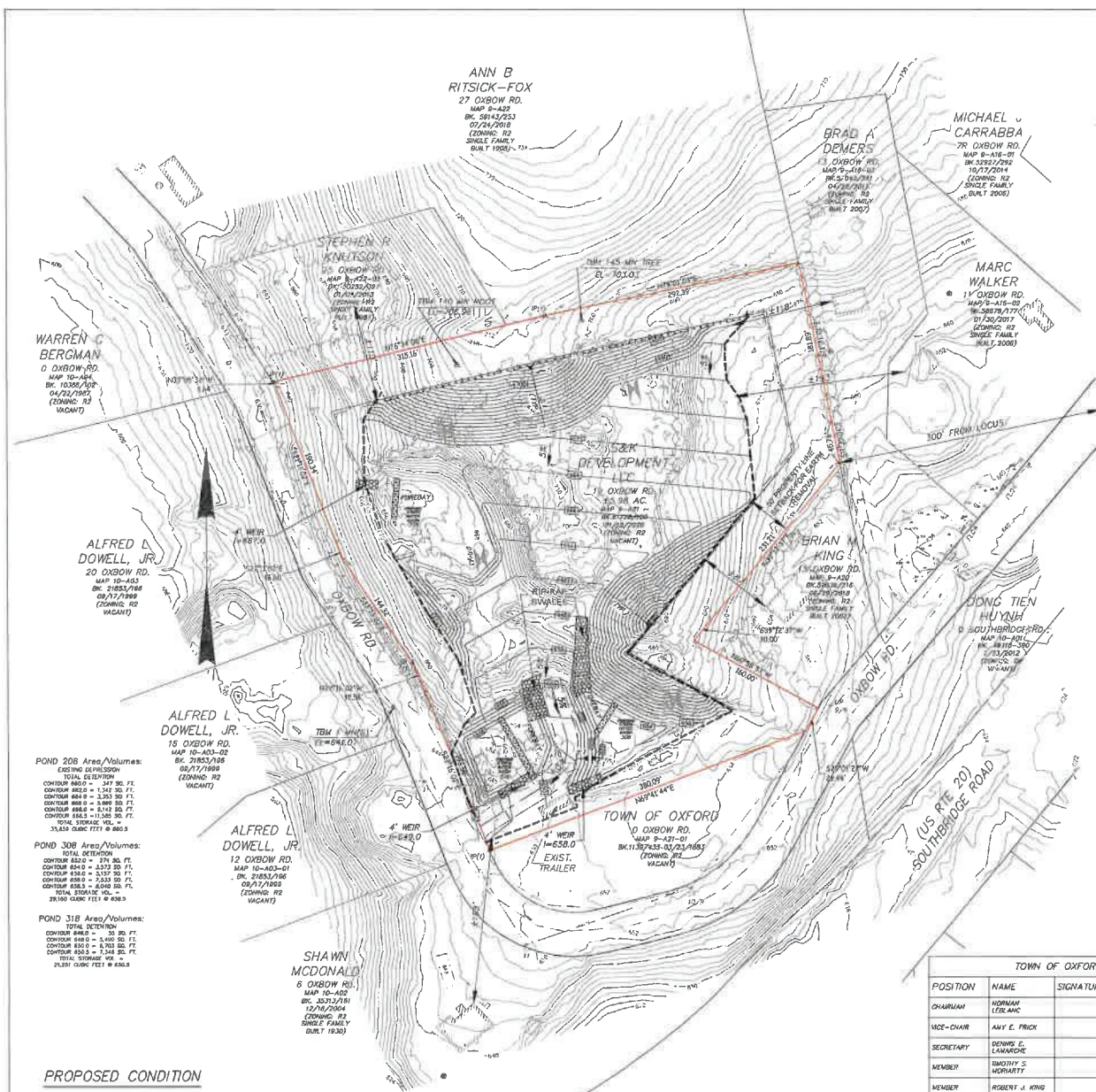


S & K DEVELOPMENT, LLC

Application for a Special Permit for Earth Removal
Worcester Superior Court C.A. No. 2185CV01314 to
Reconsider Special Permit for Earth Removal at 19
Oxbow Road on remand from Worcester Superior Court

NEW EVIDENCE

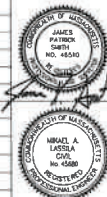


- LEGEND**
- EXISTING
 - R2 RESIDENCE R2 ZONING DISTRICT
 - PROPERTY LINE
 - LOCUS
 - BT CONC PAVEMENT EDGE
 - STONE WALL
 - STONE BOUND FOUND
 - SURVEY CONTROL POINT
 - IRON PIPE FOUND
 - RECORD OF DEEDS BOOK
 - RECORD OF DEEDS PAGE
 - MAGNETIC MAP
 - TEMPORARY BENCHMARK
 - ELEVATION
 - INDEX CONTOUR
 - INTERMEDIATE CONTOUR
 - TREE LINE
 - SOIL TEST HOLE
 - BUILDING
 - OVER HEAD WIRE
 - UTILITY POLE
 - GATE
 - 30 MPH
 - SPEED LIMIT SIGN

- LEGEND**
- PROPOSED
 - TYPICAL
 - AC ADIC
 - INDEX CONTOUR
 - INTERMEDIATE CONTOUR
 - SPOT GRADE
 - SLOPE
 - 2 TO 1 GRASSED SLOPE
 - TREE LINE & ACTIVITY LIMIT
 - ELEVATION
 - 5' HIGH ORANGE CONSTRUCTION FENCE
 - 50' EXCAVATION SETBACK FROM PROPERTY LINE

- LEGEND**
- PROPOSED
 - RWP-RAP SHALE
 - STONE DIRT
 - RWP-RAP WER
 - FLOW DIRECTION
 - GRAVEL DRIVE EDGE
 - EROSION CONTROL BARRIER & ACTIVITY LIMIT

FEATURES ADDED SEE NOTE SHEET 1	2	MAL	12/5/2022	
FEATURES ADDED SEE NOTE SHEET 1	1	MAL	6/11/2021	
ORIGINAL ISSUE			3/23/2021	
VERSION	NO.	BY	DATE	SURVEYOR
FEATURES ADDED SEE NOTE SHEET 1	2	MAL	12/5/2022	
FEATURES ADDED SEE NOTE SHEET 1	1	MAL	6/11/2021	
ORIGINAL ISSUE			3/23/2021	
VERSION	NO.	BY	DATE	ENGINEER



SITE MAP OF LAND IN
OXFORD, MASSACHUSETTS
LOCATED ON
19 OXBOW ROAD

PREPARED FOR OWNER AND APPLICANT
S & K DEVELOPMENT, LLC
JAMES P. SMITH, MANAGER
710 MAIN STREET
P.O. BOX 744
NORTH OXFORD, MA 01537
TEL: 978-987-2266 CELL: 508-207-6855

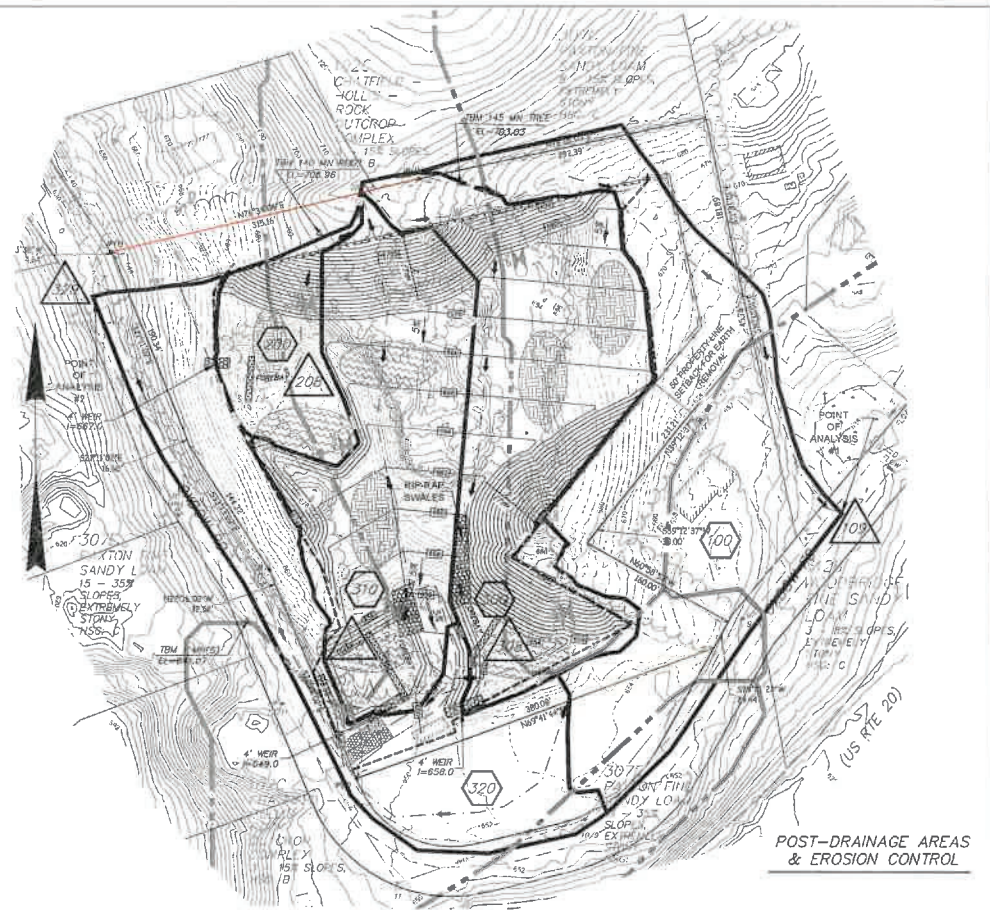
TOWN OF OXFORD BOARD OF SELECTMEN			
POSITION	NAME	SIGNATURE	DATE
CHAIRMAN	NORMAN LEBLANC		
VICE-CHAIR	AMY E. PRICK		
SECRETARY	DEWIS E. LAMARQUE		
MEMBER	BRADY S. MORTARTY		
MEMBER	ROBERT J. KING		

