

AGENDA
Cumberland Town Council Meeting
Town Council Chambers
MONDAY, July 20, 2020
7:00 P.M. Call to Order

I. CALL TO ORDER

II. APPROVAL OF MINUTES

June 22, 2020

III. MANAGER'S REPORT

IV. PUBLIC DISCUSSION

V. LEGISLATION AND POLICY

20 – 038. To swear in newly elected Town Councilors.

20 – 039. Election of Town Council Chair and Vice-Chair.

20 – 040. To consider and act on authorizing the Code Enforcement Officer to execute a Consent Agreement with the owners of 5 River Way.

20 – 041. To consider and act on amendments to Chapter 17 (Animal Control), Section 3 (dogs at large), Broad Cove, as recommended by the Ordinance Committee.

VI. NEW BUSINESS

VII.EXECUTIVE SESSION pursuant to 1 M.R.S.A., § 405(6)(A)(1) re: a personnel matter.

VIII.ADJOURNMENT

MINUTES

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, June 22, 2020

6:00 Ordinance Committee Meeting

7:00 P.M. Call to Order

Present: Councilors Edes, Gruber, Stiles, Storey-King, Turner and Vail

Excused: Councilor Copp

I. APPROVAL OF MINUTES

Motion by Councilor Stiles, seconded by Councilor Gruber, to accept the June 8, 2020 meeting minutes as presented.

VOTE: 6-0 UNANIMOUS

Motion by Councilor Stiles, seconded by Councilor Gruber, to accept the June 9, 2020 Special Meeting minutes as presented.

VOTE: 6-0 UNANIMOUS

II. MANAGER'S REPORT

Town Manager Shane introduced the new President of the Cumberland Farmer's Club, Lyle Merrifield.

Mr. Merrifield said that he is excited about taking over as President of the Farmer's Club, but he is sad to have to cancel his first fair due to COVID-19. The 4-H auction will continue however, and the logistics on how to do this are still being worked out. He is looking forward to taking on projects, especially working on the museum.

The previous President of the Farmer's Club, Mike Timmons, said that it has been a pleasure working with the Town over the years. He is sure that Lyle will do an excellent job.

III. PUBLIC DISCUSSION

None

IV. LEGISLATION AND POLICY

20 – 034 To consider and act on Commercial Hauler's license renewals for FY'21.

Town Manager Shane said that staff is recommending approval of the license renewals.

Motion by Councilor Stiles, seconded by Councilor Edes, to approve the Commercial Hauler's license renewals for FY'21 per the list provided in the meeting materials.

VOTE: 6-0 UNANIMOUS

20 – 035 To set a Public Hearing date of July 27th to set the FY2021 tax rate.

Motion by Councilor Gruber, seconded by Councilor Vail, to set a Public Hearing date of July 27th to set the FY2021 tax rate.

VOTE: 6-0 UNANIMOUS

20 – 036 To set a Public Hearing date of July 27th to set rates at which interest will be paid for delinquent taxes and to authorizing applying tax payments to the oldest unpaid taxes.

Motion by Councilor Turner, seconded by Councilor Gruber, to set a Public Hearing date of July 27th to set rates at which interest will be paid for delinquent taxes and to authorizing applying tax payments to the oldest unpaid taxes.

VOTE: 6-0 UNANIMOUS

20 – 037 To authorize the Town Manager and Finance Committee to develop year-end transfers for FY2020 and to set a Public Hearing date of July 27th for year-end transfers.

Motion by Councilor Stiles, seconded by Councilor Turner, to authorize the Town Manager and Finance Committee to develop year-end transfers for FY2020 and to set a Public Hearing date of July 27th for year-end transfers.

VOTE: 6-0 UNANIMOUS

V. NEW BUSINESS

Councilor Vail – he asked the Town Manager if we have enough election workers for the July 14th election.

Town Manager Shane said that the election workers in both parties are really stepping up and willing to work.

Councilor Gruber – the Food Pantry was closed last week for the first time since COVID-19 hit. He thanked all the volunteers who show up at the Food Pantry every week.

The Lands & Conservation Commission has met via Zoom a number of times over the past few months and they will be reporting to the Town Council regarding the agricultural land in Town very soon.

The Town Clerks office is doing an amazing job with keeping appointments and getting people back into Town Hall to take care of their business.

Councilor Edes – none

Councilor Stiles – none

Chairman Storey-King – she sent condolences to the Wilkinson family on the passing of Jean Wilkinson. Jean was a very smart woman who raised 4 brilliant daughters that went to Greely.

