

REQUEST FOR REVIEW

Case No: 2024-13
Petitioner: Matthew D. Killeen, TT, Wheatleigh II
Trust, Jennifer Berg, Beneficiary
C/O: Paul Brogna, Seacoast Engineering Co.
Address: 7 Spring Street
Parcel #: 127-802-101

- PLANNING BOARD
- BOARD OF HEALTH
- CONSERVATION COMMISSION
- DESIGN REVIEW BOARD
- WATER DEPARTMENT
- DUXBURY BAY MANAGEMENT COMMISSION

Date form was delivered: 3/28/2024

DATE REVIEW REPORT DUE TO BOARD OF APPEALS (906.4-WITHIN 35 DAYS) - Written comments and recommendations should be received within 35 days or there shall be deemed no opposition or desire to comment.

DUE DATE TO ZBA: May 1, 2024

PUBLIC HEARING SCHEDULED FOR: MAY 9, 2024

-
- | | |
|-------------------------------------|---------------------------------|
| <input type="checkbox"/> | RESIDENTIAL CLUSTER DEVELOPMENT |
| <input type="checkbox"/> | PLANNED DEVELOPMENT |
| <input checked="" type="checkbox"/> | SPECIAL PERMIT |
| <input type="checkbox"/> | VARIANCE |
| <input type="checkbox"/> | APPEAL |

BOARD OF APPEALS REQUESTS:

- | | | |
|-------------------------------------|---|-------|
| <input type="checkbox"/> | PRELIMINARY QUALIFICATION/SITE ANALYSIS REVIEW | 803.5 |
| <input checked="" type="checkbox"/> | SPECIAL PERMIT COMMENTS & RECS. | 906.2 |
| <input type="checkbox"/> | DEVELOPMENT APPLICATION REVIEW | 806.2 |
| <input type="checkbox"/> | SITE PLAN APPROVAL | 602 |
| <input type="checkbox"/> | VARIANCE – COMMENTS AND RECOMMENDATIONS | |
| <input type="checkbox"/> | APPEAL OF BUILDING INSPECTOR'S DETERMINATION-
COMMENTS AND RECOMMENDATIONS | |



TOWN CLERK

2024 MAR 28 PM 2:16

DUXBURY, MASS.

TOWN OF DUXBURY



BOARD OF APPEALS

NOTICE OF PUBLIC HEARING

The Board of Appeals will hold a public hearing in the Mural Room, 878 Tremont Street and via zoom on Thursday, May 9, 2024 at 7:30 p.m. to consider the application of Matthew D. Killeen, Wheatleigh II Trust, Jennifer Berg, Beneficiary for a Special permit under Article(s) 400 and 900, Section(s) 402, 404, 404.6, 404.7, 404.8, 404.20, 410 and 906.2 of the Duxbury Protective Bylaw. The property is located at 7 Spring Street, Parcel No. 127-802-101 of the Duxbury Assessors Map, consisting of 1.35 acres in the Residential Compatibility District (RC), Flood Hazard Area Overlay District (FHAOD) and the Wetlands Protection Overlay District (WPOD) and owned by Matthew D. Killeen, Wheatleigh II Trust, Jennifer Berg, Beneficiary. The Applicant proposes to construct a residential pier. A Special Permit is required. The application may be viewed on the Town's website www.town.Duxbury.ma.us under the Zoning Board of Appeals page. Any individual with a disability may request accommodation in order to participate in the public hearing and may request the application and any accompanying materials in an accessible format. Such requests should be made at least three business days in advance by contacting the Municipal Services Department.

Pursuant to Chapter 2 of the Acts of 2023, this meeting will be conducted in person and, as a courtesy, via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public and board members, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless required by law. Additionally, the meeting will be broadcast live, in real time, via the Duxbury Government Access Channels – Verizon 39 or Comcast 9. Viewers can visit www.pactv.org/duxbury for information about Duxbury programming including streaming and watching replays on Duxbury YouTube.

REMOTE MEETING ACCESS INSTRUCTIONS

<https://pactv.zoom.us/j/93616327348?pwd=RHZYNIVLTndTdVZqaWIPb25hZlVLU09>

Zoom Meeting ID: 936 1632 7348 Zoom Password: 943482

Zoom call in access: 1 929 205 6099 US

Adv: 4/24 & 5/1/2024
Case #2024-13

Wayne Dennison
Chair, Board of Appeals



SEACOAST ENGINEERING COMPANY

P.O. BOX 155 • 459 WASHINGTON STREET
DUXBURY, MASSACHUSETTS 02331
(781) 934-8188 • FAX (781) 934-9188

- CIVIL ENGINEERING
- ENVIRONMENTAL
- MARINE ENGINEERING

- TITLE V
- PERMITS
- STRUCTURES

March 27, 2024

Mr. Wayne Dennison, Chairman
Duxbury Zoning Board of Appeals
878 Tremont Street
Duxbury, MA 02332



RE: Matthew D. Killeen, Trustee, Wheatleigh II Trust, Jennifer Berg, Beneficiary
Application for Special Permit to Construct a Pier
7 Spring Street, Duxbury, MA, Parcel 127-802-101

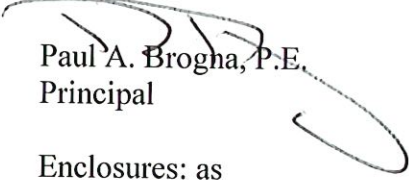
Dear Mr. Dennison:

Enclosed please find the Application for Special Permit approval and the supporting plans and documentation for the subject project. Please review at your earliest convenience and schedule the public hearing as soon as possible. In addition, checks for the Duxbury Clipper (\$120) and for the Town of Duxbury (\$200 and \$30) are enclosed as required. The applicant, Jennifer Berg, respectfully requests a Special Permit to construct a pier.

I have discussed this proposed work with the Zoning Board office, and they are familiar with the specifics.

Thank you very much for your cooperation and assistance in this matter. Should there be any questions concerning this application, please feel free to contact this office at 781-934-8188.

Very truly yours,


Paul A. Brogha, P.E.
Principal

Enclosures: as
Cc: Jennifer Berg
File



The Town of Duxbury
 878 Tremont Street
 Duxbury, MA 02332
 Phone: (781) 934-1100 • Fax: (781) 934-1118

TOWN CLERK'S STAMP:
 TOWN CLERK
 2024 MAR 28 PM 2:16
 DUXBURY, MASS.

