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THE LAW OFFICES OF BELLO & MORTON, LLC

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184 Main Street Wareham, Massachusetts 02571 · 508-295-2522

June 7, 2023

Wareham Zoning Board of Appeals  
54 Maron Road  
Wareham, MA 02571

Re: Variance Application for Scott Green; Property Located at 17 Murphy Street,  
Wareham, MA 02571; Assessor's Map 50B, Lot 1-41

Dear Members of the Board of Appeals:

Please find enclosed the following information and exhibits:

1. Petitioner:

Scott Green  
9A Melvin Street  
Wakefield, MA 01880

2. Record Owner:

Bella Ferreira  
P.O. Box 488  
Taunton, MA 02780

3. Current Deed:

Plymouth Land Court Document No. 203573. Exhibit A.

4. Building Inspector's Denial Letter:

Denial Letter attached here as Exhibit B from the Building Commissioner referencing Appeal to Zoning Board of Appeal is necessary.

5. Certified Abutters List:

Copy Attached as Exhibit C.

6. Proposed Site Plan:

Copy Attached as Exhibit D.

7. Conservation Order of Conditions:

Copy Attached as Exhibit E.

Mr. Green is back in front of this Board seeking an additional Variance. The additional Variance is due to the change in the location of the footprint of the building because of the Conservation Board. Mr. Green along with his engineers presented the plan as approved by the Wareham Zoning Board of Appeals and they requested that the applicant move the building over away from the coast bank -no activity zone. They also requested that the application complete invasive species review on the area and commit to remove invasive species on the adjoining town lot which he agreed too.

The Building Commissioner on May 8, 2023, denied the new plan as it does not meet the current front setback requirements – “the proposed building front set back of 7.1 feet us encroaching the front set back of 20 feet as required in the MR-30 zone.

Therefore, the applicant is here today to apply for such Variance. We believe that this meets the standards as written out in our Wareham Zoning ByLaws and Chapter 40A.

*1470 VARIANCES*

*The Board of Appeals shall have the power to hear and decide applications for Variances from the provisions of the Zoning By-Laws, including the power to grant a Variance authorizing a Use or activity not otherwise permitted in the district in which the land or structure is located. A Variance may be granted when factors relating to soil conditions, lot shape, or topography of such*

*land creates an impracticality or limits the location or positioning of a new structure or addition on a site or location that previously conformed to zoning requirements. An applicant must demonstrate that a literal enforcement of the Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.*

In our case here the topography of this lot does warrant variance because of the location to the coast bank and the beach and dunes. The applicant went through multiple hearings and even hiring experts in wetlands and dune mitigation to work with the Conservation department because of the soil and conditions on site. This is a major reason why we needed to shift the building over away from the coast bank even more.

The Board has already granted the Variance last year in our prior petition to have a house on this lot and therefore a denial of the the new front setback variance would create substantial financial hardship to the applicant who has been through multiple boards and engineering revised to have this site be developed for his own home. This relief can be granted without substantial determinant to the neighborhood. There is a dirt path at the front where we are encroaching on the setback. This will not harm the public or otherwise.

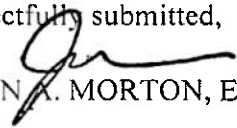
All things considered we ask the Board to grant this variance as it does not nullify or substantially derogate from the Wareham Zoning By-Laws.

Very Truly Yours,

Jilian A. Morton, Esq

Attorney for the Applicant Mr. Scott Green

Respectfully submitted,

  
JILIAN A. MORTON, ESQ.

508-295-2522

TOWN OF WAREHAM  
ZONING BOARD OF APPEALS

APPLICATION FOR A PUBLIC HEARING FOR A VARIANCE/SPECIAL PERMIT

Certain uses are allowed in several zoning districts only by means of a Variance and/or Special Permit from the Zoning Board of Appeals. Those uses are indicated in the Wareham Zoning By-Laws. To apply for a Variance/Special Permit from the Zoning Board of Appeals, please do the following:

- o Complete this form.
- o Complete information packets. (Directions attached)
- o Submit application form and packet to Town Clerk for signature.
- o Submit application form and packet to Town Collector for signature.
- o Submit completed form, packets, and appropriate fees\*\* to the Zoning Board of Appeals secretary.

