

Kyle S. Haver
Seven Arts Management, LLC
70 LaSalle Street, Apartment 16F
New York, N.Y. 10027
212-799-4913
KyleHaver@yahoo.com

COPY GIVEN TO
CON COMM 1/16/15

January 10, 2015

Wayne Burkhart, Chairperson
P.O. Box 308, 435 Main Rd
Monterey, MA 01245

Dear Mr. Burkhart,

I am writing to the town of Monterey in response to a Chapter 91 application our neighbor is applying for on Lake Buel. Enclosed you will find letters that I have sent to the Mass Department of Environmental Protection as well as to Mr. Marc Bergman from the 7 Arts Condominium Association.

My family and I have some questions and concerns about this application. We ask that the Select Board take a close look at our concerns and consider the importance of safety, weed control and the possible environmental impact of this application.

Indeed, this Association is entitled to all the joys and pleasures of Lake Buel, as our family has had since the 1960's. That said, this Association has a second dock structure that is used for Mr. Kirson's speedboat. Dr. Bergman did not include the Association's second dock on the application's Appendix C (page 8). Please note that I did include it (not to scale- it is about 30-40 feet long.) Traditionally one was a swimming dock the other for boats.

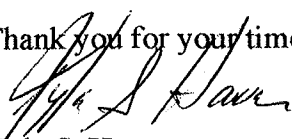
We are concerned that this new owner, Dr. Bergman may purchase a motor craft/jet ski and use this new dock structure to moor his boat. This will dangerously impact the safety of all the swimmers in the area. We ask the Select Board to make a clear statement to the Association that the approval of this application is contingent upon the understanding that this replacement dock will not moor any motor boats and/or water craft and that the Association other dock (which is safely away from any swimmers,) be used to secure any and all watercraft.

We are also concerned about this replacement dock's impact on the access for the 7 Arts Lake Buel weed harvester. In the past, the current floating dock could be moved so the harvester and come up to the shore. With the plan to include "support pipes," we are concerned that the weed harvester will not be able to do as an effective job as in the past.

We are also concerned about placement and length of this "replacement dock." Once again, on Appendix C of this application, I have corrected the property line that reflects both our house (1A) as well as that of our cousins (1B). We ask that if this application is approved, that there is a clear statement that this replacement is constructed on the same ground where the current dock has been. In addition, it seems to me that this "replacement dock" is considerably longer than the current one and that poses additional challenges. It is not clear to us why does this dock need to extend further into the lake and if this will now set a precedent. Therefore we also ask that this new seasonal replacement structure remain in the same "foot print" of the previous one. We can see no reason why this new structure needs to extend further into the lake area.

The enclosed letters also talk about our environmental concerns. We ask that the Select Board study these issues be carefully. As we all know, Lake Buel- like Lake Garfield- has a challenging eco-system and we want to avoid any structures that may impact our great ponds in an adverse way.

Thank you for your time and consideration in this application.



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New York, N.Y. 10027
212-799-4913
KyleHaver@yahoo.com

January 8, 2015

Commonwealth of Massachusetts
Department of Environmental Protection
One Winter Street
Boston, MA 02108
(617) 292-5500
FAX: (617) 556-1049

Dear Mass DEP,

I am writing to you in response to my neighbor's Chapter 91 application to replace a dock on Lake Buel in Monterey, Massachusetts. My family has some serious concerns about the plan and its impact on our personal safety, active weed control and the fragile ecosystem.

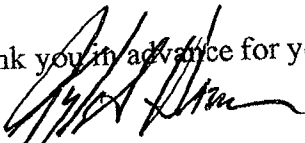
Enclosed you will find a letter that states our questions and concerns that we recently sent to our neighbors. I have also enclosed a copy of their Chapter 91 application. In addition to our letter of concerns, I would also like to draw your attention Appendix C (page 8) of their application that provides a "sketch" of the design. I have actually "corrected" this sketch as the original it did not correctly illustrate our property line and proximity to the dock they are applying for. For some reason they only included my uncle's property (which I labeled "1B") and did not include our house (labeled "1A") which actually abuts the 7 Arts Condo property. I am sure this is an oversight, but I wanted the person who reviews this application to have an accurate accounting.

That said, my family is deeply concerned about our safety and the safety of our children, grandchildren and friends. We are also troubled how this dock design may impact the weed control and harvesting on Lake Buel. In addition, my family has had a house on Lake Buel since the 1960;s and we have always loved fishing (licensed, with catch-and-release) and we do not know what kind of environmental impact a "piered" dock may have. It is not clear to us if this is designed as a permanent installation or seasonal. Nor do we know what the impact will be as there has been a floating dock in that area since my family originally owned the property.

Although we want our neighbors to enjoy the beauty and fun that we all have enjoyed for so many years, we are concerned that this current design may risk not only our safe swimming area, but also the natural life (beavers, water snakes, turtles and, of course, bass, trout, pickerel and, ok, the sunfish)

We ask that you closely review that application and ensure this water way remains safe, ensuring this dock continues as before to be free of any motorized boats and/or water craft (including Jet-skis)...and ask one of your colleagues to look into the weed control and ecosystem.

Thank you in advance for your care and actions in our regard.



Kyle S. Haver
Seven Arts Management, LLC
24 Seven Arts Road, Monterey Mass (Summers)
70 LaSalle Street, NYC (Winters)

Kyle S. Haver
Seven Arts Management, LLC
70 LaSalle Street, Apartment 16F
New York, N.Y. 10027
212-799-4913
KyleHaver@yahoo.com

January 8, 2015

Marc Bergman, Member
Seven Arts Condominium Association
17635 Boniello Road
Boca Raton, FLA 33496
marcbergmanmd@gmail.com

Email sent to Applicant

Dear Marc,
Happy New Year. We have recently received a copy of your letter from my cousin, Kohel Haver. As the "Sandy and Tom Haver property" was subdivided in 2002, our property (Seven Arts Management, LLC) and not Tom Haver's (Seven Arts Properties, LLC) actually abuts the 7 Arts Condominium Association's land. Please inform the other members of that all correspondence from the 7 Arts Condominium Association also needs to be addressed to our LLC. (See address above)

We have reviewed the 7 Arts Condominium Association's application to replace the current seasonal dock structure on Lake Buel and we have a few questions and/or concerns with your application.

First and foremost: Safety. Since my family purchased this property in 1960s we have been very careful in designing a safe-swimming parameter that ensured all powerboats were docked on the outside of this safe parameter. We want to make sure that this safety perimeter will remain in effect and that any powerboats, jet skis, sailboats, etc. would be docked outside this safe swimming area. We consider where Jeff Kirson currently docks his speedboat and my cousins dock their pontoon boat *outside* this swimming perimeter so as to not impede swimming safety leaving or entering the 7 Arts cove.

Second: Access to Weed Cutting/Weed Control: Currently, the Lake Buel weed harvester is able to access the 7 Arts cove to cut the lake weeds thus ensuring our swimming areas remain clean and that the weed situation does not grow out of control as we have seen in other areas around the lake. With your proposed seasonal dock structure, will you be able to rotate the floating dock (as could be done with the previous floating structure) during the weed harvesting to allow the machine to come as close to the shore as possible? Based on the description provided it appears to include sections that are not movable, this is a concern for keeping the lake's weed situation under control, and not losing portions of our cove to weed overgrowth.

Third: Placement of the structure: The document you provided specifies replacement of Seven Arts Condominium Association old seasonal swimming dock with a new one. We understand that your "replacement" dock will extend approximately 8 feet longer than your current dock. Would be please confirm that the placement of the seasonal dock will remain on the same location where the previous dock was?

Fourth: Protecting aqua-life: From the number of fisherman who enter and fish in our cove, it is clear this is a spawning area for small and large mouth bass, trout, pickerel as well as other smaller game fish. We are not sure how a new dock that includes sections that are permanent in structure will impact the current ecosystem as this has not historically be the design of this swimming dock since the 1960's. We are concerned about the impact and balance of Lake Buel's ecosystem. Have you consulted the Lake Buel Association and/or the MASS DEC about the environmental impact your structure will have on the lake?

Thank you again for sending us this information and we look forward to a timely response to these issues.

Kyle S. Haver, Managing Member
Seven Arts Management, LLC

The Commonwealth Of Massachusetts



No. ~~MASS DEP USE ONLY~~

SIMPLIFIED LICENSE
BRP WW06

Applicant must fill in pages 1 and 2 of this license.

