

Town and County of Nantucket Select Board • County Commissioners

Jason Bridges, Chair
Matt Fee
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C. Elizabeth Gibson
Town & County Manager

AGENDA FOR THE MEETING OF THE SELECT BOARD OCTOBER 13, 2021 - 5:30 PM REMOTE PARTICIPATION VIA ZOOM WEBINAR NANTUCKET, MASSACHUSETTS

YOU TUBE LINK:

<https://youtu.be/pmmD5vGLG5M>

ZOOM WEBINAR REGISTRATION LINK TO VIRTUALLY ATTEND MEETING:

https://us06web.zoom.us/webinar/register/WN_BogmmmcprWSZoOqq9NUplg

I. CALL TO ORDER

II. SELECT BOARD ACCEPTANCE OF AGENDA

III. ANNOUNCEMENTS

1. The Select Board Meeting is Being Audio/Video Recorded.
2. COVID Vaccine Clinic: 131 Pleasant Street Trailer, Sundays from 12:00 to 3:00 PM. See <https://www.nantucket-ma.gov/2028/COVID-Vaccine> for Full Schedule.
3. Select Board Announcements/Comments.

IV. FOLLOW-UP ON COMMENTS FROM PRIOR SELECT BOARD MEETINGS

1. Follow-up on October 6, 2021 Public Comments Regarding Sconset Bluff Erosion Control Project.

V. PUBLIC COMMENT*

VI. COVID-19 UPDATE

1. Public Health Department Update.

VII. NEW BUSINESS*

VIII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

1. Approval of Minutes of October 6, 2021 at 5:30 PM.

2. Approval of Treasury Warrants for October 13, 2021.

IX. SELECT BOARD'S REPORTS/COMMENT

1. Town Administration: Strategic Plan Implementation Update; Board Discussion.
2. Committee Reports.

X. PUBLIC HEARINGS

1. Public Hearing to Consider the Appeal of Rich Gillis, 38 Prospect St LLC of Historic District Commission Disapproval of Certificate of Appropriateness No. HDC2021-05-3831 for a Spa for Property Located at 38 Prospect St, Map 55.4.4, Parcel 56 (Portion).

XI. CITIZEN/DEPARTMENTAL REQUESTS

1. Toscana Corp.: Request for Continuation of Waiver of Town Noise Bylaw to Offload Barges at Steamship Authority Wharf between 4:30 AM and 7:30 AM.

XII. ADJOURNMENT

****Identified on Agenda Protocol Sheet***

SELECT BOARD AGENDA PROTOCOL:

Roberts Rules: The Select Board follows Roberts Rules of Order to govern its meetings as per the Town Code Charter.

Public Comment: Public Comment is to bring matters of public interest to the attention of the Board. The Board welcomes concise statements on matters that are within the purview of the Select Board. At the Board's discretion, matters raised under Public Comment may be directed to Town Administration or may be placed on a future agenda, allowing all viewpoints to be represented before the Board takes action, if any. Except in emergencies, the Board will not normally take any other action on Public Comment in its sole discretion.

To facilitate that any individual who wishes to provide Public Comment has the opportunity and to ensure the ability of the Board to conduct its business in an orderly fashion, the following rules and procedures are adopted consistent with state and federal free speech laws:

- The agenda for regular Select Board meetings will include a Public Comment period at the beginning of the meeting unless there is more urgent business for the Board to take up first. This time is reserved for speakers to address the Board on matters that are not related to any other Agenda item. If a speaker wishes to address the Board on a matter that is related to another Agenda item, the Chair will accept public comment when that Agenda item is reached during the meeting.
- All speakers are encouraged to present their remarks in a respectful manner.
- All remarks will be addressed through the Chair of the meeting.
- The Chair of the meeting may not interrupt speakers who have been recognized to speak, except that the Chair reserves the right to terminate speech which is not constitutionally protected because it constitutes true threats, incitement to imminent lawless conduct, comments that were found by a court of law to be defamatory, and/or sexually explicit comments made to appeal to prurient interests. Verbal comments may also be curtailed if they exceed three (3) minutes and to the extent they exceed the scope of the Board's authority.

Disclaimer: Public Comment is not a time for debate or response to comments by the Board. Comments made during the Public Comment period do not reflect the views or positions of the Board. Because of constitutional free speech principles, the Board does not have authority to prevent all speech that may be upsetting and/or offensive made during the Public Comment period.

New Business: For topics not reasonably anticipated by the Chair 48 hours in advance of the meeting may be brought up for discussion in accordance with the Open Meeting Law.

Public Participation: The Board welcomes valuable input from the public at appropriate times during the meeting with recognition from the Chair at his/her sole discretion. For appropriate agenda items, the Chair will introduce the item and take public input. Individual Board Members may have questions on the clarity of the information presented. The Board will hear any staff input and then deliberate on a course of action.

Select Board Report and Comment: Individual Board Members may have matters to bring to the attention of the Board during a meeting. If the matter contemplates action by the Board, Board Members will consult with the Chair and/or Town Manager in advance and provide any needed information by the Thursday before the meeting and/or schedule the matter for a future Board meeting. Otherwise, except in emergencies, the Board will not normally take action on Select Board Comment.

Approved on February 17, 2021



Strategic Plan 2020

Progress Updates

OCTOBER 13, 2021

Sustainability is how the Town of Nantucket, with a focus on historic preservation, equity and inclusion, natural resources, hazard mitigation, solid waste management, energy, public health, and education, institutionalizes practices in municipal operations that support a balance of the economic, environmental, and social health of our island, which meet the needs of current residents and visitors without compromising the ability of future generations to meet evolving needs.





Housing

Nantucket is a diverse community with a broad spectrum of economic circumstances and has housing stock that meets the range of needs. Year-round housing is achievable for everyone who works on the Island, and the various tiers of affordable housing make year-round living comfortable, stable, and inclusive. Our seasonal workforce is able to find safe and secure housing. Homes on Nantucket are well-constructed and integrated into the character of the Island.

GOAL: Achieve Safe Harbor Status in each of the next three years per the goals set for Nantucket by the State through Chapter 40B and maintain local control over affordable housing initiatives.

Activity	Status (not yet started, on-going, completed)
During the past three years, our official Subsidized Housing Inventory has gone from 121 units to 273 units (e.g., from less than 2% to over 5.5% toward the 10% state requirement under Chapter 40B).	Completed
Received certification of Housing Production Plan (“HPP”) from the Department of Housing and Community Development (“DHCD”), thereby achieving “Safe Harbor” for one year beginning June 14, 2019 and expiring June 13, 2020.	Completed
Received certification of amended HPP from DHCD in December 2019 extending our period of Safe Harbor status to two years – until June 13, 2021.	Completed
Further deploying a portion of these resources, anticipating being in position to submit to DHCD this fall a request for an amended certification extending our current period of Safe Harbor to two years – until June 11, 2023.	On-going
Strategically deploying a portion of the \$25 million appropriated by voters at the 2019 Annual Town Meeting, following the approach developed by the Neighborhood First Advisory Committee, received certification of a new one-year period of Safe Harbor on June 11, 2021 – running until June 11, 2022.	On-going
Ongoing planning to remain in Safe Harbor. Land purchased at 135 + 137 Orange Street and at Vesper Lane which will support creation of approximately 36 units (collectively), potentially contributing to 1-2 years of Safe Harbor in the future. Specific plans being developed for these sites.	On-going
With what is in the works and planned, Nantucket on a path to remain in Safe Harbor and on its way to being at its 10% requirement within the next 5 years.	On-going

GOAL: Finalize a plan to address housing needs specifically for Town employees – year-round and seasonal.

Activity	Status (not yet started, on-going, completed)
Regular Housing Group meetings comprised of Town Administration staff to discuss the needs of both year-round and seasonal employees, including likely future departmental head needs. Review of Town-owned sites is underway. A comprehensive needs analysis is next.	On-going
The Finance Department has secured an OPM for the development of seasonal Town employee housing at Waitt Drive and design services are being sought.	On-going

GOAL: Determine in greater detail the need for housing at all affordability levels – 30% Area Median Income (AMI) to 200% AMI – for the community.

Activity	Status (not yet started, on-going, completed)
The Affordable Housing Trust (“AHT” or the “Trust”) invested alongside ReMain Nantucket in a housing demand study two years ago. The output provided useful guidance but not the level of depth we would ultimately like.	Completed
Outreach has been made to the Chamber of Commerce on this subject and the housing crisis more broadly. To date, the Chamber has not engaged.	On-going
The Trust is considering further investment in data which can provide more fulsome information about the need and demand at each Area Median Income level.	On-going

GOAL: Identify incentives to encourage homeowners to use secondary dwellings as year-round rentals and explore options for limiting the conversion of year-round housing to short-term rentals.

Activity	Status (not yet started, on-going, completed)
The Affordable Housing Trust (“AHT” or “Trust”) has been discussing this. Generally, incentives involve \$. Initial discussion centered around tax abatement not being enough of an incentive. Available funds to the Trust have income limits associated with them, so homeowners would need to be willing to put a permanent deed restriction on their home in exchange for financial incentive directly from the Trust. Furthermore, most funds currently available to the Trust require that the unit be eligible for inclusion on the SHI list, which generally requires restricting to a household earning 80% of Area Median Income (“AMI”) or less.	On-going
The creation of a community land trust would aid in the effort to keep year-round housing in the year-round family and stem the tide of conversion to seasonal or investment properties.	Just begun

GOAL: Develop a strategy to increase home ownership opportunities for middle-income workers.

Activity	Status (not yet started, on-going, completed)
July 2021 – Field trip to Martha’s Vineyard to further investigate how a community land trust is working there (Island Housing Trust) and how it might work on Nantucket; also spent time with the MV Land Bank understanding how they have done 14 different transactions in collaboration with the Island Housing Trust and other entities there to enable better housing solutions for the year-round community.	Completed
Creation of a community land trust for Nantucket. Land trusts fundamentally take the cost of the “dirt” out of the equation and ensure that properties stay within the year-round family. This type of vehicle may also help stem the tide of conversion of historically year-round residences to seasonal or investment properties.	Just begun



Transportation

Nantucket has no traffic lights. Year-round transportation includes accessible, affordable, and reliable multi-modal options, that respect the historical setting of our community, and limits reliance on single occupancy vehicles and private transportation. The Town has improved safety and mobility without accommodating a car centric culture. Pedestrians and bicyclists feel safe as they traverse along paths and walkways that abut our local roads. Our community embraced the use of technology to improve parking turnover in our vibrant Old Historic District and made year-round access a pleasant experience.

GOAL: Launch a downtown parking management system based on demand management principles that achieves (or is measured by) 85% occupancy of public parking spaces.

Activity	Status (not yet started, on-going, completed)
RFP for software for parking management system reviewed on 12/17/19; interviews completed on 1/21/2020; need to schedule a review of results and recommendations with Board and award contract.	Completed
RFP responses will also be reviewed by Jason Schreiber (ReMain funded)	Completed
2020 will be used for data collection using LPRs and data analysis by TBD	Not Yet Started – Funds not approved in FY22 budget to hire Parking Coordinator qualified to understand and interpret data collected
Job description for Parking Coordinator prepared; anticipate hiring in Spring 2020	Not Yet Started – Funds not approved in FY22 budget to hire Parking Program Coordinator
One additional year-round Parking Enforcement Officer budgeted for FY21 – Job description developed. Union review pending. Anticipate hiring Fall 2021.	On-going
Decision points by the Select Board are still needed with regard to paid parking regulation and paid parking program implementation in 2021 (hours, rates)	Not Yet Started – The latest information that I had the Board decided they did not want to pursue paid parking

GOAL: Complete at least one key sidewalk route connection from Mid-Island (Six Fairgrounds Housing Project) to the ferries with improved standards for accessibility.

Activity	Status (not yet started, on-going, completed)
Newtown Road Reconstruction	Approved 2021; implementation delayed due to staff vacancies
Orange Street Bike Lane - Milestone to Landmark House - Consue Springs (pedestrian loop w/ Land Bank)	- Bike lane and markings - Completed - Not Yet Started/conceptual only - Staff turnover/ vacancies
Washington Street sidewalks	Sidewalk repairs completed Handlebar Café to Washington St. parking lot
Salem Street sidewalks	TBD
Washington/Francis/Union Street sidewalks	Larger project-design approved; implementation needs staff oversight (not currently available); needs funding
Easy Street & Lower Broad Street sidewalks	Completed
Candle Street	Completed bike lane striping
Traffic Counting Station @ Goose Pond/Orange Street	Installed and functional. IT, NPD and DPW are collaborating on a process to review the data.

GOAL: Shift the mode of choice of commuters from driving alone to using other modes by 6%.

Activity	Status (not yet started, on-going, completed)
None	From 10/7/2020 Unassigned: "Transportation Planner left in February 2020...put on hold until the position is filled." Goal has been affected by staff vacancy as well as COVID for 2020 season. It is largely unmeasurable without a control group.



Environmental Leadership

Sustainability is how the Town of Nantucket, with a focus on historic preservation, equity and inclusion, natural resources, hazard mitigation, solid waste management, energy, public health, and education, institutionalizes practices in municipal operations that support a balance of the economic, environmental, and social health of our island, which meet the needs of current residents and visitors without compromising the ability of future generations to meet evolving needs.

GOAL: Provide data-driven recommendations on Island-wide solid waste management guided by principles of sustainability.

Activity	Status (not yet started, on-going, completed)
Reduce waste amounts and toxicity: NRNCs, textile collection, hazardous waste	Completed
Education and outreach	Completed
Nantucket Data Platform	Completed
Request for Expressions of Interest (RFEI) for future solid waste management	Completed
MRF condition and project assessment	Completed
• Decision matrix for 2025: request a special workshop for guidance • Continue composting long-term - o Remove PFAS - divert biosolids and paper, reusable takeout pilot - o Improve quality: waste sort studies, colored bag pilot • Facility buyout and business options • Technology pilot tests • Take-it-or-leave-it and waste reduction/reuse	On-going
Coastal plastics research	On-going
Plastics ban and bylaws	On-going

Activity	Status (not yet started, on-going, completed)
Illegal dumping enforcement	On-going
Education and outreach	On-going

GOAL: Finalize an Island-wide, long-term water quality management plan that addresses ponds, harbors, stormwater, and wastewater with specific ways/methods to measure improvement.

Activity	Status (not yet started, on-going, completed)
Finalize an Island-wide, long-term water quality management plan that addresses ponds, harbors, and storm water and wastewater, with specific ways/methods to measure improvement.	On-Going
Identify barriers and hurdles to integrate existing plans that impact water quality (Nantucket and Madaket Harbors Action Plan, Comprehensive Wastewater Management Plan, Pond Management Plans and Principles, Municipal Vulnerability Plan, Coastal Resiliency Plan, Shellfish Management Plan, Hazard Mitigation Plan, Estuaries Plan, Fertilizer Best Management Practices and Coastal Management Plan, etc.).	Completed
Identify management strategies to reduce the controllable load of nutrients into surface water bodies.	Completed
Explore options and feasibility of improving current water quality testing procedures and habitat quality evaluation and metrics.	Completed
Identify existing bylaws, regulations, and state and federal laws that impact water quality.	Completed
Integrate management strategies in the water quality management plan.	On-Going – Draft plan is complete and ready for SB review
Conduct community outreach - public meetings and listening sessions to improve public understanding.	Not Yet Started – Waiting for SB review of draft plan
Identify funding opportunities for plan updates and implementation of developed management strategies.	On-Going

Activity	Status (not yet started, on-going, completed)
Nantucket WQAV Tool – interactive web-based tool	Completed; available on the Town Website Water Quality Page
Watershed Report - Children's Beach Pump Station	Completed– needs additional staff review as to implementation
Annual Water Quality Monitoring Report	2020 Report presented in June 2021; 2021 report will be presented in 2022
Somerset/Raceway Stormwater project	Not Yet Started
Nantucket Harbor Shimmo & Plus Parcels (NHSP) – sewer permits/connections	328 Properties were identified in the project area; 290 required permits. As of 10/4/2021, 315 properties were permitted and a total of 469 individual permits have been issued. 223 properties connected to municipal sewer.
GHYC Grant to evaluate bay scallops and eelgrass populations for both harbors annually.	Annual survey 2020 done in Fall 2020; 2021 Survey scheduled for September 2021
PFAS goal	Will require review by Counsel before committing to any actions; will need to monitor state and federal regulations
Pool regulations	Drafting of illicit discharge regulations for review and adoption.



Efficient Town Operations

The Town of Nantucket reflects the community value of fiscal responsibility in its operations. Governance is collaborative and representation on Boards, Committees, and Commissions is reflective of the diversity of our community. Town facilities and offices incorporate modern technology and are efficient in design, energy use, and

location. The Town is committed to planning for a resilient and sustainable community and maintaining and improving municipal infrastructure and assets. Town employees provide vital municipal services that are valued by residents and visitors and are engaged members of our community.

GOAL: Develop a Facilities Master Plan.

