



2018 01802528  
Bk: 01478 Pg: 58 Cert#: 260345  
Doc: ORD 11/29/2018 10:52 AM



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

Provided by MassDEP:

MassDEP File #  
091-0300  
eDEP Transaction #  
Arlington  
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: Arlington  
Conservation Commission
2. This issuance is for  
(check one): a. ☒ Order of Conditions b. ☐ Amended Order of Conditions

3. To: Applicant:

Sean Galvin  
a. First Name b. Last Name

c. Organization

d. Mailing Address  
630 High Street, Medford

e. City/Town MA f. State 02155 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:

46 Spy Pond Parkway 104 193  
a. Street Address b. City/Town

18 9-2  
c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known: 42d24m18.108s 71d9m21.06s  
d. Latitude e. Longitude

260345

MS



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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 260345  
a. County b. Certificate Number (if registered land)  
1478 58 Document #: 1709447  
c. Book d. Page
7. Dates: 7/19/2018 11/1/2018 11/20/2018  
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):  
Plan of Land in Arlington, MA  
a. Plan Title  
Everett M. Brooks Co. Michael S. Kosmo (Engineer) 9/4/2018  
b. Prepared By c. Signed and Stamped by  
10/23/2018 1"=20'  
d. Final Revision Date e. Scale  
See attached  
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) 66.9  
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 checked="" type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	12 c. square feet	12 d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



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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	a. square feet	b. square feet	c. <sup>cu yd</sup> nourishment	d. <sup>cu yd</sup> nourishment
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. <sup>cu yd</sup> nourishment	d. <sup>cu yd</sup> 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 (BWV) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. ☒ Restoration/Enhancement \*:

890

a. square feet of BWV

b. square feet of salt marsh

24. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

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

The following conditions are only applicable to Approved projects.

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



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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            091-0300            "
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 Conditions**

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 Arlington 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:

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:

Arlington Bylaw for Wetlands Protection

Title V, Art 8

1. Municipal Ordinance or Bylaw

2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

See attached Findings and Conditions



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### E. Signatures

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

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

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

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

Signatures:

*[Handwritten signatures of three individuals]*

*[Handwritten signature]*

☒ by hand delivery on

Date

11/20/2018

☐ by certified mail, return receipt requested, on

Date

### F. Appeals

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

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

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



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## 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.

Arlington

Conservation Commission

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

To:

Arlington

Conservation Commission

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

46 Spy Pond Parkway

Project Location

091-0300

MassDEP File Number

Has been recorded at the Registry of Deeds of:

Middlesex South

County

Book

Page

for:

Sean Galvin

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

DOCUMENTS REVIEWED

1. Notice of Intent for work at 46 Spy Pond Parkway, Arlington, MA, prepared by Goddard Consulting LLC, for the Applicant: Sean Galvin, dated July 16, 2018.
2. Wetland Border Report, prepared by Goddard Consulting LLC, dated July 24, 2018.
3. Square Footage Existing and Proposed Impermeable Area, prepared by Goddard Consulting LLC, amended March 2018, revised June 12, 2018, revised again October 12, 2018.
4. Existing Conditions Plan of 46 Spy Pond Parkway, prepared by Everett M. Brooks Co. and the Studio of Michael J Scanlon, stamped by Bruce Bradford, dated June 11, 2018, revised October 23, 2018.
5. Proposed Plan of 46 Spy Pond Parkway, prepared by Everett M. Brooks Co. and the Studio of Michael J Scanlon, stamped by Bruce Bradford, dated June 11, 2018, revised October 23, 2018.
6. Notations on Treatment of Landscape & Materials for Drive, Paths and Terrace, prepared by the Studio of Michael J Scanlon, dated June 30, 2018.
7. Detailed Plan of Land in Arlington, MA, prepared by Everett M. Brooks Co., stamped by Michael S. Kosmo (Civil) and Bruce Bradford (Land Surveyor), dated September 4, 2018, revised October 23, 2018.
8. Entire Proposed Roof Runoff Area and Drainage Analysis, prepared by Everett M. Brooks Co., stamped by Michael S Kosmos, dated September 4, 2018, revised September 27, 2018.
9. Alternatives Analysis, prepared by not listed, date not listed.
10. Climate Change Resilience Compliance, prepared by Goddard Consulting LLC, dated October 22, 2018.
11. Plan Showing Vegetated Buffer, prepared by Michael J Scanlon, dated October 20, 2018.
12. Existing Planting in the 100 Foot Buffer Plan, prepared by Michael J Scanlon, dated October 20, 2018.
13. Plan Showing 12 Foot Vegetation Buffer at Pond, prepared by Michael J Scanlon, dated October 20, 2018.
14. 12' Vegetation Buffer Planting Plan, prepared by Michael J Scanlon, dated October 20, 2018.