Marc Bergman

Boca Raton

STATE of Florida

of the Town/City of:

Town/City

in: County

Applicant's name

County and Commonwealth aforesaid, has applied to the Department of Environmental Protection for a Simplified License to:

Please check:

maintain an existing (pre-1984):

Please check all that apply below:

- pier/dock
- boat ramp
- ramp
- float(s)
- pile(s)
- boat lift
- boat house
- retaining wall/seawall
- bulkhead
- rip rap/stone revetment
- groin(s)
- Nonwater-dependent (NWD) residence
- other _____

construct a proposed or maintain an existing (post-1984):

Please check all that apply below:

- pier/dock
- ramp
- float(s)
- pile(s)
- boat lift
- pile-supported boat house
- other _____

and has submitted plans of the same; and whereas due notice of said application has been given, as required by law, to the [Please check one:] Board of Selectmen Mayor and City Council, of the Town/City of:

Monterey 01245

Town/City

NOW, said Department, having heard all parties desiring to be heard, and having fully considered said application, hereby, subject to the approval of the Governor, authorizes and licenses said Licensee, subject to the provisions of the ninety-first chapter of the General Laws, and of all laws which are or may be in force applicable thereto, to:

Please check all that apply:

maintain existing structure(s) for:

- non commercial docking/access to navigable water
- shoreline stabilization
- residential, NWD building
- other _____

Please check all that apply:

construct and maintain structure(s) for:

- non commercial docking/access to navigable water
- other _____

in and over the waters of:

LAKE BUEL
Waterway

in the Town/City of:

MONTEREY, MA
Town/City

and in accordance with the locations shown and details indicated on the accompanying License Sketch Plan No. ~~MASS DEP USE ONLY~~
~~MASS DEP USE ONLY~~ (total number of Sheet(s): ~~MASS DEP USE ONLY~~)

License # DE USE ONLY

The total area of the combined structures, measured below mean/ordinary high water shall be no greater than a total of 600 square feet for proposed water-dependent structures, or for structures built or substantially altered after January 1, 1934 without any fill. For structures or fill constructed prior to January 1, 1984 and not substantially altered since that date: any structures and fill, either water-dependent or nonwater-dependent, total no more than 600 square feet. In both instances structure is not a marina (i.e. does not serve ten or more vessels). Dimensions of all structures are shown on the accompanying plan(s).

"I hereby make application for a License to authorize the activities I have described herein. Upon my signature, I agree to allow the duly authorized representative of the Massachusetts Department of Environmental Protection to enter upon the premises of the project site at reasonable times for the purpose of inspection. I hereby certify that the information submitted in this document is true and accurate to the best of my knowledge. And, upon my signature, that I have read the License and conditions and agree to the terms and conditions set forth herein."

BOX A:
Marc Bergman

Print Name

17635 Bonvista Road

Mailing Address:

Boca Raton

City/Town (not village)

Florida

State

33496

Zip Code

County

marcbergmanmd@gmail.com

e-mail

561-212-3665

(area code) telephone

Notification: Your signature to the right certifies that you have notified the entities as checked off in the boxes below.

Notification of application has been provided to: (please check)

Local Conservation Commission

Board of Selectman

Mayor and City Council

Zoning Authority

Planning Board

Interested Parties

Landowner (if not applicant)

and has been sent by certified mail to: (please check)

Abutters

NOT ALL

Marc Bergman
Signature of applicant

12/01/20

Date

BOX B:

If site address is different from mailing address:

Seven Arts Road

Site Address of the structures

Monterey

City/Town

MA

State

01245

Zip Code

Berkshires

County

BOX C:

If the applicant is different than the owner:
Seven Arts Condo Association

Owner

MARC BERGMAN (MEMBER OF CONDD ASSOCIATION)

Engineer/Agent

NOTE: This License is not valid until such time as it has been numbered and signed by the appropriate State officials (see page 5) and recorded at the Registry of Deeds.

USE: The structures authorized herein shall be for private non-commercial use of the licensee. The structures shall not be used for commercial purposes, leased, rented or otherwise let for compensation. Any change in use shall require an amendment to this license by the Department. The structures authorized herein shall be limited to the following uses: noncommercial docking and boating access to navigable waters.