Activity	Status (not yet started, on-going, completed)
Hire a professional facilitator for Select Board sessions	Raftelis Consulting hired to facilitate discussions and provide summary documents
Select Board public sessions to address facility needs	Select Board sessions held 1/12/21, 5/11/21, & 8/19/21 (additional sessions held in 2020)
Develop a Municipal Facilities Plan	Plan in progress with goal of 2022ATM warrant article(s) as needed
Concession Master Plan	Contract in place; on hold pending hiring of DPW Deputy Director/Facilities
DPW Facility	Conceptual planning underway; needs a commitment from SB
Parks Master Plan	Needs to be revised for Tom Nevers; potential DPW Facility; meetings with Park & Recreation Commission in progress

GOAL: Invest in technology.

Activity	Status (not yet started, on-going, completed)
Add Public WiFi within 1 mile of Pacific National Bank	Planning – integrated with FY23 Upgrade Town Wireless Network project
Add Public WiFi at Surfside and Jetties Beaches	Planning – possibly add the DPW master plan for the two beaches

Add Public WiFi across island except Great Point and Coatue	Not Started – IT Governance Team discussing the development of a master plan
Expand and improve cell phone service across island	Cellular providers adding antennas to existing DAS infrastructure
Review requirements to offer municipal broad band	Contacted Open Cape in April 2021 regarding fiber to Nantucket. Municipal broad band will require a Municipal Utility regulated by the state and build out of on-island infrastructure



Quality of Life

Nantucket is a vibrant and inclusive community committed to the health and well-being of our residents and visitors. The local economy provides middle-class job opportunities, and the Old Historic District is vibrant year-round. The economic vitality of the Island is bolstered by seasonal residents and visitors. Everyone enjoys public

access to our beaches, waterways, and conservation land. The Island has maintained its strong rural identity and well-preserved historic character.

GOAL: Develop a comprehensive plan to address and ensure equity throughout Town Policies and Procedures.

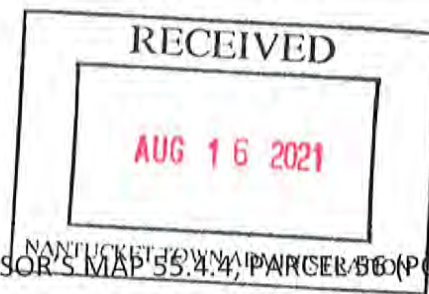
Activity	Status (not yet started, on-going, completed)
Hire Diversity, Equity and Inclusion (DEI) director and establish DEI Office	Completed
Create a DEI Strategic Plan – to include equity assessment of existing policies and procedures	Not Yet Started – Select Board approved contract for Plan in September 2021
DEI Community Outreach – advancing the purpose and usefulness of DEI Office by sharing objectives with an array of local business, nonprofit organizations, etc.	On-going
According to Amy project and Meet NEET initiative – projects on equitable representation that spotlights island's Town employees and its past through the lens of DEI	On-going
Cabinet discussions on Stephen Young's book – <i>Micromessaging</i> ; which touches on equitable behaviors in the workplace	Completed
Juneteenth and Indigenous Peoples' Day – contributes to equitable representation and community outreach on holidays new or overlooked, information on Town website	Completed
Establish a Diversity, Equity and Inclusion advisory board – will seek equitable participation by community members	Not Yet Started – will be part of the DEI Strategic Plan

GOAL: Evaluate partnership opportunities that promote healthy, active living and provide facilities, programs, and support for vulnerable populations.

Activity	Status (not yet started, on-going, completed)
Nobadeer Field House Planning	Close to commencement
Parks & Recreation Master Planning	On-going (see above)
Hire Parks & Recreation Director	In progress (not budgeted for FY 22)

HDC Appeal of 38 Prospect St

TO: SELECT BOARD
CC: TOWN CLERK
FROM: 38 Prospect LLC, Rich Gillis
PROPERTY: 38 PROSPECT STREET, ASSESSOR'S MAP 55.4.4, PARCEL 86 (PORTION)
DATE: AUGUST 16, 2021
RE: HDC APPEAL OF DENIAL OF LANDSCAPE FEATURE (SPA)



NANTUCKET
TOWN CLERK

2021 AUG 16 PM 3:51

I, Rich Gillis, as principal of 38 Prospect LLC, represent the property located at 38 Prospect Street, Lot 29 of a subdivision approved by the Nantucket Planning Board, with mailing address of PO Box 673, Nantucket, MA 02554.

By this letter, the Owner appeals Certificate of Appropriateness ("COA") No. HDC2021-05-3831, in which the Historic District Commission ("HDC") *denied* an application ("Denial") for a new landscape feature, i.e., a "spa" on the lot as part of a new dwelling and ancillary structure. Said Denial was made on August 3, 2021, at a regularly scheduled HDC meeting. The Denial was subsequently filed with the Town Clerk on Friday, August 6, 2021. The Denial should be overturned by the Select Board as the HDC failed, among other issues, to state the specific grounds for denial and instead chose to state simply that "due to questions of visibility; and, inappropriateness with respect to character & setting". Such a statement is general in scope and does not provide the level of specificity required in the special enabling legislation. In addition, the Denial was based on the use of the landscape feature and not solely on whether the "spa" was visible from the publicly travelled ways of Prospect Street and North Mill Street.

The powers and responsibilities of the HDC were established in 1970 by the Massachusetts legislature in Chapter 395 of the Acts of 1970 ("Act"). A copy of the Act is attached hereto as Exhibit A. The express purpose of the Act as stated in Section 2, is the following:

SECTION 2. The purpose of this Act is to promote the general welfare of the inhabitants, of the Town of Nantucket through the preservation and protection of historic buildings, places and districts of historic interest through the development of an appropriate setting for these buildings, places and districts and through the benefits resulting to the economy of Nantucket in developing and maintaining its vacation-travel industry through the promotion of these historic associations.

The Act superseded the original Chapter 601 of 1955, which then made the entire island an historic district subject to the protection and preservation by the HDC.

The special Act does not the HDC the specific jurisdiction over landscape features such as a "spa" is not visible from a publicly travelled way. The Owner presented sufficient documentation that this landscape feature would not be so visible. Instead, the HDC heard repeated testimony in person and by email/letters about the inappropriateness of the "spa", noted as a "mini-pool" several times by area residents. Much of the opposition was based on use and not the architectural landscape feature. In addition, a super majority of the opposers may have no legal standing as they are not directly aggrieved by the landscape feature.

Members of the HDC expressed their position against "spas" in the Old Historic District ("OHD"), which is an HDC district of critical concern. Even after the requested revisions had been made and submitted for consideration. However, the overlying zoning district is Residential-Old-Historic ("ROH"). The ROH specifically allows "spas". The HDC has approved numerous spas in the OHD/ROH due to lack of visibility. Recently, however, spas have been denied because they were "spas" whether they can be seen or not. This leads to

arbitrary and capricious decisions. At the same meeting a spa was approved at 31 York Street, on a much smaller lot, in the OHD/ROH. On July 6, 2021, a spa was approved on 6A Silver Street. At that same meeting another spa was denied due to proximity to the "Oldest House", which is not a relevant basis upon which to deny a spa. It was not proven that it would be visible from a publicly travelled way. Below is the redacted section of the minutes

Camp – Her concern is that this abuts the Oldest House and is inappropriate for that area.

Thornewill – Agrees with Ms. Camp about it being next to the Oldest House. Also, she feels people in the spa will be visible.

McLaughlin – This spa will be visible and should be relocated.

Coombs – Agrees with Ms. Camp due to its proximity to the Oldest House.

Motion to Approve through staff the pergola only at this time with the spa removed from the application.

Later in that same meeting a spa was approved at 80 Easton Street without the standard condition.

August 10, 2021, a spa was approved for 4 Harbor View Way, in the middle of the OHD/ROH, as opposed to the very end of the OHD/ROH in an area that was not in the OHD originally. Screening required was with privet as opposed to the typical requirement of year-round screening. Lot 29 Owner replaced privet screening of the landscape feature as requested by the HDC. The HDC was swayed by the testimony of the opposition and concentrated on the use. The regular condition placed on all spas (and pools in general) is the following:

Motion to Approve due to lack of visibility and not to be visible at time of inspection and thereafter.

Section 7(d) of the Act states the following:

(d) In case of disapproval, the Commission shall state its reasons therefor in writing, and it may make recommendations to the applicant with respect to appropriateness of design, arrangement, texture, material, color and the like of the building or structure involved.

It is the Owner's contention that the HDC did not state the specific reasons in writing on the COA or in any addendum as the Act requires. What was stated was not within the scope of Act as noted for a denial. The Owner proffers that the HDC was deficient in its response, did not consider the specifics of this application as noted above and focused on use rather than a landscape feature approved multiple times in the OHD/ROH with the requisite condition.

There did not appear to be any option for further discussion. The HDC members opposed were intractable. When asked to continue to put in further supporting documentation, that was not allowed. Owner then asked for a resolution in the form of the Denial. Given these factors, the denial of this landscape feature properly screened and with the above stated condition, was inappropriate, arbitrary, and capricious and the Select Board should overturn the decision of the HDC and order the approval of this landscape feature and plan. In the alternative, Owner is asking for a remand for further consideration of the proposal to result in an approval of said plan.

1. A check payable to the *Inquirer and Mirror*, in the amount of \$335.12 to cover the amount of the public hearing advertising costs;
2. A certified copy of the HDC Certificate of Appropriateness No. HDC2020-09-1638; and
3. A copy of the meeting minutes for the applicable meetings of the HDC as well as a complete copy of the file.

Should the cost of advertising exceed \$335.12, please contact me and I will send another check for the additional cost.

Sincerely,

A handwritten signature in black ink, appearing to be 'RG' with a stylized flourish.

Rich Gillis

Enclosures

Cc: Nantucket Historic District Commission (*by hand delivery*)

CERTIFICATE NO: HDC2021-05-3831

DATE ISSUED: 08/03/21

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

CERTIFICATE OF APPROPRIATENESS

for structural work.

DENIED

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

AX MAP N°: 55.4.4 PARCEL N°: 56 (PORTION)
 Street & Number of Proposed Work: PORTION OF 38 PROSPECT
 Owner of record: 38 PROSPECT LLC RLT GILLS
 Mailing Address: BOX 673
NANTUCKET MA. 02554
 Contact Phone #: 781-424-8396 E-mail: RLT.GILLS@GMAIL.COM

AGENT INFORMATION (if applicable)

Name: MARY LOMBARD & LINDA WILLIAMS
 Mailing Address: BOX 2364
NANTUCKET MA. 02554
 Contact Phone: 508-325-1695 E-mail: LOMBARD@GMAIL.COM
508-221-0432 LINDA W. - CZARINA LINDA

FOR OFFICE USE ONLY

Date application received: 5/11/21 Fee Paid: \$ 200

Must be acted on by: 6/21/21 10/31/21

Extended to: _____

Approved: _____ Disapproved: _____

Chairman: _____

Member: _____

Member: _____

Member: _____

Notes - Comments - Restrictions - Conditions
DENIAL DUE TO QUESTIONS OF VISIBILITY AND
INAPPROPRIATENESS WITH RESPECT TO CHARACTER
& SETTING

DESCRIPTION OF WORK TO BE PERFORMED

See reverse for required documentation.

☐ New Dwelling ☐ Addition ☐ Garage ☐ Driveway/Apron ☐ Commercial ☐ Historical Renovation ☒ Deck/Patio ☐ Steps ☐ Shed

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

☐ Pool (Zoning District _____) ☐ Roof ☐ Other SPA 10'X10' (AUTO COVER)

Size of Structure or Addition: Length: _____ Sq. Footage 1st floor: _____ Decks/Patio: 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 _____

REVISIONS* 1. East Elevation _____

(describe) 2. South Elevation -18" DEEP - 10' X 10' SPA -

3. West Elevation SUNKEN IN LOWERED PATIO/DECK

4. North Elevation - AUTO COVER

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: ARCH WAY GATE (NTW)

Length: ARBOR - 36' X 7'

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): ☐ TOL ☐ SDL Front _____ Rear _____ Side _____

Garage Door(s): Type _____ Material _____

Hardscape materials: Driveways SHAL/COBBLESTONE Walkways BLUE STONE/PATIO Walls CONCRETE/BLUE STONE CAP

* Note: Complete door and window schedules are required. APRON COVER COLORS

Sidewall _____ Clapboard (if applicable) _____ Roof _____

Trim _____ Sash _____ Doors _____

Deck _____ Foundation _____ Fence NTW 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

own were received
 AUG 06 2021

NANTUCKET TOWN & COUNTY CLERK

ATTEST: TRUE COPY
 Mary D. Williams



PLUS

2 Fairgrounds Road
NANTUCKET, MASSACHUSETTS 02554
Telephone 508-325-7587
Tele Fax 508-228-7298

To: Nantucket Town Clerk

From: Nantucket Historic District Commission

Re: Denied Certificate of Appropriateness from

August 03, 2021 Meeting

Certificate of Appropriateness - copies to be recorded

HDC2021-05-3831

2021 AUG -6 AM 10:03

NANTUCKET
TOWN CLERK

10

CERTIFICATE NO: HDC2021-05-3831

DATE ISSUED: 08/03/21

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

CERTIFICATE OF APPROPRIATENESS

for structural work.

DENIED

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

AX MAP N°: SS.4.4 PARCEL N°: 56 (PORTION)
 Street & Number of Proposed Work: PORTION OF 38 PRESPECT
 Owner of record: 38 PRESPECT LLC RLT GILLS
 Mailing Address: Box 673
NANTUCKET MA. 02554
 Contact Phone #: 921-424-8396 E-mail: RLT.GILLS@GMAIL.COM

AGENT INFORMATION (if applicable)

Name: MARY LOMBARD & LINDA WILLIAMS
 Mailing Address: Box 236A
NANTUCKET MA. 02554
 Contact Phone: 508-325-1695 E-mail: LOMBARD.BUYS@GMAIL.COM
921-0432 LINDA W. - CZARINA LINDA
@COMCAST.NET

FOR OFFICE USE ONLY

Date application received: 5/11/21 Fee Paid: \$ 200
 Must be acted on by: 6/21/21 10/31/21
 Extended to: _____
 Approved: _____ Disapproved: _____
 Chairman: _____
 Member: _____
 Member: _____
 Member: _____
 Member: _____
 Notes - Comments - Restrictions - Conditions
PENAL DUE TO QUESTIONS OF VISIBILITY AND
INAPPROPRIATENESS WITH RESPECT TO CONNECTED
4 SETTING

DESCRIPTION OF WORK TO BE PERFORMED

See reverse for required documentation.

☐ New Dwelling ☐ Addition ☐ Garage ☐ Driveway/Apron ☐ Commercial ☐ Historical Renovation ☒ Deck/Patio ☐ Steps ☐ Shed
☐ Color Change ☐ Fence ☒ Gate ☐ Hardscaping ☐ Move Building ☐ Demolition ☐ Revisions to previous Cert. No. _____
☐ Pool (Zoning District _____) ☐ Roof ☐ Other SPA 10'X10' (AUTO COVER)
 Size of Structure or Addition: Length: _____ Sq. Footage 1st floor: _____ Decks/Patio: 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

REVISIONS:

1. East Elevation
2. South Elevation - 18" DEEP - 10' X 10' SPA -
3. West Elevation SUNKEN IN LOWERED PATIO/DECK
4. North Elevation - AUTO COVER

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: DOCK WAY GATE (NTW)
 Length: ARBOR - 36" X 7'

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): ☐ TDL ☐ SDL Front _____ Rear _____ Side _____

Garage Door(s): Type _____ Material _____

Hardscape materials: Driveways SHAL / COBBLESTONE Walkways BLUE STONE / PATIO Walls CONCRETE W/ BLUE STONE CAP

Note: Complete door and window schedules are required. APRON DOOR COLORS 24" PG FIELDSTONE

Sidewall _____ Clapboard (if applicable) _____ Roof _____

Trim _____ Sash _____ Doors _____

Deck _____ Foundation _____ Fence NTW 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.

