

Doc# 2005052593
BK 14591 Pg 0217 - 0224
Received York SS
09/07/2005 9:08AM
Debra L. Anderson
Register of Deeds.

119 MAIN STREET CONTRACT ZONE

CONTRACT ZONING AGREEMENT
BETWEEN JACK L. LIBBY and THE TOWN OF KENNEBUNK

This Contract Zoning Agreement is made this 06 day of September, 2005 by and between the TOWN OF KENNEBUNK, a body corporate and politic located in the County of York and State of Maine (hereinafter the "Town") and JACK L. LIBBY, an individual with a place of business at 119 Main Street, Kennebunk, Maine (hereinafter "Libby").

WHEREAS, Libby is the owner of a parcel of real estate located at 119 Main Street in Kennebunk, Maine (Tax Map 46, Lot 64) as depicted on the Class D Sketch prepared by Northeast Civil Solutions and attached hereto as Exhibit A and incorporated herewith (hereinafter the "Property").

WHEREAS, the Property is currently located in the Upper Square District under the Kennebunk Zoning Ordinance.

WHEREAS, the Property is improved with an historic structure that Libby and the Town wish to preserve.

WHEREAS, Libby currently operates the Property as a real estate office but now desires to sell or lease the Property.

WHEREAS, Libby has encountered difficulties in selling or leasing the Property because of the limited uses allowed in the Upper Square District, which prohibits such uses as retail sales.

WHEREAS, the location of the Property and size of the building limit the number of commercial uses that may be pursued on the site.

WHEREAS, Libby and the Town believe that other appropriate uses compatible with the neighborhood are possible for the Property such as certain uses allowed by the Downtown Business District.

WHEREAS, Libby and the Town wish to create a separate zone known as the 119 Main Street Contract Zone which will enable uses from both the Upper Square District and the Downtown Business District to exist on the Property.

WHEREAS, the Town has the authority to enter into a contract re-zoning for the Property pursuant to 30-A M.R.S.A. §4352 and Article 13(3) of the Kennebunk Zoning Ordinance.

WHEREAS, after notice and hearing and due deliberation on the re-zoning phase, the Kennebunk Planning Board recommended re-zoning of the Property.

WHEREAS, the Planning Board and the Board of Selectmen have determined that the re-zoning will be pursuant to and consistent with the Town's Comprehensive Plan.

WHEREAS, the re-zoning has been authorized at a Town Meeting.

NOW THEREFORE, in consideration of the mutual promises made to each other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Ordinance and map to create and make reference to the 119 Main Street Contract Zone as depicted on Exhibit A.
2. Subject to final Planning Board approval and after public hearing, Libby and or his successor or assigns shall be authorized to use the Property for any of the uses set forth in the description of the 119 Main Street Contract Zone attached hereto as Exhibit B and incorporated herewith. Libby, his successors and assigns shall be required to maintain the existing three (3) parking spaces located on the Property and to add and maintain one (1) additional parking space for a total of four (4) spaces for use of the occupants of the building.
3. The Property shall be redeveloped and used in a manner that retains and respects the historic quality of the building exterior with any change being compatible with the current architecture. For as long as the 119 Main Street Contract Zone exists, Libby, his successors and assigns shall retain the building that currently sits on the Property and shall not add onto the building beyond the present footprint as depicted on Exhibit A. Any renovation of the building shall be approved by the Planning Board and, if required under the terms of Article 12 of the Town of Kennebunk Zoning Ordinance, by the Historic Preservation Commission. If the existing building is demolished this Agreement and the 119 Main Street Contract Zone shall become null and void.
4. In reviewing any renovation or proposed use of the existing building, the Planning Board will apply the standards set forth in the Kennebunk Zoning Ordinance except as modified by the description of the 119 Main Street Contract Zone attached hereto as Exhibit B and incorporated herewith.
5. Libby shall record the Contract Zoning Amendment in the York County Registry of Deeds and shall submit proof of recording to the Town's Code Enforcement Officer and Planner.
6. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the Property and shall be amended only upon further written agreement of the Town and Libby or his successors in interest to the Property.
7. The above restrictions, provisions and conditions are an essential part of the re-zoning, shall run with the Property and shall bind Libby, his successors in interest and any assigns of the Property or any party in possession or occupancy of the Property or any part thereof and shall inure to the benefit of and be enforceable by the Town.
8. If any of the restrictions, provisions, conditions or portions of this Agreement is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such

portions shall be deemed as separate, distinct and independent provisions and such determination shall not affect the validity of the remaining portions hereof.

9. Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Town of Kennebunk Zoning Ordinance.

10. In the event that Libby or his successors or assigns fail to develop or operate the Property in accordance with this Agreement or in the event of any other breach of any conditions set forth in this Agreement, the Board of Selectmen of the Town shall have the authority, after written notice to Libby or his successors or assigns, and reasonable opportunity to cure, to terminate this Agreement or to recommend to the Town that it should re-zone the Property to Upper Square or any successor zone. In the event of such a re-zoning, the Property shall then be used for only such uses or otherwise allowed by law. The Town shall also have the ability to enforce any breach of this Agreement or any other violation of the Zoning Ordinance through the provisions of 30-A M.R.S.A. § 4452.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the 06 day of September 2005.

TOWN OF KENNEBUNK

W. Berry
Witness

By: Thomas Wellman
Its Board of Selectmen

W. Berry
Witness

JACK L. LIBBY

STATE OF MAINE
YORK, ss.

September 06, 2005

Personally appeared the above-named Thomas Wellman as Selectman of the Town of Kennebunk and acknowledged the foregoing instrument to be his/her/their free act and deed in said capacity on behalf of said Town.

Before me,

David W. Cluff
Notary Public/Attorney at Law
Printed Name: DAVID W. CLUFF
Commission Expires On:

DAVID W. CLUFF
Notary Public, Maine
My Commission Expires Sept. 3, 2008

SEAL

STATE OF MAINE
YORK, ss.

September 06, 2005

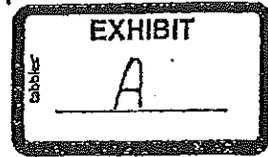
Personally appeared the above-named Jack Libby and acknowledged the foregoing instrument to be his free act and deed.

Before me,

David W. Cluff
Notary Public/Attorney at Law
Printed Name: David W. Cluff
Commission Expires On:

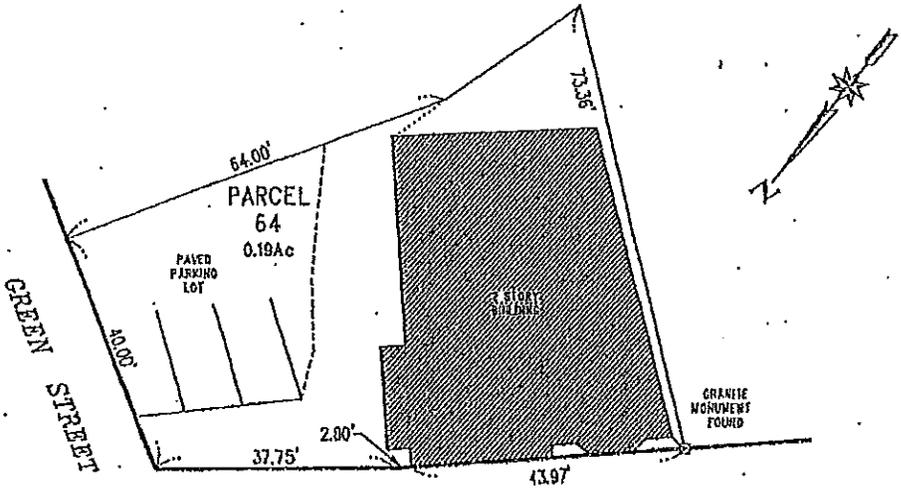
DAVID W. CLUFF
Notary Public, Maine
My Commission Expires Sept. 3, 2008

SEAL



FLOOD HAZARD INFORMATION
 FILE NUMBER: 27339 FLOOD MAP COMMUNITY NO.: 230151 ZONE: C
 ATTORNEY: LEANNE HAWMONDS PANEL: 001 B DATED: 7/15/1992
TITLE REFERENCE
 TITLE COMPANY: NOT APPLICABLE OR NOT AVAILABLE DEED BOOK: 1996/1885 PAGE: 124/697
 LENDER: NOT APPLICABLE OR NOT AVAILABLE PLAN BOOK: 28 PAGE: 7 LOT(S): N/A
 OWNER: JACK LOBY PLAN NUMBER: N/A OF N/A
 APPLICANT: NOT APPLICABLE
ASSESSORS MAP
 DATE: 10/25/2004 SCALE: 1"=20' MAP: 46 BLOCK: N/A PARCEL: 64

MORTGAGE INSPECTION PLAN
 119 MAIN STREET, KENNEBUNK, ME.



