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GOVERNOR

STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
MAINE LAND USE PLANNING COMMISSION  
133 FYFE ROAD  
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WEST FARMINGTON, MAINE  
04992-0307

WALTER E. WHITCOMB  
COMMISSIONER

# PERMIT

## AMENDMENT A TO BUILDING PERMIT BP 14058

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by Robert and Michele Kirkman for Amendment A to Building Permit BP 14058, finds the following facts:

1. Applicants: Robert and Michele Kirkman  
6 Innsbrook Road  
Rangeley, ME 04970
2. Date of Completed Application: October 10, 2014
3. Location of Proposal: Sandy River Plantation, Franklin/Oxford County  
Tax Map #14, Lot #17
4. Zoning: (D-RS3) Residential Recreation Development Subdistrict
5. Lot Size: 6.5 Acres (owned)
6. Principal Buildings: Existing Single Family Dwelling with Attached Garage & Decks  
(65 ft. by 40 ft., Irregularly Shaped.)  
Existing Dwelling (25 ft. by 50 ft.)  
Existing Dwelling (40 ft. by 50 ft.)
7. Accessory Structures: Existing Wood Shed (10 ft. by 11 ft.)  
Existing Garage (30 ft. by 30 ft.)
8. Sewage Disposal: Existing Combined Sewage Disposal System
9. Affected Water body: Rangeley Lake

NICHOLAS LIVESAY, DIRECTOR

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### Background

10. The applicants' lot is located along State Route #4 and Rangeley Lake. It was originally developed with two pre-Commission dwellings and a garage.
11. Building Permit BP 14058, issued to the applicants in September of 2008, authorized the construction of a third single family dwelling with an attached garage and decks. The permitted structures and sewage disposal system have been constructed. A 10 foot by 11 foot woodshed has also been constructed. The woodshed meets the minimum required setbacks for residential structures as described under Finding of Fact #13 below.

### Proposal

12. The applicants now propose to construct a series of steps and landings in order to provide safe access to the shoreline since the area of the applicants' lot between the permitted dwelling and the shoreline is steep (approximately 10-15% slopes). The proposed walkway would be approximately 115 feet long overall with two bends. Commencing at the edge of the clearing below the permitted dwelling, the walkway would be constructed as follows: a 42 inch wide by 18 foot long stairway; a 6 foot wide approximately 25 foot long footpath; a second 42 inch wide by 26 foot long stairway terminating at a 36 inch by 42 inch landing; a third 42 inch wide by 20 foot long stairway terminating at a second 36 inch by 42 inch landing; and the remaining approximately 20 feet of the walkway to the shoreline would be a 6 foot wide footpath. The second landing, which would be the closest structure to the lake, would be set back 12 feet from the normal high water mark of Rangeley Lake. The proposed walkway, including stairways and landings, would be set back more than 15 feet from the applicants' side property boundary lines; more than 75 feet from an unnamed stream on the lot, and more than 75 feet from State Route #4.
13. Under the provisions of Section 10.26,D,1 of the Commission's Land Use Districts and Standards, the minimum setback requirements for residential structures are 100 feet from the normal high water mark of Rangeley Lake, 75 feet from State Route #4 and the unnamed stream, and 15 feet from all other property boundary lines.
14. Under the provisions of Section 10.26,G,5 of the Commission's Land Use Districts and Standards, an exception may be made to the shoreline, road, and/or property line setback requirements for structures where the Commission finds that such structures must be located near to the shoreline, road, or property line due to the nature of their use.
15. Commission staff visited the project site on June 20, 2014, and determined that the proposed walkway, including the stairways and landings within 100 feet of Rangeley Lake, is necessary to provide safe access to the shore line along the applicant's lot.
16. The facts are otherwise as represented in Building Permit Application BP 14058, Amendment Request A and supporting documents.

Based upon the above Findings, the staff concludes that:

1. The proposed walkway, with three stairways and two landings, may be allowed within 100 feet of the normal high water mark of Rangeley Lake under the provisions of Section 10.26,G,5 of the Commission's Land Use Districts and Standards in that the walkway must extend to the shoreline due to its intended use to provide safe access to the shoreline.
2. If carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, section 685-B(4) of the Commission's Statutes, 12 M.R.S.A.

**Therefore, the staff approves the application of Robert and Michele Kirkman with the following conditions:**

1. Construction activities authorized in this permit must be substantially started within 2 years of the effective date of this permit and substantially completed within 5 years of the effective date of this permit. If such construction activities are not started and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.
2. The permitted stairways and landings must set back a minimum of 12 feet from the normal high water mark of Rangeley Lake, 75 feet from State Route #4, 75 feet from the normal high water mark of the unnamed stream, and 15 feet from other property boundary lines.
3. All areas of disturbed soils shall be promptly reseeded and mulched. If reseeded cannot take place between May 15 and September 15 of the calendar year, areas of disturbed soils shall be sufficiently mulched for over winter protection and reseeded the following spring.
4. All clearing of vegetation on the lot must comply with the Commission's standards for vegetative clearing and the development standards for buffering within the D-RS3 Subdistrict, Sections 10.27, B and 10.25, B, 2, copies of which are attached.
5. All conditions of Building Permit BP 14058 shall remain in effect.

This permit is approved upon the proposal as set forth in the application and supporting documents, except as modified in the above stated conditions, and remains valid only if the permittees comply with all of these conditions. Any variation from the application or the conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Planning Commission law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT WEST FARMINGTON, MAINE, THIS 23<sup>RD</sup> DAY OF OCTOBER, 2014.

By: *Nicholas Livesay*  
For Nicholas Livesay, Director

**B. REVIEW STANDARDS FOR SUBDISTRICTS IN PROSPECTIVELY ZONED AREAS**

These standards apply only in areas that have been prospectively zoned and for all the subdistricts listed. Prospectively zoned areas are identified in Section 10.08 of these rules.

**1. Dimensional Standards.**

- a. Road frontage requirements: See Section 10.26,C.
- b. Building setbacks from roads: See Section 10.26,D.
- c. Lot coverage requirements: See Section 10.26,E.
- d. Structure height: See Section 10.26,F.

**2. Buffering Standards.** These standards complement the existing standards for clearing contained in Section 10.27,B.

- a. All principal and accessory buildings in the D-GN, D-GN2, D-GN3, D-RS, D-RS2, D-RS3, D-ES, and D-CI subdistricts shall be visually screened by a vegetative buffer made up of native trees and shrubs, except as provided in Section 10.25,B,2,c below. Wooded buffers shall be comprised of both under- and overstory material that can be either maintained using existing vegetation or established where no such buffer exists.
- b. Minimum widths for the vegetated buffer are as follows:

	Width of Vegetative Buffer (feet)							
	D-GN	D-GN2	D-GN3	D-RS	D-RS2	D-RS3	D-ES	D-CI
Roadway	25	25	25	50	50	50	75	75
Side & rear property lines	15	15	15	15	15	15	15	15
Subdistrict boundary	NA	NA	NA	NA	NA	NA	50	50

Table 10.25,B-1. Width of vegetative buffers.

The Commission may require buffer widths exceeding the minimum width, along with other screening as necessary, in order to ensure that unsightly uses such as junkyards and automobile graveyards are completely screened from view.

**c. Exceptions to the buffering requirements are allowed under the following circumstances:**

- (1) Property line buffer from adjacent development that is of a similar type, use, and intensity where adjacent landowners provide written agreement that a property line buffer is not needed;
- (2) Existing development where extensive clearing already exists at the time of adoption of these rules January 1, 2001;
- (3) New development where the establishment of buffers would eliminate or interfere with existing scenic views;
- (4) In a "Main Street" setting, that is defined as an area where 80% of a street is developed with buildings, where side and rear property line buffers would interfere with pedestrian circulation or access; and

**B. VEGETATION CLEARING**

Vegetation clearing activities not in conformance with the standards of this section may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of this section, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

The following requirements shall apply to vegetation clearing activities for any purpose other than road construction, road reconstruction and maintenance, wildlife or fishery management, forest management, agricultural management, public trailered ramps or hand-carry launches:

1. A vegetative buffer strip shall be retained within:
  - a. 50 feet of the right-of-way or similar boundary of any public roadway,
  - b. 75 feet of the normal high water mark of any body of standing water less than 10 acres in size, or any tidal water or flowing water draining less than 50 square miles, and
  - c. 100 feet of the normal high water mark of a body of standing water 10 acres or greater in size or flowing water draining 50 square miles or more.
2. Within this buffer strip, vegetation shall be maintained as follows:
  - a. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath is permitted, provided it does not exceed six (6) feet in width as measured between tree trunks, and, has at least one bend in its path to divert channelized runoff.
  - b. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other natural vegetation is maintained.

For the purposes of this section a “well-distributed stand of trees” adjacent to a body of standing water 10 acres or greater in size shall be defined as maintaining a rating score of 24 or more in a 25-foot by 50-foot rectangular area as determined by the following rating system.

Near other water bodies, tributary streams and public roadways a “well-distributed stand of trees” shall be defined as maintaining a rating score of 16 or more per 25-foot by 50-foot (1250 square feet) rectangular area as determined by the following rating system.

<b>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</b>	<b>Points</b>
2.0 to < 4.0	1
4.0 to < 8.0	2
8.0 to < 12.0	4
12.0 +	8

Table 10.27,B-1. Rating system for a well-distributed stand of trees.

The following shall govern in applying this rating system:

- (1) The 25-foot x 50-foot rectangular plots shall be established where the landowner or lessee proposes clearing within the required buffer;
- (2) Each successive plot shall be adjacent to but not overlap a previous plot;
- (3) Any plot not containing the required points shall have no vegetation removed except as otherwise allowed by these rules;
- (4) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by these rules; and
- (5) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

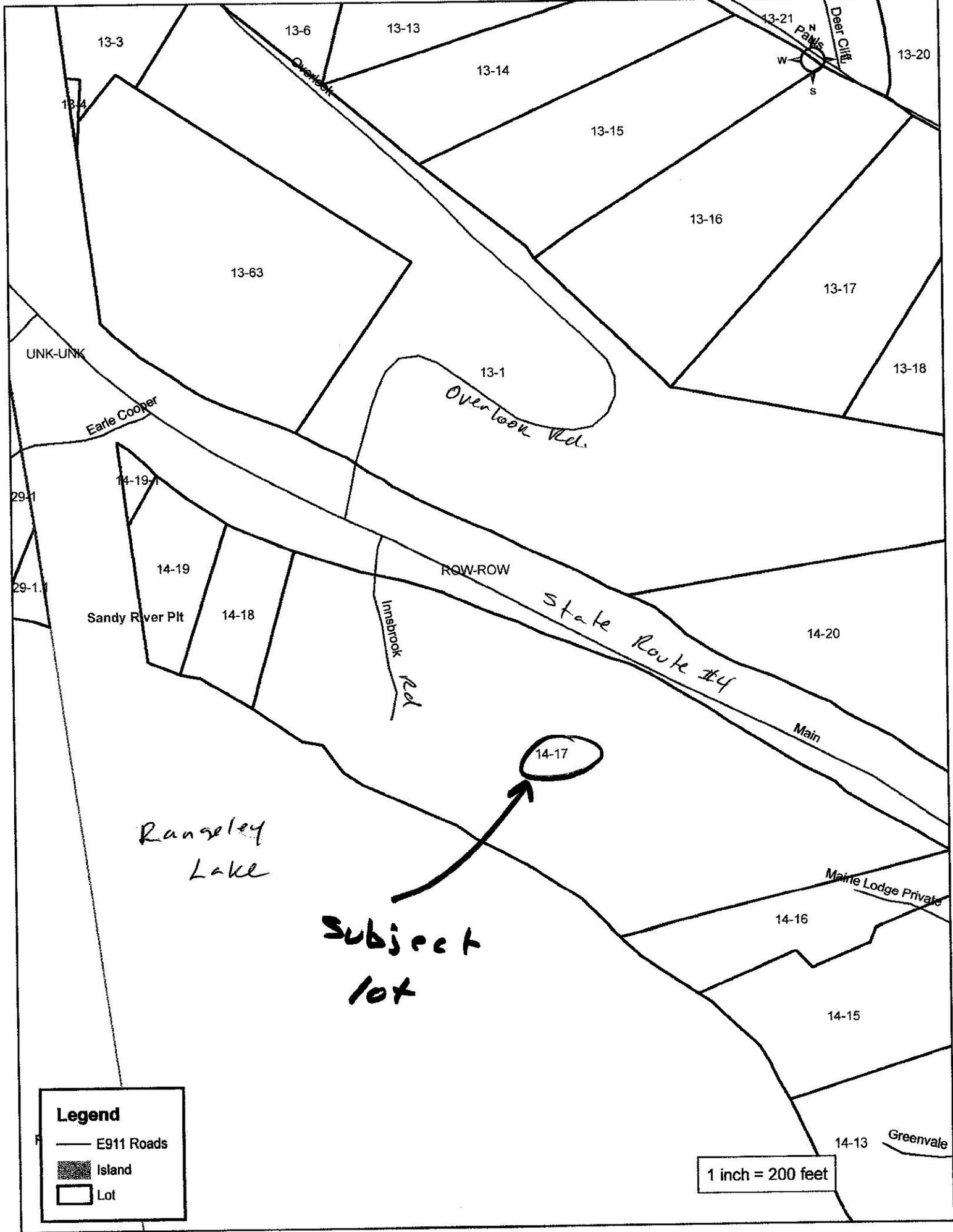
For the purposes of this section, "other natural vegetation" is defined as retaining existing vegetation under 3 feet in height and other ground cover and retaining at least 5 saplings less than 2 inches in diameter at 4½ feet above ground level for each 25-foot by 50-foot rectangular area. If 5 saplings do not exist, the landowner or lessee may not remove any woody stems less than 2 inches in diameter until 5 saplings have been recruited into the plot. In addition, the soil shall not be disturbed, except to provide for a footpath or other permitted use.

- c. In addition to Section 10.27,B,2,b above, no more than 40% of the total basal area of trees 4.0 inches or more in diameter, measured at 4½ feet above ground level, may be removed in any ten (10) year period.
  - d. Pruning of live tree branches is prohibited, except on the bottom 1/3 of the tree provided that tree vitality will not be adversely affected.
  - e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings in excess of 250 square feet, these openings shall be established with native tree species.
3. At distances greater than one hundred (100) feet, horizontal distance, from the normal high water mark of a body of standing water greater than 10 acres, no more than 40% of the total basal area of trees four inches or more in diameter, measured at 4½ feet above ground level, may be removed in any ten (10) year period. In no instance shall cleared openings exceed, in the aggregate, 10,000 square feet, including land previously cleared. These provisions apply to areas within 250 feet of all bodies of standing water greater than ten (10) acres, and to the full depth of the P-AL zone. This requirement does not apply to the development of uses allowed by permit.
  4. Cleared openings legally in existence as of June 7, 1990 may be maintained, but shall not be enlarged except as permitted by these regulations.

In all subdistricts where natural vegetation is removed within the required vegetative buffer strip of a flowing water, body of standing water, tidal water, or public roadway, it shall be replaced by other vegetation (except where the area cleared is built upon) that is effective in preventing erosion and retaining natural beauty.

BP 14058-A

Kirkman



**Legend**

-  E911 Roads
-  Island
-  Lot

1 inch = 200 feet

**Subject lot**

14-17

Ransley Lake

Sandy River Pit

ROW-ROW

State Route Hwy

Main

Marie Lodge Private

Greenvale

14-13

14-16

14-15

14-19

14-18

14-19

13-1

13-63

13-16

13-17

13-18

13-14

13-15

13-13

13-6

13-3

13-21

13-20

13-4

UNK-UNK

29-1

29-1

Deer Cliff

North  
South  
West  
East

# Proposed Steps to Lake

BP 14058-A

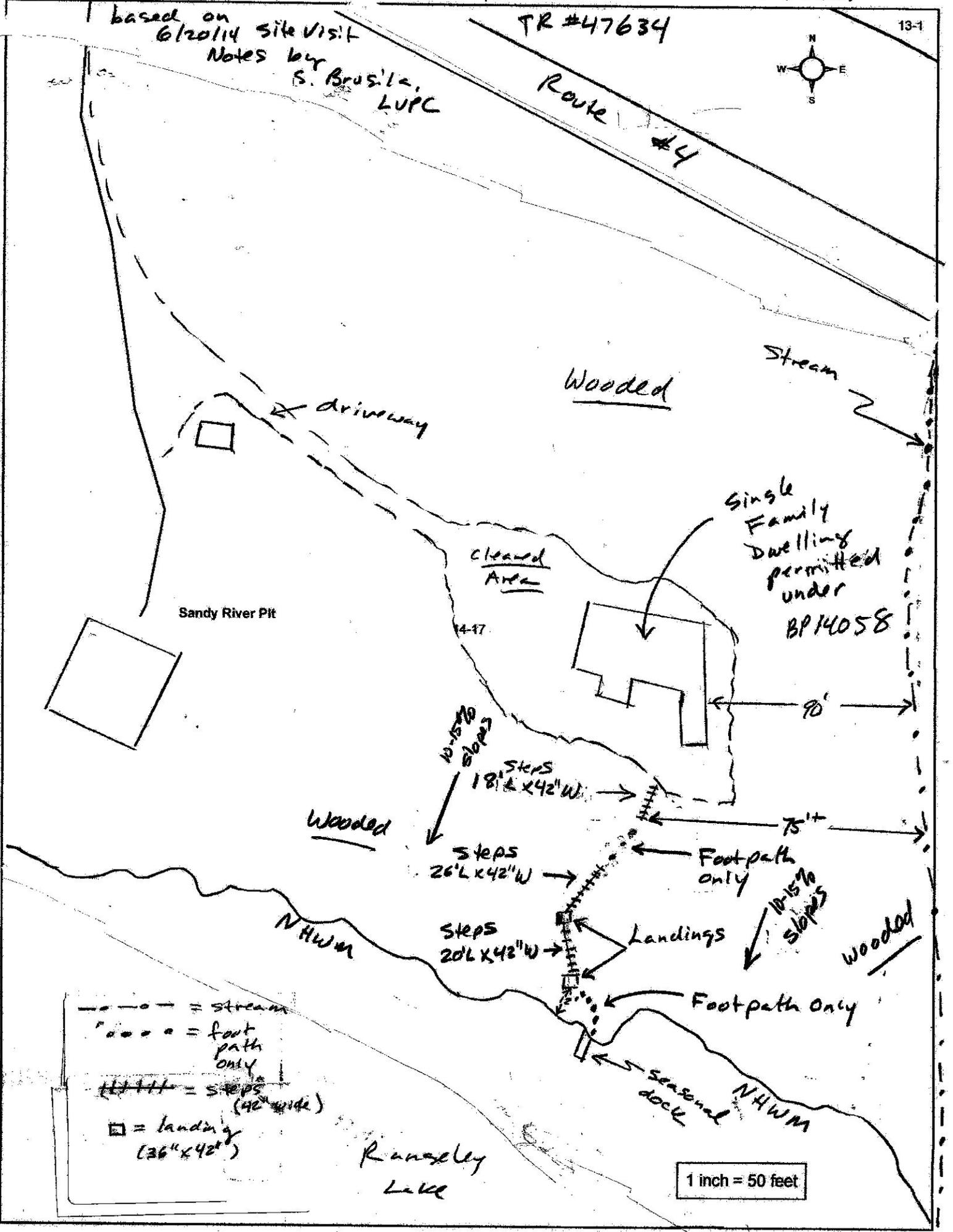
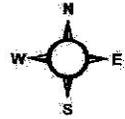
Site Plan

based on 6/20/14 site visit

Notes by S. Brusila, LUPC

TR #47634

13-1



- - - - = stream
- ..... = foot path only
- ||||| = steps (42" wide)
- = landing (36" x 42")

Rungley Lake

1 inch = 50 feet