



Planning and Land Use Services

Building ▪ Health ▪ Historic District Commission ▪ Planning Board ▪ Zoning Board of Appeals

STAFF REPORT

Date: August 9, 2016

To: Zoning Board of Appeals

From: Eleanor W. Antonietti
Zoning Administrator

Re: August 11, 2016

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I. APPROVAL OF THE MINUTES:

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- June 9, 2016
- July 14, 2016

II. OLD BUSINESS:

- 051-03 Rugged Scott, LLC Release of Lot 41 from Covenant Hanley

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The applicant is asking for the release of one market rate lot for this 40B approved in 2003. In August of 2015, the Board released 9 lots (3 Affordable and 6 Market Rate). Of the 50 lots in the subdivision, 42 are buildable with 2 of those (Lots 11 & 42) set aside for the Home Owners Assn. as community lots for tennis courts, assembly hall, and swimming pool. 28 dwelling lots have been released thus far. With the release of this lot, 11 buildable lots will remain as security for completion of improvements.

The applicant has consistently submitted a scheduling plan to ensure compliance with **Condition 3.4** of the Comprehensive Permit which stipulates that 1 Affordable Unit must be constructed for every 3 Market Rate units.

The applicant is in the process of seeking Building Permits for 6 additional lots (4 *affordable*, 5, 26, 28, 30, & 41) and is about to file for two additional permits for Lots 27 and 29, both affordable homes. According to the applicant, they have received COs for 18 homes—14 market and 4 affordable. With the issuance of Building Permits for Lots 5, 4, and 30, they would have 18 completed and 3 in process (Lots 5, 4, and 30). Of these 21 homes, 16 are market (14 complete and 2 in process) and 5 affordable (4 complete and 1 in process). Assuming permits are issued for the 3 additional market homes (26, 28, and 41) and the 2 additional affordable homes, we will have 26 homes complete or in process, of which 19 would be market and 7 affordable. If all 8 are built and COs issued, this puts them on schedule

ahead of the requirement that 1 affordable be built for every 3 market units. It is a given that COs for market units will not be issued if they are behind in completing affordable homes. The issuance of COs is the control.

- 04-16 Donald J. Mackinnon, Trustee of Nantucket 106 Surfside Realty Trust – a/k/a
SURFSIDE COMMONS 40B 106 Surfside Road Mackinnon
Extended Close of **Public Hearing deadline November 30, 2016** (180 days from Initial Public
Hearing with Extension)

Decision Action deadline January 9, 2017 (40 days from close of Public Hearing)

CONTINUED TO SEPTEMBER 8, 2016

Conflicts: Geoff Thayer

Sitting Members: ET LB MJO KK SM *Alternates JM MP*

- 20-16 Gerald T. Vento & Margaret Vento, Tr. of Ninety-One Low Beach Road Nominee Trust
Action deadline September 7, 2016 91 Low Beach Road Cohen

CONFLICTS: MJO SM

Sitting Members: ET LB KK GT JM

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).

FROM PREVIOUS STAFF REPORT:

The Locus is improved with a 2-story 3,182 SF primary dwelling, a 1,381 SF secondary dwelling/cottage, a pool and associated pergola, a 98 SF shed, and a tennis court for a total ground cover ratio of 2.97%± where 3% is allowed. The property is among the last 4 building lots at the end of Low Beach Road, a sand road. It is surrounded to the north by protected open land.

In 2012, the Applicant hired a contractor to install a clay tennis court. However, Staff found no evidence that a Building Permit was ever filed for the construction of the court. They did receive HDC approval (Staff located COA# 58851). The contractor built the court within the 20’ side and rear yard setbacks required in the LUG-3. The westerly side yard setback is 15.4’, resulting in an intrusion of 4.6’ and the northerly rear yard setback is as close as 18.’, for an intrusion of 2’, and therefore not more than 5’ into either setback and not closer than 4’ from a lot line. As such, the Applicant seeks Special Permit relief pursuant to Bylaw Section 139-16.C(2) which reads:

The Board of Appeals may grant a special permit to validate unintentional setback intrusions not greater than five feet into a required yard and not closer than four feet from a lot line, provided that it shall first find that the burden of correcting the intrusion substantially outweighs any benefit to an abutter of eliminating the intrusion and, if the intruding structure was so sited after 1990, the siting of the structure was reasonably based upon a licensed survey.

The definition of Structure pursuant to Section 139-2.A is:

*Anything constructed or erected, the use of which requires a fixed location on the ground. “Structure” shall be construed, where the context allows, as though followed by the words “or part thereof” and shall include, but not be limited to, buildings, retaining walls which support buildings, platforms, steps, antenna towers, steel storage containers, lighthouses, docks, decks, chimneys, tents, and **game courts**. “Structure” shall not*

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include retaining walls not exceeding four feet in height for landscaping purposes, fences, rubbish bins, and a maximum of two aboveground propane tanks not to exceed 120 gallons each.

The burden of correcting the intrusion would require entirely removing and re-installing the court (which is at grade and to the rear of the lot) and would thus substantially outweigh any benefit to an abutter of eliminating the intrusions.

UPDATE:

This matter was opened at the June 9th hearing. The Board asked applicant to continue to July in order to provide an estimate of the cost of moving the tennis court entirely outside of the setbacks. It was continued and not opened in July.

NO NEW INFORMATION HAS BEEN PROVIDED.

- 28-16 Eric J. Rosenberg & Michele Kolb 7 Gardner Street Cohen
 Action deadline October 12, 2016 *Sitting Members:* ET MJO KK SM MP
 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).

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FROM PREVIOUS STAFF REPORT:

Applicants are seeking permission to demolish an existing metal/wood garage and construct a new single-family dwelling. The existing garage is sited as close as 1.3 feet from the northerly side yard lot line in the ROH district (minimum 5 foot side yard setback). The proposed dwelling would about 3 feet from the northerly side yard lot line, therefore further away, but would represent a vertical expansion within the setback area. The Locus as so altered would be conforming as to: 1) other yard setbacks; 2) groundcover requirements; and 3) parking.

