

TOWN OF PEPPERELL
Planning Board
1 Main Street
Pepperell, Massachusetts 01463-1644
(978) 433-0336 Fax (978) 433-0338

FORM H-3

EXTENDED PERFORMANCE SECURED BY LENDER'S AGREEMENT

Date: _____, 2022
Pepperell, Massachusetts

Agreement made this date between the Town of Pepperell and Kenneth Tully, Hugh E. McGovern & George R. McGovern, Jr., hereinafter referred to as "the applicant" of Heritage Estates, and Enterprise Bank and Trust Company ("lender") to secure construction of ways, the installation of municipal services and all other terms and agreements for the subdivision of land shown on a plan entitled: "Heritage Estates, East Street, Pepperell, MA", prepared by Meisner Brem Corporation, dated November 20, 1998, recorded with Middlesex South District Registry of Deeds as Plan No. 295 of 2003 as amended by the plan of land entitled: "Approval Not Required Plan, Tax Map 31, Lot 2, Off Bacon Street, Pepperell, Massachusetts" dated May 15, 2007 recorded with said Registry of Deeds as Plan No. 608, of 2007 (collectively sometimes hereafter referred to as "Subdivision Plans") on land located at Lots 8-22 Heritage Estates, Pepperell, MA.

Know all men by these presents that the applicant has recorded a first mortgage with the lender dated 11/2/06 recorded in the South Middlesex Registry of Deeds, Book 48432, Page 205 covering the following land, Lots 1-28 Heritage Estates, Pepperell, MA as shown on the above referenced plan as security for the payment of a certain note in the principal sum of \$250,000.00 and that the applicant and lender hereby bind and obligate themselves, their or its executors, administrators, devisees, heirs, successors and assigns, jointly and separately to the Town of Pepperell, a Massachusetts municipal corporation acting through its Planning Board, in the sum of \$201,948.00 and have secured this obligation by the lender retaining said sum of money of said principal sum otherwise due the application to insure the construction of the way(s) and the installation of municipal services in the aforesaid subdivision and to insure the performance by the applicant of all covenants, conditions, agreements, terms and provisions contained in the following:

1. The subdivision control law and the Planning Board Rules and Regulations Governing the Subdivision of Land dated May 27, 1997;
2. Conditions included in the Certification of Approval issued by the Planning Board and dated August 23, 1999;
3. The definitive plan as qualified by the Certificate of Approval;
4. Other documents specifying construction or installation to be completed, namely:

This agreement shall remain in full force and effect until the applicant has fully and satisfactorily performed all obligations or has elected to provide another method of securing performance as provided in M.G.L. Chapter 41, Section 81-U. No occupancy permit for any dwelling on any lot taking its frontage from the new subdivision way shall be issued until construction and inspection of the binder course of the roadway from a public way to and along the entire lot frontage has been completed.

Upon completion by the applicant of all obligations as specified herein, on or before Two (2) years from the date of this instrument, or such later dated as may be specified by vote of the Planning Board with the written concurrence of the applicant, the interest of the Town of Pepperell in such funds retained by the lender shall be released, that portion of the agreement covering a specific state of work shall become void, and the lender may disburse such funds which have been held as security for a specific stage of work, to the applicant.

In the event the applicant should fail to complete the construction of ways, the installation of municipal services and all other obligations as specified in this agreement and with the time specified herein, any funds remaining undisbursed shall be made available in whole, or in part, by the lender to the Planning Board for the benefit of the Town of Pepperell to the extent of the cost to the Town of Pepperell of completing such construction or installation as specified in this agreement. Any unused portion of such funds will be released by the Planning Board and may be disbursed by the lender to the applicant upon completion of the work by said Town of Pepperell.

The lender hereby agrees that none of the funds retained as security, specified herein, shall be disbursed to the applicant without prior written release of said funds by the Planning Board.

Any amendments to this agreement and/or to the aforesaid security shall be agreed upon in writing by all parties to this agreement. This instrument is to amend and extend the "Performance Secured By Lender's Agreement" dated September 27, 2018.

In witness whereof we have hereunto set our hands this _____ day of _____, 2022.

SIGNATURE OF APPLICANT


AUTHORIZED REPRESENTATIVE
OF LENDING INSTITUTION

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF MIDDLESEX

On this _____ day of _____, 2022 before me, the undersigned notary public, personally appeared _____, the applicant, proved to me through satisfactory evidence of identification, which was one of the following (check applicable box): a Driver's License or other _____, being personally known to me and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Affix Seal

Notary Public:
My Commission Expires:

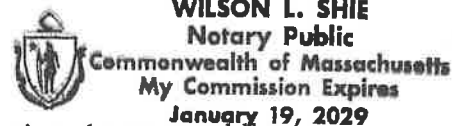
COMMONWEALTH OF MASSACHUSETTS
COUNTY OF MIDDLESEX

On this 9th day of June, 2022 before me, the undersigned notary public, personally appeared Lauretta T. Doyle, the authorized representative of the lender, proved to me through satisfactory evidence of identification, which was one of the following (check applicable box): a Driver's License or other N/A, being personally known to me, to be the person whose name is signed on the preceding or attached document and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Affix Seal

Wilson L. Shie
Notary Public: Wilson L. Shie
My Commission Expires: January 19, 2029

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF MIDDLESEX



On this _____ day of _____, 2022 before me, the undersigned notary public, personally appeared _____, one of the above named members of the Planning Board, proved to me through satisfactory evidence of identification, which was one of the following (check applicable box): a Driver's License or other _____, being personally known to me, to be the person whose name is signed on the preceding or attached document and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Affix Seal

Notary Public:
My Commission Expires: