

RALPH G. MASTROMONACO, P.E., P.C.
Consulting Engineers

13 Dove Court, Croton-on-Hudson, New York 10520
Tel: (914) 271-4762 Fax: (914) 271-2820

Civil / Site / Environmental

RECEIVED www.rgmpepc.com
PLANNING DEPARTMENT

JAN 25 2021

TOWN OF YORKTOWN

January 22, 2021

Richard Fon, Chairman and Members
Town of Yorktown Planning Board
Albert A. Capellini Community and Cultural Center
1974 Commerce Street, Room 222
Yorktown Heights, NY 10598

Hand Deliver

Attn: Robyn Steinberg, AICP

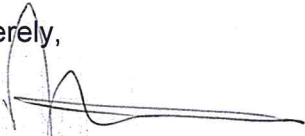
Re: Realty Subdivision at Osceola Road
Town of Yorktown, NY

Dear Hon. Chairman and Members of the Board:

Enclosed please find six (6) copies of a letter from Robert F. Davis, Esq. This letter and supporting documentation addresses the "Reserved Strip" noted on Filed Map #2542 Filed October 19, 1923.

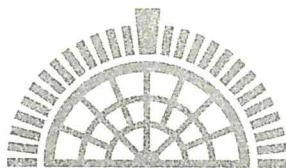
This is submitted for the Town Attorney. Additional materials will be submitted for the Planning Board.

Sincerely,



Ralph G. Mastromonaco, PE

Cc: Kristine Hansmann



RECEIVED
PLANNING DEPARTMENT

JAN 25 2021

TOWN OF YORKTOWN

SINGLETON, DAVIS & SINGLETON PLLC

ATTORNEYS AT LAW

THOMAS J. SINGLETON, 1930-2015

ROBERT F. DAVIS

WHITNEY W. SINGLETON*

ALEXANDER D. SALVATO

* ALSO MEMBER CONNECTICUT & FLORIDA BARS

120 EAST MAIN STREET
MOUNT KISCO, NY 10549

914.666.4400

FAX: 914.666.6442

WWW.SDSLAWNY.COM

January 14, 2021

Town Planning Board

Hon. Richard Fon, Chairman and Members of the Planning Board

Albert A. Capellini Community and Cultural Center

1974 Commerce Street, Top Floor, Room 222

Yorktown Heights, NY 10598

*Re: Proposed Subdivision for Kristine M. Hansmann
Osceola Road
Sections 6.13 and 6.17, Blocks 1 and 2, Lots 10 and 63*

Dear Chairman Fon and Members of the Planning Board:

Our firm has been retained by the Applicant to address Comment No. 2 in Town Planner Steinberg's memo to the Board dated January 8, 2021, i.e., "no further information has been found or submitted regarding the 10 ft. reserve strip at the end of the Osceola Road right-of-way", and the letter of neighbor Christine Gogola, who resides at 304 Osceola Road, relating to said reserve strip.

BACKGROUND

By way of background, Osceola Parkway, (now Osceola Road), along with parallel streets, Mountain Road, Lake View Drive and Orchard Terrace, was created by a 1923 subdivision depicted on the "Map of Osceola Heights", which was filed in the Office of the Register (Clerk) of Westchester County on October 19, 1923. The map was filed prior to the Town's Land Subdivision Regulations and the requirement of Planning Board Subdivision approval.

The Subdivision Map depicted at the end of each of the four subdivision streets, on the opposite end of those streets from Perry Lane, which ostensibly was named after the subdivider, a 10 ft. strip within each street, adjoining other property outside of the subdivision, labeled only "RESERVED" (the "reserved strip"). There were no restrictions on the use of the "reserved strip" or any other reference to it noted on the Map. See **Exhibit 1** annexed hereto.

Hon. Richard Fon, Chairman and Members of the Planning Board

January 14, 2021

Page 2

It also appears that no restrictive covenant or other enforceable document restricting the use of the “reserved strip” was ever filed as of record. It further appears that the 10 ft. “reserved strips” within the four streets in the Osceola Heights subdivision have never been designated either as separate tax lots or appended to adjoining tax lots, either within or without the subdivision.

Indeed, the Town’s Tax Map does not depict any of the “reserved strips”, but shows the four subdivision streets fully extending from Perry Lane on one end to adjoining properties on the other, including, in the case of Osceola Road, to the property of the Applicant. See the Tax Map excerpt annexed hereto as **Exhibit 2**.

Likewise, the Town’s Official Highway Map depicts all four subdivision streets, again, without any reference to any such “reserved strip”. The Highway Map depicts two of the streets, Mountain Road and Orchard Road, as being paved and maintained by the Town for their entire length and Lake View Road for virtually its entire length. The Highway Map depicts Osceola Road being maintained to the point where its pavement currently ends. See **Exhibit 3** annexed hereto.

The Town’s Street Map likewise depicts all four subdivision streets, extending for their full length, likewise without reference to any “reserved strip”. See **Exhibit 4** annexed hereto.

An exhaustive review of Town records by the Applicant and staff did not locate any record of the subdivision roads having been accepted for dedication by the Town.

In 2019, the Applicant caused a title search to be performed with respect to the portion of Osceola Road running between the tax lots adjoining the Applicant’s property and with respect to the “reserved strip”. A copy of the title report is annexed hereto as **Exhibit 5**. It was determined that the owners of said adjoining tax lots owned title either to the center line of Osceola Road, in Ms. Gogola’s case, or in the case of the other owner, whose property is accessed from and has its address on Mountain Road, title remains in the original developer, Perry, **but that neither of them have any ownership or other rights with respect to the “reserved strip”**. Further, no ownership rights at all specific to the “reserved strip” could be found in the filed records and therefore, it is presumed that title remains in the original developer, Perry, from the 1920s. Accordingly, there is no basis for Ms. Gogola’s claim in her letter of January 10, wherein she acknowledges that there is no title of record for the “reserve strip”, but that as a result, she owns the “reserve strip”. However, regardless of who owns title to the “reserve strip”, as set forth below, the Applicant is legally entitled to use it to access her property.

Hon. Richard Fon, Chairman and Members of the Planning Board

January 14, 2021

Page 3

Specifically, neither Ms. Gogola nor any other adjoining property owner has any ownership or other rights in the “reserved strip”. As noted above, the Town has consistently treated the “reserved strip” as part of Osceola Road and not as a separate tax lot or portion of any tax lot.