S. J. MULLANEY ENGINEERING, INC.
CIVIL SITE DESIGN & PERMITTING

305 WHITNEY ST. - SUITE 62 - P.O. BOX 762 - LEOMINSTER, MA 01537
TEL: 978 634-3131 - FAX: 978 534-3197 - EMAIL: info@sjmullaneys.com

DESIGN: MAL	
DRAWN: MAL	
CHECK: ARB/APS	
REF:	
SHEET	OF
2	5
PLAN NO.	
218-D-1	

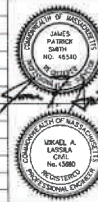
PROPOSED CONDITION



TOWN OF OXFORD BOARD OF SELECTMEN

POSITION	NAME	SIGNATURE	DATE
CHAIRMAN	NORMAN LEBLANC		
VICE-CHAIR	AMY E. FROST		
SECRETARY	SEYMOUR LAMARCHE		
MEMBER	WYNNE S. MORGAN		
MEMBER	ROBERT J. KING		

FEATURES ADDED SEE MORE SHEET 1	2	MAL	12/3/2022	
FEATURES ADDED SEE MORE SHEET 1	1	MAL	6/11/2021	
ORIGINAL ISSUE	---	---	3/23/2021	
VERSION	NO.	BY	DATE	SURVEYOR
FEATURES ADDED SEE MORE SHEET 1	2	MAL	12/3/2022	
FEATURES ADDED SEE MORE SHEET 1	1	MAL	6/11/2021	
ORIGINAL ISSUE	---	---	3/23/2021	
VERSION	NO.	BY	DATE	ENGINEER

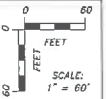


SITE MAP OF LAND IN
OXFORD, MASSACHUSETTS
LOCATED ON
19 OXBOW ROAD

PREPARED FOR OWNER AND APPLICANT
S & K DEVELOPMENT, LLC
JAMES P. SMITH, MANAGER
719 MAIN STREET
P.O. BOX 144
NORTH OXFORD, MA 01537
TEL: 508-987-2286 CELL: 508-207-6855

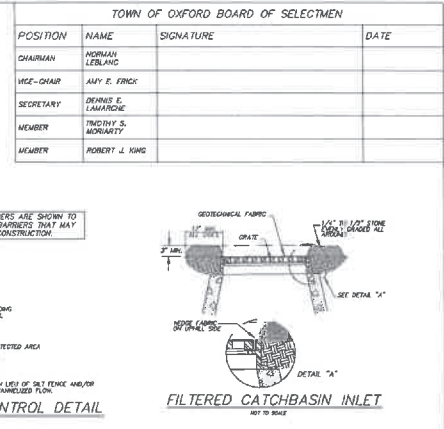
S. J. MULLANEY ENGINEERING, INC.
CIVIL SITE DESIGN & PERMITTING

306 WHITNEY ST. - SUITE G3 - P.O. BOX 752 - LEGUMINSTER, MA 01463-0752
TEL: 978-634-3131 - FAX: 978-634-3197 - EMAIL: info@sjmullaneey.com






DESIGN: MAL
DRAWING: MAL
CHECK: ARB/SPS
REF:

SHEET 3 OF 5
PLAN NO. 218-D-1



CONTINUING FUNCTION OF THE BASINS. THE BASINS ARE INTENDED TO FUNCTION AS PREVENTATIVE AND MITIGATIVE SYSTEMS, NOT TO BECOME PROTECTED

- | | | | | | | | | | | | | | |
|---|--|--|--|---|--|--|---|--|--|---|--|-------------------|----------------|
| NAMES, SEE NOTE SHEET 1: 2 MAL 12/5/2021 <i>Mullane</i> | | | |   | SITE PLAN OF LAND IN
OXFORD, MASSACHUSETTS
LOCATED AT
19 OXBOW ROAD | |  SCALE:
AS NOTED | PREPARED FOR OWNER AND APPLICANT
S & K DEVELOPMENT, LLC
JAMES P. SMITH, MANAGER
710 MAIN STREET
P.O. BOX 744
NORTH OXFORD, MA 01537
TEL: 508-887-2266 CELL: 508-207-6855 | | DESIGN: MAL
DRAWN: MAL
CHECK: ARB
REF: | S. J. MULLANEY ENGINEERING, INC.
CIVIL SITE DESIGN & PERMITTING
305 WHITNEY ST. - SUITE G-3, P.O. BOX 782 - LEOMINSTER, MA 01453-0752
TEL: 978-534-3131 - FAX: 978-534-3197 - EMAIL: info@sjmullaney.com | SHEET
5 | OF
5 |
| NO REVISIONS THIS SHEET 1 MAL 6/11/2021 | | | | | | | | PLAN NO.
218-D-1 | | | | | |
| ORIGINAL ISSUE -- -- 3/23/2021 | | | | | | | | | | | | | |
| REVISION NO. BY DATE ENGINEER | | | | | | | | | | | | | |

THE LAW OFFICE OF ROBERT J. HENNIGAN, JR.
ATTORNEYS AT LAW

390 MAIN STREET • SUITE 600
WORCESTER, MASSACHUSETTS 01608-2503
(508) 795-7550
Fax (508) 756-3681
Email: RJHLaw@gmail.com

Robert J. Hennigan, Jr.
Adam F. Kobel

December 2, 2022

Amy E. Frick, Vice-Chair
Oxford Board of Selectmen
325 Main Street
Oxford, MA 01540

Re: Earth Removal Special Permit - S&K Development, LLC
Oxbow Road, Oxford, Massachusetts

Dear Vice-Chair Frick:

As you know, after the Board of Selectmen ("Board") voted to close the Public Hearing regarding my client's Application for a Special Permit for Earth Removal on 19 Oxbow Road held on November 1, 2022, the Board had several follow-up questions and/or comments.

In an effort to facilitate further discussion of my client's Application with the Board on Tuesday, December 6, 2022, please allow me to address some of those concerns in this letter.

First, the Board discussed concerns regarding the travel route the trucks entering and exiting the site would take. My client would have no issue with a traffic and safety condition being set forth in the Special Permit, requiring that all traffic from the site exit from the westerly side of the site, with an additional restriction for a right turn only onto Oxbow Road.

Another concern expressed by the Board (as well as some neighbors during the Public Hearing) was the term of the Permit. Some abutters expressed the thought that five (5) years was too long a period of time. In this regard, my client would agree to a two (2) year period of time for the Permit to run, with any extension thereof being subject to approval by the Board.

A further concern was the hours of operation, and the thought that such operations would be disruptive to the neighbors. My client would have no issue with the Board establishing reasonable hours of operation as a condition in the Permit.

Amy E. Frick, Vice-Chair
December 2, 2022
Page Two (2)

In general, my client would have no problem with any of the General or Special Conditions issued to Alfred Dowell when the Board granted a permit in May 2003, or conditions included in any Special Permits for Earth Removal previously issued by the Board.

The Board also had some specific questions of my client:

Selectman Lamarche inquired about the volume of material sought to be removed in the previous Permit (from 2003). From the Application submitted by Mr. Dowell, on September 8, 2002, an "Earth Removable Permit for 89,200 cy±" was sought. The Application of my client seeks permission to remove 75,000 cy± on 3.7 acres of a six (6) acre site.

The Board had questions and concerns about the reliability of my client working with MassDOT for removal of material, so as to expedite the Project. Attached please find a copy of a letter from MassDOT confirming MassDOT's commitment to taking materials from the site for use on its Route 20 Project.

Selectman King had concerns about whether the work involved was in the nature of a quarry and therefore not in keeping with a residential zoning area. He referred to two (2) cases: *Henry v. Board of Appeals of Dunstable*, 418 Mass. 841 (1994); and *Old Colony Council - Boy Scouts of America v. Zoning Board of Appeals of Plymouth*, 31 Mass.App.Ct. 46 (1991).

The *Henry* case involved the excavation and removal of large sums of material (300,000-400,000 cubic yards of gravel from a 5 acre area of 39 acres of forest land) and the *Old Colony Council-Boy Scouts of America* case involved the excavation and removal of 460,000 cubic yards from a cranberry bog.

Both cases sought to perform removal operations without a Special Permit. In *Henry*, the Plaintiff argued that the removal of materials was exempt under c.40B, §3 because it was part of an agricultural or horticultural use of the land for planting and cultivation of Christmas trees. In *Old Colony Council-Boy Scouts*, the Plaintiff sought to remove materials without a Special Permit because they deemed the work was "incidental" to an approved use. In both cases, the Court affirmed the respective Town's denial of building permits.

The Court in *Old Colony Council-Boy Scouts* examined the creation of a sand and gravel quarry in creating the cranberry bog as not consistent with an incidental use. The same was true for the *Henry* case where the Court found that the amount of gravel to be removed and the duration of the excavation and monies to be realized from the excavation was not "minor or dependent on the agricultural use."

Amy E. Frick, Vice-Chair
December 2, 2022
Page Three (3)

Neither case, however, is applicable to the Board's review of my client's Application, as my client seeks approval from the Board through the issuance of a Special Permit.

As the Board is fully aware, the Board has authority to protect the interests of others by setting forth reasonable conditions to that control noise, dust, traffic and safety, protect nearby water supplies as applicable, and silting and water runoff. Traffic impacts, of course, may not provide grounds for denial of an earth removal permit. (See *Beard v. Salisbury*, 378 Mass. 435 (1979).)

