

September 12, 2022

Westwood Conservation Commission
50 Carby St.
Westwood, MA 02090

Re: Dam Repair Protocol
42 Mill St., Westwood, MA (DEP #438-0706)

Dear Westwood Conservation Commission:

Goddard Consulting, LLC is pleased to submit this letter indicating that we will engage a Geotechnical Engineer to evaluate the existing conditions of the existing onsite dam and opine on repairs. We propose to limit dam repair costs to \$35,000.

Action items anticipated by Goddard Consulting to be included in the scope of work are as follows:

- Remove all large vegetation and roots from the dam.
- Clean existing spillway in disrepair, reform and repour the concrete.
- Place sandbags upgradient of the dam in the pond in the vicinity of the leak, drain water from this area, locate and repair the leak with bentonite clay or equivalent, then remove sandbags once repaired.

If there are any questions concerning this request, please do not hesitate to contact us.

Sincerely,

Goddard Consulting, LLC



Scott Goddard
Principal & PWS



TOWN OF WESTWOOD
COMMONWEALTH OF MASSACHUSETTS
TOWN COUNSEL

Jill Provencal
Section Chief
Wetlands Program-NERO
Department of Environmental Protection
Northeast Regional Office
205B Lowell Street,
Wilmington, MA 01887

By US Mail Return Receipt Requested

May 19, 2022

RE: WETLANDS/WESTWOOD
DEP File#338-0706
42 Mill Street
Superseding Order of Conditions

Dear Ms. Provencal,

I write this letter in response to your recent superseding order on the above-referenced property. The SOC states that the site will be served with a shared driveway, located on the abutting property. There has been no order by the Planning Board or any other authority to approve a shared driveway. Further, to my knowledge, there has been no application for a shared driveway.

A shared driveway is reviewable by the Planning Board under the Zoning By-Law which states:

“6.1.28 Shared Driveways. Use of land for shared driveways is permitted in all Districts, however, a shared driveway shall not be considered to adequately provide access for parking as required by this Bylaw on any lot for which a shared driveway is proposed as the sole means of access for parking unless the Planning Board so authorizes by special permit. Authorization shall be granted only if the Planning Board determines that the arrangement improves public safety, such as by reducing the number of curb cuts on a major roadway or by avoiding a driveway at a potentially dangerous location; or serves environmental protection, such as by eliminating a wetlands crossing, and that such an arrangement will be more advantageous to the neighborhood than separate driveways; and unless the Board further finds that the use of a shared driveway does not circumvent the intent of the Subdivision Control Law. The Planning Board shall adopt and may from time to time amend rules and regulations for the administration of this Section.

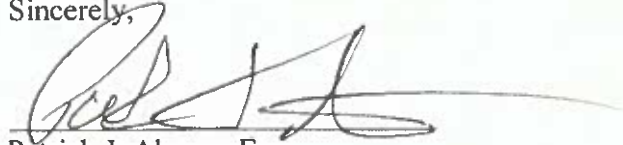
The Town of Westwood does not plan to appeal the SOC but wants you to understand that it reserves all of its rights under its Zoning Bylaws. We also want you and the Applicant to understand that we

Westwood Town Hall • 580 High Street • Westwood, MA 02090 ☎ (781) 326-6450 • Fax: (781) 329-8030

www.townhall.westwood.ma.us

reserve our right to contest the Superior Court appeal on the basis that the proposed work is not authorized under the Town of Westwood Wetlands Bylaw.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patrick J. Ahearn', with a long horizontal flourish extending to the right.

Patrick J. Ahearn, Esq.
Town Counsel

Cc: Tyler Ferrick Mass DEP (via email)
Daniel Bailey, Pierce Atwood (via email)
Matt Watsky. Watsky Law (via email) Counsel to Delapa Realty Trust
Karon Catrone, Westwood Conservation Agent (via email)
Nora Loughnane, Westwood Director of Community and Economic Development (via email)
Westwood Conservation Commission
Tim McGuire, Godard Consulting 291 Main Street, Suite 8, Northborough, MA 01532 (via US
Mail, First Class)
Brian Donahoe, Goldman Consultants, 60 Brooks Drive, Braintree, MA 02184 (via email)

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

Superior Court
Civil Action No. 2182CV00038

Teanne Delape & Delape Realty Trust,

Plaintiff(s)

Vs.

