Dirt Road Seminar



Legal aspects of drainage easements and right of way easements associated with dirt road maintenance



hangry (adj.)

1. Being so hungry you are overcome with anger.

Example:

Jane got so hangry in the staff meeting, she tackled the intern for his bagle.







Legal definition of easement:

• the right to use the real property of another for a specific purpose. The *easement* is itself a real property interest, but *legal* title to the underlying land is retained by the original owner for all other purposes.

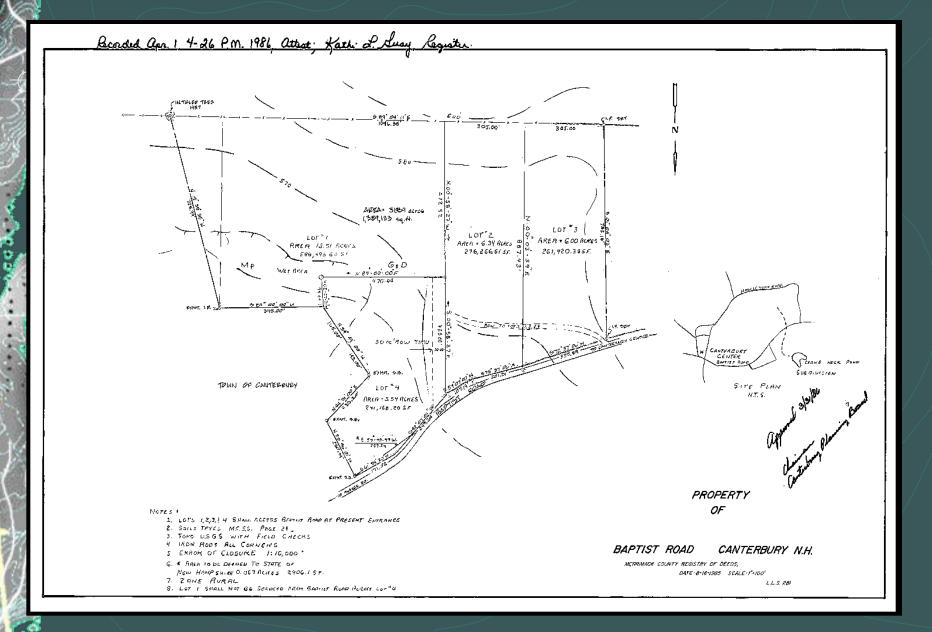






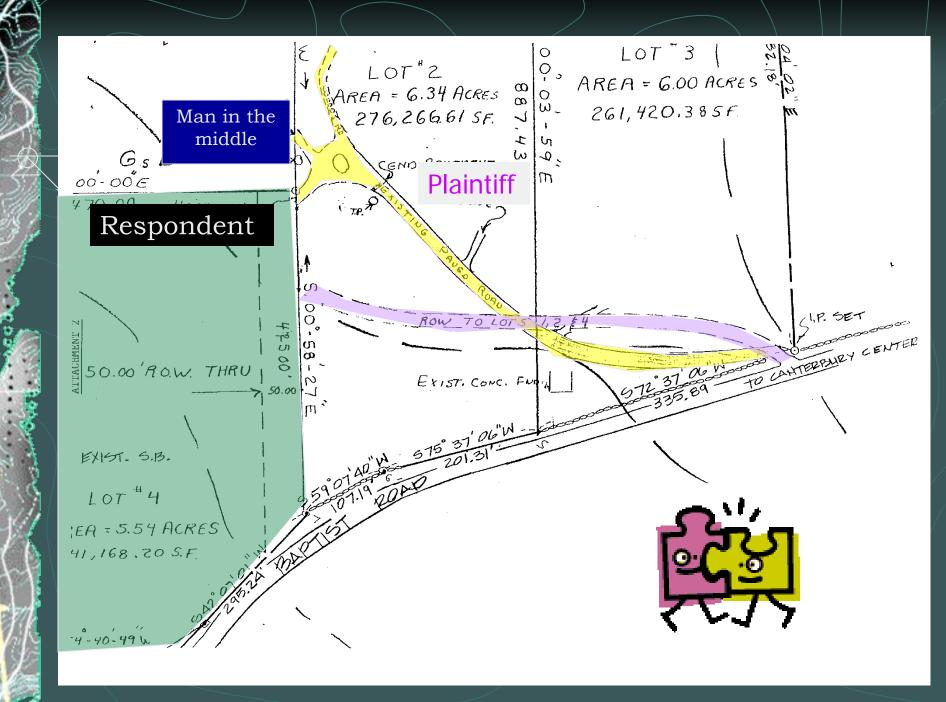


Approved Subdivision Plan



NOTES :

