

February 28, 2022

VIA HAND DELIVERY

David Murch, Chair
Town of Raymond Zoning Board of Appeals
401 Webbs Mills Road
Raymond, ME 04071

RE: Administrative Appeal of Management Controls, LLC
January 28, 2022 Notice of Violation
28 Whitetail Lane, Raymond, Maine

Dear Chairman Murch and Fellow Zoning Board of Appeals Members:

Enclosed please find the eight (8) copies of administrative appeal of Management Controls, LLC of a Notice of Violation issued by the Raymond Code Enforcement Officer on January 18, 2022. In conjunction with said appeal, please find the following:

1. Management Control, LLC's Zoning Board of Appeals completed application form;
2. Authorization for Drummond Woodsum to represent Management Control, LLC in this matter;
3. Application fee in the amount \$431.00;
4. Plan of the property (shown as Lot # 3 on the attached plan); and
5. Letter outlining grounds of appeal.

I have been communicating with Attorney Matt Manahan, copied here, who is representing the CEO. My clients have submitted a mitigation plan to the CEO with the respect to the alleged violations at both the Whitetail Lane property (the subject of this appeal) as well as the Fernwood Drive property (the subject of two currently pending appeals). We are waiting for the Town to review said plan at which point we intend to negotiate a consent agreement with the Town relating to all issues raised in the NOV's. As a result, counsel have agreed that this matter will be tabled until at least March 18, 2022. In the unlikely event that the three appeals matters cannot be resolved, then we will request that they be scheduled for a consolidated hearing.

I thank you for your attention to this matter.

Sincerely,

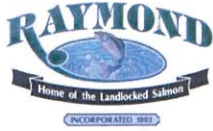


Leah B. Rachin

February 28, February 25, 2022

Page 2

cc: Donald Buteau
Alex Sirois, CEO
Sandy Fredericks, Administrative Assistant to ZBA
Matthew D. Manahan, Esq.
Eric Wycoff, Esq.



**TOWN OF RAYMOND
APPLICATION TO THE
ZONING BOARD OF APPEALS**

Staff Use Only:		Received Date
Application Fee	\$ 75.00	
Notice Fee \$8.00/abutter	\$ 56.00	
Publishing Fee	\$ 300.00	
Escrow-if required		
TOTAL	431.00	


Name of Applicant Leah B. Rachin c/o Drummond Woodsum
Mailing Address 84 Marginal Way, Suite 600, Portland, ME 04101
Primary Phone (207) 253-0578 C H W email LRachin@DWMLaw.com
Date property acquired: (month and year) April 2019
Name of Owner (if different than applicant) Management Controls, LLC/ Donald Buteau, Managing Director
Mailing Address P.O. Box 2085
Town: Auburn State ME Zip Code 04211
Primary Phone (305) 393-7762 C H W email DButeau@FutureGuard.net
Property Address (street number and name): 28 Whitetail Lane, Raymond, ME
Town of Raymond Map 001 Lot 020 Zone LRR2
Deed Reference Book 38666 Page 124

The undersigned applies for the following:

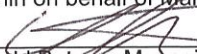
- 1. ADMINISTRATIVE APPEAL. Applicant requests relief from the decision, or lack of decision, of the Code Enforcement Officer. The undersigned believes that (check one)
 - An error was made in the denial of the permit
 - Denial of the permit was based on the misinterpretation of the ordinance
 - The permit was not approved or denied within a reasonable period of time
 - Other: Appeal from January 28, 2022, Notice of Violation from CEO. (See attached letter outlining grounds of appeal.)
- 2. VARIANCE (the information listed on page 3 must be submitted)
- 3. CONDITIONAL USE PERMIT For _____ (use) in _____ Zone
- 4. VARIANCE PROVISION(S) FOR NON-CONFORMING Lot Structure Use
- 5. SETBACK REDUCTION (do not complete Page 3)

I have read, understand and agree to the above instructions and conditions. I also authorize any Board Member or other Town Officials to enter onto the site. I certify that the information contained in this application and its supplement is true and correct.

Date: 02-28-2022

Appellant: 
Leah B. Rachin on behalf of Management Controls, LLC

Date: 02-28-2022

Property Owner: 
Donald Buteau, Managing Director
Management Controls, LLC

From: Don Buteau <dbuteau@FUTUREGUARD.NET>
Sent: Sunday, February 27, 2022 12:56 PM
To: Leah B. Rachin <LRachin@dwmlaw.com>
Cc: Don Buteau <don@futureguard.net>; Brenda Buteau <brenda@mgtcontrols.com>
Subject: Authorization
Importance: High

Leah,

Please accept this as my authorization, in my capacity as Managing Director of Management Controls, LLC, for Drummond Woodsum to represent Management Controls, LLC in the administrative appeal of the CEO's Notice of Violation dated January 28, 2022 relating to 28 Whitetail Lane on the same terms as stated in my notarized authorization dated January 18, 2022, which I incorporate herein by reference.

Thank you,
Don Buteau

Donald R. Buteau

President/Chief Executive Officer
Management Controls, LLC.
P.O. Box 2058, 101 Merrow Road
Auburn, Maine 04211-2058
(Tel) 207-795-6536
(Fax) 207-786-9351
(Cell) 305-393-7762
don@mgtcontrols.com



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AUTHORIZATION

To Whom It May Concern:

Management Controls, LLC, hereby authorizes the law firm of Drummond Woodsum, including, but not limited to Leah B. Rachin, Esq., to represent Management Control, LLC's interests in its administrative appeal of a Notice of Violation issued to it by the Town of Raymond's Code Enforcement Officer on December 16, 2021, relating to property located at 18 Fernwood Road, Raymond Maine.


Management Controls, LLC



By: Donald Buteau, its Managing Director

State of Maine
County of Androscoggin

The foregoing instrument was signed and sworn before me this 18th day of January, 2022, by Donald Buteau, in his capacity as Manager Director of Management Controls, LLC, on behalf of said LLC.


Name of Notary Public/Attorney
Notary Public, State of Maine
My commission expires: October 19, 2026



Phone: 800-858-5818
Fax: 800-352-2409

Post Office Box 2030
101 Merrow Road
Auburn, ME 04211-2030

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER

DrummondWoodsum

DRUMMOND WOODSUM & MacMAHON

OPERATING ACCOUNT
84 MARGINAL WAY, SUITE 600
PORTLAND, MAINE 04101-2480
(207) 772-1941

BANGOR SAVINGS BANK
BANGOR, MAINE 04401
52-7438/2112

133161

PAY:

Four Hundred Thirty One and 00/100 Dollars

NUMBER

DATE

AMOUNT

000133161

02/28/2022

*****431.00

TO THE
ORDER
OF

Town of Raymond
401 Webbs Mills Road
Raymond, ME 04071

VOID AFTER 120 DAYS



AUTHORIZED SIGNATURE

MP

⑈ 133161 ⑈ ⑆ 21127438 2⑆ 2010088805⑈

DrummondWoodsum

Town of Raymond

133161

DATE	INVOICE NUMBER	MEMO	BALANCE
02/28/2022		ZBA Application	431.00

GENERAL NOTES

- TOTAL SITE AREA: 9.40 ACRES
- ZONING DISTRICT: LRRII (LIMITED RESIDENTIAL / RECREATIONAL II)
- RECORD OWNERS: NORMAN W. & JANET E. PULLEN
297 RAYMOND CAPE ROAD
RAYMOND, MAINE 04071
- BOOK & PAGE: C.C.R.D. BOOK 8587 PAGE 125
- TAX MAP: TAX MAP 001, LOT 020
- EXISTING CONDITIONS AND BOUNDARY INFORMATION TAKEN FROM A PLAN ENTITLED: "BOUNDARY SURVEY" RAYMOND, MAINE FOR NORMAN W. PULLEN & JANET E. PULLEN, 297 CAPE ROAD, RAYMOND, MAINE, DATED JULY 18, 2006. PREPARED BY SURVEY, INC. P.O. BOX 210, WINDHAM, MAINE 04062
- WETLAND INFORMATION TAKEN FROM A PLAN ENTITLED: "WETLAND DELINEATION MAP", PULLEN PROPERTY, CAPE ROAD, RAYMOND, MAINE AND WETLAND MAPPING REPORT, DATED OCTOBER 10, 2006. PREPARED BY SWEET ASSOCIATES, 155 GRAY ROAD, FALMOUTH, MAINE 04105.
- SPACE AND BULK REQUIREMENTS / OPEN SPACE SUBDIVISION:

	MINIMUM	PROPOSED
MINIMUM LOT AREA	1.5 ACRES	2+ ACRES (OPEN SPACE CLUSTER SUBDIV.)
MINIMUM SHORE FRONTAGE	225 FEET	LOT 3: 285 FEET
MINIMUM ROAD FRONTAGE	225 FEET	LOTS 1&2: N/A
MINIMUM FRONT YARD	25 FEET	N/A (COMMON DRIVEWAY)
MINIMUM SIDE YARD	20 FEET	30 FEET
MINIMUM REAR YARD	25 FEET	30 FEET
MINIMUM SHORE SETBACK	35 FEET	20 FEET
MAXIMUM BUILDING HEIGHT	35 FEET	40 FEET
MAXIMUM BUILDING COVERAGE	15 PERCENT	LOT 3: GRANDFATHERED MAX. 35 FEET
MAXIMUM IMPERVIOUS SURFACE AREA	15 PERCENT	MAX. 15 PERCENT

