



Jeff Levine, AICP, Director
Planning & Urban Development Department

Ann Machado
Zoning Administrator

CITY OF PORTLAND ZONING BOARD OF APPEALS

Practical Difficulty Variance Application

Applicant Information:

NAME
Legacy 18 Inc. (Judy George & David Klenicki)

BUSINESS NAME
Legacy 18 Inc.

BUSINESS ADDRESS
233 Smith Road Windham, Me 04062

BUSINESS TELEPHONE & EMAIL
207.319.2445

APPLICANT'S RIGHT/TITLE/INTEREST
50/50 partners

CURRENT ZONING DESIGNATION
R6

EXISTING USE OF THE PROPERTY: raw land

Subject Property Information:

PROPERTY ADDRESS
5/9 Romasco Lane Portland, Me 04101

CHART/BLOCK/LOT (CBL)
103/J023 103/J024

PROPERTY OWNER (If Different)
(same)

ADDRESS (If Different)
(same)

PHONE # AND E-MAIL
jgeorgemaine@hotmail.com

PRACTICAL DIFFICULTY VARIANCE FROM SECTION 14- _____

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ck
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NOTE: If site plan approval is required, attach preliminary or final site plan.

The undersigned hereby makes application for a conditional use permit as described above, and certifies that the information herein is true and correct to the best of his OR her knowledge and belief.

Judy George / David Klenicki
SIGNATURE OF APPLICANT

8/10/15

DATE

The following words have the meanings set forth below:

1. **Dimensional Standards**: Those provisions of the article which relate to lot area, lot coverage, frontage and setback requirements
2. **Practical Difficulty**: A case where strict application of the dimensional standards of the Ordinance to the property for which a variance is sought, would BOTH preclude a use of the property which is permitted in the zone in which it is located AND also result in significant economic injury to the applicant.
3. **Significant Economic Injury**: The value of the property, if the variance were denied, would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that the denial of the variance would mean the practical loss of all beneficial use of the land.

A Practical Difficulty Variance may not be used to grant relief from the provisions of Section 14-449 (Land Use Standards) to increase either volume or floor area, not to permit the location of a structure, including, but not limited to, single-component manufactured homes, to be situated on a lot in a way which is contrary to the provisions of this article.

Notwithstanding the provisions of subsections 14-473(c)(1) and (2) of this section, the Zoning Board of Appeals (ZBA) may grant a variance from the dimensional standards of this article when strict application of the provisions of the Ordinance would create a practical difficulty, as defined herein, and when **all** the following conditions are found to exist:

“Practical Difficulty” variance standards pursuant to Portland City Code §14-473(c)(3):

1. The need for the variance is from dimensional standards of the Land Use Zoning Ordinance (lot area, lot coverage, frontage, or setback requirements).

Satisfied _____ NOT Satisfied _____ (deny the appeal)
Reason and supporting facts:

Portland City map shows the lot as 3,798 sq. ft.

The Mortgage Loan Inspection Plan agrees with all of the city map's lot line dimensions. This was done prior to purchase.

The property was purchased on that basis.

After new R6 rules were approved and actual architectural plans were developed, calculations reveal the site to be 3,339 sq ft.

The reduction in footage reduces the allowable number of dwelling units to 4, rather than 5, and the lot coverage is reduced by 275.4 sq ft which reduces the size of each dwelling unit.

2. Strict application of the provisions of the ordinance would create a **Practical Difficulty**, meaning it would both (1) preclude a use of the property which is permitted in the zone in which it is located, and also (2) would result in significant economic injury to the applicant. (*“Significant Economic Injury” means the value of the property, if the variance was denied, would be substantially lower than its value if the variance were granted.*) To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land.

Satisfied _____ NOT Satisfied _____ (deny the appeal)
Reason and supporting facts:

The current tax map shows the property as 3798 sq ft. This would allow (with new R6 changes) four 1000 sq ft condos and one 1300 sq ft condo.

If you do not honor the tax map numbers and grant us a 5th unit variance we can only build four units of 850-900 sq ft each. This results in a significant economic shift and will jeopardize our bank funding.

3. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

Satisfied _____ Not Satisfied _____ (deny the appeal)

Reason and supporting facts:

The variance is specific for this lot and the tax map error attached to it.

4. The granting of the variance will not produce an undesirable change in the character of the neighborhood and will not have an unreasonably detrimental effect on either the use, or fair market value, of abutting properties.

Satisfied _____ Not Satisfied _____ (deny the appeal)

Reason and supporting facts:

The fifth unit will be built on the same footprint and setbacks and meet all restrictions and regulations of the new R6 code. It should dramatically increase neighborhood values. The former home was in deplorable condition since 2007. The real estate market is clamoring for smaller condo units on the hill at a more affordable end of the market. The only new project in recent years was Marquis Lofts on Lafayette Street and they are completely sold out.

5. The practical difficulty is not the result of action taken by the applicant or a prior owner.

Satisfied _____ Not Satisfied _____ (deny the appeal)

Reason and supporting facts:

The former owner never requested a variance. The sole issue generating this request for a variance is due to the current error on the City of Portland's tax map.

6. No other feasible alternative is available to the applicant, except the variance.

Satisfied _____ Not Satisfied _____ (deny the appeal)
Reason and supporting facts:

When we bought this land our intent was to comply. The alternative now would be to build four units and sacrifice the fifth, however, this would jeopardize our ability to secure funding with our commercial lender (the profit margin is too slim).

7. The granting of a variance will not have an unreasonably adverse effect on the natural environment.

Satisfied _____ Not Satisfied _____ (deny the appeal)
Reason and supporting facts:

We will be in total compliance with R6 standards to protect the natural environment in relation to drainage requirements, retaining walls, water run-off, and permeable surface.

8. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S.A. §435, nor within a shoreland zone or flood hazard zone.

Satisfied _____ Not Satisfied _____ (deny the appeal)
Reason and supporting facts:

This is not applicable as we are not in a shoreland zone or flood hazard zone.

August 2, 2015

To The Portland Zoning Board Of Appeals:

Judy George and David Klenicki, joint and equal partners of Legacy 18 Corporation, purchased 5/9 Romasco Lane in August 2014.

We anticipated changes to the R6 zone for condo development and now are ready to move forward with our building. The city tax map, at the time of our purchase, showed that the 2 lots combined were a total of 3798 sq. feet. That number is currently still on the tax map.

Prior to our purchase, we also obtained a mortgage loan inspection plan (see attached) and this matched the boundaries shown on the city tax map *exactly*. We made our investment for this land, with plans for a 5 unit condo building.

Our site engineer discovered last week that the tax map is in error. There is only 3342 sq. feet and only enough land to allow a 4 unit structure.

Our financial projections and pro forma are now jeopardized with our bank (Saco Biddeford Savings Bank) . We are no longer in compliance with our numbers and this puts our development at risk.

Our 5 unit building plan does comply with all current set back requirements, parking restrictions, and all R6 zoning regulations. The land mass coverage is the *same* for a 5 unit as a 4 unit.

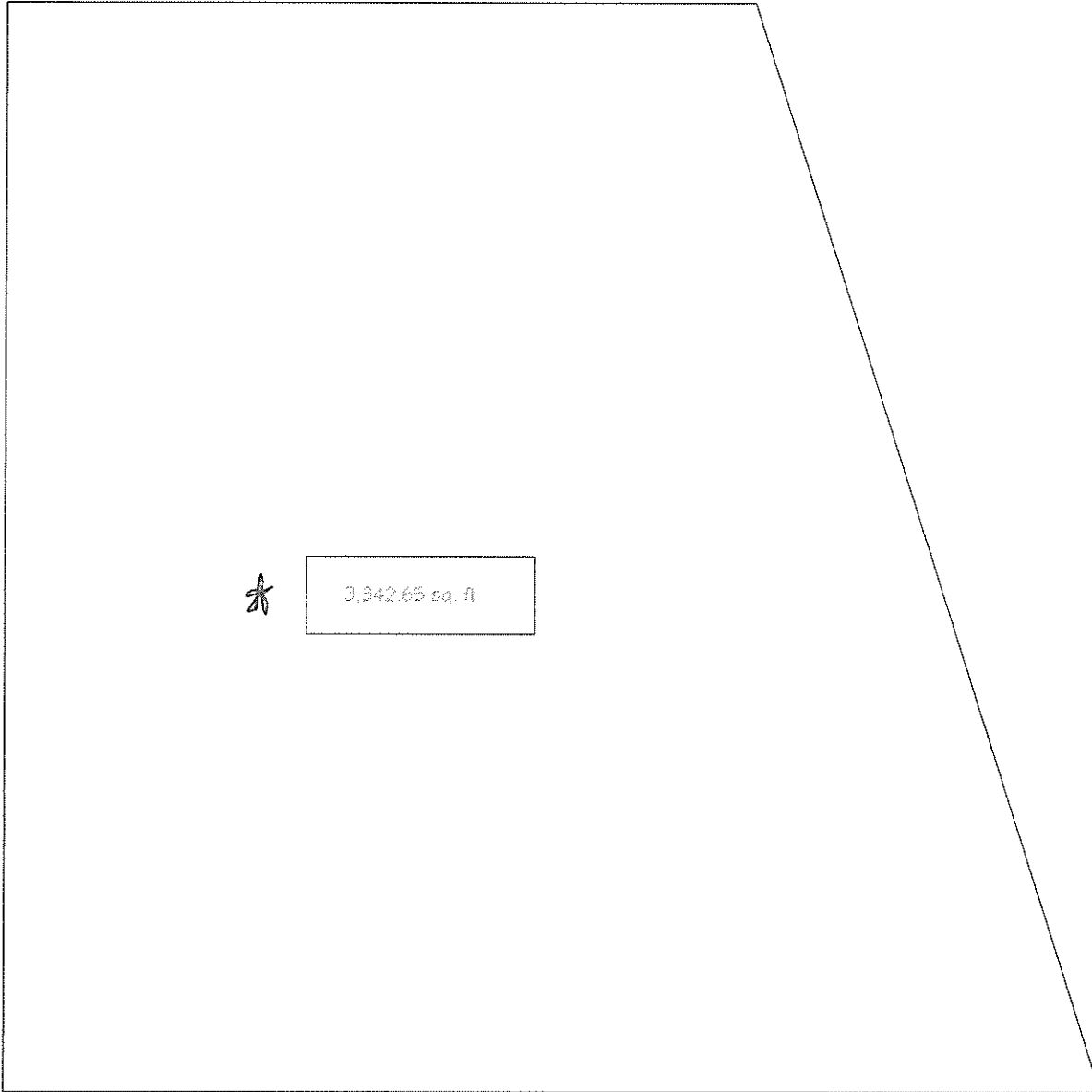
We are petitioning the board to grant a practical difficulty variance in order for us to secure our funding and move forward with our 5th unit. This is what the city tax map reported at the time of purchase.

Sincerely,

Judy George

David Klenicki

Klenicki Design Services Inc.		4/6 9 & 5 Romasco Lane Residential Condominium Portland Maine		S-1
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9 and 5 Romasco Lane - Area calculation

Note: This is the correct square footage for this lot.
area calculation per CAD 1/11/2017

12/11/14 HL

THIS IS NOT A BOUNDARY SURVEY

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MORTGAGE INSPECTION OF: DEED BOOK 3614 PAGE 313 COUNTY Cumberland
DEED BOOK 3959 PAGE 146

