



**ENGINEERING, P.C.**  
CIVIL • STRUCTURAL • ENVIRONMENTAL

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July 25, 2016

Sean Starkey, Chair  
Durham Zoning Board of Adjustment  
8 Newmarket Road  
Durham, NH 03824

**Re: Variance Request for Jason Bailey 114 Dame Road, Map 19 Lot 4-1**

Dear Chairman Starkey and Board Members:

Jason and Ryan Bailey owners of the subject parcel has filed an application with the Zoning Board of Adjustment for variance relief. The purpose of this letter is to provide the Board with general information related to the site and supporting documentation for their request.

EXISTING CONDITIONS

The subject parcel is located at 114 Dame Road, and consists of approximately 3.1 Acres. The road frontage on Dame Road is approximately 435' and the average depth of the lot is approximately 450'. The parcel is currently improved with a single family home, detached barn, accessory shed and gravel driveway. The parcel is serviced by onsite water and sewer.

THE PROPOSAL

The property owner is proposing to construct a garage, mudroom and covered porch addition. The second floor of the garage will be an accessory apartment. The uses are allowed in the Rural District, but the location of the existing structure, within the wetland conservation overlay district, makes the structure non-conforming with respect to setback in that district. The existing well is adequate for the proposed use and the existing septic system will be expanded with the use of the AOS Clean Solutions septic system. Therefore, no change to the leach field will be required and only a new septic tank will be installed. The replacement/expansion of the septic system is not part of the variance, and it is allowed under section 175-65 F.

Based on review of the zoning regulations and meetings with the Building Inspector and Planner, it was determined that two variances will be required. The following are the variances to be requested:

1. Article IX Section 175-30 D. 3. b,c&d to allow for an additional dwelling unit as the accessory apartment, the building footprint increase by more than 15% and building volume increase by more than 30%.
2. Article XIII Section 175-65 A. to allow soil disturbance within 50' of the wetland buffer and maintain the existing lawn and vegetation as it.

The variance application and supporting documentation are attached to this submission. Thank you for the consideration and if you need additional information please do not hesitate to contact me.

Sincerely,

Michael J. Sievert, P.E.  
President

later than 30 days from the date of the original decision as per the Zoning Board Rules of Procedure Section D(1)(b).

It is necessary that the applicant or his legal representative attend the meeting held for the review and consideration of this petition.

Please send this form with Plot Plan and List of Abutters to the Town of Durham, 15 Newmarket Rd., Durham, NH 03824, Attn: Zoning Board of Adjustment.

### Appeal for Applicant

State of New Hampshire

Strafford, SS

To: Zoning Board of Adjustment, Town of Durham NH 03824

Name of Applicant: Jason Bailey

Address: 114 Dame Road Phone # 603-817-5907

Email: jasonb@tms-architects.com

Owner of Property Concerned: Same

(If same as above, write "Same")

Address: \_\_\_\_\_

(If same as above, write "Same")

Location of Property: \_\_\_\_\_

(Street & Number, Subdivision and Lot number)

Description of Property (Give Tax Map number, length of frontage, side and rear lines and other pertinent descriptive information) Map 19 Lot 4-1, Frontage along Dame Road is 435', west side is 484', east side is 449', and rear is 252'. The total lot area is 3.1 acres. The parcel is currently improved with a single-family home and detached barn.

**Fill in Section 1, 2, 3 or 4 below as appropriate. Do not fill in more than one section. This application is not acceptable unless all required statements have been made. Additional information may be supplied on separate sheets if the space provided is inadequate.**

#### **SECTION 1: APPEAL FROM AN ADMINISTRATIVE DECISION**

Appeal must be filed no later than 30 days from the date of the original decision.

Relating to the interpretation and enforcement of the provision of the Zoning Ordinance.

Decision of the enforcement officer to be reviewed: \_\_\_\_\_

Number \_\_\_\_\_ Date \_\_\_\_\_

Article \_\_\_\_\_ Section \_\_\_\_\_ of the Zoning Ordinance in question.

**SECTION 2: APPLICATION FOR SPECIAL EXCEPTION**

\*\*Any Special Exceptions granted shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such variance shall expire within 6 months after the resolution of a planning application filed in reliance upon the variance.\*\*

Description of proposed use showing justification for a Special Exception as specified in the Zoning Ordinance Article \_\_\_\_\_ Section \_\_\_\_\_

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**SECTION 3: APPLICATION FOR EQUITABLE WAIVER**

The undersigned hereby requests an Equitable Waiver of Dimensional Requirements as provided in RSA 674:33-A of the New Hampshire Planning and Land Use Regulations.

