



Meeting of the Mashpee Planning Board

Thursday, September 29, 2022

Waquoit Meeting Room

Mashpee Town Hall

16 Great Neck Road North

Mashpee, MA 02649

7:05 PM

Broadcast Live on Local Channel 18

Streamed Live on the Town of Mashpee Website: <https://www.mashpeema.gov/channel-18>

Call Meeting to Order

- Pledge of Allegiance

New Business

- Request for release of covenant recorded at the Barnstable County Registry of Deeds at Book 1480 Page 1154 pertaining to property addressed as 52 Oregon Road (Map 22 Parcel 126) in the Santuit Woods Subdivision (originally referred to as Timberlane Shores) plan recorded at the Barnstable County Registry of Deeds in Tube 160 (property shown as lot 144)

Public Hearing

7:10 PM

To review the following zoning articles proposed for action at the October 17, 2022 Town Meeting:

- **Warrant Article 7:** To ask the Town amend §174-27.2 (A) Stormwater Management of the Mashpee Zoning Bylaw.
- **Warrant Article 8:** To ask the Town amend §174-27.2 (B)(2) of the Mashpee Zoning Bylaw by adding new subsections (d) and (e) after §174-27.2 (B)(2)(c) (Stormwater Management)
- **Warrant Article 9:** To ask the Town reformat and amend §174-27.2 (B)(3) of the Mashpee Zoning Bylaw by adding new subsections 'vi' and 'vii' under current §174-27.2 (B)(3)(v) and indenting appropriately (Stormwater Management)
- **Warrant Article 10:** To see if the Town will vote to repeal Article XI: Floodplain Zone Provisions in its entirety and Replace with new Article XI: Floodplain Zone Overlay.
- **Warrant Article 11:** To see if the Town will vote to add the floodplain definitions as a new subsection 174-3.1

Adjournment

AMENT KLAUER LLP

Attorneys at Law
39 Town Hall Square
Falmouth, MA 02540

Robert H. Ament, Esq.
Kevin P. Klauer II, Esq.
Matthew M. Terry, Esq.

Telephone (508) 540-6555
Fax (508) 457-1293
Website: www.amentklauer.com

September 22, 2022

Evan Lehrer, Town Planner
Town of Mashpee
16 Great Neck Road North
Mashpee, MA 02649

RE: Request for partial release of covenant
52 Oregon Road, Mashpee, MA 02649
Parcel ID 22-126-0

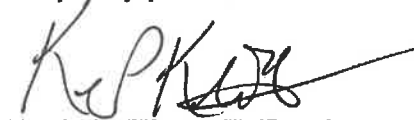
Dear Evan:

Please accept this letter as a request for a Partial Release of Covenant for our client, Ian Saarmann, who currently owns the property at 52 Oregon Road and is scheduled to close on a sale later on this month. 52 Oregon Road is shown as Lot 404 on a plan of Timberlane Shores, Section D (also known as Santuit Woods), recorded with the Barnstable Registry of Deeds in Tube 160 (attached).

The original Covenant was given by Zena Nemetz, Trustee of Cape Cod Land Development Trust to the Town of Mashpee in connection with the construction of ways and the installation of municipal services in the Timberlane Shores subdivision. The Covenant is recorded with the Barnstable County Registry of Deeds in Book 1480, Page 1154 and is dated July 13, 1970 (copy attached).

Please place this request on the agenda of the Planning Board for the next available hearing date. Thank you for your assistance.

