



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

June 9, 2023

Larry Smith
70 Kingswood Rd
Newton, MA 02466

RE: Order of Conditions and Certificate of Understanding
SITE: 70 Kingswood Rd
DEP file: #239-952 CORRECTION
Project: Additions, deck, driveway, bounded planting area

Dear Mr. Smith,

Enclosed is the corrected Order of Conditions (the wetlands permit) for the referenced project. Minor corrections were made on pages 1, 3, and 10A. Please do the following:

1. Read all the conditions starting on Page 10-A.
2. Note that there are requirements that must be met prior to any work starting on the project.
3. Note that if you want to make any changes to the approved plans (see page 10A), revised plans and a memo enumerating every desired plan change must be uploaded to the NewGov system. The Conservation Office will review and approve the changes if/as appropriate.
4. Upon completion of the project, submit all materials for a Certificate of Compliance noted at the end of the, including:
 - WPA Form 8a: Request for Certificate of Compliance.
 - An engineered "as-built plan" showing all structure and landscape features.
 - A letter from an engineer stating that the project was completed in substantial compliance with the order and plans.
 - A "landscape as-built plan" signed by the landscaper.

Enclosed is the Certificate of Understanding. Please complete this form and return it to the Conservation Office.

If you have any questions, please don't hesitate to contact the office at 617-796-1134.

For the Commission,

Jennifer Steel

Jennifer Steel, Chief Environmental Planner

Enclosed: Order of Conditions; Certificate of Understanding.

CC: Wetlands Division, DEP - NERO

**Certificate of Understanding re
Conditions and Restrictions in Wetlands and Buffer Zones**

I, LAWRENCE M. SMITH, one of the owners of 70 KINGSWOOD ROAD,
(printed name) (printed street address)

in Newton, Massachusetts, and holder of MassDEP wetland permit number 239-952 do hereby understand and acknowledge that:

<ul style="list-style-type: none"> I understand that the Order of Conditions (OOC) must be recorded at the Registry of Deeds and proof of recording given to the Conservation Office and Building Dept./ISD 	initials <u>LMS</u>
<ul style="list-style-type: none"> I, as property owner, am responsible for all work on my property even if it is conducted by private contractors 	initials <u>LMS</u>
<ul style="list-style-type: none"> I have read and understand all the conditions in the referenced OOC: <ul style="list-style-type: none"> The standard and site-specific requirements <u>PRIOR</u> to the start of work the standard and site-specific requirements <u>DURING</u> work The <u>ONGOING/PERPETUAL</u> conditions for landscaping and maintenance activities on my property 	initials <u>LMS</u> initials <u>LMS</u> initials <u>LMS</u> initials <u>LMS</u>
<ul style="list-style-type: none"> If any changes are proposed to the plans approved in this Order of Conditions (page 10A), I must submit to the Conservation Office for their review and approval the revised plans and a memo enumerating the proposed changes 	initials <u>LMS</u>
<ul style="list-style-type: none"> I must request a Certificate of Compliance once all work is complete 	initials <u>LMS</u>
<ul style="list-style-type: none"> Even after project completion, I have ongoing obligations under this OOC 	initials <u>LMS</u>

Lawrence M. Smith
(Signature)

LAWRENCE M. SMITH
(Printed Name)

6-21-23
(Date)

Please complete this form and return it to:

Newton Conservation Office
1000 Commonwealth Avenue
Newton, Massachusetts 02459



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:
239-952
MassDEP File #

eDEP Transaction #
Newton
City/Town

A. General Information

Please note:
this form has
been modified
with added
space to
accommodate
the Registry
of Deeds
Requirements

Important:
When filling
out forms on
the
computer,
use only the
tab key to
move your
cursor - do
not use the
return key.



1. From: Newton
Conservation Commission

2. This issuance is for (check one):
a. Order of Conditions b. Amended Order of Conditions

3. To: Applicant:

Larry

a. First Name

Smith

b. Last Name

c. Organization

70 Kingswood Rd

d. Mailing Address

Newton

e. City/Town

MA

f. State

02466

g. Zip Code

4. Property Owner (if different from applicant):

a. First Name

b. Last Name

c. Organization

d. Mailing Address

e. City/Town

f. State

g. Zip Code

5. Project Location:

70 Kingswood Rd

a. Street Address

Newton

b. City/Town

41027 0019

d. Parcel/Lot Number

c. Assessors Map/Plat Number

Latitude and Longitude, if known:

d m s d m s
d. Latitude e. Longitude



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A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
Middlesex South 264591
 a. County b. Certificate Number (if registered land)
01084 145
 c. Book d. Page
7. Dates: 3/28/23 5/25/23 5/30/23
 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):
see Findings and Special Conditions pg 10A for a complete list of approved plans
 a. Plan Title
- b. Prepared By _____ c. Signed and Stamped by _____
 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.



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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 checked="" type="checkbox"/> Riverfront Area	1944 _____ a. total sq. feet	1944 _____ b. total sq. feet		
Sq ft within 100 ft	1407 _____ c. square feet	1407 _____ d. square feet	_____ e. square feet	_____ f. square feet
Sq ft between 100-200 ft	537 _____ g. square feet	537 _____ h. square feet	_____ i. square feet	_____ j. square feet



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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	_____	_____		
	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 type="checkbox"/> Coastal Beaches	_____	_____	_____ cu yd	_____ cu yd
	a. square feet	b. square feet	c. nourishment	d. nourishment
14. <input type="checkbox"/> Coastal Dunes	_____	_____	_____ cu yd	_____ cu yd
	a. square feet	b. square feet	c. nourishment	d. 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 type="checkbox"/> Salt Marshes	_____	_____	_____	_____
	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 type="checkbox"/> Land Containing Shellfish	_____	_____	_____	_____
	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			
	_____	_____		
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	_____	_____		
	a. square feet	b. square feet		
22. <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



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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 (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. Restoration/Enhancement *:

_____ a. square feet of BVW

_____ 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 5/30/26 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.



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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 239-952"
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 "Findings and Special Conditions of the Newton Conservation Commission" pages 10-A et seq.

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 Newton Conservation Commission hereby finds (check one that applies):

- a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:
City Floodplain Ordinance 22-22
 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:
City Floodplain Ordinance 22-22
 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):

If "yes" above is checked, please see attached "Findings and Special Conditions of the Newton Conservation Commission" pages 10-A et seq.

Findings and Site-Specific Conditions of the Newton Conservation Commission
DEP #239-952, 70 Kingswood Road, Additions, Decks, Driveway, Bounded Planting Area

Findings (considered as and given equal status as site-specific conditions)

Site: 70 Kingswood Rd, Newton, MA

Owner: Larry Smith

Applicant: same as above

70 Kingswood Rd, Newton, MA 02466

larry.lmsmith@gmail.com | larry@paddleboston.com | 617-893-0735

Representative: Zoe Krouner, Goddard Consulting LLC

291 Main Street, Suite 8

Northborough, MA 01532

zoe@goddardconsulting.com | 508-393-3784

Date of Issuance: May 30, 2023

Existing Conditions: Single-family home on 10,528 sf lot, with associated site features, on the banks of the Charles River

Approved Project Purpose: Remove existing garage, two porches, deck, and driveway; construct a new deck, one 1-story addition (open below), one 2-story addition, driveway (lawn + impervious strips), porch and walkway

Approved Project Summary:

- Build new deck and additions, new driveway, bounded mitigation planted area
- Remove one 15" pine tree
- Existing to remain trees will be cared for according to an arborist plan from Ethical Tree Services, cited below
- A bounded mitigation planting plan will be planted

Final Approved Plans

- Plan of Land in Newton, MA, 70 Kingswood Rd Proposed Additions, by Everett M Brooks Co, stamped and signed by Bruce Bradord, PLS, last revision 5/15/23
- Riverfront Enhancement Planting Plan, Goddard Consulting, scale 1"=10', dated 5/15/23
- Arborist report "Conservation of White Pine Trees during construction addition/renovation" from Ethical Tree Services, dated 5/15/23

Plan Revisions

- Any required or desired changes to the above approved plans shall be requested via new proposed plans and a memo indicating all proposed plan changes. Relatively minor changes resulting in the same or decreased impacts may be administratively approved. If the project purpose or scope changes substantially, the Commission may require an amended OOC or new Notice of Intent.
- The Newton Conservation Commission retains the right to require the submittal of additional information or impose additional conditions deemed necessary to ensure the protection of wetland resource areas.

Jurisdiction and Reasons for Approval (Impact Analysis)

- Riverfront Area: 1944 sf of alteration were permitted; degraded area will increase by 157 sf.
 - The work has been designed to utilize the existing degraded area.
 - The work is not located closer to the river than existing conditions.
 - The project will restore 414 sq ft of lawn to naturalized Riverfront Area.
- Stormwater Management Standards have been met by:
 - Exempt from stormwater standards.
- Protective measures include:
 - No work is proposed within 25-feet of any wetland resources.
 - Fertilizers shall be of low-nitrogen content and be used in moderation.
 - No pesticides shall be used.
 - Exterior lighting shall be "dark sky" compliant.
 - The required Riverfront Area mitigation planting area shall be maintained in perpetuity.

Findings and Site-Specific Conditions of the Newton Conservation Commission
DEP #239-952, 70 Kingswood Road, Additions, Decks, Driveway, Bounded Planting Area

- Conclusion: The site is already developed. Denser construction (even with a slightly larger degraded footprint), when mitigated with a robust planting area, will have no adverse ecological impact and will likely improve the ecological health of the area.

Limit of Work: The sediment control line shall be the limit of work.

Work shall be immediately halted on the site if an Agent of the Commission or DEP determines that any of the work is not in compliance with this Order of Conditions or Special Conditions.

Responsibility: Should any damage occur during the project, the applicant or any successor shall be responsible for the full cost of restoration of the wetland to the satisfaction of the Commission.

In case of emergencies, problems, or questions, contact: Jennifer Steel: 617-796-1134.

Site-Specific Conditions Prior to the Start of Work

21. The applicant must schedule and attend a pre-construction site visit with the applicant, construction supervisor and Conservation agent, to review and provide the following.
 - a. A signed Certificate of Understanding (attached to the Order of Conditions cover letter).
 - b. Contact information (for working and non-working hours) for those responsible for site compliance.
 - c. The anticipated timeline.
 - d. Proof of Recording the Order (Note: the proof of recording must be submitted to the Conservation Office through the City's online permitting system.)
 - e. DEP File number sign (minimum size 2'x2', clearly visible from the street)
 - f. Sedimentation/erosion controls (properly installed in the correct locations)
 - g. Protection of all trees and shrubs that are due to remain within the limit of work and as necessary outside the limit of work. This may include orange snow fence installed at the dripline, mulch and plywood sheets over the roots, and/or boards tied to the trunk.
22. To ensure broad understanding of and compliance with this Order, the applicant must:
 - a. Ensure that a copy of the approved plans and Order of Conditions is always on-site and available.
 - b. Ensure that all personnel performing the permitted work are aware of the permit's terms and conditions.
 - c. Include this document in all contracts, subcontracts, and specifications associated with the proposed work. Thereafter, the contractor will be held jointly liable for any violation of this Order.

Site-Specific Conditions During Work

23. A copy of the approved plans and Order of Conditions shall be always on-site and available. All contractors must adhere to the approved plan and conditions.
24. Erosion controls:
 - a. Erosion controls must be inspected and maintained during construction; any breach shall be remediated.
 - b. An adequate supply of extra erosion control materials shall be stored on-site.
 - c. City streets shall be kept clean and catch basins in the immediate area shall be protected from sediment.
 - d. Erosion control shall remain in place until the Conservation Office provides written authorization for removal.
25. Tree protection must be undertaken as outlined in the 5/15/2023 memo from Ethical Tree Services. Additional tree protection for the oaks in the back yard must be installed (e.g., orange snow fencing at the drip line).
26. "Good housekeeping practices" shall be implemented at all times, including:
 - a. appropriate limits to stormwater discharges
 - b. appropriate stockpile area management
 - c. appropriate limits to vehicle refueling, washing, etc.
 - d. appropriate litter management
 - e. appropriate controls for tire tracking
27. Concrete washout, if any occurs on-site, must be discharged to a self-contained basin and disposed of properly.
28. The bounded Riverfront Area mitigation planting area must:
 - a. Be installed in compliance with the approved plans (desired changes must be approved by the Conservation office in advance)

