



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

Fairhaven

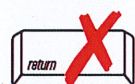
City/Town

**WPA Form 1- Request for Determination of Applicability**

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

**A. General Information**

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



1. Applicant:

Carol A. Plotczyk

Name

n/a

E-Mail Address

28 Holiday Drive

Mailing Address

Fairhaven

City/Town

MA

State

02719

Zip Code

(774) 202 - 0905

Phone Number

n/a

Fax Number (if applicable)

2. Representative (if any):

Schneider, Davignon & Leone, Inc.

Firm

David M. Davignon, P.E.

Contact Name

dsquared3368@yahoo.com

E-Mail Address

P.O. Box 480, 1 County Road

Mailing Address

Mattapoisett

City/Town

MA

State

02739

Zip Code

(508) 758-7866 (ext. 203)

Phone Number

(508) 758-6493

Fax Number (if applicable)

**B. Determinations**

1. I request the Town of Fairhaven make the following determination(s). Check any that apply:  
Conservation Commission

- ☐ a. whether the **area** depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
- ☐ b. whether the **boundaries** of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.
- ☒ c. whether the **work** depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
- ☒ d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any **municipal wetlands ordinance** or **bylaw** of:

Town of Fairhaven

Name of Municipality

- ☐ e. whether the following **scope of alternatives** is adequate for work in the Riverfront Area as depicted on referenced plan(s).



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### C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

28 Holiday Drive

Street Address

Fairhaven

City/Town

#29C

Assessors Map/Plat Number

#654

Parcel/Lot Number

- b. Area Description (use additional paper, if necessary):

*The property is 10,164 sq. ft. in size and completely developed with a single family dwelling, paved driveway and manicured lawn areas throughout. The property is bordered southerly by Holiday Drive, easterly by Sunrise Court, undeveloped – paper street which is currently utilized as a part of the Applicant's lawn and westerly and northerly by residential homes. A portion of the site falls within the 100 ft. Buffer Zone of an offsite Bordering Vegetated Wetland located along the easterly sideline of Sunrise Court. Said wetland system was flagged by LEC Environmental Consultants, Inc. The property also falls within Land Subject to Coastal Storm Flowage, Flood Zone AE (El. 14) with a tiny slither within VE (El. 17).*

- c. Plan and/or Map Reference(s):

Site Plan

Title

June 1, 2020

Date

Figure 1: U.S.G.S. Sconticut Neck Quadrangle

Title

Figure 2: Estimated Habitat Map

Date

Figure 3: Fairhaven Assessors Map #29C

Title

Figure 4: Fairhaven F.I.R.M.

Date

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

*The Applicant proposes to construct a 184 sq. ft. addition to create a 1-stall garage at the southeasterly corner of the dwelling. The addition will consist of expanding the face of the existing bump-out by 10.6' and 16' wide mostly within the existing paved driveway. The driveway will be saw-cut and restored upon completion of the project. The proposed work will be performed within the 100 ft. Buffer Zone of the offsite B.V.W. and within Flood Zone AE (El. 14). Prior to any construction, erosion control will be installed consisting of a siltation fence along the easterly side of the driveway to serve as a limit of work.*









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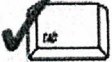
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**A. General Information**

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1. Applicant:

Ronald + Sandra Stapleton

Name

stapletonfam1@comcast.net

E-Mail Address

1 Calumet Rd

Mailing Address

Fairhaven,

City/Town

MA

State

02719

Zip Code

774 766 2804 Sandy

Phone Number

Ron 774 766 2805

Fax Number (if applicable)

2. Representative (if any):

Firm

Contact Name

E-Mail Address

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

**B. Determinations**

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Conservation Commission

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City/Town \_\_\_\_\_

**WPA Form 1- Request for Determination of Applicability**

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

**C. Project Description**

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

1 Calumet Road

Street Address

29B

Assessors Map/Plat Number

Fairhaven

City/Town

29B - 582

Parcel/Lot Number

- b. Area Description (use additional paper, if necessary):

The lot includes 5 smaller parcels (582, 583, 584, 629 + 630) making up the current large lot. The home was built in 2009 ~ front of lot (waterside) is a mixture of sand, rock, and some vegetation.

- c. Plan and/or Map Reference(s):

SITE PLAN

Title

Date

Title

Date

Title

Date

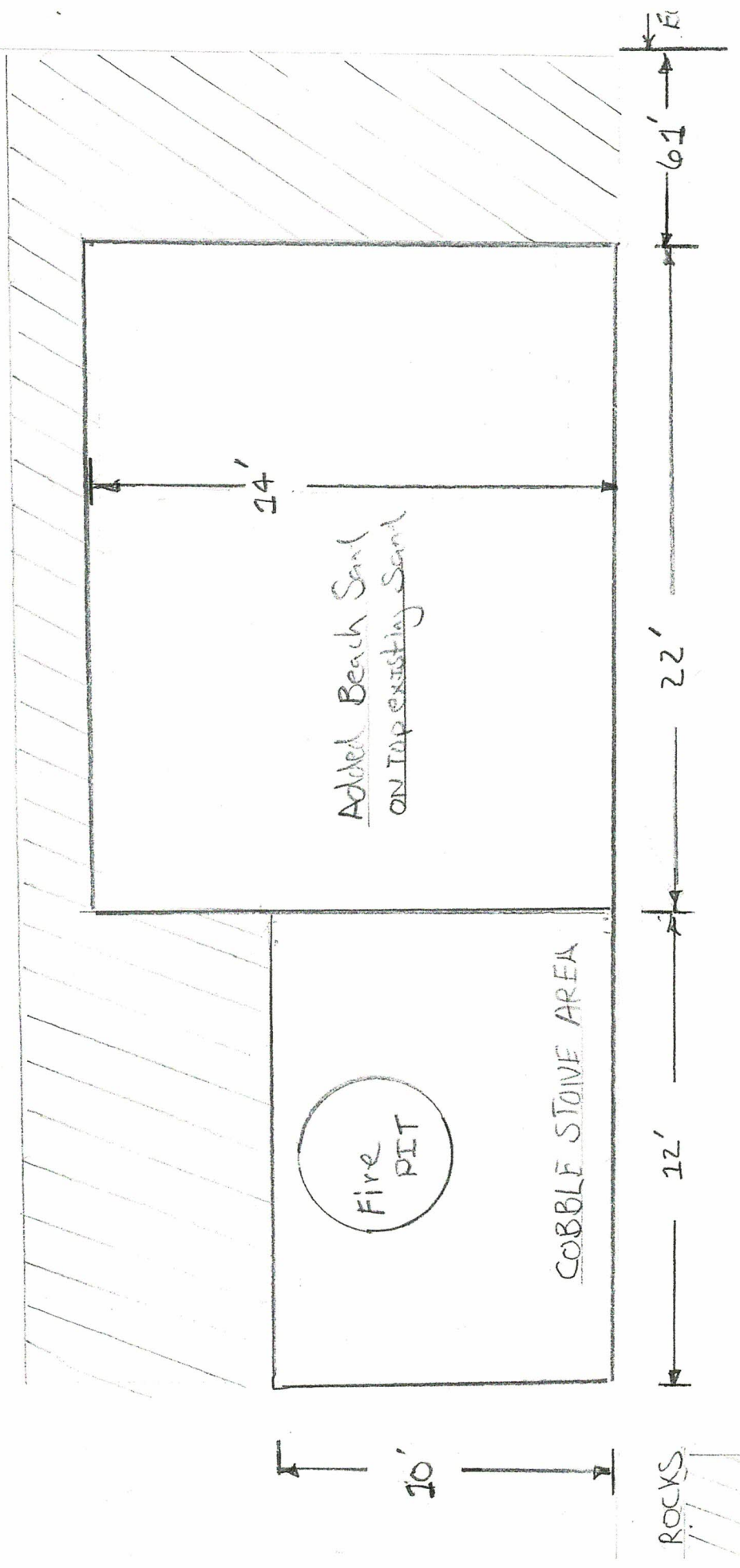
2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

"After the fact" permit for a portable fire-pit placed on pavers (separated by sand only... no concrete), along with clean beach sand placed over hard pack sand in the same area as the fire-pit.



# SITE PLAN

Beach Area





The property in question is located at 1 Calumet Road in Fairhaven, MA, and consists of 1/3/+ acre of waterfront. There is a sandy rocky beachfront located in the front along the back of the home. There is some coastal vegetation dividing the home site and the beach area. An opening the vegetation consists of hard-packed sand and rocks.

