

ORDER

STANDISH TOWN COUNCIL

DATE: May 10, 2016
ORDER NUMBER: 43-16

SUBMITTED BY: Olson

TITLE: AUTHORIZE CONSENT AGREEMENT – MAINS – Map 16 LOT 35B

ORDERED that the attached Consent Agreement between Tracey I. Mains and Dana H. Mains and the Town of Standish regarding property located at 1310 Richville Road further described as Map 16 Lot 35B , is approved by Council, and

FURTHER ORDERED that the town will collect a \$40 filing for the recording of the agreement at the Cumberland County Registry of Deeds.

APPROVED _____ DISAPPROVED _____

ROLL CALL YEA NAY ABSTAIN

BLANCK	_____
HIGGINS	_____
NESBITT	_____
OLSON	_____
ORDWAY	_____
POMERLEAU	_____
SARGENT	_____

CLERK/SECRETARY _____

DATE: 5-4-16

TO: Council
FROM: Dan Hill, Code Enforcement Officer

REF: PROPERTY OF TRACEY I + DANA H. MAINS SR.

LOCATION: 1310 RICHVILLE RD

ASSESSORS' MAP 16 LOT 35B

DATE OF CONSTRUCTION: UNKNOWN

SETBACK REQUIREMENTS:

FRONT 50'
SIDES 25'
1. REAR 50'

VIOLATION:

SHED 10' FROM LINE 15' VIOLATION
INGROUND POOL 19' FROM LINE 6' VIOLATION

HISTORY OF CONSTRUCTION PERMITS:

Building Permit issued NONE FOUND

ZONING BOARD OF APPEALS ACTION FOUND IN RECORDS:

NONE FOUND

COMMUNICATION FROM CODE OFFICER:

WITH
LIVINGSTON - HUGHES LAND SURVEYORS
TRACEY + DANA MAINS

THIS IS NOT A BOUNDARY SURVEY

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MORTGAGE INSPECTION OF: DEED BOOK 31035 PAGE 86 COUNTY Cumberland
PLAN BOOK 193 PAGE 241 LOT B