Very truly yours,



Kevin P. Klauer II, Esquire

KPK/gmb
Enclosure

cc: Ian Saarmann

OFFICIAL OFFICIAL
OFFICIAL OFFICIAL

**SUBDIVISION PLAN OF
TIMBERLANE SHORES; SECTION-D**

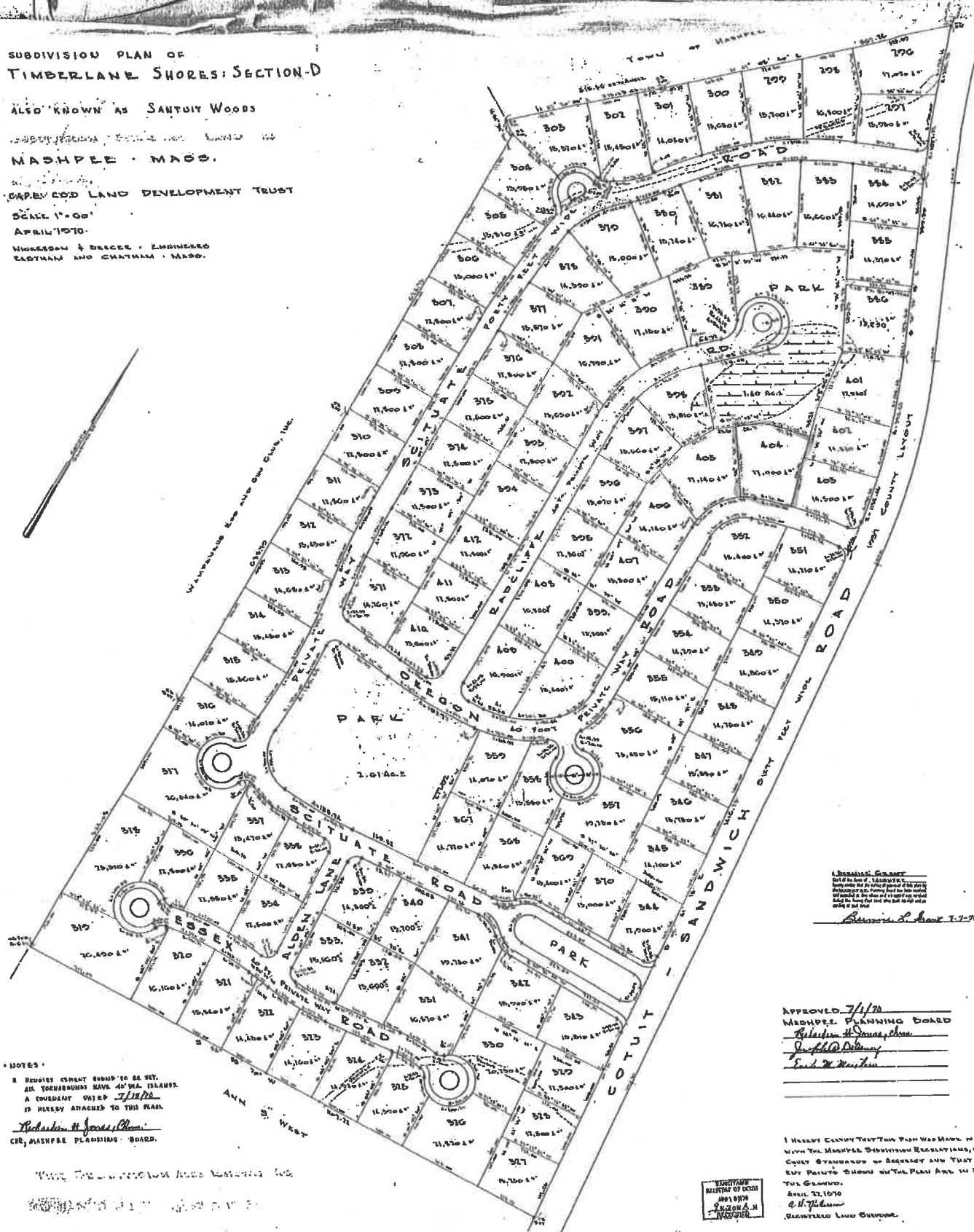
ALSO KNOWN AS SANSUIT WOODS

PROPERTY OF THE LAND OF
MASHPEE - MASS.

PREPARED BY LAND DEVELOPMENT TRUST

SCALE 1"=60'
APRIL 1970

WHEATON & DEGREE - ENGINEERS
EASTON AND CHATHAM - MASS.



NOTES
1. REVISIONS CURRENT SHOULD BE SET.
2. ALL DIMENSIONS SHOWN ON THIS PLAN ARE
A CORRECTION DATED 1/11/70
IS HEREBY ATTACHED TO THIS PLAN.
Richard H. Jones, Chairman
CDE, MASHPEE PLANNING BOARD.

THIS PLAN SUBMITTED TO THE BOARD OF

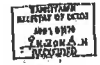
APPROVED BY THE BOARD OF

CHATHAM COUNTY
OFFICE OF THE REGISTER
100 STATE STREET
CHATHAM, MASSACHUSETTS
RECORDED IN THE OFFICE OF THE REGISTER
ON APRIL 1, 1970 AT 11:00 AM
BOOK 100 PAGE 100

Richard H. Jones

APPROVED 7/1/70
MASHPEE PLANNING BOARD
Richard H. Jones, Chairman
Joseph P. Conway
Frank W. Mearns

I HEREBY CERTIFY THAT THIS PLAN WAS MADE IN ACCORDANCE
WITH THE MASHPEE SUBDIVISION REGULATIONS, WITH LAND
COURT STANDARDS OF ACCURACY AND THAT THE PLANNING
BOARD HAS REVIEWED AND APPROVED THE PLAN AND THE
EXPLANATIONS THEREON.
THE CHATHAM COUNTY REGISTER
APRIL 1, 1970
Richard H. Jones
REGISTERED LAND SURVEYOR



NOT
TOWN OF MASHPEE
OFFICIAL
Planning Board
MASHPEE, MASSACHUSETTS
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COVENANT

The undersigned Zena Nemetz, Trustee of Cape Cod Land Development Trust
of Suffolk County, Massachusetts,
hereinafter called the "Covenantor", having submitted to the Planning Board of the Town of
Mashpee, a definitive plan of a subdivision entitled Timberlane Shores: Section D (also
known as Santuit Woods)
Dated April 27, 1970
made by Nickerson & Berger, Engineers does hereby covenant and
agree with said Planning Board and the successors in office of said Board pursuant to G.L. (Ter.
Ed.) Chapter 41, Section 81A as amended, that:

1. The Covenantor is the owner of record of the premises.
2. This covenant shall run with the land and be binding upon the covenantor and the executor, administrators, heirs and assigns of the covenantor and their successors in title to the premises shown on said plan.
3. The construction of ways and the installation of municipal services shall be provided to serve any lot in accordance with the rules and regulations of said Board before such lot may be built upon or conveyed, other than by mortgage deed; provided that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgaged premises or part thereof may sell any such lot, subject to that portion of this covenant which provides that no lot shall be built upon until such ways and services have been provided to serve such lot.
4. Nothing herein shall be deemed to prohibit a conveyance by a single deed subject to this covenant, of either the entire parcel of land shown on said subdivision plan or of all lots not previously released by the Planning Board.
5. This covenant shall take effect upon the approval of said plan by the Planning Board.
6. Reference to this covenant shall be entered upon said plan and this covenant shall be recorded when said plan is recorded.

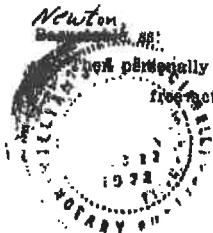
~~The undersigned, _____ wife, husband of the
covenantor hereby agrees that such interest as I may have in said premises shall be subject to
the provisions of this covenant and insofar as is necessary I, we, release all rights of tenancy
by the curtesy, dower, homestead and other interests therein.~~

WITNESS our hands and seals this 13th day of July 1970

Zena Nemetz, trustee

Zena Nemetz, Trustee Cape Cod Land
Development Trust

COMMONWEALTH OF MASSACHUSETTS



personally appeared the above named and acknowledged the foregoing instrument to be
free act and deed, Before me.

William P. Russell
Notary Public

My commission expires December 7, 1972

REC'D AUG 1 1970 AND RECORDED

Terrie M. Cook
Administrative Assistant
(508) 539-1401
tmcook@mashpeema.gov



Office of the Town Manager
Mashpee Town Hall
16 Great Neck Road North
Mashpee, MA 02649

MEMORANDUM

TO: Members of the Planning Board
CC: Town Manager, Town Planner

FROM: Terrie Cook – Administrative Assistant to the Town Manager

DATE: September 16, 2022

RE: *2022 October Town Meeting Zoning Bylaw and Road Taking Warrant Articles*

The 2022 October Town Meeting Zoning Bylaw and Road Taking Warrant Articles are attached for your reference and discussion.

- Articles 7-11 are zoning bylaw articles.
- Article 16 is a road taking article.

Thank you.

