

Charles L. Waite, III, Chair
Madeline S. Mooney, Vice Chair
John M. Daley
Lindsey M. Perry
Robert N. Winn, Jr.



MEETING OF THE
OGUNQUIT SELECT BOARD
TUESDAY, JULY 2, 2019
AGENDA

- 1.0 SELECT BOARD MEETING - 6:00pm.
 - 1.1 Call to Order
 - 1.2 Pledge of Allegiance

- 2.0 MEETING MINUTES
 - 2.1 June 25, 2019

- 3.0 PUBLIC HEARINGS - LIQUOR & AMUSEMENT
 - 3.1 Bandito's Mexican Grill - Malt, Spirituous & Vinous Liquor License Renewal
 - 3.2 Hartwell House - Malt, Spirituous & Vinous Liquor License Renewal
 - 3.3 The Ogunquit Wine Cellar - **NEW** Malt & Vinous Liquor License

- 4.0 PRESENTATIONS, PROCLAMATIONS, RESOLUTIONS & COMMUNICATIONS

- 5.0 APPOINTMENTS & RESIGNATIONS
 - 5.1 Appointment of Select Board Members as Committee Liaisons
 1. Bike-Pedestrian Committee
 2. Board of Assessment Review
 3. Budget Review Committee
 4. Conservation Commission
 5. Harbor Committee
 6. Heritage Museum Committee
 7. Historic Preservation Commission
 8. Marginal Way Committee
 9. Parks & Recreation Committee
 10. Performing Arts Committee
 11. Planning Board
 12. Shellfish Conservation Committee
 13. Zoning Board of Appeals

- 6.0 UNFINISHED BUSINESS - None

- 7.0 TOWN MANAGER'S REPORT

8.0 NEW BUSINESS

8.1 Review and Award of Bid to Replace the Ogunquit Heritage Museum Roof

9.0 CITIZENS COMMENTS (For Town topics not on the Agenda)

The Select Board welcomes public comments and questions about Town-related issues that are not on the agenda. We ask that people keep comments on point and within 3 minutes.

10.0 OTHER BUSINESS

10.1 Select Board Reports and Announcements

11.0 ADJOURNMENT

***** Break *****

Workshop

1. Discussion of the history of Norseman Way (formerly Ocean Avenue)
2. Bicycle-Pedestrian Committee
3. Discussion of establishing new committees:
 - Age Friendly Community Committee
 - Environmental Sustainability Committee

Adjourn

Upcoming meeting and events (please check web site for any changes, and for information about other meetings and events) Location: At the Dunaway Center enter unless noted.

- June 30 Music in the Park (every Sunday at 5:30 p.m. at the Dorothea Jacobs Grant Common; rain location: Dunaway Auditorium)
- July 4 4th of July holiday - Town Administrative Offices Closed
- July 5 Town Administrative Offices Closed (all other departments open)
- July 9 Select Board Workshop
- July 15 Ogunquit Housing Inc. Informational Meeting
- July 18 Northern New England Lifeguard Competition (Main Beach)
- July 23 Select Board Meeting and Workshop
- July 30 Select Board Workshop with Town Attorney
- Aug. 6 Select Board Meeting
- Aug. 20 Select Board Meeting and workshop
- Sept. 2 Labor Day - Town Office Closed
- Sept. 3 Select Board Meeting
- Sept. 10 Select Board Workshop
- Sept. 17 Select Board Meeting



LIQUOR
&
AMUSEMENT
LICENSE
PUBLIC
HEARING

OGUNQUIT

Beautiful Place by the Sea

PUBLIC HEARING NOTICE

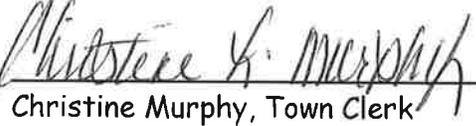
The Ogunquit Board of Selectmen will hold a Public Hearing on Tuesday, July 2, 2019 at 6:00 PM in the Auditorium of the Dunaway Community Center on School Street, Ogunquit, Maine for the following application(s):

MALT, SPIRITUOUS & VINOUS LICENSE (RENEWAL)

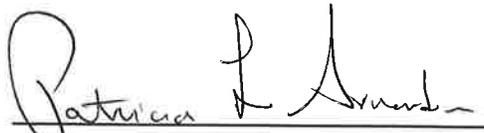
Bandito's Mexican Grill 68 Shore Road
Hartwell House Inn 312 Shore Road

MALT, SPIRITUOUS & VINOUS LICENSE (NEW)

The Ogunquit Wine Cellar 59 Shore Road


Christine Murphy, Town Clerk

Posted by:


Patricia L. Arnaudin, Police Chief

Posted: June 25, 2019
Dunaway Community Center
Ogunquit Post Office
Ogunquit Transfer Station
WOGT

OGUNQUIT

Beautiful Place by the Sea

6/7/2019
@ 3:00pm

OGUNQUIT LIQUOR LICENSE APPLICATION

NEW RENEWAL FOR THE YEAR: _____
 CURRENT LICENSE EXPIRATION DATE: 7/17/19

BUSINESS NAME: Banditos Mexican Grill
 APPLICANT: Judy Dennis
 EMAIL: _____
 BUSINESS REG #: 2019-170 ISSUE DATE: 6/4/19 MAP: 006 LOT: 069
 OCCUPANCY LOAD ESTABLISHED BY THE OGUNQUIT FIRE CHIEF: 82

NOTE - SPECIAL ATTENTION

Applicants must procure the signatures of the following Town Officials, submit an original drawing at a scale of one inch (1") equals ten feet (10') of all areas on the premises which are open to the public and return said drawing with this completed application to the Town Clerk before a public hearing can be scheduled by the Select Board. APPLICATIONS MUST BE SUBMITTED NINETY (90) DAYS PRIOR TO THE EXPIRATION OF THE EXISTING LICENSE.

TITLE	SIGNATURE	APPROVAL		REPORT ATTACHED		DATE
		YES	NO	YES	NO	
Police Chief	<i>Patricia P. Piquadria</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	06-12-2019
Fire Chief	<i>Ed Smith</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	6-10-19
Code Officer	<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	6-10-2019

ATTENDANCE AT PUBLIC HEARING IS REQUIRED PLEASE READ THE FOLLOWING CAREFULLY BEFORE SIGNING

I, the undersigned applicant, acknowledge there has been no change to the business noted above by way of ownership, partnership, location, nature of business or structural change(s) to the building(s) housing the business. Knowingly supplying false information on this application is a Class D offense under the Criminal Code and is punishable by confinement of up to one (1) year or by a monetary fine of up to \$500 or both.

