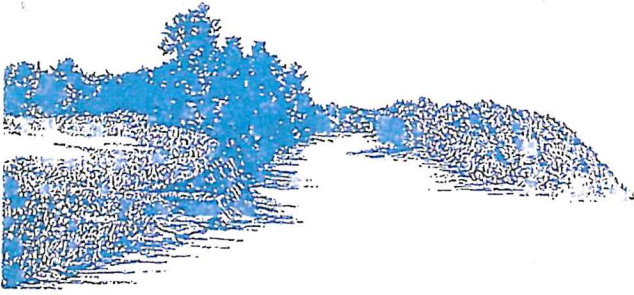


Master copy



Saco River Corridor Commission

"Communities Working Together To Protect Our Rivers"

April 10, 2023

JAMES & JEANNE BAXTER
18 LOWELL ROAD
WESTFORD, MA 01886
PERMIT #15-573

Dear Mr. and Mrs. Baxter,

The Saco River Corridor Commission approved Permit #15-573 at a meeting on March 22nd, 2023, with standard conditions and the additional conditions that the residence be located no closer than 80.5 feet from the normal high water line, the septic system be located no closer than 100 feet from the normal high water line, to be valid, the project must be approved by the Town of Waterboro, and the septic design plan must be approved by the local plumbing inspector.

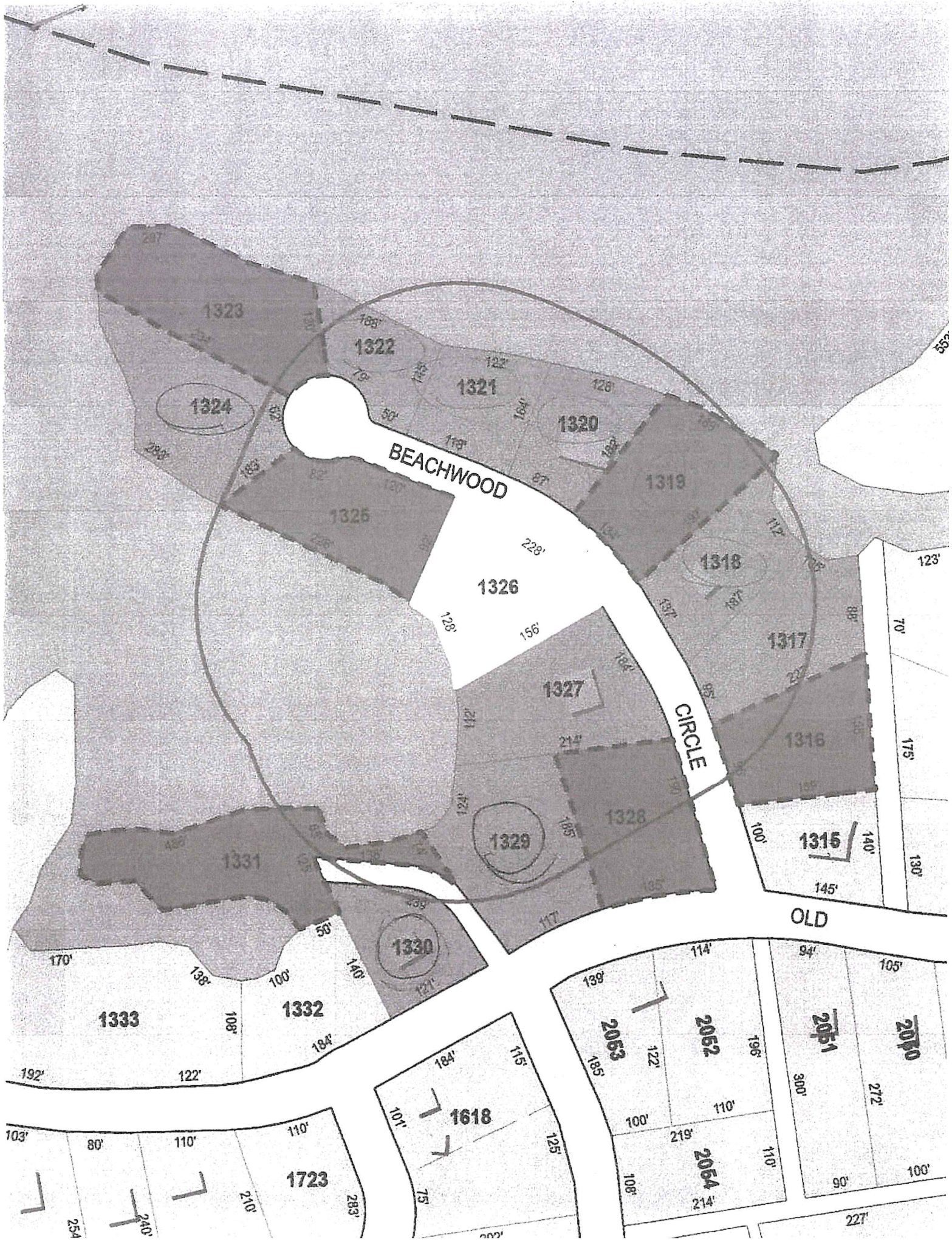
You will receive your permit when you provide confirmation of the necessary approvals from the Town of Waterboro. We have notified that town that your permit was approved.

Thank you for your cooperation with this Commission. If you have any additional questions, please do not hesitate to contact us.

Sincerely,

Haley Lachance

Haley Lachance
Administrative Assistant



PROPERTY LOCATION		>> CAUTION: LPI APPROVAL REQUIRED <<	
City, Town, or Plantation	Waterboro	Town/City	Permit #
Street or Road	Brachwood Circle	Date Permit Issued	Fee: \$ Double Fee Charged []
Subdivision, Lot #			L.P.I. #
OWNER/APPLICANT INFORMATION		Local Plumbing Inspector Signature	
Name (last, first, MI)	Baxter James	Fee: \$	state min fee \$ Locally adopted fee
Owner/Applicant	Westford Ma 01884	Copy: [] Owner [] Town [] State	
Mailing Address of	18 Lowell Rd	The Subsurface Wastewater Disposal System shall not be installed until a Permit is issued by the Local Plumbing Inspector. The Permit shall authorize the owner or installer to install the disposal system in accordance with this application and the Maine Subsurface Wastewater Disposal Rules.	
Daytime Tel. #		Municipal Tax Map #	Lot #
OWNER OR APPLICANT STATEMENT		CAUTION: INSPECTION REQUIRED	
I state and acknowledge that the information submitted is correct to the best of my knowledge and understand that any falsification is reason for the Department and/or Local Plumbing Inspector to deny a Permit.		I have inspected the installation authorized above and found it to be in compliance with the Subsurface Wastewater Disposal Rules Application.	
Signature of Owner or Applicant		Local Plumbing Inspector Signature	
Date		(1st) date approved	
PERMIT INFORMATION			
TYPE OF APPLICATION	THIS APPLICATION REQUIRES	DISPOSAL SYSTEM COMPONENTS	
1. First Time System	1. No Rule Variance	1. Complete Non-engineered System	
2. Replacement System	2. First Time System Variance	2. Primitive System (graywater & alt. toilet)	
Type replaced:	a. Local Plumbing Inspector Approval	3. Alternative Toilet, specify:	
Year installed:	b. State & Local Plumbing Inspector Approval	4. Non-engineered Treatment Tank (only)	
3. Expanded System	3. Replacement System Variance	5. Holding Tank, _____ gallons	
a. <25% Expansion	a. Local Plumbing Inspector Approval	6. Non-engineered Disposal Field (only)	
b. >25% Expansion	b. State & Local Plumbing Inspector Approval	7. Separated Laundry System	
4. Experimental System	4. Minimum Lot Size Variance	8. Complete Engineered System (2000 gpd or more)	
5. Seasonal Conversion	5. Seasonal Conversion Permit	9. Engineered Treatment Tank (only)	
		10. Engineered Disposal Field (only)	
		11. Pre-treatment, specify: <u>Singular brown</u>	
		12. Miscellaneous Components	
SIZE OF PROPERTY	DISPOSAL SYSTEM TO SERVE	TYPE OF WATER SUPPLY	
<u>1/2</u> SQ. FT. ACRES	1. Single Family Dwelling Unit, No. of Bedrooms: <u>3</u>	1. Drilled Well 2. Dug Well 3. Private	
SHORELAND ZONING	2. Multiple Family Dwelling, No. of Units: _____	4. Public 5. Other	
<u>Yes</u> No	3. Other: _____ (specify)		
	Current Use Seasonal Year Round <u>Undeveloped</u>		
DESIGN DETAILS (SYSTEM LAYOUT SHOWN ON PAGE 3)			
TREATMENT TANK	DISPOSAL FIELD TYPE & SIZE	GARBAGE DISPOSAL UNIT	DESIGN FLOW
1. Concrete <u>Singular</u>	1. Stone Bed 2. Stone Trench	1. No 2. Yes 3. Maybe	<u>270</u> gallons per day
a. Regular <u>Green</u>	3. Proprietary Device	If Yes or Maybe, specify one below:	BASED ON:
b. Low Profile <u>960-600</u>	a. cluster array <u>Linear</u>	a. multi-compartment tank	1. Table 4A (dwelling unit(s))
2. Plastic	b. regular load d. H-20 load	b. _____ tanks in series	2. Table 4C (other facilities)
3. Other: _____	4. Other: _____	c. increase in tank capacity	SHOW CALCULATIONS for other facilities
CAPACITY: _____ GAL.	SIZE: <u>128</u> sq. ft. lin. ft.	d. Filter on Tank Outlet	
SOIL DATA & DESIGN CLASS	DISPOSAL FIELD SIZING	EFFLUENT/EJECTOR PUMP	3. Section 4G (meter readings)
PROFILE CONDITION	1. Medium—2.6 sq. ft. / gpd	1. Not Required	ATTACH WATER METER DATA
<u>3.1 C</u>	2. Medium—Large 3.3 sq. ft. / gpd	2. May Be Required	
at Observation Hole # <u>TP1</u>	3. Large—4.1 sq. ft. / gpd	3. Required	LATITUDE AND LONGITUDE
Depth <u>41"</u>	4. Extra Large—5.0 sq. ft. / gpd	Specify only for engineered systems:	at center of disposal area
of Most Limiting Soil Factor		DOSE: _____ gallons	Lat. <u>43</u> d <u>39</u> m <u>47</u> s
			Lon. <u>70</u> d <u>43</u> m <u>42</u> s
			if g.p.s., state margin of error: <u>± 20 FT</u>
SITE EVALUATOR STATEMENT			
I certify that on <u>12-26-22</u> (date) I completed a site evaluation on this property and state that the data reported are accurate and that the proposed system is in compliance with the State of Maine Subsurface Wastewater Disposal Rules (10-144A CMR 241).			
Site Evaluator Signature		SE #	Date
<u>Kenneth Gardner</u>		<u>73</u>	<u>12-26-22</u>
Site Evaluator Name Printed		Telephone Number	E-mail Address
		<u>207-637-2260</u>	
Note : Changes to or deviations from the design should be confirmed with the Site Evaluator.			

Department of Health & Human Services
Division of Environmental Health
(207) 287-5672 Fax: (207) 287-3165

Street, Road, Subdivision

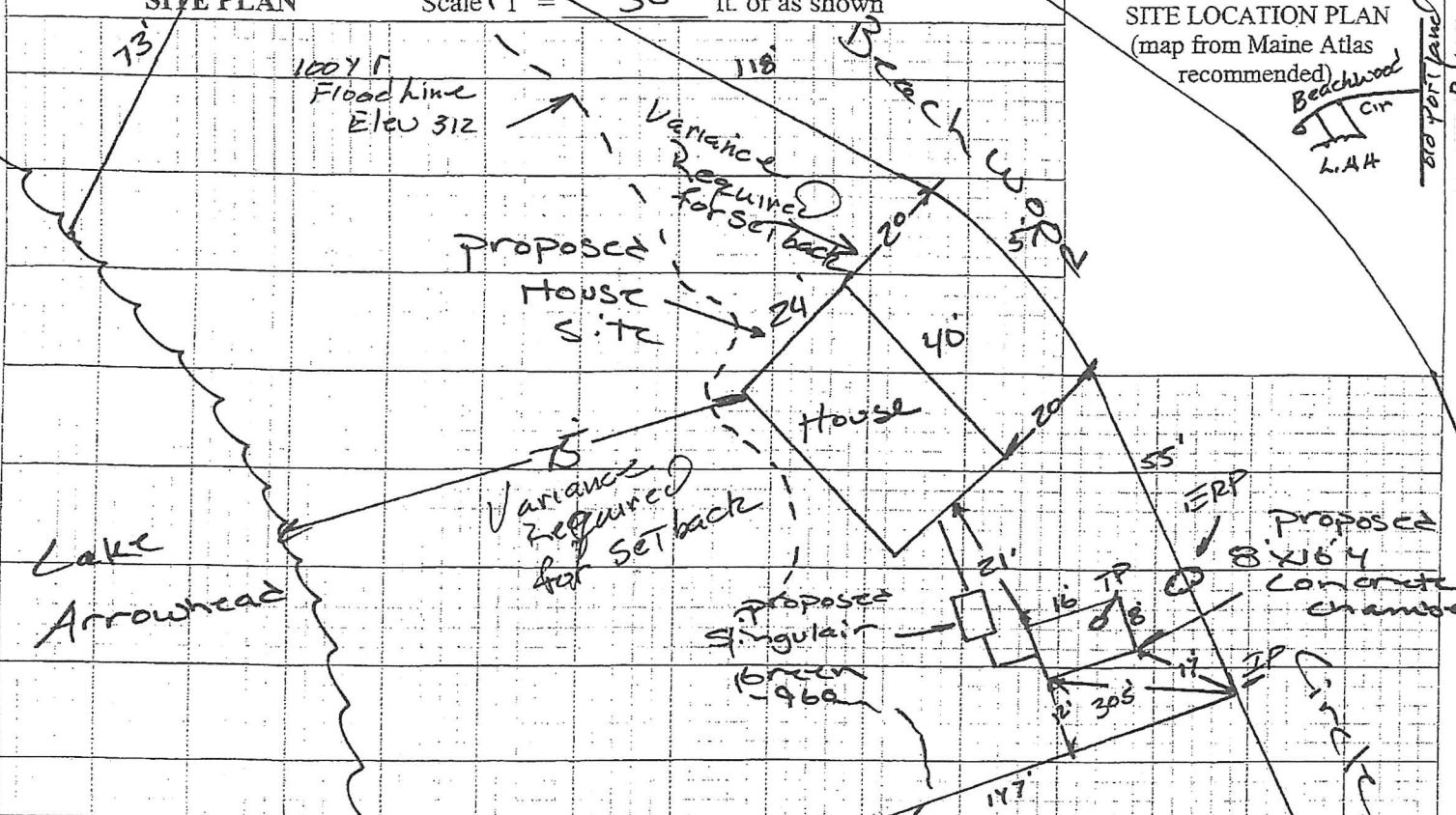
Owner's Name

Beachwood
Circle

James Baxter

Scale $1" = 30'$ ft. or as shown

SITE LOCATION PLAN
(map from Maine Atlas
recommended)



Observation Hole TPI ☒ Test Pit ☐ Boring
2 " Depth of Organic Horizon Above Mineral Soil

Observation Hole ☒ Test Pit ☐ Boring
" Depth of Organic Horizon Above Mineral Soil

Hand-drawn soil profile diagram showing depth, texture, consistency, color, and mottling. The vertical axis represents depth below the mineral soil surface in inches, ranging from 0 to 50. The horizontal axis is divided into five columns: Texture, Consistency, Color, and Mottling. The profile shows a sandy texture throughout, with a loamy sand texture noted between 40 and 50 inches. Consistency is described as friable from 0 to 20 inches and firm from 40 to 50 inches. Color transitions from dark brown (10YR 2/3) and yellow to pale and then yellow again. Mottling is present from 0 to 20 inches and from 40 to 50 inches.

Depth Below Mineral Soil Surface (inches)	Texture	Consistency	Color	Mottling
0			Dark Brown (10YR 2/3)	
10	Sandy		yellow	
20	Loam	Friable	Brown	
30			pale	
40	Loamy Sand	Firm	yellow	
50			Brown (2.5Y 6/1)	

	Texture	Consistency	Color	Mottling
0				
10				
20				
30				
40				
50				

Soil Classification	Slope	Limiting Factor	<input checked="" type="checkbox"/> Ground Water <input checked="" type="checkbox"/> Restrictive Layer <input type="checkbox"/> Bedrock <input type="checkbox"/> Pit Depth
<u>3</u> Profile	<u>C-2</u> Condition	<u>3</u> % <u>41</u>	

Soil Classification	Slope	Limiting Factor	<input type="checkbox"/> Ground Water <input type="checkbox"/> Restrictive Layer <input type="checkbox"/> Bedrock <input type="checkbox"/> Pit Depth
Profile Condition	_____ %	_____ "	

Kenneth Gardner 73 12-26-22

Department of Health & Human Services
Division of Environmental Health
(207) 287-5672 Fax: (207) 287-3165

Town, City, Plantation

Street, Road, Subdivision

Owner's Name

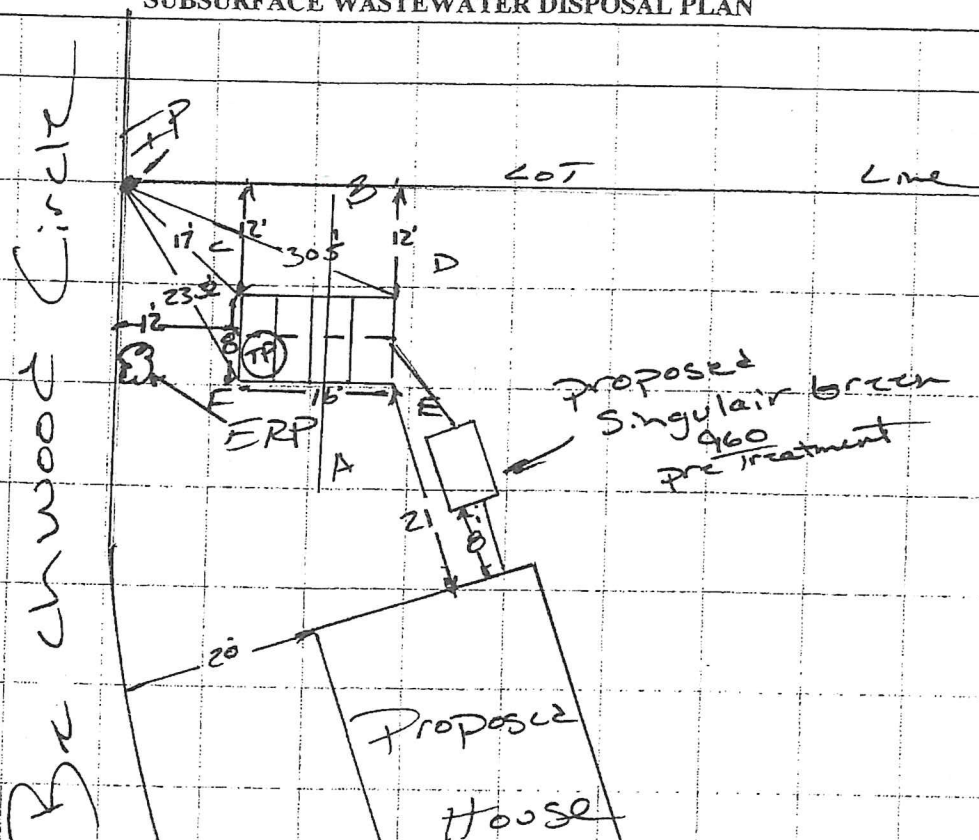
Waterboro

Beachwood

James Baxter

SUBSURFACE WASTEWATER DISPOSAL PLAN

0 _____
SCALE: 1" = 20 FT.



Chamber corners	
Elev	F:11
C-50	0"
D-62	12"
E-56	6"
F-50	0"

FILL REQUIREMENTS

Depth of Fill (Upslope) \ 0 "

Depth of Fill (Downslope) / 0 "

CONSTRUCTION ELEVATIONS

Finished Grade Elevation

Top of Distribution Pipe or Proprietary Device

Bottom of Disposal Area

-5011

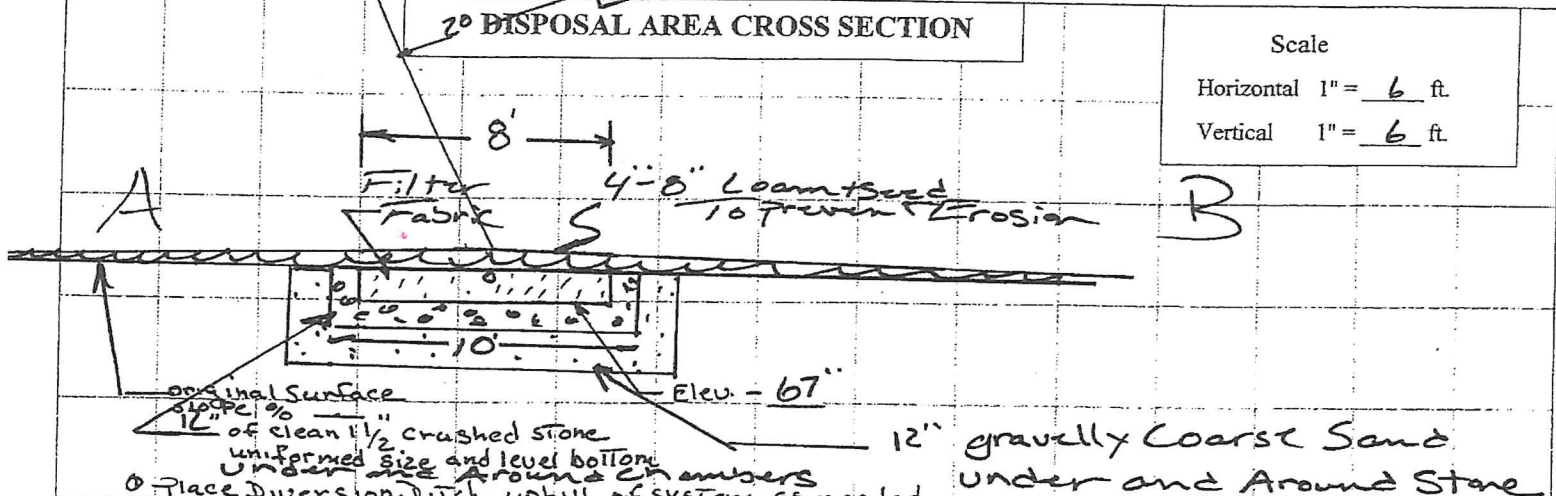
-54 "

- 79 //

ELEVATION REFERENCE POINT

Location & Description: 8" maple tree
with a nail 35" above the
Reference Elevation: ground

2^o DISPOSAL AREA CROSS SECTION



Scale

Horizontal 1" = 6 ft

Vertical 1" = 6 ft

12' of clean $1\frac{1}{2}$ " crushed stone
uniformed size and level bottom
under the around chambers
Place Diversion Ditch uphill of system as needed.

12" gravelly Coarse Sand
under and Around Stone

- ① Place Diversion Ditch uphill of SYSTEM as needed.
- ② Remove vegetation and scarify the original surface
- ③ Mix fill, when need, to a depth of 6" with the original soil - Transitional Horizon
- ④ Fill shall be gravelly coarse sand, 4-8% passing a #200 sieve
- ⑤ install per the Rules
- ⑥ Insulate D. Box if used and pipe from tank.

