



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:

91-0274

MassDEP File #

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:

Scott

a. First Name

Seaver

b. Last Name

Seaver Construction

c. Organization

215 Lexington Street

d. Mailing Address

Woburn

e. City/Town

MA

f. State

01801

g. Zip Code

4. Property Owner (if different from applicant):

Margaret

a. First Name

Papagni, Trustee

b. Last Name

12 Cyde Terrace Trust

c. Organization

12 Clyde Terrace

d. Mailing Address

Arlington

e. City/Town

MA

f. State

02474

g. Zip Code

5. Project Location:

12 Clyde Terrace

a. Street Address

Arlington

b. City/Town

108-2-15

c. Assessors Map/Plat Number

d. Parcel/Lot Number

Latitude and Longitude, if known:

42d43m53s

d. Latitude

-71d17m33s

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

a. County

56793

c. Book

b. Certificate Number (if registered land)

294

d. Page

7. Dates: June 7, 2017 June 15, 2017 June 19, 2017  
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):

Landscaping Plan in Arlington Mass

a. Plan Title

Keenan Survey

b. Prepared By

May 4, 2017

d. Final Revision Date

c. Signed and Stamped by

1 in = 10 ft

e. Scale

f. Additional Plan or Document Title

g. Date

**B. Findings**

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a. ☐ Public Water Supply b. ☐ Land Containing Shellfish c. ☒ Prevention of Pollution  
d. ☐ Private Water Supply e. ☐ Fisheries f. ☒ Protection of Wildlife Habitat  
g. ☒ Groundwater Supply h. ☒ Storm Damage Prevention i. ☒ Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

**Approved** subject to:

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



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**Order of Conditions under**  
Arlington Wetlands Protection Bylaw **ONLY**

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eDEP Transaction #  
Arlington  
City/Town

## B. Findings (cont.)

Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. ☒ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 0  
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 e. c/y dredged	b. square feet f. c/y dredged	c. square feet	d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**Order of Conditions under**  
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Provided by MassDEP:  
91-0274  
MassDEP File #

eDEP Transaction #  
Arlington  
City/Town

## B. Findings (cont.)

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

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	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. nourishment cu yd	d. nourishment cu yd
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
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



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**Order of Conditions under**  
Arlington Wetlands Protection Bylaw **ONLY**

Provided by MassDEP:  
91-0274  
MassDEP File #

eDEP Transaction #  
Arlington  
City/Town

**B. Findings (cont.)**

\* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (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 n/a unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**Order of Conditions under**  
Arlington Wetlands Protection Bylaw **ONLY**

Provided by MassDEP:  
91-0274  
MassDEP File #

eDEP Transaction #  
Arlington  
City/Town

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

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,  
"Massachusetts Department of Environmental Protection" [or, "MassDEP"]  
"File Number            091-274            "
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.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**Order of Conditions under**  
Arlington Wetlands Protection Bylaw **ONLY**

Provided by MassDEP:  
91-0274  
MassDEP File #

eDEP Transaction #  
Arlington  
City/Town

**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;



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**Order of Conditions under**  
Arlington Wetlands Protection Bylaw **ONLY**

Provided by MassDEP:  
91-0274  
MassDEP File #

eDEP Transaction #  
Arlington  
City/Town

**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.





Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**Order of Conditions under**  
Arlington Wetlands Protection Bylaw **ONLY**

Provided by MassDEP:  
91-0274  
MassDEP File #

eDEP Transaction #  
Arlington  
City/Town

**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 Special Conditions #21-46**

**This Order of Conditions is issued only under the Arlington Wetlands Protection Bylaw.**

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.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**Order of Conditions under**  
Arlington Wetlands Protection Bylaw **ONLY**

Provided by MassDEP:  
91-0274  
MassDEP File #

eDEP Transaction #  
Arlington  
City/Town

## D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No
2. The Arlington hereby finds (check one that applies):  
Conservation Commission

- a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. ☒ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

Arlington Bylaw for Wetlands Protection

Title V, Art 8

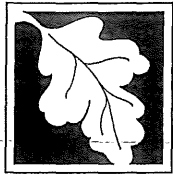
1. Municipal Ordinance or Bylaw

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 Special Conditions #21-46



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:

091-0274

MassDEP File #

eDEP Transaction #

Arlington

City/Town

**E. Signatures**

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



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.

June 19'17

1. Date of Issuance

Five

2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy must be mailed, hand delivered or filed electronically at the same time with the appropriate MassDEP Regional Office.