Article 7

To see if the Town will vote to amend §174-27.2 (A) of the Mashpee Zoning Bylaw, Stormwater Management, to read as follows:

- A. For any new residential or non-residential development or redevelopment requiring either approval, a Special Permit, plan review under the provisions of §174-24.B., or a Building Permit for a building over one thousand (1000') square feet in area a system of stormwater management and artificial recharge of precipitation which is designed to achieve the following purposes shall be required: to prevent untreated discharges to wetlands and surface waters, preserve hydrologic conditions that closely resemble pre-development conditions, reduce or prevent flooding by managing the peak discharges and volumes of runoff, minimize erosion and sedimentation, not result in significant degradation of groundwater, reduce suspended solids, nitrogen, phosphorous, volatile organics and other pollutants to improve water quality, and provide increased protection of sensitive natural resources. To better achieve the aforementioned purpose of this section, Stormwater Low Impact Development (LID) planning and development strategies shall be required.

, or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article would mandate that Stormwater Low Impact Design strategies be utilized whereas the current regulation merely encourages Stormwater Low Impact design strategies where practicable.

The Board of Selectmen recommends approval of Article 7 by a vote of 4-0

The Finance Committee recommends approval of Article 7 by a vote of 4-0

Article 8

To see if the Town will vote to amend §174-27.2 (B) (2) of the Mashpee Zoning Bylaw, Stormwater Management, by adding new subsections (d) and (e) after §174-27.2 (B) (2) (c) as follows:

(d) Incorporates filter media and/or an internal water storage zone to optimize nitrogen and phosphorous removal for projects which employ bio retention or similar filtering best management practices (e.g., rain gardens, tree filters, sand/organic filters, and dry water quality swales) for treatment prior to infiltration.

(e) evaluates and designs new stormwater quantity control BMPs and other drainage system components in accordance with the Resilient Massachusetts Action Team (RMAT) Climate Resilience Design Standards and Guidelines, as may be amended from time to time, to account for projected increases in precipitation intensity and frequency over the duration of the useful life of the systems.

, or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article specifies specific low impact design requirements for removal of nitrogen and phosphorous from stormwater at single and two family dwellings.

The Board of Selectmen recommends approval of Article 8 by a vote of 4-0

The Finance Committee recommends approval of Article 8 by a vote of 4-0

Article 9

To see if the Town will vote to reformat and amend §174-27.2 (B) (3) of the Mashpee Zoning Bylaw, Stormwater Management, by adding new subsections 'vi' and 'vii' under current §174-27.2 (B) (3) (v) and indenting appropriately as follows:

3) For new subdivision roadways or for lots occupied or proposed to be occupied by uses other than single or two-family homes, a stormwater management plan which

(a) utilizes site planning and building techniques including LID planning and development strategies, such as minimizing impervious surfaces and disturbance of existing natural areas, pervious reserve or overflow parking areas, multi-level buildings, parking structures, "green roofs" and storage and re-use of roof runoff, to minimize runoff volumes and the level treatment required to reduce contaminants

(b) minimizes erosion and runoff from disturbed areas during construction and,

(c) provides for the following:

- i. Artificial recharge or precipitation to groundwater through site design that incorporates natural drainage patterns and vegetation and through the use of constructed (stormwater) wetlands, bio retention facilities, vegetated filter strips, rain gardens, wet (retention) ponds, water quality swales, organic filters or similar-site-appropriate current best management practices capable of removing significant amounts of nitrogen and other contaminants from stormwater. Said stormwater treatment facilities shall be designed and sized to retain up to the first inch of rainfall from their catchment area within the area designed for nitrogen 51 treatment, before any overflow to subsurface leaching facilities and otherwise meet the Stormwater Management Standards and technical guidance contained in the Massachusetts Department of Environmental Protection's Stormwater Management Handbook, as amended, or State-approved BMP guidance, whichever is stricter Volumes 1 and 2, dated March 1997, for the type of use proposed and the soil types present on the site. Such runoff shall not be discharged directly to rivers, streams, other surface water bodies, wetlands or vernal pools. Except for overflow from stormwater treatment facilities as described above and when there are no other feasible alternatives, dry wells shall be prohibited.
- ii. Except when used for roof runoff from non-galvanized roofs and for runoff from minor residential streets, all such wetlands, ponds, swales or other infiltration facilities shall be preceded by oil, grease and sediment traps or fore bays or other best management practices to facilitate control of hazardous materials spills and removal of contamination and to avoid sedimentation of treatment and leaching facilities.