APPLICATION - DUXBURY ZONING BOARD OF APPEALS

APPLICATION INFORMATION

This Application is for:

- Special Permit Appeal Variance Comprehensive Permit

Project Name: CONSTRUCT PIER
 Project Type: NEW CONSTRUCTION
 Location (Street Address): 7 SPRING STREET
 Assessor's Map/Block/Lot Number (s): 127-802-101

Applicant: MATTHEW D. KILBREN, TRUSTEE, WHEATBRIGH II TRUST, c/o FANNING BERG, BENEFICIARY
 Address: 2 CEDAR ROAD, CHESTNUT HILL, MD 02467
 Telephone: 617-777-4999 Fax: - Email: bergnd97@gmail.com

Property Owner: Same
 Address: 7 SPRING STREET, DUXBURY, MA 02332
 Telephone: 617-777-4999 Fax: - Email: bergnd97@gmail.com

Briefly describe and justify your special permit or variance request, or the basis for your appeal:
 CONSTRUCTION OF PIER CONSISTING OF A WALKWAY (4'x12'), PLATFORM (6'x8' - 2' BURNOUT), GANGWAY (3'x25'), AND FLOAT (10'x20').

SITE INFORMATION

Total Area (Sq. Ft.): 58,760 ± SF Lot Frontage: 116'
 Total Upland Area (Sq. Ft.):

Zoning District(s):

- RC: Residential Compatibility PD3: Planned Development District 3 POLOD: Publicly Owned Land Overlay District
 NB1: Neighborhood Business District 1 FHAOD: Flood Hazard Area Overlay District DPD: Dunes Protection District
 NB2: Neighborhood Business District 2 WPD: Wetlands Protection District WSOD: Waterfront Scenic Overlay District
 PD1: Planned Development District 1 APOD: Aquifer Protection Overlay District

Identify all sections of the Duxbury Protective Bylaw that apply to this Application:
 404.6, 404.7, 404.8, 404.20, AND 906.2

RECEIVED
 MAR 28 2024
 BOARD OF APPEALS
 DUXBURY, MA 02332

Existing Use(s) of the Property:

RESIDENTIAL

APPLICANT AND OWNER CERTIFICATIONS

The undersigned hereby certifies that he/she has read and examined this Application, including all attachments hereto, and that the proposed project is accurately represented in the statements made in this Application. The undersigned also certifies that applications have been filed with the Planning Board, Conservation Commission, and Board of Health, as appropriate, and hereby requests a hearing before the Zoning Board of Appeals with reference to this Application.

Property Owner:

I/we hereby acknowledge that the Applicant is authorized to act on my/our behalf and that any and all representations made by the Applicant will be binding on me/us as Owners of the property.

Signature: [Signature] Date: 3/26/24

Print: Erik Berg

Signature: [Signature] Date: 3/26/24

Print: Jennifer Berg

Applicant/Appellant

Signature: [Signature] Date: 3/26/24

Print: Erik Berg

Signature: _____ Date: _____

Print: _____

Applicant is: Owner Tenant Agent/Attorney Purchaser Appellant

Building Inspector Review

This completed Application has been reviewed by the Building Inspector prior to filing with the Town Clerk.

Signature of Building Inspector: [Signature]

Date of Review: 3/29/2024

Supplemental Application Requirements

The Application must include one or more of the following supplemental pages, as applicable:

- A. Section 906.2 Findings (Required for All Special Permit Applications)
- B. Application to Extend or Alter a Non-Conforming Single-Family or Two-Family Dwelling
- C. Application to Extend or Alter Other Use or Structure
- D. Application for a Special Permit in the NB-1 or NB-2 District
- E. Application for a Residential Pier
- F. Application for a Special Permit in the WPOD
- G. Application for Variance
- H. Appeal of Building Inspector/Zoning Enforcement Officer Decision
- I. Application for a Comprehensive Permit under G.L. c. 40B

SUPPLEMENTAL APPLICATION REQUIREMENTS

A. Section 906.2 Findings; Required for All Special Permit Applications.

For each of the following special permit granting criteria, summarize the proposed project's benefits to the Town and explain how they will outweigh any adverse impacts on the Town or the vicinity of the site. If a given criterion does not apply to the Application or if there will be no adverse impact, briefly explain why. Attach additional sheets if necessary.

- 1) Suitability of the proposed location for this proposal, taking the following into consideration:
 - a) Nearby land uses, and whether they would be supported by or damaged by having the proposed use nearby.
 - b) Uses of the site which would be displaced by or preempted by this use.
 - c) Adequacy of roads, water, drainage and other public facilities serving the location.
 - d) Whether the site is more sensitive than are most similarly zoned sites to environmental damage from the proposal such as: erosion, siltation, potential groundwater or surface water contamination, especially if affecting public or private water supplies, habitat disturbance or loss of valuable natural vegetation.
 - e) Contribution to cumulative impact upon municipal water supplies, including consideration of nitrate-nitrogen loading, if within a defined Aquifer Protection Overlay District.

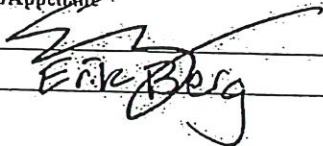
Applicant's Response: WATERFRONT PROPERTY - KINGSTON TOWN
OTHER PIER'S IN AREA (GREATER THAN 200' AWAY)
SIMILAR LAND USES
BOATING ACTIVITY ALREADY EXISTS IN AREA
ELEVATED WALKWAY PRESERVES RESOURCE AREAS

- 2) Activity type, mix and intensity, taking the following into consideration:
 - a) Whether the proposal contributes to the diversity of services available locally;
 - b) Seasonal consequences, including addition to peak period congestion;
 - c) Service to local, in preference to regional, markets;
 - d) For business developments, likelihood of employment opportunities being created for residents, and the quality of those opportunities; and
 - e) For residential developments, how substantially, if at all, the proposal contributes to housing diversity.

Applicant's Response: CONTRIBUTES TO THE DIVERSITY OF USE, MARITIME
SEASONAL USE

- 3) Building and site design, including consideration of the following:
- a) Whether scenic views from public ways and developed properties have been considerately treated;
 - b) Whether compatibility with neighborhood character has been considerately treated;
 - c) Whether reasonable efforts have been made to minimize visibility of parking and service areas from public streets;
 - d) Whether any traditional public access to or along shoreline has been maintained; and
 - e) Compliance with the criteria of Section 424.4 and/or Section 615 under Site Plan Approval.
 - f) Compliance with Section 404.20, "Determination of Suitability of Piers" and Section 404.50, "Waterfront Scenic Area Overlay District," if applicable.

Applicant's Response: NO VIEW OF PIER FROM SPRING STREET
NOT IN WATERFRONT SCENIC AREA
COMPATIBLE WITH NEIGHBORHOOD USE AND CHARACTER
TWO (2) OTHER PIERS IN AREA (→ 200' AWAY)

By Applicant/Appellant
Signature:  Date: 3/26/24
Print: Eric Berg

DUXBURY ZONING BOARD OF APPEALS
SUPPLEMENTAL APPLICATION REQUIREMENTS
E. Special Permit Application for a Residential Pier

- 1) This application involves:
- | | |
|---|--|
| <input checked="" type="checkbox"/> A new residential pier serving one property | In the Waterfront Scenic Overlay District? (if yes, check) |
| <input type="checkbox"/> Reconstruction of an existing pier | <input type="checkbox"/> |
| <input type="checkbox"/> A shared pier serving two or more properties | <input type="checkbox"/> |
- 2) Has this pier been reviewed and approved by the Conservation Commission and Harbormaster? (If yes, attach evidence.)
 Yes No

3) What is the status of the Chapter 91 license for this pier?

IN PROCESS

4) Projects Not Located in the Waterfront Scenic Overlay District

a) For new individual, shared, or reconstructed piers *not* located in the Waterfront Scenic Overlay District, state whether the proposed pier conforms to the following requirements. (See Section 404.20 and 404.40). Using the space provided on the, briefly explain all criteria marked "no." For reconstruction of a pre-existing pier, applicant must attach a copy of the existing, unexpired Chapter 91 license in order to justify the use of design standards that deviate from any of the criteria listed below.

Design Criteria	Yes	No
• Pier does not exceed 200' in length and extends the full distance over the salt marsh used to access the water's edge.	✓	
• Width of pier does not exceed 4 feet.	✓	
• Platform at seaward end does not exceed 6' x 10', i.e., 2' by 10' wider than walkway.	✓	
• Pile bents are no less than 10' on center from each other except last bent on landward end.	✓	
• The most seaward piles do not extend more than 2' seaward of the salt marsh except to allow the attached float to be located seaward of any vegetation.	✓	
• Floats do not exceed 200 sq. ft. unless permitted by the Conservation Commission and the Harbormaster. ¹	✓	
• Rails do not exceed 36" in height off the pier and have a top rail 5" or less in vertical dimension and a mid-rail 3½" or less in vertical dimension.	✓	
• Piers, floats, and gangways are made principally out of wood or other materials of a color and reflective quality similar to natural wood.	✓	
• Pier is set back at least 25' from abutting property lines. ²	✓	
• Pier is at least 50' to the nearest sideline of a town landing or way to the water.	✓	
• Pier is not higher above the salt marsh than the minimum permitted by state and federal regulations.	✓	
• The height of the pier deck does not exceed 15 feet MLW unless required by federal or state regulations.	✓	

¹ If floats exceed 200 sq. ft., attach evidence of approval from Conservation Commission and Harbormaster.

² If this requirement will prevent the pier from being approved, explain in Section X of this application supplement. The pier must be set back at least 15 feet.

b) For shared piers only: *N/A*

Additional Design Criteria for Shared Piers	Yes	No
<ul style="list-style-type: none"> Applicant has provided deed restrictions on each owner's lot prohibiting another pier, and deeded easements granting each owner access to the shared pier as long as it exists. 		
<ul style="list-style-type: none"> Does pier access the water over the shortest distance of salt marsh? If not, attach brief explanation.³ 		
<ul style="list-style-type: none"> Float sizes are 200 sq. ft. per owner and do not exceed 600 sq. ft. total unless permitted by the Conservation Commission and the Duxbury Harbormaster.⁴ 		

c) Briefly explain any "no" response to the above-listed design criteria. Attach additional sheets if necessary.

N/A

5) Projects Located in the Waterfront Scenic Overlay District.

New piers and reconstruction of existing piers must conform to the following requirements (where applicable) in order for the Board to grant a special permit (Section 404.50). In order to assist the Board in making the required determinations, provide a response to each requirement.

a) A pre-existing pier shall not be reconstructed as a new pier unless the cost to repair the existing pier is greater than 50 percent of the cost of a new pier on the same footprint.

If the proposed reconstruction is designed as a new pier, briefly explain. Attach a financial analysis, prepared by a qualified design professional, that compares the proposed reconstruction to the cost to repair the existing pier on the same footprint.

N/A

³ Note: under Section 404.40(2), shared piers are not required to access the water over the shortest distance of salt marsh. Nevertheless, a longer distance should be justified.

⁴ If either standard is exceeded, attach evidence of approval from Conservation Commission and Harbormaster.
 Revised March 2011

- b) Repairs to a pre-existing pier shall be made subject to no increase in pier length, height, width, footprint or modification of the railing dimension.

Do the proposed repairs to a pre-existing pier meet this requirement? Yes No
If no, explain:

N/A

- c) New piers shall be limited to 3.5' in width, may have a handrail only on one side of the pier with its upper rail member having a profile of no greater than 1.5" viewed horizontally and a mid-rail member having a profile of no greater than 1/4" viewed horizontally.

Does the proposed new pier meet this requirement? Yes No
If no, explain:

N/A

- d) New piers shall be constructed no higher above the salt marsh than the minimum standard for construction permitted by State and Federal regulations.

