

**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

<u>Norwood</u>	<u>MA</u>	<u>02062</u>
City/Town	State	Zip Code

<u>Norwood</u>	<u>MA</u>	<u>02062</u>
City/Town	State	Zip Code

## 1. Project Location:

<u>42 Mill Street</u>	<u>Westwood</u>
Street Address	City/Town
<u>28</u>	<u>013</u>
Assessors Map/Plat Number	Parcel /Lot Number

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

<u>"Wetland Delineation Plan 42 Mill Street Westwood, MA"</u>	<u>Last revised</u>
Title	Date 6/13/2016

## 3. Final Plans and Documents Signed and Stamped by:

Joyce Hastings, PLS  
Name

## 4. Dates:

<u>11/10/2014</u>	<u>11/9/2015</u>
Date ANRAD Filed	Date Public Hearing Closed

<u>11/9/2015</u>
Date of Local Order

<u>\$200</u>	<u>\$87.50</u>	<u>\$112.50</u>
Total Filing Fee Paid	State Fee Paid	City/Town Fee Paid



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## 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:

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- 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:

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- 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

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The boundaries were determined to be inaccurate because:

Inaccurate BVW delineation

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Incorrect stream determination

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#### 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 \_\_\_\_\_

Date \_\_\_\_\_

by certified mail

Date \_\_\_\_\_

8/25/2016



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### 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, 2<sup>nd</sup> 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:

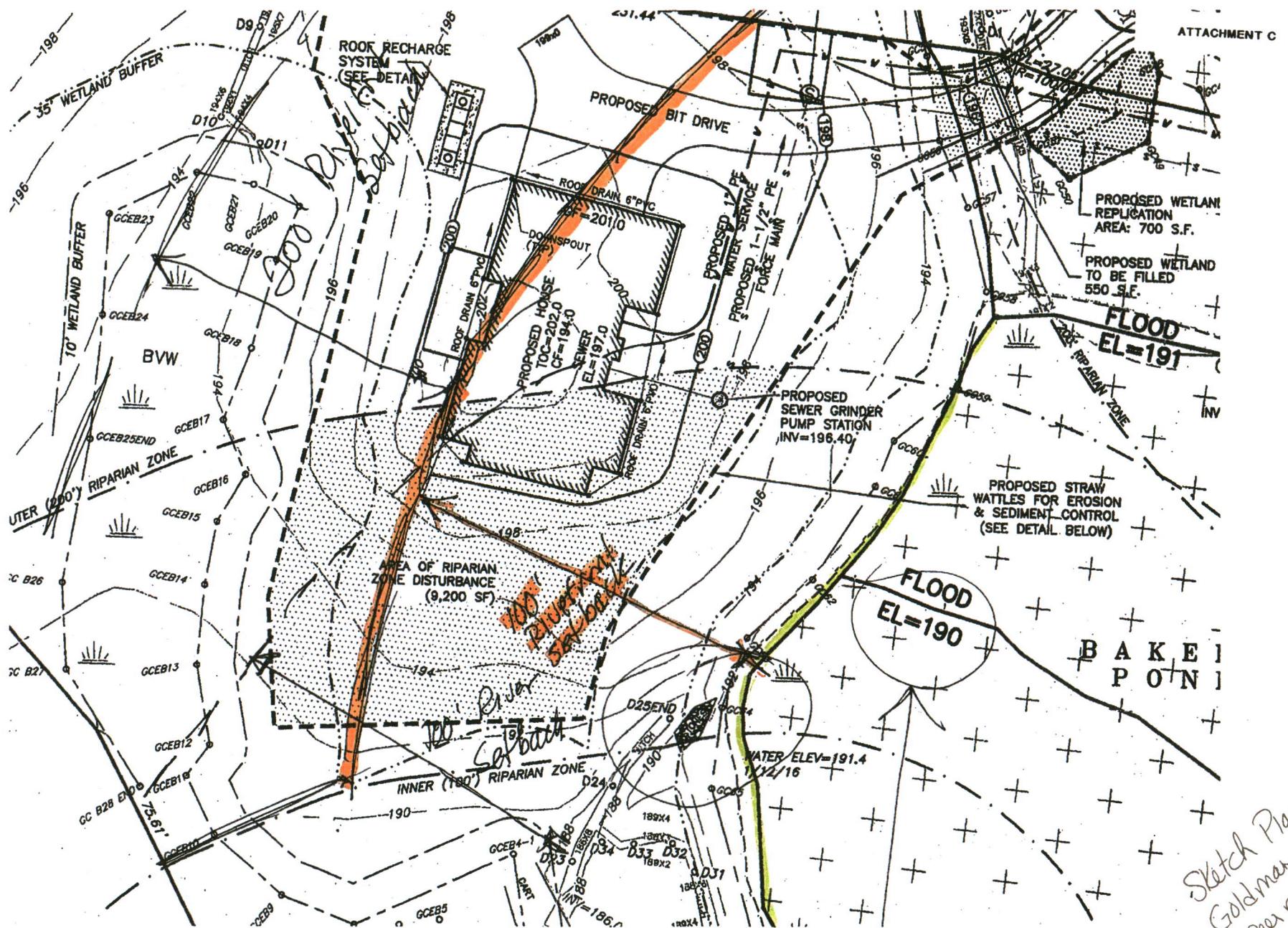
MassDEP – Northeast Regional Office  
Wetlands Program  
205B Lowell Street  
Wilmington, MA 01887

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).

