

Draft ORDER OF CONDITIONS

**128 Cliff Road
MA DEP # 324-0950**

Applicant: Peter and Marjorie Lacaillade
128 Cliff Road
Wellesley, MA 02481

EXHIBIT A

Project: Demolish an existing 2-car garage and replace it with a 3-car garage. Extend the existing driveway to accommodate a 3-point turning space.

Wetland Resource Areas Associated with the Site:

- Bank to intermittent stream
- Bordering Vegetated Wetland
- Buffer Zone to Bank and BVW (Bylaw)

Applicant and Property Owner:

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Applicant's Representative:

Chi Y. Man, PE
Hardy + Man Design Group
1285 Washington Street
Weymouth
MA 02189
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Date of Issuance: (placeholder August 28, 2020)

Documents of Record:

- "Notice of Intent" dated 06/29/20; 06/30/2020, prepared by Peter Lacaillade & Chi Man, documents and flash drive stamped received by the Natural Resources Commission Office on 1/18/18^[RH1].
- "Wetlands Delineation," performed 5/27/2020 by Ken Thompson, includes DEP data sheets, stamped received by the Natural Resources Commission Office on 2/1/18.
- "Stormwater report" performed 6/28/2020 by Hardy + Man Design Group, PC; stamped received by the Natural Resources Commission Office on 2/1/18. Final revision prepared 7/7 2020, including O&M plan, received by the Natural Resources Commission Office on 2/1/18
- "Conservation Plan of Land," with erosion control detail, scale 1"0' = 20', prepared by Hardy + Man Design Group, PC, dated 6/25/2020, signed and stamped by Paul J

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DeSimone, PLS #30466 and Daniel J. Merrikin, PE #43309, received by the Natural Resources Commission Office 1/18/18. Final revision prepared 7/7 2020, received by the Natural Resources Commission Office on 2/1/18

- Tree protection / Sonotube placement plan dated 7/15/2020, by a+sl Studios, Inc. received by the Natural Resources Commission Office on 2/1/18

Definitions:

Buffer Zone: Under the Massachusetts Wetlands Protection Act, a jurisdictional area consisting of the area within 100 feet of any resource area specified in 310 CMR 10.02(1)(a). Under the Wellesley Wetlands Protection Bylaw and Regulations, the Buffer Zone is itself a resource area, consisting of the area within 100 feet of any other resource area protected by the Bylaw (except for vernal pool habitats and land within 200 feet of rivers, bordering land subject to flooding, or isolated land subject to flooding).

Diameter at Breast Height (DBH): The diameter at a height of four and one-half (4.5) feet above the existing grade at the base of the tree.

Growing Season: One growing season is defined as the portion of the year when soil temperature (measured at 20 inches below the surface) is above biological zero (5°C or 41°F). The approximate dates for one growing season in Wellesley are April 30 through October 7.

Resource Area: Any area so designated within the Massachusetts Wetlands Protection Act and/or the Wellesley Wetlands Protection Bylaw.

Existing Conditions:

The existing site is a 51,630 SF parcel of land located at 128 Cliff Road in Wellesley. The parcel is currently improved with an 2-1/2-story single family residential dwelling, bituminous concrete paved driveway, lawn, landscape patio, and a 2-car garage. The topography of the site slopes from the center of the lot of elevation 266 feet to approximate elevation 254 feet on the southernly edge of the site, where there is an intermittent stream and wetland resource area. The site also slopes from the building easterly toward Cliff Road at elevation 259. Back in 2013, the site was granted an Order of Conditions for a building expansion project. At that time, a single Cultec Recharger Model 150 dry well was installed to mitigate additional runoff. The USDA web soil survey database indicates that the site soil is classified as 630C – Charlton-Hollis-Urban Land Complex. This type of soil typically consists of fine sandy loam with ground water table below 80" in depth and is classified as Hydrologic Group A well-drained soil.

