

# ITEM 18-023

To consider and act on authorizing the Code Enforcement Officer to execute a Consent Agreement with the owners of 23 Carriage Road

## CONSENT AGREEMENT

This Consent Agreement is entered into on the \_\_\_\_\_ day of \_\_\_\_\_, 2018 by and between **Michael G. Wilson**, who owns property located at 23 Carriage Road, Cumberland, Maine ("Wilson") and the TOWN OF CUMBERLAND, a municipal corporation located in the County of Cumberland and State of Maine (the "Town").

WHEREAS, the Town of Cumberland (the "Town") is a municipal corporation duly organized under the laws of the State of Maine; and

WHEREAS, William Longley is the duly authorized Code Enforcement Officer of the Town and Building Inspector (collectively the "CEO") of the Town authorized under state law to administer and enforce provisions of the Zoning Ordinance of the Town of Cumberland (the "Zoning Ordinance"); and

WHEREAS, since July 25, 2017, Wilson has been the owner of real property located at 23 Carriage Road, Cumberland, Maine, described in a deed from Brian T. Shedlarski and Darcy E. Thoits, recorded at the Cumberland County Registry of Deeds in Book 34185 Page 92, and currently shown on Assessors Map U05 as Lot 27A (the "Premises"); and

WHEREAS, on or about September 5, 1972, the Minat Corporation constructed the currently existing single-family home and attached garage and in 1979 the deck was constructed (the "Improvements"). The Premises is located on approximately 27,007 square feet of land and includes a single family residence with an attached garage and deck; and

WHEREAS, Wilson is in the process of selling the Premises. The anticipated buyers are Heidi Tripp and Celeste Ross; and

WHEREAS, a Mortgage Loan Inspection Plan was prepared by Livingston-Hughes and dated January 29, 2018, reveals an apparent encroachment by the house and the deck of the setback requirement as the house and deck are located within the 20 foot side setback from the boundary line. Attached as Exhibit A is a copy of the Mortgage Loan Inspection Plan showing the aforementioned encroachment; and

WHEREAS, due to misunderstanding and uncertainty concerning the boundaries of the Premises, the Improvements were constructed partially within the applicable building setback; and

WHEREAS, the CEO has investigated this case and has determined that the current location of the Improvements does not result in any significant health, safety or welfare problems; and those portions of the Improvements that may be encroaching into the setback are so integral to the Premises that removal of the Improvements, without harming the integrity of the remaining Improvements, is not feasible; and

Wilson and the Town agree as follows:

1. The Improvements shall be allowed to remain, and be repaired and replaced, in their current locations, but those portions of the Improvements that encroach into any setback shall not be expanded in height, length or width from the now-current configuration.
2. All future improvements to the Premises must be in compliance with the setback requirements of the Town of Cumberland, and all other applicable requirements of the Zoning Ordinance.
3. Wilson agrees to pay the Town's attorney's fees and costs associated in the amount of Five Hundred Dollars (\$500.00). Such payment shall be made payable to the Town of Cumberland.
4. The Town agrees to relinquish its rights to prosecute Wilson, his successors in real property interest, assigns and heirs, for any alleged violation arising from the setback or building permit disputes arising from the construction or location of the Improvements.
5. This Consent Agreement shall be binding upon Wilson, his successors in real property interest, assigns and heirs and it shall be duly recorded by Wilson in the Cumberland County Registry of Deeds within thirty (30) days, with a copy of the recorded instrument to be provided to the CEO.
6. At a meeting of the Town Council on \_\_\_\_\_, 2018, the Town approved this resolution of the alleged zoning violation based upon the terms and conditions set forth in this Agreement and authorizes the CEO to sign this Consent Agreement on behalf of the Town.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the date appearing beside their names below.

Date: \_\_\_\_\_

\_\_\_\_\_  
Michael G. Wilson

**TOWN OF CUMBERLAND**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
William Longley, Its Duly Authorized  
Code Enforcement Officer

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_, 2018

Then personally appeared before me the above-named Michael G. Wilson and  
acknowledged the foregoing instrument to be his free act and deed.

\_\_\_\_\_  
Before me,

Attorney at Law/Notary  
Public Print Name:

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_, 2018

Then personally appeared before me the above-named WILLIAM LONGLEY, CODE  
ENFORCEMENT OFFICER OF THE TOWN OF CUMBERLAND, and acknowledged the  
foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the  
Town of Cumberland.