TERM: This License will expire fifteen (15) years from the date of License issuance. By written request of the Licensee for an amendment, the Department may grant a renewal for the term of years not to exceed that authorized in the original license.

WATERWAYS CONDITIONS:

1. **ACCESS:** In accordance with any License condition, easement, or other public right of lateral passage that exists in the area of the subject property lying between the high and low water marks" or "below the ordinary high water mark", the Licensee shall allow the public in the exercise of such rights to pass freely over, under or around all structures within such (intertidal) area. Accordingly, the Licensee shall place and maintain, in good repair, a public access sign on the easterly/westerly or northerly/southerly sides of the pier/dock, authorized herein or at each property line, adjacent to the high water shoreline. Said signs shall comply with the Department's signage guidelines (see instructions) and shall be posted immediately upon license issuance or completion of construction. Nothing in this condition shall be construed as preventing the Licensee from excluding the public from portions of said structure(s) or property not intended for lateral passage.

In partial compensation for the private use of structures and/or fill on tidelands and/or private tidelands and/or Great Ponds which interferes with the rights of the public to use such lands, the Licensee shall allow the public to pass on foot, for any purpose and from dawn to dusk, within the area of the subject property lying seaward of the high water mark or, for Great Ponds within the public access way delineated on the License plan/or within 5 feet of the ordinary high water shoreline. This condition shall not be construed to prevent the Licensee from taking reasonable measures to discourage unlawful activity by users of the area intended for public passage, including but not limited to trespassing on adjacent private areas and deposit of refuse of any kind or nature in the water or on the shore. Further, the exercise by the public of free on-foot passage in accordance with this condition shall be considered a permitted use to which the limited liability provisions of M.G.L. c.21, s17c shall apply.

2. This License authorizes structure(s) and/or fill on:
~~FOR MASS DEP USE ONLY~~

<input type="checkbox"/> Private Tidelands	In accordance with the public easement that exists by law on private tidelands, the Licensee shall allow the public to use and to pass freely upon the area of the subject property lying between the high and low water marks, for the purposes of fishing, fowling, navigation, strolling and the natural derivatives thereof.
<input type="checkbox"/> Commonwealth Tidelands	The Licensee shall not restrict the public's right to use and to pass freely, for any lawful purpose, upon lands lying seaward of the low water mark. The Commonwealth holds said lands in trust for the benefit of the public.
<input checked="" type="checkbox"/> Great Pond	The Licensee shall not restrict the public's right to use and to pass freely upon lands lying seaward of the high water mark for any lawful purpose.
<input type="checkbox"/> Navigable River or Stream	The Licensee shall not restrict the public's right to use and to pass freely, for any lawful purpose, in the waterway.

3. Unless otherwise expressly provided by this license, the Licensee shall not limit the hours of availability of any areas of the subject property designated for public passage, nor place any gates, fences, or other structures on such areas in a manner that would impede or discourage the free flow of pedestrian movement thereon. No restriction on the exercise of these public rights shall be imposed unless otherwise expressly provided in this license.

4. Any change in use or any substantial structural alteration of any structure or fill authorized herein shall require the issuance by the Department of a new Waterways License in accordance with the provisions and procedures established in Chapter 91 of the Massachusetts General Laws. Any unauthorized substantial change in use or unauthorized substantial structural alteration of any structure or fill authorized herein shall render this Waterways License void.

5. This Waterways License shall be revocable by the Department for noncompliance with the terms and conditions set forth herein. This License may be revoked after the Department has given written notice of the alleged noncompliance to the Licensee and those persons who have filed a written request for such notice with the Department and afforded them a reasonable opportunity to correct said noncompliance. Failure to correct said noncompliance after the issuance of a written notice by the Department shall render this Waterways License void and the Commonwealth may proceed to remove or cause removal of any structure or fill authorized herein at the expense of the Licensee, its successors and assigns as an unauthorized and unlawful structure and/or fill.

6. The structures and/or fill authorized herein shall be maintained in good repair and in accordance with the terms and conditions stated herein.

7. Nothing in this Waterways License shall be construed as authorizing encroachment in, on or over property not owned or controlled by the Licensee, except with the written consent of the owner(s) thereof.

