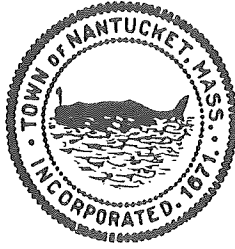


Town and County of Nantucket
Board of Selectmen • County Commissioners

Rick Atherton, Chairman
Robert R. DeCosta
Michael Kopko
Patricia Roggeveen
Whiting Willauer



16 Broad Street
Nantucket, Massachusetts 02554

Telephone (508) 228-7255
Facsimile (508) 228-7272
www.nantucket-ma.gov

C. Elizabeth Gibson
Town & County Manager

**AGENDA FOR THE MEETING OF THE
COUNTY COMMISSIONERS
21 DECEMBER 2011 - 6:00 PM
PUBLIC SAFETY FACILITY COMMUNITY ROOM
4 FAIRGROUNDS ROAD
NANTUCKET, MASSACHUSETTS**

I. ANNOUNCEMENTS

II. PUBLIC COMMENT*

III. NEW BUSINESS*

IV. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

1. Approval of Minutes of 26 October 2011 at 6:00 PM.
2. Approval of Payroll and Treasury Warrants for November 2011; December 2011.

V. OFFICIAL BUSINESS

1. R. Thomas Okonak and James R. Okonak, Trustees: Request for Execution of Grant of Non-Exclusive Easement in Area of Massachusetts Avenue as Shown on Plan Entitled "Exhibit Plan of Land In Nantucket, Mass.", Dated September 14, 2011, Prepared by Blackwell and Associates, Inc., For Purpose of Facilitating Use of Septic or Other Sewage Disposal System Installed on Lot A to Service Single-Family Residence on Lot B.

VI. COMMISSIONERS REPORTS/COMMENTS

VII. ADJOURNMENT

** Identified on Agenda Protocol Sheet.*

County Commission Agenda Protocol:

- *Roberts Rules. The County Commission follows Roberts Rules of Order to govern its meetings as per the Town Code and Charter.*
- *Public Comment. Public Comment is for bringing matters of public interest to the attention of the Commission. The Commission welcomes concise statements on matters that are within the purview of the County Commission. At the Commission's discretion, matters raised under Public Comment may be directed to County Administration or may be placed on a future agenda, allowing all viewpoints to be represented before the Commission takes action. Except in emergencies, the Commission will not normally take any other action on Public Comment. Any personal remarks or interrogation or any matter that appears on the regular agenda are not appropriate for Public Comment.*
- *New Business: For topics not reasonably anticipated 48 hours in advance of the meeting.*
- *Public Participation. The Commission welcomes valuable input from the public at appropriate times during the meeting with recognition by the Chair. For appropriate agenda items, the Chair will introduce the item and take public input. Individual Commissioners may have questions on the clarity of information presented. The Commission will hear any staff input and then deliberate on a course of action.*
- *Commissioner Report and Comment. Individual Commissioners may have matters to bring to the attention of the Commission. If the matter contemplates action by the Commission, Commissioners will consult with the Chair and/or County Manager in advance and provide any needed information by the Thursday before the meeting. Otherwise, except in emergencies, the Commission will not normally take action on Commissioner Comment.*

From: [Shirin Everett](#)
To: [Erika Mooney](#)
Cc: [Jeanne McKnight](#)
Subject: NANT: Sewer Easement - Mass. Av.
Date: Tuesday, November 01, 2011 2:55:40 PM
Attachments: [9@ry03!.DOC](#)

Hi Erika:

The attorney representing Thomas Okonak and James Okonak (the "Owners"), the owners of lots located on either side of Massachusetts Avenue, have requested the County to approve the certain changes to the sewer easement to be granted by the County Commissioners to the Owners. See email below. The requested changes are redlined in the attached Easement.

Our prior version of the Easement stated that the Owners' rights would terminate if public sewer becomes available to serve Lot B (the benefited property). The Owners ask that they be given 180 days from the date on which the public sewer becomes available to connect to the Town sewer. Please let me know if this change is acceptable to the Commissioners.

The Easement also states that the Owners rights would terminate if a septic system is installed in Lot B. The attorney has revised this to say that the Easements rights will terminate if a new septic system is installed in Lot B. I assume that there is an existing septic system on Lot B, but that it is not functioning. Could you please confirm?

Thank you.

Shirin Everett, Esq.
Kopelman and Paige, P.C.
101 Arch Street
Boston, MA 02110
Phone: (617) 654-1731
Facsimile: (617) 654-1735
Email: severett@k-plaw.com

This message and the documents attached to it, if any, are intended only for the use of the addressee and may contain information that is PRIVILEGED and CONFIDENTIAL and/or may contain ATTORNEY WORK PRODUCT. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please delete all electronic copies of this message and its attachments, if any, and destroy any hard copies you may have created and notify me immediately.

From: Kenneth Gullicksen [mailto:kag@readelaw.com]
Sent: Monday, October 31, 2011 1:49 PM
To: Shirin Everett
Subject: County Easement

Shirin:

As you may recall, this was withdrawn from the agenda because my clients were concerned with changes to the Easement. Most importantly, knowing how difficult it can be to get all necessary permits, schedule work and actually getting it completed in a timely manner, particularly if you are not here to follow up on things, they were concerned that they would not be able to get the work completed within 90 days. Accordingly, I have reinstated the reasonable period language, but limited it to a maximum of 180 days. Please let me know if the attached is acceptable to you.

Thank you.

Kenneth A. Gullicksen
Reade, Gullicksen, Hanley & Gifford, LLP
Post Office Box 2669
Nantucket, Massachusetts 02584
508-228-3128
508-228-5630 fax

GRANT OF EASEMENT

The COUNTY OF NANTUCKET, acting by and through its County Commissioners, having an address of 16 Broad Street, Nantucket, Massachusetts 02554 ("Grantor"), being the owner of the land now known as Massachusetts Avenue by virtue of an Order of Layout and Taking recorded with Nantucket Deeds in Book 507, Page 109, and registered with the Nantucket Registry District of the Land Court as Document No. 72383, pursuant to Massachusetts General Laws Chapter 34, Section 14, for consideration paid of One Dollar (\$1.00), the receipt and sufficiency of which is hereby acknowledged, grants to R. THOMAS OKONAK and JAMES R. OKONAK, Trustees under a Trust Agreement dated April 24, 1987 and registered with the Nantucket Registry District as Document No. 46638 ("Grantees"), and those claiming by, through or under them by instrument of record, as the owners of the land now known and numbered as 20 and 23 Massachusetts Avenue, Nantucket, Massachusetts (Lots 1, 2, 3, 4, 5, 61 and 62 in Block No. 30 on Land Court Plan 2408-Y (collectively, "Lot A") and Lot 1-A on Land Court Plan 2408-1 ("Lot B"), by virtue of Certificate of Title No. 13,978, a non-exclusive easement in that area of Massachusetts Avenue shown on the Exhibit Plan Of Land attached hereto as Exhibit A as "Waste Pipe Easement 7.5' Wide" (the "Easement Area") for the installation, use, repair, replacement, inspection and maintenance of underground wires and conduits for the transmission of electricity and underground sewer pipes (collectively, the "Facilities"), all for the purpose of facilitating use of the septic or other sewage disposal system installed on Lot A to service the single-family residence on Lot B.

The grant of this easement shall be for the sole benefit of Lot B, and shall terminate if (a) a new septic or other sewage disposal system is constructed on Lot B after the date of this Grant of Easement, (b) Lot B is used for other than single-family residential purposes, or (c) public sewer becomes available to serve Lot B and Grantees have not connected the dwelling on Lot B to such sewer within a reasonable time period after the sewer becomes available, which period shall not exceed 180 days.

Deleted: is

Grantees acknowledge and agree that the Easement Area is within the layout of Massachusetts Avenue, a traveled, public way, and that the rights of Grantees hereunder are subject to rights of the public to travel over the same by foot and motor vehicles. Grantees shall not interfere with the use of the Easement Area by Grantor and members of the public. In no event shall Grantees close the Easement Area to public travel or impair such rights without having obtained Grantor's written consent in

writing at least fourteen (14) days prior to performing any such work, not to be unreasonably withheld. Grantees shall, at Grantor's request, install temporary fencing around the Easement Area or take other reasonable measures during any construction or disturbance of the Easement Area to ensure the safety of Grantor's personnel, persons on the Easement Area, persons driving on Massachusetts Avenue and the general public, all at Grantees' sole cost and expense. Grantee shall use diligent and good faith efforts to minimize interference with Grantor's and the public's use of the Easement Area.

Grantor reserves the right to use the Easement Area for any and all purposes, and to allow the Town of Nantucket to use the Easement Area for any and all purposes, including without limitation the installation of public utilities, provided that such use does not interfere materially with Grantees' use of the Easement Area for the purposes set forth herein, other than temporarily during construction of such underground utilities. Grantees shall not damage any utilities or other improvements now or hereinafter installed on or under the Easement Area by Grantor or the Town of Nantucket or their permittees or assignees. Grantees shall maintain the Facilities in good order and condition. Any damage caused by Grantees or their agents, employees, representatives, contractors or invitees (collectively, with Grantees, the "Grantee Parties") or the Facilities shall be repaired promptly by Grantees at their sole cost and expense.

Grantees, by the acceptance of this easement agreement, agree that upon request of Grantor, they shall relocate the Facilities to a new easement area at their expense if requested by the Grantor, provided that such relocated easement area is reasonably suitable for the intended purpose of this easement. Grantees agree to prepare a plan showing the relocated easement area.

Grantor makes no representation, either express or implied, with respect to the condition of the Easement Area. Grantees agree that they shall accept the Easement Area in its "AS IS" condition and shall use the Easement Area at their own risk. Grantees hereby release Grantor, its officers, employees, contractors and agents, from any responsibility for the Grantees' losses or damages related to the condition or use of the Easement Area, except if caused by the gross negligence or willful misconduct of Grantor its agents, employees or contractors, and Grantees agree and covenants that they will not assert or bring, nor cause any third-party to assert or bring, any claim, demand, lawsuit or cause of action against Grantor, including, without limitation, claims for property damages, personal injury damages and any other damages relating to, or arising from, Grantees' activities on or about the Easement Area. Grantees acknowledge and agree that Grantor shall have no obligation to maintain the Easement Area for the benefit of the Grantee.

Grantees agree to indemnify, defend, and hold Grantor harmless from and against all debts, demands, actions, causes of actions, suits, dues, sum and sums of money, damages, liabilities and any and all claims, demands and liabilities whatsoever of every name and nature, both in law and equity, arising out of or relating to: (a) the discharge,

release or threatened release at or from the Easement Area of oil or hazardous material as defined under federal, state or local law which is caused by any of the Grantee Parties, (b) any failure on the part of Grantees to comply with any provision or term required to be performed or complied with by Grantees under this Grant of Easement, and (c) for the death, injury or property damage suffered by any person on account of or based upon the act, omission, fault, negligence or misconduct of any of the Grantee Parties in connection with or related in any way to this easement, except to the extent that such death, injury or damage is caused by the gross negligence or willful misconduct of Grantor. The provisions hereof shall survive the expiration or termination of this Grant of Easements.

The parties agree that upon any disruption of the surface of said Massachusetts Avenue in the exercise of this easement, Grantees shall restore said road to its prior condition as expeditiously as reasonably practicable, and at their own expense.

If Grantees fail to comply with the terms hereof, Grantor shall have the right, but not the obligation, to make such repairs itself and charge the reasonable cost of the same to Grantees. Grantees shall reimburse Grantor within thirty (30) days from receiving an invoice for the same from Grantor, failing which Grantor shall have the right to file a lien against Lot A and/or Lot B with the Nantucket Registry District of the Land Court.

All requirements set forth herein are independent of any permits, licenses or other approvals that are applicable to the Easement Area, and/or Grantees' use thereof. Grantee shall observe and obey directives of Grantor, as well as all applicable laws, bylaws, regulations and permitting or licensing requirements.

[signature page follows]

Executed and sealed this ____ day of _____, 2011.

Deleted: September

County of Nantucket,
By its County Commissioners

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss.

On this _____ day of _____, 2011, before me, the undersigned notary public, personally appeared Patricia Roggeveen, Rick Atherton, Whiting Willauer, Michael Kopko and Robert DeCosta, proved to me through satisfactory evidence of identification, which was _____, to be the persons whose names are signed on the preceding document, and acknowledged to me that they signed voluntarily for its stated purpose as County Commissioners of the County of Nantucket.

Deleted: September

Notary Public

Printed Name:
My Commission Expires:

GRANT OF EASEMENT

The COUNTY OF NANTUCKET, acting by and through its County Commissioners, having an address of 16 Broad Street, Nantucket, Massachusetts 02554 ("Grantor"), being the owner of the land now known as Massachusetts Avenue by virtue of an Order of Layout and Taking recorded with Nantucket Deeds in Book 507, Page 109, and registered with the Nantucket Registry District of the Land Court as Document No. 72383, pursuant to Massachusetts General Laws Chapter 34, Section 14, for consideration paid of One Dollar (\$1.00), the receipt and sufficiency of which is hereby acknowledged, grants to R. THOMAS OKONAK and JAMES R. OKONAK, Trustees under a Trust Agreement dated April 24, 1987 and registered with the Nantucket Registry District as Document No. 46638 ("Grantees"), and those claiming by, through or under them by instrument of record, as the owners of the land now known and numbered as 20 and 23 Massachusetts Avenue, Nantucket, Massachusetts (Lots 1, 2, 3, 4, 5, 61 and 62 in Block No. 30 on Land Court Plan 2408-Y (collectively, "Lot A") and Lot 1-A on Land Court Plan 2408-1 ("Lot B")), by virtue of Certificate of Title No. 13,978, a non-exclusive easement in that area of Massachusetts Avenue shown on the Exhibit Plan Of Land attached hereto as Exhibit A as "Waste Pipe Easement 7.5' Wide" (the "Easement Area") for the installation, use, repair, replacement, inspection and maintenance of underground wires and conduits for the transmission of electricity and underground sewer pipes (collectively, the "Facilities"), all for the purpose of facilitating use of the septic or other sewage disposal system installed on Lot A to service the single-family residence on Lot B.

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[signature page follows]

Executed and sealed this ____ day of _____, 2011.

County of Nantucket,
By its County Commissioners

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss.

On this _____ day of _____, 2011, before me, the undersigned notary public, personally appeared Patricia Roggeveen, Rick Atherton, Whiting Willauer, Michael Kopko and Robert DeCosta, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the persons whose names are signed on the preceding document, and acknowledged to me that they signed voluntarily for its stated purpose as County Commissioners of the County of Nantucket.

Notary Public
Printed Name:
My Commission Expires:

CURRENT ZONING CLASSIFICATION:
Residential 20 (R-20)

MINIMUM LOT SIZE: 20,000 S.F.
MINIMUM FRONTAGE: 75 FT.
FRONT YARD SETBACK: 30 FT.
REAR/SIDE SETBACK: 10 FT.
GROUND COVER % : 12.5%

MADAKET HARBOR
EXIST. WATERLINE 04/12/11 AT 3:30 P.M.

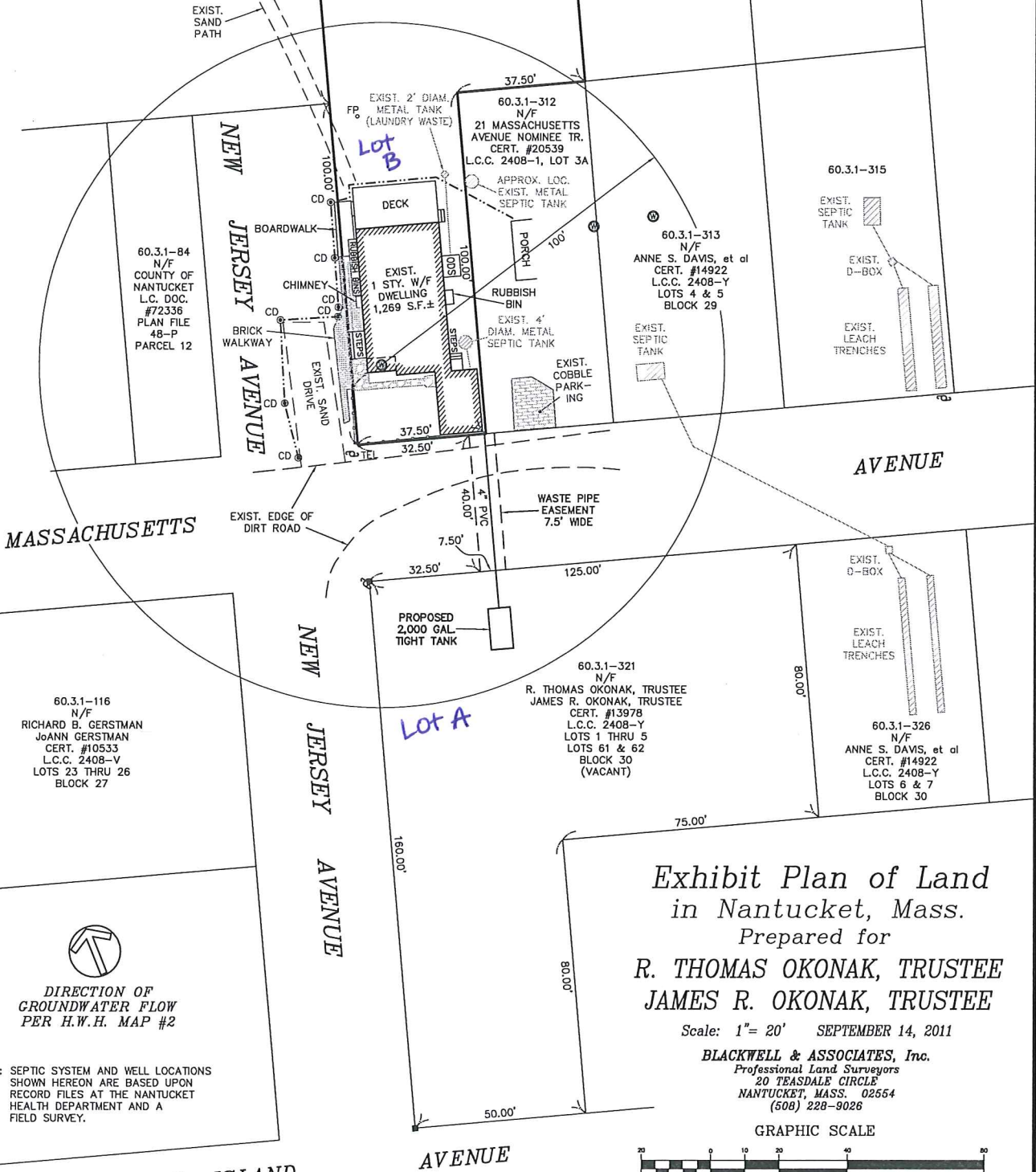
OWNER INFORMATION

R. THOMAS OKONAK, TRUSTEE
JAMES R. OKONAK, TRUSTEE
CERT. OF TITLE #13978
L.C.C. 2408-1, LOT 1A
DEED BOOK 318, PAGE 203 (PARCEL THREE)
ASSESSOR'S MAP 60.3.1, PARCEL 311
ASSESSOR'S MAP 60, PARCEL 3.1
23 & 23R MASSACHUSETTS AVENUE

60-3
N/F
COUNTY OF NANTUCKET
DEED BK. 506, PG. 347
PLAN FILE 48-P
PARCELS 13A & 47

60-4
N/F
ANNE S. DAVIS, et al
DEED BK. 368, PG. 37

60-5



MASSACHUSETTS

AVENUE

NEW JERSEY AVENUE

60.3.1-116
N/F
RICHARD B. GERSTMAN
JoANN GERSTMAN
CERT. #10533
L.C.C. 2408-V
LOTS 23 THRU 26
BLOCK 27

60.3.1-321
N/F
R. THOMAS OKONAK, TRUSTEE
JAMES R. OKONAK, TRUSTEE
CERT. #13978
L.C.C. 2408-Y
LOTS 1 THRU 5
BLOCK 30
(VACANT)

60.3.1-326
N/F
ANNE S. DAVIS, et al
CERT. #14922
L.C.C. 2408-Y
LOTS 6 & 7
BLOCK 30


DIRECTION OF
GROUNDWATER FLOW
PER H.W.H. MAP #2

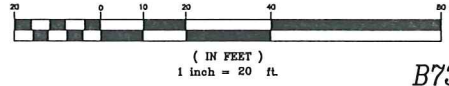
NOTE: SEPTIC SYSTEM AND WELL LOCATIONS
SHOWN HEREON ARE BASED UPON
RECORD FILES AT THE NANTUCKET
HEALTH DEPARTMENT AND A
FIELD SURVEY.

*Exhibit Plan of Land
in Nantucket, Mass.
Prepared for
R. THOMAS OKONAK, TRUSTEE
JAMES R. OKONAK, TRUSTEE*

Scale: 1" = 20' SEPTEMBER 14, 2011

BLACKWELL & ASSOCIATES, Inc.
Professional Land Surveyors
20 TEASDALE CIRCLE
NANTUCKET, MASS. 02554
(508) 228-9026

GRAPHIC SCALE



RHODE ISLAND

AVENUE