Please give a brief description of the situation: \_\_\_\_\_

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**SECTION 4: APPLICATION FOR A VARIANCE**

**STANDARD OF REVIEW:** Prior to seeking a variance, the property owner must have been DENIED a building permit by the Building Inspector or approval by the Planning Board.

\*\*Any Variances granted shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such variance shall expire within 6 months after the resolution of a planning application filed in reliance upon the variance.\*\*

A Variance is requested from Article IX, XIII Section(s) 175-30D3.b,c,d/175-65A of the Zoning Ordinance to permit (175-30D3.b,c,d)one additional dwelling unit as an accessory apartment, increase the existing building footprint by more than 15% and increase the existing building volume by more than 30%. (175-65A.)soil disturbance within 50' of the wetland buffer and maintain the existing lawn and vegetation as is. \_\_\_\_\_

The New Hampshire Legislature has declared that each of the following conditions must be found in order for a variance to be legally granted. Please answer the following questions in support of the variance request either on this form or on a separate sheet of paper.

1. No decrease in value of surrounding properties would be suffered because:

\_\_\_\_\_ SEE ATTACHED ADDENDUM(S) \_\_\_\_\_

2. Granting the variance would not be contrary to the public interest because:

\_\_\_\_\_ SEE ATTACHED ADDENDUM(S) \_\_\_\_\_

Current law requires the existence of unnecessary hardship for the granting of any variance, whether that is for a use not allowed in a particular zone or a deviation from a dimensional requirement.

- 3(A). Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

- a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because:

\_\_\_\_\_ SEE ATTACHED ADDENDUM(S) \_\_\_\_\_

and

- b. the proposed use is a reasonable one because:

\_\_\_\_\_ SEE ATTACHED ADDENDUM(S) \_\_\_\_\_

**Or**

- 3(B). Owing to special conditions of the property that distinguishes it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

\_\_\_\_\_ SEE ATTACHED ADDENDUM(S) \_\_\_\_\_

4. By granting the variance substantial justice would be done because:

\_\_\_\_\_ SEE ATTACHED ADDENDUM(S) \_\_\_\_\_

5. The use will not be contrary to the spirit and intent of the ordinance because:

\_\_\_\_\_ SEE ATTACHED ADDENDUM(S) \_\_\_\_\_

ADDENDUM A: APPLICATION FOR A VARIANCE – Jason Bailey 114 Dame Road

A Variance is being requested from Article IX, Section 175-30 D 3.b,c&d of the Zoning Ordinance. The variance request is to permit the construction of an attached addition to a single family residence, which exceeds the allowable requirements within the Wetland Conservation Overlay District.

- 1) No decrease in the value of surrounding properties would be suffered because:  
The table of uses within the rural district allows for single family dwellings and accessory apartments. The proposed construction of the attached garage addition to the existing single-family home is reasonable and not out of scale with other structures in the surrounding neighborhood. Therefore, there will be no decrease to surrounding properties due to this proposal.
- 2) Granting the variance would not be contrary to the public interest because: the addition and use is not out of scale nor different from other properties in the neighborhood. There will be no greater detriment to the wetland because of this addition and use, than what currently exists on the subject property or similar properties developed for single-family uses within wetland buffers. The size and scale of the proposed addition is reasonable. 100% of the area where the addition and use is proposed, has been previously disturbed within the WCO buffer, therefore no additional area is being disturbed for this proposal.
- 3) (A) Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:
  - a) no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because: The property is currently developed within the WCO buffer in this location, and there is no other location on the property, outside of the WCO buffer, where the attached addition and use within the attached addition can be constructed, therefore creating an unnecessary hardship to the owners to accomplish their goal of constructing a reasonably sized single family home on a 3 plus acre lot. In addition, the buffer area where the addition and use are being proposed is currently disturbed and being used for the same purposes. The existing wetland on the property does not show evidence of being negatively impacted by the current use on the property, therefore the proposal is not contrary to the general purpose of the ordinance provision.
  - b) the proposed use is a reasonable one because: the single-family residential dwelling exists within the wetland buffer currently and this addition is not out of scale for the proposed use. The increased dwelling unit is an allowable use in the district, and it is contained within the addition meeting the requirements of 175-109 of the zoning ordinance.