Town of Litchfield Conservation Commission,

Defendant(s)

NOTICE/ORDER OF STATUS REVIEW

The Court has Ordered a Status Review of the Docket. Please report the Status of this case with a copy of this notice by circling one of the following:

1. Ready for Trial. All Counsel are to confer with each other; the parties; their witnesses, and certify to the Court that they are available for Trial on _____.
2. Case is settled; enclosed is a Stipulation of Dismissal or Agreement for Judgment.
3. Case is settled; please issue a 30 day Nisi Order.
4. Needs a Pre-trial conference, counsel may agree on a date during the months of, November or December of 2022 or January of 2023. Counsel may choose a Monday, Tuesday or Wednesday at 2:00P.M. and insert the date here _____ if a date is not provided the Clerk's Office will select the Pre-trial conference and send notice.
5. Pending in Bankruptcy Court, if pending, specify the status.
6. All parties agree that the Court may dismiss all claims with prejudice/without prejudice. (Please circle one- if no choice indicated; dismissal will be without prejudice.
7. Other: _____

Send to NORFOLK COUNTY CLERK'S OFFICE AT 650 High Street, Dedham, MA 02026

Attn: Mary K. Hickey BY Sept. 9, 2022

IF THIS REPORT IS NOT RECEIVED BY SAID DATE; THE COMPLAINT AND ALL REMAINING CLAIMS WILL BE AUTOMATICALLY DISMISSED

Dated: Aug. 14, 2022

Walter F. Timilty, Clerk of the Courts

By: Mary K. Hickey Tel- 781-326-1600, Ext. 3354

Form may be emailed to: mary.hickey@jud.state.ma.us

By the Court, *(Legltn. H)*
acc: Mary K. Hickey
and 4 cont

Sent to Commissioner
8/23/22



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

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

March 7, 2022

Joanne Delapa
Delapa Realty Trust
PO Box 277
Norwood, MA 02062

RE: WETLANDS/WESTWOOD
DEP File #338-0706
42 Mill Street
INFORMATION REQUEST

Dear Joanne Delapa,

As you know, the Northeast Regional Office of the Department of Environmental Protection Wetlands Program (MassDEP), is reviewing this project in preparation for issuance of a Superseding Order of Conditions (SOC). Based on the revised plans and supplemental information received by the Department on February 8 and 25, 2022, MassDEP requests the following additional information and plan revisions:

1. Sheet 1 of 3 entitled, "Proposed Site Plan of Land Lot 2B- Mill Street Westwood, Massachusetts", prepared by GLM Engineering Consultants, Inc., dated November 2, 2018 and revised January 31, 2022, proposes 285 cubic feet of fill in Bordering Land Subject to Flooding (BLSF) for portions of the proposed driveway. The project proposes 380 cubic feet of compensatory flood storage. However, the extent of the 100-year FEMA floodplain shown on the plan is inaccurate based on the latest available flood profile data prepared by FEMA. Additionally, the 100-year FEMA floodplain does not correspond to the existing topography referenced on the site plan. As a result, it appears there is additional BLSF fill proposed that is unaccounted for, due to the inaccurate 100-year FEMA floodplain depicted on the site plan.
2. The proposed fill in BLSF needs to be quantified and compensatory flood storage provided in conformance with performance standards described in 310 CMR 10.57(4)(a). Compensatory flood storage should be provided for all BLSF volume lost as a result of the project including the filling of BVW and adjacent floodplain areas.

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

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

42 Mill Street, Westwood
DEP File #338-0706

In accordance with the Regulations at 310 CMR 10.05(7)(f)2, additional information must be submitted **within 70 days** of MassDEP's request. MassDEP understands that more time may be necessary to gather the additional information and will consider any reasonable request for additional time if it requested prior to the deadline.

Please note that all information submitted to MassDEP must be sent to all the other parties to the appeal at the same time.

If you have any questions regarding this matter, please do not hesitate to contact Tyler Ferrick at tyler.ferrick@mass.gov.

Sincerely,



Tyler Ferrick
Environmental Analyst
Wetlands Program- NERO

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

Denied Plans:

**PROPOSED SITE PLAN OF LAND LOT 2B – MILL STREET WESTWOOD,
MASSACHUSETTS sheets 1 - 3**

Date: November 2, 2018 rev. July 3, 2021

Hearing closed: November 10, 2021

Date Issued: November 18, 2021

FINDINGS:

The Commission has reviewed the Notice of Intent plans and has held three public hearing on the project with 16 continuances (not continued to consecutive meetings). On March 10, 2021 the applicant was required to re-notify the abutters due to the number of requested continuations. Based on the information available, the Commission has determined that the area on which the proposed work is to be done is significant to the following values set forth in Massachusetts Wetland Protection Act and Westwood Wetlands Protection Bylaw, chapter 392:

<input checked="" type="checkbox"/> Public water supply	<input checked="" type="checkbox"/> Flood control	<input type="checkbox"/> Fisheries
<input checked="" type="checkbox"/> Private water supply	<input checked="" type="checkbox"/> Storm damage prevention	<input checked="" type="checkbox"/> Wildlife habitat
<input checked="" type="checkbox"/> Groundwater supply and quality	<input checked="" type="checkbox"/> Prevention of pollution	<input checked="" type="checkbox"/> Erosion and sediment control

Furthermore, this Commission finds that the project is denied and that:

1. The Applicant (Ms. Joanne Delapa) has proposed to construct a single family dwelling and appurtenant structures on the Applicant's +/- 4-acre lot at 42 Mill Street, Westwood, MA. The Applicant has characterized the lot as a "forested lot that is undeveloped" and has described the dwelling to be constructed thereon as a single family home.

2. The +/- 4-acre lot on which the Applicant proposes construction contains Bordering Vegetated Wetland, Bank of Pond, Riverfront Area and Bordering Land Subject to Flooding. The lot is currently completely undeveloped. The area in which the Applicant proposes to construct the principal dwelling is in the front portion of the lot. Most of the house, driveway and clearing are proposed to be constructed within the inner riparian zone. A shared common driveway located on the adjacent property will serve as the primary access to the proposed residence with an individual driveway constructed off of that right of way to service the proposed residence, which is required to access the property. Filling of 550 sq. ft. of wetland is required to construct the individual driveway. The applicant is proposing 700 sq. ft. of replication, which is proposed immediately adjacent to the crossing causing most of the driveway construction within the 10 foot no disturb zone. Directional drilling is proposed along the south side of the driveway to supply the residence with water and sewer. An existing deed agreement prevents the applicant from installing these utilities within the easement. This work is proposed within the wetland and the 10 foot no disturb zone. In total the project would irrevocably alter, by means of occupation of portions of the house, driveway and clearing approximately 26,638 square feet of resource area of which 1,836 is within the 10-foot no-disturb zone.

3. On November 10, 2014 the applicant submitted an Abbreviated Notice of Resource Area Delineation, DEP file #338-0594. The application was reviewed by Brian Donahoe of Goldman Environmental. (See SUMMARY REPORT OF WETLAND EVALUATION & REQUEST

FOR DETERMINATION OF APPLICABILITY 42 MILL STREET, WESTWOOD MASSACHUSETTS dated January 27, 2016. (Attachment A)) In this report Mr. Donahoe sites several inaccuracies with the delineation of the property. On October 28, 2015 the Westwood Conservation Commission denied the Order of Resource Area Delineation on the basis of "inaccurate delineation and incorrect stream determination. The applicant appealed this decision to the Department of Environmental Protection (DEP). On August 25, 2016, DEP issued a Superseding Order of Resource Area Delineation. Within this Order, DEP states the following regarding the impoundment on the property (See Attachment B):

"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 plan submitted by the applicant (PROPOSED SITE PLAN OF LAND LOT 2B- MILL STREET WESTWOOD, MASSACHUSETTS dated November 2, 2018, revised March 10 2021 does not reflect this determination from DEP (which was not contested or challenged by the applicant). Applying DEP's determination to this plan, much of the development is within the 100-foot inner riparian zone and all of the proposed development is within the 200-foot Riverfront Area. (See Attachment C and D)

4. See attached letter from Kerry Snyder of Neponset River Watershed Association, in which she states that Mill Brook is identified by the Division of Fisheries and Wildlife and therefore, is a critical area for preservation. Ms. Snyder states she has several concerns with the project including the possible significant impact to Mill Brook, the sewer line impacts and environmental and public safety hazards regarding floodplain. (See Attachment E)

5. The Westwood Planning Board agent has given the following comment to the work required on the shared driveway:

The Westwood Town Planner indicated that a Definitive Subdivision was granted in 1969 by the Planning Board but the road and subdivision was never constructed. 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 cannot meet this requirement due to its shape which narrows where it meets Mill Street. (See Attachment F)

7. This property is currently classified as "unbuildable" and assessed at a value of \$16,000.00 by the Westwood Assessor's Office due to the wetlands on the site, and has been since its purchase for \$1.00 in April of 2020. (See Attachment G and H)

6. This project was formally heard at the July 8, 2020, October 28, 2020, March 24, 2021, May 5, 2021 and November 10, 2021 Westwood Conservation Commission meetings. The applicant's representatives, Tim McQuire of Goddard Consulting, LLC was present.

