

CITY CLERK'S OFFICE
CITY COUNCIL REFERRAL SLIP

TO: Community Development + Planning

DATE: December 22, 2016

The attached document was received for City Council consideration.

The following action is required:

- Prepare a report together with related documents, if applicable, such as an ordinance, a resolution or an agreement and submit to the City Clerk's Office for inclusion in the City Council's _____ agenda.
- You are the only department or committee this communication was referred to.
- Along with your department, this item was referred to the following departments:

Community Development + Planning

Please feel free to contact the City Clerk's Office if you have any questions.

CITY OF CONCORD

PETITION

In the year of our Lord two thousand sixteen

To the City Council of the City of Concord:

The undersigned respectfully represent that for the accommodation of the public there is occasion for the complete discontinuance of a portion of a public highway known as Broad Cove Drive

in said city, beginning at a stone bound marking the most northeast corner of land now or formerly of Robert M. Beaulac located on the westerly sideline of Broad Cove Drive as it currently exists; thence

South 33° 21' 37 " West along the westerly side line of Broad Cove Drive, a distance of 193.50 feet to a stone bound; thence

South 32° 49' 15" West along the westerly side line of Broad Cove Drive, a distance of 7.50 feet to a stone bound, said bound marking the most southeast corner of land of said Robert M. Beaulac; thence

South 57° 10' 45" East a distance of 15.47 feet to a stone bound; thence

North 35° 32' 16" East a distance of 84.52 feet to a stone bound , said stone bound being at a point of curvature; thence

By a curve to the left having a radius of 737.50 feet and a length of 116.62 feet to a stone bound; thence

North 56° 38' 23" West a distance of 13.97 feet to the point of beginning.

Containing 3,532 square feet, more or less, and meaning and intending to describe the complete discontinuance of a portion of Broad Cove Drive shown as "Area of ROW to be Discontinued by City of Concord - 3,532 Sq. Ft." on a plan entitled "Right of Way Discontinuance Plan, Land of Robert M. Beaulac, Assessors Map 37Z Lot 71, #46 Broad Cove Drive, Concord, New Hampshire," dated June 2016, prepared by T.F. Bernier, Inc., to be recorded at the Merrimack County Registry of Deeds.

CITY OF CONCORD

PETITION

In the year of our Lord two thousand sixteen

To the City Council of the City of Concord:

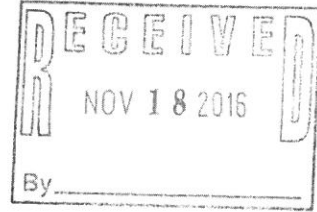
The undersigned respectfully represent that for the accommodation of the public there is occasion for the complete discontinuance of a portion of a public highway known as Broad Cove Drive.

The petitioner waives all his rights to damages as a result of the complete discontinuance and prays that the portion of Broad Cove Drive described above be completely discontinued as a public highway.

Respectfully submitted,



Robert M. Beaulac



October 19, 2016

City Council
City of Concord
41 Green St.
Concord, NH 03301

RE: Right-of-way encroachment

Dear Council Members,

This letter is my formal request for a Discontinuance Petition of a portion of right-of-way (ROW) held by the city at 46 Broad Cove Drive. My reason for the request is two-fold; first the current housing structure sits partially in the ROW and second, to make improvements to the property which would be in the current ROW.

I have attempted to research the history of the property as best as I can. It appears that most of the structures along the Contoocook River were initially built as "cottages", which includes my home. In the book "Reflections Along The Contoocook" by Thelma B. Heath, second printing 1993, Contoocook River Improvement Society, Publishers, Penacook, NH, there is a map of the section of the river where 46 Broad Cove is located. It details the structures along the river and has my property listed as #103, "The Oaks". Also in the publication is a list of cottages along the east side of Broad Cove Road which details the owner, name of the cottage, and the year built. 46 Broad Cove Drive is listed as #103 and was built by the "Dudley Bros." It is called "The Oaks" and was built in 1910 making the structure approximately 115 years old. I have also found a Topo Map, ca. 1927 which is a composite map made from 4 separate old USGS maps which show a structure at the approximate location of 46 Broad Cove Drive.

The mortgage plot plan which I receive when I obtained my mortgage shows that the right-of-way just touches the front of the house. It was my belief, when I purchased the property that the structure was out of the ROW. I was not aware that a portion of the structure was in the ROW until I had a survey done. It appears that the ROW on Broad Cove Drive is 66 feet wide and not the standard 50 foot wide ROW which was believed to be the case.

The city issued "Approval for Construction" permits for the waste disposal system located at the property. These permits were issued in 1972-1973 and stamped by the City of Concord Bldg. Inspection. A portion of the septic system, the leach field and distribution box and are in the ROW.

This is all of the information I could find as of this point in time. When examining the construction of the building, the structure of the sills and joists indicate that the portion closest to the road is the main structure of the building and would have been constructed first. There was a small porch along the riverside and it extended partway up the Northside. Both of these sections eventually were incorporated into the main part of the home. The "L" portion is an addition which was put on by the previous owners and is along the river and does not encroach on the ROW.

My intention is to remove the front door and stoop which is facing the road and move it to the yard side which would be a safer entrance for the property. I would be constructing an approximate 8 foot by 10 foot porch on the yard side which would allow for safer access to my home. Also, I believe that my septic system is reaching its end of life and will need to be replaced in the near future. It is my understanding that the city does not currently have any plans to expand Broad Cove Drive and that the property currently in the ROW is surplus to the city's needs. I would like to have the petition of discontinuance granted in order to be compliant with all laws and regulations and to proceed with the process of moving the main entrance to the home.

I thank you for your time and consideration. I look forward to hearing from you on what steps I will need to take to facilitate these projects. Please feel free to contact me with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Robert M. Beaulac". The signature is written in a cursive style with a large, prominent initial "R".

Robert M. Beaulac
46 Broad Cove Drive
371-3718
RMBeaulac@comcast.net

RETURN TO:
CITY OF CONCORD
COMMUNITY DEVELOPMENT DEPARTMENT
ENGINEERING SERVICES DIVISION
41 GREEN STREET
CONCORD, NH 03301

DEED OF EASEMENT
PUBLIC STORM DRAINAGE EASEMENT

ROBERT MICHAEL BEAULAC, of 46 Broad Cove Drive, Concord, Merrimack County, State of New Hampshire 03303 (“Grantor”), subject to the Concord City Council’s complete discontinuance of a certain portion of Broad Cove Drive in accordance with RSA 231:43 as described below, grants to the **CITY OF CONCORD**, a municipal corporation with a usual place of business at 41 Green Street, Concord, Merrimack County, State of New Hampshire 03301 (“Grantee”), the permanent right and easement to enter upon and to construct, lay, or build, and to reenter as necessity may require to repair, replace, or maintain a pipe or pipes, ditches, culverts, and appurtenances associated with public storm drainage across land of the Grantor. Said portion of land is located on a piece of property adjacent to the mapped limits of Broad Cove Drive, Concord, New Hampshire, is known as Map 37Z, Lot 71 on the City of Concord Assessor’s Maps, has an address of 46 Broad Cove Drive, Concord, Merrimack County, State of New Hampshire, and is more particularly described as follows:

Beginning at a stone bound to be set at the most northeasterly corner of land of the Grantor on the westerly sideline of Broad Cove Drive, said point being South 42° 08’ 31” East a distance of 31.43 feet from the most northerly corner of land of the Grantor; thence

South 33° 21’ 37” West along land of the Grantor and the westerly sideline of Broad Cove Drive as it currently exists, a distance of 15.00 feet to an iron pin to be set; thence

South 56° 38’ 23” East across a portion of Broad Cove Drive to be discontinued as a public highway, a distance of 15.62 feet to an iron pin to be set at the proposed westerly sideline of Broad Cove Drive; thence

By a curve to the left having a radius of 737.50 feet along the proposed westerly sideline of Broad Cove Drive, a length of 15.09 feet to a stone bound to be set, said stone bound to be the northeasterly corner of the herein described easement; thence

North 56° 38' 23" West along the proposed westerly sideline of Broad Cove Drive, a distance of 13.97 feet to the point of beginning.

Containing 222 square feet, more or less, and meaning and intending to describe a public storm drainage easement shown as "New 15' Wide Drainage Easement – 222 Sq. Ft." on a plan entitled "Right of Way Discontinuance Plan, Land of Robert M. Beaulac, Assessors Map 37Z Lot 71, #46 Broad Cove Drive, Concord, New Hampshire," dated June 2016, prepared by T.F. Bernier, Inc., to be recorded herewith at the Merrimack County Registry of Deeds (the "Plan").

Meaning and intending to convey a public storm drainage easement across a portion of land conveyed to the Grantor by deed of Mary Lou Mion, as Successor to Jane S. Ourand, Trustee of The J.P. Trust, by and through the First Amendment and Restatement of The J.P. Trust dated May 22, 2003, recorded at the Merrimack County Registry of Deeds on 7/29/2005, at Book 2804, Page 1267. In conjunction with this storm drainage easement deed, the City of Concord is completely discontinuing a portion of the Broad Cove Drive public right of way. See the Plan referenced above. As Broad Cove Drive is an easement highway, the portion to be completely discontinued as a public highway shall revert to the Grantor free and clear of the public highway easement. The portion of Broad Cove Drive to be completely discontinued is the subject of this storm drainage easement deed. Said portion of Broad Cove Drive to be completely discontinued is more particularly described as follows:

Beginning at a stone bound to be set at the most northeasterly corner of land of the Grantor on the westerly sideline of Broad Cove Drive, said point being South 42° 08' 31" East a distance of 31.43 feet from the most northerly corner of land of the Grantor; thence

South 33° 21' 37" West along land of the Grantor and the westerly sideline of Broad Cove Drive as it currently exists, a distance of 193.50 feet to a stone bound; thence

South 32° 49' 15" West along land of the Grantor and the westerly sideline of Broad Cove Drive as it currently exists, a distance of 7.50 feet to a stone bound; thence

South 57° 10' 45" East along the westerly sideline of Broad Cove Drive as proposed, a distance of 15.47 feet to a stone bound; thence

North 35° 32' 16" East along the westerly sideline of Broad Cove Drive as proposed, a distance of 84.52 feet to a stone bound, said stone bound being at a point of curvature; thence

By a curve to the left along the westerly sideline of Broad Cove Drive as proposed, having a radius of 737.50 feet and a length of 116.62 feet to a stone bound; thence

North 56° 38' 23" West along the westerly sideline of Broad Cove Drive as proposed, a distance of 13.97 feet to the point of beginning.

The Grantor, its successors, and assigns, agree that they will not, without the consent of the Grantee, alter, erect, or maintain any building or other improvement, including landscaping, upon the above-described easement area that may unreasonably interfere with or endanger the above-granted rights and easement or the operation and maintenance thereof, and that the City may cause to have removed any such building or improvement, including landscaping, that may be wholly or partly within the above-described easement area at the expense of the then owner of the land upon which the above-described easement lies.

Executed this _____ day of _____, 201__.

Robert Michael Beaulac

State of New Hampshire
County of Merrimack

The foregoing instrument was acknowledged before me this _____ day of _____, 201__, by Robert Michael Beaulac, for the purposes therein contained.

Justice of the Peace/Notary Public
My commission expires:_____

Concord City Council approval for the acceptance of this storm drainage easement deed was granted in conjunction with the complete discontinuance of a portion of the Broad Cove Drive public right of way at a regular meeting on _____, 201__.

ACCEPTED: City of Concord

By: Thomas J. Aspell, Jr.
Title: City Manager
Date: _____

State of New Hampshire
County of Merrimack

Personally appeared Thomas J. Aspell, Jr., City Manager of the City of Concord, this _____ day of _____, 201__, and acknowledged the foregoing on behalf of the City of Concord..

Justice of the Peace/Notary Public
My commission expires:_____

DATE: JUNE 2016

NOTES:
 1. THE PROPERTY SHOWN HEREON IS THE PROPERTY OF THE CITY OF CONCORD, MASSACHUSETTS, AND IS NOT TO BE CONSIDERED AS A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREON. THE CITY OF CONCORD, MASSACHUSETTS, DOES NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREON IS COMPLETE, ACCURATE, OR UP-TO-DATE. THE CITY OF CONCORD, MASSACHUSETTS, DOES NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREON IS COMPLETE, ACCURATE, OR UP-TO-DATE. THE CITY OF CONCORD, MASSACHUSETTS, DOES NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREON IS COMPLETE, ACCURATE, OR UP-TO-DATE.

(SUBJECT ADDRESS RIVER)
 MAP 372 LOT 8
 48 BROAD COVE DRIVE
 CONCORD, MASSACHUSETTS
 PLAN REF. 71

(SUBJECT ADDRESS RIVER)
 MAP 372 LOT 4
 28 BROAD COVE DRIVE
 CONCORD, MASSACHUSETTS
 PLAN REF. 71

(SUBJECT ADDRESS RIVER)
 MAP 372 LOT 90
 180 BROAD COVE DRIVE
 CONCORD, MASSACHUSETTS
 PLAN REF. 71

(SUBJECT ADDRESS RIVER)
 MAP 372 LOT 50
 180 BROAD COVE DRIVE
 CONCORD, MASSACHUSETTS
 PLAN REF. 71

(SUBJECT ADDRESS RIVER)
 MAP 372 LOT 70
 180 BROAD COVE DRIVE
 CONCORD, MASSACHUSETTS
 PLAN REF. 71

(SUBJECT ADDRESS RIVER)
 MAP 372 LOT 70
 180 BROAD COVE DRIVE
 CONCORD, MASSACHUSETTS
 PLAN REF. 71

(SUBJECT ADDRESS RIVER)
 MAP 372 LOT 70
 180 BROAD COVE DRIVE
 CONCORD, MASSACHUSETTS
 PLAN REF. 71



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PLAN REFERENCES:
 1. MAP 372 LOT 71
 2. MAP 372 LOT 70
 3. MAP 372 LOT 70
 4. MAP 372 LOT 70
 5. MAP 372 LOT 70
 6. MAP 372 LOT 70
 7. MAP 372 LOT 70
 8. MAP 372 LOT 70
 9. MAP 372 LOT 70
 10. MAP 372 LOT 70

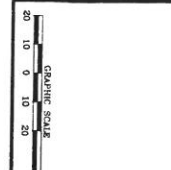
RIGHT OF WAY DISCONTINUANCE PLAN
 LAND OF
ROBERT M. BEAULAC
 ASSESSORS MAP 372 LOT 71
 #48 BROAD COVE DRIVE
 CONCORD, NEW HAMPSHIRE
 DATE: JUNE 2016 • SCALE: 1" = 20'

APPROVED
 UNDER THE PROVISIONS OF RSA 223:24 AND RSA 223:25
 CITY OF CONCORD BOARD
 IN ACCORDANCE WITH THE VOICE OF THE BOARD DATED
 APPROVAL OF THIS PLAN IS LIMITED TO LOTS AS SHOWN
 CLERK CHAIR

OWNER OF RECORD

NO.	REVISION	DATE
1	ISSUE FOR CITY OF CONCORD BOARD	6/16/16
2	REVISED PER CITY OF CONCORD BOARD	6/16/16

T.F. BERNIER, INC.
 Land Surveyors - Designers - Consultants
 23 WILSON STREET - 2D BOX 3444
 CONCORD, NEW HAMPSHIRE 03302-3444
 TEL: (603) 224-4141 FAX: (603) 224-5000



LEGEND
 1. BOUNDARY LINE
 2. EASEMENT
 3. RIGHT OF WAY
 4. CONVEYANCE
 5. EASEMENT
 6. RIGHT OF WAY
 7. CONVEYANCE
 8. EASEMENT
 9. RIGHT OF WAY
 10. CONVEYANCE