



Town of Wiscasset

Meeting Notice

Wiscasset Board of Appeals

February 12, 2018 @ 6:00 p.m. in the Municipal Building Hearing Room

1. The Wiscasset Board of Appeals will meet to consider an administrative appeal from the State of Maine, by and through Maine Department of Transportation, to reverse a determination by the Wiscasset Code Enforcement Officer that the Maine Department of Transportation is required to apply for a Certificate of Appropriateness before demolishing a building at 36 Water Street.

FARRELL, ROSENBLATT & RUSSELL

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December 15, 2017

Town of Wiscasset Board of Appeals
Town of Wiscasset
51 Bath Road
Wiscasset, Maine 04578

Re: Appeal to Board of Appeals

To the Board of Appeals:

Enclosed please find Maine Department of Transportation's appeal to the Wiscasset Board of Appeals.

Based on conversations with attorneys for the Town, Peter Murray and John Shumadine, it is my understanding that the Board of Appeals will take no action on this appeal during the course of the separate, yet related, litigation in the Maine Business Court. The Board's inaction will not be interpreted as either a grant or a denial of this appeal.

Subject to the terms of any future settlement of the Business Court litigation, as well as Maine DOT's right to withdraw this appeal, the legal question at the center of this appeal will be resolved in the Business Court litigation.

Thank you for your assistance.

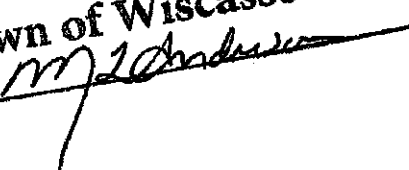
Sincerely yours,



Nathaniel M. Rosenblatt
Attorney for Maine DOT

Enc.

cc: Peter L. Murray, Esq.
John B. Shumadine, Esq.
James A. Billings, Esq.
Kate J. Grossman, Esq.

Received
DEC 15 2017
Town of Wiscasset
By 

TOWN OF WISCASSET
BOARD OF APPEALS

Received

DEC 15 2017

Town of Wiscasset
By [Signature]

(Please complete all applicable items)

1. Name of Applicant(s): Maine Department of Transportation
2. Residence: 36 Water Street, Wiscasset (subject property--not a residence)
C/o Nathaniel M. Rosenblatt, Esq., Farrell, Rosenblatt & Russell
3. Mailing Address: P.O. Box 738, Bangor, Maine 04402-738
4. Telephone: Home: N/A
Office: (207) 990-3314
5. Name(s) of Owner(s) if real estate involved: State of Maine, by and through Maine Dept. of Transportation
6. Statement of action requested of Appeals Board: Reverse determination of Code Enforcement Officer
that Maine Department of Transportation is required to apply for a Certificate of Appropriateness before
demolishing building at 36 Water Street.
7. If this is an appeal from the action or decision of some municipal official, attach a statement setting forth that action or decision. See Attachment A.
8. If this is a request for a variance of any zoning ordinance or other ordinance, describe the nature of the variance.
N/A
9. If real estate is involved, attach a list of names and mailing addresses of property owners within 500 feet of the property and all others to whom notice must be given to comply with the applicable ordinance and the Board of Appeals Ordinance. See Attachment B.
10. Attach or file with this appeal request any other information and/or documents that you wish to file and any information or documents required by the Board of Appeals Ordinance.

Dated: December 15, 2017 Applicant(s) signature: [Signature]

Nathaniel M. Rosenblatt, Esq.
Attorney for Maine Department of Transportation

Supply additional information on the back of this form.

Date application received: _____

Attachment A

The State of Maine, by and through its Department of Transportation (“Maine DOT”), owns property located at 36 Water Street in the Town of Wiscasset, Maine. Maine DOT has, for the past year and a half, undertaken planning and design work as part of a state highway and traffic improvement project (“the project”) intended to alleviate the major seasonal traffic delays in downtown Wiscasset that affect neighboring midcoast towns, and to improve pedestrian safety. One component of the project involves demolishing the structure located at 36 Water Street so that the lot can be used as a parking lot.

In a letter dated November 17, 2017 and received by Maine DOT on November 22, 2017 (attached), the Town’s Code Enforcement Officer (CEO) informed Maine DOT that “a Certificate of Appropriateness is required by the Town of Wiscasset’s Historic Preservation Ordinance (Article VI, Section 10.5.1.1.a-g) with respect to any proposed demolition within the Historic District. The requirements are defined in Section 10.7.1.5.”

