

ZONING BOARD OF APPEALS

JULY 14, 2016

PACKET

PART III

.....



TOWN OF NANTUCKET BOARD OF APPEALS NANTUCKET, MA 02554

Agenda
(Subject to Change)

Thursday, July 14, 2016

12:00 PM

4 Fairgrounds Road

Public Safety Facility – 1st Floor Community Room

1 ■ **CALL TO ORDER:**

■ **APPROVAL OF THE AGENDA:**

■ **APPROVAL OF THE MINUTES:**

Pages 6 - 13 ■ June 9, 2016

■ **OLD BUSINESS:**

■ 66-00

Abrem Quarry (40B)

Pages 15 - 36

Vote to approve and sign Monitoring Services Agreement between Nantucket Zoning Board of Appeals and Nantucket Housing Authority and NHA Properties *d/b/a* Housing Nantucket.

■ 04-16

Donald J. Mackinnon, Trustee of Nantucket 106 Surfside Realty Trust – *a/k/a* SURFSIDE
COMMONS 40B 106 Surfside Road Mackinnon / Schwartz

Extended Close of Public Hearing deadline October 31, 2016 (180 days from Initial Public Hearing with Extension)

Decision Action deadline December 12, 2016 (40 days from close of Public Hearing)

The Applicant is seeking a Comprehensive Permit in accordance with M.G.L. Chapter 40B, as approved by Massachusetts Housing Partnership, in order to allow a multi-family project consisting of 56 rental apartments with fourteen (14) to be designated as affordable units. The apartments will be arranged in two 2 ½ story buildings with thirteen units each and two 3 ½ story buildings with fifteen (15) units each. There will be a total of two 1-bedroom units, forty two 2-bedroom units, and twelve 3-bedroom units. The project will also include a clubhouse and pool. If approved, the property will be permanently deed-restricted for the purpose of providing affordable year-round housing. The file with a copy of the complete and updated list

**See Packet
Parts I & II**

Posted with Town Clerk on July 8, 2016
Posting #551

of requested waivers is available at the Zoning Board of Appeals office at 2 Fairgrounds Road between the hours of 7:30 A.M. and 4:30 P.M., Monday through Friday or via link to posting of all document related to this project found on Town of Nantucket website below:

<http://www.nantucket-ma.gov/708/Atlantic-Development---106-Surfside-Road>

The Locus, situated at 106 Surfside Road, is shown on Assessor's Map 67 as Parcel 80. Locus is also shown as Block 22 on Plan File 3-D and as Parcels 7 -11 (inclusive) on Plan No. 2014-52. Evidence of owner's title is recorded in Book 1410, Page 205 and Book 1488 Page 213, both on file at the Nantucket County Registry of Deeds. The site is zoned Limited Use General 2 (LUG-2) and Limited Use General 3 (LUG-3).

Page 38

- 16-16 Todd W. Winship & Elizabeth W. Winship and Bess W. Clarke, Tr., Sixteen Monohansett Road Trust 16 Monohansett Road Brescher
Action deadline July 20, 2016 **REQUESTED WITHDRAWAL WITHOUT PREJUDICE**
- 20-16 Gerald T. Vento & Margaret Vento, Tr. of Ninety-One Low Beach Road Nominee Trust 91 Low Beach Road Cohen
Action deadline August 22, 2016 **CONTINUED TO AUGUST 11, 2016**

▪ **NEW BUSINESS:**

Pages 41 - 68

2

- 15-16 Madaket Wheelhouse, LLC 13 Massachusetts Avenue Cohen
Action deadline October 12, 2016 **THIS IS A RE-NOTIFICATION OF AN APPLICATION INITIALLY OPENED AT THE MAY 11TH MEETING.*
Applicant is seeking relief by Special Permit pursuant to Zoning By-law Section 139-33.A in order to alter the pre-existing nonconforming dwelling and garage. Applicant proposes to build an addition to the southeast corner of the dwelling which will be no closer than the existing westerly side yard setback distance of 4.4 feet where minimum side yard setback is ten (10) feet. Other dimensionally compliant additions are also proposed to the dwelling. Applicant further proposes to convert the garage/cottage into a secondary dwelling. The expansion will not bring the structure any closer than the current easterly side yard setback distance of 2.9 feet or the southerly front yard setback distance of 5.7 feet where minimum front yard setback is twenty (20) feet. The Locus is situated at 13 Massachusetts Avenue, is shown on Assessor's Map 60 as Parcel 75, and as Lots 12-15, Block 29 upon Land Court Plan 2408-Y and unregistered land lying north of said Lots. Evidence of owner's title is registered on Certificate of Title No. 25696 at the Nantucket County District of the Land Court and in Book 1494, Page 39 on file at the Registry of Deeds. The site is zoned Village Residential (VR).

Pages 69 - 76

- 22-16 John N. Jordin & Julie M. Jordin 28 Lovers Lane Hanley
Action deadline October 12, 2016
Applicant is requesting Special Permit relief pursuant to Zoning By-law Section 139-16.C to either reduce or validate unintentional side yard setback intrusions caused by the siting of an existing garage as close as 9.3 feet from the northerly lot line and an above-ground Jacuzzi tub as close as 8.2 feet from the southerly lot line, where a ten (10) foot setback is required. In the alternative, and to the extent necessary, Applicant requests relief by Variance pursuant to Section 139-32 to allow said setback intrusions. The Locus is situated at 28 Lovers Lane, is shown on Assessor's Map 68 as Parcel 145, and as Lot 90 upon Land Court Plan 16514-R. Evidence of owner's title is registered on Certificate of Title No. 20283 at the Nantucket County District of the Land Court. The site is zoned Residential 20 (R-20).

Pages 77 - 89

- 23-16 Mark Bono & Elizabeth Gilbert Bono, as Owner, and EK Associates, LLC, as Applicant 15 Black Fish Lane Hanley
Action deadline October 12, 2016
Applicant is requesting Special Permit relief pursuant to Zoning By-law Section 139-16.C to either reduce or validate unintentional side yard setback intrusions caused by the siting of an existing garage as close as 9.5 feet from the easterly lot line, where a ten (10) foot setback is required. In the alternative, and to the extent

Posted with Town Clerk on July 8, 2016
Posting #551

necessary, Applicant requests relief by Variance pursuant to Section 139-32 to allow said setback intrusion. The Locus is situated at 15 Black Fish Lane, is shown on Assessor's Map 73 as Parcel 108, and as Lot 3 upon Plan No. 2007-55. Evidence of owner's title is in Book 1540, Page 9 on file at the Nantucket County Registry of Deeds. The site is zoned Sconset Residential 20 (SR-20).

- 24-16 6 Lily Street LLC & Sconset Partners LLC 6 and 8 Lily Street Dale

CONTINUED TO AUGUST 11, 2016

Pages 91 - 92

Applicant is requesting Special Permit relief pursuant Zoning By-law Section 139-33 to reduce the area of 6 Lily Street without creating any new non-conformities and to enlarge the area of 8 Lily Street to allow for a new dwelling with a reduced side yard setback nonconformity. To the extent necessary, applicant further requests Site Plan Review pursuant to Section 139-23. Both properties are improved undersized lots of record. In the alternative, and to the extent necessary, Applicant requests relief by Variance pursuant to Section 139-32 from the provisions of Section 139-16. The properties are located at 6 and 8 Lily Street, are shown on Assessor's Map 73.3.1 as Parcels 109 and 110, and as Lot 5 and portion of Lot 7 upon Plan No. 2014-02. Evidence of owners' titles are in Book 1415, Page 296 and Book 1415, Page 287 on file at the Nantucket County Registry of Deeds. The site is zoned Sconset Old Historic (SOH).

- 25-16 George Gray, LLC 55 Union Street Alger

Pages 93 - 107

Action deadline October 12, 2016

Applicant is requesting Special Permit relief pursuant Zoning By-law Section 139-16.C(2) to validate the unintentional side yard setback intrusion of a dwelling sited as close as 4.8 feet from the southerly lot line, where a five (5) foot setback is required. Applicant further seeks clarification and correction of rear yard setback distance referenced in prior Zoning Administrator decision from 2.4 to 2.3 feet. The Locus is situated at 55 Union Street, is shown on Assessor's Map 55.1.4 as Parcel 89, and upon Plan No. 2014-92. Evidence of owner's title is in Book 1459, Page 294 on file at the Nantucket County Registry of Deeds. The site is zoned Residential Old Historic (ROH).

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- 26-16 Paul Benk and Lauri Lejeune Benk 8 North Gully Road Brescher

Pages 108 - 142

Action deadline September 21, 2016

Applicant is seeking relief by Variance pursuant to Zoning By-law Section 139-32 from the provisions of Section 139-16 to validate the siting of an existing shed/studio within the five (5) foot side and rear yard setbacks. Applicant requests further relief to allow alteration of said structure with the ground cover expansion taking place outside of the setback areas and small portion of upward expansion occurring within the easterly setback area. The Locus is situated at 8 North Gully Road, is shown on Assessor's Map 73.1.3 as Parcel 48, and upon Land Court Plan 38853-A. Evidence of owner's title is registered on Certificate of Title No. 24677 at the Nantucket County District of the Land Court. The site is zoned Sconset Residential 1 (SR-1).

- 27-16 Kite Hill, LLC 5 Kite Hill Lane Reade

Pages 143 - 154

Action deadline September 23, 2016

Applicant is seeking relief by Variance pursuant to Zoning By-law Section 139-32 for a waiver of the provisions in Section 139-16. Specifically, applicant seeks to reconfigure Locus by conveying portions of existing lots which comprise locus to 3 Kite Hill Lane and 86 Center Street. The conveyances will result in creation of new nonconformity relative to the shed's siting from the easterly side yard lot line and will intensify the nonconforming regularity factor. The Locus is situated at 5 Kite Hill Lane, is shown on Nantucket Tax Assessor's Map 42.4.4 as Parcel 65, and as upon Land Court Plans 15206-C and 15206-D. Evidence of owners' title is on Certificate of Title No. 26033 at the Nantucket County District of the Land Court. The property is zoned Residential Old Historic (ROH).

Posted with Town Clerk on July 8, 2016
Posting #551

- 28-16 Eric J. Rosenberg & Michele Kolb 7 Gardner Street Williams
Action deadline October 12, 2016

Pages 155 - 188

Applicant is requesting Special Permit relief pursuant to Zoning By-law Section 139-33.A(1) to allow the alteration of a pre-existing nonconforming structure. Specifically, applicant seeks permission to demolish an existing garage, sited as close as 1.3 feet from the northerly side yard lot line where the minimum side yard setback is five (5) feet, in order to construct a new single-family dwelling in its place. The new dwelling is proposed to be sited three (3) feet from the northerly lot line and to be conforming as to all other setbacks, ground cover, and parking requirements. The Locus, an undersized lot of record created pursuant to M.G.L. Chapter 41 Section 81L, is situated at 7 Gardner Street, and is shown on Assessor's Map 42.3.3 as Parcel 58 (portion). Evidence of owner's title is in Book 1282, Page 80 on file at the Nantucket County Registry of Deeds. The site is zoned Residential Old Historic (ROH).

- 29-16 Hans Dalgaard 65 Surfside Road Williams
Action deadline September 21, 2016

Pages 189 - 218

Applicant is seeking relief by Variance pursuant to Zoning By-law Section 139-32 from the provisions of Section 139-16.A. Specifically, applicant is seeking to reduce the required northwesterly rear yard setback from ten (10) feet to approximately 6.7 feet at its closest point in order to allow construction of a duplex at the rear of the property. The Locus is situated at 65 Surfside Road, is shown on Assessor's Map 67 as Parcel 222, and as Lot B upon Plan Book 24, Page 63. Evidence of owner's title is in Book 1054, Page 312 on file at the Nantucket County Registry of Deeds. The site is zoned Commercial Neighborhood (CN).

4

- OTHER BUSINESS:**

- 34-15 NHA Properties, Inc., *d/b/a* Housing Nantucket, School View Cottages Kuszpa
APPROVED FOR WITHDRAWAL WITHOUT PREJUDICE 7 Surfside Road
Vote to release remaining funds in Escrow account subsequent to payment of all outstanding invoices.

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- Election of officers (Chairman, Vice Chairman, Clerk)

- ADJOURNMENT.**



ZONING BOARD OF APPEALS

2 Fairgrounds Road
Nantucket, Massachusetts 02554
www.nantucket-ma.gov

Commissioners: Ed Toole (Chair), Lisa Botticelli (Vice chair), Susan McCarthy (Clerk), Michael J. O'Mara, Kerim Koseatac
Alternates: Mark Poor, Geoff Thayer, Jim Mondani

~~ MINUTES ~~

Thursday, June 9, 2016

Public Safety Facility, 4 Fairgrounds Road, Community Room –1:00 p.m.

Called to order at 1:09 p.m.

Staff in attendance: Eleanor Antonietti, Zoning Administrator; Mike Burns; Traffic Planner; Marcus Silverstein, Zoning Enforcement Officer (ZEO); T. Norton, Town Minutes Taker

Attending Members: Toole, Botticelli, McCarthy, O'Mara, Koseatac, Poor, Thayer, Mondani

Absent: None

Late Arrivals: None

Early Departures: McCarthy, 4:59 p.m.; Botticelli, 5:51 p.m.; Thayer, 6:00 p.m.

Town Counsel: Ilana Quirk, Kopelman & Paige, P.C.

ZBA Consultants: Ed Marchant, 40B (call in); Nancy Doherty, Tetra Tech, Inc.; Ed Pesce, Pesce Engineering & Associates

Agenda adopted by unanimous consent

I. APPROVAL OF MINUTES

1. May 11, 2016: **Motion to Approve.** O/B (made by:) (seconded by:) Carried unanimously

II. OLD BUSINESS

1. 04-16 Donald J. Mackinnon, Trustee of Nantucket 106 Surfside Realty Trust – *a/k/a* SURFSIDE COMMONS 40B
106 Surfside Road Mackinnon/Schwartz

The Applicant is seeking a Comprehensive Permit in accordance with M.G.L. Chapter 40B, as approved by Massachusetts Housing Partnership, in order to allow a multi-family project consisting of 56 rental apartments with fourteen (14) to be designated as affordable units. The apartments will be arranged in two 2½-story buildings with thirteen units each and two 3½-story buildings with fifteen (15) units each. There will be a total of two 1-bedroom units, forty two 2-bedroom units, and twelve 3-bedroom units. The project will also include a clubhouse and pool. If approved, the property will be permanently deed-restricted for the purpose of providing affordable year-round housing. The file with a copy of the complete and updated list of requested waivers is available at the Zoning Board of Appeals office at 2 Fairgrounds Road between the hours of 7:30a.m. and 4:30p.m., Monday through Friday or via link to posting of all document related to this project found on Town of Nantucket website: <http://www.nantucket-ma.gov/708/Atlantic-Development---106-Surfside-Road>. The Locus, situated at 106 Surfside Road, is shown on Assessor's Map 67 as Parcel 80. Locus is also shown as Block 22 on Plan File 3-D and as Parcels 7-11 (inclusive) on Plan No. 2014-52. Evidence of owner's title is recorded in Book 1410, Page 205 and Book 1488 Page 213, both on file at the Nantucket County Registry of Deeds. The site is zoned Limited Use General 2 (LUG-2) and Limited Use General 3 (LUG-3).

Voting Toole, Botticelli, O'Mara, McCarthy, Koseatac
Alternates Poor, Mondani
Recused Thayer
Documentation File with associated plans, photos and required documentation
Representing Donald J. MacKinnon, Atlantic Development
Steve Schwartz, Goulston and Storrs, counsel
Joshua Swerling, Bohler Engineering

Lloyd Bristol, Bristol Traffic Engineering
Margaret Murphy, Atlantic Development
Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP
Public Mary Beth Ferro, 104 Surfside Road
Judy Zurheide, 1 Folger Avenue
Jack Benjamin, Gladlands Road
Jessica Davis, 108 Surfside Road
Jane Valero, 9 Gladlands Road

Discussion **MacKinnon** – Looking to cover traffic, wastewater systems, and concepts for alternative plans.
Bristol – This traffic analysis is based upon the original 56 unit plan; reviewed the ingress/egress point sight distances, generating 35 to 50 vehicles during peak hours, internal turning radii, inclusion of a fire access road.

Doherty – Reviewed her study of applicant traffic analysis: ingress/egress point is appropriate, they looked at other intersections of interest, comfortable with the level of analysis, hours and season of review were appropriate, utilized a standard 5-years planning horizon but best practices in Massachusetts is to look out seven years, used 1% growth rate, did not include traffic generated from Sachem's Path or new elementary school, daily trip generation was included, distribution based on existing traffic flow, indicates trips will increase volume at intersections by 3%, operations analysis shows south-bound approach would increase delay 3 second in the morning and 16 second evening. Single access driveway is appropriate. New north side crosswalk design is fine but not seen how it will connect to existing bike path. Important to see design of new east side bike path to analyze its impact; there would be a lot of clearing necessary and retaining walls would be necessary. Sight lines and stopping distance are good; not convinced the north sight line is good. Suggest supplying on-site secure bike storage and a bulletin board of bike paths.

Toole – Confirmed Ms Doherty feels the applicant's study is acceptable. In terms of sight-line issues, asked what is necessary to fix it.

Doherty – A concept plan of what Surfside will look like north of the driveway: signage, retaining wall, profile.

Toole – Asked if there is any thought of making this a 4-way intersection to make the crosswalk more efficient vis-à-vis the addition of the new bike path.

Doherty – Not necessary; doing that would add to congestion.

Koseatac – We need a legible plan of the fire-truck turning radii; the plans in the packet and on line are illegible.

Poor – Asked how viable is the Bartlett Road Rotary.

Burns – Explained the status of the projected Bartlett Road Rotary, programmed for FY2019.

Toole – The vegetation the applicant is talking about removing is not on their property. Asked if that is okay.

Burns – Cited the Town bylaw about clearing vegetation to maintain public safety.

Ferro – What was not addressed is that the Town has taken over the Boulevard which has already shown an increase in traffic and the Richmond Development project on Old South Road potentially cutting through to the Boulevard, which would further increase traffic. People drive Surfside Road very quickly. Behind this site is the Beach Plum 40B which is in Phase II; that was not included in the analysis. Being done in August, the analysis did not take school traffic in account.

Toole – With regard to future development, asked the method for taking that into account.

Doherty – The figures came from Planning; not sure if the question of any prospective project was asked. It was correct to do the study in the summer months. The Sachem Path entry is north of this site so probably won't affect this intersection. She is not familiar with the possibility of any new roadway connections south of the project.

Botticelli – Feels school traffic is also a valid point.

Discussion about whether or not school traffic would have an impact on the traffic flow.

Toole – Believes there are potential holes in the study that need to be tightened up. Would like to have school traffic added to the study.

Doherty – The applicant had offered to add Sachem's Path and school as well.

Zurheide – Cited Sherburne Commons expansion and moving of Our Island Home (OIH) to South Shore Road. There has also been an increase in commercial traffic for a development in the area and that was not mentioned in the study.

Doherty – Noted that any information about future projects comes from Planning.

Burns – There are counters out every year which are tracked; 1% growth is reliable based on past growth over the long term. OIH and the expansion of Sherburne Commons are pending right now and have to be looked at; the other projects were taken into account. He doesn't believe pattern changes will be very significant.

Benjamin – Questions the accuracy of the traffic study for Saturday in August. The queue on the road on Saturday and Sunday in August can extend about ½ mile. He would like to hear the police speak to traffic congestion on Saturday and Sunday afternoons in July and August.

Davis – The traffic Report did not take into consideration that Boulevard will be paved and thus increase traffic. The development on Old South Road will be massive and also needs to be taken into consideration.

Valero – The traffic study isn't measuring the pedestrians and bikes on the bike path.

Doherty – There were pedestrian and cyclist counts included in the study and are accounted for.

Bristol – Counts were taken Thursday, August 13, 6-9 a.m. and 11a.m.-1 p.m. and 3-6 p.m., and Saturday, August 15, 10 a.m. to 2 p.m. Pedestrians and cyclists were counted at each location.

Toole – Sounds like some important data is missing for the specific area: Saturday 10-2 most people are at the beach; need some additional work to catch people going to and from the beach. Should do a Saturday count as they would do a weekday count.

Botticelli – It would be interesting to know the increase of school traffic and new hospital; there is a lot happening in a very condensed area of the island.

Bristol – Volume at this intersection is very low; the Fairgrounds intersection is already stressed in the summer. In the fall, traffic counts drop, according to machine counts. Half the Fairground traffic doesn't turn south. The farther away from the project, the more options to turn off the road increase so they didn't include intersections beyond Bartlett Road.

Botticelli – Asked how 56 units would generate only 25 cars during peak time. Practically speaking, the traffic flow is different than what would be pulled out of a book; this will be occupied by families with children who can't afford to buy a home so could have multiple cars.

Bristol – Explained how data points are plotted for use in the analysis; noted that apartments everywhere generate less traffic than single-family houses.

Toole – Asked Ms Doherty if the data used is accepted and if there are ever studies done that are “outside the box”.

Doherty – Explained how a custom analysis would be done. Believes the manuals used for trip generation might be conservative. Noted that not everyone in a residence leaves at the same time.

MacKinnon – Explained the purpose of the traffic study. Based upon comments, there is some follow up that needs to be done with the study; can ensure entrances and exits and public safety are properly accommodated. Another part of the study is the level of impact and mitigation for that impact. Believes it is unreasonable to ask them to go back out to study traffic at school time and other things which requires seeking additional data; that is outside of the bounds of what is done on the Island. Need some direction on the bike path, whether or not they are going to do that.

O’Mara – Doesn’t argue the data of the study. There are a high percentage of houses out there that rent and Saturday is the turnover day. Sunday is a big beach day.

Doherty – Believes the impact of the apartments will still be higher on weekdays.

Burns – At the next meeting, offered to provide the actual traffic counts they gave the applicant.

Toole – Safety issues and impact study of the bike path need to be done before this board can make a decision.

MacKinnon – Wants Ms Doherty to rule on the safety. Believes the only safety issue is crossing Surfside road at this complex.

Doherty – She needs to see the concept plan for the path with sightlines impact, possible retaining walls, guardrails, etc. before she makes a safety ruling.

Toole – There is the question of safety in crossing the road at this site. The possibility of a 4-way stop at this intersection should be looked at.

MacKinnon – Reviewed what needs to be added to the traffic study.

Davis – Currently where the bike path ends at Fairgrounds Road, there is a crosswalk. At this site, there is no crosswalk.

MacKinnon – Moving on to the issue of wastewater, he still believes the best option is to connect to sewer and believes this board has the authority to allow them to connect. In the event they are required to go to Town Meeting, he will ask for a state permit for a treatment plant.

Swerling – Reviewed the Nantucket regulations for wastewater treatment in a well-head protection area and compared a conventional system to an Amphridrome® system, which can reduce the amount of nitrogen by about 90%. They don’t yet have a plan showing a soil-absorption system.

Pesce – He agrees with the methodology behind the documentation. The Amphridrome® system is an excellent system approved by the Department of Environmental Protection (DEP), which is the permitting authority rather than Title V. An on-site hydrologic study and design packet still need to be done for the DEP permit. He still needs to see how the leeching field will fit on the site and meet setback requirements. Because there is a private well in the neighborhood, he needs to see a nitrogen loading model that doesn’t exceed 10 parts per million (PPM) for nitrogen at the property boundary; he would also suggest installation of a monitoring well to ensure that PPM is not exceeded.

O’Mara – Asked about maintenance of the system.

Pesce – They would have to hire a licensed monitor to check the system daily.

Koseatac – Asked what about if the power went out for more than 24 hours.

Pesce – The system has to be protected by a back-up power supply; that energy plant is under the Department of public Works (DPW) to ensure it is in good operating order. DEP will technically review the plan for the treatment plant.

Toole – The science is out there to make this work with a DEP permit, assuming it fits and wells aren’t polluted.

MacKinnon – Some of the items Mr. Pesce is talking about are part of the DEP permit.

Toole – The wastewater would be approved contingent upon DEP permit. Sees no point in going further with this.

MacKinnon – They are still asking for permission to connect to sewer.

Toole – This board has three options: 1) the board agrees with Town Counsel they don’t have the authority to allow hook-up to sewer; 2) they disagree with Town Counsel and grant the relief to hook to sewer; 3) they continue the discussion about the project until they reach a point where they are comfortable enough about the project to support the notion to tie into sewer.

MacKinnon – Reviewed distances to homes on abutting properties. Changes include: reduction to 52 units, eliminate the pool and club house and on-site managers apartment, reduce grade manipulation, add a curb cut for fire trucks, increase the parking space size to 20’, increase parking ratio to two spaces per unit, add children’s recreational opportunities, and add the bike path to connect to the Fairgrounds Road bike path. Reviewed concept options of siting: Options 1 four apartment buildings at 45 feet tall, Option 2 one large apartment building at 50 feet tall and two 2-story 6-unit structures.

Toole – Asked which is more important, bedroom or unit count.

MacKinnon – You want a reasonable mix; the 52 units with 100 bedrooms is the lowest to make this economically feasible.

Toole – Asked if they had looked at the option of doing all duplexes and thus creating a small village; he would be more interested in looking at setback waivers rather waiving 45-foot or 50-foot buildings. These buildings are still very tall and very out of place for Nantucket. The Option 2 massive building in the back is a non-starter. The “village” concept would

break up the massive parking areas. Cited Nobadeer Meetinghouse as a good example of a lot of bedrooms in a small space.

Discussion about the possibility of combining Option 1 with a village concept and the advantages of a village concept for green space and parking.

Poor – He believes the buildings are still too tall as presented in the two options.

Toole – Mr. Marchant had suggested a work session to brainstorm ideas.

MacKinnon – A design work session makes sense and would be willing to do that with a member of the ZBA. In the past they have worked with Matt MacEachern; asked if he would be acceptable.

Marchant – The board is clear in defining the issues, the work session would be best if before the session the applicant comes up with an alternative that is closer to what the board would like to see. Other 40Bs have come in with Nantucket village plans; noted that this plan doesn't resemble Nantucket at all. Density is relevant to whether or not people like the plans; it's not density for density sake. Most work sessions are closed proceedings but the public does not have a right to speak.

Quirk – 1) A public hearing with the public attending but not permitting public comment. 2) If there is just one member of the board, that doesn't need to be a posted meeting. The second way is easier to put together and it is not binding.

Schwartz – The second way is better.

Marchant – No decision can be made at the work session.

Zurheide – Asked for the board to consider including a member of the public as part of the work session.

Schwartz – They would like the neighborhood input.

Quirk – Should choose who will be part of the work session. The board should authorize the chair to approach the consultant.

Discussion about date for the work session and appointing the ZBA member and who the consultant might be.

Motion **Motion to Authorize Mr. Toole to call Cliff Boehmer to be a design consultant.** (made by: McCarthy) (seconded by: Botticelli)

Vote Carried unanimously

Quirk – The ZBA should authorize Mr. Toole to take names of interested public and appoint a participant.

Botticelli – Asked about having an HDC member on the board.

Consensus thinks an HDC member is an excessive level of detail

Motion **Motion to Authorize Mr. Toole to appoint the neighborhood representative from a list of interested people.** (made by: McCarthy) (seconded by: Botticelli)

Vote Carried unanimously

Toole – Getting close but feels a need to ask for an extension. September is two meetings away.

MacKinnon – Wants to stay on the current schedule.

Quirk – That puts a strain on the board doing the work in two sessions.

Schwartz – Agree to an extension to October 31, 2016

The date for the work session June 29 at 2 p.m. subject to availability of the design consultant.

Motion **Motion to Appoint Ms Botticelli as the representative and Mr. Poor as the backup.** (made by: McCarthy) (seconded by: O'Mara)

Vote Carried unanimously

Motion **Motion to Accept the extension to October 31, 2016.** (made by: Botticelli) (seconded by: O'Mara)

Vote Carried unanimously

Motion **Motion to Continue to July 14 at noon pending availability of the room.** (made by: McCarthy) (seconded by: O'Mara)

Vote Carried unanimously

- 2. 10-16 MHD Partners Real Estate, LLC 4 Goose Cove Lane Brescher/Osgood
 Applicant is requesting Variance relief pursuant to Zoning By-law Section 139-32 from the intensity regulations in the Village Height Overlay District (VHOD). Specifically, applicant intends to relocate an existing cottage from another property onto the subject premises, a vacant oversized lot. In 2009, the VHOD was adopted and the structure, which is 25.5 feet above average mean grade, was rendered pre-existing nonconforming. The maximum allowable height in the VHOD is 25 feet pursuant to Section 139-12.K(1). The structure, upon being relocated, will continue to be nonconforming with respect to height but will conform to all other intensity regulations of the Village Residential zoning district. The Locus is situated at 4 Goose Cove Lane, is shown on Assessor's Map 59.4 as Parcel 30, and as Lot 894 upon Land Court Plan No. 3092-119. Evidence of owner's title is registered at Certificate of Title 25954 on file at the Nantucket County District of the Land Court. The site is zoned Village Residential (VR) and is sited within the Village Height Overlay District (VHOD). WITHDRAWAL WITHOUT PREJUDICE

Voting Toole, Botticelli, O'Mara, Koseatac, Thayer

Alternates Mondani

Recused None

Documentation File with associated plans, photos and required documentation

Representing **John Brescher, Glidden & Glidden** – They are requesting withdrawal without prejudice for the request for relief for 25.5 feet; they found a way to do it and keep the height at 25 feet.

Public Steven Cohen, Cohen & Cohen Law PC

Discussion (3:56) **Toole** – Doesn't agree with the ZEO who is here to discuss this so he is disinclined to grant the withdrawal. Consensus agrees with Mr. Toole.
 Discussion about how long does a grade have to exist before it is considered the beginning grade.
Poor – Looking back over the map, all four lots were filled to this grade. There is no grade change referenced in the Historic District Commission application. They didn't do what they should and it has snowballed. Believes the developer filled the lot, not the owner. Still would like the grade averaged out.
Silverstein – He believes the existing grade is established at the time the permitting process begins. There is nothing in the bylaw that prevents moving dirt around.
Toole – He believes the existing grade is set at the time the bylaw went into effect. The height maximum of the building would have to include using the average mean grade.
 Discussion about the bylaw and its intent.
 Discussion about at what point was the grade on this site manipulated and thus establishing existing grade and the possibility of submitting a by-law amendment stating no manipulation of grade may be done without a ZBA permit.
Brescher – The applicant changed the grade, the house is moving next week and will be no more than 25 feet on a muddblock foundation; his client has a building permit for that.
Toole – The house will be in violation; the applicant proceeds at his own risk.
Botticelli – She has no problem with approving this; she just wants the right information before voting on it.
O'Mara – It doesn't matter what the board thinks, he's got to come back anyway unless he eliminates 6 feet of grade.
Brescher – His is willing to extend the action deadline.
Cohen – Suggested getting a ruling from Town Counsel on this issue.
Toole – Talked to Town Counsel: ZBA can make policy so that it becomes a matter of record.
Silverstein – If the board is going to make a policy, be as specific as possible.
 Discussion about at what point the existing grade for this site was established: the implementation of the bylaw or establishment of the Goose Cove subdivision. The bylaw revised in 1994 and again in 1999.

Motion **Motion to Grant relief for height of 28.6 based upon the fact that the site was at elevation six in 1994 at implementation of the bylaw.** (made by: Botticelli) (seconded by: O'Mara)
 Vote Carried 4-1//Toole opposed

3. 15-16 Madaket Wheelhouse, LLC 13 Massachusetts Avenue Cohen
 Applicant is seeking relief by Special Permit and Variance pursuant to Zoning By-law Sections 139-33.A and 139-32 in order to alter the pre-existing nonconforming dwelling and garage. Applicant proposes to build two dimensionally compliant additions to the dwelling and to enclose an outdoor shower to be sited .5 feet from the westerly lot line, increasing that pre-existing nonconforming side yard setback encroachment. Applicant also proposes changes to the garage consisting of moving, expanding, and converting it into a secondary dwelling. The Locus is situated at 13 Massachusetts Avenue, is shown on Assessor's Map 60 as Parcel 75, and as Lots 12-15, Block 29 upon Land Court Plan 2408-Y and unregistered land lying north of said Lots. Evidence of owner's title is registered on Certificate of Title No. 25696 at the Nantucket County District of the Land Court and in Book 1494, Page 39 on file at the Registry of Deeds. The site is zoned Village Residential (VR).

Voting Toole, McCarthy, Koseatac, Thayer, Mondani
 Alternates None
 Recused None
 Documentation File with associated plans, photos and required documentation
 Representing **Steven Cohen**, Cohen & Cohen Law PC – Reviewed the alterations which require only a special permit relief, not a variance relief. Believes these changes also satisfy the concerns of the abutter; doesn't know if that person has seen the changes.
 Public None
 Discussion (4:46) Discussion about whether or not the notification of abutters is sufficient and whether or not to err on the side of caution and continue to allow for a renotification.

Motion **Motion to Renotice and re-open on July 14, 2016.** (made by: Thayer) (seconded by: Koseatac)
 Vote Carried unanimously

4. 16-16 Todd W. Winship & Elizabeth W. Winship and Bess W. Clarke, Tr., Sixteen Monohansett Road Trust
 CONTINUED TO JULY 14, 2016 16 Monohansett Road Wilson

III. NEW BUSINESS

1. 18-16 Janet Hanson 3 Pond Road Shalley
 Applicant is seeking modification of prior Variance relief in order to remove the condition that the second dwelling be restricted to year-round occupancy. Prior relief validated the siting of the garage structure within the front yard setback and the conversion of a portion of the garage into a second dwelling. No change in footprint is proposed. The Locus is situated at 3 Pond Road, is shown on Assessor's Map 56 as Parcel 151.1, and as Lot 132 upon Land Court Plan 14830-7. Evidence of owner's title is registered on Certificate of Title No. 23280 at the Nantucket County District of the Land Court. The site is zoned Residential 20 (R-20).
 Voting Toole, Botticelli, O'Mara, Koseatac, Thayer
 Alternates Poor, Mondani
 Recused None
 Documentation File with associated plans, photos and required documentation
 Representing **Steven Cohen**, Cohen & Cohen Law PC – Explained the situation leading to the need for this request. Noted that the year-round restriction is very unusual and has nothing to do with the setback issue.
 Janet Hanson, owner
 Public Barbara Matteuci, 5 Pond Road
 Discussion (4:59) **Botticelli** – Asked if the applicant wants to use the cottage as a rental.
Matteuci – The problem is having two seasonal renters in both the front and the back of the same lot. Prefers it remain year-round housing; you can talk to that person but not to someone who is there for only a week.
Hanson – This property is for sale; she needs some clarity on the structure for the prospective buyer.
Cohen – Most prospective buyers would be a summer person and would want to use that structure for themselves or as an investment property. Noted that the year-round occupancy requirement is vague, severe, unusual, and doesn't resolve the setback issue.
Toole – This is saying that it can't be rented on a short-term basis. The way it's written does not require that it be rented to a year-round resident; he sees no reason to lift the relief.
Thayer – Agrees with Mr. Toole.
Cohen – Asked if the board would clarify that the restriction does not preclude casual use by the owner.
 Discussion about how to provide the clarification of that condition to allow casual use by the owner but if it is to be rented it must be to a year-round occupant.
 Motion **Motion to Permit rental of the cottage may be for no less than 12 months.** (made by: O'Mara) (seconded by: Koseatac)
 Vote Carried unanimously

2. 19-16 John Udelson 12 Pond View Drive Brescher
 Applicant is seeking relief by Variance pursuant to Zoning By-law Section 139-32 for a waiver of the ground cover ratio provisions in Section 139-16. Specifically, applicant seeks to validate the various structures upon the premises already granted Certificates of Occupancy but shown on most recent As-Built survey to have a total ground cover ratio of 4.1% where 4% is maximum allowed. The Locus is situated at 12 Pond View Drive, is shown on Assessor's Map 81 as Parcel 9, and as Lot 10 upon Land Court Plan 36550-C. Evidence of owner's title is registered on Certificate of Title No. 25177 at the Nantucket County District of the Land Court. The site is zoned Limited Use General 2 (LUG-2).
 Voting Toole, Botticelli, O'Mara, Koseatac, Mondani
 Alternates Thayer
 Recused Poor
 Documentation File with associated plans, photos and required documentation
 Representing **John Brescher**, Glidden & Glidden – The issue is a ground cover survey discrepancy of 84 feet. All permits have been issued for at least six years. The pool doesn't add ground cover but the owner must close out the permit.
 Public None
 Discussion (5:24) **Botticelli** – Noted an air-conditioning unit might be in the setback on the north side of the garage; if it is, it needs to be moved.
 Discussion about what caused the mistake.
 Motion **Motion to Grant the relief as requested.** (made by: Botticelli) (seconded by: Koseatac)
 Vote Carried unanimously

3. 20-16 Gerald T. Vento & Margaret Vento, Tr. of Ninety-One Low Beach Road Nominee Trust 91 Low Beach Road Cohen
 Applicant is requesting Special Permit relief pursuant Zoning Bylaw Section 139-16.C(2) to validate unintentional side and rear yard setback intrusions. The siting of a tennis court, installed in 2012, was reasonably based on a licensed survey. The court is sited as close as 15.4 feet from the side yard lot line and 18 feet from the rear yard lot line, where a twenty (20) foot setback is required. In the alternative, and to the extent necessary, Applicant requests relief by Variance pursuant to Section 139-32 to allow said setback intrusions. The Locus is situated at 91 Low Beach Road, is shown on Assessor's Map 75 as Parcel 31, and as Lot 912 upon Land Court Plan 5004-65. Evidence

of owner's title is registered on Certificate of Title No. 24350 at the Nantucket County District of the Land Court. The site is zoned Limited Use General 3 (LUG-3).

Voting Toole, Botticelli, Koseatac, Thayer, Mondani
Alternates Poor
Recused O'Mara
Documentation File with associated plans, photos and required documentation
Representing Steven Cohen, Cohen & Cohen Law PC – Explained the situation leading to this request for special permit relief.
Jeff Blackwell, Blackwell & Assoc.

Public None
Discussion (5:32) Koseatac – The builder of the tennis court must be contacted about doing work without proper permits.
Toole – Asked Mr. Blackwell how much space the court takes up.
Blackwell – The court is 16X120 so not unusually large and intrudes 4.5 feet on the side setback.
Mondani – Feels the owner should move the court.
Thayer – He is willing to grant the relief but doesn't want to set a precedent.
Botticelli – She is disinclined to grant the relief; the court should be moved.
Poor – In the past this board has suggested renegotiating the property line.
Cohen – That request is a heavy burden on the owner just for a game court. Noted that the neighbor isn't complaining.
Asked that the request to be granted.
Discussion whether to grant or continue to see how much would have to be changed and what it would cost to make the court compliant.

Motion Motion to Continue to July 14, 2016. (made by: Botticelli) (seconded by: Koseatac)
Vote Carried unanimously

4. 21-16 William Pietragallo, II, Tr. of The 2013 Freedom Trust 9 Fulling Mill Road Beaudette
Applicant is requesting a finding that a proposed generator enclosure is substantially below grade and, therefore, does not contribute towards ground cover. In the alternative, applicant requests either Special Permit relief pursuant to Zoning Bylaw Section 139-33.A(2) or Variance relief pursuant to Section 139-32 for a waiver of the ground cover ratio provisions in Section 139-16. The Locus is situated at 9 Fulling Mill Road, is shown on Assessor's Map 27 as Parcel 25, and as Lot 3 upon Land Court Plan 14311-K. Evidence of owner's title is registered on Certificate of Title No. 24827 at the Nantucket County District of the Land Court. The site is zoned Limited Use General 3 (LUG-3).

Voting Toole, O'Mara, Koseatac, Poor, Mondani
Alternates None
Recused None
Documentation File with associated plans, photos and required documentation
Representing Rick Beaudette, Vaughan, Dale, Hunter and Beaudette, P.C. – Presented the situation leading to this request. Noted that most structures on this side of the road are undersized lots and over ground cover. It would be a substantial financial hardship to build a new generator pit.
Jamie Feeley, Cottage and Castle Construction
Jeff Blackwell, Blackwell & Assoc.
Jim Gross, Nantucket Land and Sea
Public Steven Cohen, Cohen & Cohen Law PC, for direct abutter
Sarah Alger, Sarah F. Alger P.C.

Discussion (5:54) Toole – He doesn't understand why the generator has to be enclosed.
Gross – Explained the proposed generator needs to be in a water-tight enclosure.
Poor – Asked if the original enclosure constitutes ground cover and is it being made bigger.
Beaudette – Yes and it will increase groundcover to 7%.
Toole – He can't see granting a variance.
Cohen – His client supports this request as better for the neighborhood; it will have a much lower decibel noise level. Asked for a condition that this space not become habitable space in the future.
Beaudette – All the neighbors were notified in regards to this plan.
Alger – This is a bylaw issue; it clearly meets the 2015 bylaw requirements allowing granting of the special permit.
Feeley – The architect miscalculated the relationship between the generator and the house thus requiring a larger generator. Explained how the pit will be modified to additionally reduce the generator noise.
Toole – This situation is the result of "confused" planning; doesn't see it as punitive to restrict the size of future sheds.

Motion Motion to Grant the relief for Special Permit conditioned that any future shed be limited to 131 square feet.
(made by: O'Mara) (seconded by: Koseatac)
Vote Carried unanimously

IV. OTHER BUSINESS

1. 66-00 Abrem Quarry (40B)
Discussion of draft Monitoring Services Agreement between Nantucket Zoning Board of Appeals and Nantucket Housing Authority and NHA Properties *d/b/a* Housing Nantucket.
Sitting Toole, O'Mara, Koseatac, Poor, Mondani
Discussion (6:27) **Antonietti** – She will be drafting the Monitoring Services Agreement with the 2.5% fee.

V. ADJOURNMENT

Motion to Adjourn: 6:29 p.m.

Submitted by:
Terry L. Norton

PROPOSED

OLD

BUSINESS

ABREMS QUARRY

FILE No. 66-00

**MONITORING
AGREEMENT
WITH NHA, INC.**

MONITORING SERVICES AGREEMENT

This Monitoring Services Agreement (this "Agreement") is made this ___ day of _____, 2016, by and between the Town of Nantucket Zoning Board of Appeals, having an address at 2 Fairgrounds Road, Nantucket, MA 02554, (the "ZBA"), NHA Properties Inc., d/b/a Housing Nantucket, having an address at 75 Old South Road, Nantucket, MA 02554 (the "Monitoring Agent"), and Nantucket Housing Authority, having an address of 3 Manta Drive, Nantucket, MA 02554 (the "Secondary Monitoring Agent").

RECITALS

WHEREAS, a housing development known as "Abrem Quarry" (the "Project") has been constructed in the Town of Nantucket (the "Municipality"); and

WHEREAS, the Project is subject to a comprehensive permit (the "Comprehensive Permit") from the ZBA under Chapter 40B of the Massachusetts General Laws, which permit is recorded at the Nantucket County Registry of Deeds (the "Registry") in Book 1057 at Page 266; and

WHEREAS, the Comprehensive Permit has specified that seven (7) units, or 25% of the total units in the Project will be affordable units (the "Affordable Units") which will be subject to a Regulatory Agreement to restrict the sale of the Affordable Units to eligible affordable home owners who have household incomes no greater than 80% of the annual median income for Nantucket as defined by HUD, and that they will be paying no more than 30% of their annual income for their interest and principal mortgage payments, real estate taxes, insurance and homeowners' association fees; and

WHEREAS, pursuant to the terms of the Comprehensive Permit and a Regulatory Agreement dated as of December 1, 2006 and recorded at said Registry in Book 1064, Page 105 (the "Regulatory Agreement"), the Affordable Units will be sold to households earning no more than eighty percent (80%) of the median income, by household size, for Nantucket County (the "Base Income") as published from time to time by the Department of Housing and Community Development of the Commonwealth of Massachusetts or successor agency ("DHCD"); and

WHEREAS, the Affordable Units are subject to deed riders governing re-sale (the "Affordability Requirement") in perpetuity, or to the extent permissible by law, but in no event for a period less than 99 years; and

WHEREAS, pursuant to the requirements of the Comprehensive Permit and the Regulatory Agreement, a monitoring agent shall be retained to perform monitoring and enforcement services regarding compliance of the Project with the Affordability Requirement; and

WHEREAS, NHA Properties Inc. (formerly d/b/a Nantucket Housing Office), is the Monitoring Agent named in the original deed rider for each of the Affordable Units and

Nantucket Housing Authority is the Secondary Monitoring Agent named in the original deed rider for each of the Affordable Units and the parties now desire to formalize the roles and responsibilities of each of the parties by entering into this Agreement,

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Monitoring Services. Monitoring Agent shall monitor the compliance of the Project with the affordability requirements of the Comprehensive Permit, Regulatory Agreement and applicable deed rider, as more fully described herein.

(a) Affordability Requirement; Re-Sales.

The Monitoring Agent agrees to monitor re-sales of Affordable Units (including setting Maximum Re-sale Prices within fourteen days of such requests from sellers of Affordable Units, review of income and asset certifications, deeds, and deed riders in the manner set forth in the applicable deed rider and Regulatory Agreement), for compliance with the terms of the Regulatory Agreement and consistency with the form of deed rider attached to the deed to the applicable Affordable Unit, and issuance of certifications, as appropriate, in connection with approval of re-sales and the payment of recapture amounts to the Municipality. The Monitoring Agent shall also locate and select, or provide assistance to the Municipality in locating and selecting, Eligible Purchasers, including without limitation, ensuring compliance with the approved Marketing Plan and lottery process in accordance with the applicable deed rider, Regulatory Agreement and applicable state and federal laws, rules and regulations.

(b) Supplemental Monitoring Services. The Monitoring Agent shall provide reasonable supplemental monitoring on its own initiative in order to ensure to the extent practicable the compliance by the owners of the Affordable Units with the requirements of the Affordability Requirement, including without limitation the owner-occupancy requirement and the re-sale restrictions (including recalculating the Re-sale Price Multiplier, if necessary). The services hereunder shall also include considerations of requests for refinancing, approval of capital improvements, further encumbrances and leasing an Affordable Unit. The services hereunder shall not include any construction monitoring. The services hereunder shall include follow-up discussions with the owners of the Affordable Units, if appropriate, after an event of noncompliance.

2. Monitoring Services Fee. The parties hereto acknowledge and agree that the Deed Rider attached to the Deed granting title to each of the seven (7) Affordable Units in the Project to the original purchasers (Grantees) define the Re-sale Fee to which the Monitoring Agent and the Secondary Monitoring Agent are entitled (three-fourths of one percent of the Maximum Re-sale Price) and recite the terms and conditions for such payment (the "Original Re-sale Fee"). The Original Re-sale Fee shall be the monitoring services fee applicable upon the first re-sale of an Affordable Unit after the date of this Agreement.

In connection with the first re-sale and all subsequent re-sales of an Affordable Unit after the date of this Agreement, a new deed rider shall be attached to the deed of the purchaser of the Affordable Unit. The new deed rider shall set forth the amount of the Re-sale Fee (the "Amended Re-sale Fee") for the subsequent sale which shall not exceed two and one-half percent (2 ½%) of the Maximum Re-sale Price, regardless of whether the Affordable Unit is being sold to an Eligible Purchaser, as that term is defined in the deed rider, or the Municipality, or to a third party at fair market value under the terms of the deed rider. In the event that the Affordable Unit is sold for less than the Maximum Re-Sale Price, the Re-sale Fee shall not exceed two and one-half percent (2 ½%) of the actual re-sale price.

The new form of deed rider shall provide that the Amended Re-sale Fee for the subsequent sale shall be paid to the Monitoring Agent and Secondary Monitoring Agent by the seller of the Affordable Unit at each closing as a condition precedent to closing, for the services provided with respect to monitoring each subsequent sales transaction for compliance with the Affordability Requirement as set forth in the Regulatory Agreement and the deed rider. Such fee shall be payable for all transfers of Affordable Units, including those to an Eligible Purchaser, the Municipality, or any other purchaser. If the Monitoring Agent's fee is not paid at the time of closing, the Monitoring Agent shall be entitled to payment from the purchaser of the Affordable Unit and to bring an action and seek an attachment of the interest of the purchaser in the Affordable Unit.

The ZBA shall have no responsibility for payment of any fee to the Monitoring Agent or Secondary Monitoring Agent hereunder.

The form of deed rider, as may be amended from time to time, to be attached to the deed to an Affordable Unit being purchased after the date of this Agreement shall be approved in advance by the ZBA and the Secondary Monitoring Agent and shall be attached hereto as Exhibit A.

3. Enforcement Services. In the event of a violation of the provisions of the applicable deed rider, the Affordability Requirement, or the Regulatory Agreement, the Monitoring Agent shall have the right, with the prior consent of the ZBA, to take appropriate enforcement action against the unit owner or the unit owner's successors in title, including, without limitation, legal action to compel the unit owner to comply with the requirements of the relevant deed rider, the Affordability Requirement, or the Regulatory Agreement, all as is provided in the relevant deed rider and/or Regulatory Agreement. The Monitoring Agent shall be entitled to seek recovery of its fees and expenses incurred in enforcing the deed rider, the Affordability Requirement, or the Regulatory Agreement against the unit owner and to assert a lien on the relevant unit to secure payment by the unit owner of such fees and expenses.

In the event of a violation of the provisions of the Comprehensive Permit, the Zoning Bylaw or the Nantucket Code, the Monitoring Agent shall, with the prior consent of the ZBA, first attempt appropriate enforcement action against the unit owner to compel the unit owner to comply with the relevant requirements thereof by issuing written notice of the alleged violation(s), cease and desist orders, or similar enforcement requests. The Monitoring Agent shall provide the Zoning Enforcement Officer with copies of any and all such notices and orders. In the event that such violations are not cured within a reasonable period of time, the Monitoring

Agent shall then refer the matter to the Zoning Enforcement Officer and request that an enforcement action be brought in accordance with the provisions of Chapter 139, Article V, § 139-25 of the Nantucket Code.

The Monitoring Agent shall not be entitled to seek any compensation or reimbursement from the ZBA in connection with the enforcement services under this Section, it being understood that the Monitoring Agent shall look solely to the reimbursement rights described in the applicable deed rider for payment of the Monitoring Agent's costs and expenses.

4. Term. The monitoring services are to be provided for so long as there is any Affordable Unit subject to the Affordability Requirement. The term of this Agreement shall end on the date six (6) months after the later to occur of the latest expiration date of the term of the Affordable Housing Restriction attached to any of the Affordable Units. Notwithstanding the above, this Agreement may be terminated at will by the Monitoring Agent or the ZBA with sixty (60) days written notice to the other parties. In addition, this Agreement may be terminated immediately by the ZBA in the event that the Monitoring Agent be dissolved, becomes incapable of, or otherwise neglects or refuses to fulfill its obligations during the term of this Agreement.

5. Responsibility of Monitoring Agent. The Monitoring Agent shall be responsible for such actions and responsibilities as are set forth in the Regulatory Agreement and applicable deed rider and this Agreement. To the extent such instruments require the Monitoring Agent to act together with the Secondary Monitoring Agent, the Monitoring Agent shall act in good faith to collaborate and perform such actions are required thereunder.

The Monitoring Agent shall not be held liable for any action taken or omitted under this Agreement so long as it shall have acted in good faith and without gross negligence.

6. Responsibility of Secondary Monitoring Agent. The Secondary Monitoring Agent shall be responsible for such actions and responsibilities as are set forth in the Regulatory Agreement and applicable deed rider. To the extent such instruments require the Monitoring Agent to act together with the Secondary Monitoring Agent, the Secondary Monitoring Agent shall act in good faith to collaborate and perform such actions are required thereunder. In the event that this Agreement is terminated for any reason, the Secondary Monitoring Agent shall act as the primary Monitoring Agent until such time as a successor Monitoring Agent is duly appointed.

7. Successor Monitoring Agent/Further Delegation/Conflict of Interest. In the event of termination of this Agreement, the ZBA shall promptly appoint a successor monitoring agent to serve as Monitoring Agent for the remaining term of this Agreement. The Monitoring Agent shall not delegate all or any portion of its obligations hereunder without the prior approval of the ZBA. If the Monitoring Agent performs any functions such as running a lottery, which would be subject to oversight by the Monitoring Agent, the Monitoring Agent must delegate oversight of such functions to the ZBA or an entity approved by the ZBA.

8. ZBA Designee. The ZBA may designate an agent to act on its behalf with respect to the subject matter of this Agreement. Any such designation shall be made in writing,

including the name and contact information of such designee, and provided to the Monitoring Agent and the Secondary Monitoring Agent.

9. Third-Party Beneficiaries. The ZBA shall be entitled to enforce this Agreement and may rely upon the benefits of this Agreement.

10. Indemnity. To the extent permitted by law, the ZBA agrees to indemnify and hold harmless the Monitoring Agent against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Monitoring Agent by reason of its relationship with the Project under this Agreement and not involving the Monitoring Agent acting in bad faith and with gross negligence.

11. Applicable Law. This Agreement, and the application or interpretation hereof, shall be governed by the laws of The Commonwealth of Massachusetts.

12. Binding Agreement. This Agreement shall be binding on the parties hereto, their heirs, executors, personal representatives, successors and assigns.

13. Headings. All paragraph headings in this Agreement are for the convenience of reference only and are not intended to qualify the meaning of the paragraph.

14. Conflict. In the event that any terms of this Agreement conflict with the terms of the Regulatory Agreement or the applicable deed rider, the terms of the Regulatory Agreement or the applicable deed rider shall be controlling.

15. Entire Agreement. This Agreement supersedes all prior agreements between the parties with respect to the Project, whether oral or written, including without limitation, all correspondence between the parties and between counsels for their respective parties. This Agreement constitutes the sole and entire agreement between the parties hereto with respect to the subject transaction, and the rights, duties, and obligations of the parties with respect thereto. In executing this Agreement, the Monitoring Agent acknowledges that the Monitoring Agent is not relying on any statement, representation, warranty, covenant or agreement of any kind made by the ZBA or any employee or agent of any of the foregoing, except for the agreements set forth herein.

16. Definitions. Any capitalized term used and not defined herein shall have the same meaning as set forth in the Regulatory Agreement or the applicable deed rider.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

MUNICIPALITY

Town of Nantucket Zoning Board of Appeals

By:

Name: Edward Toole

Title: Chairman, Zoning Board of Appeals

MONITORING AGENT

NHA Properties, Inc., d/b/a Housing Nantucket

By:

Name:

Title:

SECONDARY MONITORING AGENT

Nantucket Housing Authority

By:

Name:

Title:

559048/NANT/0001

AFFORDABLE HOUSING RESTRICTION

***For Projects in Which
Affordability Restrictions Survive Foreclosure***

THIS AFFORDABLE HOUSING RESTRICTION (this "Restriction") is:
[] incorporated in and made part of that certain deed (the "Deed") of certain property (the "Property") from

_____ ("Grantor")
to _____ ("Owner") dated
_____, 20___; or
[] being granted in connection with a financing or refinancing secured by a mortgage on the
Property dated _____, 20___. The Property is located in the City/Town of
_____ (the "Municipality").

RECITALS

WHEREAS, the Owner is purchasing the Property, or is obtaining a loan secured by a mortgage on the Property that was originally purchased, at a consideration which is less than the fair market value of the Property; and

WHEREAS, the Property is part of a project which was: [check all that are applicable]

- (i) granted a Comprehensive Permit under Massachusetts General Laws Chapter 40B, Sections 20-23, from the Board of Appeals of the Municipality or the Housing Appeals Committee and recorded/filed with the _____ County Registry of Deeds/Registry District of Land Court (the "Registry") in Book _____, Page _____/Document No. _____ (the "Comprehensive Permit"); and/or
- (ii) subject to a Regulatory Agreement among _____ (the "Developer"), [] Massachusetts Housing Finance Agency ("MassHousing"), [] the Massachusetts Department of Housing and Community Development] ("DHCD") [] the Municipality; and [] _____, dated _____ and recorded/filed with the Registry in Book _____, Page _____/as Document No. _____ (the "Regulatory Agreement"); and/or
- (iii) subsidized by the federal or state government under _____, a program to assist construction of low or moderate income housing the "Program"; and

WHEREAS, pursuant to the Program, eligible purchasers such as the Owner are given the opportunity to purchase residential property at less than its fair market value if the purchaser agrees to certain use and transfer restrictions, including an agreement to occupy the property as a principal residence and to convey the property for an amount not greater than a maximum resale price, all as more fully provided herein; and

WHEREAS, _____ (singly, or if more than one entity is listed, collectively, the “Monitoring Agent”) is obligated by the Program or has been retained to monitor compliance with and to enforce the terms of this Restriction, and eligible purchasers such as the Owner may be required to pay to the Monitoring Agent, or its successor, a small percentage of the resale price upon the Owner’s conveyance of the Property, as set out in the Regulatory Agreement and as more fully provided herein; and

WHEREAS, the rights and restrictions granted herein to the Monitoring Agent and the Municipality serve the public’s interest in the creation and retention of affordable housing for persons and households of low and moderate income and in the restricting of the resale price of property in order to assure its affordability by future low and moderate income purchasers.

NOW, THEREFORE, as further consideration for the conveyance of the Property at less than fair market value (if this Restriction is attached to the Deed), or as further consideration for the ability to enter into the financing or refinancing transaction, the Owner (and the Grantor if this Restriction is attached to the Deed), including his/her/their heirs, successors and assigns, hereby agree that the Property shall be subject to the following rights and restrictions which are imposed for the benefit of, and shall be enforceable by, the Municipality and the Monitoring Agent, and, if DHCD is a party to the Regulatory Agreement and is not the Monitoring Agent, by DHCD.

1. Definitions. In this Restriction, in addition to the terms defined above, the following words and phrases shall have the following meanings:

Affordable Housing Fund means a fund established by the Municipality for the purpose of reducing the cost of housing for Eligible Purchasers or for the purpose of encouraging, creating, or subsidizing the construction or rehabilitation of housing for Eligible Purchasers or, if no such fund exists, a fund established by the Municipality pursuant to Massachusetts General Laws Chapter 44 Section 53A, et seq.

Applicable Foreclosure Price shall have the meaning set forth in Section 7(b) hereof.

Appropriate Size Household means a household containing a number of members equal to the number of bedrooms in the Property plus one.

Approved Capital Improvements means the documented commercially reasonable cost of extraordinary capital improvements made to the Property by the Owner; provided that the Monitoring Agent shall have given written authorization for incurring such cost prior to the cost being incurred and that the original cost of such improvements shall be discounted over the course of their useful life.

Area means the Primary Metropolitan Statistical Area or non-metropolitan area that includes the Municipality, as determined by HUD, which in this case is _____.

Area Median Income means the most recently published median income for the Area adjusted for household size as determined by HUD. If HUD discontinues publication of Area Median

Income, the income statistics used by MassHousing for its low and moderate income housing programs shall apply.

Base Income Number means the Area Median Income for a four (4)-person household.

Chief Executive Officer shall mean the Mayor in a city or the Board of Selectmen in a town unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter.

Closing shall have the meaning set forth in Section 5(b) hereof.

Compliance Certificate shall have the meaning set forth in Section 6(a) hereof.

Conveyance Notice shall have the meaning set forth in Section 4(a) hereof.

Eligible Purchaser means an individual or household earning no more than eighty percent (80%) of Area Median Income (or, if checked [] _____ percent (____%) of Area Median Income, as required by the Program) and owning assets not in excess of the limit set forth in the Program Guidelines. To be considered an Eligible Purchaser, the individual or household must intend to occupy and thereafter must occupy the Property as his, her or their principal residence and must provide to the Monitoring Agent such certifications as to income, assets and residency as the Monitoring Agent may require to determine eligibility as an Eligible Purchaser. An Eligible Purchaser shall be a First-Time Homebuyer if required by the Program and as specified in the Regulatory Agreement.

First-Time Homebuyer means an individual or household, of which no household member has had an ownership interest in a principal residence at any time during the three (3)-year period prior to the date of qualification as an Eligible Purchaser, except that (i) any individual who is a displaced homemaker (as may be defined by DHCD) (ii) and any individual age 55 or over (applying for age 55 or over housing) shall not be excluded from consideration as a First-Time Homebuyer under this definition on the basis that the individual, owned a home or had an ownership interest in a principal residence at any time during the three (3)-year period.

Foreclosure Notice shall have the meaning set forth in Section 7(a) hereof.

HUD means the United States Department of Housing and Urban Development.

Ineligible Purchaser means an individual or household not meeting the requirements to be eligible as an Eligible Purchaser.

Maximum Resale Price means the sum of (i) the Base Income Number (at the time of resale) multiplied by the Resale Price Multiplier, plus (ii) the Resale Fee and any necessary marketing expenses (including broker's fees) as may have been approved by the Monitoring Agent, plus (iii) Approved Capital Improvements, if any (the original cost of which shall have been discounted over time, as calculated by the Monitoring Agent); provided that in no event shall the Maximum Resale Price be greater than the purchase price for which a credit-worthy Eligible Purchaser earning seventy percent (70%) of the Area Median Income (or, if checked [] _____ percent (____%) of Area Median Income, as required by the Program) for an Appropriate Size Household could obtain mortgage financing (as such purchase price is determined by the Monitoring Agent using the same methodology then used by DHCD for its Local Initiative Program or similar comprehensive permit program); and further provided that the Maximum Resale Price shall not be less than the purchase price paid for the Property by the Owner unless the Owner agrees to accept a lesser price.

Monitoring Services Agreement means any Monitoring Services Agreement for monitoring and enforcement of this Restriction among some or all of the Developer, the Monitoring Agent, the Municipality, MassHousing and DHCD.

Mortgage Satisfaction Amount shall have the meaning set forth in Section 7(b) hereof.

Mortgagee shall have the meaning set forth in Section 7(a) hereof.

Program Guidelines means the regulations and/or guidelines issued for the applicable Program and controlling its operations, as amended from time to time.

Resale Fee means a fee of _____% [no more than two and one-half percent (2.5%)] of the Base Income Number (at the time of resale) multiplied by the Resale Price Multiplier, to be paid to the Monitoring Agent as compensation for monitoring and enforcing compliance with the terms of this Restriction, including the supervision of the resale process.

Resale Price Certificate means the certificate issued as may be specified in the Regulatory Agreement and recorded with the first deed of the Property from the Developer, or the subsequent certificate (if any) issued as may be specified in the Regulatory Agreement, which sets forth the Resale Price Multiplier to be applied on the Owner's sale of the Property, as provided herein, for so long as the restrictions set forth herein continue. In the absence of contrary specification in the Regulatory Agreement the Monitoring Agent shall issue the certificate.

Resale Price Multiplier means the number calculated by dividing the Property's initial sale price by the Base Income Number at the time of the initial sale from the Developer to the first Eligible Purchaser. The Resale Price Multiplier will be multiplied by the Base Income Number at the time of the Owner's resale of the Property to determine the Maximum Resale Price on such conveyance subject to adjustment for the Resale Fee, marketing expenses and Approved Capital Improvements. In the event that the purchase price paid for the Property by the Owner includes such an adjustment a new Resale Price Multiplier will be recalculated by the Monitoring Agent by dividing the purchase price so paid by the Base Income Number at the time of such purchase, and a new Resale Price Certificate will be issued and recorded reflecting the new Resale Price Multiplier. A Resale Price Multiplier of _____ is hereby assigned to the Property.

Term means in perpetuity, unless earlier terminated by (i) the termination of the term of affordability set forth in the Regulatory Agreement or Comprehensive Permit, whichever is longer; or (ii) the recording of a Compliance Certificate and a new Restriction executed by the purchaser in form and substance substantially identical to this Restriction establishing a new term.

2. Owner-Occupancy/Principal Residence. The Property shall be occupied and used by the Owner's household exclusively as his, her or their principal residence. Any use of the Property or activity thereon which is inconsistent with such exclusive residential use is expressly prohibited.

3. Restrictions Against Leasing, Refinancing and Junior Encumbrances. The Property shall not be leased, rented, refinanced, encumbered (voluntarily or otherwise) or mortgaged without the prior written consent of the Monitoring Agent; provided that this provision shall not apply to a first mortgage granted on the date of the delivery of the Deed in connection with the conveyance of the Property from Grantor to Owner securing indebtedness not greater than one hundred percent (100%) of the purchase price. Any rents, profits, or proceeds from any transaction described in the preceding sentence which transaction has not

received the requisite written consent of the Monitoring Agent shall be paid upon demand by Owner to the Municipality for deposit to its Affordable Housing Fund. The Monitoring Agent or Municipality may institute proceedings to recover such rents, profits or proceeds, and costs of collection, including attorneys' fees. Upon recovery, after payment of costs, the balance shall be paid to the Municipality for deposit to its Affordable Housing Fund. In the event that the Monitoring Agent consents for good cause to any such lease, refinancing, encumbrance or mortgage, it shall be a condition to such consent that all rents, profits or proceeds from such transaction, which exceed the actual carrying costs of the Property as determined by the Monitoring Agent, shall be paid to the Municipality for deposit to its Affordable Housing Fund.

4. Options to Purchase. (a) When the Owner or any successor in title to the Owner shall desire to sell, dispose of or otherwise convey the Property, or any portion thereof, the Owner shall notify the Monitoring Agent and the Municipality in writing of the Owner's intention to so convey the Property (the "Conveyance Notice"). Upon receipt of the Conveyance Notice, the Monitoring Agent shall (i) calculate the Maximum Resale Price which the Owner may receive on the sale of the Property based upon the Base Income Number in effect as of the date of the Conveyance Notice and the Resale Price Multiplier set forth in the most recently recorded Resale Price Certificate together with permissible adjustments for the Resale Fee, marketing expenses and Approved Capital Improvements (as discounted), and (ii) promptly begin marketing efforts. The Owner shall fully cooperate with the Monitoring Agent's efforts to locate an Eligible Purchaser and, if so requested by the Monitoring Agent, shall hire a broker selected by the Monitoring Agent to assist in locating an Eligible Purchaser ready, willing and able to purchase the Property at the Maximum Resale Price after entering a purchase and sale agreement. Pursuant to such agreement, sale to the Eligible Purchaser at the Maximum Resale Price shall occur within ninety (90) days after the Monitoring Agent receives the Conveyance Notice or such further time as reasonably requested to arrange for details of closing. If the Owner fails to cooperate in such resale efforts, including a failure to agree to reasonable terms in the purchase and sale agreement, the Monitoring Agent may extend the 90-day period for a period commensurate with the time the lack of cooperation continues, as determined by the Monitoring Agent in its reasonable discretion. In such event, the Monitoring Agent shall give Owner written notice of the lack of cooperation and the length of the extension added to the 90-day period.

(b) The Monitoring Agent shall ensure that diligent marketing efforts are made to locate an Eligible Purchaser ready, willing and able to purchase the Property at the Maximum Resale Price within the time period provided in subsection (a) above and to enter the requisite purchase and sale agreement. If more than one Eligible Purchaser is located, the Monitoring Agent shall conduct a lottery or other like procedure to determine which Eligible Purchaser shall be entitled to enter a purchase and sale agreement with Owner and to purchase the Property. Preference shall be given to Appropriate Size Households. The procedure for marketing and selecting an Eligible Purchaser shall be approved as provided in the Regulatory Agreement and any applicable Program Guidelines. If an Eligible Purchaser is located within ninety (90) days after receipt of the Conveyance Notice, but such Eligible Purchaser proves unable to secure mortgage financing so as to be able to complete the purchase of the Property pursuant to the purchase and sale agreement, following written notice to Owner within the 90-day period the Monitoring Agent shall have an additional sixty (60) days to locate another Eligible Purchaser who will enter

a purchase and sale agreement and purchase the Property by the end of such sixty (60)-day period or such further time as reasonably requested to carry out the purchase and sale agreement.

(c) In lieu of sale to an Eligible Purchaser, the Monitoring Agent or the Municipality or designee shall also have the right to purchase the Property at the Maximum Resale Price, in which event the purchase and sale agreement shall be entered, and the purchase shall occur within ninety (90) days after receipt of the Conveyance Notice or, within the additional sixty (60)-day period specified in subsection (b) above, or such further time as reasonably requested to carry out the purchase and sale agreement. Any lack of cooperation by Owner in measures reasonably necessary to effect the sale shall extend the 90-day period by the length of the delay caused by such lack of cooperation. The Monitoring Agent shall promptly give Owner written notice of the lack of cooperation and the length of the extension added to the 90-day period. In the event of such a sale to the Monitoring Agent or Municipality or designee, the Property shall remain subject to this Restriction and shall thereafter be sold or rented to an Eligible Purchaser as may be more particularly set forth in the Regulatory Agreement.

(d) If an Eligible Purchaser fails to purchase the Property within the 90-day period (or such further time determined as provided herein) after receipt of the Conveyance Notice, and the Monitoring Agent or Municipality or designee does not purchase the Property during said period, then the Owner may convey the Property to an Ineligible Purchaser no earlier than thirty (30) days after the end of said period at the Maximum Resale Price, but subject to all rights and restrictions contained herein; provided that the Property shall be conveyed subject to a Restriction identical in form and substance to this Restriction which the Owner agrees to execute, to secure execution by the Ineligible Purchaser and to record with the Deed; and further provided that, if more than one Ineligible Purchaser is ready, willing and able to purchase the Property the Owner will give preference and enter a purchase and sale agreement with any individuals or households identified by the Monitoring Agent as an Appropriate Size Household earning more than eighty percent (80%) but less than one hundred twenty percent (120%) of the Area Median Income.

(e) The priority for exercising the options to purchase contained in this Section 4 shall be as follows: (i) an Eligible Purchaser located and selected by the Monitoring Agent, as provided in subsection (b) above, (ii) the Municipality or its designee, as provided in subsection (c) above, and (iii) an Ineligible Purchaser, as provided in subsection (d) above.

(f) Nothing in this Restriction or the Regulatory Agreement constitutes a promise, commitment or guarantee by DHCD, MassHousing, the Municipality or the Monitoring Agent that upon resale the Owner shall actually receive the Maximum Resale Price for the Property or any other price for the Property.

(g) The holder of a mortgage on the Property is not obligated to forbear from exercising the rights and remedies under its mortgage, at law or in equity, after delivery of the Conveyance Notice.

5. Delivery of Deed. (a) In connection with any conveyance pursuant to an option to purchase as set forth in Section 4 above, the Property shall be conveyed by the Owner to the selected purchaser by a good and sufficient quitclaim deed conveying a good and clear record and marketable title to the Property free from all encumbrances except (i) such taxes for the then current year as are not due and payable on the date of delivery of the deed, (ii) any lien for municipal betterments assessed after the date of the Conveyance Notice, (iii) provisions of local

building and zoning laws, (iv) all easements, restrictions, covenants and agreements of record specified in the deed from the Owner to the selected purchaser, (v) such additional easements, restrictions, covenants and agreements of record as the selected purchaser consents to, such consent not to be unreasonably withheld or delayed, (vi) the Regulatory Agreement, and (vii), except as otherwise provided in the Compliance Certificate, a Restriction identical in form and substance to this Restriction which the Owner hereby agrees to execute, to secure execution by the selected purchaser, and to record with the deed. **Said deed shall clearly state that it is made subject to the Restriction which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance from the Owner to the selected purchaser or the enforceability of the restrictions herein.

(b) Said deed, including the approved Restriction, shall be delivered and the purchase price paid (the "Closing") at the Registry, or at the option of the selected purchaser, exercised by written notice to the Owner at least five (5) days prior to the delivery of the deed, at such other place as the selected purchaser may designate in said notice. The Closing shall occur at such time and on such date as shall be specified in a written notice from the selected purchaser to the Owner, which date shall be at least five (5) days after the date on which such notice is given, and no later than the end of the time period specified in Section 4(a) above.

(c) To enable Owner to make conveyance as herein provided, Owner may, if Owner so desires at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, all instruments with respect thereto to be recorded simultaneously with the delivery of said deed. Nothing contained herein as to the Owner's obligation to remove defects in title or to make conveyance or to deliver possession of the Property in accordance with the terms hereof, as to use of proceeds to clear title or as to the election of the selected purchaser to take title, nor anything else in this Restriction shall be deemed to waive, impair or otherwise affect the priority of the rights herein over matters appearing of record, or occurring, at any time after the recording of this Restriction, all such matters so appearing or occurring being subject and subordinate in all events to the rights herein.

(d) Water and sewer charges and taxes for the then current tax period shall be apportioned and fuel value shall be adjusted as of the date of Closing and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the selected purchaser.

(e) Full possession of the Property free from all occupants is to be delivered at the time of the Closing, the Property to be then in the same condition as it is in on the date of the execution of the purchase and sale agreement, reasonable wear and tear only excepted.

(f) If Owner shall be unable to give title or to make conveyance as above required, or if any change of condition in the Property not included in the above exception shall occur, then Owner shall be given a reasonable time not to exceed thirty (30) days after the date on which the Closing was to have occurred in which to remove any defect in title or to restore the Property to the condition herein required. The Owner shall use best efforts to remove any such defects in the title, whether voluntary or involuntary, and to restore the Property to the extent permitted by insurance proceeds or condemnation award. The Closing shall occur fifteen (15) days after notice by Owner that such defect has been cured or that the Property has been so restored. The selected purchaser shall have the election, at either the original or any extended time for performance, to accept such title as the Owner can deliver to the Property in its then condition

and to pay therefor the purchase price without deduction, in which case the Owner shall convey such title, except that in the event of such conveyance in accordance with the provisions of this clause, if the Property shall have been damaged by fire or casualty insured against or if a portion of the Property shall have been taken by a public authority, then the Owner shall, unless the Owner has previously restored the Property to its former condition, either:

(A) pay over or assign to the selected purchaser, on delivery of the deed, all amounts recovered or recoverable on account of such insurance or condemnation award less any amounts reasonably expended by the Owner for any partial restoration, or

(B) if a holder of a mortgage on the Property shall not permit the insurance proceeds or the condemnation award or part thereof to be used to restore the Property to its former condition or to be so paid over or assigned, give to the selected purchaser a credit against the purchase price, on delivery of the deed, equal to said amounts so retained by the holder of the said mortgage less any amounts reasonably expended by the Owner for any partial restoration.

6. Resale and Transfer Restrictions. (a) Except as otherwise provided herein, the Property or any interest therein shall not at any time be sold by the Owner, or the Owner's successors and assigns, and no attempted sale shall be valid, unless the aggregate value of all consideration and payments of every kind given or paid by the selected purchaser of the Property for and in connection with the transfer of such Property, is equal to or less than the Maximum Resale Price for the Property, and unless a certificate (the "Compliance Certificate") is obtained and recorded, signed and acknowledged by the Monitoring Agent which Compliance Certificate refers to the Property, the Owner, the selected purchaser thereof, and the Maximum Resale Price therefor, and states that the proposed conveyance, sale or transfer of the Property to the selected purchaser is in compliance with the rights, restrictions, covenants and agreements contained in this Restriction, and unless there is also recorded a new Restriction executed by the selected purchaser, which new Restriction is identical in form and substance to this Restriction.

(b) The Owner, any good faith purchaser of the Property, any lender or other party taking a security interest in such Property and any other third party may rely upon a Compliance Certificate as conclusive evidence that the proposed conveyance, sale or transfer of the Property to the selected purchaser is in compliance with the rights, restrictions, covenants and agreements contained in this Restriction, and may record such Compliance Certificate in connection with the conveyance of the Property.

(c) Within ten (10) days of the closing of the conveyance of the Property from the Owner to the selected purchaser, the Owner shall deliver to the Monitoring Agent a copy of the Deed of the Property, including the Restriction, together with recording information. Failure of the Owner, or Owner's successors or assigns to comply with the preceding sentence shall not affect the validity of such conveyance or the enforceability of the restrictions herein.

7. Survival of Restrictions Upon Exercise of Remedies by Mortgagees. (a) The holder of record of any mortgage on the Property (each, a "Mortgagee") shall notify the Monitoring Agent, the Municipality and any senior Mortgagee(s) in the event of any default for which the Mortgagee intends to commence foreclosure proceedings or similar remedial action pursuant to its mortgage (the "Foreclosure Notice"), which notice shall be sent to the Monitoring Agent and the Municipality as set forth in this Restriction, and to the senior Mortgagee(s) as set

forth in such senior Mortgagee's mortgage, not less than one hundred twenty (120) days prior to the foreclosure sale or the acceptance of a deed in lieu of foreclosure. The Owner expressly agrees to the delivery of the Foreclosure Notice and any other communications and disclosures made by the Mortgagee pursuant to this Restriction.

(b) The Owner grants to the Municipality or its designee the right and option to purchase the Property upon receipt by the Municipality of the Foreclosure Notice. In the event that the Municipality intends to exercise its option, the Municipality or its designee shall purchase the Property within one hundred twenty (120) days of receipt of such notice, at a price equal to the greater of (i) the sum of the outstanding principal balance of the note secured by such foreclosing Mortgagee's mortgage, together with the outstanding principal balance(s) of any note(s) secured by mortgage(s) senior in priority to such mortgage (but in no event shall the aggregate amount thereof be greater than one hundred percent (100%) of the Maximum Resale Price calculated at the time of the granting of the mortgage) plus all future advances, accrued interest and all reasonable costs and expenses which the foreclosing Mortgagee and any senior Mortgagee(s) are entitled to recover pursuant to the terms of such mortgages (the "Mortgage Satisfaction Amount"), and (ii) the Maximum Resale Price (which for this purpose may be less than the purchase price paid for the Property by the Owner)(the greater of (i) and (ii) above herein referred to as the "Applicable Foreclosure Price"). The Property shall be sold and conveyed in its then-current "as is, where is" condition, without representation or warranty of any kind, direct or indirect, express or implied, and with the benefit of and subject to all rights, rights of way, restrictions, easements, covenants, liens, improvements, housing code violations, public assessments, any and all unpaid federal or state taxes (subject to any rights of redemption for unpaid federal taxes), municipal liens and any other encumbrances of record then in force and applicable to the Property having priority over such foreclosing Mortgagee's mortgage, and further subject to a Restriction identical in form and substance to this Restriction which the Owner hereby agrees to execute, to secure execution by the Municipality or its designee, and to record with the deed, except that (i) during the term of ownership of the Property by the Municipality or its designee the owner-occupancy requirements of Section 2 hereof shall not apply (unless the designee is an Eligible Purchaser), and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by the Municipality or its designee, but not greater than the Applicable Foreclosure Price. **Said deed shall clearly state that it is made subject to the Restriction which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance from the Owner to the Municipality or its designee or the enforceability of the restrictions herein.

(c) Not earlier than one hundred twenty (120) days following the delivery of the Foreclosure Notice to the Monitoring Agent, the Municipality and any senior Mortgagee(s) pursuant to subsection (a) above, the foreclosing Mortgagee may conduct the foreclosure sale or accept a deed in lieu of foreclosure. The Property shall be sold and conveyed in its then-current "as is, where is" condition, without representation or warranty of any kind, direct or indirect, express or implied, and with the benefit of and subject to all rights, rights of way, restrictions, easements, covenants, liens, improvements, housing code violations, public assessments, any and all unpaid federal or state taxes (subject to any rights of redemption for unpaid federal taxes), municipal liens and any other encumbrances of record then in force and applicable to the

Property having priority over the foreclosing Mortgagee's mortgage, and further subject to a Restriction, as set forth below.

(d) In the event that the foreclosing Mortgagee conducts a foreclosure sale or other proceeding enforcing its rights under its mortgage and the Property is sold for a price in excess of the greater of the Maximum Resale Price and the Mortgage Satisfaction Amount, such excess shall be paid to the Municipality for its Affordable Housing Fund after (i) a final judicial determination, or (ii) a written agreement of all parties who, as of such date hold (or have been duly authorized to act for other parties who hold) a record interest in the Property, that the Municipality is entitled to such excess. The legal costs of obtaining any such judicial determination or agreement shall be deducted from the excess prior to payment to the Municipality. To the extent that the Owner possesses any interest in any amount which would otherwise be payable to the Municipality under this paragraph, to the fullest extent permissible by law, the Owner hereby assigns its interest in such amount to the Mortgagee for payment to the Municipality.

(e) If any Mortgagee shall acquire the Property by reason of foreclosure or upon conveyance of the Property in lieu of foreclosure, then the rights and restrictions contained herein shall apply to such Mortgagee upon such acquisition of the Property and to any purchaser of the Property from such Mortgagee, and the Property shall be conveyed subject to a Restriction identical in form and substance to this Restriction, which the Mortgagee that has so acquired the Property agrees to annex to the deed and to record with the deed, except that (i) during the term of ownership of the Property by such Mortgagee the owner-occupancy requirements of Section 2 hereof shall not apply, and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by such Mortgagee at the foreclosure sale, but not greater than the Applicable Foreclosure Price. **Said deed shall clearly state that it is made subject to the Restriction which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance to the Mortgagee or the enforceability of the restrictions herein.

(f) If any party other than a Mortgagee shall acquire the Property by reason of foreclosure or upon conveyance of the Property in lieu of foreclosure, the Property shall be conveyed subject to a Restriction identical in form and substance to this Restriction, which the foreclosing Mortgagee agrees to annex to the deed and to record with the deed, except that (i) if the purchaser at such foreclosure sale or assignee of a deed in lieu of foreclosure is an Ineligible Purchaser, then during the term of ownership of the Property by such Ineligible Purchaser, the owner-occupancy requirements of Section 2 hereof shall not apply, and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by such third party purchaser at the foreclosure sale, but not greater than the Applicable Foreclosure Price. **Said deed shall clearly state that it is made subject to the Restriction which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance to such third party purchaser or the enforceability of the restrictions herein.

(g) Upon satisfaction of the requirements contained in this Section 7, the Monitoring Agent shall issue a Compliance Certificate to the foreclosing Mortgagee which, upon recording in the Registry, may be relied upon as provided in Section 6(b) hereof as conclusive evidence that the conveyance of the Property pursuant to this Section 7 is in compliance with the rights, restrictions, covenants and agreements contained in this Restriction.

(h) The Owner understands and agrees that nothing in this Restriction or the Regulatory Agreement (i) in any way constitutes a promise or guarantee by MassHousing, DHCD, the Municipality or the Monitoring Agent that the Mortgagee shall actually receive the Mortgage Satisfaction Amount, the Maximum Resale Price for the Property or any other price for the Property, or (ii) impairs the rights and remedies of the Mortgagee in the event of a deficiency.

(i) If a Foreclosure Notice is delivered after the delivery of a Conveyance Notice as provided in Section 4(a) hereof, the procedures set forth in this Section 7 shall supersede the provisions of Section 4 hereof.

8. Covenants to Run With the Property. (a) This Restriction, including all restrictions, rights and covenants contained herein, is an affordable housing restriction as that term is defined in Section 31 of Chapter 184 of the Massachusetts General Laws, having the benefit of Section 32 of such Chapter 184, and is enforceable as such. This Restriction has been approved by the Director of DHCD.

(b) In confirmation thereof the Owner (and the Grantor if this Restriction is attached to the Deed) intend, declare and covenant (i) that this Restriction, including all restrictions, rights and covenants contained herein, shall be and are covenants running with the land, encumbering the Property for the Term, and are binding upon the Owner and the Owner's successors in title and assigns, (ii) are not merely personal covenants of the Owner, and (iii) shall enure to the benefit of and be enforceable by the Municipality, the Monitoring Agent and DHCD and their successors and assigns, for the Term. Owner hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts have been satisfied in order for the provisions of this Restriction to constitute restrictions and covenants running with the land and that any requirements of privity of estate have been satisfied in full.

9. Notice. Any notices, demands or requests that may be given under this Restriction shall be sufficiently served if given in writing and delivered by hand or mailed by certified or registered mail, postage prepaid, return receipt requested, to the following entities and parties in interest at the addresses set forth below, or such other addresses as may be specified by any party (or its successor) by such notice.

Municipality: _____

Grantor: _____
(applicable _____
only if this _____
Restriction _____
is attached _____
to the Deed) _____

Owner: _____

Monitoring Agent[s]
(1) _____

(2) _____

Others: _____

Any such notice, demand or request shall be deemed to have been given on the day it is hand delivered or mailed.

10. Further Assurances. The Owner agrees from time to time, as may be reasonably required by the Monitoring Agent, to furnish the Monitoring Agent upon its request with a written statement, signed and, if requested, acknowledged, setting forth the condition and occupancy of the Property, information concerning the resale of the Property and other material information pertaining to the Property and the Owner's conformance with the requirements of the Comprehensive Permit, Program and Program Guidelines, as applicable.

11. Enforcement. (a) The rights hereby granted shall include the right of the Municipality and the Monitoring Agent to enforce this Restriction independently by appropriate legal proceedings and to obtain injunctive and other appropriate relief on account of any violations including without limitation relief requiring restoration of the Property to the condition, affordability or occupancy which existed prior to the violation impacting such condition, affordability or occupancy (it being agreed that there shall be no adequate remedy at

law for such violation), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Municipality and the Monitoring Agent.

(b) Without limitation of any other rights or remedies of the Municipality and the Monitoring Agent, or their successors and assigns, in the event of any sale, conveyance or other transfer or occupancy of the Property in violation of the provisions of this Restriction, the Municipality and Monitoring Agent shall be entitled to the following remedies, which shall be cumulative and not mutually exclusive:

- (i) specific performance of the provisions of this Restriction;
- (ii) money damages for charges in excess of the Maximum Resale Price, if applicable;
- (iii) if the violation is a sale of the Property to an Ineligible Purchaser except as permitted herein, the Monitoring Agent and the Municipality shall have the option to locate an Eligible Purchaser to purchase or itself purchase the Property from the Ineligible Purchaser on the terms and conditions provided herein; the purchase price shall be a price which complies with the provisions of this Restriction; specific performance of the requirement that an Ineligible Purchaser shall sell, as herein provided, may be judicially ordered.
- (iv) the right to void any contract for sale or any sale, conveyance or other transfer of the Property in violation of the provisions of this Restriction in the absence of a Compliance Certificate, by an action in equity to enforce this Restriction; and
- (v) money damages for the cost of creating or obtaining a comparable dwelling unit for an Eligible Purchaser.

(c) In addition to the foregoing, the Owner hereby agrees and shall be obligated to pay all fees and expenses (including legal fees) of the Monitoring Agent and/or the Municipality in the event successful enforcement action is taken against the Owner or Owner's successors or assigns. The Owner hereby grants to the Monitoring Agent and the Municipality a lien on the Property, junior to the lien of any institutional holder of a first mortgage on the Property, to secure payment of such fees and expenses in any successful enforcement action. The Monitoring Agent and the Municipality shall be entitled to seek recovery of fees and expenses incurred in a successful enforcement action of this Restriction against the Owner and to assert such a lien on the Property to secure payment by the Owner of such fees and expenses. Notwithstanding anything herein to the contrary, in the event that the Monitoring Agent and/or Municipality fails to enforce this Restriction as provided in this Section, DHCD, if it is not named as Monitoring Agent, shall have the same rights and standing to enforce this Restriction as the Municipality and Monitoring Agent.

(d) The Owner for himself, herself or themselves and his, her or their successors and assigns, hereby grants to the Monitoring Agent and the Municipality the right to take all actions with respect to the Property which the Monitoring Agent or Municipality may determine to be necessary or appropriate pursuant to applicable law, court order, or the consent of the Owner to prevent, remedy or abate any violation of this Restriction.

12. Monitoring Agent Services; Fees. The Monitoring Agent shall monitor compliance of the Project and enforce the requirements of this Restriction. As partial compensation for providing these services, a Resale Fee [] shall [] shall not be payable to the

Monitoring Agent on the sale of the Property to an Eligible Purchaser or any other purchaser in accordance with the terms of this Restriction. This fee, if imposed, shall be paid by the Owner herein as a closing cost at the time of Closing, and payment of the fee to the Monitoring Agent shall be a condition to delivery and recording of its certificate, failing which the Monitoring Agent shall have a claim against the new purchaser, his, her or their successors or assigns, for which the Monitoring Agent may bring an action and may seek an attachment against the Property.

13. Actions by Municipality. Any action required or allowed to be taken by the Municipality hereunder shall be taken by the Municipality's Chief Executive Officer or designee.

14. Severability. If any provisions hereof or the application thereof to any person or circumstance are judicially determined, to any extent, to be invalid or unenforceable, the remainder hereof, or the application of such provision to the persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby.

15. Independent Counsel. THE OWNER ACKNOWLEDGES THAT HE, SHE, OR THEY HAVE READ THIS DOCUMENT IN ITS ENTIRETY AND HAS HAD THE OPPORTUNITY TO CONSULT LEGAL AND FINANCIAL ADVISORS OF HIS, HER OR THEIR CHOOSING REGARDING THE EXECUTION, DELIVERY AND PERFORMANCE OF THE OBLIGATIONS HEREUNDER.

16. Binding Agreement. This Restriction shall bind and inure to the benefit of the persons, entities and parties named herein and their successors or assigns as are permitted by this Restriction.

17. Amendment. This Restriction may not be rescinded, modified or amended, in whole or in part, without the written consent of the Monitoring Agent, the Municipality and the holder of any mortgage or other security instrument encumbering all or any portion of the Property, which written consent shall be recorded with the Registry.

Executed as a sealed instrument this _____ day of _____, 200__.

Grantor:
(applicable only if this
Restriction is attached to the Deed)

Owner:

By: _____

By: _____

[Space Below This Line for Acknowledgement]

COMMONWEALTH OF MASSACHUSETTS

_____ County, ss.

On this ____ day of _____, 200__, before me, the undersigned notary public, personally appeared _____, the _____ of _____ in its capacity as the _____ of _____, proved to me through satisfactory evidence of identification, which was [a current driver's license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged the foregoing instrument to be his or her free act and deed and the free act and deed of _____ as _____ of _____.

Notary Public
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

_____ County, ss.

On this ____ day of _____, 200__, before me, the undersigned notary public, personally appeared _____, the _____ of _____ in its capacity as the _____ of _____, proved to me through satisfactory evidence of identification, which was [a current driver's license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged the foregoing instrument to be his or her free act and deed and the free act and deed of _____ as _____ of _____.

Notary Public
My commission expires:

**TODD & LIZ WINSHIP
&
BESS CLARKE, TR. OF
SIXTEEN MONOHANSETT
ROAD TRUST**

16 MONOHANSETT RD.

FILE NO. 16-16

**WITHDRAWAL
REQUESTED**

GLIDDEN & GLIDDEN, P.C.
ATTORNEYS AT LAW
P. O. Box 1079
37 CENTRE STREET
NANTUCKET, MASSACHUSETTS 02554
508-228-0771
FAX 508-228-6205
OFFICE@GLIDDENANDGLIDDEN.COM

RICHARD J. GLIDDEN
JESSIE M. GLIDDEN BRESCHER
JOHN B. BRESCHER

JAMES K. GLIDDEN
(1917 – 2009)

July 8, 2016

Ms. Eleanor Antonietti
Zoning Administrator
Planning and Land Use Services
2 Fairgrounds Road
Nantucket, MA 02554

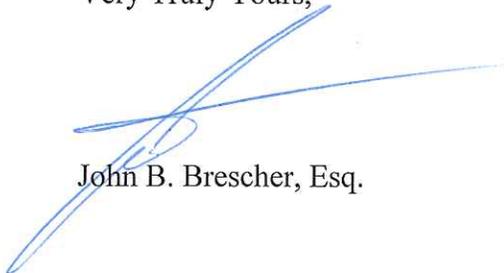
RE: Variance Request – ZBA File No. 16-16
16 Monohansett Road, Nantucket MA 02554

Dear Eleanor,

On behalf of my clients, Todd W. Winship, Elizabeth W. Winship, and Bess W. Clarke, Trustees of the 16 Monohansett Road Trust, I hereby request the application for their Variance request be withdrawn without prejudice.

If you have any questions, please do not hesitate to contact me. Trusting you find everything in order, I remain,

Very Truly Yours,



John B. Brescher, Esq.

**GERALD & MARGARET VENTO
TRUSTEES OF
91 LOW BEACH RD. NOM. TR.**

91 LOW BEACH RD.

FILE NO. 20-16

CONTINUED TO 8/11/16

NEW

BUSINESS

MADAKET WHEELHOUSE, LLC

13 MASSACHUSETTS AVE.

FILE NO. 15-16

This previously opened application had to be re-noticed due to changes to the proposed project which do not require Variance relief and only require Special Permit Relief.

Nantucket Zoning Board of Appeals



RENOTIFICATION OF PUBLIC NOTICE

A **PUBLIC HEARING** of the **NANTUCKET ZONING BOARD OF APPEALS** is scheduled for **12:00 PM** on Thursday, July 14, 2016 in the **Public Safety Facility Building** at 4 Fairgrounds Road, Nantucket, MA, 02554. The complete application materials may be reviewed at the Zoning Board of Appeals office at 2 Fairgrounds Road, Nantucket, MA 02554 between the hours of 7:30 A.M. and 4:30 P.M., Monday through Friday. Please submit written comments for the July 14, 2016 meeting to the Nantucket Zoning Board of Appeals at the above address, fax to (508) 228-7298, or e-mail to eamontietti@nantucket-ma.gov. Comments received in writing by 4:00 PM on Thursday, July 7, 2016, will be provided to the Board in advance of the meeting.

NEW BUSINESS¹: The following agenda item will be discussed July 14, 2016:

MADAKET WHEELHOUSE, LLC, FILE NO. 15-16

Applicant is seeking relief by Special Permit pursuant to Zoning By-law Section 139-33.A in order to alter the pre-existing nonconforming dwelling and garage. Applicant proposes to build an addition to the southeast corner of the dwelling which will be no closer than the existing westerly side yard setback distance of 4.4 feet where minimum side yard setback is ten (10) feet. Other dimensionally compliant additions are also proposed to the dwelling. Applicant further proposes to convert the garage/cottage into a secondary dwelling. The expansion will not bring the structure any closer than the current easterly side yard setback distance of 2.9 feet or the southerly front yard setback distance of 5.7 feet where minimum front yard setback is twenty (20) feet. The Locus is situated at 13 Massachusetts Avenue, is shown on Assessor's Map 60 as Parcel 75, and as Lots 12-15, Block 29 upon Land Court Plan 2408-Y and unregistered land lying north of said Lots. Evidence of owner's title is registered on Certificate of Title No. 25696 at the Nantucket County District of the Land Court and in Book 1494, Page 39 on file at the Registry of Deeds. The site is zoned Village Residential (VR).

¹ *This item was previously noticed and opened at the May 11, 2016 hearing. It is being re-noticed due to modification of the type of relief that is being sought. Variance relief is no longer necessary and the type of relief required is less intense than previously requested.*

Catherine Flanagan Stover, Town Clerk
Town of Nantucket - 16 Broad Street
Nantucket, MA 02554 twclerk@nantucket.net
508-228-7777 APR 12 2016 AM 9:30
Home: 508-228-7841

2016 APR 12 PM 3:14



**TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MA 02554
APPLICATION**

PAID PAID
APR 12 2016
BY: 2953

Fee: \$450.00

File No. 1516

Owner's name(s): Madaket Wheelhouse LLC

Mailing address: c/o Cohen & Cohen Law PC

Phone Number: 508-228-0337 E-Mail: Steven@CohenLegal.net

Applicant's name(s): Same

Mailing Address: Post Office Box 786, Nantucket, MA 02554

Phone Number: _____ E-Mail: _____

Locus Address: 13 Massachusetts Ave Assessor's Map/Parcel: 60 - 75

Deed: Book 1494 Page 39 Plan.: None

COT: 25696 LC Plan: Lots 12-15, Block 29 on LCPlan 2408-Y Zoning District: VR

Uses on Lot- Commercial: Residential house and cottage/garage

Residential: Number of dwellings 2 Duplex 0 Apartments 0

Date of Structure(s): all pre-date 7/72 Yes or _____

Building Permit Numbers: _____

Previous Zoning Board Application Numbers: _____

2 Fairgrounds Road Nantucket Massachusetts 02554
508-228-7215 telephone 508-228-7298 facsimile

Special permits or variance relief applying for:

The locus is a lot of about 30,277+/-SF in the Village Residential (VR) zoning district, which requires 20,000 SF of lot area. The locus contains a pre-existing, nonconforming single family dwelling and garage/cottage. The dwelling has about 1708+/-SF of ground cover and the ancillary garage has about 540+/- SF of ground cover, for a total ground cover ratio of about 7.4% where 10% is allowed. The dwelling is sited as close as 4.4 feet from the western/side lot line at its closest point where the minimum side yard setback is 10 feet. The garage/cottage is located as close as 2.9 feet from the eastern/side lot line and as close as 5.7 feet southerly/front lot line, at its closest points, where 10 feet and 20 feet are required respectively. These nonconformities pre-exist the 1972 adoption of the Nantucket Zoning By-law. The locus and structures thereon are conforming in all other respects.

Applicant proposes to alter and expand the dwelling to add two small additions at the interior side of the lot, totaling about 252+/-SF of ground cover and an outdoor shower (ODS) to the east with a surround as close as 0.5 feet from the eastern lot line, as per the attached plans. Applicant also proposes to alter the garage/cottage add about 32+/- SF of ground cover; to relocate it to outside of eastern setback, and further outside the front yard setback, as close as 6.0 feet from the southerly lot line its closest point; and to convert the structure to a 1.5 story structure, as per the attached plans. The proposed ground cover ratio is 8.4%.

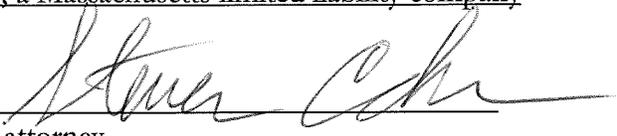
The proposed alterations and expansion of the structures would have no ground cover in the zoning setback that is closer to the lot lines than exists now. The two interior additions to the existing house are outside of the setbacks. The surround for the ODS contains no ground cover but it is a new structure in the setback and is a greater encroachment then now exists. However, adding the shower this way is required to satisfy Wetland Protection rules now applicable to this property due to the installation of a tight-tank. In practical terms, the ODS is no more impactful than the fence that runs along a large portion of the eastern boundary within the setback.

The garage is proposed to get slightly larger and taller, but the side yard setback encroachment would be cured and the front yard encroachment will be reduced. The only expansion in the setback is a roof overhang, but it is not closer to the lot line than exists now. The siting of the garage/cottage is based on siting guidelines for older structures and the requirement for 10 feet of building separation (i.e., the garage cottage cannot move completely out of the setback).

Accordingly, Applicant requests relief by Special Permit under Section 139-33.A for the alteration of a pre-existing nonconforming structure where the change is not more nonconforming and not substantially more detrimental to the neighborhood than the existing nonconformities, and also requests relief by Variance under Section 139-32, to the extent necessary, owing to the soil conditions, topography and that literal enforcement of the bylaw would involve a substantial hardship on the Applicant and relief may be granted without substantial detriment to the public good or nullifying or substantially derogating the intent or purpose of the Bylaw.

I certify that the information contained herein is substantially complete and true to the best of my knowledge, under the pains and penalties of perjury.

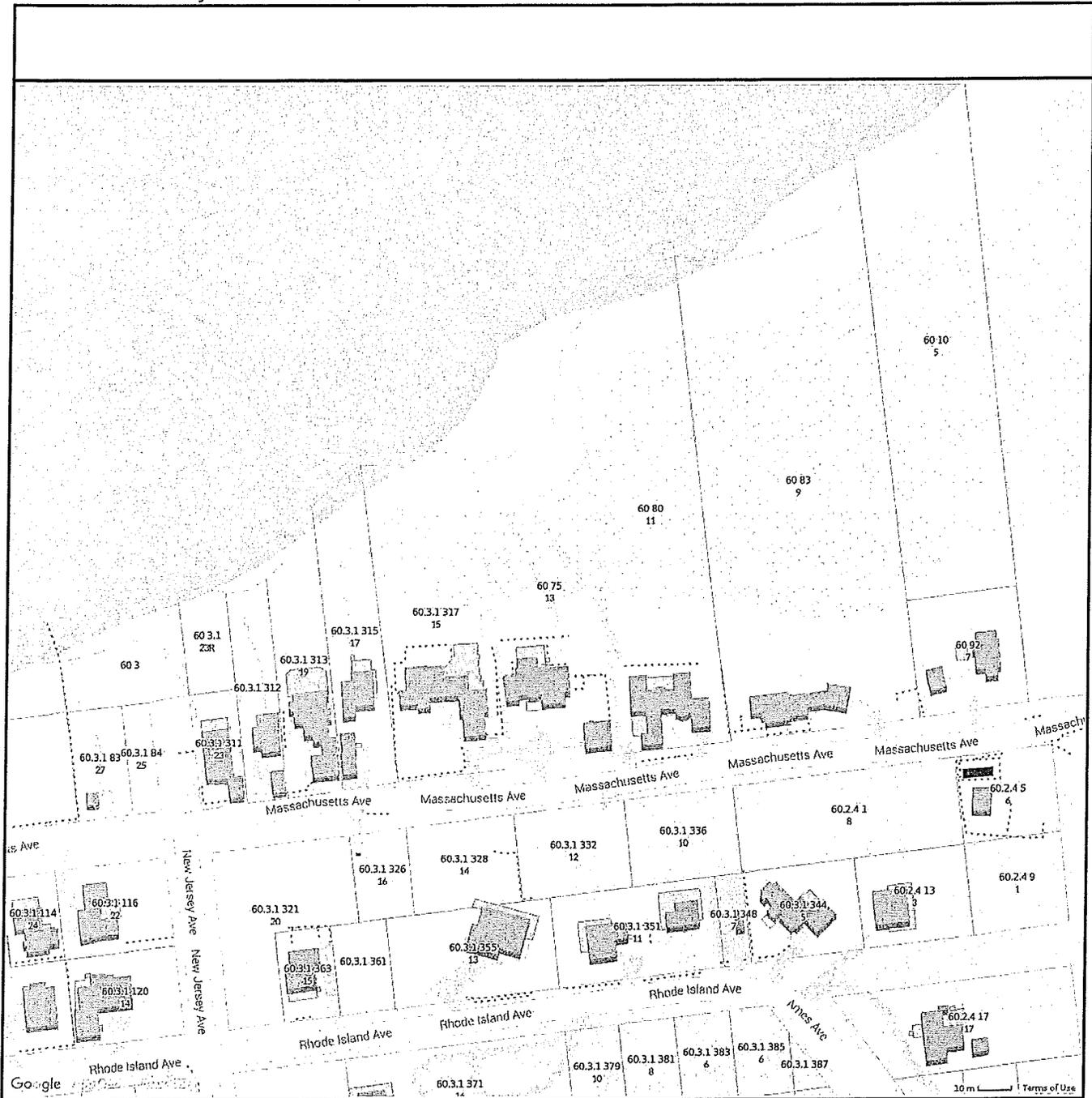
SIGNATURE: Madaket Wheelhouse LLC, a Massachusetts limited liability company
Owners, By:

SIGNATURE: 
Steven L. Cohen, their attorney

OFFICE USE ONLY

Application received on: ___/___/___ By: _____ Complete: _____ Need Copies: _____
Filed with Town Clerk: ___/___/___ Planning Board: ___/___/___ Building Dept.: ___/___/___ By: _____
Fee deposited with Town Treasurer: ___/___/___ By: _____ Waiver requested: _____
Granted: ___/___/___ Hearing notice posted with Town Clerk: ___/___/___ Mailed: ___/___/___
I&M ___/___/___ & ___/___/___ Hearing(s) held on: ___/___/___ Opened on : ___/___/___
Continued to: ___/___/___ Withdrawn: ___/___/___ Decision Due By: ___/___/___
Made: ___/___/___ Filed w/Town Clerk: ___/___/___ Mailed: ___/___/___

2 Fairgrounds Road Nantucket Massachusetts 02554
508-228-7215 telephone 508-228-7298 facsimile



Property Information

Property ID 60 75
Location 13 MASSACHUSETTS AV
Owner HANO GAIL S TRST



**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

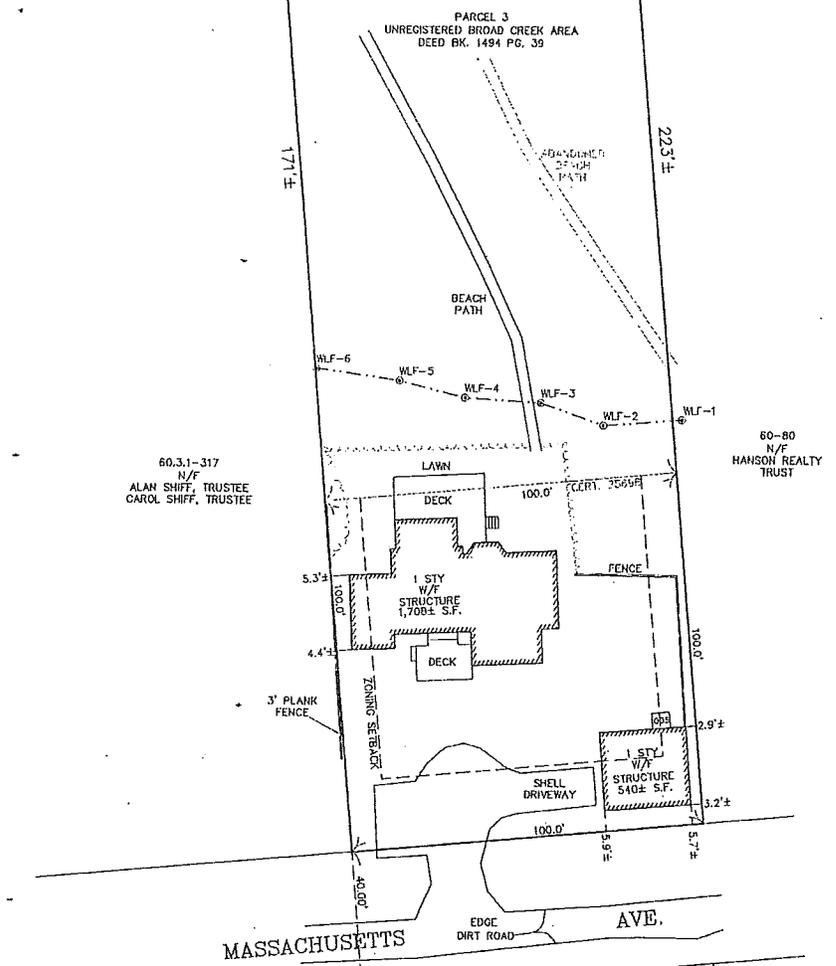
Parcels updated December, 2014
Properties updated January, 2015

CURRENT ZONING CLASSIFICATION:
 Village Residential (V-R)
 EXISTING
 33,277 S.F.
 MINIMUM LOT SIZE: 20,000 S.F.
 MINIMUM FRONTAGE: 100 FT.
 FRONT YARD SETBACK: 20 FT.
 REAR/SIDE SETBACK: 10 FT.
 GROUND COVER % : 10% 7.4%

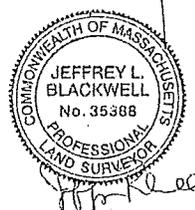
MADAKET HARBOR

OBSERVED SHORELINE 08/12/15 11:00 AM

LEGEND
 CB FND # DENOTES CONCRETE BOUND FOUND
 ODS DENOTES OUTDOOR SHOWER
 WLF# DENOTES WETLAND FLAG FOUND
 --- DENOTES RESOURCE AREA BOUNDARY
 --- DENOTES EXIST. EDGE OF BRUSH



OWNER'S INFORMATION
 MADAKET WHEELHOUSE, LLC
 GEN'L. OF TITLE #25698
 L.C.C. 2400-Y
 LOTS 12-15, BLOCK 28
 DEED BK./Pg: 1494/39
 UNREGISTERED PARCEL - NO PLAN
 ASSESSOR'S MAP 60, PARCEL 75
 #13 MASSACHUSETTS AVENUE



Existing Conditions
 Site Plan of Land
 in Nantucket, MA
 Prepared for
 MADAKET
 WHEELHOUSE, LLC
 Scale: 1" = 16' APRIL 11, 2016
 BLACKWELL & ASSOCIATES, Inc.
 Professional Land Surveyors
 20 TEASDALE CIRCLE
 NANTUCKET, MASS. 02554
 (508) 226-8026
 GRAPHIC SCALE

CURRENT ZONING CLASSIFICATION:
 Village Residential (V-R)
 PROPOSED
 3327 S.F.±
 MINIMUM LOT SIZE: 20,000 S.F.
 MINIMUM FRONTAGE: 100 FT.
 FRONT YARD SETBACK: 20 FT.
 REAR/SIDE SETBACK: 10 FT.
 GROUND COVER %: 10%
 SEE PLAN
 SEE PLAN
 R.I.X

MADAKET HARBOR

OBSERVED SHORELINE 08/12/15 11:00 AM

LEGEND

- CB ■ DENOTES CONCRETE BOUND FOUND
- FND ■ DENOTES OUTDOOR SHOWER
- ODS ■ DENOTES OUTDOOR SHOWER
- WLF # ■ DENOTES WETLAND FLAG FOUND
- DENOTES RESOURCE AREA BOUNDARY
- DENOTES EXIST. EDGE OF BRUSH

PARCEL 3
 UNREGISTERED BROAD CREEK AREA
 DEED BK. 1494 PG. 39

UNREGISTERED
 BROAD CREEK
 P.4711

BEACH PATH

WLF-6 WLF-5 WLF-4 WLF-3 WLF-2 WLF-1

60.3.1-317
 N/F
 ALAN SHIFF, TRUSTEE
 CAROL SHIFF, TRUSTEE

60-80
 N/F
 HANSON REALTY
 TRUST

RENOVATED
 STRUCTURE
 1960± S.F.

ADDITION

ADDITION

RENOVATED
 AND
 RELOCATED
 STRUCTURE
 572± S.F.

PROPOSED
 SHELL DRIVE

PORCH

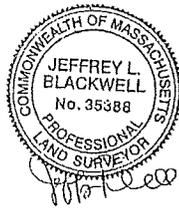
MASSACHUSETTS

EDGE DIRT ROAD AVE.

60.3.1-328
 N/F
 JENNIFER DAWN MAHYEW
 & BRIAN O'LEARY

60.3.1-332
 N/F
 REVOCABLE INDENTURE OF
 TRUST OF GAIL S. HANO

60.3.1-336
 N/F
 HANSON REALTY
 TRUST



OWNER'S INFORMATION
 MADAKET WHEELHOUSE, LLC
 CERT. OF TITLE #25696
 L.C.C. 2408-Y
 LOTS 12-15, BLOCK 29
 DEED BK. PG. 1494/39
 UNREGISTERED PARCEL - NO PLAN
 ASSESSOR'S MAP 60, PARCEL 75
 #13 MASSACHUSETTS AVENUE

Proposed Conditions
 Site Plan of Land
 in Nantucket, MA
 Prepared for
 MADAKET
 WHEELHOUSE, LLC
 Scale: 1" = 15' APRIL 11, 2016
 BLACKWELL & ASSOCIATES, Inc.
 Professional Land Surveyors
 20 TEASDALE CIRCLE
 NANTUCKET, MASS. 02554
 (508) 228-9028
 GRAPHIC SCALE



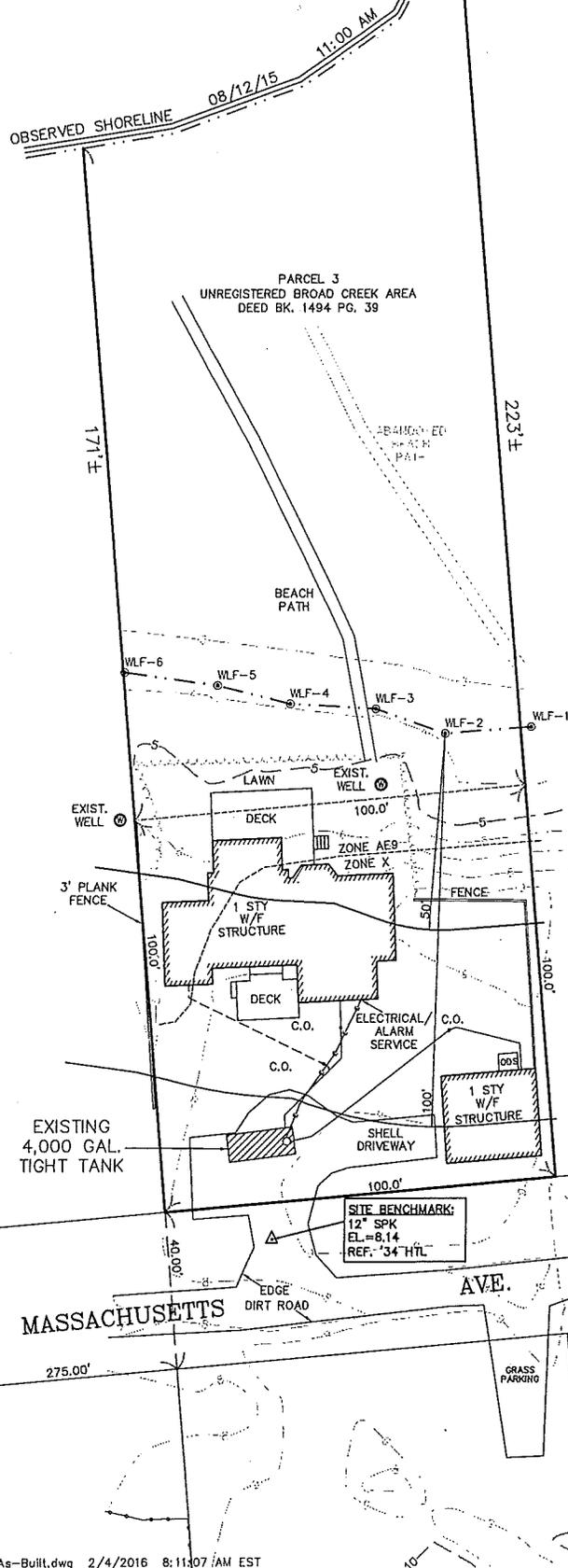
MADAKET HARBOR

LOCUS LIES ENTIRELY WITHIN LAND SUBJECT TO COASTAL STORM FLOWAGE. BASE FLOOD ELEVATION FOR ZONE AE IS 10.4 '34 HTL.

RESOURCE AREA BOUNDARY PER SE48-2825 ISSUED BY THE NANTUCKET CONSERVATION COMMISSION.

WELL & SEPTIC SYSTEM LOCATIONS SHOWN PER FIELD SURVEY AND RECORD FILES AT THE NANTUCKET HEALTH DEPT.

L.C.C. 2408-Y



- LEGEND**
- CB FND ■ DENOTES CONCRETE BOUND FOUND
 - ODS DENOTES OUTDOOR SHOWER
 - WLF#4 ⊙ DENOTES WETLAND FLAG FOUND
 - DENOTES RESOURCE AREA BOUNDARY
 - 5 - - - DENOTES EXIST. GRADE CONTOUR
 - ~ ~ ~ DENOTES EXIST. EDGE OF BRUSH
 - C.O. DENOTES EXISTING CLEANOUT

NOTES:

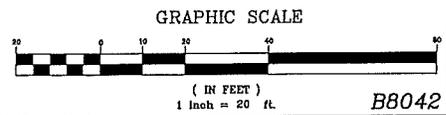
THIS PLOT PLAN WAS PREPARED FOR THE TOWN OF NANTUCKET HEALTH DEPARTMENT ONLY AND SHOULD NOT BE CONSIDERED A PROPERTY LINE SURVEY. THIS PLAN SHOULD NOT BE USED TO ESTABLISH PROPERTY LINES, FENCES, HEDGES OR ANY ANCILLARY STRUCTURES ON THE PREMISES. THE PROPERTY LINES SHOWN RELY ON CURRENT DEEDS AND PLANS OF RECORD.

TIGHT TANK AS-BUILT SCHEDULE OF ELEVATIONS	
01/21/16	
INSTALLED BY:	P+M REIS TRUCKING, INC.
INV. AT CLEANOUT 1	6.84
INV. AT CLEANOUT 2	5.94
INV. AT CLEANOUT 3	5.86
INV. INTO TIGHT TANK	5.33

REFERENCE MASS DEP SE48-2825 ORDER OF CONDITIONS ISSUED ON SEPTEMBER 30, 2015

RECORD PLAN OF A SUBSURFACE SEWAGE TREATMENT & DISPOSAL SYSTEM WITH A TIGHT TANK in Nantucket, MA

Prepared for
MADAKET WHEELHOUSE, LLC
 Cert. 25,696 L.C.C. 2408Y; BLOCK 29, LOTS 12-15
 Deed Bk./Pg.: 1494/39 NO PLAN
 ASSESSOR'S MAP 60, PARCEL 75
 #13 MASSACHUSETTS AVE.
 Scale: 1" = 20' February 4, 2016
BLACKWELL & ASSOCIATES, Inc.
 Professional Land Surveyors
 20 TEASDALE CIRCLE
 NANTUCKET, MASS. 02554
 (508) 228-9026

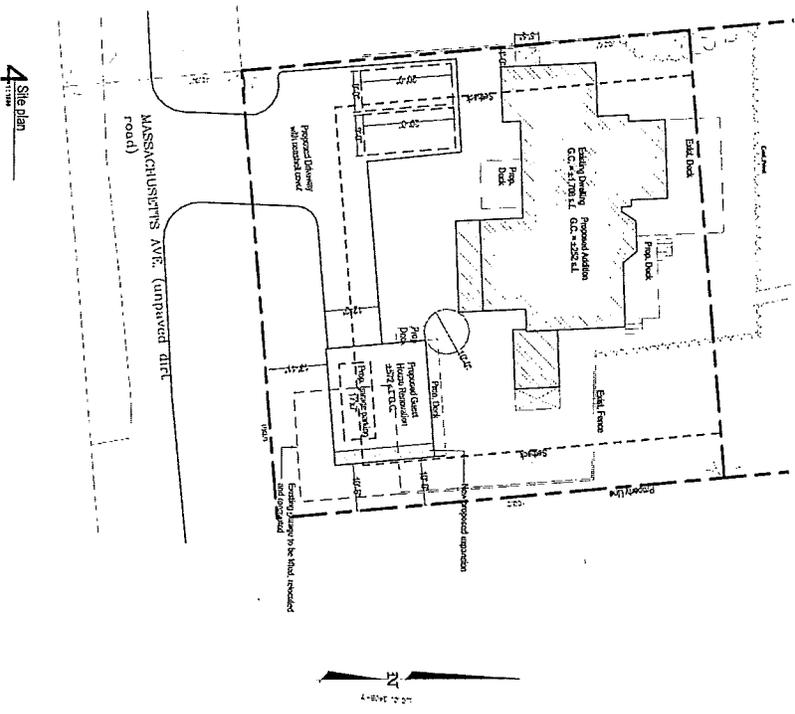
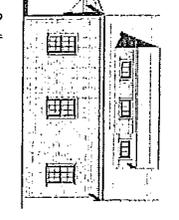
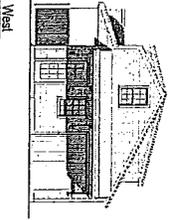
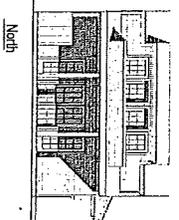
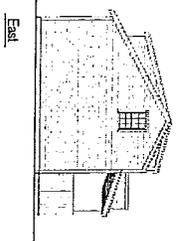
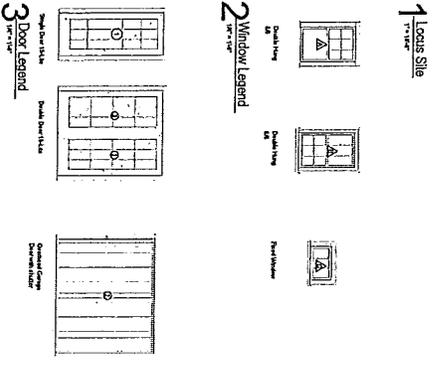
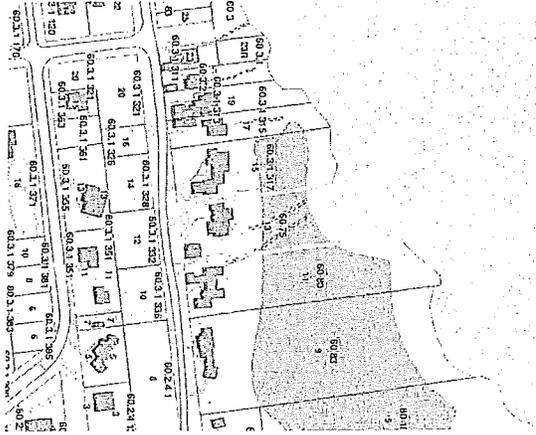


Fooshee Garage / Guest House

13 Massachusetts Avenue
Nantucket, MA 02554

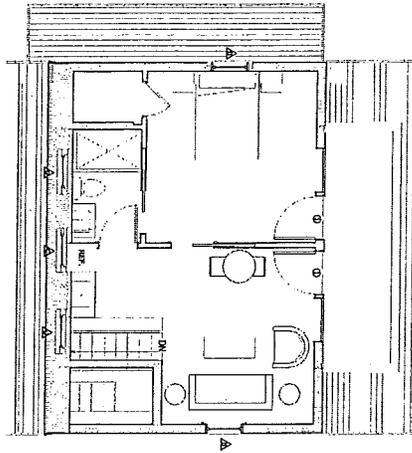
04.12.16

HDC Submission

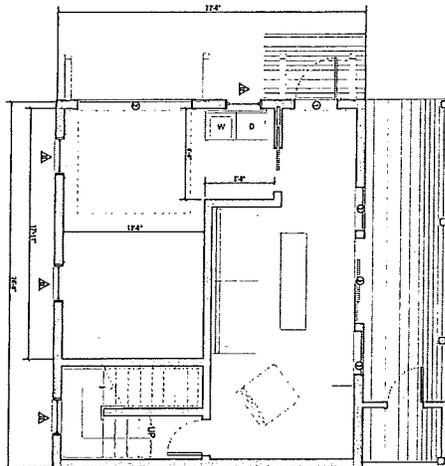


4 Site Plan

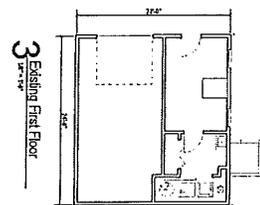
1525	Fooshee Garage / Guest House	13 Massachusetts Ave Nantucket, MA 02554
Site Plan, Locust Map		
Site Information Plot Area: 10,000 sq. ft. Building Area: 2,500 sq. ft. Total Area: 12,500 sq. ft. Lot Area: 10,000 sq. ft. Building Area: 2,500 sq. ft. Total Area: 12,500 sq. ft.		
REVISIONS 1. 04.12.16 G.1.1 2. 04.12.16 G.1.1 3. 04.12.16 G.1.1 4. 04.12.16 G.1.1		
1525		



2 Second Floor Plan



1 First Floor Plan



3 Existing First Floor



1525
 Fooshee Garage /
 Guest House
 13 Massachusetts Ave
 Nantucket, MA 02554



First Floor Plan

Site Information

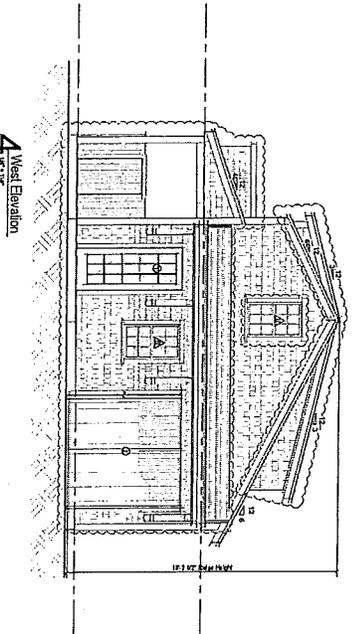
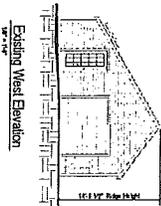
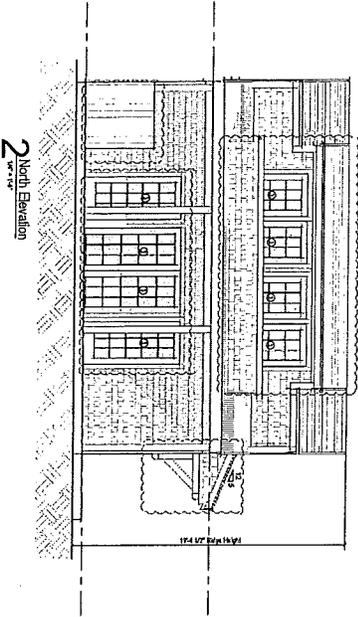
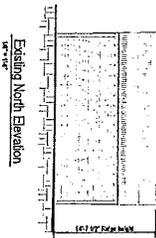
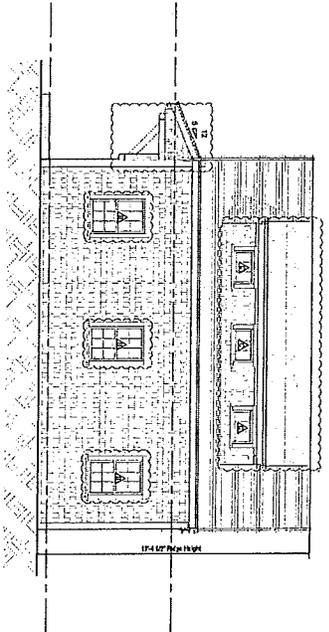
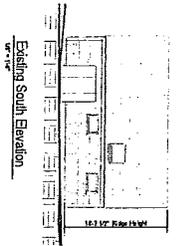
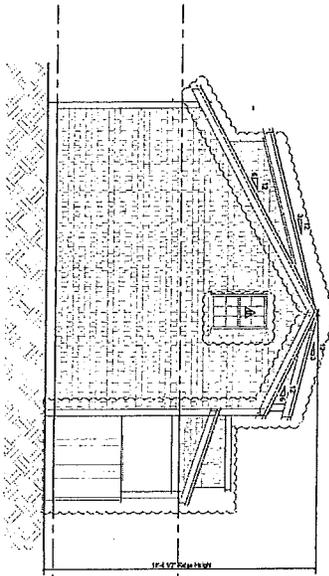
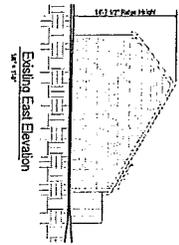
Site # 1525
 Owner: S.M. S. Architects
 Architect: S.M. S. Architects
 Date: 04/12/16
 Scale: 1/8" = 1'-0"
 Project: 1525

SHEET INDEX

011 Main Floor Plan
 021 Second Floor Plan
 031 Foundation

Revisions

A.1.1
1525



1525
 Fooshee Garage /
 Guest House
 13 Massachusetts Ave
 Nantucket, MA 02554



Elevations

Site Information

Plot # 1000
 Containing 1.00
 Projected 2016
 Zoning 2016
 Lot Area 10,000 sq. ft.
 Assessed Value \$1,000,000
 Property Tax \$10,000
 Date of Survey 10/1/15
 Surveyed by C.M. SCLINUS
 Prepared by C.M. SCLINUS
 Date of Plan 04/12/16

A.2.1
1525

\$ 15.00

RECEIVED
BOARD OF ASSESSORS

APR 06 2016

TOWN OF
NANTUCKET, MA

Town of Nantucket

Zoning Board of Appeals

LIST OF PARTIES IN INTEREST IN THE MATTER OF THE PETITION OF:

PROPERTY OWNER..... Madaket Wheelhouse LLC

MAILING ADDRESS..... P.O. Box 786 Nantucket, MA 02554

PROPERTY LOCATION..... 13 Massachusetts Ave, Nantucket, MA

ASSESSOR MAP/PARCEL..... 60, 75

SUBMITTED BY..... Cohen and Cohen Law PC

* With labels

SEE ATTACHED PAGES

I certify that the foregoing is a list of all persons who are owners of abutting property, owners of land directly opposite on any public or private street or way; and abutters of the abutters and all other land owners within 300 feet of the property line of owner's property, as they appear on the most recent applicable tax list (M.G.L. c. 40A, Section 11 and Zoning Code Chapter 40A, Section 139-29B (2)).