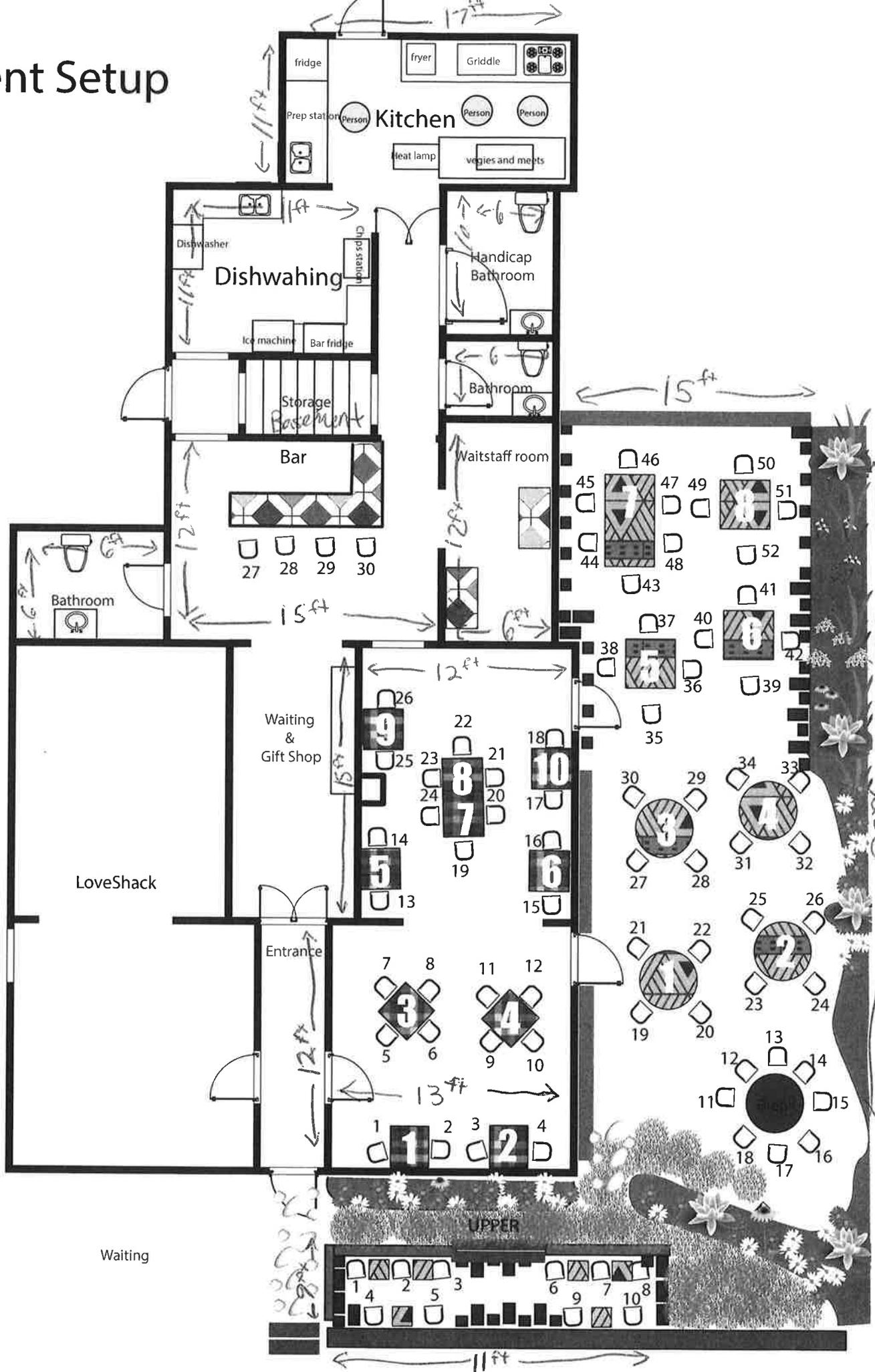
Judy Dennis 6/4/19

 APPLICANTS SIGNATURE

FOR OFFICE USE ONLY

Application Fee: \$200 Date Paid: 6/4/19 Check/Cash Check #: 2112
 Background Check Fee: \$ 42 (\$21.00 per person listed on application)
 Business Reg. Fee: \$150.00 Paid prior to Liquor Application? YES NO
 TOTAL PAID WITH APPLICATION: \$ 392.00 Received by: *J.M. Deputy Clerk*
 (Town Clerk's Office)
 DATE POSTED: 6/25/2019 DATE HEARD: _____ APPROVED: _____ DENIED: _____

Current Setup



OGUNQUIT

Beautiful Place by the Sea

6/24/2019
@ 11:00am

OGUNQUIT LIQUOR LICENSE APPLICATION

NEW <input type="checkbox"/> RENEWAL <input checked="" type="checkbox"/>	FOR THE YEAR: <u>2019</u>
CURRENT LICENSE EXPIRATION DATE: <u>8-15-19</u>	

BUSINESS NAME: HARTWELL HOUSE ONE, LLC
 APPLICANT: JAMES HARTWELL & PATRICIA HARTWELL
 EMAIL: hartnse@aol.com
 BUSINESS REG #: 2019-183 ISSUE DATE: 6/5/19 MAP: 3 LOT: 6
 OCCUPANCY LOAD ESTABLISHED BY THE OGUNQUIT FIRE CHIEF: 22

NOTE - SPECIAL ATTENTION

Applicants must procure the signatures of the following Town Officials, submit an original drawing at a scale of one inch (1") equals ten feet (10') of all areas on the premises which are open to the public and return said drawing with this completed application to the Town Clerk before a public hearing can be scheduled by the Select Board. APPLICATIONS MUST BE SUBMITTED NINETY (90) DAYS PRIOR TO THE EXPIRATION OF THE EXISTING LICENSE.

TITLE	SIGNATURE	APPROVAL		REPORT ATTACHED		DATE
		YES	NO	YES	NO	
Police Chief	<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	6/28/19
Fire Chief	<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	6-28-19
Code Officer	<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	6-24-19

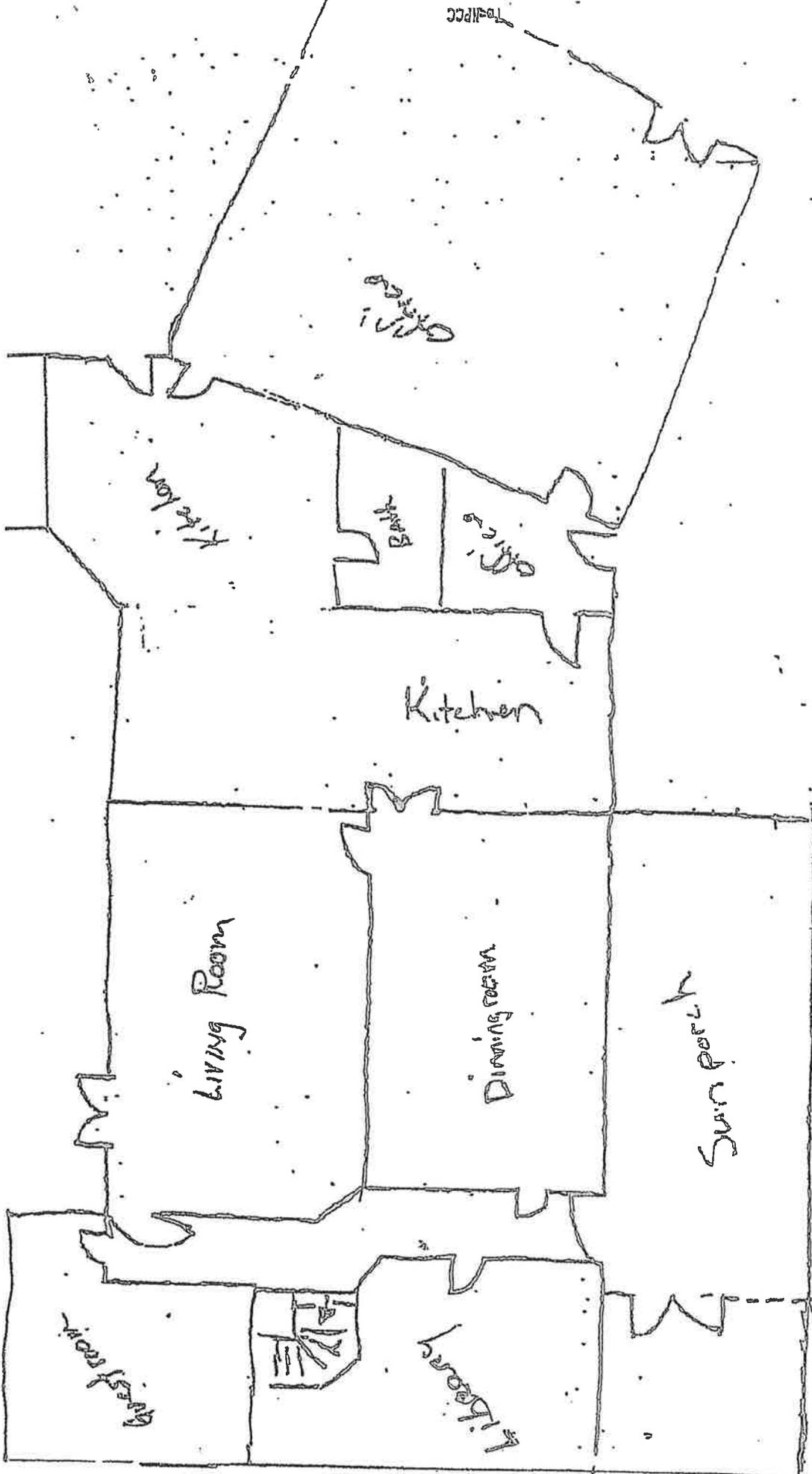
ATTENDANCE AT PUBLIC HEARING IS REQUIRED PLEASE READ THE FOLLOWING CAREFULLY BEFORE SIGNING

I, the undersigned applicant, acknowledge there has been no change to the business noted above by way of ownership, partnership, location, nature of business or structural change(s) to the building(s) housing the business. Knowingly supplying false information on this application is a Class D offense under the Criminal Code and is punishable by confinement of up to one (1) year or by a monetary fine of up to \$500 or both.

