

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION

100 CAMBRIDGE STREET, BOSTON, MA 02114 617-292-5500

THE OFFICE OF APPEALS AND DISPUTE RESOLUTION

December 30, 2025

In the Matter of Wall Street
Development Corp.

OADR Docket Number: WET-2025-014
DEP File No. SE 315-1233
Walpole, Massachusetts

RECOMMENDED FINAL DECISION

Elizabeth Barrows (“Petitioner”) has filed this appeal with the Office of Appeals and Dispute Resolution (“OADR”)¹ challenging the issuance by the Southeast Regional Office (“SERO”) of the Massachusetts Department of Environmental Protection (“Department”) of an Amended Superseding Order of Conditions (“ASOC”) dated May 9, 2025. The ASOC was issued in accordance with the Massachusetts Wetlands Protection Act, G.L. c. 131, § 40 (“MWPA”), and the Wetlands Regulations, 310 CMR 10.00, *et seq.* The ASOC permits the construction of a four-foot wide, 420-linear-foot walking path in Riverfront Area to Pickerel Brook in Walpole, Massachusetts; alteration of two areas of Riverfront Area; and the implementation of an invasive species management plan in three additional areas of Riverfront Area. The ASOC overturned an Order of Conditions (“OOC”) dated September 11, 2023. The Petitioner asks that the ASOC be vacated.

¹ OADR is an independent quasi-judicial office in the Department which is responsible for advising its Commissioner in resolving all administrative appeals of Department Permit Decisions, Environmental Jurisdiction Determinations, and Enforcement Orders.

The Petitioner's Appeal Notice appealing the ASOC does not meet the requirements of 310 CMR 10.05(j)(2)b.v. The Petitioner has, to date, received several opportunities to amend her Appeal Notice but has failed to respond to my Orders in any way. I therefore recommend that the Department's Commissioner issue a Final Decision dismissing pursuant to 310 CMR 10.05(7)(j)2. and 310 CMR 1.01(10) dismissing this appeal and affirming the ASOC.

I. Facts.

The Petitioner filed her Appeal Notice challenging the ASOC on July 2, 2025. The Appeal Notice is a one-page document offering, in part, the Petitioner's "opinion that the mitigation via the submitted invasive management plan . . . will provide no sustainable benefit to the riverfront area" Notice of Appeal, p. 1. She "fe[lt] that work [authorized by the ASOC] will alter wildlife habitat beyond the thresholds permitted and it would substantially reduce the [habitat's] capacity to provide the important wildlife habitat functions listed in 310 CMR 10.60." Id. The Petitioner did not explain further.

On August 6, 2025, I issued an Order for More Definite Statement that required the Petitioner to file a More Definite Statement containing "a clear and concise statement of the alleged errors contained in the ASOC and how each alleged error [was] inconsistent with 310 CMR 10.00 and [did] not contribute to the protection of the interests identified in the MWPA" and "the relief sought, including specific changes desired in a Final Order of Conditions." Order for More Definite Statement, pp. 3-4. Pursuant to 310 CMR 1.01(11)(b), I also required the Petitioner to identify in the More Definite Statement the identity of her expert witnesses, "the credentials that establish the foundation for the expert witnesses to offer opinion testimony, and a summary of what the Petitioner anticipate[d] their testimony [would] be." Id. at p. 4. The More Definite Statement was due on September 8, 2025.

The Petitioner did not respond in any way to the Order for More Definite Statement. Accordingly, on September 11, 2025, I issued a second order requiring the Petitioner to submit a

response on or before September 19, 2025. I specifically noted that “[i]f the Petitioner fail[ed] to do so, the appeal [could] be dismissed.” Order of September 8, 2025. The Petitioner submitted no response to my September 8, 2025, Order.

To ensure that the Petitioner received the August 6, 2025, and September 11, 2025, Orders, I issued the following Order on September 22, 2025, “asking the Interim Case Administrator to send printouts of this order along with printouts of the September 11, 2025, Order and August 6, 2025, Order for More Definite Statement to the Petitioner’s address by certified mail.” I again informed the Petitioner that if she failed to respond that I would recommend that the Commissioner issue a Final Decision dismissing this appeal and affirming the ASOC at issue. According to the Return Receipt, which is on file with OADR, the Petitioner received the certified letter with the three Orders on September 25, 2025. The Petitioner submitted no response to my September 22, 2025, Order.

II. The Applicable Standards.

A. More Definite Statements.

Under the Wetlands Regulations at 310 CMR 10.05(j)(2)b.v., an Appeal Notice must contain:

a clear and concise statement of the alleged errors contained in the Reviewable Decision and how each alleged error is inconsistent with 310 CMR 10.00 and does not contribute to the protection of the interests identified in the Wetlands Protection Act, M.G.L. c. 131, § 40, including reference to the statutory or regulatory provisions the Party alleges has been violated by the Reviewable Decision, and the relief sought, including specific changes desired in the Reviewable Decision.

Where an Appeal Notice does not meet the requirements of 310 CMR 10.05(7)(j)2.b., it may be dismissed. 310 CMR 10.05(7)(j)2.c.

A Presiding Officer has the authority to order a Petitioner to file a More Definite Statement. This authority derives from 310 CMR 1.01(1)(b), which provides that “310 CMR 1.01 shall be construed to secure a just and speedy determination of every appeal,” and 310 CMR

1.01(5)(a), which permits the Presiding Officer “to take any action authorized by M.G.L. c. 30A to conduct a just, efficient and speedy adjudicatory appeal” The Wetlands Regulations incorporate these regulations into adjudicatory proceedings brought under 310 CMR 10.05. 310 CMR 10.05(7)(j)9.b.

The regulations also authorize a Presiding Officer to require a Petitioner to “to file [along with a More Definite Statement] sufficient evidence to meet the burden of going forward by producing at least some credible evidence from a competent source in support of the position taken.”² 310 CMR 1.01(11)(b). This regulation has been utilized in wetlands appeals to require the identification of expert witnesses at the outset of an appeal. See In the Matter of Town of Wilmington - Wilmington High School, OADR Docket No. WET-2012-020 & 021, Recommended Final Decision (October 12, 2012), 2012 WL 5377278, *3, adopted as Final Decision (October 22, 2012), 2012 WL 5377277.

B. Sanctions.

Under 310 CMR 1.01(10):

When a party fails to file documents as required, respond to notices, correspondence or motions, comply with orders issued and schedules established in orders or otherwise fails to prosecute the adjudicatory appeal; demonstrates an intention not to proceed; demonstrates an intention to delay the proceeding or resolution of the proceedings; or fails to comply with any of the requirements set forth in 310 CMR 1.01; the Presiding Officer may impose appropriate sanctions on that party. Sanctions include, without limitation: . . . (g) issuing a final decision against the party being sanctioned.

Even though the Petitioner is *pro se* (meaning not represented by an attorney), she is nevertheless required to comply with the applicable procedural rules. In the Matter of Dan and Eva Barstow, OADR Docket No. 2019-026, Recommended Final Decision (January 22, 2020),

² The Petitioner’s burden of going forward “means having to produce at least some credible evidence from a competent source in support of the position taken.” 310 CMR 10.03(2).

2020 WL 2616472, *5, adopted as Final Decision (February 19, 2020), 2020 WL 2616471; Lawless v. Bd. of Registration in Pharm., 466 Mass. 1010, 1011 n. 3 (2013). "Although [her] pro se status in the appeal accords [her] some leniency from these litigation rules, [she is] not excused from complying with them." Barstow, 2020 WL 2616472 at *5. A *pro se* litigant's failure to comply with Orders of a Presiding Officer may result in sanctions under 310 CMR 1.01(10). See, e.g., In the Matter of Daniel T. Boyle, OADR Docket No. 2023-062, Recommended Final Decision (May 29, 2024), 2024 WL 3649610, *3-4, adopted as Final Decision (July 3, 2024), 2024 WL 3649609.

