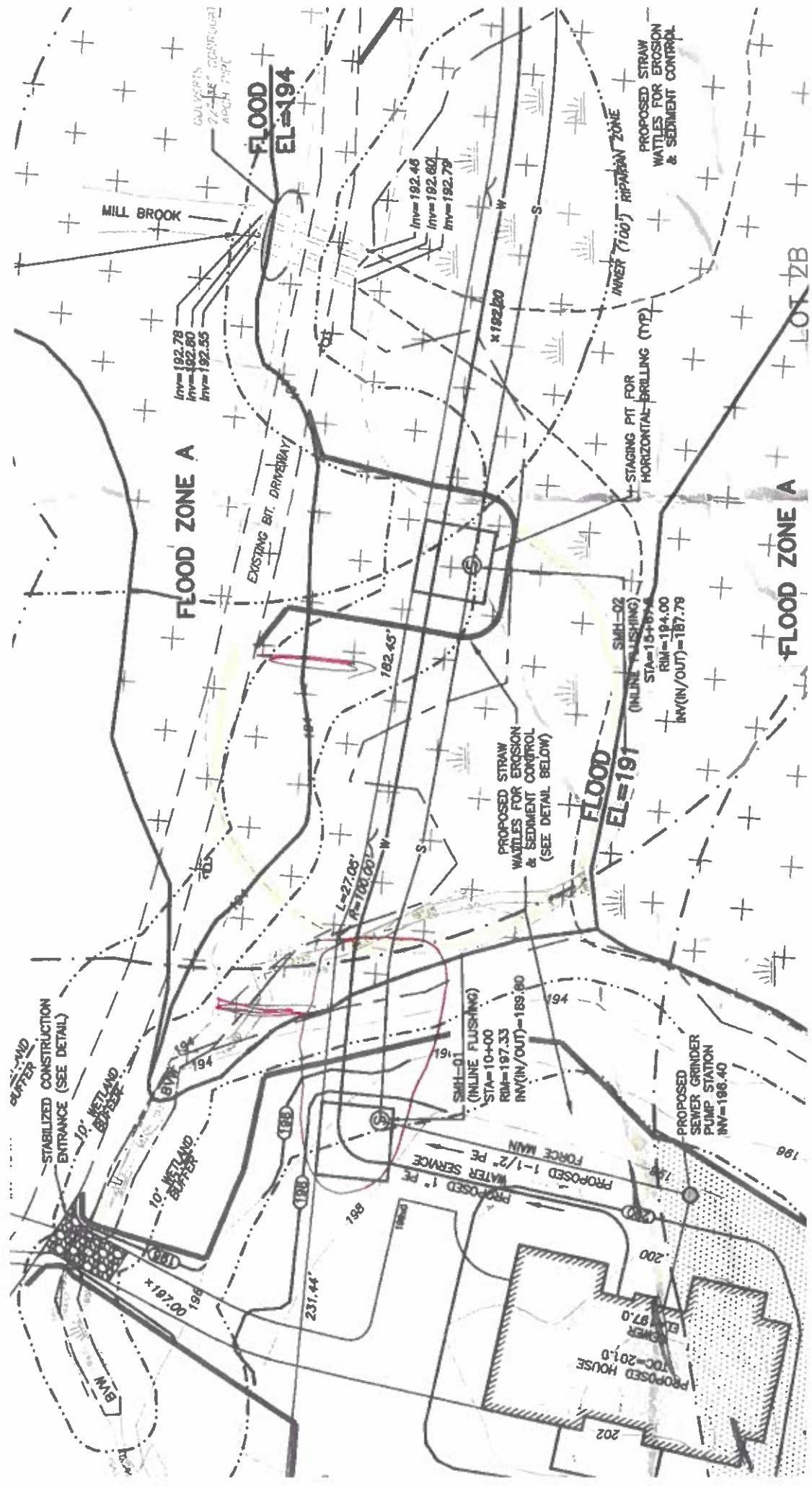
The Drought Monitor focuses on broad-scale conditions. Local conditions may vary. For more information on the Drought Monitor go to <https://droughtmonitor.unl.edu/about.aspx>

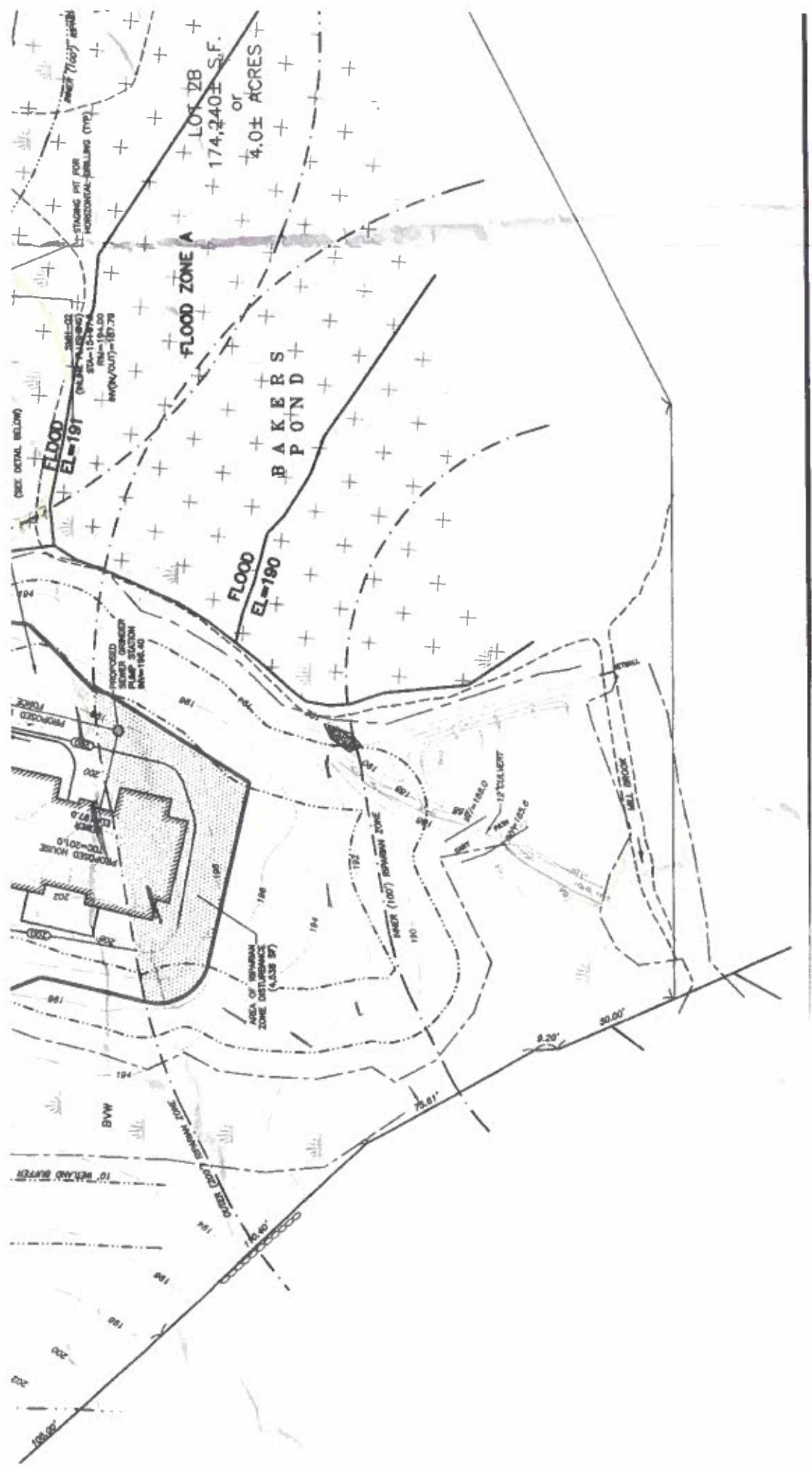
Author:

Richard H. Petty
NCI/USDA



droughtmonitor.unl.edu





310 CMR. DEPARTMENT OF ENVIRONMENTAL PROTECTION

10.58: continued

2(2) h.

f. Rivers include perennial streams that cease to flow during periods of extended drought. Periods of extended drought for purposes of 310 CMR 10.00 shall be those periods, in those specifically identified geographic locations, determined to be at the "Advisory" or more severe drought level by the Massachusetts Drought Management Task Force, as established by the Executive Office of Energy and Environmental Affairs and the Massachusetts Emergency Management Agency in 2001, in accordance with the Massachusetts Drought Management Plan (MDMP). Rivers and streams that are perennial under natural conditions but are significantly affected by drawdown from withdrawals of water supply wells, direct withdrawals, impoundments, or other human-made flow reductions or diversions shall be considered perennial.

g. Human-made canals (*e.g.*, the Cape Cod Canal and canals diverted from rivers in Lowell and Holyoke) and mosquito ditches associated with coastal rivers do not have riverfront areas.

h. Where rivers flow through lakes or ponds, the Riverfront Area stops at the inlet and begins again at the outlet. A water body identified as a lake, pond, or reservoir on the current USGS map or more recent map provided by the Department, is a lake or pond, unless the issuing authority determines that the water body has primarily riverine characteristics. When a water body is not identified as a lake, pond, or reservoir on the current USGS map or more recent map provided by the Department, the water body is a river if it has primarily riverine characteristics. Riverine characteristics may include, but are not limited to, unidirectional flow that can be visually observed or measured in the field. In addition, rivers are characterized by horizontal zonation as opposed to the vertical stratification that is typically associated with lakes and ponds. Great Ponds (*i.e.*, any pond which contained more than ten acres in its natural state, as calculated based on the surface area of lands lying below the natural high water mark; a list is available from the Department) are never rivers.