- 1. LOTS 1,2,3, + 4 SHALL ACCESS BAPTIST ROAD AT PRESENT ENTRANCE
- 2. Soils TRYES M.C.S.S. PAGE 28
- 3. TOPO U.S.GS WITH FIELD CHECKS
- 4. IRON RODS ALL CORNERS
- 5. ERROR OF CLOSURE 1:10,000 "
- 6. * AREA TO BE DEEDED TO STATE OF NEW HAMP SHIRE O. 067 ACRES 2906.1 SF.
- 7, ZONE RURAL
- 8. LOT I SHALL NOT BE SERVICED FROM BAPTIST ROAD ACROSS LOT 44



-2-

This conveyance is made subject to a right-of-way fifty feet (50) wide running along the westerly sideline of the above-described premises leading from Baptist Road to lot #1. The owner of lot #1 and their heirs and assigns shall have the right to the use of said right-of-way; however, said right-of-way may not be used as a driveway.

Grantors also convey to grantees, the right-to-use a right of way thirty (30) feet wide in conjunction with the owners of lots #1, #2, and #3 on Plan #8798 as a driveway for access to Baptist Road.

Meaning and intending to describe and convey a portion of the premises conveyed to grantors by Fiduciary Deed of administrator of the Estate of recorded in Merrimack County Registry of Deeds in Book Page

This deed is a corrective deed and is intended to correct a prior deed from Grantors to Grantees dated July 8, 19 and recorded in Merrimack County Registry of Deeds Book Page wherein a fifty foot (50) wide right-of-way over the demised premises was made subject to use by owners of lot #2 and #3, see Subdivision Plan #8798.

There are no tax stamps required pursuant to RSA78-B: ZV as this deed is given to correct a prior deed.

SIGNED	this	day	7 1	0	£,		 	 	 j			
		•				-	 	 	 <u></u> .	 	 	

STATE OF NEW HAMPSHIRE

SS.

In witness whereof I hereunto set my hand and official seal.

Justice of the Peace-Notary Public

COUNTY RECORDS

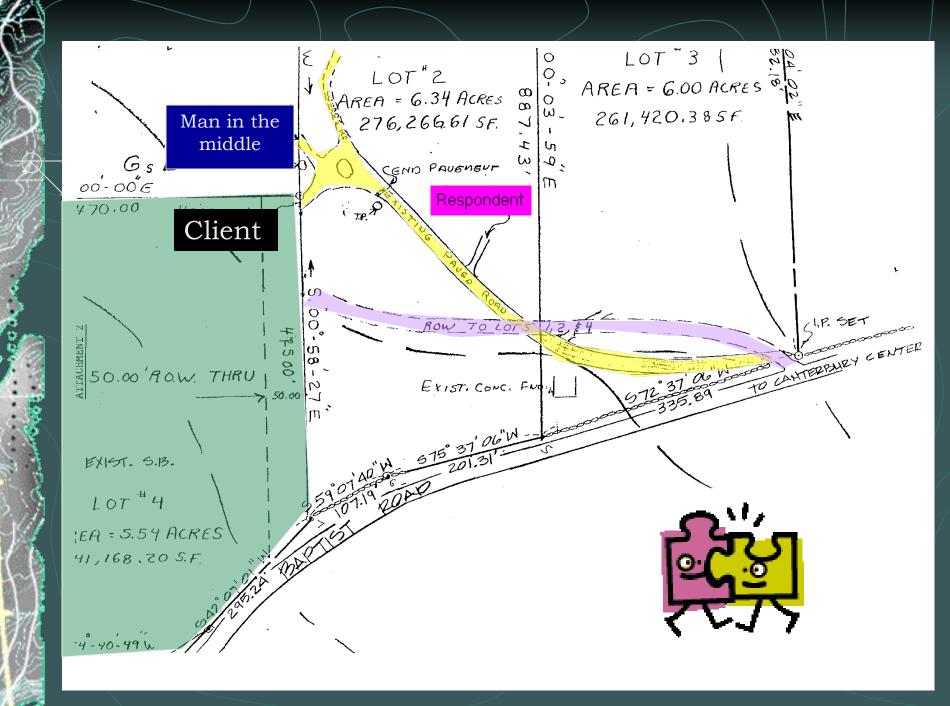
MCRD COPY:

, Register

BOOK PAGE Client's Deed

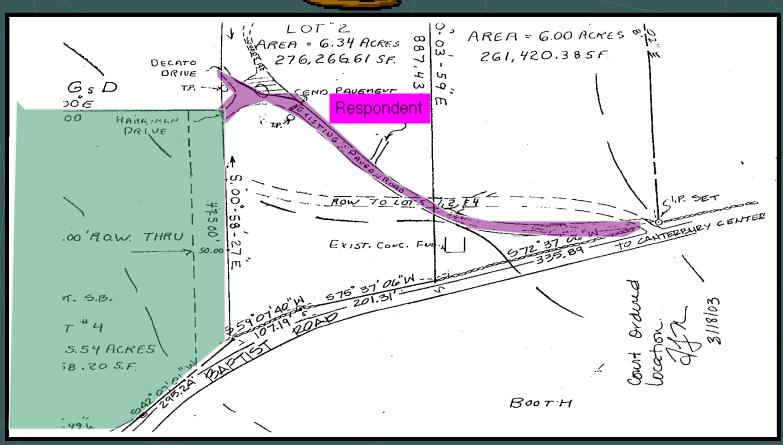
"This conveyance is made subject to a ROW 50 feet wide running along the westerly sideline of the above-described premises leading from Baptist Rd to Lot #1. The owner of Lot #1 and their heirs and assigns shall have the right to the use of said ROW however, said ROW may not be used as a driveway."

"Grantees also convey to grantees the right-to-use a ROW 30 feet wide in conjunction with the owners of Lots #1, Lot #2, Lot #3 on Plan # as a driveway for access to Baptist Rd."



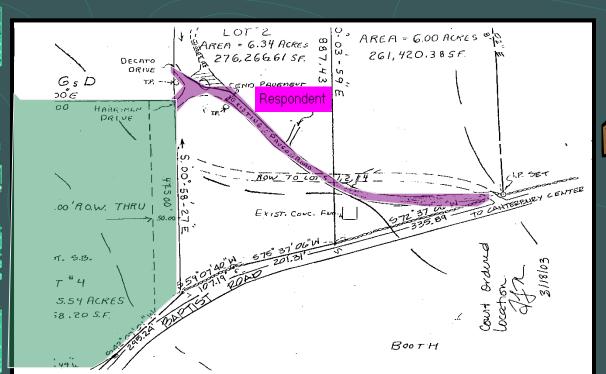
The Judge's Decision





The Fall-out

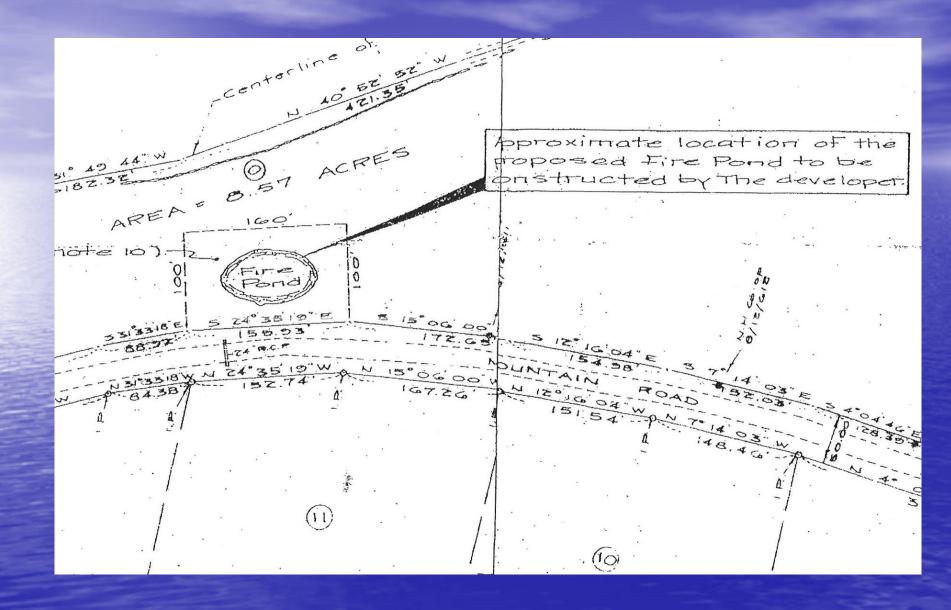
- How wide is the R.O.W.?
- What is the effect on Lot #1?
- R.O.W. is still not defined by any reproducible means
- Snowplowing and maintenance responsibility still not defined

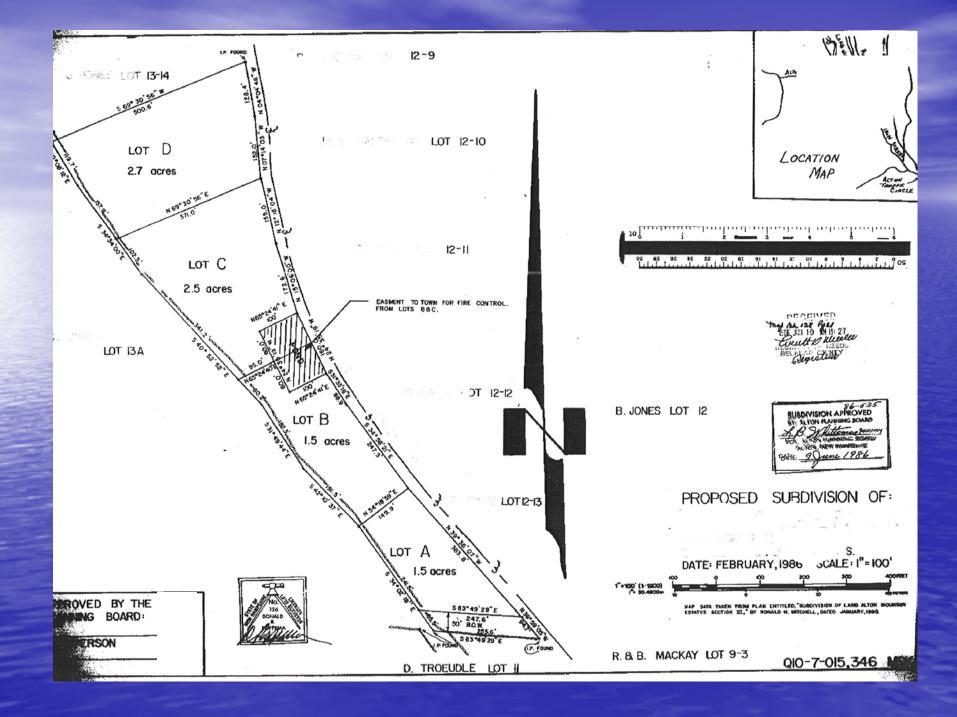






A written easement is to be executed by the developer to the town of (No-name) Fire Department to use and maintain the proposed fire pond within the easement limits as designated on this plan







Warranty Deed

Hunter Homes, Inc., a New Hampshire Corporation

of P. O. Box 17 Route 11, Alton Bay, New Hampshire 03810

for consideration paid, grant to Theresa R. Tavares and Mark Tavares

of 15 Walker Hill Road , Sandy Hook, CT 06842 with WARRANTY COVENANTS, as Joint Tenants with Rights of Survivorship

(Description, and Encumbrances, if any)