\*\*Permits may be issued only after a public hearing. There is a filing fee of \$300.00 per lot, per application for all non-conforming residential lots, whether built upon or not. There is a filing fee of \$750.00 per lot, per application for all commercial applications. In the case of a multi-family development, the fee is \$300.00 plus an additional \$50.00 for every unit over two (2). Please make check payable to the Town of Wareham.

\*\*A check to cover two (2) legal advertisements for the public hearing should be made payable to Wareham Week in the amount of \$100.00.

\*\*The applicant will also be responsible for the costs of sending out abutter notifications by Certified Mail. The cost is \$6.90 per certified letter to each abutter. Please see Zoning Board secretary for cost of mailings. Please make check payable to the Town of Wareham.

I hereby apply for a Variance/Special Permit for a use to be made of the following described place:

STREET & NUMBER: 17 Murphy St LOT: 50B MAP: 1-41  
ZONING DISTRICT: B30  
USE REQUESTED: single family home  
OWNER OF LAND & BUILDING: Belle Ferreira TEL.# \_\_\_\_\_  
ADDRESS OF OWNER: PO Box 488, Taunton, ma 02780  
PERSON(S) WHO WILL UTILIZE PERMIT: Scott Green  
ADDRESS: 9A Melvin St, Wakefield, ma 01880  
DATE: 6/5/2023 SIGNATURE: \_\_\_\_\_  
This application was received on the date stamped here:

Town Clerk: \_\_\_\_\_ Date: \_\_\_\_\_  
Tax Collector: \_\_\_\_\_ Date: \_\_\_\_\_  
Planning/Zoning Dept.: \_\_\_\_\_ Date: \_\_\_\_\_  
Application fee paid: \_\_\_\_\_ Check #: \_\_\_\_\_ Receipt: \_\_\_\_\_  
Advertising fee paid: \_\_\_\_\_ Check #: \_\_\_\_\_ Receipt: \_\_\_\_\_  
Abutters fee paid: \_\_\_\_\_ Check #: \_\_\_\_\_ Receipt: \_\_\_\_\_

TOWN OF WAREHAM

APPLICANT/CONTRACTOR/REPRESENTATIVE INFORMATION SHEET

Check One:  Variance  Special Permit  Site Plan  Appeal

Date stamped in: \_\_\_\_\_ Date decision is due \_\_\_\_\_

Applicant's Name: Scott Green

Applicant's Address: c/o Julian Morton, Esq. - 508-295-2522

Telephone Number: 184 Main St, Wareham, MA 02571

Cell Phone Number: n/a

Email Address: jam@mortonlawllc.com

Address of Property/Project: 17 Murphy Street

Landowner's Name: Bella Ferreira

Owner's Address: P.O. Box 488, Taunton, MA 02780

Telephone Number: n/a

Contact Person: Julian Morton Telephone Number: 508-295-2522

Map 50B Lot 1-41 Zone R30

Date Approved \_\_\_\_\_ Date Denied \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# EXHIBIT A

Thomas S. Santos and Margaret B. Santos  
of Taunton,

Bristol County, Massachusetts,

for Fifteen Thousand (\$15,000.00) Dollars consideration paid,  
grant to Manuel Ferreira and Bella Ferreira, husband and wife, as tenants by the  
entirety

at 596 Somerset Avenue, North Dighton,  
Bristol County, Massachusetts

the land in Watham, in the County of Plymouth and said Commonwealth, bounded and described  
as follows: (Description and encumbrances, if any)

Northeasterly by the Southwesterly line of Webster Street on land now or formerly of  
Louise P. Barrett two hundred thirty-four and 56/100 (234.56) feet;  
Southeasterly ninety-one and 32/100 (91.32) feet;  
Southwesterly one hundred seventy-four and 01/100 (174.01) feet;  
Westerly one hundred eleven and 51/100 (111.51) feet; and  
Northerly thirty-eight (38) feet by lot A<sup>1</sup> on the plan hereinafter mentioned.