Does the proposed new pier meet this requirement? Yes No
If no, explain:

N/A

By Applicant/Appellant:

Signature:



Date:

3/26/24

Print:

Erik Berg

**DUXBURY ZONING BOARD OF APPEALS
 SUPPLEMENTAL APPLICATION REQUIREMENTS
 F. Special Permit in the Wetlands Protection Overlay District**

1) This application involves (check):

Use or Structure Allowed by Special Permit	Yes	No
<i>Subject to Section 404.6</i>		
• Accessory use or structure to a dwelling, such as a footbridge, plank walk, or pier	✓	
• Temporary storage of materials or equipment for up to 3 months in any calendar year		
• Dams, excavations, or changes in watercourses to create ponds, pools for swimming, fishing, wildlife or other recreational or agricultural uses, scenic features, or for drainage improvements		
• Accessory use to dwelling or commercial structure, such as a boat landing and boathouse, the latter not to exceed 20' in height or one hundred 100 sq. ft. in the total ground coverage.		
• Utilities installation		
• Enlargement of an existing parking area		
<i>Subject to Section 404.9</i>		
• New construction otherwise permitted in the RC district (or in an underlying, more restrictive district)	✓	

2) For activities subject to Section 404.6:

a) Does this project require an Order of Conditions from the Conservation Commission?

Yes No

b) If yes, has the Conservation Commission issued the Order of Conditions?

Yes No

If yes, attach a copy of the Order of Conditions. If no, briefly explain the status of your Notice of Intent.

ENCLOSED HEREIN.

a) Does the proposed project comply with all applicable provisions of the Duxbury Zoning Bylaw?

Yes No

If your project does not comply, you must also submit Application Supplement C or G, depending on the circumstances. For further guidance, consult with the Building Department or make an appointment for an informal meeting with the Board of Appeals.

3) For activities subject to Section 404.9:

a) Is the proposed use allowed in the RC district (or an underlying district that is more restrictive than the WPOD)?

Yes No

b) Does the proposed project comply with all applicable provisions of the Duxbury Zoning Bylaw?

Yes No

c) The Board is required to make three determinations in order to grant a special permit under Section 404.9. To assist the Board in this process, provide a brief response to each of the following questions.

i) Is the location within a wetland as defined *either* under Section 40, chapter 131 M. G. L., *or* by soils type (very poorly drained, poorly drained or alluvial) as determined by the USDA Soils Conservation Service *or* on-site investigation by a qualified soil scientist? Yes No Briefly explain, and attach evidence in support of your response.¹

SEE ENCLOSED.

ii) Is the site subject to inundation in a one-hundred year flood? Yes No Attach evidence in support of your response.

SEE ENCLOSED

iii) Will the use endanger health or safety? Yes No

d) Does your project require an Order of Conditions from the Conservation Commission?
 Yes No

e) If yes, has the Conservation Commission issued the Order of Conditions?

Yes No

If yes, attach a copy of the Order of Conditions. If no, briefly explain the status of your Notice of Intent.

ENCLOSED HEREIN.

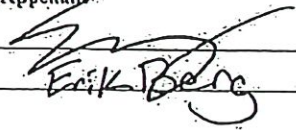
¹ Acceptable evidence will be one or more of the following: (a) a written determination by the Conservation Commission; (b) a copy of the most recent USDA Soil Conservation Service map (Plymouth County series), showing the site of the proposed construction superimposed on said map by a qualified professional; or (c) a report of an on-site soils investigation conducted by a qualified soil scientist.

- f) Does the proposed project comply with all applicable provisions of the Duxbury Zoning Bylaw?
 Yes No

If your project does not comply, you must also submit Application Supplement C or G, depending on the circumstances. For further guidance, consult with the Building Department or make an appointment for an informal meeting with the Board of Appeals.

By Applicant/Appellant:

Signature:



Date:

3/26/24

Print:

Erik Berg



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:
 MassDEP File #:018-2076
 eDEP Transaction
 #:1684743
 City/Town:DUXBURY

A. General Information

1. Conservation Commission DUXBURY
2. Issuance a. OOC b. Amended OOC
3. Applicant Details
 - a. First Name MATTHEWD b. Last Name KILLEEN, TRUSTEE
 - c. Organization WHEATLEIGH II TRUST
 - d. Mailing Address C/O JENNIFER BERG, BENEFICIARY, 21 CEDAR ROAD
 - e. City/Town CHESTNUT HILL f. State MA g. Zip Code 02467
4. Property Owner
 - a. First Name MATTHEWD b. Last Name KILLEEN, TRUSTEE
 - c. Organization WHEATLEIGH II TRUST
 - d. Mailing Address C/O JENNIFER BERG, BENEFICIARY, 21 CEDAR ROAD
 - e. City/Town CHESTNUT HILL f. State MA g. Zip Code 02467
5. Project Location
 - a. Street Address 7 SPRING STREET**
 - b. City/Town DUXBURY c. Zip Code
 - d. Assessors 127 e. Parcel/Lot# 802-101
 - Map/Plat#
 - f. Latitude 42.00694N g. Longitude 70.67416W
6. Property recorded at the Registry of Deed for:

a. County	b. Certificate	c. Book	d. Page
PLYMOUTH		53589	36
7. Dates

a. Date NOI Filed : 1/11/2024	b. Date Public Hearing Closed: 2/27/2024	c. Date Of Issuance: 3/19/2024
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8. Final Approved Plans and Other Documents

a. Plan Title:	b. Plan Prepared by:	c. Plan Signed/Stamped by:	d. Revised Final Date:	e. Scale:
PIER PLAN FOR 7 SPRING STREET DUXBURY, MA 02332	SEACOAST ENGINEERING	PAUL A BROGNA, RPE	01/05/2024	1"=10'

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act
 Following the review of the 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.

Check all that apply:

- | | | |
|--|--|---|
| a. <input type="checkbox"/> Public Water Supply | b. <input checked="" type="checkbox"/> Land Containing Shellfish | c. <input checked="" type="checkbox"/> Prevention of Pollution |
| d. <input type="checkbox"/> Private Water Supply | e. <input checked="" type="checkbox"/> Fisheries | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input checked="" type="checkbox"/> Ground Water Supply | h. <input checked="" type="checkbox"/> Storm Damage Prevention | i. <input checked="" type="checkbox"/> Flood 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:
 MassDEP File #:018-2076
 eDEP Transaction #:1684743
 City/Town:DUXBURY

2. Commission hereby finds the project, as proposed, is:

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.

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 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 interests of the Act, 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 310CMR10.02(1)(a).