Findings and Site-Specific Conditions of the Newton Conservation Commission
DEP #239-952, 70 Kingswood Road, Additions, Decks, Driveway, Bounded Planting Area

- b. Be installed in such a manner as to replicate to the maximum extent practical a diverse ecological system, provide habitat for native species. Plants must be installed just below grade (not in elevated mounds) to maximize water retention and result in natural grades.
 - c. Be installed under the direction of a qualified wetland consultant to ensure proper installation, proper placement, and appropriate and even filling of the entire mitigation area.
 - d. Include 5 native trees 100 % of which are well-established and thriving after 2 growing seasons
 - e. Include 5 native shrubs 100 % of which are well-established and thriving after 2 growing seasons
 - f. Include 60 native spreading herbaceous/groundcover plants with 75 % coverage that is well-established and thriving after 2 growing seasons
 - g. Be bounded, as shown on the plans, with bounds that: (1) are 4"x4"x36" stone or concrete post, (2) have instructive language regarding the required protection, (3) have at least 6" maintained above grade, and (4) are placed at every boundary corner and never more than 20 feet apart.
 - h. Be maintained in such a manner as to replicate to the maximum extent practical a diverse ecological system and provide habitat for native species.
 - i. Be managed to control/minimize invasive species for the life of this permit. If herbicides are used, the manufacturer's recommended directions must be followed.
 - j. Be monitored for two growing seasons; send descriptive season-end monitoring reports (with photographs) sent to the Conservation Office.
 - k. Be maintained, in perpetuity, in its effectively natural condition.
29. If any trees intended to be protected within the project area die within 2 years of the start of construction as a result of the construction or have been demonstrably harmed by construction activities, they shall be replaced at a ratio of 2:1 with native canopy saplings (of roughly 2 caliper inches).
30. The Applicant must inform the Commission of any violation of this Order and any other project related spill or accident that may impact wetland resource areas as soon as possible and at least by the end of the business day and must take appropriate action to mitigate impacts from such spill or accident.

Site-Specific Conditions After Work has been Completed

31. The applicant must apply for a Certificate of Compliance in accordance with DEP Condition #12, by submitting:
- a. A completed "Request for Certificate of Compliance (WPA Form 8A)."
 - b. An as-built plan signed and stamped by a professional engineer and/or land surveyor registered in Massachusetts. This plan must include all structures, hardscape, grading (topography), mature trees, landscape features and plantings.
 - c. A written statement from a Professional Engineer registered in Massachusetts certifying that the work has been completed in substantial compliance with this Order of Conditions and the approved plans referenced herein (or approved revisions). If the completed work differs from that in the approved plans and conditions, the report must specify how the project differs.
 - d. As-built plan and letter from a landscaper certifying compliance with the approved planting scheme.

Site-Specific Perpetual Conditions (they shall not expire upon the issuance of a Certificate of Compliance)

32. To protect the water quality of area wetlands, fertilizers shall be of low-nitrogen content and be used in moderation
33. To protect the full suite of benefits of area wetlands, wildlife, and native insects and pollinators, no pesticides shall be used.
34. To protect wetland wildlife, exterior lighting shall:
- a. be "dark sky" compliant -- i.e., shielded to prevent any "up lighting" and "backlighting", focused, and directed so as not to illuminate any part of the wetland.
 - b. have limited blue content to decrease skyglow and disruption of diurnal animals
 - c. be switched off when not in active use
 - d. not exceed the illumination shown on the approved photometric plan sheet
35. The required Riverfront Area mitigation planting area shall be maintained in perpetuity in its predominantly natural condition so as to replicate to the maximum extent practical a diverse ecological system and provide habitat for native species as per 310 CMR 10.58, and shall remain bounded with the bounds exposed at least 6 inches.