Said parcel is shown as Lots 41, 61, 62, 63, and 64 on subdivision plan #12124H,  
drawn by Walter E. Bowley, Surveyor, dated June 17, 1953, and filed herewith.

There is appurtenant to the above described land a right of way over that  
portion of Webster Street situated southerly of the northerly line of Wankinco Avenue,  
and also over Webster Street extended southerly to Wankinco River, with others entitled  
therein, as set forth in the stipulation filed and registered as document #9228.

See Certificate of Title #19093 recorded at Land Court.



Witness our hands and seal of this 5th day of November 1980

*[Signatures of Thomas S. Santos and Margaret B. Santos]*

The Commonwealth of Massachusetts

Bristol ss November 3, 1980

This personally appeared the above named Thomas S. Santos and Margaret B. Santos

and acknowledge the foregoing instrument to be their free act and deed to have in

*[Signature]*  
DAVID J. GAY

# EXHIBIT B





# TOWN of WAREHAM

*Massachusetts*

## BUILDING DEPARTMENT

Paul Turner  
Director of Inspectional Services

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May 8, 2023

Attorney Jilian Morton  
184 Main Street  
Wareham, Massachusetts 02571

**RE: 17 Murphy Street / Map 50B, Lot 41**

Attorney Morton,

I have reviewed your Building Permit application B-23-269, submitted May 2, 2023 seeking a denial letter due to the new location of the proposed build out at 17 Murphy Street, Wareham, Massachusetts. At this time I must deny your request.

Your application is being denied under the following sections of the Wareham Zoning By-Laws:

**Article 6: Density and Dimensional Regulations,**

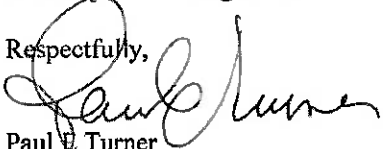
**620 Table of Dimensional Regulations,  
621 Residential Districts MR-30, Minimum Frontage**

The proposed building front set back of 7.1 feet is encroaching the front set back of 20 feet required in the MR-30 zone.

Therefore, a **Variance** must be secured from the Zoning Board of Appeals in order to proceed with your application.

The subject dwelling is located in **MR-30** zoning district.

Respectfully,

  
Paul E. Turner  
Building Commissioner  
Zoning Enforcement Officer

**It is the owners' responsibility to check with other departments to ensure full compliance.**

**In accordance with the provisions of MGL chapter 40A §§ 15, you may apply to the Zoning Board of Appeals for the above noted relief within thirty (30) days of receipt of this letter.**

# EXHIBIT C

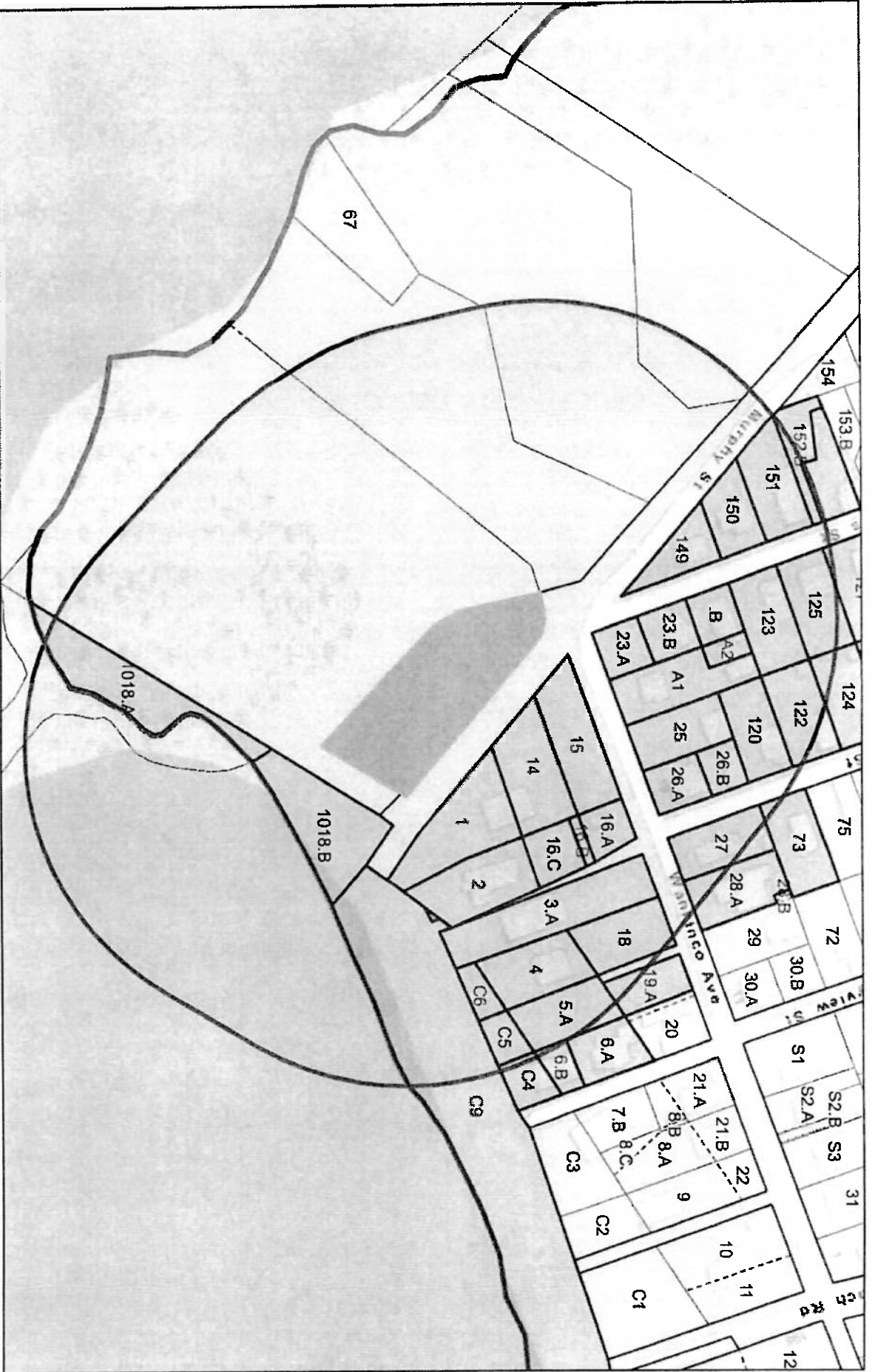
TOWN OF WAREHAM ABUTTERS  
 MAP 50/B LOT 1-41  
 OWNER BELLA FERREIRA

MAP & LOT	OWNERS	STREET ADDRESS	TOWN & STATE	ZIP CODE
50A-0-1	ARSENAULT MARGARET TRS	2 MOORE AVE	WORCESTER, MA	01602
50A-0-120	FRAGA MARIA O,	15 GREG RD,	STOUGHTON, MA	02072
50A-0-122	CARLSON LESLIE B TRUSTEES	55 PLEASANT ST,	WAREHAM, MA	02571
50A-0-123	MENDEZ ANTHONY,	46 CHARTER ST,	BOSTON, MA	02113
50A-0-124	MASTROIANNI ANTONIO, MASTROIANNI MARIA A TRUSTEES	36 ADAMS AVE,	W NEWTON, MA	02158
50A-0-125	AIELLO VILMA + RUGO-BUENO MARIA + RUFO-CARNEY ANTONIETTA	12 BALDWIN PLACE,	BRIGHTON, MA	02135
50A-0-127	RUFO LAURA	40 WASHINGTON TERR,	SOMERVILLE, MA	02143
50A-0-128	MITRANO ERASMO G, MITRANO USA TRUSTEES	69 RIVER ST,	HUDSON, MA	01749
50A-0-14	YAKAUS RICHARD J,	16 GRANT ST,	PLYMOUTH, MA	02360
50A-0-149	ZUTAUT CHARLENE M,	1396 MARLBOROUGH ST., #3,	BOSTON, MA	02115
50A-0-15	BERRY PATRICIA E TRUSTEE, C/O LINCOLN BERRY	30 WINFIELD ST,	NORWOOD, MA	02062
50A-0-150	DISTASO NICHOLAS, DISTASO JUDY ANN TRUSTEE	6 SUNNYSIDE AVE,	SOMERVILLE, MA	02145
50A-0-151	PERRONE GIANNINO, PERRONE ADUA LIFE ESTATE	25 A BARNES ST,	WAREHAM, MA	02571
50A-0-152A	ALMEIDA MICHAEL, BREER USA	25 B BARNES DR,	WAREHAM, MA	02571
50A-0-152B	FISHER DANIELLE,	23 SPRUCE POND RD,	FRANKLIN, MA	02038
50A-0-18	DEPEDRO DENISE R TRUSTEE OF, 18 WANKINCO AVENUE REALTY TR			
	C/O DIANE PADULA			
50A-0-19.B	WONG HING F, WONG HAU I LIFE ESTATE	17 ORANGE ST,	ROSLINDALE, MA	02131
50A-0-2	VENDETTI JOSEPH L JR, VENDETTI CYNTHIA A	20 WANKINQUOAH AVE,	WAREHAM, MA	02571
50A-0-23.A	MULLEN PATRICIA J, MULLEN JOHN J LIFE ESTATE	PO BOX 3335,	WAREHAM, MA	02571
50A-0-23.B	PETRUCCI ANTHONY J, PETRUCCI KARA	PO BOX 242,	BOSTON, MA	02375
50A-0-25	BERRY PATRICIA E TRUSTEE, C/O LINCOLN BERRY	396 MARLBOROUGH ST #3,	BOSTON, MA	02115
50A-0-26.A	EICHENHOLZ ELIOTT, CRISCI MARIE ANN	11 CRANBERRY DR,	FRANKLIN, MA	02038
50A-0-26.B	COTELLESSO RALPH M, LIFE ESTATE	12 WILTON ST,	HYDE PARK, MA	02136
50A-0-27	VENTURA DAVID,	50 WANKINQUOAH AVE,	WAREHAM, MA	02571
50A-0-28.A	BUENO MIGUEL A + RUFO-BUENO MARIA	17 HAZELHURST AVE	W NEWTON, MA	02465
50A-0-5.A	DEPEDRO DENISE PADULA TRUSTEE, OASIS REALTY TRUST	350 LINCOLN ST,	FRANKLIN, MA	02038
50A-0-6.A	KING JAMES E, KING SUSAN M	36 THAYER AVE	W BRIDGEWATER, MA	02379
50A-0-6.B	RUMBOLT STEVEN B, RUMBOLT ROBIN J	79 BAYVIEW ST,	WAREHAM, MA	02571
50A-0-73	GALELLA MICHAEL A, GALELLA LYNDAS	50 PALAMAR DR,	FAIRFIELD, CT	06825
50A-0-A1	MULLEN PATRICIA J, MULLEN JOHN J LIFE ESTATE	PO BOX 3335,	WAREHAM, MA	02571
50A-0-A2	HURD GORDON B, WALSH-HURD PATRICIA A	5064 BARRINGTON CIRCLE,	SARASOTA, FL	34234
50A-0-C8	VENDETTI JOSEPH L JR, VENDETTI CYNTHIA A	20 WANKINQUOAH AVE,	WAREHAM, MA	02571
50B-1-41	FERREIRA BELLA,	PO BOX 488,	TAUNTON, MA	02780

CERTIFIED ABUTTERS AS THEY APPEAR  
 ON OUR TAX ROLLS AS OF 6/5/2023  
*By: Renee Chaine*  
 ASSESSORS OFFICE

REQUESTED BY CHERYL  
 508 295-2522  
 CHERYL@MORTONLAWLLC.COM

# ArcGIS Web Map



6/5/2023, 11:39:05 AM

Parcels with CAMA Data

Parcel Lines

Public Road

Miscellaneous Lines

Town Line

Common Line

MiscPolys

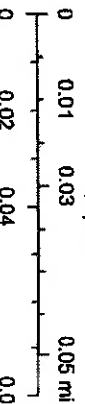
PropNotPar

Property Line

Right of Way

RoadNotPar

1:2,257



# EXHIBIT D





**Massachusetts Department of Environmental Protection**  
**Bureau of Resource Protection - Wetlands**  
**WPA Form 5 – Order of Conditions**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:  
 SE76-2754  
 MassDEP File # \_\_\_\_\_  
 eDEP Transaction # \_\_\_\_\_  
**Wareham**  
 City/Town