_____ a. linear feet

Inland Resource Area Impacts:(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	_____	_____	_____	_____



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:
 MassDEP File #:018-2076
 eDEP Transaction #:1684743
 City/Town:DUXBURY

9. <input type="checkbox"/> Riverfront Area	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
Sq ft within 100 ft	a. total sq. feet	b. total sq. feet		
Sq ft between 100-200 ft	c. square feet	d. square feet	e. square feet	f. square feet
	g. square feet	h. square feet	i. square feet	j. square feet

Coastal Resource Area Impacts:

Resource Area	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	a. square feet	b. square feet		
	c. c/y dredged	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	3.27	3.27	0	0
	a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input checked="" type="checkbox"/> Salt Marshes	13.09	13.09	0	0
	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input checked="" type="checkbox"/> Land Containing Shellfish	22.18	22.18	0	0
	a. square feet	b. square feet	c. square feet	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			
	c. c/y dredged	d. c/y dredged		
21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	93.27	93.27		
	a. square feet	b. square feet		



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22.

Restoration/Enhancement (For Approvals Only)

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 & d or B.17.c & d above, please entered the additional amount here.

_____ a. square feet of BVW

_____ b. square feet of Salt Marsh

23.

Streams Crossing(s)

If the project involves Stream Crossings, please enter the number of new stream crossings/number of replacement stream crossings.

_____ 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.
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.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not exceed the issuance date of the original Final Order of Conditions.
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.
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



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the words,

" Massachusetts Department of Environmental Protection"
[or 'MassDEP']
File Number : "018-2076"

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 Mass DEP.
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.
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.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order(the "Project") is (1) is not (2) subject to the Massachusetts Stormwater Standards. If the work is subject to 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 Pollutant Discharge Elimination System Construction General Permit as required by Stormwater Standard 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



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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; *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 19(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 Pollutant 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 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(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.
- 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.



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-
- 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:

SEE ATTACHMENT A PAGES 1 & 2 DATED 03/19/2024

SPECIAL CONDITIONS

- A. The Commission reserves the right to require additional protective measures for the resource areas should a site visit indicate the necessity for those additional measures.
- B. In conjunction with the sale of any lot within a resource area, the applicant shall submit to the Conservation Commission a signed statement by the buyer that he is aware of an outstanding Order of Conditions on the property and has received notice under #16 above.
- C. Before construction begins, the landowner shall write a letter to the Conservation Commission stating that they have read these Orders; that they understand the Orders and all of the conditions included in these Orders; that they understand that no changes to the project are allowed except with written permission from the Commission or its Administrator; and that they will comply with these Orders. The letter should also state that the landowner will seek a Certificate of Compliance from the Commission when the project is completed.
- D. Prior to the start of the project the contractor shall send a letter to the Conservation Commission stating that they have read these Orders of Conditions; that they understand them; and they will comply with the Orders.
- E. The applicant shall inform the Commission in writing of the names, addresses, business and home phone numbers of both the project supervisor and his/her alternate who will be responsible for ensuring onsite compliance with this order, if other than the applicant. **A preconstruction meeting shall be held with the Conservation Administrator before any work takes place on this project.**
- F. The Conservation Administrator shall be notified a minimum of 48 hours (more notice is preferred) in advance of the commencement of work.
- G. Per the Massachusetts Division of Marine Fisheries, a time-of-year (TOY) restriction should be observed on all in-water activities to protect sensitive life stages of horseshoe crabs from construction activities on potential nesting beaches. No construction activities should take place from **May 1 – July 31** of any year.
- H. All work shall comply with the conditions listed in the letter issued by the Division of Fisheries, dated January 23, 2024
- I. The work shall conform to the plans and specifications previously listed in this document.
- J. Only one float is permitted no larger than 10'x20'.
- K. No hanging of storage boxes is permitted beyond the footprint of the walkway or platform.
- L. Piles shall be driven, not washed or jetted, into the resource area.
- M. The deck planks of the walkway shall be placed a minimum of one inch apart to allow sunlight and rainwater to reach the resource area.
- N. No material treated with creosote shall be used on any part of the structure.
- O. Prior to the start of construction, the applicant shall provide the name and location of the off-season float storage.

- P. Off season storage of the float shall be in an upland area and under no circumstances is storage permitted on any wetland resource area.
- Q. Certificate of Compliance: Prior to a Certificate of Compliance being issued, the applicant's engineer shall certify to the Conservation Commission that all work has been done in conformance with the above-referenced plan and the Orders of Conditions. The applicant's engineer shall also submit to the Commission a stamped As-built Plan.



D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No

2. The Conservation Commission hereby (check one that applies):

a. DENIES the proposed work which 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 or Conditions is issued. Which are necessary to comply with a municipal ordinance or bylaw:

b. APPROVES the proposed work, subject to the following additional conditions.

1. Municipal Ordinance or Bylaw TOWN OF DUXBURY WETLANDS BYLAW

2. Citation CHAPTER 9

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:
 SEE ATTACHMENT B PAGES 1 THROUGH 4 DATED 03/19/2024

Findings

The Duxbury Conservation Commission has reviewed the above-reference Notice of Intent and plans and has held a Public Hearing on the project. Based on the information available to the Commission at this time, the Commission has determined that the area on which the proposed work is to be done is significant to the following wetland values in accordance with the Presumption of Significance set forth in the regulations for each Area Subject to Protection and in accordance with the Wetlands Protection bylaw and Regulations of the Town of Duxbury:

- | | |
|---|--|
| <input checked="" type="checkbox"/> protection of groundwater | <input checked="" type="checkbox"/> protection of aesthetics |
| <input checked="" type="checkbox"/> protection of fisheries | <input checked="" type="checkbox"/> protection of wildlife & wildlife habitat |
| <input checked="" type="checkbox"/> prevention of water pollution | <input checked="" type="checkbox"/> protection of public or private water supply |
| <input checked="" type="checkbox"/> protection of shellfish | <input checked="" type="checkbox"/> storm damage prevention, including coastal storm flowage |
| <input checked="" type="checkbox"/> protection of aquaculture | <input type="checkbox"/> protection of rare species habitat, including rare plant & animal species |
| <input checked="" type="checkbox"/> flood control | |
| <input type="checkbox"/> protection of agriculture | |
| <input checked="" type="checkbox"/> protection of recreation | <input checked="" type="checkbox"/> erosion and sedimentation control |

Therefore, the Conservation Commission hereby finds the following conditions are necessary, in accordance with the Performance Standards set forth in the regulations, to protect those wetland values checked above and the Wetland Protection Bylaw and Regulations for the Town of Duxbury. The Commission orders that all work shall be performed in accordance with said 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.