Presentations were made by Mr. McQuire. During the course of the hearing, the primary focus of discussion was the amount of impact to the resource area. The Commission believes the extensive work within the resource area will have a direct impact on the surrounding resource areas. Also discussed were the replication area, the directional drilling, the driveway and the infiltration system. The proposed location of the replication area is a mature wooded area. The Commission believes the infiltration systems may not be effective given the high ground water throughout the site. The Applicant requested that the Commission consider hiring a second peer review consultant to review the project, but the Commission felt this would not change these conclusions, and would therefore be a waste of money for the applicant, and the time of the Commission.

CONCLUSIONS:

Based upon the foregoing findings, the Commission reaches the following conclusions:

1. The Commission has determined that the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations, specifically 310 CMR 10.55 and 310 CMR 10.58. Therefore, work on this project may not go forward unless or until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. The Commission believes the proposed plan is too aggressive and will cause direct impact to the surrounding wetland, buffer zone and wildlife habitat. The Westwood Wetland Bylaw requires, at a minimum, a ten foot continuous naturally vegetated buffer strip within the Upland Buffer Zone Resource Area with the aim of minimizing adverse impact to the Resource Area.

2. The Commission concludes the proposed wetlands replication area, standing alone, is not a sufficient basis to permit the proposed alteration and occupation of 550 square feet of wetlands and 26,638 sq. ft. of Resource Area, including portions within 10 and also 35 feet, which receive special protection and consideration under the Town's wetlands by-law. The Commission concludes that replication can appropriately serve in mitigation of wetland impacts that are otherwise being authorized for good and sufficient reasons, however there is always a risk that replication will not be successful and there will be a loss of wetland area and function. In this case the Applicant's proposed replication plans appear to be acceptable mitigation for impacts within the wetland and buffer zone, were the Commission to conclude that such wetland alteration was absolutely necessary in the first place in order to permit a fully described and evaluated activity and to avoid hardship to an applicant that would otherwise be prevented from undertaking such activity. The owner and previous owners have received an very low assessment from the Westwood Assessor's Office due to wetland on this lot. Accordingly, the subject application is denied under both the authority of the Wetlands Protection Act and under the Westwood Wetlands By-law.

NOTE: The Westwood Conservation Commission has denied this project, however the STANDARD CONDITIONS below have been included. In the event there is a Superseding Order issued by the Department of Environmental Protection we would like the following conditions to be considered.

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 21, 2022 2:41 PM
To: Brian Donahoe <bdonahoe@goldmanenvironmental.com>
Cc: Patrick Ahearn <pahearn@townhall.westwood.ma.us>
Subject: RE: [EXTERNAL] Information Request Letter #2_42 Mill Street, Westwood

Hi Brian,
I've cc'd town counsel on this email. Do you have some time that we can discuss via phone?
Karon

From: Brian Donahoe [<mailto:bdonahoe@goldmanenvironmental.com>]
Sent: Saturday, March 19, 2022 7:45 PM
To: Karon Catrone <kcatrone@townhall.westwood.ma.us>
Subject: FW: [EXTERNAL] Information Request Letter #2_42 Mill Street, Westwood

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 Karon, I don't have Town Counsel email apparently. But what we need from an adjudicatory perspective is something that describes the decision to significantly change the decision of the original SOC. I think it may not exist and the plan submitted to reflect the SOC is incorrect and DEP signed off because the Town wasn't in the discussion for whatever reason. The delay in the r-application for over a year is troubling/interesting.

Brian Donahoe, Vice President

Karon Catrone

From: Brian Donahoe <bdonahoe@goldmanenvironmental.com>
Sent: Monday, March 21, 2022 7:23 PM
To: Karon Catrone
Subject: Re: [EXTERNAL] Information Request Letter #2_42 Mill Street, Westwood

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Hi Karon, did I explain my issues clearly. There are a lot of details in the past decision making that are not clear. Plus the fact that decisions seem to have been made possibly to 'hide or shield' the changes were intended.

Sent from my iPhone

On Mar 21, 2022, at 3:15 PM, Karon Catrone <kcatrone@townhall.westwood.ma.us> wrote:

Hi Brian,
We can do today at 4. I'll call your cell at 4.
Karon

From: Brian Donahoe [mailto:bdonahoe@goldmanenvironmental.com]
Sent: Monday, March 21, 2022 3:00 PM
To: Karon Catrone <kcatrone@townhall.westwood.ma.us>
Cc: Patrick Ahearn <pahearn@townhall.westwood.ma.us>
Subject: RE: [EXTERNAL] Information Request Letter #2_42 Mill Street, Westwood

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I could do something Wednesday morning at 9:30 or actually today at 4.

Brian Donahoe, Vice President

*No record of decision
16.17
150 changes they changed
what happened
not in front of people*

Super security

Karon Catrone

From: Brian Donahoe <bdonahoe@goldmanenvironmental.com>
Sent: Tuesday, March 15, 2022 4:00 PM
To: Karon Catrone
Subject: Re: [EXTERNAL] Information Request Letter #2_42 Mill Street, Westwood

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I can't see the drawings well because I'm at home. I'll see them best in the office tomorrow. However have you reached Gary Bogue at DEP? We need to understand what happened ASAP. Town Counsel should at least send a letter from the Commission to the staff person copying the general counsel at DEP Northeast to hold your position. I thought she/he would have done that already. Also do you have a copy of the revised FEMA plan? I challenged the flood plain in my previous comments referring to DEP GIS info that said the elevation was higher. Maybe I can work with the Town Engineer to review and establish a new elevation with a LOMA a letter of map amendment to get this right.

Sent from my iPhone

On Mar 15, 2022, at 8:52 AM, Karon Catrone <kcatrone@townhall.westwood.ma.us> wrote:

Any thoughts?

Karon

From: Tim McGuire [mailto:tim@goddardconsultingllc.com]
Sent: Monday, March 14, 2022 7:18 PM
To: Ferrick, Tyler (DEP) <tyler.ferrick@state.ma.us>
Cc: anthony@delapa.com; Karon Catrone <kcatrone@townhall.westwood.ma.us>; Brian Donahoe <bdonahoe@goldmanenvironmental.com>; Provencal, Jill (DEP) <jill.provencal@state.ma.us>; Scott Goddard <scott@goddardconsultingllc.com>
Subject: Re: Information Request Letter #2_42 Mill Street, Westwood

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.

*Place holder
- Beaver Dam
- changed
- changed
Call DEP.
Issue with an appeal*

Karon Catrone

From: Johnrogers626 <johnrogers626@gmail.com>
Sent: Wednesday, March 16, 2022 4:12 PM
To: Brian Donahoe
Cc: Karon Catrone
Subject: Re: [EXTERNAL] Information Request Letter #2_42 Mill Street, Westwood

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I agree that does not make sense, and also wonder what is that thick line that connects the flood elevation contours, and where are the intermediate 193 and 192.

John Rogers
425.922.0380, mobile

On Mar 16, 2022, at 3:14 PM, Brian Donahoe <bdonahoe@goldmanenvironmental.com> wrote:

Additionally the letter says they attached the revised FEMA floodplain but I don't see it. Also note the 100-year floodplain is 190 but their own water level spot shot in a non-flood period indicates its 190.5 floodplain. That can't happen.

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: Tuesday, March 15, 2022 8:52 AM

To: Brian Donahoe <bdonahoe@goldmanenvironmental.com>; John Rogers <johnrogers626@gmail.com>
Subject: FW: [EXTERNAL] Information Request Letter #2_42 Mill Street, Westwood

Any thoughts?
Karon

From: Tim McGuire [<mailto:tim@goddardconsultingllc.com>]
Sent: Monday, March 14, 2022 7:18 PM
To: Ferrick, Tyler (DEP) <tyler.ferrick@state.ma.us>
Cc: anthony.p@delapa.com; Karon Catrone <kcatrone@townhall.westwood.ma.us>; Brian Donahoe <bdonahoe@goldmanenvironmental.com>; Provencal, Jill (DEP) <jill.provencal@state.ma.us>; Scott Goddard <scott@goddardconsultingllc.com>
Subject: Re: Information Request Letter #2_42 Mill Street, Westwood

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.

Good evening Tyler,

Attached please find revised site plans and a letter addressing your questions in concerns from the second information request. A hard copy of the site plans will be sent to DEP NERO tomorrow. Please do not hesitate to reach out if you have any questions or concerns.

Thank you,

On Mon, Mar 7, 2022 at 4:52 PM Tim McGuire <tim@goddardconsultingllc.com> wrote:

Hi Tyler,

Thank you for sending this, we will have this addressed shortly.

My best,

On Mon, Mar 7, 2022 at 2:11 PM Ferrick, Tyler (DEP) <tyler.ferrick@state.ma.us> wrote:

Hi Joanne,

Attached please find the second information request letter for your project located at 42 Mill Street in Westwood. This information request letter is being issued following the review of the revised plan set and supplemental information received by MassDEP on 2/8/22 and 2/25/22. The letter describes information that is needed in MassDEP's review of the proposed project.

Please let me know if you have any questions.

