

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF DUKES COUNTY, ss

SUPERIOR COURT DEPARTMENT

CIVIL ACTION NO. 2174CV 00038

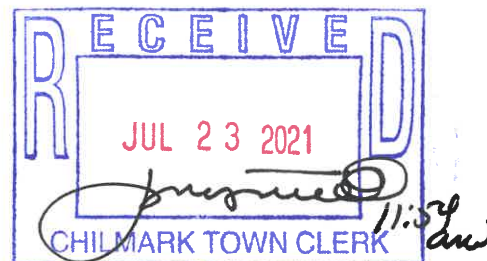
THE BESSIE C. WILCOX GRANTOR TRUST,
by its Trustees,
DONALD WILCOX, GILBERT WILCOX,
and JACQUELINE WILCOX,

Plaintiff

v.

THE CHILMARK CONSERVATION
COMMISSION, by its members,
CANDY SHWEDER, CHRIS MURPHY,
JOAN MALKIN, BOB HUNGERFORD
SANDY BROYARD, PAMELA GOFF,
RUSSELL MALONEY, and DOUG WEST

Defendants



COMPLAINT

This is an action in the nature of certiorari pursuant to M.G.L. c. 249, §4.

SUMMARY

A legal notice means what it says.

RMJ Dock LLC controlled a small, old pier, in poor condition, located at #16 Harbor Hill Rd., Chilmark. Plaintiff is a direct waterfront abutter, at #14 Harbor Hill Rd.

With an apparent goal of repairing the damage, RMJ and the Chilmark Conservation Commission both noticed RMJ's intent to "rebuild, repair and maintain the existing pier (license #4712)" pursuant to the original 1965 pier license.

The old pier (Exhibit A) was tiny and in bad shape. The notice regarding the proposed work was crystal clear in its scope. Plaintiff, a direct abutter, approved of the noticed work, and therefore did not attend the hearing.

But the notice—although clear—was false. Rather than a rebuild of the existing pier, RMJ sought to construct and expand a new, different, and much-larger pier. And rather than working under the 1965 license #4712 which was noticed, the new work was done under a new license, #14467, issued in 2017 for an expanded pier.

Despite the clear discrepancy between the notice and the proposed work, the Commission held a hearing on (and approved,) the construction of the new pier.

Plaintiff has recently discovered the lack of notice and the grant of permission at the hearing. Due to the notice errors by both RMJ and the Commission, Plaintiff missed its normal opportunity to object and brings this action in certiorari.

PARTIES

1. Plaintiff Bessie C. Wilcox Grantor Trust (“Wilcox”), u/d/t November 15, 1985 and recorded with the Dukes County Division of the Land Court as Document No. 20897, is a Trust with an address of 115 Bar Gate Trail Killingworth, CT 06419-1382 It is the owner of 14 Harbor Hill Road Chilmark, MA 02535.
2. Defendant Chilmark Conservation Commission (“the Commission”) is the duly organized Conservation Commission of the Town of Chilmark with a business address of 401 Middle Road Chilmark, MA 02535. The Commission is the permit granting authority under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, as well as under the Chilmark Wetlands Protection Bylaw & Regulations.

STATEMENT OF JURISDICTION

3. This Court has subject matter jurisdiction based on the provisions of M.G.L. c. 249, §4. This action is properly in Dukes County Superior Court because all actions underlying this Complaint took place in Dukes County; and because the Chilmark Conservation Commission is in Dukes County.

FACTS

4. Wilcox owns property at #14 Harbor Hill Rd., Chilmark MA The property is waterfront on Menemsha Harbor, and is registered land (Certificate of title No. 7061.)
5. RMJ LLC f/k/a RMJ Dock LLC (“RMJ”) is a Massachusetts limited liability company with a principal place of business at 86 Beach Plum Lane, Chilmark, MA 02552.

6. RMJ owns the rights to a pier on the property directly abutting Wilcox's property, 16 Harbor Hill Rd. (RMJ does not, however, own 16 Harbor Hill Rd. itself)
7. For many years, RMJ has had a small, single, pier on the property. Photos of the existing pier prior to 2019 are attached as "**EXHIBIT A: Existing pier.**"
8. On information and belief, RMJ's previous pier was built after having obtained a Mass. Chapter 91 License No. 4712 for pier construction, based on a 1963 plan.
9. In 2019, RMJ Pier LLC filed a Notice of Intent with the Chilmark Conservation Commission, and sent Plaintiffs an abutters notice. Plaintiffs do not dispute receipt of the abutter's notice.
10. A copy of RMJ's letter to abutters is attached as "**EXHIBIT B: RMJ's 2019 Letter to Abutters, regarding Notice of Intent.**"
11. The Chilmark Conservation Commission scheduled a hearing on RMJ's Notice of Intent, set for 2/18/2019.
12. The Commission or RMJ published a notice of the pending hearing. A copy of the published notice is attached as "**EXHIBIT C: Published Notice of 12/18/2019 Conservation Commission Hearing.**"
13. RMJ's letter to abutters, and the published notice, both used identical language to describe the proposed project.
14. Both RMJ's letter and the published notice said specifically that RMJ intended to "**rebuild, repair and maintain the existing pier (License # 4712), including replacing piles, decking, stringers and bents as necessary.**" (Emphasis added.)
15. Because the existing small pier was in disrepair (see **EXHIBIT A: Existing Pier**), Wilcox had no objection to the stated intent to "rebuild, repair, and maintain the existing pier."
16. Because the notice was perfectly clear regarding Defendants' intentions and the limited scope of the project, Wilcox did not appear at the hearing.
17. However, unbeknownst to Wilcox, RMJ planned for, and requested—but failed to notice—an entirely different project.
18. When Wilcox recently returned from a winter away, less than 60 days prior to the filing of this complaint, they were confronted with a large, new, intrusive, and improper pier which vastly exceeded the scope of the notice ("rebuild... the existing pier") and also exceeded the scope of the license described in the notice (License # 4712).

19. In 2017, RMJ had applied to the Mass. D.E.P. and had obtained a new Chapter 91 license for a pier, No. 14467, which involved a significant expansion of the pier.
20. The new license 14467 was for the same location (RMJ's property), but it did not supersede or replace the old license: The prior license #4712 (for a smaller pier) remained and still remains in existence.
21. In 2019, RMJ filed a Notice of Intent for the construction of the new pier. RMJ's "General Project Description" in the Notice of Intent, which was provided solely by RMJ, stated only RMJ's intent to "rebuild, repair, and maintain the existing pier... ("License #4712)."
22. A copy of RMJ's 2019 Notice of Intent is attached as **"EXHIBIT D: RMJ's 2019 Notice of Intent."**
23. In other words: when filing its Notice of Intent and when providing direct notice to abutters, RMJ planned to construct an *expanded* pier, under its *new* license. However, RMJ and the Commission actually informed abutters that RMJ planned only to rebuild the *existing* pier, under its *old* license (Exhibits B & C).
24. RMJ did not include either a plan, or a full copy of its Notice of Intent, in its letter to abutters. Had RMJ done so, notice would have been perfected.
25. All of the language was under RMJ's direct control: RMJ's agent directly sent the notice to abutters; and RMJ's agent was responsible for providing the "General Project description" in the Notice of Intent, which the Conservation Commission used to create its public notice.
26. The Conservation Commission similarly failed to provide proper notice: although the Conservation Commission had only sent public notice regarding a rebuild of the existing pier, the Conservation Commission considered, approved, and issued an Order of Conditions for the new pier.
27. Despite the notices (Exhibits B & C) regarding a rebuild of the *old* pier (License # 4712,) the Commission proceeded to hold a hearing, and eventually grant an Order of Conditions for, full construction of the *new* pier (License #14467.)
28. The Order of Conditions for the new pier (License # 14467) is attached as **"EXHIBIT E: 2019 Order of Conditions for Construction of New Pier (License # 14467)."**
29. Photos of the new pier are attached as **"EXHIBIT F: Photos of Pier As Built"**.
30. A comparison of EXHIBIT A (the pre-existing pier) and EXHIBIT F (the new pier) shows the immense expansion, done without proper notice, of which Wilcox complains.

31. The issuance of the 2019 Order of Conditions, without additional notice, was a failure by the Commission. In fact, during the 2019 hearing to “rebuild... the existing pier,” the Conservation Commission made multiple expansions to the scope of the project, any single one of which should have triggered a new notice and hearing. Those include: (a) Adding a large “T-shaped” pier to the end, while noticing only a “rebuild”; (b) going beyond the plan (#4712) cited in the notice; (c) approving a rebuild of a 20’ long, 4’ wide, “existing” pier adjacent to RMJ’s property, although such deck did not exist, and although its nonexistence could be easily visible by simple inspection; and (d) including in its hearing scope repairs to the “boathouse” shack on the property, although such work could not possibly have been included in the initial notice and although such repairs are not within the jurisdiction of the Conservation Commission.
32. RMJ knowingly and improperly misinformed abutters regarding the scope and extent of its project.
33. The Commission knowingly and improperly misinformed the public and abutters regarding the scope and extent of RMJ’s project and the Commission’s hearing.
34. By so misinforming abutters, RMJ and the Commission deprived Plaintiffs of proper notice of the project, and deprived them of a meaningful opportunity to object.
35. Plaintiffs’ failure to appear or object at the hearing, or to appeal within the normal time periods required by law, are wholly and fully attributable to RMJ’s and the Commission’s failure to provide proper notice of the proposed project.
36. The actions of the Commission and RMJ have caused substantial harm to Plaintiff, by impeding their use of their own waterfront and by denying them due process with respect to the protection of their property rights.
37. Moreover, RMJ has, apparently under the auspices of the Commission, physically moved the location of the building, in such a manner that it now impedes Plaintiff’s view in a way which has not happened over the past decades.

**COUNT 1: IN THE NATURE OF CERTIORARI,
PURSUANT TO M.G.L. c.249, §4**

38. Plaintiffs hereby restate and reincorporate paragraphs 1 through 37.
39. The Conservation Commission failed to meet its notice obligation to the public under the Open Meetings Law.

40. The Commission improperly held a hearing on matters which were not within the advertised scope of that hearing.
41. The Commission acted in excess of its authority and jurisdiction.
42. The Commission's decision was based on an error of law and made upon unlawful procedure.
43. The Commission acted in a manner unwarranted by the facts, including the provision of permission to reconstruct "existing" pier space which did not, in fact, exist.
44. No adequate remedy at law, other than this action in the nature of certiorari, is available to the Trust, with respect to the Order of Conditions.


REQUESTS FOR RELIEF

For the reasons stated above, Plaintiff requests that this Court grant the following relief:

45. Order the Commission to file a certified copy of the Administrative Record in accordance with Superior Court Standing Order 1-96;
46. Annul the 2019 Order of Conditions, or, in the alternative, order the Commission to rescind the 2019 Order of Conditions;
47. Order the Commission to direct the removal of the offending dock and the return of the building to its original location; and
48. Award such other and further relief as the Court deems just.

