



CITY OF BELFAST

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MANAGER'S REPORT

Belfast City Council Meeting

Tuesday, May 3, 2016

7:00 p.m.

TO: Mayor Walter Ash Jr. and Honorable Members of Belfast City Council

FROM: Joseph J. Slocum, City Manager

DATE: Friday, April 29, 2016

Agenda Items:

10-A Further discussion on the possibility of donating a used flagpole to the Penobscot Marine Museum and First Congregational Church of Searsport.

As part of the Front Street Reconstruction Project, the flagpole in front of the Wastewater Treatment Facility needed to be moved. There is not a location suitable to give it safe distances from power lines under the new design. The City has not identified a place where we believe we need to place another flagpole. The Penobscot Marine Museum in Searsport and the First Congregational Church in Searsport had previously expressed an interest in receiving this pole if it would be available. The City put out a notice to see if anyone else had a use for the pole and no one else has expressed an interest in the possible donation. We requested expressions of interest by 2:00 p.m. on Tuesday, April 26th. At this point the question is whether the Council is interested in donating the flagpole to either the Marine Museum and the First Congregational Church in Searsport or to any Non-profit in Waldo County that may want it. A new flagpole of this type would cost about \$3,000-\$3,500.

10-B Update and presentation from Ned Lightner on the progress of Belfast Community TV which is celebrating its 10th anniversary.

One of the critical assets of our community is Belfast Community TV. I don't know anyone who could imagine it not being here. It has grown into an essential part of our fabric. Like everything else that is special here, there are usually one or two people at the epicenter making sure that this resource is all that it can be for everyone. 10 years is a true milestone with hundreds if not thousands of hours of personal dedication invested to make it so. We welcome Ned to provide the community with a presentation on where he and the station have come and where he believes we are headed.

10-C Consideration of issuing a 'No Action Letter' for a property located at 391 Belmont Avenue, Map 2, Lot 78, and also at a property located at 393 Belmont Avenue, Map 2, Lot 79, with respect to certain violations of the City Zoning Ordinance.

From time to time we find a parcel of property that is being used inconsistent with the existing City of Belfast Zoning Ordinances. Very few of these properties appear to be entitled to some special fairness consideration because of some mistake we as a City have made or because of good faith misunderstandings about the size of lots etc. before the construction or use occurred. We appear to have two of those few instances where some special consideration should be made. Attached to this report and draft 'No Action Letter' is a memo from City Planner Wayne Marshall explaining these special circumstances. The request in essence acknowledges the violation of the City Zoning Ordinance and the City identifies it will take no action in view of that violation for special reasons.

10-D Update on the construction of the Rail Trail.

There is a lot happening. The trail is currently closed for construction. We have construction vehicles working on it installing fencing in certain locations at this time. We are working with the stone dust supplier to make sure that it meets acceptable standards and specifications. We are working to hire a contractor to do a significant amount of work on each side of the Trestle Bridge.

I will not be publicly discussing the extent of negotiations with Penobscot McCrum for a 700 foot easement across their property. Those negotiations are being worked on and will be continuing. I will keep the Council informed through an Executive Session at the end of this meeting. Such Executive Sessions are permitted by Maine State Law when

“premature disclosures of information would prejudice the competitive or bargaining position of the body or agency”

10-E Consideration of a request to cut down a large tree at 16 Church St.

The owner is concerned that the tree, which sits in the City right away, is a threat to their property. Public Works Director Bob Richards had an arborist look at the tree and has said that it is unhealthy. The tree has been marked for inspection and we received no complaints about possible removal of this tree.

10-F Request to go into Executive Session on a Real Estate matter pursuant to 1M.R.S.A. 405 (6) C.

10-G Request to go into Executive Session on a Real Estate matter pursuant to 1M.R.S.A. 405 (6) C.

10-H Signing of Council Orders

That's about it for now. Recently we learned that in spite of our efforts to communicate on some Airport issues, those communications were not as clear as they needed to be. I find it remarkable that in spite of all our advances as a society of people, basic communications between each of us can still so easily fail. The responsibility for getting out timely, clear and useful information to this community belongs to the employees of the City. We have reflected upon our recent shortcomings and one of the things we think we need to do more of is send 1st person topics to the newspaper to fill in gaps between mailing letters to neighbors and postings on our web site. So many people watch the Council meetings but even that can leave gaps. We earnestly hope that each of you knows that if you have questions or concerns on any subject that we are glad to hear from you to see if we can help. I get to work with a lot of dedicated people and I realize that each of us has communication challenges at times and that includes me. We will work to do better and we hope that this additional effort will show.

**City of Belfast
Consent Agenda
Tuesday, May 3, 2016
Meeting #21**

The following items are proposed as our Consent Agenda. As in the past the items are voted on in one blanket motion to the affirmative. One Councilor makes a motion to approve the items as stated, and then another Councilor will second that motion and the whole Council votes. If a Councilor requests an item be removed from the consent agenda, they do so during the adoption of the agenda. If a member of the public requests that an item be removed from the consent agenda, they can do so in the open to the public section. Suggested motions are listed and supporting material is enclosed.

9) Permits, Petitions and Licenses - Consent Agenda

- A. Request to approve a new Special Amusement Permit application for Robert W. Wlodyka d/b/a The Mill Restaurant Bar & Ice Cream Shop for Live Music, DJ, Karaoke, all Live Entertainment, and dancing at 100 Searsport Ave, Belfast, Maine, interior only.**

Motion to approve a request for a new Special Amusement Permit application for Robert W. Wlodyka d/b/a The Mill Restaurant Bar & Ice Cream Shop for Live Music, DJ, Karaoke, all Live Entertainment, and dancing at 100 Searsport Ave, Belfast, Maine, interior only.