The lot is grandfathered as undersized, containing 2,709 SF where minimum lot size is 5,000 SF, by virtue of 2012 Planning Board endorsement of a 41-81L division of land, based upon the existence (construction) of the single-family dwelling and the subject garage pre-dating Nantucket's 1955 adoption of the subdivision control law. This plan has not been recorded with the Registry of Deeds as of date of publication of this Staff Report.

The use of the garage, an ancillary structure on a lot by itself, without a dwelling on the lot, is also nonconforming. Therefore, the proposed demolition and construction of the single-family dwelling would eliminate the use nonconformity. The height of the new dwelling will exceed that of the existing garage but will be no higher than other structures in the surrounding historic area. The project has received HDC approval.

Article 60, passed at the 2016 Annual Town Meeting, amended Section 139-33(A).3 to include the following highlighted language:

... 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. **The removal of structures to facilitate an alteration or change to an existing structure, the relocation of the structure upon the lot, or the construction of a new structure, shall not cause the lot to be merged with an abutting lot in common ownership, provided that the lot remains vacant for less than 6 months.**

Staff notes that the “Proposed Site Plan” does not bear a surveyor or architect stamp and has no indication of who prepared it. Several letters of opposition have been submitted by abutters.

UPDATE:

This matter was opened at the July 14th hearing at which time the Board discussed the ability of the applicant to move the proposed single family dwelling – which will replace the to-be-demolished existing garage – entirely out of the side yard setback. This would likely involve downsizing the proposed dwelling or changing the lot lines.

The plan submitted with the original application showed Lot 7A (Locus) as containing 2,709 square feet. The ANR presented at the July 14th hearing (approved at the July 11th Planning Board meeting as File #7989) showed Lot 7A as containing 2,645 SF, less than originally proposed. The applicant has submitted another revised ANR plan scheduled for and approved at the August 8th Planning Board hearing as File #8012. The latter showed Lot 7A as containing 2,692 SF with slight changes in distance occurring primarily along the various jogs in the southerly lot lines. These documents along with a supplementary addendum titled “*Area Context Information for 7 Gardner Street Special Permit*”, submitted on 8/8/16 by the applicant, are appended to the Staff Report.

Staff confirmed with the applicant that one of the 2 Parking Spaces located on the premises will be reserved for the Locus whereas the other will be designated by Easement to serve the adjacent Lot 7.

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III. NEW BUSINESS:

- 24-16 6 Lily Street LLC & Sconset Partners LLC 6 and 8 Lily Street Dale
CONTINUED TO OCTOBER 13, 2016 CONFLICTS: NONE KNOWN

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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).

Applicant has requested another continuance before opening this hearing to allow for refinement of the plan and HDC approval. Applicant has stated that they will collaborate with the neighbors who have submitted concerns or opposition regarding the project as originally proposed.

- 30-16 Kaplan Family Nominee Trust 8 Harborview Way Poor
Action deadline November 9, 2016 CONFLICTS: MP

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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 in order to lift the structure to place it on a new foundation in conformance with FEMA regulations. The new foundation will result in an increase in structure height. In the alternative, applicant seeks Variance relief to exceed the height limitations

pursuant to Zoning By-law Section 139-17. The Locus is situated at 8 Harborview Way, is shown on Assessor’s Map 42.4.1 as Parcel 28, and as Lot 2 in Plan File 2014-41. Evidence of owner’s title is registered in Book 756, Page 54 on file at the Registry of Deeds. The site is zoned Residential Old Historic (ROH).

This is a very complex application with a plethora of materials which speak to the Building Code and FEMA requirements for structures in a designated Flood Zone. In the opinion of Staff, this is a question of how to interpret recently amended pursuant to passage of Article 60 at the 2016 ATM Section 139-17.C(7) which reads:

The height of a structure which is situated within the “Areas of one-hundred-year Flood” and/or “Areas of 100-Year Coastal Flood with Velocity” as established by the Federal Emergency Management Agency (“FEMA”) and depicted upon the Flood Insurance Rate Map promulgated by FEMA, as from time to time revised, shall not exceed 30 feet (was 28 feet prior to amendment) above the minimum height at which the first floor of the structure will conform with all applicable building codes and FEMA requirements, except in the CDT District where a maximum height may be determined by special permit.

According to current Building Code, the rule of thumb is that FFE (top of floor joists for 1st floor) is determined by the Base Flood Elevation. Base Flood for this zone is 7 feet. In essence, the current Building Code doesn’t neatly agree with the zoning provision found above and, as such, this may be neither a Building Code nor a FEMA issue, according to Jim Barry who has been the Building Inspector handling this application thus far. Mr. Barry will be present at the hearing.

Application addendum mistakenly describes the property as being situated within the now-eliminated The Limited Commercial zone. It was placed in the ROH district pursuant to passage of Article 44 at the 2015 ATM.

The proposed project benefits from ConCom and HDC approvals.

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- 31-16 Laura F. Hanson 55 Center Street Jensen
Action deadline November 9, 2016 CONFLICTS: SM

Applicant is requesting Special Permit relief pursuant to Zoning By-law Section 139-33.A in order to alter the pre-existing nonconforming dwelling in order to lift the structure to place it on a new foundation and to install a new basement. Applicant also proposes to construct a conforming addition to the rear of the dwelling. The Locus is situated at 55 Center Street, is shown on Assessor’s Map 42.4.4 as Parcel 72. Evidence of owner’s title is registered in Book 856, Page 197 on file at the Registry of Deeds. The site is zoned Residential Old Historic (ROH).

This is a request for Special Permit relief to allow for the alteration of a pre-existing nonconforming dwelling which is sited approximately 3.4 feet from the northerly side lot line where 5 foot setbacks are required and has an AMG height of 30 feet 8 inches, a *de minimis* overage of the allowed height of 30 feet. There is also a said-to-be pre-existing nonconforming garage sited as close as 0.3 feet from southerly side lot line, and said-to-be pre-existing nonconforming shed sited on the northerly side lot line. (Staff found no evidence of these particular structures on the 1949 Sanborn maps and no Building Permits, other than shingling, for any work done on the premises.) The proposed alteration is to raise the dwelling in order to install a new foundation and basement with a potential insubstantial increase in height. A conforming addition to the rear is also proposed. The construction of a basement will not create any new nonconformities and will not make the nonconforming setback distance more nonconforming.

Staff has spoken with applicant’s representative about the Private Way abutting the property to the north to which the applicant owns the fee simple interest of the southerly half. In addition there is a mutually beneficial easement between owners of 55 (Locus) & 57 Center Street granting the right to pass and repass along said Way, as reserved in the deed for 57 Center St. (Land Court Doc. 109636)

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The applicant will furnish guarantees that said Way shall be maintained in and/or, if damaged, restored to its original condition.

This application is pending HDC approval.

- 32-16 Alan A. Shuch, Trustee of the Ann F. Shuch Qualified Personal Residence Trust
CONTINUED TO OCTOBER 13, 2016 45 Quidnet Road Alger
Applicant is seeking Special Permit relief under By-law Section 139-33.A(1)(a) to extend, alter, or change a pre-existing, non-conforming ancillary structure used as a studio and beach changing area by raising it up above the flood plain so that it no longer floods and adding stairs necessary for access. To the extent necessary, Applicant also seeks a modification of the Board's decision in File No. 007-96 to allow for such work. The Locus is situated at 45 Quidnet Road, is shown on Assessor's Map 21 as Parcel 21, and is Lot 23 on Land Court Plan 8853-L. Owner's title is evidenced by Certificate of Title No. 21927 at the Nantucket Registry District. The site is zoned Residential-20 (R20).

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IV. OTHER BUSINESS:

- Election of officers (Chairman, Vice Chairman, Clerk)
Current officers are:
 - Ed Toole as Chairman,
 - Lisa Botticelli, as Vice-Chairman, and
 - Susan McCarthy as Clerk.

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V. ADJOURNMENT.

MATERIALS

PROVIDED BY

APPLICANT

&

STAFF

TO AMEND

APPLICATION

FILE No.28-16

7 GARDNER ST.

AREA CONTEXT INFORMATION FOR 7 GARDNER STREET SPECIAL PERMIT

EAST SIDE OF GARDNER (SAME SIDE AS THE SUBJECT PROPERTY AT 7 GARDNER STREET)



The right hand garage is proposed to be demolished and a new dwelling constructed in its place. Parking on that lot is clearly visible and has been used for multiple vehicles as is the subject site. Under zoning 4 stacked spaces are allowed as there is sufficient space to do that. However, only two conforming spaces are proposed.

The property had been used for the Wood Brothers limo and taxi depot for decades, anecdotally since at least the 1920's with a livery run from the property before that. The subject garage alone appears on the 1923 Sanborn Maps. The abutting garage, larger than the subject garage appears on the 1949 Sanborn maps and on the 1938 aerials.

This is a 408 SF nonconforming garage structure made out of corrugated metal and various wooden supports that is structurally unsound and inconsistent with neighborhood context. The new footprint would be about 950 SF, smaller than any other primary dwelling in the area but not out of context in size and rear location from the street of other ancillary structures in the immediate neighborhood. The narrow width of 18 feet is smaller than any residential structure in the neighborhood.

The existing garage is sited as close as about 1.3 feet from the northerly lot line. The new dwelling would be sited no closer than three (3) feet at its closest point to that lot line, thus decreasing the nonconforming setback intrusion and meeting the fire code for separation with openings such as windows on that proposed northerly wall. The abutting garage remains sited at about 1.3 feet from the common lot line.

Should relief be granted the ZBA can put restrictions on as to time of construction etc. No such restrictions are allowed should not ZBA relief be necessary. Moving the structure out of the 5-foot northerly side yard lot line and to the south, with the structure being only 18 feet wide as it is, would start to encroach on a very old and rare Catalpa tree that is in the back yard of the primary dwelling. Preservation of this old growth tree is desired. Scalar and fire separation from the existing historic structure on the newly created abutting lot to the south would be

significantly reduced with the moving of the house more behind and closer to the house would be considered visually out of context.

The design is consistent with all of the other residences in the neighborhood and the Old Historic District. The HDC took almost 10 months to approve this design and felt that it was consistent with the neighborhood and the placement about 30 feet from the roadway rendered the structure as an ancillary cottage or converted structure. It would not alter the street scape or be out of context/character with the residential neighborhood, all aspects that the HDC took its methodical time deliberating about. The ZBA has consistently stated that HDC approval was preferred prior to issuance of a special permit in the OHD.

Height is consistent with the neighborhood heights with most dwellings just under to over 30 feet. The front of this structure is 27 feet with the less visible rear at 30 feet. A majority of the dwellings in the neighborhood and in fact in the OHD and ROH are close to or well over 30 feet. The height of the subject structure would be consistent with other residential structures.

The new dwelling would be conforming as to groundcover, easterly, westerly, southerly setback requirements and as to parking. 50% groundcover ratio is allowed in the ROH and the dwelling will be between 35% – 37% groundcover. One space would be dedicated to the new dwelling and the other space would be dedicated to the existing structure by easement. The parking layout and placement is consistent with a majority of the parking spaces along Gardner and Liberty Streets.

A review of Hussey, India, Liberty etc. streets indicates that a majority of structures have setback intrusions and parking that requires backing out onto their roadways, with subminimum lots and ground cover in excess of 50%. Heights of structures are consistent with those on Gardner and Liberty Streets between 26 and 30+ feet.

24 of the 27 dwellings that face onto India Street have driveways that require backing out onto India Street. A super majority of all properties in the Old Historic District/ROH that have driveways or parking areas require cars to back into their respective streets. Two conforming spaces will not increase congestion in the area.

There are several ancillary structures, i.e., garages and cottages that are similarly sited away from the street.

GRANT OF RELIEF IS CONSISTENT WITH OTHER SUCH RELIEF GRANTED BY THE ZBA. Under the law, categorizing a dwelling, a conforming use, as a substantially more detrimental use to the neighborhood than a dilapidated metal nonconforming garage, would be unsupportable and such a finding would be inconsistent with other similar relief granted by the ZBA. Moving the structure farther away from the setback and conforming to the other three setback requirements, conforming as to parking, groundcover, height, would create a more complying situation than many structures in the OHD/ROH and particularly in the immediate area. The setback intrusion and nonconforming use are being reduced and eliminated respectively.

7 GARDNER STREET

ERIC ROSENBERG



THIS IS THE PROPERTY WHICH WAS SUBDIVIDED FROM THE SUBJECT PROPERTY THROUGH THE 41-81L PROCESS AT THE PLANNING BOARD

FIRST FLOOR 1275 SF

TOTAL LIVING AREA 2256 SF

2 STORIES LOT SIZE SEE PLAN

ZERO FRONT YARD SETBACK

WILL SHARE A DRIVEWAY/PARKING SPACE THROUGH AN EASEMENT WITH THE SUBJECT LOT

9 GARDNER STREET

AMY BROCK



FIRST FLOOR 460 SF

GARAGE IS LARGER THAN THE SUBJECT GARAGE

*ALSO HAS PARKING SPACES FOR SEVERAL CARS, A FEW OF WHICH ARE VISIBLE IN THE PHOTO ABOVE

*IT VIOLATES THE FIVE-FOOT REQUIRED NORTHERLY AND SOUTHERLY SIDE YARD SETBACKS AND IS A NONCONFORMING USE AS AN ANCILLARY STRUCTURE ON A LOT BY ITSELF IN A RESIDENTIAL NEIGHBORHOOD

11 GARDNER STREET

JORDAN GOODMAN



FIRST FLOOR 1430 SF
TOTAL LIVING AREA 3449 SF
GARAGE 460 SF
*2 ½ STORIES FINISHED 3RD FLOOR *HEIGHT CLOSE TO IF NOT OVER 30 FEET
ZERO FRONT YARD SETBACK
*HAS DRIVEWAY TO SEPARATE GARAGE FROM GARDNER STREET
*APPEARS TO BE SITED WITHIN THE FIVE-FOOT NORTHERLY SIDE YARD SETBACK AREA

13 GARDNER STREET

DANIEL DWYER



FIRST FLOOR 1433 SF
TOTAL LIVING AREA 2866 SF
*2 ½ STORIES UNFINISHED 3RD FLOOR *HEIGHT CLOSE TO IF NOT OVER 30 FEET
ZERO FRONT YARD SETBACK
THE ONLY ONE IN THIS STRETCH THAT HAS NO DRIVEWAY
*APPEARS TO BE SITED WITHIN THE NORTHERLY FIVE-FOOT REQUIRED SIDE YARD SETBACK AREA.

15 GARDNER STREET

JEREMY BLOOMER



FIRST FLOOR 1818 SF
TOTAL LIVING AREA 4981 SF
*2 ½ STORIES FINISHED 3RD FLOOR HEIGHT BELOW 30 FEET
FRONT YARD SETBACK APPEARS TO BE @4-5 FEET

*HAS SHARED DRIVEWAY WITH 17 GARDNER STREET, REQUIRES BACKING OUT ONTO GARDNER STREET
*HOUSE IS SITED WITHIN THE SOUTHERLY FIVE-FOOT SIDE YARD SETBACK AREA, IT WOULD APPEAR AS CLOSE AS A FEW FEET FROM THAT LOT LINE.

17 GARDNER STREET

LISA QUATTROCCHI



FIRST FLOOR 1794 SF
TOTAL LIVING AREA 4800 SF
*2 ½ STORIES FINISHED 3RD FLOOR *HEIGHT CLOSE TO 30 FEET
FRONT YARD SETBACK ABOUT 8-10 FEET

*HAS SHARED DRIVEWAY WITH 15 GARDNER STREET, REQUIRES BACKING OUT ONTO GARDNER STREET

28 LIBERTY STREET/CORNER WITH GARDNER STREET VINCENT MAFFEO



FIRST FLOOR 1238 SF
TOTAL LIVING AREA 2266 SF LOT SIZE 3485 SF
*3 STORIES (WITH DORMERS) FINISHED 3RD FLOOR *HEIGHT CLOSE TO 30 FEET
ZERO FRONT YARD SETBACK ON GARDNER
*2-CAR DRIVEWAY ON STREET REQUIRES BACKING OUT ONTO LIBERTY STREET
*APPEARS TO HAVE A REAR YARD (SOUTHERLY) SETBACK INTRUSION, SITED CLOSE TO 17 GARDNER ST.

37 LIBERTY STREET/CORNER OF GARDNER STREET LUCY DILLON



FIRST FLOOR 1145 SF
TOTAL LIVING AREA 3301 SF LOT SIZE 4792 SF
*2 ½ STORIES FINISHED 3RD FLOOR HEIGHT UNDER 30 FEET
5-8 FEET FRONT YARD SETBACK
*HAS PARKING OFF OF LIBERTY STREET FOR TWO CARS AND REQUIRES BACKING ONTO LIBERTY STREET

39 LIBERTY STREET

39 LIBERTY LLC



FIRST FLOOR 1464 SF
TOTAL LIVING SPACE 2884 SF
*2 ½ STORIES 3RD FLOOR UNFINISHED *HEIGHT CLOSE TO IF NOT OVER 30 FEET
ZERO FRONT YARD SETBACK
DOES NOT APPEAR TO HAVE ITS OWN PARKING SPACE ON SITE

41 LIBERTY STREET

41 LIBERTY LLC



FIRST FLOOR 1481 SF
TOTAL LIVING AREA 3625 SF
*2 ½ STORIES FINISHED 3RD FLOOR *HEIGHT CLOSE TO IF NOT OVER 30 FEET
ZERO FRONT YARD SETBACK
*HAS PARKING OFF OF LIBERTY STREET REQUIRES BACKING OUT ONTO LIBERTY STREET

WEST SIDE OF GARDNER STREET

4 GARDNER STREET

PAUL MERRITHEW



FIRST FLOOR 1190 SF
TOTAL LIVING AREA 2300 SF
*2 ½ STORIES UNFINISHED 3RD FLOOR *HEIGHT CLOSE TO 30 FEET
ZERO FRONT YARD SETBACK
*DRIVEWAY THAT REQUIRES BACKING OUT ONTO GARDNER

8 GARDNER STREET IS A PROPERTY OWNED BY THE NANTUCKET HISTORICAL ASSOCIATION AND KNOWN AS THE CHRISTIAN SCIENCE SOCIETY ON THE LEFT AND THE HOSE CART HOUSE ON THE RIGHT. *LOT HAS A PARKING SPACE THAT REQUIRES BACKING OUT ONTO GARDNER STREET TO THE LEFT OF THE CHRISTIAN SCIENCE SOCIETY.

8THE HISTORIC HOSE CART HOUSE VIOLATES THE NORTHERLY SIDE YARD SETBACK BEING SITED ALMOST AT ZERO.





FIRST FLOOR 1045 SF
TOTAL LIVING SPACE 2176 SF
LOT SIZE 4792 SF
*2 1/2 STORIES FINISHED 3RD FLOOR HEIGHT UNDER 30 FEET
ZERO FRONT YARD SETBACK

*DRIVEWAY OFF OF HOWARD STREET IN BACK THAT REQUIRES BACKING OUT ONTO HOWARD STREET
*HOUSE IS SITED WITHIN THE REQUIRED FIVE-FOOT SIDE YARD SETBACK ALONG HOWARD STREET.

ALSO HAS A SEPARATE GARAGE OFF OF HOWARD STREET



FIRST FLOOR 311 SF
HAS SPACE ABOVE IT

12 GARDNER STREET

RON WINTERS



FIRST FLOOR 1583 SF

TOTAL LIVING SPACE 2770 SF

*2 STORIES (WAS ALLOWED TO ALTER/RENOVATE/MAKE SECOND FLOOR ADDITIONS TO IT IN @2014)

ZERO – 2 FEET OF FRONT YARD SETBACK HEIGHT UNDER 30 FEET

*LONG DRIVEWAY OFF HOWARD ST. PARKING SPACE IN FRONT OF A 240 SF GARAGE ON REAR

*HOUSE IS SITED VERY CLOSE TO THE SOUTHERLY LOT LINE INSIDE THE REQUIRED FIVE-FOOT SETBACK
IS A GABLE FORWARD, THIS HOUSE WAS USED AS A TEMPLATE FOR THE NEW STRUCTURE IN DESIGN.

14 GARDNER STREET

MARY MOCHARY



FIRST FLOOR 2213 SF

TOTAL LIVING SPACE 3935 SF

*2 ½ STORIES UNFINISHED 3RD FLOOR *HEIGHT CLOSE TO 30 FEET

ZERO FRONT YARD SETBACK

*LONG DRIVEWAY OFF HOWARD COURT, USES LAYOUT OF HOWARD COURT TO BACK INTO ROAD

*HOUSE IS SITED WITHIN BOTH THE NORTHERLY AND SOUTHERLY REQUIRED FIVE-FOOT SETBACK AREA

*HAS A SECOND DRIVEWAY NEXT TO THE HOUSE ON GARDNER STREET, REQUIRES BACKING OUT

HAS A SEPARATE COTTAGE AT THE REAR OF THE PROPERTY THAT ACCESSES OFF OF HOWARD COURT



FIRST FLOOR 576 SF
TOTAL LIVING SPACE 1152 SF
1 ½ STORIES

*PARKING IN FRONT BACKING INTO HOWARD COURT
PRIMARY DWELLING AT 14 GARDNER STREET IS VISIBLE TO THE RIGHT

16 GARDNER STREET

FRANCIS WELD



FIRST FLOOR 1644 SF
TOTAL LIVING SPACE 3238 SF
*2 ½ STORIES FINISHED 3RD FLOOR *HEIGHT CLOSE TO 30 FEET

ZERO FRONT YARD SETBACK
*HAS PARKING THAT REQUIRES BACKING OUT INTO GARDNER STREET TO THE RIGHT
*HOUSE IS SITED WITHIN THE SOUTHERLY REQUIRED FIVE-FOOT SETBACK AREA



FIRST FLOOR 2745 SF

TOTAL LIVING SPACE 5825 SF

*2 ½ STORIES (WAS A GUEST HOUSE AND IS NOW A PRIVATE HOME WITH AN ACCESSORY APARTMENT INSIDE) FINISHED 3RD FLOOR *HEIGHT CLOSE TO IF NOT OVER 30 FEET

ZERO – 4 FEET OF FRONT YARD SETBACK

*HAS PARKING UP THE DRIVEWAY TO THE RIGHT, LOT IS BIG ENOUGH SO THE VEHICLES DO NOT HAVE TO BACK INTO GARDNER STREET

*HOUSE IS SITED WITHIN A FEW FEET OF THE SOUTHERLY LOT LINE, INSIDE THE REQUIRED FIVE FEET



#7989 ANR
Eric Rosenberg & Michele Kolb
7 Gardner Street
Map 42.3.3 Parcel 58



PLANNING BOARD

FILE # 7989



Nantucket Planning Board

Form A

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

Date: 6-22-2016

*Name of Owner(s)/Applicant(s): ERIC ROSEN BERG & MICHELE KOLB

*Owner's/Applicant's address: 226 EAST 79th STREET, NY, NY 10075 State: _____ Zip Code: _____

*(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 GARDNER STREET

Name of Registered Land Surveyor: ACKME SURVEY LLC

Surveyor's address: PO BOX 1448, 02554

The owner's title to the land derived under deed from _____ date _____ and recorded in Nantucket Registry of Deed, Books 1282 _____ Pages 80 _____ or Land Court Certificate of Title # _____ registered in Nantucket Document Number _____, and shown on Assessor's Maps # _____ Parcels _____.

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 _____.

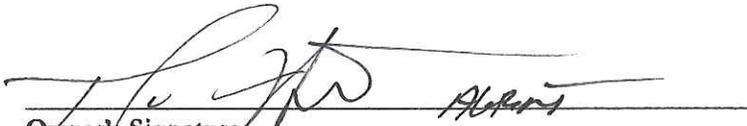
Nantucket Planning and Land Use Services ■ 2 Fairgrounds Road ■ Nantucket ■ MA ■ 02554 ■ (508) 325-7587

- 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 DWELLING , GARAGE _____ 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: _____ 1949 SANBORN FIRE

MAP _____

- 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.


 Owner's Signature _____

Planning Board File # 7989

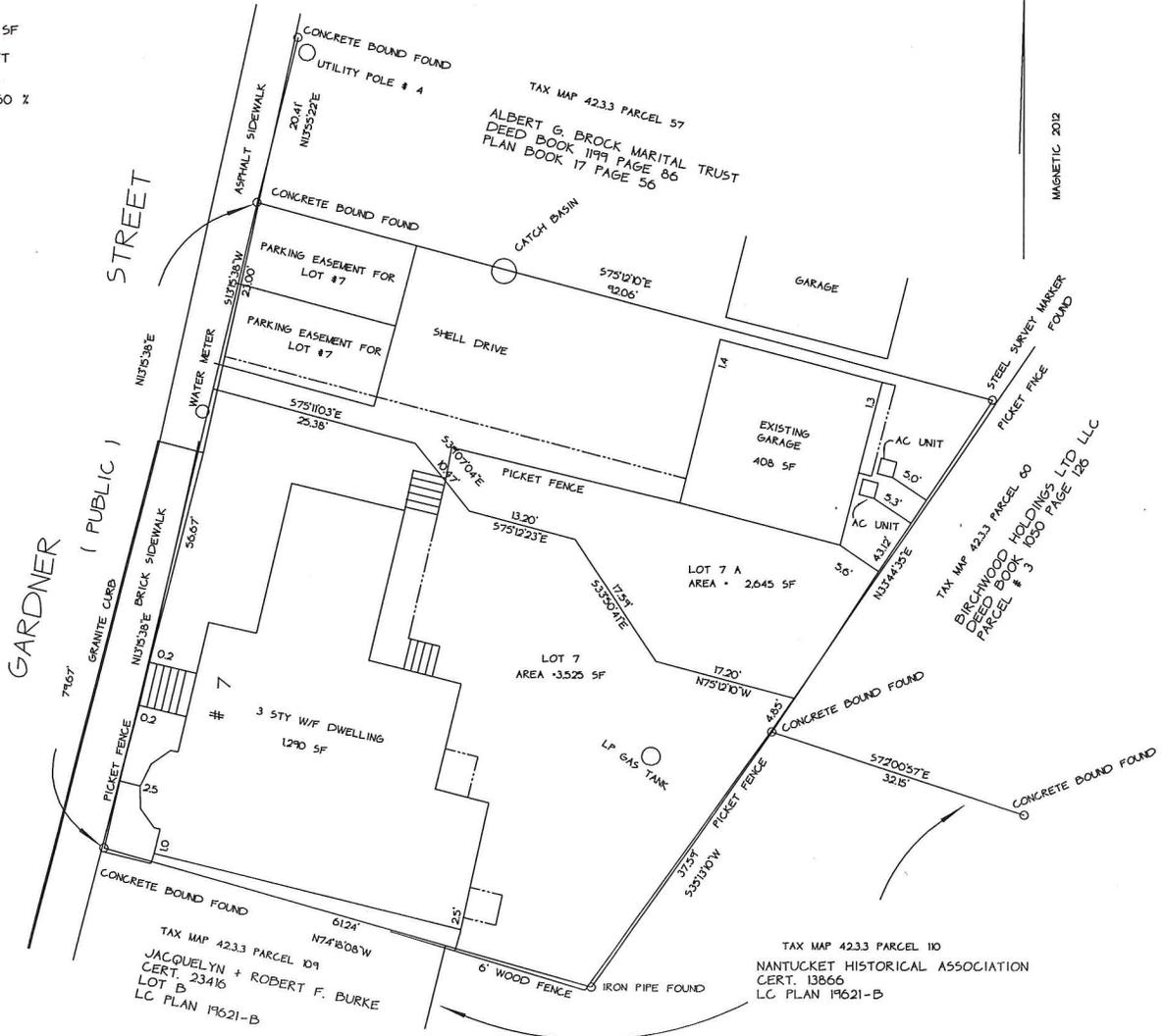
Endorsement Date: _____

ZONE - ROH

LOT AREA - 5,000 SF
FRONTAGE - 50 FT
FRONT YARD - 0 FT
SIDE YARD - 5 FT
REAR YARD - 5 FT
GROUND COVER - 50 %

N ORTH

MAGNETIC 2012



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

NANTUCKET PLANNING BOARD APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED

NOTE:

STRUCTURES PREDATE THE TOWN OF NANTUCKET SUBDIVISION CONTROL LAW AS ADOPTED FEBRUARY 16, 1955

LOT 7 + 7A ARE CREATED PURSUANT TO CHAPTER 41 SECTION 8L

THE BUILDINGS SHOWN ON THIS PLAN ARE NOT LOCATED WITHIN A FLOOD ZONE AS DELINEATED ON THE FIRM MAP OF COMMUNITY #2207000066 MASSACHUSETTS EFFECTIVE - JUNE 6, 2014 BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY .

PREPARED FOR :

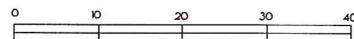
ERIC J. ROSENBERG + MICHELE KOLD
7 GARDNER STREET
TAX MAP 4233 PARCEL 58
DEED BOOK 1282 PAGE 80

PLAN OF LAND
7 GARDNER STREET
NANTUCKET, NANTUCKET COUNTY, MASS.
SCALE 1" = 10' 6-21-2016
ACKME SURVEY LLC
PO BOX 1448
NANTUCKET, MASS.

DATE APPROVED _____
DATE SIGNED _____
FILE # _____

THE PLANNING BOARD DETERMINES THAT LOTS 7 + 7A 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 TILL MAY BE SUBJECT TO PROTECTION UNDER STATE AND LOCAL WETLAND BYLAWS. DETERMINATION OF APPLICABILITY MAY BE OBTAINED THROUGH APPLICATION TO THE CONSERVATION COMMISSION.

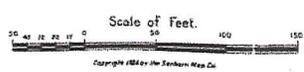
I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.



5

2

5





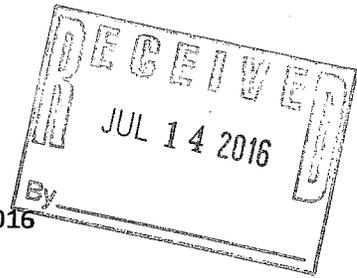
Steven L. Cohen
Steven@cohenlegal.net

Cohen & Cohen

LAW PC

Jennifer G. Cohe
Jennifer@cohenlegal.net

Nantucket Zoning Board of Appeals
2 Fairgrounds Road
Nantucket, MA 02254



July 12, 2016

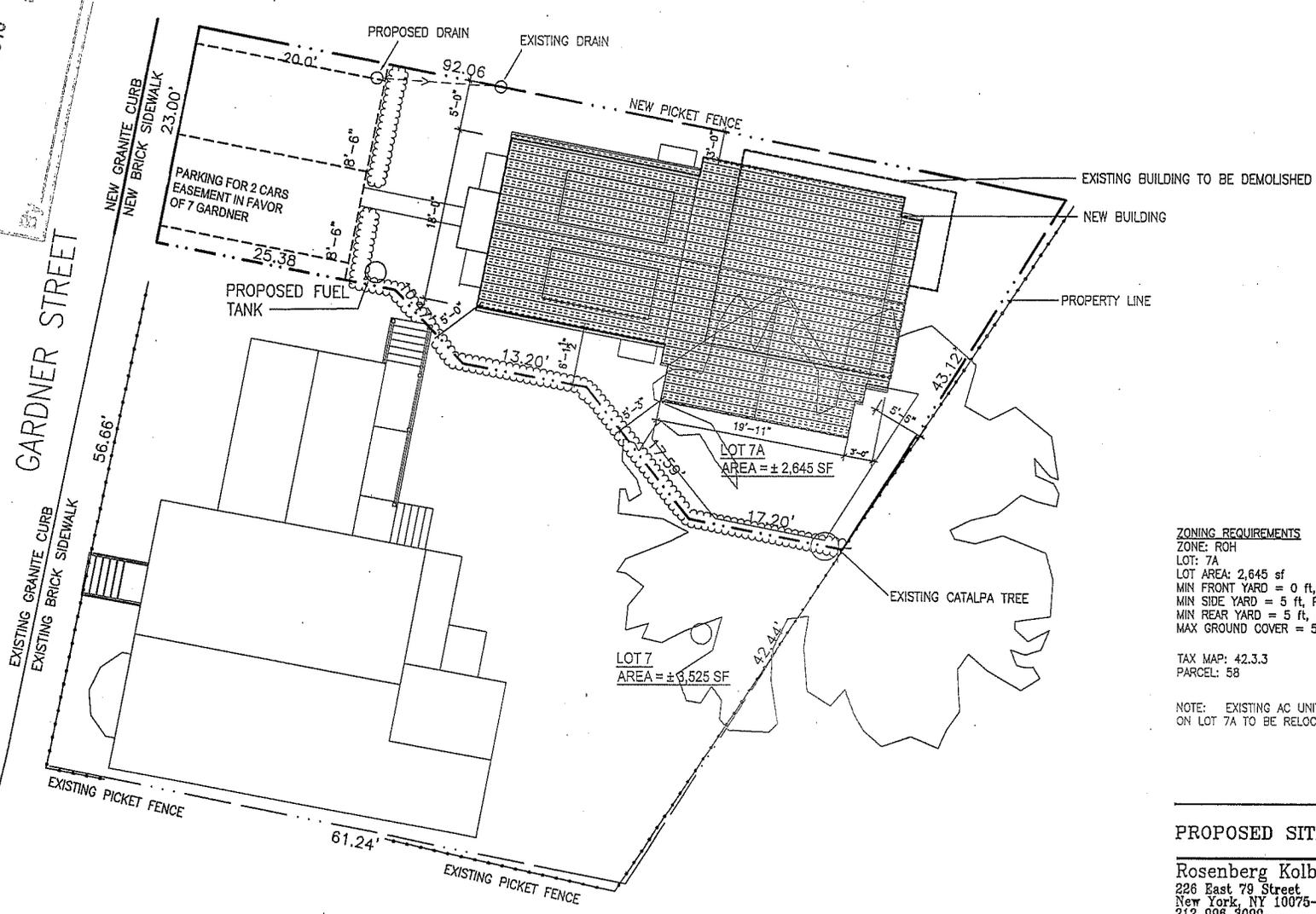
Dear Mr. Chairman,

Attached please find a stamped site plan to reflect the 4181-L plan that was endorsed at the Planning Board on July 11, 2016.