- ALLOWABLE DENSITY: FIVE OR FEWER LOTS WITHIN ANY FIVE YEAR PERIOD OF A PARCEL OF LAND UNDER ONE OWNERSHIP
RAYMOND LAND USE ORDINANCE, ARTICLE XIII, SECTION C, 2, (A)

	9.40 AC
GROSS LOT AREA:	9.40 AC
MINIMUM LOT SIZE (LLRII):	3.0 AC
TOTAL ALLOWABLE LOTS:	3.13 OR 3 LOTS

10. ALL ROADS IN THIS SUBDIVISION SHALL REMAIN PRIVATE ROADS TO BE MAINTAINED BY THE DEVELOPER OR THE LOT OWNERS AND SHALL NOT BE ACCEPTED OR MAINTAINED BY THE TOWN UNTIL THEY MEET ALL MUNICIPAL STREET DESIGN AND CONSTRUCTION STANDARDS AND ARE APPROVED AS SUCH BY THE TOWN MEETING.

SURVEY NOTES

- TOPOGRAPHY: 2' CONTOURS SHOWN WERE LOCATED ON SITE BY SURVEY, INC.
- HORIZONTAL REFERENCE: STATE PLANE (NAD83), 1802 - MAINE WEST
- VERTICAL REFERENCE: NAVD 88 - BENCHMARK ESTABLISHED WITH TOPCON HIPER-LITE GPS UNIT. STATIC OBSERVATIONS WERE TAKEN ON SEPT. 8, 2006. NGS OPUS SOLUTION (+/- 5CM).
- NO ATTEMPT HAS BEEN MADE AS A PART OF THIS BOUNDARY SURVEY TO OBTAIN OR SHOW DATA CONCERNING EXISTENCE, SIZE, DEPTH, CONDITION, CAPACITY, OR LOCATION OF ANY UNDERGROUND UTILITY, MUNICIPAL OR PUBLIC SERVICE.
- PROPERTY IS SUBJECT TO EASEMENTS AND/ OR RIGHTS-OF-WAY OF RECORD.

PLAN REFERENCES

- (A) SKETCH PLAN FOR: NORMAN W. PULLEN & JANET E. PULLEN BY: SURVEY, INC. 1944 DATED: JAN. 1991
- (B) STANDARD BOUNDARY SURVEY FOR: ROBERT & GRETCHEN WETZEL BY: LEWIS & WASINA, INC. DATED: 9-22-98 RECORDED: PLAN BOOK 199, PAGE 43 (C.C.R.D.)
- (C) PLAN OF DIVISION OF LAND FOR: MARY LAMB RILEY BY: HARLAND H. SWEETSER DATED: MAY 1946
- (D) PLAN SHOWING PARTITION OF THE THOMAS AVERY LAMB ESTATE IN THE TOWNS OF RAYMOND AND STANDISH AS ORDERED BY THE SUPREME COURT. BY: HARLAND H. SWEETSER DATED: SEPTEMBER 1944 RECORDED: PLAN BOOK 31, PAGE 28 (C.C.R.D.)
- (E) STANDARD BOUNDARY SURVEY FOR: FRANKLIN DEXTER & DANICE A. SMITH BY: LAND SERVICES INC. DATED: 4-15-99

WAIVERS GRANTED

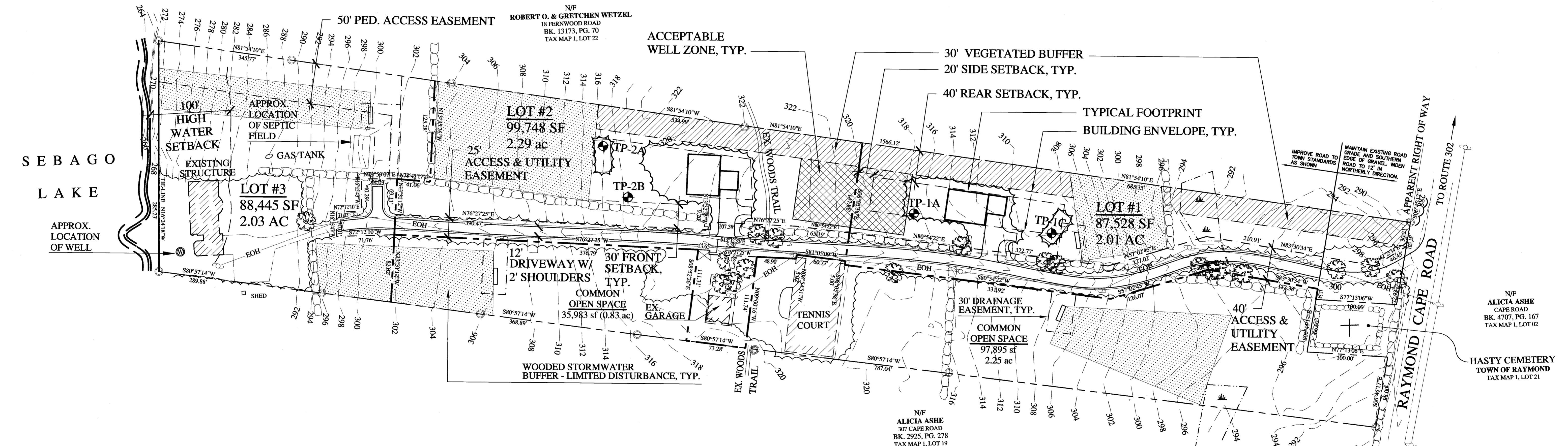
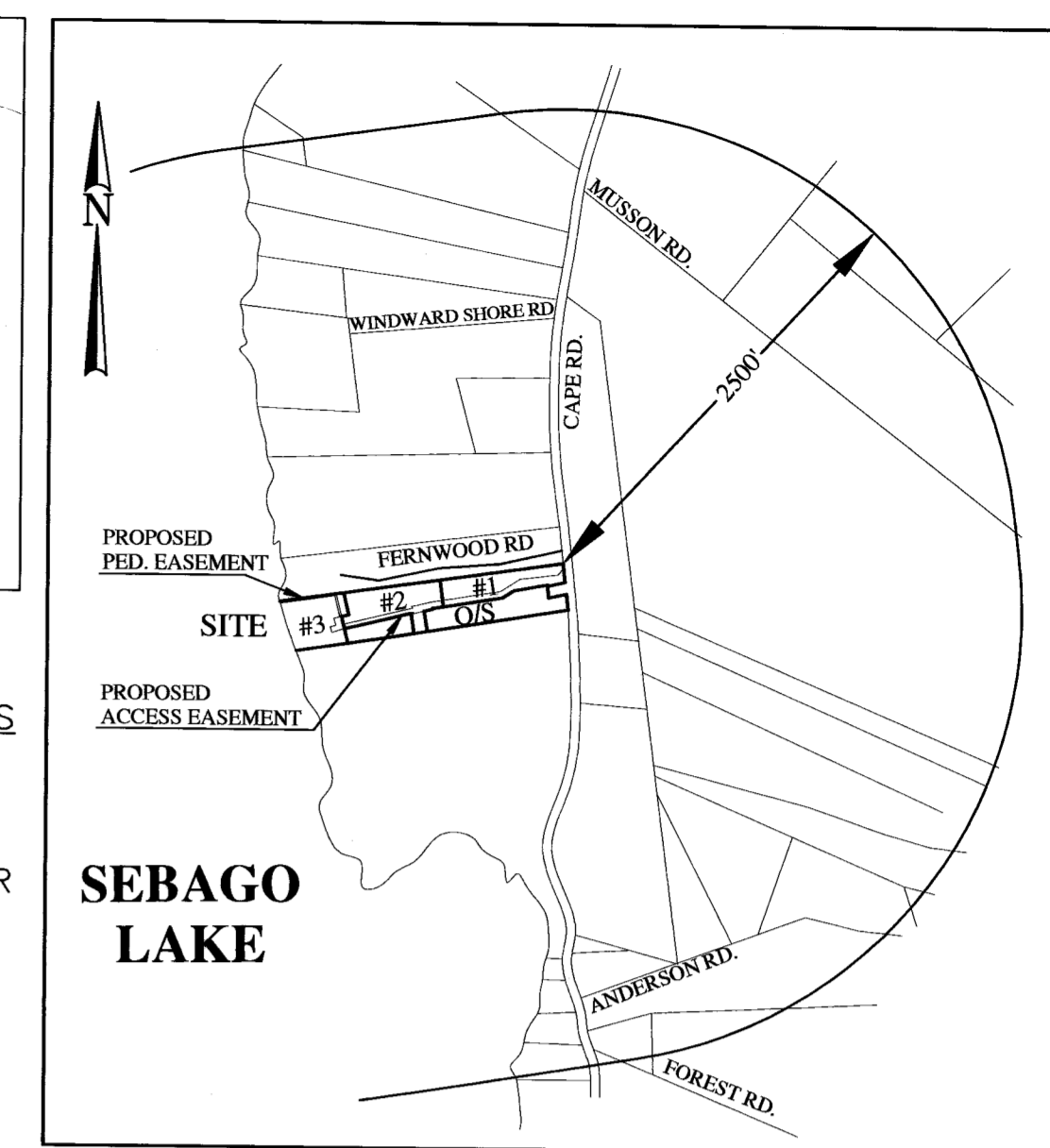
- THE RAYMOND PLANNING BOARD HAS GRANTED THE FOLLOWING WAIVERS:
- MAXIMUM OF 2% DRIVEWAY GRADE WITHIN 75' OF INTERSECTION AS REQUIRED BY SECTION 5.5 (A) OF THE TOWN OF RAYMOND STREET ORDINANCE, TO ALLOW THE EXISTING GRADE OF THE FIRST 130' OF THE DRIVEWAY TO REMAIN.
 - REQUIREMENT TO INCLUDE WATER FRONTAGE IN THE OPEN SPACE OF THE PROPOSED OPEN SPACE SUBDIVISION AS REQUIRED BY ARTICLE VIII, SECTION 4.6 OF THE TOWN OF RAYMOND SUBDIVISION ORDINANCE, ON THE CONDITION THAT A FIFTY (50) FOOT WIDE PEDESTRIAN ACCESS EASEMENT IS PROVIDED ALONG THE NORTHERN PROPERTY LINE FROM THE SHORELINE TO THE POINT AT WHICH THE EASEMENT NO LONGER ABUTS THE NORTHERN PROPERTY LINE.

CONDITION OF FINAL APPROVAL

- THE DEVELOPMENT SHALL BE CONSTRUCTED AND MAINTAINED IN ACCORDANCE WITH THE PLANS, SPECIFICATIONS, TESTIMONY, SUBMISSION, AND SUPPORTING DOCUMENTS PRESENTED TO THE PLANNING BOARD IN CONJUNCTION WITH THE DEVELOPER'S APPLICATION FOR SUBDIVISION APPROVAL.

Town of Raymond Planning Board
 Chairman: *[Signature]*
 Board Members: *[Signatures]*
 Date: April 11, 2007
 Approved: Town of Raymond Planning Board

STATE OF MAINE
 CUMBERLAND COUNTY REGISTRY OF DEEDS
 RECEIVED April 17, 2007
 AT 3 hr. 40 min. P.M. AND RECORDED IN
 PLAN BOOK 207, PAGE 217
 ATTEST *[Signature]* REGISTER



GENERAL NOTES (CONTINUED)

- ALL TREES OUTSIDE OF THE BUILDING ENVELOPES SHALL BE PRESERVED. NO CUTTING OR CLEARING OF VEGETATION OUTSIDE OF THE BUILDING ENVELOPE SHALL BE PERMITTED EXCEPT TO REMOVE STORM DAMAGED, DISEASED, UNSAFE, OR DEAD TREES.
- WITHIN THE WOODED STORMWATER BUFFERS, NO CUTTING OR CLEARING OF VEGETATION SHALL BE PERMITTED EXCEPT TO REMOVE STORM DAMAGED, DISEASED, UNSAFE, OR DEAD TREES.
- THE SUBDIVISION IS SUBJECT TO THE DECLARATION OF COVENANTS AND HOMEOWNERS' ASSOCIATION DOCUMENTS PER ARTICLE XIII, SECTION D.2 OF THE LAND USE ORDINANCE.
- THE EXISTING GARAGE IS PART OF LOT #2 (NOT PART OF THE COMMON OPEN SPACE) AND SHALL BE SUBJECT TO THE DECLARATION OF COVENANTS AND HOMEOWNERS' ASSOCIATION DOCUMENTS PER ARTICLE XIII, SECTION D.2 OF THE LAND USE ORDINANCE.
- WITHIN THE 30' VEGETATED BUFFER, NO CUTTING OR CLEARING OF VEGETATION SHALL BE PERMITTED EXCEPT TO REMOVE STORM DAMAGED, DISEASED, UNSAFE, OR DEAD TREES.
- WITHIN THE 50' PEDESTRIAN ACCESS EASEMENT, NO CUTTING OR CLEARING OF VEGETATION SHALL BE PERMITTED EXCEPT TO REMOVE STORM DAMAGED, DISEASED, UNSAFE, OR DEAD TREES. NO PATH OR TRAIL SHALL BE DEVELOPED OR CONSTRUCTED.
- EXISTING STONE WALLS SHALL BE PRESERVED AS SHOWN ON THE SUBDIVISION PLAN.

LEGEND

EXISTING	PROPOSED
PROPERTY LINE	PROPERTY LINE
EDGE OF WETLAND	EASEMENT LINE
IRON PIN FOUND	SETBACK LINE
NO. 5 REBAR SET	TREELINE
UTILITY POLE	TEST PIT
WELL	TP-2A
NOW OR FORMERLY DEED BOOK/ PAGE	TP-2A
STONEWALL	SEPTIC FIELD
GATE VALVE	STORMWATER BUFFER
GAS TANK	VEGETATED BUFFER
OVERHEAD UTILITIES	ACCEPTABLE WELL ZONE
EDGE OF GRAVEL	LEVEL LIP SPREADER
CONTOUR LINE	CULVERT
TREELINE	
TREE	
STONEWALL	

SURVEY, INC.
 P.O. BOX 210
 WINDHAM, ME 04062
 (207) 892-2556 (207) 892-2557 FAX
 SURVEY.INC@VERIZON.NET

PLAN BY: MLC @ SURVEY, INC.
 DATE: JUNE 2004 JOB NO. 04-078

I CERTIFY THAT THIS SURVEY CONFORMS TO THE STANDARDS OF THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS AND IS CORRECT TO THE BEST OF MY KNOWLEDGE, BELIEF AND PROFESSIONAL OPINION.

[Signature] 3/27/07
 JASON T. FARTHING P.L.S. 2390

tjd&a

Terrence J. DeWan & Associates
 Landscape Architects & Planners

121 West Main Street, Yarmouth, ME 04096
 telephone: 207.846.0757 fax: 207.846.0675

GRAPHIC SCALE: 0 30 60 120

3-28-07: Revised per Final Conditions of Approval.
 1-16-07: Revised per town comments & Conditions of Preliminary Approval.

Pullen Property

Open Space Subdivision Plan

November 29, 2006

Sheet # C-100

February 28, 2022

VIA HAND DELIVERY

David Murch, Chair
Town of Raymond Zoning Board of Appeals
401 Webbs Mills Road
Raymond, ME 04071

RE: Administrative Appeal of Management Controls, LLC
January 28, 2022 Notice of Violation
28 Whitetail Lane, Raymond, Maine (the "Property")

Dear Chairman Murch and Fellow Zoning Board of Appeals Members:

I represent Management Controls, LLC, owner of the above-referenced Property, in conjunction with its administrative appeal relating to a Notice of Violation issued by the Code Enforcement Officer on January 28, 2022 (the "NOV"). The alleged violations cited in the NOV arise from a shoreline stabilization project conducted at the Property. To the extent that there are any violations, which is specifically denied, they resulted from errors and/or oversights by the contractor who Management Controls, LLC hired to do the work. Additionally, we ask the Board to bear in mind as it reviews this administrative appeal that the driving purpose of this project was to stabilize the shoreline area in order to prevent active and severe erosion and discharge of soil into Sebago Lake, consistent with the informing purposes of the Town's Shoreland Zoning Ordinance ("SZO").

As noted in my cover letter, given a sincere desire to have a positive relationship with the Town, my client has developed and submitted to the CEO a mitigation/remediation plan with respect to the alleged violations cited in the NOV. Accordingly, the parties have agreed that this matter should be tabled until at least March 18, 2022 to allow the parties reasonable time to negotiate and finalize a consent agreement. Based on the timelines outlined on the Town's website, it appears that this matter would be heard (in the unlikely event that it becomes necessary) at the Board's April 26th meeting. Per the Board's practice, submissions for this meeting are due by March 25, 2022. If this appeal moves forward, Management Controls, LLC reserves the right to supplement its administrative appeal materials in advance of the March 25, 2022 submission deadline.

In broad terms, however, my client appeals the NOV for the following reasons.