Town Manager Marian Anderson also wrote an email to a Maine DOT employee on November 16, 2017 communicating essentially the same determination, and attorney Peter Murray, attorney for the Town of Wiscasset, wrote an email to counsel for Maine DOT on November 16, 2017 making the same point.

Maine DOT is not required by state law to comply with the Wiscasset Historic Preservation Ordinance. Therefore, the determination that Maine DOT is required to apply for a Certificate of Appropriateness should be reversed.

Maine DOT submits this appeal to the Wiscasset Board of Appeals solely in order to preserve its right of appeal. Maine DOT does not concede that the Board of Appeals, as opposed to the Maine Superior Court, has jurisdiction over this appeal. Maine DOT has filed a simultaneous appeal with the Maine Superior Court.

Attachment B

<u>Owner's Name</u>	<u>Map/Date</u>	<u>Mailing Address 1</u>	<u>Mailing Address 2</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>Zip4</u>
WAWER, JUDITH M. (TRUSTEE)	U01-028		PO BOX 406	WISCONSIN	ME	4578	
WISCONSIN, TOWN OF	U01-029		51 BATH ROAD	WISCONSIN	ME	4578	
FRENCH LLC, RICHARD C.	U01-030		8 FEDERAL STREET	WISCONSIN	ME	4578	
STANSFIELD, ETHEL	U01-031		PO BOX 343	WISCONSIN	ME	4578	
DAMON, EUGENE A.(HERS OF)	U01-032		151 ESSD STREET	HAVERHILL	MA	1832	
MARZINSKI, PAUL BRUNO T/C	U01-033		PO BOX 663	BOOTHBAY HARBOR	ME	4588	
WISCONSIN, TOWN OF	U01-035		PO BOX 517	WISCONSIN	ME	4578	
48 FEDERAL ST., LLC	U01-036		51 BATH ROAD	WISCONSIN	ME	4578	
WAWENOCK, LLC	U01-037	C/O PALMETTO STATES PROPERTIES, INC.	4903 NE 1st TERRACE, SUITE 2	OAKLAND PARK	FL	33334	3157
WAWENOCK, LLC	U01-038	C/O PALMETTO STATES PROPERTIES, INC.	4903 NE 1st TERRACE, SUITE 2	OAKLAND PARK	FL	33334	3157
WAWENOCK, LLC	U01-039	C/O PALMETTO STATES PROPERTIES, INC.	4903 NE 1st TERRACE, SUITE 2	OAKLAND PARK	FL	33334	3157
ROBINSON, MATTHEW BURWELL J/T	U01-040		554 ARROWVIC ROAD	OAKLAND PARK	FL	33334	3157
WISCONSIN HARDWARE CO.	U01-041		PO BOX 342	ARROWVIC	ME	4530	
STEJSON, DAVID W. J/T	U01-042		PO BOX 342	WISCONSIN	ME	4578	
STEJSON, DAVID W. J/T	U01-042		PO BOX 342	WISCONSIN	ME	4578	
STEJSON, DAVID W. J/T	U01-043		PO BOX 342	WISCONSIN	ME	4578	
WHITEFIELD, STEPHEN L. J/T	U01-044		PO BOX 308	WISCONSIN	ME	4578	
SALLAWAY, ANNE	U01-045	1869 BURLEY ROAD		ANNAPOLIS	MD	21409	
CAROLAN, MICHAEL F. J/T	U01-046		301 BULLARD STREET	HOLDEN	MA	1520	
KWANITZ, DAVID	U01-047		PO BOX 5	WISCONSIN	ME	4578	
HEAVY JR., ELLIOTT L.	U01-048		PO BOX 285	WISCONSIN	ME	4578	
DUNN, MICHAEL P. J/T	U01-049		PO BOX 1551	WISCONSIN	ME	4578	
GROSSER, MARCY L.	U01-050		P.O. BOX 97	WISCONSIN	ME	4578	
KITFIELD, EDWARD B.	U01-051	P.O. BOX 15	98 CROSS POINT ROAD	EDGECOMB	ME	4556	
BRUCE, MATHEW J.	U01-052			ALVA	ME	4553	
TUCKER, BETTINA H.	U01-053		PO BOX 162	WISCONSIN	ME	4578	
SHIELDS, LONS	U01-054		PO BOX 518	WISCONSIN	ME	4578	
FOOTER, DONNA	U01-055		PO BOX 141	WISCONSIN	ME	4578	
LOUWERS, DENNIS J. J/T	U01-056		PO BOX 657	WISCONSIN	ME	4578	
ROBINSON, MATTHEW B. J/T	U01-057		554 ARROWVIC ROAD	ARROWVIC	ME	4530	
FAIRFIELD, SCHUYLER L. T/C	U01-058		PO BOX 940	WISCONSIN	ME	4578	
STEJSON, DAVID W.	U01-059		PO BOX 342	WISCONSIN	ME	4578	
WISCONSIN, TOWN OF	U01-060		51 BATH ROAD	WISCONSIN	ME	4578	
RED'S PROPERTIES, LLC	U01-060-001	C/O DERORAH L GAGNON	147 CALS HILL ROAD	DRESDEN	ME	4342	
ROLLINS, JR., ROBERT S.	U01-061		1807 CARACARA DRIVE	NEW BERN	NC	28560	
MAINE, STATE OF	U01-062			WISCONSIN	ME	4578	
WISCONSIN, TOWN OF	U01-063		51 BATH ROAD	WISCONSIN	ME	4578	
HEALD, SARAH	U01-064		584 FIVE ISLANDS ROAD	GEORGETOWN	ME	4548	
COASTAL ENTERPRISES, INC.	U01-065		584 FIVE ISLANDS ROAD	GEORGETOWN	ME	4548	
COASTAL ENTERPRISES, INC.	U01-066		PO BOX 268	WISCONSIN	ME	4578	3308
HASGETT, JODY L.	U01-067		PO BOX 268	WISCONSIN	ME	4578	
COASTAL ENTERPRISES, INC.	U01-068		PO BOX 316	WISCONSIN	ME	4578	
MARKSHALL, JOSEPH C.	U01-068-B		PO BOX 288	WISCONSIN	ME	4578	
RUST, CHERYL L.	U01-069	PO BOX 23		WISCONSIN	ME	4578	
WISCONSIN, TOWN OF	U01-070		PO BOX 329	WISCONSIN	ME	4578	
WISCONSIN YACHT CLUB	U01-071		51 BATH ROAD	WISCONSIN	ME	4578	
NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC	U01-072		PO BOX 56	WISCONSIN	ME	4578	
DANIELSON, ERIC W. J/T	U01-073		770 ELM STREET	MANCHESTER	NH	3101	
MEYERSON, JACK W. & STACEY S.	U01-074		PO BOX 122	WISCONSIN	ME	4578	
WISCONSIN, TOWN OF	U01-075		4699 NORTH FEDERAL HIGHWAY	POMPANNO BEACH	FL	33064	
CRANE, ROBERT L.	U01-076	P.O. BOX 133	51 BATH ROAD	WISCONSIN	ME	4578	