MAIN STREET

MORTGAGE LENDER
USE ONLY

THIS IS NOT A BOUNDARY SURVEY.
 THIS IS THE RESULT OF TAPE MEASUREMENT, NOT THE RESULT OF AN INSTRUMENT SURVEY AND IS CERTIFIED TO THE TITLE INSURANCE COMPANY AND ABOVE LISTED ATTORNEY AND LENDER.
 THERE ARE NO DEEDED EASEMENTS IN THE ABOVE REFERENCED DEED OR ENCROACHMENTS WITH RESPECT TO BUILDINGS SITUATED ON THIS LOT EXCEPT AS SHOWN.
 THE LOCATION OF THE DWELLING SHOWN DOES NOT FALL WITHIN A SPECIAL FLOOD HAZARD ZONE.
 THE LOCATION OF THE DWELLING AS SHOWN HEREON WAS IN COMPLIANCE WITH THE LOCAL ZONING LAWS IN EFFECT WHEN CONSTRUCTED (WITH RESPECT TO STRUCTURAL SETBACK REQUIREMENTS ONLY).
 PARCEL NUMBER FROM ASSESSOR'S MAP.

SURVEYING ENGINEERING LAND PLANNING
Northeast Civil Solutions
 INCORPORATED
 153 US ROUTE 1, SCARBOROUGH, MAINE 04074
 20' 0 20' 40'
 tel (207) 883-1000 fax (207) 883-1001 e-mail ncs@nchs.com
 (800) 882-2227



[Handwritten Signature]

GENERAL NOTES: (1) This mortgage inspection plan excepts Chapter 90, Part 2, Section 4 through 8 of the Maine Board of Licensure for Professional Land Surveyors' rules. (2) Declarations are made to the above named client only as of this date. (3) This plan was not made for recording purposes, for use in preparing deed descriptions or for construction purposes. (4) Verifications of property line dimensions, building offsets, fences, or lot configuration may be accomplished only by an accurate instrument survey.

EXHIBIT B

119 MAIN STREET CONTRACT ZONE

A. Purpose

The purpose of the 119 Main Street Contract Zone is to allow the building located at 119 Main Street (Map 46, Lot 64) to be used for a limited number of commercial and residential uses as allowed under this Ordinance.

B. Permitted Uses

The following uses are permitted in the 119 Main Street Contract Zone:

Community buildings; municipal uses; museums; business and professional offices; business services; personal services; low-volume retail sales, provided that no more than two retail establishments are in operation in the building at any one time; studios of artisans; tradesmen's shops, provided there is no outdoor storage; essential services; home occupations; and single family or two-family dwelling within the existing structure, provided that if the existing structure is used for a two-family dwelling, no additional uses shall be permitted. There shall be no outdoor display or storage of merchandise.

C. Special Exceptions

The following uses may be permitted only upon approval as special exceptions in accordance with Article 7 of this Ordinance:

1. The following utility uses:

1-1 Public utilities

D. Prohibited Uses

(1) Uses not allowed as permitted uses or special exceptions are prohibited within this district.

E. Standards

(1) Space and Bulk Standards

The following space and bulk standards shall apply in the 119 Main Street Contract Zone:

Minimum net lot area	2,500 square feet
Minimum net lot area per dwelling unit	1,500 square feet
Minimum lot width	None
Minimum setbacks for new structures or additions	None
Maximum height for new structures	40 feet, provided that no wood frame or timber building existing on June 17, 1963, shall be increased in height, and the Board of Appeals shall not grant any appeal for any such increase in height.
Maximum lot coverage for new structures or additions	None
Minimum width of green buffer strip	None

(2) Performance Standards

Uses within the 119 Main Street Contract Zone shall conform to all applicable performance standards of this Ordinance, including but not limited to the following:

- (i) Soils Article 10, Section 2
- (ii) Private Outdoor lighting Article 10, Section 6
- (iii) Signs Article 10, Section 7
- (iv) Off-Street Parking Article 10, Section 9
- (v) Home occupations Article 10, Section 14

F. Overlay Districts

- (1) Any portion of the 119 Main Street Contract Zone within the Shoreland Area Overlay District shall additionally comply with the provisions of Article 8, Section 16, and of Article 10, Section 3, of this Ordinance.

- (2) Any portion of the 119 Main Street Contract Zone within the Historic Preservation Overlay District shall additionally comply with the provisions of Article 8, Section 17, and of Article 12 of this Ordinance.

G. Flood Plains

Any construction or development within a flood plain, as defined by the Kennebunk Flood Plain Management Ordinance, shall additionally comply with the terms of that Ordinance.

H. Site Plan Review

Any proposals as described in Article 11 (Site Plan Review), Section 3 of this Ordinance shall be subject to site plan review and approval prior to receipt of a building permit or plumbing permit. Any site plan review shall be conducted by the Planning Board.

END OF DOCUMENT

SPG → Jack Libby - P.O. Box 368 - Kennebunk, ME. 04043