

Memo

To: Cape Elizabeth Town Council
From: Matthew E Sturgis, Town Manager
CC: File
Date: September 24, 2019
Re: 21 Ivie Road tax acquired parcel

21 Ivie Road is a single family home owned by Julie Halter and her husband, Dr. Jeffrey Halter. The Halter's had their property surveyed in August. As a result of the survey they learned that a section of land considered part of their back yard was actually a small parcel owned by the Town. Dr. and Mrs. Halter contacted the Town's Assessor, Clinton Swett and shared their survey information with him (attached) and began an inquiry as to the process to acquire this parcel from the Town. The Halter's then contacted me to begin the process of acquisition.

Investigation into the history of this orphan parcel indicates that this small parcel of land is an orphan lot foreclosed upon for non-payment of taxes in July 1958. The parcel was identified in the Town's tax lien as "part of Lot 101", recorded in Book 2418 Page 462 at the Cumberland County Registry of Deeds (attached).

Review of the Town's open space inventory and Greenbelt shows there are no links to this parcel, and I have reviewed the parcel with the Town Planner, Maureen O'Meara, and find that this is not a critical parcel to hold.

On September 16, 2019 Public Works Director Robert Malley and I went to 21 Ivie Road to review the parcel with Dr. and Mrs. Halter. Our field inspection revealed the parcel has no drainage elements, nor any other Town infrastructure installation. The small parcel did have a ledge outcropping in it, and it is fully incorporated as side / rear yard for 21 Ivie Road. As a result of the field inspection, our conclusion is there are no Town infrastructure needs that require this parcel be held.

After performing these reviews, discussing the parcel with staff, and reviewing the parcel with Dr. and Mrs. Halter, the recommendation is to convey the parcel to the Halters. My conversation with Dr. and Mrs. Halter indicated that they are willing to pay the legal expenses for conveying this property from to them in exchange for the parcel via a municipal quit claim deed.

The suggested motion if the council chooses to convey this parcel would be "The Cape Elizabeth Town Council authorizes the Town Manager to convey the land parcel identified as Map U04 Lot 22 to Julie Halter via a Municipal Quit Claim Deed, with all legal expenses related to the transaction to be paid by Dr. and Mrs. Halter".



Matthew Sturgis <matthew.sturgis@capeelizabeth.org>

21 Ivie Rd

Jeffrey Halter <HALTEJ@mmc.org>

To: "matthew.sturgis@capeelizabeth.org" <matthew.sturgis@capeelizabeth.org>

Thu, Sep 19, 2019 at 2:53 PM

Matt,

Was emailing you for follow-up regarding your visit to our property at 21 Ivie Road earlier this week, and wanted to request that the parcel enclosed within the confines of our backyard be added to the agenda for the next town council meeting in October to be discussed for quit claim deed or appropriate action to grant ownership to us. Sorry if I phrased that wrong, and thanks.

Jeff

Jeffrey M Halter MD
Pediatric Surgery
Maine Medical Center

----- Original Message -----

Subject: Fwd: 21 Ivie Rd

From: Clinton Swett <clinton.swett@capeelizabeth.org>

Date: Aug 27, 2019, 2:37 PM

To: Jeffrey Halter <HALTEJ@mmc.org>

This message originated outside of MaineHealth. Use caution when opening attachments, clicking links or responding to requests for information.

...here is the stream....

[<https://drive.google.com/a/capeelizabeth.org/uc?id=0B5EGWXj9Oh78U1Q1OFI4d3ZMekk&export=download>]

Clinton Swett, Tax Assessor

E911 Addressing Officer & Census Coordinator

Town of Cape Elizabeth, Maine

(207) 799-1619

----- Forwarded message -----

From: Clinton Swett <clinton.swett@capeelizabeth.org<mailto:clinton.swett@capeelizabeth.org>>

Date: Mon, Aug 19, 2019 at 10:54 AM

Subject: 21 Ivie Rd

To: Matthew Sturgis <matthew.sturgis@capeelizabeth.org<mailto:matthew.sturgis@capeelizabeth.org>>, Robert Malley <robert.malley@capeelizabeth.org<mailto:robert.malley@capeelizabeth.org>>, Maureen O'Meara <maureen.omeara@capeelizabeth.org<mailto:maureen.omeara@capeelizabeth.org>>

Greetings Matt, Robert and Maureen,

Last week, new property owner Jeffrey Halter of 21 Ivie Rd came into the Assessing/Codes area to discuss the Town owned piece of property at U04-22 (which is in the back yard of his new home).