GENERAL CONDITIONS

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. This 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 any of the following apply: (a) the work is a maintenance dredging project as provided for in the Act; (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 and both that date and the special circumstances warranting the extended time period are set forth in this Order; or (c) a shorter time for completion is required as set forth in this Order.
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 of the Order.

6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Order of Conditions and the Order will expire on **March 19, 2027** unless extended in writing by the Department.
7. Any fill used in connection with the project shall be clean fill, containing 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.
8. No work shall be undertaken until all administrative appeal periods from this Order have elapsed or, if such appeal has been filed, until all proceedings have been completed.
9. No work shall be undertaken until the Final Order 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 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 to be 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 clearly legible 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 (MA DEP) File Number (#) **SE 18-2076**. The sign shall be clearly visible from the road and shall remain so displayed until construction is completed and a Certificate of Compliance has been granted.
11. Where the Department of Environmental Protection is requested to make a determination and to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before the MASS DEP.
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. All construction must comply with the above-referenced plan and the conditions of this Order. For any proposed change in the approved plans or in the work, the applicant shall file a new Notice of Intent or inquire, in writing, of the Conservation Commission whether the change is substantial enough to require a new Notice of Intent. No change in plan or change in work under this filing is permissible without prior written approval from the Conservation Commission.
15. Any member of the Conservation Commission or its Administrators has the right to enter upon the property to inspect the proposed work and to inspect for compliance with the Orders of Conditions until a Certificate of Compliance is issued.
16. The provisions of this Order shall apply to and be binding upon the applicant, owner, employees, agents, and all successors and assigns in interest or control.
17. 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 their designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed.

18. 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.

SPECIAL CONDITIONS

19. The Commission reserves the right to require additional protective measures for the resource areas should a site visit indicate the necessity for those additional measures.
20. In conjunction with the sale of any lot within a resource area, the applicant shall submit to the Conservation Commission a signed statement by the buyer that he is aware of an outstanding Order of Conditions on the property and has received notice under #16 above.
21. Before construction begins, the landowner shall write a letter to the Conservation Commission stating that they have read these Orders; that they understand the Orders and all of the conditions included in these Orders; that they understand that no changes to the project are allowed except with written permission from the Commission or its Administrator, and that they will comply with these Orders. The letter should also state that the landowner will seek a Certificate of Compliance from the Commission when the project is completed.
22. Prior to the start of the project the contractor shall send a letter to the Conservation Commission stating that they have read these Orders of Conditions; that they understand them; and they will comply with the Orders.
23. The applicant shall inform the Commission in writing of the names, addresses, business and home phone numbers of both the project supervisor and his/her alternate who will be responsible for ensuring onsite compliance with this order, if other than the applicant. **A preconstruction meeting shall be held with the Conservation Administrator before any work takes place on this project**
24. The Conservation Administrator shall be notified a minimum of 48 hours (more notice is preferred) in advance of the commencement of work.
25. Per the Massachusetts Division of Marine Fisheries, a time-of-year (TOY) restriction should be observed on all in-water activities to protect sensitive life stages of horseshoe crabs from construction activities on potential nesting beaches. No construction activities should take place from **May 1 – July 31** of any year.
26. All work shall comply with the conditions listed in the letter issued by the Division of Fisheries, dated January 23, 2024.
27. The work shall conform to the plans and specifications listed on Page 1 of this document.
28. Only one float is permitted no larger than 10'x20'.
29. No hanging of storage boxes is permitted beyond the footprint of the walkway or platform.
30. Piles shall be driven, not washed or jetted, into the resource area.

31. The deck planks of the walkway shall be placed a minimum of one inch apart to allow sunlight and rainwater to reach the resource area.
32. No material treated with creosote shall be used on any part of the structure.
33. Prior to the start of construction, the applicant shall provide the name and location of the off-season float storage.
34. Off season storage of the float shall be in an upland area and under no circumstances is storage permitted on any wetland resource area.
35. Prior to a Certificate of Compliance being issued, the applicant's engineer shall certify to the Conservation Commission that all work has been done in conformance with the above-referenced plan and the Orders of Conditions. The applicant's engineer shall also submit to the Commission a stamped As-built Plan.
36. Appeal: Any applicant, owner, abutter, or other party in interest may appeal an Order of the Conservation Commission under this Bylaw to the Superior Court of Plymouth County no later than sixty (60) days following the date of issuance of the Order.



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 eDEP Transaction #:
 City/Town:

E. Signatures

This Order is valid for three years from the date of issuance, unless otherwise specified pursuant to General Condition #4. If this is an Amended Order of Conditions, the Amended Order expires on the same date as the original Order of Conditions.

03/19/2024
 1. Date of Original Order

Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

4
 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.

Signatures: [Signature]
[Signature]
[Signature]

[Signature]
[Signature]

by hand delivery on _____

by certified mail, return receipt requested, on _____

Date 03/19/2024

Date _____

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.

G. Recording Information

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.

DUXBURY



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subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

DUXBURY
 Conservation Commission

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

To:
DUXBURY
 Conservation Commission

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

7 SPRING STREET**
 Project Location

018-2076
 MassDEP File Number

Has been recorded at the Registry of Deeds of:

<u>County</u>	<u>Book</u>	<u>Page</u>
---------------	-------------	-------------

for:
Property Owner MATTHEW D KILLEEN, TRUSTEE

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

<u>Book</u>	<u>Page</u>
-------------	-------------

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

Rev. 4/1/2010

RECORD OWNER:
 PARCEL 127-802-101
 7 SPRING STREET
 DUXBURY MA, 02332

MATTHEW D. KILLEEN, TRUSTEE
 WHEATLEIGH II TRUST
 c/o JENNIFER BERG BENEFICIARY
 21 CEDAR ROAD
 CHESTNUT HILL, MA 02467
 DEED BOOK 53589 PAGE 46