Kenneth Gardner 23 12-26-22

Site Evaluator Signature

SE #

Date _____

May 22, 2024

Ms. Angela Chute
Administrative Assistant to CEO & Planning Board
Town of Waterboro
24 Townhouse Road
East Waterboro, ME 04030

Re: Application for Variance, 0 Beachwood Circle, North Waterboro (Tax Map 45 Lot 1326)

Dear Members of the Waterboro Zoning Board of Appeals:

This letter is submitted on behalf of our clients, Jim and Jeanne Baxter, owners of property located at 0 Beachwood Circle in North Waterboro (Tax Map 45, Lot 1326) (the “Property”). The Baxters initially applied for a variance seeking to construct a single-family home on the Property, which the Zoning Board of Appeals (the “Board” or the “ZBA”) denied on February 22, 2024. The Baxters are now pleased to submit this revised application for the ZBA’s consideration. As summarized below, the Baxters have reduced the size of the proposed building footprint and repositioned the dwelling on the Property in a manner that conforms more closely to the setback requirements in Waterboro’s Shoreland Zoning Ordinance (“SZO”). We therefore request that the ZBA approve the Baxters’ revised application.

Background

State law allows a municipality’s zoning board of appeals to grant a variance “when strict application of the ordinance to the petitioner and the petitioner’s property would cause undue hardship.” 30-A M.R.S. § 4353(4). “Undue hardship” is demonstrated by establishing the following four elements: (i) “[t]he land in question cannot yield a reasonable return unless a variance is granted,” (ii) “[t]he need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood,” (iii) “[t]he granting of a variance will not alter the essential character of the locality,” and (iv) “[t]he hardship is not the result of action taken by the applicant or a prior owner.” *Id.*; see also *Toomey v. Town of Frye Island*, 2008 ME 44, ¶ 14, 943 A.2d 563. Although a landowner seeking a variance must do more than demonstrate that the property cannot provide its “maximum return,” “[e]conomic proof that no reasonable return is possible is not required.” *Id.*

As shown on the plans submitted with this application, the Baxters have reduced the building footprint to make the dwelling shorter in length by ten feet. This allowed them to reposition the home such that it now lies slightly farther away from the lake (81.0 feet as compared to 80.6 feet) and now complies fully with the 25’ front line setback. As set forth below, the Baxters’ revised application meets all four of the foregoing requirements for a variance.

Analysis

1. The land in question cannot yield a reasonable return unless a variance is granted.

In this case, strictly applying the SZO's setback requirements to the Property would preclude the Baxters from putting the land to any beneficial use. The Property is located in the Village Residential District on the Town's Zoning Map and the Limited Residential shoreland district on the Town's Shoreland Zoning Map.¹ The SZO normally requires new structures to be setback 100 feet from the normal high water line of Lake Arrowhead and 25 feet from the front property line. SZO § 15(B)(1). As depicted on the plans submitted in support of this application, the operation of these two setback requirements together virtually eliminates any buildable window on the Property. The buildable area on the lot is further restricted by placement of the septic field, which itself must be setback ten feet from all property lines and at 20 feet from the dwelling in order to comply with Maine Subsurface Wastewater Disposal Rules.

The Maine Supreme Judicial Court (the "Law Court") has, in certain cases, held that undeveloped property may afford owners a reasonable return if it provides the owner with recreational benefits or can be used to connect a seasonal camper to water, sewer and electrical services. However, due to restrictive covenants burdening the Property, such benefits are unavailable to the Baxters.

For example, in the case of *Toomey v. Town of Frye Island*, the Law Court held that a shorefront lot provided its owner, Timothy Toomey, with a reasonable return and was therefore ineligible for a variance, when Mr. Toomey owned and lived on a nearby inland lot and used the shorefront lot for recreational purposes. *Id.* ¶¶ 2, 6 n.1. The Law Court viewed the use of the two nearby lots as a reasonable return and stated that "[a] waterfront lot is a significant benefit to a property owner who owns an inland lot." *Id.* ¶ 19. The Law Court did not specify how far apart the applicant's shorefront and inland lots were in *Toomey*, but deed research reveals that Mr. Toomey's inland lot (9 Beach Circle, Frye Island, Maine) was located in the same subdivision within walking distance (0.7 miles) from the waterfront lot for which Mr. Toomey sought a variance (355 Leisure Lane, Frye Island, Maine). See Exhibit A.

Here, the Baxters do not own any other property in the Town of Waterboro. To access the Property, the Baxters must drive from their property at 209 Deer Crossing Road in Limerick, Maine. Given the distance, walking to the Property is not an option because Mr. Baxter has endured 6 hip surgeries over the course of the last 15 years, and as a result, is limited in his range of motion and his ability to walk for extended periods. The surgeries have resulted in a significant loss of muscle mass: approximately 65% on Mr. Baxter's left side, and 35% on his right side. As a result of his numerous surgeries, Mr. Baxter meets the definition of a "person with a disability" under 29-A M.R.S. Section 521(1).

As another example, the Law Court has reasoned that the ability to connect a seasonal

¹ A portion of the Property closest to Lake Arrowhead, not proposed for development, is within the Resource Protection District

camper to water, sewer and electrical services on an otherwise unbuildable shorefront lot is also relevant to the reasonable return analysis may constitute a reasonable return. *Twigg v. Town of Kennebunk*, 662 A.2d 914, 919 (Me. 1995)(citing *Hall v. Board of Envtl. Protection*, 528 A.2d 453, 455 (Me.1987) for the proposition that “inability to construct residence on ocean front lot did not constitute inability to yield reasonable return where availability of water, sewer and electrical services made it feasible to connect a camper to utility services.”).

Here, restrictive covenants in the Baxters’ deed restrict use of the Property to only single-family residential purposes, specifically prohibit the placement of mobile homes, trailers, or tents on the lot except for tents occupied by children after a dwelling has been constructed on the land, and further prohibit all commercial uses on the Property. The relevant language in the restrictive covenants is below:

Said land is also conveyed subject to the following provisions:

1. The land conveyed hereby shall be used only for single-family residential purposes. No trailers or mobile homes shall be placed or maintained on said land; and no tents shall be placed or maintained thereon, except that tenting by children only shall be permitted after a dwelling has been constructed on the land in compliance with the provisions of this deed. No trade, business, or commercial activity of any nature shall be conducted on said land.

See Exhibit B, Book 2651, Page 248, ¶ 1. Identical restrictions appear in the regulations of the Lake Arrowhead Estates Subdivision, to which the Property is subject, included as Exhibit C. The operative effect of the restrictive covenants restricts use of the Property to single-family use, and specifically prohibits connection of a seasonal camper that the Law Court found may constitute a reasonable return. In light of all the above, the Property cannot yield a reasonable return unless a variance is granted.

2. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

The Board correctly determined that the Baxters’ need for a variance is due to the unique circumstances of the Property, and not to the general conditions in the neighborhood, when it reviewed the Baxters’ initial application. The Board’s findings are attached as Exhibit D for reference. The Board found in relevant part:

the Property is far wider than it is long. This renders the majority of the Property unbuildable, as it lies within the 100-foot setback from the normal highwater line of Lake Arrowhead. Moreover, unlike a number of their adjacent neighbors, the applicants do not own multiple lots within the Lake Arrowhead subdivision, which allowed those property owners to construct single-family homes outside of the required setbacks. This option is not available to the applicants.

The same circumstances apply to the present application.

3. The granting of a variance will not alter the essential character of the locality.

The Board correctly determined that this standard was met when it reviewed the Baxters’ initial application, finding in relevant part that:

The granting of the variance would permit the applicants to construct a single-family home on the Property. This use is consistent with those on surrounding lots and will further the character of the locality.

See Exhibit D. As shown further on the Town of Waterboro GIS map included as Exhibit E, the majority of shorefront lots in the locality (including lots directly across from and directly abutting the Property) are improved with single family homes similar to the one the Baxters wish to build. The granting of the variance therefore will not alter the essential character of the locality.

4. The hardship is not the result of action taken by the applicant or a prior owner.

Again, the Board correctly determined that this standard was met when it reviewed the Baxters' initial application the lot is a nonconforming lot of record that was approved by the Waterboro Planning Board on January 23, 1973. A copy of the approved subdivision plan signed by the Planning Board and recorded in the registry in Plan Boox 62, Page 18 is attached as Exhibit F. The Waterboro SZO did not take effect until March 12, 1977. While the Baxters were aware that the Property was nonconforming with respect to current zoning standards, the Maine Supreme Judicial Court has unequivocally stated that purchasing a property with actual or constructive knowledge of its zoning restrictions does not preclude the issuance of a variance. *Twigg v. Town of Kennebunk*, 662 A.2d 914, 916 (Me. 1995). The Court in *Twigg* further stated:

While it was the general rule at one time that one who purchased property with actual or constructive knowledge of the restrictions of a zoning ordinance was barred from securing a variance, **the rule has since been altogether abandoned or modified into nonexistence** in most jurisdictions. The modern rule provides that a purchase with knowledge does not preclude the granting of a variance and, at most, **is considered a nondeterminative factor in consideration of a variance.**

Id. (internal citations and quotations omitted). See also *Rocheleau v. Town of Greene*, 1998 ME 59, ¶ 5 n.1, 708 A.2d 660 (confirming that “[k]nowledge of zoning ordinance restrictions by a purchaser of a nonconforming lot, without more, will hardly ever constitute a self-created hardship,” and further reasoning that “[f]ew parties will be willing to purchase a nonconforming lot that cannot be developed even when the other variance requirements are met”). Furthermore, knowledge that variances have been granted under similar circumstances can mitigate a purchaser's prior knowledge of zoning restrictions. *Wiper v. City of South Portland*, No. AP-05-10, 2005 WL 3678039, at *4 (Me. Super. Oct. 31, 2005) (citing *Twigg*, 662 A.2d at 918 n.6 (Me. 1995)). Here, the Baxters are aware of a variance being granted under similar circumstances to William and Chong Mathews, owners of nearby property at 0 Acorn Court. For all these reasons, the hardship is not the result of action taken by the Baxters or a prior owner.

Conclusion

For all the foregoing reasons, we ask that the Board approve the Baxters' application so that they may construct a single-family home on the Property. We look forward to presenting this

Waterboro Zoning Board of Appeals

May 22, 2024

Page 5

application to the Board, and thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Siviski", with a stylized flourish at the end.

Joseph C. Siviski

Enclosures

Cc: Jim and Jeanne Baxter

Diagram of Lots Owned by Timothy Toomey in
the Law Cart's Toomey Precinct



EXHIBIT B

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENT: That Harriett F. Land of 275 Pine Street, Dedham, MA 02026, for consideration paid grant(s) to James E. Baxter and Jeanne C. Baxter, 18 Lowell Road, Westford, MA 01886, as Joint Tenants with Rights of Survivorship, with WARRANTY COVENANTS:

Reference is hereby made to a deed to Harriett F. Land by virtue of a deed made by Charles M. Land to Charles M. Land and Harriett F. Land dated 05/20/1996 and recorded in the York County Registry of Deeds in Book 7851, Page 257. Harriett F. Land is the surviving joint tenant. Charles M. Land died on 01/16/2014.

Executed this 25 day of October, 2017.

Harriett F. Land
Harriett F. Land

State of Massachusetts
County of Norfolk October 25, 2017

Then personally appeared before me on this 25th day of October, 2017, the said Harriett F. Land and acknowledged the foregoing to be his/her/their voluntary act and deed.

Stephanie N. Perkins
Notary Public/Justice of the Peace
Commission expiration: March 1, 2024



STEPHANIE N. PERKINS
Notary Public
Commonwealth of Massachusetts
My Commission Expires
March 1, 2024

Exhibit A - Property Description

Closing Date: 10/31/2017

Borrower(s): James E. Baxter and Jeanne C. Baxter

Property Address: 0 Beachwood Circle, Waterboro, ME 04061

The land with any buildings thereon, situated in the Town of Waterboro, York County, Maine, shown as Lot 1326 on Sheet 18 of plan entitled "Plan of land in Waterboro, Maine owned by Lake Arrowhead Estates, Section No. 2" prepared by Wright, Pierce, Barnes & Wyman, Topsham, Maine and recorded in the York County Registry of Deeds in Book 50, Page 13. Together with all the rights, restrictions, benefits, burdens, etc. as appear in the deed of Lake Arrowhead to John P. Land, dated May 12, 1980, and recorded in the York County Registry of Deeds in Book 2651, Page 247.

