



January 25, 2022

**BY ELECTRONIC MAIL: [zoning@topsfield-ma.gov](mailto:zoning@topsfield-ma.gov)  
AND FIRST-CLASS MAIL**

Topsfield Zoning Board of Appeals  
Topsfield Town Hall  
8 West Common Street  
Topsfield, MA 01983

Re: Application for Comprehensive Permit – 57 Perkins Row, Topsfield

Dear Members of the Board:

As you know, this firm represents William and Natalie Whelan (the “Whelans”) of 63 Perkins Row in Topsfield, whose properties abut the above-referenced Chapter 40B project site (the “Project” and the “Site”).

It has recently come to our attention that title to the Site was transferred by the Chapter 40B applicant, 57 Perkins Road, LLC (“Applicant”) last September to an individual named Cameron C. Bagherpour, formerly of 81 Lovering Street, Medway, Massachusetts. The Applicant apparently conveyed fee simple title by Quitclaim Deed to Mr. Bagherpour for consideration of \$658,400. See, Deed filed with the Essex South District of the Land Court as Document 629608, a copy of which is attached hereto as Exhibit A. Mr. Bagherpour recorded a homestead on the Site, certifying that he is using it as his residence.

This conveyance is troubling, because, as far as we know, the Applicant has made no attempts to notify the Board of this material change in its application since last September, and has been representing to the Board, and to us<sup>1</sup>, that it continues to own the Site. In its Comprehensive Permit Application filed with the Board, the Applicant represented that it owed the Site. The Applicant filled out page 2 of the Board’s application form as follows:

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<sup>1</sup> The Applicant’s representative, Michael Larkin, gave written permission to the Whelans’ wetlands consultant on November 16, 2021, more than a month after Mr. Larkin’s LLC had sold the Site to Mr. Bagherpour, to enter the Site in order to delineate and assess wetland resource areas. Mr. Larkin’s permission was a condition of the Whelans’ granting permission to Mr. Larkin’s wetlands consultant to enter the Whelans’ property to do the same. See, Letter dated Nov. 16, 2021 attached as Exhibit B.

DESCRIPTION OF PREMISES:

- a. Assessor's Map 58 , Lot(s) 25 , Zoning District IRA
- b. Location of Premises (number and street) 57 PERKINS ROW, TOPSFIELD, MA
- c. Name and address of legal owner (if different from Applicant) \_\_\_\_\_
- d. Deed to the Premises recorded at (if known):  
       Essex South District Registry of Deeds, Book        Page         
X        Essex South Registry District of the Land Court, Certificate Number 529607

Further, "site control" is a jurisdictional pre-requisite and a continuing requirement to maintaining a comprehensive permit application under Chapter 40B. 760 CMR 56.04(1)(c). In order to obtain a project eligibility letter from a subsidizing agency under Chapter 40B, applicants must demonstrate "site control," and the agency must make a commensurate finding. 760 CMR 56.04(4)(g). Indeed, MassHousing, in its project eligibility letter dated October 9, 2019 made the following finding:

***(g) that the Applicant controls the site, based on evidence that the Applicant or a related entity owns the site, or holds an option or contract to acquire such interest in the site, or has such other interest in the site as is deemed by the Subsidizing Agency to be sufficient to control the site.***

The Applicant controls the entire 8.19-acre Site under a deed of ownership.

The Applicant's failure to correct the record concerning this material change in its application is concerning, and calls into the question the continued qualification of this project under the Chapter 40B program. Chapter 40B regulations state that a determination of project eligibility under Section 56.04(4) is "conclusive," and the courts have generally precluded any collateral challenge to a subsidizing agency's findings. However, the regulations expressly provide a process by which a zoning board can raise a jurisdictional issue with the subsidizing agency, when circumstances change, such as this. See, 760 CMR 56.04(6), reproduced below.<sup>2</sup> We respectfully request that the Board invoke this regulation tonight, and request a determination of site control from MassHousing.