ADDRESS: 1310 Richville Road, Standish, Maine

Job Number: 885-72

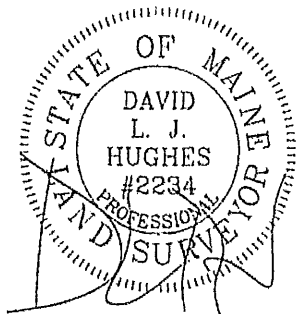
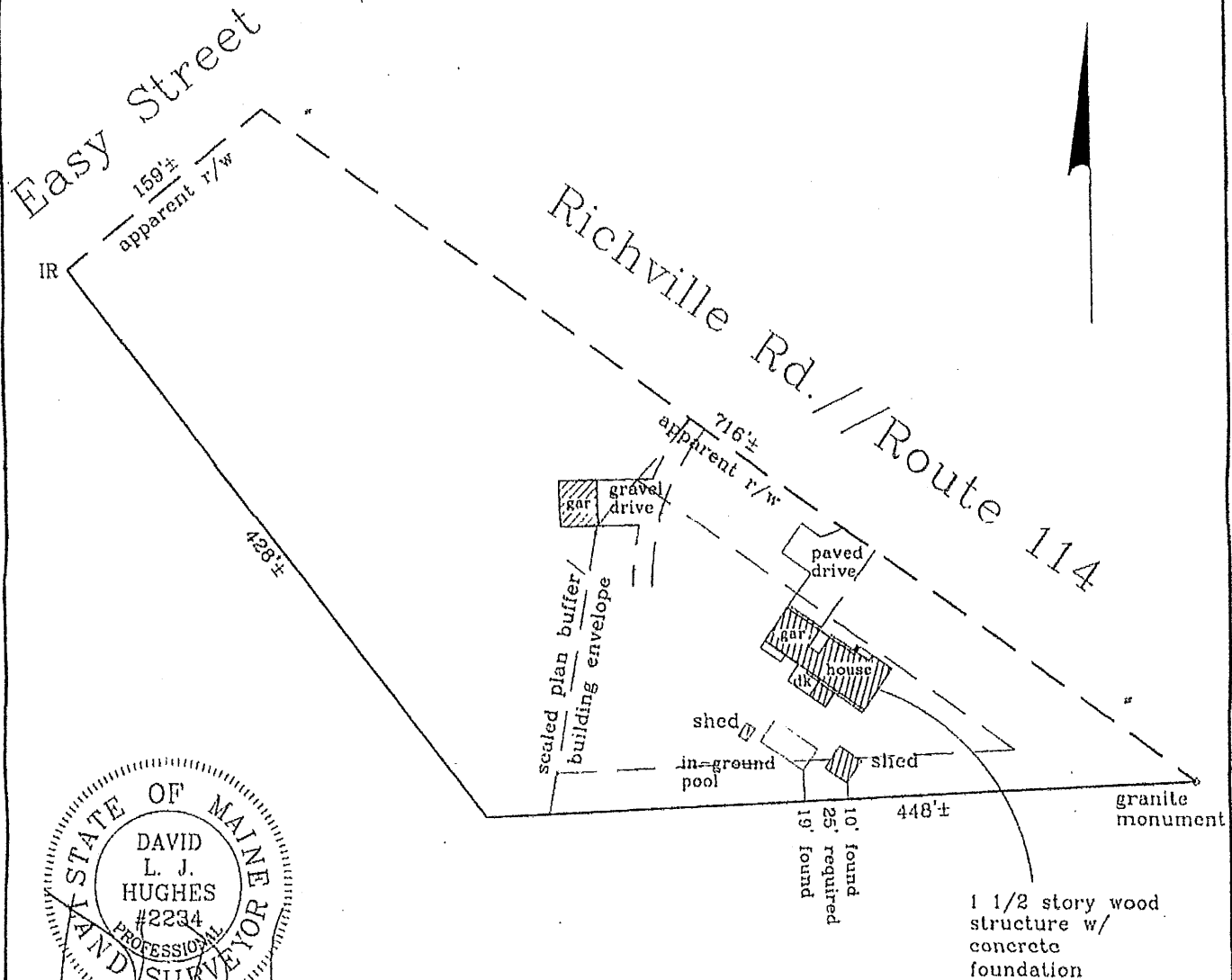
Buyers: Dean & Lynn Cote

Inspection Date: 4-08-16

Scale: 1" = 100'

Sellers: Tracey I. & Dana H. Mains, Sr.

Client File #: 2016-4636



I HEREBY CERTIFY TO: Two Lights Settlement Services, LLC;
The Lender

Monuments found did not conflict with the deed description.

The dwelling setbacks do ~~XXX~~ violate town zoning requirements.

As delineated on the Federal Emergency Management Agency Community Panel 230207-0010 B :

The structure does not fall within the special flood hazard zone.

The land does not fall within the special flood hazard zone.

A wetlands study has not been performed.

APPARENT EASEMENTS AND RIGHTS OF WAY ARE SHOWN. OTHER ENCUMBRANCES, RECORDED OR NOT, MAY EXIST. THIS SKETCH WILL NOT REVEAL ABUTTING DEED CONFLICTS, IF ANY.