April 8, 2016
DATE

Patricia Hele
ASSESSOR'S OFFICE
TOWN OF NANTUCKET

ABBUTERS LISTING
NANTUCKET, MA

Map	Block	Lot	Unit	Owner-s Name	Co Owner-s Name	Address	City	ST Zip	Parcel Location
60		3		NANTUCKET COUNTY OF		16 BROAD ST	NANTUCKET	MA 02554	MASSACHUSETTS AV
60		3	1	OKONAK J THOMAS		PO BOX 110	LATROBE	PA 15650	23R MASSACHUSETTS AV
60		10		NANTUCKET ISLANDS LAND BANK		22 BROAD ST	NANTUCKET	MA 02554	5 MASSACHUSETTS AV
60		80		HANSON ANN M TRST	HANSON REALTY TRUST	415 GLYNWYNNE ROAD	HAVERFORD	PA 19041	11 MASSACHUSETTS AV
60		83		MURPHY RUTH TAYLOR		112 PERKINS ST	MELROSE	MA 02176	9 MASSACHUSETTS AV
60		92		LEARY FAMILY REALTY CO LLC		140 HALIDON ROAD	WESTBROOK	ME 04092	7 MASSACHUSETTS AV
6024		1		MURPHY JEAN ETAL		112 PERKINS STREET	MELROSE	MA 02176	8 MASSACHUSETTS AV
6024		13		STANLEY ALFRED T & GUIDO	KATHLEEN A	1409 HARDOUIN AVE	AUSTIN	TX 78703	3 RHODE ISLAND AV
6024		17		MNP LLC	C/O MEINKE LORI	15 DOGWOOD LANE	WESTPORT	CT 06880	17 AMES AV
6031		311		OKONAK R THOMAS & JAMES R TRS		PO BOX 110	LATROBE	PA 15650	23 MASSACHUSETTS AV
6031		313		DAVIS ANNE S & LAURA & EMILIE		538 BRIDGEVIEW DR	LEMOYNE	PA 17043	19 MASSACHUSETTS AV
6031		315		ALGER SARAH F TRST	17 MASS AVE NOM TR	161 EAST 35TH ST 1ST FLO	NEW YORK	NY 10016	17 MASSACHUSETTS AV
6031		317		SHIFF ALAN H W TRST ETAL	C/O US COURT HOUSE	915 LAFAYETTE BLVD	BRIDGEPORT	CT 06604	15 MASSACHUSETTS AV
6031		321		OKONAK R THOMAS & JAMES R TRS		PO BOX 110	LATROBE	PA 15650	20 MASSACHUSETTS AV
6031		326		DAVIS ANNE S & LAURA & EMILIE		538 BRIDGEVIEW DR	LEMOYNE	PA 17043	16 MASSACHUSETTS AV
6031		328		MAYHEW JENNIFER DAWN ETAL		117 W 75TH ST APT 11	NEW YORK	NY 10023	14 MASSACHUSETTS AV
6031		332		HANO GAIL		85 E INDIA ROW APT 12B	BOSTON	MA 02110	12 MASSACHUSETTS AV
6031		336		HANSON ANN M TR	HANSON REALTY TRUST	415 GLYNWYNNE RD	HAVERFORD	PA 19401	10 MASSACHUSETTS AV
6031		344		KUNKEL CARLEEN G		9 BEACHCROFT LN	TRUMBULL	CT 06611	5 RHODE ISLAND AV
6031		348		AGUIAR KENNETH P TRS	OLD SALT FAMILY TRUST	PO BOX 2062	NANTUCKET	MA 02584	7 RHODE ISLAND AV
6031		351		PERENNIAL PROPERTY LLC		100 POCONO RD	MOUNTAIN LAKES	NJ 07046	11 RHODE ISLAND AV
6031		355		MAYHEW JENNIFER D ETAL		117 W 75TH ST APT 11	NEW YORK	NY 10023	13 RHODE ISLAND AV
6031		361		VIGNEAU BARBARA TRUSTEE		15 MEADOW LN	NANTUCKET	MA 02554	RHODE ISLAND AV
6031		363		VIGNEAU BARBARA TRUSTEE		15 MEADOW LANE	NANTUCKET	MA 02554	15 RHODE ISLAND AV
6031		371		MESSINGER FAMILY TRUST	C/O MESSINGER SCOTT	4967 ALLAN RD	BETHESDA	MD 20816	16 RHODE ISLAND AV
6031		379		MESSINGER SCOTT & RACHEL A TRS	THE MESSINGER FAMILY TRUST	4967 ALLAN RD	BETHESDA	MD 20816	10 RHODE ISLAND AV
6031		381		NANTUCKET TOWN OF		16 BROAD ST	NANTUCKET	MA 02554	8 RHODE ISLAND AV
6031		383		NANTUCKET TOWN OF		16 BROAD ST	NANTUCKET	MA 02554	6 RHODE ISLAND AV
6031		385		NANTUCKET TOWN OF		16 BROAD ST	NANTUCKET	MA 02554	6 RHODE ISLAND AV
6031		387		NANTUCKET COUNTY OF		16 BROAD ST	NANTUCKET	MA 02554	RHODE ISLAND AV
6031		408		BLANEY BERNARD F		354 ATLANTIC AV	MARBLEHEAD	MA 01945	9 NEW JERSEY AV

4/7/2016 8:57:27AM

Page 1

MATERIALS

PROVIDED BY

APPLICANT

TO AMEND

APPLICATION

From: [Steven Cohen](#)
To: [Eleanor Antonietti](#)
Subject: 13 Mass Ave
Date: Wednesday, June 08, 2016 10:05:47 PM
Attachments: [13 Mass Ave Site Plan 060816.pdf](#)

Eleanor,

There is an update to the Madaket Wheelhouse LLC application:

- 1) The existing garage/cottage, which is entirely in setback, will become just a cottage. There will be a small ODS and deck on the north side and a small porch on the west side, but the structure will not change location or size. The additions will not be more nonconforming. Rather than add another level, the roof will be adjusted to provide more head height to the existing living area.
- 2) The fence will be extended and the house will get some additions outside of the setbacks. Neither needs relief.
- 3) The garage will slide to the main house as an addition to the front and a small storage area and ODS will be added, all within the setback. The addition is not more nonconforming than existing, and the prior request for a variance is not needed.

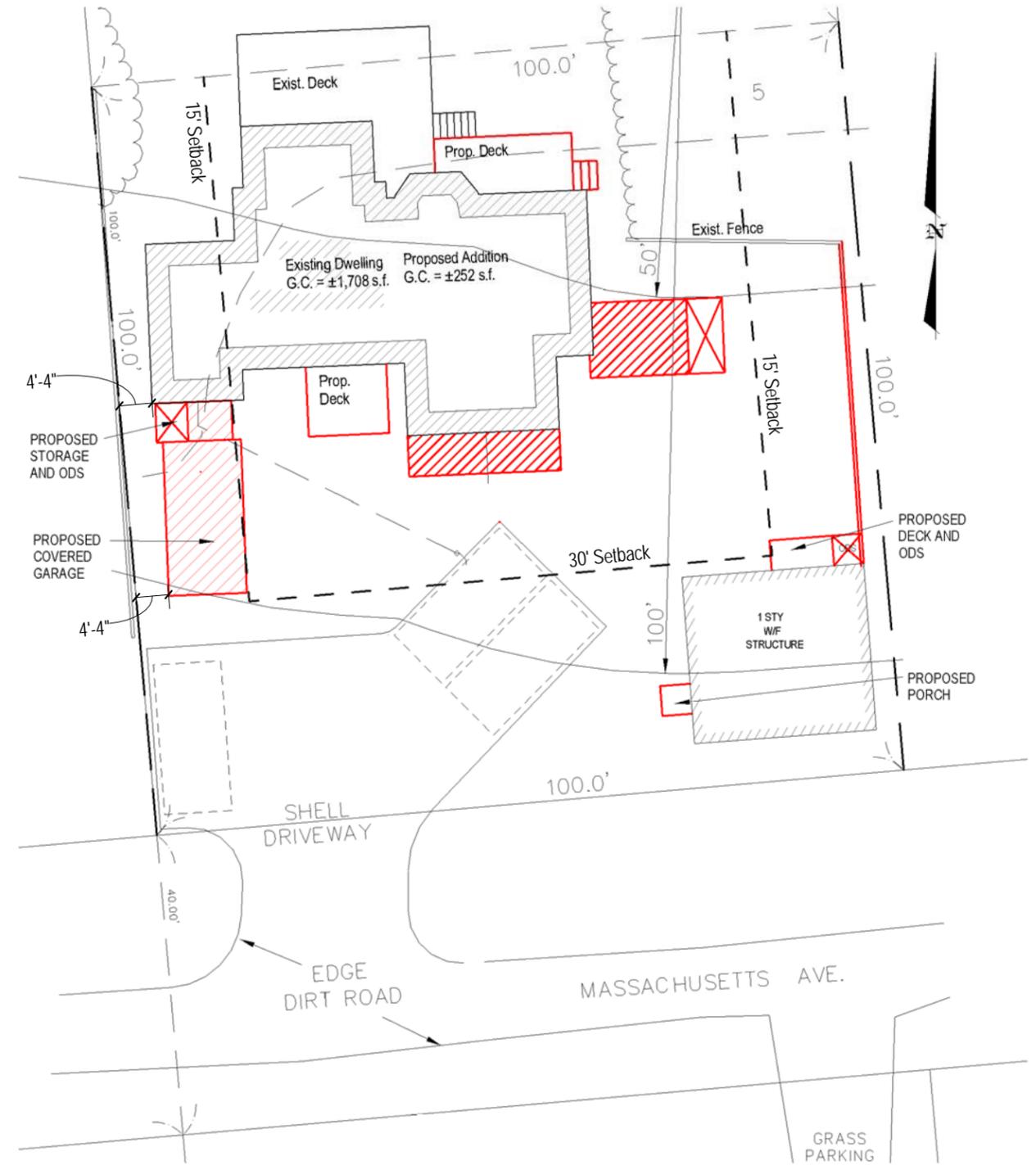
Steven

Fooshee Residence

13 Massachusetts Ave,
Nantucket MA 02554



2 Site Locus Plan
Not to Scale



1 Proposed Z.B.A. Site Plan
1" = 20'-0"

Fooshee Residence
13 Massachusetts Ave
Nantucket, MA 02554

Zoning Information

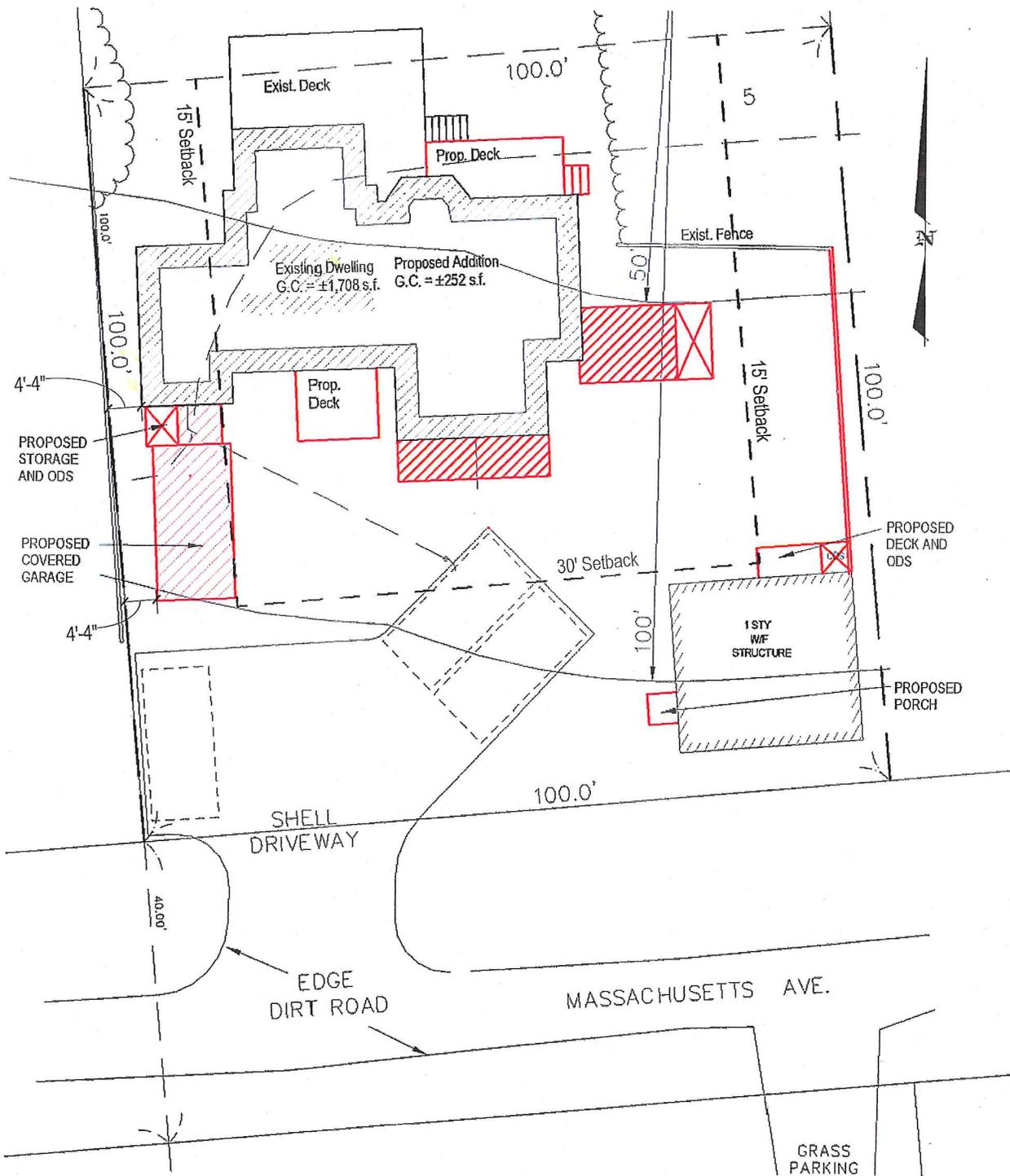
Map & Parcel: 60 / 75
Current Zoning: VR
Minimum Frontage: 100 ft.
Front Setback: 20 ft.
Side/Rear Setback: 10 ft.

11x17 Site Plan

G.101



8 Williams Lane Nantucket, MA 02554
P. 508.325.4995
F. 508.325.6980
www.emeritusdevelopment.com



1 Proposed Z.B.A. Site Plan
 1" = 20'-0"

11x17 Site Plan

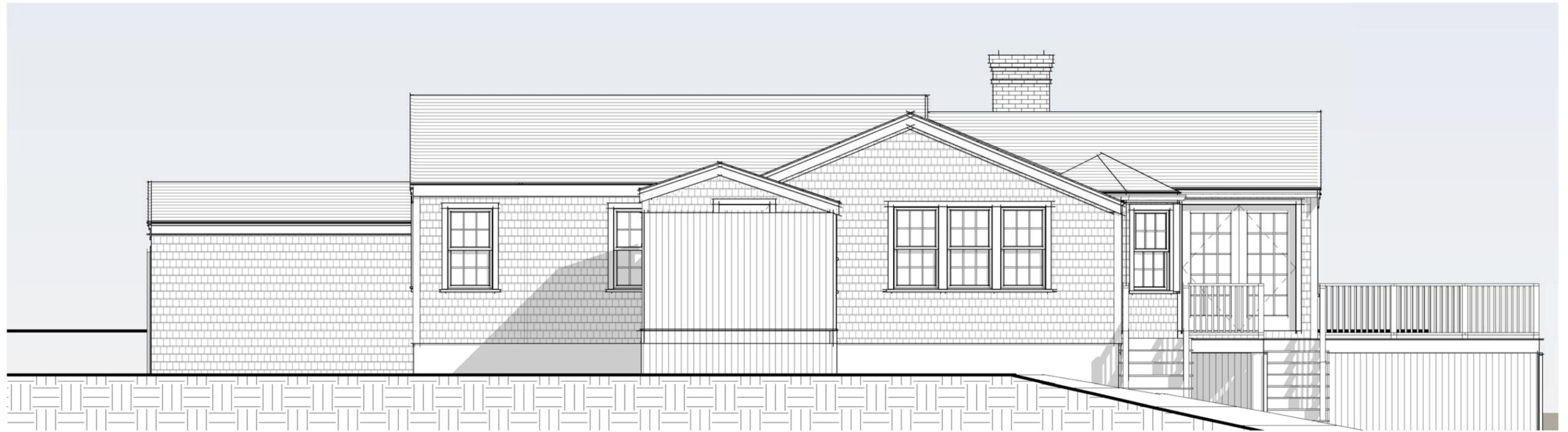
G.101

58



emeritus

8 Williams Lane Nantucket, MA 02554
 P. 508.325.4995
 F. 508.325.6980
www.emeritusdevelopment.com



East Elevation



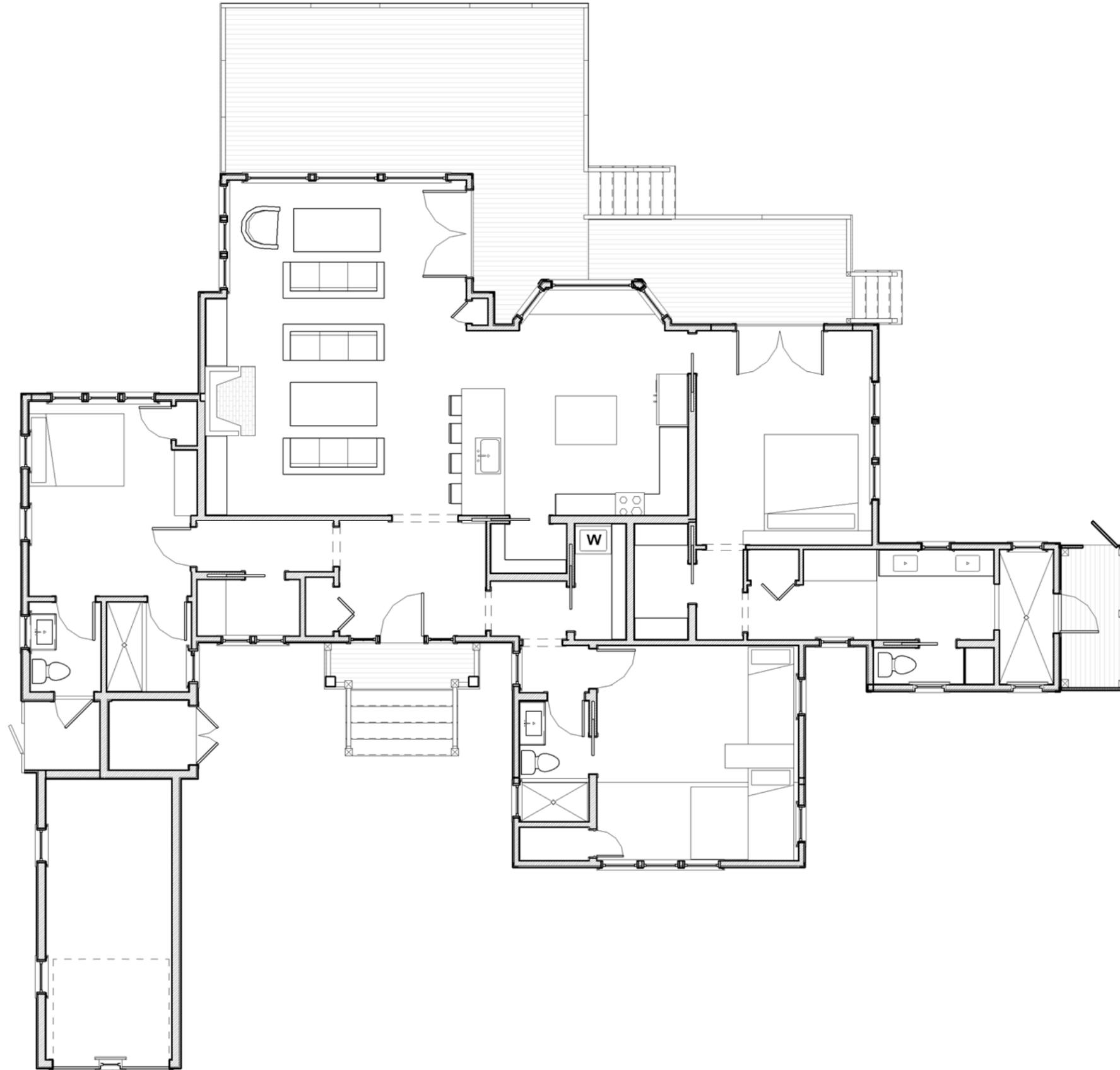
North Elevation

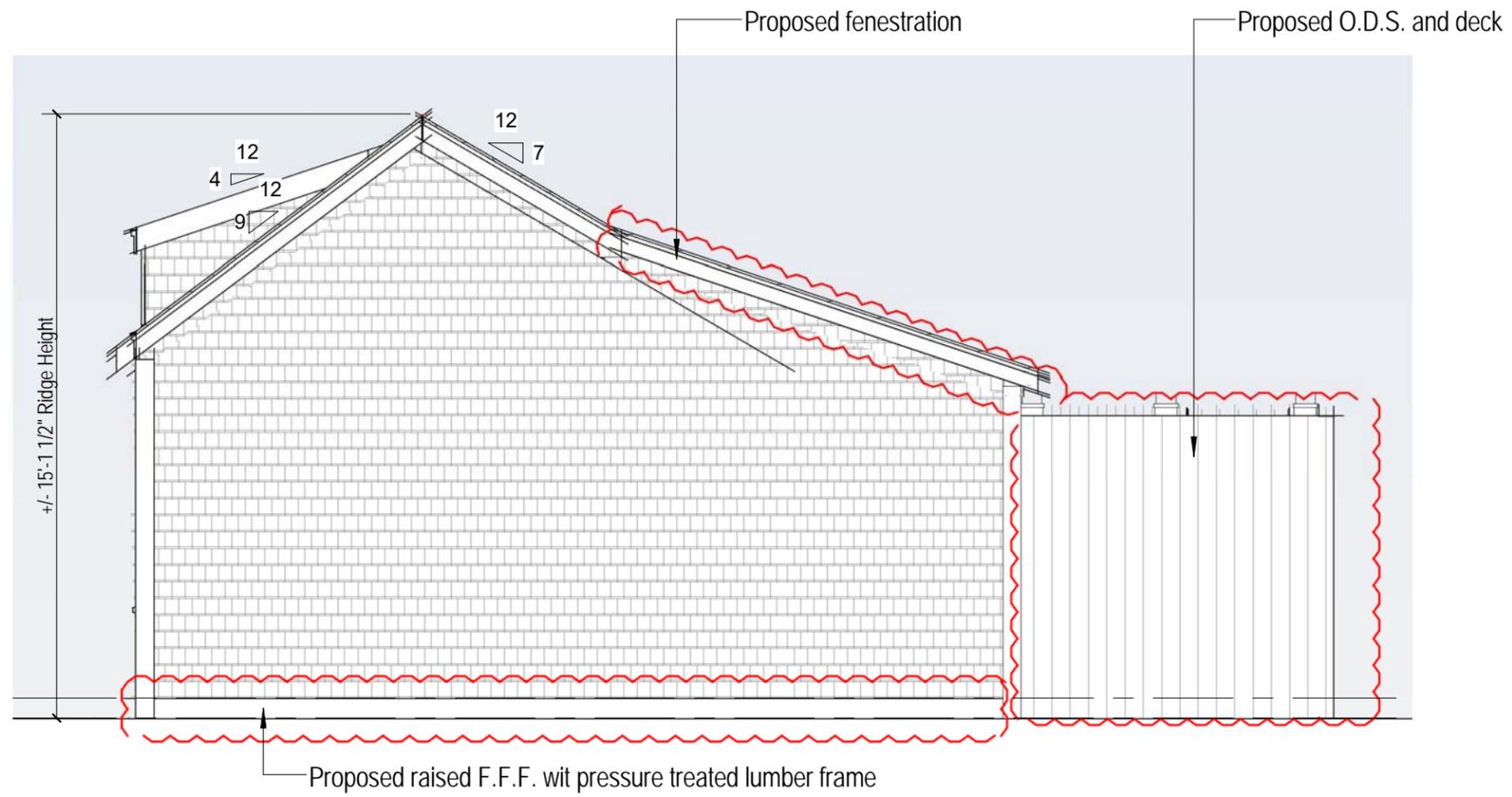


South Elevation

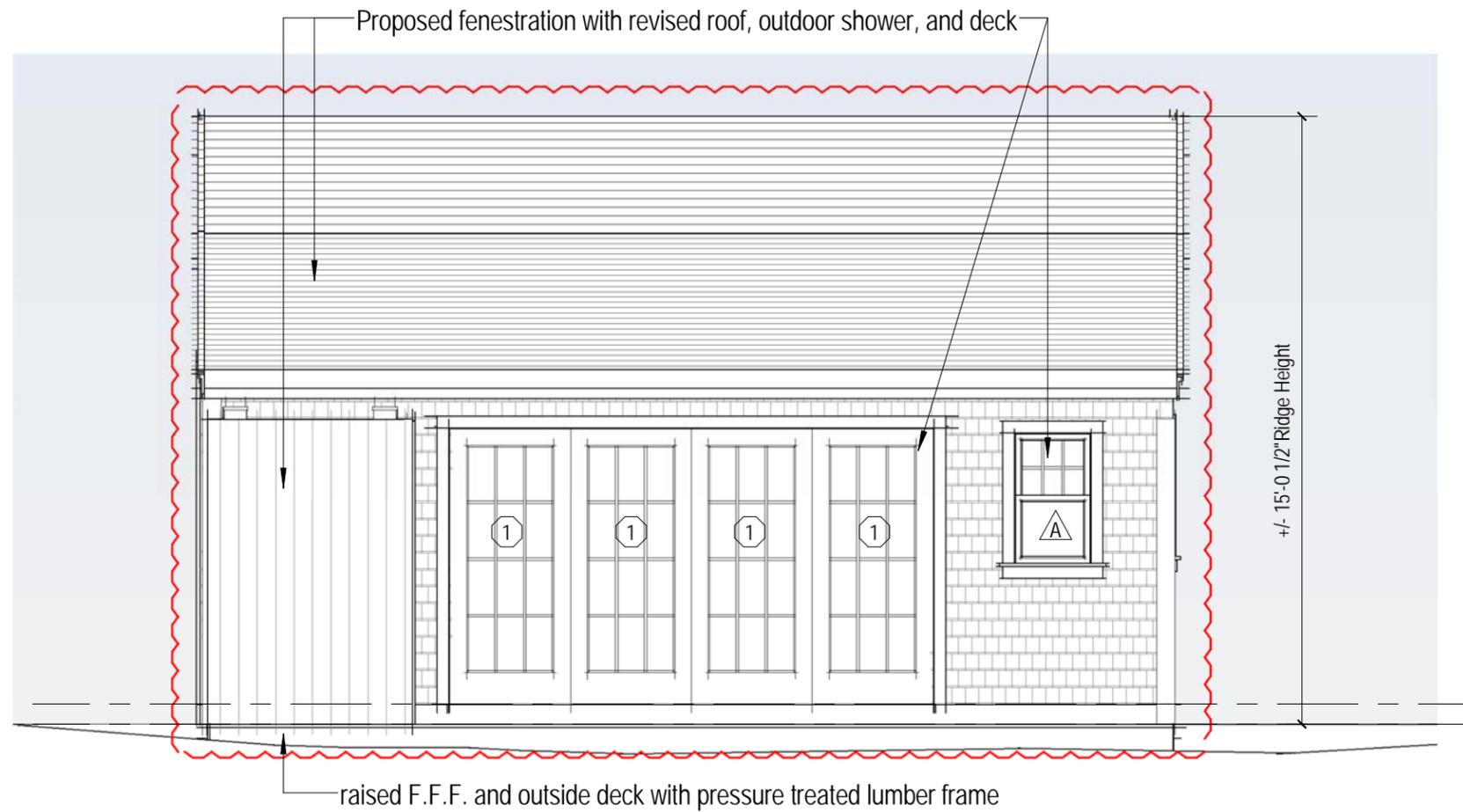


West Elevation

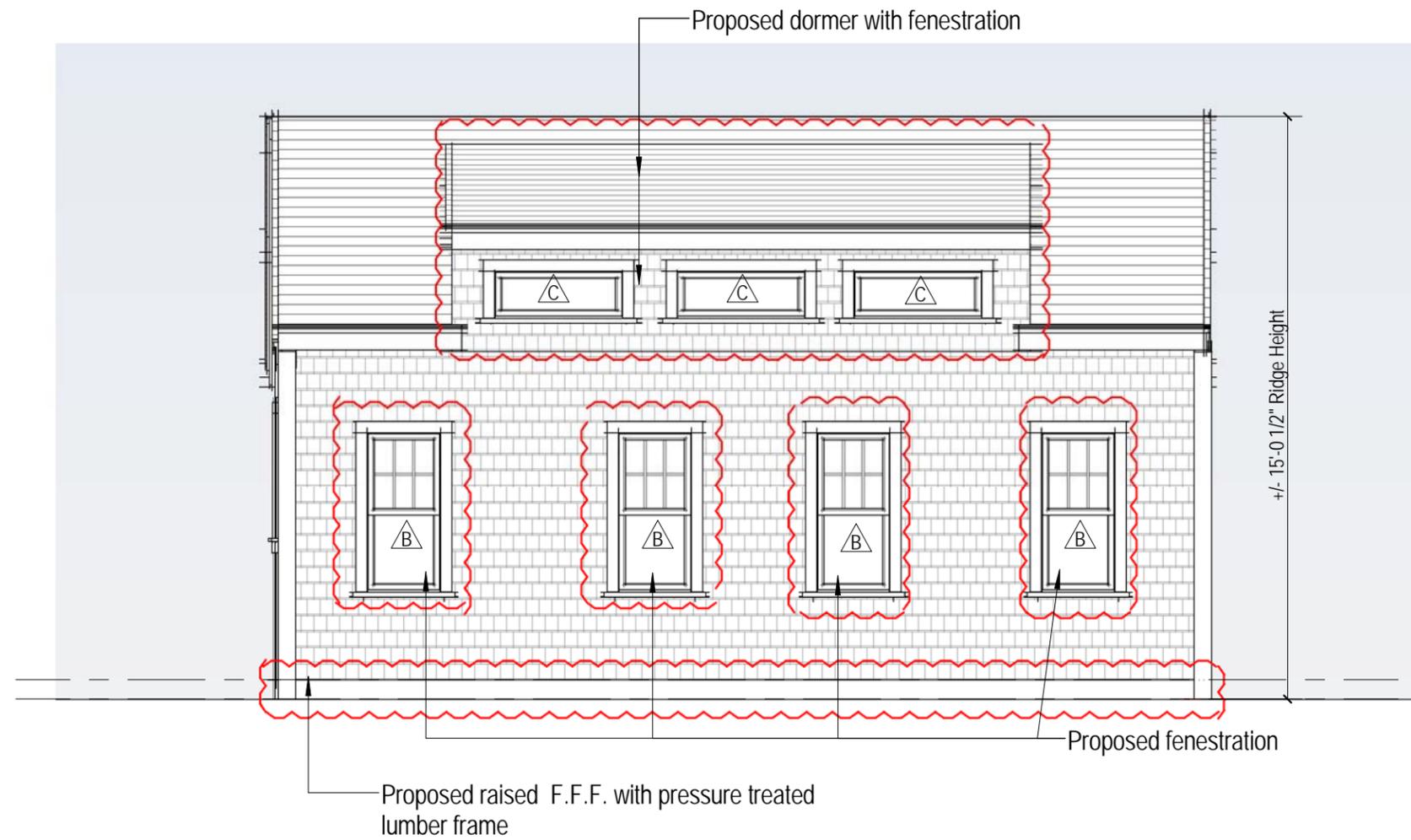




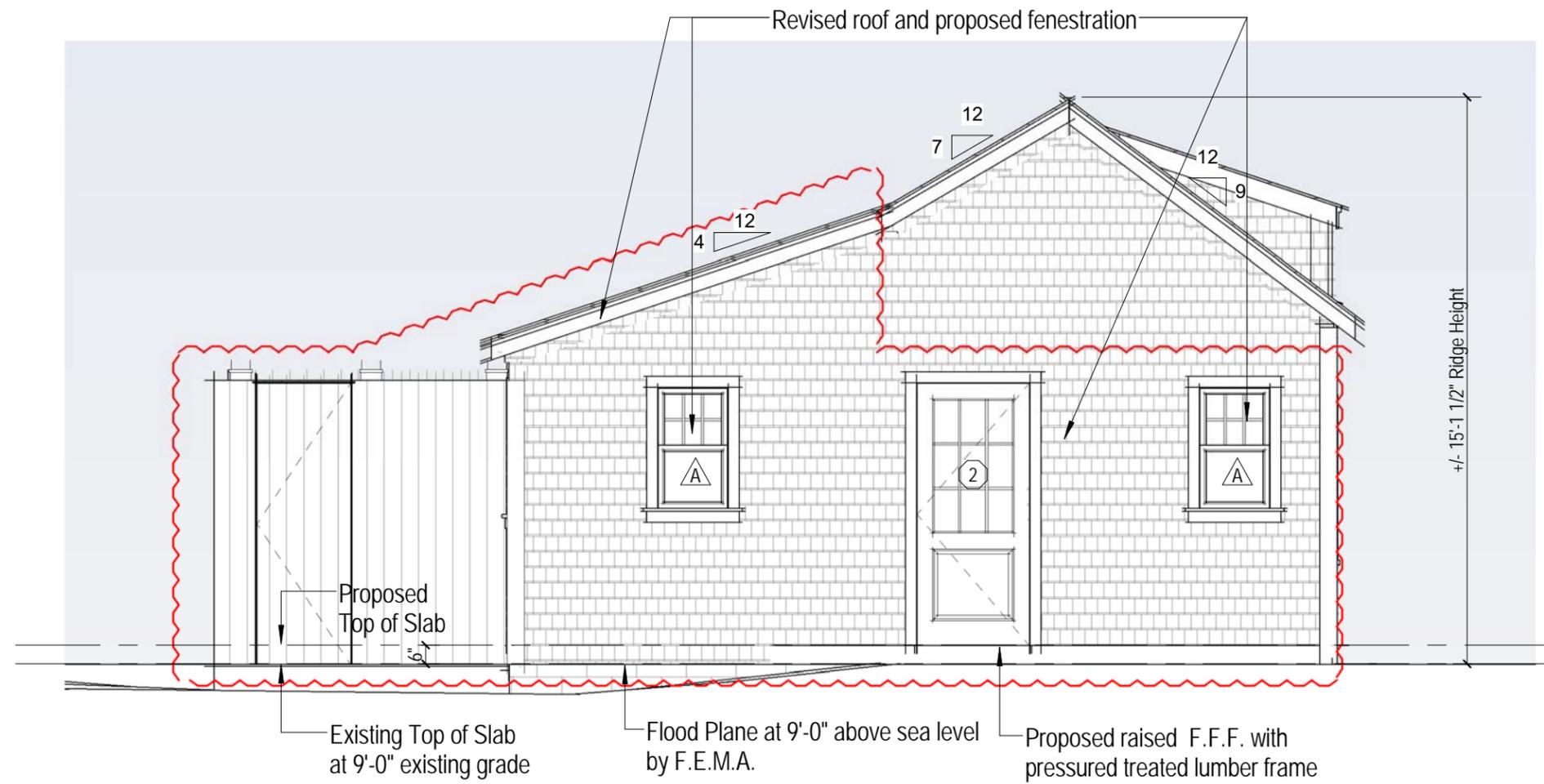
Proposed East Elevation



Proposed North Elevation



Proposed South Elevation





JOHN & JULIE JORDIN

28 LOVERS LN.

FILE NO. 22-16

READE, GULLICKSEN, HANLEY & GIFFORD, LLP

SIX YOUNG'S WAY

NANTUCKET, MASSACHUSETTS 02554

(508) 228-3128

FAX: (508) 228-5630

ARTHUR I. READE, JR., P.C.
KENNETH A. GULLICKSEN
MARIANNE HANLEY
WHITNEY A. GIFFORD

MAILING ADDRESS
POST OFFICE BOX 2060
NANTUCKET, MASS. 02584

June 13, 2016

ZBA 22-16

Zoning Board of Appeals
Attn: Eleanor Antonietti
Town of Nantucket
2 Fairgrounds Road
Nantucket, Massachusetts 02554

Re: 28 Lovers Lane

Dear Eleanor:

Enclosed please find an original and one photocopy of the following as it relates to the above-referenced matter:

1. Completed application
2. Building location plan
3. Locus map
4. Abutters list
5. Two sets of prepared labels
6. A check for the filing fee of \$450.00.

If you have any questions, please let us know.

Sincerely,



Leigh M. Topham
Office Administrator

/lmt
Enclosures

cc: Mr. and Mrs. John Jordin

f:\wpj\jordin\loverslane\antoniettiltr.docx



**TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MA 02554**

July 5PM 3:36:09
NANTUCKET *MH*
TOWN CLERK

APPLICATION

Fee: \$450.00

File No. 22-16

Owner's name(s): John N. Jordin and Julie M. Jordin

Mailing address: c/o Reade, Gullicksen, Hanley & Gifford, LLP PO Box 2669, Nantucket, MA 02584
Phone Number: 508-228-3128 E-Mail: mh@readelaw.com

Applicant's name(s): same

Mailing Address: same

Phone Number: same E-Mail: same

Locus Address: 28 Lovers Lane Assessor's Map/Parcel: 68-145

Land Court Plan/Plan Book & Page/Plan File No.: Lot 90, Land Ct Plan 16514-R

Deed Reference/Certificate of Title: 20283 Zoning District R-20

Uses on Lot- Commercial: None Yes (describe) _____

Residential: Number of dwellings one Duplex _____ Apartments _____

Date of Structure(s): all pre-date 7/72 _____ or 2003, 2012

Building Permit Numbers: 732-03 and 04-12

Previous Zoning Board Application Numbers: _____

State below or attach a separate addendum of specific special permits or variance relief applying for:

Applicant requests Special Permit relief pursuant to either (a) §139-16C (1) of the by-law to reduce the required 10 feet side yard setback to 5 feet, or (b) §139-16.C (2) of the by-law, to validate an unintentional intrusion into the required side yard setback, to accommodate the siting of an existing garage at 9.4 feet from the side yard line at its closest point, and to the extent required, an above ground Jacuzzi tub located 8.2 feet from the side yard line. Required side yard setback is 10 feet in this district. In the alternative, Applicant requests a Variance pursuant to §139-32 of the by-law, from the §139-16.A Intensity Regulations of the by-law, to allow for the existing siting of said structures.

I certify that the information contained herein is substantially complete and true to the best of my knowledge, under the pains and penalties of perjury.

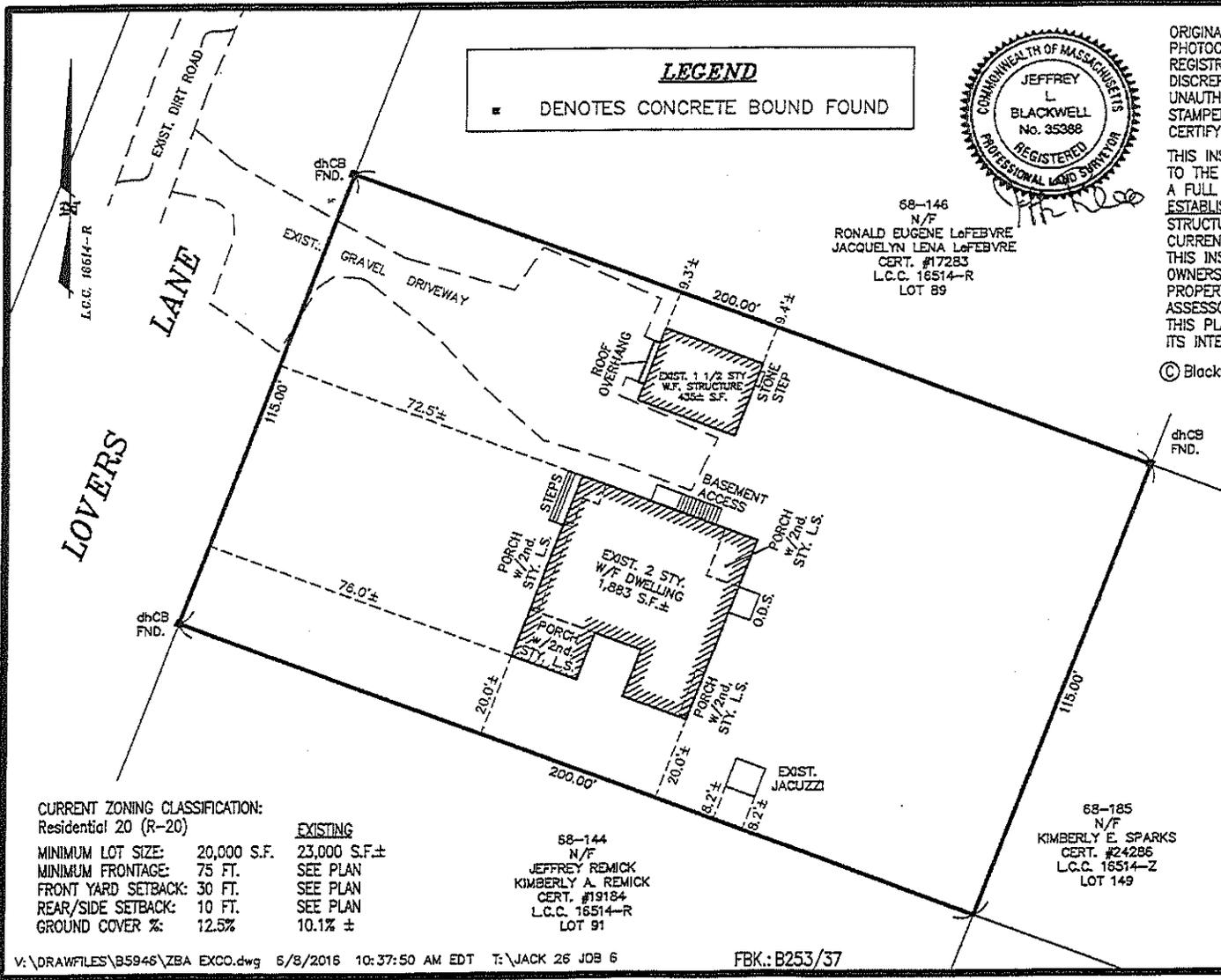
SIGNATURE: John N. Jordan and Juliette M. Jordan Owner*

SIGNATURE: By: [Signature] Attorney at Law Applicant/Attorney/Agent*

*If an Agent is representing the Owner or the Applicant, please provide a signed proof of agency.

OFFICE USE ONLY

Application received on: ___/___/___ By: _____ Complete: _____ Need Copies: _____
Filed with Town Clerk: ___/___/___ Planning Board: ___/___/___ Building Dept.: ___/___/___ By: _____
Fee deposited with Town Treasurer: ___/___/___ By: _____ Waiver requested: _____
Granted: ___/___/___ Hearing notice posted with Town Clerk: ___/___/___ Mailed: ___/___/___
I&M ___/___/___ & ___/___/___ Hearing(s) held on: ___/___/___ Opened on: ___/___/___
Continued to: ___/___/___ Withdrawn: ___/___/___ Decision Due By: ___/___/___
Made: ___/___/___ Filed w/Town Clerk: ___/___/___ Mailed: ___/___/___



68-146
 N/F
 RONALD EUGENE LOFEBVRE
 JACQUELYN LENA LOFEBVRE
 CERT. #17283
 L.C.C. 16514-R
 LOT 89

ORIGINAL SIGNED AND STAMPED COPIES OF THIS PLAN MAY BE PHOTOCOPIED BY THE BOARD OF APPEALS OR THE NANTUCKET REGISTRY OF DEEDS FOR RECORDING PURPOSES. IN CASES OF DISCREPANCIES REGARDING INFORMATION CONTAINED HEREON AND UNAUTHORIZED PHOTOCOPIES OF THIS PLAN, ONLY ORIGINALLY STAMPED AND ENDORSED COPIES SHALL BE ACKNOWLEDGED BY THE CERTIFYING LAND SURVEYOR.

THIS INSPECTION PLAN WAS PREPARED TO ACCOMPANY AN APPLICATION TO THE NANTUCKET BOARD OF APPEALS AND IS NOT TO BE CONSIDERED A FULL INSTRUMENT SURVEY. THIS PLAN SHOULD NOT BE USED TO ESTABLISH PROPERTY LINES, FENCES, HEDGES OR ANY ANCILLARY STRUCTURES ON THE PREMISES. THE PROPERTY LINES SHOWN RELY ON CURRENT DEEDS AND PLANS OF RECORD. THIS INSPECTION PLAN IS NOT A CERTIFICATION AS TO THE TITLE OR OWNERSHIP OF THE PROPERTY SHOWN. OWNERS OF ADJOINING PROPERTIES ARE SHOWN ACCORDING TO CURRENT TOWN OF NANTUCKET ASSESSOR RECORDS. THIS PLAN SHALL NOT BE USED FOR ANY OTHER PURPOSE OTHER THAN ITS INTENDED USE STATED ABOVE.

© Blackwell & Associates Inc.

Existing Conditions
 Site Plan to Accompany
 Zoning Board of Appeals
 Application
 IN
 NANTUCKET, MA

SCALE: 1"=30' DATE: JUNE 08, 2016

JOHN N. JORDIN, III

Owner: JULIE M. JORDIN

LOT 90
 Cert. Of Title: #20283. Plan: L.C.C. 16514-R.

Locus: 28 LOVERS LANE

Assessor Map/Parcel: . 68/145

BLACKWELL & ASSOCIATES, Inc.
 Professional Land Surveyors
 20 Teasdale Circle
 Nantucket, Massachusetts 02554
 (508) 228-9026

B5946

28 Lovers Lane



Property Information

Property ID 68 145
Location 28 LOVERS LN
Owner JORDIN JOHN N III & JULIE M



**MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT**

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated December, 2014
 Properties updated January, 2015

\$ 6.00

RECEIVED
BOARD OF ASSESSORS

JUN 03 2016

TOWN OF
NANTUCKET, MA

Town of Nantucket
Zoning Board of Appeals

LIST OF PARTIES IN INTEREST IN THE MATTER OF THE PETITION OF:

PROPERTY OWNER..... *John N. Jordan III & Julie M. Jordan*
MAILING ADDRESS..... *c/o Reade, Gullicksen, Hanley & Gifford, LLP*
PROPERTY LOCATION..... *28 Lovers*
ASSESSOR MAP/PARCEL..... *68-145*
SUBMITTED BY..... *Reade, Gullicksen, Hanley & Gifford, LLP*

SEE ATTACHED PAGES

I certify that the foregoing is a list of all persons who are owners of abutting property, owners of land directly opposite on any public or private street or way; and abutters of the abutters and all other land owners within 300 feet of the property line of owner's property, as they appear on the most recent applicable tax list (M.G.L. c. 40A, Section 11 and Zoning Code Chapter 40A, Section 139-29B (2)).

June 16, 2016
DATE

Patricia Giles
ASSESSOR'S OFFICE
TOWN OF NANTUCKET

ABBUTTERS LISTING
NANTUCKET, MA

Map	Block	Lot	Unit	Owner's Name	Co Owner's Name	Address	City	ST Zip	Parcel Location
68		63		RICHMOND GREAT POINT DEVEL LLC		23 CONCORD ST	WILMINGTON	MA 01887	8 DAVKIM LN
68		64		RICHMOND GREAT POINT DEVEL LLC		23 CONCORD ST	WILMINGTON	MA 01887	6 DAVKIM LN
68		65		MUTO MARY TR		PO BOX 511	W BOXFORD	MA 01885	4 DAVKIM LN
68		66		VON LAZAR LASZLO & IRENE		6754 MEADOWSIDE DRIVE	FREDERICK	MD 21702	34 LOVERS LN
68		70		COMMONWEALTH OF MASSACHUSETTS	C/O DEPT ENVIRONMENTAL MANAGEM	100 CAMBRIDGE STREET	BOSTON	MA 02202	TICCOMA WY
68		71		NANTUCKET TOWN OF		16 BROAD ST	NANTUCKET	MA 02554	TICCOMA WY
68		141		GLOWACKI KIM		2 GREGLEN AV PMB #64	NANTUCKET	MA 02554	20 GREGLEN AV
68		142		GLOWACKI GREG W		22A EVERGREEN WY	NANTUCKET	MA 02554	21 GREGLEN AV
68		143		SCHULZ DAVID A & SANDRA R		PO BOX 2814	NANTUCKET	MA 02584	32 LOVERS LN
68		144		REMICK JEFFREY & KIMBERLY A		2 GREGLEN AVE PMB 395	NANTUCKET	MA 02554	30 LOVERS LN
68		146		LEFEBVRE RONALD E & JACQUELYN		26 LOVERS LN	NANTUCKET	MA 02554	26 LOVERS LN
68		147		MCDONOUGH MICHAEL P & MARILYN		24 LOVERS LANE	NANTUCKET	MA 02554	24 LOVERS LN
68		148		OZIAS JAMES A		22 LOVERS LN	NANTUCKET	MA 02554	22 LOVERS LN
68		182	1	RICHMOND GREAT POINT DEV LLC		23 CONCORD STREET	WILMINGTON	MA 01887	14B GREGLEN AV
68		183		ALOISI SAMUEL J		35 MILK STREET	NANTUCKET	MA 02554	16 GREGLEN AV
68		184		GLOWACKI KIM		28 CLIFF RD	NANTUCKET	MA 02554	18 GREGLEN AV
68		185		SPARKS KIMBERLY E		19 GREGLEN AV	NANTUCKET	MA 02554	19 GREGLEN AV
68		186		GLOWACKI GREG W		22A EVERGREEN WY	NANTUCKET	MA 02554	17 GREGLEN AV
68		187		PASYS JULIUS		2 WINDY WAY # 224	NANTUCKET	MA 02554	13B GREGLEN AV
68		187	1	COWGER NATALIE R & BENJAMIN		15 GREGLEN AV	NANTUCKET	MA 02554	15 GREGLEN AV

MARK & ELIZABETH BONO,
AS OWNERS
&
EK ASSOCIATIES, LLC,
AS APPLICANT

15 BLACKFISH LN.

FILE NO.23-16

READE, GULLICKSEN, HANLEY & GIFFORD, LLP

SIX YOUNG'S WAY
NANTUCKET, MASSACHUSETTS 02554

(508) 228-3128

FAX: (508) 228-5630

MAILING ADDRESS
POST OFFICE BOX 2669
NANTUCKET, MASS. 02584

ARTHUR I. READE, JR., P.C.
KENNETH A. GULLICKSEN
MARIANNE HANLEY
WHITNEY A. GIFFORD

June 13, 2016

ZBA 23-16

Zoning Board of Appeals
Attn: Eleanor Antonietti
Land Use Specialist
Town of Nantucket
2 Fairgrounds Road
Nantucket, Massachusetts 02554

Re: 15 Black Fish Lane

Dear Eleanor:

Enclosed please find an original and one photocopy of the following as it relates to the above-referenced matter:

1. Completed application
2. Sequential as-built plans
3. Locus map
4. Abutters list
5. Two sets of prepared labels
6. A check for the filing fee of \$450.00.

If you have any questions, please let us know.

Sincerely,

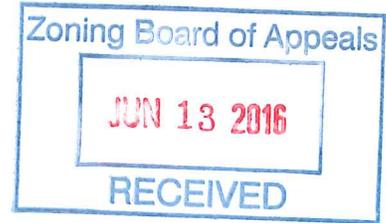


Leigh M. Topham
Office Administrator

/lmt
Enclosures

cc: EK Associates (via email)
Richard P. Beaudette, Attorney (via email)
Bracken Engineering, Inc. (via email)
Emack Surveying, LLC (via email)

f:\wpe\ek assoc\blackfish\antoniettiltr.docx



**TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MA 02554**

Judy 5PM 3:36:54

NANTUCKET
TOWN CLERK *WAB*

APPLICATION

Fee: \$450.00

File No. 23-16

Owner's name(s): Mark Bono and Elizabeth Gilbert-Bono
Mailing address: c/o Vaughan, Dale, Hunter & Beaudette, P.C., 3 Whalers Lane,
Nantucket, MA 02554

Phone Number: 508-228-4455 E-Mail: rick@vdlaw.com

Applicant's name(s): EK Associates, LLC

Mailing Address: c/o Reade, Gullicksen, Hanley & Gifford, LLP
6 Youngs Way, Nantucket, MA 02554

Phone Number: 508-228-3128 E-Mail: mh@readclaw.com

Locus Address: 15 Black Fish Lane Assessor's Map/Parcel: 73-108
Land Court Plan/Plan Book & Page/Plan File No.: Lot 3, Plan No. 2007-55

Deed Reference/Certificate of Title: Bk 1540, Page 9 Zoning District SR 20

Uses on Lot- Commercial: None Yes (describe) _____
Residential: Number of dwellings One Duplex _____ Apartments _____

Date of Structure(s): all pre-date 7/72 _____ or 2016 _____

Building Permit Numbers: 870-13, 337-14, 588-14, 940-14, and 644-16

Previous Zoning Board Application Numbers: none _____

2 Fairgrounds Road Nantucket Massachusetts 02554
508-228-7215 telephone 508-228-7298 facsimile

State below or attach a separate addendum of specific special permits or variance relief applying for:

See attached addendum

I certify that the information contained herein is substantially complete and true to the best of my knowledge, under the pains and penalties of perjury.

Mark Bono and Elizabeth Gilbert-Bono

SIGNATURE: *Mark Bono* Owner*

EK Associates, LLC

SIGNATURE: By: *Abigail Jolley* Applicant/Attorney/Agent*

*If an Agent is representing the Owner or the Applicant, please provide a signed proof of agency.

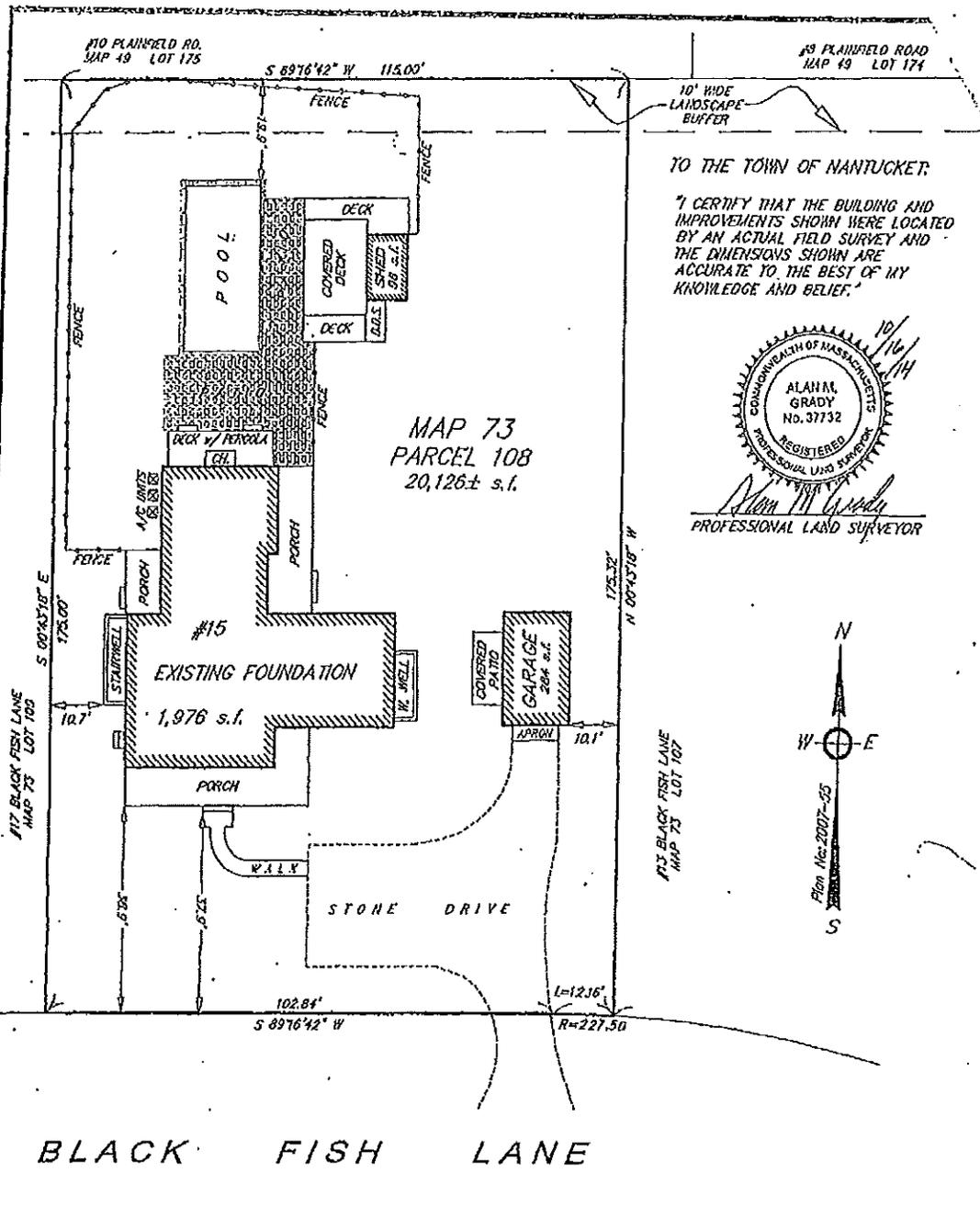
OFFICE USE ONLY

Application received on: ___/___/___ By: ___ Complete: ___ Need Copies: ___
 Filed with Town Clerk: ___/___/___ Planning Board: ___/___/___ Building Dept.: ___/___/___ By: ___
 Fee deposited with Town Treasurer: ___/___/___ By: ___ Waiver requested: ___
 Granted: ___/___/___ Hearing notice posted with Town Clerk: ___/___/___ Mailed: ___/___/___
 I&M ___/___/___ & ___/___/___ Hearing(s) held on: ___/___/___ Opened on: ___/___/___
 Continued to: ___/___/___ Withdrawn: ___/___/___ Decision Due By: ___/___/___
 Made: ___/___/___ Filed w/Town Clerk: ___/___/___ Mailed: ___/___/___

ADDENDUM 15 Black Fish Lane

Applicant requests Special Permit relief, to accommodate the siting of the existing garage, located at its closest point, 9.5 feet from the side yard line in a district that requires a 10 foot side yard setback, pursuant to (a) §139-16C (1) of the by-law to reduce the required 10 feet side yard setback from the easterly boundary of the Premises to 5 feet; or (b) pursuant to §139-16.C (2) of the by-law to validate an unintentional intrusion into the required side yard setback. In the alternative, Applicant requests a Variance pursuant to §139-32 of the by-law, to allow for the siting of the garage in its current location. At the time the garage was constructed in 2014, a surveyed plot plan showed the side yard line of the garage to be 10.1 feet, in conformity with the required yard. Prior to sale by the Applicant to the Owner, and in reliance on such plan, Owner commenced the construction of stairs and platform at the rear of the garage. A subsequent plot plan of the Premises, completed immediately prior to Owners' purchase of the property, disclosed that the 2014 plan was incorrect, and that portions of the initial garage structure, as well as the portions of the stairs and platform, are actually located less than 10 feet from the side yard line.

2014 as-built



#16 BLACK FISH LANE MAP 73 LOT 116
BLACK FISH LANE MAP 73 LOT 119
#14 BLACK FISH LANE MAP 73 LOT 117

NOTES:

- OWNER: EK ASSOCIATES, LLC
- DEED REF: Bk:1424 Pg:215
- PLAN REF: Plan No: 2007-55 (LOT 3)
- LOCUS DOES NOT FALL WITHIN A SPECIAL FLOOD HAZARD ZONE AS SHOWN ON FEMA FLOOD INSURANCE RATE MAP No. 25019C0113G dated 6/09/2014.

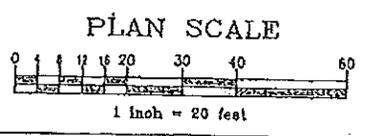
ZONING CLASSIFICATION (SR-20)

	REQUIRED	EXISTING
LOT AREA:	20,000 s.f.	20,126± s.f.
FRONTAGE:	75'	115.00'
FRONT YARD:	30'	37.8'
SIDE YARD:	10'	10.1'
REAR YARD:	10'	19.9'
COVERAGE:	12.5% (MAX)	11.2% (2,280 s.f.)

BRACKEN ENGINEERING, INC.
49 HERRING POND ROAD BUZZARDS BAY, MA 02592
(tel) 508.833.0070 (fax) 508.833.2282

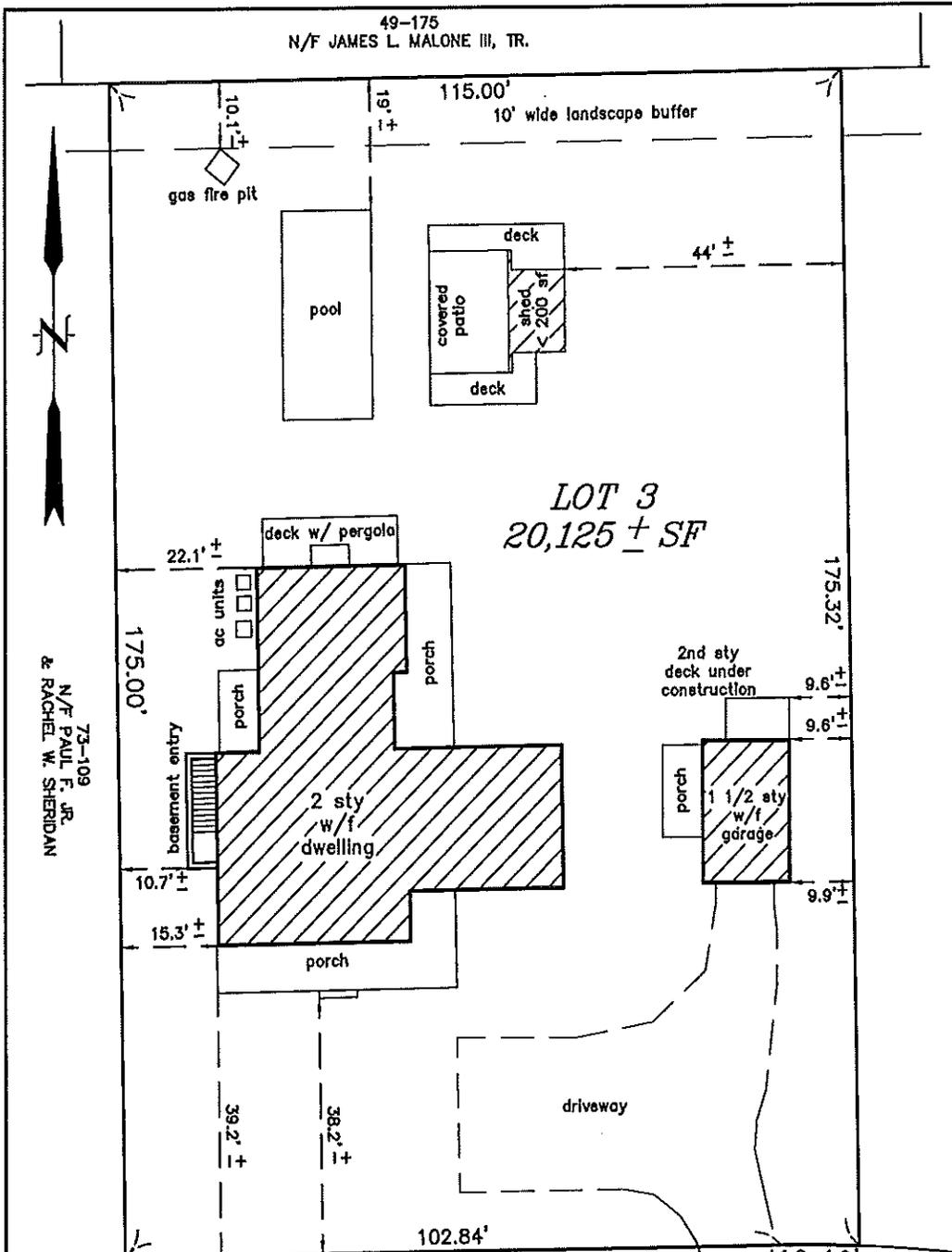
19 OLD SOUTH ROAD NANTUCKET, MA 02554
(tel) 508.326.6064 www.brackeneng.com

Scale: Feet
FINAL AS-BUILT PLAN
IN NANTUCKET, MASSACHUSETTS
Prepared For: **EK ASSOCIATES, LLC**
#15 BLACK FISH LANE
MAP 73 PARCEL 108



DATE: OCTOBER 7, 2014
DRAWN: RHH/RL/DLH
CHECKED: ANG
JOB NO: 0351-001

Emack 2016 as-built



NOTE: GARAGE DOES NOT CONFORM TO CURRENT ZONING REQUIREMENTS WITH RESPECT TO SIDE YARD SETBACK

CURRENT ZONING: SR-20
MINIMUM LOT SIZE: 20,000 SF
MINIMUM FRONTAGE: 75 FT
FRONTYARD SETBACK: 30 FT
SIDE AND REAR SETBACK: 10 FT
ALLOWABLE G.C.R.: 12.5%
EXISTING G.C.R.: 11.3% ±

FOR PROPERTY LINE DETERMINATION THIS PLOT PLAN RELIES ON CURRENT DEEDS AND PLANS OF RECORD, VERIFIED BY FIELD MEASUREMENTS AS SHOWN HEREON. THIS PLAN IS NOT REPRESENTED TO BE A TITLE EXAMINATION OR A RECORDABLE SURVEY.

I HEREBY CERTIFY TO THE BEST OF MY KNOWLEDGE THAT THE PREMISES SHOWN ON THIS PLAN ARE LOCATED WITHIN THE X ZONE (areas outside 0.2% annual chance flood plain) AS DELINEATED ON THE "FIRM" OF COMMUNITY NO. 250230, MASSACHUSETTS. EFFECTIVE: JUNE 9, 2014, BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

N.B. 20/124

BLACK FISH LANE

MORTGAGE INSPECTION PLAN
IN

NANTUCKET, MASSACHUSETTS

SCALE: 1"=20' DATE: MAY 19, 2016

DEED REFERENCE: DBK 1424, PG 215

PLAN REFERENCE: PL NO 2007-55

ASSESSOR'S REFERENCE:

MAP: 73 PARCEL: 108

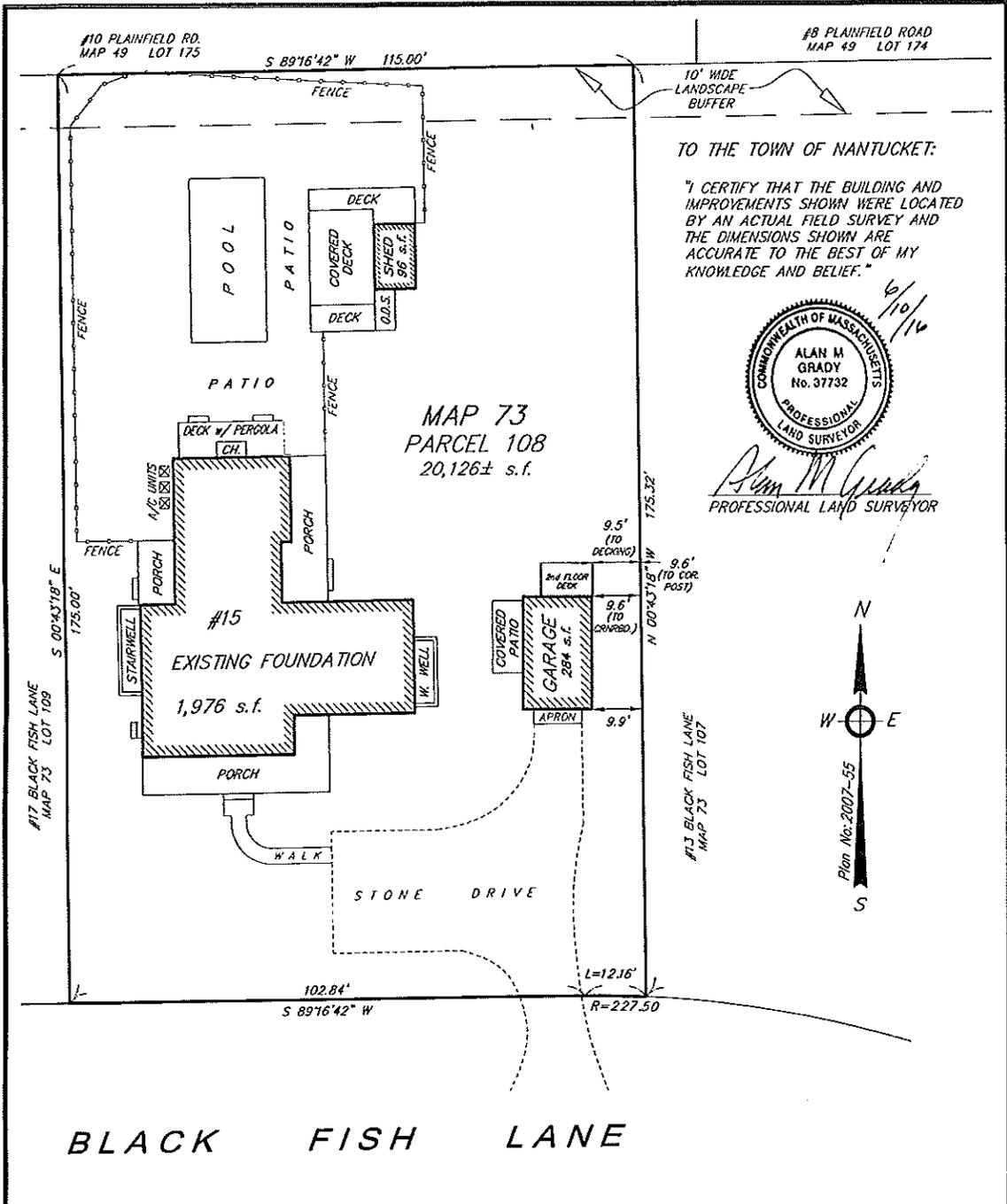
PREPARED FOR: MARK BONO &

ELIZABETH GILBERT BONO

EMACK SURVEYING, LLC
2 WASHAMAN AVENUE
NANTUCKET, MA. 02554
(508) 325-0940

J-1321

Bracken 2016 follow-up

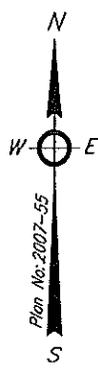


TO THE TOWN OF NANTUCKET:

"I CERTIFY THAT THE BUILDING AND IMPROVEMENTS SHOWN WERE LOCATED BY AN ACTUAL FIELD SURVEY AND THE DIMENSIONS SHOWN ARE ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF."



Alan M. Grady
PROFESSIONAL LAND SURVEYOR



BLACK FISH LANE

#16 BLACK FISH LANE
MAP 73 LOT 116

BLACK FISH LANE
MAP 73 LOT 119

#14 BLACK FISH LANE
MAP 73 LOT 117

NOTES:

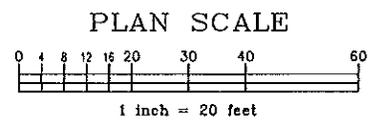
1. OWNER: EK ASSOCIATES, LLC
2. DEED REF: Bk:1424 Pg:215
3. PLAN REF: Plan No:2007-55 (LOT 3)
4. LOCUS DOES NOT FALL WITHIN A SPECIAL FLOOD HAZARD ZONE AS SHOWN ON FEMA FLOOD INSURANCE RATE MAP No. 25019C0113G dated 6/09/2014.

ZONING CLASSIFICATION (SR-20)

	REQUIRED	EXISTING
LOT AREA:	20,000 s.f.	20,126± s.f.
FRONTAGE:	75'	115.00'
FRONT YARD:	30'	>30'
SIDE YARD:	10'	9.6'
REAR YARD:	10'	>10'
COVERAGE:	12.5% (MAX)	11.2% (2,260 s.f.)

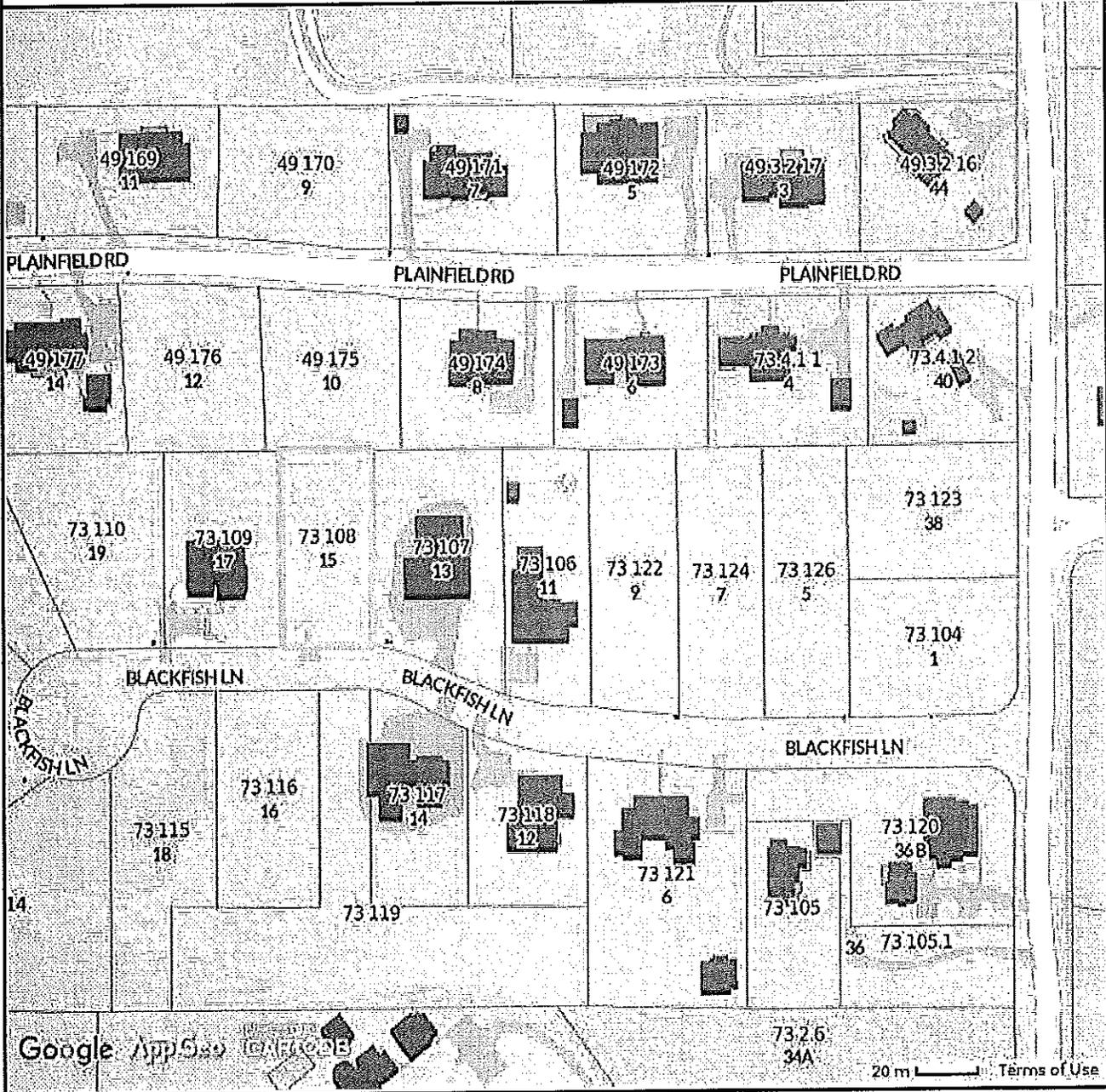
BRACKEN ENGINEERING, INC.
 49 HERRING POND ROAD BUZZARDS BAY, MA 02532
 19 OLD SOUTH ROAD NANTUCKET, MA 02554
 (tel) 608.833.0070 (tel) 608.325.0044
 (fax) 608.833.2282 www.brackeneng.com

Sheet Title:
AS-BUILT PLAN
 IN NANTUCKET, MASSASHUSETTS
 Prepared for:
EK ASSOCIATES, LLC
 #15 BLACK FISH LANE
 MAP 73 PARCEL 108



Date:	Drawn:	Checked:	Job:
JUNE 10, 2016	RMM/JRL/DLH	AMG	0351-001

15 Black Fish Lane



Property Information

Property ID 73 108
 Location 15 BLACK FISH LN
 Owner EK ASSOCIATES LLC



**MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT**

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated December, 2014
 Properties updated January, 2015

\$ 6.00

RECEIVED
BOARD OF ASSESSORS

MAY 27 2016

TOWN OF
NANTUCKET, MA

Town of Nantucket

Zoning Board of Appeals

LIST OF PARTIES IN INTEREST IN THE MATTER OF THE PETITION OF:

PROPERTY OWNER..... *EK Associates, LLC*

MAILING ADDRESS..... *c/o Reade, Gullicksen, Hanley & Gifford, LLP*

PROPERTY LOCATION..... *15 Blackfish*

ASSESSOR MAP/PARCEL..... *73-108*

SUBMITTED BY..... *Reade, Gullicksen, Hanley & Gifford, LLP*

SEE ATTACHED PAGES

I certify that the foregoing is a list of all persons who are owners of abutting property, owners of land directly opposite on any public or private street or way; and abutters of the abutters and all other land owners within 300 feet of the property line of owner's property, as they appear on the most recent applicable tax list (M.G.L. c. 40A, Section 11 and Zoning Code Chapter 40A, Section 139-29B (2)).

May 27, 2016
DATE

Patricia Miles
ASSESSOR'S OFFICE
TOWN OF NANTUCKET

ABBUTTERS LISTING
NANTUCKET, MA

Map	Block	Lot	Unit	Owner's Name	Co Owner's Name	Address	City	ST Zip	Parcel Location
49		169		SCHILLER ALAN L & REGINA J TRS		9 POND ST	ROWAYTON	CT 06853	11 PLAINFIELD RD
49		170		ANDREW STEPHENIE C		102 CROSS BROOK ROAD	NEW MILFORD	CT 06776	9 PLAINFIELD RD
49		171		VAUGHAN EDWARD FOLEY TRS	AUGUST NOMINEE TRUST	PO BOX 659	NANTUCKET	MA 02554	7 PLAINFIELD RD
49		172		QUEALLY FRANCIS X JR & ELIZABETH		21 HALTER LANE	DARIEN	CT 06820-3906	5 PLAINFIELD RD
49		173		KELLER DAVID M & AVERY C		425 WOODLAND RD	LAKE FOREST	IL 60045	6 PLAINFIELD RD
49		174		MALONE JAMES L III & ALICE REN		1260 INGLEDRESS DRIVE	CHARLOTTESVILLE VA	22901	8 PLAINFIELD RD
49		175		MALONE JAMES L III TRUSTEE	SAIL AWAY NOMINEE TRUST	1260 INGLEDRESS DRIVE	CHARLOTTESVILLE VA	22901	10 PLAINFIELD RD
49		176		ANDREW STEPHENIE C		102 CROSSBROOK ROAD	NEW MILFORD	CT 06776-3065	12 PLAINFIELD RD
49		177		ROBERTS WILLIAM H & DEBORAH TRS	AMBTGS NOMINEE TRUST	352 BEACON STREET # 5	BOSTON	MA 02116	14 PLAINFIELD RD
49		178		VAN DIJKUM FLORIS G & ALLISON J		P O BOX 7539	SIASCONSET	MA 02564	16 PLAINFIELD RD
73		106		JONES LINDA GRAEF		66 BOULDER TRAIL	BRONXVILLE	NY 10708	11 BLACK FISH LN
73		107		LEVISON FLORENCE BLOCK		521 FIELD POINT ROAD	GREENWICH	CT 06830	13 BLACK FISH LN
73		109		SHERIDAN PAUL F JR & RACHEL W		4615 32ND ST NORTH	ARLINGTON	VA 22207	17 BLACK FISH LN
73		110		SHERIDAN PAUL F & RACHEL W		4615 32ND STREET N	ARLINGTON	VA 22207	19 BLACK FISH LN
73		111		SCULLY MARTIN TRST	BURNELL ST NOM TRST	C/O AILEEN CONRAD	NANTUCKET	MA 02554	21 BLACK FISH LN
73		112		SCULLY MARTIN TRST	BURNELL ST NOM TRUST-A CONRAD	188 MADAKET RD	NANTUCKET	MA 02554	23 BLACK FISH LN
73		113		22 BLACKFISH LANE LLC		22 BLACK FISH LN	NANTUCKET	MA 02554	22 BLACK FISH LN
73		114		DORTON PATRICK & ERIN		5 EAST IRVING ST	CHEVY CHASE	MD 20815	20 BLACK FISH LN
73		115		18 BLACK FISH LLC		12 AMELIA DRIVE	NANTUCKET	MA 02554	18 BLACK FISH LN
73		116		CALHOUN JAMES A JR & JENNIFER A		27 LIVINGSTON ROAD	WELLESLEY	MA 02482	16 BLACK FISH LN
73		117		BURKE WILLIAM J & JILL		3717 N VERMONT ST	ARLINGTON	VA 22207	14 BLACK FISH LN
73		118		HOLDING WILLIAM B JR & PAMELA R		24 LINCOLN RD	WELLESLEY HILLS MA	02481	12 BLACK FISH LN
73		119		ALGER SARAH F TRST	BLACK FISH NOM TRUST	2 SOUTH WATER ST	NANTUCKET	MA 02554	BLACK FISH LN
73		121		BIERLY CHRISTOPHER D ETAL		199 OTIS STREET	WEST NEWTON	MA 02465	6 BLACK FISH LN
73		122		JONES LINDA GRAEF		66 BOULDER TRAIL	BRONXVILLE	NY 10708	9 BLACK FISH LN
73		124		DAMMIN J T RISTRAM C & BEVERLY		146 MT VERNON ST	BOSTON	MA 02108	7 BLACK FISH LN

LETTERS

From: [James Calhoun](#)
To: [Eleanor Antonietti](#)
Subject: Mark & Elizabeth Bono/File No. 23-16
Date: Tuesday, July 05, 2016 7:53:23 PM

To whom it may concern,

I am writing in support of Mark and Elizabeth Bono's request for Special Permit relief. As a fellow resident of Blackfish, I have no issue whatsoever with the variance to the zoning by-law as it was unintentional (and pre-dated their purchase) and is not an issue of unfairness or inconsistency with the other homes here.

Should you need anything further, please do not hesitate to contact me at this email or at our Nantucket home (507-237-0235). I hope this appeal is resolved quickly and without objection.

Sincerely,

Jim Calhoun
16 Blackfish Lane

Sent from my iPhone

**6 LILY STREET, LLC
&
SCONSET PARTNERS, LLC,**

6 & 8 LILY STREET

FILE NO.24-16

CONTINUED TO 8/11/16

VAUGHAN, DALE, HUNTER AND BEAUDETTE

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

WHALER'S LANE

P.O. BOX 659

NANTUCKET, MASSACHUSETTS 02554

TEL: (508) 228-4455

FAX: (508) 228-3070

EDWARD FOLEY VAUGHAN

KEVIN F. DALE

RICHARD P. BEAUDETTE

—
LORI D'ELIA

BRYAN J. SWAIN

WILLIAM F. HUNTER
OF COUNSEL

July 8, 2016

BY HAND DELIVERY

Edward S. Toole, Chairman
Nantucket Board of Appeals
Town Building Annex
2 Fairgrounds Road
Nantucket, MA 02554

RE: 6 Lily Street LLC and Sconset Partners LLC
Request for Continuance

Dear Chairman Toole:

This letter will serve to confirm that I represent 6 Lily Street LLC and Sconset Partners, LLC. My client have filed an application for zoning relief that is scheduled to be heard by the Nantucket Board of Appeals on July 14, 2016. My clients ask the Board to continue the hearing date from July 14, 2016 to August 11, 2016.

As grounds for this requested continuance, a number of Sconset neighbors have raised a concern about the size of the proposed cottage footprint on the 8 Lily Street Lot. My clients are sensitive to the concerns of their Sconset neighbors and intend to prepare and submit a new site plan that reduces the size of the 8 Lily Street cottage footprint. This requested continuance will also afford my clients time to

Letter to Board of Appeals
July 8, 2016
Page 2

discuss their project with their neighbors and address any other concerns they may raise.

Please continue the application for zoning relief from July 14, 2016 to August 11, 2016. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "K. F. Mule", with a long horizontal flourish extending to the right.

KFD/kw

Cc: Sarah F. Alger, Attorney
Eleanor Antoinette, Zoning Adm
Leslie Woodson Snell, Deputy Director of Planning
Mr. and Mrs. George Kelly

GEORGE GRAY, LLC

55 UNION STREET

FILE NO.25-16



TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MA 02554

NANTUCKET
TOWN CLERK

Handwritten signature

APPLICATION

Fee: \$450.00

File No. 25-16 *July* JUN 30 3:38:15

Owner's name(s): George Gray LLC

Mailing address: c/o Sarah F. Alger, P.C., Two South Water Street, Nantucket, Massachusetts 02554

Phone Number: (508) 228-1118 E-Mail: sfa@sfapc.com

Applicant's name(s): Same as above.

Mailing Address: _____

Phone Number: _____ E-Mail: _____

Locus Address: 55 Union Street Assessor's Map/Parcel: 55.1.4/89

Land Court Plan/Plan Book & Page/Plan File No.: Plan No. 2014-92

Deed Reference/Certificate of Title: Book 1459, Page 294 Zoning District ROH

Uses on Lot- Commercial: None Yes (describe) _____

Residential: Number of dwellings 1 Duplex 0 Apartments 0

Date of Structure(s): all pre-date 7/72 or _____

Building Permit Numbers: 1758-14

Previous Zoning Board Application Numbers: ZA 26-14



State below or attach a separate addendum of specific special permits or variance relief applying for:

See attached Addendum.

I certify that the information contained herein is substantially complete and true to the best of my knowledge, under the pains and penalties of perjury.

SIGNATURE: [Handwritten Signature] Owner*

SIGNATURE: [Handwritten Signature] Applicant/Attorney/Agent*

*If an Agent is representing the Owner or the Applicant, please provide a signed proof of agency.

OFFICE USE ONLY

Application received on: __/__/__ By: _____ Complete: _____ Need Copies: _____
Filed with Town Clerk: __/__/__ Planning Board: __/__/__ Building Dept.: __/__/__ By: _____
Fee deposited with Town Treasurer: __/__/__ By: _____ Waiver requested: _____
Granted: __/__/__ Hearing notice posted with Town Clerk: __/__/__ Mailed: __/__/__
I&M __/__/__ & __/__/__ Hearing(s) held on: __/__/__ Opened on: __/__/__
Continued to: __/__/__ Withdrawn: __/__/__ Decision Due By: __/__/__
Made: __/__/__ Filed w/Town Clerk: __/__/__ Mailed: __/__/__

ADDENDUM
**(Nantucket Zoning Board of Appeals Application
55 Union Street, Nantucket, Massachusetts)**

The Applicant seeks a Special Permit under Nantucket Zoning By-law (the "By-law") §139-16.C(2) to validate an unintentional intrusion of about 0.2 feet into the required side yard setback of 5 feet. In the course of construction, which was reasonably based on a licensed survey, an underground cistern was encountered that had the unintended effect of changing the course of the wall, causing it to be about 0.2 feet (about 2.4 inches) into the setback in one corner.

Applicant also seeks a clarification of the Zoning Administrator's Decision, dated December 30, 2014, recorded with Nantucket Deeds in Book 1470, Page 182 in which it is inadvertently stated that the dwelling is sited about 2.4' from the Westerly (rear) lot line, when the plan referenced by the Decision actually shows the dwelling to be sited about 2' 4" from the line or about 2.3'.

The Locus is located at 55 Union Street, is shown on Nantucket Tax Assessor's Map 55.1.4 Parcel 89, is shown on Plan File No. 2014-92 at Nantucket Deeds, and is located in the Residential Old Historic ("ROH") Zoning District.

55 Union Street



Property Information

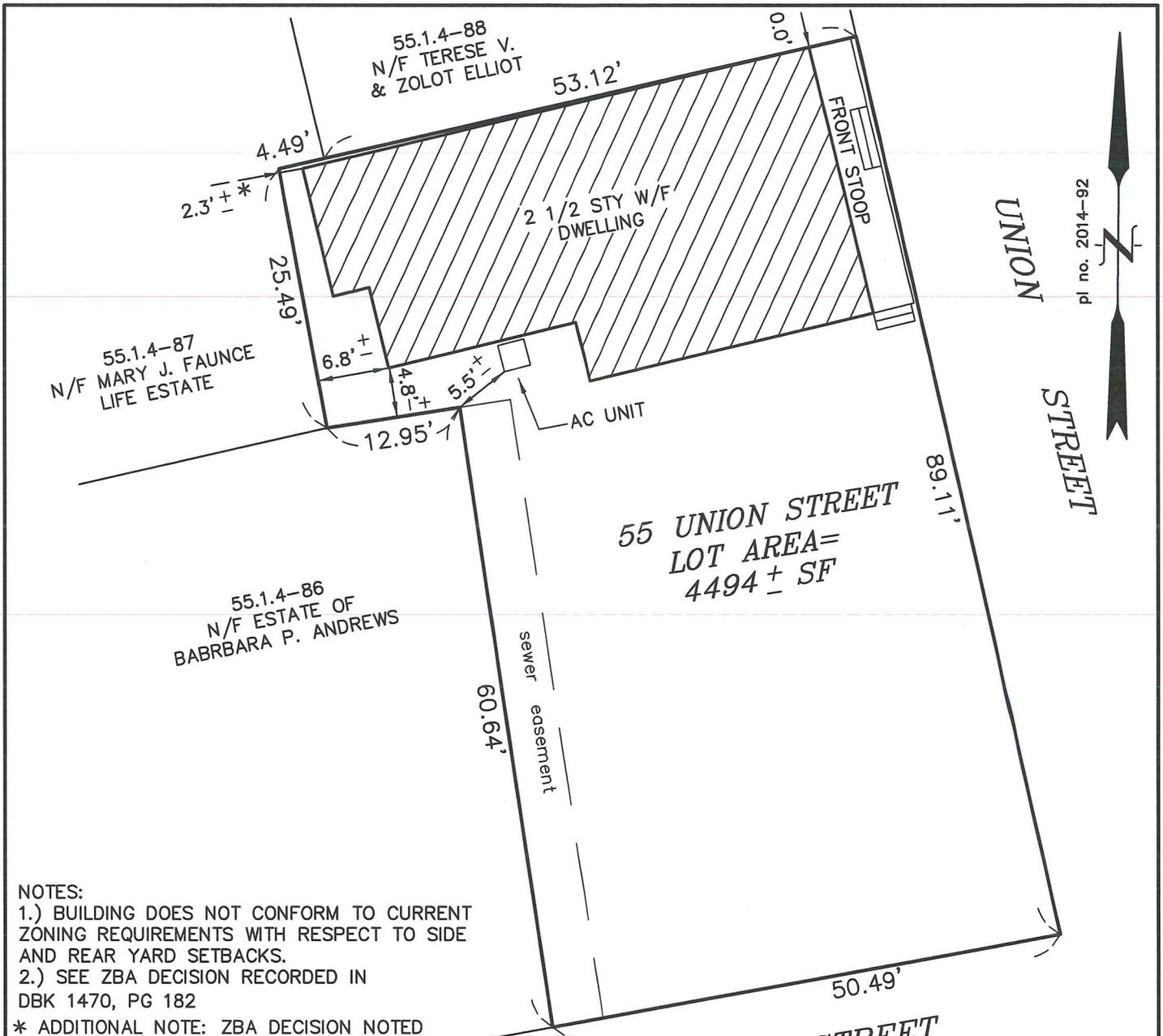
Property ID 55.1.4.89
Location 55 UNION ST
Owner GEORGE GRAY LLC



MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated December, 2014
 Properties updated January, 2015

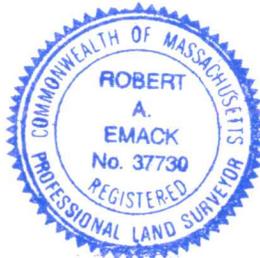


NOTES:

- 1.) BUILDING DOES NOT CONFORM TO CURRENT ZONING REQUIREMENTS WITH RESPECT TO SIDE AND REAR YARD SETBACKS.
- 2.) SEE ZBA DECISION RECORDED IN DBK 1470, PG 182

* ADDITIONAL NOTE: ZBA DECISION NOTED ABOVE STATES THAT THE DWELLING IS SITED 2.4' FROM THE WESTERLY (REAR) LOT LINE. HOWEVER THE PLAN REFERENCED BY THE DECISION ACTUALLY SHOWS THE BUILDING SITED 2'-4" FROM THE LINE, WHICH IS 2.3' ±.

CURRENT ZONING: ROH
 MINIMUM LOT SIZE: 5000 S.F.
 MINIMUM FRONTAGE: 50 FT.
 FRONTYARD SETBACK: NONE
 SIDE AND REAR SETBACK: 5 FT.
 ALLOWABLE G.C.R.: 50%
 EXISTING G.C.R.: 26.3 ± %
 EXISTING G.C.: 1180 ± SF



R.A. Emack

PLOT PLAN TO ACCOMPANY APPLICATION TO ZONING BOARD OF APPEALS IN NANTUCKET, MASSACHUSETTS

SCALE: 1"=15' DATE: MAY 27, 2016

DEED REFERENCE: DBK 1458, PG 3216

PLAN REFERENCE: PL NO. 2014-92

ASSESSOR'S REFERENCE:

MAP: 55.1.4 PARCEL: 89

PREPARED FOR: GEORGE GRAY LLC

FOR PROPERTY LINE DETERMINATION THIS PLOT PLAN RELIES ON CURRENT DEEDS AND PLANS OF RECORD, VERIFIED BY FIELD MEASUREMENTS AS SHOWN HEREON. THIS PLAN IS NOT REPRESENTED TO BE A TITLE EXAMINATION OR A RECORDABLE SURVEY.

EMACK SURVEYING, LLC
 2 WASHAMAN AVENUE
 NANTUCKET, MA. 02554
 (508) 325-0940

J-1269



2015 00000276

Bk: 1470 Pg: 182 Page: 1 of 5
Doc: DECISIO 01/30/2015 09:45



**TOWN OF NANTUCKET
ZONING ADMINISTRATOR
NANTUCKET, MASSACHUSETTS 02554**

Date: December 30, 2014

To: Parties in Interest and Others concerned with the Decision of
The Zoning Administrator in the Application of the following:

Application No: ZA 26-14

Owner/Applicant: GEORGE GRAY LLC

Enclosed is the Decision of the Zoning Administrator which has this day
been filed with the office of the Nantucket Town Clerk.

An Appeal from this Decision to the Zoning Board of Appeals may be
taken pursuant to Nantucket Zoning Bylaw Section 139-29.C. (3)

Any action appealing the Decision must be brought by filing a notice of
appeal, specifying the grounds thereof, with the Town Clerk, pursuant
to Nantucket Zoning Bylaw Section 139-29.C. (6)

Eleanor Weller Antonietti,
Zoning Administrator

cc: Town Clerk
Building Commissioner/Zoning Enforcement Officer

**TOWN OF NANTUCKET
NANTUCKET ZONING ADMINISTRATOR
2 Fairgrounds Road
Nantucket, Massachusetts 02554**

Assessor's Map 55.1.4 Parcel 89
55 Union Street
Residential Old Historic (ROH)

Book 1458, Page 294
Plan No. 2014-92

DECISION:

1. Upon review of the Application submitted by the Applicant, the Zoning Administrator determined pursuant to Nantucket Zoning By-Law § 139-33.A(1)(b) that the proposed alterations, extensions, and structural changes to the pre-existing non-conforming structure do not increase its non-conforming nature.
2. The Applicant proposes to alter portions of the structure which are sited within the northern side and western rear yard setbacks. The work consists of rehabilitation and renovation of an historic dwelling which includes the construction of a porch running the length of the front of the house, facing Union Street, and a two-story addition to the rear of the structure. The porch addition will result in an extension, containing approximately 22 square feet, of the northern side yard setback intrusion from the existing northeast corner of the structure to the front yard lot line. The addition to the rear of the structure will result in a vertical extension of the northern side and western rear setback intrusions. The resulting height of this rear addition will be approximately 23.1 feet. These alterations will not bring the structure any closer to the side and rear yard lot lines than the existing structure, as shown on plan entitled "Proposed Plot Plan - ZBA APP.", prepared by Milton Rowland & Associates, and attached herewith as "Exhibit A".
3. The major renovation is comprised of further alterations within the buildable portion of the property which do not require relief. These structural changes consist of: a 149 square foot first floor addition with a roof height of approximately 26.6 feet to the south elevation of the structure outside of the setback; a new roof walk; fenestration and roof-pitch changes, and; new shingling. The addition will bring the total ground cover of the structure to 1,160 square feet where a ground cover of 2,249 square feet is allowed.

The existing height of the structure, approximately 30.4 feet at its highest point, will not be increased. Pursuant to Nantucket Zoning By-law Section 139-17.B(1), roof walks are uses permitted to exceed the thirty (30) foot height limitation specified in Section 139-17.A "to an extent reasonable and customary". All of the proposed alterations have been granted Historic District Commission approval by virtue of Certificate of Appropriateness No. 62899.

4. The property, a corner lot abutting both Union Street and York Street, is an undersized lot of record. Therefore, the Locus is pre-existing nonconforming with respect to lot area, having a lot size of 4,494 square feet in the Residential Old Historic zoning district where minimum required lot size is 5,000 square feet. The lot contains a 1,011 square foot dwelling, said to be built circa 1834, with an existing total ground cover ratio of approximately 22.5%, where 50% is allowed. The dwelling is sited as close as zero (0) feet from the northern side yard lot line and as close as 2.4 feet from the western rear yard lot line where the minimum side and rear yard setbacks are five (5) feet. The dwelling is pre-existing nonconforming as to height with an approximate height of 30.4 feet at its highest point where a maximum height of thirty (30) feet is allowed.

The premises contain no parking spaces where one (1) is required. However, applicant proposes a new driveway at the southwest corner of the lot, providing access from York Street. These nonconformities pre-exist the 1972 adoption of Nantucket's Zoning By-law.

5. Although the height of the structure would increase within the required five (5) foot setback area, it would come no closer to the side and rear yard lot lines than the existing structure. The addition of the front porch will result in an extension of the northern side yard lot line towards the eastern front yard lot line, but will not bring the structure any closer to the northern lot line. Therefore, because the proposed alterations will not result in an increase to the pre-existing nonconforming side and rear yard setbacks, as shown on "Exhibit A", the Zoning Administrator finds that the proposed work will not increase the pre-existing nonconforming nature of the Locus.

SIGNATURE PAGE TO FOLLOW.

55 Union Street
Assessor's Map 55.1.4 Parcel 89
Residential Old Historic (ROH)

Book 1458, Page 294
Plan No. 2014-92

JAN 30 2015

I CERTIFY THAT ³⁰ 30 DAYS HAVE ELAPSED AFTER
THE DECISION WAS FILED IN THE OFFICE OF THE
TOWN CLERK, AND THAT NO APPEAL HAS BEEN
FILED, PURSUANT TO GENERAL LAWS 40A, SECTION 11

TOWN CLERK




Eleanor Weller Antonietti
Zoning Administrator

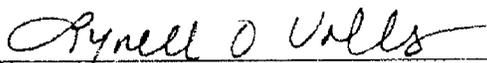
ATTEST: A TRUE COPY


NANTUCKET TOWN CLERK

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss

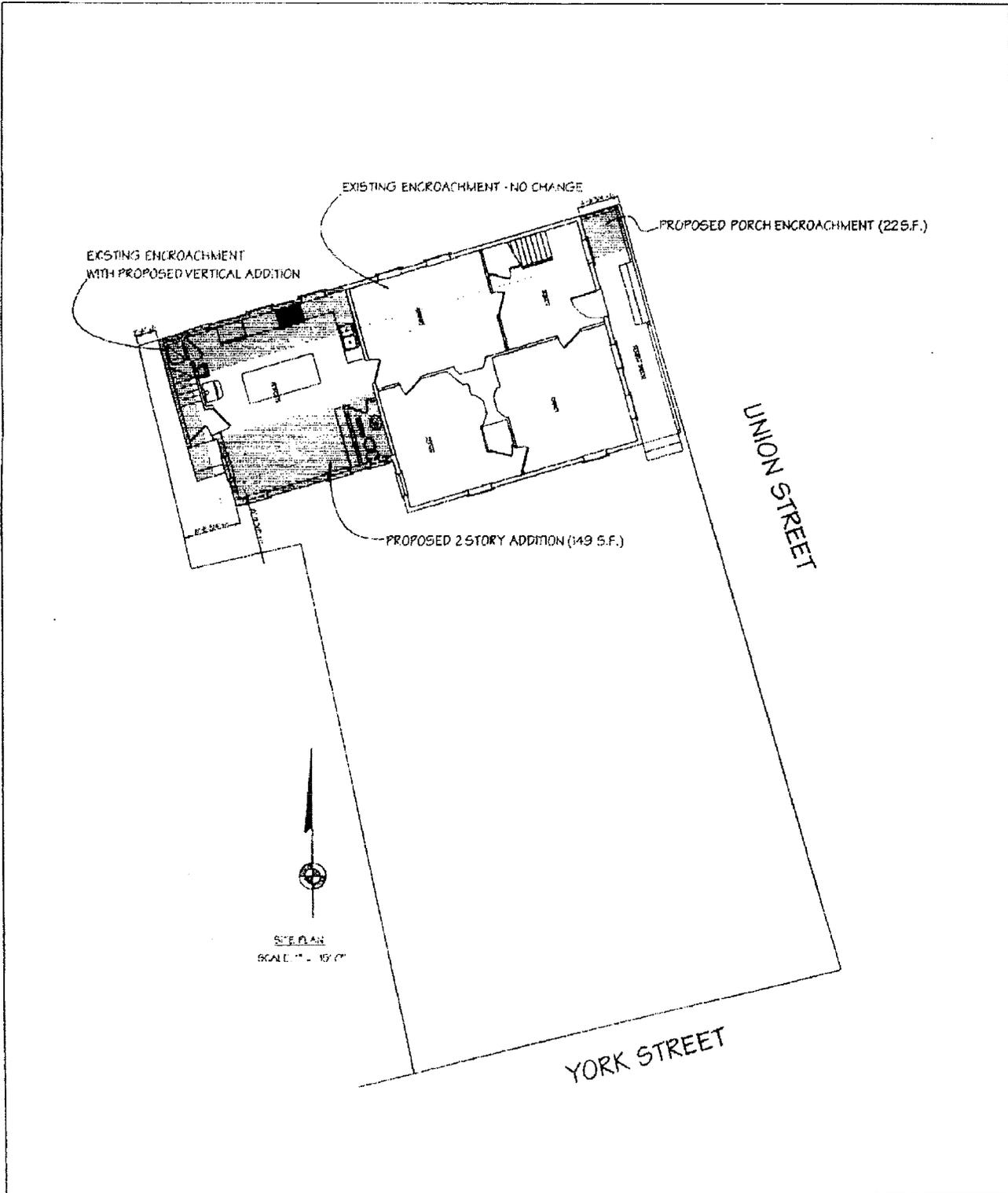
On the 30th day of December, 2014, before me, the undersigned notary public,
personally appeared Eleanor Weller Antonietti, the above-named
Zoning Administrator of Nantucket, Massachusetts, personally known to me to be the person
whose name is signed on the preceding document, and acknowledged that she signed the
foregoing instrument voluntarily for the purposes therein expressed.


Notary Public:

My Commission Expires:
LYNELL D. VOLLANS
Notary Public
Commonwealth of Massachusetts
My Commission Expires
December 28, 2018



EXHIBIT A



NANTUCKET COUNTY Received & Entered
Attest: Jennifer H. Forester, Register of Deeds

Professional seal and stamp of Milton Rowland & Associates, Inc. (faint)

MILTON ROWLAND & ASSOCIATES
 15 COMMERCIAL WHARF
 NANTUCKET, MASSACHUSETTS
 508.228.2044

GEORGE GRAY LLC
 55 UNION ST.
 NANTUCKET MA 02554

PROPOSED PLOT PLAN - ZBA APP.
 SCALE: 1" = 15' - 0"

A.1

\$ 50.00

RECEIVED
BOARD OF ASSESSORS

MAY 19 2016

TOWN OF
NANTUCKET, MA

Town of Nantucket

Zoning Board of Appeals

LIST OF PARTIES IN INTEREST IN THE MATTER OF THE PETITION OF:

George Gray LLC
PROPERTY OWNER.....
c/o Sarah F. Alger, P.C., Two South Water Street, Nantucket, MA 02554
MAILING ADDRESS.....
55 Union Street
PROPERTY LOCATION.....
55.1.4/ 89
ASSESSOR MAP/PARCEL.....
Sarah F. Alger, P.C.
SUBMITTED BY.....

SEE ATTACHED PAGES

I certify that the foregoing is a list of all persons who are owners of abutting property, owners of land directly opposite on any public or private street or way; and abutters of the abutters and all other land owners within 300 feet of the property line of owner's property, as they appear on the most recent applicable tax list (M.G.L. c. 40A, Section 11 and Zoning Code Chapter 40A, Section 139-29B (2)).

May 19, 2016
DATE

Patricia Giles
ASSESSOR'S OFFICE
TOWN OF NANTUCKET

ABBUTTERS LISTING
NANTUCKET, MA

Map	Block	Lot	Unit	Owner's Name	Co Owner's Name	Address	City	ST Zip	Parcel Location
4223		23		NANTUCKET TOWN OF		16 BROAD ST	NANTUCKET	MA 02554	83 WASHINGTON ST
4223		26		PATE WILLIAM C & KATHE A		21 E BROAD OAKS DR UNIT	HOUSTON	TX 77056	5 FRANCIS ST
4223		27		JOHNSON ERIC		PO BOX 805	NANTUCKET	MA 02554	48 UNION ST
4223		28		COFFIN ALBERT F ETAL		PO BOX 464	NANTUCKET	MA 02554	46 UNION ST
4223		43		JAKES DILEMMA LLC		1 FRANCIS STREET	NANTUCKET	MA 02554	1 FRANCIS ST
5514		1		ALLERHAND ELIZABETH COFFIN		47 UNION ST	NANTUCKET	MA 02554	47 UNION ST
5514		2		NANTUCKET ISLANDS LAND BANK		22 BROAD ST	NANTUCKET	MA 02554	50 UNION ST
5514		2	1	NANTUCKET TOWN OF		16 BROAD ST	NANTUCKET	MA 02554	UNION ST
5514		3		AVERY EMILY		52 UNION ST	NANTUCKET	MA 02554	52 UNION ST
5514		4		BERLYN LYNNE F		5 BLACKWELL LANE	WORCESTER	MA 01609	2 FRANCIS ST
5514		6		GREAT HARBOR YACHT CLUB INC		96 WASHINGTON STREET	NANTUCKET	MA 02554	97 WASHINGTON ST
5514		6	1	GREAT HARBOR YACHT CLUB		96 WASHINGTON STREET	NANTUCKET	MA 02554	97 R WASHINGTON ST
5514		23		EIGHTY TWO ORANGE NANTUCKET LLC		7 HARCOURT STREET	BOSTON	MA 02116	82 ORANGE ST
5514		24		LAWLER BRUCE D & LISA C		80 ORANGE ST	NANTUCKET	MA 02554	80 ORANGE ST
5514		25		THAYER ANN MARIE & FREDERICK W TRST ANN & FREDERICK THAYER 2014 TRUST		12103 CAMINITO CORRIENTE	SAN DIEGO	CA 92128	76 ORANGE ST
5514		26		ATSIRKNOUDAS ANGELO		295 CHANNING RD	BELMONT	MA 02478	7 YORK ST
5514		27		WILSON ERIN		402 BRIGHTON AVE	SPRING LAKE	NJ 07762	8 E DOVER ST
5514		29		ALLERHAND ELIZABETH C ETAL		3 OLD SAWMILL ROAD	MENDON	MA 01756	4 WEYMOUTH ST
5514		30		DICKIE INVESTMENTS LP		351 DORADO BEACH EAST	DORADO	PR 00646	1 WEYMOUTH ST
5514		31		NANTUCKET LIGHTSHIP BASKET	MUSEUM	PO BOX 2517	NANTUCKET	MA 02584	49 UNION ST
5514		32		VARIAN HENRY & MIRIAM		54 UNION ST	NANTUCKET	MA 02554	54 UNION ST
5514		33		JANNELLE PETER & WENDY CLINTON		56 UNION ST	NANTUCKET	MA 02554	56 UNION ST
5514		35	1	GREAT HARBOR YACHT CLUB INC		96 WASHINGTON ST	NANTUCKET	MA 02554	8 SALT MARSH WY #1
5514		35	2	GREAT HARBOR YACHT CLUB INC		96 WASHINGTON ST	NANTUCKET	MA 02554	9 A SALT MARSH WY #2
5514		35	3	GREAT HARBOR YACHT CLUB INC		96 WASHINGTON STREET	NANTUCKET	MA 02554	9B SALT MARSH WY
5514		36		GREAT HARBOR YACHT CLUB INC		96 WASHINGTON STREET	NANTUCKET	MA 02554	11 SALT MARSH WY
5514		53		WEAVER TRACI KLUTE		38 THURLOE SQUARE	LONDON ENGLA	SW7 2SR	8 COON ST
5514		54		PATON KRISTIN S & SCOTT B		48 BREWSTER ST	CAMBRIDGE	MA 02138	7 COON ST
5514		55		MACDONALD PENELOPE A & HEIDI E TRST		283 WALNUT ST	WELLESLEY HILLS	MA 02481	5 COON ST
5514		56		FLYNN BRIAN J & CHRISTINE G		6 CRESTVIEW DRIVE	WESTBOROUGH	MA 01581	6 YORK ST
5514		57		FOLEY ERIN M		46 ROTON AVE	NORWALK	CT 06853	8 YORK ST
5514		59		MACIEROWSKI JENNIFER A ETAL		900 PALISADO AVE	WINDSOR	CT 06095	4 E DOVER ST
5514		60		EAST DOVER ST COOPERATIVE CORP	C/O GANSLER STEPHEN M & JAYNE M	440 LEWIS WHARF	BOSTON	MA 02110	5 E DOVER ST
5514		60	1	EAST DOVER ST COOPERATIVE CORP	C/O COLLINS JOHN & MARTHA TRS	42 MARKET STREET	NEWBURYPORT	MA 01950	7 E DOVER ST
5514		61		MCALLISTER MARCELA S		10 CARDINAL DRIVE	MOORESTOWN	NJ 08057	51 UNION ST
5514		63		JANNELLE PETER & WENDY J CLINTON		56 UNION ST	NANTUCKET	MA 02554	UNION ST
5514		64		GREAT HARBOR YACHT CLUB INC		96 WASHINGTON STREET	NANTUCKET	MA 02554	58 UNION ST
5514		66		STEFANSKI ANITA N TRST		64 UNION ST	NANTUCKET	MA 02554	64 UNION ST
5514		67		COLLETTE TIMOTHY D		16 TEASDALE CIRCLE	NANTUCKET	MA 02554	66 UNION ST
5514		68		FREEMAN RANDAL G & NAN M		40 PALMER AVE	WINTER PARK	FL 32789	68 UNION ST
5514		68	1	SALOTTO WILLIAM C &	JOHNSON JEFFREY I	68A UNION ST	NANTUCKET	MA 02554	68A UNION ST
5514		69		GREAT HARBOR YACHT CLUB		96 WASHINGTON STREET	NANTUCKET	MA 02554	70 UNION ST
5514		83		MOONEY DAVID P & LINDA M		135 GLEN ROAD	WELLESLEY	MA 02481	6 COON ST
5514		84		PARROTTO LINDA S		74 PASTURE LN #331	BRYN MAWR	PA 19010	3 COON ST
5514		85		BENNETT JAMES S & MARY G TRST	BENNETT REVOCABLE TRUST	1557 33RD STREET NW	WASHINGTON	DC 20007	4 YORK ST
5514		86		ANDREWS BARBARA P		P O BOX 1182	NANTUCKET	MA 02554	1 YORK ST

5/19/2016 8:18:02AM

ABBUTTERS LISTING
NANTUCKET, MA

Map	Block	Lot	Unit	Owner-s Name	Co Owner-s Name	Address	City	ST	Zip	Parcel Location
5514		87		FAUNCE DAVID W		4 BEACHAM PLACE	HINGHAM	MA	02043	2 E DOVER ST
5514		88		VENTRE TERESE V & ZOLOT ELLIOT		499 7TH AVE #1201 SOUTH	NEW YORK	NY	10018	53 UNION ST
5514		90		SIMANSON GARY A TRST	PRIVATE HISTORICAL GRP NOM TRUST	840 LEIGH MILL RD	GREAT FALLS	VA	22066	57 UNION ST
5514		91		OLEARY JAMES		63 UNION ST	NANTUCKET	MA	02554	63 UNION ST
5514		92		RICH MICHAEL W & LAURIE M TRS	RICH FAMILY REALTY TRUST	52 THOMAS DRIVE	CHELMSFORD	MA	01824	65 UNION ST
5514		93		JONES JOAN		1 CITY PLACE # 1204	WHITE PLAINS	NY	10601	67 UNION ST
5514		94		ANCHORAGE DEVELOPMENT LLC		56 MASCONOMO STREET	MANCHESTER	MA	01944	72 UNION ST
5514		95		VON SOOSTEN LINDA & JOHN		315 ELM STREET	WEST HEMPSTEAD	NY	11552	69 UNION ST
5514		96		GARBO LLC		555 BRYANT ST #347	PALO ALTO	CA	94301	2 COON ST
5514		97		BEAMISH JEFFREY C ETAL	BEAMISH MARGOT LIFE ESTATE	3 BEAVER STREET	NANTUCKET	MA	02554	3 BEAVER ST
5514		99		HIGGINS ROBERT S & JACQUELINE K		21 UPPER DRIVE NORTH	HUNTINGTON BAY	NY	11743	4 COON ST
5514		100		ANDERSON KENDALL P		155 BULRUSH FARM RD	N SCITUATE	MA	02060	1 COON ST
5514		101		HALLIDAY MARY JANE		BOX 165	NANTUCKET	MA	02554	2 YORK ST
5514		102		ASH DIANE M		1516 1ST AVE APT 3	NEW YORK	NY	10075	5 YORK ST
5514		106		NICECONDO LLC	C/O NIXON PEABODY LLP	100 SUMMER STREET	BOSTON	MA	02110	96 A ORANGE ST
5514		107		GARDNER STEPHEN P & EDITH A		390 COMMONWEALTH AV #208	BOSTON	MA	02215	13 SPRING ST #2
5514		35	81							8 8A SALT MARSH WY
5541		21		PULJIC GORAN V & MELINDA		8 SEARLES RD	DARIEN	CT	06820	3 WEYMOUTH ST
5541		22		OLCHOWSKI GREGORY M TRUSTEE	SIX WEYMOUTH NOM TRUST	96 EAST COLRAIN ROAD	COLRAIN	MA	01340	6 WEYMOUTH ST
5541		23		LEVENTON MICHAEL & LARISA		211 EAST 61ST STREET	NEW YORK	NY	10065	9 E DOVER ST
5541		24		BARNES JAIME P ETAL		19 EVERGREEN PLACE	MAPLEWOOD	NJ	07040	10 E DOVER ST
5541		25		LYDON CHRISTOPHER & LUCINE A		67 CHESTNUT ST	BOSTON	MA	02108	72 ORANGE ST
5541		26		BERNARD ALFRED E		74 ORANGE ST	NANTUCKET	MA	02554	74 ORANGE ST
5541		84		4250 VETS HIGHWAY LLC		1721 D NORTH OCEAN AV	MEDFORD	NY	11763	5 WEYMOUTH ST
5541		85		SHEPHERD JOHN R & SUSAND D		10 WEYMOUTH ST	NANTUCKET	MA	02554	10 WEYMOUTH ST
5541		86		WOOD DONALD T		315 E 68TH ST	NEW YORK	NY	10065	66 ORANGE ST
5541		87		JOYNER JOSEPH JR ETAL		PO BOX 641	NANTUCKET	MA	02554	11 E DOVER ST
5541		88		BIONDI JULIE		70 ORANGE STREET	NANTUCKET	MA	02554	70 ORANGE ST
5541		136		WONG BERNICE		111 HEMLOCK HILL RD	NEW CANAAN	CT	06840	68 ORANGE ST
5541		86	84							66 66A ORANGE ST

PAUL & LAURI BENK

8 NORTH GULLY RD.

FILE NO.26-16

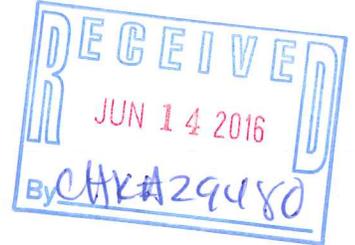
VARIANCE



Town Clerk
Town & County Building
16 Broad St
Nantucket, MA 02554

JUN 14 2016

**TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MA 02554**



APPLICATION

Fee: \$450.00

File No. 26-16

Owner's name(s): **Paul Benk and Lauri LeJune Benk**

Mailing address: **34 Oyster Point, Warren, RI 02885**

Phone Number: 508-228-0771

E-Mail: John@gliddenandglidden.com

Applicant's name(s): **Same**

Mailing Address:

Phone Number: 508-228-0771

E-Mail: John@gliddenandglidden.com

Locus Address: **8 North Gully Road** Assessor's Map/Parcel: **73.1.3/48**

Land Court Plan/~~Plan Book & Page~~/Plan File: **LC Plan No. 38853-A**

~~Deed Reference~~/Certificate of Title: **24677** Zoning District: **SR-1**

Uses on Lot- Commercial: **No** Yes (describe) _____

Residential: Number of dwellings: **1** Duplex _____ Apartments _____

Date of Structure(s): **1973; 1998**

Building Permit Numbers:

Previous Zoning Board Application Numbers: **009-99**

State below or attach a separate addendum of specific special permits or variance relief applying for:

I certify that the information contained herein is substantially complete and true to the best of my knowledge, under the pains and penalties of perjury.