Consistent with the title report obtained by the Applicant and the foregoing analysis, Schedule B to Ms. Gogola’s title insurance policy for her adjoining property, in its “EXCEPTIONS FROM COVERAGE”, provided to the Board with her January 10, 2021 correspondence, included the following “SURVEY EXCEPTIONS” to her title insurance coverage:

- a. Retaining wall encroaches over southerly line onto Osceola Parkway.
- b. Macadam Driveway extends to Osceola Parkway.
- c. Slate patio encroaches over southerly line onto Osceola Parkway.
- d. Hedges vary from westerly line and encroach.
- e. Stonewall varies from northerly and easterly lines and encroach.
- f. **10-foot reserve strip crosses easterly portion of premises. Rights and easements of others are excepted.** (Emphasis added.)

THE LAW

Significantly, the Town of Yorktown Code, in Chapter 195, “Land Development”, § 195-29, “Streets”, provides in subsection E, that: “Reserve strips controlling access to streets shall be prohibited”. Thus, it is the express policy of the Town that such reserve strips are unlawful and as such will not be recognized and they have not been recognized on the Town’s Highway, Street and Tax Maps.

In a Decision in a Westchester County case which buttresses the Town’s prohibition against such “reserve strips” and which is dispositive of the neighbor’s claim that Osceola Road may not be extended over the “reserve strip” to benefit the Applicant’s property, *Warren v. Protano, Inc.*, 155 N.Y.S.2d 686 (Sup. Ct. Westchester Cty. 1956), the Court rejected the same claim of subdivision residents that the owner of a property outside the subdivision, in the same position as the Applicant, could not extend the subdivision road over a reserve strip to access his property. The Court explained the nature of that action as follows:

The action seeks judgment declaring, for the benefit of owners of property in a real estate subdivision, the existence and validity of an alleged easement restricting the use of a strip of

Hon. Richard Fon, Chairman and Members of the Planning Board

January 14, 2021

Page 4

land, one-foot wide, bounding in part the subdivision; and a judgment enjoining and restraining the defendants from continuing a certain street upon, across and over the said strip.

...

The subdivision of land known and designated as 'Mamaroneck Knolls' and hereinafter referred to as the 'Knolls' was owned and developed, starting in 1927, by Mamaroneck Knolls, Inc., a New York corporation. A subdivision map of the land . . . was filed in the office of Register of Westchester County on March 14, 1927, and an amended subdivision map of the land was filed in the office of said Register on June 3, 1927. By the maps, the lands were subdivided into lots, parcels and streets, and thereon appears a certain lot marked 'Reserved', a lot marked '20' Reserve Strip'; and also a strip of land, designated as '1.0' reserve strip' running around the boundary of the subdivision for a greater portion of such boundary. Certain streets laid out on the map, including Raleigh Road, purport on the map to dead-end at said strip, but there is no provision upon the map for any turn-around at the places where the streets purport to stop at the strip. The plaintiffs claim that the one-foot reserve strip was intended by the developer to be used as a means of keeping the Knolls private, safe and secluded and that, among other purposes, it was intended to prevent and has the effect of preventing the building of through roads or highways running on to adjoining lands. . . .

155 N.Y.S.2d, *supra*, at 689.

In rejecting the plaintiffs' claim that there was an implied "negative easement" over the "reserve strip", which benefitted them by prohibiting its use to extend the subdivision road to the adjoining property, the Court explained that:

Thus, there is legal authority for an easement as claimed by plaintiffs, but there is here a failure of proof. There is no due proof of a covenant express or implied, by the common grantor, Mamaroneck Knolls, Inc, as the basis for such an easement. The plaintiffs attempted to prove an oral agreement on the part of such grantor that the one-foot reserve strip would be held for their benefit for purpose of secluding the

Hon. Richard Fon, Chairman and Members of the Planning Board

January 14, 2021

Page 5

Knolls and to prevent the cutting through of roads of adjoining premises. **The court rejected such parol evidence, and rightfully so, for a negative easement to have the effect of limiting the use of particular lands for the benefit of other lands is an interest in realty. See, *Chapman v. Sheridan-Wyoming Coal Co.*, *supra*; *Nellis v. Munson*, 108 N.Y. 453, 15 N.E. 739, which may be created only by a duly executed writing. . . .**

In any event, as heretofore noted, the alleged premises of plaintiffs' case is a claimed easement by implication rather than an express covenant. In determining whether or not plaintiffs have in fact made out a case, it is to be noted that the policy of the law is to favor the free and unobstructed use of property, see, *Premium Point Park Ass'n v. Polar Bar*, 306 N.Y. 507, 512 119 N.E.2d 360, 362; *Baxendale v. Property Owners' Ass'n*, Sup., 138 N.Y.S.2d 76 78, affirmed 285 App.Div. 1148, 140 N.Y.S.2d 176, affirmed 309 N.Y. 871, 131 N.E.2d 287 and, therefore, the evidence to establish an easement by implication should be clear and convincing. See *Zeiger v. Interborough Rapid Trans. Co.*, 254 App.Div. 908, 5 N.Y.S.2d 527, affirmed, 280 N.Y. 516, 19 N.E.2d 922. There is absolutely nothing by way of proof in this case to support a finding of an implied easement restricting the use of the one-foot reserve strip for the benefit of purchasers of lots in the Knolls. Clearly, there was no showing of any real or reasonable necessity for the easement to exist for the beneficial use and enjoyment of the residential properties in the Knolls. **The fact that the filed maps showed the strip and designated it as a '1.0' reserve strip,' and that lot owners purchased with reference to such map, does not justify an inference of an implied covenant that the strip was to be reserved for the purposes claimed by plaintiffs. On the face of it, the words would indicate merely that the title to this strip and to other parcels on the map marked 'reserved' was to be retained and held by the subdivider (Mamaroneck Knolls, Inc.), and there is no satisfactory proof that it was to hold the same for any particular purpose. (Emphasis added.)**

155 N.Y.S.2d, *supra*, at 691-692.

Hon. Richard Fon, Chairman and Members of the Planning Board

January 14, 2021

Page 6

Likewise, the objecting neighbors in this matter have no valid or enforceable claim with respect to the “reserve strip”.

Nor could any such claim be based on a note on the filed Map, even if it were not so completely vague, be enforced against the Applicant in any event, as it is not within the Applicant’s chain of title. See, *Ioannou v. Southold Town Planning Board*, 304 A.D.2d 578, 758 N.Y.S.2d 358 (2d Dep’t 2003):

Restrictive covenants are strictly construed against those seeking to enforce them and will be enforced only where their existence has been established by clear and convincing proof . . . The recording statutes in a grantor-grantee indexing system charge a purchaser with notice of matters only in the record of the purchased lands’ chain of title back to the original grantor . . . A purchaser is not normally required to search outside the chain of title . . .

758 N.Y.S.2d, *supra*, at 360.

See, also, *Fuentes v. Planning Board of the Village of Woodbury*, 82 A.D.3d 883, 918 N.Y.S.2d 213 (2d Dep’t 2011), in which the Court set aside a determination of the planning board denying an application for the amendment of a filed subdivision plat to remove a note with the restriction that certain lots on the map “are not approved for building lots.” The applicant sought to build on the subject lots. The Court held that although the planning board minutes indicated the intent of the board in imposing the restriction that the lots remain undeveloped, “the planning board failed to make this restriction clear in any document which became part of [the] chain of title.” Thus, the language did “not adequately convey a perpetual restriction on development of these lots” to bind a subsequent purchaser of the lots. The Court held that the planning board’s finding that removing the restriction recorded on the map “would be detrimental to the public health was conclusory and not supported by the record”.

See, also, *O’Mara III v. Town of Wappinger*, 9 N.Y.3d 303, 849 N.Y.S.2d 9 (2007); *Butler v. Mathisson*, 114 A.D.3d 894, 981 N.Y.S.2d 441 (2d Dep’t 2014); *Underhill Avenue Corp. v. Village of Croton-on-Hudson*, 82 A.D.3d 963, 919 N.Y.S.2d 67 (2d Dep’t 2011); *Patten Corp. v. Association of Property Owners of Sleepy Hollow Lake, Inc.*, 172 A.D.2d 996, 568 N.Y.S.2d 970 (3d Dep’t 1991).

On the basis of the foregoing, Osceola Road, including within it the non-restricted “reserve strip”, entitles the Applicant to a building permit for her property, subject to suitable improvement of the “reserve strip”, pursuant to the provisions of Town Law §§ 280-a(1)(a) and (c), which state as follows:

Hon. Richard Fon, Chairman and Members of the Planning Board

January 14, 2021

Page 7

Permits for buildings not on improved mapped streets

1. No permit for the erection of any building shall be issued unless a street or highway giving access to such proposed structure has been duly placed on the official map or plan, or if there be no official map or plan, unless such street or highway is (a) an existing state, county or town highway, or (b) a street shown upon a plat approved by the planning board as provided in sections two-hundred seventy-six and two hundred seventy-seven of this article, as in effect at the time such plat was approved, or (c) a street on a plat duly filed and recorded in the office of the county clerk or register prior to the appointment of such planning board and the grant to such board of the power to approve plats.

If, like Osceola Road, a street is an existing street, or appears on the Town's Official Map or is depicted on a filed subdivision plat, it need not be a public street in order to entitle a property owner to a building permit. See, Practice Commentaries, § 280-a, Terry Rice, p. 141, McKinneys (2013) and the cases cited therein.

The Applicant's entitlement to a building permit for her property was correctly recognized by the Town Highway Superintendent when he recently issued her a Street Opening Permit to perform the necessary improvement work over the "reserve strip" pursuant to Chapter 250 of the Town Code, "Streets and Sidewalks". Of course the Applicant's individual subdivision lots will qualify for building permits under § 280-a by virtue of their frontage on the proposed subdivision street extending from Osceola Road.

For all of the reasons set forth above, Applicant has the right to use the full length of Osceola Road, including the "reserve strip", to access her property. Conversely, objecting neighbors have no right to prevent her from doing so.

The inability of the Applicant to utilize Osceola Road to access her property would effectively render her property landlocked, as access to her property over her only frontage on a public road, Route 6N, is too steep to afford vehicular access. In that event, the Applicant would be deprived of all reasonable use of her property.

We trust that we have now answered any questions of the Board and the Town's professional staff and its counsel regarding the status of the "reserve strip" and the Applicant's right to make use of same.

Hon. Richard Fon, Chairman and Members of the Planning Board
January 14, 2021
Page 8

Thank you for your consideration.

Very truly yours,

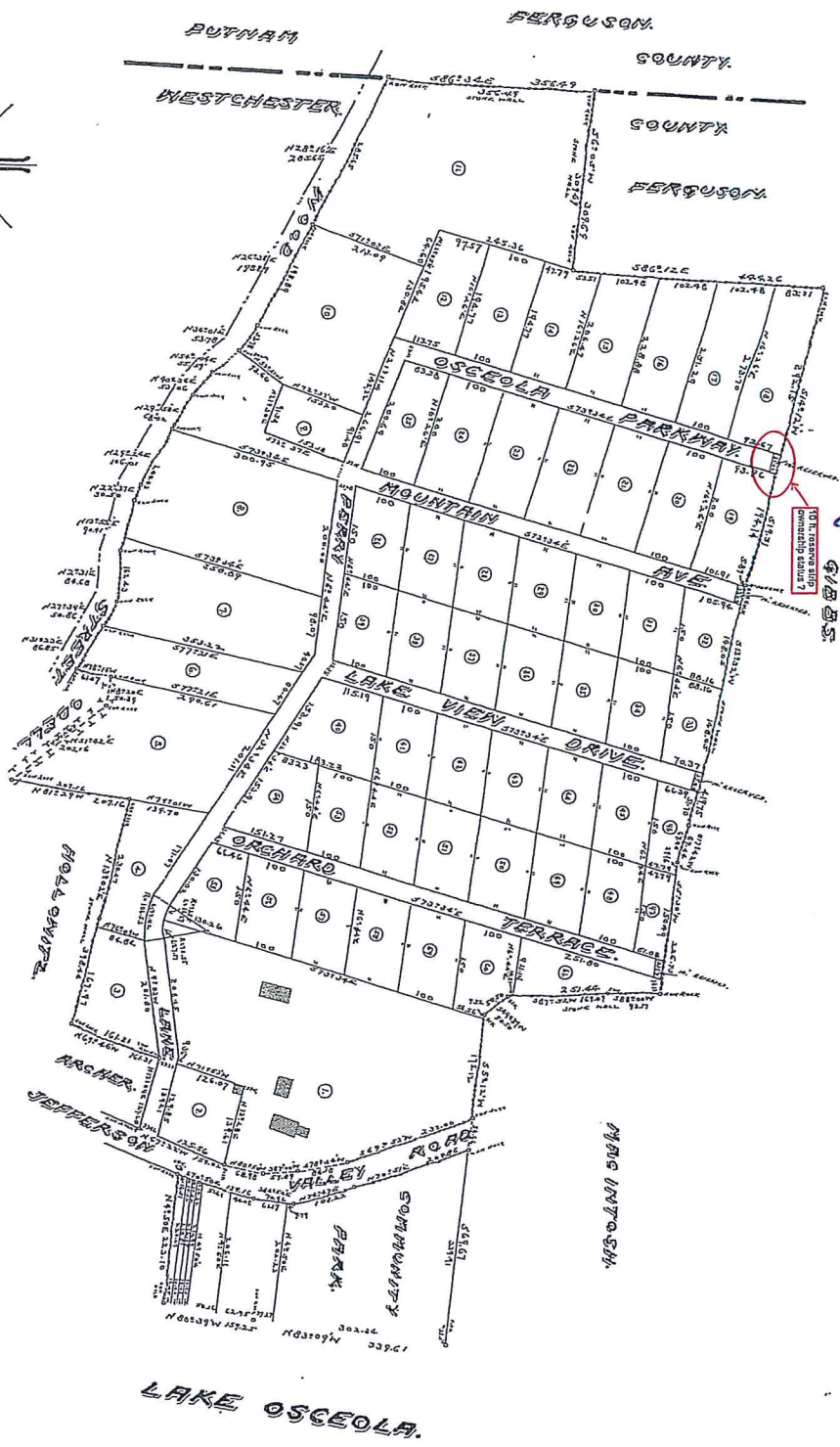
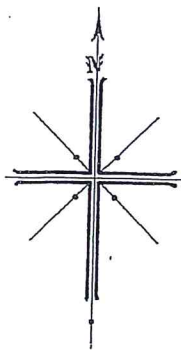
A handwritten signature in blue ink, appearing to read "Robert F. Davis". The signature is stylized and cursive.

Robert F. Davis

RFD:dds
Enclosures

c: Ralph Mastromonaco, P.E.
Kristine M. Hansmann

EXHIBIT 1



**MAP OF
OSCEOLA HEIGHTS,
VORKTOWN, WESTCHESTER COUNTY,
JEFFERSON VALLEY, N. Y.**

SCALE 1 INCH = 100 FEET
SEPT 25, 1923.

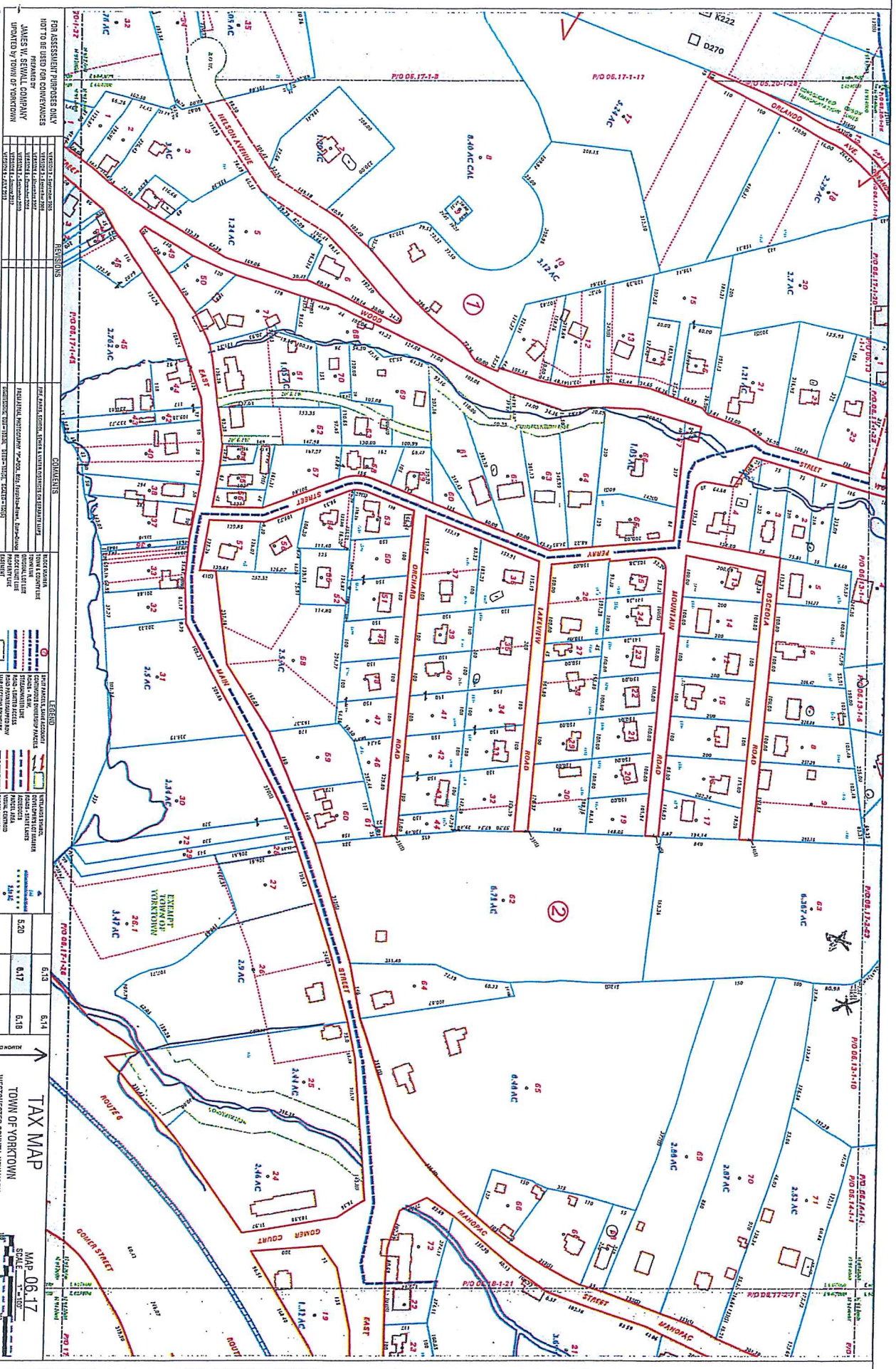
Filed in the office of the Town
of Westchester, New York
this 11th day of September, 1923.

WILLIAM B. LOCKWOOD, OSCEOLA
HEIGHTS, VORKTOWN, WESTCHESTER
COUNTY, NEW YORK, SURVEYOR
AND SUPERVISOR OF THE
TOWN OF WESTCHESTER, NEW YORK.
By *William B. Lockwood*,
Surveyor.

LOT 12345
MOUNTAIN AVE

LAKE OSCEOLA.

EXHIBIT 2



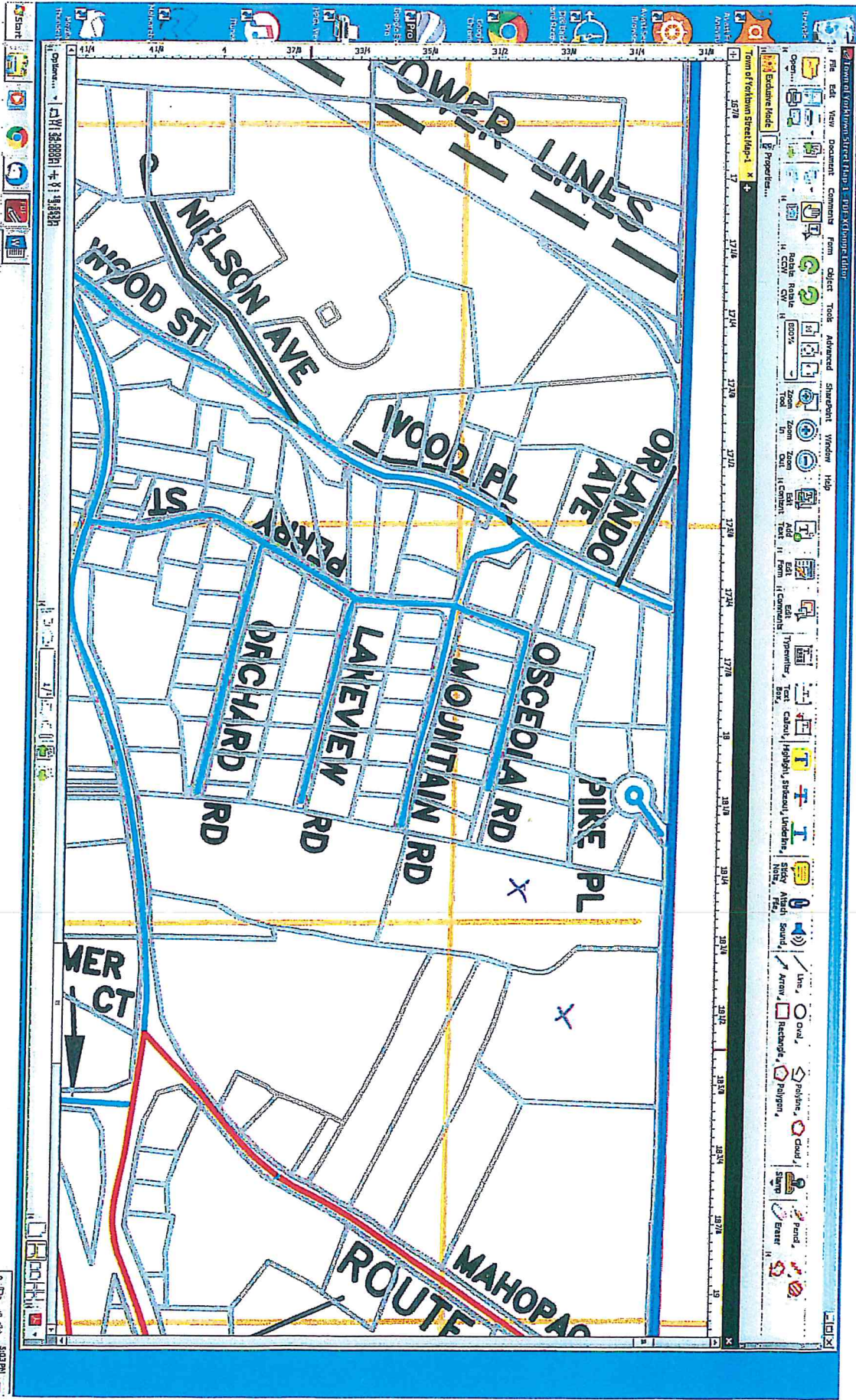
FOR ASSESSMENT PURPOSES ONLY
 NOT TO BE USED FOR CONVEYANCES
 PREPARED BY
 JAMES W. SEWELL COMPANY
 UNDATED BY TOWN OF YORKTOWN

REVISIONS	
NO. 1	ISSUED 12/15/17
NO. 2	ISSUED 08/17/18
NO. 3	ISSUED 08/17/18
NO. 4	ISSUED 08/17/18
NO. 5	ISSUED 08/17/18
NO. 6	ISSUED 08/17/18
NO. 7	ISSUED 08/17/18
NO. 8	ISSUED 08/17/18
NO. 9	ISSUED 08/17/18
NO. 10	ISSUED 08/17/18
NO. 11	ISSUED 08/17/18
NO. 12	ISSUED 08/17/18
NO. 13	ISSUED 08/17/18
NO. 14	ISSUED 08/17/18
NO. 15	ISSUED 08/17/18
NO. 16	ISSUED 08/17/18
NO. 17	ISSUED 08/17/18
NO. 18	ISSUED 08/17/18
NO. 19	ISSUED 08/17/18
NO. 20	ISSUED 08/17/18
NO. 21	ISSUED 08/17/18
NO. 22	ISSUED 08/17/18
NO. 23	ISSUED 08/17/18
NO. 24	ISSUED 08/17/18
NO. 25	ISSUED 08/17/18
NO. 26	ISSUED 08/17/18
NO. 27	ISSUED 08/17/18
NO. 28	ISSUED 08/17/18
NO. 29	ISSUED 08/17/18
NO. 30	ISSUED 08/17/18
NO. 31	ISSUED 08/17/18
NO. 32	ISSUED 08/17/18
NO. 33	ISSUED 08/17/18
NO. 34	ISSUED 08/17/18
NO. 35	ISSUED 08/17/18

