



TOWN OF CAPE ELIZABETH

PUBLIC WORKS DEPARTMENT

10 COOPER DRIVE
CAPE ELIZABETH, MAINE 04107

ROBERT C. MALLEY
PUBLIC WORKS DIRECTOR
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FAX 799-4426
E-MAIL: robertmalley@capeelizabeth.org

To: Matthew Sturgis, Town Manager

From: Robert C. Malley, Director of Public Works 

Date: March 11, 2019

Re: Easement Deed from Maxwell Cove, LLC

I have been working with James Cox, who is a partner in Maxwell Cove, LLC. They are applying for a Private Accessway for the property located 51 Ocean House Road. The former residence succumbed to a fire and was torn down last year.

In the process of creating a site plan for the project, it was determined that an existing public sewer line easement appears to encroach on the southerly corner of the parcel according to the survey done by Statewide Surveys, Inc. The sewer was installed in 1975 as part of the Northern Cape Sewer Project which I'm assuming is after the creation of the lot.

I asked the applicant to provide a description of the proposed easement that would be conveyed to the Town of Cape Elizabeth from Maxwell Cove, LLC. The Town Attorney has reviewed the language and has formatted it to meet our usual requirements. Mr. Cox has signed the easement deed on behalf of Maxwell Cove, LLC so it is now ready for consideration by the Town Council.

Cc: Debra Lane, Asst. Town Manager
James Cox, Maxwell Cove, LLC

EASEMENT DEED

MAXWELL COVE, LLC, a Maine limited liability company with a principal place of business in Cape Elizabeth, County of Cumberland, and State of Maine, for consideration paid, grants to THE TOWN OF CAPE ELIZABETH, a municipal body corporate and politic situated in the County of Cumberland and State of Maine, with a mailing address of 320 Ocean House Road, P.O. Box 6260, Cape Elizabeth, Maine 04107, its successors and assigns, with Warranty Covenants, the perpetual right and easement to enter at any and all times for the purposes outlined hereinafter on Schedule A, upon a certain lot or parcel of land situated easterly of, but not adjacent to Spurwink Avenue, in the Town of Cape Elizabeth, County of Cumberland and State of Maine, as more particularly bounded and described on **Schedule A** attached hereto and made a part hereof, within which parcel a town collector sewer line is located.

IN WITNESS WHEREOF, MAXWELL COVE, LLC has caused this instrument to be signed this 23rd day of February, 2019, by James C. Cox, its Member, thereunto duly authorized.

MAXWELL COVE, LLC

[Signature]
By: James Cox
Its: Member

Witness

Alaska
STATE OF MAINE
Alaska
CUMBERLAND, SS.
Municipality of Unalaska

February 23, 2019

Then personally appeared the above-named James Cox, in his/her capacity as Member of Maxwell Cove, LLC, and acknowledged the foregoing instrument to be his/her free act and deed in said capacity, and the free act and deed of said limited liability company.



Before me,

AnnaMarie V. Ammons
Notary Public/Attorney at Law

AnnaMarie V. Ammons
Printed Name

SCHEDULE A

The Town of Cape Elizabeth, its successors and assigns forever, are hereby granted the perpetual right and easement to enter at any and all times upon a certain lot or parcel of land situated easterly of, but not adjacent to, Spurwink Avenue, in the Town of Cape Elizabeth, County of Cumberland and State of Maine, within which parcel a town collector sewer line is located, more particularly bounded and described as follows:

Beginning at the southerly corner of land of Maxwell Cove, LLC as shown on "Boundary and Topographic Survey at 51 Ocean House Road made for record owner: Maxwell Cove, LLC " dated January 2019 by Statewide Surveys, Inc.;

Thence, N 39°44' 59" W along land now or formerly of Barker as described in deed recorded in the Cumberland County Registry of Deeds in Book 18081, Page 194, a distance of 11.96 feet;

Thence, S 75°11'41" E across land of said Maxwell Cove, LLC 14.93 feet to land now or formerly of Rosendo as described in deed recorded in said Registry in Book 34751, Page 46;

Thence, S 51°33'33" W along land of said Rosendo 8.66 feet to the point of beginning, containing 52 square feet more or less.

