

# Law Office of Daniel Walsh, P.C.

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## REVISED LETTER<sup>1</sup>

February 21, 2022

Wareham Zoning Board of Appeals  
Wareham Town Hall  
54 Marion Road  
Wareham, MA 02571

RE: Appeal 2-23 – Violation of Special Permit 25-12  
12 Great Neck Road, Wareham, MA

Dear Members of the Wareham Zoning Board of Appeals:

The office represents Ms. Joan Cooney, 14 Great Neck Road, Wareham, an abutter to the appellant's property. Ms. Cooney submits this letter in response to the appeal of the violations of Special Permit 25-12.

### **Background**

The property in question consists of .4 acres of land, with a single family home and other outbuildings, located at 12 Great Neck Road (hereinafter, the "Property"). (PID 3649, Lot 1008, on Map 17). The Property is currently owned by Lynelle L. Butterfield, as Trustee for the Lynelle Butterfield Revocable Trust. (See deed recorded at the Plymouth County Registry of Deeds, Book 55262, page 84 on July 2, 2021.)

The appeal dated December 20, 2022 also identified "Peace for Ponies" as a tenant. The organization's legal name, however, is Peace for All Animals, Inc., a non-profit corporation formed on October 9, 2019. Kendra Bond is the president and a director of Peace for All Animals, Inc. The website for Peace for All Animals, Inc., more accurately describes the activities occurring on the Property, in that a pig, four or more donkeys, rabbits and chickens are presently living at the Property. As of the date of this letter, the abutter knows of no ponies on the property.

### **Issuance of the Special Permit**

On October 23, 2012, Ms. Cheryl A. Gorveatt-Dill, Wareham's Animal Control Officer/Inspection, issued a letter stating she visited the Property, apparently at the request of

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<sup>1</sup> This revised letter corrects the references made in the original letter referring to the property being in zoning district MR30. The letter dated December 11, 2012 (Exhibit 2) states the property is in an MR30 zoning district, and the property card states the property is in an MR30 zoning district. The Zoning Map dated May 14, 2007 shows the property is in a R30 zoning district. According, references in the original letter to the MR30 zoning district have been removed.

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Kendra Bond. The letter states, “[Kendra Bond] had expressed the desire to open up a nonprofit farm that would be used solely to house miniature horses in need of temporary housing... It is expected to house only two miniature horses at any given time. These horses would be taken under emergency situations and housed temporarily.” A copy of that letter is attached hereto as Exhibit 1.

On December 11, 2012, David R Moore, Wareham’s Building Commission, stated in a letter that the use of 12 Great Neck Road, “containing less than [sic] 5 acres in an MR30 zone, for maintaining horses is only allowed by special permit under sections 321 and 352 of the Town of Wareham Zoning Bylaws.” A copy of that letter is attached hereto as Exhibit 2.

On December 12, 2012, Wareham Zoning Board of Appeals, by a vote of 4-1-0, voted on the petition of Lynette Butterfield for a Special Permit, as follows:

The Board voted to grant a Special Permit under use definitions, Section 352 animal related uses, veterinary hospital & further with the following conditions: 1. Not to exceed three (3) animals at one time. 2. Approval of all other pertinent boards, committees and/or commissions.

No appeals were taken, and the Special Permit was recorded on January 28, 2013 at the Plymouth County Registry of Deeds, Book 42600, Page 117. A copy of the Special Permit is attached hereto as Exhibit 3.

### **Violation Notices**

On August 24, 2022, Paul E. Turner, as Wareham’s Building Commission and Zoning Enforcement Officer, issued the first of three violation notices. In this first violation notice, Mr. Turner states that on August 4, 2022, he went to the Property and personally observed six donkeys on the Property. Although Ms. Bond stated she had three adults and three babies, Mr. Turner could only distinguish one of the six donkeys as being smaller than the others. Mr. Turner reminded Ms. Bond that the Special Permit limits the number of animals to three – without an exception for the age of the animals.