Together also with the right to pass and repass, by motor vehicle and otherwise, in common with others, over such roads as the Grantor or LAE, their successors and assigns, may from time to time construct in said Waterboro and Limerick; reserving to the Grantor or LAE, their successors and assigns, however, the right to change the locus of said roads and to terminate such portions of said roads as the Grantor or LAE, their successors and assigns may deem necessary or convenient, so long as the changes and terminations shall not deny the Grantee, his, her, their, or its heirs, executors, administrators, or assigns the right to pass over constructed roads providing access to a public way.

Together also with the right to hook onto the central water supply system being installed by LAE in said Waterboro and Limerick and to use the water without charge, subject to such reasonable restrictions as may be imposed from time to time by the Grantor or LAE, their successors or assigns.

Said land is conveyed subject to real estate taxes assessed or to be assessed thereon for the current year by the Town in which the land is located, to be paid by the Grantee, subject to all flowage rights, all rights of way and easements, all zoning and other governmental laws and regulations, and all other provisions of record.

Said land is also conveyed subject to the following provisions:

1. The land conveyed hereby shall be used only for single-family residential purposes. No trailers or mobile homes shall be placed or maintained on said land; and no tents shall be placed or maintained thereon, except that tenting by children only shall be permitted after a dwelling has been constructed on the land in compliance with the provisions of this deed. No trade, business, or commercial activity of any nature shall be conducted on said land.

2. No "For Rent," "For Sale," or other signs or notices except signs identifying the parcel and/or the owner thereof shall be placed, erected, or maintained on the land conveyed herein without prior written consent of the grantor or LAE, their successors and assigns; and upon any violation of this provision the grantor or LAE, their successors and assigns, shall have the right to enter upon the land and to remove such sign or notice.

3. No building, wall, sewerage system, well, or other structure or installation, or anything used for habitation, shall be erected, placed, constructed, altered, or maintained on the land conveyed herein until and unless its plans, specifications, and location on the land have been filed with and approved in writing by the grantor or LAE, their successors or assigns. The grantor or LAE, their successors and assigns, shall have the right to refuse to approve any such plans, specifications, and locations which are not suitable or desirable in the exclusive opinion of the grantor or LAE, their successors or assigns. No building shall be located nearer than 50 feet to the shoreline of any body of water as shown on the plan referred to above, nearer than 20 feet to any roads shown on said plan, or nearer than 10 feet to any other land adjoining the land conveyed herein, without prior written permission of the grantor or LAE, their successors and assigns.

4. No animals shall be kept or maintained or allowed on the land conveyed herein other than household pets.

5. All buildings, structures, installations, and other improvements to be erected, placed, constructed, altered, or maintained on the land conveyed herein must comply with all municipal and other governmental laws, ordinances, by-laws, rules and regulations duly and validly affecting said land; and if any provision herein differs therefrom such variance shall not be construed as a waiver by the grantor or LAE of the necessity of compliance with the terms hereof.

6. No noxious, dangerous, offensive, or unduly noisy activity of any nature, nor any activity that may be or become an annoyance or nuisance to owners of other land, shall be permitted on any part of the land conveyed herein.

7. The grantor reserves to itself or LAE, their successors and assigns, the right to install, maintain, repair, and replace, under, over, and upon the land conveyed herein and any ways on which said land abuts or shall abut, such electric light, power, telephone, and telegraph poles and wires; water, sewer, gas and drainage pipes, mains, and conduits; catch basins, surface drains, and culverts; and such other facilities, installations, appurtenances, and things as the grantor or LAE, their successors and assigns, may deem necessary or convenient in connection with the provision of adequate drainage, sewerage disposal, water, gas, electricity, telephone and telegraph communications, and other utilities to any portion of its land in Waterboro and Limerick, Maine, and the grantor further reserves to itself or LAE, their successors and assigns, the right to grant to telephone, telegraph, power, water, and other public and private utility companies and corporations, to municipalities, and to such other persons and corporations as the grantor or LAE, their successors and assigns, may determine, said right of installation, maintenance, repair, and replacement is above-described.

8. The provisions of paragraphs 1 through 7 above shall run with and bind the land conveyed herein for a period of ninety-nine (99) years from the date of conveyance, and the grantor or LAE, their successors and assigns, shall have the right at any time or times during said period to proceed at law or in equity against any person violating or attempting to violate any provisions contained herein, to prevent and abate such violations to compel compliance with the terms hereof, to enter upon the land conveyed herein and remove any buildings, structures, installations, improvements, or things constructed, erected, installed, or maintained in violation of the terms hereof, at the owner's expense, and to recover damages or other dues for any violation. Failure to enforce any provisions herein contained in any particular instance shall not be deemed a waiver of the right to do so as to any continuing, subsequent, or other violation. The grantor reserves to itself or LAE, their successors and assigns, the unqualified right in its absolute discretion to permit uses of other land in said Waterboro and Limerick that are prohibited on the land conveyed hereby; and such uses of other land shall not affect the right of the grantor or LAE, their successors and assigns, to enforce the restrictive provisions of this deed as set forth above in this paragraph.

9. The grantee or grantees herein, as the case may be, covenants for himself, herself, themselves, or itself and his, her, their, or its heirs, executors, administrators, successors, and assigns, that no part of the land conveyed herein shall be conveyed prior to twenty (20) years after the death of the grantee named herein, or prior to twenty (20) years after the death of the last surviving of the grantees named herein if there are two or more grantees named herein, without first notifying the grantor or LAE, their successors or assigns, in writing, of his, her, their, or its intention to convey the land, the names and addresses of the person or parties to whom conveyance is intended, and the price and other terms of conveyance, and offering, in writing, to convey said land to the grantor or LAE, their successors or assigns, at the same price and upon the same terms, said offer to be for a period of thirty (30) days. If the grantor or LAE, their successors or assigns, shall refuse to accept such offer within said period of thirty (30) days, the grantee or grantees, his, her, their, or its heirs, executors, administrators, successors, and assigns shall be free to convey said land, at the price and upon the terms set forth in the above-mentioned notice, for a period of sixty (60) days immediately following the expiration of the thirty (30) day period during which the land was offered to the grantor or LAE, their successors or assigns. The grantee or grantees, his, her, their, or its heirs, executors, administrators, successors, and assigns, shall not convey said land, or any part thereof, subsequent to said sixty (60) day period without again first notifying the grantor or LAE, their successors or assigns, in writing, of his, her, their, or its intention so to do, in the manner set forth above, and offering again, in writing, for a period of thirty (30) days, to convey said land to the grantor or LAE, their successors or assigns, at the same price and on the same terms at which it is intended to be conveyed. The obligations of the grantee or grantees, his, her, their, or its heirs, executors, administrators, successors, and assigns set forth in this paragraph are intended as a covenant on their part which shall run with the land for a period of twenty (20) years after the death of the grantee named herein, or for a period of twenty (20) years after the death of the last surviving of the grantees named herein if there are two or more grantees named herein. The grantee or grantees further covenant for himself, herself, or themselves, and for his, her, their, or its heirs, executors, administrators, successors, and assigns, that in the event of any breach by any of them of any provisions of this paragraph the grantor or LAE, their successors or assigns, may, at its or their option, compel conveyance to the grantor or LAE, their successors or assigns, of the land involved, at the same price and other terms at which the grantee or grantees, his, her, their, or its heirs, executors, administrators, successors, or assigns attempted to convey or conveyed the land to any other party, person, corporation, partnership, or other entity.

10. Each lot included in this conveyance shall be subject to an annual charge of ninety-six dollars (\$96.00), and the grantee or grantees, his, her, their or its heirs, executors, administrators, successors, and assigns, hereby agree:

A. To pay annually to the grantor or LAE, their successors and assigns, the sum of \$96.00 for each lot hereby conveyed, on or before the 1st day of May of each year hereafter, for the right to enjoy such of the following privileges, facilities, improvements, services, and benefits as the grantor or LAE, their successors and assigns, may from time to time provide for the use and benefit of owners of land in said Waterboro and Limerick who pay said annual charge:

(1) Recreational privileges and facilities;

(2) Payment of taxes and assessments levied by any public authority on any land and other property held for the benefit of or used by such owners;

(3) Purchase, construction, improvement, and maintenance of roads, causeways, bridges, docks, beaches, buildings, and other facilities and things;

(4) Use of land of the grantor or LAE for motor vehicle parking and boat launching and docking;

(5) Miscellaneous services such as police services, and utilities.

B. That the use of such privileges, facilities, improvements, services and benefits shall be subject to approval of the user for membership in Lake Arrowhead Landowners' Association and compliance with the rules and regulations from time to time promulgated by the grantor or LAE, their successors and assigns, with respect to such use, and that the grantor or LAE, their successors and assigns, shall have the right to deny to the grantee or grantees, his, her, their, or its heirs, executors, administrators, successors, and assigns, the use and enjoyment of said privileges, facilities, improvements, services and benefits for violation of such rules and regulations, without impairing the obligation to pay the charge as herein set forth.

C. That said charge shall constitute a debt which may be collected by suit or action in any court of competent jurisdiction, and that said charge shall constitute a lien or encumbrance on the land conveyed herein, until paid.

D. That acceptance of this deed shall be construed to be a covenant on the part of the grantee or grantees, his, her, their, or its heirs, executors, administrators, successors, and assigns, to pay said charge as provided herein, and that upon conveyance of any of the land herein described each successive owner thereof shall from the time of acquiring title be held to have covenanted and agreed to pay the grantor or LAE, their successors and assigns, this charge.

E. That this charge shall run with and bind the land herein conveyed, and shall be binding upon the grantee or grantees, his, her, their, or its heirs, executors, administrators, successors and assigns, until May 1, 1988, unless earlier terminated by written release of the grantor or LAE, their successors and assigns.

F. The lien hereby reserved and described shall, however, be at all time subordinate to the lien of any bonafide mortgage of any of the land herein conveyed, to the end and intent that the lien of any such mortgage shall be paramount to the lien for the charge herein imposed, and provided further, that such subordination shall apply only to the charges that shall become payable prior to the passing of title under foreclosure of such mortgage or acquisition of title by deed in lieu of foreclosure; and nothing herein contained shall be held to affect the rights herein given to enforce the collection of such charges accruing after foreclosure of such mortgage by sale or otherwise, or after conveyance in lieu of foreclosure.

G. That whenever the Consumer Price Index issued monthly by the United States Department of Labor, as shown by its All Items Index, (or any successor index) shall increase in increments of ten percent (10%) over its All Items Index for the month of August, 1968, the amount of annual charge to be paid hereunder shall, if demanded by the grantor or LAE, their successors or assigns, be increased in increments of 10% (\$9.60) over the original annual charge of \$96.00 above set forth.

To have and to hold the same, together with all the privileges and appurtenances thereunto belonging, to the said

John P. Land, his

heirs and assigns, forever.

And I, the said DAVID N. FISHER, JR., in my capacity as Trustee as aforesaid, do hereby covenant to and with the said Grantee that I am the lawful trustee under said declaration of trust, that I have power under said declaration of trust to sell and convey as aforesaid and that in making this conveyance I have in all respects acted pursuant to the authority granted in and by said declaration of trust.

Witness my hand and seal this 12th day of May

19 80

Signed in the presence of:

LAKE ARROWHEAD TRUST

John P. Land

By

David N. Fisher, Jr., Trustee

STATE OF MAINE

Cumberland, ss.

May 12, 1980

1980

Then personally appeared the above-named David N. Fisher, Jr. and acknowledged the above instrument to be his free act and deed as trustee as aforesaid, before me.

John P. Land
Notary Public

YorR, ss.