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Livingston-Hughes

Professional Land Surveyors

88 Guinea Road

Kennebunkport, Maine 04046

207-967-9761 phone

207-967-4831 fax

www.livingstonhughes.com

THIS SKETCH IS FOR MORTGAGE PURPOSES ONLY

CONSENT DECREE

This Agreement is made this 10th day of May, 2016 between Tracy I. Mains and Dana H. Mains, Sr. of the state of Maine "property owner" and the inhabitants of the Town of Standish, a municipal corporation located in Cumberland County, Maine (the "TOWN")

WHEREAS, property owner of real property located at:

1310 Richville Road
Standish, Maine

further identified on Town Assessors' Map as MAP 16 LOT 35 B (the "PREMISES") and:

WHEREAS, the Town Building Inspector has determined that violations of the dimensional requirements of the Standish Zoning Ordinance exists on the Premises, as follows:

Less than required setback from property line:

Shed 10' from sideline – 15 violation

In ground pool 19' from sideline – 6' violation

WHEREAS, the Town Building Inspector has determined that building permits were not found for the shed or the in-ground pool, and

WHEREAS, the Standish Council at its meeting held on May 10, 2016 has determined that no useful purpose would be served by requiring the removal or alteration of the structure(s) which are in violation, and that the public health, safety and welfare would not be adversely affected by allowing the structure to continue in existence and has therefore authorized the execution of this Agreement; and

WHEREAS, both the property owner and the Town wish to avoid litigation over a zoning violation,

NOW THEREFORE; in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. The property owner acknowledges that the circumstances of the zoning violation do not warrant the granting of a variance under the variance criteria of the Zoning Ordinance and therefore waives the right to apply to the Zoning Board of Appeals for a variance.
2. The property owner agrees to pay to the town a penalty in lieu of legal action in the amount of \$_____.
3. By accepting said penalty, receipt of which is hereby acknowledged, the Town agrees to waive its rights under the Standish Zoning Ordinance to seek judicial relief against the particular zoning violation described above as it exists the date of this agreement.
4. Both parties agree that this Agreement shall be recorded in the Cumberland County Registry of Deeds as evidence that the zoning violation set forth above is deemed cured, and that the resulting nonconformity shall hereafter be deemed a lawful conformity, which is allowed to continue under the Standish Zoning Ordinance.

DATED: May 10, 2016

MUNICIPAL OFFICERS OF THE TOWN OF STANDISH

BY: _____, CHAIRMAN

Lynn Olson

Michael Blanck

Isabel Higgins

Steven Nesbitt

Lester Ordway

Kimberly Pomerleau

John Sargent

PROPERTY OWNERS:

Tracey I. Mains

State of Maine, County of Cumberland

Dana H. Mains, Sr.

Date: _____

Then personally appeared the above name _____,
acknowledged the foregoing instrument to be their free act and deed.

Before me, _____

(Notary Public)

My Commission Expires:

State of Maine, County of Cumberland

Date:

Then personally appeared the above name Town Councilor's acknowledged the foregoing instrument to be their free act and deed.

Before me, _____

(Notary Public)

My Commission Expires:

May 5 2016

NOTICE OF PENDING CONSENT AGREEMENT

Dear Property Owner:

This letter constitutes notice that the Standish Town Council will consider authorization of a consent agreement between the Town and Dana H. Mains, Sr. and Tracey I. Mains regarding property located on **1310 Richville Road**, further described as **Map 16 Lot 35B**. This pending agreement concerns a potential violation of the Standish Land Use Ordinance at the referenced location. Consideration will occur at the Council's regular meeting scheduled for 7:00 pm May 10, 2016 at the Standish Municipal Center at 175 Northeast Road, Standish Maine.

A consent agreement authorized by the Standish Town Council has the same practical effect as a variance granted by the Standish Zoning Board of Appeals. Both documents are registered at the Cumberland County Registry of Deeds. The difference between the two is in timing. Consent agreements are considered, upon petition by the applicant, after the violation has occurred. Variances are considered prior to the commencement of construction.

The nature of the violations currently under consideration for this consent agreement is as follows:

*Shed 10' from sideline – 15 violation
In-ground pool 19' from sideline – 6' violation*

You are not required to respond to this letter. It is provided only to inform you of a pending action by the Council and to make you aware of your right to communicate your position (if any) in this matter. Oral and /or written testimony may be provided to the Town Council on May 10, 2016.

Please contact this office if you have any further questions regarding this matter.

Sincerely,

Mary Chapman
Town Clerk