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Proposed Conditions:

Demolish the existing 2-car garage and construct a new 3-car garage with additional pavement for “turn-around”. The new garage will be constructed relatively on the same footprint of the existing garage. The proposed impervious coverage on the site will increase by 410 SF. The additional runoff generated by garage and additional pavement will be collected and retained by 8 Cultec Recharger Model 150 dry well system. The proposed chambers and surrounding stone will provide a total of 415 cubic feet of storage and are sized designed to mitigate runoff from the new improvement. Both runoff volume and peak flow rate will reduce the 2-year, 10-year, 50-year, and 100-year rainfall events under the proposed conditions.

Wetland Delineation:

On May 5th, 2020 Kevin Thomson delineated the wetland resource areas on the project site using vegetation, soils, and hydrology. DEP data sheets were submitted. The Town of Wellesley Wetlands Protection Committee (WPC) finds that the delineation of wetland resource areas is accurate as shown on the NOI plans. Under the Massachusetts Wetlands Protection Act, the Buffer Zone is not a resource area but is a regulated wetland area and is located within 100-feet of an area specified in 310 CMR 10.02(1)(a).

NOI under the Wellesley Wetlands Protection Bylaw:

A Notice of Intent under the Wetlands Protection Bylaw (Article 44) has been submitted with this filing for work in areas regulated by the Bylaw.

Compliance with Applicable Performance Standards by Resource Area:

General Conclusion:

The WPC has determined that the proposed project can be conditioned to comply with the applicable performance standards of the Massachusetts Wetlands Protection Act and the Town of Wellesley Wetlands Protection Bylaw as described within this document. As such, this Order of Conditions is issued under both the Act and the Bylaw.

- **Buffer Zone (Bylaw) 75' Limited Disturbance Zone:** Work in the 75' Limited Disturbance Zone must meet a not “more likely than not to harm or eventually harm” jurisdictional Bylaw resource area performance standard. Work in the 75' LDZ will not impair the ability of the Buffer Zone to preserve and protect the Bylaw Interests and Values. The WPC finds that proposed work to construct a garage, install infiltration, and expand the parking area can meet the performance standards of the Bylaw.

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- Buffer Zone (Act): The WPC finds that work proposed in the Buffer Zone to BVW, subject to the conditions set forth herein, is not likely to alter the resource area. With the conditions set forth within this Order of Conditions, the project will not yield any long term negative impact to the Buffer Zone and its ability to serve the Interests and Values of the Act.

The WPC finds that the overall project, including proposed mitigation measures and as conditioned herein, will maintain the ability of the Buffer Zone and Bordering Vegetated Wetland to serve and protect the Interests and Values of the Act and the Bylaw, as well as enhance the health and function of the Resource Areas.

Conditions:

The project must comply with the following General Conditions:

General Conditions:

1. Except where modified by the following Conditions, all work shall be performed in accordance with the plans and the Notice of Intent referenced above. Where a conflict exists between the referenced plans and these Conditions, the Conditions will govern.
2. The WPC reserves the right to enter upon the premises to inspect the work for compliance with the Order of Conditions.
3. **If the applicant intends to make any change in the work permitted hereunder the applicant must submit a written request to the WPC with plans or a description that reflects the proposed changes.** Upon review of said request, the WPC may require the applicant to submit a request for an Amendment to the Order of Conditions. No changes may be made before said written request is presented to the WPC and approval thereof is given in writing by the WPC. Changes needing approval include, but are not limited to additional decks, patios, and landscaped areas, changes in elevation of structures, alteration of vegetation, alteration of approved construction sequence, regrading, and all other alterations within Resource Areas and Buffer Zones.
4. If any change is made, or plans altered or revised without prior approval of the WPC, additional conditions and/or enforcement actions may be imposed to protect the interests of the Wetlands Protection Act and the Wellesley Wetlands Protection Bylaw.

