

A HISTORY OF ROADS AND WAYS IN NANTUCKET COUNTY

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Introduction:

Right of way and access to ocean beaches and the shores of ponds are topics of great importance to residents of Nantucket and to visitors to the island. The Nantucket Roads and Right of way Committee has produced this publication to provide information about the historical background, current status, and future of “ways” on the island.

Ways include footpaths, beach access points, alleys, lanes, streets and roads. Not all ways, even those habitually used, are public. Within subdivisions, heavily traveled roads that have not been taken, accepted, and recorded by the Town of Nantucket are private roads. Practically speaking, this means that the annual budget for the town does not provide funds for their repair or for snow removal. Likewise, surviving Proprietors’ Roads that have not yet been taken, accepted, and recorded are private roads.

Many access ways linking public roads to the beaches are abutters’ ways. Landowners on each side of these ways own to the middle of the way. An abutter can legally plant a hedge, install playground equipment, erect a fence, or put in a driveway on his/her half of the way. If abutters on both sides are likeminded, they can close off access that their neighbors (and even town officials) have long assumed to be a public way.

The Nantucket Roads and Right of way Committee hopes that this publication, together with an up-to-date map of Nantucket’s public ways and shore access points will facilitate maximum enjoyment of Nantucket’s glorious outdoors and minimize conflict with landowners.

History of roads and ways on Nantucket:

Indian trails between settlements

On the nearby mainland there still exist some trails that date from before the arrival of the Mayflower Pilgrims. These are known as “ancient ways.” One of them was used by the Mashpee Wampanoags and is said to be “still discernible among the maze of contemporary housing developments.” Points along these ancient ways were marked with prominent stones, upon which passers-by piled more stones or small branches.

If there were such marked trails on Nantucket, they have been lost, along with Nantucket’s Wampanoag population, which fell victim to a lethal epidemic in the winter of 1763-64. The survivors of the epidemic were few in number and either left the island or melded into Nantucket’s community of people of African heritage. With no one left to maintain them, any markers that may once have existed were obliterated by weather, trampling by domestic animals, and clearance for agriculture.

The names of Nantucket Indian villages (Wammasquid, Squatesit, Occawa, Sakadan, and Miacomet) survive in old records, but there is hardly any mention of trails connecting them. The oldest maps of Nantucket that show roads or paths across the island date from more than a century after the first English settlers arrived in 1659.

A few Indian deeds from the 1600s mention paths, but they also mention cart tracks and even a “highway” in Quaise. The wheeled vehicles of the English settlers probably followed earlier Indian footpaths.

Today’s Nantucketers recall walking an “Indian Trail” along the edge of Quaaty Bluff behind the houses on Orange Street from Stone Alley to Flora Street. It has since been blocked by landscaping and fences. Unfortunately, there is no historical documentation about this footpath.

Likewise there was a public way along the Cliff that was still in existence in the late 1800s. It survived long enough to be photographed but has since been lost.

Nonetheless, there have undoubtedly been paths along all the high bluffs on the island. A 1775 document in the Nantucket Registry of Deeds describes a public way that ran along the coastal bluff from the South Shore past Tom Never's Head all the way to Siasconset. This way was to be maintained for the public in perpetuity even in the case of coastal erosion.

Historian Edouard A. Stackpole observed that historically a footpath ran from the village of Siasconset all the way to Quidnet, and that the United States government cut the path in half in 1843 by constructing Sankaty Head Lighthouse on top of it. The segment of the footpath from the center of the village of Siasconset to Sankaty Head still exists as a public way thanks to an 1892 deed from developer William Flagg.

Early colonists' road layouts and footpaths

There are no topographical maps of Nantucket from the 1600s. The 1772 Tupper map just shows livestock fences. The 1820 Thomas Mitchell map shows the livestock fences and some roads: one exiting the fence-enclosed town through a gate on the west side and going to Madaket; another exiting the south side of town through the Newtown Gate and heading eastward to Siasconset with a branch off to the northeast to Quaise; and another branch through the Middle Pasture leading to Quidnet, Polpis, and Wauwinet.