Best,

Tyler Ferrick

Environmental Analyst

MassDEP Wetlands Program

205B Lowell Street, Wilmington, MA 01887

tyler.ferrick@mass.gov

--
Tim McGuire

Wildlife Biologist & Wetland Scientist

Goddard Consulting, LLC

291 Main Street, Suite 8

Northborough, MA 01532

tim@goddardconsultingllc.com

Office: (508) 393-3784
Cell: (774) 265-2779

--

Tim McGuire
Wildlife Biologist & 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

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

October 18, 2021

Re: Notice of Intent under the Westwood Wetlands Protection Bylaw
Lot 42 Mill St, Westwood, MA (Map: 28, Parcel: 013) (DEP#338-0706)

Dear Westwood Conservation Commission:

Goddard Consulting, LLC (Goddard), is pleased to submit letter to the Westwood Conservation Commission regarding the Notice of Intent (NOI) for 42 Mill St., Westwood (DEP#338-0706). On behalf of the applicant, we would like to formally request to withdraw the Notice of Intent **ONLY under the Westwood Wetlands Protection Bylaw.** The applicant wishes to proceed with the Notice of Intent under the Wetlands Protection Act and will be present at the meeting scheduled for October 27, 2021.

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

Very truly yours,



Scott Goddard,
Principal & PWS

Anthony Delapa, 511 Washington St., Norwood, MA 02062

March 14, 2022

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

Re: Information Request - Superseding Order of Conditions
42 Mill St., Westwood, MA (DEP #438-0706)

MassDEP Northeast Regional Office:

Goddard Consulting, LLC is pleased to submit this information requested by MassDEP through the Information Request dated 3/7/22, associated with the request for a Superseding Order of Conditions (SOC) on behalf of the applicant, Joanne Delapa, Delapa Realty Trust. Please note that in accordance with 310 CMR 10.05(7)(f)2, this information has been submitted to DEP within 70 days of their request, prior to the deadline of 5/16/22. Goddard Consulting provides the following responses to DEP's requests:

1. Sheet 1 of 3 entitled, "Proposed Site Plan of Land Lot 2B- Mill Street Westwood, Massachusetts", prepared by GLM Engineering Consultants, Inc., dated November 2, 2018 and revised January 31, 2022, proposes 285 cubic feet of fill in Bordering Land Subject to Flooding (BLSF) for portions of the proposed driveway. The project proposes 380 cubic feet of compensatory flood storage. However, the extent of the 100-year FEMA floodplain shown on the plan is inaccurate based on the latest available flood profile data prepared by FEMA. Additionally, the 100-year FEMA floodplain does not correspond to the existing topography referenced on the site plan. As a result, it appears there is additional BLSF fill proposed that is unaccounted for, due to the inaccurate 100-year FEMA floodplain depicted on the site plan.

Please note that the attached site plans have been revised to address the typo in which the on-site floodplain was previously listed as "Zone A" instead of the correct "Zone AE" in accordance with the latest available flood profile data prepared by FEMA. See attached FEMA FIRM Map.

Regarding the discrepancy in the floodplain corresponding with existing contours, this is due to the elevation of the floodplain gradually declining as the stream flows to the south. On-site survey data has been used to interpolate the intermediate flood elevations that were not shown on the FEMA map. We maintain that the extent of floodplain on-site is shown correctly, and therefore the extent of BLSF fill to be accurate as well.

2. The proposed fill in BLSF needs to be quantified and compensatory flood storage provided in conformance with performance standards described in 310 CMR 10.57(4)(a). Compensatory flood storage should be provided for all BLSF volume lost as a result of the project including the filling of BVW and adjacent floodplain areas.

As articulated above, the floodplain is shown correctly, as are the impacts to BLSF. Adequate compensatory storage has been included in accordance with 310 CMR 10.57(4)(a). For areas

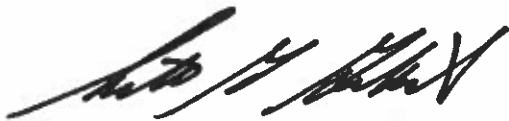
outside of BVW within floodplain there will be 285cf of flood storage at elevation 193.5-194, with 380cf being compensated for at the same elevation. This results in a net increase of 95cf of storage.

310 CMR 10.57(2)(a) states that the boundary of BLSF extends from the wetland line of Bordering Vegetated Wetlands to the extent of the listed floodplain, as is correctly shown on the site plans. Impacts to the 550sf of wetlands are addressed in the 700sf of replication. The replication area will be graded down to elevation 192, commensurate with the elevation of the surrounding BVW system to satisfy flood storage requirements. The construction of the replication area will result in an additional 150sf of flood storage on-site as compared to the existing conditions.

If there are any questions concerning this request, please do not hesitate to contact us.

Sincerely,

Goddard Consulting, LLC

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

Scott Goddard, Principal & PWS
Professional Wetland Scientist



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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

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Commissioner

January 11, 2022

Joanne Delapa
Delapa Realty Trust
PO Box 277
Norwood, MA 02062

RE: WETLANDS/WESTWOOD
DEP File #338-0706
42 Mill Street
INFORMATION REQUEST

Dear Joanne Delapa,

As you know, the Northeast Regional Office of the Department of Environmental Protection Wetlands Program (MassDEP), is reviewing this project in preparation for issuance of a Superseding Order of Conditions SOC). Based on the observations made during MassDEP's site visit on January 6, 2022, MassDEP requests the following additional information and plan revisions:

1. Submit complete pdf of the Notice of Intent and associated site plans associated with MassDEP File #338-0706.
2. Sheet 1 of 3 entitled, "Proposed Site Plan of Land Lot 2B- Mill Street Westwood, Massachusetts", prepared by GLM Engineering Consultants, Inc., dated November 2, 2018 and revised July 3, 2021, proposes unquantified amounts of fill in Bordering Land Subject to Flooding (BLSF) for portions of the proposed driveway. No compensatory flood storage is proposed based on the submitted plan. The proposed fill in BLSF needs to be quantified and compensatory flood storage provided in conformance with performance standards described in 310 CMR 10.57(4)(a). BLSF fill and compensatory flood storage should be shown on the revised plan with existing and proposed topography. A cut and fill chart should also be provided.

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

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

3. It is unclear from the submitted plan if the proposed driveway impacts within the riverfront area are included in the cumulative riverfront area impacts for the project. This site-specific information should be clarified.

In accordance with the Regulations at 310 CMR 10.05(7)(f)2, additional information must be submitted **within 70 days** of MassDEP's request. MassDEP understands that more time may be necessary to gather the additional information and will consider any reasonable request for additional time if it requested prior to the deadline.

Please note that all information submitted to MassDEP must be sent to all the other parties to the appeal at the same time.

If you have any questions regarding this matter, please do not hesitate to contact Tyler Ferrick at tyler.ferrick@mass.gov.

Sincerely,



Tyler Ferrick
Environmental Analyst
Wetlands Program- NERO

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



Commonwealth of Massachusetts
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Department of Environmental Protection

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Commissioner

SITE INSPECTION NOTICE

December 15, 2021

Joanne Delapa
Delapa Realty Trust
PO Box 277
Norwood, MA. 02062

RE: WETLAND/WESTWOOD
FILE No: 438-0706
42 Mill Street, Westwood
Request for Superseding Order of
Conditions

Dear Ms. Delapa:

In accordance with Massachusetts General Laws, Chapter 131, Section 40 and in preparation to issuance of the Superseding Order of Conditions for the referenced above site, the Massachusetts Department of Environmental Protection, Wetlands Program-Northeast Regional Office (MassDEP), has scheduled a site visit with all parties. The purpose of this site visit is to determine if the area is significant to the interest of the Act and to informally discuss those issues relevant to the referenced project. The site visit will be held on **Thursday, January 6, 2021, at 11:00 AM.**

No activity may commence on any portion of the project subject to the jurisdiction of the Wetlands Protection Act, Massachusetts General Laws, Chapter 131, Section 40 until MassDEP has issued the Superseding Order of Conditions and all appeal periods have elapsed.

If you have any questions, please contact me at Tyler.Ferrick@mass.gov.

Sincerely,

Tyler Ferrick
Environmental Analyst
Wetlands Program-NERO

cc: Westwood Conservation Commission, 50 Carby Street, Westwood, MA 02090
Tim McGuire, Goddard Consulting LLC, 291 Main Street, Suite #8, Northborough, MA 01532
Brian Donohoe, Goldman Environmental Consultants, Inc., 60 Brooks Drive, Braintree, MA 02184

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into this ___ day of _____, 2022, between Joanne Delapa, Trustee of the Delapa Realty Trust ("Delapa"), with a mailing address of P.O. Box 277, Norwood, Massachusetts 02062, and the Town of Westwood Conservation Commission ("Commission"), with a mailing address of 50 Carby Street, Westwood, Massachusetts 02090 (collectively, the "Parties"), for the purposes of resolving the dispute between the Parties concerning the property known as 42 Mill Street, Westwood, Massachusetts, which dispute is the subject of the Superior Court matter known as *Joanne Delapa, of Delapa Realty Trust v. Town of Westwood Conservation Commission*, Civil Action No. 2282CV00038 (the "Litigation"). In order to resolve their disputes and without any admissions of liability, the Parties to this Settlement Agreement hereby agree as follows.