My client's intent in seeking a Special Permit for Earth Removal at 19 Oxbow Road is twofold. First, to get the site cleaned up, and second, to provide additional housing in the Town. The Board, through the issuance of General and Special Conditions to any permit so granted, has numerous ways to protect the neighborhood, the environment and the material removal operation involved. My client is not opposed to the issuance of such reasonable conditions to any Permit so granted.

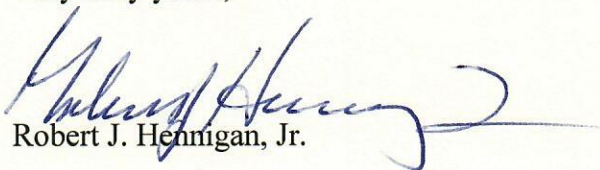
The Board's use of Special Conditions in the issuance of two (2) Special Permits for Earth Removal for 171-191 Southbridge Road on October 23, 2019 and Cathy Way on April 28, 2020 are examples of the Board's authority to control earth removal operations in the Town.

My client seeks only the same consideration given to others in its Application for a Special Permit for 19 Oxbow Road.

I hope this letter addresses some of the issues and questions previously raised by the Board.

Thank you.

Very truly yours,


Robert J. Hennigan, Jr.

RJH/sdh
Enclosure

cc: S&K Development, LLC (via email)
Thomas P. Lane, Jr., Esquire (via email)
Dennis E. Lamarche, Secretary, Board of Selectmen (via email)
Timothy S. Moriarty, Member, Board of Selectmen (via email)
Robert J. King, Member, Board of Selectmen (via email)

From: Charlton Welding <charltonwelding@gmail.com>
Date: December 6, 2022 at 8:20:18 AM EST
To: jsmith@tauperlandsurvey.com
Subject: Fill

Larry's Landscape intends to move approximately 75,000 yds of fill off of the property located at 19 Oxbow Rd. Charlton with the next few years..

Thank you: Larry McKissix

Sent from my iPhone

508 CONSTRUCTION

219 Brookfield Rd
Charlton, MA 01507

508cpm@gmail.com

508-962-9330

December 1, 2022

S&K Development
Jim Smith
Oxford, MA

Property address: 19 Oxbow Road, Oxford MA

To whom it may concern:

We agree to remove 75,000 yards of material from the property address listed above within the next 2 years for the agreed upon terms discussed with Jim Smith. If you have any questions, please contact us at the email address or phone number listed above.

Thank you,

Russell G. Jennings



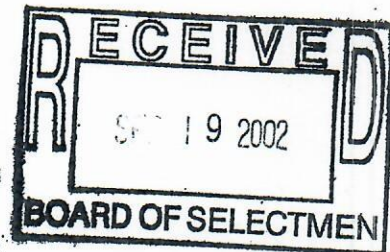
Town of Oxford

Board of Selectmen

Memorial Hall

325 Main Street

Oxford, Massachusetts 01540-1797



Karen A. Crandell, Clerk
(508) 987-6027
Fax 987-6048

APPLICATION FOR SPECIAL PERMIT

PERMIT TYPE:

- ☐ animals (c.III §3.8)
☐ unregistered cars (c.III §7.2)
☒ earth removal (c.XVIII)

FEE: _____

APPLICANT:

ALFRED DOWELL

(name)

109 CREEPER HILL RD N. GRAFTON MA

(address)

19 OXBOW RD

(street location)

09, A21

21853/196

(assessor's reference: Map and Parcel and deed reference: Book and Page)

(owner's name)

(owner's address)

DESCRIPTION: (Describe briefly any pertinent information about the proposed activity, e.g. type and number of animals; number of cars; or estimated quantity of removable earth.)

EARTH REMOVABLE PERMIT

89,200 CY. ±

(For earth removal special permit provide supporting documentation as required by the Board's rules and regulations.)

(signature of applicant)

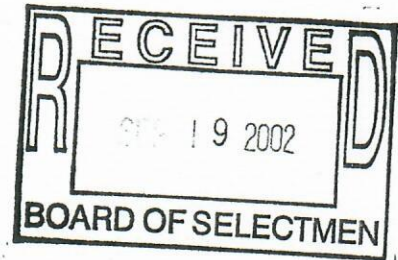
(date)

Steve Balcerewicz Agent For 9/18/02

(signature of owner)

(date)

SOIL SUITABILITY ASSESSMENT
FOR
EARTH REMOVAL



SITE: 19 Oxbow road
Oxford, MA

PERFORMED FOR: Alfred Dowell
109 Creeper Hill Road
North Grafton, MA 01536

RECEIVED
2002 SEP 27 PM 1:02
OFFICE OF TOWN CLERK
OXFORD, MA.

DATE: September 17, 2002

BC ENGINEERING & SURVEYING, INC.
P. O. B. 466 OXFORD, MASSACHUSETTS 01540

Location Address or Lot No. ASSESSORS MAP 09.A21

On-site Review

Deep Hole Number #1 Date: 7/25/02 Time: 8:00 AM Weather SUNNY

Location (identify on site plan)

Land Use VACANT LOT

Slope (%) 15%±

Surface Stones NONE

Vegetation WOODS

Landform TILL RIDGE

Position on landscape (sketch on the back)

Distances from:

Open Water Body >100 feet

Drainage way >100 feet

Possible Wet Area >100 feet

Property Line >100 feet

Drinking Water Well >100 feet

Other

RECEIVED
2002 SEP 27 PM 1:02
OFFICE OF JOHN CLERK
DORCHESTER, MA.

DEEP OBSERVATION HOLE LOG

Depth from Surface (Inches)	Soil Horizon	Soil Texture (USDA)	Soil Color (Munsell)	Soil Mottling	Other (Structure, Stones, Boulders, Consistency, % Gravel)
A + B _w	LAYERS REMOVED				
0-150"	C	SL	5Y ⁵ / ₄		FEW COBBLE & GRAVEL

* MINIMUM OF 2 HOLES REQUIRED AT EVERY PROPOSED DISPOSAL AREA

Parent Material (geologic) GLACIAL TILL

Depth to Bedrock: >150"

Depth to Groundwater: Standing Water in the Hole: 120"

Weeping from Pit Face: 120"

Estimated Seasonal High Ground Water: 120"



Location Address or Lot No. ASSESSORS MAP 09, A21

On-site Review

Deep Hole Number #2 Date: 7/25/02 Time: 8:00AM Weather SUNNY
Location (identify on site plan) _____
Land Use VACANT LOT Slope (%) _____ Surface Stones _____
Vegetation WOODS
Landform TILL RIDGE
Position on landscape (sketch on the back) _____
Distances from:
Open Water Body >100 feet Drainage way >100 feet
Possible Wet Area >100 feet Property Line >100 feet
Drinking Water Well >100 feet Other _____

RECEIVED
2002 SEP 27 PM 1:02
JIMMY TOWN CLERK
TOWN OF DORCHESTER, MA.

DEEP OBSERVATION HOLE LOG*					
Depth from Surface (Inches)	Soil Horizon	Soil Texture (USDA)	Soil Color (Munsell)	Soil Mottling	Other (Structure, Stones, Boulders, Consistency, % Gravel)
A + B _w LAYERS REMOVED					
0-204"	C	SL	2.5Y ₅		FEW COBBLE & GRAVEL

* MINIMUM OF 2 HOLES REQUIRED AT EVERY PROPOSED DISPOSAL AREA

Parent Material (geologic) GLACIAL TILL Depth to Bedrock: >204"
Depth to Groundwater: 'Standing Water in the Hole: @ 198" Weeping from Pit Face: 30"
Estimated Seasonal High Ground Water: _____



FORM 11 - SOIL EVALUATOR FORM

Location Address or Lot No. ASSESSORS MAP 09.A21

On-site Review

Deep Hole Number #3 Date: 7/25/02 Time: 8:00 AM Weather SUNNY
 Location (identify on site plan) _____
 Land Use VACANT LOT Slope (%) 15%± Surface Stones NONE
 Vegetation WOODED
 Landform TILL RIDGE
 Position on landscape (sketch on the back) _____
 Distances from:

Open Water Body >100 feet Drainage way >100 feet
 Possible Wet Area >100 feet Property Line >100 feet
 Drinking Water Well >100 feet Other _____

RECEIVED
 2002 SEP 27 PM 1:02
 JEFFREY J. CLARK
 DEPT. OF ENVIRONMENTAL AFFAIRS
 100 MA

DEEP OBSERVATION HOLE LOG*

Depth from Surface (Inches)	Soil Horizon	Soil Texture (USDA)	Soil Color (Munsell)	Soil Mottling	Other (Structure, Stones, Boulders, Consistency, % Gravel)
0-6"	A	SL	10YR ² / ₂		FRIABLE
6"-15"	B _w	SL	10YR ⁵ / ₆		FRIABLE
15"-276"	C	SL	5Y ⁵ / ₄		FEW COBBLE + GRAVEL FIRM

* MINIMUM OF 2 HOLES REQUIRED AT EVERY PROPOSED DISPOSAL AREA

Parent Material (geologic) GLACIAL TILL Depth to Bedrock: > 276"
 Depth to Groundwater: Standing Water in the Hole: NONE Weeping from Pit Face: NONE
 Estimated Seasonal High Ground Water: _____



FORM 11 - SOIL EVALUATOR FORM

Location Address or Lot No. ASSESSORS MAP 09.A21

On-site Review

Deep Hole Number # A Date: 7/25/02 Time: 8:00 AM Weather SUNNY

Location (identify on site plan)

Land Use VACANT LOT

Slope (%) 15%± Surface Stones NONE

Vegetation WOODED

Landform TILL RIDGE

Position on landscape (sketch on the back)

Distances from:

Open Water Body >100 feet

Drainage way >100 feet

Possible Wet Area >100 feet

Property Line >100 feet

Drinking Water Well >100 feet

Other

RECEIVED
2002 SEP 27 PM 1:02
JENNIFER L. CLARK
JULIA L. CLARK, MA.