- 4) by granting the variance substantial justice would be done because: there is no gain to the general public by denial of the variance, but the loss to the owner is significant because the use is allowed in the district and this is the only location on the parcel that is reasonable given the existing conditions of the parcel. The area in question is currently disturbed, therefore, the proposal is appropriate and will not harm abutters or the nearby wetland, to any greater extent than what currently exists.
  
- 5) The use will not be contrary to the spirit and intent of the ordinance because: the buffer area is currently disturbed in 100% of the area proposed to be disturbed for this addition. This addition and use as proposed, will not cause any additional degradation to the wetland or buffer than what currently exists today on the property which is negligible.

ADDENDUM B: APPLICATION FOR A VARIANCE – Jason Bailey 114 Dame Road

A Variance is being requested from Article XIII, Section 175-65 A. of the Zoning Ordinance. The variance request is to permit soil disturbance within 50' of the reference line and maintain the vegetation within the buffer zone that currently exists today, for this proposal.

- 1) No decrease in the value of surrounding properties would be suffered because:  
The table of uses within the rural district allows for single family dwellings and accessory apartments. The impact to the wetland would be no greater than it is currently. The proposed construction of the attached garage addition to the existing single-family home is reasonable and not out of scale with other structures in the surrounding neighborhood. Therefore, there will be no decrease to surrounding properties due to this proposal.
- 2) Granting the variance would not be contrary to the public interest because: the addition and use is not out of scale nor different from other properties in the neighborhood. There will be no greater detriment to the wetland because of this addition and use than what currently exists on the subject property or similar properties developed for single-family uses within wetland buffers. The size and scale of the addition is reasonable. 100% of the area where the addition and use is proposed, has been previously disturbed within the WCO buffer, therefore no additional area is being disturbed for this proposal.
- 3) (A) Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:
  - a) no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because: The property is currently developed within the WCO buffer in this location, and there is no other location on the property, outside of the buffer, where the attached addition and use, within the attached addition, can be constructed, therefore creating an unnecessary hardship to the owners to accomplish their goal of constructing a reasonably sized single family home on a 3 plus acre lot. In addition, the buffer area where the addition and use are being proposed is currently disturbed and being used for the same purposes. The existing wetland on the property does not show evidence of being negatively impacted by the current use on the property, therefore the proposal is not contrary to the general purpose of the ordinance provision.
  - b) the proposed use is a reasonable one because: the single-family residential dwelling exists within the wetland buffer currently and this addition is not out of scale for the proposed use. The amount of soil disturbance will be minimized to only that required for the construction of the addition, and proper erosion control will be use, therefore, this is a reasonable use.

- 4) by granting the variance substantial justice would be done because: there is no gain to the general public by denial of the variance, but the loss to the owner is significant because the use is allowed in the district and this is the only location on the parcel that is reasonable given the existing conditions of the parcel. The area in question is currently disturbed, therefore, the proposal is appropriate and will not harm abutters or the nearby wetland, to any greater extent than what currently exists.
  
- 5) The use will not be contrary to the spirit and intent of the ordinance because: the buffer area is currently disturbed in 100% of the area proposed to be disturbed for this addition. This addition and use proposed, will not cause any additional degradation to the wetland or buffer greater than what currently exists today on the property. Consequently, a portion of the existing gravel driveway will be replaced with the building, thereby reducing the total area subject to soil erosion.




August 25, 2016

Durham Zoning Board  
8 Newmarket Road  
Durham, NH 03824

Dear Chairperson:

I hereby authorize Michael J. Sievert, P.E of MJS Engineering, P.C. to submit an application and represent me at the Durham Zoning Board meeting for a variance application. The subject parcel is shown on Tax Map 19 as Lot 4-1 located on 114 Dame Road.

Sincerely;

  
\_\_\_\_\_  
Jason Bailey

7-25-16

**LIST OF OWNERS OF ABUTTING PROPERTY**

(This includes property directly across the street or streams from the land under consideration. **List must also include any and all preparers of plans, studies, etc...**)

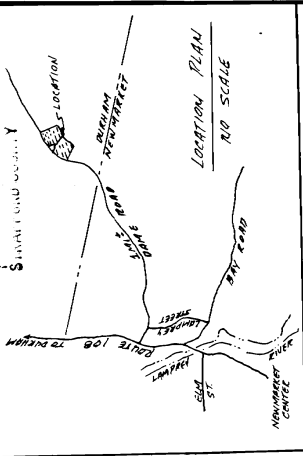
**PLEASE PROVIDE NAME & MAILING ADDRESS**