15. Letter from MassWildlife concerning proposed buffer planting, prepared by Mass Division of Fisheries & Wildlife, dated October 30, 2018.

PROCEDURAL SUMMARY

The Conservation Commission held a public hearing on the Notice of Intent on August 2, 2018. The hearing was continued several times at the request of the applicant. The Commission closed the hearing on November 1, 2018, and on November 15, 2018 deliberated and voted 7-0 to approve the Project with conditions under the Wetlands Protection Act (the "Act") and voted 7-0 to approve the Project with conditions under the Arlington Wetlands Protection Bylaw (the "Bylaw").

FINDINGS OF FACT AND LAW  
UNDER ARLINGTON WETLANDS PROTECTION BYLAW  
AND WETLANDS PROTECTION ACT

- A. The Project as approved involves the demolition and construction of a single family home on a parcel abutting Spy Pond. The new home will create a net increase of 144.25 square feet of impervious surface within the 100 foot wetland buffer/Adjacent Upland Resource Area. The project includes the construction of pervious-paved driveway, walkways, and backyard terrace. The project also includes the creation of a 890 square foot vegetated buffer toward the pond-end of the parcel near existing vegetation along the pond's bank. The project's drainage system captures the entire roof's runoff and infiltrates the water through a Cultec Recharger system.
- B. The parcel is approximately 9,425 square feet, located on Spy Pond, near the Spy Pond Parkway and Bay State Road intersection.
- C. The following Resource Areas are present on the site or within 100 feet of the lot lines: Bordering Vegetated Wetland ("BVW") and Adjacent Upland Resource Area ("AURA") (Bylaw) and Buffer Zone (Act) to Bank and BVW. The Commission finds accurate the delineation of Resource Areas shown on the approved Site Plan.
- D. The proposal also includes the construction of a native vegetated wetlands mitigation buffer.
- E. Based on the testimony at the public hearing, and review of the application materials and the documents listed above submitted during the public hearing, the Commission concludes that the proposed Project will not alter Resource Areas under the Act and Bylaw, the work as conditioned will not have significant or cumulative effects upon the interests of the Wetlands Protection Act or the Resource Area values of the Arlington Wetlands Bylaw when the conditions imposed are implemented to protect the Resource Area values. With the conditions contained herein, the Project meets the performance standards in the Bylaw Regulations and state Wetlands Regulations, 310 CMR 10.00.

Additional Special Conditions

In addition to the General Conditions (numbered 1 – 20 above), the Project is subject to the following Additional Special Conditions (under both the Act and Bylaw):

21. Work permitted by this Order and Permit shall conform to the Notice of Intent, the approved plans and documents (listed above), and oral representations (as recorded in hearing minutes) submitted or made by the Applicant and the Applicant's agents or representatives, as well as any plans and other data, information or representations submitted per these Conditions and approved by the Commission.
22. The provisions of this Order and Permit shall apply to and be binding upon the Applicant and Applicant's assignees, tenants, property management company, employees, contractors, and agents.
23. No work shall be started under this Order until: (a) all other required permits or approvals have been obtained and (b) the appeal period of ten (10) business days from the date of issue of this Order has expired without any appeal being filed and (c) this Order has been recorded in the Registry of Deeds. No work shall be started under this Permit until all other necessary permits or approvals have been obtained.
24. The Applicant shall ensure that a copy of this Order of Conditions and Permit for work, with any referenced plans, is available on site at all times, and that contractors, site managers, foremen, and sub-contractors understand its provisions.
25. Prior to starting work, the Applicant shall submit to the Commission the names and 24-hour phone numbers of project managers or the persons responsible for site work or mitigation.
26. Before work begins, erosion and sediment controls shall be installed at the limits of the work area. These will include a silt fence and 12 inch straw or silt wattle around the entire work area (haybales are not allowed and silt socks are preferred).
27. The contractor shall contact the Conservation Agent ([concomm@town.arlington.ma.us](mailto:concomm@town.arlington.ma.us) ; 781-316-3012) to arrange for a pre-construction meeting with the on-site project manager to walk through the Order of Conditions, confirm the wash out location, and walk the site to confirm the installation and placement of erosion controls prior to the start of any grading or construction work.
28. The contractor shall provide written Notice of the work start date to the Conservation Agent 48 hours prior to start of work.
29. All dumpsters must be covered at the end of each work day, and no dumpsters will be allowed overnight within the 100 foot Buffer Zone or Adjacent Upland Resource Areas ("AURA") or other Resource Areas.
30. No uncovered stockpiling of materials shall be permitted overnight within 100 feet of any waterway or water body.