He had his parcel surveyed by Owen Haskell Inc. (see enclosed letter) and they are asking if the Town would consider a quitclaim deed on this parcel. With the help of Maureen, I was able to find where the town acquired a piece of Lot #101 back in 1958.

Maureen seemed to remember that we might've been using this parcel for drainage and that I should ask Bob Malley about it, that's why he's included on this email stream.

If the parcel is NOT used for any public works/sewer/drainage, what would be the procedure to accommodate this request?

[<https://drive.google.com/a/capeelizabeth.org/uc?id=0B5EGWXj9Oh78U1Q1OFI4d3ZMekk&export=download>]

Clinton Swett, Tax Assessor

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21-ivie-TOWN-OWNED-LOT.pdf
582K



OWEN HASKELL, INC.

PROFESSIONAL LAND SURVEYORS
390 U.S. ROUTE ONE, UNIT 10 FALMOUTH, MAINE 04105

Matt Sturgess
Ben McDougall / Cole Fentress

August 7, 2019

Mr. Jeffrey Haller
21 Mie Rd.
Cape Elizabeth, ME 04107

1. J. Sweet Assessor
Maureen O'Mara Town
Playor

RE: Surveyors Report

Dear Jeffrey,

Owen Haskell, Inc. completed a boundary survey at your property located at 21 Mie Road in Cape Elizabeth, Maine. This survey was particularly complicated due to:

1. The subdivision plan called for in the deeds shows no markers or bearings.
2. The plans by Cummings in the files of E.C. Jordan Co. for the same subdivision have different lot dimensions.
3. Most of the deeds are not tied to the lots as shown on the recorded subdivision plan and those deeds do not have any bearings.
4. Very few of the markers called for in the deeds were found.

We recommend trying to get a quit claim deed from the Town of Cape Elizabeth for the small parcel (1,210 S.F.) of land claimed by the town along your southerly boundary. We believe that this parcel of land is a "remainder" piece of the original developer's property that was erroneously left out of the conveying deeds and has been claimed by the Town presumably for unpaid taxes. I spoke with the Town Assessor who also could not find a deed for this parcel.

We also recommend that you and your southerly neighbor, Christopher P. & Traci R. Vaine Tax Map U04 Lot 21, agree to and record a boundary line agreement to establish your common boundary line. During our research we were unable to accurately determine the common line between what the Town owns and the Vaine property.

The northwesterly corner of your property falls in your westerly neighbors, Paul and Sarah Muscat Tax Map U04 Lot 99, driveway. The Muscats also own the property to your north and may not have known the exact limit of your property at the time the driveway was built. Due to the length of time the driveway has existed they may have a prescriptive right to continue to use and maintain the driveway in its current location. We recommend you speak to a real estate attorney to discuss this situation.

(To be recorded in Registry of Deeds)

TAX COLLECTOR'S LIEN CERTIFICATE (Revised Statutes of Maine for 1964, Chap. 91A, Secs. 88 and 89, as amended)

NOTE: This certificate must be recorded in the Registry of Deeds of the county or registry district where said real estate is situated. After the expiration of eight months and within one year after the date of commencement of the tax, the recording officer may or may not file a notice of sale (Form No. 7071) and after the expiration of that ten-day notice and within ten days after said expiration, Collector records this certificate in said Registry.

State of Maine

Harry E Baker Co to C Elizabeth Town of Lien

Quitclaim Book 2453 Page 106

Quitclaim Book 2615 Page 461

Quitclaim Book 3289 Page 99

I, Ruth W. Bean, Tax Collector of the Municipality of Cape Elizabeth, in the County of Cumberland, said taxes having been duly and legally committed to me for collection on the first day of August, 1957, hereby certify that a tax of ninety-nine dollars and twenty-eight cents, duly and legally assessed to real estate in said Municipality, and assessed against HARRY E. BAKER CO., a Maine Corporation, of Cape Elizabeth, Maine, as owner-tenant in possession thereof, said real estate being bounded and described as follows:

Part of Lot 101, Part of Lot 97, Part of Lot 98, Part of Lot 99, Parts of Lots 92-104-105, as per Plan of Cape Cottage Woods, recorded in Cumberland County Registry of Deeds; Lots 73A-84-84A-85-85A, Part of Lot 83A, as per Plan of Mountain View Park Extension, recorded in Cumberland Registry of Deeds; Parts of Lots 37-39-40-41-42-43-47-48-51-56-55-33, as per Plan of Oakhurst Park recorded in Cumberland Registry of Deeds.

together with interest of four dollars and forty-seven cents, which has been added to and become a part of said tax, and also one dollar to this officer for making the demand, a total of one hundred-four dollars and seventy-five cents, remains unpaid; that a lien is claimed on said real estate, above described, to secure the payment of the said tax; that a demand for payment of said tax has been made of the said Harry E. Baker Co.

at which time and place the said tax was demanded, and by my sending by registered mail to his last known place of abode at Cape Elizabeth, Maine on the twenty-fifth day of June, 1958, a notice in writing signed by me stating the amount of said tax, describing the real estate on which said tax is assessed, alleging that a lien is claimed on said real estate to secure the payment of said tax, and demanding payment of said tax and costs within 10 days after mailing of said notice, in accordance with the provisions of Chapter 91A, Sections 88 and 89, of the Revised Statutes of Maine for 1964, as amended.

Additional Costs: Filing, Recording and \$4.00 Discharging Lien, \$2.00 Registered Mail, true copies, \$....

Ruth W. Bean Tax Collector

Total \$4.00

Municipality of Cape Elizabeth, Maine STATE OF MAINE

Cumberland, July 7, 1958

Then personally appeared the above subscribed Ruth W. Bean, Tax Collector, and acknowledged the foregoing instrument to be his free act and deed in his said capacity.

Before me, Harriet W. Hopkins Justice of the Peace Notary Public

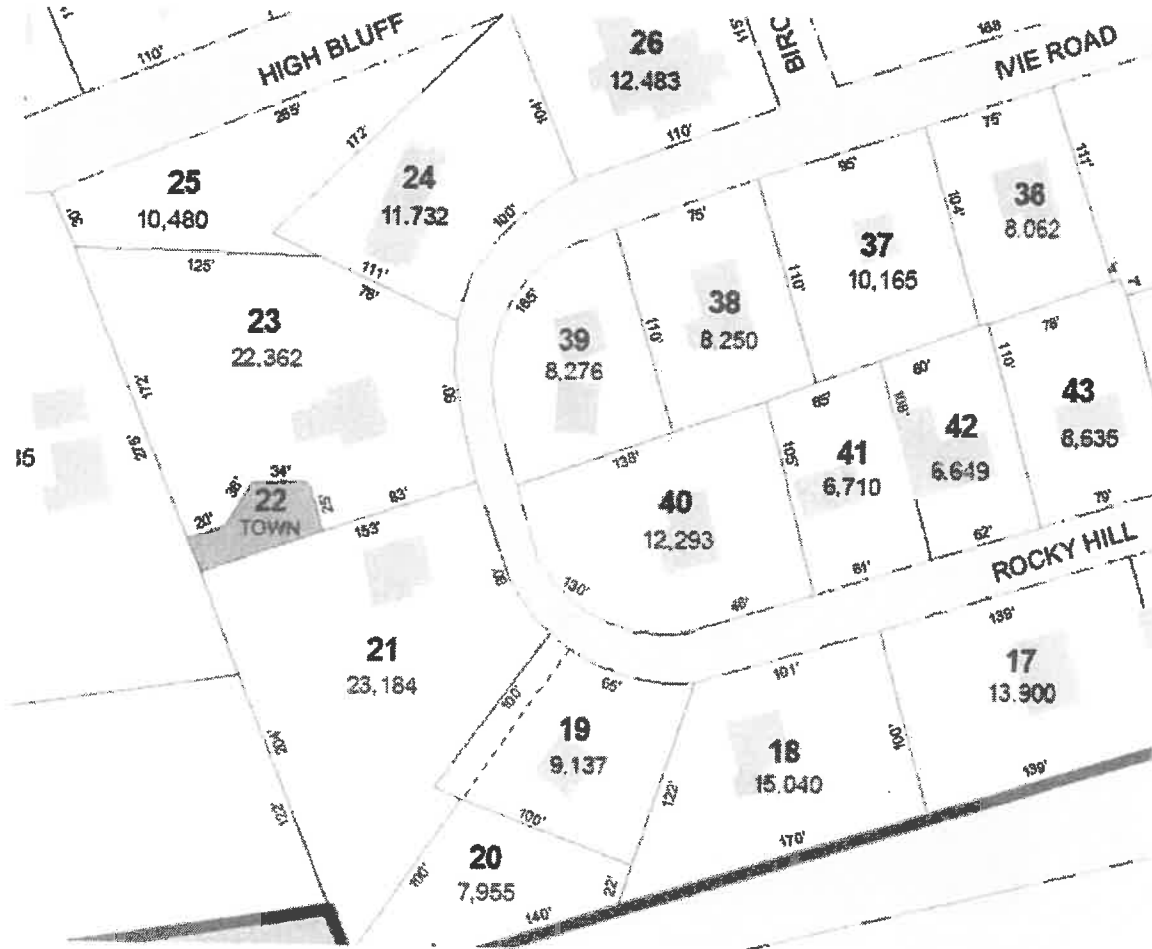
REGISTRY OF DEEDS, CUMBERLAND COUNTY, MAINE Received at 11 H M, and recorded in Jul 8 1958 BOOK 2418 PAGE 462 George J. Phillips Registrar

*Strike out "tenant in possession" where assessed to "owner" and vice versa. **If an owner or tenant in possession of real estate to whom said real estate is taxed shall die before such demand is made on him, such demand may be made upon the executor or administrator of his estate or upon any of his heirs or devisees. R. S. Chap. 91A, Sec. 88 as amended.

†If Municipality did not vote interest, strike out text between daggers. R. S., Chapter 91A, Section 81, as amended. ‡Where served, strike out (mailing) and vice versa.

NOTE: When the undivided real estate of a deceased person has been assessed to his heirs or devisees without designating any of them by name, it will be sufficient to record in said registry this certificate in the name of the heirs or the devisees of said decedent without designating them by name, BUT THE HEIRS OR DEVISEES MUST FIRST HAVE NOTICE IN HAND, BY ABBOD OR BY MAIL.

SUGGESTION TO COLLECTOR: Make written record of time of service of Tax Collector's Notice No. 7070, and of recording No. 7072 in Registry of Deeds, and of filing No. 7074 with Municipality Treasurer, and of mailing No. 7076 by registered mail to Mortgage Holders and of mailing No. 7078 by registered mail to each unassessed Record Owner. If copies are made and filed as on each copy, you will have useful record of compliance with the Statutes.

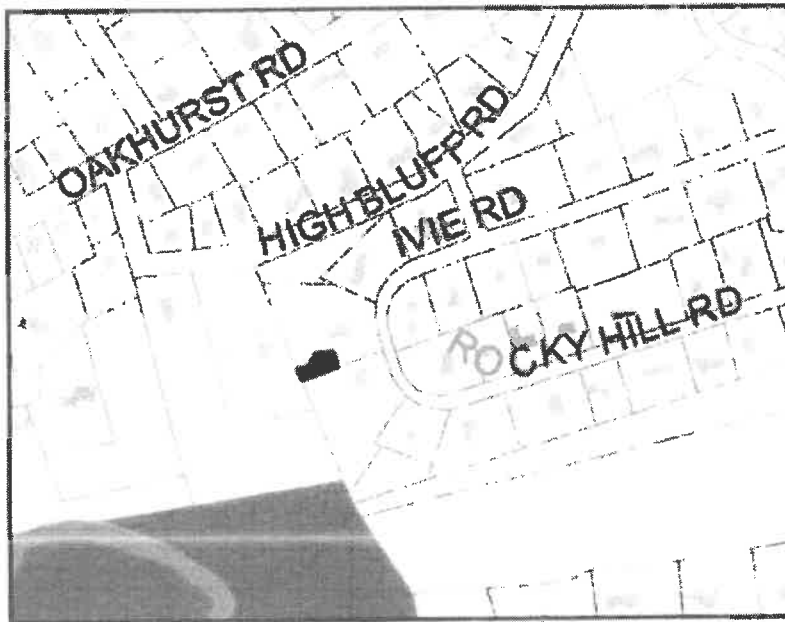


MAP/LOT U04-022 is TOWN property, believed to have been taken for taxes in 1958.

Name: Ivie Rd lot

Fee owner: Town of Cape Elizabeth

Location (Map/Lot): The tiny lot is located at the back of a lot located on Ivie Rd. It has no road frontage (U4-22)



Date of Town Ownership: 1958

Type of acquisition: Tax acquired

Deed restrictions summary: None

Public Access location: None

Street Map Grid reference: A3

Physical characteristics: The lot is 2,184 sq. ft. (.05 acres) and wooded.

Improvements: None

Open Space: Unknown