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:
 239-952
 MassDEP File #

eDEP Transaction #
 Newton
 City/Town

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.

5/30/23
 1. Date of Issuance

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

5
 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.

I, Jennifer Steel, Chief Environmental Planner of the City of Newton, am authorized to execute on behalf of the members of the City of Newton Conservation Commission all Determinations of Applicability, Orders of Condition, and Certificates of Compliance pursuant to the Commission's vote dated April 2, 2020, and recorded with the Middlesex South District Registry of Deeds in Book 74537, Page 433.

Jennifer Steel 5/30/23
and 6/9/23

Signature	Printed Name
Signature	Printed Name
s/ Susan Lunin	Susan Lunin
Signature	Printed Name
s/ Jeffery Zabel	Jeffery Zabel
Signature	Printed Name
s/ Judith Hepburn	Judith Hepburn
Signature	Printed Name
Signature	Printed Name
s/ Kathy Cade	Kathy Cade
Signature	Printed Name
s/ Leigh Gilligan	Leigh Gilligan
Signature	Printed Name

by hand delivery on

by certified mail, return receipt requested, on

Date

Date 6/9/23
corrected mailed.



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:
239-952
MassDEP File #

eDEP Transaction #
Newton
City/Town

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.



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:
 239-952
 MassDEP File #

 eDEP Transaction #
 Newton
 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.

NEWTON
 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



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP

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

A. Request Information

1. Location of Project

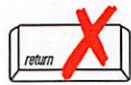
a. Street Address

b. City/Town, Zip

c. Check number

d. Fee amount

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



2. Person or party making request (if appropriate, name the citizen group's representative):

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

4. DEP File Number:

B. Instructions

1. When the Departmental action request is for (check one):

- Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- Superseding Determination of Applicability – Fee: \$120
- Superseding Order of Resource Area Delineation – Fee: \$120



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Request for Departmental Action Fee Transmittal Form

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

DEP File Number:

Provided by DEP

B. Instructions (cont.)

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection
Box 4062
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>).
4. 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.

Riverfront Enhancement Planting Plan

for

1 Kingswood Road
Newton, MA 02466

DATE:

March 28, 2023

Revised April 4, 2023, May 15, 2023

ADDRESSED TO:

Newton City Hall
Newton Conservation Commission
1000 Commonwealth Ave
Newton Centre MA 02459

PREPARED BY:

Goddard Consulting LLC
291 Main Street, Suite 8
Northborough, MA 01532

PREPARED FOR:

Larry Smith
70 Kingswood Road
Newton, MA 02466

I. RIVERFRONT ENHANCEMENT AREA

A. EXISTING CONDITIONS:

A perennial river (Charles River) is located at the rear of the property on (70 Kingswood Road). The locus site consists of an existing single-family house with associated asphalt driveway, walkway, two porches, garage, patio, and maintained lawn. The mitigation planting is proposed in the back yard of the existing single-family home. The area proposed to be enhanced is currently a maintained landscaped bed containing a non-native yew bush and non-native day lilies and a portion of lawn. This plan proposes to enhance the Riverfront Area by planting 2 native trees, 5 native shrubs and 60 herbaceous plugs that will enhance the general Riverfront Area and wildlife habitat, especially pollinator habitat.

B. GENERAL INSTALLATION PROCEDURES:

Supervision: All work within the enhancement area shall be supervised by a qualified wetland scientist. The supervisor shall submit monitoring reports to the Conservation Commission as described below. Reports shall contain details of all work performed and photographs of completed conditions.

Timing: The installation of the plantings should be accomplished during the spring or fall growing seasons (between April 16 and May 31 or between September 16 and October 30).

Step 3: Planting

Plantings will be installed according to the plan. Precise citing of plants may be determined by the wetland scientist or landscaper in the field prior to installation. All plantings (reference the planting list in section C) shall be distributed randomly throughout the area; trees spaced at 10' on center and shrubs spaced at 6' on center. All plantings will be removed from burlap sacks, wire cages and plastic containers prior to planting. Each plant will have its roots loosened prior to planting to encourage root growth away from the planting bulb. Plants will be adequately watered immediately following planting.

Step 4: Enhancement Monitoring

a. **Seasonal monitoring reports** shall be prepared for the enhancement area by a qualified wetland scientist for a period of 2 additional years after installation or every year until a COC is issued by the Newton Conservation Commission. This monitoring program will consist of early summer and early fall inspections and will include photographs and details about the vitality of the enhancement area. Monitoring reports shall be submitted to the Commission by November 15th of each year. Monitoring reports shall describe, using narratives, plans, and color photographs, the physical characteristics of the enhancement area with respect to stability, survival of vegetation and plant mortality, aerial extent and distribution, species diversity and vertical stratification (i.e. herb, shrub and tree layers).

b. **At least 75% of the surface area** of the enhancement area shall be re-established with indigenous plant species within two growing seasons. If the enhancement area does not meet the 75% re-vegetation requirement by the end of the second growing season after installation, the applicant shall submit a remediation plan to the Commission for approval that will achieve enhancement goals, under the supervision of a Wetland Specialist. This plan must include an analysis of why the areas have not successfully re-vegetated and how the applicant intends to resolve the problem.

C. PLANTING LIST:

Possible Plantings for Enhancement Area (414 s.f.)

Common Name	Scientific Name	Number	Size
Trees (5)*			
Yellow Birch	<i>Betula alleghaniensis</i>	1	1-2 in. caliper
Red Cedar	<i>Juniperus virginiana</i>	1	1-2 in. caliper
Black Cherry	<i>Prunus serotina</i>	1	1-2 in. caliper
Eastern Redbud	<i>Cercis canadensis</i>	1	1-2 in. caliper
Mulberry	<i>Morus rubus</i>	1	1-2 in. caliper
Shrubs (5)*			
Maple Leaf Viburnum	<i>Viburnum acerfolium</i>	3	1 or 2 gal. pots
Highbush Blueberry	<i>Vaccinium corymbosum</i>	2	1 or 2 gal. pots
Ground Cover (60)*			
Bloodroot	<i>Sanguinaria canadensis</i>	10	2-3" plug
Bearberry	<i>Arctostaphylos uva-ursi</i>	10	2-3" plug
Native Ferns (variety)**	(Variety)	10	2-3" plug
Pennsylvania Sedge	<i>Carex pensylvanica</i>	10	2-3" plug
Butterfly Milkweed	<i>Asclepias tuberosa</i>	10	2-3" plug
Spring Beauty	<i>Claytonia virginica</i>	10	2-3" plug

*Quantity and selection of each species dependent on nursery availability.

** A variety of native ferns can be used: Marginal wood fern, hay-scented fern, ostrich fern, Christmas fern, or maidenhair fern.

D. CONCLUSIONS

This mitigation will enhance the Riverfront Area over current conditions and will improve the functions and values of the Riverfront Area. All local, state and federal statutory interests and performance standards have been protected and will be met by the project, as described above.

Sincerely,
Goddard Consulting, LLC



Zoe Krouner
Wetland Scientist

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Spring Beauty	<i>Claytonia virginica</i>	10	2-3" plug

Legend

- Planting Area - 414 sq ft
- Bounds
- Eastern Red Cedar
- Yellow Birch
- Black Cherry
- Eastern Redbud
- Mulberry
- Highbush Blueberry
- Mapleleaf Viburnum
- Native Ferns
- Butterfly Milkweed
- Pennsylvania Sedge
- Bearberry
- Bloodroot
- Spring Beauty

*Quantity and selection of each species dependent on nursery availability.

** A variety of native ferns can be used: Marginal wood fern, hay-scented fern, ostrich fern, Christmas fern, or maidenhair fern.



Date: 5/15/2023	GC Job Number: 207-103	Riverfront Area Planting Plan	0 5 10 Feet
		70 Kingswood Road Newton, MA 02466	1 in = 10 ft
			Parcel ID: 41027 0019
Figure 1			