COMMENTS	
1	REVISIONS TO THE MAP
2	REVISIONS TO THE MAP
3	REVISIONS TO THE MAP
4	REVISIONS TO THE MAP
5	REVISIONS TO THE MAP
6	REVISIONS TO THE MAP
7	REVISIONS TO THE MAP
8	REVISIONS TO THE MAP
9	REVISIONS TO THE MAP
10	REVISIONS TO THE MAP
11	REVISIONS TO THE MAP
12	REVISIONS TO THE MAP
13	REVISIONS TO THE MAP
14	REVISIONS TO THE MAP
15	REVISIONS TO THE MAP
16	REVISIONS TO THE MAP
17	REVISIONS TO THE MAP
18	REVISIONS TO THE MAP
19	REVISIONS TO THE MAP
20	REVISIONS TO THE MAP
21	REVISIONS TO THE MAP
22	REVISIONS TO THE MAP
23	REVISIONS TO THE MAP
24	REVISIONS TO THE MAP
25	REVISIONS TO THE MAP
26	REVISIONS TO THE MAP
27	REVISIONS TO THE MAP
28	REVISIONS TO THE MAP
29	REVISIONS TO THE MAP
30	REVISIONS TO THE MAP
31	REVISIONS TO THE MAP
32	REVISIONS TO THE MAP
33	REVISIONS TO THE MAP
34	REVISIONS TO THE MAP
35	REVISIONS TO THE MAP

TAX MAP
 MAP 06.17
 SCALE 1"=100'
 DATE OF MAP: 08/17/18
 WESTCHESTER COUNTY, NEW YORK
 TOWN OF YORKTOWN
 GOMER COURT
 MAP 06.17
 SCALE 1"=100'
 DATE OF MAP: 08/17/18
 WESTCHESTER COUNTY, NEW YORK
 TOWN OF YORKTOWN
 GOMER COURT

EXHIBIT 3



7000 Wards Road
Map

303701
5/27/2019

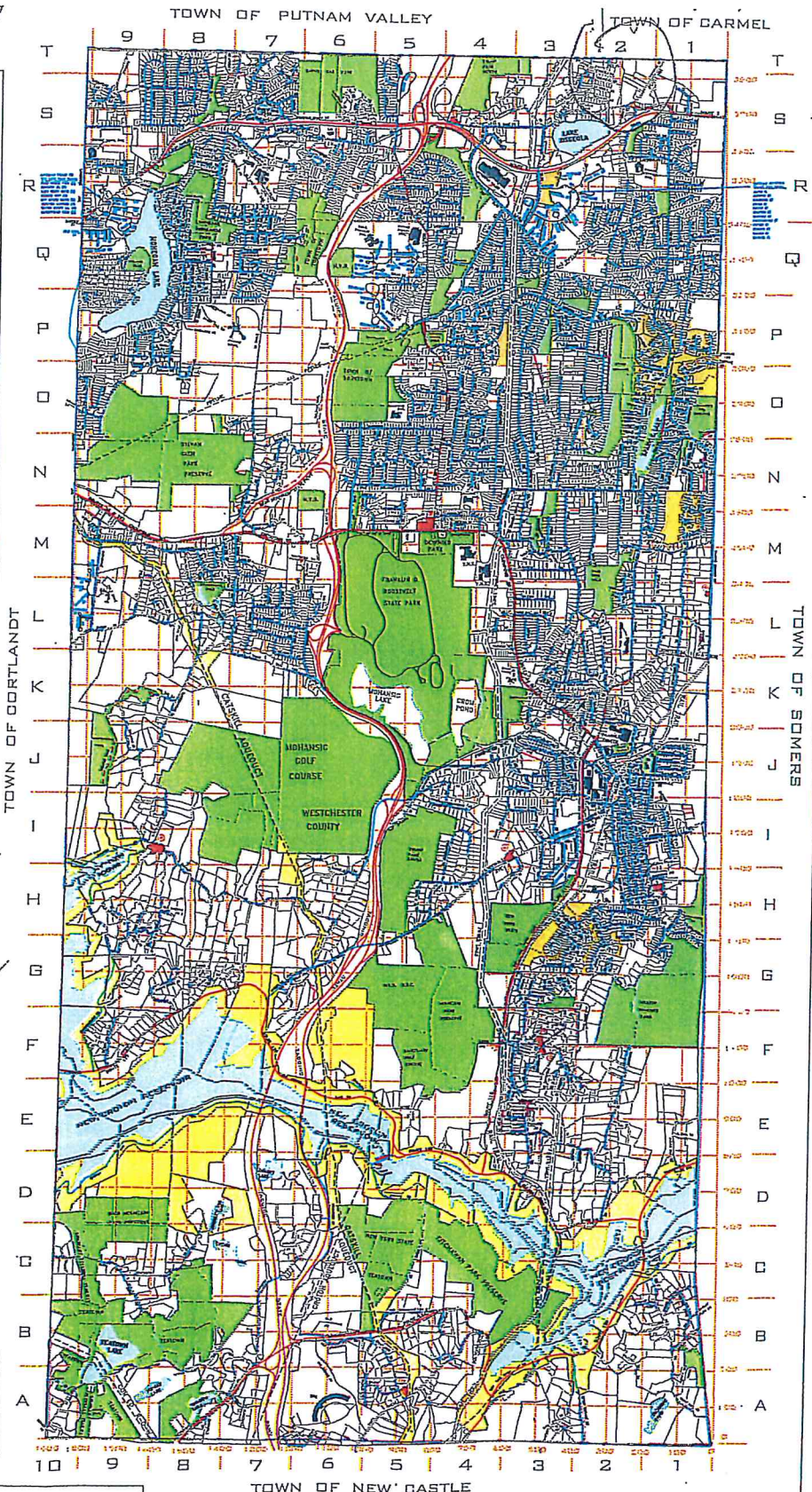
EXHIBIT 4

Town of YORKTOWN, NY

Westchester County
First Settled 1683
Incorporated 1788

STREET INDEX

A	ALBANY ST	ALBANY ST
B	ALBANY ST	ALBANY ST
C	ALBANY ST	ALBANY ST
D	ALBANY ST	ALBANY ST
E	ALBANY ST	ALBANY ST
F	ALBANY ST	ALBANY ST
G	ALBANY ST	ALBANY ST
H	ALBANY ST	ALBANY ST
I	ALBANY ST	ALBANY ST
J	ALBANY ST	ALBANY ST
K	ALBANY ST	ALBANY ST
L	ALBANY ST	ALBANY ST
M	ALBANY ST	ALBANY ST
N	ALBANY ST	ALBANY ST
O	ALBANY ST	ALBANY ST
P	ALBANY ST	ALBANY ST
Q	ALBANY ST	ALBANY ST
R	ALBANY ST	ALBANY ST
S	ALBANY ST	ALBANY ST
T	ALBANY ST	ALBANY ST



SCALE IN FEET
1 inch = 500 FT.

