

Keith P. Richard  
Principal  
[krichard@archipelago.com](mailto:krichard@archipelago.com)

1 Free Street  
Portland, Maine 04101  
(207) 558-0102

RECEIVED OCT 05 2022

September 29, 2022

**VIA FEDEX EXPEDITED**

Clerk, Town Office  
Board of Adjustment and Appeals  
Town of Chebeague Island  
192 North Rd  
Chebeague Island, ME 04017

**RE: Appeal of Permit No. 22-SZ-2, 107 Cottage Road**

Dear Clerk,

On behalf of my clients James Gallagher, Anne Gallagher, Norma Drew, and Jeffrey Drew, please find enclosed (1) an application for Administrative Appeal to the Board of Appeals, (2) letter explaining the grounds for the appeal; (3) affidavits of James Gallagher and Norma Drew in support of the request to enlarge the time for the appeal; and (4) \$250 application filing fee.

Thank you for your prompt attention to this matter and do not hesitate to contact me with any questions or concerns.

Sincerely,



Keith P. Richard  
Bar No. 5556

Encl.

c: James Gallagher  
Anne Gallagher  
Norma Drew  
Jeffrey Drew

RECEIVED OCT 05 REC'D

**Application for Administrative Appeal to Board of Appeals**

1. Name of Appellant James Gallagher et al. c/o Keith Richard,  
2. Mailing Address 1 Dana Street Portland, ME 04101  
3. Telephone (207) 558-0102

4. Name of Owner of Property Which is Subject of Appeal

Michael, Mary McKee

5. Please describe in detail the facts surrounding this appeal, what you think is wrong about the decision which you are appealing, and what action you want the board of appeals to take in this matter. If additional space is needed, please continue on a separate sheet of paper and attach it to this application.

See attached.

I certify that the information contained in this application is true to the best of my knowledge and belief.

Date 9/29/22

Signature of Appellant

Keith Richard, Esq.

ME Bar No. 5556

Attorney for appellants

## Notice of Administrative Appeal Decision

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Dear \_\_\_\_\_:

This is to inform you that the Board of Appeals acted on your application for an administrative appeal at its meeting on \_\_\_\_\_ and made the following findings and conclusions:

### **Findings of Fact**

1. The owner of the property is \_\_\_\_\_.
2. The property is located at \_\_\_\_\_.  
\_\_\_\_\_.  
It is in the zoning district and is identified as Assessor's Map \_\_\_\_\_,  
Lot \_\_\_\_\_. It contains \_\_\_\_\_ square feet.
3. The applicant is \_\_\_\_\_  
who has demonstrated a legal interest in the property by providing a copy of a \_\_\_\_\_  
\_\_\_\_\_ (deed, option, purchase agreement, etc.).
4. The applicant proposes to construct \_\_\_\_\_ on the  
subject property/conduct the following use on the property \_\_\_\_\_.
5. A completed application was submitted on \_\_\_\_\_.
6. A Public Hearing was held on \_\_\_\_\_.
7. The relevant sections of the ordinance are \_\_\_\_\_  
\_\_\_\_\_.
8. Other relevant facts are: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

Keith P. Richard  
Principal  
[krichard@archipelagona.com](mailto:krichard@archipelagona.com)

1 Free Street  
Portland, Maine 04101  
(207) 558-0102

September 29, 2022

Board of Adjustment and Appeals  
Town of Chebeague Island  
192 North Rd  
Chebeague Island, ME 04017

**RE: Appeal of Permit No. 22-SZ-2, 107 Cottage Road**

Dear Chair and Members of the Board,

We represent James Gallagher, Anne Gallagher, Norma Drew, and Jeffrey Drew (Appellants). This is an appeal of a permit decision of the Code Enforcement Officer regarding development at 107 Cottage Road. For the reasons set forth below, the CEO failed to properly apply the applicable ordinances in issuing the permit. We are asking the Board to (1) enlarge the time to file this appeal for good cause; and (2) deny the permit applications on the merits based on a *de novo* review of the evidence.

