



**Town of Kittery**  
**200 Rogers Road, Kittery, ME 03904**  
**Board of Appeals Meeting Agenda**  
**Hybrid Meeting**

**Public may attend in person in Town Council Chambers or via zoom at:**  
**<https://www.kitteryme.gov/board-appeals/events/75716>**

**Tuesday, January 10, 2023**  
**Regular Meeting – 6:30 P.M.**

---

- 1. Call to Order; Introductory; Roll Call**
- 2. Pledge of Allegiance**
- 3. Agenda Amendment and Adoption**
- 4. Executive session (if required)**
- 5. Public Hearings**
  - Alan Shepard, on behalf of owners Michael and Barbara Murphy of 52 Goodwin Road, request a Miscellaneous Variation to adjust the property line of a non-conforming lot located in the Residential – Rural Conservation Zone per Code Section 16.1.8.
- 6. Unfinished Business**
- 7. New Business**
  - Election of Board Officers
    - Chair
    - Vice Chair
    - Secretary
- 8. Acceptance of Previous Minutes**
  - December 13, 2022
- 9. Board Member or CEO Issues or Comment**
- 10. Adjournment**



Kittery, ME

01/03/2023

## BOA-22-6

Board of Appeals Application

**Status:** Active

**Date Created:** Dec 20, 2022

### Applicant

Michael and Barbara Murphy  
mike1murphy@gmail.com  
PO Box 135  
Kittery Point, ME 03905  
941-320-2037

### Primary Location

52 GOODWIN ROAD  
KITTERY, ME 03905

### Owner:

MURPHY, MICHAEL M  
PO Box 135 Kittery Point, ME 03905

### Property Owner Information

#### Full Legal Name(s)

Barbara B. Murphy and Michael M. Murphy

#### Mailing Address

PO Box 135

#### State

ME

#### Phone Number

941-320-2037

#### City

Kittery Point

#### Zip Code

03905

#### Email Address

mike1murphy@gmail.com

### Applicant if different from Property Owner

#### Full Legal Name (s)

Alan E. Shepard

#### Mailing Address

93 Main Street

#### State

ME

#### City

Kennebunk

#### Zip Code

04043

**Phone Number**  
207-985-2326

**Email Address**  
alan@shepardandreadlaw.com

**Property Information**

**Street Address**  
52 Goodwin Road

**Lot size in acreage**  
1

**Tax Map**  
58

**Lot Number**  
51B

**Base Zone(s)**  
Rural Conservation Zone (R-RLC)

**Overlay Zone(s)**  
Resource Protection?

**Is the Subject Property located within a Shoreland Overlay or Resource Protection Overlay?**  
Yes

**Is the Subject Property located in a floodplain?**  
No

**Does the Subject Property have any outstanding code violations?**  
No

**Application to Appear before the Board of Appeals**

I wish to appear before the Board of Appeals to request:

**A Miscellaneous Variation Request**

**Miscellaneous Variation Request**

**Nonconformance as prescribed in Chapter 16.1**

**Miscellaneous Variation Request Pertinent Town Codes**

**Title**  
16.1.8.C.6(d)

**Chapter and Section**  
Adjustment of common boundary line of nonconforming lots

## Miscellaneous Variation Request Affirmations

I understand that the Board of Appeals:

**May hear and decide on a miscellaneous variation request within the limitations set forth in Title 16 with the sections identified above.**



**Appears to have jurisdiction to hear this request; hearing must be held within 30 days of this request filing; application must be complete; and, public and abutter notice must be made no less than seven days prior to the scheduled hearing.**



**Will conduct this hearing De Nove (meaning the Board acts if it were considering the question for the first time, affording no deference to the preceding agency decisions; may receive new evidence and testimony consistent with the Town Code Title 16 and the Board rules; and, conduct additional hearings and receive additional evidence and testimony).**



**Will determine my Burden of Proof: 1. What does the ordinance/statute require the applicant to prove? 2. Does the ordinance/statute prohibit or limit the type of use being proposed? 3. What factors must be considered under ordinance/statutes to decide whether to grant the request? 4. Is the evidence presented substantial? Is it credible? Is it outweighed by conflicting evidence?**



**Requires substantial evidence as the Standard of Review for this request, meaning: "More than a mere scintilla". It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. The preponderance of evidence standard is met if the proposition is more likely to be true than not true. The standard is satisfied if there is greater than fifty percent chance that the proposition is true.**



**May hear, decide, and approve variations in accordance with the criteria listed in Town Code Title 16, Section 6.6; and may consider other Title 16 standards.**



**Approval may not be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any state law which the municipality is responsible for enforcing.**



**Is only legally authorized to deal with issues arising from the list above; and do not include such matters as constitutionality, civil rights, criminal acts, property disputes, surliness, etc.**



**Will not even hear my appeal unless I can show that I have "standing" to have my complaint heard.**



**Purpose of establishing by case for "standing" is to limit appeals on an issue to those who are directly involved and/or affected.**



**Will try to decide my case based only on the factual information presented and what is written in the pertinent Town ordinance/regulation, State statute(s)/regulation(s) and the rulings of the State Supreme Judicial Court.**



**Tries to make decisions it believes would be upheld if appealed to the Superior Court.**



## **Miscellaneous Variation Request Statement**

### **Describe the general nature of the request:**

This application respectfully seeks the approval of the Board of Appeals to change the dimensions of two parcels located at 52 Goodwin Road, and 64 Tower Road. These properties have been treated as separate lots by the Town's Assessor and were shown on old recorded plans, one in 1949, "Plan of Island Acres Inc." recorded at Plan Book 40 Page 44, and the other in 1950, "Plan of Rocky Shore Front of Island Acres Inc." recorded at Plan Book 22 Page 64.

The Goodwin parcel has approximately 90,765 square feet, and the Tower parcel has approximately 49,242 square feet. Since the applicants acquired these properties in 2014, the paper street that separated a portion of 52 Goodwin has been formally abandoned, adding approximately 3648 feet to the Goodwin property.

The applicant's existing home is on 64 Tower with a garage and ADU located on a portion of 52 Goodwin. The reconfiguration would add the garage property to 64 Tower, which would result in 52 Goodwin having 51,896 feet and 64 Tower having 91,752 square feet. This change increases the utility of both parcels to the greatest practical extent and results in one legally conforming lot at 91,752 square feet and one less nonconforming lot at 51,896 square feet. 52 Goodwin at 51,896 square feet becomes less non conforming than 64 Tower at 49,242 square feet.

Since 52 Goodwin would be more nonconforming, the ordinance requires Board of Appeal approval pursuant to Section 16.1.8.C.6(d). Given that the reconfiguration effectively reverses the parcel sizes that presently exist, it is fair to say that each resulting lot is as conforming as practicable to the dimensional requirements of the ordinance.

This shift in the lot line has no impact on the surrounding properties, and the resulting size of 52 Goodwin will make it larger than many of the lots in the area on Gerrish Island.

## **Certification of Application**

### **Applicant's Signature**

Michael M Murphy and Barbara B Murphy  
12/20/2022

### **Name of Applicant**

Michael and Barbara Murphy

### **Date**

12/20/2022

## Attachments

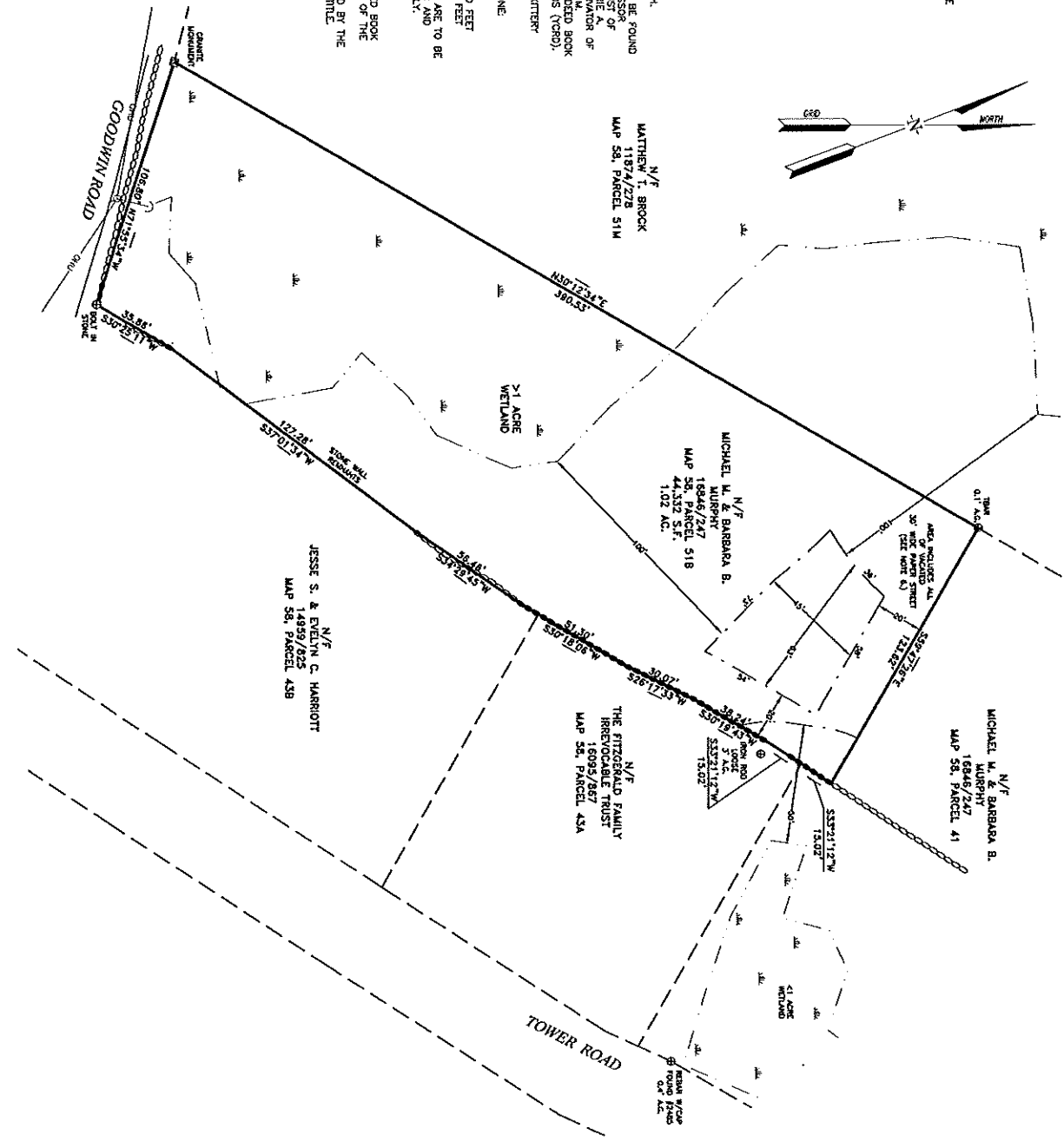
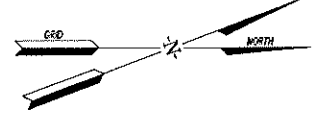
- [pdf](#) Survey 52 Goodwin 6-10-21.pdf  
Uploaded by Michael and Barbara Murphy on Dec 20, 2022 at 12:10 pm
- [pdf](#) Survey 64 Tower Rev A 4-23-20.pdf  
Uploaded by Michael and Barbara Murphy on Dec 20, 2022 at 12:10 pm
- [pdf](#) BOA-22-6 Payment Receipt.pdf  
Uploaded by Michael and Barbara Murphy on Dec 21, 2022 at 8:50 am
- [pdf](#) 9. Bailey Murphy Deed 2014.pdf  
Uploaded by Michael and Barbara Murphy on Dec 20, 2022 at 12:12 pm
- [pdf](#) Tax Assessor Vision 52 Goodwin.pdf  
Uploaded by Michael and Barbara Murphy on Dec 20, 2022 at 12:12 pm
- [pdf](#) Plan of Island Acres 1949.pdf  
Uploaded by Michael and Barbara Murphy on Dec 20, 2022 at 3:04 pm