Dated July 24, 2021

Plaintiff
Bessie C Wilcox Grantor Trust
By its attorney


Erik Hammarlund (BBO# 664321)
Hammarlund Law Office
PO Box 2487

10 State Rd. Unit B-3
Vineyard Haven MA 02568

(508) 696-7700 phone

(508) 696-7705 fax

eh@hammmarlundlaw.com email

508 338 2841 direct

EXHIBIT A:
EXISTING PIER

#16 HARBOR HILL RD.
SHOWING "EXISTING PIER"

#14 HARBOR HILL RD.
(PLAINTIFF'S PROPERTY)

LITTLE LADY

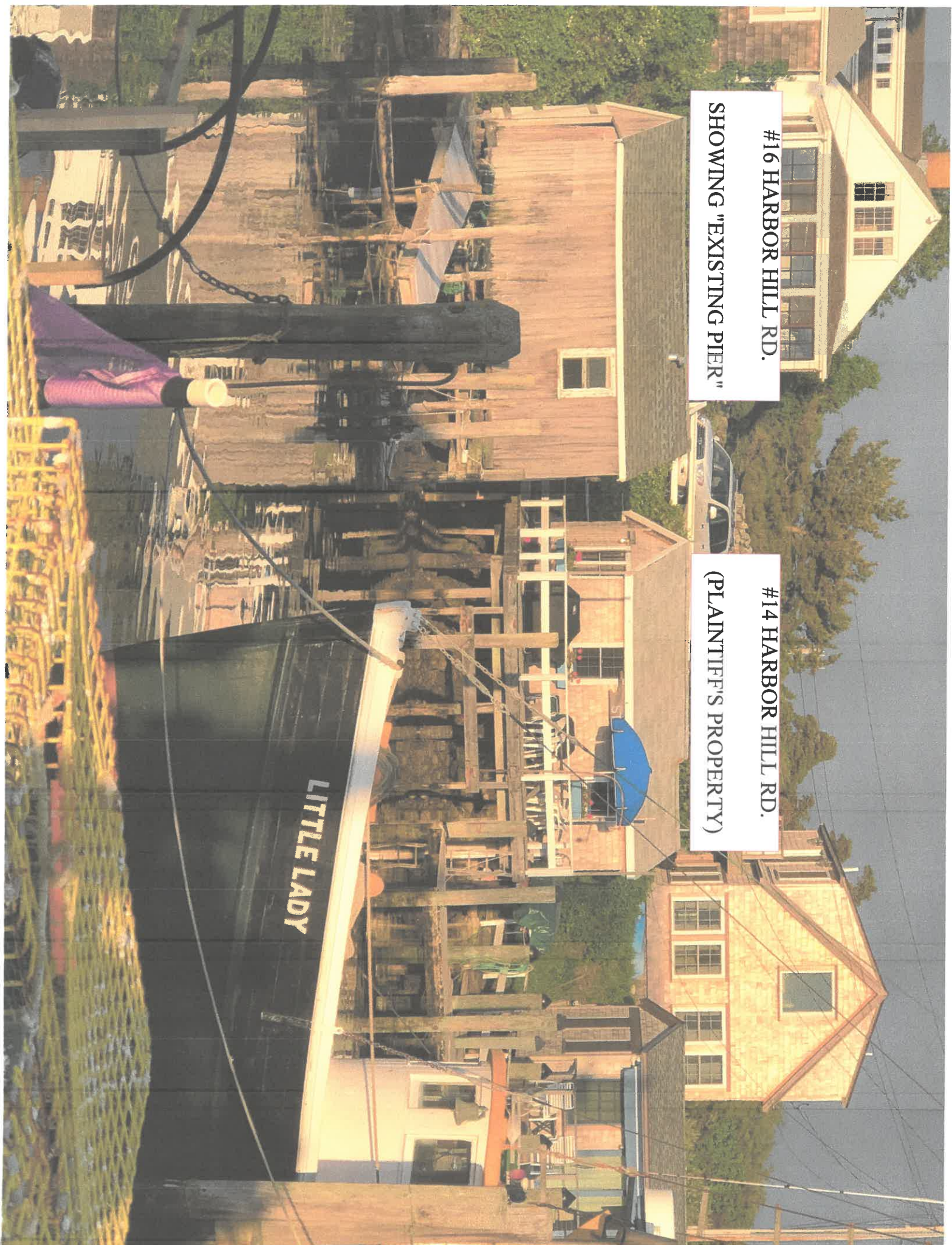


EXHIBIT B:
RMJ'S 2019 LETTER TO
ABUTTERS REGARDING
NOTICE OF INTENT



November 26, 2019

Dear Abutter:

Massachusetts General Laws Chapter 131 Section 40 requires any person filing a Notice of Intent with a conservation commission give notification to abutters.

As such an abutter please note that a Notice of Intent has been filed with the Chilmark Conservation Commission on behalf of RMJ Dock LLC to rebuild, repair and maintain in perpetuity the existing pier (License #4712), including replacing piles, decking, stringers and bents as necessary. The proposed work is located in Menemsha Harbor at #16 Harbor Hill Road, Assessor Map 27.1, Parcel 104, Chilmark, MA. This work was originally approved in 2012, however the permit has since expired and this application would renew the approval.

Copies of this Notice of Intent are on file with the Chilmark Conservation Commission at the Town Hall. For more information or to examine copies contact the Conservation Commission at the Town Hall (508)-645-2114 or this office.

At least 5 days before the public hearing, a legal notice will be published in a local paper.

Sincerely,

A handwritten signature in black ink, appearing to read 'Reid G. Silva', is written over a light blue horizontal line.

Reid G. Silva, PE/PLS
Professional Engineer
Professional Land Surveyor

EXHIBIT C:
PUBLISHED NOTICE OF
12/18/2019
CONSERVATION
COMMISSION HEARING

CHILMARK CONSERVATION COMMISSION

Will hold a Public Hearing on Wednesday, December 18, 2019 at 12:35 PM, in the Conference Room at Town Hall, under the Wetlands Protection Act, M.G.L.c.131, Section 40 and the Town's Wetlands Protection By-law, on an application filed by Reid Silva of Vineyard Land Surveying & Engineering for RMJ Dock, LLC. The applicant would like to rebuild, repair and maintain the existing pier (License # 4712), including replacing piles, decking, stringers and bents as necessary. This work was originally approved in 2012, however the permit has since expired. The work is located in Menemsha Basin and proposed for the property located at 16 Harbor Hill Rd.; Assessor's Map 27.1 Lot 104.

The application and plans are on file with the Conservation Commission, and may be examined during normal business hours (9-4:30) at the Town Offices. To discuss the application or review the plans please call Reid Silva at 508-693-3774 or Chuck Hodgkinson, Conservation Agent at 508-645-2114.

Administrator
1X 12/6

Please run this Legal Notice in the Friday, December 6, 2019 edition.

Please invoice:

RMJ Dock, LLC c/o Reid Silva
Vineyard Land Surveying & Engineering
P.O. Box 421
West Tisbury, MA. 02575

EXHIBIT D:
RMJ'S 2019
NOTICE OF INTENT



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

WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
and the Chilmark Wetland By-Law

Provided by MassDEP:
SE12-855
MassDEP File Number
Document Transaction Number
Chilmark
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):

16 Harbor Hill Ln Chilmark 02535
a. Street Address b. City/Town c. Zip Code

Latitude and Longitude: d. Latitude e. Longitude
27.1 104
f. Assessors Map/Plat Number g. Parcel /Lot Number

2. Applicant:

RMJ Dock LLC _____
a. First Name b. Last Name

c. Organization
c/o Vineyard Land Surveying & Engineering, Inc. PO Box 421
d. Street Address

West Tisbury MA 02575
e. City/Town f. State g. Zip Code

508-693-3774 _____
h. Phone Number i. Fax Number j. Email Address

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

_____ _____
a. First Name b. Last Name

c. Organization

d. Street Address

_____ _____ _____
e. City/Town f. State g. Zip Code

_____ _____ _____
h. Phone Number i. Fax Number j. Email address

4. Representative (if any):

Reid G. Silva, PE PLS
a. First Name b. Last Name

Vineyard Land Surveying & Engineering, Inc.
c. Company

PO Box 421
d. Street Address

West Tisbury MA 02575
e. City/Town f. State g. Zip Code

508-693-3774 _____
h. Phone Number i. Fax Number j. Email address

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

\$160.00 \$67.50 \$92.50
a. Total Fee Paid b. State Fee Paid c. City/Town Fee Paid



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Provided by MassDEP:

MassDEP File Number _____

Document Transaction Number _____

Chilmark _____

City/Town _____

A. General Information (continued)

6. General Project Description:

To rebuild, repair and maintain in perpetuity the existing pier (License #4712), including replacing piles, decking, stringers and bents as necessary.

7a. Project Type Checklist:

- | | |
|---|---|
| 1. <input type="checkbox"/> Single Family Home | 2. <input type="checkbox"/> Residential Subdivision |
| 3. <input type="checkbox"/> Limited Project Driveway Crossing | 4. <input type="checkbox"/> Commercial/Industrial |
| 5. <input checked="" type="checkbox"/> Dock/Pier | 6. <input type="checkbox"/> Utilities |
| 7. <input type="checkbox"/> Coastal Engineering Structure | 8. <input type="checkbox"/> Agriculture (e.g., cranberries, forestry) |
| 9. <input type="checkbox"/> Transportation | 10. <input type="checkbox"/> Other |

7b. Is any portion of the proposed activity eligible to be treated as a 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:

Existing pier 310 CMR 10.24(c)(2)

2. Limited Project

8. Property recorded at the Registry of Deeds for:

Dukes

a. County

1216

c. Book

b. Certificate # (if registered land)

262

d. Page Number

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

- 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.
- 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.

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

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



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| |
|-----------------------------|
| Provided by MassDEP: |
| MassDEP File Number |
| Document Transaction Number |
| Chilmark |
| City/Town |

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

| <u>Resource Area</u> | <u>Size of Proposed Alteration</u> | <u>Proposed Replacement (if any)</u> |
|---|--|--|
| d. <input type="checkbox"/> Bordering Land Subject to Flooding | 1. square feet _____ | 2. square feet _____ |
| | 3. cubic feet of flood storage lost _____ | 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. <input type="checkbox"/> Riverfront Area | 1. Name of Waterway (if available) _____ | |
| | 2. Width of Riverfront Area (check one): | |
| | <input type="checkbox"/> 25 ft. - Designated Densely Developed Areas only | |
| | <input type="checkbox"/> 100 ft. - New agricultural projects only | |
| | <input type="checkbox"/> 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? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| | 6. Was the lot where the activity is proposed created prior to August 1, 1996? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

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

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 checked="" type="checkbox"/> Land Under the Ocean | less than 20 sq. ft. for piles _____ | |
| | 1. square feet _____ | |
| | 0 _____ | |
| | 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 _____ |



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and the Chilmark Wetland By-Law

| |
|-----------------------------|
| Provided by MassDEP: |
| MassDEP File Number |
| Document Transaction Number |
| Chilmark |
| City/Town |

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

| | <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. <input type="checkbox"/> 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 BWV _____ | b. square feet of Salt Marsh _____ |
| 5. <input type="checkbox"/> Project Involves Stream Crossings | | |
| | a. number of new stream crossings _____ | b. number of replacement stream crossings _____ |

C. Other Applicable Standards and Requirements

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://www.mass.gov/dfwele/dfw/nhESP/regulatory_review/priority_habitat/online_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
Route 135, North Drive
Westborough, MA 01581

August 2017
b. Date of map _____



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

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| |
|-----------------------------|
| Provided by MassDEP: |
| MassDEP File Number |
| Document Transaction Number |
| Chilmark City/Town |

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

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.d, 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).*

1. 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

3. 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

(c) MESA filing fee (fee information available at: http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/mesa/esa_fee_schedule.htm).

Make check payable to "Natural Heritage & Endangered Species Fund" 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

d. 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/nhosp/regulatory_review/mesa/esa_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 _____

* Some projects not in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <http://www.mass.gov/dfwele/dfw/nhosp/nhosp.htm>, regulatory review tab). 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.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

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|-----------------------------|
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| City/Town |

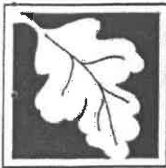
C. Other Applicable Standards and Requirements (cont'd)

3. Separate MESA review completed.
Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.
2. 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 or hand delivery of NOI to either:
- | | |
|---|--|
| South Shore - Cohasset to Rhode Island, and the Cape & Islands: | North Shore - Hull to New Hampshire: |
| Division of Marine Fisheries - Southeast Marine Fisheries Station Attn: Environmental Reviewer 1213 Purchase Street – 3rd Floor New Bedford, MA 02740-6694 | Division of Marine Fisheries - North Shore Office Attn: Environmental Reviewer 30 Emerson Avenue Gloucester, MA 01930 |

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.

3. 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
4. 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
5. 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
6. 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:
- Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)
 - A portion of the site constitutes redevelopment
 - Proprietary BMPs are included in the Stormwater Management System.
- b. No. Check why the project is exempt:
- Single-family house

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



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

WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
and the Chilmark Wetland By-Law

| |
|-----------------------------|
| Provided by MassDEP: |
| MassDEP File Number |
| Document Transaction Number |
| Chilmark |
| City/Town |

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

- 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

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.
- 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.

Plan Accompanying Petition of Gladys M. Flanders to Extend, Maintain Timber Pier & Building - Install Mooring Piles in Menemsha Basin, Chilmark, Mass.

| | |
|------------------------|----------------------------|
| b. Prepared By | Part of Pier License #4712 |
| 1963 | c. Signed and Stamped by |
| d. Final Revision Date | Varies |
| | 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.



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

WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
and the Chilmark Wetland By-Law

| |
|-----------------------------|
| Provided by MassDEP: |
| MassDEP File Number |
| Document Transaction Number |
| Chilmark |
| City/Town |

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 | 3. Check date |
| 4. State Check Number | 5. Check date |
| Vineyard Land Surveying & Engineering, Inc. | |
| 6. Payor name on check: First Name | 7. Payor name on check: Last Name |

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 |
| <i>[Signature]</i> (AGENT) | 11/26/2019 |
| 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
 and the Chilmark Wetland by-Law

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. Applicant:

RMJ Dock LLC
 a. First Name _____ b. Last Name _____
 c. Organization _____
 c/o Vineyard Land Surveying & Engineering, Inc.
 d. Mailing Address _____
 West Tisbury MA 02575
 e. City/Town _____ f. State _____ g. Zip Code _____
 508-693-3774
 h. Phone Number _____ i. Fax Number _____ j. Email Address _____

2. Property Owner (if different):

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

3. Project Location:

16 Harbor Hill Road Chilmark
 a. Street Address _____ b. City/Town _____

B. Fees

The fee should be calculated using the following six-step process and 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
 and the Chilmark Wetland by-Law

B. Fees (continued)

| Step 1/Type of Activity | Step 2/Number of Activities | Step 3/Individual Activity Fee | Step 4/Subtotal Activity Fee |
|---|--------------------------------|--------------------------------------|---------------------------------|
| 5a. work on pier 40 ft @ \$4/ft = _____ | _____ | \$160.00 | \$160.00 |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| | | Step 5/Total Project Fee: | \$160.00 |
| | | Step 6/Fee Payments: | |
| | | Total Project Fee: | \$160.00 |
| | | | a. Total Fee from Step 5 |
| | | State share of filing Fee: | \$67.50 |
| | | | b. 1/2 Total Fee less \$12.50 |
| | | City/Town share of filling Fee: | \$92.50 |
| | | | c. 1/2 Total Fee plus \$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.)

13993

VINEYARD LAND SURVEYING
& ENGINEERING, INC.
PO BOX 421
WEST TISBURY, MA 02575
(508) 693-3774



Martha's Vineyard
SAVINGS BANK
Edgartown, MA
53-7292/2113

11/26/2019

PAY TO THE
ORDER OF TOWN OF CHILMARK

\$**92.50

Ninety-Two and 50/100***** DOLLARS

TOWN OF CHILMARK

MEMO

Town of CH - Con com fee 13-1


AUTHORIZED SIGNATURE

⑈013993⑈ ⑆211372925⑆ 24 867202⑈

13994

VINEYARD LAND SURVEYING
& ENGINEERING, INC.
PO BOX 421
WEST TISBURY, MA 02575
(508) 693-3774



Martha's Vineyard
SAVINGS BANK
Edgartown, MA
53-7292/2113

11/26/2019

PAY TO THE
ORDER OF COMMONWEALTH OF MASSACHUSETTS

\$**67.50

Sixty-Seven and 50/100***** DOLLARS

COMMONWEALTH OF MASSACHUSETTS

MEMO

Comm of Mass: NOI fee 13-1


AUTHORIZED SIGNATURE

⑈013994⑈ ⑆211372925⑆ 24 867202⑈

The Commonwealth of Massachusetts



2017 00006288

Bk: 1449 Pg: 998 Doc: LIC
Page: 1 of 8 10/06/2017 10:55 AM

No. 14467

Whereas, RMJ Dock LLC

of -- Chilmark -- in the County of -- Dukes -- and Commonwealth aforesaid, -- has applied to the Department of Environmental Protection for a license to -- reconstruct, expand and maintain an existing authorized pier, install a pile, and remove piles ----

and has submitted plans of the same; and whereas due notice of said application, ~~and of the time and place fixed for a hearing thereon~~, has been given, as required by law, to the -- Board of Selectmen -- of the Town of -- Chilmark. ----

NOW, said Department, having heard all parties desiring to be heard, and having fully considered said application, hereby, subject to the approval of the Governor, authorizes and licenses the said ----

RMJ Dock LLC --, subject to the provisions of the ninety-first chapter of the General Laws, and of all laws which are or may be in force applicable thereto, to -- reconstruct, expand and maintain an existing authorized pier, install a pile, and remove piles -----

in and over the waters of -- Menemsha Basin -- at 16 Harbor Hill Lane --, in the -- Town -- of -- Chilmark -- and in accordance with the locations shown and details indicated on the accompanying DEP License Plan No. 14467 (2 sheet(s)).

The structures hereby authorized shall be limited to the following uses: noncommercial docking and boating access to navigable waters.

Existing structures and/or uses previously authorized under DPW License No. 4712(issued in 1963) shall be maintained in accordance with the terms and conditions of said license and plans.

This license will expire thirty (30) years from the date of License issuance. By written request of the licensee for an amendment, the Department may grant a renewal for the term of years not to exceed that authorized in the original license.

SPECIAL WATERWAYS CONDITIONS:

1. In accordance with any license condition, easement, or other public right of lateral passage that exists on the subject property lying between the high and low watermarks, below the high water mark, the Licensee shall allow the public in the exercise of such rights to pass freely over all structures within such intertidal area. Accordingly, the Licensee shall place and maintain, in good repair, a public access sign on both the northerly/southerly sides of the pier previously authorized herein, adjacent to the mean high water shoreline. Said signs shall be designed in accordance with the signage specifications provided by the Department, attached hereto, and be posted immediately upon completion of construction. Nothing in this condition shall be construed as preventing the Licensee from excluding the public from portions of said structure(s) or property not intended for lateral passage.

2. In partial compensation for private use of structures on tidelands of the Commonwealth which interferes with the rights of the public to use such lands, the Licensee shall allow the public to pass on foot, for any purpose and from dawn to dusk, within the area of the subject property lying seaward of the high water mark. This condition shall not be construed to prevent the Licensee from taking reasonable measures to discourage unlawful activities by users of the area(s) intended for public passage, including but not limited to trespassing on the adjacent private areas and deposit of refuse of any kind or nature in the water or on the shore. Further, the exercise by the public of free on-foot passage in accordance with this condition shall be considered a permitted use to which the limited liability provisions of M.G.L. c.21, s.17c apply.

3. In accordance with License Plan No. 14467 the Licensee shall remove the existing dock. Said dock shall be removed, immediately prior to construction, in its entirety and properly disposed of in conformance with all local, state and federal laws.

4. Vessels shall be moored such that they do not become grounded at any tide.

5. No dredging (including, but not limited to effects of prop wash) is permitted herein.

6. All work authorized herein shall be completed within five (5) years of the date of license issuance. Said construction period may be extended by the Department for one or more one year periods without public notice, provided that the Applicant submits to the Department, thirty (30) days prior to the expiration of said construction period, a written request to extend the period and provides an adequate justification for said extension.

7. Within sixty (60) days of completion of the licensed project, the Licensee shall request in writing that the Department issue a Certificate of Compliance in accordance with 310 CMR 9.19. The request shall be accompanied by a certification by a registered professional engineer licensed in the Commonwealth that the project was completed in accordance with the License.

Duplicate of said plan, number 14467 is on file in the office of said Department, and original of said plan accompanies this License, and is to be referred to as a part hereof.

STANDARD WATERWAYS LICENSE CONDITIONS

1. Acceptance of this Waterways License shall constitute an agreement by the Licensee to conform with all terms and conditions stated herein.

2. This License is granted upon the express condition that any and all other applicable authorizations necessitated due to the provisions hereof shall be secured by the Licensee prior to the commencement of any activity or use authorized pursuant to this License.

3. Any change in use or any substantial structural alteration of any structure or fill authorized herein shall require the issuance by the Department of a new Waterways License in accordance with the provisions and procedures established in Chapter 91 of the Massachusetts General Laws. Any unauthorized substantial change in use or unauthorized substantial structural alteration of any structure or fill authorized herein shall render this Waterways License void.

