



TOWN OF TOPSFIELD

Conservation Commission

8 West Common Street, Topsfield, Massachusetts 01983

March 10, 2022

Massachusetts Audubon Society
87 Perkins Row
Topsfield, MA 01983

Ipswich River Watershed Association
143 County Road
Ipswich, MA 01938

Re: Determination of Applicability, 2022-04, 57 & 61 Perkins Row, (Map 58, Lots 025 & 024), Topsfield

Dear Mass Audubon Society & IRWA,

Enclosed is the Positive Determination of Applicability (DOA) confirming the area (Riverfront Area) on the submitted plan is an area subject to protection under the Act and confirming the boundary delineation for the Riverfront Area under the Act as noted on the DOA.

Please contact me at the Conservation office if you need additional information or have questions: 978-887-1510 or conservation@topsfield-ma.gov.

Sincerely,

Heidi Gaffney
Topsfield Conservation Administrator

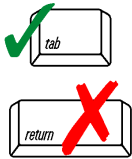
Cc: Cameron C. Bagherpour, 81 Lovering St, Medway, MA 02053 (property owner - 57 Perkins Row)
Natalie M. Whelan, 63 Perkins Row, Topsfield, MA 01983 (property owner - 61 Perkins Row)
MA DEP
Patrick C. Garner Co., Inc. (via email)
ZBA
Select Board
TCC File



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 2 – Determination of Applicability
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. General Information

Important:
 When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



From:			Topsfield Conservation Commission		
To: Applicant			Property Owner (if different from applicant): (57 Perkins Row) / (61 Perkins Row) Cameron C. Bagherpour / Natalie M. Whelan		
Mass Audubon Society / Ipswich River Watershed Assoc. Name			Name		
87 Perkins Row / 143 County Road Mailing Address			81 Lovering St / 63 Perkins Row Mailing Address		
Topsfield / Ipswich City/Town	MA State	01983 / 01938 Zip Code	Medway / Topsfield City/Town	MA State	02053 / 01938 Zip Code

- Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

Plan of Wetland Protection Act Mean Annual High Water, 57 & 61 Perkins Row, Topsfield, Mass.	Feb 23, 2022
Title	Date
Title	Date
Title	Date
- Date Request Filed:
 1/26/2022

B. Determination

Pursuant to the authority of M.G.L. c. 131, § 40, the Conservation Commission considered your Request for Determination of Applicability, with its supporting documentation, and made the following Determination.

Project Description (if applicable):

Project Location:	
57 & 61 Perkins Row Street Address	Topsfield City/Town
58 Assessors Map/Plat Number	025 & 024 Parcel/Lot Number



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Bureau of Resource Protection - Wetlands

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

B. Determination (cont.)

The following Determination(s) is/are applicable to the proposed site and/or project relative to the Wetlands Protection Act and regulations:

Positive Determination

Note: No work within the jurisdiction of the Wetlands Protection Act may proceed until a final Order of Conditions (issued following submittal of a Notice of Intent or Abbreviated Notice of Intent) or Order of Resource Area Delineation (issued following submittal of Simplified Review ANRAD) has been received from the issuing authority (i.e., Conservation Commission or the Department of Environmental Protection).

☒ 1. The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.

☒ 2a. The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid.

Riverfront Area (WPA only) as measured from Mean Annual High Water Flags MS1 through MS23

☐ 2b. The boundaries of resource areas listed below are not confirmed by this Determination, regardless of whether such boundaries are contained on the plans attached to this Determination or to the Request for Determination.

☐ 3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.

☐ 4. The work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to protection under the Act. Therefore, said work requires the filing of a Notice of Intent or ANRAD Simplified Review (if work is limited to the Buffer Zone).

