

**Town of Kittery
Planning Board Meeting
June 9, 2016**

58 Cutts Road – Right of Way Application

Action: Accept or deny plan application; Approve or deny plan. Owner/applicant Rebecca Emberley proposes a Right-Of-Way to access a new lot located at 58 Cutts Road (Tax Map 66 Lot 7-3) in the Residential-Rural (R-RL) Zone. Agent is Tom Harmon, Civil Consultants.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
YES	Determination of Completeness/Acceptance	Scheduled for 6/9/2016	Pending
NO	Site Visit	At the Board's discretion	
YES	Public Hearing		
YES	Preliminary/Final Plan Review and Approval		

Applicant: Prior to the signing of the approved Plan any **Conditions of Approval related to the Findings of Fact along with waivers and variances (by the BOA) must be placed on the Final Plan and, when applicable, recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN 1/4" HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS.** As per Section 16.4.4.13 - Grading/Construction Final Plan Required. - Grading or construction of roads, grading of land or lots, or construction of buildings is prohibited until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable.

Background

The applicant had previously made an effort to create a condominium on the property that would facilitate conveying out one of the two dwellings that are located on the property. There have been complications with this scheme and the owner is now interested in dividing the lot into two. The only way this is possible is to create a Street Right-Of-Way (ROW) that would provide legal street frontage to the rear dwelling and associated and sufficient land area.

There is an existing driveway that provides access to both dwellings. The applicant is requesting approval to create a 40-wide ROW over this existing driveway with limited additional improvements.

Staff Review

Planning Board Review for this application is required by 16.10.7.2.T Right-Of-Way Plan (ROW). The existing use is two conforming single-family dwellings on a conforming lot.

Per the definition in 16.2, street frontage means a continuous portion of a boundary of a lot which abuts a street, ordinarily regarded as the front of the lot. Therefore and in this instance, in order for the rear lot to obtain frontage, the portion of the travel way within the ROW would typically be constructed to the Class 1 Private Street classification standard, designated for 12 to 35 Average Daily Trips (ADT). The applicant's agent, Civil Consultants, suggests street design and construction in Table 1, 16.8.4 for a Class 1 street is not applicable in this case since the Average Daily Trips (ADT) listed in table is less than a one single family dwelling (10 ADT), and there is only one dwelling planned for the proposed street.

Though this is reasonable, there is no standard for anything less than a Class 1 street. Legal street frontage can only be obtained through an approved Street ROW. Therefore, the applicant requires the Planning Board to grant waivers/modifications to the street standards (16.8.4 and Table 1) in order to accommodate the proposal as submitted. Staff supports not requiring a full street construction and supports modifications and waivers where appropriate, however, recommends the first 50 feet to continue to be maintained as bituminous pavement and perhaps widened and or reconfigured to lay squarely within the proposed ROW.

Application includes a proposed right-of-way plan, copy of deed, tax map and abutter list. A standard boundary survey was completed on 9/17/2013 (plan reference #1). Due to the limited development proposed with the Right-of-way, the applicant has not included a number of submittal requirements. The applicant plans to submit a waiver and modification request and a street naming application to the Town for review by the Planning Board.

Staff has submitted the application for review by the Town review engineer. The proposed development appears to CMA limited in nature and does not require a typical stormwater and erosion control review.

Staff recommends the following plan revisions.

1. The plan needs to be entitled only as a *Private Street Right-Of-Way Plan*. Remove references to “Lot Split”
2. Depict on the ROW plan street name and front yard dimensions only, remove proposed lot lines for future land division. Front Yard setbacks apply to both Cutts Road and the proposed street.
3. On a separate plan the proposed land division should be shown entitled “conceptual land division, with a plan note that states not for planning board approval.
4. The existing conditions as it relates to current edge of pavement and differentiating of surfaces needs to be updated on the Right-Of -Way Plan, missing current driveway access to building closest to Cutts Road
5. Add abutter information for across the street
6. Depict a reconfigured approach in the first 50 feet of the ROW as described above with a note that will be maintained with bituminous pavement.
7. Provide for staff review a draft legal description of the ROW and revised deeds showing ownership and rights, and maintenance obligations
8. Provide necessary recording block and substitute ‘Chairperson’ for ‘Chairman’

Recommendation

As a Right-of-Way plan, a public hearing is discretionary. With the inclusion of the street naming application, the application appears complete, as defined in Title 16.10.7.2.T. Staff recommends the Board accept the Right-of-Way application, and if warranted schedule a public hearing and site visit. The proposal is somewhat straight forward and could be approved with conditions if the Board does not hold a public hearing and sees no need for a site visit.

Move to accept the Right-of-way application dated 5/19/2016 for owner/applicant Kimberly Emberley, located at 58 Cutts Road (Tax Map 66 Lot 7-3) in the Rural-Residential Zone...

And, if Board is amenable to approve...

...move to approve with conditions the Right-of-Way Plan dated 5/19/2016 for owner/applicant Kimberly Emberley, located at 58 Cutts Road (Tax Map 66 Lot 7-3) in the Rural-Residential Zone, upon the review and voting in the affirmative, on the findings of fact.

**KITTERY PLANNING BOARD
 FINDINGS OF FACT -
 for
 58 Cutts Road
 Right-of-Way Plan**

UNAPPROVED

Note: This approval by the Planning Board constitutes an agreement between the Town and the Developer incorporating the Development plan and supporting documentation, the Findings of Fact, and all waivers and/or conditions approved and required by the Planning Board.

WHEREAS: Owner/applicant Rebecca Emberley proposes a Street Right-Of-Way to access a future lot located at 58 Cutts Road (Tax Map 66 Lot 7-3) in the Residential-Rural (R-RL) Zone. Agent is Tom Harmon, Civil Consultants.

Hereinafter the “Development”.

Pursuant to the Plan Review meetings conducted by the Planning Board as duly noted in the Plan Review Notes dated 6/9/2016;

Determination of Completeness/Acceptance	Held	6/9/2016
Public Hearing/Site Walk	Not required	
Preliminary/Final Plan Review and Approval	Held	6/9/2016

and pursuant to the Project Application and Plan and other documents considered to be a part of the approval by the Planning Board in this finding consist of the following and as noted in the Plan Review Notes dated 6/9/2016 (Hereinafter the “Plan”).

1. Application: Right-of-Way Plan Review, received 5/19/2016 and associated documents including waivers
2. Right-Of-Way Plan, Civil Consultants Inc, dated 5/17/2016
- 3.

NOW THEREFORE, based on the entire record before the Planning Board as and pursuant to the applicable standards in the Land Use and Development Code, the Planning Board makes the following factual findings as required by **Section 16.10.8.3.4. and as recorded below:**

FINDINGS OF FACT

Action by the board shall be based upon findings of fact which certify or waive compliance with all the required standards of this title, and which certify that the development satisfies the following requirements:

A. Development Conforms to Local Ordinances.

The proposed development conforms to a duly adopted comprehensive plan as per adopted provisions in the Town Code, zoning ordinance, subdivision regulation or ordinance, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans.

Finding: The proposed Right-of-Way, with noted conditions and waivers/modifications, conforms to the design and performance standards in Title 16.8 as described in Plan Review Notes 6/9/2016 and does not appear to create or increase any nonconformances to the lot.

Conclusion: The Board finds this requirement to be met.

Vote of in favor against abstaining

B. Freshwater Wetlands Identified.
<i>All freshwater wetlands within the project area have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.</i>
Finding: It does not appear there are wetlands present on or adjacent to the property. Conclusion: The Board finds this requirement to be met.
Vote of __ in favor__ against __ abstaining
C. River, Stream or Brook Identified.
<i>Any river, stream or brook within or abutting the proposed project area has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in 38 M.R.S. §480-B, Subsection 9.</i>
Finding: It does not appear there are any streams present on or adjacent to the property. Conclusion: The Board finds this requirement to be met.
Vote of __ in favor__ against __ abstaining
D. Water Supply Sufficient. {and}
<i>The proposed development has sufficient water available for the reasonably foreseeable needs of the development.</i>
E. Municipal Water Supply Available.
<i>The proposed development will not cause an unreasonable burden on an existing water supply, if one is to be used.</i>
Finding: The existing development is currently connected to public water. The proposed development does not cause a burden on water supply. Conclusion: The Board finds this standard is not applicable.
Vote of __ in favor__ against __ abstaining
F. Sewage Disposal Adequate.
<i>The proposed development will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.</i>
Finding: The existing development is currently connected to private sewer and the proposed development does not impact sewer. Conclusion: The Board finds this standard is not applicable.
Vote of __ in favor__ against __ abstaining
G. Municipal Solid Waste Disposal Available.
<i>The proposed development will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be used.</i>
Finding: The proposed development will not produce an increase in solid waste. Conclusion: The Board finds this standard is not applicable.
Vote of __ in favor__ against __ abstaining

H. Water Body Quality and Shoreline Protected.
<i>Whenever situated entirely or partially within two hundred fifty (250) feet of any wetland, the proposed development will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.</i>
Finding: The development is not within the setback of any regulated (non-forested) wetland located on the lot.
Conclusion: The Board finds this standard to be met.
Vote of __ in favor__ against __ abstaining
I. Groundwater Protected.
<i>The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.</i>
Finding: The proposed development will not adversely affect the quality or quantity of groundwater.
Conclusion: The Board finds this standard has been met.
Vote of __ in favor__ against __ abstaining
J. Flood Areas Identified and Development Conditioned.
<i>All flood-prone areas within the project area have been identified on maps submitted as part of the application based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the proposed development, or any part of it, is in such an area, the applicant must determine the one hundred (100) year flood elevation and flood hazard boundaries within the project area. The proposed plan must include a condition of plan approval requiring that principal structures in the development will be constructed with their lowest floor, including the basement, at least one foot above the one hundred (100) year flood elevation.</i>
Finding: The property is not located within a flood prone area.
Conclusion: The Board finds this standard is not applicable.
Vote of __ in favor__ against __ abstaining
K. Stormwater Managed.
<i>Stormwater Managed. The proposed development will provide for adequate stormwater management</i>
Finding: The existing driveways are proposed to be used. Separate driveways to each lot exist with no modification. A minor addition of a turnaround is proposed for the driveway to the rear lot. It appears to the Town's Peer-review Engineer the proposed additions to the travel way are limited and will not alter existing stormwater runoff, and therefore does not require specific evaluation. The proposed development conforms to Title 16.8.8 Surface Drainage.
Conclusion: The Board finds this standard has been met
Vote of __ in favor__ against __ abstaining

L. Erosion Controlled.
<i>The proposed development will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.</i>
Finding: The plans have been reviewed by the town's peer-review engineer, and the proposed construction is negligible and therefore does not pose erosion and/or sediment control impacts. It appears to conform to Title 16.8.8 Surface Drainage and will provide for adequate erosion and sediment control measures on site.
Conclusion: The Board finds this standard has been met with condition of approval #3
Vote of <u> </u> in favor <u> </u> against <u> </u> abstaining
M. Traffic Managed.
<i>The proposed development will:</i> <i>1. Not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed; and</i> <i>2. Provide adequate traffic circulation, both on-site and off-site.</i>
Finding: The proposed development will not increase the current traffic demand and the site currently provides adequate access and will conform to town standards with consideration of condition of approval #8 and granted waivers and modifications
Conclusion: The Board finds this standard has been met.
Vote of <u> </u> in favor <u> </u> against <u> </u> abstaining
N. Water and Air Pollution Minimized.
<i>The proposed development will not result in undue water or air pollution. In making this determination, the following must be considered:</i> <i>1. Elevation of the land above sea level and its relation to the floodplains;</i> <i>2. Nature of soils and sub-soils and their ability to adequately support waste disposal;</i> <i>3. Slope of the land and its effect on effluents;</i> <i>4. Availability of streams for disposal of effluents;</i> <i>5. Applicable state and local health and water resource rules and regulations; and</i> <i>6. Safe transportation, disposal and storage of hazardous materials.</i>
1. The development is located outside of a Flood Hazard Area. 2 thru 6. Not applicable to the proposed development.
Finding: It does not appear the proposed development will result in undue water or air pollution
Conclusion: The Board finds this standard has been met.
Vote of <u> </u> in favor <u> </u> against <u> </u> abstaining

<p>O. Aesthetic, Cultural and Natural Values Protected.</p> <p><i>The proposed development will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.</i></p> <p>Finding: Cutts Road is classified as a category two scenic road in the 1999 update of the Kittery Comprehensive Plan, however, the proposed development does not significantly change the existing character of the corridor.</p> <p>The property does not include any significant historic, wildlife habitat or physical or visual access to the shoreline that require protection.</p> <p>Conclusion: This requirement appears to be met.</p> <p style="text-align: right;">Vote of __ in favor __ against __ abstaining</p>
<p>P. Developer Financially and Technically Capable.</p> <p><i>Developer is financially and technically capable to meet the standards of this section.</i></p> <p>Finding: the proposed development is limited in nature and appears to be within the capabilities of the applicant.</p> <p>Conclusion: The Board finds this standard has been met.</p> <p style="text-align: right;">Vote of __ in favor __ against __ abstaining</p>
<p>S. For a Right-of-Way Plan</p> <p>The proposed ROW</p> <ol style="list-style-type: none"> 1. Does not create any nonconforming lots or buildings; and 2. Could reasonably permit the right of passage for an automobile <p>Finding: The proposed development does not appear to create or increase any nonconforming lots or buildings and complies with Title 16 standards with consideration of condition of approval #8 The proposed ROW is 50' wide (exceeding the 40' requirement) and can reasonably permit the passage for an automobile.</p> <p>Conclusion: The Board finds this standard has been met.</p> <p style="text-align: right;">Vote of __ in favor __ against __ abstaining</p>

Chapter 16.8 – Design and Performance Standards – Build Environment

Article III. Street Signage

<p>16.8.3.1 Names</p> <p>Streets which join or are in alignment with streets of abutting or neighboring properties must bear the same name. Names of new streets may not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality and are subject to the approval of the Planning Board.</p> <p>Findings: The proposed street name _____ is not duplicative or bear phonetic resemblance to any existing street names in Kittery.</p> <p>Conclusion: The Board finds this standard has been met.</p> <p style="text-align: right;">Vote of __ in favor __ against __ abstaining</p>
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NOW THEREFORE the Kittery Planning Board adopts each of the foregoing Findings of Fact and based on these Findings determines the proposed Development will have no significant detrimental impact, and the Kittery Planning Board hereby grants final approval for the Development at the above referenced property, including any waivers granted or conditions as noted.

Waivers/Modifications: (to be depicted on the final plan):

1. Class 1 street design and construction standards (16.8.4 Table 1) with the exceptions:
 - a. ROW width
 - b. The approach/apron area adjacent to Cutts Road; area to include the first 50 feet from existing public street, with the apron width only 15 feet.
 - c. Modified turn-around as depicted on plan
2. Monuments - Section 16.8.2
 - a. Waiver to allow the road monuments to be iron pipes instead of stone monuments as a more cost effective boundary marker due to the size and scope of the project
3. Submission materials, Erosion and sedimentation control plan – Section 16.10.5.2.C.6
 - a. York County Soil and Water Conservation District review is not warranted Review completed by CMA Engineers.

Conditions of Approval (to be depicted on the final plan):

1. No changes, erasures, modifications or revisions may be made to any Planning Board approved final plan. (Title 16.10.9.1.2)
2. The approved private street cannot be accepted by the Town as a public street
3. No more than the two existing dwelling units are allowed to use the approved private street ROW
4. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated with site and building construction to ensure adequate erosion control and slope stabilization.
5. Prior to the commencement of grading and/or construction within a building envelope, as shown on the Plan, the owner and/or developer must stake all corners of the envelope. These markers must remain in place until the Code Enforcement Officer determines construction is completed and there is no danger of damage to areas that are, per Planning Board approval, to remain undisturbed.
6. All Notices to Applicant contained in the Findings of Fact (dated: June 9, 2016).

Conditions of Approval (Not to be depicted on the final plan):

7. Final plan must be recorded with the York County Registry of Deeds
8. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board, or Peer Review Engineer, and submit for Staff review prior to presentation of final Mylar, including:
 - a. Revise plan to reflect actual edge of pavement and surface currently used for dwelling closest to Cutts Road;
 - b. Add street name to plan to read: ‘ _____ ’
 - c. Add abutter information for properties across the street per 16.10.7.2.T.1.d.

Notices to Applicant: (not to be depicted on the final plan)

1. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with review, including, but not limited to, Town Attorney fees, peer review, newspaper advertisements and abutter notification.
2. State law requires all subdivision and shoreland development plans, and any plans receiving waivers or variances, be recorded at the York County Registry of Deeds within 90 days of the final approval.
3. One (1) mylar copy and one (1) paper copy of the final plan (recorded plan if applicable) and any and all related state/federal permits or legal documents that may be required, must be submitted to the Town Planning Department. Date of Planning Board approval shall be included on the final plan in the Signature Block.
4. The owner and/or developer, in an amount and form acceptable to the town manager, must file with the municipal treasurer an instrument to cover the cost of all infrastructure and right-of-way improvements and site erosion and stormwater stabilization, including inspection fees for same.
5. This approval by the Town Planning Board constitutes an agreement between the Town and the Developer, incorporating the Plan and supporting documentation, the Findings of Fact, and any Conditions of Approval.

The Planning Board authorizes the Planning Board Chairperson to sign the Final Plan and the Findings of Fact upon confirmation of compliance with any conditions of approval.

Vote of __ in favor__ against __ abstaining

APPROVED BY THE KITTERY PLANNING BOARD ON June 9, 2016

Ann Grinnell, Planning Board Chair

Per Title 16.6.2.A - An aggrieved party with legal standing may appeal a final decision of the Planning Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.



**CIVIL
CONSULTANTS**

Engineers

Planners

Surveyors

P.O. Box 100

293 Main Street

South Berwick

Maine

03908

207-384-2550

May 19, 2016

Mr. Christopher DiMatteo, Town Planner
Town of Kittery
200 Rogers Road
Kittery ME 03904

Re: Emberley, Map 66 Lot 7-3

Dear Mr. DiMatteo:

Attached please find supplemental materials in support of the referenced application.

These include:

- Right of Way Application
- Copy of Deed
- Copy of Kittery Tax Map
- Abutter's List
- Right of Way Plan, sheet C1

As per our discussion with Rebecca Emberley, there are a number of items requested on your Right of Way checklist that have not been included as there is no development planned for the parcel at this time.

We have considered the existing gravel way to be adequate for a single home as trips generated are less than 12 per day for a single family home.

Hopefully, any additional information or changes the board requires could be provided to you or code enforcement as a condition of approval.

Should you have any questions prior to the meeting feel free to contact us.

Very truly yours,
CIVIL CONSULTANTS

Thomas W. Harmon, PE
Principal

Enclosures



TOWN OF KITTEERY MAINE

TOWN PLANNING DEPARTMENT

200 Rogers Road, Kittery, Maine 03904
 PHONE: (207) 475-1323
 Fax: (207) 439-6806
www.kittery.org

APPLICATION: RIGHT-OF WAY PLAN REVIEW (APPLICABLE FOR A SINGLE LOT)

FEE FOR REVIEW	<input type="checkbox"/> \$300.00				Amount Paid: \$ _____		Date: _____		
PROPERTY DESCRIPTION	Parcel ID	Map	66	Lot	7-3	Zone(S): Base Overlay MS4	R-RL _____ No _____ ___ YES ___ NO	Total Land Area	
	Physical Address								
PROPERTY OWNER'S INFORMATION	Name	Kimberly EMBERLEY				Mailing Address	58 Cutts Road Kittery, ME 03904		
	Phone								
	Fax								
	Email	bkwtr14@yahoo.com							
APPLICANT'S AGENT INFORMATION	Name	Thomas W. Harmon, PE				Name of Business	Civil Consultants		
	Phone	207-384-2550				Mailing Address	PO Box100 South Berwick, ME 03908		
	Fax	207-384-2112							
	Email	tharmon@civcon.com							
DESCRIPTION	Existing Conditions:								
	This property currently exists as two separate dwelling units on one lot. Improvements to utilize the two units are in place including water supply, sewage, power & driveways. The owner wishes to sell one of the units, therefore creating two lots. Work has been accomplished to create a condominium with two units, but due to financing regulations the units are not saleable. The property owner is therefore applying to create a right of way and split the lot.								
	Proposed legal and physical changes: (Documents for dedication of the ROW, maintenance agreements, riders to deeds, grading, drainage and pavement, etc.)								
	Physical changes only include addition of a gravel turnaround. A new deed will be drawn to convey the current parcel upon board review.								
I certify that, to the best of my knowledge, the information provided in this application is true and correct and will not deviate from the Plan submitted without notifying the Kittery Town Planning Department of any changes.									
Applicant's Signature:	_____				Owner's Signature:	_____			
Date:	_____				Date:	_____			

Minimum Submission Requirements

15 COPIES OF THE RIGHT OF PLAN – 5 OF WHICH MUST BE 24"X 36"

PRIOR TO COMMENCEMENT OF THE REVIEW PROCESS, THE PLANNING BOARD WILL DECIDE WHETHER SUFFICIENT INFORMATION HAS BEEN PROVIDED AND WILL VOTE TO DETERMINE COMPLETENESS/ACCEPTANCE. See Section 16.10.5.2

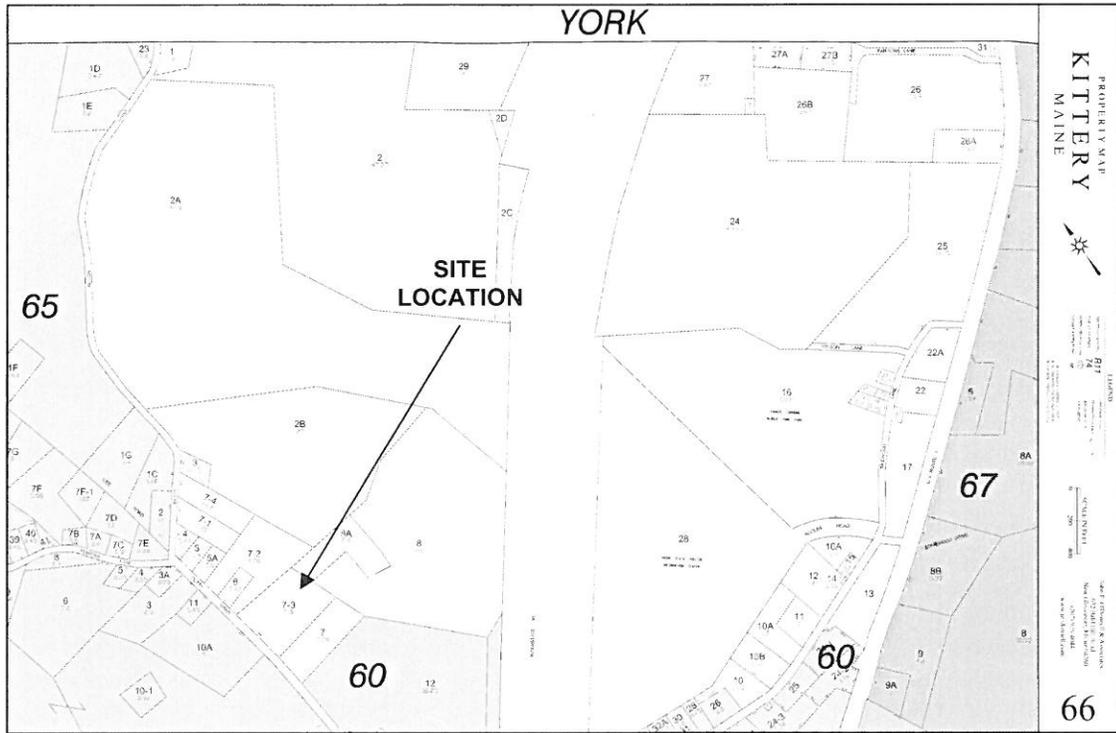
THE APPLICATN IS RESPONSIBLE TO CLEARLY DESCRIBE THE PROJECT.