It is on this packed portion that we had a portable fire-pit constructed. We also had an area of pavers placed beneath the fire-pit (no cement, just sand between the pavers). We had planned on storing the fire-pit over the winter, which is the reasoning behind making it able to be moved. We also put some clean beach sand on top of the packed sand in the same area so that our grandchildren would have an area to play, other than the hard-pack.

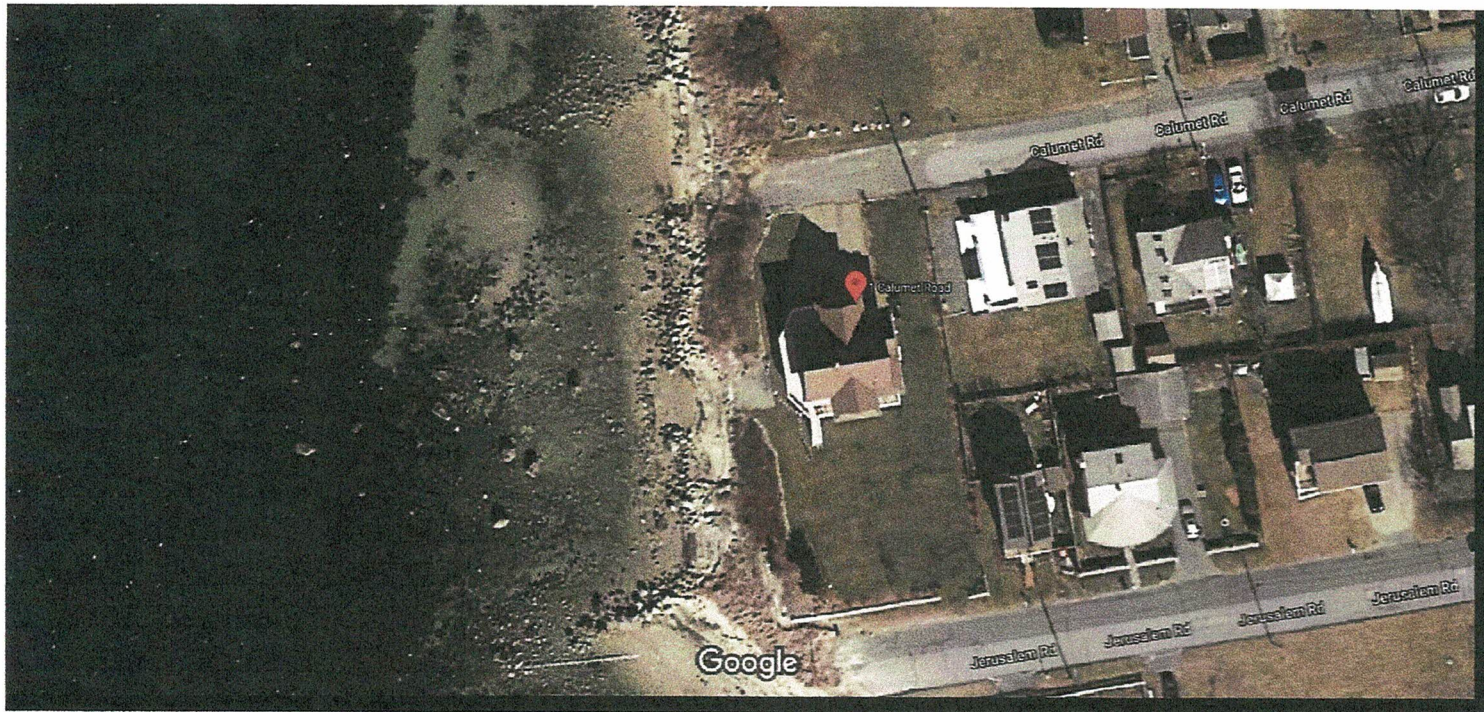
We weren't aware that we were supposed to get this okayed by the town, and only found out after a neighbor approached our workers (trespassing on our property and taking photos when we were away). Had we known, we would absolutely have done so. We are asking for a permit and determination "after the fact" to comply with the local regulations, for both the fire-pit and the addition of the clean beach sand.

Thank you for your consideration in this matter.

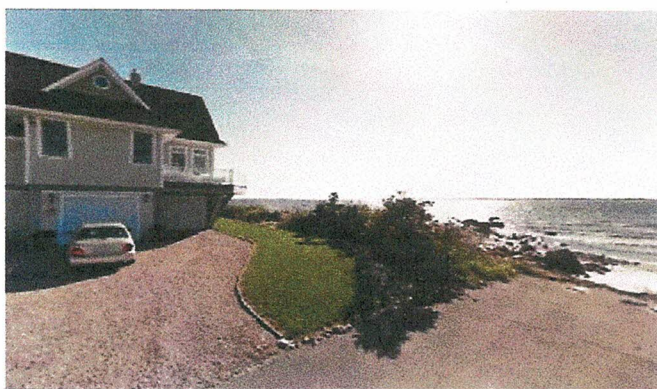
Sincerely,

Ronald & Sandra Stapleton





Map data ©2020, Map data ©2020 20 ft



## Home

1 Calumet Rd  
Fairhaven, MA 02719



Directions



Save



Nearby



Send to your  
phone



Share

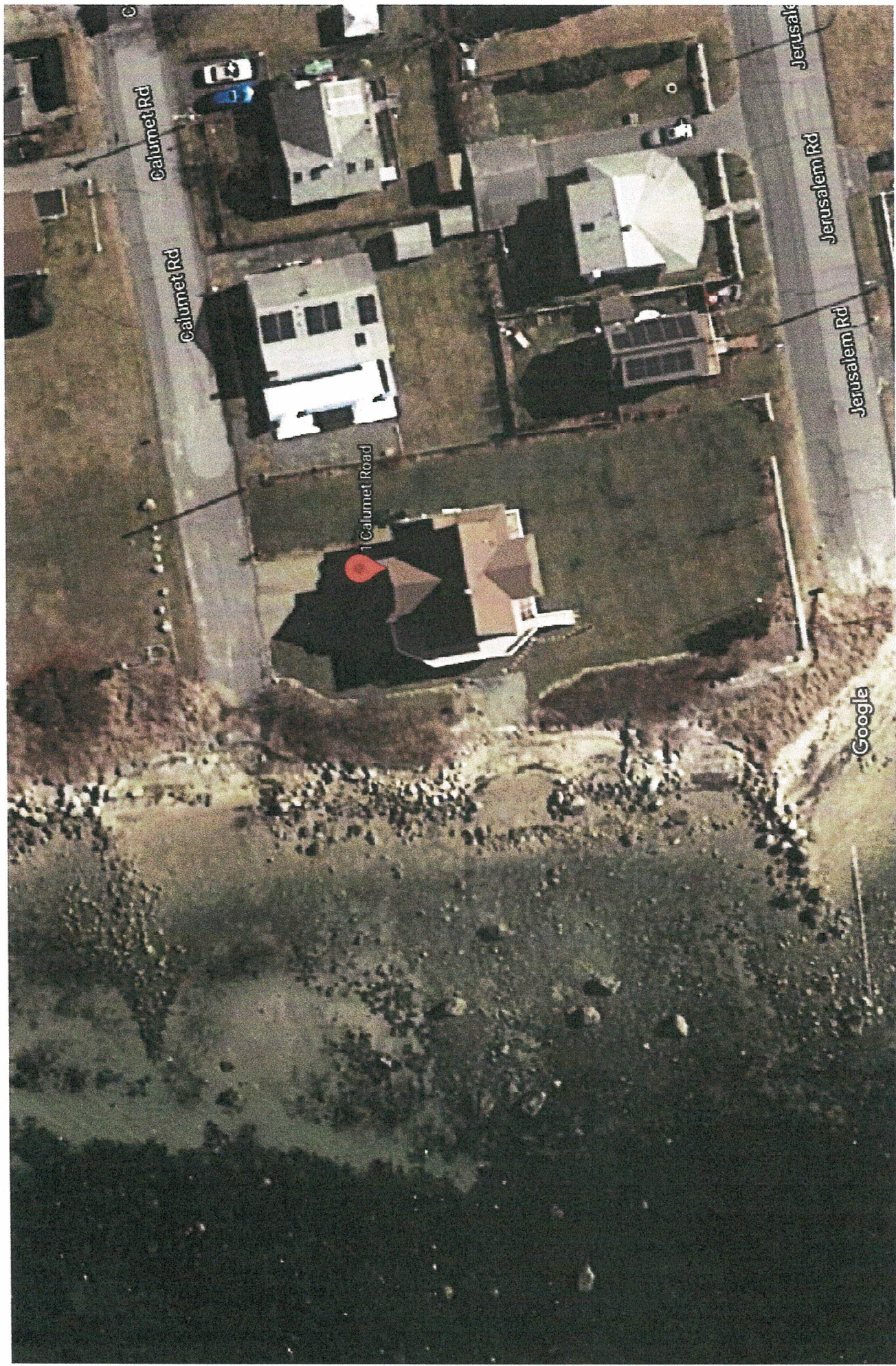


J47J+XH Fairhaven, Massachusetts

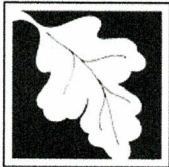
## Photos











Massachusetts Department of Environmental Protection  
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City/Town \_\_\_\_\_

