

NOTES

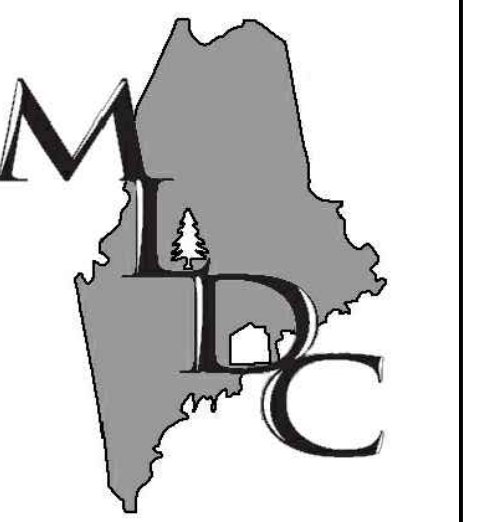
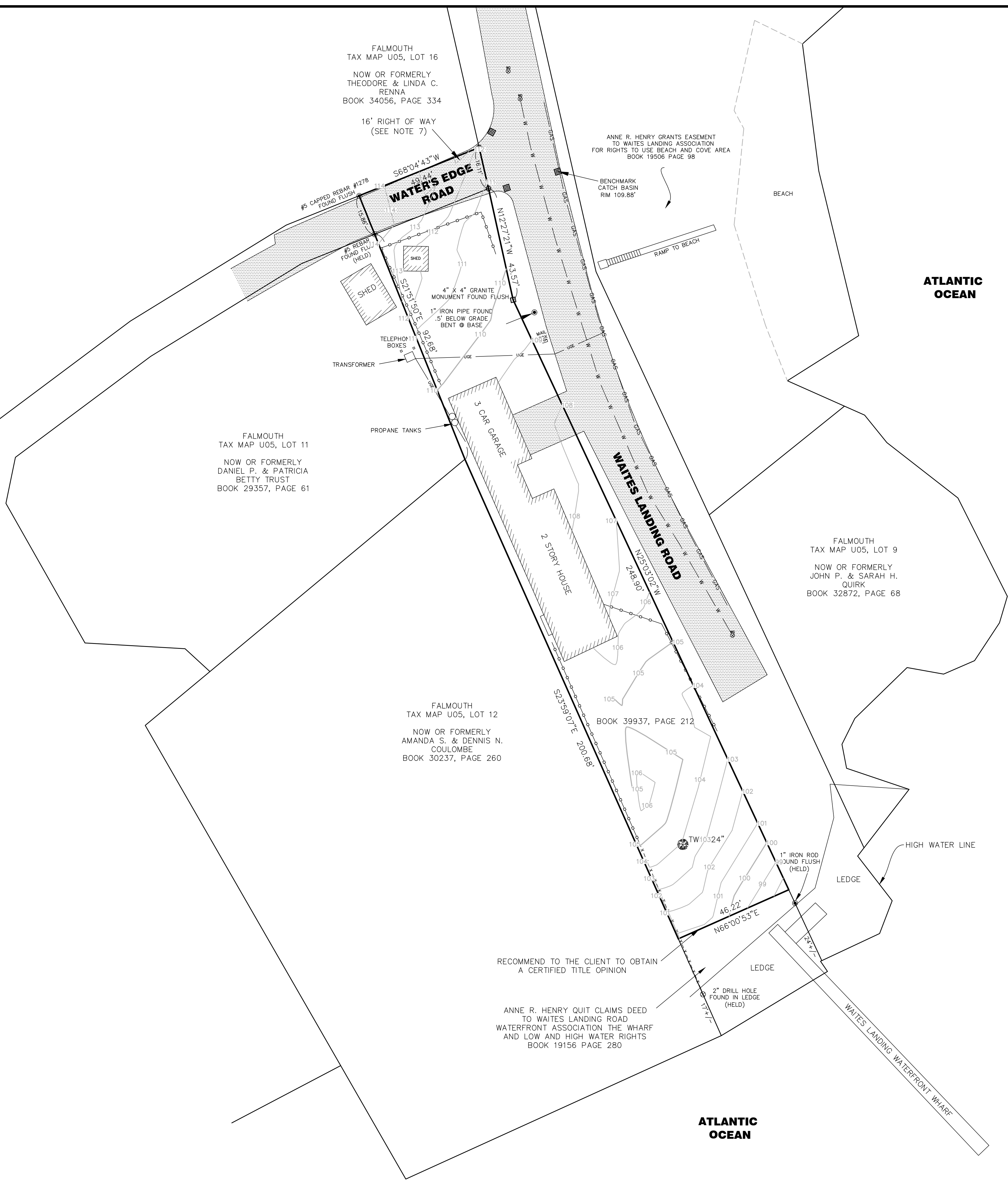
1. ALL BEARINGS ARE REFERENCED TO MAGNETIC NORTH 2023 AND BASED ON COMPASS READINGS ALONG THE TRAVERSE LINES.
2. TOWN OF FALMOUTH: TAX MAP U05, LOT 10.
3. OWNER OF RECORD AT TIME OF SURVEY: NICHOLAS JEREMY DAVID KEEN, NIGEL ROBERT GUY KEEN, ALISON JANE FELICITY KEEN AND CHARLOTTE GEMMA LOUISE BRENNAN AS RECORDED IN BOOK 39937, PAGE 212.
4. TOTAL AREA: 0.31 ACRES, MORE OR LESS.
5. ALL BOOK AND PAGES REFER TO THE CUMBERLAND COUNTY REGISTRY OF DEEDS.
6. NO APPARENT ENCROACHMENTS WERE OBSERVED AT TIME OF SURVEY.
7. INDENTURE BETWEEN JOHN MARSHALL BROWN COMPANY, LOUIS BERSTEIN AND VIOLETTE L. BERRY TO CHANGE RIGHT OF WAY FROM 10' IN WIDTH TO 16' IN WIDTH RECORDED IN BOOK 1847 PAGE 281, DATED SEPTEMBER 17, 1946.
8. THE LOCATION OF UNDERGROUND UTILITIES IS APPROXIMATE AND IS BASED UPON ABOVE GROUND FEATURES. MAIN-LAND RECOMMENDS THE USE OF DIG SAFE OR OTHER ENTITIES TO MARK ANY UNDERGROUND UTILITIES PRIOR TO THE BEGINNING OF ANY CONSTRUCTION.
9. ELEVATIONS AND CONTOURS ARE ASSUMED.

PLAN REFERENCES

1. "STANDARD BOUNDARY SURVEY", DATED AUGUST 27, 2014 MADE FOR HUGH & PATRICIA ROBINSON BY TITCOMB ASSOCIATES, SURVEYED BY LITTLE RIVER SURVEYING AND RECORDED IN PLAN BOOK 214 PAGE 383 ON SEPTEMBER 26, 2014.
2. "CONDOMINIUM PLAT WATER'S EDGE CONDOMINIUM" DATED AUGUST 11, 2020 MADE FOR JUFRAUN CORPORATION, BY TITCOMB ASSOCIATES AND RECORDED IN PLAN BOOK 220 PAGE 324 ON SEPTEMBER 28, 2020.
3. "PLAN OF A PORTION OF WAITE'S LANDING ROAD IN THE TOWN OF FALMOUTH AS REDEFINED BY THE COMMISSIONERS OF CUMBERLAND COUNTY FOLLOWING THE HEARING ON SAME" DATED OCTOBER 20, 1980 BY H.J. & E.C. JORDAN.

LEGEND

- EXISTING IRON PIPE, ROD, OR REBAR, AS NOTED
- 5/8 REBAR CAPPED, "PLS 2282"
- MONUMENT
- ⊙ DECIDUOUS TREE
- ⊕ CATCH BASIN
- ⊗ WATER GATE
- ⊙ DRILL HOLE
- BOUNDARY LINE (SURVEYED)
- - - ABUTTING BOUNDARY LINES (APPROX.)
- x - x - x - x - x - WIRE FENCE
- o - o - o - o - o - WOODEN FENCE
- - - GAS GAS LINE (APPROX.)
- - - W WATER MAIN (APPROX.)
- - - BUILDING SETBACK
- 490 - MAJOR CONTOUR LINE
- - - MINOR CONTOUR LINE
- X 495.3' SPOT GRADE
- ▨ PAVEMENT

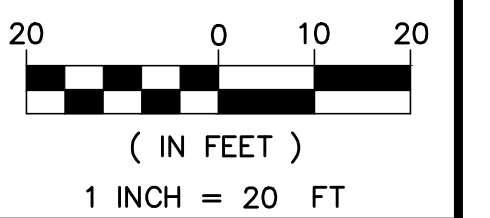


PLAN SHOWING A  
STANDARD BOUNDARY SURVEY FOR  
NICHOLAS JEREMY  
DAVID KEEN, NIGEL  
ROBERT GUY KEEN,  
ALISON JANE  
FELICITY KEEN,  
CHARLOTTE GEMMA  
LOUISE BRENNAN  
91 WAITE'S LANDING ROAD  
FALMOUTH, MAINE 04105

