

EXHIBIT “A”
(To Honan Letter to ZBA)

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
In the matter of the application of DEBORAH KOPALD,

Petitioner,

**AFFIDAVIT
IN SUPPORT OF MOTION**

For a Judgment Pursuant to Article 78

Index No. 2019-007757

-against-

**Assigned to:
Hon. Robert A. Onofry, JSC**

THE TOWN OF HIGHLANDS NEW YORK,
DAVID TONNESON, DEBORAH TONNESON
JAIDEN PAISLEY-TONNESON,

Respondents

-----X

I, DAVID TONNESON, being duly sworn, deposes and states as follows:

1. That I am an individual named respondent in the instant action, currently residing at 35 Hemlock Street, Fort Montgomery, New York. I am an owner of the property that is the subject of this action located on Poplar Street in the Town of Highlands, County of Orange, identified by tax lot number as Section 11 Block 1 Lot 1.52 (hereinafter "Subject Property"), which is a neighboring property to where I reside with my wife Deborah Tonneson and daughter Jaiden Paisley Tonneson. As the property owner and named respondent I am fully familiar with the facts and circumstances stated herein. I submit this affidavit in support of the Respondents' motion to dismiss the instant Article 78 proceeding.

2. On or about May 23rd 2019, I acquired title to the subject property along with my wife Deborah Tonneson and my daughter, Jaiden Paisley Tonneson, from Susan Kopald, Executrix of the Estate of Jonathan R. Kopald and Ned Kopald. We bought the property to build a house for our daughter, Jaiden Paisley Tonneson, to reside close by. Upon information and belief, Susan Kopald is the mother of the Petitioner, and Ned Kopald is an uncle of Petitioner. A copy of the deed is annexed hereto as Exhibit A.

3. On or about July 12, 2019, I applied to the Town of Highlands for, and received, a building permit to construct a well for the use of a future single family home on the subject property. On or about September 4, 2019, I applied for, and received, a building permit to install a foundation system, in accordance with plans prepared by Talcott Engineering Design, PLLC. Thereafter, on or about September 30, 2019, I applied for, and received, a building permit to construct a single family home on the subject property. Copies of the building permits that were issued by the Town of Highlands are annexed hereto collectively as Exhibit B. A copy of the survey site plan upon which the building permits were issued and foundation plans based, is annexed hereto as Exhibit C. This site plan is dated August 30, 2019, which was updated to reflect construction activities as of October 14, 2019.

4. On or about September 4, 2019 we commenced construction of the foundation, and on or about September 30, 2019 we commenced construction of a single family residence as per the building permits issued by the Town of Highlands. I am acting as the general contractor on the project and overseeing all aspects of design and construction in accordance with the approved plans and building permits. The house that we are constructing is known as a modular building. That means the structure is built in sections

at a different location, then brought to the property in individual boxes, stacked together. The sections are then further constructed and put together at the site in accordance with all applicable New York State and Town of Highlands building codes.

5. I have personally met with the Town of Highlands Building Inspector, Bruce Terwilliger on several occasions at the subject property since construction activities began, including putting together the sections as referenced above. I understand Mr. Terwilliger has been on site on other occasions when I was not present, performing inspections and reviewing construction activities to ensure compliance with the approved plans and permits. I have been issued no violations for any construction activities at the site, or failure to follow any plans submitted to Mr. Terwilliger.

6. Since we started this process, Petitioner has been harassing me and my family, by, among other things, demanding that construction activities cease, trying to direct the hours during which construction could take place at her convenience, calling the police several times to “report” that we were violating Town Code and or other violations of law, all of which have resulted in no violations being issued. The police have also been to the property multiple times at the behest of the Petitioner, and no charges have been levied. In addition, upon information and belief, including as asserted in her papers, Petitioner has entered upon our property without permission. As a result of the Petitioner’s trespass and harassing conduct, our family attorney sent a letter dated October 7, 2019 advising her to not go on the property, and to cease and desist with any communication with me and my family. A copy of that letter is attached hereto as Exhibit D. It would be quite disturbing to us if the Petitioner were permitted to enter our property under the circumstances.

7. I have read the Petitioner's papers, and understand she is requesting, among other items, that the permit issued to us dated September 5, 2019 be rescinded, that all permits be stayed and rescinded, and that all construction activity at the site be enjoined until application is made to the Planning Board based upon Chapter 107 of the Town Code.

8. I have been in the construction business for almost 50 years, and am aware of the requirements of various codes and laws regarding permits for construction. I respectfully submit that Petitioner is incorrect in stating that the matter must go to the Planning Board for a permit pursuant to the Erosion Control section of the Town Code. The Building Inspector did not require same prior to, nor since construction activities at the site.

9. In my case, this matter involves building permits for a single family residence on an existing lot. The permit that I received, and actions taken in accordance therewith, I contend are specifically exempt from the requirements of §101-7. Since I am constructing a single family residence on an individual lot, I submit that §101-7 does not apply. Even though not applicable, Petitioner fails to mention in any of her numerous submissions to the Court that there are exemptions to the need for a permit for erosion control which specifically apply to her causes of action. As set forth in §101-7(B)(2) of the Town Code, it is clear that excavations for basements and footings for single family homes do not require a permit under Chapter 101.

10. It is worth noting that since the issuance of all of these building permits by the Town of Highlands Building Inspector, it is my understanding that the Building Inspector's determination to issue the building permits has never been challenged by the Petitioner, or anyone, to the Town's Zoning Board of Appeals (ZBA).

11. To be clear, all construction activities at the subject property have been in accordance with the Town of Highlands Town Code, the building permits that were issued, and the laws of the State of New York. The Town of Highlands Building Inspector reviewed the plans, approved same in accordance with the Code, and has been on site several times to ensure construction activities are in compliance with the Code. There have been no violations or stop work orders issued by the Building Department.

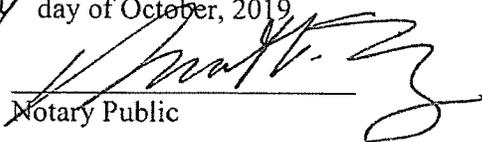
12. Based upon the foregoing, I submit that the instant action must be dismissed for failure to state a cause of action and failure to exhaust administrative remedies. Making us stop construction during the pendency of this case would cause me and my family additional stress and loss of the use of our property.

13. Since the matter should be dismissed, there is no basis for Petitioner to be permitted to inspect my premises as she requested in a motion to the Court. If for some reason this Court were to permit such an inspection, I would respectfully request that based upon the ongoing harassment that we have been subjected to by Petitioner that the Petitioner not be permitted to enter into my property at all. Any such inspection should be by the Town of Highlands Building Inspector. If Petitioner is permitted to enter, it should only through the expert she identified, and for a period of no more than two hours, with me and/or representatives of my choice being present for such inspection. In addition, I request that any person entering the property on behalf of the Petitioner provide a certificate of workers compensation insurance providing proof of coverage, and a certificate of liability insurance naming the owners of the subject property as additional insureds. Also, I would ask that security in an amount to be determined by the Court be ordered to be posted by the Petitioner.

14. Based upon the foregoing, I respectfully request the instant matter be dismissed.


David Tonneson

Sworn to before me this
24 day of October, 2019


Notary Public

ROBERT V. MAGRINO
NOTARY PUBLIC - STATE OF NEW YORK
NO. 02MA5015089
QUALIFIED IN ROCKLAND COUNTY
COMMISSION EXPIRES JULY 12, 2023

EXHIBIT A

David Tonneson Affidavit

Deed to Subject Property

m: 11
: 1
.52

**CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT
THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY**

THIS INDENTURE, made the 23rd day of May, two thousand nineteen

BETWEEN

Estate of Jonathan R. Kopald, by Susan Norma Kopald, as Executrix, residing at 1420 North Atlantic Avenue, Apt. 1603, Daytona Beach, Florida 32118 and Ned Kopald, an individual, residing at 189 Main Street, Highland Falls, New York 10228, Grantors, each titled to an undivided 50% interest in the premises conveyed herein;

and



David Tonneson a/k/a Dave Tonneson and Deborah Tonneson, as husband and wife, and as ~~tenants in common~~ with Jaidin Paisley Tonneson, with a mailing address of P.O. Box 183, Fort Montgomery, New York 10922, Grantees

joint tenants w/ rights of survivorship

WITNESSETH, that Susan Norma Kopald, to whom letters testamentary were issued by the Surrogate's Court, Orange County, New York on October 24, 2006 and by virtue of the power and authority given in and by said last will and testament, and/or by Article 11 of the Estates, Powers and Trusts Law, and pursuant to paragraph SECOND of said Last Will and Testament and Ned Kopald, do hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever for consideration of One Hundred Seventy Three Thousand and 00/100 (\$173,000.00) Dollars,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Highlands, Orange County, New York, bounded and described as follows:

Schedule "A" attached

Property: Vacant Land Poplar Street Town of Highlands
Tax Map: Section 11, Block 1, Lot 1.52

BEING a portion of the premises as conveyed by Feith Realty, Inc. to Jonathan R. Kopald and Ned Kopald by Deed dated December 3, 1971 and recorded in the Office of the Orange County Clerk on December 15, 1971 in Liber 1893 at page 512, less any conveyance of record made since receipt of deed dated December 3, 1971 and recorded December 15, 1971 in Liber 1893 at page 512.

together with all right, title and interest, if any, of the Grantors in and to any streets and roads abutting the above described premises to the center lines thereof, subject to rights of others over Poplar Street lying within bounds and reservation for utilities and drainage as set forth in Liber 1073 page 388, Liber 1073 page 392, Liber 585 page 475, Liber 1691 page 419, Liber 1747 page 910, and Liber 1773 page 58

together with the appurtenances, and also all the estate which the said decedent had at the time of decedent's death in said premises, and also the estate therein which the Grantors has or has power to convey or dispose, of whether individually, or virtue of said Will or otherwise,

reserving the right of ingress and egress for both vehicular and pedestrian use to Ned Kopald his heirs, successors and assigns and Susan N. Kopald, her heirs, successors and assigns, to travel over the existing Wood Road or any road subsequently constructed by Grantees, their heirs, successors and assigns, over and upon premises SBL: 20-2-7.2 and SBL: 11-1-1.52 from and to Forest Hill Road to and through Hemlock Street and

Schedule A

Alta Owner Policy

Policy Number:	HN 63445 A	Policy Number	7555105
Policy Date	07/26/2019	Policy Amount	\$ 175,000.00

Name of Insured

David Tonneson a/k/a Dave Tonneson, Deborah Tonneson and Jaidin Paisley Tonneson

The estate or interest in the land which is covered by this policy is:

Fee Simple

Title to the estate or interest in the land is vested in:

David Tonneson a/k/a Dave Tonneson, Deborah Tonneson and Jaidin Paisley Tonneson, who acquired title from the Estate of Jonathan R. Kopald, by Susan Norma Kopald, as Executrix, and Ned Kopald, by deed dated 5/23/19 and recorded 7/26/19 in the Orange County Clerk's Office in Liber 14599 page 679.

David Tonneson a/k/a Dave Tonneson, Deborah Tonneson and Jaidin Paisley Tonneson, who acquired title from Canterbury Forest Corporation, by deed dated 5/23/19 and recorded 7/26/19 in the Orange County Clerk's Office in Liber 14599 page 686.

The land referred to in this policy is described as follows:

REMISES KNOWN AS:

1. Address **Poplar St., NY**
S/B/L 11 /1/1.52

Countersigned:



Authorized Officer or Agent

Hill-N-Dale Abstracters, Inc.
20 Scotchtown Avenue
PO Box 547
Goshen, NY 10924
Tel: (845) 294-5110 Fax: (845) 294-9581

EXHIBIT B

David Tonneson Affidavit

Building Permits

Town of Highlands Building Department
254 Main St. Highland Falls, NY 10928
Phone: 845-446-4280 ext. 316 Fax: 845-446-4298

Appl No: 2019-069

File Date: 07/12/2019

Permit No: 2019-069

Expire Date: 01/12/2020

BUILDING PERMIT

Permit Fee: \$100.00

SEC-BLK LOT: 11-1-1.52

Receipt #

A permit is hereby given by the Building Department, TOWN OF HIGHLANDS, COUNTY OF ORANGE, N.Y., for the project described herein:

Owner: David, Deborah, & Jaidin Tenneson
PO Box 183
Fort Montgomery, NY 10922

Location of Work: Poplar St Prop. T/O Highlands

Description of Work:
DRILL WELL FOR FUTURE
SINGLE FAMILY HOME

"NOTE"

WELL SHALL BE DRILLED IN ACCORDANCE WITH ALL APPLICABLE STATE AND LOCAL CODES.

Cost of Construction: \$0.00



Bruce Terwilliger
Code Enforcement Officer

IMPORTANT

Upon completion of work and PRIOR TO OCCUPYING areas covered by the permit, a final inspection must be performed and a valid CERTIFICATE OF COMPLIANCE or a CERTIFICATE OF OCCUPANCY must be issued by the Building Department. (Please note that a failure to obtain a valid certificate could adversely affect property owner's future ability to sell or refinance the property).

A permit under which no work has commenced within six (6) months after issuance, shall EXPIRE by limitation, and a new permit must be secured before work can begin.

All work shall be performed in ACCORDANCE with the construction documents which were submitted with and accepted as part of the application for the building permit.

Town of Highlands Building Department
254 Main St. Highland Falls, NY 10928
Phone 845-446-4280 ext. 316 Fax: 845-446-4298

App'l No: 2019-107

File Date: 09/05/2019

Permit No: 2019-197

Expire Date: 09/05/2020

BUILDING PERMIT

Permit Fee: \$1500.00

SEC-BLK-LOT. 11-1-1.32

Receipt #

A permit is hereby given by the Building Department, TOWN OF HIGHLANDS, COUNTY OF ORANGE, N.Y., for the project described herein:

Owner David Deborah, & Jaidin Remson
PO Box 183
Fort Montgomery, NY10922

Contractor: Bill Lake Homes
188 Flanders Rd.
Sprakers, NY12166

Location of Work: Poplar St Prop, T/O Highlands

Description of Work:

INSTALL A FOUNDATION SYSTEM ACCORDING TO DRAWINGS BY TALCOTT ENGINEERING DESIGN, PLLC

Cost of Construction: \$146,000.00



Bruce Terwilliger
Code Enforcement Officer

IMPORTANT

Upon completion of work and PRIOR TO OCCUPYING areas covered by the permit, a final inspection must be performed and a valid CERTIFICATE OF COMPLIANCE or a CERTIFICATE OF OCCUPANCY must be issued by the Building Department. (Please note that a failure to obtain a valid certificate could adversely affect property owner's future ability to sell or refinance the property).

A permit under which no work has commenced within six (6) months after issuance, shall EXPIRE by Prohibition, and a new permit must be secured before work can begin.

All work shall be performed in ACCORDANCE with the construction documents which were submitted with and accepted as part of the application for the building permit.

Town of Highlands Building Department
254 Main St. Highland Falls, NY 10928
Phone: 845-446-4280 ext. 316 Fax: 845-446-4298

Appl No: 2019-107

File Date: 09/03/2019

Permit No: 2019-107

Expire Date: 09/05/2020

BUILDING PERMIT

Permit Fee: \$1500.00

SEC-BLK LOT 11-1-1.62

Receipt #

A permit is hereby given by the Building Department, TOWN OF HIGHLANDS,
COUNTY OF ORANGE, N.Y., for the project described herein:

Owner: Davis, Deborah, & Jaitlin Tomneson
PO Box 183
Fort Montgomery, NY 10922

Contractor: Bill Lake Hornes
188 Flanders Rd.
Sprakers, NY 12166

Location of Work: Poplar St Prop. T/O Highlands

Description of Work:
INSTALL A FOUNDATION SYSTEM ACCORDING TO DRAWINGS BY TALCOTT
ENGINEERING DESIGN, PLLC

*AMENDED 9/30/2019
CONSTRUCT SINGLE FAMILY HOME

Cost of Construction: \$145,000.00

Bruce Terwilliger

Bruce Terwilliger
Code Enforcement Officer

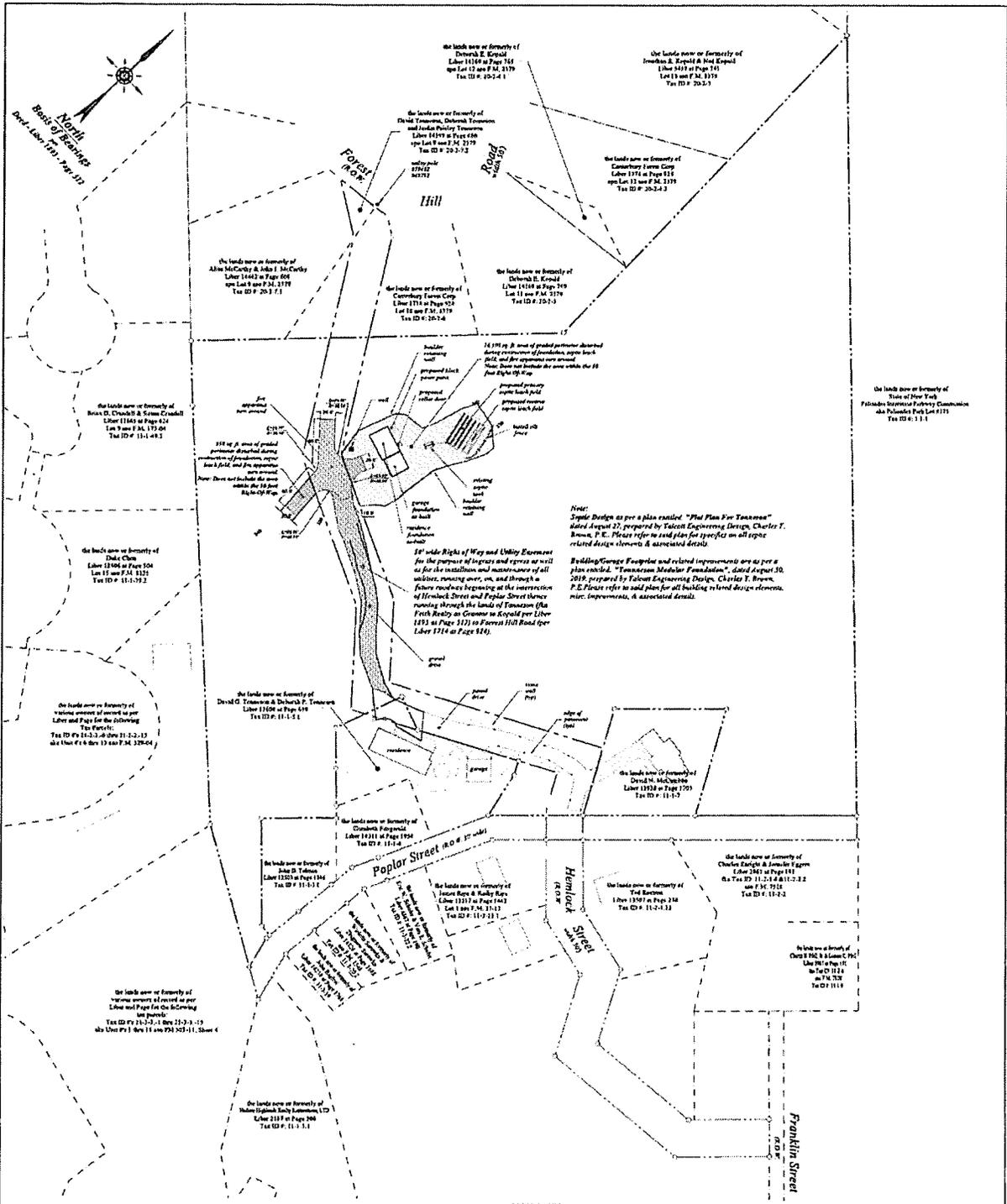
IMPORTANT

Upon completion of work and PRIOR TO OCCUPYING areas covered by the permit, a final inspection must be performed and a valid CERTIFICATE OF COMPLIANCE or a CERTIFICATE OF OCCUPANCY must be issued by the Building Department. (Please note that a failure to obtain a valid certificate could adversely affect property owner's future ability to sell or refinance the property).

EXHIBIT C

David Tonneson Affidavit

Survey Site Plan



Site Plan
(see Sheet 1 for Survey Metes)

NOTE:
Vertical Datum is the North American Vertical Datum of 1988 (NAVD83). The project benchmark was established by GPS observation performed on June 6, 2019. Corners were established but not recorded as depicted herein.

SURVEYOR'S NOTES:

- Copyright © 2018, Jonathan N. Milten, L.L.S. All Rights Reserved. Reproduction or copying of this document may be a violation of copyright law unless permission of the author or copyright holder is obtained.
- Unfractional aliquot of 1/4 acre in any size, addition to survey may be any parcel, unless saying within the description of a surveyed land survey, is a violation of section 2206, subdivision 2, of the New York State Education Law.
- Only those features the surveyor's signature recorded with unobscured seal are genuine and correct copies of the surveyor's original work and copies. Anything other than these copies may be unobscured and not represent any correct, unobscured and unaltered measurements, distances, directions, and bearings, and are not to be relied upon. A copy of this document without a proper signature of the surveyor's unobscured seal should be considered to be an unobscured copy.
- Cartographic and map survey that this map was prepared in accordance with the current existing Code of Practice for Land Surveyors issued by the New York State Association of Professional Land Surveyors, Inc. This certification is limited to persons for whom the map is prepared, to the client, to the governmental agency, and to the taxing jurisdiction based on this map.
- The boundaries herein are not guaranteed.
- The location of underground improvements or encroachments are not shown and other than the easements, if any underground improvements or encroachments exist or are shown, the requirements of encroachments are not covered by this certificate.
- This survey is subject to the findings of a title search and all other records.
- Surveyed on and under, prior survey maps, deed maps, public boundaries and existing information based on the same.
- Subject to any conditions, restrictions, covenants and other rights of improvements of record, if any.

CERTIFIED TO:
I hereby certify to:
David Kopald & Jonathan R. Kopald
David Tonneson

CERTIFICATION NOTES:
This certification is made only to record parties for purchase and mortgage of herein described property by named purchaser. The responsibility of liability is assumed by surveyor for use of survey for any other purpose including, but not limited to, use of survey for surveying, transfer of property, or any other purpose not stated in certification, unless clearly indicated by the surveyor. The surveyor is not liable for any other purpose not stated in certification, unless clearly indicated by the surveyor. The surveyor is not liable for any other purpose not stated in certification, unless clearly indicated by the surveyor.

SURVEYOR'S CERTIFICATION:
I hereby certify to the parties herein that this map represents the results of an actual on the ground land survey, and correct description of the land shown herein, located at Forest Hill Road (R.O.W. 100' wide) in the Town of Highlands, County of Orange, State of New York, completed on 12/15/2019, performed in accordance with the current existing Code of Practice for Land Surveyors issued by the New York State Association of Professional Land Surveyors, Inc., and is to the best of my knowledge, belief and opinion, accurate and correct. Except as shown herein, there are no encroachments, easements, or other rights of improvements of record, and other than the easements, if any, shown and described on this map.

Signature: _____ Date: _____
Jonathan N. Milten, L.L.S.
1929 Route 301 - Suite 2
Newburgh, NY 12550

- REFERENCES:**
1. Tax Map for the Town of Highlands, Orange County, New York.
 2. Atlas of Orange County, New York, 1850.
 3. A map entitled, "Map of Survey Site Plan", filed in the Orange County Clerk's Office on May 8, 1920 as Filed Map No. 571.
 4. A map entitled, "Map of Survey Site Plan", filed in the Orange County Clerk's Office on September 25, 1923 as Filed Map No. 1544.
 5. A map entitled, "Subdivision Plan of Corners of Forest Hill Road", filed in the Orange County Clerk's Office on October 21, 1944 as Filed Map No. 2178.
 6. A map entitled, "Survey of Land Belonging to David McLaughlin", filed in the Orange County Clerk's Office on September 28, 1942 as Filed Map No. 1032.
 7. A map entitled, "Survey of Land Belonging to John A. Papp", filed in the Orange County Clerk's Office on March 18, 1908 as Filed Map No. 7923.
 8. A map entitled, "Subdivision of Corners of Forest Hill Road", filed in the Orange County Clerk's Office on May 4, 1907 as Filed Map No. 4235.
 9. A map entitled, "Survey and Subdivision Map of Land of James H. Kelly", filed in the Orange County Clerk's Office on February 25, 2013 as Filed Map No. 3711.
 10. A map entitled, "Final Survey Approved Lot Lines Changes in Lots 8, 10, 11, & 12 on Filed Map No. 119-00 Corners H18 Subdivision", filed in the Orange County Clerk's Office on March 10, 2009 as Filed Map No. 119-00.
 11. A map entitled, "Subdivision Plan, The Village at Corners Hill Condominium II", filed in the Orange County Clerk's Office on December 22, 2011 as Filed Map No. 329-11.
 12. A map entitled, "Subdivision Plan - Corners Hill Condominium Project", filed in the Orange County Clerk's Office on April 8, 2005 as Filed Map No. 219-05.
 13. A map entitled, "Comprehensive 1 Phase The Village at Corners Hill Condominium II", filed in the Orange County Clerk's Office on August 8, 2008 as Filed Map No. 129-08.
 14. A map entitled, "Comprehensive 1 Phase The Village at Corners Hill Condominium II", filed in the Orange County Clerk's Office on November 5, 2003 as Filed Map No. 551-03.

Jonathan N. Milten, L.L.S.
PROFESSIONAL LAND SURVEYOR
CERTIFIED TO BE CORRECT AND ACCURATE
N.Y.S. REG. NO. 15010

Survey Site Plan
David Tonneson, Deborah Tonneson,
& Jaidin Paisley Tonneson

Automated Construction Easement Software, Inc.
Professional Land Surveying
1229 Route 100 - Suite 1 - Newburgh, NY 12550
Office: 845.561.1624 Fax: 845.561.1625
E-mail: david@atces.com

Prepared for the use of:
1:1 = 1:52
446 Forest Hill Road (Proposed)
Town of Highlands
Orange County, New York 12550
DATE: 02/20/2018 SCALE: HORIZ. 1" = 60' VERT. 1" = 10' DRAWN BY: pm

EXHIBIT D

David Tonneson Affidavit

Attorney Letter to Deborah Kopald

ATTORNEYS AND COUNSELORS at LAW

Konstantinos G. Fatsis, Esq.*
Patrick F. Young, Esq.^

Kyriakoula Fatsis, Esq.
- Of Counsel

* ALSO ADMITTED IN FLORIDA & D.C.
^ ALSO ADMITTED IN FLORIDA

245 Main Street
PO Box 258
Highland Falls, New York 10928
Telephone: (845) 446-4886
Facsimile: (775) 255-4891

Sender's E-Mail: kgfatsis@fatsislaw.com

Nikoloas M. Fatsis, Esq.
(1878-1945)
Michalis N. Fatsis, Esq.
(1907-1977)
Melissa J. Pfeister, Legal Secretary
(1987-2014)

-SERVICE OF PROCESS IS NOT ACCEPTED BY FACSIMILE OR ELECTRONIC MAIL-

October 7, 2019

VIA CMRRR & FIRST CLASS MAIL

COPY

Mrs. Deborah Kopald
PO Box 998
Fort Montgomery, New York 10922

RE: Mr. & Mrs. David Tonneson
Property S/B/L: 11-1-1.52
Cease & Desist Request

Dear Ms. Kopald,

This office has been retained by Mr. & Mrs. David Tonneson concerning but not limited to the above-referenced property. As you are aware, the Tonneson's have legally obtained building permit(s) and have been actively building a single family residence pursuant to the same lawfully issued permit(s). I am aware of the Article 78 that you have filed against my clients and the Town of Highlands alleging, inter alia, that same were issued without authority and requesting injunctive relief. This instant communication is not going to address this argument as this matter is being handled by other counsel.

However, it has also come to my attention that you have yourself been on the subject property without permission and such is not acceptable conduct. The property itself has been posted with **NO TRESPASS** signage and accordingly, on behalf of my clients, I am instructing you that you are without permission and authority to enter on the subject property for whatever reason without Court Order or without prior written permission from Mr. & Mrs. Tonneson. This also applies to anyone who is acting as an agent or employee on your behalf or request. Failure to strictly follow this directive will result in my client's filing charges against you for criminal trespass.

In addition, I have reviewed numerous phone calls and electronic mail that you have made to my clients. Please be further advised that any and all communication between you and my clients is to cease and desist immediately. Any such future correspondence, whether directly by you or by anyone acting on your behalf or request, will be deemed to be harassment and possibly aggravated harassment. Since you have filed the Article 78, please direct any communication to Robert V. Magrino, Esq., the attorney who represents my clients in connection to the proceeding itself. His telephone number is as follows, to wit: (845) 639-2411. There is no other legitimate purpose for any other communication by you towards my clients and any such future communication or course of conduct will be deemed by my clients to simply be actions designed to cause alarm and seriously annoy my clients.

I respectfully request that you honor these directives henceforth. It is my clients' sincere

FATSIS & ASSOCIATES, PLLC.

Attorneys and Counselors at Law

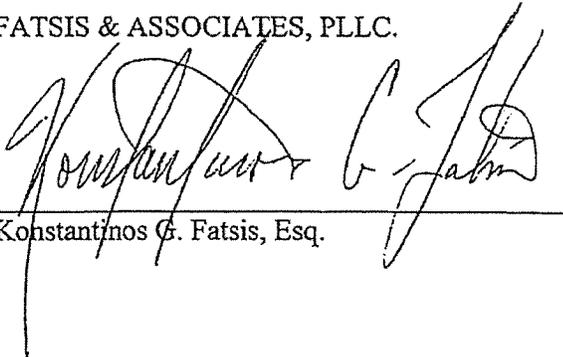
intention to resolve this matter amicably and with all due haste. Kindly permit your Article 78 to run its course before the Courts where in your concerns may be heard and addressed. Nothing in this letter to you may be deemed as a waiver of any rights my clients have, in both law and equity, and same are reserved explicitly.

I am available to discuss this matter with you if you have any concerns or questions. In the event that you have retained legal counsel, please forward this letter to your counsel wherein they may contact me directly. Thank you for your anticipated cooperation and courtesy towards these directives. With warmest wishes, I remain...

very truly yours,

FATSIS & ASSOCIATES, PLLC.

By:


Konstantinos G. Fatsis, Esq.

KGF/ck

c./ Mr. & Mrs. David Tonneson
Mr. Robert V. Magrino, Esq.

EXHIBIT “B”
(To Honan Letter to ZBA)

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
In the matter of the application of DEBORAH KOPALD,

Petitioner,

**AFFIDAVIT
JONATHAN N. MILLEN**

Index No. 2019-007757

For a Judgment Pursuant to Article 78

**Assigned to:
Hon. Robert A. Onofry, JSC**

-against-

THE TOWN OF HIGHLANDS NEW YORK,
DAVID TONNESON, DEBORAH TONNESON
JAIDEN PAISLEY-TONNESON,

Respondents

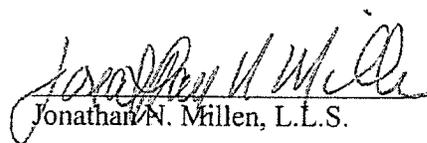
-----X

I, JONATHAN N. MILLEN, being duly sworn, deposes and states as follows:

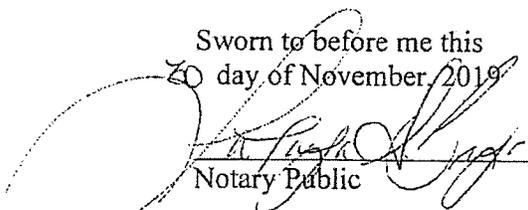
1. That I am a Professional New York State Licensed Land Surveyor, NY License No. 050746, and I provide land surveying services as President of Automated Construction Enhanced Solutions, Inc. in Newburgh, New York. I have been a Licensed Professional Land Surveyor for 10 years.
2. On or about August 30, 2019, I prepared a Title Survey/Site Plan for the Tonneson property, identified as tax lot Section 11 Block 1 Lot 1.52 of the Town of Highlands tax map. A copy of the survey is attached hereto as Exhibit A.
3. According to public records, this property was transferred to David (aka Dave) and Deborah Tonneson as husband and wife, as tenants in common with Jaiden Paisley Tonneson, on or about Mary 23, 2019 in a deed from the Estate of Jonathan Kopald by Susan Norma Kopald, Executrix, and Ned Kopald, and

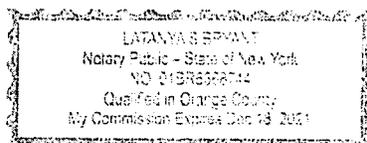
recorded in the Orange County Clerk's Office at Liber 1893, Page 512. A copy of the deed is annexed hereto as Exhibit B.

4. The survey that I prepared is based upon the legal description in the aforementioned deed. The survey shows "Poplar Street" as a right of way. "Poplar Street" was and remains a part of Lot 1.52 and based upon the deed is owned in fee by the Tonneson's, subject to the rights of others to traverse same as a right of way.
5. I have read the affidavit of Bruce Terwilliger, Building Inspector of the Town of Highlands, who indicates that Hemlock Street is a Town public road. The Tonneson's lot, 1.52, has direct access to Hemlock Street as shown by the 50' x 33' portion of Poplar Street identified as L16 on the attachment. Thus the property has direct access, by ownership in fee by the Tonneson's, and frontage of a width of 50' along a public street, namely Hemlock Street, as shown on the attached survey. The area described is circled on Exhibit A, which includes a close up version of the relevant area as part of the Exhibit.


Jonathan N. Millen, L.L.S.

Sworn to before me this
20 day of November, 2019


Notary Public



EXHIBT A

Millen Affidavit

Survey

EXHIBIT B

Millen Affidavit

Deed

Section: 11
Block: 1
Lot: 1.52

**CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT
THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY**

THIS INDENTURE, made the 23rd day of May, two thousand nineteen

BETWEEN

Estate of Jonathan R. Kopald, by Susan Norma Kopald, as Executrix, residing at 1420 North Atlantic Avenue, Apt. 1603, Daytona Beach, Florida 32118 and Ned Kopald, an individual, residing at 189 Main Street, Highland Falls, New York 10228, Grantors, each titled to an undivided 50% interest in the premises conveyed herein;

and

David Tonnenson a/k/a Dave Tonneseon and Deborah Tonneseon, as husband and wife, and as tenants in common with Jaidin Paisley Tonneseon, with a mailing address of P.O. Box 183, Fort Montgomery, New York 10922, Grantees

WITNESSETH, that Susan Norma Kopald, to whom letters testamentary were issued by the Surrogate's Court, Orange County, New York on October 24, 2006 and by virtue of the power and authority given in and by said last will and testament, and/or by Article 11 of the Estates, Powers and Trusts Law, and pursuant to paragraph SECOND of said Last Will and Testament and Ned Kopald, do hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever for consideration of One Hundred Seventy Three Thousand and 00/100 (\$173,000.00) Dollars,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Highlands, Orange County, New York, bounded and described as follows:

Schedule "A" attached

Property: Vacant Land
Tax Map: Section 11, Block 1, Lot 1.52

BEING a portion of the premises as conveyed by Feith Realty, Inc. to Jonathan R. Kopald and Ned Kopald by Deed dated December 3, 1971 and recorded in the Office of the Orange County Clerk on December 15, 1971 in Liber 1893 at page 512, less any conveyance of record made since receipt of deed dated December 3, 1971 and recorded December 15, 1971 in Liber 1893 at page 512.

Together with all right, title and interest, if any, of the Grantors in and to any streets and roads abutting the above described premises to the center lines thereof, subject to rights of others over Poplar Street lying within bounds and reservation for utilities and drainage as set forth in Liber 1073 page 388, Liber 1073 page 392, Liber 1685 page 475, Liber 1691 page 419, Liber 1747 page 910, and Liber 1773 page 58

Together with the appurtenances, and also all the estate which the said decedent had at the time of decedent's death in said premises, and also the estate therein which the Grantors has or has power to convey or dispose, of whether individually, or virtue of said Will or otherwise.

Reserving the right of ingress and egress for both vehicular and pedestrian use to Ned Kopald his heirs, successors and assigns and Susan N. Kopald, her heirs, successors and assigns, to travel over the existing Wood Road or any road subsequently constructed by Grantees, their heirs, successors and assigns, over and upon premises SBL: 20-2-7.2 and SBL: 11-1-1.52 from and to Forest Hill Road to and through Hemlock Street and

Poplar Street. This reservation of right shall run with the land and shall be binding upon Grantees, their heirs, successors and assigns.

Together with all right, title and interest if any, of the Grantors, in and to the private road known as Poplar Street.

To Have and to Hold the premises herein granted unto the Grantees, the distributees or successors and assigns of the Grantees forever,

And the Grantors covenants that the Grantors has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

And the Grantors, in compliance with Section 13 of the Lien Law, covenants that the Grantors will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvements an will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

IN WITNESS WHEREOF, the Grantors has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Estate of Jonathan R. Kopald

By:

Susan Norma Kopald, as Executrix
Susan Norma Kopald, as Executrix

Ned Kopald
Ned Kopald

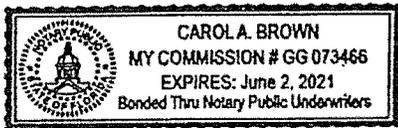
State of Florida)

County of Volusia)

ss.:

On May 27th, 2019, before me, the undersigned, a Notary Public in and for said State, personally appeared Susan Norma Kopald, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

Carol A. Brown
Notary Public, State of Florida



Parcel A

ALL that certain piece or parcel of land lying, situate and being in the Town of Highlands, Orange County, New York, bounded and described as follows:

BEGINNING at an iron pipe in the northerly line of lands of the Grantor, said point being in the easterly line of Poplar Street, as shown on a map entitled "Property of Feith Realty, Inc., Fort Montgomery, New York" prepared by Briggs Associates, Ridgewood, New Jersey, and last revised 1 October 1947, and said point also being in the line of lands of the Interstate Park Commission, and running thence, along said easterly line of Poplar Street, the following eight (8) courses:

1. S43° 35' 35"W 249.04' to an iron pipe;
2. S43° 35' 35"W 118.27' to an iron pipe;
3. S43° 27' 11"W 121.91' to an iron pin;
4. S22° 27' 26"W 151.92' to an iron pipe;
5. S22° 48' 16"W 32.70' to an iron pipe;
6. S 3° 39' 27"W 30.19' to an iron pipe;
7. S 3° 37' 56"W 56.81' to an iron pipe;
8. S 3° 39' 45"W 49.95' to an iron pipe;

thence, crossing Cherry Street, as shown on the aforementioned map, S15° 49' 19"E 71.65' to a one-inch (1") steel rod in the northerly line of lands now or formerly of Garrison; thence along said lands, N61° 47' 06"W 244.75' to an iron pipe; thence, still along said lands, N49° 03' 06"W 565.60' to a chiseled cross cut in stone; thence, still along said lands, N47° 52' 30"W 86.96' to a hub in the southeasterly corner of a subdivision of lands of Canterbury Forest, Inc., as shown on a map last revised 30 September 1968 and filed 21 October 1968 (Map No. 2379); thence, along the easterly line of said lands, N42° 13' 20"E 500.00' to an iron pipe; thence, still along said lands N2° 58' 45"W 552.39' to a steel spike in a rock ledge, said point being in the line of lands of the Interstate Park Commission; thence, along said lands, S47° 16' 58"E 1084.88' to the point or place of beginning.

Excepting therefrom, however, the following three (3) parcels of land:

Parcel I: (11-1-7)

Those lands conveyed to David McLellan by Feith Realty, Inc., by deed dated 8 July 1966 and filed 11 July 1966 in Liber 1747 at page 910; more particularly bounded and described as follows:

BEGINNING at an iron pipe in the northerly line of Hemlock Street, as shown on the aforementioned map of lands of Feith Realty, Inc. said point being at the intersection of said northerly line of Hemlock Street with the westerly line of Poplar Street, and running thence, in part along the northerly line of said Hemlock Street, N30° 33' 06"W 150.00' to an iron pipe; thence, through lands of the Grantor, N43° 20' 54"E 150.00' to an iron spike; thence, still through lands of the Grantor, S30° 33' 06"E 150.00' to an iron pipe in the westerly line of the aforementioned Poplar Street; thence, along said street line, S43° 20' 54"W 150.00' to the point or place of beginning.

Containing 0.496 Acres of land, more or less.

Parcel II (11-1-5) & 11-1-4

Those lands conveyed by Feith Realty, Inc. to the following parties, by deeds recorded in the Libers and pages listed:

Walter L. and Shirley A. Martin, Liber 1685, page 475
Louis, Jr. and Anna Grazioli, Liber 1773, page 58
John and Angelo Arrigo, Liber 1073, page 388
George J. and Nancy E. Jimkoski, Liber 1691 page 419,
more particularly bounded and described as follows:

BEGINNING at a chiseled cross cut in a stone in the westerly line of the afore-described Poplar Street, said point being the northern most corner of lands now or formerly of Budesheim, and N5° 39' 11"E 116.07' from the intersection of the westerly line of said Poplar Street with the northerly line of Cherry Street, as shown on the afore-mentioned map of lands of Feith Realty, Inc., and running thence, through lands of the Grantor, and along lands now or formerly of Jimkoski, N46° 47' 02"W 100.00' to an iron pin; thence, along lands now or formerly of Grazioli, N47° 15' 40"W 50.71' to a chiseled cross cut in a stone; thence, along lands now or formerly of Arrigo N 46° 47' 02"W 55.23' to an iron pipe; thence, still along said lands, N18° 05' 11"E 98.34' to a masonry nail (PK) set in a large boulder; thence, still along said Arrigo lands S 71° 54' 49"E 50.00' to an iron pipe; thence, along lands now or formerly of Grazioli and along lands now or formerly of Martin, N60° 35' 11"E 141.80' to a chiseled cross cut in a large stone; thence, still along said Martin lands S29° 24' 40"E 20.00' to an iron pipe; thence, still along said lands, S14° 06' 54"E 64.83' to an iron pin in the westerly line of the afore-mentioned Poplar Street; thence, along said street line, and along lands now or formerly of Martin and lands now or formerly of Jimkoski S22° 30' 11"W 196.34' to an iron pipe; thence, still along said Jimkoski lands S3° 39' 11"W 26.67' to the point or place of beginning.

Containing 0.801 Acres of land, more or less.

Parcel III (No 1143)

That parcel conveyed by Feith Realty, Inc. to Anna Budesheim by deed dated 25 October 1947 and filed 26 January 1948 in Liber 1073 at page 392, more particularly bounded and described as follows:

BEGINNING at a chiseled cross cut in a large stone at the intersection of the westerly line of Poplar Street and the northerly line of Cherry Street, both of which streets as shown on the afore-mentioned map of lands of Feith Realty, Inc., and running thence, along the northerly line of Cherry Street N86° 22' 38"W 16.50' to an iron pipe; thence, still along said street line N 46° 47' 02"W 61.21' to a chiseled cross cut in a large stone; thence, through lands of the Grantor N43° 12' 58"E 100.00' to a chiseled cross cut in a large stone marking the beginning point of Parcel II above; thence, along the westerly line of Poplar Street, S3° 39' 11"W 116.07' to the point or place of beginning.

Containing 0.092 Acres of land, more or less.

FURTHER EXCEPTING

ALL that certain piece or parcel of land lying and being in the Hamlet of Fort Montgomery, Town of Highlands, County of Orange and State of New York, more particularly bounded and described as following:

BEGINNING at a point formed by the intersection of the northerly side of Cherry Street with the westerly side of Poplar Street both of which streets are laid out through lands now or formerly of Feith Realty, Inc., and which point is about 33 feet distant on a course of North 86° 49' 10" West from the southwest corner of lands conveyed by Feith Realty, Inc. to Nicholas Miraglia by deed dated July 23, 1947, recorded August 4, 1947, in Liber 1053 of Deeds at page 417, said distance being the width of Poplar Street from said corner; running from said point of beginning the following courses and distances:

1. North 86° 22' 28" West 16.05 feet to a point in an angle in said Cherry Street, and running thence;
2. North 46° 47' 02" West 145.12 feet passing through an X cut at 61.21 feet partly along the northerly side of Cherry Street, and running thence;
3. North 43° 12' 58 East 100.00 feet through lands of the Grantor, to a point in the common boundary line of the lands of the Grantor and lands of Kocher in Liber 2162 at page 1044 and running thence;
4. Along the dividing line between the lands of the Grantor and Kocher, South 46° 47' 02" East 100 feet to a point on the westerly side of Poplar Street, running thence;
5. South 03° 39' 11" West 116.7 feet along the westerly side of Poplar Street to the point and place of BEGINNING.

EXHIBIT “C”
(To Honan Letter to ZBA)

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

In the Matter of the Application of
DEBORAH KOPALD,

X

AFFIDAVIT OF
BRUCE C. TERWILLIGER

Petitioner,

Index No. : 2019-007757

For a Judgment Pursuant to Article 78

(Hon. Robert A. Onofry, JSC)

- against -

THE TOWN OF HIGHLANDS NEW YORK,
DAVID TONNESON, DEBORAH TONNESON,
and JAIDIN PAISLEY-TONNESON,

Respondents.

X

STATE OF NEW YORK)
) ss.:
COUNTY OF ORANGE)

Bruce C. Terwilliger, being duly sworn, deposes and says:

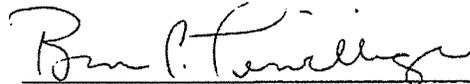
1. I serve as the Building Inspector of the Town of Highlands. I am fully familiar with the Town's zoning and related laws and procedures as they apply to my duties, which include processing building permit applications, performing inspections, and issuing permits and certificates of occupancy.

2. I am familiar with the Tonnesons' parcel at Section 11, Block 1, Lot 1.52. I have visited the property and am personally familiar with it. I issued the building permits which Ms. Kopald has put in issue.

3. I have confirmed with the Town of Highlands Highway Superintendent Pat Patterson that there is public road access to the right of way leading to the parcel from Hemlock Street, shown on the Jonathan Miller survey and site maps filed in my office. The maps indicate

that this right of way appears on the real property records. It is at least 15' wide to a reasonable degree of certainty, is in reasonably good condition, and has obtained the Fort Montgomery Fire Chief's approval for access for fire apparatus. (See annexed Exhibit).

4. Mr. Patterson has also confirmed that Hemlock Street is a Town public road leading to Franklin Street, also a public road, which connects into NYS Route 9W. There is complete public road access to the Tonnesons' right of way serving their new home.


Bruce C. Terwilliger

Sworn to before me this
26th day of November, 2019


Notary Public

CHERYL R. CHURNEY
Notary Public, State of New York
Qualified in Orange County
Registration #01CH4960202
Commission Expires December 16, 2021

11-1-102-0

FORT MONTGOMERY FIRE DISTRICT
865 ROUTE 9W
FORT MONTGOMERY, NY 10922

CHIEF
DON SMITH

ASSISTANT CHIEF
RYAN FALK

September 6, 2019

To: Town of Highlands building department

From: Chief Don Smith
Fort Montgomery Fire District
PO Box 71
Fort Montgomery, NY 10922

To whom it may concern.

I am writing this letter to inform you that upon evaluation that there will not be any problem gaining access to the house and or property that Mr David G Tonneson is in the process of developing at the end of Hemlock street. If an emergency situation may arise.

Thank you,

Donald V Smith JR
Chief
Fort Montgomery Fire District



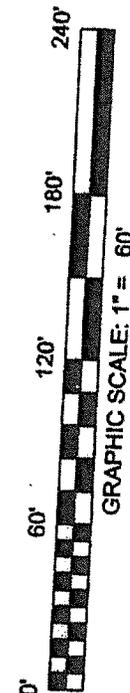
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street

REFERENCES:

1. Tax Maps for the Town of Highlands, Orange County, New York.
2. Various Deeds of Record - Liber and Page as shown:
3. A map entitled, "Map of Sunny Side Park", filed in the Orange County Clerk's Office on September 25, 1953 as Filed Map No. 571.
4. A map entitled, "Property to be Conveyed by Feith Realty Inc.", filed in the Orange County Clerk's Office on October 21, 1968 as Filed Map No. 2379.
5. A map entitled, "Subdivision Plan Section 'A' Canterbury Forest, Inc.", filed in the Orange County Clerk's Office on September 29, 1982 as Filed Map No. 6032.
6. A map entitled, "Survey of Lands Belonging to David McLellan", filed in the Orange County Clerk's Office on March 18, 1986 as Filed Map No. 7528.
7. A map entitled, "Survey of Lands Belonging to Lois A. Pfeil", filed in the Orange County Clerk's Office on May 4, 1987 as Filed Map No. 8255.
8. A map entitled, "Subdivision of Corbin Hill", filed in the Orange County Clerk's Office on February 25, 2013 as Filed Map No. 27-13.
9. A map entitled, "Survey and Subdivision Map of Lands of James & Kathy Ripa", filed in the Orange County Clerk's Office on February 25, 2013 as Filed Map No. 27-13.
10. A map entitled, "Plan Showing Approved Lot Line Changes to Lots 9, 10, 11, & 12 on Filed Map No. 118-00 Corbin Hill Subdivision", filed in the Orange County Clerk's Office on February 25, 2013 as Filed Map No. 27-13.
11. A map entitled, "Condominium Plan - The Village at Corbin Hill Condominium III", filed in the Orange County Clerk's Office on December 22, 2011 as Filed Map No. 303-11.
12. A map entitled, "Subdivision Plat - Corbin Hill Commercial Project", filed in the Orange County Clerk's Office on April 8, 2005 as Filed Map No. 333-05.
13. A map entitled, "Condominium 2 Phase The Village at Corbin Hill Condominium II", filed in the Orange County Clerk's Office on August 9, 2004 as Filed Map No. 529-04.
14. A map entitled, "Condominium 1 Phase The Village at Corbin Hill Condominium I", filed in the Orange County Clerk's Office on November 5, 2003 as Filed Map No. 551-03.

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Jonathan N. Milten, L.L.S.

PROFESSIONAL LAND SURVEYOR
CERTIFIED TO BE CORRECT AND ACCURATE
N.Y. LIC. No. 050746



Jonathan N. Milten

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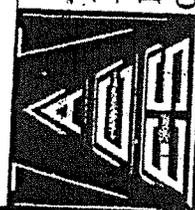
(A)

Sheet
2
of 2

Survey Site Plan

of the lands of

**David Tonneson, Deborah Tonneson,
& Jaidin Paisley Tonneson**



Automated Construction Enhanced Solutions, Inc.
Professional Land Surveying
1229 Route 300 - Suite 3 - Newburgh, NY 12550
Office: 845-943-5198 Field: 914-906-8830 E-Mail: jmillenlls@acesurveying.com

Prepared For Tax Map Parcel
11-1-1.52
aka Poplar Street (Proposed)
situated in the

Town of Highlands
County of Orange, New York 10928

DATE: 08/30/2019 SCALE: 1"=60' JOB No.: 19026TON DRAWN BY: jmm

Deborah E. Kopald
Liber 14169 at Page 765
apo Lot 12 aso F.M. 2379
Tax ID #: 20-2-4.1

the lands now or formerly of
David Tonneson, Deborah Tonneson
and Jaidin Paisley Tonneson
Liber 1774 at Page 924
apo Lot 9 aso F.M. 2379
Tax ID #: 20-2-7.2

Forest
(R.O.W.)