SIGNATURE: _____ Owner*

SIGNATURE: _____
Applicant/Attorney/Agent*

*If an Attorney or other Agent is representing the Owner or the Applicant, please provide a signed proof of agency.

OFFICE USE ONLY

Application received on: __/__/__ By: _____ Complete: _____ Need Copies: _____
Filed with Town Clerk: __/__/__ Planning Board: __/__/__ Building Dept.: __/__/__ By: _____
Fee deposited with Town Treasurer: __/__/__ By: _____ Waiver requested: _____
Granted: __/__/__ Hearing notice posted with Town Clerk: __/__/__ Mailed: __/__/__
I&M __/__/__ & __/__/__ Hearing(s) held on: __/__/__ Opened on: __/__/__
Continued to: __/__/__ Withdrawn: __/__/__ Decision Due By: __/__/__
Made: __/__/__ Filed w/Town Clerk: __/__/__ Mailed: __/__/__

Exhibit A

The Owners/Applicants, Paul Benk and Lori LeJeune Benk, (hereinafter referred to as "Benk") are the owners of 8 North Gully Road ("the Premises") by virtue of Certificate of Title No. 24677. Applicants are requesting Variance relief pursuant to Nantucket Zoning Bylaw Section 139-32 from the intensity regulations in Section 139-16 in order to validate and alter the noncompliant structure upon the Premises.

The Premises is an undersized lot of record in the Sconset Residential – 1 (SR-1) zoning district, containing approximately 2,685 +/- square feet in a zoning district that requires a minimum lot size of 5,000 square feet. The Premises also has approximately 33.20 feet of frontage in a district that requires minimum frontage of 50 feet. The Premises has an existing main house and a shed/studio. The existing main house has approximately 575 square feet of ground cover and is nonconforming with respect to side yard setbacks, being sited as close as 4.0 feet from the easterly side yard lot line and 2.7 feet from the westerly side yard lot line. The easterly side yard setback is 10 feet pursuant to Nantucket Zoning Bylaw Section 139-16.C.(3) because a lot in the SR-1 zoning district that abuts two or more streets or ways must maintain a ten (10) foot setback from each street or way. The easterly lot line abuts a way and therefore has a ten (10) foot setback. Said structure has the benefit of being a preexisting nonconforming structure and has the benefit of Zoning Board of Appeals Decision No. 009-99, attached hereto as Exhibit A. Furthermore, per Paragraph 1 of said Decision, the Decision references that the easterly side yard setback now requires a minimum of five (5) feet, even though said structure is sited 4.0 feet from side yard lot line. The westerly side yard setback in the SR-1 district is five (5) feet. As such, the existing main structure is nonconforming with respect to side yard setbacks.

The existing shed/studio, however, is sited 2.0 feet from the westerly lot line and as close as 3.3 from the easterly lot line, but does not have the benefit of being a preexisting nonconforming structure. A shed existed on the Locus as of February 25, 1999, but said shed complied with all zoning intensity regulations, as shown on the attached Exhibit B. In 2007, the Applicants applied for two building permits (1320-97 and 1321-97, respectively attached as Exhibits C and D). Building Permit 1320-97 was to remove said shed off the lot and was duly completed. Building Permit 1321-97, however, was a permit to construct a 192 sf shed and place said shed on a 4-foot below grade foundation. Per the building permit application, said shed was to comply with the zoning setback requirements of meeting a five (5) foot side and rear setback. This permit was then amended in 2008, per the building permit application attached in Exhibit E, to finish the interior of said shed, add a full bath, install insulation, wire and plumb.

Per the site plan attached as Exhibit F, the existing shed/studio is sited approximately 2.0 feet from the westerly lot line and approximately 3.3 feet from the easterly lot line in a district that requires a five (5) foot westerly side yard setback and a ten (10) foot easterly setback. Accordingly, the Applicants are requesting Variance relief in order to validate the siting of this noncompliant structure. Said shed/studio was sited in its existing location between 2008 and 2010.

Additionally, the Applicants are requesting Variance relief in order to alter and extend the noncompliant structure in its present location per the approved HDC plans attached hereto as Exhibit G, per Certificate of Appropriateness Number 65821. As a result of said alteration, an additional 30 feet of ground cover will be added, but said additional ground cover will be entirely outside of the setbacks. The structure, however, will be increasing in height by adding a second story. As such, the massing within the setback will increase, albeit slightly. Because the structure is not preexisting nonconforming, no relief is requested to alter the use of the structure from shed/studio to cottage.

The Applicants are requesting Variance relief to validate the existing siting of the shed/studio from the Board of Appeals because the location of the existing shed/studio must be approximately 10 feet from the leach pit for the existing septic system without Variance relief from the Board of Health. The location of said system and leach pit can be identified on the attached Exhibit F.

Therefore, the Applicant is requesting Variance relief to validate the siting of the existing shed/studio approximately 2.0 feet from the westerly side yard setback and 3.3 feet from the easterly side yard setback and to further alter said shed/studio per the attached plans. Furthermore, said relief may be available because that owing to the unique size and shape of this lot, being a severely undersized lot of record with a ten (10) foot setback on both sides, a literal enforcement of this chapter would involve substantial hardship to the applicant and allowing the existing structure to be remain in its current location and altered per the attached HDC plans will not nullify or substantially derogate from the intent and purpose of the Zoning Bylaw.

"Exhibit A"

083885



TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MASSACHUSETTS 02554

Date: January 15, 1999

To: Parties in Interest and Others concerned with the Decision of the BOARD OF APPEALS in the Application of the following:

Application No.: 009-99

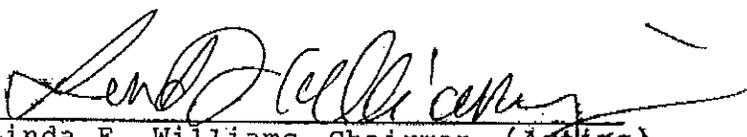
Owner/Applicant: JOHN B. GUNN

CAT 13172

Enclosed is the Decision of the BOARD OF APPEALS which has this day been filed in the office of the Nantucket Town Clerk.

An Appeal from this Decision may be taken pursuant to Section 17 of Chapter 40A, Massachusetts General Laws.

Any action appealing the Decision must be brought by filing an complaint in court within TWENTY (20) days after this day's date. Notice of the action with a copy of the complaint and certified copy of the Decision must be given to the Town Clerk so as to be received within such TWENTY (20) days.


Linda F. Williams, Chairman (Acting)

cc: Town Clerk
Planning Board
Building Commissioner

PLEASE NOTE: MOST SPECIAL PERMITS AND VARIANCES HAVE A TIME LIMIT AND WILL EXPIRE IF NOT ACTED UPON ACCORDING TO NANTUCKET ZONING BY-LAW §139-30I (SPECIAL PERMITS); §139-32I (VARIANCES) ANY QUESTIONS, PLEASE CALL THE NANTUCKET ZONING BOARD OF APPEALS.

NANTUCKET ZONING BOARD OF APPEALS
37 Washington Street
Nantucket, MA 02554

Assessor's Map 73.13
Parcel 48
R-1

8 North Gully Road
LC Plan 38853-A
Certificate of Title 13,172

At a Public Hearing of the Nantucket Zoning Board of Appeals held at 1:00 P.M., Friday, January 8, 1999, in the Conference Room, Town Annex Building, 37 Washington Street, Nantucket, Massachusetts, on the Application of JOHN E. F. GUNN, of 3 Sussex Avenue, Bronxville, New Jersey 01708, Board of Appeals File No. 009-99, the Board made the following Decision:

1. Applicant is seeking relief by SPECIAL PERMIT under Nantucket Zoning By-Law §139-33A (alteration/expansion of a pre-existing nonconforming structure/use). Applicant wishes to validate a previous alteration of a said to be pre-existing garage structure by changing the use to a dwelling unit. The garage was constructed pursuant to a validly issued Building Permit in 1973 at a time when there were no side and rear yard setback requirements, thus the garage complied with zoning at the time it was constructed. In approximately 1978 the garage was converted to a single-family dwelling without benefit of relief from this Board or a Building Permit, the setback requirements having been established for this Residential-1 zoning district in 1974, making the garage as sited nonconforming as it is 2.7± feet at its closest point from the westerly side yard lot line and 4.1± feet at its closest point from the easterly side yard lot line in a district that now requires a minimum of five (5) feet. Applicant now asks the Board to grant a Special Permit validating the conversion in order to be granted a Certificate of Occupancy for the structure. There is also a 51± square-foot shed located on the Lot. The Lot is also nonconforming as to lot size, having an area of 2,685± square feet in a district that requires a minimum lot size of 5,000 square feet; and as to frontage, having a frontage of about 33.10 feet along North Gully Road/Codfish Park Road.

The Premises is located at 8 NORTH GULLY ROAD, SIASCONSET, Assessor's Map 73.1.3, Parcel 48, Land Court Plan 38853-A. The property is zoned Residential-1.

2. The Decision is based upon the Application and materials submitted with it, and the testimony and evidence presented at the Hearing. The Planning Board made a favorable recommendation subject to certain conditions being met. There were no letters on file.

3. As presented by the Applicant, the files at the Nantucket Building Department indicate that Chris Holland applied to construct a garage on the property in 1973. At that time, there were no side or rear setback requirements for zoning, and the garage complied with zoning at the time it was constructed. Apparently, a garage alone was not an illegal use in the Residential-1 zone at the time, because the permit was issued for the garage as the only use on the lot.

Some time around 1978 (the date the septic system was installed), the garage was converted to a dwelling without a Building Permit. In 1978, the property was subject to a three-foot setback requirement. One corner of the dwelling is 2.70 feet from the side property line and so the structure was non-conforming at the time it was converted to a dwelling.

The Nantucket Building Department requires a Special Permit to change the use of a garage to a dwelling when the structure is non-conforming at the time of the change. Therefore, it is necessary to obtain a Special Permit from the Board of Appeals for the conversion (as of 1978) before the Certificate of Occupancy can be issued.

4. The Board finds that the validation of this conversion from garage to dwelling undertaken over twenty (20) years ago is certainly within the spirit and intent of the Zoning By-Law especially in an R-1 District. The Board further finds that the requested validation will not increase the non-conforming nature of the structure and will not be substantially more detrimental to the neighborhood than the existing situation.

5. Therefore, the Board, by UNANIMOUS vote, GRANTS the SPECIAL PERMIT, under Nantucket Zoning By-Law §139-33A, to validate the conversion from garage to single-family dwelling upon the following condition:

- a. That portion of the existing wood patio which goes beyond Applicant's property into Codfish Park Road shall be removed prior to issuance of a Certificate of Occupancy from the Building Department.

Dated: January , 1999

[Signature]
Michael J. O'Mara

[Signature]
Linda F. Williams

[Signature]
Nancy Sevrens

[Signature]
William P. Hourihan, Jr.

[Signature]
D. Neil Parent

RECEIVED
TOWN CLERK'S OFFICE
NANTUCKET, MA 02554

JAN 15 1999

TIME: 3:22 pm

Asst. CLERK: XL Carpenter

I CERTIFY THAT 20 DAYS HAVE ELAPSED AFTER THE DECISION WAS FILED IN THE OFFICE OF THE TOWN CLERK AND THAT NO APPEAL HAS BEEN FILED PURSUANT TO GENERAL LAWS 40A, SECTION 11

[Signature] TOWN CLERK
CORPORATED FEB 11 1999

Exhibit B

ZONING CLASSIFICATION: R-1...

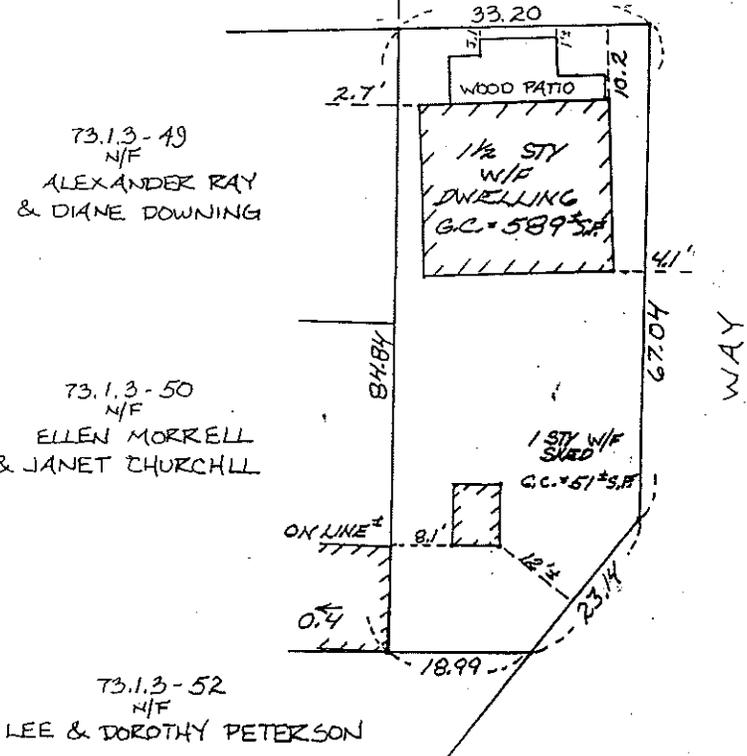
EXISTING:

MIN. AREA: 5000 S.F.
MIN. FRONTAGE: 50 FT.
FRONT YARD S.B.: 10 FT.
REAR & SIDE S.B.: 5 FT.
GROUND COVER (%): 30%

2,685 S.F.
SEE PLAN
"
"
"

NORTH

NORTH GULLY RD. | CODFISH PARK RD.
L.C. 38853-A



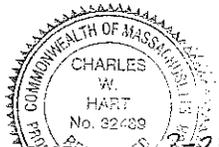
73.1.3-49
N/F
ALEXANDER RAY
& DIANE DOWNING

73.1.3-50
N/F
ELLEN MORRELL
& JANET CHURCHILL

73.1.3-52
N/F
LEE & DOROTHY PETERSON

APPROVED
NANTUCKET BUILDING DEPT.

Date: 3/2/99
By: J. Dunn



I CERTIFY, AS OF FEBRUARY 25, 1999, THAT THE BUILDING(S) IS/ARE LOCATED ON THE GROUND AS SHOWN HEREON.

Charles W. Hart
PROFESSIONAL LAND SURVEYOR

BUILDING LOCATION PLAN
OF LAND IN
NANTUCKET, MASS.

SCALE: 1" = 20' DATE: FEB. 25, 1999

Owner: TIMOTHY P. SOVERINO
Deed: CERT. 13,172 Plan L.C. 38853-A
Locus: 8 NORTH GULLY ROAD

CHARLES W. HART & ASSOCIATES, Inc.
SANFORD BOAT BUILDING
49 SPARKS AVENUE
NANTUCKET, MASS. 02554

(508) 228-8910

ASSESSOR MAP: 73.1.3, PARCEL: 48

NOT TO BE RECORDED

H-5678

TOWN OF NANTUCKET BUILDING DEPARTMENT

No. 1320-07

Office of the Building Inspector

FEE \$ 200.00

COMPLETED

Dec. 4, 2007

BUILDING PERMIT

THIS PERMIT CERTIFIES THAT Paul Benk HAS
PERMISSION TO move 48sf shed off lot to 68-142 21 Greglen Ave.

LOCATED ON 8 N Gulley Road PROVIDED THAT
THE PERSON ACCEPTING THIS PERMIT SHALL CONFORM TO THE TERMS OF THE APPLICATION ON
FILE IN THE BUILDING DEPARTMENT AND TO THE PROVISIONS OF THE STATUTES AND THE
ORDINANCES RELATING TO THE CONSTRUCTION, MAINTENANCE AND INSPECTION OF BUILDINGS
IN THE TOWN OF NANTUCKET, AND THE MASSACHUSETTS STATE BUILDING CODE 780 CMR.

A CERTIFICATE OF OCCUPANCY WILL BE ISSUED UPON RETURN OF THIS PERMIT ONLY AFTER ALL
REQUIRED INSPECTIONS HAVE BEEN SIGNED AND DATED BY THE APPROPRIATE INSPECTOR.

THIS PERMIT SHALL BECOME INVALID 6 MONTHS FROM THE DATE OF ISSUE IF THE WORK
PERMITTED HAS NOT COMMENCED OR IS NOT PROCEEDING CONTINUOUSLY TO COMPLETION AS
FAR AS REASONABLY PRACTICABLE.

THIS CARD MUST BE DISPLAYED IN A CONSPICUOUS PLACE ON THE PREMISES.

CERTIFICATE OF OCCUPANCY NO. _____



BUILDING INSPECTOR

Edwin C.

TOWN OF NANTUCKET

Map 73.1.3 Parcel 48

BUILDING DEPARTMENT

No. 1321-07

Office of the Building Inspector

FEE \$ 144.00

Dec. 4, 2007

BUILDING PERMIT

THIS PERMIT CERTIFIES THAT Paul Benk HAS
PERMISSION TO construct 192sf storage shed and place on 4 foot below grade foundation
LOCATED ON 8N Gulley Road PROVIDED THAT

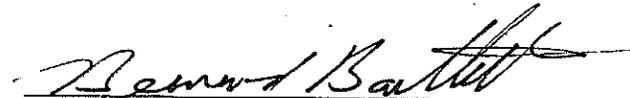
THE PERSON ACCEPTING THIS PERMIT SHALL CONFORM TO THE TERMS OF THE APPLICATION ON
FILE IN THE BUILDING DEPARTMENT AND TO THE PROVISIONS OF THE STATUTES AND THE
ORDINANCES RELATING TO THE CONSTRUCTION, MAINTENANCE AND INSPECTION OF BUILDINGS
IN THE TOWN OF NANTUCKET, AND THE MASSACHUSETTS STATE BUILDING CODE 780 CMR.

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FAR AS REASONABLY PRACTICABLE.

THIS CARD MUST BE DISPLAYED IN A CONSPICUOUS PLACE ON THE PREMISES.

CERTIFICATE OF OCCUPANCY NO.



BUILDING INSPECTOR

RECEIVED

DEC 03 2007

NANTUCKET BUILDING DEPT.

RECEIVED

SEP 18 2007

NANTUCKET ZONING DEPT

1321-07
12/04/2007

BUILDING PERMIT NUMBER

APPLICATION FOR BUILDING PERMIT

IMPORTANT - Applicant to complete all items in Sections: 1, 2, 3, 4, and 5

1. LOCATION OF BUILDING

OWNERS NAME (print): BENK, PAUL
Last First Middle Initial
8 N. Gully Rd, Scorsset, MA
No. Street
Assessor's Map No. 73.1.3 Assessor's Parcel No. 48

2. TYPE AND COST OF BUILDING - All applicants complete Parts A-E

A. TYPE OF IMPROVEMENT

- New Building
- Addition
- Alteration
- Repair, replacement
- Demolition
- Moving

B. OWNERSHIP

- Private
- Public

C. COST

TOTAL COST OF IMPROVEMENT
\$ 17,995-

D. DIMENSIONS

Dimensions of Structure
First Floor Area: 192 SF
Second Floor Area: _____
Third Floor Area: _____
Total Floor Area: _____
Full Cellar Area: _____

E. PROPOSED USE

Residential

- One Family
- Studio
- Two or more family - Enter number of units _____
- Hotel, Motel, Dormitory enter number of units _____
- Second Dwelling
- Garage
- Pool
- Other - Specify Shed

Detail scope of work by floor & provide the square footage.

3. SELECTED CHARACTERISTICS OF BUILDING

F. PRINCIPLE TYPE OF FRAME

- Wood frame
- Other - Specify _____

H. TYPE OF SEWAGE DISPOSAL

- Public
- Private (septic tank, etc.)

K. ACCESSORY HEAT SOURCE

No. of fireplaces _____
No. of Wood Stoves _____
Other: _____

G. PRINCIPLE TYPE OF HEATING

- Gas Electricity
- Oil Heat Pump
- Other - Specify _____

I. TYPE OF WATER SUPPLY

- Public
- Private (well)

J. SMOKE DETECTORS

No. of Detectors _____
See Plan for Location

L. RESIDENTIAL BUILDINGS

Number of Bedrooms _____
Number of Bathrooms _____
Full _____ Partial _____

4. ZONING COMPLIANCE To be completed by all applicants

Applicant is required to submit a registered plot plan with application, showing location of all structures.

Zoning District: RI Total Land Area: ~~0.6A~~ 2,685*
Frontage on Street: _____ Lot No.: _____
Plan Book No. and Page: 10018-823 Land Court Plan No.: _____
Date Lot Purchased: _____ Certificate No.: _____
Name of Previous Owner: _____

SUBDIVISION INFORMATION

Name of Owner: _____
Date of Plan Approval: _____
Type of Approval: ANR _____ AR _____
Planning Board File No.: _____
Is the Subdivision subject to a Covenant: YES _____ NO _____
Is a Release required: YES _____ NO _____
Has Plan been filed with the Registry of Deeds? YES _____ NO _____
If YES: Plan Book and Page No.: _____ Date _____

TIME SHARING INFORMATION
Is there a declaration of Covenants and Restrictions of Interval Ownership noted on your Title or Deed?
Yes _____ No _____

DIMENSIONS

Distance from Property Lines: FRONT 82' REAR 5' LEFT 5' RIGHT 5'
Distance between Principal and Secondary Dwelling: _____ (12ft. minimum)
Height of structure above finish grade: N 13' E 13' S 13' W 13'
Number of off-street parking spaces: Enclosed _____ On-site _____

GROUND COVER

Principal Dwelling: 589 SF
Secondary Dwelling: _____
Addition: _____
Garage: _____
Accessory Building: _____
Swimming Pool: _____
Other: Shed 192 SF

Total: 781 SF.
Allowable: 784.2 SF.
806 (30%)

MISCELLANEOUS

Was a request to "Determine Applicability of the Protection Act" filed with the Nantucket Conservation Committee? YES _____ NO _____
If answered YES, include "Order of Conditions" with application.
What date was the "Order of Conditions" with application. _____
What date was the "Order of Conditions" filed with the Registry of Deeds? _____
Is the property located within a Flood Hazard district? YES _____ NO _____
Was a Variance or Special Permit granted by the Board of Appeals? YES _____ NO _____
If answered YES, what date was the decision filed with the Town Clerk? _____

FOR ZONING OFFICER

Minimum Lot Size: _____ Ground Cover Ratio: _____
Frontage on Street: _____ Side and Rear Setback: _____
Front Yard: _____ Secondary Dwelling approval _____
Additional Comments: _____ Board of Appeals _____
Lot Release Form _____

per ZBA 009-99, P 1

Date: 11/5/7

APPROVED BY: 

Zoning Officer

5. IDENTIFICATION - To be completed by all applicants

Name		Mailing address - Number, street, city and state	Zip Code	Telephone No.
1. Owner or Lessee	Paul Benk	8 N Gully Rd		508-257
		Siasconset, MA	02584	0038
2. Contractor	Print Name Structures 4 LLC	2 Gredon Ave., Pmb 64	Builder's License	032129
	Signature Kim Nowacki	Nantucket, MA 02554	Date 9/6/07	508-228 0689
3. Contact Person	Nancy Drazal	as above	Date 9/6/07	508-228 0689

Works Compensation Insurance Certificate or Affidavit must be submitted with this application.

I hereby certify that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and we agree to conform to all applicable laws of this jurisdiction.

Signature of applicant: Paul Benk Address: 8 N. Gully Rd Siasconset, MA Telephone #: 508-257-0038

Print name PAUL BENK

DO NOT WRITE BELOW THIS LINE

6. PLAN REVIEW RECORD - For Office Use

Plans Review Required			
HISTORIC DISTRICTS COMMISSION		50918	8/21/07
SEPTIC			
SEWER			
WATER WELL COMPLETION REPORT			
CONSERVATION COMMISSION			
FIRE CHIEF			
OVER-THE-ROAD (Board of Selectmen)			
ROAD OPENING PERMIT (DPW)			
PLUMBING			
ELECTRICAL			

7. VALIDATION

Building Permit Issued _____	FOR DEPARTMENT USE ONLY	
	Use Group _____	Occupancy Load _____
Building Permit Fee <u>\$ 144.00</u>	Census No. <u>328</u>	
Date of Issuance of Certificate of Occupancy _____	Approved by: <u>[Signature]</u> 12-3-07 Building Commissioner	

"Exhibit 2"

\$ 50.00

RECEIVED

RECEIVED

MAR 26 2008

MAR 20 2008

NANTUCKET BUILDING DEPT.

NANTUCKET ZONING DEPT

BUILDING PERMIT NUMBER

APPLICATION FOR BUILDING PERMIT

AMEND PERMIT #1321-07

IMPORTANT - Applicant to complete all items in Sections: 1, 2, 3, 4, and 5

1. LOCATION OF BUILDING

OWNERS NAME (print): BRENK, PAUL
Last First Middle Initial
8 NORTH GULLEY ROAD STASCONSET
No. Street
Assessor's Map No. 73.1.3 Assessor's Parcel No. 48

2. TYPE AND COST OF BUILDING - All applicants complete Parts A-E

A. TYPE OF IMPROVEMENT

- New Building
Addition
Alteration ACCESSORY STRUCTURE
Repair, replacement
Demolition
Moving

B. OWNERSHIP

- Private
Public

C. COST

TOTAL COST OF IMPROVEMENT
16,000

D. DIMENSIONS UNCHANGED

Dimensions of Structure
First Floor Area: 1103 SF.
Second Floor Area:
Third Floor Area:
Total Floor Area:
Full Cellar Area:

E. PROPOSED USE

Residential

- One Family
Studio
Two or more family - Enter number of units
Hotel, Motel, Dormitory enter number of units
Second Dwelling
Garage
Pool
Other - Specify

Detail scope of work by floor & provide the square footage.

FINISH INTERIOR, ADD FULL BATH
INSTALL INSULATION, WIRE & PLUMB
WOOD FLOOR & CEILING
BEAD BOARD WALLS

3. SELECTED CHARACTERISTICS OF BUILDING

F. PRINCIPLE TYPE OF FRAME

- Wood frame EXISTING
Other - Specify

H. TYPE OF SEWAGE DISPOSAL

- Public
Private (septic tank, etc.)

K. ACCESSORY HEAT SOURCE

No. of fireplaces N/A
No. of Wood Stoves
Other:

G. PRINCIPLE TYPE OF HEATING UNHEATED

- Gas Electricity
Oil Heat Pump
Other - Specify

I. TYPE OF WATER SUPPLY

- Public
Private (well)

J. SMOKE DETECTORS

No. of Detectors 1
See Plan for Location

L. RESIDENTIAL BUILDINGS

Number of Bedrooms N/A
Number of Bathrooms 1
Full 1 Partial

4. ZONING COMPLIANCE To be completed by all applicants

Applicant is required to submit a registered plot plan with application, showing location of all structures.

Zoning District: SR-1 Total Land Area: 2,1685± S.F. PER SURVEY
Frontage on Street: _____ Lot No.: _____
Plan Book No. and Page: _____ Land Court Plan No.: 38853-A
Date Lot Purchased: _____ Certificate No.: 9243
Name of Previous Owner: T. SOVERINO

SUBDIVISION INFORMATION

Name of Owner: _____
Date of Plan Approval: _____
Type of Approval: ANR _____ AR _____
Planning Board File No.: _____
Is the Subdivision subject to a Covenant: YES _____ NO _____
Is a Release required: YES _____ NO _____
Has Plan been filed with the Registry of Deeds? YES _____ NO _____
If YES: Plan Book and Page No.: _____ Date _____

TIME SHARING INFORMATION
Is there a declaration of Covenants and Restrictions of Interval Ownership noted on your Title or Deed?
Yes _____ No _____

DIMENSIONS

Distance from Property Lines: FRONT _____ REAR _____ LEFT _____ RIGHT _____
Distance between Principal and Secondary Dwelling: _____ (12ft. minimum)
Height of structure above finish grade: N _____ E _____ S _____ W _____
Number of off-street parking spaces: Enclosed _____ On-site _____

GROUND COVER

Principal Dwelling: 589± S.F. SEE '99 SURVEY
Secondary Dwelling: _____
Addition: _____
Garage: _____
Accessory Building: 1108±
Swimming Pool: _____
Other: _____

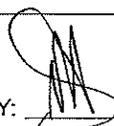
Total: 757± SF.
Allowable: 805 SF.

MISCELLANEOUS

Was a request to "Determine Applicability of the Protection Act" filed with the Nantucket Conservation Committee? YES _____ NO X
If answered YES, include "Order of Conditions" with application.
What date was the "Order of Conditions" with application.
What date was the "Order of Conditions" filed with the Registry of Deeds? _____
Is the property located within a Flood Hazard district? YES _____ NO X
Was a Variance or Special Permit granted by the Board of Appeals? YES _____ NO X
If answered YES, what date was the decision filed with the Town Clerk? _____

FOR ZONING OFFICER

Minimum Lot Size: _____ Ground Cover Ratio: _____
Frontage on Street: _____ Side and Rear Setback: _____
Front Yard: _____ Secondary Dwelling approval _____
Additional Comments: _____ Board of Appeals _____
Lot Release Form _____

Date: 3/26/8 APPROVED BY:  Zoning Officer

5. IDENTIFICATION - To be completed by all applicants

Name	Mailing address - Number, street, city and state	Zip Code	Telephone No.
1. Owner or Lessee <i>PAUL BENK</i>	<i>14 O'BRIEN COURT</i>		<i>908</i>
	<i>BEDMINSTER, NJ</i>	<i>07921</i>	<i>902-2735</i>
2. Contractor	Print Name <i>HOMEDOWNER</i>	Builder's License	
	Signature	Date	
3. Contact Person <i>OWNER OR APPLICANT</i>	<i>SEE ABOVE</i> <i>BOX 3363 AUK 02584</i>	Date <i>3-17-08</i>	<i>508</i> <i>228 6913</i>

Works Compensation Insurance Certificate or Affidavit must be submitted with this application.

I hereby certify that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and we agree to conform to all applicable laws of this jurisdiction.

Signature of applicant *[Signature]* Address *Box 3363 NANTUCKET MA 02584* Telephone # *508 228-6913*
 Print name *MARK W. FEAR*

DO NOT WRITE BELOW THIS LINE

6. PLAN REVIEW RECORD - For Office Use

Plans Review Required			
HISTORIC DISTRICTS COMMISSION			
SEPTIC <i>sanitary system complete for 3 bedrooms 3 bedrooms OK</i>			
SEWER			
WATER WELL COMPLETION REPORT			
CONSERVATION COMMISSION			
FIRE CHIEF			
OVER-THE-ROAD (Board of Selectmen)			
ROAD OPENING PERMIT (DPW)			
PLUMBING			
ELECTRICAL			

7. VALIDATION

Building Permit Issued <i>AMEND 4/14/08</i>	FOR DEPARTMENT USE ONLY Use Group _____ Occupancy Load _____ Census No. <i>0/5</i>
Building Permit Fee <i>\$50⁰⁰XX</i>	
Date of Issuance of Certificate of Occupancy _____	Approved by: <i>[Signature]</i> <i>4/14/08</i> Building Commissioner



NORTH GULLY ROAD
(PUBLIC - VARIABLE WIDTH)

CODFISH PARK ROAD
(PUBLIC - VARIABLE WIDTH)

BANK STREET
(PUBLIC - VARIABLE WIDTH)

MAP 73.1.3
PARCEL 48
2,685± s.f.

#8 EXISTING HOUSE
575 s.f.
f.f.e.=13.9

EXISTING SHED
197 s.f.

#29 BANK STREET
MAP 73.1.3 PARCEL 49

#27 BANK STREET
MAP 73.1.3 PARCEL 50

#36 CODFISH PARK ROAD
MAP 73.1.3 PARCEL 47

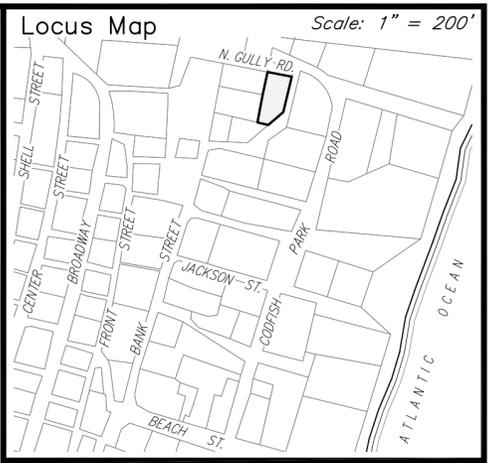
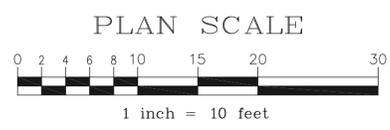
#25 BANK STREET
MAP 73.1.3 PARCEL 51

#23-R BANK STREET
MAP 73.1.3 PARCEL 52

#34 CODFISH PARK ROAD
MAP 73.1.3 PARCEL 53

WAY
(PUBLIC - VARIABLE WIDTH)

WAY
(PUBLIC - VARIABLE WIDTH)



Notes

1. LOCUS: #8 NORTH GULLY ROAD
MAP 73.1.3 PARCEL 48
2. OWNER: PAUL BENK and LAURI L. BENK
34 OYSTER POINT
WARREN, RHODE ISLAND 02885
3. DEED REF: CERT #24677 (DOC #139816)
4. PLAN REF: LCC #38853-A
5. SPECIAL PERMIT: DOC #83885
(REFERS TO FRONTAGE AS BEING ALONG NORTH GULLY ROAD / CODFISH PARK ROAD).
6. LOCUS DOES NOT FALL WITHIN A SPECIAL FLOOD HAZARD ZONE AS SHOWN ON FEMA FLOOD INSURANCE RATE MAP No. 25019C-0114-G dated 06/09/2014.
7. LOCUS DOES NOT FALL WITHIN THE NATURAL HERITAGE and ENDANGERED SPECIES PROGRAM (NHESP) AREAS OF ESTIMATED HABITATS OF RARE WILDLIFE and PRIORITY HABITATS OF RARE SPECIES.

ZONE: SR-1	REQUIRED	EXISTING
LOT AREA:	5,000 s.f.	2,685± s.f.
FRONTAGE:	50'	33.20'
FRONT YARD:*	10'	10.1'
SIDE/REAR YARD:	5'	0' (O.D.S.)
GROUND COVER:	30% (MAX)**	28.8% (805 s.f. MAX)

* see ZONING BYLAW 139-16 C(3)
** see ZONING BYLAW 139-33 E(2)(a)

Prepared By:

BRACKEN ENGINEERING, INC.

49 HERRING POND ROAD
BUZZARDS BAY, MA 02532
(tel) 508.833.0070
(fax) 508.833.2282

19 OLD SOUTH ROAD
NANTUCKET, MA 02554
(tel) 508.325.0044
www.brackeneng.com

**EXISTING CONDITIONS PLAN
IN NANTUCKET, MASSACHUSETTS**

Prepared For:

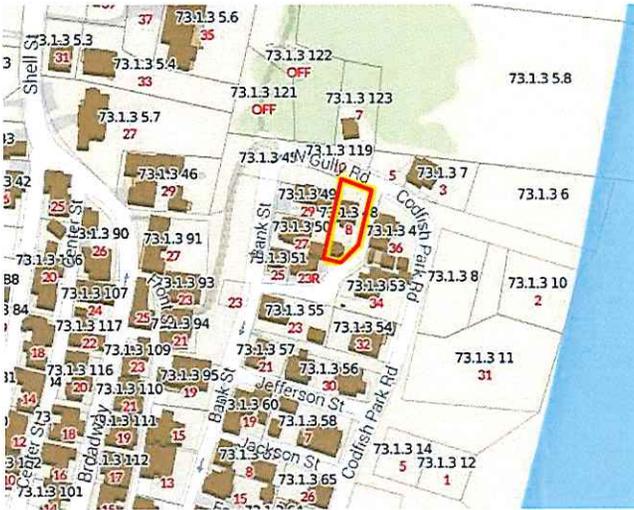
**PAUL BENK
LAURI L. BENK**

#8 NORTH GULLY ROAD
MAP 73.1.3 PARCEL 48

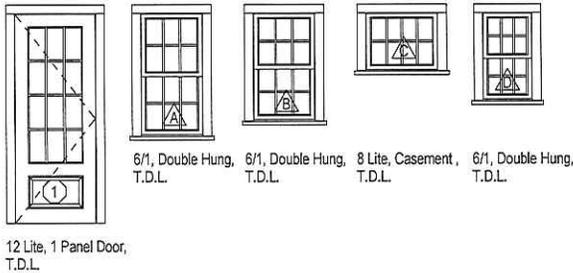
Date: FEBRUARY 4, 2016 Drawn: RMM/ERC/DLH Checked: DFB/AMG Sheet: 1 of 1
added ex. septic: 02/04/2016

Benk Residence

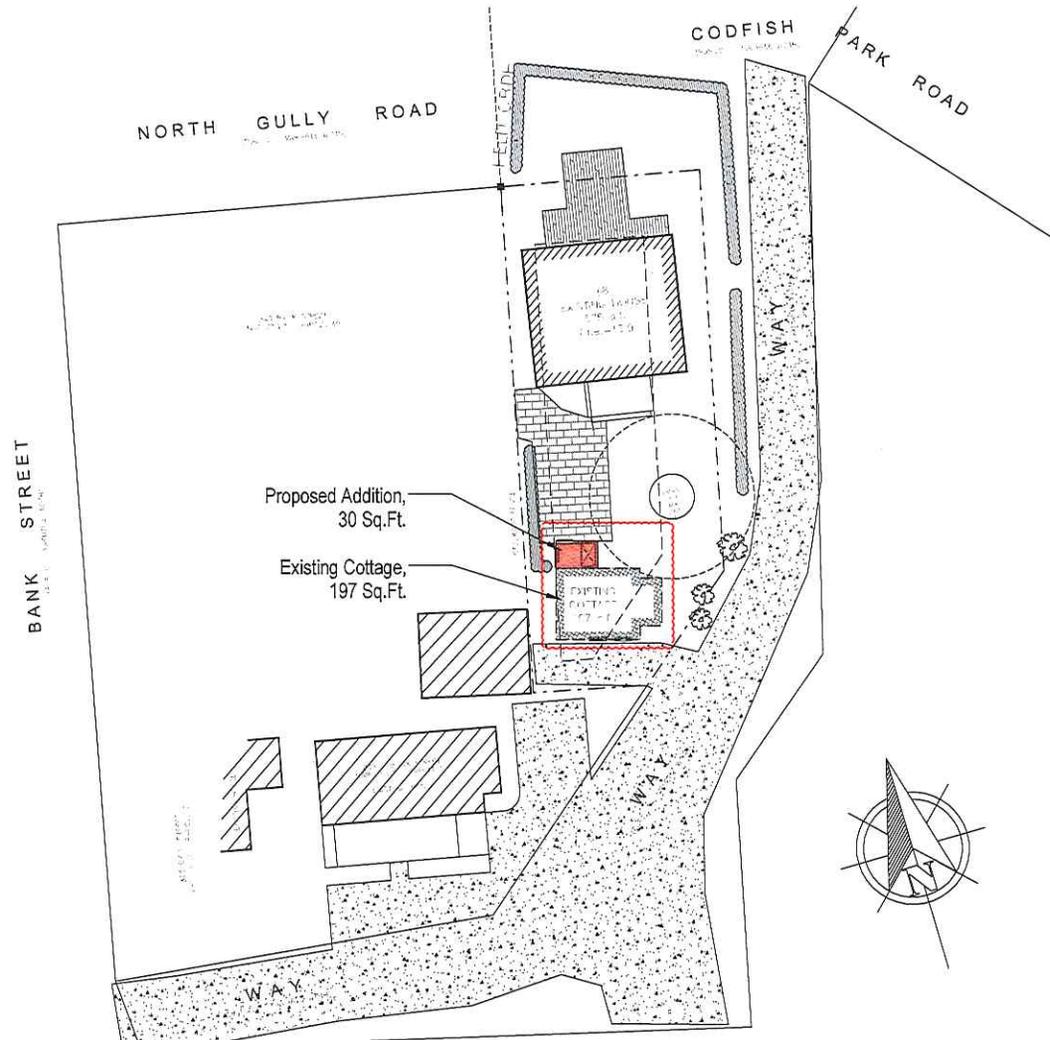
8 N Gully Rd
Nantucket, MA



Locus Map
N.T.S.



Door & Window Legend
N.T.S.



Site Plan
1" = 20'-0"

Benk Residence
8 N Gully Rd
Nantucket, MA

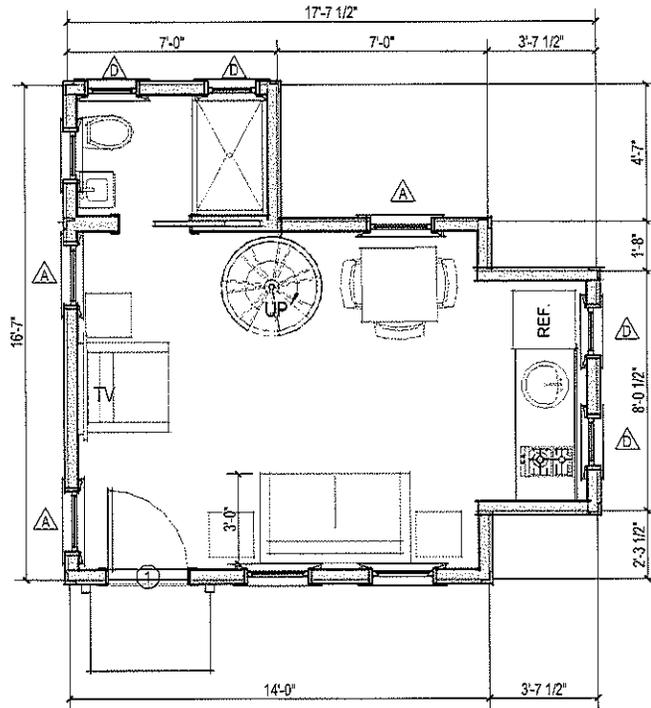
Map & Parcel: 73.1.3 / 48
Current Zoning: SR-1
Minimum Frontage: 50'
Front Setback: 10'
Side/Rear Setback: 5'

G.101

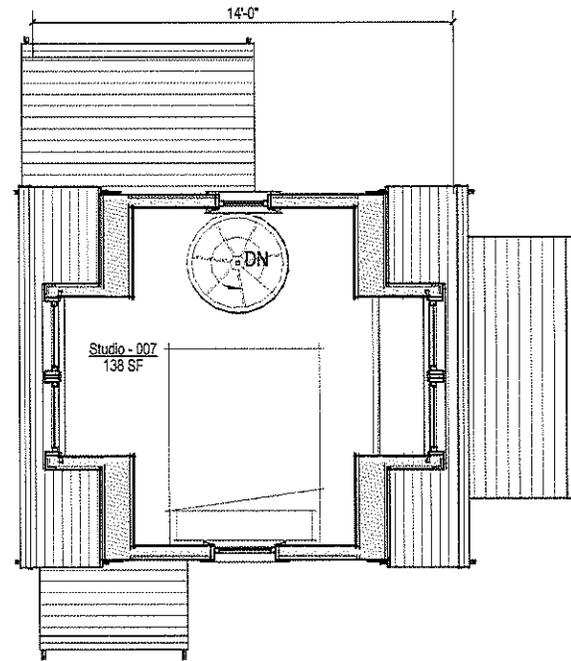
Cover Page



8 Williams Lane Nantucket, MA 02554
P: 508.225.4955
F: 508.225.6990
www.emeritusdevelopment.com



1 First Floor Plan
1/4" = 1'-0"



2 Second Floor Plan
1/4" = 1'-0"

Bank Residence
8 N Gully Rd
Nantucket, MA

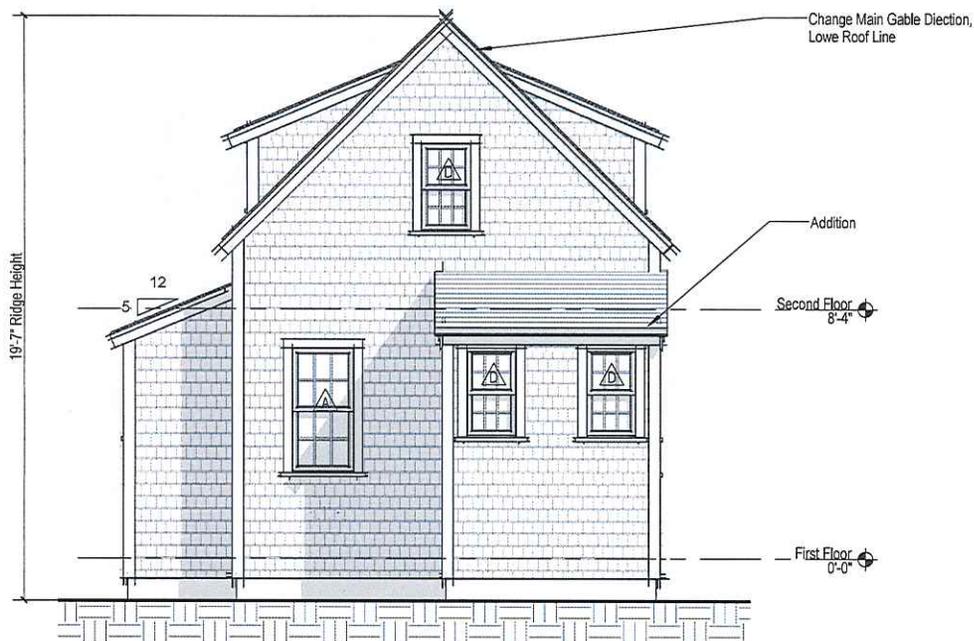
Map & Parcel: 73.1.3 / 48
Current Zoning: SR-1
Minimum Frontage: 50'
Front Setback: 10'
Side/Rear Setback: 5'

A.101

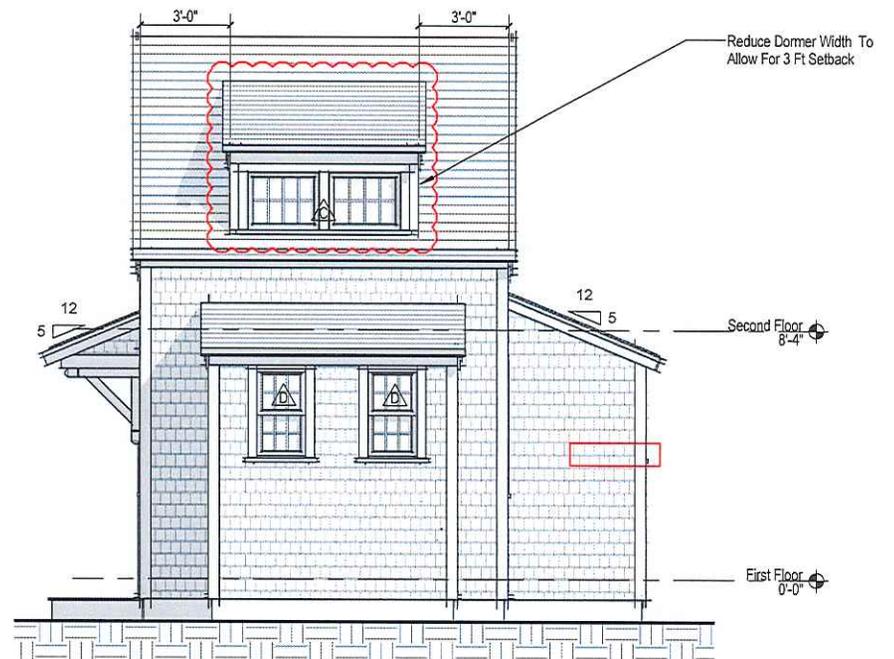
Floor Plans



8 Williams Lane Nantucket, MA 02554
P. 508.325.4965
F. 508.325.6960
www.emeritusdevelopment.com



1 Proposed North Elevation
1/4" = 1'-0"



2 Proposed East Elevation
1/4" = 1'-0"



Existing North Elevation
1/8" = 1'-0"



North El. Previous HDC Subm.
1/8" = 1'-0"



Existing East Elevation
1/8" = 1'-0"



East El. Previous HDC Subm.
1/8" = 1'-0"

Bank Residence
8 N Gully Rd
Nantucket, MA

Map & Parcel: 73.1.3 / 48
Current Zoning: SR-1
Minimum Frontage: 50'
Front Setback: 10'
Side/Rear Setback: 5'

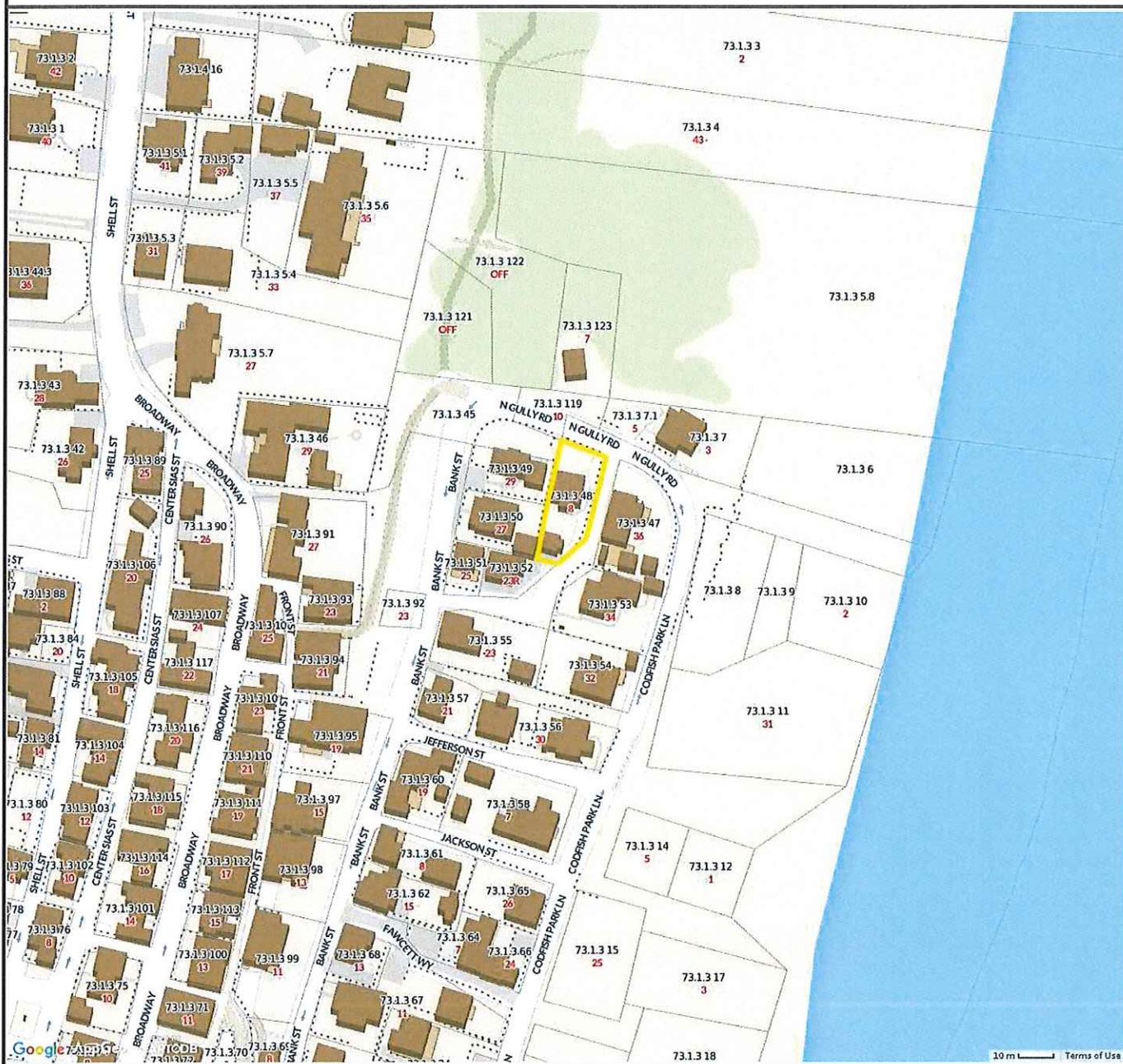
A.202

Exterior Elevations



8 Williams Lane Nantucket, MA 02554
P. 508.325.4995
F. 508.325.6980
www.emeritusdevelopment.com

8 North Gully



Property Information

Property ID: 73.1.3.48
 Location: 8 N GULLY RD
 Owner: BENK PAUL & LAURI L



MAP FOR REFERENCE ONLY NOT A LEGAL DOCUMENT

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated December, 2014
 Properties updated January, 2015

\$ 35.00

RECEIVED
BOARD OF ASSESSORS

MAY 25 2016

Town of Nantucket

TOWN OF
NANTUCKET, MA

Zoning Board of Appeals

LIST OF PARTIES IN INTEREST IN THE MATTER OF THE PETITION OF:

PROPERTY OWNER..... Paul Benk + Lauri Lejune Benk
MAILING ADDRESS..... 34 Oyster Point, Warren RI 02885
PROPERTY LOCATION..... 8 N. Bully, Rens
ASSESSOR MAP/PARCEL..... 73.1.3 / 48
SUBMITTED BY..... Gladden + Gladden

SEE ATTACHED PAGES

I certify that the foregoing is a list of all persons who are owners of abutting property, owners of land directly opposite on any public or private street or way; and abutters of the abutters and all other land owners within 300 feet of the property line of owner's property, as they appear on the most recent applicable tax list (M.G.L. c. 40A, Section 11 and Zoning Code Chapter 40A, Section 139-29B (2)).

May 26, 2016
DATE

Patricia Giles
ASSESSOR'S OFFICE
TOWN OF NANTUCKET

ABBUTTERS LISTING
NANTUCKET, MA

Map	Block	Lot	Unit	Owner's Name	Co Owner's Name	Address	City	ST	Zip	Parcel Location
7313		4		WYSS SUSAN ELIOT ETAL TRSTS	C/O ANDREA B MAYFIELD	5312 CHANNELBROOK COURT	DALLAS	TX	75287-5509	43 - SHELL ST
7313		5	4	GREENE F E WADE TR	WADE COTTAGES NOMINEE TR	35 CHARLES ST	NEW YORK	NY	10014	33 SHELL ST
7313		5	5	GREENE F E WADE TR	WADE COTTAGES NOMINEE TR	35 CHARLES ST	NEW YORK	NY	10014	37 SHELL ST
7313		5	6	GREENE F E WADE TR	WADE COTTAGES NOMINEE TR	35 CHARLES ST	NEW YORK	NY	10014	35 SHELL ST
7313		5	7	HAKES THOMAS B & ELLEN H		18 FRIAR TUCK CI	SUMMIT	NJ	04901	27 SHELL ST
7313		5	8	NANTUCKET ISLANDS LAND BANK		22 BROAD ST	NANTUCKET	MA	02554	SHELL ST
7313		7		THREE NORTH GULLY ROAD LLC	C/O WILLIAM BELICHICK	PO BOX 715	FOXBOROUGH	MA	02035	3 N GULLY RD
7313		7	1	NANTUCKET ISLANDS LAND BANK		22 BROAD ST	NANTUCKET	MA	02554	5 N GULLY RD
7313		10		NANTUCKET TOWN OF		16 BROAD ST	NANTUCKET	MA	02554	2 N GULLY RD
7313		11		LINBURG RICHARD M & VIRGINIA B		32 DOANE ROAD	DEEP RIVER	CT	06417	31 CODFISH PARK RD
7313		12		LEWIS JULIA G	C/O KING BARBARA L	39 WILLIAMS RD	ASHLAND	MA	01721	1 JACKSON ST
7313		14		KING SARAH P & ANNDRIA E		68 WYLLIS AVENUE	EVERETT	MA	02149	5 JACKSON ST
7313		15		DENIKE BRUCE M & DITMORE VINCE		2 FIFTH AVE APT 5T	NEW YORK	NY	10011	25 CODFISH PARK RD
7313		46		HOLLAND CHRISTOPHER F & LINDA S TRS	WHALE SPRAY NOM TRUST	BOX D14	SIASCONSET	MA	02564	29 BROADWAY
7313		47		LUSSIER SYLVIA C		PO BOX 948	MIDDLEBURY	CT	06762	36 CODFISH PARK RD
7313		49		RAY ALEXANDER & DOWNING DIANE		PO BOX 581	ASHLAND	NH	03217	29 BANK ST
7313		50		MORELL ALAN A & JANET CHURCHILL		PO BOX 189	SIASCONSET	MA	02564	27 BANK ST
7313		51		COMPITELLO MICHAEL L & JEANNE		72 OLD FIELD RD	SETAUKET	NY	11733	25 BANK ST
7313		52		SANTARELLI PHILLIP J		200 W WASHINGTON SQ APT	PHILADELPHIA	PA	19106	23R BANK ST
7313		53		REISKIN ROBERT		54 MASON RD	NEWTON	MA	02459	34 CODFISH PARK RD
7313		54		WILSON-GODEAU JOAN R TR		PO BOX 713	SIASCONSET	MA	02564	32 CODFISH PARK RD
7313		55		23 BANK STREET LLC		GENERAL DELIVERY	SIASCONSET	MA	02564	23 BANK ST
7313		56		SAYNOR CATHERINE O TRUSTEE	SAYNOR 2003 DECLARATION OF TRST	P O BOX 479	SIASCONSET	MA	02564	30 CODFISH PARK RD
7313		57		CAVEDON SUZANNE F		22 LAWRENCE STREET	BOSTON	MA	02116	21 BANK ST
7313		58		GRAHAM KENNETH A	3811 WEST CHESTER PIKE	BLDG 2 SUITE 100	NEWTON SQUARE	PA	19073	7 JACKSON ST
7313		60		WELLINGTON MARGARET BTRST	WELLINGTON NOM TRUST	3770 LEONARD COVE LN	TRAPPE	MD	21693	19 BANK ST
7313		61		HAAS FRANCES & RETTMAN DOLORES		11 DORCHESTER ST # 1	QUINCY	MA	02171	8 JACKSON ST
7313		61	1	RETTMAN DOLORES A		6 HELEN DRIVE	CANTON	MA	02021	8 JACKSON ST #1
7313		61	2	GRAHAM KENNETH A & NICOLA O		415 VALLEY PARK ROAD	PHOENIXVILLE	PA	19460	6 JACKSON ST #2
7313		62		SUTTON PETER & MARY LYNN		655 NORTH STREET	RYE	NY	10580	15 BANK ST
7313		65		KING FRANCES M TRST	C/O KING FRANCES M TRUSTEE	16333 CHAGRIN BOULEVARD	SHAKER HEIGHTS	OH	44120	26 CODFISH PARK RD
7313		90		MOORE W W JR		P O BOX 7012	SIASCONSET	MA	02564	26 BROADWAY
7313		91		WHITNEY JOHN R & SUSAN M TRST		PO BOX 187	ROXBURY	CT	06783	27 BROADWAY
7313		92		DORN ELIZABETH GRIGGS ETAL	C/O YANCY BELINDA	3 TOPAZ CIRCLE	NANTUCKET	MA	02554	23 FRONT ST
7313		93		DORN ELIZABETH GRIGGS ETAL	C/O YANCY BELINDA	3 TOPAZ CIRCLE	NANTUCKET	MA	02554	23 FRONT ST
7313		94		BALLOU FREDERICK D & JANET D		LINCOLN ROAD	SUDBURY	MA	01776	21 FRONT ST
7313		95		READE ARTHUR I JR TRST	C/O JOAN BINGHAM	39 EAST 79TH STREET APT	NEW YORK	NY	10075	19 FRONT ST
7313		97		GULLS WING LLC		11 BENNINGTON COURT	TENAFLY	NJ	07670	15 FRONT ST
7313		98		OCONNELL MARY G		28 GARDEN ST	BOSTON	MA	02114	13 FRONT ST
7313		107		HILL GEORGE J III & VIRGINIA D		188 VILLAGE AVE	DEDHAM	MA	02026	24 BROADWAY
7313		108		1620 CAPITAL LLC		579 WASHINGTON STREET	WHITMAN	MA	02382	25 BROADWAY
7313		109		MOYER CAROL		23 PILFERSHIRE LN	SIMSBURY	CT	06092	23 BROADWAY
7313		110		LICHTMAN JEFFREY A & HORN SHARON		1600 PARKER AVE	FORT LEE	NJ	07024	21 BROADWAY
7313		117		APGAR ANNE N TRST ETAL		405 WARREN AVENUE	BALTIMORE	MD	21230	22 BROADWAY
7313		119		NANTUCKET COUNTY OF		16 BROAD ST	NANTUCKET	MA	02554	10 N GULLY RD
7313		121		GREENE F E WADE TR	WADE COTTAGES NOMINEE TR	35 CHARLES ST	NEW YORK	NY	10014	OFF N GULLY RD

5/26/2016 12:45:41PM

**ABBUTTERS LISTING
NANTUCKET, MA**

Map	Block	Lot	Unit	Owner-s Name	Co Owner-s Name	Address	City	ST Zip	Parcel Location
7313		122		GREENE F E WADE TR	WADE COTTAGES NOMINEE TR	35 CHARLES ST	NEW YORK	NY 10014	OFF N GULLY RD
7313		123		GREENE F E WADE TR	WADE GREENE COTTAGES NOMINEE T	35 CHARLES ST	NEW YORK	NY 10014	7 N GULLY RD
7324		51		NANTUCKET TOWN OF	C/O PARK & REC	2 BATHING BEACH RD	NANTUCKET	MA 02554	5 CODFISH PARK RD

LETTERS

From: [Alan Morell](#)
To: [Eleanor Antonietti](#); [Holly Backus](#); [Catherine Ancero](#)
Cc: sylal62258@att.net
Subject: Objection to Paul Benk and Lauri LeJeune Benk No. 26-16
Date: Tuesday, July 05, 2016 4:31:26 PM

Dear Land Use Executives: Antonietti; Backus and Cancero (via email)

By way of introduction, we are the home owners, since 1981 at 27 Bank St., Siasconset, Ma. 02564 (Parcel: 7313-050; Book Page COO-0125).

