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June 15, 2023

Donald Gentile, Chairman
Director of Planning and Conservation
55 Summer Street
Lynnfield, MA 01940

**Re: 21 Lakeview Road
Lynnfield, MA 01940
DEP File No.: 209-0601**

Dear Chairman Gentile:

I am writing to you regarding my clients, Aguiar DeFreitas, Jr. and Adriane P. DeFreitas, the owners of the above-referenced property. As you are aware, my clients made significant landscaping improvements to their property which is located on the shoreline of Pillings Pond. Most, if not all, of these improvements are subject to the jurisdiction of the Conservation Commission (the "Commission") pursuant to 310 C.M.R. 10 the Wetlands Protection Act (the "Act"). The site history is recapped in a letter to the Commission dated September 19, 2022 from Julie Vondrak, my client's Wetland Permitting Consultant. On October 19, 2022 the Commission issued an Enforcement Order (the "Order") to the DeFreitases, requiring them to take certain mitigation actions, including but not limited to, extensive plantings and removal of the landscaping improvements in the rear of the property. To date, the plantings have been completed to the extent the specific plant type and species are available. Unfinished plantings have been ordered and will be fulfilled as soon as the items arrive. To date, the removal of the stone walkways and a stone patio has not been completed.

Although the DeFreitases understand and appreciate the Commission's frustration with their actions, they are asking the Commission to reconsider the Order to remove the stone walkways and patio. It is our position the stone walkways and patio are permissible 'Minor Activities' as defined in the Act section 10.02(2)(b)(2)(a) and (e). They are accessory to the dwelling and their installation did not compromise the protected interests identified in the Act section 10.01(2): public and private water supply, ground water supply, flood control, storm damage prevention, pollution prevention, wildlife habitat. Based on the topography and soil conditions of the lot, scope of the improvements and the installation process it is likely that at no point did the activities pose a significant threat to Pillings Pond nor are they a future threat as the site is stable and runoff is contained on the lot.

Provided the DeFreitases had filed a Notice of Intent prior to undertaking the landscaping improvements it is likely the Commission would have approved the request for the reasons set

forth above. In review of the Enforcement Order (the “Order”), the DeFreitases, Ms. Vondrak and I believe the proposed mitigation to rehabilitate the site with plantings is reasonable. However, we believe the removal of the stone walkways and patios will create adverse conditions and destabilize the site which may threaten the protected interests as defined in the Act. It is highly likely the site will remain unstable throughout the summer and into the early fall because new growth conditions are not optimal. In the best-case scenario, we believe the site may be stabilized by mid to late fall. The DeFreitases desire to maintain what has been installed. If the Order is upheld by the Commission the DeFreitases plan to file a Notice of Intent to seek permission to install what currently exists. The DeFreitases recognize they must be held accountable for their actions and to that end they are requesting the Commission to consider the following alternate mitigation measures as restitution:

1. Notice of Intent for after the fact permitting;
2. Additional mitigation at the site; and
3. Additional offsite mitigation that will enhance the vitality of Pillings Pond.

I understand that Ms. Vondrak had presented these alternatives to the Commission previously, however they preceded the Order. We respectfully request the Commission to reconsider the Order and entertain a combination of alternate mitigation measures set forth above to redress the DeFreitases’ unpermitted activities.

Thank you for your consideration. We look forward to meeting with the Commission on the evening of June 20, 2023.

Very truly yours,



Timothy J. Doyle, Esquire