Signatures:

*[Handwritten signatures of three individuals]*

☒ by hand delivery on

June 19'17

Date

☐ 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 of 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  
**Order of Conditions under**  
Arlington Wetlands Protection Bylaw **ONLY**

Provided by MassDEP:  
91-0274  
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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.

Arlington Conservation Commission, 730 Massachusetts Ave., Arlington, MA 02476  
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:

12 Clyde Terrace, Arlington, MA 02474  
Project Location

091-274  
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

ARLINGTON CONSERVATION COMMISSION  
ORDER OF CONDITIONS –12 CLYDE TERRACE      DEP FILE NO. 91-274  
REDEVELOPMENT

Referenced Documents and Plans

The following Documents and Plans are hereby incorporated into this Order. To the extent that the provisions and conditions in this Order differ from those in these documents, this Order shall control:

1. Letter dated June 28, 2016, from Mark A. Sleger, P.E., to Scott Seaver, with stormwater calculations and stormwater management information, 13 pages.
2. Construction Period Stormwater Operation and Maintenance Plan, Site Redevelopment, 12 Clyde Terrace, Arlington, MA, 5 pages, undated, received at 8/4 meeting.
3. Post-construction Stormwater Operation and Maintenance Plan, Site Redevelopment, 12 Clyde Terrace, Arlington, MA, 4 pages, undated, received at 8/4/16 meeting and incorporated by reference.
4. Plan titled Existing Conditions Plan, in Arlington, MA, for 12 Clyde Terrace, prepared by James Richard Keenan, stamped PLS# 30751, Keenan Survey, 8 Winchester Place, Suite 208, Winchester, MA 01890, prepared for Scott Seaver, Seaver Construction, 215 Lexington St, Woburn, MA 01801, dated 5/5/16, revised 7/25/16, scale 1 inch = 10 feet, submitted at August 4, 2016 hearing.
5. Permit Denial issued by the Commission dated August 24, 2016 for DEP File No. 091-274.
6. Superseding Order of Conditions issued February 21, 2017, for DEP File No. 091-274.
7. Complaint and Petition for Certiorari with Civil Action Cover Sheet and Scheduling Order filed by Attorney Matthew Watsky on behalf of Seaver Construction, postmarked January 11, 2017. Complaint filed October 20, 2016.
8. Notice of Intent under Bylaw only for work at 12 Clyde Terrace, Arlington, MA, signed June 7, 2017, filed June 7, 2017, by Applicant: Scott Seaver of Seaver Construction, 215 Lexington St., Woburn, MA, 01801 and Representative: Mary Trudeau of Lexington, MA, including 5-page "Description of Work, Notice of Intent Filing."
9. Landscaping Plan in Arlington Mass, produced by Keenan Survey, July 19, 2016, revised May 4, 2017.
10. Installation instructions for FENO Anchored Survey Markers by Berntsen

Findings, Facts, and Proceedings under  
Town of Arlington Wetlands Protection Bylaw

After duly noticed public hearings, the Commission makes the following findings of facts and law:

ARLINGTON CONSERVATION COMMISSION  
ORDER OF CONDITIONS –12 CLYDE TERRACE      DEP FILE NO. 91-274  
REDEVELOPMENT

12 Clyde Terrace is an approximately 6,966 square feet developed residential property containing a 1,069-square foot single-family house in disrepair, paved driveway in front and in the rear an in-ground pool surrounded by concrete paving and pavers as well as landscaping and trees, and two sheds along the property line. The existing dwelling and paved surfaces constitute 3,829 square feet of impervious surface.

Existing trees and shrubs include native and non-native vegetation, such as an apple tree, hemlocks, cedar, rhododendron. These are shown on the Landscaping plan.

To the rear of the property (to the northeast) is a Bordering Vegetated Wetland, mostly on land owned by the Town of Arlington. The boundary of this wetland within 100 feet of the lot was delineated by Mary Trudeau in spring of 2016.

The proposed work consists of demolition of the existing house and deck, removal (filling in) of the in-ground swimming pool, removal of surrounding patio and two sheds, and rebuilding a new larger house and patio (the Project). The proposed house would have about 1,500 square foot footprint. In addition, a 14' x 10' patio with pervious pavers is proposed in the northeast corner of the proposed house. An approximately 700-square foot driveway would be on the southwest side of the lot. The Project would result in approximately 56% reduction in the impervious cover to 2,155 square feet on the lot.

The Commission finds that the project is mostly within 100 feet of the BVW, meaning it lies within the Adjacent Upland Resource Area (AURA), under the Town of Arlington Wetlands Protection Bylaw.