\_\_\_\_\_  
Before me,

Attorney-at-law/Notary Public  
Print Name:

# THIS IS NOT A BOUNDARY SURVEY

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MORTGAGE INSPECTION OF: DEED BOOK 34185 PAGE 92 COUNTY Cumberland  
 PLAN BOOK 70 PAGE 9 LOT 34

ADDRESS: 23 Carriage Road, Cumberland, Maine

Job Number: 964-55

Buyers: Heidi Tripp & Celeste Ross

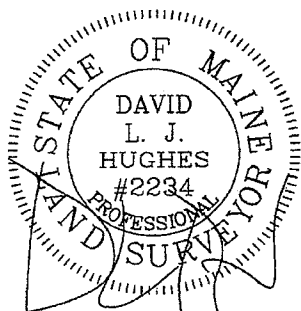
Inspection Date: 1-29-18

Seller: Michael Wilson

Scale: 1" = 40'

Client File #: 18-0521

Note: Some detail may be lost due to heavy snow cover.



I HEREBY CERTIFY TO: C.H. McLaughlin Title Co, LLC; Residential Mortgage Services and its title insurer.

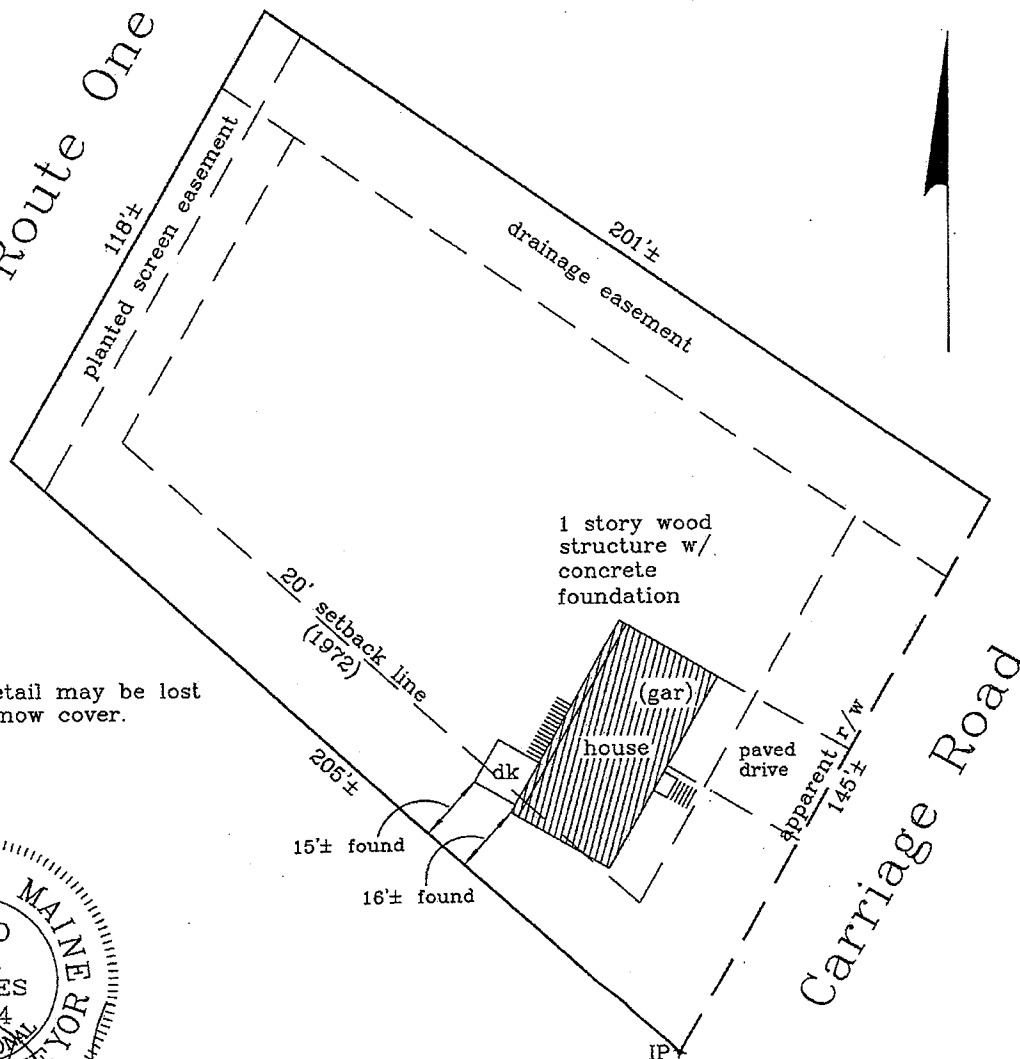
The dwelling setbacks do ~~not~~ violate town zoning requirements.

As delineated on the Federal Emergency Management Agency Community Panel 230162-0018 C :

The structure does not fall within the special flood hazard zone.

The land does not fall within the special flood hazard zone.

A wetlands study has not been performed.



APPARENT EASEMENTS AND RIGHTS OF WAY ARE SHOWN. OTHER ENCUMBRANCES, RECORDED OR NOT, MAY EXIST. THIS SKETCH WILL NOT REVEAL ABUTTING DEED CONFLICTS, IF ANY.

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**Livingston-Hughes**

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THIS SKETCH IS FOR MORTGAGE PURPOSES ONLY