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5. The WPC reserves the right to amend this Order of Conditions after a legally advertised public hearing if plans or circumstances are changed or if new conditions or information so warrant.
6. The term “applicant” as used in this Order of Conditions shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of Intent, supporting documentation and this Order. The WPC shall be notified in writing within 30 days of all transfers of title of any portion of the property that take place prior to the issuance of the Certificate of Compliance.
7. The applicant shall, in accordance with 310 CMR 10.05(4)(e), obtain all permits, variances and approvals required by the Bylaws of the Town of Wellesley.
8. It is the responsibility of the applicant to complete any review required by all agencies with jurisdiction over the activity that is the subject of this Order of Conditions, and to procure all required permits or approvals before any work commences. These reviews, permits and approvals may include but are not limited to the following:
 - a) Review by the U.S. Army Corps of Engineers for any regulated activity not eligible for self-certification and procurement of any permits or approvals identified by the Corps;
 - b) Review by the Department of Environmental Protection (DEP) and procurement of any permits or approvals identified by DEP;
 - c) Review by the Massachusetts NHESP for any projects within estimated and/or priority habitat and any permits or approvals identified by the program; and
 - d) Review by the local planning boards, boards of health, zoning boards and building inspectors and procurement of any permits or approvals required by these boards or agencies; and
 - e) Review of a Construction Management Plan (CMP) by the Town of Wellesley Police Department. A note showing approval of the CMP must be sent to the Wellesley Wetlands Protection Committee. Construction Hours must reference the Town of Wellesley noise ordinance and the construction route for deliveries to the site and material leaving the site.

In addition to the General Conditions set forth herein, the project must comply with the following Special Conditions:

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Special Conditions:

PRECONSTRUCTION:

9. Prior to any work commencing on the site, the applicant shall display the MassDEP file number for this Order on a sign with minimum dimensions of two feet by two feet at a location clearly visible from the street. The sign shall remain in place and visible until construction activity has ceased.
10. Erosion controls consisting of straw or compost-filled wattle silt socks and a filter fabric siltation fence shall be installed around the limit of work, repaired and maintained where already installed, until all construction is complete, at the location in accordance with the approved site plan. The layout is subject to on-site approval of the WPC or its Administrator. Erosion control wattles shall be staked as per the Straw Wattle Detail, recommendations of the MACC Massachusetts Runoff, Erosion, and Sediment Control Field Guide, or the [Massachusetts Department of Transportation Erosion and Sediment Control Field Guide](#).
11. The applicant shall preserve and protect all sizeable trees with a DBH of 10" or greater within wetland resource areas during the demolition and/or construction phases of this project. Tree protection should follow the standard conditions above and suggestions from the applicant's certified arborist. If a Tree Protection Plan is required under the Tree Protection Bylaw that includes trees in wetland resource areas, the applicant shall submit a copy of the Tree Protection Plan. For all sizeable trees within wetland resource areas that are not protected under the Tree Protection Plan, the applicant shall include a tree protection plan that meets the standards of the WPC which are as follows:

The applicant shall install temporary construction fences around all of the trees with a DBH of ten (10) inches or greater and which are **within the limit of work boundaries**. The fences shall be placed as far out from the trunks of the trees as possible to protect the root systems, allowing approximately 18 inches of space from the trunk for each inch of trunk diameter if practicable. The fence shall be kept clear of building materials, waste and excess soil. No digging, trenching or other soil disturbance shall be allowed in the fenced area.
12. After erosion controls, tree protection, and the MassDEP sign have been installed and prior to the start of construction, the applicant shall request that the WPC and/or its Administrator conduct a preconstruction site inspection to ensure that all preconstruction conditions have been fulfilled. No work on the project may begin until the WPC or its

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Administrator so authorizes.

