Town and County of Nantucket
Select Board • County Commissioners

Jason Bridges, Chair
Matt Fee
Dawn E. Hill Holdgate
Malcolm W. MacNab
Brooke Mohr

16 Broad Street
Nantucket, Massachusetts 02554

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

C. Elizabeth Gibson
Town & County Manager

AGENDA FOR THE MEETING OF THE
SELECT BOARD
DECEMBER 7, 2022 - 5:30 PM
PSF COMMUNITY ROOM, 4 FAIRGROUNDS ROAD
AND REMOTE PARTICIPATION VIA ZOOM WEBINAR
NANTUCKET, MASSACHUSETTS
****AMENDED DECEMBER 5, 2022****

YOU TUBE LINK FOR VIEWING ONLY:
https://youtu.be/CmhMv2LuDss

ZOOM WEBINAR REGISTRATION LINK TO VIRTUALLY ATTEND MEETING:
https://us06web.zoom.us/webinar/register/WN_1IDIxgXpS-OIpjqI2xe5JA

I. CALL TO ORDER

II. SELECT BOARD ACCEPTANCE OF AGENDA

III. ANNOUNCEMENTS

1. The Select Board Meeting is Being Audio/Video Recorded.

2. Public Information Forum for Surfside Water Main Extension Project and Surfside Area Roadway and Sidepath Projects to be Held Thursday, December 8, 2022, 5:30PM to 7:00 PM, PSF Community Room, 4 Fairgrounds Road and Remote Participation via Zoom Webinar; Registration link to Virtually Attend Meeting: https://us06web.zoom.us/webinar/register/WN_R8yEeF4vQOyzZChp4sWn2w.

3. Select Board Announcements/Comments.

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

*V. PUBLIC COMMENT**

*VI. NEW BUSINESS**

VII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

1. Approval of Minutes of November 29, 2022 at 9:00 AM; November 30, 2022 at 5:30 PM.

2. Approval of Treasury Warrants for December 7, 2022.

VIII. CONSENT ITEMS

1. Gift Acceptances: Nantucket Fire Department; Human Services (Saltmarsh Senior Center); Natural Resources Department.

IX. CITIZEN/DEPARTMENTAL/COMMITTEE REQUESTS

1. Short-term Rental Work Group: Update from Facilitator.

2. Applicant Introduction/Review of Applications and Appointments to:

- Zoning Board of Appeals
- Harbor Plan Update Committee
- Tree Advisory Committee

3. Natural Resources Director: Review of Draft Proposed Conservation Commission Regulations.

X. PUBLIC HEARINGS

1. Public Hearing to Determine Tax Allocation by Classification (Chapter 369, Acts of 1982, as Amended); Percentage of Residential Exemption to be Granted for Fiscal Year 2023 (Continued from November 30, 2022).

XI. TOWN MANAGER'S REPORT

1. FY 2024 Capital Project Requests Update.

2. Continued Preliminary Review of Town-Sponsored Warrant Articles for 2023 Annual Town Meeting and/or Ballot Questions for 2023 Annual Town Election, including Potential Charter Commission**; and, Review of Anticipated Decision of Attorney General Regarding Article 71 of 2022 Annual Town Meeting (Gender Equality on Beaches)**.

XII. SELECT BOARD'S REPORTS/COMMENT

1. Committee Reports.

XIII. HDC APPEAL

1. Public Hearing to Consider the Appeal of Charles R. Schwarzapfel of Historic District Commission Disapproval of Certificate of Appropriateness No. HDC2020-10-2033 for a Pool, Patio, Screening and Fence Located at 9 Maine Avenue, Map 60.3.1, Parcel 425 (Continued from April 6, 2022, June 8, 2022, September 7, 2022).

XIV. 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

SURFSIDE AREA ROADWAY IMPROVEMENTS

Public Forum

The Town of Nantucket is hosting a public information session about the roadway improvements and water main expansion project happening west of the airport.

Thursday, December 8, 2022
5:30 PM
Public Safety Facility Community Room
4 Fairgrounds Road

SCAN THE QR CODE
to participate via Zoom.

To watch the meeting online, visit www.nantucket-ma.gov/SAWTE

CONSENT AGENDA ITEMS FOR 12/7/2022 SELECT BOARD MEETING

1. Gift Acceptances

Recommend the acceptance of the following gifts to Town agencies:

- Nantucket Fire Department:
  - $200 from Mr. and Mrs. James Cirulli to fund safe grant initiatives.

- Human Services for the Saltmarsh Senior Center:
  - $3,500 from Nantucket Energy, LLC
  - $50 from Maureen & Ward Dunning

- Natural Resources Department:
  - 100 adult oysters from Emil Bender/Pocomo Meadow Oyster Farm, valued at $200 to be used for spawning stock at the Brant Point Shellfish Hatchery
  - 100 adult oysters from Chuck Connors/Great Harbor Oysters, valued at $200 to be used for spawning stock at the Brant Point Shellfish Hatchery
  - **$23,547 from The Great Harbor Yacht Club Foundation for the deposit on the purchase of an algae bioreactor for the Brant Point Shellfish Hatchery**

Recommended Motion: To accept all gifts for their designated purposes, with thanks to the donors.

Town Administration will ensure that letters of thanks are sent.

Nantucket Fire
Department
4 Fairgrounds Road
Nantucket, MA 02554
Tel: (508) 228-2324
Fax: (508) 325-7500

October 12, 2022

SELECT BOARD
16 BROAD ST
NANTUCKET, MA 02554

Re: **Cirulli Donation**
Fire Department Training & Equipment

Dear Chair Bridges:

Mr. and Mrs. James Cirulli has made a generous donation of $200.00 to fund the safe grant initiatives lead by the Fire Prevention Office. We are requesting that the select board authorize the transfer of this donation to the Safe Grant Account.

Please let us know if you have any questions or need anything further.

Sincerely,

Michael Cranson

Michael Cranson, Chief

MC/
Enclosures

MEMO

Date: November 22, 2022

TO: Jason Bridges, Select Board Chair

CC: Jerico Mele, Director of Human Services

FROM: Laura Stewart, Saltmarsh Senior Center, Program Coordinator

RE: Request for acceptance of gift

I am writing to request acceptance of the following gift donation:

From Nantucket Energy, LLC: $3,500.00 gift to the Saltmarsh Senior Center

From Maureen & Ward Dunning: $50.00 in memory of Nancy Tyrer

Thank you,

Laura Stewart

from the desk of…..

Laura Stewart
Program Coordinator,
Senior Services
81 Washington Street
Nantucket, MA 02554
508-228-4490

phone: 508-228-4490
fax: 508-325-5366
e-mail: lstewart@nantucket-ma.gov

TOWN OF NANTUCKET NATURAL RESOURCES DEPARTMENT

131 PLEASANT STREET
NANTUCKET, MA 02554

(508) 228-7230

November 21, 2022

Select Board
16 Broad Street
Nantucket, MA 02554

Dear Board Members,

On behalf of the Natural Resources Department, we are requesting that the Board of Selectmen accept a gift of 100 adult oysters from Emil Bender from Pocomo Meadow Oyster farm and another 100 adult oysters from Chuck Connors from the Great Harbor Oysters. Each gift is worth $200.00. These donations will be used for spawning stock at the Brant Point Shellfish Hatchery in the 2023 season.

We will be in attendance at the upcoming meeting of the Board to answer any questions that you have in regards to this gift and program. Thank you for your attention to this matter.

Sincerely,

Jeff Carlson,
Town of Nantucket
Natural Resources Director

TOWN OF NANTUCKET NATURAL RESOURCES DEPARTMENT

131 PLEASANT STREET
NANTUCKET, MA 02554

(508) 228-7230

Select Board
16 Broad Street
Nantucket, MA 02554
12/1/2022

Dear Board Members,

On behalf of the Natural Resources Department we are requesting that the Select Board accept the following gift of $23,547 from the Great Harbor Yacht Club Foundation. This donation is a deposit on the purchase of an algae bioreactor for the Town of Nantucket's Brant Point Shellfish Hatchery. The bioreactor will provide an automated algae delivery system that will improve algae biosecurity and improve hatchery efficiencies.

We will be in attendance at the upcoming meeting of the Board to answer any questions that you have in regard to this gift acceptance. Thank you for your attention to this matter.

Sincerely,

Jeff Carlson,
Town of Nantucket
Natural Resources Director

Libby Gibson

From: Stacie Smith <stacie@cbi.org>
Sent: Wednesday, November 30, 2022 2:40 PM
To: Libby Gibson
Cc: John Giorgio
Subject: Re: NAREB Data

Hi Libby,

Sure. I have a hard stop at 6:15 - happy to present an update if I can do so before then. I think it would be most useful if I can include what comes from our Dec 5 meeting, so I won't have slides until the day before.

Thanks,
Stacie

CBI
Stacie Nicole Smith
Managing Director, CBI
(617) 844-1124
www.cbi.org

On Nov 30, 2022, at 2:22 PM, Libby Gibson <LGibson@nantucket-ma.gov> wrote:

Stacie – at a Strategic Planning workshop meeting yesterday, the SB agreed to request a monthly update from the work group – through you. Would you be able to give such an update at the Board's 12/7 meeting?

C. Elizabeth Gibson, ICMA-CM
Town Manager
Town of Nantucket
(508) 228-7255

Committee Applicants - December 7, 2022 Appointments

Zoning Board of Appeals

1 Seat Available; 1 Applicant

1 Seat Term End2 2024

Current Committee Members:

Lisa Botticelli	2023
VACANT	2024
Michael O'Mara	2025
Elisa H. Allen	2026
Susan McCarthy	2027

Applicants:

John B. Brescher

Harbor Plan Update Committee (new committee)

2 At-Large Seats Available; 5 Applicants

Current Committee Members:

David Fronzuto, SHAB member
VACANT, Marine Trades org
Seth Engelbourg, NPEDC
Linda Williams, ConCom
Jesse Bell, Land Bank
Peter Brace, CRAC
VACANT, Clean Water Coalition member
VACANT, At-large
VACANT, At-large

Applicants:

Phil Smith
Steven E. Leinbach
Karen C. Beattie
Emily Molden
Emily Kilvert

Agricultural Commission

2 Seats Available; 0 Applicants

2 Seats Terms End 2023

Current Committee Members:

VACANT	2023
VACANT	2023
Posie Constable	2024
Charity Benz	2025
Pamela Perun	2025

Applicants:

None

Tree Advisory Committee

2 Seat Available, 1 Applicant

2 Seats Terms End 2025

Current Committee Members:

Michael V. Misurelli	2023
Whitfield C. Bourne	2023
Ben Champoux	2024
VACANT	2025
VACANT	2025

Applicants:

Judy Deutsch

As of 11/22/2022 10:11 AM

RECEIVED
NOV - 3 2022
NANTUCKET TOWN ADMINISTRATION

TOWN OF NANTUCKET
COMMITTEE INTEREST FORM/NEW APPLICANT
For Appointment by the Select Board

Please return this form to the Town Administration offices by the advertised due date.
Please call for date of the Public Hearing for applications review or refer to the Public Notice.

Name: John B Boucher **Home Phone:** 8-1906

Mailing Address: PO Box 816, Nantucket, MA 02554 **Alternate Phone:** 8-0771

Email Address: johne@bettenandglobe.com **Date Submitted:** 11/3/22

REQUESTING APPOINTMENT TO: Zoning Board of Appeals

Reasons for Committee Interest

- Have you ever attended a meeting of the committee/board/commission?
- Why are you interested in this committee/board/commission?
- Are you prepared to commit to the meeting schedule of the committee/board/commission?

From 2008 - 2013 I was the administrator for the Zoning Board of Appeals, I then practiced in front of the Board from 2014 to present. I've always found zoning interesting and a valuable tool on our Island. I would like to bring my 15 yrs of zoning experience to the Board. And I am fully prepared to commit to the meeting schedule.

Relevant Experience

- What experience, skills or insight would you bring to the committee/board/commission?
- What would you hope to accomplish on the committee/board/commission?

I hope to bring my knowledge of the Zoning Bylaw and property law to the Board, as well as my experience as a former staff member and as a practitioner before the Board.

I hope to uphold the spirit and intent of the Bylaw and apply this standard to each application.

Potential Conflicts of Interest

- Please list any committees appointed by the Select Board, local agencies or non-profit organizations of which you or a member of your immediate family are current members.

Town Real Estate Assessment Committee; Nantucket Boys & Girls Club; A Safe Place, Inc.

- Are you or any member of your family employed by, or receive any financial consideration from, the Town of Nantucket?

N/A

RECEIVED
NOV - 4 2022
NANTUCKET TOWN ADMINISTRATION

TOWN OF NANTUCKET
COMMITTEE INTEREST FORM/NEW APPLICANT
For Appointment by the Select Board

Please return this form to the Town Administration offices by the advertised due date.
Please call for date of the Public Hearing for applications review or refer to the Public Notice.

Name: Phil Smith **Home Phone:** (508) 228-9502

Mailing Address: 10 Milk Street, Nantucket, MA 02554 **Alternate Phone:** (646) 391-3072 (preferred)

Email Address: pguysmith@gmail.com **Date Submitted:** Nov. 4, 2022

REQUESTING APPOINTMENT TO: Harbor Plan Update Committee

Reasons for Committee Interest

- Have you ever attended a meeting of the committee/board/commission?
- Why are you interested in this committee/board/commission?
- Are you prepared to commit to the meeting schedule of the committee/board/commission?

- I have not attended a meeting of this committee. (I believe it is in formation.)

- I am interested in this committee as many of my interests include the harbor and waterfront. Specifically, I am a board member of the Nantucket Shellfish Association, Nantucket Community Sailing and the Roads and Right of Way Committee. Regarding the R&ROW, I have been working this past year with Nathan Porter on updating and clarifying the beach access points around the Island on Town maps, so visitors will have a clear idea of where they can access beaches open to the public. (This may go so far as creating an app on smart phones.) In addition, I am an active sailor who gets out on the water daily during the summer months.

- I will commit to attend meetings to the best of my ability.

Relevant Experience

- What experience, skills or insight would you bring to the committee/board/commission?
- What would you hope to accomplish on the committee/board/commission?

- In addition to my work on R&ROW described above, I am working with some of my fellow committee members on Chapter 91 issues. I imagine Chapter 91 will be a topic the committee will have to address.
- My 12 years on the board of the NSA would help me on the new committee when issues of water quality are addressed. I was involved in getting the NSA behind the Town Warrant for water quality this last Spring.
- As a member of Community Sailing's board, I have been the Chair of the Opera House Cup Committee the past two years. This committee has responsibility for overseeing the race, the parade that Sunday morning and the Classic Yacht Exhibition in the boat basin. All this experience could be helpful to the Harbor Plan Committee.
- I would hope to see this committee produce a harbor plan that most people would consider thoughtful, realistic and that would serve the needs of all who enjoy our Island in future years.

Potential Conflicts of Interest

- Please list any committees appointed by the Select Board, local agencies or non-profit organizations of which you or a member of your immediate family are current members.

- In addition to R&ROW, Nantucket Shellfish Association and Nantucket Community Sailing, I am a board member and Treasurer of Fairwinds Behavioral Health Counseling Center. My wife, Ann, is Vice Chair of Fairwinds.

- Are you or any member of your family employed by, or receive any financial consideration from, the Town of Nantucket?

- No.

TOWN OF NANTUCKET
COMMITTEE INTEREST FORM/NEW APPLICANT
For Appointment by the Select Board

RECEIVED
NOV - 7 2022
NANTUCKET TOWN ADMINISTRATION

Please return this form to the Town Administration offices by the advertised due date.
Please call for date of the Public Hearing for applications review or refer to the Public Notice.

Name: Steven E. Leinbach **Home Phone:** 508-325-1922

Mailing Address: 52 Monomoy Rd. Nantucket, MA 02554 **Alternate Phone:** —

Email Address: polpis@mindspring.com **Date Submitted:** 11/07/2022

REQUESTING APPOINTMENT TO: Harbor Plan Update Committee

Reasons for Committee Interest

- Have you ever attended a meeting of the committee/board/commission?
- Why are you interested in this committee/board/commission?
- Are you prepared to commit to the meeting schedule of the committee/board/commission?

- To my knowledge this committee has not yet met, but I was a member of the Original Harbor Planning Committee in the early 1990's.
- I have spent my entire life on the waters of Nantucket & Madaket Harbors and current issues such as water quality, coastal resilience, and overuse are of great concern to me.

- I am most certainly prepared to commit to this committee and all it's meetings

Relevant Experience

- What experience, skills or insight would you bring to the committee/board/commission?
- What would you hope to accomplish on the committee/board/commission?

Please see reverse side.

Potential Conflicts of Interest

- Please list any committees appointed by the Select Board, local agencies or non-profit organizations of which you or a member of your immediate family are current members.
  - I am a board member of the Monomoy Civic Association
  - My wife, Pamela Leinbach, is President of the board of The Hospital Thrift Shop
- Are you or any member of your family employed by, or receive any financial consideration from, the Town of Nantucket?

NO

Other Non Profit Memberships: Nantucket Land Council
Nantucket Conservation Foundation, Nantucket Shellfish Association
Egan Maritime Institute, Nantucket Historical Association

Steven E Leinbach
Harbor Plan Update Committee
Interest Form/New Applicant

As far as experience goes I was on the first ever Harbor planning committee back in the early 1990's serving along with Dave Fronzuto, then harbor master, and others.

I have lived my entire life, sixty one years, on harbor front property and I have seen firsthand the intense pressure on the both Nantucket and Madaket Harbor and all surrounding water.

I started out running small skiffs around the harbor from the age of seven.

I am currently a US Coast Guard licensed Captain and have been for thirty years.

I have made my living working on sportfishing boats here on Nantucket for the last 40 years and still do to this day.

I also operate smaller vessels for work out of Madaket marine and am very familiar with all the west end waters.

Of utmost concern to me are the issues of water quality, coastal resilience, and over use of the harbors which adversely affect both water quality and coastal resilience.

I am hoping, if selected, that I can help work with this committee, drawing from a lifetime of experience, to help shape the future of Nantucket and Madaket Harbors and all surrounding waters in a reasonable and conscience way that preserves the ecology and plans for the challenges of the future.

TOWN OF NANTUCKET
COMMITTEE INTEREST FORM/NEW APPLICANT
For Appointment by the Select Board

RECEIVED
NOV - 9 2022
TOWN ADMINISTRATION

Please return this form to the Town Administration offices by the advertised due date.
Please call for date of the Public Hearing for applications review or refer to the Public Notice.

Name: Karen C. Beattie **Home Phone:** 508-228-3596

Mailing Address: 13 Correia Lane **Alternate Phone:** 508-560-9663

Email Address: kbeattie@nantucketconservation.org **Date Submitted:** November 10, 2022

REQUESTING APPOINTMENT TO: Harbor Plan Update Committee

Reasons for Committee Interest

- Have you ever attended a meeting of the committee/board/commission?
- Why are you interested in this committee/board/commission?
- Are you prepared to commit to the meeting schedule of the committee/board/commission?

I have not attended any meetings of this committee, as it has not yet been formed. I am prepared to commit to the meeting schedule if appointed to this committee. I have over 30 years of experience with conservation land management and stewardship, with a particular focus on beach management and rare resource protection. I am the current Vice President of Science and Stewardship with the Nantucket Conservation Foundation (NCF), where I have been employed since 1992. As a major property owner surrounding both Nantucket and Madaket Harbors, NCF is an important stakeholder in the management of Nantucket's harbor resources. I believe that I will provide a valuable perspective and have important information to contribute to the process of updating the harbor plan.

Relevant Experience

- What experience, skills or insight would you bring to the committee/board/commission?
- What would you hope to accomplish on the committee/board/commission?

In addition to my experience in my position at NCF, I am personally a stakeholder and user of Nantucket's harbors. I have lived on Nantucket since 1989. My husband Doug was a commercial scalloper for over 15 years, and I joined him as a commercial scalloper for two years in the early 1990's prior to full-time employment. Our family has owned multiple boats based out of Polpis Harbor over the years, including 14' and 26' wooden catboats as well as a 22' fiberglass motor boat. We recreate on both Nantucket and Madaket Harbors almost every weekend during the summer and early fall. I am very interested in making a positive contribution to the harbor update process as someone with a science background, a representative of NCF, which is a major abutting landowner, and a invested user of the resource during my personal time.

Potential Conflicts of Interest

- Please list any committees appointed by the Select Board, local agencies or non-profit organizations of which you or a member of your immediate family are current members.
  No previous committee appointments; Employee- Nantucket Conservation Foundation
  Contributor/member - Nantucket Conservation Foundation, Nantucket Land Council
- Are you or any member of your family employed by, or receive any financial consideration from, the Town of Nantucket?
  No

RECEIVED

NOV 10 2022

NANTUCKET TOWN ADMINISTRATION

TOWN OF NANTUCKET
COMMITTEE INTEREST FORM/NEW APPLICANT

For Appointment by the Select Board

Please return this form to the Town Administration offices by the advertised due date.
Please call for date of the Public Hearing for applications review or refer to the Public Notice.

Name: Emily Molden **Home Phone:** (508) 901-1901

Mailing Address: P.O. Box 811, Nantucket MA 02554 **Alternate Phone:** (508) 228-2818

Email Address: emily@nantucketlandcouncil.org **Date Submitted:** November 10, 2022

REQUESTING APPOINTMENT TO: Harbor Plan Update Committee

Reasons for Committee Interest

- Have you ever attended a meeting of the committee/board/commission?
- Why are you interested in this committee/board/commission?
- Are you prepared to commit to the meeting schedule of the committee/board/commission?

I did not personally participate in the former Harbor Plan Committee, however, the Nantucket Land Council did actively participate. I am interested in this position because I believe there are important opportunities to discuss and improve harbor policies. Since the last Harbor Plan was finalized there have been significant changes to our harbor resources and our needs and use of these resources as a community. I would like to be directly engaged and involved in the discussion and process of updating our Harbor Plan. I am prepared to commit to the meeting schedule of the committee.

Relevant Experience

- What experience, skills or insight would you bring to the committee/board/commission?
- What would you hope to accomplish on the committee/board/commission?

I will bring 18 years of experience working for the Nantucket Land Council with a focus on the island's water resources. I bring direct knowledge of the health of the harbor resources, changes in its ecosystem, as well as an understanding of the local policies and regulations in place to address our use of the harbors. I am aware of the need to balance our use of these areas with the long term sustainability of what they provide. I am also aware and interested in the need for appropriate access as well as considering the future implications of sea level rise and the need for resiliency planning and implementation.

Potential Conflicts of Interest

- Please list any committees appointed by the Select Board, local agencies or non-profit organizations of which you or a member of your immediate family are current members.

I am the Executive Director of the Nantucket Land Council and serve on the board of Palliative and Supportive Care on Nantucket (PASCON).

- Are you or any member of your family employed by, or receive any financial consideration from, the Town of Nantucket?

No.

RECEIVED

NOV 10 2022

NANTUCKET TOWN ADMINISTRATION

TOWN OF NANTUCKET
COMMITTEE INTEREST FORM/NEW APPLICANT
For Appointment by the Select Board

Please return this form to the Town Administration offices by the advertised due date.
Please call for date of the Public Hearing for applications review or refer to the Public Notice.

Name: Emily Kilvert **Home Phone:** 508-228-2026

Mailing Address: 4 Darling Street **Alternate Phone:** 617-697-6315

Email Address: ekilvert@me.com **Date Submitted:** 11/10/22

REQUESTING APPOINTMENT TO: Harbor Plan Update Committee

Reasons for Committee Interest

- Have you ever attended a meeting of the committee/board/commission?
- Why are you interested in this committee/board/commission?
- Are you prepared to commit to the meeting schedule of the committee/board/commission?

Please see the attached.

Relevant Experience

- What experience, skills or insight would you bring to the committee/board/commission?
- What would you hope to accomplish on the committee/board/commission?

Potential Conflicts of Interest

- Please list any committees appointed by the Select Board, local agencies or non-profit organizations of which you or a member of your immediate family are current members.

- Are you or any member of your family employed by, or receive any financial consideration from, the Town of Nantucket?

Harbor Plan Update Committee application
Emily Kilvert

Have you ever attended a meeting of the committee/board/commission?

I have not attended a meeting of the Harbor Plan Update Committee.

Why are you interested in this committee/board/commission?

I believe in thoughtful planning for the special harbors of Nantucket and Madaket. The updated Harbor Plan is needed now, with the serious challenges we are facing that threaten the health of the harbor. The decisions and plans we make today will sustain our beautiful harbor and safeguard it for future generations. I would like to have a voice in these decisions.

I have spent my whole life here enjoying sailing, fishing and scalloping in our harbor. I am deeply concerned about both the health of the harbor in recent years, as well as the threat of rising seas and storm surge.

Are you prepared to commit to the meeting schedule of the committee/board/commission?

I commit to attend every meeting.

What experience, skills or insight would you bring to the committee/board/commission?

- Current Trustee of Egan Maritime Institute
- Property and operational management experience as a member of the Executive Committee of the Nantucket Yacht Club
- Chair of the Rising Sea Level Committee at the Nantucket Yacht Club for four years
- Strong knowledge of Chapter 91 regulations
- Former Trustee of the Nantucket Atheneum. Member of the team that orchestrated the circus event for multiple years.
- Financial, legal, and contractual management experience with my family business, Nantucket Insurance
- 57 years of living on Nantucket
- Mother to three adult children
- Completed the Citizens Planner Training Collaborative class on Master Planning
- Planning, development, and board experience as a member of the founding team of Nantucket Ice
- Experience managing my family's commercial property on Pleasant Street

What would you hope to accomplish on the committee/board/commission?

- I will contribute to a professional approach to reviewing and building upon the 2009 Harbor Plan.
- I bring a fresh perspective and will participate as called upon in order to get the best outcome for Nantucket.
- I would hope the new plan will ultimately be approved at the state level as our Municipal Harbor Plan.
- I would like to see this committee find a solution and implement steps to improve the water quality.
- I would like for this committee to look through the lens of the Coastal Resilience Plan as they update the 2009 plan.
- I would like to see public workshops held to gain public input in the planning.

Please list any committees appointed by the Select Board, local agencies or non-profit organizations of which you or a member of your immediate family are current members.

I am a current Trustee of Egan Maritime Institute
My husband, Charlie, is a 27 year board member of the Nantucket Land Council.

Are you or any member of your family employed by, or receive any financial consideration from, the Town of Nantucket?

No

RECEIVED
NOV - 7 2022
NANTUCKET TOWN ADMINISTRATION

TOWN OF NANTUCKET
COMMITTEE INTEREST FORM/NEW APPLICANT
For Appointment by the Select Board

Please return this form to the Town Administration offices by the advertised due date.
Please call for date of the Public Hearing for applications review or refer to the Public Notice.

Name: Judy Deutsch **Home Phone:** 828-776-0418

Mailing Address: 82 Brookline Dr/Asheville NC 28803
36 Vestal St. /Nantucket **Alternate Phone:** Ø

Email Address: jdeutsch60@gmail.com **Date Submitted:** _____

REQUESTING APPOINTMENT TO: Tree Advisory Board

Reasons for Committee Interest

- Have you ever attended a meeting of the committee/board/commission? NO
- Why are you interested in this committee/board/commission? see attached
- Are you prepared to commit to the meeting schedule of the committee/board/commission? yes

Relevant Experience

- What experience, skills or insight would you bring to the committee/board/commission? see attached "
- What would you hope to accomplish on the committee/board/commission?

Potential Conflicts of Interest

- Please list any committees appointed by the Select Board, local agencies or non-profit organizations of which you or a member of your immediate family are current members.

  Ø

- Are you or any member of your family employed by, or receive any financial consideration from, the Town of Nantucket?

  Ø

Reasons for Committee Interest:
I am a life-long seasonal resident of Nantucket and in recent years have become interested in the numerous old trees that surround town, especially the remaining elm trees. I have spent the past few years walking by and identifying them. My interest is in maintaining the health and existence of these trees. Development and issues like sidewalk repair and maintenance are certainly potential threats to their existence.
I was also interested to learn some years ago that the town of Nantucket has an arborist to care for town trees which is wonderful.
I honestly didn't know this committee existed until I saw the request for members and so am applying.

As a side note, while I never have attended a meeting (since I didn't know of them), I did go to the Town web site and saw agendas but no minutes. That may be my inexperience with the web site, but the agendas gave me some idea of topics dealt with by this Committee.
I am on island 3-5 months a year and am willing to participate by Zoom if I cannot be physically present.

Relevant Experience:
While I have no experience as an arborist, I have been a Master Gardener in North Carolina for 15 years so have a background in the basics of horticulture. Even though it is irrelevant to trees, I am also a Consulting Rosarian for the American Rose Society.

What I hope to accomplish: As I stated before, I would like to work to preserve the historic elms and other old trees on Nantucket.

NANTUCKET SELECT BOARD

Policy Statement and Procedures for Appointments to Committees, Commissions, Boards
Adopted: May 19, 2021

BASIC GOAL

To encourage active citizen participation and involvement in local government affairs by encouraging local residents with expertise, skills, interest, and energy to seek appointment to the Town's Committees, Boards and Commissions. And, to expand the Town's outreach to its citizens to ensure that we engage as many diverse perspectives as possible to build and encourage awareness, understanding and appreciation through a lens of diversity, equity and inclusion.

POLICIES IN SUPPORT OF THE BASIC GOAL

A. The Town will maintain a recruiting system, known as the Volunteer Talent Bank (Talent Bank), to find and appoint interested local residents who are best qualified by education, training and experience to contribute effectively to the work of the committee, commission or board. To the extent practical, the Select Board shall announce its intention to meet candidates for appointment and allow them to introduce themselves and review their applications no less than two weeks in advance of appointments.

B. When an announcement is made by the Board regarding any vacancies, the Board will require that applicants file a Committee Appointment application. Following a public meeting with the applicant(s) at which the Board may ask questions, and/or the applicant may ask questions, a candidate shall be selected in accordance with the following procedure:

RECOMMENDED VOTING PROCEDURES FOR ANNUAL APPOINTMENTS

1. The Board reviews a list of openings for annual appointments with a committee appointment timeline in early April.

2. In mid-April, members of committees, commissions, boards whose terms are expiring are notified and asked if they would like to apply for reappointment. Incumbent Committee Interest Forms are mailed to all of these members and they are asked to respond in writing to indicate if they request re-appointment, or not. Incumbents need to meet the same deadlines as listed on the committee appointment timeline.

3. Annual committee openings are advertised in the local newspaper for four weeks, as well as on the Town website. Additionally, the openings are announced at the Board's weekly meetings starting in mid-April through the end of May.

4. Applications will be accepted only by the deadlines outlined in the annual Committee Appointments Timeline for all committees, commission and boards.

5. The Select Board holds two meetings to allow applicants to address the Board and review their applications.

6. Committee appointments are made at the last Select Board meeting of June, which date shall be at least one week after the names and applications of all applicants have been made public.

    a. At this meeting, the Select Board may appoint, by majority vote, a candidate to fill any seat. Or, the Select Board, at its discretion, may elect to use a paper ballot voting procedure, or vote by e-mail if the Select Board meeting is held virtually.

    b. The Chair shall ask Board members to submit their written choices for appointment (or to e-mail their choices for appointment to Town Administration in real time if meeting virtually). Each Board member writes their own name on a slip of paper, and then writes down their vote for the applicant(s) and passes their paper ballot directly to the Chair without other members viewing the ballot.

    c. The Chair reads the paper ballot votes and notes which Board member cast the votes. If meeting virtually, Town Administration staff will read the results into the record, and after announcing how each Board member votes, staff will ask that Board members verbally confirm their votes.

    d. The candidate(s) with the majority of votes will be appointed.

    e. Any committee seats not filled will continue to be posted on the Town website and routinely advertised as vacant.

At its discretion, the Select Board may appoint a candidate to any Commission, Committee or Board even if the candidate is not present for the meeting.

RECOMMENDED VOTING PROCEDURES FOR VACANCIES THROUGHOUT THE YEAR

The Board's intent to fill vacancies will be noted on its regular meeting agenda for at least two weeks and applications of prospective candidates will be included in the Board's agenda packet to allow the Board and the public to review the prospective candidates' credentials. The vacancy will also be advertised in the Inquirer & Mirror for a minimum of two weeks as well as on the Town's website. Applications will be accepted only by a certain deadline for all committees, commission and boards.

1. Immediately following a meeting with candidates for appointment, the Select Board may appoint, by majority vote, a candidate to fill any vacancy. Or, the Select Board, at its discretion, may elect to use a paper ballot voting procedure, or vote by e-mail if the Select Board meeting is held virtually.

2. Immediately following a meeting with candidates for appointment, the Chair shall ask

Board members to submit their written choices for appointment (or to e-mail their choices for appointment to Town Administration in real time if meeting virtually). Each Board member writes their own name on a slip of paper, and then writes down their vote for the applicant(s) and passes their paper ballot directly to the Chair without other members viewing the ballot.

3. The Chair reads the paper ballot votes and notes which Board member cast the votes. If meeting virtually, Town Administration staff will read the results into the record, and after announcing how each Board member votes, staff will ask that Board members verbally confirm their votes.

4. The candidate(s) with the majority of votes will be appointed.

At its discretion, the Select Board may appoint a candidate to any Commission, Committee or Board even if the candidate is not present for the meeting.

ADMINISTRATION OF THE VOLUNTEER TALENT BANK

The Town Administration office shall be responsible for the Talent Bank data and all administrative materials, records and processes.

PUBLIC INPUT REGARDING CANDIDATES FOR APPOINTMENT

Any citizen may convey their support or objection of an individual’s appointment/ reappointment through written notice to the Town Manager's Office. Town Administration shall forward any written comments concerning appointments/reappointments to the Select Board and to the person cited.

This policy may be amended by the Select Board at any time.

TOWN OF NANTUCKET CONSERVATION COMMISSION

ASHLEY ERISMAN, CHAIR
131 PLEASANT STREET
NANTUCKET, MA 02554

CONCOM@NANTUCKET-MA.GOV
508-228-7230

12/1/2022

MEMO
Re: Nantucket Wetlands Protection Regulations Update

The duties and responsibilities of a conservation commission are set forth in the Conservation Commission Act (G. L. Chapter 40 §8C). The conservation commission is the official agency specifically charged with the protection of a community's natural resources. The commission also advises other municipal officials and boards on conservation issues that relate to their areas of responsibility. In 1972, conservation commissions were given responsibility to administer the Wetlands Protection Act (G.L. Ch. 131 §40) in their community. Thus, the commission serves the community in a regulatory capacity to protect wetlands and in a conservation capacity for open space. The Town of Nantucket adopted a wetlands bylaw (Chapter 136) in 1983 and promulgated regulations to administer this bylaw which are subject to the current updating process.

The purpose of the local bylaw is to protect the wetlands of the Town of Nantucket by controlling activities deemed to have a significant or cumulative effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion control, storm damage prevention, water pollution, fisheries, shellfish, wildlife, rare species, including rare, threatened or endangered plant species and animals and habitats, recreation and wetland scenic views. This is done by regulating all activities within 100 feet of any resource area.

Regulation Update:
The Nantucket Conservation Commission is currently working on a regulation update that was initiated in 2019 and was delayed by filing volume, and the pandemic. The current process has been to have a couple of public workshop meetings to work on drafted changes. Upon completion of a final draft having them reviewed by counsel and then having an advertised public hearing to review and potentially adopt the final draft of the updated regulations. The Commission is still within the public workshop phase. These regulations were originally adopted in 1988 with revisions in 1990, 2000, 2001, 2005, 2008, and 2013. There is no mandate that requires that this be done other than good practice to regularly review and update regulations to reflect the most current information and practices.

TOWN OF NANTUCKET CONSERVATION COMMISSION

ASHLEY ERISMAN, CHAIR
131 PLEASANT STREET
NANTUCKET, MA 02554

CONCOM@NANTUCKET-MA.GOV
508-228-7230

Purpose:

Like other town regulations updates are needed from time to time to address changes in best management practices, other state and local regulations, town plans and initiatives, like the Coastal Resiliency Plan, and to address other areas of interest. These regulatory changes also cover operation of pools within jurisdiction, viewshed management, benthic disturbance within town waters, creates minor activities to streamline and simplify permitting and to provide increased clarity in definitions. Administrative processes and filing fees have been updated as well. A full redline copy of the changes has been provided with a summary.

One discussion topic not included in the red line version that has been an ongoing discussion is the expansion of the buffer zone requirements further away from the wetland. Scientific papers provided to the Commission suggest maximizing the distance between resource areas and disturbance. Some Commissioners have suggested expanding the buffer zone areas to help minimize disturbance. An example would be moving the undisturbed buffer zone from twenty-five to fifty feet or moving the area in which structures are allowed from fifty to seventy-five feet from any resource area.

Process:

As started in 2019 there have been several public meetings to discuss regulatory changes, the public has provided comments and suggested revisions and following counsel review an advertised public hearing process will need to begin prior to adoption.

Staff impact:

The new regulations as currently proposed will not require additional staff at this time and will improve staff's ability to implement the regulations by setting clear standards and requirements for work within the Commission's jurisdiction.

Summary of Changes to Town of Nantucket Wetland Protection Regulations
As of 11/28/2022

Please note this summary does not include formatting, spelling or grammatical corrections. Included in this update is a taxonomic update to all current families, genus or specific epithet, these changes will not be noted in this summary. Changes to existing italic text is highlighted yellow, plain text is new in its entirety.

General changes throughout:

Resiliency was added as a new interest in all resource areas.

Section 390-2 Definitions

Added or revised definitions

CLIMATE CHANGE- Climate change involves significant changes in average conditions such as temperature, precipitation, wind patterns, and other aspects of climate that occur over years, decades, centuries or longer. Climate change involves longer-term trends, such as shifts toward warmer, wetter, or drier conditions. These trends can be caused by natural variability in climate over time, as well as human activities.

COASTAL RESILIENCE PLAN (CRP)- Officially adopted by the Town of Nantucket at the January 12th, 2022, Select Board meeting, Nantucket's Coastal Resilience Plan serves as a community guide to addressing the challenges posed by climate change. Development of the CRP involved multiple phases of mapping, research, technical and policy analysis, community engagement, development and refinement of resilience strategies, alternatives evaluation, prioritization of alternatives, adaptation pathway development, and implementation phasing. The scientific data and mapping utilized in the CRP creates the framework upon which climate change impacts are addressed on Nantucket.

COASTAL RESILIENCE- The ability of coastal ecological systems to withstand, recover from, and adapt to shocks and stresses. These shocks and stresses are exacerbated by climate change through documented sea level rise and more frequent storm activity.

COASTAL RISK AREAS- Coastal risk on Nantucket varies based on multiple factors including, but not limited to, existing resource areas, current sea-level, projected sea-level rise, storm strength and frequency, and human activity. Properly determining these risk areas is necessary to best determine proper strategies to protect the resiliency interest within these regulations. The following definitions of coastal risk have been adopted by the Town of Nantucket based on the best-available scientific data and modeling:

A. Extreme coastal risk- These areas face extreme coastal risk today or within the next decade. Density should be proactively reduced in these areas to reduce the immediate threat to people, property, and livelihoods. Due to extreme coastal risk, large structural investments are not recommended in these areas due to prohibitive maintenance costs and limited potential benefits. Non-structural resilience strategies that allow natural resources to function naturally and buffer against coastal hazards are best practice in these resource areas.

B. High coastal risk- These areas may be exposed to coastal hazards within the next

30 years, or the lifetime of a typical mortgage. Due to the imminent and growing risk, large structural investments are not recommended in these areas under most circumstances, except where necessary to ensure public safety.

C. Moderate coastal risk- These areas may be exposed to coastal hazards by 2070. In these areas approaches to adapt or protect against flooding should be examined using best available data and modeling.

D. Low coastal risk- These areas are not likely to be exposed to coastal hazards before 2070.

COMPATABLE MATERIAL – material compatible to the parent material in coloration (wet Munsell color), grain size, angularity and percent composition of all soil components.

DEPTH TO GROUNDWATER — Shall be determined by best information available, including but not limited to the methods listed below:

A. Direct observation of highest groundwater elevation (including seasonal and perched groundwater).

B. Direct observation of mottling (redoximorphic features).

GREAT POND - any pond or lake that contained more than 10 acres in its natural state. Ponds that once measured 10 or more acres in their natural state, but which are now smaller, are still considered great ponds.

HIGH TIDE FLOODING- Flooding that leads to road closures, overwhelmed storm drains, and deterioration of human infrastructure. High tide flooding is becoming increasingly common as sea levels rise and land subsides in coastal areas on Nantucket. These factors result in a greater likelihood that high tide will overtop existing bulkheads and other coastal structures leading to flooding of inland areas.

IMPERVIOUS SURFACE - A manmade surface that does not allow infiltration of water into the underlying soil. A building footprint is an impervious surface. Loose gravel or shell driveways are not impervious surfaces. Impervious surfaces that have breached over time, such as cracked asphalt, but still affect infiltration, are considered impervious surfaces.

NORMAL MAINTENANCE – those acts that are usually necessary in order to prevent a decline, lapse or cessation of a lawfully established condition. It does not include additional placement of fill on, or excavation of, previously undisturbed soils or slopes, clearing, removal, or cutting of trees greater than four (4) inches in diameter at breast height, or a change in material of an existing structure or total replacement of a structure. Partial replacement of structures may be reviewed on a case-by-case basis.

PERVIOUS SURFACE - A pervious surface is a surface that allows the percolation of water into the underlying soil. Pervious surfaces may include grass, mulched groundcover,

and planted areas. Pervious surfaces do not include any structure or building, any surface limits the covered lot surface from absorbing water, or any outdoor stairs, on-grade surface sports court, swimming pool, artificial turf, sidewalk or patio constructed of concrete, asphalt, brick, stone, compacted gravel or other material that impedes the infiltration of water directly into the subsurface of the lot. Pervious surfaces that are not properly maintained may become impervious surfaces as indicated by visible changes in drainage patterns, puddling and infiltration.

RECREATION — Activities of individuals done for relaxation carried out in resource areas of the Bylaw, which include but are not limited to swimming, picnicking, walking, hunting, fishing, and boating. Preservation or expansion of unimpeded public access is needed to provide recreational opportunities to the public.

RESILIENCY – The ability of communities and systems to withstand, recover from and adapt to shocks and stresses. See Coastal Resiliency.

SEA LEVEL RISE- Sea level rise is an increase in the ocean's surface height relative to the land in a particular location. The thermal expansion of ocean water and melting polar ice are the primary causes of today's rising sea levels. Tide gauge records indicate that since 1963 Nantucket Harbor has experienced an average of 0.14 inches of sea level rise per year. The NOAA tide gauge for Nantucket is located on Steamboat Wharf and is one of only a few locations in Massachusetts with localized tracking of historic sea level rise. NOAA also notes that Nantucket is projected to experience higher levels of sea level rise than the global average, which is consistent with similar sea level rise projections provided by the Massachusetts Coastal Flood Risk Model (MC-FRM) produced by the Commonwealth of Massachusetts.

STRUCTURE — A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, platform, bin, radio antenna mast, or the like. The term "structure" may also be applied to appurtenances that are constructed primarily of impervious surfaces, such as but not limited to swimming pools, swimming pool equipment, dry-laid stone patios, recreational playing courts, roads, parking areas, parking lots, driveways, etc. Drainage basins, split-rail fences, septic tanks, subsurface propane tanks, and signs are not structures. The word "structure" shall be construed, where the context requires, as though followed by the words "or part or parts thereof."

STRUCTURE, COASTAL ENGINEERING — Any structure intended or constructed so as to prevent or alleviate storm damage, or modify tidal action, wave action, littoral flow, or erosion. Examples of these structure may include but are not limited to any bulkhead, revetment, seawall, rip-rap, groin, jetty, artificial seaweed, geotextile fabric, plastic or steel sheeting, multiple rows of fencing, or fencing using greater than 4-inches in width or diameter or other as determined by the Commission.

SWIMMING POOL – means and includes every artificial pool of water used for swimming or bathing and its equipment used in connection with the pool. This includes any special purpose pool or residential pool designed for recreational and therapeutic use which is shallow in depth and not meant for swimming or diving. These pools are not drained, cleaned or refilled for each user. It may include, but not be limited to, hydro jet circulation, hot water, cold water mineral baths, air induction bubbles, or any combination thereof. Industry terminology for such a pool includes but is not limited to, therapeutic pool, hydrotherapy pool, whirlpool, hot spa, hot tubs, float tanks, splash pool, plunge pool, lap pool, or any other water feature that holds over 100 gallons. See attached guidelines for operation of pools

within the jurisdiction of the Commission.

Section 390-3 Procedures

New Section F - Minor Activities

Minor activities

Certain projects may involve minimal activity and/or alteration within Resource Area Buffer Zone or any work with the Great Pond Area. The Commission may consider such projects, as defined below, to be minor in nature and is of opinion that requiring review under an RDA, or an NOI would be unnecessary. Considering the Conservation Commission designee shall have the authority to review applications for minor activities and further issue Minor Project Permits for projects that meet the standards defined herein.

1. Applicability: Minor projects are defined as those that occur outside of the 50' setback but inside the 100' buffer zone or within the Great Pond Area.
2. Minor Activities: Minor activities include but are not limited to:
    a. Unpaved pedestrian walkways;
    b. Split-rail fencing so long as it does not constitute a barrier to wildlife movement.
    c. Viewshed management within the adopted viewshed management guidelines
    d. Planting of native trees, shrubs, or groundcover, but does not include turf lawns.
    e. Conversion of impervious surface to natural vegetation.
    f. Removal of dead or dying trees or pruning of live trees that pose a hazard to structures or public safety as determined by a certified arborist.
    g. Benches installed for public use.

G. Waivers of Requirements

New (e)

The Commission may grant a waiver from these regulations when the project as proposed provides a significant public benefit and adverse impacts are minimized by project design or conditions imposed by the Commission.

Section 390-6 Land under the ocean

The Commission finds that regulations applicable to activities involving land under the ocean are necessary and proper for the following reasons: Land under the ocean provides feeding areas, spawning and nursery grounds, and shelter for many coastal organisms related to marine fisheries and wildlife. Destruction of eelgrass beds (Zostera marina) will harm scallop production. Eelgrass beds also buffer against climate change by sequestering carbon and diminishing wave energy during storms. Nearshore areas, and in some cases offshore areas, of land under the ocean help reduce storm damage, erosion, and flooding

by diminishing and buffering the high-energy effects of storms. Submerged sand bars dissipate wave energy. Such areas provide a source of sediment for seasonal rebuilding of coastal beaches and dunes. The bottom topography and sediment type of nearshore areas of land under the ocean are critical to erosion control, storm damage protection, and flood control and resiliency.

2. Disturbance to benthic habitats have been shown to impact the following interests of the Wetlands Protection Act:

   Protection of Wildlife Habitat

   Protection of Marine Fisheries (particularly juvenile Cod and other species)

   Protection of Land Containing Shellfish

   Storm Damage Prevention

   The maintenance of the productive benthic habitats not only assures the continuance of the habitats themselves, but also plays a direct role in supporting fish and shellfish stocks by providing a major food source. The young shellfish in the planktonic larval stage that are produced in large quantities during spring and summer are an important source of food for the young stages of marine fishes and many crustaceans. When a resource area is found to be significant to the protection of land containing shellfish under 310 CMR 10.34(3), and is also significant to marine fisheries, the following factors are critical to the protection of those interests:

   (a) shellfish,

   (b) water quality,

   (c) water circulation, and

   (d) the natural relief, evaluation or distribution of sediment grain size of such land.

   Under 310 CMR 10.25, the jurisdiction of the Conservation Commission extends into the Nearshore Areas of Land under the Ocean, extending seaward to a point where the land is at a depth of 40 feet below the level of the ocean at mean low water in Cape Cod Bay, and to a depth of 80 feet below mean low water in all other areas.

   Under 310 CMR 34(4), "any [activity on] land containing shellfish shall not adversely affect such land or marine fisheries by a change in the productivity of such land caused by:

   (a) alterations of water circulation,

   (b) alterations in relief elevation,

   (c) the compacting of sediment by vehicular traffic,

   (d) alterations in the distribution of sediment grain size,

   (e) alterations in natural drainage from adjacent land, or changes in water quality, including, but not limited to, other than natural fluctuations in the level of salinity, dissolved oxygen, nutrients, temperature or turbidity, or the addition of pollutants.

   No activity may adversely affect land containing shellfish in the following manner:

(a) The turbulence generated by hydraulic dredging significantly increases turbidity levels. High turbidity levels attenuate light, which is necessary for photosynthetic process responsible for the primary productivity and oxygen regeneration of the water.

(b) The suspended sediments settle on shellfish beds, smothering existing shellfish and altering the quality of the benthic environment essential for spat (mollusk larvae) settlement.

(c) Resuspension of bottom sediments causes redistribution of sediments, alteration in sediment grain size distribution and causes changes in bottom topography relief, elevation and grade, including the creation of depressions in the bottom. Settlement of sediments into depressions can create deep pockets of highly fluid like sediment which may not be able to physically support shellfish, or which can become anoxic and therefore not support shellfish.

(d) Disturbance of sediments during the period of shellfish larval settlement hinders or prevents the effective settlement of shellfish larvae. Hydraulic dredging has also been shown to adversely impact the interest of storm damage prevention, by uprooting vegetation and undermining the stability of land under the ocean. The underwater "terrace" contours of the trenches created by hydraulic dredging contributes to erosion of the adjacent beach, coastal dunes and banks during storm events.

Performance standards:

Residential piers shall be constructed so as not to change shoreline movement of sediment, harm shellfish resources, obstruct commercial shellfishing, or obstruct the reserved public rights of fishing, fowling, navigation, or passage. Residential piers shall be constructed so as to withstand projected sea level rise and associated impacts based on the best available scientific data and modeling during the cradle-to-grave life of the structure. Residential piers shall not displace public moorings without written approval from the Harbormaster. No solid-fill piers shall be permitted.

Construction of commercial piers shall be in compliance with Chapter 139, Zoning, of the Code of the Town of Nantucket and shall not affect sediment transport and shall not destroy or pollute fisheries and shellfish habitat or nutrient source areas for those resources. Commercial piers shall be constructed so as to withstand projected sea level rise and associated impacts based on the best available scientific data and modeling during the cradle-to-grave life of the structure. No solid-fill piers or new residential piers shall be permitted.

No new bulkheads, groins or coastal engineering structures shall be permitted to protect structures constructed or substantially improved after August 1978. Bulkheads may be rebuilt only if the Commission determines there is no environmentally better way to control an erosion problem. An alternatives analysis must examine living shorelines or in appropriate cases the moving of the threatened building. If either of these methods is feasible then the bulkhead or groin may not be rebuilt. Other coastal engineering structures may be permitted only upon a clear showing that no other alternative exists to protect a structure built prior to September 1978, but not substantially improved, from imminent danger. The use of any or all forms of coastal engineering structures requires an appropriate annual mitigation plan and implementation to ensure no adverse impacts as set forth by the Commission. Mitigation shall reflect current and future needs to ensure no adverse impacts.

Water-dependent projects shall be designed and performed so as to cause no adverse effects

on wildlife, erosion control, marine fisheries, shellfish beds, storm damage prevention, flood control, recreation, resiliency and aquatic vegetation.

No activity that disturbs benthic habitats shall occur within the waters under the jurisdiction of the Nantucket Conservation Commission without a proper filing before the Conservation Commission.

Taking of shellfish or finfish by mechanical means including but not limited to trawls, drags, rakes and hydraulic gear with the assistance of machinery is prohibited within Nantucket waters. This does not include the use of bay scallop dredges, manual rakes or other hand operated devices for the collection of shellfish or baitfish with or without the use of scuba gear.

Section 390-7 Coastal beaches

Updated description

Updated performance standards

(2) *No new bulkheads, groins or coastal engineering structures shall be permitted to protect structures constructed, or substantially improved, after August 1978. Bulkheads may be rebuilt only if the Commission determines there is no environmentally better way to control an erosion problem. An alternatives analysis must examine living shorelines or in appropriate cases the moving of the threatened building. If either of these methods is feasible then the bulkhead or groin may not be rebuilt. Other coastal engineering structures may be permitted only upon a clear showing that no other alternative exists to protect a structure built prior to September 1978, and not substantially improved, from imminent danger.*

The use of any and all forms of coastal engineering structures requires an appropriate annual mitigation plan and implementation to ensure no adverse impacts as set forth by the Commission. Mitigation shall reflect current and future needs to ensure no adverse impacts to the littoral system or adjacent coastal beach and/or coastal dunes.

(7) In areas of eroding shoreline, the distance from all buildings to the coastal beach shall be at least 20 times the average annual shoreline erosion or 100 feet, whichever is greater. The average annual shoreline erosion rate shall be determined by averaging the annual erosion rate over a one-hundred-fifty-year period ending the date the NNOI was filed or, if no NNOI was filed, the date construction began. If erosion data are not available for the one-hundred-fifty-year period, the Commission shall determine the average annual erosion rate from such lesser time period for which erosion data is available. A second annual average annual shoreline erosion rate shall be determined by averaging the annual erosion rate over a 10-year period ending the date the NOI was filed, or if no NOI was filed, the date construction began to determine if erosion has accelerated. If erosion has accelerated over the contemporary time period, the higher erosion rate shall be used to determine mitigation requirements for the application. In cases where documentation can be provided to show

that the use of the 10- or one-hundred-fifty-year period is inappropriate to existing shoreline characteristics and trends, alternate shoreline change rates may be used when based on a preponderance of credible evidence.

Section 390-10 Coastal Bank

Updated characteristics

Performance Standards

Revised #2

No new bulkheads, coastal revetments, groins, or other coastal engineering structures shall be permitted to protect structures constructed, or substantially improved, after August 1978. Bulkheads and groins may be rebuilt only if the Commission determines there is no environmentally better way to control an erosion problem. An alternatives analysis must examine living shorelines or in appropriate cases the moving of the threatened building or infrastructure. If either of these methods is feasible then the bulkhead or groin may not be rebuilt. Other coastal engineering structures may be permitted only upon a clear showing that no other alternative exists to protect a structure that has not been substantially improved or public infrastructure built prior to September 1978 from imminent danger. The mitigation provided for use of any structure to protect against erosion must have no adverse impact on adjoining coastal beach, coastal dune, barrier beach, or coastal banks.

New #7

In areas of an eroding coastal bank, the distance from all new structures to the coastal bank shall be at least 20 times the average annual erosion rate or 100 feet, whichever is greater. The average annual erosion rate shall be determined by averaging the annual erosion over a one-hundred-fifty-year period ending with the date the NOI was filed or, if no NOI was filed, the date construction began. If erosion data are not available for the one-hundred-fifty-year period, the Commission shall determine the average annual erosion rate from such lesser time for which erosion data is available. A second annual average annual shoreline erosion rate shall be determined by averaging the annual erosion rate over a 10-year period ending the date the NOI was filed, or if no NOI was filed, the date construction began to determine if erosion has accelerated. If erosion has accelerated over the contemporary time period, the higher erosion rate shall be used to determine mitigation requirements for the application in cases where documentation can be provided to show that the use of the one-hundred-fifty-year period is inappropriate to existing coastal shoreline characteristics and trends, alternate shoreline change rates may be used with the approval of the Commission.

Section 390-11 Salt Marsh

Updated characteristics

The ability for Salt Marshes to migrate landward as sea levels rise is critical to enhancing the resiliency of coastal areas.

Performance standards

Updated #4

All projects which are not water-dependent shall maintain at least a ~~25-foot~~ 50-foot natural undisturbed area adjacent to a salt marsh. All structures which are not water-dependent shall be no closer than 75 feet to a salt marsh, and all structures shall maintain an undisturbed two-foot separation to high groundwater. Pools shall not be eligible for a waiver from this requirement. Fifty percent of the area between the twenty-five-foot buffer and the fifty-foot buffer shall not be altered. Additional soils and groundwater information may be required for applications in areas of high ground water.

New #10

A project which will restore or rehabilitate a salt marsh may be permitted; provided, however, that this section shall not be construed as to allow the alteration of one salt marsh on a given site by or contingent upon the restoration of another

Section 390-16 Land Subject to Coastal Storm Flowage

Performance standards

New #4

Building upon areas subject to coastal storm flowage and sea-level rise in locations where such structure would be subject to storm damage or high-tide flooding may not be permitted. New construction that is not water-dependent may not be permitted in areas defined as high- or extreme coastal risk in this Bylaw. When permitting new projects, risk determination shall utilize the latest available data from Nantucket's NOAA tide gauge and the latest sea-level rise projections available from the Massachusetts Coastal Flood Risk Model (MC-FRM). If permitted, all construction must be in compliance with state and local building code regulations for flood hazard areas.

New #5

All swimming pools are prohibited from being located within Land Subject to Coastal Storm Flowage.

Section 390-18 Bordering Vegetated Wetland

Performance standards

Revised #1

Removed the requirement for a two-foot separation to groundwater for structures.

New #2

All structures shall maintain an undisturbed two-foot separation to high groundwater. Should this separation not be possible a waiver request must include a hydrostatic analysis and any intrusions into groundwater shall be required to be non-toxic and demonstrate no adverse impact to groundwater. Pools shall not be eligible for a waiver from this requirement.

New section 390-23 Great Pond Area

§ 390-23. Great Pond Area

A. The Commission finds that regulations applicable to activities within the great pond area (except as these activities are located within other wetland resource areas) are not appropriate for the following reasons:

(1) A great pond area is the area of land between great ponds mean annual high-water line and a parallel line measured horizontally outward to a distance of 200 feet. The great pond area may include or overlap other wetland resource areas or their buffer zones. The great pond area does not have a buffer zone.

(a) All activities, projects or work proposed within the great pond area shall in addition to any other required filing submit a minor activity request prior to the start of work.

(b) Any proposed work will be evaluated as to contain continuous natural, native habitat linkages to the Great Pond.

New Appendix D – Swimming Pool Guidelines

Appendix D

Swimming Pool Guidelines

1. All pool drainage shall be in compliance with the most current pool draining Best Management Practices set forth by the National Swimming Pool Foundation.

2. Pool drainage, filter backwash, or filter discharge must not be directly discharged into a storm drain, sewer main, potable water well, or within 100 feet of a wetland.

3. Any subsurface on-site drainage facility servicing the pool must comply with these regulations.

4. No pool or pool equipment shall be connected to an on-site sewage disposal system.

5. All pool drainage or surface runoff related to the pool and its hardscaping shall be contained on-site.

6. All pools must be dechlorinated at least 48 hours before any draining.

7. Notification of pool drainage shall be provided to the Health Department and the Natural Resources Department a minimum of 72 hours before drainage commencement.

8. A Statement of de-chlorination and drainage shall be provided to the Health Department within 10 calendar days of drainage along with the appropriate filing fee as determined by the Select Board. No pool draining, or discharge activities are allowed without the approval of the Health Department and the Natural Resources Department

9. All pool draining processes are subject to inspection by any agent of the Commission.

New Appendix E – Viewshed Management Guidelines

Town of

Nantucket

Appendix E

Town of Nantucket

Viewshed Management Guidelines

The Town of Nantucket Conservation Commission finds that the proper maintenance of vegetation is needed to protect wildlife, wildlife habitat, resiliency, erosion control, flood control, recreation, and wetland scenic views.

When a proposed activity involves the altering of a Buffer Zone, the Commission shall presume the Buffer Zone is significant to the protection of all the resource values protected by the Bylaw. These presumptions may be overcome only upon a clear showing that the Buffer Zone does not play a role in the protection of those interests. No work will be permitted in the Buffer Zone that has a significant adverse impact upon the interests given above and only upon a specific written determination to that effect by the Commission.

Vista Pruning/Cutting in these guidelines refers to the selective cutting of vegetation within a resource area or resource area buffer zone to improve a view through a pre-determined vista corridor. This activity does not include the cutting of trees to less than 90% of the existing crown cover, mowing, or removal of understory brush.

No new vista cutting is allowed without first receiving a permit from the Nantucket Conservation Commission. Once permitted the view corridor may be maintained in keeping with these guidelines. Any existing areas being maintained for viewshed purposes shall do so in keeping with these guidelines.

No work is allowed within resource areas without a permit. Viewshed management outside of the 50' setback may qualify as a minor activity.

Maintenance pruning is not allowed within resource areas. Exception being the maintenance of vegetation along public pedestrian access ways.

Properties located only within Land Subject to Coastal Storm Flowage are exempt from these guidelines.

General Guidelines

1. Each residential structure shall be allowed one viewshed corridor. Corridors may be no more than 15 feet from top to bottom and shall be 20' wide at the end closest to the structure and 25 feet on the resource area side of the corridor.
2. Should the lot contain more than one structure viewshed corridors must be separated by a minimum of 25'.
3. Lots open to the public as open space shall be allowed one corridor for every 100 linear feet of buffer zone/resource area.
4. Clear cutting is prohibited as is the topping of trees.
5. Pruning must preserve vegetative layers, habitat, and biodiversity.

6. No viewshed management shall be done between April 1st and September 30th to protect the breeding season and nesting birds. This time may be extended by specific request to the Nantucket Conservation Commission.

Layer Specific Guidelines

Trees:

1. No tree greater than 4" DBH (diameter at breast height) shall be cut down. Any tree to be removed must be reviewed by Commission staff.
2. Internodal pruning cuts should be avoided wherever possible to reduce decay and suckering. Branches should be pruned back to a lateral at least 1/3 the diameter of the cut stem.
3. Deadwood should be preserved whenever possible as it provides essential foraging and nesting habitat.
4. Should a dead or diseased tree be deemed to be hazardous by a certified arborist it would be eligible for removal.
5. Should the trees be less than 4" DBH then selective removal may be authorized by Commission staff following an assessment in the field.
6. No more than 15% of the lower branches of a tree shall be removed.
7. All cut material removal shall be performed by hand.
8. Vines that pose a threat to the health of a tree may be removed by hand.
9. Invasive trees are eligible for removal. If replacement is required, it must be of an appropriate native species.

Shrubs:

1. No shrub shall be cut to a height lower than 4 feet.
2. Shrubs shall be cut to varying heights to mimic natural growth.
3. Shrubs must maintain their natural growth habit to promote flowering and fruiting.
4. Vines impacting the health of the shrub may be removed to promote the health of the shrub. All vine removal must be by hand.
5. Invasive shrubs are eligible for removal and replacement with appropriate native species.

Groundcover:

1. Disturbance to groundcover is not allowed unless by permit.
2. Maintenance of private pedestrian walkways of less than three feet wide is allowed. Maintenance of public walkways is allowed to the appropriate width based on use. All vegetated walkways should meander to minimize runoff or erosion.

New fee schedule

FEE SCHEDULE

(Effective MM/DD/YEAR)

Notice of Intent (NOI)	Town Bylaw Fee
a) Category 1 (additions, Site work, control vegetation, etc.)	$200
b) Category 2 (houses, beach nourishment, etc.)	$300
c) Category 3 (roads, etc.)	$400
d) Category 4 (dredging, etc.)	$500
e) Category 5 (piers, seawalls, etc.)	$5.00 per linear foot
f) Category 6 (confirm wetland delineations)	$4.00 per linear foot
g) Waiver request fee	$150+NOI Fee
Request for Determination of Applicability (RDA)	
a) General	$150
b) Resource Area Confirmation	$250
Certificate of Compliance	
a) Initial filing	$125
b) Each re-docketing/revisit	$50
Extension Permit	$100/year requested
Amended Order of Conditions	$150
Abbreviated Notice of Resource Area Delineation	$250
Plan Change/Minor Modification	$75
Minor Activity Application	$50
AFTER-THE-FACT FILINGS	
a) Non-Enforcement Related	2X Regular Filing Fee
b) Enforcement Related Filing	10X Regular Filing Fee

Chapter 390

WETLANDS PROTECTION

ARTICLE I
General Provisions, Definitions and Procedures

§ 390-1. Introduction and purpose.
§ 390-2. Definitions.
§ 390-3. Procedures.
§ 390-4. Severability.
§ 390-5. When effective; applicability.

ARTICLE II
Regulations for Coastal Wetlands

§ 390-6. Land under ocean.
§ 390-7. Coastal beaches (and tidal flats).
§ 390-8. Coastal dunes.
§ 390-9. Barrier beaches.
§ 390-10. Coastal banks.
§ 390-11. Salt marshes.
§ 390-12. Salt ponds.
§ 390-13. Land containing shellfish.
§ 390-14. Anadromous/Catadromous fish runs, banks along and lands under fish runs.
§ 390-15. Land subject to coastal storm flowage.
§ 390-16. Estimated habitat for rare/significant wildlife and rare/significant flora and fauna (for coastal wetlands).

ARTICLE III
Regulations for Inland Wetlands

§ 390-17. Inland banks and beaches.
§ 390-18. Vegetated wetlands (meadows, marshes, swamps, and bogs).
§ 390-19. Inland water bodies (lakes, creeks, streams, ponds, ditches and flats).
§ 390-20. Land subject to flooding (both bordering and isolated areas).
§ 390-21. Estimated habitat for rare/significant wildlife and rare/significant flora and fauna (for inland wetlands).
§ 390-22. Riverfront area.

ARTICLE IV
Activities in Buffer Zone

§ 390-23. Findings; RDA or NOI required.
§ 390-24. Significance of buffer zones.
§ 390-25. Measuring cumulative impact.
§ 390-26. Filing requirements and buffer zone setbacks.

ARTICLE V
Activities to Enhance Wetland Resource Health and Function

§ 390-27. Invasive exotic plants.
§ 390-28. Control and mitigation of invasive plant species.
§ 390-29. Permitting requirements.

Appendix A, Best Management Practices for Fertilizer Use

Appendix B, Massachusetts Prohibited Plants List

Appendix C, Nantucket Invasive Species Committee Plants List

[HISTORY: Adopted by the Conservation Commission of the Town of Nantucket 2-25-1988, as amended 7-1-2013. Subsequent amendments noted where applicable.]

TOWN CODE REFERENCES

Protection of coastal areas and open spaces — See Ch. 66.
Wetlands — See Ch. 136.
Zoning — See Ch. 139.

TOWN REGULATIONS REFERENCES

Beaches — See Ch. 216.
Fertilizer — See Ch. 252.

ARTICLE I
General Provisions, Definitions and Procedures

§ 390-1. Introduction and purpose.

A. Introduction. These regulations are promulgated by the Town of Nantucket Conservation Commission (hereinafter referred to as the "Commission") pursuant to the authority granted to it under Chapter 136, Wetlands, § 136-7, of the Code of the Town of Nantucket (hereinafter referred to as the "Bylaw"). The regulations should be read together with the Bylaw, which has many important provisions not to be repeated in these regulations. These regulations shall be used to enforce and implement the Bylaw, and shall have the force of law upon their effective date. These regulations supersede all existing rules and practices previously applicable to procedures and proceedings before the Commission.

B. Purpose. The purpose of these regulations is to establish definitions, design standards, and uniform procedures by which the Nantucket Conservation Commission is to carry out its responsibilities under the Bylaw.

§ 390-2. Definitions.

The definitions in this § 390-2 are for terms as used in the Bylaw and for terms as used in these regulations. To the extent not defined herein or in the Bylaw, words used in the Bylaw or in the regulations shall have the definitions contained in the Massachusetts Wetlands Protection Act (MGL c. 131, § 40) and the rules and regulations promulgated thereunder.

ABUTTER — An owner of land in any direction sharing a common boundary with the site of the proposed activity, including any land located directly across a street, way, stream, pond, or diagonally across from an intersection of roads. A landowner more than 300 feet across a pond shall not be considered an abutter.

ACTIVITY — Same as the definition of "work." **[Amended during codification]**

ADVERSE IMPACT — A greater-than-negligible change in the resource area or one of its characteristics, functions or factors that diminishes the value of the resource area to one or more of the specified interests in Chapter 136, Wetlands, of the Code of the Town of

Nantucket, as determined by the Commission. "Negligible" means small enough to be disregarded and shall be defined in relation to the wetland resource areas impacted.

AGRICULTURAL PRACTICES —

A. LAND IN AGRICULTURAL USE — Any qualifying wetland within a farm which is qualified or eligible to be qualified under the Farmland Assessment Act, MGL c. 61A § 1 through § 5.

B. QUALIFYING WETLAND — Only inland freshwater areas which are seasonally flooded basins or flats or inland fresh meadows.

C. NORMAL MAINTENANCE OR IMPROVEMENT OF LAND IN AGRICULTURAL USE —

(1) Shall mean only:

(a) Tilling practices customarily employed in the raising of crops.

(b) Pasturing of animals, including such fences and protective structures as may be required.

(c) Use of fertilizers, pesticides, herbicides and similar materials, subject to local, state and federal regulations covering their use. **[Amended during codification]**

(d) Construction, grading or restoring of field ditches, subsurface drains, grass waterways, culverts, access roads and similar practices to improve drainage, prevent erosion, provide more effective use of rainfall and improve equipment operation and efficiency in order to improve conditions for the growing of crops.

(2) "Improvement of land in agricultural use" may also include more extensive practices such as the building of ponds, dams, structures for water control, water and sediment basins and related activities, but only where a plan for such activity is approved by the Conservation District of the Soil Conservation Service is furnished to the Conservation Commission prior to the commencement of work. All such activity shall subsequently be carried out in accordance with said plan. In the event that the work is not carried out in accordance with the required plan, the Conservation Commission may place a stop order on said work and have recourse to such measures as if the plan were an order of conditions.

ALTER — Includes, without limitation, the following actions when undertaken in areas subject to these regulations: removal, excavation or dredging of soils, sand, gravel, or aggregate materials of any kind; changing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, and flood-retention characteristics; drainage or other disturbances of water level or the water table; dumping, discharging, or filling with any materials which may degrade water quality; driving of piles or erection of buildings or structures of any kind; placing of obstructions, whether or not they interfere with the flow of water; destruction of plant life, including cutting trees; changing of water temperature, biochemical oxygen demand, or other physical or chemical disturbances of the water; placing of fill, or removal of material, which would alter elevation; any activity, changes, or work which causes or contributes to the pollution of a body of water or

groundwater; application of herbicides or fertilizers other than in agricultural use; incremental activities which have a cumulative adverse impact on the interests protected by these regulations.

APPLICANT — The individual filing the Nantucket notice of intent, or Nantucket request for determination of applicability or other request for action and/or permit or permit modification with the Commission.

AQUATIC VEGETATION — Any rooted or free-floating plant that spends a portion of its life cycle either immersed or submersed by water.

AREAS SUBJECT TO PROTECTION — Land areas and/or water bodies subject to protection under the Bylaw, as set forth in Chapter 136, Wetlands, § 136-3, of the Code of the Town of Nantucket.

BANK (COASTAL) — The seaward face or side of any elevated land form, other than a coastal dune, which lies at the landward edge of a coastal beach, coastal dune, land subject to tidal action or coastal storm flowage, or other coastal wetland. Any minor discontinuity of the slope notwithstanding, the top of the bank shall be the first significant break in slope as defined by site-specific topographic plan information, site inspection, wetland habitat evaluation, geologic origin, and/or relationship to land subject to coastal storm flowage. A bank may be partially or totally vegetated, or it may be comprised of exposed soil, gravel, stone, or sand. A bank may be created by man and/or made of man-made materials. A bank may or may not contribute sediment to coastal dunes, beaches and/or to the littoral drift system. A bank may be significant as a major source of sediment, as a vertical buffer, for wildlife habitat and for wetland scenic views.

BANK (INLAND) — The portion of land surface that normally abuts or confines a water body. A bank may be partially or totally vegetated, or it may be comprised of exposed soil, gravel, stone, or sand. The physical characteristics of a bank, as well as its location, are critical to the protection of wetland interests. The upper boundary of a bank is the first observable break in slope above the ten-year flood level. The lower boundary of a bank is the annual high water elevation of the water body. A bank may be created by man and/or made of man-made materials.

BEACH — Unconsolidated sediment subject to wave, tidal, or storm action which forms the gently sloping shore of a body of water, including land which is separated from other land by a body of water or a marsh system. Beaches extend from the mean low water line landward to the dune line, bank line, or the edge of existing man-made structures, when these structures replace one of the above lines, whichever is closest to the defining water body.

BEST AVAILABLE MEASURES — The most up-to-date technology or the best designs, measures, or engineering practices that have been developed and that are commercially available.

BEST PRACTICAL MEASURES — Technologies, designs, measures, or engineering practices that are in general use to protect similar interests.

BOATHOUSE — Any structure on or near the water used exclusively for the storage and maintenance of boats, with related items. A boathouse may not contain habitable space. Boathouses shall not be used for storage or maintenance of boats trailered to or from off-site.

BOG — Areas where evidence of depth to high groundwater is within 18 inches of the ground surface during a normal growing season, and/or where soils exhibit hydric characteristics, and/or where a plant community has a significant portion of the groundwater or water surface covered with Sphagnum moss (Sphagnum) and where the plant community is made up of a significant portion of one or more, but not limited to nor necessarily including all, of the following plants or groups of plants: aster (Aster nemoralis), azaleas (Rhododendron canadense and R. viscosum), bog cotton (Eriophorum), cranberry (Vaccinium macrocarpon), high-bush blueberry (Vaccinium corymbosum), laurels (Kalmia augustifolia and K. polifolia), leatherleaf (Chamaedaphne calyculata), orchids (Arethusa, Calopagon, Pagonia), pitcher plants (Sarracenia purpurea), sedges (Cyperaceae), sundews (Droseraceae), and sweet gale (Myrica gale).

BORDERING — Touching at any point.

BOUNDARY — The boundaries of an area subject to protection under the Bylaw.

BUILDING UPON — Construction of any kind of structure, whether on land or in water; placing of obstructions or objects in water (other than boats, moorings, fish or shellfish traps, pens or trays used in conjunction with aquaculture, or aids to navigation).

BYLAW or WETLANDS PROTECTION BYLAW — Chapter 136 of the Code of Nantucket Bylaws, entitled "Wetlands."

CERTIFICATE OF COMPLIANCE (NANTUCKET) — A written determination by the Commission that the proposed work or portion thereof has been completed as required by a permit. In some instances, a certificate of compliance may also be issued stating that no work has been undertaken or completed within the time frame allowed by the permit issued.

CLIMATE CHANGE- Climate change involves significant changes in average conditions such as temperature, precipitation, wind patterns, and other aspects of climate that occur over years, decades, centuries or longer. Climate change involves longer-term trends, such as shifts toward warmer, wetter, or drier conditions. These trends can be caused by natural variability in climate over time, as well as human activities ~~that add greenhouse gases to the atmosphere such as burning fossil fuels for energy~~.

Commented [JC1]: From Nantucket Land Council (NLC)

COASTAL DUNE — Any hill, mound, ridge, or field of ridges, hills, or mounds, composed of sediment, any portion or component of which, over the course of a year, touches upon, exchanges sediment with, and is landward of a coastal beach deposited by wind action, storm overwash, and/or is man-made.

COASTAL DUNE FIELD — An assemblage or grouping of coastal dunes, at least a portion of which over the course of a year touches upon, exchanges sediment with, and is landward of a coastal beach, that may or may not be oriented parallel to the shoreline or in response to a dominant wind direction but has been deposited by wind action, wave action, and/or by storm overwash.

COASTAL RESILIENCE PLAN (CRP)- Officially adopted by the Town of Nantucket at the January 12th, 2022 Select Board meeting, Nantucket's Coastal Resilience Plan serves as a community guide to addressing the challenges posed by climate change. Development of the CRP involved multiple phases of mapping, research, technical and policy analysis, community engagement, development and refinement of resilience strategies, alternatives evaluation, prioritization of alternatives, adaptation pathway development, and implementation phasing. The scientific data and mapping utilized in the CRP creates the framework upon which climate

Commented [JC2]: NLC

change impacts are addressed on Nantucket.

COASTAL RESILIENCE- The ability of coastal ecological systems to withstand, recover from, and adapt to shocks and stresses. These shocks and stresses are exacerbated by climate change through documented sea level rise and more frequent storm activity.

Commented [JC3]: NLC

COASTAL RISK AREAS- Coastal risk on Nantucket varies based on multiple factors including, but not limited to, existing resource areas, current sea-level, projected sea-level rise, storm strength and frequency, and human activity. Properly determining these risk areas is necessary to best determine proper strategies to protect the resiliency interest within these regulations. The following definitions of coastal risk have been adopted by the Town of Nantucket based on the best-available scientific data and modeling:

Commented [JC4]: NLC

A. Extreme coastal risk- These areas face extreme coastal risk today or within the next decade. Density should be proactively reduced in these areas to reduce the immediate threat to people, property, and livelihoods. Due to extreme coastal risk, large structural investments are not recommended in these areas due to prohibitive maintenance costs and limited potential benefits. Non-structural resilience strategies that allow natural resources to function naturally and buffer against coastal hazards are best practice in these resource areas.

B. High coastal risk- These areas may be exposed to coastal hazards within the next 30 years, or the lifetime of a typical mortgage. Due to the imminent and growing risk, large structural investments are not recommended in these areas under most circumstances, except where necessary to ensure public safety.

C. Moderate coastal risk- These areas may be exposed to coastal hazards by 2070. In these areas approaches to adapt or protect against flooding should be examined using best available data and modeling.

D. Low coastal risk- These areas are not likely to be exposed to coastal hazards before 2070.

~~COASTAL DUNE — Any hill, mound, ridge, or field of ridges, hills, or mounds, composed of sediment, any portion or component of which, over the course of a year, touches upon, exchanges sediment with, and is landward of a coastal beach deposited by wind action, storm overwash, and/or is man-made.~~

~~COASTAL DUNE FIELD — An assemblage or grouping of coastal dunes, at least a portion of which over the course of a year touches upon, exchanges sediment with, and is landward of a coastal beach, that may or may not be oriented parallel to the shoreline or in response to a dominant wind direction but has been deposited by wind action, wave action, and/or by storm overwash.~~

COASTAL WETLAND — Any bank, beach, dune, estuary, marsh, swamp, meadow, flat, or other lowland subject to tidal action or coastal storm flowage from the ocean or an estuary.

COMMISSION or CONSERVATION COMMISSION — The Nantucket Conservation Commission as a body of members lawfully appointed pursuant to MGL c. 40, § 8c.

COMPATABLE MATERIAL – material compatible to the parent material in coloration (wet Munsell color), grain size, angularity and percent composition of all soil components.

CONDITIONS — Those requirements set forth in a written permit issued by the Commission for the purpose of permitting, regulating, or prohibiting any activity that alters an area or adversely impacts an interest subject to protection under the Bylaw.

CREEK — Same as a stream.

DATE OF ISSUANCE — The date the permit, determination, or a certificate of compliance is mailed, as evidenced by a postmark, or the date it is hand-delivered.

DEPARTMENT — Massachusetts Department of Environmental Protection (DEP).

DEPTH TO GROUNDWATER — Shall be determined by best information available, including but not limited to the methods listed below:

A. Direct observation of highest groundwater elevation (including seasonal and perched groundwater).

B. Direct observation of mottling (redoximorphic features).

~~C. By calculation using the USGS Frimpter high groundwater adjustment method.~~

Commented [JC5]: This should be removed as it is not used, or an accepted method.

DETERMINATION OF APPLICABILITY (NANTUCKET) — A written finding by the Commission as to whether the Bylaw is applicable to any work, as permitted in Chapter 136, Wetlands, § 136-3D, of the Code of the Town of Nantucket.

DREDGE — To deepen, widen, or excavate, either temporarily or permanently.

DUNE — Any hill, mound, or ridge of sediment landward of a coastal beach deposited by wind action, storm overwash, or man-made. Coastal dunes are significant for flood control, as a sediment supply to down drift coastal resource areas, for rare/significant habitat, for recreation, and for wetland scenic views.

ELEVATED WALKWAY — Any structure that ends landward of mean high water, used for pedestrian access over a salt marsh, coastal dune, coastal dune fields, coastal banks, bordering vegetated wetlands, filled and flowed tidelands. This definition includes beach stairs.

ENGINEERING STRUCTURE — Any bulkhead, revetment, wall, rip-rap, groin, jetty, plastic sheeting, or other structure intended or constructed so as to prevent, alter, alleviate, or contribute to storm damage or modify wave action, littoral flow, erosion, surface water pollution, or groundwater quality or flow.

ERODING SHORELINE — Any beach, coastal bank, or dune, the waterside edge of which has undergone a net retreat due to water and wave action over a six-year period ending on the date on which an application is filed.

EROSION CONTROL — The prevention or reduction of the detachment or movement of soil or rock fragments by water, wind, ice, and/or gravity.

ESTUARY — Any area or partially enclosed coastal body of water where freshwater and saltwater meet and mix and where tidal effects are evident.

EXISTING — Begun or completed prior to the effective date of these regulations, or in accordance with permits issued under these regulations.

EXTENSION PERMIT — A written extension of time within which the authorized activity shall be completed, as permitted by Chapter 136, Wetlands, § 136-4B, of the Code of the Town of Nantucket.

FILL — To deposit any material so as to change any grades or raise an elevation, either temporarily or permanently.

FISHERIES — All species of freshwater and saltwater finfish, including the nutrient sources and habitat in which they live all or part of their life cycles.

FLAT — Any nearly level part of a shoreline or coastal beach that usually extends from the extreme low-water line landward to the more steeply sloping face of a coastal beach or bank. The flat may be separated from the beach by land under the ocean.

FLOOD CONTROL — The prevention or reduction of flooding and flood damage.

FRESHWATER WETLAND — A wet meadow, freshwater marsh, swamp, bog, pond, lake, creek, or stream; an area of low topography where groundwater, flowing water, standing surface water, or ice provides a significant part of the supporting substrate for a plant community for at least five months of the year; characterized by emergent and submergent plant communities in inland waters; and/or where depth to high groundwater is within 18 inches of the ground surface, and/or exhibits hydric soil characteristics and includes that portion of any inland bank which touches any freshwater wetland. Freshwater wetlands are not defined to include drainage facilities constructed to include wetland vegetation as treatment from stormwater runoff.

GRANDFATHERING/PREEXISTING USE —

A. Allows that the use and normal maintenance of any structure or alteration of land, within wetland resource areas and their buffers, existing at the time of enactment of MGL c. 131, § 40 (effective date 1972) or the Town of Nantucket Wetlands Protection Bylaw (effective date 1983), or subsequent revisions, may be continued, subject to the following:

   (1) Existing structures, uses and/or alterations of land may not be extended and/or modified unless such extension or modification is permitted by a finding of the Commission that such alteration or modification shall have no adverse impact on the resource areas and interests protected by the Town of Nantucket Wetlands Protection Bylaw.

   (2) Existing structures, uses and/or alterations of land which have been abandoned for five years or more shall not be reestablished, and any future use shall conform with then-current provisions of the Town of Nantucket Wetlands Protection Bylaw, as appropriate.

B. Maintenance and/or repair to existing on-site sewage disposal systems and wells is excluded from this definition.

GREAT POND - any pond or lake that contained more than 10 acres in its natural state. Ponds that once measured 10 or more acres in their natural state, but which are now smaller, are still considered great ponds.

GROUNDWATER — Water below or seeping from the earth's surface in the zone of saturation.

HABITABLE SPACE — Space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

HABITAT — Where wildlife find what they need to survive: food, water, cover from predators and weather, breeding and rearing areas, and over-wintering areas.

A. Habitat includes any portion of any wetland resource area:

(1) Within which are located any species (plant or animal) recognized as significant by the Commission following a public hearing thereon.

(2) Which falls within any of the most recent state-estimated habitat maps, adopted by the Commission following a public hearing thereon.

B. All flora and fauna listed by the Massachusetts Natural Heritage and Endangered Species Program and their environs shall be considered significant to the interests of the Town of Nantucket Wetlands Protection Bylaw.

C. "Vernal pool habitats," regardless of whether the site has been certified by the Massachusetts Natural Heritage and Endangered Species Program, are defined as confined basin depressions which, at least most years, hold water for a minimum of two continuous months during the spring and/or summer, and which are free of adult fish populations. Areas within 100 feet of the mean annual boundaries of such depressions, to the extent that such habitat is within an area subject to protection under the Town of Nantucket Wetlands Protection Bylaw as specified in Chapter 136, Wetlands, § 136-3, of the Code of the Town of Nantucket, are deemed essential breeding habitat, and provide other extremely important habitat functions during the nonbreeding season as well, for a variety of amphibian species, and are important habitat for other wildlife species, and shall be considered significant to the interests of the Town of Nantucket Wetlands Protection Bylaw. The Commission must determine, in the case that a vernal pool has not been certified by the Massachusetts Natural Heritage and Endangered Species Program, that it has successfully been identified as eligible for certification by its consultants or a professional wildlife biologist or other expert.

HIGH TIDE FLOODING - Flooding that leads to road closures, overwhelmed storm drains, and deterioration of human infrastructure. High tide flooding is becoming increasingly common as sea levels rise and land subsides in coastal areas on Nantucket. These factors result in a greater likelihood that high tide will overtop existing bulkheads and other coastal structures leading to flooding of inland areas.

Commented [JC6]: From NLC

IMPERVIOUS SURFACE - A manmade surface that does not allow infiltration of water into the underlying soil. A building footprint is an impervious surface. Loose gravel or shell driveways are not impervious surfaces. Impervious surfaces that have breached over time, such as cracked asphalt, but still affect infiltration, are considered impervious surfaces.

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Font: 11 pt

INTERESTS PROTECTED BY THE BYLAW — The wetland values either singly or collectively specified in Chapter 136, Wetlands, § 136-2, of the Code of the Town of Nantucket.

LAKE — Any open body of freshwater or saltwater, either naturally occurring or man-made by impoundment, which is never without standing water due to natural causes except during periods of extended drought, and the land under the water body. Basins or lagoons which are part of wastewater treatment plants shall not be considered ponds, nor shall swimming pools, man-made water bodies that are not hydrologically connected to adjacent water bodies, groundwater (including perched groundwater), or other impervious man-made retention basins.

LAND SUBJECT TO COASTAL STORM FLOWAGE — Land subject to any inundation caused by coastal storms up to and including that caused by the one-hundred-year storm, surge of record, or storm of record, whichever is greater.

LAND SUBJECT TO FLOODING — An area of low, flat topography, or a depression or

basin either 1) hydrologically directly connected with a water body, extending from the banks or the upland edge of the vegetated wetlands surrounding this water body, or 2) an isolated depression or basin which on the average at least every five years confines standing water over an area of at least 1,000 square feet as observed under conditions of average rainfall. The boundary of land subject to flooding which is hydrologically connected to a water body is the estimated lateral extent of the flooding, which shall be based on the one-hundred-year storm event during a year of average rainfall, or by actual record if that is higher. Constructed drainage facilities and/or swales will not be considered as land subject to flooding for the purposes of the Nantucket Wetlands Protection Bylaw.

MARSH (FRESHWATER) — Areas where a plant community exists in standing or running water during the growing season, and/or where depth to high groundwater is within 18 inches of the surface and/or where soils exhibit hydric characteristics, and where a significant part of the plant community is composed of, but not limited to nor necessarily including all, the following plants or groups of plants: arums (Araceae), bladder worts (Utricularia), bur reeds (Sparganiaceae), button bush (Cephalanthus occidentalis), cattails (Typha), duck weeds (Lemnaceae), eelgrass (Vallisneria), frog bits (Hydrocharitaceae), horsetails (Equisetaceae), hydrophilic grasses (Graminae), leatherleaf (Chamaedaphne calyculata), pickerel weeds (Pontederiaceae), pipeworts (Eriocaulon), pond weeds (Pontederiaceae), rushes (Juncaceae), sedges (Cyperaceae), smartweeds (Polygonum), sweet gale (Myrica gale), water milfoil (Haloragaceae), water lilies (Nympheacea), water starworts (Callitrichaceae), or water willow (Decodon verticillatus).

MARSH (SALTWATER) — A coastal wetland that extends from the ocean landward up to the highest spring tide line, where soils exhibit hydric characteristics, and where a significant part of the plant community is composed of, but not limited to nor necessarily including all, the following plants or groups of plants: salt meadow cord grass (~~Spartina patens~~Sporobolus pumilis), salt marsh cord grass (~~Spartina alterniflora~~Sporobolus alterniflorus), spike grass (Distichlis spicata), sea lavender (Limonium ~~nashii~~carolinianum), seaside plantagao (Plantagao juncoides), aster (Aster subulatus), sea-blite (Suaeda maritima), black-grass (Juncus gerardi), samphire (Salicornia europaea), glasswort (S. begelovii), reed (Phragmites communis), saltmarsh bulrush (Scirpus robustus), or cattails (Typha spp.).

MEADOWS (WET) — Areas where groundwater is at the surface for a significant part of the growing season, and/or where depth to high groundwater is within 18 inches of the surface, and/or where soils exhibit hydric characteristics including mottling within 18 inches of the ground surface, and where a significant part of the plant community is composed of various grasses, sedges, and rushes, made up of, but not limited to nor necessarily including all, the following plants or groups of plants: blue flag (Iris), vervain (Verbena), thoroughwort (Eupatorium), dock (Rumex), false loosestrife (Ludwigia), hydrophilic grasses (Graminae), loosestrife (Lythrum), marsh fern (Dryopterus thelypteris), rushes (Juncacea), sedges (Cyperaceae), sensitive fern (Onoclea sensibilis), smartweed (Polygonum), or jewelweed (Impatiens capensis).

MEPA — The Massachusetts Environmental Policy Act, MGL c. 30, § 62 through § 62H, and regulations promulgated pursuant thereto, 310 CMR 10.00 et seq. **[Amended during codification]**

MINIMIZE (NO SIGNIFICANT IMPACT) — To achieve the least amount of adverse impact that can be attained through siting or using best available measures or best practical measures, as deemed appropriate by the Commission.

NANTUCKET NOTICE OF INTENT (NNOI) — The written application filed by any person intending to alter an area subject to protection under the Nantucket Wetlands Bylaw, as described in Chapter 136, Wetlands, § 136-3C, of the Code of the Town of Nantucket.

NANTUCKET REQUEST FOR DETERMINATION OF APPLICABILITY (NRDA) — The written request filed by any person seeking the Commission's determination as to whether the Bylaw applies to any area or work thereon.

NORMAL MAINTENANCE – those acts that are usually necessary in order to prevent a decline, lapse or cessation of a lawfully established condition. It does not include additional placement of fill on, or excavation of, previously undisturbed soils or slopes; clearing, removal, or cutting of trees greater than four (4) inches in diameter at breast height, or a change in material of an existing structure or total replacement of a structure. Partial replacement of structures may be reviewed on a case by case basis.

NOTICE OF INTENT — The written notice filed by any person intending to alter an area subject to protection under the Massachusetts Wetlands Protection Act, MGL c. 131, § 40.

PERMIT — The document issued by the Commission containing conditions that regulate or prohibit an activity under the Bylaw.

PERSON — Includes any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the commonwealth or political subdivision thereof to the extent subject to Town bylaws, administrative agencies, public or quasi-public corporations or bodies, the Town of Nantucket and any other legal entity, its legal representatives, agents or assigns.

PERVIOUS SURFACE - A pervious surface is a surface that allows the percolation of water into the underlying soil. Pervious surfaces may include grass, mulched groundcover, and planted areas. . Pervious surfaces do not include any structure or building, any surface limits the covered lot surface from absorbing water, or any outdoor stairs, on-grade surface sports court, swimming pool, artificial turf, sidewalk or patio constructed of concrete, asphalt, brick, stone, compacted gravel or other material that impedes the infiltration of water directly into the subsurface of the lot. Pervious surfaces that are not properly maintained may become impervious surfaces as indicated by visible changes in drainage patterns, puddling and infiltration.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

PIER — Any structure, floating or fixed, attached or adjacent to land, and placed in or and extending into coastal inland waters (in the case of tidal waters, seaward of the mean high tide line), which is designed, or is suitable for use, for access to vessels, or for swimming or any other similar recreational, commercial, or educational purpose.

POLLUTION — Contamination of land, or surface water or groundwater with materials not normally present in those waters, or with elevated levels of naturally occurring materials.

POND, FRESH OR SALT — Any open body of water, either naturally occurring or man-made by impoundment, which is never without standing water due to natural causes except during periods of extended drought, and the land under the water body. Basins or lagoons which are part of wastewater treatment plants shall not be considered ponds, nor shall swimming pools, man-made water bodies that are not hydrologically connected to adjacent water bodies, groundwater (including perched groundwater), or other impervious man-made retention basins.

PRIVATE WATER SUPPLY — Any source or volume of surface water or groundwater to be in private use or demonstrated to have a potential for private use, including drinking water supply, irrigation, or for fire protection.

PROJECT — A proposal to do work or the performance of such work; an undertaking.

PUBLIC WATER SUPPLY — Any source or volume of surface water or groundwater

demonstrated to be in public use for drinking water or fire protection, or approved for water supply pursuant to MGL c. 111, § 160 by the Division of Water Supply of the DEP, or demonstrated to have a potential for public use as a drinking water supply or for fire protection.

RECREATION — Activities of individuals done for relaxation carried out in resource areas of the Bylaw, which include but are not limited to swimming, picnicking, walking, hunting, fishing, and boating. Preservation or expansion of unimpeded public access is needed to provide recreational opportunities to the public.

REMOVE — To take away any type of material, including vegetation, or thereby change an elevation, either temporarily or permanently.

RESILIENCY – The ability of communities and systems to withstand, recover from and adapt to shocks and stresses. See Coastal Resiliency.

RIVER — Any natural flowing body of water that empties to any ocean, lake, pond, or other river, and which flows throughout the year.

SEA LEVEL RISE- Sea level rise is an increase in the ocean's surface height relative to the land in a particular location. The thermal expansion of ocean water and melting polar ice are the primary causes of today's rising sea levels. Tide gauge records indicate that since 1963 Nantucket Harbor has experienced an average of 0.14 inches of sea level rise per year. The NOAA tide gauge for Nantucket is located on Steamboat Wharf and is one of only a few locations in Massachusetts with localized tracking of historic sea level rise. NOAA also notes that Nantucket is projected to experience higher levels of sea level rise than the global average, which is consistent with similar sea level rise projections provided by the Massachusetts Coastal Flood Risk Model (MC-FRM) produced by the Commonwealth of Massachusetts.

SHELLFISH — Aquatic mollusks and crustaceans: bay scallop (Argopecten irradians), blue mussel (Mytilus edulis), ocean quahog (Arctica islandica), American oyster (Crassostrea virginica), quahog (Mercenaria merceneria), razor clam (Ensis directus), surf clam (Spisola

soldissma), sea scallop (Placopecten magellamicus), soft-shell clam (Mya arenaria), lobster (Homarus americanus), and blue crabs (Callinectes sapidus), knobbed whelk (Busycon carica), waved whelk (Buccinum undatum), and channel whelk (Busycon canaliculatum). The term "shellfish" also shall include ~~horsehoe~~horseshoe crab (Limulus polyphemus).

SOIL TEMPERATURE — The temperature of the soil four inches below the surface grade as taken by a soil thermometer.

STORM DAMAGE PREVENTION — The prevention of damage caused by water from storms, including, but not limited to: erosion and sedimentation; damage to vegetation, property, or buildings; or damage caused by flooding, waterborne debris, or waterborne ice.

STREAM — A body of running water, and the land under the water, which includes brooks, creeks, and man-made watercourses, which moves in a defined channel or swale due to hydraulic gradient. A stream may be intermittent, that is, it does not flow throughout the year.

STRUCTURE — A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, platform, bin, radio antenna mast, or the like. The term "structure" may also be applied to appurtenances that are constructed primarily of impervious surfaces, such as but not limited to swimming pools, swimming pool equipment, dry-laid stone patios, recreational playing courts, roads, parking areas, parking lots, driveways, etc. Drainage basins, split-rail fences, septic tanks, subsurface propane tanks, and signs are not structures. The word "structure" shall be construed, where the context requires, as though followed by the words "or part or parts thereof."

STRUCTURE, COASTAL ENGINEERING — Any structure intended or constructed so as to prevent or alleviate storm damage, or modify tidal action, wave action, littoral flow, or erosion. Examples of these structure may include but are not limited to any bulkhead, revetment, seawall, rip-rap, groin, jetty, artificial seaweed, geotextile fabric, plastic or steel sheeting, multiple rows of fencing, or fencing using greater than 4-inches in width or diameter or other as determined by the Commission.

Commented [JC7]: NLC

SUBSTANTIALLY IMPROVED — Cumulative expansion or reduction of habitable space greater than 20%.

SWAMPS — Areas where depth to high groundwater is within 18 inches of the surface, and/or where runoff water from surface drainage frequently collects above the soil surface, and/or where soils exhibit hydric characteristics, and where a significant portion of the plant community is made up of, but not limited to nor necessarily including all, the following plants or groups of plants: alders (Alnus), ashes (Fraxinus), azaleas (Rhododendron canadense and R. viscosum), black alder (Ilex verticillata), button bush (Cephalanthus occidentalis), highbush blueberry (Vaccinium corymbosum), poison sumac (Toxicodendron vernix), red maple (Acer rubrum), sphagnum mosses (Sphagnum), black gum tupelo (Nyssa sylvatica), sweet pepper bush (Clethra alnifolia), willow (Salicaceae), and common reed (Phragmites communis).

SWIMMING POOL – means and includes every artificial pool of water used for swimming or bathing and its equipment used in connection with the pool. This includes any special purpose pool or residential pool designed for recreational and therapeutic use which is shallow in depth and not meant for swimming or diving. These pools are not drained, cleaned or refilled for each user. It may include, but not be limited to, hydro jet circulation, hot water, cold water mineral baths, air induction bubbles, or any combination thereof. Industry terminology for such a pool includes but is not limited to, therapeutic pool, hydrotherapy pool, whirlpool, hot spa, hot tubs,

float tanks, splash pool, plunge pool, lap pool, or any other water feature that holds over 100 gallons. See attached guidelines for operation of pools within the jurisdiction of the Commission.

WATER-DEPENDENT USES — Projects which require direct water access for their intended use and therefore cannot be located out of the area subject to protection under the Bylaw. Examples include, but are not limited to: docks, piers, boat landings, boathouses, marinas, stairs to beaches, and boardwalks over wetland vegetation. Projects which benefit from wetlands access but which do not require it are not water-dependent uses. Examples include: restaurants, dwellings, and commercial enterprises servicing marine-related uses, such as fish markets, repair facilities, ships' chandleries, and general use recreational trails.

WETLAND SCENIC VIEWS — Those areas which provide important visual linkage for the public with scenic wetlands that are vistas typical of and serve to define the unique Nantucket environment. Scenic wetlands include but are not limited to the following features: expansive open space, significant habitat areas, large areas of natural features, placement and sizing of both natural and man-made features, or mix of colors and textures created by interactions among water, sand, and different types of vegetation. Visual linkage for the public is not restricted to views from public ways, but also encompasses views from areas used by the public, such as private and public conservation land, dirt "moor" roads, major private ways intensively used by the public, great ponds, beaches, banks (eroding and noneroding, coastal and inland), Nantucket's harbors, and the ocean.

WILDLIFE — All non-domesticated mammals, birds, reptiles, amphibians, fishes, or invertebrates which are dependent upon a wetland resource defined by the Bylaw for any part of their life cycle. Special consideration shall only be given to members of the class Insecta if they are rare or endangered as defined by the Massachusetts Natural Heritage Program or its successor, or if they are a major food source for other wildlife, but not if the insect species is determined by the Commission and/or the Board of Health to constitute a pest whose protection under the Bylaw would be a health risk to humans at the proposed project site.

WORK — All activities set forth in the Bylaw, Chapter 136, Wetlands, § 136-3A, of the Code of the Town of Nantucket, including altering, removing, filling, dredging, or building upon.

§ 390-3. Proccdures.

A. Where the Bylaw states that the Commission is to receive a request or notice, such request or notice shall be given in writing to the Commission office, or in the case of emergency, the request can be made directly to the Commission's Chairperson.

B. Nantucket notice of intent (NNOI).

(1) Any person who proposes to remove, fill, dredge, alter, or build upon any area subject to protection under the Bylaw, or within 25 feet or 50 feet of any area subject to protection (as deemed necessary), shall submit a Nantucket notice of intent (NNOI) and other application materials in accordance with the submittal requirements set forth on the NNOI form. Such submission shall not be required for use and normal maintenance as defined under "grandfathering/preexisting use" in § 390-2, Definitions, above.

(2) The Commission may accept plans filed with a notice of intent under the Wetlands Protection Act, MGL c. 131, § 40, as plans under the Bylaw. The NNOI shall be filed concurrently with a notice of intent under the Wetlands Protection Act. This provision shall also apply to any amended order of conditions request, abbreviated notice of resource area delineation or request for determination of applicability.

(3) When a person filing an application is other than the owner, the findings and decision of the Commission shall be sent by the Commission to the owner as well as to the person filing the application, and the applicant shall supply the Commission with the name and current address of the owner.

(4) The Commission shall give the NNOI the same file number as the accompanying notice of intent from the DEP when joint filings under MGL c. 131, § 40 (the State Wetlands Protection Act) and Chapter 136, Wetlands, of the Code of the Town of Nantucket are made. The Commission shall follow this provision to include amended orders of conditions, abbreviated notices of resource area delineation and requests for determination of applicability. When a filing is only required under the provisions of the Town of Nantucket Wetlands Protection Bylaw, a separate bylaw file number will be assigned.

(5) In the event that only part of the work proposed lies within an area subject to protection under the Bylaw, all aspects of the work shall be briefly described on the NNOI form. Only those work components that lie within areas subject to jurisdiction shall be conditioned.

C. Public hearings by Conservation Commission.

(1) The Commission in an appropriate case may combine its hearing under the Bylaw with the hearing conducted under the Wetlands Protection Act, MGL c. 131, § 40.

(2) When a person filing a NNOI is not the owner, notice of the time and place of a hearing shall be given to the owner, by the Commission, at the address supplied to the Commission by the applicant.

(3) Any changes in the plans or the proposed work made by the applicant during the course of the public hearings shall be made in writing and shall be filed by the applicant with the Commission. Such changes must be filed prior to the close of the public hearing on that NNOI, unless otherwise specified by the Commission during a public hearing.

D. Extensions of permits.

(1) The Commission may extend a permit as provided by Chapter 136, Wetlands, § 136-4B, of the Code of the Town of Nantucket.

(2) All requests for an extension shall be in writing.

(3) The Commission shall not deny a request for an extension unless it finds by a preponderance of the evidence any one of the following:

(a) No work has begun on the project; unless the failure to begin work is due to an unavoidable delay in obtaining other necessary state or municipal approvals, permits, or variances, such as in the event other approvals, permits, or variances are appealed;

(b) New information, not available at the time the permit was issued, indicates that the permit is not adequate to protect the interests identified in the Bylaw;

(c) Incomplete work is causing damage to the interests identified in the Bylaw;

(d) Work has been done in violation of the Bylaw, these regulations, or conditions in the permit; or

(e) The extension request is not timely. An extension request shall be timely if received by the Commission a minimum of 30 days prior to the expiration of the permit.

(4) If issued, an extension permit shall be signed by a majority of the Commission.

E. Nantucket certificates of compliance.

(1) Upon written request by the applicant, a Nantucket certificate of compliance may be issued by the Commission, which shall certify that the conditions required by the permit as of the date of the application for a Nantucket certificate of compliance have been completed in compliance with the permit. If issued by the Commission, the certificate of compliance shall be signed by a majority of the Commission.

(2) If a project has been completed in accordance with plans stamped by a registered professional engineer, architect, landscape architect, or land surveyor, a written statement by such a professional person certifying substantial compliance with the plans and setting forth any deviation that exists from the plans approved in the order shall accompany the request for a certificate of compliance. The required as-built plan shall show all wetland areas, buffer zones, topography, other landscape features relevant to the project and any differences to the approved project.

(3) Prior to the issuance of a certificate of compliance, the Commission may make a site visit, in the presence of the applicant or, if the applicant so desires, in the presence of the applicant's agent.

(4) Partial certificates of compliance will not be issued by the Commission, except for rare and extenuating circumstances. The burden of proof to substantiate these circumstances shall be with the applicant.

F. Minor activities

Certain projects may involve minimal activity and/or alteration within Resource Area Buffer Zone or any work with the Great Pond Area. The Commission may consider such projects, as defined below, to be minor in nature and is of opinion that requiring review under an RDA or an NOI would be unnecessary. Considering the Conservation Commission designee shall have the authority to review applications for minor activities and further issue Minor Project Permits for projects that meet the standards defined herein.

1. Applicability: Minor projects are defined as those that occur outside of the 50' setback but inside the 100' buffer zone or within the Great Pond Area.

2. Minor Activities: Minor activities include but are not limited to:

a. Unpaved pedestrian walkways;

b. Split-rail fencing so long as it does not constitute a barrier to wildlife movement.

c. Viewshed management within the adopted viewshed management guidelines

d. Planting of native trees, shrubs, or groundcover, but does not include turf lawns.

e. Conversion of impervious surface to natural vegetation.

Formatted: Left, Indent: Left: 0.77", No bullets or numbering

Formatted: Left, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.77" + Indent at: 1.02"

Formatted: Left, Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.27" + Indent at: 1.52"

f. Removal of dead or dying trees or pruning of live trees that pose a hazard to structures or public safety as determined by a certified arborist.

g. Benches installed for public use.

~~F~~G. Waivers of requirements.

(1) All requests for waivers shall be in writing.

(2) The Commission may, in its discretion, for good cause shown, grant waivers from the operation of one or more of these regulations pursuant to this subsection. Such waivers shall be granted only in accordance with the provisions of this subsection.

(3) A waiver shall be granted only for the following reasons and upon the following conditions:

(a) The Commission may grant a waiver from these regulations when the Commission finds that, given existing conditions, the proposed project will not adversely impact the interests identified in the Bylaw and there are no reasonable conditions or alternatives that would allow that project to proceed in compliance with the regulations. The burden of proof to show no adverse impact to the interests identified in the Bylaw, Chapter 136, Wetlands, § 136-2, of the Code of the Town of Nantucket, shall be the responsibility of the owner/applicant. The burden of proof to show no reasonable alternative shall be the responsibility of the owner/applicant and

shall consist of a written alternatives analysis detailing why the proposed project cannot otherwise proceed in compliance with the performance standards in these regulations, with an explanation of why each is not feasible. It shall be the responsibility of the applicant to provide the Commission with any information which the Commission may request in order to enable the Commission to ascertain such adverse effects. The failure of the applicant to furnish any information which has been so requested may result in the denial of a request for a waiver pursuant to this subsection.

(b) The Commission may grant a waiver from these regulations when portions of the buffer zone between the proposed project and adjacent resource area are previously altered and are not within the control of the project owner/ applicant, such as public or semi-public pedestrian and vehicular accessways.

(c) The Commission may grant a waiver from these regulations when the Commission finds that a project will provide a long-term net benefit/ improvement to the resource area, provided any adverse effects are minimized by carefully considered conditions. However, no such project may be permitted which could have an adverse effect on rare wildlife species.

(d) The Commission shall grant a waiver from these regulations when the work proposed is grandfathered and qualifies as a preexisting use, as defined in § 390-2 of these regulations.

(e) The Commission may grant a waiver from these regulations when the project as proposed provides a significant public benefit and adverse impacts are minimized by project design or conditions imposed by the Commission.

(4) The Commission may impose additional conditions in granting a permit pursuant to this section, including imposing limits on project size or effect or requiring other compensatory measures, such as wetland replication.

~~G.~~H. Fees.

(1) Fees for the following, set from time to time by the Conservation Commission and payable to the Town of Nantucket, must be paid under the provisions of the Bylaw (and in addition to the fees required by MGL c. 131, § 40) before the pertinent application can be accepted by the Commission. **[Amended during codification]**

(a) Request for dDetermination of aApplicability.

(b) Notice of iIntent.

(c) Certificate of eCompliance.

(d) Extension permit.

(e) Minor modification/Plan change.

(f) Amended Oorder of eConditions.

Formatted: Not Expanded by / Condensed by

~~(f)~~(g) Minor activity permit

(2) When the Town, ~~or~~ County of Nantucket, or Nantucket Islands Land Bank is the applicant, the fee will be waived.

H. Recording of documents. The following documents issued by the Commission are required to be properly recorded in the Registry of Deeds or the Land Court, within the chain of title of the affected property:

(1) Order of conditions.

(2) Amended order of conditions.

(3) Extension permit.

(4) Certificate of compliance.

I. Additional information.

(1) Additional information to be provided with filings.

(a) In addition to information already required by the Commonwealth of Massachusetts, the following information is required with each notice of intent filed with the Commission:

[1] ~~Two~~One paper sets and one electronic set of notices of intent with all supportive plan, maps, and documents.

[2] Filing costs as separate checks for:

[a] Town share of state filing fee.

[b] Town Bylaw fee.

[c] Advertising fee.

[d] Cost and expense of technical consultants.

[3] Supportive plans, maps and documents shall include, at a minimum:

[a] DEP wetland delineation forms for all vegetated wetland resource areas (two completed forms required to show boundary, one wetland and one upland).

[b] Locus map.

[c] Project plans shall include:

[i] Assessor's reference numbers.

[ii] Book and page number of deed or certificate of title number.

[iii] Current certificate of title or deed.

[iv] Appropriate FEMA floodplain reference.

[v] Erosion control measures for proposed site work.

[vi] Work limit line.

[vii] USDA/NRCS soils map information.

[viii] All wetland and/or habitat restriction information.

[ix] All wetland flagging location numbers placed in field for resource delineation.

[x] Fifty-foot and one-hundred-foot setbacks from all wetland resource areas

[xi] Two-foot interval contours based on mean sea level.

[xii] Appropriate professional stamp and signature (engineer, land surveyor, architect, sanitarian, etc.).

[xiii] All other necessary information to describe proposed project, including standard plan requirements for title block, scale, direction, etc.

[4] Additional information will be required as deemed necessary on a project -specific basis in accordance with the general filing requirements established by the Commission for notices of intent revised June 15, 1994.

(b) In addition to information already required by the Commonwealth of Massachusetts, the following information is required with each request for a determination of applicability filed with the Commission:

[1] One paper set and one electronic set of application materials ~~Two sets of RDA~~ with all supportive plans, maps and documents.

[2] Filing costs as separate checks for:

[a] Town Bylaw fee.

[b] Advertising fee.

[c] Cost and expense of technical consultants.

[3] Supportive plans, maps and documents shall include, as a minimum.

[a] DEP wetland delineation forms for all vegetated wetland resource areas.

[b] Nantucket Assessor's reference numbers.

[c] Locus map.

[d] Project plans and/or narrative with sufficient information to evaluate wetland resource and buffer zone impact. (Upon staff review of filing, additional project-specific information may be required.)

(2) Additional Information to be provided before field viewings.

(a) On-site requirements to be in place before the field inspection:

[1] DEP wetland delineation forms filed for all vegetated wetland resource areas present on or affecting the project site.

[2] Edges of wetland resource areas within 100 feet of proposed work must be flagged and numbered before the field inspection.

[3] Corners of proposed structures must be staked (flagged) and clearly labeled before field inspection.

[4] Property boundaries must be staked before field inspection.

[5] A project representative should be present for field inspection.

(b) Failure to have the lot properly staked may result in non-review.

(c) Action on a project by the Commission indicates that the above filing requirements have been met.

§ 390-4. Severability.

The invalidity of any section of these regulations shall not invalidate any other section or provision, nor shall it invalidate any permit or determination which previously has been issued.

§ 390-5. When effective; applicability.

The effective date of these regulations shall be the date on which these regulations are approved by vote of the Conservation Commission. These regulations shall apply to all NNOI or NRDA's filed after that date.

ARTICLE II
Regulations for Coastal Wetlands

§ 390-6. Land under ocean.

A. Characteristics and protected interests.

(1) The Commission finds that regulations applicable to activities involving land under the ocean are necessary and proper for the following reasons: Land under the ocean provides feeding areas, spawning and nursery grounds, and shelter for many coastal organisms related to marine fisheries and wildlife. Destruction of eelgrass beds (Zostera marina) will harm scallop production. Eelgrass beds also buffer against climate change by sequestering carbon and diminishing wave energy during storms. Nearshore areas, and in some cases offshore areas, of land under the ocean help reduce storm damage, erosion, and flooding by diminishing and buffering the high-energy effects of storms. Submerged sand bars dissipate wave energy. Such areas provide a source of sediment for seasonal rebuilding of coastal beaches and dunes. The bottom topography and sediment type of nearshore areas of land under the ocean are critical to erosion control, storm damage protection, and flood control and resiliency. Water circulation and flushing rates, distribution of grain size, water quality (including but not limited to turbidity, temperature, nutrients, pollutants, salinity, and dissolved oxygen), and the habitat of wildlife, finfish, and shellfish are all factors critical to the protection of significant

wildlife habitat and marine fin and shell

fisheries. Land under the ocean in an unobstructed state is important to recreational swimming, fishing, and shellfishing, to recreational boating and sailing, to commercial fishing and shellfishing, and to wetland scenic views.

2. Disturbance to benthic habitats have been shown to impact the following interests of the Wetlands Protection Act:

Protection of Wildlife Habitat

Protection of Marine Fisheries (particularly juvenile Cod and other species)

Protection of Land Containing Shellfish

Storm Damage Prevention

The maintenance of the productive benthic habitats not only assures the continuance of the habitats themselves, but also plays a direct role in supporting fish and shellfish stocks by providing a major food source. The young shellfish in the planktonic larval stage that are produced in large quantities during spring and summer are an important source of food for the young stages of marine fishes and many crustaceans. When a resource area is found to be significant to the protection of land containing shellfish under 310 CMR 10.34(3), and is also significant to marine fisheries, the following factors are critical to the protection of those interests:

(a) shellfish,

(b) water quality,

(c) water circulation, and

(d) the natural relief, evaluation or distribution of sediment grain size of such land.

Under 310 CMR 10.25, the jurisdiction of the Conservation Commission extends into the Nearshore Areas of Land under the Ocean, extending seaward to a point where the land is at a depth of 40 feet below the level of the ocean at mean low water in Cape Cod Bay, and to a depth of 80 feet below mean low water in all other areas.

Under 310 CMR 34(4), "any [activity on] land containing shellfish shall not adversely affect such land or marine fisheries by a change in the productivity of such land caused by:

(a) alterations of water circulation,

(b) alterations in relief elevation,

(c) the compacting of sediment by vehicular traffic,

(d) alterations in the distribution of sediment grain size,

(e) alterations in natural drainage from adjacent land, or changes in water quality, including, but not limited to, other than natural fluctuations in the level of salinity, dissolved oxygen, nutrients, temperature or turbidity, or the addition of pollutants.

No activity may adversely affect land containing shellfish in the following manner:

(a) The turbulence generated by hydraulic dredging significantly increases turbidity levels. High turbidity levels attenuate light, which is necessary for photosynthetic

process responsible for the primary productivity and oxygen regeneration of the water.

(b) The suspended sediments settle on shellfish beds, smothering existing shellfish and altering the quality of the benthic environment essential for spat (mollusk larvae) settlement.

(c) Resuspension of bottom sediments causes redistribution of sediments, alteration in sediment grain size distribution and causes changes in bottom topography relief, elevation and grade, including the creation of depressions in the bottom. Settlement of sediments into depressions can create deep pockets of highly fluid like sediment which may not be able to physically support shellfish or which can become anoxic and therefore not support shellfish.

(d) Disturbance of sediments during the period of shellfish larval settlement hinders or prevents the effective settlement of shellfish larvae. Hydraulic dredging has also been shown to adversely impact the interest of storm damage prevention, by uprooting vegetation and undermining the stability of land under the ocean. The underwater "terrace" contours of the trenches created by hydraulic dredging contributes to erosion of the adjacent beach, coastal dunes and banks during storm events.

~~(2)~~(3)In view of the foregoing, whenever a proposed project involves removing, filling, dredging, altering or building upon land under the ocean, the Commission shall find that such land is significant to the protection of the following interests: flood control, erosion control, storm damage prevention, fisheries, shellfish, wildlife, significant wildlife habitat, recreation, resiliency and wetland scenic views. These findings may be overcome only upon a clear showing that the land under the ocean does not play a role in protecting any of the interests given above and only upon a specific written determination to that effect by the Commission.

B. Performance standards. Land under the ocean shall be presumed significant to an interest protected by the Bylaw as referenced in Subsection A; therefore, the following regulations apply:

(1) Dredging shall be designed and carried out using the best available measures as determined by the Commission so as to have the least possible adverse effects or changes in marine productivity caused by changes in, or resulting from suspension or transport of pollutants, sediment transport, smothering of bottom organisms, accumulation of pollutants by organisms, destruction of habitat or nutrient source areas, or changes in water circulation and water quality.

(2) All dredging shall use best available measures to minimize adverse effects caused by changes in bottom topography resulting in an increase in height and velocity of waves hitting the shore, localized changes in circulation patterns or in changes in sediment transport which affect natural replenishment of beaches or maintenance of channels.

(3) Residential piers shall be constructed so as not to change shoreline movement of sediment, harm shellfish resources, obstruct commercial shellfishing, or obstruct the reserved public rights of fishing, fowling, navigation, or passage. Residential piers shall be constructed so as to withstand projected sea level rise and associated impacts based on the best available scientific data and modeling during the cradle-to-grave

Formatted: Indent: Left: 1.02"

Formatted: Right, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 3 + Alignment: Left + Aligned at: 0.77" + Indent at: 1.14"

life of the structure. Residential piers shall not displace public moorings without written approval from the Harbormaster. No solid-fill piers shall be permitted.

(4) Construction of commercial piers shall be in compliance with Chapter 139, Zoning, of the Code of the Town of Nantucket and shall not affect sediment transport, and shall not destroy or pollute fisheries and shellfish habitat or nutrient source areas for those resources. Commercial piers shall be constructed so as to withstand projected sea level rise and associated impacts based on the best available scientific data and modeling during the cradle-to-grave life of the structure. No solid-fill piers or new residential piers shall be permitted.

Commented [JC8]: NLC and staff

~~(3) Residential piers shall be constructed so as not to change shoreline movement of sediment, harm shellfish resources, obstruct commercial shellfishing, or obstruct the reserved public rights of fishing, fowling, navigation, or passage. Residential piers shall not displace public moorings without written approval from the Harbormaster. No solid-fill piers shall be permitted.~~

~~(4) Construction of commercial piers shall be in compliance with Chapter 139, Zoning, of the Code of the Town of Nantucket and shall not affect sediment transport, and shall not destroy or pollute fisheries and shellfish habitat or nutrient source areas for those resources. No solid-fill piers shall be permitted.~~

(5) Best available measures, as determined by the Commission, shall be used to minimize adverse effects of a commercial or residential pier on the interests protected by the Bylaw.

(6) Aquaculture projects shall be undertaken pursuant to such means as may be established by the Commission so as to have the least possible adverse effect on wildlife, erosion control, storm damage prevention, flood control, recreation, resiliency or public access. No destruction of habitat or areas where shellfish feed, or change in water quality or circulation in any manner which adversely affects productivity of marine fisheries or shellfish beds shall be permitted.

(7) No new bulkheads, groins or coastal engineering structures shall be permitted to protect structures constructed or substantially improved after August 1978. Bulkheads may be rebuilt only if the Commission determines there is no environmentally better way to control an erosion problem, ~~including, in appropriate cases, the moving of the threatened building~~. An alternatives analysis must examine living shorelines or in appropriate cases the moving of the threatened building. If either of these methods is feasible then the bulkhead or groin may not be rebuilt. Other coastal engineering structures may be permitted only upon a clear showing that no other alternative exists to protect a structure built prior to September 1978, but not substantially improved, from imminent danger. The use of any or all forms of coastal engineering structures requires an appropriate annual mitigation plan and implementation to ensure no adverse impacts as set forth by the Commission. Mitigation shall reflect current and future needs to ensure no adverse impacts.

Commented [JC9]: NLC

(8) Water-dependent projects shall be designed and performed so as to cause no adverse effects on wildlife, erosion control, marine fisheries, shellfish beds, storm damage prevention, flood control, recreation, resiliency and aquatic vegetation.

(9) No activity that disturbs benthic habitats shall occur within the waters under the jurisdiction of the Nantucket Conservation Commission without a proper filing before the Conservation Commission.

Formatted

(10) Taking of shellfish or finfish by mechanical means including but not limited to trawls, drags, rakes and hydraulic gear with the assistance of machinery is prohibited within Nantucket waters. This does not include the use of bay scallop dredges, manual rakes or other hand operated devices for the collection of shellfish or baitfish with or without the use of scuba gear.

Formatted: Indent: Left: 0.77", No bullets or numbering

~~(8)~~

~~(9)~~(10) No activity on land under the ocean which is not water-dependent shall be permitted by the Commission, except activity allowed pursuant to a waiver from these regulations, as set forth in § 390-3F.

Formatted: Right, Indent: Left: 1.14", No bullets or numbering

~~(10)~~(11) The Commission may impose such additional requirements as are necessary to protect the interests protected by the Bylaw.

§ 390-7. Coastal beaches (and tidal flats).

A. Characteristics and protected interests.

(1) The Commission finds that regulations applicable to activities involving coastal beaches and tidal flats are necessary and proper for the following reasons: Coastal beaches and tidal flats aid in storm damage prevention, erosion and flood control; and coastal resilience in buffering inland areas from climate change impacts including but not limited to sea-level rise and increased storm frequency; serve as a source of sediment for downdrift coastal resource areas; serve to provide wildlife habitat to rare, endangered, and otherwise significant wildlife; serve to protect and provide habitat for marine fisheries and shellfish; and serve to provide important wetland scenic views and recreation. Coastal beaches dissipate wave energy by

Commented [JC10]: NLC

their gentle slope, their permeability, and their granular nature, which permit changes in beach form in response to changes in wave conditions. Coastal beaches serve as a sediment source for dunes and subtidal areas. Steep storm waves cause beach sediment to move offshore, resulting in a gentler beach slope and greater energy dissipation. Less steep waves cause an onshore return of beach sediment, where it will be available to provide protection against future storm waves. A coastal beach at any point serves as a sediment source for coastal areas downdrift from that point. The oblique approach of waves moves beach sediment alongshore in the general direction of wave action. Thus, the coastal beach is a body of sediment which is moving along the shore. Coastal beaches serve the purpose of storm damage prevention, erosion control, and flood control by dissipating wave energy, by reducing the height of storm waves, and by providing sediment to supply other coastal features, including coastal dunes, land under the ocean, and other coastal beaches. As relative sea level continues to rise, and possibly accelerate as predicted, it is important to provide source material to allow these inter-tidal and sub-tidal areas to vertically accrete and continue to reduce storm damage, increase flood control, protection of land containing shellfish, and protection of wildlife habitat. Interruptions of these natural processes by man-made structures and/or activities reduce the ability of the coastal beach to perform these functions. Tidal flats are important to the protection of marine fisheries because they provide habitats for marine organisms, such as polychaete worms and mollusks, which in turn are food sources for fish. Tidal flats are also sites where organic and inorganic materials are entrapped and

Commented [JC11]: NLC

then returned to the photosynthetic zone of the water column to support algae and other primary producers of the marine food web. Coastal beaches and flats serve as important habitats for a wide variety of wildlife, including but not limited to coastal birds, turtles, shellfish and finfish. In particular, they are used by coastal birds for feeding areas and nesting sites. The natural erosional and depositional cycles, sediment grain size, water quality (including but not limited to turbidity, temperature, nutrients, pollutants, salinity, and dissolved oxygen) and circulation, and elevation of the land surface are all features of wildlife habitat which are critical characteristics for the protection of wildlife. Characteristics of coastal beaches and flats which are critical to the protection of marine fisheries, and shellfish and their habitat include: distribution of sediment grain size, movement of sediment, water quality (including the characteristics given above) and circulation, and beach relief and elevation. Characteristics of coastal beaches and flats which are critical to storm damage prevention, erosion control, or flood control and coastal resilience include sediment volume and form, their ability to respond to wave action, natural erosional and depositional cycles, and wave intensities. Characteristics of coastal beaches and flats which are critical to recreation are topography, sediment grain size, water quality (including the characteristics given above), water circulation rates and patterns, unobstructed access along shore, natural erosional and depositional cycles, and wave intensity. Characteristics of coastal beaches which are critical to wetland scenic views are natural erosion and deposition cycles, relief and elevation, sense of openness, and solitude. Land within 100 feet of a coastal beach or tidal flat is considered to be important to the protection and maintenance of coastal beaches and tidal flats, and therefore to the protection of the wetland values which these areas contain.

(2) In view of the foregoing, whenever a proposed project involves removing, filling, dredging, altering, or building upon a coastal beach or flat, the Commission shall find that the beach or flat is significant to the protection of the following interests: flood control, erosion control, storm damage prevention, fisheries, shellfish, wildlife, recreation, resiliency and wetland scenic views. These findings may be overcome only upon a clear showing that the beach or flat does not play a role in protecting any of the interests given above and upon only a specific written determination to that effect by the Commission.

B. Performance standards. A coastal beach, tidal flat or land within 100 feet of a coastal beach or tidal flat shall be presumed significant to the interests protected by the Bylaw, as referenced in Subsection A; therefore, the following regulations shall apply:

(1) The provisions of § 390-6B(1) through (8) (regarding land under the ocean) shall apply to coastal beaches and tidal flats.

(2) No new bulkheads, groins or coastal engineering structures shall be permitted to protect structures constructed, or substantially improved, after August 1978. Bulkheads may be rebuilt only if the Commission determines there is no environmentally better way to control an erosion problem. An alternatives analysis must examine living shorelines or in appropriate cases the moving of the threatened building. If either of these methods is feasible than the bulkhead or groin may not be rebuilt, ~~including, in appropriate cases, the moving of the threatened building.~~ Other coastal engineering structures may be permitted only upon a clear showing that no other alternative exists to protect a structure built

prior to September 1978, and not substantially improved, from imminent danger.

The use of any and all forms of coastal engineering structures requires an appropriate annual mitigation plan and implementation to ensure no adverse impacts as set forth by the Commission. Mitigation shall reflect current and future needs to ensure no adverse impacts to the littoral system or adjacent coastal beach and/or coastal dunes.

Commented [JC12]: NLC

(3) Dredging projects in flats must be done in accordance with such procedures as the Commission determines would disturb the absolute minimum amount of habitat possible for both the borrow site and the area in which spoils are placed.

(4) Clean fill of compatible grain size may be used on a coastal beach but not on a tidal flat, only if the Commission authorizes its use, and only if such fill is to be used for a beach or dune nourishment project. All possible mitigation measures shall be taken, as determined by the Commission, to limit the adverse effects of the fill.

(5) No part of any septic system shall be placed in shifting sands or on a coastal beach. The septic leach facility shall be at least 100 feet from the spring high tide line.

(6) All work on projects which are not water-dependent shall maintain at least a twenty-five-foot natural undisturbed area adjacent to a coastal beach. All structures which are not water-dependent shall be at least 50 feet from a coastal beach.

(7) In areas of eroding shoreline, the distance from all buildings to the coastal beach shall be at least 20 times the average annual shoreline erosion or 100 feet, whichever is ~~less~~ greater. The average annual shoreline erosion rate shall be determined by averaging the annual erosion rate over a one-hundred-fifty-year period ending the date the NNOI was filed or, if no NNOI was filed, the date construction began. If erosion data are not available for the one-hundred-fifty-year period, the Commission shall determine the average annual erosion rate from such lesser time period for which erosion data is available. A second annual average annual shoreline erosion rate shall be determined by averaging the annual erosion rate over a 10 year period ending the date the NOI was filed, or if no NOI was filed, the date construction began to determine if erosion has accelerated. If erosion has accelerated over the contemporary time period, the higher erosion rate shall be used to determine mitigation requirements for the application. In cases where documentation can be provided to show that the use of the 10- or one-hundred-fifty-year period is inappropriate to existing shoreline characteristics and trends, alternate shoreline change rates may be used when based on a preponderance of credible evidence.

~~(7) In cases where documentation can be provided to show that the use of the one-hundred-fifty-year period is inappropriate to existing shoreline characteristics and trends, alternate shoreline change rates may be used when based on a preponderance of credible evidence.~~

(8) Vehicular access for existing houses or for recreational use shall be as unpaved ways and shall be done in accordance with such procedures as the Commission determines will minimize any adverse effect on the beach and the interests of the Bylaw.

(9) Fertilizers shall be used in accordance with the Best Management Practices for Landscape Fertilizer Use on Nantucket Island (a copy of which is attached to these regulations as Appendix A[1]).

(10) The Commission may impose such additional requirements as are necessary to~~o~~

Formatted: Right, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 7 + Alignment: Left + Aligned at: 0.77" + Indent at: 1.14"

Commented [JC13]: NLC

Commented [JC14]: NLC

Formatted: Right, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 8 + Alignment: Left + Aligned at: 0.77" + Indent at: 1.14"

protect the interests protected by the Bylaw.

§ 390-8. Coastal dunes.

A. Characteristics and protected interests.

(1) The Commission finds that regulations applicable to activities involving coastal dunes are necessary and proper for the following reasons: Coastal dunes,

1. Editor's Note: Appendix A is included as an attachment to this chapter.

including coastal dune fields, aid in storm damage prevention, erosion and flood control; protect land in coastal areas from storm damage and flooding; serve as a sediment source for beach and intertidal areas; serve to provide wildlife habitat to rare, endangered, and otherwise significant wildlife; and serve to provide important wetland scenic views and recreation. Coastal dunes aid in storm damage prevention, erosion control, and flood control by supplying sand to coastal beaches. Coastal dunes do not significantly inhibit transport of pollutants into groundwater. Coastal dunes protect inland coastal areas from storm damage and flooding by storm waves and elevated sea levels because such dunes are higher than the coastal beaches which they border. Vegetated cover contributes to the growth and stability of coastal dunes by providing conditions favorable to sand deposition. On retreating shorelines, the ability of coastal dunes bordering a coastal beach to move landward at a rate of shoreline retreat allows these dunes to maintain their form and volume. Characteristics of coastal dunes which are critical for storm damage prevention, flood control, and erosion control include: ability of the dune to erode and change in response to coastal beach conditions; dune volume, sediment grain size, and slope; dune form, which can change with wind and natural water flow; amount, continuity, and density of vegetative cover; wildlife habitat and ability of a dune to move landward and laterally. Coastal dunes are important habitats for a wide variety of wildlife, particularly turtles and birds for feeding and nesting areas. The amount of vegetation, dune height and slope, sediment grain size, and degree of isolation from human-caused disturbances are all features of dunes which are critical characteristics for the protection of wildlife. Characteristics of coastal dunes which are critical to wetland scenic views are dune form, slope, elevation, size of dunefield, proportion and scale of dunes in relationship with other land forms. Land within 100 feet of a coastal dune is considered to be significant to the protection and maintenance of coastal dunes, and therefore to the protection of the wetland values which these areas contain.

(2) In view of the foregoing, whenever a proposed project involves removing, filling, dredging, altering or building upon a coastal dune, the Commission shall find that the dune is significant to the protection of the following interests: flood control, erosion control, storm damage prevention, prevention of pollution, resiliency wildlife, and wetland scenic views. These findings may be overcome only upon a clear showing that the dune does not play a role in protecting any of the interests given above and only upon a specific written determination to that effect by the Commission.

B. Performance standards. A coastal dune, coastal dune field, or land within 100 feet of a coastal dune or coastal dune field shall be presumed significant to the interests protected by the Bylaw as referenced in Subsection A; therefore, the following regulations shall apply:

(1) No coastal revetments or coastal engineering structures of any type shall be constructed, rebuilt, or repaired.

(2) All projects which are not water-dependent shall maintain at least a twenty-five-foot natural undisturbed area adjacent to a coastal dune. All structures which are not water-dependant shall be at least 50 feet from a coastal dune.

(3) No excavation or disturbance of vegetative cover shall be allowed on a coastal dune unless the area is completely restored, replanted, and stabilized to its original form and volume.

(4) Fill may be used only if the Commission authorizes its use and only if such fill is to be used for beach and dune nourishment projects.

(5) No part of any septic system shall be placed in shifting sands or on or in a coastal dune. The septic leach facility shall be at least 100 feet from the upland edge of a coastal dune or coastal dune field.

(6) Any activity allowed on a coastal dune or within 100 feet of a dune shall be restricted to such activity that is determined by the Commission not to have any adverse effect on the dune by altering the ability of wind or waves to remove sand from or deposit sand on a dune; by disturbing vegetative cover in a manner sufficient to destabilize the dune; by causing any modification of the dune form and slope which would increase the potential for erosion, storm or flood damage; by interfering with landward or lateral movement of the dune; or by causing the rate of sand removal to increase through man-made means or structures.

(7) No activity shall be permitted, other than the maintenance and repair of a structure existing on the effective date of these regulations, that will result in construction of a building upon a coastal dune or within 50 feet of any coastal dune.

(8) Any pedestrian or elevated walkway must be designed as determined by the Commission so as to minimize disturbances of vegetative cover.

(9) Fertilizers shall be used in accordance with the Best Management Practices for Landscape Fertilizer Use on Nantucket Island" (a copy of which is attached to these regulations as Appendix A[2]).

(10) Vehicular access for existing homes or recreational use shall be as unpaved ways and shall be done in accordance with such procedures as the Commission determines will minimize any adverse effect on the dune and the interests of the Bylaw.

(11) The Commission may impose such additional requirements as are necessary to protect the interests protected by the Bylaw.

§ 390-9. Barrier beaches.

A. Characteristics and protected interests.

(1) The Commission finds that regulations applicable to activities involving barrier beaches are necessary and proper for the following reasons: Barrier beaches are composed of tidal flats, beaches, and dunes. As such, barrier beaches perform the same functions and are critical to the same interests as referenced in § 390-7 and § 390-8 of these regulations and therefore these provisions shall also apply to

2. **Editor's Note: Appendix A is included as an attachment to this chapter.**

barrier beaches. Barrier beaches protect landward areas from flooding and erosion because they provide a buffer to storm waves and to sea levels elevated by storms. Barrier beaches protect from wave action such highly productive areas as dunes, tidal flats, salt marshes, estuaries, lagoons, harbors, salt ponds, and freshwater marshes and ponds, which are in turn important to fisheries, shellfish and wildlife habitat. Barrier beaches are maintained by the alongshore movement of beach sediment caused by wave action. The coastal dunes, beaches, and tidal flats of a barrier beach are made up of sediment supplied by wind action, storm wave overwash, and tidal inlet deposition. Barrier beaches in Massachusetts undergo a landward or alongshore migration caused by the landward and alongshore movement of sediment by wind, storm waves, and tidal current processes. The continuation of these processes maintains the volume of the landform which is necessary to carry out its storm and flood buffer functions. The ability of barrier beaches to respond to wave action, including storm overwash sediment transport, is critical to the protection of wetlands values of barrier beaches.

(2) In view of the foregoing, whenever a proposed project involves removing, filling, dredging, altering or building upon a barrier beach, the Commission shall find that the barrier beach is significant to the protection of the following interests: flood control, erosion control, resiliency, water pollution, storm damage prevention, fisheries, shellfish, wildlife habitat, recreation, and wetland scenic views. Barrier beaches shall be found significant to private water supply and groundwater if there are existing houses with wells on or near the barrier beach or if the barrier beach abuts, creates, or protects a swamp, freshwater marsh, or pond. These findings may be overcome only upon a clear showing that the barrier beach does not play a role in protecting any of these interests given above and only upon specific written determination to that effect by the Commission.

B. Performance standards. A barrier beach or land within 100 feet of a barrier beach shall be presumed significant to the interests protected by the Bylaw as referenced in Subsection A; therefore, the following regulations shall apply:

(1) No coastal revetments or coastal engineering structures of any type shall be constructed, rebuilt, or repaired.

(2) Fill may be used only if the Commission authorizes its use and only if such fill is to be used for beach or dune nourishment projects.

(3) No septic system or buildings shall be constructed on a barrier beach. Buildings which pre-exist these regulations may be maintained and repaired. Existing septic systems may be maintained, repaired and upgraded to the best available measures. No expansion of septic systems shall be permitted. **[Amended during codification]**

(4) Excavation of sand around existing houses may be permitted, but no new projects shall be permitted which will require periodic sand removal for maintenance. All disturbed areas (including blowouts) shall be stabilized through planting of vegetation. The evacuated sand must be retained in the area and be part of the barrier beach.

(5) Vehicular access for existing houses or for recreational use shall be unpaved roads and shall be done in accordance with such procedures as the Commission determines will minimize any adverse effect on the barrier beach.

(6) No excavation or disturbance of vegetation shall be permitted on a barrier beach unless the area is completely restored, replanted, and stabilized to its original form and volume.

(7) Fertilizers shall be used in accordance with the Best Management Practices for Landscape Fertilizer Use on Nantucket Island (a copy of which is attached to these regulations as Appendix A[1]).

(8) The Commission may impose such additional requirements as are necessary to protect the interests protected by the Bylaw.

§ 390-10. Coastal banks.

A. Characteristics and protected interests.

(1) The Commission finds that regulations applicable to activities involving coastal banks are necessary and proper for the following reasons: Coastal banks may serve as a source of sediment for other coastal landforms, including beaches, dunes, tidal flats, barrier beaches, and land under the ocean; act as a vertical buffer which protects upland areas from storm damage, erosion, and flooding; provide wildlife habitat to common as well as rare, endangered, and otherwise significant wildlife; and serve to provide important wetland scenic views. Coastal banks composed of unconsolidated sediment and exposed to wave action serve as a major source of sediment for other coastal landforms, including beaches, dunes, and barrier beaches. The supply of sediment is removed from banks by wave action. It is a naturally occurring process necessary to the continued existence of coastal beaches, coastal dunes, and barrier beaches. These areas dissipate storm wave energy, thus protecting structures and coastal wetlands landward of them from storm damage, erosion, and flooding. Coastal banks, because of their height and stability, may act as a buffer or natural wall, which protects upland areas from storm damage, erosion, and flooding. While erosion caused by wave action is an integral part of shoreline processes and furnishes important sediment to downdrift landforms, erosion of a coastal bank by wind and rain runoff, which plays a minor role in beach nourishment, should not be increased unnecessarily. Disturbances to a coastal bank which reduce its natural resistance to wind and rain erosion cause cuts and gullies in the bank, and decrease its value as a buffer. As relative sea level continues to rise, and possibly accelerate, Coastal Banks' role in providing sediment to inter- and sub-tidal areas, and as a physical barrier to storm damage, flood control, and protection of wildlife habitat also increases. Vegetation tends to stabilize a coastal bank and reduce the rate of erosion due to wind and rain runoff. Vegetated banks are critical to reducing wind and rain erosion and for providing important habitat and biodiversity. A particular coastal bank may serve both as a sediment source and as a buffer or it may serve only one role. Coastal banks provide habitat for wildlife, particularly nesting birds. Characteristics of coastal banks which are critical to wildlife are bank steepness, height, stability, soil size and compaction, and vegetative cover and diversity.

Commented [JC15]: NLC

3. Editor's Note: Appendix A is included as an attachment to this chapter.

Characteristics of coastal banks that are critical to wetland scenic views are bank form, slope, elevation, proportion and scale in relationship to other landforms, vegetative characteristics and diversity, wildlife and habitat, and a sense of presence and solitude. All coastal banks are defined as primary coastal banks for the purposes of Town of Nantucket bylaws.

(2) In view of the foregoing, whenever a proposed project involves removing, filling, dredging, altering, or building upon a coastal bank, the Commission shall find that the bank is significant to the protection of the following interests: flood control, erosion control, resiliency, storm damage prevention, wetland scenic views, and wildlife. These findings may be overcome only upon a clear showing that the coastal bank does not play a role in protecting any of the interests given above and only upon a specific written determination to that effect by the Commission.

B. Performance standards. Coastal banks or land within 100 feet of a coastal bank shall be presumed significant to the interests protected by the Bylaw as referenced in Subsection A; therefore, the following regulations shall apply:

(1) No new bulkheads, coastal revetments, groins, or other coastal engineering structures shall be permitted to protect structures constructed, or substantially improved, after August 1978, ~~except for public infrastructures~~. Bulkheads and groins may be rebuilt only if the Commission determines there is no environmentally better way to control an erosion problem. An alternatives analysis must examine living shorelines or in appropriate cases the moving of the threatened building or infrastructure. If either of these methods is feasible than the bulkhead or groin may not be rebuilt. ~~, including, in appropriate cases, the moving of the threatened buildings and/or public infrastructure~~. Other coastal engineering structures may be permitted only upon a clear showing that no other alternative exists to protect a structure that has not been substantially improved or public infrastructure built prior to September 1978 from imminent danger. The mitigation provided for use of any structure to protect against erosion must have no adverse impact on adjoining coastal beach, coastal dune, barrier beach or coastal banks.

Commented [JC16]: NLC

(2) Piers shall be constructed in compliance with Chapter 139, Zoning, of the Code of the Town of Nantucket using procedures determined by the Commission to be the best available measures to minimize adverse effects on interests protected by the Bylaw.

(3) All projects shall be restricted to activity as determined by the Commission to have no adverse effect on bank height, bank stability, wildlife habitat, vegetation, wetland scenic view, or the use of a bank as a sediment source.

(4) Elevated walkways designed not to affect bank vegetation shall be required for pedestrian passage over a bank.

(5) All projects which are not water-dependent shall maintain at least a twenty-five-foot natural undisturbed area adjacent to a coastal bank. All structures which are not water-dependant shall be at least 50 feet from a coastal bank.

(6) The septic leach facility of a septic system shall be constructed at least 100 feet

from the top of the coastal bank and shall not be located within the face of the coastal bank.

(7) In areas of an eroding coastal bank, the distance from all new structures to the coastal bank shall be at least 20 times the average annual erosion rate or 100 feet, whichever is greater. The average annual erosion rate shall be determined by averaging the annual erosion over a one-hundred-fifty-year period ending with the date the NOI was filed or, if no NOI was filed, the date construction began. If erosion data are not available for the one-hundred-fifty-year period, the Commission shall determine the average annual erosion rate from such lesser time for which erosion data is available. A second annual average annual shoreline erosion rate shall be determined by averaging the annual erosion rate over a 10 year period ending the date the NOI was filed, or if no NOI was filed, the date construction began to determine if erosion has accelerated. If erosion has accelerated over the contemporary time period, the higher erosion rate shall be used to determine mitigation requirements for the application In cases where documentation can be provided to show that the use of the one-hundred-fifty-year period is inappropriate to existing coastal shoreline characteristics and trends, alternate shoreline change rates may be used with the approval of the Commission.

~~(7) In areas of an eroding coastal bank, the distance from all new structures to the coastal bank shall be at least 20 times the average annual erosion rate or 100 feet, whichever is less. The average annual erosion rate shall be determined by~~

Formatted: List Paragraph, Justified, Right: 0.46", Space Before: 8.45 pt, Numbered + Level: 2 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.77" + Indent at: 1.14", Tab stops: 1.29", Left

Commented [JC17]: NLC

averaging the annual erosion over a one-hundred-fifty-year period ending with the date the NOI was filed or, if no NOI was filed, the date construction began. If erosion data are not available for the one-hundred-fifty-year period, the Commission shall determine the average annual erosion rate from such lesser time for which erosion data is available. In cases where documentation can be provided to show that the use of the one-hundred-fifty-year period is inappropriate to existing coastal shoreline characteristics and trends, alternate shoreline change rates may be used with the approval of the Commission.

(8) All permits issued for the substantial improvement of an existing building or new construction of buildings under the Bylaw within 100 feet landward of the top of a coastal bank shall contain the specific condition that no coastal engineering structure of any kind shall be permitted on an eroding bank in the future to protect the project allowed by this permit, except those coastal engineering structures allowed by a waiver issued pursuant to § 390-3F of these regulations.

(9) The Commission may impose such additional requirements as are necessary to protect the interests protected by the Bylaw.

§ 390-11. Salt marshes.

A. Characteristics and protected interests.

(1) The Commission finds that regulations applicable to activities involving salt marshes are necessary and proper for the following reasons: Salt marshes serve to support marine organisms, including finfish and shellfish; serve to provide critical wildlife habitat; serve to remove pollutants from surrounding waters; serve to aid in erosion control and storm damage prevention; and are important to fishing, shell fishing, recreation, and wetland scenic views. A salt marsh produces large amounts of organic matter. A significant portion of this material is exported as detritus and dissolved organics to estuarine and coastal waters, where it provides the basis for a large food web that supports many marine organisms, including finfish and shellfish. Salt marshes also provide spawning and nursery habitat for several important estuarine forage finfish. Salt marsh plants and substrate remove pollutants from surrounding waters. The network of salt marsh vegetation roots and rhizomes binds the sediments together. The sediments absorb chlorinated hydrocarbons and heavy metals such as lead, copper, and iron. The marsh also helps retain nitrogen and phosphorous compounds which can cause algal blooms and changes in ocean plankton and plant communities, particularly eelgrass. The underlying peat serves as a barrier between fresh groundwater landward of the marsh and the ocean, thus helping to maintain the level of the groundwater. Salt marsh cord grass and underlying peat are resistant to erosion and dissipate wave energy, thereby providing a buffer that reduces wave damage and coastal erosion. A saltmarsh is an important feeding and spawning area for many types of fish and aquatic and terrestrial wildlife. The marsh, including its creeks and open water, also provides important shelter for many aquatic and migratory birds. Marshes help absorb pollutants, but there is a careful balance of nutrients and pollutant input which, if exceeded, will result in accumulation of pollutants and/or changes in the marsh community. Because the marsh is the basis for such a large food

web, bioaccumulations of pollutants and toxins can mean that relatively low levels of pollutants may be detrimental. Some of the characteristics of salt marshes which are critical to their health and ability to protect wetland values include: the growth, composition, and distribution of salt marsh vegetation; the amount of flow and level of both tidal and fresh water; the water quality (including but not limited to turbidity, temperature, nutrients, pollutants, salinity, and dissolved oxygen) of both tidal and fresh water; the presence and depth of peat; rate of marsh productivity; and the diversity of the animals and plants making up the marsh community. Salt marshes provide excellent areas for bird watching, canoeing, and hunting. The ability for Salt Marshes to migrate landward as sea levels rise is critical to enhancing the resiliency of coastal areas. Characteristics of salt marshes that are critical to wetland scenic views are water quality, vegetative characteristics, and a sense of presence, expanse and biodiversity.

(2) In view of the foregoing, whenever a proposed project involves removing, filling, dredging, altering, or building upon a salt marsh, the Commission shall find that the salt marsh is significant to the protection of the following interests: groundwater, erosion control, storm damage prevention, water pollution prevention, fisheries, shellfish, resiliency, wildlife, recreation, and wetland scenic views. These findings may be overcome only upon a clear showing that the salt marsh does not play a role in protecting any of the interests given above and only upon a specific written determination to that effect by the Commission.

B. Performance standards. Salt marshes or land within 100 feet of salt marshes shall be presumed significant to the interests protected by the Bylaw as referenced in Subsection A; therefore, the following regulations shall apply:

(1) Salt marshes shall not be filled.

(2) Salt hay may be harvested from a salt marsh only if performed in a manner which does not disturb the marsh substrate.

(3) No proposed project in a salt marsh, or in lands within 100 feet of a salt marsh, shall destroy any portion of the salt marsh, change species composition of the marsh, have any adverse effect on salt marsh productivity, pollute the salt marsh, or adversely affect water quality.

(4) All projects which are not water-dependent shall maintain at least a ~~twenty-five-foot~~ 50 foot natural undisturbed area adjacent to a salt marsh. All structures which are not water-dependant shall be no closer than ~~50~~75 feet to a salt marsh, and all structures shall maintain an undisturbed two-foot separation to high groundwater. Pools shall not be eligible for a waiver from this requirement. Fifty percent of the area between the twenty-five-foot buffer and the fifty-foot buffer shall not be altered. Additional soils and groundwater information may be required for applications in areas of high ground water.

(5) The septic leach facility of a septic system shall be at least 100 feet from the salt marsh.

(6) Piers shall be constructed and maintained using procedures determined by the Commission to be the best available measures to minimize adverse effects on the

interests protected by the Bylaw.

(7) Elevated walkways shall be designed not to affect marsh vegetation or existing water circulation patterns.

(8) Materials cannot be stored or deposited on a salt marsh.

(9) Fertilizers shall be used in accordance with the Best Management Practices for Landscape Fertilizer Use on Nantucket Island (a copy of which is attached to these regulations as Appendix A[4]).

(10) A project which will restore or rehabilitate a salt marsh may be permitted; provided, however, that this section shall not be construed as to allow the alteration of one salt marsh on a given site by or contingent upon the restoration of another

Commented [JC18]: NLC

~~(10)~~(11) The Commission may impose such additional requirements as are necessary to protect the interests protected by the Bylaw.

§ 390-12. Salt ponds.

A. Characteristics and protected interests.

(1) The Commission finds that regulations applicable to the activities involving salt ponds are necessary and proper for the following reasons: Salt ponds provide excellent wildlife habitat. The high productivity of plants and phytoplankton provides food for shellfish, crustaceans, and juvenile fish. The bottom sediments and shallow water provide habitat for many bivalves. The ponds also serve as spawning and nursery areas for crabs and fish. The productivity of salt ponds and the food web they support provide ideal habitat for many types of wildlife, particularly various ducks and shore birds. The enclosed nature of the ponds also provides shelter for wildlife. Salt ponds and the area around them provide the public many recreational opportunities and wetland scenic views, including: shellfishing, fishing, sailing, swimming, hunting, and wildlife observation. Because of their semi-enclosed nature, salt ponds are sensitive to pollution or nutrient inputs. These inputs can change the plant and animal species composition of the pond, and thus can be detrimental to fish, shellfish and wildlife. Bioaccumulation through food webs can also create dangerous levels of pollutants or toxins for wildlife and humans. Characteristics of salt ponds which are critical to various wetland values include water circulation, distribution of sediment grain size, amount of freshwater and saltwater inflow, productivity of plants, and water quality (including but not limited to amounts of dissolved oxygen, nutrients, temperature, turbidity, pollutants, and salinity). Land within 100 feet of a salt pond is considered to be significant to the protection and maintenance of a salt pond and the land beneath it and therefore to the protection of the wetlands values of the pond.

(2) In view of the foregoing, whenever a proposed project involves removing, filling, dredging, altering, or building upon a salt pond, the Commission shall find that the salt pond is significant to the protection of the following interests: fisheries, shellfish, wildlife, recreation, and wetland scenic views. These findings may be overcome only upon a clear showing that the salt pond does not play a role in

4. Editor's Note: Appendix A is included as an attachment to this chapter.

protecting any of the interests given above and only upon a specific written determination to that effect by the Commission.

4. Editor's Note: Appendix A is included as an attachment to this chapter.

B. Performance standards. A salt pond or land within 100 feet of a salt pond shall be presumed significant to the interests protected by the Bylaw as referenced in Subsection A; therefore, the following regulations shall apply:

(1) The work shall be done in accordance with procedures determined by the Commission to have no adverse effect on wildlife, fisheries, shellfish, existing water quality, recreation, or wetland scenic views and so as not to pollute the pond or alter the critical characteristics of salt ponds.

(2) All projects which are not water-dependent shall maintain at least a twenty-five-foot natural undisturbed area adjacent to a salt pond. All structures which are not water-dependent shall be at least 50 feet from a salt pond, and all structures shall maintain an undisturbed two-foot separation to high groundwater. Fifty percent of the area between the twenty-five-foot buffer and the fifty-foot buffer shall not be altered. Additional soils and groundwater information may be required for applications in areas of high groundwater.

(3) The septic leach facility of a septic system shall be at least 100 feet from a salt pond.

(4) Projects designed to enhance a particular fishery or shellfish shall be designed in accordance with such procedures as the Commission determines will minimize adverse ecological effects on the salt pond, including adverse effects on plants and animals which are not the species targeted for management. If such management projects have adverse effects on any of the protected interests of the Bylaw, such projects shall be permitted only pursuant to a waiver, as set forth in § 390-3F of these regulations.

(5) Piers shall be constructed and maintained using procedures determined by the Commission to be the best available measures to minimize adverse effects on the interests protected by the Bylaw.

(6) Elevated walkways shall be designed not to affect vegetation or existing water circulation patterns. Elevated walkways shall be required to allow for pedestrian passage over the salt pond and fringing bordering vegetated wetlands.

(7) Fertilizers shall be used in accordance with the Best Management Practices for Landscape Fertilizer Use on Nantucket Island (a copy of which is attached to these regulations as Appendix A[5]).

(8) The Commission may impose such additional requirements as are necessary to protect the Interests protected by the Bylaw.

§ 390-13. Land containing shellfish.

A. Characteristics and protected interests.

(1) The Commission finds that the regulations applicable to activities involving land containing shellfish are necessary for the following reasons: Shellfish are one of

5. Editor's Note: Appendix A is included as an attachment to this chapter.

the interests protected by the Bylaw. Land containing shellfish is found within many of the areas protected by the Bylaw. In addition to the regulations for those resource areas as given above in these regulations, this section discusses additional protection for shellfish. Land containing shellfish and its habitat is important to the protection of marine fisheries in addition to the protection of shellfish. Shellfish on Nantucket are a very important recreational and commercial natural resource. Bay scallops, in particular, are an important economic resource on Nantucket. Shellfish used as a human food resource, as they are on Nantucket, need very clean, uncontaminated water, since they have the ability to concentrate very low levels of pollutants. Shellfish are a valuable renewable resource. The maintenance of productive shellfish beds not only assures the continuance of shellfish themselves but also plays a direct role in supporting fish stocks by providing a major food source. Characteristics of land containing shellfish which are critical to the protection of shellfish include, but are not limited to: wildlife habitat, water circulation patterns, rates of water flow, and amounts of water; the relief and elevation, distribution, grain size, and pollutant load of the sediments; and water quality (including turbidity, temperature, pollutants, nutrients, salinity, and dissolved oxygen).

(2) In view of the foregoing, whenever a proposed project involves removing, filling, dredging, altering, or building upon land containing shellfish or the water over land containing shellfish, the Commission shall find that the land containing shellfish is significant to the protection of the following interests: shellfish, fisheries, and recreation. These findings may be overcome only upon a clear and convincing showing that land containing shellfish does not play a role in protecting any of the interests given above and only upon a specific written determination to that effect by the Commission.

B. Performance standards. Land containing shellfish or land within 100 feet of land containing shellfish shall be presumed significant to the interests protected by the Bylaw as referenced in Subsection A; therefore, the following regulations shall apply:

(1) Projects shall not adversely affect water quality (including but not limited to changes in turbidity, temperature, salinity, dissolved oxygen, and additional nutrients and pollutants), water circulation, aquatic vegetation, or natural drainage from adjacent land.

(2) Land containing shellfish shall not be compacted by vehicular traffic or other means. The land's elevation and sediment grain size shall also not be altered.

(3) Projects shall not obstruct the ability of the public to gather shellfish recreationally or the ability of commercial fishermen to harvest shellfish.

(4) Any project which may release pollutants shall utilize the best available measures to remove pollutants or prevent risk of pollution. **[Amended during codification]**

(5) All septic leach facilities shall be at least 100 feet from land containing shellfish.

(6) Fertilizers shall be used in accordance with the Best Management Practices for Landscape Fertilizer Use on Nantucket Island (a copy of which is attached to these regulations as Appendix A[6]).

(7) No project detrimental to scallops shall be permitted, except activity allowed pursuant to a waiver from these regulations, as set forth in § 390-3F.

(8) Piers shall be constructed and maintained using the best available measures to minimize adverse effects on the interests protected by the Bylaw.

(9) The Commission may impose such additional requirements as are necessary to protect the interests protected by the Bylaw.

§ 390-14. Anadromous/Catadromous fish runs, banks along and lands under fish runs.

A. Characteristics and protected interests.

(1) The Commission finds that regulations applicable to activities involving fish runs are necessary and proper for the following reasons: Fisheries are one of the protected interests under the Bylaw, Chapter 136, § 136-2, of the Code of the Town of Nantucket. Anadromous and catadromous fish are renewable protein resources that provide recreational and commercial benefits. In addition, throughout their life cycle such fish are important components of freshwater, estuarine, and marine environments and are food sources for other organisms. Fish runs provide habitats for other fish and shellfish. Characteristics of fish runs which are critical to the protection of anadromous/catadromous fish include: accessibility and location of spawning and nursing grounds, volume and rate of water flow in both migratory and spawning areas, water quality (including turbidity, temperature, pollutants, nutrients, salinity, and dissolved oxygen) and sediment and erosion control. Fish runs are important for wildlife habitat, recreation, and wetland scenic views.

(2) In view of the foregoing, whenever a proposed project involves removing, filling, dredging, altering or building upon a fish run, the Commission shall find that the fish run is significant to the protection of the following interests: fisheries, wildlife, sediment and erosion control, water quality, wetland scenic views, and recreation. These findings may be overcome only upon a clear showing that the fish run and the land under a fish run does not play a role in protecting any of the interests given above and only upon a specific written determination to that effect by the Commission.

B. Performance standards. Fish runs or land within 100 feet of a fish run shall be presumed significant to the interests protected by the Bylaw as referenced in Subsection A; therefore, the following regulations shall apply:

(1) Proposed projects shall not be permitted to fill a fish run, impede the migration of fish, or change the volume, rate, or quality of water flow in a fish run.

6. **Editor's Note: Appendix A is included as an attachment to this chapter.**

(2) Proposed projects shall not use procedures which the Commission determines are detrimental to spawning or nursery habitats necessary to sustain the various life stages of the fish.

(3) All projects which are not water-dependent shall maintain at least a twenty-five-foot natural undisturbed area adjacent to a fish run. All structures which are not water-dependent shall be at least 50 feet from a fish run.

(4) The septic leach facility of a septic system shall be at least 100 feet from the fish run.

(5) All work in a fish run shall be prohibited between March 15 and June 15 in any year.

(6) All projects, including road maintenance, shall use procedures the Commission determines will minimize the siltation of a fish run.

(7) Elevated walkways designed not to affect water quality, sunlight penetration, water volume, or wetland scenic views shall be required for pedestrian passage over a fish run.

(8) The Commission may impose such additional requirements as are necessary to protect the interests protected by the Bylaw.

§ 390-15. Land subject to coastal storm flowage.

A. Characteristics and protected interests.

(1) The Commission finds that regulations applicable to activities involving land subject to coastal storm flowage are necessary and proper for the following reasons: Land subject to coastal storm flowage (the coastal floodplain) buffers and protects upland areas from severe storm conditions. Since the floodplain contains areas where the water table is close to the surface (as well as other wetland resource areas), pollutants in a floodplain, including contents of septic systems and fuel tanks, may affect private water supply, groundwater quality, wildlife, fisheries, resiliency and shellfish during a storm. Direct and collateral damage to man-made structures in the floodplain are caused by wave impacts and inundation by floodwaters and storm-driven debris. Desires of property owners to protect themselves from the effects of storms can lead to pressure on the Town and its regulatory bodies to erect engineering structures in wetlands which can have a detrimental effect on wetland values and public health and safety.

(2) In view of the foregoing, whenever a proposed project involves removing, filling, dredging, altering or building upon land subject to coastal storm flowage, the Commission shall find that the land is significant to the protection of the following interests: flood control, erosion control, and storm damage prevention, water quality, erosion and sediment control, resiliency wildlife habitat. These findings may be overcome only upon a clear showing that land subject to coastal storm flowage does not play a role in protecting any of the interests given above and only upon a specific written determination to that effect by the Commission.

B. Performance standards. Land subject to coastal storm flowage or land within 100 feet of land subject to coastal storm flowage shall be presumed significant to the interests protected by the Bylaw as referenced in Subsection A; therefore, the following regulations shall apply (Specific resource areas that lie within the area of land subject to coastal storm flowage, and the wetland values they protect, are otherwise addressed elsewhere in these regulations. The regulations concerning those areas are in addition to the regulations set forth in this section.):

(1) The work shall not reduce the ability of the land to absorb and contain floodwaters, or to buffer inland areas from flooding and wave damage.

(2) Projects shall not cause groundwater, surface water, or saltwater pollution triggered by coastal storm flowage. All septic tanks and leach facilities shall be located outside the one-hundred-year floodplain.

(3) All private underground fuel tanks shall be outside the one-hundred-year floodplain. Commercial tanks shall be outside the one-hundred-year floodplain, or if the Commission determines this is not practicable, the commercial tanks shall be secured so that they cannot float loose.

(4) Building upon areas subject to coastal storm flowage and sea-level rise in locations where such structure would be subject to storm damage or high-tide flooding may not be permitted. New construction that is not water-dependent may not be permitted in areas defined as high- or extreme coastal risk in this Bylaw. When permitting new projects, risk determination shall utilize the latest available data from Nantucket's NOAA tide gauge and the latest sea-level rise projections available from the Massachusetts Coastal Flood Risk Model (MC-FRM). If permitted, all construction must be in compliance with state and local building code regulations for flood hazard areas.

Commented [JC19]: NLC

~~(4)~~(5)~~Building upon areas subject to coastal storm flowage in locations where such structure would be subject to storm damage may not be permitted. If permitted, all construction must be in compliance with state and local building code regulations for flood hazard areas.~~All swimming pools are prohibited from being located within Land Subject to Coastal Storm Flowage.

~~(5)~~(6)Fertilizers shall be used in accordance with the Best Management Practices for Landscape Fertilizer Use on Nantucket Island (a copy of which is attached to these regulations as Appendix A').

~~(6)~~(7)The Commission may impose such additional requirements as are necessary to protect the interests protected by the Bylaw.

§ 390-16. Estimated habitat for rare/significant wildlife and rare/significant flora and fauna (for coastal wetlands).

A. Characteristics and protected interests.

(1) The Commission finds that regulations applicable to activities involving estimated habitat for rare/significant wildlife and rare/significant flora and fauna for coastal wetlands are necessary and proper for the following reasons: Any coastal resource area identified in Chapter 136, Wetlands, § 136-3, of the Code of the Town of

Nantucket within which is found any state rare species (plant or animal) officially listed by the Massachusetts Division of Fisheries and Wildlife, or in which is found any species (plant or animal) the Commission has recognized as significant under the Bylaw, or any coastal resource area falling within any of the most recent Estimated Habitat Maps of the Massachusetts Natural Heritage and Endangered Species Program, shall be considered rare/significant species habitat, as defined in § 390-2 of these regulations. Rare/Significant species habitat preservation is important in order to maintain healthy ecosystems, wetland

7. **Editor's Note: Appendix A is included as an attachment to this chapter.**

resources and biodiversity, and is important for protecting recreational interests, and in protecting wetland scenic views.

(2) In view of the foregoing, whenever a proposed project involves removing, filling, dredging, altering or building within areas of estimated habitat for rare/significant wildlife and rare/significant fauna for coastal wetlands, the Commission shall find that such land is significant to the protection of the following interests: fisheries, shellfish, wildlife, biodiversity, recreation, and wetland scenic views. These findings may be overcome only upon a clear showing that these estimated habitat areas do not play a role in protecting any of the interests given above and only upon a specific determination to that effect by the Commission.

B. Performance standards. Estimated habitat areas shall be presumed significant to the interests protected by the Bylaw as referenced in Subsection A; therefore, the following regulations shall apply:

(1) No activity shall be permitted that alters existing vegetation within 25 feet of verified rare/significant species habitat.

(2) No activity shall be permitted that results in the construction or enlargement of a structure within 50 feet of verified rare/significant species habitat.

(3) No alteration of topography (filling or cutting) and/or drainage characteristics shall be permitted within 50 feet of verified rare/significant species habitat.

(4) No new construction or enlargement of drainage facilities within 25 feet of verified rare/significant species habitat shall be permitted.

(5) No part of any septic system shall be placed within 50 feet and no leaching facility shall be placed within 100 feet of a verified rare/significant species habitat.

(6) The Commission may impose such additional requirements as are necessary to protect the interests protected by the Bylaw.

ARTICLE III
Regulations for Inland Wetlands

§ 390-17. Inland banks and beaches.

A. Characteristics and protected interests.

(1) The Commission finds that regulations applicable to activities involving inland banks and beaches are necessary and proper for the following reasons: Inland banks and beaches aid in flood prevention; serve to provide, protect, and enhance habitat for rare, endangered, and significant wildlife and fauna; and serve to provide important wetland scenic views and recreation. Banks are areas where groundwater discharges to the surface and where, under some circumstances, surface water recharges the groundwater. Where banks are partially or totally vegetated, the vegetation serves to maintain the bank's stability, which in turn protects water quality by reducing erosion and siltation. Banks act to confine

floodwaters during most storms, preventing the spread of water to adjacent land. Alterations which permit water to frequently and consistently spread over a larger and more shallow area increase the amount of land routinely flooded and elevate water temperatures. Land within 100 feet of a bank is likely to be significant to the protection and maintenance of the bank, and therefore to the protection of the interests which these resource areas serve to protect. Banks may provide shade that moderates water temperatures as well as providing breeding habitat, escape cover, and feeding areas, all of which are important for the protection of fish. Banks may also help channel water and thus maintain a water depth which helps keep the water temperatures cool in warm weather, thus providing habitat necessary for both fish and the food sources for fish. Inland banks may act as a sediment source for inland beaches. By confining floodwaters, banks decrease the erosion of topsoil from adjacent land surfaces and help prevent flood and storm damage to buildings and roads. Confining floodwaters also decreases water pollution by preventing floodwaters from mixing with many contaminants found on roads, near and in dwellings, from fertilized soil, and from septic tanks. Banks may provide nesting habitat for some species of birds. Banks and particularly beaches provide wildlife and human access to water bodies. Characteristics that are critical to recreation are topography, vegetative cover, wildlife habitat, and access to and along the shore. Characteristics that are critical to wetland scenic views are relief and elevation; plant and animal habitat and diversity; and solitude.

(2) In view of the foregoing, whenever a proposed project involves removing, filling, dredging, altering or building upon an inland bank or beach, the Commission shall find that the bank or beach is significant to the protection of the following interests: groundwater, flood control, erosion control, storm damage prevention, water pollution, fisheries, scenic views, and wildlife. These findings may be overcome only upon a clear showing that the inland bank or beach does not play a role in protecting any of the interests given above and only upon a specific written determination to that effect by the Commission.

B. Performance standards. Inland banks and beaches or land within 100 feet of an inland bank and beach shall be presumed significant to the interests protected by the bylaw as referenced in Subsection A; therefore, the following regulations shall apply:

(1) Projects shall be permitted only where no adverse effect exists on bank stability, groundwater and surface water quality, the water-carrying capacity of an existing channel within a bank, bank height, and the capacity of the bank to provide habitat for fisheries and/or wildlife.

(2) Elevated walkways designed not to affect bank vegetation shall be required for pedestrian passage over an inland bank (but not an inland beach that is gently sloping).

(3) All projects which are not water-dependent shall maintain at least a twenty-five-foot natural undisturbed area adjacent to an inland bank or beach. All structures which are not water-dependent shall be at least 50 feet from an inland bank or beach.

(4) The septic leach facility of a septic system shall be at least 100 feet from the seasonal highest documented water line of the water body.

(5) No structure of any kind shall be permitted on an eroding bank to protect any building built pursuant to a permit granted after the effective date of these regulations.

(6) Piers shall be constructed and maintained using procedures determined by the Commission to be the best available measures to minimize adverse effects on interests protected by the Bylaw.

(7) The Commission may impose such additional requirements as are necessary to protect the interests protected by the Bylaw.

§ 390-18. Vegetated wetlands (meadows, marshes, swamps, and bogs).

A. Characteristics and protected interests.

(1) The Commission finds that regulations applicable to activities involving vegetated wetlands are necessary and proper for the following reasons: Vegetated wetlands serve to support rare/significant species (plant and animal); serve to provide rare/significant species (plant and animal) habitat; serve to remove pollutants from surrounding waters; serve to aid in the prevention of flooding and are important to fishing, shellfishing, recreation, and wetland scenic views. The plant communities, soils, and associated low, flat topography of vegetated wetlands remove or detain sediments, nutrients (such as nitrogen and phosphorous) and toxic substances (such as heavy metal compounds) that occur in run-off and floodwaters. Some nutrients and toxic substances are retained for years in plant root systems or in the soils. Others are held by plants during the growing season and released as the plants decay in the fall and winter. This latter phenomenon delays the effect of nutrients and toxins until cold-weather periods, when the release of these materials is less likely to reduce water quality. Vegetated wetlands are areas where groundwater discharges to the surface and where, in some circumstances, surface water discharges to the groundwater. The profusion of vegetation and the low, flat topography of vegetated wetlands slow down and reduce the passage of floodwaters during periods of peak flows by providing temporary floodwater storage, and by facilitating water removal through evaporation and transpiration. This reduces downstream flood crests, erosion, and resulting damage to private and public property. During dry periods the water retained in vegetated wetlands is essential to the maintenance of base flow levels in streams or into the groundwater which in turn is important to the protection of water quality, water supplies, and wildlife. Wetland vegetation provides shade that moderates water temperatures important to fish life. Vegetated wetlands that are always wet or that are flooded by adjacent water bodies and waterways provide food, breeding habitat, and cover for fish. Fish populations in the larval stage are particularly dependent upon food provided by these wetlands since they provide large quantities of microscopic plant and animal food material. Wetland vegetation provides habitat for a wide variety of insects, reptiles, amphibians, mammals, and birds. Many of these, particularly insects, are food sources for fish. Vegetated wetlands, together with land within 100 feet of a vegetated wetland,

serve to moderate and alleviate thermal shock and pollution resulting from runoff from impervious surfaces which may be detrimental to wildlife, fisheries, and shellfish downstream of the vegetated wetland. The maintenance of base flows by vegetated wetlands is significant to the maintenance of a proper salinity ratio in estuarine areas downstream of the vegetated wetland. A proper salinity ratio, in turn, is essential to the ability of shellfish to spawn successfully and therefore to provide for the continuing procreation of shellfisheries. A proper salinity ratio is also important for many species of fish. Vegetated wetlands are excellent places for birdwatching and hunting. Some vegetated wetlands, particularly bogs, provide habitat for rare plants and animals. Vegetated wetlands along pond edges can prevent erosion by wind-driven waves and serve to provide storage for floodwaters. Characteristics of vegetated wetlands that are critical to wetland scenic views are water quality, vegetative characteristics, habitat, and a sense of presence, expanse and biodiversity. Land within 100 feet of a vegetated wetland is considered to be significant to the protection and maintenance of vegetated wetlands, and therefore to the protection of the interests which these resource areas serve to protect.

