

The Island Regulatory and Appeals Commission
National Bank Tower, Suite 501
134 Kent Street
Charlottetown, PE C1A 7L1

Re: Appeal #LALA23008 – Linda MacMillan v. Minister of Agriculture and Land

Wednesday May 3, 2023

Dear Commission, and Appellant & Respondent Parties:

Our names are Alexander Docherty and Adrienne Montgomery, and we are the property owners of PID 330308 located in Belfast PEI, and the Developer party related to Appeal #LALA23008. We would like to provide some additional information to address a few of the points raised in the appeal, to be considered during this file review. Thank you for this opportunity.

With regard to our property and permit application:

We purchased our property at 11 Polly Hill Road, Belfast PEI (PID 330308) in August 2018. At that time, the property access point (entryway with culvert and driveway) had already been established for several decades, as displayed in the attached satellite images from provincial archives (Appendix A: PEI Satellite Imagery of Polly Hill Road, Belfast PEI).

We submitted our development and building permit application in July 2022 to the Access PEI location in Montague, and since then have been working diligently with a number of provincial officials and department contacts (including Dean Lewis and Dean Carroll, now of Housing, Land and Communities) to meet the requirements for approval as laid out to us. This included extensive email and verbal communication, in-person meetings, and on-site visits to our Polly Hill property.

As part of this process, in October 2022 we received an official Surveyor's Location Certificate from GeoTerra Surveys, of Stratford PEI, to support our submission (Appendix B: GeoTerra Surveys, Surveyor's Location Certificate for PID 330308 – October 27, 2022). This highlighted the degree of the curvature of the driveway over the property line, from the entryway point off Polly Hill Road, as well that one utility shed encroached on the neighboring property and that two utility sheds did not provide for the required distance from the shared property line.

We sincerely express that based on misleading information provided by the former owners of PID 330308 in person when initially viewing the lot for private sale (statements that included they were going to alter the driveway, and that the adjacent property owners lived in the United States), we were not aware of the extent of the property line discrepancies and regret any distress caused to the owners of PID 330282. Our immediate actions taken in Fall 2022 after receiving this drawing is evidence to this: with the assistance of family and local community members, we learned that the neighboring property was currently owned by Anne MacPherson (now deceased) but were referred to relations still living in Belfast, her daughter (the Appellant) and son-in-law.

Alexander went to the home of the Appellant in November 2022, and spoke with her husband. During this conversation, Alexander reiterated that we did not understand the extent of the driveway and property line issues and that we were incredibly sorry; and there was also a brief discussion on what a possible solution may be. At the request of the Appellant's husband, Alexander sent him the professional surveyor's drawing we had received on October 27, 2022 to the email address that was provided, and the Appellant's husband said that they would follow up

with us. Adrienne also sent two follow up emails in November 2022 to this same address, to introduce herself again (as she and Alexander both went to school with the Appellant's children in Belfast and Montague), and to invite the Appellant and her husband to meet with us on the property at their convenience. We have not received a response to these three emails to date.

Further action on our part to address the property line issues included moving the three utility sheds that were on or too close to the property line, as well as shifting our business sign to the other side of the entryway. In March 2023, we contracted GeoTerra Surveys to re-survey our property and provide an updated certificate (Appendix C: GeoTerra Surveys, Surveyor's Location Certificate for PID 330308 – March 14, 2023). All buildings are now on our property.

We submitted this updated surveyor certificate to the province as soon as we received it, and we received our permit approval on March 22, 2023 from (now) Housing, Land and Communities.

We verify, based on the survey drawings from October 2022 and March 2023 (Appendix B & C) and our own professional consultations, that we do legally own access to our property (PID 330308) as the entryway is clearly on our side of the property line. The entryway is on an even landscape, over a culvert with enough room for a couple of cars to park there (on the right side of the surveyor's pin), before the driveway slopes down and then crosses the property line. The slope of the property can be hard to envision based on the 2D nature of the drawings, so we have also provided pictures (Appendix D: Pictures of 11 Polly Hill Road, Belfast PE Entrance): and we welcome any and all parties to meet with us at any time, to walk the property line in person.

We are still ready and willing to address the civil matter of driveway access with the Appellant, and the family descendants of property owner Anne MacPherson, respectfully at any time.