2. Mean Annual High-water Line of a river is the line that is apparent from visible markings or changes in the character of soils or vegetation due to the prolonged presence of water and that distinguishes between predominantly aquatic and predominantly terrestrial land. Field indicators of bankfull conditions shall be used to determine the mean annual high-water line. Bankfull field indicators include but are not limited to: changes in slope, changes in vegetation, stain lines, top of pointbars, changes in bank materials, or bank undercutts.

a. In most rivers, the first observable break in slope is coincident with bankfull conditions and the mean annual high-water line.

b. In some river reaches, the mean annual high-water line is represented by bankfull field indicators that occur above the first observable break in slope, or if no observable break in slope exists, by other bankfull field indicators. These river reaches are characterized by at least two of the following features: low gradient, meanders, oxbows, histosols, a low-flow channel, or poorly-defined or nonexistent banks.

c. In tidal rivers, the mean annual high-water line is coincident with the mean high water line determined under 310 CMR 10.23.

3. The Riverfront Area is the area of land between a river's mean annual high-water line measured horizontally outward from the river and a parallel line located 200 feet away, except that the parallel line is located:

a. 25 feet away in Boston, Brockton, Cambridge, Chelsea, Everett, Fall River, Lawrence, Lowell, Malden, New Bedford, Somerville, Springfield, Winthrop, and

***Giardia* and Wildlife**
SCWDS Briefs, July 1998, 14.2

Intestinal infection with the protozoan parasite *Giardia lamblia* is the second leading cause of outbreaks of waterborne disease in people in the United States. This one-celled parasite is common world-wide and occurs in humans, domestic animals, and wildlife. Although some people and domestic animals carry *G. lamblia* with no symptoms, others may develop severe debilitating diarrhea. Disease in free-ranging wildlife has not been reported.

Giardia cysts are shed in feces and are infective immediately when ingested in contaminated water or food, although symptoms may not appear for 7-10 days. The infective cysts are very susceptible to desiccation and heat; however, they may survive for 2 to 3 months in cool water. Once ingested, cysts release trophozoite stages in the intestine, and the cycle is repeated.

The role of wildlife in transmitting *Giardia* to humans has been controversial. A variety of *Giardia* species have been isolated from wild mammals, birds, amphibians, and reptiles. Beavers are the most well known wildlife host for *Giardia*, to the extent that waterborne outbreaks of human giardiasis have sometimes been called "beaver fever." Experimental studies clearly show that beavers can become infected with *Giardia* of human origin, and beavers shedding *Giardia* cysts were found upstream of contaminated municipal water supplies. However, it still is not clear what species of *Giardia* infects beavers in the wild.

Wildlife other than beavers also have been suspect, but new information has relieved some concerns. DNA analyses recently has disclosed that muskrats and voles are carriers of *G. microti*, a species which does not affect humans. Wading birds such as herons and egrets were once thought to be potential sources of water contamination. Again, genetic analyses have shown that they actually harbor *G. ardeae*, another distinct non-human species. Researchers have found that amphibians and reptiles also carry species distinctly different from the human *G. lamblia* and are not important in causing human giardiasis.

No one can say whether beavers originally contracted *Giardia* from humans or if beavers harbor *Giardia* naturally. Either way, all blame for human giardiasis cannot be focused on the beaver because there is a plethora of important non-wildlife sources that may be of the *G. lamblia* type. Wilderness areas can be heavily contaminated due to improper disposal of human feces. Furthermore, genetic studies have shown that domestic dogs, cats, cattle, and sheep are also capable hosts of *Giardia* similar to that of human origin.

The most important factor in preventing *G. lamblia* infection is avoiding contaminated water. Large-scale waterborne outbreaks of human giardiasis usually occur due to the lack of water filtration or a breakdown in the filtration system. Conventional water treatment plants that use coagulation-sedimentation-filtration methods should prevent waterborne giardiasis outbreaks, regardless of the presence of *Giardia* cysts in the source water. Higher concentrations of chlorine and longer contact times are required to inactivate *Giardia* cysts compared to most other intestinal pathogens, especially in cold water. Boiling water easily inactivates cysts, as the thermal death point of cysts is 130-140° Fahrenheit. Reduction of contamination in streams and wells will depend upon a conscientious effort to dispose of

human and domestic animal feces. Because of the possibility of *G. lamblia* contamination by humans, domestic animals, or beavers, one should never assume that surface water, even in remote areas, is safe to drink without boiling or filtration. (Prepared by Dr. Joe Gaydos)

Karon Catrone

From: Nora Loughnane
Sent: Wednesday, June 9, 2021 11:36 AM
To: Karon Catrone
Cc: Abigail McCabe
Subject: FW: 44 Mill St. ANR update

Karon,

Here is a copy of an email from February 2016 discussing the 42/44 Mill Street property and the Planning Board's denial of a proposed ANR plan. The applicant at that time was unable to demonstrate developability of the land at that time. I have seen nothing to date that suggests the unbuildable status of this lot has changed.

Despite the current applicant's statement to the contrary, no Shared Driveway Special Permit has ever been granted for this property.

Nora

Nora Loughnane
Director of Community & Economic Development
Town of Westwood
50 Carby Street
Westwood, MA 02090
781-251-2595

From: Jack Wiggin [mailto:Jack.Wiggin@umb.edu]
Sent: Monday, February 22, 2016 7:47 PM
To: Nora Loughnane
Subject: RE: 44 Mill St. ANR update

Thanks Nora. Understood.

Jack

From: Nora Loughnane [<mailto:nloughnane@townhall.westwood.ma.us>]
Sent: Monday, February 22, 2016 6:18 PM
To: Chris Pfaff <chrispfaff@comcast.net>; Jack Wiggin <Jack.Wiggin@umb.edu>; Bruce Montgomery <BruceMontgomery@LiveNation.com>; Steve Olanoff <Olanoff@aol.com>; Trevor Laubenstein <twl76aia@gmail.com>
Cc: Abigail McCabe <amccabe@townhall.westwood.ma.us>; Janice Barba <jbarba@townhall.westwood.ma.us>
Subject: Fwd: 44 Mill St. ANR update

Planning Board members,

On the advice of Town Council I've revised the agenda for tomorrow night's meeting to include consideration of the proposed ANR plan for 44 Mill Street. Attached is a copy of Abby's letter to the Town Clerk noting the

board's vote at the 2/9 meeting. Also attached is a copy of additional submittal materials received from the applicant.

I have reviewed these materials with Tom McCusker. We are of the opinion that there is 1) nothing to indicate that a prior Planning Board waived the construction standards for the subdivision road; 2) nothing to indicate that the driveway to 44 Mill Street was ever intended to serve as a subdivision road; and 3) nothing to indicate that the subdivision road shown on the approved 1969 plan could today be constructed in accordance with that plan. As such, Tom and I recommend that the Board deny the application and refuse to endorse the proposed ANR plan on the grounds that it shows a subdivision.

It is essential that the board takes action on this application at tomorrow night's meeting to avoid the grant of a constructive approval. I will be in the office tomorrow afternoon if individual board members have any questions or wish to discuss this in greater detail.

Regards,
Nora

Sent from my iPhone

The Attorney General has determined that email correspondences are public records unless the content of the email falls with one of the stated exemptions under the Public Records Laws

Karon Catrone

From: Tim McGuire <tim@goddardconsultingllc.com>
Sent: Tuesday, October 13, 2020 12:10 PM
To: Karon Catrone
Cc: Scott Goddard
Subject: 42 Mill St. Westwood Continuance and Applicant Error
Attachments: WPA 3.pdf

Good afternoon Karon,

We realized that there was an inconsistency with the applicant for this NOI. The applicant is Delapa Properties, not Salvatore Vinci. See attached revised WPA 3 form for clarification. Any bills for legal ads may be sent to our office:

Goddard Consulting
291 Main Street, Suite 8
Northborough, MA 01532

We would also like to continue tomorrow's hearing (10/14) to the next available date. Please advise on the date of this next hearing.

Do you have any updates from the peer reviewer?

Thank you,

--
Tim McGuire
Wetland Scientist

Goddard Consulting, LLC
291 Main Street, Suite 8
Northborough, MA 01532

tim@goddardconsultingllc.com
Office: (508) 393-3784
Cell: (774) 265-2779

The Attorney General has determined that email correspondences are public records unless the content of the email falls with one of the stated exemptions under the Public Records Laws

sent to Assessor 4/13

BOARD OF ASSESSORS
580 High St.
Westwood, Ma. 02090
Fax: 781- 251-2588

ABUTTERS LIST REQUEST
Please allow 10 business days for final list

PARCEL REQUESTED: 42 Mill Street
RECORD OWNER: Salvatore Vinci
FOR WHICH BOARD: Conservation Commission
REASON FOR REQUEST: Proposing work within 100 feet of wetland
PROJECT TYPE: Notice of Intent
CONTACT PERSON: Timothy McGuire
TELEPHONE NUMBER: 774 265 0779
SIGNATURE: Kelli W DATE: 4/13/2020

* Forward this completed request to the Assessor's Office ASAP
Upon receipt of the certified abutter's list - send abutter's notification (next sheet) to
all abutters.

28/13

TOWN OF WESTWOOD
COMMONWEALTH of MASSACHUSETTS

Christopher A. Pfaff, Chairman
Steven H. Olanoff, Vice Chairman
Trevor Laubenstein, Secretary
John J. Wiggin
Bruce H. Montgomery



Nora Loughnane, Town Planner
nloughnane@townhall.westwood.ma.us
(781) 251-2581

Janice Barba, Planning & Land Use
2016 FEB 11 Spdallt 22
jbarba@townhall.westwood.ma.us
781-320-1366

PLANNING BOARD

TOWN CLERK
TOWN OF WESTWOOD

February 11, 2016

Mrs. Dorothy Powers, Town Clerk
Town of Westwood
580 High Street
Westwood, MA 02090

RE: ANR Plan for 44 Mill Street (Map 28, Lot 14) filed with Town Clerk on 2/2/16

Dear Mrs. Powers:

Please be advised that at a duly authorized meeting on February 9, 2016, the Planning Board of the Town of Westwood declared the above-referenced ANR submission incomplete, because the Applicant did not demonstrate that the vital access exists to such lots as contemplated by M.G.L. Chapter 41, Section 81L & M.

Sincerely,

A handwritten signature in black ink that appears to read "Abby McCabe".

Abby McCabe
Town Planner

cc: Applicant
 Town Counsel
 Town Engineer
 Building Commissioner

Karon Catrone

From: Patrick Ahearn
Sent: Thursday, May 6, 2021 11:40 AM
To: Karon Catrone; Nora Loughnane; Abigail McCabe; Joe Doyle
Cc: Jeffrey Silva
Subject: RE: 44 mill st property rights document

Karon, I am having a difficult time reading the document that was sent to me. The statutes he described below are criminal trespass statutes. I do not see it as a trespass issue but if he does than when and if the project proceeds his recourse would be to the police not the building department or the PB. An easement, generally gives you access to go across a piece of property, so an easement is generally not something that prevents but allows access. It looks like he is saying they are "infringing" on his property rights which they generally cannot do unless allowed by an easement.

Pat

From: Karon Catrone
Sent: Thursday, May 6, 2021 11:31 AM
To: Patrick Ahearn <pahearn@townhall.westwood.ma.us>; Nora Loughnane <nloughnane@townhall.westwood.ma.us>;
Abigail McCabe <amccabe@townhall.westwood.ma.us>; Joe Doyle <jdoyle@townhall.westwood.ma.us>
Subject: FW: 44 mill st property rights document

The Commission is currently reviewing a project which is proposing construction of a single family home at 44 Mill Street. The lot has several resource area issues. The applicant is proposing directional drilling for the sewer and water which would run next to the left side of the driveway. The applicant's representative made claims that there is a shared driveway permit which Nora suggested I have them upload to viewpermit (which has not been done yet).

The abutter at 42 Mill Street claims there is no shared driveway permit but the attached easement. Could this easement prevent the applicant from access to the property or directional drilling? I do not have much knowledge of this so any information would be helpful.

Thank you,
Karon

From: A Y [ayudzinsky@gmail.com]
Sent: Thursday, May 6, 2021 10:54 AM
To: Karon Catrone <kcatrone@townhall.westwood.ma.us>
Subject: 44 mill st property rights document

Hi Karon,

I have highlighted areas from Goddard consulting that are planning to infringe on my property rights. You may need to zoom on the pdf to see what I wrote in full along with excerpts my attorney highlighted upon review. It's a no go.

Goddard already expressed intent via the plan, and has not denied it on 2 calls. On the recorded call I warned that this won't be allowed. There is no ignorance of the fact.

Per Massachusetts law below, it's criminal to do so. Below is a simplified version, I'm not an attorney, but the town has one as you said!

tatutes

Massachusetts General Laws:

- [Ch.266, Section 120](#) (general trespass)
- [Ch.266, Section 121A](#) (vehicles)
- [Ch.266, Section 123](#) (public property)
- [Ch.266, Section 115](#) (gardens)
- [Ch.266, Section 118](#) (domestic animals)

Elements of the Crime

General criminal trespass:

- An individual commits an act of trespass if they enter or remain in or on another house, building, boat, wharf, or pier without any legal authority.
- Penalty: Maximum fine of \$100 and/or incarceration up to 30 days.

Trespass of garden/orchard:

- An individual enters someone's garden, orchard, or nursery and destroys trees flowers, fruits.
- Penalty: Maximum fine of \$500 and/or 6 months in jail

Vehicle trespass:

- An individual enters another's property by using a vehicle
- Penalty: Fine not to exceed 250

The Attorney General has determined that email correspondences are public records unless the content of the email falls with one of the stated exemptions under the Public Records Laws

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Karon Catrone

From: Nora Loughnane
Sent: Tuesday, June 8, 2021 1:56 PM
To: Karon Catrone; Patrick Ahearn
Cc: Abigail McCabe
Subject: RE: 42 Mill Street roadway

Thanks, Karon.

That is consistent with my recollection. There was never a Shared Driveway Special Permit as suggested by the developer to the Conservation Commission.

It is my understanding that this lot remains unbuildable because the subdivision roadway was not constructed in accordance with the approved 1969 Subdivision Plan. Since the 1969 plan shows a significant portion of the proposed roadway within the area that is now known to be wetlands, the roadway can no longer be constructed as approved in 1969. I do not believe this lot can be developed unless the developer applies for and receives an amended Definitive Subdivision Approval and Shared Driveway Special Permit from the Planning Board.

I will search my files for previous conversations about the status of this property.

Nora

[**Nora Loughnane**](#)
Director of Community & Economic Development
Town of Westwood
50 Carby Street
Westwood, MA 02090
781-251-2595

From: Karon Catrone
Sent: Tuesday, June 08, 2021 1:48 PM
To: Nora Loughnane; Patrick Ahearn
Subject: 42 Mill Street roadway

Nora,

Please see attached document from Goddard Consulting regarding the roadway at 42/44 Mill Street.

Karon

The Attorney General has determined that email correspondences are public records unless the content of the email falls with one of the stated exemptions under the Public Records Laws

25

BK 14299 PG 480

N O T QUITCLAIM DEED N O T

A N

Anthony F. Delapa and Joanne C. Delapa as they are Trustees of the Delapa Realty Trust,
 Grantor, u/d/t dated March 9, 1967, recorded in the Norfolk Deeds in Book 4416, Page 326 for
 consideration paid of Ten Thousand (\$10,000.00) grant to

Salvatore Vinci and Margaret Vinoi, Grantee, husband and wife as tenants by the entirety,
 of 65 Bay Colony Drive, Westwood, Massachusetts 02090

with quitclaim covenants the land situated on Mill Street, Westwood, Norfolk County,
 Massachusetts being designated and shown as Lot 2 on a plan entitled "Plan of Land in Westwood,
 Mass." by Pilling Engineering Company Inc. dated February 4, 1969, which plan is recorded with
 Norfolk Registry of Deeds as Plan No. 394 of 1969, Book 4594, Page 671, bounded and described
 according to said plan as follows:

NORTHEASTERLY	by Mill Street, as shown on said plan, 95 feet;
SOUTHEASTERLY	by land marked "Lot 3 Donald Hecht, Margaret M. Hecht" on said plan 565 feet more or less;
SOUTHERLY	by land marked "Lot 4 James F. Kearns, Francis J. Kearns" on said plan 235 feet more or less;
WESTERLY	in part by the end of Millbrook Road and in part by land marked "Richard P. Tschirch, Marylou Tschirch" on said plan, by three lines measuring 50 feet; 9 20 feet and 75 61 feet;
SOUTHWESTERLY	in part by said land marked "Richard P. Tschirch, Marylou Tschirch" on said plan in part by land marked Paul R. Kugel, Esther M. Kugel" on said plan and in part by land marked "Samuel DeBoer, Elizabeth P. DeBoer" on said plan, by two lines measuring 110 40 feet and 105 feet;
NORTHWESTERLY	by Lot 2A, as shown on said plan, 160 06 feet
NORTHERLY	by said Lot 2A, 231.44 feet;
NORTHEASTERLY	by said Lot 2A, 27.05 feet;
NORTHERLY	by said Lot 2A by two lines measuring 182.45 feet and 154.17 feet, and
NORTHWESTERLY	by said Lot 2A, 204.45 feet,

Containing according to said plan 174,240 square feet or 4 000 Acres.

Said premises are conveyed with the following right as appurtenant thereto:

- (a) To use in common with the Grantor and others lawfully entitled thereto for
 purposes of ingress and egress to and from said Lot 2B those portions crossing the
 Grantors remaining land consisting of a strip noted "Right of Way" on the plan
 hereinafter mentioned which lies within the limits of a parcel of land situated on
 Mill Street in Westwood, Norfolk County, Massachusetts, being designated and
 shown as Lot 2A on a plan entitled "Plan of Land in Westwood, Mass." by Pilling
 Engineering Company dated February 4, 1969 amended February 5, 1969, which

RECEIVED AND RECORDED
 NORFOLK COUNTY
 REGISTRY OF DEEDS
 DEDHAM, MA

CERTIFY

BARRY T. HANNON, REGISTER

072924

00 JUL 27 AM 11:05

BK 14299 PG 481

plan is filed in Norfolk Registry of Deeds as Plan No. 394 of 1969, Book 4594,
Page 671 and said right of way being bounded and described as follows:

NOTE NOTE

Beginning at a point in the common boundary line of Lot 2A and Lot 2B, as shown on said plan, said point being a distance, measuring in three lines 204.45 feet, 154.17 feet and 182.45 feet, Southwesterly and Northwesterly from Mill Street, as shown on said plan, and bounded.

SOUTHWESTERLY
NORTHWESTERLY

NORTHERLY

NORTHWESTERLY
NORtheasterly
SOUTHEASTERLY
SOUTHERLY

SOUTHEASTERLY

by Lot 2B, as shown on said plan, 27.05 feet;
by Lot 2A, as shown on said plan, being a curved line, 80.49
feet;
again by said Lot 2A, by two lines measuring 150.75 feet
and 128.47 feet;
again by said Lot 2A, 222 feet more or less;
by Mill Street, as shown on said plan, 25 feet more or less;
again by said Lot 2A, 145 feet more or less;
again by said Lot 2A, by two lines measuring 141.32 feet and
50.88 feet;
again by said Lot 2A, being a curved line with a radius of
40.00 to the point where said curved line intersects with the
common boundary line of said Lot 2A and said Lot 2B;
thence turning and running N 84° 00' 00" W along said
common boundary line to the point of beginning.

- (b) The appurtenant right to pass and repass is limited to private passenger automobiles, bicycles and foot passage only; trucks, vans, machinery and such non-private passenger vehicles are restricted to passage for fuel delivery, maintenance and repairs to and construction of a proposed single family residence.
 - (c) The appurtenant right to pass over said "right of way" on Lot 2A requires the grantees to conduct prompt removal of all snow and ice from all pavement and the repair and maintenance of the now existing bituminous concrete pavement, on Lot 2A, in a reasonable condition for passage as aforesaid of a standard similar to accepted streets and ways in the Town of Westwood.
 - (d) No vehicles or bicycles may be left standing or parked at any time on the aforesaid "right of way."
 - (e) The appurtenant right conveyed about does not include any rights to lay pipes, change grades, erect structures in, on, over or under the said "right of way."

The premises hereby conveyed shall be subject to the following restrictions which shall be construed as covenants running with the land and shall be binding and in full force and effect until the first day of January in the year 2025.

- (1) Said Lot 2B shall be used only for the purpose of a dwelling house designed for the occupancy of and used by one family only.

BK 14299 PG 482

(2) No business of any nature, whether mercantile, manufacturing, professional or other shall be allowed or conducted upon said premises.

N O T
A N
O F F I C I A L

(3) No commercial vehicle shall be regularly parked on the premises nor shall any house trailer, camper or boat and/or trailer, or other recreational vehicle be allowed to remain on the premises. C O P Y C O P Y

(4) No livestock, poultry or pigeons shall be kept on the premises, household pets to be excepted from the restrictions.

The Grantors expressly reserve the following rights, privileges and easements, forever, in, over, under, upon or through said Lot 2B:

- A. To use the areas designated and shown as a pond on Lot 2B on said plan for skating, sledding, bathing, swimming, boating, fishing, or other recreational purposes and for the purpose of access to the same the right, privilege and easement, forever, to pass and repass by foot, bicycle, horse or horse-drawn sleigh or carriage, over that portion of Lot 2B.

For title of Grantor see Deed recorded at Book 7211, Page 711.

Witness my hand and seal this 17th day of July, 2000.


Anthony F. Delapa, Trustee


Joanne C. Delapa

COMMONWEALTH OF MASSACHUSETTS

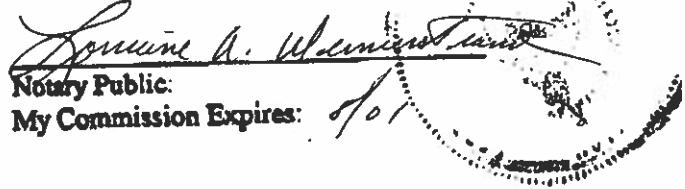
ss. Norfolk County

July 17, 2000

Then personally appeared the above-named Anthony F. Delapa and Joanne C. Delapa, Trustees of the Delapa Realty Trust and acknowledged the foregoing to be their free act and deed, before me,

CANCELLED
DEEDS REG#1
07/27/2000

g-bw/3/delapa/ded


Joanne C. Delapa, Notary Public:
My Commission Expires: 10/1/2001

07/27/00 10:59AM 01
000000 #1467

FEE \$45.60

TOTAL \$45.60

Karon Catrone

To: Steven Bernstein
Subject: RE: 198 Farm Lane Westwood. Online permit for RDA thru Conservation Commission and Board of Health

From: Steven Bernstein [mailto:slbgroupllc@me.com]
Sent: Tuesday, March 23, 2021 12:09 PM
To: Karon Catrone <kcatrone@townhall.westwood.ma.us>
Cc: Steven L Bernstein <slbgroupllc@me.com>
Subject: Fwd: 198 Farm Lane Westwood. Online permit for RDA thru Conservation Commission and Board of Health

Hi:

Can you please send me (or applicant) the notice of public hearing for 198 Farm Lane so I can send out mailing regarding the proposed irrigation well ?

Please call or email with comments.

Have a great day!

Steven L. Bernstein, P.E.
SLB Group, LLC
Civil Engineers
Slbgroupllc@me.com
781-686-2489

Begin forwarded message:

From: Steven Bernstein <slbgroupllc@me.com>
Subject: Re: 198 Farm Lane Westwood. Online permit for RDA thru Conservation Commission and Board of Health
Date: March 22, 2021 at 8:02:53 AM EDT
To: Cosmin Laslau <cosmin.laslau@gmail.com>
Cc: Steven L Bernstein <slbgroupllc@me.com>, Dan Armstrong <darmstrong@strongcivil.com>, Martin Orio <mojee62@gmail.com>, TJ Bernier <tj@gapmtndrilling.com>

Cosmin:

Thank you.

The Town should be sending you a notice about the hearing-please send this to me so I can send out the mailing.

Please call or email with comments.

Have a great day!

Steven L. Bernstein, P.E.
SLB Group, LLC
Civil Engineers
Slbgroupllc@me.com
781-686-2489

On Mar 21, 2021, at 10:31 PM, Cosmin Laslau
<cosmin.laslau@gmail.com> wrote:

Following up on this, I wanted to let you know this is completed now - this is the reference: Permit Record No: CC-21-22

I have also made the payment online for the application.

According to the website the status is now "Application Completeness Review In progress. This step is in progress."

Regards,
Cosmin

On Sat, Mar 20, 2021 at 5:57 PM Cosmin Laslau
<cosmin.laslau@gmail.com> wrote:

Thank you Steven, I confirm receipt - will work on this and submit it soon so that we can try to get into the April meeting.

Regards,
Cosmin

On Fri, Mar 19, 2021 at 11:22 AM Steven Bernstein
<slbgroupllc@me.com> wrote:

Cosmin/TJ/Martin:

As discussed this morning, please find attached the two well plans (stamped) and the Request for Determination of Applicability (RDA) (4 pages).

Because you are the applicant, you have to file the RDA permit which is online on the Town's website.

Please sign the last page (page 4) of the application. You will have to scan and download the application and the two plans as attachments.

Once you completed the application, and pay the required fees, the Conservation Commission will send you a notice which I will then send to the 12 abutters (green card return receipts) for us to attend (probably by Zoom) a Public Hearing in April 2021. The green cards will be mailed back to you at your home address.

TJ Bernier will file on your behalf the well plans with the Board of Health and pay that fee. As part of that application, those certified letters have already been sent out, and you should have the green cards. Since these green cards are a part of that submission, you should mail them to The Board of Health in one envelope with a cover note explaining what they are so they can put them in the file.

I have attached the letter that was sent to the direct abutters.

Please do not hesitate to call if you have any questions.

Thanks for your help.

Have a great day!

Steven L. Bernstein, P.E.
SLB Group, LLC
Civil Engineers
Slbgroupllc@me.com
781-686-2489

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Karon Catrone

From: A Y <ayudzinsky@gmail.com>
Sent: Thursday, May 6, 2021 10:54 AM
To: Karon Catrone
Subject: 44 mill st property rights document
Attachments: 44 mill - property right.pdf

Hi Karon,

I have highlighted areas from Goddard consulting that are planning to infringe on my property rights. You may need to zoom on the pdf to see what I wrote in full along with excerpts my attorney highlighted upon review. It's a no go.

Goddard already expressed intent via the plan, and has not denied it on 2 calls. On the recorded call I warned that this won't be allowed. There is no ignorance of the fact.

Per Massachusetts law below, it's criminal to do so. Below is a simplified version, I'm not an attorney, but the town has one as you said!

tatutes

Massachusetts General Laws:

- [Ch.266, Section 120](#) (*general trespass*)
- [Ch.266, Section 121A](#) (*vehicles*)
- [Ch.266, Section 123](#) (*public property*)
- [Ch.266, Section 115](#) (*gardens*)
- [Ch.266, Section 118](#) (*domestic animals*)

Elements of the Crime

General criminal trespass:

- An individual commits an act of trespass if they enter or remain in or on another house, building, boat, wharf, or pier without any legal authority.
- Penalty: Maximum fine of \$100 and/or incarceration up to 30 days.

Trespass of garden/orchard:

- An individual enters someone's garden, orchard, or nursery and destroys their flowers, fruits.
- Penalty: Maximum fine of \$500 and/or 6 months in jail

Vehicle trespass:

- An individual enters another's property by using a vehicle
- Penalty: Fine not to exceed 250

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Karon Catrone

From: Nora Loughnane
Sent: Wednesday, November 18, 2020 4:01 PM
To: Karon Catrone
Cc: Abigail McCabe
Subject: FW: 44 mill st

Karon,

Here is some additional discussion on the 44 Mill Street property from 2016.

Nora

Nora Loughnane
Director of Community & Economic Development
Town of Westwood
50 Carby Street
Westwood, MA 02090
781-251-2595

From: Nora Loughnane
Sent: Friday, February 26, 2016 1:20 PM
To: 'warelands@verizon.net'
Cc: Abby McCabe; Tom McCusker (tmccusker@townhall.westwood.ma.us)
Subject: RE: 44 mill st

Ed,

These documents seem to be the same ones you submitted for the board's consideration on 2/11. The board reviewed them and made its decision. I have nothing to add.

Nora

From: warelands@verizon.net [mailto:warelands@verizon.net]
Sent: Friday, February 26, 2016 6:30 AM
To: Nora Loughnane
Subject: Re: 44 mill st

hello Nora, attached are the covenant recorded between Mr. Hearne and the Town of Westwood for a Definative plan, and the lot release by the Planning Board. The plan that the Planning Board approved on April 30, 1969 was a definitive plan, and the release issued by The planning board on October 26, 1972 released the 2 lots from covenant. Maybe I'm missing something, but I think the Board applied the wrong standard in rendering its decision. Could you please review documents. Thanks

From: [Nora Loughnane](mailto:Nora.Loughnane@townhall.westwood.ma.us)
Sent: Thursday, February 25, 2016 10:04 AM
To: warelands@verizon.net
Cc: [Tom McCusker](mailto:Tom.McCusker@townhall.westwood.ma.us)
Subject: RE: 44 mill st

Ed,

Your presumption is incorrect. The Planning Board applied the appropriate standards for review of ANR plans as specified in Chapter 41, Section 81 and related case law.

In order for the board to endorse an ANR Plan, the board must first determine that all lots shown on such plan have sufficient frontage on an existing way and actual physical access from that way to the buildable portion of each lot. The board reviewed the 1969 plan but saw no credible evidence that said plan had ever been effectuated. The board saw no credible evidence to support your assertion that a previous Planning Board had waived construction standards and allowed the driveway serving 44 Mill Street to serve as the subdivision road shown on the 1969 plan. As such, the board determined that no vital access currently exists to the lots which would be created by your proposed ANR plan if the board granted endorsement of that plan.

The Planning Board found that your proposed ANR Plan showed a subdivision, and therefore appropriately voted to require approval pursuant to the Subdivision Control Law.

Nora

From: warelands@verizon.net [mailto:warelands@verizon.net]

Sent: Thursday, February 25, 2016 6:13 AM

To: Nora Loughnane

Subject: 44 mill st

Hello Nora, late night for everybody. I think you applied a requirement for an chapter 41 sec 81, exception (c) "a way in existence when the subdivision control law became effective in the city or town in which the land lies, having, in the *opinion of the planning board*, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon", to a Chapter 41 sec 811 exception (b) which only requires, " *a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law* ". What are your thoughts thanks

The Attorney General has determined that email correspondences are public records unless the content of the email falls with one of the stated exemptions under the Public Records Laws

Karon Catrone

From: Brian Donahoe <bdonahoe@goldmanenvironmental.com>
Sent: Tuesday, April 27, 2021 10:36 AM
To: Karon Catrone
Subject: RE: 42 Mill Street

Hi Karon, as discussed I have reviewed the package of information submitted to me by the applicant. The submittal does not change any of the design or regulatory parameter except for the relocation of the access driveway onto the applicant property. So the report originally submitted reflects my interpretation of the regulations and the changed conditions due to the water flow blockage and the beaver dam. Also the floodplain map per Mass GIS is not changed in the re-submittal. I will need an increase in the budget to cover the review and attendance at the next hearing. I estimate that will require \$1,000. Let me know if you have any questions. Thanks.

Brian Donahoe, Vice President
Environmental Services & Engineering
Goldman Environmental Consultants, Inc.
60 Brooks Drive
Braintree, MA 02184
Mobile: 617-947-0957
Office: 781-356-9140 x 114
Fax: 781-356-9147

From: Karon Catrone <kcatrone@townhall.westwood.ma.us>
Sent: Monday, April 26, 2021 11:03 AM
To: Brian Donahoe <bdonahoe@goldmanenvironmental.com>
Subject: 42 Mill Street

Hi Brian,
Just checking in on the status of the review for 42 Mill Street in Westwood. Are you waiting for information from the applicant?
FYI – the hearing was scheduled for 4/28/21 but the date was changed to 5/5/21 at 7 pm due to an election on 4/28.
Karon

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The Attorney General has determined that email correspondences are public records unless the content of the email falls with one of the stated exemptions under the Public Records Laws

es

Karon Catrone

From: Buckley <gw buckle@verizon.net>
Sent: Tuesday, May 25, 2021 12:04 PM
To: Brian Donahoe; Kerry Snyder
Cc: A Y; Todd DeMelle; Karon Catrone
Subject: Re: Baker's Pond

I'm including Kerry Snyder on this, since she is a very knowledgeable person regarding the area as a member of the Neponset River Watershed Association.

On May 25, 2021, at 11:52 AM, Brian Donahoe <bdonahoe@goldmanenvironmental.com> wrote:

I was able to see the videos as well/ I saw them earlier from when Karon sent them to me. The bottom line for my perspectives is the plan prepared for submittal does not reflect the previous filing that DEP concurred with my report and the impoundment behind the dam does not stop the riverfront boundary and therefore it is an improper/incorrect depiction of the resource areas. The 100 and 200 foot riverfront boundary overlap the entire house location and beyond. It can therefore not meet the performance standards.

Brian Donahoe, Vice President
Environmental Services & Engineering
Goldman Environmental Consultants, Inc.
60 Brooks Drive
Braintree, MA 02184
Mobile: 617-947-0957
Office: 781-356-9140 x 114
Fax: 781-356-9147

From: A Y <ayudzinsky@gmail.com>
Sent: Tuesday, May 25, 2021 11:35 AM
To: Todd DeMelle <tdemelle@gmail.com>
Cc: Greg Buckley <gw buckle@verizon.net>; Karon Catrone <kcatrone@townhall.westwood.ma.us>; Brian Donahoe <bdonahoe@goldmanenvironmental.com>
Subject: Re: Baker's Pond

Hi Todd, I can see the attachments now.

Karon, could town counsel advise on the nuclear option of pursuing Eminent Domain Action? The property owner would not have a very good case, land is undeveloped and serves the public good. A fair price could be offered for the land as it is unimproved with no built structures...offer could be based on the taxed value of the land. Property is on a path for water resources, ecological habitat, unsuitable for construction, fraught with legal issues...etc and makes the best case if any to use Eminent Domain.

On Mon, May 24, 2021 at 10:16 PM Todd DeMelle <tdemelle@gmail.com> wrote:

Hello Brian and Artur,

My name is Todd DeMelle and my family and I live at 1355 High St which overlooks Bakers Pond. Artur, Greg passed on your email address. Brian, I got your info from the westwood conservation commission meeting. Nice to meet you both.

Greg asked me today if I would be available for the meeting coming up on June 9th, but I will be out of town and unable to attend. So I wanted to reach out and offer any assistance that might be helpful in preparing for the meeting.

I sent the below email to Karon prior to the last meeting which I thought would be of interest. If there's anything more I can do with reference photos or video or image editing/preparation, I'd be happy to do so.