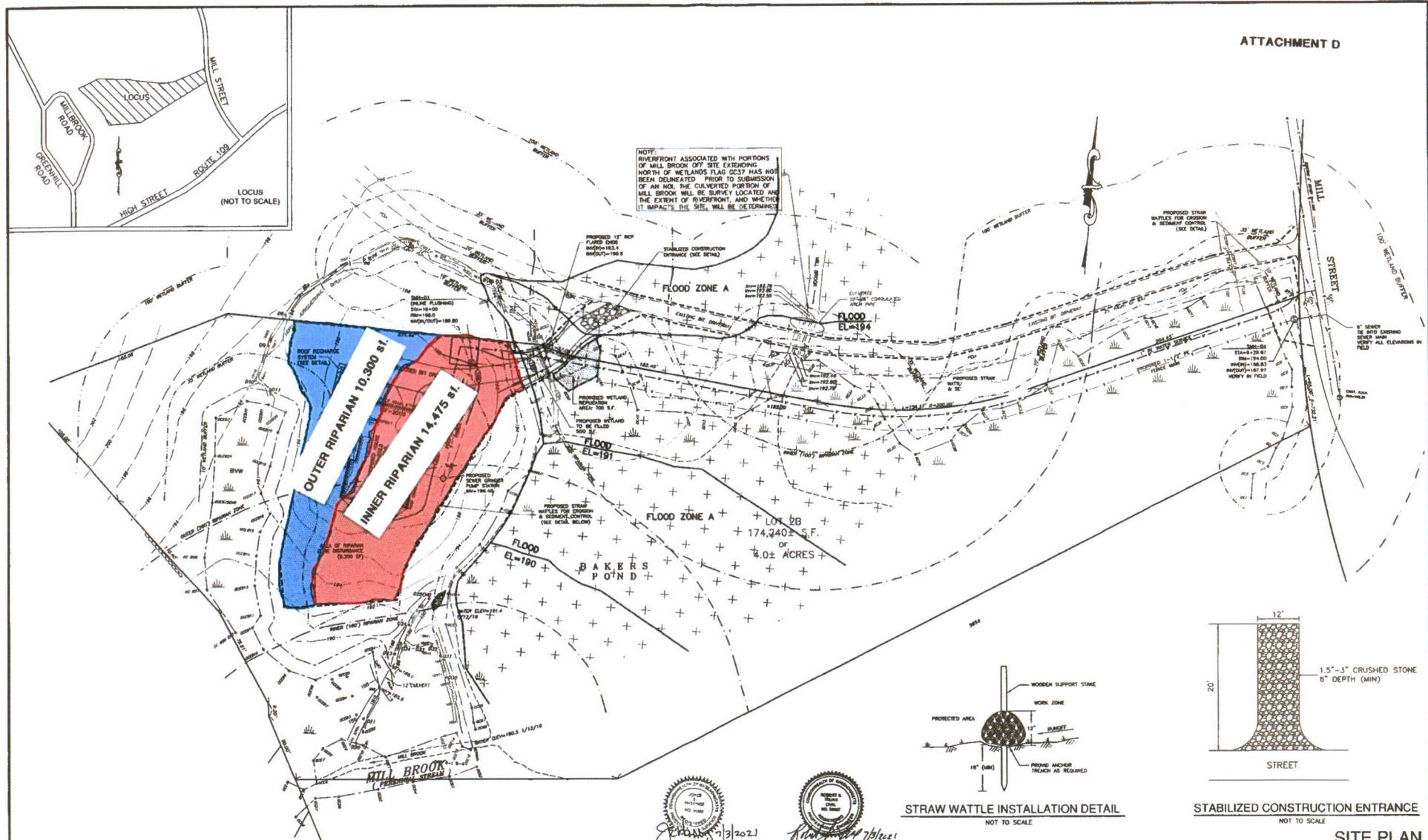
### Contents of Appeal Notice

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 Presiding Officer make a designation of Major and Complex, with specific reasons.



## ATTACHMENT D



NOTE: IT SHALL BE THE RESPONSIBILITY  
OF THE CONTRACTOR TO VERIFY  
LOCATIONS AND ELEVATIONS OF EXISTING  
UTILITIES PRIOR TO COMMENCEMENT OF  
CONSTRUCTION.  
DIG-SAFE IS TO BE NOTIFIED 72 WORKING  
HOURS IN ADVANCE OF CONSTRUCTION.  
DIG-SAFE 1-888-344-7233

## REVISIONS

No.	Date	Description	P.D.
1	7/3/21	SEWER	BY OTHERS
			DRW:
			PS
			CHRD:
			PL:



**GLM** Engineering  
Consultants, Inc.  
19 EXCHANGE STREET  
HOLLISTON, MA 01746  
P: 508-429-1100 F: 508-429-7160  
[www.GLMengineering.com](http://www.GLMengineering.com)

PROPOSED SITE PLAN OF LAND  
LOT 2B - MILL STREET  
WESTWOOD, MASSACHUSETTS

PREPARED FOR:  
SALVATORE VINCI  
65 BAY COLONY DRIVE  
WESTWOOD, MA 02090

JOB No. 11,074  
DATE NOV 2, 2018  
SCALE 1"=30'  
SHEET: 1 OF 3  
PLAN #: 27,465

Karon Catrone

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**From:** Brian Donahoe <[bdonahoe@goldmanenvironmental.com](mailto: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**