We are writing this letter of objection as an abutters, on the above proposed "Subject" property plan on behalf of myself and spouse.

Please email me back you are in receipt.

Thank you for all your hard work with regards to Nantucket and Sconset planning.

Best.

Alan Morell

Janet Morell

27 Bank St.

Siasconset, Ma. 02564

508-257-6581

508-257-4122

Note to Al and Sylvia Lusier: Please note emails also to:

eantonietti@nantucket-ma.gov, hbackus@nantucket-ma.gov, cancero@nantucket-ma.gov

From: [Alan Morell](#)
To: [Eleanor Antonietti](#)
Subject: July 5, 2016 Objection to Paul Benk and Lauri LeJeune Benk No. 26-16
Date: Tuesday, July 05, 2016 6:00:24 PM

July 5, 2016

To Eleanor W. Antonietti

Zoning Administrator
Land Use Specialist
Planning and Land Use Services (PLUS)
Nantucket Planning Office
2 Fairgrounds Road
Nantucket, MA 02554
telephone 508.325.PLUS(7587) ext. 7010
facsimile 508.228.7298
antonietti@nantucket-ma.gov
www.nantucket-ma.gov

Dear Ms. Antonietti:

By way of introduction, this letter serves as our individual submission of Alan and Janet Morell, home owners, since 1981 at 27 Bank St., Siasconset, Ma. 02564 (Parcel: 7313-050; Book Page COO-0125).

In our 36 years in Codfish Park, we have never objected to any building or renovation by our neighbors until we reviewed this request.

As abutters, we are formally writing this letter of objection as to Paul Benk and Lauri LeJeune Benk No. 26-16 request for variance, due to:

1. Inappropriate setbacks;
2. Improper land use intent; and
3. Second story objection configuration.

This is respectfully submitted to Ms. Antonietti, as abutters, on the above proposed "Subject" property plan on behalf of myself and spouse.

Please email me back you are in receipt.

Thank you and your colleagues, for all your hard work with regards to Nantucket and Sconset planning.

Best.

Alan Morell
Janet Morell
27 Bank St.
Siasconset, Ma. 02564
508-257-6581
508-257-4122

From: [albert lussier](#)
To: [Eleanor Anagnostelli](#)
Subject: benk property
Date: Wednesday, July 06, 2016 11:14:21 AM

I have lived opposite this property on a private road since 1978. I object to this proposed expansion of a non-conforming use. the expansion would greatly exasperate the problems the rental-commercial property already creates. Lasr weekend this property "occupied" three of our five on street parking spaces. The three other homes on our private road which have been remodeled since 2001 have two on property parking spaces. the benk property has one spot which can only be used by small cars, such as a VW or mini. It's 7' 2" wide, because benk pushed the guest cottage too far south. this property is treated as an extension of the benk's Inn business. our community does not need two rental properties on this small lot. It's creating unneighborly density problems.

park rd

albert lussier

36 codfish

sconset
508 257 4400

From: [Philip Santarelli](#)
To: [Eleanor Antonietti](#)
Subject: Re zoning hearing
Date: Wednesday, July 06, 2016 1:04:06 PM

Dear Ms. Antoinette:

I am writing to you as a property owner and seasonal resident of Nantucket. I live at 23 R Bank St. in Siasconset, which is in the Codfish Park neighborhood. I understand that a homeowner adjacent to my property, a Mr. Beck, is seeking a variance to make significant changes to his property in a manner that I believe would be detrimental to the neighborhood. As such I am registering a protest to the granting of an easement. I have the following concerns:

- Additional density, by adding a second floor the property will now have two rental units. My understanding is the owner does not use the property. This will likely put a strain on parking, access and the septic system.
- The addition of another story on a small building will be unsightly as it will create a tower appearance. It will necessitate the removal of a shade tree and obstruct ocean views from my property.

I appreciate your consideration of these objections.

Respectfully,

Philip J. Santarelli

Philip J. Santarelli, CPA

Partner

Baker Tilly Virchow Krause LLP

One Liberty Place | 1650 Market Street, Suite 4500 | Philadelphia, PA 19103

T: 215.557.2290 | F: 215.557.2290 | C: 570.947.0619 | E: Philip.santarelli@bakertilly.com

Website: www.BakerTilly.com

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From: [Jeanne Compitello](#)
To: [Eleanor Antonietti](#)
Subject: Application # 26-16, Benk, 8 North Gully Road, Siasconset
Date: Thursday, July 07, 2016 11:36:43 AM

As the owners of 25 Bank St and very close neighbors to the subject property, we strongly object to the proposed application. To add a second story to what was basically a toolshed is out of keeping with the character of the neighborhood and increases the building density of the small property to an unacceptable level. In addition, based upon Town records it does not appear that this second building on the subject property is even a legal structure of any type or that the owners ever previously applied for any type of permit for this structure. To allow them to now turn it into a legal dwelling would reward them for their complete disregard for the Town's laws and requirements. We request that the Board deny this application. Thank you for your consideration. Jeanne and Michael Compitello

Sent from my iPad

Sent from my iPad

From: [Diane Downing](#)
To: [Eleanor Antonietti](#)
Subject: Benk file no. 26-16
Date: Thursday, July 07, 2016 1:03:55 PM

Hello Zoning Board,
My name is Diane Downing and I own property at 29 Bank Street in Sconset.
I am a direct abutter of the property seeking Variance owned by the Benks and referred to
As file number 26-16.
I am opposed to the expansion that is being requested for several reasons.
This is a non-owner occupied premise being used for commercial use.
As parking is already stressed, the expansion would further exacerbate the situation.
Are additional parking spaces part of said expansion?
Is current septic sufficient to accommodate?
I believe that the existing buildings as is are more than satisfactory considering
The lot size and therefore I restate that I am opposed to this expansion.

Sincerely,
Diane L. Downing
Vice-President
The Common Man Family
<http://www.thecman.com/>

"The best time to plant a tree was twenty years ago. The second best time is now." - Chinese Proverb

KITE HILL, LLC

5 KITE HILL LN.

FILE NO.27-16



Zoning Board of Appeals
JUN 16 2016
RECEIVED

**TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MA 02554**

PAID
JUN 16 2016
BY: V19050
PAID

APPLICATION

Fee: \$450.00

File No. 27-16

Owner's name(s): **Kite Hill, LLC**

Mailing address: **c/o Reade, Gullicksen, Hanley, Gifford & Cohen, LLP
6 Young's Way, Post Office Box 2669, Nantucket, Massachusetts 02584**

Phone Number: **508-228-3128** E-Mail: **air@readelaw.com**

Applicant's name(s): **Same**

**Town Clerk
Town & County Building
16 Broad St
Nantucket, MA 02554**

Mailing Address: **Same**

Phone Number: **Same** E-Mail: **Same**

Locus Address: **5 Kite Hill Lane** Assessor's Map/Parcel: **42.4.4-65**

Land Court Plan: **15206-C, Lot D; 15206-D, Lot 2**

Certificate of Title: **26033** Zoning District: **Residential Old Historic (ROH)**

Uses on Lot- Commercial: **None** Yes (describe)
Residential: Number of dwellings **One** Duplex Apartments

Date of Structure(s): all pre-date 7/72 or

Building Permit Numbers:

Previous Zoning Board Application Numbers: **051-89; 083-91**

2 Fairgrounds Road Nantucket Massachusetts 02554
508-228-7215 telephone 508-228-7298 facsimile

State below or attach a separate addendum of specific special permits or variance relief applying for:

See attached addendum.

I certify that the information contained herein is substantially complete and true to the best of my knowledge, under the pains and penalties of perjury.

SIGNATURE: Kite Hill, LLC Owner*

By: *Arthur I. Reade, Jr.*

SIGNATURE: _____ Applicant/Attorney/Agent
Arthur I. Reade, Jr.

OFFICE USE ONLY

Application received on: ___/___/___ By: _____ Complete: _____ Need Copies: _____
Filed with Town Clerk: ___/___/___ Planning Board: ___/___/___ Building Dept.: ___/___/___ By: _____
Fee deposited with Town Treasurer: ___/___/___ By: _____ Waiver requested: _____
Granted: ___/___/___ Hearing notice posted with Town Clerk: ___/___/___ Mailed: ___/___/___
I&M ___/___/___ & ___/___/___ Hearing(s) held on: ___/___/___ Opened on: ___/___/___
Continued to: ___/___/___ Withdrawn: ___/___/___ Decision Due By: ___/___/___
Made: ___/___/___ Filed w/Town Clerk: ___/___/___ Mailed: ___/___/___

2 Fairgrounds Road Nantucket Massachusetts 02554
508-228-7215 telephone 508-228-7298 facsimile

**ADDENDUM TO APPLICATION BY KITE HILL, LLC,
TO NANTUCKET BOARD OF APPEALS**

Locus, which consists of Lot D on Land Court Plan 15206-C and Lot 2 on Land Court Plan 15206-D, includes land on the northerly side of Kite Hill Lane (sometimes called Sunset Avenue) which is generally known as 5 Kite Hill Lane, together with the fee in the entire way known as Kite Hill Lane (extending to Cliff Road), and also a strip of land on the southerly side of Kite Hill Lane, all as part of the same Land Court lot. Lot 2 on Plan 15206-D is a small parcel which has been added to and merged with Lot D, and is not a separate building lot.

The unusual status of locus has been considered by the Board of Appeals in two previous cases. In 051-89, the Board granted Variance relief to enable Lot C on Plan 15206-C to be conveyed separately from Lot D, which was then vacant. In 083-91, the Board granted Variance relief for Lots C and D, relieving these lots from the frontage requirement of the Zoning By-law, finding that Kite Hill Lane did not constitute a "street" within the meaning of the By-law. Lot D actually fronts upon Cliff Road, but this frontage is within the limits of the easement or way known as Kite Hill Lane and does not serve any purpose of frontage.

Controversies have arisen among the owners of the lots fronting on Kite Hill Lane, and there have been certain encroachments on this way which have had an impact upon passage through the way, as well as issues relating to parking. However, the affected parties (the applicant, as the owner of Lot D, and the owners of Lot C and of the unregistered land to the south of the easterly portion of Kite Hill Lane) have reached a mutually satisfactory agreement to resolve these issues, as described in this application.

As part of this settlement, certain parcels are to be carved out from Lot D and conveyed by the applicant to abutters.

Attached to this application is a plan by Blackwell & Associates, Inc., in three sheets. Sheet 1 depicts the existing conditions upon locus and the relevant adjacent parcels (the "Existing Conditions Plan"). Sheet 2 shows proposed conveyances by the applicant (the "Conveyance Plan"). Sheet 3 shows the proposed conditions upon these parcels if the conveyances are made as proposed and conveyed parcels are merged as proposed (the "Proposed Conditions Plan").

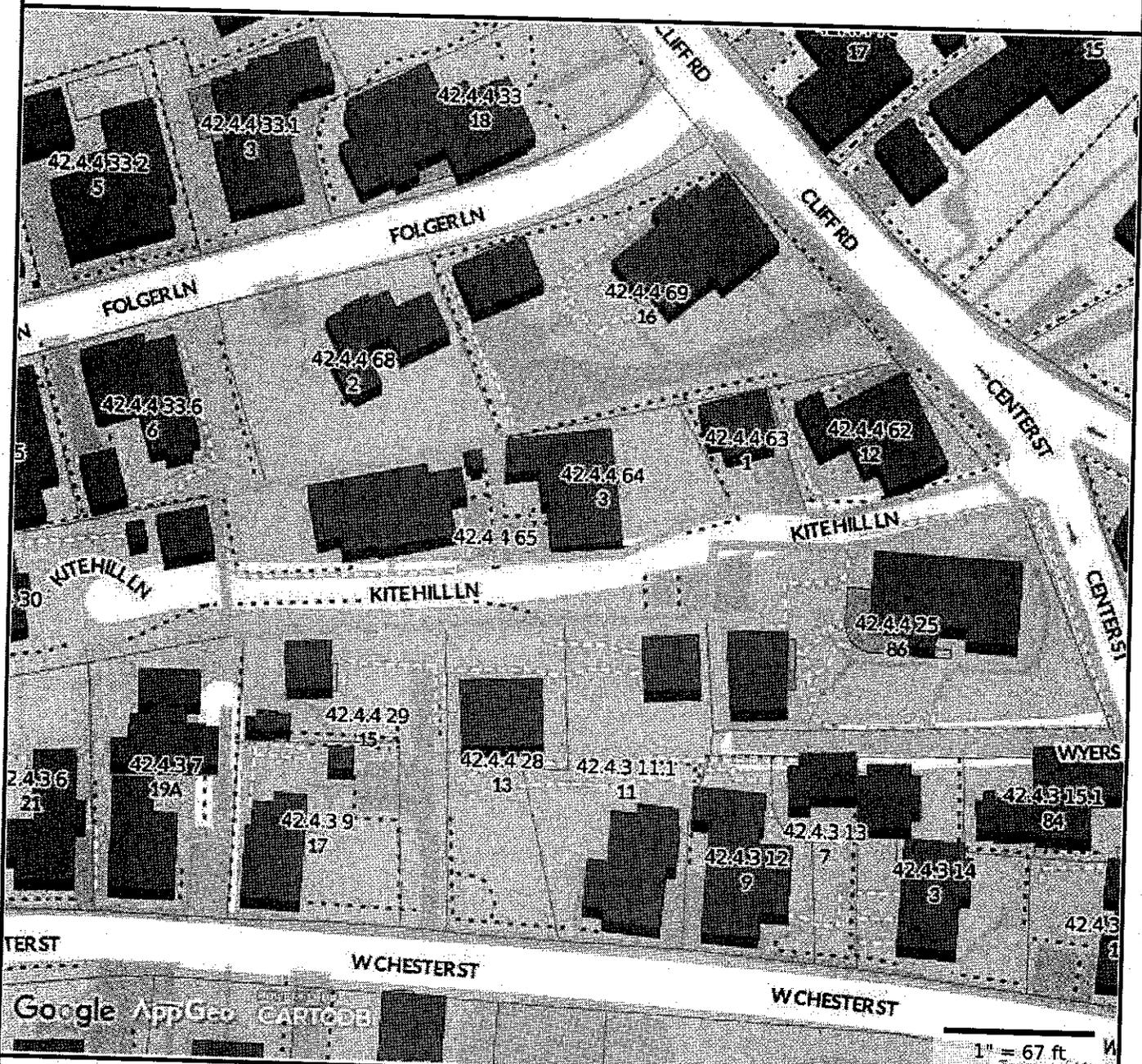
As shown upon the Conveyance Plan, it is proposed that the applicant's land be divided and disposed of as follows:

- Lot 3 constitutes the remaining portions of Lot D and Lot 2 which will be retained by the applicant after the conveyance of other parcels, as a single lot.
- Lots 4 and 5 are to be conveyed to the owner of Lot C (known as 3 Kite Hill Lane) and will be merged with Lot C by duly-recorded Lot Merger Covenant.
- Lots 6 and 7 are to be conveyed to the owner of the unregistered land shown as land of Dillard on the Conveyance Plan (known as 86 Center Street), and will be merged with the land of Dillard by duly-recorded Lot Merger Covenant.

Because the boundary changes of the Lot C property and the Dillard property will only add land to those lots, the zoning status of those lots will not be affected, so no relief is sought for them. As to locus, the practical, usable portion of the applicant's land will be essentially unaffected. However, the outlying portions of locus that will be removed and conveyed to abutters will technically increase certain nonconformities of locus, and accordingly relief by Variance is sought for those changes.

Specifically, the conveyance of Lot 4 will result in the side yard setback of an existing shed upon Lot D being reduced from about 6.0 feet to about 2.0 feet, with 5 feet being the minimum side yard setback in this district; however, the setback of the dwelling upon Lot C will be increased by about 4 feet and will become conforming. The regularity calculation for Lot D is now 0.297, with 0.55 being the minimum required; the regularity for the resulting Lot 3 will be 0.198. This calculation includes all of Kite Hill Lane, however, and the buildable portion of the lot remains regular in shape.

Accordingly, the applicant requests relief by Variance from the Intensity Regulations in Nantucket Zoning By-law S139-16, to authorize the reconfiguration of the applicant's land as described herein.



Property Information
 Property ID 42.4.4.65
 Location 5 KITE HILL LN
 Owner BOSZHARDT ANDY



MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

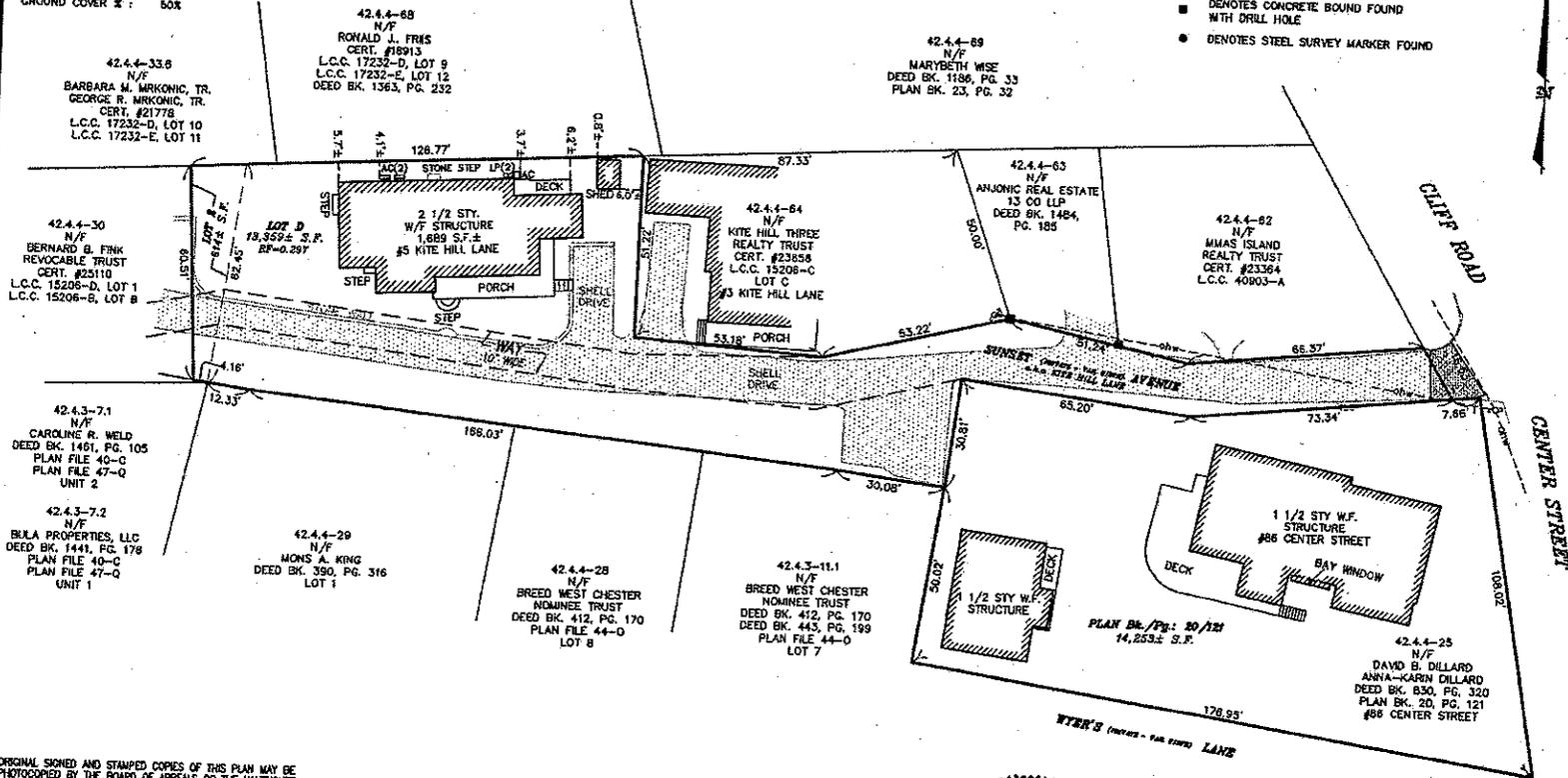
Parcels updated December, 2014
 Properties updated January, 2015

CURRENT ZONING CLASSIFICATION:
Residential Old Historic (R-OH)

MINIMUM LOT SIZE: 5000 S.F.
MINIMUM FRONTAGE: 50 FT.
FRONT YARD SETBACK: none
REAR/SIDE SETBACK: 5 FT.
GROUND COVER %: 50%

LEGEND

- DENOTES CONCRETE BOUND FOUND WITH DRILL HOLE
- DENOTES STEEL SURVEY MARKER FOUND



ORIGINAL SIGNED AND STAMPED COPIES OF THIS PLAN MAY BE PHOTOCOPIED BY THE BOARD OF APPEALS OR THE NANTUCKET REGISTRY OF DEEDS FOR RECORDING PURPOSES. IN CASES OF DISCREPANCIES REGARDING INFORMATION CONTAINED HEREON AND UNAUTHORIZED PHOTOCOPIES OF THIS PLAN, ONLY ORIGINALLY STAMPED AND ENDORSED COPIES SHALL BE ACKNOWLEDGED BY THE CERTIFYING LAND SURVEYOR.

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THIS INSPECTION PLAN IS NOT A CERTIFICATION AS TO THE TITLE OR OWNERSHIP OF THE PROPERTY SHOWN. OWNERS OF ADJOINING PROPERTIES ARE SHOWN ACCORDING TO CURRENT TOWN OF NANTUCKET ASSESSOR RECORDS.

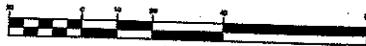
THIS PLAN SHALL NOT BE USED FOR ANY OTHER PURPOSE OTHER THAN ITS INTENDED USE STATED ABOVE.

© Blackwell & Associates Inc.

OWNER INFORMATION

KITE HILL, LLC
CERT. OF TITLE #25033
L.C.C. 15206-C, LOT 2
L.C.C. 15206-D, LOT 2
ASSESSOR'S MAP 42.4.4, PARCEL B5
#5 KITE HILL LANE

GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.



Existing Conditions
Site Plan to Accompany
Zoning Board of Appeals
Application

in
Nantucket, MA
Prepared for
KITE HILL, LLC

Scale: 1" = 20' JUNE 10, 2016

BLACKWELL & ASSOCIATES, Inc.
Professional Land Surveyors
20 TEASDALE CIRCLE
NANTUCKET, MASS. 02554
(508) 228-9028

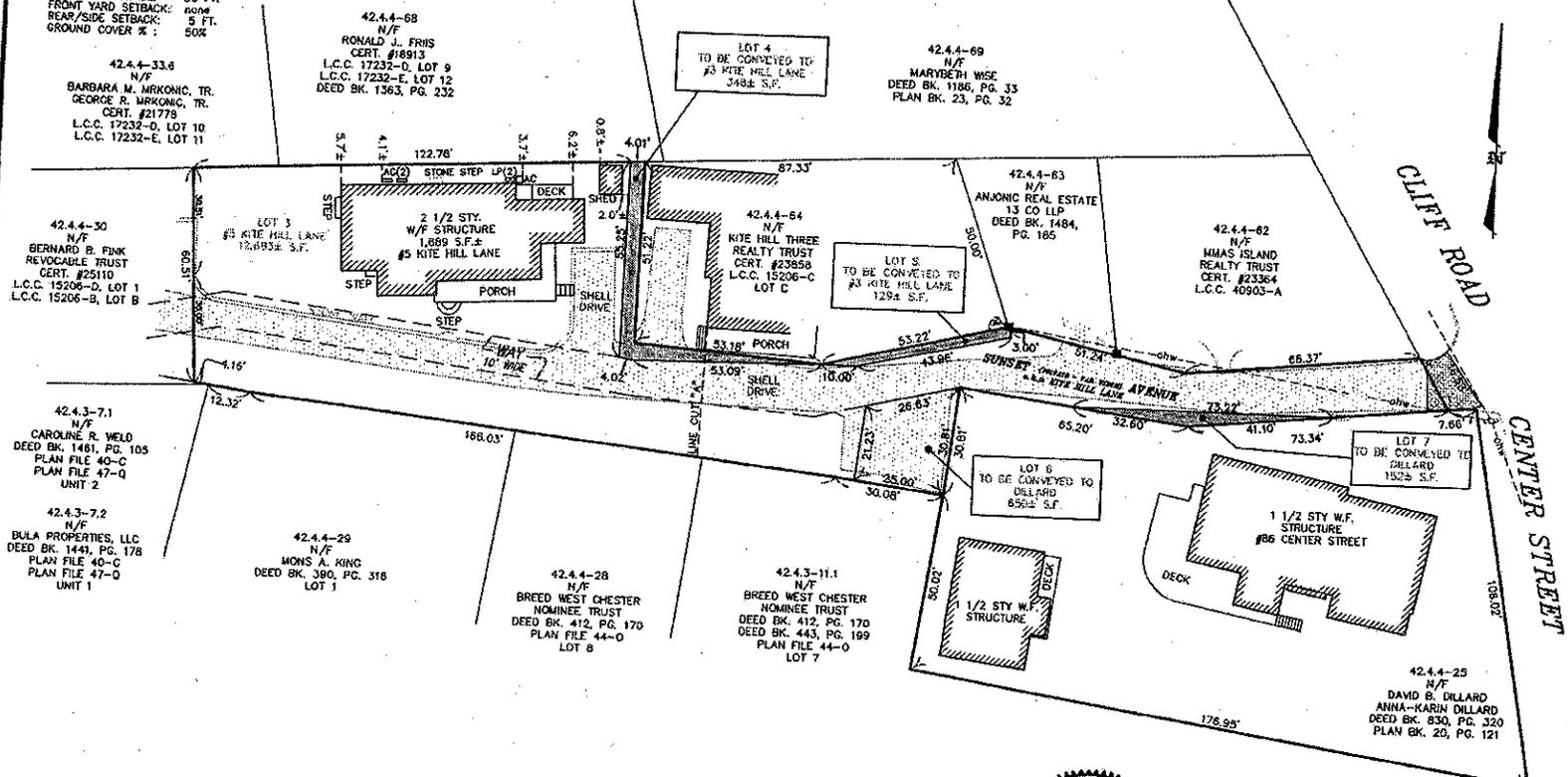
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SHEET 1 OF 3

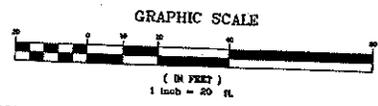
B8038

CURRENT ZONING CLASSIFICATION:
Residential Old Historic (R-OH)

MINIMUM LOT SIZE: 5000 S.F.
MINIMUM FRONTAGE: 50 FT.
FRONT YARD SETBACK: 10 FT.
REAR/SIDE SETBACK: 5 FT.
GROUND COVER %: 50%



NOTE:
EXISTING REGULARITY OF LOT D & Q: 0.297
PROPOSED REGULARITY OF LOT J: 0.195



OWNER INFORMATION
KITE HILL, LLC
CERT. OF TITLE #28033
L.C.C. 15206-C, LOT D
L.C.C. 15206-D, LOT 2
ASSESSOR'S MAP 42.4.4, PARCEL 65
#5 KITE HILL LANE

- LEGEND**
- DENOTES CONCRETE BOUND FOUND WITH DRILL HOLE
 - DENOTES STEEL SURVEY MARKER FOUND



Proposed Conveyances
Concept Subdivision and
Easement Plan
in
Nantucket, MA
Prepared for
KITE HILL, LLC

Scale: 1" = 20' JANUARY 28, 2016
Revised: FEBRUARY 04, 2016
BLACKWELL & ASSOCIATES, Inc.
Professional Land Surveyors
28 TRASDALE CIRCLE
NANTUCKET, MASS. 02554
(508) 228-9026

SHEET 2 OF 3

B8038

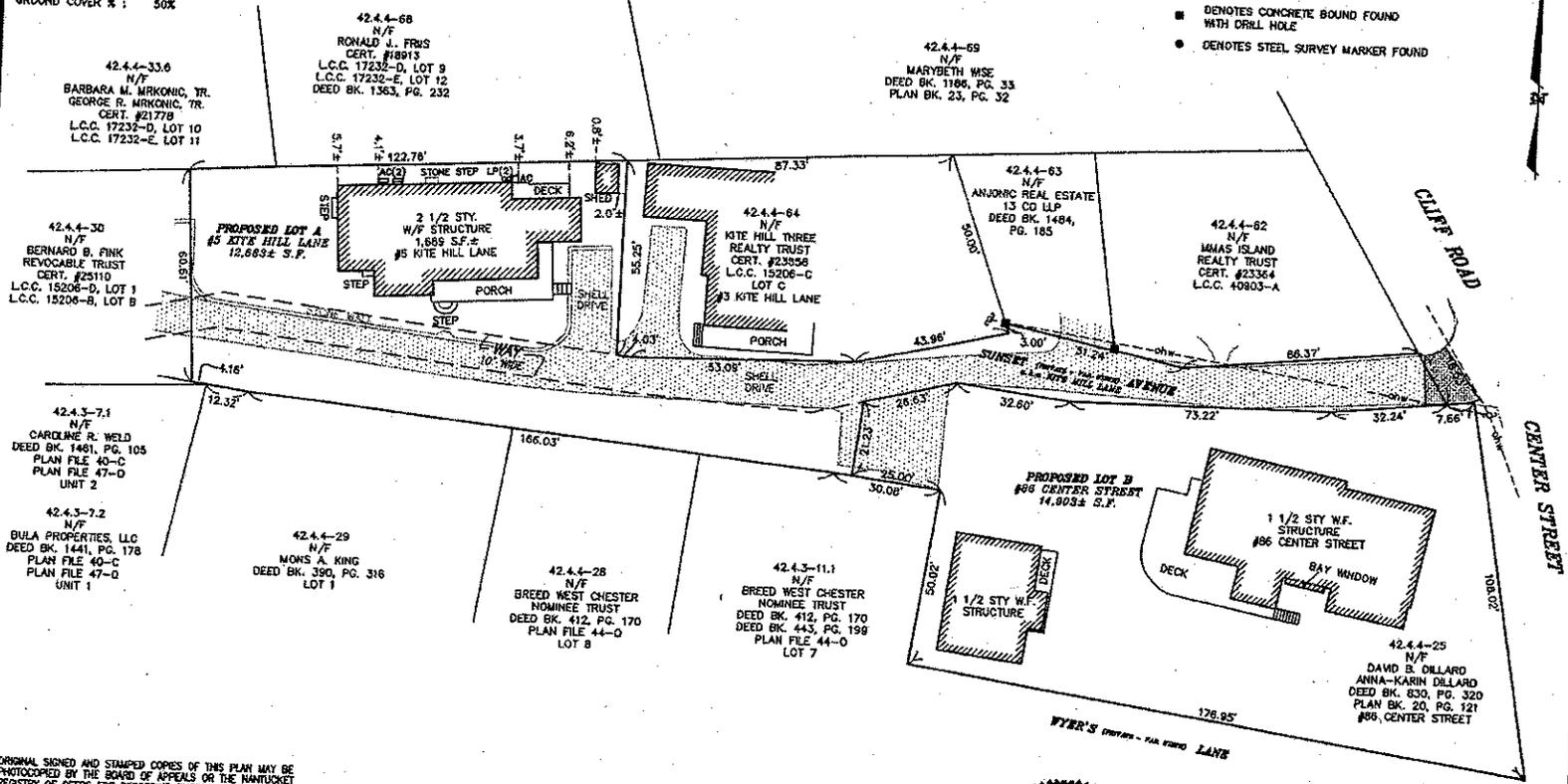
F:\LEO 25 JOB 76
Y:\DRAWFILES\B8038\CONCEPT 2016.dwg 6/10/2016 11:52:06 AM EDT

CURRENT ZONING CLASSIFICATION:
Residential Old Historic (R-OH)

MINIMUM LOT SIZE: 5000 S.F.
MINIMUM FRONTAGE: 50 FT.
FRONT YARD SETBACK: none
REAR/SIDE SETBACK: 5 FT.
GROUND COVER %: 50%

LEGEND

- DENOTES CONCRETE BOUND FOUND WITH DRILL HOLE
- DENOTES STEEL SURVEY MARKER FOUND



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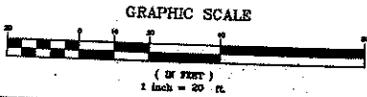
THIS INSPECTION PLAN IS NOT A CERTIFICATION AS TO THE TITLE OR OWNERSHIP OF THE PROPERTY SHOWN. OWNERS OF ADJOINING PROPERTIES ARE SHOWN ACCORDING TO CURRENT TOWN OF NANTUCKET ASSESSOR RECORDS.

THIS PLAN SHALL NOT BE USED FOR ANY OTHER PURPOSE OTHER THAN ITS INTENDED USE STATED ABOVE.

© Blackwell & Associates Inc.

NOTE:
EXISTING REGULARITY OF LOT D & 2: 0.297
PROPOSED REGULARITY OF LOT A: 0.198

OWNER INFORMATION
KITE HILL, LLC
CERT. OF TITLE #26033
L.C.C. 15206-G, LOT D
L.C.C. 15206-D, LOT 2
ASSESSOR'S MAP 42.4.4, PARCEL 65
#9 KITE HILL LANE



Proposed Conditions
Site Plan to Accompany
Zoning Board of Appeals
Application

in
Nantucket, MA
Prepared for
KITE HILL, LLC

Scale: 1" = 20' JUNE 10, 2016
BLACKWELL & ASSOCIATES, Inc.
Professional Land Surveyors
20 TEASDALE CIRCLE
NANTUCKET, MASS. 02654
(508) 278-9028

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V:\DRAWFILES\88038\ZBA.dwg 6/10/2016 11:05:15 AM EDT

SHEET 3 OF 3

B8038

\$ 10.00

COPY

RECEIVED
BOARD OF ASSESSORS

JUN 14 2016

TOWN OF
NANTUCKET, MA

Town of Nantucket

Zoning Board of Appeals

LIST OF PARTIES IN INTEREST IN THE MATTER OF THE PETITION OF:

PROPERTY OWNER..... Kite Hill, LLC

MAILING ADDRESS..... c/o Reade, Gullicksen, Hanley & Gifford, LLP

PROPERTY LOCATION..... 5 Kite Hill Lane

ASSESSOR MAP/PARCEL..... 42.4.4-65

SUBMITTED BY..... Reade, Gullicksen, Hanley & Gifford, LLP

SEE ATTACHED PAGES

I certify that the foregoing is a list of all persons who are owners of abutting property; owners of land directly opposite on any public or private street or way; and abutters of the abutters and all other land owners within 300 feet of the property line of owner's property, as they appear on the most recent applicable tax list (M.G.L.c. 40A, Section 11 and Zoning Code Chapter 40A, Section 139-29B (2)).

June 15, 2016
DATE

Patricia Giles
ASSESSOR'S OFFICE
TOWN OF NANTUCKET

ABBUTTERS LISTING
NANTUCKET, MA

Map	Block	Lot	Unit	Owner's Name	Co Owner's Name	Address	City	ST Zip	Parcel Location
41		449		NANTUCKET HISTORICAL ASSN					
4243	4			STOUT KATHARINE C TRST		PO BOX 1016	NANTUCKET	MA 02554	16 SUNSET HILL LN
4243	5	1		COSTA ALAN J & KATHLEEN M	KATHARINE C STOUT TRUST	PO BOX 2233	NANTUCKET	MA 02554	24 SUNSET HILL LN
4243	5	2		MILLET LISA J & TRIPP BRADFORD TRS		23A W CHESTER ST	NANTUCKET	MA 02554	23A W CHESTER ST
4243	5	3		YORDAN ROBERT A & ELAINE E		6 VIRGINIA DR	LAKEVILLE	MA 02347	23B W CHESTER ST
4243	5	4		RICH CHRISTOPHER & VIRGINIA B		2 RIVERDALE DRIVE	CROMWELL	CT 06416	23C W CHESTER ST
4243	5	5		HEALY PATRICK A	C/O EBS BOSTON	20 PARK PLAZA # 1014	BOSTON	MA 02116	23D W CHESTER ST
4243	5	6		HUGHES BRIAN & JILL		2 ST JOHN PLACE	WEST PORT	CT 06880	23E W CHESTER ST
4243	7	1		21 WEST CHESTER ST LLC	C/O GIRL LLC	100 RIVERSIDE BLVD APT 10	NEW YORK	NY 10069	23F W CHESTER ST
4243	7	2		WELD CAROLINE R		4 NORTH WATER ST	NANTUCKET	MA 02554	21 W CHESTER ST
4243	9			BULA PROPERTIES LLC		P O BOX 1162	NANTUCKET	MA 02554	19A W CHESTER ST
4243	11	1		17 WEST CHESTER ST LLC	C/O BILL AND CARLA FISHER	751 A PORTOLA STREET	SAN FRANCISCO	CA 94129	19 W CHESTER ST
4243	12			BREED LUCY FOWLKES TR	C/O WILMINGTON TRUST CO - RE DEPT	P O BOX 1596	BALTIMORE	MD 21203	17 W CHESTER ST
4243	13			JOFFE ROBERT D	BREED W CHESTER NOM TRUST	11 WEST CHESTER ST	NANTUCKET	MA 02554	11 W CHESTER ST
4243	14			JOFFE ROBERT D		300 WEST END AVE APT 13A	NEW YORK	NY 10023	9 W CHESTER ST
4243	15	1		MOORE WILLIAM M JR		300 WEST END AVE APT 13A	NEW YORK	NY 10023	7 W CHESTER ST
4243	15	2		IZEN CAROL R TRST	RED BARN DOOR NOMINEE TRUST	P O BOX 7012	SIASCONSET	MA 02564	3 W CHESTER ST
4243	16			MILLER DENNIS & CHRISTINE O C		181 LAUREL RD	CHESTNUT HILL	MA 02467	84 CENTER ST
4243	17			LESLIE JOANNE & AMES JONATHAN ETAL		1535 28TH ST NW	WASHINGTON	DC 20007	1 W CHESTER ST
4243	18			ABBOTT COLETTE M	C/O CHESTER SMILEY LLC	11 LOWER CROSS ROAD	SADDLE RIVER	NJ 07458	65 CENTER ST
4243	19			FEATHERSTONHAUGH JAMES D TRS		41 WEST STREET STE 800	BOSTON	MA 02111	5 CHESTER ST
4243	53			BAAN ROELOF I J ETAL		99 PINE ST STE 207	ALBANY	NY 12207	1 CHESTER ST
4243	56			PIN OAK PROPERTIES NO 1 LLC	C/O FELLON ANDREW	STOCKLENWEG 78	8706 MEILEN		2 CLIFF RD
4243	57			BOSCO JOSEPH A ET AL		3 OVERBROOK RD	LOUISVILLE	KY 40207	28 W CHESTER ST
4243	58	1		ZEVNIK PAUL A	CROQUET PITCH LLC	67 HAVEMEYER ROAD	IRVINGTON	NY 10533	26 W CHESTER ST
4243	59			JAMES JANICE A & RALPH TRST	MAGGIE WESTCHESTER TRUST II	1111 PENNSYLVANIA DR N W	WASHINGTON	DC 20004	24 W CHESTER ST
4243	59	1		RUDDY SHAUN J TRST	MLR QUALIFIED PER RESD TRUST	79 PURITAN LANE	SWAMPSCOTT	MA 01907	20 W CHESTER ST
4243	60			MILLCENT K RUDDY NOMINEE TR		312 WESTOE RD	RICHMOND	VA 23229	8 W CHESTER ST
4243	119	1		LENCYN ELIZABETH M ETAL		312 WESTOE ROAD	RICHMOND	VA 23229	6 W CHESTER ST
4243	5	76		JAMES RALPH & JANICE A TRS	MAGGIE WESTCHESTER TRUST	46 BROAD BROOK LN	STAMFORD	CT 06907	7 GULL ISLAND LN
4244	7	77				79 PURITAN LN	SWAMPSCOTT	MA 02215	22 W CHESTER ST
4244	8			FEARON JEFFREY A TRST					23 23A W CHESTER ST
4244	19			LITTLE SARAH A		7777 FOREST LANE # C-700	DALLAS	TX 75230	19 19A W CHESTER ST
4244	22			MARCO JOAN M TRST ETAL		14 MONTVALE RD	WELLESLEY	MA 02481	23 CLIFF RD
4244	23	1		PAWLOWSKI MARGARET TRUSTEE		19 REVERE LN	GLASTONBURY	CT 06033	4 NORTH AV
4244	23	2		MARINO MARGARET A TRST		8 CLIFF ROAD	UNIT # NANTUCKET	MA 02554	6 CLIFF RD
4244	23	3		WALTER RALPH B & BOWERS SANDRA L	SOUTHWIND NOM TRUST	243 NORTH STREET # 6	BOSTON	MA 02113	8 CLIFF RD
4244	23	4		OWEN JEFFREY S & DIANA M	382 CENTRAL PARK WEST	APT 19F	NEW YORK	NY 10025	8C CLIFF RD
4244	23	5		BALISCIANO MARCIA L		7421 LYNNHURST ST	CHEVY CHASE	MD 20815	8D CLIFF RD
4244	24	6		JACKSONVILLE PROPERTIES LLC	C/O CYNTHIA DARESHORI	37 LINVER RD	LONDON ENGLAN	SWG3RA	8E CLIFF RD
4244	25			KARTTUNEN FRANCES		19 CROSSWOODS PATH	WALPOLE	MA 02081	8F CLIFF RD
4244	28			DILLARD DAVID B & ANNA-KARIN	C/O SEETA ROSS	67 N CENTRE ST	NANTUCKET	MA 02554	8A CLIFF RD
4244	29			BREED LUCY FOWLKES TR	BREED W CHESTER NOM TRUST	45 ROCKEFELLER PLZ STE 19	NEW YORK	NY 10111	67 CENTER ST
4244	30			KING MONS A		11 WEST CHESTER ST	NANTUCKET	MA 02554	86 CENTER ST
4244				FINK BERNARD B TRST	BBF REVOCABLE TRUST	PO BOX 235	PAOLI	PA 19301	13 W CHESTER ST
						122 SAINT EDWARD PLACE	PALM BEACH GARD	FL 33418	15 W CHESTER ST
									6 KITE HILL LN

6/14/2016 10:01:22AM

ABBUTTERS LISTING
NANTUCKET, MA

Map	Block	Lot	Unit	Owner-s Name	Co Owner-s Name	Address	City	ST	Zip	Parcel Location
4244		31		RAPP J STEPHEN & DAISY M		131 CAT ROCK RD	COS COB	CT	06807	25 W CHESTER ST
4244		33		CLIFF COTTAGE LLC		51 WESTMORELAND PLACE	ST LOUIS	MO	63108	18 CLIFF RD
4244		33	1	WEBSTER CARL M & SUSAN S		1112 PARK AVE APT 15A	NEW YORK	NY	10128	3 FOLGER LN
4244		33	2	5 FOLGER LANE REALTY TRUST	C/O RUBIN & RUDMAN LLP	50 ROWES WHARF	BOSTON	MA	02110	5 FOLGER LN
4244		33	3	WOLFRAM TYLER J & MICHELE L		19 INDIAN HEAD RD	RIVERSIDE	CT	06878	7 FOLGER LN
4244		33	4	MRKONIC GEORGE TRST	FOLGER SQUARE TRUST	2558 KENT RIDGE COURT	BLOOMFIELD HILL MI	MI	48301	10 FOLGER LN
4244		33	5	LAB TRUST		4200 MASSACHUSETTS AV NW	WASHINGTON	DC	20016	8 FOLGER LN
4244		33	6	MRKONIC GEORGE R & BARBARA	C/O MRKONIC GEORGE R & BARBARA M TR	2558 KENT RIDGE CT	BLOOMFIELD HILL MI	MI	48301	6 FOLGER LN
4244		48		WASIL DEBORAH A		28 CLIFF RD	NANTUCKET	MA	02554	28 CLIFF RD
4244		49		SANB CORPORATION	C/O ROBIN B WOODS	137 FIVE MILE RIVER RD	DARIEN	CT	06820	24 CLIFF RD
4244		51		FHLP LLC		120 CABOT STREET	CHESTNUT HILL	MA	02467	22 CLIFF RD
4244		53		TWENTY CLIFF NANTUCKET LLC		7 HARCOURT STREET	BOSTON	MA	02116	20 CLIFF RD
4244		54		KOPELMAN ARIE L TRST ETAL		625 PARK AVE	NEW YORK	NY	10065	21 CLIFF RD
4244		54	1	MADAKET CONSERVATION LAND TRUS	C/O KENNETH LINDSAY	P O BOX 987	NANTUCKET	MA	02554	NORTH AV
4244		54	2	NANTUCKET CONSERVATION FOUND I		PO BOX 13	NANTUCKET	MA	02554	NORTH AV
4244		56		JENSEN JULIUS III ETAL TRS	DRJ CLIFF ROAD REALTY TRUST	15 CLIFF ROAD	NANTUCKET	MA	02554	15 CLIFF RD
4244		59		CLIFF LODGE INN LLC		9 CLIFF RD	NANTUCKET	MA	02554	9 CLIFF RD
4244		59	1	LITTLE JOHN N & WITTENBERG	NANCY S TRUSTEES	158 WOODLAND STREET	SHERBORN	MA	01770	7 CLIFF RD
4244		60		LITTLE SARAH TR	ROSA RUGOSA RTY TRUST	57 MONSEN RD	CONCORD	MA	01742	5 CLIFF RD
4244		61		CENTURY HOUSE REAL ESTATE TRST		PO BOX 603	NANTUCKET	MA	02554	10B CLIFF RD
4244		61	1	CENTURY HOUSE REAL ESTATE TRST		PO BOX 603	NANTUCKET	MA	02554	10A CLIFF RD
4244		62		MCGRATH BENJAMIN M & LINDA B	ONE KITE HILL LN REALTY TRUST	1220 PARK AVE 11 A	NEW YORK	NY	10128	12 CLIFF RD
4244		63		DUNPHY MAUREEN TR ETAL	KITE HILL THREE REALTY TRUST	330 E 43RD ST # 605	NEW YORK	NY	10017	1 KITE HILL LN
4244		64		GOLDBERG AIME L TRST	C/O FRIIS LAETITIA	841 WORCESTER RD	NATICK	MA	01760	3 KITE HILL LN
4244		68		NOBSKA PROPERTIES LLC ETAL		1 SKY LANE	BREWSTER	NY	10509	2 FOLGER LN
4244		69		WISE MARYBETH		547 LAKE AV	GREENWICH	CT	06830	16 CLIFF RD
4244		70		WRAITH WILLIAM IV & JACOB P ELLEN	C/O BRIANCE LUCILLE	168 LEES HILL ROAD	BASKING RIDGE	NJ	07920	17 CLIFF RD
4244		71		DEZALDUONDO BARBARA O ETAL TRS	C/O MATTHEWS VENTURES LLC	13 HOLLAND ST	LONDON ENGLAND		W84NA	13 CLIFF RD
4244		72		MATTHEWS ROBERT V		250 ROYAL PALM WAY	PALM BEACH	FL	33480	11 CLIFF RD
4244		23	79							8 8A CLIFF RD

6/14/2016 10:01:22AM

**ERIC ROSENBERG
&
MICHELE KOLB**

7 GARDNER ST.

FILE NO.28-16



Town Clerk
Town & County Building
16 Broad St
Nantucket, MA 02554

**TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MA 02554**

JUN 16 2016

APPLICATION

Fee: \$450.00

File No. 28-16

Owner's name(s): Eric J. Rosenberg and Michele Kolb

Mailing address: 226 E 79th Street, New York, NY 10075

Phone Number: 917-676-4714 E-Mail: erosenberg@rosenbergkolb.com

Applicant's name(s): (same)

Mailing Address: (same)

Phone Number: (same) E-Mail: (same)

Locus Address: 7 Gardner Street (northerly portion) Assessor's Map/Parcel: 42.3.3-58
Containing the garage

Land Court Plan/Plan Book & Page/Plan File No.: Book 17, Page 56

Deed Reference/Certificate of Title: 1282/80 Zoning District ROH

Uses on Lot- Commercial: None Yes (describe) _____

Residential: Number of dwellings 0 (a garage is sited on the newly created lot)

Date of Structure(s): all pre-date 7/72 or _____

Building Permit Numbers: _____

Previous Zoning Board Application Numbers: _____

ERIC J. ROSENBERG AND MICHELE KOLB

7 GARDNER STREET

Assessor's Map 42.3.3, Parcel 58, Lot 7A which is the northerly portion of Lot 7, with the entire lot currently shown as one lot at 7 Gardner Street

Applicants are seeking relief by Special Permit pursuant to Nantucket Zoning By-law Section 139-30 from the provisions of Nantucket Zoning By-law Section 139-33A (Pre-existing, nonconforming uses, structures, lots - yard setback). Applicants are seeking to demolish an existing metal/wood garage and construct a new single-family dwelling. The existing garage is sited as close as about 1.3 feet from the northerly side yard lot line in the Residential Old Historic ("ROH") zoning district which requires a minimum side yard setback of five (5) feet. The new dwelling would be sited at about three (3) feet from the northerly side yard lot line and be conforming as to easterly rear, southerly side and front yard setback requirements. The new dwelling would also conform as to groundcover requirements with about 35% groundcover ratio in the ROH which allows a maximum groundcover of 50% and as to parking with a space provided on site. The lot size of about 2,709 SF is grandfathered under the provisions of 139-33A(3) in a district that requires a minimum lot size of 5,000 SF.

In September 2012 the Applicants received endorsement of a 41-81L division of land from the Planning Board. This division of land was allowed based upon the existence of the single-family dwelling and the subject garage having a date of construction prior to the Town of Nantucket's adoption of the subdivision control law on February 16, 1955. Under the following Nantucket Zoning By-law provision the new lots are granted grandfathered status as to dimensional requirements (in part):

139-33A(3)

... Lots created pursuant to MGL c. 41, § 81P, based upon the exception in the clause of MGL c. 41, § 81L for lots containing two or more structures that predate the adoption of subdivision control in the Town, shall have the same status as preexisting, nonconforming lots, and any structures thereon, which predate the adoption of subdivision control in the Town, shall have the status of preexisting nonconforming structures.

[Amended 4-6-2015 ATM by Art. 64, AG approval 8-5-2015]

Based upon the foregoing the garage, with the setback intrusion of being sited as close as about 1.3 feet from the northerly side yard lot line, and the lot, with the subminimum lot size of about 2,709 SF in a district that requires a minimum lot size of 5,000 SF, is grandfathered. The use of

the garage, an ancillary structure on a lot by itself, without a dwelling on the lot, is also nonconforming. The proposed demolition and construction of the single-family dwelling would eliminate the use nonconformity. In addition, the new structure would be sited at about three (3) feet from the northerly side yard lot line. The height of the new dwelling will exceed that of the existing garage but will be in harmony with the other similarly scaled structures in the immediate historic area.

The Historic District Commission (“HDC”) spent many months working with the Applicants on an appropriate design for the setting. It was approved after several revisions on October 6, 2015 in COA #64559, the demolition of the garage in COA #64560 and the hardscape in COA #64561. The HDC determined that the placement, design features and relationship to the street were appropriate given that it replaced a dilapidated garage structure. There was no negative public comment from abutters throughout the public hearing process.

A grant of Special Permit relief is supported. While there would be a vertical expansion of the new single-family dwelling within the northerly required 5-foot setback area, the existing greater nonconformity of the garage being sited as close as about 1.3 feet from that lot line would be eliminated. Space, light and air would be gained by the reduction in that setback intrusion, particularly as the remaining matching garage on the property to the north, held in separate ownership, would remain sited at about one (1) foot from the intervening lot line if not less. The noncomplying use of the garage being on a lot without a dwelling would be eliminated as well. In all other respects the setback, parking and groundcover requirements will be met. There would be no change in the now grandfathered subminimum lot size.

PROPOSED FINDINGS:

Section 139-33A specifically allows for pre-existing nonconforming structures to be “extended, altered or changed” based upon the appropriate findings. The ZBA can support a grant of Special Permit relief by finding that said demolition and construction of the new single-family dwelling as proposed would not be substantially more detrimental than the existing nonconforming structure to the neighborhood. More specifically, the ZBA can find that where there is an existing structure that violates the side yard setback distance, the ZBA may issue a special permit to allow an extension, alteration or change to the garage, with the demolition and construction of the new single-family dwelling, provided that the nonconforming setback distance is not made more nonconforming and the extension, in this case a vertical extension to a higher ridge height than the garage within the 5-foot required setback area, would not be substantially more detrimental to the neighborhood than the existing nonconformity. In fact, no new nonconformities would be created with the demolition and construction of the new single-family dwelling. A grant of Special Permit relief is necessary prior to demolition of a pre-existing nonconforming structure and replacement of a new structure at the same setback distance or less of an intrusion inside the required 5-foot setback area. No Variance relief is required for such an alteration, extension or change.

