

## COMMITTEE ON INFRASTRUCTURE

NOVEMBER 3, 2016

A meeting of the Committee on Infrastructure was held Thursday, November 3, 2016, at 7:02 p.m. in the Aldermanic Chamber.

Alderman-at-Large Mark S. Cookson, Chair, presided.

Members of Committee present: Alderman David Schoneman, Vice Chair  
Alderman Sean M. McGuinness  
Alderman Richard A. Dowd

Members not in Attendance: Alderman Tom Lopez

Also in Attendance: Alderman June M. Caron

---

### PUBLIC COMMENT

#### Mr. Jim Cutter, 86 Palm Street

On February 18, 1942, Joseph and Rose Desrosiers bought 86 Palm Street with a 3' wide gap on the north side of their Deed. Since, the porch door was on the north and no porch door was on the south the gap was removed when the 20 year statute of limitation took effect. A gap is found at the end of a property line where only the abutter can take that land. In our case, Montcalm Associates of 78-84 Palm St. knew they could not claim our gap as evidenced by their October 1946 Plan of Land. On May 12, 1950, a building permit was approved for Leo and Genevieve Caron at 88 Palm Street. It had a 53.57' prop. line even though their Deed read 51'. The Caron's were claiming they owned about a third of a very active Defrosters driveway they did not use. On January 12, 1968, Widow Genevieve Caron sold her property to James and Annette Gilbertson. The Deed has not changed since the Caron's bought the property. The dimensions on the 1950 and 1971 building permits were wrong causing the Gilbertson's to make mistakes. On May 13, 1971, the Gilbertson's had a building permit approved for 88 Palm St. with the same 53.57' dimension in 1950 for Caron in violation of the 1949 Plats ord. causing the Gilbertson's to think the City recognized they owned land they did not use. Widower Joseph Desrosiers passed away 12/23/1972 and the following spring Jim Gilbertson installed a fence in our driveway. The City building inspector and Assessing Dept. were both wrong in 1971 because both should have agreed with the Deed. I have met with Angelo Marino of the Assessing Dept. and since 2007 the Tax Map and Deed have agreed. RSA 627:9(I), Curtilage means those outbuildings which are near, directly and joined with a dwelling, together with all the land or grounds around the dwelling such as are necessary, convenient, and habitually used for domestic purposes. A driveway is used for domestic purposes and is considered part of the house. Therefore, curtilage is not land and since it is part of the house it cannot be acquired. Please, we would like our curtilage returned.

### COMMUNICATIONS

**MOTION BY ALDERMAN MCGUINNES TO ACCEPT AND PLACE ON FILE THE COMMUNICATION FROM MR. JAMES B. AND MARY E. CUTTER WHICH WAS RECEIVED AFTER THE AGENDA WAS PREPARED**

**MOTION CARRIED**

UNFINISHED BUSINESS – None

NEW BUSINESS – RESOLUTIONS

**R-16-075**

Endorser: Alderman Richard A. Dowd

**AUTHORIZING RELEASE OF A CERTAIN ACCESS EASEMENT OVER 482 AMHERST STREET**

**MOTION BY ALDERMAN DOWD TO RECOMMEND FINAL PASSAGE**

ON THE QUESTION

Alderman Dowd

There was an easement that was requested back when the garage was originally put in and it allowed for access between the two properties, the adjacent property and that property. The Planning Board has re-addressed based on another issue they had and they asked to have that current easement done away with and a new easement that would allow for emergency access only between these properties. The resolution was requested by the Mayor and the Mayor would be the one signing it but because it's an easement only the Board of Aldermen can release easements and approve new easements. It takes an easement that was there without any restrictions and makes it an emergency only easement.

Chairman Cookson

Very good, so the addresses are 482 and 486 Amherst Street. It's the Acura dealership and then...

Alderman Dowd

And I believe it's the school next door.

Chairman Cookson

Yes. This is 486 and this is owned by the Sam Tamposi Trust and this is 482 Amherst which is the On In Two Management, Inc. which is the dealership. These are the two properties that we are discussing and we are going to release that easement.

Alderman Dowd

We are going to release the current easement and generate a new easement for emergency access only for fire and police. This is at the request of the Planning Board.

Chairman Cookson

So this makes reference to only 42 Amherst but it is actually between...

Alderman Dowd

That's the property that is being impacted. The easement is in between the two properties but the Planning Board and I believe it was stipulation three back in 2002 asked for an easement between the two properties for emergency access. They just came to the Planning Board for a different reason and the Planning Board wanted to release the access that was requested back them under stipulation three and release that access and then have an emergency access granted.

Chairman Cookson

So this is your statement here, the Planning Board approved this item for this property and part of it was to

receive a new emergency access. The Board of Aldermen approval is required for the city to release the prior easement. This is the release of the easement.

Alderman Dowd

Which, as soon it is granted by the Board of Aldermen it will be signed by the Mayor.

Alderman McGuinness

Alderman Dowd, does this include...you are releasing the easement and the legislation includes...it's all in one piece of legislation?

Alderman Dowd

Yes.

Alderman Schoneman

Just for the sake of history, can I ask why the city required an easement in the first place?

Alderman Dowd

For the same reason the new one is there, it's for emergency access only. I can only speculate that the easement has been used for non-emergency access at this point and when they came in for some other site plan adjustment, the Planning Board is correcting an action. It should have been for emergency access only.

Alderman Schoneman

Where does the easement run? Does it run right down the property line between those two parcels?

Alderman Dowd

I'm not sure exactly where the easement is.

Alderman Schoneman

Has the city been making non-emergency use of this easement?

Alderman Dowd

The city hasn't. It was there and it allowed for emergency access but they want to stipulate that it is only for emergency access so that there is a non-emergency access between the two properties.

Alderman Schoneman

Who has been using the easement if not the city?

Alderman Dowd

That I don't know.

Alderman Schoneman

But if I heard you correctly someone has been using it, I thought it was the city that was using it up to this date.

I'm just curious, if it is being used for something, who is using it and it sounds like it is going to preclude them from using it in the future.

Alderman Dowd

I think it's just correcting what the easement is supposed to be used for. There are easements all over Nashua and a lot of them are down in South Nashua, I was on the ZBA, that are for emergency use only and that's what we want for the city so the fire trucks and the police department can, in an emergency, get between the two properties. They have to keep it open and in this instance it wasn't made for emergency use only and the Planning Board wants to make it for emergency use only.

Alderman Schoneman

Will this change in easement have any effect on the occupants of the building on the left side of that picture, the school?

Alderman Dowd

It's my understanding that there will not. I have heard speculation that because the school is in that building that cars have gone across and out the Audi property because of the amount of traffic and Audi gets held in some regards liable for cars going across their property and they don't want to be held liable. I don't know all of the details because it was done at the Planning Board and the Planning Board requested that we drop the original easement and the new easement for emergency use only be granted.

Chairman Cookson

It seems or sounds like that is the pre-cursor to this request, the use of the adjacent property utilizing the egress through Acura.

Alderman Schoneman

Inasmuch as the original easement was not specified for emergency use only and it has been used, clearly and legally used it sounds like, by folks in that building to the left to mitigate whatever traffic concerns they have that changing this is going to impose some measure of hardship on those folks who use that other building. I wonder if they are aware that this is happening. Was the easement granted by mistake all of those years ago or was it granted intentionally to allow access?

Chairman Cookson

Alderman Schoneman, I believe that the easement was granted back in 2002 as a stipulation of the site plan and they knew exactly what the request was back in 2002. It was supposed to expire and be replaced with another easement and I believe that when they came before the Planning Board just recently that aspect was brought back up and therefore, because the Planning Board can't release an easement, it can only be done by the Board of Aldermen, that's why the request is now being made through us.

Alderman Dowd

Also, anytime there is activity like this they have to notify the abutters if there were any concern. If there was any concern with the other property owners it would have been brought up at that meeting and there is no information coming through to the Planning Board that there was any problem with the neighbors and there is nobody here tonight to talk about it. It's my understanding that both property owners are in agreement with it.

Alderman Schoneman

I'm just concerned that if that was used as parking lot egress by the occupants in that building then I presume it

was done so because it was needed and that if we change this, that's going to cause problems in that other parking lot. I'm concerned about that because it's going to prevent anyone from exited there who may have been. Now if they were doing it to beat a long line then I'm not sure that's okay but if there was too much traffic in and out of there and this is going to hamper that flow then it sounds to me like we are solving one problem and creating another.

Alderman Dowd

The problem is, for whatever reason people were using the access they were going across the car dealerships lot which is not a public street and it was never intended for that easement to be used that way putting added traffic and liability on the car dealership. The Planning Board, to correct that, and make it what it should be, is releasing the original stipulation for an easement and adding the emergency only.

Alderman McGuinness

I would tend to agree with Alderman Dowd that it sounds like back in 2002 is they just weren't specific enough in identifying what that easement was really for and what is happening now is there is a misuse of that easement and they are trying to correct the misuse. That's a little speculative on my part but it seems logically that people are misusing it for perhaps a quick way out. I think the property in question certainly does have egress, they can get in and out of there, it is not a super high volume parking lot. That would be my suggestion. It's starting to get misused so it got to a point where they are trying to correct it. It's the original intent.

Alderman Schoneman

It sounds like you don't know at all. Do we know who is using it and what direction are they going? Are they cutting through, essentially driving through the lot parallel to Amherst Street to get to what I believe might be a side street a little bit further to the right and then off the screen and then go up to Amherst Street that way or are they exiting parallel to the driveway and just driving up on the car dealership side as opposed to the driveway side but in either case, exiting on Amherst Street? Do you have any idea?

Chairman Cookson

My guess would be the latter. I believe it's just a path of least resistance and you might see a volume of traffic that is attempting to exit the property and they instead make their way along this path. So there are two parallel driveways. It's horribly configured in the first place but this is what we've got so I would tend to believe that may be what's happening at this location.

Alderman Dowd

As I said, it was fully vetted at a hearing with the Planning Board and the Planning Board is requesting us to take this action so I think we should comply with their desires and the Mayor's.

Alderman Schoneman

I know there was legislation that came out that was tabled on this Board but not to this committee to grant a tax break to that school and it was rejected by this Board because there is a sense I think on this Board that they don't like that school and when I hear this I worry if that dislike for that school, which is the number one school in the state, drives this kind of thing. Are we trying to make it inconvenient for them, to somehow spoil the benefit that this school brings to the city? I'm concerned when I hear that kind of thing. I just wonder if there is any crossover. Maybe there is not but it causes me to think.

Alderman Dowd

That type of reasoning would not ever pass the Planning Board, they are a land/use Board and they don't get

into that kind of activity. They would have evaluated traffic flow and liabilities on the auto dealership from people using it. It was fully vetted and they have asked for our cooperation to make this happen only because the way the city legislation is put together is that easements have to come through the Board of Aldermen and they have to come here first so we would be negating the desires of the Planning Board if we weren't in compliance with this.

Alderman Schoneman

May I ask how this will be enforced if this passes if someone tries to use it? What happens then? If it's an easement for emergency vehicles then it still has to remain open for width and distance?

Alderman Dowd

I don't know the details. I suppose if it's an emergency and there isn't one already that they could put in a crash gate like they have on a lot of easements down in south Nashua. You would be trespassing if you used it and the police could site you. In south Nashua if you want to cross all of the fire easements behind some of the buildings you could drive without being on Daniel Webster Highway which would make things go a lot faster but if you do that you are going to get sited.

Chairman Cookson

I would strongly suggest that there be a communication once this is; whatever the decision may be and if it is indeed the desire of this Board and the Board of Aldermen to grant this release of easement and issuance of another that there be a communication to all of the affected parties, abutters, and let them know what course of action is proper to be taking.

Alderman Dowd

As I said, any time the Planning Board takes an action like this both abutters have to be notified and they would appear before the Planning Board and they would have had their five minutes to argue their case if they had an issue with it and I have heard that nobody has any issue with it so the Planning Board is just trying to follow the normal procedures.

Chairman Cookson

Understood, I am just making a suggestion that when this next version of an easement that comes out that's affecting these two properties that we make an outward attempt to communicate for all interested parties. And not necessarily the owners but the individuals that utilize the properties that go to the school, who are being dropped off or picked up, that they understand what is expected of them. I think that would be an appropriate interjection.

Alderman Schoneman

Again, I don't think that the property should be misused. I'm not advocating for that and I guess I have no reason to think that the Planning Board isn't completely apolitical but this body is not and clearly the lack of action has been politically motivated in the past and it just caused me to think that there was a possibility that it was politically motivated in this case too. I think we should notify the people who are using it because we are not trying to set up a trap here and not pouncing on people who are just dropping their kids off.

Alderman Dowd

I was asked to sponsor this legislation by Mayor Donchess because it's in Ward 2 and that's the only reason why it came through me.

**MOTION CARRIED**

**R-16-076**

Endorser: Mayor Jim Donchess  
Alderman-at-Large Lori Wilshire  
Alderman June M. Caron  
Alderman Richard A. Dowd  
Alderman Ken Siegel  
Aldermoman Mary Ann Melizzi-Golja  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Tom Lopez  
Alderman-at-Large Brian S. McCarthy

**AUTHORIZING THE CITY OF NASHUA TO EXTEND AND AMEND THE LEASE FOR THE HERITAGE RAIL TRAIL COMMUNITY GARDEN**

- Also assigned to the Finance Committee; Favorable Recommendation Issued November 2, 2016

**MOTION BY ALDERMAN DOWD TO RECOMMEND FINAL PASSAGE**

ON THE QUESTION

Chairman Cookson

We brought this up before the committee earlier this year and we've granted them the ability to utilize more space so they could have the United Way volunteers come in and help them with that process. This resolution authorizes the City of Nashua to extend and amend the lease for the Heritage Rail Trail Community Garden to include what was existing with what we have granted them in that earlier motion and it's for an additional three years. The lease is from the Gate City Community Gardens, Inc. to the Great American Downtown. It is part of the Heritage Rail Trail Community Garden and it's an additional three years.

Alderman Dowd

It went to the Finance Committee last night and Alderman Caron is on the Finance Committee so perhaps we can see what their finding was.

Chairman Cookson

I am also on the Finance Committee but I will let Alderman Caron share the wonderful dialogue that was on this particular piece of legislation.

Alderman Caron

Thank you, Mr. Chair, but there wasn't any conversation; we passed it unanimously because I think everyone knows what a good project this is.

Chairman Cookson

Mr. Tim Cummings, Director of Economic Development and Mr. Paul Shea from the Great American Downtown were here earlier this evening and they had indicated that they wanted to be here for the piece of legislation but I excused them because I didn't think that it was going to be controversial. I apologize that I did excuse them if you had any questions.

Alderman Schoneman

I have no questions but I wanted to add that I think community gardens are a good thing. I think anything that we can do in the public, especially if we see that people want to have these gardening plots. I think it's a great addition to the city. I voice my support for it.

**MOTION CARRIED**

NEW BUSINESS – ORDINANCES

**O-16-018**

Endorser: Alderman June M. Caron

**ESTABLISHING TWO FIFTEEN MINUTE PARKING TIME LIMIT ZONES ON PORTIONS OF ARLINGTON STREET AND GILLIS STREET**

**MOTION BY ALDERMAN MCGUINNESS TO RECOMMEND FINAL PASSAGE**

ON THE QUESTION

Alderman Caron

The reason that I brought this in is, if you are a long-time Nashua resident you know that there has been a corner store there for the last 50 years. There used to be limited parking in front of the store and for some reason it went away. Unfortunately, some of the neighbors who have apartment complexes have been parking and blocking the store for cars to go in there and do their shopping and they are usually parked there all day. The owner of the facility asked if I would be able to get at least two parking spaces on Arlington Street right in front of the store. The Traffic Department went out and we have one on Arlington Street and two on Gillis Street.

Chairman Cookson

For reference, this is Arlington Street and the cross street is Gillis?

Alderman Caron

Yes.

Chairman Cookson

You've got one space on Arlington and two on Gillis?

Alderman Caron

Yes.

Chairman Cookson

Are looking at a .30 feet south of Gillis Street extending to a point of 50 feet south of Gillis Street so you've got a 20-foot parking stall that's available on Arlington Street in front of the convenient store. Then you've got 40 feet beginning west of Arlington Street, 25 feet west to 65 feet west of Arlington Street so you've got 40 feet on Gillis Street. In this neighborhood you must have the 25 feet of clearance to the corner in both directions.

Alderman Caron

Yes, and they felt that was plenty because the rest of Arlington Street is all open.

Chairman Cookson

Alderman Caron, it appears that there a large paved portion that's behind this convenience store, how is that area used?

Alderman Caron

I'm not sure that even belongs to them.

Chairman Cookson

I can tell you that it belongs to them.

Alderman Caron

I have no idea what that is used for. It could be for their own vehicles or employees.

Chairman Cookson

Do you know how many employees they have?

Alderman Caron

There are at least three.

Chairman Cookson

Do they work at the same time?

Alderman Caron

Yes and rotating shifts as well.

Alderman Dowd

It's been a long time since I've been in that store but I think that's where they get deliveries.

Alderman Caron

When I was there I did not go to the side of the building but I did go out front and there were cars parked in front of the store that weren't customers at that point in time.

Chairman Cookson

So the Street Department is going to paint the stalls?

Alderman Caron

They will paint and put the 15 minute parking signage up like they normally do.

**MOTION CARRIED**

TABLED IN COMMITTEE

**MOTION BY ALDERMAN DOWD TO TAKE FROM THE TABLE THE FOUR PETITIONS FOR STREET  
ACCEPTANCE  
MOTION CARRIED**

Petitions for Street Acceptance: Annabelle Court, a portion of Cherrywood Drive, Moonstone Court and Tamora Court

- Tabled 10/12/16 pending BPW Recommendation; BPW Recommended Granting Petitions – 10/27/16

**MOTION BY ALDERMAN DOWD RECOMMEND GRANTING THE PETITIONS FOR STREET ACCEPTANCE**

ON THE QUESTION

Alderman Schoneman

I was not at the last meeting and I don't want to rehash whatever was discussed but for my benefit, I should have listened to the minutes, my apologies, but is there a brief explanation of the ramifications of this to the city and costs associated? This means that we will own the streets and maintain them, plowing and all of that.

Alderman Dowd

I think we do some of that already even though we don't own the streets but that's why it went to the Board of Public Works. There were some people that testified that they had concerns about the city picking up the tab of doing some replanting of grass in the ovals and fixing up the streets a little bit. When the city adopts these streets then we are responsible for them so I assume that every bit of that was hashed out at the Board of Public Works meeting because there is no one here this evening.

Chairman Cookson

I wouldn't necessarily take that leap of faith. I wouldn't come to that conclusion. I haven't seen the Board of Public Works and I haven't read their minutes but I haven't been on-line to see if the minutes have been posted as of yet. I did receive photographs from Mr. Ajay Pareek and basically they are photographs of a cul-de-sac where the grass was not kept up. The steep driveways connecting with the street and in the image that was shared the driveway was actually cracked and I'm not sure if that was caused by the steepness or the grade, I wasn't able to come to that conclusion. Then the last images were those of the small island of grass between the sidewalk and the road itself and how they were not kept up. I believe that it was stated that it was the pavement, the leftover pavement that was scooped up and thrown onto the grass that caused that grass not to come back.

Alderman Dowd

The minutes from that meeting are not on-line but the discussion basically boiled down to can the city go back against the developer to get things fixed or does the city have to pay for it and I'm sure the Board of Public Works, if they could go back to the developer they would and probably would have delayed acceptance or the Board of Public Works was willing to take on the maintenance of those streets.

Chairman Cookson

I would concur with that.

Alderman McGuinness

I remember the testimony. There was some question, at least in my mind, whether or not the builder had responsibility for that and it goes back seven years. The residents were complaining that they couldn't get satisfaction from the builder so they were highly motivated for the city to adopt these streets. I guess maintaining the oval and the grass in it, there was some discussion about whether or not the residents in the area should pitch in and do that but you could see that they really wanted the city to take this responsibility on.

I didn't see the minutes from the Board of Public Works and I would have like to have seen what they had to say but I would agree with Alderman Cookson in that it's kind of a leap of faith to assume that it's okay when we haven't even heard anything.

Chairman Cookson

I think the other piece that we need to take notice of is in some capacity public works has already been maintaining these streets. They have already been plowing and possibly sweeping to some capacity and they are providing trash and recyclable pick-up on those streets so we are providing services even though we have not done a street acceptance them. I believe that might be part of the discussion that has taken place, since we are already doing it let's put it under the onus of the city to upkeep and maintain the streets but that's all speculative.

Alderman McGuinness

I would agree with Alderman Dowd that there seems to be no objection coming from the Board of Public Works because they would be here tonight or we would have had some communication perhaps. Alderman Dowd, do you think there is any reason we should put this back on the table and go investigate it, probably not.

Alderman Dowd

The other leap of faith that I have is that our liaison to that Board would have said something to us if there was a negative impact. They passed positive action which means that they have agreed with this and if we approve it tonight and there is something we are missing then our representative will be here at the full Board when it comes up and we can always shoot it down then if he has issues or concerns.

Chairman Cookson

Yes, absolutely. I'm trying to recall, would we send this back to the full Board or is it the Infrastructure?

Alderman Dowd

That's a good question.

Chairman Cookson

I don't have an answer to that.

Alderman Dowd

One additional thing is that the Board of Public Works did approve it and it comes out of their budget to take care of these streets. If there were any concerns I am sure that they would have rejected it and sent it back and said don't do it. There are gazillion streets in that neighborhood and they are just adding the ones now that need final approval. It's no different than in south Nashua by Four Corners, the same thing occurred. When Alderman Siegel wanted to put some signs up on the streets he couldn't do that until the city adopts them. It's the same thing here; they can't pave those streets or put signs up or anything other than what they are normally doing now without us approving them.

Chairman Cookson

Agreed. I think the question was does this go back before the full Board or...and I don't know if it does. I would also say that while I wouldn't hesitate to table it, I believe that our next meeting is going to be tentatively scheduled for Wednesday, November 23<sup>rd</sup>, which I believe has the highly likelihood of being canceled so we

wouldn't be meeting again until December and I would hate to have this sit for that long.

Alderman Schoneman

I wanted to have a little bit of background on it. I wasn't at that meeting so I was curious with where some of the impetus was.

Chairman Cookson

We had great input. We had large audience participation. Several individuals from Cherrywood, Annabelle, Moonstone and Tamora came and they were quite adamant that these streets not be accepted and they were informed that evening that the Board of Public Works would be meeting upstairs on the 27<sup>th</sup> of October and they were all invited to attend that meeting and again, because we don't have minutes of that, I don't know what the outcome of that conversation was, other than what is in our agenda that says it was approved.

Alderman Dowd

Yes, and they also knew that it would be coming back to us at this meeting after the Board of Public Works meeting and there's no one here. I think some of the things that they were asking for are going fall on the city's purview so they must have got a good response.

Chairman Cookson

We can hope.

Alderman Schoneman

What was there argument for not wanting the city to accept it?

Chairman Cookson

To the points that I mentioned earlier, it was the upkeep of the grass, the land, the islands between the sidewalk and the pavement that had pavement that was thrown onto to the grass. The steep connection between the driveway and the street itself was brought up several times. Around this roundabout it was brought up that there were rocks and debris. The streets weren't being kept up. I think those were the major points that were being addressed.

Alderman Dowd

I think they just want to know who is going to do the clean-up, do they have to go back to the developer or to the city and since these are public streets now and they have been used as public streets even though they haven't been accepted yet, I am sure the Board of Public Works said that the city will go clean them up.

**MOTION CARRIED**

**MOTION BY ALDERMAN DOWD TO TAKE FROM THE TABLE R-16-071  
MOTION CARRIED**

**R-16-071**

Endorsers: Mayor Jim Donchess  
Alderman Ben Clemons  
Alderman Richard A. Dowd  
Alderman June M. Caron  
Alderwoman Mary Ann Melizzi-Golja  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman-at-Large Brian S. McCarthy

**AUTHORIZING THE CITY OF NASHUA TO EXTEND THE LEASE AGREEMENT WITH THE NASHUA DOG OWNERS GROUP, INC. FOR THE DOG PARK AT YUDICKY FARM**

- Tabled 10/12/16 pending BPW Recommendation; Favorable Recommendation Issued 10/27/16

**MOTION BY ALDERMAN DOWD TO RECOMMEND FINAL PASSAGE**

ON THE QUESTION

Alderman Dowd

I believe the dog park was established about 5 years ago and there is language in the agreement that allows for 5-year extensions and they are ready for the next 5-year extension. It went to the Board of Public Works and they had a favorable recommendation. I think it's hugely used by people in Nashua and its well maintained and taken care of and I don't think anyone in the city has a problem with us extending the lease.

Chairman Cookson

I will just share that the lease expired on September 3, 2016. That was the end of that first 5-year period and so this new lease would be retroactive to September 4, 2016, and it would be an additional 5-year term based on that date. The cost of the lease is \$1.00. The Nashua Dog Owners Group is responsible for the upkeep, the maintenance and any improvements that they want to do at this location at Yudicky Farm and we are just extending the lease for 5 years.

**MOTION CARRIED**

GENERAL DISCUSSION - None

PUBLIC COMMENT

Mr. Jim Cutter, 86 Palm Street

I think I heard that you were thinking of just putting it on file?

Chairman Cookson

The communication that you presented, we accepted it and placed it on file.

Mr. Cutter

I thought I had it pretty well covered and I was hoping that it would go before the full Board but that won't be the case then. So do I have to wait until the 25<sup>th</sup>?

Alderman McGuinness

The next full Board meeting is the 9<sup>th</sup>.

Mr. Cutter

Okay then I can make another appearance.

Chairman Cookson

You are most welcome to.

REMARKS BY THE ALDERMEN

Alderman Dowd

I just want to send out my condolences to the family of Angie Kopka who has been part of the city for over 90 years and also a former Alderman who passed away, Fred Britton, who served the city very well in many capacities including the Airport Authority where I served with him.

Chairman Cookson

Thank you, Alderman Dowd, I think that is expressed by all of us as well.

POSSIBLE NON-PUBLIC SESSION

ADJOURNMENT

**MOTION BY ALDERMAN DOWD TO ADJOURN  
MOTION CARRIED**

The meeting was declared closed at 8:00 p.m.

Alderman Sean M. McGuinness  
Committee Clerk

From: James B. and Mary E. Cutter 889-4246  
86 Palm St., P.O. Box 69-Nashua, NH 03061.  
Date: November 3, 2016.  
To: Alderman-At-Large Mark Cookson, Chair  
Infrastructure Committee, Jim Donchess, Mayor and Steve  
Bolton, Corporation Counsel.  
Subject: Our curtilage and Gilbertsons trespassing.

Dear Alderman Cookson,

On 2/18/1942, Joseph and Rose Desrosiers bought 86 Palm St. with a 3' wide gap on the north side of their Deed. Since, the porch door was on the north and no porch door was on the south the gap was removed when the 20 year Statute of Limitation took effect.

A gap is found at the end of a property line where only the abutter can take that land. In our case, Montcalm Associates of 78-84 Palm St. knew they could not claim our gap as evidenced by their October 1946 Plan of Land.

On 5/12/1950, a bldg. permit was approved for Leo and Genevieve Caron at 88 Palm Street. It had a 53.57' prop. line even though their Deed read 51'. The Carons were claiming they owned about a third of a very active Desrosiers driveway they did not use.

On 1/12/1968, widow Genevieve Caron sold her property to James and Annette Gilbertson. The Deed has not changed since the Carons bought the property. The dimensions on the 1950 and 1971 building permits were wrong causing the Gilbertsons to make mistakes.

On 5/13/1971, the Gilbertsons had a building permit approved for 88 Palm St. with the same 53.57' dimension in 1950 for Caron in violation of the 1949 Plats ord. causing the Gilbertsons to think the City recognized they owned land they did not use.

Widower Joseph Desrosiers passed away 12/23/1972 and the following spring Jim Gilbertson installed a fence in our driveway.

The City building inspector and Assessing Dept. were both wrong in 1971 because both should have agreed with the Deed. I have met with Angelo Marino of the Assessing Dept. and since 2007 the Tax Map and Deed have agreed.

RSA 627:9(I), Curtilage means those outbuildings which are near, directly and joined with a dwelling, together with all the land or grounds around the dwelling such as are necessary, convenient, and habitually used for domestic purposes.

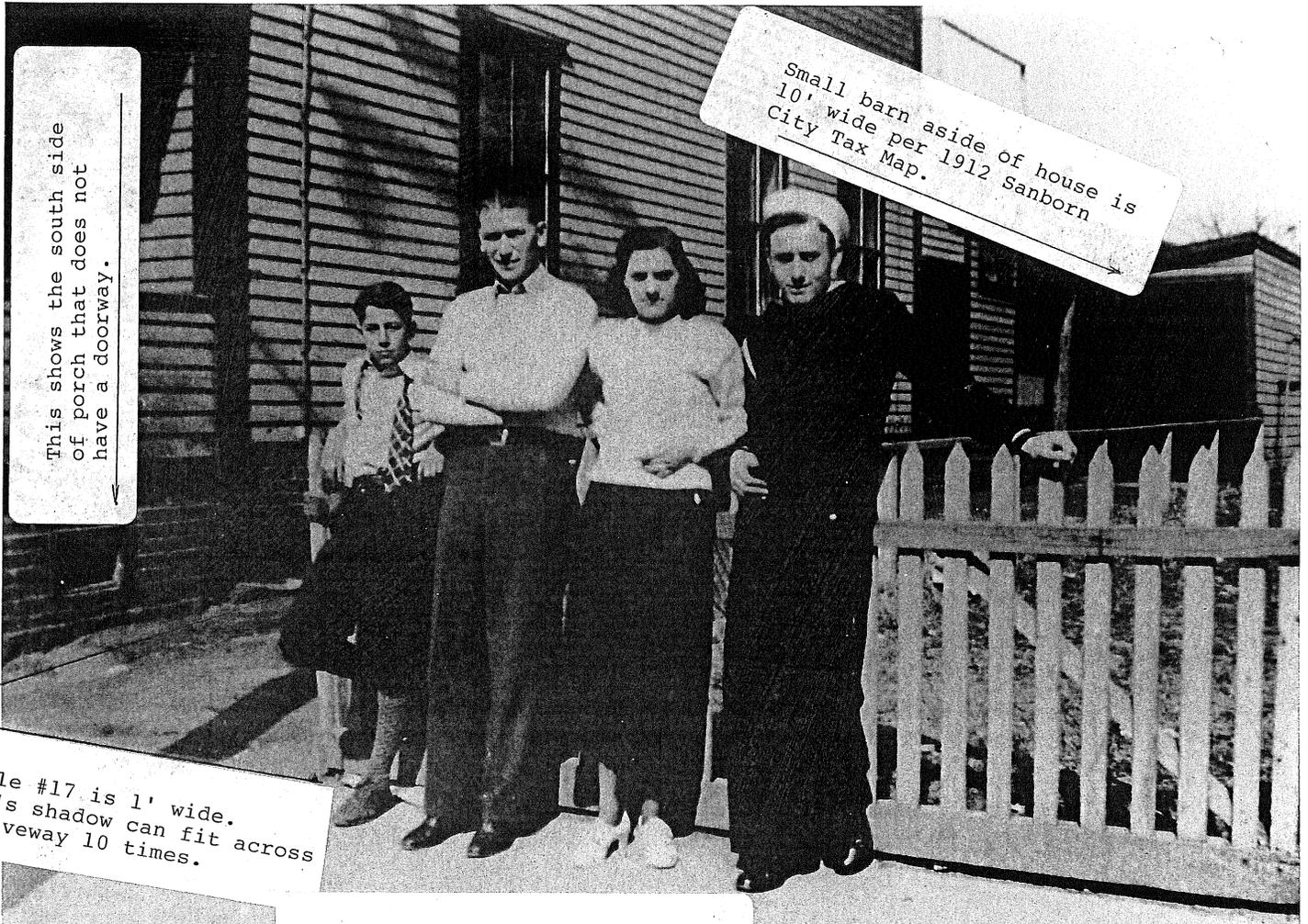
A driveway is used for domestic purposes and is considered part of the house. Therefore, curtilage is not land and since it is part of the house it cannot be acquired.

Please, we would like our curtilage returned.

Sincerely,



Encl. Deed dimensions and layouts/Family photo.  
Montcalm Associates Plan of Land Survey.

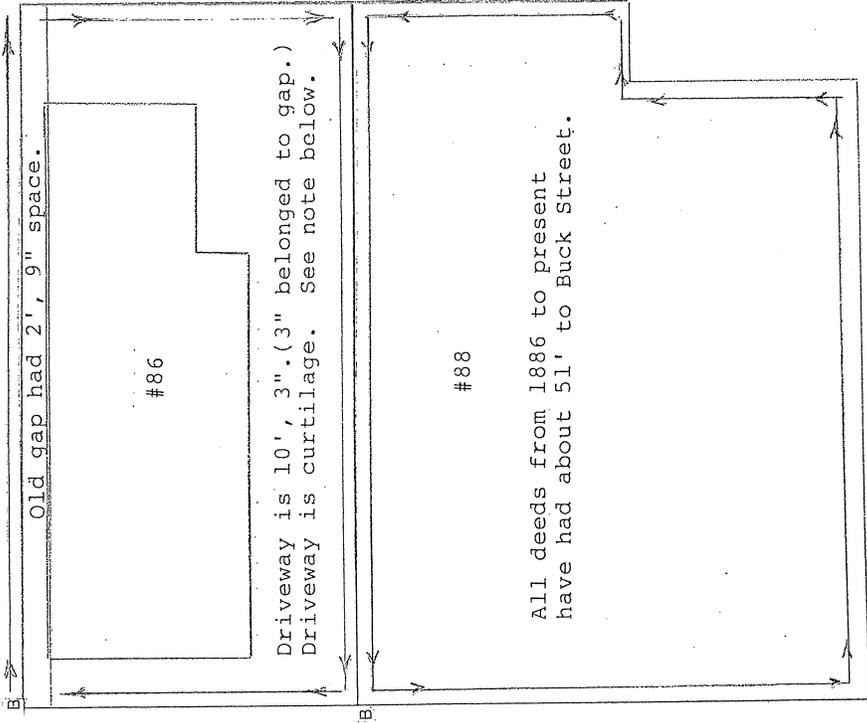


This shows the south side of porch that does not have a doorway.

Small barn aside of house is 10' wide per 1912 Sanborn City Tax Map.

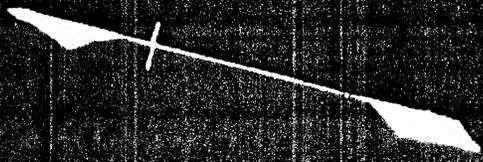
Pole #17 is 1' wide. It's shadow can fit across driveway 10 times.

This photo with boy wearing knickers proves it was taken between 1930 and 1940.



Note. Curtilage like government property, public land and railroad land are exempt from adverse possession with non statute of limitation.

PLAN OF LAND OF  
**THE MONTCALM ASSOCIATES**  
**PALM STREET**  
**NASHUA, N.H.**



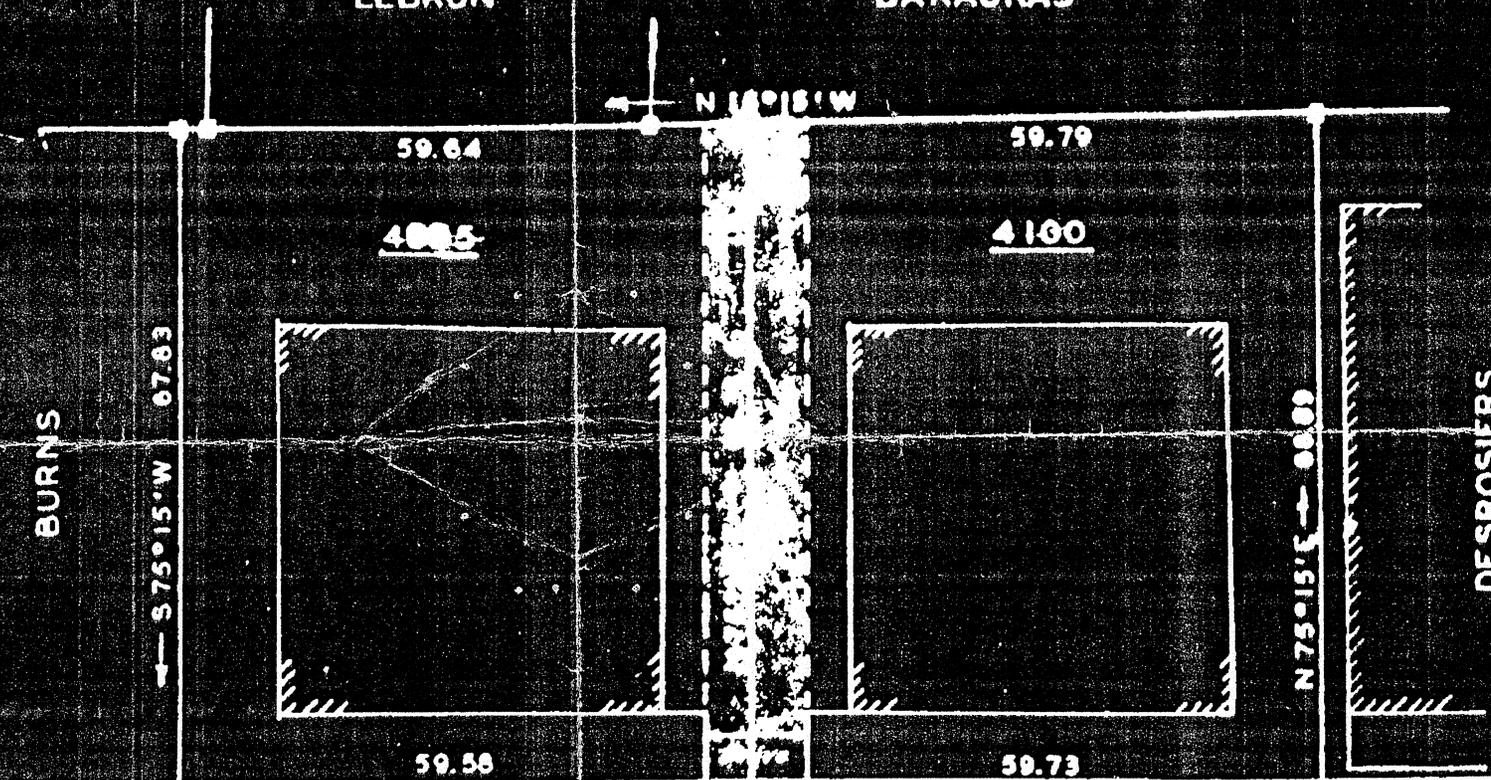
SCALE 1" = 20'

OCTOBER 1946

*Fred Spaulding*  
 CIVIL ENGINEER

LEBRUN

BARAUKAS



0.11' back from Walk edge

S 5° 45' E

Drill Hole in Joint in Walk

Chisel Mark on edge of Walk

PALM STREET