The legal notion of road layout in Massachusetts dates to 1846, and even after that Nantucketers were resistant to the notion. Harking back to the 1820s, and likely all the way back to the 1660s, Nantucket attorney Henry Barnard Worth wrote of ways across the island and around the island's ponds that there was no evidence of "traveled use" staying to particular routes and that insofar as people did stick to the same ways, "it was more because they were open and not with the purpose of following" a particular line.

1799 roads

During the presidency of John Adams, all the towns of the young United States of America were required to submit to the federal government a list of the streets in each town. This was for the purposes of taxation, and there was probably little enthusiasm for the task. Furthermore, according to a visitor to Nantucket from Philadelphia, “Such is the simplicity of this primitive place, and so small the resort of strangers, that the streets which have branched out had never any names given to them, until the assessment for the direct tax under President Adams.” Nantucket’s assessor, Isaac Coffin, finally submitted a list of exactly one hundred streets in the Town of Nantucket. He had apparently had to invent names for some hitherto nameless streets, and this included such patriotic names as Liberty Street, Federal Street, Union Street, Washington Street, and Jefferson Lane. For a while in the nineteenth century Main Street was renamed State Street. According to the Philadelphia visitor, Quaker Nantucketers resented the names and would not use them. Nonetheless, most of the 1799 streets still exist and their 1799 names have survived with them.

Henry Barnard Worth wrote of the street-naming project that, “In Nantucket this work was under the supervision of Isaac Coffin, Esq. His list of streets was recorded in the Registry of Deeds, and is of the highest value for historical purposes, as it not only delineates and names all existing ways, but designates the owners of three hundred houses and localities.” The list currently in the Nantucket Registry of Deeds is not, however, Isaac Coffin’s original, but a copy made around 1818.

In 1846 the Commonwealth of Massachusetts established a multi-step procedure for establishing a public way that involves surveyors laying out the way and creating a plan, posting public notice of intention to take the way, taking the way as designated on the plan, accepting the way, and recording it. If all steps are completed, the municipality becomes legally responsible for maintaining the way (that is, keeping it in good repair and removing snow) and liable for injury caused by failure to do so.

Because of maintenance expense and liability, municipalities have been unwilling to make all existing thoroughfares into public ways, and this has been especially true on Nantucket. Henry Barnard Worth, in a 1911 opinion concerning the Town of Nantucket's resistance to taking the old Proprietors' Roads, the ways along the shores, and the margins around the island's Great Ponds, wrote "If a different view had been taken, the town would be under the obligation of maintaining and keeping in repair all roads that had been dedicated before 1846. How extensive a burden this could be can be appreciated by estimating the circumference of these ponds and the lengths of adjacent shore lines, when it would become apparent how many miles more of roads the town of Nantucket would be obliged to maintain, than at present."

Worth added, "If hereafter in any of these cases, public convenience and necessity ever require, the town of Nantucket can lay out these roads under the Highway Acts, and thereafter be liable for their repair and maintenance." That is what was done with varying success throughout the past century.

Although the Town of Nantucket sought to avoid the cost of maintenance of what Worth described as "remote private ways infrequently traveled," the 1799 streets were another matter. A long-standing assumption has been that the in-town streets on Isaac Coffin's list were exempt from the Commonwealth's 1846 requirements because of a March 1837 court decision that established them as public ways.

The substance of Folger versus Worth 1837 hardly seems an occasion for legalizing a hundred public ways. Benjamin Worth, a Nantucket field driver, came upon seventeen sheep loose in the streets of Nantucket with no one looking after them and, with the help of an assistant, impounded them. The owner of the sheep, Walter Folger, sued Worth and his helper for trespass. Folger's position was that the entire island, with the exception of lots that had been set aside to individuals, was common, undivided land belonging to the Proprietors. Since the streets had never been set off to any individual, the Proprietors owned them. Given that Proprietors could graze their animals anywhere on the common and undivided land, Worth had no right to impound sheep roaming loose in the streets.

The Supreme Court of Massachusetts saw it otherwise and ruled against Folger. By statute, field drivers in Massachusetts were authorized and required to impound all sorts of livestock, specifically including sheep, “going at large on public highways.” The question to be decided was whether there were or could be public highways on Nantucket. While acknowledging that there was “no record of laying out of any highway in Nantucket,” yet highways did exist “established by long continued use and enjoyment.” In fact, the opinion continued, “the streets of the town have been used as highways, from time immemorial.” If it were otherwise, a citizen of the Commonwealth of Massachusetts or from any other state of the Union passing through the streets of Nantucket would be a trespasser, as would any Nantucketers who did not own a sheep common. If Folger’s position prevailed, such individuals would be unable to pass from the wharf to the courthouse. Hence, the court decided, the Proprietors’ ownership of streets and highways was subject to perpetual easement for the public.

A difficult question remained, namely “which and how many of the various tracks, which traverse the island, have been so much, so long, and so uninterruptedly used, as to show them to be highways.” But there was no doubt that the streets of the Town of Nantucket, namely the 1799 streets, were public ways.

The Town of Nantucket relied on this decision until the 1930s, when—under pressure from increasing encroachment—it began the process of laying out, taking, and accepting in-town and out-of-town streets and roads, including the 1799 ones.

Proprietors’ Roads

Many Massachusetts communities began their existence in the 1600s as closed corporations with the intention of the proprietors’ shares transitioning quickly to private ownership of specific pieces of land. Only on Nantucket did the proprietorship endure as a separate, parallel governing body, independent of Town Meeting.

Of the first investors in the English settlement of the island, each had a homestead lot set off for himself and his family. These original homesteads were clustered between the North Head of Hummock Pond and the North Shore around Maxcy's, Capaum, and Washing Ponds. In addition to a homestead lot, each of the original investors received a share in the rest of the land and the grazing rights purchased from the Nantucket Indians. This was the common, undivided land.

Each of the original twenty-seven shares in the common, undivided land was, in turn, divided into fractional sheep commons. Each common permitted its owner to graze a specific number of sheep, cows, or horses on Nantucket or Tuckernuck. There was the option of petitioning the governing body of the Proprietors to set off a specific piece of land in exchange for some or all of one's commons. Under these circumstances, the set-off land passed from the joint ownership and control of the Proprietors. In the beginning, the expectation was that grazing rights would be of such value that owners would retain them and pass them on to their heirs rather than trading them in for set-off land. As the population grew, these commons were inherited by an ever-increasing number of descendants, so that the number of commons held by any one person grew ever smaller. Moreover, through the several migrations of Nantucketers away from the island, many of the commons came to be held by persons unknown residing in locations unknown.

When English settlers first moved to Nantucket, they expected to grow grain crops and keep dairy cattle. It was immediately evident, however, that the soil and climate would not support such an endeavor, so sheep were imported, and the settlers turned to the wool industry. This, too, was insufficiently profitable, and whaling took its place as the dominant source of revenue. Sheep raising continued, however. In the mid 19th century, both whaling and sheep raising went into rapid decline. After the Civil War, Nantucket turned to summer tourism as its economic mainstay. Grazing rights became largely irrelevant, and ownership of land, particularly land with views of Nantucket Sound or the Atlantic Ocean, became an attractive investment.

As a few individuals began aggressive campaigns to acquire sheep commons and trade them for laid-out land, the Proprietors of the Common and Undivided Land on Nantucket might have been expected to pass out of existence, but in fact the institution has endured—however vestigially—to the present as the sole survivor among the early colonial proprietorships.

The Proprietors' Roads were laid out in 1821 in reaction to the first massive trade of sheep commons for land. In 1816 a group of influential Nantucketers asked for set-off of a large tract of land near Siasconset known as Plainfield. The Proprietors resisted, the dispute went to the courts, and ultimately the Supreme Court permitted the set-off in 1821. In the same year Smooth Hummocks, Head of the Plains, and Trott's Hills were laid out and passed from the Proprietors' jurisdiction.

Alarmed by this first, early demand for carving up the island's common and undivided land into fenced private property, the Proprietors responded by laying out roads to insure that the public and its livestock would continue to have access to the remaining common land and to water, both fresh and salt. In 1821 they made the following layouts:

- A road to the Town Pasture
- Roads 4 rods wide around all the ponds
- Roads 4 rods wide around the swamps
- Ten-acre strips of land along the shore-beach

In the Nantucket Registry of Deeds, Proprietors Book of Plans 1, there is an 1821 map of "roads in the Town Pasture" that shows the Town Pasture and roads to the west of the town together with Washing Pond, Maxcy's Pond, and Hummock Pound surrounded by the 4-rod buffer zones.

The 1821 Proprietors' Roads were not public ways; they were private roads owned by the Proprietors of the Common and Undivided Land, though designated for unrestricted public use.

In 1846 the Massachusetts Legislature passed the law mentioned above concerning public ways in the Commonwealth according to which, a municipality was required to keep public ways in repair or be exposed to damage suits. Moreover, in order for a municipality to assume responsibility for a public way, it had to be laid out according to set rules, accepted by the town at a legal meeting, and recorded. It might have been prudent for the Nantucket Town Meeting to retroactively accept the Proprietors' Roads, but it did not. The Town was satisfied that no liabilities had been incurred at the time the Proprietors laid out its roads for public use in 1821, a quarter century prior to the passage of the 1846 Massachusetts law.

Late in the 19th century, when subdivision of the island's outlying land became more active, doubt was raised that the Proprietors' laid-out strips of land along the shores and around the ponds and swamps had ever been used as traveled ways. Whatever naturally occurring rocks and other bounds that may once have existed had been disturbed and could not be located by surveyors.

In the early 20th century there were efforts by individuals to trade in commons for Hummock Pond and Miacomet Pond in order to use them for fish hatcheries, and one individual who had managed to consolidate commons petitioned to exchange them for vast set-offs. Now very little was left of the common and undivided land. In 1912 some of the remaining land was set off to the Prospect Hill Cemetery Association and to the Nantucket Civic League.

In 1919 the Proprietors received a petition for a set-off of land from Wannacomet to the east, southeast, and south of Maxcy's Pond. In the petition, the rights of the public to roads within this division were acknowledged, but the burying ground of the first settlers is not mentioned. Nonetheless, a plan of land dated May 25, 1922, drawn by William S. Swift shows the old cemetery, labeled "Burying Ground, Proprietors of the Common and Undivided Lands on the Island of Nantucket" with an access way 20 feet wide running from Cliff Road to the northwest corner of the cemetery.

At a meeting on June 14, 1973, of the Proprietors and the Nantucket Board of Selectmen, it was voted for the Town to take the following:

The Founding Fathers' Cemetery (now named the Founders' Burial Ground)

The Great Ponds (Hummock Pond, Miacomet Pond, Sesachacha Pond, Gibbs' Pond, and Coskata Pond) plus any rights-of-way around them

All lands with the exception of the Proprietors' Roads that had not previously been taken

Why did the June 14 vote exclude the Proprietors' Roads that had not been previously taken? The explanation appears to be that those remaining ways that the Town had not already taken were unpaved roads and non-existent paper roads for which the Town did not wish to assume liability.

At the 1973 meeting it was voted that the Proprietors, continuing to exist, should call another meeting before 2000 and thereafter hold meetings at fifty-year intervals. Just a decade later it was necessary to call the next meeting, because two of the three trustees for the Proprietors had died.

At present the Town of Nantucket owns almost all the remaining shares in the old proprietorship.

Land development and subdivision 1880-present

As Nantucket's economy turned to summer tourism, real estate investors built large hotels, marketed old Nantucket houses as second homes for summer residents, and also foresaw a market for lots on which buyers could build their own private summer cottages.

The sites for subdivision and development were peripheral to the Town's historic center, with beach access and views of Nantucket Sound or the Atlantic Ocean.

In 1873 Captain Charles Moores set out to develop Nantucket Bluffs on the North Shore, while F. A. Ellis and Charles H. Robinson did the same for land in Siasconset south of the Gulley that marks the southern boundary of the old village of Siasconset. At about the same time Henry and Charles G. Coffin formed the Nantucket-Surfside Land Company. Their subdivision comprised a tract three miles long and one mile deep from Weweeder Pond in Surfside to Tom Never's Head. On July 4, 1881, the Nantucket Railroad Company initiated service between town and a depot in Surfside. Two years later, the four-story Surfside Hotel had a 4th of July grand opening. A few lots were sold, but Surfside failed as a successful summer resort. By 1899 the railroad had been diverted to Siasconset, and the Surfside Hotel building had collapsed.

At the same time that the Coffin brothers were investing in Surfside, S. B. Tourtellotte of Worcester subdivided a large tract in Madaket into a couple of thousand lots, and speculators by the name of Lete and Wooding of New Haven acquired a tract with a harbor view at Quaise and subdivided it into five hundred lots. No buildings were erected in Quaise, and the land was sold for taxes.

Almost simultaneously, Boston partners W. and J. A. Veazie purchased the land between Hummock Pond and Long Pond and divided it into 1700 lots with the names Nauticon and Smooth Hummocks. Nothing was built there either.

Henry Coffin and a group of partners then created a 28-lot subdivision in what is now known as the Steps Beach area and named it Sherburne Bluffs. Further west, near what was then the Hinckley Farm, a tract of 240 lots was named Wannacomet Bluffs. Nothing sold.

E. H. Alley acquired land for subdivision in the Brant Point area, and Charles Robinson partnered with Alfred Swain in a venture called Clifton Springs. All of these efforts took place in the 1870s.

The 1880s and 1890s saw less grandiose ventures involving smaller tracts in Wauwinet, Sesachacha, Coatue, Sankaty/Siasconset, Monomoy, Miacomet, Dionis, Brant Point, and on the Cliff. Henry Barnard Worth wrote of these attempts at dense development, “In general, the land ventures near town have been successful, and also between Wauwinet and Low Beach. Those along the south side of the harbor, on Coatue, Surfside, Hummock Pond, and Madaket have been failures.”

Two of the most successful efforts were in Siasconset: William Flagg’s on the north side of the old village beginning in 1873, and Edward Underhill’s south of the Gulley soon after. Underhill was credited with getting the railroad line extended to Siasconset.

A subsequent development scheme involved land at Tom Never’s Head. (Tom Never was a Nantucket Wampanoag, a member of the Never family that was wiped out by the “Indian Sickness” of 1763-64.) In 1916 Franklin Smith and Edgar Linn purchased the old Southeast Quarter. The land they set out to develop extended from Tom Never’s Pond westward for two miles along the South Shore and was bounded on the north by Milestone Road. The railroad tracks divided the tract diagonally into two halves, and a Tom Never’s Head depot was built. On the Head itself the partners constructed Tom Never’s Lodge, a large wooden building consisting mainly of a tower from which prospective buyers could view available lots in the subdivision. The timing could not have been worse, as the U.S.A. entered World War I the following spring. No one could be induced to buy a lot at Tom Never’s, and the Lodge was abandoned. In 1938 the derelict building burned to the ground. Today a large and dense neighborhood occupies the area where the original enterprise failed.

Tristram’s Landing was one of the late 20th-century subdivision projects that initiated island-wide in-fill and subsequent loss of open spaces. The idea for Tristram’s Landing

began with a couple who visited the island on vacation in the mid-1960s and subsequently purchased land between Madaket Road and Long Pond with frontage on the South Shore. The ownership of the subdivision changed hands a number of times thereafter. Despite promises that the buildings would be harmonious with the landscape and with traditional island architecture, the “Towne House Village” component of Tristram’s Landing alarmed Nantucketers to the point that the Historic Districts Commission, founded in 1955 to protect the architectural integrity of the town of Nantucket, was extended to the entire island in 1971.

At the same time Senator Edward Kennedy put forward a proposal for a “Nantucket Sound Islands Trust” with the intent to preserve open space and curb dense development. His initiative was opposed by those who feared loss of local autonomy and economic threat to local developers, and it was finally defeated and shelved.

In the 1973 town Annual Report the Planning Board reported that, “Many subdivisions involving greater numbers of lots were proposed than ever before.” In 1981 the Planning Board remarked on the rapidly rising rate of subdivision and concluded, “Nantucket Island’s rate of growth has accelerated dramatically during the late 1970’s and the first two years of the 1980’s... While these figures signify potential growing pains and problems that should be managed, growth also brings with it positive opportunities that should be taken advantage of.”

Since 1976, an average of 102 requests for subdivision have been submitted to the Nantucket Planning Board each year, with notable spikes and dips. Requests were high through the 1980s but fell precipitously at the end of the decade, rising again in 2005. The average number of denials of subdivision requests has been less than two per year.

The task of acquiring open land on Nantucket and preserving it from development has fallen to the Nantucket Conservation Foundation, the Nantucket Islands Land Bank Commission, the Nantucket Land Council, the Massachusetts Audubon Society, the

Trustees of Reservations, the Boy Scouts of America, the Sconset Trust, the Madaket Conservation Land Trust, and private individuals.

Abutters' ways and alleys

Many access points between streets and roads parallel to the shoreline and the beach itself are by narrow lanes between private properties. Likewise, there are narrow grassy alleys between houses in Siasconset and similar ways between Baxter Road and the public footpath between Sankaty Head and Siasconset. The assumption has been that these are public ways, and the blockage of any such way is greeted with vociferous protest. In some cases, protest has been well founded, but in a relatively large number of cases, it has been ruled that these are not public ways but abutters' ways. This means that the property owner on each side owns to the middle of the way. If adjacent neighbors decide to close the abutters' way entirely, they may do so. Over years this has led to the loss of many ways traditionally used by the public to reach the shore or the footpath or to take a shortcut between streets.

The reason that so many access points turn out to be private abutters' ways rather than public ways is that the Town of Nantucket never took the ways as public ways or, in a dismayingly large number of cases, the town initiated the process of taking them but failed to carry out all the steps mandated by the Commonwealth of Massachusetts, specifically the acceptance of the ways at Town Meeting and the recording of them thereafter. When the town became belatedly aware of this failure with respect to early 20th-century takings of ways, action was undertaken to rectify the situation, but abutters had closed a significant number of ways in the meantime.

'Sconset footpath

Nantucket historian Edouard A. Stackpole wrote in 1973, "Undoubtedly, the most unusual feature of the path is that it is public (being owned by the town) and yet that it

leads directly across the front yards of all those owning property fronting on the bluff.” Here is how that came about.

In 1873 William Flagg, a summer resident of Nantucket, obtained title to a large section of land between Siasconset Village and Sankaty Head in the section traditionally known as Plainfield. The title as originally obtained by Flagg gave him ownership to the foot of the bluff, but the Proprietors of Nantucket’s Common and Undivided Land reserved for themselves the beach from the foot of the bluff to the high water line.

At the same time or soon after, Flagg acquired more land and made plans for subdivision into house lots. In this subdivision, he ran the easterly boundary of the house lots at what “he no doubt considered a safe distance from the edge of the bluff.”

Ten years later Flagg petitioned the Proprietors for another set-off of “all the common land lying eastward in the Plainfield division and by the Atlantic House. Also, all lying between these lines and the lines of Squam division, except the Pond [i.e., Sesachacha Pond].”

On December 8, 1883 the Proprietors agreed to this set-off (valued at ten sheep commons), requiring that Flagg “secure to said Proprietors a roadway two rods wide, over and across those portions of land by him reserved.” The quitclaim deed specified that the right of way two rods wide was forever secured to the Proprietors “notwithstanding any changes that may hereafter take place on the beach affecting the position of said line of high water mark.” Clearly this was a right of way on the beach at the base of the bluff and not the footpath in question.

Nonetheless, when Flagg sold some of his northerly lots in 1892, it was recorded that the easterly boundary of these lots was “a foot path along the top of the bank.”

In August 1892 Flagg petitioned the Proprietors to accept a tract of land “for residents and visitors of Nantucket to be used as a foot-path or foot promenade.” What is more,

the land conveyed to the Proprietors was “the strip of land covering the path and running to the foot of the bluff” where it joined with the land at the foot of the bluff that the Proprietors had reserved for themselves in the 1883 quitclaim. The Proprietors voted to accept the footpath on September 3, and Flagg conveyed the land to the Proprietors on September 21, 1892.

In the meantime Flagg had sold a block of three lots stipulating that the eastern boundary was the footpath along the bank. The following year the estate of the buyer petitioned the Land Court for title to land easterly all the way to the ocean. The Land Court judge ruled against this petition in light of the September 21, 1892 conveyance of the footpath to the Proprietors. Nonetheless the estate landscaped across the path and erected a number of buildings on the beach below the bank.

In 1924 the Town of Nantucket voted to seek title to the footpath through the Land Court, and the suggestion was made that the Proprietors resign as trustee of the strip containing the footpath and that the Town of Nantucket be appointed as trustee in their place. On May 1, 1925 the Proprietors voted to give the Town of Nantucket “a deed of release to not only the Path, but to all the land between the top and bottom of the bluff along the Path.”

This brought the town into conflict with the above-mentioned estate, a conflict that the estate lost. On December 1, 1929 the Land Court legally established the footpath as belonging to the Town of Nantucket.

Since then there have been numerous complaints about blockage of access to the footpath from points along Baxter Road. Owners have put in driveways and playground equipment and landscaped across what have long been believed to be public rights of way. A 1991 investigation on behalf of the Nantucket Board of Selectmen led to the opinion that “Although the public does indeed have right of passage over the Sankaty Footpath, there do not appear to be recorded easements granting the public clear access to the footpath over the small lanes or ‘abutters’ ways’ along the path. Neighbors have used

these ways over the years, but the present abutters to at least two of them have effectively prevented this continued access by adding rose bushes or a driveway. It is unclear if the original subdivision plan prepared by William Flagg in 1892 granted any access rights to owners of parcels in this area other than the immediate abutters to the ways.

Consequently, it appears that short of taking some or all of the paths, neither the County nor the Town can ask the abutters to refrain from preventing use of the abutters' ways as long as the public is able to continue to use the Sankaty Footpath itself."

1975 Road takings

An annotated 1952 document lists 41 "Public Right of Ways to Harbors and Shores" with indication of which had been properly taken and accepted. A dozen more at various steps in the taking process were subsequently penciled in. A note at the end of the document recommends that "all accepted right of ways to harbors and shores, be permanently marked as such, by cement post with brass plate embedded and inscribed; this would be of great benefit to public and could be designated on future information maps."

Twenty years later the Town of Nantucket engaged Dr. Mary Brown to prepare a list of all Nantucket streets and roads. The product of this project is a 34-page document named "Corrected list as of 11-7-1973." The data in the document are arranged in fourteen columns. The first column contains streets listed 1-625, with an additional page listing York Street as number 262 (although number 262 in the main list is India Street). The rest of the columns provide information such as whether the street was legally taken; the year of the taking; whether a 1799 street, a private way, or an abutters' way; information about registration and recording; the number of the plan on which the way appears; and notes about special circumstances.

These two documents provide the background information for the taking of 62 "Roads and/or sections of Roads Taken under Chapter 44 of the Acts of 1975 and in Accordance with the Vote under Article 17 of the Town of Nantucket Annual Town Meeting, April, 1975." There is a document listing these roads on file at the Town Building (records of

the Roads and Right of Way Committee, filed under “Chapter 693”). This document lists the names of the roads taken, whether the entire road or a section thereof, whether paved, etc.

Vehicles and roads

Beginning around 1900 a few motor vehicles were brought to Nantucket by summer residents. They were unwelcome on the island, and Nantucket voters successfully requested a special act of the Massachusetts legislature to make it illegal to operate an automobile on the island. This ban was passed in 1908 and held until spring of 1918, when by a narrow vote Nantucket’s male voters accepted repeal. (Women were not permitted to vote on the matter.) A main argument for repeal was expeditious delivery of mail to the Siasconset post office. Other concerns were quick response of emergency medical and fire-fighting services. Within ten days of the repeal, there were 24 automobiles and a car dealer on the island. The issues of limiting the number of vehicles on the island and coping with summer traffic have defied resolution from that day to the present.

Previous to the lifting of the ban, bicycles had become popular on Nantucket. In 1896 a bicycle path was constructed to Siasconset. The County Commissioners received a petition for a bicycle path from Madaket Road to the Wannacomet Water Company land on the North Shore in 1898. Three years later the Committee on Bicycle Paths sought funds for repairs to three existing bicycle routes and construction of a new path from Polpis Road to Wauwinet. After the repeal of the motor vehicle exclusion act, it was not until the late 1950s that bicycle path construction resumed. A new paved bicycle path to Siasconset was opened in August 1958.

Hardening the surface of Nantucket’s streets and roads long preceded bicycles and automobiles. The cobblestones for Main Street were purchased and laid in 1837. Beginning in the mid 1860s there was a project of many years’ duration to pave Pleasant Street from Main Street to Five Corners and thence to Surfside to create a comfortable

carriage ride for summer visitors to the South Shore. The road to Surfside was rebuilt and repaved in 1907-08. Cliff Road was surfaced with concrete in 1910, the same year that the “State Road” to Siasconset was completed.

Unpaved roads, pedestrian trails and beach access as valuable public assets

Beginning in 1928, the annual town report carried notices about the pleasure visitors to Nantucket took in driving their vehicles on Nantucket’s unpaved roads. In 1931 the Nantucket’s Superintendent of Highways wrote, “The appropriation for Rutted Roads should be continued, as these winding roads leading to various parts of the Island are a source of delight to our summer visitors.” The out-of-town roads had become an asset, and town funds, though not always considered adequate, were expended on their maintenance. In 1951 the Highway Department report included the following recommendation: “The dirt roads were maintained as well as could be with the very limited funds available. A direct appropriation should be considered for the proper maintenance of the dirt roads and repairs of the pleasant rutted-road drives that wind over our moors.” By 1954 there was a Rutted Road Program in place that continued into the 1960s.

Besides motor vehicle and bicycle routes across the island, walking trails have recently been recognized as contributing to the quality of life on Nantucket. At the 1996 Annual Town Meeting, Warrant Article 33 passed unanimously. The content of the article was “to direct the Selectmen to make pedestrian access to public property a main priority as the Town and County plan for the future, and to direct the County Commissioners to study the feasibility of creating a system of walking paths linking Nantucket town to public property in the outlying areas of Nantucket County.”

From as far away as Hawaii, the Aegean islands, and the archipelagos of the Baltic Sea to as nearby as Martha’s Vineyard, communities on islands that have become magnets for waterfront development struggle with the issue of restricted public beach access. This has

been an issue on Nantucket for a century, but it came particularly to the fore in the 1990s when careless drivers, rowdy beach parties, and the messy aftermaths of gatherings led some property owners to seek to exclude people from the beaches in front of their land. Local residents have long assumed entitlement to the beaches below the high-water mark, and reacted badly to closings of beaches and beach access points. The prospect of land being taken for the public by eminent domain evoked bitter controversy and litigation.

As an alternative to this divisive approach to public use of Nantucket's beaches, the One Big Beach initiative was put forward in 2004 when the Annual Town Meeting adopted the following nonbinding article:

“Whereas it has been a tradition on Nantucket that island beaches are publicly accessible, and the public has, with limited exception, enjoyed access to the beaches; and whereas it is the policy of the Town to acquire and maintain public access to the Island's beaches and waterfront, it is hereby affirmed that in the event Town ownership is not feasible, the One Big Beach program's intent to secure easements is supported.”

The Town of Nantucket has since been engaged in approaching waterfront property owners with the offer of Town management of the beaches together with tax benefits in exchange for voluntary easements for public passage to and along the beach.

Although members of the Surfside Association—offered beach management, land exchange, and other benefits—publicly welcomed the One Big Beach initiative, progress in negotiations with landowners has been glacially slow. No easements were granted in 2004. Two years later, in the 2006 Annual Town report, the Nantucket Board of Selectmen reiterated their efforts to secure voluntary easements for property owners. The effort to guarantee that Nantucket's beaches will remain accessible, thus enhancing the quality of life for island residents and visitors continues as a work in progress.