III. Analysis.

Upon my review of the Petitioner's one-page Appeal Notice, I determined that it lacked the detail necessary to comply with 310 CMR 10.05(7)(j)2.b. Accordingly, pursuant to my authority under 310 CMR 1.01(6)(b), 310 CMR 1.01(11)(b), and 310 CMR 10.05(7)(j)2.b., I ordered the Petitioner to submit a More Definite Statement that complied with the Wetlands Regulations and that disclosed the identity and testimony of her expert witnesses. However, the Petitioner failed to respond to my Order for More Definite Statement in any way.

Because the Petitioner did not respond to the Order for More Definite Statement, I issued the September 11, 2025, Order requiring her to respond by September 19, 2025. I explicitly informed the Petitioner that a failure to respond to that Order would result in me recommending to the Commissioner that the appeal be dismissed. Even though she received that extension, the Petitioner nevertheless failed to respond in any way.

To ensure that the Petitioner received the August 6, 2025, and September 11, 2025, Orders, I issued the Order on September 22, 2025, and had all three Orders served on her by certified mail. The September 22, 2025, Order gave her additional time to respond to the August 6, 2025, and September 11, 2025, Orders. Again, I explicitly informed the Petitioner that a failure to respond to that Order would result in me recommending to the Commissioner that the

appeal be dismissed. Even though she received the certified mail from OADR on September 25, 2025, the Petitioner failed to respond in any way.

Dismissal is warranted in this appeal for two reasons. First, the Petitioner's Appeal Notice does not comply with 310 CMR 10.05(7)(j)2.b. Accordingly, this appeal should be dismissed. 310 CMR 10.05(7)(j)2.c. Second, the Petitioner was given three opportunities to file a More Definite Statement but did not respond in any way. Her failure to follow the Presiding Officer's Orders is grounds for dismissal under 310 CMR 1.01(10)(g).

IV. Conclusion.

For the foregoing reasons, I recommend that the Commissioner issue a Final Decision dismissing the Petitioner's appeal and affirming the ASOC.



Patrick M. Groulx
Presiding Officer

Date: December 30, 2025

NOTICE OF RECOMMENDED FINAL DECISION

This decision is a Recommended Final Decision of the Presiding Officer. It has been transmitted to the Commissioner for her Final Decision in this matter. This decision is therefore not a Final Decision subject to reconsideration under 310 CMR 1.01(14)(d) and may not be appealed to Superior Court pursuant to M.G.L. c. 30A. The Commissioner's Final Decision is subject to rights of reconsideration and court appeal and will contain a notice to that effect.

Because this matter has now been transmitted to the Commissioner, no party may file a motion to renew or reargue this Recommended Final Decision or any part of it, and no party may communicate with the Commissioner's office regarding this decision unless the Commissioner, in her sole discretion, directs otherwise.

SERVICE LIST

Elizabeth Barrows
189 Union Street
E Walpole, MA 02032
lizbarrows616@gmail.com

Petitioner

Louis Petrozzi
Wall Street Development Corporation
P.O. Box 272
Westwood, MA 02062
lou@wallstreetdevelopment.com

Applicant

Walpole Conservation Commission
c/o Landis Hershey, Conservation Agent
Walpole Town Hall, Rm 212
135 School Street
Walpole, MA 02061
Lhershey@walpole-ma.gov

Conservation Commission

Maissoun Reda, Wetlands Section Chief
Peter Backhaus, Environmental Analyst
Bureau of Water Resources
MassDEP – Southeast Regional Office
20 Riverside Drive
Lakeville, MA 02347
Maissoun.Red@mass.gov
Peter.J.Backhaus@mass.gov

Department

Peter Tison, Counsel
MassDEP/Office of General Counsel
100 Cambridge Street, 9th Floor
Boston, MA 02114
Peter.Tison@mass.gov

Department's Representative

CC: Shaun Walsh, Chief Regional Counsel
MassDEP – Southeast Regional Office
20 Riverside Drive
Lakeville, MA 02347
shaun.walsh@mass.gov

Department

Bruce Hopper, Litigation Manager
Jakarta Childers, Program Coordinator
MassDEP/Office of General Counsel
100 Cambridge Street, 9th Floor
Boston, MA 02114
Bruce.E.Hopper@mass.gov
Jakarta.Childers@mass.gov

Department