

**AGENDA ITEM SUMMARY**  
**January 24, 2024**

**AGENDA ITEM NO. A-5**

**Hold Harmless Agreement – Water Easement Encroachment – 38 Palisades Street**

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**Summary:** The Owners of 38 Palisades Street seek to construct an enclosed room above an existing seasonal porch attached to their home. The existing porch encroaches approximately 4.5' into the Town's 20' wide water utility easement, which is centered over the as-built location of the water main. The subject water main was constructed based upon an un-built development proposal and within this development, numerous structural encroachments such as the subject porch exist in this area. Annotated copies of the Record Site Utilities depicting the subject lot, porch and existing utilities in the area are enclosed. Also enclosed for your consideration is a proposed Hold Harmless Agreement which grants the Town's permission to construct the proposed enclosed room with its easement but protects the Town's interest should any damages and/or cost be incurred by either party, should they occur, associated with the Town execution of its maintenance, repair and/or replacement rights under the easement. Practically, although tight, we do not think that the proposed enclosed room significantly alters the existing condition from an operational perspective.

**Town Plan Impact:** N/A

**Fiscal Impact:** N/A

**Recommendation:** Move to approve the proposed Hold Harmless Agreement for the proposed encroachment into the Town's existing Water Main Easement at 38 Palisades Street and authorize the Town Manager to sign on behalf of the Town.

## HOLD HARMLESS AGREEMENT

This Agreement (“Agreement”) is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by and between Barbara L. Bright of Stowe, Vermont (hereinafter referred to as “Bright”) and the Town of Stowe (hereinafter referred to as “the Town”).

### WITNESSETH:

**WHEREAS**, Bright owns real property located at 38 Palisades Street consisting of 0.14 acres and a dwelling in the Town of Stowe (Tax Map No. 7A-013.011; Span No. 621-195-13412).

**WHEREAS**, the Bright dwelling consists of a 176 square foot deck that extends in an easterly direction more or less, the dimensions of which are eight feet by twenty-two feet. This deck was constructed when the dwelling was built in 2002.

**WHEREAS**, Bright bought the property on August 1, 2008 by way of a Warranty Deed recorded in Volume 722, Page 307 of the Town of Stowe Land Records.

**WHEREAS**, the Town of Stowe owns a Permanent Easement conferring upon the Town “[t]he right to enter upon, install, construct, reconstruct, inspect, repair, maintain and operate waterlines and related facilities for the carrying of water below the surface of the lands” given by Bright’s predecessor in interest “and to excavate, backfill, grade, smooth and resurface areas of said land affected thereby, in a workmanlike manner and to have an maintain such waterlines and related facilities without overbuilding or other interference therewith whereby the safety of the access to said waterlines and related facilities would become impaired.” *See* Deed of Easement recorded in Volume 445, Page 282 of the Town of Stowe Land Records.

**WHEREAS**, the aforementioned permanent waterline easement was “granted along a strip of land 20 feet in width centered on the pipeline.” The waterline is depicted on a survey prepared by ‘Charles Grenier, Consulting Engineer, PC date August 10, 2001 and revised on September 7, 2001, entitled “Palisades Village Homes IV & V, South Main Street Development, LP’, sheets 1 and 2, on file with the Grantee, and recorded in Map Book 13, pages 21 and 22 of the Stowe Land Records.”

**WHEREAS**, the aforementioned deck encroaches approximately 4.5 feet into the 20 foot wide waterline easement owned by the Town.

**WHEREAS**, Bright desires to renovate the existing deck such that it can be used year-round.

**NOW THEREFORE**, for and in consideration of the mutual promises and covenants contained herein, the potential mutual benefits to be derived by the parties hereto by and through this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties to this Agreement hereby agree as follows:

1. Deck Renovation. The Town agrees to allow Bright to renovate the existing deck into a four-season deck, subject to this Agreement, the Town's rights of access to the easement, the standard zoning permit, and other Town permit application procedures.
2. Existing Footprint. Bright agrees that the renovated deck will not exceed the footprint of the existing deck and will be constructed on the existing concrete footings.
3. Hold Harmless. Bright agrees that in the event that the Town, for necessity or convenience, requires access to the aforementioned waterline, and to the extent this access requires, for necessity or convenience, use of the land within that part of the easement covered by Bright's deck, the Town may fully exercise its rights under the easement, and Bright shall hold the Town harmless for any and all damage done to the deck, up to and including its complete destruction or removal, and any costs related thereto.
4. Filing in Land Records. Upon the execution of this Agreement by both parties, Bright shall file a copy of this Agreement in the Town of Stowe Land Records.
5. Miscellaneous. This Agreement sets forth the entire understanding and agreement of the parties and supersedes any and all previous communications, negotiations, and agreements, whether oral or written, with respect thereto. The obligations and restrictions upon the parties under this Agreement are unconditional, do not depend upon the consummation or performance of any agreements, duties, obligations, or terms outside this Agreement and shall be binding upon and with respect to the parties and their representatives, successors, heirs, and assigns. This Agreement may not be modified or altered except by a written instrument duly executed by the parties, and the failure of either party to exercise in any respect any rights provided for in this Agreement shall not be deemed a waiver of any further right. If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired. This Agreement shall be strictly construed against either party. This Agreement may be executed simultaneously in any number of counterparts, any one of which need not contain the signature of more than one party, but all such counterparts taken together shall constitute one and the same agreement. Copies of this Agreement containing signature(s) transmitted electronically shall constitute signed originals.