PROPOSED CONDITIONS:

- There shall be no further expansion of the structure within the required 5-foot northerly side yard setback area without further relief from this Board; and
- The siting of the structure is substantially as shown on Exhibit A, a reduced copy of which is attached hereto.
-
-

EXHIBIT A

Site plan shown as "Proposed Site Plan", dated 06/08/16, done by Rosenberg Kolb, showing the outline of the existing garage intrusion and the proposed single-family dwelling footprint

EXHIBIT B

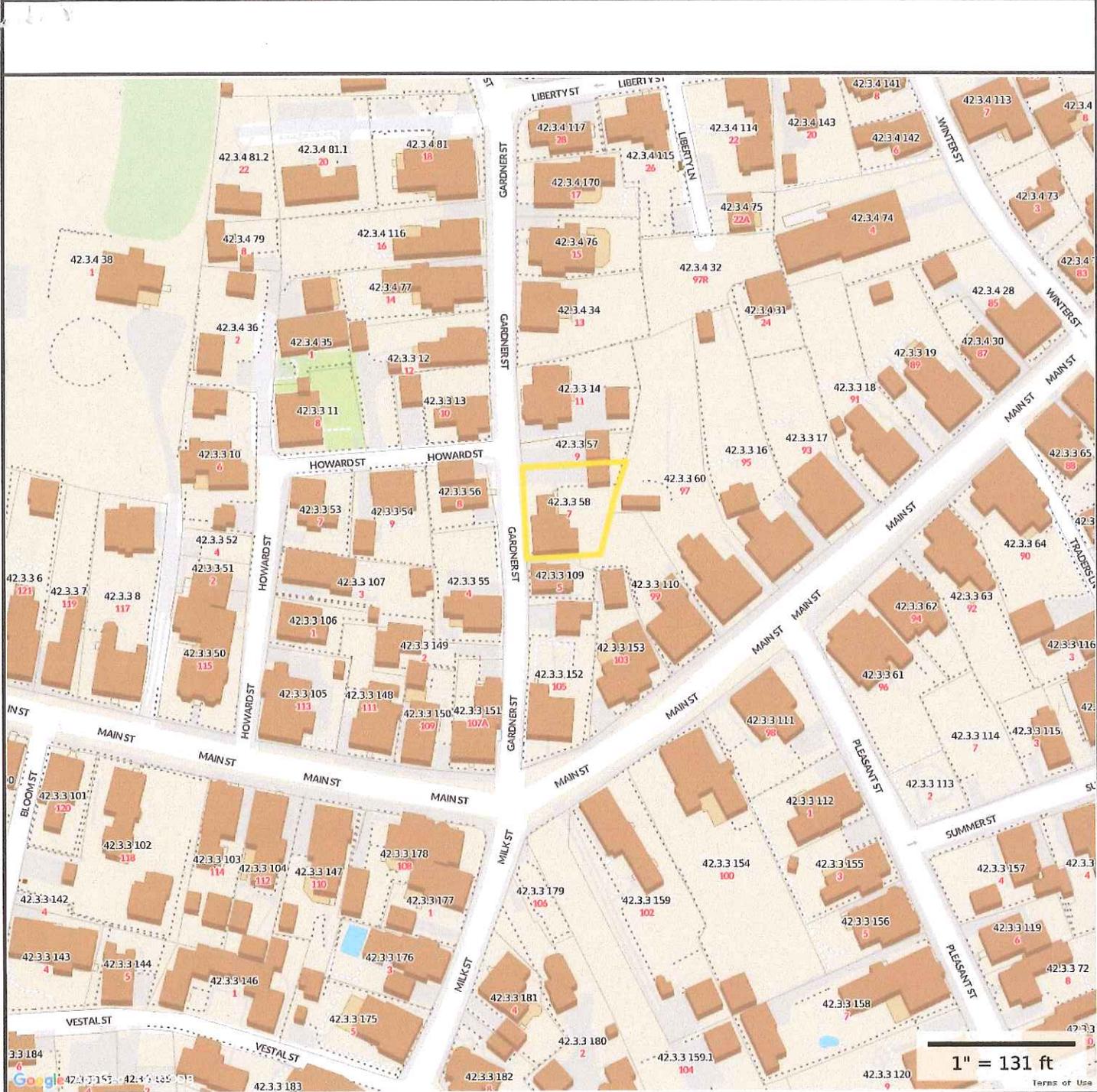
Photographs of the existing conditions

EXHIBIT C

Planning Board 41-81L application and site plan showing the division of land into Lot 7 and Lot 7A (the subject parcel)

EXHIBIT D

HDC approved plans



Property Information

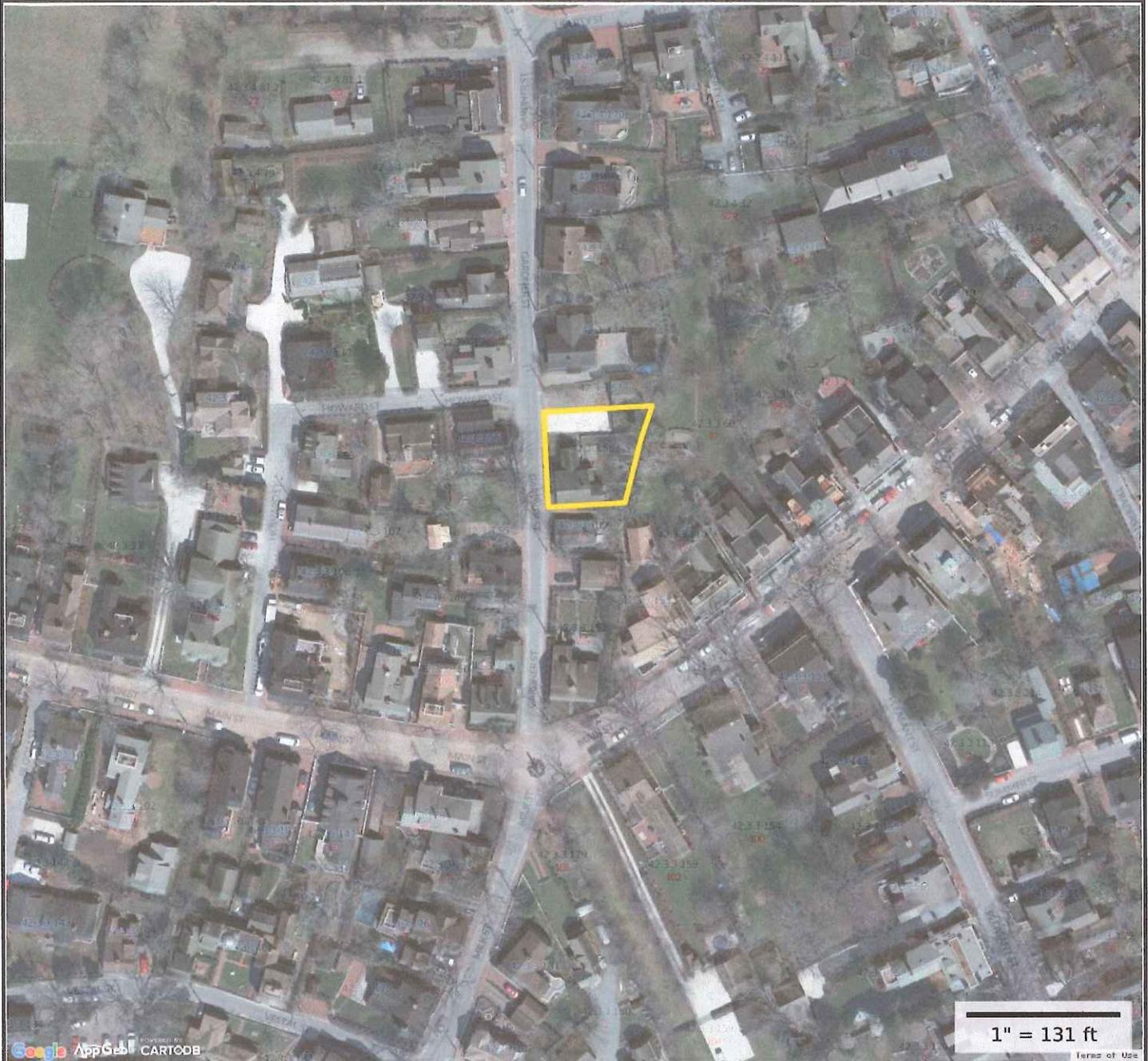
Property ID 42.3.3 58
Location 7 GARDNER ST
Owner ROSENBERG ERIC J & KOLB MICHELE



**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated December, 2014
Properties updated January, 2015



Property Information

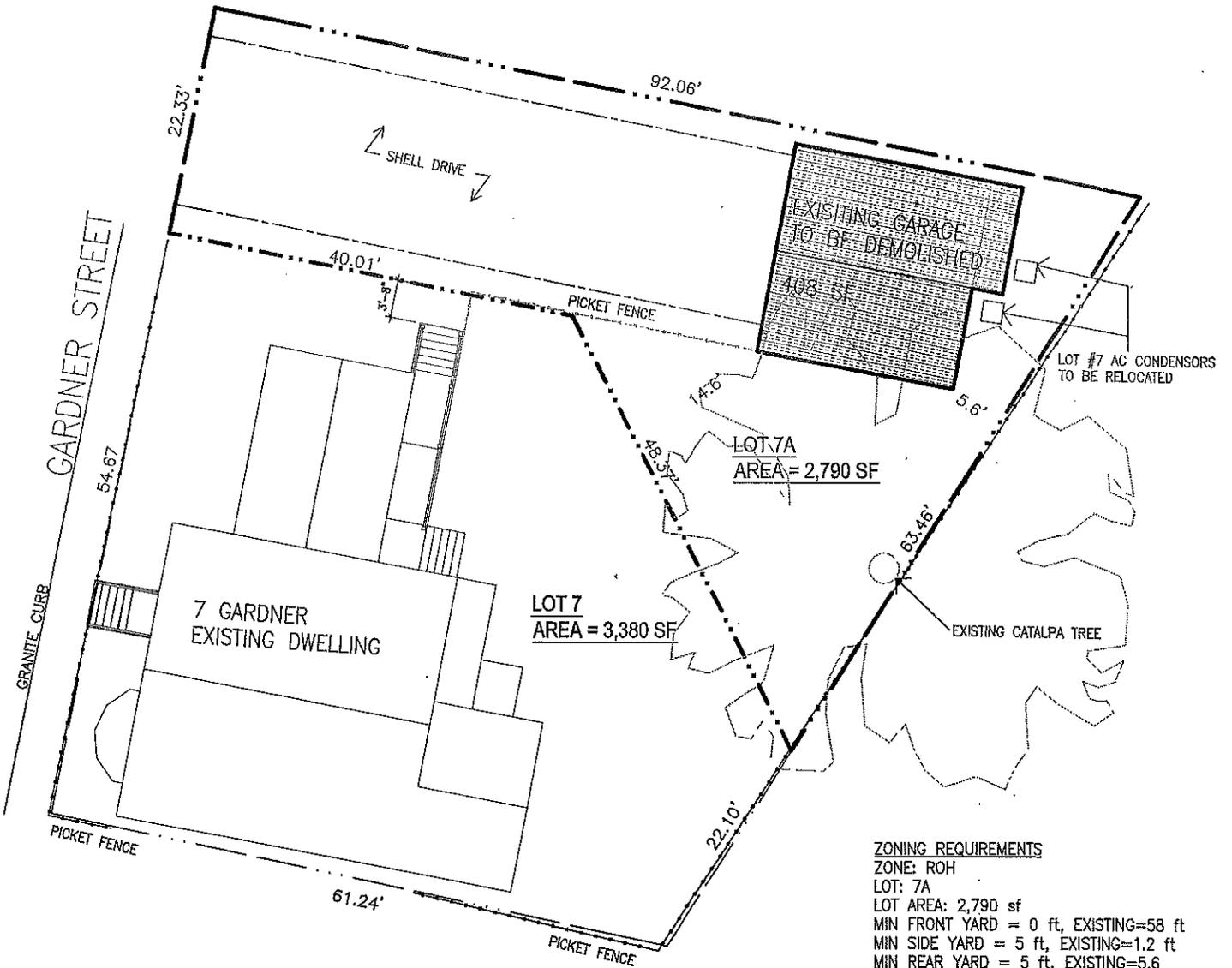
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Parcels updated December, 2014
Properties updated January, 2015



ZONING REQUIREMENTS

ZONE: ROH
 LOT: 7A
 LOT AREA: 2,790 sf
 MIN FRONT YARD = 0 ft, EXISTING=58 ft
 MIN SIDE YARD = 5 ft, EXISTING=1.2 ft
 MIN REAR YARD = 5 ft, EXISTING=5.6
 MAX GROUND COVER = 50%, EXISTING=15%

TAX MAP: 42.3.3
 PARCEL: 58

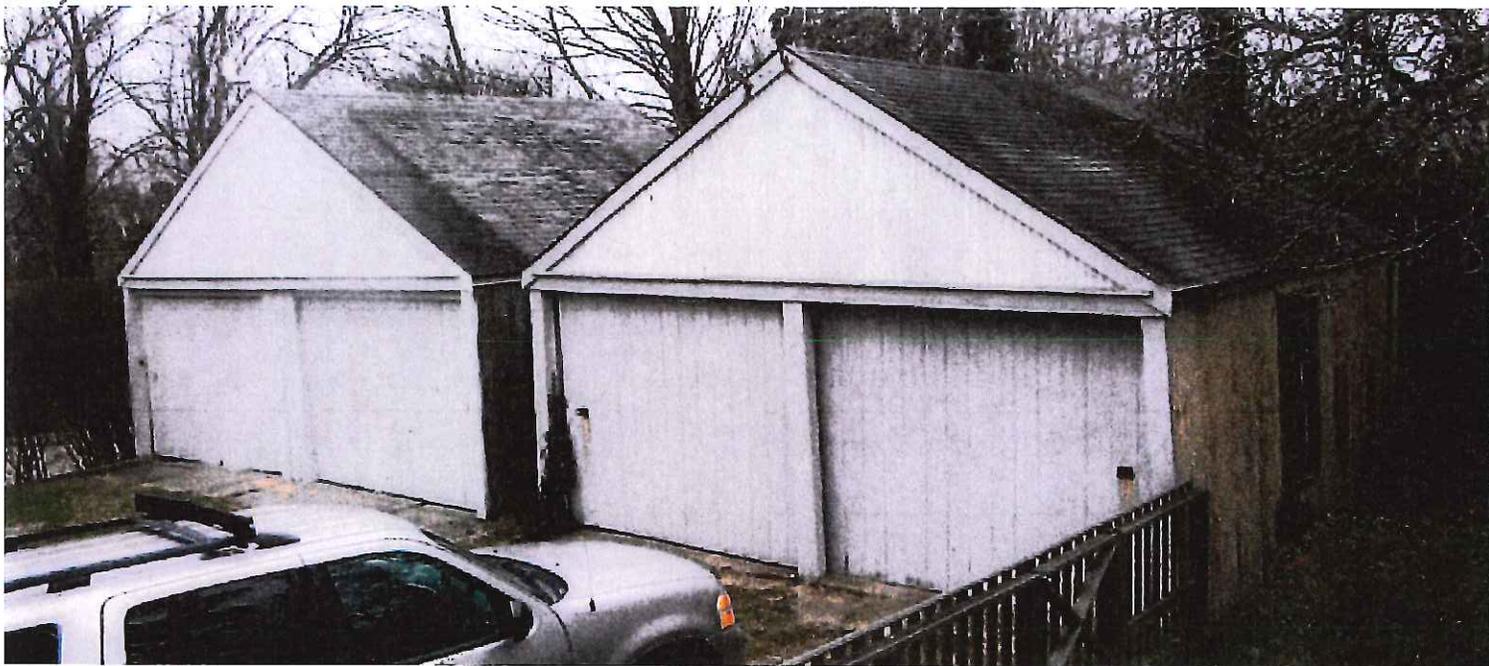


EXISTING SITE PLAN 12/19/14
 1/16"=1'-0"

Rosenberg Kolb
 226 East 79 Street
 New York, NY 10075-1202
 212 996 3099
 Fax 212 996 3097

EXHIBIT B

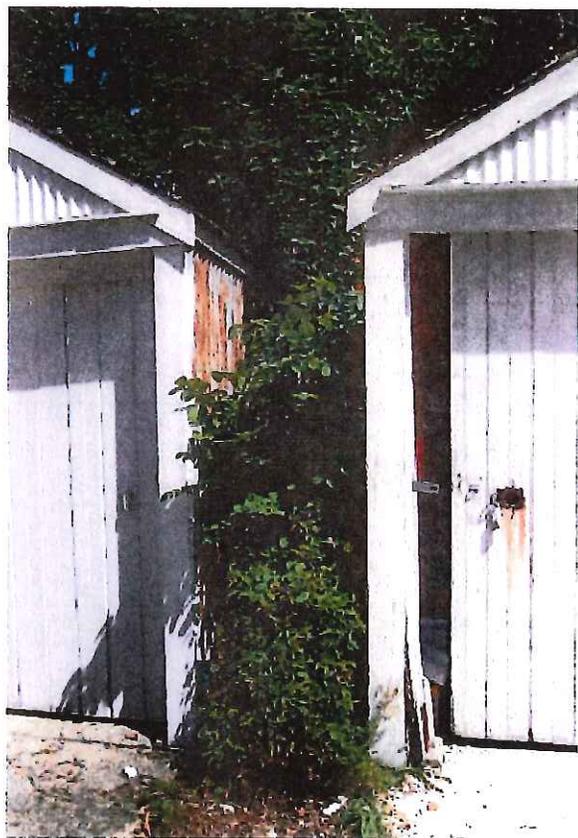




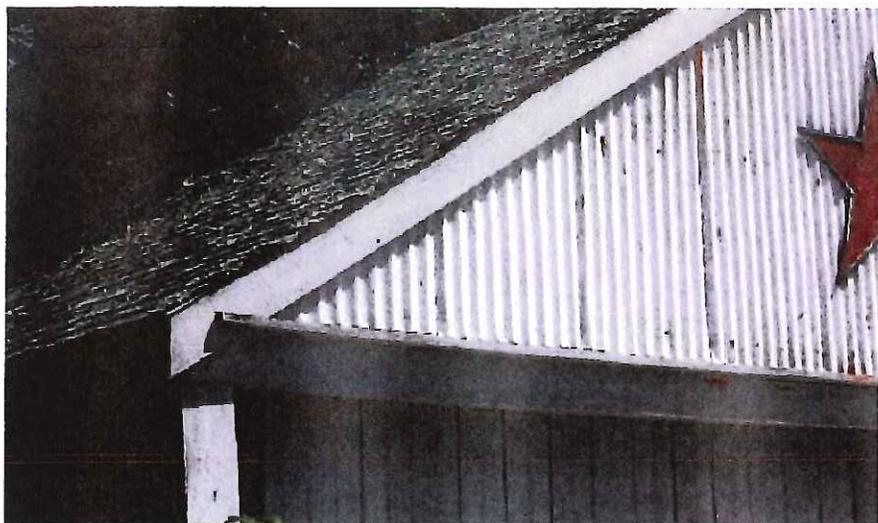
SOUTH WEST ELEVATION



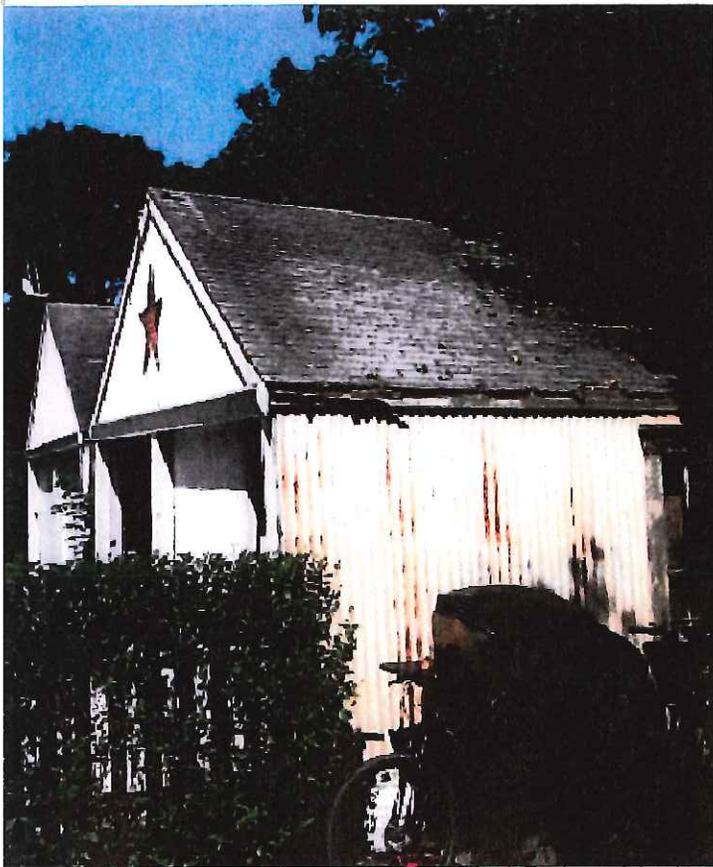
WEST ELEVATION



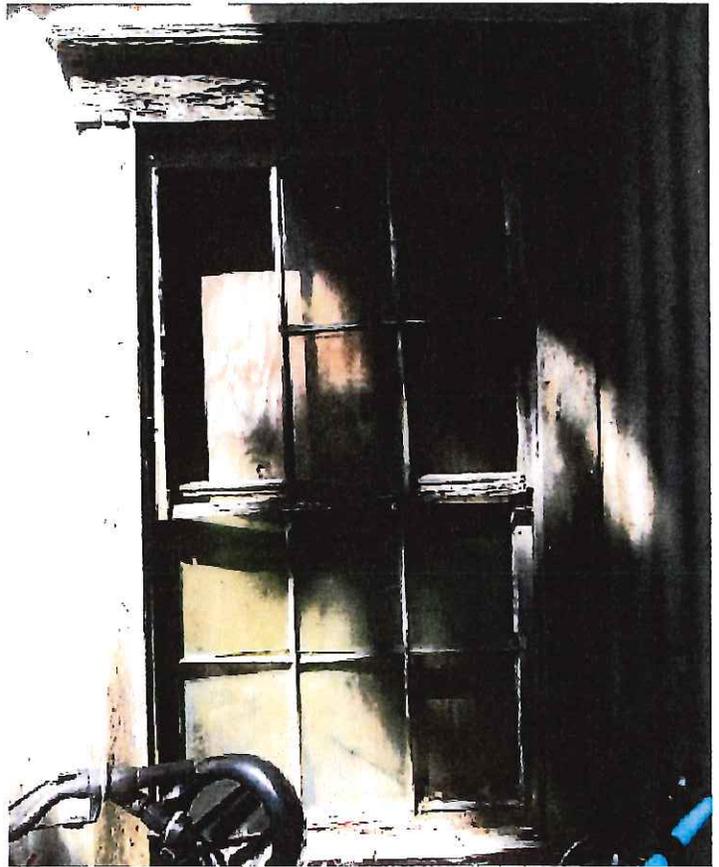
EXTERIOR DETAIL -WEST



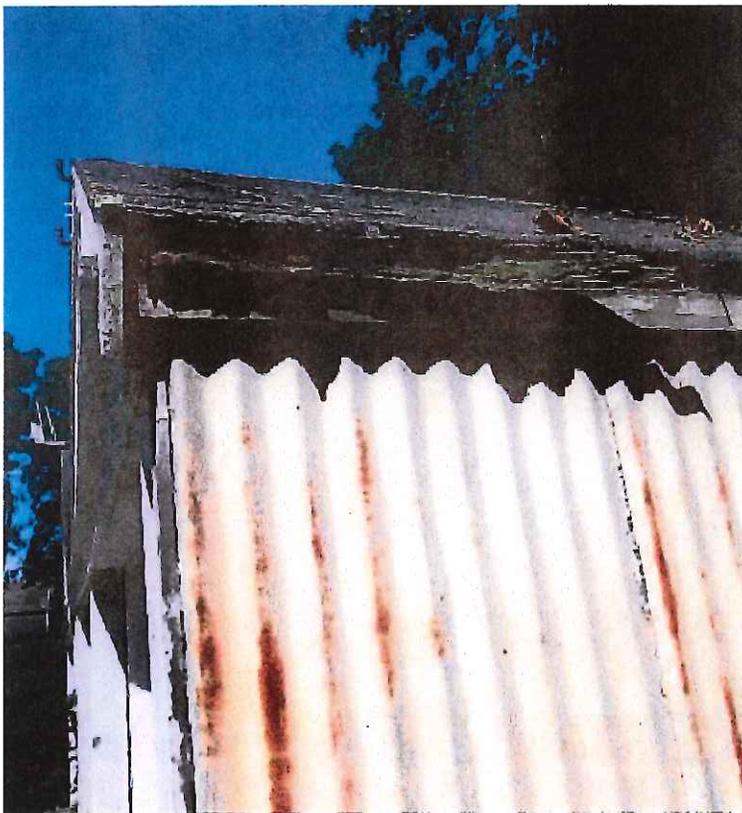
EXTERIOR DETAIL -NORTH WEST



SOUTH WEST ELEVATION



EXT DTL - WINDOW. SOUTH



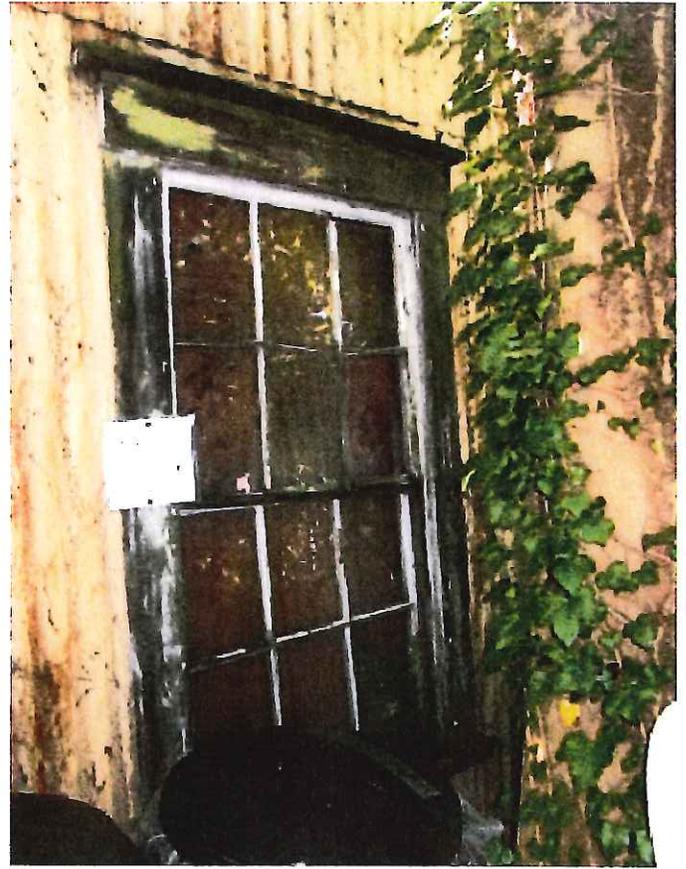
EXTERIOR DETAIL - SOUTH WEST



EXTERIOR DETAIL - SOUTH EAST



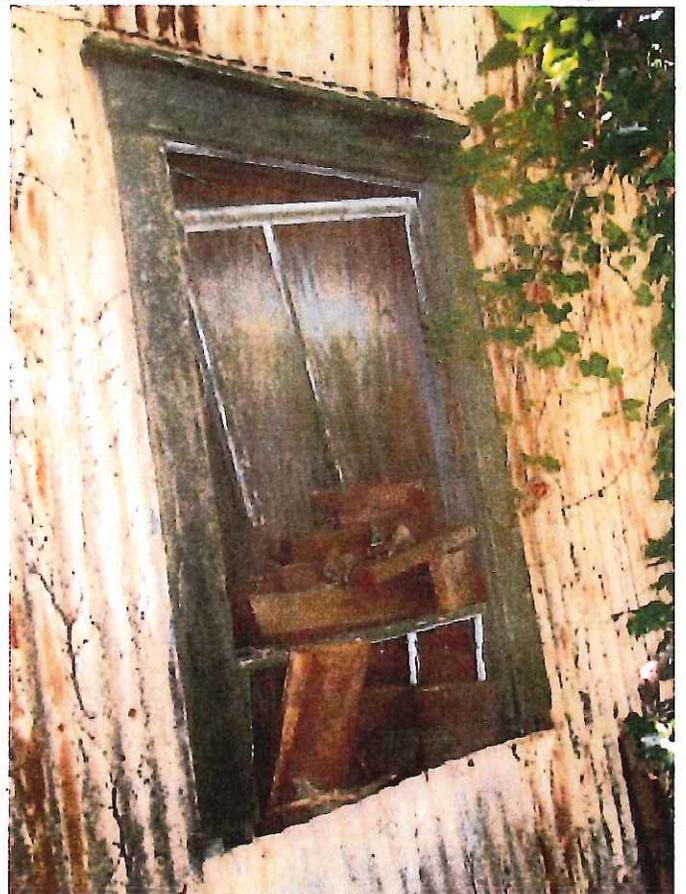
EAST ELEV. — LEANTO TYPE EXT.



EXT DTL — WINDOW. NORTH



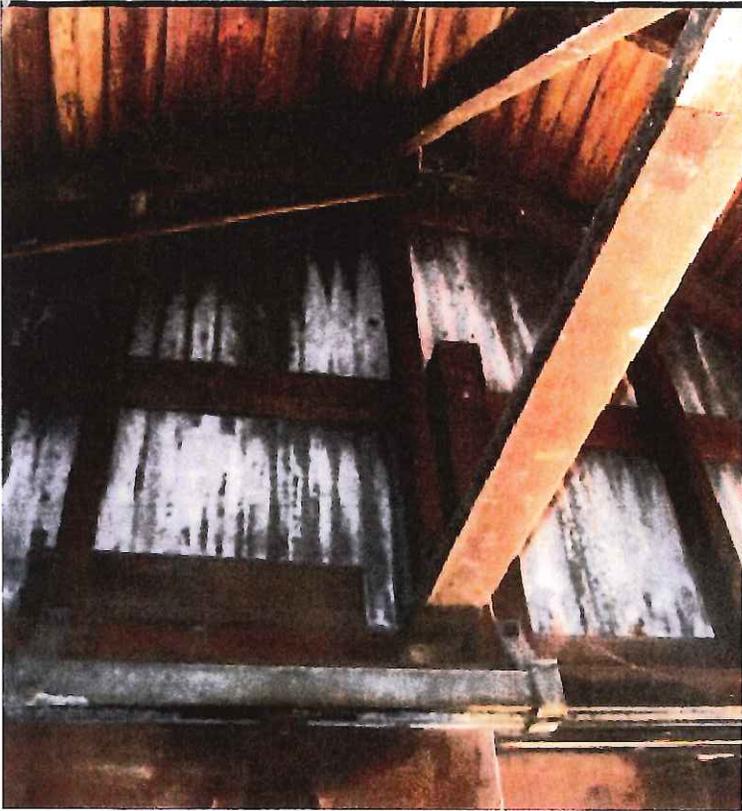
EXT DTL —SPACE BTWN GARAGES



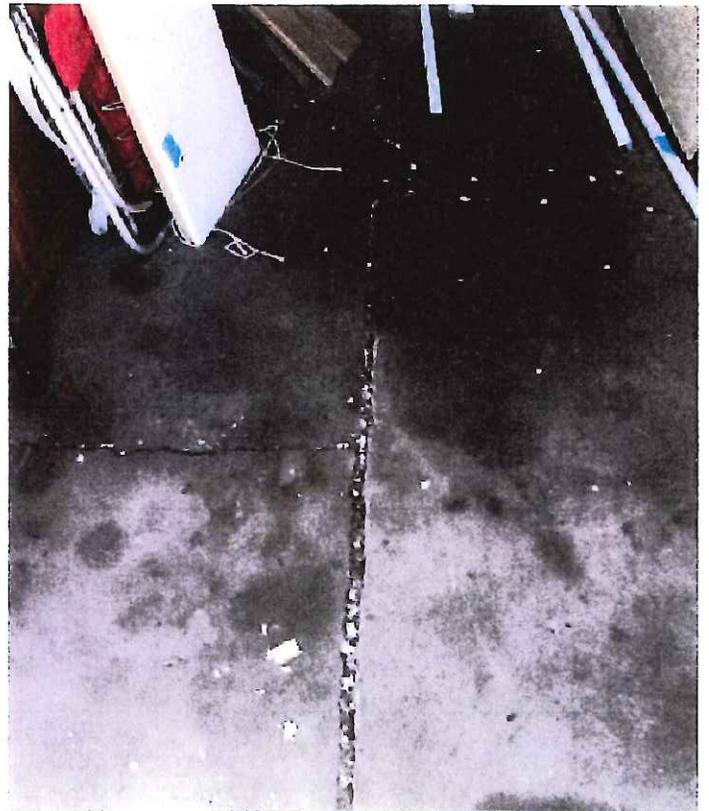
EXT DTL— WINDOW @ EXTENSION



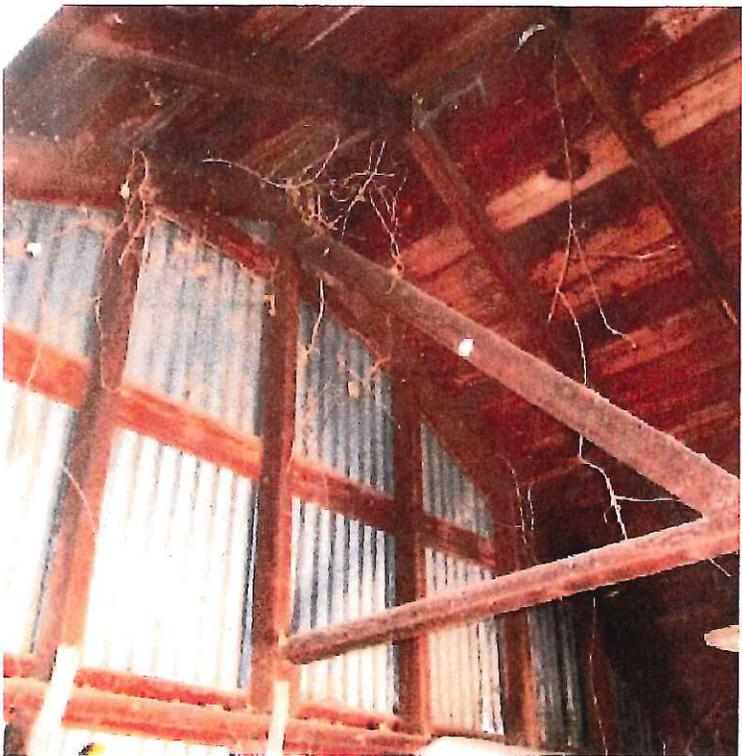
EXT DTL — NORTH EAST



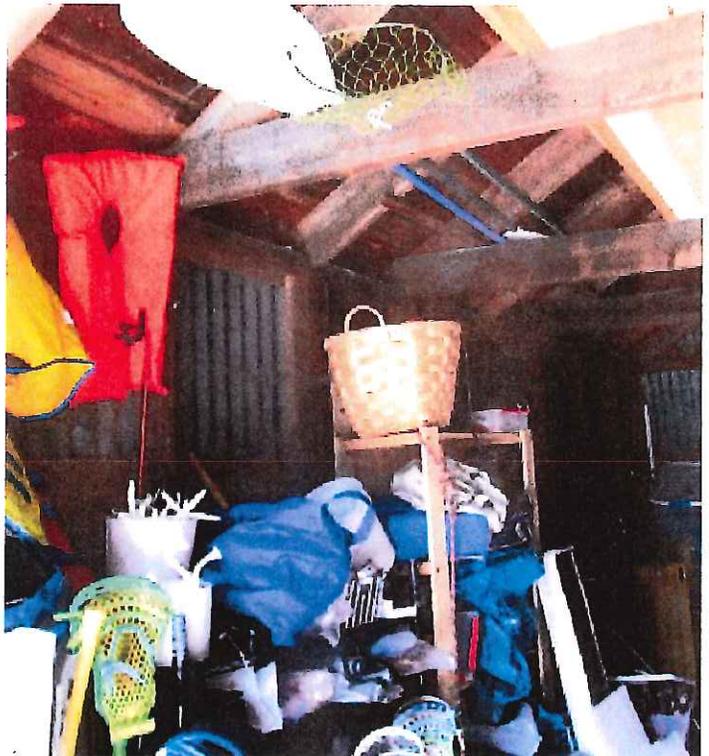
INTERIOR DTL - WEST



INTERIOR DTL - CONCRETE SLAB



INTERIOR DTL - EAST



INTERIOR



RECEIVED
2012 AUG 29 PM 1 09
NANTUCKET TOWN CLERK

NANTUCKET PLANNING BOARD

Form A

Application for Endorsement of a Plan Believed Not to Require Approval (ANR)

Date: 8/28/12 *Name of Owner(s)/Applicant(s): ERIC ROSENBERG and MICHELE KOLB - OWNERS; APPLICANT - FRANK AOLOGATE
*Owner's/Applicant's address: 226 EAST 79 STREET, NEW YORK
State: NY Zip Code: 10075

*(include all names and addresses of the principals of the owner entity such as principal officer of corporation, trustees of the trust and partners of the partnership)

Location of Property (Street or Area): 7 GARROWER STREET

Name of Registered Land Surveyor: FRANK AOLOGATE
Surveyor's address: 95 WEST CHESTER, NANTUCKET, MA 02554

The owner's title to the land derived under deed from WOOD ESTATE, date JUNE 2011
And recorded in Nantucket Registry of Deed, Book 1282 Page 80 or Land Court Certificate of Title # _____, registered in Nantucket District Book 17, Page 56 and shown on Assessor's Map# 42.3.3, Parcel # 58
To the Planning Board of the Town of Nantucket:

The undersigned wishes to record the accompanying plan and requests a determination and endorsement by said Board that approval by it under the Subdivision Control Law is not required. The undersigned believes that such approval is not required for the following reasons: (check all that apply)

- The accompanying plan is not a subdivision because it does not show a division of land (perimeter plan).
- The division of the tract of land shown on the accompanying plan is not a subdivision because every lot on the plan has frontage of at least such distance as is presently required by the *Nantucket Zoning By-Law* under Section 5 which requires _____ feet for erection of a building on such lot; and every lot shown on the plan has such frontage on:
 - A. a public way or a way which the City or Town Clerk certifies is maintained and used as a Public way, namely _____; OR
 - B. a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law, namely _____ on _____ (date) and Subject to the following conditions _____; OR
 - C. a way in existence on _____ (date); the date when the Subdivision Control Law became effective in the Town of Nantucket, having in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the need to vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon, namely _____.

- The division of the tract of land shown on the accompanying plan is not a subdivision because it shows a proposed conveyance or other instrument, namely _____, which adds to, takes away from or changes the size and shape of lots in such a manner so that no lot affected is left without frontage as required by the *Nantucket Zoning By-Law* under Section 5, which requires _____ feet.
- The division of the tract of land shown on the accompanying plan is not a subdivision because two or more buildings, specifically TWO (2) buildings were standing on the land prior to 1955, the date when the Subdivision Control Law went into effect in the Town of Nantucket, and one of such building remains standing on each of the lots; said buildings as shown and located on the accompanying plan. Evidence of the existence of such buildings prior to the effective date of the Subdivision Control Law is submitted as follows: SAN BORN MAPS

- Other reasons or comments: (see M.G.L., Chapter 41, Section 81-L)

I hereby certify that the applicant(s) listed above have been authorized by me to file a plan with the Planning Board of Nantucket on property that I own.

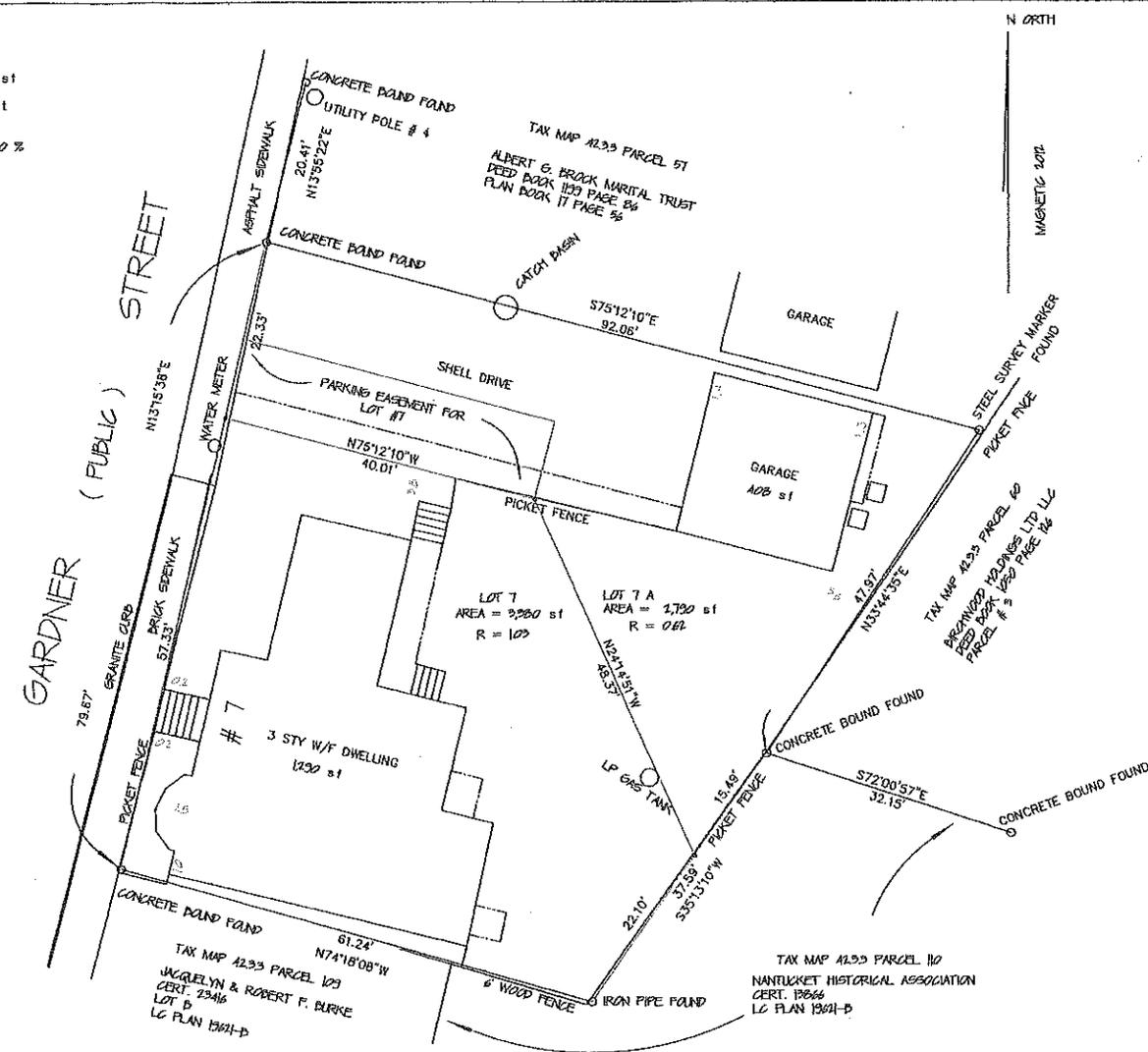
Eric J. Rosenberg
Owner's Signature

Planning Board File # _____

Endorsement Date: _____

ZONE : R01

LOT AREA = 5,000 s1
 FRONTAGE = 50 ft
 FRONT YARD = 0 ft
 SIDE YARD = 5 ft
 REAR YARD = 5 ft
 GRASS COVER = 50 %



PLANNING BOARD ENDORSEMENT DOES NOT CONSTITUTE A DETERMINATION OF CONFORMANCE UNDER ZONING.

NANTUCKET PLANNING BOARD APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED

DATE APPROVED _____

DATE SIGNED _____

FILE # _____

NOTE:

STRUCTURES PREDATE THE TOWN OF NANTUCKET SUBDIVISION CONTROL LAW AS ADOPTED FEBRUARY 16, 1999

LOT 1 & 2 ARE CREATED PURSUANT TO CHAPTER 41 SECTION 28.

THE BUILDINGS SHOWN ON THIS PLAN ARE LOCATED WITHIN ZONE C AS DELINEATED ON THE FIRM MAP OF COMMUNITY # 250250-001-D MASSACHUSETTS EFFECTIVE : JUNE 9, 1986 BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, REVISED JULY 2, 1992

PREPARED FOR :

ERIC J ROSENBERG & MICHELE KOLB
 # 7 GARDNER STREET
 TAX MAP 42.33 PARCEL 58
 DEED BOOK 1182 PAGE 60

PLAN OF LAND
 # 7 GARDNER STREET
 NANTUCKET, NANTUCKET COUNTY, MASS.
 SCALE 1" = 10' 8-21-2012
 FRANK O. HOLDGATE
 95 WESTCHESTER STREET
 NANTUCKET, MASS.

THE PLANNING BOARD DETERMINES THAT: LOTS 1 & 2 DO NOT CONTAIN AREAS SUBJECT TO PROTECTION UNDER THE MASSACHUSETTS WETLANDS PROTECTION ACT WHICH ARE REQUIRED TO BE EXCLUDED FROM LOT AREA UNDER THE NANTUCKET ZONING BY LAW BUT WILL MAY BE SUBJECT TO PROTECTION UNDER STATE AND LOCAL WETLAND PLANS. DETERMINATION OF APPLICABILITY MAY BE OBTAINED THROUGH APPLICATION TO THE COASTWATER COMMISSION.

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

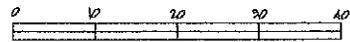
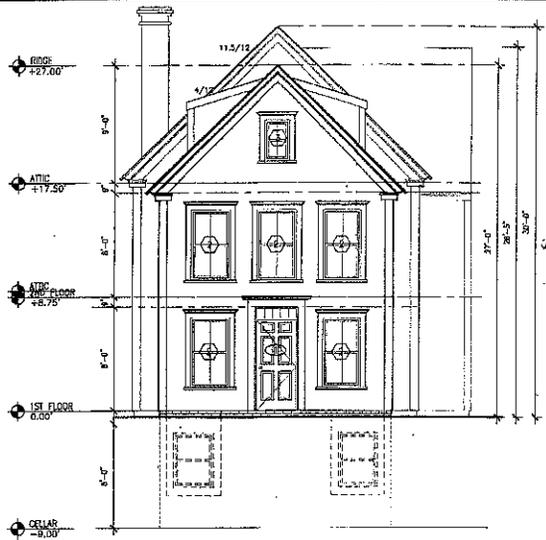


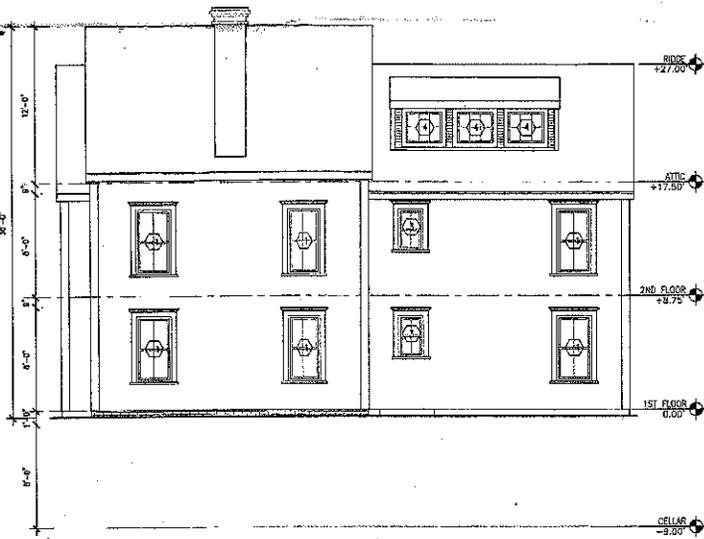
EXHIBIT D



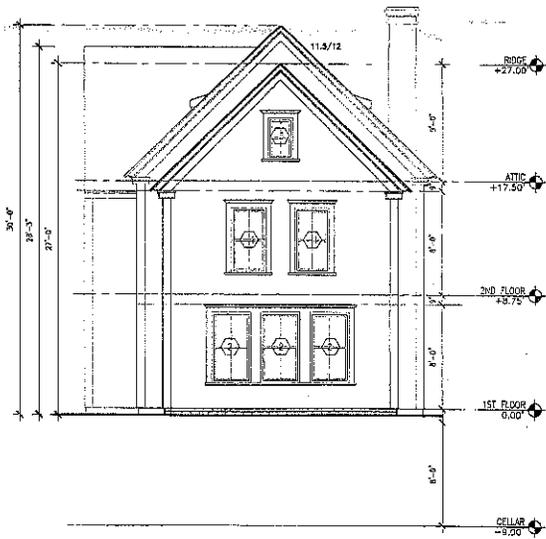
PROPOSED WEST ELEVATION



PROPOSED SOUTH ELEVATION



PROPOSED NORTH ELEVATION



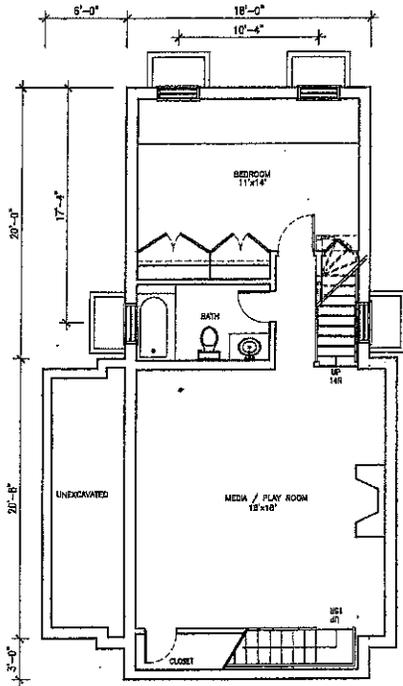
PROPOSED EAST ELEVATION

1 PROPOSED ELEVATIONS
SCALE 1/4" = 1'-0"

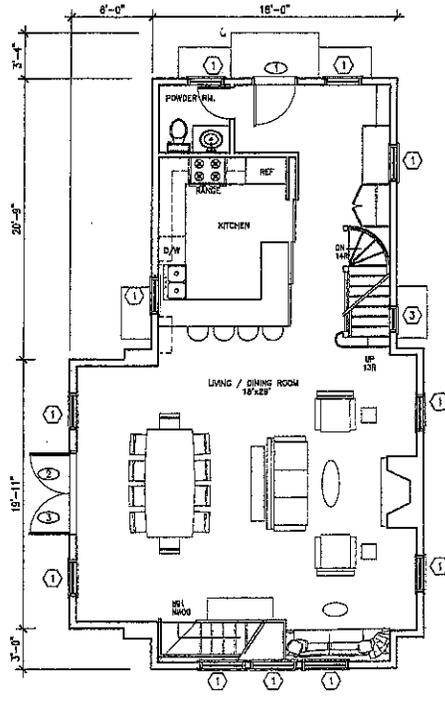
APPROVED
OCT 06 2015 #64 538
NO EXTERIOR CHANGES
WITHOUT HCC APPROVAL



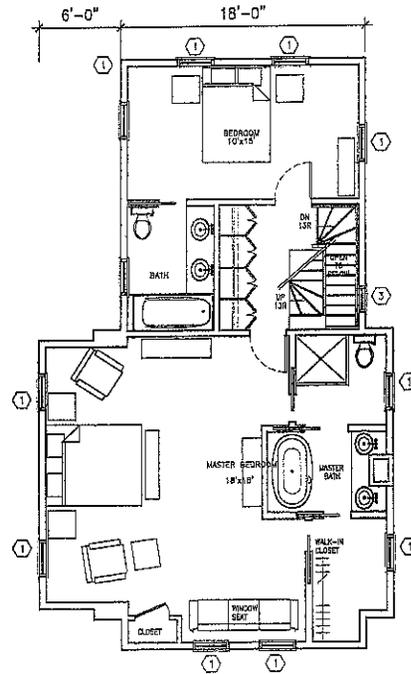
A-2.0. 11/11/11
1/4"=1'-0"
Rosenberg Kolb
220 East 79 Street
New York, NY 10075-1282
212 806 1000
Fax 212 806 9097
7 GARDNER STREET
Nantucket, MA 02554



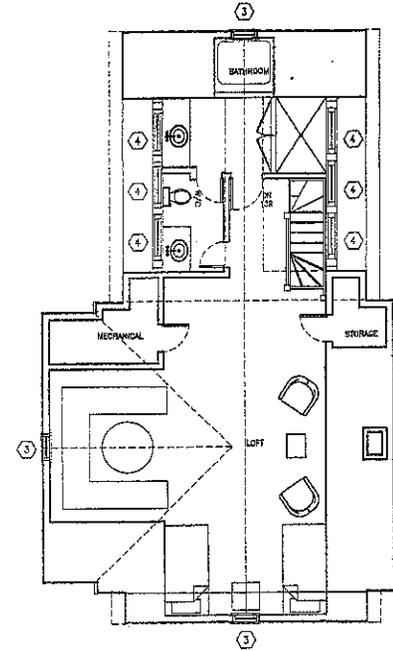
PROPOSED CELLAR



PROPOSED FIRST FLOOR



PROPOSED SECOND FLOOR



PROPOSED ATTIC

1 PROPOSED FLOOR PLANS
SCALE 1/4" = 1'-0"

A-1.0 10/07/15
1/4"=1'-0"

Rosenberg Kolb
226 East 79 Street
New York, NY 10075-1202
212 305 3000
Fax 212 986 3087

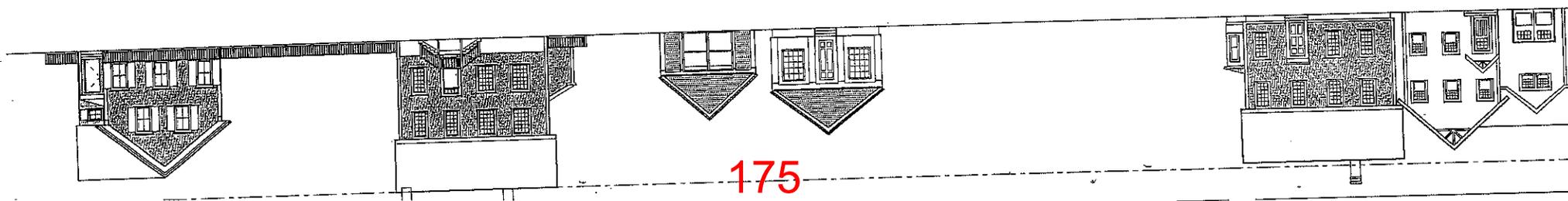
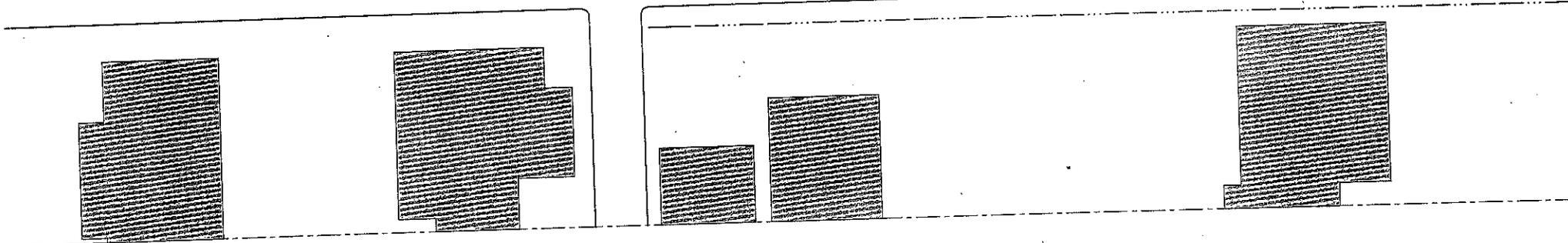
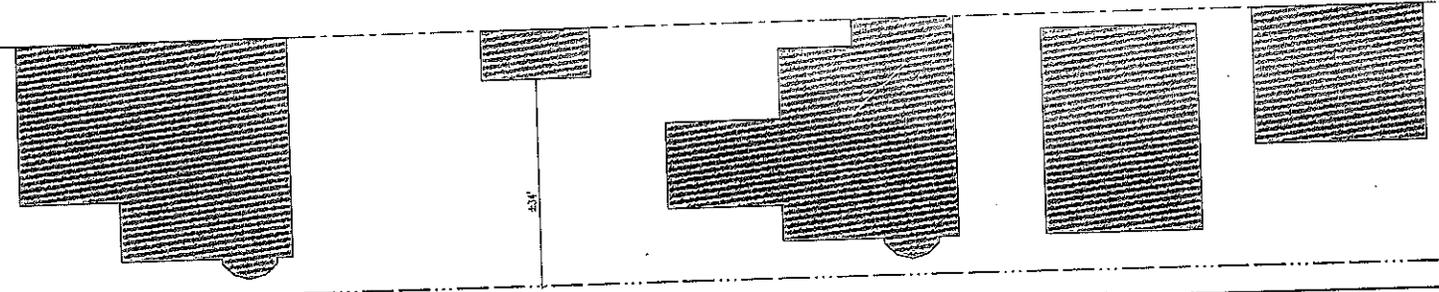
7 GARDNER STREET
Nantucket, MA 02554

A-000.00

12/19/14
1/32"=1'-0"

Rosenberg Kolb
226 East 79 Street
New York, NY 10075-1202
212 996 3099
Fax 212 996 3097

7 GARDNER STREET
Nantucket, MA 02554



LETTERS

Zoning Board of Appeals
2 Fairgrounds Road
Nantucket, MA 02554

July 1, 2016



Re: Application for Relief by Special Permit, 7 Gardner Street

Dear Sir/Madam

I am the owner of 4 and 4A (traditionally 8) Gardner Street, the property across the street from 7 Gardner Street.

I request that the board not grant special relief with respect to the purposed changes at 7 Gardner Street.

The purposed replacement of a single story two car garage with a large multi-storied dwelling would have a negative impact on the Gardner Street neighborhood by undesirably increasing congestion. The purposed changes would change the character of this historic neighborhood.

My specific objection lies in the applicants interpretation of Section 139-33A. Section 139-33A allows for pre-existing, non-conforming structures to be "extended, altered or changed". To claim that the replacement of a simple two car garage with a large multi-storied dwelling is the extension, alteration or change of a garage strains rationality. Would the replacement of a 50 square foot non-conforming tool shed with a full size multi-story dwelling be considered a "change" to a tool shed? For that matter, would the replacement of a non-conforming pergola with a multi-story house be a "change" to a pergola? No credible person, reasonably familiar with the English language, would consider the replacement of a garage with a full size dwelling a "change" to a garage. At the very least, the applicants should provide some justification for their unusual interpretation of Section 139-33A.

The said garage demolition and the construction of a new dwelling would be more detrimental than an existing non-conforming two car garage. The replacement of the simple two car garage with a large multi-storied dwelling would increase the congestion in the neighborhood and change its character.

A handwritten signature in blue ink, appearing to read "Paul B. Merrithew".

Paul B. Merrithew
PO Box 120
Amherst NH 03031-0120



Jordan Goodman. M.D.
11 Gardner Street
Nantucket, MA 02554

July 4, 2016

Town of Nantucket Zoning Board Appeals
Nantucket, MA 02554

In regards to an Application for Relief by Special Permit, 7 Gardner Street

To Whom It May Concern:

My wife, Zelda, and I as co-owners of 11 Gardner Street respectfully urge the board to deny special relief for construction as requested by the owners of 7 Gardner street, Rosenberg and Kolb, on Assessor's map 42.3.3, parcel 58, lot 7 [and proposed lot 7A].

Our reasons for making this request of the board are as follows.

1] As proposed, the changes to be made would result in the necessity for outside two car parking which would be unnecessarily congested, both in appearance and function.

2] The basis for "special relief" is the assumption that the replacement of a very long standing two car garage with a three story residential dwelling somehow complies with section 139-33A is an absurdity which, I believe, requires no additional explanation. Why not simply redo the garage as my wife and I have done?

3] The NHA sponsored Hose Cart House is directly across the street and draws many tourists to our street in the Historic District. Is it not our responsibility to assure tourists that "Historic District means just that?"

4] Filling an undersized lot with a new three story residential dwelling would not be in keeping with our neighborhood's general appearance.

5] We are very concerned about additional fire hazards which might be posed by

the abandonment of existing setback codes.

My wife and I can well understand the possible profit motive of such a request for special relief, but, please, not at the expense of Nantucket's Historic district or those of us already living on Gardner Street.

Very respectfully yours,

Zelda Goodman
John Goodman.

July 5, 2016

Zoning Board of Appeals

Town of Nantucket, Massachusetts

Re: Application for Relief by Special Permit: 7 Gardner Street

We, John and Ruth Sayer, are the owners of 10 Gardner Street, across the street from 7 Gardner Street. Although we have clear unobstructed views of the proposed project from two elevations of our house, we are NOT considered abutters and are not noticed about continued proposed changes to this property. Had we been aware of the public hearing on October 6, 2015, you would have heard “negative public comment”. The creation of two very nonconforming lots from one very functional lot sets a negative precedent, particularly in an Historic District.

We are opposed to granting relief by Special Permit to this project and to applicants interpretation of Section 139-33A of the Nantucket Zoning Bylaws. There is absolutely no reason why this application should not have to conform to all current rear, front and sideline setbacks. When we rebuilt our garage here at 10 Gardner which was crumbling into the ground, we were granted no relief although our architect and attorney petitioned for it.

As to a lot without a dwelling being nonconforming, the ZBA should have considered their creation when the subdivision was granted. According to this rationale, the ordinance was violated with the granting of the subdivision.

The existing garage is not being “extended, altered or changed”. It is being demolished, and permission is being requested to REPLACE it with a multi-story single family dwelling which does not conform to current setbacks.

I draw to the Boards attention that Gardner Street is an extremely busy arterial street with heavy traffic and no parking permitted on either side. No parking is permitted in the first block of Howard Street which is directly across from the proposed structure. There is no place for on street parking for this project. This application denies off street parking to the existing house at 7 Gardner and provides inadequate off street parking to the new dwelling.

If ZBA grants this project relief by Special Permit, it will negatively impact the quality of life for all residents of Gardner Street. Acknowledging and respecting the points raised in this letter, the ZBA must deny this cited application for relief by Special Permit.

Sincerely,

Ruth and John Sayer

10 Gardner Street

Nantucket, MA 02554

Rsayer9454@aol.com

July 5, 2016

Nantucket Zoning Board of Appeals
2 Fairgrounds Road
Nantucket, MA 02554

Eric J. Rosenberg and Michele Klob File No. 28-16
7 Gardiner Street
Nantucket, MA

Dear Members of the Board of Appeals:

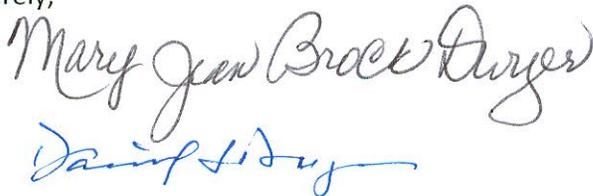
We are providing comment to the Nantucket Board of Appeals regarding application of Eric J. Rosenberg and Michele Klob to be discussed July 14, 2016 on behalf of Amy D. Brock, owner of 9 Gardiner Street, the abutting property of 7 Gardiner Street on its northerly boundary.

It is the position of Amy D. Brock, resident of 13 Gardiner Street, that the application be denied by the Board of Appeals due to the following:

- The replacement of an accessory structure with a single-family residence expands the use of nonconformity within what is already a densely developed neighborhood.
- The approval of the application will increase the ingress and egress of automobiles accessing 7 Gardiner Street from a single vehicle to two vehicles. Doubling the number of vehicles onto what is now a busy street creates additional congestion and risk of accidents. It should be noted that the use of Amy Brock's abutting property is also a 2-bay garage with parking lot where vehicle movement occurs via what is essentially a single-curb cut used by both property owners.
- Another concern directly impacting the Brock parcel includes additional runoff from the expanded impervious improvement onto the Brock property.
- The redevelopment of the lot with the doubling of vehicles at 7 Gardiner Street will visually impact the sight distance from the Brock property onto Gardiner Street.
- Allowing the replacement of an accessory structure, viewed as a passive use, with a single-family residence closer than the required 5 FT side setback increases the risk of fire and damage to the Brock property.

Clearly, it is not favorable to approve the application, and Amy D. Brock requests the denial of the same.

Sincerely,

The image shows two handwritten signatures in blue ink. The first signature is 'Mary Jean Brock Dwyer' and the second is 'Daniel J. Dwyer'. Both are written in a cursive style.

Mary Jean Brock Dwyer
Daniel J. Dwyer
34 Welch's Point Road
East Winthrop, ME

Francis M. Weld, M.D.
16 Gardner Street
Nantucket, MA 02554-2149

July 4, 2016

Town of Nantucket Zoning Board of Appeals
Nantucket, MA 02554

Re: Application for Relief by Special Permit, 7 Gardner Street

Dear Madams/Sirs:

My wife and I jointly own 16 Gardner Street, within eyesight of the subject property.

We request that the Board not grant special relief for the construction proposed by Rosenberg and Kolb on Assessor's Map 42.3.3, Parcel 58, Lot 7 (includes 7A proposed by Rosenberg and Kolb). Our reasons for requesting your denial include:

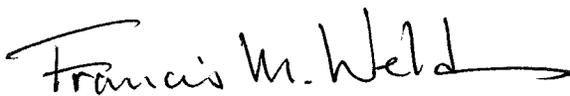
- (1) The proposed structure is not a modification of a garage. It is a full-scale brand new one-family home. This would completely change the character of the existing property. The proposal is a twisted and invalid distortion of the intent of Section 139-33A of the code. This degree of alteration of character should not be allowed.
- (2) The proposed setbacks make the adjacent dwellings look like sardines in a tin can. No special relief from specified setbacks

should be allowed. Setbacks as prescribed by law have both safety and comfort as driving motivations, to say nothing of architectural palatability. Cramming the proposed building into a mere 2709 square feet in an historically zoned district where the current minimum building lot size is a full 5,000 square feet would be completely out of proportion to the rest of our Gardner Street neighborhood.

- (3) The proposed proximity of the two dwellings is a fire hazard, in that the spread of a fire within either edifice could occur more rapidly and extensively, and thereby also spread more rapidly to adjacent neighborhood structures.
- (4) The proposed proximity of the two dwellings would amount to disturbing the peace in both directions because of the ease of transmission of sound across these short distances. Dwellings in this neighborhood are intended for privacy, not for involuntary eavesdropping on the private conversations next door.