- 1. Management Controls, LLC Reasonably Relied on its Contractor to Obtain All Required Permits and to Conduct All Work in a Manner Consistent With Governing Ordinance Requirements**

Ensuring that all required permits were secured for the shoreline stabilization project and that all work was conducted in a manner consistent with governing local and state law, was of critical importance to Mr. Buteau, Management Controls, LLC's principal. It was so important to him that it was the very first term enumerated in his contract with Big Lake Marine Construction ("BLMC"). Specifically, it imposes on BLMC the clear duty to "obtain all necessary permitting from then Town and DEP." The contract provides for a substantial sum to compensate BLMC for obtaining said permits. Attached as **Exhibit 1** is a copy of said contract. Given that the contract expressly requires BLMC to obtain all necessary permits, and compensates BLMC handsomely for doing so, it was more than reasonable for Management Controls, LLC to expect BLMC, which held itself out as an expert in shoreline projects, to have acquired proper permits and to have employed the erosion control measures required by law.

2. Substantive Disagreements With Allegations Contained in NOV

- With respect to Violations Nos. 1 and 2 (alleging filling and earthmoving without a permit), much of the activity conducted was in the nature of "soil and water conservation" practices, which is allowed without a permit in the LRR2 zone. *See* Section 14 of the SZO, item #8 of the Land Use Table. Moreover, the NOV cites the language of section 15(U)(1) of the SZO, which requires that various activities in the shoreland zone "shall be conducted in such a manner to prevent erosion and sedimentation of surface waters." Yet, there was no explanation or evidence offered to support a conclusion that the work was not conducted in a manner that would prevent erosion and sedimentation. In fact, the overarching goal of the project was to prevent erosion of the shoreline. Prior to construction, the shoreline at the Property was actively eroding and discharging soil in to Sebago Lake during times of higher water levels. It is my client's understanding that while the contractor was on site during construction, unexpected saturated soil conditions posed a significant threat of additional soil erosion and sedimentation into Sebago Lake. He therefore expanded the project scope by extending filter fabric and riprap higher than originally intended to prevent catastrophic shoreline failure and soil discharge in to the Lake.
- Violation No. 3 asserts that a boat launch at the Property was unlawfully enlarged or expanded without a permit. Photographic evidence attached to the CEO's own NOV, attached here as **Exhibit 2**, suggests that the boat launch existed at the location for many years prior to the shoreline stabilization project. The project simply replaced the original structure with a crushed stone ramp of similar material as the adjacent shoreline riprap. The minor widening in a southerly direction occurred after removal of a large tree stump, which left a large void and unstabilized soils, which needed to be filled in order to prevent additional destabilization and erosion.
- Violation No. 4 asserts that the shoreline has been enlarged or expanded without a permit. It was not enlarged or expanded. It was stabilized.
- Violation No. 5 alleges that there has been construction of a "beach" without providing any facts to support that contention or even to identify what is meant by a "beach," which term is not defined in the SZO. No beach was created. On-site evidence included from the CEO's

NOV, attached as **Exhibit 3**, clearly demonstrates this fact as no new fill was placed below the normal high water line aside from the riprap. During construction, several medium or large sized existing riprap stones near the base of the stairway had separated from the riprap slope. This stone was relocated to the riprap slope as a necessary and exempt maintenance activity to ensure long-term shoreline slope stability. *See* 38 M.R.S. section 480-Q.2. Because no beach was created, no beach construction permit is required.

- With respect to Violations Nos. 6 and 7, an aerial drone photo taken by the Portland Water District prior to this project (attached as **Exhibit 4**) show that existing vegetation on the slope was limited in both area and density. It appears to have been growing opportunistically at or near the base of the slope on pockets of soil that had previously failed/slumped from the adjacent slope. This vegetation likely provided negligible or no benefit to slope stability, and the vegetation near the base of the slope and any accompanying soil would have likely eroded into the lake during typical high lake water events. In any event, existing vegetation was not “removed,” it was trimmed down with all root systems remaining intact. The NOV also appears to include an area of grass lawn that was disturbed during construction and several ornamental shrubs that were removed at the top of the slope between the house and the shoreline. Vegetation removal within existing lawns and ornamental shrubs are not typically regulated by municipalities. In any event, the lawn area has been stabilized for winter conditions using erosion control mulch and both the lawn and ornamental shrubs will be replanted in Spring 2022 with appropriate species to enhance soil stability.
- With respect to Violation No. 9, the CEO alleges that the shoreline stabilization project could have been completed by the contractor’s barge rather than by land. This allegation is incorrect. Site conditions did support use of the barge and associated equipment to conduct maintenance of the existing riprap at the Property and a barge was employed accordingly. However, use of the barge was not feasible for the remaining work for several reasons. First, the depth of the lake was not sufficient for a barge to approach the shoreline closely enough to perform the majority of the work (particularly, a barge loaded with the kind of heavy equipment and materials necessary for this project). Second, the size of the equipment required to conduct the necessary work was too large to fit on the barge. Finally, the contractor had no dedicated material loading access location on the lake and use of the existing boat ramp was not possible due to shallow water depth.
- Violation Nos. 10 through 12 allege unpermitted tree removal. As is necessary for nearly all shoreline stabilization projects, trees were removed in order to accommodate construction equipment. Additionally, some hazard trees were removed to avoid injury to person or property in the event of hazard trees. Tree removal for both of these purposes is allowed provided that replanting of similar native tree species occurs. *See* sections 15.R and 15.T of the SZO. The property owner has committed to replacing the trees identified in the NOV.

3. Procedural Flaws in the NOV

- A number of the purported violations are unduly repetitive and do not enumerate violations that are truly separate and distinct. For example:

February 28, 2022

Page 4

- Alleged Violations Nos.1 and 2 are really one in the same. Violation No. 1 is entitled, “Filling and Earthmoving of More than 10 Cubic Yards,” while Violation No. 2 is entitled, “Filling and Earthmoving of More than 10 Cubic Yards Without a Permit.”
- Similarly, Violation No. 6 is entitled, “Removal of Vegetation Less than 3’ in Height” while Violation No. 7 is entitled, “Removal of Vegetation Less than 3’ in Height Without a Permit.”
- Alleged Violations No. 3 and 4 both cite the identical provision of the SZO (i.e., section 14(17)(B)), yet are included as two separate violations.
- Similarly, both Violations Nos. 8 and 9 cite the exact same provision of the SZO (i.e., section 15(C)(12)), yet they are fashioned as two separate violations.
- Violations No. 10 through 12 all involve alleged unpermitted tree removal, yet again, they are redundantly fashioned as three separate violations.

Given that all of the above-referenced groupings of violations are inextricably linked and relate to the same land use activities, and often cite identical provisions of the SZO, it is unnecessary to name them as separate violations. To do so unnecessarily and unfairly subjects the property owner to potentially duplicative fines given that 30-A M.R.S. section 4452 provides that fines for land use violations are calculated on a per day, *per violation* basis.

Additionally, the NOV requires correction and an inspection within thirty days of the notice. Yet, the parties had already agreed that the property owner would submit a mitigation plan, which it has done. Given current conditions (i.e., frozen ground), the NOV outlines a timeline for corrective action that is physically impossible.

As noted above, my client is hopeful that the parties can reach resolution of this matter based on the mitigation plan that has already been submitted to the CEO and that this administrative appeal need not be heard. The parties will notify you on or about March 18, 2022 regarding their progress and the need to schedule a hearing of this and the two other related administrative appeals.

Thank you for your attention to this matter.

Sincerely,



Leah B. Rachin

February 28, 2022

Page 5

cc: Donald Buteau
Alex Sirois, CEO
Sandy Fredericks, Administrative Assistant to ZBA
Matthew D. Manahan, Esq.
Eric Wycoff, Esq.

Invoice

Big Lake Marine Construction

PO Box 741

ME 04062

Date	Invoice #
10/13/2021	267

Bill To
Management Controls, LLC PO Box 2058 Auburn, ME 04210

P.O. No.	Terms	Project

Quantity	Description	Rate	Amount
	Project located at Project Location #2 Raymond, ME will consist of the following:		
	Big Lake Marine will obtain all necessary permitting from town and DEP	0.00	0.00
	4 ft X 285 ft of Erosion control measures as required by the DEP.	0.00	0.00
	Any and all dead wood will be cut up and removed from project location as DEP allows	0.00	0.00
	Banking will be sloped at as required	0.00	0.00
	Build up 2.5 X 2" Berm	0.00	0.00
	Bark mulch over berm	0.00	0.00
	Install 3" rip rap in boat ramp area with 3/4" crushed stone / compacted	0.00	0.00
	Install filter fabric on entire 4 ft X 285 ft work area	0.00	0.00
	All cavities to be filled in with 3/4" stone at a 45 degree angle to prepare for installation of 6X12" rip rap	0.00	0.00
	Install approximately 2 ft X 285 ft of filter fabric and approximately 4" of bark mulch above rip rap	0.00	0.00
	Replace fallen rocks around deck area	0.00	0.00
	All work to be completed by land and by barge as necessary to complete project	0.00	0.00
	Loam, seed and hay all disturbed areas by Big Lake Marine equipment	0.00	0.00
	Permit fee	6,000.00	6,000.00
	Project total	68,500.00	68,500.00
	**Any and all overages will be approved by homeowner		
Total			\$74,500.00

EXHIBIT B



EXHIBIT B

AFTER



New expanded
"boat ramp"

EXHIBIT C