A certain tract or parcel of land shown as Lot B on a plan entitled "Proposed Subdivision of Alex Gagnon Lot in Alton, NH" by Donald R. Poppema, R.L.S. dated February 1986, as amended and recorded in the Belknap County Registry of Deeds in Plan Book 128, Page 21, and more particularly bounded and described as follows:

Beginning at a point on the westerly sideline of Alton Mountain Road, so-called, the same being the southeasterly corner of the premises herein conveyed and thence running N, 34° SS' 21" W. along the westerly sideline at said road a distance of 247.3 feet, more or-less, to a point, thence continuing along the westerly sideline of asid road N, 31° SI' 318" W. a distance of S8.9 feet to a point at the southeasterly corner of a certain fire pond, situated on the westerly sideline of said Alton Mountain Road; thence continuing along the westerly sideline of said aroad and the casterly sideline of said fire pond N, 24° 35 19" W. a distance of 80 feet, more or less, to a point; thence turning and running through the middle of said fire pond S. 65° 24' 41" W. a distance of 100 feet, more or less, to a point; thence turning and running and pain and onw or formerty of Jones S. 40° 25° 27" E. a distance of 50° feet, more or less, to a point; thence turning and running along and onw or formerty of Jones S. 40° 25° 27" E. a distance of 80° Zefet, distance of 130° Zefet, a distanc

Containing 1.5 acres, more or less.

This conveyance is subject to the right of the Town of Alton Fire Department to use and maintain the aforementioned fire pond as located on said premises.

Being the same premises conveyed to Hunter Homes, Inc., by deed dated May 22, 2003 and recorded with the Belknap Registry of Deeds on May 23, 2003 at 11:16 AM at Book

"This conveyance is subject to the right of Town of No-name Fire Department to use and maintain the fire pond as located on said premises"

Nothing on abutting lot









What is a Dam aka what do we have jurisdiction over?

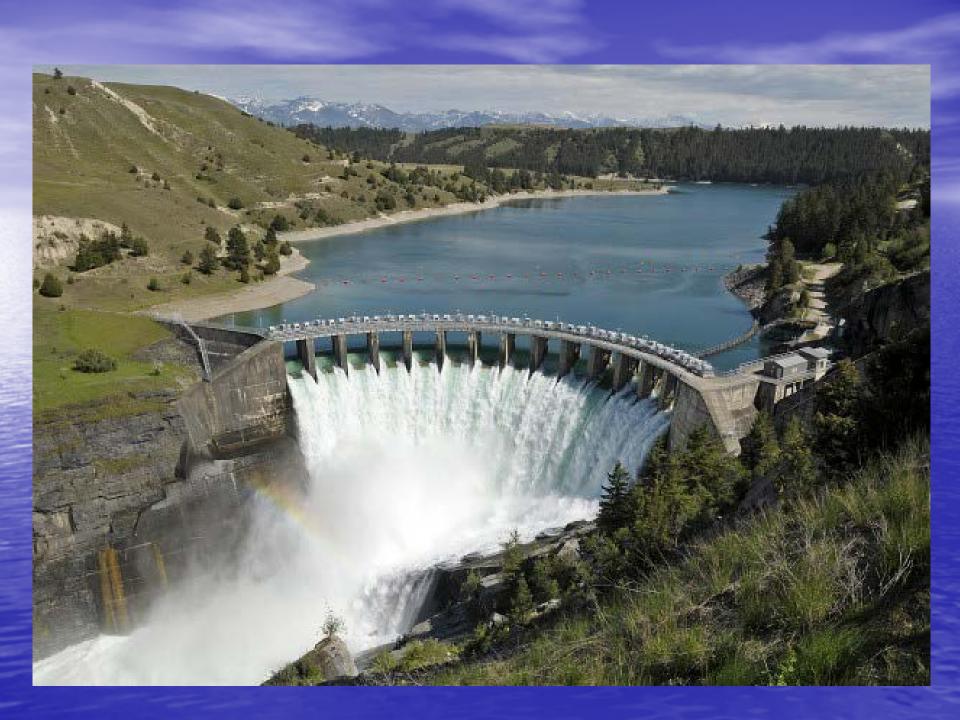


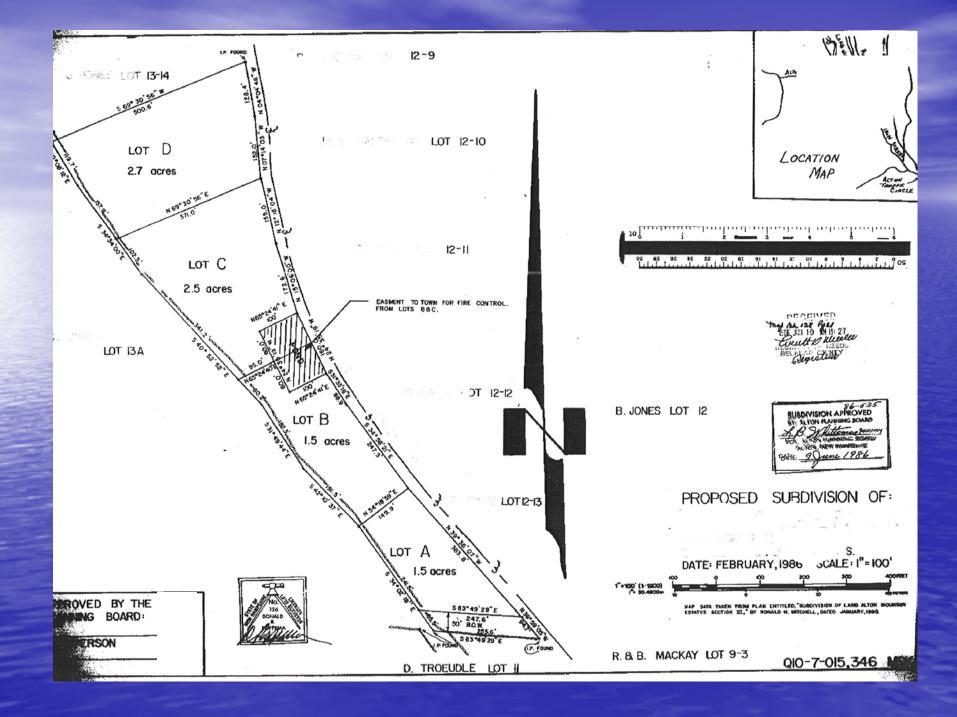
Height of 6' or more



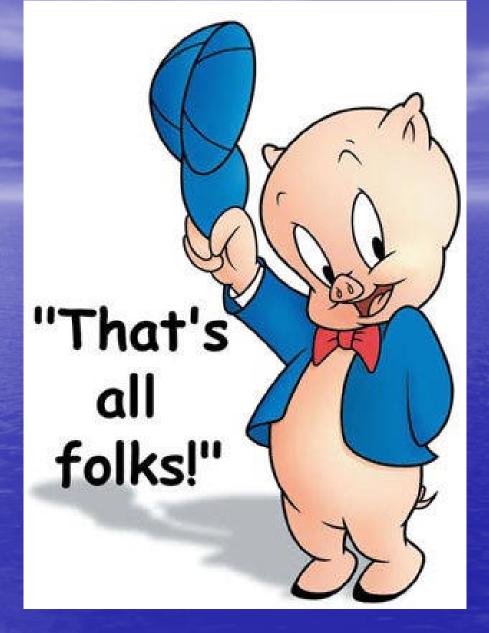
Roadway Culvert











Questions???



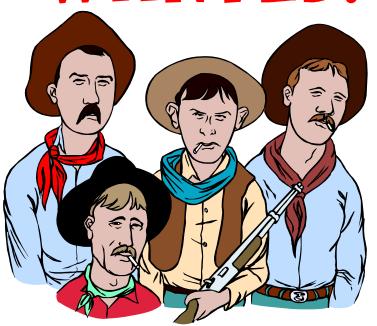
Downstream face - height



WANTED!

NOTES :

- 1, LOTS 1,2,
- 2. Soils TPY
- 3. TOPO U.S.
- 4. IRON ROD
- 5. ERROR O
- G. * AREA TO NEW HAMI
- 7. ZONE
- 8. LOT / 51



PRESENT ENTRANCE

ROAD ACROSS LOT 44

PLANNING BOARD