Finally, it is our understanding that the Applicant is requesting yet another continuance of the public hearing, which was scheduled for this evening. The Board is not obliged to grant this request. A substantive hearing has not been held since October 26, 2021. The Applicant agreed

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<sup>2</sup> "(6) *Conclusive Nature of Determination.* Issuance of a determination of Project Eligibility shall be considered by the Board or the Committee to be conclusive evidence that the Project and the Applicant have satisfied the project eligibility requirements of 760 CMR 56.04(1). Alleged failure of the Applicant to continue to fulfill any of these project eligibility requirements may be subsequently raised by the Board at any time, with the burden of proof on the Board, or by the Committee during an appeal, in either case solely upon the grounds that there has been a substantial change affecting the project eligibility requirements set forth at 760 CMR 56.04(1). Such challenge shall be decided by the Subsidizing Agency in accordance with the procedure set forth in 760 CMR 56.04(5), and the Board hearing or Committee appeal may be stayed until such challenge is decided."

last summer to prepare and file wetland delineation plan, showing the boundaries of the “riverfront area” on the Site. The Board has granted several continuances to accommodate the Applicant’s wetland delineation work, but to date, and inexplicably, no plan has been filed.

We respectfully request that the Board not grant the current request for continuance, and instead hold a public hearing tonight for the following purposes:

- (1) ask the Applicant to address the apparent site control deficiency;
- (2) vote to put MassHousing on notice of the site control deficiency pursuant to 760 CMR 56.04(6); and
- (3) ask the Application explain why a wetland delineation plan has not been filed.

Thank you for your consideration of these comments.

Very truly yours,

*/s/ Daniel C. Hill*

Daniel C. Hill

Enc.

cc: Clients  
Paul Haverty, Esq.  
George Pucci, Esq.  
Topsfield Board of Selectmen  
Topsfield Conservation Commission



MASSACHUSETTS EXCISE TAX  
Southern Essex District ROD  
Date: 09/27/2021 03:01 PM  
ID: 1409759 Doc# 629608  
Fee: \$3,002.76 Cons: \$658,400.00

*Space above line reserved for recording information.*

**QUITCLAIM DEED**

PERKINS LANDING LLC, a Massachusetts limited liability company (the “Grantor”) having a business address of 383 Main Street, Medfield, Massachusetts 02052

for consideration of SIX HUNDRED FIFTY-EIGHT THOUSAND FOUR HUNDRED and 00/100 (\$658,400.00) DOLLARS paid

GRANTS WITH QUITCLAIM COVENANTS to

Cameron Bagherpour, individually of 81 Lovering St, Medway, MA 02053 (the “Grantee”)

The land with the buildings thereon situated on Perkins Row in said Topsfield, bounded and described as follows:

Beginning on said Perkins Row at the division line between Parcel A and Parcel B as shown on plan hereinafter referred to, thence running:

- SOUTH 27 degrees 35’ 23” WEST, eighty-nine and 17/100 (89.17) feet; thence
- SOUTH 41 degrees 36’ 17” WEST by said Parcel A, two hundred seven and 73/100 (207.73) feet; thence.
- SOUTH 8 degrees 24’ 44” EAST by said Parcel A, five hundred seventy-two and 16/100 (572.16) feet; thence.
- NORTH 70 degrees 36’ 00” WEST by land now or formerly of Thomas E. Proctor, six hundred ninety-three and 57/100 (693.57) feet; thence
- NORTH 27 degrees 52’ 40” WEST by land now or formerly of Harold Palmer Mills, Jr., one hundred eighty-nine and 91/100 (189.91) feet; thence

Property Address: 57 Perkins Row, Topsfield, MA

NORTH	60 degrees 17' 59" EAST by Parcel C on said plan, five hundred fifty-six and 45/100 (556.45) feet; thence.
NORTH	29 degrees 42' 01" WEST by said Parcel C, twenty-six and 22/100 (26.22) feet; thence.
NORTH	43 degrees 23' 38" EAST by said Parcel C, one hundred fifty (150) feet; thence.
NORTH	54 degrees 33' 00" EAST by said Parcel C, two hundred fourteen and 16/100 (214.16) feet to Perkins Row; thence.
SOUTH	28 degrees 19' 50" EAST by said Perkins Row, eighty-nine and 45/100 (89.45) feet; and
SOUTH	43 degrees 21' 30" EAST by said Perkins Row, seventy and 01/100 (70.01) feet to the point begun at.