4. This Waterways License shall be revocable by the Department for noncompliance with the terms and conditions set forth herein. This license may be revoked after the Department has given written notice of the alleged noncompliance to the Licensee and those persons who have filed a written request for such notice with the Department and afforded them a reasonable opportunity to correct said noncompliance. Failure to correct said noncompliance after the issuance of a written notice by the Department shall render this Waterways License void and the Commonwealth may proceed to remove or cause removal of any structure or fill authorized herein at the expense of the Licensee, its successors and assigns as an unauthorized and unlawful structure and/or fill.

5. The structures and/or fill authorized herein shall be maintained in good repair and in accordance with the terms and conditions stated herein and the details indicated on the accompanying license plans.

6. Nothing in this Waterways License shall be construed as authorizing encroachment in, on or over property not owned or controlled by the Licensee, except with the written consent of the owner or owners thereof.

7. This Waterways License is granted subject to all applicable Federal, State, County, and Municipal laws, ordinances and regulations including but not limited to a valid final Order of Conditions issued pursuant to the Wetlands Protection Act, G.L. Chapter 131, s.40.

8. This Waterways License is granted upon the express condition that the use of the structures and/or fill authorized hereby shall be in strict conformance with all applicable requirements and authorizations of the DEP, Division of Wetlands and Waterways.

9. This License authorizes structure(s) and/or fill on:

Private Tidelands. In accordance with the public easement that exists by law on private tidelands, the licensee shall allow the public to use and to pass freely upon the area of the subject property lying between the high and low water marks, for the purposes of fishing, fowling, navigation, and the natural derivatives thereof.

Commonwealth Tidelands. The Licensee shall not restrict the public's right to use and to pass freely, for any lawful purpose, upon lands lying seaward of the low water mark. Said lands are held in trust by the Commonwealth for the benefit of the public.

Great Pond of the Commonwealth. The Licensee shall not restrict the public's right to use and to pass freely upon lands lying seaward of the high water mark for any lawful purpose.

Navigable River and Streams. The Licensee shall not restrict the public's right to use and pass freely, for any lawful purpose, in the Waterways.

No restriction on the exercise of these public rights shall be imposed unless otherwise expressly provided in this license.

10. Unless otherwise expressly provided by this license, the licensee shall not limit the hours of availability of any areas of the subject property designated for public passage, nor place any gates, fences, or other structures on such areas in a manner that would impede or discourage the free flow of pedestrian movement thereon.

License No. 14467

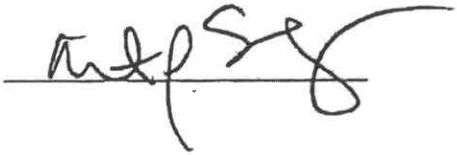
Page 4

The amount of tidewater displaced by the work hereby authorized has been ascertained by said Department, and compensation thereof has been made by the said -- RMJ Dock LLC -- by paying into the treasury of the Commonwealth -- two dollars and zero cents (\$2.00) -- for each cubic yard so displaced, being the amount hereby assessed by said Department (0 cubic yard(s) = \$0.00).

Nothing in this License shall be so construed as to impair the legal rights of any person.

This License shall be void unless the same and the accompanying plan are recorded within 60 days from the date hereof, in the Registry of Deeds for the County of Dukes.

IN WITNESS WHEREAS, said Department of Environmental Protection have hereunto set their hands this 26th day of September in the year two thousand seventeen.

Commissioner 

Department
of Environmental
Protection

for Program Chief 

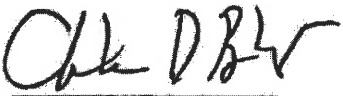
THE COMMONWEALTH OF MASSACHUSETTS

This license is approved in consideration of the payment into the treasury of the Commonwealth by the said -- RMJ Dock LLC --

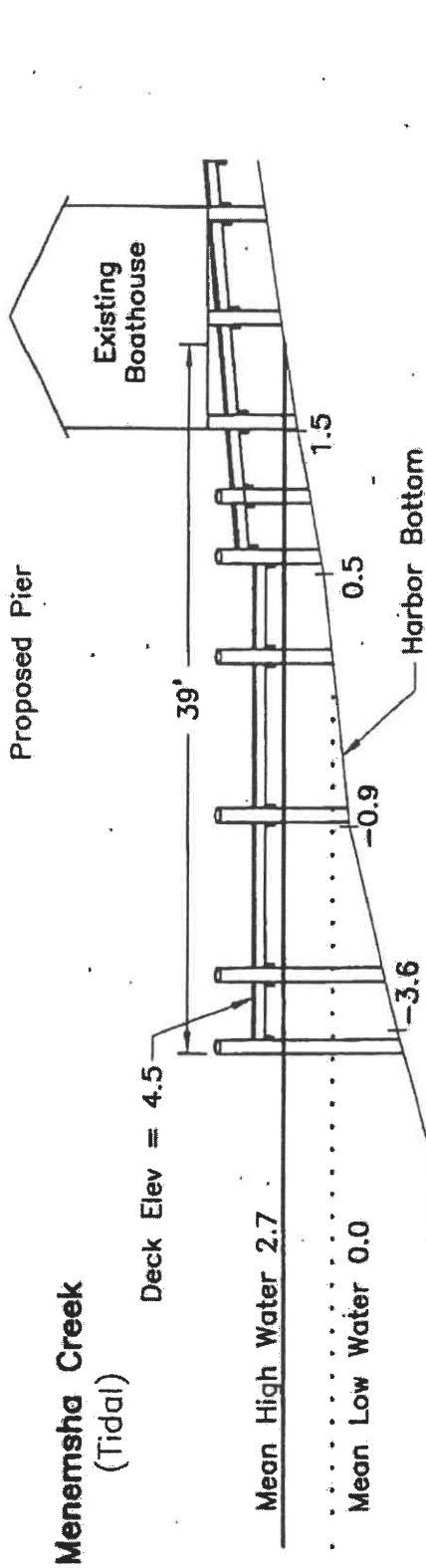
of the further sum of -- one hundred two dollars and zero cents (\$102.00) --

the amount determined by the Governor as a just and equitable charge for rights and privileges hereby granted in the land of the Commonwealth.

Approved by the Governor.

BOSTON,

Governor

LICENSE PLAN NO. 14467
Approved by Department of Environmental Protection
Date: SEP 26 2017

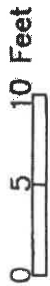


Pier Profile

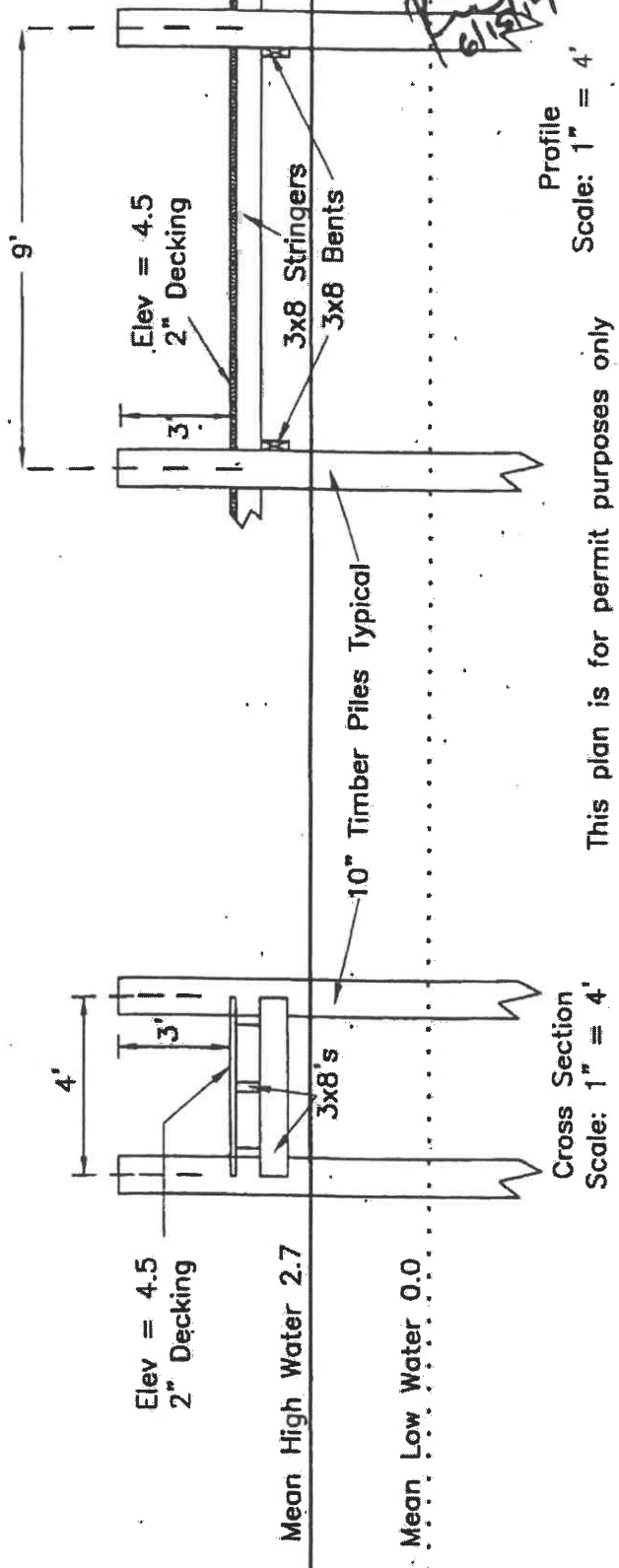
Horizontal Scale: 1" = 10'

Vertical Scale: 1" = 10'

Datum = NGVD

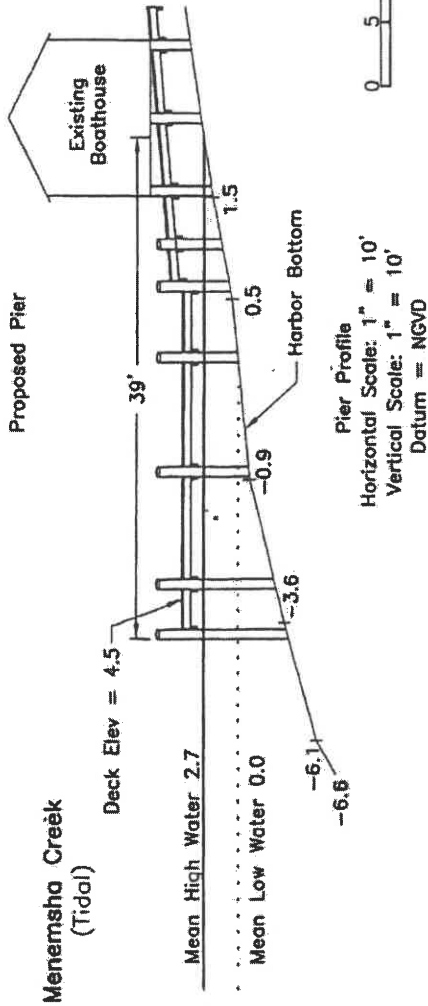


Plan accompanying petition of
RMJ Dock LLC
#16 Harbor Hill Ln
Scale: As noted

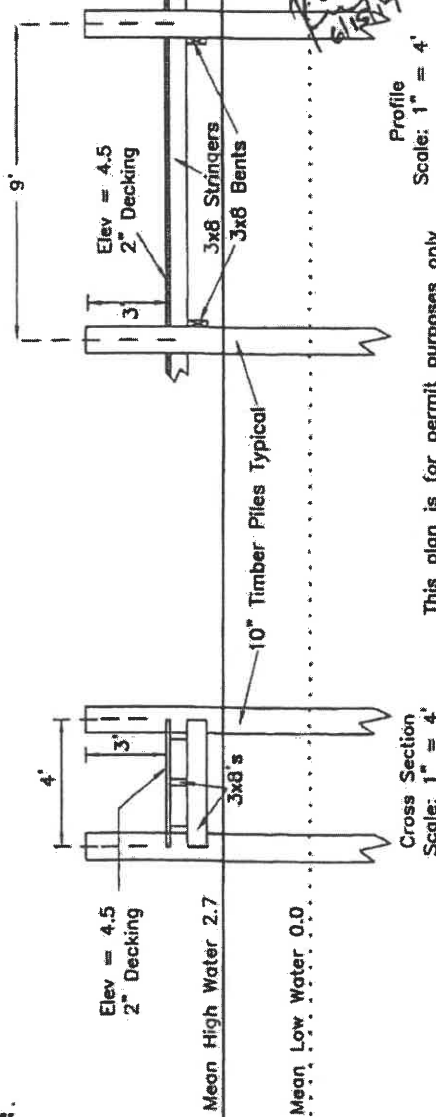
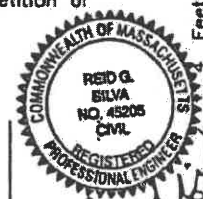


This plan is for permit purposes only

LICENSE PLAN NO. **14467**
Approved by Department of Environmental Protection
Date: **SEP 26 2017**

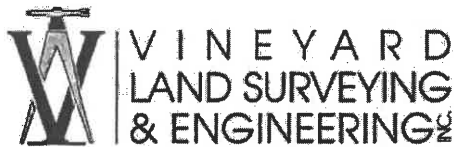


Plan accompanying petition of
RMJ Dock LLC
#16 Harbor Hill Ln
Scale: As noted



This plan is for permit purposes only

ATTEST: Paulo C. DeOliveira, Register
Dukes County Registry of Deeds



November 26, 2019

Dear Abutter:

Massachusetts General Laws Chapter 131 Section 40 requires any person filing a Notice of Intent with a conservation commission give notification to abutters.

As such an abutter please note that a Notice of Intent has been filed with the Chilmark Conservation Commission on behalf of RMJ Dock LLC to rebuild, repair and maintain in perpetuity the existing pier (License #4712), including replacing piles, decking, stringers and bents as necessary. The proposed work is located in Menemsha Harbor at #16 Harbor Hill Road, Assessor Map 27.1, Parcel 104, Chilmark, MA. This work was originally approved in 2012, however the permit has since expired and this application would renew the approval.

Copies of this Notice of Intent are on file with the Chilmark Conservation Commission at the Town Hall. For more information or to examine copies contact the Conservation Commission at the Town Hall (508)-645-2114 or this office.

At least 5 days before the public hearing, a legal notice will be published in a local paper.

Sincerely,

A handwritten signature in black ink, appearing to read 'Reid G. Silva'.

Reid G. Silva, PE/PLS
Professional Engineer
Professional Land Surveyor



300 foot Abutters List Report

Chilmark, MA
November 15, 2019

Subject Property:

Parcel Number: 271-104-00
CAMA Number: 271-104-00
Property Address: 16 HARBOR HILL RD

Mailing Address: SMITH DONALD G
C/O: ROBIN SMITH PO BOX 238
CHILMARK, MA 02535

Abutters:

Parcel Number: 271-053-00
CAMA Number: 271-052-00
Property Address: 508 NORTH RD

Mailing Address: COOPER JONATHAN G, ELLEN C
EPWORTH, MATTHEW
C/O MATTHEW COOPER 3700 MASS
AVE NW APT 207
WASHINGTON, DC 20016

Parcel Number: 271-085-00
CAMA Number: 271-085-00
Property Address: 512 NORTH RD

Mailing Address: SWORDFISH ENTERPRISES LLC
PO BOX 38
MENEMSHA, MA 02552

Parcel Number: 271-084-00
CAMA Number: 271-085-00
Property Address: 512 NORTH RD

Mailing Address: SWORDFISH ENTERPRISES LLC
PO BOX 38
MENEMSHA, MA 02552

Parcel Number: 271-085-00
CAMA Number: 271-085-00
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Property Address: 512 NORTH RD

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PO BOX 38
MENEMSHA, MA 02552

Parcel Number: 271-084-00
CAMA Number: 271-085-00
Property Address: 512 NORTH RD

Mailing Address: SWORDFISH ENTERPRISES LLC
PO BOX 38
MENEMSHA, MA 02552

Parcel Number: 271-086-00
CAMA Number: 271-086-00
Property Address: 0 NORTH RD

Mailing Address: SONGWIND LLC
C/O: REYNOLDS, RAPPAPORT & KAPLAN
PO BOX 2540
EDGARTOWN, MA 02539

Parcel Number: 271-087-00
CAMA Number: 271-087-00
Property Address: 0 NORTH RD

Mailing Address: CHILMARK TOWN OF
BOX 119
CHILMARK, MA 02535

Parcel Number: 271-090-00
CAMA Number: 271-090-00
Property Address: 17 BOATHOUSE RD

Mailing Address: CHILMARK TOWN OF
BOX 119
CHILMARK, MA 02535

CAI Technologies

www.cai-tech.com

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.



300 foot Abutters List Report

Chilmark, MA
November 15, 2019

| | |
|---|--|
| Parcel Number: 271-091-00 CAMA Number: 271-091-00 Property Address: 27 BOATHOUSE RD | Mailing Address: UNITED STATES OF AMERICA US COAST GUARD 20 EDYS ISLAND WAY CHILMARK, MA 02535 |
| Parcel Number: 271-094-00 CAMA Number: 271-094-00 Property Address: 515 NORTH RD | Mailing Address: MENEMSHA GALLEY INC 12 FENNER WAY CHILMARK, MA 02535 |
| Parcel Number: 271-095-00 CAMA Number: 271-095-00 Property Address: 0 NORTH RD | Mailing Address: PACKER DEBORAH MCLEOD PO BOX 82 MENEMSHA, MA 02552 |
| Parcel Number: 271-097-00 CAMA Number: 271-097-00 Property Address: 511 NORTH RD | Mailing Address: MENEMSHA BY THE SEA LLC 223 WEST SPRING ST VINEYARD HAVEN, MA 02568 |
| Parcel Number: 271-098-00 CAMA Number: 271-098-00 Property Address: 6 HARBOR HILL RD | Mailing Address: PACKER DEBORAH M PO BOX 82 MENEMSHA, MA 02552 |
| Parcel Number: 271-100-00 CAMA Number: 271-100-00 Property Address: 8 HARBOR HILL RD | Mailing Address: TILTON DAVID PO BOX 68 RYE, NH 03870-0068 |
| Parcel Number: 271-101-00 CAMA Number: 271-101-00 Property Address: 10 HARBOR HILL RD | Mailing Address: KHEDOURI FREDERICK N PO BOX 6 MENEMSHA, MA 02552 |
| Parcel Number: 271-102-00 CAMA Number: 271-102-00 Property Address: 12 HARBOR HILL RD | Mailing Address: BURGESS PATRICIA A TRUSTEE ;CAPTAIN BARLOW I REALTY TRUST 55 REDWING DR BRIDGEWATER, MA 02324 |
| Parcel Number: 271-103-00 CAMA Number: 271-103-00 Property Address: 14 HARBOR HILL RD | Mailing Address: WILCOX BESSIE C, GILBERT & DONALD TRSTEE BESSIE C WILCOX GRANTOR TRUST 115 BAR GATE TRAIL KILLINGWORTH, CT 06419-1382 |
| Parcel Number: 271-105-00 CAMA Number: 271-105-00 Property Address: 0 HARBOR HILL RD | Mailing Address: FLANDERS FRANCES, M & S TRSTEE C/O: FRANCES C FLANDERS PO BOX 59 CHILMARK, MA 02535 |
| Parcel Number: 271-106-00 CAMA Number: 271-106-00 Property Address: 18 HARBOR HILL RD | Mailing Address: KEENE SUZANNA & KATHERINE TRST AERIE REALTY TRUST 101 GEORGETOWN RD WESTON, CT 06883 |
| Parcel Number: 271-107-00 CAMA Number: 271-107-00 Property Address: 26 HARBOR HILL RD | Mailing Address: KENNEY BRIAN R TRUSTEE ;KENNEY FAMILY GRAT #2 C/O CAROL KENNEY 1136 FIFTH AVENUE NEW YORK, NY 10128 |



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300 foot Abutters List Report

Chilmark, MA
November 15, 2019

| | |
|---|--|
| Parcel Number: 271-108-00 CAMA Number: 271-108-00 Property Address: 27 HARBOR HILL RD | Mailing Address: KEENE JOHN E & HILLARY N TRS EYRIE REALTY TRUST 16 REDHAWK LANE CHILMARK, MA 02535 |
| Parcel Number: 271-109-00 CAMA Number: 271-109-00 Property Address: 10 BASIN RD | Mailing Address: POOLE EVERETT H 7 BUMBLEBEE HILL CHILMARK, MA 02535 |
| Parcel Number: 271-108-00 CAMA Number: 271-110-00 Property Address: 25 HARBOR HILL RD | Mailing Address: KEENE JOHN E & HILLARY N TRS EYRIE REALTY TRUST 16 REDHAWK LANE CHILMARK, MA 02535 |
| Parcel Number: 271-112-00 CAMA Number: 271-111-00 Property Address: 21 HARBOR HILL RD | Mailing Address: HORWITZ ANTHONY L & GERALDINE BROOKS PO BOX 5056 VINEYARD HAVEN, MA 02568 |
| Parcel Number: 271-113-00 CAMA Number: 271-113-00 Property Address: 21 R HARBOR HILL RD | Mailing Address: HORWITZ ANTHONY L & GERALDINE BROOKS PO BOX 5056 VINEYARD HAVEN, MA 02568 |
| Parcel Number: 271-115-00 CAMA Number: 271-115-00 Property Address: 509 NORTH RD | Mailing Address: GREENEBAUM EDWIN H TRUSTEE GREENEBAUM FAMILY MASS LAND TR 2246 EAST CAPE COD DRIVE BLOOMINGTON, IN 47401 |
| Parcel Number: 271-116-00 CAMA Number: 271-116-00 Property Address: 2 BASIN RD | Mailing Address: FULLER ROBERT E TRUSTEE 10 NORTH ABEL'S HILL RD CHILMARK, MA 02535-9233 |
| Parcel Number: 271-117-00 CAMA Number: 271-117-00 Property Address: 4 BASIN RD | Mailing Address: FLANDERS FRANCES C & WJ EISEN TRSTEEES DAVID FLANDERS FAM NOM TR III PO BOX 59 CHILMARK, MA 02535 |
| Parcel Number: 271-118-00 CAMA Number: 271-118-00 Property Address: 8 BASIN RD | Mailing Address: SLATER HERBERT & JANE N TRSTEEES SLATER FAMILY NOMINEE TRUST PO BOX 54 MENEMSHA, MA 02552 |
| Parcel Number: 271-119-00 CAMA Number: 271-119-00 Property Address: 20 CRICK HILL RD | Mailing Address: SICA FRANK V 15 KENSINGTON RD UNIT# 402 BRONXVILLE, NY 10708 |
| Parcel Number: 271-120-00 CAMA Number: 271-120-00 Property Address: 18 CRICK HILL RD | Mailing Address: HANCOCK DEBORAH TRUSTEE HATE TO QUIT IT RE TRUST PO BOX 460 CHILMARK, MA 02535 |
| Parcel Number: 271-121-00 CAMA Number: 271-121-00 Property Address: 16 CRICK HILL RD | Mailing Address: SICA FRANK V 15 KENSINGTON RD UNIT# 402 BRONXVILLE, NY 10708 |