She and Kate Perron, the School Board Chair, are continuing their conversations about equity, equality and non-bias. The School Board has not started meeting in person yet, so a joint workshop will have to be postponed until later.

We are hosting a Meet the Candidates Night this Wednesday evening for Town Council candidates. It will be broadcast online or Channel 1301.

Councilor Turner – it is with a heavy heart that he announced that his next door neighbor, Arthur Greco, passed away just short of his 94th birthday. Arthur and his wife Gerry have been his neighbors since 1978. Arthur was a soft-hearted gentleman who had a quiet way of getting his point across.

He wishes we had more of this in our current political climate. Arthur had a good life and he will be missed.

VI. ADJOURNMENT

Motion by Councilor Stiles, seconded by Councilor Gruber, to adjourn.

VOTE: 6-0 UNANIMOUS

TIME: 7:34 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary

ITEM

20-040

To consider and act on authorizing the Code Enforcement Officer to execute a Consent Agreement with the owners of 5 River Way

CONSENT AGREEMENT

THIS AGREEMENT IS ENTERED INTO this ____ day of July, 2020, by and between the Town Of Cumberland, a municipal corporation located in the County of Cumberland and State of Maine (hereinafter “Cumberland”) and Michael S. Svigelj and Jody K. Svigelj of Cumberland, County of Cumberland, State of Maine (hereinafter “Svigelj ”)

WHEREAS, Michael S. Svigelj and Jody K. Svigelj were deeded a parcel of land located at 5 River Way, Cumberland, County of Cumberland and State of Maine by deed of Timothy Gooch and Susan R. Gooch, dated July 31, 2014, and recorded in the Cumberland County Registry of Deeds in Book 31693, Page 248 (“Property”) and,

WHEREAS, Svigelj purchased a duplex dwelling (“House”) on the Property as shown on the Mortgage Inspection dated June 15, 2020 by Livingston-Hughes Professional Land Surveyors (“Survey”), attached as Exhibit A, and

WHEREAS, the Town of Cumberland Zoning Ordinance requires a 50 foot setback for structures and that setback is to be measured from the edge of any right of way, and

WHEREAS, the House is located approximately 25 feet from the right of way in violation of the Town of Cumberland Zoning Ordinance, and,

WHEREAS, Svigelj wishes to convey the Property free of any claim of the Town of Cumberland regarding a possible setback violation; and

WHEREAS, the Code Enforcement Officer of the Town has investigated the setback violation and has determined that it was inadvertent, and that the violation does not result in any significant public health, safety or welfare problem.

NOW THEREFORE, in exchange for the mutual promises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant and agree as follows:

1. Cumberland shall take no enforcement action and relinquishes its right to prosecute Svigelj or their successors-in-interest to the Property for the violation of the Town of Cumberland Zoning Ordinance arising from the setback violation referenced herein. This provision shall not apply to any other violations, known or unknown at this time.
2. The House shall be allowed to remain, be repaired and replaced if destroyed by casualty in its current location. The House shall not be expanded except in conformance with the requirements of the Town of Cumberland Zoning Ordinance.
3. This Consent Agreement shall be binding upon Svigelj , their successors in real property interest, assigns and heirs and it shall be recorded in the Cumberland County Registry of Deeds within 30 days, with a copy of the recorded instrument to be provided to the Code Enforcement Officer.
4. Svigelj agrees to pay the sum of \$500.00 to the Town of Cumberland to offset expenses incurred by the Town in connection with this Agreement.

5. At a meeting of the Town Council on July ___, 2020, the Town approved this resolution of the setback violation based upon the terms and conditions set forth in this Consent Agreement and authorizes the CEO to sign this Consent Agreement on behalf of the Town.
6. This is the entire agreement of the parties and is intended to inure to the benefit of their respective heirs, successors and/or assigns.

IN WITNESS WHEREOF, the undersigned have executed this Consent Agreement on the date appearing beside their names below.

Date: July ___, 2020

Michael S. Savigelj

Date: July ___, 2020

Jody K. Savigelj

STATE OF MAINE
COUNTY OF CUMBERLAND

July ___, 2020

Personally appeared Michael S. Savigelj and Jody K. Savigelj and acknowledged this Consent Agreement to be their free act and deed.

Notary Public/Attorney at Law

[Remainder of page intentionally left blank]

Town of Cumberland Maine

Date: July ___, 2020

By: William Longley
Its: Code Enforcement Officer

STATE OF MAINE
COUNTY OF CUMBERLAND

July ___, 2020

Personally appeared William Longley in their official capacities as the Code Enforcement Officer of the Town of Cumberland and acknowledged this Consent Agreement to be his free act and deed in said capacity and the free act and deed of the Town of Cumberland.

