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John J. Ribas, Esq.
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October 9, 2023

Via Regular US Mail

Weston Conservation Commission
c/o Its Chair, Sara Schlechter
56 Norfield Road
Weston, CT 06883



**Re: *Amanda Babb - 28 Codfish Lane, Weston, CT
Response to September 21, 2023 Letter***

Dear Members of the Conservation Committee:

Please be advised that this firm represents the interests of Amanda Babb as it relates to her ownership of the real property located at 28 Codfish Lane, Weston, Connecticut (“28 Codfish”). I write in response to the September 21, 2023 letter submitted by Attorney Philip C. Pires, who is counsel to Lucas Bickford and Lauren Dilello, the current owners of 26 Codfish Lane, Weston, Connecticut (“26 Codfish”) Specifically, the letter includes incorrect statements about my client’s use of 28 Codfish, which she purchased in 2017.

First, it is wholly incorrect that my client “cleared a large swath of vegetation in wetlands and around wetlands to allow herself physical access to the area in which she built the fence”. This allegation is completely contrary to the observations made by our soil scientist, Steven Danzer, Ph.D., and by the members of the Conservation Committee. As noted in his report dated August 4, 2023, Mr. Danzer observed no evidence and there was no indication of tree removal or clearing activities during fence installation. A copy of said report is included herewith for the Committee’s review and consideration. The members of the Conservation Committee similarly did not observe any indication of tree removal or clearing activities during fence installation, as evidenced by the notes from the site walk on September 9, 2023, submitted by Tom Failla, Conservation Planner.

Second, we strongly disagree with the assertion that my client’s application was in any way deficient. In contrast, Ms. Babb worked closely with the Town of Weston to ensure the application was complete and that it included all relevant materials to properly process the permit. In fact, my client has been working with the Town on this permit since June 27, 2023, when she met with Richelle Hodza, Land Use Director. Ms. Hodzka advised my client to work with Tom Failla to complete the necessary forms in order to obtain Inland Wetlands approval for her privacy fence. Said fence was only

constructed after Ms. Babb obtained a fence permit from the Town of Weston. It is clear the Town of Weston agreed that her application was proper and complete by virtue of the fact that the Town accepted her application and placed her application on the schedule for discussion with the Conservation Committee. Since initiating her application for this fairly routine permit, my client has attended three meetings on this topic: first on August 24, the second on September 9 for the site walk, and most recently on September 21, following the aforementioned site walk.

Third, it is further erroneous that the report submitted by my client indicates that she caused direct impacts to wetlands. Rather, Steven Danzer's conclusion is that there are no significant impacts to the wetlands due to the fence (See Page 3 of the Danzer Report for reference). Mr. Danzer further concludes that the natural resource has not been unreasonably impaired, polluted, or destroyed, and there are not any significant or detrimental alterations to the existing or prior wetland function or values.

The notes from the September 9, 2023 site walk relate to: (i) a discussion of the tight proximity of the fence panels to the ground; (ii) recent digging in wetlands; and (iii) plans to plant shrubs near the westerly fence line. During the September 21, 2023 meeting, the members of the Conservation Commission expanded the scope of the discussion and directed my client to revise her application to include a site plan for any shrubs she plans to plant in her yard (irrespective of whether such shrubs are located near the fence that is the subject of the application at hand); and advised her to seek a permit from the Conservation Commission to enable her to mow the grass in her lower field area.

Regarding the tight proximity of the three fence panels located in the wetlands to the ground, Mr. Danzer observed that there was a sufficient gap between the bottom of the fence and the ground, allowing for surface flow from the small wetland area within the neighboring property to continue unimpeded under the fence. Discussion of the fence at the site walk on September 9, 2023 related to a concern by the members of the Conservation Commission that my client's fence may rot prematurely. However, my client indicated during the September 21, 2023 meeting that she would speak with her fencing contractor to discuss possible solutions if the Commission felt that a larger gap was required between the bottom of the three fence panels located in the wetlands and the ground. One good solution is to grant a variance for the panels in question and to allow the panels to be raised slightly from the ground to better allow for surface flow.

As for the recent digging in wetlands noted in the walk notes, the wetlands in question are not located anywhere near the fence that is the subject of the application at hand. In addition, my client clarified during the September 21, 2023, meeting that such digging was minor and came about when she had run out of dirt when planting a shrub in her yard and borrowed a couple of shovelfuls of decomposed leaves from an area of wetlands not located anywhere near the fence. At that time, my client offered to use a half bag of top soil from Home Depot to replace the missing leaves, but was directed to refrain from adding anything to the wetlands area, and my client noted the helpful direction provided by the Conservatory Commission.

The expanded inquiry and direction by the Conservation Commission to provide a site plan for any plantings my client plans to plant in her yard in the future and to obtain approval from the Commission in order to mow her lawn is unprecedented and vastly beyond the scope of the application at hand. Similarly, the direction by the Conservation Commission to provide a site plan for the recently planted shrubs is neither relevant nor subject to review by the Conservation Commission as these shrubs are not located within wetlands or anywhere near the fence that is the subject of the application. In addition, such activity is permitted under Section 4 of the Inland Wetlands and Watercourses

Weston Conservation Commission

October 9, 2023

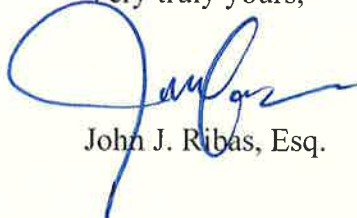
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Regulations for the Town of Weston (the "Regulations"), which includes gardening and uses incidental to the enjoyment or maintenance of residential property,

My client erected her fence for purposes of privacy, security, and to prevent further trespassing on her property. Mr. Failla described the decision at hand to the Conservatory Commission at the site walk on September 9, 2023 as being one of either: (i) issuance of a wetlands permit after the fact; or (ii) designation of the activity as unregulated. The Conservation Commission has received ample information in order to make this determination, and I would ask that the Conservation Commission either issue a determination or expeditiously refund my client's permit fee in the amount of \$360.