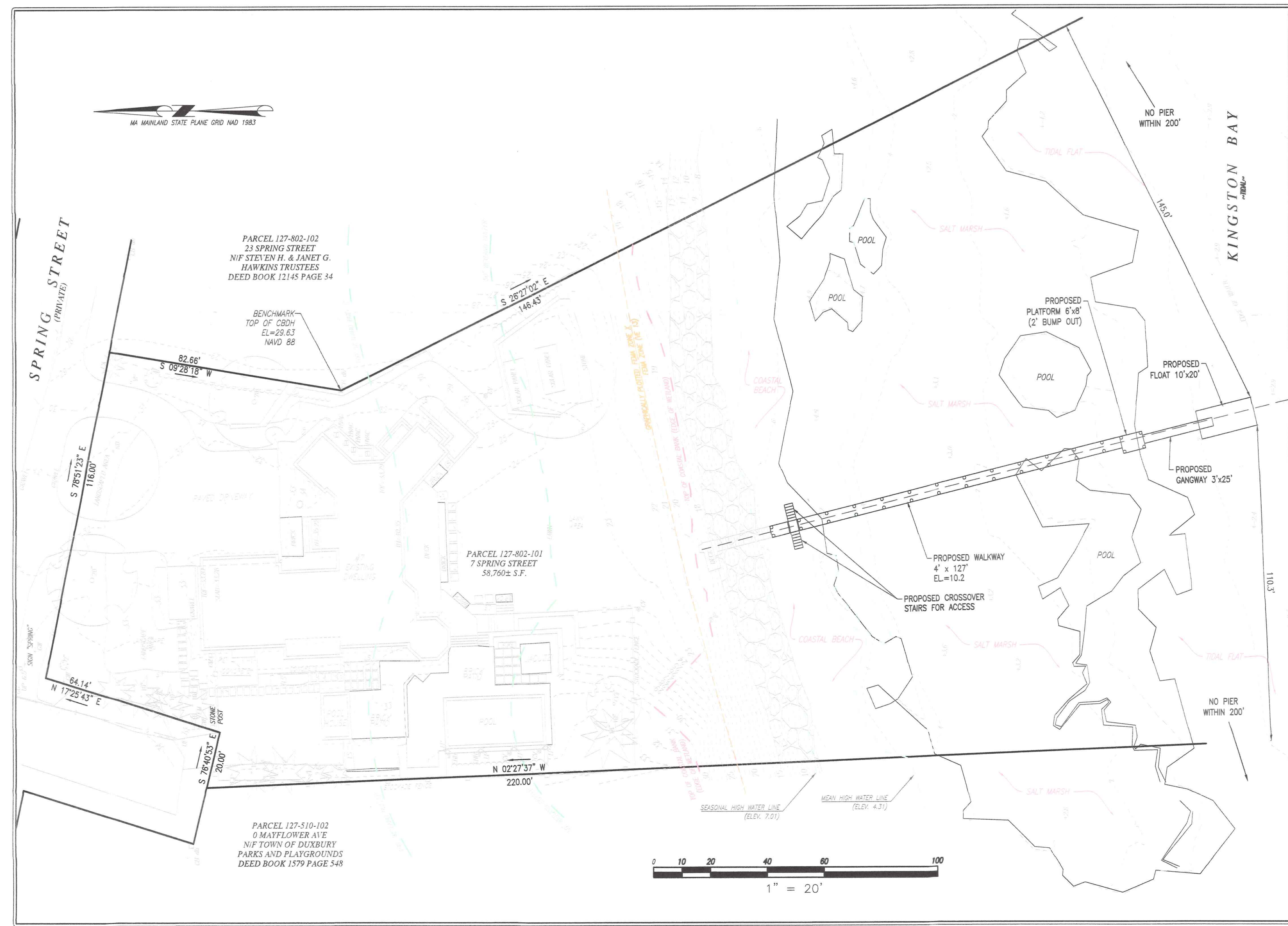
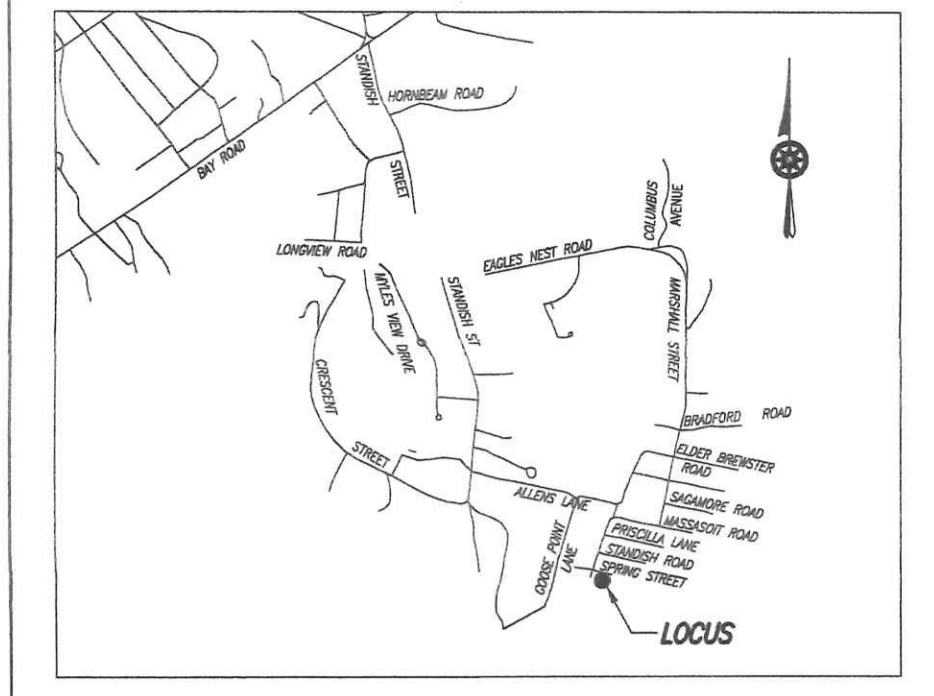
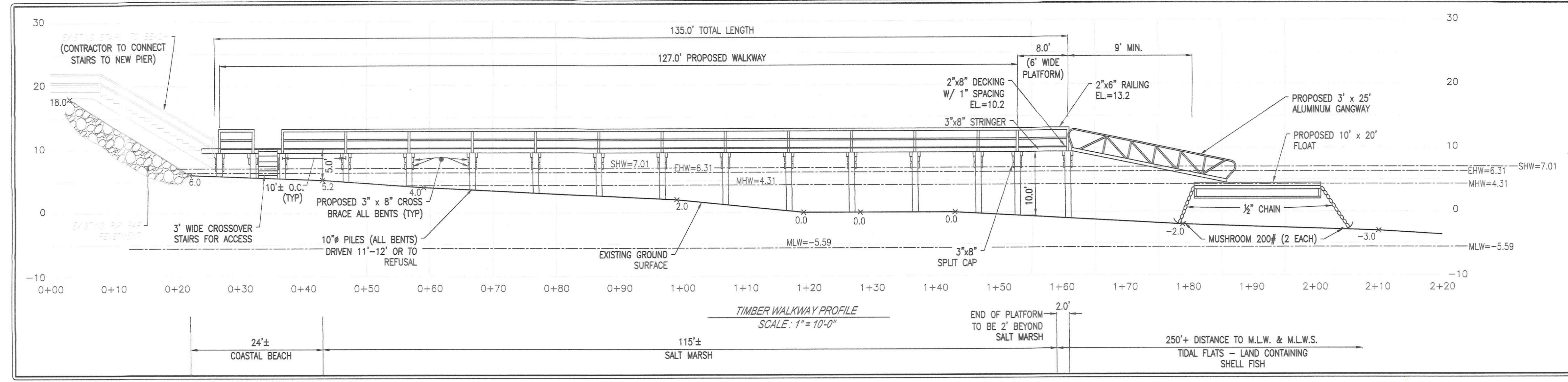
FLOOD NOTE:
 BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS LOCATED IN ZONE VE (EL. 13) OF THE FLOOD INSURANCE RATE MAP, AS SHOWN ON COMMUNITY MAP No. 25023C0243K, WHICH BEARS AN EFFECTIVE DATE OF NOVEMBER 4, 2016, AND IS IN A SPECIAL FLOOD HAZARD AREA.