OWNER OF RECORD  
NICHOLAS JEREMY  
DAVID KEEN, NIGEL  
ROBERT GUY KEEN,  
ALISON JANE  
FELICITY KEEN,  
CHARLOTTE GEMMA  
LOUISE BRENNAN  
91 WAITE'S LANDING ROAD  
FALMOUTH, MAINE 04105

MADE FOR  
NICHOLAS JEREMY  
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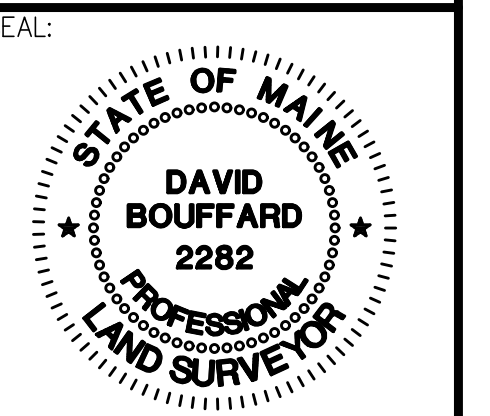
DRAWING SCALE:



REVISION NOTES:

PROJ. MGR: DB  
DRAWN BY: KCC  
CHECKED BY: DB  
REVISION NO. N/A  
SURVEY DATE: 2023-04-07  
SUBMISSION DATE: 2023-04-25  
SUBMITTED FOR: FINAL

**STANDARD  
BOUNDARY  
SURVEY**



DAVID BOUFFARD PLS 2282  
DRAWING NO.

**S1.1**

**NOTES**

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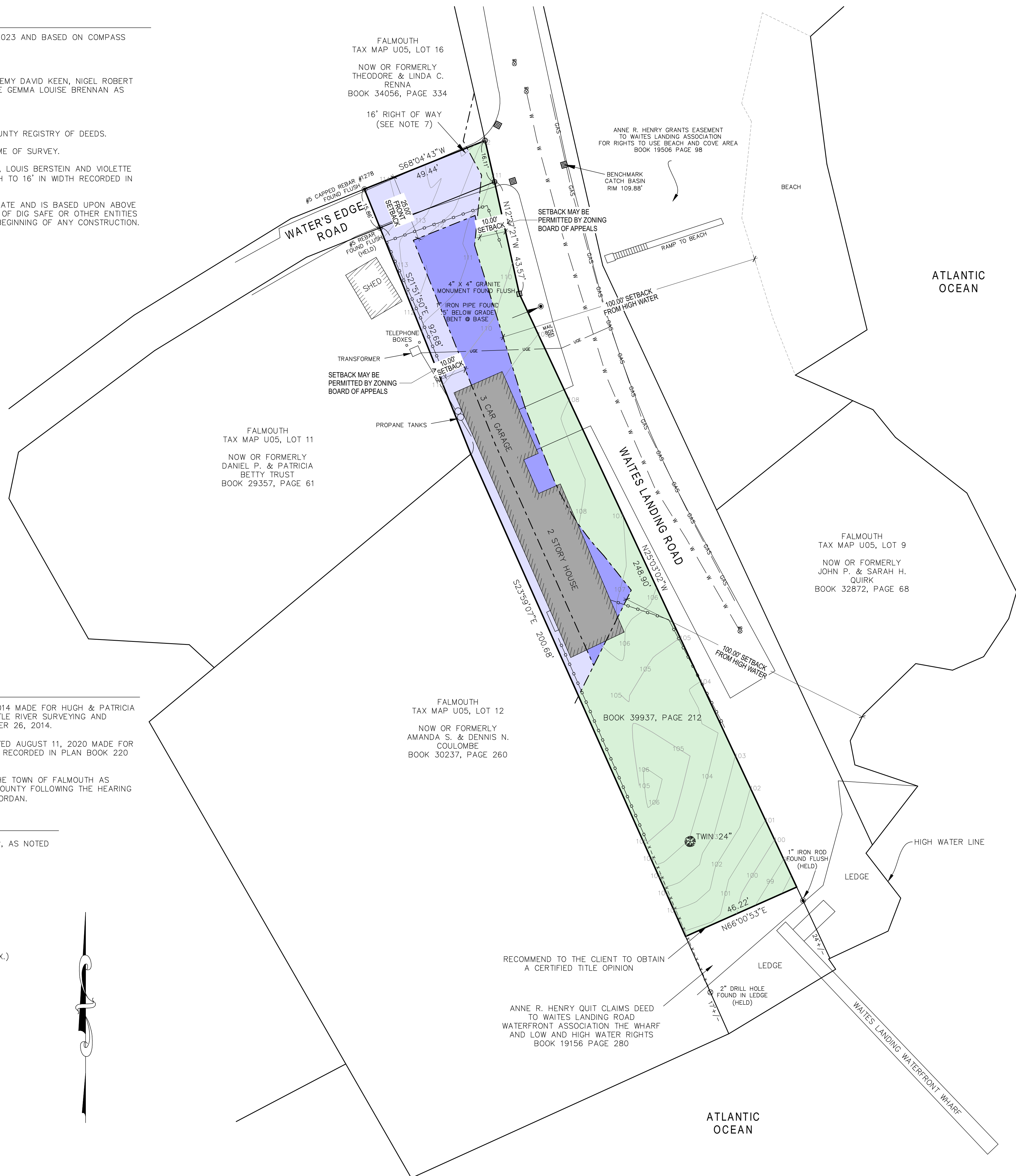
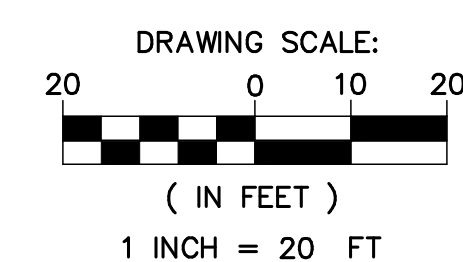
LOT IMPERVIOUS COVERAGE AREA (SF)	
LOCATION	EXISTING
HOUSE	2,393
SHED	80
DRIVEWAY	319
<b>SUBTOTAL</b>	<b>2,792</b>
TOTAL PARCEL AREA	13,504
20% LOT COVERAGE	2,701
EXISTING IMPERVIOUS %	20.68%

**PLAN REFERENCES**

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- - - BUILDING SETBACK
- 490- MAJOR CONTOUR LINE
- - - MINOR CONTOUR LINE
- × 495.3' SPOT GRADE
- ▭ PAVEMENT



**ZONING INFORMATION:**

- |                                     |   |
|-------------------------------------|---|
| 1. CLASSIFICATION:                  | RC - RESIDENTIAL C<br>WATER VIEW OVERLAY<br>SHORELAND LIMITED RESIDENTIAL |
| 2. PERMITTED USES:                  | RESIDENTIAL   |
| 3. LOT AREA:                        | 13,504 SF   |
| 4. MINIMUM LOT SIZE:                | 60,000 SF   |
| MINIMUM SHORELAND OVERLAY LOT SIZE: | 30,000 SF   |
| 5. LOT COVERAGE MAXIMUM:            | 20% (2,700 SF)  |
| 6. MAXIMUM BUILDING HEIGHT:         | 35 FT   |
| 7. MINIMUM SHORE FRONTAGE:          | 150 FT  |
| 8. FRONT SETBACK:                   | 25 FT (10 FT MAY BE ALLOWED BY BOARD OF ZONING APPEALS)                   |
| 9. SIDE SETBACK:                    | 20 FT (10 FT MAY BE ALLOWED BY BOARD OF ZONING APPEALS)                   |
| 10. REAR SETBACK:                   | 40 FT (10 FT MAY BE ALLOWED BY BOARD OF ZONING APPEALS)                   |

\*ZONING STANDARDS FROM TOWN OF FALMOUTH LAND USE ORDINANCE DATED 04/27/1987, AMENDED 12/22/2005

**RELEVANT DEFINITIONS:**

- HEIGHT OF STRUCTURE: MEASURED FROM THE AVERAGE FINISHED GRADE WITHIN TWENTY (20) FEET OF THE BUILDING. THE TOP FLOOR OF ANY BUILDING OF GAMBREL OR MANSARD ROOF DESIGN SHALL BE CONSIDERED A FULL STORY.
- LOT COVERAGE: THE PERCENTAGE OF LOT COVERED BY BUILDINGS
- STRUCTURE: ANY COMBINATION OF MATERIALS COVERING MORE THAN 10 SQUARE FEET CONSTRUCTED OR ERECTED ABOVE OR BELOW OR UPON THE SURFACE OF THE GROUND OR WATER INCLUDING A PORCH OR DECK.
- CELLAR: A SPACE, UNDERNEATH A BUILDING, WITH LESS THAN ONE-THIRD OF ITS FLOOR TO CEILING HEIGHT ABOVE THE AVERAGE FINISHED GRADE WITHIN TWENTY (20) FEET OF THE BUILDING OR WITH A FLOOR TO CEILING HEIGHT OF LESS THAN SIX AND ONE HALF (6 1/2) FEET.

**EXPANSION/REPLACEMENT INFORMATION:**

- WITHIN 100 FEET OF HAT
  - EXPANSION OF EXISTING NONCONFORMING STRUCTURES IN THE SHORELAND ZONE (BOARD OF ZONING APPEALS MUST ALLOW BY CONDITIONAL USE APPROVAL)
    - PORTION OF STRUCTURE WITHIN THE 100'-0" SETBACK COULD BE EXPANDED BY 30% AREA AND VOLUME DURING ITS LIFETIME
    - A NEW FOUNDATION MEETING THE DEFINITION OF A CELLAR SHALL NOT BE INCLUDED IN AREA/VOLUME CALCULATIONS
    - MUST BE PLACED TO THE GREATEST PRACTICAL EXTENT
    - MUST NOT EXTEND CLOSER TO THE WATER BODY THAN THE EXISTING STRUCTURE
- BEYOND 100 FEET OF HAT
  - NONCONFORMING STRUCTURES, USES AND LOTS (BOARD OF ZONING APPEALS MUST ALLOW BY VARIANCE)
    - MUST NOT INCREASE LOT COVERAGE ABOVE 50%
    - MUST NOT EXTEND CLOSER TO THE LOT LINES THAN THE EXISTING STRUCTURE
    - MUST NOT CREATE OR COMPOUND A VIOLATION OF HEIGHT RESTRICTIONS
    - NO PART OF STRUCTURE MAY BE CLOSER THAN TEN (10) FEET FROM ANY LOT LINE
    - STRUCTURE(S) MUST BE SET BACK 100'-0" FROM THE NORMAL HIGH-WATER LINE EXCEPT: STRUCTURES WHICH REQUIRE DIRECT ACCESS TO THE WATER AS AN OPERATIONAL NECESSITY, SUCH AS PIERS, DOCKS AND RETAINING WALLS
    - NO PART OF STRUCTURE MAY BE CLOSER THAN TEN (10) FEET FROM ANY PROPERTY LINE
    - TWO OFF-STREET PARKING SPACES FOR EACH DWELLING UNIT SHALL BE PROVIDED

**FLOOD ZONE INFORMATION:**

THE VE (VELOCITY FLOOD ZONE) CROSSES THE SOUTHEASTERN CORNER OF THIS PROPERTY WHICH DOES NOT EFFECT EXPANSION OR NEW CONSTRUCTION, AS THERE IS NOT ALLOWED ANY FURTHER DEVELOPMENT IN THIS AREA, PER OTHER UNDERLYING RESTRICTIONS.



THIS DRAWING IS THE PROPERTY OF KEVIN BROWNE ARCHITECTURE (KBA) AND IS NOT TO BE COPIED OR REPRODUCED IN PART OR IN WHOLE © 2023

**PRIVATE RESIDENCE**  
91 WAITE'S LANDING RD  
FALMOUTH, MAINE

REVISIONS:  
rev# date

DATE: 5/19/23  
DRAWN BY: KBA  
PROJECT #: 2023-XX  
SCALE: AS NOTED

**FEASIBILITY STUDY**

**SP1.0**

This site plan is not intended or represented to be a land or property survey. This site plan was drawn based on the survey completed 04/07/2023 by Main-Land Development Consultants, Inc.



## 91 Waites Landing Road, Falmouth Site Analysis

This short brief, and accompanying documentation, serves as a summary of the site analysis that was performed by Kevin Browne Architecture. This is an overall summary of the underlining zones and regulations that affect 91 Waites Landing Road, Falmouth, Map/Lot U05/10//. It is to be used as a rough guide of what is possible on the property for a potentially buyer of the property. We have laid out restrictions and guidelines for renovations, additions, or New construction. Further investigation, by a design professional, would need to happen if there are plans to renovate or build a new home on this property. Typically Kevin Browne Architecture reaches out to the Falmouth, Code Enforcement Officer, as a next step, to clarify the assumptions laid out here, are accurate with their interpretation.

This property is located in the RC-Residential C Zone and Shoreland Zone-Limited Residential Zone. The property is also in the Waterview Overlay District, which means any alterations to the existing property need to be reviewed by the Board of Zoning Appeals which may allow a conditional use approved for any alterations. Part of the lot falls within 100 foot setback from the High Water Line, to the ocean. The lot is non-conforming in regards to the lot size, and width. The existing Single Family Dwelling Unit is non-conforming in regards to its front and rear setback. There are two small corners of the existing home that encroach slightly into the 100 foot setback from the High Water Line. The RC zone lot coverage maximum is 20%. The existing structures, on the property, are calculated at 20.67%. in this case, what exist is grandfathered for any future work.

The Non-Conforming, Single-Family Dwelling unit, on this property, does have the possibility of being altered, enlarged or a New Single-Family Dwelling unit can be built, as long as it conforms to the zoning and regulations on this site. Any new alterations, or enlargements need to be done beyond 100 foot setback from the High Water Line. If a new Single-Family Dwelling unit is built on this property, it will need to be reviewed by the Board of Zoning Appeals to represent that is being moved into conformance to the “best practical extent” as laid out in the accompanying documents. As mentioned above, the current Single-Family Dwelling unit is non-conforming, and within the front setback and the rear setback of the lot. The Board of Zoning Appeals may permit that this Non-Conforming structure could be enlarged, altered or built new as long as it does not encroach any closer than 10 feet to the property lines, on all sides, but still be on the 100’ setback. Also, apart of this approval, the alternations or enlargements can not expand the lot coverage more than 20%, on the property. Any alteration, enlargement, or new construction, cannot be any higher than 35 feet, as measured per the definition in the accompanying documentation.

Sincerely,

Kevin Browne, AIA  
Licensed Maine Architect

## **91 Waites Landing Road, Falmouth Site Analysis**

### **Zoning Information**

Lot Size - .31 Acres = 13,504 sq.ft.(non-conforming lot)

Minimum lot size 30,000 sq.ft. 150' shore frontage

Map/Lot - U05/ 10/ / /

Existing Lot Coverage- (20% max coverage)

House 2393 sq.ft.

Shed 80 sq.ft.

Drive 319 sq.ft.

2,792 sq.ft. (grandfathered)

(20 % Max. Allowed for this lot is 2,701 sq.ft.)

### Zoning

RC-Residential C

Min. lot size 60,000 sq.ft.

Max. lot Coverage 20%    Accessory Dwelling Unit allowed

### **Setbacks**

Front - 25'

Side - 20'

Rear - 40'

A 10' setback(from all sides) may be granted after review by the Board of Zoning Appeals, because the lot is non-conforming in respect to the lots size, and width. Further conformation from CEO will need to be obtained to make sure this also feasible in the Shoreland Zone.

### Overlay Zoning

Waterview Overlay Zone - Conditional Use needed from Board of Zoning Appeals

### Shoreland Zoning

Limited Residential Zone

### Flood Information

The VE (Velocity Flood Zone) crosses the southeastern corner of this property which does not effect expansion or new construction, as there is not allowed any further development allowed in this area, per other underlying restrictions.

**The following, are sections pulled from the Falmouth Land Use Ordinance**

#### **ART. II-19-1. IN GENERAL**

##### **Div. II-19-1-2. Definitions**

The word "shall" is mandatory and the word "may" is permissive. Terms not defined shall have the customary dictionary meaning. Other terms shall be defined as provided in this section.

**Lot Area:** The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a designated wetland and areas within the right-of-way of streets as defined. [Adopted, 5/27/92]

Effective on: 12/9/2013

**Lot Coverage:** That percentage of the lot covered by buildings.

**Structure:** Any combination of materials covering more than 10 square feet constructed or erected above or below or upon the surface of the ground or water including a porch or deck. The term structure shall not include:

- a boundary wall or fence;
- an awning or tent for a specific event (limited to 6 days) for which a town permit has been issued;
- an uncovered and unenclosed patio or terrace, except in the Shoreland Zone. [Amended 7/28/14]
- a retractable awning or shade used solely to screen a door or window;
- a backyard tent used for sleeping; or
- paving of driveways or parking lots, except in the Shoreland Zone.[Adopted 4/27/87]
- essential services or any portion thereof which is located underground.[Added 7/28/14]

#### **ART. II-19-1. IN GENERAL**

##### **Div. II-19-1-5. SPECIFIC REQUIREMENTS**

The following specific requirements shall apply to uses in all districts except as noted:



### Sec. 19-53 Height Restrictions

- No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height, as measured from the average finished grade within twenty (20) feet of the building. This restriction shall not apply to farm buildings not used for human habitation, windmills, antennas, transmission towers, place of worship steeples, flagpoles, chimneys, skylights, and penthouses or other extensions for mechanical equipment. On public school campuses and in the BP and MUC Districts, no building shall exceed three (3) stories or thirty-nine (39) feet so measured. All three (3) story buildings shall be protected by an automatic fire suppression system in accordance with the Falmouth Building and Fire Safety Ordinance. [Amended 2/22/99]
- Notwithstanding any provision of paragraph (a) to the contrary, single family detached dwellings are not restricted by number of stories but may not exceed thirty-five (35) feet in height. [Adopted 5/28/96]
- The top floor of any building of gambrel or mansard roof design shall be considered a full story.