<p><b><u>PROPERTY OWNER:</u></b>                      114 Dame Road MAP 19 LOT 4-1</p> <p>JASON F. BAILEY RYAN G. BAILEY 114 DAME ROAD DURHAM, NH 03824</p>	<p><b><u>AGENT:</u></b></p> <p>MJS ENGINEERING, PC P. O. BOX 359 NEWMARKET, NH 03857</p>
<p>MAP 19 LOT 3-0                              122 Dame Road</p> <p>CHAD M. BEISSWANGER 2367 GARFIELD ROAD HYDE PARK, NJ 05655</p>	
<p>MAP 19 LOT 2-0                              110 Dame Road</p> <p>ROBERT DESTEFANO, JR. JILL S. HARDCASTLE 110 DAME ROAD DURHAM, NH 03824</p>	<p><b><u>LAND SURVEYOR:</u></b></p> <p>DOUCET SURVEY, INC. 102 KENT PLACE NEWMARKET, NH 03857</p>
<p>MAP 19 LOT 4-0                              Dame Road</p> <p>NATURE CONSERVANCY 22 BRIDGE STREET, 4<sup>TH</sup> FL. CONCORD, NH 03301</p>	<p><b><u>WETLAND SCIENTIST:</u></b></p> <p>WEST ENVIRONMENTAL, INC. 48 STEVENS HILL ROAD NOTTINGHAM, NH 03290</p>
<p>MAP 19 LOT 4-2                              124 Dame Road</p> <p>DEBRA FLEMING 124 DAME ROAD DURHAM, NH 03824</p>	<p>MAP 18 LOT 15-1                              119 Dame Road</p> <p>LYNDA A. KUHNE SYLVIA J. FOURNIER 119 DAME ROAD DURHAM, NH 03824</p>
<p>MAP 18 LOT 16-2                              115 Dame Road</p> <p>EDWARD R. RICKER 115 DAME ROAD DURHAM, NH 03824</p>	<p>MAP 18 LOT 20-1                              Dame Road</p> <p>STATE OF NH FISH &amp; GAME 11 HAZEN DRIVE CONCORD, NH 03301</p>

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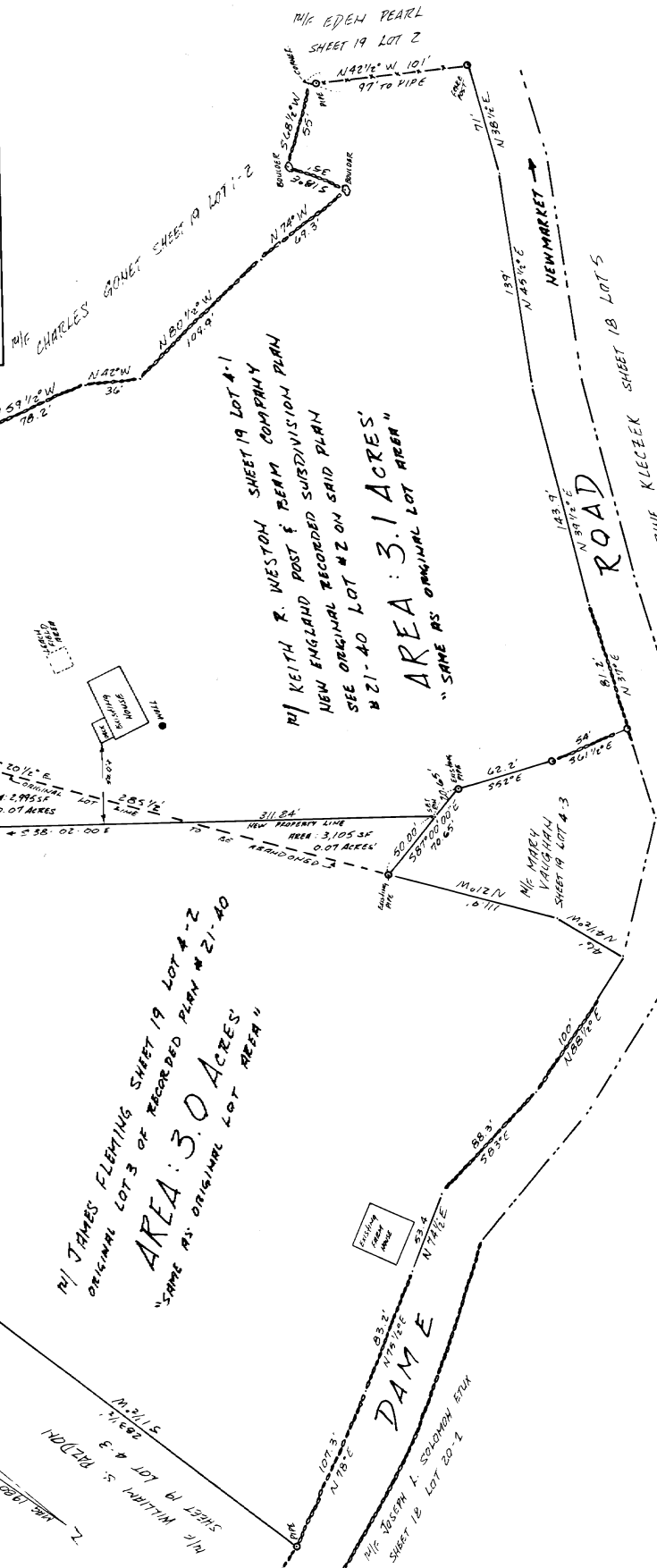
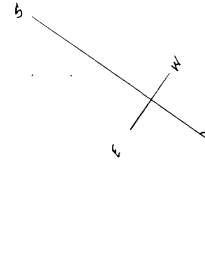
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MIC KARDL F. GONNET SHEET 19 LOT 4  
 550' W 75'  
 550' N 149'  
 550' W 75'  
 550' N 149'