**A. General Information**

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1. Applicant: William Ryan  
Name 41 Bayview Ave  
Mailing Address Fairhaven  
City/Town 508-441-1186  
Phone Number MA 02719  
State Zip Code  
Fax Number (if applicable)

2. Representative (if any):

Firm \_\_\_\_\_  
Contact Name \_\_\_\_\_ E-Mail Address \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
City/Town \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
Phone Number \_\_\_\_\_ Fax Number (if applicable) \_\_\_\_\_

**B. Determinations**

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**WPA Form 1- Request for Determination of Applicability**

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

City/Town

**C. Project Description**

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

41 Bayview Ave  
Street Address

Fairhaven  
City/Town

28A / 469 & 470  
Assessors Map/Plat Number

Parcel/Lot Number

- b. Area Description (use additional paper, if necessary):

- c. Plan and/or Map Reference(s):

Site plan  
Title

9/9/20  
Date

Title

Date

Title

Date

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

Paving Driveway & 77 Fence Panels  
Walkway



SITE PLAN 9/9/20







Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

Fairhaven  
City/Town

**WPA Form 1- Request for Determination of Applicability**

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**A. General Information**

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1. Applicant:

Lavar Gilbert

Name

lavar.gilbert@newbedfordpd.com

E-Mail Address

2 Boulder Court

Mailing Address

Fairhaven

Massachusetts

02719

City/Town

State

Zip Code

508-400-3408

Phone Number

Fax Number (if applicable)

2. Representative (if any):

same as owner

Firm

Contact Name

E-Mail Address

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

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Bureau of Resource Protection - Wetlands

Fairhaven  
City/Town

**WPA Form 1- Request for Determination of Applicability**

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

**C. Project Description**

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

37 Washburn Ave

Fairhaven

Street Address

City/Town

Assessors Map/Plat Number

Parcel/Lot Number

- b. Area Description (use additional paper, if necessary):

Photos attached

- c. Plan and/or Map Reference(s):

Title New Plan

Date 8/26/2020

Title Old Layout

Date 8/26/2020

Title

Date

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

level Area Around house with new soil, plant  
grass seed throughout yard Area - plant new  
Shrubs and tree in the front of house one  
the north east corner. Front porch 28 x 5 feet  
with steps in front of doors 5 ft. wide, 5 10"  
Sonotubes

Photos attached



















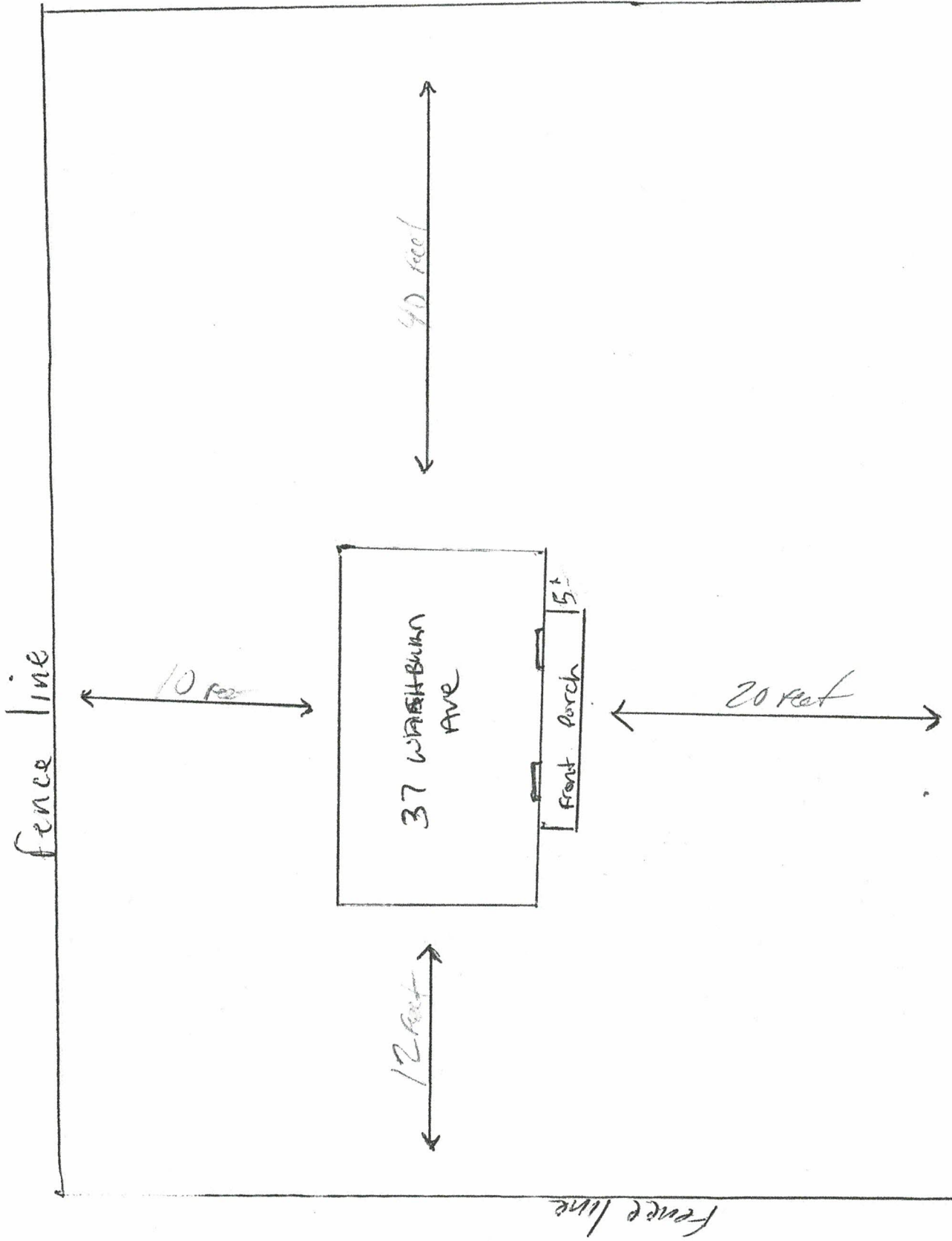








STREET WASHBURN



STREET WASHBURN



HANDS

P.T. DECKING

P.T. 2x8 16" OC

1 5 V

2-STAIRS

7/8" RICE

10" TRAP

P.T. 2x8

CONSTRUCTION

ON PAD CONCRETE

STAIRS

2-STAIRS - WRAP AROUND POREN

2-2x8 P.T.