ADDRESS: 9 & 5 Romasco Lane, Portland, Maine

Job Number: 816-57

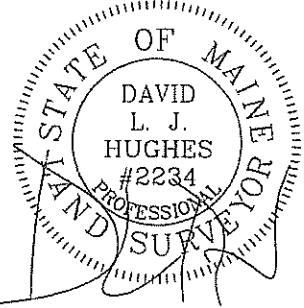
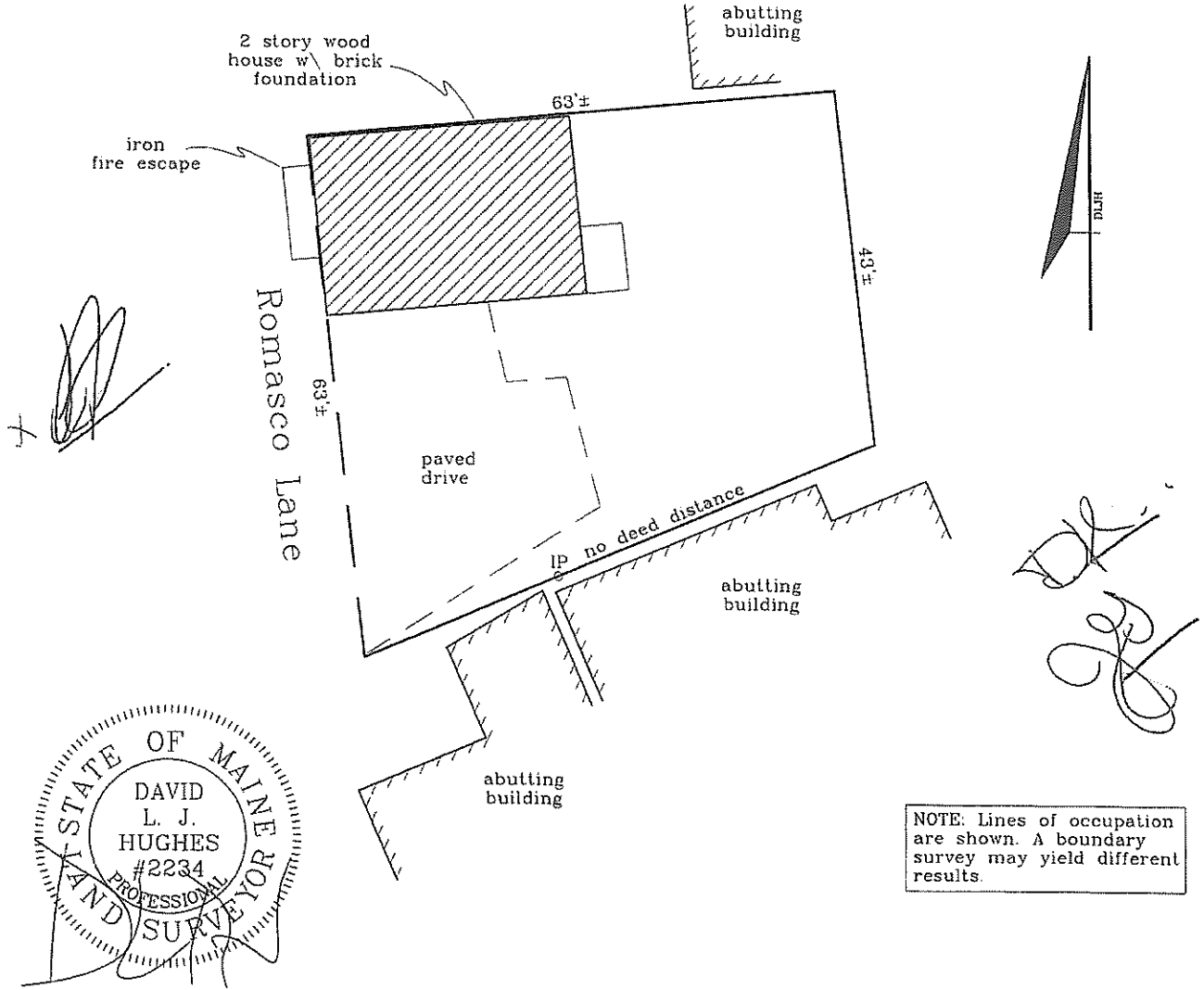
Inspection Date: 07-17-14

Scale: 1" = 20'

Client File #: 14388

Buyers: 9 Romasco, LLC.