- iii. All such artificial recharge systems shall be maintained in full working order by the owner(s) under the provisions of an operations and maintenance plan approved by the permitting authority to assure that systems function as designed.
- iv. Infiltration systems shall be located so that no part of any leaching system is located less than one hundred (100) feet from drinking water wells. Any infiltration basins or trenches shall be constructed with a three (3') foot minimum separation between the bottom of the leaching system and maximum groundwater elevation
- v. Roadway widening or improvements that increase the amount of impervious area on the redevelopment site by greater than or equal to a single lane width shall meet the requirements of MS4GP part 2.3.6.a.ii.4(a) – (c) fully.
- vi. For projects which employ bio retention or similar filtering best management practices (e.g., rain gardens, tree filters, sand/organic filters, and dry water quality swales) filter media and/or an internal water storage zone to optimize nitrogen and phosphorous removal shall be incorporated into the design for treatment prior to infiltration.
- vii. Design of new stormwater quantity control BMPs and other drainage system components shall be designed in accordance with Resilient Massachusetts Action Team (RMAT) Climate Resilience Design Standards and Guidelines, as amended, to account for projected increases in precipitation intensity and frequency over the duration of the useful life of the systems.

, or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article specifies specific low impact design requirements for removal of nitrogen and phosphorous from stormwater at all lots that are not single and two family dwellings such as new subdivision roadways, commercial and industrial uses/buildings, and multifamily residential. Further this article proposes a minor reformatting of text by indenting subsections appropriately where they currently are not.

The Board of Selectmen recommends approval of Article 9 by a vote of 4-0

The Finance Committee recommends approval of Article 9 by a vote of 4-0

Article 10

To see if the Town will vote to repeal Article XI (Floodplain Zone Provisions) of the Zoning Bylaw in its entirety and replace it with a new Article XI (Floodplain Zone Overlay) to read as follows:

§174-58 Purpose and Intent

The purpose of the Floodplain Zone Overlay is to:

- 1) Ensure public safety through reducing the threats to life and personal injury
- 2) Eliminate new hazards to emergency response officials
- 3) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding
- 4) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding
- 5) Eliminate costs associated with the response and cleanup of flooding conditions
- 6) Reduce damage to public and private property resulting from flooding waters

§174-59 Use of FEMA Maps and Supporting Studies

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within Mashpee's designated as Zone A, AE, AH, AO, A99, V, or VE on the Barnstable County Flood Insurance Rate Map (FIRM) dated July 6, 2021 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Barnstable County Flood Insurance Study (FIS) report dated July 6, 2021. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and GIS/E911 Coordinator.

§174-60 General Provisions

Permits for new construction, alteration of structures or other development (any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations), within the A, AE, AH, AO, A99, V and VE Zones as designated on Flood Insurance Rate Maps dated July 6, 2021, and the Flood Insurance Study dated July 6, 2021, which are on file with the Town Clerk, Planning Board and Building Inspector, shall be approved subject to other laws and bylaws applicable thereto and to the following provisions. Definitions of terms used herein or relevant hereto are set forth in §174-3.1 of this Bylaw.

§174-60.1 Disclaimer of Liability

The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.

§174-60.2 Severability

If any specific and segregable section, provision, or portion of this bylaw is deemed to be unconstitutional, invalid or unenforceable by a court, all other sections or provisions of the bylaw shall remain in full force and effect.

§174-60.3 Designation of Community Floodplain Administrator

The Town of Mashpee hereby designates the Building Commissioner to be the official Floodplain Administrator for the Town.

§174-60.4 Requirement to Submit New Technical Data

If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months of such acquisition, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Such notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief
99 High St., 6th floor, Boston, MA 02110
And copy of notification to:

Massachusetts NFIP State Coordinator
MA Dept. of Conservation & Recreation
251 Causeway Street, Boston, MA 02114

§174-61 Compliance with State Building Code and Other Laws/Regulations

Any New Construction or substantial improvement to be undertaken within said zones shall be in accordance with applicable requirements of the Massachusetts State Building Code, 780 CMR, as amended. The Building Commissioner shall review all proposed developments within the flood zones to assure that all necessary permits and/or approvals which are obtainable at the time of such review have been issued by those governmental agencies from which such permits/approvals are required by federal or state law or regulation.

§174-61.1 Permit Requirements

The Town of Mashpee requires a permit for all proposed construction or other development in the floodplain overlay district, including New Construction or changes to existing buildings and Structures, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

§174-61.2 Variances to Building Code Floodplain Standards

In the event that a Variance is requested from the state Building Code Appeals Board, the Town will request from said Board a written and/or audible copy of the portion of the hearing related to the Variance, and will maintain this record in the files of the Building Commissioner.

The Town shall also issue an official executed written notice to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering the subject property noting that: (i) the issuance of a Variance to construct a structure below the base flood level will result in increased premium rates for flood insurance in amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all Variance actions for the referenced development in the Floodplain Overlay District.

§174-61.3 Variances to Local Zoning Bylaws related to compliance with the National Flood Insurance Program (NFIP)

A Variance from these floodplain bylaws issued by the Zoning Board of Appeals must meet the variance requirements established by State law, and may only be granted if:

1. Good and sufficient cause and exceptional non-financial hardship exist;
2. the Variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and
3. the Variance is the minimum action necessary to afford relief.

§174-61.4 Historic District Procedures

Qualifying Historic Structures listed as defined in §174-3.1 are exempt from only those substantial improvement modifications which would alter the historic character of the building. All other substantial improvement modifications must be completed in accordance herewith.

§174-62 Subdivisions

All Subdivision proposals shall be designed to ensure that:

1. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
2. Adequate drainage is provided to reduce exposure to flood hazards.
3. Such proposals minimize flood damage.

§174-62.1 Base Flood Elevation Data for Subdivision Proposals

When proposing subdivisions or other developments including more than 50 lots or 5 acres in area, the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

§174-62.2 Manufactured Home Parks and Subdivisions

Notwithstanding the applicable provisions of the Massachusetts State Building Code within Zone AE, for new manufactured home parks and manufactured home subdivisions and for existing manufactured home parks and manufactured home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced:

1. lots are to be elevated on pilings or a flood compliant solid wall foundation so that the lowest floor of the manufactured home will be above the base flood elevation in compliance with the Massachusetts State Building Code;
2. adequate surface drainage and access for a hauler must be provided; and,
3. in the instance of elevation on pilings, lots must be large enough to permit steps, piling foundations must be placed in stable soil no more than ten (10) feet apart, and reinforcement must be provided for pilings more than six (6) feet above the ground level.

§174-62.3 Manufactured Homes not in Parks or Subdivisions

Notwithstanding the applicable provisions of the Massachusetts State Building Code, in all manufactured homes to be placed within Zone AE but not into a manufactured home park or manufactured home subdivision:

1. Manufactured Homes must be elevated on pilings or on a solid wall foundation with flood openings so that the lowest floor of the manufactured home will be above the base flood elevation in compliance with the Massachusetts State Building Code.
2. Adequate surface drainage and access for a hauler must be provided.
3. In the instance of elevation on pilings, lots must be large enough to permit steps, piling foundations must be placed in stable soil no more than ten (10) feet apart and reinforcement must be provided for piers more than six (6) feet above ground level.

§174-63 Development within V Zones

No land within areas designated as V (velocity) Zones on the Federal Emergency Management Agency Flood Insurance Rate Maps shall be developed unless such development is demonstrated, by the application, to be located landward of the reach of the mean high tide. Notwithstanding the applicable provisions of the Massachusetts State Building Code, all new construction and substantial improvement within the V Zones shall be elevated on adequately anchored pilings or columns and securely anchored to such piles or columns so that the lowest portion of the structural members of the lowest floor, excluding the pilings or columns, is elevated above the base flood elevation in compliance with the Massachusetts State Building Code, and certified by a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash.

The following shall be prohibited within said V Zones:

1. Any man-made alteration of sand dunes which might increase the potential for flood damage.
2. Use of fill for structural support for new construction or substantial improvement of structures.
3. Manufactured homes, except in existing manufactured home parks and existing manufactured home subdivisions.

§174-64 Unnumbered A Zones

In A Zones, in the absence of FEMA BFE data and Floodway data, the Building Commissioner shall request from the proponent's registered design professional base flood elevation and Floodway data available from a Federal, State, or other source as criteria for requiring New Construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

§174-64.1 Floodway Encroachment

In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other Floodway data shall be used to prohibit encroachments in Floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

In Zones A1-30 and AE, along watercourses that have a Regulatory Floodway designated on the Town's FIRM encroachments are prohibited in the Regulatory Floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

§174-64.2 Watercourse Alterations or Alterations in Riverine Areas

In a riverine situation, the Conservation Agent shall notify the following entities/officers of any alteration or relocation of a watercourse:

- Adjacent Communities, especially those located upstream and downstream;
- Bordering States, if affected;
- NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, 8th floor
Boston, MA 02114
- NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

§174-65 AO and AH Zones Drainage Requirements

Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

§174-66 Recreational Vehicles

In A1-30, AH, AE Zones, V1-30, VE, and V Zones, all Recreational Vehicles, as defined in §174-3.1, to be placed on a site must be a) elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements, b) be on the site for less than 180 consecutive days, or c) be fully licensed and highway ready.

