Zoning Board of Appeals

Packet

January 9, 2020

TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MA 02554

Agenda
(Subject to Change)
Thursday, January 9, 2020
1:00 PM
4 Fairgrounds Road
Public Safety Facility – **Community Room**

1 **I. CALL TO ORDER:**

II. APPROVAL OF THE AGENDA:

STAFF REPORT on Pages 4 - 6

III. APPROVAL OF THE MINUTES:

Pages 7 - 11

- December 12, 2019

IV. OLD BUSINESS (CONTINUED PUBLIC HEARINGS AND VOTES MAY TAKEN)**:**

Pages 13 - 15

- 18-19 Peter L O'Brien and Natalia V. O'Brien 36 Low Beach Road Cohen
  REQUEST TO WITHDRAW WITHOUT PREJUDICE

V. NEW BUSINESS (INITIAL PUBLIC HEARINGS AND VOTES MAY BE TAKEN):

Pages 17 - 41

- 01-20 Jill A. Araujo 40 Hooper Farm Rd. Reade
  Action Deadline April 8, 2020
  Applicant seeks to Modify Variance, granted in File No. 030-10 to allow applicant and former spouse to divide their property into two lots, by removing conditions which prohibit additional ground cover and a secondary dwelling. Locus is conforming as to ground cover ratio having 1,646 sq. ft. of ground cover where maximum allowable would be 25% of lot area (10,000 sq. ft) or 2,500 sq. ft. The Locus is situated at 40 Hooper Farm Road, shown on Assessor's Map 67 as Parcel 272, and as Lot 1

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

upon Plan No. 2010-37. Evidence of owner's title is recorded in Book 1302, Page 147 on file at the Nantucket County Registry of Deeds. The site is zoned Residential 10 (R-10).

Pages 42 - 63

- 02-20 Nicole Gross and Karl Gross 72 Cato Lane Beaudette
  Action Deadline April 8, 2020
  Applicants seek a Special Permit pursuant to Sections 139-30 and 139-16.C of the Nantucket Zoning By-Law, to validate an unintentional set back intrusion with the siting of a solar hot water heater into the required 10' side yard set-back. In the alternative, Applicants request relief by Variance pursuant to Section 139-32 of the By-Law from the setback provisions of Section 139-16.A. The Locus is situated at 72 Cato Lane, shown on Assessor's Map 66 as Parcel 457, and as Lot 2 upon Plan No. 2008-21. Evidence of owner's title is recorded in Book 1152, Page 103 on file at the Nantucket County Registry of Deeds. The site is zoned Residential 10 (R-10).

VI. OTHER BUSINESS: (Votes may be taken)

Pages 65 - END

- 051-03 Rugged Scott a/k/a Beach Plum 40B Holland / Posner
  DISCUSSION of implementing policy in fulfillment of obligation to allow abutting property owners non-resident family membership privileges and access to the common amenities (Clubhouse/Pool/Lawn/Tennis Court Facility) in Beach Plum Village, as per provisions in Section 3.2(o) regarding Management Issues in the original Comprehensive Permit and Section 9 of the "Settlement Agreement".

2

VII. ADJOURNMENT (VOTE WILL BE TAKEN)

TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MA 02554

STAFF REPORT

Date: **January 6, 2020**

To: **Zoning Board of Appeals**

1 **From:** **Eleanor W. Antonietti**
Zoning Administrator

Re: **January 9, 2020**

I. APPROVAL OF THE MINUTES:

- December 12, 2019

II. OLD BUSINESS (CONTINUED PUBLIC HEARINGS AND VOTES MAY TAKEN):

- 18-19 Peter L O'Brien and Natalia V. O'Brien 36 Low Beach Road Cohen
  REQUEST TO WITHDRAW WITHOUT PREJUDICE
  Sitting SM MJO KK GT JM *At table*: MP *CONFLICTS*: ET LB
  The Applicant submitted a successful RFP for the Yard Sale parcel which renders the need for relief obsolete.

III. NEW BUSINESS (INITIAL PUBLIC HEARINGS AND VOTES MAY BE TAKEN):

- 01-20 Jill A. Araujo 40 Hooper Farm Rd. Reade
  Action Deadline April 8, 2020 CONFLICTS: **NONE KNOWN**
  Applicant seeks to Modify Variance, granted in File No. 030-10 to allow applicant and former spouse to divide their property into two lots, by removing conditions which prohibit additional ground cover and a secondary dwelling. Locus is conforming as to ground cover ratio having 1,646 sq. ft. of

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508-325-7587 telephone 508-228-7298 facsimile

ground cover where maximum allowable would be 25% of lot area (10,000 sq. ft) or 2,500 sq. ft. The Locus is situated at 40 Hooper Farm Road, shown on Assessor's Map 67 as Parcel 272, and as Lot 1 upon Plan No. 2010-37. Evidence of owner's title is recorded in Book 1302, Page 147 on file at the Nantucket County Registry of Deeds. The site is zoned Residential 10 (R-10).

The Board approved similar relief to the owner of 7 Hull Lane, ex-spouse of this Applicant, at its October 10, 2019, meeting (File No. 27-19). As in that case, Applicant seeks to modify prior Variance (Pages 29 – 34 of the Packet) by eliminating the 2 conditions. The Variance was granted in 2010 to allow for subdivision of a compliant, oversized lot into the subject compliant Lot 1, Locus, and into the nonconforming Lot 2. Lot 1, as shown on the recorded ANR Plan No. 2010-37 on Page 21, contains 10,000 SF, in compliance with the R-10 minimum lot size requirement, and is improved with a dimensionally compliant 1,646 SF DU.
The Locus would be eligible for 25% GCR of 10,000 SF or 2,500 SF, leaving 854 SF of additional ground cover.

The parking requirements for R-10 are 2 spaces for a primary DU and .75/BR for the 2nd ary DU. A 2nd ary DU would require Planning Board approval which would automatically require compliance with parking provisions of Section 139-18.

Staff included prior decisions and plans in the Packet (see Pages 28-41).

- 02-20 Nicole Gross and Karl Gross 72 Cato Lane Beaudette
  Action Deadline April 8, 2020 CONFLICTS: **NONE KNOWN**

2

Applicants seek a Special Permit pursuant to Sections 139-30 and 139-16.C of the Nantucket Zoning By-Law, to validate an unintentional set back intrusion with the siting of a solar hot water heater into the required 10' side yard set-back. In the alternative, Applicants request relief by Variance pursuant to Section 139-32 of the By-Law from the setback provisions of Section 139-16.A. The Locus is situated at 72 Cato Lane, shown on Assessor's Map 66 as Parcel 457, and as Lot 2 upon Plan No. 2008-21. Evidence of owner's title is recorded in Book 1152, Page 103 on file at the Nantucket County Registry of Deeds. The site is zoned Residential 10 (R-10).

This is a request for a Special Permit, or in the alternative relief by Variance, to validate the As-Built siting of a ground mounted solar-powered water heating unit. The Applicants were issued Building Permit No. 645-18 to install a "ground mounted solar hotwater system". The contractor obtained the express approval from the ZEO. There is an email exchange to that effect between the ZEO and the contractor. See Page 50 where the ZEO cites MGL c. 40A § 3 ¶ 9 which states:
No zoning ordinance or by-law shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare.

However, the Building Commissioner has denied a CO for the project based upon the interpretation that a solar structure should not by default be exempted from zoning requirements, in this case setback provisions. Staff has spoken with the Building Commissioner and explained that the Applicant is coming before the Board seeking Special Permit relief pursuant to Section 139-16.C(1). He has no objections thereto and will sign off on the CO once the Special Permit is recorded and in the Bldg. Dept. file.
Staff has included supplemental materials in the packet (Bldg. Permit, HDC COA & plans, photo) on Pages 56-63.

Section 139-16.C(1) reads:

The Board of Appeals may grant a special permit to reduce the ten-foot side yard setback in R-5 and the ten-foot side and rear yard setback in R-10, SR-10, R-20 and SR-20 to five feet.

The relief is sought to validate the installation of the "solar collector" as close as 8.7' from the southerly side yard lot line where a 10' setback is required.

IV. OTHER BUSINESS (Votes may be taken)

- 051-03 Rugged Scott a/k/a Beach Plum 40B Holland / Posner / Haverty
DISCUSSION of implementing policy in fulfillment of obligation to allow abutting property owners non-resident family membership privileges and access to the common amenities (Clubhouse/Pool/Lawn/Tennis Court Facility) in Beach Plum Village, as per provisions in Section 3.2(o) regarding Management Issues in the original Comprehensive Permit and Section 9 of the "Settlement Agreement".

NO NEW INFORMATION HAS BEEN RECEIVED.

V. ADJOURNMENT (VOTE WILL BE TAKEN)

2 Fairgrounds Road Nantucket Massachusetts 02554
508-325-7587 telephone 508-228-7298 facsimile

ZONING BOARD OF APPEALS

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

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

~~ MINUTES ~~

Thursday, December 12, 2019

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

Called to order at 1:04 p.m. and Announcements made.

Staff in attendance:	Eleanor Antonietti, Zoning Administrator; T. Norton, Town Minutes Taker
Attending Members:	McCarthy, Botticelli, Toole, O'Mara, Koseatac, Poor, Thayer, Mondani
Late Arrivals:	Botticelli, 1:05 p.m.

Agenda adopted as amended by unanimous consent

I. APPROVAL OF MINUTES

1. November 14, 2019: Motion to Approve. (made by: Toole) (seconded by: Thayer) Carried unanimously

II. OLD BUSINESS

1. 76-11 Sachems Path Nantucket, LLC Sachems Path 40B

Vote to release remaining funds in Escrow account subsequent to payment of all outstanding invoices.

Voting	McCarthy, Botticelli, Toole, O'Mara, Koseatac
Alternates	Poor, Thayer, Mondani
Recused	None
Documentation	File with associated plans, photos and required documentation
Representing	None
Public	None
Discussion	**McCarthy** – Ed Pesce recommends releasing the funds upon payment of his final bill.
Motion	**Motion to Approve the release of the escrow upon payment of the final bill submitted by the Town Engineering Consultant, Ed Pesce.** (made by: Toole) (seconded by: O'Mara)
Vote	Carried 5-0

2. 18-19 Peter L O'Brien and Natalia V. O'Brien 36 Low Beach Road Cohen

Request to continue to January 9, 2020

Voting	McCarthy, O'Mara, Koseatac, Thayer, Mondani
Alternates	Poor
Recused	Botticelli, Toole
Documentation	File with associated plans, photos and required documentation
Representing	None
Public	None
Discussion	**McCarthy** – A continuance has been requested
Motion	**Motion to Continue to January 9, 2020.** (made by: Thayer) (seconded by: Koseatac)
Vote	Carried 5-0
Motion	**Motion to Extend the action deadline to January 14, 2020** (made by: Thayer) (seconded by: Koseatac)
Vote	Carried 5-0

3. 29-19 Timothy M. Stevens & Lea Stevens 45 Starbuck Road Williams

Applicant is seeking Special Permit relief pursuant to Zoning By-law Sections 139-30 and 139-2 in order to install an in-ground residential swimming pool. The proposal meets the criteria in Section 139-2.A. Locus is situated at 45 Starbuck Road, shown on Assessor's Map 59.3 as Parcel 50, as Lot 385 upon Land Court Plan 3092-25. Evidence of owner's title is registered on Certificate of Title No. 27439 at the Nantucket County District of the Land Court. The site is zoned Village Residential (VR).

Voting	McCarthy, Botticelli, Toole, O'Mara, Koseatac
Alternates	Poor, Thayer, Mondani
Recused	None
Documentation	File with associated plans, photos and required documentation
Representing	Linda Williams Jessie Dutra, Dutra Designs, Inc.
Public	None

PROPOSED

Discussion (1:08) **Williams** – Her client reviewed the standard conditions and has no concerns with them being applied. In this particular case, the pool is virtually invisible. There is no proposed landscape lighting, just lighting within the pool.

McCarthy – There should be language in the approval that the only lighting is in the pool. We might want more screening of the pool.

Dutra – Little of the natural vegetation is changing. Anything on the pond side is in the no-disturb zone.

Williams – You can't see the pool because of the topography and building, so she feels there is no need for extra screening. Ms. Antonietti gave us the list of conditions; we meet all the conditions.

Botticelli – Doesn't think the visibility of the fence is an issue. What would be helpful is to have detailed landscaping more clearly shown on a plan.

McCarthy – We need the plan to be labeled with the plants to clarify the plans. Visibility isn't the issue for a special permit; we just need the details presented in a more professional manner. The other pools approved under Special Permit had specific information about plants, screening, and lighting; we need that to be consistent.

Dutra – He hasn't yet worked out the specific plants to be used with the property owner.

Williams – The other two pools the ZBA approved in Madaket were contentious because they were much more visible and with a larger impact on the neighbors. Historic District Commission (HDC) approved the pool based upon lack of visibility.

McCarthy – They were contentious because they were the first pool special permits; we have since developed requirements and protocol. Visibility is the concern of the HDC, not the ZBA. We need the planting plan, lighting schedule, and pool equipment.

Botticelli – Suggested Bracken add notes to his survey plan indicating the no-disturb line. The plan should be clean.

McCarthy – You keep saying you aren't adding plants, but you are.

Discussion about whether or not to approve this with conditions requiring additional information on the site plans.

Motion **Motion to Grant the Special Permit with all the conditions imposed in previously approved pool Special Permits included in the decision and with submission of a more detailed site plan.** (made by: Toole) (seconded by: Botticelli)

Vote Carried 5-0

4. 30-19 Nantucket Housing Authority (OWNER) Habitat for Humanity Nantucket, Inc. (APPLICANT)
Miacomet Village 40B Brescher

The Applicant, Habitat for Humanity Nantucket, Inc., seeks to modify prior Comprehensive Permits, granted in accordance with M.G.L. Chapter 40B, pursuant to 760 CMR 56.05 to allow Lot 17, currently prohibited from having any dwellings, to contain dwellings and be further subdivided. Specifically, Habitat is proposing to subdivide Lot 17 into three lots. Concept "Lot 1" will have no dwellings and will contain two existing outbuildings. Concept "Lot 2" will contain either a single-family dwelling or a duplex, which will then be converted to a condominium form of ownership and conveyed to two families. Concept "Lot 3" will contain a single-family dwelling. Concept Lots 2 and 3 shall abide by the proposed Homeowner's Association Declaration of Restrictions. The property will be permanently deed-restricted for the purpose of providing affordable year-round housing. As proposed, the structures will otherwise conform to the intensity regulations of the R-10 zoning district. The Applicant is requesting waivers from the Code of the Town of Nantucket and, to the extent necessary, relief from the Rules and Regulations of the Nantucket Planning Board and the Subdivision Control Law, as provided in M.G.L. Chapter 40B. The file with a copy of the complete list 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. Locus is situated within the Miacomet Village, a 40B subdivision approved and modified in Comprehensive Permit Decisions numbered 025-86, 050-86, 030-94, 110-93, and 17-97. The above-referenced Lot 17 is shown on Plan File 44-Y. Evidence of owner' title is in Book 233, Page 26 on file at the Nantucket County Registry of Deeds. The site is zoned Limited Use General 2 (LUG-2).

Voting McCarthy, Botticelli, Toole, O'Mara, Koseatac
Alternates Poor, Thayer, Mondani
Recused None
Documentation File with associated plans, photos and required documentation
Representing John Brescher, Glidden & Glidden
Gerry Keneally, President Habitat for Humanity
Public None

Discussion (1:28) **Brescher** – Reviewed the request. Have submitted a revised concept site plan showing the parking for each unit; and clarification of requested waivers. Nantucket Housing Authority (NHA) and Housing Nantucket have provided letters supporting the request.

Keneally – Reviewed the parking provided; have approval from police, fire, water, & sewer. The Fire Department asked for a fire hydrant; there is a fire lane in front of the house. There is a duplex and on single-family dwelling. Will be going to HDC.

Toole – Asked what the minimum required greenspace is; he can't remember if there was a number in mind.

Antonietti – There is no provision in the Zoning By-law requiring a minimum percentage of greenspace for residential lots. Discussion about the transformation of greenspace/open space within a dense development into building lots.

McCarthy – We weren't prepared to vote not knowing if other departments had issues.

Botticelli – The biggest issue with no frontage is access.

Keneally – We went from 5 feet to 15 feet for an undisturbed buffer zone.

PROPOSED

McCarthy – We can add "undisturbed" to the language. We've heard back from the other departments and the applicant provided the information we requested. She would want Lot 1 to remain undeveloped.

Motion **Motion to Approve the application as requested to modify the Comprehensive Permit to allow Lot 17 to be divided into 3 lots; Lot 1 to have no dwellings on it; Lots 2 &3 to have one single-family dwelling and one duplex and plan updated to show undisturbed buffer and no-parking fire lanes and the encroaching shed on Lot 2 to be moved out of the setback.** (made by: Koseatac) (seconded by: O'Mara)

Vote Carried 5-0

III. NEW BUSINESS

1. 31-19 Trustees of the Union Lodge, Free & Accepted Masons 30 Main Street Cohen

Applicant seeks relief by Special Permit pursuant to Zoning By-law Section 139-33.A to remove and reconstruct a portion of the pre-existing nonconforming structure within the rear yard setback and in excess of the permitted 75% ground cover ratio. Specifically, Applicant proposes to demolish and reconstruct a rear portion of the existing structure to allow for needed improvements to the foundation with the ability to retain the pre-existing nonconforming ground cover of 3,370 SF and with no change to the pre-existing nonconforming rear setback distance. Locus is situated at 30 Main Street, shown on Assessor's Map 42.3.1 as Parcel 215, as Lot 6 upon Land Court Plan 13467-D and unregistered abutting parcel to the north. Evidence of owner's title is registered on Certificate of Title No. 7327 at the Nantucket County District of the Land Court and in Book 102, Page 567 on file at the Nantucket County Registry of Deeds. The site is zoned Commercial Downtown (CDT).

Voting Botticelli (acting chair), Toole, Koseatac, Poor, Mondani

Alternates None

Recused McCarthy, O'Mara, Thayer,

Documentation File with associated plans, photos and required documentation

Representing Jay Maroney
Scott Andersen, contractor

Public None

Discussion (1:56) **Maroney** – Presented the request.

Botticelli – The plan isn't clear as to what is being demolished and rebuilt.

Maroney – Clarified that the scope is to demolish/rebuild the wood ell-shaped porch, demolish chimneys, and underground structural work to the foundation.

Toole – It would help to have the construction plans from which the work is going be done. The information submitted to date is not clear; this is too big to do through staff.

Botticelli – We also need the construction protocol that protects the neighbors from work being done on the lot line. Agrees that this is too big to do through the staff.

No concerns with the project concept.

Motion to Continue to the end of the meeting and be reopened. (made by: Mondani) (seconded by: Koseatac) Carried unanimously

Reopened at 2:36 p.m.

Andersen – If we removed the structure without the special permit, we would lose the groundcover. We need to take the wart out to access the basement. NIR has plans and knows the full scope of work and did survey work.

Toole – All that information needs to be part of our record.

Andersen – There is high-water issue, but we want to go down 7 feet. Presented the plan at the table. Work is at least 8 feet from NIR's building.

Review of the construction plans.

Botticelli – As part of the approval, we should get a reduced set of the plans.

Antonietti – Everything that the Board sees and bases its decision must become part of the record. He can deliver a full-sized copy of the architectural plans.

Discussion of construction moratorium conditions: 7 a.m.-4 p.m., Monday through Friday, no external work on weekends and between Friday Memorial Day weekend and Labor Day, construction parking not to block streets.

Toole – Asked about their plan concerning the water.

Andersen – over the past couple of months, he hasn't seen water and thinks the basement can be excavated down to 8 feet without issues.

Mondani – He feels very confused because the information isn't there. He'll support this if the other members do. He's comfortable with the interior basement work.

Toole – He agrees with Mr. Mondani. However, the applicant has done the work and has the information. The more information we get from the beginning, the faster a decision can be made. Normally, we would tell them to come back next month with all the information.

Antonietti – In previous cases, there have been one or more abutters with concerns. That wasn't the case here.

PROPOSED

Motion **Motion to Approve the application as requested with the standard construction protocols, conditions, and moratorium, as discussed, in effect and Applicant will submit all documents and materials requested to be submitted into the file (Engineer report, Abutter assent to project, Town street closing permit, detailed foundation plan that clearly shows part of building to be demolished and rebuilt).** (made by: Koseatac) (seconded by: Botticelli)

Vote Carried 5-0

2. 32-19 Patrick S. Keating 49 Red Barn Road Carey

The Applicant seeks relief by Variance pursuant to Zoning By-law Section 139-32 for a waiver from the front and side yard setback provisions in Section 139-16.A. Specifically, Applicant proposes to move an existing dwelling to a location in the northeast corner of the lot, roughly 5' from the front and side yard lot lines, in order to retreat from the severely eroding coastal bank which places the structure in its current location in imminent danger. Locus is situated at 49 Red Barn Road, shown on Assessor's Map 63 as Parcel 15, and as Lot 3 upon Land Court Plan 35141-B. Evidence of owner's title is registered on Certificate of Title No. 26766 at the Nantucket County District of the Land Court. The site is zoned Limited Use General Two (LUG-2).

Voting McCarthy, Botticelli, Toole, O'Mara, Koseatac
Alternates Poor, Thayer, Mondani
Recused None
Documentation File with associated plans, photos and required documentation
Representing Linda Williams
Public None
Discussion (2:05) **Williams** – This is surrounded by conservation land and water so when it moves to the zero setback, there is nothing near it to be impacted. An emergency move has been issued to pull it off the edge and it has been disconnected from all utilities.
Botticelli – We could approve per the submitted plan which indicates setback 5 feet.
Williams – This move would give it 5 or 6 more years of use.
O'Mara – Access to parking is through where the house is going. The new access needs to be on the plan.
Motion **Motion to Grant the variance as requested.** (made by: Toole) (seconded by: O'Mara)
Vote Carried unanimously

3. 33-19 John B. Brescher, Trustee, 3 Pond Road Nominee Trust 3 Pond Road Brescher

Applicant is seeking modification of prior Variance relief and, to the extent necessary, Variance relief pursuant to Zoning By-law Section 139-32 for a waiver from the front yard setback provision in Section 139-16.A in order to allow second-floor dormers on the secondary dwelling structure as close as 26.1' from the front yard lot line. The subject structure is sited as close as 12.9' from the front yard lot line where minimum front yard setback is 30'. 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. 26211 at the Nantucket County District of the Land Court. The site is zoned Residential 20 (R-20).

Voting McCarthy, Botticelli, Toole, O'Mara, Koseatac
Alternates Poor, Thayer, Mondani
Recused None
Documentation File with associated plans, photos and required documentation
Representing John Brescher
Public None
Discussion (2:13) **Brescher** – The garage is 12.9 feet from the front yard lot line and became non-compliant when the lot was subdivided.
Botticelli – The building is already over the setback but there is a lot of vegetation. The owner probably didn't realize the dormers would be tagged.
Motion **Motion to Modify the existing variance as requested.** (made by: Botticelli) (seconded by: Toole)
Vote Carried 5-0

4. 34-19 Daniel L. Lawson & Michael J. Gnojewski 26 Appleton Road Weinman

At the time the relief was granted, the proposed 17,496 sq. ft. lot was undersized for the R-20 zoning district in which it was situated. When the zoning was changed to R-5, the lot became conforming in all respects, rendering the need for relief obsolete. Locus is situated at 26 Appleton Road Avenue, is shown on Assessor's Map 66 as Parcel 30, and as Lot 30A upon Plan No. 2006-13. Evidence of owner's title is recorded in Book 1313, Page 36 on file at the Nantucket County Registry of Deeds. The site is zoned Residential Five (R-5).

Voting McCarthy, Botticelli, Toole, O'Mara, Koseatac
Alternates Poor, Thayer, Mondani
Recused None
Documentation File with associated plans, photos and required documentation
Representing None
Public Bryan Swain, attorney for the buyer

PROPOSED

Discussion (2:21) **Swain** – Rhoda Weinman is the attorney for the owner. The sale is contingent upon the approval of this request.
Antonietti – Provided the background on the request for removal of restrictions. The lot has been further subdivided since 2004. The need for the initial relief has been rendered obsolete by virtue of Annual Town Meeting (ATM) approval to change zoning district
McCarthy – Asked if the removal of the variance would apply to all the lots.
Antonietti – Yes, unless you make it a part of the approval that is exclusive to Lot 30A. The decision will be sent to the abutters and referenced against the previous decision. If the abutters who own the other affected lots want to build a second dwelling, they would have to come before the ZBA to remove the restriction and/or vacate the Variance relative to their lots.

Motion **Motion to Grant relief as requested to rescind and vacate prior Variance relief relative to 26 Appleton shown as Lot 30A on Plan 2006-13.** (made by: Toole) (seconded by: Botticelli)

Vote Carried 5-0

IV. OTHER BUSINESS

1. 051-03 Rugged Scott a/k/a Beach Plum 40B Holland / Posner
DISCUSSION of implementing policy in fulfillment of obligation to allow abutting property owners non-resident family membership privileges and access to the common amenities (Clubhouse/Pool/Lawn/Tennis Court Facility) in Beach Plum Village, as per provisions in Section 3.2(o) regarding Management Issues in the original Comprehensive Permit and Section 9 of the "Settlement Agreement".

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

Alternates Poor, Thayer, Mondani

Discussion (3:05) **Antonietti** – No new information has been submitted. This is continued.

2. Proposed Warrant Articles – 2020 Annual Town Meeting timeline. For information only
Antonietti – She will notify the members when the Planning Board is holding the hearing on this; she just needs to know if three or more are attending that meeting so she can post it as a ZBA meeting. The warrant will be published January 2, 2020; so any projects impacted by proposed changes would have to come to the ZBA.

V. ADJOURNMENT

Motion to Adjourn at 3:16 p.m. (made by: Mondani) (seconded by: Koseatac) Carried unanimously

Sources used during the meeting not found in the files:

1. Updated 2020 Annual Town Meeting Timeline Endorsed 06/05/2019

Submitted by:
Terry L. Norton

PROPOSED

OLD

BUSINESS

PETER L. & NATALIA V. O'BRIEN

36 LOW BEACH RD.

FILE NO. 18-19

Request to WITHDRAW WITHOUT PREJUDICE

COHEN
+COHEN
LAW PC

January 6, 2020

ATTORNEYS

Jennifer Cohen
Steven L. Cohen

Susan McCarthy, Chair
Nantucket Zoning Board of Appeals
2 Fairgrounds Road
Nantucket, MA 02554

Re: Applicant: Peter and Natalia O'Brien
Property: 36 Low Beach Drive
ZBA File No. 18-19

Dear Chair McCarthy,

By this letter request is hereby made by the Applicant to withdraw the above application without opening or prejudice.

If you have any questions or if further information is needed, please give me a call at (508) 228-0337.

Thank you,

Jay Maroney

Cohen + Cohen Law PC
34 Main St., 2nd Fl.
Mail: P.O. Box 786
Nantucket, MA 02554
Tel. (508) 228-0337
Fax (508) 228-0970

Print Form

NANTUCKET TOWN CLERK
2019 DEC 12 PM 12:08

TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MA 02554

File No. 18 - 19 Map 74 Parcel 55

This agreement to extend the time limit for the Board of Appeals to make a decision, hold a public hearing, or to take other action concerning the application of:

Peter L. & Natalia V. O'BRIEN - 36 Low Beach Road - VARIANCE

Pursuant to the provisions of the Acts of 1987, Chapter 498, amending the State Zoning Act, Chapter 40A of the Massachusetts General Laws, Applicant(s)/Petitioner(s) and the Zoning Board of Appeals hereby agree to extend the time limit

- ○ For a public hearing on the application
- ✓ For a written decision
- ○ For other action _____

Such application is:

- ○ An appeal from the decision of any administrative official
- ○ A petition for a special permit
- ✓ A petition for a variance
- ○ An extension
- ○ A modification

The new time limit shall be midnight on February 14, 2020, which is not earlier than a time limit set by statute or bylaw.

The Applicant (s), attorney, or agent for the Applicant represented to be duly authorized to act in this matter for the applicant, in executing this agreement waives any rights under the Nantucket Zoning Bylaw and the State Zoning Act, as amended, to the extent, but only to the extent, inconsistent with this agreement.

Jay Maroney, Attorney
For Applicant (s)

Eleanor W. Antonietti, Zoning Administrator
For Zoning Board of Appeals

October 10, 2019
Effective Date of Agreement

Town Clerk Stamp:

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

NEW

BUSINESS

JILL A ARAUJO

40 Hooper Farm Rd.

FILE NO. 01-20

Variance

Modification

- 030-10

NANT
TOWN

2019 DEC 10

2019 DEC 10 PM 3:20

TOWN CLERK

TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MA 02554

PAID
DEC 10 2019
#208 10
$450.00
BY:

APPLICATION

Fee: $450.00 **File No. 01-20**

Owner's name(s): **Jill H. Araujo**

Mailing address: **c/o Reade, Gullicksen, Hanley & Gifford, 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**

Mailing Address: **Same**

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

Locus Address: **40 Hooper Farm Road** Assessor's Map/Parcel: **67-272**

Plan No. **2010-37, Lot 1**

Deed Reference **Book 1302, Page 147** Zoning District **Residential-10 (R-10)**

Uses on Lot- Commercial: **None**
Residential: Number of dwellings **One**
Date of Structure(s): all pre-date 7/72 **No**

Building Permit Numbers:

Previous Zoning Board Application Numbers: **030-10**

Zoning Board of Appeals
DEC 10 2019
RECEIVED

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

The applicant requests that the decision in Board of Appeals File No. 030-10, granting a variance to the applicant and her former husband to enable their property to be divided into two lots, one of which is the present locus and was conveyed to the applicant pursuant to a separation agreement in connection with their divorce, be modified by removing the conditions, as they affect locus, that:

(a) No additional ground cover shall be placed upon either of the lots to be created by the division of the locus without further relief from this Board; and

(b) No secondary dwellings shall be permitted on either of such lots.

Locus contains 10,000 square feet in lot area, and is thus conforming with the minimum lot area of 10,000 square feet in the R-10 district. The present ground cover upon locus is 1,646± square feet, as shown upon the plan recorded with Nantucket Deeds as Plan No. 2010-37. Maximum permitted ground cover ratio in this district is 25%, or 2,500 square feet.

Similar relief was recently granted to the owner of Lot 2 in Board of Appeals File No. 27-19.

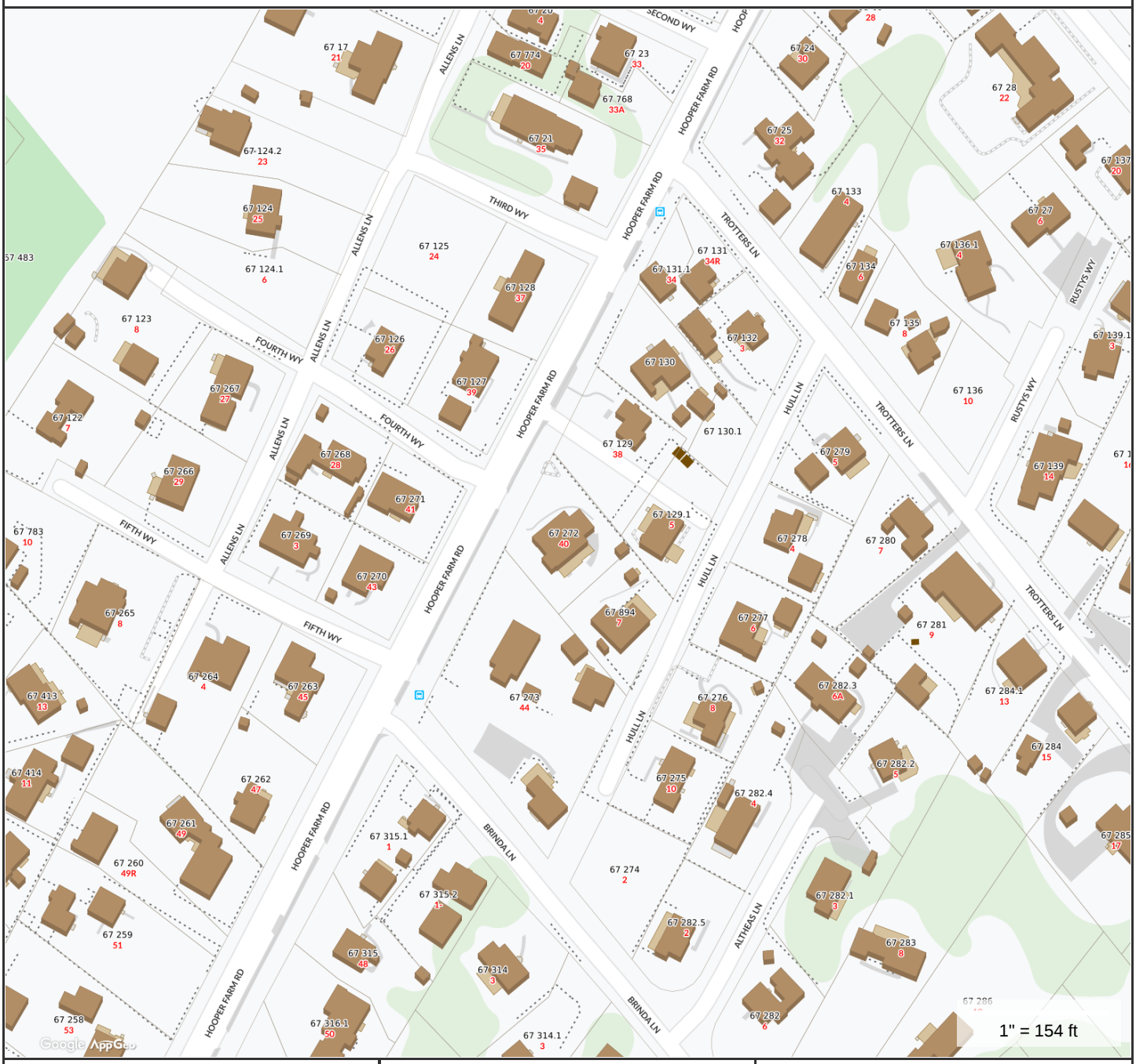
I certify that the information contained herein is substantially complete and true to the best of my knowledge, under the pains and penalties of perjury.

SIGNATURE: *Jill H. Araujo* Owner*
By:

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:__/__/__



Property Information

Property ID	65 16
Location	39 BARTLETT FARM RD
Owner	BARTLETT FARM LLC

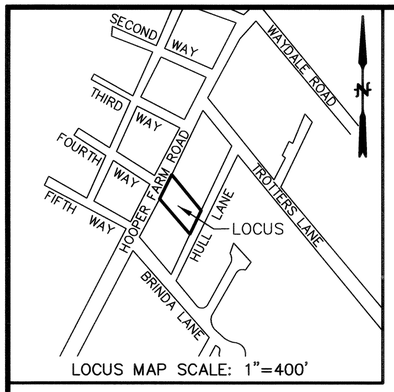
MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

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.