WISCASSETT, INHABITANTS OF THE TOWN	U01-129			WISCASSETT	ME	4578
JONES, GEORGE ALLAN	U01-130		51 BATH ROAD	WISCASSETT	ME	4578
STAUBLE, PATRICIA M.	U01-131		PO BOX 1355	WISCASSETT	ME	4578
SYNDER, RICHARD L. J/T	U01-132		PO BOX 285	WISCASSETT	ME	4578
WALLACE, JOSEPH D.	U01-133		21005 LIGHTFOOT WAY	LEONARDTOWN	MD	20650
RALEIGH, DENNIS G.	U01-134		PO BOX 427	WISCASSETT	ME	4578
ELWELL, JOY LYNN	U01-135		PO BOX 745	WISCASSETT	ME	4578
15 SUMMER STREET REALTY TRUST	U01-136		19 SUMMER STREET	WISCASSETT	ME	4578
FIELD, EUOT	U01-136-A		PO BOX 394	NEWCASTLE	ME	4553
CUMMING, ELLIOT S.	U01-137	143 KINGS HIGHWAY	565 BLINN HILL ROAD	DRESDEN	ME	4342
BRUCE, LESLIE A. (TRUSTEE)	U01-138		27110 JONES LOOP ROAD #B8	NEWCASTLE	ME	4553
				PUNTA GORDA	FL	33982

Susan Blagden
105 Westport Bridge Road
Wiscasset, ME 04578

Denis Hebert
505 Willow Lane
Wiscasset, ME 04578

Nathaniel M. Rosenblatt
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PO Box 738
Bangor, ME 04402-0738

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271 Federal Street
Wiscasset, ME 04578