300 foot Abutters List Report

Chilmark, MA
November 15, 2019

| | |
|--|---|
| Parcel Number: 271-122-00 CAMA Number: 271-122-00 Property Address: 12 CRICK HILL RD | Mailing Address: CRICK HILL STATE OF MIND LLC C/O MICHELLE GRACE 487 EAST MAIN ST. STE# 157 MT KISCO, NY 10549 |
| Parcel Number: 271-123-00 CAMA Number: 271-123-00 Property Address: 10 CRICK HILL RD | Mailing Address: MENEMSHA POOLHOUSE LLC 487 EAST MAIN ST STE# 157 MT KISCO, NY 10548 |
| Parcel Number: 271-124-00 CAMA Number: 271-124-00 Property Address: 28 BASIN RD | Mailing Address: EISEN WILLIAM J & TURNPIKE REALTY CO INC PO BOX 98 N WEYMOUTH, MA 02191 |
| Parcel Number: 271-157-00 CAMA Number: 271-157-00 Property Address: 25 BASIN RD | Mailing Address: SLOANE ROBERT & MARY E LARSEN 20 STONEWALL RD CHILMARK, MA 02535 |
| Parcel Number: 271-158-00 CAMA Number: 271-158-00 Property Address: 15 BASIN RD | Mailing Address: ULJUA ELIZABETH O 1895 FREEDOM DR MELBOURNE, FL 32940 |
| Parcel Number: 271-159-00 CAMA Number: 271-159-00 Property Address: 11 BASIN RD | Mailing Address: MCCORMICK SETH J & KATHERINE E 14 WATSON ST UNIT# 17 LOWELL, MA 01852 |
| Parcel Number: 271-159-00 CAMA Number: 271-159-00 Property Address: 11 BASIN RD | Mailing Address: MCCORMICK SETH J & KATHERINE E 14 WATSON ST UNIT# 17 LOWELL, MA 01852 |
| Parcel Number: 271-229-00 CAMA Number: 271-229-00 Property Address: 0 BOATHOUSE RD | Mailing Address: UNITED STATES OF AMERICA US COAST GUARD 20 EDYS ISLAND WAY CHILMARK, MA 02535 |
| Parcel Number: 271-230-00 CAMA Number: 271-230-00 Property Address: 0 BOATHOUSE RD | Mailing Address: CHILMARK TOWN OF PO BOX 119 CHILMARK, MA 02535 |



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11/15/2019

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EXHIBIT E:
2019 ORDER OF
CONDITIONS FOR
CONSTRUCTION
OF NEW PIER



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:
 SE 12 - 855
 MassDEP File #

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 Chilmark
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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):
County of Dukes County
 a. County 1216 b. Certificate Number (if registered land) 262
 c. Book 1216 d. Page 262
7. Dates: 11/26/19 2/5/2020 2/11/2020
 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):
Site Plan in Chilmark, Mass. prepared for RMJ Dock, LLC
 a. Plan Title Vineyard Land Surveying & Engineering Reid G. Silva
 b. Prepared By 2/4/2020 c. Signed and Stamped by 1" = 10'
 d. Final Revision Date Part of 1963 Pier License # 4712; Narrative dated 2/4/2020 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
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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Chilmark
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B. Findings (cont.)

Denied because:

- b. the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
- 3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) _____ 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 |



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B. Findings (cont.)

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

| | Proposed Alteration | Permitted Alteration | Proposed Replacement | Permitted Replacement |
|--|---|---|-------------------------------|-------------------------------|
| 10. <input type="checkbox"/> Designated Port Areas | Indicate size under Land Under the Ocean, below | | | |
| 11. <input checked="" type="checkbox"/> Land Under the Ocean | < 20 s.f. for piles 0 c. c/y dredged | < 20 s.f. for piles 0 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 | _____ cu yd c. nourishment | _____ cu yd d. nourishment |
| 14. <input type="checkbox"/> Coastal Dunes | _____ a. square feet | _____ b. square feet | _____ cu yd c. nourishment | _____ cu yd d. nourishment |
| 15. <input type="checkbox"/> Coastal Banks | _____ a. linear feet | _____ b. linear feet | | |
| 16. <input type="checkbox"/> Rocky Intertidal Shores | _____ a. square feet | _____ b. square feet | | |
| 17. <input type="checkbox"/> Salt Marshes | _____ a. square feet | _____ b. square feet | _____ c. square feet | _____ d. square feet |
| 18. <input type="checkbox"/> Land Under Salt Ponds | _____ a. square feet | _____ b. square feet | | |
| | _____ c. c/y dredged | _____ d. c/y dredged | | |
| 19. <input type="checkbox"/> Land Containing Shellfish | _____ a. square feet | _____ b. square feet | _____ c. square feet | _____ d. square feet |
| 20. <input type="checkbox"/> Fish Runs | Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above | | | |
| | _____ a. c/y dredged | _____ b. c/y dredged | | |
| 21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage | _____ a. square feet | _____ b. square feet | | |
| 22. <input type="checkbox"/> Riverfront Area | _____ a. total sq. feet | _____ b. total sq. feet | | |
| Sq ft within 100 ft | _____ c. square feet | _____ d. square feet | _____ e. square feet | _____ f. square feet |
| Sq ft between 100-200 ft | _____ g. square feet | _____ h. square feet | _____ i. square feet | _____ j. square feet |



Massachusetts Department of Environmental Protection
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B. Findings (cont.)

* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (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 _____ 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

WPA Form 5 – Order of Conditions

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

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C. General Conditions Under Massachusetts Wetlands Protection Act

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

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number SE 12 - 855 "
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
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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
- (1) is subject to the Massachusetts Stormwater Standards
- (2) is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
- v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:
 - i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and
 - ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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

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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

See attached.

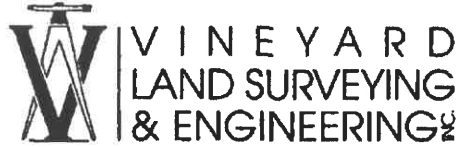
- 20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, 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.

SE 12 – 855; RMJ Dock, LLC Order of Conditions

16 Harbor Hill Lane; Map 27.1 Lot 104

Special Conditions February 5, 2020

1. The revised site plan dated 2/4/2020 including the boathouse, the walkway behind the boathouse and the narrative dated 2/4/2020 is approved.
2. The erosion control measures as outlined in the narrative dated 2/4/2020 shall be installed and approved by the Conservation Agent (CA) before any work begins.
3. The work and replacement of the walkway behind the boathouse shall not cause any disturbance to the bank.
4. The walkway shall be cantilevered from the boathouse framework with only one piling at the corner. The cantilevered supports shall eliminate the need for any support pilings along the back of the boathouse.
5. The floor and dock deck elevation shall be raised to a point above mean high tide in a manner to plan for rising sea level. This height shall be approved by the CA before work begins.
6. 310 CMR 10.30(3) of the Wetlands Regulations, promulgated under Massachusetts General Laws Chapter 131, Section 40, and Section 2.05 (4C) of the Chilmark Conservation Commission Rules & Regulations, promulgated under the Chilmark Wetlands Protection Bylaws, requires that no coastal engineering structure, such as a bulkhead, revetment, or seawall shall be permitted on a bank, or on an eroding bank, at any time in the future to protect the project allowed by this Order of Conditions.
7. A pre-construction conference shall take place on site among the CA and contractor(s) to review this Order before work begins.



February 4, 2020

Town of Chilmark - Conservation Commission
P. O. Box 119
Chilmark, MA 02535

RE: RMJ Dock LLC #16 Harbor Hill Rd., Chilmark Assessor Parcel 27.1-104.1
VLS&E Job No. 13-1

