Board of Appeals Meeting
July 22, 2020 – 6:30 PM
Town Hall

Meeting Materials

Board of Appeals Meeting
July 22, 2020 – 6:30 PM
Town Hall

AGENDA

CALL TO ORDER

MINUTES
October 16, 2019

APPEALS
Administrative Appeal – Troy Bryant – Map 35 Lot 27

Administrative Appeal – Jonathan Turgeon – Map 32 Lot 15

ADJOURNMENT

POLAND BOARD OF APPEALS
MINUTES OF MEETING
October 16, 2019
Approved on _____, 2020

CALL TO ORDER – Chairperson Mark Hyland called the meeting to order at 7:00pm with Members Gerard Bowes, Joseph Radziszewski, Jr, Lou Ann Lancaster, Code Enforcement Officer Scott Neal (CEO), and Recording Secretary Sarah Merrill are present.

Public Attendance: Michael Rosenthal, Stacy Sarno, Brian Beaulieu, Steve Lancaster, Michael Shapiro, John Conway, and Scott Grundin.

MINUTES – October 3, 2018 – Member Bowes Moved to approve the minutes. Member Lancaster seconded the motion. Discussion: None 3-yes 0-no 1 abstained (Member Radziszewski, Jr abstained as he was absent from that meeting.

COMMUNICATIONS – None

APPEALS – Administrative Appeal – Marla Dodie Rosenthal and Michael Rosenthal – 45 Garland Swamp Road – Map 32 Lot 8

- **Chairperson Hyland went through the procedure to be followed by the Board of Appeals (Board) and participants.**

- **Michael Rosenthal is present and representing the interests of Marla Dodie Rosenthal, his daughter.**

- **Conflict of interest among Board Members:** Chairperson Hyland asked if any members of the Board have a conflict on interest. The Board members all said they don't have any conflicts of interest.

- **Right, Title, or Interest by the Applicant:** Member Radziszewski, Jr moved to approve that the applicant has right, title, or interest in the property by way of the deed presented. Member Bowes seconded the motion.
  Discussion: None Vote: 4-yes 0-no

- **Standing:** Member Radziszewski, Jr moved to approve that Ms. Rosenthal has standing because there is a permit denied by the Code Enforcement Officer. Member Lancaster seconded the motion. Discussion: None Vote: 4-yes 0-no

- Mr. Rosenthal presented his case to the Board: Good evening Board Members and thank you for being here this evening to hear our appeal regarding our application for a dock on Tripp Lake. My family has owned our camp, situated at 45 garland Swamp Road, since 1952. I grew up at our camp and spent every summer there from 1953 until I graduated from college in 1975. Upon graduation,

I was married in 1975, and my wife and I spent summers at our camp thereafter. Our daughter Marla, the current owner of the camp, was born in 1982. My wife and daughter used our camp virtually every summer through the late 1990's and I joined them sporadically over the years. My wife, my daughter, and I utilized our camp on an intermittent basis thereafter. Our camp has an eight foot (8') right of way pursuant to our 1952 deed that permits us access to Tripp Lake. For more than forty (40) years, beginning in 1953 when our camp was remodeled, our family had a dock situated by our right of way. My family used the dock to dock our boats during these years. I retired recently and decided that I would spend summers back at our camp. This summer I filed the application for a dock permit which was denied.

- Chairperson Hyland – Mr. Rosenthal tell me. So, you have an eight foot (8') right of way. How much shore frontage is there? How many people have a right of way down to this particular spot?

- Mr. Rosenthal – Just our family.

- Chairperson Hyland – Alright is there an eight foot (8') section of shoreline that belongs to you and then there's camps on either side? How does that work?

- Mr. Rosenthal – It does not belong to us per se. We just have a right of way to the lake from our property. We have what you call the back camp, our neighbors at 49 Garland Swamp Road, have the front camp. They have a right of way over our property that's ten feet (10') wide to get down to their camp and we have an eight foot (8') right of way over their property to get down to the lake.

- Chairperson Hyland – Questions from the Board?

- Member Bowes – Who is the owner of the right of way?

- Mr. Rosenthal – The fee simple owner of the right of way is Stacy Sarno.

- Member Bowes – And how many feet of frontage is on the lake in total?

- Mr. Rosenthal – I don't know for certain, but I would say it's certainly less than one hundred and fifty feet (150').

- Member Bowes – Did I read sixty nine feet (69') in the package?

- CEO Neal – Yes

- Member Bowes – So it's sixty nine feet (69'). I also read that if it's under two hundred feet (200') a dock can't be permitted on a beach especially if there's already an existing dock. To Ms. Sarno – You have a dock?

- Ms. Sarno – Yes. We own a dock.

- Member Bowes – So as the owner you own a dock. Okay. So, your reason for denying the permit, one of them, was because it was less than two hundred feet (200'), there was already a dock and there can't be more than one.

- CEO Neal – Right.

- Member Bowes – That's the ordinance, right?

- CEO Neal – Yes

- Mr. Rosenthal – Would you like me to explain why I have a different view?

- Member Bowes – Sure

- Mr. Rosenthal – After the Officer Neal in his email to me, of July 29, 2019 states and I quote "I can't approve a dock on a right of way unless the deed is written to say that you may install a dock". Officer Neal's reason for denying the dock based upon the fact that our 1952 deed does not specifically state that we are entitled to have a dock with our right of way is contrary to a Maine statute that is directly on point. Title 43 Maine Revised Statutes, Section 459, paragraph two enacted in 2017 provides and I quote as follows "Easements or right of way established on or after January 1, 2018. The only other easement or right of way leading to or touching a water body does not have the right by implication to construct a dock on the easement or right of way or use the easement or right of way to facilitate the construction of a dock on the water body if the easement or right of way if the easement or right of way is originally established in a written instrument on or after January 1, 2018 and the instrument granting or reserving the easement or right of way does not expressly include the right to construct a dock on the easement or right of way to use the easement or right of way to facilitate the construction of a dock on the water body".

- Mr. Conway – I have copies of that for everyone. This is state statute.

- Mr. Rosenthal – Section 459, paragraph two, of Title 33 Maine Revised Statutes is the controlling law on this issue. The first point of emphasis regarding section 459 is the fact that the legislature grandfathered in people who had rights of way that were created prior to January 1, 2018. As I'm sure you know this is common

practice in legislation so as not to prejudice the rights of persons who are relying on the law as it existed prior to the change. In other words, to prevent the new law from retroactively changing existing legal rights. Our deed granting the right of way was granted in 1952. So, we would be grandfathered in and section 459 would not disallow our proposed dock. Furthermore, the language of section 459 paragraph two provides that the owner of an easement or right of way does not have quote "right by implication to construct a dock". The words "by implication" are very significant. The legislature included in the statute "by implication" to make it clear that existing law in Maine is that a person with a right of way to a lake had a right "by implication" of the right of way to build a dock so as to be able to obtain the full intended benefit of the right of way. See the leading Maine case on this superior court case Sleeper v. Loring, June 17, 2015. It of course makes good sense that a person with a right of way to access a lake would expect that the right of way would grant by implication the right to build a dock so as to get the full benefit of lake access. Officer Neal justifies his denial of the dock application in his letter of July 31, 2019 under the authority of Chapter 5 of the Town of Poland Comprehensive Land Use Code contending that we would need to have at least two hundred feet (200') of lake frontage with our right of way in order to be able to have a dock. As I'm sure all members of the Board are aware nearly every camp with frontage on the lake has a dock and virtually none of these camps has two hundred feet (200') of lake frontage. Yet, in spite of not meeting the two hundred foot (200') frontage requirement, which I understand came into effect by the Town of Poland code in 2001, even though our dock had been in existence for nearly forty years prior to that. All of these people with less than two hundred feet (200') of frontage have docks. To deny my family the right to have a dock based upon the two hundred foot (200') frontage rule is in my opinion unfair and unjust in view of the fact that other land owners have less than two hundred feet (200') of frontage and they are permitted to have docks. Officer Neal also cites Poland code Chapter 5 section 508.27 D.1 as justification of the dock permit. This provision in inapplicable as it was intended to prevent a single person from having two docks on his or her property unless that person had double the lake frontage needed for one dock. That provision was not intended to apply to a right of way situation. Under Officer Neal's interpretation of that code provision no person with a right of way would ever qualify to have a dock unless the right of way had two hundred feet (200') of frontage if the owner of the lakefront property already had a dock which is virtually always the case. With all due courtesy and respect to Officer Neal, I respectfully submit that his interpretation of the code is contrary to the plain meaning and intent of the Maine Legislature as set forth in Title 33 Maine Revised Statutes, section 459, paragraph two which was enacted in 2017 which is sixteen years after the code provision was put into effect. So, the Maine Legislature would take notice of the fact that the Poland code provision was already in effect. The dock that we have applied to construct is only eight feet (8') long. It is likely the smallest dock application ever filed with the Town of Poland. In applying for such a small dock, we were being sensitive to the needs of our neighbors as well as

being environmentally sensitive. It is for these reasons that I respectfully request that you grant our application to construct the eight foot (8') dock at the end of our right of way. Thank you very much for your time and consideration of our appeal.

- Member Bowes – You had discussed this with the Town Attorney before you issued the denial? Was the Town Attorney aware of this state thing?

- CEO Neal – Yes.

- Member Bowes – So does our local ordinance supersede the state? or how does that work?

- CEO Neal – I would have to refer to her. It was my understanding that that was only for new deeds created after 2018.

- Mr. Conway (Here with Mr. Rosenthal) – The other part, and a very persuasive argument made, another part of this is that this is a legally existing nonconforming use. This was clearly here long before the ordinance was ever in effect. I don't think there's any dispute as to that. Clearly the right of way was established long before there was an ordinance and the ordinance specifically allows for uses which were in effect at the time the ordinance came into effect to continue in effect as long as they don't become more nonconforming in fashion. There's nothing here, no evidence, I think you've heard very clearly from Mr. Rosenthal there's been no change in the use and the dock, we only have a picture on a phone, but we could show you that the dock is two four foot (4') section sitting and isn't even attached to the land. It sits in the water below the low water mark which may be another issue, but I don't think this Board needs to reach that. Seeing the Code Enforcement Officer's denial, I didn't see any discussion regarding grandfathering and why it was that a legally nonconforming use could somehow be eliminated based on an ordinance that came into effect forty years after that use began. Clearly that's not the case on any other nonconforming use you have in Town and I don't see anything in the ordinance that, in this particular ordinance, that's being cited that says that somehow it overrides the provisions of the ordinance regarding nonconforming uses.

- Member Bowes – When you're using the term grandfathering do you have any history, how many years ago you had a dock in that right of way?

- Mr. Conway – He just testified that there's been a dock there since 1953 he says.

- Member Bowes – Every year?

- Mr. Conway – Every year. That's been there all the time that he's used the dock and that he put the dock in there. Beyond going and finding out from the Town's Attorney whether this state statute might preempt some of the local statute you can look to your own ordinance, and I think as the Chairman expressed at the beginning of the meeting that's really the duty of this Board. To look at the ordinances and look and see what the interpretation is because that's pretty much what governs the Town of Poland and the use. I think it's well established that uses that were in place prior to the adoption of an ordinance can remain. In fact, they can be replaced, you can put in new ones that aren't more nonconforming, you can actually expand them in certain cases. Your ordinance deals with them on a somewhat lengthy basis as to how they can be dealt with and it wouldn't do that if they disappeared when they drafted the ordinance. The reason all of that's in there is because the ordinance needs to deal with those uses and explain how to continue with those uses with how they're allowed. There's no argument her that there's no expansion or any change in the use of it which would require Mr. Rosenthal to then get a permit for it. In fact, there may be a discussion about whether he even needs to get a permit, we're not raising that at this point, but … If you have a nonconforming building on a lot the Town doesn't go to it and say "you've got to go get a permit now", it's been there for forty years but now you've got to go get a building permit. That's the whole point of it. The ordinance itself says that uses which are new uses which come into play after the ordinance is adopted require permits pursuant to the ordinance. Thank you.

- Chairperson Hyland – Any other questions for Mr. Conway?

- Member Lancaster – Were there ever two docks on this property?

- Mr. Rosenthal – Not to my knowledge.

- Mr. Conway – When you say on the property, I think we should be clear and clarify for everyone. Do you mean on the right of way?

- Member Lancaster – On the right or way and or the sixty nine feet (69') of frontage.

- Mr. Conway – Well the sixty nine feet (69') of frontage is what we call in legal terms the servient estate. That's the land that – the land under the eight feet (8') Mr. Rosenthal's daughter – they don't own the actual ground. They just have the right to use that eight feet (8'). The case law that we've shown you is that the courts have said that one of the things that's implied when you have a right to get to the water is to be able to put a dock there to be able to use the water. And then the statue was probably somebody went to the Legislature and said we'd like to clean this up a little bit so that everybody can't show up and have a right to do it. There has to be … someone has to tell you you've got a right to do it before you can do

it. They did that because the implication is that you have a right. So, the eight feet (8') is the only piece of property that Mr. Rosenthal has a right to use. And that's where that dock has been, within that eight feet (8').

- Mr. Rosenthal – I'd like to clarify with respect to the question that you asked. I wasn't sure that I understood it correctly. At one point in time my family owned the front camp and the back camp. Of course, during that period of time there was only one dock because we owned both the front camp and the back camp. Prior to the time when we owned both camps, being the front camp and the back camp, there was a family, the Free family, was there for fifteen or twenty years and they had their own dock and we had our dock. So, there was one dock on our right of way and one by their property.

- Chairperson Hyland – When was the front camp sold?

- Mr. Rosenthal – Initially it was in my dad's estate and … he died in 1975 so I would think, I don't know exactly, sometime in the early Eighties it was sold initially and then it was resold to Ms. Sarno, I believe, in 2016.

- Chairperson Hyland – Okay. So, during the time when you owned the front camp there was one dock on the water?

- Mr. Rosenthal – That's correct.

- Chairperson Hyland – And then when you sold the front camp what you're saying is you placed a dock on the right of way and whoever the new owner was put a dock wherever they were going to put a dock?

- Mr. Rosenthal – I want to make sure I understand you exactly. Basically, somebody had a dock on their property before my father bought it. There was somebody before my parents bought the front camp that had their dock there and we had our dock by our right of way. And then when my parents purchased that property, must have been in the late Sixties perhaps, when my parents purchased that and we owned both pieces of property … then when we owned both pieces of property we didn't have a need for two docks.

- Chairperson Hyland – Any other questions for Mr. Rosenthal? Code Enforcement Officer do you have any other questions?

- CEO Neal – Nope.

- Chairperson Hyland – Anybody else in the audience have a question for Mr. Rosenthal? At this point just a question? Okay. Other people who are in support

of Mr. Rosenthal's request for an appeal of the Code Enforcement Officer's decision. People opposed to Mr. Rosenthal's. Okay. Come forward.

- Ms. Sarno – Good evening everybody my name is Stacy Sarno. I'm the owner of 49 Garland Swamp Road shown as lot nine on the assessor's map thirty two. My lot is behind the Rosenthal's lot eight. Lot eight as you are aware has an eight foot (8') right of way over my lot to access Tripp Pond per our deeds. Whether Mr. Rosenthal is asserting a right to install a dock over the right of way or as he did this summer a few inches from my sure I assert that he does not have the legal right to install a dock at either location. Rosenthal's argument that he has a right to install a dock because his family had once owned both properties and has done so in the past is not an argument supported by law. It is true that Rosenthal's family had once owned both lots eight and nine, however lot eight and nine were under common ownership of Dodie Rosenthal and then Marty Rosenthal beginning sometime in the Sixties until the early Eighties when both lots were conveyed to different owners. Pursuant to the doctrine of merger an easement is terminated if the owner of the dominant estate obtains title to the servient estate. The land that is burdened by easement is known as a servient estate and the land that is benefitted is known as the dominant estate. The basic principle of the right of way easement is the right to pass through the land of another and you do not need the right to cross your own land. The Rosenthal family at this time of common ownership did not have the restrictions we face today on the right of ways since there was no right of way in existence due to unity of title. There is no legal argument for historical use or prescriptive easement when the land is under common ownership. And I cited some case references in my Exhibit A. I have sixty nine feet (69') of water frontage, however I only have about twenty five square feet (25 sq. ft.) of natural beach area. You can fit about two beach chairs in this area. A portion of this area is off of the right of way. This is the only natural beach area we have on our property and the only area where my daughter plays in the sand, where we swim off the shore, and where we sit on the beach. As you are aware it is against Town of Poland code to install a dock that interferes with existing, developed, or natural beach areas. And per code we do not have enough frontage to install two docks. An added dock on my shore would restrict my family of the full use and enjoyment of our property. I put pictures on the Exhibit B of the beach area. It's very small. And pictures of the dock that was installed. And the blocks and bricks there. Rosenthal created a hazard situation for my family, especially my three year old by installing a dock off our shore and leaving bricks and a cinder block in the water. Even when required to move by code he left a dock pole and a cinder block in the water, which is also on Exhibit B. A grant of a right of way does not give Rosenthal a fee in the land. I am the fee owner of the eight foot (8') right of way. I pay the taxes on the land, not lot eight. A grant of a right of way does not exclude the servient estate from the use nor enjoyment of the eight foot (8') right of way or the shore. My property borders the water, not Rosenthal's and the riparian rights go to the owner of the land that abuts the water. Common law

principles of riparian rights generally include the right to install a dock and as I mentioned Rosenthal does not have any riparian rights. 45 Garland Swamp lot eight does not abut the water, nor does the grant of a right of way grant anything other than a right to pass. There is no other language in the deed that would suggest any other rights other than ingress and egress. As defined by Black's Law Dictionary a right of way would suggest any other rights other than ingress and egress is limited to the right to pass through the property of another. The Maine courts have ruled that a dominant estate which has been granted only an easement interest over riparian land of the servient estate by means of gaining access to the water does not thereby become entitled to exercise such riparian rights that are pertinent to the servient riparian land. In Rand Court V. Town of Glenburn, the Maine Supreme Judicial Court stated that a deed granting a right of ingress and egress alone did not indicate a right to place a dock at the right of way existed. See Exhibit A for case law. I would also like to mention that I've read Sleeper and there's a big difference between Sleeper and the rulings that have said you couldn't install a dock on a right of way. The difference is that I own to the low water mark. In Sleeper they owned to the high water mark so there's that intertidal land. So basically, there was no fee ownership in the land. The Supreme Court ruled that when you own to the low water mark, without express language in your deed, you don't have a right. The dominant estate, lot eight, in this instance has no right to engage in any of these activities on the shore without the permission of the shoreland owner. I am not granting any such permissive use to the Rosenthal's. In Merrill v. Parson the Court rejected the plaintiff's claim of the right to use the beach for recreational purposes. The Court noted the servient estate includes the beach and unfettered right to use the beach would directly impact the owner of the land. I am the fee owner of the beach area not lot eight. In closing I request that the Board affirms Code Enforcement Officer Scott Neal's decision.

- Member Radziszewski, Jr – I'm confused. How many people have right of way?

- Ms. Sarno – I own lot nine and Mr. Rosenthal's family has the house behind me, and they have an eight foot (8') right of way, just them have an eight foot (8') right of way to cross our property per our deeds.

- Member Radziszewski, Jr – So they're crossing your land?

- Ms. Sarno – They're crossing my land to get to the water. That's the plain language in the deed of ingress and egress nothing furthermore.

- Member Radziszewski, Jr – And that's changed to that when you bought the property?

- Ms. Sarno – What do you mean changed?

- Member Radziszewski, Jr – Well listening to what he was saying they've had those properties all along.

- Ms. Sarno – Well no they were under common ownership with his family until the early Eighties. The easements were terminated when they're under common ownership. So, when in 1983 his father Steve sold off my lot to I think it was the Begins and then Michael (Rosenthal) received lot eight and then he later gifted it to his daughter. To my understanding from the person I bought the property from, she owned my property for sixteen years and there's never been two docks on the property, I've owned the property for four years. I believe a representative from their family is hear today too. Lot eight has been … Maine calls it a hazardous building, I believe it's called, since 2013 and the Rosenthal family hasn't been to that property since the Nineties from what something Mr. Rosenthal once said and from the neighbors. So, I don't know about what they're talking about being more than one dock with anyone other than the owners of lot nine.

- Member Radziszewski, Jr – So has there been a dock there every year since you've owned it?

- Ms. Sarno – We just installed our dock last summer. We got a permit. And for sixteen years that Kathy owned it - do you know if she had had a dock on there (Ms. Sarno asked this question of an audience member. He confirmed this.) So, for over twenty years.

- Comment from an audience member not at a microphone.

- Chairperson Hyland – Sir could you let us know who you are.

- Mr. Grundin – My name is Scott Grundin and I am Kathy Carroll's son-in-law, she's the owner of 43 garland Swamp Road.

- Ms. Sarno – She's our neighbor. Her property is also … she's lot ten.

- Mr. Grundin – Kathy owns property 43 Garland Swamp Road and she owned property 45 and sold property 45 to the Sarno's a couple years ago. There was never a dock on that property since the early… she purchased it in the early Eighties I believe. There wasn't a dock on that property then. There's never been a dock in the right of way.

- Chairperson Hyland – Any other questions from the Board?

- Member Bowes – Yeah. So, Mr. Rosenthal's testimony here tonight said that every single summer they had a dock on that right of way, if I heard you right that's what you said.

- Mr. Rosenthal – I said when we owned both properties there was only one dock on the property. Prior to that when the property was owned by the (garbled) family for a period of time and the people who owned it before which is 1953 to when my parents bought the front property, which was I believe sometime in the late Sixties or early Seventies. During the period of time from 1953 to late Sixties or early Seventies there were two docks. That predates what Ms. Carroll who acquired the property in 1982. So, she wouldn't know what the situation was prior to the time when she purchased it in 1982.

- Member Bowes – During your ownership did he ever have a dock there up until this year?

- Ms. Sarno – No. The property has been abandoned for a long time.

- Member Radziszewski, Jr – And how long have you had the property?

- Ms. Sarno – Since 2016. And prior to that the previous owner had it for sixteen years.

- Member Bowes – Which he just testified that during your sister's ownership there was never a dock on the right of way.

- Mr. Grundin – My mother-in-law. No there was never a dock on the right of way.

- Ms. Sarno – And like I said the doctrine of merger applies when you're under common ownership. You can do whatever you want when your property is under one ownership. You don't need permission from the right of way holder because there's not in existence. When the two properties are under common ownership the right of way's are severed. So, lot eight and lot nine were under common ownership there's no right of way it's terminated by operation of law. I would just like to point out that we are the fee owners in the land. We own the beach area. We're the riparian owners. There's no other grant in the deeds that grant fee ownership or riparian rights to the Rosenthal's or a right to construct a dock. And even because the 2018 statute doesn't mean that you're grandfathered in. The courts were looking at language in the deeds to determine if a right existed not relying on the statutes for 2018 going forward. What the courts are looking at, their taking extrinsic evidence, outside of the grant in your deed. So, if the grant doesn't have it and you're not the fee owner of the land then you're not getting it.

- Member Radziszewski, Jr – Okay. I have one follow up question. For how many years was there not a dock from ’18 back? From ’19 back?

- Mr. Grundin – The whole time.

- Member Radziszewski, Jr – For how many years though? Back to the Eighties?

- Mr. Grundin – I only know after the Eighties.

- Member Radziszewski, Jr – Alright from the Eighties up there has not been a dock in the right of way?

- Mr. Grundin – On any of the properties.

- Member Radziszewski, Jr – On any of the properties. Okay. Thank you.

- Mr. Grundin – Can I say something? In my opinion opening this door to allowing docks on right of ways – what would stop multiple people who have rights of way. There are many rights of way that more than one person or property owner has the right of way. Well, are they going to share a dock? Are we putting multiple docks out there? Where he put his dock is basically right, in our view and in their view, where we would try to go to the water, where they would try to go to the water. And it was never there before.

- Ms. Sarno – We have a very small beach are. Very tiny beach area.

- Mr. Grundin – For thirty years or almost thirty years we’ve been there, and he has not been there.

- Chairperson Hyland – So Mr. Grundin are we talking about the same property? Is there more than one person on the right of way there?

- Mr. Grundin – (Garbled) Kathy Carroll owned the Sarno’s property and she sold to them and she also owns number 43 (lot ten). Right next to the Sarno’s.

- Ms. Sarno – She abuts both properties. She abuts both lots eight and nine.

- Chairperson Hyland – Okay. Where’s the right of way in relation to eight and nine? Or nine and ten?

- Mr. Grundin – We’re on the right side of it and he’s on the left side of it.

- Chairperson Hyland – So the right of way goes down between lots nine and ten?

- Mr. Grundin – Yes. (Board members conferring over this).

- Chairperson Hyland – But the right of way is all on your property?

- Ms. Sarno – Yes. I'm fee owner.

- Member Lancaster – Mr. Rosenthal's deed still states the fact it hasn't been altered at all of the fact that there was a right of way established back at the point in time it was to be transferred forevermore.

- Ms. Sarno – Well actually I think the right of ways were terminated by the operation of law and I think that there was a change in the right of ways when his father died. I think the attorneys were probably aware of that and changed the right of way to be ten feet (10') on one of the portions.

- Member Lancaster – (Garbled) that wasn't changed in the deed. The deed still states (garbled).

- Ms. Sarno – (Garbled) The deed changed. It didn't change the location of the right of way, but it changed the width of one of the right of ways.

- Chairperson Hyland – Okay. Anything else? Anyone else have anything in opposition to the appeal?

- Mr. Grundin – Did you receive a letter from my mother-in-law?

- Chairperson Hyland – yes.

- Mr. Grundin – okay. Is that something you could read? Or did you read?

- The Board confirmed they had it and had read it.

- Chairperson Hyland – Okay. Mr. Rosenthal is there anything you'd like to rebut?

- Mr. Conway – I understand there's a letter, but my client's never seen it. So, if there were letters that were sent to the Board, I'm wondering why…

- Chairperson Hyland showed Mr. Conway the two letters that were submitted to the Board.

- Mr. Rosenthal – First of all the argument regarding merger is inapplicable and let me explain why. Our family owned both pieces of property. That means that the Sarno owned right of way our our property, she has a ten foot (10') right of way over our property. That means her right of way merged as well. That means she has landlocked property that she can't get to under the doctrine of merger. It was never intended that it merged and that's why the deed in 1982 makes it very clear that the right of way is in existence. It's disingenuous to say that our right of way has now merged out of existence and their right of way over our property which they need to get to their property stays in existence. That's the first point. To make that argument is quite short sighted if the Board were to accept it. With respect to the existence of docks I have been there from 1953 and through 1975 when I graduated from college and thereafter periodically, we had a dock at least until the early Eighties. Where prior to that there were always two docks. And for Mr. Grundin to try and talk about what was in existence prior to his mother-in-law acquiring the property, that's just not the case. And the reason there wasn't a dock there for the other years is we weren't living there. Had we been living there and using the camp we would have had a dock. I can tell you that every year that we were there for any substantial amount of time we had a dock. It was either in the right of way or where the Sarno dock is now. To argue that because we weren't living there, and we therefore didn't have a dock that means we somehow waived our dock privileges.

- Member Radziszewski, Jr – I have a question for you though. How is their property landlocked?

- Mr. Rosenthal - I can draw you a very simple diagram. This is their property, this is our property, this is the road. Our property is in between. They have a ten foot (10') right of way to go from the road over our property to their property. We have an eight foot (8') right of way over their property to get to the lake. If you applied the doctrine of merger as Ms. Sarno suggests saying that our right of way merged because of the merger of title, then their right of way merged as well. Which means they can't go over our property to get to their property. That was clearly never the case in the deed in the 1980's makes it very clear that they grant the right of way to them and the right of way exists for our daughter.

- Member Radziszewski, Jr – So the bottom line is you both have a right of way. So that they can get over your property and you can get over their property.

- Mr. Rosenthal – That's correct. And to contend that the Maine Supreme Court case that Ms. Sarno cited somehow applies but the much later 2015 case in Sebago Lake doesn't apply is absolutely wrong. As a matter of law the court has held that a person who has a right of way to go to a lake, it's implied, it's an implication that one of the rights that goes with the right of way to get to the lake to enable the person to have full enjoyment of their right of way in access to the lake is to have

a dock. To not have a dock would basically make the right of way much less valuable than the grantor and the grantee expected when the right of way was created. That's what the case that we cited stands for. Thank you.

- Mr. Conway – A couple things – a number of the allegations or claims made by Ms. Sarno were incorrect. First of all, the right of way does run to the low water mark as you can see in the deed there. The language says it runs to the low water mark. She made a distinction between cases where they run to the high water mark or the low water mark, the right of way. So, that was incorrect. Additionally, the idea of merger is a red herring here. It's thrown out and I just want to make sure it's clear at the time when the two properties were owned there is a doctrine of merger that says if you own the servient estate and the dominant estate then they merge together. But when they were re-separated those rights of way were once again created. That was back in the 1980's so I'm not clear what relevance that would have to this case. This was still long before this ordinance had taken affect so I'm really unclear as to what relevance that would have in this case. I'm not disputing what she said necessarily it just doesn't really have any affect here.

- Member Bowes – I don't think she said that the right of way doesn't exist, she repeatedly said that the right of way is for ingress and egress to the water.

- Mr. Conway – That's not what the language in the deed says. You have the deed in front of you. It just says that it's a right of way that runs to the water. Okay? The statute which you've been shown and the case law which you've seen is clear in Maine that if you have a right of way to the water that includes, another case as well I can show it's a supreme court case in the state of Maine, that unless you don't have the right to put in a dock you have the right to put in a dock. Unless you can show by some other evidence that you don't have that right or you're going to interfere with someone else's use of the right of way in some fashion then you would have that right. Someone can come in and show you that. They can come and say look here's the situation we – we never intended for them, I'm the one who gave them the right of way I never intended for them to have a dock. You can go court and say that and if that's the case then the court might say fine. The reason the statute you saw is there is because it's addressing what Maine law is not common law, not Black's Law Dictionary, which is certainly not an authority of any kind, but what Maine law is. Maine law is the reason that statutes there it was put in to more or less, it switched the burden it now said it used to be that if you had a right to the water then by implication you had a right to put in a dock. For whatever reason and I didn't do the legislative history and I didn't hear from the prior speaker that there was any legislative history law. But for some reason someone decided that we were going to switch that burden we were going to make it so that the right of way says that you have a right of way to the dock when it's established after January 1, 2018. So now it flips it. Before that it was the opposite. If you had a right

of way to the water by implication you were allowed to put a dock, there. And if you want to let someone have a dock you write it right in the easement you give them.

- Member Bowes – But the reason we're here is there's no debate about the right of way ingress and egress exists. The reason we're here is a dock was installed without a local permit. He applied for local permit; Code Enforcement Officer cited a couple of different things that it didn't meet the criteria to have a dock installed there. So even though the right of way exists the local authorities because there's sixty nine feet (69') of frontage, there's already an existing dock, and there's a natural beach it's not allowed.

- Mr. Conway – It is if it's grandfathered in there. If it's there before the ordinance it is.

- Member Bowes – I don't see it in the deed. I don't see anything in this deed that says a dock is allowed in the right of way.

- Mr. Conway – It's not a matter of whether it says it in the deed.

- Member Bowes – You just said that. (Talking over each other) it is written that says it the dock has to be, can be installed, but it's not there.

- Mr. Conway – That's after 2018. No. It's for right of ways that were established after 2018. That's not a shrug. That's what the statute says. What that says is that it doesn't apply to any rights of way which were established before 2018. Do you understand? This one clearly established well before whether it was in '52 and it merged for some period of time and then was reestablished in the early 1980's it's still long before 2018. It's a use that is there and has been there prior to the ordinance and therefore it's a legal nonconforming use. On that point I want to make one other point because I have now had a chance to see a letter which was referred to by Mr. Grundin that is apparently from his mother-in-law and this doesn't say anything about there not being any docks there. In fact, it indicates that there was a dock there. In fact, it indicates that there was a dock there and the pole has been left in and there's a block that's bene left there.

- Multiple Board members corrected Mr. Conway saying that this letter is in reference to what Mr. Rosenthal left in the water from his dock.

- Mr. Conway – But it doesn't say anything about there not being other docks there. He came here to testify that his mother owns this property. This letter which is from the person who apparently lives there or at least has rights to be there doesn't say anything about that. This is the person who's apparently the eyewitness and it

doesn't say anything about that. I heard that there was this letter that you guys were getting that was refuting it.

- Chairperson Hyland – Help me out with right of ways Mr. Conway. It seems to me and I think my betters had this very same problem on Hyland Lake in Falmouth and that is does a right of way allow you access and egress to the water?

- Mr. Conway – A right of way actually allows you the use of a specific piece of property for many different uses. So, it can change.

- Chairperson Hyland – Let's be more specific. Can I set up a boat shed on my right of way?

- Mr. Conway – On your right of way?

- Chairperson Hyland – Yes. Could Mr. Rosenthal set up a boat shed to keep his lawn chairs and things like that?

- Mr. Conway – I it was there prior to the ordinance being established, yes.

- Chairperson Hyland – Well that's kind of not what Sleeper v. Loring says. It says that if you store property there that's not what a right of way is. A right of way does not allow you to store property.

- Mr. Conway – But that, but there's no argument in there that it was a legally nonconforming before the ordinance. You're mixing two things up here, I think. There's two different ways of looking at it. If the ordinance … if the easement was granted after the ordinance was passed, then it has to comply with whatever the rule may be. If it's before it or if you go around the lakes now for instance, you'll see that there are boat houses and they're right on the water and they're actually in the water.

- Chairperson Hyland – But they're not in the right of way.

- Mr. Conway – But they're in the water. But I'm just giving that as an example that talks about how nonconformance works. This is a little different. You couldn't do that now.

- Chairperson Hyland – What I'm saying though is that a right of way allows you passage. It doesn't allow you to store your stuff and do lots of things like you own the property.

- Mr. Conway – it may not. It's an interpretation of the ordinance. You could have a right of way that says that you could park cars on the right of way for instance, you could, we're not suggesting this does. You could have a right of way that allows you to drive a car across it which apparently people do have. So, there's different ones. That's not the issue here though. The issue is whether when you have a right of way to the water whether it allows you to put a dock there. And the case law in Maine is pretty clear that it says that prior to 2018 what the new statute said there was an implication that you can. Now the owner of the servient estate could come in and say 'No. No. No. We never told them they could do that. We have evidence we did.' You can make that argument against it if that were the case. There's no argument here about that because obviously the rights of way were established long before the people here were involved in it.

- CEO Neal – Where does it say in 459 that anything established before 2018 would get a dock?

- Mr. Conway – It doesn't say that. It says that if it's before 2018 it's by implication there's a right to have a dock. If you read it. It says it in the negative. It says that if it's established after that then you can't have an implication because, unless, it can't be by implication it has to be expressed. That's the purpose of the statute. The flip side of that is anyone before that can establish a dock by implication. Like I said it's not an absolute. It doesn't say you absolutely can have it, but the argument is that it can be implied within the right of way to the water. In this case I don't think that that really though matters because we're here with a right of way that's been used in this fashion prior to the ordinance even being established.

- CEO Neal – Well that use was also abandoned for how many years before the code came into place.

- Mr. Conway – Well, I think we have evidence here that it wasn't abandoned or that there may have been a sporadic loss…

- CEO Neal – (garbled) was abandoned before the code came into place.

- Mr. Conway – how do you know that?

- CEO Neal – I think we've heard enough people say that they were there before. I mean he says he hasn't been here since the Nineties.

- Mr. Conway – He never said that. I don't know what you heard. I never heard him say that.

- Member Bowes – I heard Mr. Grundin say that the whole time his mother-in-law owned the property there was never a dock in the right of way.

- Mr. Conway – We've had… That's what he said and I'm just pointing out his mother sent a letter and never even thought to mention that.

- Mr. Grundin – She was never asked to say that. I'm here representing her to speak for that and she will absolutely send a letter saying there wasn't one there if that's a big deal. I'm here to testify on that. I was asked to speak by the Sarno's about what was there, and I said what was there. I've been there now since the early Eighties, so I know exactly what was there. Beside what Mr. Conway said. I'm saying there wasn't one there and that's my testimony.

- Mr. Conway – Understood. I don't think anybody challenged that. All I'm saying is that …

- Mr. Grundin – You did.

- Mr. Conway – Excuse me…

- Chairperson Hyland – Guys. Guys. Mr. Grundin please.

- Mr. Conway – All I'm saying is that the person wrote the letter without any of that in it.

- Chairperson Hyland – We actually have heard from Mr. Rosenthal that they have not put a dock in there in at least twenty years.

- Member Radziszewski, Jr – Right. He said that.

- Mr. Rosenthal – First of all my family has continuously owned the property since 1952. So, to contend that we didn't own the property so we couldn't put in a dock that's absolutely untrue. What I said was that whenever we were there when we were living in the property for any substantial period of time, we had a dock on the property. In the early 1980's when the property was split up and Ms. Carroll ended up acquiring the property thereafter, we didn't have a dock except at sporadic periods of time, for very short periods of time. For a few years during that period, that I will submit, that for a substantial period of time that after 19 say '83, '84, '85 we did not have a dock there. But the only reason we didn't have a dock there was because nobody was living there. Whenever anyone was living there, we had a dock. It didn't make any sense to us if we weren't living there to keep a dock.

- Chairperson Hyland – Okay. Thank you. Umm. Yup.

- Ms. Sarno – I just wanted to bring up the doctrine of merger again. The reason that I brought that up. I wasn't trying to say that his right of way was extinguished and mine wasn't. I was trying to bring up a point that common ownership does sever the right of way. It was later revived. However, the point was that you can't claim historical use on you having a dock when you're under common ownership and the right of ways were terminated. You owned one parcel. The parcels weren't considered to be separated under common ownership. So, it was to refute the argument that there was historical use, when you can't have historical use on something when your right of way was terminated.

- Chairperson Hyland – Okay. But we have a deed from 1987 so we know from at least from then on.

- Ms. Sarno – Okay. I think his father's estate went through a trust, so I think on '83 they were revived.

- Chairperson Hyland – Okay. Thank you. Anyone else? For or against? Sir?

- Mr. Beaulieu – Yeah. There hasn't been anyone there for thirty years so there hasn't been… so there is no historical use. Plus, you can't put a dock on a beach area. And that's a Maine law. That's where my daughter plays. It's a beach. His right of way goes right down to it and it's just very small. So, if they go and put a dock there how am I going to get to the water? And what is she going to do? Smash her head off the thing when she's down at the beach? There was never one there and I just don't see it. You know?

- Chairperson Hyland – Unfortunately it doesn't extinguish the ability to use the property. Even though it's not been used.

- Mr. Beaulieu – There was never one there. It's a right of way. The right of way is to the water and then disperse. It doesn't say anything about a dock.

- Ms. Sarno – It just restricts our use as fee owners in the land. The cases that they're bringing up where they allow docks, they weren't the fee owners of the land. Some of the case law where they owned to the high water, basically it's that intertidal area, when you have high tide and low tide. It's like they didn't own this, so they allowed them to put a dock because the servient estate didn't own that. But we own the beach. Our boundary line is to the low water mark of the water. So, allowing someone that has just an eight foot (8') right of way just to pass to obstruct our property is just not right. And the 2018 statute doesn't mean that it's grandfathered in automatically. It means that the courts look at it. And the courts

decided that you have a fee ownership in the beach area you don't have a right to install a dock.

- Comment from Mr. Conway that's not clear.

- Chairperson Hyland – Yeah and we've gone back and forth. Any other things that anyone wants to say at this point? Last chance. Any questions of any of the people you've heard testify so far? Mr. Neal do you have any questions?

- CEO Neal – Nope.

- Chairperson Hyland – Okay. Then I'll close this part of the hearing.

- Member Radziszewski, Jr – What about, do you close it before…

- Chairperson Hyland – Oh no. If you've got testimony, then we certainly want to hear it.

- CEO Neal – No. Everything I needed to say was on record already.

- Chairperson Hyland – Okay. So, the reason… So, let's ask you some questions then. So, when you went to Town Attorney with some of this.

- CEO Neal – Yes.

- Chairperson Hyland – Under Title 33 Chapter 7 it seems to me that this right of way has been there for a long time, it's probably been used, it's probably had a dock on it. That we don't have the people here that granted the right of way in the first place, so we don't know what their intent was. It seems to me that we have to look at this broadly and say yeah, they didn't restrict it. They didn't say no docks. So, I'm uncomfortable with the idea that every right of way can have a dock. That means that the lake is just covered with docks.

- CEO Neal – That's what we're opening up.

- Chairperson Hyland – On the other hand I'm reluctant to extinguish someone's use of their property or their right of way that there's historic use of.

- CEO Neal – I mean we can call it historic use, but …

- Chairperson Hyland – Oh I know. It's old historic use.

- CEO Neal – We're talking Eighties here. Which predated this zoning. So, if it's been gone that long does it not require a new permit?

- Chairperson Hyland – We currently give permits for every dock that goes in the water?

- CEO Neal – Every new dock.

- Chairperson Hyland – Every new dock. Okay.

- Member Bowes – I'm hung up on this last paragraph of this 459. It says, this is dated 2017 which is pre '18, the instrument granting or reserving the easement of right of way does not expressly include the right to construct a dock on the easement of a right of way or the right of the easement of the right of way to facilitate the construction of a dock on the body of water. That's what you gave us.

- Mr. Conway – But you're missing the context. If I could explain it.

- Member Bowes – Sure.

- Mr. Conway – First of all I won't bore you with my law school education. But the first thing they told us was you should start at the beginning when you're reading something, and you should read it all the way to the end. Because, picking one thing out is hard to clarify. So, if you look at this entire section what it says is that the owner of an easement or right of way leading to or touching upon a water body does not have the right by implication to construct a dock on the easement or right of way or use the easement or right of way to facilitate the construction of the dock on the water body if and then it has two conditions. Those two conditions are joined by an and so they both have to be true. So, you don't have those rights if the easement or right of way is originally established in a written instrument executed on or after January 1, 2018. Clearly, we don't fall within it because we're outside of that. And then the instrument granting or reserving the easement or right of way does not expressly… so if you get an easement after January 1, 2018 in order to get a dock on it it has to expressly say you can have a dock. Before 2018 it's saying you don't have to have that in there.

- Member Bowes – I get it. I'll go back to my earlier comment that the deed just says the right of way to pass to the water. There's no language about construction of a dock.

- Mr. Conway – Cause, you don't need it before 2018. It's by implication.

- Member Bowes – (garbled) the ordinance.

- Mr. Conway – I understand. That's a different piece. I just wanted to go back over that.

- Ms. Sarno – One more thing. I actually have a deed here that does have restrictions. It was originally granting the right of way that restrict encumbrances on the property on the right of ways. So that would show intent. See if I can pull it up here. Alright I don't have it here. I can pull up the original right of way deed. I thought I had it here, but I don't have it here.

- Chairperson Hyland – Okay.

- Member Radziszewski, Jr – Okay I have a question for the Code Enforcement Officer. Isn't our ordinance it has more restrictions than state law.

- CEO Neal – We can be more restrictive; we can't be less restrictive.

- Member Radziszewski, Jr – Right. So, this thing from the state we can be more restrictive and that's allowable according to the state.

- CEO Neal – That's my understanding.

- Mr. Conway – Actually the way it works is that (garbled)

- Mr. Dulberg – Please go to a mic.

- Mr. Conway – I'm not saying that's never true. Okay. And I don't want to make any blanket statements, but generally if state law governs a certain area then unless it expressly says that local laws can be more restrictive, they probably can't be. They're preempted by that law. Now I'm not trying to tell you…

- Chairperson Hyland – Zoning laws can be more…

- Member Radziszewski, Jr – Right. Because I've heard it here…

- Mr. Conway – If the state law says it and in many cases the state law does say it, they'll say right in them, if you look at shoreland zoning laws they'll often say that local can be more restrictive or local law can do this. But it's specific to the law that they can do that. I'm not sure that matters in this particular case because what that simply says is by implication you can have docks on right of ways.

- Member Radziszewski, Jr – I think that it has meaning here because you throw out a state law and it overrides our zoning laws.

- Mr. Conway – That's I don't think the argument so much that we're trying to make is that the use has been in place long before the statute was in place. And that's what really … so what your ordinance says is that is there's a use in place at the time the ordinance is passed the ordinance can't get rid of it. Can't just say it's no good. Can't just put a restriction on it that gets rid of it. It has to allow that to happen. But if you file after the ordinance is in place then you have to meet all of the restrictions of the ordinance. That's the crucial point is was the use in place prior to the ordinance in place. And you have a whole section in your ordinance about nonconformance for that reason so that because obviously the slate isn't wiped clean when you put a zoning ordinance in. There's a whole town here. There's a whole, people are living here, everything's going on all of a sudden you put restrictions on it many of those prior uses couldn't meet the restrictions. But zoning ordinances in order to be constitutional have to have that nonconformance language in them. Because otherwise you'd be taking people's use of their property away by passing a law. Okay. Which the constitution limits that.

- Chairperson Hyland – Let me ask Mr. Conway while you're still here. Our ordinance says that no more than one pier, dock, or wharf, or similar structure located in the high water line of a water body is allowed on a single lot. So, this is a single lot and there's an easement across that lot, but it's still a single lot, right? We're not talking about having two lots here.

- Mr. Conway – Nope. It's an easement across a lot. That's correct.

- Chairperson Hyland – Okay. So then why is a second dock allowed? Because the ordinance says only one dock per lot.

- Mr. Conway – Well we go back to the same thing. If the use was allowing docks, there prior to the ordinance being passed then that wouldn't restrict it. It would only (garbled) after the easement was put on.

- Chairperson Hyland – So you're saying that the second dock is a nonconforming use?

- Mr. Conway – Yes.

- Chairperson Hyland – Okay.

- CEO Neal – So if that was a use our … under nonconforming uses if that was discontinued for a period of a year then it was no longer conforming.

- Mr. Conway – No. What the argument is the claim is that the right of way is for the right to use the water. The dock is using the water. It's the use of the water.

- CEO Neal – You're using the argument of history here where that presumption of use.

- Mr. Conway – They used the water. That's the argument that the right of way goes to the water, it wouldn't go to the water and this is where the implication comes in, easements wouldn't go to the water unless it was implied that you could use the water. You don't get a right of way to go to the water so that you can stand on the shore and look at the water. The idea is that you get a chance to use the water. That's what the cases have said, that's what the cases we've provided to you said is that that's what the courts have said is that when you get to the water it's implied that you can use it. And you can make use of the water.

- Member Bowes – What people typically do is use the right of way to moor a boat out on the lake so they can access their boat without having a dock there.

- Mr. Conway – I can guarantee you that there are hundreds of docks on rights of way currently in the Town of Poland. Hundreds. And they're on rights of way on land of other people that have docks on their property. There may be that many on Tripp Lake alone. This isn't breaking new law here. This is something that is common throughout this Town and with all due respect to the Code Enforcement Officer because I think he hopes that everybody has a permit for their dock I'm guessing that …

- CEO Neal – No. I know they don't. new docks. Anything since 2001 should, but I understand that there are historical docks in this lake that don't.

- Mr. Conway – Right. And there's more than one dock on many properties as well. And that's because of rights of way and because some people put two docks on their own property. That's been known to happen too. I'm not sure that's the argument that everybody wants because someone else did it everyone else gets to do it, but certainly rights of way for use for docks is not something new. Courts have dealt with it and the Town of Poland has seen it for years.

- Member Radziszewski, Jr – So, to your knowledge how is it that we have two docks that we're talking about? All I've been hearing about is the dock that couldn't go in. Where's this two dock thing.

- Mr. Conway – The two docks comes from the fact that what we have here is a parcel of land which is called the servient estate, okay for easement purposes, that's the Sarno's who own the land, the dirt, they own it. Granted over that land is an eight foot (8') strip to get to the water. That's the right of way. The two docks would be on the one lot because the servient estate lets the dominant estate use that eight foot (8') right of way doesn't give them the land itself. It's still on one lot. So, if they have a dock and they have a dock there's two docks on that one lot. That leads to two docks on the lot. That's how it would happen with a right of way across property.

- Mr. Beaulieu – So he said we had to prove it. We just proved it. For thirty years there's no dock there. You just said you have to prove it. He just said his mother-in-law owned the both of them. There wasn't anything there for thirty years plus you can't put a dock on an established beach area.

- Chairperson Hyland – Well you can put a dock on established beach area. There's nothing that prevents you from doing that. I understand that things are tight on your lot.

- Mr. Beaulieu – It's more than tight. It's the only place my daughter plays. It's our only way to get in the water. And you want to put a dock there, so she smashes her head off of it. It just doesn't make any sense.

- Chairperson Hyland – Okay. Thank you. So, there's a couple of things here from what I've heard tonight. There's a couple of different ways of dealing with this. It sounds like historically the right of way has had a dock on it. Off and on. Not recently. Not anything recently, but certainly in the past. It's a right of way of long standing. It's not something that was recently created. The ordinance is pretty clear that you're allowed one dock per lot. Well this is one lot. So, in theory it shouldn't have two docks on it. But there is historic use of the right of way for a dock. So, the questions then becomes, and then Mr. Conway agreed, that the dock is a nonconforming use based on our ordinance. And Mr. Neal pointed out that at some point a nonconforming use gets extinguished if it's not used. Usually that's a year. So that's where you are. We're left with a couple of different problems. You're left with the problem of this is a right of way that's been there a long time and there's historic use with a dock on it. Not recent use but certainly historic use. So, that's where we are. I'm not sure what the best approach is because I don't think we're going to solve anybody's problem either way.

- Member Bowes – I think you just summed it all up though.

- Chairperson Hyland – Well that's two different decisions. One is to say we affirm the use of the right of way, it's been used like that in the past, it continues to be

used like that and a dock can be placed on it. Or we say, the ordinance is clear only one dock per lot and the nonconforming use of two docks on this lot has been extinguished by no use over the last twenty years. Frankly that would be a court fight either way.

- Member Bowes – And there's opposition from the landowners that pay the taxes on it.

- Chairperson Hyland – Well. Yeah. People fight over rights of way all the time.

- Ms. Sarno found the historical deed she was looking for on her phone and shows her phone to the Board. She says that there's restrictions that rights of ways are not to be encumbered with vehicles or any other manner. So, it's basically saying that there shouldn't be a structure on the surface of the right of way. This is the original grant.

- Mr. Conway – Excuse me, but we're all here. You could go to the microphone so we can all hear.

- Chairperson Hyland – Do you have a way of sending that so we can get a written copy of that somehow.

- Ms. Merrill – I can go get it if you send it…

- CEO Neal – Stacy if you send it to me.

- Chairperson Hyland – We should all benefit from seeing what this says.

- Member Bowes – You never saw this before?

- CEO Neal – No. Not this one. No.

- Member Bowes – I wonder why it's not attached to the deed.

- CEO Neal – This is probably a historical deed. They get shortened over time.

- Chairperson Hyland – So you see the problem Scott. You've taken the approach that the ordinance says one dock per lot and that if we assume that the second dock is a nonconforming use then it's been extinguished from being a nonconforming use by the fact that it hasn't been used in the last twenty years.

- CEO Neal – Plus.

- Chairperson Hyland – And that's okay. But the other side of that is there are court cases that say that if you have a right of way there's an assumption, notwithstanding new law, that you can use it to put a dock on it.

- CEO Neal – But there are also court cases …

- Chairperson Hyland – Yeah. They go both ways. And it's all based on intent in the end. Landowner intent.

- CEO Neal – If we use the historical fact that it was there, we're going to open up right of ways to…

- Chairperson Hyland – Well yeah, I know.

- Mr. Conway – I might add to that if you go to removing every dock that's on a right of way, you're going to open up a bigger can of worms. Because I don't think this is being enforced currently in this town. So that is the message then I think that would also have a very significant effect on water and who has rights to use water.

- Member Bowes – I recall a case back in '14 on Range Pond something similar to this. So, we have been enforcing it. This isn't the first time.

- Mr. Conway – I'm not saying it is. I'm saying (garbled)

- Mr. Grundin – I'd like to say that it is possible that there are docks on right of ways and I'm wondering if the people who own the property that the right of way is on are okay with that? Obviously, they're not okay with that.

- Chairperson Hyland – Well no it's a mixed bag. It's not a factor if the right of way was granted by a previous owner. The new owners don't really have a say.

- Ms. Sarno – (garbled) Then she goes over previously heard testimony. It became a free for all by people in the audience speaking over each other without being on microphone.

- Member Lancaster – There was testimony that at one time there were two docks on that property.

- Chairperson Hyland – Right. So, you were going to email that to…

- Ms. Sarno – I did.

- CEO Neal – Sarah's going to print it out. She's printing it up now.

- Ms. Merrill returned and gave the copies to the Board.

- Chairperson Hyland – Okay. Ms. Sarno what you're suggesting here is in this deed is that a dock is the same as parked vehicle?

- Ms. Sarno – or in any other manner so you can imply that it's a structure on the surface of the right of way. Parked cars or any other manner. So parked cars is a vehicle, it's an encumbrance, it's a structure. Or any other manner you can imply that they're referring to a structure on the top of the right of way.

- Mr. Conway – If I might respond. There're two distinctions to be made. One is first of all the dock is not on the right of way. It's at the end of the right of way. It's actually in the water below the low water mark is where the dock sits in the water. That's number one. Number two. Well I think there's three actually. Number two I don't think that when you refer to a parked vehicle you in any way imply that it wouldn't allow a dock. But even in any other manner. If they didn't a dock on there and it's a right of way that runs to the water, it seems clear that they easily could have just said no parked cars or docks are allowed in the right of way. Third though is the argument that they have made all night long and that is this is in 1952. Subsequent to this the easements merged. And then they were reestablished without this language in there. So, it's really irrelevant in this matter.

- Ms. Sarno – If it's irrelevant then why are they looking at historic use then?

- Chairperson Hyland – Well I assume that the Rosenthal's reestablished the right of way and so the language is not the same. Okay. So, I will close the public part of this hearing and we'll open up for discussion by board members.

- Mr. Beaulieu – Where does our daughter swim? (garbled).

- Chairperson Hyland – I know that it's troubling. You've made your point sir.

- **Member Lancaster moved to close the hearing to the public. Member Bowes seconded. Discussion: None Vote: 4-yes 0-no**

- Chairperson Hyland – We'll move into the decision making part of this. Say what you think. It's not an easy one.

- Member Radziszewski, Jr – I've got a couple observations here. If Mr. Rosenthal was using docks all the way up through the last twenty five years, thirty years, it's one thing. He hasn't had a dock on there for quite some time. All of a sudden that pops up. We have an ordinance that says one dock. I guess you have a dock too. You have sixty nine feet (69') of property. He's got a dock over here and you've got a dock over here, that's my assumption. But I have a problem with trying to use it as historical and we're talking about things back in the Fifties, and then there's a break, and then for thirty years or whatever no use, and then all of a sudden you pop up and want to put a dock on it and there's another dock there. I have real issues with that. And the ordinance says one dock. That's the biggest issue I have with it. And you know we have these zoning ordinances and the reason I brought the thing up with overriding the state, which is probably the wrong term from the lawyers point of view, but you know they said that local can be more restrictive. And we happen to be more restrictive. So, I have a real problem with passing this. That's my observation.

- Member Bowes – I'm pretty much with you. In addition to Scott consulting with the Town Attorney and supported him by denying the permit.

- Chairperson Hyland – I think there's two right answers here. And it's difficult for me to extinguish historic use on a right of way. The deed doesn't say no docks. So, we're kind of left with it did have a dock on it for a period of time and then it did not for many years. Now it's got a dock on it again. I don't think you want to be real restrictive of rights of way. And try and interpret those. Because every property association and things like that in this town has got different rights of way and things like that. It's a problem. On the other hand, you can likewise say that the ordinance is clear only one dock per lot, and that the second dock is a nonconforming use, but the nonconforming use has been extinguished because it hasn't been used in many years. So, now they're down to one dock. So, I think you can parse this one either way you want. I don't think there's one right answer here.

- Member Radziszewski, Jr – I don't either. But there is one other thing and it was brought up earlier we want to be careful precedenting how we handle this. Because it opens up the whole Town of Poland with this issue.

- Chairperson Hyland – Yeah. If we take a rigorous approach to the ordinance we'll be meeting more often, and Scott will be very busy.

- Member Lancaster – I think the same way that if we extinguish the rights, we'll be opening up…

- Chairperson Hyland – Yeah. We could be.

- Member Lancaster – It could be a big problem. And it wouldn't be just stopping here.

- Chairperson Hyland – It would be. Scott would be busy for a long time.

- Member Bowes – Well, If the dock was in place every single year up until today. That's one thing. But where it hadn't been in in over thirty years. It was installed, a report was reported, our ordinance supports only one dock on one lot unless it's two hundred feet (200'). They still have rights to the lake. No one's denying that.

- Member Lancaster – But that right of way did have a dock at one point in time. And there was at one point in time two docks on that piece of property.

- Member Bowes – That was probably pre our ordinance.

- Member Lancaster – Sure.

- Member Bowes – And I'll add one more thing. Even though you've only owned it for a couple of years when you purchased the property you didn't have any docks on that property.

- Ms. Sarno – No. We didn't have a boat yet.

- Member Bowes – You didn't have a boat and the right of way dock wasn't there either. So, in your minds you never thought that would be a problem. You never saw that coming until you saw he installed it.

- Chairperson Hyland – Yes. Let's not go back and forth with the…Does everyone know what they're going to do? The Board said they did. Okay. Then you should make your motion positive and it's got to be made… So, does that mean we've got to affirm, to approve the appeal of the code enforcement officer's decision. Okay.

- Ms. Merrill – And then you vote for or against that.

- **Member Bowes – I make a motion to vote for the appeal of the code enforcement's decision in this matter.**

- Ms. Merrill – For recording purposes I would like clarification of what that means exactly. Because I'm confused. Are you…

- Chairperson Hyland – You've got to approve the appeal of Mr. Rosenthal to grant his permit for a dock.

- Ms. Merrill – That's not what I heard so that's why I asked for, that's not what he said so that's why I asked for clarification.

- Member Radziszewski, Jr – No. Just make that correction. We're making it in a positive fashion.

- Ms. Merrill – Right.

- Chairperson Hyland – So we're going to grant the appeal.

- Member Radziszewski, Jr – So we're going to grant Mr. Rosenthal's appeal.

- Chairperson Hyland – His administrative appeal.

- Ms. Merrill – Thank you. I just need that, we need that on the record, and we need to record it that way so that we're clear.

- **Member Lancaster seconded the motion. Discussion: None**
  Vote: 2-yes 2-no **Appeal is Denied**

- Chairperson Hyland – Oh that's a good one. That's one I haven't seen in a long time. Just so you know the way this works is that we've voted two – two and in order to sustain a successful appeal it takes three members voting in the affirmative. So, what we've done is denied the appeal. We've upheld the Code Enforcement Officer's denial of the permit. That means we get to go through the ….

- Ms. Merrill – You usually use page 213.

- Chairperson Hyland – is that the one I'm using?

- Mr. Conway – Will you be drafting a Conclusions of Fact and Findings of Law?

- Chairperson Hyland – Correct.

- Ms. Merrill – We're going to do that right now.

- Mr. Conway – and then sent to us.

- Ms. Merrill – Correct.
- Chairperson Hyland – And you have 45 days to appeal that.

A. FINDINGS OF FACT:

1. Name of Applicant: Michael Rosenthal
2. Mailing Address: P.O. Box 15
3. City or Town: West Poland State: ME Zip: 04291
4. Telephone:
5. Name of Property Owner (if different from applicant): Marla Rosenthal, 109 Mariners Walk, Milford, CT 06460
6. Location of property for which variance is requested (street/road address): 45 Garland Swamp Road, Poland, ME 04274
7. Zoning district in which property is located: Rural Residential 2, Aquifer protection Overlay 1, and Limited Residential District.
8. Tax map and lot number of subject property: Map 32 Lot 8
9. The applicant has demonstrated a legal interest in the subject property by providing a copy of a: deed.
10. The applicant proposes to establish a four foot by eight foot (4'x8') dock at the end of the eight foot by eighty-six foot (8' x 86') right of way.
11. The completed application was submitted on July 29, 2019 and the Code Enforcement Officer denied the application on July 31, 2019. The Application for Administrative Appeal was received on September 17, 2019.
12. A public hearing was held on October 16, 2019.
13. The relevant sections of the Poland Comprehensive Land Use Code are: §303.1, §303.2. C., §508.27. D.1., §508.27. D.3., §508.27. E., §504.4. B.
14. The other relevant factors are as follows:

a. The lot contains sixty-nine feet (69') of shore frontage which is less than the minimum two hundred feet (200') of shore frontage. The ordinance, §508.27. D.1., is clear that only one dock per lot for shore frontage of that size.
b. We heard testimony from Mr. Rosenthal that the right of way had a dock on it in the eighties and maybe the early nineties. We heard testimony from Mr. Grondin that there has not been a dock on the right of way for more than twenty years. Mr. Rosenthal from his testimony confirmed that. §504.4. B of the ordinance prohibits the resumption of a non-conforming use that has been discontinued after 1 year.
c. Mr. Bealieu's testimony stated that the dock interfered with a natural beach are in violation of the Town's ordinance §508.27. D.3.

B. CONCLUSIONS OF LAW:

Based on the above stated facts and the provisions of the ordinance cited, the Board concludes that the deed of the right of way does not prohibit the use of a dock. However, the shore frontage for the lot is sixty-nine feet (69') and the ordinance does not allow for more than one dock per lot for a shore frontage of that nature. A second dock on that lot was a nonconforming use and that nonconforming use was extinguished more than twenty years ago because a dock has not been placed on the lot in the last twenty years. Also, the ordinance does not allow a dock to interfere with an existing developed or natural beach area.

C. DECISION:

Based on the above findings of fact and conclusion, the Town of Poland Board of Appeals votes to deny your application for administrative appeal. If you are unhappy with this decision you may request a reconsideration by the Board within thirty (30) days of the date of this decision. You may file an appeal in the Superior Court within forty-five (45) days of the date of this decision.

POLAND BOARD OF APPEALS
MINUTES OF MEETING
October 16, 2019
Approved on _____, 2020

ANY OTHER BUSINESS – Officers – It has been more than two years since a new chair has been picked.

Member Radziszewski, Jr moved to approve Jerry Bowes as Chairperson. Member Hyland seconded the motion. Discussion: None Vote: 3-yes 0-no 1-abstained

Member Radziszewski, Jr moved to approved Mark Hyland as Vice Chairperson. Member Lancaster seconded the motion. Discussion: None Vote: 3-yes 0-no 1-abstained

Vice Chairperson Hyland moved to approve Joe Radziszewski, Jr as Secretary. Chairperson Bowes seconded the motion. Discussion: None Vote: 3-yes 0-no 1-abstained.

In each of these votes the member being nominated from the position is the party that abstained from voting.

ADJOURN – Chairperson Bowes moved to adjourn the meeting at 9:12 pm. Member Lancaster seconded the motion. Discussion: None Vote: 4-yes 0-no

Recorded by: Sarah Merrill

Board of Appeals

_____ _____
Mark Hyland, Chairperson Gerard Bowes, Vice - Chairperson

_____ _____
Lou Ann Lancaster, Member Joseph Radziszewski, Jr., Member

_____ _____
, Alternate , Alternate

Libby O'Brien Kingsley & Champion LLC
ATTORNEYS AT LAW

KEITH P. RICHARD, ESQ.
krichard@lokllc.com

June 5, 2020

Poland Zoning Board of Appeals
1231 Maine Street
Poland, ME 04274

Re: Appeal from CEO denial of Shoreland Project Permit (# 20200132)/Bryant

Dear Board:

I represent Troy Bryant. We appeal pursuant to Poland, Me. Land Use Code § 304.3 (April 6, 2019) from an erroneous denial of a shoreland project permit application by your code enforcement officer dated May 21, 2020 (enclosed). I also enclose relevant documents to the application and appeal.

Mr. Bryant owns a deeded right of way to Range Pond that includes "shore privileges." Under controlling Maine law, and as intended by the parties to the original grant, "shore privileges" includes the right to install a dock. The CEO denied the permit on the basis that the property burdened by the right of way, Parcel 0035-0027, is in the same ownership (Lappin and Debartolo) as an adjoining parcel, Parcel 0034-0001. The CEO therefore concluded that pursuant to Section 504.5(C), the two parcels owned by Lappin and Debartolo are "combined" for purposes of the ordinances, and because they have installed a dock on Parcel 0034-0001, that a second dock cannot be installed on Parcel 0035-0027. This is an erroneous, absurd, and unlawful interpretation of your Ordinance, as well as an unlawful, unconstitutional attempt to take away Mr. Bryant's deeded property rights, which he relied upon in purchasing his property.

Mr. Bryant asserts the following grounds for the appeal:

- A dock has been installed and used for years by Mr. Bryant's predecessors-in-interest. Section 504.5(C) does not apply to Mr. Bryant's dock application because the use is a preexisting nonconforming use that predates the adoption and effective date of the ordinance. Pursuant to 504.2, Mr. Bryant has a legal right to continue the use, and Section 504.5(C) does not apply.

- Even if the ordinance did apply (which it does not), the interpretation of Section 504.5C is contrary to the plain language and intent and is accordingly based upon an error of law.

- Section 504.5C regulates principle structures on vacant, undeveloped lots, not sheds, garages, and similar accessory uses. A dock is such an accessory use, not a principal structure, and thus combining the lots for the purposes of the permit application was an error of law.

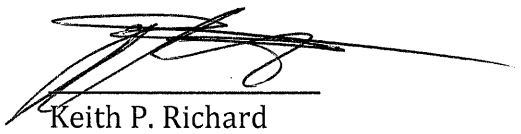
- Section 504.5C is intended to regulate multiple structures by the same owners on nonconforming lots; it is not intended to apply here, to the rights of third parties with no relationship of rights in the existing structures on the adjoining parcel. The purpose of the ordinance is to preclude owners like Lappin and Debartolo from installing multiple docks where they already have one to provide access. It does not apply to deny citizens like Mr. Bryant his deeded rights, where he has no other interest in either of the erroneously combined parcels.

- The decision is arbitrary, capricious, and pretextual because the reasons given to Mr. Bryant for why he cannot install a dock have changed over time.

- The denial of the permit and interpretation of the ordinance is an unconstitutional taking of his property without just compensation, a denial of due process, and an unreasonable exercise of discretion and police power by the municipality.

Mr. Bryant reserves the right to present additional arguments and evidence. We ask that this decision be reversed expeditiously and without the need for recourse to Superior Court.

Sincerely,



Keith P. Richard

Tel: (207) 998-4604

Town of Poland, Maine
Board of Appeals
1231 Maine Street
Poland, Maine 04274

Application for Administrative Appeal

Appellant(s): Troy Bryant c/o Heath Richard, Esq.

Mail Address: 62 Portland Rd. Suite 17 Work Phone: 985-1815

Town/State/Zip: Kennebunk, ME 04043 Home Phone: ———

Road Location: Watson Rd.

Map # 0035 Lot # 0027 Sub-lot # _____

An Administrative Appeal is being sought for the relief from the decision, or lack of a decision, of the Code Enforcement Officer or the Planning Board in regard to an application for a permit or use approval. The undersigned believes that: (check one)

☑ An error was made in the denial of a permit or use.

☑ The denial was based on a misinterpretation of the ordinance.

☐ There has been a failure to approve or deny a permit or use within a reasonable period of time.

☐ (Other – please specify)_____

1. Attach a copy of any relevant papers (applications, site drawings, decisions, etc.) concerning the decision by the Code Enforcement Officer or Planning Board.
2. Attach copy of deed, sales agreement, or contract that gives you title, right, or interest in this appeal.
3. Indicate what section(s) of the ordinance that you believe is/are relevant to your appeal: SEE ATTACHMENTS AND COVER LETTER
4. Attach a statement describing the facts concerning your filing an appeal.

I hereby acknowledge that I have read this application and pertinent sections of the ordinances, and state that the information in this document is to the best of my knowledge true and accurate.

6/5/20

Appellant's Signature *Co-Appellant's Signature* *Date*

Code Enforcement Office
1231 Maine Street, Poland, Maine 04274
(207) 998-4604 sneal@polandtownoffice.org

May 21, 2020

Troy Bryant
151 Watson Rd.
Poland, Maine 04274

Parcel ID: *0005-0016C*

Located At: *151 Watson Rd.*
Zoning District: Rural Residential-2, Limited Residential, and Aquifer Protection Overlay 1.

Certified Mail # 91 7199 9991 7033 5025 5631

Dear Mr. Bryant,

You applied for a Shoreland Project Permit (# 20200132) for a dock on parcel number 0035-0027 on which you have a right of way. Accompanied with your application was the following:

- A letter from Keith P. Richard ESQ. from the firm of Libby, O'Brien, Kingsley, and Champion.
- A deed from Keystone Investments Group LLC to Troy J. Bryant dated February 4, 2020.
- A deed from the Stepp Living Trust to Keystone Investment Group LLC dated June 21, 2019.
- A property disclosure dated December 4, 2019.
- An electronic Shoreland Project Permit Application.

The parcel on which you would like to install a dock (parcel number 0035-0027) is a legal nonconforming lot with twenty (20') feet of lake frontage. The Town Attorney has researched the ownership of parcel number 0035-0027. Based on her research and a corrective deed from the Stepp Living Trust to David and Sheila Baker (Book 10111 Pages 305-308 dated June 21, 2019) the property of your right of way is now owned by Amy R. Lappin and John M. Debartolo. Because Ms. Lappin and Mr. Debartolo own the abutting property (parcel number 0034-0001) in the same name these properties are now combined per Chapter 5 §504.5.C Contiguous Lots-Vacant or Partially Built of the Town of Poland Comprehensive Land Use Code (CLUC). The combined properties of Ms. Lappin and Mr. Debartolo have shore frontage of approximately one hundred and fifty eight feet (158') and one dock is already installed on that parcel. A second dock is not allowed on that parcel per Chapter 5 §508.27. D. 1 of the CLUC.

7. That the expansion/change of use of the nonconforming use will not encroach further on the required setbacks;

8. Should the expansion/change of use of the nonconforming use require Site Plan Review, approval shall be obtained prior to any expansion/change of use;

9. Notwithstanding Paragraphs 1 through 8, above, a residential structure located in the General Purpose Districts may be expanded without Planning Board review provided such expansion complies with all other applicable standards of this Code; and

10. An accessory structure to a nonconforming residential use may be allowed provided such accessory structure complies with all other applicable standards of this Code.

B. Resumption Prohibited - A lot, building or structure in or on which a legal nonconforming use is discontinued for a period exceeding one (1) year, or which is superseded by a conforming use, may not again be devoted to a nonconforming use except that the Planning Board may, for good cause shown by the applicant, grant up to one (1) year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes at any time during the preceding five (5) year period.

C. Change of Use - An existing legal nonconforming use may be changed to another nonconforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to the criteria in Section 504.4.A Paragraphs 1 through 8, above.

504.5 Nonconforming Lots

A. Undeveloped Nonconforming Lots - An undeveloped legal nonconforming lot of record as of the effective date of this Code or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Chapter except lot size and road frontage can be met.

B. Contiguous Built Lots - If two contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Code, if all or part of the lot does not meet the dimensional requirements of this Chapter, and if a principal use or structure, which principal structure is not a shed, garage or similar accessory structure, exists on each lot, the nonconforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law and State of Maine Subsurface Wastewater Disposal Rules are complied with.

   If two or more principle uses or structures, which principal structure is not a shed, garage or similar accessory structure, existed on a single lot of record on the effective date of this Code, each may be sold on a separate lot except in the Shoreland Area provided that the above referenced law and rules are complied with. When such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this Chapter.

C. Contiguous Lots-Vacant or Partially Built - If two or more contiguous lots or parcels are in single or joint ownership (owned by the same person or persons) of record at the time of or since adoption or amendment of this Code, if any of these lots do not individually meet the

dimensional requirements of this Code or subsequent amendments to the same, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined. This Section shall not be interpreted to require two or more legally conforming lots of record, owned by the same person or persons, on or before the effective date of this Code, that become nonconforming by adoption of this Code or subsequent amendments, to be combined.

505 DISTRICTS

505.1 Purposes

A. To implement the Town of Poland Comprehensive Plan policies and Future Land use Plan;

B. To provide for a separation of land uses that might otherwise be incompatible;

C. To protect the natural resources of the Municipality and those it shares with adjacent Municipalities from degradation;

D. To provide for an orderly future growth pattern; and

E. To provide for the health, welfare, and safety of the public and for the environmental quality and economic wellbeing of the Municipality.

505.2 Specific Districts

A. Village Districts - To preserve, enhance and continue existing mixed use development patterns that are characteristic of New England Village Centers; to allow for additional residential development; to allow non-residential development that is compatible with residential neighborhoods and village settings; to allow development that is consistent with historical land use patterns; to encourage the preservation of historically significant structures; to preserve the primarily residential nature of the Town's existing Villages; and to reflect the differing needs and varying conditions of Poland's Villages.

B. Historic Districts - To encourage the continuation, enhancement, and preservation of historically significant sites and structures in Poland; to enhance structures designated on the National Register of Historic Places; to encourage land uses which are compatible with the integrity and use of historic places and structures; and to recognize the diversity and differing needs of various historic areas.

C. Rural Residential Districts - To provide areas throughout Poland specifically for low density residential development where such development would not place an undue burden on the Town to provide a transitional area between more intensively used Village Districts and Farm and Forest Districts; and to recognize the diverse needs and varying resource conditions in Poland.

D. Farm and Forest Districts - To preserve the rural character of the Town by encouraging the retention of existing farmland, forest land and open space; to encourage and promote agricultural and forest management activities and provide land areas within Poland where agriculture and forestry can co-exist with limited residential development; to allow business related to agriculture and forestry; and to recognize the diverse conditions, needs and resource limitations of Poland's rural areas.

(3) Only native species may be used to establish the buffer area;

(4) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland; and

(5) A footpath not to exceed the standards in Section 508.27.M.2.a may traverse the buffer.

C. Multiple Principal Structures - If more than one principal structure is constructed on a single parcel of land, the "minimum lot area" requirement shall apply to each structure, and each structure shall meet the front, side and rear setback and road frontage requirements.

Each structure shall be so situated and constructed to be capable of being sold or transferred separately with a conforming lot except as may be allowed in Section 504.5.

D. Piers, Docks, Wharves, Bridges, and Other Structures and Uses Extending Over or below the Normal High-water Line of a Water Body or Within a Wetland.

1. No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 507.2 a second structure may be allowed and may remain as long as the lot is not further divided.

2. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

3. The location shall not interfere with existing developed or natural beach areas.

4. The facility shall be located so as to minimize adverse effects on fish, wildlife and waterfowl habitats.

5. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. The maximum width for residential facilities shall be no greater than six (6) feet in width and no greater than twelve (12) feet in width for commercial.

6. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity, said structures shall not exceed twenty (20) feet in height.

7. No existing structure built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to a residential dwelling unit in any district.

8. Permanent structures projecting into or over water bodies shall require a permit from the Maine Department of Environmental Protection pursuant to the Natural Resource Protection Act. Permanent structures projecting into or over water bodies shall not be allowed, with the exception of structures relating to existing dams and bridges.

    a) Vegetation may be removed in excess of the standards in Section 508.27.M of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

a. When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment access way must be restored.

b. Revegetation must occur in accordance with Section 508.27.P.

E. Individual Private Campsites - Individual, private campsites not associated with campgrounds are permitted provided the following conditions are met:

1. One (1) campsite per lot existing on the effective date of this Code or thirty thousand (30,000) sq. ft. of lot area within the Shoreland Area, whichever is less, may be permitted.

2. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.

3. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back a minimum of one hundred (100) feet horizontal distance, from the normal high-water line of a Great Pond, and seventy-five (75) feet horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. Camping units plus canopies must meet side, road and shoreline setback requirements.

4. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except a canopy shall be attached to the recreational vehicle.

5. The clearing of vegetation for the sitting of the recreational vehicle, tent or similar shelter in the Shoreland Area shall be limited to one thousand (1,000) sq. ft. Section 508.27.M may also apply.

6. A written Sewage Disposal Plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

7. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred twenty (120) days per year, all requirements for residential structures shall be met including the installation of a Subsurface Wastewater Disposal System in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. Parking Areas

1. The shoreline setback requirements for all parking areas and those serving public boat launching facilities shall be a minimum of one hundred (100) feet, horizontal distance, from the normal high water line or upland edge of a wetland.

2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, and where feasible, to retain all runoff on-site.

G. Roads and Driveways - The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features. For the purpose of this section maintenance, repair, and paving of existing driveways is not considered as construction nor is the maintenance and repair of private roads. Paving of private roads is however considered to be construction.

KEITH P. RICHARD, ESQ.
krichard@loklllc.com

Libby O'Brien Kingsley & Champion
ATTORNEYS AT LAW

May 5, 2020

Code Enforcement Officer
Town of Poland
1231 Maine St.
Poland, ME 04274

Re: Application of Troy Bryant to install dock in connection with right-of-way

Dear Code Enforcement Officer:

I represent Troy Bryant of 151 Watson Road. Based upon preliminary discussions with you and/or your office, Mr. Bryant has been led to believe that he cannot obtain a permit for a dock because he does not own the waterfront parcel. I write to make clear to your office that Mr. Bryant has the right to install a dock, and denying him a permit would be legal and factual error. If you believe that he lacks the requisite right, title, or interest, please make this determination in writing and the legal and factual basis for it so that we can immediately appeal to the Zoning Board of Appeals pursuant to Section 3-104.3 of the Town's ordinances.

Mr. Bryant's deed from the Bakers (as members of Keystone Investment Group) references the right-of-way as follows: "also conveyed . . . is a right of way and *shore privileges* so-called . . . to the westerly shore of Range Pond. (emphasis added)" Mr. Bryant's right-of-way can be traced to the original grantors, the Stepps, who conveyed to the Bakers by the following language: "Also conveyed herein and appurtenant to the premises hereinbefore described is a right of way and shore privileges so-called, over a strip of land leading from the right of way as delineated upon the Plan prepared for Allen D. Watson herein recorded . . ." It is my understanding that Mr. Bryant's predecessors installed a dock in connection with their use of the right-of-way, and that other surrounding properties did so as well. I enclose the Bryant and Stepp deeds for your reference.

It is established law in the State of Maine that a right of way to a water body may include the right to install a dock if that was granted by the language of the deed or

intended by the parties to the conveyance. *See, e.g., Badger v. Hill*, 404 A.2d 222, 224 (Me. 1979) ("a pedestrian right of way or foot-path, being six (6) feet in width," over defendant's land "to the York River" may include the right to install a dock); *Sleeper v. Loring*, 2013 ME 112, ¶ 19, 83 A.3d 769 (a right of way "to the shore of [Sebago] Lake" may include the right to install a dock).

To interpret whether a deed right-of-way comes with the right to install a dock, the courts consider the language of the deed, the purposes of the easement, the circumstances at the time the rights were deeded, "as well as use of the easement and acts acquiesced to during the years shortly after the original grant." *Sleeper v. Loring*, 2013 ME 112, ¶ 19, 83 A.3d 769. Notable is that in neither *Badger* nor *Sleeper* did the easement include "shore privileges" or a description of rights once the holder reached the water. Nonetheless, the Maine Supreme Court reversed trial court decisions that concluded that a right of way is insufficient right, title, or interest to install a dock. In other words, concluding a right of way does not allow a dock is an error of law.

Based upon both the language of the deed granting "shore privileges," and the actual use of the right-of-way, it is clear that Mr. Bryant has the right, title, or interest to install a dock. To the extent you believe otherwise, this is not what was intended by the parties to the deed and is more broadly inconsistent with Maine law, which we would bring to the attention of the Zoning Board of Appeals in an administrative appeal.

Please issue a permit or a written determination of the basis for denial within seven (7) days of the filing of this application or we will proceed to file an appeal with the Zoning Board of Appeals. *See* Section 3-103.2 (requiring CEO to grant or deny a permit application no later than seven days after submitted).

Sincerely,

/s/Keith Richard
Keith P. Richard

N O T A N O F F I C I A L C O P Y

WARRANTY DEED

Statutory Short Form

DLN: 1002040086338

KNOW ALL BY THESE PRESENTS, That, **Keystone Investment Group, LLC, a Maine Limited Liability Company**, with a mailing address of **P.O. Box 943, Raymond, ME 04071**, for consideration paid, grants to **Troy J. Bryant**, whose mailing address is **41 Riverside Drive, Mechanic Falls, ME 04256**, with Warranty Covenants, the real property in the Town of **Poland**, County of **Androscoggin** and State of **Maine**, more particularly described as follows:

A certain parcel of land situated on the westerly side of Watson Road in the Town of Poland, County of Androscoggin, State of Maine being bounded and described as follows:

Beginning on the westerly sideline of Watson Road at land now or formerly of Richard B. Martin as described in a deed recorded in Book 9589 Page 290 in the Androscoggin County Registry of Deeds;

Thence N 47° 29' 13" W, by and along land of Richard B. Martin, a distance of 198.13 feet;

Thence S 26° 09' 47" W, by and along land of Richard B. Martin, a distance of 222.58 feet to land now or formerly of Albert J. Henson and Jeannette B. Henson as described in a deed recorded in Book 1024 Page 777 in the Androscoggin County Registry of Deeds;

Thence N 47° 08' 04" W, by and along land of Albert J. Henson and Jeannette B. Henson, a distance of 149.62 feet;

Thence N 36° 02' 05" E a distance of 403.78 feet to land now or formerly of Adam N. Farrington as described in a deed recorded in Book 7737 Page 5 in the Androscoggin County Registry of Deeds;

Thence S 47° 15' 42" E, by and along land of Adam N. Farrington, a distance of 250.16 feet to the westerly sideline of Watson Road;

Thence S 23° 43' 02" W, by and along the westerly sideline of Watson Road, a distance of 53.68 feet;

Thence S 15° 03' 41" W, by and along the westerly sideline of Watson Road, a distance of 74.45 feet;

Thence S 20° 07' 28" W, by and along the westerly sideline of Watson Road, a distance of 66.96 feet;

Thence S 33° 49' 07" W, by and along the westerly sideline of Watson Road, a distance of 8.85 feet to the Point of Beginning.

The parcel contains approximately 80,602 square feet.

Bearings are assumed magnetic 1957.

NOT AN OFFICIAL COPY

Reference is made to a plan entitled "Boundary Survey 151 Watson Road Poland, Maine for: Keystone Investment Group, LLC" dated January 2020 by Survey Inc.

Also conveyed herein and appurtenant to the premises hereinbefore described is a right of way and shore privileges so-called, over a strip of land leading from the right of way as delineated upon the Plan prepared for Allen D. Watson herein recorded in Androscoggin County Registry of Deeds, Book of Plans, Book 15, Page 37, to the westerly shore of Range Pond, bounded and described as follows: Beginning at an iron stake driven in the ground on the Westerly shore of said Pond as aforesaid, at a point twenty (20) feet Northeasterly of the Northeast corner of land now for formerly owned by Willis F. Stepp and Pauline E. Stepp; thence in a generally Northeasterly course on the Westerly shore of said Pond, a distance of twenty feet to another stake there driven, thence in a generally Westerly course to the Northeasterly side of a right of way there existing at a point marked by a stake forty-five feet Northeasterly of the Northwest corner of the strip of said Stepp; thence in a generally Southerly course on the Easterly side of said right of way twenty feet to a point marked by an iron stake; thence in a generally Easterly course to the point of beginning.

Together with and subject to any and all easements, rights and restrictions of record.

Meaning and intending to convey and conveying a portion of the real property described in a deed to Keystone Investment Group, LLC by virtue of a deed from James L. Stepp, as Trustee of the Stepp Living Trust dated June 21, 2019 and recorded in the Androscoggin County Registry of Deeds at Book 10111, Page 315.

Witness our hands and seals this February 4, 2020.

Witness:

_____

Keystone Investment Group, LLC

By: _____
David Baker, Member

By: _____
Sheila Baker, Member

STATE OF **MAINE**
COUNTY OF **ANDROSCOGGIN**, ss. February 4, 2020

Personally appeared on the above date, the above-named **David Baker and Sheila Baker, Members** of said **Keystone Investment Group, LLC**, and acknowledged the foregoing to be their free act and deed in their said capacity and the free act and deed of said **KeyStone Investment Group, LLC.**

Before me,

_____
Notary Public/Attorney at Law
Print name: Michelle A. McWilliams

MICHELLE A. McWILLIAMS
Notary Public, State of Maine
My Commission Expires 05/07/2024

Maine Real Estate Transfer Tax Paid
TINA M. CHOUINARD, REGISTER
ANDROSCOGGIN COUNTY MAINE E-RECORDED

dotloop signature verification: dtlp.us/gxl3-F3n4-Atnx

Bk 10111 Ps315 #10425
06-24-2019 @ 10:32a

DLN: 1001940061404

NOT AN OFFICIAL COPY

DEED OF TRUSTEE

KNOW ALL PERSONS BY THESE PRESENTS: That JAMES L. STEPP, as TRUSTEE of the STEPP LIVING TRUST, with a mailing address of PO Box 118, South Casco, Maine 04077, by the power conferred by law, and every other power, for consideration paid, grants to KEYSTONE INVESTMENT GROUP, LLC, a Maine Limited Liability Company with a mailing address of PO Box 943, Raymond, ME 04071, with WARRANTY COVENANTS, a certain lot or parcel of land situated in the Town of Poland, County of Androscoggin and State of Maine, more particularly described as follows:

MAINE REAL ESTATE TRANSFER TAX PAID

See Exhibit A attached hereto and incorporated herein.

Executed this 21st day of June, 2019.

Stepp Living Trust

James L. Stepp, Trustee of the Stepp Living Trust

STATE OF MAINE
CUMBERLAND, ss. June 21, 2019

Then personally appeared before me the said James L. Stepp, Trustee of the Stepp Living Trust, and acknowledged the foregoing to be his voluntary act and deed in his said capacity.

~~Notary Public~~/Attorney at Law
Name and Commission expiration:
Jennifer E. Thomas
Attorney-at-Law
Maine Bar #9615

After recording return to Beagle, Thomas & Ridge, LLC, PO Box 1815, Standish, Maine 04084
File #26889

TB
12/25/19
4:17 PM CST
dotloop verified

dotloop signature verification: dtlp.us/gxl3-k3n4-Atox

NOT AN OFFICIAL COPY

EXHIBIT A

A certain lot or parcel of land, with any buildings thereon, situated in Poland, Androscoggin County, Maine, bounded and described as follows:

Beginning at a point on the Westerly side of a certain right of way so-called Watson Road leading from the premises herein conveyed to the Cleve Tripp Road , so-called a public highway in the Town of Poland, which marks the Northeast corner of land sold by Alan Watson to Willis Stepp in the year 1965, duly recorded in Androscoggin County Registry of Deeds; thence in a Northerly course on the Westerly side of said right of way, one hundred (100) feet to a point and corner; thence at right angles and in a Westerly course two hundred (200) feet to another point and corner; thence in a Southerly course parallel to the right of way aforesaid one hundred (100) feet to the Northwest corner of said Stepp's lot;
thence in an Easterly course on Stepp's Northerly boundary, two hundred (200) feet to the point of beginning.

Together with a right of way in common with others from the premises herein described over the Watson Road, so-called hereinbefore mentioned, as now laid out and established from the premises herein described to the Cleve Tripp Read, so-called, as public highway in the Town of Poland aforementioned.

Meaning and conveying the same premises conveyed to Willis L. Stepp and Pauline E. Stepp, Trustees for the Stepp Living Trust by Warranty Deed dated May 6, 1997 from David G. Carr and Elizabeth J. Carr and recorded in the Androscoggin County Registry of Deeds in Book 3770, Page 211.

ANOTHER certain lot or parcel of land, with any buildings thereon, situated in Poland, Androscoggin County, Maine, bounded and described as follows:

Beginning on the Southwesterly side of the Cleve Tripp Road leading from the public highway to Upper Range Pond, which marks the boundary line of the land formerly of D. Cleveland Tripp and the premises herein conveyed and identified by a stone wall there existing; thence in Southeasterly course on the said D. Cleveland Tripp land one hundred fifty (150) feet, more or less to a point and corner; thence in an Easterly course on the line of land formerly known as the Keene property, to another point and corner; thence in a generally Southwesterly course on the Keene line to another point and corner marking the line of land of one, Tiny Davis; thence in a generally Southerly course on the line of said Davis land, to a brook there situated; thence Southeasterly on said brook to the corner of land now or formerly of one, Shackleton; thence in a Northeasterly course on the Northwesterly side of said Shackleton line and continuing on to the line of land now or formerly of one, Stepp, and land now or formerly of one, Laroche, to Laroche's Northerly corner; thence in a Southeasterly course on the Northeasterly side of said Laroche's land to a camp road there existing; thence in a Northeasterly course on said camp road to the corner of the

TB
12/25/19
4:17 PM CST
dotloop verified

dotloop signature verification: dtlp.us/gxL3-F3n4-Atox

NOT AN OFFICIAL COPY

Cleve Tripp Road aforementioned; thence in a Northwesterly course on the Cleve Tripp Road aforementioned to the point of beginning.

Together with a small plot of land situated at the intersection of the Cleave Road Tripp Road and the camp road aforementioned, being surrounded by said roads and short cuts as there made.

Excepting and serving from the within transfer a certain right of way conveyed by Allan Watson to George P. Lahey by deed duly recorded in Androscoggin County Registry of Deeds.

Together with a right of way in common with others over a 20-foot strip of land running from the right of way hereinbefore mentioned to Upper Range Pond between another lot of land of now or formerly owned by Willis L. Stepp and Pauline E. Stepp and lot of land conveyed to George Chaison et als, duly recorded in said Registry; also granting herein is a further right of way from the premises herein described over the roadway hereinbefore mentioned as now laid out and established from the premises herein described to the Cleve Tripp Road, a public highway in the Town of Poland aforementioned.

Excepting and reserving from the within transfer that portion of the premises previously conveyed to David G. Carr and Elizabeth J. Carr by Warranty Deed dated May 6, 1997 from Willis L. Stepp and Pauline E. Stepp and recorded in the Androscoggin County Registry of Deeds in Book 3770, Page 221.

Meaning and conveying the balance of the premises conveyed to Willis L. Stepp and Pauline E. Stepp, Trustees for the Stepp Living Trust by Warranty Deed dated December 29, 1993 from Willis L. Stepp and Pauline E. Stepp and recorded in the Androscoggin County Registry of Deeds in Book 3195, Page 87.

ANOTHER certain lot or parcel of land, with any buildings thereon, situated in Poland, Androscoggin County, Maine, bounded and described as follows:

Beginning at a point on the Northwesterly side of the road leading from the Town Road, called the Cleve Tripp Road, past the premises herein conveyed as now laid out and established, said point being the most Easterly corner of the premises now or formerly of Harold C. Shackleton et al; thence N 49° 20' W on the Shackleton line two hundred (200) feet to a point and corner; thence N 24° 19' E, one hundred (100) feet to another point and corner; thence S 49° 20' E, two hundred (200) feet, more or less, to the Northwesterly side of the right of way as aforesaid; thence in a general Southerly course on the Northwesterly side of said right of way, one hundred (100) feet to the point of beginning.

Together with a right of way leading from the Town Road, known as the Cleve Tripp Road, to the premises herein conveyed over the land of this grantor, as now laid out and established.

TB
12/25/19
4:17 PM CST
dotloop verified

dotloop signature verification: dtlp.us/gxL3-HB4-Atox

NOT AN OFFICIAL COPY NOT AN OFFICIAL COPY

Also conveyed herein and appurtenant to the premises hereinbefore described is a right of way and shore privileges so-called, over a strip of land leading from the right of way as delineated upon the Plan prepared for Allen D. Watson herein recorded in Androscoggin County Registry of Deeds, Book of Plans, Book 15, Page 37, to the westerly shore of Range Pond, bounded and described as follows: Beginning at an iron stake driven in the ground on the Westerly shore of said Pond as aforesaid, at a point twenty (20) feet Northeasterly of the Northeast corner of land now for formerly owned by Willis F. Stepp and Pauline E. Stepp; thence in a generally Northeasterly course on the Westerly shore of said Pond, a distance of twenty feet to another stake there driven, thence in a generally Westerly course to the Northeasterly side of a right of way there existing at a point marked by a stake forty-five feet Northeasterly of the Northwest corner of the strip of said Stepp; thence in a generally Southerly course on the Easterly side of said right of way twenty feet to a point marked by an iron stake; thence in a generally Easterly course to the point of beginning.

Meaning and conveying the same premises conveyed to Meaning and conveying the balance of the premises conveyed to Willis L. Stepp and Pauline E. Stepp, Trustees for the Stepp Living Trust by Warranty Deed dated January 5, 1994 from Willis L. Stepp and Pauline E. Stepp and recorded in the Androscoggin County Registry of Deeds in Book 3195, Page 94.

TB
12/25/19
4:17 PM CST
dotloop verified

ANDROSCOGGIN COUNTY
TINA M CHOUINARD
REGISTER OF DEEDS

dotloop signature verification: dtlp.us/gvt3-F3n4-Atnx

PROPERTY LOCATED AT: 151 Watson Road Poland Maine

PROPERTY DISCLOSURE

Under Maine Law, certain information must be made available to buyers prior to or during preparation of an offer. This statement has been prepared to assist prospective buyers in evaluating this property. This disclosure is not a warranty of the condition of the property and is not part of any contract between Seller and any Buyer. Seller authorizes the disclosure of the information in this statement to real estate licensees and to prospective buyers of this property. The Seller agrees to provide prompt notice of any changes in the information and this form will be appropriately changed with an amendment date. Inspections are highly recommended.

DO NOT LEAVE ANY QUESTIONS BLANK. STRIKE, WRITE N/A OR UNKNOWN IF NEEDED.

SECTION I—WATER SUPPLY

TYPE OF SYSTEM: ☐ Public ☑ Private ☐ Seasonal _____ ☐ Unknown
☑ Drilled ☐ Dug ☐ Other _____

MALFUNCTIONS: Are you aware of or have you experienced any malfunctions with the (public/private/other) water system?

Pump (if any):	☐ N/A	☐ Yes	☑ No	☐ Unknown
Quantity:	☐	☐ Yes	☑ No	☐ Unknown
Quality:	☐	☐ Yes	☑ No	☐ Unknown

If Yes to any question, please explain in the comment section below or with attachment.

WATER TEST:
Have you had the water tested? ☒ Yes ☐ No
If Yes, Date of most recent test: _____ Are test results available? ☐ Yes ☒ No
To your knowledge, have any test results ever been reported as unsatisfactory or satisfactory with notation? ☐ Yes ☒ No
If Yes, are test results available? ☐ Yes ☒ No
What steps were taken to remedy the problem? _____

IF PRIVATE: (Strike Section if Not Applicable):
INSTALLATION: Location: _____
Installed by: _____
Date of Installation: _____
USE: Number of persons currently using system: _____
Does system supply water for more than one household? ☐ Yes ☐ No ☐ Unknown

Comments: None

Source of Section I information: Seller

Martha Page Phone: (207)807-7300 Fax: (207)879-9590 Res Seller

TB 12/25/19 4:17 PM CST dotloop verified

Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

dotloop signature verification: dtlp.us/gxL3-F3n4-Atox

PROPERTY LOCATED AT: 151 Watson Road Poland Maine

SECTION II – WASTE WATER DISPOSAL

TYPE OF SYSTEM: ☐ Public ☒ Private ☐ Quasi-Public _____ ☐ Unknown

IF PUBLIC OR QUASI-PUBLIC (Strike Section if Not Applicable):

Have you had the sewer line inspected? ☐ Yes ☐ No

If Yes, what results: _____

Have you experienced any problems such as line or other malfunctions? ☐ Yes ☐ No

What steps were taken to remedy the problem? _____

IF PRIVATE (Strike Section if Not Applicable):

Tank: ☒ Septic Tank ☐ Holding Tank ☐ Cesspool ☐ Other: _____

Tank Size: ☐ 500 Gallon ☒ 1000 Gallon ☐ Unknown ☐ Other: _____

Tank Type: ☑ Concrete ☐ Metal ☐ Unknown ☐ Other: _____

Location: Back of Property OR ☐ Unknown

Date installed: 1997 Date last pumped: 5/22/19 Name of pumping company: Archie Rodgers

Have you experienced any malfunctions? ☐ Yes ☒ No

If Yes, give the date and describe the problem: _____

Date of last servicing of tank: N/K Name of company servicing tank: Unknown

Leach Field: ☒ Yes ☐ No ☐ Unknown

If Yes, Location: _____

Date of installation of leach field: 1997 Installed by: Unknown

Date of last servicing of leach field: Unknown Company servicing leach field: Unknown

Have you experienced any malfunctions? ☐ Yes ☒ No

If Yes, give the date and describe the problem and what steps were taken to remedy: _____

Do you have records of the design indicating the # of bedrooms the system was designed for? ☒ Yes ☐ No

If Yes, are they available? ☒ Yes ☐ No

Is System located in a Shoreland Zone? ☐ Yes ☒ No ☐ Unknown

Is System located in a Coastal Shoreland Zone? ☐ Yes ☒ No ☐ Unknown

Comments: None

Source of Section II information: Seller

Buyer Initials TB 12/25/19 4:17 PM CST dotloop verified ____ ____

Seller Initials DB SMK ____ ____

Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

Res Seller

dotloop signature verification: dtlp.us/gxL3-F3n4-Atox

PROPERTY LOCATED AT: 151 Watson Road Poland, Maine

SECTION III – HEATING SYSTEM(S)/HEATING SOURCES(S)

Heating System(s) or Source(s)	SYSTEM 1	SYSTEM 2	SYSTEM 3	SYSTEM 4
TYPE(S)	Oil Baseboard Hot-Water			
Age of system(s) or source(s)	21 years			
Name of company that services system(s) or source(s)	Marietta Brake Titus Plumbing			
Date of most recent service call	12/2018			
Annual consumption per system or source (i.e., gallons, kilowatt hours, cords)	≈800 gallons			
Malfunction per system(s) or source(s) within past 2 years	None			
Other pertinent information		1/28/19 New Hot Water Tank installed		

Are there fuel supply lines? ..... [X] Yes [ ] No [ ] Unknown
Are any buried? ..... [ ] Yes [ ] No [X] Unknown
Are all sleeved? ..... [X] Yes [ ] No [ ] Unknown
Chimney(s): ..... [X] Yes [ ] No
If Yes, are they lined: ..... [X] Yes [ ] No [ ] Unknown
Is more than one heat source vented through one flue? ..... [ ] Yes [X] No [ ] Unknown
Had a chimney fire: ..... [ ] Yes [X] No [ ] Unknown
Has chimney(s) been inspected? ..... [ ] Yes [X] No [ ] Unknown
If Yes, date: _____
Date chimney(s) last cleaned: _____
Direct/Power Vent(s): ..... [ ] Yes [X] No [ ] Unknown
Has vent(s) been inspected? ..... N/A [ ] Yes [ ] No [ ] Unknown
If Yes, date: _____
Comments: None
Source of Section III information: Seller

SECTION IV – HAZARDOUS MATERIAL

The licensee is disclosing that the Seller is making representations contained herein.

A. UNDERGROUND STORAGE TANKS - Are there now, or have there ever been, any underground storage tanks on the property? ..... [ ] Yes [ ] No [X] Unknown
If Yes, are tanks in current use? ..... [ ] Yes [X] No [ ] Unknown
If no longer in use, how long have they been out of service? N/A
If tanks are no longer in use, have tanks been abandoned according to DEP? [ ] Yes [X] No [ ] Unknown
Are tanks registered with DEP? ..... [ ] Yes [X] No [ ] Unknown
Age of tank(s): _____ Size of tank(s): _____
Location: N/A

Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

dotloop signature verification: dtlp.us/gxL3-k3n4-Atnx

PROPERTY LOCATED AT: 151 Watson Road Poland, Maine 04274

What materials are, or were, stored in the tank(s)? N/A

Have you experienced any problems such as leakage: N/A ☐ Yes ☐ No ☐ Unknown

Comments: None

Source of information: Seller

B. ASBESTOS -- Is there now or has there been asbestos:

As insulation on the heating system pipes or duct work? ☐ Yes ☒ No ☐ Unknown

In the ceilings? ☐ Yes ☒ No ☐ Unknown

In the siding? ☐ Yes ☒ No ☐ Unknown

In the roofing shingles? ☐ Yes ☒ No ☐ Unknown

In flooring tiles? ☐ Yes ☒ No ☐ Unknown

Other: ☐ Yes ☒ No ☐ Unknown

Comments: None

Source of information: Seller

C. RADON/AIR - Current or previously existing:

Has the property been tested? ☒ Yes ☐ No ☐ Unknown

If Yes: Date: 7/30/18 By: AIL Laboratory

Results: 11 pCi/L

If applicable, what remedial steps were taken?

Has the property been tested since remedial steps? ☐ Yes ☒ No ☐ Unknown

Are test results available? NO ☐ Yes ☒ No

Results/Comments: None

Source of information: Seller

D. RADON/WATER - Current or previously existing:

Has the property been tested? ☒ Yes ☐ No ☐ Unknown

If Yes: Date: _____ By: _____

Results: _____

If applicable, what remedial steps were taken? None

Has the property been tested since remedial steps? N/A ☐ Yes ☒ No ☐ Unknown

Are test results available? ☐ Yes ☒ No

Results/Comments: None

Source of information: Seller

E. METHAMPHETAMINE - Current or previously existing: ☐ Yes ☒ No ☐ Unknown

Comments: None

Source of information: Seller

Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

dotloop signature verification: dlp.us/gxl 3-k 3n4-Atox

PROPERTY LOCATED AT: _____

F. LEAD-BASED PAINT/PAINT HAZARDS — *(Note: Lead-based paint is most commonly found in homes constructed prior to 1978)*

Is there now or has there ever been lead-based paint and/or lead-based paint hazards on the property? ..... ☐ Yes ☒ No ☐ Unknown ☐ Unknown (but possible due to age)

If Yes, describe location and basis for determination: NA

Do you know of any records/reports pertaining to such lead-based paint/lead-based paint hazards: ☐ Yes ☒ No

If Yes, describe: _____

Are you aware of any cracking, peeling or flaking paint? ..... ☐ Yes ☒ No

Comments: None

Source of information: Seller

G. OTHER HAZARDOUS MATERIALS - Current or previously existing:

TOXIC MATERIAL: ..... ☐ Yes ☐ No ☒ Unknown

LAND FILL: ..... ☐ Yes ☐ No ☒ Unknown

RADIOACTIVE MATERIAL: ..... ☐ Yes ☐ No ☒ Unknown

Other: None

Source of information: Seller

Buyers are encouraged to seek information from professionals regarding any specific issue or concern.

SECTION V — GENERAL INFORMATION

Is the property subject to or have the benefit of any encroachments, easements, rights-of-way, leases, rights of first refusal, life estates, private ways, trails, homeowner associations (including condominiums and PUD's) or restrictive covenants? ..... ☒ Yes ☐ No ☐ Unknown

If Yes, explain: ROW to Water across Street

Source of information: Seller

Is access by means of a way owned and maintained by the State, a county, or a municipality over which the public has a right to pass? ..... ☐ Yes ☒ No ☐ Unknown

If No, who is responsible for maintenance? Watson Road Associates.

Road Association Name (if known): Watson Road Maintenance

dotloop signature verification: dtlp.us/gxL3-HBn4-AtnX

PROPERTY LOCATED AT: 151 Watson Road Poland Maine

Are there any tax exemptions or reductions for this property for any reason including but not limited to: Tree Growth, Open Space and Farmland, Veteran's, Homestead Exemption, Blind, Working Waterfront?..... ☐ Yes ☒ No ☐ Unknown

If Yes, explain: N/A

Is a Forest Management and Harvest Plan available?..... ☐ Yes ☒ No ☐ Unknown

Is house now covered by flood insurance policy (not a determination of flood zone) ☐ Yes ☒ No ☐ Unknown

Equipment leased or not owned (including but not limited to, propane tank, hot water heater, satellite dish, water filtration system, photovoltaics, wind turbines): Type: N/A

Year Principal Structure Built: 1997

What year did Seller acquire property? 2018

Roof: Year Shingles/Other Installed: 1997

Water, moisture or leakage: None

Comments: None

Foundation/Basement:

Is there a Sump Pump? ..... ☐ Yes ☒ No ☐ Unknown

Water, moisture or leakage since you owned the property: ..... ☐ Yes ☒ No ☐ Unknown

Prior water, moisture or leakage? ..... ☐ Yes ☒ No ☐ Unknown

Comments: None

Mold: Has the property ever been tested for mold? ..... ☐ Yes ☒ No ☐ Unknown

If Yes, are test results available? ..... N/A ☐ Yes ☒ No

Electrical: ☐ Fuses ☒ Circuit Breaker ☐ Other: ☐ Unknown

Has all or a portion of the property been surveyed? ..... ☒ Yes ☐ No ☐ Unknown

If Yes, is the survey available? ..... ☒ Yes ☐ No ☐ Unknown

Manufactured Housing – Is the residence a:

Mobile Home ..... ☐ Yes ☒ No ☐ Unknown

Modular ..... ☐ Yes ☒ No ☐ Unknown

KNOWN MATERIAL DEFECTS about Physical Condition and/or value of Property, including those that may have an adverse impact on health/safety: None known

Source of Section V information: Seller

Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

Rev Seller

dotloop signature verification: dtlp.us/gxt3-P3n4-Atox

PROPERTY LOCATED AT: 151 Watson Road Poland ME. 04274

SECTION VI – ADDITIONAL INFORMATION

None

ATTACHMENTS EXPLAINING CURRENT PROBLEMS, PAST REPAIRS OR ADDITIONAL INFORMATION IN ANY SECTION IN DISCLOSURE: ..... ☐ Yes ☒ No

Seller shall be responsible and liable for any failure to provide known information regarding known material defects to the Buyer.

Neither Seller nor any Broker makes any representations as to the applicability of, or compliance with, any codes of any sort, whether state, municipal, federal or any other, including but not limited to fire, life safety, building, electrical or plumbing.

As Sellers, we have provided the above information and represent that all information is correct. To the best of our knowledge, all systems and equipment, unless otherwise noted on this form, are in operational condition.

SELLER 12-4-19	DATE	SELLER	DATE
SELLER 12-4-19	DATE	SELLER	DATE

I/We have read and received a copy of this disclosure, the arsenic in wood fact sheet, the arsenic in water brochure, and understand that I/we should seek information from qualified professionals if I/we have questions or concerns.

BUYER	DATE	BUYER	DATE
Troy Bryant dotloop verified 12/25/19 4:17 PM CST BLIJ-PQMR-OPOP-BHN4			
BUYER	DATE	BUYER	DATE

Maine Association of REALTORS®/Copyright © 2019. All Rights Reserved. Revised September 2019.

Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

Res Seller

Code Enforcement Officer Scott Neal's Response to Troy Bryant Administrative Appeal 7.22.2020

Code Enforcement Office

1231 Maine Street, Poland, Maine 04274
(207) 998-4604 sneal@polandtownoffice.org

July 1, 2020

Town of Poland Board of Appeals
1231 Maine St.
Poland, Maine 04274

RE: Troy Bryant Administrative Appeal
151 Watson Rd.
Poland, Maine 04274

Map: 0005 Lot: 0016C

To the Board of Appeals,

On May 5, 2020, this office received an application from Troy Bryant for a dock on a right of way on parcel 0035 - 0027. All records in the town office indicated that parcel 0035-0027 was owned by the Town of Poland. After research by the Town Attorney Natalie Burns and the Town Office Staff a corrective deed dated June 21, 2019, from the Stepp Living Trust to David and Sheila Baker was found. The deed to the Bakers showed the land of parcel 0035-0027 was owned by them and not the Town of Poland. Because parcel 0035-0027 and the adjoining property of the Bakers, parcel 0034 – 0001, are in the same name on the deed dated June 21, 2019, they were joined at that time per Chapter 5 §504.5.C Contiguous Lots-Vacant or Partially Built of the Town of Poland Comprehensive Land Use Code (CLUC). Chapter 5 §504.5.C Contiguous Lots-Vacant or Partially Built states "If two or more contiguous lots or parcels are in single or joint ownership (owned by the same person or persons) of record at the time of or since adoption or amendment of this Code, if any of these lots do not individually meet the dimensional requirements of this Code or subsequent amendments to the same, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined. This Section shall not be interpreted to require two or more legally conforming lots of record, owned by the same person or persons, on or before the effective date of this Code, that become nonconforming by adoption of this Code or subsequent amendments, to be combined." The Baker property, parcels 0035-0027 and 0034-0001, has since been transferred to Amy Lappin and John Debartolo.

On May 21, 2020, it was determined that property now owned by Ms. Lappin and Mr. Debartolo of which Mr. Bryant has a right of way to the water already had one dock. Chapter 5 §508.27.D.1 states "No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 507.2 a second structure may be allowed and may remain as long as the lot is not further divided." Because the shore frontage

Code Enforcement Office
1231 Maine Street, Poland, Maine 04274
(207) 998-4604 sneal@polandtownoffice.org

of the lot is approximately one hundred and fifty eight feet (158') another dock cannot be installed. Chapter 5 §507.2.A.3 states "The minimum Shore Frontage shall be (200) feet". Based on the above CLUC sections and conversations with the Town Attorney the application was denied, and a letter was sent to Mr. Bryant.

Sincerely,

Scott Neal
Code Enforcement Officer

Application and Accompanying Documents Submitted by Troy Bryant

Town of Poland

Shoreland Project Permit Application

Owner / Contractor

Owner Name:	BRYANT, TROY J.	Contractor Name:	
Address:	41 RIVERSIDE DRIVE	Mailing Address:	
City, State, Zip:	MECHANIC FALLS, ME 04256	City, State, Zip:	,
Phone:	577-6112	Phone:	
Fax:	[ownerfax]	Fax:	
Email:	troy.bryant84@yahoo.com	Email:	
Contractor (if unable to find on the web form):		DEP Certification:	

Project

Project Address:	151 WATSON RD.	Estimated Cost:	1500
City, State, Zip:	,		
Parcel ID #:	0005-0016C	Current Use:	Nothing in Place at this time, I just moved into Residence in Feb
		Proposed Use:	Install a dock for boat use

Please Describe Your Project: Installing 4'x20' new aluminum dock
Dock

I hereby certify that I am the Owner of Record of the named property, or that the owner of record authorizes the proposed work, and I have been authorized by the owner to make this application as his/her authorized agent. I agree to confirm to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Officials shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Troy Bryant
Applicant Signature

05/05/2020
Date

KEITH P. RICHARD, ESQ.
krichard@loklle.com

Libby O'Brien Kingsley & Champion
ATTORNEYS AT LAW

May 5, 2020

Code Enforcement Officer
Town of Poland
1231 Maine St.
Poland, ME 04274

Re: Application of Troy Bryant to install dock in connection with right-of-way

Dear Code Enforcement Officer:

I represent Troy Bryant of 151 Watson Road. Based upon preliminary discussions with you and/or your office, Mr. Bryant has been led to believe that he cannot obtain a permit for a dock because he does not own the waterfront parcel. I write to make clear to your office that Mr. Bryant has the right to install a dock, and denying him a permit would be legal and factual error. If you believe that he lacks the requisite right, title, or interest, please make this determination in writing and the legal and factual basis for it so that we can immediately appeal to the Zoning Board of Appeals pursuant to Section 3-104.3 of the Town's ordinances.

Mr. Bryant's deed from the Bakers (as members of Keystone Investment Group) references the right-of-way as follows: "also conveyed . . . is a right of way and *shore privileges* so-called . . . to the westerly shore of Range Pond. (emphasis added)" Mr. Bryant's right-of-way can be traced to the original grantors, the Stepps, who conveyed to the Bakers by the following language: "Also conveyed herein and appurtenant to the premises hereinbefore described is a right of way and shore privileges so-called, over a strip of land leading from the right of way as delineated upon the Plan prepared for Allen D. Watson herein recorded . . ." It is my understanding that Mr. Bryant's predecessors installed a dock in connection with their use of the right-of-way, and that other surrounding properties did so as well. I enclose the Bryant and Stepp deeds for your reference.

It is established law in the State of Maine that a right of way to a water body may include the right to install a dock if that was granted by the language of the deed or

intended by the parties to the conveyance. *See, e.g., Badger v. Hill*, 404 A.2d 222, 224 (Me. 1979) ("a pedestrian right of way or foot-path, being six (6) feet in width," over defendant's land "to the York River" may include the right to install a dock); *Sleeper v. Loring*, 2013 ME 112, ¶ 19, 83 A.3d 769 (a right of way "to the shore of [Sebago] Lake" may include the right to install a dock).

To interpret whether a deed right-of-way comes with the right to install a dock, the courts consider the language of the deed, the purposes of the easement, the circumstances at the time the rights were deeded, "as well as use of the easement and acts acquiesced to during the years shortly after the original grant." *Sleeper v. Loring*, 2013 ME 112, ¶ 19, 83 A.3d 769. Notable is that in neither *Badger* nor *Sleeper* did the easement include "shore privileges" or a description of rights once the holder reached the water. Nonetheless, the Maine Supreme Court reversed trial court decisions that concluded that a right of way is insufficient right, title, or interest to install a dock. In other words, concluding a right of way does not allow a dock is an error of law.

Based upon both the language of the deed granting "shore privileges," and the actual use of the right-of-way, it is clear that Mr. Bryant has the right, title, or interest to install a dock. To the extent you believe otherwise, this is not what was intended by the parties to the deed and is more broadly inconsistent with Maine law, which we would bring to the attention of the Zoning Board of Appeals in an administrative appeal.

Please issue a permit or a written determination of the basis for denial within seven (7) days of the filing of this application or we will proceed to file an appeal with the Zoning Board of Appeals. *See* Section 3-103.2 (requiring CEO to grant or deny a permit application no later than seven days after submitted).

Sincerely,

/s/Keith Richard
Keith P. Richard

Bk 10111 Pg315 #10
06-24-2019 @ 10:32a

DLN: 1001940061404

NOT AN OFFICIAL COPY

DEED OF TRUSTEE

KNOW ALL PERSONS BY THESE PRESENTS: That JAMES L. STEPP, TRUSTEE of the STEPP LIVING TRUST, with a mailing address of PO Box 118, South Casco, M 04077, by the power conferred by law, and every other power, for consideration paid, gran KEYSTONE INVESTMENT GROUP, LLC, a Maine Limited Liability Company with a mailing ad of PO Box 943, Raymond, ME 04071, with WARRANTY COVENANTS, a certain lot or parcel of situated in the Town of Poland, County of Androscoggin and State of Maine, more particularly desc as follows:

MAINE REAL ESTATE TRANSFER TAX PAID

See Exhibit A attached hereto and incorporated herein.

Executed this 21st day of June, 2019.

Stepp Living Trust

James L. Stepp, Trustee of the Stepp Living Trust

STATE OF MAINE
CUMBERLAND, ss.

June 21, 2019

Then personally appeared before me the said James L. Stepp, Trustee of the Stepp Living T and acknowledged the foregoing to be his voluntary act and deed in his said capacity.

~~Notary Public~~/Attorney at Law
Name and Commission expiration:
Jennifer E. Thomas
Attorney-at-Law
Maine Bar #9515

After recording return to Beagle, Thomas & Ridge, LLC, PO Box 1815, Standish, Maine 04084
File #26889

NOT AN OFFICIAL COPY

EXHIBIT A

NOT AN OFFICIAL COPY

A certain lot or parcel of land, with any buildings thereon, situated in Poland, Androscoggin Cou Maine, bounded and described as follows:

NOT AN OFFICIAL COPY

Beginning at a point on the Westerly side of a certain right of way so-called Watson Road leading the premises herein conveyed to the Cleve Tripp Road , so-called a public highway in the Town of Pol which marks the Northeast corner of land sold by Alan Watson to Willis Stepp in the year 1965, recorded in Androscoggin County Registry of Deeds; thence in a Northerly course on the Westerly of said right of way, one hundred (100) feet to a point and corner; thence at right angles and in a Wes course two hundred (200) feet to another point and corner; thence in a Southerly course parallel t right of way aforesaid one hundred (100) feet to the Northwest corner of said Stepp's lot; thence in an Easterly course on Stepp's Northerly boundary, two hundred (200) feet to the poi beginning.

Together with a right of way in common with others from the premises herein described over the Wa Road, so-called hereinbefore mentioned, as now laid out and established from the premises h described to the Cleve Tripp Read, so-called, as public highway in the Town of Poland aforementio

Meaning and conveying the same premises conveyed to Willis L. Stepp and Pauline E. Stepp, Tru for the Stepp Living Trust by Warranty Deed dated May 6, 1997 from David G. Carr and Elizabeth J. and recorded in the Androscoggin County Registry of Deeds in Book 3770, Page 211.

ANOTHER certain lot or parcel of land, with any buildings thereon, situated in Poland, Androsco County, Maine, bounded and described as follows:

Beginning on the Southwesterly side of the Cleve Tripp Road leading from the public highway to U Range Pond, which marks the boundary line of the land formerly of D. Cleveland Tripp and the pren herein conveyed and identified by a stone wall there existing; thence in Southeasterly course on the D. Cleveland Tripp land one hundred fifty (150) feet, more or less to a point and corner; thence i Easterly course on the line of land formerly known as the Keene property, to another point and co thence in a generally Southwesterly course on the Keene line to another point and corner marking the of land of one, Tiny Davis; thence in a generally Southerly course on the line of said Davis land, brook there situated; thence Southeasterly on said brook to the corner of land now or formerly of Shackleton; thence in a Northeasterly course on the Northwesterly side of said Shackleton line continuing on to the line of land now or formerly of one, Stepp, and land now or formerly of one, Larc to Laroche's Northerly corner; thence in a Southeasterly course on the Northeasterly side of said Laro land to a camp road there existing; thence in a Northeasterly course on said camp road to the corner o

NOT AN OFFICIAL COPY

Cleve Tripp Road aforementioned; thence in a Northwesterly course on the Cleve Tripp aforementioned to the point of beginning.

Together with a small plot of land situated at the intersection of the Cleave Road Tripp Road and the road aforementioned, being surrounded by said roads and short cuts as there made.

Excepting and serving from the within transfer a certain right of way conveyed by Allan Watson to G P. Lahey by deed duly recorded in Androscoggin County Registry of Deeds.

Together with a right of way in common with others over a 20-foot strip of land running from the ri way hereinbefore mentioned to Upper Range Pond between another lot of land of now or formerly o by Willis L. Stepp and Pauline E. Stepp and lot of land conveyed to George Chaison et als, duly rec in said Registry; also granting herein is a further right of way from the premises herein described ov roadway hereinbefore mentioned as now laid out and established from the premises herein describ the Cleve Tripp Road, a public highway in the Town of Poland aforementioned.

Excepting and reserving from the within transfer that portion of the premises previously convey David G. Carr and Elizabeth J. Carr by Warranty Deed dated May 6, 1997 from Willis L. Step Pauline E. Stepp and recorded in the Androscoggin County Registry of Deeds in Book 3770, Page 2

Meaning and conveying the balance of the premises conveyed to Willis L. Stepp and Pauline E. S Trustees for the Stepp Living Trust by Warranty Deed dated December 29, 1993 from Willis L. Step Pauline E. Stepp and recorded in the Androscoggin County Registry of Deeds in Book 3195, Page 8

ANOTHER certain lot or parcel of land, with any buildings thereon, situated in Poland, Androsc County, Maine, bounded and described as follows:

Beginning at a point on the Northwesterly side of the road leading from the Town Road, called the C Tripp Road, past the premises herein conveyed as now laid out and established, said point being the Easterly corner of the premises now or formerly of Harold C. Shackleton et al; thence N 49° 20' W o Shackleton line two hundred (200) feet to a point and corner; thence N 24° 19' E, one hundred (100 to another point and corner; thence S 49° 20' E, two hundred (200) feet, more or less, to the Northwes side of the right of way as aforesaid; thence in a general Southerly course on the Northwesterly si said right of way, one hundred (100) feet to the point of beginning.

Together with a right of way leading from the Town Road, known as the Cleve Tripp Road, to the prer herein conveyed over the land of this grantor, as now laid out and established.

NOT AN OFFICIAL COPY

Also conveyed herein and appurtenant to the premises hereinbefore described is a right of way and s privileges so-called, over a strip of land leading from the right of way as delineated upon the Plan prep for Allen D. Watson herein recorded in Androscoggin County Registry of Deeds, Book of Plans, E 15, Page 37, to the westerly shore of Range Pond, bounded and described as follows: Beginning at an stake driven in the ground on the Westerly shore of said Pond as aforesaid, at a point twenty (20) Northeasterly of the Northeast corner of land now for formerly owned by Willis F. Stepp and Paulir Stepp; thence in a generally Northeasterly course on the Westerly shore of said Pond, a distance of tw feet to another stake there driven, thence in a generally Westerly course to the Northeasterly side of a of way there existing at a point marked by a stake forty-five feet Northeasterly of the Northwest corn the strip of said Stepp; thence in a generally Southerly course on the Easterly side of said right of twenty feet to a point marked by an iron stake; thence in a generally Easterly course to the poir beginning.

Meaning and conveying the same premises conveyed to Meaning and conveying the balance of premises conveyed to Willis L. Stepp and Pauline E. Stepp, Trustees for the Stepp Living Trus Warranty Deed dated January 5, 1994 from Willis L. Stepp and Pauline E. Stepp and recorded ir Androscoggin County Registry of Deeds in Book 3195, Page 94.

TB
12/25/19
4:17 PM CST
dotloop verified

ANDROSCOGGIN COUNTY
TINA M CHOUINARD

PROPERTY LOCATED AT: 151 Watson Road Poland Maine

PROPERTY DISCLOSURE

Under Maine Law, certain information must be made available to buyers prior to or during preparation of a
This statement has been prepared to assist prospective buyers in evaluating this property. This disclosure
warranty of the condition of the property and is not part of any contract between Seller and any Buyer.
authorizes the disclosure of the information in this statement to real estate licensees and to prospective bu
this property. The Seller agrees to provide prompt notice of any changes in the information and this fo
be appropriately changed with an amendment date. Inspections are highly recommended.

DO NOT LEAVE ANY QUESTIONS BLANK. STRIKE, WRITE N/A OR UNKNOWN IF NEE

SECTION I – WATER SUPPLY

TYPE OF SYSTEM: ☐ Public ☒ Private ☐ Seasonal _____ ☐ Unk
☒ Drilled ☐ Dug ☐ Other _____

MALFUNCTIONS: Are you aware of or have you experienced any malfunctions with the (public/private/other) water system?

Pump (if any): ..... ☐ N/A ☐ Yes ☑ No ☐ Unk
Quantity: ..... ☐ Yes ☑ No ☐ Unk
Quality: ..... ☐ Yes ☑ No ☐ Unk

If Yes to any question, please explain in the comment section below or with attachmen

WATER TEST: Have you had the water tested? ..... ☒ Yes [illegible]
If Yes, Date of most recent test: _____ Are test results available? .. ☐ Yes [illegible]
To your knowledge, have any test results ever been reported as unsatisfactory or satisfactory with notation? ..... ☐ Yes [illegible]
If Yes, are test results available? ..... ☐ Yes [illegible]
What steps were taken to remedy the problem? _____

IF PRIVATE: (Strike Section if Not Applicable):

INSTALLATION: Location: _____
Installed by: _____
Date of Installation: _____

USE: Number of persons currently using system: _____
Does system supply water for more than one household? ☐ Yes ☐ No ☐ Unk

Comments: None

Source of Section I information: Seller

PROPERTY LOCATED AT: 151 Watson Road Poland Maine

SECTION II – WASTE WATER DISPOSAL

TYPE OF SYSTEM: ☐ Public ☒ Private ☐ Quasi-Public _____ ☐ Unkn

IF PUBLIC OR QUASI-PUBLIC (Strike Section if Not Applicable):

Have you had the sewer line inspected? ..... ☐ Yes

If Yes, what results: _____

Have you experienced any problems such as line or other malfunctions? ..... ☐ Yes

What steps were taken to remedy the problem? _____

IF PRIVATE (Strike Section if Not Applicable):

Tank: ☒ Septic Tank ☐ Holding Tank ☐ Cesspool ☐ Other: _____

Tank Size: ☐ 500 Gallon ☒ 1000 Gallon ☐ Unknown ☐ Other: _____

Tank Type: ☑ Concrete ☐ Metal ☐ Unknown ☐ Other: _____

Location: Back of Property OR ☐ Unk

Date installed: 1997 Date last pumped: 5/22/19 Name of pumping company: Archie

Have you experienced any malfunctions? ..... ☐ Yes

If Yes, give the date and describe the problem: _____

Date of last servicing of tank: N/A Name of company servicing tank: Unknown

Leach Field: ..... ☒ Yes ☐ No ☐ Unk

If Yes, Location: _____

Date of installation of leach field: 1997 Installed by: Unknown

Date of last servicing of leach field: Unknown Company servicing leach field: Unknown

Have you experienced any malfunctions? ..... ☐ Yes

If Yes, give the date and describe the problem and what steps were taken to remedy: _____

Do you have records of the design indicating the # of bedrooms the system was designed for? ☒ Yes

If Yes, are they available? ..... ☒ Yes

Is System located in a Shoreland Zone? ..... ☐ Yes ☒ No ☐ Unk

Is System located in a Coastal Shoreland Zone? ..... ☐ Yes ☒ No ☐ Unk

Comments: None

Source of Section II information: Seller

PROPERTY LOCATED AT: 151 Watson Road Poland, M

SECTION III – HEATING SYSTEM(S)/HEATING SOURCES(S)

Heating System(s) or Source(s)	SYSTEM 1	SYSTEM 2	SYSTEM 3	SYST
TYPE(S)	Oil Baseboard Hot Water			
Age of system(s) or source(s)	21 years			
Name of company that services system(s) or source(s)	Marietta Blake Titus Plumbing			
Date of most recent service call	12/2018			
Annual consumption per system or source (i.e., gallons, kilowatt hours, cords)	≈840 gallons			
Malfunction per system(s) or source(s) within past 2 years	None			
Other pertinent information		1/28/19 New Hot Water Tank installed		

Are there fuel supply lines? ..... [X] Yes [ ] No [ ] Unk
Are any buried? ..... [ ] Yes [ ] No [X] Unk
Are all sleeved? ..... [X] Yes [ ] No [ ] Unk
Chimney(s): ..... [X] Yes [ ] No
If Yes, are they lined: ..... [X] Yes [ ] No [ ] Unk
Is more than one heat source vented through one flue? ..... [ ] Yes [X] No [ ] Unk
Had a chimney fire: ..... [ ] Yes [X] No [ ] Unk
Has chimney(s) been inspected? ..... [ ] Yes [X] No [ ] Unk
If Yes, date: _____
Date chimney(s) last cleaned: _____
Direct/Power Vent(s): ..... [ ] Yes [X] No [ ] Unk
Has vent(s) been inspected? ..... N/A ..... [ ] Yes [ ] No [ ] Unk
If Yes, date: _____
Comments: None
Source of Section III information: Seller

SECTION IV – HAZARDOUS MATERIAL

The licensee is disclosing that the Seller is making representations contained herein.

A. UNDERGROUND STORAGE TANKS - Are there now, or have there ever been, any underg
storage tanks on the property? ..... [ ] Yes [ ] No [X] Unk
If Yes, are tanks in current use? ..... [ ] Yes [X] No [ ] Unk
If no longer in use, how long have they been out of service? N/A
If tanks are no longer in use, have tanks been abandoned according to DEP? [ ] Yes [X] No [ ] Unk
Are tanks registered with DEP? ..... [ ] Yes [X] No [ ] Unk
Age of tank(s): Size of tank(s):

PROPERTY LOCATED AT: 151 Watson Road Poland, Maine

What materials are, or were, stored in the tank(s)? N/A

Have you experienced any problems such as leakage: N/A ☐ Yes ☐ No ☐ Un

Comments: None

Source of information: Seller

B. ASBESTOS -- Is there now or has there been asbestos:

As insulation on the heating system pipes or duct work?	☐ Yes	☒ No	☐ Un
In the ceilings?	☐ Yes	☒ No	☐ Un
In the siding?	☐ Yes	☒ No	☐ Un
In the roofing shingles?	☐ Yes	☒ No	☐ Un
In flooring tiles?	☐ Yes	☒ No	☐ Un
Other:	☐ Yes	☒ No	☐ Un

Comments: None

Source of information: Seller

C. RADON/AIR - Current or previously existing:

Has the property been tested? ☒ Yes ☐ No ☐ Unl

If Yes: Date: 7/30/18 By: A+L Laboratory

Results: 11 pCi/L

If applicable, what remedial steps were taken?

Has the property been tested since remedial steps? ☐ Yes ☒ No ☐ Unl

Are test results available? NO ☐ Yes ☒ No

Results/Comments: None

Source of information: Seller

D. RADON/WATER - Current or previously existing:

Has the property been tested? ☒ Yes ☐ No ☐ Unk

If Yes: Date: By:

Results:

If applicable, what remedial steps were taken? None

Has the property been tested since remedial steps? N/A ☐ Yes ☒ No ☐ Unk

Are test results available? ☐ Yes ☒ No

Results/Comments: None

Source of information: Seller

E. METHAMPHETAMINE - Current or previously existing: ☐ Yes ☒ No ☐ Unkı

Comments: None

Source of information: Seller

PROPERTY LOCATED AT: _____

F. LEAD-BASED PAINT/PAINT HAZARDS — *(Note: Lead-based paint is most commonly found in constructed prior to 1978)*

Is there now or has there ever been lead-based paint and/or lead-based paint hazards on the property? .. .. ☐ Yes ☒ No ☐ Unknown ☐ Unknown (but possible due

If Yes, describe location and basis for determination: N/A

Do you know of any records/reports pertaining to such lead-based paint/lead-based paint hazards: ☐ Yes

If Yes, describe: _____

Are you aware of any cracking, peeling or flaking paint? ..... ☐ Yes

Comments: None

Source of information: Seller

G. OTHER HAZARDOUS MATERIALS - Current or previously existing:

TOXIC MATERIAL: ..... ☐ Yes ☐ No ☒ Un

LAND FILL: ..... ☐ Yes ☐ No ☒ Un

RADIOACTIVE MATERIAL: ..... ☐ Yes ☐ No ☒ Un

Other: None

Source of information: Seller

Buyers are encouraged to seek information from professionals regarding any specific issue or conce

SECTION V — GENERAL INFORMATION

Is the property subject to or have the benefit of any encroachments, easements, rights-of-way, leases, ri first refusal, life estates, private ways, trails, homeowner associations (including condom and PUD's) or restrictive covenants? ..... ☒ Yes ☐ No ☐ Unl

If Yes, explain: ROW to Water across Stre

Source of information: Seller

Is access by means of a way owned and maintained by the State, a county, or a munic over which the public has a right to pass? ..... ☐ Yes ☒ No ☐ Unk

If No, who is responsible for maintenance? Watson Road Associates

Road Association Name (if known): Watson Road Maintenan

PROPERTY LOCATED AT: 151 Watson Road Poland

Are there any tax exemptions or reductions for this property for any reason including but not limited to: Tree Growth, Open Space and Farmland, Veteran's, Homestead Exemption, Blind, Working Waterfront?..... ☐ Yes ☒ No ☐ Un

If Yes, explain: N/A

Is a Forest Management and Harvest Plan available?..... ☐ Yes ☒ No ☐ Un

Is house now covered by flood insurance policy (not a determination of flood zone) ☐ Yes ☒ No ☐ Un

Equipment leased or not owned (including but not limited to, propane tank, hot water heater, satelli water filtration system, photovoltaics, wind turbines): Type: N/A

Year Principal Structure Built: 1997

What year did Seller acquire property? 2018

Roof: Year Shingles/Other Installed: 1997

Water, moisture or leakage: None

Comments: None

Foundation/Basement:

Is there a Sump Pump? ..... ☐ Yes ☒ No ☐ Un

Water, moisture or leakage since you owned the property: ..... ☐ Yes ☒ No ☐ Un

Prior water, moisture or leakage? ..... ☐ Yes ☒ No ☐ Un

Comments: None

Mold: Has the property ever been tested for mold? ..... ☐ Yes ☒ No ☐ Un

If Yes, are test results available? ..... N/A ☐ Yes ☒ No

Electrical: ☐ Fuses ☒ Circuit Breaker ☐ Other: ☐ Un

Has all or a portion of the property been surveyed? ..... ☒ Yes ☐ No ☐ Un

If Yes, is the survey available? ..... ☒ Yes ☐ No ☐ Un

Manufactured Housing – Is the residence a:

Mobile Home ..... ☐ Yes ☒ No ☐ Un

Modular ..... ☐ Yes ☒ No ☐ Un

KNOWN MATERIAL DEFECTS about Physical Condition and/or value of Property, including those th have an adverse impact on health/safety: None known

Source of Section V information: Seller

PROPERTY LOCATED AT: 151 Watson Road Poland M
04

SECTION VI – ADDITIONAL INFORMATION

None

ATTACHMENTS EXPLAINING CURRENT PROBLEMS, PAST REPAIRS OR ADDITIONAL INFORMATION IN ANY SECTION IN DISCLOSURE: ..... ☐ Yes

Seller shall be responsible and liable for any failure to provide known information regarding known n defects to the Buyer.

Neither Seller nor any Broker makes any representations as to the applicability of, or compliance with, an of any sort, whether state, municipal, federal or any other, including but not limited to fire, life safety, bu electrical or plumbing.

As Sellers, we have provided the above information and represent that all information is correct. To the our knowledge, all systems and equipment, unless otherwise noted on this form, are in operational conditi

SELLER	12-4-19 DATE	SELLER
SELLER	12-4-19 DATE	SELLER

I/We have read and received a copy of this disclosure, the arsenic in wood fact sheet, the arsenic in brochure, and understand that I/we should seek information from qualified professionals if I/we have qu or concerns.

BUYER	DATE	BUYER
Troy Bryant dotloop verified 12/25/19 4:17 PM CST BLIJ-PQMR-OPOP-BHN4		
BUYER	DATE	BUYER

NOT AN OFFICIAL COPY

WARRANTY DEED

Statutory Short Form

DLN: 1002040086338

KNOW ALL BY THESE PRESENTS, That, **Keystone Investment Group, LLC, a Maine Limited Liability Company**, with a mailing address of **P.O. Box 943, Raymond, ME 04071**, for consideration paid, grants to **Troy J. Bryant**, whose mailing address is **41 Riverside Drive, Mechanic Falls, ME 04256**, with Warranty Covenants, the real property in the Town of **Poland**, County of **Androscoggin** and State of **Maine**, more particularly described as follows:

A certain parcel of land situated on the westerly side of Watson Road in the Town of Poland, County of Androscoggin, State of Maine being bounded and described as follows:

Beginning on the westerly sideline of Watson Road at land now or formerly of Richard B. Martin as described in a deed recorded in Book 9589 Page 290 in the Androscoggin County Registry of Deeds;

Thence N 47° 29' 13" W, by and along land of Richard B. Martin, a distance of 198.13 feet;

Thence S 26° 09' 47" W, by and along land of Richard B. Martin, a distance of 222.58 feet to land now or formerly of Albert J. Henson and Jeannette B. Henson as described in a deed recorded in Book 1024 Page 777 in the Androscoggin County Registry of Deeds;

Thence N 47° 08' 04" W, by and along land of Albert J. Henson and Jeannette B. Henson, a distance of 149.62 feet;

Thence N 36° 02' 05" E a distance of 403.78 feet to land now or formerly of Adam N. Farrington as described in a deed recorded in Book 7737 Page 5 in the Androscoggin County Registry of Deeds;

Thence S 47° 15' 42" E, by and along land of Adam N. Farrington, a distance of 250.16 feet to the westerly sideline of Watson Road;

Thence S 23° 43' 02" W, by and along the westerly sideline of Watson Road, a distance of 53.68 feet;

Thence S 15° 03' 41" W, by and along the westerly sideline of Watson Road, a distance of 74.45 feet;

Thence S 20° 07' 28" W, by and along the westerly sideline of Watson Road, a distance of 66.96 feet;

Thence S 33° 49' 07" W, by and along the westerly sideline of Watson Road, a distance of 8.85 feet to the Point of Beginning.

The parcel contains approximately 80,602 square feet.

Bearings are assumed magnetic 1957.

NOT AN OFFICIAL COPY

Reference is made to a plan entitled "Boundary Survey 151 Watson Road Poland, Maine for: Keystone Investment Group, LLC" dated January 2020 by Survey Inc.

Also conveyed herein and appurtenant to the premises hereinbefore described is a right of way and shore privileges so-called, over a strip of land leading from the right of way as delineated upon the Plan prepared for Allen D. Watson herein recorded in Androscoggin County Registry of Deeds, Book of Plans, Book 15, Page 37, to the westerly shore of Range Pond, bounded and described as follows: Beginning at an iron stake driven in the ground on the Westerly shore of said Pond as aforesaid, at a point twenty (20) feet Northeasterly of the Northeast corner of land now for formerly owned by Willis F. Stepp and Pauline E. Stepp; thence in a generally Northeasterly course on the Westerly shore of said Pond, a distance of twenty feet to another stake there driven, thence in a generally Westerly course to the Northeasterly side of a right of way there existing at a point marked by a stake forty-five feet Northeasterly of the Northwest corner of the strip of said Stepp; thence in a generally Southerly course on the Easterly side of said right of way twenty feet to a point marked by an iron stake; thence in a generally Easterly course to the point of beginning.

Together with and subject to any and all easements, rights and restrictions of record.

Meaning and intending to convey and conveying a portion of the real property described in a deed to Keystone Investment Group, LLC by virtue of a deed from James L. Stepp, as Trustee of the Stepp Living Trust dated June 21, 2019 and recorded in the Androscoggin County Registry of Deeds at Book 10111, Page 315.

Witness our hands and seals this February 4, 2020.

Witness:

_____

Keystone Investment Group, LLC

By: _____
David Baker, Member

By: _____
Sheila Baker, Member

STATE OF MAINE
COUNTY OF ANDROSCOGGIN, ss. February 4, 2020

Personally appeared on the above date, the above-named **David Baker and Sheila Baker, Members** of said **Keystone Investment Group, LLC,** and acknowledged the foregoing to be their free act and deed in their said capacity and the free act and deed of said **KeyStone Investment Group, LLC.**

Before me,

_____
Notary Public/Attorney at Law
Print name: Michelle A McWilliams

MICHELLE A. McWILLIAMS
Notary Public, State of Maine
My Commission Expires 05/07/2024

Maine Real Estate Transfer Tax Paic
TINA M. CHOUINARD, REGISTER

Emails between CEO Neal and Town Attorney for Bryant Permit 2020

Scott Neal

From: Natalie L. Burns <nburns@JBGH.com>
Sent: Monday, May 18, 2020 11:52 AM
To: Scott Neal
Cc: Matt Garside
Subject: RE: Dock Permit Application

Scott,

Could you send me the tax information that you have? For example, is there a prior name in the tax records? If there is, I might be able to track down a deed reference. As to the Town's title, it is based upon the recording of the tax lien and the sending of the automatic foreclosure notice. If we could figure out the prior owner's name, then we can easily find the tax lien in the Registry records. Otherwise, we would have to search the Town, which will have hundreds of hits, especially if we don't know exactly when the tax lien was filed or who the prior owner was. Also, the tax lien itself may not have deed information; it may only have the tax map and lot number, but at least it will have the prior owner's name.

Even if we can't track down a deed, we might be able to figure out the configuration of the parcel acquired, which would in turn support an opinion that there is not sufficient water frontage to support a dock on the parcel.

Thanks,

Natalie

Natalie L. Burns, Esq.
Jensen Baird Gardner & Henry
Ten Free Street
P.O. Box 4510
Portland, Maine 04112-4510
207-775-7271 or 800-756-1166
Fax: 207-775-7935
nburns@jbgh.com
www.jbgh.com

JENSEN BAIRD GARDNER HENRY
Attorneys at Law

From: Scott Neal <sneal@polandtownoffice.org>
Sent: Monday, May 18, 2020 8:55 AM
To: Natalie L. Burns <nburns@JBGH.com>
Cc: Matt Garside <mgarside@polandtownoffice.org>
Subject: RE: Dock Permit Application

Natalie,
We have tried to do some research on the deed but we have not had any luck. Our tax database shows we acquired this parcel in 2014. Is there a way we can get proof the Town owns this property? As it stand right now from your last email I'm going to deny this application on right title and interest as well as the lack of frontage on the property. There is not a

natural beach area or any vegetation just rocks at the end of the right of way. Could you also write me a letter contesting any points made by the applicants attorney that would make our case on right title and interest. Finally would installing a dock on that property infringe on the rights of the other homeowners who also use that as a right of way?
Thank you.

Scott Neal
Code Enforcement Officer
Town of Poland
sneal@polandtownoffice.org
(207) 998-4604

From: Natalie L. Burns <nburns@JBGH.com>
Sent: Friday, May 8, 2020 4:17 PM
To: Scott Neal <sneal@polandtownoffice.org>
Cc: Matt Garside <mgarside@polandtownoffice.org>
Subject: RE: Dock Permit Application

Scott,

This will confirm our discussion concerning this dock permit application. There are two separate issues concerning this application. The first is whether the applicant can demonstrate sufficient right, title or interest to pursue the application. As I understand it, the Town has acquired the title to the underlying fee of the 20-foot wide ROW through foreclosure of a tax lien. The foreclosure of the lien did not eliminate the rights of property owners who had easements allowing them to utilize the ROW. The law is not entirely clear about whether people with easements to the water have the right to also install docks; the statute was recently changed to address this issue, but the changes do not apply to rights that were created prior to the enactment, as is the case here. You indicated that there are several property owners who have the right to utilize the easement. It would not be possible for all of them to have a dock and the installation of a dock by one person means no one else can under Sec. 508.27.D.1; it also could interfere with the rights of the others to exercise their right to access the water. However, that also does not answer the question of whether there is sufficient right, title or interest to pursue the application. Under Maine law, a property owner does not have to make a strong showing to support a claim of right, title or interest. Typically a deed would make a sufficient showing. There is the additional issue here, though, of the Town's ownership of the lot; the placement of a private dock could interfere with any public rights in this case.

However, the issue of whether there is sufficient right, title or interest to pursue an application is only the first question. The second is whether the proposal meets zoning standards. Section 507.1.E requires a minimum shoreland lot frontage of 200 feet, which cannot be met here. The second issue is whether there is any claim that this lot can be developed under the nonconforming lot provisions in Section 504.5. It is my opinion that it cannot. A nonconforming lot of record can be built upon without the need for a variance as long as all provisions of the chapter other than lot size and road frontage are met. There are other lot requirements that cannot be met.

It is also possible that other requirements of Section 508.7.D cannot be met by this application, such as the location not interfering with existing developed or natural beach areas, or appropriate soils for construction. Regardless of those issues, it is my opinion that the application does not meet applicable zoning requirements.

Thanks,

Natalie

Natalie L. Burns, Esq.
Jensen Baird Gardner & Henry
Ten Free Street
P.O. Box 4510
Portland, Maine 04112-4510
207-775-7271 or 800-756-1166
Fax: 207-775-7935
nburns@jbgh.com
www.jbgh.com

From: Scott Neal <sneal@polandtownoffice.org>
Sent: Wednesday, May 6, 2020 10:56 AM
To: Natalie L. Burns <nburns@JBGH.com>
Cc: Matt Garside <mgarside@polandtownoffice.org>
Subject: Dock Permit Application

Natalie,
I received an application for a dock on a Town owned right of way. I have attached the application, a map of the property, two deeds supplied by the applicant, and a letter from the applicants attorney. We talked about this right of way last year when I got a complaint about a dock that was installed there without a permit (see attached Farrington Dock Letter). Thanks for taking a look at this if I need to get you some more information please contact me.

Scott Neal
Code Enforcement Officer
Town of Poland
sneal@polandtownoffice.org
(207) 998-4604

Confidentiality Notice: This message is intended only for the person to whom addressed in the text above and may contain privileged or confidential information. If you are not that person, any use of this message is prohibited. We request that you notify us by reply to this message, and then delete all copies of this message, attachments and/or files, including any contained in your reply.

This email has been scanned for spam and viruses by Proofpoint Essentials. Click here to report this email as spam.

Confidentiality Notice: This message is intended only for the person to whom addressed in the text above and may contain privileged or confidential information. If you are not that person, any use of this message is prohibited. We request that you notify us by reply to this message, and then delete all copies of this message, attachments and/or files, including any contained in your reply.

Bk 10111 Pg305 #10420
06-24-2019 @ 10:32a

NOT AN OFFICIAL COPY

DLN: 1001940061409

CORRECTIVE DEED OF TRUSTEE

JAMES L. STEPP, as TRUSTEE of the STEPP LIVING TRUST, with a mailing address of PO Box 118, South Casco, Maine 04077, by the power conferred by law, and every other power, for consideration paid, grants to DAVID W. BAKER and SHEILA M. BAKER, of Raymond, Maine, as JOINT TENANTS, the real property in Poland, Androscoggin County, Maine, described in Exhibit A attached hereto.

NO MAINE R.E. TRANSFER TAX PAID

The purpose of this corrective deed is to correct the legal description to include parcels and an easement omitted from the Deed of Trustee dated March 15, 2019 and recorded in the Androscoggin County Registry of Deeds in Book 10049, Page 252.

Witness my hand and seal this 21st day of June, 2019.

Stepp Living Trust

James L. Stepp

James L. Stepp, Trustee

STATE OF MAINE
CUMBERLAND, ss. June 21, 2019

Personally appeared before me James L. Stepp in his capacity as Trustee of the Stepp Living Trust and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Jennifer E. Thomas, Maine Bar No. 9515
Attorney at Law

After recording return to Beagle, Thomas & Ridge, LLC, PO Box 1815, Standish, Maine 04084
File #26776

JENSEN·BAIRD GARDNER·HENRY
Attorneys at Law

DAVID J. JONES
F. BRUCE SLEEPER
LESLIE E. LOWRY III
MICHAEL J. QUINLAN
NATALIE L. BURNS
SALLY J. DAGGETT
ROY T. PIERCE
BRENDAN P. RIELLY
NICHOLAS J. MORRILL
MARK A. BOWER

CHARLES M. KATZ-LEAVY
ALYSSA C. TIBBETTS
JEFFREY B. HERBERT
ERICA M. JOHANSON
J. CASEY MCCORMACK
TUDOR N. GOLDSMITH
KATHERINE C. BAILEY
BENJAMIN T. MCCALL
SHARRA L. INGLIS

TEN FREE STREET
P.O. BOX 4510
PORTLAND, MAINE 04112-4510
(207) 775-7271 (Phone)
(207) 775-7935 (Fax)

www.jbgh.com

Of Counsel
JOSEPH G. CARLETON, JR.
LAWRENCE C. CLOUGH
KENNETH M. COLE III
PATRICIA M. DUNN
FRANK H. FRYE
R. LEE IVY
DEBORAH M. MANN
NICHOLAS S. NADZO
RICHARD H. SPENCER, JR.

YORK COUNTY OFFICE
11 MAIN STREET, SUITE 4
KENNEBUNK, MAINE 04043
(207) 985-4676 (Phone)
(207) 985-4932 (Fax)

May 20, 2020

VIA EMAIL

Scott Neal, Code Enforcement Officer
Town of Poland
1231 Maine Street
Poland, Maine 04274

Re: Troy Bryant/151 Watson Road

Dear Scott:

You have asked that I review and respond to the May 5, 2020 letter from Attorney Keith Richard to you concerning an application made by Troy Bryant to install a dock on a right-of-way. Attorney Richard's letter sets forth the position that Mr. Bryant has sufficient right, title or interest to acquire the permit for the dock based upon rights created in his deed. The deed includes the right to utilize a 20-foot wide right-of-way running to Range Pond, in common with other owners. While such an easement might be sufficient to demonstrate sufficient right, title or interest to support an application for a dock, there are other issues in this case that lead to the conclusion that the applicant cannot build a dock on this property.

1. **Easement rights held by Troy Bryant.** According to the information that you have provided, Mr. Bryant's easement runs over land described in a deed from David W. Baker and Sheila M. Baker to Amy R. Lappin and John M. Debartolo, Jr., dated January 30, 2020 and recorded in the Androscoggin County Registry of Deeds in Book 10293, Page 236. The Bakers acquired the property from James L. Stepp as Trustee of the Stepp Living Trust, as described in a Corrective Deed of Trustee, dated June 21, 2019 and recorded in the Androscoggin County Registry of Deeds in Book 10111, Page 305. Initially there was some thought that the Town had acquired the fee interest in the 20-foot wide parcel underlying the Byrant easement, but it appears that fee title to the easement area is in fact as set forth above. I do not disagree with Attorney Richard's opinion that the easement granted to Mr. Bryant could be sufficient evidence of right, title or interest to support an application for a dock. However, this is only the first step in the inquiry of whether a permit for a dock can be issued.

2. **Zoning requirements.** According to the information that you have provided, the Lappin/DeBartolo parcel currently has a dock located on it. Section 508.27.D of the Comprehensive Land Use Code states that only one dock is allowed on a single lot, unless the lot has at least twice the minimum shore frontage required by Section 507.2. Lots in the shoreland zoning districts are required to have two hundred feet of shore frontage under Section 507.2 of the Code. According to the deed, this lot does not meet that requirement and so no additional dock is allowed on the property, including in the easement area.

Sincerely,

Natalie L. Burns

cc: Matt Garside, Town Manager

Copy of Denied Permit and Denial Letter

Building Permit

Town of Poland
Code Enforcement Department
1231 Maine Street, 04274
Tel: (207) 998-4604
Fax: (207) 998-2002

POLAND
MAINE

Building Permit Number: 20200132

Address: 151 WATSON RD.
City, State Zip ,
Parcel ID: 0005-0016C
Permit Type: Zoning
App. Date: 05/05/2020
Use Group: Residential
Zone: R-2 AQ1 LR WL

State ID: 0
Lot Size: [Square Feet]
Type of Construction: Shoreland Project
Shoreland: Yes
Flood Zone: No
Setback-Front: N/A
Setback-Rear: N/A
Setback-Side N/A
Shoreland Setback N/A

Job Description: Installing 4'x20' new aluminum dock

Contractor:
,

Owner:
BRYANT, TROY J.
41 RIVERSIDE DRIVE
MECHANIC FALLS,ME 04256
577-6112

Fees	Amount	Payment	Type	Received	Paid
	Total Fee: $0.00				**Total Paid: $0.00**

1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules.

2. Building permits do not include plumbing, septic or electrical work.

3. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work.

CERTIFICATION

I understand that this permit is valid only for the use specified above. Any changes must be approved by the permitting Authority. I hereby acknowledge that I have read this application and STATE that the above information is correct, and AGREE to comply with ALL Municipal Ordinances and State Laws regulating activities covered by this permit.

Applicant Signature _____ Date _____

This permit is approved on the basis of information provided by the applicant regarding his ownership and boundary locations. The applicant has the burden of ensuring that they have legal right to use the property and that they are measuring required setbacks from the legal boundary lines of the lot. The approval of this permit in no way relieves the applicant of this burden nor does this permit approval constitute a resolution in favor of the applicant of any issues regarding the property boundaries, ownership, or similar title.

Denied 5-21-20 SN. 05/21/2020

Issued By *Code Enforcement Officer* Date

ALL STRUCTURES MUST MEET THE REQUIREMENTS OF THE MAIN UNIFORM BUILDING AND ENERGY CODE. Construction must be substantially started within six months of permit being issued or permit becomes void.

Town of Poland

Shoreland Project Permit Application

Owner / Contractor

Owner Name:	BRYANT, TROY J.	Contractor Name:	
Address:	41 RIVERSIDE DRIVE	Mailing Address:	
City, State, Zip:	MECHANIC FALLS, ME 04256	City, State, Zip:	,
Phone:	577-6112	Phone:	
Fax:	[ownerfax]	Fax:	
Email:	troy.bryant84@yahoo.com	Email:	
Contractor (if unable to find on the web form):		DEP Certification:	

Project

Project Address:	151 WATSON RD.	Estimated Cost:	1500
City, State, Zip:	,		
Parcel ID #:	0005-0016C	Current Use:	Nothing in Place at this time, I just moved into Residence in Feb
		Proposed Use:	Install a dock for boat use

Please Describe Your Project: Installing 4'x20' new aluminum dock Dock

I hereby certify that I am the Owner of Record of the named property, or that the owner of record authorizes the proposed work, and I have been authorized by the owner to make this application as his/her authorized agent. I agree to confirm to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Officials shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Troy Bryant
Applicant Signature

05/05/2020
Date

Code Enforcement Office

1231 Maine Street, Poland, Maine 04274
(207) 998-4604 sneal@polandtownoffice.org

Troy Bryant
151 Watson Rd.
Poland, Maine 04274

May 21, 2020

Parcel ID: 0005-0016C

Located At: 151 Watson Rd.
Zoning District: Rural Residential-2, Limited Residential, and Aquifer Protection Overlay 1.

Certified Mail # 91 7199 9991 7033 5025 5631

Dear Mr. Bryant,

You applied for a Shoreland Project Permit (# 20200132) for a dock on parcel number 0035-0027 on which you have a right of way. Accompanied with your application was the following:

- A letter from Keith P. Richard ESQ. from the firm of Libby, O'Brien, Kingsley, and Champion.
- A deed from Keystone Investments Group LLC to Troy J. Bryant dated February 4, 2020.
- A deed from the Stepp Living Trust to Keystone Investment Group LLC dated June 21, 2019.
- A property disclosure dated December 4, 2019.
- An electronic Shoreland Project Permit Application.

The parcel on which you would like to install a dock (parcel number 0035-0027) is a legal nonconforming lot with twenty (20') feet of lake frontage. The Town Attorney has researched the ownership of parcel number 0035-0027. Based on her research and a corrective deed from the Stepp Living Trust to David and Sheila Baker (Book 10111 Pages 305-308 dated June 21, 2019) the property of your right of way is now owned by Amy R. Lappin and John M. Debartolo. Because Ms. Lappin and Mr. Debartolo own the abutting property (parcel number 0034-0001) in the same name these properties are now combined per Chapter 5 §504.5.C Contiguous Lots-Vacant or Partially Built of the Town of Poland Comprehensive Land Use Code (CLUC). The combined properties of Ms. Lappin and Mr. Debartolo have shore frontage of approximately one hundred and fifty eight feet (158') and one dock is already installed on that parcel. A second dock is not allowed on that parcel per Chapter 5 §508.27. D. 1 of the CLUC.

Code Enforcement Office
1231 Maine Street, Poland, Maine 04274
(207) 998-4604 sneal@polandtownoffice.org

The following are the sections of the CLUC on which this decision is based:

Chapter 3 §303.2. C - No Building Permit for a building, structure or use on any lot shall be issued except to the owner of record thereof, or the owner's authorized agent, until the proposed construction or alteration of a building or structure shall comply in all respects to this Code or with a decision rendered by the Board of Appeals or Planning Board.

Chapter 5 §508.27. D. 1 - No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 507.2 a second structure may be allowed and may remain as long as the lot is not further divided.

Chapter 5 §507.2. D. 3 - The minimum Shore Frontage shall be (200) feet.

In conclusion and pursuant to Chapter 3 §303.2. C, Chapter 5 §508.27. D. 1, Chapter 5 §508.27. D. 3, and Chapter 5 §507.2. D. 3 of the CLUC, I regret to inform you that this office has denied your permit application. You have the right to appeal this decision to the Board of Appeals within forty five (45) business days of the date of this letter pursuant to Ch. 3, §304.3 of the CLUC.

Sincerely,

Scott Neal
Code Enforcement Officer

CC: Matthew Garside, Town Manager

ENC: Administrative Appeal Application

Copy of Corrected Deed

NOT AN OFFICIAL COPY

EXHIBIT A

A certain lot or parcel of land, with the buildings thereon, situated in Poland, in said County of Androscoggin, State of Maine, and located on the Westerly shore of Upper Range Pond, so-called; said parcel of land being more particularly described as follows, viz:

Beginning at an iron pin on the shore of said Pond at a point which marks the Northeast corner of lot #35, so designated, and being that parcel sold to Harold C. and Florence F. Shackleton during the year 1959, and duly recorded in the Androscoggin County Registry of Deeds;

Thence in a generally Northerly direction on the Westerly shore of said Pond eighty (80) feet to a point;

Thence at right angles and in a Westerly direction parallel with the Northerly boundary line of the Shackleton lot aforesaid, to the right of way there situated;

Thence at right angles and in a Southerly direction on the Easterly side line of said right of way eighty (80) feet, more or less, to the Northwesterly corner of said Shackleton lot;

Thence at right angles and in an Easterly direction on the Northerly boundary line of said Shackleton lot, one hundred twenty-seven (127) feet to the point of beginning.

Together with a right of way in common with others over the roadway which forms the Westerly boundary of this lot and as now laid out and situated, which leads to a public highway known as the "Cleve Tripp" Road.

Meaning and conveying the real estate conveyed by Warranty Deed dated December 9, 1993 from Willis L. Stepp and Pauline E. Stepp to Willis L. Stepp and Pauline E. Stepp, Trustees under the Stepp Living Trust, and recorded in the Androscoggin Registry of Deeds in Book 3195, Page 90.

ANOTHER certain lot or parcel of land, with the buildings thereon, situated in Poland, in said County of Androscoggin, State of Maine, and located on the Westerly shore of Upper Range Pond, so-called; said parcel of land being more particularly described as follows, viz:

Beginning at an iron pin on the shore of said Pond at point which marks the Northeast corner of lot now or formerly owned by Grantor, and numbered #34, as delineated on the Plan of Lots, recorded in Androscoggin County Registry of Deeds in Book 15, Page 37:

Thence in a generally Northerly course on the Westerly shore of said Upper Range Pond, twenty (20) feet to a point and corner;

Thence in a generally Westerly course parallel with the Northerly boundary of Lot #34 aforesaid, to the Easterly side of a right of way there situated;

NOT AN OFFICIAL COPY

Thence in a Southerly course on the Easterly side of said right of way, twenty (20) feet to the Northwesterly corner of Lot #34 as aforesaid;

Thence in an Easterly course on the Northerly boundary of Lot #34 to the point of beginning.

Together with a right of way in common with others over the roadway which forms the Westerly boundary of this lot and as now laid out and situated, which leads to a public highway know as the "Cleve Tripp Road".

Meaning and conveying the real estate conveyed by Warranty Deed dated December 9, 1993 from Willis L. Stepp and Pauline E. Stepp to Willis L. Stepp and Pauline E. Stepp, Trustees under the Stepp Living Trust, and recorded in the Androscoggin Registry of Deeds in Book 3195, Page 92.

ANOTHER certain lot or parcel of land, with the buildings thereon, situated in Poland, in said County of Androscoggin, State of Maine, and located on the Westerly shore of Upper Range Pond, so-called; said parcel of land being more particularly described as follows, viz:

Commencing at a point on the Westerly shore of Range Pond as aforesaid, at a point which marks the Northeasterly corner of a strip of land now or formerly of Grantor and recorded in the Androscoggin County Registry of Deeds in Book 943, Page 121;

Thence in a generally Northerly course on the shore of said Range Pond a distance of twenty (20) feet to a point marked by an iron stake;

Thence in a generally Westerly course and nearly parallel to the Northerly boundary of said twenty-foot strip previously conveyed as aforesaid, to the Easterly side of a right of way there existing;

Thence in a generally Southerly course on the Easterly side of said right of way, twenty-five (25) feet to the Northwesterly corner of said land previously conveyed to said Grantor as aforesaid;

Thence in a generally Easterly course on the Northerly boundary of said twenty-foot strip previously conveyed as aforesaid, to the point of beginning.

Said strip of land being comprised in part by Lot #33 as delineated on a Plan of Lots recorded in Androscoggin County Registry of Deeds in Plan Book 15, Page 37.

Meaning and conveying the real estate conveyed by Warranty Deed dated December 9, 1993 from Willis L. Stepp and Pauline E. Stepp to Willis L. Stepp and Pauline E. Stepp, Trustees under the Stepp Living Trust, and recorded in the Androscoggin Registry of Deeds in Book 3195, Page 91.

ALSO conveyed herein and appurtenant to the premises hereinbefore described is a right of way and shore privileges so-called, over a strip of land leading from the right of way as delineated upon the

NOT AN OFFICIAL COPY

NOT AN OFFICIAL COPY

Plan prepared for Allen D. Watson herein recorded in Androscoggin County Registry of Deeds, Book of Plans, Book 15, Page 37, to the westerly shore of Range Pond, bounded and described as follows: Beginning at an iron stake driven in the ground on the Westerly shore of said Pond as aforesaid, at a point twenty (20) feet Northeasterly of the Northeast corner of land now for formerly owned by Willis F. Stepp and Pauline E. Stepp; thence in a generally Northeasterly course on the Westerly shore of said Pond, a distance of twenty feet to another stake there driven, thence in a generally Westerly course to the Northeasterly side of a right of way there existing at a point marked by a stake forty-five feet Northeasterly of the Northwest corner of the strip of said Stepp; thence in a generally Southerly course on the Easterly side of said right of way twenty feet to a point marked by an iron stake; thence in a generally Easterly course to the point of beginning.

ANDROSCOGGIN COUNTY
TINA M CHOUINARD
REGISTER OF DEEDS

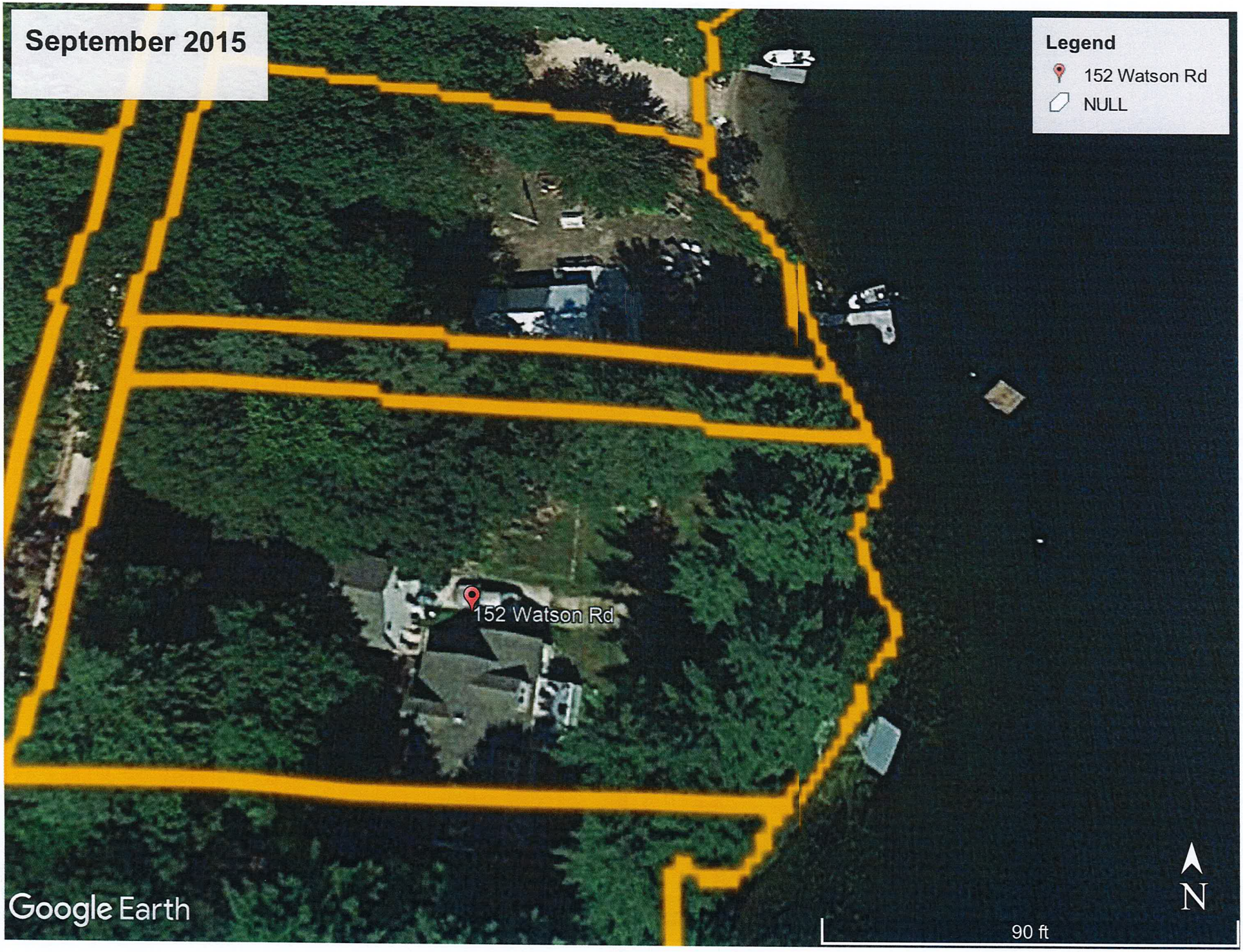
Google Earth Maps of 152 Watson Road from may 2010 to May 2018

May 2010
Legend
152 Watson Rd
NULL
152 Watson Rd
Google Earth
N
90 ft

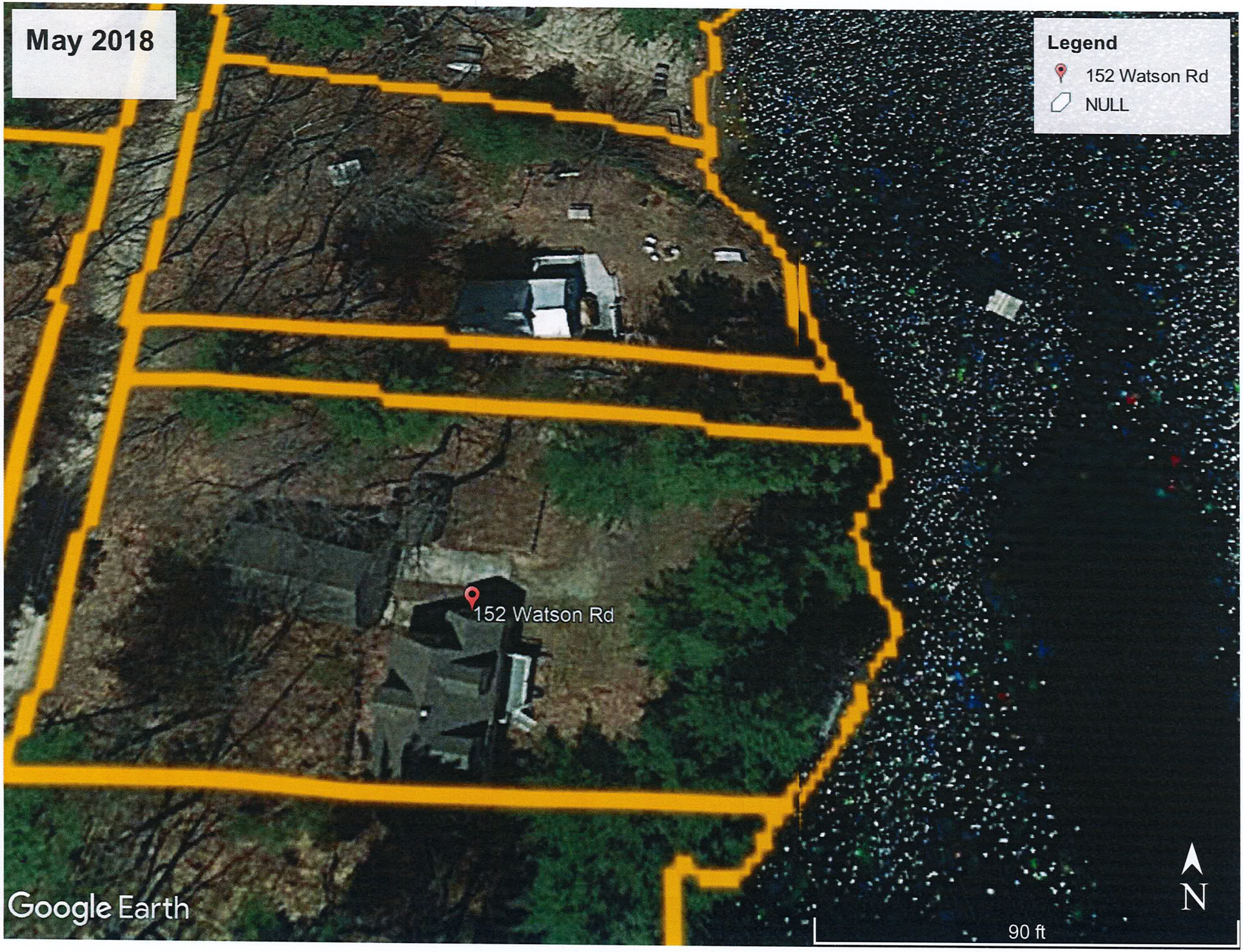
May 2012
Legend
152 Watson Rd
NULL
152 Watson Rd
Google Earth
N
90 ft

September 2013
Legend
152 Watson Rd
NULL
152 Watson Rd
Google Earth
N
90 ft

September 2014
Legend
152 Watson Rd
NULL
152 Watson Rd
Google Earth
N
90 ft


September 2015
Legend
152 Watson Rd
NULL
152 Watson Rd
Google Earth
N
90 ft

May 2016
Legend
152 Watson Rd
NULL
152 Watson Rd
Google Earth
N
90 ft


May 2018
Legend
152 Watson Rd
NULL
152 Watson Rd
Google Earth
N
90 ft

Tel: (207) 998-4604

Town of Poland, Maine
Board of Appeals
1231 Maine Street
Poland, Maine 04274

Application for Administrative Appeal

Appellant(s): Jonathan Turgeon

Mail Address: 20 Garland Swamp Rd Work Phone: 207-576-8736

Town/State/Zip: Poland ME 04274 Home Phone: _____

Road Location: _____

Map # 0032 Lot # 0015 Sub-lot # _____

An Administrative Appeal is being sought for the relief from the decision, or lack of a decision, of the Code Enforcement Officer or the Planning Board in regard to an application for a permit or use approval. The undersigned believes that: (check one)

☐ An error was made in the denial of a permit or use.

☒ The denial was based on a misinterpretation of the ordinance.

☐ There has been a failure to approve or deny a permit or use within a reasonable period of time.

☐ (Other – please specify) _____

1. Attach a copy of any relevant papers (applications, site drawings, decisions, etc.) concerning the decision by the Code Enforcement Officer or Planning Board.
2. Attach copy of deed, sales agreement, or contract that gives you title, right, or interest in this appeal.
3. Indicate what section(s) of the ordinance that you believe is/are relevant to your appeal: Section 508.27. A.16
4. Attach a statement describing the facts concerning your filing an appeal.

I hereby acknowledge that I have read this application and pertinent sections of the ordinances, and state that the information in this document is to the best of my knowledge true and accurate.

		6/10/20
Appellant's Signature	*Co-Appellant's Signature*	*Date*

Code Enforcement Office
Town of Poland
1231 Maine Street, 04274
Tel: (207) 998-4604
Fax: (207) 998-2002

Office Use Only
Date Posted: 6-11-19
Trio Receipt: 201752
(Cash) Check
Teller Sarah

Residential Building Permit

Parcel ID	0032-0015	**Permit #**	BP 2019-101
Road Location	19 GARLAND SWAMP RD.	**Permit Type**	Shoreland Project

Land Owner	TURGEON, JONATHAN	**Phone:** 576-8736
Mailing Address	811 MAIN ST, LEWISTON, ME 04240	
Application/Contractor Name:	Homeowner	
Contractor Address:		**Phone**

Proposed Project Description:
Install a temporary dock with one 3'6" x 16' section and two 8' long x 6' wide sections.

Certificate of Occupancy is required before use of any structure may begin.

		Cost of Work	Permit Rates	Required Setbacks
Appl. Date	06/10/2019			N/A
Est. Cost	$0.00	**Up to $1,00**	$20.00	
Lot Size	0.22	**Add'l $1,000**	$5.00 / 100	
Use Group	Docks	**Detached Structure**		**Permit Fee** $25.00
Type Const.	Docks	**Under 200 Ft:**	$20.00 / Structur	**Under 200 Ft:**
Zone	RR2, LR, APO1			**Planning Board**
Shoreland	Yes			
Flood Zone	No			

1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules.
2. Building permits do not include plumbing, septic or electrical work.
3. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work.

CERTIFICATION

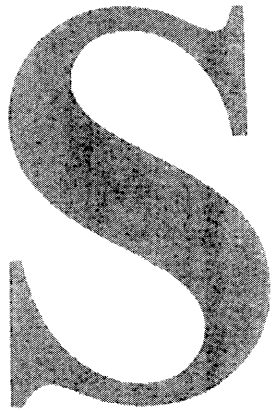
I understand that this permit is valid only for the use specified aboce. Any changes must be approved by the permitting Bitmap authority. I hereby acknowledge that I have read this application and STATE that the above information is correct, and AGREE to comply with ALL Municipal Ordinances and State Laws regulating activities covered by this permit.

SIGNATURE OF APPLICANT DATE

This permit is approved on the basis of information provided by the applicant regarding his ownership and boundary locations. The applicant has the burden of ensuring that he has legal right to use the property and that he is measuring required setbacks from the legal boundary lines of the lot. The approval of this permit in no way relieves the applicant of this burden nor does this permit approval constitue a resolution in favor of the applicant of any issues regarding the property boundaries, ownership, or similar title

Permit Issued By: [signature] 6-11-19
Code Enforcement Officer

ALL STRUCTURES MUST MEET THE REQUIREMENTS OF THE MAINE UNIFORM BUILDING AND ENERGY CODE.
Construction must be substantially started within six months of permit being issued or permit becomes void.



Permit Number: 2019-101

Land Owner	TURGEON, JONATHAN
Parcel ID	0032-0015
Road Location	19 GARLAND SWAMP RD.
Contractor Name	Homeowner

Install a temporary dock with one 3'6" x 16' section and two 8' long x 6' wide sections.

This permit is approved on the basis of information provided by the applicant regarding his ownership and boundary locations. The applicant has the burden of ensuring that he has legal right to use the property and that he is measuring required setbacks from the legal boundary lines of the lot. The approval of this permit in no way relieves the applicant of this burden. Nor does this permit approval constitued a resolution n favor of the applicant of any issues regarding the property boundaries, ownership, or similar title issues.

06/11/2019

Date

Scott Neal
Code Enforcement Officer

MAIN-LAND
DEVELOPMENT
CONSULTANTS, INC.

ENGINEERS, SURVEYORS, SCIENTISTS
69 MAIN ST. P.O. BOX Q, LIVERMORE FALLS, ME 04254
367 US ROUTE 1 SOUTH, THIRD FLOOR, FALMOUTH, ME 04105
TEL: (207) 897-6752/FAX: (207) 897-5404
WWW.MAIN-LANDDCI.COM

June 8, 2020

Scott Neal
Code Enforcement Officer
Poland Town Office
1231 Maine Street
Poland, ME 04274

SUBJECT: Appeal of the Denial of Building Permit #20200169 – Deck Structure in the Shoreland Zone for Jonathan Turgeon - 19 Garland Swamp Road, Parcel ID 0032-0015

Dear Mr. Neal and Members of the Appeals Board:

Main-Land Development Consultants, Inc. has been retained by Jonathan Turgeon to assist him in the preparation of this Administrative Appeal of the decision of the Poland Code Enforcement Officer (CEO), in a letter dated May 20, 2019 (though I believe it was actually 2020).

The CEO has based his decision on the fact that the Town of Poland has essentially ruled the structure on the lot to be of no value. The applicant does not dispute this fact. The applicant also does not dispute the fact that reconstruction of the former structure would not be allowed.

However, the applicant is not asking for reconstruction or replacement of the structure on this lot. The structure was a camp – a residence. The applicant is requesting the use of the existing structure, currently on the property, as an accessory to the already-permitted dock on the site.

The argument seems to be that, since there is no taxable value in the current camp, then there is no structure. But there is a structure on site, whether the Town thinks there is taxable value or not, the structure exists. Which brings us to the Shoreland section of the Code (Section 508.27). In Table 508.27.A, there is a Land Use that would allow for the proposed deck.

In this Table, Land Use #16 calls for On Site Structures Accessory to Allowed Uses. This Land Use allows the Code Enforcement Officer to review and issue a permit for this On-Site Structure.

The applicant is NOT requesting, as the CEO seems to be indicating, a reconstruction or a replacement of the old, dilapidated structure, but instead, a re-use of a portion of this structure, as an accessory structure, as allowed in this Table.

We submit that the existing On-Site Structure, the old, dilapidated camp structure, can be essentially removed, with the exception of its foundation and first floor (removing walls and roof). The "first floor" of this structure can then be rehabilitated into the deck structure that would be an accessory to the Temporary Dock already permitted. Storage space under the deck would also be created, as shown in the permit application package previously submitted.

This scenario allows for the removal of the building that seems to be in everyone's best interests, including the Town, the neighbors, and the applicant. It also allows the applicant to recapture at least some of the value of this shorefront lot, but with a much less intensive use than a residence, and without any further non-conformance.

If you have any questions, comments, or concerns with this application, please do not hesitate to call or write.

Sincerely,

Main-Land Development Consultants, Inc.

Thomas R. DuBois, PE
Senior Engineer

Code Enforcement Office

1231 Maine Street, Poland, Maine 04274
(207) 998-4604 sneal@polandtownoffice.org

Jonathan Turgeon
20 Garland Swamp Rd.
Poland, Maine 04274

May 20, 2019

Parcel ID: 0032-0015

Located At: 19 Garland Swamp Rd.
Zoning District: Rural Residential-2, Limited Residential, and Aquifer Protection Overlay 1

Certified Mail # 91 7199 9991 7033 5025 5624

Dear Mr. Turgeon,

You applied for a Building Permit (# 20200169) to allow you to replace an existing structure with a deck with storage at 19 Garland Swamp Rd. You asked for no expansion, foundation changes, or relocation. The cover letter from Main-Land Development Consultants, Inc asked that this replacement be allowed based on Chapter 5 §508.27, Table 508.27.A #16 Onsite and Offsite Structures accessory to allowed uses, of the Town of Poland Comprehensive Land Use Code (CLUC). Main-Land Development Consultants, Inc states that this new deck will be an accessory to the allowed use of a temporary dock. Accompanied with your application was the following:

- A cover letter describing your project from Main-Land Development Consultants, Inc.
- A check #1435 to the Town of Poland in the amount of $90.00.
- A plot plan showing the existing building and setbacks.
- An elevation and floor plan from Maine Residential Design dated April 18, 2019.
- Letters from abutting property owners Debra Lapre, Donald Whitelaw, Domenic LaRosa, Vickie and Peter Polombo, and Matt New.
- The deed for your property.

Main-Land Development Consultants, Inc has asked on your behalf that the replacement of the existing structure be allowed based on Chapter 5 §508.27 Table 508.27.A #16 of the CLUC, Onsite and Offsite Structures accessory to allowed uses. They state in their letter "This land use allows the Code Enforcement Officer to review and issue a permit for this onsite structure". While it is true the Code Enforcement Officer is allowed to permit onsite accessory structures, you would also have to follow all rules of Chapter 5 §508.27.B Principal and Accessory Structures of the CLUC. Your application does not show that you can meet the criteria to allow an accessory structure in Chapter 5 §508.27.B of the CLUC.

Code Enforcement Office

1231 Maine Street, Poland, Maine 04274
(207) 998-4604 sneal@polandtownoffice.org

Because of the extensive damage to the existing structure this replacement falls under Chapter 5 § 504.3.D of the CLUC, Reconstruction or Replacement - In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

1. Structures in Shoreland Zoning Districts
    a. Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is damaged or destroyed, regardless of cause, by more than fifty percent (50%) of the market value of the structure before such damage or destruction, may be reconstructed or replaced provided a permit is obtained within one (1) year of the date of damage or destruction, and provided such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purpose of this Code. When determining the setback to the greatest practical extent the Planning Board may allow for reduced setbacks from front and side lines in conformance with Section 504.3.E

On August 21, 2009, the Town of Poland gave this structure a zero value and has only taxed the property to this date. A permit for reconstruction would have had to be issued within a year at that point.

In conclusion and pursuant to Ch. 5, §504.3.D and §508.27.B of the CLUC, I regret to inform you that this office has denied your permit application. You have the right to appeal this decision to the Board of Appeals within forty five (45) days of the date of this letter pursuant to Ch. 3, §304.3 of the CLUC.

Sincerely,

Scott Neal
Code Enforcement Officer

CC: Matthew Garside, Town Manager

ENC: Administrative Appeal Application, Check #1435 in the amount of $90.00.

MAIN-LAND
DEVELOPMENT
CONSULTANTS, INC.

ENGINEERS, SURVEYORS, SCIENTISTS
69 MAIN ST. P.O. BOX Q, LIVERMORE FALLS, ME 04254
367 US ROUTE 1 SOUTH, THIRD FLOOR, FALMOUTH, ME 04105
TEL: (207) 897-6752/FAX: (207) 897-5404
WWW.MAIN-LANDDCI.COM

May 1, 2020

Scott Neal
Code Enforcement Officer
Poland Town Office
1231 Maine Street
Poland, ME 04274

SUBJECT: Shoreland Zoning Application for Jonathan Turgeon - 19 Garland Swamp Road, Parcel ID 0032-0015

Dear Mr. Neal:

Main-Land Development Consultants, Inc. has been retained by Jonathan Turgeon to assist him in the permitting of a deck on his property located at 19 Garland Swamp Road.

As I am sure you recall, Mr. Turgeon had requested a similar permit last year, but was denied. The original application appeared to have been assessed utilizing the Non-Conforming Structures provision in the Comprehensive Land Use Code of the Town of Poland. Because the existing structure had lost more than 50% of its value, more than one year before this permit was filed, this provision of the Code was no longer available to Mr. Turgeon. Therefore, this permit application was denied.

We believe, however, that in the Shoreland section of the Code (Section 508.27), in Table 508.27.A, there is a Land Use that would allow for the proposed deck that had been previously requested.

In this Table, Land Use #16 calls for On Site Structures Accessory to Allowed Uses. This Land Use allows the Code Enforcement Officer to review and issue a permit for this On-Site Structure. In the case of this project, The Allowed Use is the Temporary Dock that has already been permitted for Mr. Turgeon, by the Town of Poland.

We submit that the existing On-Site Structure, the old, dilapidated camp structure, can be essentially removed, with this exception of its foundation and first floor (removing walls and roof). The "first floor" of this structure can then be rehabilitated into the deck structure that would be an accessory to the Temporary Dock already permitted. Storage space under the deck would also be created, as shown in the attached permit application package.

This scenario allows for the removal of the building that seems to be in everyone's best interests, including the Town, the neighbors, and the applicant. It also allows the applicant to recapture at least some of the value of this shorefront lot, but with a much less intensive use than a residence, and without any further non-conformance.

If you have any questions, comments or concerns with this application, please do not hesitate to call or write.

Sincerely,

Main-Land Development Consultants, Inc.

Thomas R. DuBois, PE
Senior Engineer

Bk 9673 Pg75 #14889
08-24-2017 @ 04:26p

WARRANTY DEED

Maine Statutory Short Form

KNOW ALL PERSONS BY THESE PRESENTS that I, **Elizabeth Turgeon,** of Auburn, Androscoggin County, State of Maine, for consideration paid, grant to **Jonathan Turgeon,** having a mailing address of 811 Main Street, Lewiston, Maine 04240, with **WARRANTY COVENANTS,** the land in Poland, in the County of Androscoggin and State of Maine, described as follows:

A certain lot or parcel of land with any buildings thereon, being Lot 15, Map 32 as shown on a certain Plan of Land entitled "Boundary Survey of Land in Poland, Maine showing Lot 15 Map 32 Drawn for Ronald J. Bregoli, 28 Bregoli Lane, Braintree, ME 02184 Survey, Inc., PO Box 210, Windham, ME 04062" and recorded at Plan Book 51, Page 59 of the Androscoggin County Registry of Deeds.

See also Affidavit concerning Plan Book 51, Page 59 recorded at Book 9281, Page 220 of the said Androscoggin County Registry of Deeds.

Being a portion of the premises conveyed in a deed from Frank C. Goudreau to Jonathan Turgeon and Elizabeth Turgeon dated November 23, 2016 and recorded in the Androscoggin County Registry of Deeds in Book 9501, Page 187.

NO MAINE R.E. TRANSFER TAX PAID

The premises are conveyed subject to any easements and restrictions of record, and together with all rights, easements, privileges and appurtenances belonging to the premises described herein.

TITLE NOT SEARCHED, DESCRIPTION NOT VERIFIED, BY PREPARER OF THIS DEED.

WITNESS my hand this 14 day of August, 2017.

Witness

Elizabeth Turgeon

STATE OF MAINE
COUNTY OF ANDROSCOGGIN

August 14, 2017

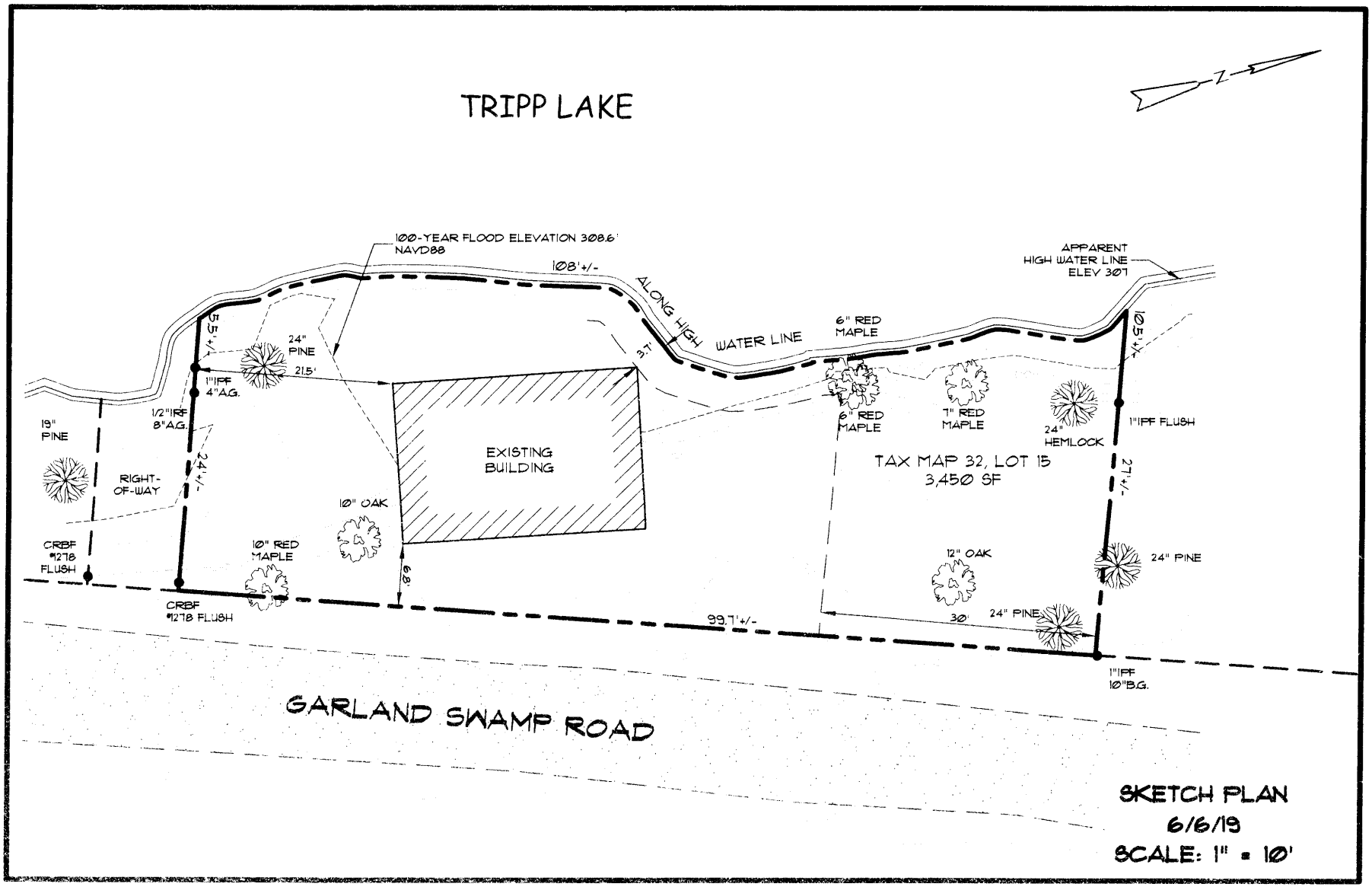
Personally appeared the above named Elizabeth Turgeon and acknowledged the foregoing instrument to be her free act and deed.

Before me,

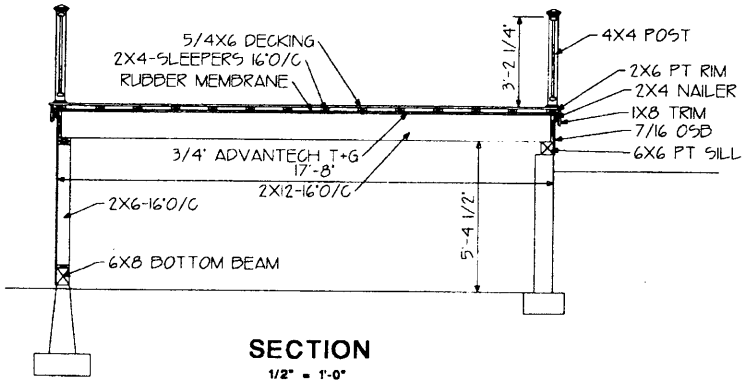
Notary Public/Attorney-at-Law

KATHRYN CORTES
Notary Public - State of Maine
Commission Expires June 18, 2019

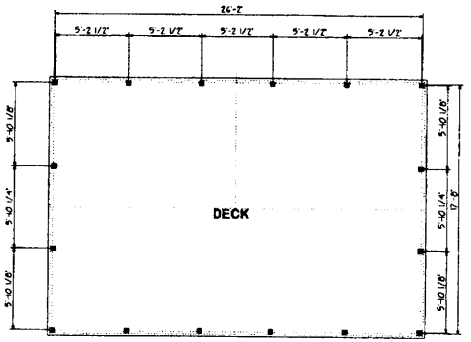
ANDROSCOGGIN COUNTY
TINA M CHOUINARD
REGISTER OF DEEDS


TRIPP LAKE
N
100-YEAR FLOOD ELEVATION 308.6'
NAVD88
108'+/-
ALONG HIGH WATER LINE
APPARENT
HIGH WATER LINE
ELEV 307
6" RED
MAPLE
24"
PINE
21.5'
1"IPF
4"AG.
1/2"IRF
8"AG.
19"
PINE
RIGHT-
OF-WAY
24'+/-
EXISTING
BUILDING
10" OAK
10" RED
MAPLE
CRBF
#1278
FLUSH
CRBF
#1278 FLUSH
6.8'
99.7'+/-
6" RED
MAPLE
7" RED
MAPLE
24"
HEMLOCK
1"IPF FLUSH
TAX MAP 32, LOT 15
3,450 SF
27'+/-
12" OAK
24" PINE
30'
24" PINE
1"IPF
10"B.G.
GARLAND SWAMP ROAD
SKETCH PLAN
6/6/19
SCALE: 1" = 10'

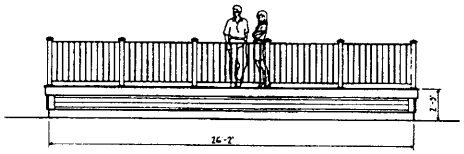
THIS INFORMATION IS PROVIDED TO OUR CUSTOMERS AS A SERVICE OF MAINE RESIDENTIAL DESIGN. CUSTOMERS SHOULD APPRECIATE, HOWEVER, THAT THIS INFORMATION IS NOT THE PRODUCT OF ANY ARCHITECT. NEITHER MAINE RESIDENTIAL DESIGN OR ANY OF ITS EMPLOYEES ARE REGISTERED ARCHITECTS WITHIN THE STATE OF MAINE AND CUSTOMERS MAY WANT TO CONSULT WITH AN ARCHITECT BEFORE TAKING FINAL ACTION WITH REGARD TO ANY BUILDING OR STRUCTURE. CUSTOMERS SHOULD ALSO APPRECIATE THAT BY PROVIDING YOU WITH THIS INFORMATION MAINE RESIDENTIAL DESIGN DOES NOT GUARANTEE THE SOUNDNESS OR SUITABILITY OF THE INFORMATION FOR ANY PURPOSE OF THE CUSTOMER.



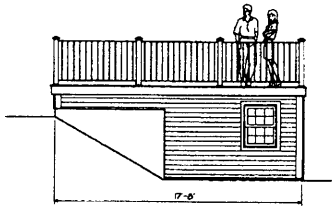
SECTION
1/2" = 1'-0"



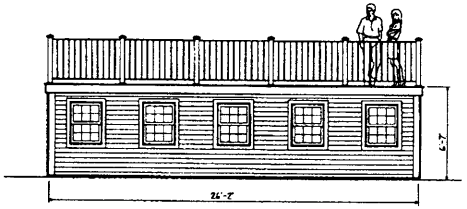
FLOOR PLAN



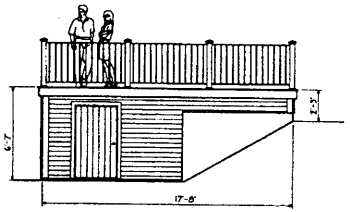
ROAD SIDE



LEFT SIDE

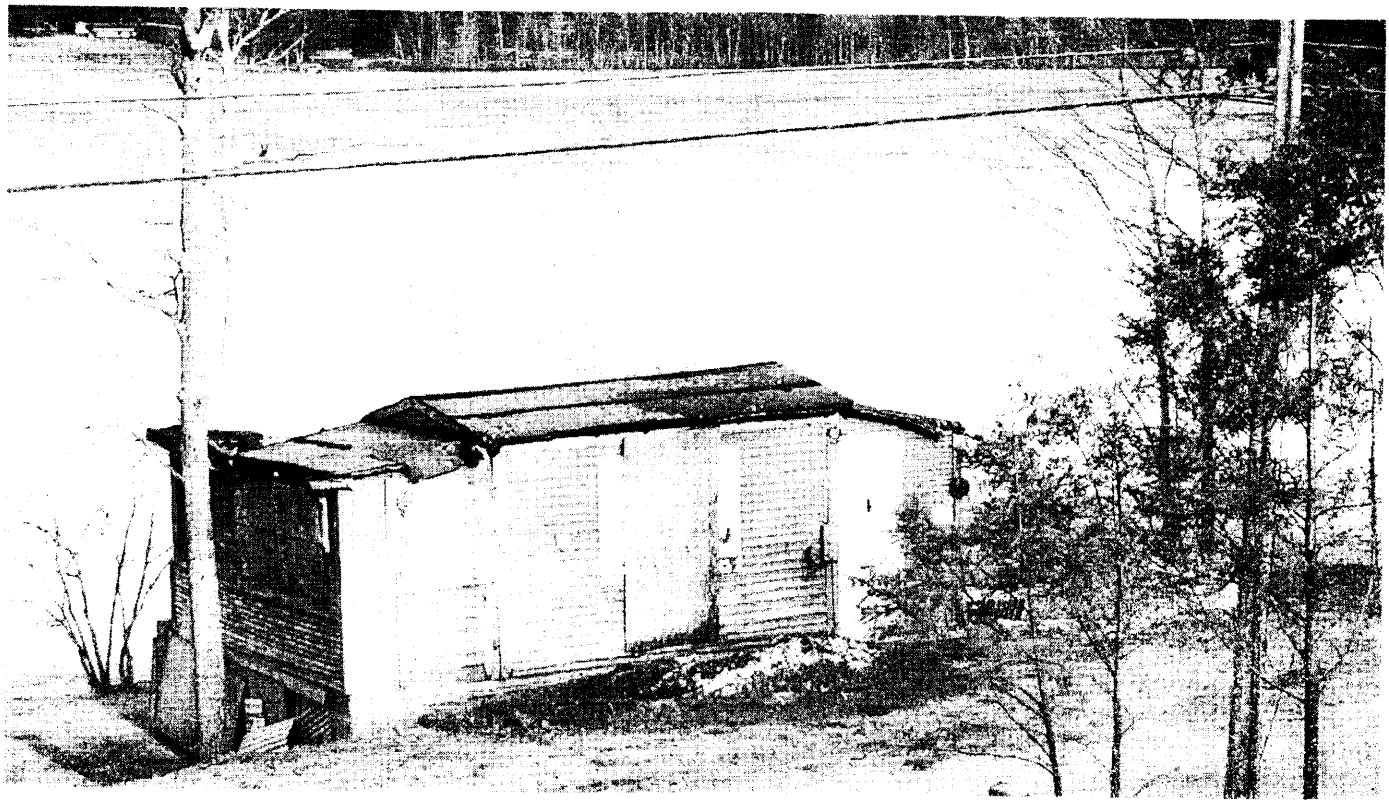


LAKE SIDE



RIGHT SIDE

MAINE RESIDENTIAL DESIGN		FILE NAME
CASCO, ME. 207-627-3362		
JOB:	JON TURGENT	SCALE: 1/4"=1'-0"
DATE:		4/26/03
DESCRIPTION:	LAKE DECK PLAN	DRAWN BY: MRJ
		APPROVED:



Gregory & Nancy Morin
59 Jordan Shore Drive
Poland Maine 04274

April 9th, 2020

To: Town of Poland
Code Enforcement Office

For: Jonathan & Elizabeth Turgeon
19 Garland Swamp Rd
Poland Maine 04274

RE: Parcel # 0032-0015
Existing Shoreline Structure/Tripp Lake

To whom it may concern,

Please accept this letter as acknowledgement that we are Tripp Lake shoreland property owners and that we concur with the proposed plan that Jonathan and Elizabeth have explained to us.

Plan being removal of existing structure and retaining existing foundation at shoreline, rebuild decking on existing footprint and use existing foundation as storage.

We feel this is a great alternative use of the structure and would certainly improve lakeside function and appeal.

Thank you for your consideration,

Gregory & Nancy Morin

May 30, 2020

James and Constance Purdy

224 Bakerstown Road

Poland, Maine 04274

To Whom it may concern,

We own a small lot next to John Turgeon's on Tripp Lake shore. On his lot there is an old tumbledown green camp that has no use to anyone. It's an eyesore! He wants to tear that down and build a deck. We can only imagine how much better Garland Swamp Road and the shoreline would look! We can't understand why his request would be denied.

Sincerely,

James and Constance Purdy

Constance Purdy

Search

Delete Not junk Move to Categorize

Folders

Inbox 33612
Junk Email
Drafts 207
Sent Items
Deleted Items 19
Archive
Notes
Conversation Hist...
Spambox 170
New folder

Groups

Green Dilapidated building

This message was identified as junk. We'll delete it after 10 days. It's not junk

Debra Lapre <lapre33@comcast.net>
Mon 5/4/2020 2:22 PM
You

The green dilapidated building two houses down from us is an eyesore. When we were looking at the property to build we were told that we would have to remove that building in order to build across the street. This information was provided to us by the previous CEO Nick. Nick told us we could then put a platform on the same spot as the old building. I'm not sure what's happening with this dilapidated building but I would like to see it removed. It is only bringing down the value of the properties around it. It is in serious deterioration and it should be removed for safety reasons.

Warmly,

Debra Lapre
29 Garland Swamp Rd.

Sent from my iPhone

May 4th, 2020

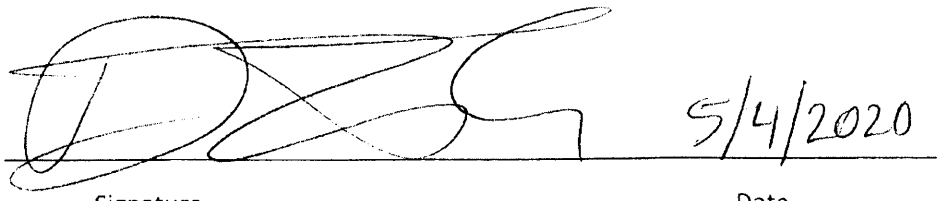
To Whom It May Concern,

My name is Domenic LaRosa, I own the property at 25 Garland Swamp Road, Poland, ME. I give full permission to Jonathan Turgeon to demolish the existing waterfront structure on his property (19 Garland Swamp Road, Parcel ID 0032-0015) and build a deck with storage underneath.

Please contact me with any further questions. 603.401.7034

Thank you,

Domenic LaRosa



Signature Date

To Who It may Concern

My name is Donald Whitelaw; I own a home at 17 Garland Swamp Rd. My neighbor Jon Turgeon is looking for a building permit to remove a structure and replace it with a deck at 19 Garland Swamp Rd Parcel 0032-0015.
I'm writing this letter in hopes that you will grant him permission to remove this building. I'm concerned for the safety of everyone. Not only my kids, but anyone walking on the road is in close proximity to this building.
The building is beyond repair. The roof is falling in, boards are hanging off and paint chips are peeling and blowing off.
This building is an eye soar and quite dangerous. At its current condition the only safe thing to do is remove it. By installing a deck and grassing everything else in would be great improvement to the road and to the safety of all the residents.
Thank in advance for your consideration in this matter. I can always be reached at 603 630 3587 or at donny@dweci.com

Sincerely

Search

Reply | Delete | Archive | Junk | Sweep | Move to | Categorize | Snooze

Folders

- Inbox 33692
- Junk Email 1242
- Drafts 20
- Sent Items
- Deleted Items 19
- Archive
- Notes
- Conversation Hist...
- Spambox 170
- New folder

Groups

19 Garland Swamp Road

Flag for follow up

You replied on Tue 5/5/2020 10:07 AM

Matt New <matt.new@ekmangroup.com>
Tue 5/5/2020 9:57 AM
To: You

Jon
I wanted to send an email as a follow up to our conversation in reference to your property. As a property owner on Tripp Lake I would think it would be in the best interest for all of us to have you tear down the existing structure that is on the lake side of your property and replace it with a deck. The paint is peeling off, the roof is falling apart and given the runoff when it rains I am confident it is not contributing to the water quality that we want for the lake. As we discussed building a deck that is considered a pervious surface with a storage facility underneath will be a much better solution for that piece of property instead of the current building.

Nice talking with you and please let me know if there is anything I can do to help.

Thank you

Search

Reply Delete Archive Junk Sweep Move to Categorize Snooze

Folders

Inbox 33692
Junk Email 242
Drafts 207
Sent Items
Deleted Items 19
Archive
Notes
Conversation Hist...
Spambox 170
New folder

Groups

Condemned Camp Lot 0032-0015 on Garland Swam Rd

Flag for follow up. Start by 5/6/2020. Due by 5/6/2020.

You replied on Wed 5/6/2020 12:32 PM

Peter Polombo <polombo@verizon.net>
Wed 5/6/2020 12:13 PM
To: You
Cc: Peter Polombo

The condemned camp on Lot 0032-0015 is an eye soar for anyone driving down Garland Swamp Rd. It also may provide a potential danger to
young children playing in the area since the structure itself is in a dilapidated condition. We believe it would be in the best interest of
everyone living on Garland Swamp Rd if Jon Turgeon was allowed to update the dilapidated structure to a safe and useful form.

Regards
Vickie and Peter Polombo
13 Garland Swamp RD

Well, here we all sit in a quagmire of Coronavirus/Covid-19 in Poland and around the globe. Many of us have been quarantined, myself included, since mid-March. I'd love to be able to hug my children and grandchildren, but these are the rules created by the powers that be to keep us safe & healthy. Family is important to all of us and we are following the rules that have been set up. I'm curious, tho', as to why some rules don't seem to apply to Jonathan Turgeon and his family. He was told several years ago when he built his home on Garland Swamp Road that he would be able to remove the shack directly across from them and put in a deck. This "shack" is an eyesore! It has been sitting there for years and years from way back when I was in middle school in McFalls and it should be taken down before it collapses into the lake and creates a serious problem. It hasn't been used for years! I feel sure that the Turgeon's will make every effort to remove it very carefully during that process.

Thanking you in advance for your consideration.

Sincerely,

Susan A. Barry
5 Garland Swamp Road
Poland, ME 04274
998-2580

Petition – 19 Garland Swamp Road, Poland, Maine

Do you favor the removal of the existing dilapidated camp structure, and the placement of a deck on the old foundation, with storage underneath the deck?

Name: (Print then sign)	Address:
Shellie Howe	67 Jordan Shore Drive
Christina Johnson	83 Jordan Shore Drive
[illegible]	104 Jordan Shore Dr.
Jon and Karen Pelletier	166 Jordan Shore Dr.
Guy & Nancy Morin	59 Jordan Shore Dr.
Amelie Jutras	5 Jordan Shore Dr.
Mike Twomey	245 Bakerstown Rd
[illegible]	51 Garland Swamp RD
Mike Wheeler	235 Bakerstown
Julia Bernard	289 N. Raymond Rd
[illegible]	372 Bakerstown Road.
[illegible]	78 Jordan Shore Drive
[illegible]	85 Jordan Shore Dr

Petition – 19 Garland Swamp Road, Poland, Maine

Do you favor the removal of the existing dilapidated camp structure, and the placement of a deck on the old foundation, with storage underneath the deck?

Name: (Print then sign)	Address:
Julie Emerson	241 Range Stream Rd
Jon Marcoux	11 Tarry Lake Rd
[illegible]	[illegible]
[illegible]	55 [illegible]
[illegible]	[illegible]
[illegible]	150 Jordan Shore Dr.
[illegible]	275 Jordan Shore Drive
[illegible]	249 Jordan Shore [illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	55 Jordan Shore Drive
[illegible]	511 Bakersfield Rd

Petition – 19 Garland Swamp Road, Poland, Maine

Do you favor the removal of the existing dilapidated camp structure, and the placement of a deck on the old foundation, with storage underneath the deck?

Name: (Print then sign)	Address:
Terry Harris Thurston	13 Garland Swamp Rd
Tina Harris	19 Garland Swamp Rd
Jordan Clavette	16 Brown Rd
Tyler & Julie Jones	8 Partridge Lane
JESSE FARIAS	18 JORDAN SHORE DR.
Evelyn Davis	33 Jordan Shore Dr.
R. Gerrish	38 Jordan Shore Dr
Maurice Cote	40 Jordan Shore Dr
Jacqueline Grasso	34 Jordan Shore Dr
John McInnis	25a Jordan Shore Dr
Ron Carroll	44 Jordan Shore Dr
Lisa [illegible]	46 Jordan Shore Dr
Lynne Ridge	29 Jordan Shore Dr

Petition – 19 Garland Swamp Road, Poland, Maine

Do you favor the removal of the existing dilapidated camp structure, and the placement of a deck on the old foundation, with storage underneath the deck?

Name: (Print then sign)	Address:

Petition – 19 Garland Swamp Road, Poland, Maine

Do you favor the removal of the existing dilapidated camp structure, and the placement of a deck on the old foundation, with storage underneath the deck?

Name: (Print then sign)	Address:
[illegible]	46 Triff Lake Camp Rd.
[illegible]	261 Triff Lake Jordan Shore
[illegible]	521 Jordan Shore Drive
[illegible]	159 [illegible] Rd
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
Patricia Sullivan	238 Megquier Hill Rd.
Ellen Dennis	266 Megquier Hill Rd
[illegible]	357 Megquier Hill Rd
[illegible]	[illegible]
[illegible]	[illegible]

Petition – 19 Garland Swamp Road, Poland, Maine

Do you favor the removal of the existing dilapidated camp structure, and the placement of a deck on the old foundation, with storage underneath the deck?

Name: (Print then sign)	Address:
Brian Hamlin	116 Fernald Rd Poland
Eric Hamlin	116 Fernald Rd Poland
Kelly Langlois	112 Fernald Rd Poland
Lori Perkins	27 Marjorie Ln Poland
John Blaney	36 Marjorie Ln Poland
Bob Harkins	32 Westover Lane
Patricia Hutchins	40 Marjorie Lane
[illegible]	37 Lane Rd Poland
[illegible]	53 [illegible] Poland
Justin Woodbury	780 Bakerstown Rd
Richard Abrams	21 Pond Lane.
[illegible]	126 Dunn Rd Poland
[illegible]	415 white oak Hill Rd

Petition – 19 Garland Swamp Road, Poland, Maine

Do you favor the removal of the existing dilapidated camp structure, and the placement of a deck on the old foundation, with storage underneath the deck?

Name: (Print then sign)	Address:
Jarod Oldham	51 Simplicity Way
Jen Stanford Jen Stanford	50 Simplicity Way
[illegible]	55 Simplicity Way
[illegible]	64 Simplicity Way.
[illegible]	265 Tripp Lake Rd.
[illegible]	923 Empire Rd
[illegible]	9 [illegible]
[illegible]	14 Floyd Dr.
[illegible]	4 Bailey Hill Rd
[illegible]	45 [illegible] Rd
Kathleen Fox	41 Cabernet Rd
Taylor Schinda	149 Hackett Mills Rd
Chris Keene	29 Wild Turkey Way

Petition – 19 Garland Swamp Road, Poland, Maine

Do you favor the removal of the existing dilapidated camp structure, and the placement of a deck on the old foundation, with storage underneath the deck?

Name: (Print then sign)	Address:
Derek Hawley	64 Range Road Poland, ME
Charles Finger	135 Maple Ln Poland
Dave Cooper	405 Bailey Hill Rd
Joe Conley	16 Epsy St Poland
Daniel H. Chabot	89 Bailey Hill rd Poland
Donald K. Landry	78 Pinkett Mills Rd Poland
Robert H. Coy	11 Aspenway Poland
Derek Farrell	96 Elm St. Ext.
Tom Caldwell	219 Dam Rd
Neal Lagasse	72 Simplicity Way
Coby Webster	512 Bakerstown Rd.
JASon King	222 Range Hill Road
Ken Emerson	241 Bakers Town

Petition – 19 Garland Swamp Road, Poland, Maine

Do you favor the removal of the existing dilapidated camp structure, and the placement of a deck on the old foundation, with storage underneath the deck?

Name: (Print then sign)	Address:
Jeff Johnson	87 Jordan Shore Dr.
	146 Bayview Shore
	33 Garland Swamp Rd
	460 Bakerstown Rd
	23 Jordan Shore
	276 Jordan Shore
	20 Tom Hall
	249 Raymond Rd.
	152 No Raymond Rd.
	151 Evergreen Drive
	271 Maine St. Poland
	263 Maine St Poland
	244 Bakerstown Rd

Petition – 19 Garland Swamp Road, Poland, Maine

Do you favor the removal of the existing dilapidated camp structure, and the placement of a deck on the old foundation, with storage underneath the deck?

Name: (Print then sign)	Address:
Robert Tiner	163 Range Hill Rd.
	168 Range Hill Rd
	357 Schellinger Rd
Mike O'Leary - Mike	189 Schellinger Rd
	13 Garland Swamp Rd
	20 Garland Swamp Rd

Code Enforcement Officer Scott Neal's Response to Jonathan Turgeon Administrative Appeal 7.22.2020

Code Enforcement Office

1231 Maine Street, Poland, Maine 04274
(207) 998-4604 sneal@polandtownoffice.org

June 30, 2020

Town of Poland Board of Appeals
1231 Maine St.
Poland, Maine 04274

RE: Jonathan Turgeon Administrative Appeal
19 Garland Swamp Rd.
Poland, Maine 04274

Map: 0032 Lot: 0015

To the Board of Appeals,

On June 26, 2019, I received an application from Jonathan Turgeon and his Attorney Michael S. Malloy. Their application to reconstruct the existing camp was based on the general upkeep and maintenance authorized in 504.2.B of the Town of Poland Comprehensive Land Use Code (CLUC). After researching the property, it was found that the building was deemed unsafe on March 13, 2006, by then Code Enforcement Officer (CEO) Arthur Dunlap. A follow up letter was sent by CEO Arthur Dunlap on September 8, 2008 and a reply from then owner Ronald J. Bregoli was sent on October 2, 2008. Mr. Bregoli asked for a list of permits needed and a list of local contractors. A note on Mr. Bregoli's letter states the information he needed was emailed on October 2, 2008. There were no permits issued to Mr. Bregoli and on August 21, 2009 the Town of Poland changed the assessed value of the structure to zero dollars where it remains today.

After discussions with the Town Attorney Natalie Burns and Shoreland Zoning Coordinator for the Maine Department of Environmental Protection Colin Clark, I determined repair of this structure would fall under section 504.3.D Reconstruction or Replacement of the CLUC. Section 504.3.D.1.a states the following: "Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is damaged or destroyed, regardless of cause, by more than fifty percent (50%) of the market value of the structure before such damage or destruction, may be reconstructed or replaced provided a permit is obtained within one (1) year of the date of damage or destruction, and provided such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purpose of this Code. When determining the setback to the greatest practical extent the Planning Board may allow for reduced setbacks from front and side lines in conformance with Section 504.3.E."

Code Enforcement Office

1231 Maine Street, Poland, Maine 04274
(207) 998-4604 sneal@polandtownoffice.org

When the Town assessed this structure at a zero dollar value on August 21, 2009, a permit to reconstruct or replace would have to have been obtained on or before August 21, 2010. Therefore, on July 23, 2019, Mr. Turgeon's permit was denied. I encouraged him to apply for an Administrative Appeal; he did not file an appeal.

On May 8, 2020, Mr. Turgeon and Thomas R. DuBois from Main-Land Development Consultants Inc. applied for a permit to replace the existing structure with a deck. In his letter Mr. DuBois' states that the new deck should be allowed based on Table 508.27.A #16 Onsite and Offsite Structures of the CLUC. He claims that under this section it would be an allowed use as an accessory to the permitted temporary dock. After a conversation with the Town Attorney, it was determined this permit request again falls under section 504.3.D Reconstruction or Replacement of the CLUC and was denied on May 21, 2020.

Sincerely,

Scott Neal
Code Enforcement Officer

Application and Accompanying Documents Submitted by Jonathan Turgeon for 2020 Permit

MAIN-LAND
DEVELOPMENT
CONSULTANTS, INC.

ENGINEERS, SURVEYORS, SCIENTISTS
69 MAIN ST. P.O. BOX Q, LIVERMORE FALLS, ME 04254
367 US ROUTE 1 SOUTH, THIRD FLOOR, FALMOUTH, ME 04105
TEL: (207) 897-6752/FAX: (207) 897-5404
WWW.MAIN-LANDDCI.COM

RECEIVED
MAY - 8 2020

May 1, 2020

Scott Neal
Code Enforcement Officer
Poland Town Office
1231 Maine Street
Poland, ME 04274

SUBJECT: Shoreland Zoning Application for Jonathan Turgeon - 19 Garland Swamp Road, Parcel ID 0032-0015

Dear Mr. Neal:

Main-Land Development Consultants, Inc. has been retained by Jonathan Turgeon to assist him in the permitting of a deck on his property located at 19 Garland Swamp Road.

As I am sure you recall, Mr. Turgeon had requested a similar permit last year, but was denied. The original application appeared to have been assessed utilizing the Non-Conforming Structures provision in the Comprehensive Land Use Code of the Town of Poland. Because the existing structure had lost more than 50% of its value, more than one year before this permit was filed, this provision of the Code was no longer available to Mr. Turgeon. Therefore, this permit application was denied.

We believe, however, that in the Shoreland section of the Code (Section 508.27), in Table 508.27.A, there is a Land Use that would allow for the proposed deck that had been previously requested.

In this Table, Land Use #16 calls for On Site Structures Accessory to Allowed Uses. This Land Use allows the Code Enforcement Officer to review and issue a permit for this On-Site Structure. In the case of this project, The Allowed Use is the Temporary Dock that has already been permitted for Mr. Turgeon, by the Town of Poland.

We submit that the existing On-Site Structure, the old, dilapidated camp structure, can be essentially removed, with this exception of its foundation and first floor (removing walls and roof). The "first floor" of this structure can then be rehabilitated into the deck structure that would be an accessory to the Temporary Dock already permitted. Storage space under the deck would also be created, as shown in the attached permit application package.

This scenario allows for the removal of the building that seems to be in everyone's best interests, including the Town, the neighbors, and the applicant. It also allows the applicant to recapture at least some of the value of this shorefront lot, but with a much less intensive use than a residence, and without any further non-conformance.

If you have any questions, comments or concerns with this application, please do not hesitate to call or write.

Sincerely,

Main-Land Development Consultants, Inc.

Thomas R. DuBois, PE
Senior Engineer

TOWN OF POLAND

1231 Maine Street
Poland, ME 04274

Shoreland Project Permit Application

FOR OFFICIAL USE ONLY	
Date Received	5-8-20
Zoning	R-2, AG1, LR
Property ID	0032-0015
Building Code	2015 IRC
Estimated Cost	8000
Permit Fee	
Receipt Number	
Reviewed By	Scott Neal

Permit Number: 20200169

1. Please attach all required information detailed on the application check list.
2. If you have questions about what is required in order to obtain a permit, contact the Code Enforcement Office.
3. DEP Certification is required for projects in Shoreland Zoning.

Project Address:	19 Garland Swamp Rd Poland ME 04274
Parcel ID#:	0032-0015
Estimated Cost:	$8,000
Current Use:	Cottage / Camp
Proposed Use:	Deck
Please Describe Your Project:	Deck See Attached letter

☐ Soil Disturbance ☐ Dock ☐ Tree Cutting ☐ Other

Property Owner Information

Owner Name:	Jonathon Turgeon
Mailing Address:	20 Garland Swamp Rd Poland ME
Phone Number:	207-576-8736
Email Address:	jonjaubman@hotmail.com

Contractor or Applicant Information

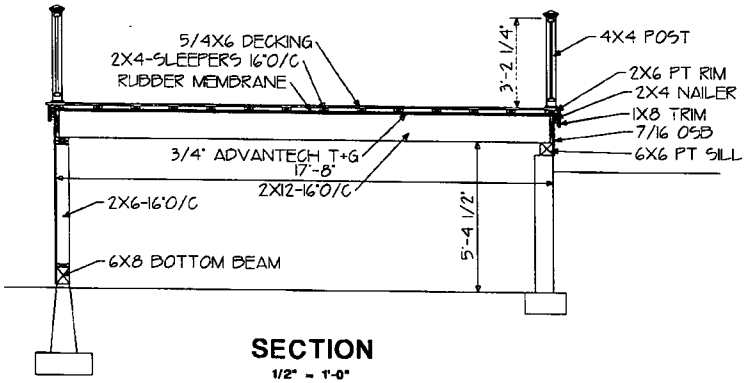
Contractor Name:	Jonathon Turgeon
Mailing Address:	20 Garland Swamp Rd Poland ME
Phone Number:	207-576-8736
Email Address:	
DEP Certification:	

Please attach all of the information required on the permit checklist

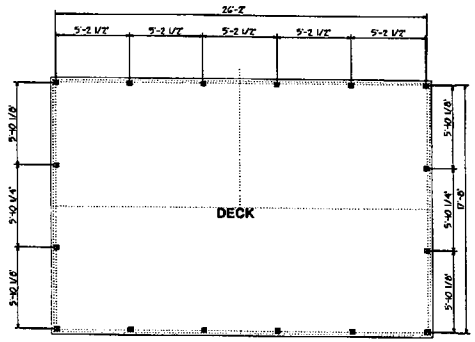
I hereby certify that I am the Owner of Record of the named property, or that the owner of record authorizes the proposed work, and I have been authorized by the owner to make this application as his/her authorized agent. I agree to confirm to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Officials shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Applicant Signature:	Date: 5/7/20

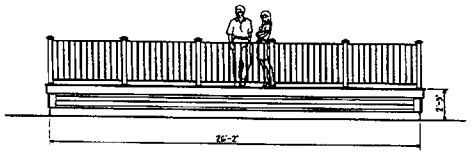
THIS INFORMATION IS PROVIDED TO OUR CUSTOMERS AS A SERVICE OF MAINE RESIDENTIAL DESIGN. CUSTOMERS SHOULD APPRECIATE, HOWEVER, THAT THIS INFORMATION IS NOT THE PRODUCT OF ANY ARCHITECT, NEITHER MAINE RESIDENTIAL DESIGN OR ANY OF ITS EMPLOYEES ARE REGISTERED ARCHITECTS WITHIN THE STATE OF MAINE, AND CUSTOMERS MAY WANT TO CONSULT WITH AN ARCHITECT BEFORE TAKING FINAL ACTION WITH REGARD TO ANY BUILDING OR STRUCTURE. CUSTOMERS SHOULD ALSO APPRECIATE THAT BY PROVIDING YOU WITH THIS INFORMATION MAINE RESIDENTIAL DESIGN DOES NOT GUARANTEE THE SUFFICIENCY OR SUITABILITY OF THIS INFORMATION FOR ANY PURPOSE OF THE CUSTOMER.



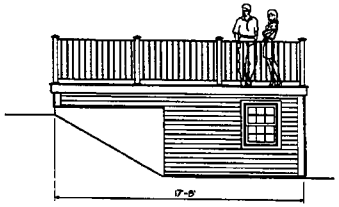
SECTION
1/2" = 1'-0"



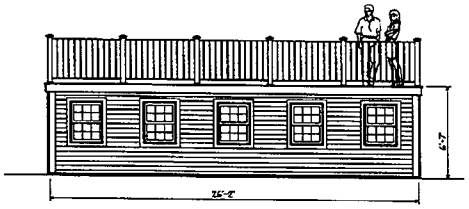
FLOOR PLAN



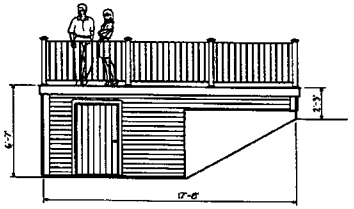
ROAD SIDE



LEFT SIDE



LAKE SIDE



RIGHT SIDE

MAINE RESIDENTIAL DESIGN	FILE NAME:
CASCO, ME. 207-627-3362	
JOB: JON TURGENT	SCALE: 1/4"=1'-0"
DESCRIPTION: LAKE DECK PLAN	DATE: 4/15/2005
	DRAWN BY: MRJ
	APPROVED:

Outlook Search JC

New message Reply Delete Archive Junk Sweep Move to Categorize Snooze

Folders

- Inbox 33663
- Junk Email 1219
- Drafts 207
- Sent Items
- Deleted Items 19
- Archive
- Notes
- Conversation Hist...
- Spambox 170
- New folder

Groups

Condemned Camp Lot 0032-0015 on Garland Swam Rd

Flag for follow up. Start by 5/6/2020. Due by 5/6/2020.

You replied on Wed 5/6/2020 12:32 PM

PP

Peter Polombo <polombo@verizon.net>
Wed 5/6/2020 12:13 PM
To: You
Cc: Peter Polombo

The condemned camp on Lot 0032-0015 is an eye soar for anyone driving down Garland Swamp Rd. It also may provide a potential danger to
young children playing in the area since the structure itself is in a dilapidated condition. We believe it would be in the best interest of
everyone living on Garland Swamp Rd if Jon Turgeon was allowed to update the dilapidated structure to a safe and useful form.

Regards
Vickie and Peter Polombo
13 Garland Swamp RD

Outlook Search JC

New message Reply Delete Archive Junk Sweep Move to Categorize Snooze

Folders

Inbox 33625
Junk Email 1158
Drafts 207
Sent Items
Deleted Items 19
Archive
Notes
Conversation Hist...
Spambox 170
New folder

Groups

19 Garland Swamp Road

Flag for follow up.

MN Matt New <matt.new@ekmangroup.com>
Tue 5/5/2020 9:57 AM
You

Jon
I wanted to send an email as a follow up to our conversation in reference to your property. As a property owner on Tripp Lake I would think it would be in the best interest for all of us to have you tear down the existing structure that is on the lake side of your property and replace it with a deck. The paint is peeling off, the roof is falling apart and given the runoff when it rains I am confident it is not contributing to the water quality that we want for the lake. As we discussed building a deck that is considered a pervious surface with a storage facility underneath will be a much better solution for that piece of property instead of the current building.

Nice talking with you and please let me know if there is anything I can do to help.

Thank you

May 4th, 2020

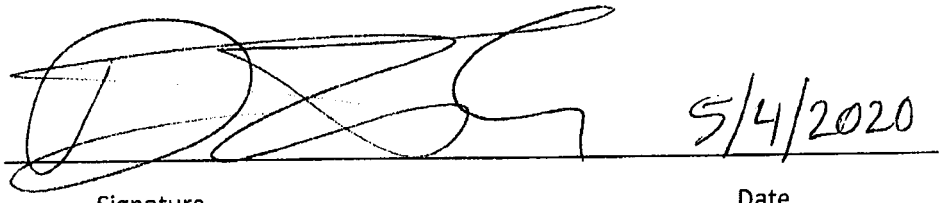
To Whom It May Concern,

My name is Domenic LaRosa, I own the property at 25 Garland Swamp Road, Poland, ME. I give full permission to Jonathan Turgeon to demolish the existing waterfront structure on his property (19 Garland Swamp Road, Parcel ID 0032-0015) and build a deck with storage underneath.

Please contact me with any further questions. 603.401.7034

Thank you,

Domenic LaRosa



Signature Date

To Who It may Concern

My name is Donald Whitelaw; I own a home at 17 Garland Swamp Rd. My neighbor Jon Turgeon is looking for a building permit to remove a structure and replace it with a deck at 19 Garland Swamp Rd Parcel 0032-0015.
I'm writing this letter in hopes that you will grant him permission to remove this building. I'm concerned for the safety of everyone. Not only my kids, but anyone walking on the road is in close proximity to this building.
The building is beyond repair. The roof is falling in, boards are hanging off and paint chips are peeling and blowing off.
This building is an eye soar and quite dangerous. At its current condition the only safe thing to do is remove it. By installing a deck and grassing everything else in would be great improvement to the road and to the safety of all the residents.
Thank in advance for your consideration in this matter. I can always be reached at 603 630 3587 or at donny@dweci.com

Sincerely

Outlook Search JC

New message Delete Not junk Move to Categorize ···

Folders

Inbox 33612
Junk Email 1126
Drafts 207
Sent Items
Deleted Items 19
Archive
Notes
Conversation Hist...
Spambox 170
New folder

Groups

Green Dilapidated building

This message was identified as junk. We'll delete it after 10 days. It's not junk

Debra Lapre <lapre33@comcast.net>
Mon 5/4/2020 2:22 PM
You

The green dilapidated building two houses down from us is an eyesore. When we were looking at the property to build we were told that we would have to remove that building in order to build across the street. This information was provided to us by the previous CEO Nick. Nick told us we could then put a platform on the same spot as the old building. I'm not sure what's happening with this dilapidated building but I would like to see it removed. It is only bringing down the value of the properties around it. It is in serious deterioration and it should be removed for safety reasons.

Warmly,

Debra Lapre
29 Garland Swamp Rd.

Sent from my iPhone

Bk 9673 Pg75 #14889
08-24-2017 @ 04:26p

WARRANTY DEED

Maine Statutory Short Form

KNOW ALL PERSONS BY THESE PRESENTS that **I, Elizabeth Turgeon,** of Auburn, Androscoggin County, State of Maine, for consideration paid, grant to **Jonathan Turgeon,** having a mailing address of 811 Main Street, Lewiston, Maine 04240, with **WARRANTY COVENANTS,** the land in Poland, in the County of Androscoggin and State of Maine, described as follows:

A certain lot or parcel of land with any buildings thereon, being Lot 15, Map 32 as shown on a certain Plan of Land entitled "Boundary Survey of Land in Poland, Maine showing Lot 15 Map 32 Drawn for Ronald J. Bregoli, 28 Bregoli Lane, Braintree, ME 02184 Survey, Inc., PO Box 210, Windham, ME 04062" and recorded at Plan Book 51, Page 59 of the Androscoggin County Registry of Deeds.

See also Affidavit concerning Plan Book 51, Page 59 recorded at Book 9281, Page 220 of the said Androscoggin County Registry of Deeds.

Being a portion of the premises conveyed in a deed from Frank C. Goudreau to Jonathan Turgeon and Elizabeth Turgeon dated November 23, 2016 and recorded in the Androscoggin County Registry of Deeds in Book 9501, Page 187.

NO MAINE R.E. TRANSFER TAX PAID

The premises are conveyed subject to any easements and restrictions of record, and together with all rights, easements, privileges and appurtenances belonging to the premises described herein.

TITLE NOT SEARCHED, DESCRIPTION NOT VERIFIED, BY PREPARER OF THIS DEED.

WITNESS my hand this 14 day of August, 2017.

Witness

Elizabeth Turgeon

STATE OF MAINE
COUNTY OF ANDROSCOGGIN

August 14, 2017

Personally appeared the above named Elizabeth Turgeon and acknowledged the foregoing instrument to be her free act and deed.

Before me,

Notary Public/Attorney-at-Law

KATHRYN CORTES
Notary Public - State of Maine
Commission Expires June 18, 2019

ANDROSCOGGIN COUNTY
TINA M CHOUINARD
REGISTER OF DEEDS

Bk 9501 Ps187 #21237
11-23-2016 @ 02:22p

WARRANTY DEED

JOINT TENANCY

Maine Statutory Short Form

NOT AN OFFICIAL COPY

KNOW ALL PERSONS BY THESE PRESENTS that I, **Frank C. Goudreau**, of Lewiston, Androscoggin County, State of Maine, for consideration paid grant to Jonathan Turgeon and Elizabeth Turgeon, both having a mailing address of 274 Manley Road, Auburn, Maine, 04210, with **WARRANTY COVENANTS** as **joint tenants** the land in Poland, in the County of Androscoggin and State of Maine, described as follows:

A certain lot or parcel of land with any buildings thereon, being Lots 15 and 36, Map 32 as shown on a certain Plan of Land entitled "Boundary Survey of Land in Poland, Maine showing Lot 15 Map 32 Drawn for Ronald J. Bregoli, 28 Bregoli Lane, Braintree, ME 02184 Survey, Inc., PO Box 210, Windham, ME 04062" and recorded at Plan Book 51, Page 59 of the Androscoggin County Registry of Deeds.

See also Affidavit concerning Plan Book 51, Page 59 recorded at Book 9281, Page 220 of the said Androscoggin County Registry of Deeds.

For source of title reference is made to a deed from Ronald J. Bregoli to Frank C. Goudreau dated November 17, 2016 and recorded in the Androscoggin County Registry of Deeds in Book 9497, Page 81.

MAINE REAL ESTATE TRANSFER TAX PAID

The premises are conveyed subject to any easements and restrictions of record, and together with all rights, easements, privileges and appurtenances belonging to the premises described herein.

TITLE NOT SEARCHED, DESCRIPTION NOT VERIFIED, BY PREPARER OF THIS DEED.

WITNESS my hand this 23 day of November, 2016.

Witness

Frank C. Goudreau

STATE OF MAINE
COUNTY OF ANDROSCOGGIN

November 23, 2016

Personally appeared the above named Frank C. Goudreau and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Notary Public/Attorney-at-Law

KATHRYN CORTES
Notary Public - State of Maine
Commission Expires June 18, 2019

ANDROSCOGGIN COUNTY
TINA M CHOUINARD
REGISTER OF DEEDS

Bk 9501 Pg187 #21237
11-23-2016 @ 02:22p

WARRANTY DEED

JOINT TENANCY
Maine Statutory Short Form

KNOW ALL PERSONS BY THESE PRESENTS that **I, Frank C. Goudreau,** of Lewiston, Androscoggin County, State of Maine, for consideration paid, grant to Jonathan Turgeon and Elizabeth Turgeon, both having a mailing address of 274 Manley Road, Auburn, Maine, 04210, with **WARRANTY COVENANTS, as joint tenants,** the land in Poland, in the County of Androscoggin and State of Maine, described as follows:

A certain lot or parcel of land with any buildings thereon, being Lots 15 and 36, Map 32 as shown on a certain Plan of Land entitled "Boundary Survey of Land in Poland, Maine showing Lot 15 Map 32 Drawn for Ronald J. Bregoli, 28 Bregoli Lane, Braintree, ME 02184 Survey, Inc., PO Box 210, Windham, ME 04062" and recorded at Plan Book 51, Page 59 of the Androscoggin County Registry of Deeds.

See also Affidavit concerning Plan Book 51, Page 59 recorded at Book 9281, Page 220 of the said Androscoggin County Registry of Deeds.

For source of title reference is made to a deed from Ronald J. Bregoli to Frank C. Goudreau dated November 17, 2016 and recorded in the Androscoggin County Registry of Deeds in Book 9497, Page 81.

MAINE REAL ESTATE TRANSFER TAX PAID

The premises are conveyed subject to any easements and restrictions of record, and together with all rights, easements, privileges and appurtenances belonging to the premises described herein.

TITLE NOT SEARCHED, DESCRIPTION NOT VERIFIED, BY PREPARER OF THIS DEED.

WITNESS my hand this 23 day of November, 2016.

Witness

Frank C. Goudreau

STATE OF MAINE
COUNTY OF ANDROSCOGGIN

November 23, 2016

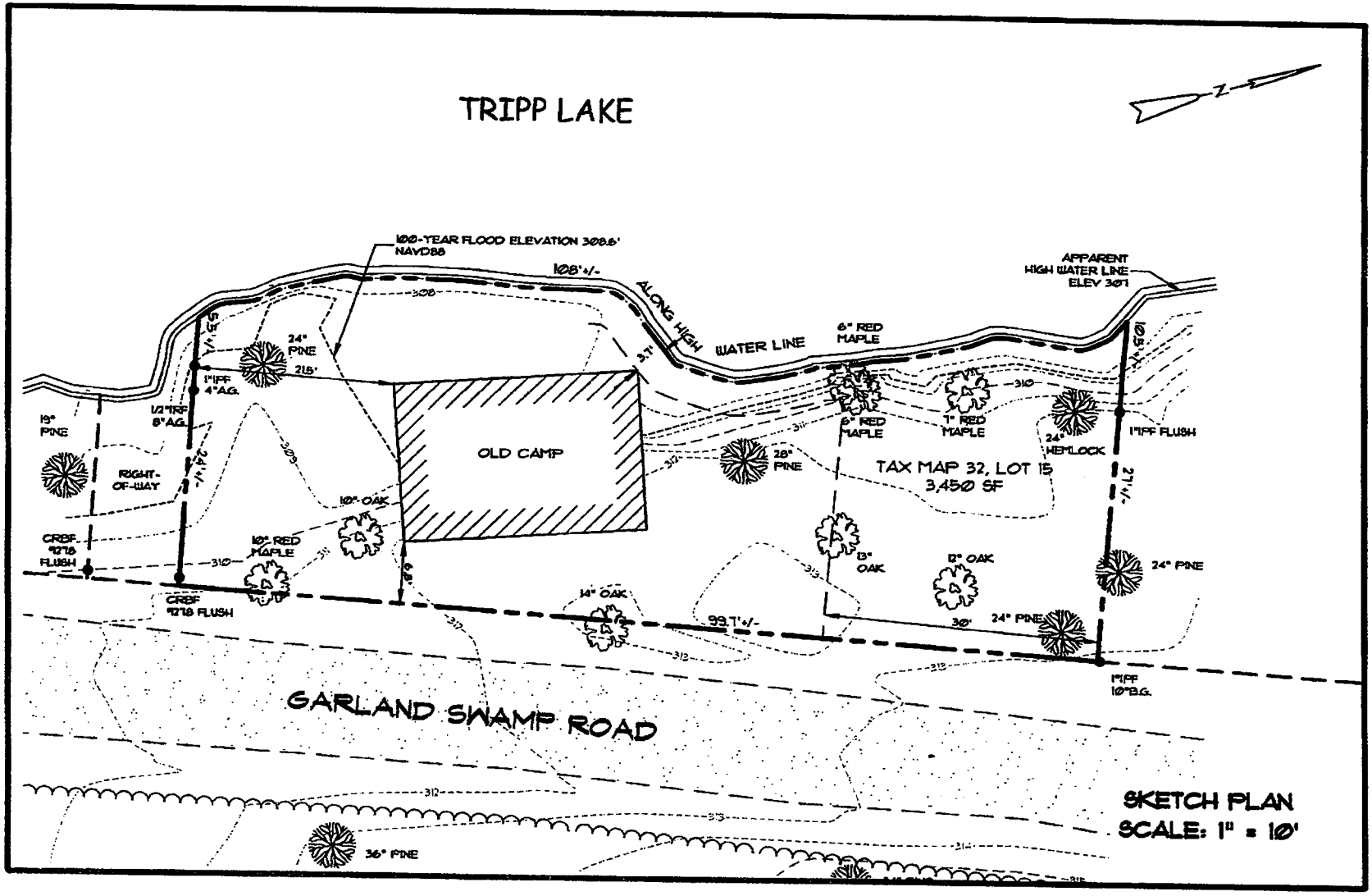
Personally appeared the above named Frank C. Goudreau and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Notary Public/Attorney-at-Law

KATHRYN CORTES
Notary Public - State of Maine
Commission Expires June 18, 2019

ANDROSCOGGIN COUNTY
TINA M CHOUINARD
REGISTER OF DEEDS


TRIPP LAKE
N
100-YEAR FLOOD ELEVATION 308.6'
NAVD88
108'+/-
ALONG HIGH WATER LINE
APPARENT
HIGH WATER LINE
ELEV 307
6" RED MAPLE
24" PINE
215'
1"IPF
4"AG.
1/2"IRF
8"AG.
19" PINE
RIGHT-OF-WAY
24'+/-
OLD CAMP
10" OAK
CRBF
"278
FLUSH
10" RED MAPLE
CRBF
"278 FLUSH
6" RED MAPLE
7" RED MAPLE
24" HEMLOCK
1"IPF FLUSH
28" PINE
TAX MAP 32, LOT 15
3,450 SF
13" OAK
12" OAK
24" PINE
14" OAK
99.1'+/-
30'
24" PINE
1"IPF
10"B.G.
GARLAND SWAMP ROAD
36" PINE
SKETCH PLAN
SCALE: 1" = 10'

Copy of Denied Permit and Denial Letter for Turgeon Permit 2020

Residential Building Permit

Town of Poland
Code Enforcement Department
1231 Maine Street, 04274
Tel: (207) 998-4604
Fax: (207) 998-2002

Building Permit Number: 20200169

Address: 19 GARLAND SWAMP RD.
City, State Zip ,
Parcel ID: 0032-0015
Permit Type:
App. Date: 05/08/2020
Use Group: Residential
Zone: R-2 AQ1 LR

State ID: 0
Lot Size: [Square Feet]
Type of Construction: Building
Shoreland: Yes
Flood Zone: Yes
Setback-Front: 20'
Setback-Rear: N/A
Setback-Side 40'
Shoreland Setback 100,

Job Description: 17' 8" x 26' 2" deck with storage underneath to replace a structure.

Contractor:
Homeowner
,

Owner:
TURGEON, JONATHAN
20 GARLAND SWAMP RD.
POLAND,ME 04274

Fees	Amount	Payment	Type	Received	Paid
	Total Fee: $0.00				**Total Paid: $0.00**

1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules.

2. Building permits do not include plumbing, septic or electrical work.

3. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work.

CERTIFICATION

I understand that this permit is valid only for the use specified above. Any changes must be approved by the permitting Authority. I hereby acknowledge that I have read this application and STATE that the above information is correct, and AGREE to comply with ALL Municipal Ordinances and State Laws regulating activities covered by this permit.

Applicant Signature _____ Date _____

This permit is approved on the basis of information provided by the applicant regarding his ownership and boundary locations. The applicant has the burden of ensuring that they have legal right to use the property and that they are measuring required setbacks from the legal boundary lines of the lot. The approval of this permit in no way relieves the applicant of this burden nor does this permit approval constitute a resolution in favor of the applicant of any issues regarding the property boundaries, ownership, or similar title.

Denied 5/20/20 SN
Issued By *Code Enforcement Officer*

05/20/2020
Date

ALL STRUCTURES MUST MEET THE REQUIREMENTS OF THE MAIN UNIFORM BUILDING AND ENERGY CODE. Construction must be substantially started within six months of permit being issued or permit becomes void.

Code Enforcement Office

1231 Maine Street, Poland, Maine 04274
(207) 998-4604 sneal@polandtownoffice.org

Jonathan Turgeon
20 Garland Swamp Rd.
Poland, Maine 04274

May 20, 2019

Parcel ID: 0032-0015

Located At: 19 Garland Swamp Rd.
Zoning District: Rural Residential-2, Limited Residential, and Aquifer Protection Overlay 1

Certified Mail # 91 7199 9991 7033 5025 5624

Dear Mr. Turgeon,

You applied for a Building Permit (# 20200169) to allow you to replace an existing structure with a deck with storage at 19 Garland Swamp Rd. You asked for no expansion, foundation changes, or relocation. The cover letter from Main-Land Development Consultants, Inc asked that this replacement be allowed based on Chapter 5 §508.27, Table 508.27.A #16 Onsite and Offsite Structures accessory to allowed uses, of the Town of Poland Comprehensive Land Use Code (CLUC). Main-Land Development Consultants, Inc states that this new deck will be an accessory to the allowed use of a temporary dock. Accompanied with your application was the following:

- A cover letter describing your project from Main-Land Development Consultants, Inc.
- A check #1435 to the Town of Poland in the amount of $90.00.
- A plot plan showing the existing building and setbacks.
- An elevation and floor plan from Maine Residential Design dated April 18, 2019.
- Letters from abutting property owners Debra Lapre, Donald Whitelaw, Domenic LaRosa, Vickie and Peter Polombo, and Matt New.
- The deed for your property.

Main-Land Development Consultants, Inc has asked on your behalf that the replacement of the existing structure be allowed based on Chapter 5 §508.27 Table 508.27.A #16 of the CLUC, Onsite and Offsite Structures accessory to allowed uses. They state in their letter "This land use allows the Code Enforcement Officer to review and issue a permit for this onsite structure". While it is true the Code Enforcement Officer is allowed to permit onsite accessory structures, you would also have to follow all rules of Chapter 5 §508.27.B Principal and Accessory Structures of the CLUC. Your application does not show that you can meet the criteria to allow an accessory structure in Chapter 5 §508.27.B of the CLUC.

Code Enforcement Office

1231 Maine Street, Poland, Maine 04274
(207) 998-4604 sneal@polandtownoffice.org

Because of the extensive damage to the existing structure this replacement falls under Chapter 5 § 504.3.D of the CLUC, Reconstruction or Replacement - In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

1. Structures in Shoreland Zoning Districts
    a. Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is damaged or destroyed, regardless of cause, by more than fifty percent (50%) of the market value of the structure before such damage or destruction, may be reconstructed or replaced provided a permit is obtained within one (1) year of the date of damage or destruction, and provided such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purpose of this Code. When determining the setback to the greatest practical extent the Planning Board may allow for reduced setbacks from front and side lines in conformance with Section 504.3.E

On August 21, 2009, the Town of Poland gave this structure a zero value and has only taxed the property to this date. A permit for reconstruction would have had to be issued within a year at that point.

In conclusion and pursuant to Ch. 5, §504.3.D and §508.27.B of the CLUC, I regret to inform you that this office has denied your permit application. You have the right to appeal this decision to the Board of Appeals within forty five (45) days of the date of this letter pursuant to Ch. 3, §304.3 of the CLUC.

Sincerely,

Scott Neal
Code Enforcement Officer

CC: Matthew Garside, Town Manager

ENC: Administrative Appeal Application, Check #1435 in the amount of $90.00.

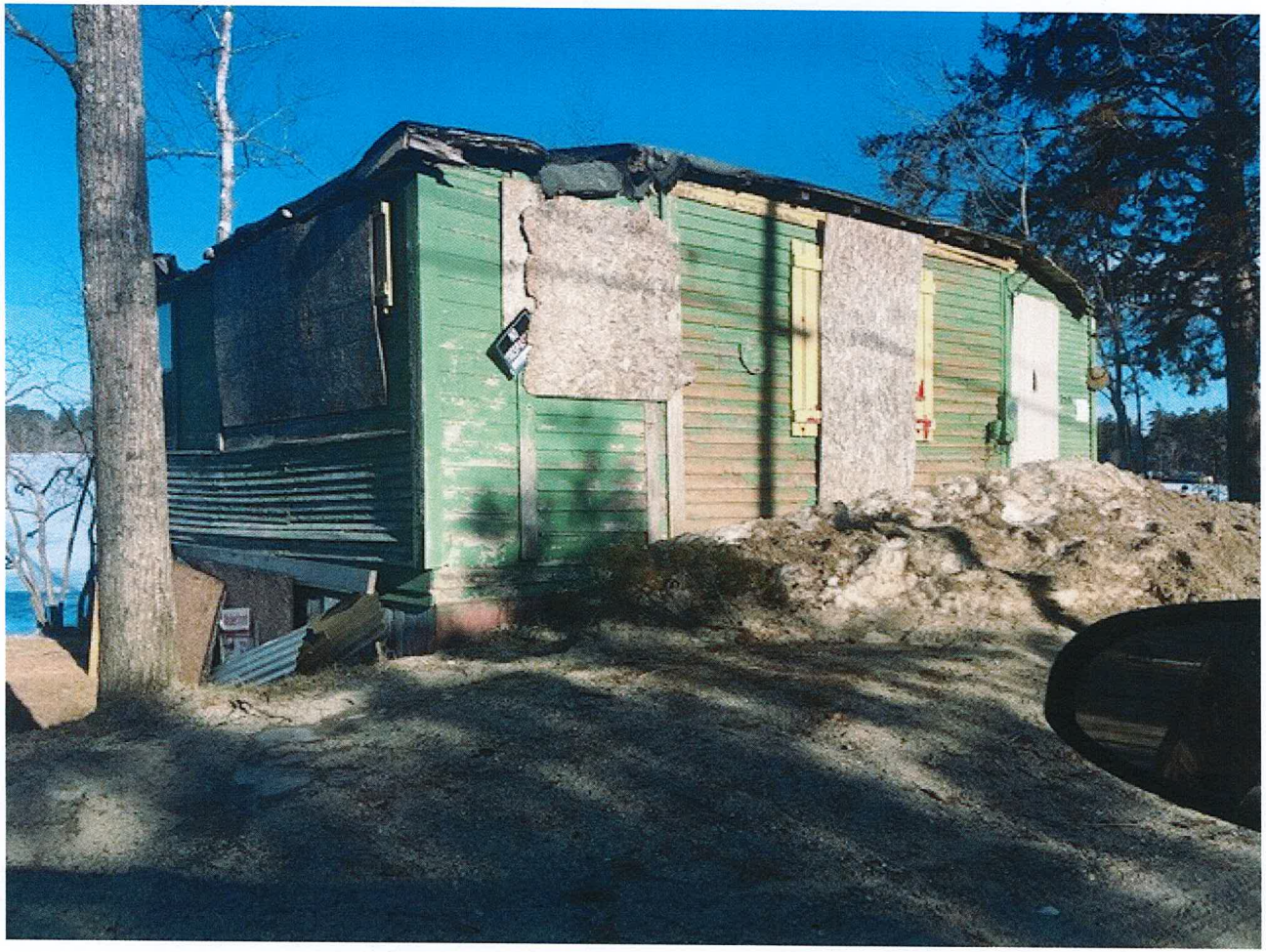
Account Showing when Property Assessed at $0

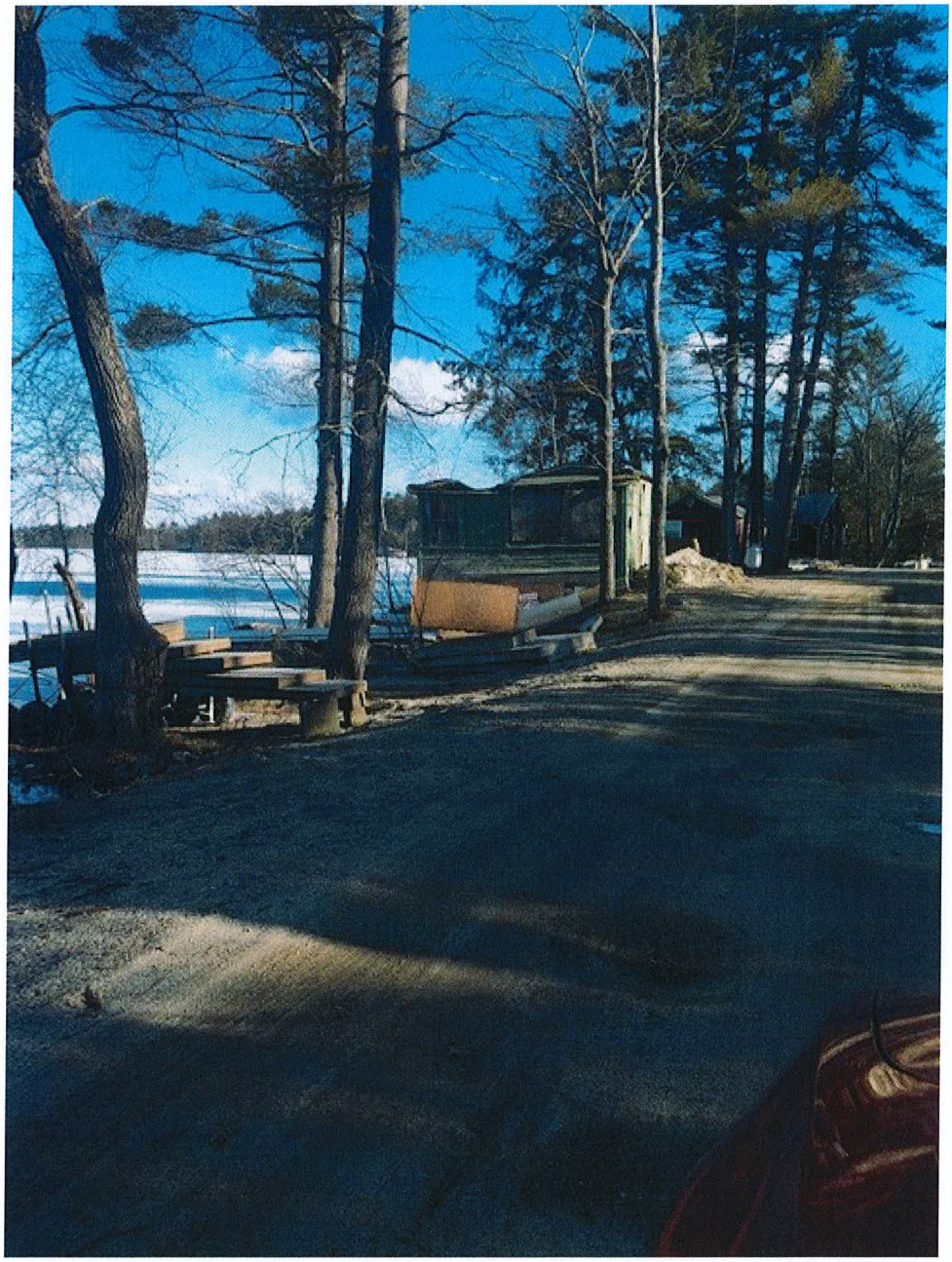
Acct	Card	UserID	Date	Time	Screen	Description
2419	1	Admin	1/8/2009	1:14:00 PM	Account Maintenance	Neighborhood changed. Old Value: Neighborhood 8 New Value: Tripp 1
2419	1	Admin	3/30/2009	2:40:57 PM	Account Maintenance	Condition changed. Old Value: 2 New Value: 1
2419	1	Admin	3/30/2009	2:40:57 PM	Account Maintenance	Physical % Good changed. Old Value: 0 New Value: 25
2419	1	Admin	3/30/2009	2:40:57 PM	Account Maintenance	Functional % Good changed. Old Value: 75 New Value: 50
2419	1	Admin	3/30/2009	2:40:57 PM	Account Maintenance	Functional Code changed. Old Value: 3 New Value: 9
2419	1	Admin	3/30/2009	2:40:57 PM	Account Maintenance	Economic % Good changed. Old Value: 95 New Value: 100
2419	1	Admin	3/30/2009	2:40:57 PM	Account Maintenance	Economic Code changed. Old Value: 2 New Value: 9
2419	1	Admin	5/12/2009	7:39:48 PM	Account Maintenance	Neighborhood changed. Old Value: Tripp 1 New Value: Tripp 2
2419	1	Admin	5/12/2009	7:39:48 PM	Account Maintenance	Land 1 Influence changed. Old Value: 100 New Value: 70
2419	1	Admin	5/12/2009	7:39:48 PM	Account Maintenance	Land 1 Influence Code changed. Old Value: None New Value: Market
2419	1	Admin	5/12/2009	7:41:22 PM	Account Maintenance	Land 1 Influence changed. Old Value: 70 New Value: 10
2419	1	Admin	5/12/2009	7:44:30 PM	Account Maintenance	Land 1 Influence changed. Old Value: 10 New Value: 50
2419	1	Admin	5/12/2009	7:44:49 PM	Account Maintenance	Land 1 Influence changed. Old Value: 50 New Value: 25
2419	1	Admin	8/21/2009	5:11:11 PM	Account Maintenance	Sound Value 2 changed. Old Value: New Value: 0
2419	1	Admin	8/21/2009	5:11:11 PM	Account Maintenance	Use Sound Value 1 changed. Old Value: False New Value: True
2419	1	Admin	8/21/2009	5:11:11 PM	Account Maintenance	Land 1 Influence changed. Old Value: 25 New Value: 15
2419	1	Admin	8/21/2009	5:11:11 PM	Account Maintenance	Sound Value 1 changed. Old Value: New Value: 0
2419	1	Admin	8/21/2009	5:11:11 PM	Account Maintenance	Use Sound Value 2 changed. Old Value: False New Value: True
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 2 Grade Pct changed. Old Value: 100 New Value: 0
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 1 Type changed. Old Value: 22 New Value: 0
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 8 Grade Pct changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 8 Grade changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 8 Units changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 8 Year changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 8 Type changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Sound Value 2 changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Use Sound Value 2 changed. Old Value: True New Value: False
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 2 Condition changed. Old Value: 9 New Value: 0
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 2 Grade changed. Old Value: 9 New Value: 0
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 2 Units changed. Old Value: 96 New Value: 0
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 2 Type changed. Old Value: 1 New Value: 0
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Sound Value 1 changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Use Sound Value 1 changed. Old Value: True New Value: False
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 1 Condition changed. Old Value: 9 New Value: 0
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 1 Grade Pct changed. Old Value: 100 New Value: 0
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 8 Phys Pct changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 1 Units changed. Old Value: 128 New Value: 0
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 8 Func Pct changed. Old Value: 0 New Value:

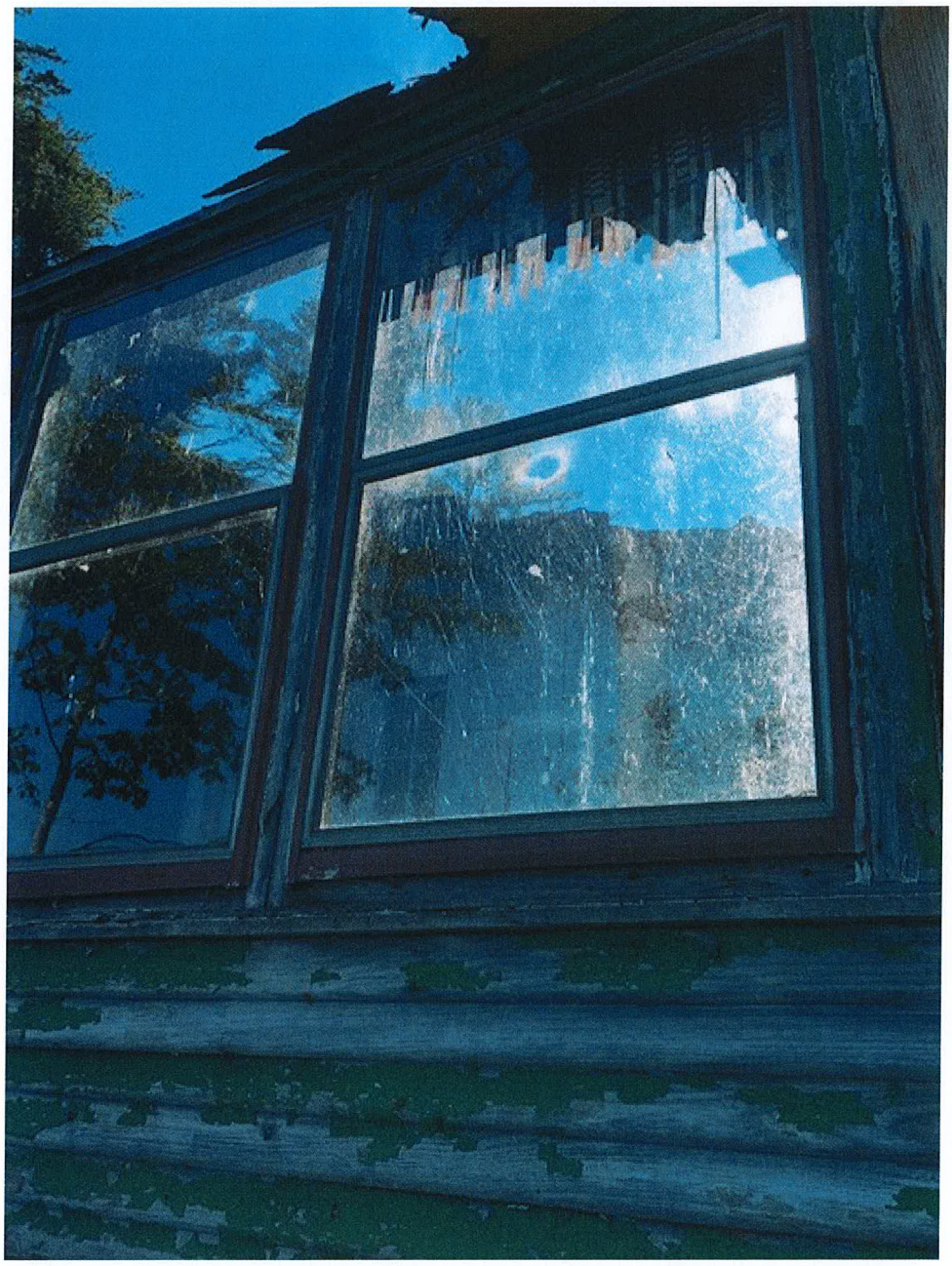
Acct	Card	UserID	Date	Time	Screen	Description
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 1 Grade changed. Old Value: 9 New Value: 0
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 10 Year changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 8 Condition changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 10 Func Pct changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 10 Phys Pct changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 10 Condition changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 10 Grade Pct changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 10 Units changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 10 Type changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 9 Func Pct changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 9 Phys Pct changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 9 Condition changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 9 Grade Pct changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 9 Grade changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 9 Units changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 9 Year changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 9 Type changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:11:54 PM	Account Maintenance	Outbuilding 10 Grade changed. Old Value: 0 New Value:
2419	1	Admin	8/21/2009	5:12:35 PM	Account Maintenance	Functional % Good changed. Old Value: 50 New Value: 0
2419	1	Admin	8/21/2009	5:12:35 PM	Account Maintenance	Physical % Good changed. Old Value: 25 New Value: 0
2419	1	RJD	3/3/2017	8:46:35 AM	Account Maintenance	BP Row 2 Page changed. Old Value: New Value: 81
2419	1	RJD	3/3/2017	8:46:35 AM	Account Maintenance	City changed. Old Value: BRAINTREE New Value: LEWISTON
2419	1	RJD	3/3/2017	8:46:35 AM	Account Maintenance	Address 1 changed. Old Value: 24 CRESCENT AVE. New Value: 95 MARBLE STREET
2419	1	RJD	3/3/2017	8:46:35 AM	Account Maintenance	State changed. Old Value: MA New Value: ME
2419	1	RJD	3/3/2017	8:46:35 AM	Account Maintenance	Zip Ext changed. Old Value: 7028 New Value:
2419	1	RJD	3/3/2017	8:46:35 AM	Account Maintenance	Zip changed. Old Value: 02184 New Value: 04240
2419	1	RJD	3/3/2017	8:46:35 AM	Account Maintenance	BP Row 2 Book changed. Old Value: New Value: 9497
2419	1	RJD	3/3/2017	10:49:50 AM	Account Maintenance	BP Row 3 Book changed. Old Value: New Value: 9501
2419	1	RJD	3/3/2017	10:49:50 AM	Account Maintenance	Zip changed. Old Value: 04240 New Value: 04210
2419	1	RJD	3/3/2017	10:49:50 AM	Account Maintenance	City changed. Old Value: LEWISTON New Value: AUBURN
2419	1	RJD	3/3/2017	10:49:50 AM	Account Maintenance	Address 1 changed. Old Value: 95 MARBLE STREET New Value: 274 MANLEY ROAD
2419	1	RJD	3/3/2017	10:49:50 AM	Account Maintenance	Second Owner changed. Old Value: New Value: TURGEON, ELIZABETH
2419	1	RJD	3/3/2017	10:49:50 AM	Account Maintenance	Name changed. Old Value: GOUDREAU, FRANK C. New Value: TURGEON, JONATHAN
2419	1	RJD	3/3/2017	10:49:50 AM	Account Maintenance	BP Row 3 Page changed. Old Value: New Value: 187
2419	1	BAS	2/2/2018	10:03:03 AM	Account Maintenance	BP Row 4 Page changed. Old Value: New Value: 75
2419	1	BAS	2/2/2018	10:03:03 AM	Account Maintenance	Second Owner changed. Old Value: TURGEON, ELIZABETH New Value:
2419	1	BAS	2/2/2018	10:03:03 AM	Account Maintenance	Address 1 changed. Old Value: 274 MANLEY ROAD New Value: 811 MAIN ST
2419	1	BAS	2/2/2018	10:03:03 AM	Account Maintenance	City changed. Old Value: AUBURN New Value: LEWISTON

Acct	Card	UserID	Date	Time	Screen	Description
2419	1	BAS	2/2/2018	10:03:03 AM	Account Maintenance	Zip changed. Old Value: 04210 New Value: 04240
2419	1	BAS	2/2/2018	10:03:03 AM	Account Maintenance	BP Row 4 Book changed. Old Value: New Value: 9673

Pictures of Property taken by CEO 2019







Copy of Permit Submitted in 2019 by Jonathan Turgeon

CODE ENFORCEMENT

TOWN OF POLAND

1231 Maine Street
Poland, ME 04274
(207) 998- 4604

Residential Building Permit Application

FOR OFFICIAL USE ONLY	
Date Received	
Zoning	
Property ID	
Building Code	
Estimated Cost	
Permit Fee	
Receipt Number	
Reviewed By	

Permit Number: _____

1. Please attach all required information detailed on the application check list.
2. If you have questions about what is required in order to obtain a permit, contact the Code Enforcement Office.
3. DEP Certification is required for projects in Shoreland Zoning.

Project Address:	19 Garland Swamp Road, Poland, ME 04274
Parcel ID#:	0032-0015
Estimated Cost:	$15,0000
Current Use:	Bunkhouse/Storage
Proposed Use (i.e. single family):	Bunkhouse/Storage
Please Describe Your Project:	General Maintenance Upkeep — See Attached Letter

Property Owner Information

Owner Name:	Jonathan Turgeon
Mailing Address:	20 Garland Swamp Road, Poland, ME 04274
Phone Number:	207-576-8736
Email Address:	jonsautomart@hotmail.com

Contractor or Applicant Information

Contractor Name:	Jonathan Turgeon
Mailing Address:	20 Garland Swamp Road, Poland, ME 04274
Phone Number:	207-576-8736
Email Address:	jonsautomart@hotmail.com
DEP Certification:	

Please attach all of the information required on the permit checklist

I hereby certify that I am the Owner of Record of the named property, or that the owner of record authorizes the proposed work, and I have been authorized by the owner to make this application as his/her authorized agent. I agree to confirm to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Officials shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Applicant Signature:	Date: 6/26/19

Jonathan Turgeon
20 Garland Swamp Road
Poland, ME 04274
(207) 576-8736

June 26, 2019

Scott Neal, Code Enforcement Officer
Town of Poland, Maine
1231 Maine Street
Poland, ME 04274

Re: 19 Garland Swamp Road

Dear Mr. Neal:

After much thought and consideration, I have decided to maintain and repair the current structure located at 19 Garland Swamp Road, Poland, Maine 04274, Parcel ID # 0032-0015.

Enclosed is a Residential Building Permit Application, together with a check for the permit filing fee in the amount of $90.00. I am requesting a building permit for the following repairs to bring it back to its original state as a bunkhouse storage structure:

1. Repair roof, removing all rotted wood, stabilizing and replacing with new materials;

2. Remove and replace windows and doors;

3. Repair and replace flooring covering access way to basement;

4. Repair and replace siding.

Thank you for your consideration in this matter and I look forward to working with you on this project. If you need any additional details on the anticipated repairs, please do not hesitate to call me.

Sincerely,

Jonathan Turgeon

JT
Enc.

THE MALLOY FIRM

Attorney. Advisor. Advocate.

June 26, 2019

Town of Poland
1231 Maine Street
Poland, Maine 04274

Re: Residential Building Permit Application: 19 Garland Swamp Road

Dear Sir or Madam:

This firm represents Jonathan Turgeon of 20 Garland Swamp Road in connection with his application for a building permit. Mr. Turgeon seeks a permit to allow him to repair and replace the damage to his camp at 19 Garland Swamp Road, Parcel I.D. #0032-0015. No expansion rights are requested. Mr. Turgeon does not contemplate any foundation changes nor any relocation of the existing nonconforming structure. It will not be reconstructed or replaced so as to increase its nonconformity and no change in use is requested.

I have been informed that Mr. Turgeon has previously discussed alternative plans for the camp with the Town's code enforcement officials. His earlier plans have been revised and it is our position that the repairs and maintenance activities contemplated at this time fall within the general upkeep and maintenance authorized in Section 504.2(B) of the Town's Comprehensive Land Use Code.

Enclosed for your review are the following:

1. Completed building permit application.

2. Scaled plot plans showing lot lines. As no enlargement and no change in the camp location are contemplated, there are no proposed changes illustrated.

3. Floorplan and elevation drawing by main residential design of Casco, Maine.

4. Letter from Mr. Turgeon describing his proposed repairs to the structure.

5. Check for the building permit fee.

6. Proposed project budget.

Michael S. Malloy, Esq.
TEL 207-312-9239

178 Court Street
P.O. Box 3171
Auburn, ME 04212

MALLOYFIRMMAINE.COM
msm@malloyfirmmaine.com

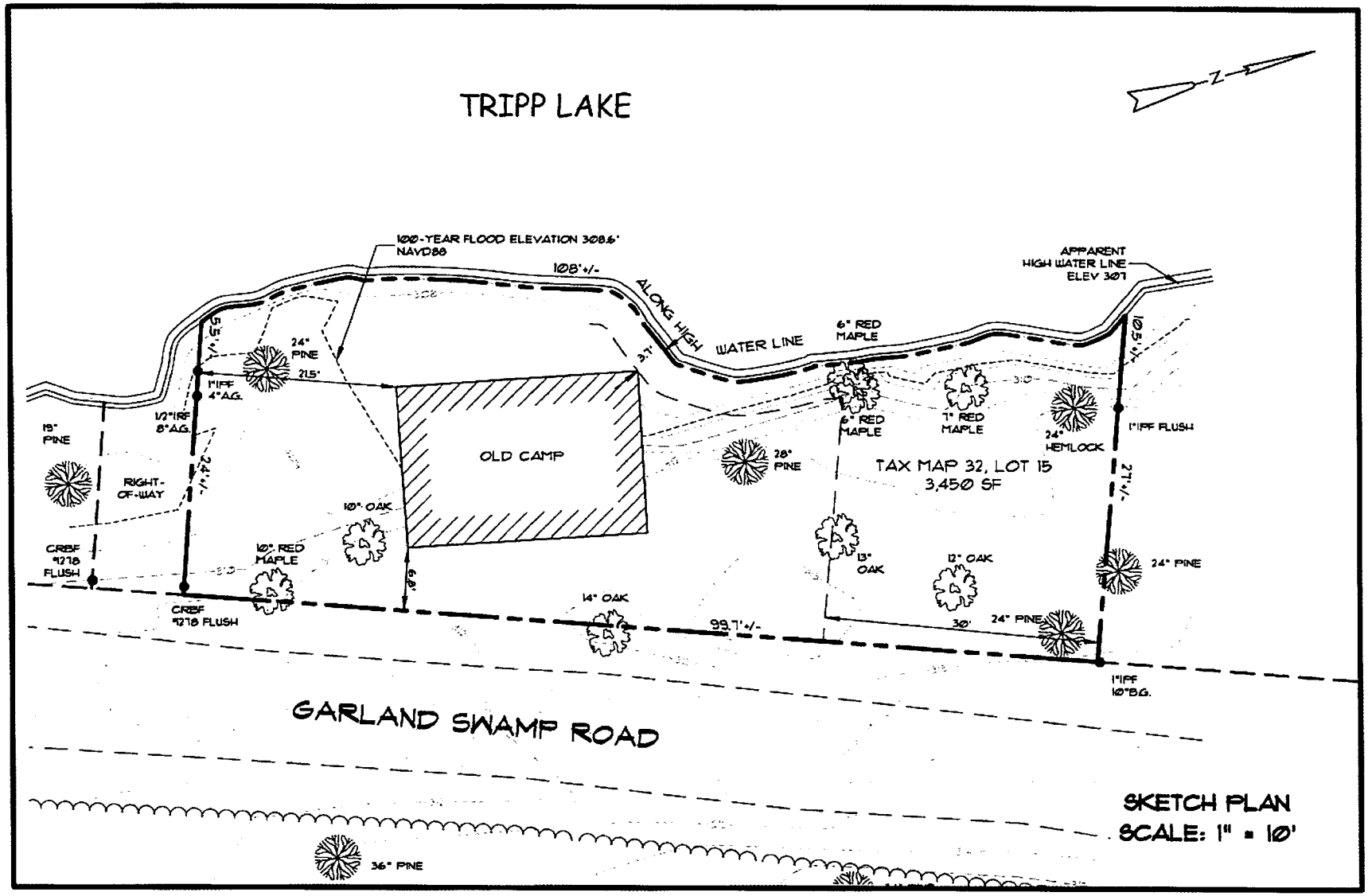
7. Copies of the deeds showing Mr. Turgeon's ownership of the property.