[Signature]
 APPLICANTS SIGNATURE

FOR OFFICE USE ONLY

Application Fee: \$200	Date Paid: <u>6/17/19</u>	Check/Cash	Check #: <u>7927</u>
Background Check Fee: \$ <u>63</u>	(\$21.00 per person listed on application)		
Business Reg. Fee: \$150.00	Paid prior to Liquor Application? YES NO		
TOTAL PAID WITH APPLICATION: \$ <u>263.00</u>		Received by: <i>[Signature]</i> (Town Clerk's Office)	
DATE POSTED: <u>6/25/19</u>	DATE HEARD:	APPROVED:	DENIED:



471 1/2' = 144'
 1 box = 1/4" (250)
 Hartwell House One, LLC
 312 Stone Road
 152 fl 005

OGUNQUIT

Beautiful Place by the Sea

6/19/2019
@ 9:00 am

OGUNQUIT LIQUOR LICENSE APPLICATION

NEW RENEWAL FOR THE YEAR: 2019

BUSINESS NAME: The Ogunquit Wine Cellar EXPIRATION DATE: _____
(Of present Liquor License)

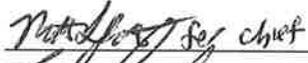
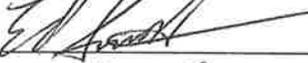
APPLICANT: Alexandra Haight

BUSINESS REG # 2019-544 ISSUE DATE: 4/1/19 MAP 7 LOT 115
(Business Registration)

OCCUPANCY LOAD ESTABLISHED BY THE OGUNQUIT FIRE CHIEF: 20

NOTE - SPECIAL ATTENTION

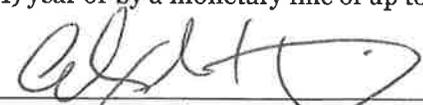
Applicants must procure the signatures of the following Town Officials, submit an original drawing at a scale of one inch (1") equals ten feet (10') of all areas on the premises which are open to the public and return said drawing with this completed application to the Town Clerk before a public hearing can be scheduled by the Board of Selectmen. APPLICATIONS MUST BE SUBMITTED NINETY DAYS (90) PRIOR TO THE EXPIRATION OF THE EXISTING LICENSE.

TITLE	SIGNATURE	APPROVAL		REPORT ATTACHED		DATE
		Yes	No	Yes	No	
Police Chief		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>6-28-19</u>
Fire Chief		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>6-25-19</u>
Code Officer		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>6-24-19</u>

ATTENDANCE AT PUBLIC HEARING IS REQUIRED

PLEASE READ THE FOLLOWING CAREFULLY BEFORE SIGNING

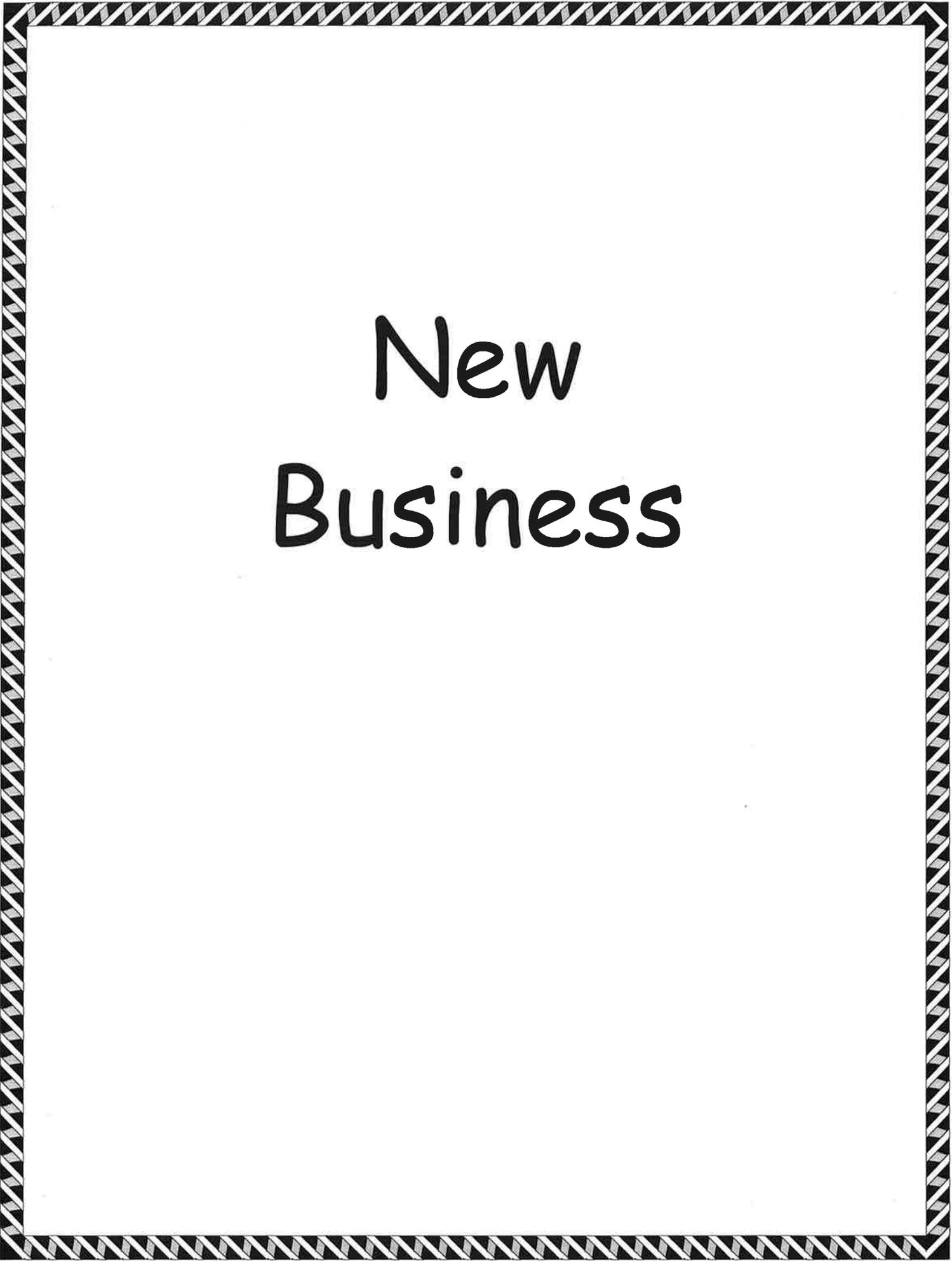
I, the undersigned applicant, acknowledge there has been no change to the business noted above by way of ownership, partnership, location, nature of business or structural change(s) to the building(s) housing the business. Knowingly supplying false information on this application is a Class D offense under the Criminal Code and is punishable by confinement of up to one (1) year or by a monetary fine of up to \$500 or both.



APPLICANT'S SIGNATURE

FOR OFFICE USE ONLY

Application Fee \$ 200.00 Date Paid 6-14-19 Check Cash
 Background Check Fee \$ _____ Check No. 441
 Business Reg. Fee \$ _____
 Received by: M. Deputy Clerk
(Town Clerk's Office)
 Date posted: 6/25/2019 Date Heard: _____ Approved: _____ Denied: _____



New Business

OGUNQUIT

Beautiful Place by the Sea

MEMORANDUM

To: Ogunquit Select Board
From: Patricia A. Finnigan, Town Manager
Date: June 28, 2019
Re: Ogunquit Heritage Museum Roofing Project

Bids were due on Thursday, June 27 by 3:00pm. Eight (8) bid packets were sent out. The town received two (2) bids which were opened by the Town Manager Patricia A. Finnigan, also in attendance was Administrative Assistant Cheryl Emery.

Bid Results:

Ram Built, Inc., West Kennebunk, Maine	\$14,694
Maine Highlands Contracting, Etna, Maine	\$29,976



**NOTICE OF INVITATION TO BID
OGUNQUIT HERITAGE MUSEUM ROOFING PROJECT
86 OBEDS LANE, OGUNQUIT, MAINE**

The Town of Ogunquit Maine will receive sealed bids for the Ogunquit Heritage Museum Roofing Project, 86 Obeds Lane, Ogunquit, Maine 03907.

Scope of Work:

1. Remove existing cedar roofing from addition; properly dispose of all debris and magnet-clean ground.
2. Provide and install single coverage 30 pound felt paper to entire exposed roof, overlap 4".
3. Provide and install new premium Edge Grain with 5/8" butt Tapersaw "Fire Proof" red cedar shakes.
4. Install shingles with 5 ½ exposure using stainless steel 1 ¾ nails.
5. Provide and install a woven ridge cape with wide piece of self-adhering membrane.
6. Estimated project start date: _____
7. Estimated project completion date: _____

FMI – Contact: Darren Dixon, Facilities Manager, 289-9487 or 646-5139 x 221

Sealed bids, in envelopes plainly marked "***Ogunquit Heritage Museum Roofing Project***" and addressed to Patricia A. Finnigan, Town Manager, PO Box 875, Ogunquit, Maine 03907 will be received in the Town Manager's Office by 3:00pm on June 27, 2019.

The Town of Ogunquit reserves the right to reject any or all bids and to waive any formality or irregularity and to make the award of contract in the best interest of the Town of Ogunquit as the Owner.

Agreement

The bid constitutes an offer from a Contractor. The Owner's acceptance of the offer, in whole or part within the time specified, by issuance of a "Contract Form".

Insurances

The Contractor shall furnish, before starting work, the standard ***Certificate of Insurance*** showing that the Contractor carries, and agrees he/she will continue to carry during the term of this contract, as a minimum, coverage as follows:

**OGUNQUIT HERITAGE MUSEUM
ROOFING PROJECT**

- a. **Worker's Compensation Insurance** in amounts required by Maine Law and **Employer's Liability Insurance**, as necessary, as required by Maine Law. In case any class of employees engaged in hazardous work under this agreement is not protected under the Worker's Compensation Act, the Contractor shall, at its own expense, provide for the protection of its employees not otherwise protected. In case work is sublet, the Contractor shall require the Subcontractor similarly to provide coverage for its employees in accordance with Maine State Law.