Notary Public/Attorney at Law

THIS IS NOT A BOUNDARY SURVEY

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MORTGAGE INSPECTION OF: DEED BOOK 31693 PAGE 248 COUNTY Cumberland
PLAN BOOK 203 PAGE 399 LOT ==

ADDRESS: 5 River Way, Cumberland, Maine

Job Number: 1070-66

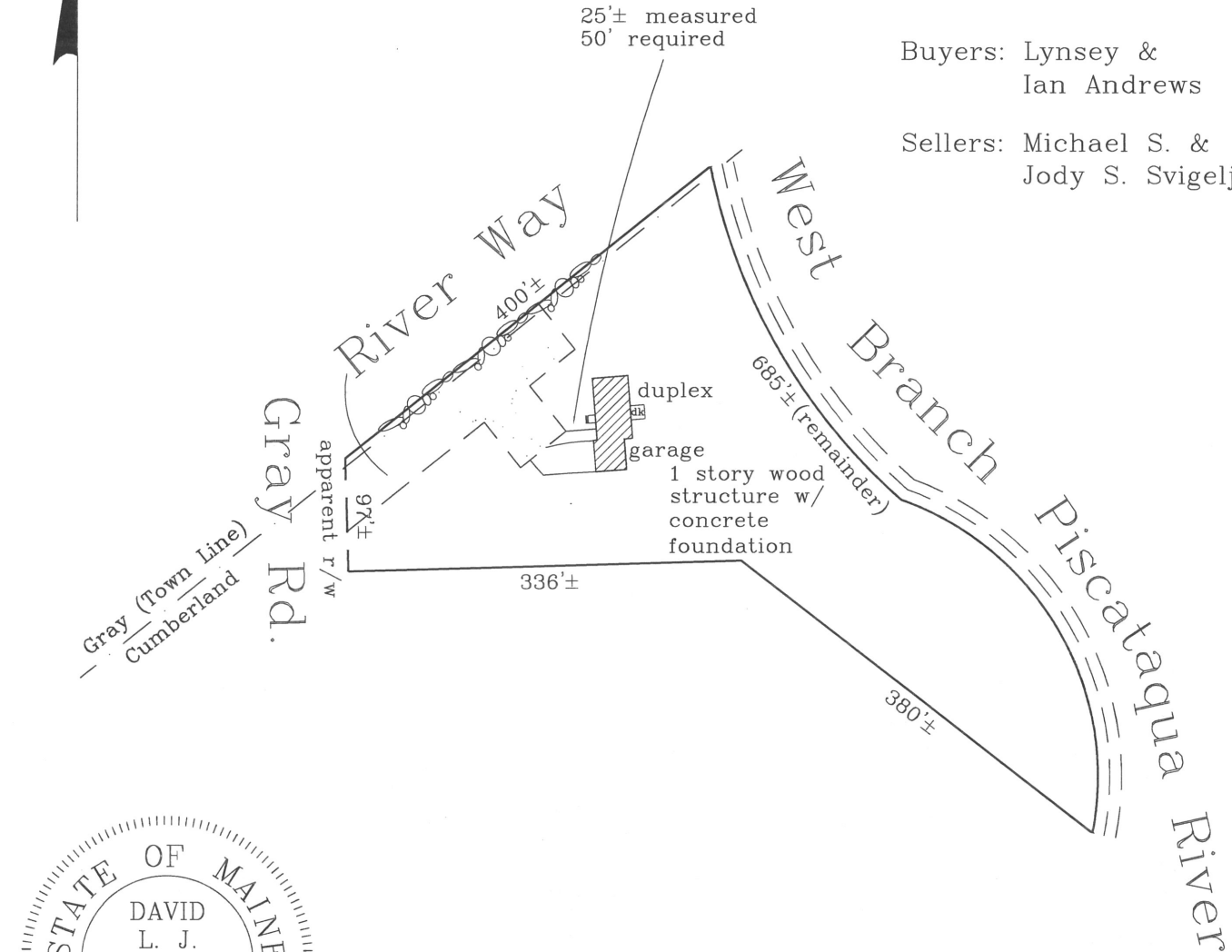
Inspection Date: 6-15-20

Scale: 1" = 150'

Client File #: 200858-M

Buyers: Lynsey &
Ian Andrews

Sellers: Michael S. &
Jody S. Svigelj



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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I HEREBY CERTIFY TO: Schaeffer Douglas Title, LLC; Academy
Mortgage Corporation and its title insurer.

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

As delineated on the Federal Emergency Management Agency Community Panel 230162-0010 B :

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

The land does ~~XXX~~ fall within the special flood hazard zone.