- B. Request to approve the application by Robert W. Wlodyka d/b/a The Mill Restaurant Bar & Ice Cream Shop located at 100 Searsport Avenue, Belfast, Maine for a new Malt, Spirituous, and Vinous license.**

Motion to approve the application by Robert W. Wlodyka d/b/a The Mill Restaurant Bar & Ice Cream Shop located at 100 Searsport Avenue, Belfast, Maine for a new Malt, Spirituous, and Vinous license.

- C. Request to approve an application by Lafayette Belfast, LLC d/b/a Fireside Inn & Suites at Ocean's Edge, at 159 Searsport Avenue, Belfast, Maine for a renewal Hotel-Optional Food Class I-A liquor license, interior and exterior decks.**

Motion to approve an application by Lafayette Belfast, LLC d/b/a Fireside Inn & Suites at Ocean's Edge, at 159 Searsport Avenue, Belfast, Maine for a renewal Hotel-Optional Food Class I-A liquor license, interior and exterior decks.

- D. Request to approve the following applications for a Victualer License renewal, due to expire May 31, 2016.**

**B & F Foot long LLC
Crusty Crab LLC
Robert Hogan**

**d/b/a Subway
d/b/a Front Street
d/b/a McDonalds**

Alessandro Scelsi	d/b/a Meanwhile In Belfast
Fire Side Inn	d/b/a Ocean's Edge Restaurant
Aradio Clima	d/b/a Oriental Cuisine
Phillip Burnham	d/b/a Penobscot Shores Assc.
Melissa Steele	d/b/a Perry's Qwik Stop
Douglas Frost	d/b/a Tarratine Tribe #13
Traci Mailloux	d/b/a Traci's Diner
Denise Fuller	d/b/a Wasses Hot Dogs
Theodore Rakis	d/b/a Alexias's Pizza
Robert Wlodyka	d/b/a The Mill Restaurant Bar Ice Cream
Anna Wagner	d/b/a Wags Wagon, LLC
Gail Savitz	d/b/a Darby's Restaurant
Kevin Barrett	d/b/a Jack's Grocery
Cathy Heffentrager	d/b/a The Jeweled Turret Inn

Motion to approve a request for the following applications for a Victualer License renewal, due to expire May 31, 2016.

B & F Foot long LLC	d/b/a Subway
Crusty Crab LLC	d/b/a Front Street
Robert Hogan	d/b/a McDonalds
Alessandro Scelsi	d/b/a Meanwhile In Belfast
Fire Side Inn	d/b/a Ocean's Edge Restaurant
Aradio Clima	d/b/a Oriental Cuisine
Phillip Burnham	d/b/a Penobscot Shores Assc.
Melissa Steele	d/b/a Perry's Qwik Stop
Douglas Frost	d/b/a Tarratine Tribe #13
Traci Mailloux	d/b/a Traci's Diner
Denise Fuller	d/b/a Wasses Hot Dogs
Theodore Rakis	d/b/a Alexias's Pizza
Robert Wlodyka	d/b/a The Mill Restaurant Bar Ice Cream
Anna Wagner	d/b/a Wags Wagon, LLC
Gail Savitz	d/b/a Darby's Restaurant
Kevin Barrett	d/b/a Jack's Grocery
Cathy Heffentrager	d/b/a The Jeweled Turret Inn

- E. Request to approve an off premises catering permit for White Flour Catering, LLC for the Northport Yacht Club Kick Off Party located at the Waldo Shrine Club, 89 Northport Ave., Belfast, Maine on May 29, 2016 from 5:00 p.m. to 10:00 p.m.**

Motion to approve an off premises catering permit for White Flour Catering, LLC for the Northport Yacht Club Kick Off Party located at the Waldo Shrine Club, 89 Northport Ave., Belfast, Maine on May 29, 2016 from 5:00 p.m. to 10:00 p.m.

AGENDA TOPIC 10.A

TO: MAYOR & CITY COUNCIL
FROM: WAYNE MARSHALL, CITY PLANNER
DATE: APRIL 29, 2016
RE: DONATION OF FLAG POLE

RECOMMENDED ACTION

I am recommending that the Council approve the donation of the City owned flag pole at the Wastewater Treatment Plant to the Penobscot Marine Museum and Congregational Church in Searsport.

BACKGROUND INFORMATION

The Council is aware that the City had to remove the existing flag pole at the Wastewater Treatment Plant to accommodate new electrical poles associated with the Front Street Reconstruction project. The Council, at your meeting of April 5, approved the City soliciting invitations for the donation of this pole from interested organizations. We advertised the availability of the pole on the City website and on BEL-TV from April 7 to April 26.

One organization responded to our Invitation for Donation of the pole, the Penobscot Marine Museum and Congregational Church in Searsport. As such, the Council should consider the donation of the pole to them. The pole is on the ground near the Treatment Plant, and the Marine Museum would be responsible for transporting such to the final location.

If for any reason the Museum decides not to accept the pole, I recommend that the City store the pole on City property and that you authorize the City Manager to donate such to the first organization which may request the pole.

AGENDA TOPIC 10.C

TO: MAYOR & CITY COUNCIL
FROM: WAYNE MARSHALL, CITY PLANNER
DATE: APRIL 29, 2016
RE: NO ACTION LETTER, MAP 2, LOT 78 and MAP 2, LOT 79

RECOMMENDED ACTION

I am recommending that the Council approve two 'No Action Letters' for the respective owners of two properties located on Belmont Avenue, including:

- 1) No Action Letter for property owned by the Estate of Adrian Turner, Map 2, Lot 78, located at 393 Belmont Avenue. No Action Letter addresses certain violations of the City Code of Ordinances for the Residential/Agricultural I zoning district with respect to three concerns: the size of the lot does not comply with minimum lot size requirements; the existing mobile home does not comply with side line setback requirements; and an existing garage does not comply with side line setback requirements.
- 2) No Action Letter for property owned by Greg Archer and Michelle Young Archer, Map 2, Lot 79, located at 391 Belmont Avenue. No Action Letter addresses the fact that the lot that was created in 1998 does not satisfy the minimum lot size requirement.

I have attached the draft No Action Letters for Council consideration, an aerial photo that generally depicts the location of the properties, and a Mortgage Inspection Report for Map 2, Lot 78.

BACKGROUND INFORMATION

In 1998, the Turner family divided a 1.5 acre property that had 200 feet of road frontage on Belmont Avenue into two properties, Map 2, Lot 78, located at 391 Belmont Avenue, now owned by Greg and Michelle Archer, and Map 2, Lot 79, located at 393 Belmont Avenue, now owned by the Estate of Adrian Turner. Each of the lots that was created was .75 acres in size and had 100 feet of road frontage. In 1998, the properties were located in the Residential/Agricultural I zoning district (zoning remains in effect today), and the minimum lot size for this zoning district was 1 acre with 100 feet of road frontage. In short, the property owner's decision to divide this property into two lots resulted in the creation of two lots in violation of the lot size requirement in City Zoning Ordinances.

In addition, there were existing structures located on Map 2, Lot 79 (Turner), including a mobile home and a garage, both of which became nonconforming with respect to the structure setback requirement from the side lot line, which is 15 feet, because of how the lot division occurred. In

short, the existing structures violate the side setback requirement. The structures on Map 2, Lot 78 (Archer) conform to structure setback requirements. Further, the two properties share common improvements, including a shared driveway onto Route 3 (Belmont Avenue) and a shared subsurface system, the leach field for which is partly located on both properties.

The Estate of Adrian Turner is now preparing to sell Map 2, Lot 79. As part of the sale, Ginn Land Surveying prepared a Mortgage Inspection Report, copy attached. This Mortgage Inspection Report identified the nonconforming setback issue for the garage. On April 14, Karla Joseph, Legal Assistant, Mailloux and Marden, public attorneys, who is involved with the sale of the property, contacted me to request a No Action Letter for the structure setback issue. This request caused me to perform additional research at which time I determined that the original 1998 division of the property into two parcels did not satisfy City zoning requirements, and the issue of nonconforming structure setbacks also remains.

Stated simply, there is no simple mechanism available to either property owner to correct the violations, particularly with respect to the lot size violation. The only real option available to them is to purchase additional land, which may or may not be possible and which could be expensive. Further, although the Turner family did the original division of the property, the Archer's, who purchased Map 2, Lot 79, in 2005, simply bought a piece of ground and had no idea that it didn't satisfy minimum lot size requirements. Continuing, while it may be possible for Turner to relocate either the mobile home or the garage (which are nonconforming as to side setback requirements) to have such conform to the 15 foot side line setback requirement, moving either or both of the structures is costly and impractical.

In my opinion, the best way to address the current violations of both properties is for the Council to issue a No Action Letter. This means that the existing violations can continue and that the City will not prosecute the violations. Taking this action means that the owners should be able to enjoy the use of and future sale of their respective properties without fear of prosecution. That said, it also is my opinion that the Council should impose certain conditions (restrictions) regarding the future use of the respective properties to help mitigate the nonconformities caused by the original division of the property and to lessen the likelihood of future violations. And, if there are future violations, the City can choose to prosecute both the new violations and the old violations; the No Action Letter only prevails if the owners use the properties in conformance with the Conditions established in the No Action Letter.

The attached No Action Letters identify the terms that I am recommending to the Council. The Letter for Map 2, Lot 79 (Turner) has more conditions because it involves both a lot size and structure setback concerns that violate City Ordinances. Map 2, Lot 78 (Archer) is solely a lot size violation. Also, I am recommending that Estate of Adrian Turner pay a fee of \$1500 for this No Action Letter. I note that I have devoted about 7 - 8 hours of my time to this issue, that they caused the original violation, and that this property is now being sold. This No Action Letter request would not have come to light at this time if the property were not being sold. I am not recommending a fee for Archer because they did not cause the problem and were not aware that they owned a lot that was in violation of City Ordinances until I called them on April 25 to make them aware of the issue and to discuss such with them.

I believe both parties are generally comfortable with the terms that I have presented, but I have not yet heard back from either party regarding the final No Action Letter that I prepared. I would be happy to answer any questions.

**CITY COUNCIL OF CITY OF BELFAST, MAINE
NO ACTION LETTER
PROPERTY LOCATED AT MAP 2, LOT 78, 393 BELMONT AVENUE**

WHEREAS, the Estate of Adrian Turner (hereinafter 'Estate') owns a parcel of land located at 393 Belmont Avenue, Map 2, Lot 78, the deed for which is recorded in the Waldo County Registry of Deeds at Book 3044, Page 28. Veronica Cormier is the representative of the Estate, and the Estate is in the process of selling said property to Lynette Pendelton.

WHEREAS, Ginn Land Surveying, on behalf of Lynette Pendelton and as part of the purchase and sale process for the above referenced property, prepared a Mortgage Inspection Report dated April 13, 2016, reference copy attached.

WHEREAS, Karla Joseph, Legal Assistant, Mailloux and Marden, public attorneys, the law firm involved with the sale of the property, contacted Wayne Marshall, City Planner, City of Belfast, on April 14, 2016, and stated that an apparent nonconforming structure setback concern regarding the garage located on the property was identified in the Mortgage Inspection Report, and requested that the City issue a No Action Letter from the Code Enforcement Officer regarding said apparent violation. Ms. Joseph also indicated that parcel was divided in 1998, reference Book 1793, Page 26, to create the parcel involved in the pending sale, Map 2, Lot 78, and a second parcel, Map 2, Lot 79, located at 391 Belmont Avenue. The latter parcel is currently owned by Greg Archer and Michelle Young Archer; reference deed recorded in the Waldo County Registry of Deeds, Book 2789, Page 49.

WHEREAS, Wayne Marshall, City Planner, in his review of the Mortgage Inspection Report and the request from Ms. Joseph, examined available information in the Code and Planning Department and the Assessing Department for both of the above referenced parcels, and reviewed requirements of City Zoning Ordinances that apply to this area. Mr. Marshall determined that both parcels are located in the Residential/Agricultural I zoning district, which the City adopted in 1997, and that each parcel has 100 feet of road frontage on Belmont Avenue and is about .75 acres in size. The minimum lot size requirement established in the City Ordinances, Chapter 102, Zoning, for the Residential/Agricultural I zoning district, reference Section 102-364, Standards, is 1 acre in size and 100 feet of road frontage. Thus, Mr. Marshall concluded that when both lots were created in 1998, that both failed to satisfy the minimum lot size requirement that was in effect, and that both lots were illegal when they were created. Further, prior to 1997, the zoning district designation for this area was General Purpose; a zoning district which the City established in 1985. The minimum lot size for the General Purpose zoning district is the same as for the Residential/Agricultural I zoning district, 1 acre with 100 feet of road frontage, which means that the two lots that were created in 1998 did not comply with the minimum lot size requirements which had been in effect for 13 or more years.

WHEREAS, the Mortgage Inspection Report for the property located at Map 2, Lot 78, identifies that there are three existing structures on the property, a mobile home, a garage and a shed. The Residential/Agricultural I zoning district, Section 102-364, establishes the structure setback requirements for this zoning district as 30 feet front, 15 feet side and 15 feet rear. The mobile home and the garage are both shown on the Mortgage Inspection Report as being partly

located within the required 15 foot side line setback requirement. Both of the above structures are shown as complying with the front and rear setback requirement, and the shed complies with all structure setback requirements.

WHEREAS, the City of Belfast Planning Board, in 2002, granted Adrian and Ann Turner a Type II Nonconforming Permit pursuant to Chapter 102, Zoning, Section 102-361, to allow them to replace one mobile home with a new mobile home, and to partly locate the new mobile home within an existing nonconforming side setback area for the westerly side lot line of the property. However, the Mortgage Inspection Report better identifies the location of all property lines than the 2002 permit which the Belfast Planning Board reviewed. In reviewing the Mortgage Inspection Report, it appears that the new mobile home encroaches less within the nonconforming side setback area along the westerly lot line than was permitted by the Planning Board, and that the mobile home encroaches nearly 4 feet into the side setback area for the easterly lot line; an encroachment that was not authorized by the Planning Board. As such, the Code and Planning Department finds that the existing mobile home is nonconforming with respect to both side lot line setback requirements and that while the placement of the mobile home (in 2002) complies with terms of the 2002 permit issued by the Belfast Planning Board, its placement resulted in creating a new nonconformity with respect to the side line setback along the easterly lot line; reference Mortgage Inspection Report.

WHEREAS, the garage is shown on the Mortgage Inspection Report as being located less than one foot from the easterly side lot line and said structure does not comply with the 15 foot side setback requirement. The garage was constructed prior to when the original lot was divided in 1998 to create both Map 2, Lot 78 and Map 2, Lot 79. Thus, the owner of the original lot created the nonconforming side setback violation for the garage by the act of dividing the lot into two lots.

WHEREAS, the parcel identified as Map 2, Lot 78, and the structures located on said lot, are in violation of three standards identified in the City Code of Ordinances for the Residential/Agricultural I zoning district, including: 1) the lot does not satisfy the minimum lot size requirement as it is less than 1 acre in size; 2) the existing mobile home does not comply with the side line setback requirement of 15 feet for either the amount of setback from the westerly or easterly side lot line; and 3) the existing garage does not comply with the side line setback requirement of 15 feet for the easterly side lot line.

WHEREAS, the property, Map 2, Lot 78, shares certain common improvements with the property located at Map 2, Lot 79, including but not necessarily limited to a common driveway and a common subsurface system, and it is critical that these common improvements be properly maintained.

WHEREAS, it is impractical and prohibitively expensive for the current or future owner of Map 2, Lot 78, to cure the above identified violations of the City Zoning Ordinance, and said violations have existed for thirteen or more years without having caused a significant adverse impact on the character of the area or the City.

WHEREAS, the Estate is seeking a means to allow the property to be sold and to remain a property which can be used as a residential house lot.

WHEREAS, the Estate is prepared to accept certain conditions established by the City of Belfast that will help to mitigate potential adverse impacts associated with the violations of the City Code of Ordinances which now exist and which were caused by the owner, and to obtain a No Action Letter from prosecution regarding the above identified violations.

NOW THEREFORE BE IT RESOLVED, that the Belfast City Council agrees to issue this No Action Letter regarding certain violations of the City Zoning Ordinance to the Estate for the property located at Map 2, Lot 78, 393 Belmont Avenue, subject to the Estate complying with all of the following conditions:

- 1) The Estate shall take no action to reduce the size of the parcel or the amount of frontage for said parcel from that shown on the Mortgage Inspection Report dated April 13, 2016 prepared by Ginn Land Surveying. Further, the Estate shall obtain approval of the City Code and Planning Department of any proposed change to the configuration of the parcel from that shown on the Mortgage Inspection Report.
- 2) The City will recognize the nonconforming side line structure setbacks (from the easterly and westerly side lot lines) shown on the Mortgage Inspection Report for the existing mobile home or a replacement structure, provided that the existing structure or a replacement structure cannot be expanded so as to create any new nonconforming structure setback concerns for any portion this structure. This includes both the amount of setback from either side lot line or footprint (square footage) of the structure located within the nonconforming area. This provision, however, does not prohibit an expansion of the structure or a replacement structure that complies with all structure setback requirements and other provisions of the City Code of Ordinances.
- 3) The City will recognize the nonconforming side line structure setback from the easterly lot line shown on the Mortgage Inspection Report for the existing garage, provided that the existing garage is not expanded to create any new nonconforming structure setback concerns for any portion of this structure. This includes the amount of setback from the easterly side lot line, the footprint (square footage) of the structure located within the nonconforming side line setback area, or any increase in height or volume of the structure located within the nonconforming setback area. Also, the garage cannot include any use that would be considered habitable space. This provision, however, does not prohibit an expansion of the garage (structure) or a replacement structure that complies with all structure setback requirements and other provisions of the City Code of Ordinances. And, if the existing garage is removed, any replacement structure shall be located no less than five feet from the easterly side lot line.
- 4) This property can be used as a single family residence and any home occupation that is permitted by the City. The property cannot be used as a two-family or multi-family residence or for a nonresidential use.

- 5) The owner of Map 2, Lot 78, shall obtain any and all required City permits and comply with the terms of such for any new construction or use that the owner proposes to conduct on the property. Failure to obtain a permit or to comply with terms of said permits that are issued shall result in the owner being assessed penalties established in the City Code of Ordinances, with said amount to accrue based on the date of violation.
- 6) The property, Map 2, Lot 78, now shares a common driveway with the adjacent property, Map 2, Lot 79; there is a single curb-cut on Belmont Avenue for the two properties. This section of Belmont Avenue is subject to Maine Department of Transportation Access Management requirements. The owner of Map 2, Lot 78 shall continue to share the common driveway with the owner of Map 2, Lot 79, unless the Maine Department of Transportation issues a permit to allow separate driveways. The owner of Map 2, Lot 78, shall provide evidence to the Code and Planning Department that they have obtained any required State permit to allow any change to the existing driveway.
- 6) Map 2, Lot 78, shares a common subsurface system for wastewater disposal with Map 2, Lot 79, and there is an existing easement to this effect. The existing mobile home located on Map 2, Lot 78, has 3 bedrooms. The owner of this mobile home cannot increase the number of bedrooms in this unit or increase the amount of flow to the subsurface system without obtaining all appropriate permits from the City to allow increased demand on the existing subsurface system. Further, the property owner shall ensure that the existing subsurface system is in good operating condition and shall promptly report any system failures to the City Code Enforcement Officer and if required by said Officer, to make needed repairs to the subsurface system to address any deficiencies.
- 7) The Estate shall pay all current property taxes that are owed for Map 2, Lot 78, about \$1,284.01 at the time of issuance of this No Action Letter, no later than June 15, 2016. Failure to pay said taxes by this date shall result in this No Action Letter being voided.
- 8) The Estate shall pay a fee in the amount of \$1,500 for the issuance of this No Action Letter, and shall pay the fee no later than June 15, 2016. Failure to pay the fee by this date shall result in the No Action Letter being voided.

This No Action Letter is issued by the City Council of the City of Belfast, pursuant to a public vote taken by the Council at its meeting of May 3, 2016. The Council authorized the City Manager to sign the No Action Letter on their behalf. The terms of this No Action Letter shall apply to the Estate and all legal heirs, assigns and successors. Any and all amendments to this No Action Letter shall require the approval of the City Council of the City of Belfast. The Estate shall be responsible for the recording of this No Action Letter, and shall provide evidence of its recordation to the Code and Planning Department.

Oh behalf of the City.

Joseph J. Slocum
City Manager

Dated: _____

NOTARY BLOCK WILL BE INCLUDED HERE

On behalf of the Estate of Adrian Turner

Dated: _____

NOTARY BLOCK WILL BE INCLUDED HERE

**CITY COUNCIL OF CITY OF BELFAST, MAINE
NO ACTION LETTER
PROPERTY LOCATED AT MAP 2, LOT 79, 391 BELMONT AVENUE**

WHEREAS, Greg Archer and Michelle Young Archer (hereinafter 'Archer') own a parcel of land and the buildings situated thereon that is located at 393 Belmont Avenue, Map 2, Lot 79; reference deed recorded in the Waldo County Registry of Deeds at Book 2789, Page 49. Archer purchased the property in January 2005 from KSW Federal Credit Union.

WHEREAS, Ann Turner, in March 1998, created this property (Map 2, Lot 79) by dividing a property that had 200 feet of road frontage and about 1.5 acres into two adjacent properties, Map 2, Lot 78 and Map 2, Lot 79. The two properties were nearly identical in size when each was created with each parcel having 100 feet of road frontage on Belmont Avenue and about .75 acre of land area. Further, the two properties shared common improvements recognized by identified easement rights, including but not necessarily limited to use of a common driveway onto Belmont Avenue (curb-cut) and a common subsurface system. The leach field for the subsurface is partly located on both properties.