SCALE IN MILES
1 inch = 1 MILE

**SIXTEENTH AMENDED
STREET NAMING AND
PROPERTY NUMBERING
MAP**

LEGEND

TYPE	SYMBOL	LENGTH
TOWN ROADS	(thick blue line)	164 MILES
STATE ROADS	(red line)	26 MILES
PRIVATE ROADS	(thin blue line)	35 MILES
PAPER ROADS	(dashed blue line)	7 MILES
UTILITY SERVICES	(dotted blue line)	26 MILES
TRAILS	(dashed red line)	13 MILES
TOWN LANE	(thin red line)	27 MILES

MAJOR PARKS, YKTN PARCELS & OPEN SPACE (green)

MAJOR LAKES (blue)

NYC PARCELS (yellow)

PRIVATE OPEN SPACE (orange)

2000 CENSUS
POPULATION 36,318
39.3 SQUARE MILES

RANGES: 1-10, 11-20, 21-30, 31-40, 41-50, 51-60, 61-70, 71-80, 81-90, 91-100

THIS MAP IS FOR INFORMATIONAL PURPOSES ONLY. THE TOWN OF YORKTOWN ASSUMES NO LIABILITY TO ANY PARTY FOR ANY LOSS OR DAMAGE CAUSED BY ERRORS OR OMISSIONS RESULTING FROM NEGLIGENCE, ACCIDENT OR ANY OTHER CAUSE, AND HEREBY DISCLAIMS ANY LIABILITY FOR SUCH LOSS OR DAMAGE.

EXHIBIT 5

Robert Davis

From: Patrick Clowry <patrick@attorneystitle.biz>
Sent: Thursday, October 03, 2019 3:33 PM
To: Robert Davis
Subject: RE: ACC19-7857W / Osceola Road

Correct

Patrick F. Clowry
Vice President
Attorney's Title Insurance Agency, Inc.
914-244-3738

On Thu, Oct 3, 2019 at 3:31 PM, Robert Davis
<RDavis@sdslawny.com> wrote:

Thank you Patrick. Is it fair to say in the opinion of you and the Examiner that title to the reserve strip remains in Perry, the initial grantor identified in your report-or not?

Robert F. Davis, Esq.

Singleton, Davis & Singleton

120 East Main Street

Mt. Kisco, New York 10549

P: (914) 666-4400

F: (914) 666-6442

e-mail: rdavis@sdslawny.com

web site: www.sdslawny.com

Confidentiality Notice

This message is intended only for the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient, or the agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited, and you are requested to please notify us by telephone, e-mail or fax, and return the original message to us at Singleton, Davis & Singleton with the above address. Although this message and any attachments are believed to be free of any virus or defect that might affect any computer system into which it is received and opened, it is the responsibility of the recipient to ensure that is virus free, and no responsibility is accepted by this firm for any loss or damage arising in any way.

From: Patrick Clowry [mailto:patrick@attorneystitle.biz]
Sent: Thursday, October 03, 2019 3:19 PM
To: Robert Davis
Subject: ACC19-7857W / Osceola Road

Hi Bob,

please find search attached hereto.

best,

Patrick F. Clowry
Vice President
Attorney's Title Insurance Agency, Inc.
126 Barker Street
Mt. Kisco, N.Y. 10549
914-244-3738
Fax 914-244-3814
www.attorneystitle.biz

*Celebrating our 25th year of dedicated service to the title insurance industry
your neighborhood title agency since 1994*

ATTORNEY'S TITLE INSURANCE AGENCY, INC.

126 BARKER STREET

MOUNT KISCO, N.Y. 10549

(914) 244-3738 FAX (914) 244-3814

www.attorneytitle.biz

October 3, 2019

Robert F. Davis, Esq.
Singleton, Davie & Singleton
120 East Main Street
Mount Kisco, N.Y. 10549

RE: ACC19-7857W
304 Osceola Road, Yorktown

Dear Bob:

Your office has instructed this company to conduct a search on Osceola Road and the 10' Reserve Strip as outlined on Filed Map No. 2542 to determine the status and ownership of same. Please find below the results of our inquiry into same:

Osceola Road:

A Search was conducted to ascertain the fee ownership of Osceola Road, as it pertains to Lots 17 and 18 on Filed Map No. 2542 / Tax Lot 9.

Our first deed out of the developer, Lester A. Perry and Jessie E. Perry to Agnes D. Brundage, recorded in Liber 4358 Cp. 7 contained the following language, "Together with all right, title and interest of Grantors in and to Street or Road running between these lots and property now owned by the purchaser immediately in front of, and adjacent thereto, which right is herein merely Quit Claimed, but not covered by the warranties herein." Grantee in this deed was also granted the rights to use the roads as shown on said map for ordinary traveling purposes.

The Estate of Agnes D. Brundage subsequently conveyed said premises to Thomas J. Donnelly by virtue of a deed recorded in Liber 6711 Cp. 160. Said deed contained similar language as aforementioned, but is slightly varied "Together with all right, title and interest of Grantors in and to Street or Road running between these lots and property immediately in front of, and adjacent thereto."

The Estate of Thomas J. Donnelly then had conveyed the premise to Regis High School by virtue of a deed recorded in Liber 9947 Cp. 283. Said deed contained the same language as

RE: ACC19-7857W
304 Osceola Road, Yorktown
Continued Page 2

aforementioned, "Together with all right, title and interest of Grantors in and to Street or Road running between these lots and property immediately in front of, and adjacent thereto." This deed, unlike the prior two (2), contained within same, the *Standard Street Clause*.

Regis High School then conveys said premises to Roger G. Steves by virtue of a deed recorded in Liber 10069 Cp. 232. This deed to contains the same "Together with..." language as seen in the immediate prior deed and too contains within, the *Standard Street Clause*.

Roger G. Steves conveys the premises to Patricia Broadley-Steves by virtue of a deed recorded in Liber 10654 Cp. 279. This deed is for no consideration. As with the prior deeds, it too includes the "Together with..." language and also contained the *Standard Street Clause*.

