

## Planning Board Agenda

Town Of Wayne

September 02, 2020 6:30 PM VIA Zoom

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Join Zoom Meeting

<https://us02web.zoom.us/j/88034385154?pwd=Q2xFcVUvS2tUc0JnZ0ZURnk4b3BFZz09>

Meeting ID: 880 3438 5154

Passcode: 926996

1. Approval of Minutes
  - Minutes of July 01, 2020 Meeting
  
2. Planning Board Appointments and Terms (no changes)
  
3. New Applicants
  - a. None
  
4. Old Applicants
  - a. Shoreland Zone: Expansion and Relocation
    - Ted Tucci
    - 74 Westacres Road
    - Map 009 Lot 038 (new house and new septic tank) & 009-036 (new septic field)
    - Shoreland Zone R-4 & Zone R-2 Low Density Residential
  
  - b. Conditional Use: Horse Boarding & Training business
    - Mark Rowe
    - 173 Walton Road
    - Map 008 Lot 003
    - Zone R-2 Low Density Residential
  
5. Ordinance Changes
  - DEP Chapter 1000 compliance
  - Fee Schedule for permits that may include Building, CU, BZA, Demolition
  
6. CEO Report
  - Review of recent work and future work
    - a. Permits
    - b. Violations
  
7. Other
  
8. Adjourn





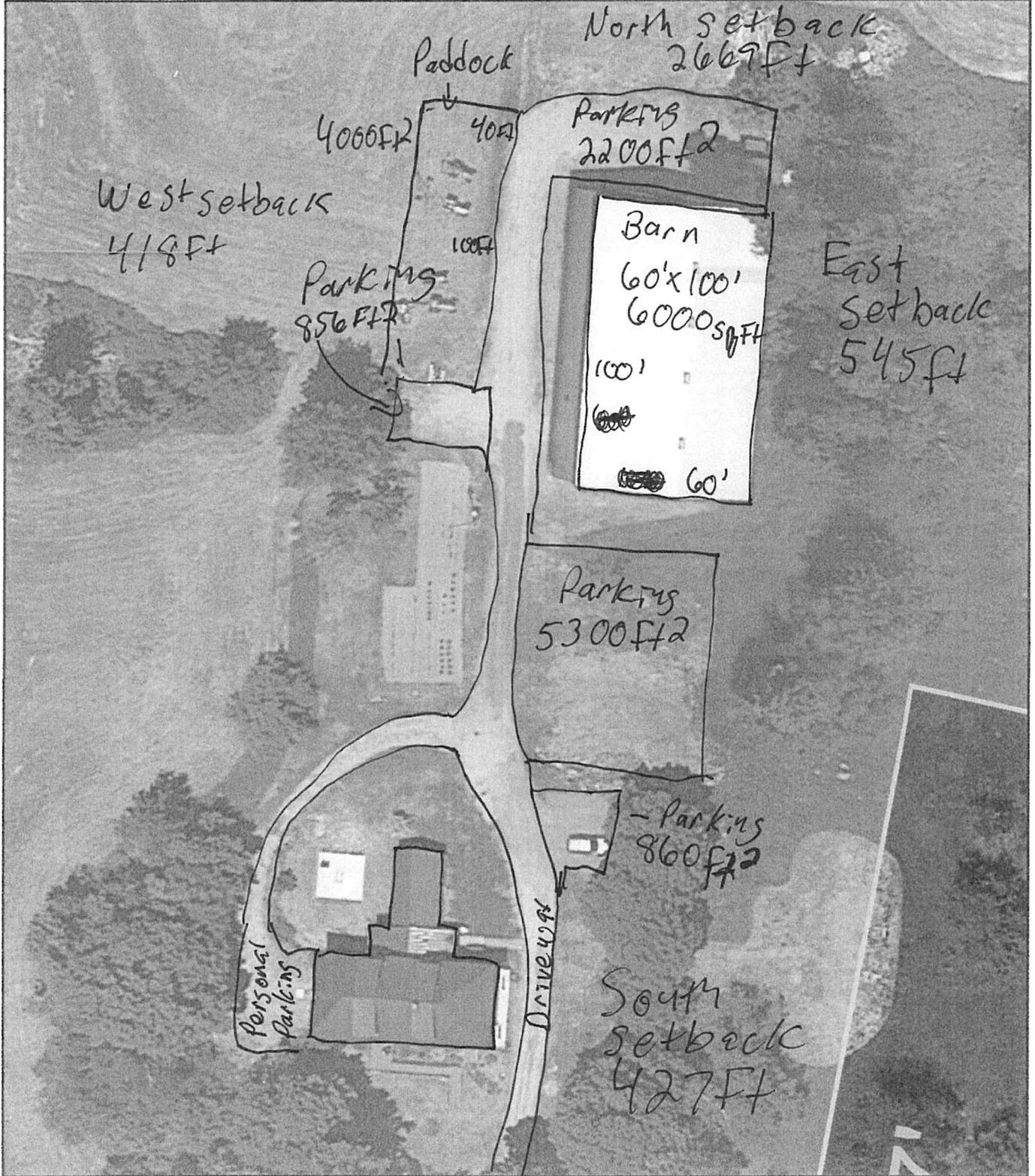
# 173 Walton Rd

Wayne, ME

1 inch = 50 Feet



August 12, 2020





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### Town Of Wayne

September 02, 2020 6:30 PM VIA Zoom

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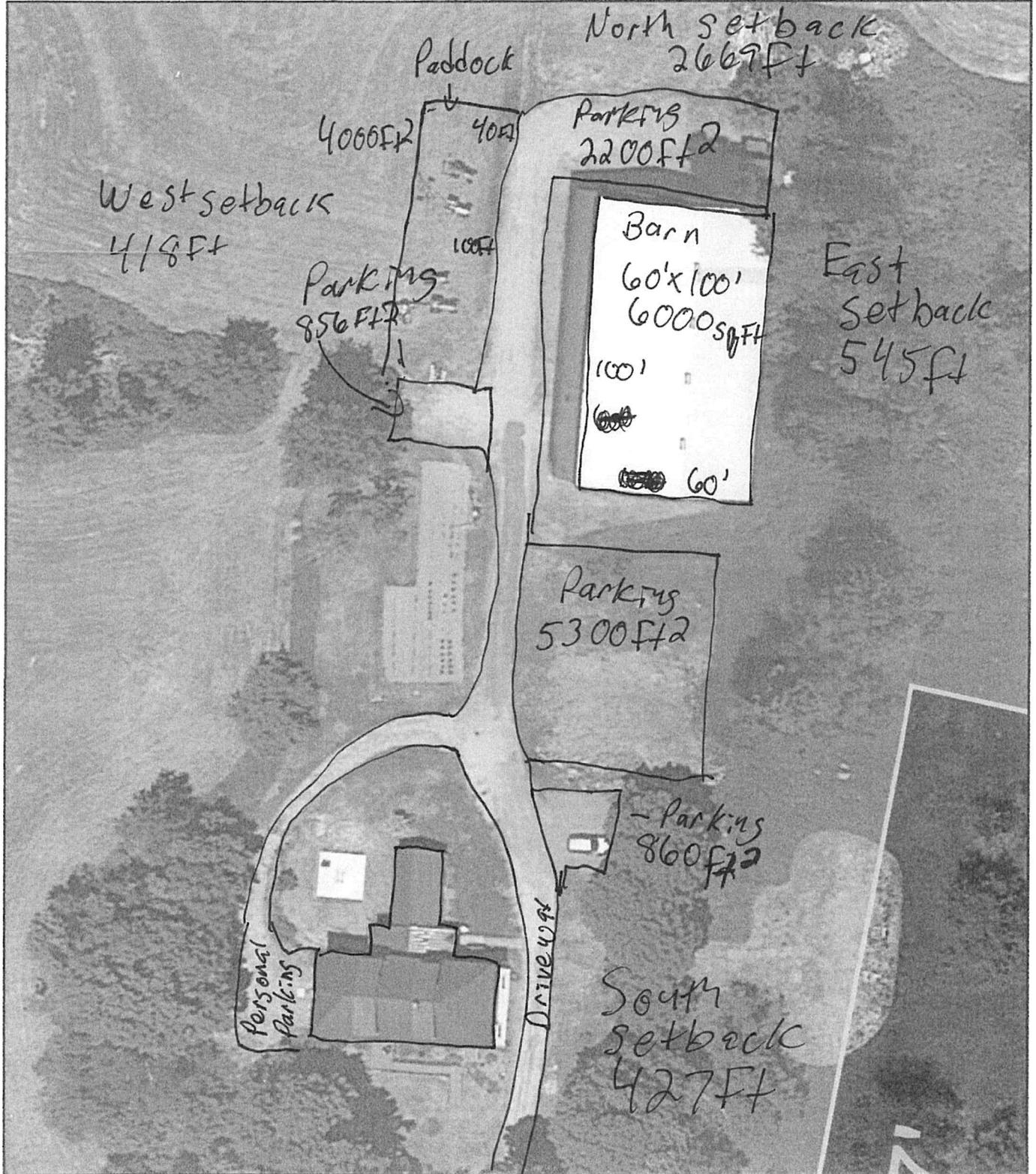
# 173 Walton Rd

