

## **ZONING BOARD OF APPEALS**

### **Public Hearing**

May 4, 2023 6:00pm

The Town of Waterboro Zoning Board of Appeals will hold a public hearing on Thursday, May 4, 2023 at 6:00 p.m. at the Town Hall Selectmen's Meeting Room. The purpose of this hearing is to review the variance for undue hardship appeal of Timothy & Jocelyn Sullivan (Tax Map 038 Lot 10). The applicant is requesting an undue hardship variance as defined in the Town of Waterboro's Zoning Ordinance to construct a 28'x 36' residence.

The application can be viewed at the Code/Planning Office at the Townhall during regular business hours or at [www.waterboro-me.gov](http://www.waterboro-me.gov).

*Robert Leeman*

Robert Leeman, Chair

## **Zoning Board of Appeals**

24 Townhouse Road  
E. Waterboro, ME 04030

April 11, 2023

***SUBJECT: Tax Map 038 Lot 10, 0 Logan Circle, E. Waterboro, ME 04030***

Dear Abutter

As an abutter to the subject property, I am writing to advise you that the Waterboro Zoning Board of Appeals will hold a Public Hearing on **Thursday, May 4, 2023 at 6:00 p.m.** at the Waterboro Town Hall.

The property owner, Timothy & Jocelyn Sullivan are seeking an Undue Hardship Variance to construct a 28' x 36' residence on their property.

This application may be viewed at the town hall Code/Planning Office during regular business hours or at [www.waterboro-me.gov](http://www.waterboro-me.gov).

If you have any questions, you may contact me at 207-247-6166x121 or [ceosec@waterboro-me.gov](mailto:ceosec@waterboro-me.gov).

Sincerely,

Angela Theriault  
Zoning Board of Appeals Admin Assistant  
(207) 247-6166x121  
Email: [ceosec@waterboro-me.gov](mailto:ceosec@waterboro-me.gov)

**Town of Waterboro, Maine**  
**Zoning Board of Appeals**

24 Townhouse Road  
East Waterboro, Maine 04030

Telephone: (207) 247-6166 x121

email: ceosec@waterboro-me.gov

**APPLICATION FOR UNDUE HARDSHIP VARIANCE APPEAL**

Please print LEGIBLY.

Applicant (s): Timothy Sullivan

Mailing Address: 60 Sycamore Circle Best contact number: 978-502-6806

Town/State/Zip: Peabody, MA 01960

Email: tsullivan02@gmail.com Tax Map# 38 Lot # 10A

Physical Address: same as above

Agent Information (if applicable):

Name: NA

Relationship to Appellant(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Town/State/Zip: \_\_\_\_\_

Best contact number: \_\_\_\_\_ Email: \_\_\_\_\_

Please complete this application in its entirety. You may add other information as may be needed to adequately describe the purpose of seeking relief from the Town of Waterboro Zoning Board of Appeals (ZBA). If you need assistance for any unanswered questions, please feel free to contact: Code Enforcement Officer at (207) 247-6166 x121, leave message and you will be called back.

I hereby request that the Town of Waterboro Zoning Board of Appeals consider an application for undue hardship variance appeal. In requesting this variance, I understand that:

◇ I must show that without a variance, undue hardship would result.

◇ I must satisfy the legal test for undue hardship by showing that:

- A. That the land in question cannot yield a reasonable return unless the variance is granted; and
- B. The need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood; and
- C. The granting of a variance will not alter the essential character of the locality; and
- D. The hardship is not the result of action taken by the applicant or a prior owner.

Owner of Record: Timothy Sullivan

Deed Information: Book 18379 Page 375 Date of Recording: 9/16/2020

Attach a recorded copy of the deed, sales agreement, or contract that gives you title, right, or interest in this appeal, whichever is most current.

1. Before a variance may be issued, the Board must determine, in addition to its finding of undue hardship or practical difficulty, that the granting of a variance would not negatively impact the best interest of the community; and
2. Undue hardship shall not be construed to include: self-imposed hardships; an inability to realize as great an economic gain as would be possible if the variance were granted; or a hardship that is not unique to the applicant's land; and
3. A variance, if granted, should necessitate only a slight departure from the stated requirements of an ordinance, usually not exceeding a fifteen (15) percent increase or decrease from the stated requirements; and
4. A variance, if granted, must not subvert the intent of the Town's Comprehensive Plan, this ordinance or local subdivision regulations as manifested in the language of the Plan or the particular provisions from which the variance is sought; and
5. A variance, if granted, must not have a harmful effect on the use of nearby land and structures insofar as that land is being used in conformity with state and local land use ordinances and regulations. The Board in granting a variance may attach appropriate conditions which will avoid harm to adjacent property owners and the public.

**BE SURE TO COMPLETE** the application form(s) and provide the Board with as much evidence in support of your case as you can. In addition to any written material submitted with the application, you may also bring to the hearing any witnesses you wish to have present evidence on your behalf about the property in question, any sworn written statements from individuals with personal knowledge of the property, and any documentation of previous building permits or ordinances.

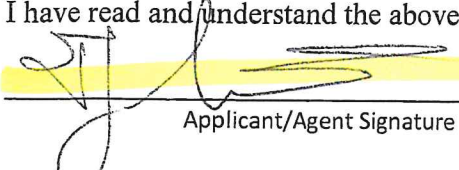
An administrative appeal must be submitted to the Board of Appeals within 30 days of the issuance of the CEO's or Planning Board's decision in order for the appeal to be heard by the Zoning Board. The Board will not hear your appeal until you have provided them with a complete application. You are also **required** to submit a fee of \$330.00 in order for the application to be judged complete.

The Town will notify property owners of the hearing on your appeal as set forth in Article 9 Section 9.05 of the Zoning Ordinance. You are responsible for the costs of such notice.

In the event you are granted a variance, you must record the variance in the Registry of Deeds within 90 days according to state law in order for the variance to be valid. The Board of Appeals will provide you with the signed form.

Any decision of the Board is subject to reconsideration or appeal within 45 days of the Board's vote.

I have read and understand the above information.

  
Applicant/Agent Signature

  
Date

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.

Applicant/Agent Signature: \_\_\_\_\_

Printed Name(s): \_\_\_\_\_

Date(s) Signed: \_\_\_\_\_



To the members of the Town of Waterboro Zoning Board of Appeals,

I respectfully request an undue hardship variance for the property on tax Map 38 Lot 10A located on Logan Circle. My wife Jocelyn and I purchased the land in September 2020, intending to build a small log cabin on the lake where my wife spent many summers growing up.

**Regarding a reasonable return**

With the hardship variance being issued for this lot, We could yield a reasonable return on our investment. When purchasing the property, we obtained a copy of a letter written to Mr. Tom Worster from the Town of Waterboro Code Enforcement Officer Gerald Gannet informing him that the lot was a legally existing non-conforming lot of record that is buildable as long as the structure meets the requirements of the current zoning ordinance. If this lot is determined not to be buildable, My wife and I will sustain a substantial financial loss on our investment. Additionally, if the lot is not buildable, I do not see how we could financially recover the loss if we needed to sell the lot. As the property owner, I have invested a significant amount of time, effort, and money in my current building project. Unfortunately, I have encountered unexpected difficulties with meeting the current building code requirements, which has put my investment at risk.

**The need for the variance is due to the property's unique circumstances and not to the general conditions of the neighborhood.** The hardship variance is required for the setback from the Logan Circle right-of-way road. According to our proposed plot plan, we will meet the 100-foot setback from the shoreline. I request the hardship variance of 9'2" from the road to preserve the 100-foot waterfront setback requirement. Logan Circle is a private way not maintained by the town. The road is not heavily traveled, and only residents rarely pass through the area. Issuing the variance would not create a safety risk for the neighborhood or the motoring public. Additionally, the neighboring property's leach field is on our land. We are limited to the location of the proposed home and size due to the existing leach field and setback requirements.

**Granting the variance will not alter the essential character of the neighborhood.** Within the past two years, multiple homes have been built on both Logan Circle and the Little Ossipee waterfront that are either outside the setback from the road or do not meet the waterfront setbacks. By allowing the variance, our new home will not alter the character of the neighborhood but will improve the essential nature of the neighborhood.

**Finally, the hardship is not the result of any action taken by my wife or me.** I can present the board the property history as well as when the property was created, and ownership has been exchanged.

I look forward to speaking with the board members and discussing this matter. Please let me know if there is anything else that would help you make your decision.

Respectfully,  
Timothy Sullivan

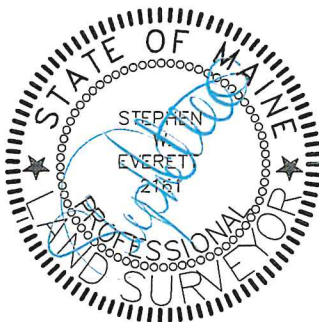
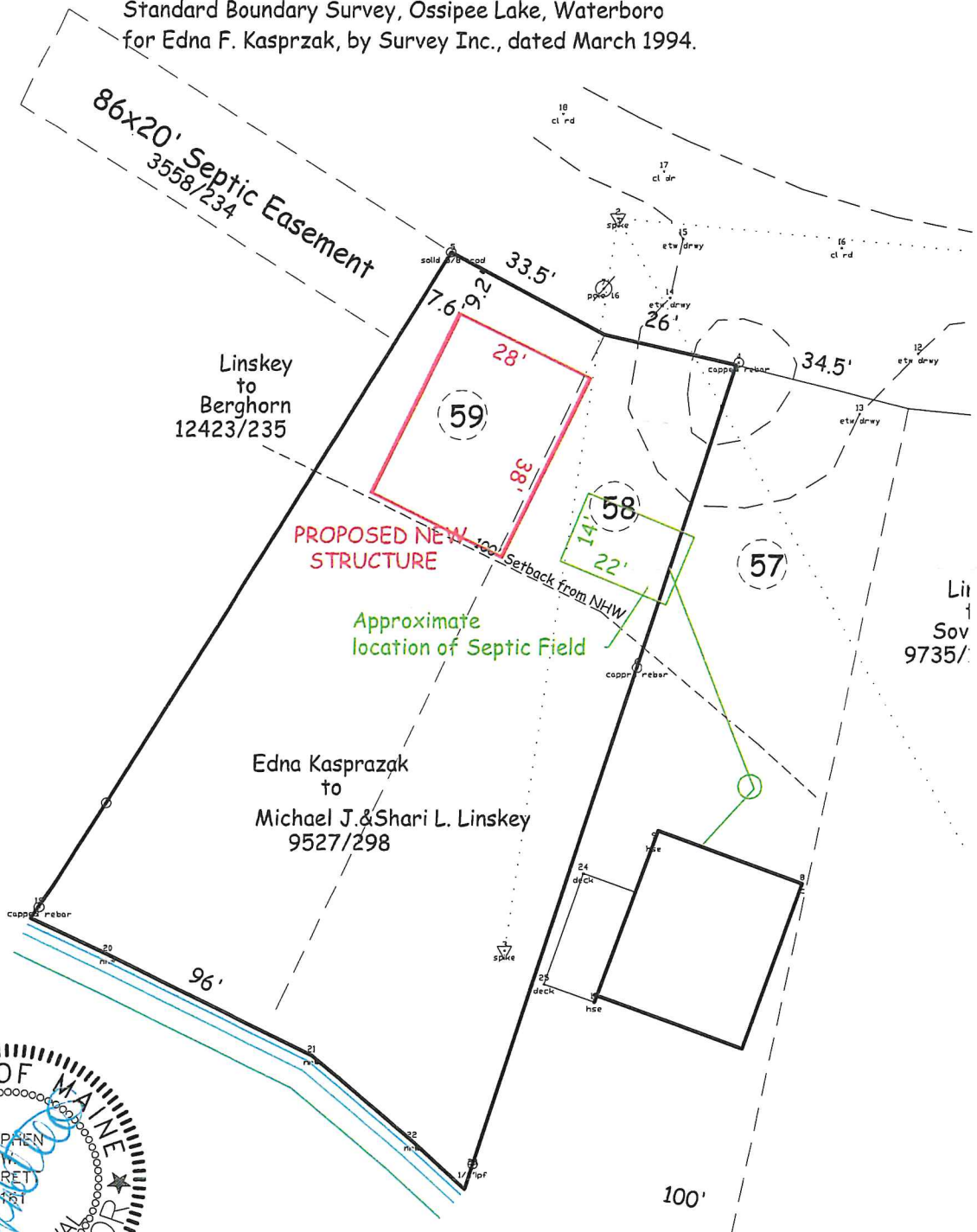


# LEGEND

- Deed Lines
- Lot Lines
- survey marker
- ▷ control point

Note: See plans entitled "John E. Hanscom Shore Lots",  
Ossipee Lake, Maine, recorded in York Co. Registry  
Plan Bk 19 Secs. 3&4, Pages 67 and 68.

Standard Boundary Survey, Ossipee Lake, Waterboro  
for Edna F. Kasprzak, by Survey Inc., dated March 1994.



## CERTIFICATION

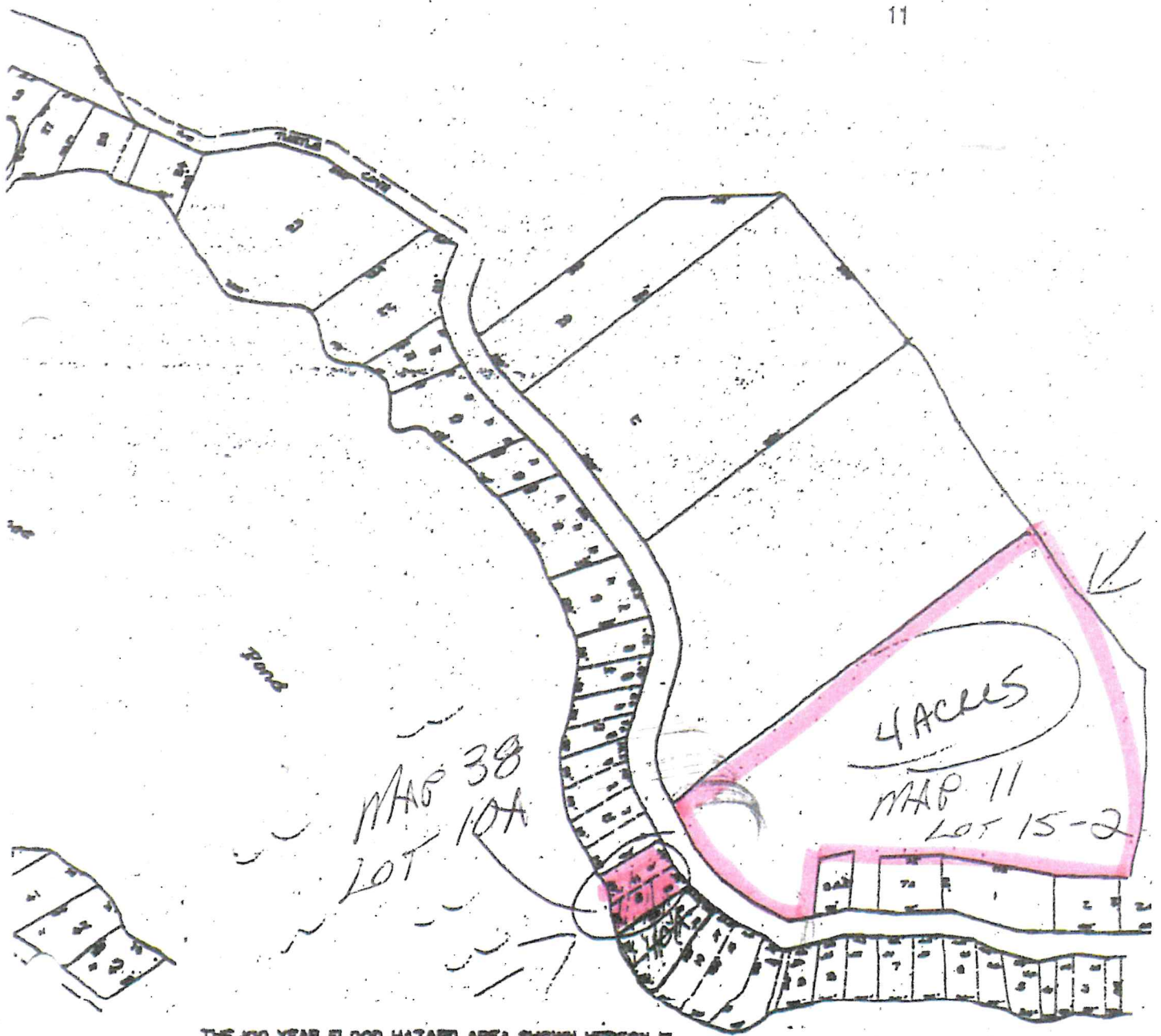
I hereby certify to Michael Cote that this survey meets all the requirements of the Board of Licensure for Land Surveyors of the State of Maine, for its expressed purpose, to the best of my knowledge and belief.