MIC JAMES FLEMING SHEET 19 LOT 4-2  
 ORIGINAL LOT 3 OF RECORDED PLAN # 21-40  
 AREA: 3.0 ACRES  
 "SAME AS ORIGINAL LOT AREA"

MIC KEITH R. WESTON SHEET 19 LOT 4-1  
 NEW ENGLAND POST & BEAM COMPANY  
 NEW ORIGINAL RECORDED SUBDIVISION PLAN  
 SEE ORIGINAL RECORDED PLAN # 21-40  
 AREA: 3.1 ACRES  
 "SAME AS ORIGINAL LOT AREA"



NOTE: ORIGINAL RECORDED SURVEY PLAN # 21-40 WAS COMPASSED & TAPE

NEW SURVEY DATA SHOWN CONDUCTED BY THEAPOLITE AND FOM. ERROR OF CLOSURE DOESN'T EXCEED 1 IN 10,000 B.P.

NEW ENGLAND POST & BEAM BOUNDARY LINE ADJUSTMENT FINDINGS OF FACT

- This is an adjustment to the boundary lines between Tax Map Parcels 19-04-01 and 19-04-02 of the original Pasdon Subdivision.
- Both lots still meet the area and footage requirements of the Durham Zoning Ordinance.
- This application does not fall under the Interim Growth Ordinance.
- The provisions of Paragraph 3.5, subparagraphs A, B, C and D of the Subdivision Regulation requirements have been waived in order for this application to be heard under the Modified Procedure. THERE ARE NO CONDITIONS OF APPROVAL.



APPROVED FOR RECORD  
 CHARLIE J. SPANGLER, CIV. DATE: Jan 4, 1989  
 Bruce S. Thomas, Surveyor

LOT LINE ADJUSTMENT FOR

NEW ENGLAND POST & BEAM COMPANY IN

DURHAM, N.H.

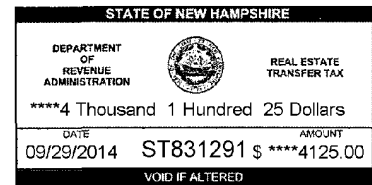
SCALE 1" = 50' DEC 27, 1988



PREPARED BY  
 BRUCE S. THOMAS, LAND SURVEYOR, DURHAM, N.H.



Return to:  
Jason F. Bailey and Ryan G. Bailey  
114 Dame Road  
Durham, NH 03824



### WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS: That **Lee H. Hodsdon** who erroneously took title as Lee A. Hodsdon and **Carol A. Hodsdon**, Husband and Wife, of 114 Dame Road, Portsmouth NH 03801, for consideration paid grant to **Jason F. Bailey** and **Ryan G. Bailey**, husband and wife of 342B Spinney Road, Portsmouth NH 03801, as Joint tenants with rights of survivorship, with **WARRANTY COVENANTS**:

A certain tract or parcel of land with the buildings thereon, containing 3.1 acres located on the southerly side of Dame Road, Town of Durham, County of Strafford and State of New Hampshire, more particularly described as follows:

Beginning at a fence post forming the northwesterly corner of the parcel to be conveyed at land now or formerly of Eden Pearl; thence running along a wire fence South  $42\frac{1}{2}^{\circ}$  East a distance of 97 feet to a pipe; thence continuing along the same course a distance of 4 feet to a point on the end of a stone wall; thence turning and running North  $68\frac{1}{2}^{\circ}$  East along said stone wall a distance of 55 feet to a boulder; thence turning and running North  $18^{\circ}$  West a distance of 35 feet to another boulder; thence turning and running along a stone wall on the following courses and distances:

South  $74^{\circ}$  East a distance of 69.3 feet;  
South  $80\frac{1}{2}^{\circ}$  East a distance of 109.9 feet;  
South  $42^{\circ}$  East a distance of 36 feet;  
South  $59\frac{1}{2}^{\circ}$  East a distance of 78.2 feet;  
North  $56^{\circ}$  East a distance of 62.5 feet;  
North  $55^{\circ}$  East a distance of 147 feet to an existing pipe located on said stone wall;  
North  $58^{\circ} 58'$  East a distance of 41.00 feet to a drill hole set in said stone wall;

Thence turning and running along land of James and Debra Fleming on a common bound established by the Grantors herein and Flemings. (Reference plan entitled "Lot Line Adjustment for New England Post & Beam Company in Durham, N.H." dated December 27, 1988, prepared

by Bruce L. Pohopek, Land Surveyor, Dover, N.H. and recorded in the Strafford County Registry of Deeds as Plan #32-80. Reference also deeds exchanged by the Grantors herein and Flemings dated January 1989 and recorded in said Registry at Book 1435, Pages 765 and 767).

Said established common boundary being on a course of North 38° 02' 00" West a distance of 311.84 feet to a pin set at the boundary of land now or formerly owned by Mary Vaughan; thence turning and running along said land of Vaughan North 87° 00' 00" West a distance of 20.65 feet to an existing pipe; thence continuing along land of Vaughan on a course of North 52° West a distance of 62.2 feet; thence partially running along a stone wall on a course of North 61 1/2° West a distance of 54 feet to a point located on a stone wall on the southerly side of the aforementioned Dame Road; thence turning and running along the southerly side of said Dame Road on the following courses and distances:

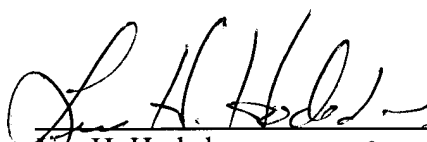
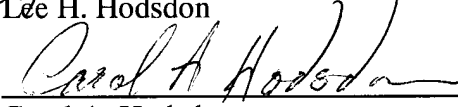
Initially along a stone wall on a course of South 37° West a distance of 81.2 feet;  
 South 39 1/2° West a distance of 143.9 feet;  
 South 45 1/2° West a distance of 139 feet;  
 South 38 1/2° West a distance of 71 feet to the fence post marking the point of beginning.

The above-described lot was formerly referred to as Lot #2 on the plan of subdivision #21-40 recorded in the Strafford County Registry of Deeds. Further reference is made to a deed from John and Sophie Pazdon to the Grantors herein recorded in said Registry at Book 1169, Page 183. Reference is also made to a boundary line adjustment between land of Fleming and the Grantors herein as alluded to in the description set forth above.

Meaning and intending to describe and convey the same premises conveyed to Lee A. Hodsdon and Carol A. Hodsdon by deed of Keith R. Weston and Thomas H. De Long d/b/a New England Post and Beam Company, dated February 17, 1989 and recorded in the Strafford County Registry of Deeds at Book 1437, Page 109.


We, the grantors hereby release all rights of homestead in the above described premises.

Executed this 26th day of September, 2014.

  
 Lee H. Hodsdon  
  
 Carol A. Hodsdon

State of New Hampshire  
County of Rockingham

Then personally appeared before me on this 26th day of September, 2014, the said Lee H. Hodsdon who erroneously took title as Lee A. Hodsdon and Carol A. Hodsdon and acknowledged the foregoing to be their voluntary act and deed.

  
\_\_\_\_\_  
Notary Public/~~Justice of the Peace~~

Commission expiration:

