

Town and County of Nantucket
ROADS AND RIGHT OF WAY COMMITTEE

Posted Meeting of 18 February 2020
Conference Room of 2 Fairgrounds Road

FINAL AND APPROVED MINUTES

1. Call to Order, Approval of the Agenda, Approval of Minutes, and Public Comments.

A. Chair Allen Reinhard called the meeting to order at 4:02 pm. In attendance were, Nelson (Snookie) Eldridge, Ed Gillum, Bill Grieder, Nat Lowell (4:23 pm), Allen Reinhard, Bert Ryder (4:53 pm), and Lee Saperstein; there was a quorum at all times.

Absent: Rick Atherton, Leslie Forbes.

Guests: Thomas Barada, Ken Beaugrand, Real Estate Specialist, Steven Cohen, Attorney, Andy Lowell, Member of Harbor and Shellfish Advisory Board, Arthur Reade, Attorney,

B. Approval of the Agenda. The agenda was approved unanimously.

C. Public Comments:

Allen Reinhard asked if there were any public comments for items not on the agenda and there was none.

D. Minutes. Approval of the minutes from January 21, 2020, was moved by Snookie Eldridge and seconded by Bill Grieder; approval was unanimous.

2. James Street Public Access.

Allen Reinhard introduced the topic of public access through James Street to the Harbor by saying that members of the public at the last meeting asked if we could return to the subject formally, i.e. on the published agenda. He then invited those present to speak.

Thomas Barada went first and spoke about his concern that the yard sale proposed for James Street would prevent its use for vehicular access to the water. Furthermore, this disposition now includes a narrower, five-foot section of the easement from the retaining wall to the beach whereas the original proposal was for eight feet. He asked if the committee would ask the Town if this could be re-negotiated. Allen Reinhard replied that once we recommend the taking and disposition, we do not enter into the negotiations between the Town and the property owners.

Arthur Reade said that he is an attorney who represents one of the abutters. His client has owned the property since 1957. Once upon the time, there was a public way monument at the entrance

to the private way but it was removed, probably because it and other four parallel ways were not public. The posts may have been installed by the developer of the Beachside Development. He explained also that the concrete bulkhead was installed after the No-name storm of 1993 and the wooden fence was replaced after a storm in 2013. That installation caused neighbors with deeded rights for access to the water to complain to the Town. This complaint led to the warrant articles (Five and Six) for taking and disposition of Beachside Streets in the Special Town Meeting of 2013. Because his client's house has been on top of the way since it was built, the land in the way and beneath the building is now owned by his client due to adverse possession. The proposed solution includes an One Big Beach easement for public access to the beach across the entire width of the way proposed for yard sale.

Steven Cohen, attorney for the other abutter, agreed with the explanation.

At this point, Allen Reinhard said that the committee's entire thrust, as defined in its mission statement, was to provide public access to the water and the beach. He then asked Thomas Barada about his concerns for access to the water during some future emergency. Thomas Barada explained that James Street was the only one of the five Beachside ways that was flat and level all the way to the water and might be needed during some future flooding event.

Allen Reinhard said that the retaining wall and the wooden bulkhead would be a real hindrance to vehicular access and that access is available at Charles Street and at Brant Point.

Lee Saperstein pointed out that there are procedures that may be imposed by the Town and the State during a declared emergency and that it did not seem necessary to prepare for the unknown when police-power procedures were already in place. Steven Cohen repeated the case for the disposition.

Lee Saperstein then made a motion to take no action, which, he said, was debatable and, if it passed, would restore the committee's original recommendation in favor of the disposition. Nat Lowell seconded the motion and Allen Reinhard agreed that it was discussable. Nat Lowell reviewed the history of the One Big Beach program. Ed Gillum spoke in agreement with all that had been said. In the interest of completeness, he asked if water depth was one of the reasons for the request to not convey and the response from the guests was "yes." Bill Grieder reminded the committee that one house is on top of the way and the conveyance would cure that encroachment. Arthur Reade said that the land under the house is registered but the way was not. However, adverse possession gives the home owner rights to the land under the house. Nat Lowell reminded us that the committee started as much as ten years ago to remedy encroachments and misunderstandings of way ownership and we have come a long way.

Andy Lowell said that SHAB understands that the public access is important but has no objection to the disposition as long as access is maintained. Thomas Barada asked if the fence would be rebuilt and the answer was that there is no permanent fencing in the design of the proposed easement.

The vote was unanimous to take no action. Nat Lowell was included in the vote but Bert Ryder was not yet in the meeting.

3. Updated “Official” List of Public and Private Ways: Next Steps.

Allen Reported that he has met with Nathan Porter, GIS Coordinator, who will provide him with a detailed breakdown of the ways on the Island. Nat Porter has divided the Island into six sections and will further produce detailed maps for each section. To begin, he has created three maps that cover the west end of the Island. Ways on the map are color coded to show ownership: public, private, and unknown. Allen Reinhard suggested that we would transcribe road names into a printed list. The next step would be to ask Andrew Vorce what he knows about the indeterminate ways and then go to the Registry of Deeds to research them. He has asked Dave Fronzuto, former Emergency Manager for the Town, if he knew of a definitive list and he said no.

Ed Gillum and Bill Grieder offered to look at the three maps of the Island’s west end and transcribe street names and ownership status. Ed Gillum said that this research could lead to recommendations for taking. Allen Reinhard said, yes, once we have reviewed the data, we could bring individual streets to the agenda for a taking recommendation if they met the criteria.

4. Takings List Review.

Allen Reinhard had nothing new to report about takings although we could ask the Town for the status of our recommendation for taking Franklin Street. Ken Beaugrand said that he had no news on Franklin Street; he was pleased to report, though, that a survey of Stone Alley has been ordered. Nat Lowell said that he had been asked to look at Franklin Street and he had. He liked the entry steps to New North Cemetery. The private installation of a curb has narrowed the way and it should be examined.

Nat Lowell said that he has driven along Hinsdale Road and that we ought to consider it for a taking. Hinsdale Road is already built up and he expects several more subdivisions along it. The road is private and in terrible shape even though it has a lot of housing along it. [Action: Return Hinsdale Road to the agenda to discuss a potential taking.]

5. Encroachment Policy: List of Problem Areas of Pedestrian and Traffic Safety.

Allen Reinhard asked if anyone else had contributions of encroachments of a serious and dangerous nature. He termed them “egregious.”

Ed Gillum pointed out that Delaney and streets around it have a lot of boulders in the layout. Bert Ryder reminded us that Hussey and India Streets have decorative posts along them. Allen Reinhard recalled that Walsh and Swain Streets has a big rock at the corner of 5 Swain Street. Ed Gillum said that there was a problem with intruding hedges on North Liberty across from the Land Bank property (16 North Liberty). Thomas Barada reported that a property at the corner of

Johnson and Hulbert (84 Hulbert Avenue) has a hedge in the layout that restricts vision for those turning from Johnson to Hulbert. Bert Ryder said that a similar condition exists at the corner of Orange and Dover (77 Orange), where hedges block the view of pedestrians for drivers coming down Dover. Snookie Eldridge pointed out that a similar condition exists at Cherry and Orange Streets (117 Orange Street).

Allen Reinhard asked people to keep submitting examples. Ed Gillum suggested that we ask a representative of the Nantucket Landscapers Association to attend when next we discuss encroachments.

6. Member comments, Old, New or Other Business: Historic Coloured Cemetery Access.

Allen Reinhard asked if there were any member concerns that had not been addressed. He noted that Lee Saperstein had asked that the Railroad trail be upgraded to an active subject.

Bill Grieder asked if we can resolve the conflict with SHAB on the meeting space.

7. Adjourn,

Adjournment came by acclamation at 5:13 pm.

Next meeting: **4:00 p.m., Tuesday, March 17, 2020.**

Lee W. Saperstein, Secretary _____ Date _____

Roads and Right of Way Outstanding Projects List:

Public Way Monument Project: (Lee & Allen & Snokie)

- Install remaining monuments at Sconset Footpath, Hulbert Ave.
- Update file of existing monuments
- Move monuments at Westchester St. Ext. & Crooked Lane

Sidewalk Projects: (Allen)

- Prospect St. (bike path to Upper Vestal St.) and on to Madaket bike path
- Cliff Rd. Coffin Park to bike path at Sherburne Tpk.
- Pleasant St. Gardner Perry Lane to Williams St.
- Follow implementation of downtown sidewalk improvements
- Bike/Pedestrian connection from Surfside to Hummock Pond to Madaket paths

Harbor Walk Project: (Rick)

- Identify route and identify sections needing constructed walkway
- Concept drawings of construction required

- List permits and approvals needed and process to obtain
- Funding

Chapter 91 Monitor Project: (Leslie & Lee)

- Define goals for project
- Make local license information available on line
- Chapter 91 licenses along route for the Harbor Walk
- Locate other locations on Nantucket and Madaket Harbors requiring licenses

Nantucket Greenway and Trail System Project: (Allen, Lee, Bert)

- Nantucket Central Rail Road trail
- Map existing island trail and footpath systems and identify missing links
- How should maps and information be shared?