31. Areas that are disturbed by construction and access activities shall as soon as possible be brought to final grade and reseeded and restabilized, and shall be done so prior to the removal of the erosion control barrier.
32. Arrangements shall be made for any rinsing of tools, equipment, etc. associated with on-site mixing or use of concrete or other materials such that the waste water is disposed of in the concrete wash out station-at least 50 feet from the resource area. In no case may waste water be discharged into or onto Resource Areas on or adjacent to the site. In no case may waste water be placed in stormdrains. Any spillage of materials shall be cleaned up promptly.
33. Any dirt or debris spilled or tracked onto any paved streets shall be swept up and removed daily.
34. No heavy equipment may be stored overnight within 50 feet of the wetland and no refueling or maintenance of machinery shall be allowed within the 100-foot Buffer Zone, 200-foot Resource Area, and Adjacent Upland Resource Area or within any Resource Area.
35. Any dewatering operations shall conform to the following:
  - (a) Notify the Conservation Commission that dewatering is required.
  - (b) Any catch basins, drain and outfalls to be used in dewatering operations shall be cleaned out before operations begin.
  - (c) Any water discharged as part of any dewatering operation shall be passed through filters, on-site settling basins, settling tank trucks, or other devices to ensure that no observable sediments or pollutants are carried into any Resource Area, street, drain or adjacent property.
  - (d) Measures shall be taken to ensure that no erosion or scouring shall occur on public or private property, or on the banks or bottoms of water bodies, as a result of dewatering operations.
36. The Commission, its employees, and its agents shall have the right of entry onto the site to inspect for compliance with the terms of this Order of Conditions and Permit until a Certificate of Compliance has been issued.
37. When requesting a Certificate of Compliance for this Order of Conditions, the Applicant must submit a written statement from a Massachusetts professional engineer, registered land surveyor, or registered landscape architect certifying that the completed work complies with the plans referenced in this Order, or provide an as-built plan and statement describing any differences.
38. The existing driveway shall be used as the construction entrance. One (1) foot of crushed stone shall be placed in the construction entrance.
39. At least 21 days prior to commencement of work, a revised Detailed Plan of Development shall be submitted by the Applicant and approved by the Conservation Commission clarifying the pervious paver depth (currently listed as "variable") of the driveway, walkways, and terrace. A minimum installation depth of two (2) feet shall be constructed for all pervious pavement.



40. At least 21 days prior to commencement of work, A new Detailed Plan of Development shall be submitted by the Applicant and approved by the Conservation Commission clarifying the size of the backyard pervious terrace. The backyard pervious terrace shall be constructed as a 17' x 17', rather than 25.8' x 17.8' as listed on the plans. These terrace dimensions and perviousness shall be a continuing condition that survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition.
41. Prior to plant installation, the Applicant shall submit planting plan details to the Conservation Commission for approval. Planting details shall include plant sizes, Latin names, regular names, number of plants, and transported method (containerized, balled-and-burlapped, etc.). All plantings shall be native and be installed and maintained according to the standards of the American Association of Nurserymen (AAN). This shall be a continuing condition that survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition.
42. To avoid adding excess nitrogen runoff into Spy Pond, the Applicant shall only treat the lawn with slow release nitrogen fertilizer. Application of this fertilizer cannot occur in the summer, or after storm events. Lawn fertilizer shall only be applied twice a year, in spring and fall. No herbicides shall be used to treat invasive or unwanted plants. New plantings shall only be fertilized once, during the initial planting year. No rodenticides shall be used to treat pest management issues. This shall be a continuing condition that survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition.
43. The Applicant shall install permanent markers (granite posts, etc.) along the lawn-facing edge of the vegetated buffer to prevent disruption and destruction, such as mowing. Maintenance of said permanent markings shall be a continuing condition that survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition.
44. Pervious surfaces shown on the project plans shall be maintained and not be replaced by impervious surfaces. This shall be a continuing condition that survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition.

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Registry District

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