Received MAY 14 1980 at 9 h 22 m. A.D.

My commission expires: March 24, 1985

and recorded from the original



DEED RESTRICTIONS ASSIGNED TO LAKE ARROWHEAD COMMUNITY, INC.

IMPORTANT: If the wording of your deed differs from the following, contact the LAC Office.

1. The Premises conveyed hereby shall be used only for single family residential purposes. ****NO trailers or mobile homes shall be allowed thereon; and no tents shall be allowed thereon, except that tenting by children only shall be permitted after a dwelling has been constructed on the Premises in compliance with the provisions of this deed.** NO trade, business, or commercial activity of any nature shall be conducted on said Premises. No building or structure thereon shall be used for habitation until its construction has been completed in accordance with the plans and specifications required by the provisions of this deed.
2. NO "For Rent," "For Sale," or other signs or notices except signs identifying the Premises and or the purchaser thereof shall be allowed on the Premises conveyed hereby without prior written consent of LAC, which consent shall not be arbitrarily withheld; and upon any violation of this provision LAC shall have the right to enter upon the Premises and to remove such sign or notice and to destroy it.
3. NO building, wall, sewage system, well or other structure or installation shall be erected, placed, constructed, altered, or maintained on the Premises conveyed hereby until and unless its plans, specifications, and a map showing its location on the Premises have been filed with and approved in writing by LAC. Without limiting the generality of the foregoing, no dwelling shall be allowed on the Premises conveyed hereby unless its interior, if a one-story structure, exclusive of any attached garage, shall be at least **six hundred and fifty (650) square feet in size**, nor unless, if it be multi-storied structure, first floor, exclusive of any attached garage, shall be at least **five hundred (500) square feet in size**. All structures shall be situated on the Premises as per the applicable zoning ordinance.
4. NO animals shall be allowed on the Premises conveyed hereby except **household pets**, and **no livestock or poultry** of any nature shall be allowed thereon. (Maine has a leash Law.)
5. ALL buildings, structures, installations, and other improvements to be located on the Premises conveyed hereby **must comply with all municipal, state and other government laws and regulations** validly affecting said Premises; and if any provision herein differs there from such variance shall not be construed as a waiver by LAC of the necessity of compliance with the terms hereof.
6. NO noxious, dangerous, offensive, or unduly noisy activity that may be or becomes an annoyance or nuisance to owners of other land shall be permitted on any part of the Premises conveyed hereby. NO outdoor fires shall be permitted thereon except in fireplaces or barbecue equipment.
7. **Easements and rights of way** are hereby expressly reserved to LAC in, on, over and under each lot of the Premises and in the development for the following purposes:
 - A. For the erection, installation, construction and maintenance of poles, wires, lines and conduits, and the necessary or proper attachments in connection with the transmission electricity, telephone, community antenna television cables and other utilities and other similar facilities; and storm water drains, land drains, public and private sewers, pipe lines for supplying gas, water and heat and for any other public or quasi-public utility, facility, service or function, whether aboveground or underground.
 - B. For slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slope ratios approved by LAC, or which might create erosion or sliding problems or change, obstruct or retard drainage flow.
 - C. To permit the doing of every act necessary and proper for use, in common with other owners, of all parks, paths, trails, parking areas, swimming pools, beaches, tennis courts, recreational parks and greenbelt areas, **as LAC may from time to time make available to owners of lots of Lake Arrowhead.**

LAC shall have the right to enter upon all parts of the easement areas of each lot for any other purposes for which said easements and rights of way are served.

8. **NO tree having a diameter of six (6) inches or more** (measured from a point two (2) feet above the ground level) shall be removed from the **Premises** without the express written authorization of **LAC**. **LAC**, in its discretion, may adopt and promulgate rules and regulations regarding the preservation of trees and other natural resources and wild life upon the **Premises** and in the development.

9. **NO** elevated tanks of any kind shall be erected, placed or permitted on any part of the **Premises**, provided that nothing herein shall prevent **LAC** from erecting, placing or permitting the placing of tanks and other water system apparatus on the land of **LAC** for the use of the water company serving such **Premises**. Any tanks in connection with any residence constructed on the Premises, including tanks for the storage of fuels, must be buried or walled sufficiently to conceal them from neighboring lots, roads or streets.

ADDITIONAL BUILDING REGULATIONS:

1. The exterior of the building or structure must be completed within twelve (12) months from the date the **LAC** building application is approved.

NOTE: If your lot is within 500 feet of the water, additional regulations of Saco River Corridor Commission apply.

2. **The cutting of trees**, as mentioned in paragraph 8 above, without proper approval will result will result in a fine of **\$100.00 per tree**.
3. **Private wells** require specific approval and the Member must assume all liability for it and Provide check valves or other devices to insure that **LAC** water lines are not subject to Contamination from the private water source.

**** The Board of Trustees established the policy on 3/20/99 that RV (Recreational Vehicle) use in LAC is determined on a case-by-case basis to use while building. RV's not to be used for permanent habitation and not placed on lot until clearing operations have begun. After construction is competed, RV's should be parked in a location so as not to be unsightly.**

BYLAWS OF LAKE ARROWHEAD COMMUNITY, INC.

ARTICLE I: NAME, LOCATION, DESCRIPTION AND PURPOSE

Section 1. Name. The name of the Corporation is LAKE ARROWHEAD COMMUNITY, INC., hereafter known as the "CORPORATION."

Section 2. Location. The location of the principal and registered office of the Corporation shall be on the premises of Lake Arrowhead Community, North Waterboro, Maine 04061. The Corporation may also have offices at such other places as the Trustees may, from time to time, determine to be necessary or appropriate.

Section 3. Description. The Corporation is a non-profit membership corporation without capital stock.

Section 4. Purposes. To promote and foster recreational, athletic, and other activities for Members and their families.

To manage, maintain, protect, and preserve the Lake Arrowhead Estates Subdivision and the Corporation's properties and facilities; and in the furtherance of said purposes to purchase, acquire, hold, improve, sell, rent, mortgage, pledge, assign, and otherwise deal in and with any and all property, real, personal, or mixed.

To exercise all the rights, powers, and privileges and to perform all the duties and obligations required of the Corporation as assigned to it by Lake Arrowhead Trust and set forth in the State of Maine Private and Special Law 1995, Chapter 37, and these bylaws.

To operate and maintain, or provide for the operation and maintenance of, any common areas or facilities held by this Corporation for the benefit of all its Members, or any areas concerning which the Corporation holds easements for the benefit of its Members, such operation and maintenance to include the employment and dismissal of all personnel; the making of repairs, additions, and improvements to, or alterations of, any such areas or facilities, including the maintenance, operation, improvement or expansion of the clubhouses and other buildings, equipment, roads, water supply systems, recreational and beach facilities, and wild life refuges; the purchasing of all necessary supplies; the obtaining and preparation of all necessary forms for insurance; and similar matters.

No part of the earnings of the Corporation shall inure to the benefit of any Member, Trustee, Officer, or committee member of this Corporation, or any private individuals or other corporation, except that reasonable compensation may be paid for goods or services rendered to or for the Corporation affecting one or more of its purposes.

Notwithstanding any other provisions of these articles, the Corporation shall not conduct or carry on any activities not permitted to be done except under Sections 501 (c) (4) and (7) of the Internal Revenue Code and its regulations as they now exist or as they may hereafter be amended.

ARTICLE II: MEMBERS

Section 1. Definition. The Members of the Corporation are every person eighteen (18) years of age or older who is the owner of a lot or lots of record within that area of land commonly known as "Lake Arrowhead Estates" as shown on the tax assessment records of the Town of Limerick and the Town of Waterboro, Maine. Except as otherwise provided in these bylaws, membership in the Corporation shall terminate only upon transfer or other disposition by a Member of his interest in his lot or lots in said "Lake Arrowhead Estates" (other than a mortgage), whereupon the membership shall automatically transfer to and be vested in the successor in ownership or interest. Membership in the Corporation shall be subject to all further restrictions, qualifications, and definitions as may be provided by deed, contract, law, State of Maine Private and Special law 1995, chapter 37, these bylaws or the Corporation's rules and regulation.

Ownership of a lot or lots by a municipal corporation, a fraternal, religious, or other social organization or association, a corporation, partnership, trusteeship, (except for a trust established by a member for estate planning purposes) or other non-individual legal entity shall not entitle any citizen or member of said organization to the rights and privileges of qualified Members of Lake Arrowhead Community, Inc. unless otherwise entitled.

Section 2. Powers, Rights, and Responsibilities. The Members of the Corporation shall reserve to themselves the following:

A. Exclusive powers:

- (1) Adoption of any amendments, revisions, or modifications to these bylaws;

- (2) Additions to the debt of this Corporation, which causes a total indebtedness of over \$1,000,000.00;
 - (3) Additions to the reserve fund which cause it to exceed \$500,000.
 - (4) Establish and from time to time change the structure and formula by which the trustees may calculate the amount of membership fee to be assessed to any member or members of the corporation.
- B. Ratification Powers: The selection of this Corporation's independent public accountants and auditors;
- C. Responsibilities: Members shall be expected to abide by any rules and regulations determined by the Board of Trustees or these bylaws as necessary for responsible membership use of the Corporation's common areas and facilities.

Section 3. Annual Meetings. The Annual Meeting of the Membership of the Corporation shall be held at the Lake Arrowhead Estates Subdivision, or at such other place located no more than fifty (50) miles there from as the Board of Trustees may designate, on the first Saturday of August of each year. At such meeting the Members shall elect Trustees for the ensuing term and hear reports of the officers and committees, may review current rules and regulations, and shall transact other business as may lawfully come before them. The ballot for the annual election of the Board of Trustees shall indicate, with respect to each candidate who is an incumbent Trustee, such candidate's record of attendance at duly called meetings of the Board of Trustees held during his term.

Section 4. Special Meetings. A Special Meeting of the Members may be called by the Chair of the Trustees or by a majority of the Board of Trustees or by the Clerk upon written application of ten percent (10%) of the Members of the Corporation, as defined in Article II, Section 1, and signed by such Members within sixty days of the first Member's signature.

Section 5. Notice. The Secretary, or such other person as may be designated by the Board of Trustees, shall give notice of Annual Meetings and any Special Meetings by a warrant that states the time, date, place and subject matters to be considered at the meeting, and that warrant must be posted in two (2) conspicuous public places within the corporate limits of the Corporation at least seven (7) days prior to the meeting. The warrant required herein for a Special Meeting of the Members shall be posted within 45 days of the receipt of a valid warrant application submitted pursuant to Article II, Section 4.

In addition, a copy of that warrant must be mailed by first class mail, postage prepaid, to each member at his address as last recorded on the books of the Corporation no less than thirty (30) days and no more than forty-five (45) days prior to the meeting. Failure of a Member to receive notice shall not affect the validity of any action taken at a meeting.

Section 6. Quorum. At any duly called meeting of the Members of the Corporation, a quorum shall consist of fifty (50) or more Members entitled to vote and present in person or by absentee ballot, provided that if a quorum is not present, a majority of those present shall have the power to adjourn the meeting.

Section 7. Absentee Ballots. No absentee ballot shall be deemed operative unless and until signed by the Member and delivered to the Clerk of the Corporation. All absentee ballots must be submitted and executed on a standard form approved by the Board of Trustees, which shall contain all of the information required therein, and shall include limitations as to the time and purpose.

Section 8. Voting. The vote of a majority of those present, in person or by absentee ballot, at any duly called meeting of the Members at which a quorum is present shall be sufficient for the transaction of business. On each matter brought to a vote of the Members, a Member shall be entitled to no more than one (1) vote regardless of the number of lots owned. In the event that record title to any lot or lots stands in the name of two or more persons, each combination of individuals shall be entitled to one (1) vote. Those persons may agree in a written notice filed with the Trustees which one of the owners is to be the legal voter at a meeting of the Corporation. In the absence of such agreement, the Clerk shall decide which person is the legal voter.

