

Town of Sutton

Covenant

KNOW ALL MEN by these presents that the undersigned has submitted an application dated _____ to the Planning Board for approval of a Form A plan, dated 5/4/2004 by Andrews Survey & Engineering and showing 1 proposed retreat lot(s) off 16 Carr St.. The undersigned has requested the Planning Board approve said plan in compliance with a Special Permit issued by the Planning Board dated _____ and recorded herewith.

Steven
I, Dzicek, of Northbridge, MA, in consideration of \$1.00 and the Sutton Planning Board granting the approvals described below, the receipt and sufficiency of which is acknowledged, grants with, quitclaim covenants, to the Town of Sutton, a municipal corporation acting by and through its Planning Board, ("Grantee") with an office and place of business at 4 Uxbridge Road, Sutton, Massachusetts, a covenant granted in gross with respect to the land located in the Town of Sutton described in a deed recorded with the Worcester District Registry of Deeds in Book 35423, Page 117. ("the Property")

IN CONSIDERATION of the Sutton Planning Board approving said plan, the Grantor hereby agrees and covenants for himself, his successors and assigns, that the property shall be subject to the following covenants, agreements and restrictions which are hereby imposed for the benefit of the Town of Sutton and shall be administered and enforced by its duly elected Board of Selectmen and/or its duly appointed/elected Planning Board

1. That the undersigned is the owner in fee simple absolute of all the land included in this Form A and that there are no mortgages of record or otherwise on any of the land, except for those described below, and that the present holders of said mortgages have assented to this contract prior to its execution by the undersigned.
2. That this covenant shall be binding upon the executors, administrators, devisees, heirs, successors and assigns of the undersigned and shall constitute a covenant running with the land included in this Form A and shall operate as restrictions upon the land.
3. That the undersigned agrees to record this covenant with the Worcester District Registry of Deeds, forthwith. Reference to this covenant shall be entered upon the Form A plan as approved.
4. That this covenant shall be executed before endorsement of approval of the Form A plan by the Planning Board and shall take effect upon the endorsement of approval.
5. That the undersigned agrees that the lots shown on said plan, Lot 13.16 acres and 52 ± feet of frontage, shall in perpetuity, never be further divided.

TERM OF COVENANT – The covenants contained herein shall be enforceable in perpetuity against the Grantor, the Grantor's successors in title to the Property and any person holding any interest therein, by the Town of Sutton, acting by and through its Planning Board, its successors and assigns and its duly designated members, employees, representatives or agents. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this restrictive covenant and the Grantor on behalf of themselves and their successors and assigns appoint the Grantee their attorney-in-fact to execute, acknowledge and deliver any such instruments on their behalf. Without limiting the foregoing, the Grantor and their successors and assigns agree themselves to execute and such instruments upon request.

The covenants contained herein shall be contained in or referenced in any deed of conveyance of the Property or any other instruments conveying any interest in all or any portion of the property.

ENFORCEMENT – The rights hereby granted include the right to enforce the covenants contained herein by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violation, including, without limitation, relief requiring restoration of the Property to its condition prior to the time of injury complained of (it being agreed that the Grantee has no adequate legal remedy at law), and shall be in addition to, and not in limitation of any other rights and remedies available to the Grantee.

Any forbearance with respect to any violation of the covenants contained herein, or failure to enforce said covenants, for however long such forbearance or failure to enforce may continue, shall not preclude enforcement at a later time with respect to the same violation or a subsequent violation. Any election by the Grantee as to the manner and timing of its right to enforce these restrictive covenants or otherwise exercise its rights hereunder shall not be held invalid, the remainder shall not be affected.

The Grantor and his successors and assigns shall forego any action at law or equity attempting to contest the validity of any provision of the restrictive covenants contained herein and shall not, in any enforcement action, raise the invalidity of any provision of said covenants as a defense. If any provision of said covenants shall nevertheless to any extent be held invalid, the remainder shall not be affected.

The covenants contained herein shall be governed by the laws of the Commonwealth of Massachusetts.

The present holder of a mortgage upon the property is _____ of _____ . The mortgage is dated _____ and is recorded in Worcester District Registry of Deeds Book _____ Page _____, or registered at the Land Court Instrument # _____.

The mortgagee agrees to hold the mortgage subject to the covenants set forth above and agrees that the covenants shall have the same status, force and effect as though executed and recorded before the taking of the mortgage and further agrees that the mortgage shall be subordinate to the above covenants.

Linda Dzilek, spouse of the undersigned applicant hereby agrees that such interest as I, we, may have in the premises shall be subject to the provisions of this covenant and insofar as is necessary releases all rights of tenancy by the dower or homestead and other interests herein.

IN WITNESS WHEREOF we have hereunto set our hands and sealed this ____ day of _____.

Owner

Spouse of Owner

Mortgagee:

By: _____ Its: _____

Acceptance by the Town of Sutton:
By its Planning Board

Commonwealth of Massachusetts, County of Worcester:

On this the ____ day of _____, 20__ Before me, the undersigned Notary Public, personally appeared _____, who proved to me through satisfactory evidence of identity, which was/were: _____ to be the person(s) whose name(s) was/were signed on the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her/their knowledge and belief.

Notary Public
My Commission Expires: _____

Commonwealth of Massachusetts, County of Worcester:

On this the _____ day of _____, 20__ Before me, the undersigned Notary Public, personally appeared _____, who proved to me through satisfactory evidence of identity, which was/were: _____ to be the person(s) whose name(s) was/were signed on the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her/their knowledge and belief.

Notary Public
My Commission Expires:

Commonwealth of Massachusetts, County of Worcester:

On this the _____ day of _____, 20__ Before me, the undersigned Notary Public, personally appeared _____, who proved to me through satisfactory evidence of identity, which was/were: _____ to be the person(s) whose name(s) was/were signed on the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her/their knowledge and belief.

Notary Public
My Commission Expires:

ASSENT OF MORTGAGEE

_____, of _____,
the mortgagee of the parcel of land, or a portion thereof, at the time of execution of this covenant, hereby consents to execution of this covenant by the owner, who is the mortgagor of the parcel of land subject to a certain mortgage deed dated _____ and recorded at the _____ in Book _____, Page _____; or registered in _____ as Document No. _____, and noted on certificate of title No. _____, in Registration Book _____, Page _____. The mortgagee also agrees to hold the mortgage subject to this covenant and agrees that the mortgage shall be subordinate to the covenant, which covenant shall have the same status, force, and effect as through executed and recorded prior to the conveyance of the mortgage deed by the mortgagor- owner to the mortgagee.

MORTGAGEE

Signature of Mortgagee: _____ Date: _____
By: _____ Its: _____
Duly authorized

Commonwealth of Massachusetts, County of Worcester:

On this the _____ day of _____, 2____ Before me, the undersigned Notary Public, personally appeared _____, who proved to me through satisfactory evidence of identity, which was/were: _____ to be the person(s) whose name(s) was/were signed on the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her/their knowledge and belief.

Notary Public
My Commission Expires: