



RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF WATER RESOURCES
235 Promenade Street
Providence, Rhode Island 02908

CERTIFIED MAIL

September 15, 2021

Julie & Francesco Zabatta
21 Timberland Drive
Lincoln, RI 02865

PERMIT TO ALTER FRESHWATER WETLANDS

RE: Wetlands Application No. 21-0029 in reference to the location below:

Approximately 300 feet south of Limerock Road, opposite Utility Pole #50, and approximately 1850 feet east from the intersection of Limerock Road and Karen Ann Drive, Assessor's Plat 45, Lot 52, Smithfield, RI.

Dear Mr. and Mrs. Zabatta:

The Department of Environmental Management's ("DEM") Freshwater Wetlands Program ("Program") has completed its review of your **Application to Alter a Freshwater Wetland** regarding the single-family dwelling with an onsite wastewater treatment system (OWTS), detached garage with accessory dwelling, paved driveway with retaining wall, culverts, screen plantings along the driveway at the wetland crossing, underground and overhead electrical connection, private well, five qualifying pervious areas (QPAs) for stormwater mitigation, landscaping and temporary erosion controls as described and detailed in the material and information submitted in support of your application and on site plans received by the DEM on May 6, 2021. These site plans describing the project were made available for public comment as part of the forty-five (45) day public notice period required in accordance with the Freshwater Wetlands Act (R.I. Gen. Laws § 2-1-18 et seq.) and the procedures set forth in the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act, 250-RICR-150-15-1, specifically in 250-RICR-150-15-1.10.

This Program received one letter relating to your application which was submitted during the public notice period. This letter expressed concern regarding your project's impacts to freshwater wetland values. This Program reviewed this letter together with any supporting documents and evaluated the potential impacts from the project upon the values mentioned in the letter. The Program has determined that the comments contained within this letter does not constitute an objection of a substantive nature as defined in 250-RICR-150-15-1.10(D)(3)(c). Therefore, a public hearing pursuant to R.I. Gen. Laws § 2-1-22 is not required.

Pursuant to the Program's review and evaluation of your application including all supporting information and material, as well as the record to date, the Program has determined that this project does not represent a random, unnecessary or undesirable alteration of freshwater wetlands. Therefore, this Program hereby issues this permit to alter freshwater wetlands **subject to all controlling Rules and the Terms and Conditions set forth herein.**

Permit Terms and Conditions for Wetlands Application No. 21-0029:

1. This letter is the DEM's permit for this project under the R.I. Fresh Water Wetlands Act, R.I. Gen. Laws § 2-1-18 et seq.
2. This permit is specifically limited to the project, site alterations and limits of disturbance as detailed on the site plans submitted with your application and received by the DEM on May 6, 2021. A copy of the site plans stamped approved by the DEM is enclosed. Changes or revisions to the project which would alter freshwater wetlands are not authorized without a permit from the DEM.
3. Where the terms and conditions of the permit conflict with the approved site plans, these terms and conditions shall be deemed to supersede the site plans.
4. You must notify this Program in writing of the anticipated start date, and of your contractor's contact information, by submitting the Notice of Start of Construction Form prior to commencement of any permitted site alterations or construction activity. You must also notify this Program in writing upon completion of the project. The Start of Construction Form can be found on the webpage: dem.ri.gov/stormwaterconstruction
5. A copy of the stamped approved site plans and a copy of this permit must be kept at the site at all times during site preparation, construction, and final stabilization. Copies of this permit and the stamped approved plans must be made available for review by any DEM or city/town representative upon request.
6. Within ten (10) days of the receipt of this permit, you must record this permit in the land evidence records of the Town of Smithfield and supply this Program with written documentation obtained from the Town showing this permit was recorded.
7. The effective date of this permit is the date this letter was issued. This permit expires one (1) year from the date of this letter unless renewed pursuant to 250-RICR-150-15-1.10(G)(6).
8. Any material utilized in this project must be clean and free of matter that could pollute any freshwater wetland.
9. Prior to commencement of site alterations, you shall erect or post a sign resistant to the weather and at least twelve (12) inches wide and eighteen (18) inches long, which boldly identifies the initials "DEM" and the application number of this permit. This sign must be maintained at the site in a conspicuous location until such time that the project is complete and the DEM issues a Notice of Completion of Work for the project.
10. Temporary erosion and sediment controls detailed or described on the approved site plans shall be properly installed at the site prior to or commensurate with site alterations. Such controls shall be properly maintained, replaced, supplemented, or modified as necessary throughout the life of this project to minimize soil erosion and to prevent sediment from being deposited in any wetlands not subject to disturbance under this permit.
11. Upon permanent stabilization of all disturbed soils, temporary erosion and/or sediment controls must be removed.

