



**Order of Conditions  
Wetlands Protection Bylaw  
Chapter F**

From the ACTON CONSERVATION COMMISSION Issuing Authority

To Ellsworth Village LLC 1) R.R. Moran & R.B. Warren, Trustees, 125-135 Great Road. Realty Trust  
(Name of person making request) 2) James D. Fenton 3) Michael J. Jeanson  
(Name of property owner)

Address PO Box 985, Acton MA 01720 Address 1) 171 Great Road, Acton 2) 3 Milbery Lane, Acton  
3) 12 Kennedy Lane, Acton MA 01720

This Order is issued and delivered as follows:

- by hand delivery to person making request on 5/25/05 (date)
- by certified mail, return receipt requested on \_\_\_\_\_ (date)

This project is located at End of Brabrook Road

The property is recorded at the Registry of Middlesex South

Book/Page Bk 18144/pg 70 and Bk 43318/pg 277

Certificate (if registered) \_\_\_\_\_

The Notice of Intent for this project was filed on January 7, 2005 (date)

The public hearing was closed on May 4, 2005 (date)

**Findings**

The ACTON CONSERVATION COMMISSION has reviewed the above-references Notice of Intent and plans and has held a public hearing on the project. Based on the information available to the ACTON CONSERVATION COMMISSION at this time, the ACTON CONSERVATION COMMISSION has determined that the area on which the proposed work is to be done is significant to the following interests in accordance with the Presumptions of Significance set forth in the regulations for each Area Subject to Protection under the Act (check as appropriate):

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Public water supply            | <input type="checkbox"/> Flood Control                      | <input type="checkbox"/> Land containing shellfish                 |
| <input type="checkbox"/> Private water supply           | <input checked="" type="checkbox"/> Storm damage prevention | <input type="checkbox"/> Fisheries                                 |
| <input checked="" type="checkbox"/> Ground water supply | <input type="checkbox"/> Prevention of pollution            | <input checked="" type="checkbox"/> Protection of Wildlife Habitat |

Total filing fee submitted under Acton Wetlands Protection Bylaw \$ 290.00

Therefore, the ACTON CONSERVATION COMMISSION hereby finds that the following conditions are necessary, in accordance with the Performance Standards set forth in the regulations, to protect those interests checked above. The ACTON CONSERVATION COMMISSION orders that all the work shall be performed in accordance with the said conditions and with the Notice of Intent references 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.

#### **General Conditions**

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, by-laws 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.
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.
6. Any fill used in connection with this project shall be clean fill, containing 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.
7. 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.
8. No work shall be undertaken until the Final order 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 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 ACTON 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 the work.
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in the size bearing the words, "Massachusetts Department of Environmental Protection, File Number 85-892".
10. 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 DEP.
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
12. The work shall conform to the plans and special conditions referenced in this order.
13. Any change to the plans identified in Condition #12 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.
14. 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.

15. 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.
16. 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.
17. 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.

**\*\* PLEASE READ THE FOLLOWING GENERAL CONDITIONS REQUIRED BY THE  
TOWN OF ACTON WETLANDS BYLAW \*\***

18. No work shall be undertaken until the Order of Conditions has been reviewed and is clearly understood by the Contractor or his agent. It is the Applicant's responsibility to see that the Contractor clearly understands all items herein.
19. This Order of Conditions shall apply to any successor in interest or successor in control.
20. Members and agents of the Conservation Commission shall have the right to enter and inspect the premises to evaluate compliance with the Order and to require the submittal of any data deemed necessary by the Commission for that evaluations.
21. All drainage facilities and related structures and equipment shall be continually operated and maintained so as to comply with this Order of Conditions. The operation and maintenance of the facilities and structures shall be on-going and will not expire at the end of one year or with the issuance of the Certificate of Compliance.
22. Any change made, or intended to be made, in the plans shall require the applicant to file a new Notice of Intent, or to inquire of the Commission, in writing, whether the change is substantial enough to require a new filing.
23. The Conservation Commission shall have the right to file this Order of Conditions in the Registry of Deeds should the applicant fail to do so within 60 days.
24. Accepted engineering and construction standards and procedures shall be followed in the completion of this project.
25. The Commission shall be notified in writing 10 days prior to the commencement of any site work. Failure to so notify the Commission shall result in the issuance of an Enforcement Order.
26. The Petitioner is advised that this Order in no way absolves him of responsibility to other property owners upon whose land he discharges water directly or indirectly.
27. Erosion control measures consisting of staked haybales unless otherwise approved by the Commission shall be installed during the first phase of construction and the Commission shall be notified of their placement and no work shall begin before inspection by the Commission.
28. Any materials collected by the erosion control measures shall be removed and properly disposed of.
29. All work shall be completed as quickly as possible to minimize the duration of exposure of disturbed areas. If work is suspended for a significant period of time (i.e. as during winter months), then temporary stabilization methods must be employed and maintained during the period of inactivity.
30. No salt or other deicing chemicals shall be used on roadways and parking areas on the site.
31. This order applies only to the work described in the Notice of Intent and shown on the plans referenced in Condition 12. A Determination of Applicability Form must be filed for any additional work on site in areas governed by the Town of Acton Wetlands Protection Bylaw.
32. All disturbed areas shall be top-soiled six inches and seeded.

33. Violation of any condition of this Order may result in the issuance of an Enforcement Order. Such Enforcement Order, if issued, will require the immediate cessation of all work until a hearing is held; such hearing will be held not more than 10 days from the issuance of the Enforcement Order.
34. The work authorized hereunder by the Acton Wetlands Protection Bylaw shall be completed within three years from the date of this Order unless the Order is renewed prior to expiration.
35. A fifty (50) foot setback of natural vegetation shall be maintained up-gradient from the wetland.
36. No construction, either temporary or permanent shall occur within seventy-five (75) feet of the edge of wetlands. This shall include driveways; roadways; residential, commercial or industrial structures, etc.
37. There shall be no use of fertilizers, pesticides, herbicides or chemicals of any kind within the fifty (50) foot no construction zone.
38. There shall be no underground storage of gasoline, oil or other fuels or hazardous materials within the one-hundred (100) foot buffer zone.
39. The Commission reserves the right to impose additional conditions to mitigate any actual or potential impacts resulting from the permitted work.
40. All haybales placed for siltation prevention must be removed from the site within 30 days of the stabilization of the area of activity.
41. The work shall conform to the following plans and special conditions:

**PLANS:**

<b>TITLE</b>	<b>DATED</b>	<b>SIGNED AND STAMPED BY:</b>	<b>ON FILE WITH:</b>
General Site Layout Master Plan (Sheet 1 of 10)	11/19/05 Rev. 3/1/05	William F. McNary PLS # 30753 Joseph March, PE # 40472	Acton Conservation Commission
Record Plan (Sheet 2 of 10)	11/19/04 Rev. 3/1/05	" "	" "
Natural Features & Existing Conditions Plan (Sheet 3 of 10)	11/19/04 Rev. 3/1/05	" "	" "
Site Development Plan (Sheet 4 of 10)	11/19/04 3/1/05	" "	" "
Plan & Profile (Sheet 5 of 10)	11/19/04 Rev. 3/1/05	" "	" "
E.V. Construction Details Sheet 1 (Sheet 6 of 10)	11/19/04 Rev. 3/1/05	" "	" "
E.V. Construction Details Sheet 2 (Sheet 7 of 10)	11/19/04 Rev. 3/1/05	" "	" "
Landscape Plan (Sheet 8 of 10)	11/19/04 Rev. 3/1/05	Kim L. Ahern, RLA #742	" "
Erosion & Sedimentation Control Plan (Sheet 9 of 10)	11/19/04 Rev. 3/1/05	William F. McNary PLS # 30753 Joseph March, PE # 40472	" "
Brabrook Road Improvements (Sheet 10 of 10)	11/19/04 Rev. 3/1/05	" "	" "
Supplemental Information	3/10/05	Stamski & McNary, Inc.	" "
Letter: NOI Additional Information	4/6/05	Stamski & McNary	" "
Site Plan (Sheet 1 of 2)	6/19/95	Bruce Stamski & William F. McNary	" "
Plan of Land	4/4/03	William F. McNary	" "

**SEE ATTACHED DECISION ISSUED BY THE  
ACTON CONSERVATION COMMISSION  
(Pages E-7 and E-8).**