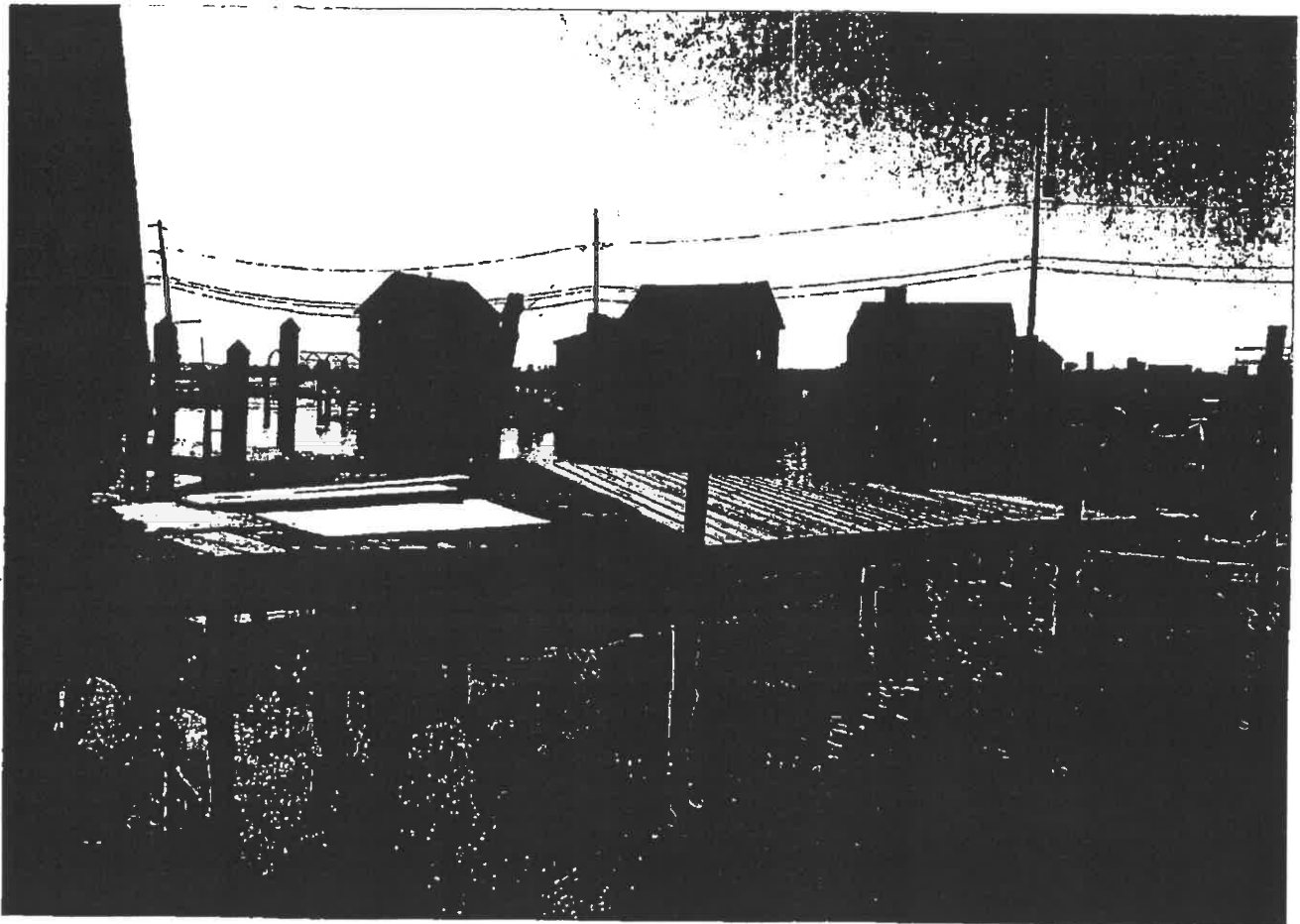
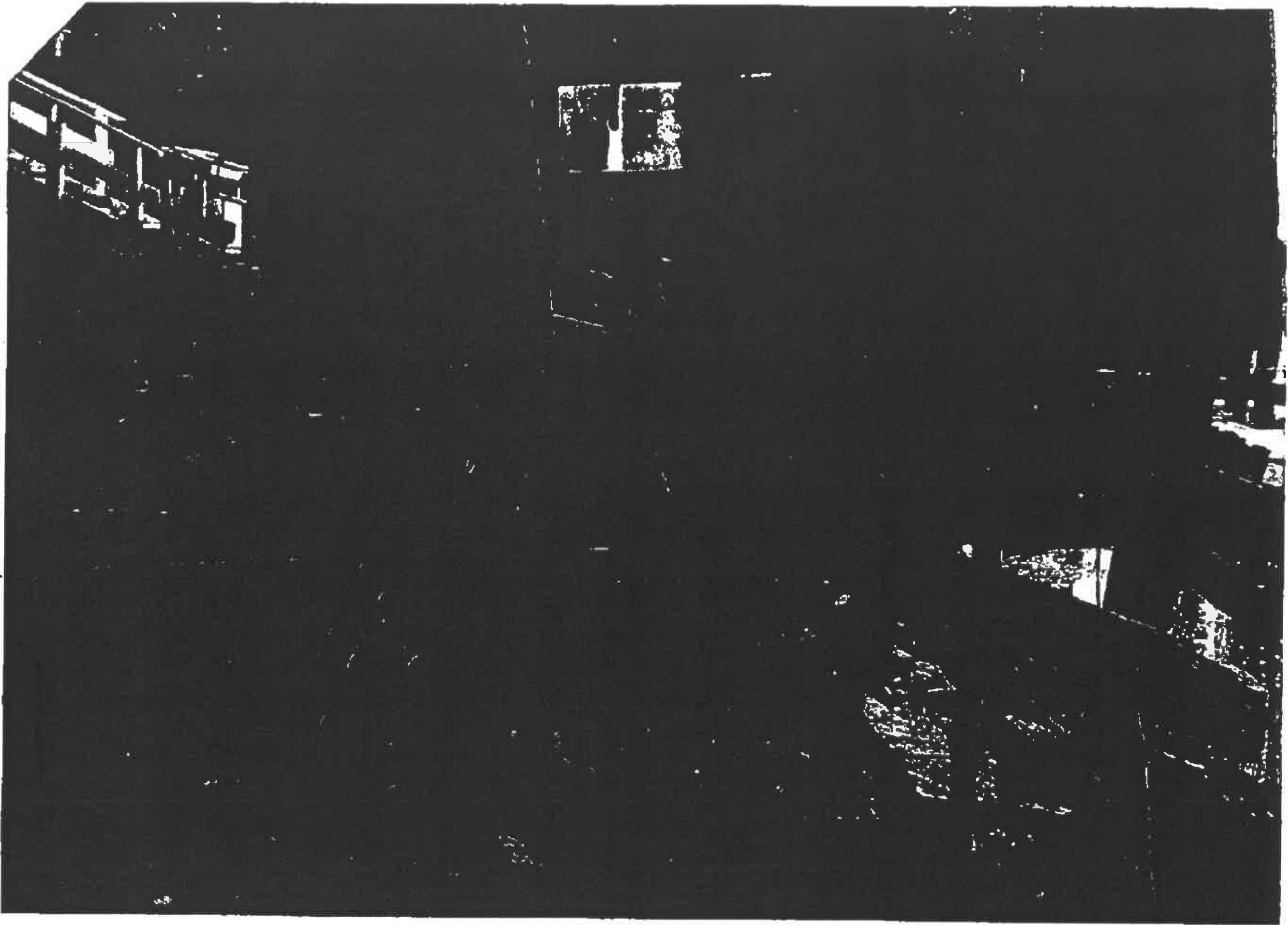
Dear Commission Members,

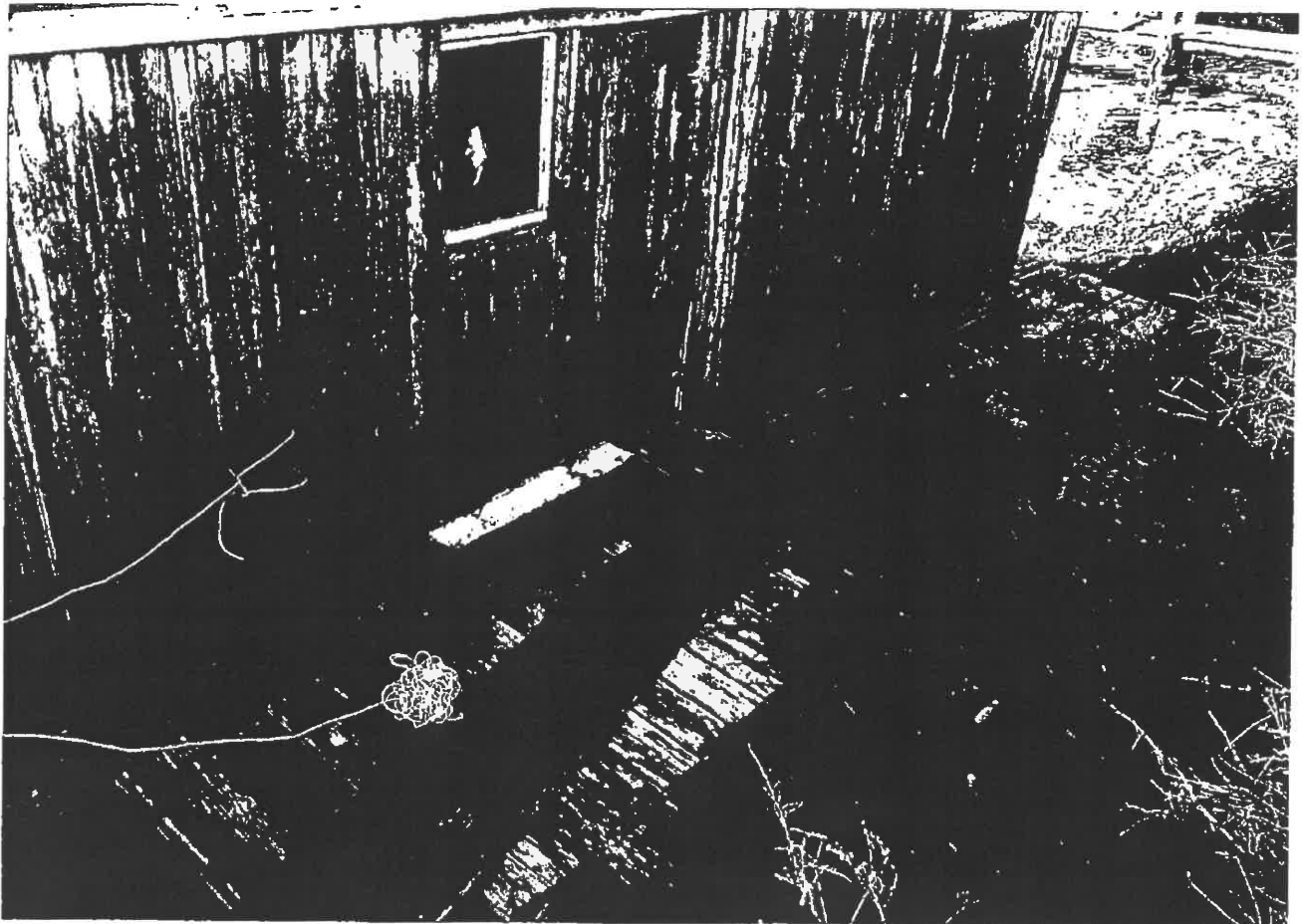
I visited the site after the opening of the hear for our Notice of Intent for the above property. As noted by the commission, though our current proposal is to reconstruct the existing pier, the rest of the structures and walkways are in very poor condition as well and should be repaired or replaced as necessary. I would like to amend our current request to include removal and replacement of the existing boat-house, walkway and support piles as necessary during the pier reconstruction project. The work would be done via barge with all materials being removed or replaced to be placed on the barge and replacement material being delivered to the site by barge as well. A debris curtain will be placed in the water during removal of the boat-house to contain any debris that may fall in the water during the removal process. Attached are some photographs of the existing structures and a new site plan defining the scope of work.

Please let me know if you have any questions or need additional information.

Sincerely,

Reid G. Silva, PE PLS
Professional Engineer
Professional Land Surveyor







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:
SE 12 - 855
 MassDEP File #

 eDEP Transaction #
Chilmark
 City/Town

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No
2. The Chilmark Conservation Commission hereby finds (check one that applies):
- a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw _____ 2. Citation _____

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

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

Chilmark Wetland Protection Bylaws 1.02
 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):

1. 310 CMR 10.30(3) of the Wetlands Regulations, promulgated under Massachusetts General Laws Chapter 131, Section 40, and Section 2.05 (4C) of the Chilmark Conservation Commission Rules & Regulations, promulgated under the Chilmark Wetlands Protection Bylaws, requires that no coastal engineering structure, such as a bulkhead, revetment, or seawall shall be permitted on a bank, or on an eroding bank, at any time in the future to protect the project allowed by this Order of Conditions.