Peter Rines
46 Churchill St
Wiscasset, ME

Susan Van Alsenoy
224 Bradford Road
Wiscasset, ME 04578

John Blagdon, Jr.
48 Langdon Road
Wiscasset, ME 04578

From: Nathaniel Rosenblatt [<mailto:nmr@frrlegal.com>]
Sent: Friday, January 12, 2018 1:43 PM
To: Philip Saucier
Subject: [EXTERNAL] Wiscasset - Maine DOT Administrative Appeal

Hi Phil – Following up on our conversation this morning regarding Maine DOT's administrative appeal filed on December 15, 2017, this will confirm that Maine DOT consents to delaying the public hearing on the appeal beyond 30 days after the filing of the appeal.

As I mentioned in my cover letter to the appeal, my understanding was (and is) that the Board of Appeals will take no action on the appeal during the course of the separate, yet related, litigation in the Maine Business Court. I also stated that the Board's inaction will not be interpreted as either a grant or a denial of the appeal.

You indicated that the appeal likely will appear on an upcoming Board of Appeals agenda for the purpose of being tabled. Because, as I also mentioned in my cover letter, the legal question at the center of the appeal will be resolved in the Business Court litigation (subject to the terms of any future settlement of that litigation, as well as Maine DOT's right to withdraw the appeal), Maine DOT does ask that the appeal be tabled. Thank you for your assurance that if the appeal is not tabled, any further action on the appeal will be scheduled for a later Board of Appeals meeting.

Please feel free to contact me if there is anything further for us to discuss.

Best,

Nat

Nathaniel M. Rosenblatt
Farrell, Rosenblatt & Russell
P.O. Box 738
Bangor, Maine 04402-0738
Phone: (207) 990-3314
E-mail: nmr@frrlegal.com

Marian Anderson

From: John Reinhardt <giova@wiscasset.net>
Sent: Friday, November 17, 2017 9:41 AM
To: Marian Anderson
Cc: Susan Blagden; 'Wendy Donovan'; John Reinhardt; 'Albert Konrath'
Subject: WHO letter, November 17, 2017
Attachments: Ltr, Historic Commission to MDOT, Nov 2017.docx

Good Morning,

In accordance to the WHO, 2015, please sign and pass on attached letter to Commissioner Bernhardt, MDOT. This letter was compiled and voted on unanimously by the commissioners of the Wiscasset Historic Commission, 4 to 0, November 16, 2017.

I will drop by a hard copy for your records today.

Thanks for your help and support,

John

John Reinhardt

First Chair,

Wiscasset Historic Commission.



Office of Planning & Codes

51 Bath Road • Wiscasset, Maine 04578

Town of Wiscasset – Historic Preservation Commission

Date: 17 November 2017

To: Marian Anderson, Town Manager, Wiscasset

From: John Reinhardt, First Chair, Wiscasset Historic Commission

Subject: Wiscasset Historic Ordinance, 10.5.1.1 a-g; 10.7.1.5 as applied to
Maine Department of Transportation Wiscasset downtown project

Please send to Commissioner Bernhardt, MDOT:

David.bernhardt@maine.gov

Cc. Rodrigue, Martin, etc.

17 November 2017

Dear Mr. Bernhardt,

A Certificate of Appropriateness is required by the Town of Wiscasset's Historic Preservation Ordinance section 10.5.1.1 a – g. With respect to any proposed demolition the requirements are defined in section 10.7.1.5.

We look forward to considering your Certificate of Appropriateness. We meet on the first Thursday of the month at 5 pm. We need a minimum of five business days to post notice of any hearing.

Sincerely yours,

Marian Anderson
Acting Codes Enforcement Officer
Town of Wiscasset

Thanks,

John Reinhardt, First Chair, Wiscasset Historic Commission



Town of Wiscasset

November 17, 2017

David Bernhardt, Commissioner
Maine Department of Transportation
16 State House Station
Augusta, ME 04333-0016

Dear Mr. Bernhardt:

A Certificate of Appropriateness is required by the Town of Wiscasset's Historic Preservation Ordinance (Article VI, Section 10.5.1.1 a – g), with respect to any proposed demolition within the Historic District. The requirements are defined in, Section 10.7.1.5.

We look forward to considering your Certificate of Appropriateness. We meet on the first Thursday of the month at 5 p.m. We need a minimum of five business days to post notice of any hearing.

Sincerely yours,

Stanley Waltz
Code Enforcement Officer
Town of Wiscasset

