



Town of Rowley

Conservation Commission

Phone: (978) 948-2330 Fax: (978) 948-7196

Conservation@townofrowley.org

NOTICE OF VIOLATION

TO: **Current owner:** Charles and Allison Schmidheiser, Trustees
Sock Living Trust
Address: 10 Taylor Lane
Rowley, MA 01969

Property address: 10 Taylor Lane, Rowley, MA 01969
Assessors ID: Map 12, Parcel 3, Lot 5

FROM: Rowley Conservation Commission (RCC)
Brent Baeslack, Conservation Agent *BB*

DATE: September 6, 2023

SUBJECT: DEP FILE #63-0706 – Non-Compliance with Order of Conditions
Order of Conditions Issued to: Falcon Ridge Associates LLC
Date of issuance: 5/18/2021 Date of expiration: 5/18/2024
Essex South Registry of Deeds Book 39939, Page 484

This notice is to advise that you are currently in violation of the issued Order of Conditions. The following conditions are currently not in compliance with the issued Order of Conditions. **You must contact the Conservation office within 10 days of receipt of this Notice of Violation to confirm receipt and intent to comply with the issued Order.** If proof of remediation (submittals and actions) of the violations is not received within 30 days, the Conservation Commission may consider the issuance of fines as outlined in the Rowley Wetlands Protection Bylaw XII. A.(c) (see attached).

10. A sign shall be displayed at the site no less than two square or more than three square feet in size bearing the words, "Massachusetts Department of Environmental Protection" [or, "MassDEP"] "File Number 063-0705".
24. This Order of Conditions **shall apply to any successor(s) in interest or successor(s) in control and shall survive the issuance of the Certificate of Compliance.** Within ten (10) calendar days after the transfer of ownership of the subject parcel, in whole or in part, including lots conveyed under individual deeds, the RCC shall be notified in writing by the seller of the name, address (if different from property address) and contact information including telephone number(s) and email address (if available) of the new Property Owner. Within ten (10) calendar days after such transfer, a notarized affidavit shall be filed with the RCC by the seller, signed by the seller and the buyer, stating that the new Property Owner(s) has read and understood the Order of Conditions and all terms applicable to the purchased lot and intends to comply with all provisions of the Order of Conditions, including obtaining of a Certificate of Compliance if the seller has not already done so. In addition, this affidavit shall include the following sentence: "I, _____, the new Property Owner of _____, understand that any work within 100' of wetlands or within 200' of perennial streams requires approval by the RCC and that no dumping of yard

waste, brush, or other materials is allowed in wetlands." This letter shall have attached a plan of the lot accurately indicating the wetland boundary, location of building(s), No Cut/No Disturbance Zone(s) and any other relevant features. All current and future tenants shall be provided with a copy of this Order of Conditions and an affidavit (or copy of the lease) acknowledging receipt of this Order of Conditions and signed by the Property Owner and the tenant shall be provided to the RCC within thirty (30) days of the commencement of the tenancy.

30. **Upon completion of this project or the issuance of an occupancy permit**, the Property Owner or his designee shall submit the following to the RCC to receive a Certificate of Compliance per Condition 11:
- a. A **written request** from the Property Owner or his designee for a Certificate of Compliance (WPA Form 8A);
 - b. A **written statement from a Registered Professional Engineer of the Commonwealth** certifying that the work has been completed in compliance with this OC, documents, and the approved plans referenced herein (or approved revisions). Any discrepancies or deviations between the proposed plan and post-construction conditions shall be noted and explained.
 - c. An **as-built topographic plan** of the same scale as the approved plan, **signed and stamped by a Registered Professional Engineer or Land Surveyor of the Commonwealth**, showing post-construction conditions for the public record. This plan will include as-built elevations of all drainage ways constructed within 100' of any wetland or 200' of a perennial stream, distances to all structures, and all elevations within 100' of wetlands and 200' of perennial streams. The as-built plan must show all wetland resource area boundaries with associated buffer zones and any No Cut/No Disturbance Zones taken from the plan(s) approved in this OC. The as-built plan must show elevations of all filled, altered, or replicated wetlands. This as-built plan may be the originally submitted final approved site plan with changes highlighted and explained.
35. The undeveloped portion of the 100' Buffer Zone to BWV shall have **permanent signage installed on durable posts that announce "Regulated Wetlands Area Please contact Rowley Conservation Commission" to prevent unpermitted encroachment into and protect the Buffer Zone**. The signs shall be of durable material of sufficient size and mounted on four-inch square (4"x 4") rot resistant wooden posts (not CCA) extending 42" above the ground and sunk below the frost line (approx. 42"). Locations shall be located as field determined by RCC/staff. The post(s) and sign(s) shall be maintained by the Property Owner to ensure their continued function. This condition shall survive the expiration of this OC and **shall be included as a continuing condition in perpetuity** on the Certificate of Compliance.
36. The undeveloped portion of the 100' Vernal Pool Habitat Area shall have **permanent signage installed on durable posts that announce "Do Not Disturb or Cut - Protected Resource Area" to prevent unpermitted encroachment into and protect the Vernal Pool Habitat Area**. The signs shall be of durable material of sufficient size and mounted on four-inch square (4"x 4") rot resistant wooden posts (not CCA) extending 42" above the ground and sunk below the frost line (approx. 42"). Locations shall be as field determined by RCC/staff. The post(s) and sign(s) shall be maintained by the Property Owner to ensure their continued function. This condition shall survive the expiration of this OC and **shall be included as a continuing condition in perpetuity** on the Certificate of Compliance.
37. The undeveloped portion of the 25' No Cut/No Disturbance Zone shall have **permanent signage installed on durable posts that announce "Do Not Disturb or Cut - Protected Resource Area" to prevent unpermitted encroachment into and protect the restricted portion of the Buffer Zone**. The signs shall be of durable material of sufficient size and mounted on four-inch square (4"x 4") rot resistant wooden posts (not CCA) extending 42" above the ground and sunk below the frost line (approx. 42"). Locations shall be as field determined by RCC/staff. The post(s) and sign(s) shall be maintained by the

Property Owner to ensure their continued function. This condition shall survive the expiration of this OC and **shall be included as a continuing condition in perpetuity** on the Certificate of Compliance.

38. The property's boundary with protected Open Space (future) **shall have permanent signage installed on durable posts that announce "Conservation Area" to prevent unpermitted encroachment into and protect the natural resources of the dedicated open space.** The signs shall be of durable material of sufficient size and mounted on four-inch square (4"x 4") rot resistant wooden posts (not CCA) extending 42" above the ground and sunk below the frost line (approx. 42"). Locations shall be as field determined by RCC/staff. The post(s) and sign(s) shall be maintained by the Conservation Dept. to ensure their continued function.
61. **Erosion control devices and wetland flags shall remain in place until all disturbed surfaces have been stabilized with final vegetative cover.** Only upon inspection by the RCC/staff to verify establishment of full vegetative cover may authorization to remove the erosion control line be given.
80. A 25' minimum width **No Cut/No Disturbance Zone**, demarcated on the approved site plan **shall be maintained to protect the wetlands** from the effects of development. The appropriate **No Cut/No Disturbance Zone** line shall be labeled and depicted on the final approved plan. The approved **No Cut/No Disturbance Zone shall be kept in a natural state in perpetuity.** This condition shall survive the expiration of this OC and **shall be included as a continuing condition in perpetuity** on the Certificate of Compliance.

Thank you for your cooperation. Please call the office with any questions or concerns.



WETLANDS PROTECTION BYLAW

TOWN OF ROWLEY
EFFECTIVE January 27, 2004

XII. ENFORCEMENT AND VIOLATIONS UNDER THE BYLAW

In addition to the duties previously set forth in this Bylaw, the Commission, its administrators, officers and employees and any officer with police powers may issue enforcement orders directing compliance with this bylaw and may undertake any other enforcement action authorized by law. Any Enforcement Order issued by any individual must be ratified by the Commission at a public meeting. Enforcement Orders issued or ratified by the Commission may be recorded in the Registry of Deeds, at the property owner's expense. Upon request of the Commission, the Board of Selectmen and the Town Counsel may take legal action for enforcement under civil law, seek to restrain violations thereof and seek injunction and judgments to secure compliance with Conservation Commission orders. Upon request of the Commission, and the consent of the Board of Selectmen, the Chief of Police shall take legal action for enforcement under criminal law.

In accordance with the provisions of MGL Chapter 40 Sections 21D and 31 as well as every other authority and power that may have been or may hereafter be conferred upon it, the Town or Commission may enforce the provisions of this Bylaw, by taking either of the following actions or any other actions as listed below:

A. Violation Notice

Any person who violates any provision of this Bylaw, or regulations, permits, or administrative orders issued there under, may be served with a written notice of violation enumerating the alleged violations. If after ten business days the Commission has not received what it deems to be either (a) sufficient evidence demonstrating that no violations have occurred, or (b) written notice of intent to file the appropriate permit application within 21 days, or (c) a filing that will remediate the violations, then an Enforcement Order will be issued and fines will begin to accrue in accordance with the violation table.

B. Enforcement Orders

In the event of a violation of this Bylaw, of the Wetlands Protection Act, or any of order issued by the Commission, the Commission or its agents may issue an Enforcement Order according to the provisions of Section XII requiring that the owner or applicant or applicant's agent cease and desist specified activities or order the property owner to perform certain remedial actions. The Order may be

served by hand delivery, certified mail return receipt requested, or by posting in a conspicuous location on the site. Any person who shall violate the provisions of a Cease and Desist Order or shall fail to perform remedial actions shall be deemed in violation of the Bylaw; but the failure of the Commission to issue a Cease and Desist Order for any reason shall not prevent the Town from pursuing any other legal remedy at law or in equity to restrain violations of this Bylaw or promulgated regulations and to secure compliance with the orders of the Commission. The Commission or its agents may issue an Enforcement Order without regard to whether a violation Notice has been previously issued.

C. Fines

Fines may be imposed beginning on the day of the issuance of an Enforcement Order following a Violation Notice or on the eleventh business day after the issuance of an Enforcement Order without a preceding Violation Notice. Fines may accrue until such time that the property owner submits an application to remediate the violation. Each day, or portion thereof, during which a violation continues or unauthorized fill or other alteration remains in place, shall constitute a separate offense. Each provision of the Bylaw, Regulations, Permits, or Administrative Orders violated shall constitute a separate offense. This Bylaw may be enforced pursuant to MGL Chapter 40 Section 21D by Conservation Commissioners, the Conservation Administrator, or other persons having police powers. In accordance with MGL Chapter 40 Section 21D, violators shall be charged a penalty. At the discretion of the Commission, a penalty may be imposed from a minimum of one day for one violation to a maximum of each day for each and every violation upon specified reasons consistent with this Bylaw as specified in Section I. The penalties for violations of this Bylaw or regulations promulgated hereunder may be assessed as follows:

Violation	Penalty/Offense		
	Buffer Zone	Wetlands Resource Areas & ACEC (excluding Buffer Zone)	Non-Compliance with a provision of this Bylaw
1st Violation	\$25	\$50	\$75
2nd Violation	\$50	\$100	\$200
3rd Violation	\$300	\$300	\$300

The Town shall be the beneficiary of all fines and penalties imposed for violations of this Bylaw or regulations of the Commission.