(2) In view of the foregoing, whenever a proposed project involves removing, filling, dredging, altering, or building upon a vegetated wetland, the Commission shall find that the vegetated wetland is significant to the protection of the following interests: public and private water supply, groundwater, flood control, erosion control, storm damage prevention, resiliency, water pollution, fisheries, shellfish, wildlife, scenic views, and recreation. These findings may be overcome only upon a clear showing that the vegetated wetland does not play a role in protecting any of the interests given above and only upon a specific written determination to that effect by the Commission.

B. Performance standards. Vegetated wetlands or land within 100 feet of vegetated wetlands shall be presumed significant to the interests protected by the Bylaw as referenced in Subsection A; therefore, the following regulations shall apply:

(1) Proposed projects which are not water-dependent shall maintain at least a twenty-five-foot natural undisturbed area adjacent to vegetated wetlands. All structures which are not water-dependent shall be at least 50 feet from a vegetated wetland~~, and all structures shall maintain an undisturbed two-foot separation to high groundwater. Pools shall not be eligible for a waiver from this requirement.~~ Fifty percent of the area between the twenty-five-foot buffer and the fifty-foot buffer shall not be altered. Additional soils and groundwater information may be required for applications in areas of high groundwater.

~~(1)~~(2) All structures shall maintain an undisturbed two-foot separation to high groundwater. Should this separation not be possible a waiver request must include a hydrostatic analysis and any intrusions into groundwater shall be required to be non-toxic and demonstrate no adverse impact to groundwater. Pools shall not be eligible for a waiver from this requirement.

~~(2)~~(3) Proposed projects shall not use procedures that the Commission determines changes the flood protection function (leveling out of storm surges by storing and slowly releasing water) of vegetated wetlands by significantly changing the rate of water flow through the wetlands (by channelization or other means).

~~(3)~~(4)No permit shall be issued which authorizes the destruction of forested swamps. The Commission may authorize the excavation of other vegetated wetlands to create ponds or clear the edge of a pond if the project is designed to increase wildlife habitat diversity and to minimize groundwater or surface water loss.

~~(4)~~(5) The septic leach facility of a septic system shall be at least 100 feet from the vegetated wetland.

~~(5)~~(6) Piers shall be constructed and maintained using procedures determined by the Commission to be the best available measures to minimize adverse effects on interests protected by the Bylaw.

~~(6)~~(7) Elevated walkways determined to be water-dependent designed not to affect existing vegetation shall be required for pedestrian passage over vegetated wetlands.

~~(7)~~(8) Fertilizers shall be used in accordance with the Best Management Practices for Landscape Fertilizer Use on Nantucket Island (a copy of which is attached to these regulations as Appendix A[8]).

(8)(9) The Commission may impose such additional requirements as are necessary to protect the interests protected under the Bylaw.

§ 390-19. Inland water bodies (lakes, creeks, streams, ponds, ditches and flats).

A. Characteristics and protected interests.

(1) The Commission finds that regulations applicable to activities involving inland water bodies are necessary and proper for the following reasons: Where land under water bodies is composed of pervious material, such land represents a point of exchange between surface water and groundwater. Depending upon the hydrological conditions and water levels at a given point in time, these areas may serve as exchange or discharge points, or both, with groundwater. An area may serve as recharge area at one season and a discharge point at another time. This allows pollutants and nutrients easy access into private wells or the general groundwater supply. The physical nature of land under water bodies is highly variable, ranging from deep organic and fine sedimentary deposits to gravel and large rocks. The organic soils and sediments play an important role in the process of detaining and removing dissolved and particulate nutrients from surface water above. These also serve as traps for toxic substances (such as heavy metal compounds). Land under water bodies, in conjunction with banks, serves to confine floodwater within a definite channel during the most frequent storms. Filling within this channel blocks flows which in turn causes backwater and overbank flooding during such storms. An alteration of land under water bodies that causes water to frequently spread out over a large area at lower depth increases the amount of property that is routinely flooded. Additionally, it results in an elevation of water temperature and decrease in wildlife habitat in the main channel, both of which are detrimental to fisheries, particularly during periods of warm weather and low flows. It may also flood waterfowl nesting sites which otherwise would not be disturbed. Land under ponds and lakes is vital to a large assortment of warm water fish during spawning periods. Species such as large-mouth bass (Micropterus salomoides), small-mouth bass (Micropterus dolomieui), blue gills (Lepomis macrochirus), pumpkinseeds (Lepomis gibbous), black

8. **Editor's Note: Appendix A is included as an attachment tot his chapter.**

crappie (Pomoxis nigromaculatus), and rock bass (Ambloplites rupestris) build nests on the lake and bottom substrates within which they shed and fertilize their eggs. Land within 100 feet of any bank abutting land under a water body is significant to the protection of the interests which these water bodies serve to protect. Characteristics of water bodies which are critical to wildlife, wildlife habitat, and fisheries include water circulation and flushing rates, distribution of sediment grain size, and water quality (including amounts of dissolved oxygen, nutrients, and pollutants). Leaving ponds and the land bordering ponds in an unobstructed state may be important to recreational swimming, fishing, and boating. Water bodies and the area around them also provide other recreational opportunities such as hunting and wildlife observation. Cattail borders or other vegetated borders of large ponds are important in reducing shoreline erosion and storm damage by dissipating the high energy of storm waves and by anchoring the sediments. Water bodies provide important feeding and/or drinking areas for many types of aquatic wildlife, birds, and animals. Ponds and other water bodies produce insects that hatch and are used as food by several species of birds, particularly swallows. Ducks, geese, swans, and herons all use water bodies and surrounding borders for feeding, shelter, and/or nesting areas. Many other birds, animals, reptiles, and amphibians use land under water bodies, water bodies, and the borders of water bodies for various parts of their life cycles. Changes in sediments, water quality, water level, or species composition of food sources or ground cover may be detrimental to any of the above wildlife and wildlife habitat. Ponds and the land surrounding them often form important wetland scenic views. The enclosed area and the limited size of most freshwater bodies on Nantucket make them particularly sensitive to pollution or nutrient inputs. These inputs can change the plant and animal species composition of the water body and thus can be detrimental to fish and wildlife. Bioaccumulation of pollutants through food webs can also create dangerous levels of pollutants or toxins for wildlife and humans.

(2) In view of the foregoing, whenever a proposed project involves removing, filling, dredging, altering or building upon water bodies or the land beneath them, the Commission shall find that water bodies and the land beneath them are significant to the protection of the following interests: public and private water supply, groundwater, flood control, erosion control, storm damage prevention, water pollution, fisheries, wildlife, scenic views, and recreation. These findings may be overcome only upon a clear showing that the water body or the land beneath it does not play a role in protecting any of the interests given above and only upon a specific written determination to that effect by the Commission.

B. Performance standards. Inland water bodies or land within 100 feet of inland water bodies shall be presumed significant to the interests protected by the Bylaw as referenced in Subsection A; therefore, the following regulations shall apply:

(1) No proposed project shall use procedures that the Commission determines have an adverse effect on significant wildlife habitat, wildlife, fisheries, existing water quality, recreation, wetland scenic views, or alter the critical characteristics of an inland water body.

(2) Proposed projects which are not water-dependent shall maintain at least a twenty-five-foot natural undisturbed area adjacent to land under a water body. All structures which are not water-dependent shall be at least 50 feet from land under a water body, and all structures shall maintain an undisturbed two-foot separation to high groundwater. Fifty percent of the area between the twenty-five-foot buffer and the fifty-foot buffer shall not be altered. Additional soils and groundwater information may be required for applications in areas of high groundwater.

(3) The septic leach facility of a septic system shall be at least 100 feet from the water body and/or its bordering vegetated wetland, whichever results in the greater separation. Septic leach facilities shall be separated from each other by 200 feet if the lot containing one of them contains a water body or fronts on a water body and the septic location is within the jurisdiction of the Bylaw.

(4) There shall be no filling of a water body, except as allowed pursuant to a waiver from these regulations as set forth in § 390-3F.

(5) Fertilizers shall be used in accordance with the Best Management Practices for Landscape Fertilizer Use on Nantucket Island (a copy of which is attached to these regulations as Appendix A[9]).

(6) Boat piers shall be constructed using those procedures that the Commission determines to be the best available measures to minimize adverse effects on the interests protected by the Bylaw.

(7) The Commission may impose such additional requirements as are necessary to protect the interests protected under the Bylaw.

§ 390-20. Land subject to flooding (both bordering and isolated areas).

A. Characteristics and protected interests.

(1) The Commission finds that regulations applicable to activities involving land subject to flooding are necessary and proper for the following reasons: Bordering land subject to flooding provides a temporary storage area for floodwater which has overtopped the bank of the main channel of a creek, river, or stream or the basin of a pond or lake. During periods of peak runoff, floodwaters are both retained (i.e., slowly released through evaporation and percolation) and detained (i.e., slowly released through surface discharge). Over time, incremental filling of these areas causes displacement of flooding effects and increases in the extent and level of flooding by eliminating flood storage volume or by restricting flows, and, thereby, increases in damage to public and private properties. Pollutants or contaminants located on bordering land subject to flooding may be washed into surface waters and from there to groundwater, or percolate directly into groundwater. Sources of pollutants within these areas thus have widespread effects on interests protected by the Bylaw. Bordering land subject to flooding provides an important source of microscopic plant and animal material which enriches the nearby water body, may serve as significant wildlife habitat, and can

9. Editor's Note: Appendix A is included as an attachment to this chapter.

serve as the basis for a food web which supports many fish or wildlife. Bordering land provides important wildlife habitat and wildlife access to surface water resources. Bordering land subject to flooding is often low and level and thus helps prevent erosion of soil into water bodies by surface water runoff. The topography and location of bordering land subject to flooding is critical for protection of flood control capabilities. Isolated land subject to flooding provides a temporary storage area where run-off and high groundwater collect and slowly evaporate or percolate into the ground. These areas, even though small, usually are numerous and thus very important in preventing more serious flooding somewhere else. Filling causes lateral displacement of ponded water or increased run-off onto contiguous properties, which may result in damage to those properties and others which were not previously affected as much. The additive nature of the flood protection provided by these isolated areas and the fact that filling one may redirect water so as to radically change watershed sizes means that small changes in one area may have large effects in another area. Isolated land subject to flooding helps prevent erosion by breaking up watersheds so that run-off does not become so great as to have enough force to erode soil. Areas where the isolated land subject to flooding is pervious are likely to serve as significant recharge points to the groundwater aquifer. Contamination in the area may find easy access into groundwater and neighboring wells. Isolated land subject to flooding which is covered by a mat of organic peat or muck may help remove contaminants before the floodwater enters the groundwater. Isolated land subject to flooding may provide important wildlife habitat for amphibians, particularly during their breeding period, and some rare plants. It also may provide important wildlife habitat for several species of birds, including ducks.

(2) For the foregoing reasons, whenever a proposed project involves removing, filling, dredging, altering, or building upon land subject to flooding, the Commission shall find that the land is significant to protection of the following interests: private water supply, groundwater, flood control, erosion control, and water pollution. These findings may be overcome upon a clear showing that the land subject to flooding does not play a role in protecting any of the interests given above, and only upon a specific written determination to that effect by the Commission.

B. Performance standards. Isolated land subject to flooding or land within 100 feet of isolated land subject to flooding shall be presumed significant to the interests protected by the Bylaw as referenced in Subsection A; therefore, the following regulations shall apply:

(1) Work on isolated wetlands and small ponds is subject to the regulations set forth in § 390-19 (ponds) and § 390-18 (vegetated wetlands).

(2) Projects on land subject to flooding shall be permitted only in connection with such procedures determined by the Commission as not having the effect of reducing the ability of the land to absorb and contain floodwaters.

(3) If such a site is available on the applicant's land, all septic tanks and leach facilities shall be located outside the one-hundred-year floodplain.

(4) Underground fuel oil or gasoline tanks, or tanks designed to hold any hazardous substance, shall not be permitted on land subject to flooding.

(5) Proposed projects shall employ such safeguards as determined by the Commission to preclude groundwater or surface water pollution triggered by flooding.

(6) The Commission may require compensating or greater flood storage capacity in the same watershed if it permits any filling of land subject to flooding, and all filling of areas subject to flooding shall be strictly minimized. Except as stated in the preceding sentence, no proposed projects shall be permitted to displace or direct floodwaters, through fill or other means, to other areas.

(7) Building upon areas subject to flooding shall be in compliance with appropriate state and local building code requirements.

(8) Proposed projects in land subject to flooding shall use such procedures as the Commission determines will minimize their effect on wildlife.

(9) Fertilizers shall be used in accordance with the Best Management Practices for Landscape Fertilizer Use on Nantucket Island (a copy of which is attached to these regulations as Appendix A[10]).

(10) The Commission may impose such additional requirements as are necessary to protect the interests protected by the Bylaw.

§ 390-21. Estimated habitat for rare/significant wildlife and rare/significant flora and fauna (for inland wetlands).

A. Characteristics and protected interests.

(1) The Commission finds that regulations applicable to activities involving estimated habitat for rare/significant wildlife and rare/significant flora and fauna for inland wetlands are necessary and proper for the following reasons: Any inland resource area as defined in Chapter 136, Wetlands, § 136-3, of the Code of the Town of Nantucket within which any state rare species (plant or animal) officially listed by the Massachusetts Division of Fisheries and Wildlife; any area defined as a vernal pool in § 390-2 of these regulations[11]; any species (plant or animal) the Commission has recognized significant as defined in Chapter 136, Wetlands, § 136-1, of the Code of the Town of Nantucket; or any inland wetland resource area falling within any of the most recent Estimated Habitat Maps of the Massachusetts Natural Heritage and Endangered Species Program shall be considered rare/significant species and habitat, as defined as "habitat" in § 390-2 of these regulations. Rare/Significant species and habitat preservation is important in order to maintain healthy ecosystems, wetland resources and biodiversity; important for protecting recreational interests, and important in protecting wetland scenic views.

10. Editor's Note: Appendix A is included as an attachment to this chapter.

11. Editor's Note: See the definition of "habitat" in § 390-2.

(2) In view of the foregoing, whenever a proposed project involves removing, filling, dredging, altering, or building within areas of estimated habitat for rare/significant wildlife and rare/significant flora and fauna for inland wetlands, the Commission shall find that such land is significant to the protection of the following interests: fisheries, shell fisheries, wildlife, biodiversity, recreation, and wetland scenic views. These findings may be overcome only upon a clear showing that these estimated habitat areas do not play a role in protecting any of the interests given above and only upon a specific determination to that effect by the Commission.

B. Performance standards. Estimated habitat areas shall be presumed significant to the interests protected by the Bylaws as referenced in Subsection A; therefore, the following regulations apply:

(1) No activity shall be permitted that alters existing vegetation within 50 feet of verified rare/significant species habitat, including certified vernal pools, and vernal pools defined in § 390-2.

(2) No activity shall be permitted that results in the construction or enlargement of a structure within 75 feet of verified rare/significant species habitat, including certified vernal pools, and vernal pools defined in § 390-2.

(3) No alteration of topography (filling or cutting) and/or drainage characteristics shall be permitted within 50 feet of verified rare/significant species habitat, including certified vernal pools, and vernal pools defined in § 390-2.

(4) No new construction or enlargement of drainage facilities within 50 feet of verified rare/significant species habitat, including certified vernal pools, and vernal pools defined in § 390-2, shall be permitted.

(5) No part of any septic system shall be placed within 50 feet and no leaching facility shall be placed within 100 feet of a verified rare/significant species habitat, including certified vernal pools, and vernal pools defined in § 390-2.

(6) The Commission may impose such additional requirements as are necessary to protect the interests protected by the Bylaw.

§ 390-22. Riverfront area.

A. The Commission finds that regulations applicable to activities within the riverfront area (except as these activities are located within other wetland resource areas) are not appropriate for the following reasons:

(1) A riverfront area is the area of land between a river's mean annual high water line and a parallel line measured horizontally outward to a distance of 200 feet. The riverfront area may include or overlap other wetland resource areas or their buffer zones. The riverfront area does not have a buffer zone. Rivers begin at the point an intermittent stream becomes perennial, discharging throughout the year.

(2) Based on direct observation, periodic monitoring and inventory data and testimony provided by and to the Commission, rivers, as defined in § 390-2 of

these regulations and as defined in 310 CMR 10.58(2) of the State Wetlands Protection regulations, do not exist within the Town of Nantucket. Existing water bodies on Nantucket that contain flowing water that empties into fresh and/or salt surface water bodies are intermittent, man-made canals or mosquito ditches, or exhibit dominant characteristics of tidally influenced flow.

B. Therefore, for the purposes of these regulations, the Commission finds that no riverfront area wetland resource areas exist on Nantucket.

§ 390-23. Great Pond Area

A. The Commission finds that regulations applicable to activities within the great pond area (except as these activities are located within other wetland resource areas) are not appropriate for the following reasons:

(1) A great pond area is the area of land between a great ponds mean annual high water line and a parallel line measured horizontally outward to a distance of 200 feet. The great pond area may include or overlap other wetland resource areas or their buffer zones. The great pond area does not have a buffer zone.

(a) All activities, projects or work proposed within the great pond area shall in addition to any other required filing submit a minor activity request prior to the start of work.

~~B.~~(b) Any proposed work will be evaluated as to contain continuous natural, native habitat linkages to the Great Pond.

Formatted: Left, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.55" + Indent at: 0.92"

Formatted: Left, Indent: Hanging: 0.37", Numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.92" + Indent at: 1.29", Tab stops: 1.29", Left

Formatted: Not Expanded by / Condensed by

Formatted: Left, Numbered + Level: 3 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.54" + Indent at: 1.91", Tab stops: 1.29", Left

ARTICLE IV
Activities in Buffer Zone

§ 390-23. Findings; RDA or NOI required.

Since 1983, the Massachusetts Department of Environmental Protection and the Town of Nantucket Conservation Commission have determined that activities within the one-hundred-foot buffer zone pose a significant risk to the health of wetland resource areas. Therefore, a request for determination of applicability or notice of intent must be filed for all activities proposed within the buffer zone to these resource areas.

§ 390-24. Significance of buffer zones.

The role that a protective buffer zone plays in the maintenance of healthy resource areas has been discussed in scientific literature for decades. Documentation exists that shows (Omernik 1977) a direct relationship in increased nitrogen and phosphorous loading to wetlands and water bodies as their adjacent watersheds are cleared. Water quality can be better maintained if undisturbed protective buffer strips are maintained and preserved along surface water bodies. Adverse impacts from sediment erosion and transport are also minimized with the maintenance of an undisturbed buffer between the site development and the wetland resource area. Further, the transitional assemblage of trees, shrubs, and ground cover found in undisturbed buffer zones has been found significant to the support of a greater number of native wildlife species and fauna (biodiversity) in the interior of resource areas which they

border.

§ 390-25. Measuring cumulative impact.

Although the Town of Nantucket Wetlands Protection Bylaw (Chapter 136, Wetlands, of the Code of the Town of Nantucket) defines significant cumulative effects as criteria for denying a project, permit-level activities (i.e., site disturbance) are difficult to measure on a scale of cumulative impacts (watersheds). Cumulative effects result from individually minor but collectively significant actions taking place over a period of time. The level of information required and techniques employed for individual permit review are generally not sufficiently definitive to accurately assess potentially significant cumulative impacts, even though it may be clear that the collective impact of many such activities could adversely affect a wetland resource area. The best protection against cumulative impacts is the maintenance and preservation of an undisturbed buffer zone.

§ 390-26. Filing requirements and buffer zone setbacks.

A. Based on available information, the Commission has determined that, generally, maintenance of a twenty-five-foot undisturbed vegetative buffer zone and a fifty-foot structure-free buffer zone will serve to protect most wetland resource areas from adverse impacts related to development elsewhere within the buffer zone.

B. Work proposed within 50 feet of a wetland resource area shall require the filing of a notice of intent. Work proposed outside of the fifty-foot setback may be eligible for a negative determination of applicability, provided the proposed work does not fall within an area mapped as rare or significant habitat or as a vernal pool by appropriate state and/or local agencies or departments; does not border on an outstanding resource area; provides erosion and sediment controls; and establishes a work limit at or greater than 50 feet from any wetland resource area, exclusive of land subject to coastal storm flowage.

C. It sometimes is necessary to impose additional restrictions on activities within the one-hundred-foot buffer zone to prevent potential adverse effects on resource areas.

ARTICLE V
Activities to Enhance Wetland Resource Health and Function

§ 390-27. Invasive exotic plants.

A. The Commission defines "exotic invasive plants" as nonnative species that have spread into native or minimally managed plant systems in Nantucket, causing economic or environmental harm by developing self-sustaining populations and becoming dominant and/or disruptive to those systems. On Nantucket, this may include species that are native to the mainland, but do not occur naturally on the Island. Invasive plants are those species that spread widely beyond the location of initial establishment, become locally abundant, or spread into natural areas. Invasive species may cause net harm to the economy, environment and human health. While native species may be "invasive" in certain habitats, this section is concerned with invasive-exotic plant species, which will henceforth be abbreviated as "invasive" plants or species. Invasive plants often possess some of the following characteristics that increase their ability to replace native species: rapid growth and maturation; abundant seed set and/or asexual reproduction; rapid rates of spread; and few, if any, natural enemies. Invasive plants are often difficult to control and may form monocultures over large areas.

B. Invasive plant incursions can result in significant alteration to natural resource systems, including wetlands and wetland buffers. Invasive plants may alter habitats sufficiently to reduce or eliminate less competitive plant species and/or wildlife dependent on specific habitats, resulting in reduced biodiversity. In addition, invasive plants may increase the rate of wetland eutrophication, reduce wetland area, and decrease pollutant attenuation. Effective management of invasive plants in wetlands and wetland buffers is critical to insuring and promoting healthy, diverse, and properly functioning wetland resources.

C. Determining the point and extent at which a resource or plant community has become adversely impacted by invasive species is dependent upon local conditions. Natural

resource managers, landowners and natural resource beneficiaries on Nantucket recognize invasive plants to be a problem that currently exists within our wetland resources and buffers. In addition, it is widely recognized that early detection and intervention make control of invasive species easier, with fewer environmental impacts. The process and regulations outlined below are set forth to define, guide and permit the management of invasive plants adversely impacting wetlands and wetland buffers within the jurisdiction of the Commission.

§ 390-28. Control and mitigation of invasive plant species.

A. Invasive-exotic plant species.

(1) The following list includes plants recognized as invasive in Massachusetts; importation and propagation of these species is currently prohibited within the State of Massachusetts. The entire current list of Massachusetts Prohibited Plants is available ~~at~~from the Massachusetts Department of Agricultural Resources, ~~or may be accessed online at: http://www.mass.gov/eea/agencies/agr/farm-products/plants/ massachusetts-prohibited-plant-list.html~~. The original Massachusetts prohibited plants list went into effect January 1, 2006. Certain species were subject to a phase-out period that expired on January 1, 2009. As of this date, the sale, trade, purchase, distribution and related activities for the species on the list are not allowed. ~~See Appendix B for the list.~~[1]

(2) In addition to the Massachusetts Prohibited Plants list ~~See Appendix C for~~ plants currently recognized by the Invasive Plant Species Committee of the Nantucket Biodiversity Initiative as invasive or at high risk of becoming invasive to native plant communities on Nantucket or plants recognized by the Massachusetts Invasive Plants Advisory Group (MIPAG) are to be consider invasive plant species and regulated as such.[1]

~~(2)~~

(3) The following marine algae are currently recognized by the Nantucket Conservation Commission as invasive in Nantucket waters.

Scientific Name	Common Name
Anabaena subcylindrica	
Asterionella formosa	
Chaetoceros elmorei	
Chlorella vulgaris	
Cladophora glomerata	
Codium fragile	Oyster thief
Enteromorpha linza	Maiden hair
Lyngbya birgei	
Nitzschia bilobata	

Formatted: Not Raised by / Lowered by

Formatted: Right, Indent: Left: 1.14", No bullets or numbering

~~12. Editor's Note: Appendix B is included as an attachment to this chapter.~~

~~13. Editor's Note: Appendix C is included as an attachment to this chapter.~~

Scientific Name	Common Name
Oscillatoria rebescens	
Ulva lactuca	Sea lettuce

B. Control and mitigation strategies.

(1) Appropriate and effective techniques to control invasive plants are species- and location-dependent. In developing a strategy to mitigate and/or control invasive plants, the following information is necessary:

(a) Identification of invasive species to be "controlled."

(b) Justification for identifying a plant as invasive.

(c) Delineation of geographic occurrence.

(d) Identification of best management practice or practices to be used for treatment/eradication, including plant disposal.

(e) Ongoing management strategy, including revegetation with appropriate species when required.

(2) Identification of invasive species to be "controlled." All plant species listed in Subsection A(1) through (3) shall be considered to be invasive on Nantucket. The Commission may also consider plant species not on these lists to be invasive in certain habitats or under certain circumstances. All invasive species listed in Subsection A(1) through (3) are subject to control through the processes and regulations indicated in Article V. Plant species listed as "Prohibited in Massachusetts" in Subsection A(1) and/or as "highly invasive" in Subsection A(2) shall not be planted within any wetland resource area or its protective buffer. The Commission recognizes that certain species act as invasive only in specific habitats. Therefore, the Commission may grant permission to plant species listed as invasive on Nantucket, with the exception of plant species listed as "Prohibited in Massachusetts" in Subsection A(1) and/or as "highly invasive" in Subsection A(2) under certain circumstances, provided that the applicant can provide substantial evidence that the plants under consideration pose no threat to the resource area in question.

(3) Delineation of geographic occurrence. Delineation of geographic occurrence of invasive species shall be provided by outline on aerial photographs of known scale and date; on GIS maps provided by the Town of Nantucket or appropriate land survey professionals; by plans drawn and stamped by professional land surveyors; and/or by other appropriately scaled and stamped base sheet references. Documentation shall include but not be limited to:

(a) Measured and/or calculated percentage of ground/canopy cover (dominance) based on specific site grid data.

(b) Graphic representation of aerial extent using specific site references such as aerial photographs, vista photographs, topographic and/or plot plans, etc.

(c) Scientific and/or historic/anecdotal information as to invasive species impact to plant and animal biodiversity to the site and site environs.

(4) Identification of best management practice or practices to be used for treatment/ eradication.

(a) Best management practices for treatment and/or eradication of invasive plant species include:

[1] Manual/Mechanical removal;

[2] Chemical control (broadcast and direct plant application);

[3] Biological control; and/or

[4] A combination of all of the above.

[5] Proper disposal.

(b) For purposes of these regulations, best management practices for the treatment and/or eradication of invasive plant species shall be those practices deemed both effective and with minimal environmental impacts, including impacts to other plants or animals within or near the infestation. Ranking of best management practices shall be species- and habitat-specific and based on best available information from local, state and federal environmental agencies experienced with such efforts, such as, but not limited to, the Massachusetts, Connecticut and New Hampshire Departments of Environmental Protection; the Vermont Agency of Natural Resources, Water Quality Division; the Massachusetts Division of Fisheries and Wildlife; the USDA/Natural Resources Conservation Service; the Environmental Protection Agency; the United States Fish and Wildlife Service; the Nantucket Conservation Commission; the Nantucket Parks and Recreation Commission; the Nantucket Coastal and Marine Department; the New England Wild Flower Society; and the Nantucket Invasive Plant Species Committee. Management protocols developed by the Nantucket Invasive Plant Species Committee for commonly treated invasive species are available from the Town Natural Resources Department or from the Nantucket Biodiversity Initiative website.

(c) Any herbicide application shall be performed by or under the supervision of a licensed applicator. Techniques that minimize the amounts of herbicide used and that restrict herbicide application to the target species to the extent possible to still be effective are encouraged. Given the inherent risks associated with biological control techniques, the Commission will consider such methods only when other methods have failed or cannot be used in a given situation. Before a biological control technique can be employed, it must be proven to be effective and to pose no risk to non-target plants on the Island as a whole.

(d) The seeds, propagules, and vegetative portions of some invasive plant species can survive indefinitely, even after removal from the soil, and initiate new infestations if not disposed of properly. Therefore, best

management practices must also include the proper disposal of such species.

(5) Ongoing management strategy.

(a) Treatment, control, and/or eradication of invasive species often require more than one year of treatment and must include ongoing maintenance practices that serve to enhance the biodiversity and health of the wetland resource area and its environs. For the purposes of these regulations, best management practices that serve to advance these interests include:

[1] Integrated management practices that incorporate mechanical, chemical and/or biological control measures as appropriate, including an estimate of the time required to effect control or elimination and any changes in treatment that may occur over time.

[2] Effective erosion control measures.

[3] Competitive plantings and/or revegetation with appropriate native species. For small or scattered occurrences within intact native plant communities it may be appropriate to allow for natural revegetation.

[4] Wildlife management practices.

(b) Prior to issuance of a decision to allow work to go forward, the Nantucket Conservation Commission shall require a written management plan that addresses Subsection B(5)(a)[1] through [4] above, as appropriate to specific site conditions.

§ 390-29. Permitting requirements.

A. Under the provisions of these regulations, alteration within a resource area and of vegetation within 25 feet of a wetland resource area requires an order of conditions from the Commission.

B. The Nantucket Conservation Commission has determined that appropriate treatment of invasive species within wetland resource areas and environs serves to enhance the functioning of the wetland resource area. Therefore, the Commission encourages, and will assist as appropriate, responsible invasive species management activities within its jurisdiction. In general, the Commission encourages early detection and control of invasive plants as removal is then often simpler, with fewer environmental impacts.

C. Toward that end, the Commission herein grants waivers to provisions within these regulations that require a twenty-five-foot undisturbed buffer to wetland resource areas and/or the filing of a notice of intent to alter existing vegetation within those geographic areas. Any work to be undertaken within the buffer zone relative to invasive species management/control shall require the filing of a request for determination of applicability. Any work to be undertaken within a wetland resource area or within a wetland buffer that is known to support any species listed as endangered, threatened, or special concern by the Massachusetts Natural Heritage and Endangered Species Program shall require an order of conditions or amended order of conditions resulting

from public hearing review of a notice of intent. The applicant, landowner, and/or land manager shall provide for Commission review and approval of all the information necessary to describe proposed invasive plant mitigation and control as required in § 390-28B(5)(a)[1] through [4].

390 Attachment 1

Town of Nantucket

Appendix A
Best Management Practices for Fertilizer Use on Nantucket Island

Adopted February 25, 1988

Revised July 1, 2013

WETLANDS PROTECTION

390 Attachment 4

Town of Nantucket

Appendix D
Swimming Pool Guidelines

1. All pool drainage shall be in compliance with the most current pool draining Best Management Practices set forth by the National Swimming Pool Foundation.
2. Pool drainage, filter backwash, or filter discharge must not be directly discharged into a storm drain, sewer main, potable water well, or within 100 feet of a wetland.
3. Any subsurface on-site drainage facility servicing the pool must comply with these regulations.
4. No pool or pool equipment shall be connected to an on-site sewage disposal system.
5. All pool drainage or surface runoff related to the pool and its hardscaping shall be contained on-site.
6. All pools must be dechlorinated at least 48 hours before any draining.
7. Notification of pool drainage shall be provided to the Health Department and the Natural Resources Department a minimum of 72 hours before drainage commencement.
8. A Statement of de-chlorination and drainage shall be provided to the Health Department within 10 calendar days of drainage along with the appropriate filing fee as determined by the Select Board. No pool draining, or discharge activities are allowed without the approval of the Health Department and the Natural Resources Department
9. All pool draining processes are subject to inspection by any agent of the Commission.

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Indent: Left: 0.25"

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Indent: Left: 0.77", Hanging: 0.37", No bullets or numbering

Formatted: List Paragraph, Indent: Left: 0.75"

WETLANDS PROTECTION

390 Attachment 4

Town of Nantucket

Appendix E
Town of Nantucket
Viewshed Management Guidelines

The Town of Nantucket Conservation Commission finds that the proper maintenance of vegetation is needed to protect wildlife, wildlife habitat, resiliency, erosion control, flood control, recreation, and wetland scenic views.
When a proposed activity involves the altering of a Buffer Zone, the Commission shall presume the Buffer Zone is significant to the protection of all the resource values protected by the Bylaw. These presumptions may be overcome only upon a clear showing that the Buffer Zone does not play a role in the protection of those interests. No work will be permitted in the Buffer Zone that has a significant adverse impact upon the interests given above and only upon a specific written determination to that effect by the Commission.
Vista Pruning/Cutting in these guidelines refers to the selective cutting of vegetation within a resource area or resource area buffer zone to improve a view through a pre-determined vista corridor. This activity does not include the cutting of trees to less than 90% of the existing crown cover, mowing, or removal of understory brush.
No new vista cutting is allowed without first receiving a permit from the Nantucket Conservation Commission. Once permitted the view corridor may be maintained in keeping with these guidelines. Any existing areas being maintained for viewshed purposes shall do so in keeping with these guidelines.
No work is allowed within resource areas without a permit. Viewshed management outside of the 50' setback may qualify as a minor activity.
Maintenance pruning is not allowed within resource areas. Exception being the maintenance of vegetation along public pedestrian access ways.
Properties located only within Land Subject to Coastal Storm Flowage are exempt from these guidelines.

General Guidelines
1. Each residential structure shall be allowed one viewshed corridor. Corridors may be no more than 15 feet from top to bottom and shall be 20' wide at the end closest to the structure and 25 feet on the resource area side of the corridor.
2. Should the lot contain more than one structure viewshed corridors must be separated by a minimum of 25'.
3. Lots open to the public as open space shall be allowed one corridor for every 100 linear feet of buffer zone/resource area.
4. Clear cutting is prohibited as is the topping of trees.
5. Pruning must preserve vegetative layers, habitat, and biodiversity.

6. No viewshed management shall be done between April 1st and September 30th to protect the breeding season and nesting birds. This time may be extended by specific request to the Nantucket Conservation Commission.

Layer Specific Guidelines

Trees:

1. No tree greater than 4" DBH (diameter at breast height) shall be cut down. Any tree to be removed must be reviewed by Commission staff.
2. Internodal pruning cuts should be avoided wherever possible to reduce decay and suckering. Branches should be pruned back to a lateral at least 1/3 the diameter of the cut stem.
3. Deadwood should be preserved whenever possible as it provides essential foraging and nesting habitat.
4. Should a dead or diseased tree be deemed to be hazardous by a certified arborist it would be eligible for removal.
5. Should the trees be less than 4" DBH then selective removal may be authorized by Commission staff following an assessment in the field.
6. No more than 15% of the lower branches of a tree shall be removed.
7. All cut material removal shall be performed by hand.
8. Vines that pose a threat to the health of a tree may be removed by hand.
9. Invasive trees are eligible for removal. If replacement is required, it must be of an appropriate native species.

Shrubs:

1. No shrub shall be cut to a height lower than 4 feet.
2. Shrubs shall be cut to varying heights to mimic natural growth.
3. Shrubs must maintain their natural growth habit to promote flowering and fruiting.
4. Vines impacting the health of the shrub may be removed to promote the health of the shrub. All vine removal must be by hand.
5. Invasive shrubs are eligible for removal and replacement with appropriate native species.

Groundcover:

1. Disturbance to groundcover is not allowed unless by permit..
2. Maintenance of private pedestrian walkways of less than three feet wide is allowed. Maintenance of public walkways is allowed to the appropriate width based on use. All vegetated walkways should meander to minimize runoff or erosion.

~~The Town of Nantucket Conservation Commission finds that the proper maintenance of vegetation is needed to protect wildlife, wildlife habitat, resiliency, erosion control, flood control, recreation, and wetland scenic views. When a proposed activity involves the altering of a Buffer Zone, the Commission shall presume the Buffer Zone is significant to the protection of all the resource values protected by the Bylaw. These presumptions may be overcome only upon a clear showing that the Buffer Zone does not play a role in the protection of those interests. No work will be permitted in the Buffer Zone that has a significant adverse impact upon the interests given above and only upon a specific written determination to that effect by the Commission.~~
~~Vista Pruning/Cutting in these guidelines refers to the selective cutting of vegetation within a resource area or resource area buffer zone to improve a view through a pre-determined vista corridor. This activity does not include the cutting of trees to less than 90% of the existing crown cover or mowing or removal of understory brush.~~

~~No new vista cutting is allowed without first receiving a permit from the Nantucket Conservation Commission. Once permitted the view corridor may be maintained in keeping with these guidelines. Any existing areas being maintained for viewshed purposes shall be do so in keeping with these guidelines.~~

No work is allowed within resource areas without a permit. Viewshed management outside of the 50' setback may qualify as a minor activity.

Maintenance pruning is not allowed within resource areas. Exception being the maintenance of vegetation along public pedestrian access ways.

Properties located only within Land Subject to Coastal Storm Flowage are exempt from these guidelines.

General Guidelines

- Each residential structure shall be allowed one viewshed corridor. Corridors may be no more than 15 feet from top to bottom and shall be 20 wide on the end closest to the structure and 25 feet on the resource area side of the corridor.
- Should the lot contain more than one structure viewshed corridors must be separated by a minimum of 25'.
- Lots open to the public as open space shall be allowed one corridor for every 100 linear feet of buffer zone/resource area.
- Clear cutting is prohibited as is the topping of trees.
- Pruning must preserve vegetative layers, habitat and bio-diversity.
- No viewshed management shall be done between April 1st and September 30th to protect the breeding season and nesting birds. This time maybe extended by specific request to the Nantucket Conservation Commission.

~~Layer Specific Guidelines~~

~~Trees:~~

- ~~No tree greater than 4" DBH (diameter breast height) shall be cut down. Any tree to be removed must be reviewed by Commission staff.~~
- ~~Deadwood should be preserved whenever possible as they provide essential foraging and nesting habitat.~~
- ~~Should a dead or diseased tree deemed to be a danger by a certified arborist it would be eligible for removal.~~
- ~~Should the trees be less than 4" DBH than selective removal maybe authorized by Commission staff following an assessment in the field.~~
- ~~No more than 15% of the lower branches of a tree shall be removed.~~
- ~~All cut material removal shall be done by hand.~~
- ~~Vines that pose a threat to the health of a tree maybe removed by hand.~~
- ~~Invasive trees are eligible for removal. If replacement is needed it must be of an appropriate native species.~~

~~Shrubs:~~

- ~~No shrub shall be cut to a height lower than 4 feet.~~
- ~~Shrubs shall be cut to varying heights to mimic natural growth.~~
- ~~Shrubs must maintain their natural shape such as fruit and flowers by selecting the optimum height and pruning different branches in different years.~~
- ~~Vines impacting the health of the shrub maybe pruned to promote the health of the shrub. All pruning must be by hand.~~
- ~~Invasive shrubs are eligible for removal and replacement with appropriate native species.~~

~~Groundcover:~~

- ~~Disturbance to groundcover is not allowed unless by permit.~~
- ~~Maintenance of private pedestrian walkways of less than three feet wide is allowed. Maintenance of public walkways is allowed to the appropriate width based on use. All vegetated walkways should meander to minimize runoff or erosion.~~

Formatted: Left

Formatted: Centered

FY24 Preliminary Capital Improvement Plan Update December 7, 2022

Finance Department
Brian E. Turbitt, Director of Municipal Finance
Susan M. Carmel, Assistant Finance Director

Agenda

1. Progress to-date
2. FY24 General Fund and Enterprise Fund Preliminary Requests (including out-years)
3. FY24 Potential Debt Exclusion Projects
4. Out-year Potential Debt Exclusion Projects
5. Unknowns in Capital Improvement Plan
6. Next Steps
7. Discussion and Questions

Progress Update

- October 5th & October 6th updates to Select Board and Capital Program Committee
- Refinements to General Fund and Enterprise Fund requests continue
- Capital Program Committee review nearing completion
- Continued enhancements to software

Overview of Changes

Town Administration	• Increased EV Stations funding	$ 50,000
Town Administration	• Removed Paid Parking Infrastructure	$ (100,000)
Fire Department	• Removed SCBA Refill Trailer	$ (225,000)
Marine	• Added Town Pier Floating Dock Replacement	$ 2,580,000
DPW-Facilities	• Moved Washington St Parking Lot Reconstruction to FY25	$ (2,000,000)
DPW-Facilities	• Increased Security Cameras & Lighting funding	$ 20,000
DPW-Transportation	• Re-categorized Millie's Bridge to CRP	-
DPW-Transportation	• Moved Wauwinet Road Multi-use Path from FY25 to FY24	$ 3,000,000
Airport	• Decreased Nobadeer Farm Road Housing Development	$ (1,245,000)
Our Island Home	• Increase to cost of Van Replacement	$ 22,000
Sewer	• Moved Utility Truck from FY25 to FY24	$ 200,000
Stormwater	• Decreased Silver St. Stormwater Improvements	$ (250,000)
		$ 2,052,000

General Fund: Town Administration

Town Administration												
Project Name	**Priority**	**FY24**	**FY25**	**FY26**	**FY27**	**FY28**	**FY29**	**FY30**	**FY31**	**FY32**	**FY33**	**TOTAL**
Central Municipal Building	high	-	6,000,000	-	50,000,000	-	-	-	-	-	-	56,000,000
Town-wide Document Management System	medium	500,000	750,000	750,000	-	-	-	-	-	-	-	2,000,000
New Senior Center-Feasibility/Design/Construction	high	-	3,500,000	26,500,000	-	-	-	-	-	-	-	30,000,000
Coastal Resiliency Planning	medium	1,000,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	5,500,000
Island-wide Underground Wiring Feasibility Study	low	500,000	-	-	-	-	-	-	-	-	-	500,000
EV Charging Stations	high	100,000	50,000	-	-	-	-	-	-	-	-	150,000
Purchase of Replacement Staff Vehicle	medium	50,000	-	-	-	-	-	-	-	-	-	50,000
Intermodel Transportation Center	medium	-	23,000,000	-	-	-	-	-	-	-	-	23,000,000
		2,150,000	**33,800,000**	**27,750,000**	**50,500,000**	**500,000**	**500,000**	**500,000**	**500,000**	**500,000**	**500,000**	**117,200,000**

Increased EV Charging Station by $50,000
Eliminated Paid Parking Infrastructure

General Fund: Public Safety

Fire Department												
Project Name	**Priority**	**FY24**	**FY25**	**FY26**	**FY27**	**FY28**	**FY29**	**FY30**	**FY31**	**FY32**	**FY33**	**TOTAL**
Fire Department Staff Vehicle	medium	-	-	-	-	85,000	-	-	-	-	-	85,000
Ambulance 2	medium	-	-	-	405,000	-	-	-	-	-	-	405,000
Fire Department Staff Vehicle F-2090	medium	-	-	-	-	55,000	-	-	-	-	-	55,000
Trench and Technical Rescue Equipment	high	375,000	-	-	-	-	-	-	-	-	-	375,000
Engine 3	high	-	700,000	-	-	-	-	-	-	-	-	700,000
'Sconset Fire Station Design	medium	-	850,000	7,000,000	-	-	-	-	-	-	-	7,850,000
Fire Department Staff Vehicle F-6073	medium	-	-	-	60,000	-	-	-	-	-	-	60,000
Engine 1 Replacement	high	850,000	50,000	-	-	-	-	-	-	-	-	900,000
Fire Department Staff Vehicle F-5429	medium	80,000	-	-	-	-	-	-	-	-	-	80,000
Ambulance 4	medium	-	390,000	-	-	-	-	-	-	-	-	390,000
Engine 2	medium	-	-	-	525,000	-	-	-	-	-	-	525,000
Public Safety Auxiliary Building	medium	-	5,000,000	-	-	-	-	-	-	-	-	5,000,000
Replace Ladder Truck	medium	-	-	1,500,000	-	-	-	-	-	-	-	1,500,000
		1,305,000	**6,990,000**	**8,500,000**	**990,000**	**140,000**	**-**	**-**	**-**	**-**	**-**	**17,925,000**
Marine Department												
Project Name	**Priority**	**FY24**	**FY25**	**FY26**	**FY27**	**FY28**	**FY29**	**FY30**	**FY31**	**FY32**	**FY33**	**TOTAL**
Town Pier-Floating Dock Replacements (Supplemental Funding)	high	2,580,000	-	-	-	-	-	-	-	-	-	2,580,000
Polpis & Madaket Harbors: Permitting, Planning & Dredging	medium	555,000	-	-	-	-	-	-	-	-	-	555,000
		3,135,000	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**3,135,000**
Police Department												
Project Name	**Priority**	**FY24**	**FY25**	**FY26**	**FY27**	**FY28**	**FY29**	**FY30**	**FY31**	**FY32**	**FY33**	**TOTAL**
Replacement of Duty Firearms	medium	-	-	-	-	83,500	-	-	-	-	-	83,500
Public Safety Building Maintenance (primarily painting)	medium	-	-	-	-	-	200,000	-	-	-	-	200,000
		-	**-**	**-**	**-**	**83,500**	**200,000**	**-**	**-**	**-**	**-**	**283,500**

General Fund: Public Works

DPW - Facilities										
Project Name	**Priority**	**FY24**	**FY25**	**FY26**	**FY27**	**FY28**	**FY29**	**FY30**	**FY31**	**FY32**
Security Cameras and Lighting	medium	70,000	-	-	-	-	-	-	-	-
Upgrade Nobadeer Athletic Support Building Systems and Functionality	low	-	250,000	-	-	-	-	-	-	-
Public Works Campus-wide Improvements	medium	-	3,000,000	15,000,000	-	-	-	-	-	-
Washington Street Parking Lot Reconstruction	medium	-	2,000,000	-	-	-	-	-	-	-
Tom Nevers Berm Construction	high	-	2,000,000	-	-	-	-	-	-	-
		70,000	**7,250,000**	**15,000,000**	**-**	**-**	**-**	**-**	**-**	**-**
DPW - Transportation										
Project Name	**Priority**	**FY24**	**FY25**	**FY26**	**FY27**	**FY28**	**FY29**	**FY30**	**FY31**	**FY32**
Replace DPW Fuel Tank	high	375,000	-	-	-	-	-	-	-	-
Sidewalk Improvement Plan (SBSP)	medium	1,125,000	1,160,000	1,200,000	1,230,000	1,300,000	1,300,000	1,300,000	1,300,000	-
Island-Wide Road Improvements (SBSP)	medium	3,000,000	3,000,000	3,200,000	3,500,000	-	-	-	-	-
Old South Road Reconstruction - Rotary to Amelia Drive	medium	-	1,204,287	-	-	-	-	-	-	-
Old South Road/Amelia Drive Intersection Mini-Roundabout	medium	-	299,574	-	-	-	-	-	-	-
Massasoit Bridge Redesign w/Construction	medium	-	-	-	-	-	-	-	-	-
Multi-Use Path Maintenance (SBSP)	high	1,000,000	1,000,000	1,030,000	1,070,000	1,100,000	1,130,000	1,160,000	1,190,000	1,230,000
Cobblestone Improvements	high	550,000	565,000	580,000	600,000	620,000	640,000	660,000	680,000	700,000
Wauwinet Road Multi-Use Path (Supplemental Funding)	medium	3,000,000	-	-	-	-	-	-	-	-
'Sconset Footbridge Repairs (Supplemental Funding)	medium	100,000	-	-	-	-	-	-	-	-
Decommission Fire Cisterns	medium	-	175,000	175,000	-	-	-	-	-	-
Surfside Area Roads Reconstruction (Supplemental Funding)	high	13,000,000	-	-	-	-	-	-	-	-
Tom Nevers Bike Path Construction	low	-	5,000,000	-	-	-	-	-	-	-
Madaket Road Raising and Bridge Conversion	high	-	-	-	-	-	-	40,000,000	-	-
		22,150,000	**12,403,861**	**6,185,000**	**6,400,000**	**3,020,000**	**3,070,000**	**43,120,000**	**3,170,000**	**1,930,000**

General Fund: Public Works (cont'd)

DPW - General												
Project Name	Priority	FY24	FY25	FY26	FY27	FY28	FY29	FY30	FY31	FY32	FY33	TOTAL
Nobadeer Field Improvements (Artificial Turf Replacement)	medium	-	250,000	-	-	-	-	-	-	-	-	250,000
Storm Water Management Plan Implementation-Inland ((#F4 (#F2, #F6))	medium	-	100,000	-	-	-	-	-	-	-	-	100,000
Parks and Rec Master Plan	medium	-	5,000,000	7,500,000	10,000,000	-	-	-	-	-	-	22,500,000
Pony Field Stormwater Improvements	medium	-	675,000	-	-	-	-	-	-	-	-	675,000
Fleet-Mechanic's Truck	low	-	120,000	-	-	-	-	-	-	-	-	120,000
Earthquake Study (#EQ2)	low	-	-	50,000	-	-	-	-	-	-	-	50,000
Nobadeer Soccer Field Addition & Expansion (Parks and Rec Master Plan)	medium	3,800,000	-	-	-	-	-	-	-	-	-	3,800,000
Storm Water Management Plan Implementation (Downtown) (#F2)	medium	-	50,000	-	-	-	-	-	-	-	-	50,000
Storm Water CCTV and Management (#F3)	medium	-	100,000	-	-	-	-	-	-	-	-	100,000
		3,800,000	**6,295,000**	**7,550,000**	**10,000,000**	**-**	**-**	**-**	**-**	**-**	**-**	**27,645,000**

General Fund: Coastal Resiliency, Hazard Mitigation, Natural Resources

Coastal Resiliency Planning												
Project Name	**Priority**	**FY24**	**FY25**	**FY26**	**FY27**	**FY28**	**FY29**	**FY30**	**FY31**	**FY32**	**FY33**	**TOTAL**
Millie's Bridge Structural Sustainability & Access	medium	1,000,000	-	-	-	-	-	-	-	-	-	1,000,000
		1,000,000	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**1,000,000**
Hazard Mitigation												
Project Name	**Priority**	**FY24**	**FY25**	**FY26**	**FY27**	**FY28**	**FY29**	**FY30**	**FY31**	**FY32**	**FY33**	**TOTAL**
Consue Springs Storm Water Study (#F5)	medium	-	200,000	-	-	-	-	-	-	-	-	200,000
Polpis Road/Sesachacha Pond Interim Hardening (#F17)	high	-	-	-	-	250,000	10,000,000	-	-	-	-	10,250,000
Madaket / Long Pond Hardening (#F14)	medium	-	250,000	-	-	-	-	-	-	-	-	250,000
Madaket / Long Pond Hardening (#F15)	medium	-	250,000	-	-	-	-	-	-	-	-	250,000
Miacomet Pond Dredging - Phase 2	medium	4,000,000	-	-	-	-	-	-	-	-	-	4,000,000
Harbors Plan HMP Implementation-Year 3 (#SC2)	medium	100,000	-	-	-	-	-	-	-	-	-	100,000
		4,100,000	**700,000**	**-**	**-**	**250,000**	**10,000,000**	**-**	**-**	**-**	**-**	**15,050,000**
Natural Resources												
Project Name	**Priority**	**FY24**	**FY25**	**FY26**	**FY27**	**FY28**	**FY29**	**FY30**	**FY31**	**FY32**	**FY33**	**TOTAL**
Replacement Vehicle	low	-	-	-	-	-	-	-	-	-	-	-
Baseline Environmental Data Program	high	500,000	500,000	500,000	500,000	500,000	-	-	-	-	-	2,500,000
Wauwinet Road Polpis Harbor Hardening-Design & Permitting (HMP #F18)	medium	-	250,000	-	-	-	-	-	-	-	-	250,000
		500,000	**750,000**	**500,000**	**500,000**	**500,000**	**-**	**-**	**-**	**-**	**-**	**2,750,000**

General Fund: Information Technology

IS/GIS												
Project Name	Priority	FY24	FY25	FY26	FY27	FY28	FY29	FY30	FY31	FY32	FY33	TOTAL
Maintain Network Infrastructure	medium	$ 50,000	$ 50,000	$ 50,000	$ 50,000	$ 50,000	$ 50,000	$ 50,000	$ 50,000	$ 50,000	$ 50,000	$ 500,000
Server Virtualization and Maintenance	medium	$ -	$ 75,000	$ -	$ 75,000	$ -	$ 75,000	$ -	$ 75,000	$ -	$ -	$ 300,000
Replace Town Computers	medium	$ 69,000	$ 73,000	$ 76,000	$ 80,000	$ 84,000	$ 88,000	$ 93,000	$ 97,000	$ 102,000	$ 107,000	$ 869,000
GIS Digital Imaging Updates	medium	$ -	$ -	$ -	$ 300,000	$ -	$ -	$ -	$ -	$ -	$ 300,000	$ 600,000
		$119,000	**$198,000**	**$126,000**	**$505,000**	**$134,000**	**$213,000**	**$143,000**	**$222,000**	**$152,000**	**$457,000**	**$2,269,000**

General Fund: School Department

School Department												
Project Name	Priority	FY24	FY25	FY26	FY27	FY28	FY29	FY30	FY31	FY32	FY33	TOTAL
IT Infrastructure	medium	350,000	55,000	-	270,000	50,000	100,000	-	-	-	-	825,000
NPS Roof Replacements	high	-	250,000	-	250,000	-	250,000	-	-	-	-	750,000
Grounds Equipment	medium	70,000	-	-	75,000	-	-	85,000	-	-	-	230,000
Campus-wide Improvements	high	-	750,000	750,000	750,000	750,000	750,000	750,000	750,000	-	-	5,250,000
NPS Building Improvements	medium	350,000	375,000	375,000	375,000	400,000	400,000	400,000	425,000	425,000	-	3,525,000
NHS Outdoor Basketball Court Hoops	low	-	-	-	90,000	-	-	-	-	-	-	90,000
24 Surfside Road Property Upgrades	medium	1,650,000	-	-	-	-	-	-	-	-	-	1,650,000
NPS - New Middle School	medium	-	-	-	-	-	-	-	-	50,000,000	-	50,000,000
		2,420,000	**1,430,000**	**1,125,000**	**1,810,000**	**1,200,000**	**1,500,000**	**1,235,000**	**1,175,000**	**50,425,000**	**-**	**62,320,000**

General Fund: Summary

Preliminary FY24 Requests: $40,749,000

FY23 Approved Requests: $69,250,150

FY24 includes:

- Surfside Area Roads Reconstruction - $13 million
- Miacomet Pond Dredging Design & Construction - $4 million
- Nobadeer Soccer Field Addition & Expansion - $3.8 million

Enterprise Fund - Airport

Airport										
Project Name	**Priority**	**FY24**	**FY25**	**FY26**	**FY27**	**FY28**	**FY29**	**FY30**	**FY31**	**FY32**
Nantucket Operations and ARFF	medium	-	100,000	85,000	25,000	-	200,000	90,000	-	-
Nobadeer Farm Road Housing Development-Phase 2: Construction	high	3,885,000	-	-	-	-	-	-	-	-
Maintenance/Equipment/Vehicle Purchases	medium	-	461,100	-	-	170,000	-	-	-	-
IT and Equipment Upgrades	low	-	-	-	-	115,000	-	-	-	-
Paint and Beads & Rubber/Markings Removal	high	503,500	-	-	-	-	-	-	-	-
AIP: Terminal Improvements (Supplemental Funding)	medium	9,000,000	-	-	-	-	-	-	-	-
Taxi and Runway Reconstruction	high	-	-	-	-	-	-	-	-	-
AIP Projects: Outyears	high	-	13,600,000	83,130,000	-	28,900,000	19,750,000	750,000	2,350,000	900,0
Snow Removal Equipment Building Expansion	medium	-	-	-	5,000,000	-	-	-	-	-
AIP: Runway 24 High Speed Exit Taxiway	high	5,040,000	-	-	-	-	-	-	-	-
AIP: South Apron Expansion (Supplemental Funding)	high	22,680,000	-	-	-	-	-	-	-	-
AIP: Perimeter Road and Fence Relocation	high	1,000,000	-	-	-	-	-	-	-	-
EV Charging Infrastructure	medium	1,200,000	-	-	-	-	-	-	-	-
Jet A Tank Exterior Painting	medium	96,000	-	-	-	-	-	-	-	-
Replace Airport 15 Truck, Repaint Parking Lot and Replace Luggage Carts	medium	110,000	-	-	-	-	-	-	-	-
Replace Lektro Tug	medium	384,000	-	-	-	-	-	-	-	-
ARFF Tools and Equipment & PFAS Decontamination	high	392,000	-	-	-	-	-	-	-	-
Infrastructure: Outyears	medium	-	430,000	50,000	-	-	-	-	-	-
		44,290,500	**14,591,100**	**83,265,000**	**5,025,000**	**29,185,000**	**19,950,000**	**840,000**	**2,350,000**	**900,0**

Enterprise Fund – Our Island Home

Our Island Home (E)												
Project Name	**Priority**	**FY24**	**FY25**	**FY26**	**FY27**	**FY28**	**FY29**	**FY30**	**FY31**	**FY32**	**FY33**	**TOTAL**
Building Improvements	medium	-	-	250,000	-	250,000	-	-	-	-	-	500,000
Replacement Van Purchase	medium	197,000	-	-	-	-	-	-	-	-	-	197,000
		197,000	**-**	**250,000**	**-**	**250,000**	**-**	**-**	**-**	**-**	**-**	**697,000**

Enterprise Fund – Sewer & Stormwater

Sewer										
Project Name	**Priority**	**FY24**	**FY25**	**FY26**	**FY27**	**FY28**	**FY29**	**FY30**	**FY31**	**FY32**
108-120 Baxter Rd. Sewer Design/Construction	medium	-	10,000,000	-	-	-	-	-	-	-
Airport Rd Pump Station Upgrades	low	-	-	100,000	-	-	-	-	-	-
Ford F 650 Dump Truck	low	-	-	-	-	-	-	-	125,000	-
Capacity, Management, Operation and Maintenance (CMOM)	high	2,000,000	2,000,000	2,000,000	2,000,000	-	-	-	-	-
Upgrade Wastewater Laboratory	low	-	-	125,000	-	-	-	-	-	-
Madaket/Warrens Landing/Somerset Area Sewer Extension	medium	-	5,000,000	47,400,000	-	-	-	-	-	-
SiaSconset Area Sewer Redesign and Reconstruction	medium	-	12,100,000	-	-	-	-	-	-	-
Coastal Erosion Surfside and Siasconset Discharge Beds	high	-	500,000	-	-	-	-	-	-	-
Construction of New Garage Maintenance Facility (Supplemental Funding)	medium	-	7,000,000	-	-	-	-	-	-	-
Miacomet Area Sewers Extension	medium	-	900,000	8,500,000	-	-	-	-	-	-
PFAS Removal and Treatment	high	-	10,000,000	-	-	-	-	-	-	-
Hummock Pond Area North Sewer Extension	medium	-	2,000,000	19,000,000	-	-	-	-	-	-
Surfside WWTF Upgrade Phase 2 Design & Construction (Supplemental Funding)	high	7,000,000	-	-	-	-	-	-	-	-
New Electric Admin Vehicle Purchase	medium	50,000	-	-	-	-	-	-	-	-
Replacement F-550 Dump Truck 4x4 w/plow Purchase (or equivalent)	medium	115,000	-	-	-	-	-	-	-	-
New F-350 Pickup 4x4 w/plow Purchase (or equivalent)	medium	85,000	-	-	-	-	-	-	-	-
Hummock Pond Area South Sewer Extension	medium	-	-	5,000,000	20,000,000	-	-	-	-	-
Purchase of Replacement F-550 Utility Truck w/crane (or equivalent)	medium	200,000	-	-	-	-	-	-	-	-
		9,450,000	**49,500,000**	**82,125,000**	**22,000,000**	**-**	**-**	**-**	**125,000**	**-**
Stormwater										
Project Name	**Priority**	**FY24**	**FY25**	**FY26**	**FY27**	**FY28**	**FY29**	**FY30**	**FY31**	**FY32**
New Small Mobile Jeter Vac Purchase	medium	-	100,000							
New Clamshell Catch Basin Truck Purchase	medium	-	375,000							
Silver Street Parking Lot Improvements (Design and Construction)	medium	750,000	-	-	-	-	-	-	-	-
Island-wide Drainage Improvements	high	1,100,000	2,100,000	-	-	-	-	-	-	-
Capacity, Management, Operation and Maintenance (CMOM)	high	2,000,000	2,000,000	2,000,000	-	-	-	-	-	-
		3,850,000	**4,575,000**	**2,000,000**	**-**	**-**	**-**	**-**	**-**	**-**

Enterprise Fund: Nantucket Water Department & Solid Waste

Nantucket Water Department									
Project Name	**Priority**	**FY24**	**FY25**	**FY26**	**FY27**	**FY28**	**FY29**	**FY30**	**FY31**
Lead Service Replacement Program (MADEP Mandated)	medium	$ 1,175,000	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Water Tank Re-Coating & Replacement	medium	$ 2,242,500	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Pump Station Upgrades (New Pump Station North Pasture)	medium	$ -	$ 2,155,000	$ -	$ -	$ -	$ -	$ -	$ -
Employee Housing	high	$ 2,000,000	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Distribution System Improvements	medium	$ -	$ 498,125	$ 2,788,462	$ 1,895,955	$ -	$ -	$ -	$ -
Pipe and Equipment Storage Building (steel storage building)	high	$ 950,000	$ -	$ -	$ -	$ -	$ -	$ -	$ -
		$ 6,367,500	**$ 2,653,125**	**$ 2,788,462**	**$ 1,895,955**	**$ -**	**$ -**	**$ -**	**$ -**
Solid Waste									
Project Name	**Priority**	**FY24**	**FY25**	**FY26**	**FY27**	**FY28**	**FY29**	**FY30**	**FY31**
Landfill Closure - Phase 1 (Supplemental Funding)	high	$ 5,000,000	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Purchase of NEW Staff Vehicle (Ford Ranger or equivalent)	medium	$ 50,000	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Materials Recovery Facility Improvements-Third Baler	medium	$ 380,000	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Transfer Station-Second Scale	medium	$ 210,000	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Paving and Storm Water Improvements	high	$ 500,000	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Purchase Composter	medium	$ -	$ 1,000,000	$ -	$ -	$ -	$ -	$ -	$ -
Possible Purchase of Transfer Station	medium	$ -	$ 1	$ -	$ -	$ -	$ -	$ -	$ -
		$ 6,140,000	**$ 1,000,001**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**

*Landfill Closure – Phase 1 will be funded through the general fund

Enterprise Fund: Summary

FY24 Preliminary Requests: $70,295,000

FY23 Approved Requests: $32,406,168

FY24 includes:

- South Apron Expansion AIP - $22.7 million
- Terminal Improvements AIP - $9 million
- Surfside WWTF Upgrade Phase 2 Design & Construction - $7 million
- Nobadeer Farm Road Housing Development Phase 2 Construction - $3.9 million
- Landfill Closure Phase 1 (supplemental funding) - $5 million

FY24 Potential Debt Exclusions

• Surfside Area Roads Reconstruction	$13,000,000
• Landfill Closure - Phase 1 (supplemental funding)	$ 5,000,000
• Miacomet Pond Dredging	$ 4,000,000
• Nobadeer Soccer Field Addition & Expansion	$ 3,800,000
Estimated Total	**$25,800,000**

Potential Out-year Debt Exclusions

FY2025	Our Island Home Construction	$ 50,000,000
FY2025	2 Fairgrounds Municipal Office Building	$ 56,000,000
FY2025	Intermodal Transportation Center	$ 23,000,000
FY2025	Public Safety Auxiliary Building	$ 5,000,000
FY25-FY26	New Senior Center	$ 30,000,000
FY25–FY26	Public Works New Campus Construction	$ 18,000,000
FY25–FY26	'Sconset Fire Station	$ 7,850,000
FY25–FY27	Parks and Rec Master Plan	$ 22,500,000
FY2032	Nantucket Public Schools-New Middle School	$ 50,000,000
	Estimated Total	**$262,350,000**

Unknowns with Potential CIP Impact

- Comprehensive Plan for Baxter Road Relocation
- Scope of PFAS Remediation
- Public Works Campus Improvements - decision to remain or relocate
- Financial impact of new project recommendations from Coastal Resiliency Advisory Committee
- Parks and Rec Master Plan - possible revisions due to Coastal Resiliency Plan and other island projects

Next Steps

- Determine Funding Sources
- Complete Capital Program Committee Reviews, RORIs & FY24 Report & Recommendations
- Select Board and Finance Committee Review of Capital Program Committee's Recommendations

Conclusion

- Discussion and Questions

Contact Information:

Brian E. Turbitt, Finance Director bturbitt@nantucket-ma.gov

Susan M. Carmel, Assistant Finance Director scarmel@nantucket-ma.gov

Preliminary Outline #5 for 2023 Annual Town Meeting Warrant
For 12/07/22 SB review
As of 12/04/22
NOTE: Numbering & Order is NOT FINAL

Annual Articles

1. Receipt of Reports
2. Appropriation: Unpaid Bills
3. Appropriation: Prior Year Articles
4. Revolving Accounts: Annual Authorization *(NOTE: change "Public Works Housing" to "Sewer"; add "Town Housing")*
5. Appropriation: Reserve Fund
6. FY 2023 General Fund Budget Transfers
7. Personnel Compensation Plans for FY 2024 *(NOTE: review seasonal salary schedules; call firefighter)*
8. Appropriation: FY 2024 General Fund Operating Budget
9. Appropriation: Health & Human Services
10. Appropriation: General Fund Capital Expenditures
11. Appropriation: FY 2024 Enterprise Funds Operations *(ADD: Storm Water Enterprise Fund)*
12. Appropriation: Enterprise Funds Capital Expenditures
13. FY 2023 Enterprise Funds Budget Transfers
14. Appropriation: Waterways Improvement Fund
15. Appropriation: Ferry Embarkation Fee
16. Appropriation: Ambulance Reserve Fund
17. Appropriation: County Assessment
18. Appropriation: Finalizing FY 2024 County Budget
19. Rescind Unused Borrowing Authority ***(if needed)***
20. Appropriation: OPEB Trust Fund
21. Appropriation: Free Cash
22. Appropriation: Stabilization Fund
23. Appropriation: CPC (will be Town-sponsored)

Other Select Board Sponsored Articles

NOTE: most of these were reviewed/discussed by SB and/or Town Administration since the 2022 ATM

ZONING* BYLAW & GENERAL BYLAW AMENDMENTS
**Board discussion occurred in January 2018 regarding a request/directive that all zoning articles mist be accompanied by a narrative explanation as to why the item is being put forward, along with any operational or financial impacts*

Zoning Bylaws
See attached from Planning (includes Zoning and other) *NOTE: HDC advisory committees TBD*

- Short-term Rental Zoning ⟶ Fall 2023 STM

General Bylaws

- ~~Micro mobility devices on multi-use paths *(NOTE: there is a potential citizen article to restrict/limit these; and, the attached is to allow them but regulate them) (also attached is the current bylaw); need Town Counsel to prepare article for bylaw amendment and/or HRP? OR, are we waiting on BPAC for a recommendation(s)*~~ *Town Counsel looking into Regulations vs warrant article*

DRAFT

- ~~Paid parking (see vote on Article 66 of 2020 ATM – attached) *(NOTE: at 9/28/22 SB meeting this topic came up and it was generally determined to get a Parking Commission in place before proceeding further with this at this time) (Yes?)*~~ *("Yes" per SB 10/12/22)*

- Short-term Rental General Bylaw ⟶ Fall 2023 STM

- Display of Merchandise & Wares (c. 97) – under review *(issue with display of items in certain locations)*

- Street Musician volume (c. 105) – under review *(limit amplification; reviewing with Town Counsel, SOME amplification already prohibited)*

HOME RULE PETITIONS
Resubmittal of Pending HRPs from prior ATMs (if these have not been acted upon by the Legislature)
-- Community Housing Bank *(Article 76/2022 ATM; Article 79/2019 ATM; Article 70/2018 ATM; Article 88/2017 ATM; Article 82/2016 ATM)*
-- Sewer Act Amendment *(Article 77/2022 ATM)*
-- Gov't Study Committee Recommendations *(Article 78/2022 ATM)*
-- Fertilizer Ban (Article 79/2022 ATM) ***Per SB 11/16/22 will use motion from Article 79***
-- Real Estate Conveyances x 2 *(1 - Article 94/2022 ATM: 50 Altar Rock Rd to NCF; 2 – Article 95/2022 ATM: Portion of Ames Ave)*
-- Special Act/HRP for 5-year terms for SB (Per 10/12/22 SB discussion) OR hold for re-established Govt Study? Per 10/26/22 SB meeting – proceed to prepare for 5-year terms
-- Authorization to Issue Pension Obligation Bonds *(Article 95 of 2021 ATM)*

New
TBD

MGL ACCEPTANCES
- Town Clerk – MGL c 41, s 110A *(re: Voter Registration deadline)*

REAL ESTATE RELATED
- Potential long-term lease authorization for landfill operator
- Dartmouth Lane (near Delaney Rd) taking (need further info)
- Baxter Road – potential takings/conveyances – TBD
- Easement to NGrid for new Surfside Rd sewer pump station
- Easement to Land Bank at E Creek Rd (boardwalk project; handicap parking)
- Transfer parcels to Land Bank: 6 Goose Pond Ln (related to Consue Springs projects); Spruce Street (bike/pedestrian connection from 19 E Creek to Spruce to Consue);
- Easement for National Grid in connection with L1 project (triangle parcel at Wilkes Sq)

OTHER
- Amend description in Article 16 of 2018 ATM (Appropriation: Public Works Facility Improvements – Design) to allow for design at other location(s)
- Update Financial Assurance Mechanism (Landfill Closure)
- Renew Septic Loan Fund Authorization for Add'l $2m

BALLOT QUESTIONS
-- possible debt exclusion(s) and/or capital exclusion(s) for capital projects; real estate
-- override for Solid Waste

DRAFT

CITIZEN ARTICLES
26 articles submitted
2023-Annual-Town-Meeting---Citizen-Warrant-Articles-PDF (nantucket-ma.gov)

DRAFT

PRELIMINARY DRAFT

Planning Board/PLUS Article Concepts for 2023 ATM (11/30/22)

Courtesy Mailings to property owners affected by Zoning Map changes sent 11/23/22

RC-2 Phase Out Articles – Implementation of the 2009 Master Plan. Should have no operational or financial impacts to the Town.

- Nobska Lane RC-2 to R-5 or CTEC
- ~~Remaining Nobadeer Farm Road parcels (a portion of)~~
- 86A Old South Road RC-2 to CTEC
- ~~West side of Arrohead Drive to CTEC or CI~~
- Egan Lane Parcels to CTEC ~~and R-10?~~
- Salros RC-2 to CTEC or R-5
- 95 Miacomet Avenue RC-2 to LUG-2 and R-20
- 91 Miaomet Avenue RC-2 to R-20

RC Phase Out Articles - Implementation of the 2009 Master Plan. Should have no operational or financial impacts to the Town.

- 103 Washington Street to CN
- 77 Washington to ROH

Other Map Change Articles – Consistent with or directly implementing the goals and objectives in the 2009 Master Plan. Should have no operational or financial impacts to the Town.

- Cobble Court Area R-10 to CN
- Monomoy Creeks buffer area LUG-1 to LUG-2
- 69 Hummock Pond Road LUG-2 to R-20 (Citizen Petition to be withdrawn) and PB Sponsored
- Town Overlay District Open Space Parcels – Misc. to R-40

Technical Amendment to the Zoning Map

- ~~Split lot clean up~~

Zoning Bylaw Amendments – Consistent with current planning practices or responding to changing needs. Should have no operational or financial impacts to the Town.

- Technical Amendments – ~~all in a single article TBD~~ AG requested separate articles
  - ~~Adjust language in 30A~~
  - ~~Correct process in 13E~~
  - Reduce aisle width in 18 from 20 to 18
  - ~~Reduce parking requirements ?~~
  - ~~Correct reference in 26A~~
  - Delete 37
  - Secondary Lot ground cover waiver language adjustment
- Add definitions and allowances for animal hospital and animal shelter
- Short term rentals (may include multiple articles)
- Transient Residential Facilities (may include multiple articles)
- Removal of BOH, Conservation Commission, etc from 139-26
- Add R-10 and R-20 to tertiary lot
- Parking Chart Update?
  - Duplex
  - Garage Apartment
- Use Chart - Duplex update?

DRAFT

- SP in ROH
- Separate ownership in ROH & R-1 only for covenant lot
- Allowed in R-20/R-40

Other Bylaw Amendments

- Chapter 124: Signs; Satellite Dishes; Rooflines
- Lighting Bylaw Update – Citizen Petition

Real Estate

- Paper Street Acquisition/Disposition TBD
- Home Rule Petition TBD
- Town of Nantucket to Land Bank – Misc Parcels

DRAFT

(Home Rule Petition: An Act Amending the Charter of the Town of Nantucket To Increase the Terms of Office for Members of the Select Board to Five Years)

To see if the Town will vote to request its representatives in the General Court to introduce special legislation, the text of which is set forth below, amending section 3.1 of the charter for the Town of Nantucket to increase the terms of office of members of the Select Board to five years, and to authorize the General Court, with the approval of the Select Board, to make changes of form to the text thereto as may be necessary or advisable in order to accomplish the intent and public purpose of this legislation in order to secure passage.

AN ACT AMENDING THE CHARTER FOR THE TOWN OF NANTUCKET

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

Section 1: Section 3.1 of the Home Rule Charter of the Town of Nantucket, as established by chapter 289 of the acts of 1996, as amended, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by deleting the word “three” in the first line and inserting in place thereof the following word:- five .

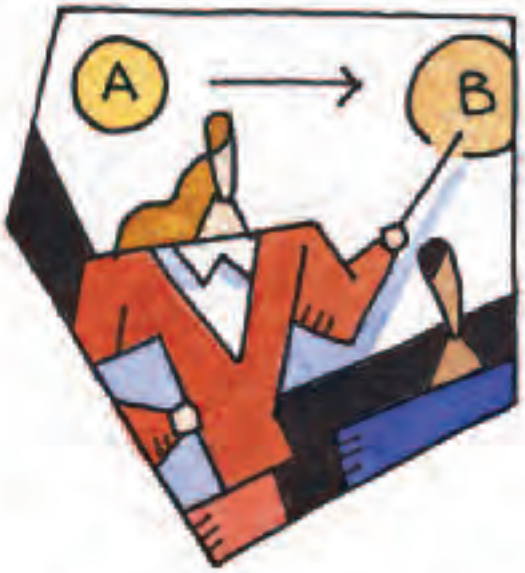
Section 2: This Act shall take effect upon passage.

Or to take any other action related thereto.

(Select Board)

SEVERAL OPTIONS EXIST FOR

Changing Local Government Structure



By Marilyn Contreas

What prompts a community to examine its local government structure? There can be as many reasons as there are cities and towns, but some of the catalysts might include the following:

- Retirement of key personnel
- An inability to attract candidates to serve in either elected or appointive office
- A perception that municipal departments are not communicating or coordinating functions as they should
- An increase in population and the resultant increase in service demands
- Poor town meeting attendance
- A need for greater oversight of financial matters and service delivery

Marilyn Contreas is senior program and policy analyst at the Department of Housing and Community Development.

A board of selectmen may appoint an ad hoc committee (e.g., a "town government study committee"), or the mandate may come from town meeting, with the moderator appointing such a committee. These examinations may be specific ("Do we need a town administrator?" "What are the pros and cons of establishing a consolidated finance department?") or more general ("examine town government structure and make recommendations"). Whatever the catalyst, and whatever the scope of the examination, local officials will need to know the parameters for local government structural change.

Massachusetts state law provides the following routes for cities and towns to make changes in the organizational structure of local government:

- Using bylaws and "permissive" legislation to enact structural change
- Election of a charter commission and subsequent adoption of the commission's proposed charter
- A petition for enactment of special municipal legislation

These vehicles can be used for a variety of structural changes, including but not limited to:

- Changing an office from elected to appointed status
- Consolidating like functions (e.g., public works, finance) in a single department
- Establishing the position of town administrator

Some structural changes can be accomplished *only* by a home rule charter or special act charter, such as:

- Changing the size, composition or term of the legislative body
- Changing the term of the chief executive
- Authorizing town meeting to make certain future structural changes by bylaw, ordinance or adoption of an administrative code
- Assigning certain powers and duties to the town manager or administrator

Bylaws and Permissive Legislation

Towns may accomplish some structural, administrative and organizational changes through adoption of enabling legislation and implementing bylaws. Enabling or "permissive" legislation gives communities the authority to adopt a state law in order to accomplish a structural change; it is optional, in that communities determine when and if the law is responsive to their plans for structural change.

Chapter 41, Section 1B (enacted in 1997), allows a vote of town meeting followed by a ballot vote at the annual town meeting/election to change certain elected positions to appointments of the board of selectmen (applies to clerk, treasurer, tax collector, assessors, auditor, highway surveyor, sewer commissioners, road commissioners, tree warden, constables, and boards of health). Elected officials in office at the time of such vote would complete their terms before the appointment provisions took effect. (Section 1B does not apply to boards of selectmen or school committees, which must remain elected.)

Chapter 41, Section 21, allows selectmen to act as certain offices (water and sewer board, water commission, water and municipal light commissioners, municipal light board, sewer commissioners, park commissioners, board of public works, board of health, board of assessors, commission on public safety).

continued on page 24

In a Nutshell: Routes for Changing Local Government

Bylaws and "Permissive" Legislation

- Can be used to change certain elected positions or boards to appointed; allow selectmen to act as certain offices; or create position of town administrator
- Changes require town meeting or town election vote

Home Rule Charter

- Elected charter commission prepares new charter
- Charter defines structure of local government
- New charter generally proposes significant changes to structure, such as creation of town manager or administrator position, changing boards or commissions, or consolidating or creating departments
- Requires approval at annual town election

Special Municipal Legislation

- Town submits proposed structural change to Legislature
- Requires legislative approval
- Can be used to create town manager or administrator position

Interesting Local Government Facts

- Norwood was the first town to secure passage of a special act that included a town management position ("general manager")
- Andover is the largest town with an open town meeting.
- Framingham is the largest town with a representative town meeting.
- The largest town meeting membership is in Fairhaven; the smallest is in Saugus.
- Three towns have replaced representative town meeting by returning to open town meeting: Seekonk, Athol and Webster.
- Wakefield is the only town with a seven-member board of selectmen.

For Chapter 41, sections 1B and 21, questions that would authorize the board of selectmen to appoint particular offices or multiple-member bodies must be placed on the ballot at an annual election. Questions may be placed on the ballot by a vote of a town meeting held at least sixty days before the annual town meeting. Questions authorizing selectmen to act as certain boards, under Section 21, may be placed on the ballot upon petition by ten percent of qualified voters, with the petition being filed with selectmen at least sixty days before the annual town meeting.

Town officials may be interested in looking at these options if individuals in these positions are retiring and no one is interested in seeking such an elective office, but would be willing to serve in an appointed capacity. If the town is growing or functions are expanding, but the town does not yet see a need to create new boards and commissions, the "act as" provisions can provide some direction until the town is ready to create the individual boards. Towns should consider that such arrangements may need to be interim in nature, given the responsibilities and regulatory enforcement duties of some of these boards (e.g., board of health, water and sewer board). Town officials are always advised to review options with municipal counsel prior to proceeding.

Selectmen also may be granted the authority to appoint cemetery commissioners, police and fire chiefs, assessors, superintendents of streets, or boards of health. Communities may want to use this option if no one is seeking elective office, but the town wishes to retain these offices as separate entities. This option also requires a town meeting vote.

Other enabling or "permissive" options include:

• Establishing the position of town administrator (Ch. 41, Sect. 23A): For several decades, this was the most popular route for establishing administrative positions. (Referenced in the statute as "executive secretary" when first enacted in 1956; it was amended in 1996 to insert the term "town administrator," a more common title within the profession.) The statute allows the board of selectmen to delegate certain duties of the board to a town administrator. Use of this option is now seen most often in communities that have not undertaken any major actions—such as a home rule or special act charter—to centralize local government, and where there are more elected offices for administrative positions such as treasurer, collector and clerk.

• Appointment of assessors by the selectmen (Ch. 41, Sect. 25)

• Combining the positions of treasurer and collector (Ch. 41, Sect. 1). The town may vote to authorize the treasurer to act as collector.

• Appointing town clerk as town accountant, if he or she holds no other office involving the disbursement or receipt of funds (Ch. 41, Sect. 55)

For larger, more multi-faceted operations, towns may want to examine the following options:

• Chapter 40N allows the establishment of a water and sewer commission as a body corporate and politic.

• Chapter 43C provides a procedure for creating three consolidated departments: finance, community development and inspections. Chapter 43C defines the features of bylaws establishing these departments. The town of Hanover and the city of Chelsea are among the communities that have used Chapter 43C to accomplish department consolidation.

Home Rule Charter

Communities seeking to make more comprehensive changes in the local government charter may elect a charter commission of nine persons to prepare a home rule charter for the voters' consideration. The option of preparing a home rule charter became available in 1966 with the adoption of the Home Rule Amendment in the Massachusetts Constitution. Massachusetts does not prescribe the form of government based on a community's population, tax base or other category. The modest parameters established by the state's constitution initially in 1821, and modified to include the limited town meeting option in 1920, are as follows:

• Towns above 12,000 population may adopt a city form of government

• Towns above 6,000 population may adopt a limited (representative) town meeting form of government

• Towns below 6,000 population must operate with an open town meeting

Further, there are several statutes referencing "town manager" or "town administrator," but no statutory definition of these terms. The position is usually defined by the home rule or special act charter creating or revising the position, or in general terms in a town bylaw if a town administrator is adopted pursuant to Chapter 41, Section 23A.

Historically, the Legislature demonstrated greater interest and concern in how cities were governed, providing four plans of government that could be adopted by cities in 1915. Colloquially, these plans are known as Strong Mayor, Weak Mayor, Commission, and Council-Manager (Plans A, B, C, and D). Plan E, a council-manager variation with voting by proportional representation, was added to the statute in 1938. Plan F, allowing for the partisan (party identification) election of a mayor and council, was added in 1959. After passage of the Home Rule Amendment in 1966, the Legislature decided that the provisions of Chapter 43 for adopting these plans could no longer be used. Thus, there are now no "model" plans for either city or town government.

More than 130 home rule charter commissions have been elected since the adoption of the Home Rule Amendment in 1966. The procedures for creation of a charter commission are outlined in Chapter 43B of the Massachusetts General Laws. In summary, any city or town, upon petition of fifteen percent of the registered voters, may vote to elect a nine-member charter commission to prepare a charter. A charter serves as the basic framework of the government structure, identifying officials to be elected and appointed, the size, term and composition of the legislative body, appointment authority, operating and capital budget preparation, and organization of departments. Many communities with home rule charters have put their charters on the city or town Web site, where they are easily accessible.

A charter commission has a maximum of eighteen months to prepare a proposed charter, but may choose to complete the task in ten months. Following its election, a commission considers the options for changing local government structure and seeks participation from residents via public meetings, hearings, publication of a preliminary report, and issuance of a final report. The requirements for public participation are described in Chapter 43B. To take effect, a charter proposal must be adopted by a majority of voters at a municipal election.

Home Rule Charters

Adopted With Representative Town Meeting:

Auburn
Billerica
Chelmsford
Dedham
Dartmouth
Falmouth
Natick
Reading
Stoughton
Walpole
Winchester

Adopted With Open Town Meeting:

Acton
Acushnet
Ashland
Athol
Bedford
Bellingham
Blackstone
Bourne
Chatham
Dracut
Eastham
Easton
Grafton
Harwich
Hudson
Longmeadow
Lunenburg
Lynnfield
Mansfield
Marshfield
Mashpee
Maynard
Medfield
Middleton
Millbury
Millis
Nahant
North Andover
Northborough
Northbridge
North Reading
Norton
Norwell
Orleans
Oxford
Provincetown
Rockland
Salisbury
Scituate
Seekonk
Stow
Sturbridge
Sutton
Townsend
Truro
Uxbridge
Wakefield
Wareham
Webster
Wellfleet
Westborough
Westwood
Winchendon

Note: Charters for Millis and Rockland did not originally contain provisions for a management position.

In towns, some charter commissions follow a ten-month schedule and present a charter proposal to the voters at the annual election one year following the commission's election. If the commission chooses to follow the eighteen-month schedule provided in the law, the charter proposal would be presented to the voters at the municipal election two years following the election of a commission. (This approach responds to cities with biennial elections.)

The election of a commission, the preparation of a charter, and the submission of a proposal to the voters is a major undertaking. Most towns proposing home rule charters include one or more significant changes in their structure, including but not limited to:

- Creation of a general management position (town administrator, town manager, etc.)

continued on page 26

- Changing elected boards, commissions and officials to appointed status
- Establishing or consolidating local departments (including enabling provisions to allow organizational changes via bylaw or ordinance adoption as circumstances require)
- Establishing procedures for preparation of the operating budget and capital plan
- Providing "citizen safeguard" measures such as initiative, referendum and recall

The Department of Housing and Community Development is available to provide technical assistance to charter commissions. The department serves as a repository for all proposed home rule charters and prepares several publications to guide commissions in the charter preparation process. Department staff have also participated in meetings and workshops on this topic throughout the state.

Towns that Used Special Act Charters to Create Town Manager or Administrator Position

Abington
Amherst
Andover
Arlington
Ashburnham
Becket
Concord
Dalton
Danvers
Foxborough
Framingham
Great Barrington
Holden
Hull
Ipswich
Lakeville
Lee
Lenox
Lexington
Medway
Middleborough
Needham
Norwood
Plymouth
Sandwich
Saugus
Sheffield
Shrewsbury
Spencer
Stoneham
Sudbury
Swampscott
Tewksbury
West Boylston
Westford
Weston
Williamstown
Wilmington
Yarmouth

Note: Weymouth and West Springfield had special acts for town government prior to adopting a home rule charter providing for a city form of government. Acton replaced its special act with a home rule charter. Amherst, Danvers and Framingham have had more than one special act. Swampscott's special act is an extensive revision of its home rule charter.

Special Acts Used to Create Town Manager or Administrator Position

Brookline
Burlington
Carver
Cohasset
Duxbury
Holliston
Manchester-by-the-Sea
Nahant
Norfolk
Somerset
Wayland

Note: Dartmouth replaced special act via home rule charter adoption. Hopedale repealed its special act in 1997.

Special Municipal Legislation

Prior to the adoption of the Home Rule Amendment in 1966, the most comprehensive changes in local government were made by means of a petition for special legislation (a "special act charter"). This option remains available today and has been used in approximately forty communities. (See list, below.) Another eleven have secured passage of special acts to create the position of town manager or town administrator.

The following is the procedure governing special act adoption:

1. Passage, by majority vote at town meeting, of a warrant article or resolution proposing the special legislation
2. Petition to the Legislature to enact the proposed legislation
3. Hearing by assigned committee of the Legislature
4. Approval of the petition by House of Representatives and Senate
5. Signing of special legislation by the governor

This process may be completed in as little as one year. In some instances, the petition may require that the act become effective only upon acceptance by a majority of voters at the next regular municipal election (sometimes referred to as ratification). In other instances, the act may contain a certain date when the provisions take effect, or the act may state that its provisions become effective upon passage.

Communities can also use the special act route to make more discrete changes (e.g., combining the positions of an appointed collector and treasurer, changing an elected board or commission to an appointed one, creating a consolidated department, or adopting recall provisions).

The Legislature's Web site (www.mass.gov/legis) includes the manual for preparing proposed legislation and provides specific guidance regarding the submission of "home rule petitions" (special municipal legislation).

Any procedural option for structural change under consideration should be reviewed by municipal counsel prior to proceeding. Municipalities may be guided by the Home Rule Amendment, which defines changes in the legislative body, chief executive or town manager as requiring adoption or revision of a home rule charter or enactment of special legislation.

CHANGING MASSACHUSETTS LOCAL GOVERNMENT STRUCTURE

Massachusetts state law provides several routes for cities and towns to make changes in the organizational structure of local government:

- election of a charter commission and subsequent adoption of the commission's proposed charter;
- a petition for enactment of special municipal legislation; and
- using bylaws and "permissive" legislation to enact structural change

Each route is described briefly below.

HOME RULE CHARTER COMMISSION: Over 130 charter commissions have been elected since the adoption of the Home Rule Amendment to the Constitution of the Commonwealth of Massachusetts in 1966. The procedures for creation of a charter commission are outlined in Massachusetts General Laws, (M.G.L.) Chapter 43B (see DHCD publication, *The Home Rule Amendment and the Home Rule Procedures Act**). In summary, any city or town, upon petition of 15% of the registered voters may vote to elect a nine-member charter commission to prepare a charter. A charter serves as the basic framework of the government structure, identifying officials to be elected and appointed, size and composition of the legislative body, appointment authority, operating and capital budget preparation, organization of departments, etc. A charter commission has a maximum of 18 months to prepare a proposed charter, but may choose to complete the task in 10 months. Following its election, a commission considers the options for changing local government structure, and seeks participation from the residents via public meetings, public hearings, publication of a preliminary report, and issuance of a final report. The requirements for public participation are described in Chapter 43B. To take effect, a charter proposal must be adopted by a majority of the voters at a municipal election. In towns, some charter commissions follow a 10 month schedule, and present a charter proposal to the voters at the annual election one year following the commission's election. If the commission chooses to follow the 18 month schedule provided in the law, the charter proposal would be presented to the voters at the municipal election two years following the election of a commission. (This procedure is most applicable to cities with biennial elections.)

The election of a commission, the preparation of a charter, and the submission of a proposal to the voters is a major undertaking; most towns make one or more significant changes in their structure, including, but not limited to:

- create a general management position (town administrator, town manager, etc.)
- change elected boards, commissions, and officials to appointed status
- establish or consolidate local departments; include enabling provisions to allow organizational changes as circumstances require
- establish budget and capital plan procedures

The DHCD publication, *Summary of Home Rule Charter Provisions in Massachusetts Municipalities*, highlights the major features of charters.

SPECIAL MUNICIPAL LEGISLATION: Prior to the adoption of the Home Rule Amendment, the most comprehensive changes in local government were made by means of a petition for special legislation (the "special act"). Prior to 1966, towns used the special act route to adopt "special act charters." Towns using this route to create the selectmen-town manager form of administration included Norwood, Middleborough, Holden, Wilmington, and Danvers. This option remains available today and has been used in approximately 35 communities, including Westford, Great Barrington, Lee, Lenox, Ashburnham, Sheffield, and Yarmouth.

The procedures governing special act adoption are:

1. passage by majority vote of warrant article or resolution proposing the special legislation
2. petition to the General Court (state legislature) to enact the proposed legislation
3. approval of the petition by state House of Representatives and state Senate
4. signing by the Governor

In some instances, the petition may require that the act become effective only upon acceptance by a majority of voters at the next regular municipal election (sometimes referred to as ratification). In other instances, the act may contain a certain date when the provisions take effect, or the act may state that its provisions become effective upon passage. Municipalities can be guided by the Home Rule Amendment that defines changes in

the legislative body, chief executive, or town manager as requiring the election of a charter commission, and a ballot vote on recommended changes.

Communities can also use the special act route to make more discrete changes -- e.g., combining the positions of an appointed collector and treasurer, changing an elected board or commission to an appointed one, creating a consolidated department, and adopting recall provisions.

USING BYLAWS AND PERMISSIVE LEGISLATION (*review options with counsel prior to proceeding):*
Towns may accomplish some structural, administrative, and organizational changes through adoption of bylaws. In several management areas, notably personnel administration, there have been recent efforts to adopt comprehensive bylaws. Other towns have used bylaws to encourage coordination among related offices (e.g., all those with financial duties). Also, the Massachusetts General Laws provide some organizational options for communities through "permissive" or enabling legislation, such as:

- ***Chapter 41, section 1B*** (enacted in 1997) allows a vote of town meeting followed by a ballot vote at the annual town meeting/election to change certain elected positions to appointments of the board of selectmen (applies to clerk, treasurer, tax collector, assessors, auditor, highway surveyor, sewer commissioners, road commissioners, tree warden, constables, boards of health). Elected officials in office at the time of such vote would complete their terms before the appointment provisions took effect. (Note: Section 1B does not apply to boards of selectmen or school committees, which must remain elected.)

- ***Chapter 41, section 21*** allows selectmen to act as certain offices (Water and Sewer Board, Water Commission, Water and Municipal Light Commissioners, Municipal Light Board, Sewer Commissioners, Park Commissioners, Board of Public Works, Board Health, Board of Assessors, Commission on Public Safety).

For Chapter 41, Section 1B and Section 21, the question/questions of authorizing the board of selectmen to appoint particular offices or multiple member bodies must be placed on the ballot at an annual election. The question(s) may be placed on the ballot by a vote of the town meeting held at least sixty days before the annual town meeting. For Section 21, the question(s) authorizing selectmen to act as certain boards may be also be placed on the ballot upon petition by 10 per cent of qualified voters and filed with the selectmen at least 60 days before the annual town meeting.

- ***Chapter 41, section 2*** sets out a procedure for increasing or decreasing the number of members of elected boards (*not applicable to boards of selectmen -- see MGL, c. 43B, section 13*).

- Selectmen may be granted the authority to appoint cemetery commissioners, chiefs of police and fire departments, assessors, superintendent of streets, or board of health. (see also ***Chapter 41, section 21***)

Other enabling options include:

- Appointment of assessors by the selectmen (***Chapter 41, section 25)***

- Combining the positions of treasurer and collector. The town may vote to authorize the treasurer to act as collector. (***Chapter 41, section 1).***

- The town clerk may be appointed town accountant, if he/she holds no other office involving the disbursement or receipt of funds. (***Chapter 41, section 55***)

- ***Chapter 40N*** allows the establishment of a water and sewer commission as a body corporate and politic.

- ***Chapter 43C*** provides a procedure for creating three consolidated departments -- finance, community development , and inspections. Chapter 43C defines the features of bylaws establishing these departments.

Any procedural option under consideration should be reviewed by local legal counsel prior to proceeding. *Cities and towns are guided by the Home Rule Amendment, which defines changes in the legislative body, chief executive or town manager as requiring either adoption/revision of a home rule charter or enactment of special legislation.*

CHARTER COMMISSION PROCEDURES (M.G.L., Chapter 43B)

I. Organization (*c. 43B, s. 7*)

- city/town clerk notifies charter commission members within ten (10) days of their election of initial meeting.
- commission elects: chair, vice-chair, and clerk

II. Meetings

- open to public, held in accordance with the state's "open meeting" law (*c. 39, ss. 23a, b, c*)
- charter commission may adopt rules for conduct or meetings (*c. 43B, s. 8a*) and determines its own schedule of meetings (time, place, frequency). *This decision will be influenced by a charter commission's preference to complete the proposed charter within either 10 or 18 months .*

III. City/Town Responsibilities (*c. 43B, s. 8b*)

- provide facilities for holding public hearings
- allow commission to consult with municipal officers and employees during working hours
- provide appropriation (as determined by population). *(c. 43B, s. 8b*)

IV. Financial Record Keeping Requirements *(c. 43B, s. 8a, 8b*)

- commission may hire legal, clerical or consultant assistance (if funds available) (*c. 43B, s. 8a*)
- commission must assure publication of the preliminary report
- may accept funds from other sources (records of contributions must include name, address, amount of contribution if above $5.00, and conditions on use of funds, if any).
- commission files report of receipts and expenditures with the town clerk within 30 days of filing its final report (proposed charter). Remaining balance (if any) credited to the town's surplus revenue account.
- city/town <u>may</u> appropriate additional funds (beyond statutory minimum of c. 43B, s.8)

V. Public Hearing Requirements

- notice of any hearings must appear at least ten days prior to hearing in a newspaper of general circulation
- first hearing is to be held within 45 days of the commission's election (*c. 43B, s. 9a*)
- hearing on preliminary report to be held within four (4) weeks of its publication (*c. 43B. s. 9b*)
- charter commission may hold additional public hearings at its own discretion

VI. Sources of Information

- home rule and special act charters of other communities
- municipality's charter and special legislation/enabling legislation adopted since charter
- officials and charter commission members from other communities

Massachusetts Department of Housing and Community Development,
100 Cambridge Street Boston, MA 02114 (617) 573-1359

DECISION POINTS FOR CHARTER COMMISSIONS IN TOWNS

LEGISLATIVE BODY *(if not open town meeting)*

Council *(requires 12,000 population)*
- number and composition (district/at-large)
- term
- presiding officer(s)
- appointments by presiding officer

- or -

Representative Town Meeting *(requires 6,000 population)*
- number and composition
- term
- moderator as presiding officer
- appointments by presiding officer
- division of town into precincts

If ***open town meeting,*** provisions above unnecessary.

CHIEF EXECUTIVE

Board of Selectmen
- number of members
- term
- appointments/filling of vacancies
- "act as" provisions

- or -

Manager *(if council-manager government)*
- term (optional)
- qualifications
- procedures for dismissal
- powers and duties (see below)

SCHOOL COMMITTEE (see M.G.L., c. 71, s. 37 re: powers and duties)
- size, composition, term
- powers and duties (*basic duties as described in state education reform law as referenced above*)
- presiding officer

NOTE: Legislative body (other than open town meeting), Board of Selectmen and School Committee MUST be elected.

OTHER ELECTED OFFICES: (if applicable - includes officers, boards, and commissions)
- offices to be elected
- term
- powers and duties
- compensation (if applicable)
- filling of vacancies

CHIEF ADMINISTRATIVE OFFICER: (May be titled: Town Manager, Town Administrator, Town Coordinator, etc.)
- powers and duties (e.g., financial management, purchasing, personnel management, contracting, labor relations)
- appointments - which ones, if confirmed (by whom)
- provisions for temporary and extended absence
- procedure for removal

- over -

ADMINISTRATIVE ORGANIZATION

- may create department structure in charter
- charter may authorize reorganization via bylaw
- create coordinating/communication mechanism(s)
- if departments, boards, commissions created by special act, decide how to include in charter (retain, modify, repeal, reassign function to another agency/board)
- new boards/departments to create/include in charter.

OPERATING AND CAPITAL BUDGET PREPARATION

- budget preparation procedures; coordination/oversight
- consultation with school committee/school superintendent
- submission to Finance Committee
- presentation of budget to town meeting (by whom)
- capital budget (preparation, coordination)

CITIZEN PARTICIPATION/SAFEGUARD MECHANISMS *(optional)*

if council/manager government:

- free petition
- initiative
- referendum
- recall*

council-manager or town meeting/selectmen

- referendum
- recall*

**may name officers subject to recall and/or those exempt from recall, may limit recall to certain times within the term of office*

TRANSITION PROVISIONS

- practical steps of moving from present government to form of government as set forth in charter
- if board/commission changed from elected to appointed, timeline for changeover of board membership (usual practice is to allow elected members to complete terms to which they were elected)

OTHER FEATURES

- procedures for filling vacancies - appointed boards and commissions
- procedures for multiple-member bodies
- definitions
- corporate powers affirmed
- authority to enter into interlocal agreements affirmed
- procedure for periodic charter and/or bylaw review

Town of Nantucket
Town Counsel
Options for Changing Town Charter
December 7, 2022

	Charter Amendment	**Charter Adoption or Revision**	**Special Act Charter Change**
Options	Town Meeting may vote to make minor amendments to a Town Charter	A charter commission elected under G.L. c. 43B may propose any change in a charter relating in any way to the composition, mode of election or appointment, or terms of office of the legislative body, the mayor or city manager, or the board of selectmen or town manager. A charter commission may recommend a town council or representative form of government.	Town Meeting may vote to authorize the Select Board to file a home rule petition requesting a special act to adopt, amend, or revise a Charter. Known as a "special act charter change", the special act method may propose any change, including a town council or representative town meeting form of government.
Process	Town Meeting votes by a two-thirds vote to amend the Charter. The Charter amendment is submitted for approval to the Attorney General and the Department of Housing and Community Development. The Charter amendment is then approved by the voters at the next annual election or at the next state election.	A charter commission is elected at the annual town election pursuant to a petition that must be signed by at least 15% of the registered voters of the Town. The Charter Commission holds public hearings and prepares the proposed charter revision. The proposed charter revision is submitted to the Attorney General and the Department of Housing and Community Development for approval.	Town Meeting votes, by a majority vote, to approve a home rule petition for a special act to change the charter. The petition is submitted to the General Court for adoption. Depending on the significance of the changes to the Charter, the General Court may require that the special act be submitted to the votes for approval at the next annual town election. The home rule petition itself may

		The Charter revision is then submitted to the voters at the next annual election for adoption.	provide for approval of a ballot question.
Limitations	The charter amendment process may not adopt a new form of government such as a Town Council. The process to amend the Charter typically takes one year. (Approval of amendment at an annual town election and then approval of the ballot question at the next annual town election.)	A Charter Commission may propose a change in the form of Town government. A Charter Commission is required to submit its report within 18 months of being elected.	A special act charter change may propose a change in the form of Town government. Given the Town's experience of late, it would not be surprising if a special act charter change that includes a ballot question took two years from the original town meeting vote to complete
Comments	Town Meeting has voted on citizen petition articles to amend the Charter. The procedures set forth here applies to citizen petitions. There are many details and procedural requirements that must be met. This chart is only intended to outline briefly the major steps.	The Town has not elected a Charter Commission in recent memory. There are many details and procedural requirements that must be met. This chart is only intended to outline briefly the major steps	Town-sponsored charter amendments and revisions are typically proposed as a home rule petition. There are many details and procedural requirements that must be met. This chart is only intended to outline briefly the major steps
Consistency with State Law.	The provisions of any charter shall be deemed consistent with the provisions of any law relating to the structure of city and town government, the creation of local offices, the term of	The provisions of any charter shall be deemed consistent with the provisions of any law relating to the structure of city and town government, the creation of local offices, the term of	The provisions of any charter shall be deemed consistent with the provisions of any law relating to the structure of city and town government, the creation of local offices, the term of

	office or mode of selection of local offices, and the distribution of powers, duties and responsibilities among local offices	office or mode of selection of local offices, and the distribution of powers, duties and responsibilities among local offices	office or mode of selection of local offices, and the distribution of powers, duties and responsibilities among local offices

TOWN OF NANTUCKET
2023 Annual Town Meeting
Citizen Warrant Article Submissions
Town Counsel Comments
December 1, 2022

	Lead Petitioner	Article Description	Comment
1.	Curtis L. Barnes	Town Council Form of Government.	This article is a non-binding directive to the Select Board to establish a committee to study the establishment of a Town Council form of government.
2.	Curtis L. Barnes	Proposed Independent Sewer Commission.	This article would create an independently elected Sewer Commission rather than having the Select Board act as the Sewer Commission. Under the Nantucket Sewer Act, Chapter 396 of the Acts of 2008, Town Meeting may vote at any time, by a two-thirds majority, to establish a separate Sewer Commission either appointed by the Select Board or elected. This article provides for an elected Sewer Commission. The article, however, does not include any transition language such as when the new Sewer Commission would take over and how the staggered elected terms would first be elected.
3.	Bruce Mandel	Amend Chapter 98 of the Town Code – Motorized Vehicles.	This Article seeks to amend Chapter 98 of the Town Code. Specifically, the article includes a substantial rewrite of Section 98.1 by adding several new types of micro mobility devices, including electric bikes, to the requirements of the bylaw. All of the devices listed in the proposed

			amendment can only be operated on Town ways, sidewalks, parks, playgrounds, beaches, and multiuse paths with the permission of the Town official having jurisdiction over the use of the Town property. Although the article states that the changes to the existing bylaw are shown, in fact there is no delineation between the existing bylaw and what is being proposed in this article.
4.	Arthur Reade	Affordable and Year-Round Housing Stabilization Fund.	This article would establish a new special purpose stabilization fund for affordable and year-round housing, and would dedicate, without further appropriation, two-thirds of the local option rooms excise tax collected by the Town. A two-thirds vote of Town Meeting is required to adopt this article.
5.	Arthur Reade	Zoning Map Change - RC2 & CI to CMI - Arrowhead Dr	This article is approved as to form. Because this is a zoning amendment, the article should be referred to the Planning Board for the required public hearing, and a report and recommendation. Passage of this article by Town Meeting will require a two-thirds vote.
6.	Jeff Carlson	Charter Change - Town Council-Town Manager Form of Government	This article provides for the adoption of a new Town Charter which would replace Town Meeting and the Select Board with a Town Council/Town Manager form of government. The article is not, however, in proper legal form. In order to adopt a new Charter changing the form of government,

			the Town would have to either (1) elect a Charter Commission pursuant to G.L. 43B, §5 to write a new Charter which would then be subject to approval as a ballot question at the Annual Election, or (2) Town Meeting would have to vote to petition the Legislature through a Home Rule Petition to adopt a special act establishing a new form of government. If this article were to pass in its present form, it would not, by itself, result in the adoption of a new Charter. Town Meeting should not vote on a completely new Charter document without an extensive public review and comment period, and a comprehensive management and legal review, which should include a side-by side analysis to ensure that the unique provisions of the existing Charter are addressed.
7.	John Kane	Zoning Map Change - R40 to CN - Evergreen Way & Airport Rd	This article is approved as to form. Because this is a zoning amendment, the Article should be referred to the Planning Board for the required public hearing, and report and recommendation. Passage of this article by Town Meeting will require a two-thirds vote.
8.	Campbell Sutton	Zoning Bylaw Amendment - Swimming Pool - Residential	Although the article does not specifically state that it is an amendment to the Town's Zoning Bylaw, the context of the proposed amendment clearly shows an intention for this article to be a zoning bylaw amendment.

			The article would restrict swimming pools in certain residential districts to lots that meet the minimum lot size, and it would establish rear and side setback requirements of 20 feet. Because this is a zoning amendment, the article should be referred to the Planning Board for the required public hearing, and report and recommendation. Passage of this article by Town Meeting will require a two-thirds vote.
9.	Campbell Sutton	Noise	This article seeks to amend Chapter 101 of the Town Code – Noise, by decreasing the distance from 40 feet to 30 feet, at which noise levels are measured.
10.	Diane Coombs	Independent HDC Administrator	This article constitutes a non-binding directive to the Select Board to appoint an independent HDC Administrator who will be responsible for the efficient operation and management of the Historic District Commission. It appears that the intent of this article is to remove the administration of the HDC from the Department of Planning and Land Use Services. However, in order to effectuate this change, the Memorandum of Understanding between the Select Board and the Nantucket Planning and Economic Development Commission would have

			to be amended to remove the HDC from the administrative management of the PLUS Department.
11.	Hillary Rayport	Home Rule Petition - NPEDC	This article seeks approval of a Home Rule Petition for a special act of the Legislature to change the method of selection of members of the NP&EDC, as well as certain other changes.
12.	Christine McGrath Iller	Zoning Map Change - LUG2 to R20 - 69 Hummock Pond Rd	This article is approved as to form. Because this is a zoning amendment, the article should be referred to the Planning Board for the required public hearing, and report and recommendation. Passage of this article by Town Meeting will require a two-thirds vote.
13.	Emily Kilvert	Zoning Bylaw Amendment - Short-Term Rental Accessory Use	This article seeks to amend the zoning bylaw to allow short-term rentals as of right that are owner-occupied for a minimum of six months of the year in any residential district. For non-owner-occupied units, short-term rentals would be permitted in any residential unit as an accessory use as long as the unit is used for a long-term rental use more than a short-term rental use. This article does not define key terms such as “short-term rental”, “long-term rental”, and “owner-occupied.” In addition, the proposed bylaw does not address short-term rental use in non-residential zoning districts.

TOWN OF NANTUCKET
2023 Annual Town Meeting
Citizen Warrant Article Submissions
Town Counsel Comments
December 1, 2022

			Because this is a zoning amendment, the article should be referred to the Planning Board for the required public hearing, and report and recommendation. Passage of this article by Town Meeting will require a two-thirds vote.
14.	Marty McGowan	Bylaw Amendment - Sewer District Map Change - 25 Millbrook Rd	This article would add 25 Millbrook Rd to the sewer district. The article is approved as to form. Unless the Select Board recommends this article, a two-thirds vote will be required for passage.
15.	Catherine Gail Walker	Bylaw Amendment - Outdoor Lighting	This article amends Chapter 102 of the Town Code regarding lighting by deleting the existing text and replacing it with a new bylaw.
16.	Linda Williams	Zoning Bylaw Amendment - Swimming Pool - Residential	This zoning bylaw amendment would change the special permit granting authority for residential swimming pools from the Zoning Board of Appeals to the Planning Board. Because this is a zoning amendment, the article should be referred to the Planning Board for the required public hearing, and report and recommendation. Passage of this article by Town Meeting will require a two-thirds vote.
17.	Linda Williams	Zoning Map Change - SOH to VN - Elbow Ln	This article is approved as to form. Because this is a zoning amendment, the article should be referred to the Planning Board for the required public hearing, and report and recommendation. Passage of this article by Town Meeting will require a two-thirds vote.

TOWN OF NANTUCKET
2023 Annual Town Meeting
Citizen Warrant Article Submissions
Town Counsel Comments
December 1, 2022

18.	Linda Williams	Zoning Map Change - R20 to CN - Old South Rd/Little Isle Ln/Miller Ln/Airport Rd	This article is approved as to form. Because this is a zoning amendment, the article should be referred to the Planning Board for the required public hearing, and report and recommendation. Passage of this article by Town Meeting will require a two-thirds vote.
19.	Linda Williams	Zoning Bylaw Amendment - Accessory Uses	This article would amend the Zoning Bylaw by expressly providing that the rental of rooms in an owner-occupied dwelling unit is a permitted accessory use. Because this is a zoning amendment, the article should be referred to the Planning Board for the required public hearing, and report and recommendation. Passage of this article by Town Meeting will require a two-thirds vote.
20.	Linda Williams	Zoning Bylaw Amendment - Definitions - Commercial	This article amends the definition of "Commercial" in the Zoning Bylaw to state that the rental of dwelling units or parts thereof are not a commercial use. Because this is a zoning amendment, the article should be referred to the Planning Board for the required public hearing, and report and recommendation. Passage of this article by Town Meeting will require a two-thirds vote.
21.	Linda Williams	Zoning Bylaw Amendment - Definition Use Principal	This article amends the definition of principal use in the Zoning Bylaw by deleting the word "expressly" from the definition.

TOWN OF NANTUCKET
2023 Annual Town Meeting
Citizen Warrant Article Submissions
Town Counsel Comments
December 1, 2022

			Because this is a zoning amendment, the article should be referred to the Planning Board for the required public hearing, and report and recommendation. Passage of this article by Town Meeting will require a two-thirds vote.
22.	Linda Williams	Zoning Bylaw Amendment - Intensity Regulations - Exceptions for frontage	This article proposes an amendment to the Zoning Bylaws, Intensity of Use Regulations, by changing the special permit granting authority for the reduction of frontage in Commercial Districts from the Zoning Board of Appeals to the Planning Board. Because this is a zoning amendment, the article should be referred to the Planning Board for the required public hearing, and a report and recommendation. Passage of this article by Town Meeting will require a two-thirds vote.
23.	Linda Williams	Zoning Bylaw Amendment - Intensity Regulations - Setbacks	This article proposes an amendment to the Zoning Bylaws, Intensity of Use Regulations, by changing the special permit granting authority for the reduction in certain yard setbacks from the Zoning Board of Appeals to the Planning Board. This article is approved as to form. Because this is a zoning amendment, the article should be referred to the Planning Board for the required public hearing, and a report and recommendation. Passage of this article by Town Meeting will require a two-thirds vote.

TOWN OF NANTUCKET
2023 Annual Town Meeting
Citizen Warrant Article Submissions
Town Counsel Comments
December 1, 2022

24.	Linda Williams	Zoning Map Change - R20 to R10 - Old South Rd/Miller Ln	This article is approved as to form. Because this is a zoning amendment, the article should be referred to the Planning Board for the required public hearing, and a report and recommendation. Passage of this article by Town Meeting will require a two-thirds vote.
25.	Emily Molden	Zoning Bylaw Amendment - Pre-Existing Non-Conforming Status of Lots	This article proposes to amend the Zoning Bylaw by deleting the language relative to Lots created under the Subdivision Control Law from the section of the bylaw providing non-conforming use protections. Because this is a zoning amendment, the article should be referred to the Planning Board for the required public hearing, and a report and recommendation. Passage of this article by Town Meeting will require a two-thirds vote.
26.	Emily Molden	Zoning Bylaw Amendment - Lots Created Under MGL 41-81L	This article amends the Zoning Bylaw by requiring than any new structure or expansion or increase in volume of a dwelling on a lot that was approved under the Subdivision Control Law will require a special permit from the Zoning Board of Appeals regardless of the lot's status as a non-conforming use. Because this is a zoning amendment, the article should be referred to the Planning Board for the required public hearing, and a report and

			recommendation. Passage of this article by Town Meeting will require a two-thirds vote.

From:	Arthur Reade
To:	Erika Mooney
Cc:	Stephen Theroux; "Brian Madden"; "Paul Santos"; "Charles R. Schwartzapfel"
Subject:	9 Maine Avenue, HDC appeal
Date:	Tuesday, November 29, 2022 4:56:15 PM

Erika,

I believe the above matter was continued to the December 7 Select Board meeting. Meanwhile, we have been working on the materials for submission to the HDC, with input from an environmental consultant who we engaged to provide recommendations as to the selection and location for plant materials which would address the HDC's concerns about the visibility of the project. We have finally been able to wrap that up, and the new application to the HDC (as they require in this instance) has been filed today. As you know, the HDC process is now greatly delayed by the large backlog on their agenda, so it will probably not be reached for hearing until some time in mid to late January. Accordingly, we request that the appeal hearing be continued until a meeting in February, at which time we will either (a) have been approved by the HDC, rendering the appeal moot, (b) still be in progress before the HDC, in which case we would request a further continuance, or (c) have been denied by the HDC, in which case we would go forward with the appeal at that time.

Please let me know if you need any further information. Thanks.

Arthur
11/29/2022

****

Arthur I. Reade, Jr., P.C.
Reade, Gullicksen, Hanley & Gifford, LLP
6 Young's Way
Nantucket, Massachusetts 02554

Post Office address:
Post Office Box 2669
Nantucket, Massachusetts 02584

508-228-3128 (Tel.)
508-228-5630 (Fax)
air@readelaw.com

WIRE FRAUD ALERT: If you receive an e-mail from this office requesting that you wire or otherwise transfer funds, you must confirm the request and any corresponding instructions by telephone with this office before you initiate any transfer. **We do not change wiring instructions**; should you receive a notification of change, via e-mail or otherwise, please notify this office immediately at 508-228-3128.

****

IRS CIRCULAR 230 NOTICE

In compliance with IRS requirements, we inform you that any U.S. tax advice contained in this communication is not intended or written to be used, and cannot be used, for the purpose of avoiding tax penalties or in connection with marketing or promotional materials.

HDC Appeal of 9 Maine Avenue

APPEALS PROCEDURE before the Select Board

The appeal to the Select Board concerns the HDC decision and is not a new hearing of the matter already heard by the HDC. No new information may be brought forth during the appeal process before the Select Board. Any information not previously submitted to the HDC will not be allowed.

1. The chairman opens the public hearing and may outline the procedure to be followed including the time allotment for the statements and rebuttals.

2. The appellant states his/her case and the reason for the appeal.

3. The Historic District Commission defines its position.

4. Rebuttals follow.

5. Public comment may be taken although any separate interests that may be expressed will not become part of the argument.

6. The chairman invites questions from the Board and closes the public hearing.

7. The Board makes a decision or may take the matter under advisement.

8. A written decision is prepared for Board signature.

READE, GULLICKSEN, HANLEY & GIFFORD, LLP

SIX YOUNG'S WAY
NANTUCKET, MASSACHUSETTS 02554

ARTHUR I. READE, JR., P.C.
KENNETH A. GULLICKSEN
MARIANNE HANLEY
WHITNEY A. GIFFORD

(508) 228-3128
FAX: (508) 228-5630

MAILING ADDRESS:

POST OFFICE BOX 2669
NANTUCKET, MASS. 02584

January 31, 2022

RECEIVED
JAN 31 2022
NANTUCKET TOWN ADMINISTRATION

BY HAND DELIVERY

Select Board
Town of Nantucket
Town and County Building
Federal and Broad Streets
Nantucket, Massachusetts 02554

Re: Appeal from HDC Decision, HDC2020-10-2033
9 Maine Avenue, Madaket
Charles R. Schwarzapfel, Owner
Assessor's Parcel 60.3.1-425

Ladies and Gentlemen:

My client, Charles R. Schwarzapfel, hereby appeals from the Decision of the Nantucket Historic District Commission ("HDC") in File No. HDC2020-10-2033, which was filed with the Town Clerk on January 20, 2022. (The tenth day after January 20, 2022, that is, January 30, 2022, having fallen on a Sunday, the last day for filing an appeal is today, January 31, 2022.)

The Decision of the HDC denied my client's application for a Certificate of Appropriateness for the installation of an in-ground salt water pool with bluestone patio and vegetative screening.

The Decision of the HDC states no reasons for the denial of my client's application.

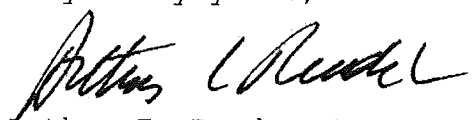
The Decision of the HDC is arbitrary and capricious, and exceeds the authority of the HDC.

Enclosed herewith is a certified copy of the Decision of the HDC, together with copies of applicable portions of the minutes of all meetings of the HDC at which this matter was

reviewed, and a check payable to the Inquirer and Mirror for the costs of publication.

I would be available to attend a public hearing before the Select Board to present this matter on March 2, March 9, March 30, or any Wednesday in April, 2022.

Very truly yours,



Arthur I. Reade, Jr.
air@readelaw.com

Enclosures

AIR/irv

CERTIFICATE NO: HDC 2020-10-7033 DATE ISSUED: 1/6/2022

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

CERTIFICATE OF APPROPRIATENESS

for structural work.

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

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

This is a contractual agreement and must be filled out in ink. An application is hereby made for issuance of a Certificate of Appropriateness under Chapter 395 of the Acts and Resolves of Mass., 1970, for proposed work as described herein and on plans, drawings and photographs accompanying this application and made a part hereof by reference.

The certificate is valid for three years from date of issuance. No structure may differ from the approved application. Violation may impede issuance of Certificate of Occupancy.

PROPERTY DESCRIPTION

TAX MAP N°: 60 3.1 PARCEL N°: 425

Street & Number of Proposed Work: 9 MAINE AVE

Owner of record: MR. Charles SCHWARZAPFEL

Mailing Address: 9 MAINE AVE
NANTUCKET MA

Contact Phone #: _____ E-mail: _____

AGENT INFORMATION (if applicable)

Name: N/A

Mailing Address: PO Box 1814
NANTUCKET MA

Contact Phone #: 228-5231 E-mail: _____
steve@nantucketarchitecture.com

FOR OFFICE USE ONLY

Date application received: 10/9/2020 Fee Paid: $ 240 - 1/15/21

Must be acted on by: ~~1/2021, 3/2021, 5/2021~~ 12/31/21

Extended to: _____

Approved: _____ Disapproved: P (actg)

Chairman: _____

Member: _____

Member: _____

Member: _____

Member: _____

DENIED

Notes - Comments - Restrictions - Conditions

* Denial due to lack of response

ATTEST: TRUE COPY
NANTUCKET TOWN & COUNTY CLERK

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 R) ☐ Roof ☐ Other _____

Size of Structure or Addition: Length: 24 Sq. Footage 1st floor: 288 Decks/Patio: Size: _____ ☐ 1st floor ☐ 2nd floor
Width: 12 Sq. footage 2nd floor: _____ Size: _____ ☐ 1st floor ☐ 2nd floor
Sq. footage 3rd floor: _____

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

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

Additional Remarks

Historic Name:

Original Date:

Original Builder:

REVISIONS (describe)

1. East Elevation
2. South Elevation SALTWATER INGROUND POOL W/ RANDOM BLUESTONE PATIO & NATIVE PLANT SCREENING
3. West Elevation
4. North Elevation

*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: 3'-0
Type: Typ. 2.
Length: 24'

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 _____ Walkways _____ Walls _____

* Note: Complete door and window schedules are required.

COLORS

Sidewall _____ Clapboard (if applicable) _____ Roof _____
Trim _____ Sash _____ Doors _____
Deck _____ Foundation _____ Fence _____ Shutters _____

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

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

RECEIVED
2020 JAN 02 PM 3:11
NANTUCKET TOWN CLERK

III. CONSENT WITH CONDITIONS

	Property owner name	Street Address	Scope of work	Map/Parcel	Agent
1.	59 Bartlett Road, LLC **01-2663**	59 Bartlett Road	Driveway/ramp	66/99.1	Linda Williams
	• Due to minimal visibility				
2.	Sig Heller **01-2658**	17 Margaret's Way	Rev 44884; pool autocvr	20/65	Linda Williams
	• Pool must not be visible at time of inspection and in perpetuity				
3.	Joseph Kelly **01-2657**	4 Hollister Road	Shed	92.4/275	Linda Williams
	• Due to lack of visibility				
4.	Paula Barth **01-2659**	18 Gardner Street	Expd deck 53sf/dr chg	42.3.4/81	Chuck Lenhart/SCI
	• Due to lack of visibility				
5.	John Manera **01-2656**	5 Bartlett Road (portion)	New dwelling	55/102.3	Linda Williams
	• Remove capitals and plinths and keep railing/balusters				

Voting	Pohl, Coombs, McLaughlin, Camp, Oliver
Alternates	Welch, Thornewill
Recused	None
Documentation	None
Representing	None
Sign Advisory	None
Concerns	No additional concerns.
Motion	**Motion to Approve through staff per noted conditions. (Coombs)**
Roll-call Vote	Carried 5-0//Camp, Oliver, McLaughlin, Coombs, and Pohl-aye — Certificate # **HDC2021-01-(as noted)**

IV. NEW BUSINESS

	Property owner name	Street Address	Scope of work	Map/Parcel	Agent
1.	Charles Schwarzapfel **10-2033**	9 Maine Avenue	Pool	60.3.1/425	NAG

Voting	Pohl, Coombs, McLaughlin, Camp, Oliver
Alternates	Welch, Thornewill
Recused	None
Documentation	Landscape design plans, site plan, photos, correspondence, and advisory comments.
Representing	Steve Theroux, Nantucket Architectural Group
Public	None
Concerns (5:34)	**Theroux** – Presented project; stated comments by the abutters are not within HDC purview; 36" retaining wall was excluded; abutter on Rhode Island Avenue has a 4-foot vegetated berm. The MAB is made up of 5 Madaket residents who don't want a pool and feels it makes no sense for this to go back to them. Asked for a denial. Discussing where this lot is located and possible exposure to abutting roads. **Backus** – Read MAB comments; not in favor of the pool in this location; viewing is critical to any approval of a pool in this location; once across Millie's Bridge, this area is very different from the rest of Madaket; need to know where equipment is going. Eel Skin is circa 1868. Read letters of concern from abutters: not in context with the neighborhood whatsoever; any new plantings would create an unnatural landscape; would be within viewshed; no protection for vegetative screening on this coastal plain; berming is completely inappropriate in this flat landscape. **Flynn** – Mr. Theroux issued plans based upon MAB comments; MAB has not seen those revisions. There is another letter from Peter Holmes. During the MAB meeting, Ms. Williams reiterated HDC's purview is from a publicly travelled way. **Coombs** – Asked if this has gone to ConCom (outside their jurisdiction). HDC is concerned about keeping an area conducive to what has been there. To allow a pool to go in where it cannot be adequately screened is irresponsible. This is not a project that fulfills our mission. **Oliver** – Agrees with Ms. Coombs; this is the same as pools in Cisco. It will affect the aesthetic and quality of the environment. This is a beach seascape with informality, which is what draws people there. It will not blend in and be intrusive to the landscape or this historic structure. If we deny this, they will appeal to the Select Board. **McLaughlin** – He doesn't think there should be any problem. **Camp** – She drove out there today. This is the most relaxed, laid-back area of the Island and really just a dune. This is different from anyplace on the Island. Allowing a pool there would take away from its character. **Pohl** – His thoughts are similar to what's been said. Clearly there is a lot of shifting sand and landscape. It is hugely important to keep it informal. He thinks the revisions should go back to MAB. It would be foolish to issue a denial on the first hearing; we should ask for revisions.
Motion	**Motion to Hold for revisions and to go back to MAB. (Camp)**
Roll-call Vote	Carried 5-0//Oliver, Coombs, McLaughlin, Camp, and Pohl-aye — Certificate #

12. Charles Schwarzapfel **10-2033** 9 Maine Avenue Pool 60.3.1/425 NAG

Voting	Pohl, Coombs, McLaughlin, Camp, Oliver
Alternates	Welch, Thornewill
Recused	None
Documentation	Landscape design plans, site plan, photos, correspondence, historic documentation, and advisory comments.
Representing	Steve Theroux, Nantucket Architectural Group
Public	Linda Williams, MAB
Concerns (6:25)	**Theroux** – Reviewed changes made per previous concerns; reviewed history of Eel Skin Inn from a 1-room shack on North Cambridge Street to what is now on Maine Avenue; in 1970, this was ruled as not a historic structure; reviewed fences in the area for context regarding the screening fence; a lot of the objecting neighbors don't want a pool in their neighborhood. Asked for a resolution tonight. **Williams** – Across Millie's Bridge, the area is very different; this doesn't fit with the character of Smith's Point; a fence will draw attention to the fact something is being hidden; this is inappropriate in this setting; no location for lighting and pool equipment. **Pohl** – The letters were sent to commissioners earlier. **Camp** – It's hard to talk about this site without talking about the surrounding streetscape; this area is much to rural for a pool. She wants to keep the site as is. **Oliver** – The amount of fencing being proposed will jeopardize the visual quality and character of place. The photos show that there are no extensive, closed-in yards; fencing in the area does enclose small yards and/or equipment. This area is open beach area; the fencing is incongruent with the beach-side area. This would set a negative precedent. The fencing should be around the pool only with plantings of the area to make it inconspicuous. **Coombs** – Her concern is the pool as part of the area landscape is inappropriate. Part of our mission is to approve something that maintains the streetscape and so is not appropriate for this area. Agrees with what's been said. **McLaughlin** – We should have set a regulation that pool screening should be no more than 20 feet from the edge of the pool. There is a lot of low brush there but he's okay with screening the pool. **Pohl** – The vegetation is all very low, reminiscent of the Cisco pool controversy. To add a board fence to this very flat, severe landscape would be a disservice to the area. If there is going to be a pool at all, the screening should be more natural vegetation harmonious with existing vegetation. It's unlikely that an approval through staff would go forward tonight. Confirmed Mr. Theroux is going on record requesting a resolution rather than allowing further revisions. Discussion about issuing a denial or holding.
Motion	**Motion to Hold for revisions. (Oliver)**
Roll-call Vote	Carried 5-0//Camp, McLaughlin, Coombs, Oliver, and Pohl-aye Certificate #

13. 46 Union Street N.T. **02-2843** 46 Union Street Addition 42.2.3/28 M. Cutone Arch

Voting	Camp (acting chair), McLaughlin, Oliver, Welch, Thornewill
Alternates	None
Recused	Coombs
Documentation	Architectural elevation plans, site plan, photos, historic documentation, and advisory comments.
Representing	Doug Mills, Mark Cutone Architecture
Public	None
Concerns (6:50)	**Mills** – Reviewed changes made per previous concerns. **Backus** – Read HSAB comments March 15: no concerns. There was discussion about color; this application will need a sister application for historic determination. **Oliver** – Appreciates the changes; most of her concerns were addressed. Northeast elevation, the little square windows in the middle gable seem out of place; suggested moving one window to the southeast or installing a skylight on the southeast roof plane and eliminating the small windows on the northeast. **Welch** – Appreciates the changes. Not as concerned about the small windows; it would be great if there is a more era-specific style window. **Thornewill** – Likes the subtle change separating the masses. Agrees with Ms. Oliver about the northeast elevation little windows. **Camp** – She had concerns with lining up the southeast windows; the triple ganged windows would look better if the left window aligned with the 2nd-floor window. **McLaughlin** – The changes to this house as submitted fit into the area.
Motion	**Motion to Approve through staff with the two small 4-light windows removed from the northeast and a 2X3, wood-trim skylight added to the southeast elevation roof plane and align the southeast triple ganged window with the 2nd floor window. (Oliver)**
Roll-call Vote	Carried 5-0//Oliver, Thornewill, McLaughlin, Welch, and Camp-aye Certificate # **HDC2021-02-2843**

HISTORIC DISTRICT COMMISSION
REGULAR MEETING

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

Commissioners: Raymond Pohl (Chair), Abigail Camp (Vice-chair), John McLaughlin, Diane Coombs, OliverVallorie Oliver,
Associate Commissioners: Stephen Welch, Jessie Dutra, Carrie Thornewill

~~ MINUTES ~~

Thursday, January 6, 2022

This meeting was held via remote participation using ZOOM and YouTube.

