

Town of Falmouth, Maine, Cumberland County  
**CONSENT AGREEMENT**  
**CONCERNING PROPERTY AT**  
**31 Harding Avenue, FALMOUTH, MAINE**

This Agreement is made as of this \_\_\_ day of December , 2012 by and between Richard E. Weare Revocable Living Trust, Richard E. Weare, Trustee, (“Landowner”) and the TOWN OF FALMOUTH, MAINE, a Maine municipal corporation located in Cumberland County, Maine (mailing address: 271 Falmouth Road, Falmouth, ME 04105).

WHEREAS, the Landowner owns real estate consisting of land and buildings at 31 Harding Avenue in the Town of Falmouth, which appears as Map U04 Lot 3 in the Falmouth Assessor’s records; and

WHEREAS, the single family dwelling on the property is located approximately 16.8 feet from the southwesterly 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 November 27, 2012 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 December 10, 2012 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. 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.
2. 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.

3. The Code Enforcement Officer shall not sign this Consent Agreement unless and until the Landowners have signed it.
4. The Code Enforcement Officer shall cause this Consent Agreement to be recorded at the Cumberland County Registry of Deeds.
5. 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

Richard E. Weare, Trustee  
Richard E. Weare Revocable Living Trust

\_\_\_\_\_  
(Signature)

WITNESS

\_\_\_\_\_

TOWN OF FALMOUTH, MAINE

By: \_\_\_\_\_  
Justin K. Brown, Code Enforcement Officer,  
In his said capacity and as authorized  
representative of the Town of Falmouth

STATE OF MAINE  
CUMBERLAND, ss

\_\_\_\_\_, 2012

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

\_\_\_\_\_  
Notary Public/Attorney at Law