I thank you in advance for your prompt attention to this matter. Please do not hesitate to contact me with any further questions or concerns.

Very truly yours,

A handwritten signature in blue ink, appearing to read "John J. Ribas", is written over the typed name below.

John J. Ribas, Esq.

Enc.



STEVEN DANZER, PHD & ASSOCIATES LLC

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Environmental Comments

28 Codfish Lane, Weston, CT

Date: August 4, 2023

By: Steven Danzer Ph.D.

- Soil Scientist – Certified Nationally by the Soil Science Society of America (#353463).
– Registered with the Society of Soil Scientists of Southern New England.
- Senior Professional Wetland Scientist - PWS #1321, Society of Wetland Scientists.
- Arborist - CT DEEP License S-5639; ISA Certified NE-7409A.

- Ph.D. in Renewable Natural Resource Studies.

INTRODUCTION

The owner of the property located at 28 Codfish Lane, Weston, Connecticut has contracted with Steven Danzer PhD & Associates to offer an expert opinion regarding the impact of the existing wooden paneled fence within and/or adjacent to wetlands. The site was visited on August 1, 2023. My observations, analysis, and conclusions are as follows:

EXISTING CONDITIONS

There were two non-connected portions of the fence observed. The first section of fence was located along a portion of the western property line (as understood from the Town GIS) between #28 and #34, commencing from Codfish Lane. This western section of fence was approximately 96 feet in length and consisted of 12 wooden panel sections.

The western section of fence does not cross any wetlands or watercourse, but runs parallel to what may be an intermittent watercourse (no flow at time of visit), located at

substantially lower grade. The fence, located well above the floodplain, does not cross the intermittent watercourse, physically impede the watercourse in any way, or obstruct its hydrology.

The second section of fence is located along a portion of the eastern property line (as understood from the Town GIS) between #28 and #26, commencing from Codfish Lane. This eastern section was approximately 368 feet in length and consisted of 46 wooden panel sections.

The bulk of the eastern section of fence is located within the upland review area but not in the wetlands. Only a 25-30 foot section of the fence (including 4 concrete footings between panels) actually crosses through wetlands. The wetlands within and adjacent to this area consist of a partially manmade and partially natural stream channel embedded within a forested and herbaceous sloped wetland area. A small pocket of this wetland system is located east of the fence on an adjacent property (#26 Codfish Lane). This wetland pocket drains towards the rest of the wetland system located on the site (#28 Codfish Lane).

IMPACT ANALYSIS

The fence was reviewed to determine if there were any significant impacts to the wetland resources, pursuant to the definition of “Significant Impact Activities” contained within Section 2.1 of the Inland Wetlands and Watercourses Regulations of the Town of Weston.

According to Section 2.1, “Significant Activity” include activities that involve (to summarize) a) deposition or removal of material; b) substantially changes the natural channel or may inhibit watercourse dynamics; c) substantially diminish the natural capacity of the wetland resources or provide other functions; d) cause or potentially cause substantial turbidity, siltation or sedimentation; e) cause substantial diminution of flow or groundwater levels to the wetland resources; f) cause or potentially cause pollution; g) damage or destroys unique, scientifically or educationally valuable wetland areas; and h) adversely affect the health, welfare, and safety of any individual or the community

As per the above definition, it was concluded that the fence, under existing conditions, does not, and will not, cause significant impact to the wetlands, nor has the natural resource been unreasonably impaired, polluted, or destroyed, with the following considerations in mind:

- Only a small portion of the eastern section of fence (roughly 25-30 feet) actually crosses through wetlands, involving only 4 concrete footings. The rest of the eastern section of fence (338 feet) is not in the wetlands.

- The entire 96 feet length of the western section of the fence is located out of the wetlands/watercourse.
- The western section of fence is located well above the floodplain of the nearby intermittent watercourse. The fence does not cross the intermittent watercourse, nor does it physically impede the watercourse in any way, nor does the fence obstruct its hydrology.
- It appears that there were no trees removed during fence installation. There was no evidence observed or any indication of clearing activities that cause or caused unreasonable pollution, destruction, or impairment to the wetlands area.
- Within the wetland crossing area of the eastern section of fence, between the posts there are a few inches of gap between the bottom of the wooden fence and the ground, allowing for surface flow from the small wetland area within the neighboring property to continue unimpeded under the fence.
- The concrete footings under the four posts located within the wetland area displace minimal habitat. Removal would likely be more disruptive to the wetlands than maintaining the posts in their current location, in my opinion.

With the above considerations in mind, it is my opinion that there are no significant impacts to the wetlands due to the fence, nor has the natural resource been unreasonably impaired, polluted, or destroyed. Nor are there any significant or detrimental alterations to the existing or prior wetland functions or values.

Thank you for the opportunity to comment.

Respectfully submitted,

Signed,



Steven Danzer Ph.D.

Professional Wetland Scientist, Soil Scientist, Arborist,
Ph.D. in Renewable Natural Resource Studies



Certified Professional
Soil Scientist