The existing house occupies 1,069 square feet of the area within 100 feet of BVW; the proposed house would occupy 1,355 square feet of the 100-ft zone. Including other impervious surfaces such as deck, pool, and patio, the existing impervious surface within 100 feet is 3,991 square feet. The project would reduce total impervious surface by about 56% to 2,173 square feet.

A "Habitat Mitigation Area" is shown on the plan submitted at the 5/18/17 hearing. The Habitat Mitigation Area in the rear of the lot occupies the entire area within 25 feet of the BVW.

The mitigation measures proposed include:

- a. Reducing the footprint of the proposed residence so as to move the house 1 foot further from the wetland;
- b. Deck in previous design replaced by patio to be built with pervious pavers;
- c. Installation and maintenance of erosion and sedimentation controls throughout construction between the work and the BVW;
- d. Removal of existing sheds, pool, and patio within 100 feet of BVW;
- e. Infiltration of roof runoff through a proposed subsurface infiltration unit;

ARLINGTON CONSERVATION COMMISSION  
ORDER OF CONDITIONS –12 CLYDE TERRACE      DEP FILE NO. 91-274  
REDEVELOPMENT

- f. Installation of 3 Shadblow Serviceberry, 3 Silky Dogwood, 3 Rhododendron, 4 Inkberry bushes, 1 Eastern Redbud and 2 Red Cedars;
- g. Removal of trash and debris from back of the lot and are within 25 feet of the lot on adjacent Town of Arlington land which the Applicant stated is likely related to the tenure of the prior occupants at 12 Clyde Terrace, and plant plugs from New England Wetland Plants; and
- h. Placement of permanent bounds at edges of a proposed Habitat Mitigation Area.

The Commission opened the hearing for the prior NOI on June 16, 2016, and it was continued to July 14, 2016, July 21, 2016, August 4, 2016, and August 18, 2016 when it was closed. The Commission deliberated on August 18, 2016 and then voted to deny the project, 4-2, with one Commission member ineligible to vote. Commissioners Nonni, Tirone, White, and White voted in favor of the motion to deny; Commissioners Chapnick and Connors voted in opposition to the motion to deny; and Commissioner Stevens was not eligible to vote as he had missed at least one hearing.

The Commission conducted a site visit on July 13, 2016 with the Applicant and his representative, and, with the Applicant's permission, Commission members also visited the site on their own, individually.

The Commission issued a Permit Denial under the Act and Bylaw on August 24, 2016.

Mary Trudeau, on behalf of the applicant, filed with DEP for a Superseding Order of Conditions on September 2, 2016, citing inconsistency with the regulations promulgated for the Wetlands Protection Act.

The Massachusetts Department of Environment Wetlands Program issued a Superseding Order of Conditions on February 21, 2017 for DEP File No. 091-274.

Pursuant to a settlement agreement between Seaver and the Commission to resolve the Superior Court lawsuit, the Applicant filed a Notice of Intent under the Bylaw only on June 7, 2017.

The Commission opened the hearing on the Notice of Intent filed under the Bylaw only on June 15, 2017. It closed the hearing on the same evening and then deliberated.

The Commission finds that the Resource Areas on the Property are significant to the Resource Area values protected by the Bylaw, as specified in the Bylaw Regulations for each Resource Area.

Based on the testimony at the public hearings, and review of the application materials and the documents listed above submitted during the public hearings, the Commission concludes that while the proposed project will alter Resource Areas under the Bylaw, the work as conditioned will not have significant or cumulative effects upon the resource area values of the Arlington Wetlands Bylaw and the conditions imposed will protect these Resource Area values.

ARLINGTON CONSERVATION COMMISSION  
ORDER OF CONDITIONS –12 CLYDE TERRACE      DEP FILE NO. 91-274  
REDEVELOPMENT

The Commission finds that the proposed project, with the conditions below, meets the performance standards in the Bylaw Regulations.

Based on the foregoing, the Commission voted unanimously to approve the project under the Arlington Wetlands Bylaw subject to the following additional special conditions contained herein.

Special and/or Bylaw Conditions

Conditions 1-20 are the General Conditions on pages 4 and 5 of WPA Form 5.

