

**NARRATIVE  
NOTICE OF INTENT**  
107 Matawanakee, Littleton, Massachusetts  
November 3, 2020

This narrative is provided to support the Notice of Intent filing for 107 Matawanakee and to provide sufficient information to fully describe the project.

This narrative shall be considered written request for a waiver in accordance with section 1.4 of the Town of Littleton Wetland Protection Regulations (Littleton Regulations) for work within the 50-foot No-disturb setback from an inland back as set forth in Section 4.2 of the Littleton Regulations..

The waiver is requested based on the following

- Not allowing the variance limits the use of the property to a degree that is not functional, deprives the owner of full use of the property and could be considered a taking.
- The 50-foot buffer is a randomly selected offset that has not been justified in regards to science, does not describe how it provides additional protections, does not describe how fate and transport are affected by the additional distance and does not describe how habitat may be further protected.
- The stated purpose of the Littleton Regulations and Bylaw is to protect wetland and water resources of the Town and this project is consistent with this purpose as no resource areas will be touched or damaged.

Additional documents accompanying this application are as follows

- Topographic Plan in Littleton, MA at 107 Matawanakee, by Summit Surveying, Charles J. Brennan PLS
- Sewage Disposal System Design – 107 Matawanakee, Littleton Massachusetts, Ted P. Doucette, PE
- Photographs of the property
- List of abutters / Abutter notifications
- Littleton bylaw application and checklist
- WPA Form 3 and associated forms

WPA Form 3

A. General Information

Applicant / Owner:  
JAWS Realty Trust, Peter Scott, trustee

Existing Conditions

The property at 107 Matawanakee Trail is a vacant lot with an area of 7,775 (Rec) and 6,602 (M) sf located on Lake Matawanakee. The slopes down from the street to the lake and narrows slightly as it approaches the lake. The resource area identified on the property is inland bank to Lake Matawanakee. The lot slopes down from the street elevation of about elevation 116 to 90 at the pond (assumed datum).

The property has been tested for the potential for a septic system, this revealed that the soil is medium sand and gravel with a percolation rate less than two minutes per inch. A preliminary layout indicates that a two-bedroom septic system can be provided on the lot. Ground water was not found in the test holes which were excavated about 25 feet above the pond elevation.

Proposed Conditions

The applicant proposes to construct a new home on the property, as shown on the septic design plan. The footprint of the impervious roof is 1750 sf. The foundation consists of slab at the front of the house, a full foundation, and a cantilevered portion set on sonotubes. The slab foundation allows the structure to be located closer to the septic system by reducing the required setback. The sonotube foundations will reduce the area of excavation. The proposed design includes a walkout basement to the rear of the property. The foundation will be about 40 feet from the resource area and the cantilever roof will be about 27 feet from the bank.

During construction erosion control measures will be taken to prevent silt, soil and construction materials from running into the resource area. The straw wattles will also serve as a visual limit of work to prevent construction materials from being placed near the resource area. Roof runoff will be infiltrated by drip strips around the foundation.

## Compliance with the Wetlands Protection Act

Performance standards: 310CRM10.53

### **Construction phase**

The work will occur only in the buffer zone and will be in accordance with the General Provisions of 310CMR10.53 as the proposed work poses no adverse impact to the resource area. The construction phase has a limit of work to prevent equipment and materials from entering the or being located next to the resource area. Erosion controls are located within the limit of work to delineate the limit of work and to prevent materials soil or debris from washing into the resource area.

### **Post Construction**

The runoff from the impervious roof will be infiltrated along the foundation with the use of drip strips that will quickly infiltrate the water as it runs off the roof. The water runoff from the driveway will be allowed to infiltrate alongside the driveway. The soil at the property is medium sand and gravel which will expedite the infiltration preventing an increase in runoff rates or volume. The final grades of the property will follow the general existing grades and will not increase flow to the public streets. The additional disturbed areas due to construction will be vegetated with grass or with other natural vegetation that has grown on the site and prevented erosion over the decades since this area was developed.

