

Request for Determination of Applicability

Pursuant to
MASSACHUSETTS GENERAL LAWS
Chapter 131, Section 40

**230 Fire Road #3
Lancaster, MA**

March 22, 2021



Prepared for:
HMC Fire Road Three, LLC
27 Oxford Street
Leominster, MA 01453

Prepared by:
Whitman & Bingham Associates, LLC
510 Mechanic Street
Leominster, MA 01453
Tel. (978) 537-5296
Fax (978) 537-1423



WHITMAN & BINGHAM
A S S O C I A T E S
REGISTERED ENGINEERS & LAND SURVEYORS

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Estimated Habitats of Rare Wildlife and Certified Vernal Pools

Request for Determination of Applicability



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Lancaster
City/Town

WPA Form 1- Request for 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.



1. Applicant:

HMC Fire Road Three, LLC

Name

E-Mail Address

27 Oxford Street

Mailing Address

Leominster

MA

01453

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

2. Representative (if any):

Whitman & Bingham Associates, LLC

Firm

James E. Rheault, PLS

Contact Name

jrheault@whitmanbingham.com

E-Mail Address

510 Mechanic Street

Mailing Address

Leominster

MA

01453

City/Town

State

Zip Code

978-537-5296

Phone Number

978-537-1423

Fax Number (if applicable)

B. Determinations

1. I request the Lancaster Conservation Commission make the following determination(s). Check any that apply:

- ☐ a. whether the **area** depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
- ☐ b. whether the **boundaries** of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.
- ☒ c. whether the **work** depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
- ☒ d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any **municipal wetlands ordinance or bylaw** of:

Lancaster

Name of Municipality

- ☐ e. whether the following **scope of alternatives** is adequate for work in the Riverfront Area as depicted on referenced plan(s).



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C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

230 Fire Road 3

Street Address

Lancaster

City/Town

10

Assessors Map/Plat Number

4

Parcel/Lot Number

- b. Area Description (use additional paper, if necessary):

An existing single-family home is present on the 5,270 s.f. lot on Big Spectacle Pond.

- c. Plan and/or Map Reference(s):

Proposed Soil Absorption System "Upgrade" in Lancaster, Massachusetts
Designed for Matthew Bernard

02/27/20

Date

Title

Date

Title

Date

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

The work proposes the installation of a new soil absorption system including a new septic tank and pump chamber. The work proposed is within the 100-foot buffer zone to Big Spectacle Pond.



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C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- ☐ Single family house on a lot recorded on or before 8/1/96
- ☐ Single family house on a lot recorded after 8/1/96
- ☐ Expansion of an existing structure on a lot recorded after 8/1/96
- ☐ Project, other than a single-family house or public project, where the applicant owned the lot before 8/7/96
- ☐ New agriculture or aquaculture project
- ☐ Public project where funds were appropriated prior to 8/7/96
- ☐ Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- ☐ Residential subdivision; institutional, industrial, or commercial project
- ☐ Municipal project
- ☐ District, county, state, or federal government project
- ☐ Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)



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D. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Name and address of the property owner:

HMC Fire Road Three, LLC

Name

27 Oxford Street

Mailing Address

Leominster

City/Town

MA

State

01453

Zip Code

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

Signature of Applicant

Date

Signature of Representative (if any)

Date

Appendix A
Easement Agreement

Worcester South District Registry of Deeds Electronically Recorded Document

This is the first page of the document – Do not remove

Recording Information

Document Number	: 116990
Document Type	: EASE
Recorded Date	: October 05, 2020
Recorded Time	: 11:32:41 AM
Recorded Book and Page	: 63418 / 324
Number of Pages(including cover sheet)	: 10
Receipt Number	: 1266833
Recording Fee	: \$105.00

Worcester South District Registry of Deeds
Kathryn A. Toomey, Register
90 Front St
Worcester, MA 01608
(508) 798-7717

EASEMENT AGREEMENT

WHEREAS DOMENIC ZARRELLA and DEIDRA ZARRELLA, co-Trustees of DZ REALTY TRUST u/d/t dated August 27, 2018 and recorded August 28, 2018 with Worcester District Registry of Deeds at Book 59318, Page 143 (collectively "the Grantors") are owners of property know as aa portion of 103 Cleverly Cove Road, Lancaster, MA 01523 pursuant to a Deed recorded with Worcester District Registry of Deeds at Book 59318, Page 148 ("the servient parcel") and which is more particularly described in Schedule A, and

WHEREAS HMC FIRE ROAD THREE, LLC ("the Grantee"), a Massachusetts limited liability company duly registered and in good standing in accordance with the provision of Massachusetts law, is the owner of property located at 230 Fire Road 3, Lancaster, MA 01523 pursuant to a Deed recorded with Worcester District Registry of Deeds at Book 60836, Page 282 ("the benefited parcel"), which is more particularly described in Schedule B, and

WHEREAS the above described parcels of real estate share a common boundary line;

WHEREAS the benefited parcel does not have sufficient area to accommodate the upgrades required to bring the septic system serving that parcel into compliance with the provisions of 310 CMR 15.00 *et seq.* (Title V) and local rules and regulations governing the installation, maintenance and upkeep of septic systems in the Town of Lancaster, MA;

THE GRANTORS, for consideration paid less than One Hundred and 00/100 dollars (\$100.00), hereby grant to *THE GRANTEE*, their successors-in-title, heirs, and assigns *THE PERPETUAL RIGHT AND EASEMENT TO USE AND MAINTAIN A SEPTIC SYSTEM AND RETAINING WALL* within the land area more particularly described below which may be incidental to the use of the land of the Grantees known as 230 Fire Road 3, Lancaster, MA, the land to which the foregoing right and easement is appurtenant. Said easement shall be over land shown on "Proposed Soil Absorption System "Upgrade" in Lancaster, Massachusetts Designed For Matthew Bernard; Scale 1" = 10 ft.; Date: November 29, 2019" prepared by Whitman & Bingham Associates Registered Engineers and Land Surveyors which is attached hereto as Schedule C.

The perpetual right and easement granted to the Grantees herein shall include the right to install, maintain, modify, upgrade, replace, remove and utilize a septic system and related equipment and septic components including but not limited to the necessary pipes, tanks or conduits all of which shall become and remain the property of the owner of the benefited parcel and shall convey with the same.

This easement is conveyed subject to the right hereby expressly reserved by the Grantors herein to continue to enjoy the use of said land area for all purposes not adverse to the rights herein granted to the Grantees.

THE GRANTEE shall be responsible, at Grantee's sole expense, to maintain, repair and upkeep the septic system which services the benefited parcel, as well as the retaining wall associated therewith located within the proposed easement.

This Easement shall run with the land.

The parties further agree to the following terms and conditions:

1. Said grant shall prohibit the Grantor its successors, heirs and assigns from unreasonably interfering with the Grantees permitted use of the servient parcel including but not limited to the installation or placement of additional surface or subsurface structures or use which might damage, impede or interfere with the operation and maintenance of said septic system and appurtenances without Grantee's prior written consent.
2. Grantee shall have the right of ingress and egress by foot or by vehicle to the easement area over Grantors' property, if necessary, for all of the aforementioned purposes at times reasonably acceptable to Grantors and upon prior written notice to Grantors.
3. Grantee shall bear the cost and burden of repair, re-grading and restoring the easement area as necessary, at its expense to substantially the same condition that existed prior to the commencement of any work.
4. Each party hereto shall indemnify and hold the other harmless from and against any loss, damage or liability arising out of the exercise of any rights granted or retained herein or otherwise provided by law.
5. It is expressly understood and agreed that the Lancaster Board of Health, its agents or designees, shall have the right of ingress and egress by foot or by vehicle to the easement area over Grantors' property if necessary for purposes consistent with that Board's permitting, inspection and approval responsibilities in conjunction with the installation and maintenance of the septic system which is the subject of this Agreement.
6. This Easement shall not interfere, void or infringe on any other preexisting right-of-way or easement by Grantor across the Easement Area except for any temporary installation, maintenance, repair, upgrade or removal of the Sewage Disposal System which is the subject of this Agreement.

Said Easement being over, under and through a portion of the premises conveyed to Grantors by deed of James D. DiPaoli, Jr., Trustee of the Damon Realty Trust dated July 30, 2018 and recorded August 28, 2018 in Book 59318, Page 148.

The undersigned DOMENIC ZARRELLA and DEIDRA ZARRELLA, Trustees of the DZ REALTY TRUST hereby certifies that (1) they are the CO-Trustees of the DZ REALTY TRUST in accordance with the Declaration of Trust referred to above, (2) the Trust remains in full force and effect as of the date hereof; and (3) the provisions of Article 6 of said Declaration of Trust as the same are set forth in a Trustee's Certificate Pursuant to M.G.L. c. 184 sec. 35 which is recorded with said Deeds at Book 59318, Page 143 have not been amended, altered, revoked or terminated either in whole or in part; and (4) There are no

facts which constitute a condition precedent to any act by the Trustees, or which are in any other manner germane to the affairs of the Trust.

In witness whereof we hereunto set our hands and seals this 28th day of SEPT., 2020.

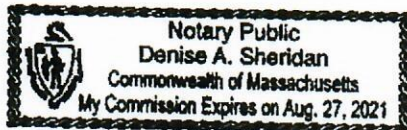

DOMENIC ZARRELLA, Trustee

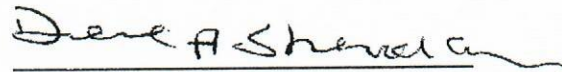

DEIDRA ZARRELLA, Trustee

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

On this 28th day of SEPT, 2020, before me, the undersigned notary public, personally appeared DOMENIC ZARRELLA in his capacity as Trustee of the DZ Realty Trust proved to me through satisfactory evidence of identification, which was Driver's License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose.

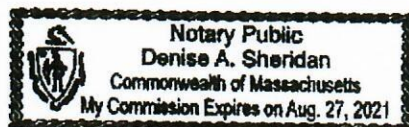


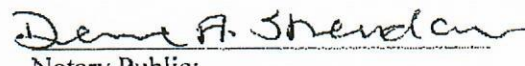

Notary Public:
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

On this 28th day of SEPT, 2020, before me, the undersigned notary public, personally appeared DEIDRA ZARRELLA in her capacity as Trustee of the DZ Realty Trust proved to me through satisfactory evidence of identification, which was Driver's License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose.




Notary Public:
My Commission Expires:

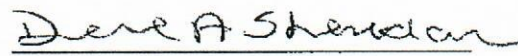
In witness whereof we hereunto set my hand and seal this 30th day of
SEPT., 2020.


KELLY BERNARD, Authorized Agent
HMC FIRE ROAD THREE, LLC

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

On this 30th day of SEPT., 2020, before me, the undersigned notary public, personally appeared KELLY BERNARD in her capacity as authorized agent of HMC Fire Road Three, LLC proved to me through satisfactory evidence of identification, which was DRIVERS LICENSE, to be the person whose name(s) is/are signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose.


Notary Public:
My Commission Expires:



SCHEDULE A

The land shown as Lot 5 on a plan titled "Definitive Plan, Plan of Land on Spectacle Pond, located in the Town of Lancaster, MA Plan Prepared for Jeanette L. Damon, Fire Road No. 3, Lancaster, MA" prepared by Defalco Engineering, Inc., and recorded with the Worcester South Registry of Deeds in Plan Book 726, Plan 41.

SCHEDULE B

The land and buildings situated on the Northerly shore line of Spectacle Road, in Lancaster, County of Worcester, Commonwealth of Massachusetts, bounded and described as follows; to wit:

Beginning at the Southeasterly corner of the premises herein conveyed, at a point on the Northerly shore line of said Spectacle Pond, and at the Southwesterly corner of land now or formerly of Fine, said point being Four Hundred Fifty (450) feet, more or less, Southwesterly as measured along the said Northerly shore line of Spectacle Pond from a stone bound at land now or formerly of Dillon; thence

North 17° 13' West, Seventy-nine and 19/100 (79.19) feet, more or less, along said land now or formerly of Fine, to the Southerly line of a gravel-topped right of way; thence

South 69° 30' West, Sixty (60) feet along said right of way to a point, thence

South 81° 10' West, Five (5) feet, continuing along said right of way to another point; thence

South 81° 10' West, Nine (9) feet, more or less, still along said right of way, to an iron pin in the ground at the Northeasterly corner of land now or formerly of Foster; thence

South 13° 33' East, Seventy-eight (78) feet, more or less, along said land now or formerly of Foster, to an iron pin in the ground on the said Northerly shore line of Spectacle Pond; thence

Northeasterly by said shore line, Seventy-nine (79) feet, more or less to the point of beginning.