- b. **General Liability Insurance** with limits of liability for bodily injury in the amount of \$1,000,000 for each occurrence and minimum limits of liability for property damage in the amounts of \$1,000,000 for each occurrence for claims and damages that may arise from the errors, omissions or negligence of the Contractor or its Subcontractors, if any, in the performance of services under this agreement.

- c. **Public Liability Insurance** in the amount of not less than \$400,000 or such amount as is established by the Maine Tort Claims Act (14 M.R.S.A. §8101 et.seq.) as amended from time to time, combined single limit, to protect the Contractor, or any Subcontractor performing work covered by this agreement, and the Owner from claims and damages that may arise from operations under this agreement, whether such operations may be by Contractor or Subcontractor or by anyone directly or indirectly employed by them.

- d. The **Certificate of Insurance** provided to the Owner shall confirm that the Owner has been named as an Additional Insured (except for Worker's Compensation) prior to the commencement of work.

Acceptance and Payment

Final payment, constituting the entire unpaid balance for the contract sum, shall be paid by the Owner to the Contractor when the services have been completed.

Guarantee

To the extent construction or materials are provided in the provision services, the Contractor and the Subcontractors, if any, shall guarantee their work against any defects in workmanship and materials for a period of one year from the date of the Owners written acceptance of this project, and agree to repair or replace at no cost or expense to the Owner all work, materials and fixtures at any time during said one-year period.

**OGUNQUIT HERITAGE MUSEUM
ROOFING PROJECT**

BID SHEET

Scope of Work:

1. Remove existing cedar roofing from addition; properly dispose of all debris and magnet-clean ground.
2. Provide and install single coverage 30 pound felt paper to entire exposed roof, overlap 4".
3. Provide and install new premium Edge Grain with 5/8" butt Tapersaw "Fire Proof" red cedar shakes.
4. Install shingles with 5 1/2 exposure using stainless steel 1 3/4 nails.
5. Provide and install a woven ridge cape with wide piece of self-adhering membrane
6. Estimated project start date: _____
7. Estimated project completion date: _____

Bid \$ _____

Signed: _____

Printed Name: _____

Title: _____

Firm: _____

Address: _____

Date: _____

Phone # _____ Fax# _____

E-mail _____

**Winn House Roof Project
Contractor List
2019**

Seacoast Roofing & Construction, LLC
PO Box 925
Cape Neddick, Maine 03902
363-0946

Ruck Roofing
PO Box 1524
Biddeford, Maine 04005
632-3742

RAM Built, Inc.
PO Box 104
West Kennebunk, Maine 04094
802-688-8878

Coastal Construction, Inc.
PO Box 1801
Ogunquit, Maine 03907
646-9237

Centore Contracting, Inc.
5 Winding Brook Drive
Kennebunk, Maine 04043
985-0259

Hall Brothers Roofing
136 Rochester Street
Berwick, Maine 03901
698-1551

Percy Steven, Jr., General Contractor
P.O. Box 2414
Ogunquit, ME 03907
337-0422

Ogunquit River Builders, Inc.
18 Winter Hills Lane
Ogunquit, Maine 03907
641-8676

06-19-2019

OGUNQUIT HERITAGE MUSEUM
ROOFING PROJECT

BID SHEET

Scope of Work:

1. Remove existing cedar roofing from addition; properly dispose of all debris and magnet-clean ground.
2. Provide and install single coverage 30 pound felt paper to entire exposed roof, overlap 4".
3. Provide and install new premium Edge Grain with 5/8" butt Tapersaw "Fire Proof" red cedar shakes.
4. Install shingles with 5 1/2 exposure using stainless steel 1 3/4 nails.
5. Provide and install a woven ridge cape with wide piece of self-adhering membrane
6. Estimated project start date: Mid July or August
7. Estimated project completion date: 5-6 work Days to Complete

Bid \$ 14,694

Signed:	
Printed Name:	<u>Robin Muir</u>
Title:	<u>Owner</u>
Firm:	<u>Ram Built Inc.</u>
Address:	<u>Po Box 104</u> <u>West Kennebunk Me. 04094</u>
Date:	<u>6-25-19</u>
Phone #	<u>802-688-8878</u>
Fax#	<u>N/A</u>
E-mail	<u>rambuilt@yahoo.com</u>

OGUNQUIT HERITAGE MUSEUM
ROOFING PROJECT

BID SHEET

Scope of Work:

1. Remove existing cedar roofing from addition; properly dispose of all debris and magnet-clean ground.
2. Provide and install single coverage 30 pound felt paper to entire exposed roof, overlap 4".
3. Provide and install new premium Edge Grain with 5/8" butt Tapersaw "Fire Proof" red cedar shakes.
4. Install shingles with 5 1/2 exposure using stainless steel 1 3/4 nails.
5. Provide and install a woven ridge cape with wide piece of self-adhering membrane
6. Estimated project start date: August 15, 2019
7. Estimated project completion date: September 1, 2019

Bid \$ 29,976.00

Signed:	<u>B. Starbird</u>
Printed Name:	<u>Brock Starbird</u>
Title:	<u>Owner</u>
Firm:	<u>Maine Highlands Contracting</u>
Address:	<u>400 W Etna Rd</u> <u>Etna, ME 04434</u>
Date:	<u>June 25, 2019</u>
Phone #	<u>2074789248</u> Fax# <u></u>
E-mail	<u>Bstarbird@contractingmaine.com</u>



WORKSHOP

APR - 4 2016



Jeffery J. Clark
jclark@clarkandhowell.com
Phone (207) 363-5208
Fax (207) 363-5322

16A Woodbridge Road
PO Box 545
York, ME 03909-0545

March 30, 2016

Thomas Fortier
Town Manager
Town of Ogunquit
P.O. Box 875
Ogunquit, ME 03907

Re: Ocean Avenue

Dear Tom:

You have asked me to identify the location of the sideline to Ocean Ave, a town way lying between the Norseman Hotel (hereinafter, the Norseman) and the former location of the Blue Water Inn (hereinafter, BWI). This road was laid out and taken by the York County Commissioners in 1925 and is recorded in Book 743, Page 288. The description of the taking is as follows:

Beginning on the northerly side of Bridge Street, so-called, said point being 368 feet Easterly from the Northwesterly corner of the Bridge over the Ogunquit River; thence North 89° 47' East by land of Walter M. Perkins to parcel to be numbered and described as 6 herein; thence South 79° 18' East by parcel numbered 6, 53.4 feet to other land of said Walter M. Perkins; thence by other land of said Perkins S 29° 47' West to said Bridge Street; thence North 79° 18' West by said Bridge Street to point of beginning; being a strip of land 49.5 feet wide measured perpendicular to the side lines of the same.

The above parcel of land is owned by Charles W. Tibbetts of Dover in the County of Strafford and State of New Hampshire.

This laying-out and taking clearly reflects the desire to create a three rod (49.5') road. This same area may have been "dedicated" to public use earlier by Charles Tibbetts, Walter Perkins' predecessor in title. And many public documents involving properties in this area support this fact including:

- 1) The Maine Supreme Judicial Court case of **Ogunquit Beach District v. Walter M. Perkins** dated August 26, 1941 within the body of the Court case the Supreme Court states:

“... It is hereby understood that the proposed street, called Ocean Avenue, is to be 3 rods wide and is hereby dedicated to public use...”

- 2) The deed from the Trustees of Ogunquit Beach District to the Ogunquit Village Corporation dated July 12, 1973 and recorded in the York County Registry of Deeds at Book 2002, Page 120 recited Ocean Avenue as 49.5 feet wide.
- 3) The deed from Charles W. Tibbetts to Walter Perkins for the BWI property dated April 12, 1909 and recorded in the York County Registry of Deeds at Book 576, Page 453 recites Ocean Avenue as a boundary, which “proposed street, called Ocean Avenue, is to be three rods wide and is hereby dedicated to public use...”
- 4) The deed form Lizzie H. Jarob to Walter M. Perkins, also for the BWI property, dated September 16, 1906 and recorded in the York County Registry of Deeds at Book 550, Page 41 again recites Ocean Avenue as a boundary and declares that, “...it is understood that said proposed Ocean Avenue is to be three rods wide and dedicated to public use.”
- 5) At least one survey of record shows the width of Ocean Avenue to be 3 rods wide. See the “Survey of Ocean Avenue, Ogunquit Beach, Ogunquit, Maine” dated February of 1984 and recorded in the York County Registry of Deeds at Plan Book 130, Page 18.