A wetlands study has not been performed.

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

ITEM

20-041

To consider and act on amendments to Chapter 17 (Animal Control),
Section 3 (dogs at large), Broad Cove, as recommended
by the Ordinance Committee

Chapter 17

Animal Control

[HISTORY: Adopted by the Town Council of the Town of Cumberland 10-26-2009. Amendments noted where applicable.]

§ 17-1 Purpose and authority.

- A. The purpose of this chapter is to require that all animals in the Town of Cumberland be kept under control of their owner/keeper at all times so they will not injure persons or other animals, damage property, or create a public health threat or nuisance. "Under control," as defined below, means that the animal's proper and safe activity is directed by the owner/keeper. Control is achieved by proper use of a leash or voice control. **[Amended 6-4-2018]**
- B. This chapter is enacted pursuant to the authority in 30-A M.R.S.A. §§ 2101 and 3001, and the purpose of this chapter is to provide regulations in addition to those contained in Title 7 of the Maine Revised Statutes Annotated with respect to controlling companion animals throughout the Town of Cumberland in the interest of the health, safety and general welfare of its residents.

§ 17-2 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ANIMAL

Every living, sentient creature not a human being.

[Amended 6-4-2018]

AT LARGE/STRAY

Off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the companion animal. "Premises" includes residences, including land and buildings, and motor vehicles belonging to the owner or keeper of the companion animal.

COMPANION ANIMAL

A cat or a dog.

CONTROL

The power or ability to direct the proper and safe activity of an animal.

DOG

A member of the genus and species known as "canis familiaris" and/or a member of the genus and species known as "canis familiaris" or any canine, regardless of generation, resulting from the interbreeding of a member of canis familiaris with a wolf hybrid.

[Amended 6-4-2018]

KEEPER

A person in possession or control of a dog or other animal. A person becomes the keeper of a stray domesticated animal, other than dog or livestock, if the person feeds that animal for at least 10 consecutive days. If a companion animal is in violation of the restrictions of this chapter, the owner of the companion animal and the keeper are jointly and severally liable for the violation.

[Amended 6-4-2018]

LEASH

A handheld device which can be used to restrain a companion animal if the companion animal fails to respond to voice commands. In cases where a leash is required by law or ordinance or by order of a law enforcement officer, the owner or responsible party will be required to use a leash of 15 feet or less.

LICENSED DOG

A dog whose owner or keeper has presented to Town officials evidence that the dog has been vaccinated against rabies and has paid the annual registration fee for the dog, in compliance with Title 7, Chapter 721, § 3921, of the Maine Revised Statutes Annotated.

[Amended 6-4-2018]

OWNER

A person owning, keeping or harboring a dog or other animal.

[Amended 6-4-2018]

VOICE CONTROL

The dog returns immediately to and remains by the side of the owner/keeper in response to the owner/keeper's verbal command, whistle or hand signal. If a dog approaches or remains within 10 feet of any other person other than the owner/keeper, that dog is not under voice control and shall be deemed to be "at large," unless such person (or in the case of a minor child, an adult present with the child) has communicated to the owner/keeper by a spoken word or gesture that such person consents to the presence of the dog.

[Amended 7-14-2014; 6-4-2018]

§ 17-3 Dogs at large.

[Amended 7-14-2014; 6-4-2018; 7-20-2020]

- A. It is unlawful for any dog, licensed or unlicensed, to be at large, except when used for hunting. The owner/keeper of any dog found at large shall be subject to the civil penalties provided in Title 7, Chapter 719, of the Maine Revised Statutes Annotated. Dogs on public property are also subject to the regulations set forth in this Code.
- B. Dogs shall be considered at large when on Town-owned public property such as cemeteries, Prince Memorial Library, and the Cumberland Historical Society unless controlled by a leash of not more than 15 feet in length. Dogs are permitted on all Town-owned open space located more than 100 feet from a residential property, provided that the dogs are under owner/keeper control, except as otherwise designated below:

Broad Cove	Leash only from Foreside Road to Town Pier. 67 Beach Drive. Dogs prohibited on the beach. from 67 Beach Drive to the water.
Knight's Pond	Dogs allowed under owner/keeper control
Rines Forest	Dogs allowed under owner/keeper control
Town Forest	Leash only
Twin Brook (Greely Road)	Dogs allowed under owner/keeper control. No dogs allowed during posted organized activities.
Twin Brook (Tuttle Road)	No dogs allowed during cross-country ski season as dictated by signage. No dogs allowed during posted organized activities. Dogs allowed under owner/keeper control at all other times.
Val Halla	Leash only on pathways from March 1 to December 1. Dogs allowed under owner/keeper control from December 2 to February 28.
West Cumberland Athletic Complex	Leash only

§ 17-4 Impoundment or return of companion animals at large.