Being over a portion of the property conveyed to the Grantor herein by Deed from Lauren C. Long dated September 19, 2018, recorded in the Cumberland County Registry of Deeds in Book 35155, Page 313.

Together with the right to construct and perpetually maintain through and across said parcel conduits or pipe lines for conveying water and sewage and to lay, relay and repair, maintain and remove water and sewage pipe or pipes upon or under said parcel with all necessary fixtures or appurtenances, together with the right at all times to make connections with said conduits or pipe lines to land adjoining said parcel by means of pipes or services, to install electric or other energized control lines and appurtenances upon or under said parcel; to use the soil in said parcel to such extent as may be needed to embank said pipes to a cover of not less than 3 ½ feet over and around said pipes in case ledge shall be found near the surface of the ground; to trim, cut down and remove bushes and trees and to remove grass and crops growing on said parcel to such extent as in the judgment of the Grantee is necessary for any of the above purposes; PROVIDED THAT the Grantee, its successors and assigns, shall upon completion of construction, repair or maintenance of a sewer line within the above described parcel restore the surface of the ground to substantially its former condition, subject to any applicable agreement between the Grantor and the Grantee, and following any subsequent entry and disturbance of the ground shall restore the surface and its cover to their conditions consistent with the terms of this easement prior to such entry.

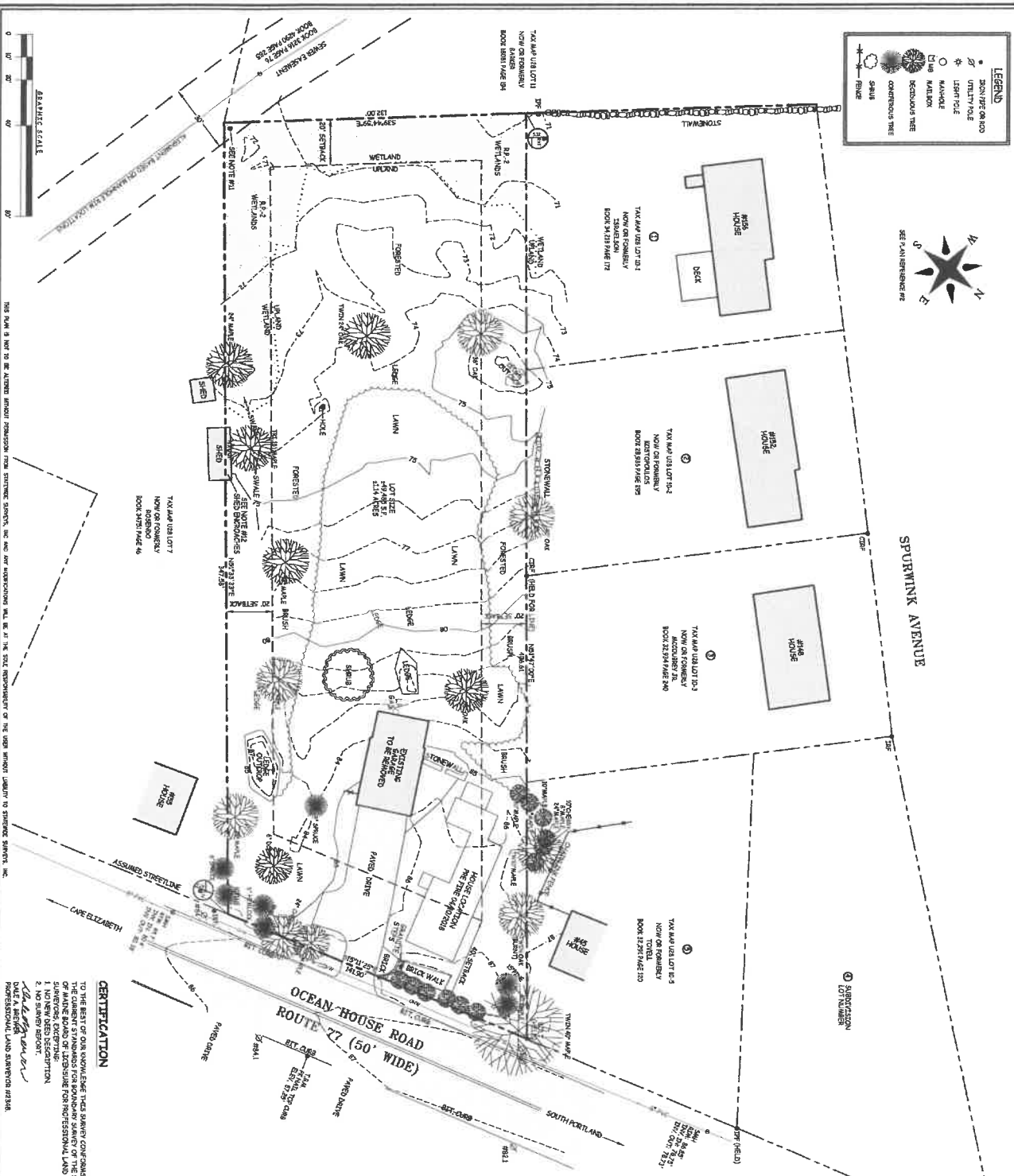
RESERVING to the Grantor, its successors and assigns, the use and enjoyment of said parcel for such purposes only as will in no way interfere with the perpetual use thereof by the Grantee, its successors and assigns, for the purposes above mentioned, provided that no building or any kind of permanent structure will be erected on said parcel by the Grantor, its successors and assigns, and that the Grantor, its successors and assigns shall not remove earth from said parcel or place fill thereon, without the written permission of the Grantee, which permission shall not be unreasonably withheld.

LEGEND

- 300 TYPE OR L&O
- UTILITY POLE
- LIGHT POLE
- MANHOLE
- MAILBOX
- DECIDUOUS TREE
- CONIFEROUS TREE
- SPREAD
- FINISH



SPURWINK AVENUE



THIS PLAN IS INTENT TO BE A REFERENCE WITHOUT PRESCRIPTION FROM STONEMANTON, INC. AND ANY AMENDMENTS WILL BE AT THE SOLE RESPONSIBILITY OF THE USER WITHOUT LIABILITY TO STONEMANTON, INC.

CERTIFICATION

TO THE BEST OF OUR KNOWLEDGE THIS SURVEY COMPLIES WITH THE REQUIREMENTS OF THE MASSACHUSETTS REGISTERED PROFESSIONAL LAND SURVEYORS ACT AND THE MASSACHUSETTS BOARD OF LAND SURVEYING AND MAPPING. WE HEREBY CERTIFY THAT WE ARE REGISTERED PROFESSIONAL LAND SURVEYORS AND THAT WE HAVE NOT BEEN DEBARRED FROM PRACTICE BY THE BOARD.

[Signature]
DATE: 10/15/2017
PROFESSIONAL LAND SURVEYOR #23296

SURVEY NOTES

1. THE OWNERS OF RECORD, MAXWELL COVE, LLC BOOK 6332 PAGE 18A.
2. THE PROPERTY IS LOCATED IN THE RESIDENTIAL "C" DISTRICT (R.C. ZONE). SETBACKS MINIMUM FRONTAGE: 100 FEET
3. FRONT SETBACK: 80 FEET
4. SIDE SETBACK: 20 FEET
5. REAR SETBACK: 20 FEET
6. ANY UTILITIES SHOWN SHOULD BE CONSIDERED APPROXIMATE UNLESS CONFIRMED BY THE UTILITY. WE RECOMMENDED THAT SITE UTILITIES BE MARKED AND CONFIRMED IN THE FIELD BY THE APPLICANT'S UTILITY COMPANIES.
7. ELEVATIONS ARE BASED ON NAD 83 DATUM.
8. LOT AREA: 44,448 SQUARE FEET (1.018 ACRES).
9. THIS SURVEY WAS PERFORMED UNDER WINTER CONDITIONS OF SNOW AND ICE.
10. THE WETLANDS SHOWN WERE DETERMINED TO MEET THE TOWN'S REQUIREMENTS FOR THE SWAMP EASEMENT RIGHT OF WAY APPEALS TO EXTEND ONTO THE SUBJECT PROPERTY. THE EASEMENT LINES WERE ESTABLISHED USING THE MANICLED METHOD. TO BE SURE, THE APPLICANT SHOULD BE SENSITIVE TO THE PROPERTY LINE. WE SUGGEST A BOUNDARY AGREEMENT WITH THE ADJACENT TO THIS LINE.

PLAN REFERENCES

1. PLAN OF LAND IN CAPE ELIZABETH, MADE OWNED BY FRIENDS W. SPANDE
2. BY E. JOSSAN HARRINGTON DATED SEPTEMBER 1910
3. BY E. E. GORDON HARRINGTON DATED OCTOBER 1914
4. C.D. & J.M. BOOK 48 PAGE 9
5. PLAN OF PROPERTY IN CAPE ELIZABETH, MADE MADE FOR JOHN J. WHEATZ
6. BY E. J. BURNETT DATED FEBRUARY 1914
7. STATE OF MAINE DEPT. OF TRANSPORTATION RIGHT OF WAY MAP STATE AND HIGHWAY I IN CAPE ELIZABETH, MAINE FEDERAL AID PROJECT NO. A-20790
8. STATE OF MAINE DEPT. OF TRANSPORTATION RIGHT OF WAY MAP STATE AND HIGHWAY I IN CAPE ELIZABETH, MAINE FEDERAL AID PROJECT NO. A-20790
9. LOT 7800 SHEET 1, DATED MARCH 1962, MADE SANITARY
10. COLLECTION SHEET 875 TAKEN BY HUNTER SMITH ASSOCIATES DATED MARCH 21, 1971
11. TO BE AMONGST OTHERS COUNTY GENERAL TOWN OF CAPE ELIZABETH, MAINE SANITARY COLLECTION SERVICE SYSTEM BY UNIVERSALITY ASSOCIATES DATED MAY 12, 1971
12. PLAN OF LAND OF THE STATE OF MA. HARRINGTON ONE ELIZABETH, MA. BY E. J. BURNETT DATED FEBRUARY 1914
13. MADE STATE HIGHWAY COMMISSION RIGHT OF WAY STATE AND HIGHWAY I IN CAPE ELIZABETH, MAINE FEDERAL AID PROJECT NO. A-20790
14. NOT COPY ELIZABETH, MAINE STATE AND HIGHWAY I IN CAPE ELIZABETH, MAINE FEDERAL AID PROJECT NO. A-20790
15. FOR AN ASSUMED ROAD CROSS SECTION, SEE BY UNIVERSALITY ASSOCIATES DATED JULY 2017 RECORDED IN C.D. & J.M. BOOK 318 PAGE 1.



BOUNDARY & TOPOGRAPHIC SURVEY
OF
#51 OCEAN HOUSE ROAD

MADE FOR RECORD OWNER:
MAXWELL COVE, LLC

1146 SPURWINK ROAD CAPE ELIZABETH, MAINE 04847

SURVEYED BY:
STONEMANTON, INC.

1146 SPURWINK ROAD CAPE ELIZABETH, MAINE 04847
PHONE (603) 951-4800
DATE: 10/15/2017

DATE:	10/15/2017	JOB #:	1146
THICKED BY:	ESJ	SCALE:	AS SHOWN
FILED FOR:	498	DATE:	10/15/2017