Road
width 50'

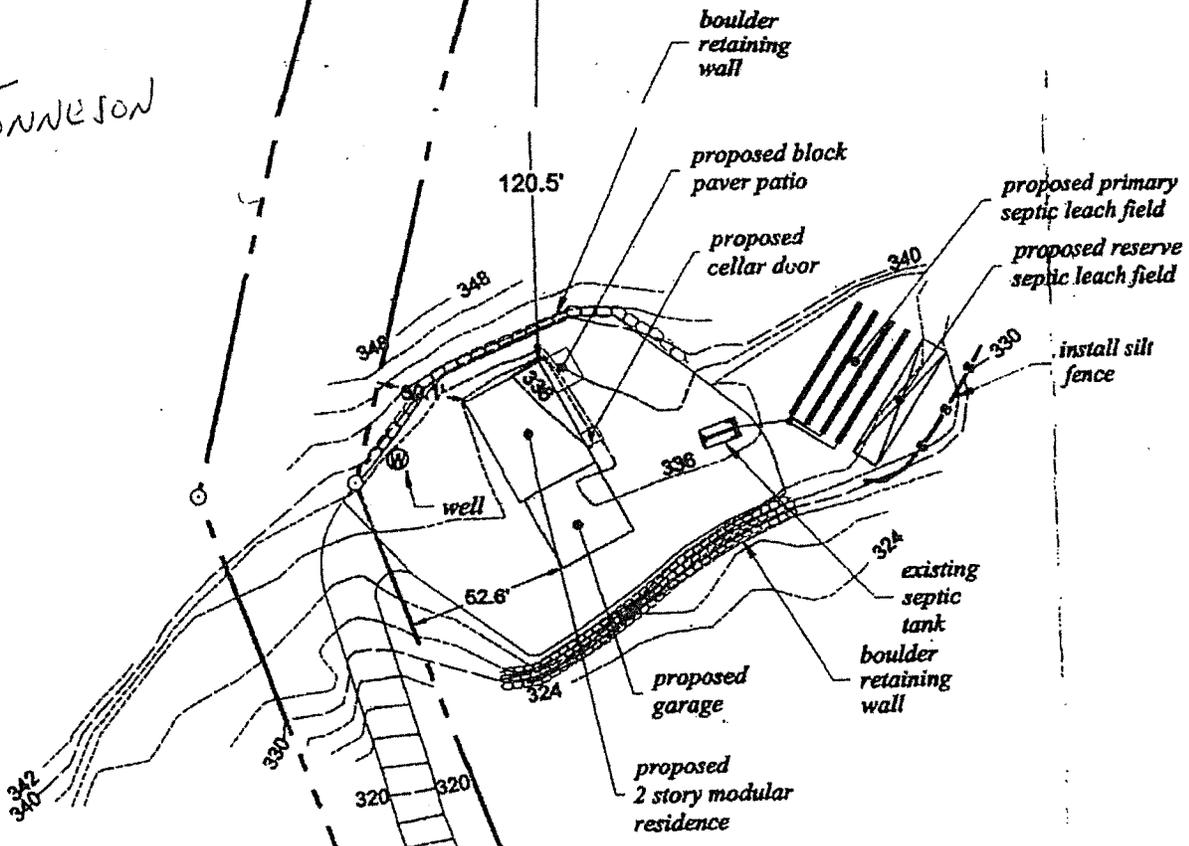
Hill

the lands now or formerly of
sa McCarthy & John J. McCarthy
Liber 14442 at Page 608
apo Lot 9 aso F.M. 2379
Tax ID #: 20-2-7.1

the lands now or formerly of
Canterbury Forest Corp
Liber 1774 at Page 924
Lot 10 aso F.M. 2379
Tax ID #: 20-2-6

the lands now or formerly of
Deborah E. Kopald
Liber 14169 at Page 769
Lot 11 aso F.M. 2379
Tax ID #: 20-2-5

TONNESON



Note:
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50' wide Right of Way per Liber 1714 at Page 924 running through the lands of Tonneson (fka Feith Realty as Grantor to Kopald per Liber 1893 at Page 512) from the intersection of Hemlock Street and Poplar Street to Forrest Hill Road.

the lands now or formerly of
i. Tonneson & Deborah P. Tonneson
Liber 13608 at Page 699
Tax ID #: 11-1-5.2

the lands now or formerly of
Elizabeth Fitzgerald
Liber 14311 at Page 1954
Tax ID #: 11-1-4

lands now or formerly of
John D. Talman
Liber 12503 at Page 1346
Tax ID #: 11-1-3.1

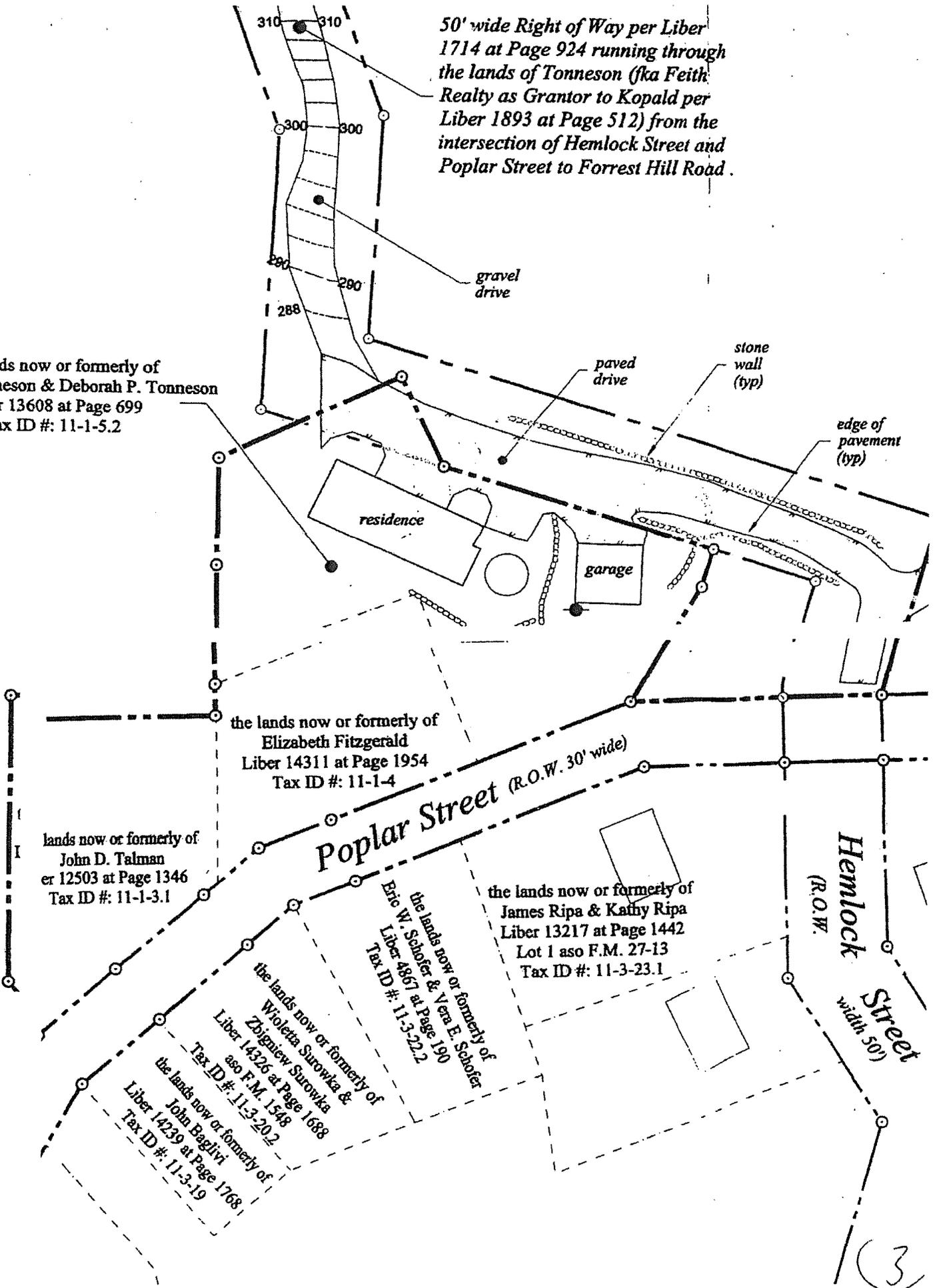
Poplar Street (R.O.W. 30' wide)

the lands now or formerly of
James Ripa & Kathy Ripa
Liber 13217 at Page 1442
Lot 1 also F.M. 27-13
Tax ID #: 11-3-23.1

the lands now or formerly of
Eric W. Schofer & Vera E. Schofer
Liber 4867 at Page 190
Tax ID #: 11-3-22.2

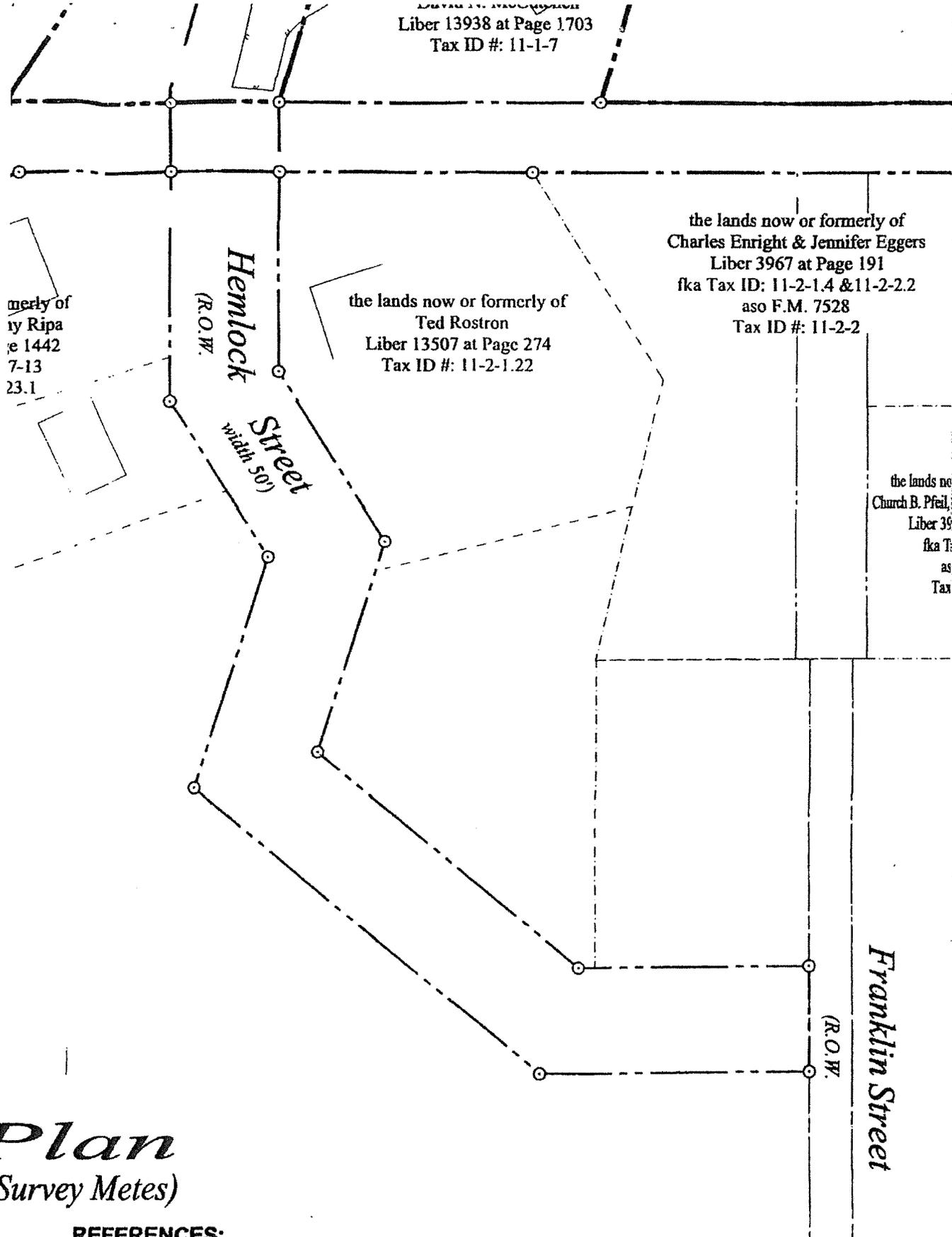
the lands now or formerly of
Wioletta Surowka &
Zbigniew Surowka
Liber 14326 at Page 1688
also F.M. 1548
Tax ID #: 11-3-20.2

the lands now or formerly of
John Baglivi
Liber 14239 at Page 1768
Tax ID #: 11-3-19



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Liber 13938 at Page 1703
Tax ID #: 11-1-7



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the lands now or formerly of
Ted Rostron
Liber 13507 at Page 274
Tax ID #: 11-2-1.22

the lands now or formerly of
Charles Enright & Jennifer Eggers
Liber 3967 at Page 191
fka Tax ID: 11-2-1.4 & 11-2-2.2
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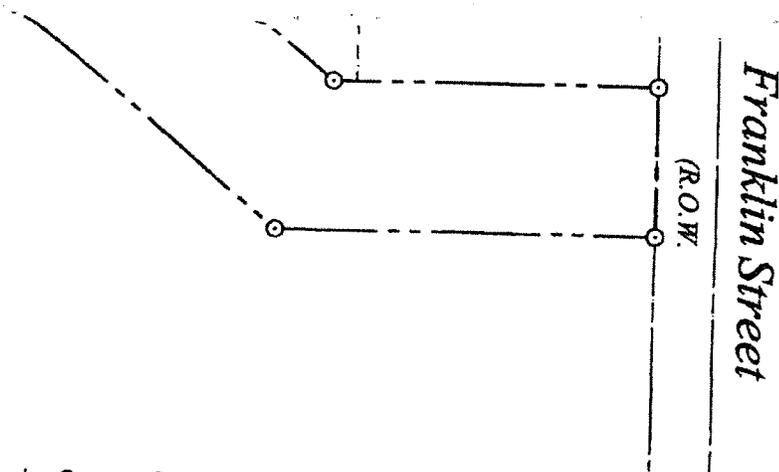
Plan (Survey Metes)

REFERENCES:

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6. A map entitled, "Survey of Lands Belonging to David McLellan", filed in the Orange County Clerk's Office on

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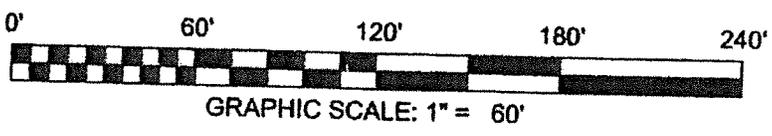
Plan
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12. A map entitled, "Subdivision Plat - Corbin Hill Commercial Project", filed in the Orange County Clerk's Office
13. A map entitled, "Condominium 2 Phase The Village at Corbin Hill Condominium II", filed in the Orange Cour
14. A map entitled, "Condominium 1 Phase The Village at Corbin Hill Condominium I", filed in the Orange Coun

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Millen, LLS
00 - Suite 3
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Jonathan N. Millen, L.L.S.
PROFESSIONAL LAND SURVEYOR
CERTIFIED TO BE CORRECT AND ACCURATE
N.Y. LIC. No. 050746

Jonathan N. Millen

S
David To
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EXHIBIT “D”
(To Honan Letter to ZBA)

This Indenture,

Made the 19th day of July, Nineteen Hundred and SIXTY-EIGHT

Between FEITH REALTY, INC., of 200 Main Street, Highland Falls, New York,

a corporation organized under the laws of the State of New York,

party of the first part, and

TOWN OF HIGHLANDS, one of the Towns of the State of New York, in Orange County, by its agent, THE TOWN SUPERINTENDENT OF HIGHWAYS and the TOWN BOARD OF THE TOWN OF HIGHLANDS, of 213 Main Street, Highland Falls, New York,

party of the second part;

Witnesseth that the party of the first part, in consideration of

ONE and no/100-----Dollar

(\$ 1.00-----) lawful money of the United States, and other good and valuable

v consideration paid by the party of the second part,

does hereby grant and release unto the party of the second part, its

successors, and assigns forever, all those certain lots, pieces and parcels

ALL those pieces or parcels of land situate, lying and being in the Hamlet of Fort Montgomery, Town of Highlands, Orange County, New York, and more particularly described as follows:

BEING the Two Parcels of Land: Parcel One offered to be dedicated for use as a public street now known as Hemlock Street; and Parcel Two offered to be dedicated for use as a public street now known as Cherry Street, as contained in an Offer of Dedication duly presented to the Town Board of the Town of Highlands, dated and acknowledged December 13, 1967,

PARCEL ONE

BEGINNING at a point on the southerly side of Franklin Street, a public street and running in a generally westerly direction from Route 9W at a point approximately 688 feet westerly of the intersection of the southerly side of Franklin Street with the westerly side of Route 9W; and where the said side of Franklin Street is intersected by the northwesterly side of said Hemlock as now laid out through lands of Feith Realty, Inc., and running from said point of beginning along the northwesterly side of said Hemlock Street the following courses and distances:

1. South 42° 52' 50" West 103.78 feet to an angle in said road.
2. South 83° 04' 50" West 160.22 feet to an angle in the said road.
3. North 29° 50' 10" West 104.56 feet to an angle in the said road,
4. North 79° 16' 10" West 98.55 feet to an angle in said road;
5. North 47° 01' 10" West 94.06 feet.
6. South 42° 58' 50" West 50 feet to a point on a southwesterly side of said Hemlock Street as now laid out.
7. South 47° 01' 10" East 108.50 feet to an angle in said road;
8. South 79° 16' 10" East 86.77 feet to an angle in said road.
9. South 29° 50' 10" East 114.64 feet to an angle in said road.
10. North 83° 04' 50" East 210.82 feet more or less to an angle in said road.
11. North 42° 52' 50" East 118 feet to the southerly side of Franklin Street and
12. Northwesterly along the southerly side of Franklin Street 50 feet to the point or place of beginning.

BEING and intended to be a strip of land 50 feet in width, and also.

PARCEL TWO

BEGINNING at a point on the Southwesterly side of Franklin Street as presently laid out and used which said Franklin Street runs in a generally westerly direction from the westerly side of New York State Highway, 9-W;

where the same is intersected by the westerly side of Cherry Street as laid out through lands of Feith Realty, Inc., and from said point of beginning running the following courses and distances:

1. South $42^{\circ} 52' 50''$ West 125.49 feet to an angle in the northwesterly side of Cherry Street.
2. South $69^{\circ} 39' 50''$ West 246.64 feet to an angle in said road.
3. South $76^{\circ} 09' 50''$ West along said road; 194.26 feet to an angle in said road.
4. North $62^{\circ} 10' 50''$ West along said road; 305.63 feet to a point running thence.
5. South $27^{\circ} 49' 30''$ West crossing said road; 33 feet to a point to the southwesterly side of said road.
6. Thence along said side of said road south $62^{\circ} 10' 50''$ East 312 feet more or less to an angle in said road.
7. Thence along said side of said road north $76^{\circ} 09' 50''$ East 188.69 feet to an angle in said road.
8. Thence along said road north $69^{\circ} 39' 50''$ east 262 feet more or less to an angle in said road; and
9. North $42^{\circ} 52' 50''$ east 138. feet more or less to the westerly side of Franklin Street.
10. Thence along the westerly side of Franklin Street westerly 33 feet to the point of beginning.

BEING and intended to be a strip of land 33 feet in width.

Together with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

To have and to hold the premises herein granted unto the part of the second part, its successors and assigns forever.

And the party of the first part covenants that it has not done or suffered anything whereby the said premises have been incumbered in any way whatever.

And That, in Compliance with Sec. 13 of the Lien Law, the grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Presence of

In Witness Whereof, The party of the first part has caused its corporate seal to be hereunto affixed, and these presents to be signed by its duly authorized officer the day and year first above written.

FEITH REALTY, INC.

By Joe Feith, Jr.
John Feith, Jr., President

State of New York }
County of ORANGE } ss.
of

On this 19th day of July, Nineteen Hundred and Sixty-eight before me personally came JOHN FEITH, JR., to me personally known, who, being by me duly sworn, did depose and say that he resides in Roe Park, Highland Falls, New York that he is the President of Feith Realty, Inc., the corporation described in, and which executed, the above Instrument; that he knows the seal of said corporation; that the seal affixed to said Instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

Abraham Kopald
Notary Public

ABRAHAM KOPALD
Notary Public in the State of New York
Residing in Orange County - Official No. 332
My Commission Expires March 30, 1968

FEITH

Covenant Against Grantor with Ellen Covenant
(CORPORATION)

FEITH REALTY, INC.

TO
TOWN OF HIGHLANDS,
SUPERINTENDENT OF HIGHWAYS
and TOWN BOARD OF THE TOWN
OF HIGHLANDS

Dated,

19 68

LAW OFFICES
KOPALD, HAFT & MANDEL
HIGHLAND FALLS, N. Y.

-----x
 :
 In the Matter of the Laying out of a :
 certain Town Highway in the Town of :
 Highlands, County of Orange and State of :
 New York. :
 :
 -----x

TO THE TOWN SUPERINTENDENT OF HIGHWAYS AND TOWN BOARD OF
 THE TOWN OF HIGHLANDS IN THE COUNTY OF ORANGE:

The undersigned, inhabitant of the Town of Highlands, State of
 New York, and liable to be assessed for taxes therein and constituting
 everyone having an interest in the property described herein, by virtue of
 use of otherwise, hereby apply to lay out and accept dedication of a highway
 in the said Town, which highway is bounded and described as follows:

DESCRIPTION OF LAND TO BE DEDICATED FOR USE AS A PUBLIC
 STREET NOW KNOWN AS HEMLOCK STREET:

ALL that piece or parcel of land situate, lying and being in the
 Hamlet of Fort Montgomery, Town of Highlands, County of Orange, New York,
 and more particularly bounded and described as follows:

BEGINNING at a point on the southerly side of Franklin Street, a
 public street and running in a generally westerly direction from Route 9W
 at a point approximately 688 feet westerly of the intersection of the southerly
 side of Franklin Street with the westerly side of Route 9-W; and where the
 said side of Franklin Street is intersected by the northwesterly side of said
 Hemlock as now laid out through lands of Feith Realty, Inc. and running from
 said point of beginning along the northwesterly side of said Hemlock Street
 the following courses and distances:

1. South 42° 52' 50" West 103.78 feet to an angle in said road.
2. South 83° 04' 50" West 160.22 feet to an angle in the said road.
3. North 29° 50' 10" West 104.56 feet to an angle in the said road;
4. North 79° 16' 10" West 98.55 feet to an angle in said road;
5. North 47° 01' 10" West 94.06 feet
6. South 42° 58' 50" West 50 feet to a point on a southwesterly side
 of said Hemlock Street as now laid out.
7. South 47° 01' 10" East 108.50 feet to an angle in said road;
8. South 79° 16' 10" East 86.77 feet to an angle in said road;
9. South 29° 50' 10" East 114.64 feet to an angle in said road;

- 10. North 83° 04' 50" East 210.82 feet more or less to an angle in said road;
- 11. North 42° 52' 50" East 118 feet to the southerly side of Franklin Street and;
- 12. Northwesterly along the southerly side of Franklin Street 50 feet to the point or place of beginning.

BEING and intended to be a strip of land 50 feet in width.

and also

DESCRIPTION OF LAND TO BE DEDICATED FOR USE AS A PUBLIC STREET NOW KNOWN AS CHERRY STREET:

ALL that piece or parcel of land situate, lying and being in the Hamlet of Fort Montgomery, Town of Highlands, County of Orange, New York, and more particularly described as follows:

BEGINNING at a point on the Southwesterly side of Franklin Street as presently laid out and used which said Franklin Street runs in a generally westerly direction from the westerly side of New York State Highway, 9-W; where the same is intersected by the westerly side of Cherry Street as laid out through lands of Feith Realty, Inc.; and from said point of beginning running the following courses and distances.

- 1. South 42° 52' 50" West 125.49 feet to an angle in the northwesterly side of Cherry Street.
- 2. South 69° 39' 50" West 246.64 feet to an angle in said road.
- 3. South 76° 09' 50" West along said road; 194.26 feet to an angle in said road.
- 4. North 62° 10' 50" West along said road; 305.63 feet to a point running thence;
- 5. South 27° 49' 30" West crossing said road; 33 feet to a point to the southwesterly side of said road.
- 6. Thence along said side of said road south 62° 10' 50" East 312 feet more or less to an angle in said road.
- 7. Thence along said side of said road north 76° 09' 50" East 188.69 feet to an angle in said road.
- 8. Thence along said road north 69° 39' 50" east 262 feet more or less to an angle in said road; and
- 9. North 42° 52' 50" east 138. feet more or less to the westerly side of Franklin Street.
- 10. Thence along the westerly side of Franklin Street westerly 33 feet to the point of beginning.

BEING and intended to be a strip of land 33 feet in width.

Hereto annexed and made a part hereof is a copy of a portion of a certain map entitled "Property of Feith Realty, Inc., Fort Montgomery, New York, July 24, 1946, made by Briggs Associates, Surveyors, revised as of October 1, 1947", upon which is shown the portions of land hereinabove described and to be dedicated as Cherry Street and Hemlock Street.

Dated: December 13, 1967

FEITH REALTY CORP.

BY: John Feith
John Feith, President

STATE OF NEW YORK)
 : ss.:
COUNTY OF ORANGE)

On this 13 day of December, 1967, before me personally came JOHN FEITH, to me known, who, being by me duly sworn, did depose and say that he resides at Roe Park (no number), Highland Falls, New York, that he is the President of Feith Realty, Inc., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

Abraham Kopald
Notary Public, State of New York

ABRAHAM KOPALD
Notary Public, State of New York
Residing in Orange County - Official No. 332
My Commission Expires March 30, 1969

LAW OFFICES
PALD, HAFT & MANDEL
HIGHLAND FALLS, N. Y.



STATE OF NEW YORK

DEPARTMENT OF TRANSPORTATION

28 DUTCHESS TURNPIKE

POUGHKEEPSIE, NEW YORK 12603 454 8050

COUNTIES IN DISTRICT 8 COLUMBIA, DUTCHESS, ORANGE, PUTNAM, ROCKLAND, ULSTER, WESTCHESTER

Certification of Necessity
 Section 171 of the Highway Law
 Cherry Street
 Town of Highlands
 Orange County

J. BURCH MCMORRAN
 COMMISSIONER

M. N. SINACORI
 DISTRICT ENGINEER

January 31, 1968

Mr. Joseph Gorham
 Town Hall
 213 Main Street
 Highland Falls, N. Y.

Dear Sir:

I am pleased to inform you that this office will consent to recommend to the Commissioner of the Department of Transportation that a Certification of Necessity be issued for Cherry Street for a length of some 900'+ from the intersection of Cherry Street and Franklin Street. This is based on the Town being able to obtain two rods of right-of-way for the length mentioned above. It is understood that any extension of Cherry Street passed the point indicated on the map you sent this office will have a three rod right-of-way.

I am enclosing copies of Form R197 which must be submitted in duplicate to this office along with a resolution, town maps, and proof that the property has been deeded to the Town. As regards Hemlock Street where three rods of right-of-way are deeded to the Town, the State of New York does not have any additional restrictions. Of course, the Town should insure that any street which it takes over is in good condition and meets the minimum Town specifications for its roads.

I am returning the documents on Cherry Street and Hemlock Street which was given to me by Town Superintendent Anderson. Will you kindly see that they are returned to him.

Very truly yours,

M. N. SINACORI
 District Engineer

By:

J. Camallonga
 Sr. Civil Engineer

JC:ak
 Encs.

In order to complete the necessary action to acquire Cherry St. as a town road, the Board was brought up-to-date on the procedures already followed:

- 1) On December 31, 1967, the Feith Realty Corporation, John Feith, Jr., President, submitted the formal offer of dedication of land for use as a public street known as Hemlock Street and land for use as a public street now known as Cherry Street. At this time, at the request of the Supervisor, Mr. Jose Camallonga, Senior Civil Engineer, visited the area and indicated approval would be forthcoming from the Department of Transportation:
 - a) For Hemlock Street, where three rods of right-of-way are deeded to the Town, the State not having any additional restrictions.
 - b) For Cherry Street, for a length of approximately 900 feet, where two rods of right-of-way are obtainable, with the understanding that any future extension beyond this point will have a three rod right-of-way.
- 2) The Clerk presented a letter dated January 31, 1968 from the Department of Transportation, signed by Jose Camallonga for Mr. M. N. Sinacori, District Engineer, approving the acquisition of Hemlock Street as a Town road and consenting to recommend to the Commissioner, Department of Transportation, that a certificate of necessity be issued for Cherry Street for a length of approximately 900 feet. This letter also calls for a resolution from the Town Board, Town maps and proof that the property has been deeded to the Town.

The Clerk, having informed the Board that a deed to the Town for two parcels of land to be dedicated, Hemlock Street and Cherry Street, is being turned over by Feith Realty Corporation, Councilman VanZetta offered the following resolution and moved its adoption:

WHEREAS, this Town Board has accepted for dedication to the Town the land along which it is proposed to lay out a certain highway, less than three rods in width, as shown on a map entitled Portion of Map, Property of Feith Realty, Inc., dated Dec. 13, 1967, said highway being generally described as follows: being a road 33 feet in width, extending from the south side of Franklin St., in a southerly course, thence southwesterly, the westerly boundary being 872.02 ft., easterly boundary 900.69 ft. and now known as Cherry Street, and

WHEREAS, the consent of this Town Board having been given that the Town Superintendent of Highways make an order laying out the said highway less than three rods in width, such order having been filed and recorded in the office of the Town Clerk, with a release of the land from the owner thereof, and

WHEREAS, the Town may not lay out a highway less than three rods in width unless certification in writing of the necessity therefor is made by the Superintendent of Public Works of the State of New York, pursuant to Section 171 of the Highway Law, Now, therefore be it

RESOLVED: That the Town Board hereby requests the Superintendent of Public Works of the State of New York to issue a certificate in writing, pursuant to Section 171 of the Highway Law, of the necessity for laying out such highway less three rods in width, to extend as delineated upon the map hereto annexed and made a part hereof.

The motion to adopt the foregoing resolution was seconded by Councilman Yael and duly put to a vote on roll call, which resulted as follows:

Ayes: 5
Noes: 0

The resolution to accept the offer of dedication from Feith Realty Corporation was therefore declared duly adopted.

The Supervisor presented a Supplementary Offer of Dedication, supplementing Offer for and Dedication of Forest Hill, formerly known as Hemlock Street, dated November 27, 1967, and accepted by resolution of the Town Board on April 10, 1968, (as corrected).