Patricia Broadley-Steves conveys said premises by virtue of deed for no consideration to Roger G. Steves and Patricia Steves, recorded in Control No. 431000588. This is the first deed in the chain to not include the "Together with..." language. However, it does include the *Standard Street Clause* and "...being the same...in Liber 10654 Cp. 279...".

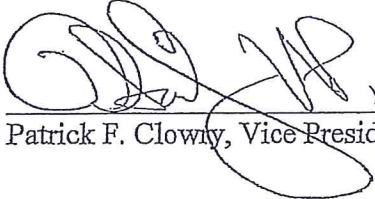
In our last deed of record for the examined chain, The Steves convey the premises to Richard Gogola and Christine Sasser, by virtue of a deed recorded in Control No. 451520540. This deed does not include the "Together with..." language, but does include the *Standard Street Clause* and "...being the same premises...in Liber 10069 Cp. 230...in Liber 10654 Cp. 279...under Control No. 431000588".

After the review of the chain described above, it is the determination of this company that the fee ownership of the lands lying in the bed of Osceola Road lies in the ownership of Lots 17 and 18 on Filed Map No. 2542 / Tax Lot 9, to the centerline thereof. For your convenience, I have included the entire deed chain as referenced herein.

10' Reserved Strip / Osceola Road:

A Grantee/Grantor search was performed to determine whether an Easement and/or Rights were or have been granted to a certain parcel designated as Section 6.17 Block 2 Lot 63 on the Official Tax Map of the Town of Yorktown. This parcel directly adjoins the 10' Reserved Strip as shown on Filed Map No. 2542, specifically at the end of Osceola Road. The search which began in the early 1900's has revealed that no Easement / Rights were found granted to any of the owners of this parcel over the 10' Reserved Strip in question. Further, no ownership rights specific to said reserved strip has been found of record.

Liability of the search is limited to the fees paid therefore.



Patrick F. Clowry, Vice President

ATTORNEY'S TITLE INSURANCE AGENCY, INC.

126 BARKER STREET
MOUNT KISCO, N.Y. 10549
(914) 244-3738 FAX (914) 244-3814
www.attorneytitle.biz

October 3, 2019

Robert F. Davis, Esq.
Singleton, Davie & Singleton
120 East Main Street
Mount Kisco, N.Y. 10549

RE: ACC19-7857W (I)
302 Mountain Road / 308 Mountain Road, Yorktown

Dear Bob:

Your office has instructed this company to conduct a search on Osceola Road and the 10' Reserve Strip as outlined on Filed Map No. 2542 to determine the status and ownership of same. Please find below the results of our inquiry into same:

Osceola Road:

A Search was conducted to ascertain the fee ownership of Osceola Road, as it pertains to Lots 19 and 20 on Filed Map No. 2542 / Tax Lots 16 and 17.

Lots 19 and 20 on Filed Map No. 2542:

Our first deed out of the developer, Lester A. Perry and Jessie E. Perry to Clifford E. Brundage, recorded in Liber 3516 Cp. 237 did not convey with it any portions of the road in front of or adjacent to the said lots under examination, but did convey the right to use "...any and all of the roads...on said map..." for ordinary travel.

Our next deed is from Clifford E. Brundage to Agnes C. Donnelly, recorded in Liber 3575 Cp. 333. This deed did not contain any language specific to the roads and did not convey any easement rights to use same, unlike the previous deed.

Agnes Donnelly Brundage then conveys both lots to Alice E. Bernstein, by virtue of deed recorded in Liber 4998 Cp. 379. Again, no mention of the roads being conveyed, but the rights of the grantee to use the roads reappears.

Deed from Alice E. Bernstein to James Timonen and Wayne Timonen, recorded in Liber 7075 Cp. 774 contains the *Standard Street Clause*. This is the first time this clause has been included.

James L. Timonen and Wayne A. Timonen convey said premises to Claremont Group,

RE: ACC19-7857W (I)
302 Mountain Road / 308 Mountain Road, Yorktown
Continued Page 2

Inc., by virtue of deed recorded in Liber 7118 Cp. 362. This deed contained the *Standard Street Clause*. The Grantee in this deed is the future developer of Lots 16 and 17 on Filed Map No. 2542 and subdivides these lots into two (2) distinct and separate taxable lots. They will become to be known as the following:

- 302 Mountain Road / Section 6.17 Block 2 Lot 17 / p/o Lots 19 & 20 on Filed Map No. 2542
- 308 Mountain Road / Section 6.17 Block 2 Lot 16 / p/o Lots 19 & 20 on Filed Map No. 2542

Both of these newly created parcels will go through numerous deed conveyances between them bringing us to present day. Each conveyance in their respective deed chains contained within, the *Standard Street Clause*, but no specific recitals as to any of the roads being conveyed or easement over same.

After the review of the chain described above, it is the determination of this company that the fee ownership of the lands lying in the bed of Osceola Road, in front of and adjacent to the lots under examination lies in the developer Lester A. Perry and Jessie E. Perry, although there is color of title created once the standard street clause appears. What remains unclear is that the deed out of Perry in Liber 4358 Cp. 7 for Filed Map Lots 17 & 18 on Map No. 2542 containing "Together with all right, title and interest of Grantors in and to Street or Road running between these lots and property now owned by the purchaser immediately in front of, and adjacent thereto, which right is herein merely Quit Claimed, but not covered by the warranties herein.", was it the intent of this language to convey with said lots *ALL* of the road to the grantee in that deed? As noted in this search, Tax Lots 16 & 17 carry with them addresses of Mountain Road and not Osceola Road so this adds to the question.

10' Reserved Strip / Osceola Road:

A Grantee/Grantor search was performed to determine whether an Easement and/or Rights were or have been granted to a certain parcel designated as Section 6.17 Block 2 Lots 16 & 17 on the Official Tax Map of the Town of Yorktown. This parcel directly adjoins the 10' Reserved Strip as shown on Filed Map No. 2542, specifically at the end of Osceola Road. The search which began in the early 1900's has revealed that no Easement / Rights were found granted to *any* of the owners of this parcel over the 10' Reserved Strip in question. Further, no ownership rights specific to said reserved strip has been found of record.

Liability of the search is limited to the fees paid therefore.



Patrick F. Clowry, Vice President