Additional Special Conditions

21. Work permitted by this Order and Permit shall conform to the Notice of Intent, plans and oral presentations (as recorded in hearing minutes) submitted 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 and which are listed above.
22. The provisions of this Order and Permit shall apply to and be binding upon the applicant and applicant's assigns, tenants, employees, contractors, and agents.
23. No work shall be started under this Order until all other required 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 (emergency) phone numbers of project managers or other persons responsible for site work or mitigation.
26. During construction, the person responsible for on-site compliance shall submit a monthly status report to the Commission. This report shall include, but not be limited to: the status of construction, changes in the construction schedule, any erosion or pollutant problems and how those problems were resolved. The applicant shall be responsible for ensuring that this report is submitted as required.
27. The construction staging and construction access area shall take place at the existing driveway.
28. No heavy equipment may be stored overnight within 50 feet of the BVW. No refueling of machinery shall be done within 50 feet of BVW. No maintenance of machinery shall be allowed within the 100 feet of BVW.
29. All demolition debris shall be removed daily from the 100 foot Buffer Zone/Adjacent Upland Resource Area.



ARLINGTON CONSERVATION COMMISSION  
ORDER OF CONDITIONS –12 CLYDE TERRACE      DEP FILE NO. 91-274  
REDEVELOPMENT

30. All dumpsters must be covered at end of each work day and no dumpsters will be allowed overnight within 50 feet of BVW.
31. No uncovered stockpiling of materials shall be permitted overnight within 50 feet of BVW. The area described in the Notice of Intent for stockpiling (the paved driveway and non-jurisdictional area at the southeast corner of the property) is permitted.
32. In the event of discovery of hazardous materials on the site during excavation work, clean up of these materials shall conform to the requirements and standards of State law and regulations.
33. Tree protection (consisting of 2x4s and burlap) shall be installed on the large street tree (21 inch maple) and maintained throughout the construction period.
34. The contractor shall contact the Conservation Administrator ([ConComm@town.arlington.ma.us](mailto:ConComm@town.arlington.ma.us); 781-316-3012) to arrange for a site walk to confirm the installation and placement of erosion controls prior to the start of any grading work.
35. Any dirt or debris spilled or tracked onto any paved streets shall be swept up and removed daily.
36. The Commission, its employees and its agents, with proper notification of the site supervisor, shall have the right of entry onto the site to inspect for compliance with the terms of this Order of Conditions and Permit.
37. Any plantings and landscaping within the 100-foot Buffer Zone shall conform to the Landscaping Plan in Arlington, MASS, and the following:
- (a) No plant materials shall be used of any species which appears on the Massachusetts Prohibited Plant list at <http://www.mass.gov/agr/farmproducts/prohibitedplantlist.htm>
  - (b) Fertilizers, pesticides, or herbicides shall not be used within 50 feet of the wetland, except as noted in (c) unless a specific need for treating a particular specimen or species has been demonstrated to the Commission, and permission has been granted.
  - (c) Fertilizers may be used at the time of installation of any plant materials, and once more within a year after planting.
  - (d) The minimum sizes for plantings shall be No. 1 pot for woody vegetation. All plantings shall comply with the American Nurseryman Standards;
  - (e) Native plant installations must be maintained and replaced, if necessary, for a minimum of 3 years from the planting date(s).
  - (f) A report shall be sent to the Commission annually indicating the reason for the die-off and recommending changes, if needed, to the species of vegetation planted to ensure survivability.
38. The Applicants shall provide 4 rebar markers bearing the words "habitat area," one at either end of the property line and two in between. **This condition shall not expire with the issuance of a Certificate of Compliance.**
39. The area on the lot within 25 feet of BVW shall be protected in perpetuity by having vegetation but not lawn

ARLINGTON CONSERVATION COMMISSION  
ORDER OF CONDITIONS -12 CLYDE TERRACE      DEP FILE NO. 91-274  
REDEVELOPMENT

in this area. **This condition shall not expire with the issuance of a Certificate of Compliance.**

40. The contractor shall inform the first house buyer of the conditions imposed by the Conservation Commission.
41. Trash on adjacent Town-owned land that is within 25 feet of the project site shall be removed.
42. Plugs (of grasses/sedge/wildflower) from New England Wildflower shall be applied to areas disturbed on Town land where trash is removed.
43. The bottom of the fence at the north property line shall be at least 6" off the ground. **This condition shall not expire with the issuance of a Certificate of Compliance.**
44. The patio shall be built and maintained according to the following specifications:
- a. The patio shall be constructed using pervious pavers;
  - b. The stair and landing shall be constructed within the patio area;
  - c. Specifications for the pavers shall be provided to the Conservation Commission before construction.
- This condition shall not expire with the issuance of a Certificate of Compliance.**
45. Weepholes shall be included in proposed retaining walls on either side of house. **This condition shall not expire with the issuance of a Certificate of Compliance.**
46. 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.

**Conditions 38, 39, 43, 44 and 45 are continuing conditions that remain in effect in perpetuity.**