12. You are responsible for the proper installation, operation, maintenance and stability of any mitigative features, stormwater treatment facilities, and systems of treatment and control that are installed or used in compliance with this permit to prevent harm to adjacent wetlands until documentation is provided that this responsibility has been assigned to another entity.
13. You are obligated to install, utilize and follow all best management practices detailed or described on the approved site plans in the construction of the project to minimize or prevent adverse impacts to any adjacent freshwater wetlands and the functions and values provided by such wetlands.
14. All plantings of shrubs, trees or other forms of vegetation as shown or detailed on the approved plans or detailed in this permit, must be installed as soon as possible after completion of final grading, weather and season permitting. **You must notify this Program in writing upon completion of the required plantings for a compliance inspection by a Program representative.**
15. As noted on the Approved site plans and for clarification purposes, 57 inkberry shrubs (*Ilex glabra*) shall be installed along the driveway as it passes through the Swamp, and 34 winterberry shrubs (*Ilex verticillata*) shall be planted along the driveway where it passes through the Perimeter Wetland.
16. Buffer zone plantings of trees and/or shrubs proposed between the project and any adjacent freshwater wetland areas, except for necessary replacement, must be allowed to develop naturally without being subjected to mowing or manicuring.
17. Any plantings which fail to survive one full growing season shall be replaced in-kind. Replacement plantings shall be similarly guaranteed for one full growing season.

Pursuant to the provisions in 250-RICR-150-15-1.7(A)(9) and 250-RICR-150-15-1.11(D) of the Rules, as applicable, any properly recorded and valid permit is automatically transferred to the new owner upon sale of the property. Pursuant to the provisions in 250-RICR-150-15-1.7(A)(9)(c), within ten (10) days of any property transfer, the subsequent transferee must notify the Department by forwarding a certified copy of the deed of transfer.

You are required to comply with the terms and conditions of this permit and to carry out this project in compliance with the Rules at all times. Failure to do so may result in an enforcement action against you by the DEM.

In permitting the proposed alterations, the Department assumes no responsibility for damages resulting from faulty design or construction.

This permit does not remove your obligation to obtain any local, state, or federal approvals or permits required by ordinance or law and does not relieve you from any duties owed to adjacent landowners with specific reference to any changes in drainage.

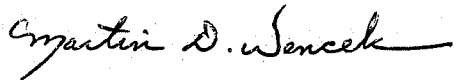
If you are aggrieved by this decision, you may, within thirty (30) days of the receipt of this letter, request an adjudicatory hearing in writing. This request must be sent directly to the DEM Administrative Adjudication Division ("AAD"), 235 Promenade Street, Providence, RI 02908. A copy of the request should also be forwarded to this Program and to the Office of Legal Services, at the same address. Your written request for an adjudicatory hearing must be timely filed and should conform to the requirements of 250-RICR-10-00-1.7(B) of the DEM Rules and Regulations for the Administrative Adjudication Division, 250-RICR-10-00-1. Section 250-RICR-10-00-1.7(B) provides:

"The request for a hearing shall state clearly and concisely the specific issues which are in dispute, and the facts in support thereof, the relief sought, if any, the license or permit sought or involved, and any additional information required by applicable statutes and regulations."

The written request must be accompanied by an adjudicatory hearing fee of two thousand dollars (\$2,000.00); in the form of a certified bank check or money order made payable to the Rhode Island General Treasurer; however, in the event that the cost of the hearing exceeds the fee paid, the Program through the AAD will require an additional fee which the applicant must submit prior to the DEM's issuance of any final decision regarding this application. The adjudicatory hearing will be held before a Hearing Officer from the AAD. Such hearing will be held in compliance with 250-RICR-10-00-1, R.I. Gen. Laws Chapter 42-35-1 et seq., and other governing laws, rules, and regulations adopted by the DEM. Please note that you have the right to be represented by legal counsel in any proceeding which may be held in this matter.

If you have any questions regarding this matter, you may contact me or Sophie Clode of my staff at this office (telephone: 401-222-6820, ext. 2777419).

Sincerely,



Martin D. Wencek, Program Supervisor
Office of Water Resources
Freshwater Wetlands Program

MDW/SC/sc

Enclosure: Approved Site Plans

cc: Mary Dalton, Administrative Adjudication Division
 Eric Beck, P.E., Chief, Groundwater and Wetlands Protection
 Mohamed Freij, DEM OWTS Program
 Kevin R. Kotelly, U.S. Army Corps of Engineers, New England District
 Christopher McWhite, Building Official, Town of Smithfield
 Joseph P. McCue, Mason & Associates, Inc.
 Curtis Ruotolo, Advanced Civil Design, Inc.
 Frank Ruo