DEEP OBSERVATION HOLE LOG*

Depth from Surface (Inches)	Soil Horizon	Soil Texture (USDA)	Soil Color (Munsell)	Soil Mottling	Other (Structure, Stones, Boulders, Consistency, % Gravel)
0-7"	A	SL	10YR ² / ₂		FRIABLE
7"-17"	B _w	SL	10YR ⁵ / ₆		FRIABLE
17"-288"	C	SL	5Y ⁵ / ₄		FIRM FEW COBBLE + GRAVEL

* MINIMUM OF 2 HOLES REQUIRED AT EVERY PROPOSED DISPOSAL AREA

Parent Material (geologic) GLACIAL TILL

Depth to Bedrock: >288"

Depth to Groundwater: Standing Water in the Hole: NONE

Weeping from Pit Face: NONE

Estimated Seasonal High Ground Water:



FORM 11 - SOIL EVALUATOR FORM

Location Address or Lot No. ASSESSORS MAP 09.A21

On-site Review

Deep Hole Number #5 Date: 7/26/02 Time: 8:00 AM Weather SUNNY

Location (identify on site plan)

Land Use VACANT LOT

Slope (%) 15%± Surface Stones NONE

Vegetation WOODED

Landform TILL RIDGE

Position on landscape (sketch on the back)

Distances from:

Open Water Body >100 feet

Drainage way >100 feet

Possible Wet Area >100 feet

Property Line >100 feet

Drinking Water Well >100 feet

Other

RECEIVED
2002 SEP 27 PM 1:03
OFFICE OF THE CLERK
MASSACHUSETTS

DEEP OBSERVATION HOLE LOG*

Depth from Surface (inches)	Soil Horizon	Soil Texture (USDA)	Soil Color (Munsell)	Soil Mottling	Other (Structure, Stones, Boulders, Consistency, % Gravel)
0-6"	A	SL	10YR 2/2		FRIABLE
6'-14"	B _w	SL	10YR 5/6		FRIABLE
14'-240"	C	SL	5Y 5/4		FEW COBBLE + GRAVEL FIRM
240'-312"	2C	SILT LOAM	5Y 5/2		BLOCKY FIRM

* MINIMUM OF 2 HOLES REQUIRED AT EVERY PROPOSED DISPOSAL AREA

Parent Material (geologic) GLACIAL TILL

Depth to Bedrock: > 312"

Depth to Groundwater: Standing Water in the Hole: NONE

Weeping from Pit Face: @ 132"

Estimated Seasonal High Ground Water:



FORM 11 - SOIL EVALUATOR FORM

Location Address or Lot No. ASSESSORS MAP 09.A21

On-site Review

Deep Hole Number #4 Date: 7/25/02 Time: 8:00 AM Weather SUNNY

Location (identify on site plan)

Land Use VACANT LOT

Slope (%) 15%±

Surface Stones NONE

Vegetation WOODED

Landform TILL RIDGE

Position on landscape (sketch on the back)

Distances from:

Open Water Body >100 feet

Drainage way >100 feet

Possible Wet Area >100 feet

Property Line >100 feet

Drinking Water Well >100 feet

Other

RECEIVED
2002 SEP 27 PM 1:03
OFFICE OF THE TOWN CLERK
LAWRENCE, MA.

DEEP OBSERVATION HOLE LOG*

Depth from Surface (inches)	Soil Horizon	Soil Texture (USDA)	Soil Color (Munsell)	Soil Mottling	Other (Structure, Stones, Boulders, Consistency, % Gravel)
0-6"	A	SL	10YR ² / ₂		FRIABLE
6"-14"	B _w	SL	10YR ⁵ / ₆		FRIABLE
14"-168"	C	SL	5Y ⁵ / ₄		FIRM FEW COBBLE & GRAVEL
168"-312"	2C	SILT LOAM	5Y ⁵ / ₂		FIRM BLOCKY

* MINIMUM OF 2 HOLES REQUIRED AT EVERY PROPOSED DISPOSAL AREA

Parent Material (geologic) GLACIAL TILL

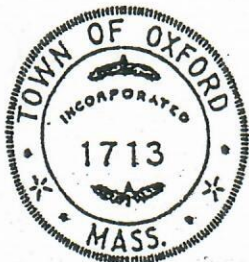
Depth to Bedrock: >312"

Depth to Groundwater: Standing Water in the Hole: NONE

Weeping from Pit Face: NONE

Estimated Seasonal High Ground Water:





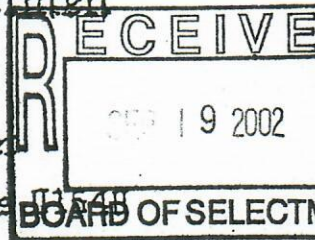
Lori A. Kelley
Clerk
(508) 987-6027

Town of Oxford

Board of Selectmen

Memorial Hall
325 Main Street

Oxford, Massachusetts 01540



Joseph H. Roy, Jr.
Chairman
Alice K. Walker
Vice Chairman
Craig P. Holmberg
Secretary
David A. Bigwood, Jr.
Thomas F. Spooner

EARTH REMOVAL PERMIT

Pursuant to the provisions of Chapter XVIII of the Oxford Zoning By-Laws and M.G.L. Chapter 40A, the Board of Selectmen (Board) hereby grants to the herein named applicant a permit to excavate and remove earth from the site herein named and to the final grades shown on a plan entitled SITE PLAN 19 OXBOW RD prepared by BC ENGINEERING + SURVEY, INC. as approved by the Board and so endorsed by the Board, subject to the terms and conditions attached hereto.

Name of Applicant: ALFRED DOWELL
Address of Applicant: 109 CREEPER HILL RD N. GRAFTON, MA.
Location of Site: 19 OXBOW RD
Assessor's Reference: Map # 09A 21 Parcel # _____
Owner of Site: SAME
Address of Owner: _____
Effective Date: _____
Duration of Permit: _____

GENERAL CONDITIONS

1. This Special Permit for Earth Removal has been granted because, based on the evidence submitted by the applicant, the Board has found that the project will not: endanger the public health or safety; constitute a nuisance; result in detriment to the normal use of adjacent property by reason of noise, dust or vibration; nor result in operation within two hundred (200) feet of a way open to the public use, whether public or private, or within two hundred fifty (250) feet of a building or other structure unless the Board is reasonably satisfied that such operations will not undermine such way or building or other structure and has so specifically stated in the SPECIAL CONDITIONS of this Special Permit.
2. No excavation below the natural grade of any lot boundary shall be permitted nearer than fifty (50) feet to such boundary unless the abutting land is subject to an earth removal permit granted under the Oxford Zoning By-Law and the owner of such abutting land has granted written approval of such excavation and the Board has approved such excavation and so stated in the SPECIAL CONDITIONS of this Special Permit or in a Modification of this Special Permit.

3. No slope created by earth removal operations authorized by this Special Permit shall be finished at a grade in excess of two (2) (horizontal) to one (1) (vertical) unless specifically otherwise authorized by the Board and stated in the SPECIAL CONDITIONS of this Special Permit.
4. Upon conclusion of earth removal operations, all areas upon which such operations have been conducted shall be covered with not less than four (4) inches of topsoil capable of supporting vegetation, brought to the finished grades and seeded with a suitable cover crop, except where ledge rock is exposed, and all large stones and boulders which protrude above the finished grade shall be buried or removed. The Board may require the applicant to guarantee growth of the crop cover on such areas for two (2) years after seeding; see the SPECIAL CONDITIONS of this Special Permit.
5. The applicant has posted with the Treasurer of the Town of Oxford a proper bond (security) in such amount and with such securities as determined by the Board to be sufficient to guarantee compliance with the terms and conditions of this Special Permit. The details of said bond are itemized in the SPECIAL CONDITIONS of this Special Permit.
6. The Board has imposed such other reasonable requirements consistent with the provisions of the Zoning By-Law and such Rules and Regulations in effect at the time of approval of the Special Permit including, but not limited to: the hours of operation, the routes of transportation, the location and use of buildings and other structures, the control of drainage, the methods of removal, the disposition of waste incidental to the removal operations and any other aspect of the proposed operation which may have some impact on the environment. Said additional reasonable requirements are stated in the SPECIAL CONDITIONS of this Special Permit.

SPECIAL CONDITIONS

1. LIMITS OF EXCAVATION

The Board has found no reason to vary the limits of excavation stated in GENERAL CONDITION 1. The Board has found no reason to vary the limits of excavation stated in GENERAL CONDITION 2.

OR

Based on the evidence submitted by the applicant the Board has determined that the permitted earth removal operations will not undermine any way or building or other structure and therefore allows excavation within (state a distance provided it is not less than fifty feet) from (state the name of the road or street) and within (state a distance which must be at least fifty feet unless a permit has been granted to the abutter and is so stated below) from the property lines as shown on the approved plan.

The Board has granted an earth removal permit to (state a name) who is owner of land abutting the site governed by this earth removal permit and since permission has been granted by (same name) to excavate within fifty (50) feet of his property, such permission is granted and is as shown on the approved plan.

OR

A combination of the above.

2. FINISHED GRADES

The Board has found no reason to vary the restriction on finish grades as stated in GENERAL CONDITION 3.

OR

Based on the evidence submitted by the applicant the Board has determined that the permitted earth removal operation will not endanger the public health and safety or have an adverse impact on the environment either directly or indirectly by allowing a finished grade of (state the allowed finished slope) as shown on the approved plans.