## ART. II-19-1. IN GENERAL

### Div. II-19-1-5. SPECIFIC REQUIREMENTS

The following specific requirements shall apply to uses in all districts except as noted:

#### Sec. 19-55 Accessory Dwelling Units

##### Sec. 19-55.1 General [Amended 07/11/16]

The purpose of Accessory Dwelling Units, which include Accessory Apartments and Accessory Cottages, is to provide a diversity of housing for town residents while protecting the single family character of residential neighborhoods. The following provisions apply:

- Only one Accessory Dwelling Unit shall be permitted per single family dwelling.
- An Accessory Dwelling Unit shall not exceed 100% of the gross floor area of the single family dwelling to which it is accessory, not including garages, porches, decks or unfinished areas, or 850 square feet of gross floor area, whichever is less.
- The single family dwelling unit in which an Accessory Apartment is located shall have only one main entrance and all other entrances shall appear subordinate to the main entrance. An entrance leading to a foyer with entrances leading from the foyer to the two dwelling units is permitted.

#### Sec. 19-104 Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

[AMENDED 5/26/09]

The upland area immediately adjacent to a water body is known as the "riparian zone." It functions to protect the water quality and wildlife values of the water body. Vegetation within riparian zones: 1) provides essential habitat for a diversity of wildlife species, 2) serves as a natural filtration system for nutrients, sediments, and other pollutants, 3) maintains suitable water temperatures for aquatic life, and 4) provides food for a variety of fish and

aquatic wildlife. Vegetative cover also stabilizes shorelines preventing erosion damage to property and deterioration of water quality. Finally, vegetation provides a visual screen between water uses and development. For all of these reasons, restrictions must be placed on the removal of vegetation on properties adjacent to waterbodies.

## ART. II-19-1. IN GENERAL

### Div. II-19-1-6. NONCONFORMING STRUCTURES, USES AND LOTS

#### Sec. 19-76 Generally.

A nonconforming structure, use, or lot is permitted to continue as it existed prior to the date such structure, use, or lot became nonconforming under the provisions of this Ordinance, as amended.

Effective on: 12/9/2013

#### Sec. 19-77 Alterations.

Except as provided in this subsection, a nonconforming structure or use shall not be extended or enlarged in any manner except as may be permitted as a variance. The following requirements shall apply to expansion or enlargement of structures which are nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height, or setback requirements. Any lot located in RA that is not located in the WVOD and is at least 5,000 square feet in area shall be considered conforming with regard to lot size for the purposes of this section. [Amended 1/24/00; 7/11/2016]

- Except for lots located in the Water View Overlay District the extension, enlargement, or construction of a single family detached dwelling, or residential detached accessory structure which is nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height, or setback requirements, is permitted provided the extension, enlargement, or construction is not located between the lot lines and the required setback lines and does not compound nor create a lot coverage or height violation. [Amended 10/25/04; 7/24/06; 5/30/12; 7/22/13]
- The Board of Zoning Appeals may permit: the extension or enlargement of a single family detached dwelling; the extension or enlargement of a residential accessory structure located ten (10) feet or greater from a property line; or the development of a residential accessory structure as a conditional use in accordance with Section 19-119 and 19-123 where a lot size, lot width, lot frontage, lot coverage, height or setback nonconformity exists provided the following criteria are met [Amended 10/25/04; 7/22/13]:
  1. Shall not increase lot coverage above 50%; and,
  2. If the existing structure is nonconforming in relation to setbacks, the new structure shall not extend closer to the lot lines than the existing structure; and shall not create or compound a violation of the height restrictions in Section 19-53. [Amended 7/24/06; 7/22/13], and
  3. No part of the extension or enlargement of the structure may be closer than ten (10) feet from any lot line [Amended 7/22/13].



- The Board of Zoning Appeals may permit as a conditional use in accordance with Section 19-119 and 19-123, the extension or enlargement of a two-family dwelling or a multi-family dwelling subject to the following requirement: No part of the extension or enlargement of a two-family dwelling or a multi-family dwelling may be closer than twenty (20) feet from all property lines and thirty (30) feet from dwellings on any adjoining lot. [Amended 10/25/04; 7/25/22]
- A structure other than a single family detached dwelling, a two-family dwelling, or a multi-family dwelling which is nonconforming due to lot size, lot width, lot frontage, lot coverage, height or setback requirements, may be expanded or enlarged subject to Site Plan Review under Div. II-19-1-9, provided that the extension or enlargement is not located between the lot lines and the required setback lines, and does not compound nor create a lot coverage or height violation. [Amended 1/24/00][Amended 8/26/13; 7/25/22]

Any single family detached dwelling located in the BP, MUC, or VC Districts, which is nonconforming solely because of its use, may be expanded or enlarged in accordance with the preceding requirements. [Amended, 12/22/86; 5/13/13; 7/22/13; 7/25/22]