Wayne, ME

1 inch = 50 Feet



August 12, 2020



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misrepresentation of this map.



# Town of Wayne

P.O. Box 400; 48 Pond Road  
Wayne, ME 04284

Phone: (207) 685-4983 Fax: (207) 685-3836

<http://www.waynemaine.org>

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August 26, 2020

Subject: Ordinance and State law references for revegetation:  
Tucci, 74 Westacres Road, Expansion of non-conforming structure in the  
shoreland zone

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The Town of Wayne Ordinance has more specific revegetation requirements than the Maine DEP for the shoreland expansion project. This letter is my attempt to boil down how the planning board will need to check the plan. The next paragraph is from the Preface to the DEP's *Chapter 1000: GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES*, and after that I have excerpts from the Town Ordinance: *ARTICLE VIII: NONCONFORMING USES AND NONCONFORMING LOTS OF RECORD* and *ARTICLE V: SHORELAND ZONE - "R-4"*

The *Mandatory Shoreland Zoning Act* was enacted by the Legislature in 1971. The current law, 38 M.R.S.A. sections 435-449, as amended, requires all municipalities to adopt, administer, and enforce ordinances which regulate land use activities within 250 feet of great ponds, rivers, freshwater and coastal wetlands, including all tidal waters; and within 75 feet of streams as defined. The Act also requires the Board of Environmental Protection to establish minimum guidelines for such ordinances. This document, adopted by the Board on February 14, 1990 and amended July 14, 1992, August 7, 1994, February 6, 1999, February 13, 2000, May 1, 2006 and January 26, 2015 contains those guidelines for municipal shoreland ordinances. The Act requires that municipalities adopt shoreland zoning ordinances consistent with, or no less stringent than, those minimum guidelines.

## ARTICLE VIII D., *Town of Wayne Ordinance*

### D. Relocation:

1. A nonconforming structure may be relocated on a lot of record provided that the new location meets all the setbacks of the zone except that in the R-4, Shoreland Zone, the setback from the normal high water mark shall be met to the greatest practical extent possible without violating any other setback, and;
2. In approving the new location, the Planning Board shall only approve a location which meets setbacks as provide for above, and which meets the following criteria. In determining whether the building relocation meets the setback to the greatest practical extent possible, the Code Enforcement Officer shall consider the size of the lot, slopes of the land, location of other structures on the property and adjacent property, and the increase in distance from the normal high water mark achieved. In addition, if the new location fails to meet any of the following criteria, the permit shall be denied.
  - a. The applicant must provide evidence, if the use of the proposed location requires, that the present subsurface sewage disposal system meets the requirements of the State Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with said rules.  
Using the limitations of location imposed by a. above:

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b. The new location must meet the requirements for tree harvesting, clearing for development and vegetation removal, and lot coverage requirements contained in Part I, Article V, of this Ordinance.

The applicant shall be required to revegetate the area where the relocated structure was moved from. If previous area cleared and areas to be cleared for the relocated structure and other approved development exceed the cleared opening provisions of Article V. F. (2), then the applicant shall be required to revegetate cleared areas to conform with the cleared openings provisions.

If the area between the relocated structure and the normal high water mark is a cleared opening, then the applicant shall be required to revegetate to create a minimum natural buffer of 25 feet between the structure and the normal high water mark.

Revegetation for the purposes of this section means:

- 1) the planting of trees native to our shoreland area which are at least five feet in height at the time of planting, in sufficient number to provide a "well distributed stand of trees" as described in Article V. F (2).,
- 2) and the planting of shrubs and/or seed mixtures such as reed canary grass or redtop around the trees, which growth is intended to remain unmowed to re-establish a woodland vegetation.