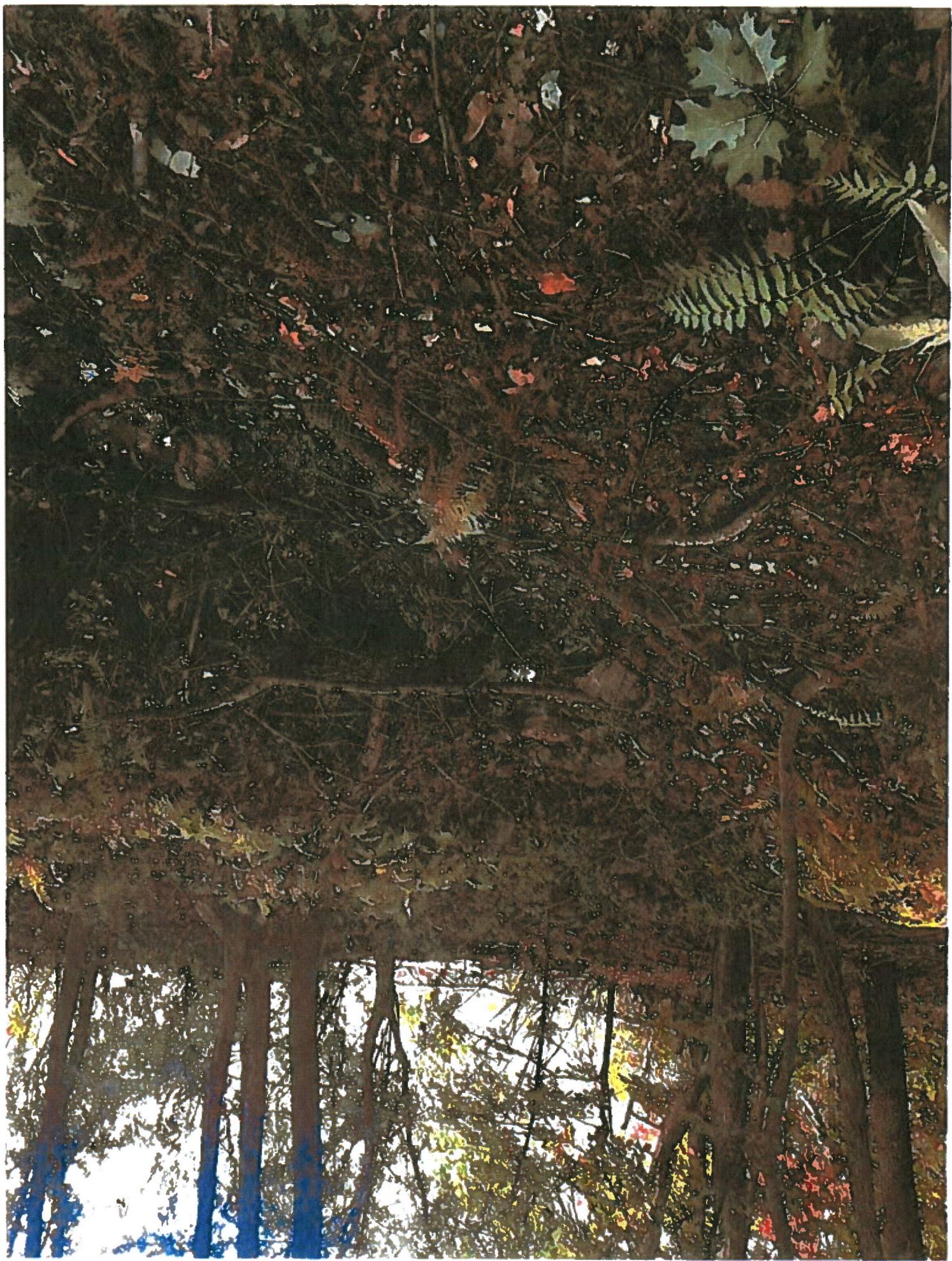
**From:** Brian Donahoe  
**Sent:** Monday, December 14, 2020 2:23 PM  
**To:** [kcatrone@townhall.westwood.ma.us](mailto:kcatrone@townhall.westwood.ma.us)  
**Subject:** additional review material

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.

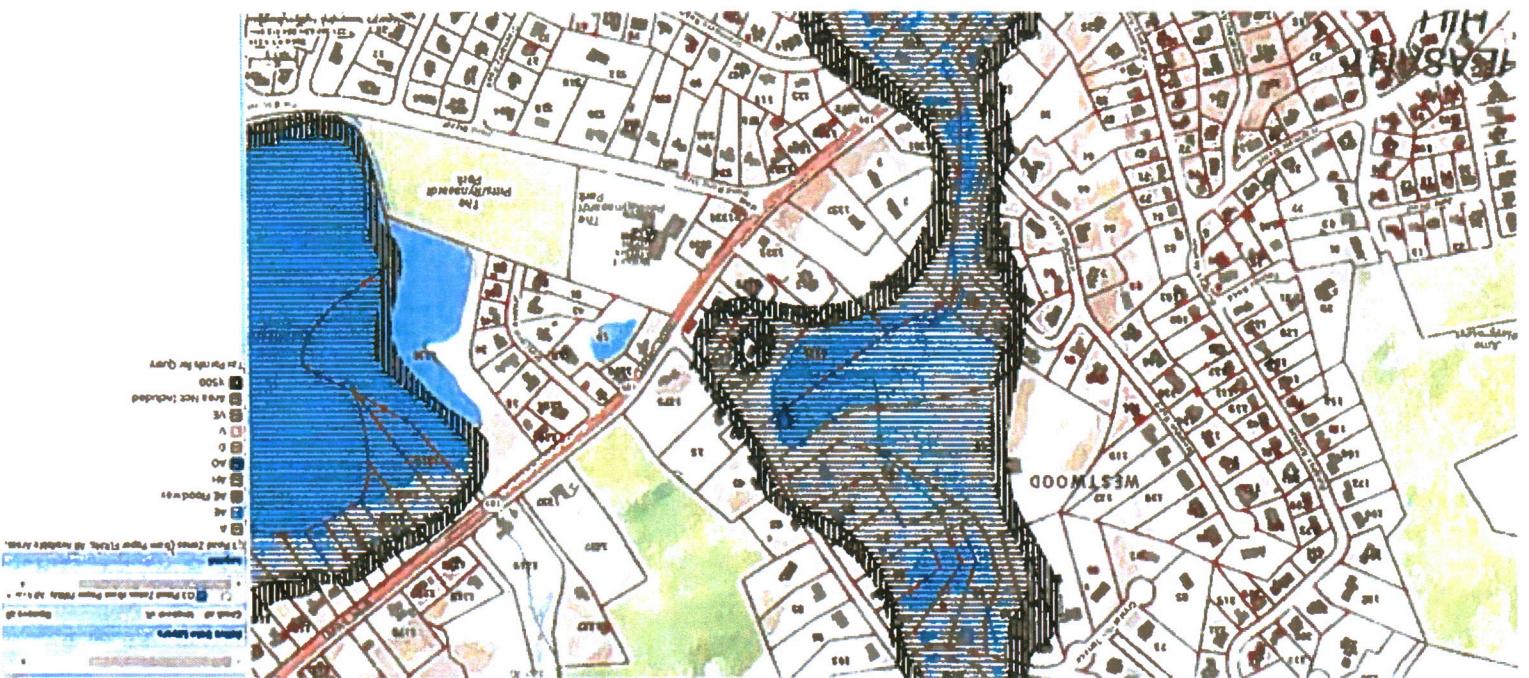
Attachment A is Figure 6 from the original report in January 2016 show the Brook following a channel for more than 140 feet south into the area of the 'pond' and therefore extends the bank of the perennial stream for that distance. The corresponding river front setbacks will also change due to that condition. 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 u 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.





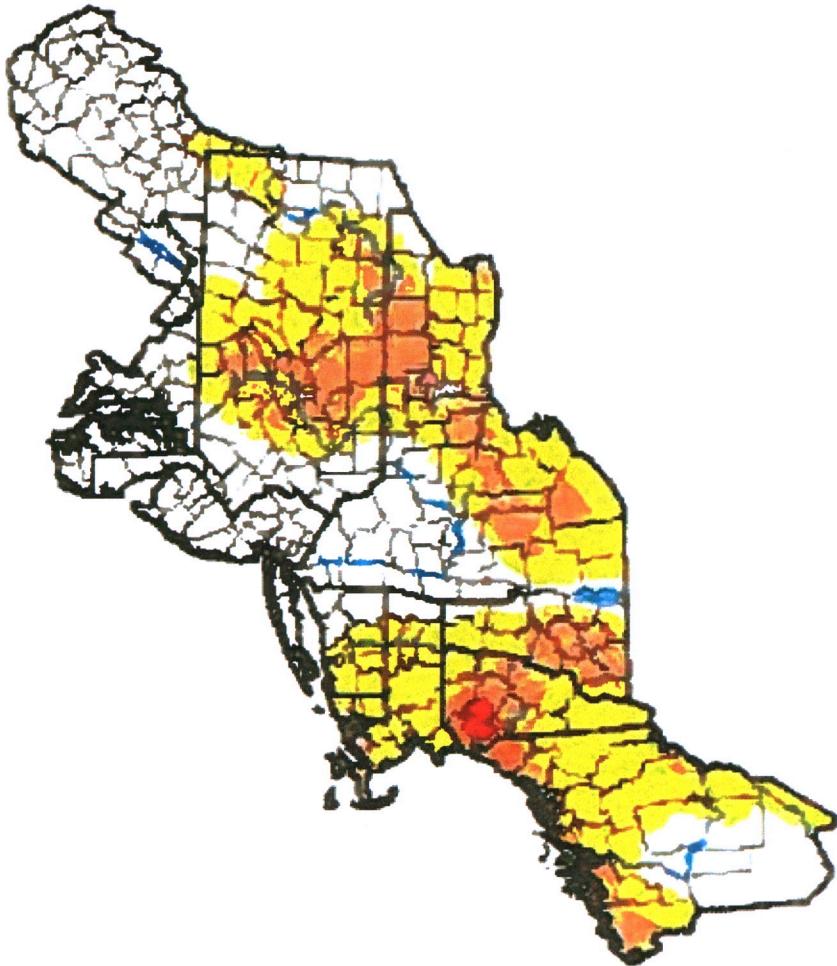






**U.S. Drought Monitor**  
**Northeast**

**December 1, 2020**  
Previous Release: Dec. 3, 2020  
Valid 7 a.m. EST



This figure is a map of the Northeastern United States showing current drought conditions as of December 1, 2020. The map uses a color-coded legend to indicate different levels of drought. A large area of yellow and orange is centered over New England and parts of the Great Lakes region. A small area of red is visible in western Pennsylvania.

**Legend**

No Drought

D1 Moderate Drought

D2 Severe Drought

D3 Extreme Drought

D4 Exceptional Drought

D5 Critical Drought

D6 Exceptional Drought

D7 Catastrophic Drought

D8 Drought Emergency

D9 Drought Disaster

D10 Drought Catastrophe

D11 Drought Catastrophe

D12 Drought Catastrophe

D13 Drought Catastrophe

D14 Drought Catastrophe

D15 Drought Catastrophe

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D258 Drought Catastrophe

D259 Drought Catastrophe

D260 Drought Catastrophe

D261 Drought Catastrophe

D262 Drought Catastrophe

D263 Drought Catastrophe

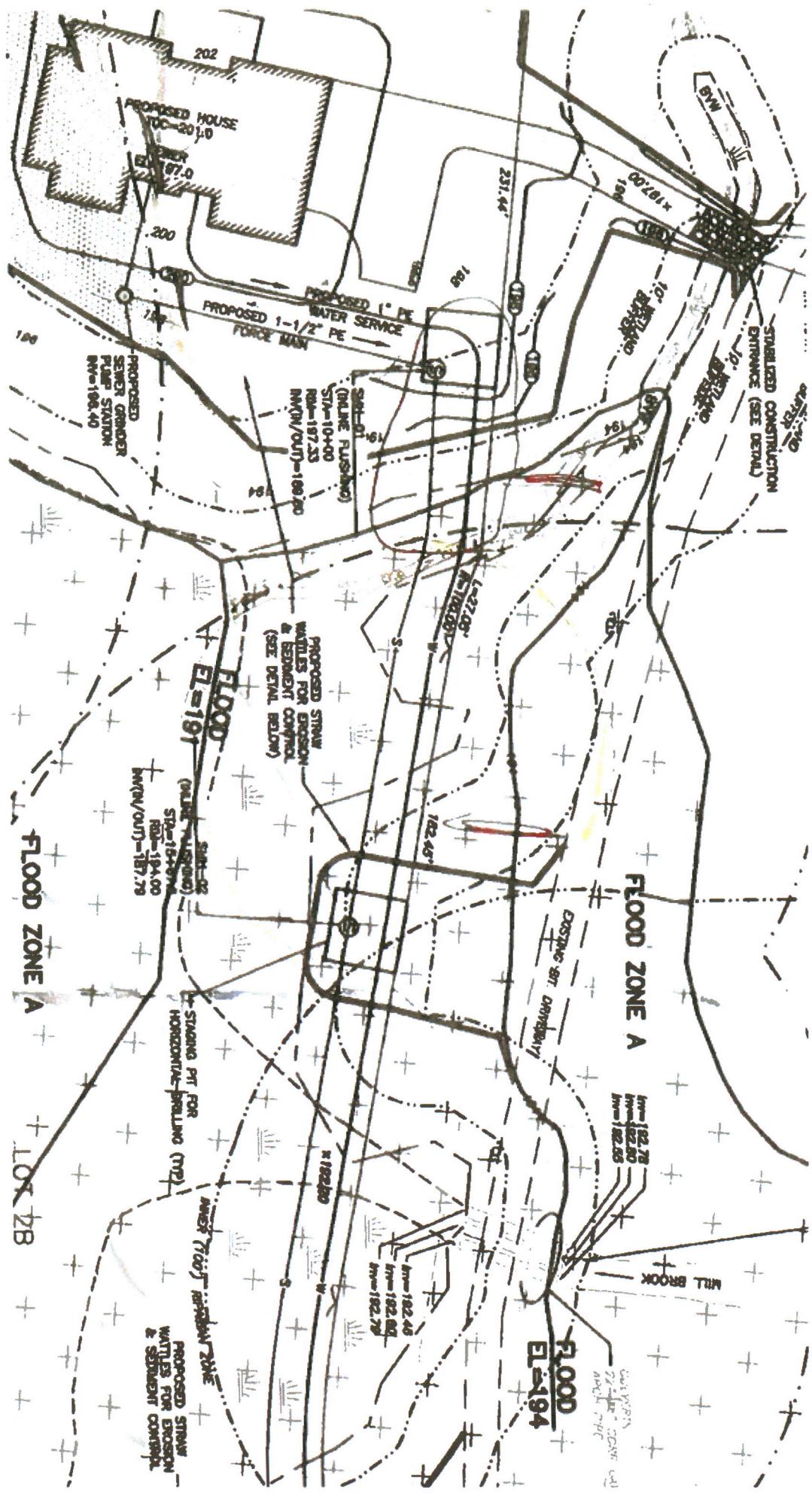
D264 Drought Catastrophe

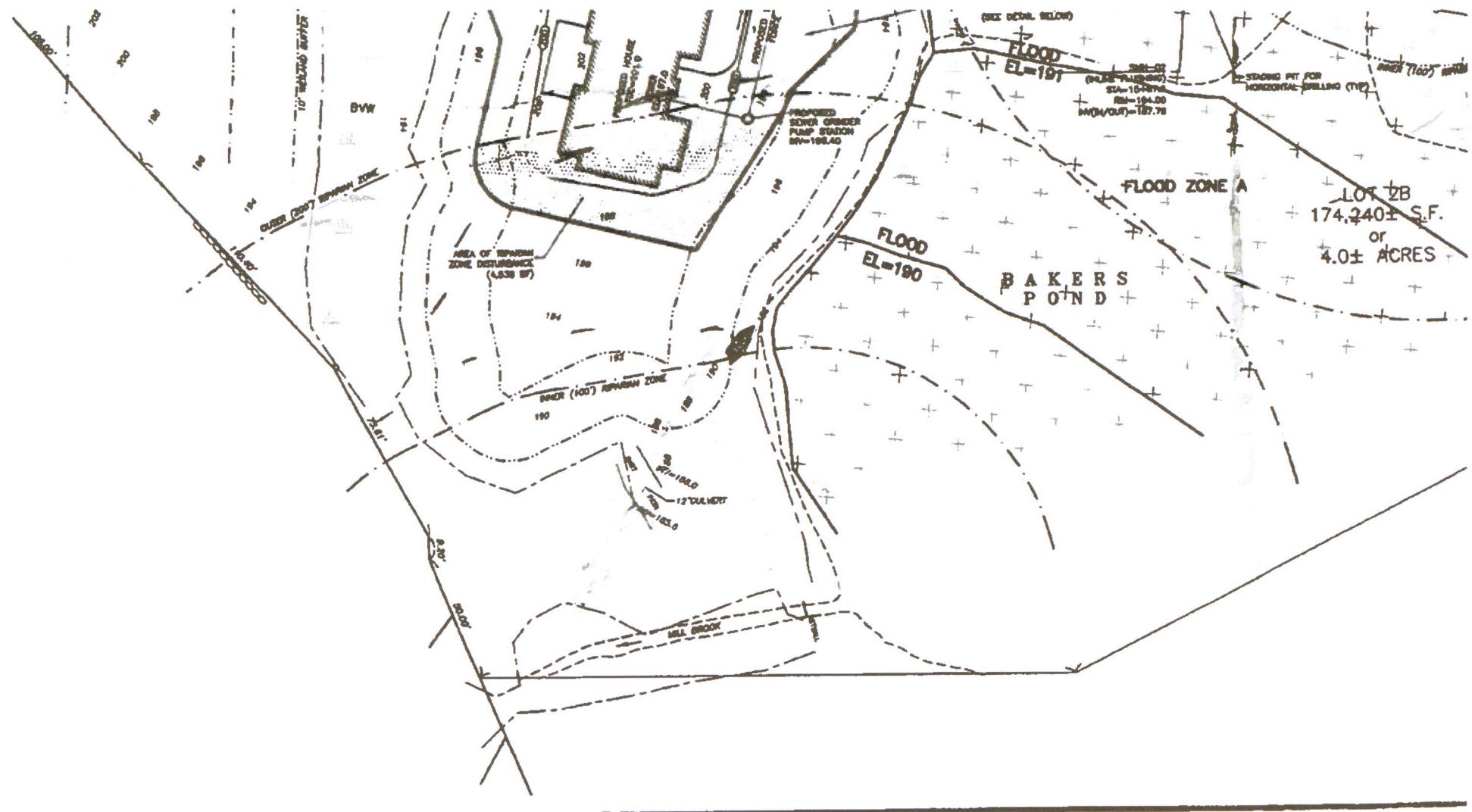
D265 Drought Catastrophe

D266 Drought Catastrophe

D267 Drought Catastrophe

D268 Drought Catastrophe





310 CMR. DEPARTMENT OF ENVIRONMENTAL PROTECTION

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)

Karon Catrone

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**From:** Kerry Snyder <[snyder@neponset.org](mailto: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*  
 **neponset river**  
WATERSHED ASSOCIATION

2173 Washington Street  
Canton, MA 02021  
[snyder@neponset.org](mailto:snyder@neponset.org)  
Office: 781-575-0354 ext. 300  
Mobile: 215-260-5610  
Pronouns: she/her/hers

**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](mailto:nloughnane@townhall.westwood.ma.us)  
 (781) 251-2581

Janice Barba, Planning & Land Use  
 Specialist  
[jbarba@townhall.westwood.ma.us](mailto:jbarba@townhall.westwood.ma.us)  
 781-320-1366

**PLANNING BOARD**

February 24, 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)

Dear Mrs. Powers:

As you are aware, an application for endorsement of a proposed ANR Plan for 44 Mill Street was received by the Planning Office on February 2, 2016. At a duly authorized meeting on February 9, 2016, the Westwood Planning Board determined that the Applicant did not demonstrate that vital access exists to lots proposed for creation by said plan and declared the above-referenced ANR submission incomplete. Town Planner Abigail McCabe sent you a letter memorializing the Board's February 9<sup>th</sup> action on February 11, 2016.