Geometry updated 11/13/2018
Data updated 11/19/2018

2010 00000037
Bk: Pg: 0 Page: 0
Doc: PLAN 08/05/2010 09:34 AM

NANTUCKET REGISTRY OF DEEDS
Date 08.05.2010
Time 9:34 AM
Plan BK. ____ PG. ____
Plan ~~File~~ No. 2010-37
Attest: Jennifer H Ferreira Register
Sheet 1 of 1
RESERVED FOR REGISTRY USE ONLY



LOCUS MAP SCALE: 1"=400'

REFERENCES:
OWNER: JOSEPH A. DEMBY &
JILL H. ARAUJO DEMBY

DEED REF.: DEED BOOK 503, PAGE 32
PLAN REF.: PLAN BOOK 15, PAGE 95

ASSESSORS REF.: MAP: 67 PARCEL: 272

ZONING CLASSIFICATION
DISTRICT: R-10 (PWR)

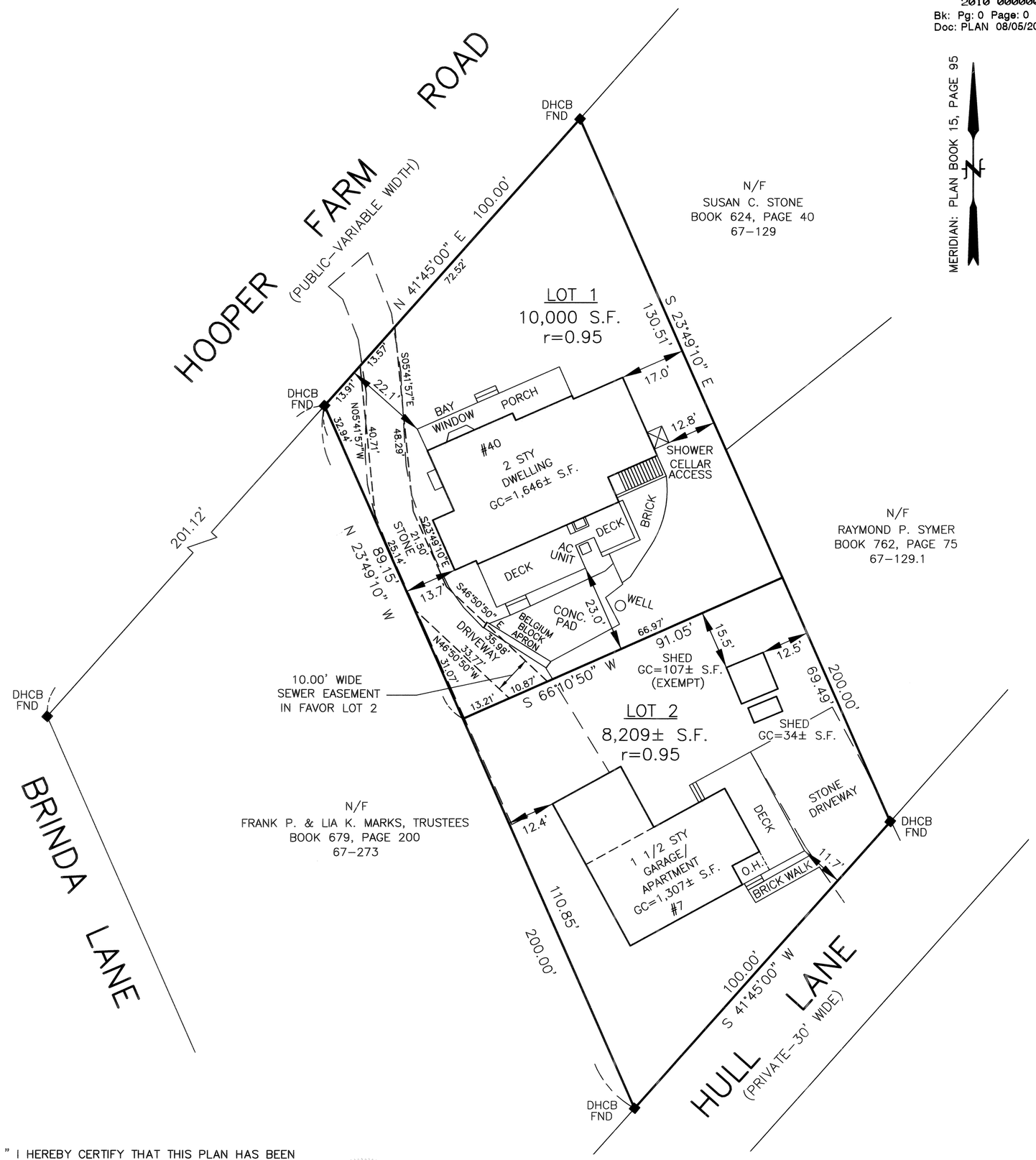
MINIMUM LOT SIZE =10,000 S.F.
MINIMUM FRONTAGE =75'
FRONT YARD SETBACK =20'
REAR & SIDE LINE SETBACK =10'
ALLOWABLE GROUND COVER RATIO =25%
EXISTING GROUND COVER RATIO =16.5% (LOT 1)
EXISTING GROUND COVER RATIO =16.3% (LOT 2)

NOTE:

1. THE PREMISES SHOWN ON THIS PLAN ARE LOCATED WITHIN THE "X" ZONE AS DELINEATED ON THE "FIRM" MAP OF COMMUNITY NO. 250230 0012 D; MAP REVISED: 11/06/1996 BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

LEGEND:

DHCB	DRILL HOLE/CONCRETE BOUND
CONC.	CONCRETE
FND	FOUND
GC	GROUND COVER
N/F	NOW OR FORMERLY
S.F.	SQUARE FEET
STY	STORY



MERIDIAN: PLAN BOOK 15, PAGE 95

LOT 1: THE AREA CALCULATIONS FOR THIS LOT COMPLIES WITH LOT AREA REQUIREMENTS AS PROVIDED IN NANTUCKET ZONING BYLAW CH. 139 SS. 2A AND 16A.

LOT 2: SEE BOARD OF APPEALS DESCISION. APPLICATION NO. 030-10, DATED MAY 27, 2010, DEED BOOK 1235, PAGE 197. VARIANCE GRANTED FOR LOT AREA AND FRONT YARD SETBACK.

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

PLAN OF LAND

IN
NANTUCKET, MASSACHUSETTS

SCALE: 1"=20' DATE: JULY 9, 2010

PREPARED FOR:
JOSEPH A. DEMBY &
JILL H. ARAUJO DEMBY

NANTUCKET SURVEYORS, LLC
5 WINDY WAY
NANTUCKET, MA 02554
(508) 228-0240

GRAPHIC SCALE
1"=20'
0 20 40 60 80

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

PROFESSIONAL LAND SURVEYOR 7/12/10 DATE

COMMONWEALTH OF MASSACHUSETTS
PAUL J. SANTOS
No. 36124
PROFESSIONAL LAND SURVEYOR

THE PLANNING BOARD DETERMINES THAT:

LOT(S) 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 STILL MAY BE SUBJECT TO PROTECTION UNDER STATE AND LOCAL WETLAND BYLAWS. DETERMINATION OF APPLICABILITY MAY BE OBTAINED THROUGH APPLICATION TO THE CONSERVATION COMMISSION.

NANTUCKET PLANNING BOARD
APPROVAL UNDER THE
SUBDIVISION CONTROL LAW
NOT REQUIRED

BARRY RECTOR, CHAIRMAN
SYLVIA HOWARD, VICE-CHAIRWOMAN
NATHANIEL LOWELL
JOHN MCLAUGHLIN
LINDA WILLIAMS

DATE APPROVED 07.19.2010
DATE SIGNED 07.19.2010
FILE NO. 7284

N-9595

\\I:\JOBS 7775+\N9595\N9595_ANR.DWG

COPY

RECEIVED
BOARD OF ASSESSORS
DEC 03 2019
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.....Jill H. Araujo.....

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

PROPERTY LOCATION.....40 Hooper Farm Road.....

ASSESSOR MAP/PARCEL.....Map 67, Parcel 272.....

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).

12-3-19
DATE

ASSESSOR'S OFFICE
TOWN OF NANTUCKET

Abutters List

MBLU	Lot	Lot Cut	Owner Full Name	Co-Owner Full Name	Address Line 1	City	State	Zip	Location
67	21		MUNNELLY THOMAS J & LESLIE E		PO BOX 2642	NANTUCKET	MA	02584	35 HOOPER FARM RD
67	124		KING ROBERT & SINATRA LAUREN M		25 ALLENS LN	NANTUCKET	MA	02554	25 ALLENS LN
67	124	1	KING ROBERT & SINATRA LAUREN M		25 ALLENS LN	NANTUCKET	MA	02554	6 FOURTH WY
67	125		CRONIER NANCY E & THOMAS S		2352 DARTS COVE WAY	MOUNT PLEASANT	SC	29466	24 ALLENS LN
67	126		CHACON ERIBERTO & MARIA ROSA		PO BOX 2437	NANTUCKET	MA	02584	26 ALLENS LN
67	127		NORTON ELLIOT R TR	ELDRIDGE B NORTON IRREVOC TRUST	39 HOOPER FARM RD	NANTUCKET	MA	02554	39 HOOPER FARM RD
67	128		CRONIER NANCY E & THOMAS S	C/O CRONIER NANCY	2352 DARTS COVE WY	MOUNT PLEASANT	SC	29466	37 HOOPER FARM RD
67	129		STONE MARTIN EDWARD		38 HOOPER FARM RD	NANTUCKET	MA	02554	38 HOOPER FARM RD
67	129	1	ROACH CHRISTOPHER R & COSTA COREY L		5 HULL LN	NANTUCKET	MA	02554	5 HULL LN
67	130		LOVE JOANNE E		PO BOX 132	PEAPACK	NJ	07977	36 HOOPER FARM RD
67	131		BELL SARAH R & JOYNER CAMILLE		PO BOX 2468	NANTUCKET	MA	02584	34R HOOPER FARM RD
67	131	1	BELL SARAH R & JOYNER CAMILLE		PO BOX 2468	NANTUCKET	MA	02554	34 HOOPER FARM RD
67	132		THREE TROTTERS LANE LLC		PO BOX 1316	NANTUCKET	MA	02554	3 TROTTERS LN
67	132	1	SOVERINO MALCOLM F		3 TROTTERS LN	NANTUCKET	MA	02554	3 TROTTERS LN #1
67	132	2	FINE EDWARD & LANZILLO RICHARD C		11381 WINGFOOT DRIVE	BOYNTON BEACH	FL	33437	1 HULL LN #2
67	262		CLARKSON EMILY M		47 HOOPER FARM RD	NANTUCKET	MA	02554	47 HOOPER FARM RD
67	263		MANGHIS CHARLES A TRUSTEE	WHALE IVORY TRUST	45 HOOPER FARM RD	NANTUCKET	MA	02554	45 HOOPER FARM RD
67	264		NOLASCO CARLOS A ETAL		PO BOX 2784	NANTUCKET	MA	02584	4 FIFTH WY
67	266		PEARCE CALLIE D & BRENDA J		29 ALLENS LN	NANTUCKET	MA	02554	29 ALLENS LN
67	268		DROZ PAUL C & THERESA ANN		28 ALLENS LN	NANTUCKET	MA	02554	28 ALLENS LN
67	270		MCINTOSH KIRK W		43 HOOPER FARM RD	NANTUCKET	MA	02554	43 HOOPER FARM RD
67	272		ARAUJO JILL H		40 HOOPER FARM RD	NANTUCKET	MA	02554	40 HOOPER FARM RD
67	273		MARKS LIA K TRST		44 HOOPER FARM RD	NANTUCKET	MA	02554	44 HOOPER FARM RD
67	274		FINEST KIND NANTUCKET LLC		60 WATER STREET APT 823	BROOKLYN	NY	11201	2 BRINDA LN
67	275		DAY DOLORES D & DORIS L		10 HULL LN	NANTUCKET	MA	02554	10 HULL LN
67	276		MARKS PATRICK N & JOY A		8 HULL LANE	NANTUCKET	MA	02554	8 HULL LN

67	277		GILES WILLIAM R & PATRICIA A		6 HULL LN	NANTUCKET	MA	02554	6 HULL LN
67	278		MANLEY JOAN H & GIL JUANITA V ETAL		4 HULL LN	NANTUCKET	MA	02554	4 HULL LN
67	279		HAJJAR PAUL		55 ELM STREET	QUINCY	MA	02169	5 TROTTERS LN
67	280		NIKOLOV BORISLAV G ETAL		9 WAYDALE ROAD # A	NANTUCKET	MA	02554	7 TROTTERS LN
67	281		HUNT SHERI A & TONIA A		9 TROTTERS LN	NANTUCKET	MA	02554	9 TROTTERS LN
67	282	4	WATTS WENDY B & BRUCE L		4 ALTHEAS LN	NANTUCKET	MA	02554	4 ALTHEAS LN
67	282	5	AHLBORN HERVEY D ETAL		PO BOX 141	NANTUCKET	MA	02554	2 ALTHEAS LN
67	282	6	DICKEY CATHERINE		6B ALTHEAS LANE	NANTUCKET	MA	02554	6B ALTHEAS LN
67	314		BRINDA ACK LLC		1636 3RD AVE SUITE 314	NEW YORK	NY	10128	3 BRINDA LN
67	315	1	VAN HOVEN JOHN A & LEIGH		9 HENDERSONS DR	NANTUCKET	MA	02554	1 BRINDA LN
67	315	2	REINEMO MATTHEW K		9 CACHALOT LN	NANTUCKET	MA	02554	1- BRINDA LN
67	894		DEMBY JOSEPH A		7 HULL LN	NANTUCKET	MA	02554	7 HULL LN
Count:	**38**								

MUNNELLY THOMAS J & LESLIE E
PO BOX 2642
NANTUCKET, MA 02584

KING ROBERT & SINATRA LAUREN M
25 ALLENS LN
NANTUCKET, MA 02554

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25 ALLENS LN
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MOUNT PLEASANT, SC 29466

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NANTUCKET, MA 02554

ROACH CHRISTOPHER R & COSTA
COREY L
5 HULL LN
NANTUCKET, MA 02554

LOVE JOANNE E
PO BOX 132
PEAPACK, NJ 07977

BELL SARAH R & JOYNER CAMILLE
PO BOX 2468
NANTUCKET, MA 02584

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NANTUCKET, MA 02554

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HAJJAR PAUL
55 ELM STREET
QUINCY, MA 02169

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4 ALTHEAS LN
NANTUCKET, MA 02554

AHLBORN HERVEY D ETAL
PO BOX 141
NANTUCKET, MA 02554

DICKEY CATHERINE
6B ALTHEAS LANE0
NANTUCKET, MA 02554

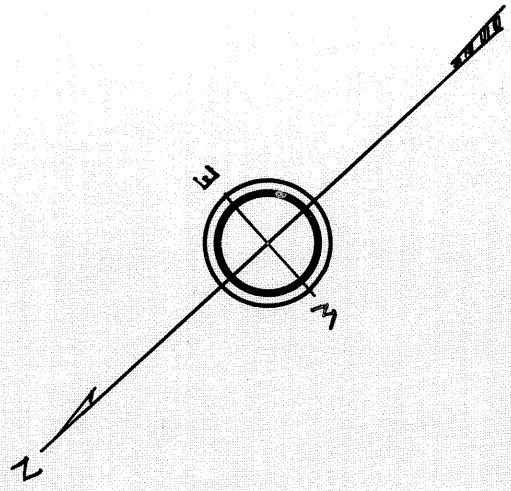
BRINDA ACK LLC
1636 3RD AVE SUITE 314
NEW YORK, NY 10128

VAN HOVEN JOHN A & LEIGH
9 HENDERSONS DR
NANTUCKET, MA 02554

REINEMO MATTHEW K
9 CACHALOT LN
NANTUCKET, MA 02554

DEMBY JOSEPH A
7 HULL LN
NANTUCKET, MA 02554

Materials Provided by Staff

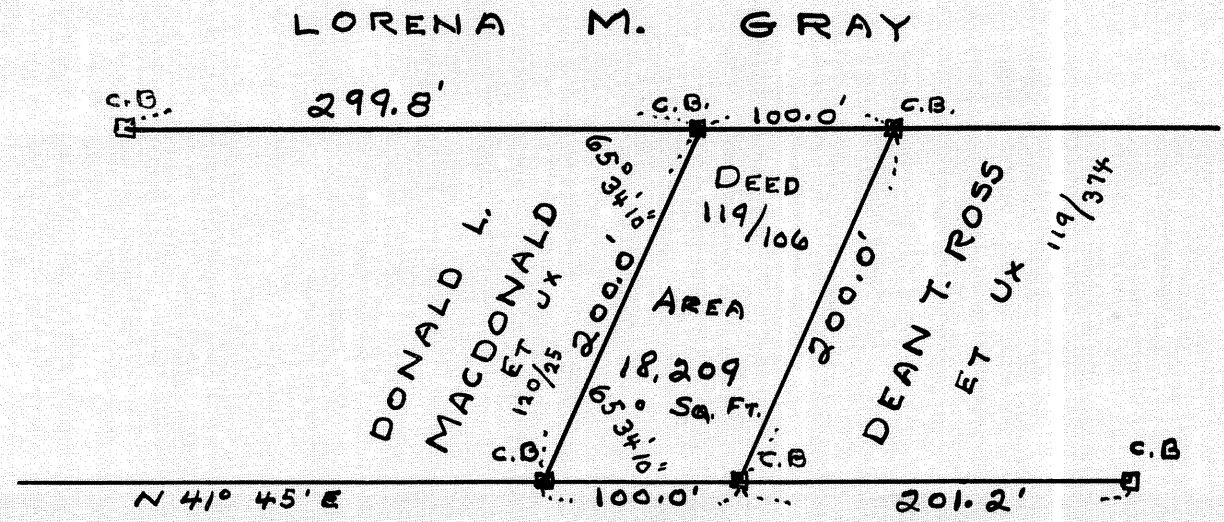


LAND OF:~

RICHARD L. CUMMINGS

MARCH 3, 1961 SCALE 100'=1"

JOSIAH S. BARRETT, ENGR.