ARTICLE III: BOARD OF TRUSTEES

Section 1. Description and Power. The Board of Trustees of the Corporation shall consist of nine (9) Trustees, each of whom shall be a Member of the Corporation who is both entitled to vote and in good standing. No member of the Board of Trustees shall be compensated for his elected duties. Not more than one (1) member of a family (spouse, child, parent, brother, sister, or in-law) shall be a member of the Board at any time, regardless of membership status. Due to the potential for a conflict of interest, any Member who earns more than ten percent (10%) of his annual income from activities within the Lake Arrowhead Estates Subdivision shall be ineligible for Board membership and shall be removed from the Board. This ineligibility/removal is also applicable to the member of the family of someone who earns more than ten percent (10%) of his income from activities within the subdivision. The Board of Trustees shall have general management and control of all property and affairs of the Corporation. The President of the Corporation shall serve as Chairman of the Board of Trustees. The Board of Trustees has the

powers and duties necessary for the administration of the affairs of Lake Arrowhead Community, Inc. and may do all such acts and things, except as by law or these bylaws are reserved to the Members of the Corporation acting at a properly called meeting. Such powers and duties of the Board shall include:

- A. Appoint and at its discretion, without cause, remove or suspend officers, agents, and employees and determine their duties. The Board may engage such persons or organizations as it may deem advisable to carry out the general operations of the Lake Arrowhead Estates Subdivision on such terms and conditions as the Board may determine.
- B. Fix and change salaries of all officers, agents and employees;
- C. Delegate any of the powers of the Board to any committee, in each such case designating a Chairman of such committee, except where State law requires action by the Board as a whole.
- D. Accept title in the name of the Corporation to real property and tangible and intangible personal property.
- E. Establish an annual budget and establish membership fees and surcharges necessary to fund the Corporations expenses.
- F. Authorize reasonable and necessary borrowing in behalf of and in furtherance of the interests of the Corporation, provided such borrowing shall be from lending institutions and provided further that the total outstanding principal amount of such borrowing shall at no time exceed one million (\$1,000,000.00), unless such excess is approved by the membership vote according to these bylaws;
- G. Establish the rules and regulations, and penalties for the violations thereof, necessary for responsible membership use of the Corporation's common areas and facilities and to exercise the Corporation's power to regulate matters which are the subject of covenants and restrictions in the various Members' deeds.
- H. Enforce P & S L 1995, c. 37, these bylaws and the Corporation's rules and regulations. Such enforcement to include the imposition of reasonable fines.
- I. Be sworn by the clerk or any person authorized by law to administer oaths of office.

Section 2. Annual Board Meeting. After each Annual Meeting of the Members of the Corporation, there shall be a meeting of the Board of Trustees. If a majority of the Trustees is not present, then the Chairman shall call a Special Meeting of the Board according to the procedure in Section 4. Such a Special Meeting shall be held within twenty-one (21) days following the Annual Members' Meeting.

Section 3. Notice. A written notice of any Board Meeting stating the place, date, and time of the meeting shall be given by the Secretary, or by the person or persons calling the meeting. Such notice shall be sufficient if sent by first-class mail not less than seven (7) days before the meeting to each Trustee at his residence or at a place so designated by the Trustee. Actual notification in time for the Trustee to attend such meeting shall be sufficient notice regardless of how received. The Board of Trustees may act at a meeting held without notice if each Trustee waives such notice and specifically ratifies the actions taken at such meeting in writing filed with the Corporation's records. Any business may be transacted at a meeting of the Board even though it may not have been specified in the notice of the meeting.

Section 4. Quorum and Voting. At any meeting of the Board of Trustees a majority of the Trustees as fixed by the bylaws shall constitute a quorum. Provided a quorum is present, the vote of a majority of the Trustees attending a meeting shall be sufficient for the conduct of business. For purposes of filling vacancies on the Board, a quorum shall consist of a majority of the Trustees then serving on the Board. The votes of a majority of those Trustees present at a meeting, whether or not there is a quorum present, shall be sufficient for adjournment.

Section 5. Power to Call Board Meetings. A meeting of the Board of Trustees may be called by the President of the Corporation, by the Vice President, by any two of the Trustees, or by the Clerk upon written application of any fifty (50) Members of the Corporation as defined by Article II, Section 1, and in good standing, in a call signed by such members within sixty (60) days of the first member's signature.

Section 6. Elections. Except as set forth in Section 7 below, all Trustees shall be elected by a secret ballot of the Members of the Corporation. Three Trustees shall be elected annually for terms of three (3) years. The candidates receiving the three (3) highest number of votes shall be selected to fill the three 3-year terms. Should there be an insufficient number of candidates available to fill vacancies occurring due to the expiration of terms, the Presiding Office at the Annual Meeting of the Membership of the Corporation shall accept nominations from the floor for only the position for which it is deemed there is no candidate. Nominated Members must be entitled to vote and in good standing; and must also be present and accept the nomination at the Annual Meeting.

Section 7. Vacancies. In case a vacancy on the Board of Trustees shall occur from any cause other than the expiration of a term, the Board of Trustees, or the remaining Trustees although less than a quorum, shall by majority vote fill such vacancies for the remainder of the non-expired term as follows:

- A. First, from among the remaining unsuccessful Candidates for Trustee at the previous annual election, provided, however, that only those Candidates who were on the ballot and received a vote equal to at least twenty percent (20%) of the ballots cast shall be considered. Such vacancy shall be filled in order of ranking of votes at the previous annual election.
- B. Second, if there are no Candidates available or willing to serve pursuant to subparagraph A. above, the Trustees shall appoint to serve at any duly called Trustee Meeting, the notice for which lists this matter on the agenda, any Member of the Corporation, who is entitled to vote and in good standing. Those unsuccessful Candidates who were on the ballot at the previous annual election and received a vote equal to less than twenty percent (20%) of the ballots cast shall be considered.

Section 8. Removal. Any Trustee may be removed at any time, with cause, at any duly called Member Meeting, the notice of which lists this matter on the agenda, by a two-thirds vote of Members voting either in person or by absentee ballot. Any Trustee may also be removed, for cause or is either no longer entitled to vote or in good standing, if six (6) members of the Board of Trustees vote in favor of said removal at any duly called Trustee Meeting, the notice for which lists this matter on the agenda. If a Trustee is no longer a Member of the Corporation entitled to vote and in good standing, the Trustee is disqualified from serving on the Board of Trustees and shall remove himself from the Board.

Section 9. Resignations. Any Trustee may resign his position at any time by written notice delivered to the President or to the Board of Trustees.

Section 10. Committees of the Board of Trustees. The committees of the Board of Trustees shall be standing and special committees. All committee decisions shall be in the nature of recommendations to the Board of Trustees. No committee and no Trustee nor any other committee members shall be authorized to act without prior approval of the Board of Trustees. Trustees shall establish such special committees or standing committees as from time to time may be necessary or desirable for the conduct of the business of the Corporation. Minutes shall be maintained for all committee meetings and such minutes and reports shall be provided to the Board of Trustees. The President shall nominate and the Board of Trustees shall appoint all committee chairmen and designate committee assignments for each Trustee. All committee chairmen must be members of the Board of Trustees. Except for special committees, all committee chairmen and Trustee assignments shall be made no later than the third meeting of the Board of Trustees following the Annual Meeting of the Corporate Members. Individuals who are not members of the Corporation may be appointed to committees if the committee chairman considers it to be in the best interest of the Corporation. A quorum for conducting committee business shall be a simple majority of committee members present and voting. Absentee ballot voting shall not be permitted at committee meetings.

ARTICLE IV: OFFICERS

Section 1. Officers. The officers of the Corporation shall be a President, a Vice President, a Treasurer, a Secretary, a Clerk and such assistants and other officers and agents as may from time to time be appointed by The Board of Trustees. The same person may simultaneously occupy more than one office, but no officer shall execute, acknowledge, or verify any instrument in more than one capacity if such instrument is required by law or these bylaws to be executed, acknowledged, or verified by two or more officers. All officers must be Members of the Corporation entitled to vote in good standing.

Section 2. Appointments, Terms, and Vacancies. Officers shall be elected annually by the Board of Trustees and shall serve until their successors are chosen. In case a vacancy shall occur from any cause in any office, the Board of Trustees shall fill such vacancy.

Section 3. Resignations. Any officer may resign his position at any time by written notice delivered to the President or to the Board of Trustees.

Section 4. Removal. Any officer may be removed at any time, without cause, by a majority vote of the entire Board of Trustees.

Section 5. President. The President shall be elected annually by and from the Board of Trustees and shall serve as Chairman of the Board of Trustees. He shall preside at all meetings of the Members and of the Trustees at which he is present. He shall have general charge and control of all the affairs of the Corporation subject to the approval of the Trustees.

Section 6. Vice President. The Vice President shall be elected annually by and from the Board of Trustees. He shall have the powers and duties of the President when the President is unable to carry out his duties or when the President delegates his authority to him, or when a majority vote of the entire Board determines that the President is unable to carry out his duties.

Section 7. Treasurer. The Treasurer shall be elected annually by, but not necessarily from, the Board of Trustees and shall oversee and be responsible for keeping full and accurate account of receipts and disbursements in the books of the Corporation and depositing all monies and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Trustees. He shall disburse the funds of the Corporation as may be ordered by the Board, taking proper vouchers for such disbursements. He shall promptly render to the President and to the Board of Trustees such statements of his transactions and accounts as the President and Board respectively may from time to time require. At the direction of the Board of Trustees he shall give bond in such amount and with such security and in such form as the Board shall determine. The Treasurer shall perform such duties in addition to the foregoing as the Trustees may designate, including the preparation of an annual report of financial position and results of operations, in accordance with generally accepted accounting principles, at the close of each fiscal year to be submitted to and approved by the Board of Trustees, audited by an independent public accountant, and then submitted to the Annual Members Meeting. With the approval of the Board of Trustees he may delegate to an employee of the Corporation, which employee shall also be bonded, such duties and authority as the Board may approve. In any case, however, the Treasurer shall be responsible for overseeing the activities of such employee.

Section 8. Clerk. The Clerk shall be elected annually by, but not necessarily from, the Board of Trustees. He shall be a resident of the State of Maine and shall be sworn to the faithful discharge of his duties. The Clerk shall record in books kept for the purpose all votes and proceedings of the Trustees and Members, and shall be the keeper of all documents of title and other valuable and important papers of the Corporation. The Clerk shall keep the lists of Members and voters. The Clerk shall have the power to resolve any disputes over the qualification of a voter and the power to resolve any issues as to the number and sufficiency of signatures on any Member petitions. The Clerk shall have the power and right to consult with Corporate legal counsel on such issues.

Section 9. Secretary. The Secretary shall be elected annually by, but not necessarily from, the Board of Trustees. He shall be responsible for keeping full and accurate minutes of the Board meetings and meetings of the Members of the Corporation. The Secretary shall also be responsible for all correspondence pertaining to the Board functions, including notices of all meetings.

ARTICLE V: ASSESSMENTS

Section 1. Membership Fees. Regular Membership Fees and Surcharges and Supplemental Membership Fee(s)/Surcharges, as may be necessary, must be established and assessed annually by the Board of Trustees and be adequate to fund the Corporation's expenses, including the payment of debt, contribution to the reserve fund and the establishment of a reasonable surplus. The Clerk shall assess these fees and surcharges and the Treasurer shall collect them.

With respect to each fiscal year, the Board shall estimate the amount required by the Corporation to meet the expenses for such year, including but not limited to the following items:

- A. All government taxes and assessments;
- B. Management and administrative expenses;
- C. The estimated cost of repairs, maintenance, and replacement of common areas and facilities;
- D. The cost of such insurance and utilities as may be purchased by the Corporation;
- E. The amount of such reserves as may be reasonably established by the Board, including general operating reserves, reserves for contingencies, replacements of the Corporation's property and water system; and
- F. Payroll and such other expenses of the Corporation, as may be approved by the Board of Trustees including operating deficits, if any, for prior periods.