Seller: June Lancaster



I HEREBY CERTIFY TO: Bay Area Title Services, 9 Romasco, LLC and the title insurer.

Monuments found did not conflict with the deed description.

The dwelling setbacks do not violate town zoning requirements.

As delineated on the Federal Emergency Management Agency Community Panel 230051 0014B:

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

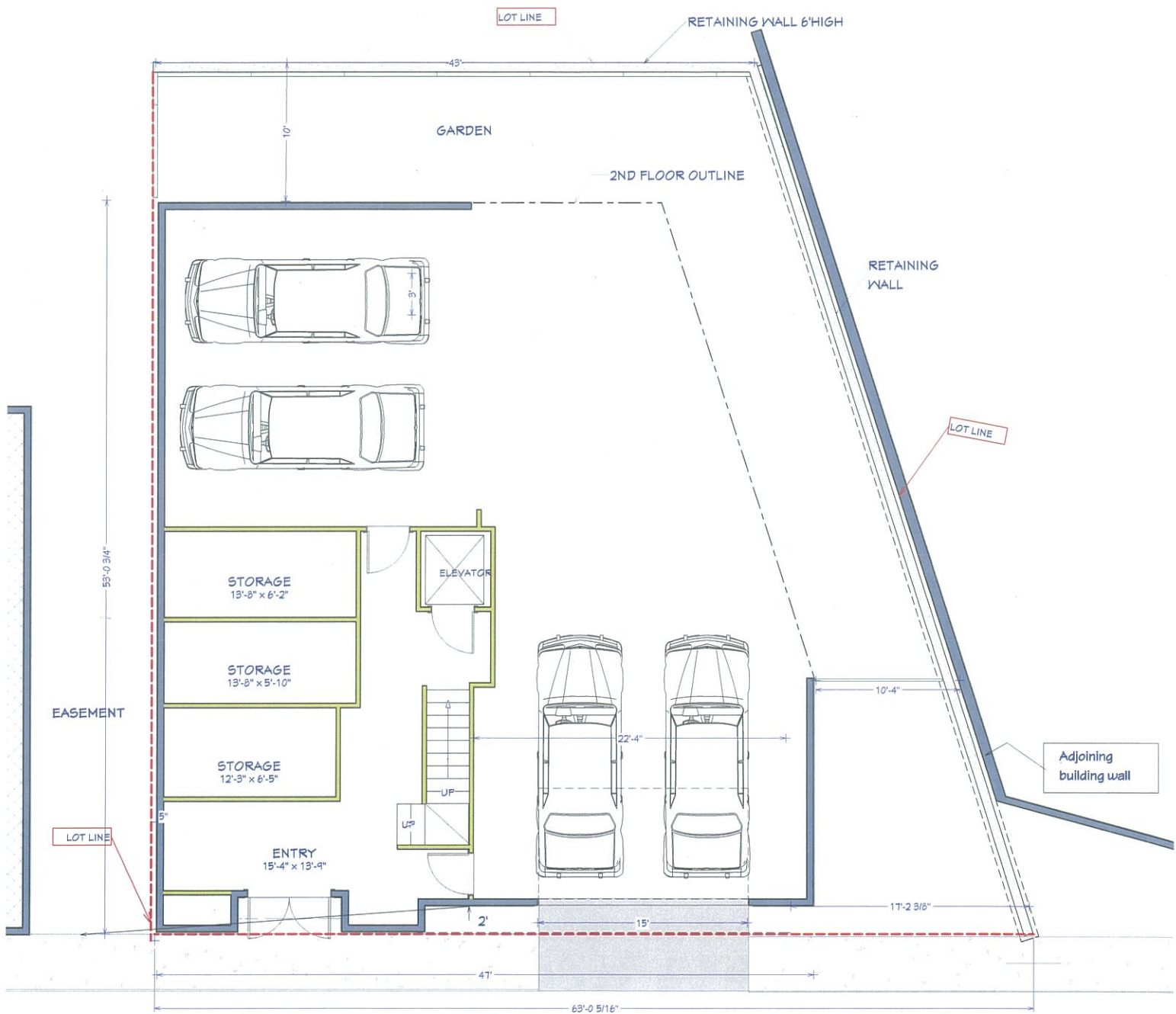
The land does not fall within the special flood hazard zone.