HEADRAIL

SIMPSON TIE DOCKS

TO CONCRETE FOOTINGS

FOOTINGS

4' DIA

< 287

Hand

2x8

< 5'2"

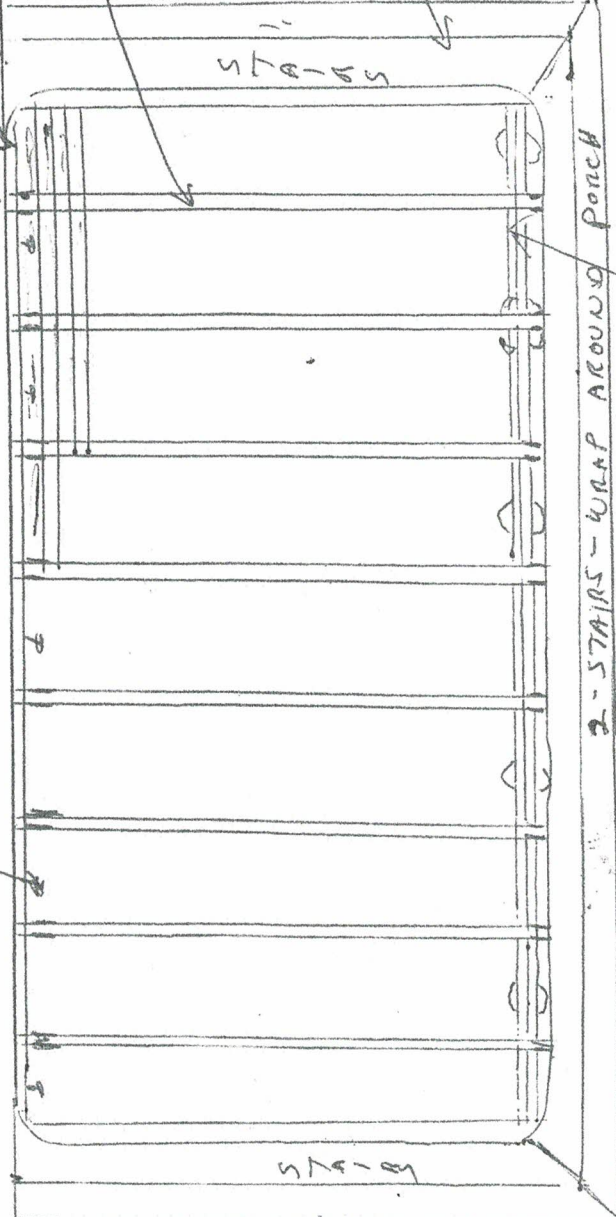
NO RAILS  
ATTACHED  
WASCO CODE  
HEIGHT

2-BOXES  
WIND AROUND  
FOR STAIRS  
HEIGHT = 18"

WASH BURN ST.

Hand

8" LAS  
GAL. 3x70  
SILVER  
PLATE





Property line

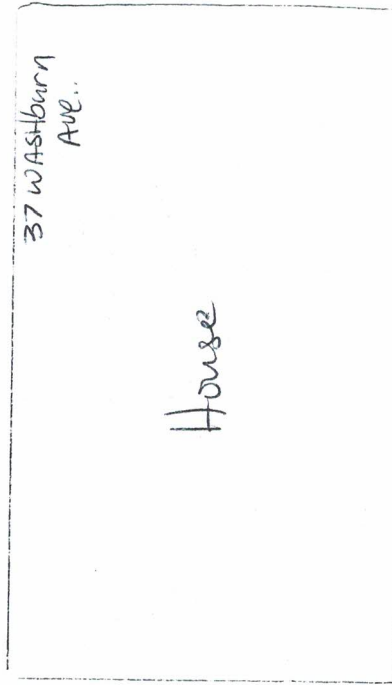
Property line

Property line

Fence line

Cedar Street

Unleveled  
Soil



House

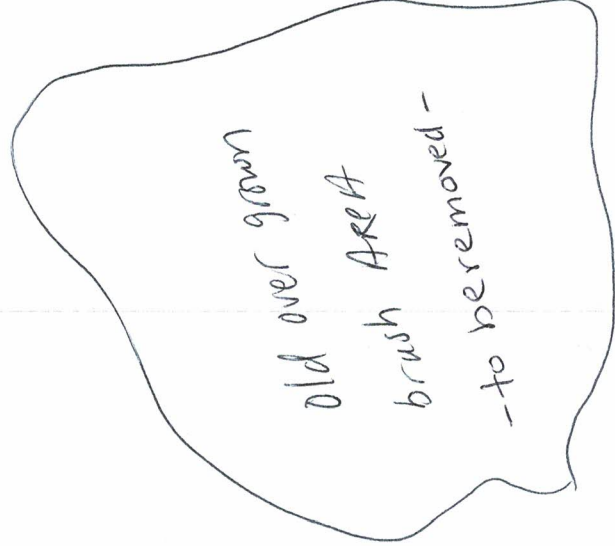
37 WASHBURN  
Ave.

Door

Door

Unleveled  
Soil

Unleveled  
Soil



old over grown  
brush Area  
- to be removed -

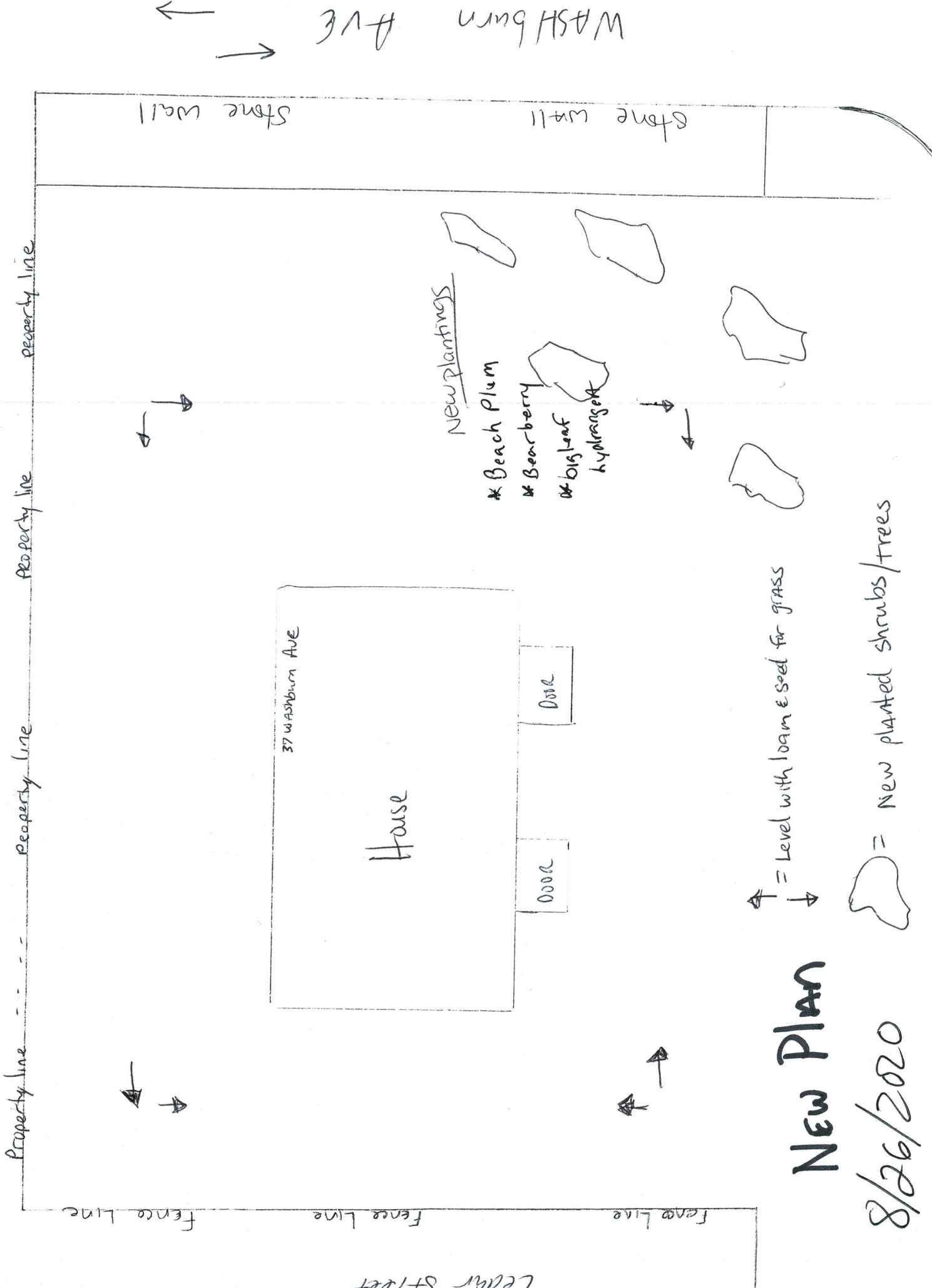
Stone wall

Washburn Ave

OLD LAYOUT

8/26/2020









Liam seed/grass





Loam-seed grass





Lawn seed / grass





Remove over grown brush replace with shrubs trees



***SCHNEIDER, DAVIGNON & LEONE, INC.***  
PROFESSIONAL CIVIL ENGINEERS & LAND SURVEYORS

N. DOUGLAS SCHNEIDER, P.E., P.L.S.  
MATTHEW C. LEONE, P.L.S.



DAVID M. DAVIGNON, P.E.  
JAY MCKINNON, E.I.T.

September 2, 2020

Town of Fairhaven  
Conservation Commission  
40 Center Street  
Fairhaven, MA 02719  
Attn: Chairman Geoffrey A. Haworth

***Re: DEP File No. SE 23-1314 – Request for an Amended Order of Conditions***

Applicant/Owner: David R. Tomasias, Jr.  
Site Address: 15 Grinnell Street  
Assessors Lot #97 on Map #31A

Dear Mr. Chairman & Commission Members,

Schneider, Davignon & Leone, Inc., acting as agent for Mr. Tomasias hereby requests that a Public Hearing be convened for the purposes of Amending the Order of Conditions for DEP File No. SE 23-1314 - relative to the above referenced project.

The Applicant requests an approval of project changes which will result in a reduction in the scope of work.

Specifically, the attached Revised Site Plan depicts the following changes:

- The existing garage will be razed but now not reconstructed
- The existing driveway will not be expanded due to the above
- The in-ground swimming pool has been rotated 90 degrees and moved further away from the property line
- The shed has been moved southerly to be centered with the proposed shed
- The perimeter patio areas have been adjusted accordingly

The above will result in a reduction in the approved scope of work.

If you have any questions or need additional information please call me at (508) 758-7866 (ext. 203).

Sincerely,  
*Schneider, Davignon & Leone, Inc.*

David M. Davignon, P.E.

cc: File 1064  
DEP – SE Regional Office  
David R. Tomasias, Jr.



September 21, 2020

**To:** Town of Fairhaven  
Conservation Commission  
c/o Whitney McClees, Conservation Agent  
40 Center Street  
Fairhaven, MA 02719

**A&M Project #:** 2759-01  
**Re:** Notice of Intent Supplemental  
Information  
Proposed 2-Family Dwelling  
108 Sycamore Street  
Map 20 Lot 33  
DEP File No. 023-1329

**Copy:** 108 Sycamore Street Realty Trust

---

Dear Whitney & Members of the Conservation Commission:

After the public hearing on Monday September 14<sup>th</sup>, hearing the concerns of the members of the Conservation Commission on the location of the proposed dwelling and the size of the proposed planting area, the Client has revised the plan. The overall building length has been reduced by four (4) feet, therefore increasing the separation to the resource area and increasing the overall planting area by 42% for a total planting area of 960 sf. The planting material has also been expanded to include more variety which include Shadblow Serviceberry, Northern Bayberry, Seaside Goldenrod, Beach Plum, Virginia Rose and Meadowsweet.

It is A&M and Goddard consulting's professional opinion that with these further changes and the regulations of the Wetlands Protection Act (the 'Act') and the Wetlands Chapter 192 from the Code of the Town of Fairhaven, the proposed project as shown on the revised plans and narrated herein is an approvable project in accordance with 310 CMR 10.58(5) Redevelopment Within Previously Developed Riverfront Areas: Restoration and Mitigation which states:

*Notwithstanding the provisions of 310 CMR 10.58(4)(c) and (d), the issuing authority may allow work to redevelop a previously developed riverfront area, provided the proposed work improves existing conditions. {emphasis added by A&M} Redevelopment means replacement, rehabilitation or expansion of existing structures, improvement of existing roads, or reuse of degraded or previously developed areas {emphasis added by A&M}. A previously developed riverfront area contains areas degraded prior to August 7, 1996 by impervious surfaces from existing structures or pavement, absence of topsoil, junkyards, or abandoned dumping grounds. Work to redevelop previously developed riverfront areas shall conform to the following criteria:*

- (a) At a minimum, proposed work shall result in an improvement over existing conditions of the capacity of the riverfront area to protect the interests identified in M.G.L. c. 131 § 40. When a lot is previously developed but no portion of the riverfront area is degraded, the requirements of 310 CMR 10.58(4) shall be met.*
- (b) Stormwater management is provided according to standards established by the Department.*
- (c) Within 200 foot riverfront areas, proposed work shall not be located closer to the river than existing conditions or 100 feet, whichever is less, or not closer than existing conditions within 25 foot riverfront areas, except in accordance with 310 CMR 10.58(5)(f) or (g).*
- (d) Proposed work, including expansion of existing structures, shall be located outside the riverfront area or toward the riverfront area boundary and away from the river, except in accordance with 310 CMR 10.58(5)(f) or (g).*



- (e) *The area of proposed work shall not exceed the amount of degraded area, provided that the proposed work may alter up to 10% if the degraded area is less than 10% of the riverfront area, except in accordance with 310 CMR 10.58(5)(f) or (g).*
- (f) *When an applicant proposes restoration on-site of degraded riverfront area, alteration may be allowed notwithstanding the criteria of 310 CMR 10.58(5)(c), (d) and (e) at a ratio in square feet of at least 1:1 of restored area to area of alteration not conforming to the criteria. Areas immediately along the river shall be selected for restoration. Alteration not conforming to the criteria shall begin at the riverfront area boundary. Restoration shall include:*
  - 1. *Removal of all debris, but retaining any trees or other mature vegetation;*
  - 2. *Grading to a topography which reduces runoff and increases infiltration;*
  - 3. *Coverage of topsoil at a depth consistent with natural conditions at the site; and*
  - 4. *Seeding and planting with an erosion control seed mixture, followed by plantings of herbaceous and woody species appropriate to the site."*
- (g) *When an applicant proposes mitigation either on-site or in the riverfront area within the same general area of the river basin, alteration may be allowed notwithstanding the criteria of 310 CMR 10.58(5)(c), (d), or (e) at a ratio in square feet of at least 2:1 of mitigation area to area of alteration not conforming to the criteria or an equivalent level of environmental protection where square footage is not a relevant measure. Alteration not conforming to the criteria shall begin at the riverfront area boundary. Mitigation may include off-site restoration or riverfront areas, conservation restrictions under M.G.L. c. 184, §§ 31 through 33 to preserve undisturbed riverfront areas that could be otherwise altered under 310 CMR 10.00, purchase of development rights within the riverfront area, restoration of bordering vegetated wetlands, projects to remedy an existing adverse impact on the interests identified in M.G.L. c. 131, §40 for which the applicant is not legally responsible, or similar activities undertaken voluntarily by the applicant which will support a determination by the issuing authority of no significant adverse impact. Preference shall be given to potential mitigation projects, if any, identified in a River Basin Plan approved by the Secretary of the Executive Office of Energy and Environmental Affairs.*
- (h) *The issuing authority shall include a continuing condition in the Certificate of Compliance for projects under 310 CMR 10.58(5)(f) or (g) prohibiting further alteration within the restoration or mitigation areas, except as may be required to maintain the area in its restored or mitigated condition. Prior to requesting the issuance of the Certificate of Compliance, the applicant shall demonstrate the restoration or mitigation has been successfully for at least two growing seasons.*


## **Existing Conditions**

In order to demonstrate compliance with the Act, an evaluation has been performed to determine if the riverfront area contains areas "degraded prior to August 7, 1996 by impervious surfaces from existing structures or pavement, absence of topsoil, junkyards, or abandoned dumping grounds" which will establish the baseline for this project/site. The subject lot was created in 1904 and is shown on a plan entitled "Oxford Terrace", recorded at the Bristol County Registry of Deeds in plan book 4 page 61. According to the Town of Fairhaven assessor's office, the existing building was constructed circa 1900's. Additional research at the Fairhaven building department shows a permit was issued in 1967 for repairs to the roof establishing the existing of a structure and land alteration prior to August 1996. The entire site is located within the 100' Inner Riparian Zone of the Riverfront Area and consist of degraded Riverfront Areas from buildings/pavement, overgrown with invasive species and contains debris.

The entire site has been previously altered/disturbed and there is no presence of any natural vegetation or natural buffer within the riverfront area. This condition was substantiated through a Professional Wetland Evaluation performed by Goddard Consulting and discussed with the Conservation Agent and members of the Commission in attendance at the site walk held on August 13, 2020. The present site is heavily overgrown with invasive species that have obscure the ground disturbances (pavement, masonry, etc.). However, A&M performed a site survey and subsequent site investigations to determine, to the maximum extent feasible, the limits of pavement. Pavement is currently located within close proximity to Flag GC4, as shown on the plans.

In 2009, Prime Engineering, Inc. completed a Limited Subsurface Investigation which included three (3) soil borings and five (5) test pits on the property. Two (2) of the borings and all five (5) test pits were conducted on the northerly side, between the existing building and the resource area. Wood ash and coal ash were observed in all five (5) test pits. In the professional opinion of Prime Engineering, the soil observed onsite was denoted as import fill, non-native to the site. This historic fill containing ash consistently displays elevated levels of PAHs, lead and cadmium (among other metals). This condition further meets the criteria of the Act as all native topsoil on this property was either removed or buried and a determination that the northern site is a degraded area within the Riverfront Area. Refer to Table 1.0, for a breakdown on existing conditions.