**A. General Information (cont.)**

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):  
Plymouth 64236  
 a. County b. Certificate Number (if registered land)
- c. Book \_\_\_\_\_ d. Page \_\_\_\_\_
7. Dates: April 5, 2022 March 15, 2023 March 15, 2023  
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):  
Site Plan at 17 Murphy Street Wareham, MA 02571  
 a. Plan Title  
JC Engineering, Inc. John L. Churchill Jr.  
 b. Prepared By c. Signed and Stamped by  
09-06-2022 1" = 20'  
 d. Final Revision Date e. Scale
- f. Additional Plan or Document Title \_\_\_\_\_ g. Date \_\_\_\_\_

**B. Findings**

1. Findings pursuant to the Massachusetts Wetlands Protection Act:
- Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:
- a.  Public Water Supply b.  Land Containing Shellfish c.  Prevention of Pollution  
 d.  Private Water Supply e.  Fisheries f.  Protection of Wildlife Habitat  
 g.  Groundwater Supply h.  Storm Damage Prevention i.  Flood Control
2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

**Approved subject to:**

- a.  the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



**Massachusetts Department of Environmental Protection**  
**Bureau of Resource Protection - Wetlands**  
**WPA Form 5 – Order of Conditions**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:  
 SE76-2754  
 MassDEP File # \_\_\_\_\_  
 eDEP Transaction # \_\_\_\_\_  
 Wareham  
 City/Town

**B. Findings (cont.)**

Denied because:

- b.  the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and 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. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c.  the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
- 3.  Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) \_\_\_\_\_ a. linear feet

**Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)**

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement	
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet	
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet	
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet	
	e. c/y dredged	f. c/y dredged			
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet	
	Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet			
	Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet			
	Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
	Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet





**Massachusetts Department of Environmental Protection**  
**Bureau of Resource Protection - Wetlands**  
**WPA Form 5 – Order of Conditions**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:  
 SE76-2754

MassDEP File #

eDEP Transaction #

Wareham

City/Town

**B. Findings (cont.)**

**Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)**

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	<u>                    </u> a. square feet	<u>                    </u> b. square feet		
	<u>                    </u> c. c/y dredged	<u>                    </u> d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input checked="" type="checkbox"/> Coastal Beaches	<u>0</u> a. square feet	<u>0</u> b. square feet	<u>                    </u> c. nourishment	<u>                    </u> d. nourishment
14. <input checked="" type="checkbox"/> Coastal Dunes	<u>0</u> a. square feet	<u>0</u> b. square feet	<u>                    </u> c. nourishment	<u>                    </u> d. nourishment
15. <input checked="" type="checkbox"/> Coastal Banks	<u>0</u> a. linear feet	<u>0</u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u>                    </u> a. square feet	<u>                    </u> b. square feet		
17. <input checked="" type="checkbox"/> Salt Marshes	<u>0</u> a. square feet	<u>0</u> b. square feet	<u>                    </u> c. square feet	<u>                    </u> d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u>                    </u> a. square feet	<u>                    </u> b. square feet		
	<u>                    </u> c. c/y dredged	<u>                    </u> d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. square feet	<u>                    </u> d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	<u>                    </u> a. c/y dredged	<u>                    </u> b. c/y dredged		
21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	<u>10,282</u> a. square feet	<u>10,282</u> b. square feet		
22. <input type="checkbox"/> Riverfront Area	<u>                    </u> a. total sq. feet	<u>                    </u> b. total sq. feet		
Sq ft within 100 ft	<u>                    </u> c. square feet	<u>                    </u> d. square feet	<u>                    </u> e. square feet	<u>                    </u> f. square feet
Sq ft between 100-200 ft	<u>                    </u> g. square feet	<u>                    </u> h. square feet	<u>                    </u> i. square feet	<u>                    </u> j. square feet