NANTUCKET
TOWN CLERK

2021 AUG 16 PM 3:51

4. 38 Prospect, LLC 05-3831	38 Prospect Street	Lot 29 – spa	55.4.4/56	Linda Williams
Voting	Pohl, Coombs, McLaughlin, Camp, Welch			
Alternates	Thornewill			
Recused	none			
Documentation	Landscape design plans, site plan, photos, correspondence, and advisory comments.			
Representing	Linda Williams			
Public	Ann Dewez, 5 Mill Street, for the Mill Street Neighborhood Group Bob Miklos, 16 Prospect Street Ann Lingeman Davis, 15 Mill Street			
Concerns (6:33)	Flynn – If Ms. Coombs is comfortable with not being able to see the supplemental information, they can go forward. Coombs – Has no concerns with moving forward; she has reviewed all the information in the packet. Williams – Wants it on the record that Ms. Coombs can't see the information submitted at the table. Expressed concern about "mob" mentality over the use, which is not HDC's purview; this is not visible from a publicly travelled way. This is not a pool; it is a spa. Reviewed additional information. Asked the right to respond to abutters' comments. There is no such thing as a "mini-pool" per Nantucket zoning bylaws. Backus – Noted for the record the letters of opposition forwarded to commissioners; HDC's purview is based upon visibility. Previously HSAB had mentioned a spa is a small pool. Dewez – Spas and pools are not appropriate to this neighborhood. Reviewed prior comments in opposition. At the last meeting the HDC agreed that spas and mini-pools are not appropriate in this neighborhood; asked what has changed. Reviewed a column by Marianne Stanton and real estate postings regarding the special nature of this neighborhood. Hedges necessary to hide the pool are in direct opposition to the open nature of this historic neighborhood. Miklos – The spa will be visible from Prospect Street; hedges are not adequate to hide the spa due to the topography. Lingeman Davis – We want to preserve the natural context of our neighborhood and pools change the environment whether or not you can see them. Camp – She doesn't think a pool is appropriate in this neighborhood and doesn't want to set a precedent. We are relying on vegetation for screening, which might or might not survive, and there is a lot of bluestone; she doesn't want to rely on screening. She is against pools in all the OHDs. Coombs – Our mission statement says that the streetscape should fit the area; it isn't a question of just visibility. Agrees with Ms. Camp; the vegetation to screen this doesn't fit into the neighborhood. The mission statement for the HDC is very clear. McLaughlin – According the photos from a travelled way, this will be highly visible. Town took 1799 Road, and though it is Town property, it is considered a public way. Welch – With respect to visibility, we don't normally spend time on things we can't see. On appropriateness, it is a legitimate question regarding setting and character; he'd like Town Counsel to advise HDC on appropriateness. Use is something HDC does not address; the connotation that use and appropriateness are connected is a double-edged sword. We are here to address visibility and appropriateness with respect to character and setting; he has voted no on these in the past due to character and setting. He believes without objective input from Town Counsel it is hard for HDC to determine a policy/procedure that could be publicly vetted and voted on by the HDC. If this were to proceed, it is inappropriate with respect to using plant materials that creates a wall; smaller diameter and height evergreens are important elements in a successful approval. The HDC mission statement is posted on our webpage; that is what Ms. Coombs is referring to. Pohl – It is clear that this issue goes beyond this room; it's disappointing that when this came up before, it wasn't taken before the Select Board to a State level to get someone to adjudicate this. At the Select Board they can come up with other strategies to deal with what is clearly a big problem that will only get worse. If HDC continues to be the venue of discussion for appropriateness of pools in downtown areas, that is a problem. Agrees this needs to go to a higher level.			
Motion	Motion to Deny based upon questions of visibility and questions of appropriateness of character in this setting. (Welch)			
Roll-call Vote	Carried 5-0//Coombs, Camp, McLaughlin, Welch, and Pohl-aye		Certificate #	HDC2021-05-3831

Deny

14. Steven J. Rencan Tr 05-3830 24 Stone Post Way Pool and hardscape

73.3.2/68

Atlantic Landscaping

Voting Pohl, Coombs, McLaughlin, Camp, Oliver

Alternates Thornewill

Recused None

Documentation Landscape design plans, site plan, photos, and advisory comments.

Representing Lindsay Congleton, Atlantic Landscaping Inc.

Public None

Concerns (6:31) Congleton – Presented project.

Backus – Read SAB comments: the pool won't be visible but there is too much proposed hardscaping.

Camp – Agrees with SAB, reduce the hardscaping.

Coombs – The hardscaping shouldn't run side-line to side-line.

McLaughlin – Everything seems appropriate and there won't be any visibility.

Oliver – Agrees with SAB and Ms. Coombs.

Pohl – Doesn't think any of this will be visible.

Motion Motion to Approve through staff with the south side conversation and fire pit area pulled back even to the stepping stone path, per Exhibit A. (Oliver)

Vote Carried 3-0//McLaughlin, Oliver, and Pohl-aye; Coombs and Camp-abstain Certificate # HDC2021-05-3830

15. 38 Prospect, LLC 05-3831

38 Prospect – Lot 29

Spa/hardscape

54.4.4/56

Mark Lombardi

Voting Pohl, Coombs, McLaughlin, Camp, Welch

Alternates Thornewill

Recused Oliver

Documentation Landscape design plans, site plan, photos, correspondence, and advisory comments.

Representing Linda Williams

Public Anne Lingeman Davis, 15 Mill Street

Patricia Beilman, 17 Mill Street

Concerns (6:39) Williams – Presented project; the retaining wall allows the raised spa to be below the surrounding grade.

Backus – Read HSAB comments from 5/24: 10X10 is a small swimming pool and shouldn't be allowed in the old historic district (OHD); spa should be flush with grade; privet hedge is insufficient to screen visibility year round; bluestone patios should be avoided in the OHD; brick is more traditional.

Flynn – Read into the record a letter of objections from Marjie Kargman of 8 Mill Street.

Davis – This proposal is in what she argues to be a historically significant landscape. She's concerned about the precedent of allowing a spa in an historic neighborhood because of all the inappropriate stuff that goes with it: mechanicals, lights, water jets, speakers. The dense suburban screening needed to hide this is incongruent with the rural open neighborhood.

Beilman – The HSAB recommendation that this is inappropriate is irrefutable. There will be 9 other lots that could also ask for spas if this is approved. This is visible from Prospect and North Mill Streets.

Camp – Suggested driveway take a turn to allow for more landscaping in front of the spa. Not in favor of a shell drive in this area. There are 2 privet hedges along Prospect Street so okay with that but doesn't like the corral effect. Doesn't support the spa because it's not sufficiently screened and will be visible in the winter. There is too much bluestone.

Coombs – This proposal has nothing to do with any of the streetscapes in the area; this is a hotel-type treatment. The spa should be denied; the retaining walls and fieldstone are inappropriate.

Welch – The raised spa is a concern; we shouldn't discuss plant material, it isn't appropriate to do so. This is an important area. The bluestone won't be visible. We have shell drives all around the Island, so he has no concerns with that.

McLaughlin – Asked staff to investigate the meeting rails on the house dormers. No comments on the spa.

Pohl – We can discuss vegetation to the extent it is year-round screening; privet isn't an evergreen. Agrees with Ms. Camp's observation that the driveway shouldn't go straight in. Agrees walling off with privet is not in keeping with the area. There is a substantial grade change proposed; he'd like to see a north-south cross section through the spa and and east-west cross section through the driveway and spa. Agrees the extent of paving is way too formal for the area.

Motion Motion to Hold for revisions and more information. (Welch)

Vote Carried 5-0//Camp, Coombs, McLaughlin, Welch, and Pohl-aye

Certificate #

38 PROSPECT STREET – LOT 29/38 & 38R PROSPECT PROJECTS

VIEW FROM THE "PONY FIELD"



From
LW
at
mtg



VIEW FROM PROSPECT STREET OF THE DEVELOPMENT







LOOKING DOWN TOWARDS ANGOLA STREET



GRADE CHANGE



PROPERTY IS BEYOND THE HOUSE AT LOT 29



LOT 29 SPA









Planning and Land Use Services (PLUS) HISTORIC DISTRICT COMMISSION

Established 1955

2 Fairgrounds Road
Nantucket, Massachusetts 02554

Telephone: 508.325.7587

COMMISSIONERS

Ray Pohl
Chair

Diane Coombs
Vice Chair

Abigail Camp

Val Oliver

John McLaughlin

ASSOCIATE COMMISSIONERS

Stephen Welch

Jesse Dutra

Carrie Thornewill

STAFF

Cathy Flynn
Land Use Specialist
cflynn@nantucket-ma.gov

EXTENSION AGREEMENT

Date Signed: 06/21/21

Map: 54.4.4 **Parcel** 56

Address of Property: 38 Prospect - Lot 29

Applicant(s)/Owner(s)/Representative(s) Name:

38 Prospect, LLC

Scope of Work: Spa/hardscape

A voluntary extension of the Nantucket Historic District Commission's ("HDC") action deadline on the above noted Application has been granted to the HDC by the above named Applicant(s)/Owner(s)/Representative(s) up to and including the following date:

October 31, 2021

Month/day/year of extension termination

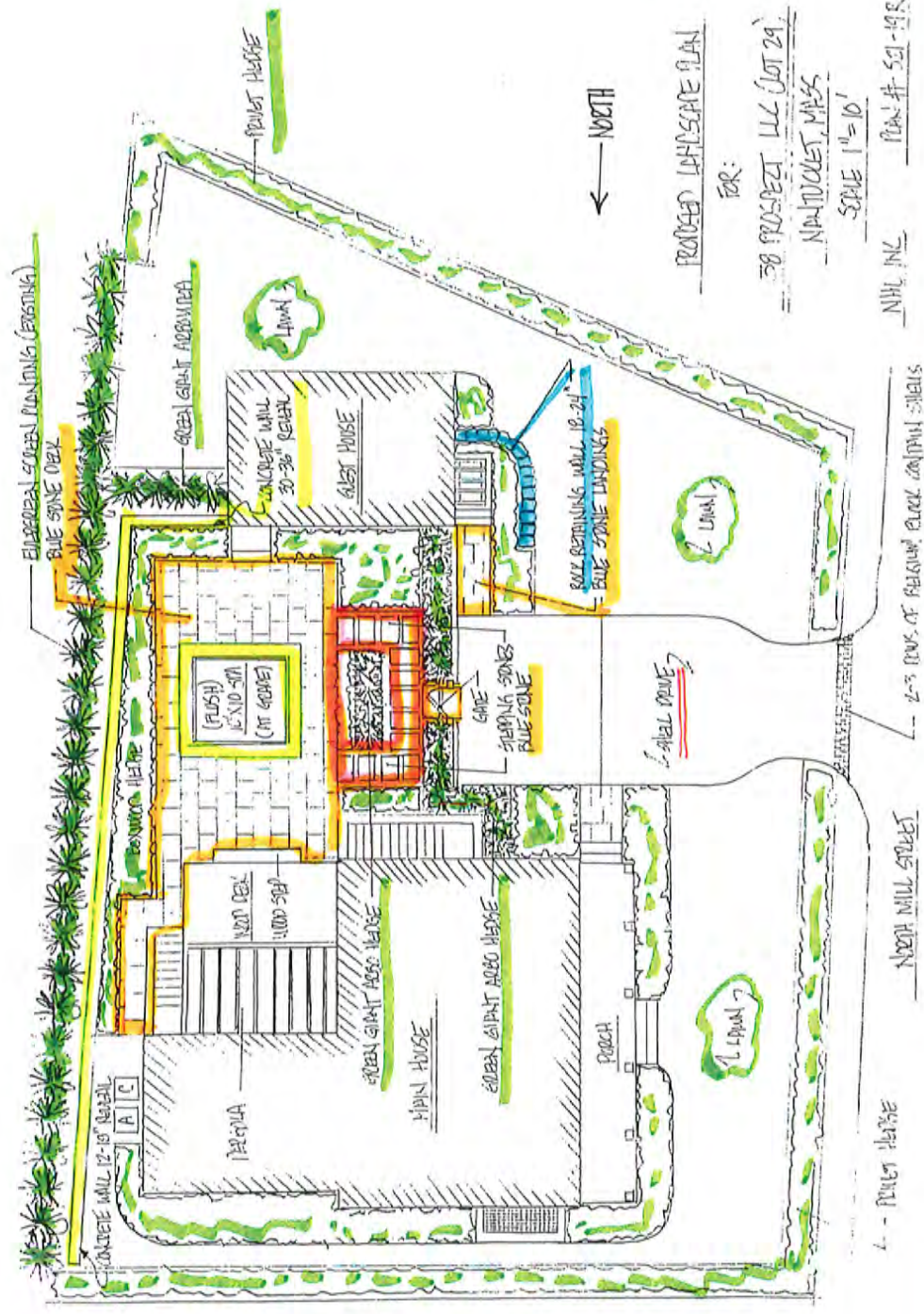
Linda Williams

Signature of Applicant/Owner/Representative

LFW

Please print name of signatory

SUBMITTED
 LFW 7/29/2021
 AT P.H



PROPOSED LANDSCAPE PLAN

FOR:

38 PROSPECT LLC (LOT 29)

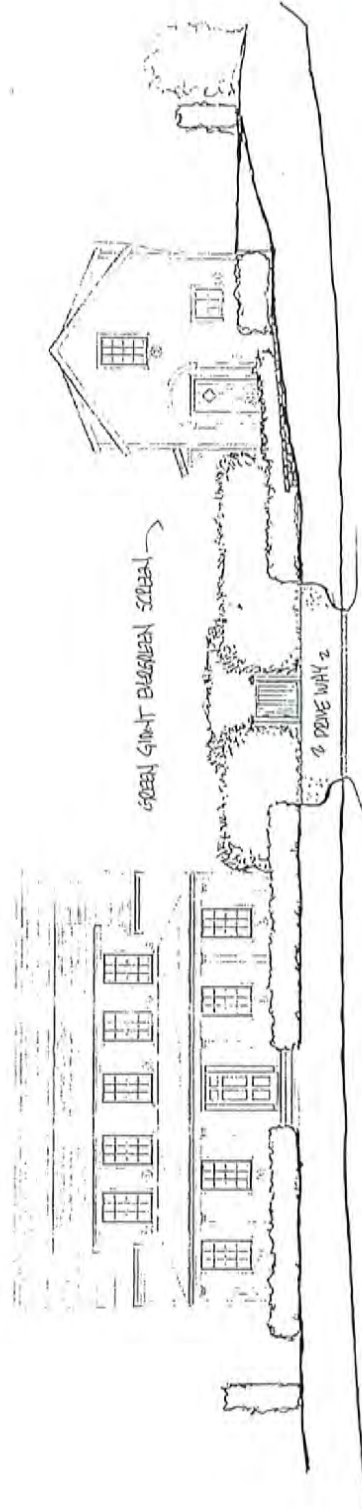
NANTUCKET, MASS

SCALE 1"=10'

NHL INC. PLAN # 521-19R

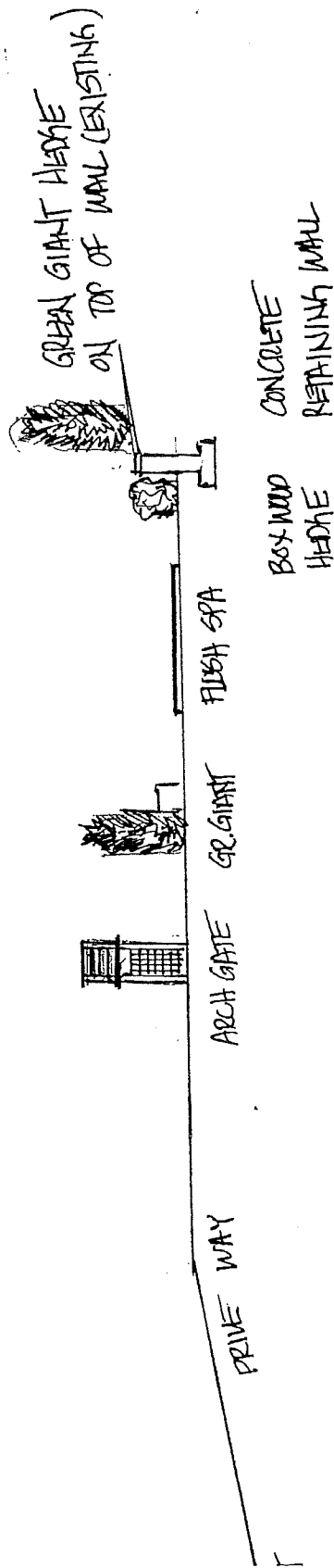
RECEIVED
 AUG 03 2021
 LFW

FACING NORTH MILL STREET
38 PROSPECT LLC (LOT 24)
MANHATTAN, N.Y.
NHL INC.



WEST ELEVATION

ZERO VISIBILITY OF SPA FROM PUBLIC WAY



CROSS SECTION OF 38 PROSPECT LLC (LOT 2A)

SCALE 1"=16'

38 PROSPECT STREET – LOT 29 - SPA

VIEW FROM THE "PONY FIELD"





VIEW FROM PROSPECT STREET OF THE DEVELOPMENT







LOOKING DOWN TOWARDS ANGOLA STREET



THE HOUSE AT LOT 29

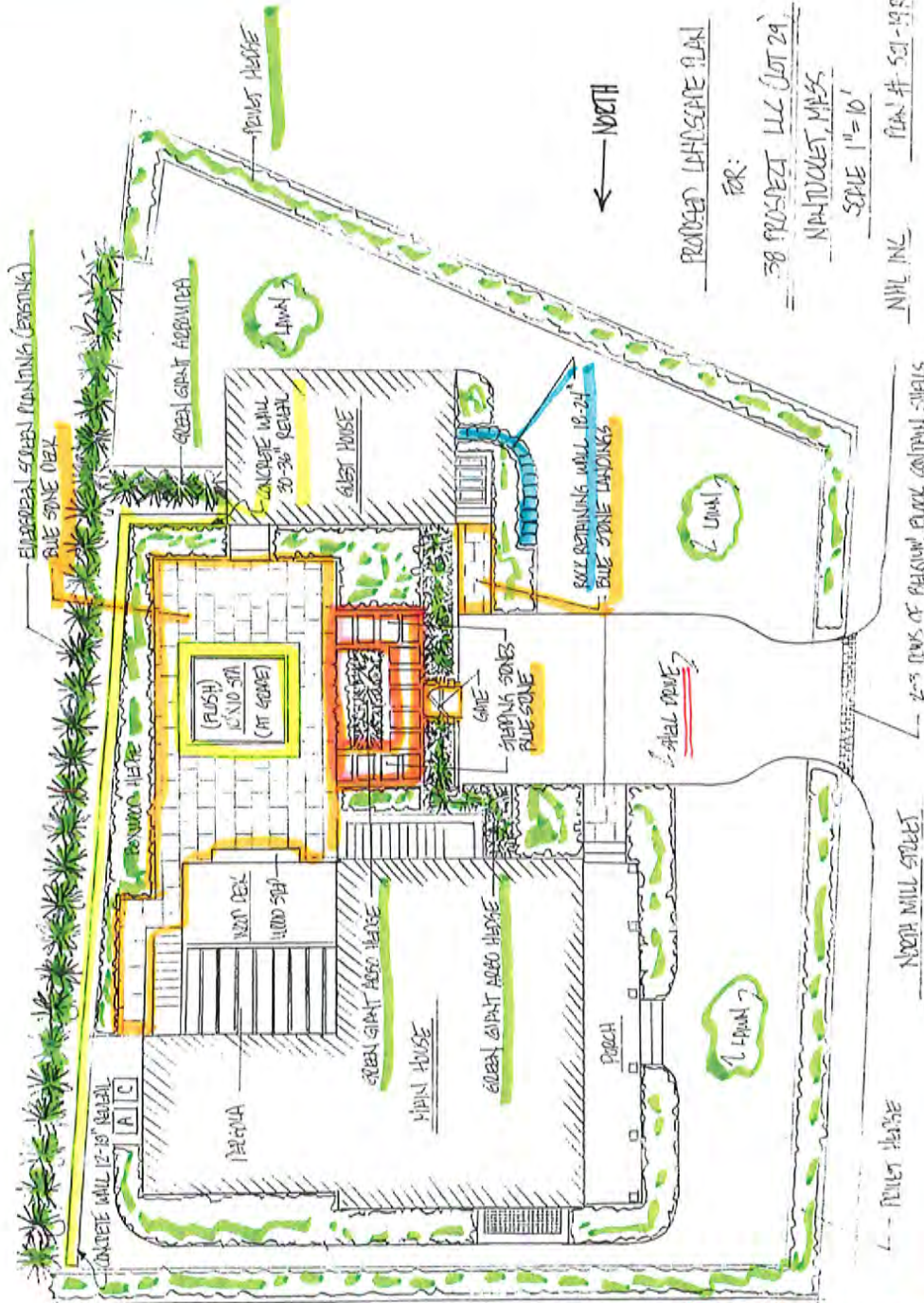






14. Steven J. Renehan Tr 05-3830	24 Stone Post Way	Pool and hardscape	73.3.2/68	Atlantic Lndscping
Voting	Pohl, Coombs, McLaughlin, Camp, Oliver			
Alternates	Thornewill			
Recused	None			
Documentation	Landscape design plans, site plan, photos, and advisory comments.			
Representing	Lindsay Congleton, Atlantic Landscaping Inc.			
Public	None			
Concerns (6:31)	Congleton – Presented project. Backus – Read SAB comments: the pool won't be visible but there is too much proposed hardscaping. Camp – Agrees with SAB, reduce the hardscaping. Coombs – The hardscaping shouldn't run side-line to side-line. McLaughlin – Everything seems appropriate and there won't be any visibility. Oliver – Agrees with SAB and Ms. Coombs. Pohl – Doesn't think any of this will be visible.			
Motion	Motion to Approve through staff with the south side conversation and fire pit area pulled back even to the stepping stone path, per Exhibit A. (Oliver)			
Vote	Carried 3-0//McLaughlin, Oliver, and Pohl-aye; Coombs and Camp-abstain	Certificate #	HDC2021-05-3830	
15. 38 Prospect, LLC 05-3831	38 Prospect – Lot 29	Spa/hardscape	54.4.4/56	Mark Lombardi
Voting	Pohl, Coombs, McLaughlin, Camp, Welch			
Alternates	Thornewill			
Recused	Oliver			
Documentation	Landscape design plans, site plan, photos, correspondence, and advisory comments.			
Representing	Linda Williams			
Public	Anne Lingeman Davis, 15 Mill Street Patricia Beilman, 17 Mill Street			
Concerns (6:39)	Williams – Presented project; the retaining wall allows the raised spa to be below the surrounding grade. Backus – Read HSAB comments from 5/24: 10X10 is a small swimming pool and shouldn't be allowed in the old historic district (OHD); spa should be flush with grade; privet hedge is insufficient to screen visibility year round; bluestone patios should be avoided in the OHD; brick is more traditional. Flynn – Read into the record a letter of objections from Marjie Kargman of 8 Mill Street. Davis – This proposal is in what she argues to be a historically significant landscape. She's concerned about the precedent of allowing a spa in an historic neighborhood because of all the inappropriate stuff that goes with it: mechanicals, lights, water jets, speakers. The dense suburban screening needed to hide this is incongruent with the rural open neighborhood. Beilman – The HSAB recommendation that this is inappropriate is irrefutable. There will be 9 other lots that could also ask for spas if this is approved. This is visible from Prospect and North Mill Streets. Camp – Suggested driveway take a turn to allow for more landscaping in front of the spa. Not in favor of a shell drive in this area. There are 2 privet hedges along Prospect Street so okay with that but doesn't like the corral effect. Doesn't support the spa because it's not sufficiently screened and will be visible in the winter. There is too much bluestone. Coombs – This proposal has nothing to do with any of the streetscapes in the area; this is a hotel-type treatment. The spa should be denied; the retaining walls and fieldstone are inappropriate. Welch – The raised spa is a concern; we shouldn't discuss plant material, it isn't appropriate to do so. This is an important area. The bluestone won't be visible. We have shell drives all around the Island, so he has no concerns with that. McLaughlin – Asked staff to investigate the meeting rails on the house dormers. No comments on the spa. Pohl – We can discuss vegetation to the extent it is year-round screening; privet isn't an evergreen. Agrees with Ms. Camp's observation that the driveway shouldn't go straight in. Agrees walling off with privet is not in keeping with the area. There is a substantial grade change proposed; he'd like to see a north-south cross section through the spa and and east-west cross section through the driveway and spa. Agrees the extent of paving is way too formal for the area.			
Motion	Motion to Hold for revisions and more information. (Welch)			
Vote	Carried 5-0//Camp, Coombs, McLaughlin, Welch, and Pohl-aye	Certificate #		





PROPOSED LANDSCAPE PLAN

FOR:

30 PROSPECT LLC LOT 29
NANTUCKET, MASS.

SCALE 1"=10'

DATE: 5-21-19

NHL INC.

2-3 FEET OF PLANTING BUFFER REQUIRED

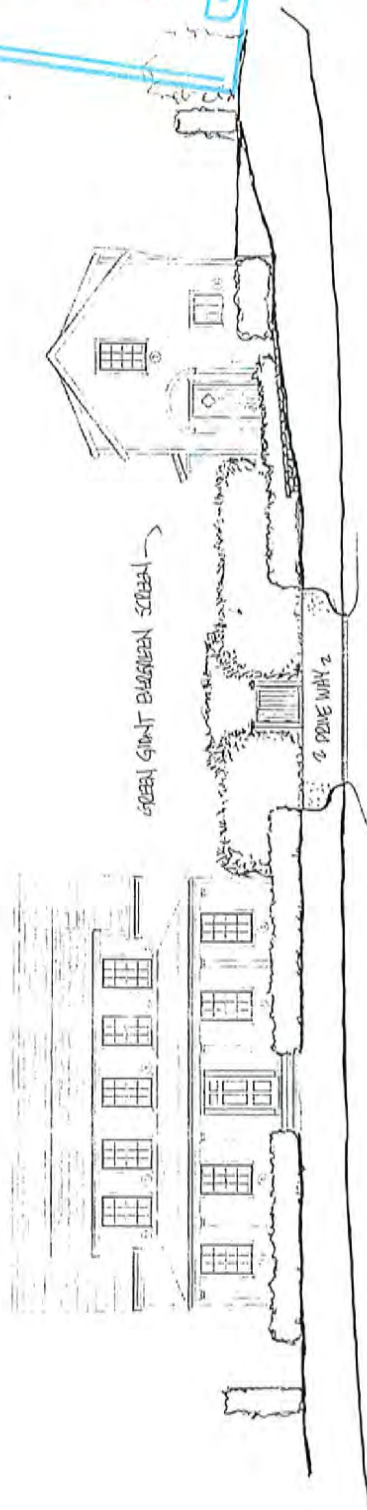
NORTH MILL STREET

SEE PLAN HERE

RECEIVED
JUL 29 2021
By

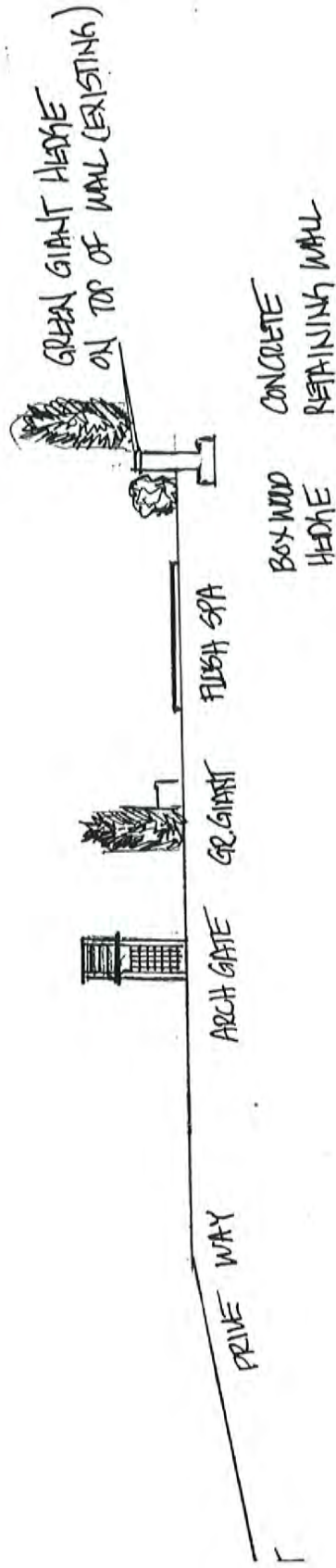
FACING NORTH MILL STREET
38 PROSPECT AVE (LOT 29)
NORFOLK, MASS.
NHL, INC.

RECEIVED
JUL 29 2021
By _____



WEST ELEVATION

ZERO VISIBILITY OF SPA FROM PUBLIC WAY



CROSS SECTION OF 38 PROSPECT LLC (LOT 29)

SCALE 1" = 10'



38 PROSPECT STREET – LOT 29 - SPA

VIEW FROM THE “PONY FIELD”





VIEW FROM PROSPECT STREET OF THE DEVELOPMENT







LOOKING DOWN TOWARDS ANGOLA STREET



THE HOUSE AT LOT 29





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

AX MAP N°: SS 4.4 PARCEL N°: 56 (PORTION)
 Street & Number of Proposed Work: PORTION OF 38 PROSPECT
 Owner of record: 38 PROSPECT LLC RICH GILLS
 Mailing Address: BOX 673
NANTUCKET MA 02554
 Contact Phone #: 781-424-8396 E-mail: RICH.GILLS@GMAIL.COM

AGENT INFORMATION (if applicable)

Name: MADON LOMBARD & LINDA WILLIAMS
 Mailing Address: BOX 2367
NANTUCKET MA 02554
 Contact Phone: 508-325-1695 E-mail: LOMBARD@GMAIL.COM
508-221-0932 LINDA W. - CZARINA LINDA
@CONCRETE-ART

DESCRIPTION OF WORK TO BE PERFORMED

See reverse for required documentation.

☐ New Dwelling ☐ Addition ☐ Garage ☐ Driveway/Apron ☐ Commercial ☐ Historical Renovation ☒ Deck/Patio ☐ Steps ☐ Shed
☐ Color Change ☐ Fence ☒ Gate ☐ Hardscaping ☐ Move Building ☐ Demolition ☐ Revisions to previous Cert. No. By
☐ Pool (Zoning District _____) ☐ Roof ☐ Other SPA 10'X10' (AUTO COVER)
 Size of Structure or Addition: Length: _____ Sq. Footage 1st floor: _____ Decks/Patio: 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: _____ (describe)
 Original Date: _____
 Original Builder: _____
 Are 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: ARCH WAY GATE (NTW)
 Length: ARBOR 36"X7'

Lighting (flat only): Manufacturer _____ Rough Opening _____ Size _____ Location _____
 Manufacturer _____ Rough Opening _____ Size _____ Location _____
 Gutters: ☐ Wood ☐ Aluminum ☐ Copper ☐ Leaders (material) _____

Leaders (material and size): _____
 Siding: ☐ 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): ☐ TDL ☐ SDL Front _____ Rear _____ Side _____

Garage Door(s): Type _____ Material _____

Hardscape materials: Driveways GRAVEL/CORBLEDSTONE Walkways BLUE SLATE/PATIO Walls CONCRETE W/BLUE SLATE CAP

Note: Complete door and window schedules are required. APRON 24" AS FIELDSTONE WALL

Siding: ☐ Clapboard (if applicable) _____ Roof _____

Trim: _____ Sash _____ Doors _____

Deck: _____ Foundation _____ Fence ARBOR Shutters _____

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

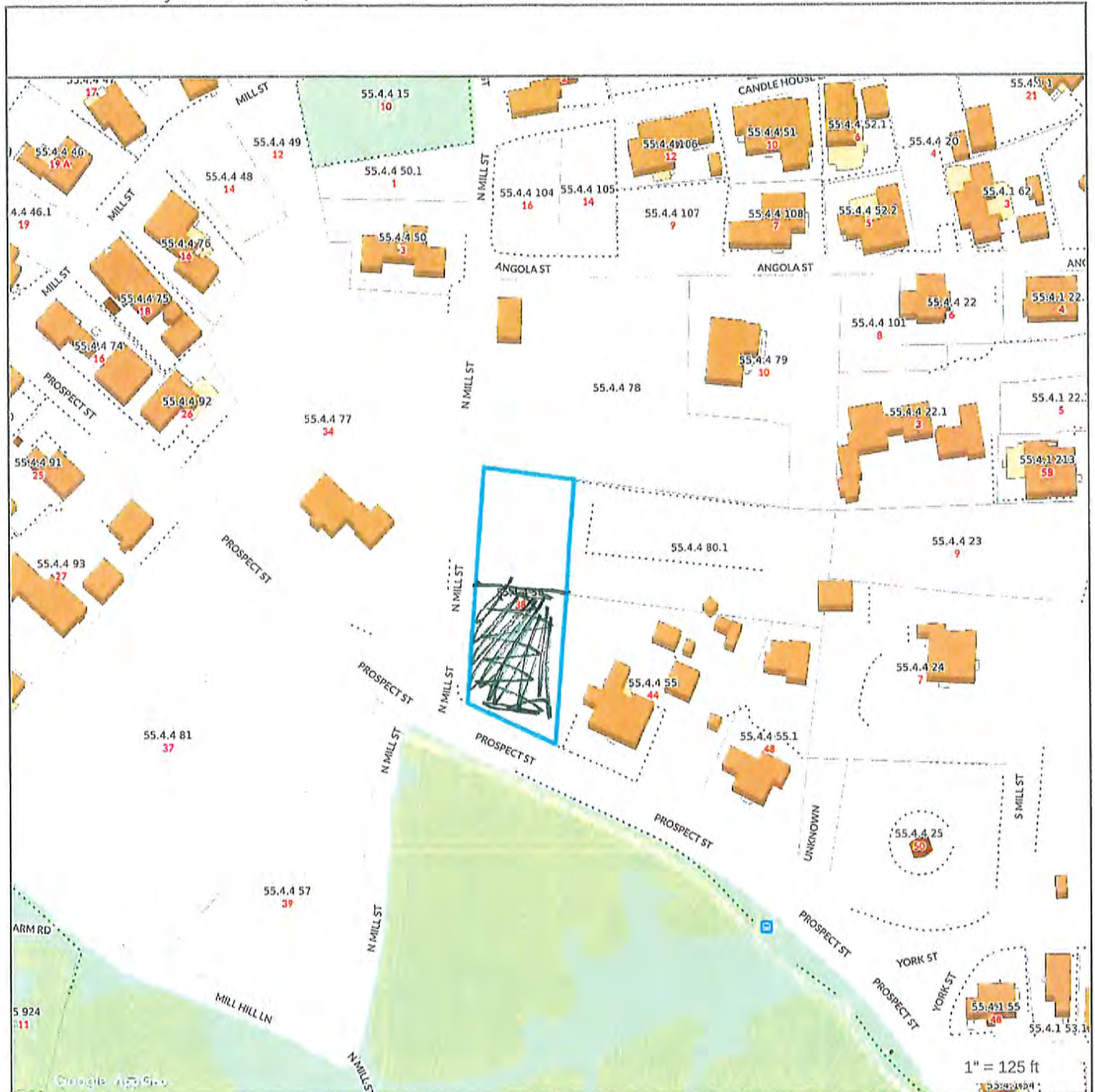
I hereby authorize the agent named above to act on my behalf to make changes in the specifications or the plans contained in this application in order to bring the application into compliance with the HDC guidelines. I hereby agree to abide by and comply with the terms and conditions of this application.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

Scanned
copy

ORIGINAL
SUBMISSION
HELD FOR
REVISIONS

RECEIVED
MAY 11 2021

RECEIVED
MAY 11 2021



Property Information

Property ID 55.4.4 56
Location 38 PROSPECT ST
Owner 38 PROSPECT 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 Jan, 2021
Data updated Jan, 2021

Print map scale is approximate.
Critical layout or measurement
activities should not be done using
this resource.