MAR 6 1961

RECEIVED AND ENTERED WITH
NANTUCKET COUNTY DEEDS BOOK OF
PLANS NO. 15 PAGE 95
ATTEST: Josiah S. Barrett REGISTER

2010 00001802
Bk: 1235 Pg: 197 Page: 1 of 6
Doc: VAR 06/23/2010 11:28 AM

RECEIVED
'10 JUN -2 P3:27
NANTUCKET TOWN CLERK

TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MASSACHUSETTS 02554

Date: May 27, 2010

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

Application No: 030-10

Owner/Applicant: Joseph A. Demby and Jill H. Araujo Demby

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 O'Mara (Vernon Stoy)

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 272
40 Hooper Farm Road
Residential-10

Plan Book 15, Page 95
(No lot number)
Deed, Book 503, Page 32

DECISION:

1. At a public hearing of the Nantucket Zoning Board of Appeals, on Thursday, May 13, 2010, at 1:00 P.M., at 2 Fairgrounds Road, Nantucket, Massachusetts, the Board made the following decision on the application of JOSEPH A. DEMBY and JILL H. ARAUJO DEMBY, c/o Reade, Gullicksen, Hanley & Gifford, LLP, Post Office Box 2669, Nantucket, Massachusetts 02584, File No. 030-10:

2. The applicants wish to divide their existing lot containing a primary dwelling and a secondary dwelling into two lots, each of which would contain one of the dwellings. The locus is situated in the Residential-10 zoning district, in which the minimum lot area is 10,000 square feet. Although the lot's dimensions are 100' x 200', it is in the shape of a parallelogram rather than a rectangle, and as a result the lot area is about 18,209 square feet. At present, the primary dwelling receives its access by a driveway entrance from Hooper Farm Road, while the secondary dwelling's access is by a driveway from Hull Lane, which runs parallel to Hooper Farm Road. This arrangement pre-exists, and is nonconforming with, the present limitation of each lot to a single driveway access under Nantucket Zoning By-law §139-20.1. The applicants propose to divide their property into two lots, one of which would front on Hooper Farm Road and contain the primary dwelling, would be 10,000 square feet in area and would conform to all dimensional zoning requirements, and the other of which would contain about 8,209 square feet and the secondary dwelling; it would thus be nonconforming in lot area, and also would be nonconforming as to front yard setback, being

sited about 11.5 feet from Hull Lane at the closest point, with minimum front yard setback in this district being 20 feet. The present conditions upon the locus, and the approximate lines of proposed division, are shown upon a sketch plan attached hereto as Exhibit A, which shows the Hooper Farm Road lot as Lot 1 and the Hull Lane lot as Lot 2. The applicants accordingly request relied from By-law §139-16.A (Intensity Regulations: Lot Area and Front Yard Setback) with regard to Lot 2 in order to divide the property as proposed. The locus is situated at 40 Hooper Farm Road, Assessor's Parcel 67-272, is shown upon plan recorded with Nantucket Deeds in Plan Book 15, Page 95, and is situated in a Residential-10 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. The applicants' counsel read fourteen letters from neighbors in support of the application into the record; no opposition was presented at the public hearing.

4. The Board of Appeals is mindful of the rigorous standards for the granting of variances under applicable law, and recognizes that variances are to be "sparingly granted". The applicants represented that they were motivated to seek relief by their pending divorce proceedings, but acknowledged that this was not in itself a basis for the granting of variance relief. In the absence of any basis for the statutory findings that are necessary to support variance relief, the Board of Appeals would be powerless to grant such relief. However, the applicants argued that in the present case facts were presented that would justify the grant of relief. Specifically, they suggested that the shape of the locus, being a parallelogram, meets the requirement that a variance be based upon soil conditions, shape or topography which distinguishes it from other lots in the same zoning district; that the division of the locus into two lots would eliminate a zoning nonconformity because each of the resultant lots would have a single driveway, and thus that the requested relief would not derogate from the purpose and intent of the Zoning By-law; that the strong expression of support from neighbors, with the absence of opposition, demonstrates the desirability of the relief to be granted; and that the financial hardship of having the locus as a single lot, rather than two lots, is evident.

5. On the basis of this presentation, a majority consisting of four of the members sitting (Waine, Koseatac, Botticelli and McCarthy), with one (Toole) opposed, voted to make the finding that the proposed relief, for the reasons advanced by the applicants as set forth above, that owing to circumstances

relating to the shape of the locus and the structures thereon, and especially affecting the locus but not generally affecting lots in the same zoning district, a literal application of the provisions of the By-law would result in a substantial financial hardship to the applicants, and that desirable relief may be granted as requested by the applicants without derogating from the purpose and intent of the By-law; and accordingly to grant the requested relief by Variance from lot area and front yard setback for the lot to be created approximately as shown as Lot 2 on Exhibit A; subject to the following conditions:

(a) No additional ground cover shall be placed upon either of the lots to be created by the division of the locus without further relief from this Board; and

(b) No secondary dwellings shall be permitted upon either of such lots.

SIGNATURE PAGE TO FOLLOW

Dated: June 2, 2010

Dale W. Waine

Edward S. Toole

Kerim Koseatac

Lisa Botticelli

Susan McCarthy

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss. June 2, 2010

On this 2 day of June, 2010, before me, the undersigned Notary Public, personally appeared Kerim Koseatac, 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: Venessa K. Moore
My commission expires: March 22, 2013

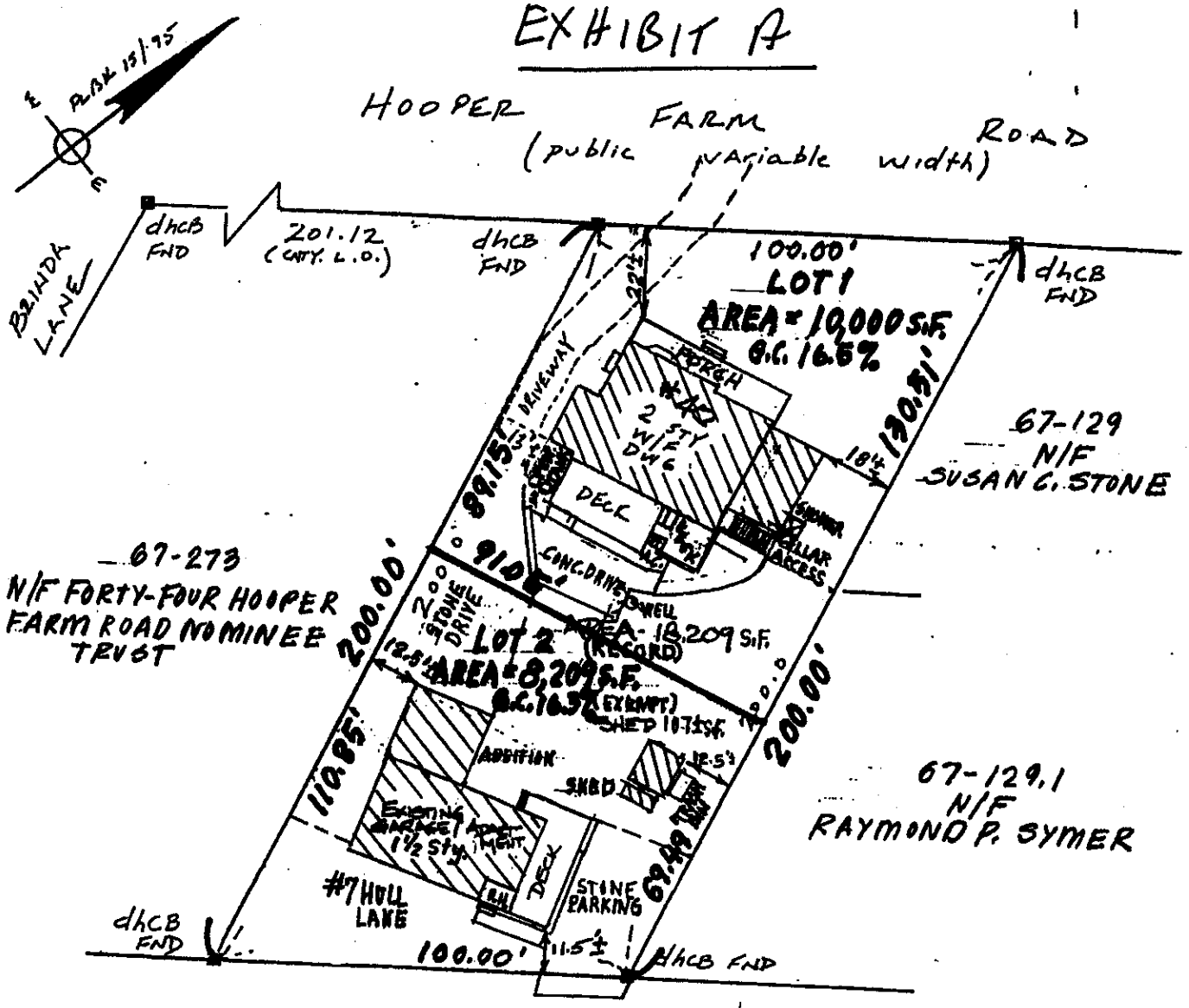
ATTEST: A TRUE COPY
NANTUCKET TOWN CLERK

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

JUN 23 2010

EXHIBIT A



LOT 2 VARIANCES REQUIRED
SECT. 13-16
a. LOT SIZE
b. FRONTYARD SETBACK

NOTE
* GROUND COVER

2 STY W/F DWG	=	1,646 ± SQ FT LOT 1
SHED	=	34 ± SQ FT LOT 2
GARAGE/APARTMENT	=	1307 ± SQ FT LOT 2

CURRENT ZONING MAP: R-10 (PWR)
MINIMUM LOT SIZE: 10,000 SQ FT
MINIMUM FRONTAGE: 75 FT
FRONTYARD SETBACK: 20 FT
SIDE AND REAR SETBACK: 10 FT
ALLOWABLE G.C.R.: 25 %
EXISTING G.C.R.: * SEE NOTE

COMMONWEALTH OF MASSACHUSETTS
PAUL J. SANTOS
No. 36134
PROFESSIONAL LAND SURVEYOR

4/8/10

PROPERTY LINES SHOWN ARE TAKEN FROM RECORDED DEED AND PLAN REFERED TO HEREON. BUILDINGS, MONUMENTS, ETC. ARE PLOTTED FROM FIELD MEASUREMENTS.

N.B. 143-1 & 109-73 & 339-51

ZBA EXHIBIT PLOT PLAN
IN
NANTUCKET, MASSACHUSETTS
SCALE: 1" = 40' DATE: 4/8/10
DEED REFERENCE: BK. 503 PG 32
PLAN REFERENCE: PL BK 15 PG 95
ASSESSOR'S MAP 67 PCL. 272
PREPARED FOR:
JOSEPH A. DEMBY

NANTUCKET SURVEYORS LLC
5 WINDY WAY
NANTUCKET, MA. 02554

N-9595

NANTUCKET COUNTY Received & Entered
Attest: Dennis P. Ferreira Register of Deeds

2011 00003029
Bk: 1302 Pg: 147 Page: 1 of 2
Doc: DD 11/25/2011 10:35 AM

QUITCLAIM DEED

We, Joseph Abdallah-Demby a/k/a Joseph A. Demby, of 7 Hull Lane, Nantucket, MA 02554 and Jill H. Araujo Demby, a/k/a Jill H. Demby-Abdallah, a/k/a Jill H. Araujo, of 40 Hooper Farm Road, Nantucket, MA 02554,

In consideration of pursuant to a Separation Agreement for Divorce Proceedings accepted by Nantucket Probate and Family Court, Docket No. NA10D0058DR on November 17, 2011, said conveyance being made as a division of marital assets between the grantors,

J.A.

Grant to [redacted] Jill H. Araujo, of 40 Hooper Farm Road, Nantucket, MA 02554,

With **quitclaim covenants**

The land with the buildings thereon situated in Nantucket, Massachusetts, bounded and described as follows:

> LOT 1, containing 10,000 S.F. as shown on "Plan of Land in Nantucket, Massachusetts, Scale: 1" = 20', Date: July 9, 2010, prepared for Joseph A. Demby & Jill H. Araujo Demby, Nantucket Surveyors, LLC, 5 Windy Way, Nantucket, MA 02554." Said Lot 1 being shown on the above-described plan recorded in the Nantucket Registry of Deeds in Plan Book 2010 Page 37.

For title, see deed recorded in Nantucket Registry of Deeds in Book 503 Page 32. In addition see Town of Nantucket Board of Appeals Decision recorded in Nantucket Registry of Deeds in Book 1235 Page 197.

PROPERTY ADDRESS: 40 Hooper Farm Road, Nantucket, MA.

DRAFT

EXECUTED as a sealed instrument this 25 day of November 2011, 2011

Joseph Abdallah-Demby, a/k/a
Joseph A. Demby

Jill H. Araujo-Demby, a/k/a
Jill H. Demby-Abdallah a/k/a Jill H. Araujo

NANTUCKET LAND BANK CERTIFICATE
☐ Paid $
☑ Exempt
☐ Non-applicable
No. 32184 Date 11/25/11
Authorization

COMMONWEALTH OF MASSACHUSETTS

COUNTY: Nantucket

On this 25 day of November, 2011 before me, the undersigned notary public, personally appeared Joseph Abdallah-Demby, a/k/a Joseph A. Demby, provided to me through satisfactory evidence of identification, being (check whichever applies): ☑ driver's license or other state or federal governmental document bearing a photograph image, ☐ oath or affirmation of a credible witness known to me who knows the above signatory, or ☐ my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledges to me that he signed the foregoing instrument voluntarily of his own free act and deed.

MEREDITH MACKLIN-TAAFFE
Notary Public, Commonwealth of Massachusetts
My Commission Expires February 9, 2018

Notary Public
My commission expires: 2/9/18

COMMONWEALTH OF MASSACHUSETTS

COUNTY: Nantucket

On this 25 day of November, 2011 before me, the undersigned notary public, personally appeared Jill H. Araujo-Demby, a/k/a Jill H. Demby-Abdallah a/k/a Jill H. Araujo, provided to me through satisfactory evidence of identification, being (check whichever applies): ☑ driver's license or other state or federal governmental document bearing a photograph image, ☐ oath or affirmation of a credible witness known to me who knows the above signatory, or ☐ my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledges to me that she signed the foregoing instrument voluntarily of her own free act and deed.

MEREDITH MACKLIN-TAAFFE
Notary Public, Commonwealth of Massachusetts
My Commission Expires February 9, 2018

Notary Public
My commission expires: 2/9/18

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

NANTUCKET
TOWN CLERK

2019 NOV -7 PM 2:21

TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MASSACHUSETTS 02554

Date: October 28, 2019

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

Application No.: 27-19

Owner/Applicant: JOSEPH A. DEMBY

Property Description: 7 Hull Lane
Map 67, Parcel 894

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 Nantucket Superior Court or 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.

Eleanor W. Antonietti,
Zoning Administrator

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 508-325-7587.

NANTUCKET ZONING BOARD OF APPEALS
2 Fairgrounds Road
Nantucket, Massachusetts 02554

Assessor's Map 67, Parcel 894
7 Hull Lane
Residential-10 (R-10)

Book 1302, Page 145
Plan No. 2010-37
Lot 2

DECISION:

1. At a public hearing of the Nantucket Zoning Board of Appeals (the "Board"), on Thursday, October 10, 2019, at 1:00 P.M., at 4 Fairgrounds Road, Nantucket, Massachusetts, the Board made the following decision on the application of **JOSEPH A. DEMBY**, c/o Reade, Gullicksen, Hanley & Gifford, LLP, Post Office Box 2669, Nantucket, Massachusetts 02584, **File No. 27-19**:

2. The applicant seeks to modify a Variance, granted in File No. 030-10, which allowed the applicant and his former spouse to divide their property into two lots, by removing conditions which prohibit additional ground cover and a secondary dwelling. Locus is conforming as to ground cover ratio, having 1,307± square feet of ground cover where maximum allowable ground cover would be 2,052 square feet (25% of lot area, which is 8,209 square feet). The Locus is situated at 7 Hull Lane, shown on Assessor's Map 67 as Parcel 894, and as Lot 2 upon Plan No. 2010-37. Evidence of owner's title is recorded in Book 1302, Page 145 on file at the Nantucket County Registry of Deeds. The site is zoned Residential 10 (R-10).

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. Except for the presentation by the applicant and his counsel, no support nor opposition was presented at the public hearing or otherwise received by the Board.