Table 1.0 – Breakdown of Existing Conditions

	Surface Type	Area (sf)
	Building	3,060
	Pavement (on-site)	284
	Driveway (off-site)	768
	Total Impervious	4,112
	Overgrown Areas (Approx. 1,475 sf – is considered degraded absent of vegetation, contains debris and historic fill containing ash)	3,178

310 CMR 10.58 states "The presence of natural vegetation within the riverfront area is critical to sustaining rivers as ecosystems and providing these public values". It further states "In those areas so extensively altered by



*human activity that their important wildlife habitat functions have been effectively eliminated, riverfront areas are not significant to the protection of important wildlife habitat and vernal pool habitat".*

The baseline has been established and demonstrated that the site was previously developed prior to August 7, 1996 and contains degraded areas within the Riverfront Areas.

### Proposed Conditions

In developing the proposed conditions as previously submitted and amended per the attached site plan, the applicant and A&M sought to work within the established limits of the degraded zone for the minimum scope of work necessary to support the applicant's right of development of the property. This limit includes the areas denoted as degraded, building and pavement as shown in Table 1.0. As recommended by Licensed Site Professional (LSP), Geoffrey Souza, LSP of Sitec Inc, excavated soils will need to be tested and managed in accordance with the Soil Management Plan previously provided in the Notice of Intent package. Refer to Table 2.0 for a breakdown of the proposed conditions.

Table 2.0 – Breakdown of Proposed Conditions

	Surface Type	Area (sf)
	Building	1,618
	Driveway (on-site)	567
	Driveway (off-site)	375
	Walkway	97
	Total Impervious	2,657
	Landscape/Lawn area (includes 960 sf of coastal plantings adjacent to the bank)	4,183
	Patio (Pavers)	450

### **Conclusion (and/or Compliance with Conditions)**

The following are statements regarding the proposed project conformance to applicable criteria of items (a) through (g):

- (a) In its existing state, the site contains 4,112 sf of impervious surface, 3,178 sf of overgrown green space which contains invasive species (bittersweet, buckthorn, etc.) and 1,475 sf of degraded land. The proposed project will result in an improvement over existing conditions with the reduction of total impervious surface of 1,455 sf, increase of greenspace, removal of invasive species, implementing Low Impact Development (LID) techniques and the installation of 960 sf of coastal planting along the top of bank. Plantings will consist of Shadblow Serviceberry, Northern Bayberry, Seaside Goldenrod, Beach Plum, Virginia Rose and Meadowsweet, all ideally suited for riverfront restoration.
- (b) The proposed project is exempt from the Stormwater Standards because the project consists of a redevelopment project with fewer than four units. The proposed project has reduced the overall impervious surface, increased the overall green space, therefore has reduced the amount of runoff and has increased recharge capabilities on site. The applicant is proposing LID consisting of the installation of concrete pavers for the patios along the back of the dwelling and the installation of grass swales. Though exempt from the Stormwater Standards due to size, the design elements would in fact meet the standards.
- (c) The proposed building is being located closer to the bank than the existing structure but still remaining within the degraded zone and the work is being done in accordance with section (f) and (g). The applicant is proposing to remove the debris and invasive species within the Riverfront Area, but is protecting the two (2) existing 10" trees. Utilizing LID, reducing impervious area, increasing greenspace and appropriately grading the site to reduce runoff and increase infiltration. All disturbed areas will be covered with a minimum 6" of topsoil and seeded. A permanent buffer is being proposed, ranging from 10-ft to 16-ft wide by 74-ft long, consisting of 960 sf of coastal plantings along the top of bank which will provide an equivalent level of environmental protection where square footage is not a relevant measure (310 CMR 10.58 (5)(g)).

A&M and the applicant have heard the Conservation Commission's concerns and have continued to work with the Commission to revise the project accordingly. The original submission included a coastal planting area of approximately 400 sf in size, then increased to 675 sf (59% increase) and further increased to 960 sf (42% increase). The building footprint has been reduced, therefore increasing the separation to the resource area. The proposed project as proposed is in accordance with 310 CMR 10.58(5), is an improvement over existing conditions and the permanent landscape buffer is an equivalent level of environmental protection since no natural vegetation or natural buffer exists. This permanent landscape buffer strip being provided is 15% of the lot area. The proposed landscape buffer will allow for filtering of sediments which will be trapped by the vegetation before reaching the river. Nutrients and toxic substances may be detained in plant root systems or broken down by soil bacteria. The landscape area will also provide habitat for wildlife.

A&M would like to further clarify the intended use of the property as pertinent to the last hearing held with the Commission. Understandably, members of the Commission may hold an opinion that a 2-family home as proposed is "too large" for the site as expressed during the hearing. The Act and the Fairhaven Wetland Bylaw do not hold regulatory authority on the intended use of the property. This falls under Article II Intensity of Use Regulations as outlined in Zoning Chapter 198 from the Code of the Town of Fairhaven revised through May 6, 2017. The property is located within the General Residence Districts – RB as shown on the Town of Fairhaven Zoning Map dated May 6, 2017. Uses vary based on adherence to the Bylaw, but include single/two family homes, institutional uses, small wind facilities and solar farms as shown in the figures below. The



intended use of the property hold no bearing on environmental considerations so long as the required performance standards of the Act are met.

Use Regulation Schedule									
Activity or Use	RR & RA	District							
		RB	RC	P	B	I	AG	MU <sup>14</sup>	WRP <sup>16</sup>
<u>INDUSTRIAL USES</u>									
Manufacturing, processing, research	N	N	N	N	N	Y	N	N	N
Bulk storage	N	N	N	N	N	Y	N	N	N
Contractor's yard	N	N	N	N	A	Y	N	N	N
Earth removal	A	A	A	A	A	A	N	N	N
Junk yard	N	N	N	N	N	A	N	N	N
Transportation terminal	N	N	N	N	A	Y	N	N	N
Warehouses	N	N	N	N	N	Y	N	N	N
Radio transmission	N	N	N	N	A	Y	A	N	N
Steam laundry or dry-cleaning plant	N	N	N	N	A	Y	N	N	N
Water towers and reservoirs	Y	Y	Y	Y	Y	Y	Y	N	N
<u>INSTITUTIONAL USES</u>									
Municipal use	Y	Y	Y	Y	Y	Y	Y	Y	Y
Religious use	Y	Y	Y	Y	Y	Y	Y	Y	Y
Nursery school/pre-school	Y	Y	Y	Y	Y	Y	Y	Y	Y
Other commercial schools	A	A	A	A	Y	Y	A	A	Y
Non-Profit Corporation Educational Uses	Y	Y	Y	Y	Y	Y	Y	Y	Y
Religious Organization Educational Uses	Y	Y	Y	Y	Y	Y	Y	Y	Y
Other schools	Y	Y	Y	Y	Y	Y	A	Y	Y
Cemetery <sup>3</sup>	Y	Y	Y	Y	Y	Y	N	N	N
Crematoria <sup>15</sup>	A	A	A	A	A	A	A	N	N
Hospital	A	A	A	A	N	N	N	N	N
Nursing, convalescent, rest home	A	A	A	A	A	A	N	A	A
Philanthropic institutions	A	A	A	A	A	A	N	A	A
Public utility with service area	N	N	N	N	N	A	A	N	N
Public utility without service area	N	A	A	A	A	A	A	N	N
Club or lodge <sup>4</sup>	A	A	A	A	Y	Y	N	A	Y
Passenger station	Y	Y	Y	Y	Y	Y	N	A	N
Assisted Living Residence	A	A	A	N	A	N	N	A	A
Artist Studio or Gallery	N	N	N	N	Y	Y	N	A	A
Charter School for the Arts	A	A	A	A	A	A	A	A	A
Museum	A	A	A	A	A	A	A	A	A
<u>RECREATIONAL USE</u>									
Boatyard	N	N	N	N	Y	Y	N	A	N
Camping, commercial <sup>10</sup>	N	N	N	A	N	N	N	N	N
Camping, supervised	Y	Y	Y	Y	Y	Y	N	N	N
Golf course	N	N	N	Y	Y	Y	Y	N	N
Indoor commercial recreation	N	N	N	A	A	A	N	A	N
Non profit indoor recreation <sup>13</sup>	A	A	A	A	A	A	A	A	N
Outdoor commercial recreation <sup>5</sup>	N	N	N	A	A	A	N	A	A
Non profit outdoor recreation <sup>13</sup>	A	A	A	A	A	A	A	A	A
Sportsman's club game preserve	Y	Y	Y	Y	Y	Y	Y	N	Y
Public stables	N	N	N	Y	Y	Y	N	N	Y
Bath houses, commercial beaches	A	A	A	Y	Y	Y	N	A	Y
Commercial picnic area, outing areas	A	N	N	Y	Y	Y	N	A	A
Marina	N	N	N	A	A	A	N	A	A
Private Dock or Piers <sup>11</sup>	A	A	A	A	A	A	A	A	A