WHEREAS, the Estate of Adrian Turner (hereinafter 'Estate') owns a parcel of land located at 393 Belmont Avenue, Map 2, Lot 78, the deed for which is recorded in the Waldo County Registry of Deeds at Book 3044, Page 28, and the Estate is in the process of selling this property. The buyer commissioned Ginn Land Surveying to prepare a Mortgage Inspection Report for Map 2, Lot 78.

WHEREAS, Mailloux and Marden, public attorneys, who are involved in the purchase and sale of Map 2, Lot 78, provided this Mortgage Inspection Report to Wayne Marshall, City Planner, City of Belfast, to request a No Action Letter with respect to a certain potential structure setback violation associated with the garage located on said parcel. Mr. Marshall, in the course of investigating this request, determined that the 1998 division of the original property into two properties, Map 2, Lot 78, and Map 2, Lot 79, resulted in the creation of two lots that did not comply with minimum lot size requirements that were in effect in 1998 for the Residential/Agricultural I zoning district when the original division of the property occurred. The minimum lot size requirement for the Residential/Agricultural I zoning district is 1 acre and 100 feet of road frontage. Thus, Mr. Marshall concluded that when both lots were created in 1998, that both failed to satisfy the minimum lot size requirement that was in effect, and that both lots were illegal when they were created. The lots that were created each have 100 feet of frontage (which satisfies the minimum requirement), however, each lot is only .75 acres in size and the minimum lot size requirement is 1 acre. Further, prior to 1997, the zoning district designation for this area was General Purpose; a zoning district which the City established in 1985. The minimum lot size for the General Purpose zoning district was the same as for the standard for the Residential/Agricultural I zoning district, 1 acre with 100 feet of road frontage, which means that the two lots that were created in 1998 did not comply with the minimum lot size requirements which had been in effect for 13 or more years.

WHEREAS, the property, Map 2, Lot 79, shares certain common improvements with the property located at Map 2, Lot 78, including but not necessarily limited to a common driveway

and a common subsurface system, and it is critical that these common improvements be properly maintained.

WHEREAS, Archer purchased Map 2, Lot 79, in 2005, post the date at which time the illegal lot was created, and did not take any action to create the illegal lot or to make the lot any more nonconforming with respect to lot frontage and lot size.

WHEREAS, it is impractical and prohibitively expensive for Archer to acquire additional land area to have Map 2, Lot 79, to have sufficient size to comply with the minimum lot size requirement.

WHEREAS, Archer is prepared to accept certain conditions established by the City of Belfast that will help to mitigate potential adverse impacts associated with owning a lot that violates requirements of the City Code of Ordinances with respect to a lot which does not comply with the minimum lot size requirement, to allow such property to be used as a residential house lot and to obtain a No Action Letter from prosecution regarding this violation.

NOW THEREFORE BE IT RESOLVED, that the Belfast City Council agrees to issue this No Action Letter regarding certain violations of the City Zoning Ordinance to Archer for the property located at Map 2, Lot 79, 391 Belmont Avenue, subject to Archer complying with all of the following conditions:

- 1) Archer shall take no action to reduce the size of the parcel or the amount of frontage for said parcel from that which existed on May 3, 2016; reference recorded deed. Further, Archer shall obtain approval of the City Code and Planning Department of any proposed change to the configuration of the parcel.
- 2) Archer can use this property as a single family residence and any home occupation that is permitted by the City. The property cannot be used as a two-family or multi-family residence or for a nonresidential use.
- 3) Archer shall obtain any and all required City permits and comply with the terms of such for any new construction or use that the owner proposes to conduct on the property. Failure to obtain a permit or to comply with terms of said permits that are issued shall result in the owner being assessed penalties established in the City Code of Ordinances, with said amount to accrue based on the date of violation.
- 4) The property, Map 2, Lot 79, now shares a common driveway with the adjacent property, Map 2, Lot 78; there is a single curb-cut on Belmont Avenue for the two properties. This section of Belmont Avenue is subject to Maine Department of Transportation Access Management requirements. The owner of Map 2, Lot 79 shall continue to share the common driveway with the owner of Map 2, Lot 78, unless the Maine Department of Transportation issues a permit to allow separate driveways. The owner of Map 2, Lot 79, shall provide evidence to the Code and Planning Department that they have obtained any required State permit to allow any change to the existing driveway.

- 5) Map 2, Lot 79, shares a common subsurface system for wastewater disposal with Map 2, Lot 78, and there is an existing easement to this effect. The leach field for the subsurface system is partly located on both properties. The existing mobile home located on the Archer property, Map 2, Lot 79, has 2 bedrooms. Archer cannot increase the number of bedrooms in this mobile home or increase the amount of flow to the subsurface system without obtaining all appropriate permits from the City to allow increased demand on the existing subsurface system. Further, the property owner shall ensure that the existing subsurface system is in good operating condition and shall promptly report any system failures to the City Code Enforcement Officer and if required by said Officer, to make needed repairs to the subsurface system to address any deficiencies.

This No Action Letter is issued by the City Council of the City of Belfast, pursuant to a public vote taken by the Council at its meeting of May 3, 2016. The Council authorized the City Manager to sign the No Action Letter on their behalf. The terms of this No Action Letter shall apply to Archer and all legal heirs, assigns and successors. Any and all amendments to this No Action Letter shall require the approval of the City Council of the City of Belfast. Archer shall be responsible for the recording of this No Action Letter, and shall provide evidence of its recordation to the Code and Planning Department.

Oh behalf of the City.