4. Present conditions upon locus are shown upon a plan by Nantucket Surveyors LLC dated September 11, 2019, a reduced copy of which is attached hereto as "Exhibit A". Locus is nonconforming as to ground cover, as a result of the lot division permitted by the Variance granted in File No. 030-10, having 8,209± square feet in a district where minimum lot area is 10,000 square feet; as to front yard setback, which is 11.7 feet at the closest point with minimum in this district being twenty (20) feet (also authorized by the Variance in File No. 030-10); and as to side and rear yard setbacks, as a result of steps and landing in the southwesterly side yard and a shed in the rear and northeasterly side yard. As noted in the application, the present ground cover upon locus is about 745 square feet less than that which would be permitted but for the condition in the decision in File No. 030-10 which prohibits additional ground cover. Counsel for the applicant noted that, if the division of the property between the applicant and his former wife had occurred under present zoning provisions, it likely could have taken the form of a special permit for a secondary residential

lot. Furthermore, the present provisions allowing a tertiary dwelling were not included in the Nantucket Zoning By-law at that time.

5. Based upon the existing conditions as presented, the Zoning Board of Appeals UNANIMOUSLY voted (5-0) to remove the conditions prohibiting additional ground cover and a secondary dwelling upon locus, with the following new conditions for the relief hereby granted:

(a) The shed within the rear and northeasterly side yard setback shall be removed by the applicant.

(b) The steps and landing shall be removed by the applicant from the southwesterly side yard setback.

(c) There shall be no construction or further expansion of structures within yard setback areas.

6. Except as expressly herein modified, all provisions of the decision in File No. 030-10 shall be and remain in full force and effect.

* * * * * * * * * *

SIGNATURE PAGE FOLLOWS

Assessor's Map 67, Parcel 894
7 Hull Lane
Residential-10 (R-10)

Book 1302, Page 145
Plan No. 2010-37
Lot 2

Dated: October 10, 2019

Susan McCarthy

Michael J. O'Mara

Kerim Koseatac

Mark Poor

James Mondani

COMMONWEALTH OF MASSACHUSETTS

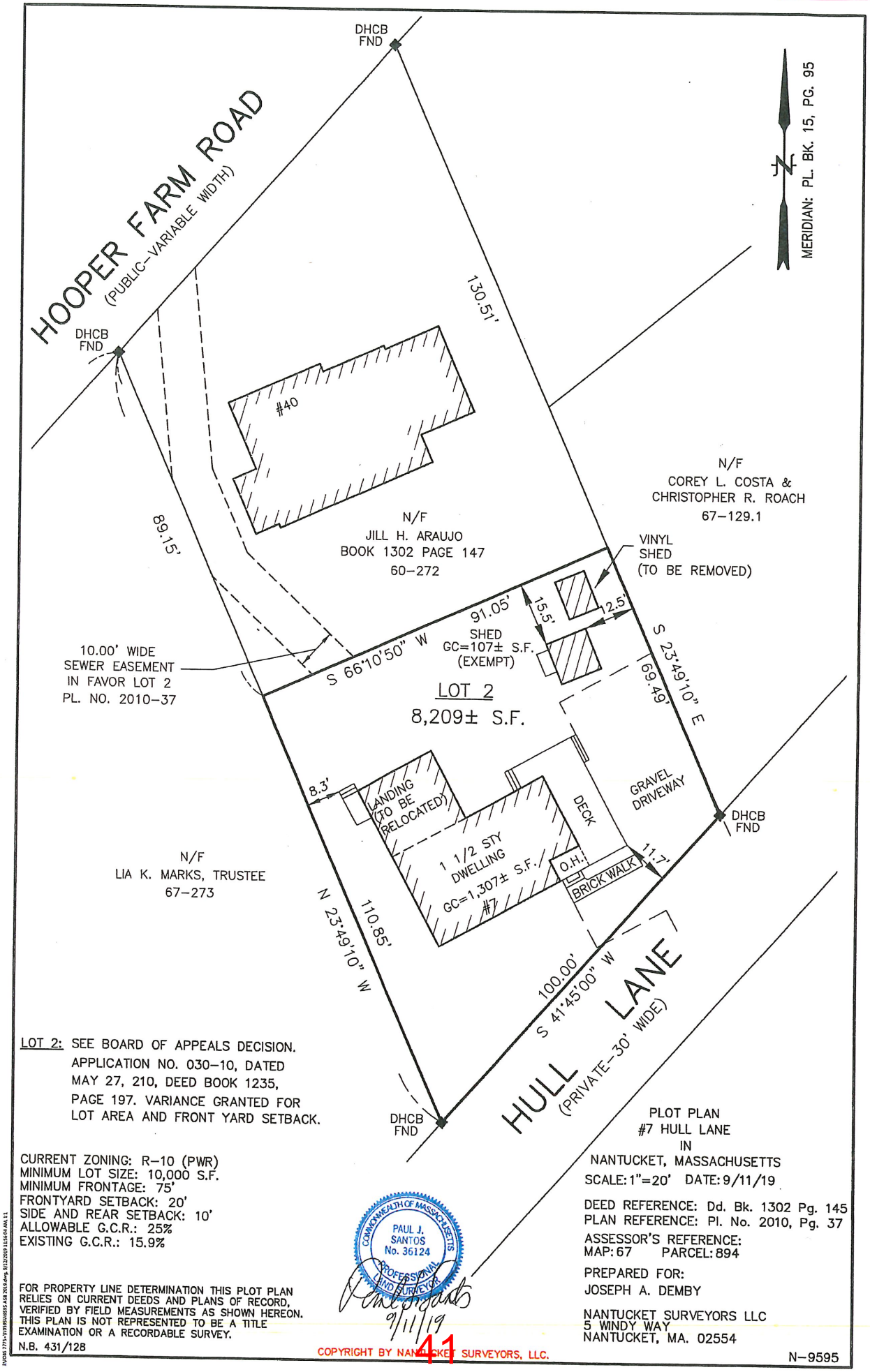
Nantucket, ss.

On the 5TH day of November, 2019, before me, the undersigned notary public, personally appeared MARK POOR, one of the above-named members of the Zoning Board of Appeals of Nantucket, Massachusetts, personally known to me to be the person whose name is signed on the preceding document, and acknowledged that they signed the foregoing instrument as their free act and deed and voluntarily for the purposes therein expressed.

Official Signature and Seal of Notary Public
My commission expires:

PAUL M. MURPHY
NOTARY PUBLIC
Commonwealth Of Massachusetts
My Commission Expires
December 17, 2021

"EXHIBIT A"



LOT 2: SEE BOARD OF APPEALS DECISION. APPLICATION NO. 030-10, DATED MAY 27, 210, DEED BOOK 1235, PAGE 197. VARIANCE GRANTED FOR LOT AREA AND FRONT YARD SETBACK.

CURRENT ZONING: R-10 (PWR)
MINIMUM LOT SIZE: 10,000 S.F.
MINIMUM FRONTAGE: 75'
FRONTYARD SETBACK: 20'
SIDE AND REAR SETBACK: 10'
ALLOWABLE G.C.R.: 25%
EXISTING G.C.R.: 15.9%

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.

N.B. 431/128

COMMONWEALTH OF MASSACHUSETTS
PAUL J. SANTOS
No. 36124
PROFESSIONAL LAND SURVEYOR

9/11/19

PLOT PLAN
#7 HULL LANE
IN
NANTUCKET, MASSACHUSETTS
SCALE: 1"=20' DATE: 9/11/19

DEED REFERENCE: Dd. Bk. 1302 Pg. 145
PLAN REFERENCE: Pl. No. 2010, Pg. 37

ASSESSOR'S REFERENCE:
MAP: 67 PARCEL: 894

PREPARED FOR:
JOSEPH A. DEMBY

NANTUCKET SURVEYORS LLC
5 WINDY WAY
NANTUCKET, MA. 02554

COPYRIGHT BY NANTUCKET SURVEYORS, LLC.

N-9595

Nicole & Karl GROSS

72 CATO LANE

FILE NO. 02-20

SPECIAL PERMIT

02-20

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

Zoning Board of Appeals
DEC 17 2019
RECEIVED

December 17, 2019

Nantucket Zoning Board of Appeals
Attn: Eleanor W. Antonietti
Land Use Specialist
2 Fairgrounds Road
Nantucket, MA 02554

PAID
DEC 17 2019
BY: Ebn

Re: Karl and Nicole Gross
72 Cato Lane
Application for Special Permit

Eleanor,

Our clients Karl and Nicole Gross, own 72 Cato Lane, Nantucket, Massachusetts 02554. The Applicants are seeking a Special Permit under Sections 139-30 and 139-16(1) of the By-Law to validate the location of a solar water heater, which intrudes into the side yard setback of the Property. To that end, enclosed please find an Application for a Special Permit from the Zoning Board of Appeals, together with supporting documentation.

Enclosed please also find a certified abutters list and a check in the amount of $450.00 made payable to the Town of Nantucket representing the filing fee. Thank you for your attention to this matter, please do not hesitate to call me should you have any questions or concerns.

Sincerely,

Richard Beaudette

RPB/lld
Encs.
cc:Karl and Nicole Gross

Zoning Board of Appeals
DEC 17 2019
RECEIVED

PAID
DEC 17 2019
BY: Eva / 30674

TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MA 02554

NANTUCKET TOWN CLERK
2020 JAN -6 PM 2:05

APPLICATION

Fee: $450.00 **File No.** 02·20

Owner's name(s): Karl Gross and Nicole Gross

Mailing address: c/o VDH&B, 2 Whalers Lane, Nantucket, MA 02554

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

Applicant's name(s): same

Mailing Address: same

Phone Number: same E-Mail: same

Locus Address: 72 Cato Lane Assessor's Map/Parcel: 66 / 457

Land Court Plan/Plan Book & Page/Plan File No.: Lot 2 on Plan No. 2008-21

Deed Reference/Certificate of Title: Bk. 1152, Pg. 103 Zoning District R-10

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

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

Building Permit Numbers: _____

Previous Zoning Board Application Numbers: _____

2 Fairgrounds Road Nantucket Massachusetts 02554
508 325-7587 telephone 508-228-7298 facsimile

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

See Addendum, attached hereto.

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*

Richard P. Beaudette, Attorney for Karl and Nicole Gross

*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:__/__/__

2 Fairgrounds Road Nantucket Massachusetts 02554
508 325-7587 telephone 508-228-7298 facsimile

ADDENDUM

The Applicants, Karl Gross and Nicole Gross, request a Special Permit pursuant to Sections 139-30 and 139-16(C)(1) of the Nantucket Zoning By-law for their property located at 72 Cato Lane, Nantucket, MA 02554. The Premises is shown as Lot 2A on Plan No. 04-59 at the Nantucket Registry of Deeds (hereinafter the "Premises"). In the alternative, the Applicants request a Variance pursuant to Section 139-32 of the By Law.

The existing conditions of the Premises are shown on the plan entitled "Building Location Plan of Land in Nantucket, MA, prepared for Nicole and Karl Gross by Nantucket Engineer and Survey, P.C., dated December 16, 2019, a copy of which is attached hereto. The Premises is located in the R-10 zoning district where the side yard setback requirement is ten (10) feet. As shown on the Plan, there is a solar water heater unit located as close as 8.7+/- feet from the southern side yard lot line.

By way of background, the Applicants were issued a permit by the Nantucket Building Department to install the solar water heater in its current location. In doing so, the company which installed the system relied on the Nantucket Zoning Enforcement Officer's interpretation of MGL c. 40A Section 3, that a solar water heater is allowed to be located within the setback area, if necessary (*please see the attached email from Marcus Silverstein*). The statute states that "no zoning ordinance or by-law shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare."

Despite the opinion of the Zoning Enforcement Office and the issuance of the building permit, the Building commissioner refused to sign off on the permit, taking the position that the location of the solar water heater, 1.3 feet into the side yard setback area, is a zoning violation.

Accordingly, the Applicant is seeking a Special Permit pursuant to Sections 139-30 and 139-16(C)(1) to validate the setback intrusion created by the solar water heater. Pursuant to Section 139-30, the special permit granting authority shall issue special permits for structures and uses which are in harmony with the general purpose and intent of this chapter subject to the provisions of such chapter. Further, Sections 139-16C (1) states as follows:

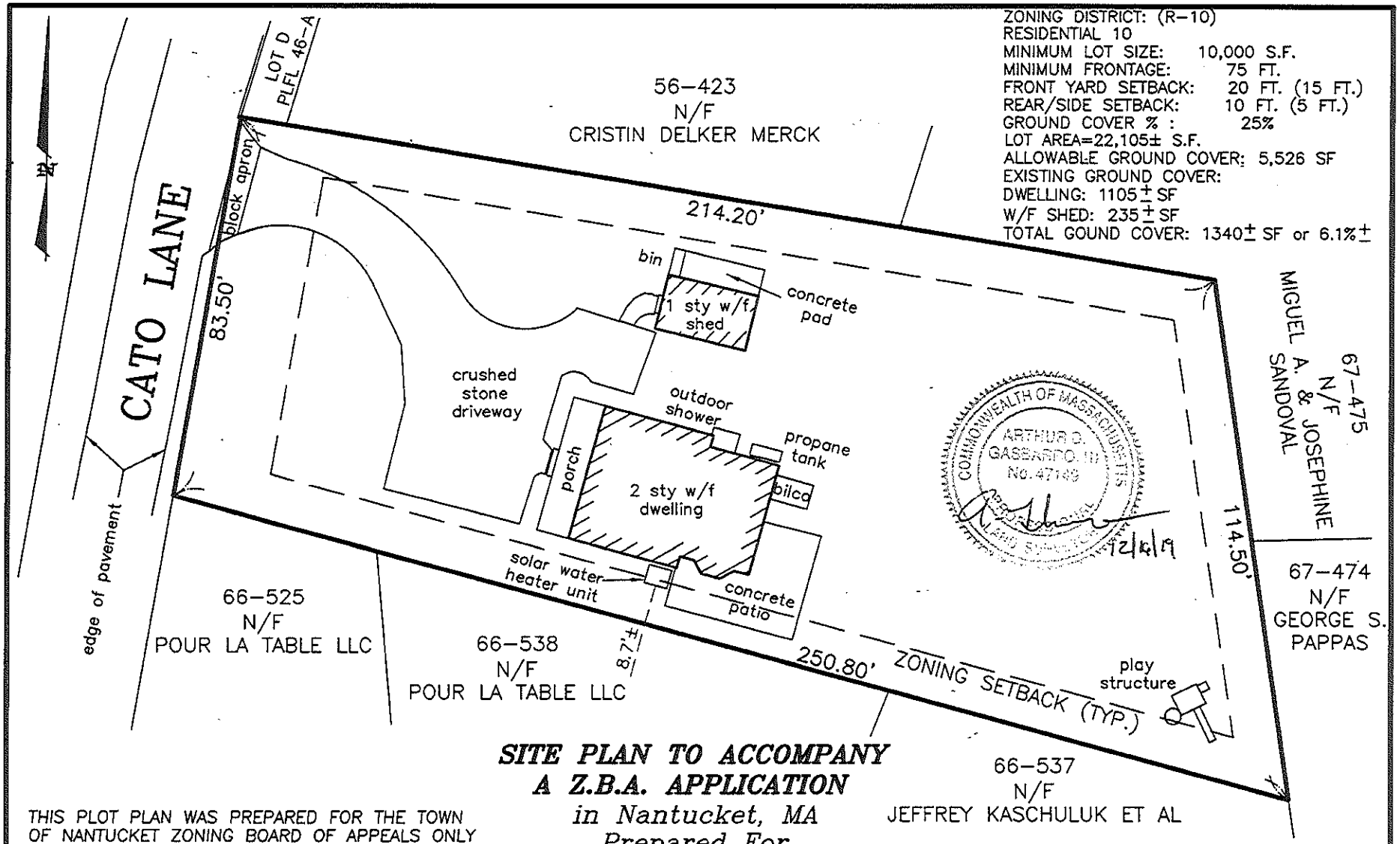
> (1) the Board of Appeals may grant a special permit to reduce the ten-foot side yard setback in R-5 and the ten-foot side and rear yard setback in R-10, R-20 and SR-20 to five feet.

Under these circumstances, the Board is allowed to grant a Special Permit to validate the location of the solar water heater. The Applicant's solar arrays present no harm to the public health, safety or welfare. Granting the Special permit is in harmony with the general purpose and intent of the Zoning By-Law. Further, the burden of correcting the intrusion substantially outweighs any benefit to abutters of eliminating the intrusion.

Alternatively, and to the extent the Board deems it necessary, the Applicants request a Variance pursuant to Section 139-32 to validate the location of the solar water heater within the ten foot side yard setback due to the shape and topograhphy of the lot and the structures thereon such that the literal enforcement of the ten foot side yard setback would involve a substantial hardship to the Applicants to remove the solar water heater and because granting this relief does not involve substantial detriment to the public good or a derogation of the intent of the By-law.

The Applicants respectfully request that the Board grant them the requested Special Permit under Sections 139-30 and 139-16(C)(1) or alternatively, a Variance under Section 139-32.

