

December 4, 2023

Jennifer Hager,  
Planning Director  
Town of Sutton  
4 Uxbridge Road  
Sutton, MA 01590

RE: PLANNING BOARD MEETING WITH DEVELOPER/ MICHAEL BRUCE FOR JONATHAN BRUCE ON  
11.20.23 AND INFORMATION PRESENTED BY DEVELOPER AND SEVERAL Forest Edge Trustees

Dear Ms. Hager,

Thank you for your email of November 27, 2023 and a copy of Jonathan Bruce's letter (dated November 27, 2023) on behalf of Sutton, LLC the developer of Forest Edge Condominiums.

Unfortunately, I was not present at the Planning Board meeting on the 20<sup>th</sup>. The trustees present provided me with a summary of what was presented by Michael Bruce on behalf of the developer, the trustees comments and questions/concerns by the Planning Board members.

Paragraph #2:

I agree in part (that the trustees present at the 11.20.23 meeting were not trustees in 2021) with Jonathan Bruce's statement in paragraph #2 and disagree with the balance.

Here are the facts, based on my personal knowledge as a unit owner and as a trustee/Treasurer since 2021, in response to Jonathan Bruce's statement:

1. The hill in question has been a problem since units were constructed on the land below.
2. I am a unit owner (86 Ariel Circle – purchased in early June 2020) and Treasurer/Trustee of Forest Edge and have direct issues/knowledge about the water/drainage/foundation cracks/repair issues that many unit owners have experienced and Board of Trustees have had to respond/address/expend large amounts of funds to try to correct. My unit is one of about a dozen Units (in area of #74 – 96 with water/crack/drainage issues– need to get all unit numbers from manager) that are located below the hill causing most of the water/foundation cracks/leakage issues.
3. Some other units (need to check with manager on unit numbers) away from the hill in question have also experienced water penetration/foundation/cracking issues.
4. I had water issue from when we first moved in in early June 2020. The area behind my unit is only about 20 feet or less from the foundation to the bottom of the problem hill. This area was constantly wet as mud for all of 2020, 2021 into 2022. The area under my deck had water ponding and would remain wet. The problem was so bad that Jonathan Bruce sent a worker over to place more soil under the deck and raked it towards the small remaining grass area (an area of about 6 feet in width from deck edge to hill bottom). This

helped somewhat, but that area under the deck is always soaked and water ponds toward right front deck area which is always wet and despite my adding soil and grass seeds no grass will grow there to this date.

**5. Other Units with similar issues:**

Some other units with water penetration issues:

#94 water penetration through back foundation wall at steel rod location - Cellar windows were sealed and foundation opening at steel rod was sealed - Condo Association costs;

#90 – Need to check with manager;

#88 – Water penetration issue in basement;

#86 – Crack in back foundation wall next to cellar window on the right side resulting in water penetration -Condo Association paid to have management company seal crack.

Several additional cracks on right side foundation wall caulked by Jonathan and his brother. Both Cracks had to be properly sealed – Condo Association costs;

#84 –Water pouring in through cellar windows due to ponding of 1 – 2 feet in back yard (large volume of water via a waterfall coming off top of the hill – Cellar windows had to be sealed, sand bagged and water pump placed to out of unit basement – Association cost;

Association bought a sump pump, hoses and electrical cords to set up in back yard to pump massive amount of water that accumulates from the waterfall – Association costs;

#82 -Large volume of water from the waterfall that accumulates in back and side yard; and

#80 –74 – Need to check with manager.

**Other Units in the complex:**

Need to check with the manager.

**History of the base of the hill and changes made to the same:**

1. Initially, Jonathan Bruce had a slight depression/swale at the base of the hill;
2. The hill and the area below, behind, on the side and front of the units did not have any vegetation;
3. Water runoff was a constant problem and the unit owners complained to Jonathan Bruce;
4. Jonathan Bruce had a slightly wider swale dug and lined it with fabric and riprap;
5. This riprap swale did not work (capture runoff water) because it was too narrow and not long enough (length – about 150 feet – from #88 and ran to about unit #82);
6. This swale which flowed into to open riprap swales next to unit #90 and #82, was ineffective and detracted from the esthetics of those units;
7. Unit owners were still having water problems and association engaged our landscape company (Evergreen Lawn Care) to construct a new swale – wider, much longer (runs from #90 to about #74), lined with fabric, riprap at base of the hill and underground 8 inch pipes alongside unit # 90 & #82;
8. The cost of this swale was mostly paid with association funds and a contribution from Jonathan Bruce. **Jonathan Bruce never told us not to do the swale.** All we did was do a longer, better

and more effective swale than his. When we accepted his small contribution we did not agree to absolve him of his design/construction/grading created drainage issues (THE DRAINAGE ISSUES ARE NOT CAUSED BY THE SWALE AT THE BASE OF THE HILL. THE DRAINAGE ISSUES WE ARE HAVING ARE DIRECTLY FROM THE DESIGN, CONSTRUCTION AND GRADING OF THE LARGE AMOUNT OF LAND ABOVE THE PROBLEM HILL – Units 146 - 154); and

9. This swale worked until the Summer of 2023 (experienced large amount of rainfall) when one of the underground 8 inch pipes was clogged with a plastic bottle(s) and possibly other construction debris; and
10. We also did another riprap swale down below a smaller hill next to #96. The land area next to and behind #100 was always wet so that you could not walk on it and many times the grass could not be cut without ripping up soil/grass. **(Jonathan Bruce would not address this area and did not make a contribution to do a riprap swale with a drain pipe. That area has since been much dryer and no issues cutting grass there).**

#### THE ISSUE– PROBLEM IS THE FOLLOWING:

**The issue is not what was done by us and Jonathan Bruce at the base of the hill. The problem is caused by the huge amount of land at the top of the hill and all the units in that area that add ROOF/GUTTER DOWNSPOUT rain water to the already large amount of water collected in this large area of land. All the water from the upper area collects on the surface due to the clay soil and then gravity pulls it to the low point and creates a giant waterfall or two inundating the land area next to the base of the hill.**

#### Paragraph #3:

I agree with Jonathan Bruce that Units #82 – 90 were delivered to the owners. I disagree that the land areas around those units were properly graded, seeded and stabilized. Several of the units required additional soil and reseeding due to wash outs from rain water and the large amount of rainwater cascading off the large amount of land above the problem hill. Puddling and ponding is still a problem in the rear and sides of many of the units below the problem hill. Also, the land areas in the back and sides in many of those units are not completely covered with grass even today (three plus years since conveyance). **The land area between #86 and 84 is still experiences a wash out whenever it rains due to the soil composition (mostly clay and rocks which cannot absorb the huge amount of water dumped in that area). We also had a small cave in of the asphalt side walk in the area of the above wash out which Jonathan Bruce refused to fix. I believe this area caved in due to wash out caused by the excess amount of water running between units #86 and #84 washing out above surface soil and perhaps below surface soil.**

The Town Inspector may have signed off with regard to those units, but no one checked with either the unit owners or the association to see if all was well.

Paragraph #4 – Addressed in my answer to Paragraph #2.

Paragraph # 5 – I disagree with some parts and have answered the others in my answer to Paragraph #2.

Paragraph #6 – I disagree with some parts and have answered the others in my answer to paragraph #2.

Paragraph # 7 – Jonathan Bruce is mistaken when he assigns the water/drainage/foundation crack/water penetration issues on the work on the base of the hill that he initially did and later was expanded by the association.

**The problem is not the base of the hill.** THE PROBLEM IS THE LARGE AMOUNT OF LAND AREA ABOVE THE HILL AND ALL THE WATER WHICH DRAINS FROM THE UNITS, COLLECTS THERE AND EVENTUALLY CASCADES/WATERFALLS DOWN THE HILL. That is the problem and it has nothing to do with the Condo association or any work done at the bottom of the hill. The problem is Jonathan Bruce's design, construction and grading.

Paragraph # 8 – I cannot speak to perimeter drains, inspections of the same and etc. since the Association was not involved or consulted in any way nor were we ever given any plans of such drains or any other important underground utilities, sewer locations, warranties on roofing, siding windows/door or foundation/cement construction details.

Paragraph #9 – I do not agree with Jonathan Bruce's statement that "there was positive drainage away from every foundation" in view of the early complaints made to him and the Association as detailed herein. I also do not agree that unit owners changed the grading around the perimeter of their unit. All the units I am aware of that have plantings have elevated the land in those areas. The association is not aware of any of these areas needing additional attention.

Paragraph #10 – Once again Jonathan Bruce is placing the blame on **the effect** (bottom of the hill riprap drainage) of the problem and not **the cause** (the large land area at the top of the problem hill collecting rain water and runoff from roofs/gutter/downspouts for the units in that area).

I strongly suggest that you and Robert S. Largess, Jr., Chair make a site visit so that you can see the area in question causing (large land area/units above the problem hill) the problem and the areas/units (below the problem hill) effected by the cause. I take this opportunity to thank you in advance for your thoughtful, kind and helpful assistance in reviewing/resolving these issues.

Very truly yours,



Alfredo A. ViVenzio,

Trustee & Treasurer

Forest Edge At Sutton Condominium Trust