**Existing Conditions Survey  
Logan Circle**

Waterboro, Maine  
for

**Timothy Sullivan**

Scale 1"=30' Aug 21, 2022  
Prepared by Stephen W. Everett PLS 2161



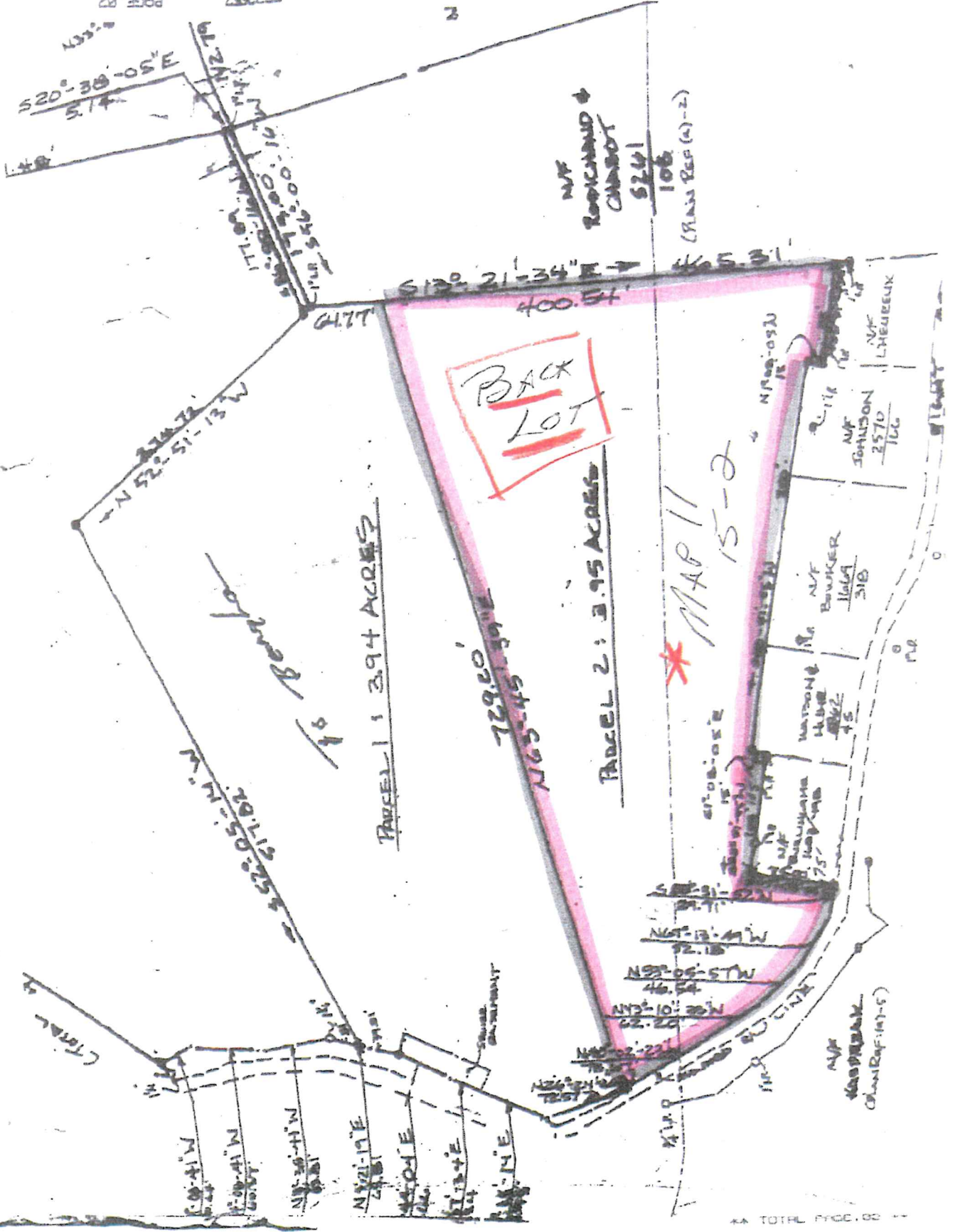




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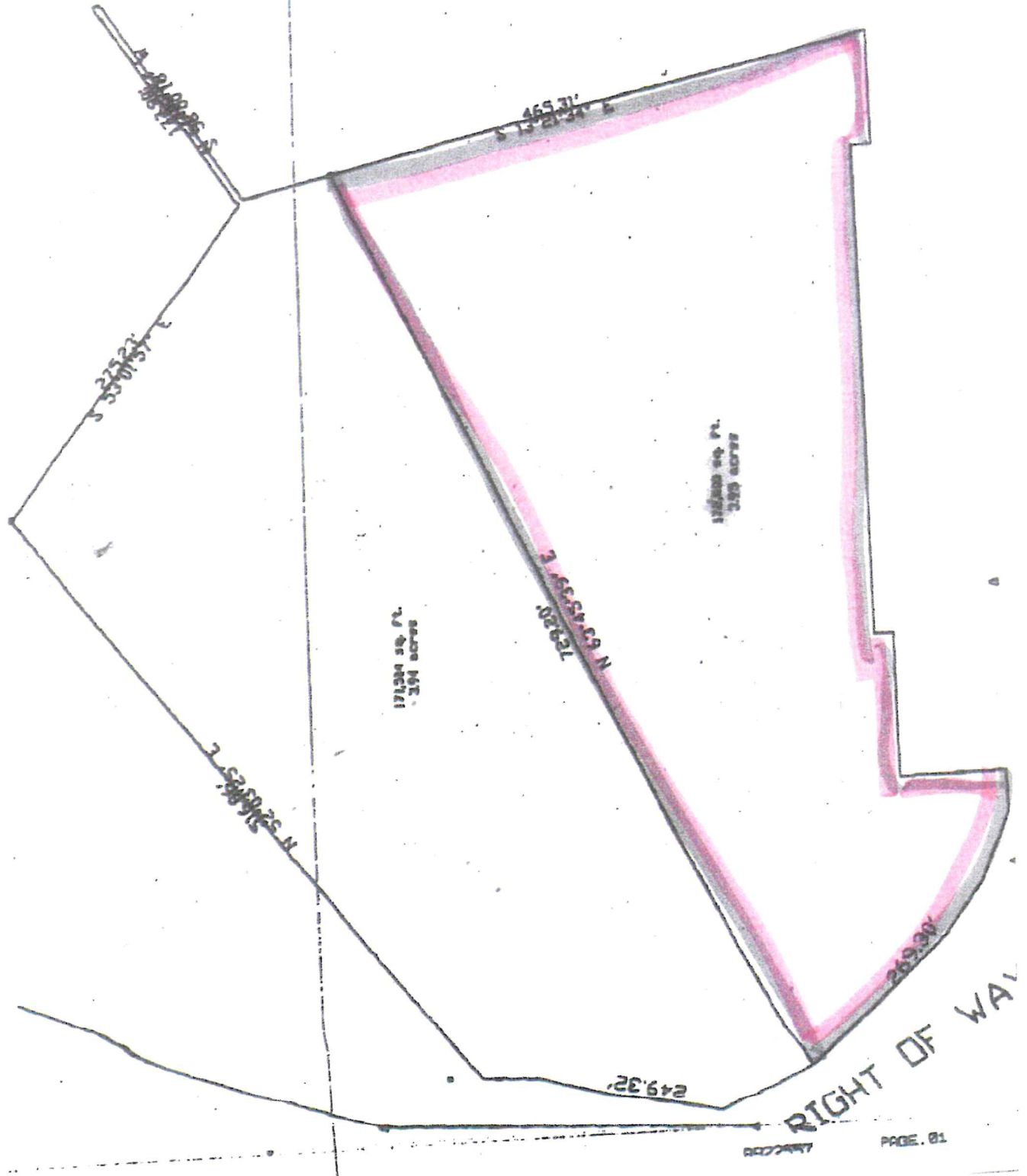
PAGE.02

852257



04/11/03 11:07 FAX 892200/

636-2094 TOM WORCESTER





04/22/03 13:20 FAX 8022557

03

**Survey, Inc.**

P.O. Box 210  
Windham, Maine 04092  
(207) 892-3556 (207) 892-2657 Fax  
Survey, Inc@Verizon.net

3.95 AC.  
BACK LOT

April 22, 2003

Proposed description of a 3.95 acre parcel in Waterboro.

Beginning at a no. 5 rebar located on the easterly sideline of Hanscom Road Extension; said rebar marks the southwest corner of land now or formerly Burlingame as described in deed book 1683, page 498 York County Registry of Deeds; thence along the easterly sideline of the Hanscom Road Extension the following courses and distances: south  $88^{\circ}-31'-52''$  west, 29.71 feet, north  $67^{\circ}-13'-49''$  west, 52.18 feet, north  $53^{\circ}-05'-57''$  west, 46.54 feet, north  $43^{\circ}-10'-33''$  west, 62.20 feet, north  $40^{\circ}-02'-23''$  west, 78.67 feet to a no. 5 rebar; thence north  $63^{\circ}-45'-39''$  east across land of the Grantor herein, 729.20 feet to a no. 5 rebar at the westerly sideline of land now or formerly Chabot as described in deed book 5261, page 105 York County Registry of Deeds; thence south  $13^{\circ}-21'-34''$  east along the westerly sideline of land now or formerly Chabot, 400.54 feet to a no. 5 rebar at land now or formerly L'heureux; thence south  $88^{\circ}-51'-55''$  west along land now or formerly L'heureux, 85.00 feet to a no. 5 rebar; thence north  $1^{\circ}-08'-05''$  west, 15.00 feet to a no. 5 rebar marking the northeast corner of land now or formerly Johnson as described in deed book 2570, page 166 York County Registry of Deeds; thence south  $88^{\circ}-51'-55''$  west along the northerly boundary line of land now or formerly Johnson and continuing along the northerly boundary line of land now or formerly Bowker as described in deed book 1669, page 318 York County Registry of Deeds and continuing along the northerly boundary line of land now or formerly Watson as described in deed book 5862, page 45 York County Registry of Deeds, 350 feet to a no. 5 rebar marking the northwest corner of land now or formerly Watson; thence south  $1^{\circ}-08'-05''$  east along the westerly sideline of land now or formerly Watson, 15 feet to an iron pipe; thence south  $88^{\circ}-51'-55''$  west along the northerly boundary line of land now or formerly Burlingame as described in deed book 1683, page 498 York County Registry of Deeds, 105.00 feet to a no. 5 rebar marking the northwest corner of land now or formerly Burlingame; thence south  $1^{\circ}-08'-05''$  east along the westerly sideline of land now or formerly Burlingame, 75 feet to the point of beginning. Said parcel contains 3.95 acres. Bearings are magnetic of the year 1994. Said parcel subject to easement and/or right-of-ways of record.



04/02/1995 14:28 2872473813

WATERBORO TOWN OFF..

PAGE 01

**Town of Waterboro**

November 18, 2002

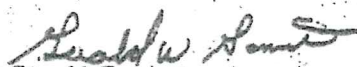
Tom Worster  
Real Estate 2000

Re: Map 38 Lot 10A

Dear Mr. Worster,

I am writing to verify that according to the deeds and information that you provided to this office, lot 10A on map 38 is a legally existing non-conforming lot of record. As such it is a buildable as long as the structure meets the requirements of the current zoning ordinance.

Sincerely,

  
Gerald Gannett  
Code Enforcement Officer

20651

QUITCLAIM DEED  
Without Covenants

3558 REC 234

**Know all Men by these Presents,**

**That we, STEPHEN P. KASPRIAK and HELEN P. KASPRIAK, both of Melrose, Massachusetts**

in consideration of one dollar (\$1.00) and other valuable consideration

paid by **MICHAEL J. LINSKEY and SHARI D. LINSKEY, both of 8 Buckingham Lane, Bradford, Massachusetts 01830,**

whose mailing address is 8 Buckingham Lane, Bradford, MA 01830

throughout whereof we do hereby acknowledge, do hereby grant, release, bargain, sell and convey, and forever quitclaim unto the said **MICHAEL J. LINSKEY and SHARI D. LINSKEY, as joint tenants, their**

heirs and assigns, all our right, title and interest in the following:

A perpetual easement for the purpose of installation of a leachfield, as the running off a sewer pipe thereto, across certain land owned by the Grantees herein, more particularly bounded and described as follows:

**BEGINNING** at a point on the southwestern sideline of a certain private way located in the Town of Waterboro, County of York and State of Maine, said known way being known as "Hanscom Extension", so-called, and serving as the access to the Grantees' camp lot on Little Caspsee Pond; said point of beginning being at the most easterly corner of land of said Grantees; thence northwesterly by the southwestern sideline of said Hanscom Extension eighty-six (86) feet, more or less, to a point located at the most northerly corner of land of these Grantees; thence north-easterly on a course that would be an extension of the Grantees' northwesterly side line twenty (20) feet to a point; thence southeasterly and parallel to the first course given eighty-six (86) feet; more or less, to a point; thence southwesterly twenty (20) feet to the point of beginning.

This conveyance is made on the condition that to the extent said area of easement is disturbed by the construction of said leaching field and/or laying of pipe, the Grantees agree to return it to its condition prior to said disturbance.

Being a portion of the premises conveyed to the Grantees herein by deed recorded in York County Registry of Deeds in Book 1632, Page 206.

*SEPTIC EASEMENT*

3508 04235

**To have and to hold** the same, together with all the privileges and appurtenances

thereunto belonging, to the said **MICHAEL J. LINSKEY and SEAR D. LINSKEY**  
as joint tenants,

their heirs and assigns forever.

**In Witness Whereof**, we the said **STEPHEN F. KASPRAK and**  
**EDNA F. KASPRAK**, being husband and wife,

do hereby

**MANIFESTED**

Joining in this deed as Grantor S, and relinquishing and conveying all rights by deed and all other rights in the  
above described premises, have hereunto set our hands and seal at this  
day of the month of June, A.D. 1985.

Signed, Sealed and Delivered  
in presence of

*Dianne Holden*  
Dianne Holden  
to wit

*Stephen F. Kasprak*  
Stephen F. Kasprak  
*Edna F. Kasprak*  
Edna F. Kasprak

State of New York, County of York ss. June 11, 1985.

This personally appeared the above named Stephen F. Kasprak and Edna F.

Kasprak

and acknowledged the foregoing instrument to be their free act and deed.

Before me,

*Dianne Holden*  
Dianne Holden  
County Public  
Comm. Expires 5/31/86  
Dianne Holden

RECEIVED YORK, NY  
1985 JUN 26 PM 2:10  
RECORDS DEPARTMENT OF RECORDS



# EXHIBIT "A"

Parcel one:

FRONT (LAKE) LOT

A certain lot or parcel of land situated in the Town of Waterboro, County of York and State of Maine and being more particularly bounded and described as follows;

Beginning at an iron pipe located on the southerly sideline of Hanscom Road Extension; said iron pipe marks the northeast corner of land now or formerly of Linskey as described in a deed in Book 3558, Page 238 in the York County Registry of Deeds; said iron pipe also marks the northerly corner of Lots 60 and 59 as shown in Plan Book 19, Page 68 in the York County Registry of Deeds; thence South  $44^{\circ} 54' 56''$  East along the southerly sideline of Hanscom road Extension and the northerly sideline of Lot 59 as shown on said plan 33.50 feet to a point; thence South  $59^{\circ} 57' 29''$  East continuing along the southerly sideline of Hanscom Road Extension and the northerly sideline of Lot 58 as shown on said plan 26.00 feet to a point; thence South  $35^{\circ} 00' 25''$  West along the lot line between Lots 58 and 57, 160 feet to an iron pipe; thence continuing on the same course 5 feet, more or less, to the shore of Ossipee Lake; thence northwesterly along the shore of Ossipee Lake, 100 feet, more or less, to a point; thence North  $49^{\circ} 02' 33''$  East, 26 feet, more or less, to a stake; thence continuing along the same course along the lot line between Lot 59 and Lot 60 as shown on said plan and land now or formerly of Linskey, 123.78 feet to the point of beginning. Bearings are magnetic of the year 1994. Said parcel is subject to easements and/or rights of way of record.

