

TOWN OF HALIFAX, MASSACHUSETTS

BOARD OF SELECTMEN

DECISION ON APPLICATION OF MORSE BROTHERS, INC FOR SOIL REMOVAL BY-LAW PERMIT

I. Procedural History

- A. On October 4, 2023 Morse Brothers, Inc. (“Morse Brothers”) filed an application (the “Application”) with the Board of Selectmen (the “Board”) for a permit pursuant to Chapter 144, Soil Removal, of the Town’s General By-laws.
- B. On November 6, 2023, the Board of Selectmen opened a public hearing on the Application at which representatives of Morse Brothers, Town officials and members of the public presented testimony.
- C. On November 6, 2023, the Board voted unanimously to close the public hearing.
- D. On November 15, 2023, the Board deliberated on the Application and voted 2-0-0 to grant to Morse Brothers a permit pursuant to Chapter 144, Soil Removal, of the Town’s General By-laws, subject to the Findings and Conditions set forth below.

II. Documents Submitted Into Record of Public Hearing

- A. The following documents were submitted into the record of the Board’s public hearing:
 1. Correspondence from Morse Brothers’ attorney to Board of Selectmen dated October 3, 2023;
 2. Application for permit pursuant to Chapter 144, Soil Removal, of the Town’s General By-laws;
 3. “Site Plan Assessors Parcel 29-1&2-0 #250 Lingan Street Halifax, Massachusetts ... September 20, 2023 ... Sheet 1 of 4 ...” submitted by Morse Brothers;
 4. Plan entitled “Existing Conditions Assessors Parcel 29-1-0 #250 Lingan Street Halifax, Massachusetts ... March 4, 2022 ... Sheet 2 of 4 ...” submitted by Morse Brothers;

5. Plan entitled ““Existing Conditions Assessors Parcel 29-1-0 #250 Lingan Street Halifax, Massachusetts ... March 4, 2022 ... Sheet 3 of 4 ...” submitted by Morse Brothers;
6. Plan entitled ““Existing Conditions Assessors Parcel 29-1-0 #250 Lingan Street Halifax, Massachusetts ... March 4, 2022 ... Sheet 4 of 4 ...” submitted by Morse Brothers;
7. Correspondence from Patrick G. Brennan, P.E., PGB Engineering, LLC to Halifax Board of Selectmen dated October 24, 2023;
8. Report from MassDEP entitled “250 Lingan St., Halifax (Morse Brothers Bog) MassDEP Joint Inspection-October 4, 2023”;
9. Memorandum to Town Boards, Departments and Officials from Selectmen Assistant regarding “Earth Removal Permit” dated October 13, 2023;
10. Memorandum from Board of Health dated 10/16/2023;
11. Copy of Chapter 144, Soil Removal, of the Town’s General By-laws;

III. Findings

A. The Board makes the following findings based upon the testimony presented at the Board’s public hearing and the documents submitted into the record of the Board’s public hearing:

1. Morse Brothers conducts a cranberry bog use at property identified as 250 Lingan Street in the Town (the “Property”);
2. Morse Brothers conducts an earth removal use at the Property which consists of removal of soil from an area of the Property identified as the Whaleback, the sifting of the soil to separate sand from the soil, the depositing of the sand on the cranberry bogs at the Property and the transporting of soil and/or sand from the Property by trucking or otherwise only for use at other cranberry bogs operated by Morse Brothers and not for sale;
3. The total amount of soil/sand removal authorized by this Permit is 20,000 ± cubic yards;
- 4.

IV. Conditions

- A. The Board hereby grants to Morse Brothers a permit (the "Permit") pursuant to Chapter 144, Soil Removal, of the Town's General By-laws, subject to the Findings above and the Conditions set forth below:
1. Earth removal shall not occur except between the hours of 7:00 a.m. and 2:55 p.m. Monday through Friday and in no case on a legal holiday. This shall include without limitation the starting of engines, loading and unloading of trucks and preparation for commencing of work.;
 2. All vehicles loaded with soil and/or sand shall be suitably covered to prevent dust and contents from spilling and blowing from the load;
 3. Vehicles loaded with soil and/or sand shall not exceed 10 miles per hour while on Lingan Street;
 4. To avoid conflicts with school buses, vehicles traveling to and from the project location for the purpose described in this permit shall not be present on Lingan Street during the bus pick-up and drop-off times provided by the Town.
 5. Morse Brothers shall be responsible for all spillage onto any public way of the Town from the earth removal. If it becomes necessary for the Town to clean and/or remove such spillage, the cost shall be paid to the Town by Morse Brothers;
 6. Morse Brothers shall be responsible for all damage to any public way from traffic occurring in connection with the earth removal, entering or exiting the Property;
 7. There shall be a limit of twenty-five (25) trips per day of vehicles loaded with soil and/or sand;
 8. Each truck and driver entering or exiting the property shall be provided by Morse Brothers with Exhibit A, a list of rules and regulations regarding road safety. Each driver shall sign an acknowledging receipt of these rules and regulations. It is the responsibility of Morse Brothers to keep a record of this information and provide it to the Town as requested.