8. This Waterways License is granted subject to all applicable Federal, State, County, and Municipal laws, ordinances and regulations including but not limited to a valid final Order of Conditions issued pursuant to G.L. Chapter 131, s.40, the Wetlands Protection Act.

CONSTRUCTION:

9a. The project shall not significantly interfere with littoral or riparian property owners' rights to access and egress their property from the waterway. All structures shall be set back, at a minimum, at least twenty-five (25) feet from abutting property lines, where feasible.

9b. Structures shall not extend beyond the length of existing piers used for similar purposes; in no case shall the length extend more than $\frac{1}{4}$ of the way across a water body and shall conform to the square footage requirements as stated in Construction Condition 9a.

9c. Within areas of salt marsh, structures shall be constructed with a minimum height of 4 feet above ground level measured from the bottom of the stringer, and maximum width of 4 feet, or at a 1:1 ratio so as not to have an adverse impact on the salt marsh or aquatic vegetation. Whereas, the width of the pier maybe equal to but not greater than the height. Any ladders shall be constructed of durable materials, shall be fixed to the pier in such a manner so as not to rest on the marsh, shall have a minimum width of 2.0 feet, and shall have adequate railings extending above the pier/dock decking in order to facilitate safe passage.

9d. When removed, all seasonal structures shall be stored landward of the mean or ordinary high water shoreline, vegetated wetlands, dunes and all wetland resource areas. Said storage shall be in conformance with any applicable local, state or federal requirements.

9e. The float(s) shall be constructed with an appropriate number of piles/pipes, legs or stop blocks attached to the float structural elements in order to maintain at least 24 inches of clearance off the bottom at extreme low tides.

9f. All work authorized herein shall be completed within five (5) years of the date of License issuance. Said construction period may be extended by the Department for one or more one year periods without public notice, provided that the Applicant submits to the Department, thirty (30) days prior to the expiration of said construction period, a written request to extend the period and provides an adequate justification for said extension.

DOCKING OF VESSELS:

10a. Motorized vessels shall be moored stern seaward of the float and shall have a draft no greater than that which provides a minimum of one foot clearance from the bottom at extreme low water. Where eelgrass is present, vessels shall not have any adverse affects on eelgrass in the area.

- 10b. Vessels shall be moored such that they do not become grounded at any tide.
- 10c. No dredging (including, but not limited to effects of prop wash) is permitted herein.
- 10d. No boat moored at any dock may block or unduly impede navigation within the waterway or the use of any adjacent dock.

COMPLIANCE

The Licensee, within sixty (60) days of completion of the licensed project, shall submit a written statement to the Department that the project has been completed in substantial conformance with the conditions and plans of said license, or a copy of the Certificate of Compliance for this project issued pursuant to the Wetlands Protection Act (if the project was previously issued an Order of Conditions or Superseding Order of Conditions under said Act).

This License shall be void unless the License and the accompanying plan(s) are recorded within 60 days from the date hereof, in the Registry of Deeds for the said County.

Acceptance of this Waterways License shall constitute an agreement by the Licensee to conform with all terms and conditions stated herein. This License is granted upon the express condition that any and all other applicable authorizations required due to the provisions hereof shall be secured by the Licensee prior to the commencement of any activity of use authorized pursuant to this License.

~~FOR MASSDEP USE ONLY~~

THE COMMONWEALTH OF MASSACHUSETTS

IN WITNESS WHEREAS, said Department of Environmental Protection have hereunto set their hands on this _____ day of _____ in the year _____
date month year

Commissioner _____
Program Chief _____

Department of
Environmental
Protection

THE COMMONWEALTH OF MASSACHUSETTS

This License is approved in consideration of the payment into the treasury of the Commonwealth by said _____ Applicant of the further sum of _____ Amount dollars and zero cents (\$ _____ .00)

The amount determined by the Governor as a just and equitable charge for rights and privileges hereby granted in the land of the Commonwealth.

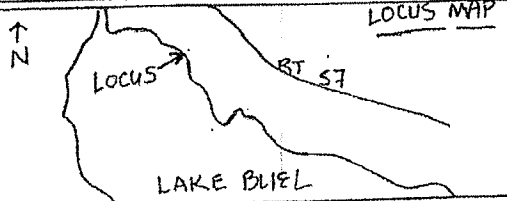
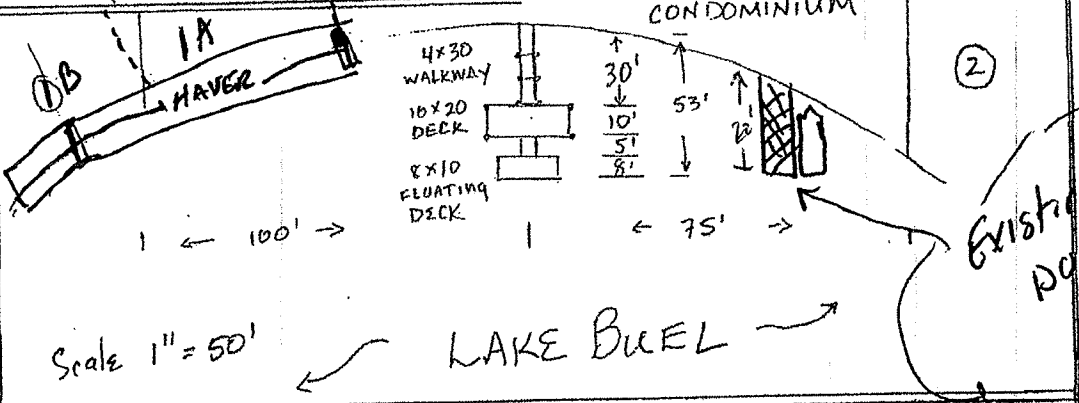
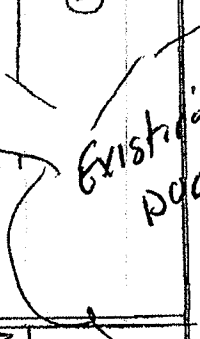
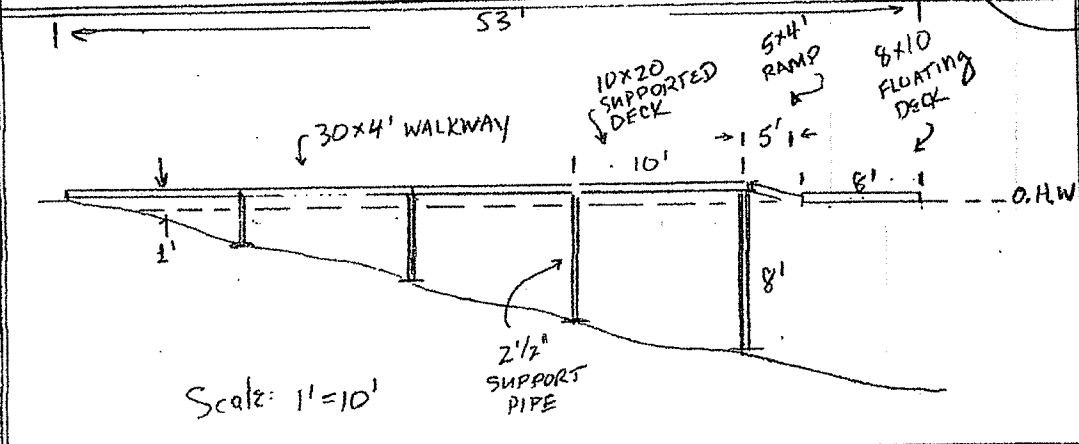
Boston

Approved by the Governor.

Governor

Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Waterways Regulation Program
 Instructions, Chapter 91 Simplified Waterways License Application

Appendix C: Simplified License Plan - Sample Template

		License No. Approved by Department of Environmental Protection Date:
LAND OF SEVEN ARTS CONDOMINIUM		
 <p>Scale 1" = 50'</p>		
 <p>Scale: 1" = 10'</p>		
Purpose: Simplified Licensing	Plan accompanying petition of:	Project Description:
Adjacent Property Owners: 1. HAVER (1A) (1B) 2. CAMP HALF MOON 3. 4.	SEVEN ARTS CONDO ASSOCIATION MARC BERGMAN 17635 BONIELLO ROAD BOCA RATON, FL	SEASONAL SWIMMING & RECREATIONAL DOCK In LAKE BUEL At: MONTEREY County of: MONTEREY State: FLORIDA By applicant M BERGMAN date: 12/15/14 sheet: 1 of 1

Corrected