Parcel two:

BACK LOT

Beginning at a no. 5 rebar located on the easterly sideline of Hanscom Road Extension; said rebar marks the southwest corner of land now or formerly Burlingame as described in deed Book 1683, Page 498, York County Registry of Deeds; thence along the easterly sideline of the Hanscom Road Extension the following courses and distances; South  $88^{\circ} 31' 52''$  West 29.71 feet, North  $67^{\circ} 13' 49''$  West, 52.18 feet, North  $53^{\circ} 05' 57''$  West, 46.54 feet, North  $43^{\circ} 10' 33''$  West, 62.20 feet, North  $40^{\circ} 02' 23''$  West, 78.67 feet to a no. 5 rebar; thence North  $63^{\circ} 45' 39''$  East across land now or formerly of the Grantor herein, 729.20 feet to a no. 5 rebar at the westerly sideline of land now or formerly Chabot as described in deed Book 5261, Page 105, York County Registry of Deeds; thence South  $13^{\circ} 21' 34''$  East along the westerly sideline of land now or formerly Chabot, 400.54 feet to a no. 5 rebar at land now or formerly L'heureux; thence South  $88^{\circ} 51' 55''$  West along land now or formerly L'heureux, 85.00 feet to a no. 5 rebar, thence North  $1^{\circ} 08' 05''$  West, 15.00 feet to a no. 5 rebar marking the northeast corner of land now or formerly Johnson as described in deed Book 2570, Page 166, York County Registry of Deeds; thence South  $88^{\circ} 51' 55''$  West along the northerly boundary line of land now or formerly Johnson and continuing along the northerly boundary line of land now or formerly Bowker as described in deed Book 1669, Page 318, York County Registry of Deeds and continuing along the northerly boundary line of land now or formerly Watson as described in deed Book 5862, Page 45, York County Registry of Deeds, 350 feet to a no. 5 rebar marking the northwest corner of land now or formerly Watson; thence South  $1^{\circ} 08' 05''$  East along the westerly sideline of land now or formerly Watson, 15 feet to an iron pipe; thence south  $88^{\circ} 51' 55''$  West along the northerly boundary line of land now or



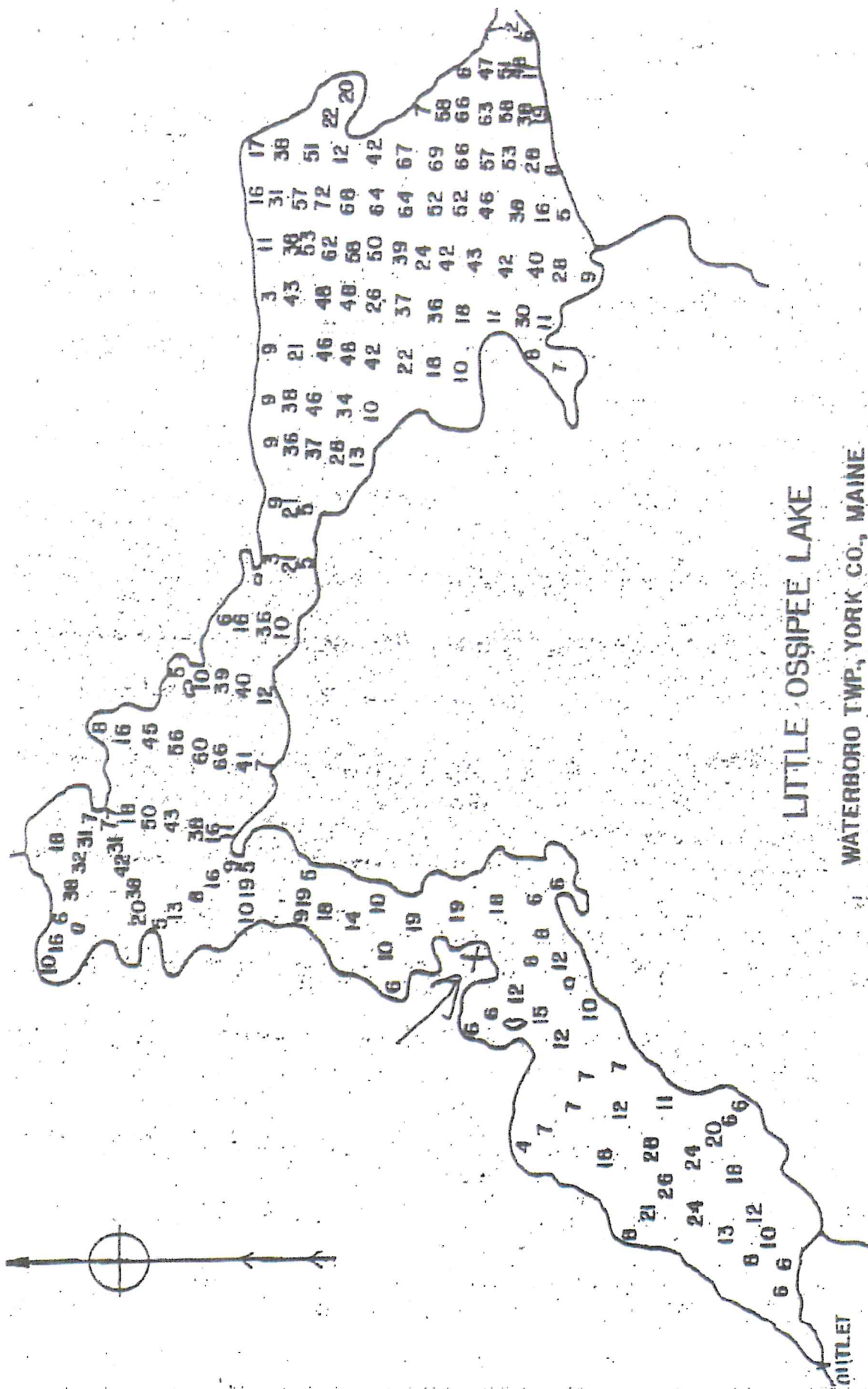
formerly Burlingame as described in deed Book 1683, Page 498, York County Registry of Deeds, 105.00 feet to a no. 5 rebar marking the northwest corner of land now or formerly Burlingame: thence South 1° 08' 05" East along the westerly sideline of land now or formerly Burlingame, 75 feet to the point of beginning. Bearings are magnetic of the year 1994. Said parcel subject to easement and/or right of ways of record.