Property Information

Property ID 55.4.4.56
 Location 38 PROSPECT ST
 Owner 38 PROSPECT LLC



**MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT**

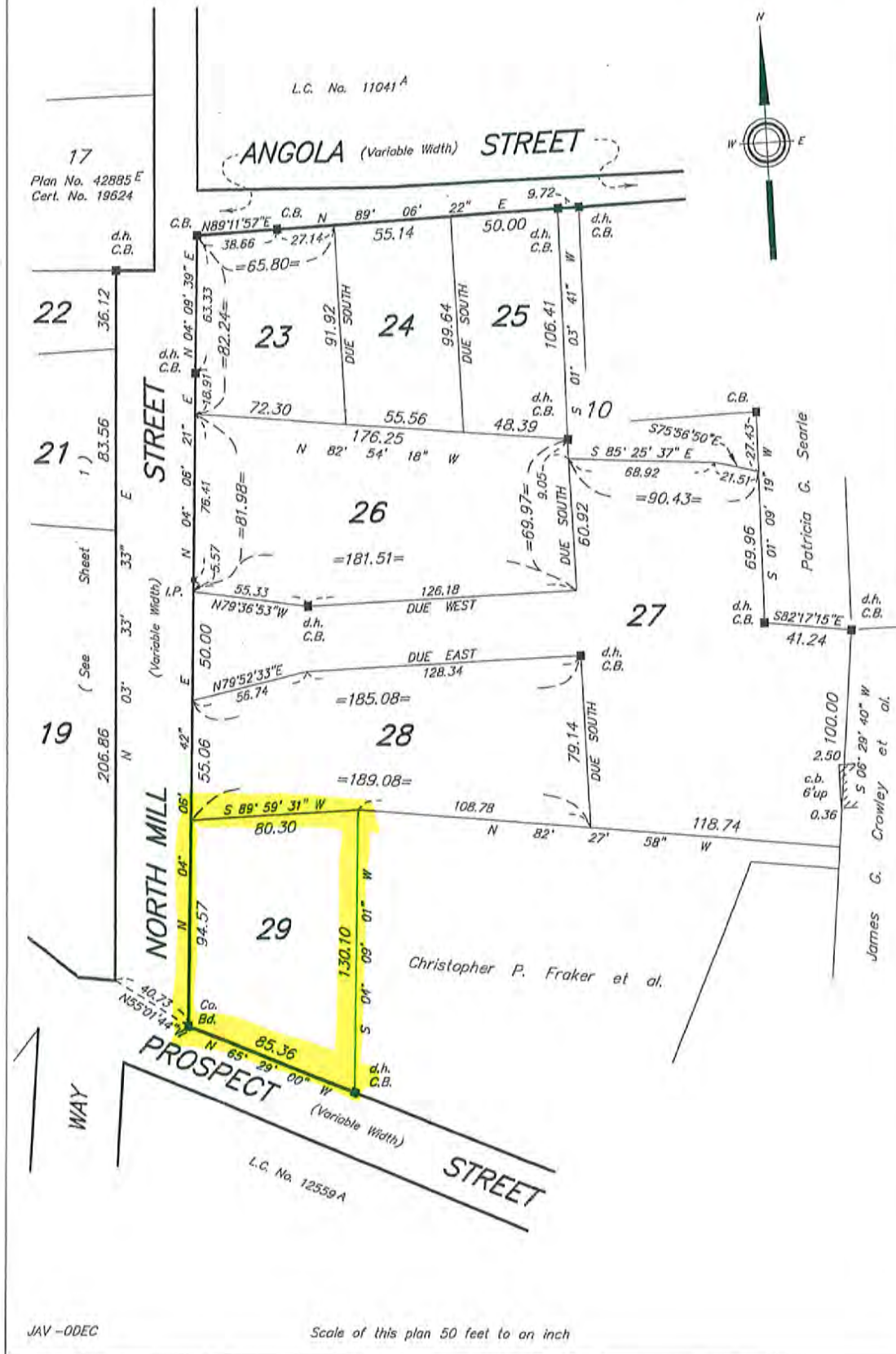
Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated Jan. 2021
 Data updated Jan. 2021

Print map scale is approximate.
 Critical layout or measurement
 activities should not be done using
 this resource.

42885^F

Sheet 2 of 2



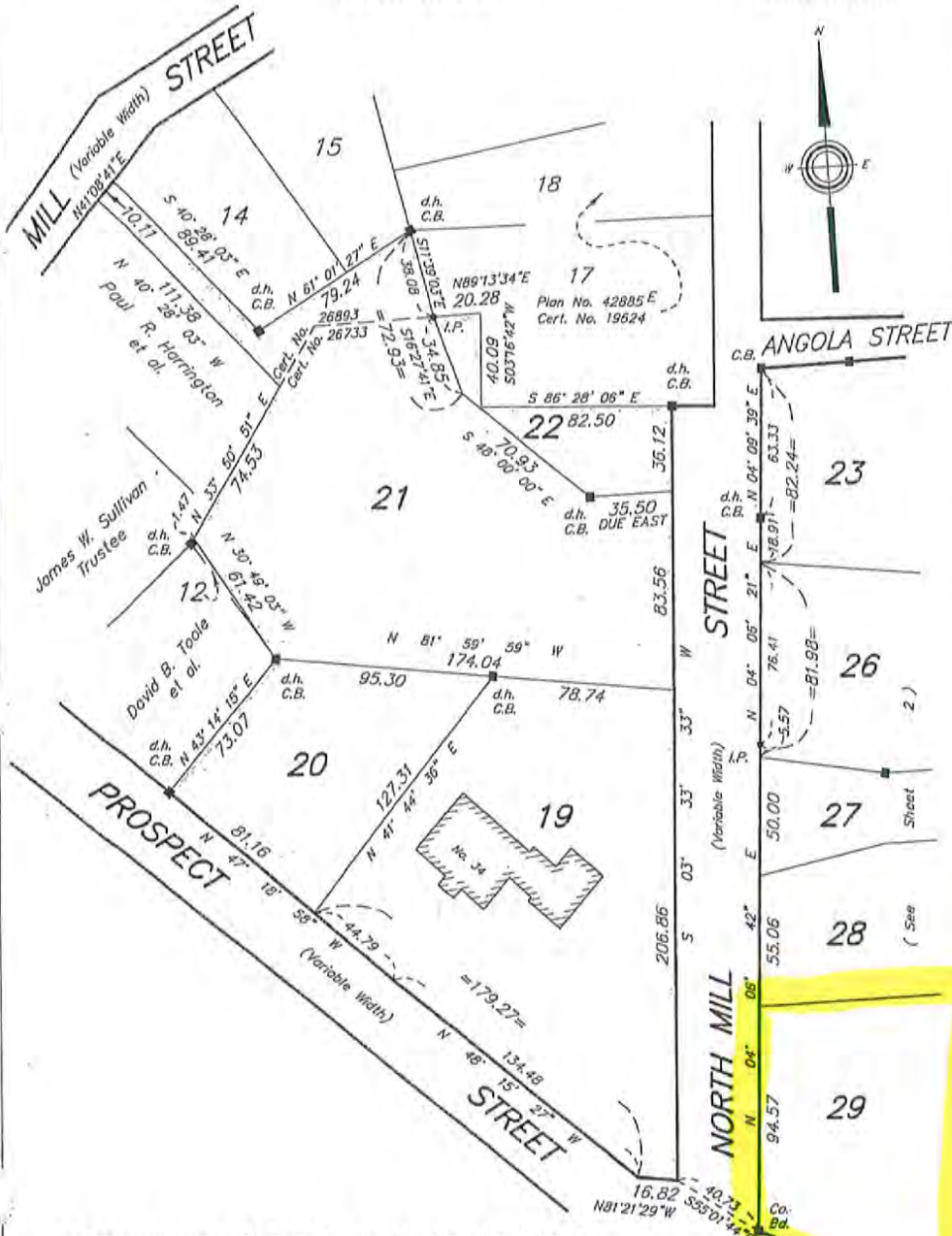
SUBDIVISION PLAN OF LAND IN NANTUCKET

Blackwell & Associates, Inc., Surveyors

August 31, 2018

42885F

Sheet 1 of 2



Subdivision of Lots 5, 7, 8 and 9 ; Lot 11 ; Lot 13 and Lot 16
Shown on Plans 42885-A Sh.2 ; 42885-B ; 42885-C and 42885-D
Filed with Cert. of Title Nos. 19623 ; 20799 ; 20799 and 26515
Registry District of Nantucket County

Separate certificates of title may be issued for land
shown hereon and on Sheet 2 as Lots 19 through 29
By the Court.

Deborah S. Peterson
Recorder

MAR. 6, 2019

JAV-005A

WAY

L.C. No. 12559A

Abutters are shown as
on original decree plan.

Copy of part of plan
filed in

LAND REGISTRATION OFFICE

MAR. 6, 2019

Scale of this plan 50 feet to an inch
Stephen T. LaMonica, Engineer for Court



LOCUS MAP - NOT TO SCALE
 38 PROSPECT LLC - MAP 55.4.4: PCL 56 (PORTION)

PROPOSED LANDSCAPE PLAN
NEW DWELLING - 38 PROSPECT LLC
38 PROSPECT (LOT 29)
NANTUCKET, MA.

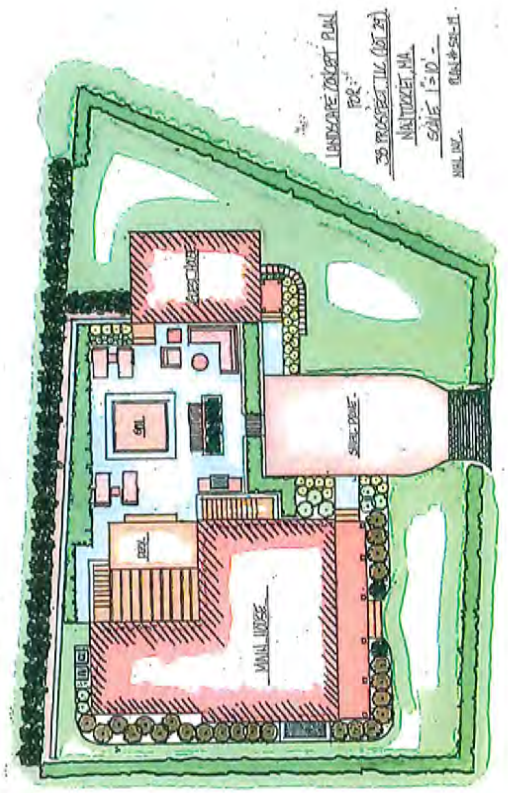


Professional Landscape Service

Nantucket Heritage Landscapes, Inc.

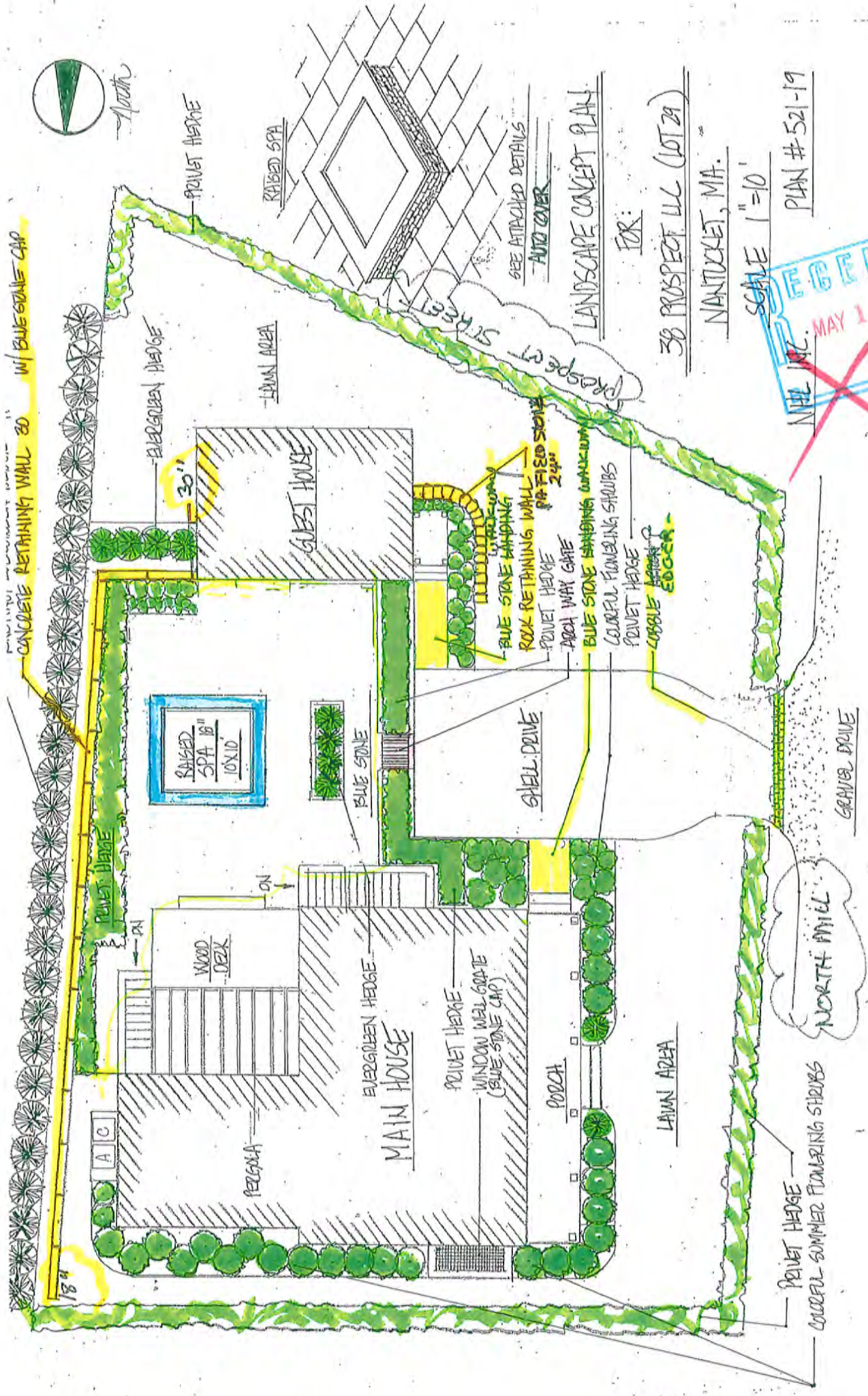
• Landscape Design • Installation

13 Arrowhead Drive, Nantucket, MA 02554



LANDSCAPE DESIGN PLAN
 FOR
 38 PROSPECT LLC (LOT 29)
 NANTUCKET, MA
 SCALE 1"=10'-0"
 DATE 06-14-2011

CONCRETE RETAINING WALL 30" W/ BLUE STONE CAP



LANDSCAPE CONCEPT PLAN

FOR:

38 PROSPECT LLC (LOT 29)

NANTUCKET, MA.

SCALE 1"=10'

PLAN # 521-19



NORTH ARROW

PRIVET HEDGE
COLORFUL SUMMER FLOWERING SHRUBS

GRANITE DRIVE

SHELL DRIVE

MAIN HOUSE

GUEST HOUSE

RAISED SPA 10' x 10'

WOOD DECK

PATIO

POUCH

LAWN AREA

EVERGREEN HEDGE

PRIVET HEDGE

WINDOW WALL GATE
(BLUE STONE CAP)

BLUE STONE

30"

EVERGREEN HEDGE

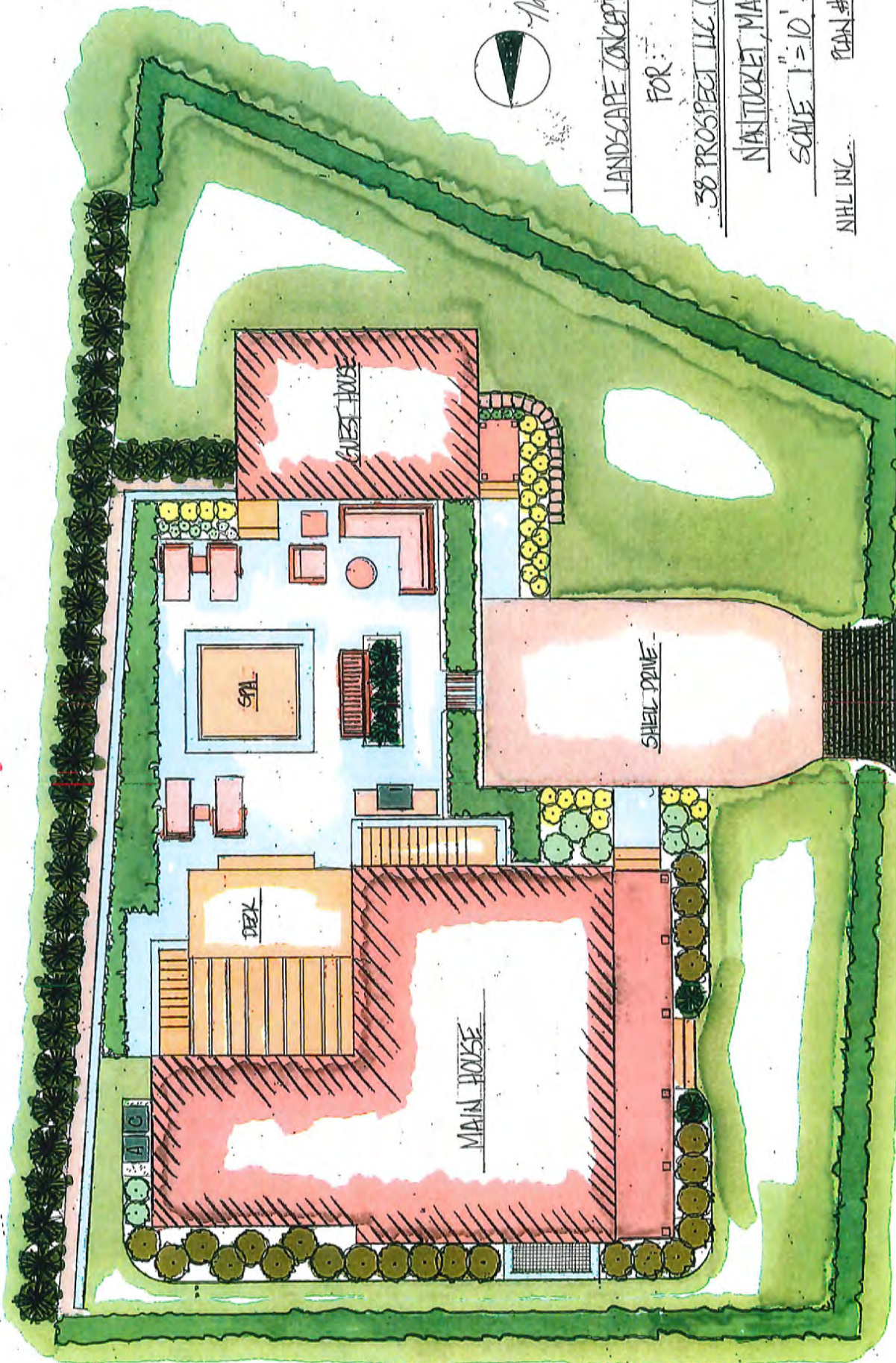
PRIVET HEDGE

LAWN AREA

RAISED SPA

SEE ATTACHED DETAILS
AUTO COVER

X



LANDSCAPE CONCEPT PLAN

FOR:

38 PROSPECT LLC (LOT 29)

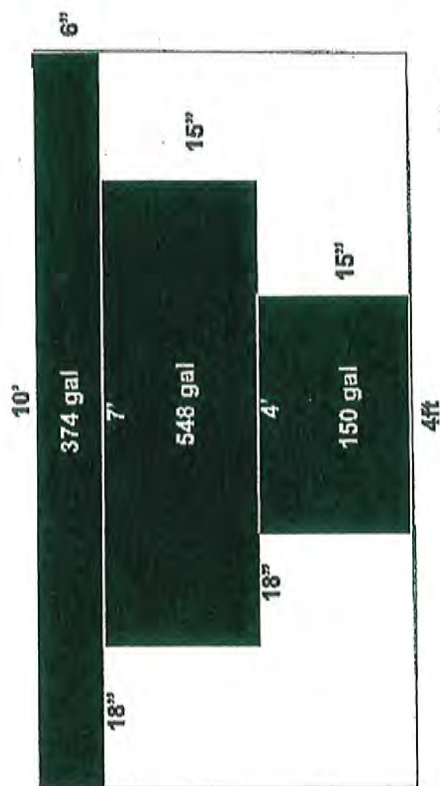
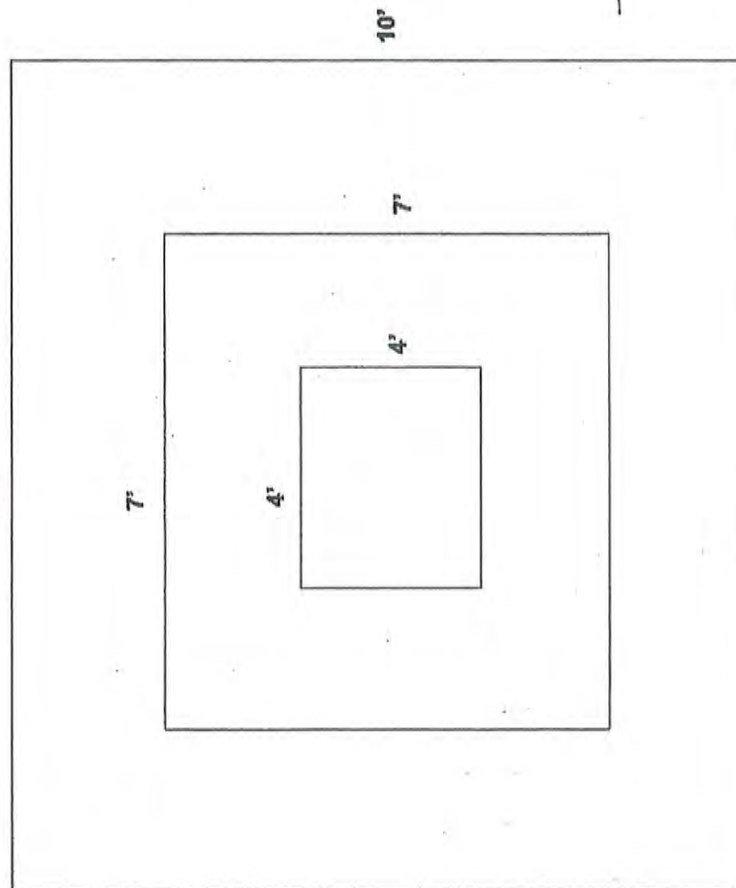
NANTUCKET, MA

SCALE 1" = 10'

NHL INC.

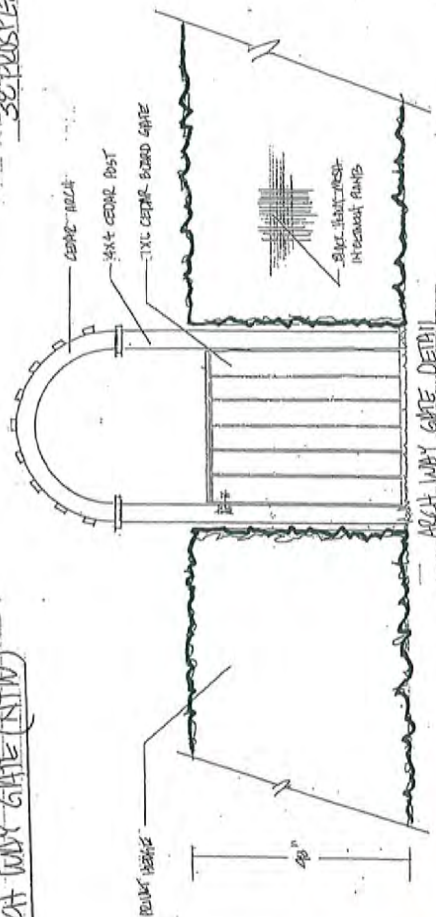
PLAN # 521-19

100sqft surface area



ANAL WBY GATE (NTW)

38.205924 (10129)



Cathy Flynn

From: Anne Dewez <afmdewez@gmail.com>
Sent: Friday, June 11, 2021 11:36 AM
To: Cathy Flynn
Subject: Re: 38 Prospect Street spa application

Categories: IMPORTANT

Thanks.

And start planning that trip with your mother! As we've seen only too graphically over the last 15 months, icky things can happen at any time. Carpe diem!

AFM Dewez | Cell: +1(203) 685-5361 | Mob: +33 607 933412 / afmdewez@gmail.
Sent from my iPhone

On Jun 11, 2021, at 17:31, Cathy Flynn <cflynn@nantucket-ma.gov> wrote:

Oh my gosh!! Happy 70th!!!

What a fabulous way to spend your birthday- I want to take my mother to Tuscany and Normandy- she is a huge WW2 buff. Her father was killed in WW2 flying over Germany. She was 4 years old at the time.

Cathy Flynn
HDC Compliance Coordinator/Land Use Specialist
Town of Nantucket
Planning and Land Use Services
2 Fairgrounds Road
Nantucket, Ma 02554
cflynn@nantucket-ma.gov
508-325-7587 x7027

<image001.png>

From: Anne Dewez <afmdewez@gmail.com>
Sent: Friday, June 11, 2021 10:58 AM
To: Cathy Flynn <cflynn@nantucket-ma.gov>
Subject: Re: 38 Prospect Street spa application

If only! I'm in the boondocks of Tuscany (I know that sounds really bratty - it's a trip for my 70th) with poor phone signal and no discernible internet. Like I said, from Wednesday my engagement with this process will be a lot easier.

On Jun 3, 2021, at 18:41, Cathy Flynn <cflynn@nantucket-ma.gov>
wrote:

What is your phone number? It is easier to explain

Cathy

Cathy Flynn

HDC Compliance Coordinator/Land Use Specialist

Town of Nantucket

Planning and Land Use Services

2 Fairgrounds Road

Nantucket, Ma 02554

cflynn@nantucket-ma.gov

508-325-7587 x7027

<image001.png>

From: Anne Dewez <afmdewez@gmail.com>

Sent: Thursday, June 03, 2021 12:35 PM

To: Cathy Flynn <cflynn@nantucket-ma.gov>

Subject: Re: 38 Prospect Street spa application

OK. I saw it at #52 on the New Business list so I thought it was possible it would come up.

Sorry I still don't understand how the HDC works through the agenda. You're expecting to review 7 North Mill St., which is #19 on the New Business agenda. But you don't see getting to #52. When does the Old Business come up? 38R Prospect is #3 on that list. I assumed, with 70 New Business items, that it would not come up tonight. Am I wrong?

Anne

AFM Dewez | Cell: +1(203) 685-5361 | Mob: +33 607 933412 /
afmdewez@gmail.com.

Sent from my iPhone

area, according to *Building with Nantucket in Mind*. There is not one spa in our neighborhood.

Putting aside appropriateness, which I think trumps all other considerations, size is an issue too. 10'x10' is more or less a small pool. I have seen Nantucket properties with such an amenity listed on sites like VRBO where the "Pool" icon is ticked. That's how these features are being marketed so I don't think we should be naive about it.

I further support HSAB's view that bluestone hardscaping is a modern material not in keeping with the neighborhood and any hardscaping should be brick.

Thank you for taking my point of view into account in your deliberations on this application.

Yours respectfully, Anne Dewez

Anne F M Dewez | 5 Mill Street, Nantucket, MA 02554,
USA | Cell: +1(203) 685-5361 |
[Email: afmdewez@gmail.com](mailto:afmdewez@gmail.com)

This email was scanned by Bitdefender

Cathy Flynn

From: Maureen Searle <alex4sea1@gmail.com>
Sent: Monday, June 14, 2021 1:44 PM
To: Cathy Flynn
Cc: alex4sea1
Subject: 38/38R Prospect and 38/38R Birdsong

FILE COPY

Hi Cathy: I am addressing myself to the proposed "spas" on each property.

First, let me note how problematic these water features/spas/pools are becoming in the Historic District. I just ran into an example of it that affects Lily Pond Park. A point of entry/exit off Westco Place is being threatened by a landowner on 1 Blackberry Lane (26 West Chester) who is insisting that the path is part of his property. This is a Land Bank issue but it is also a HDC issue because the HDC approved the "water feature" at the foot of the property, very close to Lily Pond Park.

The compromise has resulted in an absurd resort to landscaping with an incredible number of shrubs to conceal the water feature from public view. Those shrubs will encroach on the public path. I would ask the HDC to please be more cognizant in the future about the implications of its decisions for public use of land.

Having been denied a water feature, the developer for 38/38R is now asking for a spa. I had to research spas to understand what this would mean for the site. A spa has to have hot water and jets. I would ask the HDC to confirm these specifics because, otherwise, this spa is just another water feature. I also question the safety of a spa that has the center at 6 feet. A child could easily slip into the spa, because it is completely open, and fall into the 6-foot center. I would argue, as a swimmer, that this has the same "drop-off" problem that pools with a deep end has.

One reason the voters are putting a halt to pools on small properties in town is the noise. Spas are associated with parties and noise. They are for parties. This has to be a consideration when approving them for a quiet neighborhood.

There really have to be legal definitions of spas, water features, and pools, and how they differ from each other. Believe it or not, there is now a "spool," which is, as you have surmised, a merging of the pool and the spa. If the spa proposed has the option of a lower water temperature, then it is a spool.

Here is an article that sets forth these options: <https://www.landscapingnetwork.com/swimming-pool/spas.html>

I really feel that, under the circumstances, one member of the HDC, not an advocate, should become well versed on this subject.

Everything I have written applies to 38/38R Birdsong but doubly so because the noise from another spa is going to be even worse.

The whole modest, cottage nature of the neighborhood is being transformed. These houses are really compounds that would be better located in Eel Point, Squam, or Monomoy, anywhere there is more land, and compounds of a similar nature.

Thank you.

Sincerely,
Maureen

This email was scanned by Bitdefender

Cathy Flynn

From: Christine Sanford <ccsanford48@gmail.com>
Sent: Tuesday, June 15, 2021 7:34 AM
To: Cathy Flynn; Holly Backus; Anne & Patrick FM Dewez; joan & bill taylor/wilmot
Subject: 7 North Mill Street , 38 +38R Prospect Street (Birdsong)

Good morning Cathy & Holly ,

Once again I write to you to voice my concerns for the proposed "water feature" permit applications for the properties at 7 North Mill Street and 38 +38R Prospect Street.

I am in agreement with the letter sent to you from The Mueller Property Development Watch Committee and support their efforts to preserve the historic integrity of this neighborhood.

Please read their letter carefully and consider the negative visual and sound pollution impact these "water features" would create in one of the most historic neighborhoods in town.

It is discouraging that this water feature craze is gripping the current island housing designs .

Could the HDC consider a water feature/pool moratorium and propose a town study concerning the impact of water & sound pollution that is created by these constructions ?

Thank you for all your efforts .

Christine Sanford
3 Mill Street

Cathy Flynn

From: Anne Dewez <afmdewez@gmail.com>
Sent: Thursday, June 03, 2021 11:57 AM
To: Cathy Flynn; Holly Backus
Cc: Joan Taylor; Anne Davis
Subject: 38 Prospect Street spa application

FILE COPY

Categories: IMPORTANT

Dear Chairman Pohl and HDC Commissioners,

I am writing in support of the findings of HSAB that, in essence, the spa proposed for 38 Prospect is not in keeping with the nature and ambiance of the historical Mill Street area neighborhood.

Yes, a water feature that is less than 150 sq ft and less than 1,000 gallons is permitted in ROH. The proposed spa falls within these criteria. However, there is a basic issue that must be addressed: just because something *can* be done does not mean it *should* be done. This is not Winn Street. This is a Quaker neighborhood and new structures should echo those in the surrounding area, according to *Building with Nantucket in Mind*. There is not one spa in our neighborhood.

Putting aside appropriateness, which I think trumps all other considerations, size is an issue too. 10'x10' is more or less a small pool. I have seen Nantucket properties with such an amenity listed on sites like VRBO where the "Pool" icon is ticked. That's how these features are being marketed so I don't think we should be naive about it.

I further support HSAB's view that bluestone hardscaping is a modern material not in keeping with the neighborhood and any hardscaping should be brick.

Thank you for taking my point of view into account in your deliberations on this application.

Yours respectfully, Anne Dewez

Anne F M Dewez | 5 Mill Street, Nantucket, MA 02554, USA | Cell: +1(203) 685-5361 | [Email: afmdewez@gmail.com](mailto:afmdewez@gmail.com)

This email was scanned by Bitdefender

Cathy Flynn

From: Jamie Watkins <jamie.watkins@me.com>
Sent: Tuesday, August 3, 2021 3:39 PM
To: Cathy Flynn; Holly Backus
Subject: 38 Prospect Spa Application / August 3, 2021

FILE COPY

Dear HDC Commissioners,

I am off island at the moment and unable to attend in person, but understand you are meeting this evening on a pool/spa application put forth by 38 Prospect. On behalf of my mother, Maire Watkins, the owner of 9 Mill Street, we hope that you maintain your stance from the previous application on July 6th, 2021. We support any argument made this evening by our neighbor, Anne Dewez, on this matter. Thank you for your consideration and efforts to maintain this quaint, historic neighborhood.