Although there appears to be a little legitimate dispute that the width of Ocean Avenue is 49.5', there does seem to be confusion over the placement of this 49.5' wide strip of land. At first blush this confusion seems odd because the placement of the strip, as established in the original taking, seem quite precise. The County Commissioner's eminent domain taking sets the starting point as, “**Beginning on the northerly side of Bridge Street, so-called, said point being 368 feet easterly from the northwesterly corner of the Bridge over the Ogunquit River...**” The placement of intersection of the northerly sideline of Bridge Street and the westerly sideline of Ocean Avenue at a point 368' from the northwesterly corner of the bridge over the Ogunquit River seems odd because it would not correspond with the easterly sideline of property owned by Walter M. Perkins at the time (Mr. Perkins received title to the BWI from Charles W. Tibbetts by deed dated July 9, 1903, which deed called for Ocean Avenue as its sideline). I have attached this deed and a Sketch which demonstrates this problem. When Walter Perkins received the deed to the BWI property, the description states that the parcel commences at a point 293' from the northwesterly corner of Bridge over the Ogunquit River and then describes the parcel in pertinent parts as follows:

“...thence running S 82° 15' E parallel to Bridge Street... to a proposed street called Ocean Avenue; thence running southwesterly by said proposed Ocean Avenue to a stake and stones set in the ground on the northerly sideline of Bridge Street; thence running northwesterly by Bridge Street 65 feet to the point begun at...”

****Ocean Avenue did not become a public way until 1925 when the County Commissioners, on behalf of the Ogunquit Beach District took this strip of land from Charles Tibbetts. The deed from Tibbetts to Perkins in 1903 called for Ocean Avenue as the easterly boundary of the BWI property but went on in the deed to say that, "It is understood that said proposed street called Ocean Avenue is to be three rods wide and is hereby dedicated to public use..."*

The problem arises when we "do the math"; if the BWI parcel has 65 feet of frontage on Bridge Street and the starting point for the BWI parcel is located 293 feet from the northerly corner of the Bridge, then the intersection of the westerly sideline of Ocean Avenue and the northwesterly sideline of Bridge Street should be 358' (293 + 65 = 358) from the northerly corner of the Bridge, not 368'. (Was this a scribner's error??) Another piece of evidence suggesting that the starting point for the eminent domain taking was in error is the fact that the eminent domain taking calls for the westerly sideline of Ocean Avenue to run along the easterly sideline of "land of Walter M. Perkins." If we hold the starting point at 368 from the northwesterly corner of the bridge, then a 10 foot strip of land is create between the land of Walter Perkins and the westerly sideline of Ocean Avenue. This 10 foot strip would have remained titled in the name of Tibbetts. I doubt very much that this was the intended result. I note also that the next several deeds in the chain of title to the BWI property reflect frontage on Bridge Street for the parcel as 65' and Ocean Avenue as the eastern boundary:

- 1) Deed of Walter Perkins to Michael Shiepe dated September 18, 1942 and recorded in the York County Registry of Deeds at Book 995, Page 59;
- 2) Deed to Dawaliby dated January 31, 1970 and recorded in the York County Registry of Deeds at Book 1867, Page 10;
- 3) Deed to Merrill dated October 13, 1976 and recorded in the York County Registry of Deeds at Book 2154, Page 07;
- 4) Deed to the Norseman dated May 12, 1978 and recorded in the York County Registry of Deeds at Book 2366, Page 289;

In other words, for the next 77 years (1925 to 2002) deeds to the BWI property reflected frontage on Bridge Street as 65 feet, not 75. Interestingly, when title to the Norseman is conveyed to Lafayette Ogunquit, LLC in May of 2002 (at Book 11648, Page 10) the frontage on Bridge Street changes from 65' to 75' yet, the description still calls for Ocean Avenue as the easterly boundary of the BWI parcel.

There is ample public record to conclude: 1) that Walter Perkins knew of the taking by the County Commissioners of the three rod wide parcel retained by Tibbetts, i.e., that area which Tibbetts described as Ocean Avenue in the deed from himself to Perkins, (they took land from Perkins also in the same eminent domain proceeding); 2) that Walter Perkins recognized that the taking was 3 rods wide; and 3) that Walter Perkins knew that this taking by the Ogunquit Beach District resulted in an easterly boundary to his BWI property as being Ocean Avenue. Subsequent to the eminent domain proceeding, Walter M. Perkins conveys the BWI parcel to Shiepe (September of 1942) and describes the easterly sideline of the BWI parcel as running along Ocean Avenue and then goes on to recite the frontage on Bridge Street as follows: "...**thence turning and running N 82¼° W by said Bridge Street 65' to the point begun at.**"

I believe it is logical to conclude that Walter M. Perkins, as well as subsequent owners of the BWI property, believed Ocean Avenue to form the easterly boundary of the BWI parcel and that the westerly sideline of Ocean Avenue was actually located 358', not 368', from the northwesterly corner of the Bridge over the Ogunquit River.

The confusion caused by the original taking and noted above was recognized by the parties (Walter Perkins and the Ogunquit Beach District) in 1942 and resulted in a survey being completed by Libby and Dow dated October 14, 1941 and recorded in the York County Registry of Deeds at Plan Book 16, Page 43. Also a deed from Walter Perkins to the Ogunquit Beach District was signed and recorded at Book 990, Page 226, dated December 4, 1942. This deed states, "***The purpose of this deed is to establish a line between the lands of the Grantor, Walter M. Perkins and the Grantee, Ogunquit Beach District.***" This deed, and the survey mentioned in the deed, clearly identifies the easterly sideline of Ocean Avenue. A copy of this deed and the survey are attached. The importance of this conveyance is that all subsequent deeds from Walter M. Perkins (or his heirs), and his successors in title to the Norseman, identify the westerly boundary of Norseman property in the same manner as the easterly sideline of Ocean Avenue is described in the deed from Perkins to Ogunquit and delineated on the Plan, i.e., ***northeasterly from Bridge Street 218.07 feet to a point.*** Therefore, I believe that this deed formerly places the easterly sideline of Ocean Avenue where the original parties intended and the measurement of the three rod road should run westerly from this line.

After reviewing the various plan available, I find that the plan identified as, "Survey of Ocean Avenue, Ogunquit Beach, Ogunquit, Maine" dated February 9, 1984 and recorded in the York County Registry of Deeds at Book 130, Page 18 accurately identifies the location of the westerly sideline of Ocean Avenue (and is labeled "***Side line of Ocean Ave. based on 528/283 & reference 4***" and a copy of a portion of this Plan is attached - I have highlighted in yellow what I consider to be the boundaries of the BWI parcel along Bridge Street and Ocean Avenue) as well as the easterly sideline of Ocean Avenue. (***Reference 4 is a plan entitled, "Plan Showing Location of Ocean Avenue and Land of Walter M. Perkins, Ogunquit Beach, Ogunquit, Maine" dated October 1937 by Libby & Dow. Not Recorded.*** I am attaching a copy of a portion of this plan.)

It is my opinion that the BWI property has frontage on Bridge Street of 65 feet, not 75' as is recited in the most recent deed.

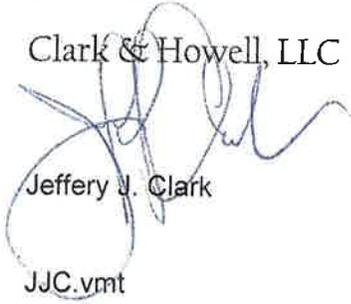
As for suggestions on how to cope with this situation, if the Town felt that 39.5' was adequate for the passage of pedestrian traffic to the beach along Ocean Avenue, it could:

1. Sell the additional 10 feet to the BWI;
2. Grant the BWI an easement to use this 10 foot strip and impose whatever restrictions the Town felt were warranted;
3. Lease the additional 10 feet to the BWI;
4. Grant the BWI a License to use all or a portion of this 10 foot strip;
5. If the ownership on both sides of Ocean Avenue was in the same party, there could be an exchange/swap, i.e., the Norseman could give up 10 feet, or some amount of its property adjacent to Ocean Avenue or someplace else along its boundaries.

After reviewing this Letter, if you have any question, please do not hesitate to give me a call. I am also willing to meet with you and or the Selectmen.

Sincerely,

Clark & Howell, LLC

A handwritten signature in blue ink, appearing to read "Jeffery J. Clark", is written over the typed name. The signature is fluid and cursive.

Jeffery J. Clark

JJC.vmt

Enclosure

See plan
Book 6 p 52

Book 743

1925

State of Maine, }
York } ss.

February 28th, 1925.

Then personally appeared the above named Hiram Willard and acknowledged the above instrument to be his free act and deed in his said capacity.

(L.S.) Before me, Hazel V. Couitt Notary Public.

Recorded according to the original received April 16, 1925, at 9h. 25m. A. M.

Eminent Domain Proceeding

TO THE HONORABLE COUNTY COMMISSIONERS FOR THE COUNTY OF YORK:

WHEREAS, the Ogunquit Beach District, is a corporation duly created by law and located within the Ogunquit Village Corporation limits in the town of Wells in the County of York; and whereas, said District is in its said corporate capacity, authorized and empowered to take, hold, exchange or convey in the name of the Ogunquit Beach District, for public purposes and particularly for the creation and establishment of a park, any real estate lying between the thread of the Ogunquit River on the West and the Atlantic Ocean on the East and the boundary line of the Ogunquit Village Corporation on the North and the land of Walter M. Perkins on the South, together with a forty foot road from said tract Southerly to the County road; and is also authorized to take, hold, exchange or convey any real estate lying between the thread of the Ogunquit River on the West and South and Atlantic Ocean on the East and said County road on the North, and is duly authorized to exercise the right of eminent domain in taking the land for the above purposes; and whereas, the Ogunquit Beach District at a meeting thereof duly called and held on the 28th day of August, 1923, voted, to acquire all of the above described land, either by purchase or by condemnation proceedings, and also voted that the trustees of the Ogunquit Beach District be instructed to take all necessary steps to acquire said tract of land by condemnation proceedings as set forth in the act creating said District, for public purposes and for the creation and establishment of a park.

NOW THEREFORE, the Ogunquit Beach District has taken and hereby does take the several certain lots of land, all within the above described limits, all located within the limits of the Ogunquit Village Corporation in the town of Wells and County of York, for public purposes and for the purpose of creating and establishing a public park, and which said lots are hereinafter described in consecutive numbers and delineated on plan by the same numbers, which plan is attached hereto and made a part of this document; the owners of all which said several lots of land are hereinafter set out in connection with the description of each of said several lots, to wit:

being the Northeasterly corner of parcel numbered two hereinafore described, thence South 10° 42' West by said parcel number two, 100 feet; to said parcel numbered one; thence South 79° 18' East by a line parallel to and one hundred feet Southerly from the Southerly side line of said Bridge Street to a stone monument standing at the top of the Beach wall; thence same course to the Atlantic Ocean; thence Northerly to the southerly side line of said Bridge Street extended; thence North 79° 18' West by said Bridge Street to the point of beginning.

The above described parcel of land is owned by Walter M. Perkins of Ogunquit in the town of Wells, County of York and State of Maine,

Lot #6

Beginning on the Northerly side of Bridge Street, so called, said point being 368 feet Easterly from the Northwesterly corner of the Bridge over the Ogunquit River; thence North 29° 47' East by land of Walter M. Perkins to parcel to be numbered and described as 6 herein; thence South 79° 18' East by parcel numbered 6, 53.4 feet to other land of said Walter M. Perkins; thence by other land of said Perkins South 29° 47' West to said Bridge Street; thence North 79° 18' West by said Bridge Street to point of beginning; being a strip of land 49.5 feet wide measured perpendicular to the side lines of the same.

The above parcel of land is owned by Charles W. Tebbetts of Dover in the County of Strafford and State of New Hampshire.

Lot #6

Beginning at a point in the channel of the Ogunquit River at the Northwesterly corner of land of Walter M. Perkins, said point being 205 feet Northerly from the Northerly side line of the road leading from the Ogunquit Village to the Beach, and known as Bridge Street, measuring at right angles from said street; thence South 79° 18' East by land of said Walter M. Perkins and parallel with said road to a stone monument set in the ground on the bank of said River; thence same course by land of Walter M. Perkins to a stone monument set in the ground at the top of the bank at the Beach; thence same course by land of Walter M. Perkins to the Atlantic Ocean; thence Northerly by said Ocean to land of said Edward R. Hoyt to a point which bears South 55° 48' East from a stone monument set in the ground, standing at the top of the bank above the beach; thence from said point North 55° 48' West by land of the said Edward R. Hoyt to the last mentioned monument; which is North 27° 18' East 562.3 feet from the second mentioned monument; thence same course by land of the said Edward R. Hoyt to a stone monument at the bank of the river; thence same course by land of said Edward R. Hoyt to the channel of said River; thence Southerly by channel of said River to point of beginning; containing six acres, more or less.

The above parcel of land belongs to Charles W. Tebbetts of Dover in the

368
293
75

BWI Property

Know all Men by these Presents, That

I Charles W Tibbette of Dover in the county of Strafford and State of New Hampshire

in consideration of one dollar and other valuable considerations paid by Walter M Perkins of Wells in the county of York and State of Maine

the receipt whereof I do hereby acknowledge, do hereby remise, release, bargain, sell and convey, and forever Quit Claim unto the said Walter M Perkins his

Heirs and Assigns forever, all my right, title and interest in and to a certain tract of land situate at Ogunquit Beach in said town of Wells, county of York and State of Maine and bounded and described as follows, to wit: beginning at a stake and stones on the easterly side line of a proposed street called Ocean Avenue at the north westerly corner of a tract of land belonging to said Walter M Perkins thence running south 82 1/4 degrees east by land of said Perkins to the Atlantic Ocean, thence running north 7 3/4 degrees east by said Atlantic Ocean one hundred feet to a stake and stones and other land of said Tibbette, thence turning at right angles and running north 82 1/4 degrees west by other land of said Tibbette to said proposed street called Ocean Avenue, thence running south 28 degrees west by said proposed street called Ocean Avenue to point begun at containing three fourths of an acre of land more or less.

Both Sides of Ocean Ave

Also one other tract or parcel of land situate at said Wells and bounded and described as follows to wit: beginning on the westerly side line of said proposed street called Ocean Avenue at a stake and stones at the north easterly corner of a tract of land belonging to said Perkins thence running north 82 1/4 degrees west by land of said Perkins to the thread of Ogunquit river thence running north by the thread of said Ogunquit river 7 3/4 degrees east one hundred feet to a stake and stones and other land of said Tibbette thence running at right angles south 82 1/4 east by other land of said Tibbette to said proposed street called Ocean Avenue, thence running south 28 degrees west by said proposed street called Ocean Avenue to point begun at containing one eighth of an acre of land more or less. It is hereby understood that said proposed street called Ocean Avenue is to be three fourths wide and is hereby declared to be a continuation of said street coming up from Ogunquit street as called.

Recognizes Ocean Ave as 3 rods

To have and to hold the same, together with all the privileges and appurtenances thereunto belonging to the said Walter M Perkins his Heirs and Assigns forever. And I do covenant with the said Grantee, his Heirs and Assigns, that I will warrant and forever defend the premises to him the said Grantee, his Heirs and Assigns forever, against the lawful claims and demands of all persons claiming by, through, or under me.

In Witness Whereof, I the said Grantor, and Hannah L Tibbette wife of the said Charles W Tibbette in testimony of her relinquishment of her right of dower, and all other rights, in the above described premises,

have hereunto set our hands and seals this twelfth day of April in the year of our Lord one thousand nine hundred and nine

Signed, Sealed and Delivered in presence of Hilman C Swombly lo S. Bartland Charles W Tibbette (real) Hannah L Tibbette (real)

State of New Hampshire Strafford York, ss. April 12 1909 Personally appeared Charles W Tibbette and Hannah L Tibbette

and acknowledged the above instrument to be their free act and deed (S.S.) Before me, Chas. S. Bartland Notary Public Justice of the Peace Recorded according to the original received April 13, 1909 at 1 hr, 15 m, P.M. Register.

