



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

**CERTIFIED MAIL**

July 3, 2024

Shirley McHugh  
P. O. Box 205  
Tiverton, RI 02878

RE: Application No. 21-0252 Notice of Denial in reference to the property and proposed project located Approximately 75 feet northwest of Shaw Road, by utility pole number 17, approximately 425 feet northeast of the intersection of Shaw Road and Grange Avenue, Assessor's Plat 32, Lot 12, Little Compton, RI.

Dear Ms. McHugh:

The Department of Environmental Management's ("DEM's") Office of Water Resources/Permitting Section, Freshwater Wetlands Program ("Program") has completed its review of your Application to Alter a Freshwater Wetland regarding the project proposal at the above referenced property ("subject property"/"site"). The proposed project is as described and detailed in the material and information submitted in support of your application, and on site plans received by the Program on June 9, 2023. 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. General Laws (R.I.G.L.) Section 2-1-18 *et seq.*) and the procedures set forth in Rules 250-RICR-150-15-1, Section 1.10(C) and 250-RICR-150-15-1, Section 1.10(D) of the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act ("Rules").

This Program has received 1 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. The Program reviewed this letter together with any supporting documents and evaluated the potential impacts from the project upon the values mentioned in the letter. This Program has determined that the comments contained within this letter does not constitute an objection of a substantive nature as defined in Rule 250-RICR-150-15-1, Section 1.10(D)(3)(c). Therefore, a public hearing pursuant to R.I.G.L. Section 2-1-22 is not required.

The Program has analyzed the above mentioned plans along with the material submitted in support of this application. The Program has also conducted an evaluation of the functions and values provided by the wetlands to be altered and considered the anticipated impacts of the proposed alterations to these functions and values.

The Program's evaluation resulted in the following conclusions:

1. The project as proposed will result in alterations of Marsh and Perimeter Wetland totaling approximately 3,365 square feet or 0.08 acres.

2. The Marsh and Perimeter Wetland subject of the proposed alterations provides wildlife habitat capable of supporting wildlife species including but not limited to mammals, birds, amphibians, reptiles and invertebrates. The loss of this habitat associated with the overall construction of the proposed dwelling will reduce the habitat value of the subject wetlands by eliminating food, feeding sites, feeding opportunities, escape cover, shelters, breeding sites, nesting sites, resting sites, brood rearing sites, and perching sites significantly compromising the buffering capacity of the remaining portions of the Perimeter Wetland and in turn, the Marsh. Overall, it has been determined that this project will create a significant disturbance to wildlife species within the wetlands, not only through outright loss of Marsh and Perimeter Wetland, but also in light of a dwelling and associated disturbances being situated squarely in the Marsh and further negatively affecting the wildlife communities occurring there.
3. Recreational opportunities to hear, photograph, and/or observe various forms of wildlife within the Marsh and Perimeter Wetland would be reduced due to the permanent loss of wildlife habitat, and the anticipated new disturbance of wildlife communities by a dwelling situated directly into the Marsh and Perimeter Wetland.
4. The associated impacts due to these new disturbances resulting from the placement of a dwelling in the Marsh can penetrate further into adjacent areas of wetland wildlife habitat that will not be physically altered. As a result of these disturbances, this proposal will result in the creation of an induced edge within the Perimeter Wetland and Marsh. This induced edge represents a change in existing, natural characteristics of the wetlands resulting in an increased width of influence penetrating farther into adjacent unaltered portions of the wetlands with negative effects on wildlife including territorial disputes, overall increased competition, increased nest predation and nest parasitism resulting from the increase of human-related disturbances and loss of habitat.
5. With a significant portion of the overall alterations occurring directly into a Marsh, all effort must be made to reduce all potential impacts on the subject wetland. There should be no more encroachment into the resource than is necessary. It would appear that there is more driveway and open space/lawn proposed directly in the Marsh and Perimeter Wetland than would be necessary to facilitate this proposal (by approximately 900 square feet).
6. The proposed methodology for a septic system or holding tank for this proposal is not permissible due to the presence of a 10-inch water table as well as in accordance with the OWTS Rules (Section 6.29(A)(1), (2)). There is no guarantee for an OWTS approval based on the existing conditions of the site.

Based upon these conclusions it is the Program's determination pursuant to the Rules that:

The applicant has not demonstrated that impacts to freshwater wetlands have been avoided to the maximum extent possible pursuant to Rule 250-RICR-150-15-1, Section 1.10(B)(4)(a); thereby resulting in an unnecessary alteration to freshwater wetlands;

The applicant has not demonstrated that those impacts which are unavoidable have been reduced to the maximum extent possible pursuant to Rule 250-RICR-150-15-1, Section 1.10(B)(4)(b); thereby resulting in an unnecessary alteration to freshwater wetlands;

The applicant has not demonstrated that the proposed project is in compliance with the Review Criteria set forth in Rule 250-RICR-150-15-1, Section 1.10(E) and specifically Rule 250-RICR-150-15-1, Section 1.10(E)(3) (f) and (l) thereby resulting in an undesirable alteration to freshwater wetlands.

The proposed alterations are, therefore, inconsistent with the best public interest and public policy stated in R.I. Gen. Laws Sections 2-1-18 and 2-1-19, and are inconsistent with the purpose of Rule 250-RICR-150-15-1. Pursuant to R.I. Gen. Laws Section 2-1-21 and Rule 250-RICR-150-15-1, Section 1.10(F)(2), your Application to Alter a Freshwater Wetland is hereby DENIED.

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"), c/o Mary Dalton, 235 Promenade Street, Suite 350, Providence, RI 02908. A copy of the request must also be forwarded to this Program. Your written request for an adjudicatory hearing must be timely filed and should conform to the requirements of the Rules and Regulations for the Administrative Adjudication Division (250-RICR-10-00-1) (hereinafter the "AAD Rules"), Section 1.7(B). The AAD Rules, Section 1.7(B) provides in pertinent part as follows:

"The request for 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 a fee of two thousand dollars (\$2,000.00) in the form of a certified bank check or a 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 DEM 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 the AAD Rules, 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 at this Office (telephone: 401-537-4194).

Sincerely,



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

MDW/mdw

ec: Mary Dalton, DEM, Administrative Adjudication Division  
Mary Kay, Esq., Chief, DEM, Office of Legal Services  
Maria Rice, Esq., DEM, Office of Legal Services  
Elizabeth Waterhouse, U.S. Army Corps of Engineers, New England District  
William L. Moore, Little Compton Building Official  
Dean Simmons, Little Compton Zoning Official  
Scott P. Rabideau, Natural Resource Services, Inc.  
William Smith, Civil Engineering Concepts, Inc.  
Andy Church and Joni Walser