3. SITE RECLAMATION

The applicant is responsible for the reclamation of the site and any off site impacts from the permitted operation. Accordingly, the operation is limited to a total area of disturbance of five (5) acres [or some other agreed upon amount] per year. At the beginning of each calendar year, (before May 15th) the applicant shall have completed seeding operations on that portion of the site where earth removal work has been completed and submit an as-built plan to the Board. The applicant is responsible for the protection of the area seeded and shall replace any areas that fail to grow or are damaged. The area so seeded shall be guaranteed by the applicant for a period of two (2) years by retainage of the project security in the amount of \$1,000.00 per acre reclaimed.

PROJECT SECURITY

from the Board's rules:

"The special permit shall not be granted and no operations shall be conducted thereunder until the applicant furnishes to the Board, to be posted with the Town Treasurer, a security in the penal amount of \$2,500.00 per acre of land affected by the proposed operation in such form as is approved by the Board. The preferred form of security is a deposit of money in a passbook payable to the Town of Oxford or a cashier's or certified check made out to the Town of Oxford. If the Board accepts a bond, the bond shall be executed as surety by an insurance or bonding company approved by the Board and qualified to do business in the Commonwealth of Massachusetts. The bond shall have the Town of Oxford named as the insured and shall be non-cancelable without the permission of the Board; the cost of the bond shall be prepaid by the applicant prior to the issuance of the permit; and the term of the bond shall conform to the term of the special permit."

5. HOURS OF OPERATION

Earth removal will be allowed ____ A.M. to ____ P.M during Eastern Standard Daylight Savings Time, ____ working days Monday through _____, and during the winter, hours of operation will be ____ A.M. to ____ P.M., ____ working days, Monday through Friday. Trucks may leave described premises only within such hours. Loaded vehicles shall be suitably covered to prevent dust and contents from spilling and/or blowing from the load. It is understood that during an emergency situation that the removal may operate on a twenty-four hour basis. Notice that an emergency situation exists shall be received by the Town Manager's office as soon as the situation becomes known, if possible, but no later than the next business day. All relevant information about the emergency situation shall be rendered at the Town Manager's request.

6. TRANSPORTATION ROUTES

All travelling routes and methods are subject to approval by the Board. All traffic from the site shall exit from _____ according to the attached plan as approved by the Board and travel along (name) street. All traffic is to stop before exiting the site.

7. PROJECT SUPERVISION

The responsibility for the accuracy, neatness, and integrity of all work involved in connection with the approved Special Permit for earth removal lies entirely with the applicant; inspections performed by the Board and/or an agent designated by the Board are only to verify that the work is in progress. The applicant is required to hire responsible professionals to layout the work in accordance with the approved plans and supervise the excavation. The applicant shall furnish to the Board or the appointed agent(s) four copies of written quarterly reports by a registered engineer or surveyor describing the applicant's performance, specifically detailing the status of each condition of approval. The reports shall be due on July 1, October 1, January 1, and April 1 of each year. The applicant's engineer or surveyor shall certify that the work completed to date is in conformance with the approved plans and where applicable, shall submit partial as-built plans of the completed work.

8. ON SITE INSPECTIONS

The Board and/or Agent(s) designated by the Board shall have the right to enter upon the site at all reasonable times for the purpose of conducting on site inspections. The applicant must install property line markers at appropriate intervals to allow verification of conformance with setback requirements and monitoring wells at designated points on the site to allow monitoring of groundwater elevation and if necessary water quality sampling.

9. EROSION CONTROL

The applicant is responsible for the installation, maintenance, and monitoring of appropriate erosion control within the site to protect workers on the site from danger, abutters from undermining of their land, and downstream land from siltation. The approved plans show siltation control structures and site drainage facilities, in so far as possible, these facilities are to be put in place before the earth removal operation begins. During site reclamation, the applicant shall take all necessary precautions to protect the replanted areas from erosion. These measures shall include diversion ditches or dikes for surface flow and groundwater drains for subsurface flows that breakout at the surface. Following excavation and as soon as possible thereafter, ground levels shall be finished to approved final grades. Exposed areas shall be well stabilized in the fall before the period of high erosion risk in the spring. Seeding shall be done preferably during the period from August 1 to October 1 but in no case later than May 15 in the following spring. In order to protect seeded areas, a geotextile erosion control and revegetation fabric shall be installed on slopes in vegetated ditches and other areas subject to concentrated stormwater flows.

10. DUST CONTROL

It shall be the responsibility of the applicant to provide adequate means of dust control. There will be a water wagon, and/or suitable supply of calcium chloride stored on site and either or both shall be used as

required to control dust. All buffer zones surrounding the site shall be left intact. No material or vegetation, including trees and shrubs, are to be removed, without the approval of the Board. Where necessary to protect the site from wind blown dust, additional buffer plantings have been required and shown on the plan. These additional plantings shall be completed before the earth removal operation begins in the area protected.

11. SANITARY FACILITIES

Sanitary facilities for the use of all persons employed on the site, properly screened from public observation, shall be provided in sufficient numbers in such manner and at such points as are appropriate to serve the needs of the employees. The facilities shall be maintained in a neat and sanitary condition and in compliance with the requirements of local and state health officials. The applicant shall rigorously prohibit the committance of nuisances within, on, or about the site.

12. UNEXPECTED CONDITIONS

If, during the course of the permitted earth removal operation, the applicant encounters any ledge, boulders, or material unsuitable for removal due to economics the applicant shall notify the Board thereof and shall either apply for appropriate permits to blast or otherwise remove the unexpected material or shall submit a plan requesting a modification of the approved permit to allow regrading of the site in a manner that will achieve the intent of the Zoning By-Law and the Rules and Regulations in effect at the time of approval of the modification.

13. PUBLIC SAFETY

The applicant is responsible for the protection of the public safety and the integrity of the public ways used to access the site. Accordingly, the applicant shall be required to maintain a gate at each vehicle entry and exit point. Such gates shall be locked when the project is not in operation to prohibit entry. A copy of the key for each gate shall be entrusted to the Board and/or its agent to allow free access for inspections. The applicant shall post and maintain NO TRESPASSING signs along the perimeter of the site.

14. FAILURE TO PERFORM

In the event that the applicant fails to conform to the monitoring and reporting, or regrading and revegetating conditions of the special permit, the Board may decide, by majority vote, to declare the applicant in default and demand payment from the project security to complete the necessary work. Upon such finding of default, the Board shall notify the applicant in writing by certified mail of its decision and allow 15 days for the applicant to conform with the violated conditions. If the violation is not resolved within the allowed 15 days, the Board shall take the security and cause the remedial work to be performed by either Town forces or a private contractor hired through appropriate procedures. By acceptance of the conditions of this Special Permit the applicant also grants permission for such Town forces or contractors to enter the site and complete the necessary work.

15. RELEASE OF SECURITY

The penal amount of the security posted as a condition of this Special Permit (see SPECIAL CONDITION 4) may, from time to time be reduced by the Board provided that the amount remaining is, in the opinion of the Board

sufficient to complete the outstanding regrading, revegetating, and provide a guarantee of \$1,000.00 per acre reseeded within the last two years of the request for partial release. The request for a release of security shall not be valid unless accompanied by an as-built plan prepared and stamped by the project engineer or surveyor showing the finished grades and condition of the site and certifying compliance with the conditions of this Special Permit.

16. INSURANCE REQUIREMENTS

The applicant shall maintain insurance on all vehicles and equipment used on the site in the amounts satisfactory to the Board. The applicant's insurance company shall send the Board a certificate of insurance indicating that the insurance is in force, naming the Town of Oxford as additional insured, and stating that the policies will not be materially changed or cancelled without 15 days advance notice by certified mail.

17. COMPLETION OF WORK

All permitted excavation work shall be completed and all areas reclaimed prior to the expiration date of this permit unless the applicant applies for renewal of this Special Permit. If renewal is to be sought, the completed application shall be submitted at least four (4) months before the expiration date of this Special Permit.

18. NO ASSIGNMENT

No assignment shall be allowed without the approval of the Board.

19. EXHIBITS

The following exhibits are attached to this Special Permit and made a part thereof:

EXISTING CONDITION SITE PLAN
SITE IMPROVEMENT PLAN
DETAIL SHEET

ACCEPTANCE BY APPLICANT

I do hereby agree to the conditions of this permit and have submitted a bond in the amount of _____ to the Town of Oxford to insure its compliance.

Signature and date.

CERTIFICATION OF APPROVAL

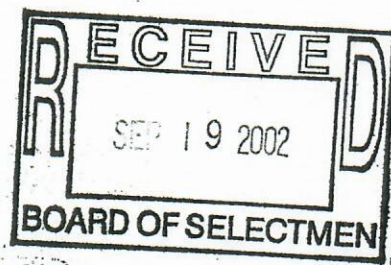
Chairman

BOARD OF SELECTMEN

RECEIVED
2002 SEP 27 PM 1:03
OFFICE TOWN CLERK

TOWN OF OXFORD
ABUTTERS LIST

Property Map and Parcel: 09.A21
Assessed Owner: Alfred Dowell Jr.
Owner's Mailing Address: 109 Creeper Hill Road
North Grafton, MA 01519
Property Location: Oxbow Road
Person Requesting: B C Engineering
Purpose of Request: Board of Selectmen
Date of Request: June 13, 2002



"Parties in interest" shall mean the petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters within three hundred feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town; the planning board of the city or town, and the planning board of every abutting city or town.

<u>Map/Parcel</u>	<u>Owner's Name</u>	<u>Mailing Address</u>
09.A16	Roland & Frances Normandin	P. O. Box 253 North Oxford, MA 01537
09.A17	Maria Dutra	P. O. Box 341 North Oxford, MA 01537
09.A19	Jeffrey Johnston	9 Oxbow Road North Oxford, MA 01537
09.A20	Mongoose Realty Trust	Bruce Levasseur, Trustee 7 Paige Lane Oxford, MA 01540
09.A21.01 10A.B02 10A.B04	Town of Oxford	325 Main Street Oxford, MA 01540
09.A22	Eugene & Goldena Beals	27 Oxbow Road North Oxford, MA 01537
09.A22.03	Debra Foster	P. O. Box 121 Lancaster, MA 01523

RECEIVED
2002 SEP 27 PM 1:03
OFFICE OF TOWN CLERK
OXFORD, MA.

Abutters List
Parcel 09.A21
Page Two

10.A01

Frances O'Connor

% James Doherty
8 Acushnet Avenue
Worcester, MA 01606

10.A02

Debra Battista

6 Oxbow Road
North Oxford, MA 01537

10.A04

Warren Bergman

% Jeff Bergman
P. O. Box 1446
Pembroke, MA 02359

10A.B01

Paul Gagner

P. O. Box 233
Charlton, MA 01507

Certified By:

Patricia A. Bishop

Date Certified:

6/17/02

RECEIVED
2002 SEP 27 PM 1:03
OFFICE OF TOWN CLERK
OXFORD, MA.

NAME

DESCRIPTION

DATE RECEIVED

DOWELL, Alfred	Application for <u>Special Permit</u> , abutter's list, plan, & etc. <u>Earth Removal</u> (19 Oxbow Road)	September 27, 2002
DOWELL, Alfred	Public Hearing Notice--October 29, 2002	September 27, 2002
DOWELL, Alfred	WPA Form 2 & Plan	December 4, 2002
DOWELL, Alfred	Certificate of Action, Special Permit, Revised Plan 12/10/02	December 18, 2002
DOWELL, Alfred	Certificate of No Appeal	January 14, 2003
DOWELL, Alfred	Signed Special Permit	May 7, 2003



Town of Oxford
Board of Selectmen
Memorial Hall - 325 Main Street
Oxford, Massachusetts 01540-1797

Daniel P. Coonan, Chairman
Henry J. LaMountain, Sr., Vice Chm.
Susan M. Gallant, Secretary
John G. Saad
David A. Bigwood, Jr.

Karen A. Crandell, Clerk
Phone (508) 987-6027
Fax (508) 987-6048

TOWN OF OXFORD
PUBLIC HEARING NOTICE

In accordance with the provisions of the Oxford Zoning By-Law, Chapter XVIII, the Oxford Board of Selectmen has received an application from Alfred Dowell, Jr., 109 Creeper Hill Road, North Grafton, MA 01519, for a **Special Permit for Earth Removal** on land located at **19 Oxbow Road**, North Oxford (Assessor's Map 09, Parcel A21). A Public Hearing will be held regarding this matter on October 29, 2002 at 7:30 p.m. in the Selectmen's Meeting Room on the second floor of the Town Hall, which is located at 325 Main Street in Oxford, MA 01540. Written and oral comments from the public will be accepted before and/or during this hearing.

OXFORD BOARD OF SELECTMEN

October 8, 2002 & October 15, 2002


RECEIVED
2002 SEP 27 11:20 AM
OFFICE OF THE TOWN CLERK
1000 MAIN STREET
OXFORD, MA 01540

Town of Oxford
MEMORANDUM

Date: December 12, 2002
To: Board of Selectmen
From: Dennis A. Power/Town Manager
Subject: Special Permit – Earth Removal/Oxbow Road

Enclosed please find a revised copy of the Special Permit for Earth Removal, 19 Oxbow Road, Oxford, MA. Kindly review in anticipation of your meeting of 17 Dec 02.

If you have any questions, please give me a call.



Dennis A. Power

DAP/lg

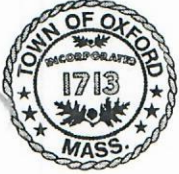
Enclosure

**December 17, 2002
Selectmen's Meeting**

**8:00 p.m. Continuation of a Public Hearing: Special Permit for
Earth Removal at 19 Oxbow Road
Applicant: Alfred Dowell**

**I have attached a copy of the Special Permit, which has
been amended by Joseph Zeneski to address concerns
expressed during the hearing on December 10th.**

**In addition, plans have been amended by BC Engineering
and are marked for the Board members' signatures,
should the Selectmen agree to approve of this Special
Permit tonight.**



Town of Oxford
Board of Selectmen
Memorial Hall - 325 Main Street
Oxford, Massachusetts 01540-1797

Karen A. Crandell, Clerk
Phone (508) 987-6027
Fax (508) 987-6048

Daniel P. Coonan, Chairman
Henry J. LaMountain, Sr., Vice Chm.
Susan M. Gallant, Secretary
John G. Saad
David A. Bigwood, Jr.

December 18, 2002

CERTIFICATE OF ACTION

At a meeting of the Oxford Board of Selectmen, held on Tuesday, December 17, 2002, the following action was taken on the application of Alfred L. Dowell of 109 Creeper Hill Road, North Grafton, MA 01519, for a Special Permit to remove earth. This permit is to be exercised on property located at 19 Oxbow Road, North Oxford (Assessor's Map 09, Parcel A21) and owned by Alfred L. Dowell of North Grafton, MA, as outlined on the plan attached hereto. The Public Hearing for this Special Permit was first held on October 29, 2002, was continued to December 10, 2002 and finalized on December 17, 2002. The vote taken to approve of the permit was taken pursuant to the provisions of M.G.L., c. 40A and the Oxford Zoning By-Law, Chapter XVIII and Chapter XIV.

Chairman Coonan said that he would entertain a Motion to grant the Special Permit for Earth Removal at 19 Oxbow Road in North Oxford to Alfred L. Dowell.

Motion was made by Selectman LaMountain, seconded by Selectman Gallant, **so moved**. The following is the vote on the motion:

IN FAVOR

OPPOSED

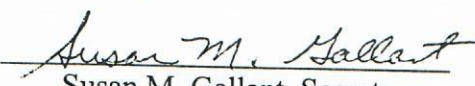
ABSTENTIONS

ABSENT

Daniel P. Coonan, Chairman
Henry J. LaMountain, Vice Chairman
Susan M. Gallant, Secretary
John G. Saad

David A. Bigwood, Jr.


Four-Yes; One-Absent (Selectman Bigwood)
Motion carried.


Susan M. Gallant, Secretary
Oxford Board of Selectmen

Commonwealth of Massachusetts
Worcester, SS

December 18, 2002

Then personally appeared the above-named Susan M. Gallant, Secretary of the Oxford Board of Selectmen, and acknowledged the foregoing instrument to be her free act and deed before me.


Lori A. Kelley, Notary Public

*My Commission
expires June 10, 2005*

MEMORANDUM

Date: January 14, 2003

To: Board of Selectmen – Daniel P. Coonan, Chr.
Town Manager, Dennis A. Power
Building Inspector - Edwin J. Kus
Planning Director/Town Engineer - Joseph C. Zeneski
Board of Assessors - Revaluation Department

From: Town Clerk, Lori A. Kelley, CMMC/CMC

Subject: Certificate of No Appeal – Alfred Dowell – Special Permit

Attached is a copy of the Certificate of No Appeal with relation to the Special Permit for an Earth Removal Permit granted by the Board of Selectmen to Alfred Dowell for property located at 19 Oxbow Road, North Oxford, Massachusetts.

Any data pertaining to your department is enclosed.

LAK/smc
Enc.

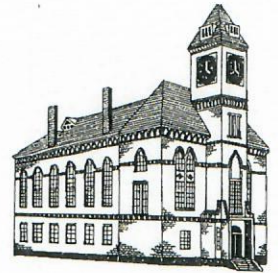


Town of Oxford

Office of the Town Clerk

325 Main Street

Oxford, MA 01540-1727



Lori A. Kelley, CMMC/CMC
Town Clerk

(508) 987-6032 phone
(508) 987-6048 fax
L.kelley@town.oxford.ma.us

January 14, 2003

Alfred Dowell
109 Creeper Hill Road
North Grafton, MA 01519

Dear Mr. Dowell:

We are enclosing the Certificate of No Appeal with relation to the Special Permit granted to you by the Board of Selectmen for an Earth Removal Permit on property located at 19 Oxbow Road, North Oxford, Massachusetts.

A copy of the decision as filed in the Office of the Town Clerk is being enclosed for your records. A copy of the Certificate of No Appeal is being filed with the Building Inspector, Town Manager and the Board of Assessors-Revaluation Department.

The Special Permit is not in effect until the applicant has filed a certified copy of the Certificate of No Appeal with the Registry of Deeds.

Very truly yours,

Lori A. Kelley, CMMC/CMC
Town Clerk

LAK/smc
Enc.



Town of Oxford

Office of the Town Clerk

325 Main Street

Oxford, MA 01540-1727



Lori A. Kelley, CMMC/CMC
Town Clerk

(508) 987-6032 phone
(508) 987-6048 fax
Lkelley@town.oxford.ma.us

CERTIFICATE OF NO APPEAL

SPECIAL PERMIT: OXFORD ZONING BY-LAWS: Chapter XVIII Earth Removal
& Chapter XIV Administration and Enforcement

PETITIONER: Alfred Dowell

ADDRESS: 109 Creeper Hill Road, North Grafton, MA 01519

OWNER (S): Alfred Dowell

ADDRESS: 109 Creeper Hill Road, North Grafton, MA 01519

PROPERTY LOCATION: 19 Oxbow Road, North Oxford, MA 01537 (Assessor's
Map 09, Parcel A21)

DEED REFERENCE: Book 21853, Page 196

January 14, 2003

This is to certify that the Board of Selectmen granted a Special Permit for Earth Removal exercised on property located at 19 Oxbow Road, North Oxford (Assessor's Map 09, Parcel A21) and owned by Alfred L. Dowell of North Grafton, MA, subject to the conditions outlined in the Special Permit for Earth Removal and the plan attached hereto.