WHEREAS, Delapa is the owner in fee simple of the property known as 42 Mill Street, Westwood, Massachusetts (the "Property"); and

WHEREAS, the Commission is the municipal agency charged with the protection of Westwood's natural resources pursuant to the Wetlands Protection Act, G.L. c. 131, § 40 ("WPA"), and the Town of Westwood's Wetlands Bylaw, c. 392 ("Bylaw"); and

WHEREAS, Delapa filed a Notice of Intent ("NOI") application with the Commission on or about May 11, 2020 seeking authorization to make certain changes to the Property in areas within the Commission's jurisdiction; and

WHEREAS, on or about November 18, 2021 the Commission determined that an Order of Conditions should be denied under the WPA and the Bylaw ("Decision"); and

WHEREAS, Delapa appealed the Decision to the Massachusetts Department of Environmental Protection ("DEP"), which appeal resulted in the issuance of Superseding Order of Conditions # 338-0706, issued May 6, 2022, and filed a certiorari action in the Superior Court resulting in the Litigation; and

WHEREAS, the Parties have agreed to resolve the Litigation by mutual agreement;

NOW, THEREFORE, the Parties agree to the following:

1. The Commission agrees to accept the Superseding Order of Conditions #338-0706 as the Commission's decision on the NOI.
2. Delapa agrees to repair the existing dam on the Property pursuant to the terms of a letter dated September 12, 2022 from Goddard Consulting, LLC to the Commission concerning DEP #438-0706 ("Dam Repair Work"), with a not to exceed expense for that work of \$25,000.
3. Delapa will prepare and submit a complete, new Notice of Intent to the Commission seeking an Order of Conditions for the Dam Repair Work.

Signed under seal as of this _____ day of _____, 2022.

Town of Westwood Conservation Commission

By: Stephen David

By: Todd Sullivan

By: Vesna Maneva

By: Debra Odeh

By: Grace Weller

By: RJ Sheer

By: Elias Fares

February 8, 2022

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

Re: Information Request - Superseding Order of Conditions
42 Mill St., Westwood, MA (DEP #438-0706)

MassDEP Northeast Regional Office:

Goddard Consulting, LLC is pleased to submit this information requested by MassDEP through the Information Request dated 1/11/22, associated with the request for a Superseding Order of Conditions (SOC) on behalf of the applicant, Joanne Delapa, Delapa Realty Trust. Please note that in accordance with 310 CMR 10.05(7)(f)2, this information has been submitted to DEP within 70 days of their request, prior to the deadline of 3/22/22. Goddard Consulting provides the following responses to DEP's requests:

1. Submit complete pdf of the Notice of Intent and associated site plans associated with MassDEP File #338-0706.

Goddard Consulting has provided DEP with a Dropbox link to the originally submitted Notice of Intent as well as the most recent iteration in the same email that this document is attached to.

2. Sheet 1 of 3 entitled, "Proposed Site Plan of Land Lot 2B- Mill Street Westwood, Massachusetts", prepared by GLM Engineering Consultants, Inc., dated November 2, 2018 and revised July 3, 2021, proposes unquantified amounts of fill in Bordering Land Subject to Flooding (BLSF) for portions of the proposed driveway. No compensatory flood storage is proposed based on the submitted plan. The proposed fill in BLSF needs to be quantified and compensatory flood storage provided in conformance with performance standards described in 310 CMR 10.57(4)(a). BLSF fill and compensatory flood storage should be shown on the revised plan with existing and proposed topography. A cut and fill chart should also be provided.

The site plans have been revised to address BLSF impacts and to show compensatory storage (see attached *Proposed Site Plan of Land Lot 2B – Mill Street Westwood, Massachusetts, 2/2/22*). The installation of the driveway involves 285cf of fill within BLSF, with 380cf of compensatory storage proposed.

3. It is unclear from the submitted plan if the proposed driveway impacts within the riverfront area are included in the cumulative riverfront area impacts for the project. This site-specific information should be clarified.

The new portions of the driveway proposed to be constructed to service the single-family house are included in the cumulative riverfront area impacts. The portions of the existing driveway to be repaved are excluded from the cumulative impacts.

If there are any questions concerning this request, please do not hesitate to contact us.

Sincerely,

Goddard Consulting, LLC

A handwritten signature in black ink, appearing to read 'Scott Goddard', written in a cursive style.

Scott Goddard, Principal & PWS
Professional Wetland Scientist