☐ 5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by:

Name of Municipality

Pursuant to the following municipal wetland ordinance or bylaw:

Name

Ordinance or Bylaw Citation



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

B. Determination (cont.)

- ☐ 6. The following area and/or work, if any, is subject to a municipal ordinance or bylaw but not subject to the Massachusetts Wetlands Protection Act:
- ☐ 7. If a Notice of Intent is filed for the work in the Riverfront Area described on referenced plan(s) and document(s), which includes all or part of the work described in the Request, the applicant must consider the following alternatives. (Refer to the wetland regulations at 10.58(4)c. for more information about the scope of alternatives requirements):
- ☐ Alternatives limited to the lot on which the project is located.
 - ☐ Alternatives limited to the lot on which the project is located, the subdivided lots, and any adjacent lots formerly or presently owned by the same owner.
 - ☐ Alternatives limited to the original parcel on which the project is located, the subdivided parcels, any adjacent parcels, and any other land which can reasonably be obtained within the municipality.
 - ☐ Alternatives extend to any sites which can reasonably be obtained within the appropriate region of the state.

Negative Determination

Note: No further action under the Wetlands Protection Act is required by the applicant. However, if the Department is requested to issue a Superseding Determination of Applicability, work may not proceed on this project unless the Department fails to act on such request within 35 days of the date the request is post-marked for certified mail or hand delivered to the Department. Work may then proceed at the owner's risk only upon notice to the Department and to the Conservation Commission. Requirements for requests for Superseding Determinations are listed at the end of this document.

- ☐ 1. The area described in the Request is not an area subject to protection under the Act or the Buffer Zone.
- ☐ 2. The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.
- ☐ 3. The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).
- ☐ 4. The work described in the Request is not within an Area subject to protection under the Act (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act.



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

B. Determination (cont.)

- ☐ 5. The area described in the Request is subject to protection under the Act. Since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required:

Exempt Activity (site applicable statutory/regulatory provisions)

- ☐ 6. The area and/or work described in the Request is not subject to review and approval by:

Name of Municipality

Pursuant to a municipal wetlands ordinance or bylaw.

Name

Ordinance or Bylaw Citation

C. Authorization

This Determination is issued to the applicant and delivered as follows:

- ☐ by hand delivery on ☒ by certified mail, return receipt requested on

Date

03/10/2022

Date

This Determination is valid for **three years** from the date of issuance (except Determinations for Vegetation Management Plans which are valid for the duration of the Plan). This Determination does not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.

This Determination must be signed by a majority of the Conservation Commission. A copy must be sent to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>) and the property owner (if different from the applicant).

Findings:

Application received 1/26/2022; written permission to access 61 Perkins Row received 2/4/2022; hearing opened 2/9/2022; written permission to access 57 Perkins Row received 2/16/2022; continuance requested/granted to 2/23/2022; continuance requested/granted to 3/9/2022; delineation review conducted 2/23/2022; hearing closed 3/9/2022.

This Determination is issued under the MA Wetlands Protection Act only.

No other boundaries of any resource area or Buffer Zone to any resource area not specifically noted above are confirmed, regardless of whether such boundaries are contained on the plans referenced in this Determination of Applicability.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 2 – Determination of Applicability
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

C. Authorization (cont.)

**Signed electronically by roll call vote at the March 9, 2022 TCC meeting held via Zoom video conference. The electronic signatures below are made in accordance with M.G.L. c.110G and pursuant to the commission’s electronic signature authorization vote recorded on 6/18/2020 in BOOK 38624 and PAGE 313 at the Southern Essex Registry of Deeds.*

Signatures:

<i>Dodds Shamroth</i>	Dodds Shamroth
Signature	Printed Name
<i>Jennifer DiCarlo</i>	Jennifer DiCarlo
Signature	Printed Name
<i>Holger Luther</i>	Holger Luther
Signature	Printed Name
<i>Rick Muka</i>	Rick Muka
Signature	Printed Name
Signature	Printed Name
Signature	Printed Name
Signature	Printed Name
Signature	Printed Name

D. Appeals

The applicant, owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, 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 Department of Environmental Protection Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>) to issue a Superseding Determination of Applicability. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form (see 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 Determination. 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. The request shall state clearly and concisely the objections to the Determination which is being appealed. To the extent that the Determination is based on a municipal ordinance or bylaw and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.

