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Owens*

THE MARION J. STOLWORTHY
WILD LIFE SANCTUARY

3/24/86

1986 DEC 31 AM 11:43

STRAFFORD COUNTY
REGISTRY

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BK 1283 PG 0562

BURNS, BRYANT,
HINCHEY, COX & SHEA
ATTORNEYS AT LAW
BURNS BUILDING
DOVER, NEW HAMPSHIRE

03820

603-742-2332

KNOW ALL MEN BY THESE PRESENTS, that I, EDWARD HOWARD STOLWORTHY, of 20 Bagdad Road, Town of Durham, County of Strafford and State of New Hampshire, for consideration paid, grant to the Town of Durham, a municipal corporation having a principal place of business at 13-15 Newmarket Road, Durham, County of Strafford, State of New Hampshire, two certain parcels of land described below in said Durham,

With Quitclaim Conventions,

PARCEL I

A certain tract of land situated in said Durham; bounded and described as follows:

Beginning at the center of a concrete marker set in the ground, said marker being the Southwesterly corner of land now owned by E. Howard Stolworthy, said concrete marker being on the line of division between the land of said Stolworthy and the land now or formerly of one Edward Getchell and being two hundred (200) feet in a Southeasterly direction from the southerly side of Bagdad Road so-called, in said Town of Durham, running from said concrete marker North 46° 54' East along the land now owned by said Stolworthy, a distance of one hundred and no tenths (100.0) feet to the center of a concrete marker, as shown on a plan of the land herein described, said concrete marker being the Southeasterly corner of the land now owned by said Stolworthy; thence turning South 87° 28' East and running along the Southerly side of a lot belonging formerly to Edith H. McNutt, a distance of fifty-five and two tenths (55.2) feet to an iron pipe set in the ground at the Southeasterly corner of said lot, as shown on the plan, said iron pipe being the Southwesterly corner of said lot formerly belonging to Harold C. Grinnell and Alice Grinnell; thence continuing in a straight line South 87° 28' East along the Southerly side of said lot, a distance of fifty-seven and eight tenths (57.8) feet to an iron pipe set in the ground at the Southeasterly corner of said lot, said iron pipe being the Southwesterly corner of another lot owned formerly by Edith H. McNutt; thence continuing in a straight line South 87° 28' East along the Southerly side of the said lot, a distance of fifty-nine and nine-tenths (59.9) feet to an iron pipe set in the ground, said iron pipe being the Southwesterly corner of the land now or formerly owned by one William Hartwell; thence turning South 64° 33' East and running along the Southwesterly side of the land now or formerly of said Hartwell, a distance of fifty-nine and two tenths (59.2) feet to an iron pipe set in the ground, said iron pipe being the Northwesterly corner of the land now or formerly owned by one Harold M. Mayo, said iron pipe being about two hundred (200) feet from Bagdad Road, so called; thence turning South 26° 40' East and running in a straight line along the Southwesterly side of the land now or formerly owned by said Mayo, and along a wire fence now or formerly in place, to a drill

hole in a large stone, in the line of a stone wall, said drill hole being on the line of said Mayo property, and being the most Easterly bound of the property herein described, as shown on the plan; thence turning in a Southwesterly direction and running in a straight line along said stone wall and along the Northerly side of a right of way to this land and to other lands of said grantors; a distance of three hundred and five and five tenths (305.5) feet to an iron pipe set in the ground in the line of said stone wall, said iron pipe being the most Southerly corner of the land herein described, as shown on the plan, said iron pipe being the Southeasterly corner of the land now or formerly owned by said Getchell; thence turning North 25° 03' West and running along the land of said Getchell, a distance of four hundred and ninety and eight tenths (490.8) feet to the point of beginning. All bearings shown are magnetic, the Magnetic Declination on or about July 31, 1937 being 15 3/4° West of the True Meridian; the land heretofore described as shown on a plan contains a calculated area of one hundred and twenty-eight thousand, five hundred and forty-nine (128,549) square feet or two and ninety-five hundredths (2.95) acres, more or less; together with the right to use in common with others for the passage to and from the land above described to the Bagdad Road, for any and all purposes, and by any and all methods, a right of way forty feet wide which extends from said Bagdad Road across the land deeded by Edith H. McNutt to Harold Merrill Mayo and Anna Claflin Mayo, which deed is recorded in Strafford County Records, Book 433, Page 79, a description of a portion of said right of way being contained in said deed. This right of way continues from the land now or formerly of said Mayos in a Westerly direction along the full length and adjacent to the Southerly boundary of the above described property, so that the above grantee may have access to said right of way from any point on the Southerly side line of the above described property.

This conveyance is made subject to all rights which Edward L. Getchell, Edward H. Stolworthy and Marion J. Stolworthy, Harold C. Grinnell and Alice Grinnell, William H. Hartwell and Arthur P. Stewart, their heirs and assigns, have to maintain, repair and relay sewer pipes on the above described property and to make use of the septic tank on the above described property in accordance with rights given them by Edith H. McNutt.

This conveyance is made subject to the right of Durham Spring Water Co. to maintain through said premises its line of water pipe, together with the right to enter, relay and repair the same.