**LEGEND**

- MONUMENT FOUND
- UTILITY POLE
- CITY WIRE
- BOUNDARY LINE
- ABUTTER OR RIGHT-OF-WAY LINE
- BUILDING SETBACK LINE
- EDGE OF WETLAND
- STONEWALL
- OVERHEAD UTILITIES
- NOW OR FORMERLY
- DEED BOOK & PAGE
- AC.
- ABOVE GROUND

**NOTES**

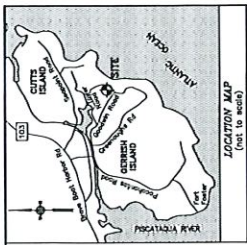
1. THE BASIS OF BEARING OF THIS PLAN IS GRID NORTH.
2. RECORD OWNERSHIP OF THE PARCEL SURVEYED CAN BE FOUND IN DEED BOOK 11874/278 IN THE NAME OF ROBERT C. BALDWIN REVOCABLE TRUST OF 1995 AND AS SUCCESSOR TRUSTEE OF THE MADRIERE & BAILEY REVOCABLE TRUST OF 1995 AND AS CONSERVATOR OF THE ESTATE OF BARBARA B. MURPHY. RECORD THE DEED BOOK 16946/247 AND DEED BOOK 16946/247 YORK COUNTY REGISTER OF DEEDS (CRD).
3. THE PARCEL SHOWN IS LOCATED ON THE TOWN OF KITTEEY ASSESSOR'S MAP 58, PARCEL 51B.
4. THE SUBJECT PARCEL IS LOCATED IN THE R-RUC ZONE. MIN. FRONT SETBACK = 40 FEET MIN. SIDE & REAR SETBACK = 20 FEET MIN. DISTANCE FROM ADJACENT WETLAND = 100 FEET BUILDING SETBACK FROM < 1 AC. WETLAND = 50 FEET BUILDING SETBACK FROM > 1 AC. WETLAND = 50 FEET \*THE DIMENSIONAL REQUIREMENTS SHOWN HEREON ARE TO BE COMPLIED WITH THE DEED OF CONVEYANCE AND CONSTRUCTION, ADDITIONAL RESTRICTIONS MAY APPLY.
5. WETLAND DELINEATION PROVIDED BY OTHERS.
6. REFERENCE IS MADE TO A NOTICE RECORDED IN DEED BOOK 16178 PAGE 181. SAID NOTICE CLAIMS THE PORTION OF THE VACATED WAY ABUTTING THE LOCUS PARCEL TO THE CENTERLINE OF THE 20' WIDE PAPER STREET VACATED BY THE TOWN OF KITTEEY. THIS PLAN DOES NOT PURPORT TITLE.



YORK OR REGISTER OF DEEDS  
 RECEIVED \_\_\_\_\_ 20\_\_\_\_  
 AT \_\_\_\_\_ H \_\_\_\_\_ M \_\_\_\_\_ A.M., AND  
 RECORDED IN BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
 ATTEST: \_\_\_\_\_  
 REGISTER



<p style="text-align: center;"><b>Plan of Land</b></p> <p style="text-align: center;">Map 58, Parcel 51B</p> <p style="text-align: center;">52 Goodwin Road Kittery, Maine</p>	<p>Owner/Prepared for:</p> <p style="text-align: center;"><b>Michael M. &amp; Barbara B. Murphy</b> 64 Tower Road Kittery, Maine 03905</p>	<p><b>KIMBALL</b> SURVEY &amp; DESIGN, INC.</p> <p style="font-size: small;">30 FROM HILL ROAD 5000 MAIN ST KITTERY, ME 03905 TEL: 603-551-4932 FAX: 603-551-4932 WWW.KIMBALLSURVEYANDDESIGN.COM</p> <p style="font-size: x-small;">PROFESSIONAL LAND SURVEYORS</p>	
<p>DATE: JUNE 10, 2021</p> <p>PROJECT NO.: 2174</p> <p>SCALE: 1" = 30'</p> <p>CAD FILE: 2174.dwg</p>	<p style="text-align: center;"><b>SHEET</b> 1 OF 1</p>		



**ZONING DATA PER KITTERY ZONING ORDINANCE (LAST AMENDED MAY 29, 2018 - SEE NOTE #1)**  
**BASE ZONE: Residential-Rural Conservation (R-RC)**  
**OVERLAY ZONE: Shoreland (OS-35-2007)**

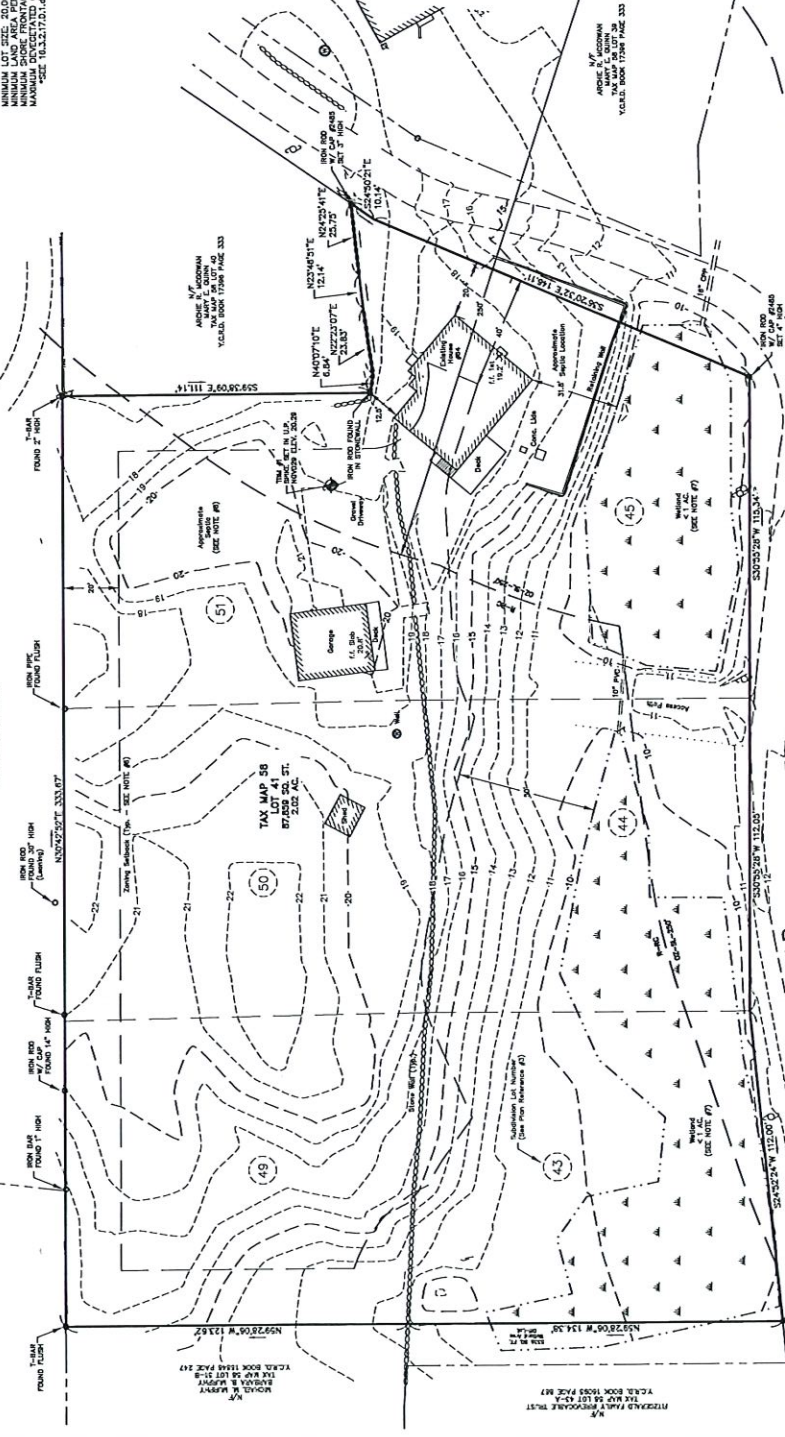
**REQUIREMENTS:**  
 Minimum Conservation (R-RC)  
 Minimum Land Area: 10,000 SQ. FT.  
 Minimum Lot Size: 50,000 SQ. FT.  
 Minimum Street Frontage: 200 FT.  
 Minimum Building Coverage: 25 FT.  
 Maximum Building Coverage: 25 FT.  
 Maximum Building Footprint: 25 FT.  
 OS-35-2007 REQUIREMENTS (SEE 16.3.2.12):  
 Minimum Lot Size: 20,000 SQ. FT.  
 Minimum Street Frontage: 50 FT.  
 Minimum Building Coverage: 25 FT.  
 Maximum Deciduous Coverage: 20%  
 (SEE 16.3.2.13.1.1.1)

**PLAN REFERENCES:**

1. "EXISTING CONDITIONS PLAN FOR PROPERTY AT 58 & 59 TOWER ROAD, KITTERY POINT, YORK COUNTY, MAINE, OWNED BY ARSIE N. MCCOWAN & MARTY QUINN", PREPARED BY JOHN L. COYNE, INC., DATED JANUARY 19, 2017, LAST REVISED OCTOBER 13, 2018, IN CONJUNCTION WITH PROJECT #1102.
2. "PLAN OF LAND MAP 58, PARCELS 418, 50, CORDON ROAD, KITTERY, MAINE, OWNED/CONTROLLED BY MICHAEL M. & BARBARA B. MURPHY", PREPARED BY MICHAEL MURPHY & DESIGN, INC., DATED JANUARY 30, 2020.
3. "PLAN OF 'ROCKY SHORE FRONT' OF ISLAND AGRES INC., GORRHUS ISLAND, KITTERY, MAINE, OWNED/CONTROLLED BY MICHAEL M. & BARBARA B. MURPHY", PREPARED BY MICHAEL MURPHY & DESIGN, INC., DATED MAR. 1950 AND RECORDED AT THE U.S.G.A. AS PLAN BOOK 22 PAGE 84.

**NOTES:**

1. OWNERS OF RECORD: LOT 41 MICHAEL M. & BARBARA B. MURPHY DATED JULY 1, 2014. PAGE 247
2. TOTAL EXISTING PARCEL AREA: 2,000 AC. 58 LOT 41 2,000 AC.
3. BASIS OF BEARING IS PER PLAN REFERENCE #1.
4. PROPERTY LINES SHOWN HEREIN ARE FOR REFERENCE PURPOSES ONLY AND SHALL NOT BE RELIED UPON AS BOUNDARY INFORMATION.
5. EASEMENTS OR OTHER UNWRITTEN RIGHTS MAY EXIST THAT DO NOT BENEFIT THE PROPERTY NOT SHOWN HEREON.
6. ZONING INFORMATION AND SETBACKS SHOWN HEREON ARE FOR REFERENCE PURPOSES ONLY AND SHALL NOT BE RELIED UPON AS BOUNDARY INFORMATION.
7. INTERIOR WELLS ON TAX MAP 58, LOT 41, WERE DEDICATED BY MICHAEL, CINDY, & MAUREEN SCHEIDT #211 ON FEBRUARY 4, 2008. REFERENCE IS MADE TO LETTER DATED FEBRUARY 18, 2008. SHORELAND WELLS IS PER PREVIOUS SURVEY.
8. LOCATION OF UNDERGROUND SEPTIC IS APPROXIMATE. USE CAUTION PRIOR TO EXCAVATION.



**DECREASING COVERAGE SHORELAND OVERLAY ZONE ONLY:**

USE AREA WITHIN SHORELAND OVERLAY ZONE	24,018± SQ. FT.
HOUSE	1,438± SQ. FT.
DECK/STEPS	209± SQ. FT.
CONCRETE WALL	418± SQ. FT.
TOTAL	3,065± SQ. FT. (12.7%)

**BUILDING COVERAGE CALCULATIONS:**

LOT AREA	87,891 SQ. FT.
EXISTING	1,846± SQ. FT.
HOUSE	672± SQ. FT.
SHED	132± SQ. FT.
TOTAL	2,650± SQ. FT. (3.0%)

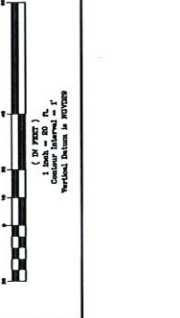
**EXISTING CONDITIONS PLAN**  
 FOR PROPERTY AT  
 64 Tower Road  
 Kittery Point, York County, Maine  
 Michael M. Murphy  
 Barbara B. Murphy  
 P.O. Box 132, Kittery Point, Maine 03908

**W. EASTERLY**  
**SURVEYING, Inc.**  
 SURVEYORS IN N.H. & MAINE, 191 STATE ROAD, SUITE #1  
 KITTERY, MAINE 03904  
 (207) 439-8333

**PRELIMINARY**

REV.	DATE	BY	CHKD.	APPD.	STATUS
1	4/23/20	REVISE OS-35-2007 BOUNDARY / REVISE CALC.	A.M.P.	A.M.P.	ORDER BY
2	11/1/20	REVISE OS-35-2007 BOUNDARY / REVISE CALC.	A.M.P.	A.M.P.	ORDER BY
3	11/1/20	REVISE OS-35-2007 BOUNDARY / REVISE CALC.	A.M.P.	A.M.P.	ORDER BY

SCALE: 1" = 20' (SEE NOTE #1)  
 SHEETS: 1 OF 1  
 DRAWN BY: A.M.P.  
 CHECKED BY: A.M.P.  
 FIELD BOOK NO.: 10277 Final.dwg  
 TAX MAP 58 Lot 41







BK 16846 PGS 247 - 250 07/02/2014 10:23:26 AM  
 INSTR # 2014023814 DEBRA ANDERSON  
 RECEIVED YORK SS REGISTER OF DEEDS

Maine R.E. Transfer Tax Paid

**WARRANTY DEED**

KNOW ALL MEN BY THESE PRESENTS, That, I, FRANK G. MEANOR, JR., as SUCCESSOR TRUSTEE of THE ROBERT L. BAILEY REVOCABLE TRUST OF 1995, u/d/t dated March 9, 1995 and as SUCCESSOR TRUSTEE of THE MARJORIE A. BAILEY REVOCABLE TRUST OF 1995, u/d/t dated March 9, 1995 and as CONSERVATOR (See York County Probate Court, Maine, Docket #2013-0731 for appointment) of ROBERT L. BAILEY, SR., of One New Hampshire Avenue, Suite 125, Portsmouth, New Hampshire, 03801 for consideration paid, grant to BARBARA B. MURPHY and MICHAEL M. MURPHY, of 830 N. Jackson Road, Venice, Florida, 34292, as joint tenants with rights of survivorship, *WITH WARRANTY COVENANTS*, the following described premises:

A certain lot or parcel of land, with any improvements thereon, situated on the north side of Goodwin Road on Gerrish Island, Kittery Point, County of York, State of Maine, bounded and described as follows:

Beginning at a point on the northerly line of Goodwin Road at the intersection of stonewalls, said point being about 115' westerly of the intersection of the said northerly line of Goodwin Road and the westerly line of Ocean Road, thence northerly by said stone wall about 730' to the southeast corner of Lot No. 52 as shown on a plan entitled "Plan of Island Acres, Inc." prepared by John W. Durgin, C. E. and dated December, 1949 showing subsequent purchase of Bristol property and filed in the York County Registry of Deeds as Plan Book 40, Page 44; thence westerly by Lot No. 52, 110' to the southwesterly corner of said Lot No. 52; thence southerly a figured distance of about 700' to the northerly line of said Goodwin Road; thence easterly by Goodwin Road 110' to the point of beginning.

Also, a certain parcel of land, with any improvements thereon, situated in the marsh area, so-called, on Gerrish Island in Kittery Point, York County, Maine and being westerly of Crescent Beach, also called Goodwin Beach, and bound and described as follows:

HP-7 MCEALHORN

Commencing at a point on the westerly line of land of Town of Kittery, said point being 150' northeasterly of the northeast corner of land now or formerly of Brennan; thence northeasterly by the westerly line of said Town of Kittery land 300'; thence north 45° 08' west parallel to the northerly line of said Brennan land 300' ; thence southwesterly about 300' to a point; thence south 45° 08' east and parallel to the northerly line of said Brennan land 300' to the point of beginning.

There is further conveyed a right of way over Goodwin Road, Tower Road and other ways as may be developed on those premises above described, and this conveyance is made subject to any and all existing rights of way, if any, across the above described parcels.

Also, certain lots or parcels of land, with any improvements thereon, located on Gerrish Island in Kittery, Maine, as follows:

Lots number forty-three (43), forty-four (44), and forty-five (45) according to a plan of lots known as "Rocky Shore Front" of Island Acres, Inc. located on Gerrish Island in Kittery, State of Maine; said plan of lots being recorded in the York County Registry of Deeds in Alfred in the State of Maine in Plan Book number twenty-two (22), Page sixty-four (64).

Also conveying herewith a right of way for all purposes from the end of the town or state highway abutting said grantor's property, along Goodwin Road, so-called, and along a proposed road running northeasterly from said Goodwin Road to the northwesterly of said lots, said right of way being more particularly shown on the above said plan and a certain plan described as "Plan A" of the "Creek Shore Area of Island Acres, Inc." made by John Durgin, C. E., said plan being recorded in Plan Book 17, Page 54, to which more particular reference may be had.

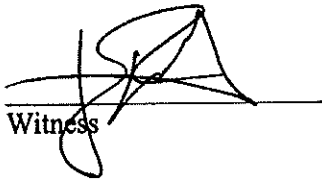
Meaning and intending to convey the same premises conveyed to Robert L. Bailey, as Trustee of The Robert L. Bailey Revocable Trust of 1995 and Marjorie A. Bailey, as Trustee of The Marjorie A. Bailey Revocable Trust of 1995 by deed of Robert L. Bailey and Marjorie A. Bailey, dated March 9, 1995 and recorded in the York County Registry of Deeds at Book 7402, Page 180 (in which Book 1687, Page 420 was erroneously referred to as Book 1637, Page 420 by scrivener's error). See also deeds at Book 5928, Page 009; Book 2222, Page 209; Book 2222, Page 207; Book 2222, Page 204; Book 1687, Page 420; and Book 1570, Page 110. See also death certificate for Marjorie A. Bailey recorded herewith.

The undersigned, Frank G. Meanor, Jr., Successor Trustee of The Robert L. Bailey Revocable Trust of 1995, under Declaration of Trust dated March 9, 1995 and The Marjorie A. Bailey Revocable Trust of 1995, under Declaration of Trust dated March 9, 1995, has full and absolute power pursuant to and in accordance with said Trust Agreements to convey any real estate or interest in real estate held in said Trusts, and no purchaser or third party shall be bound to inquire whether the Trustee has said power or is properly exercising said power, or shall be bound to see the application of any money, property, asset paid to the Trustee for a conveyance thereof. I further certify that I am the Successor Trustee, and that said Trusts have not been revoked, and remain in full force and effect.

Furthermore, the undersigned, Frank G. Meanor, Jr., Conservator of Robert L. Bailey, Sr., under Appointment by the York County Probate Court, Maine, Docket #2013-0731, has full and absolute power pursuant to and in accordance with said Appointment to convey any real estate or interest in real estate held by Robert L. Bailey, Sr. I further certify that I am the Conservator, and my power has not been revoked, and remains in full force and effect.

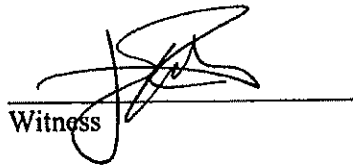
Dated this 1<sup>st</sup> day of July, 2014.

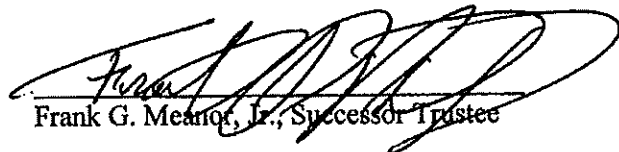
THE ROBERT L. BAILEY REVOCABLE TRUST OF 1995

  
Witness

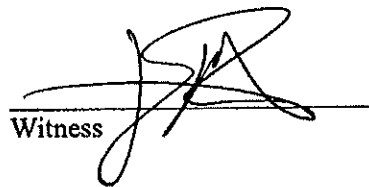
  
Frank G. Meanor, Jr., Successor Trustee

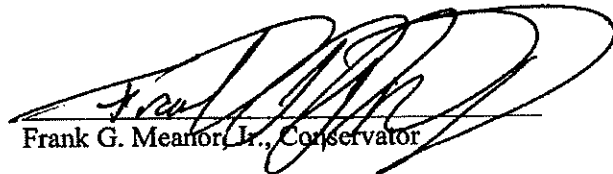
THE MARJORIE A. BAILEY REVOCABLE TRUST OF 1995

  
Witness

  
Frank G. Meanor, Jr., Successor Trustee

CONSERVATOR OF ROBERT L. BAILEY, SR.

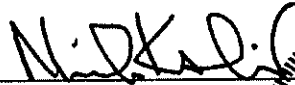
  
Witness


  
Frank G. Meanor, Jr., Conservator

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM

Personally appeared this 1<sup>st</sup> day of July, 2014, the above-named Frank G. Meanor, Jr., who acknowledged himself to be the Successor Trustee of The Robert L. Bailey Revocable Trust of 1995 and The Marjorie A. Bailey Revocable Trust of 1995, and as such Successor Trustee, being authorized so to do, he executed the forgoing instrument for the purposes therein contained on behalf of said Trusts; Frank G. Meanor, Jr. also acknowledges himself to be the Conservator of Robert L. Bailey, Sr., and as such Conservator, being authorized to do so, he executed the foregoing instrument for the purposed therein contained on behalf of Robert L. Bailey, Sr.

Before me,

  
\_\_\_\_\_  
Notary Public/Justice of Peace  
My Commission Expires



Replacement Cost  
 Less Depreciation: \$56,700

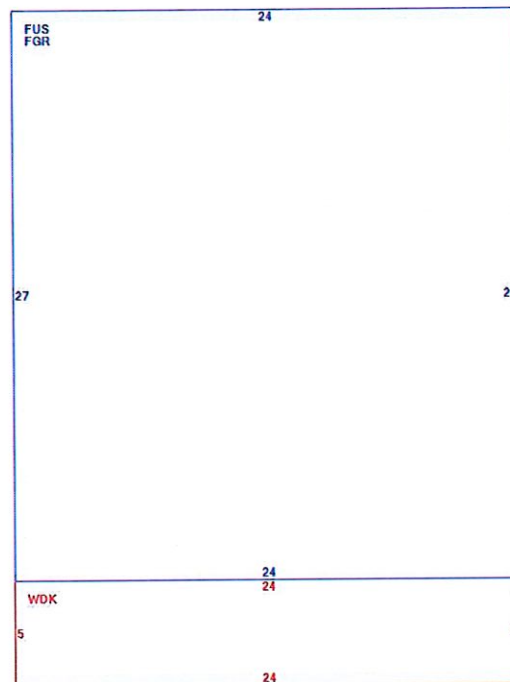
Building Attributes : Bldg 2 of 2	
Field	Description
Style	FGR W/ Apt
Model	Residential
Grade:	Average
Stories:	1 Story
Occupancy	1
Exterior Wall 1	Wood Shingle
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Plywood Panel
Interior Wall 2	
Interior Flr 1	Inlaid Sht Gds
Interior Flr 2	
Heat Fuel	Electric
Heat Type:	Electr Basebrd
AC Type:	None
Total Bedrooms:	1 Bedroom
Total Bthrms:	1
Total Half Baths:	0
Total Xtra Fixtrs:	
Total Rooms:	3 Rooms
Bath Style:	Average
Kitchen Style:	Old Style
MHP	

**Building Photo**



(<https://images.vgsi.com/photos/KitteryMEPhotos/\A0008\711.jpeg>)

**Building Layout**



(ParcelSketch.ashx?pid=3336&bid=3428)

Building Sub-Areas (sq ft)			Legend	
Code	Description	Gross Area	Living Area	
FUS	Upper Story, Finished	648	648	
FGR	Garage, Framed	648	0	
WDX	Deck, Wood	120	0	
		1,416	648	

**Extra Features**

Extra Features				Legend
Code	Description	Size	Value	Bldg #
FPL1	FIREPLACE 1 ST	1.00 UNITS	\$4,000	1

FPO	EXTRA FPL OPEN	1.00 UNITS	\$1,100	1
-----	----------------	------------	---------	---

**Land**

**Land Use**

Use Code 1090  
 Description MULTI HSES MDL-01  
 Zone R-RC  
 Neighborhood GI  
 Alt Land Appr No  
 Category

**Land Line Valuation**

Size (Acres) 1.9  
 Frontage 0  
 Depth 0  
 Assessed Value \$450,900  
 Appraised Value \$450,900

**Outbuildings**

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
SHD1	SHED FRAME			120.00 S.F.	\$900	1

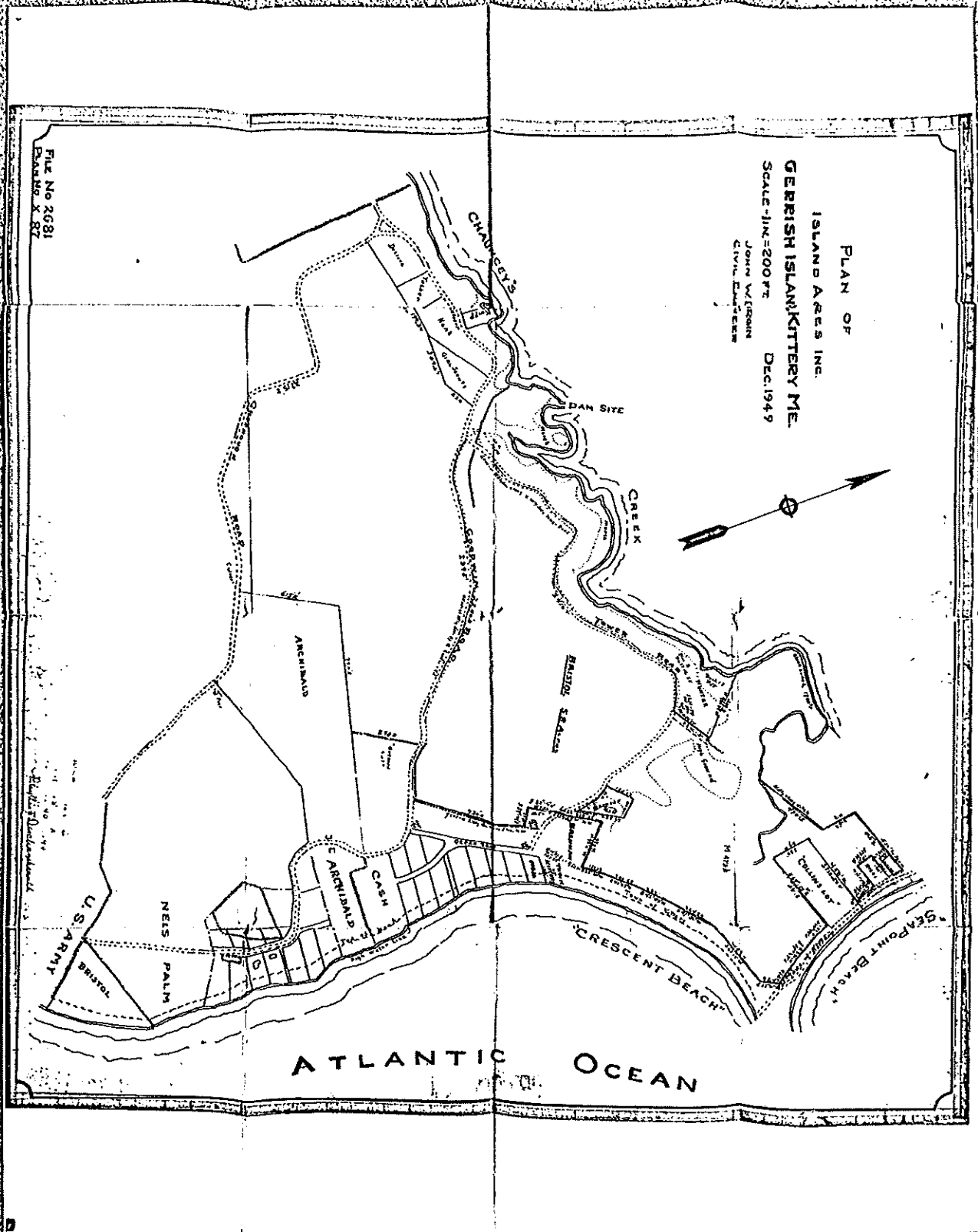
**Valuation History**

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$195,000	\$450,900	\$645,900
2021	\$195,000	\$450,900	\$645,900
2020	\$211,300	\$479,400	\$690,700

Assessment			
Valuation Year	Improvements	Land	Total
2022	\$195,000	\$450,900	\$645,900
2021	\$195,000	\$450,900	\$645,900
2020	\$211,300	\$479,400	\$690,700

File No 2681  
PART X 87

PLAN OF  
ISLAND AREAS INC.  
GERISH ISLAND KITTERY ME.  
SCALE - 1/4" = 200 FT.  
JOHN W. GREEN  
CIVIL ENGINEER  
DEC. 1949





**PLANNING & DEVELOPMENT DEPARTMENT  
STAFF REPORT**

BOA Meeting Date: January 10, 2023

Item #: MVR2023-01

**STAFF REPORT – 52 Goodwin Road – MISCELLANEOUS VARIATION REQUEST**

**Project Name:** 52 Goodwin Road

**Applicant:** Alan Shepard

**Owner:** Michael & Barbara Murphy

**Proposed Development:** Lot Line Adjustment

**Requests:** Miscellaneous Variation Request to adjust the property line of a non-conforming lot located in the Residential – Rural Conservation Zone per Code Section 16.1.8.

**Site Addresses:** 52 Goodwin Road

**Map & Lot Numbers:** M 58 L 51B

**Current Zoning:**

Residential – Rural Conservation (R-RC) – The purpose of the Residential - Rural Conservation R-RC Zone is to conserve and protect land areas of the Town which by their location and character require special measures to ensure low-density development.

The following is a permitted in the Residential – Rural Conservation (R-RC) Zone: (4) Dwelling, single-family. The proposed use is permitted by right.

**Staff Recommendation:** APPROVAL of miscellaneous variation request.

**District Standards:**

Residential – Rural Conservation (R-RC) Zone			
Minimum Road Frontage	200 feet	Front Yard Setback (min.)	40 feet
Lot Size (min.)	80,000 sf	Rear Yard Setback (min.)	20 feet
Side Yard Setback (min.)	20 feet		

**Current Use:** Vacant Land



**Surrounding Land Uses:**

North: Residential – Rural Conservation (R-RC) – Dwelling Unit

South: Residential – Rural Conservation (R-RC) – Dwelling Unit

East: Residential – Rural Conservation (R-RC) – Dwelling Unit

West: Residential – Rural Conservation (R-RC) – Dwelling Unit

**Future Land Use:**

The subject property is located within the “Limited Growth” area on the future land use map which is defined as areas that could accommodate a minimal amount of growth.

**Site Description:**

52 Goodwin Road (Parcel A) consists of 2.08 acres, or 90,765 square feet and contains a garage with a dwelling unit above. The lot is legally non-conforming due to its road frontage being 110 feet. 64 Tower Road (Parcel B) consists of 1.13 acres or 49,242 square feet and contains a single-family dwelling unit. The lot is legally non-conforming due to lot size.

**History of the Property:**

Both properties were originally multiple smaller lots that were combined throughout the years into large parcels. Parcel A was originally 6 parcels with a right of way in the middle of the property. Parcel B was originally 3 parcels, with the right of way from Parcel A along its southern border. See attached letter for more information.

**Description of the Issue:**

Both properties are currently owned by Mr. & Mrs. Murphy. The properties are incorrectly drawn on the Town’s tax maps, giving the impression that Parcel A was vacant, and Parcel B contained the single-family dwelling with a garage and ADU. The Murphy’s intention has always been to sell Parcel A and retain Parcel B. The tax map error was discovered during the review process for a Planning Board wetland alteration request for Parcel A. The Murphy’s are looking to configure the lots approximately as the Town’s tax maps show. The Murphy’s have owned the properties since 2014 and have viewed them as the incorrect tax maps indicate. If the reconfiguration were approved, Parcel A would drop in size to 51,896 square feet. The parcel would still be non-conforming but due to road frontage *and* lot size. Parcel B would increase in size to 91,752 square feet and would become a conforming lot. The area of the right of way would be absorbed by into the two newly created lots. Only one internal boundary line would change, so road frontage would not be affected. This matter is in front of the Board because the proposed Parcel A’s lot size would become non-conforming if the lot line adjustment is approved. See attached letter for more information.

**Applicant’s Miscellaneous Variation Request:**

Section 16.2.12.F requires the Board of Appeals to use the following process when hearing requests:

§ 16.2.12.F Basis for decision.

A. Conditions.

- (1) In hearing appeals/requests under this section, the Board of Appeals must first

*establish that it has a basis in law to conduct the hearing and decide the question.*

**LUDC Section 16.2.12.D.(3) allows the Board of Appeals to decide variations for nonconformities covered in Section 16.1.8. Further, Section 16.1.8.C.(6)(a)[1] states, “Nonconforming lots. In any district, notwithstanding limitations imposed by other sections of this title, single noncontiguous lots legally created when recorded may be built upon consistent with the uses in the particular zone. These provisions apply even though such lots fail to meet the minimum requirements for area or width, or both, which are applicable in the zone, provided that yard dimensions and other requirements, not involving area or width, or both, of the lot conform to the regulation for the zone in which such lot is located. Relaxation of yard and other requirements not involving area or width may be obtained only through miscellaneous variation request to the Board of Appeals.”**

*(2) In hearing appeals/requests under this section, the Board of Appeals must use the following criteria as the basis of a decision, that:*

*(a) The proposed use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use zones;*

**Staff believes the use will not prevent the orderly and reasonable use of adjacent properties since adjacent properties are zoned Residential – Rural Conservation and contain similar uses as the subject property.**

*(b) The use will not prevent the orderly and reasonable use of permitted or legally established uses in the zone wherein the proposed use is to be located or of permitted or legally established uses in adjacent use zones;*

**Staff believes the use will not prevent the orderly and reasonable use of legally established uses in the zone since the use is like adjoining properties and there are no use restrictions among adjacent dwelling units.**

*(c) The safety, the health and the welfare of the Town will not be adversely affected by the proposed use or its location; and*

**Staff believes the use will not adversely affect the health and welfare of the Town.**

*(d) The use will be in harmony with and promote the general purposes and intent of this title.*

**Staff believes the use is in harmony with Title 16 and promotes its general purposes.**

*Factors for consideration. In making such determination, the Board of Appeals must also give*

consideration, among other things, to:

- (1) *The character of the existing and probable development of uses in the zone and the peculiar suitability of such zone for the location of any of such uses;*

**The proposed use involved is allowed in the zone by right.**

- (2) *The conservation of property values and the encouragement of the most appropriate uses of land;*

**Staff believes the proposed change would not have a negative effect on property values in the area as the change will not affect the exterior boundary lines of the properties.**

- (3) *The effect that the location of the proposed use may have upon the congestion or undue increase of vehicular traffic congestion on public streets or highways;*

**There is no proposed increase in density that would result in additional vehicular traffic.**

- (4) *The availability of adequate and proper public or private facilities for the treatment, removal or discharge of sewage, refuse or other effluent (whether liquid, solid, gaseous or otherwise) that may be caused or created by or as a result of the use;*

**Any increase in sewage or effluent would be treated by an adequately designed septic system that would be installed at the time of development of the vacant lot.**

- (5) *Whether the use, or materials incidental thereto, or produced thereby, may give off obnoxious gases, odors, smoke or soot;*

**The proposed use produces no obnoxious gases, odors, smoke or soot.**

- (6) *Whether the use will cause disturbing emission of electrical discharges, dust, light, vibration or noise;*

**The proposed use causes no disturbing emission of electrical discharges, dust, light, vibration or noise.**

- (7) *Whether the operations in pursuance of the use will cause undue interference with the orderly enjoyment by the public of parking or of recreational facilities, if existing, or if proposed by the Town or by other competent governmental agency;*

**No undue interference should result from this use.**

(8) *The necessity for paved off-street parking;*

**The proposed use would not affect off-street parking**

(9) *Whether a hazard to life, limb or property because of fire, flood, erosion or panic may be created by reason or as a result of the use, or by the structures to be used, or by the inaccessibility of the property or structures thereon for the convenient entry and operation of fire and other emergency apparatus, or by the undue concentration or assemblage of persons upon such plot;*

**No hazards should result from this use.**

(10) *Whether the use, or the structures to be used, will cause an overcrowding of land or undue concentration of population or unsightly storage of equipment, vehicles or other materials;*

**No overcrowding should result from this use.**

(11) *Whether the plot area is sufficient, appropriate and adequate for the use and the reasonably anticipated operation and expansion thereof;*

**The lot would be a legal, non-conforming lot of record meeting the minimum lot size per the Maine Subsurface Wastewater regulations.**

(12) *Whether the proposed use will be adequately screened and buffered from contiguous properties;*

**Landscaping and buffering will be reviewed at the time of development.**

(13) *The assurance of adequate landscaping, grading and provision for natural drainage;*

**Grade changes and drainage will be reviewed at the time of development.**

(14) *Whether the proposed use will provide for adequate pedestrian circulation;*

**The proposed project will not change current pedestrian circulation.**

(15) *Whether the proposed use anticipates and eliminates potential nuisances created by its location; and*

**No new nuisances are expected from the lot line adjustment.**

(16) *The satisfactory compliance with all applicable performance standard criteria contained in Chapters 16.8 and 16.9.*

**Other than the miscellaneous variation request filed here, the proposed use appears to conform to Title 16.8 and 16.9.**

Using the standards and criteria found in 16.2.12.F of the LUDC, Staff recommends APPROVAL of the miscellaneous variation request to adjust the property line as proposed.

---

#### Sample Findings of Fact

1. The request is to adjust the property line between two legally non-conforming lots.
2. 52 Goodwin Road is currently non-conforming due to road frontage; 64 Tower Road is non-conforming due to lot size.
3. 52 Goodwin Road contains 2.08 acres and 64 Tower Road contains 1.13 acres.
4. After the adjustment 52 Goodwin Road would contain 1.19 acres and be non-conforming due to road frontage and lot size; 64 Tower Road would contain 2.11 acres and be a conforming lot.
5. The Board considered the Basis for Decision in Section 16.2.12.F.
6. Staff recommends approval.
7. The Board \_\_\_\_\_ the Miscellaneous Variation Request.

#### Sample Conclusions of Law

1. The Board had the authority to hear the request per Section 16.2.12.D.(3)(a).
2. The Board considered the Basis for Decision and Factors for Consideration set forth in 16.2.12.F.
3. The request was \_\_\_\_\_.



**TOWN OF KITTERY**  
**Code Enforcement Office**  
200 Rogers Road, Kittery, ME 03904  
Telephone: (207) 475-1308 Fax: (207) 439-6806

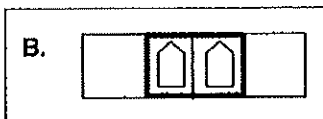
October 14, 2022

Michael & Barbara Murphy  
64 Tower Road  
Kittery Point, ME 03905

RE: 52 Goodwin Road, 58-51B

Michael & Barbara,

I am writing to notify you of the Town's findings regarding the buildability of the vacant lot located at 52 Goodwin Road. Previously, information had been submitted showing that once the right of way between 52 Goodwin Road and 64 Tower Road had been vacated that the lots should have merged. You submitted a countering legal opinion, and both were sent to the Town's legal team for review. Based on the information at hand, the Town's legal team agreed with the opinion that the lots had merged. This occurred in February of 2022. In August of 2022 you met with Adam Causey of the Planning Department and presented evidence that the Town's tax map indicating the shape and orientation of your properties were incorrect. Town Code §16.1.8.C.(6)(b)[2] states:



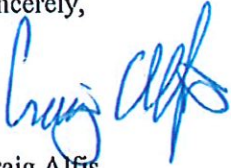
*Contiguous-built upon nonconforming lots. If two or more contiguous lots or parcels were in a single or joint ownership of record prior to July 13, 1977, or prior to December 15, 1973, for properties within the Shoreland Overlay Zone, if all or part of the lots do not meet the dimensional requirements of this title, and if a principal use or structure exists on each lot, the nonconforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. §§ 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.*

The evidence indicated that the parcels each contained a primary structure and were delineated as shown on Attachment 1. The approximate locations of the garage with dwelling unit and house are also indicated on Attachment 1. The Town's legal team reviewed the information and agreed that per the previously cited Code Section, the lots have not merged. The deed indicating the respective parcels is included as Attachment 2.

On October 5<sup>th</sup>, 2022, I met with you to discuss the findings. During that meeting we discussed the possibility of reconfiguring the lot lines to create a conforming lot at 64 Tower Road and a non-conforming lot at 52 Goodwin Road. This is the opposite of what is currently existing as 64 Tower Road is non-conforming, and 52 Goodwin Road is conforming. It appears that Board of Appeals approval will be required as one of the lots will become more non-conforming than it currently is. I've included the reconfiguration as I understand it as Attachment 3.

Feel free to reach out to me at the information provided below to discuss.

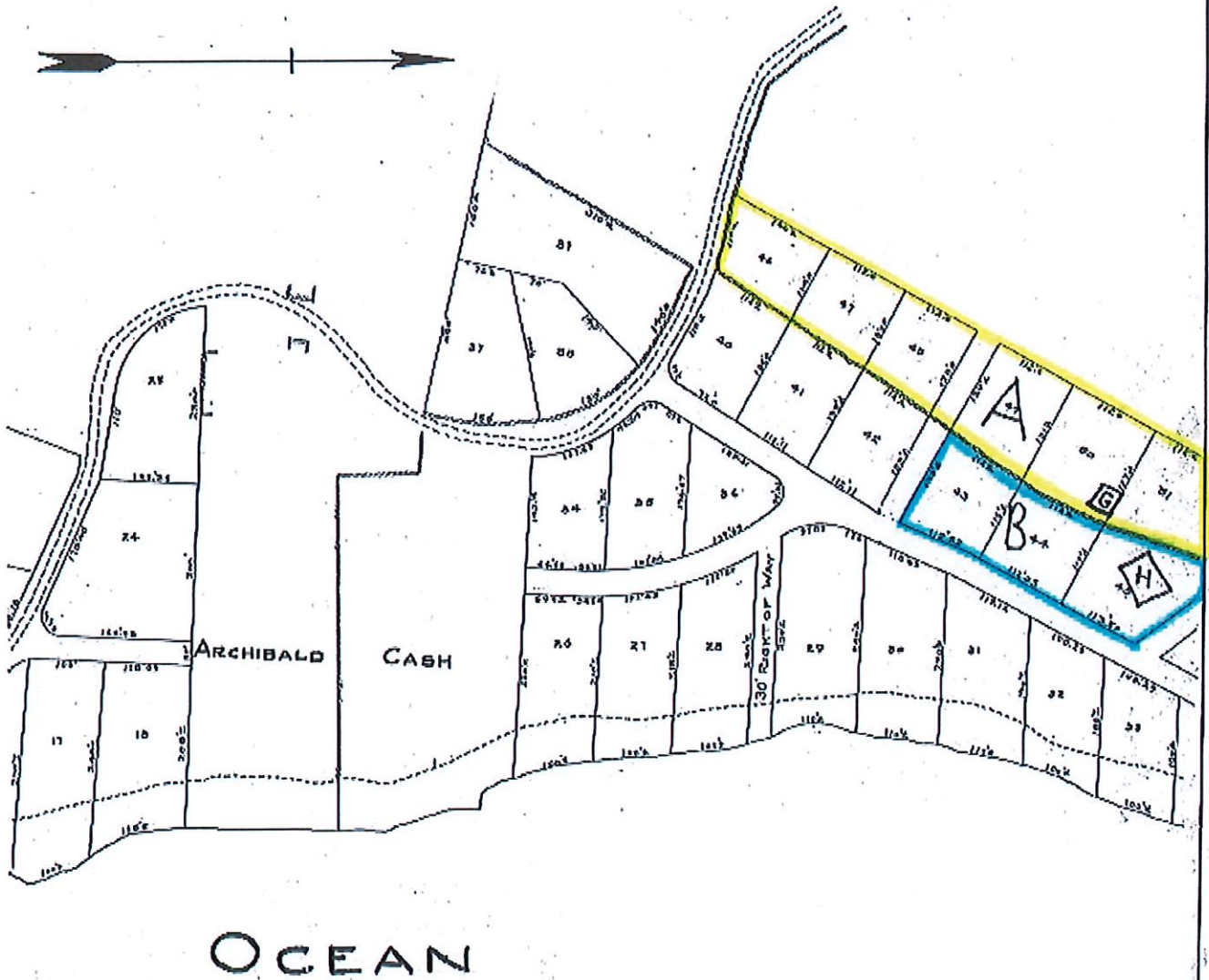
Sincerely,



Craig Alfis  
Code Enforcement Officer  
200 Rogers Road  
Kittery, Maine 03904  
207-475-1308

Cc: Property file  
Matt Brock, 50 Goodwin Road, Kittery Point

Attachment 1







BK 16846 PGS 247 - 250 07/02/2014 10:23:26 AM  
 INSTR # 2014023814 DEBRA ANDERSON  
 RECEIVED YORK SS REGISTER OF DEEDS

### WARRANTY DEED

Maine R.E. Transfer Tax Paid

KNOW ALL MEN BY THESE PRESENTS, That, I, FRANK G. MEANOR, JR., as SUCCESSOR TRUSTEE of THE ROBERT L. BAILEY REVOCABLE TRUST OF 1995, w/d/t dated March 9, 1995 and as SUCCESSOR TRUSTEE of THE MARJORIE A. BAILEY REVOCABLE TRUST OF 1995, w/d/t dated March 9, 1995 and as CONSERVATOR (See York County Probate Court, Maine, Docket #2013-0731 for appointment) of ROBERT L. BAILEY, SR., of One New Hampshire Avenue, Suite 125, Portsmouth, New Hampshire, 03801 for consideration paid, grant to BARBARA B. MURPHY and MICHAEL M. MURPHY, of 830 N. Jackson Road, Venice, Florida, 34292, as joint tenants with rights of survivorship, *WITH WARRANTY COVENANTS*, the following described premises:

A certain lot or parcel of land, with any improvements thereon, situated on the north side of Goodwin Road on Gerrish Island, Kittery Point, County of York, State of Maine, bounded and described as follows:

Parcel A - 52 Goodwin Rd.

Beginning at a point on the northerly line of Goodwin Road at the intersection of stonewalls, said point being about 115' westerly of the intersection of the said northerly line of Goodwin Road and the westerly line of Ocean Road, thence northerly by said stone wall about 730' to the southeast corner of Lot No. 52 as shown on a plan entitled "Plan of Island Acres, Inc." prepared by John W. Durgin, C. E. and dated December, 1949 showing subsequent purchase of Bristol property and filed in the York County Registry of Deeds as Plan Book 40, Page 44; thence westerly by Lot No. 52, 110' to the southwesterly corner of said Lot No. 52; thence southerly a figured distance of about 700' to the northerly line of said Goodwin Road; thence easterly by Goodwin Road 110' to the point of beginning.

≈ 90,765 SF

Also, a certain parcel of land, with any improvements thereon, situated in the marsh area, so-called, on Gerrish Island in Kittery Point, York County, Maine and being westerly of Crescent Beach, also called Goodwin Beach, and bound and described as follows:

HP → MCEACHERN

Commencing at a point on the westerly line of land of Town of Kittery, said point being 150' northeasterly of the northeast corner of land now or formerly of Brennan; thence northeasterly by the westerly line of said Town of Kittery land 300'; thence north 45° 08' west parallel to the northerly line of said Brennan land 300' ; thence southwesterly about 300' to a point; thence south 45° 08' east and parallel to the northerly line of said Brennan land 300' to the point of beginning.

There is further conveyed a right of way over Goodwin Road, Tower Road and other ways as may be developed on those premises above described, and this conveyance is made subject to any and all existing rights of way, if any, across the above described parcels.

Also, certain lots or parcels of land, with any improvements thereon, located on Gerrish Island in Kittery, Maine, as follows:

Parcel B - 64 Tower Rd.

Lots number forty-three (43), forty-four (44), and forty-five (45) according to a plan of lots known as "Rocky Shore Front" of Island Acres, Inc. located on Gerrish Island in Kittery, State of Maine; said plan of lots being recorded in the York County Registry of Deeds in Alfred in the State of Maine in Plan Book number twenty-two (22), Page sixty-four (64).

49,242 SF

Also conveying herewith a right of way for all purposes from the end of the town or state highway abutting said grantor's property, along Goodwin Road, so-called, and along a proposed road running northeasterly from said Goodwin Road to the northwesterly of said lots, said right of way being more particularly shown on the above said plan and a certain plan described as "Plan A" of the "Creek Shore Area of Island Acres, Inc." made by John Durgin, C. E., said plan being recorded in Plan Book 17, Page 54, to which more particular reference may be had.


Meaning and intending to convey the same premises conveyed to Robert L. Bailey, as Trustee of The Robert L. Bailey Revocable Trust of 1995 and Marjorie A. Bailey, as Trustee of The Marjorie A. Bailey Revocable Trust of 1995 by deed of Robert L. Bailey and Marjorie A. Bailey, dated March 9, 1995 and recorded in the York County Registry of Deeds at Book 7402, Page 180 (in which Book 1687, Page 420 was erroneously referred to as Book 1637, Page 420 by scrivener's error). See also deeds at Book 5928, Page 009; Book 2222, Page 209; Book 2222, Page 207; Book 2222, Page 204; Book 1687, Page 420; and Book 1570, Page 110. See also death certificate for Marjorie A. Bailey recorded herewith.


The undersigned, Frank G. Meanor, Jr., Successor Trustee of The Robert L. Bailey Revocable Trust of 1995, under Declaration of Trust dated March 9, 1995 and The Marjorie A. Bailey Revocable Trust of 1995, under Declaration of Trust dated March 9, 1995, has full and absolute power pursuant to and in accordance with said Trust Agreements to convey any real estate or interest in real estate held in said Trusts, and no purchaser or third party shall be bound to inquire whether the Trustee has said power or is properly exercising said power, or shall be bound to see the application of any money, property, asset paid to the Trustee for a conveyance thereof. I further certify that I am the Successor Trustee, and that said Trusts have not been revoked, and remain in full force and effect.

Furthermore, the undersigned, Frank G. Meanor, Jr., Conservator of Robert L. Bailey, Sr., under Appointment by the York County Probate Court, Maine, Docket #2013-0731, has full and absolute power pursuant to and in accordance with said Appointment to convey any real estate or interest in real estate held by Robert L. Bailey, Sr. I further certify that I am the Conservator, and my power has not been revoked, and remains in full force and effect.

Dated this 1<sup>st</sup> day of July, 2014.


THE ROBERT L. BAILEY REVOCABLE TRUST  
OF 1995

  
Witness


  
Frank G. Meanor, Jr., Successor Trustee


THE MARJORIE A. BAILEY REVOCABLE  
TRUST OF 1995

  
Witness

  
Frank G. Meanor, Jr., Successor Trustee

CONSERVATOR OF ROBERT L. BAILEY, SR.


  
Witness


  
Frank G. Meanor, Jr., Conservator

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM

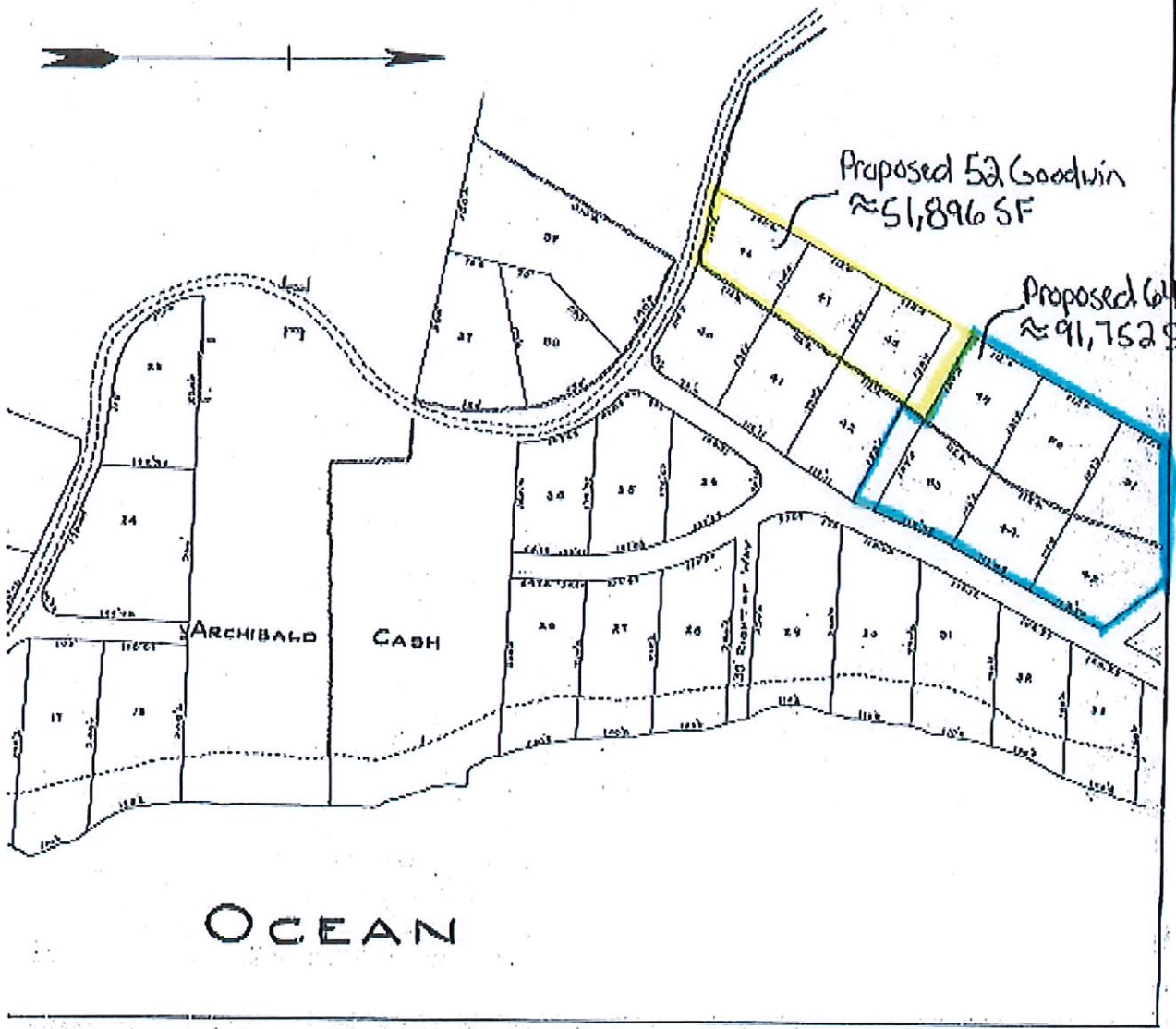
Personally appeared this 1<sup>st</sup> day of July, 2014, the above-named Frank G. Meanor, Jr., who acknowledged himself to be the Successor Trustee of The Robert L. Bailey Revocable Trust of 1995 and The Marjorie A. Bailey Revocable Trust of 1995, and as such Successor Trustee, being authorized so to do, he executed the forgoing instrument for the purposes therein contained on behalf of said Trusts; Frank G. Meanor, Jr. also acknowledges himself to be the Conservator of Robert L. Bailey, Sr., and as such Conservator, being authorized to do so, he executed the foregoing instrument for the purposed therein contained on behalf of Robert L. Bailey, Sr.

Before me,

  
\_\_\_\_\_  
Notary Public/Justice of Peace  
My Commission Expires



Attachment 3



Proposed 52 Goodwin  
≈ 51,896 SF

Proposed 64 Tower  
≈ 91,752 SF

OCEAN

ARCHIBALD

CASH



# 150 foot Abutters List Report

Kittery, ME  
December 27, 2022

## Subject Properties:

Parcel Number: 58-41  
CAMA Number: 58-41  
Property Address: 64 TOWER ROAD

Mailing Address: MURPHY, MICHAEL M MURPHY,  
MICHAEL M  
PO BOX 135  
KITTERY POINT, ME 03905

Parcel Number: 58-51B  
CAMA Number: 58-51B  
Property Address: 52 GOODWIN ROAD

Mailing Address: MURPHY, MICHAEL M MURPHY,  
MICHAEL M  
PO BOX 135  
KITTERY POINT, ME 03905

## Abutters:

Parcel Number: 58-39  
CAMA Number: 58-39  
Property Address: 69 TOWER ROAD

Mailing Address: QUINN, TR, MARY E. QUINN, TR, MARY  
E.  
28 PARTRIDGE HILL ROAD  
NEWFIELDS, NH 03856

Parcel Number: 58-40  
CAMA Number: 58-40  
Property Address: 56 TOWER ROAD

Mailing Address: QUINN, TR, MARY E. QUINN, TR, MARY  
E.  
28 PARTRIDGE HILL ROAD  
NEWFIELDS, NH 03856

Parcel Number: 58-42  
CAMA Number: 58-42  
Property Address: 73 TOWER ROAD

Mailing Address: RAMOS, ROBERT RAMOS, ROBERT  
73 TOWER ROAD  
KITTERY POINT, ME 03905

Parcel Number: 58-42A  
CAMA Number: 58-42A  
Property Address: 71 TOWER ROAD

Mailing Address: MARY THRON REV TRUST MARY  
THRON REV TRUST  
PO BOX 96  
KITTERY POINT, ME 03905

Parcel Number: 58-43  
CAMA Number: 58-43  
Property Address: 77 TOWER ROAD

Mailing Address: MACHADO, JOSEPH M. MACHADO,  
JOSEPH M.  
15 FINN AVENUE  
NEWFIELDS, NH 03856

Parcel Number: 58-43A  
CAMA Number: 58-43A  
Property Address: 72 TOWER ROAD

Mailing Address: FITZGERALD TRS, SCOTT D, SHAWN E,  
& TODD FITZGERALD TRS, SCOTT D,  
SHAWN E, & TODD  
95 EAST DUDLEY STREET  
MARLBOROUGH, MA 01752

Parcel Number: 58-43B  
CAMA Number: 58-43B  
Property Address: 54 GOODWIN ROAD

Mailing Address: HARRIOTT, JESSE S HARRIOTT, JESSE  
S  
22 PARAMETER ROAD  
SUDBURY, MA 01776-1269

Parcel Number: 58-44  
CAMA Number: 58-44  
Property Address: 79 TOWER ROAD

Mailing Address: LINDA K GINGRAS REV TRUST LINDA K  
GINGRAS REV TRUST  
79 TOWER ROAD  
KITTERY POINT, ME 03905



www.cal-tech.com

12/27/2022

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.

Page 1 of 2



# 150 foot Abutters List Report

Kittery, ME  
December 27, 2022

Parcel Number: 58-5  
CAMA Number: 58-5  
Property Address: SEAPOINT ROAD

Mailing Address: INHABITANTS OF KITTERY  
INHABITANTS OF KITTERY  
200 ROGERS ROAD  
KITTERY, ME 03904-1428

Parcel Number: 58-51C  
CAMA Number: 58-51C  
Property Address: 52 TOWER ROAD

Mailing Address: CARTER WITHERSPOON LIV. TRUST  
CARTER WITHERSPOON LIV. TRUST  
52 TOWER ROAD  
KITTERY POINT, ME 03905

Parcel Number: 58-51M  
CAMA Number: 58-51M  
Property Address: 50 GOODWIN ROAD

Mailing Address: BROCK, MATTHEW T BROCK,  
MATTHEW T  
50 GOODWIN ROAD  
KITTERY POINT, ME 03905-5221

Parcel Number: 58-52  
CAMA Number: 58-52  
Property Address: 55 GOODWIN ROAD

Mailing Address: LARIVIERE, RAYMOND M LARIVIERE,  
RAYMOND M  
6 HUTCHINS COVE DRIVE  
KITTERY, ME 03904-5425

Parcel Number: 58-52A  
CAMA Number: 58-52A  
Property Address: 59 GOODWIN ROAD

Mailing Address: WHITE, RUSSELL B WHITE, RUSSELL B  
PO BOX 49  
KITTERY POINT, ME 03905-0049



www.cai-tech.com

12/27/2022

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.

Page 2 of 2

TOWN OF KITTERY  
Planning & Development Dept  
200 Rogers Road  
Kittery, ME 03904



US POSTAGE  
METRY BOWES  
ZIP 03904 \$ 000.57<sup>0</sup>  
02 4H  
0000377371 DEC 30 2022

CARTER WITHERSPOON LIV. T  
CARTER WITHERSPOON LIV. T  
52 TOWER ROAD  
KITTERY POINT, ME 03905

TOWN OF KITTERY  
Planning & Development Dept  
200 Rogers Road  
Kittery, ME 03904



US POSTAGE  
METRY BOWES  
ZIP 03904 \$ 000.57<sup>0</sup>  
02 4H  
0000377371 DEC 30 2022

RAMOS, ROBERT  
RAMOS, ROBERT  
73 TOWER ROAD  
KITTERY POINT, ME 03905

TOWN OF KITTERY  
Planning & Development Dept  
200 Rogers Road  
Kittery, ME 03904



US POSTAGE  
METRY BOWES  
ZIP 03904 \$ 000.57<sup>0</sup>  
02 4H  
0000377371 DEC 30 2022

LINDA K GINGRAS REV TRUST  
LINDA K GINGRAS REV TRUST  
79 TOWER ROAD  
KITTERY POINT, ME 03905

TOWN OF KITTERY  
Planning & Development Dept  
200 Rogers Road  
Kittery, ME 03904



US POSTAGE  
METRY BOWES  
ZIP 03904 \$ 000.57<sup>0</sup>  
02 4H  
0000377371 DEC 30 2022

BROCK, MATTHEW T  
BROCK, MATTHEW T  
50 GOODWIN ROAD  
KITTERY POINT, ME 03905-5221



Town of Kittery Board of Appeals  
NOTICE OF PUBLIC HEARING  
Tuesday January 10, 2023 — 6:30PM

Hybrid Meeting: Public may attend in person at 200  
Rogers Road, Kittery or virtual link can be found at  
<https://www.kitteryme.gov/board-appeals/events/75716>

Alan Shepard, on behalf of owners Michael and Barbara Murphy of 52  
Goodwin Road, request a Miscellaneous Variation to adjust the property  
line of a non-conforming lot located in the Residential – Rural Conservation  
Zone per Code Section 16.1.8.

Application information is available for public inspection between 8:00 am to 6:00 pm Monday thru  
Thursday at the Planning and Development Department located in Town Hall. To request a  
reasonable accommodation for this meeting please contact staff at (207) 475-1323.

TOWN OF KITTERY  
Planning & Development Dept  
200 Rogers Road  
Kittery, ME 03904



US POSTAGE  
METRY BOWES  
ZIP 03904 \$ 000.57<sup>0</sup>  
02 4H  
0000377371 DEC 30 2022

WHITE, RUSSELL B  
WHITE, RUSSELL B  
PO BOX 49  
KITTERY POINT, ME 03905-0049

TOWN OF KITTERY  
Planning & Development Dept  
200 Rogers Road  
Kittery, ME 03904



US POSTAGE  
METRY BOWES  
ZIP 03904 \$ 000.57<sup>0</sup>  
02 4H  
0000377371 DEC 30 2022

HARRIOTT, JESSE S  
HARRIOTT, JESSE S  
22 PARAMETER ROAD  
SUDBURY, MA 01776-1269

TOWN OF KITTERY  
Planning & Development Dept  
200 Rogers Road  
Kittery, ME 03904



US POSTAGE  
METRY BOWES  
ZIP 03904 \$ 000.57<sup>0</sup>  
02 4H  
0000377371 DEC 30 2022

LARIVIERE, RAYMOND M  
LARIVIERE, RAYMOND M  
6 HUTCHINS COVE DRIVE  
KITTERY, ME 03904-5425

TOWN OF KITTERY  
Planning & Development Dept  
200 Rogers Road  
Kittery, ME 03904



US POSTAGE  
METRY BOWES  
ZIP 03904 \$ 000.57<sup>0</sup>  
02 4H  
0000377371 DEC 30 2022

FITZGERALD TRS, SCOTT D,  
FITZGERALD TRS, SCOTT D,  
95 EAST DUDLEY STREET  
MARLBOROUGH, MA 01752

TOWN OF KITTERY  
Planning & Development Dept  
200 Rogers Road  
Kittery, ME 03904



US POSTAGE  
METRY BOWES  
ZIP 03904 \$ 000.57<sup>0</sup>  
02 4H  
0000377371 DEC 30 2022

MARY THRON REV TRUST  
MARY THRON REV TRUST  
PO BOX 96  
KITTERY POINT, ME 03905

TOWN OF KITTERY  
Planning & Development Dept  
200 Rogers Road  
Kittery, ME 03904



US POSTAGE  
METRY BOWES  
ZIP 03904 \$ 000.57<sup>0</sup>  
02 4H  
0000377371 DEC 30 2022

MACHADO, JOSEPH M.  
MACHADO, JOSEPH M.  
15 FINN AVENUE  
NEWFIELDS, NH 03856

TOWN OF KITTERY  
Planning & Development Dept  
200 Rogers Road  
Kittery, ME 03904



US POSTAGE  
METRY BOWES  
ZIP 03904 \$ 000.57<sup>0</sup>  
02 4H  
0000377371 DEC 30 2022

QUINN, TR, MARY E.  
QUINN, TR, MARY E.  
28 PARTRIDGE HILL ROAD  
NEWFIELDS, NH 03856



# ~ Classifieds & News ~



## LEGAL NOTICES

### LEGAL NOTICE

**PETITION FOR A PARDON  
STATE OF MAINE**  
Augusta, January 19, 2023

Notice is hereby given that a Petition for a Pardon for Garrett G. Shalby who was convicted of the crime(s) VI-2014-00064 Possession of Marijuana (V) & Sale and Use of Drug Paraphernalia (V), VI-2007-00355 Possession of Marijuana (V) & Sale and Use of Drug Paraphernalia (V), CR-2007-01771 Operate Vehicle Without License (E), CR-2011-02154 Aggravated Foregry (E) & Fail to Provide Correct Name, Address, DOB (E), CR-2007-02651 Operate Vehicle Without License (E), CR-2004-02890 Failure to Register Vehicle (E), CR-2004-03522 Theft by Receiving Stolen Property (C), is now pending before the Governor and a hearing will be conducted on Thursday, January 19, 2023, at 9:00 o'clock A.M.

Please visit the following link for Hearing details: <https://www.maine.gov/corrections/pardonboard>

## Tips to Help Curb Your Spending

### STATEWIDE -

Whether making financial resolutions to curb monthly spending patterns, or to just save up extra cash for those upcoming vacation plans, here are three tips from Rebecca Gramaglia, consumer expert at topcashback.com, that can help:

**Reassess expenses.** Reflect on whether autopaying for monthly utilities or auto-subscribing to

## CARPENTRY

### BEGIN AGAIN

#### CARPENTRY & DESIGN:

All aspects of carpentry, frame to finish. Make your ideas come to life this season! Contact Jake at [jacobrobertswoodworker@gmail.com](mailto:jacobrobertswoodworker@gmail.com) or 207-205-7140.

## LEGAL NOTICES

## Town of Kittery - Board of Appeals NOTICE OF PUBLIC HEARING

In-Person, Council Chambers - Public can attend in person or at <https://us2web.zoom.us/j/847140033>

**Thursday, January 10, 2023 - 6:30 p.m.**

Alan Shepard, on behalf of owners Michael and Barbara Murphy of 52 Goodwin Road, request a Miscellaneous Variation to adjust the property line of a non-conforming lot located in the Residential - Rural Conservation Zone per Code Section 16:1.8.



Application information is available for public inspection by appointment only between 8:00 a.m. and 6:00 p.m. Monday through Thursday, at the Development Department located in Kittery Town Hall. To request a reasonable accommodation for this meeting please contact staff.

used trial subscriptions are really worth it. Bills and subscriptions may be conveniently set on autopay, a convenient feature to keep from missing payments, but these services could be costing more if their autopay feature is forgotten about. Some autopay features charge a monthly "convenience fee," and that extra charge can add up quickly month-to-month.

Review these expenses every few months and set reminders to cancel outdated free trial subscriptions. When it comes to saving, impulse shopping can be detrimental

## RENTALS

### YEAR ROUND

#### HOUSE / ROOM RENTALS

At 41 Brown Lane, Wells. \$300 per week. All utilities included. 207-251-1018.

### SHOP FOR RENT

30' x 40' shop for rent with a 14' x 14' door and a truck lift in South Berwick. \$380 / week 603-817-0808

## CENTURY 21

Barbara Patterson 207.384.4008  
96 Portland St. South Berwick, ME  
[www.century21barbarapatterson.com](http://www.century21barbarapatterson.com)

### RESIDENCES AT ELIOT COMMONS

2 Bedroom unit available!  
\$2995/month. One year lease.

to anybody's goal. Always make a shopping list before going to the store, and unsubscribe from store emails from places you overspend at or don't shop at anymore.

Buy generic or the store brand whenever possible. Generic products are typically a fraction of the cost of the branded products. Significant savings in the long run can be achieved by making this one simple switch.

Shop online. Consumers may opt to buy clothing and more expensive items, like electronics and jewelry, in-store to examine or to try on the product. However, shopping online can save even more than shopping in-store. Consumers can always visit the physical store to see an item in person, but online shopping allows one to layer on discounts or loyalty points, earning even more savings.

In addition to using promo codes or coupons, opt to shop through a cash back site, like [www.topcashback.com](http://www.topcashback.com), to score a percentage of money back on qualifying purchases from stores.

For those who don't want to wait for shipping on online items, one smart shopping technique to try is to find the items at retailers offering in-store or curbside pickup. The savvy shopper can then get the same low price online, all while potentially saving on shipping fees, and/or getting the item faster.

Don't check out right away! Shoppers may be able to score extra savings by holding off on the

purchase, and leaving the items in the shopping cart. Close out of the browser window, and keep an eye on the corresponding emails. The website's algorithm will notice, and will eventually send a "you forgot something in your cart" email over the next few hours or days, usually with a discount code.

Do what works best. Not every new money-saving hack under the sun works for everyone, but starting with a few new techniques in the new year can help avoid financial burnout. When adopting a new savings strategy, always take current lifestyle spending patterns into consideration. For example, it may seem doable to cut down on a few weekly food delivery services, but if the service is a well-deserved weekly treat, or the convenience is worth the price, then work the budget around that instead.

The Weekly Sentinel does not endorse any products or services suggested by third-party sources.

### ... FOREST from page 11

Plan funds to improve the lives of Maine people and families, help businesses, create good-paying jobs, and build an economy poised for future prosperity.

Since the onset of the pandemic, more than \$288 million in assistance to support Maine small businesses has been allocated. For more information, visit [www.maine.gov/jobsplan](http://www.maine.gov/jobsplan).

MEETING MINUTES

• **CALL TO ORDER; INTRODUCTORY; ROLL CALL**

Chair Timko called the meeting to order at 6:32 p.m.

**Board Members Present:** Roland Scott, Bob Gray, Douglas Basnett, Amelia Burke, April Timko

**Board Members Absent:** Charles Denault III, Rick Nohmer

**Staff Present:** Craig Alfis, Code Enforcement Officer  
Keasten Metz, Code Enforcement Officer

• **PLEDGE OF ALLEGIANCE**

• **AGENDA AMENDMENT AND ADOPTION**

- Mr. Alfis introduced new Code Enforcement Officer Kearsten Metz.

4. **EXECUTIVE SESSION**

5. **PUBLIC HEARINGS**

- **Laina Chase of Patio & Flame, tenant, 517 US Route 1, requesting a Special Exception to operate a Construction Services business in the Mixed Use (MU) zone per Town Code Section 16.4.23.C.(4) and a Miscellaneous Variation Request per Section 16.2.12.D.(3)(a) to the Parking, Loading and Traffic standards.**
- Secretary Burke confirmed that the Board has the authority to hear this request. Mr. Alfis presented the staff report. The applicant, Laina Chase, presented the request to the Board. The Board had several questions of both the applicant and the Code Enforcement Officer. Chair Timko opened the public hearing. Several abutters spoke against the request. One abutter spoke neutrally. The public hearing was closed, and the Board entered discussion.

Motion by Mr. Basnett to grant the Special Exception Use request per Town Code Section 16.4.23.C(4) with the following conditions:

1. The applicant must remove material or equipment from the site to provide for an adequate number of parking spaces for all uses contained on the site.
2. The total business area, including retail and construction service business, will comply with the retail parking requirements under the Kittery Town Code.
3. The applicant must provide for adequate space for delivery of rental equipment without the need to use any part of the public right of way for loading or unloading.

Adequate space must be provided for vehicles to turn around to prevent them from backing onto Route 1.

4. No equipment may be placed in the 30-foot landscape area/front yard setback.
5. The firewood pile must be moved and stay to the side or rear of the building.

Second by Mr. Gray. Motion passed 5-0-0 by roll call vote [Yes: Scott, Gray, Basnett, Burke, Timko; No: --; Abstain: --]

Chair Timko notified the Board of their right to reconsider and the public of their right to appeal.

Secretary Burke read the following Findings of Fact and Conclusions of Law into the record:

Findings of Fact:

1. The request is to add a construction rental business to the existing property.
2. The property consists of 1.85 acres and is legally non-conforming.
3. The property already contains a retail outdoor furniture business.
4. The Board considered the Basis for Decision in Section 16.2.12.F and the additional special exception conditions set forth in 16.2.12.F.(3).
5. Staff recommends approval provided the applicant can meet the full parking requirements with additional conditions.
6. Four members of the public spoke at the meeting against the request.
7. The Board approved the Special Exception Use Request with conditions.

Motion to accept the Findings of Fact made by Mr. Scott. Seconded by Mr. Gray. Motion passed 5-0-0 by roll call vote [Yes: Scott, Gray, Basnett, Burke, Timko; No: --; Abstain: --]

Conclusions of Law:

1. The Board determined that they had the authority to hear the request under 16.6.4.D;
2. The Board considered the Basis for Decision and the Factors for Consideration in Section 16.6.6;
3. The applicant can meet the requirements of Major Home Occupation as set forth in Section 16.5.12; and
4. The request was approved with conditions.

Motion to accept the Conclusions of Law made by Chair Timko. Seconded by Mr. Scott. Motion passed 5-0-0 by roll call vote [Yes: Scott, Gray, Basnett, Burke, Timko; No: --; Abstain: --]

Motion by Mr. Scott to grant the Miscellaneous Variation request per Town Code Section 16.2.12.D.(3)(a). Second by Mr. Gray. Motion failed 0-5-0 by roll call vote [Yes: --; No: Scott, Gray, Basnett, Burke, Timko; Abstain: --]

Chair Timko notified the Board of their right to reconsider and the public of their right to appeal.

Secretary Burke read the following Findings of Fact and Conclusions of Law into the record:

Findings of Fact:

1. The request is to amend the parking requirements set forth in Section 16.7.35 to allow a reduction to the required amount of parking.
2. The site contains 53 parking spaces.
3. The code requires one parking space for each 175 square feet of retail area.
4. The Board considered the Basis for Decision in Section 16.2.12.F.
5. Staff recommends denial of the request
6. The Board denied the Miscellaneous Variation Request.

Motion to accept the Findings of Fact made by Mr. Gray. Seconded by Mr. Scott. Motion passed 5-0-0 by roll call vote [Yes: Scott, Gray, Basnett, Burke, Timko; No: --; Abstain: --]

Conclusions of Law:

1. The Board had the authority to hear the request per Section 16.2.12.D.(3)(b).
2. The Board considered the Basis for Decision and Factors for Consideration set forth in 16.2.12.F.
3. The request was denied.

Motion to accept the Conclusions of Law made by Chair Timko. Seconded by Mr. Scott. Motion passed 5-0-0 by roll call vote [Yes: Scott, Gray, Basnett, Burke, Timko; No: --; Abstain: --]

## **6. UNFINISHED BUSINESS**

## **7. NEW BUSINESS**

## 8. ACCEPTANCE OF PREVIOUS MINUTES

- April 12 & April 26, 2022

Motion by Chair Timko to grant the minutes as presented for April 12 and April 26, 2022.  
Second by Mr. Gray. Motion failed 5-0-0 by roll call vote [Yes: Scott, Gray, Basnett, Burke,  
Timko; No: --; Abstain: --]

## 9. BOARD MEMBER OR CEO ISSUES OR COMMENT

- Mr. Alfis presented the 2023 Board of Appeals calendar.
- Mr. Basnett asked where abutters to the business at 517 US Route 1 could complain if there are issues with the business's appearance. Mr. Alfis relayed that complaints may be forwarded to the Code Enforcement Office who could potentially use the property maintenance code.
- Chair Timko notified the Board that her term expires on December 31<sup>st</sup> and she would not be seeking reappointment. The Board thanked her for her service to the Town.

## 10. ADJOURNMENT

Motion by Chair Timko to adjourn. Motion passed 5-0-0 by voice vote [Yes: Scott, Gray, Basnett, Burke, Timko; No: --; Abstain: --]

The Kittery Board of Appeals meeting of December 13, 2022 adjourned at 8:04 p.m.

*Submitted by Craig Alfis, Code Enforcement Officer*

*Disclaimer: The preceding minutes constitute the author's understanding of the meeting. While every effort has been made to ensure the accuracy of the information, the minutes are not intended to be a verbatim transcript of comments at the meeting but only a summary of the discussion and actions that took place. For complete details, please refer to the video of the meeting on the Town of Kittery website at <http://www.townhallstreams.com/locations/kittery-maine>.*