The new location shall not increase the potential for or cause soil erosion or harmful runoff.

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from Article V, *Town of Wayne Ordinance*

## 3 Clearing or Removal of Vegetation Other Than Timber Harvesting and Related Activities

a. If within the Buffer Strip (defined as follows) adjacent to the normal high water mark:

The Buffer Strip is a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high water mark of a great pond, defined pond or lake, defined stream, tributary stream, or river, or upland edge of a fresh water wetland; and shall be preserved as follows:

- 1) There shall be no cleared opening in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks is permitted per shorefront lot or every 250 feet of shore frontage, provided that a clear line of sight to the water through the 100 foot buffer strip is not created.
- 2) Selective cutting of trees within the Buffer Strip is permitted, provided that a well distributed stand of trees and other vegetation is

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maintained. However, within the Shoreland Area also zoned for Resource Protection, there shall be no cutting of vegetation within the Buffer Strip, except to remove safety hazards.

For purposes, of this section, a "well distributed stand of trees and other vegetation" shall be defined as maintaining a rating score of 12 or more in any 25-foot by 25-foot square area as determined by the following rating system:

Diameter of Tree at 4 1/2 Feet Above Ground Level	Points
2-4 inches	1
4-12 inches	2
>12 inches	4

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above the ground level may be removed in any ten (10) year period.

3) Vegetation customarily classed as "underbrush" which under three (3) feet in height and other ground cover shall not be removed except to provide a footpath as described in paragraph 1 above.

4) Pruning of tree branches on the bottom third of the tree is permitted.

5) In order to maintain a buffer strip of vegetation where the removal of storm-damaged, diseased, unsafe or dead trees results in the creation of cleared openings greater than 250 square feet in the forest canopy, these openings shall be replaced with native tree species, unless existing new tree growth is present.

b. If within the Remainder of the Shoreland Zone:

1) Clearing for permitted buildings, structures, septic systems and associated fields, and driveways is allowed at distances greater than one hundred (100) feet horizontal distance, from a great pond, defined pond or lake, defined stream, tributary stream, river or upland edge of a freshwater wetland. However, clearings shall not extend more than twenty (20) feet in any direction, emanating from the perimeter of said buildings, structures, septic systems and associated fields and driveways, and shall not intrude into the 100 foot buffer strip, and shall not be within ten (10) feet of a side lot line.

In no event shall cleared openings for development, including but not limited to principal and accessory structures, driveways, and sewage disposal areas, exceed in the aggregate 25% of the lot area or ten

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thousand (10,000) square feet, whichever is greater, including land previously developed.

2) Clearing or removal of vegetation other than as specified in ss. 2-b 1) above is permitted with the following restrictions:

- a. A well distributed stand of trees shall be maintained within the zone, and harvesting shall not create a single opening greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5000) square feet: they shall be at least one hundred (100) feet apart and at least fifty (50) feet from a side lot line. In the absence of existing new growth, reforestation shall be accomplished to reestablish the uniformity and pattern of tree growth existing at the site.
- b. Clearing shall not remove more than 40% of the volume of the trees four (4) inches or more in diameter measured at 4 1/2 feet above ground in any ten (10) year period.
- c. Road construction for the purpose of clearing or removal of vegetation under any provision of Section F is not permitted. Skid trails are subject to the provisions of ss.4, Erosion and Sedimentation Control Requirements following.
- d. Slash may be laid on the ground, but no part thereof may extend more than four (4) feet above the ground.
- e. Cleared openings, legally in existence on the effective date of this Ordinance, may be maintained but shall not be enlarged, and may be required to be revegetated according to the provisions of Article VIII Section E. Fields, which have reverted to primarily shrubs, trees or other woody vegetation, shall be regulated under the provisions of this Section.
- f. Replanting when in violation: In addition to any other penalty that may be imposed under this Ordinance, violators of Section F(2)(a-b), shall be required to restore the area in violation by the planting of trees of similar, or fast growing and suitable species, to those removed in violation. Replacement trees shall be at least five (5) feet in height. Said replanting shall be in sufficient number to meet the requirements of restoring the area in violation to its former uniformity of stand and pattern of vegetative cover, and shall be according to a plan directed by a State Service forester or private professional forester, registered in the State of Maine, and acceptable to the Selectmen. Any fees incurred for the development of said plan shall be the responsibility of the violator. A copy of the plan shall be filed and

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approved by the Selectmen. Additionally, areas of disturbed or exposed mineral soil with the potential of causing erosion shall be stabilized by reseeding.

#### 4. Erosion and Sedimentation Control Requirements:

a. All activities which involve filling, grading, excavation or other similar activities which result in unstable soil conditions, and which require a permit, shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provision for:

- 1) Mulching and revegetation of disturbed soil.
- 2) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
- 3) Permanent stabilization structures such as retaining walls or riprap.

b. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be allowed as closely as possible.

c. Erosion and sedimentation control measure shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

d. Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked by use of riprap, sod, seed, and mulch, or other effective measure. In all cases permanent stabilization shall occur within nine months of the initial date of exposure. In addition:

- 1) Where mulch is used, it shall be applied at a rate of at least one bale per five hundred square feet and shall be maintained until a catch of vegetation is established.
- 2) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
- 3) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

e. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

f. Tree cutting and clearing of vegetation shall be conducted in such a manner and at such a time that minimal soil disturbance results. When necessary, adequate provision shall be made to prevent soil erosion and sedimentation of

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surface waters such as sediment basins, settling basins, filter fences, hay bales and immediate reseeding of any area that has the potential of causing erosion or sedimentation.

I hope that this information helps you to make your revegetation plan, or determine if your plan will meet the requirements for approval by the planning board.

Sincerely,

Jaime V. Hanson  
Code Enforcement Officer  
Town of Wayne, Maine

## PROPOSED REVEGETATION PLAN FOR 74 WESTACRES ROAD

### INTRODUCTION

The purpose of this document is to set forth the proposed revegetation plan in connection with the Conditional Use Permit Application ("Application") for expansion and relocation of a non-conforming structure at 74 Westacres Road. This proposal conforms with the requirements of Maine DEP Regulation 12 c. (3) and Articles VIII and V of the Town of Wayne Ordinance concerning relocation of non-conforming structures. Such requirements were summarized in a letter dated August 26, 2020 from the Code Enforcement Officer.

### PROJECT OVERVIEW

The Application seeks to remove and expand an existing dilapidated and uninhabitable structure and outhouse currently located 53 ft. from the high water mark. The total existing structure and outhouse area is 426.6 SF. The Application requests relocation and expansion of the structure to 75 ft. from the high water mark. Removal of the existing dilapidated structure will result in a clearing of approximately 410 SF. The relocated structure will not exceed 1,280 SF. The total lot area of 74 Westacres Road is 18,288 SF. Accordingly, the relocated structure will cover 7% of the total lot area.

### EXISTING CONDITIONS

The lot at 74 Westacres Road consists of a mixture of oak, pine, spruce and other trees. Within the 100 ft. zone, there are several dead trees that present a safety hazard. A portion of the lot slopes down to the waterfront. This shoreline area has been severely impacted by beaver activity, resulting in the removal of a large number of smaller trees in close proximity to the shoreline. There is an existing meandering path leading to a rocky point at the tip of the lot. This path is approximately 4 ft. wide and was stabilized in 2013 by a Youth Conservation Corps project that put down trap rock over the path and covered it with mulch.

### LANDSCAPING APPROACH

The Applicant's intent is to enhance and develop the existing landscape to maintain the character of the lot, add trees and vegetation complementary to existing conditions, and remediate existing beaver damage contributing to potential increased rainwater runoff and soil erosion at the shoreline. The Applicant has already consulted with the 30-Mile River Watershed, which included a site visit. The Applicant intends to seek "LakeSmart" certification of the revegetation installation at 74 Westacres Road as conforming with lake friendly specifications for shoreline buffer zones. In addition, the Applicant received recommendations from 30-Mile River Watershed for landscape designers familiar with LakeSmart principles and with expertise in shoreland landscaping design and installation. The Applicant intends to retain such a firm to develop a comprehensive landscape plan for 74 Westacres Road.