With regard to our business and our support of the community of Belfast:

The dream of our business, Miracles on Polly, is to connect our guests to the magic of nature and youthful memories in a positive, peaceful way: we feel our property is the perfect location for this.

Alexander and Adrienne both feel an immense connection to our property on Polly Hill and the community of Belfast. Polly Hill has great historical significance to our province, with the first Selkirk settlers arriving in the region in 1803. Local heritage sites include MacPherson Sawmill, the Polly Hill monument, and St. John's Presbyterian Church (the oldest church on PEI), all of which are adjacent to our property. In fact, Alexander's great-grandmother Annie MacPherson (married name, Annie Whiteway) was descended from the MacPherson family who operated this mill, and other mills in the Belfast area, starting in the 1800's. Through bloodline and marriage, Alexander and Adrienne are personally related to a number of these early settlers: the Odochardy (later Docherty), MacPherson, Morrison, and Murchison families. Adrienne's childhood home is a five-minute drive away in Belfast, where her family has lived for over thirty years. We both have gratitude for the opportunity as the next generations to share the land and history, as well as our personal experiences of growing up in this community and eastern PEI, with our guests.

We are also incredibly proud to be supporting the local economy and tourism industry of our region, with our tiny cabin rentals: they are quiet, private and creatively decorated in a fairy tale theme. We are certainly not out 'for pure financial gain' as referenced in the appeal, as most small, family business operators could attest: our goals are truly based on doing something that we are passionate about, in an area that we love, with the chance of a modest livelihood for our family.

The business community in Belfast has always been strong, and in recent years, commercial opportunities have continued to grow. For example, within a 1 km radius of our property, there are a handful of other small business and community operations including: a family run building & construction business; a local hobby farm and gardens; a local snowplow/tractor operator; a community church; the grounds of a former Island waste management site and the former heritage sawmill. Within a 5 km radius of our lot on Polly Hill, there are also: an arena/ball field recreation centre; a local grocery and liquor store; mechanics operating auto repair shops; another family-run building company; food services including a café and bakery, BBQ-pit, and farmer's market; a u-pick and family farm; a seasonal canteen and campground, including a pool, mini-putt and golf course; a heritage centre; multi-unit cabin and motel accommodations; and long term care facility.

The entrepreneurial spirit and the history of small, family run businesses is vibrant and inspiring in our community: we support these businesses, as do our guests. As we respectfully develop our goals, we've used many local professional contractors including two plumbers based in Belfast; an electrician based in Belfast; a carpenter based in Earnscliffe; snow removal based in Belfast; and local trucking operators from Vernon River and Montague. We maintain legitimate operations and connections in our industry, being registered and certified through regional and provincial tourism organizations (TIAPEI and Points East). We also recently received support through grant programs from CBDC East and Innovation PEI. While our guests tend to stay short-term, we also feel it is a benefit to have increased the housing/rental supply in our rural community considering the crisis of affordable options across our province: we are always open to longer term tenants when suitable.

Above all, we wish to maintain a natural and whimsical haven for those who visit our region. Since taking ownership, we have worked hard to protect and enhance the natural beauty of our property: we believe we are stewards of our land, with a duty to protect our environment. This has included extensive raking and clearing brush by hand; planting gardens and native species, in order to promote delicate moss coverage; and building natural sandstone elements. We do agree at one point since taking ownership, that gravel was applied on the existing entryway and original driveway to protect the soil and grass way: however, we did not alter the shape, direction, or location of either. We assure you this would not have been done against anyone's wishes, nor had we been aware of the extent of the driveway that crosses the property line. We truly wish this error could have been addressed earlier with our neighbors, and we still hope that there can be a respectable and mutual solution in this civil matter for all parties and family generations involved.

Recent weather events including post-tropical storms Dorian in 2019 and Fiona in 2022 were devastating to many of the properties on Polly Hill. In September 2022, we estimate that we lost more than 85% of the original trees on our mostly forested lot, PID 330308. We take these environmental impacts very seriously, and we are still continuing the cleanup from these storms, which includes clearing downed or compromised trees, replanting and restoring our natural property. We are utilizing the help of professional arborists, engineers, and family and friends with decades of experience in the woods, as well as our own time and energy on this ongoing project.

