

November 12th, 2025

Durham Conservation Commission
c/o Michael Behrendt, Town Planner
mbehrendt@ci.durham.nh.us

**Re: Request to Investigate Wetlands Application
1 Riverview Court, East Wynfield Realty, LLC
RSA 482-A:11, III(a) Deadline "within 14 days following the date the notice is filed
with the municipal clerk"**

Dear Chair Trueblood and Members of the Commission,

This follows my letter from this summer introducing myself as Dr. Jim McKiernan. My wife, Carla McKiernan, and I live across the street from 1 Riverview Court, at 2 Riverview. We remain concerned about the ongoing possibility of 1 Riverview Court being developed. It continues to be obvious to us and other neighbors, like Ahmad Etebari, another abutter and who lives at 3 Riverview, that 1 Riverview has never been developed because it is so wet with tides and freshwater wetlands.

I reference the prior, but still as relevant now as it was this summer, letter sent to the Department of Environmental Services, that I enclosed this summer. As you know, in that letter, Mr. Peter Spear, a well-respected, NH-licensed Certified Wetland Scientist, provided his preliminary expert opinion about some of these concerns.

As you no doubt know by now, earlier this month, a state wetlands application was circulated to your Town Clerk. That triggered the 14-day deadline for the Department to receive your notice that you intend to investigate the application. Otherwise, you could lose the right to investigate. We implore you to use your option to tell the Department that you want to investigate the application. Time is of the essence. If this deadline was triggered on November 4, 2025, it would expire on Tuesday, November 18, 2025, meaning the Department must receive your notice by that day.

We also ask that as part of your investigation, you conduct a site visit at 1 Riverview with Mr. Peter Spear.

Thank you,

James V McKiernan

Dr. Jim McKiernan

PES Email before midnight 11/18/24

Alexander.D.Feuti@DES.NH.GOV



Via Email Only
New Hampshire Department of Environmental Services

June 30, 2025

Craig Day, Shoreland Specialist
craig.w.day@des.nh.gov

Travis Guest, Subsurface Systems Bureau Plan Reviewer
travels.l.guest@des.nh.gov

Darlene Forst, Wetlands Bureau Administrator
darlene.först@des.nh.gov

**Re: Tax Map 214, Lot 13, 1 Riverview Court, Durham, NH;
Standard Shoreland Application; File No. 2025-00998;
Application for Approval of Individual Sewage Disposal System; Work Number
202404317-3
Anticipated Wetland Application
Preliminary Opinion Letter from Peter Spear, CWS**

Dear Mr. Day, Ms. Forst, and Mr. Guest:

Enclosed, please find a letter from Peter Spear, Certified Wetlands Scientist, on behalf of our clients James and Carla McKiernan and Ahmad Etebari. Our clients' homes abut 1 Riverview Court, and they have seen for years how wet 1 Riverview is, both with freshwater wetlands and high tides of the Oyster River such that 1 Riverview Court should not be buildable. That is probably why it has remained unimproved for decades while the rest of the neighborhood has grown up. As Mr. Spear notes in the enclosed, it seems that the applicant seeking to develop this very wet lot has overestimated its buildability by virtue of underestimating the portions of the lot subject to the Department's jurisdiction. Please do not hesitate to contact me with any questions.

Very truly yours,

Amy Manzelli, Esq.
Licensed in New Hampshire & Maine
(603) 225-2585
manzelli@nhalaw.com

CC: Client



Natural Resource Consulting Services

**Mrs. Amy Manzelli, Esq.
BCM Environmental and Land Law, PLLC
3 Maple Street
Concord, NH 03301**

RE: 1 Riverview Court, Durham, NH

June 18, 2025

Dear Mrs. Manzelli:

Thank you for retaining Natural Resource Consulting Services to review various filings regarding a proposed new single family home located at 1 Riverview Court in Durham, NH. I visited the site on August 15, 2005 for another client. I revisited the perimeter of the same property on June 13, 2025. This letter-type report constitutes my preliminary review of the NHDES on-line Septic Application and Shoreland Impact Permit Application Plan both prepared by Meisner Brem Corp.

I met with clients James and Carla McKiernan and Ahmad Etebari on 6-13-25 at the site, walking the perimeter. The subject property is densely vegetated with mature hardwoods with multiple layers of sub-dominant trees, shrubs and a robust herbaceous ground cover. The site was excellent wildlife and vegetative habitat in 2005 and remains so now.

Thomas Sokolowski, NH Certified Wetland Scientist is noted on the NHDES Shoreland and Septic Applications plans as having delineated the State-jurisdictional wetlands and the high tide line. The plans indicate that the field work for the wetland/tidal line research was performed on January 2, 2025. The ground would be frozen at this time of the year with snow cover and all ground cover wetland/upland herbs/grasses would not be identifiable. Subtle nuances of micro-topography and vegetation would be invisible or not discernible – calling some question into the accuracy of the wetland and tide lines, both of which are critically important to the larger question of where setbacks and buffers begin. Neither application provides NHDES-required Certification that the Edge-of-Wetland or high tide line is correct according to a State Certified Wetland Scientist. Mr. Sokolowski is listed as delineating the wetlands/tide line but no one Certifies by stamp and signature that the wetland/tide line is correct and accurate. This omission is odd. In full disclosure, I am acquainted with Mr. Sokolowski as a former employee of NRCS in the early 1990's, and he is well-respected in the field.

There are three colors of plastic flagging along the wetland and tide line with faded codes and numerous broken pieces of flagging on the ground. The flagging lines are difficult to discern. Flagging in the ground can be innocent, but it could possibly mean that the location of some original flags was altered, or others added. Anecdotally, James McKiernan reported an on-site meeting in the spring of 2025 with someone who identified himself from Meisner Associates, and working on the site's wetlands. It is not clear from the Meisner plans attached to the Shoreland Protection and Septic Applications whether the wetland and tide lines shown are an amalgamation of several people. To reiterate my earlier observation, there is no signed and stamped Certification on either Plan certifying the accuracy of the wetland and tidal features.

It was my distinct opinion from viewing the wetland/tidal flags from the abutters property with a binocular that both the wetland and the high tide lines under-represented the extent of both state-jurisdictional ecological features. In my opinion there is an under-statement of the highest observable tide line and wetland line throughout. Dr. James McKiernan provided me with several high tide photographs from January 2024 which clearly show how high the tide really reaches on this site. These photos are attached to this letter.

I remember from my August 15, 2005 site visit [during the growing season] that there was a considerable stand of Jewelweed extending the wetland edge uphill to the internal stone wall. This extension of the freshwater wetland line does not appear in either Meisner plan. Additionally in 2005, I documented an intermittent wooded swale originating at the culvert crossing of Riverview Court. I still believe that portion of the site should be checked for wetland-jurisdictional habitat.

The Applicant's Shoreline Protection Application shows a test pit with no ledge. My 2005 investigation with a ledge probe indicated that the site was shallow to bedrock. I think it would be prudent for the NHDES to request additional test pits or logged ledge probes to be done in the down-gradient area below the proposed "Clean Solutions" septic system. It is possible that ledge reaches closer than two feet below the ground surfaces, therefore reducing the effectiveness of the proposed septic system.

At very least the NHDES should require a peer-review of these questionable wetland/tide lines and ledge regarding the Shoreland Protection and Septic System Applications as they are the foundation upon which the entire application is based. The foregoing opinions are based on what I could observe from the adjacent properties [June 13, 2025] and on my August 15, 2005 on-site investigation. I appreciate your confidence in NRCS.

Very truly yours,

Peter Spear, NH Certified Wetland Scientist [#103]

/s/ Peter Spear
NH Certified Wetland Scientist [#103], Natural Resources Consulting Services
June 30, 2025



“January 13, 2024: 1230 hrs. Highest Observable Tide: Note standing water well into the hardwood forest. Note further that the standing water is well-inland of the normal tide strand-line. The water even reaches past the brush at the edge of the opening to the base of oak and white pine trees. Note discarded Christmas tree which is still visible in the woods.”