At least sixty (60) days prior to the commencement of each fiscal year, the Board shall cause an annual budget to be prepared based on its estimates of revenues and expenses in the budget year, shall adopt said budget and shall fix the amount of the Membership Fee.

For each succeeding fiscal year, the Membership Fee shall not be increased by more than five (5) percent over the Membership Fee for the preceding year without prior Member approval.

On or before the first day of the fiscal year covered by such approved budget, each Member shall pay the Membership Fee(s)/Surcharges assessed.

The Treasurer shall have the authority and duty to collect all annual assessments due and payable to the Corporation and to take all legal steps necessary or convenient, including, without limiting the generality of the foregoing, establishing and enforcing liens and bringing suits in the name of the Corporation to collect such assessments.

If any member shall fail or refuse to make payment of any assessment payable to the corporation when due, the amount thereof shall bear interest at a rate to be determined each year by the Board of Trustees and, together with such interest, shall constitute a lien on the lot/lots of such member. The Corporation and the Board shall have the authority to exercise and enforce any and all rights and remedies provided in the Maine Revised Statutes, Title 33, sections 1603-102 and 1603-116; in Private and Special Law 1995, Chapter 37; in these bylaws, or otherwise available at law or in equity for the collection of all unpaid amounts, including, if available, all possessor remedies under the Forcible Entry and Detainer laws of Maine. The Corporation shall be reimbursed by the non paying Member for all costs incurred by the Corporation in the collection and enforcement of said assessments; said costs to include, without limitation, court costs and reasonable attorney's fees.

Section 2. Liability for Assessments Upon Transfer of Lot. In the event a lot/lots is transferred or conveyed for any reason, including without limitation, via foreclosure or other legal process, the transferee of the lot/lots shall be jointly and severally liable with the prior owner of the lot/lots for all unpaid assessments, fees, charges, late charges, fines, interest and costs of collection outstanding at the time of transfer, without prejudice to the right of the transferee to recover from the prior owner the amounts paid by the transferee therefore. However, any such transferee or proposed purchaser under a purchase and sale contract may, upon written request and upon payment of such fee as may be set by the Board of Trustees, obtain a statement from the Corporation setting forth the amount of unpaid assessments, fees, charges, late charges, fines, interest and costs of collection owing on the lot/lots, and the transferee shall not be liable for, nor shall the lot/lots transferred be subject to lien for, any assessments, charges, late charges, fines, interest and costs of collection arising before the statement date in excess of the amount set forth in the statement.

Section 3. Liens. The Corporation has a lien on the lot/lots of a Member for any assessment levied or fine imposed against said Member from the time the assessment or fine becomes due. The Corporation's lien may be foreclosed in a like manner as a mortgage on real estate and is prior to all other liens and encumbrances on the lot/lots except: (1) Liens and encumbrances recorded before August 10, 1995; (2) A first mortgage recorded before or after the date on which the assessment sought to be enforced becomes delinquent; and (3) Liens for real estate taxes and other governmental assessments and charges against the lot/lots. Fees, charges, late charges, fines and interest are enforceable as assessments under this section.

Section 4. Additional Penalties for Failure to Pay Assessments and Other Defaults. If any assessment against a Member is currently unpaid and overdue by more than thirty (30) days, except where a Member is actively in an approved payment plan and current with payments, there shall be no right in a Member of the Corporation to exercise any rights as a Member of the Corporation except the right to vote. The Member's rights denied include, but are not limited to, the right to run for or hold office and to use the Corporation's roads, water supply and recreational facilities.

ARTICLE VI: BYLAW AMENDMENTS

Section 1. Accepting Proposed Amendments. These bylaws may be amended by a vote of a two-thirds majority of the Members of the Corporation voting in person or by absentee ballot at any Annual or Special Meeting of Members, the notice of which states that an amendment or amendments of the bylaws will be proposed and indicates the proposed amendment or amendments.

Section 2. Proposing Amendments. Amendments to these bylaws may be proposed by any Member of the Corporation as defined in Article II, Section 1, of the Corporation. A proposed amendment must be reviewed by counsel for legality and will be placed on the agenda of the next Annual or Special Member Meeting provided it meets at least one of the following requirements:

- A. Be approved by a majority of the Board of Trustees.
- B. Be submitted to the Board of Trustees by the Clerk, upon written application that states the proposed amendments and is signed by at least fifty (50) Members of the Corporation as defined in Article II, Section 1 in good standing of the Corporation. Such petition, if it is to be acted on at the next Annual Member Meeting, must be received at the Corporation's office no later than May 31st each year in order to be placed on the warrant.

ARTICLE VII: MISCELLANEOUS

Section 1. Indemnification. The Corporation shall, to the full extent of its power to do so provided by law, indemnify any person who was or is a Trustee, Officer, Employee, or Agent of the Corporation or is or was serving at the request of the Corporation as a Trustee, Officer, Employee, or Agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in his duties as Trustee, Officer, Employee, or Agent of the Corporation. Nothing contained in the foregoing sentence shall

prevent the Corporation, by action of its Members or by action of disinterested Trustees from indemnifying any person, including without limitation, a Trustee, Officer, Employee, or Agent of this Corporation, in a particular case if in the judgment of the Corporation such indemnification should be made.

Section 2. Fiscal Year. The fiscal year of the Corporation shall be from May 1 through April 30, unless changed by the Board of Trustees for good reason.

Section 3. Seal. The seal of the Corporation shall be either a circular disc upon which shall be inscribed the words LAKE ARROWHEAD COMMUNITY, INC., or a wafer seal.

Section 4. Execution of Writings and Documents. Unless the Board of Trustees or Members shall otherwise generally or in any specific instance provide, any bill, note, check, or negotiable instrument shall be signed or endorsed in the name and on the behalf of the Corporation by both the President and Treasurer, or if the offices of the President and Treasurer are held by the same individual, then by the President and such other individual as the Board of Trustees may designate.

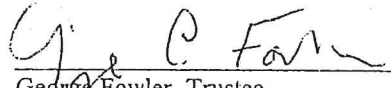
Section 5. Bonds. The Board of Trustees may from time to time require from any one or more of the Officers or Agents of the Corporation, that he, or they, shall give bond, and the premium for all such bonds may be paid by the Corporation.

Section 6. Conducting Meetings. All meetings of the Board of Trustees or Members shall be conducted in accordance with the latest edition of "Robert's Rules of Order."

Section 7. Sale of Real Estate. The sale or transfer of any Corporation real estate within the subdivision known as "Lake Arrowhead Estates" shall be approved by a vote of the majority of the Members, voting in person or by absentee ballot, at a duly called and scheduled Annual or Special Meeting.

Section 8. Approval of New Construction. All new construction within the subdivision known as "Lake Arrowhead Community" must be approved by the Board of Trustees or its designee.

Section 9. Conflict. In the event of a conflict between these bylaws and the laws of the State of Maine governing nonprofit organizations, the laws of the State shall prevail.

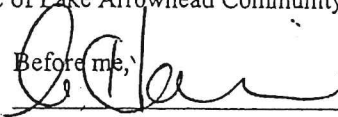

George Fowler, Trustee
Clerk of the Corporation

STATE OF MAINE)
)
COUNTY OF YORK)

August 7, 2009

Personally appeared the above named George Fowler, Trustee of Lake Arrowhead Community, Inc.

Before me,



Amy J. Harris, Notary Public
State of Maine

My Commission Expires: 11/16/10

Article III, Section 1 (f). Description and Power

Article III, Section 10; Article III, Section 11 (a-d). Committees of the Board of Trustees.

For the purpose of these bylaws, "he", "him", "his", and "chairman" shall be used generically and refer to either male or female members of the Corporation.



Town of Waterboro, Maine
Zoning Board of Appeals
NOTICE OF DECISION

0 Beachwood Circle – Undue Hardship Variance Application	
Applicants:	James F. Baxter and Jeanne C. Baxter
Property Location:	0 Beachwood Circle (Tax Assessor Map 45, Lot 1-326)
Zoning Information	Shoreland Zone; Limited Residential District
Review Type(s):	Undue Hardship Variance
Date of Vote:	February 22, 2024
Date of Decision:	February 28, 2024

Dear Applicants:

This is to inform you that the Zoning Board of Appeals acted on your application for an undue hardship variance appeal at its meeting on February 22, 2024, and made the following findings of fact and conclusions of law:

Findings of Fact

1. The owners of the property and applicants in this matter are James F. Baxter and Jeanne C. Baxter.
2. The property associated with this appeal is located at 0 Beachwood Circle, and is identified as Assessor's Tax Map 45, Lot 1-326 ("Property"). The Property is in the Limited Residential District under the Town of Waterboro Shoreland Zoning Ordinance (the "Ordinance").
3. The applicants have demonstrated a legal interest in the Property by providing a copy of a deed from Harriett F. Land to the applicants, dated October 25, 2017 and recorded at the York County Registry of Deeds in Book 17597, Page 373.
4. The Property is an original lot within the Lake Arrowhead subdivision and has not been divided or altered since its initial creation.
5. The applicants are seeking to construct a single-family dwelling and associated parking area on the Property.

6. The Property is a non-conforming lot of record under Section 12(E)(1) of the Ordinance.
7. Single-family residential dwellings are a permitted use in the Limited Residential District, subject to compliance with all applicable dimensional standards.
8. Under Section 15(B)(1) of the Ordinance, all principal structures, including single-family residential dwellings, must be set back at least 100 feet, horizontal distance, from the normal highwater line of a great pond classified GPA. Lake Arrowhead qualifies as such a great pond.
9. In addition, Section 15(B)(1)(e) of the Ordinance requires that all new principal structures, including single-family residential dwellings, be set back at least 25 feet from a property's front lot line.
10. The applicants are seeking an undue hardship variance from Section 15(B)(1) and Section 15(B)(1)(e) of the Ordinance. Specifically, the applicants are seeking:
 - a. A reduction in the required setback for a principal structure from the normal highwater line of Lake Arrowhead to 80.5 feet (from 100 feet); and
 - b. A reduction in the required setback for a principal structure from a property's front lot line in the Limited Residential District to 20 feet (from 25 feet).
11. On April 10, 2023, the applicants received approval from the Saco River Corridor Commission for a reduction in the required structure setback from the normal highwater line of Lake Arrowhead to 80.5 feet.
12. The applicants submitted a completed application for undue hardship variance appeal to the Town, which included the following documents: (1) the completed application form; (2) a copy of the aforementioned approval from the Saco River Corridor Commission; (3) a HHE-200 subsurface wastewater disposal system application form; and (4) a proposed site plan of the Property.
13. On December 22, 2023, the Maine Department of Environmental Protection ("MDEP"), by and through Jeffrey Kalinich, submitted written comment in response to the applicants' application. That correspondence stated that "if a board of appeals legitimately concludes that an applicant demonstrates undue hardship and there is no alternative location on the parcel for the dwelling to be built where it could meet the minimum setback, then the Department will not challenge the board of appeals decision."
14. The Board also received written comment from Joanne Canane & George Grebin and Jacqueline Timmons. All three individuals are abutting neighbors of the Property and expressed concerns about the effect that further construction in the area would have on the natural environment.
15. The Board held a public hearing on February 22, 2024, with four (4) Board members present – Scott Corey (Chair), Debra Burrows (Acting Vice-Chair), Judi Carll, and Nicholas Fecteau.