13. All “Preconstruction” Conditions of the Order shall be satisfied prior to the start of construction. The WPC may grant a waiver from this Condition if or when a request has been made by the applicant in writing and unique circumstances warrant such a waiver.
14. The applicant shall submit in writing the names and contact information of the person(s) responsible at all times for compliance with this Order, for maintenance of erosion and sedimentation controls, and for the invasive vegetation management. Appropriate parties would be the contractor, project engineer and/or wetlands specialist, etc.
15. An acknowledgement that a licensed pesticide applicator has been contracted for managing wintercreeper shall be submitted to the WPC prior to the start of removal.
16. A stockpile area shall be confirmed by the Wetlands Administrator at the site inspection.

CONSTRUCTION:

17. A copy of the above referenced plans and this Order of Conditions must be provided to and reviewed with the contractor **prior to the commencement of work** and must be available at all times at the construction site for reference.
18. No work, disturbance, or alteration may occur on the resource area side of the erosion control barrier (which will also serve as a limit of work demarcation) unless permitted under this Order. **No heavy equipment may operate beyond the limit of work at any time. No construction materials, stockpiled soil or fill, debris, brush, leaves, or other materials may be stockpiled on site.**
19. Yard waste (i.e. Christmas tree(s) currently found within the Buffer Zone shall be removed from the property.
20. No plants listed on the latest Massachusetts Department of Agricultural Resources Prohibited Plant List may be brought onto or planted anywhere on the property. (Plant List is available at www.mass.gov/eea/agencies/agr/farm-products/plants/massachusetts-prohibited-plant-list.html).
21. Invasive species must be managed by the “dip and clip” method; however alternative, non-chemical management measures such as smothering for a period of 1-2 years are allowed.

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22. The applicants must keep at least 20 feet of extra silt fence or erosion control socks on site in case there is a need for immediate repair of erosion controls or if sediment is found to be leaving the site at any location.
23. Silt sacks, if required for the project, shall be emptied at least once every two weeks and whenever silt and debris have collected to a level that is affecting the functionality of the silt sack and/or catch basins. Silt sacks shall be maintained in good working order and must be repaired or replaced when damaged.
24. The applicants must remove all silt caught by erosion control socks and siltation fencing at least once every two weeks and whenever the silt collects to a height greater than 1/2 the height of the barrier in any location. The applicant must immediately report to the WPC any sediment that goes beyond the erosion control line. The applicant must take whatever steps are necessary to prevent further damage to the resource area, and must then submit to the WPC a plan for remediation and/or restoration.
25. If dewatering is necessary, no dewatering is allowed until the WPC or its Administrator has inspected and approved the installation of the dewatering controls. Prior to any dewatering, the dewatering pit must be inspected by the Wetlands Administrator, and a plan drawing showing location of proposed pit, shall be provided to the WPC.
26. There shall be no stockpiling of soil, sand or similar unconsolidated material on site unless otherwise authorized by these Conditions, by the Wetlands Protection WPC, or its Administrator.
27. No fueling or maintenance of vehicles shall be allowed within a buffer zone or resource area unless otherwise authorized by the Conditions, the WPC or its Administrator.
28. No construction materials, debris, brush, leaves or other materials shall be deposited within the resource areas or down gradient of the limit of work.
29. Public streets/roads must be kept free of mud/sediment that work truck may track unto these streets/roads. At the end of each workday, the applicant or contractor shall mechanically or manually sweep sediments from the adjacent streets, unless tracking and sediment is not evident on the streets. Sediment shall be collected and disposed of appropriately (not swept into catch basins).

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30. Following the completion of construction and grading, all exposed soils within the resource area(s) and buffer zones must be stabilized with a permanent vegetative cover. Bark mulch or wood mulch will not be considered to provide a permanent stabilization on slopes with a gradient steeper than 3:1.
31. The WPC reserves the right to impose additional conditions on portions of this project to mitigate any impacts which could result from site erosion, or any noticeable degradation of surface water quality discharging from the site.

POST CONSTRUCTION:

32. The WPC shall require two (2) full growing seasons to determine that the tree re-location which has been performed as part of the mitigation plan has been effective. Further, the WPC will not consider issuing a "Complete" Certificate of Compliance until two full seasons have elapsed since management activity is initiated. [RH2]
33. Upon completion of construction and final soil stabilization, the Applicant shall submit the following to the WPC to request a Partial Certificate of Compliance (COC):
 - A completed Request for Certificate of Compliance – WPA Form 8A;
 - An **as-built plan** showing all structures, grading and plantings, **signed** and **stamped** by a Professional Engineer, Registered Land Surveyor or Registered Landscape Architect; and
 - A letter **signed** and **stamped** by a Professional Engineer, Registered Land Surveyor or Registered Landscape Architect **certifying** either that all work has been completed "strictly in compliance" with the Order of Conditions or that all work has been completed "substantially in compliance" with the Order. If said letter certifies that the work has been completed "substantially in compliance," then the letter must describe in detail any deviations from the Plans as approved by the WPC and their potential effect on the project and the wetland resource areas. A "substantially in compliance" letter without the detailing of deviations shall be found unacceptable by the WPC and will cause a Request for a Certificate of Compliance to be denied.
34. While project is active, excess material including but not limited to soil, cut vegetation or other landscape debris generated from work associated with this project shall be removed from the site daily and disposed of in a legal fashion.
35. With the approval of the WPC or its Administrator, erosion controls may be removed from

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the site when the surface is permanently stabilized. These must be removed before the issuance of a Certificate of Compliance.

36. Should new wetland resource areas be created as part of a mitigation plan for this project, such areas shall hereafter be subject to the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131§ 40) and the Wellesley Wetlands Protection Bylaw. This condition is ongoing and does not expire with the Order of Conditions or the issuance of a Certificate of Compliance.
37. There shall be no sedimentation into wetlands or water bodies from discharge pipes or surface runoff leaving the site.

CONDITIONS IN PERPETUITY

38. Wetlands and/or wetland Buffer Zones located on this property are subject to the Massachusetts Wetlands Protection Act (MGL Ch. 131, s. 40) and/or the Wellesley Wetlands Protection Bylaw. Any work within a wetland resource area or adjacent buffer zones that might fill, excavate, or otherwise alter that area, requires approval from the WPC, in accordance with the Act and the Bylaw. This Condition is ongoing and does not expire with the expiration of the Order of Conditions or the issuance of a Certificate of Compliance.
39. Fertilization of lawn and landscaped areas is a significant source of excess nutrient loading in downstream water bodies. No fertilization of any wetland resource area is allowed. Only organic fertilizers, such as leaf mulch, may be used on lawn and landscaped areas. This Condition is ongoing and does not expire with the expiration of the Order of Conditions or the issuance of a Certificate of Compliance.
40. No synthetic pesticides or herbicides may be applied within any wetland resource area or within a wetland buffer zone with the exception of the application of herbicides specifically demonstrated to be effective for the management of wintercreeper (*Euonymus fortune*). The WPC requires a written commitment to a maintenance plan free of pesticides and herbicides outside of the management of invasives from the landscape contractor. This Condition is ongoing and does not expire with the expiration of the Order of Conditions or the issuance of a Certificate of Compliance.
41. Only calcium-based deicing chemicals may be used on surfaces where runoff or drainage will discharge into wetland resource areas. This Condition is ongoing and does not expire with the expiration of the Order of Conditions or the issuance of a Certificate of Compliance.

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42. Further alteration is prohibited within the 100' Buffer Zone, except as may be required to maintain the area in its restored or mitigated condition. This Condition is ongoing and does not expire with the expiration of the Order of Conditions or the issuance of a Certificate of Compliance.
43. Yard waste debris: No yard waste of any kind can be disposed in the wetland resource area. This condition is ongoing and does not expire with the expiration of the Order of Conditions or the issuance of a Certificate of Compliance.
44. The operations and maintenance plan for the infiltration system must be enacted as prescribed in the plan. [RH3]