- A) Paper size:
 - No less than 11" X 17" (reduced) or greater than 24" X 36" (full).
- B) Scale size:
 - Under 10 acres: no greater than 1" = 30'
 - 10 + acres: 1" = 50'
- C) Title block:
 - Applicant's name and address
 - Name of preparer of plans with professional information and professional seal
 - Parcel's tax map identification (map – lot)
 - Date of plan preparation
- D) Survey performed and sealed by licensed surveyor:
 - Identify all existing property/R.O.W. markers
 - Show all proposed boundary monuments (per ordinance)
- E) Provide orientation:
 - Arrow showing true north and magnetic declination
 - Graphic scale Signature block
- F) The right of way plans must include:
 - Size of the parcel minus the area in the R.O.W.
 - Area of R.O.W. Length of lot frontage;
 - Zoning and zone boundaries Front yard setbacks
 - Deed docket and page numbers Intersecting lot lines
 - Existing topography *N/A* Horizontal alignment *N/A*
 - Vertical profile (existing ground and proposed grades) *N/A*
 - Sidewalks Watercourses forest cover *N/A*
 - Ledge outcroppings Proposed areas of blasting *N/A*
 - Utilities (above and below ground)
 - Above ground utilities (poles) that may be relocated *N/A*
 - Storm drainage systems and structures *N/A*
 - Parks Open space Conservation easements *N/A*
 - The location of all natural features or site elements to be preserved. *N/A*
- G) Show and locate on the plans the names and addresses of all owners of record of contiguous property, including those across the street. WITH THE FIRST SUBMITTAL, PROVIDE 2 SETS OF MAILING LABELS.
- H) Provide sufficient information to identify and locate each interior lot line, right of way lines, and street alignments.
 - curve geometry bearings and distances widths

- I) Show the location and description of all structures, including:
 - existing and proposed signage *N/A*
 - details of all structures and accesses located within one hundred (100) feet of the property line.
- J) The detail sheet must show: *N/A*
 - Structural pavement sections Erosion control detail
 - Roadway cross sections Trenching details
 - Sufficient detail(s) to clarify construction
- K) The completed application requires the following legal documents: *N/A*
 - Revised deeds for the parcel and the R.O.W.
 - A maintenance agreement for R.O.W. as a rider to the deed.
 - Letters of approval from utility companies and town staff
- L) The following supporting documentation:
 - Copy of documents showing owner's legal interest
 - Copy of any existing or proposed property encumbrances *N/A*
 - Erosion control plan and sedimentation endorsed by York County Soil and Water District *N/A*
 - A plan for stormwater management prepared by a registered professional engineer *N/A*
 - A copy of the soil survey (specific to this project area) for York County Where the soil survey shows soils with severe restrictions for development, a high intensity Class A soil survey must be submitted *N/A*
- M) An estimate of the amount and type of vehicular traffic on a daily basis and during peak hours. Where it is anticipated that four hundred (400) vehicle trips per day or more, a traffic impact analysis must be conducted in accordance with section 16.10.5.2.D.1. *N/A*
- N) Additional Requirements. In its consideration of an application/plan, the Board may at any point in during the review, require the applicant to submit additional materials, studies, analyses, and agreement proposals as it may deem necessary for complete understanding of the application. Such materials may include those listed below.
 - Fiscal Impact Analysis. An analysis of the relationship of the revenues to the town from the development and the costs of additional publicly funded resources; *N/A*
 - Traffic Impact Study (see Section 16.10.5.2.D.1) *N/A*

NOTE TO APPLICANT: THE PLANNING BOARD MAY CHOOSE TO CONDUCT A SITE WALK. PRIOR TO THE SITE WALK, TEMPORARY MARKERS MUST BE ADEQUATELY PLACED THAT ENABLE THE PLANNING BOARD TO READILY LOCATE AND APPRAISE THE LAYOUT OF DEVELOPMENT.

SUBMITTALS THE TOWN PLANNER DEEMS SUFFICIENTLY LACKING IN CONTENT WILL NOT BE SCHEDULED FOR PLANNING BOARD REVIEW.



<i>Kittery Tax Map</i> MAP 66 LOT 7-3		PREPARED FOR:		<i>Kimberly Emberley</i> <i>58 Cutts Road</i> <i>Kittery, ME 03904</i>
JOB NO: 1613500		DATE: May 2016		

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**CIVIL
CONSULTANTS**

P.O. Box 100 South Berwick, Maine 03908 207-384-2550

Tax Map

LIST OF ABUTTERS

**Kimberly Emberley
Map 66 Lot 7-3
58 Cutts Road, Kittery, ME
May 18, 2016**

<i>MAP</i>	<i>LOT</i>	<i>NAME & MAILING ADDRESS</i>
66	7-3 Locus	EMBERLEY, REBECCA A 58 CUTTS ROAD KITTERY, ME 03904-5566
66	7-2-	YOUNG, LYNDA E YOUNG, MICHAEL C 64 CUTTS ROAD KITTERY, ME 03904-5566
66	6	YOUNG, MICHAEL C PELLETIER LIFE ESTATE, MARY E 62 CUTTS ROAD KITTERY, ME 03904-5566
66	7	MOULTON, DAVID S 54 CUTTS ROAD KITTERY, ME 03904-5566
66	8	LANDMARK PROPERTIES LTD PO BOX 186 YORK, ME 03909-0186
66	8-A	BRAGDON, KINGSBURY P BRAGDON, VERONICA M 141 CLAY HILL ROAD CAPE NEDDICK, ME 03902
60	12	KOZLOWSKI, HEIRS OF JOSEPH C/O ROBERT D & NATHALIE HARRIS 40 CUTTS ROAD KITTERY, ME 03904-5566
60	10	ARTHUR ANDREWS, TR ARTHUR W ANDREWS REV TRUST 61 CUTTS ROAD KITTERY, ME 03904
60	10A	ARTHUR ANDREWS, TR ARTHUR W ANDREWS REV TRUST 61 CUTTS ROAD KITTERY, ME 03904

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**CIVIL
CONSULTANTS**

P.O. Box 100 South Berwick, Maine 03908 207-384-2550

MEMORANDUM TO KITTERY PLANNING BOARD

FROM: Thomas W. Harmon, P.E.