Best, Jamie Watkins

9 Mill Street. 508-228-0401

This email was scanned by Bitdefender

Cathy Flynn

From: Joan Taylor <jmtaydvm@gmail.com>
Sent: Tuesday, August 3, 2021 1:23 PM
To: Cathy Flynn
Subject: 38 Prospect Spa

FILE COPY

Dear HDC Commissioners,

Joan Taylor and Bill Wilmot, 16 Mill Street, support the position that the spa application for 38 Prospect Street should be denied. We believe it is inappropriate in the historic area of the ROH in which it is located.
Ackshack, LP (Family Partnership)

Joan Taylor, DVM

Sent from my iPad

This email was scanned by Bitdefender

Cathy Flynn

From: pvhc11@aol.com
Sent: Tuesday, August 3, 2021 1:27 PM
To: Cathy Flynn; Holly Backus
Subject: 38 Prospect Street "spa" application

FILE COPY

Dear HDC Commissioners,

Please maintain your stance from July 6 and do not allow mini-pools/"spas" in the Mill Street neighborhood. We fully support the arguments Anne Dewez will be making on behalf of the neighborhood group against the mini-pool"spa" application for 38 Prospect Street at the meeting on August 3.

Thank you again for all your efforts on behalf of all of us.

Yours sincerely,

Pam Clark

12 Candle House Lane
203 858 3038

This email was scanned by Bitdefender

Cathy Flynn

From: Robert Kargman <rkargman@bostonland.com>
Sent: Monday, August 2, 2021 7:52 PM
To: Cathy Flynn
Subject: Fwd: Development alert: mini-pool/"spa" at 38 Prospect

FILE COPY

> Subject: 38 Prospect Street: "spa" application

>

> Dear HDC Commissioners,

>

> Please maintain your stance from July 6 and do not allow mini-pools/"spas" in the Mill Street neighborhood. We fully support the arguments Anne Dewez will be making on behalf of the neighborhood group against the mini-pool"spa" application for 38 Prospect Street at the meeting on August 3.

>

> Thank you for all your efforts on behalf of all of us.

>

> Yours sincerely,

> Robert Kargman

> 8 Mill Street

> 617-901-6666

>

>

>

>

>

>

>

>

This email was scanned by Bitdefender

Cathy Flynn

From: CAROLYN CROWLEY <crowleych@aol.com>
Sent: Monday, August 2, 2021 4:10 PM
To: Cathy Flynn
Subject: Spa at 38 Prospect Street

FILE COPY

Hello, HDC Commissioners:

Tomorrow night (August 3) you will review an application for a mini-pool/"spa" at 38 Prospect Street for the second time. Subsequent to the first time you reviewed this application on June 14, you reviewed another application, on July 6, from the same applicant for a virtually identical mini-pool/"spa" at the property immediately next door. All five of the HDC Commissioners on the panel for this application accepted our 50-family strong neighborhood group's arguments that mini-pools/spas are not appropriate in the Mill Street neighborhood. Facing a denial of the application, the owner withdrew it.

I urge you to honor the precedent you set on July 6 and reject this application, too. Even those of us on the periphery of the Mill Street area treasure the unique attributes of the neighborhood and have a vested interest in ensuring that it retains its character and ambiance.

Thank you, Commissioners,
Carolyn H. Crowley, owner,
7 & 9 South Mill Street

508-228-9362

Sent from my iPhone

This email was scanned by Bitdefender

Cathy Flynn

FILE COPY

From: jnc1962@optonline.net
Sent: Monday, August 2, 2021 4:54 PM
To: Cathy Flynn; Holly Backus
Subject: 38 Prospect Street - SPA???

Dear HDC Commissioners,

We are following up on prior correspondence related to the aforementioned property. As such, we respectfully request that you and the other HDC members maintain your stance from the July 6th meeting and do not allow mini-pools/"spas" in the Mill Street neighborhood.

To that end, my wife Pamela and I wholeheartedly support the arguments Anne Dewez will make on behalf of the neighborhood group against the mini-pool"spa" application for 38 Prospect Street at tomorrow's meeting.

Respectfully submitted,

Pamela & Jim Chapman

Pamela & Jim Chapman
7 Angola Street
Nantucket, MA 02554
(203) 249-6780

This email was scanned by Bitdefender

Cathy Flynn

From: Anne Dewez <afmdewez@gmail.com>
Sent: Tuesday, June 15, 2021 4:54 AM
To: Cathy Flynn; Holly Backus
Subject: 38 Prospect St Spa & Hardscape

Cathy and Holly,

This note from Marjie Kargman, 8 Mill Street, was written to me in response to a Mueller properties update I wrote for all neighbors. Her comments are relevant to the Commissioners' consideration of the application for 38 Prospect St Spa & Hardscape. Please include the message below in their materials relating to the application.

Thanks so much, Anne

AFM Dewez | Cell: +1(203) 685-5361 | Mob: +33 607 933412 / afmdewez@gmail.
Sent from my iPhone

Begin forwarded message:

From: Marjie Kargman <mkargman@bostonland.com>
Date: June 14, 2021 at 22:08:30 GMT+2
To: Anne Dewez <afmdewez@gmail.com>
Subject: RE: UPDATE: Mueller properties development

Anne,

I cannot express the importance of your energy in maintaining the neighborhood's character. You are one in a million.

We live cheek to jowl in this tiny paradise, and a bunch of kids or grownups in a big bathtub outside at night might be great for Utah, Aspen or anywhere in the Swiss or Italian Alps but not in or around our historic neighborhood. There are so many other locations on Nantucket where the enjoyment of a hot tub would not disrupt neighbor's peace and quiet. I really sound like an 'old lady', which I am fast becoming.

So, thank you. Bob and I look forward to thanking you in person in July.

Warmly,

Marjie

This email was scanned by Bitdefender

AS AMENDED BY ACTS: 1987, CHAP. 459

AN ACT AUTHORIZING THE TOWN OF NANTUCKET TO ESTABLISH A BOARD OF PUBLIC WORKS EXERCISING THE POWERS OF CERTAIN OTHER BOARDS, COMMISSIONS, DEPARTMENTS AND TOWN OFFICERS

Be it enacted, etc., as follows:

SECTION 1. There shall be established in the Town of Nantucket, hereinafter called the "town," a Board of Public Works, hereinafter called the "Board," which shall be comprised of the Board of Selectmen of the Town of Nantucket. The number of members of the Board of Selectmen, their manner of election and the filling of vacancies therein shall remain the same as in effect prior to the acceptance of this Act.

SECTION 2. Said Board shall have all the powers and duties now and from time to time vested by general or special law or town bylaw in the following boards, departments and offices or in boards, departments and offices having corresponding powers and duties in the town, to wit: Highway Department, Sewer Commission, Tree Commission, Mosquito Control Commission, Town Dumps and Town Cemeteries, and such boards, commissions, departments and offices shall be abolished. No existing contracts or liabilities shall be affected by such abolition, but the Board shall, in all respects, be the lawful successor of the boards, commissions, departments and offices so abolished. The Board shall have such added powers with respect to public works as the town may, from time to time, by vote of its Town Meeting, provide, any other provisions of the law to the contrary notwithstanding, and other departments and offices of the town may be from time to time, brought within the provisions of this Act by vote of the Annual Town Meeting.

SECTION 3. The Board shall appoint and fix the compensation of a Superintendent of Public Works, subject to appropriation by the town therefor, who shall exercise and perform under its supervision and direction such of the powers, rights and duties transferred to it under Section 2 as it may, from time to time, designate. He shall be specially fitted by education, training and experience to perform the duties of his office and need not be a resident of the town. He shall be responsible for the efficient exercise and performance of such powers, rights and duties. He may be given a contract not exceeding two (2) years, and said contract shall provide the manner and terms on which said contract may be terminated by the Board of Public Works.

He shall, subject to the approval of the Board, appoint such assistants, agents and employees as the exercise and performance of his powers, rights and duties may require, the compensation of such assistants, agents and employees being fixed by the Board, subject to appropriation by the town therefor. He shall render to the Board, as often as it may require, a full report of all operations under his control during the period reported upon, and annually, and from time to time as required by the Board, shall make a synopsis of such reports for publication and shall keep the Board fully advised as to the needs of the town within the scope of his duties and shall annually, not less than sixty (60) days prior to the expiration of the fiscal year of said town, furnish to the Board a carefully prepared and detailed estimate, in writing, of the appropriations required during the next succeeding fiscal year for the proper exercise and performance of all of said rights and duties. Each permanent employee of any board, department or office abolished by this Act, including Superintendents, shall be transferred to and become an employee of the Board, and each such employee shall retain all rights to holidays, sick leave and vacations in effect prior to the acceptance of this Act.

SECTION 4. This Act shall be submitted for acceptance to the voters of the Town of Nantucket at a Special Town Meeting held at any time after the Annual Town Meeting to be held in the year 1965, but not less than ninety (90) days prior to the Annual Town Meeting to be held in the year 1966. If a majority of the voters voting on the question vote in the affirmative, this Act shall thereupon take effect immediately for the purpose of the next annual town election and for all things relating thereto and shall take full effect beginning with said election.

Approved March 18, 1965

§ A301-4 Historic District Commission.

ACTS, 1970, CHAP. 395

AS AMENDED BY ACTS: 1972, CHAP. 708; 1984, CHAP. 300; 1985, CHAP. 291; 1987, CHAP. 735; 1989, CHAP. 333; 1990, CHAP. 314; 1998, CHAP. 193; 2000, CHAP. 57; 2002, CHAP. 90; 2010, CHAP. 8; 2014, CHAP. 338

AN ACT ESTABLISHING AN HISTORIC DISTRICT COMMISSION FOR THE TOWN OF NANTUCKET AND ESTABLISHING NANTUCKET ISLAND AS THE HISTORIC DISTRICT

Be it enacted, etc., as follows:

SECTION 1. Chapter 601 of the Acts of 1955 is hereby repealed and the Historic Districts Commission is hereby abolished.

SECTION 2. The purpose of this Act is to promote the general welfare of the inhabitants of the Town of Nantucket through the preservation and protection of historic buildings, places and districts of historic interest through the development of an appropriate setting for these buildings, places and districts and through the benefits resulting to the economy of Nantucket in developing and maintaining its vacation-travel industry through the promotion of these historic associations.

SECTION 2A. For purposes of this Act, the following words shall have the following meanings:

"Altered" shall include the words rebuilt, reconstructed, rehabilitated, remodeled, renovated and restored.

"Building," a combination of materials forming a shelter for persons, animals or property.

"Commission," the Nantucket Historic District Commission, acting as the Historic District Commission.

"Constructed" shall include the words built, erected, installed, enlarged, and moved.

"Exterior architectural features," such portions of the exterior of a building or structure, including the size and shape of proposed buildings and structures described in subsection (b) of section 9, as are open to view from a beach, a public way, a traveled way, a street or way shown on a land court plan or shown on a plan recorded in the Registry of Deeds, a proprietor's road, a street or way shown on a plan approved and endorsed in accordance with the Subdivision Control Law, a public park or a public body of water, and shall include but not be limited to, the architectural style and general arrangement and setting thereof; the kind, color and texture of exterior building materials; the color of paint or other materials applied to windows, doors, lights, signs, trim, gutters, leaders, louvers, vents, exterior surfaces and type and style of roofs, porches, decks, staircases, steps, balconies, roof walks and other appurtenant exterior fixtures. **[Amended by St. 2000, Ch. 57]**

"Razed," includes the words destroyed, demolished and removed.

"Structure," a combination of materials other than a building, including, but not limited to a vending machine, sign, fence, wall, terrace, walk or driveway. **[Amended by St. 1998, Ch. 193]**

SECTION 3. There is hereby established in the Town of Nantucket an Historic District Commission consisting of five (5) unpaid members who shall be resident taxpayers of the Town of Nantucket, to be appointed by the Selectmen. The Historic District Commission shall have the powers and authority and perform all the duties as hereinafter enumerated and provided. All 5 members shall be elected for rotating 3-year terms at the annual town election each year. Vacancies occurring in the Commission, other than by expiration of term of office, shall be filled by appointment by the Selectmen, but such appointment shall be only for the unexpired portion of the term of the member replaced. **[Amended by St. 2014, Ch. 338; St. 2016, Ch. 2⁽¹⁾]**

The Chairman of the Historic District Commission may designate an associate member to sit on the Commission in case of absence, inability to act or conflict of interest on the part of any member thereof or in the event of a vacancy on the Commission until said vacancy is filled in the manner provided herein. Three such associate members shall be appointed by the board of selectmen in accordance with section 3.4(a)(3) of the charter of the town of Nantucket for rotating 3-year terms. Vacancies in said office shall be filled by the board of selectmen for the remainder of the unexpired term. **[Amended by St. 2014, Ch. 338]**

The members of the commission shall be exempt from subsections (a) and (c) of section 17 of chapter 268A of the General Laws. **[Amended by St. 1998, Ch. 193; St. 2002, Ch. 90]**

SECTION 4. There is hereby established in the Town of Nantucket an Historic Nantucket District, which shall include the land and waters comprising the Town of Nantucket.

SECTION 5. (a) No building or structure shall be constructed or altered within the Nantucket Historic District in any way that affects its exterior architectural features unless and until either:

(1) An application for a building permit shall first have been approved as to exterior architectural features, which approval shall be evidenced by a certificate of appropriateness issued by the Commission; or

(2) The Commission first issues a certificate of nonapplicability with respect to such alteration or construction,

(b) No building permit for construction or alteration of a building or structure within the Historic Nantucket District shall be issued by the Building Inspector until and unless the applicant has first obtained the applicable certificate from the Commission. No occupancy permit shall be issued by the Building Inspector with respect to any building or structure in the Nantucket Historic District unless and until the Building Inspector receives a written certification from the Historic District Commission that:

(1) The building or structure has been constructed or altered in compliance with the terms of the certificate of appropriateness issued therefor; or

(2) A certificate of nonapplicability has been issued for the construction or alteration.

(c) Nothing in this Act shall be construed to prevent the ordinary maintenance, repair or replacement of any exterior architectural feature within the Nantucket Historic District which does not involve a change in design, material, color or the outward appearance thereof; nor to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor to prevent landscaping with plants, trees and shrubs.

SECTION 6. No building or structure within the Historic Nantucket District shall be razed without first obtaining a permit approved by the Historic District Commission, and said Commission shall be empowered to refuse such a permit for any building or structure of such architectural or historic interest, the removal of which in the opinion of said Commission would be detrimental to the public interest of the Town of Nantucket or the Village of Siasconset.

SECTION 7. The erection or display of an occupational or other sign exceeding two (2) feet in length and six (6) inches in width or the erection or display of more than one (1) such sign, irrespective of size, on any lot, building or structure located within the Historic Nantucket District must be approved in advance by the Historic District Commission. Evidence of such approval shall be a certificate of appropriateness issued by said Commission.

SECTION 8. The Historic District Commission shall elect its Chairman and Vice Chairman. The Commission shall meet within ten (10) days of the receipt of an application for a certificate of appropriateness or permit for removal and at such other times as the Commission may determine or upon call of the Chairman or of any two (2) members. It shall keep a permanent record of its resolutions, transactions and determinations and may make such rules and regulations consistent with this Act as may appear desirable and necessary. It may hold public or private hearings as it may deem advisable. It may incur expenses necessary to the carrying on of its work within the amount of its annual appropriation. The Commission shall make and publish rules and regulations adopting or establishing guidelines for exterior architectural features and establishing procedures for the processing of applications and conduct of hearings. The Commission may establish such fees with respect to applications and hearings as it deems necessary and appropriate to defray its expenses. **[Amended by St. 2010, Ch. 8]**

SECTION 9. (a) It shall be the function and the duty of the Historic District Commission to pass upon the appropriateness of exterior architectural features of buildings and structures hereafter to be erected, reconstructed, altered or restored within the Historic Nantucket District wherever such exterior features are subject to view from a beach, public way, public park, public body of water, traveled way, a street or way shown on a land court plan, or shown on a plan recorded in the registry of deeds, a proprietors road or a street or way shown on a plan approved and endorsed in accordance with the Subdivision Control Law. All plans, elevations and other information deemed necessary by the Commission to determine the appropriateness of the exterior features to be passed upon shall be made available to the Commission by the applicant. It shall also be the duty of the Commission to pass the removal of any building within said districts as set forth in Section 6 and the erection or display of occupational or other signs as set forth under Section 7.

(b) The Historic District Commission, in passing upon appropriateness of exterior architectural features in any case, shall keep in mind the purposes set forth in Section 2 and shall consider, among other things, the general design, arrangement, texture, material and color of the building or structure in question, the location on the lot and the relation of such factors to similar features of buildings and structures in the immediate surroundings and the position of such building or structure in relation to the street or public way and to other buildings and structures. In the case of new construction or additions to existing buildings or structures, the Historic District Commission shall consider the appropriateness of the size and shape of the building or structures both in relation to the land area upon which the building or structure is situated and buildings and structures in the vicinity, and the commission may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable by-law. **[Amended by St. 2000, Ch. 57]**

(c) The Historic District Commission shall not consider interior arrangement or building features not subject to public view. The commission shall not make any recommendations or requirements except for the purpose of preventing developments incongruous to the historic aspects of the surroundings and the Historic Nantucket District. **[Amended by St. 2000, Ch. 57]**

(d) In case of disapproval, the Commission shall state its reasons therefor in writing, and it may make recommendations to the applicant with respect to appropriateness of design, arrangement, texture, material, color and the like of the building or structure involved.