Just let me know... thank you!

Todd

----- Forwarded message -----

From: Todd DeMelle <tdemelle@gmail.com>

Date: Sun, May 2, 2021 at 11:34 PM

Subject: Baker's Pond

To: Greg Buckley <gwbuckley@verizon.net>, Karon Catrone <kcatrone@townhall.westwood.ma.us>

Hi Karon,

I was talking with Greg this afternoon about the Conservation Committee meeting coming up Wednesday when the proposal for construction on the lot by Baker's Pond off Mill St will be discussed.

The pond is as high this year as we've seen it in the 17 years that we've lived in the house. I thought I'd take some video and pictures for the meeting and then it occurred to me, I should dig up some pictures from before we got the Purple Loosestrife under control to show the before and after.

Looking at those old pictures now, it was even worse than I remember! We were able to regain a lot of open water! I also came across some shots from the Summers the beetles were released (can't believe that was 13? 14? years ago now...)

I put everything in a folder on Google Drive (linked below) along with some images showing the lot and the proposed construction plan superimposed onto the lot. (I was trying to get a better sense of where the proposed construction would go)

<https://photos.app.goo.gl/K6Unm29vK9vhPUdA>

Please let me know if there's anything more I can provide that would be helpful for the meeting.

I hope all's well!

Sincerely,
Todd

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Karon Catrone

From: Brian Donahoe <bdonahoe@goldmanenvironmental.com>
Sent: Monday, January 04, 2021 12:16 PM
To: Karon Catrone
Subject: FW: additional review material
Attachments: Combined Attachments Reduced.pdf

Hi Karon, I sent this to you on December 14. If . If u are OK with it then its final. Please call with any questions. The bottom line is the plan still doesn't reflect the true set back and boundary line.

Brian Donahoe, Vice President
Environmental Services & Engineering
Goldman Environmental Consultants, Inc.
60 Brooks Drive
Braintree, MA 02184
Mobile: 617-947-0957
Office: 781-356-9140 x 114
Fax: 781-356-9147

From: Brian Donahoe
Sent: Monday, December 14, 2020 2:23 PM
To: kcatrone@townhall.westwood.ma.us
Subject: additional review material

GEC has continued its review of the materials submitted after the initial documentation was submitted. We are aware that some additional plans may or are being submitted soon that were expected to be submitted for the Commission's last hearing in December. The follow up hearing has been continued until January 2021.

The original plan submitted with the application was resubmitted to address the apparent scale discrepancy. There are additional finding discussed below regarding the review of the plan. Attachments to this email report are noted above.

Attachment A is Figure 6 from the original report in January 2016 show the Brook following a channel for more than 140 feet south into the area of the 'pond' and therefore extends the bank of the perennial stream for that distance. The corresponding river front setbacks will also change due to that condition. The second attachment, B, shows the concrete dam and the dry stream channel in October 2020. Debris of the beaver dam can be seen upstream of the concrete dam. Also note the stream channel in the foreground is approximately 35-40 feet wide. The bank of this channel seems to be shown on the submitted plan following contour 184 whereas the channel that was measured is only 5 feet wide. (See Attachment I) This changes the riverfront setback by about 25 feet closer to the proposed house. The third attachment, C, shows the channel flowing at the same time the concrete dam was dry indicating that it now is the likely perennial stream due to the beaver dam. These two photos were taken during an official drought monitoring period. (see attachment G) The fourth photo D, shows the same channel on December 2 2020 after a 2.5 inch rain fall event from December 1. The fifth picture E, shows the same channel looking downstream. Based on this picture the level of the water at the main channel is approximately elevation 188 using the plan of record. This further expands the point of the perennial stream edge, 25 +/- feet closer to the project site because the edge if the perennial stream is the annual high water mark per the regulations. We continue to maintain as well that this stream is the perennial stream due to the changed condition of the beaver dam and the resulting pathway for the water is this channel as documented here. See attachment J. Furthermore based on this information the Commission has the right to consider the pond to not exist if it is not named on the USGS plan and if the characteristic of the steam can be documented through the impoundment. Attachment F is the latest FEMA flood map for the 100- and 500- year elevations from the MASS GIS system. Note that the entire site is within the 100 year flood plain including the house location. In fact the entire lot as shown is within the 100 year flood plain.

Attachment H is marked up from the plan of record. We note that the access road to the house is not from the owners lot but from the interior of the abutters lot. The only access from the Right of way is in the proposed location of the force main. This will cause additional wetland impacts to cross the stream located there.

The last attachment is some background regarding the relationship of beavers with the intestinal disease known as Giardia for reference.

Brian Donahoe, Vice President
Environmental Services & Engineering
Goldman Environmental Consultants, Inc.
60 Brooks Drive
Braintree, MA 02184
Mobile: 617-947-0957
Office: 781-356-9140 x 114
Fax: 781-356-9147

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List of Attachments

- A. Figure 6 from original report – indicating the stream channel flows approximately 140 feet through a vegetated wetland before entering the ‘pond’.
- B. Main concrete dam and channel October 2020 during drought. Note stream bed is 30 -40 feet wide not 5 feet wide.
- C. Spillway channel in earthen dam flowing during drought on same day as main channel was dry.
- D. Same spillway on 12/1 2020 after 2.6 inches of rain confirm that this is the main river and should be treated as such in association with ~~number 10~~ below
Letter E
- E. Looking downstream of channel indicating annual high water level of 1888 feet not 184 feet per regulations 10.58 2 (2)
- F. Current 100- and 500-year floodplain per FEMA FIRM from Mass GIS - entire site is in floodplain
- G. Fall 2020 Drought monitor plan indicating extensive drought condition
- H. Plan of land submitted with application indicating the proposed access location is not from the Right of way but within abutter's property
- I. Plan of land indicating the stream channel width (5 feet) used to establish riverfront setback rather than the channel shown on the plan adjusted per the annual high water elevation of 188 feet.
- J. Regulation 10.58 2 (1) h describing when a pond can be a river which seems to apply to this area and would extend the river front setback.
- K. Background on beavers and the high incidence of Giardia, a contagious disease.



Google Earth Imagery date 4/9/2008

Pond at Mill Brook behind old dam Note riverine characteristics flowing through the area from north to southwest.



Goldman Environmental Consultants, Inc.
60 Brooks Drive
Braintree, MA 02184
(781)356-9140 Fax: (781)356-9147
www.goldmanenvironmental.com