**Background**

Michael and Mary Makee, owners of 107 Cottage Road, have undertaken substantial improvements and this appeal concerns the CEO's issuance of a Shoreland Zoning permit and interpretation of the ordinance in 2022. The Gallaghers are direct abutters of 107 Cottage Road (at 113 Cottage Road) and the Drew's property is located at 121 Cottage Road. The Drews and Gallaghers are aggrieved parties by nature of their proximity to the development and its impact upon their quiet enjoyment and value of their own property.

The history of development is relevant to several issues in this appeal. A building permit was issued on June 18, 2021 for a year round modular home residence on a concrete slab at 103 Cottage Road (Permit 2021-B-19). Related electrical and plumbing permits were issued. The subsurface waste disposal system was designed and approved to serve five (5) bedrooms. The Makees also applied for permits for three 14 by 24 foot sheds, including one that contains a loft with two bedrooms. Those permits are not directly at issue, except to the extent that those improvements and their features bear upon the regulatory standards and pertinent ordinances applicable to the 2022 permits.

According to the Shoreland Project Permit Application dated April 25, 2022, the Makees propose an "[e]xtension of existing driveway to provide construction access to site

of future guest house, excavation for foundation and buried utilities.” The application states that there is only “soil disturbance” and no tree cutting is indicated on the application. Attached to the application is a hand-drawn sketch (not to scale) that purports to identify the location of the proposed driveway extension and depicts *at least* a corner of the proposed guest house structure within the 250’ setback, marking the boundary of the Shoreland Overlay District. On May 9, 2022, the Makees also applied for a Growth Permit for the purpose of a “single family” home that is described as an “accessory guest house.”

The CEO granted the Growth Permit and final action was issuance of a building permit, not a shoreland permit, despite the fact that the foundation and thus structure is at least partially within the Shoreland Zone. The building permit was issued by the CEO on May 26, 2022 authorizing a “New Four Season 2BD/2BA Post & Beam guest house on a full foundation with a basement.” (Permit No. 22-B-18).

The lot size of 107 Cottage Road is 2.33 acres. The property is located in the Island Residential (IR) District and partially in the Shoreland (SO) Overlay District, and Limited Residential (LR) Overlay District. *See* Town of Chebeague Island, Shoreland Zoning Ord. (Appendix B.)

### **Facts Relevant to Good Cause to Enlarge the Appeal**

The permits were issued by the Code Enforcement Officer without any notice to Appellants and other interested parties, and Appellants had no opportunity to be heard regarding the applications before permits apparently issued. They were unable to obtain any information about the permits before the appeal period had already expired. Appellants made persistent efforts over several months and weeks, going to the Town Hall in person, calling the CEO and leaving messages, communicating with the Town by email, and hiring an attorney when those efforts proved fruitless.

As set forth in the attached affidavits of James Gallagher and Norma Drew, Appellants became aware of activity at 107 Cottage Road that caused them concern in June 2022. Appellant Jim Gallagher visited the Town Hall on three occasions in an effort to obtain the file, in particular any permits that had been issued for work at the property. Each time he visited Town Hall, he was not provided with the requested information and was told that the file was in the possession of the Code Enforcement Officer (CEO). Because the CEO is a part time position and he resides off-island, the opportunity to meet with and discuss his concerns, and to understand more information about what was happening and under what legal standards, presented substantial obstacles and challenges.

Nonetheless, Jim Gallagher persisted, albeit unsuccessfully, first by attempting to reach the CEO by phone. He left messages but the CEO failed to return his calls or otherwise respond to requests. He went to Town Hall again in July 2022 and was still unsuccessful. He

sought the advice and assistance of an attorney in mid-July 2022. Attorney Sandra Guay, Esq. requested the information directly from the CEO by email on July 29, 2022. The CEO did not respond until over two weeks later, on August 15, 2022, and even then provided only applications for permits, not any actual permits or indication of the authority pursuant to which the CEO purported to authorize the work. Appellant Norma Drew joined in the effort to request further information and clarification, in particular a survey. A survey that depicted the location of the proposed structure was highly relevant in that it would demonstrate whether the proposed guest house was located in the Shoreland Zone and therefore required a Shoreland Zoning permit, not an ordinary building permit regulated by the standard Zoning Ordinance. Her efforts were similarly unsuccessful.

It was not until September 2022 that Appellants obtained the full file and permits for 107 Cottage Road. They promptly provided the documents to their attorneys to evaluate whether there were grounds for appeal. Upon deciding to appeal, Appellants directed their attorneys to file appeals and to seek to enlarge the deadlines to appeal.

### **Appeal Grounds**

#### **1. There is “good cause” to enlarge the 30-day deadline to appeal.**

Section 508(D)(1)(a) of the Shoreland Zoning Ordinance provides that appeals from CEO shoreland zone permits “shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.” Chebeague Island, Shoreland Zoning Ordinance § 508(D)(1)(a) (April 7, 2018) (hereinafter “SZ Ord.”).

The Maine Supreme Court has repeatedly reaffirmed the “good cause” exception in numerous cases. *See, e.g., 29 McKown LLC v. Town of Boothbay Harbor*, 2022 ME 38, ¶ 7 n.4, 277 A.3d 364; *Lamarre v. Town of China*, 2021 ME 45, ¶ 13 n.5, 259 A.3d 764; *Viles v. Town of Embden*, 2006 ME 107, ¶ 12, 905 A.2d 298; *Keating v. Zoning Bd. of Appeals of City of Saco*, 325 A.2d 521, 525 (Me. 1974). The “good cause” exception was created to avoid injustice and afford due process recognizing that aggrieved parties may not receive notice of a permit that affects their property rights until after it is too late to appeal. *See Viles*, 2006 ME 107, ¶ 12, 905 A.2d 298; *Keating*, 325 A.2d at 525.

Factors identified by the Maine Supreme Court in evaluating whether there is good cause for a late appeal include (1) when the party got notice of the permit appealed, (2) whether the party could have filed their appeal before the deadline expired, and (3) how long the party waited between learning of the permit and filing the appeal. *See Viles*, 2006 ME 107, ¶ 16, 905 A.2d 298.

The foregoing factors, as applied to this case, overwhelmingly support good cause to enlarge the time to appeal. Appellants received **no notice** of the permits until **months** after they were issued. The CEO failed to even respond or acknowledge efforts to obtain the file and permits regarding 107 Cottage Road until the end of July—approximately two months after the permits were apparently issued, well beyond the 30-day appeal period. Even then, it was at least another month-plus before Appellants obtained the relevant information, including the permits, and complete file from the Town. The Appellants never had notice of the permits within the time to file a timely appeal and the CEO did not respond to inquiries until after the appeal period had expired. Particularly relevant here is the fact that the CEO is part time and apparently was off-island, unable to timely respond for weeks and months at a time. Upon receipt of the documents and evaluation of an appeal given their rights as aggrieved parties, Appellants have elected to appeal and had their attorneys file as soon as possible.

In light of Appellants’ consistent communications and persistent efforts, and the lack of notice for reasons beyond their control, Appellants have shown good cause and the Board should enlarge the time to prevent an injustice and to protect Appellants’ due process rights. *See 29 McKown LLC v. Town of Boothbay Harbor*, 2022 ME 38, ¶ 7 n.4, 277 A.3d 364; *Lamarre*, 2021 ME 45, ¶ 13 n.5, 259 A.3d 764.

## **2. The Guest House Required a Shoreland Zoning Permit**

A Shoreland Zoning permit is required to build a structure in the shoreland zone; permitting is non-exclusive, meaning that a shoreland permit is in addition to any permits required under the standard Zoning Ordinance or other ordinance. *See* SZ Ord. § 502(B)(1).

According to the Shoreland Zoning permit application, the proposed “Guest House” is within the shoreland zone for at least two reasons. First, as depicted on the hand-drawn diagram, the “Guest House” has *at least* a corner of the structure’s footprint within the 250-foot shoreland zone setback. The drawing is not to scale and thus it is highly probable that an even greater percentage of the structure is within the 250-foot setback. Second, the Shoreland Zoning permit application expressly states that there will be “excavation for foundation” and the only foundation contemplated on the site is for the “Guest House.”

The Shoreland Zoning ordinances define “structure” as “[a]nything temporarily or permanently located, built, constructed or erected for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, or anything constructed or erected on or in the ground.” SZ Ord. § 100. “Footprint” is defined as “The entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.” *Id.* “Foundation” is defined as “the supporting substructure of a building or other structure, excluding wooden

sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.” *Id.*

The only foundation that the applicant would be constructing is the guest house and the foundation is part of the footprint and part of the structure. Because the foundation and the structure are within the shoreland zone, the structure requires a shoreland zone permit. Because none was obtained, any construction activity for the guest house is unpermitted and unlawful.