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.

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



ROMASCO LANE



TYPICAL 2ND AND 3RD FLOOR PLAN



UNIT 5 1,400 SQ. FT.







**WARRANTY DEED
KNOW ALL MEN BY THESE PRESENTS**

That I, JUNE P. LANCASTER a/k/a JUNE QUIMBY a/k/a JUNE P. QUMBY of Portland, in the County of Cumberland and State of Maine, in consideration of one dollar and other valuable consideration paid by LEGACY 18 DEVELOPMENT CORPORATION, a Maine corporation with a mailing address of 233 Smith Road, Windham, Maine 04062, receipt of which I hereby acknowledge, do hereby give, grant, bargain and sell unto the said LEGACY 18 DEVELOPMENT CORPORATION of Windham, Maine, with Warranty covenants, the following:

A certain lot or parcel of land with the buildings thereon, situated in said Portland on the Easterly side of Larch Street (now called Romasco Lane), bounded and described as follows: Commencing on the Easterly side of Larch Street at the Northwestern corner of a lot of land now or formerly owned by John Kennedy; thence running Northerly by said Larch Street thirty-one (31) feet and six (6) inches, more or less, to land now or formerly owned by John Collins; thence Northeasterly by said Collins land sixty-three (63) feet, more or less, to the Southerly line of the Church lot, so-called; thence by the Church lot twenty-one (21) feet and five (5) inches, more or less, to the land now or formerly owned by the said Kennedy; thence Westerly by said Kennedy's land to Larch Street and the point begun at.

Being the same premises conveyed to June Quimby by the deed of Eleanora Salvatore by deed dated October 25, 1974 and recorded in the Cumberland County Registry of Deeds in Book 3614, Page 0313. The said June Quimby is in fact June P. Lancaster, which name is her birth name.

Also, another certain lot or parcel of land located on the Easterly side of Larch Street (now called Romasco Lane) in said Portland, bounded and described as follows: Commencing on said side of said street at the most Westerly corner of a lot of land called the Patrick Dougher lot, and thence running on said street Northerly thirty-one (31) feet and six (6) inches to a monument; thence Northeasterly about sixty-three (63) feet to a church lot; thence on a line of said Church lot Southerly about twenty-one (21) feet and four (4) inches to the widow Butler lot, so-called; thence Southwesterly on a line of said Butler lot and line of said Dougher lot to this corner and point of beginning on said Larch Street.

MAINE REAL ESTATE TAX PAID

Being the same premises conveyed to June P. Quimby by the deed of the City of Portland, Maine dated January 3, 1977 and recorded in the Cumberland County Registry of Deeds in Book 3959, Page 0146. The said June P. Quimby is in fact June P. Lancaster, which is her birth name.

Witness my hand and seal this twenty-first day of August, 2014





June P. Lancaster
By: Stephen J. Schwartz, her
attorney in fact

Received
Recorded Register of Deeds
Aug 22, 2014 03:22:34P
Cumberland County
Pamela E. Lovley

STATE OF MAINE
CUMBERLAND, SS.

August 21, 2014

Then personally appeared by said Stephen J. Schwartz of Portland, Maine, attorney in fact for the said June P. Lancaster a/k/a June Lancaster a/k/a June P. Lancaster, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said June P. Lancaster.