The Certificate of Action was duly recorded in the Office of the Town Clerk on December 18, 2002 at 3:59 P.M. No Notice of Appeal of such approval was filed within the twenty days next, the appeal period ending on January 13, 2003.

A true copy, ATTEST:

(Seal)

Town Clerk -- Oxford, Massachusetts CMMC/CMC



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – 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.



From:

Oxford
Conservation Commission

To: Applicant

Alfred Dowell

Name

83 Colburn Ave.

Mailing Address

Charlton

MA

01507

City/Town

State

Zip Code

Property Owner (if different from applicant):

Name

Mailing Address

City/Town

State

Zip Code

1. Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

Earth removal

08/30/02

Title

Date

Title

Date

Title

Date

2. Date Request Filed:

October 30, 2002

B. Determination

Pursuant to the authority of M.G.L. c. 131, § 40, the Conservation Commission considered your Request for Determination of Applicability, with its supporting documentation, and made the following Determination.

Project Description (if applicable):

Earth removal

Project Location:

19 Oxbow Road

Oxford,

Street Address

09. A21

Assessors Map/Plat Number

Parcel/Lot Number



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Determination (cont.)

The following Determination(s) is/are applicable to the proposed site and/or project relative to the Wetlands Protection Act and regulations:

Positive Determination

Note: No work within the jurisdiction of the Wetlands Protection Act may proceed until a final Order of Conditions (issued following submittal of a Notice of Intent or Abbreviated Notice of Intent) has been received from the issuing authority (i.e., Conservation Commission or the Department of Environmental Protection).

☒ 1. The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.

☒ 2a: The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid.

☐ 2b: The boundaries of resource areas listed below are not confirmed by this Determination, regardless of whether such boundaries are contained on the plans attached to this Determination or to the Request for Determination.

☐ 3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.

☐ 4. The work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to protection under the Act. Therefore, said work requires the filing of a Notice of Intent.

☐ 5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by:

Name of Municipality

Pursuant to the following municipal wetland ordinance or bylaw:

Name

Ordinance or Bylaw Citation



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Determination (cont.)

- ☐ 6. The following area and/or work, if any, is subject to a municipal ordinance or bylaw but not subject to the Massachusetts Wetlands Protection Act:

- ☐ 7. If a Notice of Intent is filed for the work in the Riverfront Area described on referenced plan(s) and document(s), which includes all or part of the work described in the Request, the applicant must consider the following alternatives. (Refer to the wetland regulations at 10.58(4)c. for more information about the scope of alternatives requirements):

- ☐ Alternatives limited to the lot on which the project is located.
- ☐ Alternatives limited to the lot on which the project is located, the subdivided lots, and any adjacent lots formerly or presently owned by the same owner.
- ☐ Alternatives limited to the original parcel on which the project is located, the subdivided parcels, any adjacent parcels, and any other land which can reasonably be obtained within the municipality.
- ☐ Alternatives extend to any sites which can reasonably be obtained within the appropriate region of the state.

Negative Determination

Note: No further action under the Wetlands Protection Act is required by the applicant. However, if the Department is requested to issue a Superseding Determination of Applicability, work may not proceed on this project unless the Department fails to act on such request within 35 days of the date the request is post-marked for certified mail or hand delivered to the Department. Work may then proceed at the owner's risk only upon notice to the Department and to the Conservation Commission. Requirements for requests for Superseding Determinations are listed at the end of this document.

- ☒ 1. The area described in the Request is not an area subject to protection under the Act or the Buffer Zone.
- ☐ 2. The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.
- ☐ 3. The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).

- ☐ 4. The work described in the Request is not within an Area subject to protection under the Act (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Determination (cont.)

- ☐ 5. The area described in the Request is subject to protection under the Act. Since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required:

Exempt Activity (site applicable statutory/regulatory provisions)

- ☐ 6. The area and/or work described in the Request is not subject to review and approval by:

Name of Municipality

Pursuant to a municipal wetlands ordinance or bylaw.

Name

Ordinance or Bylaw Citation

C. Authorization

This Determination is issued to the applicant and delivered as follows:

☐ by hand delivery on

☒ by certified mail, return receipt requested on

Date

Date

11/14/02

This Determination is valid for three years from the date of issuance (except Determinations for Vegetation Management Plans which are valid for the duration of the Plan). This Determination does not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.

This Determination must be signed by a majority of the Conservation Commission. A copy must be sent to the appropriate DEP Regional Office (see Appendix A) and the property owner (if different from the applicant). ☐ Signatures:

Bernard H. [Signature]
Cheryl Eagle
Arthur [Signature]

Date

11/14/02



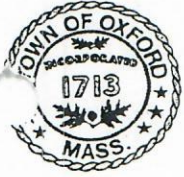
**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands**

WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

D. Appeals

The applicant, owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate Department of Environmental Protection Regional Office (see Appendix A) to issue a Superseding Determination of Applicability. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form (see Appendix E: Request for Departmental Action Fee Transmittal Form) as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Determination. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant if he/she is not the appellant. The request shall state clearly and concisely the objections to the Determination which is being appealed. To the extent that the Determination is based on a municipal ordinance or bylaw and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.



Town of Oxford

Board of Selectmen

*Memorial Hall - 325 Main Street
Oxford, Massachusetts 01540-1797*

*Karen A. Crandell, Clerk
Phone (508) 987-6027
Fax (508) 987-6048*

*Daniel P. Coonan, Chairman
Henry J. LaMountain, Sr., Vice Chm.
Susan M. Gallant, Secretary
John G. Saad
David A. Bigwood, Jr.*

SPECIAL PERMIT FOR EARTH REMOVAL **19 OXBOW ROAD, OXFORD, MASSACHUSETTS**

Pursuant to the provisions of Chapter XVIII of the Oxford Zoning By-Laws and M.G.L. Chapter 40A, the Oxford Board of Selectmen (hereinafter referred to as "Board") having determined, based on evidence submitted by the applicant and information provided at a public hearing, that a proposed earth removal operation at 19 Oxbow Road in Oxford will **NOT**: endanger the public health or safety; constitute a nuisance; result in detriment to the normal use of adjacent property by reason of noise, dust or vibration; nor result in any damage to a nearby public way or building although within 250 feet of said building or within 200 feet of said public way,

HEREBY GRANTS to Alfred Dowell of 109 Creeper Hill Road in N. Grafton Massachusetts a permit to excavate and remove earth from land owned by him by deed recorded at the Worcester District Registry of Deeds Book 21853 Page 196 to the final grades shown on a plan entitled "Site Improvement Plan of 19 Oxbow Road Oxford, Massachusetts" prepared by B C Engineering & Survey, Inc., Allan F. Paige surveyor and engineer, as approved by the Board and so endorsed by the Board, subject to the following limitations and conditions:

GENERAL CONDITIONS

1. No excavation below the natural grade of any lot boundary shall be permitted nearer than fifty (50) feet to such boundary unless the abutting land is subject to an earth removal permit granted under the Oxford Zoning By-Law and the owner of such abutting land has granted written approval of such excavation and the Board has approved such excavation and so stated in the **SPECIAL CONDITIONS** of this Special Permit or in a Modification of this Special Permit.
2. No slope created by earth removal operations authorized by this Special Permit shall be finished at a grade in excess of two (2) to one (1) [horizontal to vertical] unless specifically otherwise authorized by the Board and so stated in the **SPECIAL CONDITIONS** of this Special Permit.
3. Upon conclusion of earth removal operations, all areas upon which such operations have been conducted shall be covered with not less than four (4) inches of topsoil capable of supporting vegetation, brought to the finished grades and seeded with a suitable cover crop, except where ledge rock is exposed, and all large stones and boulders which protrude above the finished grade shall be buried or removed. The Board may require the applicant to guarantee growth of the crop cover on such areas for two (2) years after seeding; see the **SPECIAL CONDITIONS** of this Special Permit.
4. The applicant has posted with the Treasurer of the Town of Oxford a proper bond (security) in such amount and with such securities as determined by the Board to be sufficient to guarantee compliance with the terms and conditions of this Special Permit. The details of said bond are itemized in the **SPECIAL CONDITIONS** of this Special Permit.
5. The Board has imposed such other reasonable requirements consistent with the provisions of the Zoning By-Law and such Rules and Regulations in effect at the time of approval of the Special Permit including, but not limited to: the hours of operation; the routes of transportation; the location and use of buildings and other structures; the control of drainage; the methods of removal; the disposition of waste incidental to the removal operations; and any other aspect of the proposed operation that may have some impact on the environment. Said additional reasonable requirements are stated in the **SPECIAL CONDITIONS** of this Special Permit.

SPECIAL CONDITIONS

1. LIMITS OF EXCAVATION

Based on the evidence submitted by the applicant and the testimony presented at the public hearing, the Board has determined that the permitted earth removal operations will not undermine any way or building or other structure and therefore allows excavation within ten (10) feet of Oxbow Road and within fifty (50) feet of the southerly boundary of land now or formerly owned by Barry Freedman as shown on the approved plan in order to achieve agreed upon improvements to sight lines along Oxbow Road. The sight line improvement work along Oxbow Road is to be completed prior to the removal of any material on the subject parcel to assure that public safety concerns are addressed. Upon completion the area shall be reclaimed in accordance with Special Condition 3 below.

2. FINISHED GRADES

The Board has found no reason to vary the restriction on finished grades as stated in GENERAL CONDITION 2 and hereby approves the 3 to 1 grading shown on the approved plans.

3. SITE RECLAMATION

The applicant is responsible for the reclamation of the site and any off site impacts resulting from the permitted earth removal operation. Accordingly, the operation is limited to a total area of disturbance of three (3) acres at any one time. At the beginning of each calendar year, (before May 15th) the applicant shall have completed seeding operations on that portion of the site where earth removal work has been completed and submit an as-built plan to the Board. The site reclamation work shall involve the spreading and proper grading of the amended topsoil to a minimum finished depth of four (4) inches and a minimum grade of 2%. Soil amendment may include the addition of lime and/or nutrients as determined by the planting professional. For large areas of disturbance as envisioned in an earth removal operation hydroseeding is the recommended approach to reclamation. The applicant is responsible for the protection of the area seeded and shall replace any areas that fail to grow or are damaged. The applicant shall guarantee the area so seeded for a period of two (2) years by the Board retaining \$1,000.00 per acre reclaimed from the project security.

4. PROJECT SECURITY

The Board's rules require that the Special Permit for earth removal shall not be granted and no operations shall be conducted thereunder until the applicant furnishes to the Board, to be posted with the Town Treasurer, a security in the penal amount of \$2,500.00 per acre of land affected by the proposed operation in such form as is approved by the Board. The preferred form of security is a deposit of money in a passbook payable to the Town of Oxford or a cashier's or certified check made out to the Town of Oxford. If the Board accepts a bond, the bond shall be executed as surety by an insurance or bonding company approved by the Board and qualified to do business in the Commonwealth of Massachusetts. The bond shall have the Town of Oxford named as the insured and shall be non-cancelable without the permission of the Board; the cost of the bond shall be prepaid by the applicant prior to the issuance of the permit; and the term of the bond shall conform to the term of the Special Permit.

5. HOURS OF OPERATION

Earth removal operations will be allowed between 7:00 A.M. and 5:00 P.M. Eastern Standard Daylight Savings Time Monday through Friday; during the winter, it is anticipated that there will be no active earth removal from the site. Trucks may enter and leave the site of the operation only during the hours of operation. Loaded vehicles shall be suitably covered to prevent dust and contents from spilling and/or blowing from the load.

6. TRANSPORTATION ROUTES

All traveling routes and methods are subject to approval by the Board. All traffic from the site shall exit onto Oxbow Road according to the approved plan and travel along Oxbow Road within Oxford to Route 20. All traffic is to stop before exiting the site.

7. PROJECT SUPERVISION

The responsibility for the accuracy, neatness, and integrity of all work involved in connection with the approved Special Permit for earth removal lies entirely with the applicant; inspections performed by the Board and/or an agent designated by the Board are only to verify that the work is in progress. The applicant is required to hire responsible competent professionals to layout the work in accordance with the approved plans and supervise the excavation. The applicant shall furnish to the Board or the appointed agent(s) four (4) copies of written quarterly reports by a registered engineer or surveyor describing the applicant's performance, specifically detailing the status of each condition of approval. The reports shall be due on July 1, October 1, January 1, and April 1 of each year. The applicant's engineer or surveyor shall certify that the work completed to date is in conformance with the approved plans and where applicable, shall submit partial as-built plans of the completed work.

8. ON SITE INSPECTIONS

The Board and/or Agent(s) designated by the Board shall have the right to enter upon the site at all reasonable times for the purpose of conducting on site inspections. The applicant must install property line markers at appropriate intervals to allow verification of conformance with setback requirements and monitoring wells at designated points on the site to allow monitoring of groundwater elevation and if necessary water quality sampling.

9. EROSION CONTROL

The applicant is responsible for the installation, maintenance, and monitoring of appropriate erosion control within the site to protect workers on the site from danger, abutters from undermining of their land, and downstream land from siltation. The approved plans show siltation control structures and site drainage facilities that, to the extent possible, shall be put in place before the earth removal operation begins. During site reclamation, the applicant shall take all necessary precautions to protect the replanted areas from erosion. These measures shall include diversion ditches or dikes for surface flow and groundwater drains for subsurface flows that breakout at the surface. Following excavation and as soon as possible thereafter, ground levels shall be finished to the approved final grades. Exposed areas shall be well stabilized in the fall before the period of high erosion risk in the spring. Seeding shall be done preferably during the period from August 1 to October 1 but in no case later than May 15 in the following spring. In order to protect seeded areas, a geotextile erosion control and revegetation fabric shall be installed on slopes in vegetated ditches and other areas subject to concentrated stormwater flows.

10. DUST CONTROL

The applicant is responsible to provide adequate means of dust control. There shall be a water wagon, and/or a suitable supply of calcium chloride stored on site and either or both shall be used as required to control dust. All buffer zones surrounding the site shall be left intact. No material or vegetation, including trees and shrubs, are to be removed, without the approval of the Board. Where necessary to protect the site from wind blown dust, additional buffer plantings have been required and shown on the plan. These additional plantings shall be completed before the earth removal operation begins in the area protected.

11. SANITARY FACILITIES

The applicant is responsible to provide adequate sanitary facilities for the use of all persons employed on the site. Said facilities shall be properly screened from public view, shall be provided in sufficient number, in such manner, and at such locations as are appropriate to serve the needs of the employees. The facilities shall be maintained in a neat and sanitary condition and in compliance with the requirements of local and state health officials. The applicant shall rigorously prohibit the committance of nuisances within, on, or about the site.

12. UNEXPECTED CONDITIONS

If, during the course of the permitted earth removal operation, the applicant encounters any ledge, boulders, or material unsuitable for removal due to economics, the applicant shall notify the Board thereof and shall either apply for appropriate permits to blast or otherwise remove the unexpected material or shall submit a plan requesting a modification of the approved permit to allow regarding of the site in a manner that will achieve the intent of the zoning by-law and the Rules and Regulations in effect at the time of application for the modification.

13. PUBLIC SAFETY

The applicant is responsible for the protection of the public safety and the integrity of the public ways used to access the site. Accordingly, the applicant shall be required to maintain a gate at each vehicle entry and exit point. Such gates shall be locked when the project is not in operation to prohibit entry. A copy of the key for each gate shall be entrusted to the Board and/or its agent to allow free access for inspections. The applicant shall post and maintain NO TRESPASSING signs along the perimeter of the site.

FAILURE TO PERFORM

In the event that the applicant to conform to the monitoring and reporting, or regarding and revegetating conditions of this Special Permit, the Board may decide, by majority vote, to declare the applicant in default and demand payment from the project security to complete the necessary work. Upon such finding of default, the Board shall notify the applicant in writing by certified mail of its decision and allow fifteen (15) days for the applicant to conform with the violated conditions. If the violation is not resolved within the allowed 15 days, the Board shall take the security and cause the remedial work to be performed by either Town forces or a private contractor hired through appropriate procedures. By acceptance of the conditions of this Special Permit the applicant also grants permission for such Town forces or contractors to enter the site and complete the necessary work.

15. RELEASE OF SECURITY

The penal amount of the security posted as a condition of this Special Permit (see SPECIAL CONDITION 4) may, from time to time, be reduced by the Board provided that the amount remaining is, in the opinion of the Board sufficient to complete the outstanding regarding, revegetating, and provide a guarantee of \$1,000.00 per acre reseeded within the last two (2) years of the request for partial release of security. The request for any release of security shall not be valid unless accompanied by an as-built plan prepared and stamped by the project engineer or surveyor showing the finished grades and condition of the site and certifying compliance with the conditions of this Special Permit.

16. INSURANCE REQUIREMENTS

The applicant shall maintain insurance on all vehicles and equipment used on the site in the amounts satisfactory to the Board. The applicant's insurance company shall send the Board a certificate of insurance indicating that the insurance is in force, naming the Town of Oxford as additional insured, and stating that the policies will not be materially changed or cancelled without thirty (30) days advance notice by certified mail.

SPECIAL PERMIT - EARTH REMOVAL

**ISSUED TO ALFRED L. DOWELL
FOR LAND AT 19 OXBOW ROAD**

17. COMPLETION OF WORK

All permitted excavation work shall be completed and all areas reclaimed prior to the expiration date of this permit unless the applicant applies for renewal of this Special Permit. If the renewal is to be sought, the completed application shall be submitted at least four (4) months before the expiration date of this Special Permit.

18. NO ASSIGNMENT

No assignment shall be allowed without the approval of the Board.

19. EXPIRATION DATE AND EXTENSION THEREOF

The Oxford Zoning By-Law limits the term of Special Permits for earth removal to a maximum of five (5) years. The duration of this Special Permit shall extend for a five-year period beginning at the date of the end of the twenty (20) day appeal period and issuance of a certificate of no appeal by the Town Clerk. No earth removal operations are allowed until this special permit is recorded at the registry of deeds. The Zoning By-Law also allows for renewals of a Special Permit for earth removal without a public hearing but sets a limit of no more than three (3) renewals for periods of up to three (3) year additional years each. This may be allowed provided that the Board has given notice of application for such renewal by advertisement in a newspaper of general circulation in the Town and by certified mail, postage prepaid, to all abutters, as they appear upon the most recent tax list, and no written notice objection by any abutter to such renewal has been filed with the Town Clerk within twenty-one (21) days of the giving of such notice.

EXHIBITS

The following exhibits are attached to this Special Permit and made a part thereof:

The approved site development plan for this project as endorsed by the Board copies of which are on file in the Board's office and the office of the Town Clerk.

ACCEPTANCE BY APPLICANT

I do hereby agree to the conditions of this permit and have submitted a security in the amount of \$10,000.00 to the Town of Oxford to insure its compliance.

Alfred L. Dowell
Signature and date

APPROVAL BY BOARD OF SELECTMEN

[Signature]
[Signature]
[Signature]
[Signature]

Recorded this 7th day of May 2003

Teri A. Kelley
Town Clerk