(e) Upon approval of the plans, the Commission shall cause a certificate of appropriateness, dated and signed by the Chairman, to be issued to the applicant or affixed to the plans.

(f) If the Commission shall fail to take final action in any case within sixty (60) days after receipt of any application for a certificate of appropriateness or a permit for removal, the case shall be deemed to be approved except where mutual agreement has been reached for an extension of the time limits.

(g) The Commission shall have, in addition to the powers, authority and duties granted it by this Act, such other ancillary, enforcement or investigative powers, authority and duties as may be delegated or assigned to it from time to time by vote of an Annual or Special Town Meeting of the Town of Nantucket.

SECTION 10. Any person who violates any of the provisions of this Act shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$10 nor more than \$500, which shall be forfeited to the use of the town. Each day that a violation continues to exist shall constitute a separate offense.

(a) It shall be a violation of this Act for any person to construct or alter a building or structure without having first obtained from the Commission a certificate of applicability or a certificate of nonapplicability; for any person to raze any building or structure without having first obtained from the Commission a permit for such razing; for any person to construct or alter a building or structure in any way which is inconsistent with or contrary to the terms of the certificate of approval issued for such building or structure; or for any person to knowingly submit false, fraudulent or misleading information to the Commission in connection with any application.

SECTION 10A. It shall be a violation of this Act for any person to construct or alter a building or structure without having first obtained from the Commission a certificate of applicability or a certificate of nonapplicability; for any person to raze any building or structure without having first obtained from the Commission a permit for such razing; for any person to construct or alter a building or structure in any way which is inconsistent with or contrary to the terms of the certificate of approval issued for such building or structure; or for any person to knowingly submit false, fraudulent or misleading information to the Commission in connection with any application.

SECTION 11. Appeals may be taken to the Board of Selectmen by any person aggrieved by the ruling of the Historic District Commission. The Board of Selectmen shall hear and act upon such appeals promptly, and the decision of the Board shall be as determined by a majority vote of the members of the Board. Such appeals shall be taken within ten (10) days of the filing by the Commission of its certificate of determination with the Clerk of the Town of Nantucket, and written notice of such appeal shall be given by the appealing party to the Commission at the time such appeal is taken.

SECTION 12. Any person or the Historic District Commission, aggrieved by a decision of the Board of Selectmen, may appeal to the Superior Court sitting in equity for the County of Nantucket, provided that such appeal is filed in said Court within 15 days after such decision is recorded. The appealing party or parties shall, at the time of filing such appeal, give notice thereof to all persons who were parties to the appeal to the Board of Selectmen, by causing to be delivered to such parties a copy of the complaint and written notice of the filing thereof. The Court shall hear all pertinent evidence and determine the facts and, upon the facts so determined, annul such decision if found to exceed the authority of such Board, or may remand the case for further action by the Commission or make such other decree as justice and equity may require. The foregoing remedy shall be exclusive, but the parties shall have all rights of appeal and exception as in other equity cases.

Costs shall not be allowed against the Historic District Commission or the Board of Selectmen unless it shall appear to the Court that the Commission or the Board, in making the decision appealed from, acted with gross negligence, in bad faith or with malice.

Costs shall not be allowed against the party appealing from the decision of the Historic District Commission or the Board of Selectmen unless it shall appear to the Court that said appellant or appellants acted in bad faith or with malice in making the appeal to the Court.

SECTION 13. The Superior Court, sitting in equity for Nantucket County, shall have jurisdiction to enforce the provisions of this Act and the certificates, permits, determinations, rulings and regulations issued pursuant thereto and may, upon petition of the Commission, restrain by injunction violations thereof; and, without limitation, such court may order the removal of any building, structure or exterior architectural feature constructed in violation of this Act or the substantial restoration of any building, structure or exterior architectural feature altered or razed in violation of this Act and may issue such other orders for relief as may be equitable.

SECTION 14. In case any section, paragraph or part of this Act be for any reason declared invalid or held unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

SECTION 15. This Act shall take effect upon its acceptance by the voters of the Town of Nantucket at an Annual Town Meeting or any meeting duly called for the purpose.

February 27, 1990

[1] *Editor's Note: Section 2 of this enactment provided that "an incumbent member of the Historic District Commission appointed or elected pursuant to section 3 of chapter 395 of the acts of 1970, as amended, shall continue to serve in that capacity until the expiration of the incumbent's term or until the incumbent sooner vacates the office, after which the election of members shall proceed in accordance with section 1."*

§ A301-5 Membership of Board of Selectmen.

ACTS, 1972. CHAP. 562

AN ACT RELATIVE TO THE MEMBERSHIP OF THE BOARD OF SELECTMEN OF THE TOWN OF NANTUCKET AND VALIDATING CERTAIN PROCEEDINGS TAKEN AT THE ANNUAL ELECTION OF SAID TOWN

Be it enacted, etc., as follows:

SECTION 1. Section 1 of Chapter 169 of the Acts of 1965 is hereby amended by striking out the last sentence.

SECTION 2. There shall be five (5) selectmen in the Ton of Nantucket. At the town election in 1972, the registered voters of the Town of Nantucket shall elect five (5) selectmen, of whom two (2) shall serve for terms of three (3) years, two (2) shall serve for terms of (2) two years and one (1) for a term of one (1) year. At each annual town election thereafter the voters shall elect in place of those Selectmen whose terms are about to expire a like number of Selectmen to serve for terms of three (3) years.

SECTION 3. Any action taken by the Town of Nantucket at its Annual Town Meeting and election held in the current year, pursuant to the authority contained in Sections 1 and 2, is hereby validated and confirmed as though this Act were in full force and effect on the date of the posting of the warrant for such meeting.

SECTION 4. All acts and proceedings of the Board of Selectmen of said town from March 14, 1972, to the effective date of this Act are hereby ratified and confirmed and shall have the same effect and validity as if the provisions of this Act had been in effect at the time of such acts and proceedings.

SECTION 5. This Act shall take effect upon its passage.

Approved July 6, 1972

HDC File

Re: 38 Prospect Denial

On May 11, 2021, staff members for the Historic District Commission (HDC) accepted a Certificate of Appropriateness (COA) application for an 18" deep – 10' x 10' spa sunken into a lowered patio/deck at a 38 Prospect Street, map 55.4.4 parcel 56 – lot 29. According to documentation provided by agents Mark Lombardi and Linda Williams, the spa held a total of 981.75 gallons of water. The COA application also included proposals for a natural-to-weather archway gate; a shell/cobblestone apron edger, a 24" PA fieldstone wall, and a bluestone patio. The application was deemed complete with all required material and thus was added to the HDC agenda for a meeting on Tuesday, May 18, 2021 ([HDC 05/18/21 Agenda](#)).

Due to the sheer length of the HDC agendas at the time, this new business proposal was not actually presented to the HDC until June 15, 2021 ([HDC 06/15/21 Minutes](#)), at which time it was held for revisions due mainly to concerns with visibility of the raised spa from N Mill and Prospect Streets and with the type of screening that would be required to hide such a spa in the Old Historic District (OHD). The board for this application included: Chairman Ray Pohl, Abigail Camp, Diane Coombs, John McLaughlin, and Stephen Welch. There were several abutters who wrote letters and attended the June 15th meeting to express their concerns with the proposal.

The application was brought back before the board as old business on August 3, 2021 ([HDC 08/03/21 Minutes](#)). At this meeting, Williams expressed concern about 'mob' mentality over the use of the spa; which is "not HDC's purview" and stated for the record that the spa would not be visible from a publicly traveled way. More concerns from abutters were shared. Camp and Coombs agreed that the vegetation necessary to screen this spa didn't fit into the neighborhood and they did not want to set precedent for what could be considered a pool in the OHD. McLaughlin believed that the spa would be "highly visible." Welch spoke on the importance in considering visibility vs. use vs. appropriateness and specifically requested "a definitive answer from Town Counsel on HDC review of appropriateness vs. only what is visible." Chairman Pohl, in summing up the board's concerns, also expressed that if HDC continues to be the venue of discussion for appropriateness of pools, spas, and other related water features in the downtown areas, that is a problem and agreed with Welch that the issue may need to go a higher level. The spa application at 38 Prospect Street, map 55.4.4 parcel 56 – lot 29 was subsequently denied.

Written by: Kadeem McCarthy, HDC Compliance Coordinator

Approved by: Ray Pohl

References:

Terry Norton. 2021. '38 Prospect Street lot 29 – spa'. "Item #15". *New Business 06/15/21*. Town of Nantucket Historic District Commission. 4 Fairgrounds Road, Nantucket, MA.

Terry Norton. 2021. '38 Prospect Street lot 29 – spa'. "Item #4". *Old Business 08/03/21*. Town of Nantucket Historic District Commission. 4 Fairgrounds Road, Nantucket, MA.

From: [Shane Corry](#)
To: [Erika Mooney](#)
Cc: [Robert Davis](#); [Nathaniel Lowell](#); [Robert Ranney](#); [Carl Jelleme](#); [Bernie Perkins](#); [Jon Pierce](#); [Kristina Jelleme](#); [Chace Jabotte](#); [Dawn Hill Holdgate](#); [Jason M. Bridges](#); [Kristie Ferrantella](#); [Melissa B. Murphy](#); [Matt Fee](#); [Pat](#); [Elaine Mooney](#)
Subject: Noise Bylaw Waiver
Date: Wednesday, October 6, 2021 12:49:45 PM

Hi Erika,

We would like to request a waiver from the noise bylaw for the following dates and times to offload our barge at the SSA. This will be for the period between 10/15 and 11/15.

10/21 - 5.00am

11/6 - 5.00am

Can you please add us to the agenda for the Select Board meeting on 10/13 to make this request.

We would also like to hear an update from the SSA on their progress with the dredging permit.

Thank you

--

Shane Corry
Toscana Corp.
Nantucket MA
508 241 0197

This email was scanned by Bitdefender

focus at this point relates to improvements of playing fields and sports facilities. He reviewed the need for the athletic improvements, noting usage, accessibility, code compliance and safety as specific issues. He spoke on synthetic turf fields and developments in recent years with respect to fewer or no, harmful chemicals, including PFAS. Mr. Webb reviewed parking improvements and changes as well. He also spoke as to timing and funding. Mr. Fee commented that a track surrounding the existing field will push fans away from the field, and teams and fans may lose what makes the field special. He said that reducing or eliminating parking would save a significant amount of money. Some discussion followed on the track issue. Superintendent Elizabeth Hallett spoke on the benefits of having a track. Ms. Holdgate expressed support for the efforts put forward so far and asked about putting any of these facilities under cover or indoors. Mr. Webb said that has been seriously reviewed and the general feeling of the group working on this plan was that the expense would increase and there were other needs more important. He added that the design will be such that play could occur during or after many types of weather. School Facilities Director Diane O'Neil said that enclosures could also occur at a later time. Chair Bridges spoke on the research and detail that has gone into this plan. He added that lighting that is compatible with "dark sky" initiatives would be appropriate. Ms. O'Neil explained where additional information may be obtained.

X. CITIZEN/DEPARTMENTAL REQUESTS

1. Toscana Corp.: Request for Waiver of Town Noise Bylaw to Offload Barges at Steamship Authority

Wharf between 10:30 PM and 7:30 AM. Shane Corry of Toscana reviewed the request, noting that an issue with the barge getting into the dock at low tide has arisen again, as it had earlier in the year. Chair Bridges asked for additional information as to the duration of the request. Mr. Corry responded and reviewed the tide calendar. Chair Bridges asked how many times the late work would need to be in place. Mr. Corry said for the rest of September it would be twice. Chair Bridges asked about the purpose of the request. Mr. Corry said the barge cannot get in safely at low tide because there is "not enough water". Steamship Authority (SSA) General Manager Robert Davis spoke on the emergency dredging work done by the SSA last year and spoke on the timing and process, including permitting and procurement, for more extensive dredging. Mr. Davis added that SSA will do its best to accommodate Toscana during regular hours. Ms. Longacre asked about the emergency dredging work done previously and how long it was supposed to be sufficient; and, that another option for Toscana would be to load less onto its barges. Mr. Davis explained that the emergency dredging was a temporary measure and that permitting for a longer-term solution has taken longer than anticipated. Mr. Corry asked if another emergency dredging could occur if need be, if the longer-term permit cannot be obtained in time for the dredging window. Mr. Davis responded. Ms. Ferrantella said previously there were concerns expressed by neighbors and asked if the request could be adjusted somewhat in the near term to have less noise late at night. Ms. Holdgate concurred. Some discussion followed. Ms. Holdgate suggested a waiver that allows for nothing on weekends and nothing between 12:00 AM – 5:00 AM and no more than twice a week. Attorney Ken Gullicksen, representing abutters in close proximity to Toscana's yard said that previously the very late night noisy truck activity was extremely disruptive. He added that he does not understand why the barge cannot be scheduled at a high tide during the day. Mr. Fee asked for more detail on Mr. Gullicksen's question. Mr. Corry said the logistics make the scheduling too difficult and would limit the amount of business Toscana can do in a week. Ms. Holdgate asked about conflict with SSA vessels. Mr. Corry said that is also a factor. Some discussion followed as the frequency of the late night work and associated truck traffic. Mr. Corry said he would be agreeable to review the tide schedule and that in the next month the waiver could perhaps work for 4:30 AM – 7:30 AM. Chair Bridges said that he felt that more specific times with less frequency, the better and acknowledged quality of life issues. Josh Sibley-Liddle spoke on negative impacts of Toscana's operation on him and his family and their quality of life, at hours outside of the noise bylaw. He asked the Board not to approve the request. Some discussion followed as to the letters from the neighbors and ways that Toscana

could mitigate these complaints. Ms. Ferrantella moved to approve a waiver from 4:30 AM – 7:30 AM only, through October 15th, with a review by the Board at the next meeting after October 15. Ms. Holdgate seconded, with an amendment to the motion to limit the number of times to no more than four and none on weekends through October 15th. Ms. Ferrantella accepted the amendment. Betsy Sibley spoke on the request and said that any waiver resulting in late night noise, will not permit her and her family to sleep on those nights. She said this is very upsetting. So voted by roll call vote as moved and amended by Ms. Ferrantella and Ms. Holdgate: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Holdgate – Yes.

Mr. Fee asked what can be done to “speed up the situation” with the dredging. Mr. Davis explained that they are working as best and as fast as they can on this. Robert Liddle asked how long the Toscana cement plant has been in operation. Mr. Corry said 2001. Mr. Liddle said this matter has been an issue only in the last 9 -12 months; and, that Toscana has a depot in a different, non-residential area of the island and it was only the acquisition of an additional location in a more residential area more recently that this problem has arisen. Mr. Liddle suggested that Toscana return its deliveries to the former location, which worked well until Toscana changed its operational routine to the more residential area. Mr. Corry said that nothing has changed in its operation.

~~2. Request for Waiver of Town Noise Bylaw from 10:00 PM to 2:00 AM for Wedding to be held Saturday, October 16, 2021 at 25 Millbrook Road. Martin McGowan reviewed the request. Some discussion followed as to whether or not the property is a “venue” used for commercial purposes. Mr. McGowan said this wedding is for his daughter. Amy Baxter, Licensing Administrator noted letters of objection to the request and said that no establishment on island is allowed to have entertainment after 1:00 AM. She said normally specific circumstances would need to exist in order for a request like this to be granted, noting that otherwise, many private individuals would want to do the same thing. She added that abutter notification should be in place. She said she has a lot of concerns about this request being granted. Ms. Holdgate expressed concern about the precedent, especially in a residential neighborhood like this. She said she may be agreeable with a waiver up to 11:00 PM, one-time only. Ms. Ferrantella expressed concern about precedent. Chair Bridges concurred and said he would not be in favor of anything after 10:00 PM. Mr. Fee concurred with Ms. Holdgate. Ms. Holdgate moved approval for this one-time family event on a Saturday to end at 11:00 PM; seconded by Mr. Fee. Ms. Ferrantella and Mr. Bridges each voted no. Motion did not pass. Ms. Ferrantella moved to deny the request; seconded by Mr. Fee. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Holdgate – No.~~

~~3. Request for Waiver of Sewer Connection Permit Fee for Covenant Lot Located at 3 Evergreen Way (Lot 1047). Ms. Ferrantella recused from this agenda item. Housing Director Tucker Holland introduced the item, noting that it complies with the Board’s policy regarding sewer permit fee waivers for covenant properties. Mr. Fee moved approval; seconded by Ms. Holdgate. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Holdgate – Yes.~~

~~4. Affordable Housing Trust: Request for Approval of Funding to Support House Move to 46 Okorwaw Avenue for Housing Nantucket to Create Subsidized Housing Inventory (SHI) Eligible Unit. Mr. Holland introduced the item and explained the request as outlined in the materials included in the Board’s posted agenda packet. Housing Nantucket Director Anne Kuszpa reviewed the project. Some discussion followed. Ms. Ferrantella moved approval; seconded by Mr. Fee. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Holdgate – Yes.~~