Containing 8.1 acres, more or less, and being shown as Lot B on "Subdivision of Land in Topsfield, Mass.", LCC 21476-B, July 10, 1957, Scale 1" = 40', Raymond C. Pressey, Inc., Registered Land Surveyors and filed with the Land Registration Office of Essex County noted on Certificate of Title No. 26770.

Meaning and intending to convey the same premises conveyed to the Grantor by Deed from New Meadows Development, LLC to Perkins Landing LLC, dated March 11<sup>th</sup> 2019 filed with the Southern Essex District of the Land Court as Document No. 600425 and noted on Certificate of Title No. 87747, Book 511. New Certificate is 92380, Book 557.


Grantor is not classified as a corporation for federal tax purposes for the current taxable year. The sale by Grantor is in the ordinary course of business and does not constitute a sale of all or substantially all the assets of the Grantor.

[Signature Page to Follow]

Executed under seal this <sup>September</sup> ~~21~~ day of ~~August~~ <sup>September</sup> 11, 2021.

PERKINS LANDING LLC

By:

  
Michael J. Larkin, Jr., Manager  
And Duly Authorized Person

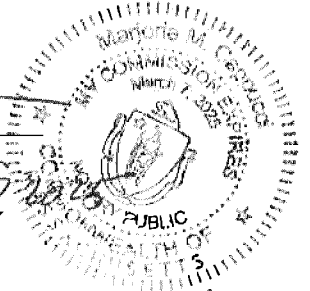
COMMONWEALTH OF MASSACHUSETTS

Norfolk County, ss.

<sup>9/21/2021</sup>  
On the date indicated above, before me, the undersigned notary public, personally appeared **Michael J. Larkin, Jr., as Manager as aforesaid**, proved to me through satisfactory evidence of identification, which was [☒] photographic identification with signature issued by a federal or state governmental agency, [☐] oath or affirmation of a credible witness, [☐] personal knowledge of the undersigned to be the person whose name is signed on this document, and acknowledged to me that signing above was done voluntarily and for its stated purposes and as the voluntary act of Perkins Landing, LLC.

  
Notary Public Marjorie M. Cappucci

My Commission Expires: March 7, 2025



Marjorie M Cappucci  
exp: 3/7/2025

Document: 629608

DEED

Southern Essex District ROD

RECEIVED FOR REGISTRATION

On: 09/27/2021 03:01 PM

CREATED CERT: 95010 Book: 584

CANCELLED CERT: 92380 Book: 557



November 15, 2021

**BY ELECTRONIC MAIL ONLY: AMarton@lecenvironmental.com**

Ann Marton  
LEC Environmental Consultants, Inc.  
380 Lowell Street  
Suite 101  
Wakefield, MA 01880

RE: Access Authorization Request  
Perkins Landing, 57 Perkins Row, Topsfield, MA  
Assessors Map 58, Lot 25

Dear Ann:

By this letter, I am confirming our October 29, 2021 email agreement for reciprocal access for Patrick Garner to enter the property at 57 Perkins Row, Topsfield, Massachusetts (Assessors Map 58, Lot 25).

Mr. Garner will enter the 57 Perkins Row property, to the minimal amount necessary, to delineate and assess wetland resource areas. This work may include examination of vegetation, hydrology, and soils using a hand-held soil auger and/or tile spade to evaluate site conditions, and placement of survey flags to mark the extent of resource areas. Mr. Garner will coordinate directly with LEC to schedule the site visit. **Mr. Garner is only granted access to 57 Perkins Row when escorted by LEC or another representative of the Applicant/Owner.**


Please sign below, scan, and email to me at elizabeth.m.pyle@gmail.com to confirm.  
Thanks very much for your assistance.

Sincerely yours,

*/s/ Elizabeth M. Pyle*

Elizabeth M. Pyle

**Access Authorization Granted:**

  
Michael Larkin  
~~Ann Marton, LEC, on behalf of~~ owner/applicant  
~~for~~ 57 Perkins Row

11-16-2021

Date