

Town of Falmouth, Maine, Cumberland County
**DRAFT CONSENT AGREEMENT
CONCERNING PROPERTY AT
2 INVERNESS ROAD, FALMOUTH, MAINE**

This Agreement is made as of this ____ day of November, 2010 by and between Stephen J. Willis of the Town of Falmouth, Maine (mailing address: 2 Inverness Road, Falmouth, ME 04105) and the **TOWN OF FALMOUTH, MAINE**, a Maine municipal corporation located in Cumberland County, Maine (mailing address: 271 Falmouth Road, Falmouth, ME 04105).

WHEREAS, Stephen J. Willis (“Landowners”) owns real estate consisting of land and buildings at 2 Inverness Road in the Town of Falmouth, which appears as Map U65 Lot 053 on the Falmouth Assessor’s records; and

WHEREAS, the single family dwelling on the property is located 37 feet from the northeasterly sideline of the lot; and

WHEREAS, the Code Enforcement Officer determined that the single family dwelling violates the setback requirement of the zoning district in which it is located and that the violation must be remedied by removal or relocation of the portion of the structure which encroaches into the setback or by acquisition of abutting property; and

WHEREAS, the Landowners appealed the determination of the Code Enforcement Officer to the Board of Zoning Appeals pursuant to Section 8.2.1 of the Falmouth Zoning and Site Plan Review Ordinance; and

WHEREAS, the Board of Zoning Appeals, at a meeting held on October 26, 2010, found that the setback violation exists but, after applying the criteria in Section 8.2.1, decided that the single family dwelling may remain in its current configuration and location but may not be expanded, enlarged or relocated within the required setback; and

WHEREAS, Section 8.2.1 provides that the relief granted by the Board shall be conditioned upon a Consent Agreement between the Landowners and the Town being approved by the Town Council and shall become effective upon the payment of a civil penalty set out in the Consent Agreement and the signing of the Consent Agreement by the Landowners and the Code Enforcement Officer; and

WHEREAS, the Town Council, after consideration of the factors for setting civil penalties under Section 8.2.1 which are set forth in Section 1-14 of the Falmouth Code of Ordinances, determined the penalty in this case shall be as set forth herein; and

WHEREAS, at a meeting held on November 3, 2010, the Town Council voted to approve this Consent Agreement; to authorize the Code Enforcement Officer to sign this Consent Agreement on behalf of the Town; and to bind the Town as herein provided.

NOW, THEREFORE, in consideration of the mutual promises and covenants made herein and pursuant to the provisions of Section 8.2.1, the Landowners and the Town agree as follows:

1. Within thirty (30) days of the Town Council approval of this Consent Agreement, the Landowners shall pay to the Town a civil penalty in the amount of \$_____ under 30-A M.R.S.A. §4452.

2. The Town will not bring an action in court or administratively to enforce the setback violation noted above and the Town acknowledges that the action of the Board of Zoning Appeals is final.
3. The Landowners will not expand, enlarge or relocate the single family dwelling within the required setback for the zoning district, as it exists or may be amended.
4. The Code Enforcement Officer shall not sign this Consent Agreement unless and until the Landowners have signed it and have paid the required civil penalty. The Code Enforcement Officer signature on this Consent Agreement shall be evidence that the civil penalty has been paid.
5. The Code Enforcement Officer shall cause this Consent Agreement to be recorded at the Cumberland County Registry of Deeds.
6. The rights and obligations of this Consent Agreement shall be binding upon the parties, their heirs, successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Consent Agreement as of the date first written above.

WITNESS

LANDOWNER

(Print name)

(Signature)

WITNESS

TOWN OF FALMOUTH, MAINE

By: _____

Code Enforcement Officer, in
their said capacity and as
authorized representative of
the Town of Falmouth

STATE OF MAINE
CUMBERLAND, ss

_____, 2010

Personally appeared before me the above named _____, Code Enforcement Officer for the Town of Falmouth, Maine, and acknowledged the foregoing instrument signed by him/her to be his/her free act and deed in his/her said capacity and the free and act and deed of the Town of Falmouth, Maine.

Notary Public/Attorney at Law