### ZONING ARTICLES RELOCATION CRITERIA

The proposed plan for 74 Westacres Road conforms with the Town of Wayne zoning requirements for relocation as follows:

1. Article VIII.D.2 (General Criteria). In considering building relocation, the Code Enforcement Officer "shall consider the size of the lot, slopes of the land, location of other structures on the property, and increase in the distance from the normal high water mark achieved." The Application meets the General Criteria because it removes a dilapidated structure currently situated closer to the high water mark and relocates the structure further back from the shoreline. The new construction replaces a dilapidated structure with one that will have proper rainwater and drainage systems, does not include any other new structures, and corrects existing shoreline conditions resulting from beaver damage that promote runoff into the lake and soil erosion.
2. Article VIII.D.2a (Subsurface Sewage Disposal). The Application meets this criteria because there is an approved septic design plan that meets state requirements and includes a leach field located across the road away from the lake.
3. Article VIII.D.2b (Cleared Opening). The Application meets this criteria because the cleared opening of approximately 410 SF will be revegetated with plantings consistent with existing site conditions that will create a buffer of at least 25 ft .between the relocated structure and the high water mark. The revegetation of that area will include a "well distributed stand of trees" consisting of four trees with a diameter of 2-4 inches and four trees with a diameter of 4-5 inches, resulting in revegetation that meets the required rating score of 12.
4. Article V.3a (Buffer Strip Clearing). The Application meets this criteria because within the Buffer Strip (100 ft. horizontally from the high water mark), there is no cleared opening in the forest as measured from the outer limits of the tree crown. In addition, the existing footpath conforms to the Section V.3a.1 requirements (footpaths not to exceed 6 ft. in width as measured between tree trunks).
5. Article V.3b (Remainder of Shoreland Zone). The Application meets this criteria because the cleared area for the relocated structure and driveway is well under 25% of the total lot size.

**EASEMENT  
DEED**

WAYNE WEST ACRES ASSOCIATION, INC., a Maine non-profit corporation of Wayne, Maine for consideration paid, grants, conveys and forever quitclaims to **THEODORE J. TUCCI** and **NANCY A. HRONEK**, with a mailing address of: 84 Westerly Terrace, Hartford, CT 06105, with Quitclaim Covenant, an easement over a private way known as West Acres Road situated in the Town of Wayne, County of Kennebec, State of Maine bounded and described as follows:

An easement for the installation, maintenance, repair and replacement of a below ground septic pipe extending from Lot 7 across West Acres Road to Lot 20, both lots being as shown on the Plan of Wayne Westacres recorded in Plan Book 20, Page 83 of the Kennebec Registry of Deeds.

Burdened property: Described in deed to Grantor from John R. Perkins dated July 3, 1968 and recorded in Book 1474, Page 302 of the Kennebec County Registry of Deeds.

Benefited property: Described in deed to Grantees dated August 30, 1999 and recorded in said Registry at Book 6054, Page 62.

The location of the easement shall be determined by the final installation of the septic pipe.

Grantees, their heirs and assigns, shall restore the surface of the road to its condition prior to any excavation to the extent practicable.

The Grantors, their successors or assigns, shall have no responsibility for the installation, repair or maintenance of the septic pipe described herein.

This Easement shall run with the land.

IN WITNESS WHEREOF, the said Wayne West Acres Association, Inc. has caused this instrument to be sealed and signed by its duly authorized officer this 27<sup>th</sup> day of August, 2020

Wayne West Acres Association, Inc.

By: Donald A. Nelson  
Donald A. Nelson, President

STATE OF Maine

COUNTY OF Kennebec

August 27, 2020

Personally appeared the above named Donald A. Nelson, President of the Wayne West Acres Association, Inc. and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said corporation.

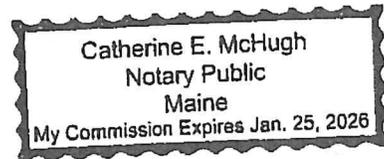
Before me,

Catherine E. McHugh

Notary Public

(Type or Print Name Below Line)

LD/mg



**EASEMENT  
DEED**

**RICHARD F. TUCCI, MICHAEL D. TUCCI, JOHN J. TUCCI, LINDA D. TUCCI and THEODORE J. TUCCI**, for consideration paid, grant, convey and forever quitclaim to **THEODORE J. TUCCI and NANCY A. HRONEK**, as joint tenants, with a mailing address of: 84 Westerly Terrace, Hartford, CT 06105, with Quitclaim Covenant, an easement over land situated in the Town of Wayne, County of Kennebec, State of Maine bounded and described as follows:

An easement for the installation, maintenance, repair and replacement of a subsurface septic leach field with appurtenant pipes and other facilities on Lot 20 as shown on the Plan of Wayne Westacres recorded in Plan Book 20, Page 83 of the Kennebec Registry of Deeds.