ZONING DISTRICT: (R-10)
RESIDENTIAL 10
MINIMUM LOT SIZE: 10,000 S.F.
MINIMUM FRONTAGE: 75 FT.
FRONT YARD SETBACK: 20 FT. (15 FT.)
REAR/SIDE SETBACK: 10 FT. (5 FT.)
GROUND COVER % : 25%
LOT AREA=22,105± S.F.
ALLOWABLE GROUND COVER: 5,526 SF
EXISTING GROUND COVER:
DWELLING: 1105± SF
W/F SHED: 235± SF
TOTAL GOUND COVER: 1340± SF or 6.1%±



SITE PLAN TO ACCOMPANY
A Z.B.A. APPLICATION
in Nantucket, MA
Prepared For
NICOLE & KARL GROSS
72 CATO LANE
MAP 66 PARCEL 457
DEED BK. 1152 PG. 103
PLAN No. 2008-21 LOT 2
SCALE: 1"=30'
DECEMBER 16, 2019

THIS PLOT PLAN WAS PREPARED FOR THE TOWN OF NANTUCKET ZONING BOARD OF APPEALS ONLY 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

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

NANTUCKET ENGINEERING & SURVEY, PC
20 Mary Ann Drive Nantucket, MA 02554
NantucketEngineer.com 508-825-5053

Rick Beaudette

From: Karl Gross <karlgross_77@yahoo.com>
Sent: Saturday, December 07, 2019 11:34 AM
To: Rick Beaudette
Subject: Fw: Zoning set back question

----- Forwarded Message -----
From: Zachary Dusseau <zach@acksmart.com>
To: Karl Gross <karlgross_77@yahoo.com>
Sent: Saturday, December 7, 2019, 10:21:58 AM EST
Subject: Fwd: Zoning set back question

See the thread above.

Hope it helps

Zachary Dusseau
ACK Smart Energy
(508) 257-1SUN

Begin forwarded message:

> **From:** Zachary Dusseau <zach@acksmart.com>
> **Date:** October 18, 2017 at 08:07:35 EDT
> **To:** Marcus Silverstein <MSilverstein@nantucket-ma.gov>
> **Subject: Re: Zoning set back question**
>
> We will do the best we can Marcus.
>
> Thank you.
>
> > On Oct 18, 2017, at 8:00 AM, Marcus Silverstein <MSilverstein@nantucket-ma.gov> wrote:
> >
> > Zach,
> >
> > No variance is required. But again, you are encouraged to leave as much space as possible between the array and any property line.
> >
> > Respectfully,
> >
> > Marcus Silverstein
> > Zoning Enforcement Officer
> > Town of Nantucket
> >
> > **From:** Zachary Dusseau [mailto:zach@acksmart.com]
> > **Sent:** Tuesday, October 17, 2017 5:08 PM

To: Marcus Silverstein
Subject: Re: Zoning set back question

Marcus,

Thank you for the response.

So in short, we do not need to file for a variance prior to construction of the array?

We want to make sure we go about this properly to prevent permitting and as built zoning issues for our client.

Thanks again,

Zach

On Oct 17, 2017, at 7:55 AM, Marcus Silverstein <MSilverstein@nantucket-ma.gov> wrote:

Zach,

Locating solar arrays outside of required setbacks is encouraged whenever possible. However, solar arrays may be constructed within setback areas if necessary. See also Massachusetts General Laws (MGL) Ch. 40A, Sec. 3, para. 9.

If any person is aggrieved by this opinion, an appeal may be filed with the Zoning Board of Appeals within thirty (30) days of the date of this notice.

Respectfully,

Marcus Silverstein
Zoning Enforcement Officer
Town of Nantucket

From: Doris Strang
Sent: Monday, October 16, 2017 1:50 PM
To: Marcus Silverstein
Subject: Zoning set back question

Good Afternoon Marcus,
Zack Dusseau was in questioning if Solar ground array's are allowed in the setback
Area. He read an email you sent to Paul Jensen some time ago that it was allowed
But it was sent over a year ago and wanted to confirm that it was still the case.

zach@acksmart.com

Thank you,
Doris

Doris Strang
Administrative Specialist
Town of Nantucket PLUS Dept.
2 Fairgrounds Road
Nantucket, MA 02554

508-325-7587 ext 7114

RECEIVED
BOARD OF ASSESSORS
DEC 16 2019
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.....Karl and Nicole Gross.....

MAILING ADDRESS.....c/o 2 Whalers Lane, PO Box 659, Nantucket, MA 02554.....

PROPERTY LOCATION.....72 Cato Lane.....

ASSESSOR MAP/PARCEL.....66/457.....

SUBMITTED BY.....VDH&B, P.C.....

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).

12/16/19
DATE

ASSESSOR'S OFFICE
TOWN OF NANTUCKET

Abutters List

MBLU	Lot	Lot Cut	Owner Full Name	Co-Owner Full Name	Address Line 1	City	State	Zip	Location
55	106	3	QUEBE JAN & DANLAITE JURGA		10 BAILEY RD	NANTUCKET	MA	02554	10 BAILEY RD
55	106	4	BAKER KIRK A & BENZIE JENNIFER L		PO BOX 936	NANTUCKET	MA	02554	8 BAILEY RD
55	106	5	ABBOTT PAUL & MCLAUGHLIN M E		6 BAILEY RD	NANTUCKET	MA	02554	6 BAILEY RD
55	106	6	BUTLER ELVIS E & ZONA V		4 BAILEY RD	NANTUCKET	MA	02554	4 BAILEY RD
55	107	3	MARKEN PAMELA J		7 BAILEY RD	NANTUCKET	MA	02554	7 BAILEY RD
55	107	4	CLOVER DEVELOPMENT INC		P O BOX 2913	NANTUCKET	MA	02584	2 SEA FOX CI
55	107	5	NIKOLOV VESELIN N & ELENA S		PO BOX 2986	NANTUCKET	MA	02584	5 BAILEY RD
55	107	6	MUFFLY BRAD D & CORINNE J		1 SEA FOX CIRCLE	NANTUCKET	MA	02554	1 SEA FOX CI
55	107	7	NAZARETH ARMANDO & URSULA		PO BOX 2093	NANTUCKET	MA	02584	3 SEA FOX CI
56	47		VIERA WAYNE J		57 CATO LN	NANTUCKET	MA	02554	57 CATO LN
56	49		SKEHEL CHRIS		77B BARTLETT RD	NANTUCKET	MA	02554	61 CATO LN
56	50		STOVER ISAIAH J		63 CATO LN	NANTUCKET	MA	02554	63 CATO LN
56	51		YARMY JONATHAN		65 CATO LN	NANTUCKET	MA	02554	65 CATO LN
56	344		BOYNTON CHRISTOPHER D		PO BOX 427	WEST DOVER	VT	05356	17 FRIENDSHIP LN
56	345		SWAIN JOSEPH M JR		19 FRIENDSHIP LN	NANTUCKET	MA	02554	19 FRIENDSHIP LN
56	423		MERCK CRISTIN DELKER		70 CATO LN	NANTUCKET	MA	02554	70 CATO LN
56	424		GREAT HARBOR YACHT CLUB INC		96 WASHINGTON STREET	NANTUCKET	MA	02554	68 CATO LN
56	425		RILEY WILLIAM & HOWARD TRACEY		1 BAILEY ROAD	NANTUCKET	MA	02554	1 BAILEY RD
56	426		FALCONER CAROL & MARRETT VICTOR		3 BAILEY RD	NANTUCKET	MA	02554	3 BAILEY RD
66	14		ADAMS MARK R		3 DAFFODIL LN	NANTUCKET	MA	02554	67 CATO LN
66	15		69 CATO LANE REALTY TRUST		69 CATO LN	NANTUCKET	MA	02554	69 CATO LN
66	16		CATO & CYNTHIA LLC		PO BOX 125	NANTUCKET	MA	02554	71 CATO LN
66	18		LEMBERG SON & DAUGHTER LLC		6 CACHALOT LANE	NANTUCKET	MA	02554	1 WHITE WHALE LN
66	18	1	I O O F NANTUCKET LODGE # 66		PO BOX 2547	NANTUCKET	MA	02584	37 BARTLETT RD
66	252		GRAY DAVID C & JUDITH A		11 FRIENDSHIP LN	NANTUCKET	MA	02554	11 FRIENDSHIP LN
66	253		HUDZIK THOMAS E		PO BOX 3184	NANTUCKET	MA	02584	13 FRIENDSHIP LN
66	254		FRITSCH JOHN E & CIARA		PO BOX 3080	NANTUCKET	MA	02584	15 FRIENDSHIP LN

66	457		GROSS KARL & NICOLE		72 CATO LN	NANTUCKET	MA	02554	72 CATO LN
66	525		POUR LA TABLE LLC		6 CACHALOT LANE	NANTUCKET	MA	02554	74 CATO LN
66	527		GRISWOLD KEVIN J & FOX ELIZABETH A		33- BARTLETT RD	NANTUCKET	MA	02554	33- BARTLETT RD
66	528		BARRETT CHESTER S III & DECKER JENNIFER		33 BARTLETT RD	NANTUCKET	MA	02554	33 BARTLETT RD
66	535		POUR LA TABLE LLC		6 CACHALOT LANE	NANTUCKET	MA	02554	3 WHITE WHALE LN
66	536		KASCHULUK JEFFREY ETAL		PO BOX 3433	NANTUCKET	MA	02584	6 WHITE WHALE LN
66	537		KASCHULUK JEFFREY ETAL		PO BOX 3433	NANTUCKET	MA	02584	4 WHITE WHALE LN
66	538		POUR LA TABLE LLC		6 CACHALOT LANE	NANTUCKET	MA	02554	2 WHITE WHALE LN
67	1		HOBBY JOHN E & ADELE		2388 QUAKER CHURCH RD	YORKTOWN HEIGHTS	NY	10598	31 BARTLETT RD
67	2		HALLAM KERRY		P O BOX 2188	NANTUCKET	MA	02584	1 PHEASANT DR
67	2	1	PATTERSON PHILIP L & MELISSA O		65 S SHORE RD	NANTUCKET	MA	02554	3 PHEASANT DR
67	2	2	WARLICK ROBERT B JR & RACHEL J		720 MICHAEL RD	CARTHAGE	NC	28327	5 PHEASANT DR
67	2	3	NANTUCKET CHILDRENS HOUSE INC		PO BOX 2121	NANTUCKET	MA	02584	7 PHEASANT DR
67	2	4	CHILDRENS HOUSE OF NANTUCKET INC		P O BOX 2121	NANTUCKET	MA	02584	9 PHEASANT DR
67	472		FERREIRA CHRISTOPHER J &	JENNIFER H	4 SEA FOX CIRCLE	NANTUCKET	MA	02554	4 SEA FOX CI
67	473		AFFELDT DONNA D		PO BOX 2828	NANTUCKET	MA	02554	6 SEA FOX CI
67	474		PAPPAS GEORGE S		7 SEA FOX CIRCLE	NANTUCKET	MA	02554	7 SEA FOX CI
67	475		SANDOVAL MIGUEL A & JOSEPHINE		5 SEA FOX CIRCLE	NANTUCKET	MA	02554	5 SEA FOX CI
Count:	45								

Materials Provided by Staff

Fee $100.00

MAP 66 / PARCEL 457

COMMONWEALTH OF MASSACHUSETTS

TOWN OF NANTUCKET

BUILDING DEPARTMENT

Office of the Building Inspector

No. 645-18

April 25, 2018

BUILDING PERMIT

THIS PERMIT CERTIFIES THAT CARL GROSS
HAS PERMISSION TO INSTALL GROUND MOUNT SOLAR HOTWATER SYSTEM
LOCATED ON 72 CATO LANE PROVIDED

THAT THE PERSON ACCEPTING THIS PERMIT SHALL CONFOR
M 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 9th EDITION.

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

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

PERSONS CONTRACTING WITH UNREGISTERED CONTRACTORS DO NOT HAVE ACCESS TO THE GUARANTY FUND 780 CMR/MGL c142A

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

Jeff Dook

5. IDENTIFICATION - To be completed by all applicants

	Name	Mailing address - Number, street, city and state	Zip Code	Telephone No.
1. Owner or Lessee	Karl Gross	72 Kato Ln, Nantucket	02554	508-367-4353
2. Contractor	Print Name: Nantucket Solar Solutions Signature: [signature]	PO Box 3097, Nantucket, MA 02584	HIC Builder's License 174619 Date 4/12/18	508-878-0435
3. Contact Person	Paul Jensen		Date	

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: 72 Cato Ln Telephone #: 508-367-4353

Print name: Karl Gross E-Mail Address: acksolarsolutions@gmail.com

DO NOT WRITE BELOW THIS LINE

6. PLAN REVIEW RECORD - For Office Use

Plans Review Required				
HISTORIC DISTRICTS COMMISSION		68314	7/11/17	
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: 4/20/2018

Building Permit Fee: $100

Date of Issuance of Certificate of Occupancy:

FOR DEPARTMENT USE ONLY

Use Group: R3

Occupancy Load:

Census No.: 650

Approved by: [signature]

~~Building Commissioner~~ INSPECTOR

DS #2

2018 APR 12 PM 1:37

6045-18
4-25-2018
BUILDING PERMIT NUMBER

APPLICATION FOR BUILDING PERMIT

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

1. LOCATION OF BUILDING

OWNERS NAME (print): Gross Karl
Last First Middle Initial

72 Cato Lane
No. Street

Assessor's Map No. 66 Assessor's Parcel No. 457

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 $9000

D. DIMENSIONS
Dimensions of Structure
First Floor Area:
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.

Install Solar Hotwater System for heating domestic water (ground mount)

3. SELECTED CHARACTERISTICS OF BUILDING

For new buildings and additions, complete Parts D-N for Demolition, complete only Part 1., for all others skip to 4.

F. PRINCIPLE TYPE OF FRAME
- ☒ Wood frame
- ☐ Other - Specify

G. PRINCIPLE TYPE OF HEATING
- ☒ Gas
- ☐ Electricity
- ☐ Oil
- ☐ Heat Pump
- ☐ Other - Specify

H. TYPE OF SEWAGE DISPOSAL
- ☒ Public
- ☐ Private (septic tank, etc.)

I. TYPE OF WATER SUPPLY
- ☒ Public
- ☐ Private (well)

J. SMOKE DETECTORS
No. of Detectors
See Plan for Location

K. ACCESSORY HEAT SOURCE
No. of fireplaces
No. of Wood Stoves
Other:

L. RESIDENTIAL BUILDINGS
Number of Bedrooms
Number of Bathrooms
Full Partial

3. Continued NA

M. ENERGY CONSERVATION

	Type	Thickness	R Value
Foundation or Floor insulation			
Wall Insulation			
Ceiling or Roof Insulation			

Window Glazing: Insulated Glass _____ Double Glass _____ Storm _____

Doors: Insulated Yes _____ No _____ Weatherstripped: Yes _____ No _____

Percentage of Window Area to Wall Area: _____

N. STRUCTURAL CHARACTERISTICS OF BUILDING NA

Applicant is required to submit complete structural framing plans with application due to the complexity of the structure, if the following information is insufficient for proper plan review.

Foundation

Footing size: _____ Footing reinforcing: _____

Wall material: _____ Wall thickness: _____

Wall height: _____ Wall reinforcing: _____

Pier or column size: _____ Pier or column spacing: _____

Pier or column footing size: _____ Pier or column reinforcing: _____

No. of crawl space vents: _____ Crawl space: ☐ Full ☐ Partial

FRAMING: Main Carrying members: Size: _____ Support Spacing: _____

First Floor Framing	Joist size:	Maximum Span:	Maximum Spacing:
Second Floor Framing	Joist size:	Maximum Span:	Maximum Spacing:
Ceiling Framing	Joist size:	Maximum Span:	Maximum Spacing:
Roof Framing	Joist size:	Maximum Span:	Maximum Spacing:

Roof Truss Applicant must submit design calculations for all wood trusses stamped by a Registered Professional Engineer.

SKETCH OF PROPOSED WORK (minor projects)

NOTES AND DATE (For Department Use)

emailed 4/23/18 dS

FEE CALCULATIONS

$100 Ground mount solar

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: R-10 Total Land Area: 22,106 SF

Frontage on Street: 83.50 Lot No.: 2

Plan Book No. and Page: OCR 2008-21 Land Court Plan No.: _____

Date Lot Purchased: 12/21/2014 Certificate No.: _____

Name of Previous Owner: Reith

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 >60' REAR >50' LEFT >70' RIGHT 5'

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 NA

Principal Dwelling: _____

Secondary Dwelling: _____

Addition: _____ Total: _____ SF.

Garage: _____ Allowable: _____ SF.

Accessory Building: _____

Swimming Pool: _____

Other: _____

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: 4/18/18 APPROVED BY: [signature]

CERTIFICATE NO: 68314 DATE ISSUED: 7/6/17

Application to the HISTORIC DISTRICT COMMISSION, Nantucket, Massachusetts, for a

CERTIFICATE OF APPROPRIATENESS

for structural work.

All blanks must be filled in using BLUE OR BLACK INK (no pencil) or marked N/A.

NOTE: It is strongly recommended that the applicant be familiar with the HDC guidelines, *Building with Nantucket in Mind,* prior to submittal of application. Please see other side for submittal requirements. Incomplete applications will not be reviewed by the HDC.

This is a contractual agreement and must be filled out in ink. An application is hereby made for issuance of a Certificate of Appropriateness under Chapter 395 of the Acts and Resolves of Mass., 1970, for proposed work as described herein and on plans, drawings and photographs accompanying this application and made a part hereof by reference. The certificate is valid for three years from date of issuance. No structure may differ from the approved application. Violation may impede issuance of Certificate of Occupancy.

PROPERTY DESCRIPTION

TAX MAP N°: 66 PARCEL N°. 457

Street & Number of Proposed Work: 72 Cato Lane

Owner of record: Karl & Nicole Gross

Mailing Address: 72 Cato Lane
Nantucket, MA 02554

Contact Phone #: 508-367-4353 E-mail: karlgross.77@yahoo.com

AGENT INFORMATION (if applicable)

Name: Nantucket Solar Solutions

Mailing Address: PO Box 3097
Nantucket, MA 02584

Contact Phone #: 508-878-0475 E-mail: acksolarsolutions@gmail.com

FOR OFFICE USE ONLY

Date application received: 7/5/17 Fee Paid: $ 100 ✓ 4109

Must be acted on by: 9/8/17

Extended to:

Approved: ✓ Disapproved:

Chairman:

Member:

Member:

Member:

Member:

Notes - Comments - Restrictions - Conditions

DESCRIPTION OF WORK TO BE PERFORMED

See reverse for required documentation.

☐ New Dwelling ☐ Addition ☐ Garage ☐ Garage/Apartment ☐ Commercial ☐ Historical Renovation ☐ Deck ☐ Steps ☐ Shed

☐ Color Change ☐ Fence ☐ Gate ☐ Paving ☐ Move Building ☐ Demolition ☐ Revisions to previous Cert. No. _____

☐ Roof ☒ Other Solar Collector (WHP-30) Evacuted Tubes.

Size of Structure or Addition: Length: _____ Sq. Footage 1st floor: _____ Decks: Size: _____ ☐ 1st floor ☐ 2nd floor

Width: _____ Sq. footage 2nd floor: _____ Size: _____ ☐ 1st floor ☐ 2nd floor

Sq. footage 3rd floor: _____

Difference between existing grade and proposed finish grade: North _____ South _____ East _____ West _____

Height of ridge above final finish grade: North _____ South _____ East _____ West _____

Additional Remarks

Historic Name:

Original Date:

Original Builder:

REVISIONS* (describe)

1. East Elevation
2. South Elevation
3. West Elevation
4. North Elevation

Is there an HDC survey form for this building attached? ☐ Yes ☐ N/A

*Cloud on drawings and submit photographs of existing elevations.

DETAIL OF WORK TO BE PERFORMED

Foundation: Height Exposed _____ ☐ Block ☐ Block Parged ☐ Brick (type) _____ ☐ Poured Concrete ☐ Piers

Masonry Chimney: ☐ Block Parged ☐ Brick (type) _____ ☐ Other _____

Roof Pitch: Main Mass _____/12_____ Secondary Mass _____/12_____ Dormer _____/12_____ Other _____

Roofing material: ☐ Asphalt: ☐ 3-Tab ☐ Architectural

☐ Wood (Type: Red Cedar, White Cedar, Shakes, etc.) _____

Fence: Height: _____
Type: _____
Length: _____

Skylights (flat only): Manufacturer _____ Rough Opening _____ Size _____ Location _____

Manufacturer _____ Rough Opening _____ Size _____ Location _____

Gutters: ☐ Wood ☐ Aluminum ☐ Copper ☐ Leaders (material) _____

Leaders (material and size): _____

Sidewall: ☐ White cedar shingles _____ ☐ Clapboard (exposure: _____ inches) Front ☐ _____ Side ☐ _____

☐ Other _____

Trim: A. Wood ☐ Pine ☐ Redwood ☐ Cedar ☐ Other _____

B. Treatment ☐ Paint ☐ Natural to weather ☐ Other _____

C. Dimensions: Fascia _____ Rake _____ Soffit (Overhang) _____ Corner boards _____ Frieze _____

Window Casing _____ Door Frame _____ Columns/Posts: Round _____ Square _____

Windows*: ☐ Double Hung ☐ Casement ☐ All Wood ☐ Other _____

☐ True Divided Lights(muntins), single pane ☐ SDL's (Simulated Divided Lights) Manufacturer _____

Doors* (type and material): Front _____ Rear _____ Side _____

Garage Door(s): Type _____ Material _____

Hardscape materials: Driveways _____ Walkways _____ Walls _____

* Note: Complete door and window schedules are required.

COLORS

Sidewall _____ Clapboard (if applicable) _____ Roof _____

Trim _____ Sash _____ Doors _____

Deck _____ Foundation _____ Fence _____ Shutters _____

* Attach manufacturer's color samples if color is not from HDC approval list.

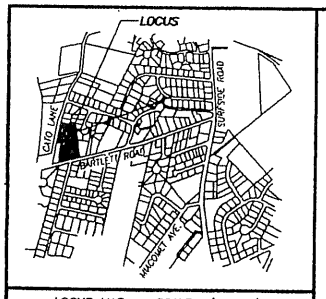
I hereby authorize the agent named above to act on my behalf to make changes in the specifications or the plans contained in this application in order to bring the application into compliance with the HDC guidelines. I hereby agree to abide by and comply with the terms and conditions of this application. I hereby agree that the submission of any revisions to this application will initiate a new sixty-day review period.

Date 7/3/17 Signature of owner of record Karl Gross Signed under penalties of perjury

2008 00000001
Bk: Pg: 0 Page: 0
Doc: PLAN 04/11/2008 10:54 AM

NANTUCKET REGISTRY OF DEEDS
Date: 04-11-2008
Time: 10:54 AM
Plan No: 2008-11
Attest: Register

SHEET 1 OF 1



LOCUS MAP SCALE: 1"=1200'±

THE PLANNING BOARD DETERMINES THAT:

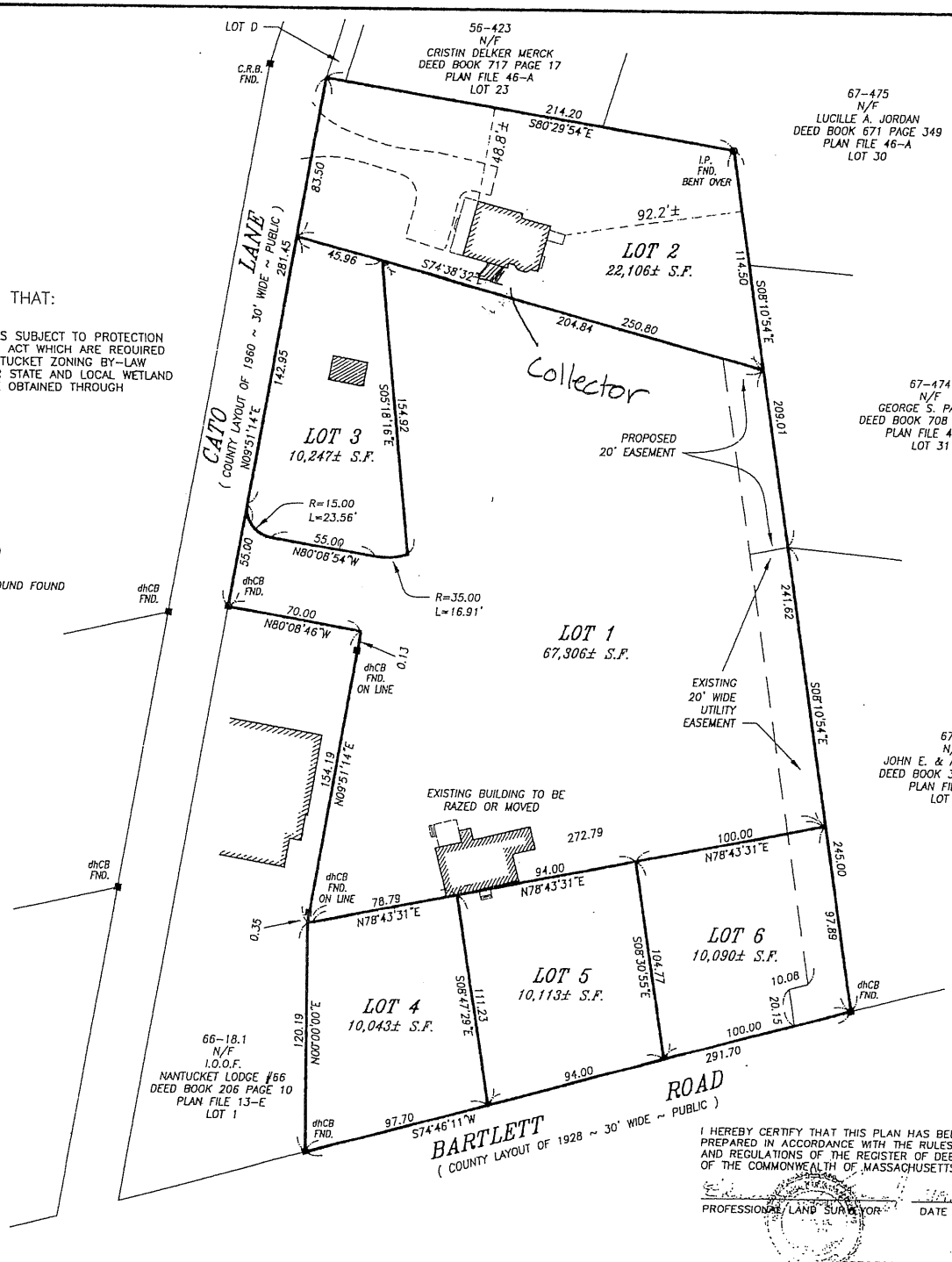
(b) LOT(S) 1 THRU 6 DO NOT CONTAIN AREAS SUBJECT TO PROTECTION UNDER THE MASSACHUSETTS WETLANDS PROTECTION ACT WHICH ARE REQUIRED TO BE EXCLUDED FROM LOT AREA UNDER THE NANTUCKET ZONING BY-LAW BUT STILL MAY BE SUBJECT TO PROTECTION UNDER STATE AND LOCAL WETLAND BY-LAWS. DETERMINATION OF APPLICABILITY MAY BE OBTAINED THROUGH APPLICATION TO THE CONSERVATION COMMISSION.

LEGEND

C.R.B. FND. ■ DENOTES COUNTY ROAD BOUND FOUND

dhCB FND. ■ DENOTES DRILL HOLE IN CONCRETE BOUND FOUND

I.P. FND. ○ DENOTES IRON PIPE FOUND



BEING A SUBDIVISION OF LOT 2A & 2B SHOWN ON PLAN NO. 04-59

PLAN OF LAND IN NANTUCKET, MASS.

PREPARED FOR

WHITE WHALE LANE, LLC
DEED BOOK 1099 PAGE 228; LOT 2B

KARL AND NICOLE GROSS
DEED BOOK 931 PAGE 160; LOT 2A

SCALE: 1"=40' DATE: FEBRUARY 19, 2008

CHARLES W. HART and ASSOCIATES, Inc.
Professional Land Surveyors
8 WILLIAMS LANE
NANTUCKET, MASS. 02554
(508) 228-8910

GRAPHIC SCALE

40 0 20 40 80 160

(IN FEET)
1 inch = 40 ft.

CURRENT ZONING CLASSIFICATION:
Residential 10 (R-10)

MINIMUM LOT SIZE:	10,000 S.F.
MINIMUN FRONTAGE:	75 FT.
FRONT YARD SETBACK:	20 FT.
REAR/SIDE SETBACK:	10 FT.
GROUND COVER % :	25%

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

PROFESSIONAL LAND SURVEYOR DATE

Nantucket Planning Board
APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED

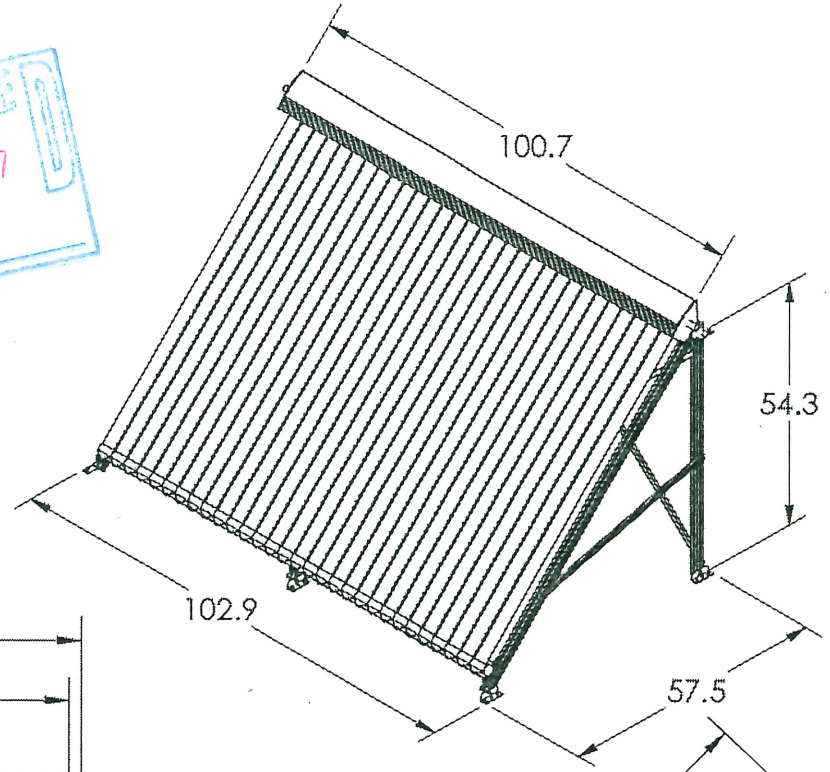
DATE SIGNED FILE #

ASSESSORS MAP 66 PARCELS 18 & 457

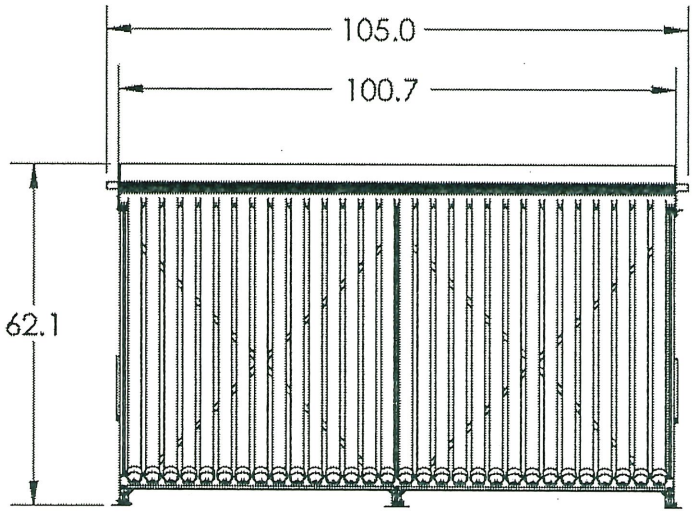
H-6713

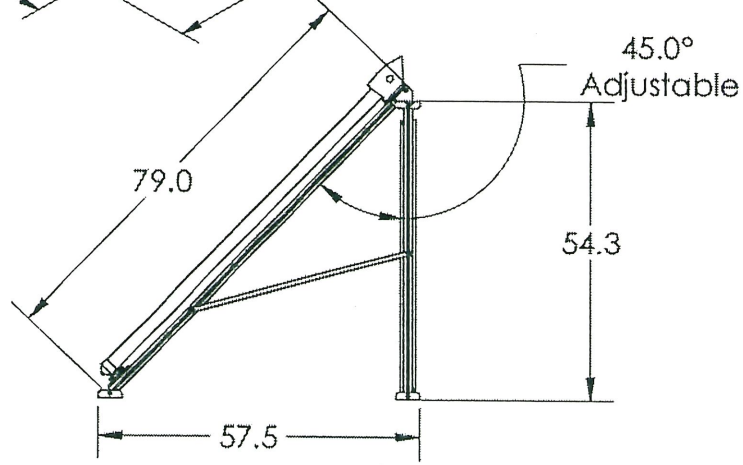
C:\A PROJ\H\H6713\H6713
C:\ MON /18

RECEIVED
JUL 05 2017
By



APPROVED
JUL 11 2017
NO EXTERIOR CHANGES
WITHOUT HDC APPROVAL





PROPRIETARY AND CONFIDENTIAL

THE INFORMATION CONTAINED IN THIS DRAWING IS THE SOLE PROPERTY OF SUNMAXX SOLAR. ANY REPRODUCTION IN PART OR AS A WHOLE WITHOUT THE WRITTEN PERMISSION OF SUNMAXX SOLAR IS PROHIBITED.