§174-68 More Restrictive Regulations to Apply

The floodplain management regulations found in this Floodplain Overlay District bylaw shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

§174-69 Enforcement

Violations of any section or provision of this Bylaw may be enforced by the institution of enforcement actions, either criminal or civil, legal or equitable or both, or by fines of not more than three hundred (\$300) dollars for each offense. Each day that such offense continues shall constitute a separate offense. For purposes of this Bylaw, the Building Commissioner, and/or his designee, shall be the Town's enforcement officer.

Submitted by the Planning Board

Explanation: This Bylaw will replace in its entirety the Town's current floodplain zone provisions. This update is mandatory to remain in the National Flood Insurance Program. This Bylaw regulates development in the floodplain with supplemental regulations that are not enforced through state requirements, such as the State Building Code and Wetlands Protection Act. The most significant new regulations in this Bylaw pertain to administrative management of permits in the floodplain for the Building and Conservation Departments.

The Board of Selectmen recommends approval of Article 10 by a vote of 3-1

The Finance Committee recommends approval of Article 10 by a vote of 7-0

Article 11

To see if the Town will vote to amend the Zoning Bylaw by adding the following definitions in a new subsection 174-3.1 (Floodplain Management Definitions) as follows:

DEVELOPMENT - any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

FLOODWAY - The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

FUNCTIONALLY DEPENDENT USE - a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

HIGHEST ADJACENT GRADE - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

HISTORIC STRUCTURE - any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior or
 - (2) Directly by the Secretary of the Interior in states without approved programs. [US Code of Federal Regulations, Title 44, Part 59]

NEW CONSTRUCTION - Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. *New construction includes work determined to be substantial improvement.* [Referenced Standard ASCE 24-14]

RECREATIONAL VEHICLE - a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

[US Code of Federal Regulations, Title 44, Part 59]

REGULATORY FLOODWAY - see FLOODWAY.

SPECIAL FLOOD HAZARD AREA - The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

START OF CONSTRUCTION - The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

STRUCTURE (for floodplain management purposes) - a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

SUBSTANTIAL REPAIR OF A FOUNDATION - When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

VARIANCE - a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION - the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b) (5), (c) (4), (c) (10), (d) (3), (e) (2), (e) (4), or (e) (5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

ZONE A - an area of special flood hazard without water surface elevations determined.

ZONE AE - area of special flood hazard with water surface elevations determined.

ZONE AH - means areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined.

ZONE AO - means area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. (*Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.*)

ZONES X - means areas of minimal or moderate flood hazards or areas of future-conditions flood hazard. (*Zone X replaces Zones B and C on new and revised maps.*)

ZONE V - means area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area)

ZONE VE - (*for new and revised maps*) means area of special flood hazards, with water surface elevations determined and with velocity, that is inundated by tidal floods (coastal high hazard area)

Submitted by the Planning Board

Explanation: This Zoning Bylaw amendment would add the definitions that pertain to development in the floodplain as required to remain in the National Flood Insurance Program.