We are firmly opposed to the Rosenberg-Kolb proposal, and shudder to think of its potential implications for our neighborhood.

Sincerely,



Francis M. Weld



Helene M. Weld

From: [Ron Winters](#)
To: [Eleanor Antonietti](#)
Cc: [Ron Winters](#); [Ellen Winters](#)
Subject: Nantucket Board of Appeals hearing July 14, 2016. Concerning 7 Gardner Street
Date: Thursday, July 07, 2016 2:36:27 PM

Town of Nantucket Zoning Board of Appeals,

In regard to the application for relief by special permit, for 7 Gardner Street. Rosenberg/Kolb

To whom it may concern:

My wife Ellen H, Winters and myself Ronald W. Winters, residing full time at 7 Gardner Street, are against giving relief to the owners of 7 Gardner Street. Here are my comments.

The lot was created taking advantage of the 41 – 81L provisions for oblivious financial gains as a developer. I have no issue with this as it is legal, but in the creation of the lot, the lines could have been placed to allow the footprint of this building to be in compliance. No special permit should be granted for set back issues for a New Dwelling, especially for a developer.

As a Builder on the island I know how hard it is to build a structure without infraction of the setback laws even with a building designed with an additional 6" to the setbacks. The supposed complying northerly part of the structure is at 5'0" to the property line. I am sure we will all be back for another special permit when the owners then are not compliant again. The lot is too irregular and small for the current design, HDC approved or not! They need a new design that is compliant. Shame on the HDC for approving a building that both does not alien with every other house on the road and allowing window wells on the front of the house. This is a new Precedent that will change Nantucket forever! Yet again missing the original intent of the HDC, to protect the OHD!!!!

The application states that the new design will cover 35% of the newly created lot yet I do not see this listed as a request for Special Permit, just stated that the ground cover is in compliance! The law allows 50% GC for **complying** building lots with 5000 square feet and 50' of road frontage. Neither of these conditions are in compliance therefore the allowable foot print is 30%. No special permit should be granted for ground cover, again especially for a developer!

I currently own a lot on Lowell Place that is non-conforming and the result of a 41-81L subdivision. It has an existing housing unit on the lot that is located within setbacks on two sides. When designing a larger dwelling unit for the lot I did not come to the board for special permit. I just hired

an architect to design a building that is compliant to both setbacks and ground cover. We designed a building 10 square feet smaller than the allowable 30% footprint and set the house with 5'6" setbacks. This applicant can do the same. Please do not grant this request for special permit!

Thank you for considering not only the neighbors that actually want to live on Gardner Street, but also for Nantucket's future and the precedent that granting this Special Permit would set here.

Best regards,

Ron and Ellen Winters
12 Gardner Street
Nantucket, MA

FYI we were not notified of this hearing with a letter to our home. We were told by our neighbors. Please contact us in the future by mail at 12 Gardner Street, 02554.

Ron Winters
Thirty Acre Wood, LLC
7 Thirty Acres Lane
Nantucket, MA 02554

Office: 508-228-7456
Cell: 508-325-1752
Fax: 508-228-7035

RHODA H. WEINMAN

Attorney at Law

36 Centre Street - P.O. Box 1365
Nantucket, MA 02554

weinman@nantucketislandlaw.net

Tel: (508) 228-9600

Fax: (508) 228-8926

July 7, 2016

Edward Toole, Chairman
Nantucket Zoning Board of Appeals
Nantucket, MA 02554

Re: Application of Rosenberg and Kolb
7 Gardner Street

Dear Members of the Board of Appeals,

I represent several abutters and neighbors to the above-named property who are in extreme opposition to this application for numerous reasons.

Chapter 139-33A (1) (a) sets out very clearly that pre-existing, non-conforming structures or uses may be extended, altered, or changed provided that:

(a) "THE SPECIAL PERMIT GRANTING AUTHORITY FINDS THAT SUCH EXTENSION, ALTERATION, OR CHANGE SHALL NOT BE SUBSTANTIALLY MORE DETRIMENTAL THAN THE EXISTING NON-CONFORMING STRUCTURE AND/OR USE TO THE NEIGHBORHOOD".

Before proceeding ahead with all of the issues regarding the requested relief, I do not concur with the applicant that Variance relief is not required in this application. Once the garage is removed, applicant is left with a vacant lot, which loses the grandfather status if it remains vacant for more than six months. Thus, I do not agree with the applicant that Special Permit relief is adequate in this situation.

Demolishing the existing garage, and constructing a multi-story dwelling does not fall in the category of an extension, alteration or change of the garage that is currently in existence. An argument that this proposed dwelling falls under the definition outlined in 139-33A fails for lack of a common sense interpretation of the Bylaw.

It is clear that, although the existing two-car garage that currently exists on the subject property is not particularly attractive, the proposed multi-story dwelling is substantially more detrimental to this historic neighborhood. Driving down Gardner Street at any time is difficult, at best, if a vehicle is coming from the opposite direction. To contemplate a

construction site on this heavily trafficked street, with the ultimate goal of a multiple story additional dwelling on this already crowded street, is substantially more detrimental to the neighborhood.

From a review of the file regarding this Application, there are numerous long-term neighbors that reside on this street who clearly find this proposed dwelling extremely problematic for this neighborhood. The Board should be mindful of the size of this lot, which is 2,709 square feet, in a zoning district that now requires 5,000 square feet. Notwithstanding the fact that applicant argues that this lot is grandfathered, and can be built upon with Special Permit relief, the Board must look at the practicalities of granting any relief, and what hardships this will cause the neighbors and the neighborhood.

Requesting a new dwelling to be sited "about three (3) feet from the northerly side yard lot line" with the justification that this is an improvement over the 1.3 feet that currently exists with the garage is a weak justification for relief from the five (5) foot required setback. If the Board were even to consider allowing Applicant to construct a dwelling, it should definitely meet the setback requirements and must not be a multi-story dwelling.

After reviewing the submittal, testimony and all of the letters from Gardner Street residents objecting to the requested relief, I would respectfully request that the Board deny the relief that is being sought by the Applicant.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rhoda H. Weinman', written over a horizontal line.

Rhoda H. Weinman

HANS DALGAARD

65 SURFSIDE RD.

FILE No.29-16



Town Clerk
Town & County Building
16 Broad St
Nantucket, MA 02554

**TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MA 02554**

JUN 15 2016

APPLICATION

Fee: \$450.00

File No. 29-16

Owner's name(s): Hans Dalgaard

Mailing address: 65 Surfside Road, Nantucket, MA 02554

Phone Number: _____ E-Mail: hansi@nantucket.net

Applicant's name(s): (same)

Mailing Address: (same)

Phone Number: (same) E-Mail: (same)

Locus Address: 65 Surfside Road Assessor's Map/Parcel: 67-222

Land Court Plan/Plan Book & Page/Plan File No.: Book 24, Page 63, Lot B

Deed Reference/Certificate of Title: 1054/312 Zoning District CDT

Uses on Lot- Commercial: None _____ Yes (describe) bike rental shop

Residential: Number of dwellings 2 (single-family contains separate apartment)

Date of Structure(s): all pre-date 7/72 1963 or _____

Building Permit Numbers: _____

Previous Zoning Board Application Numbers: #046-07, #040-09

State below or attach a separate addendum of specific special permits or variance relief applying for:

(SEE ATTACHED ADDENDUM)

I certify that the information contained herein is substantially complete and true to the best of my knowledge, under the pains and penalties of perjury.

SIGNATURE: _____  _____ Owner*

SIGNATURE: _____ Applicant

*If an Agent is representing the Owner or the Applicant, please provide a signed proof of agency.

OFFICE USE ONLY

Application received on: __/__/__ By: _____ Complete: _____ Need Copies: _____
Filed with Town Clerk: __/__/__ Planning Board: __/__/__ Building Dept.: __/__/__ By: _____
Fee deposited with Town Treasurer: __/__/__ By: _____ Waiver requested: _____
Granted: __/__/__ Hearing notice posted with Town Clerk: __/__/__ Mailed: __/__/__
I&M __/__/__ & __/__/__ Hearing(s) held on: __/__/__ Opened on: __/__/__
Continued to: __/__/__ Withdrawn: __/__/__ Decision Due By: __/__/__
Made: __/__/__ Filed w/Town Clerk: __/__/__ Mailed: __/__/__

HANS DALGAARD

65 SURFSIDE ROAD

Road, Assessor's Map 67, Parcel 222, and is shown as Lot B, Plan Book 24, Page 63

Applicant is seeking relief by VARIANCE pursuant to Nantucket Zoning By-law Section 139-32 from the provisions of Nantucket Zoning By-law Section 139-16A (Intensity Regulations – yard setback). Applicant is seeking to reduce the required northwesterly rear yard setback from 10 feet to about 6' 7" at its closest point in order to construct a duplex at the rear of the property. The property is sited within the Commercial-Neighborhood ("CN") zoning district that allows multiple dwelling units on a property. The CN zoning district also requires a rear yard setback of 10 feet with a side yard setback of five (5) and a front yard of 10 feet. The majority of the structure would be sited outside of the required rear yard setback area of 10 feet.

Until a recent vote of Town Meeting to rezone this particular parcel, the property had been located in the Residential-Commercial 2 ("RC2") zoning district that allowed a rear yard setback of five (5) feet. A review of the zoning map shows that this parcel is still surrounded by the RC2 zoning district with immediate abutters allowed a 5-foot rear yard setback distance. The structure was designed to meet the formerly required 5-foot side and rear yard setback requirements. The plan that was being used to design and site the house still maintained that the property was sited within the RC2 zoning district. The area remains a mixed use commercial and residential neighborhood.

An existing structure is sited in the easterly portion of the lot that contains a primary dwelling and an apartment. The structure also contains a bike rental/sales business as allowed by previous ZBA Special Permit relief. Applicant proposes to construct a duplex, each unit to have two (2) bedrooms, to the rear of the lot that would be conforming in all respects other than the aforementioned rear yard setback distance. The structure has been approved by the Historic District Commission ("HDC") COA #65557. Through the public hearing process the Commission requested changes and approved the new design in that location in March 2016 without comment on the setback from the abutting properties. There was also no public comment from abutters in opposition to the structure's design or location during that hearing process.

The Variance language contained in the Zoning By-law is as follows:

The Board of Appeals shall have the power to grant upon appeal or upon petition, with respect to particular land or structures, a variance from the terms of this chapter where the Board of Appeals specifically finds that owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this chapter would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and the desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such bylaw.

A grant of Variance relief in this instance can be supported by the following mitigating factors:

- **Shape:** The lot was subdivided many years ago by a predecessor in title which then resulted in a trapezoidal shaped lot, bordered on the east by the bike path and Surfside Road, and bordered on the north by a commercial food business (owned by the Applicant and also in the CN), reducing options of placement of structures on the lot. As specified in the Zoning By-law the topography of structures could also be considered. The siting of the existing 1963 structure further limits the options of placement of other conforming structures on the lot;
- **Topography:** The lot is not a flat surface. The topography map included with the packet and marked as "Exhibit A" indicates that there is at least a 9-foot drop from the predominant grade bisecting the lot, with the predominant grade further dropped even more from the level of the bike path by at least three feet on the easterly side of the lot. The area between the existing structure and the proposed structure is a sunken area which limits the buildable area. Both the existing and the proposed structure would be built at the existing top grade with the sunken area located between them. Both structures would therefore have an exposed subterranean foundation. Due to this grade change the structure cannot be pulled any farther forward than presently sited. While the grade throughout the surrounding area to the west and south is variable, this particular lot appears to be the only buildable lot that is affected by a 9-foot valley bisecting the entire lot;
- **Uniqueness:** The property, though rezoned to CN to allow multiple units on a parcel, is entirely surrounded by the RC2 Zoning District that allows a 5-foot side and rear yard setback distance. While the Applicant has to now maintain a 10-foot rear yard setback, the immediately abutting properties can take advantage of a 5-foot rear yard setback distance along Applicant's northwesterly and southwesterly property lines; and,
- **Financial Impact:** As the Applicant has already expended a substantial amount of funds in the design and engineering of this structure, as well as sought and obtained HDC approval in good faith, it would be a financial hardship to have to redesign, re-engineer and re-site the structure in an already limited building envelop due to the dramatic change in grade throughout the lot. A reduction of the small 2-bedroom units would also financially impact the Applicant.

PROPOSED FINDINGS:

The Zoning Board of Appeals determines that variance relief is appropriate based upon the uniqueness of the situation as detailed above, i.e. shape of the lot; the trapezoidal configuration; topography of the lot and existing structure; and, with the substantial grade change throughout the lot and existing siting of the original structure; and, further finds that such unique conditions, surrounded by RC2 Zoning District, do not affect generally the zoning district in which it is located. A finding could also be made that a literal enforcement of the provisions of this chapter would involve a substantial financial hardship on the Applicant with having to redesign and engineer the HDC approved duplex due to the limited level building envelop, would be difficult. A grant of relief could be made without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning By-law.

PROPOSED CONDITIONS:

- There shall be no further expansion of the structure within the required 10-foot rear yard setback area without further relief from this Board; and
- The siting of the structure is substantially as shown on Exhibit A, a reduced copy of which is attached hereto.

EXHIBIT A

Topography map, showing grade changes and the location of the proposed structure

EXHIBIT B

Photographs of the existing conditions

EXHIBIT C

HDC approved plans

EXHIBIT D

GIS maps showing the CN and surrounding RC2 zoning districts and GIS maps showing the Multi-family overlay area

EXHIBIT E

Previous ZBA and Planning Board decisions (with the Planning Board decision moot with the change in zoning to CN from RC2)



Property Information

Property ID 67 222
Location 65 SURFSIDE RD
Owner DALGAARD HANS



**MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT**

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated December, 2014
 Properties updated January, 2015



Property Information

Property ID 67 222
Location 65 SURFSIDE RD
Owner DALGAARD HANS



**MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT**

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated December, 2014
 Properties updated January, 2015

EXHIBIT A

Nantucket Building Department Submission Only - Not For Construction

#4 Miacomet Av.
Map 67 Parcel 223.3

#63 Surfside Rd.
Map 67 Parcel 222.1

Existing Paved Driveway

Proposed 1 1/2 Story Dwelling
1,320 SF

#6 Miacomet Av.
Map 67 Parcel 223.4

#65- Surfside Rd.
Map 67 Parcel 223.5

1 Site Plan
1" = 16'-0"

Property Info:

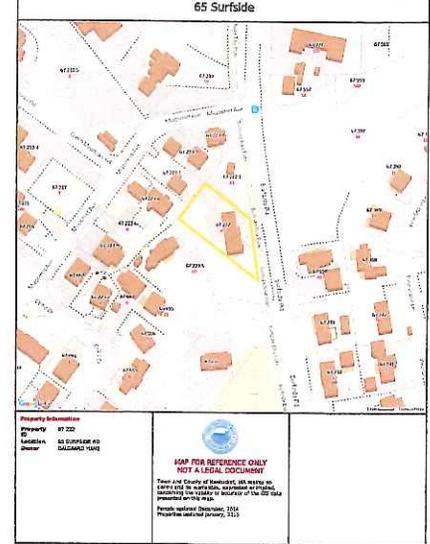
- Map & Parcel: 67/222
- District/Zoning: RC2M
- Minimum Lot Size:
- Frontage:
- Ground Cover Ratio:
- Front Setback:
- Side/Rear Setback:
- Lot Size:
- Allowable Ground Coverage:
- Existing Ground Coverage:
- Total Proposed Ground Coverage: 1,320 sq. ft.

Town and County of Nantucket, MA February 23, 2016

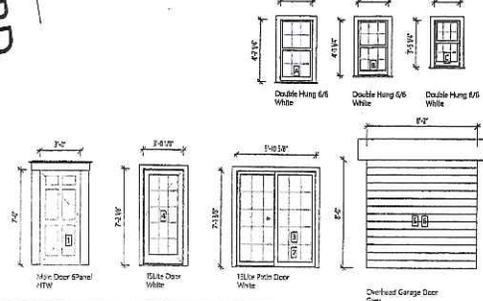


JBStudio
PO Box 3741
Nantucket, MA 02584
tel: (508) 332-9654
email: jura@theJBStudio.com
Project

Dalgaard Residence
65 Surfside Rd., Nantucket, MA
02554



Locus Map
NTS



WINDOW SCHEDULE											
FRAME	TYPE	Count	WIDTH	HEIGHT	Rough Width	Rough Height	Manufacturer	Description	U-Value	Design Pressure	REMARKS
A	2	2	4'-3 1/2"	2'-8"	4'-4"	4'-4"	Marvin Windows and Doors	2640 26HG	<= 0.3	>= 30	
B	1	1	2'-5"	4'-3 1/2"	2'-8"	4'-4"	Marvin Windows and Doors	2644 26HG	<= 0.3	>= 30	
C	4	2	2'-2"	3'-11 1/2"	2'-8"	4'-4"	Marvin Windows and Doors	2640 26HG	<= 0.3	>= 30	

DOOR SCHEDULE									
DOOR	TYPE	WIDTH	HEIGHT	Rough Width	Rough Height	Model	DP Rating	REMARKS	
1	2	4'	7'-2"	3'-4"	7'-2"	Main Door, T&B	>= 30		
2	4	6'	7'-2"	6'-1 1/2"	7'-2 1/2"	Double French Door	>= 30		
3	6	6'	7'-4 1/2"	6'-1 1/2"	7'-4 3/4"	Double French Door	>= 30		
4	6	6'-0"	7'-6 3/4"	3'-1 1/2"	7'-7 1/4"	Single French Door	>= 30		
5	8	8'-2"	8'-2"	8'-0"	8'-2"	Overhead Garage	>= 30		
6	8	8'-2"	8'-2"	8'-2"	8'-2"	Overhead Garage	>= 30		

Window/Door Schedule
1/4" = 1'-0"

Sheet

SITE PLAN

SHEET INDEX

- A.102 Stairway Plan
 - A.102 Roof Plan
 - C.101 SITE PLAN
 - A.101 First Floor, Second Floor Plans
 - A.201 Exterior Elevations
 - F.101 Foundation Plan
 - S.101 First Floor Framing Plan
 - S.102 Second Floor Framing Plan
 - S.103 Roof Framing Plan
 - S.201 Building Section
- Grand total: 10

Date

06.02.16

Revisions

No.	Description	Date
1		

C.101

Scale

As Indicated

EXHIBIT B



Site of New Structure

9ft drop





SHEET INDEX

- A:100 Basement Plan
- A:110 Roof Plan
- C:101 GFI PLAN
- A:110 First Floor Revised Floor Plan
- A:201 Exterior Elevations
- F:101 Foundation Plan
- B:101 First Floor Framing Plan
- B:102 Second Floor Framing Plan
- B:103 Roof Framing Plan
- B:201 Building Sections
- Grand Total: 12

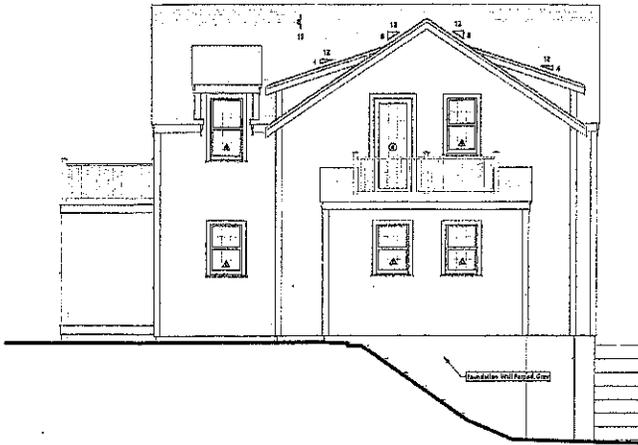
04.04.16

Revisions

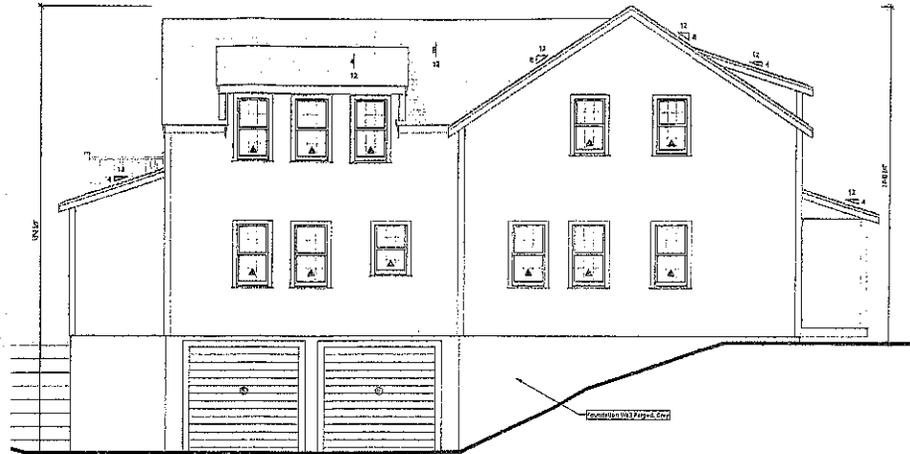
No.	Description	Date

A.201

1/4" = 1'-0"



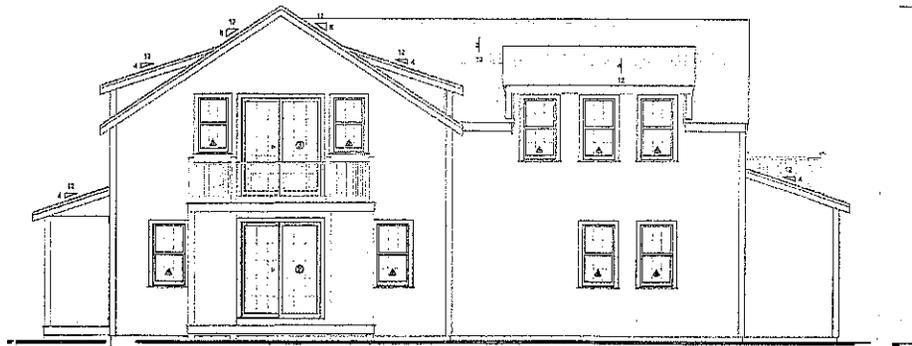
1 South Elevation
1/4" = 1'-0"



2 East Elevation
1/4" = 1'-0"



3 North Elevation
1/4" = 1'-0"



4 West Elevation
1/4" = 1'-0"

SHEET INDEX

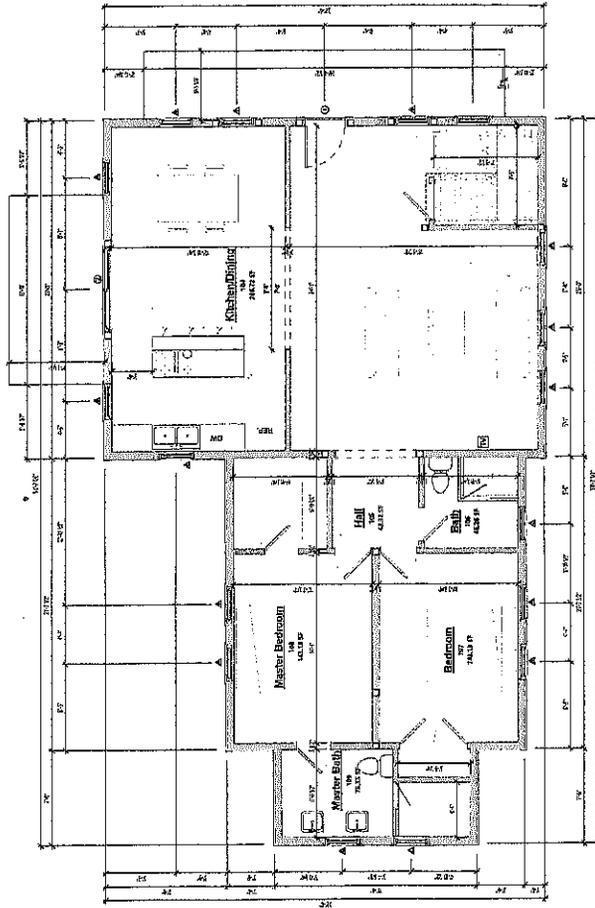
- A.100 Mainward Plan
- A.101 Site Plan
- C.101 First Floor, Second Floor Plans
- A.101 Elevator Elevations
- A.201 Elevator Elevations
- F.101 Foundation Plan
- G.101 First Floor Framing Plan
- S.101 Second Floor Framing Plan
- S.102 Roof Framing Plan
- S.201 Building Sections
- Grand total 10

Date
04.04.16

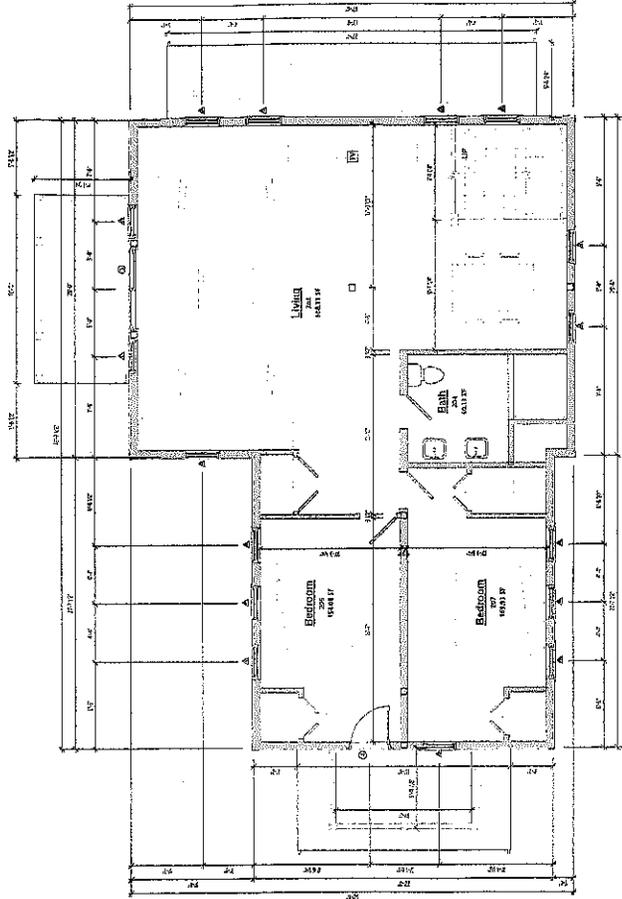
Rev	Description	Date

A.101

Scale **1/4" = 1'-0"**



2 First Floor
1/4" = 1'-0"



1 Second Floor
1/4" = 1'-0"



www.theJBStudio.com

JBStudio
PO Box 3741
Nantucket, MA 02584
tel: (508) 332-9654
email: juraj@theJBStudio.com

Project

Dalgaard Residence

65 Surfside Rd., Nantucket, MA 02554

Sheet
Basement Plan

SHEET INDEX

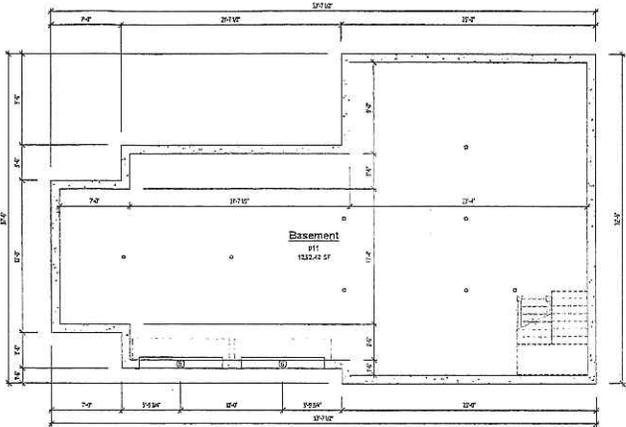
- A.100 Basement Plan
- A.101 Roof Plan
- C.100 SITE PLAN
- A.101 First Floor, Second Floor Plans
- A.201 Exterior Elevations
- F.101 Foundation Plan
- S.101 First Floor Framing Plan
- S.102 Second Floor Framing Plan
- R.101 Roof Framing Plan
- S.201 Building Sections
- Graphic total 10

Date
04.04.16

No.	Description	Date

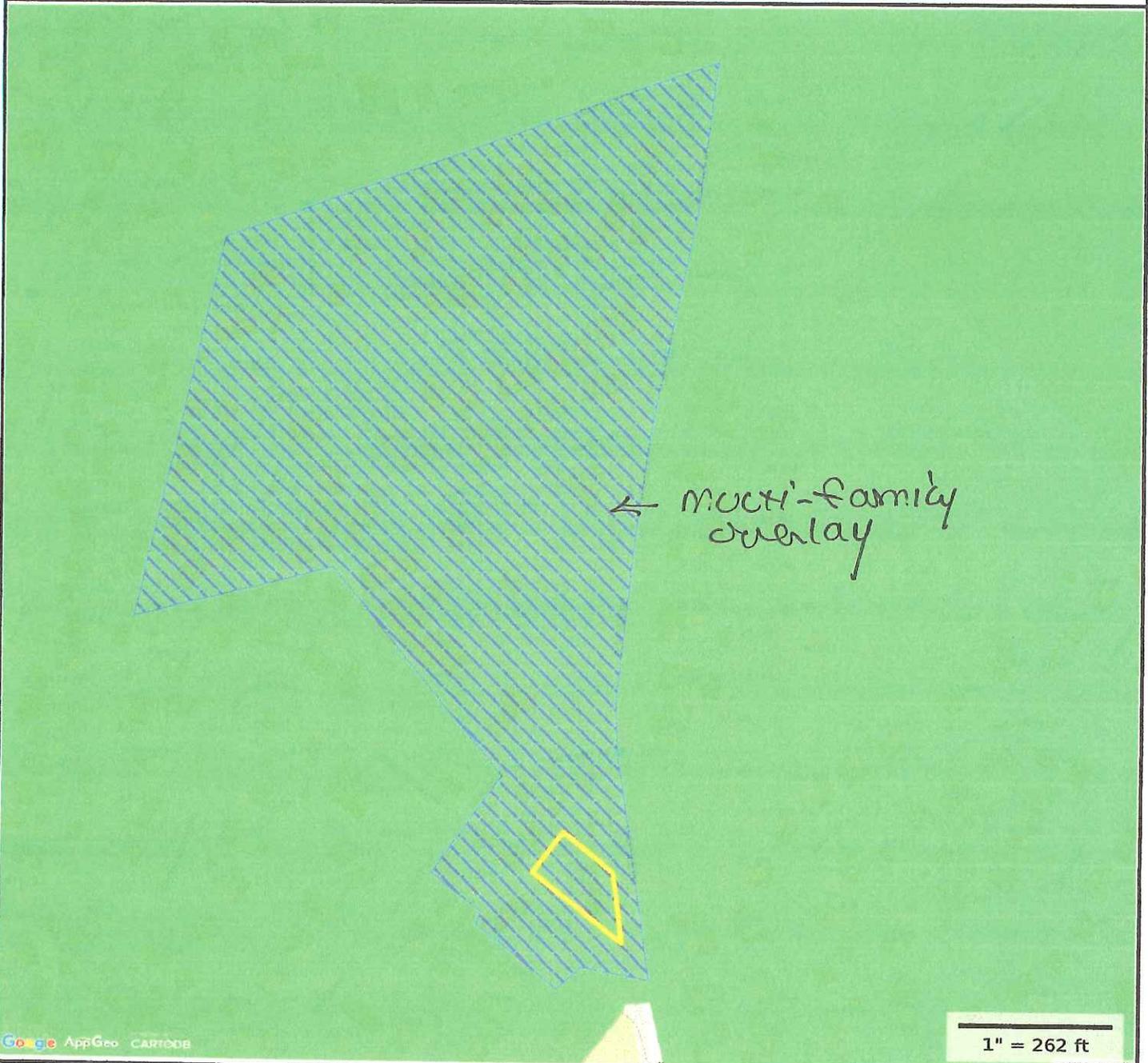
A.100

Scale 3/16" = 1'-0"



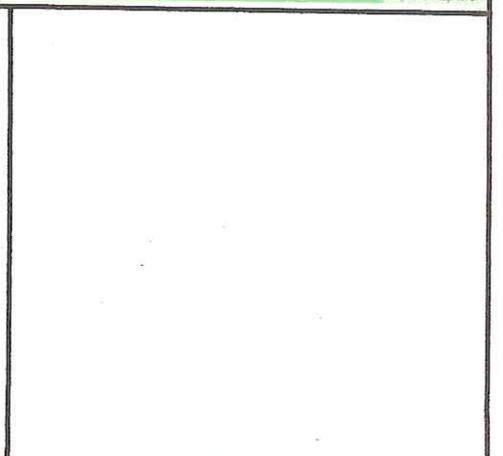
1 Basement
316" x 144"

EXHIBIT D



Property Information	
Property ID	67 222
Location	65 SURFSIDE RD
Owner	DALGAARD HANS


MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT
 Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.
 Parcels updated December, 2014
 Properties updated January, 2015



Map Theme Legends

Districts

Madaket Overlay District



Harbor Overlay District



Multi-Family Overlay District



HDC Old Historic District

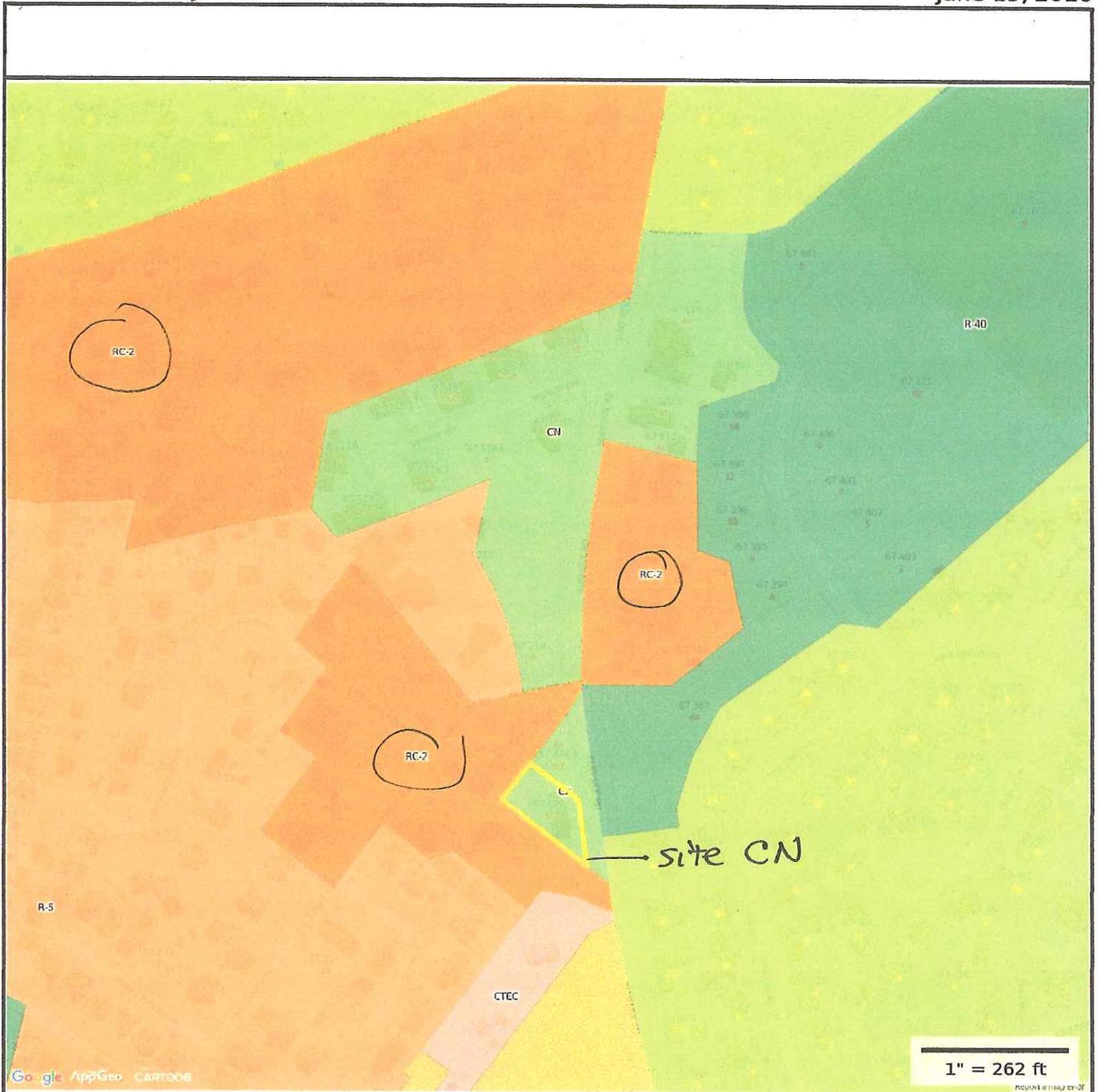


FBED



Town Overlay District





Property Information

Property ID 67 222
Location 65 SURFSIDE RD
Owner DALGAARD HANS



**MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT**

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated December, 2014
 Properties updated January, 2015

EXHIBIT E

TL



Bk: 1135 Pg: 255 Page: 1 of 3
Doc: SP 04/22/2008 09:52 AM



DALGAARD, HANS
65 SURFSIDE ROAD
1/29/2008 DECISION

Nantucket Planning Board

Multi-Family Special Permit Decision

Planning Board File #13-07

Owner/Applicant: Hans Dalgaard

65 Surfside Road
Plan Book 24, Page 63, Lot B
Parcel 222 on Nantucket Tax Assessors Map 67

January 14, 2008

The Planning Board of the Town of Nantucket held a public hearing at its May 31, 2007, July 23, 2007, August 27, 2007, September 10, 2007, September 24, 2007, and December 10, 2007 meetings regarding a request for a Multi-family Special Permit. The applicants' request would allow the construction of four (4) residential units on the property located on property at 65 Surfside Road.

Proposal

A total of four (4) residential units will be constructed on the site. Two (2) two-bedroom units will be constructed in a new building, and one (1) three-bedroom unit and one (1) one-bedroom unit in the existing dwelling. The total number of bedrooms on the site will be eight (8). Access to the site will be through the existing driveway. The private way will be paved to a width of sixteen (16) feet from the intersection of Miacomet Avenue to the site, portions of the driveway and interior parking area will also be paved, and the five (5) at grade parking spaces will be constructed with eco-pavers or equivalent material, all as shown on the submitted plans.

According to Zoning Bylaw section 139-8C(2), no more than one dwelling unit per 2,500 square feet, not to exceed a total of four (4) dwelling units or a total of eight (8) bedrooms, whichever is greater, is permitted on a single lot. The subject lot is approximately 12,100 square feet and the applicant has revised the plan to allow for construction of a new duplex and convert an existing dwelling to a duplex while adding a bike shop accessible from the existing bike path. The existing dwelling will have one (1) three-bedroom unit and one (1) one-bedroom unit while the proposed dwelling will have two (2) two-bedroom units.

It should be noted that the applicant received approval from the Zoning Board of Appeals (ZBA) to operate a bicycle shop on the premises. The proposed bicycle shop will be attached to the duplex located closest to Surfside Road, on the east side of the lot and will be approximately five hundred (500) square feet (400 square feet of storage and 100 square feet of retail). The ZBA approval did not grant any parking waivers for the commercial use of the property, however, the requirement for a loading zone was waived.

Zoning Bylaw section 139-18 requires a total of eight (8) parking spaces (1 space per bedroom) for the multi-family use of the site. An additional three (3) parking spaces are required for the commercial use of the site (1 space for each 900 square feet of storage and 1 space for each 200 square feet of retail). The revised site plan indicates eleven (11) parking spaces. Six (6) spaces are proposed to be located below grade in basement garages and five (5) are proposed at-grade. Of the eleven (11) parking spaces proposed, one (1) of the proposed parking spaces is a handicapped space and one (1) of the proposed spaces is compact.

1 East Chestnut Street Nantucket Massachusetts 02554
508.228.7233 telephone 508.228.7298 facsimile

RECEIVED
JAN 29 11:46
TOWN OF NANTUCKET

Basis for Findings

The Planning Board evaluated this application in accordance with Zoning Bylaw sections 139-8, 139-18, and by reviewing the submitted site plan on which the proposed structure was indicated. A Planning Board public hearing was held on May 31, 2007, July 23, 2007, August 27, 2007, September 10, 2007, September 24, 2007, November 26, 2007 and January 14, 2008, at which times the Planning Board heard testimony from the applicant. No public testimony was given. The Planning Board closed the public hearing on January 14, 2008.

Findings

- a. The Planning Board finds that the Applicant's site plan is substantially in compliance with the Minor Site Plan Review Required Contents, Review Objectives, and Performance Standards, as specified in section 139-23 of the Zoning Bylaw. This finding is made after review of the site plan by the Planning Board and its staff;
- b. The Board finds that the parking requirements of section 139-18 of the Zoning Bylaw have been met; and
- c. The Planning Board finds that the proposed structures and uses are in harmony with the general purpose and intent of the Zoning Bylaw and meet the objectives of the Multi-Family Overlay District.

Decision

Based on the aforementioned findings, the Planning Board, on January 14, 2008 voted 4-0 to **APPROVE** the above-referenced Special Permit which shall be subject to the following conditions:

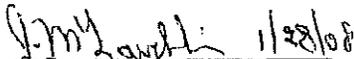
1. The revised site plan shall be endorsed by the Planning Board prior to the issuance of any Building Permits;
2. That the project shall conform to the Planning Board endorsed site plan. Any additional applications, including those for building permits, shall reference the approved site plan. Any modification of said plan may require a public hearing;
3. That all future landscaping at the driveway entrance shall be limited to low growing plant material not to exceed three (3) feet in height;
4. That a maximum of four (4) dwelling units and eight (8) bedrooms shall be permitted on the site. Any alterations to the number of dwelling units or bedrooms shall require a modification of this Special Permit;
5. That the stacked parking spaces (#7 and #10) shall be dedicated for the sole use of the tenants/leasees/owners of a single dwelling unit located in the new structure (the structure with two (2) dwelling units);
6. That a Certificate of Water Quality Compliance shall issued from the Wannacomet Water Company and shall be presented to the Planning Board prior to the issuance of any Building Permits;
7. That Certificates of Occupancy for individual dwelling units may take place independently of each other, provided that Planning Board staff determines the level of infrastructure installed is sufficient. Prior to the issuance of a Certificate of Occupancy for the final dwelling unit, all site improvements shall be installed in accordance with the approved plan and an As-Built shall be submitted to the Planning Board;
8. That the owner shall be responsible for the maintenance of the driveway, drainage system, and landscaping. In the event the existing owner sells any or all of the units separately as condominiums, a Condominium Association shall be established which will be responsible for the same and legal documents to this effect shall be filed with the Registry of Deeds and presented to the Planning Board prior to the sale of any condominiums; and
9. That the landscaping shall be in conformance with the approved site plan.

Record of Vote

On January 14, 2008 the Planning Board voted 5-0 to APPROVE this special permit and on January 14, 2008 the Planning Board voted 5-0 to ENDORSE this decision.


Frank Spriggs APPROVED


Sylvia Howard APPROVED

 1/28/08
John McLaughlin APPROVED


Nat Lowell APPROVED

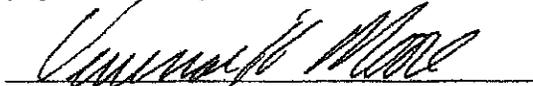
John Wagley APPROVED

COMMONWEALTH OF MASSACHUSETTS

Nantucket, SS

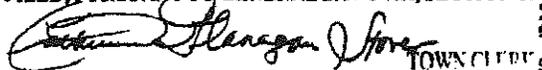
January 28, 2008

On the 28 day of January, 2008, before me, the undersigned notary public, personally appeared John McLaughlin, one of the above-named members of the Planning Board of Nantucket, Massachusetts, personally known to me to be the person whose name is signed on the preceding document, and acknowledged that he/she signed the foregoing instrument voluntarily for the purposes therein expressed.


Notary Public

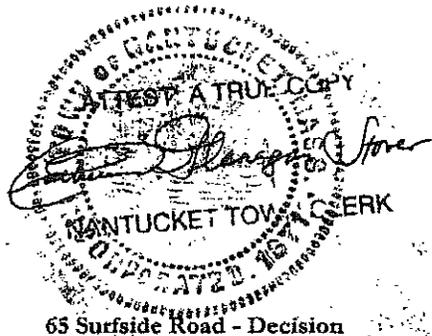
March 22, 2013
My Commission Expires

I CERTIFY THAT 20 DAYS HAVE ELAPSED AFTER THE DECISION WAS FILED IN THE OFFICE OF THE TOWN CLERK, AND THAT NO APPEAL HAS BEEN FILED, PURSUANT TO GENERAL LAWS 40A, SECTION 11


TOWN CLERK

APR 17 2008

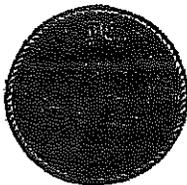
Attest: Jennifer H. Ferris, Registrar of Deeds
NANTUCKET COUNTY received & entered.





2007 00002231

Bk: 1089 Pg: 239 Page: 1 of 4
Doc: SP 06/22/2007 03:07 PM



**TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MASSACHUSETTS 02554**

Date: June / , 2007

To: Parties in Interest and Others concerned with the Decision of the BOARD OF APPEALS in the Application of the following:

Application No.: 046-07

Owner/Applicant: HANS DALGAARD

07 JUN -1 12:14
TOWN CLERK

Enclosed is the Decision of the BOARD OF APPEALS which has this day been filed with the office of the Nantucket Town Clerk

An Appeal from this Decision may be taken pursuant to Section 17 of Chapter 40A, Massachusetts General Laws.

Any action appealing the Decision must be brought by filing a complaint in Land Court within TWENTY (20) days after this day's date. Notice of the action with a copy of the complaint and certified copy of the Decision must be given to the Town Clerk so as to be received within such TWENTY (20) days.

Nancy J. Sevrehs, Chairman

cc: Town Clerk
Planning Board
Building Commissioner/Zoning Enforcement Officer

PLEASE NOTE: MOST SPECIAL PERMITS AND VARIANCES HAVE A TIME LIMIT AND WILL EXPIRE IF NOT ACTED UPON ACCORDING TO NANTUCKET ZONING BY-LAW SECTION 139-30 (SPECIAL PERMITS); SECTION 139-32 (VARIANCES). ANY QUESTIONS, PLEASE CALL THE NANTUCKET ZONING BOARD OF APPEALS OFFICE AT 508-228-7215.

TOWN OF NANTUCKET
ZONING BOARD OF APPEALS
2 FAIRGROUNDS ROAD
NANTUCKET, MASSACHUSETTS 02554

Assessors Map 67
Parcel 222
Residential-Commercial-2 (R-C-2)

65 Surfside Road
Lot B, Plan Book 24, Page 63
Deed Ref. Bk 1054 Page 312

At a Public Hearing of the Nantucket Zoning Board of Appeals, held at 1:00 P.M., Friday, May 11, 2007, in the Conference Room, at 2 Fairgrounds Road, Nantucket, Massachusetts, on the Application of HANS DALGAARD, c/o Reade, Gullicksen, Hanley & Gifford, LLP, PO Box 2669, Nantucket, MA 02554, Board of Appeals File No. 046-07, the Board made the following Decision:

1. Applicant is seeking relief by SPECIAL PERMIT pursuant to Nantucket Zoning By-law Section 139-9B(2)(l) (rental and/or sale of bicycles); and relief by SPECIAL PERMIT pursuant to Section 139-9B(2)(b) (storage and warehousing) in order to be able to use the new full basement level of the existing structure (since relocated on the lot) for his business, the sale and rental of bicycles. Once renovation of the structure is completed, the shop may be moved to the first floor level above grade into an addition proposed for the structure. In addition, the Applicant is seeking relief by SPECIAL PERMIT pursuant to Nantucket Zoning By-law Section 139-20 to waive the loading zone requirement. The lot, and the existing structure and proposed separate residential structure would be conforming in all respects to the dimensional requirements of the Zoning By-law. A multi-family special permit is being sought from the Planning Board in separate action.

The Premises is located at 65 SURFSIDE ROAD, Assessor's Map 67, Parcel 222, Plan Book 24, Page 63, Lot B. The property is zoned Residential-Commercial-2.

2. The Decision is based upon the Application and the materials submitted with it and the testimony and evidence presented at the Hearing. The Planning Board made no recommendation finding that the matter did not present any issues of planning concern. Other than the presentation by the Applicant and Applicant's counsel, there was no public comment in favor or in opposition made at the hearing. There were no letters on file.

3. The Applicant, through counsel, represented that he proposed to relocate his established bike rental/sale business (permitted by a grant of Special Permit relief in BOA File No. 044-03 for a separate parcel) to the Premises, which Applicant recently purchased. Initially, Applicant proposes to conduct the business in the basement of the existing single-family dwelling upon the lot. Upon completion of a conforming addition to that structure, he would relocate the bike rental shop into the first floor area above grade. Approximately 400 square feet of the shop area would be devoted to storage and warehousing of the bikes; the remaining about 130 square feet of commercial area would be devoted to a small counter/retail type area. Commercially related vehicular traffic to the site would be limited, as many of the rental bicycles are delivered to customers off-site. There would, however, be some on-site rentals and sales given the proximity of the Premises to the Surfside Road bike path and its location immediately proximate a main thoroughfare and the NRTA shuttle stop. Due to the severe changes in grade throughout the irregularly shaped lot, as well as the shared vehicular access from a "way" to the rear of the lot, provision of a 14' x 35' loading zone would be difficult, if not impossible. Applicant stated that deliveries to the business are historically infrequent. The deliveries that are made by commercial carriers generally occur twice a year via UPS in the spring with intermittent deliveries of replacement parts and equipment during the summer. Applicant would provide the required conforming parking spaces related to the commercial business on site. The existing structure and any future structures would meet all dimensional zoning requirements.

4. Applicant represented that application has been made to the Nantucket Planning Board for a Multi-family Special Permit to allow up to four dwelling units on the Premises. The single-family dwelling, in which the bike shop would be located, is proposed to be converted into a duplex unit. Applicant has asked the Board of Appeals to defer site plan review, required pursuant to Nantucket Zoning By-law Section 139-23, to the Planning Board. The Zoning Board of Appeals has jurisdiction over that portion of the property related to the commercial use. Regardless of the outcome of that proceeding, Applicant stated that all required parking related to the commercial use would be provided on site in a conforming manner.

5. Therefore, Based upon the foregoing, the Board finds that the use of the Premises for the rental and sale of bicycles, by a grant of the requested special permit relief, would be in harmony with the general purpose and intent of the Zoning By-law and would not create a negative impact in the Residential-Commercial-2 neighborhood, as restricted by the conditions below. In addition, a waiver of the loading zone would not be contrary to sound traffic and safety considerations, in light of the minimal deliveries made to the site of commercially related material and Applicant's statement that a large portion of the rental bikes and those that are sold are delivered off-site to customers.

6. Accordingly, by a UNANIMOUS vote, the Board GRANTS the requested SPECIAL PERMIT relief pursuant to Nantucket Zoning By-law Section 139-9B(2)(1) (rental and/or sale of bicycles); SPECIAL PERMIT relief pursuant to Zoning By-law Section 139-9B(2)(b) (storage and warehousing) to allow the bike rental business to operate on-site either in the basement space or first floor above grade shop space; and SPECIAL PERMIT relief pursuant to Zoning By-law Section 139-20 to waive the off-street loading zone requirement. Relief is based upon the following:

- a. The bike shop shall be limited to a maximum of 530 square feet of interior commercial space with no exterior storage of goods and materials associated with the bike shop;
- b. There shall be only one commercial entity operating from the Premises unless further relief is granted by this Board;
- c. The relief herein granted shall be valid so long as the Applicant controls the property, and should such control be transferred to another entity, further relief would be needed to continue to operate the bicycle rental and sale business, with any change in the commercial use requiring further relief from this Board;
- d. All required parking related to the proposed commercial use on the property shall be provided on site in a conforming manner; and
- e. There shall be no motor vehicle access directly to the bike rental shop from Surfside Road, other than by the existing shared private "way" located to the north of the Premises.

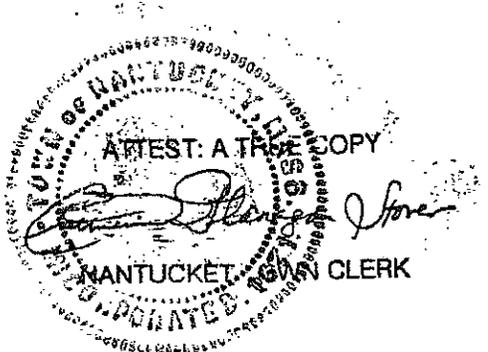
7. In separate action, by a UNANIMOUS vote, the Board waives the site plan review requirement pursuant to Nantucket Zoning By-law Section 139-23 for this Application.

Dated: June 1, 2007

I CERTIFY THAT 30 DAYS HAVE ELAPSED AFTER THE DECISION WAS FILED IN THE OFFICE OF THE TOWN CLERK, AND THAT NO APPEAL HAS BEEN FILED PURSUANT TO GENERAL LAWS 94A SECTION 11

[Signature]
TOWN CLERK

JUN 2 2 2007



[Signature]
Nancy J. Sevrens

[Signature]
Dale Waine

[Signature]
Kerim Koseatac

[Signature]
David Wiley

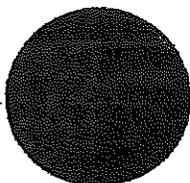
[Signature]
Burr Tupper

NANTUCKET COUNTY Received & Entered
Attest: Jennifer H. Ferreira Register of Deeds



2009 00003329

Bk: 1208 Pg: 259 Page: 1 of 4
Doc: MSP 11/24/2009 02:48 PM



**TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MASSACHUSETTS 02554**

09 NOV -2

Date: November 2, 2009

To: Parties in Interest and Others concerned with the Decision of the BOARD OF APPEALS in the Application of the following:

Application No: 040-09

Owner/Applicant: Hans Delgaard

Enclosed is the Decision of the BOARD OF APPEALS which has this day been filed with the office of the Nantucket Town Clerk.

An Appeal from this Decision may be taken pursuant to Section 17 of Chapter 40A, Massachusetts General Laws.

Any action appealing the Decision must be brought by filing a complaint in Land Court within TWENTY (20) days after this day's date. Notice of the action with a copy of the complaint and certified copy of the Decision must be given to the Town Clerk so as to be received within such TWENTY (20) days.

Michael J. O'Mara, Chairman

cc: Town Clerk
Planning Board
Building Commissioner/Zoning Enforcement Officer

PLEASE NOTE: MOST SPECIAL PERMITS AND VARIANCES HAVE A TIME LIMIT AND WILL EXPIRE IF NOT ACTED UPON ACCORDING TO NANTUCKET ZONING BY-LAW SECTION 139-30 (SPECIAL PERMITS); SECTION 139-32 (VARIANCES). ANY QUESTIONS, PLEASE CALL THE NANTUCKET ZONING BOARD OF APPEALS OFFICE AT 508-228-7215.

**NANTUCKET ZONING BOARD OF APPEALS
2 Fairgrounds Road
Nantucket, Massachusetts 02554**

Assessor's Map 67, Parcel 222
65 Surfside Road
Residential Commercial-2

Plan Book 24, Page 63
Lot B
Deed, Book 1054, Page 312

DECISION:

1. At a public hearing of the Nantucket Zoning Board of Appeals, on Thursday, September 10, 2009, and continued to and concluded upon Thursday, October 8, 2009, at 1:00 P.M., at 2 Fairgrounds Road, Nantucket, Massachusetts, the Board made the following decision on the application of HANS DALGAARD, c/o Reade, Gullicksen, Hanley & Gifford, LLP, Post Office Box 2669, Nantucket, Massachusetts 02584, File No. 040-09:

2. The applicant is requesting a Modification of the Special Permit relief granted by the Board of Appeals in File No. 046-07, in order to clarify that interior basement/garage space within the applicant's building may be used for the storage of bicycles and associated equipment, notwithstanding the condition contained in the Decision in File No. 046-07 that "the bike shop shall be limited to a maximum of 530 square feet of interior commercial space". The locus is situated at 65 SURFSIDE ROAD, Assessor's Map 67, Parcel 222, is shown on plan recorded with Nantucket Deeds in Plan Book 24, Page 63, as Lot B, and is situated in a Residential Commercial-2 zoning district.

3. Our decision is based upon the application and accompanying materials, and representations and testimony received at our public hearing. There was no Planning Board recommendation, on the basis that no matters of planning concern were presented. One abutter spoke in favor of the application at the initial hearing; at that hearing, a former Planning Board member asked questions as to the application, which were addressed at the continued hearing.

4. As noted above, the decision in File No. 046-07 limited the bike shop to 530 square feet of interior space, and it also prohibited exterior storage. The use of interior space for storage was not addressed by the decision, and the Zoning Enforcement Officer has denied approval for a Certificate of Occupancy on the basis that interior space, which is not included within the 530 square feet of the bike shop, is being used for storage. The decision did not address parking, it simply providing that the applicant shall provide the requisite parking in connection with commercial uses. The applicant filed a concurrent application with the Planning Board, to allow for a

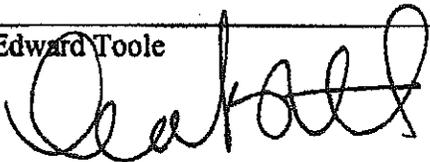
total of four dwelling units upon the locus, which is situated in the Multi-Family Housing Overlay District. The Planning Board granted this relief by special permit in its File No. 13-07, which approved a parking plan for the locus; however, the applicant has not exercised this special permit, and at present only two dwelling units exist upon the locus. Four parking spaces are shown upon the plan approved by the Planning Board within the garage area in the basement of applicant's building; however, there are areas in the basement which are not shown within the dimensioned parking spaces accessed from the garage doors, and it is these areas which the applicant is using for storage of bicycles and equipment.

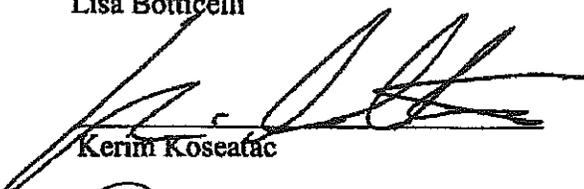
5. On the basis of this presentation, the Board of Appeals determined that the modification of the Special Permit issued in File No. 046-07 to specifically allow for basement space in the building now existing upon the locus, not to be counted toward the maximum of 530 square feet of floor area for the bicycle shop, would be in harmony with the purpose and intent of the Zoning By-law, and by a unanimous vote of the five members participating GRANTED the requested MODIFICATION of the SPECIAL PERMIT to that effect, subject to the condition that the parking spaces shown upon the plans approved by the Planning Board in its File No. 13-07 not be obstructed by stored materials.

SIGNATURE PAGE TO FOLLOW

Dated: Nov. 2, 2009


Michael J. O'Mara

Edward Toole

Lisa Botticelli

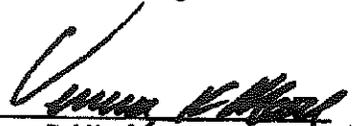

Kerim Koseafac


Susan McCarthy

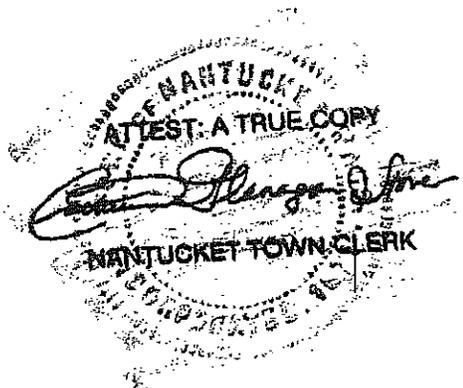
Nantucket, ss.

Nov. 2, 2009

On this 2 day of Nov., 2009, before me, the undersigned Notary Public, personally appeared Susan McCarthy, who is personally known to me, and who is the person whose name is signed on the preceding or attached document, and who acknowledged to me that he/she signed it voluntarily for its stated purpose.


Notary Public: Vanessa K. Moore
My commission expires: 3/22/13

NANTUCKET COUNTY Received & Entered
Attest: Jennifer H. Ferreira, Registrar of Deeds



I CERTIFY THAT 20 DAYS HAVE ELAPSED AFTER THE DECISION WAS FILED IN THE OFFICE OF THE TOWN CLERK, AND THAT NO APPEAL HAS BEEN FILED, PURSUANT TO GENERAL LAWS 40A, SECTION 11


TOWN CLERK
NOV 23 2009

OTHER

BUSINESS

ELECTION OF OFFICERS 2016-2017

Current Slate is:

Members

- Edward S. Toole, Chairman
Term Expires: 2019
- Lisa Botticelli, Vice Chairman
Term Expires: 2018
- Susan McCarthy, Clerk
Term Expires: 2017
- Michael J. O'Mara
Term Expires: 2020
- Kerim Koseatac
Term Expires: 2021

Alternate Members

- Geoffrey Thayer
Term Expires: 2018
- James Mondani
Term Expires: 2019
- Mark Poor
Term Expires: 2017

ZONING BOARD OF APPEALS

JULY 14, 2016

END OF PACKET

PART III

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