

# ***“BERNHARD PROPERTY”***

*34 ROBBINS STREET  
ACTON, MASSACHUSETTS*

## **NOTICE OF INTENT**

October 7, 2015

PREPARED FOR:

***JAMES AND JILL BERNHARD  
ROBBINS STREET  
ACTON, MA 01720***

PREPARED BY:

**MEISNER BREM CORPORATION**  
*142 LITTLETON ROAD, STE. 16  
WESTFORD, MA 01886*

MBC JOB NUMBER: 2536

***“BERNHARD PROPERTY”***  
***34 ROBBINS STREET, ACTON, MA***

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***34 ROBBINS ROAD***  
***ACTON, MA***

**Narrative to Accompany Notice of Intent:**

The new property owner, Jim Bernhard, unknowingly filled certain wetland resource areas during construction of the repaired septic system and in extending the driveway. This work was halted by the Acton Conservation Agent, Tom Tidman and followed up by an Enforcement Order issued on or about August 5, 2015 requiring the submittal of a Notice of Intent, Form 3. In addition, the Enforcement Order required:

- a. Wetlands shall be delineated,
- b. Silt prevention measures shall be installed immediately, and
- c. No additional work shall occur until an Order of Conditions has been issued.

Accordingly, this office assisted in the retention of a botanist to delineate the wetlands, Leah Basbanes. The wetlands were delineated at the beginning of September, 2015. This office performed an on-the-ground field survey on two separate dates in late September, 2015 to prepare the existing conditions plan.

The Notice of Intent includes a plan set consisting of 2 distinct sheets. Sheet 1 is essentially an existing conditions plan with notations for fill removal, replication, and mitigation of the areas within the jurisdiction of the Conservation Commission without the proper permits in place. Sheet 2 is a plan which proposes various additional work within the jurisdiction of the Conservation Commission for approval prior to the commencement of the work.

**Sheet 1: Removal of work performed without a valid Order of Conditions:**

*The applicant intends to conform to the issued Enforcement Order and remove and replicate the work performed as shown on Sheet 1 as defined below:*

- A. **Bordering Vegetated Wetland (BVW)** – a small area of approximately 50 square feet of BVW was filled on the northeast section of the property. This area was probably filled during the repair of the septic system. The fill shall be removed.
- B. **Bordering Land Subject to Flooding (Flood Plain)** – Bordering Land Subject to Flooding is the limit of the 100 year flood plain. In this area the elevation is 198.0 or lower. The applicant has

**34 ROBBINS ROAD**  
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mistakenly filled a relatively small area of 422 square feet in the northeast section near the BVW fill above and a relatively large area of 3157 square feet to the south of his home. This is an extension of the existing gravel drive. At the time of the work stoppage the only fill material placed in this area was poor quality fill and tailings which appeared dumped and just spread by a bulldozer. This material must be removed and legally disposed off-site to reestablish the flood elevation of 198 (see sheet 2).

- C. Buffer Zone – All work as stopped per the Enforcement Order was done within 100 feet to the BVW and therefore all work performed was in the jurisdiction of the Acton Conservation Commission pursuant to the Wetland Protection Act and the regulations promulgated therefrom. All work within the Buffer Zone is required to be permitted by the Acton Conservation Commission or the MassDEP upon appeal. Work shall not commence until an Order of Conditions is issued.

Sheet 2: Proposed Work

*The applicant intends to perform the removal and replication described above and seeks permission for the following activities requiring an Order of Conditions from the Acton Conservation Commission or MassDEP upon appeal.*

- A. Grade walkway and slope adjacent to house for safety (this work is Buffer Work only).
- B. Relocate Shed B (this work is Buffer Work only).
- C. Reconstruct driveway as a “U” shape. The driveway includes a 40’ section in the center as permeable pavement through the use of infiltrating pavers with asphalt approaches on each side to Robbins Street. A primary reason for the U shape is the safety consideration for sight distance. (a portion of this work is Buffer Work only with some of this work outside the jurisdiction).
- D. Minor regrading on the westerly side of the septic system to eliminate steep areas (safety).
- E. Trim overgrowth in area to the northeast for public safety (this work is Buffer Work only).
- F. Proposed future addition of “in-law” apartment on the north side of house at (some time within the next 3 years - this work is Buffer Work only).
- G. Proposed 10’ x 35’ wooden deck to replace garden patio area and stairs (this work is Buffer Work only).

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142 LITTLETON ROAD, STE. 16, WESTFORD, MA 01886

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- H. Proposed 2 car garage and building addition to the south side of house. This work is within the bordering land subject to flooding and will require permanent volumetric compensation.
- I. Regrade area within areas where fill was as shown on Sheet 1 to allow for 3 inches of loam (topsoil) spread and seeded with grass seed to Elevation 198. This work is within the bordering land subject to flooding and will require permanent volumetric compensation in the same location as the placement of the fill.

The applicant intends to do all work within 6 months with the exception of Items F, G & H. These items would be done at such time as financing would allow but within the time limits of the Order or as may be extended, for good cause. At the conclusion of the work, the applicant will prepare an As Built Plan by a registered professional engineer certifying the work was performed in accordance with the Order and/or detailing the inconsistencies.

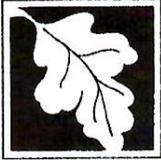
2536 Bernhard

AUTOLOD PRINTOUT OF VOLUMETRIC COMPUTATIONS

Site Volume Table: Unadjusted

Site	Stratum	Surf1	Surf2	Cut Feet	Fill Feet	Net Feet	Method
2536-BERNHARDT	Stratum B	Existing	Proposed B	0	70	70 (F)	Composite
	Stratum C	Existing	Proposed C	453	0	453 (C)	Composite





**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**WPA Form 9A – Enforcement Order**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

Provided by DEP

**B. Findings (cont.)**

Other (specify):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**C. Order**

The issuing authority hereby orders the following (check all that apply):

- The property owner, his agents, permittees, and all others shall immediately cease and desist from the further activity affecting the Buffer Zone and/or wetland resource areas on this property.
- Wetland alterations resulting from said activity should be corrected and the site returned to its original condition.
- Complete the attached Notice of Intent. The completed application and plans for all proposed work as required by the Act and Regulations shall be filed with the Issuing Authority on or before September 30<sup>th</sup>, 2015  
Date

No further work shall be performed until a public hearing has been held and an Order of Conditions has been issued to regulate said work.

The property owner shall take the following action to prevent further violations of the Act:

1. Wetlands shall be delineated
  2. Silt prevention measures shall be installed immediately
  3. No additional work shall occur until an Order of Conditions has been issued.
- \_\_\_\_\_
- \_\_\_\_\_

Failure to comply with this Order may constitute grounds for additional legal action. Massachusetts General Laws Chapter 131, Section 40 provides: "Whoever violates any provision of this section (a) shall be punished by a fine of not more than twenty-five thousand dollars or by imprisonment for not more than two years, or both, such fine and imprisonment; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each violation". Each day or portion thereof of continuing violation shall constitute a separate offense.



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**WPA Form 9A – Enforcement Order**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

Provided by DEP

**D. Appeals/Signatures**

An Enforcement Order issued by a Conservation Commission cannot be appealed to the Department of Environmental Protection, but may be filed in Superior Court.

Questions regarding this Enforcement Order should be directed to:

Tom Tidman, [ttidman@acton-ma.gov](mailto:ttidman@acton-ma.gov)

Name

978-929-6634

Phone Number

8AM - 5 PM

Hours/Days Available

Issued by:

ACTON (See page 4 for signatures)

Conservation Commission

In a situation regarding immediate action, an Enforcement Order may be signed by a single member or agent of the Commission and ratified by majority of the members at the next scheduled meeting of the Commission.

Signatures:

_____	_____
_____	_____
_____	_____
_____	_____

\_\_\_\_\_  
 Signature of delivery person or certified mail number



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**WPA Form 9 – Enforcement Order**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number: \_\_\_\_\_

**D. Appeals/Signatures (cont.)**

In a situation regarding immediate action, an Enforcement Order may be signed by a single member or agent of the Commission and ratified by majority of the members at the next scheduled meeting of the Commission.

Signatures:

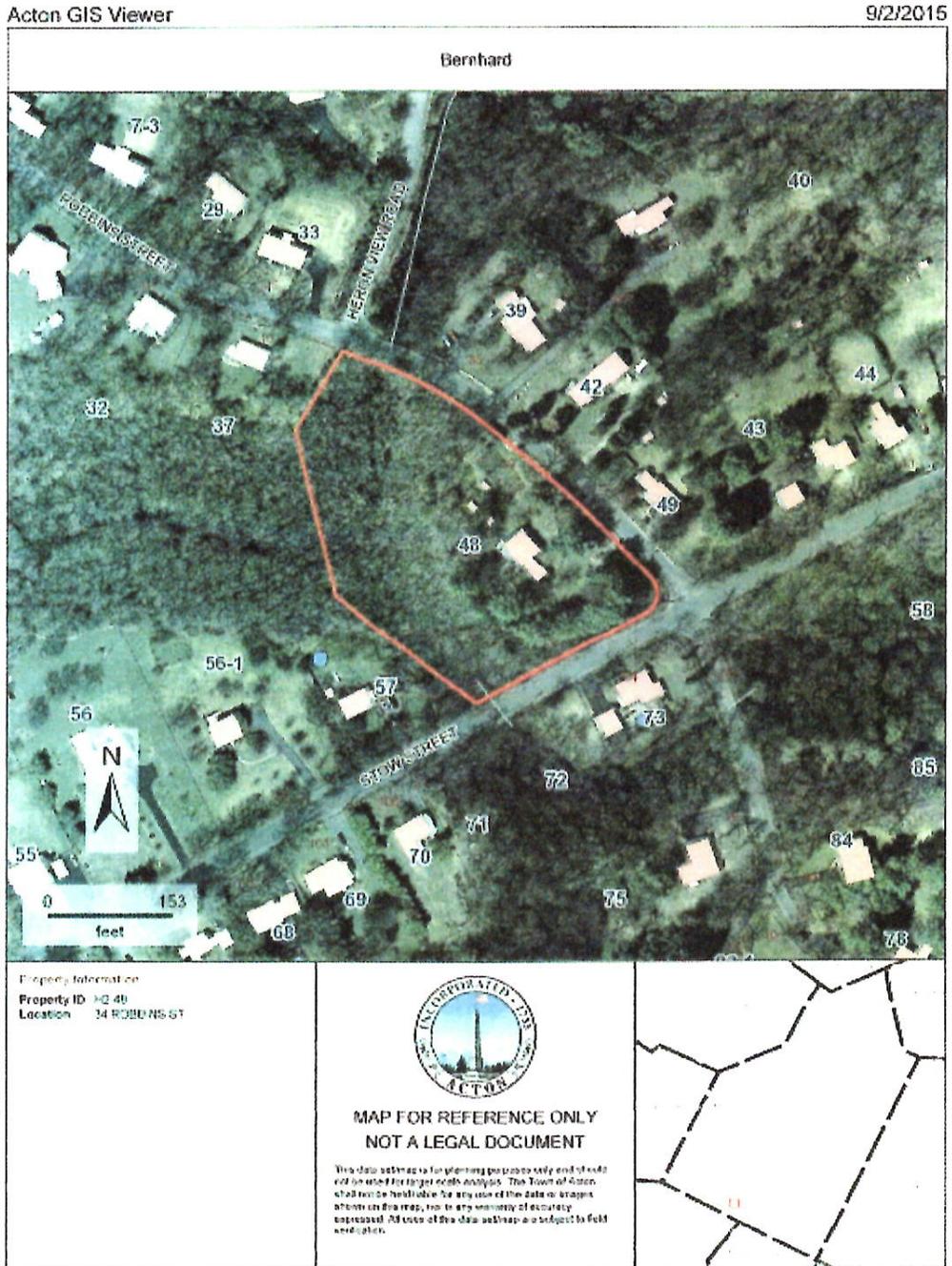
*Terrence Maitland, C.A.P.R.* \_\_\_\_\_ *Paul [unclear]* \_\_\_\_\_  
*William Folsom* \_\_\_\_\_ *James C. Colman* \_\_\_\_\_  
*[unclear] Vice Chair* \_\_\_\_\_  
*Ang [unclear]* \_\_\_\_\_

\_\_\_\_\_  
Signature of delivery person or certified mail number

**MEISNER BREM CORPORATION**  
142 LITTLETON ROAD, STE. 16, WESTFORD, MA 01886

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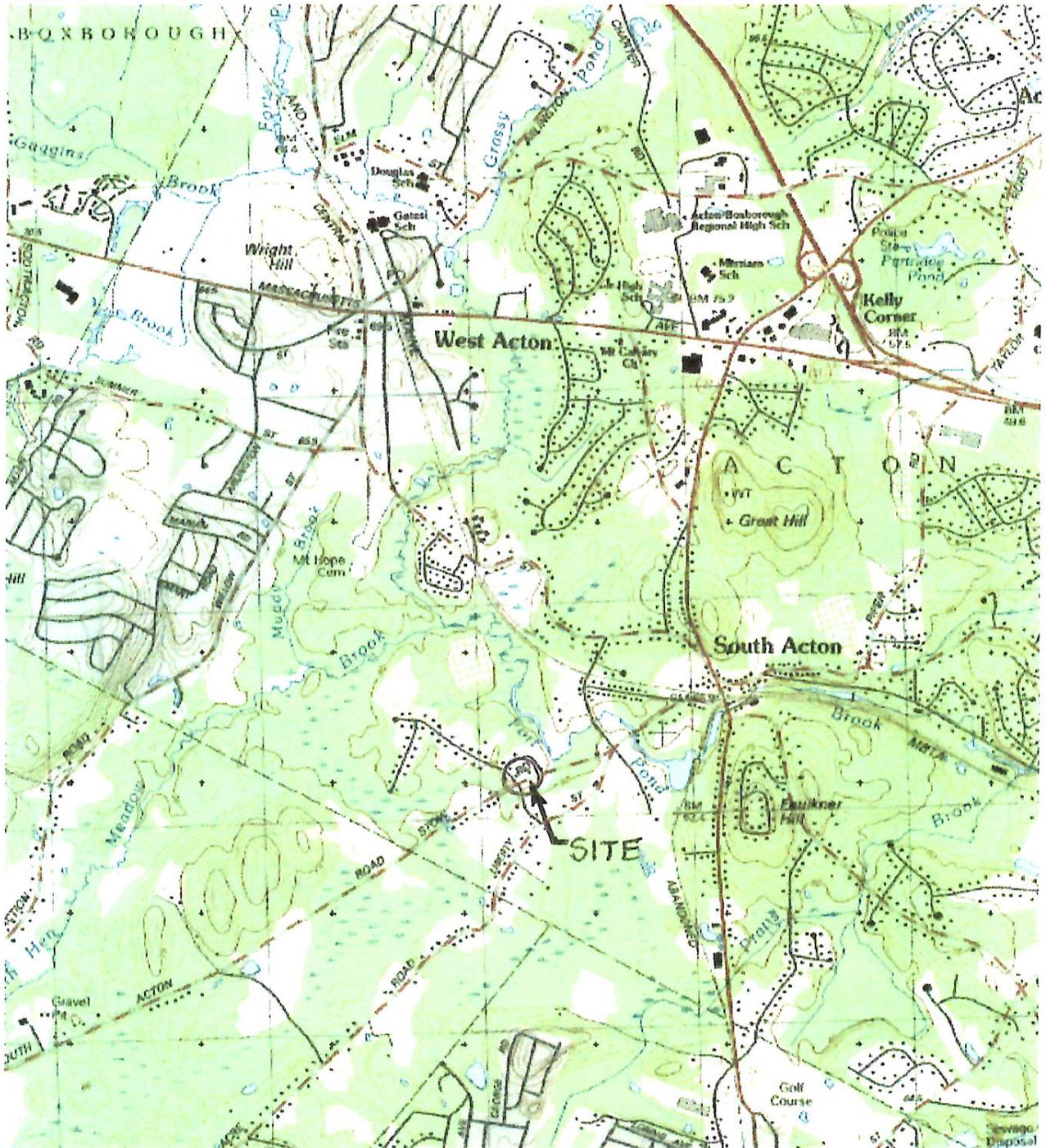
**Site Locus Map**  
NOT TO SCALE



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**USGS MAP Not to  
scale**







**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands

Provided by MassDEP:

**WPA Form 3 – Notice of Intent**

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

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Acton

City/Town

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



**Note:**  
 Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

**A. General Information**

1. Project Location (**Note:** electronic filers will click on button to locate project site):

34 Robbins Street Acton 01720  
 a. Street Address b. City/Town c. Zip Code

Latitude and Longitude: \_\_\_\_\_  
 d. Latitude e. Longitude

Map H2 Parcel 48  
 f. Assessors Map/Plat Number g. Parcel /Lot Number

2. Applicant:

James Bernhard  
 a. First Name b. Last Name

\_\_\_\_\_ c. Organization

34 Robbins Street  
 d. Street Address

Acton MA 01720  
 e. City/Town f. State g. Zip Code

978-502-2465 \_\_\_\_\_  
 h. Phone Number i. Fax Number j. Email Address

3. Property owner (required if different from applicant):  Check if more than one owner

James and Jill Bernhard  
 a. First Name b. Last Name

\_\_\_\_\_ c. Organization

Same  
 d. Street Address

\_\_\_\_\_ e. City/Town \_\_\_\_\_ f. State \_\_\_\_\_ g. Zip Code

\_\_\_\_\_ h. Phone Number \_\_\_\_\_ i. Fax Number \_\_\_\_\_ j. Email address

4. Representative (if any):

Jeffrey A. Brem  
 a. First Name b. Last Name

Meisner Brem Corporation  
 c. Company

142 Littleton Road  
 d. Street Address

Westford MA 01886  
 e. City/Town f. State g. Zip Code

978-692-1313 978-692-0303 jabrem@meisnerbrem.com  
 h. Phone Number i. Fax Number j. Email address

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

\$110.00 \$42.50 \$67.50  
 a. Total Fee Paid b. State Fee Paid c. City/Town Fee Paid



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A. General Information (continued)

6. General Project Description:

This filing is for work on an existing single family home to remove recently placed fill under an Enforcement Order from the Town of Acton. It is to include the construction of a garage and relocation of the existing driveway, deck, a future in-law addition and associated utilities, grading and landscaping.

7a. Project Type Checklist: (Limited Project Types see Section A. 7b.)

- 1. [X] Single Family Home
2. [ ] Residential Subdivision
3. [ ] Commercial/Industrial
4. [ ] Dock/Pier
5. [ ] Utilities
6. [ ] Coastal engineering Structure
7. [ ] Agriculture (e.g., cranberries, forestry)
8. [ ] Transportation
9. [ ] Other

7b. Is any portion of the proposed activity eligible to be treated as a limited project (including Ecological Restoration Limited Project) subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

- 1. [ ] Yes [ ] No If yes, describe which limited project applies to this project. (See 310 CMR 10.24 and 10.53 for a complete list and description of limited project types)

2. Limited Project Type

If the proposed activity is eligible to be treated as an Ecological Restoration Limited Project (310 CMR 10.24(8), 310 CMR 10.53(4)), complete and attach Appendix A: Ecological Restoration Limited Project Checklist and Signed Certification.

8. Property recorded at the Registry of Deeds for:

Middlesex North

a. County

13354

c. Book

b. Certificate # (if registered land)

436

d. Page Number

B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- 1. [ ] Buffer Zone Only - Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
2. [X] Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands

Provided by MassDEP:

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

**B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)**

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Bank	1. linear feet _____	2. linear feet _____
b. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	50 S.F. 1. square feet _____	50 S.F. 2. square feet _____
c. <input type="checkbox"/> Land Under Waterbodies and Waterways	1. square feet _____ 3. cubic yards dredged _____	2. square feet _____

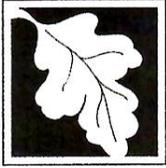
Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
d. <input checked="" type="checkbox"/> Bordering Land Subject to Flooding	3,579 S.F. 1. square feet _____ 3. cubic feet of flood storage lost _____	3,580 S.F. 2. square feet _____ 4. cubic feet replaced _____
e. <input type="checkbox"/> Isolated Land Subject to Flooding	1. square feet _____ 2. cubic feet of flood storage lost _____	3. cubic feet replaced _____

- f.  Riverfront Area
1. Name of Waterway (if available) - **specify coastal or inland** \_\_\_\_\_
2. Width of Riverfront Area (check one):
- 25 ft. - Designated Densely Developed Areas only
- 100 ft. - New agricultural projects only
- 200 ft. - All other projects
3. Total area of Riverfront Area on the site of the proposed project: \_\_\_\_\_ square feet
4. Proposed alteration of the Riverfront Area:
- a. total square feet \_\_\_\_\_ b. square feet within 100 ft. \_\_\_\_\_ c. square feet between 100 ft. and 200 ft. \_\_\_\_\_

5. Has an alternatives analysis been done and is it attached to this NOI?  Yes  No
6. Was the lot where the activity is proposed created prior to August 1, 1996?  Yes  No

3.  Coastal Resource Areas: (See 310 CMR 10.25-10.35)

**Note:** for coastal riverfront areas, please complete **Section B.2.f.** above.



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## B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users:  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
a. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below	
b. <input type="checkbox"/> Land Under the Ocean	1. square feet _____ 2. cubic yards dredged _____	
c. <input type="checkbox"/> Barrier Beach	Indicate size under Coastal Beaches and/or Coastal Dunes below	
d. <input type="checkbox"/> Coastal Beaches	1. square feet _____	2. cubic yards beach nourishment _____
e. <input type="checkbox"/> Coastal Dunes	1. square feet _____	2. cubic yards dune nourishment _____

	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
f. <input type="checkbox"/> Coastal Banks	1. linear feet _____	
g. <input type="checkbox"/> Rocky Intertidal Shores	1. square feet _____	
h. <input type="checkbox"/> Salt Marshes	1. square feet _____	2. sq ft restoration, rehab., creation _____
i. <input type="checkbox"/> Land Under Salt Ponds	1. square feet _____ 2. cubic yards dredged _____	
j. <input type="checkbox"/> Land Containing Shellfish	1. square feet _____	
k. <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 1. cubic yards dredged _____	
l. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	1. square feet _____	

4.  Restoration/Enhancement  
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.2.b or B.3.h above, please enter the additional amount here.

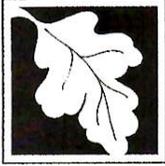
a. square feet of BVW \_\_\_\_\_

b. square feet of Salt Marsh \_\_\_\_\_

5.  Project Involves Stream Crossings

a. number of new stream crossings \_\_\_\_\_

b. number of replacement stream crossings \_\_\_\_\_



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## C. Other Applicable Standards and Requirements

- This is a proposal for an Ecological Restoration Limited Project. Skip Section C and complete Appendix A: Ecological Restoration Notice of Intent – Required Actions (310 CMR 10.11).

### Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to [http://maps.massgis.state.ma.us/PRI\\_EST\\_HAB/viewer.htm](http://maps.massgis.state.ma.us/PRI_EST_HAB/viewer.htm).

- a.  Yes  No **If yes, include proof of mailing or hand delivery of NOI to:**

Natural Heritage and Endangered Species Program  
Division of Fisheries and Wildlife  
1 Rabbit Hill Road  
Westborough, MA 01581

- On-line 10-1-15  
b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.c, and include requested materials with this Notice of Intent (NOI); *OR* complete Section C.1.f, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

- c. Submit Supplemental Information for Endangered Species Review\*

1.  Percentage/acreage of property to be altered:

(a) within wetland Resource Area \_\_\_\_\_ percentage/acreage

(b) outside Resource Area \_\_\_\_\_ percentage/acreage

2.  Assessor's Map or right-of-way plan of site

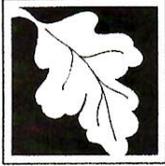
2.  Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work \*\*

(a)  Project description (including description of impacts outside of wetland resource area & buffer zone)

(b)  Photographs representative of the site

\* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <http://www.mass.gov/eea/agencies/dfg/dfw/natural-heritage/regulatory-review/>). Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

\*\* MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



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## C. Other Applicable Standards and Requirements (cont'd)

(c)  MESA filing fee (fee information available at [http://www.mass.gov/dfwele/dfw/nhesp/regulatory\\_review/ mesa/ mesa\\_fee\\_schedule.htm](http://www.mass.gov/dfwele/dfw/nhesp/regulatory_review/ mesa/ mesa_fee_schedule.htm)). Make check payable to "Commonwealth of Massachusetts - NHESP" and **mail to NHESP** at above address

*Projects altering 10 or more acres of land, also submit:*

(d)  Vegetation cover type map of site

(e)  Project plans showing Priority & Estimated Habitat boundaries

(f) OR Check One of the Following

1.  Project is exempt from MESA review. Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, [http://www.mass.gov/dfwele/dfw/nhesp/regulatory\\_review/ mesa/ mesa\\_exemptions.htm](http://www.mass.gov/dfwele/dfw/nhesp/regulatory_review/ mesa/ mesa_exemptions.htm); the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

2.  Separate MESA review ongoing. a. NHESP Tracking # b. Date submitted to NHESP

3.  Separate MESA review completed. Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

3. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?

a.  Not applicable – project is in inland resource area only      b.  Yes     No

If yes, include proof of mailing, hand delivery, or electronic delivery of NOI to either:

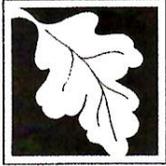
South Shore - Cohasset to Rhode Island border, and the Cape & Islands:

North Shore - Hull to New Hampshire border:

Division of Marine Fisheries -  
Southeast Marine Fisheries Station  
Attn: Environmental Reviewer  
1213 Purchase Street – 3rd Floor  
New Bedford, MA 02740-6694  
Email: [DMF.EnvReview-South@state.ma.us](mailto:DMF.EnvReview-South@state.ma.us)

Division of Marine Fisheries -  
North Shore Office  
Attn: Environmental Reviewer  
30 Emerson Avenue  
Gloucester, MA 01930  
Email: [DMF.EnvReview-North@state.ma.us](mailto:DMF.EnvReview-North@state.ma.us)

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.



# WPA Form 3 – Notice of Intent

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

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## C. Other Applicable Standards and Requirements (cont'd)

**Online Users:**  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

4. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?
- a.  Yes  No If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.
- b. ACEC
5. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?
- a.  Yes  No
6. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?
- a.  Yes  No
7. Is this project subject to provisions of the MassDEP Stormwater Management Standards?
- a.  Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:
1.  Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)
  2.  A portion of the site constitutes redevelopment
  3.  Proprietary BMPs are included in the Stormwater Management System.
- b.  No. Check why the project is exempt:
1.  Single-family house
  2.  Emergency road repair
  3.  Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

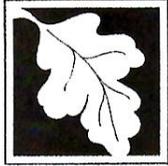
## D. Additional Information

- This is a proposal for an Ecological Restoration Limited Project. Skip Section D and complete Appendix A: Ecological Restoration Notice of Intent – Minimum Required Documents (310 CMR 10.12).

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

**Online Users:** Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

1.  USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
2.  Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.



# WPA Form 3 – Notice of Intent

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

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

Acton

City/Town

## D. Additional Information (cont'd)

3.  Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.

4.  List the titles and dates for all plans and other materials submitted with this NOI.

"34 Robbins Street Plan Set"

a. Plan Title

Meisner Brem Corporation

Jeffrey A. Brem

b. Prepared By

c. Signed and Stamped by

October 7, 2015

1"=40'

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

5.  If there is more than one property owner, please attach a list of these property owners not listed on this form.

6.  Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.

7.  Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.

8.  Attach NOI Wetland Fee Transmittal Form

9.  Attach Stormwater Report, if needed.

## E. Fees

1.  Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

2. Municipal Check Number  
104

3. Check date  
10-5-15

4. State Check Number  
103

5. Check date  
10-5-15

6. Payor name on check: First Name  
James

7. Payor name on check: Last Name  
Bernhard



# WPA Form 3 – Notice of Intent

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

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

Acton

City/Town

## F. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

1. Signature of Applicant

2. Date

3. Signature of Property Owner (if different)

4. Date

5. Signature of Representative (if any)

6. Date

### For Conservation Commission:

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

### For MassDEP:

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a **copy** of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

### Other:

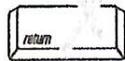
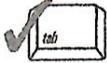
If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.



Massachusetts Department of Environmental Protection  
 Bureau of Resource Protection - Wetlands  
**NOI Wetland Fee Transmittal Form**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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



**A. Applicant Information**

1. Location of Project:

34 Robbins Street  
 a. Street Address  
 Acton  
 b. City/Town  
 103  
 c. Check number  
 \$ 42.50  
 d. Fee amount

2. Applicant Mailing Address:

James  
 a. First Name  
 Bernhard  
 b. Last Name  
 c. Organization  
 34 Robbins Street  
 d. Mailing Address  
 Acton  
 e. City/Town  
 MA  
 f. State  
 01720  
 g. Zip Code  
 978-502-2465  
 h. Phone Number  
 i. Fax Number  
 j. Email Address

3. Property Owner (if different):

James and Jill  
 a. First Name  
 Bernhard  
 b. Last Name  
 c. Organization  
 Same  
 d. Mailing Address  
 e. City/Town  
 f. State  
 g. Zip Code  
 h. Phone Number  
 i. Fax Number  
 j. Email Address

**B. Fees**

Fee should be calculated using the following process & worksheet. **Please see Instructions before filling out worksheet.**

**Step 1/Type of Activity:** Describe each type of activity that will occur in wetland resource area and buffer zone.

**Step 2/Number of Activities:** Identify the number of each type of activity.

**Step 3/Individual Activity Fee:** Identify each activity fee from the six project categories listed in the instructions.

**Step 4/Subtotal Activity Fee:** Multiply the number of activities (identified in Step 2) times the fee per category (identified in Step 3) to reach a subtotal fee amount. Note: If any of these activities are in a Riverfront Area in addition to another Resource Area or the Buffer Zone, the fee per activity should be multiplied by 1.5 and then added to the subtotal amount.

**Step 5/Total Project Fee:** Determine the total project fee by adding the subtotal amounts from Step 4.

**Step 6/Fee Payments:** To calculate the state share of the fee, divide the total fee in half and subtract \$12.50. To calculate the city/town share of the fee, divide the total fee in half and add \$12.50.

To calculate filing fees, refer to the category fee list and examples in the instructions for filling out WPA Form 3 (Notice of Intent).



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**NOI Wetland Fee Transmittal Form**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**B. Fees (continued)**

Step 1/Type of Activity	Step 2/Number of Activities	Step 3/Individual Activity Fee	Step 4/Subtotal Activity Fee
Category 1a	1	\$110	\$110.00
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**Step 5/Total Project Fee:** \$110.00

**Step 6/Fee Payments:**

Total Project Fee:	<u>\$110.00</u>
State share of filing Fee:	<u>\$42.50</u>
City/Town share of filing Fee:	<u>\$67.50</u>
	a. Total Fee from Step 5
	b. 1/2 Total Fee <del>less</del> \$12.50
	c. 1/2 Total Fee <del>plus</del> \$12.50

**C. Submittal Requirements**

- a.) Complete pages 1 and 2 and send with a check or money order for the state share of the fee, payable to the Commonwealth of Massachusetts.

Department of Environmental Protection  
 Box 4062  
 Boston, MA 02211

- b.) **To the Conservation Commission:** Send the Notice of Intent or Abbreviated Notice of Intent; a **copy** of this form; and the city/town fee payment.

**To MassDEP Regional Office** (see Instructions): Send a copy of the Notice of Intent or Abbreviated Notice of Intent; a **copy** of this form; and a **copy** of the state fee payment. (E-filers of Notices of Intent may submit these electronically.)

JAMES BERNHARD  
34 ROBBINS ST  
ACTON, MA 01720

104

53-7054/2113  
4825

10/5/15

Date

Pay to the  
Order of

Town of Acton

\$ 67.50

Sixty Seven and 50/100

Dollars



Security  
Features  
Details on  
Back



Bank

America's Most Convenient Bank<sup>®</sup>

For

34 Robbins St Acton, MA 01720

*[Signature]*

MP

⑆ 211370545⑆ 8251389356⑆ 0104

JAMES BERNHARD  
34 ROBBINS ST  
ACTON, MA 01720

103

53-7054/2113  
4825

10/5/15

Date

Pay to the  
Order of

Commonwealth of Massachusetts

\$ 42.50

Forty two and 50/100

Dollars



Security  
Features  
Details on  
Back



Bank

America's Most Convenient Bank<sup>®</sup>

For

34 Robbins St Acton MA

*[Signature]*

MP

⑆ 211370545⑆ 8251389356⑆ 0103



Town of Acton  
 472 Main Street  
 Acton, MA 01720  
 Telephone (978) 929-6621  
 Fax (978) 929-6340

Brian McMullen  
 Principal Assessor

Locus: 34 Robbins St  
 Parcel ID: H2-48

Parcel ID	Location	Owner	Co-Owner	Mailing Address	City
H2-15-5	3 HERON VIEW RD	SCHUEER DAVID L	SCHUEER DIANE L	3 HERON VIEW	ACTON, MA 01720
H2-33	45 ROBBINS ST	LEAV ROSS B	JIANG JANE YE	45 ROBBINS ST	ACTON, MA 01720
H2-37	40 ROBBINS ST	BILBE MARK + VANESSA	RIVERO MARTIN A	40 ROBBINS ST	ACTON, MA 01720
H2-39	35 ROBBINS ST	RIVERO KAREN L		35 ROBBINS ST	ACTON, MA 01720
H2-40	35 ROBBINS ST	WHITE KATHRYN		35 ROBBINS ST	ACTON, MA 01720
H2-42	33 ROBBINS ST	SAHLBERG ERIC S	SAHLBERG SUSAN	33 ROBBINS ST	ACTON, MA 01720
H2-49	31 ROBBINS ST	DOWEN PAUL E	DOWEN KATHLEEN A	31 ROBBINS ST	ACTON, MA 01720
H2-56-1	105 STOW ST	REITSMAN DAVID M	REITSMAN JENAL L	105 STOW ST	ACTON, MA 01720
H2-57	101 STOW ST	LAGRASSA PETER C		101 STOW ST	ACTON, MA 01720
H2-58	84 STOW ST	FAY DAVID A	FAY LAURA	83 STOW ST	ACTON, MA 01720
H2-71	106 STOW ST	HANNON MARTHA J		106 STOW ST	ACTON, MA 01720
H2-72	98 STOW ST	TAYLOR SANDRA L		94 STOW ST	ACTON, MA 01720
H2-73	94 STOW ST	TAYLOR SANDRA L		94 STOW ST	ACTON, MA 01720

The owner of sharing a common boundary or corner with the site of the proposed activity (100 feet) in any direction, including land located directly across a street, way, creek, river, stream, brook or canal. The above are as they appear on the most recent applicable taxes.

*Marty Abbott*  
 Marty Abbott  
 Acton Assessors Office  
 9/2/0215

Notification to Abutters Under the  
Massachusetts Wetlands Protection Act

In accordance with the second paragraph of Massachusetts General Laws Chapter 131, Section 40, you are hereby notified of the following.

- A. The name of the applicant is James Bernhard
- B. The applicant has filed a Notice of Intent with the Conservation Commission for the municipality of Acton. This filing is for a Notice of Intent for work on an existing single family house lot in an area subject to protection under the Wetlands Protection Act (General Laws Chapter 131, Section 40).
- C. The address of the lot where the activity is proposed is 34 Robbins Street
- D. Copies of the Notice of Intent may be examined at Acton Conservation Commission between the hours of 8:00 and 5:00 on the following days of the week: Monday - Friday.

For more information, call: (978) 929-6634.

Check One: This is the applicant , representative X, or other (specify): Acton Conservation Commission.

- E. Copies of the Notice of Intent may be obtained from either (check one) the applicant , or the applicant's representative  by calling this telephone number (978) 692-1313 between the hours of 8:00 and 3:30 on the following days of the week: Monday - Thursday.
- F. Information regarding the date, time, and place of the public hearing may be obtained from the Acton Conservation Commission by calling this telephone number (978) 929-6634 between the hours of 8:00 and 5:00 on the following days of the week: Monday - Friday.

Check One: This is the applicant , representative , or other  (specify):

**NOTE: Notice of the public hearing, including its date, time, and place, will be published at least five (5) days in advance in the** The Acton Beacon  
(name of newspaper)

**NOTE: Notice of the public hearing, including its date, time, and place, will be posted in the City or Town Hall not less than forty-eight (48) hours in advance.**

**NOTE: You also may contact your local Conservation Commission or the nearest Department of the Environmental Protection Regional Office for more information about this application or the Wetlands Protection Act. To contact DEP, call:**

Central Region: 508-792-7650  
Southeast Region: 508-946-2700

Northeast Region: 978-661-7600  
Western Region: 413-784-1100

**NOTIFICATION TO ABUTTERS  
UNDER THE MASSACHUSETTS WETLANDS PROTECTION ACT  
AND THE TOWN OF ACTON WETLANDS BYLAW**

In accordance with the second paragraph of Massachusetts General Laws Chapter 131, Section 40 and the Town of Acton Bylaws, you are hereby notified of the following:

The Applicant: James Bernhard

Address 34 Robbins Street Phone see Applicant's Representative  
phone number below

has filed a Notice of Intent with the Acton Conservation Commission seeking permission to remove, fill, dredge or alter an Area Subject to Protection under the Wetlands Protection Act.

Applicant's Representative: Meisner Brem Corporation

Address 142 Littleton Road Ste. 16 Phone 978-692-1313  
Westford, MA 01886

The address of the property where the activity is proposed \_\_\_\_\_

34 Robbins Street

Town Atlas Plate/Map H-2 Parcel/Lot 48

Project Description This filing is for a Notice of Intent for work on  
an existing single family house lot in an area subject to  
protection under the wetlands Protection Act.

For more information please contact the Conservation Office at 978-929-6634 or email [NR@acton-ma.gov](mailto:NR@acton-ma.gov). Copies of the Notice of Intent may be examined at the Conservation Office, Acton Town Hall, 472 Main Street, Acton between the hours of 9:00 A.M. and 4:30 P.M. Monday through Friday.

A Public Hearing will be held at the Acton Town Hall, 472 Main Street, on Wednesday,  
October 21, 2015 at 8:00 P.M.  
(date)

The notice of the public hearing will be published at least five (5) days in advance in the Acton edition of the *Beacon* newspaper or *Metrowest Daily News*.