The Board of Selectmen recommends approval of Article 11 by a vote of 4-0

The Finance Committee recommends approval of Article 11 by a vote of 7-0

Article 16

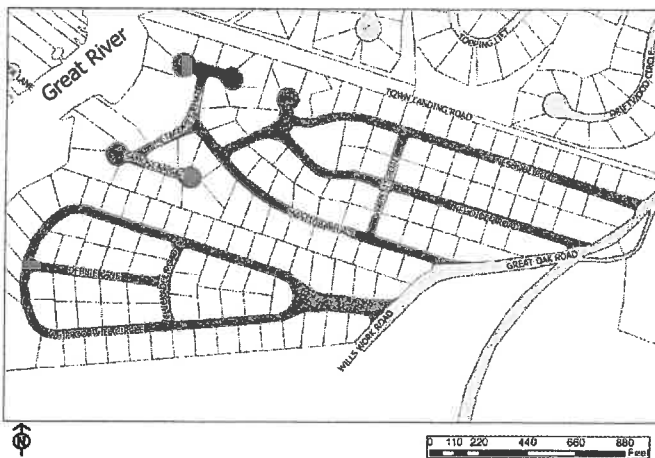
To see if the Town will vote to authorize and empower the Board of Selectmen to prepare a plan laying out and defining Chickadee Road, Debbie Lane, Manitoba Road, Metacomet Road, Nehoiden Road, Neshobe Road, Pontiac Road, Samoset Road, Wamesit Road, Whipoorwill Circle, and Wills Work Road and to accomplish said purpose and for expenses related thereto, the Town vote to appropriate and transfer from revenue available for appropriation \$80,000 to the South Cape Homeowner's Association Roadways Account, or take any other action relating thereto.

Submitted by Petition

Explanation: This article authorizes the Town to layout and define Chickadee Road, Debbie Lane, Manitoba Road, Metacomet Road, Nehoiden Road, Neshobe Road, Pontiac Road, Samoset Road, Wamesit Road, Whipoorwill Circle, and Wills Work Road and to appropriate funding for that purpose.

The Board of Selectmen recommends approval of Article 16 by a vote of 4-0

The Finance Committee recommends approval of Article 16 by a vote of 7-0



MASHPEE PLANNING BOARD

PUBLIC HEARING NOTICE

***Broadcast Live on Local Cable Channel 18* *Streamed Live on the Town of Mashpee Website:**
<https://www.mashpeema.gov/channel-18>

*

Pursuant to Massachusetts General Laws, Chapter 40A, Section 5 the Mashpee Planning Board will hold a public hearing on Thursday, September 29, 2022 at 7:10 p.m. from the Mashpee Town Hall, 16 Great Neck Road North in the Waquoit Meeting Room to review the following zoning articles proposed for action at the October 17, 2022 Town Meeting.

Warrant Article ____:

To see if the Town will vote to repeal Article XI: Floodplain Zone Provisions in its entirety and Replace with new Article XI: Floodplain Zone Overlay.

This bylaw will replace in its entirety the Town's current floodplain zone provisions. This update is mandatory to remain in the National Flood Insurance Program. This bylaw regulates development in the floodplain with only those regulations that are not enforced through state requirements such as the statewide Building Code and Wetlands Protection Act. The most significant new regulations in this bylaw pertain to administrative management of permits in the floodplain for the Building and Conservation Departments. This bylaw also proposes to prohibit the use of fill in all flood zones which is above and beyond the minimum requirements in all flood zones except V (velocity zones) with the exception of dredged material for beach nourishment or rock (or other material) for the reconstruction of a revetment or groin.

Warrant Article ____:

To see if the Town will vote to add the following definitions as a new subsection 174-3.1

This bylaw amendment would add the definitions that pertain to development in the floodplain as required to remain in the National Flood Insurance Program (NFIP).

Warrant Article ____:

To ask the Town amend §174-27.2 (A) Stormwater Management of the Mashpee Zoning

This article would mandate that Stormwater Low Impact Design strategies be utilized whereas the current regulation merely encourages Stormwater Low Impact design strategies where practicable.

Warrant Article ____:

To ask the Town amend §174-27.2 (B)(2) of the Mashpee Zoning Bylaw by adding new subsections (d) and (e) after §174-27.2 (B)(2)(c) (Stormwater Management)

This article specifies specific low impact design requirements for removal of nitrogen and phosphorous from stormwater at single and two family swellings.

Warrant Article ____:

To ask the Town reformat and amend §174-27.2 (B)(3) of the Mashpee Zoning Bylaw by adding new subsections 'vi' and 'vii' under current §174-27.2 (B)(3)(v) and indenting appropriately (Stormwater Management)

This article specifies specific low impact design requirements for removal of nitrogen and phosphorous from stormwater at all lots that are not single and two family dwellings such as new subdivision roadways, commercial and industrial uses/buildings, and multifamily residential. Further this article proposes a minor reformatting of text by indenting subsections appropriately where they currently are not.

The full text of these articles may be reviewed in the Office of the Town Manager/Select Board and Planning Department

Submitted by:
Mary Waygan, Chair
Mashpee Planning Board

September 9, 16, 2022