DATE: May 18, 2016

RE: Right of Way Application Emberley, 58 Cutts Road

Narrative

This property currently exists as two separate dwelling units on one lot. Improvements to utilize the two units are in place including water supply, sewage disposal, power and driveways. The owner wishes to sell one of the units and therefore wishes to create two lots. Work has been accomplished to create a condominium with two units but due to financing regulations the units are not saleable. The property owner is therefore applying to create a right of way and split the lot.

The property would be divided as indicted on the attached plan. The rear lot would have a ROW over land owned by the front lot. An attempt has been made to encompass the existing driveway within the right of way lines. The only construction anticipated would be addition of a gravel turnaround as indicated.

Request	Response
16.10.5.2 Planner Review and Confirmation of Submittal Content - Preliminary Plan	
A completed application must be submitted to the Town Planner no later than 21 days prior to the meeting date for the item to be included on the agenda. The submission must include on the plan or attached thereto, the following items, unless upon the applicant's written request, the Planning Board, by formal action, waives or defers any requirement(s) for submission	
A. A minimum of fifteen (15) paper copies of the application form, plan and all attachments thereto plus if applicable, five (5) paper copies of the 24 x 36 inches size plan sheets.	<i>Provided</i>
B. Plan must include:	
a. Plan sheets drawn on a reproducible medium and must measure no less than eleven (11) inches by seventeen (17) inches and no larger than twenty-four (24) inches by thirty-six (36) inches; with a:	<i>Provided</i>
b. Scale of the drawings no greater than one inch equals thirty (30) feet for developments less than ten (10) acres, and one inch equals fifty (50) feet for all others;	<i>Provided</i>
c. Code block in the lower right-hand corner. The block must contain:	
a. Name(s) and address(es) of the applicant and owner	<i>Provided</i>
b. Name of the project.	<i>Provided</i>
c. Name and address of the preparer of the plan, with professional seal, if applicable	<i>Provided</i>
d. Date of plan preparation/revision, and a unique ID number for the plan and any revisions;	<i>Provided</i>
d. Standard boundary survey conducted by a surveyor licensed in the state of Maine, in the manner recommended by the State Board of Registration for Land Surveyors;	<i>To be provided as condition of approval.</i>
e. An arrow showing true north and the magnetic declination, a graphic scale, and signature blocks for the owner(s) and members of the Planning Board;	<i>Provided</i>

MEMORANDUM TO KITTEERY PLANNING BOARD

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f. Locus map showing the property in relation to surrounding roads, within two thousand (2,000) feet of any property line of the development,	<i>Provided</i>
g. Surveyed acreage of the total parcel, of rights-of-way, wetlands, and area to be disturbed and amount of street frontage;	<i>Provided</i>
h. Names and addresses of all owners of record of property abutting the development, including those across a street;	<i>Provided</i>
i. Locations of essential physical features such as watercourses, forest cover, and outcroppings	<i>Provided</i>
j. Proposed development area conditions including, but not limited to:	
a. Structures; their location and description including signs, to be placed on the site, floor plan of exterior walls and accesses located within one hundred (100) feet of the property line;	<i>Provided</i>
b. Utilities proposed including power, water, sewer, holding tanks, bridges, culverts and drainage ways;	<i>None new proposed</i>
c. Sewage facilities type and placement. Test pit locations, at least two of which must meet the State of Maine Plumbing Code requirements, must be shown;	<i>None new proposed</i>
d. Domestic water source;	<i>None new proposed</i>
e. Parks, open space, or conservation easement locations;	<i>None new proposed</i>
f. Lot lines, interior and exterior, right-of-way, and street alignments;	<i>Provided</i>
g. Road and other paved ways plans, profiles and typical sections including all relevant data;;	<i>None new proposed</i>
h. Setbacks Existing and proposed;	<i>None new proposed</i>
i. Machinery permanently installed locations likely to cause appreciable noise at the lot lines;	<i>Not applicable</i>
j. Raw, finished or waste materials to be stored outside the buildings, and any stored material of a toxic or hazardous nature;	<i>Not applicable</i>
k. Topographic contours of existing contours and finished grade elevations within the development;	<i>None new proposed</i>
l. Pedestrian ways/sidewalks, curbs, driveways, fences, retaining walls and other artificial features locations and dimensions proposed;	<i>None new proposed</i>
m. Temporary markers locations adequate to enable the Planning Board to readily locate and appraise the layout of the development;	<i>No new development</i>
n. Land proposed to be dedicated to public use and the conditions of such dedication;	<i>n/a</i>
o. Natural features or site elements to be preserved.	<i>No development proposed</i>
C. Supporting documentation must include:	
1. Vicinity map and aerial photograph showing the property in	<i>Provided</i>

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relation to surrounding properties, roads, geographic, natural resource (wetland, etc.), historic sites, applicable comprehensive plan features such as proposed park locations, land uses, zones, and other features within five hundred (500) feet from any boundary of the proposed development;	
2. Existing Development Area Conditions including but not limited to:	
a. Location and description of all structures, including signs, existing on the site, together with accesses located within one hundred (100) feet of the property line;	<i>Indicated</i>
b. Essential physical features such as watercourses, wetlands, flood plains, wildlife habitat areas, forest cover, and outcroppings	<i>n/a</i>
c. Utilities existing, including power, water, sewer, holding tanks, bridges, culverts and drainage ways;	<i>To be provided for PH</i>
3. Legal interest documents showing legal interest of the applicant in the property to be developed. Such documents must contain the description upon which the survey was based;	<i>Deeds provided</i>
4. Property encumbrances currently affecting the property, as well as any proposed encumbrances;	<i>n/a</i>
5. Water District approval letter, if public water is used, indicating there is adequate supply and pressure to be provided to the development	<i>n/a</i>
6. Erosion and sedimentation control plan endorsed by the York County Soil and Water Conservation District or the Town's engineering consultant; (Ordained 9/26/11; effective 10/27/11)	<i>No proposed disturbance</i>
7. Stormwater management preliminary plan for stormwater and other surface water drainage prepared by a registered professional engineer including the general location of stormwater and other surface water drainage areas. (Ordained 9/26/11; effective 10/27/11)	<i>No proposed disturbance</i>
8. Soil survey for York County covering the development. Where the soil survey shows soils with severe restrictions for development, a high intensity Class "A" soil survey must be provided;	<i>No proposed disturbance</i>
9. Vehicular traffic report estimating the amount and type of vehicular traffic that will be generated by the development on a daily basis and for peak hours.	<i>No new traffic generated</i>
10. Traffic impact analysis in accordance with Section 16.10.5.2D.1 for developments involving forty (40) or more parking spaces or which are projected to generate more than four hundred (400) vehicle trips per day	<i>No new traffic generated</i>
11. Test pit(s) analysis prepared by a licensed site evaluator when sewage disposal is to be accomplished by subsurface disposal, pits, prepared by a licensed site evaluator;	<i>No new sewage disposal</i>



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12. Town Sewage Department or community system authority letter, when sewage disposal is to be through a public or community system, approving the connection and its location	<i>n/a</i>
a. Additional submissions as may be required by other sections of this Code such as for clustered development, mobile home parks, or junkyards must be provided.	<i>n/a</i>
b. Letters of evaluation of the development by the Chief of Police, Fire Chief, Commissioner of Public Works, and, for residential applications, the superintendent of schools, must be collected and provided by the Town Planner	<i>No development</i>
c. Additional Requirements. In its consideration of an application/plan, the Planning Board may at any point in the review, require the applicant to submit additional materials, studies, analyses, and agreement proposals as it may deem necessary for complete understanding of the application	<i>Planning board action</i>
Such materials may include:	
1. Traffic impact analysis, including the following data:	<i>n/a</i>
a. Payment of the Planning Board application fees;	<i>To be determined</i>
b. And all other requirements per Section 16.10	<i>To be determined</i>

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CONSULTANTS**

P.O. Box 100 South Berwick, Maine 03908 207-384-2550

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2P

PLEASE RETURN TO:
RECORDING DEPARTMENT
Lenders First Choice
3850 Royal Avenue
Simi Valley, CA 93063

QUITCLAIM DEED

Doc# 2005013652
Bk 14401 Pg 0875 - 0876
Received York SS
03/17/2005 10:49AM
Debra L. Anderson
Register of Deeds
#367181305

KNOW ALL MEN BY THESE PRESENTS, THAT I, WILLIAM Q. CARNEY, of Kittery, County of York, and State of Maine, for consideration paid, GRANT to REBECCA EMBERLEY CARNEY, NOW KNOWN AS REBECCA A. EMBERLEY, of Kittery, County of York and State of Maine, with Quitclaim Covenants, the land in Kittery, County of York, and State of Maine, described as follows:

A certain lot or parcel of land with the buildings thereon situated in Kittery, County of York, State of Maine, being bounded and described as follows:

Beginning at an iron stake on the Easterly sideline of Cutts Road in Kittery, and at the Northwestern most corner of land now or formerly of Moulton; then running Northerly along said sideline for 363 feet, more or less, to other land now or formerly of Mary E. Pelletier and Valerie J. Doyle; then turning and running Easterly for 414 feet, more or less, to a point at land now or formerly of Koulowski; then turning and running Southerly for 309 feet, more or less, to an iron stake at land of first mentioned Moulton; then turning and running Westerly for 469 feet, more or less, to an iron stake and place of beginning.

Meaning and intending to convey and hereby conveying the same premises conveyed to REBECCA EMBERLEY CARNEY and WILLIAM Q. CARNEY, by deed of JAMES W. STOOT, a/k/a JAMES STOOT, dated April 23, 2001, and recorded in the York County Registry of Deeds at Book 10601, Page 170.

Subject to Kittery Water Department easements of record, including an easement dated October 30, 1942, and recorded in said Registry of Deeds in Book 2038, Page 22.

Subject further to easements granted Central Maine Power Co. and New England Telephone and Telegraph dated December 29, 1983 and recorded in said Registry of Deeds in Book 3235, Page 321, and dated February 13, 1987 and recorded in said Registry of Deeds in Book 4297, Page 81.

And also releasing all rights the Grantor may have in the said property, including any rights of homestead, dower and curtesy. Witness my hand this 30th day of December, 2003.

Witness:

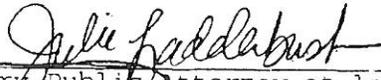
Christine F. McGinnis

William Carney
WILLIAM Q. CARNEY

NO R.E. TRANSFER TAX PAID

STATE OF MAINE
COUNTY OF YORK, ss.

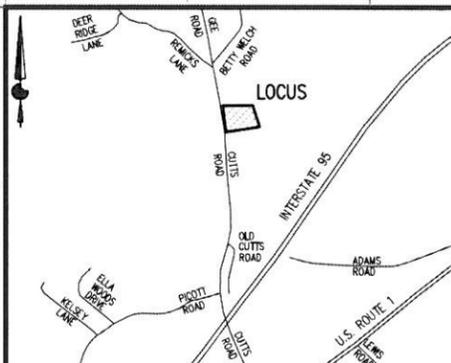
Then personally appeared the above named William Q. Carney and acknowledged the foregoing instrument to be his free act and deed, before me.