Mr. Turner returned to the Property about two weeks later on August 17, 2022. In responding to Mr. Turner’s questions, Ms. Bond acknowledged that she had more than three animals on the Property, and she had more on the way from Texas. Mr. Turner gave Ms. Bond 30 days from the receipt of the letter to reduce the animal count to three animals.

On September 22, 2022, Mr. Turner issued a second Notice of Violation, which “Revised” the August 24, 2022 Notice of Violation. Mr. Turner stated that he was relying upon the representation of Ms. Bond’s attorney that they were purchasing an abutting property. Based on this new information, Mr. Turner allowed the appellant 180 days to bring the Property into compliance with the Special Permit. With this Notice of Violation, Mr. Turner included a notice

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putting the appellant on notice that each day of a violation constitutes a separate offense, and the property owner could be liable for a fine up to \$300 for each violation.

On November 21, 2022, Mr. Turner issued his *third* Notice of Violation. In this Notice of Violation, Mr. Turner noted that the appellant’s own webpage stated, “There was at a minimum of seven animals on-site.” Mr. Turner noted that he had given the appellant “an extremely liberal length of time” to bring the number of animals into compliance with the Special Permit. Mr. Turner noted that, “it seems that the operation is expanding at 12 Great Neck Road location... “ Mr. Turner gave the appellant until January 1, 2023 to bring the Property into compliance.

**Nature of Continuing Violations**

The Peace for Ponies website states they have three permanent residents at the Property. Two donkeys named William and Ben, and pig named Sophia. While the webpage is not entirely clear about the overall number of animals on the Property, the website indicates that a pregnant donkey will be coming to the Property, along with two other donkeys that were in a BLM kill pen. The website also shows four other donkeys named Rose, Poppy, Barnes and Noble, presumably all of which are on the Property.

The evidence here leaves no doubt that the appellant has shown a complete disregard for the three animal limit established by the Special Permit. Although having three “residents” on the Property, the appellant is actively seeking additional animals. The town Zoning Enforcement Officer has on multiple occasions personally verified that the appellant is exceeding the number of animals allowed, yet the appellant has completely disregarded her legal obligation to comply with the Special Permit.

**Appellant’s Position Statement Avoids Acknowledging the Clear Violation  
of the Special Permit**

The appellant would ask the ZBA to ignore the crystal clear language of the Special Permit – “Not to exceed three (3) animals at one time” – by trying to redefine terms not relevant to the violations currently before the ZBA. The appellant suggests Zoning Bylaws do not define the term “agriculture” when, in fact, the term is clearly defined in Section 340, Use Definitions:

**340.1 AGRICULTURAL AND RURAL USES**

**Agricultural uses**

Includes the use of land for agriculture, horticulture, floriculture, or the viticulture; and, the use, expansion or reconstruction of existing structures thereon for the primary purpose of agriculture, horticulture, floriculture, or viticulture.

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If the term agriculture was not defined clearly enough in Section 340.1, the next section makes the clear distinction between agriculture and animal care:

340.2 ANIMAL RELATED USES

\* \* \*

**Piggeries**

Includes the use of land for keeping or raising of pigs and all facilities and structures associated with such use.

\* \* \*

**Veterinary Hospital**

A building providing for the diagnosis and treatment of ailments of animals other than human, including facilities for overnight care.

**Riding stable**

Any structure and/or land use for stable where horses, ponies, mules or donkeys are maintained or kept for hire. This shall include the renting of horses, ponies, mules or donkeys for rides, drives, or trail rights including their use as part of camp or ranch activities, and the use of these animals for hayrides or pony rides.

Understandably, the appellant would ask this Board to look at Massachusetts General Laws Chapter 128, §1A for a definition of agriculture. That section, however, defines both farming and agriculture, combining the definitions of both words. Chapter 128 also addresses corn borer infestations, bee colonies, maple syrup, seed potatoes, industrial hemp, and more. Chapter 128, as one could surmise, has nothing to do with zoning regulations.

Yet, more than a decade after receiving the Special Permit, the appellant apparently would like to redefine the use or argue that the activities on the Property are allowed by right. Had the appellant truly believed in that position, she should have appealed the Special Permit when it was issued in 2012. The appellant cannot, however, ignore multiple notices of violation from the zoning enforcement officer and then try to change the rules of the game.

The only use remotely close to housing rescue animals remains the use defined as “veterinary hospital.” Again, the Board must keep in mind that the appellant did not object 11 years ago when the Special Permit was issued under the use entitled veterinary hospital. Piggeries are not allowed in R30 districts.

The Special Permit restricted the number of animals for a reason. Guides reviewed by abutter’s counsel indicate that donkeys should have anywhere between half an acre

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and a full acre for each animal. The guides also indicate that donkeys are social animals and should not be housed without at least two donkeys being together. As noted above, this parcel consists of .4 acres, with a single-family residence occupying about half of the Property. Accordingly, even though two donkeys should be kept in a parcel of at least one acre in size, two donkeys and a pig are kept in a property of somewhere between .2 and .3 acres.

The abutter has reported smelling an odor of urine and manure emanating at times from the Property. While the appellant and her supporters adamantly deny that fact, the abutter is providing the Board with pictures showing a huge pile of bags filled with manure, stacked on the side of the Property and being transported off the Property by pickup truck. Clearly, increasing the number of animals only increases the amount of manure and urine that must be controlled.

The abutter here does not argue that the animals do not receive appropriate care. The appellant submitted numerous letters from various supporters attesting to the care the animals receive, as well as the valuable services provided. The issue here remains narrow and easily described: Is the appellant in violation of the Special Permit issued restricting the number of animals to not exceed three at any one time. The question is clearly yes, the appellant is in violation of the terms of the Special Order.

The question then becomes what should the ZBA do to enforce the order. While recognizing that each day represents a new violation and each violation could be punished by a fine of up to \$300, the abutter does not wish to impose an crushing financial burden on Peace for Animals, Inc. Instead, the abutter asks the Board to give Peace for Animals, Inc., a clear deadline, of not more than thirty (30) days, to reduce the number of animals to three. Should the appellant fail to comply with the Board's directive, the abutter will urge the Board to enforce the terms of the Special Permit using injunctive relief.

Respectfully,



Daniel B. Walsh  
[dwalsh@walshlegal.com](mailto:dwalsh@walshlegal.com)

enclosures

cc: Attorney Craig N. Hartwell  
Ms. Joan Cooney

# Exhibit 1



# Wareham Police Department



**Cheryl A. Gorveatt-Dill**  
**Animal Control Officer**

**Animal Control Division**  
2515 Cranberry Highway  
Wareham, Massachusetts 02571  
[www.warehampolice.com](http://www.warehampolice.com)

**Phone: (508) 295-1473 x 2250**  
**Fax: (508) 291-8652**  
**[aco@warehampolice.com](mailto:aco@warehampolice.com)**

October 23, 2012

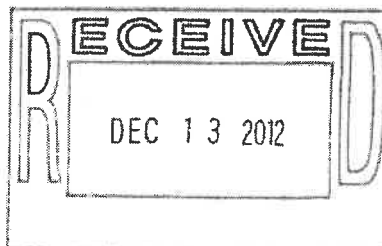
To Whom It May Concern:

On October 23, 2012 I, Wareham Appointed Animal Inspector/Animal Control Officer Gorveatt-Dill inspected the property at 12 Great neck Rd at the request of Kendra Bond. She had expressed the desire to open up a non-profit farm that would be used solely to house miniature horses in need of temporary housing. The facility would be run under the name, Peaceville farm. It is expected to house only two miniature horses at any given time. These horses would be taken under emergency situations and housed temporarily. Having inspected the property (the building that would house the horses is not yet completed) I found it to appear adequate in size for its use. At this time 5 rabbits and 8 chickens are on the property and all appeared clean, well maintained and appropriately cared for.

I can be reached at (508) 295-1473 ext. 2250, if you have any questions or concerns.

Sincerely,

Cheryl A. Gorveatt-Dill  
Animal Control Officer / Inspector



## Exhibit 2





**TOWN OF WAREHAM**  
**54 Marion Road**  
**Wareham, Massachusetts 02571**

**David R. Moore**  
**Building Commissioner**  
**(508) 291-3100 ext. 3191**

December 11, 2012

Lynette Butterfiled  
12 Great Neck Road  
East Wareham, MA

Re: Stable request  
12 Great Neck Road

The use of the above address, containing less than 5 acres in an MR30 zone, for maintaining horses is only allowed by special permit under sections 321 and 352 of the Town of Wareham Zoning Bylaws. If you have any further questions please contact this office.

Sincerely

David R. Moore  
Building Commissioner

CC: Zoning Board of Appeals

# Exhibit 3

TOWN OF WAREHAM

Board of Appeals

No. 25-12

CLERK'S RECORD OF NOTIFICATION

Petition of: Lynette Butterfield, 12 Great Neck Road, East Wareham, MA  
02538

Location of Property: Assessors Map 17 - Lot 1008 - 12 Great Neck Road,  
East Wareham, MA 02538

Date of Notification of Hearing: November 21, 2012 & November 29, 2012

Date of Hearing: December 12, 2012

Date of Notification of Decision: December 26, 2012

DECISION: The Board voted to grant a Special Permit under use  
definitions, Section 352 animal related uses,  
veterinary hospital, & further with the following  
REASON: conditions: 1. Not to exceed three (3) animals at  
one time. 2. Approval of all other pertinent boards,  
committees, and/or commissions.  
VOTE: (4-1-0)

Name and Address of Abutting Owners: CERTIFIED ABUTTERS LIST ATTACHED

*[Handwritten signatures]*  
Richard [unclear]  
D.A. Sharkey  
[unclear]  
[unclear] - Denied

RECEIVED  
DEC 26 2012  
11:25 AM  
TOWN OF WAREHAM  
CLERK'S OFFICE

Board of Appeals



2013 00009163

Bk: 42600 Pg: 117 Page: 1 of 3  
Recorded: 01/28/2013 02:49 PM  
ATTEST: John R. Buckley, Jr, Register  
Plymouth County Registry of Deeds

*Nov 1*

*Lynette Butterfield  
12 Great Neck Rd  
Wareham, MA 02538*

THE COMMONWEALTH OF MASSACHUSETTS

WAREHAM  
City or Town

BOARD OF APPEALS Petition #25-12

Date: December 26, 2012  
Book: 19417 Page: 256

Certificate of Granting of ~~Variance~~ or Special Permit  
(General Laws Chapter 40A, Section 11)

The Board of appeals of the City or Town of Wareham

hereby certifies that a ~~Variance~~ or Special Permit has been granted

To Lynette Butterfield

Address 12 Great Neck Road

City or Town East Wareham, MA 02538

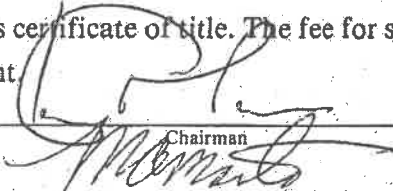
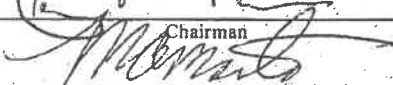
affecting the rights of the owner with respect to land or buildings at Assessors Map 17 -


Lot 1008 - 12 Great Neck Road, East Wareham, MA 02538

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said ~~variance~~ — special permit, and that copies of said decision, and of all plans referred to in the decision, have been filed with the planning board and the city or town clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town or city clerk that twenty days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for such recording or registering shall be paid by the owner or applicant.

I hereby certify that 20 days have elapsed after the decision was filed in the office of the Town Clerk of Wareham and no appeal has been filed in accordance with Section 17, Chapter 40 A of the Massachusetts General Laws.

  
Chairman  
  
Clerk

  
Town Clerk