Burdened property: Described in deed to Grantors from Flora M. Tucci dated August 9, 2005 and recorded in Book 8749, Page 324 of the Kennebec County Registry of Deeds.

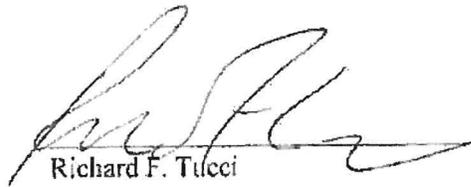
Benefited property: Described in deed to Grantees dated August 30, 1999 and recorded in said Registry at Book 6054, Page 62.

The location of the easement shall be determined by the final installation of the leach field.

Grantees, their heirs and assigns, may maintain the surface of the land as necessary and control vegetation over the leach field. The Grantors, their heirs and assigns, shall have no responsibility for the installation, repair or maintenance of the subsurface septic leach field described herein.

This Easement shall run with the land.

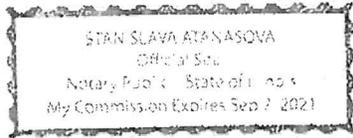
IN WITNESS WHEREOF, the said **RICHARD F. TUCCI, MICHAEL D. TUCCI, JOHN J. TUCCI, LINDA D. TUCCI and THEODORE J. TUCCI** have executed this deed as of this 28<sup>th</sup> day of August, 2020.

  
Richard F. Tucci

STATE OF ILLINOIS  
COUNTY OF COOK

. AUGUST 27TH, 2020

Personally appeared the above named Richard F. Tucci, and acknowledged the foregoing instrument to be his free act and deed.



Before me,

  
Notary Public  
(Type or Print Name Below Line)  
Stanislava Atanasova

Michael D. Tucci

Michael D. Tucci

STATE OF New York  
COUNTY OF Suffolk

8-26, 2020

Personally appeared the above named Michael D. Tucci, and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Alejandro Rojas

Notary Public Alejandro Rojas  
(Type or Print Name Below Line)

ALEJANDRO ROJAS  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01RO6360799  
QUALIFIED IN SUFFOLK COUNTY  
TERM EXPIRES JUNE 26, 2021

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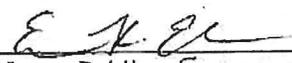
  
John J. Tucci

STATE OF Michigan  
COUNTY OF Kalamazoo

August 27, 2020

Personally appeared the above named John J. Tucci, and acknowledged the foregoing instrument to be his free act and deed.

Before me,

  
Notary Public Emma K. Elms  
(Type or Print Name Below Line)

EMMA K ELMS  
NOTARY PUBLIC - STATE OF MICHIGAN  
COUNTY OF KALAMAZOO  
My Commission Expires 03/17/2026  
Acting In the County of Kalamazoo

Kalamazoo

Linda D. Tucci

Linda D. Tucci

STATE OF Maine  
COUNTY OF Kennebec

August 27, 2020

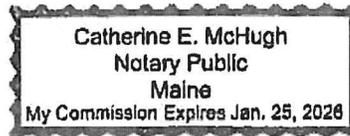
Personally appeared the above named Linda D. Tucci, and acknowledged the foregoing instrument to be her free act and deed.

Before me,

Catherine E. McHugh

Notary Public

(Type or Print Name Below Line)



Theodore J. Tucci

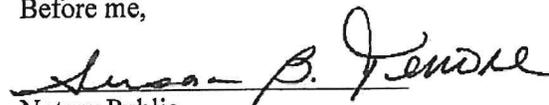
  
Theodore J. Tucci

STATE OF Connecticut  
COUNTY OF Hartford

August 28, 2020

Personally appeared the above named Theodore J. Tucci, and acknowledged the foregoing instrument to be his free act and deed.

Before me,

  
Notary Public  
(Type or Print Name Below Line)

**Susan Bianco Tenore**  
Notary Public - Connecticut  
My Commission Expires  
May 31, 2025