Despite the many financial and emotional burdens, we have faced this past year as small business owners raising a young family, we commit to this: for our family and for our business, because we value the heritage of Polly Hill. We assure you of our integrity and humble intentions, and our respect for the historical significance of our property and our community of Belfast. This is why we wish to continue to build our business on this property, to connect our pasts with our future.

Thank you again for your consideration,

Alexander Docherty & Adrienne Montgomery



Appendix A: PEI Satellite Imagery of 11 Polly Hill Road, Belfast PEI (PID 330308)



The purpose of sharing these images is to highlight that the entryway and driveway to PID 330308 have been developed there for several decades, and also the history of business or commercial activity on Polly Hill.
<http://www.gov.pe.ca/civicaddress/locator>

2010
Aerial Photo
Photo No. 134



2000
Aerial Photo
Roll: 2000406
Flight Line: FL6
Photo No. 114
Date: 20000823



1990
Aerial Photo
Roll: 90402
Flight Line: 7
Photo No. 113



1974
Aerial Photo

Roll: 74105
Flight Line: L10
Photo No. 73



1958
Aerial Photo

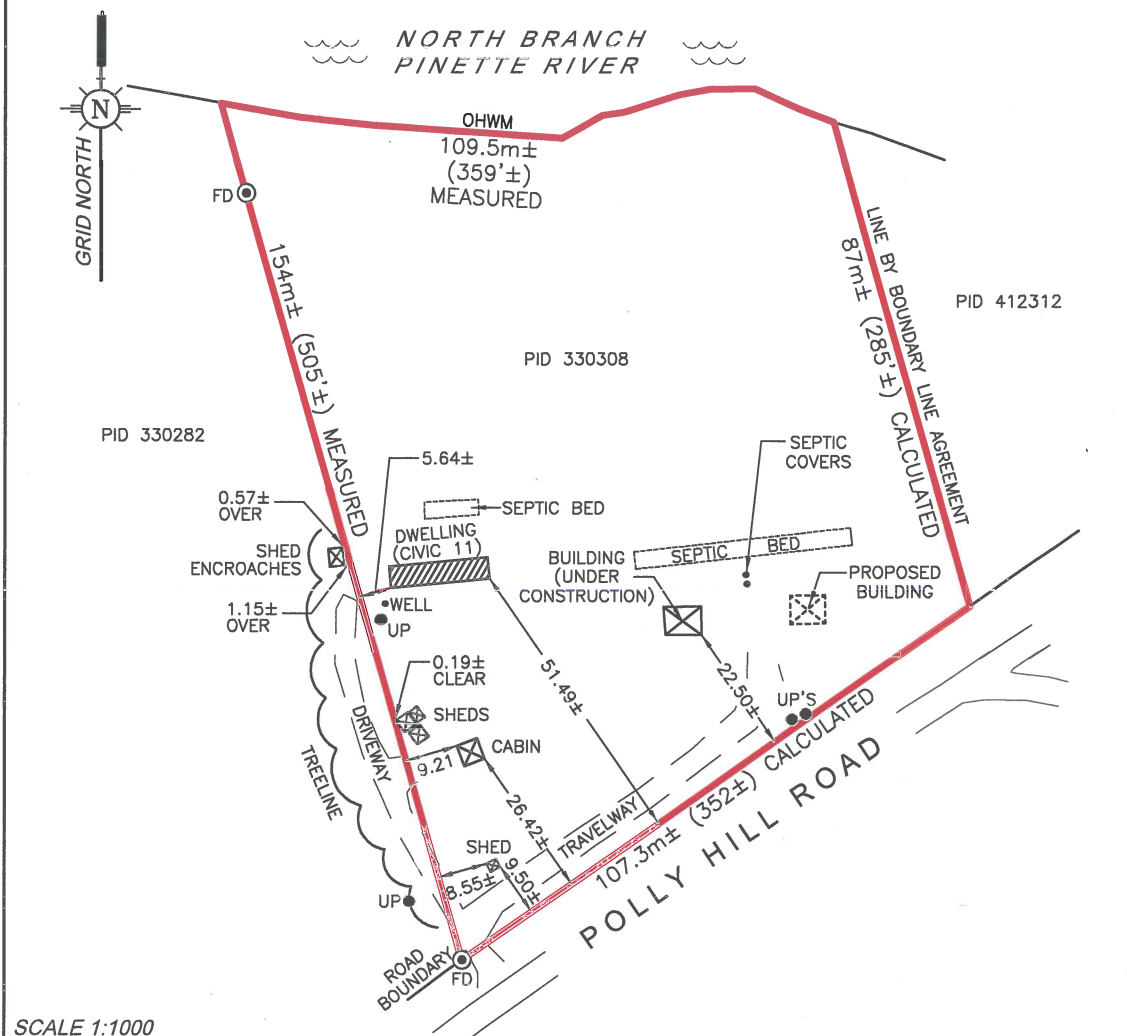
Flight Line: L30
Photo No. 111



1935
Aerial Photo

Flight Line: 5085
Photo No. 38