#### ART. II-19-1. IN GENERAL

##### Div. II-19-1-6. NONCONFORMING STRUCTURES, USES AND LOTS

##### Sec. 19-80 Replacement of Destroyed or Damaged Nonconforming Structures [Amended, 10/25/04]

- Any nonconforming structure or portion thereof that is unintentionally damaged or destroyed by accident or by malicious acts of persons other than the property owner shall only be rebuilt or replaced subject to the requirements of this subsection:
  1. For nonconforming structures located outside of the Shoreland Zone, the destroyed or damaged structure may be replaced or rebuilt with approval of the Zoning Board of Appeals, provided that the exterior dimensions of the reconstruction are no larger than the dimensions of the structure prior to the destruction or damage. Damaged or destroyed structures that are rebuilt under this subsection shall not be subject to the provisions of the Zoning Ordinance for lot size, lot width, lot frontage, lot coverage, or height limitations, but the new structure shall be placed on the lot such that the setback requirements are met to the greatest extent practical, even if this means that a new foundation must be installed.
  2. As required by state law, for nonconforming structures located in the Shoreland Zone a determination of the extent of damage shall be made to ascertain that the structure has been damaged to the extent of more than fifty (50%) percent of its value prior to the destruction or damage, and in making the determination of moving the building to meet setbacks to a water body, tributary stream or wetland to the greatest practical extent, the Board shall consider the following factors [Amended 5/26/09]:



- The size of the lot;
  - The slope of the land;
  - The potential for soil erosion;
  - The location of other structures on the property or on adjacent properties;
  - The location of the septic system, if any, and other on-site soils suitable for septic system replacement;
  - The type and amount of vegetation to be removed to accomplish the relocation; and,
  - The type and condition of any foundation which may have been part of the original structure.
3. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Board of Zoning Appeals or its designee shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows [Adopted 5/26/09]:
- Trees removed in order to relocate a structure must be replanted with at least one native tree, minimum three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. [Adopted 5/26/09]
- Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed. [Adopted 5/26/09]
- Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof. [Adopted 5/26/09]
4. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code

Enforcement Officer within one year of such damage, destruction, or removal. [Adopted 5/26/09]

- Nothing in this provision shall prevent a property owner from taking temporary measures to protect a nonconforming structure or portion thereof, which is unintentionally damaged or destroyed, from further damage.
- If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 19-86.a, as determined by the nonconforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 19-80.a.3 above. [Adopted 5/26/09]

## ART. II-19-1. IN GENERAL

### Div. II-19-1-6. NONCONFORMING STRUCTURES, USES AND LOTS

#### Sec. 19-86 Expansion of Nonconforming Structures in the Shoreland Zone.

In addition to the prior sections dealing with non conforming structures, the following provisions shall apply to the expansion of nonconforming structures located in the Shoreland Zone subject to conditional use approval by the Board of Appeals [Adopted, 5/27/92]:

- If any portion of a structure or an attached accessory structure is less than the required setback from the normal high-water line of a water body or tributary stream or upland edge of a designated wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during its lifetime. If a replacement structure conforms with the requirements of Section 19-80, and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date. [Amended 5/28/96; Amended 5/26/09]

Construction or enlargement of a foundation beneath an existing structure need not be considered in the area or volume of expansion provided that the space within that foundation meets the definition of a cellar.

- Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Board of Zoning Appeals or its designee, basing its decision on the criteria specified in Section 19-80.a.2. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 19-86.a, and the foundation

does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure. [Adopted 5/26/09]

- Notwithstanding the height restriction of Section 19-77 b.(3), in the Residential "B" portions of the Shoreland Zone around Highland Lake, a foundation may be constructed under an existing structure [Amended, 5/27/93].
- No structure which is less than the required setback from the normal high-water line of a water body or the upland edge of a designated wetland shall be expanded toward the water body or wetland.

## ART. II-19-1. IN GENERAL

### Div. II-19-1-7. SHORELAND ZONING

#### Sec. 19-111 Structures and Lots, Principal and Accessory [Amended 5/26/09]

- All structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a designated wetland. The water body or wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally waterdependent uses. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.
- For principal structures adjacent to coastal bluffs, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Licensed Professional Engineer, a Maine Certified Soil Scientist, a Maine Certified Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Zoning Appeals.
- The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils. Accessory structures may be placed in accordance with the standards of the Floodplain Management Ordinance and need not meet the elevation requirements of this paragraph.
- The total footprint area of all structures, parking lots, and other nonvegetated surfaces within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, as located within the shoreland zone, including land area previously developed.