Know all Men by these Presents, That

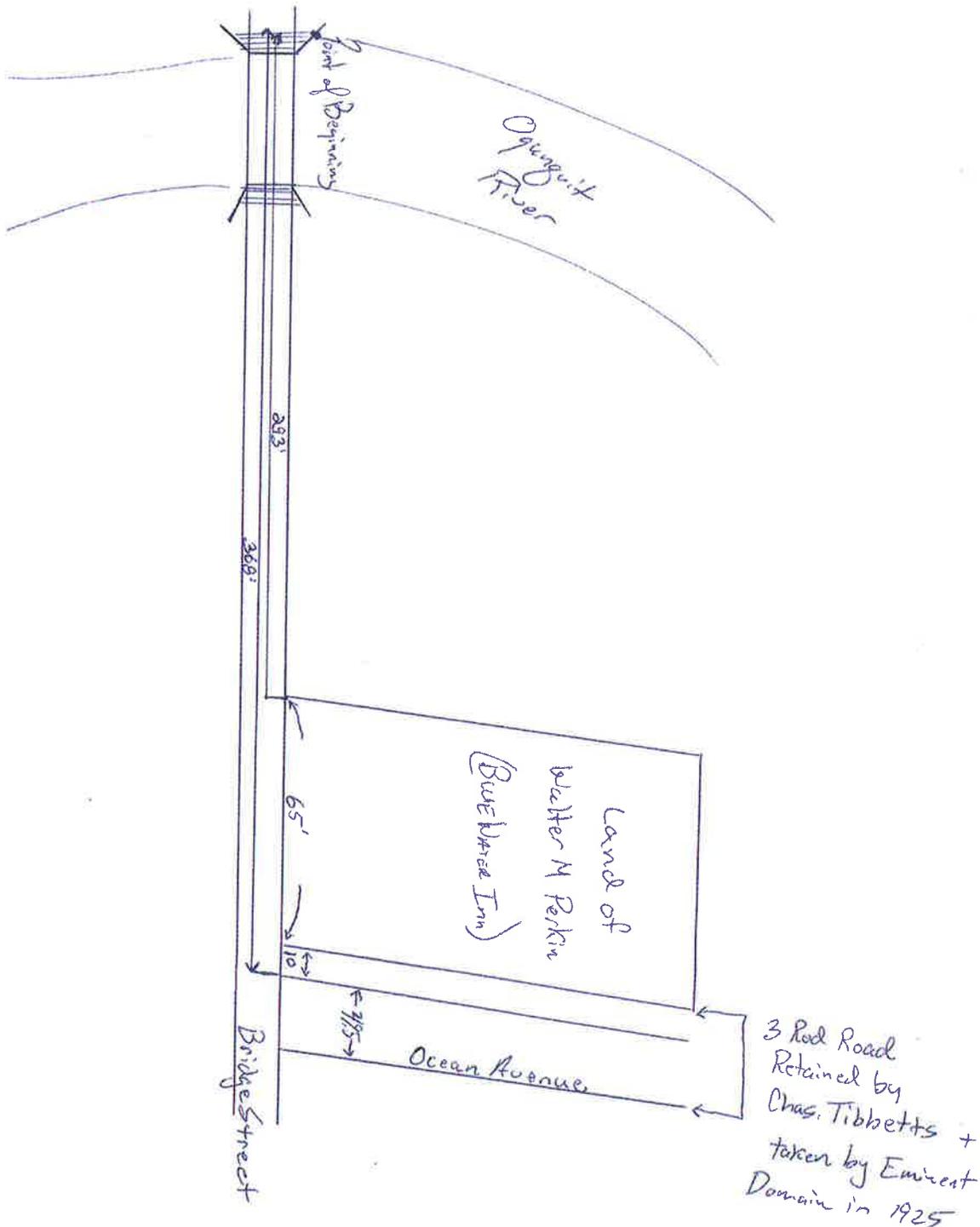
I Charles W. Tibbetts of Dover in the County of Strafford and State of New Hampshire

Book
528
Page
283

In consideration of one dollar and other valuable considerations paid by Leigie W. Jacobs of Wells, in the County of York and State of Maine

the receipt whereof I do hereby acknowledge, do hereby remise, release, bargain, sell and convey, and forever Quit Claim unto the said Leigie W. Jacobs her

Heirs and Assigns forever, all my right, title and interest in and to a certain tract or parcel of land situate at Ogunquit Beach in said Wells and bounded and described as follows to wit beginning at a stake and stone



BWT Property

9-18-42
58

Know all Men by these Presents, That

I, **Walter M. Perkins** of Ogunquit Village, in the town of Wells, in the County of York and State of Maine

In consideration of one dollar and other valuable consideration paid by
Michael A. Shiepe of New York in the State of New York

Book 996

I.R.S.
Six
Dollars
and
Sixty
Cents

the receipt whereof I do hereby acknowledge, do hereby give, grant, bargain, sell and convey unto the said **Michael A. Shiepe**, his heirs and assigns forever, a certain lot or parcel of land together with the buildings thereon, situated at Ogunquit Beach, so-called, in Ogunquit Village, in the town of Wells, in the County of York and State of Maine and being bounded and described as follows, to wit: Beginning at a stake and stone on the northwesterly side of Bridge Street, so-called, at the southeasterly corner of land formerly owned by Samuel J. Perkins, now owned by Helen H. Carroll; thence running north 7 3/4° east along land of Helen H. Carroll seventy-two (72) feet, more or less, to the other land of the Grantor; thence turning running south 82 1/2° east on a line parallel to Bridge Street and by remaining land of the Grantor one hundred twenty feet, more or less, to the northwesterly side line of Ocean Avenue, so called; thence turning and running south 28° west by said Ocean Avenue seventy-eight feet, more or less, to Bridge Street, so-called, thence turning and running north 82 1/2° west by said Bridge Street sixty-five (65) feet to the point begun at.

Same as Prior Deed

The above described premises being a part of the first parcel set forth in Quit-Claim Deed from Charles W. Tibbetts to Lizzie H. Jacobs dated July 2, 1903 and recorded in the York County Registry of Deeds, Book 528, Page 283 and a part of the same Lizzie H. Jacobs conveyed to the Grantor herein by two certain Quit-Claim Deeds, to wit: Deeds dated September 16, 1905 and June 13, 1907 and recorded in said Registry, Book 550, Page 41 and in Book 560, Page 252, respectively.

On Here and in Hold, the aforegranted and bargained premises with all the privileges and appurtenances thereof to the said **Michael A. Shiepe**, his

heirs and assigns, to him and their use and behoof forever. And I do covenant with the said Grantee, his

heirs and assigns, that I am lawfully seized in fee of the premises, that they are free of all incumbrances;

that I have good right to sell and convey the same to the said Grantee to hold as aforesaid; and that I and my heirs, shall and will warrant and defend the same to the said Grantee, his heirs and assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof, I the said **Walter M. Perkins** and **Frances M. J. Perkins** wife of the said **Walter M. Perkins** joining in this deed as Grantor, and relinquishing and conveying her right by descent and all other rights in the above described premises

OUR hand and seal this eighteenth day of September in the year of our Lord one thousand nine hundred and forty-two.

Signed, Sealed and Delivered
in presence of

Walter E. Hatch

Walter M. Perkins (seal)

to both

Frances M. J. Perkins (seal)

State of Maine, York, ss. September 18, 1942

Personally appeared

the above named **Walter M. Perkins**

and acknowledged the above instrument to be - free act and deed.

Before me, **Walter E. Hatch** Notary Public (L.S.)
Judge of the Peace

Recorded according to the original received. September 24, 1942 at 10h. 07m. A.M.

See Plan Book 16, Page 43.

Know all Men by these Presents, That

I, Walter M. Perkins of Ogunquit Village, in the Town of Wells, in the County of York and State of Maine

in consideration of one dollar and other valuable consideration

paid by Ogunquit Beach District, a Municipal Corporation duly created and existing by law at said Ogunquit Village, in said Town of Wells,

the receipt whereof I do hereby acknowledge, do hereby remise, release, bargain, sell and convey and forever quit-claim unto the said Ogunquit Beach District, its Successors and Assigns forever,

All my right, title and interest in and to land in said Ogunquit Village in said Wells which lies easterly of and adjacent to the following described line; Beginning at a point on Ogunquit Beach, so-called in said Town of Wells, said point being in the northerly line of Bridge Street, so-called and being marked by a four (4) inch soil pipe sunken into the ground and being 276.92 feet easterly, measured along the line of said Bridge Street, from a spike driven into the ground at the junction of the northerly line of said Bridge Street and the easterly line of Ocean Avenue, so-called. Said point being also 25 feet easterly from the baseboard at the southerly corner of the piazza at the southerly corner of the "Casino", so called; thence north 31° 25' east 246.77 feet to another four (4) inch soil pipe sunken into the ground which is 25 feet easterly from the northeasterly corner of said Perkin's bulkhead.

Also all my right, title and interest in and to land in said Ogunquit Village in said Wells which lies northerly of and adjacent to the following described line, beginning at the last mentioned four (4) inch soil pipe mentioned above; thence north 70° 15' west 198.55 feet to an iron pipe driven into the ground at an angle in the fence; thence north 86° 46' west 64.15 feet to an iron pipe driven into the ground near the northerly corner of the piazza of said Perkins rear cottage; thence south 41° 38' west 50.25 feet to an iron driven into the ground on the easterly sideline of said Ocean Avenue. Said iron being north 31° 48' east 218.05 feet from said spike which marks the point of junction of the northerly side of said Bridge Street and the easterly side of said Ocean Avenue.

For further ties, see Plan showing a proposed division line between land of said Walter M. Perkins and said Ogunquit Beach District, Ogunquit, Maine made by Libby and Dow, October 14, 1941, which Plan is to be filed in the York County Registry of Deeds.

The purpose of this deed is to establish a line between the lands of the Grantor and Grantee.

However the premises being conveyed shall never at any time be used for commercial purpose.

Do have and to hold the same, together with all the privileges and appurtenances thereunto belonging to the said Ogunquit Beach District, its Successors

And I do covenant with the said Grantee, its Successors heirs and assigns forever, that I will warrant and forever defend the premises to the said Grantee, its Successors heirs and assigns forever, against the lawful claims and demands of all persons claiming by, through or under me.

In Witness Whereof, I the said Walter M. Perkins and Frances M. J. Perkins wife of the said Walter M. Perkins joining in this deed as Grantor, and relinquishing and conveying her rights by descent and all other rights in the above described premises,

have hereunto set OUR hand and seal this 4th. day of December in the year of our Lord one thousand nine hundred and forty-two.