NEVERTHELESS, there is reserved and excepted out of this conveyance the right and privilege to said Edith H. McNutt and her heirs and assigns to maintain, repair and relay sewer pipes across the above described property extending from Lot No. 3 to Lot No. 5 to the septic tank on said property above described, together with the right to drain sewers from said lots numbered 3 and 5 into the septic tank on said property, upon the condition that the owners of said Lots shall at all times contribute towards the expense of all repairs, cleaning and servicing incurred by reason of keeping said septic tank in good condition, and shall contribute towards the expense incurred by any damage which may be occasioned by the use of said septic tank, such contributions to be apportioned so that the owner of each house that drains into said tank shall pay an equal amount with every other house which drains into said tank.

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PARCEL II

A certain tract of land situate in said Durham, lying Southwesterly from, but not adjoining, Bagdad Road, so-called, and bounded and described as follows, to wit:

Beginning at an iron pipe set in a stone wall, the said pipe being the end of a boundary line of land formerly of Harold M. and Anna C. Mayo, later of one Crandall, at land of the School District of Durham; and following the middle of said stone wall along the school land, across the swamp, and up the hill a distance of three hundred fifty-seven and three-tenths (357.3) feet to an iron pipe set in the intersection of two stone walls (as indicated on the map now or formerly in the office of the Durham School); thence turning and running North 33° 08' West, along a stone wall and other land of said School District, a distance of eighty-four and six-tenths (84.6) feet to an iron pipe on the southerly face of a stone wall, at land now or formerly of Edward L. and Alice A. F. Getchell; thence turning and running in a course believed to be about North 49° 52' East along the last mentioned stone wall and Getchell land a distance of seventy (70) feet, more or less, to land formerly of Marion J. Stolworthy, and continuing in the same course on a straight line along said wall and Stolworthy land a distance of three hundred and five-tenths (305.5) feet to a drill hole in a large boulder in said stone wall, said drill hole being bound between said Marion J. Stolworthy land and said land formerly of Harold M. and Anna C. Mayo; thence turning and running in a course believed to be about South 20° 40' East, by said former Mayo land, about two hundred ten (210) feet to the point of beginning.

Subject to all benefits and burdens as expressed in a deed of these premises by Edith H. McNutt to William Wayne Shirley, dated December 26, 1945, recorded in the Strafford County Registry of Deeds, Book 532, Page 99, in which the following language is contained:

" . . . together with the right to use with others for all purposes and by all methods a right of way 40 feet wide through the land of the said Mayos to the Bagdad Road.

"This deed is given subject to rights previously granted to Edward R. Getchell and Marion Stolworthy to use the extension of the above right of way, which extends from the May line along the above mentioned stone wall along the land of Stolworthy and Getchell to the School land, also the rights granted to the said Stolworthy to deposit the effluent of a septic tank on the premises of the said Stolworthy.

"A further description of these rights are found in the County Record Book 479, Pages 146-7-8, and a description of the right of way reserved in the Mayo deed Book 433, Page 79.

Further subject to the 15 foot right of way for sewer pipes and system as conveyed by the said William Wayne Shirley, to the Town of Durham, by deed dated August 11, 1947, recorded in the said Registry of Deeds, Book 550, Page 480, reference being made to the record (in Pocket 2, Folder 14, Plan #35 in said Registry) of the plan referred to in said deed entitled: "Town of Durham, New Hampshire, Plan of Center Line of Easements for Sewers... Weston & Sampson, Consulting Engineers, Boston, Massachusetts, May 26, 1947."

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Meaning and intending to convey to the Town of Durham two parcels of land being shown as Lots 2-6 and 2-14 shown respectively on Durham, New Hampshire Tax Map, Map #3 as revised March 1978. Parcel I described hereinabove being Lot 2-6 and being the same property conveyed to Marion J. Stolworthy by Edith H. McNutt by deed dated July 31, 1937 and recorded in Strafford County Registry of Deeds at Book 479, page 146. Parcel II being Lot 2-14 as shown on said property map and being the same property being conveyed by William Wayne Shirley to Edward J. Stolworthy by deed dated February 8, 1966 and recorded in the Strafford County Registry of Deeds, Book 807, Page 412.

This conveyance is expressly made subject to the declaration of covenants and restrictions for the Marion J. Stolworthy Wild Life Sanctuary, dated December 24, 1986, to be recorded. It is the intention of Edward Howard Stolworthy to convey the above described Parcels I and II to the Town of Durham on the condition that they be used exclusively for the Marion J. Stolworthy Wild Life Sanctuary. Further, this condition shall be enforceable by an action at law or in equity by those persons and organizations charged under the Declaration of Covenants and Restrictions with enforcing said covenants or by any person benefitting from the use of those covenants. It is, however, the intention of Edward H. Stolworthy that a violation of this condition shall only give rise to an action at law or in equity and shall not result in a reversion or forfeiture of the title.

Executed this 21st day of December, 1986.

Donald R. Bryant

Edward Howard Stolworthy
EDWARD HOWARD STOLWORTHY

STATE OF NEW HAMPSHIRE
, SS

On this 21st day of December, 1986, before me, personally appeared Edward H. Stolworthy, known to me, or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

Donald R. Bryant
JUSTICE OF THE PEACE

BK 1283 PG 0585

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