Soon thereafter on February 11, 2016, the Applicant submitted additional materials in an effort to have the ANR submission deemed complete. These materials were reviewed by staff, and while the application remained incomplete, the matter was once again brought before the Planning Board for further action.

Please be advised that at a duly authorized meeting on February 23, 2016, the Planning Board reviewed the materials submitted by the Applicant on February 11<sup>th</sup> and determined that the intended land division shown on the proposed ANR plan constituted a subdivision. As such, the Planning Board found it was unable to endorse the proposed ANR plan. The Planning Board unanimously voted in favor to require approval under the Subdivision Control Law, for a plan entitled "Plan of Land, 44 Mill Street, Westwood, Massachusetts", dated January 20, 2016, prepared by Hoyt Land Surveying, 1287 Washington Street, Weymouth, MA 02189.

Applicant:            Edward J. Musto  
 36 Blue Hill Drive  
 Westwood, MA 02090

Land Affected:      44 Mill Street, Assessor's Map 28 Parcel 14

Sincerely,

*Nora Loughnane*  
 Nora Loughnane

Director of Community & Economic Development  
 (on behalf of Abigail McCabe, Town Planner)

cc:     Applicant  
 Town Counsel  
 Town Engineer  
 Building Commissioner

## ATTACHMENT G

Property Location MILL ST  
Vision ID 3440

Account # 00003440

Map ID 28/013//

Bldg # 1

Bldg Name

Sec # 1 of 1

Card # 1 of 1

e Use 1320

Print Date 11-18-2020 4:04:55 P

CURRENT OWNER		TOPO	UTILITIES	STRT/ROAD	LOCATION	CURRENT ASSESSMENT				426  WESTWOOD, MA  <b>VISION</b>								
DELAPA REALTY TRUST  ANTHONY F & JOANNE C DELAPA T  511 WASHINGTON STREET  NORWOOD MA 02062						Description	Code	Assessed	Assessed									
					RES LAND	1320	16,000	16,000										
							Total	16,000	16,000									
SUPPLEMENTAL DATA		Alt Prcl ID 28013 Occ Perm Photo Ward Prec Sew Zone GIS ID F_726681_2901263	SBU Hist Dist BStat P.Plan# Lot# Assoc Pid#															
RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	Q/U	V/I	SALE PRICE	VC	PREVIOUS ASSESSMENTS (HISTORY)										
DELAPA REALTY TRUST  VINCI SALVATORE		37749 482	04-07-2020	U	V	10,000	1B	Year	Code	Assessed	Year	Code	Assessed	V	Year	Code	Assessed	
		14299 0480		U	V			2020	1320	16,000	2019	1320	16,000	2018	1320	16,000		
									Total	16000	Total	16000	Total	16000				
EXEMPTIONS		OTHER ASSESSMENTS																
Year	Code	Description		Amount	Code	Description		Number	Amount	Comm Int	This signature acknowledges a visit by a Data Collector or Assessor							
				Total	0.00													
ASSESSING NEIGHBORHOOD																		
Nbhd	Nbhd Name	B		Tracing		Batch		APPRaised VALUE SUMMARY										
005								Appraised Bldg. Value (Card) 0										
								Appraised Xf (B) Value (Bldg) 0										
								Appraised Ob (B) Value (Bldg) 0										
								Appraised Land Value (Bldg) 16,000										
								Special Land Value 0										
								Total Appraised Parcel Value 16,000										
								Valuation Method C										
								Total Appraised Parcel Value 16,000										
NOTES																		
BAKERS POND																		
BUILDING PERMIT RECORD																		
Permit Id	Issue Date	Type	Description	Amount	Insp Date	% Comp	Date Comp	Comments		Date	Id	Type	Is	Cd	Purpost/Result			
LAND LINE VALUATION SECTION																		
B	Use Code	Description	Zone	Land Type	Land Units	Unit Price	Size Adj	Site Index	Cond.	Nbhd.	Nbhd. Adj	Notes		Location Adjustment		Adj Unit P	Land Value	
1	1320	RES ACLNUD	RC		4.000 AC	40,000	1.00000	5	0.10	B	1.000	WETLANDS				1.0000	4.000	16,000
Total Card Land Units				4.000 AC	Parcel Total Land Area				4.00000					Total Land Value				16,000