NOTE: You may also contact your local conservation commission or the nearest Department of Environmental Protection Regional Office\* for the information about this application or, the Wetlands Protection Act. Acton is in the Central Region. To contact DEP, call:

**\*DEP Central Region: 508-792-7650  
627 Main Street, Worcester MA 01608**

## BASBANES WETLAND CONSULTING

39 Hardy St.  
Dunstable, MA 01827  
(978) 649-3839

Sept 23 2015

Meisner Brem  
142 Littleton Rd., Ste 16  
Westford, MA 01886

The following is a report on the delineation of the wetland resource areas on the property at 34 Robbins St. Acton, MA. The delineation was done in August 20, 2015. The jurisdictional resource areas established in the Massachusetts Wetlands Protection Act relevant to this site are 310 CMR 10.55: Bordering Vegetated Wetlands. The wetlands border on an intermittent stream to the west of the property. The site has been disturbed in some areas by the removal vegetation and the placement of fill.

### Delineation Method

A wetland delineation is typically done by visual survey of topography, evidence of hydrology, and identification of plant species. A determination is made for each plant species as to their indicator status as referenced in the "National List of Plant Species that Occur in Wetlands", published by the Fish and Wildlife Service. The boundary of the wetland is then determined to be where 50% or more of the vegetation community consists of wetland indicator species with a status of FAC or wetter. Where there is a dominance of wetland plants species, evidence of hydrology is looked for, i.e. water stained leaves, drainage patterns, morphological adaptations, and hydric soils. Typically, hydric soils are determined by digging a pit 20" deep and observing the horizons for color and features. Determinations are made referencing "Field Indicators for Identifying Hydric Soils in New England" and color matched to the Munsell Soil Color Charts.

### Flagging Series

The wetland resource area is defined by 1 flagging series: #1A - #21A. The boundaries were defined by using soils, vegetation and topography.

### Vegetation

The delineated area is vegetated with the following dominant species:

Maple, Red <i>Acer rubrum</i>	FAC
Oak, Red <i>Quercus rubra</i>	FACU
Pine, White <i>Pinus strobus</i>	FACU
Hazelnut <i>Corylus americana</i>	FACU-
Highbush Blueberry <i>Vaccinium corymbosum</i>	FACW
Lowbush Blueberry <i>Vaccinium angustifolium</i>	FACU
Spicebush <i>Lindera benzoin</i>	FACW-
Blackberry <i>Rubus spp.</i>	FAC
Multiflora Rose <i>Rosa multiflora</i>	FACU
Fern Bracken <i>Pteridium aquilinum</i>	FACU

Fern Cinnamon <i>Osmunda cinnamomea</i>	FACW
Fern Royal <i>Osmunda regalis</i>	OBL
Fern Interrupted <i>Osmunda claytoniana</i>	FAC
Fern, New York <i>Thelypteris noveboracensis</i>	FAC
Canada Mayflower <i>Maianthemum canadense</i>	FAC-
Partridgeberry <i>Mitchella repens</i>	FACU
Poison Ivy <i>Toxicodendron radicans</i>	FAC
Jewellweed <i>Impatiens capensis</i>	FACW

**Soils**

As referenced to the Soil Survey, the soils in this area are of the Charlton Hollis rock outcrop complex in the upland areas, Freetown and Swansea series in the wetland areas.

**Charlton- Hollis-Rock outcrop** complex which consists of well-drained, deep Charlton soils exposed bedrock and somewhat excessively drained shallow Hollis soils on ridges and hills. Surface is covered with stones 1 to 3 feet in diameter and areas of Rock outcrop that are 30 - 100 feet apart. The areas consist approximately of 60% Charlton, 15% Hollis, 10% Rock outcrop and 15% other soils. The soils and exposed bedrock in this unit are so intermingled, that they were not mapped separately.

**Freetown** soils area nearly level deep very poorly drained organic soils in depressions and on flat areas of upland and glacial outwash plains. They formed in 51" to many feet of black, highly decomposed organic material over sandy or loamy mineral material. Permeability is moderate to moderately rapid. They have a water table at or near the surface most of the year.

**Swansea** series consist of nearly level, deep (5+ ft.), very poorly drained organic soils in depressions and low flat areas of uplands and glacial outwash plains and terraces. They formed in 16 to 51 inches of black, highly decomposed organic material (muck) with moderate or moderately rapid permeability, over sandy mineral material with very rapid permeability. They have a water table that is at or near the surface most of the year.

Soil probes were in several locations along the wetland boundary. The typical soil profiles found are as follows:

<u>SP wet</u>		<u>SP upland</u>	
O	<1"	O	<1"
A	0" – 8" 10YR 2/2	A	0" – 8" 10YR 2/2
B	8" – 18" 10YR 4/2 redox present saturated at 12"	B	8" – 18" 2.10YR 4/4

**FEMA**

Most of the property, excluding the house lies within an AE Flood zone.

**Rare Species**

Per CMR 310 10.59 Estimated Habitat of Rare Wildlife, the Natural Heritage Endangered Species Program must be notified of any proposed work within the habitat regardless of wetlands. This site does **not** fall within a Natural Heritage Estimated and Priority Habitat as referenced to the NHESP MassGIS website 2008.

If you have any questions please do not hesitate to contact me. Thank you.

Sincerely,



Leah D. Basbanes, M.A.  
Wetland Consultant/Biologist

The wetland resource areas were delineated/reviewed in the keeping with the Massachusetts Wetland Protection Act and were done so to the best of our abilities. Considering all the variables (seasonal growth form of vegetation, soils conditions, topography, weather, etc.) involved in such an effort, please be advised that despite the best effort, no wetland delineation is considered definitive until verified and approved by the final issuing authority.