Before me,



Notary Public/Attorney at Law

SUSAN GAGE KNEDLER
Notary Public, Maine
My Commission Expires November 22, 2018

12/11/14 HL

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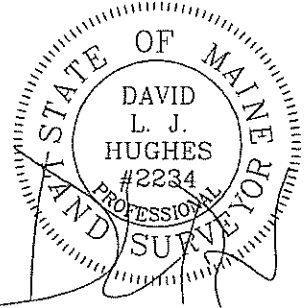
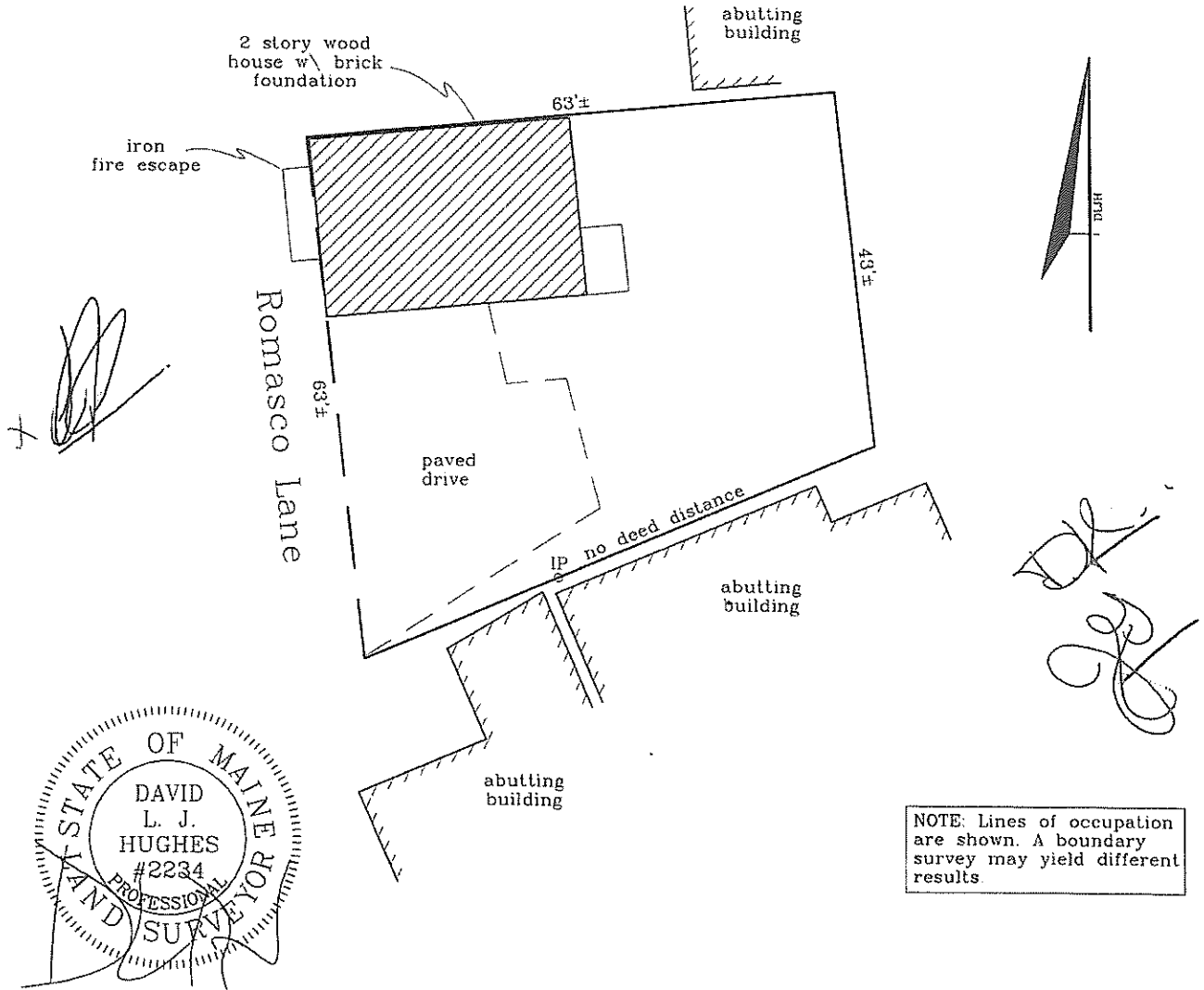
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