Sincerely,

Steven Cohen

JUL 14 2016



ZONING REQUIREMENTS
 ZONE: ROH
 LOT: 7A
 LOT AREA: 2,645 sf
 MIN FRONT YARD = 0 ft, PROPOSED=34 ft
 MIN SIDE YARD = 5 ft, PROPOSED=5 ft, 3 ft
 MIN REAR YARD = 5 ft, PROPOSED=5.5 ft
 MAX GROUND COVER = 50%, PROPOSED=37%

TAX MAP: 42.3.3
 PARCEL: 58

NOTE: EXISTING AC UNITS FOR LOT 7 LOCATED ON LOT 7A TO BE RELOCATED



PROPOSED SITE PLAN 07/012/16
 3/32"=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

1 PROPOSED SITE PLAN
 SCALE 3/32" = 1'-0"



PLANNING BOARD

FILE # 8012

Nantucket Planning Board

Form A

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

Date: 8/2/2016 *Name of Owner(s)/Applicant(s): ERIC ROSENBERG + MICHELE KOLB

*Owner's/Applicant's address: 226 EAST 19th ST, NY, NY 10075
State: _____ Zip Code: _____

*(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 GARDNER STREET

Name of Registered Land Surveyor: ACKME SURVEY LLC
Surveyor's address: PO BOX 1448, NANTUCKET, MA 02554

The owner's title to the land derived under deed from _____, date _____
And recorded in Nantucket Registry of Deed, Book 1282 Page 80 or Land Court Certificate of Title # _____, registered in Nantucket District Book _____, Page _____ and shown on Assessor's Map# _____, Parcel # _____.

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)

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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.
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TOWN 1957 AERIALS CORRESPOND TAX RECORDS
 - 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.

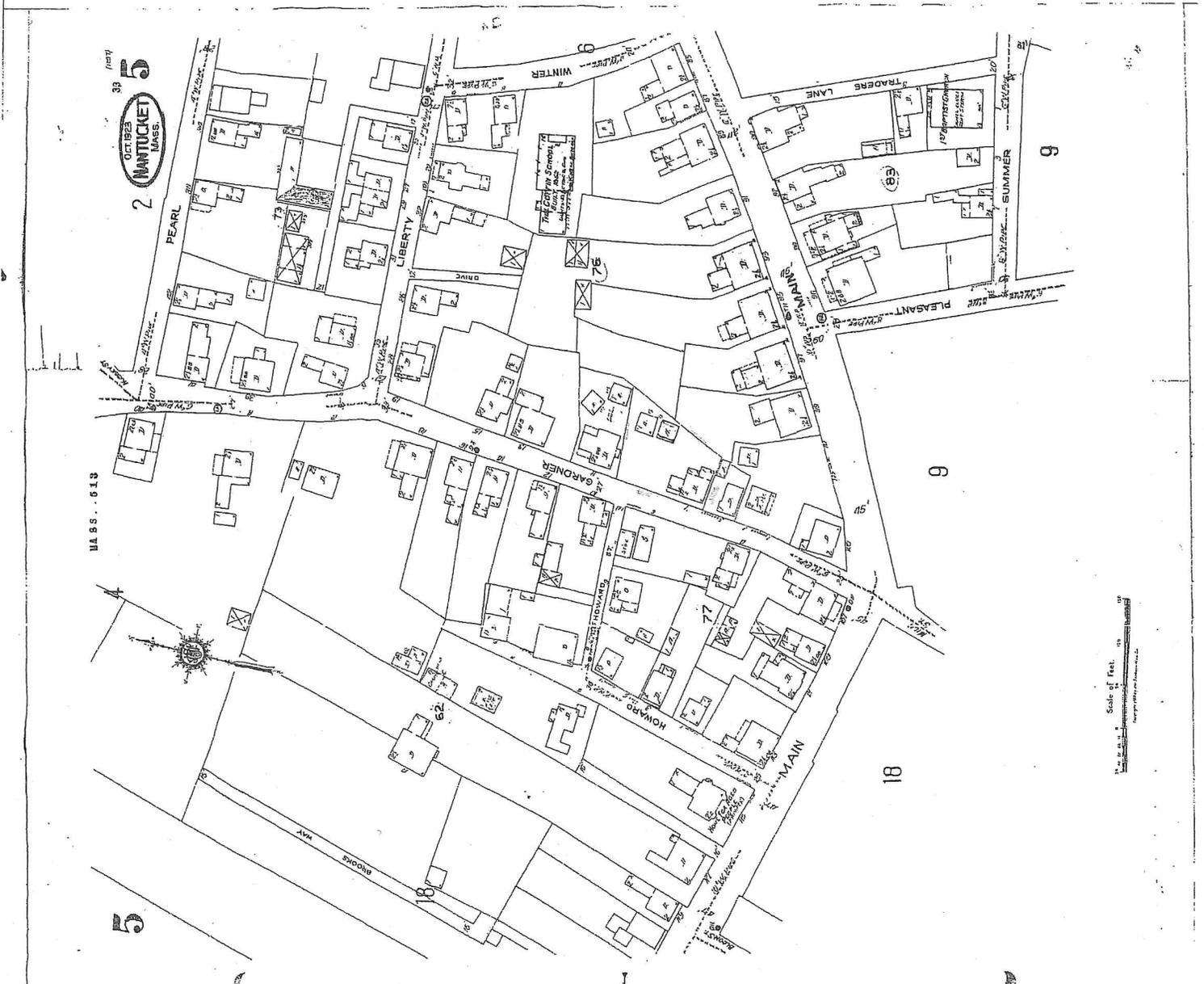
Frank J. Felgate agent
Owner's Signature

Planning Board File # 8012

Endorsement Date: _____

PLANNING BOARD

FILE # 8012





Scale of Feet.
0 25 50 75 100
Copyright 1923 by the Standard Map Co.

PLANNING BOARD

FILE # 8012

1938



1938

PLANNING BOARD

FILE # 3012



**6 LILY ST., LLC
&
SCONSET PARTNERS LLC**

6 & 8 LILY STREET

FILE NO. 24-16

CONTINUED TO 10/13 /2016

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

August 9, 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. The hearing for my client's application for a Special Permit was continued from July 14, 2016 to August 11, 2016 by the Board. My clients ask the Board to continue the hearing from August 11, 2016 to October 13, 2016.

My clients have prepared a revised design plan for the proposed cottage on 8 Lily Street and wish to submit the design to the Nantucket Historic District Commission for approval prior to the Zoning Board hearing. They also want to review this new plan with their neighbors. They also intend to provide an off-street parking space on each lot.

Letter to Board of Appeals
August 9, 2016
Page 2

Please continue the application for zoning relief from August 11, 2016 to
October 13, 2106. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to be "K. F. Alger", written in a cursive style.

KFD/kw

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