### B Buffer Zone and Resource Area Impacts

All work will be conducted within the buffer zone to inland bank only, as described herein, there will be no impact to the resource area due to the work within the 100-foot buffer zone.

### C Other Applicable Standards and Requirements

There are no other areas protected by the Natural Heritage and Endangered Species Program. Also this project is not subject to Massachusetts Endangered Species Act (MESA) review is not located within an Area of Critical Environmental Concern (ACEC) and is not located in a Federal Emergency Management Agency (FEMA) flood zone. The property is not located in the Littleton Aquifer Protection District; nor the Water Resource Zoning Overlay District

### **Town of Littleton Wetland Protection Regulations**

The proposed work does not occur within the resource areas designated by the Wetlands Protection Act, the proposed structure is within the 50-foot no disturb zone designated by the Littleton Wetlands Regulations. Foundation construction is proposed to be beyond 40 feet from the resource area and the driveway beyond 70 feet from the resource area. In accordance with Section 1.4 a waiver is requested to allow construction within the 50-foot setback of an inland bank.

### **Littleton Regulations Section 4.3 Performance Standards for Work in the Buffer Zone**

- (1) This project will not significantly impair the values and functions of the resource area because the construction will be limited has protections, and runoff from impervious areas will be infiltrated rather than running off into the resource area. The pre-project conditions will be generally maintained such as ground slope, soil conditions, and vegetation. The general grade of the property will remain, the underlying soil conditions will not change and the natural surface will not be significantly altered beyond the limits of the foundation, and natural vegetation will be allowed to grow back following construction.
- (2) The amount of net additional impervious area in the buffer zone is being minimized to the minimum area necessary for a viable habitable home. Pervious alternatives for the driveway are not feasible for snow removal.
- (3) The owner does not intend to create a large lawn and will be minimizing the use of fertilizers to maintain the lawn in the front of the property, other areas will be kept natural and allowed to grow back to their preconstruction state.

The purpose and need for this waiver is to allow the owner to fully enjoy their constitutional rights to use their property to the fullest of their ability.

The waiver is specifically asking to construct a foundation and impervious roof within the town's 50-foot no disturb zone.

We believe that any argument that this work is to be in the public's interested would not be accepted or sufficient to the Conservation Commission. We also believe that restriction to work outside of the 50-foot no disturb area would represent a taking as the property would not be able to be used to a reasonable expectation by the owner. The limited area outside the 50-foot no disturb does not provide for a septic system and house that is useful or cost effective.

Allowing the waiver is consistent with the bylaw as the design does not adversely affect the wetland.

The existing and proposed site conditions are shown on the plans.

The proposed distances are shown on the plans and stated above.

The analysis of less environmentally damaging practicable alternatives is a short discussion as follows.

No action alternative – this is not an option as the owner wants to construct a home and downsize to a smaller house and lot.

Reduce project scope alternative- reducing the size of the proposed home is not viable as the house becomes too small to be reasonably occupied and is not as cost effective.

The proposed short term and long-term protections of the wetland resource area are discussed above.

The site is not in a Zone 1, 2 or Zone A B or C of a water supply; also the property is not located in the Littleton Aquifer Protection District; nor the Water Resource Zoning Overlay District. There are no critical areas as discussed in the Waive Request Requirement Information.

Our belief is that the Littleton 50-foot no-disturb area is an arbitrary and randomly discussed limit that is not based on science nor specific threats to the hydrology and biology of wetland areas. During the discussions of the bylaw amendment there was not discussion on what is the environmentally safe distance and whether the impacts affect the wetland at 85 feet or even 19.5 feet, but was randomly chosen.

The 50-foot no-disturb area is a worthwhile consideration when reserving areas for large projects such as The Point as the land taken from the project is a small percentage of the entire project. For small properties such as 107 Matawanakee, the no-disturb area represents 37% of the lot area.

#### Summary

In summary, the 50 foot no disturb area is a random limit, not allowing the variance reduces the amount of land to be developed, reduces the enjoyment of the property, and represents a taking from the owner.