42 Mill St
Westwood, MA
GEC Project Number 1826-5010

Figure 6

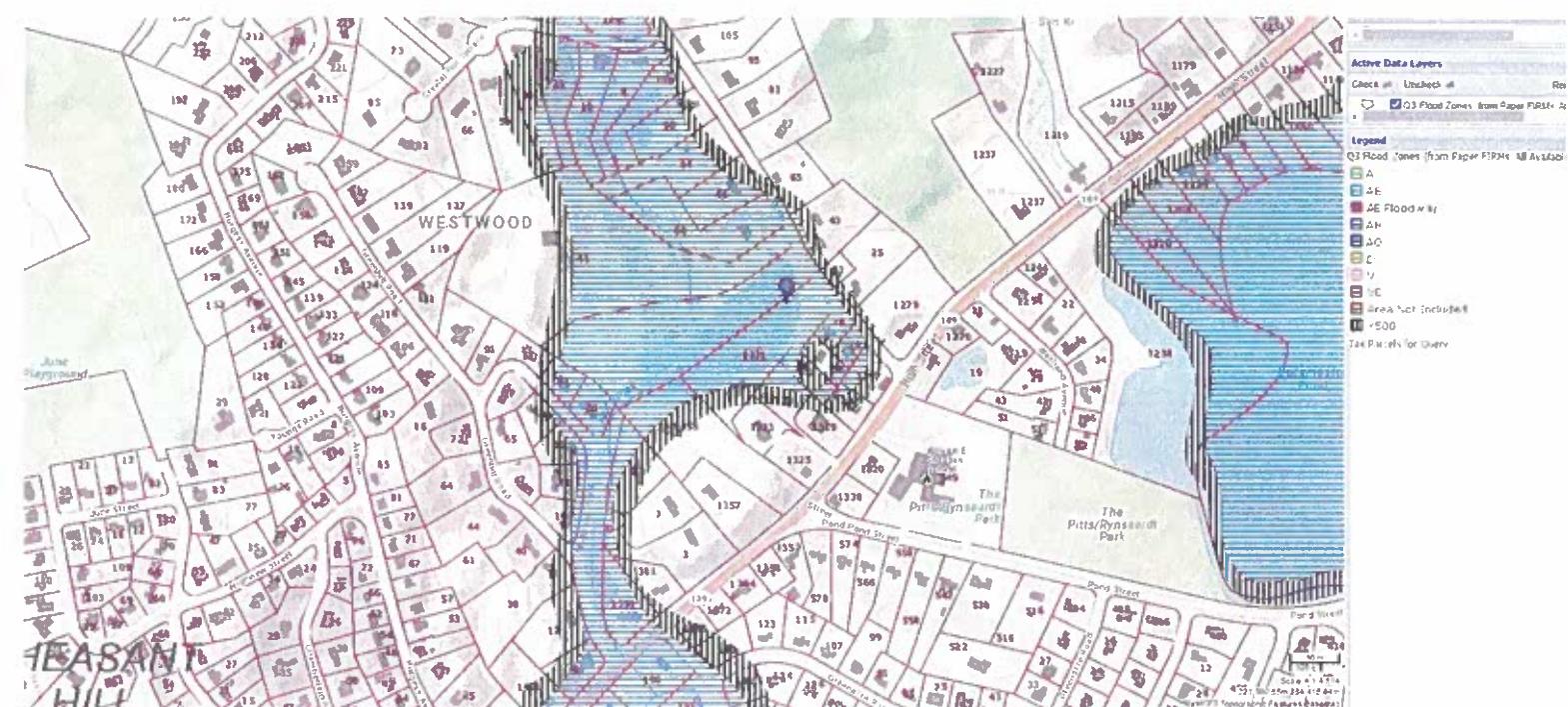






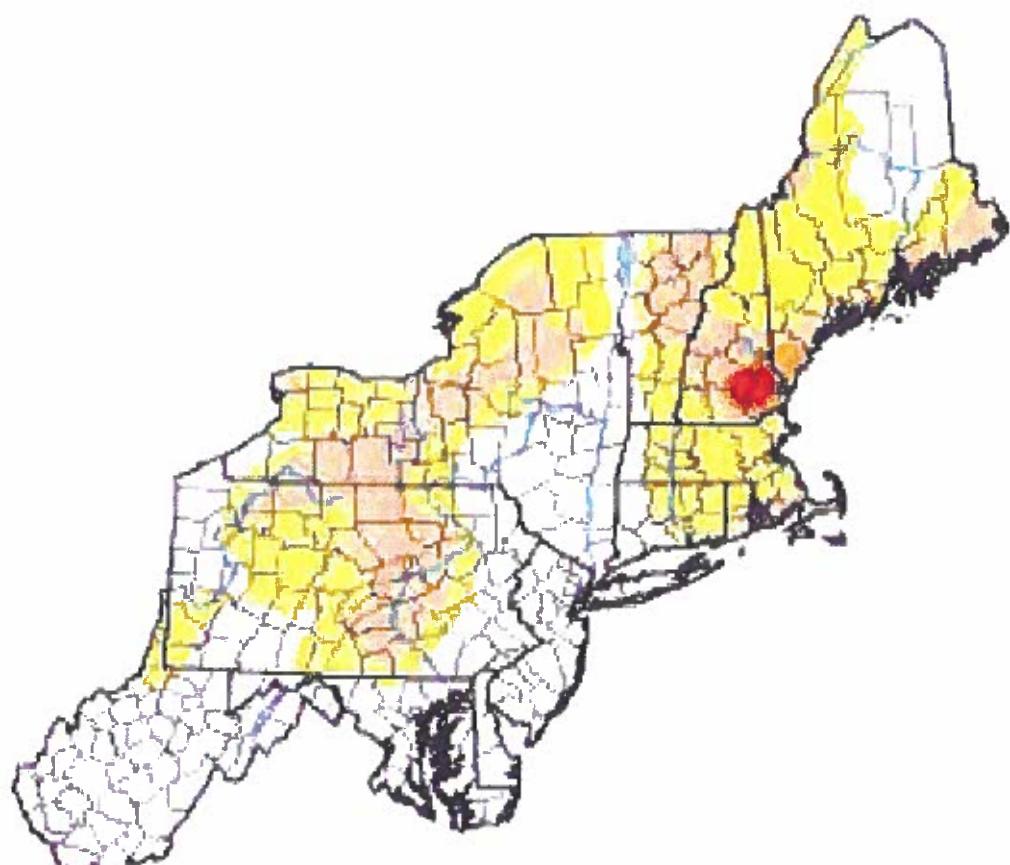






U.S. Drought Monitor **Northeast**

December 1, 2020
(Released Thursday, Dec. 3, 2020)
Valid 7 a.m. EST



Intensity

White	D0 Moderate Drought
Yellow	D1 Severe Drought
Orange	D2 Extreme Drought
Red	D3 Exceptional Drought
Dark Red	D4 Exceptional Drought

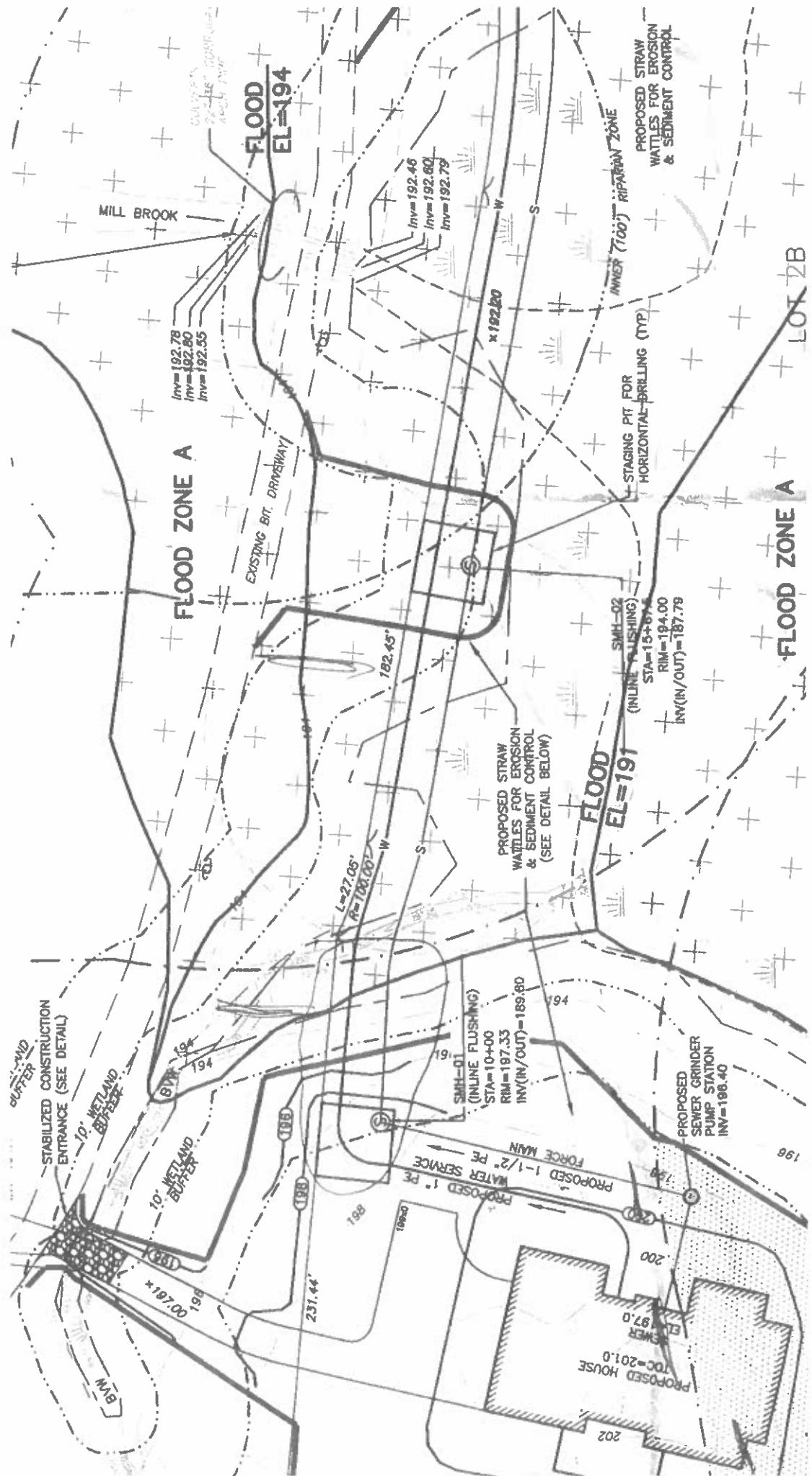
The Drought Monitor is a weekly broad-scale depiction of U.S. drought status. For more information on the Drought Monitor go to droughtmonitor.unl.edu.

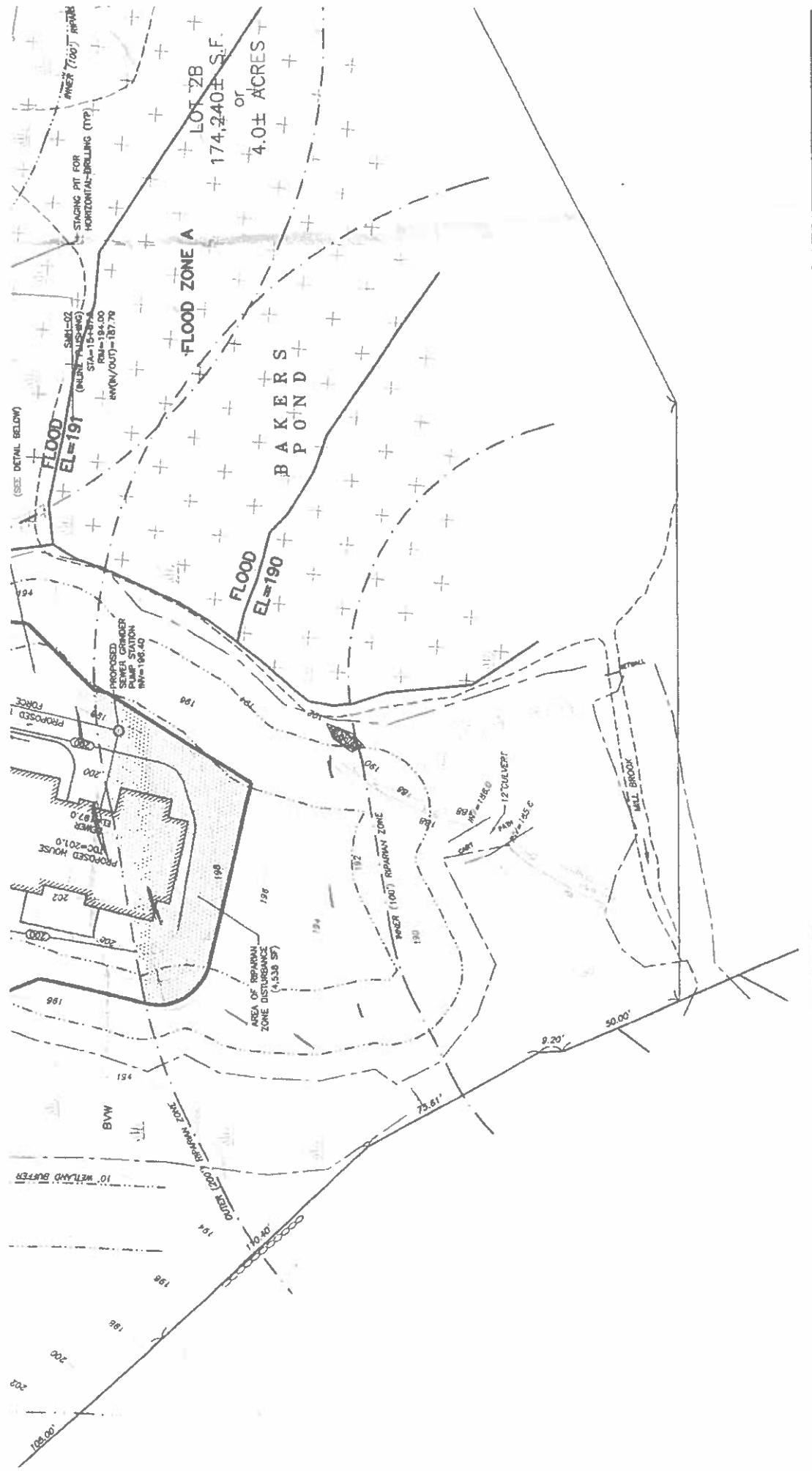
Author

Richard Heidke
NCDC/NIDIS



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10.58: continued

2(1) h.

- f. Rivers include perennial streams that cease to flow during periods of extended drought. Periods of extended drought for purposes of 310 CMR 10.00 shall be those periods, in those specifically identified geographic locations, determined to be at the "Advisory" or more severe drought level by the Massachusetts Drought Management Task Force, as established by the Executive Office of Energy and Environmental Affairs and the Massachusetts Emergency Management Agency in 2001, in accordance with the Massachusetts Drought Management Plan (MDMP). Rivers and streams that are perennial under natural conditions but are significantly affected by drawdown from withdrawals of water supply wells, direct withdrawals, impoundments, or other human-made flow reductions or diversions shall be considered perennial.
 - g. Human-made canals (e.g., the Cape Cod Canal and canals diverted from rivers in Lowell and Holyoke) and mosquito ditches associated with coastal rivers do not have riverfront areas.
 - h. Where rivers flow through lakes or ponds, the Riverfront Area stops at the inlet and begins again at the outlet. A water body identified as a lake, pond, or reservoir on the current USGS map or more recent map provided by the Department, is a lake or pond, unless the issuing authority determines that the water body has primarily riverine characteristics. When a water body is not identified as a lake, pond, or reservoir on the current USGS map or more recent map provided by the Department, the water body is a river if it has primarily riverine characteristics. Riverine characteristics may include, but are not limited to, unidirectional flow that can be visually observed or measured in the field. In addition, rivers are characterized by horizontal zonation as opposed to the vertical stratification that is typically associated with lakes and ponds. Great Ponds (*i.e.*, any pond which contained more than ten acres in its natural state, as calculated based on the surface area of lands lying below the natural high water mark; a list is available from the Department) are never rivers.
2. Mean Annual High-water Line of a river is the line that is apparent from visible markings or changes in the character of soils or vegetation due to the prolonged presence of water and that distinguishes between predominantly aquatic and predominantly terrestrial land. Field indicators of bankfull conditions shall be used to determine the mean annual high-water line. Bankfull field indicators include but are not limited to changes in slope, changes in vegetation, stain lines, top of pointbars, changes in bank materials, or bank undercutts.
- a. In most rivers, the first observable break in slope is coincident with bankfull conditions and the mean annual high-water line.
 - b. In some river reaches, the mean annual high-water line is represented by bankfull field indicators that occur above the first observable break in slope, or if no observable break in slope exists, by other bankfull field indicators. These river reaches are characterized by at least two of the following features: low gradient, meanders, oxbows, histosols, a low-flow channel, or poorly-defined or nonexistent banks.
 - c. In tidal rivers, the mean annual high-water line is coincident with the mean high water line determined under 310 CMR 10.23.
3. The Riverfront Area is the area of land between a river's mean annual high-water line measured horizontally outward from the river and a parallel line located 200 feet away, except that the parallel line is located:
- a. 25 feet away in Boston, Brockton, Cambridge, Chelsea, Everett, Fall River, Lawrence, Lowell, Malden, New Bedford, Somerville, Springfield, Winthrop, and

***Giardia* and Wildlife**
SCWDS Briefs, July 1998, 14.2

Intestinal infection with the protozoan parasite *Giardia lamblia* is the second leading cause of outbreaks of waterborne disease in people in the United States. This one-celled parasite is common world-wide and occurs in humans, domestic animals, and wildlife. Although some people and domestic animals carry *G. lamblia* with no symptoms, others may develop severe debilitating diarrhea. Disease in free-ranging wildlife has not been reported.

Giardia cysts are shed in feces and are infective immediately when ingested in contaminated water or food, although symptoms may not appear for 7-10 days. The infective cysts are very susceptible to desiccation and heat; however, they may survive for 2 to 3 months in cool water. Once ingested, cysts release trophozoite stages in the intestine, and the cycle is repeated.

The role of wildlife in transmitting *Giardia* to humans has been controversial. A variety of *Giardia* species have been isolated from wild mammals, birds, amphibians, and reptiles. Beavers are the most well known wildlife host for *Giardia*, to the extent that waterborne outbreaks of human giardiasis have sometimes been called "beaver fever." Experimental studies clearly show that beavers can become infected with *Giardia* of human origin, and beavers shedding *Giardia* cysts were found upstream of contaminated municipal water supplies. However, it still is not clear what species of *Giardia* infects beavers in the wild.

Wildlife other than beavers also have been suspect, but new information has relieved some concerns. DNA analyses recently has disclosed that muskrats and voles are carriers of *G. microti*, a species which does not affect humans. Wading birds such as herons and egrets were once thought to be potential sources of water contamination. Again, genetic analyses have shown that they actually harbor *G. ardeae*, another distinct non-human species. Researchers have found that amphibians and reptiles also carry species distinctly different from the human *G. lamblia* and are not important in causing human giardiasis.

No one can say whether beavers originally contracted *Giardia* from humans or if beavers harbor *Giardia* naturally. Either way, all blame for human giardiasis cannot be focused on the beaver because there is a plethora of important non-wildlife sources that may be of the *G. lamblia* type. Wilderness areas can be heavily contaminated due to improper disposal of human feces. Furthermore, genetic studies have shown that domestic dogs, cats, cattle, and sheep are also capable hosts of *Giardia* similar to that of human origin.

The most important factor in preventing *G. lamblia* infection is avoiding contaminated water. Large-scale waterborne outbreaks of human giardiasis usually occur due to the lack of water filtration or a breakdown in the filtration system. Conventional water treatment plants that use coagulation-sedimentation-filtration methods should prevent waterborne giardiasis outbreaks, regardless of the presence of *Giardia* cysts in the source water. Higher concentrations of chlorine and longer contact times are required to inactivate *Giardia* cysts compared to most other intestinal pathogens, especially in cold water. Boiling water easily inactivates cysts, as the thermal death point of cysts is 130-140° Fahrenheit. Reduction of contamination in streams and wells will depend upon a conscientious effort to dispose of

human and domestic animal feces. Because of the possibility of *G. lamblia* contamination by humans, domestic animals, or beavers, one should never assume that surface water, even in remote areas, is safe to drink without boiling or filtration. (Prepared by Dr. Joe Gaydos)