Property Location MILL ST  
Vision ID 3440

Account # 00003440

Map ID 28/013//

Bldg # 1

Bldg Name  
Sec # 1 of 1

Card # 1 of 1

State Use 1320  
Print Date 11-18-2020 4:04:55 P

CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)							
Element	Cd	Description	Element	Cd	Description					
Style:	99	Vacant Land								
Model:	00	Vacant								
Grade:										
Stories:										
Occupancy:										
Exterior Wall 1										
Exterior Wall 2										
Roof Structure:										
Roof Cover:										
Interior Wall 1										
Interior Wall 2										
Interior Flr 1										
Interior Flr 2										
Heat Fuel:										
Heat Type:										
AC Type:										
Total Bedrooms:										
Total Bthrms:										
Total Half Baths:										
Total Xtra Fixtrs:										
Total Rooms:										
Bath Style:										
Kitchen Style:										
Garage:										
Fireplaces:										
Chimney Type:										
CONDO DATA										
Parcel Id		C		Owne						
			B	S						
Adjust Type	Code		Description	Factor%						
Condo Flr										
Condo Unit										
COST / MARKET VALUATION										
Building Value New		0								
Year Built		0								
Effective Year Built		0								
Depreciation Code										
Remodel Rating										
Year Remodeled										
Depreciation %		0								
Functional Obsol		0								
Ext. Comment		0								
Trend Factor		1								
Condition										
Condition %		100								
Percent Good										
RCNLDR		0								
Dep % Ovr										
Dep Ovr Comment										
Misc Imp Ovr										
Misc Imp Ovr Comment										
Cost to Cure Ovr										
Cost to Cure Ovr Comment										
OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)										
Code	Description	U/B	Units	Unit Price	Yr Blt	Cond. Cd	% Gd	Grade	Grade Adj.	Appr. Value
BUILDING SUB-AREA SUMMARY SECTION										
Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undeprec Value				
Ttl Gross Liv / Lease Area	0	0			0					

RECEIVED AND RECORDED  
NORFOLK COUNTY  
REGISTRY OF DEEDS  
DEDHAM, MA

BK 37749 Pg 482 #31156  
04-07-2020 2 11:47a

Record & Return To:

*X* Joe PROVELD N O T  
PO BOX 431 CERTIFY  
Norwood MA F. A. O'Donnell  
William F. O'Donnell, REGISTER  
COPY

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

**QUITCLAIM DEED**

We, Salvatore Vinci and Margaret Vinci, husband and wife, both of Norwood, Norfolk County, Massachusetts 02062, for consideration paid in the nominal amount of One and 00/100 (\$1.00) Dollar, do hereby Grant To Anthony F. Delapa and Joanne C. Delapa, as Trustees of the Delapa Realty Trust under Declaration of Trust dated March 9, 1967, and recorded with Norfolk County Registry of Deeds in Book 4416, Page 326, as amended and restated April 20, 2005 and recorded with Norfolk County Registry of Deeds in Book 22310, Page 57, having an address of 511 Washington Street, Norwood, Massachusetts 02062, with QUITCLAIM COVENANTS the following described premises:

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 County Registry of Deeds as Plan No. 394 of 1969, Book 4594, Page 671, to which plan reference is made for a more particular description.

Said Lot 2 contains according to said plan 174,240 square feet or 4000 Acres.

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

- (a). To use in common with others lawfully entitled thereto for purposes of ingress and egress to and from said Lot 2B those portions crossing the land consisting of a strip noted "Rights 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, Inc., dated February 4, 1969, amended February 5, 1969, which plan is filed with Norfolk County Registry of Deeds as Plan No. 394 of 1969, in Book 4594, Page 671.
- (b). Premises are conveyed subject to and together with the rights, easements and restrictions set forth in Norfolk County Registry of Deeds Book 14299, Page 480, in so far as now in force and applicable.

The undersigned state under the pains and penalties of perjury that the premises being conveyed is vacant land and no homestead rights are involved in vacant land.

Meaning and intending to convey the same premises as set forth in the Quitclaim Deed recorded with Norfolk County Registry of Deeds in Book 14299, Page 480.

**Property Address: Vacant land on Mill St., Westwood, MA 02093**

WITNESS our hands and seals this 31<sup>st</sup> day of March, 2020

O F F I C I A L  
C O P Y

O F F I C I A L  
C O P Y

Salvatore Vinci  
Salvatore Vinci

Margaret S Vinci  
Margaret Vinci

**STATE OF FLORIDA  
COUNTY OF COLLIER; SS:**

On this 31<sup>st</sup> day of March, 2020, before me, the undersigned notary public, Salvatore Vinci and Margaret Vinci, personally appeared, proved to me through satisfactory evidence of identification which is/were Personally Known to be the person(s) whose name(s) is/are signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily, as his/her/their free act and deed, for its stated purpose.

Linda J. Maloney  
Linda J. Maloney, Notary Public  
My Commission Expires: December 21, 2023



## 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 acknowledgment/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

(WHILE DRIVING EMAILS AND VOICEMAILS ARE DICTATED AND NOT READ BASED ON MASSACHUSETTS LAW.)

**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*



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

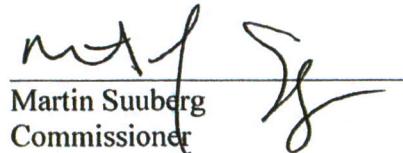
In the Matter of  
Anthony Delapa, Delapa Properties

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](mailto: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](mailto:Dana.Muldoon@state.ma.us)

Cc:

Gary Bogue  
MassDEP Northeast Regional  
Office  
205B Lowell Street  
Wilmington, MA 01887  
[Gary.Bogue@state.ma.us](mailto: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](mailto: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

## A. General Information

From:

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
Issuing Authority

This Issuance is for (check one):

- Final 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  
City/Town

MA  
State

02062  
Zip Code

Norwood  
City/Town

MA  
State

02062  
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 10/20/2016

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 – 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

Karyn E. Polito  
Lieutenant Governor

Matthew A. Beaton  
Secretary

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, MA02090  
          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

\$200      \$87.50      \$112.50  
Total Filing Fee Paid      State Fee Paid      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

Date

8/25/2016



## 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, 2<sup>nd</sup> 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 Presiding Officer make a designation of Major and Complex, with specific 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.

# 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.

