



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 up stream 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 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 projects 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)
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