Joseph J. Slocum
City Manager

Dated: _____

NOTARY BLOCK WILL BE INCLUDED HERE

On behalf of Archer

Dated: _____

NOTARY BLOCK WILL BE INCLUDED HERE

MORTGAGE LOAN INSPECTION

FOR: AMERICAN FINANCIAL RESOURCES & LYNETTE PENDLETON

OWNER: ESTATE OF ADRIAN L. TURNER
393 BELMONT AVENUE
BELFAST, MAINE

TO: AMERICAN FINANCIAL RESOURCES,

I CERTIFY:

THE INFORMATION ON THIS PLAN IS THE RESULT OF AN INSPECTION OF THE PROPERTY FOR MORTGAGE PURPOSES ONLY. ALL LOCATIONS OF IMPROVEMENTS ARE FROM THE DEED DESCRIPTION AND EVIDENCE FOUND IN THE FIELD. ALL BUILDINGS, VISIBLE EASEMENTS AND ENCROACHMENTS ARE SHOWN IN RELATIONSHIP TO THE APPROXIMATE BOUNDARY LINES. STRUCTURES SHOWN ARE NOT IN THE FLOOD HAZARD AREA AS DEFINED ON THE FLOOD INSURANCE RATE MAP BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY. STRUCTURES SHOWN HEREON ARE NOT IN VIOLATION OF LOCAL ZONING ORDINANCES PER CITY RECORDS ON FILE.

NOTES:

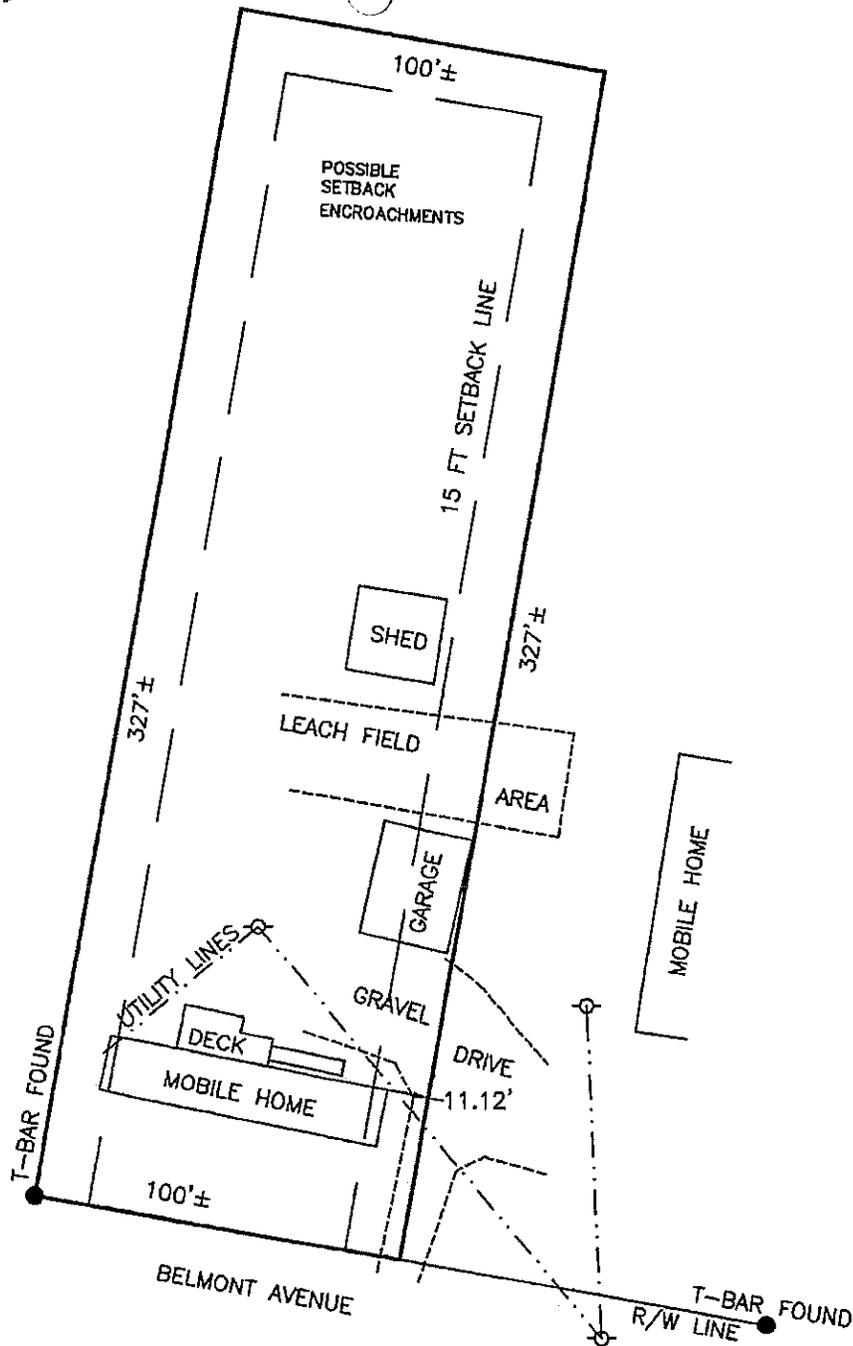
SKETCH SHOWN HEREON IS NOT A BOUNDARY SURVEY.

PREMISES SHOWN HEREON IS THE SAME PARCEL OF LAND CONVEYED TO ADRIAN L. TURNER IN A DEED DATED JANUARY 25, 2007 RECORDED AT THE WALDO COUNTY REGISTRY OF DEEDS IN BOOK 3044, PAGE 28.

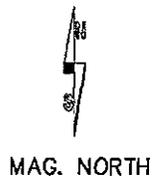
WELL ON PREMISES NOT APPARENT ON SITE.

PREMISES SUBJECT TO RIGHTS OF OTHERS IN THE DRIVEWAY, WELL & LEACH FIELD.

PREMISES SUBJECT TO ANY RIGHTS WITHIN THE LIMITS OF THE ROADWAY SHOWN..



GINN LAND SURVEYING
 DARRELL GINN PLS #2347
 268 MONROE ROAD
 WINTERPORT, MAINE 04496
 223-4248
 PROJECT NO. 796



MORTGAGE LOAN INSPECTION SKETCH FOR
 AMERICAN FINANCIAL RESOURCES
 & LYNETTE PENDLETON
 393 BELMONT AVENUE
 BELFAST, MAINE
 APRIL 13, 2016



SCALE 1 INCH = 50 FEET

NO ACTION LETTERS - BELMONT AVENUE



10.E

Manda Cushman <managersasst@cityofbelfast.org>



City of
Belfast

Tree on Church Street

Bob Richards <publicworks@cityofbelfast.org>
To: Manda Cushman <managersasst@cityofbelfast.org>

Tue, Apr 26, 2016 at 9:41 AM

Yes it is. It is decaying and we have had to hire our Tree people to keep trimming dead wood from it. The home owner would like it taken down before somebody gets hit with debris from the tree.

Thanks Bob

[Quoted text hidden]

3 attachments



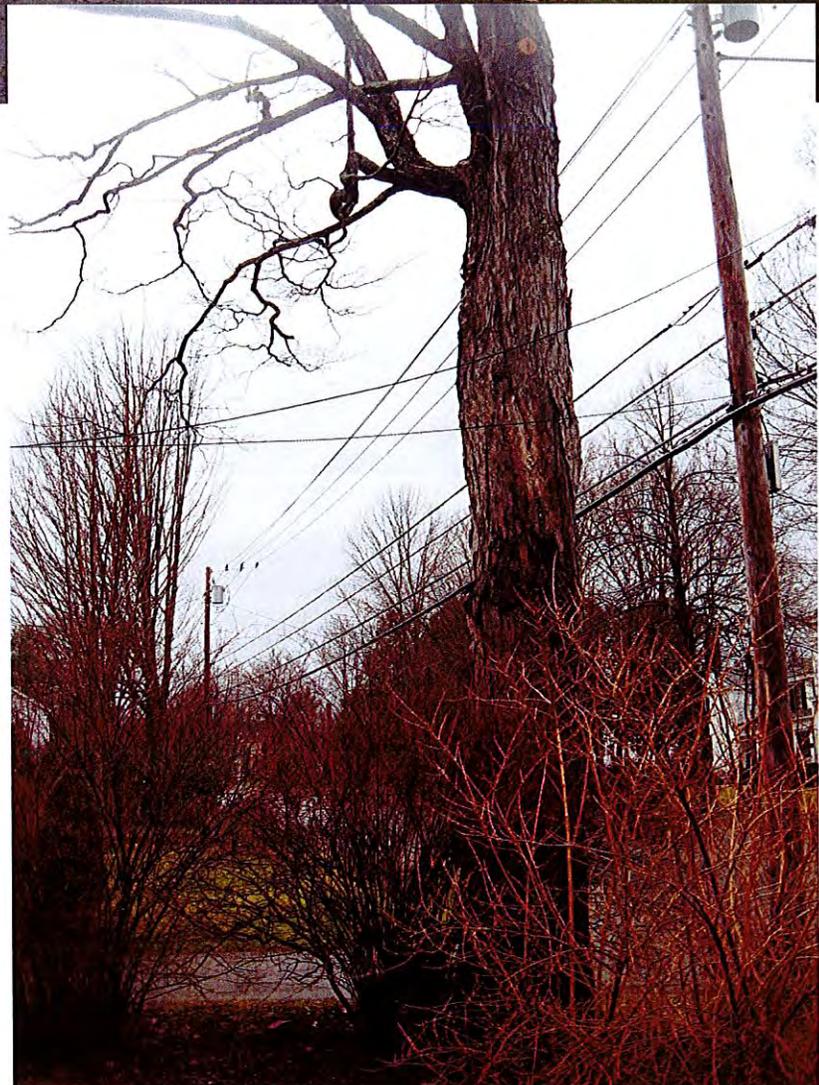
IMG_1479.JPG
2468K



IMG_1478.JPG
1927K



IMG_1477.JPG
2300K





City of
Belfast

Manda Cushman <managersasst@cityofbelfast.org>

Tree on Church Street

Mike Hurley <mike@pilut.com>

Fri, Apr 29, 2016 at 12:40 PM

Reply-To: mike@pilut.com

To: Manda Cushman <managersasst@cityofbelfast.org>

Hi Manda/ I looked at the tree.

1. It did not look in poor health
2. I did not see anything that looked dangerous.
3. It is a significant street tree
4. I did not see anything that needed trimming or pruning
5. It is an old tree but did not look like a candidate for removal
6. It appeared to be a tree an owner would like to remove as opposed to one that the city needs to have removed.
7. I do not support removal at this time. I'd ask for a better look at the tree by an arborist.

Thanks/ Mike

From: Manda Cushman [mailto:managersasst@cityofbelfast.org]

Sent: Wednesday, April 27, 2016 4:33 PM

To: Mike Hurley

Subject: Fwd: Tree on Church Street

Mike -

[Quoted text hidden]

Thanks,

[Quoted text hidden]