Notary Public Attorney at law

JULIE LADDERBUSH
Notary Public, Maine
My Commission Expires September 20, 2005

END OF DOCUMENT

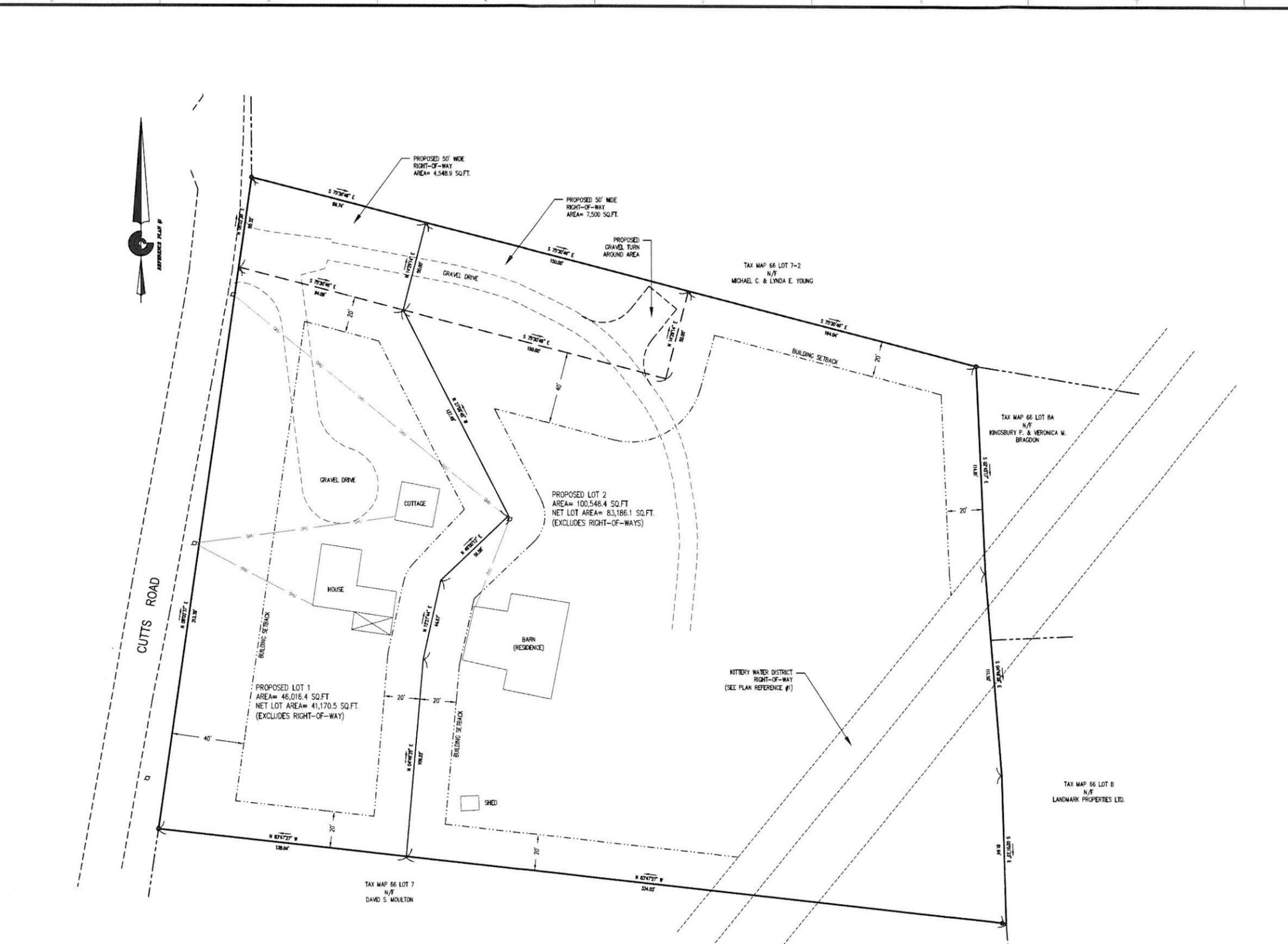
SEAL



LOCATION PLAN
(NOT TO SCALE)

- NOTES:**
- ASSESSOR'S INFORMATION:
TOWN OF KITTERY ASSESSOR'S MAP 66 LOT 7-3
 - RECORD OWNER:
REBECCA EMBERLEY
58 CUTTS ROAD
KITTERY, ME 03904
 - DEED REFERENCE:
T.C.R.D. 14401/875
 - ZONING INFORMATION:
RURAL RESIDENTIAL (R-RL) ZONE
LOT SIZE: 40,000 SQ.FT.
MINIMUM FRONTAGE: 150'
SETBACKS:
FRONT YARD: 40'
SIDE YARD: 20'
REAR YARD: 20'
MAXIMUM BUILDING HEIGHT: 35'
MAXIMUM LOT COVERAGE: 15%
 - BOUNDARY AND EXISTING FEATURES ARE BASED ON PLAN REFERENCE #1. CIVIL CONSULTANTS HAS NOT PERFORMED A FIELD SURVEY OF THE LOCUS PARCEL.
 - LOCUS PARCEL CONTAINS 3.36 ACRES MORE OR LESS.

- REFERENCE PLANS:**
- "58 CUTTS ROAD CONDOMINIUM SITE PLAN FOR PROPERTY AT 58 CUTTS ROAD KITTERY, YORK COUNTY, MAINE OWNED BY REBECCA EMBERLEY", BY EASTERLY SURVEYING, INC., DATED: 9/17/13. PLAN NOT RECORDED.
 - BOUNDARY SURVEY FOR MICHAEL C. YOUNG, CUTTS ROAD KITTERY MAINE", BY ANDERSON LIVINGSTON ENGINEERS, INC., DATED: AUGUST 02, 2005. PLAN RECORDED AT THE YORK COUNTY REGISTRY OF DEEDS IN PLAN BOOK 305 PAGE 5.



PLAN APPROVED BY TOWN OF
KITTERY PLANNING BOARD

	CHAIRMAN
DATE:	



CIVIL CONSULTANTS
Engineers
Planners
Surveyors
P.O. Box 100
South Berwick
Maine
03909
207-384-2550
www.civcon.com

NO.	REVISIONS	INT.	DATE
1			

RECORDED OWNER:
REBECCA EMBERLEY
OWNER ADDRESS:
58 CUTTS ROAD
KITTERY, MAINE 03904

PROPOSED LOT SPLIT & RIGHT-OF-WAY
TAX MAP 66 LOT 7-3
58 CUTTS ROAD
KITTERY, MAINE
PREPARED FOR:
REBECCA EMBERLEY
58 CUTTS ROAD, KITTERY, MAINE 03904
CLIENT ADDRESS:

1"=30'
DATE: 05/17/2016
DRAWN BY: JAA
CHECKED BY: TWH
APPROVED BY:

LOT SPLIT & RIGHT-OF-WAY PLAN

PROJECT NO: 16-135.00

C1

SHEET: 1 OF 1

TAX MAP NO. 66 LOT NO. 7-3