Meaning and intending to describe and convey the same premises conveyed to Michael J. Linskey by Warranty Deed of Edna F. Kasprzak, dated June 9, 1999, and recorded at Book 9527, Page 296, York County Registry of Deeds and the same premises conveyed to Michael J. Linskey and Shari L. Linskey by Warranty Deed of Edna F. Kasprzak, dated June 9, 1999, and recorded at Book 9527, Page 298, York County Registry of Deeds..

York County Title, Inc.  
84 Main Street  
Kennebunk, ME 04043

END OF DOCUMENT

7  
3840



# LITTLE OSSIPEE LAKE

WATERBORO TWP., YORK CO., MAINE

AREA 564 ACRES

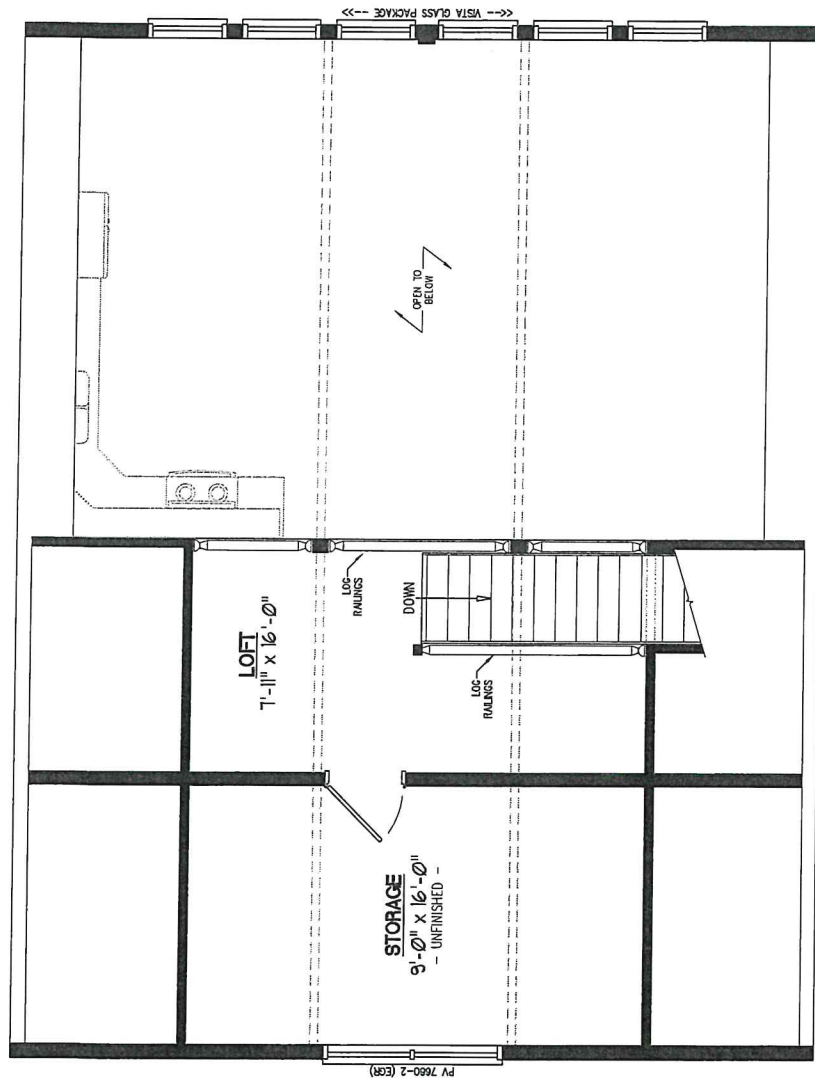




Certified Cozy Cabins Distributor



28x36 MOUNTAINEER DELUXE Plan #28MD1402 2nd Floor



Certified Cozy Cabins Distributor