I respectfully request that you grant Mr. Turgeon a building permit allowing him to conduct this work. My client is eager to return this property to a more appealing condition and to move past the uncertainty that has existed surrounding its future. If you have any questions or require further information, do not hesitate to contact me.

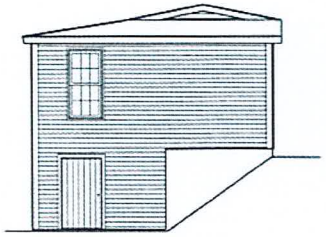
Very truly yours,

Michael S. Malloy

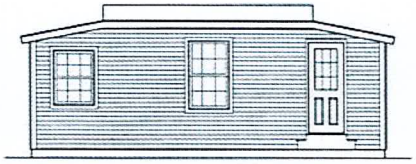
MSM:mec:
cc: Jonathan Turgeon
Enclosures


TRIPP LAKE
N
100-YEAR FLOOD ELEVATION 308.6' NAVD88
108'+/-
ALONG HIGH WATER LINE
APPARENT HIGH WATER LINE ELEV 307
6" RED MAPLE
24" PINE
21.5'
1"IPF 4"A.G.
1/2"IRF 8"A.G.
19" PINE
RIGHT-OF-WAY
24'+/-
OLD CAMP
10" OAK
10" RED MAPLE
CRBF #278 FLUSH
CRBF #278 FLUSH
6.8'
14" OAK
99.7'+/-
28" PINE
6" RED MAPLE
7" RED MAPLE
24" HEMLOCK
1"IPF FLUSH
TAX MAP 32, LOT 15
3,450 SF
105'+/-
27'+/-
13" OAK
12" OAK
24" PINE
30'
24" PINE
1"IPF 10"B.G.
GARLAND SWAMP ROAD
36" PINE
SKETCH PLAN
SCALE: 1" = 10'

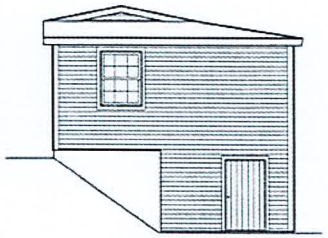
THE INFORMATION IS PROVIDED TO OUR CUSTOMERS AS A SERVICE BY MAINE RESIDENTIAL DESIGN. CUSTOMERS SHOULD APPRECIATE, HOWEVER, THAT THIS INFORMATION IS NOT THE PRODUCT OF ANY ARCHITECT. NEITHER MAINE RESIDENTIAL DESIGN OR ITS EMPLOYEES ARE REGISTERED ARCHITECTS WITHIN THE STATE OF MAINE AND CUSTOMERS ARE STRONGLY ENCOURAGED TO CONSULT WITH AN ARCHITECT BEFORE TAKING FINAL ACTION BASED UPON THE INFORMATION CONTAINED HEREIN. CUSTOMERS SHOULD ALSO CONSULT WITH A BUILDING OFFICIAL BEFORE USING YOU WITH THIS INFORMATION. MAINE RESIDENTIAL DESIGN DOES NOT GUARANTEE THE SUITABILITY OR FITNESS OF THE INFORMATION FOR ANY PURPOSE OF THE CUSTOMER



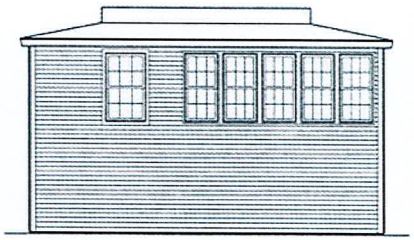
LEFT SIDE



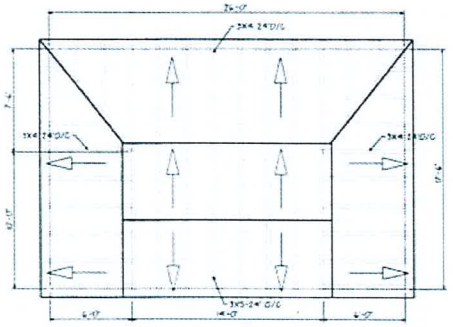
ROAD SIDE



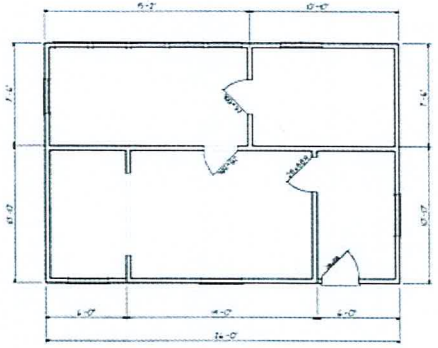
RIGHT SIDE



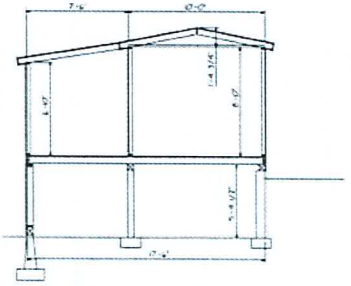
LAKE SIDE



ROOF PLAN



FLOOR PLAN



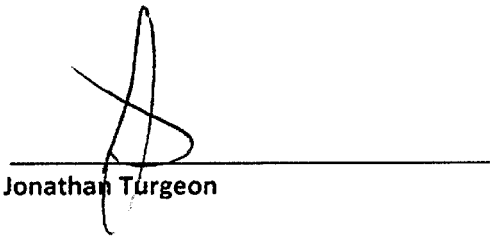
SECTION

MAINE RESIDENTIAL DESIGN	FILE NAME
CASCO, ME. 207-627-3362	
JOB: JON TURGENT	SCALE:
DISCRIPTION: CAMP REPAIR PLAN	DATE: 6/4/2019
	DRAWN BY: MEJ
	APPROVED:

PROJECTED BUDGET

19 GARLAND SWAMP ROAD, POLAND, ME

$3,800	Roof
$2,000	Windows
$1,000	Doors
$3,500	Flooring
$3,000	Siding/Trim
$1,700	Misc.
$15,000	Est. Total of Work



Jonathan Turgeon

Bk 9673 Pg75 #14889
08-24-2017 @ 04:26p

WARRANTY DEED

Maine Statutory Short Form

KNOW ALL PERSONS BY THESE PRESENTS that **I, Elizabeth Turgeon,** of Auburn, Androscoggin County, State of Maine, for consideration paid, grant to **Jonathan Turgeon,** having a mailing address of 811 Main Street, Lewiston, Maine 04240, with **WARRANTY COVENANTS,** the land in Poland, in the County of Androscoggin and State of Maine, described as follows:

A certain lot or parcel of land with any buildings thereon, being Lot 15, Map 32 as shown on a certain Plan of Land entitled "Boundary Survey of Land in Poland, Maine showing Lot 15 Map 32 Drawn for Ronald J. Bregoli, 28 Bregoli Lane, Braintree, ME 02184 Survey, Inc., PO Box 210, Windham, ME 04062" and recorded at Plan Book 51, Page 59 of the Androscoggin County Registry of Deeds.

See also Affidavit concerning Plan Book 51, Page 59 recorded at Book 9281, Page 220 of the said Androscoggin County Registry of Deeds.

Being a portion of the premises conveyed in a deed from Frank C. Goudreau to Jonathan Turgeon and Elizabeth Turgeon dated November 23, 2016 and recorded in the Androscoggin County Registry of Deeds in Book 9501, Page 187.

NO MAINE R.E. TRANSFER TAX PAID

The premises are conveyed subject to any easements and restrictions of record, and together with all rights, easements, privileges and appurtenances belonging to the premises described herein.

TITLE NOT SEARCHED, DESCRIPTION NOT VERIFIED, BY PREPARER OF THIS DEED.

WITNESS my hand this 14 day of August, 2017.

Witness

Elizabeth Turgeon

STATE OF MAINE
COUNTY OF ANDROSCOGGIN

August 14, 2017

Personally appeared the above named Elizabeth Turgeon and acknowledged the foregoing instrument to be her free act and deed.

Before me,

Notary Public/Attorney-at-Law

KATHRYN CORTES
Notary Public - State of Maine
Commission Expires June 18, 2019

ANDROSCOGGIN COUNTY
TINA M CHOUINARD
REGISTER OF DEEDS

Bk 9501 Pg187 #21237
11-23-2016 @ 02:22p

WARRANTY DEED

JOINT TENANCY

Maine Statutory Short Form

NOT AN OFFICIAL COPY

KNOW ALL PERSONS BY THESE PRESENTS that I, **Frank C. Goudreau,** of Lewiston, Androscoggin County, State of Maine, for consideration paid grant to Jonathan Turgeon and Elizabeth Turgeon, both having a mailing address of 274 Manley Road, Auburn, Maine, 04210, with **WARRANTY COVENANTS, as joint tenants,** the land in Poland, in the County of Androscoggin and State of Maine, described as follows:

A certain lot or parcel of land with any buildings thereon, being Lots 15 and 36, Map 32 as shown on a certain Plan of Land entitled "Boundary Survey of Land in Poland, Maine showing Lot 15 Map 32 Drawn for Ronald J. Bregoli, 28 Bregoli Lane, Braintree, ME 02184 Survey, Inc., PO Box 210, Windham, ME 04062" and recorded at Plan Book 51, Page 59 of the Androscoggin County Registry of Deeds.

See also Affidavit concerning Plan Book 51, Page 59 recorded at Book 9281, Page 220 of the said Androscoggin County Registry of Deeds.

For source of title reference is made to a deed from Ronald J. Bregoli to Frank C. Goudreau dated November 17, 2016 and recorded in the Androscoggin County Registry of Deeds in Book 9497, Page 81.

MAINE REAL ESTATE TRANSFER TAX PAID

The premises are conveyed subject to any easements and restrictions of record, and together with all rights, easements, privileges and appurtenances belonging to the premises described herein.

TITLE NOT SEARCHED, DESCRIPTION NOT VERIFIED, BY PREPARER OF THIS DEED.

WITNESS my hand this 23 day of November, 2016.

Witness

Frank C. Goudreau

STATE OF MAINE
COUNTY OF ANDROSCOGGIN

November 23, 2016

Personally appeared the above named Frank C. Goudreau and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Notary Public/Attorney-at-Law

KATHRYN CORTES
Notary Public - State of Maine
Commission Expires June 18, 2019

ANDROSCOGGIN COUNTY
TINA M CHOUINARD
REGISTER OF DEEDS

TOWN OF POLAND
1231 Maine Street
Poland, ME 04274
For the Fiscal Year July 1, 2018 to June 30, 2019

OFFICE HOURS
Monday: 9:00am - 7:00pm
Tuesday thru Friday: 9:00am - 4:00pm
Telephone: (207) 998-4601

2019 REAL ESTATE TAX BILL

CURRENT BILLING INFORMATION	
LAND VALUE	$22,900.00
BUILDING VALUE	$0.
TOTAL: LAND & BLDG	$22,900.00
	$0.00
	$0.00
Machinery & Equipment	$0.00
MISCELLANEOUS	$0.00
TOTAL PER. PROP.	$0.00
HOMESTEAD EXEMPTION	$0.00
OTHER EXEMPTION	$0.00
NET ASSESSMENT	$22,900.00
TOTAL TAX	$343.04
LESS PAID TO DATE	$0.00
TOTAL DUE ⇨	$343.04

THIS IS THE ONLY BILL YOU WILL RECEIVE

TURGEON, JONATHAN
811 MAIN ST
LEWISTON ME 04240

FIRST HALF DUE: $171.52
SECOND HALF DUE: $171.52

MAP/LOT: 0032-0015
LOCATION: 19 GARLAND SWAMP RD.
ACREAGE: 0.22
ACCOUNT: 002419 RE

MIL RATE: $14.98
BOOK/PAGE: B9673P75 08/24/2017

TAXPAYER'S NOTICE

INTEREST AT 8% PER ANNUM CHARGED BEGINNING 11/01/2018 AND 05/01/2019.

Without State Aid for Education, Homestead Exemption Reimbursement and State Revenue Sharing, your tax bill would have been 32% higher. Mil Rate at 14.98 per $1,000 of taxable value.

This bill is for the current fiscal year only, any payment on past due amounts are not included. To determine past due amounts OR to receive information regarding payments, interest, cost changes and/or refunds, please contact the Treasurer's Office at (207) 998-4601. Under State law, the ownership and valuation of all real estate and personal property subject to taxation shall be fixed as of April 1st. For this tax bill, that date is April 1, 2018. **If you have sold your real estate since April 1, 2018, it is your obligation to forward this bill to the current property owner.**

As of June 30, 2018 the Town of Poland has outstanding bonded indebtedness in the amount of $8,597,815.00.

After eight months and no later than one year from the date of commitment, a lien will be placed on all real estate for which taxes remain unpaid. Any abatement requests must be made within **185 calendar days** from the date of commitment, for this tax bill.

Please direct any abatement questions to the Assessor's Office at (207) 998-4651.

DO NOT LOSE OR DISCARD THIS BILL. YOU WILL NOT RECEIVE A BILL FOR THE SECOND PAYMENT.

CURRENT BILLING DISTRIBUTION

School	$180.30	52.560%
Town	$141.88	41.360%
Androscoggin County	$20.86	6.080%
TOTAL	$343.04	100.000%

REMITTANCE INSTRUCTIONS

Please make check or money order payable to ***Town of Poland*** and mail to:

TOWN OF POLAND
1231 Maine Street
POLAND, ME 04274

If a receipt is desired, please send a self-addressed, stamped envelope.

TOWN OF POLAND, 1231 MAINE STREET, POLAND, ME 04274

ACCOUNT: 002419 RE
NAME: TURGEON, JONATHAN
MAP/LOT: 0032-0015
LOCATION: 19 GARLAND SWAMP RD.
ACREAGE: 0.22

INTEREST BEGINS ON 05/01/2019

DUE DATE	AMOUNT DUE	AMOUNT PAID
04/01/2019	$171.52	

PLEASE REMIT THIS PORTION WITH YOUR SECOND PAYMENT

TOWN OF POLAND, 1231 MAINE STREET, POLAND, ME 04274

ACCOUNT: 002419 RE
NAME: TURGEON, JONATHAN
MAP/LOT: 0032-0015
LOCATION: 19 GARLAND SWAMP RD.
ACREAGE: 0.22

INTEREST BEGINS ON 11/01/2018

DUE DATE	AMOUNT DUE	AMOUNT PAID
10/01/2018	$171.52	

PLEASE REMIT THIS PORTION WITH YOUR FIRST PAYMENT

Emails between CEO Neal and Town Attorney for Turgeon Permit 2019

Scott Neal

From: Natalie L. Burns <nburns@JBGH.com>
Sent: Friday, June 28, 2019 6:06 PM
To: Scott Neal
Subject: Re: 19 Garland Swamp

Scott,

I agree that you should deny the permit on that basis.

Thanks,

Natalie

Sent from my iPhone

Natalie L. Burns, Esq.
Jensen Baird Gardner & Henry
P.O. Box 4510
Portland, ME 04112
(207) 775-7271

> On Jun 28, 2019, at 12:33 PM, Scott Neal <sneal@polandtownoffice.org> wrote:
>
> Natalie,
> Since we last talked about this property (19 Garland Swamp Rd.) the home owner withdrew his application to reconstruct. I received a new application yesterday with a cover letter from his Attorney (see attached). They are now calling this project "general upkeep and maintenance" allowed under 504.2(B). As you can see from the attached photos there is nothing "normal" about the repairs it would take to bring back this home. I also still feel that this property lost its legal non-conforming status when the Town stopped taxing the building on 8/21/09 and it wasn't rebuilt within a year. As we talked about before I feel the only thing I can do with this permit is to deny it based on 504.3(D).
>
> Scott Neal
> Code Enforcement Officer
> Town of Poland
> sneal@polandtownoffice.org
> (207) 998-4604
>
> -----Original Message-----
> From: Natalie L. Burns <nburns@JBGH.com>
> Sent: Friday, April 5, 2019 1:41 PM
> To: Scott Neal <sneal@polandtownoffice.org>
> Subject: Re: 19 Garland Swamp
>
> Scott,
>
> While I agree with you that the existing building cannot be rebuilt, the basis for my opinion is a little different from yours. Because this is a non conforming structure, it is not subject to the 1-year abandonment provision that applies to non conforming uses. It is instead subject to Section 504.3. It is my opinion that the proposal would be subject to

Subsection 504.3.D, the provision that regulates the reconstruction or replacement of a non conforming structure. That provision allows the relocation or replacement with Planning Board review if a building is damaged or destroyed by more than 50% of its value and with CEO review if less than that percentage. In either case, the reconstruction must be done within one year of the damage. As you note, the Town completely wrote off the assessed value of this structure many years ago. For that reason, the property owner cannot seek permission to reconstruct or replace the building, even with a deck rather than a building, under those provisions of the Ordinance. Any proposal would be treated as a new building/structure and would have to meet the water setback and all other applicable provisions of the CLUC.
>
> Let me know if you have any questions.
>
> Thanks,
>
> Natalie
>
> Sent from my iPad
>
> On Apr 4, 2019, at 11:31 AM, Scott Neal <sneal@polandtownoffice.org<mailto:sneal@polandtownoffice.org>> wrote:
>
> Natalie,
> I received an application to replace a nonconforming structure with a deck using the existing foundation. I have attached some photos, a plot plan, and the last correspondence between the Town and the previous owner. On 8/21/2009 I assume after the homeowner at the time didn't repair the building it was given a zero value by the assessor and has not been taxed since then. It is my position that since it's been 10 years without being taxed and a permit was not obtained before 08/21/2010 to repair or rebuild the structure that it has lost its status as a non-conforming structure and must be removed. Once it's removed any new structure would have to meet current setbacks. Any help you can give me on this would be appreciated.
>
> Scott Neal
> Code Enforcement Officer
> Town of Poland
> sneal@polandtownoffice.org<mailto:sneal@polandtownoffice.org>
> (207) 998-4604
>
> <19 g 2.jpg>
> <19 g.jpg>
> <Bregoli Survey, Plan Book 51, Page 59.pdf> <Letter from CEO 3.13.2006.pdf> <Letter from CEO 9.8.2008.pdf> <Letter from Ronald Bregoli 10.2.2008.pdf>
>
> Confidentiality Notice: This message is intended only for the person to whom addressed in the text above and may contain privileged or confidential information. If you are not that person, any use of this message is prohibited. We request that you notify us by reply to this message, and then delete all copies of this message, attachments and/or files, including any contained in your reply.
> <GS1.jpg>
> <GS2.jpg>
> <GS3.jpg>
> <GS4.jpg>
> <2019 Tax Bill.pdf>
> <Permit Application 2019.pdf>

Confidentiality Notice: This message is intended only for the person to whom addressed in the text above and may contain privileged or confidential information. If you are not that person, any use of this message is prohibited. We

request that you notify us by reply to this message, and then delete all copies of this message, attachments and/or files, including any contained in your reply.

Scott Neal

From: Clark, Colin A <Colin.A.Clark@maine.gov>
Sent: Tuesday, July 16, 2019 3:30 PM
To: Scott Neal
Subject: RE: Shoreland Zoning Question

Good afternoon Scott

Thank you for your patience as we researched this issue this is a very unique situation with local components that extend beyond the States Shoreland zoning laws with that in mind The AG's office and shoreland zoning staff have come up with the following:

Poland's SLZ allows for the reconstruction of non-conforming structures that have been damaged or destroyed by more than 50%, so long as the reconstruction occurs within 1 year of the damage. (Poland Ordinance section 5-104.3(C)(1)). Here, we don't have a single event, such as a storm or fire, but instead years of decay. However, if the Town has evidence that the structure has had zero value for over a year, then I don't see a problem with the Town taking the position that the requirements of 5-104.3(C)(1) were not met and thus no new structure can be built.

Like I mentioned how the Town has been taxing or assessing this property goes beyond SLZ rules but we feel the prior statements cover the issue but it will be the Towns position to take based on your ordinance and facts of the case.

Take care

Colin A. Clark
Shoreland Zoning Coordinator in the Bureau of Land Resources
Maine Department of Environmental Protection
Tel (207) 441-7419
www.maine.gov/dep

From: Scott Neal <sneal@polandtownoffice.org>
Sent: Friday, June 28, 2019 1:26 PM
To: Clark, Colin A <Colin.A.Clark@maine.gov>
Subject: FW: Shoreland Zoning Question

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.
Colin,
I sent you this email in April but I have not received a response yet. Any chance you could give me an opinion on this?

Scott Neal
Code Enforcement Officer
Town of Poland
sneal@polandtownoffice.org
(207) 998-4604

From: Scott Neal
Sent: Thursday, April 4, 2019 10:58 AM
To: Colin.A.Clark@maine.gov
Subject: Shoreland Zoning Question

Colin,
I received an application to replace a nonconforming structure with a deck using the existing foundation. I have attached some photos, a plot plan, and the last correspondence between the Town and the previous owner. On 8/21/2009 I assume after the homeowner at the time didn't repair the building it was given a zero value by the assessor and has not been taxed since then. It is my position that since it's been 10 years without being taxed and a permit was not obtained before 08/21/2010 to repair or rebuild the structure that it has lost its status as a non-conforming structure and must be removed. Any help you can give me on this would be appreciated.

Scott Neal
Code Enforcement Officer
Town of Poland
sneal@polandtownoffice.org
(207) 998-4604

Scott Neal

From: Clark, Colin A <Colin.A.Clark@maine.gov>
Sent: Monday, August 12, 2019 9:19 AM
To: Scott Neal
Cc: nburns@jbgh.com
Subject: RE: 19 Garland Swamp Rd.

I would be happy to meet but to be perfectly honest I am not sure I am going top be helpful I would think that having the town attorney there would be more useful than me. The basis for permit denial is due to the place being considered to have zero value and that extends well beyond state Shoreland Zoning rules. As we have stated in previous emails we concur with your finding on denying the permit application based on the valuation we just don't establish those values that is a town responsibility. Additionally I think the letter written by Former CEO's point out this position. So please consult with the town attorney to see if she is available to assist in dealing with this issue and if I can help out I am happy to do so.

Take care

Colin A. Clark
Shoreland Zoning Coordinator in the Bureau of Land Resources
Maine Department of Environmental Protection
Tel (207) 441-7419
www.maine.gov/dep

From: Scott Neal <sneal@polandtownoffice.org>
Sent: Wednesday, August 07, 2019 9:47 AM
To: Clark, Colin A <Colin.A.Clark@maine.gov>
Subject: RE: 19 Garland Swamp Rd.

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Colin,
I have contacted the Town Attorney multiple times on this property (see attached). I have denied the permit and I have encouraged Jonathan to start the appeals process. Because he had been told by previous Code Enforcement Officers that he may be able to do something if he can prove the value of the structure he is not giving up. I'm available all day Tuesday right now. Your input on the 50% rule may be helpful to get him to understand what he is up against. If you can meet on Tuesday I would appreciate it.

Scott Neal
Code Enforcement Officer
Town of Poland
sneal@polandtownoffice.org
(207) 998-4604

From: Clark, Colin A <Colin.A.Clark@maine.gov>
Sent: Wednesday, August 7, 2019 8:56 AM

To: Scott Neal <sneal@polandtownoffice.org>
Subject: RE: 19 Garland Swamp Rd.

Good Morning

So I have Tuesday open at this point. To be honest I am not sure what I have to add to the situation. Have you spoken to the town attorney about the building being un taxed for all these years and the letters requesting it be removed? Those are the key issues at this point and they don't really involve SLZ.

Colin A. Clark
Shoreland Zoning Coordinator in the Bureau of Land Resources
Maine Department of Environmental Protection
Tel (207) 441-7419
www.maine.gov/dep

From: Scott Neal <sneal@polandtownoffice.org>
Sent: Tuesday, August 06, 2019 4:09 PM
To: Clark, Colin A <Colin.A.Clark@maine.gov>
Subject: 19 Garland Swamp Rd.

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.
Colin,
With the exception of Wednesday afternoon and Friday afternoon my schedule for next week is wide open to meet with Mr. Turgeon.

Scott Neal
Code Enforcement Officer
Town of Poland
sneal@polandtownoffice.org
(207) 998-4604

Scott Neal

From: Natalie L. Burns <nburns@JBGH.com>
Sent: Friday, April 5, 2019 1:41 PM
To: Scott Neal
Subject: Re: 19 Garland Swamp

Scott,

While I agree with you that the existing building cannot be rebuilt, the basis for my opinion is a little different from yours. Because this is a non conforming structure, it is not subject to the 1-year abandonment provision that applies to non conforming uses. It is instead subject to Section 504.3. It is my opinion that the proposal would be subject to Subsection 504.3.D, the provision that regulates the reconstruction or replacement of a non conforming structure. That provision allows the relocation or replacement with Planning Board review if a building is damaged or destroyed by more than 50% of its value and with CEO review if less than that percentage. In either case, the reconstruction must be done within one year of the damage. As you note, the Town completely wrote off the assessed value of this structure many years ago. For that reason, the property owner cannot seek permission to reconstruct or replace the building, even with a deck rather than a building, under those provisions of the Ordinance. Any proposal would be treated as a new building/structure and would have to meet the water setback and all other applicable provisions of the CLUC.

Let me know if you have any questions.

Thanks,

Natalie

Sent from my iPad

On Apr 4, 2019, at 11:31 AM, Scott Neal <sneal@polandtownoffice.org<mailto:sneal@polandtownoffice.org>> wrote:

Natalie,
I received an application to replace a nonconforming structure with a deck using the existing foundation. I have attached some photos, a plot plan, and the last correspondence between the Town and the previous owner. On 8/21/2009 I assume after the homeowner at the time didn't repair the building it was given a zero value by the assessor and has not been taxed since then. It is my position that since it's been 10 years without being taxed and a permit was not obtained before 08/21/2010 to repair or rebuild the structure that it has lost its status as a non-conforming structure and must be removed. Once it's removed any new structure would have to meet current setbacks. Any help you can give me on this would be appreciated.

Scott Neal
Code Enforcement Officer
Town of Poland
sneal@polandtownoffice.org<mailto:sneal@polandtownoffice.org>
(207) 998-4604

<19 g 2.jpg>
<19 g.jpg>
<Bregoli Survey, Plan Book 51, Page 59.pdf> <Letter from CEO 3.13.2006.pdf> <Letter from CEO 9.8.2008.pdf> <Letter from Ronald Bregoli 10.2.2008.pdf>

Confidentiality Notice: This message is intended only for the person to whom addressed in the text above and may contain privileged or confidential information. If you are not that person, any use of this message is prohibited. We request that you notify us by reply to this message, and then delete all copies of this message, attachments and/or files, including any contained in your reply.

Copy of Denied Permit and Denial Letter for Turgeon 2019

Code Enforcement Office
Town of Poland
1231 Maine Street, 04274
Tel: (207) 998-4604
Fax: (207) 998-2002

Office Use Only	
Date Posted:	
Trio Receipt:	
Cash	Check
Teller	Denied SN. 7-23-2019

Residential Building Permit

Parcel ID	0032-0015	**Permit #**	BP 2019-133
Road Location	19 GARLAND SWAMP RD.	**Permit Type**	Building

Land Owner	TURGEON, JONATHAN	**Phone:**	576-8736
Mailing Address	811 MAIN ST, LEWISTON, ME 04240		
Application/Contractor Name:	Homeowner		
Contractor Address:		**Phone**	

Proposed Project Description:
Reconstruct and replace the structure using 504.2.B Repair and maintenance. See letter dated 06/26/2019 from The Malloy Firm.

Certificate of Occupancy is required before use of any structure may begin.

		Cost of Work	Permit Rates	Required Setbacks
Appl. Date	07/01/2019			N/A Existing Building
Est. Cost	$0.00	**Up to $1,00**	$20.00	
Lot Size	0.22	**Add'l $1,000**	$5.00 / 100	
Use Group		**Detached Structure**		**Permit Fee**
Type Const.		**Under 200 Ft:**	$20.00 / Structur	**Under 200 Ft:**
Zone	LR,RR2, APO1			**Planning Board**
Shoreland	Yes			
Flood Zone	No			

1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules.
2. Building permits do not include plumbing, septic or electrical work.
3. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work.

CERTIFICATION

I understand that this permit is valid only for the use specified aboce. Any changes must be approved by the permitting Bitmap authority. I hereby acknowledge that I have read this application and STATE that the above information is correct, and AGREE to comply with ALL Municipal Ordinances and State Laws regulating activities covered by this permit.

SIGNATURE OF APPLICANT DATE

This permit is approved on the basis of information provided by the applicant regarding his ownership and boundary locations. The applicant has the burden of ensuring that he has legal right to use the property and that he is measuring required setbacks from the legal boundary lines of the lot. The approval of this permit in no way relieves the applicant of this burden nor does this permit approval constitue a resolution in favor of the applicant of any issues regarding the property boundaries, ownership, or similar title

Permit Issued By: _____
Code Enforcement Officer

ALL STRUCTURES MUST MEET THE REQUIREMENTS OF THE MAINE UNIFORM BUILDING AND ENERGY CODE. Construction must be substantially started within six months of permit being issued or permit becomes void.

Code Enforcement Office
1231 Maine Street. Poland. Maine 04274
(207) 998-4604 sneal@polandtownoffice.org

Jonathan Turgeon
20 Garland Swamp Rd.
Poland, Maine 04274

July 23, 2019

Parcel ID: 0032-0015

Located At: 19 Garland Swamp Rd.
Zoning District: Rural Residential-2, Limited Residential, and Aquifer Protection Overlay 1

Dear Mr. Turgeon,

You applied for a Building Permit (# 2019-133) to allow you to repair and replace the damage to your camp at 19 Garland Swamp Rd. In your application you asked for no expansion, foundation changes, or relocation stating that it will not be reconstructed or replaced to increase its nonconformity and no change of use is requested. The cover letter from The Malloy Firm asked that this reconstruction be allowed based on §504.2.B Repair and Maintenance, of the Town of Poland Comprehensive Land Use Code (CLUC). Included with your application were the following:

- A cover letter describing your project from Michael Malloy of The Malloy Firm.
- Check #1435 to the Town of Poland in the amount of $90.00.
- A plot plan showing the existing building and setbacks.
- An elevation and floor plan from Maine Residential Design.
- A cover letter from Jonathan Turgeon.
- A projected budget.
- A copy of the deed for your property

You have asked that this reconstruction be allowed based on §504.2.B of the CLUC, Repair and Maintenance. This Chapter allows the normal upkeep and maintenance of legal nonconforming uses and structures including repairs or renovations which do not involve expansion of the nonconforming use or structure, and such other changes in a nonconforming use or structure as Federal, State, and local building and safety Codes may require. Such repair and maintenance shall comply with the Town of Poland Building Code.

However, because of the extensive damage to the structure these repairs fall under §504.3.D of the CLUC, Reconstruction or Replacement - In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

Code Enforcement Office
1231 Maine Street. Poland. Maine 04274
(207) 998-4604 sneal@polandtownoffice.org

D. Reconstruction or Replacement - In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

1. Structures in Shoreland Zoning Districts

   a. Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is damaged or destroyed, regardless of cause, by more than fifty percent (50%) of the market value of the structure before such damage or destruction, may be reconstructed or replaced provided a permit is obtained within one (1) year of the date of damage or destruction, and provided such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purpose of this Code. When determining the setback to the greatest practical extent the Planning Board may allow for reduced setbacks from front and side lines in conformance with Section 504.3.E

On August 21, 2009 the Town of Poland found the structure to be damaged or destroyed to the extent that it holds no tax value. In accordance with the CLUC a permit for reconstruction or replacement would have had to have been issued within a year of the damage or destruction. Also, since the structure was deemed to have no tax value the owner of the land parcel has only been taxed on the value of the land.

In conclusion and pursuant to Ch. 5, §504.3.D of the CLUC, I regret to inform you that this office has denied your permit application. You have the right to appeal this decision to the Board of Appeals within forty five (45) days of the date of this letter pursuant to Ch. 3, §304.3 of the CLUC.

Sincerely,

Scott Neal
Code Enforcement Officer

CC: Matthew Garside, Town Manager

ENC: Administrative Appeal Application; Check #1435

History of Property between Previous CEO and Previous Landowner

CEO Office Tel: 207-998-4604
Main Office Tel: 207-998-4601
E-mail: adunlap@polandtownoffice.org

Code Enforcement Office

1231 Maine Street,
Poland, Maine 04274-7328

Monday, March 13, 2006
Certified Mail # 7011 2510 0005 6302 3353

Ronald J. Bregoli
24 Crescent Avenue
Braintree, MA 02184-7028

Dear Mr. Bregoli:

This letter is to inform you that I was asked by Dep. Dennis Sampson of the Androscoggin County Sheriff's Office to do an inspection of your property at 19 Garland Swamp Road, Poland, Maine. This is the lot identified by the Tax Assessor's Office as Map 32, Lot 15 on Tripp Lake. An attempt to talk to you by telephone was made by searching Braintree town records, White Pages directories of Braintree, and calls to Directory Assistance without any success.

It appears that vandals have broken into your building located at this address and have broken windows and doors. The building is now unsecured because of the broken doors and windows. The roof shows signs of severe rot and the basement wall on the waterfront side is leaning outward. Dep. Sampson showed me where the vandals had been burning candles on a kitchen table and that there were personal belongings in the structure that belong to minors attending the local schools. Based on this and the requirements of Section 115 of the *International Building Code - 2000* adopted by the municipality as the building code standards, your dwelling is considered unsafe. The following is a copy of Section 115 of this Code:

IBC – 2000, SECTION 115

"UNSAFE STRUCTURES AND EQUIPMENT

115.1 Conditions.

Structures or existing equipment that are or hereafter become unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the building official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

115.2 Record.

The building official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

115.3 Notice.

If an unsafe condition is found, the building official shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a

CEO Office Tel: 207-998-4604
Main Office Tel: 207-998-4601
E-mail: adunlap@polandtownoffice.org

stipulated time. Such notice shall require the person thus notified to declare immediately to the building official acceptance or rejection of the terms of the order.

115.4 Method of service.

Such notice shall be deemed properly served if a copy thereof is (a) delivered to the owner personally; (b) sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested; or (c) delivered in any other manner as prescribed by local law. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

115.5 Restoration.

The structure or equipment determined to be unsafe by the building official is permitted to be restored to a safe condition. To the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions or change of occupancy shall comply with the requirements of Section 105.2.2 and Chapter 34."

This letter is to officially let you know of the "unsafe" condition of your building. It shall be re-secured from unauthorized entry within forty-eight (48) hours receipt of this letter. I will also need to hear from you by March 24, 2006 as to your intentions and plans for this structure. I will need to know if you will be tearing it down or making repairs to put is back in a safe condition. I will also need a preliminary time table for either decision. Repairs may require Planning Board approval prior to the start of the repairs.

If I do not hear from you by then, a default condition will declare the building a hazardous structure, a Violation Notice will be issued to demolish the building, and you will be required to properly dispose of all debris from the site. This Violation would limit any future building replacement on this lot and the lot may become unbuildable. My address, phone number and e-mail are on the letterhead. I would hope that we could come to a friendly mutual resolution to this problem.

Sincerely,

Arthur C. Dunlap
Code Enforcement Officer

CC: Dep. Dennis Sampson
Willie Rice, *Poland Fire Chief*
Richard Chick, *Town Manager*

CERTIFIED MAIL

Arthur C. Dunlap
Code Enforcement Office
1231 Maine St
Poland, Maine 04274-7328

Forwarding services requested

BOSTON MA 021
13 APR 2006 PM 14 L

3/16/06

7001 2510 0005 6302 3533

Map 32
Lot 15

RETURN TO SENDER
☐ MOVED, LEFT NO ADDRESS
☐ ATTEMPTED – NOT KNOWN
☐ UNCLAIMED ☐ REFUSED
☐ NO SUCH STREET
☐ NO SUCH NUMBER
☐ INSUFFICIENT ADDRESS
☐ NOT DELIVERABLE AS ADDRESSED UNABLE TO FORWARD

UNITED STATES POSTAL SERVICE

RETURNED TO SENDER
UNCLAIMED

Ronald J. Bregoli
24 Crescent Avenue
Braintree, MA 02184-7028

3-27
4-6

RETURNED TO SENDER

7001 2510 0005 6302 3533

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage $ 0.29
Certified Fee
Return Receipt Fee (Endorsement Required)
Restricted Delivery Fee (Endorsement Required)
Total Postage & Fees

Sent To
Street, Apt. No. or PO Box No.
City, State, ZIP+4

Map 32
Lot 15

24 CRESCENT AVE
BRAINTREE, MA 02184

PS Form 3800, January 2001 See Reverse for Instructions

POLAND ME
APR

32-15

CEO Office Tel: 207-998-4604
Main Office Tel: 207-998-4601
E-mail: adunlap@polandtownoffice.org

Code Enforcement Office

1231 Maine Street,
Poland, Maine 04274-7328

Monday, September 08, 2008

Ronald Bregoli
24 Crescent Avenue
Braintree, MA 02184-7028

Dear Mr. Bregoli:

I wrote to you about the condition of your dwelling at 19 Garland Swamp Road on March 13, 2006. In that letter you were told that the building was unsafe and that vandals had broken into the building. In that letter you were told that the building needed to be re-secured as soon as possible and to contact this office about repairing or removing the structure for its long term use.

You have secured the building by boarding up the doors and windows and posting the lot for no trespassing. However, the building appears to have had no repairs since the 2006 inspection, and neither permits nor Planning Board approvals have been issued for repairs. If I do not hear from you by September 30, 2008, a Citation Notice will be issued and it will contain fines and/or penalties. I am not looking for detailed final plans by the end of the month, but I will want to know your initial ideas for what you plan to do. Those plans will need to be agreed upon by this office and followed through by you to a sound solution to the repair or removal of the structure. Do not hesitate to give me a call at the phone number listed above; I am in my office for walk-ins Monday through Thursday 9 AM until 12:30 PM and appointments can be made for other times of the work week.

Sincerely,

Arthur C. Dunlap
Code Enforcement Officer

M32 L 15

Ronald J. Bregoli

321 Plain Street
Braintree, MA 02184
781-843-9178

October 2nd, 2008

Mr. Arthur C. Dunlap
Code Enforcement Office
1231 Maine Street
Poland, Maine 04274-7328

Dear Mr. Dunlap:

In response and follow-up respectively to your letter dated 9/08/08 and our conversation on 9/11/08, I would like to gather some preliminary information to further determine the best course of action for the dwelling at 19 Garland Swamp Road. Would you kindly provide information regarding building codes and permits, or direct me to who would best handle this request? I am also interested in obtaining a list, if one exists, of contractors and architects that handle this type of repair work and those that handle structure removal. Once I have this information I will be able to move forward with a plan to either restore or remove the said structure above.

Thank you for your time & help. I will be in touch shortly to further discuss the details of this letter. I can be reached at 339-235-0314.

Respectfully yours,

Ronald J Bregoli

Ronald J. Bregoli

Sent e-mail 10-2-08 with list