



Maureen O'Meara <maureen.omeara@capeelizabeth.org>

Fwd: Hill Way

2 messages

Matthew Sturgis <matthew.sturgis@capeelizabeth.org>

Wed, Jul 22, 2020 at 3:19 PM

To: Maureen O'Meara <maureen.omeara@capeelizabeth.org>, Steve Harding <sharding@sebagotechnics.com>, Robert Malley <robert.malley@capeelizabeth.org>

Dear Maureen, Steve, and Bob,

Please see the below from Evelyn King. It would clarify the question on both sides of the road. I think this preserves the line employed by Two Penguin Properties and the 66 foot line on the opposite side of Hill Way.

Matt

----- Forwarded message -----

From: **Evelyn King** <EKing@monaghanleahy.com>

Date: Tue, Jul 21, 2020 at 4:19 PM

Subject: Hill Way

To: Matthew Sturgis <matthew.sturgis@capeelizabeth.org>

Cc: Mike Hill <mhill@monaghanleahy.com>

Matt,

I had a phone conversation this morning with John Kenney at WBRC and then on his suggestion, I followed up with a call to Ellen Brewer at Owen Haskell. Ellen knew the Hill Way survey work well and also had information from work that Sebago Technics had done for the town for the sidewalks. What I learned during these conversations is that no one has found a recorded document reducing the size of Hill Way from 66' to 50' (or 49.5') however the consensus by numerous surveyors has been that the road was reduced in width when the new straighter Route 77 was mapped out in 1963.

Numerous surveyors have relied on the same facts that I mentioned in my earlier email/memo regarding the State Right of Way Map (Plan Book 68, Page 38) showing (a) Hill Way marked with a "49.5'" width at the northern end, and (b) the monument on the northeastern corner together with the surveyed northwestern bound of the Cape Elizabeth lot at the intersection of the old and new location of Ocean Avenue. The monument at the northeast corner of the CE property 'was held' (meaning the surveyors could rely on that as a valid starting point) and the distances and bearings along the CE boundary as described in the recorded deed were continued down along the easterly side of Hill Way to and along the Two Penguin Properties, LLC land. It is only more recently that the surveyors have questioned their past assumptions of the new road width due to challenges made by the Lawsures to resist the proposed development of the land on the east side of the Hill Road owned by Two Penguin Properties, LLC.

Also noteworthy is that none of the surveyors have marked on surveys that the western side of Hill Way has changed boundary location (on the Lawsure side). The west side of the road has held its original position on recent surveys and it has been only on the east side of Hill Way that the road boundary has been interpreted to have moved, resulting in more land set aside to Two Penguin Properties, LLC. Perhaps it is because the Two Penguin Properties, LLC land was historically only described by abutters (and the road) prior to the 2016 survey, whereas the Lawsure lot has been shown on a recorded plan for decades. I've attached the confirmatory deed to Two Penguin Properties whereby the legal description from 2014 was updated to the 2016 survey description with an explanation.

Please let us know if there are any other stones unturned that we can help you with.

Evelyn