**Massachusetts Department of Environmental Protection**  
**Bureau of Resource Protection - Wetlands**  
**WPA Form 5 – Order of Conditions**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:  
 SE76-2754  
 \_\_\_\_\_  
 MassDEP File #  
 \_\_\_\_\_  
 eDEP Transaction #  
 Wareham  
 \_\_\_\_\_  
 City/Town

**B. Findings (cont.)**

\* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BWV) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23.  Restoration/Enhancement \*:

\_\_\_\_\_ a. square feet of BWV

\_\_\_\_\_ b. square feet of salt marsh

24.  Stream Crossing(s):

\_\_\_\_\_ a. number of new stream crossings

\_\_\_\_\_ b. number of replacement stream crossings

**C. General Conditions Under Massachusetts Wetlands Protection Act**

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - a. The work is a maintenance dredging project as provided for in the Act; or
  - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
  - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on \_\_\_\_\_ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

## WPA Form 5 – Order of Conditions

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

Provided by MassDEP:

SE76-2754

MassDEP File #

eDEP Transaction #

Wareham

City/Town

### C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,
 

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]  
"File Number            SE76-2754 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
- (1)  is subject to the Massachusetts Stormwater Standards
- (2)  is NOT subject to the Massachusetts Stormwater Standards

**If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:**

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
  - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
  - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



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### C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
- v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c)* The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:
- i.)* the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and
  - ii.)* the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d)* Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e)* Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f)* The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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### C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
  2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
  3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

**See Attached**

20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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### D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable?  Yes  No
2. The Wareham hereby finds (check one that applies):  
Conservation Commission
  - a.  that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:
 

1. Municipal Ordinance or Bylaw	2. Citation
---------------------------------	-------------

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.
  - b.  that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:
 

<u>Wareham Wetland Protective By-law</u>	<u>Div VI</u>
1. Municipal Ordinance or Bylaw	2. Citation
3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.  
 The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

See Attached



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 Bureau of Resource Protection - Wetlands  
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**E. Signatures**

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

03/15/2023

1. Date of issuance

Please indicate the number of members who will sign this form.

4

This Order must be signed by a majority of the Conservation Commission.

2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signature

Sandy Slavin

Printed Name

Signature

Carol Malonson

Printed Name

Signature

*Kwame S Bartie*

Kwame Bartie

Printed Name

Signature

*Michael Mercier*

Michael Mercier

Printed Name

Signature

*Denise Schulz*

Denise Schulz

Printed Name

Signature

*Nichole Locurto*

Nichole Locurto

Printed Name

Signature

Printed Name

Signature

Printed Name

by hand delivery on

by certified mail, return receipt requested, on

Date

03/23/2023

Date





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

**WPA Form 5 – Order of Conditions**

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## **F. Appeals**

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



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**Bureau of Resource Protection - Wetlands**  
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 Wareham  
 \_\_\_\_\_  
 City/Town

**G. Recording Information**

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

\_\_\_\_\_  
 Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.  
 .....

To:

\_\_\_\_\_  
 Conservation Commission

Please be advised that the Order of Conditions for the Project at:

\_\_\_\_\_  
 Project Location

\_\_\_\_\_  
 MassDEP File Number

Has been recorded at the Registry of Deeds of:

\_\_\_\_\_  
 County

\_\_\_\_\_  
 Book

\_\_\_\_\_  
 Page

for: \_\_\_\_\_  
 Property Owner

and has been noted in the chain of title of the affected property in:

\_\_\_\_\_  
 Book

\_\_\_\_\_  
 Page

In accordance with the Order of Conditions issued on:

\_\_\_\_\_  
 Date

If recorded land, the instrument number identifying this transaction is:

\_\_\_\_\_  
 Instrument Number

If registered land, the document number identifying this transaction is:

\_\_\_\_\_  
 Document Number

\_\_\_\_\_  
 Signature of Applicant

## STANDARD CONDITIONS

1. The Wareham Conservation Commission is to be notified in writing not less than three (3) working days prior to the start of construction. At the time of notification, all pre-construction conditions shall have been complied with, including General Conditions 8 & 9.
2. Members, agents, and representatives of the Wareham Conservation Commission and/or the D.E.P. shall have the right to enter and inspect the property to insure compliance with the Conditions contained in this Order, and may require the submittal of any data necessary for such evaluation.
3. It is the responsibility of the applicant to see that construction personnel are aware of and adhere to all Conditions contained in this Order. A copy of this Order of Conditions shall be kept available on-site during all phases of the project.
4. Construction may proceed according to the plans submitted to the Commission and D.E.P. For any proposed change to the plans submitted, the applicant shall file a new Notice of Intent, or shall inquire, in writing from the Commission, as to whether the change is significant enough to warrant a new Notice. **Failure to construct the project according to the approved site plan may result in the issuance of an Enforcement Order and/or fines of up to \$300.00/day that the unauthorized deviations continue to exist. This shall be a continuing condition.**
5. Prior to the commencement of any earth moving activity, a straw bale barrier shall be placed between the limits of the work and the B.V.W. The straw bales shall be firmly anchored with stakes end-to-end. The straw bales shall be inspected daily and those showing signs of deterioration shall be replaced immediately. The straw bale barrier shall remain in proper functioning condition until all disturbed areas have been stabilized.
6. Any construction in the flood plain shall conform to 780 CMR Section 2102.0, requirements for flood resistant construction.
7. All final earth grading shall be permanently stabilized by the application of loam and seed or sod, except for the designated replication area and any designed paved area (driveway, sidewalk).
8. All debris, fill, and excavated material, shall be stockpiled far enough away from designated resource areas, and at a location to prevent sediment from surface runoff entering wetlands. At no time shall any debris or other material be stockpiled, buried, or disposed of within wetland resource areas, other than that fill which is allowed by this Order and is shown on the above referenced plans.

9. **Upon completion of the project, or at the expiration date of the Order of Conditions, the applicant shall either submit a Request for a Certificate of Compliance accompanied by an "As-Built" Plan prepared by a professional engineer or land surveyor registered in the Commonwealth of Massachusetts showing deviations from the original submitted plans, if any, and showing the site has been developed according to the requirements of the Order of Conditions, or a request for an extension to the Order. Failure to comply with this condition may result in the issuance of fines and/or other legal actions.**
10. **This Order shall apply to any successor in control or successor in interest of the property described in the Notice of Intent and accompanying plans.**
11. **If the proposed project involves construction of a replacement area, the replacement area shall meet or exceed those General performance standards outlines in sections 10.55 (4) (b) 1-7 of the Wetlands Protection Act Regulations. Should the replacement area fail to meet any of these standards, the Commission may require those measures necessary to achieve compliance.**
12. **The applicant shall contact the Conservation Administrator to inspect the installed haybale/silt fence barrier. Both haybales and silt fence shall be used for this project. This is to be done prior to the commencement of the project, which includes tree cutting or the removal of vegetation.**
13. **The applicant shall arrange a preconstruction meeting to include the project contractor, the Conservation Administrator, and the project Engineer, to discuss the schedule and details of the project. This shall be done prior to the commencement of the project, which includes tree cutting or the removal of vegetation.**
14. **The name and phone number of the contact person for the project contractor shall be submitted to the Conservation Office. This shall be done prior to the commencement of the project.**
15. **Only organic slow release nitrogen fertilizer shall be used at the site, in accordance with the manufacturer's specifications. This shall be a continuing condition.**

#### **SPECIAL CONDITIONS**

1. **The 30' "No Activity Zone" shall be replanted with native species. This shall be a continuing condition.**
2. **A split rail fence will be constructed to and installed along the 30 "No Activity Zone" to delineate that area. This shall be a continuing condition.**

### **SPECIAL CONDITIONS**

- 3. The invasive species will be removed in accordance with the invasive species removal plan.**
- 4. The old existing foundation will be removed.**

Doc 00841278

Plymouth County LAND COURT  
Registry District

RECEIVED FOR REGISTRATION

On: Apr 03, 2023 at 02:05P

Document Fee 105.00

Receipt Total: \$107.00

NOTED ON: CERT 64236 BK 00321 Pg 36

ALSO NOTED ON:

64236

CC107-

105-

1PP

1TS

17pgs

JC Engineering