TITLE: THERMOPOWER-VHP30

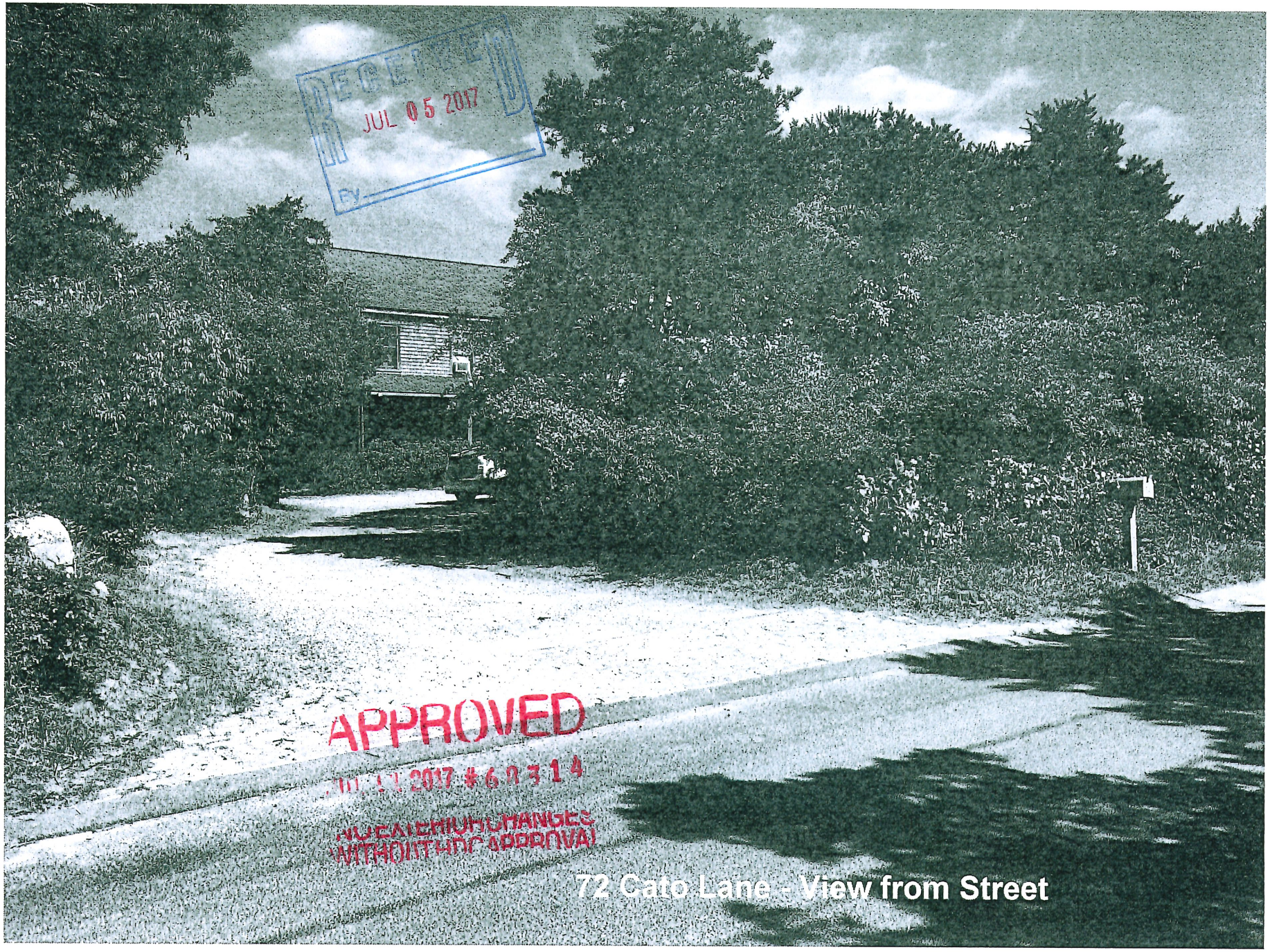
SunMaxx Solar Inc.
1-877-SUNMAXX
www.sunmaxxsolar.com

SCALE: 1:33	UNIT: Inches	DATE: 12/17/10

5 4 3 2 1

4 / A2.1 SOUTH ELEVATION

1/4" = 1'-0"



72 Cato Lane - View from Street

OTHER

BUSINESS

Beach Plum Village

Rugged Scott 40B

FILE NO. 51-03

DISCUSSION ITEM –
Implementation of policy outlined in Comp. Permit

o.) The clubhouse/pool/lawn/tennis court facility shown on the plans shall be available only to those residents of the site and their accompanied guests for personal use. The facility shall not be open to the public. The clubhouse may not function as a restaurant or bar as these terms are defined in the Nantucket Zoning Code. Use of the facility for functions with food and/or alcohol service may be allowed as an accessory use subject to all Zoning and other regulatory requirements. Memberships shall be provided to all residents on a fee schedule to be adopted by the Association provided, however, that any fee for an affordable unit is factored into the 30% maximum housing expense calculation. The Association shall establish hours of operation for the facility and guidelines for occupancy, noise, and lighting that preserve the rights of nearby residents to quiet enjoyment of their property, which shall be subject to final ZBA approval. Notwithstanding the above resident restriction, abutting property owners as shown on a map attached hereto as Exhibit D shall be allowed access to the facility subject to a comparable fee structure and in accordance with rules and regulations established by the Association. A minimum of ten (10) non-resident family memberships shall be offered and a maximum of 30 non-resident family memberships may be allowed by vote of the Association.

From:	Tucker Holland
To:	Josh Posner; Eleanor Antonietti; Ed Toole
Cc:	Howard Edelman (HCEArb@gmail.com); Peter McEachern; chris@housefitters.com; Bert.Turner@yahoo.com; Ruth Plandowski
Subject:	Re: Update on Discussions with Beach Plum neighbors
Date:	Friday, November 08, 2019 11:58:21 AM
Attachments:	image001.png

Hi Eleanor,

Knowing that you are assembling the materials for next week's ZBA meeting, I wanted to provide an update.

Howard Edelman reached out, and he and I had a call on or about 10/22 just prior to Howard leaving the country. While no definitive proposal was shared, Howard wanted to discuss some aspects and relay that he would be out of the country and unreachable for a period. He stated at the time that he would be fine if we pushed the ZBA update on this matter to the December meeting.

We appreciated Howard's call. While we don't want to get into a routine of kicking the can, we are fine with the parties continuing to work toward a solution in line with the commitments and requirements of the Comp Permit and Settlement Agreement and report to the ZBA on this at the December meeting.

Best,
Tucker

Tucker Holland
Housing Specialist
Town of Nantucket

Please excuse iTypos...this was sent from my iPad

On Oct 10, 2019, at 11:24 AM, Tucker Holland <tholland@nantucket-ma.gov> wrote:

> Josh, thank you for summarizing the status below. Apologies to have to cut my participation in the discussion earlier today short due to the Select Board XS meeting.
>
> Eleanor, I believe Josh's note covers things well. Still some ground to cover yet we remain hopeful reasonable minds will come to agreement for the November meeting. I'd like to add personally that the process has been furthered and I believe benefitted from the involvement of Howard Edelman on behalf of the homeowners at Beach Plum. I believe Howard and we share a long-term view on the benefit of a good relationship between the BPV homeowners and the greater surrounding community.
>
> Best,
> Tucker
>
> **Tucker Holland**

Housing Specialist

<image001.png>

m: Planning & Land Use Services, 2 Fairgrounds Road, Nantucket, MA 02554
e: tholland@nantucket-ma.gov
p: 508-325-7587 ext. 7023
c: 802-233-3177

From: Josh Posner <jposner@risingtidellc.net>
Sent: Thursday, October 10, 2019 10:55 AM
To: Eleanor Antonietti <eantonietti@nantucket-ma.gov>
Cc: Tucker Holland <tholland@nantucket-ma.gov>; Howard Edelman (HCEArb@gmail.com) <HCEArb@gmail.com>; Peter McEachern <Peter@nantucketyachtclub.org>; chris@housefitters.com; 'Bert.Turner@yahoo.com' <Bert.Turner@yahoo.com>; Ruth Plandowski <ruthplan@gmail.com>
Subject: Update on Discussions with Beach Plum neighbors

Eleanor- As discussed at the last ZBA meeting we have been working with Beach Plum neighbors led by Tucker Holland to try to work out a mutually agreeable structure for offering the use of Beach Plum amenities to neighbors in accordance with the comprehensive permit. The most recent meeting was this morning. it was agreed by the participants that we would let you know that discussions are still underway, documents and data are being exchanged, our next meeting is planned, and the parties are still hoping to reach a mutually acceptable resolution. We plan to report to the ZBA on our progress at the November meeting.
On behalf of the participants copied above, could you pass this update on to the ZBA members since we said we would report to them for the October meeting.
Thank you for your assistance.
Josh Posner

PS- Any other participants (above) who wish to elaborate on this, please feel free to do so….

Joshua Posner
Rising Tide Development LLC
32 Arlington Street
Cambridge, MA 02140

617-549-3232- phone
www.risingtidellc.net

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September 6, 2019

To: Nantucket ZBA
From: Josh Posner
Subject: Offering non-resident neighbor memberships for use of Beach Plum amenities

We are in receipt of the letter from Ed Toole dated August 20 as well as the letter from Tucker Holland to the ZBA dated August 2. As Eleanor's August 22, 2019 email to me indicates, I was in contact with Tucker this Spring in response to his inquiry about the potential use of Beach Plum amenities by neighbors in accordance with the special condition included Comprehensive Permit. As I said to Tucker this is an aspect of the project that we intended to complete as the sales process comes to a close, something that we expect to occur during the spring of 2020. I indicated that we would be discussing this issue at the annual meeting of Beach Plum owners and that I would get back to him and the other neighbors after that meeting. He indicated that he was satisfied with this response and looked forward to hearing back. As you know from the special condition there are options involved in how we would structure the offer as well as how many memberships we would allow that I wanted to discuss with current owners. Tucker and others are obviously within their rights to contact the ZBA directly, even if it is not particularly neighborly given our exchange of phone calls and emails. However, I was surprised that he indicated that he was dissatisfied with my response and description of the next steps of a few months ago.

That said, the Beach Plum owners meeting was held on August 27 and we had a thorough discussion of the issue. Based on this discussion we plan to take the following steps over the coming months with regard to offering memberships to neighbors.

We plan to offer an opportunity to request a membership to all eligible homeowners in the mapped area during the winter/spring of 2020. The offer will state the membership dues for 2020 and will show how the dues are calculated based on the projected common charges to be paid by Beach Plum owners for 2020. In addition, there will be a Capital Payment required to cover the pro-rata cost of constructing the amenities, as well as an understanding that should there be a need for an assessment to make renovations or improvement to the amenities, that a pro-rata share would be paid by the member. This is necessary to ensure that use of the facilities by the neighbors is done on the same terms and conditions as the Beach Plum owners. Finally, there will be a statement of terms and condition, rules and regulations for use of the amenities by the neighbor member and his/her family, but not for any tenants who may rent their home. Other details may be considered as we prepare the offer to neighbors for membership.

We expect to allow a 60-day period this coming winter/spring beginning no later than April 1, 2020 during which potentially eligible owners will be asked to submit their membership

application, if interested. Membership applications will be considered on a first-come-first-served basis. We expect that there would be a required interview conducted by a committee of Beach Plum owners to make sure the prospective member understands the ground rules for membership and, in a manner similar to other clubs, that they would be compatible members of the community. Up to 10 memberships will be offered to qualified members.

Prior to sending membership offers we will present the pricing calculations, terms and conditions, rules and regulations, and any other eligibility criteria to the ZBA for comment.

August 2nd, 2019

Zoning Board of Appeals
Attn: Susan McCarthy, Chair
c/o Nantucket Planning Office
2 Fairgrounds Road
Nantucket, MA 02554

Dear Chair McCarthy and members of the ZBA,

Thank you for the work that you do on behalf of Nantucket. We are writing today to ask for your assistance.

The attached documentation illustrates that the developer of Beach Plum Village is obligated, and furthermore freely agreed, to make available a minimum of ten (10) and a maximum of thirty (30) non-resident family memberships for use of the common amenities (i.e., clubhouse, pool, lawn, tennis) at Beach Plum Village for residents residing within certain proximity to the development. Please see Section 3.2(o) and Exhibit D of the "Decision on Application of Rugged Scott LLC As Modified Pursuant to the 'Agreement and Stipulation for Entry of Judgement' in Housing Appeals Committee Docket No. 04-13" as well as Section 9 of the "Settlement Agreement".

Over a decade later, the developer has not implemented this non-resident program.

We understand the developer has retained control of the Homeowners Association at this point, so it would appear the ability to act is in their hands.

In the attached correspondence with the developer, you will see that the developer suggests that he plans to wait until all units are sold before implementing this policy. We see nothing in the Decision or Settlement Agreement that states that need be the case.

One would think it reasonable that, initially, before the amenities had been developed, that a non-resident program may not be in place. We would agree that to be very reasonable. However, in this case, not only has the pool, for example, been built – *it has been rebuilt.* Residents of Beach Plum Village have been enjoying the common amenities for years. As they should.

We understand that this non-resident program was intended to be a kind of community benefit and that the developer states they are interested in helping the year-round community through their housing programs. We also understand it could provide a lessening of the shared expense burden to the year-round as well as seasonal homeowners at Beach Plum Village were the non-resident membership program to be in place. As year-round residents, we are struggling to see how these facts and representations square with the developer not having previously implemented this simple program which the developer committed to do…?

We simply would like the developer to perform, finally, on the obligation without further delay. In addition to each of us having a potential interest in non-resident membership (dependent on program guidelines and pricing), we each, also, would like to be part of the representative group of abutters to review and discuss the proposed guidelines for the program with the developer / Homeowners Association as provided for in the Settlement Agreement.

We believe the developer to be in violation of both the Comprehensive Permit and the Settlement Agreement. We are not sure if a (re)opening of a public hearing is the next appropriate step, yet we would greatly value your guidance and attention to drive this matter to resolution without further unnecessary delay on the part of the developer.

Surely life would be easier for all if folks would just *do the right thing*.

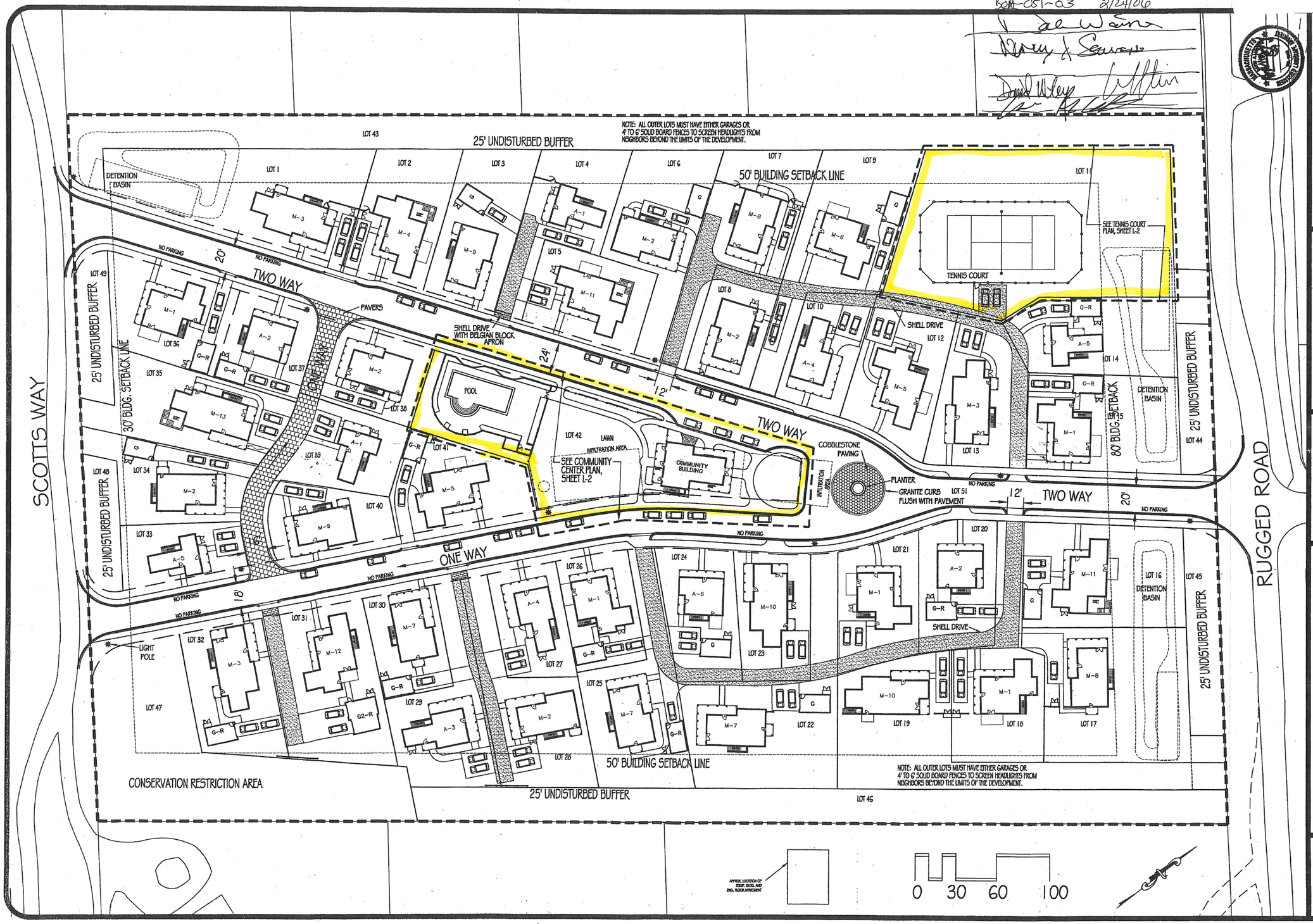
Indeed, at any point over the past decade the developer could have come up with the guidelines and implemented the program if they so choose. Apparently in this case, it is going to take an authority compelling them to do so.

With best regards,

Chris Freeman, 14 Seikinnow Place
Tucker Holland, 5 Seikinnow Place
Peter McEachern, 2 Seikinnow Place
Bert Turner, 11 Seikinnow Place
Chris Young, 12 Seikinnow Place

Attachments (6)

BOA-051-03 3/24/06



PREPARED BY:
Weinmayr-Jay Associates, Inc.
Landscape Architects & Land Planners
617-354-8700

OWNER:
Rising Tide Development LLC
32 Arlington Street, Cambridge MA

DATE: Jan. 30, 2006	
DRAWN:	DAJ
SCALE:	1"=30'

LANDSCAPE PLAN

PROPOSED RESIDENTIAL DEVELOPMENT
AT RUGGED ROAD AND SCOTTS WAY

L-1

End of Packet