Signed, Sealed and Delivered in presence of

Wilbur F. Rollins

for Both

Walter M. Perkins (seal)

Frances M. J. Perkins (seal)

State of Maine, York ss. December 4th. 1942.

the above named Walter M. Perkins and acknowledged the above instrument to be his free act and deed.

Personally appeared

BEFORE ME, Wilbur F. Rollins Notary Public (L.S.)

Justice of the Peace

Recorded according to the original received. December 7, 1942 at 2h. 30m. P.M.

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Side line of Ocean Ave.
claimed by Ogunquit
Selectmen.

AVE I

No monument
found or set
Side line of Ocean Ave.
based on 528/283 &
reference 4.

(Parallel to Bridge Street dead)

Parcel 2

(120' deed)

Carl E. & Barbara A. Merrill
Bk. 2154 Pg. 7

Parcel 1

(128' deed)

(100' deed)

(72' deed)

Side line of Ocean Ave.
as shown on reference
2 and 3.

N 31°48'00" E

Wood fence

Parking curb

Sign

Water meter

Curb

Granite
stone fnd.

Nail fnd. 39.40'
(I.R. indication)

Nail fnd.

Iron w/ cap fnd

this point based
on reference (2)
not found.

distances to NW
bridge.

(90' deed)

(65' deed)

(deed 110' 6")

S 77°36'40" E 65.00'

358' (ref. 4)

368' (743/288)

Deck over
sidewalk

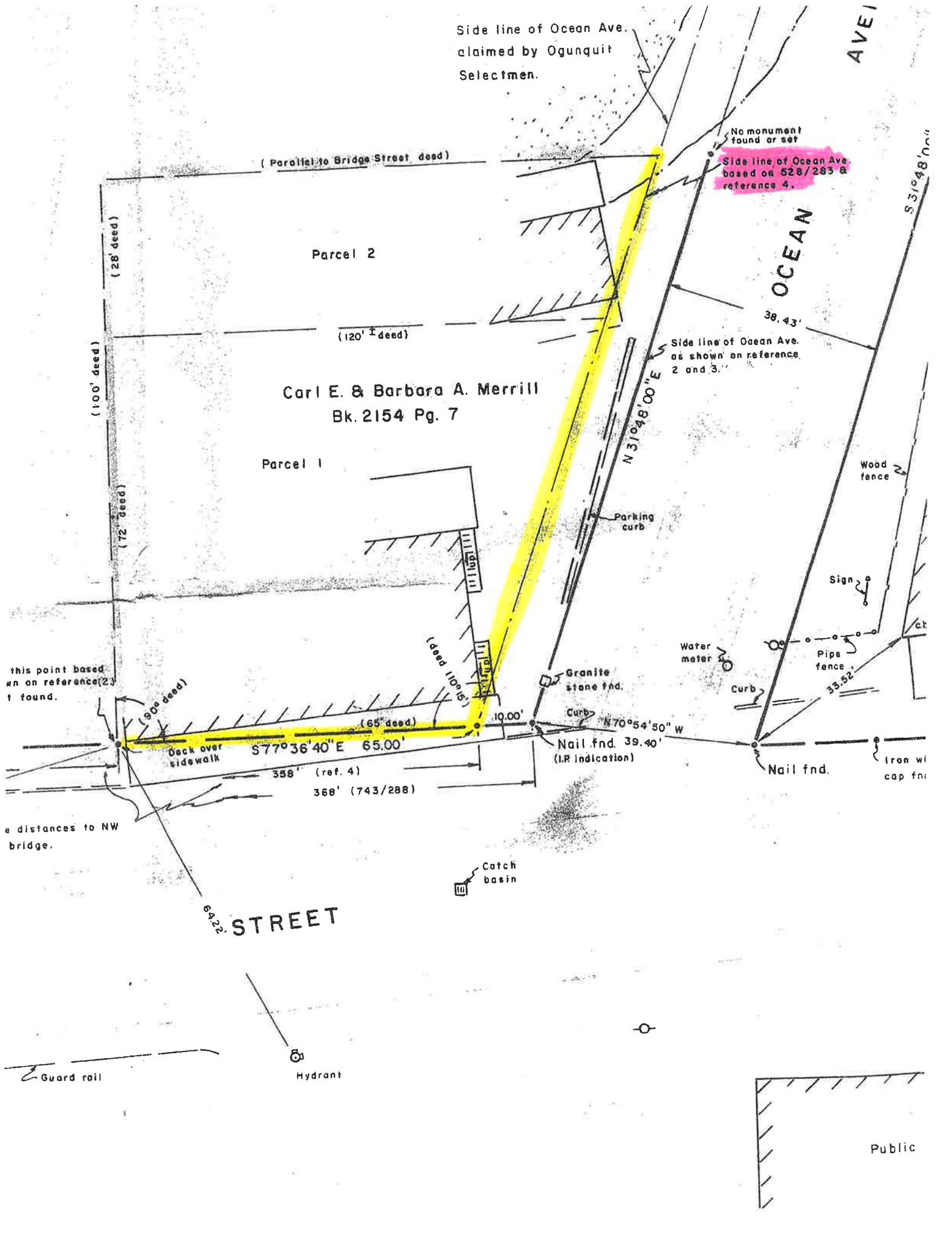
64.22 STREET

Catch
basin

Hydrant

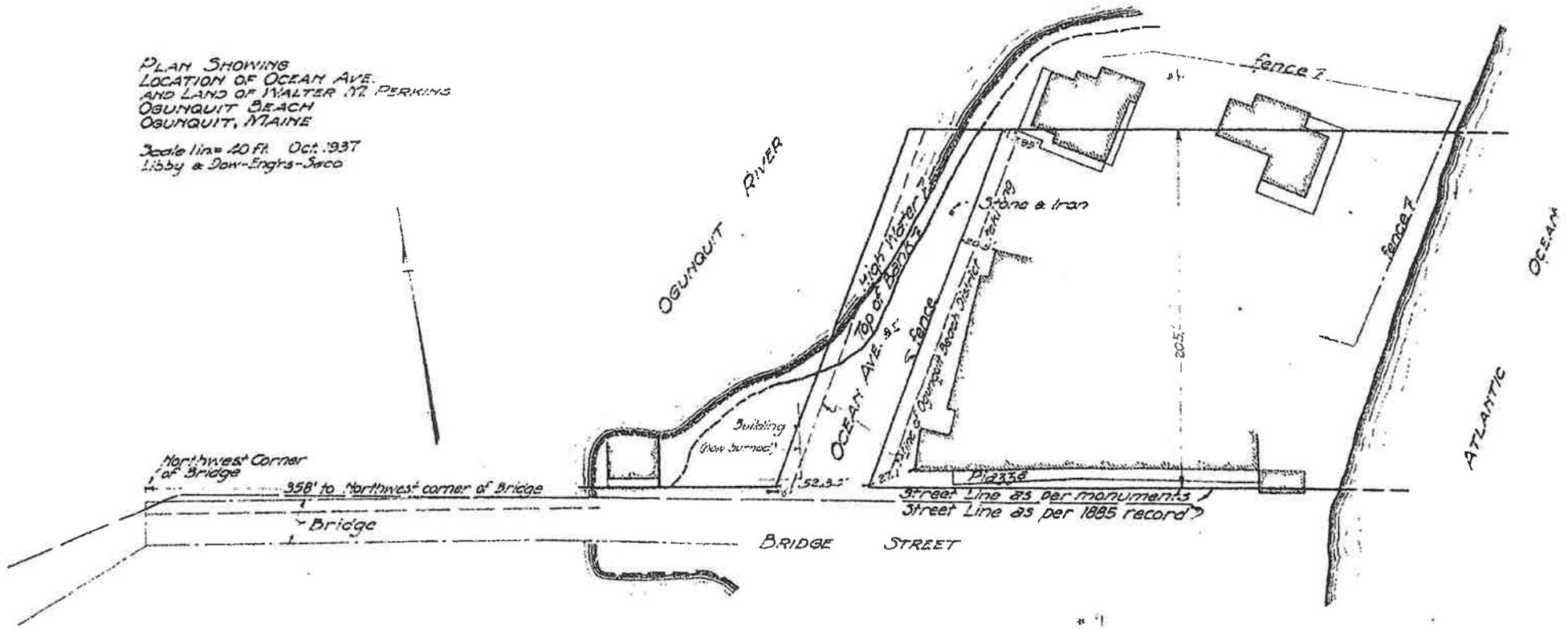
Guard rail

Public



PLAN SHOWING
 LOCATION OF OCEAN AVE.
 AND LAND OF WALTER M. PERKINS
 OGUNQUIT BEACH
 OGUNQUIT, MAINE

Scale 1 in = 20 FT. Oct. 1937
 Libby & Dow-Engrs-Seco



Plan 1937