9. This Permit may not be assigned without the written approval of the Board.

10. Morse Brothers shall notify the Board in writing at least 72 hours before any material change in earth removal pursuant to this Permit;

11. The Board and/or its representatives shall have free access to the Property to conduct weekly inspections at any time without prior notice to determine compliance with this permit.

12. No processing of earth and no operation involving earth materials other than the permitted removal shall take place on the subject premises during the period of time of the Permit unless specifically permitted by law.

13. No earth or other materials foreign to the subject premises, including but not limited to boulders, asphalt, cement, road construction debris, demolition debris and tree stumps, shall be brought onto and deposited on the subject premises during the time period of the Permit, except topsoil and living plant material for reclamation use. All stumps and debris shall be removed and disposed of in an approved location.

14. Earth removal shall be performed in phases on land areas of not more than five (5) acres each, hereinafter referred to as "phase areas." Work of any sort connected with earth removal shall not be performed on more than one (1) phase area at a time.

15. Morse Brothers shall, to the satisfaction of the Board, stake or mark clearly all phase areas and buffer zones with Schedule No. 40 two-inch PVC pipe at one-hundred-foot intervals. These boundary markers shall be maintained at all times during the time period of the original and any renewed permits.

16. Before excavation commences and at the expense of Morse Brothers, monitoring wells shall be drilled at locations and in numbers determined by consulting engineers of the Halifax Water Department who will conduct initial tests to determine ground and well elevations. All excavation shall be at least four (4) feet above the groundwater elevation as determined by the Halifax Water Department or its consulting engineer.

17. No excavation below the natural grade of any boundary line shall be permitted closer than fifty (50) feet to such boundary unless written consent is

given to the Morse Brothers by the Board and the owner of the property abutting such boundary.

18. The subject premises shall be kept free of any debris, including tree stumps. No debris generated on site shall be buried or otherwise disposed of on site without the prior written consent of the Board and the Board of Health.

19. Records showing the amount of earth removed shall be provided monthly by Morse Brothers, and quarterly reports certified by a registered professional engineer shall also be submitted to the Board. The method of measurement of materials removed shall be determined by the Board's engineer. The Board may require more frequent reports if it deems that circumstances warrant them. Reports to the Board by said engineer shall be at the Morse Brothers' expense.

20. The preservation of trees, bushes and other vegetation and the erecting of fencing may be required to muffle objectionable noise and vibration.

21. This permit is subject to a fee of fifty cents (\$0.50) per cubic yard, payable to the Town of Halifax. Any inspections by an engineer of the Town's choice to ensure that the work being done follows the approved plans and this section shall be paid by Morse Brothers.

22. This Permit shall automatically expire one (1) year after its issuance and may be renewed thereafter with a public hearing legally advertised fourteen (14) days prior to the hearing.

23. Application for renewal of this Permit must be made 45 days or more before expiration of this Permit. Application shall include a current topographical plan detailing current status and restoration progress. The renewal, if granted, shall date from the day the current Permit expires. Renewal shall not be granted if work and restoration under the current permit is unsatisfactory to the Board or its agent.

24. Any amendment in law or regulation that results in a change to any of these conditions must be revisited and approved by the Board of Selectmen prior to its implementation.

25. No activity allowed under this permit shall occur during the 2024 school vacation weeks of February 19th-23rd and April 15th-19th.

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TOWN CLERK
NOV 16 2023

Record of Vote

- A. The following members of the Board vote to grant to Morse Brothers a permit pursuant to Chapter 144, Soil Removal, of the Town's General By-laws, subject to the Findings and Conditions set forth herein:
 - i. Jonathan Selig
 - ii. John Bruno

- B. The following members of the Board voted in opposition to the grant of the permit:
 - i. Not Applicable

- C. The following members of the Board were not present and did not vote:
 - i. Naja Nessralla

- D. This Decision was filed with the Town Clerk on November 16, 2023.

Morse Brothers Trucking Rules

Lingan Street Halifax, MA 02338

Notice to Truck Drivers: Lingan Street is a quiet residential neighborhood. The residents are entitled to your courtesy and consideration. Please make every effort to respect the neighborhood and residents when operating your vehicle.

HALIFAX TOWN CLERK
RCUD 2026 NOV 16 PM 3:11

1. All Drivers must adhere to a speed limit of 10 MPH.
2. Use extreme caution when entering and exiting Lingan Street.
3. A signed copy of these rules must accompany every truck on Site.
4. If there is a pedestrian or cyclist on Lingan Street, trucks must provide at least a four foot buffer between the truck and the individual.
5. Trucks may not, under any circumstance, be on Lingan Street outside the hours of 7:00am and 2:55pm.
6. Trucks may not be on Lingan Street during the below times which are during bus pick-up and drop-off:
 - a. 8:00am-8:15am
 - b. 2:30pm-2:35pm

Any Violation of these rules will result in a \$300 fine from the Town of Halifax

I (print name) _____ Truck Driver for the
Truck Company (print company name) _____ have
read the above Morse Brothers Trucking Rules. I understand the Rules and will
follow the Trucking Rules.

Signature _____ Date _____.

Truck Driver Cell Phone Number _____.