All companion animals found at large/stray in violation to Title 7, Chapters 719 and 720, of the Maine Revised Statutes Annotated may be impounded at the animal shelter or returned to the owner, at the discretion of the Animal Control Officer.

§ 17-5 Disposition of impounded animal.

An owner is entitled to resume possession of any impounded animal provided that all provisions of this chapter have been met and that all impoundment fees due under the provisions of this chapter have been paid. Any animal not claimed after the owner has been notified may be classified as an abandoned animal, and the animal's owner may be subjected to all civil penalties authorized by Title 7 of the Maine Revised Statutes Annotated.

**§ 17-6 Impoundment and boarding fees.
[Amended 9-10-2012]**

An owner may reclaim an impounded companion animal at the animal shelter by paying to the Town of Cumberland a fee established by order of the Town Council for each companion animal, plus the boarding fee established by the shelter. The shelter will collect the Town's impound fee.

§ 17-7 Animal noise.

- A. Except as provided in Subsections **B** and **C** below, no owner/keeper shall permit or allow any companion animal to bark, howl or make other sounds common to its species if such sounds recur in steady, rapid succession for 20 minutes or more or recur intermittently for one hour or more. **[Amended 6-4-2018]**
- B. Subsection **A** shall not apply if any companion animal has legitimate cause for provocation. **[Amended 6-4-2018]**
- C. Subsection **A** shall not apply to farm animals kept on a property located in the Town of Cumberland. For purposes of this exception, dogs are not farm animals and kennels are not farms.

§ 17-8 Sanitation.

[Added 6-4-2018]

It shall be unlawful for any person who owns, possesses, controls, or keeps a dog to fail to promptly remove and properly dispose of any feces left by his/her dog on any sidewalk, street, beach, or public owned property or private property (other than the property of the owner of the dog or of a person who has consented to the presence of the dog on his/her property). This provision shall not apply to any working police dog while on duty or a disabled person who, by reason of his/her disability, is unable to remove and properly dispose of the feces.

§ 17-9 Possession of leash required.

[Added 6-4-2018]

An owner/keeper shall have a leash, as defined above, in his/her possession for each dog which is off leash at all times except when the dog or dogs are on the premises of the owner/keeper or other private property if permitted to be there. A leash shall not include an electronic control collar or other device.

§ 17-10 No more than three dogs.

[Added 6-4-2018]

It shall be unlawful for any person to be on the premises of any Town-owned property while keeping, walking, exercising, controlling or to otherwise be in custody of more than three dogs.

§ 17-11 Dogs prohibited during certain events.

[Added 6-4-2018]

When proper notice has been provided, dogs shall be prohibited on the Tuttle Road side of Twin Brook. Proper notice shall consist of conspicuously placed signs at the entrances of Twin Brook and shall also consist of notice, posted at least 24 hours prior to the event, on the Town's website.

§ 17-12 Violations and penalties.

[Amended 9-10-2012; 7-14-2014]

- A. Any persons who violate § 17-3, Dogs at large, § 17-7, Animal noise, Subsection A, § 17-8, Sanitation, § 17-9, Leash required, § 17-10, No more than three dogs, and § 17-11, Dogs prohibited during certain events, shall be subject to a civil penalty of not less than \$50 and not more than \$250 for the first violation and not less than \$100 nor more than \$500 for each subsequent offense.
- B. All civil penalties collected pursuant to this chapter shall be recovered for the use of the Town of Cumberland and deposited in the separate account required by Title 7 of the Maine Revised Statutes Annotated.
- C. The fine for failure to obtain a dog license shall be \$100.
- D. A person, not previously convicted of or having paid a waiver fee for a violation under this chapter, may elect to pay a waiver fee of the minimum penalty of \$50 specified above in lieu of appearing in court to answer the citation. Such payment must be received by the office of the Town Clerk within seven business days from the date the citation was issued. Upon receipt of such payment by the Town Clerk, the Animal Control Officer or Police Officer shall cause the citation to be dismissed. A person, having been previously convicted of or having paid a waiver fee for a single violation of this chapter, may elect to pay a penalty of \$100 in lieu of appearing in court to answer the citation. If a person elects to pay the

minimum penalties above in lieu of appearing in court to answer the citation, and if the person is cited for a third or subsequent violation, the civil penalty for the subsequent violation shall not be less than \$100 nor more than \$500 and must be referred to court.