DATED at Stowe, Vermont this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

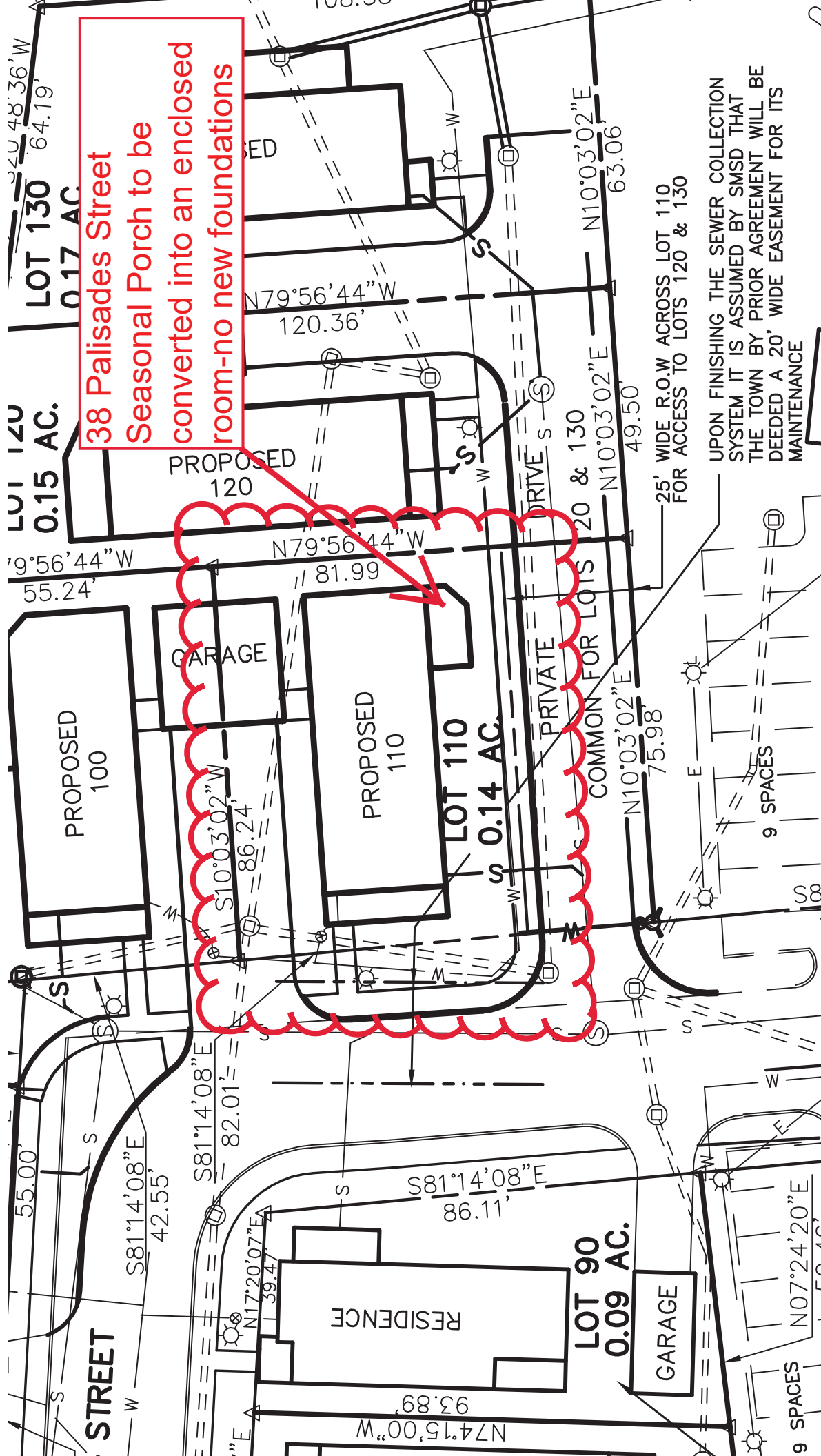
\_\_\_\_\_  
Witness

\_\_\_\_\_  
Barbara L. Bright

DATED at Stowe, Vermont this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Charles Safford, Town Manager



**38 Palisades Street**  
**Seasonal Porch to be**  
**converted into an enclosed**  
**room-no new foundations**

LOT 130  
 0.17 AC  
 48'36" W  
 64.19'

LOT 120  
 0.15 AC  
 55.24'

N79°56'44" W  
 120.36'

N79°56'44" W  
 81.99'

N10°03'02" W  
 86.24'

PROPOSED 100

GARAGE

PROPOSED 110

LOT 110  
 0.14 AC

PRIVATE DRIVE S

COMMON FOR LOTS 120 & 130  
 N10°03'02" E  
 49.50'

25' WIDE R.O.W ACROSS LOT 110  
 FOR ACCESS TO LOTS 120 & 130

UPON FINISHING THE SEWER COLLECTION  
 SYSTEM IT IS ASSUMED BY SMSD THAT  
 THE TOWN BY PRIOR AGREEMENT WILL BE  
 DEEDED A 20' WIDE EASEMENT FOR ITS  
 MAINTENANCE

9 SPACES

N10°03'02" E  
 75.98'

9 SPACES

PROPOSED 120

RESIDENCE

LOT 131  
 0.17 AC

N10°03'02" E  
 63.06'

STREET

55.00'

S81°14'08" E  
 82.01'

S81°14'08" E  
 42.55'

S81°14'08" E  
 86.11'

RESIDENCE

LOT 90  
 0.09 AC

GARAGE

N74°15'00" W  
 93.89'

N17°20'07" E  
 39.47'

9 SPACES

N07°24'20" E  
 50.16'