16. The applicants appeared through James Baxter, one of the Property's owners, and Matthew Orr, EI of Sebago Technics.
17. The applicants' testimony included the following information regarding the Property:
 - a. When purchased by the applicants, the Property was not listed as a buildable lot. It was purchased as unimproved raw land.
 - b. The majority of the Property lies within the mandated 100-foot setback from Lake Arrowhead, leaving an approximate building envelope of less than 0.1 acres.
 - c. The applicants purchased the Property with the intention of building a small single-family home to which they would eventually retire.
 - d. The location of the proposed single-family home on the Property has been determined to be the least disruptive to the natural environment, because it would require the least amount of tree removal and earthwork adjacent to Lake Arrowhead.
 - e. The physical boundaries of the Property render it unique, as the Property's dimensions are not deep enough to feasibly allow construction to comply with the required minimum setback from Lake Arrowhead.
 - f. Other adjacent property owners own multiple lots within the Lake Arrowhead subdivision, allowing for such lots to be combined in order to meet setbacks. This is not possible in the applicants' case.
 - g. As a non-conforming lot of record, the Property was created prior to the adoption of the Ordinance, and its boundaries have not been altered since its creation.
18. Michael Gilpatrick, the Town's Code Enforcement Officer, provided the Board a general background of this matter, and explained why a variance was necessary in order for him to grant the applicants a building permit for their desired home. Mr. Gilpatrick did not give an opinion on the merits of the variance application itself.
19. No other members of the public or other municipal officers or officials testified in favor or in opposition to the application.

Conclusions of Law

Based on the above stated facts and the Ordinance provisions cited, the Board first concludes that it has jurisdiction over the application. The relevant section of the Ordinance is Section 16(H)(2), which allows the Board to grant undue hardship variances from "dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements," which is consistent with the enabling statute, 30-A M.R.S. § 4353(4).

Based on the evidence presented, the Board next concludes that "the proposed structure or use [a single-family home] would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought," as per Section 16(H)(2)(c)

of the Ordinance, because the applicants are seeking a variance from both the shoreline and front lot line setbacks, which are considered dimensional standards.

The applicants requested two separate variances – one from the minimum setback from the normal highwater line of Lake Arrowhead, and one from the minimum setback from the front lot line. The Board considered both variances separately, and voted on each of the below-mentioned standards separately. However, because both variances are sought for the same structure and because the applicants made a single presentation in support of both variance requests, the Board hereby makes and adopts the following conclusions of law collectively with regard to both variances.

1. That the land in question cannot yield a reasonable return unless a variance is granted.

The Board concludes that the applicants do not meet this standard for the following reasons:

Under Maine law, the “failure to yield a reasonable return means the practical loss of all beneficial use of the land.” *Rowe v. City of South Portland*, 1999 ME 81, ¶ 6, 730 A.2d 673; *see also Bailey v. City of South Portland*, 1998 ME 54, ¶ 6, 707 A.2d 391. An applicant for a variance is not required to provide “[e]conomic proof that no reasonable return is possible” in order to obtain a variance. *Summerwind Cottage, LLC v. Town of Scarborough*, 2013 ME 26, ¶ 16, 61 A.3d 698. However, when an applicant seeks a variance to permit the use of property for residential purposes, it is the applicant’s burden to demonstrate that no other productive non-residential use of the Property is possible. *Toomey v. Town of Frye Island*, 2008 ME 44, ¶ 17, 943 A.2d 563; *Twigg v. Town of Kennebunk*, 662 A.2d 914, 918-19 (Me. 1995) (failure to demonstrate that recreational or other uses of waterfront property were not feasible supported the denial of a variance).

Here, the applicants are proposing to construct a single-family home on the Property. While this may be the highest and best use of the Property, the applicants are required to demonstrate that no other productive use of the Property is available in order to satisfy this standard. Conceivably, the Property could be used for recreational purposes, or for the establishment of an individual private campsite, both of which are permitted within the Limited Residential District and would not require a variance for their establishment. The applicants did not present or discuss these or any other options for the Property, which speaks directly to the burden of proof on an applicant seeking an undue hardship variance. *Cf. Marchi v. Town of Scarborough*, 511 A.2d 1071, 1073 (Me. 1986).

The Board is not persuaded that the applicants have met their burden in demonstrating the lack of a reasonable return in the absence of receiving a variance. Specifically, the applicants’ presentation focused solely on their desire to construct a single-family dwelling on the Property. The applicants provided no information regarding other feasible uses for the Property, nor did they provide any information to substantiate their claim that absent a variance, they would not receive a reasonable return on the Property. Instead, the applicant merely recited the conclusory statement that “[i]f this lot is deemed unbuildable, we will not receive a reasonable return off this property” Unlike *Marchi*, where a similarly-situated applicant provided ample evidence of a lack of beneficial use of their property, the applicants here wholly failed to provide evidence in this regard.

Therefore, the Board concludes that the applicant has not met their burden of proof to show that a variance is necessary in order for the land in question to yield a “reasonable return.”

2. **That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.**

The Board concludes that the applicants met this standard for the following reasons:

The Property and the applicants' situation are unique in the context of the general neighborhood. Specifically, as the applicants testified, the Property is far wider than it is long. This renders the majority of the Property unbuildable, as it lies within the 100-foot setback from the normal highwater line of Lake Arrowhead. Moreover, unlike a number of their adjacent neighbors, the applicants do not own multiple lots within the Lake Arrowhead subdivision, which allowed those property owners to construct single-family homes outside of the required setbacks. This option is not available to the applicants.

Therefore, the Board concludes that the applicants have met their burden of proof to show that the need for a variance is due to the unique circumstances of the neighborhood and not to the general conditions in the neighborhood.

3. **That the granting of a variance will not alter the essential character of the locality.**

The Board concludes that the applicants met this standard for the following reasons:

The granting of the variance would permit the applicants to construct a single-family home on the Property. This use is consistent with those on surrounding lots and will further the character of the locality.

Therefore, the Board concludes that the applicants have met their burden of proof to show that the granting of a variance will not alter the essential character of the locality.

4. **That the hardship is not the result of action taken by the applicant or a prior owner.**

The Board concludes that the applicants have met this standard for the following reasons:

The Property is a nonconforming lot of record that has not been altered since its creation. The Property and its layout were created prior to the adoption of the Ordinance and its required setbacks from Lake Arrowhead. Neither the applicants, nor a previous owner of the Property, affected this in any way.

Therefore, the Board concludes that the applicants have met their burden of proof to show that the hardship is not the result of action taken by the applicant or a prior owner.

Decision

Based on the above findings of fact and conclusions of law, the Zoning Board of Appeals voted four (4) in favor and zero (0) opposed to deny your application for an undue hardship variance as to both the shoreline setback and front lot line setback, as you have not met your burden of proof on each of the four review criteria. The Zoning Board of Appeals authorizes its Chair to sign this Notice of Decision on behalf of the Board. Any parties aggrieved by this decision may file an appeal in the Superior Court within 45 days of the date of the vote on this application, consistent with Rule 80B of the Maine Rules of Civil Procedure.

Date: 2/28/2024 By: Scott M. Corey
Scott Corey, Chair
Waterboro Zoning Board of Appeals

cc: Select Board
Matthew Bors, Town Administrator
Michael Gilpatrick, CEO
Jeffrey Kalinich (MDEP)

State of Maine

County of York

Date February 28, 2024

Personally appeared the above-named Scott Corey and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Angela Chute

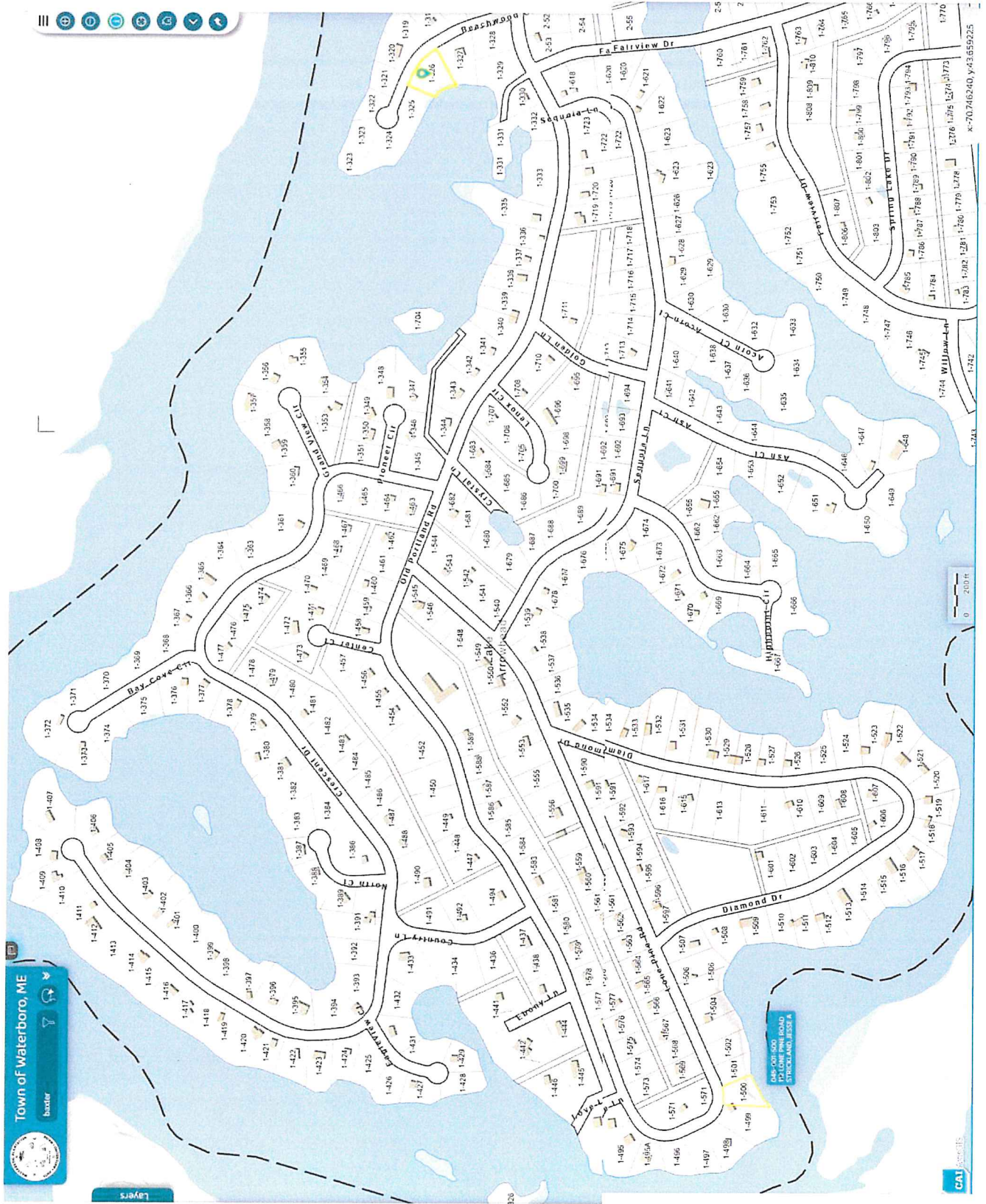
Notary Signature

Angela Chute

Printed Name

My Commission expires October 11, 2026

EXHIBIT E



CURVE DATA

CURVE	$L_{1/2}$	DC	K	Δ	T	L
114	50° 00' 00"	130.95	37° 23' 51"	64.64	124.66	
157	100° 00' 00"	572.95	29° 21' 21"	150.08	293.56	
206	151° 36' 00"	111.04	36° 00' 00"	38.25	75.64	
239	115° 00' 00"	49.82	48° 51' 30"	22.46	42.20	



NOTE: —●— DENOTES IRON PIPE SET.
ALL DIMENSIONS ON CURVES ARE ARC DISTANCES.

APPROVED BY: _____
WATERBORO PLANNING BOARD
 DATE: November 23, 1993

Everett Smith
Andrew C. Woodman

YORK ss. REGISTRY OF DEEDS
 SEP 13 1973

Received FEB 13 1973
at 11:30 A.M. and
Filed in Plot Lock 62 Room 18

Philip F. Deschamps

100

STATE OF MA
OF MA

LINE
WILLIAM
B. PERCE
152

John-Office

OWNED BY
LAKE ARROWHEAD ESTATES
SECTION NO.2

NYO	1' - 50'	3209	24
G.D.R.	APRIL 1971		18
W.D.P.	APRIL 1971		

NYO	1' - 50'	3209	24
G.D.R.	APRIL 1971		18
W.D.P.	APRIL 1971		