

P. O. BOX 219

MANZANITA, OREGON 97130

(503) 368-5394

Narrative to accompany survey plat "B-870"
for Edward Johnson in vacated
Block 5, Seaview Park, Sec. 32,
T2N, R10W, W.M.

October 1979

SEA VIEW PARK was platted in 1910. The size of the lots and blocks is stated on the plat as "all lots in blocks from 1 to 16 are 25 x 75 feet and lot lines are parallel to Block lines in all blocks." North 3rd Avenue (originally platted as Park Street) is dedicated to be 60 feet wide and all North-South streets are 40 feet wide. Thus Blocks 1 through 16 are all 140 feet wide by 600 feet.

In 1918 a portion of SEA VIEW PARK was vacated, the order calling "for the vacation of all of Blocks 1 to 8 inclusive of SEA VIEW PARK as the same appears upon record in the office of the County Clerk of Tillamook County, Oregon, together with all of the following avenue therein, to-wit: Wheeler Avenue, Crawford Avenue, and Boon Avenue..."

There is no mention as to the size of the lots and blocks other than to refer to the original platting.

Beginning then with 1918 all the parcels within the vacated portion of SEA VIEW PARK have been described by metes and bounds descriptions. The deed for the Johnson property calls in part:

"Beginning at a point on the South side of Park Street in SEA VIEW PARK which is 230 feet East of the Northeast corner of Block 9, SEA VIEW PARK, in Tillamook County, Oregon, said point being the Northwest corner of vacated Block 5, SEA VIEW PARK;..."

It should be noted that the call of 230 feet between the Northeast corner of Block 9 and the Northwest corner of Block 5 calculates to be 40 feet for Lincoln Street, 150 feet for Block 8 and 40 feet for Boon Street, which is exactly as platted.

The deed for the School District (Book 76, Pg 485) describes Block 8 as follows:

"Beginning at a point 40 feet East of the Northeast corner of Block 9 in SEA VIEW PARK and running thence East along the South side of Park Street in said SEA VIEW PARK a distance of 125 feet more or less, to the Northeast corner of said Block 8 as formerly platted, said Northeast corner of Block 8 being 590 feet West of the East side of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, Township 2 North, Range 10 West of the Willamette Meridian..."

If the platting of SEA VIEW PARK is correct, then the East line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ is the subdivision boundary, which is the centerline of Franklin Avenue.

BOOK 1 021

SEE MAP A-4415
FOR REVISION
Pg 1 of 2

The call of 590 feet then calculates for streets to be 40 feet and the blocks to be 150 feet. Survey map A-273, by Jack Sheppard in July 1947 monumented vacated Block 8 to be the deed value of 125 feet rather than the platted value of 150 feet. On this survey Sheppard held the distance (more or less) call to be superior to the boundary call. (to the NE corner of Block 8)

In June 1962 John Carlich surveyed a parcel in the North end of vacated Block 5. See survey map A-1001, Tillamook County Survey Records. The deed (Book 137, Pg 229) reads:

"Beginning at a point 205 feet East of the Northeast corner of Block 9, SEA VIEW PARK, said point of beginning being at the Northwest corner of Block 5, SEA VIEW PARK (vacated)..."

On this survey, Carlich held the distance call to be superior to the boundary call. The call of 205 feet allows for 2 streets of 40 feet and one Block of 125 feet, rather than 150 feet as platted.

In June 1965 Wilbur Markham surveyed 3 parcels on the South of Blocks 5 and 8. See survey map A-1253, Tillamook County Survey Records. The note on that map is as follows:

"In some way apparently not of Record, at least as long ago as 1922, the East 1/2 of Block 8 SEA VIEW PARK, now vacated, was taken to be 50' wide not 75 feet as platted and Block 5 and Crawford Street were located on the ground accordingly, and these tracts have been staked accordingly. This makes the actual E&W width of Block 8, Boon Street, and Block 5, as deeded by Botts to Du Frain be 315' not 340' as described in Deed." On this survey, Markham apparently chose to ignore the deed call of 340 feet in favor of occupation.

CONCLUSION:

There exists no doubt that the area of occupation of the Johnson property is shifted by 25 feet from the written title lines of the property. Quite how or when this occurred remains in doubt since some deeds in the area acknowledge a shortened Block 8 and others do not. The question of ownership of the Johnson property must be reviewed in three separate areas:

A) The Easterly 25 feet. In this area the Johnson title lines overlap the occupation and dedicated lines of North H. Street as platted by DU FRAIN HEIGHTS in 1964. It is the opinion of this surveyor that this land has been lost because of long continued use by the public.

B) The Westerly 25 feet along North G Street (Boone). In this area the Johnsons and their predecessors have occupied 25 feet of the rededicated Boone Street for many years, said occupation being in accordance with survey monuments for which no documentation was found. It is the opinion of this surveyor that unwritten title transfer has not taken place in spite of the years of occupation, since the property in question is evidently a dedicated public street. (Book 60, Pg 303)

C) The Westerly 25 feet of the North 38 feet of the area occupied by Johnsons. This also has been occupied for a number of years, has a small storage building on it, and is defined by undocumented survey monuments. It is the opinion of this surveyor that unwritten title may have been acquired by Johnsons on this parcel. This would depend upon a Judicial finding that the legal requirements for such transfer had been met.