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 City/Town

E. Signatures

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

2/6/2020
 1. 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.

2. Number of Signers

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

Signatures:

Chris Murphy
Janet Ryan
Candy Shweder

[Signature]
[Signature]
[Signature]

by hand delivery on
2/6/2020 2/11/2020
 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 for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

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

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



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:
SE 12 - 855
 MassDEP File #

eDEP Transaction #
Chilmark
 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.

Chilmark
 Conservation Commission

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

To:

Chilmark
 Conservation Commission

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

16 Harbor Hill Lane; AP 27.1-104
 Project Location

SE 12 - 855
 MassDEP File Number

Has been recorded at the Registry of Deeds of:

County of Dukes County
 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:

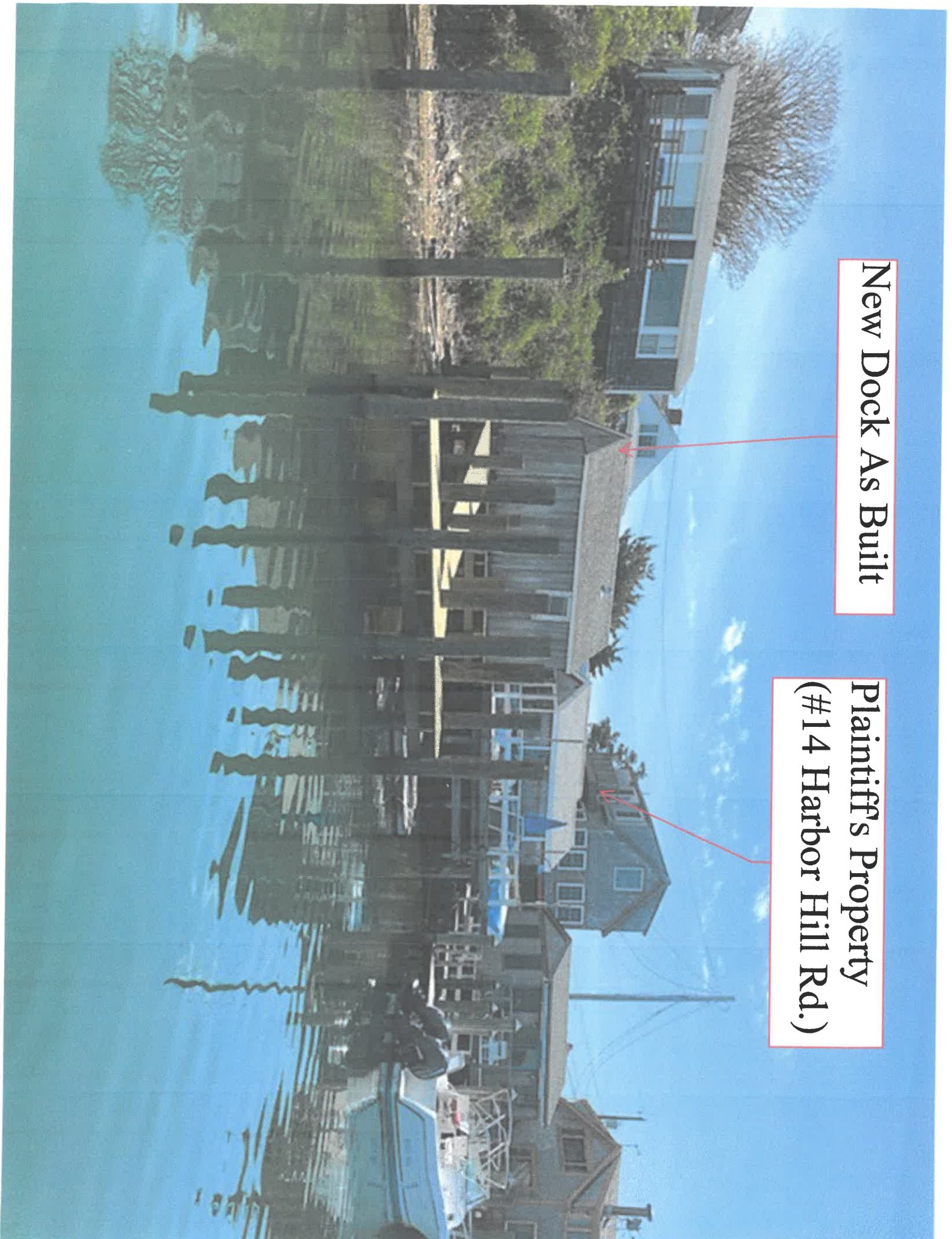
Document Number

Signature of Applicant

EXHIBIT F:
PHOTOS OF PIER AS BUILT

New Dock As Built

**Plaintiff's Property
(#14 Harbor Hill Rd.)**



| | |
|--|--|
| Plaintiff THE BESSIE C. WILCOX GRANTOR TRUST | Defendant: CHILMARK CONSERVATION COMMISSION |
| ADDRESS: Donald, Gilbert & Jacqueline Wilcox, TRUSTEES | ADDRESS: 401 Middle Rd. |
| 115 Bar Gate Trail | Chilmark, MA |
| Killingworth, CT 06419-1382 | 02535 |
| Plaintiff Attorney: Erik Hammarlund | Defendant Attorney: |
| ADDRESS: P.O. Box 2487 | ADDRESS: |
| 10 State Rd. Unit B-3 | |
| Vineyard Haven, MA 02568 | |
| BBO: 664321 | BBO: |

TYPE OF ACTION AND TRACK DESIGNATION (see instructions section below)

| | | | |
|-----------------|--------------------------------------|--------------|---|
| CODE NO. | TYPE OF ACTION (specify) | TRACK | HAS A JURY CLAIM BEEN MADE? |
| E03 | Certiorari Action, G.L. c. 249, Å§ 4 | X | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO |

***If "Other" please describe:** _____

| | |
|---|--|
| Is there a claim under G.L. c. 93A? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | Is there a class action under Mass. R. Civ. P. 23? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO |
|---|--|

STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, Å§ 3A

The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff's counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS

A. Documented medical expenses to date

| | |
|--|---------------|
| 1. Total hospital expenses | _____ |
| 2. Total doctor expenses | _____ |
| 3. Total chiropractic expenses | _____ |
| 4. Total physical therapy expenses | _____ |
| 5. Total other expenses (describe below) | _____ |
| | |
| Subtotal (1-5): | \$0.00 |

B. Documented lost wages and compensation to date _____

C. Documented property damages to date _____

D. Reasonably anticipated future medical and hospital expenses _____

E. Reasonably anticipated lost wages _____

F. Other documented items of damages (describe below)

| | |
|--------------|---------------|
| | |
| TOTAL (A-F): | \$0.00 |

G. Briefly describe plaintiff's injury, including the nature and extent of injury:

CONTRACT CLAIMS

This action includes a claim involving collection of a debt incurred pursuant to a revolving credit agreement. Mass. R. Civ. P. 8.1(a).

| Item # | Detailed Description of Each Claim | Amount |
|--------|------------------------------------|--------|
| 1. | | |
| Total | | |

Signature of Attorney/Unrepresented Plaintiff: X _____

Date: July 23, 2021

RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.

CERTIFICATION PURSUANT TO SJC RULE 1:18

I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.

Signature of Attorney/Unrepresented Plaintiff: X _____

Date: July 23, 2021

CIVIL ACTION COVER SHEET INSTRUCTIONS SELECT CATEGORY THAT BEST DESCRIBES YOUR CASE

RR Real Property

ER Equitable Remedies

AC Actions Involving the State/Municipality *

MC Miscellaneous Civil Actions

- (A) C01 Land Taking
- (F) C02 Zoning Appeal, G.L. c. 40A
- (F) C03 Dispute Concerning Title
- (F) C04 Foreclosure of a Mortgage
- (X) C05 Condominium Lien & Charges
- (X) C99 Other Real Property Action

AB Abuse/Harassment Prevention

- (X) E18 Foreign Discov'ry Proceeding
- (X) E97 Prisoner Habeas Corpus
- (X) E22 Lottery Assignment, G.L. c. 10, § 28

AA Administrative Civil Actions

- (X) E15 Abuse Prevention Petition, G.L. c. 209A
- (X) E21 Protection from Harassment, G.L. c. 258E

IR Torts

- (A) PA1 Contract Action involving an Incarcerated Party
- (A) PB1 Tortious Action involving an Incarcerated Party
- (A) PC1 Real Property Action involving an Incarcerated Party
- (A) PD1 Equity Action involving an Incarcerated Party
- (F) PE1 Administrative Action involving an Incarcerated Party
- (F) §§ 29, 29A
- (X) E10 Summary Process Appeal
- (X) E11 Worker's Compensation
- (X) E16 Auto Surcharge Appeal
- (X) E17 Civil Rights Act, G.L. c. 12, § 11H
- (A) E24 Appeal from District Court
- (X) E25 Pleural Registry (Asbestos cases)
- (X) E94 Forfeiture, G.L. c. 265, § 56
- (F) E95 Forfeiture, G.L. c. 94C, § 47
- (X) E99 Other Administrative Action
- (X) Z01 Medical Malpractice - Tribunal only,
- (F) G.L. c. 231, § 60B
- (X) Z02 Appeal Bond Denial

SO Sex Offender Review

- (X) E12 SDP Commitment, G.L. c. 123A, § 12
- (X) E14 SDP Petition, G.L. c. 123A, § 9(b)

RP Summary Process (Real Property)

- (X) S01 Summary Process - Residential
- (X) S02 Summary Process - Commercial/Non-residential

RC Restricted Civil Actions

- (X) E19 Sex Offender Registry, G.L. c. 6, § 178M
- (X) E27 Minor Seeking Consent, G.L. c. 112, § 12S

TRANSFER YOUR SELECTION TO THE FACE SHEET

HAS A JURY CLAIM BEEN MADE? YES NO

CODE NO. 803
TYPE OF ACTION (specify) Motor Vehicle Negligence-Personal Injury
TRACK F

STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A

DUTY OF THE PLAINTIFF - The plaintiff shall set forth, on the face of the civil action cover sheet (or attach additional sheets as necessary), a statement specifying the facts on which the plaintiff relies to determine money damages. A copy of such civil action cover sheet, including the statement as to the damages, shall be served with the complaint. A clerk-magistrate shall not accept for filing a complaint, except as otherwise provided by law, unless it is accompanied by such a statement signed by the attorney or self-represented litigant.

DUTY OF THE DEFENDANT - If the defendant believes that the statement of damages filed by the plaintiff is inadequate, the defendant may file with his/her answer a statement specifying the potential damages which may result if the plaintiff prevails.

**A CIVIL COVER SHEET MUST BE FILED WITH EACH COMPLAINT.
FAILURE TO COMPLETE THIS COVER SHEET THOROUGHLY AND ACCURATELY
MAY RESULT IN DISMISSAL OF THIS ACTION.**