Use Regulation Schedule									
Activity or Use	RR & RA	District							
		RB	RC	P	B	I	AG	MU <sup>14</sup>	WRP <sup>16</sup>
<u>RESIDENTIAL USES</u>									
Dwelling									
Single family	Y	Y	Y	N	N	N	Y	Y	Y
Semidetached	N	Y	Y	N	N	N	N	N	N
Two-family	N	Y	Y	N	N	N	N	Y	Y
Multifamily <sup>9</sup>	N	N	Y	N	N	N	N	A	N
Non-family accommodations	N	A	A	N	A	A	N	A	N
Motel or hotel	N	N	N	N	A	A	N	A	A
Mobil home (stored or occupied)									
subject to § 198-28	A	A	A	N	N	N	N	N	N
Dwelling conversion (subject to the provisions of § 198-32.1)	A	A	A	N	A	A	A	A	A
Accessory apartment/inlaw apartment	A	A	A	N	N	N	A	Y	Y
Accessory apartment to a business	N	N	N	N	A	A	N	Y	Y
Bed & breakfast home	A	A	A	N	A <sup>12</sup>	A <sup>12</sup>	A	A	A
<u>OTHER PRINCIPAL USES</u>									
Temporary structures	Y	Y	Y	Y	Y	Y	N	A	A
Airport, heliport	N	N	N	N	N	N	A	N	N
<u>ACCESSORY USES</u>									
Home occupation									
Parking Not More Than:									
2 non commercial vehicles per dwelling unit <sup>6</sup>	Y	Y	Y	Y	Y	Y	Y	Y	Y
1 commercial vehicles not over 1 1/2 tons	Y	Y	Y	Y	Y	Y	Y	Y	Y
Parking in excess of above	N	N	N	N	N	N	N	N	N
Taking of boarders	Y	Y	Y	N	Y	Y	N	Y	Y
Signs <sup>7</sup>	Y	Y	Y	Y	Y	Y	Y	Y	Y
Light manufacturing for retail sales primarily on premises	A	A	A	A	Y	Y	N	A	N
Storage of camper or utility trailer <sup>8</sup>	Y	Y	Y	Y	Y	Y	Y	N	N
Other customary uses	Y	Y	Y	Y	Y	Y	Y	Y	Y
Wireless Communications Facilities	A	A	A	N	A	A	A	A	N
Facade and Roof-Mount Antennas	A	A	A	N	Y	Y	A	Y	N
Wind Energy Facility - On-Site	N	N	A	A	A	A	A	N	A
Wind Energy Facility - Small Wind Energy System	Y	Y	Y	Y	Y	Y	Y	Y	Y
Wind Energy Facility - Building Integrated	A	A	A	A	A	A	A	A	A
Solar Photovoltaic Energy Facilities (SPEF)									
On-Site Ground-Mounted	Y	Y	Y	Y	Y	Y	Y	Y	Y

As outlined herein, it is the professional opinion of the design team, the performance standards of the Act are met and the project, if approved and constructed in accordance with the site plans will provide the improvement of existing conditions and increased protections of the inner riparian zone. As allowed under 310 CMR 10.58(5)(h) the Commission may require a continuing condition prohibiting further alteration within the restoration area, therefore permanently protecting the coastal planting area and maintaining a vegetated buffer to the resource area. A&M & the Owner look forward to discussing the project at the next Conservation Commission public hearing on September 28, 2020. Thank you for your time and consideration.

If you have any questions regarding this submittal please contact me at (508) 923-1010

Very Truly Yours,

**ALLEN & MAJOR ASSOCIATES, INC.**



Paul G. Matos, PE, PLS

Project Manager

[pmatatos@allenmajor.com](mailto:pmatatos@allenmajor.com)



**Mathieu & Mathieu**  
*Attorneys and Counsellors At Law*

168 EIGHTH STREET  
CORNER OF EIGHTH AND ELM STREETS  
NEW BEDFORD, MASSACHUSETTS 02740

Thomas J. Mathieu  
John P. Mathieu  
Paula Mathieu Chausse

Paul J. Mathieu *of Counsel*  
Hon. John A. Markey *of Counsel*

FRONT STREET  
MARION, MASSACHUSETTS 02738

NEW BEDFORD 508.996.8283  
FACSIMILE 508.994.0155

September 21, 2020

Town of Fairhaven  
CONSERVATION COMMISSION  
40 Center Street  
Fairhaven, MA 02719

ATTN: Whitney McClees

RE: SE 023-1297, CON19-051  
Site Address Hiller Avenue & Timothy Street  
Applicant/Developer: Robert Roderiques

Dear Ms. McClees

On behalf of my Client, Robert Roderiques, I am hereby notifying the Conservation Commission that my client through his Engineering firm of Schneider, Davignon & Leone, Inc. intends on presenting the engineering plan for the proposed subdivision improvements for the subdivision identified above on the scheduled meeting night of September 28<sup>th</sup>, 2020.

At this time, I will reiterate that my client has an active appeal on the Decision of the Fairhaven Planning Board, where the current Chairman of the Conservation Commission, Geoffrey A. Haworth, is a named Defendant in that matter.

On January 23, 2020, I contacted you by email, in which I initially suggested Mr. Haworth recuse himself. Not only did he not recuse himself but he made sure during the meeting to be vocal about his position on the project.

As Mr. Haworth has continually expressed his negative opinion to this project, wearing his many hats in Fairhaven, my client is demanding he recuse himself as he has expressed his bias on this project on several occasions including the several requests made for continuances with this Board. His actions have been arbitrary and capricious, including his vote on the project as a member of the Fairhaven Planning Board. Other projects have had continuances granted by the Commission for similar timeframes( i.e. Lewis Landing Project, 46 Sconticut Neck Road Subdivision and the Carapace, LLC project) without the degree of negative discussion and resistance, which clearly shows a level of bias towards my client.

That being said, my clients plans on presenting the project for consideration, only if Mr. Haworth recuses himself. Otherwise, no presentation will be made and my client is requesting a further continuance, barring that the Board may take any vote they wish and we expect that reasons for bases for the expected denial will be clearly stated in said motion at that time as well as on a written denial letter.

Robert Roderiques  
By His Attorneys  
MATHIEU & MATHIEU  
*John P. Mathieu*  
John P. Mathieu

JPM/mj

CC: Robert Roderiques, David M. Davignon,  
Town Administrator: Mark Rees  
Town Counsel: Attorney Thomas Crotty  
Selectman: Daniel Freita, Robert Espinola & Keith Silvia





*Charon Associates, Inc.*

*Consulting Engineers*

*323 Neck Road  
Rochester, MA 02770  
Phone: 508-763-8362  
Fax: 508-763-9582*

September 3, 2020

Conservation Commission  
Town Hall  
Fairhaven, MA 02719

Dear Members of the Commission:

RE: 1 Smugglers Road  
Keith & Kimberly Decker, Owners

In response to the Enforcement Order issued by the Commission on July 8<sup>th</sup>, please be advised of the following actions proposed by the Owners to address the disturbances within areas subject to protection on this site:

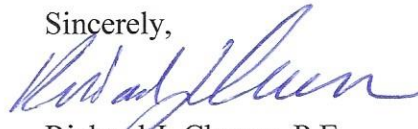
1. The sand that was deposited on the landward side of the beach on both sides of the beach path was placed in areas where debris piles had been removed. The sand has a different color than the native sand, but it was placed above native beach sand and was not placed within a wetland. No additional sand will be placed on the beach or the pathway.
2. Cutting of vegetation along the pathway to the beach consisted of trimming existing tree branches that had grown into the pathway. Future trimming will be reviewed with your Agent and approved prior to any work being done in this area.
3. The tracks and disturbances left by an all-terrain vehicle driving across the marsh resulted from the removal of an additional debris pile that could not be reached without cutting a path through the woods. No further use of the ATV within the marsh will be done.
4. Tracks and disturbance by the ATV through dune grass on the beach will also be prevented in the future.
5. Removal of vegetation in an area of approximately 12,000 S.F. within the buffer zone of bordering wetlands and within the flood zone was performed to eliminate a substantial stand of knotweed (*Polygonum cuspidate*) that had invaded a previously cleared area. The attached site plan prepared by Schneider, Davignon & Leone Inc. shows the area where knotweed was cut and the soils disturbed in

relation to the wetland. We have engaged the services of Susannah Davis of Davis Land Design to provide a plan to (a) re-plant this area with a mix of native grasses and wildflowers, and (b) eradicate the knotweed over a three-year period. The Davis re-planting plan is attached herewith. In addition, the SD&L plan has been marked up to show the total area proposed to be tilled and re-planted, including the 10-foot control strip along the remaining brush/tree line where regular cutting will help to prevent roots from remaining knotweed from returning to the re-planted area. The remainder of this area will be mowed less frequently and knotweed will be manually removed as it emerges. The proposed native grasses will not require fertilizer application and will provide a low-maintenance and attractive alternative to the knotweed that it will replace. Satellite imagery indicates that this area was cleared as far back as 2008, just about the time that the certificate of compliance was issued to the former owner for construction of the existing house.

It is requested that the Commission review this proposal and permit the proposed re-planting plan to proceed as soon as possible. The proposal includes on-going review of the effectiveness of the re-planting scheme by Ms. Davis. It would also be desirable going forward to permit Ms. Davis to meet with your Agent to explore the removal of remaining knotweed in the future to minimize the continuing threat of re-emergence of this destructive plant.

We look forward to discussing this plan at your next meeting.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard J. Charon".

Richard J. Charon, P.E.

Cc: K. Decker



# SUSANNAH DAVIS

**DAVIS**  
**LANDDESIGN**

Whitney McClees  
Fairhaven Conservation Commission  
40 Center Street  
Fairhaven, MA

September 14, 2020

Re: 1 Smugglers Road, Fairhaven.

Dear Conservation Committee,

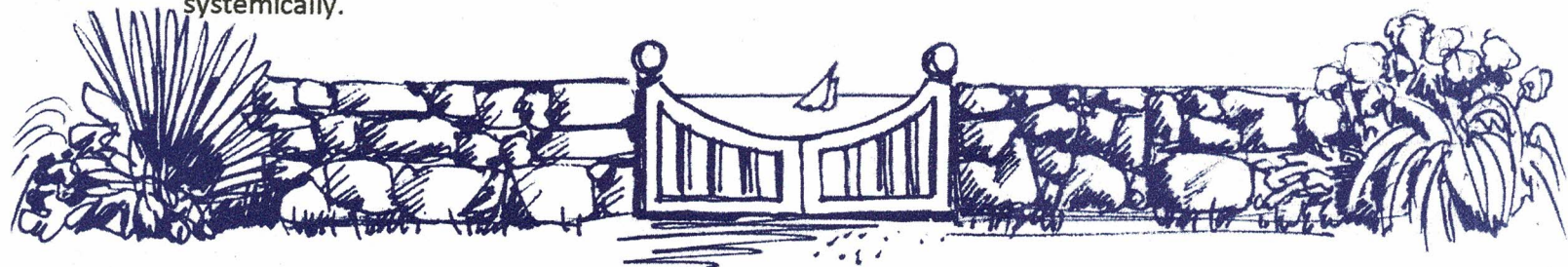
I am writing to this board on behalf of my client, Keith Decker, after consultation with Rick Charon, PE, of Charon Associates, and Robert Gray, PWS, CSE, RS, of Sabatia, Inc. about the Decker site conditions and treatment plans.

This site is compromised by a large area of *Polygonum cuspidata*, also known as Knotweed. Some eradication efforts have been done and will need to continue over a 3-year period. Our proposal suggests using a combination of scraping by machine to remove the existing topsoil, spot treatment with Rodeo (an effective herbicide often used in proximity to wetlands), and reseeded with a site-specific wildflower meadow mix to restore native grasses and other herbaceous plants to the site.

Initially, we suggest that the area in question be carefully scraped to initially attack the knotweed. This is only a start as *Polygonum* is a noxious invasive easily spread not only by rhizomes beneath the soil surface but can reproduce from pieces of stems as well as by seed. The detritus should be removed and piled separately from any other organic matter to avoid cross contamination while it decomposes.

Next, in order to encourage native plant growth, we propose to spread 2-3 inches of best quality compost over the area to provide enough organic matter to create a healthy bed for seed germination.

Knotweed will continue to sprout until frost. As it does, it is important to spot-treat the sprouts either with a foliar application or injection directly into the plant stem to weaken the plant systemically.



17 COVE ST. MARION MA 02738

[www.davislanddesign.com](http://www.davislanddesign.com)

[ohsusannah17@verizon.net](mailto:ohsusannah17@verizon.net)

Cell: 508-498-4677

# SUSANNAH DAVIS



After the first hard frost, the recommended seed should be spread in an application amount of 25 pounds per acre. The proposed seed mix, "New England Showy wildflower Mix" from New England Wetland Plants, contains a mixture of native grasses such as Little Bluestem (*Schizachyrium scoparium*), Red Fescue (*Festuca rubra*), Indian Grass (*Sorghastrum nutans*), Partridge Pea (*Chamaecrista fasciculata*), Canada Wild Rye (*Elymus canadensis*), and Riverbank Wild Rye (*Elymus riparius*). The mix also contains many familiar wildflowers such as Butterfly weed (*Aesclepias tuberosa*), Black Eyed Susan (*Rudbeckia hirta*), Lance Leaved Coreopsis (*Coreopsis lanceolata*), Ox Eye Sunflower (*Heliopsis helianthoides*), New England Aster (*Aster novae-angliae*), Wild Blue False Indigo (*Baptisia australis*) Early Goldenrod (*Solidago juncea*) and Hollowstem Joe Pye Weed (*Eupatorium fistulosum*) as well as many others. This variety of native grasses and flowers will provide habitat and pollination opportunities for a wide range of wildlife throughout the growing season.

It's important to stress that no seed mix will completely crowd out Knotweed. It will be vital to monitor this area for at least a 3-year period and to remove renegade pop-ups of knotweed as they occur. It is recommended that the area be mowed 2-3 times per season to discourage other invasives which may occur. It is likely that Bittersweet and Floribunda Rose will show themselves but will be easily controlled by the mowing process.

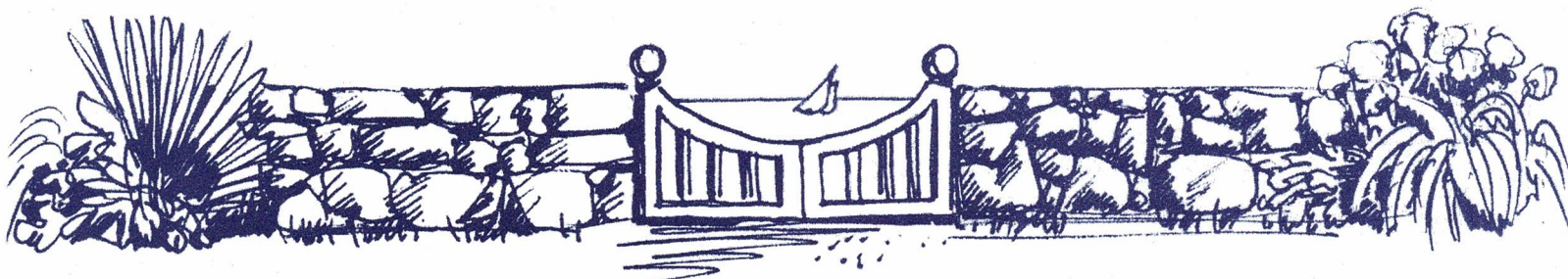
And finally, we propose a 10 foot wide mowing strip, to be mowed on a regular basis, around the Knotweed eradication area as a control strip to avoid any invasive spread from surrounding areas.

We recommend that a report be prepared yearly for the Fairhaven Conservation Commission to document progress in this sensitive area.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Susannah Davis". The signature is fluid and cursive, with a long, sweeping underline.

Susannah Davis  
Davis Land Design, Inc.



17 COVE ST. MARION MA 02738

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