Together with (1) a right of way over a strip of land twenty-five (25) feet in width along the Northerly line of the above described premises; (2) a right of way over land now or formerly of Murray C. Damon from the above described premises to another strip of land, thirty (30) feet in width; also used as a right of way; (3) a right of way over said thirty (30) foot strip which adjoins the Northerly line of land described in a deed of one Divoll to said Murray C. Damon, dated August 16, 1906, Westerly and Northwesterly to Nichols Brook, so-called, and (4) a right of way from said Nichols Brook over a passageway sixteen (16) feet in width, more or less, Northwesterly, Westerly and Northwesterly to the Town Road, known as Ponikin Road, leading to Lancaster. Said rights of way are to be used in common with all other parties who have or may acquire legal rights thereto.

SCHEDULE C

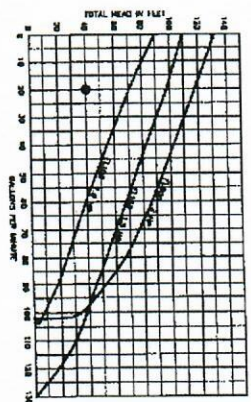
(See Attached)

SPECIAL APPROVAL REQUIRED

STATE, TITLE Y REGULATIONS

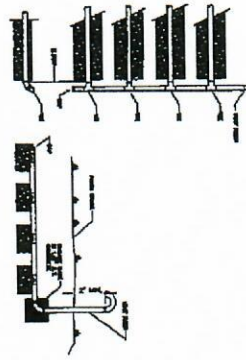
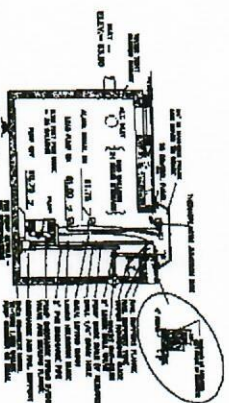
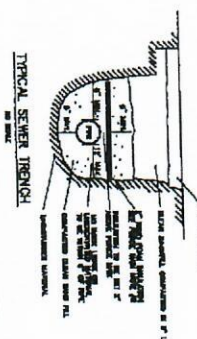
1

- [illegible]



PUMP NOTES

- [illegible]



TEST PIT DATA

[illegible]

CAUTION:

[illegible]

DATE	BY
	WILLIAM F. WILSON, JR. JR

1-800-445-6111 (Outside the U.S.) 1-800-445-6112 (Within the U.S.) FAX: 1-800-445-6113 E-MAIL: info@whitman-bingham.com WEBSITE: www.whitman-bingham.com	
NAME OF COMPANY: _____ COMPANY ADDRESS: _____ CITY: _____ STATE: _____ ZIP: _____ COUNTRY: _____ PHONE: _____ FAX: _____ E-MAIL: _____ NAME OF PERSON: _____ TITLE: _____ ADDRESS: _____ CITY: _____ STATE: _____ ZIP: _____ COUNTRY: _____ PHONE: _____ FAX: _____ E-MAIL: _____	
REVISION: _____ DATE: _____ BY: _____	
DATE: _____ TIME: _____ BY: _____	


WHITMAN-BINGHAM
 A N E C I C A T E S
 LABORATORY EQUIPMENT & TEST SERVICES
 10000 W. 10TH AVENUE
 DENVER, CO 80231
 TEL: 303-751-1900

PROPOSED SOIL ABSORPTION SYSTEM
 TYPICAL

LANCASTER, MASSACHUSETTS
 ASSIGNED FOR
 MATTHEW BERNARD

DATED: 05-08-2009
 DRAWN BY: 05-08-2009
 DATE: 05-08-2009

Appendix B
Soil Absorption System
Design Plans