PURPOSE OF THIS PLAN:
 THE PURPOSE OF THIS PLAN IS TO PERMIT AND CONSTRUCT A RESIDENTIAL PIER.

- NOTES:
1. TOPOGRAPHIC AND DETAIL INFORMATION SHOWN HEREON IS BASED UPON AN ON THE GROUND SURVEY PERFORMED BY MERRILL ENGINEERS AND LAND SURVEYORS DURING SEPTEMBER OF 2020 AND UPDATED IN SEPTEMBER OF 2023.
 2. ALL ELEVATIONS ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988.
 3. WETLAND RESOURCE AREAS SHOWN WERE CALCULATED USING MASS DEP POLICY 92-1.
 4. SUBJECT SITE IS IN THE "RESIDENTIAL COMPATIBILITY" ZONE AS DEPICTED ON THE TOWN OF DUXBURY ZONING MAP.
 5. EXISTING UTILITIES, WHERE SHOWN, HAVE BEEN COMPILED BASED ON OBSERVED ABOVE GROUND EVIDENCE AND AVAILABLE RECORD PLANS AND ARE TO BE CONSIDERED APPROXIMATE. MERRILL ENGINEERS AND LAND SURVEYORS DOES NOT GUARANTEE THE LOCATION OF THE UNDERGROUND UTILITIES SHOWN OR THAT ALL EXISTING UTILITIES AND/OR SUBSURFACE STRUCTURES ARE SHOWN.

ENVIRONMENTAL NOTES:

1. SITE IS NOT WITHIN AN A.C.E.C. (AREA OF CRITICAL ENVIRONMENTAL CONCERN).
2. SITE IS NOT WITHIN AN AREA OF ESTIMATED HABITAT OF RARE WILDLIFE PER NHESP MAP AUGUST 1, 2021 "ESTIMATED HABITATS OF RARE WILDLIFE" FOR USE WITH THE MA WETLANDS PROTECTION ACT REGULATIONS (310 CMR 10)."
3. SITE DOES NOT CONTAIN A CERTIFIED VERNAL POOL PER NHESP MAP AUGUST 1, 2021 "CERTIFIED VERNAL POOLS."
4. SITE IS NOT WITHIN A PRIORITY HABITAT PER NHESP MAP AUGUST 1, 2021 "PRIORITY HABITATS OF RARE SPECIES" FOR SPECIES UNDER THE MASSACHUSETTS ENDANGERED SPECIES ACT, REGULATIONS (321 CMR10).
5. SITE IS NOT LOCATED WITHIN A STATE APPROVED ZONE II GROUND WATER RECHARGE PROTECTION AREA.
6. WETLAND RESOURCE AREAS WERE DELINEATED BY BRAD HOLMES, PWS, OF ENVIRONMENTAL CONSULTING AND RESTORATION IN DECEMBER OF 2023.



TIDAL DATUM SHIFT CHART
 NOT TO SCALE
 OFFSETS BASED ON DUXBURY HARBOR, DUXBURY, MA #8446166
 BOSTON, MA: TIDAL EPOCH 1983-2001

MLW	NAVD88
10.34	4.75 MHHW
9.90	4.31 MHW
5.59	0 NAVD88
0	-5.59 MLW
-0.34	-5.93 MLLW

LEGEND

	TREE LINE
	VINYL FENCE
	FENCE GATE
	FEMA ZONE LINE
	PRIORITY HABITAT
	MEAN HIGH WATER LINE
	TOP OF COASTAL BANK (WETLAND LINE)
	WETLAND BUFFER LINE
	LANDSCAPE
	CONTOUR MAJOR
	CONTOUR MINOR
	SPOT GRADES
	BEAN POLE
	STONE BOUND W/ DRILLHOLE
	CONCRETE BOUND W/ DRILLHOLE
	LAMP POST
	DECIDUOUS TREE
	ELECTRIC HAND HOLE
	IRRIGATION CONTROL VALVE
	COASTAL BANK FLAG
	COASTAL DUNE FLAG
	SALT MARSH FLAG
	FLAGPOLE
	SLAB ELEVATION
	ROOF HEIGHT
	THRESHOLD ELEVATION



REVISION	DATE	DESCRIPTION	BY

Design by PAB:
 Date: JANUARY 5, 2024
 Scale: 1"=10'
 Sheet No.: 1 of 1
 Project No.: 23-024



PIER PLAN
 FOR
 7 SPRING STREET
 DUXBURY, MA 02332

FOR
 MATTHEW D. KILLEEN, TRUSTEE
 WHEATLEIGH II TRUST
 c/o JENNIFER BERG, BENEFICIARY
 21 CEDAR RD
 CHESTNUT HILL, MA 02467

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 DUXBURY, MA 02331
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