**3. The Guest House is not an “accessory building” but dominates the purported principal structure.**

The guest house implicates standards in both the Town’s Zoning Ordinance and Shoreland Zoning Ordinance. Both provide that in the event of any conflict or inconsistency between them, the more restrictive regulation shall apply. *See* Chebeague Island, Zoning Ordinance, § 108; SZ Ord. § 107.

The applicant designated the guest house as an accessory use. The subject property at 107 Cottage Road is located in the Island Residential (IR) District. Although accessory uses are permitted in the IR District, and the definition of “guest house” contemplates that structure be “located on the same parcel as the principal residential structure,” and requires that the structure meet the definition of an accessory building. *See* Zoning Ord. § 110 (Accessory Building; Guest House). An “accessory building” is defined as a building that is “subordinate . . . and located on the same lot with, the main building . . . [a]ccessory uses, when aggregated, shall not subordinate the principle use of the lot.” Zoning Ord. § 110.

According to application materials, the estimated cost of the guest house construction is \$650,000. It is a two-story structure with two bedrooms, two bathrooms, and extensive livable space and exterior decking. The existing “principal” structure is a single-story 28 by 56 prefabricated home on a concrete slab, with three beds, two baths, and an estimated build cost of \$50,000. The square footage of livable space in the guest house exceeds that of the modular home structure.

Based on the size, cost, and specs, the “guest house” is not a mere accessory, but rather is the true principle, main structure and home on the lot.

**4. The Guest House is a second dwelling on a lot without sufficient area to support a second dwelling, and therefore unlawful as contravening minimum lot size standards.**

The minimum lot size in the IR district is 1.5 acres. Zoning Ord. § 204.1(C)(1). In the Shoreland Zone, the minimum lot area is 30,000 square feet per dwelling. SZ Ord. § 204.2



(Minimum Lot Standards). As further explained below, the ordinance restricts density and requires that for each dwelling, there is a minimum square footage requirement; lots without adequate square footage may not have more than one dwelling.

Guest houses are defined as “a separate single-family dwelling” and additionally fits within the plain definition of “dwelling.” See Zoning Ord. § 110 (defining “dwelling” as a group of rooms for one family with living, sleeping, cooking, and eating facilities). The Zoning Ordinance regulates residential development at Section 405.3 and requires dwelling units be “located on individual building lots which conform to the minimum lot size for the zoning district in which they are located.” Zoning Ord. § 405.3. Section 412 requires that guest houses meet the lot standards for the district in which they are located, Zoning Ord. § 412, which includes density and minimum lot size.

The ordinances evidence a clear intent to strictly limit accessory dwellings in the IR District by referencing “accessory apartments” and “manor houses” as accessory dwellings subject to Section 407. Zoning Ord. § 204.1 & fn. 1. Section 407 makes clear that an accessory dwelling (1) must be limited in square footage, floor area, and number of bedrooms; (2) must also comply with minimum lot standards; (3) must not result in an overburdening of the subsurface waste disposal system capacity, and even then, minimum lot size requirements still apply.

For example, the Board of Appeals may waive lot size requirements for an accessory apartment conversion, but is prohibited from doing so on a lot smaller than 20,000 square feet. Zoning Ord. § 407.1(B). Furthermore, a single-family dwelling may be converted into a duplex; or a duplex into a multiplex dwelling, “so long as said conversion complies with all district and other zoning standards, including, but not limited to the minimum lot size per dwelling unit.” Zoning Ord. § 407.1(C). Similarly, manor houses may be converted into a multifamily, but “[t]he number of units allowed shall be based on the minimum lot size requirement for the district in which it is located.” Zoning Ord. § 407.2(B). Like accessory apartments, manor house conversions may not relax minimum lot size per dwelling to less than 20,000 square feet per dwelling. Zoning Ord. § 407.2(B).

All of that is to say that although accessory dwellings, like guest houses, may be permitted *uses*, they do not result in a waiver of *dimensional requirements*, including the minimum lot size requirement per dwelling. Minimum lot size standards still apply and apply to each dwelling, accessory or not.

Here, there is already one single family dwelling, the modular home installed in 2021. A second dwelling located in the Shoreland Zone would require an additional 30,000 square feet. Even if the ordinary Zoning Ordinance standard applied, 1.5 acres per dwelling would be needed. The lot at 107 Cottage Road is only 2.3 acres in size and would require at least 3

acres to support two dwellings. The guest house contravenes the minimum lot size standards and the permit should be revoked.

**5. The septic system design is inadequate to service the number of bedrooms, in total, across the three structures with bedrooms; the placement appears to encroach upon the applicable setback.**

Related to the problem of the multiple dwellings on an undersized lot is the septic system design, capacity, and placement. First, according to the application materials, a septic system to serve five bedrooms is being installed. However, there are a total of seven bedrooms in three separate structures on the lot: (1) the modular home (3 BR); (2) guest house (2 BR); and (3) bunk house shed (2 BR). The system is unable to handle the capacity.

Second, the placement of the septic system is ambiguous at best and appears to be encroaching upon setbacks given the known dimensions of the guest house structure and lot lines. The guest house features a full basement, which factors into the applicable setback. Further complicating the setback issue is where the structure and septic are located in relation to the Shoreland Zone setback.

Various plans submitted over time by the applicant have been hand-drawn, not to scale, and at least three different placements of the septic have been depicted on various different drawings. Where the structures and systems are located on the ground, as built, remains an open question. The application materials available to appellants herein suggest that the septic does not comply with setbacks. Specifically, given the size of the structure, the known setbacks, and the scale of a prior survey, it appears physically and dimensionally impossible to place a septic and leach field system on the lot without encroaching upon the applicable setback for disposal fields of 40 feet from a full basement and 20 feet from property lines. *See* 10-144 C.M.R. Ch. 241, Table 7B (Subsurface Wastewater Disposal Rules).

**6. The proposed driveway does not meet the ordinance standards**

The Shoreland Zoning Ordinance imposes a 75-foot setback requirement for driveways from the high-water line of water bodies. SZ Ord. § 310(A). However, where slopes are greater than 20%, the setback is increased 10 feet for each 5% increase in slope above 20%.

The proposed driveway is located on extremely steep slopes as indicated by the topography on the plan submitted with the application. The resolution of the plan makes the topography notations illegible. Because the burden of proof is on the applicant to show that the standard is met and in conformity with the ordinances, SZ Ord. § 504(B), the applicant has not proven compliance with the driveway setback.

Moreover, the ordinance requires that any driveway construction activity comply with the erosion and sedimentation control standards in Section 304. SZ Ord. § 310(D). Upon information and belief, including aerial photographs, the applicant has undertaken no erosion or sedimentation prevention measures in constructing and grading the driveway.

The driveway does not comply with the Shoreland Zoning ordinance standards.

**7. Unpermitted and/or excessive tree cutting occurred**

As noted, the SZ permit application only checked “soil disturbance” and no tree cutting is indicated. There has been substantial tree cutting and vegetation removal at 107 Cottage Road to make room for two dwellings, four sheds, and a driveway to service them all. Aerial drone photographs show a significant percentage of the lot has been razed.

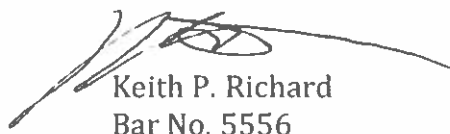
The SZ ordinance prohibits cleared openings of more than 250 square feet, SZ Ord. § 312(B)(1). The ordinance expressly requires that tree removal including for construction activities must comply with Section 312(B), SZ Ord. § 312(B)(5). Furthermore, the ordinance prohibits removal of more than 40% of the volume of trees four (4) inches or more in diameter. SZ Ord. § 312(C).

The applicant failed to indicate on the application the tree cutting that would occur in conjunction with the proposed activity in the Shoreland Zone. It appears that several restrictions on tree and vegetation removal in the ordinance have been violated.

**Conclusion**

For the reasons set forth herein, this Board should (1) enlarge the time for this appeal, and (2) revoke the Shoreland Zoning permit issued by the CEO. Thank you for your thoughtful consideration of this matter.

Sincerely,



Keith P. Richard  
Bar No. 5556

- c: James Gallagher
- Anne Gallagher
- Norma Drew
- Jeffrey Drew
- Sandra Guay, Esq.

STATE OF MAINE  
CUMBERLAND, SS.

SUPERIOR COURT  
Docket No. CV-

JAMES GALLAGHER,  
ANNE GALLAGHER  
NORMA DREW  
JEFFREY DREW

Plaintiffs,

v.

TOWN OF CHEABEAGUE ISLAND,  
MICHAEL MAKEE, and MARY MAKEE

Defendants.

**AFFIDAVIT OF JAMES GALLAGHER**

I, James Gallagher, being first duly sworn, do hereby depose and say the following:

1. My name is James Gallagher. I am over eighteen and am competent to make this affidavit.
2. I am a Plaintiff in the above-captioned matter, along with Anne Gallagher, Norma Drew, and Jeffrey Drew.
3. Anne Gallagher and I are the owners of property located at 113 Cottage Road, Chebeague Island.
4. The Dews are our neighbors, at 121 Cottage Road.
5. I am a direct abutter to 107 Cottage Road—the property at issue in our appeal(s) from permits issued by the Code Enforcement Officer.

6. The Drews share our concerns regarding development at 107 Cottage Road and compliance with the Town's ordinances.

7. In June 2022, I observed what appeared to be new construction activity at 107 Cottage Road.

8. Upon making these observations, I made significant efforts to learn what permits had been issued that authorized the work.

9. I visited the Chebeague Island Town Hall on three separate occasions in June 2022.

10. At each of those three visits, I was not provided with the complete file and thus I was not aware of the permit applications or that permits were issued.

11. Each time, I was told by Town employees that the file was unavailable or incomplete, for various reasons including that the file was in the possession of the Code Enforcement Officer.

12. It is my understanding that the CEO is a part time position and that he resides in the Town of Old Orchard Beach.

13. He is therefore often not on the island or readily available.

14. Because I was not able to obtain information in person, I attempted to reach the CEO by phone, making phone calls and leaving voicemail messages in early July 2022.

15. The CEO did not return my calls or respond to my messages.

16. I visited Town Hall again in early July 2022 and was still unable to obtain the complete file or review any applications or permits for 107 Cottage Road.

17. When my efforts to obtain this information failed, I sought legal advice and representation from a land use attorney.

18. I spoke to an attorney in mid July 2022, and later retained Sandra Guay, Esq. in mid to late July 2022.

19. Attorney Guay requested on our behalf that the CEO provide the file on July 22, 2022.

20. On July 29, 2022, the CEO acknowledged receipt of Attorney Guay's request.

21. Despite the acknowledgement of our request, the full file with permits were not timely provided.

22. I am aware that Attorney Guay and Anne Gallagher both made subsequent follow-up requests.

23. On August 15, 2022, we received some documents regarding 107 Cottage Road, but importantly not any building permits; only a single application for a "driveway extension" on a guest house site, and an application for a guest house, both of which apparently been filed with the Code Office.

24. The applications were dated May 25 and May 26, 2022.

25. We also received older plumbing and electrical permit applications, as well as applications and permits related to a modular home that were issued in 2021.

26. The information provided did not contain the permits and were missing other documents related to the guest house and driveway projects that were obtained later, in September.

27. After receiving the applications, on August 16, 2022, I am aware that Attorney Guay and Norma Drew both separately requested a more detailed building survey. They received no response.

28. We were trying to obtain information about what permits were issued and upon what authority by the CEO.

29. We did not obtain copies of the building permits for the driveway and guest house at 107 Cottage Road until September 2022, and we provided all information we obtained to our attorney to consider our legal rights and options.

30. I believe that I made every effort to seek information and to take all necessary steps to protect my rights, to learn the actions taken and the authority, and to determine whether there were meritorious grounds to file an appeal.

31. I could not have brought an appeal from the building permits within the 30 days appeal deadline because I was unable to obtain the permits and the full information regarding the applications until September 2022, over three months after the permits were issued.

32. I declare under penalties of perjury that the foregoing declaration is true and correct to the best of my knowledge and belief and that such facts are made based on my personal knowledge.

Dated: September 27, 2022

  
James Gallagher

*Pennsylvania*  
STATE OF MAINE *I-C*  
CUMBERLAND, SS *Philadelphia*

September 27, 2022

Personally appeared the above named JAMES GALLAGHER, and made oath that the above stated facts are true based on his own personal knowledge, information or belief; and, so far as upon information and belief, that he believes this information to be true.

Commonwealth of Pennsylvania - Notary Seal  
THERESA LYDIA CRUZ, Notary Public  
Philadelphia County  
My Commission Expires 05/06/2025  
Commission Number 1396847

*Theresa Cruz*  
Notary Public / Attorney  
My Commission Expires: 05/06/2025



STATE OF MAINE  
CUMBERLAND, SS.

SUPERIOR COURT  
Docket No. CV-

JAMES GALLAGHER,  
ANNE GALLAGHER  
NORMA DREW  
JEFFREY DREW

Plaintiffs,

v.

TOWN OF CHEABEAGUE ISLAND,  
MICHAEL MAKEE, and MARY MAKEE

Defendants.

**AFFIDAVIT OF NORMA DREW**

I, Norma Drew, being first duly sworn, do hereby depose and say the following:

1. My name is Norma Drew. I am over eighteen and am competent to make this affidavit.
2. I am a Plaintiff in the above-captioned matter, along with Anne Gallagher, James Gallagher, and Jeffrey Drew.
3. Jeffrey Drew and I are the owners of property located at 121 Cottage Road, Chebeague Island.
4. The Gallaghers are our neighbors, at 113 Cottage Road.
5. I live in close proximity to 107 Cottage Road—the property at issue in our appeal(s) from permits issued by the Code Enforcement Officer.

6. The Gallagher property is located between our property and 107 Cottage Road.

7. The Gallaghers share our concerns regarding development at 107 Cottage Road and compliance with the Town's ordinances.

8. I am aware that James Gallagher made a number of attempts to obtain information in person and by phone regarding the permits and activity at 107 Cottage Road.

9. We joined the Gallaghers in seeking legal advice and representation from a land use attorney and we retained Attorney Sandra Guay and Archipelago to represent us.

10. On August 15, 2022, we received some documents regarding 107 Cottage Road, but importantly not any building permits; only a single application for a "driveway extension" on a guest house site, and an application for a guest house, both of which apparently been filed with the Code Office.

11. The applications were dated May 25 and May 26, 2022.

12. We also received older plumbing and electrical permit applications, as well as applications and permits related to a modular home that were issued in 2021.

13. The information provided did not contain the permits and were missing other documents related to the guest house and driveway projects that were obtained later, in September.

14. After receiving the applications, on August 16, 2022, I specifically requested from the CEO a more detailed building survey. I received no response.

15. We were trying to obtain information about what permits were issued and upon what authority by the CEO.

16. We did not obtain copies of the building permits for the driveway and guest house at 107 Cottage Road until September 2022, and we provided all information we obtained to our attorney to consider our legal rights and options.

17. I believe that I made every effort to seek information and to take all necessary steps to protect my rights, to learn the actions taken and the authority, and to determine whether there were meritorious grounds to file an appeal.

18. I could not have brought an appeal from the building permits within the 30 days appeal deadline because I was unable to obtain the permits and the full information regarding the applications until September 2022, over three months after the permits were issued.

19. I declare under penalties of perjury that the foregoing declaration is true and correct to the best of my knowledge and belief and that such facts are made based on my personal knowledge.

Dated: September 27, 2022

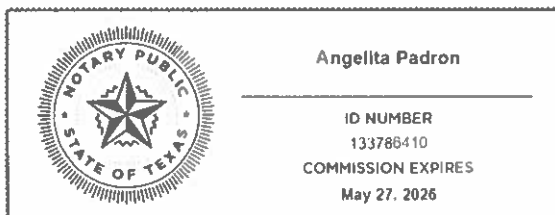
*Norma Susan Drew*

\_\_\_\_\_  
Norma Drew

STATE OF MAINE  
CUMBERLAND, SS

September 27, 2022

Personally appeared the above named NORMA DREW, and made oath that the above stated facts are true based on her own personal knowledge, information or belief; and, so far as upon information and belief, that she believes this information to be true.



*Angella Padron*

\_\_\_\_\_  
Notary Public / Attorney  
My Commission Expires: 05/27/2026