SURVEYOR'S LOCATION CERTIFICATE



SCALE 1:1000

CERTIFIED TO: **ALEXANDER BENJAMIN DOCHERTY**

RE: PID 330308 – CIVIC 11 POLLY HILL ROAD, BELFAST, QUEENS COUNTY, PRINCE EDWARD ISLAND

THE DWELLING SHOWN HEREON IS LOCATED ENTIRELY WITHIN THE BOUNDARIES OF THE SUBJECT LANDS AS SAID BOUNDARIES ARE DEFINED ON A DEED RECORDED AS DOCUMENT NUMBER 4385 IN 2021 RECORDED IN THE LAND REGISTRY OFFICE FOR QUEENS COUNTY AND ON A BOUNDARY LINE AGREEMENT PLAN FOR DONNIE LIGHTFOOT AND JOANNE LIGHTFOOT, PREPARED BY ISLAND SURVEYING AND ENGINEERING, DRAWING NO. 10173, BY ROBERT A. WAKELIN, PEELS, DATED JANUARY 23, 2013.

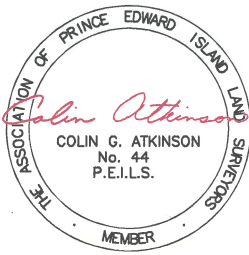
OFFSET DISTANCES SHOWN ARE FROM THE CLOSEST CORNERS OF THE BUILDINGS AND ARE PERPENDICULAR TO THE BOUNDARY.

THIS DOCUMENT IS FOR THE SOLE PURPOSE OF SHOWING THE LOCATION OF STRUCTURES ON THE SUBJECT PROPERTY ON THE DATE SHOWN, AND FOR THE CLIENT(S) NOTE ABOVE.

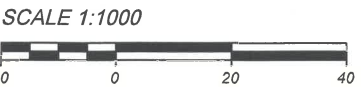
THE SURVEYOR TAKES NO RESPONSIBILITY FOR THE EXTENT OF TITLE OF THE PROPERTY SHOWN.

THIS DOCUMENT MAY NOT BE REPRODUCED IN WHOLE OR IN PART WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SURVEYOR.

THIS SURVEYOR'S LOCATION CERTIFICATE SHALL NOT BE USED FOR BOUNDARY DEFINITION OR AS A REFERENCE DOCUMENT FOR THE PREPARATION OF LEGAL DESCRIPTIONS.



- LEGEND:**
- FDSURVEY MARKER FOUND
 - UPUTILITY POLE
 - OHWMORDINARY HIGH WATER MARK



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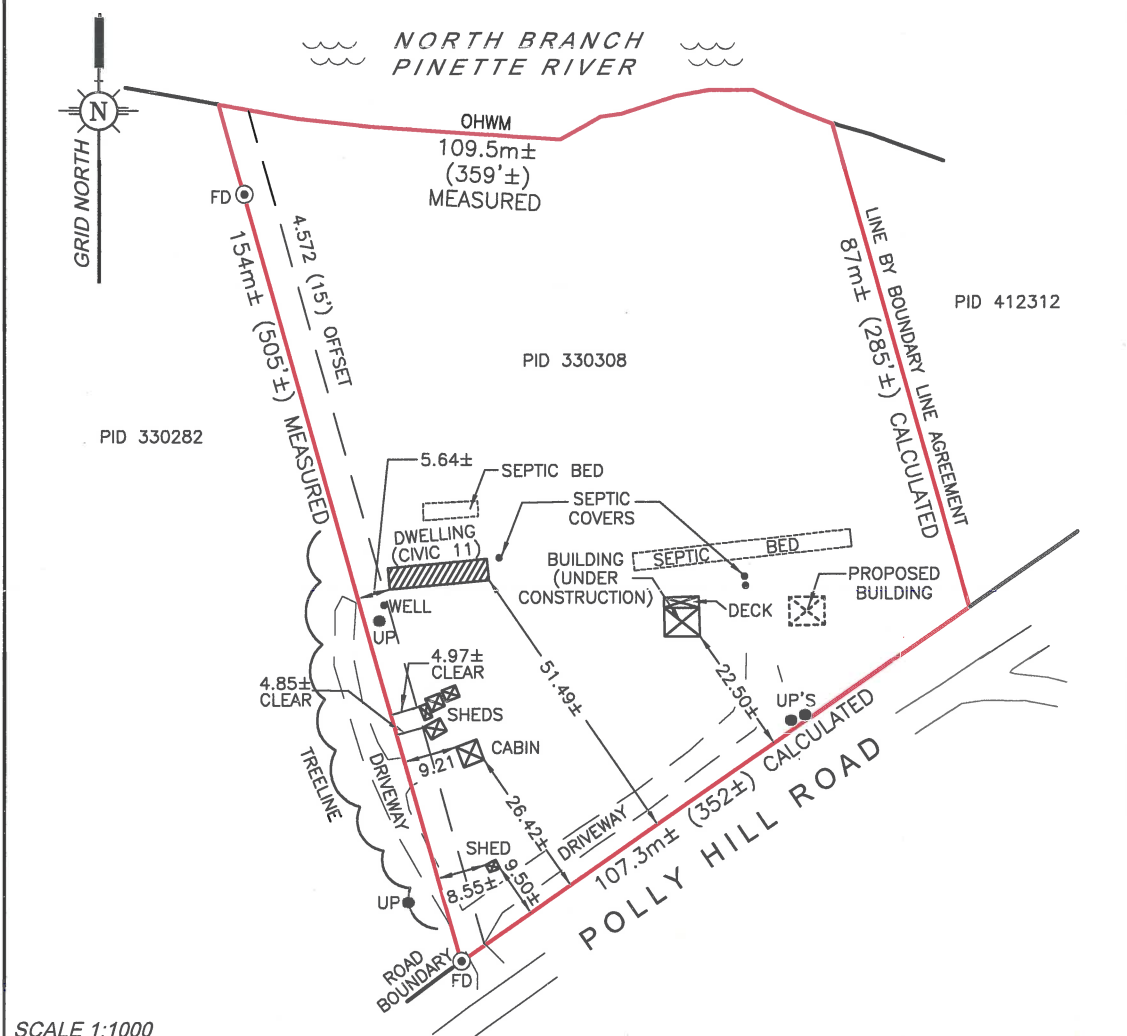
FILE: GTS0175
 DWG: 22-175-LC
 DATE: OCTOBER 27, 2022

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IRAC Appeal #LALA23008
 – Linda MacMillan v. Minister of
 Agriculture and Land
 From: A Docherty & A Montgomery

Appendix C: GeoTerra Surveys,
 Surveyor's Location Certificate for
 PID 330308 – March 14, 2023
 IRAC Appeal # LALA23008

SURVEYOR'S LOCATION CERTIFICATE



CERTIFIED TO: ALEXANDER BENJAMIN DOCHERTY

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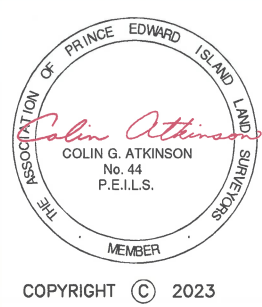
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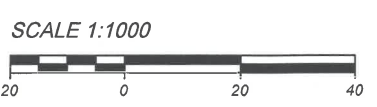
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LEGEND:

- FDSURVEY MARKER FOUND
- UPUTILITY POLE
- OHWMORDINARY HIGH WATER MARK



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 DWG: 22-175-LC-R1
 DATE: MARCH 14, 2023

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Appendix D: Pictures of 11 Polly Hill Road, Belfast PE Entrance



The purpose of sharing these images is to verify the entryway is clearly to the right of the surveyor pin and property line, located on PID 330308, and to highlight the length and slope of the driveway down the hill, where the curve crosses the property line to PID 330282, and then comes back to our property line, to dwelling civic number 11 Polly Hill Road (see surveyor drawings and aerial photos as attached.)