Called to order at 1:00 pm. and announcements by Ms. Camp

Staff in attendance:	Holly Backus, Preservation Planner; Esmeralda Martinez; PLUS Administrative Specialist; Terry Norton, Town Minutes Taker
Attending Members:	Camp, McLaughlin, Coombs, Oliver, Thornewill
Absent Members:	Pohl, Welch, Dutra
Late Arrivals:	McLaughlin, 1:17 pm
Early Departures:	None

Adoption of Agenda.

Motion	**Motion to Approve as drafted. (Coombs)**
Roll-call vote	Carried 4-0//Oliver, Thornewill, Camp, and Coombs-aye

I. PUBLIC COMMENT

Backus – We no longer not have an HDC Compliance Coordinator for the Town

II. DISCUSSION OF PRE-STAINED WHITE CEDAR SHINGLES

Voting	Camp, McLaughlin, Coombs, Oliver, Thornewill
Concerns	Held for a full board

III. CONSENTS

	Property owner name	Street Address	Scope of work	Map/Parcel	Agent
1.	Eileen Harkness **12-5286**	5 Gardner Perry Lane	Rev. 07-4216: color change	55/32.1	Thornewill Design

Voting	Camp, Coombs, Oliver		
Alternates	None		
Recused	Thornewill		
Documentation	None		
Representing	None		
Public	None		
Concerns	No concerns.		
Motion	**Motion to Approve. (Coombs**		
Roll-call Vote	Carried 3-0//Oliver, Camp, and Coombs-aye	Certificate #	**HDC2021-12-5286**

IV. DENIAL

	Property owner name	Street Address	Scope of work	Map/Parcel	Agent
1.	Charles Schwarzapfel **10-2033**	9 Main Avenue	Pool	60.3.1/425	NAG

- Denial due to lack of response

Voting	Camp, Coombs, Oliver, Thornewill		
Alternates	None		
Recused	None		
Documentation	None		
Representing	None		
Public	None		
Concerns	None		
Motion	**Motion to Deny for lack of response. (Coombs)**		
Roll-call Vote	Carried 4-0//Thornewill, Oliver, Camp, and Coombs-aye	Certificate #	**HDC2021-10-2033**

HDC File

HISTORIC DISTRICT COMMISSION

2 Fairgrounds Road
Nantucket, Massachusetts 02554

Telephone: 508.325.7587 Fax: 508.228.7298

COMMISSIONERS

Ray Pohl
Chairman

Diane Coombs
Vice-Chairman

Val Oliver

Abigail Camp

John McLaughlin

ASSOCIATE COMMISSIONERS

Carrie Thornewill

Jesse Dutra

Stephen Welch

STAFF

Esmeralda C. Martinez
Land Use Specialist
emartinez@nantucket-ma.gov

STAFF LIAISON

Holly E. Backus
Preservation Planner
hbackus@nantucket-ma.gov

March 18, 2022

Dear Select Board,

On behalf of the Nantucket Historic District Commission (HDC), I am responding to the appeal filed by Attorney Arthur Reade in behalf of Charles R. Schwarzapfel, related to the Denial of COA HDC2020-10-2033 on January 6, 2022 for a pool and related hardscape. To watch the discussion at the HDC January 6, 2022 meeting, please click on the following link: Nantucket Historic District Commission -01/ 06/22 - YouTube forward to 7:40 – 8:00.

This application was reviewed by the Commission on 01/14/21, and 03/30/21. During the two hearings, there were requests from the public, abutter's, a few HDC Commissioners for revisions on the proposed pool and related hardscape. As with any contentious application, the HDC file includes letters from concerned neighbors for the Commission's consideration in the during the review of the application.

The HDC did deny this application; but the decision was not arbitrary or capricious as alleged by the applicant. At the last hearing on this project on January 6, 2022, there were four sitting members on this application. This application was denied "due to lack of response" because the agent for the applicant refused to sign an extension form upon repeated requests. Regular office procedures required by law is to reach out formally by via email, phone call, or in-person to the applicant's agent requesting an extension on their HDC application allowing the applicant to revise the submission and grant sufficient time to adequately review the application if necessary. On December 9, 2021, staff sent out the first email to the Agent Steve Theroux from Nantucket Architectural Group; in the email, an extension was specifically asked for and for the extension form to be signed and returned. Otherwise, in the absence of a signature, the project will be denied without prejudice due to lack of response. Multiple attempts via email were made on dates 12/09/2021, 12/23/2021 and 12/31/2021 with the deadline for action being 12/31/2021. The last attempt was made on January 3, 2022 when Agent Stephen Theroux came in person to the office on other matters. Staff approached him to sign the extension form. He proceeded to state that on behalf of his clients, he was refusing to sign the extension form.

The HDC had exhausted all options at that point and on January 4, 2022, said application for the pool and hardscape at 9 Maine Avenue was placed on the agenda to be heard on January 6, 2022. The HDC considered all options and the history of the matter and found that they had no other choice but to deny the application. The application was not denied on the merits but on the time sensitive issue that had to be decided to avoid a constructive grant.

Sincerely,

Esmeralda C. Martinez
Land Use Specialist / HDC Compliance Coordinator

9 MAINE AVENUE PACKET

MINUTES

HISTORIC DISTRICT COMMISSION
REGULAR MEETING

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

Commissioners: Raymond Pohl (Chair), Abigail Camp (Vice-chair), John McLaughlin, Diane Coombs, OliverVallorie Oliver,
Associate Commissioners: Stephen Welch, Jessie Dutra, Carrie Thornewill

~~ MINUTES ~~

Thursday, January 6, 2022

This meeting was held via remote participation using ZOOM and YouTube.

Called to order at 1:00 pm. and announcements by Ms. Camp

Staff in attendance:	Holly Backus, Preservation Planner; Esmeralda Martinez; PLUS Administrative Specialist; Terry Norton, Town Minutes Taker
Attending Members:	Camp, McLaughlin, Coombs, Oliver, Thornewill
Absent Members:	Pohl, Welch, Dutra
Late Arrivals:	McLaughlin, 1:17 pm
Early Departures:	None

Adoption of Agenda.

Motion	**Motion to Approve as drafted. (Coombs)**
Roll-call vote	Carried 4-0//Oliver, Thornewill, Camp, and Coombs-aye

I. PUBLIC COMMENT

Backus – We no longer not have an HDC Compliance Coordinator for the Town

II. DISCUSSION OF PRE-STAINED WHITE CEDAR SHINGLES

Voting	Camp, McLaughlin, Coombs, Oliver, Thornewill
Concerns	Held for a full board

III. CONSENTS

	Property owner name	Street Address	Scope of work	Map/Parcel	Agent
1.	Eileen Harkness **12-5286**	5 Gardner Perry Lane	Rev. 07-4216: color change	55/32.1	Thornewill Design

Voting	Camp, Coombs, Oliver
Alternates	None
Recused	Thornewill
Documentation	None
Representing	None
Public	None
Concerns	No concerns.
Motion	**Motion to Approve. (Coombs**
Roll-call Vote	Carried 3-0//Oliver, Camp, and Coombs-aye
Certificate #	**HDC2021-12-5286**

IV. DENIAL

	Property owner name	Street Address	Scope of work	Map/Parcel	Agent
1.	Charles Schwarzapfel **10-2033**	9 Main Avenue	Pool	60.3.1/425	NAG

- Denial due to lack of response

Voting	Camp, Coombs, Oliver, Thornewill
Alternates	None
Recused	None
Documentation	None
Representing	None
Public	None
Concerns	None
Motion	**Motion to Deny for lack of response. (Coombs)**
Roll-call Vote	Carried 4-0//Thornewill, Oliver, Camp, and Coombs-aye
Certificate #	**HDC2021-10-2033**

Hold

12. Charles Schwarzapfel **10-2033** 9 Maine Avenue Pool 60.3.1/425 NAG

Voting	Pohl, Coombs, McLaughlin, Camp, Oliver
Alternates	Welch, Thornewill
Recused	None
Documentation	Landscape design plans, site plan, photos, correspondence, historic documentation, and advisory comments.
Representing	Steve Theroux, Nantucket Architectural Group
Public	Linda Williams, MAB
Concerns (6:25)	**Theroux** – Reviewed changes made per previous concerns; reviewed history of Eel Skin Inn from a 1-room shack on North Cambridge Street to what is now on Maine Avenue; in 1970, this was ruled as not a historic structure; reviewed fences in the area for context regarding the screening fence; a lot of the objecting neighbors don't want a pool in their neighborhood. Asked for a resolution tonight. **Williams** – Across Millie's Bridge, the area is very different; this doesn't fit with the character of Smith's Point; a fence will draw attention to the fact something is being hidden; this is inappropriate in this setting; no location for lighting and pool equipment. **Pohl** – The letters were sent to commissioners earlier. **Camp** – It's hard to talk about this site without talking about the surrounding streetscape; this area is much to rural for a pool. She wants to keep the site as is. **Oliver** – The amount of fencing being proposed will jeopardize the visual quality and character of place. The photos show that there are no extensive, closed-in yards; fencing in the area does enclose small yards and/or equipment. This area is open beach area; the fencing is incongruent with the beach-side area. This would set a negative precedent. The fencing should be around the pool only with plantings of the area to make it inconspicuous. **Coombs** – Her concern is the pool as part of the area landscape is inappropriate. Part of our mission is to approve something that maintains the streetscape and so is not appropriate for this area. Agrees with what's been said. **McLaughlin** – We should have set a regulation that pool screening should be no more than 20 feet from the edge of the pool. There is a lot of low brush there but he's okay with screening the pool. **Pohl** – The vegetation is all very low, reminiscent of the Cisco pool controversy. To add a board fence to this very flat, severe landscape would be a disservice to the area. If there is going to be a pool at all, the screening should be more natural vegetation harmonious with existing vegetation. It's unlikely that an approval through staff would go forward tonight. Confirmed Mr. Theroux is going on record requesting a resolution rather than allowing further revisions. Discussion about issuing a denial or holding.
Motion	**Motion to Hold for revisions. (Oliver)**
Roll-call Vote	Carried 5-0//Camp, McLaughlin, Coombs, Oliver, and Pohl-aye Certificate #

13. 46 Union Street N.T. **02-2843** 46 Union Street Addition 42.2.3/28 M. Cutone Arch

Voting	Camp (acting chair), McLaughlin, Oliver, Welch, Thornewill
Alternates	None
Recused	Coombs
Documentation	Architectural elevation plans, site plan, photos, historic documentation, and advisory comments.
Representing	Doug Mills, Mark Cutone Architecture
Public	None
Concerns (6:50)	**Mills** – Reviewed changes made per previous concerns. **Backus** – Read HSAB comments March 15: no concerns. There was discussion about color; this application will need a sister application for historic determination. **Oliver** – Appreciates the changes; most of her concerns were addressed. Northeast elevation, the little square windows in the middle gable seem out of place; suggested moving one window to the southeast or installing a skylight on the southeast roof plane and eliminating the small windows on the northeast. **Welch** – Appreciates the changes. Not as concerned about the small windows; it would be great if there is a more era specific style window. **Thornewill** – Likes the subtle change separating the masses. Agrees with Ms. Oliver about the northeast elevation little windows. **Camp** – She had concerns with lining up the southeast windows; the triple ganged windows would look better if the left window aligned with the 2nd-floor window. **McLaughlin** – The changes to this house as submitted fit into the area.
Motion	**Motion to Approve through staff with the two small 4-light windows removed from the northeast and a 2X3, wood-trim skylight added to the southeast elevation roof plane and align the southeast triple ganged window with the 2nd floor window. (Oliver)**
Roll-call Vote	Carried 5-0//Oliver, Thornewill, McLaughlin, Welch, and Camp-aye Certificate # HDC2021-02-2843

Charles S. Hold 8/2/21 12/31/21

Hold for 01/14

VI. NEW BUSINESS

	Property owner name	Street Address	Scope of work	Map/Parcel	Agent
1.	Melanie Gowen **12-2621**	5 Boyers Alley Way	Shed	55.4.1/96	Self
Voting	Pohl, Coombs, McLaughlin, Camp,				
Alternates	Welch, Thornewill				
Recused	None				
Documentation	None				
Representing	None				
Public	None				
Concerns (2:12)	**Flynn** – Ms. Gowen is submitting new plans and asked that it be withdrawn.				
Motion	**No action taken.**				
Roll-call Vote	N/A			Certificate #	

2.	Donald Torey **12-2623**	63 West Chester Street	Fenst + roof walk	41/222.2	Robert Newman SCI
Voting	Pohl, Coombs, McLaughlin, Camp, Thornewill				
Alternates	Welch				
Recused	None				
Documentation	Architectural elevation plans, site plan, and photos.				
Representing	Robert Newman, Sandcastle Construction Inc.				
Public	None				
Concerns (2:13)	**Newman** – Presented project; west elevation isn't visible.				
	Coombs – The roof walk should be eliminated; it makes the house very busy. North and west elevation, the 20-pane doors is very heavy.				
	Camp – No concerns.				
	McLaughlin – North elevation has a lot of glazing with the large sliding doors.				
	Thornewill – Would prefer the 20-light doors become 15-light doors. Okay with the design and roof walk.				
	Pohl – Agrees with Ms. Thornewill. The roof walk should have a center post on the long side. The 20-light sliding doors are too wide; should be reduced to 15-light doors.				
Motion	**Motion to Approve through staff with a center post on the length of the roof walk and reducing the 20-light, 8-foot-wide doors to 6-feet-wide, 15-light doors. (Thornewill)**				
Roll-call Vote	Carried 4-1//McLaughlin, Camp, Thornewill, and Pohl-aye; Coombs-nay			Certificate #	**HDC2020-12-2623**

3.	John H Reilly Trust **12-2620**	1 Howard Street	New found + fenest	42.3.3/106	EMDA
Voting	Pohl, Coombs, McLaughlin, Camp, Welch				
Alternates	Thornewill				
Recused	None				
Documentation	Architectural elevation plans, site plan, photos, historic documentation, and advisory comments.				
Representing	Ethan McMorrow, E. McMorrow Design Associates				
Public	None				
Concerns (2:28)	**Backus** – Read HSAB comments: issue with clapboard on 3 sides, only on the south though prefer no clapboard; clapboard shouldn't be white. Circa 1920 Colonial revival.				
	McMorrow – Presented project; would like to keep clapboard on side facing the street; open to Nantucket grey clapboard with black shutters and white sash.				
	Coombs – Clapboard should go on the south elevation only; it's more presentable than clapboard on the side.				
	Camp – She's okay with this if the clapboard is grey.				
	Welch – No clapboard on the west elevation; agrees with HSAB.				
	McLaughlin – No concerns.				
Motion	**Motion to Approve through staff with no clapboard on the west and north elevations. (Welch)**				
Roll-call Vote	Carried 5-0//McLaughlin, Camp, Camp, Welch, and Pohl-aye			Certificate #	**HDC2020-12-2620**

Following items held for January 14th.

4.	Charles Schwarzapfel **10-2033**	9 Maine Avenue	Pool	60.3.1/425	NAG
5.	Frederick Hahn **12-2618**	50 Eel Point Road	New dwelling	32/25.1	EMDA
6.	Karli Hagedorn **12-2615**	34 West Chester Street	Garage	41/31	Normand Residential
7.	22 BLVD **12-2614**	22 Boulevarde	Rev.09-1780:rmv drmrs	80/327	Normand Residential
8.	Leanne Baker **12-2617**	38 Monohansett Road	Move on +minor mods	79/60	Brook Meerbergen
9.	Candice Heydt Trust **12-2626**	20 Brant Point Road	Stairs to roof walk	29/153	Val Oliver Design
10.	Grey Lady Lane, LLC **12-2627**	3 Grey Lady Lane	New dwelling	66/713	Val Oliver Design
11.	William Buckland **12-2631**	113 Hummock Pond Rd	As-built patio&pergola	56/59	Self
12.	Barnett-Clearly Family **12-2634**	1 Morgan Square	Demo dwelling	87/33	Bessey Construction
13.	Barnett-Clearly Family **12-2635**	1 Morgan Square	New dwelling	87/33	Bessey Construction
14.	Barbara Phillips Trust **12-2628**	7 North Liberty Street	Renew COA 58357	42.3.4/6	Val Oliver Design

Hold

III. CONSENT WITH CONDITIONS

	Property owner name	Street Address	Scope of work	Map/Parcel	Agent
1.	59 Bartlett Road, LLC **01-2663**	59 Bartlett Road	Driveway/ramp	66/99.1	Linda Williams
	• Due to minimal visibility				
2.	Sig Heller **01-2658**	17 Margaret's Way	Rev 44884; pool autocvr	20/65	Linda Williams
	• Pool must not be visible at time of inspection and in perpetuity				
3.	Joseph Kelly **01-2657**	4 Hollister Road	Shed	92.4/275	Linda Williams
	• Due to lack of visibility				
4.	Paula Barth **01-2659**	18 Gardner Street	Expd deck 53sf/dr chg	42.3.4/81	Chuck Lenhart/SCI
	• Due to lack of visibility				
5.	John Manera **01-2656**	5 Bartlett Road (portion)	New dwelling	55/102.3	Linda Williams
	• Remove capitals and plinths and keep railing/balusters				

Voting	Pohl, Coombs, McLaughlin, Camp, Oliver
Alternates	Welch, Thornewill
Recused	None
Documentation	None
Representing	None
Sign Advisory	None
Concerns	No additional concerns.
Motion	**Motion to Approve through staff per noted conditions. (Coombs)**
Roll-call Vote	Carried 5-0//Camp, Oliver, McLaughlin, Coombs, and Pohl-aye — Certificate # **HDC2021-01-(as noted)**

IV. NEW BUSINESS

	Property owner name	Street Address	Scope of work	Map/Parcel	Agent
1.	Charles Schwarzapfel **10-2033**	9 Maine Avenue	Pool	60.3.1/425	NAG

Voting	Pohl, Coombs, McLaughlin, Camp, Oliver
Alternates	Welch, Thornewill
Recused	None
Documentation	Landscape design plans, site plan, photos, correspondence, and advisory comments.
Representing	Steve Theroux, Nantucket Architectural Group
Public	None
Concerns (5:34)	**Theroux** – Presented project; stated comments by the abutters are not within HDC purview; 36" retaining wall was excluded; abutter on Rhode Island Avenue has a 4-foot vegetated berm. The MAB is made up of 5 Madaket residents who don't want a pool and feels it makes no sense for this to go back to them. Asked for a denial. Discussing where this lot is located and possible exposure to abutting roads. **Backus** – Read MAB comments; not in favor of the pool in this location; viewing is critical to any approval of a pool in this location; once across Millie's Bridge, this area is very different from the rest of Madaket; need to know where equipment is going. Eel Skin is circa 1868. Read letters of concern from abutters: not in context with the neighborhood whatsoever; any new plantings would create an unnatural landscape; would be within viewshed; no protection for vegetative screening on this coastal plain; berming is completely inappropriate in this flat landscape. **Flynn** – Mr. Theroux issued plans based upon MAB comments; MAB has not seen those revisions. There is another letter from Peter Holmes. During the MAB meeting, Ms. Williams reiterated HDC's purview is from a publicly travelled way. **Coombs** – Asked if this has gone to ConCom (outside their jurisdiction). HDC is concerned about keeping an area conducive to what has been there. To allow a pool to go in where it cannot be adequately screened is irresponsible. This is not a project that fulfills our mission. **Oliver** – Agrees with Ms. Coombs; this is the same as pools in Cisco. It will affect the aesthetic and quality of the environment. This is a beach seascape with informality, which is what draws people there. It will not blend in and be intrusive to the landscape or this historic structure. If we deny this, they will appeal to the Select Board. **McLaughlin** – He doesn't think there should be any problem. **Camp** – She drove out there today. This is the most relaxed, laid-back area of the Island and really just a dune. This is different from anyplace on the Island. Allowing a pool there would take away from its character. **Pohl** – His thoughts are similar to what's been said. Clearly there is a lot of shifting sand and landscape. It is hugely important to keep it informal. He thinks the revisions should go back to MAB. It would be foolish to issue a denial on the first hearing; we should ask for revisions.
Motion	**Motion to Hold for revisions and to go back to MAB. (Camp)**
Roll-call Vote	Carried 5-0//Oliver, Coombs, McLaughlin, Camp, and Pohl-aye — Certificate #

Charles S. Started 5/2021

CERTIFICATE NO: HDC 2020-10-7033 DATE ISSUED: 1/26/2022

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

CERTIFICATE OF APPROPRIATENESS

for structural work.

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

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

This is a contractual agreement and must be filled out in ink. An application is hereby made for issuance of a Certificate of Appropriateness under Chapter 395 of the Acts and Resolves of Mass., 1970, for proposed work as described herein and on plans, drawings and photographs accompanying this application and made a part hereof by reference.

The certificate is valid for three years from date of issuance. No structure may differ from the approved application. Violation may impede issuance of Certificate of Occupancy.

PROPERTY DESCRIPTION

TAX MAP N°: 60 3.1 PARCEL N°. 425

Street & Number of Proposed Work: 9 MAINE AVE

Owner of record: MR. Charles SCHWARZAPFEL

Mailing Address: 9 MAINE AVE
NANTUCKET MA

Contact Phone #: _____ E-mail: _____

AGENT INFORMATION (if applicable)

Name: NAG

Mailing Address: PO Box 1514
NANTUCKET MA

Contact Phone #: 228-5231 E-mail: Steve@NANTUCKETARCHITECTURE.com

FOR OFFICE USE ONLY

Date application received: 10/9/2020 Fee Paid: $ 24 - #15119

Must be acted on by: ~~1/28/21, 3/9/21, 5/8/21~~ 12/31/21

Extended to: _____

Approved: _____ Disapproved: P (acting)

Chairman: _____

Member: _____

Member: _____

Member: _____

Member: _____

DENIED

Notes - Comments - Restrictions - Conditions

* Denial due to lack of response *

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 VR) ☐ Roof ☐ Other _____

Size of Structure or Addition: Length: 24 Sq. Footage 1st floor: 288 Decks/Patio: Size: _____ ☐ 1st floor ☐ 2nd floor

Width: 12 Sq. footage 2nd floor: _____ Size: _____ ☐ 1st floor ☐ 2nd floor

Sq. footage 3rd floor: _____

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

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

Additional Remarks

Historic Name:

Original Date:

Original Builder:

~~REVISIONS~~ 1. East Elevation

(describe) 2. South Elevation SALTWATER INGROUND POOL w/ RANDOM BLUESTONE PATIO & NATIVE PLANT SCREENING

3. West Elevation

4. North Elevation

*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: 3'-0
Type: TYP. 2
Length: 24'

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 _____ Walkways _____ Walls _____

* Note: Complete door and window schedules are required.

COLORS

Sidewall _____ Clapboard (if applicable) _____ Roof _____

Trim _____ Sash _____ Doors _____

Deck _____ Foundation _____ Fence _____ Shutters _____

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

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

Date 12/1/2021 Signature of owner of record _____ Signed under penalties of perjury

CORRESPONDENCE FROM STAFF

Adrian Rodriguez

From: Adrian Rodriguez
Sent: Thursday, December 9, 2021 10:31 AM
To: 'Stephen Theroux'
Cc: Esmeralda Martinez
Subject: HDC EXTENSION FOR 9 MAINE AVE. FOR "POOL"
Attachments: JUNE 30 2022 HDC Extension Form act on date DEC 31 2021.pdf

Hello,

****Please note: The attached is a fillable sheet and is an acceptable method of signing these extensions.**

This message is to inform you that your application(s) listed below will soon reach the 60-day deadline for applicant action. If you wish to extend the application to allow more time to submit revised plans or if you just recently submitted revised plans, please sign and return the attached extension form (one for each project). Alternatively you can withdraw the listed project(s) by indicating that you would like to do so in a response. If the extension form is not signed and returned, the project will be denied without prejudice due to lack of response.

- 9 MAINE AVE. FOR "POOL"

Adrian Rodriguez
PLUS Administrative Specialist

arodriguez@nantucket-ma.gov
Town of Nantucket
Planning & Land Use Services
2 Fairgrounds Road
Nantucket, MA 02554

Tel: 508-325-7587 X 7064
Fax: 508-325-5346
www.nantucket-ma.gov

Adrian Rodriguez

From: Adrian Rodriguez
Sent: Thursday, December 23, 2021 10:21 AM
To: 'Stephen Theroux'
Cc: Esmeralda Martinez
Subject: HDC EXTENSION FOR 9 MAINE AVE. FOR "POOL"
Attachments: JUNE 30 2022 HDC Extension Form act on date DEC 31 2021.pdf

Hello,

****Please note: The attached is a fillable sheet and is an acceptable method of signing these extensions.**

This message is to inform you that your application(s) listed below will soon reach the 60-day deadline for applicant action. If you wish to extend the application to allow more time to submit revised plans or if you just recently submitted revised plans, please sign and return the attached extension form (one for each project). Alternatively you can withdraw the listed project(s) by indicating that you would like to do so in a response. If the extension form is not signed and returned, the project will be denied without prejudice due to lack of response.

- 9 MAINE AVE. FOR "POOL"

Adrian Rodriguez
PLUS Administrative Specialist

arodriguez@nantucket-ma.gov
Town of Nantucket
Planning & Land Use Services
2 Fairgrounds Road
Nantucket, MA 02554

Tel: 508-325-7587 X 7064
Fax: 508-325-5346
www.nantucket-ma.gov

Adrian Rodriguez

From: Adrian Rodriguez
Sent: Thursday, December 30, 2021 11:18 AM
To: 'Stephen Theroux'
Subject: HDC EXTENSION FOR 9 MAINE AVE. FOR "POOL"
Attachments: JUNE 30 2022 HDC Extension Form act on date DEC 31 2021.pdf

Hello,

****Please note: The attached is a fillable sheet and is an acceptable method of signing these extensions.**

This message is to inform you that your application(s) listed below will soon reach the 60-day deadline for applicant action. If you wish to extend the application to allow more time to submit revised plans or if you just recently submitted revised plans, please sign and return the attached extension form (one for each project). Alternatively you can withdraw the listed project(s) by indicating that you would like to do so in a response. If the extension form is not signed and returned, the project will be denied without prejudice due to lack of response.

- 9 MAINE AVE. FOR "POOL"

Adrian Rodriguez
PLUS Administrative Specialist

arodriguez@nantucket-ma.gov
Town of Nantucket
Planning & Land Use Services
2 Fairgrounds Road
Nantucket, MA 02554

Tel: 508-325-7587 X 7064
Fax: 508-325-5346
www.nantucket-ma.gov

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: 5/1/2021

Map: 60.3.1 **Parcel** 425

Address of Property: 9 MAINE AVE

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

Mr. Charles SCHWARZAPFEL OWNER

Stephen Theroux MAG

Scope of Work: Pool

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:

August 31, 2021

Month/day/year of extension termination

Signature of Applicant/Owner/Representative

Stephen Theroux

Please print name of signatory

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: 3/15/2021

Map: 60 3.1 **Parcel** 425

Address of Property: 9 Maine Ave

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

Stephen Mercury

Scope of Work: Pool & Fence

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:

May 20, 2021

Month/day/year of extension termination

Signature of Applicant/Owner/Representative

Stephen Mercury

Please print name of signatory

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: 8/16/2021

Map: 60.3.1 **Parcel** 425

Address of Property: 9 Maine Avenue

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

Stephen Theroux NAG

Scope of Work: Proposed pool

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:

December 31, 2021

Month/day/year of extension termination

Signature of Applicant/Owner/Representative

Stephen Theroux

Please print name of signatory

Madaket Advisory Board *Meeting Memorandum* **HDC/MAB**

60.3.1 / 425

Date/Time 3/22/2021

To: Historic District Commission
From: Madaket Advisory Board

Members Present

(X) Linda Williams- Chair (X) Brad Fleming (X) Tom Erichsen (R) Bruce Mandel (X) Robert Kucharavy
Alternate: ( ) Mark Palmer

Applicant: Charles Schwarzapfel Address: 9 Maine Ave- Pool

CF

Historic information/known history
(X) Non-Contributing ( ) Contributing ( ) Individually significant

Comments

( ) Incomplete application ( ) Historical information needed () No Concerns ( ) Recommend View

( ) Does not meet guidelines **(X) Not appropriate** *(As noted below)*

Recommendations:

- Location of the lighting of the pool and the pool equipment
- Does not fit the character of Smith's Point, out of context for the neighborhood
- The visual impact of what has to be done to screen the pool
- Close proximity to Eel Skin Inn- historical character

Public Comment
Robert and Bonnie Havery, 6 Maine Ave - Suggested Screen from beach and NH Ave. Would like HDC to consider historic value of Eel Skin Inn.
Pat Catchpole, 8 Maine Ave- not in context with area, pool lighting a concerned. Screening life span- Pool equipment location and pool lighting
Andrea Baier: represents homeowner at 19 NH Ave. lighting and pool equipment location.

Motion on Recommendations:
Motion to accept comments made by RK; Seconded by TE
4-1 Fleming, Erichsen, Kucharavy and Williams- aye//Mandel- Recused

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: 1/8/2021

Map: 60.3.1 **Parcel** 425

Address of Property: 9 Maine Ave

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

Stephen Thevenet DMD

Scope of Work: 12x24 Pool & Patio

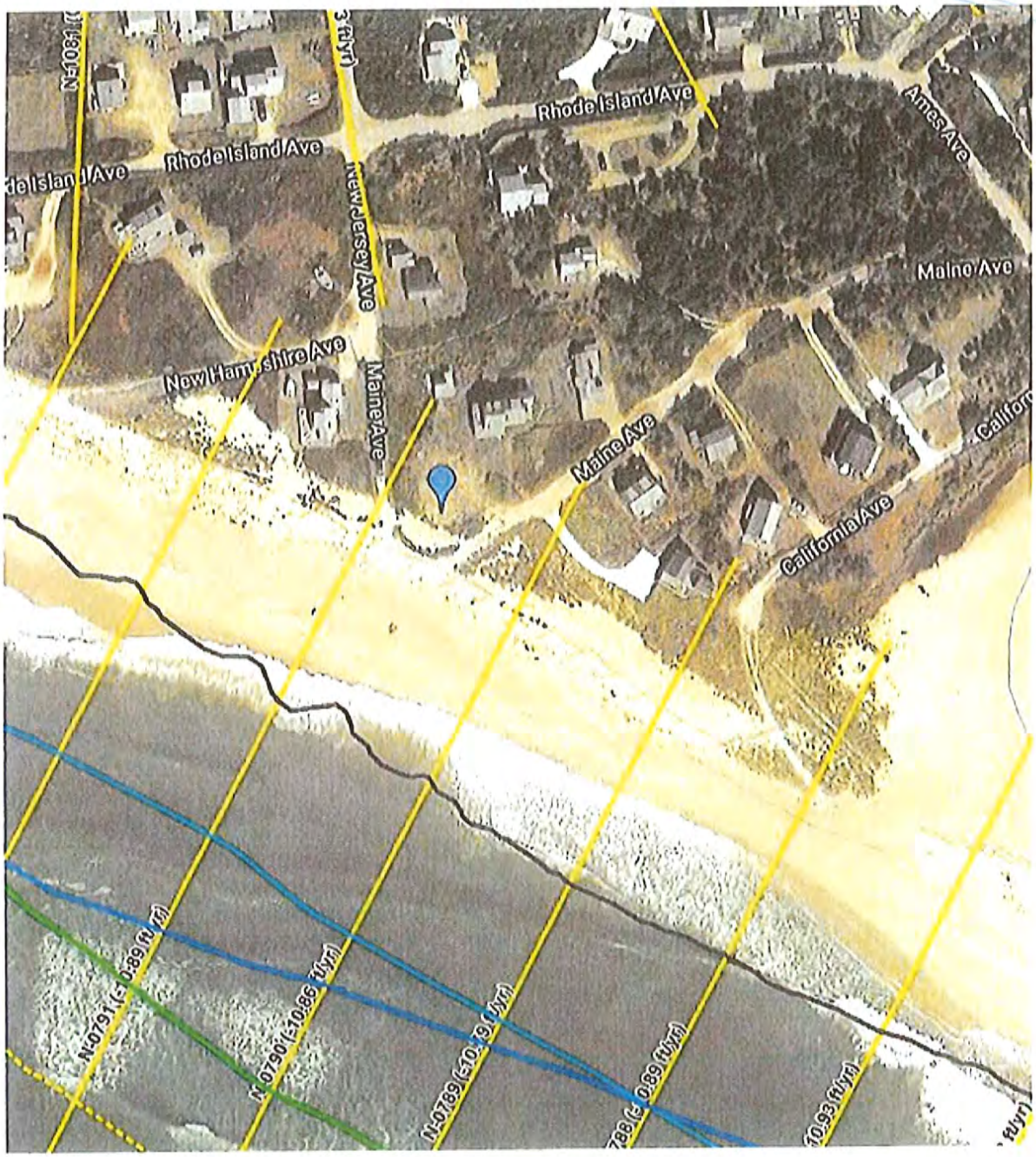
A voluntary extension of the Nantucket Historic District Commission's ("HDC") action deadline on the above noted Application has been granted to the HDC by the above named Applicant(s)/Owner(s)/ Representative(s) up to and including the following date:

March 21, 2021
Month/day/year of ~~extension termination~~

Signature of Applicant/Owner/Representative

Stephen Thevenet
Please print name of signatory

RECEIVED
Dec 22 2020
By



Historic District Commission

OLD BUSINESS CHECKLIST

Planning and Land Use Services

2 Fairgrounds Road, Nantucket, Ma 02554
508-325-7587

This checklist MUST be submitted with your application.

*Refer to the HDC Policies and Procedures for Applicants for further information link below:

https://www.nantucket-ma.gov/DocumentCenter/View/28657/HDC-Policies-and-Procedures-for-Applicants-revised

Failure to submit the required documents below for an Old Business meeting MAY result in delays.

✓	Sign in submission at Front Desk
	HDC case number: (ex HDC2020-xx-xxxx), if applicable 05-0895 10-2033
✓	Copy of Minutes (application item circled)
✓	Reduced (8 ½ x 11) copy of application
✓	Locus Map: 4 copies: https://www.nantucket-ma.gov/151/GIS-Maps
✓	Four (4) copies of additional information requested by Commission- if applicable (i.e. pictures, FEMA flood Certificate, etc.)
✓	Four (4) Large sets of plans at 3/16" or ¼" scale (circle all that apply) a. Site Plan b. North Elevation c. South Elevation d. East Elevation e. West Elevation f. Window/Door Schedule
✓	One set reduced plans: 8 ½ x11
✓	Electronic Submission: Each of the foregoing documents (including this checklist) MUST BE scanned to a single PDF file and emailed to hdcsubmissions@nantucket-ma.gov.
	Signed Affidavit: see reverse side

III. CONSENT WITH CONDITIONS

	Property owner name	Street Address	Scope of work	Map/Parcel	Agent
1.	59 Bartlett Road, LLC **01-2663**	59 Bartlett Road	Driveway/ramp	66/99.1	Linda Williams
	• Due to minimal visibility				
2.	Sig Heller **01-2658**	17 Margaret's Way	Rev 44884; pool autocvr	20/65	Linda Williams
	• Pool must not be visible at time of inspection and in perpetuity				
3.	Joseph Kelly **01-2657**	4 Hollister Road	Shed	92.4/275	Linda Williams
	• Due to lack of visibility				
4.	Paula Barth **01-2659**	18 Gardner Street	Expd deck 53sf/dr chg	42.3.4/81	Chuck Lenhart/SCI
	• Due to lack of visibility				
5.	John Manera **01-2656**	5 Bartlett Road (portion)	New dwelling	55/102.3	Linda Williams
	• Remove capitals and plinths and keep railing/balusters				

Voting	Pohl, Coombs, McLaughlin, Camp, Oliver
Alternates	Welch, Thornewill
Recused	None
Documentation	None
Representing	None
Sign Advisory	None
Concerns	No additional concerns.
Motion	**Motion to Approve through staff per noted conditions. (Coombs)**
Roll-call Vote	Carried 5-0//Camp, Oliver, McLaughlin, Coombs, and Pohl-aye — Certificate # **HDC2021-01-(as noted)**

IV. NEW BUSINESS

	Property owner name	Street Address	Scope of work	Map/Parcel	Agent
1.	Charles Schwarzapfel **10-2033**	9 Maine Avenue	Pool	60.3.1/425	NAG

Voting	Pohl, Coombs, McLaughlin, Camp, Oliver
Alternates	Welch, Thornewill
Recused	None
Documentation	Landscape design plans, site plan, photos, correspondence, and advisory comments.
Representing	Steve Theroux, Nantucket Architectural Group
Public	None
Concerns (5:34)	**Theroux** – Presented project; stated comments by the abutters are not within HDC purview; 36" retaining wall was excluded; abutter on Rhode Island Avenue has a 4-foot vegetated berm. The MAB is made up of 5 Madaket residents who don't want a pool and feels it makes no sense for this to go back to them. Asked for a denial. Discussing where this lot is located and possible exposure to abutting roads. **Backus** – Read MAB comments; not in favor of the pool in this location; viewing is critical to any approval of a pool in this location; once across Millie's Bridge, this area is very different from the rest of Madaket; need to know where equipment is going. Eel Skin is circa 1868. Read letters of concern from abutters: not in context with the neighborhood whatsoever; any new plantings would create an unnatural landscape; would be within viewshed; no protection for vegetative screening on this coastal plain; berming is completely inappropriate in this flat landscape. **Flynn** – Mr. Theroux issued plans based upon MAB comments; MAB has not seen those revisions. There is another letter from Peter Holmes. During the MAB meeting, Ms. Williams reiterated HDC's purview is from a publicly travelled way. **Coombs** – Asked if this has gone to ConCom (outside their jurisdiction). HDC is concerned about keeping an area conducive to what has been there. To allow a pool to go in where it cannot be adequately screened is irresponsible. This is not a project that fulfills our mission. **Oliver** – Agrees with Ms. Coombs; this is the same as pools in Cisco. It will affect the aesthetic and quality of the environment. This is a beach seascape with informality, which is what draws people there. It will not blend in and be intrusive to the landscape or this historic structure. If we deny this, they will appeal to the Select Board. **McLaughlin** – He doesn't think there should be any problem. **Camp** – She drove out there today. This is the most relaxed, laid-back area of the Island and really just a dune. This is different from anyplace on the Island. Allowing a pool there would take away from its character. **Pohl** – His thoughts are similar to what's been said. Clearly there is a lot of shifting sand and landscape. It is hugely important to keep it informal. He thinks the revisions should go back to MAB. It would be foolish to issue a denial on the first hearing; we should ask for revisions.
Motion	**Motion to Hold for revisions and to go back to MAB. (Camp)**
Roll-call Vote	Carried 5-0//Oliver, Coombs, McLaughlin, Camp, and Pohl-aye — Certificate #

HISTORIC DISTRICT COMMISSION

2 Fairgrounds Road
Nantucket, Massachusetts 02554

Telephone: 508.325.7587
Email: hdcsubmissions@nantucket-ma.gov

COMMISSIONERS

Ray Pohl
Chairman

Diane Coombs
Vice-Chairman

Val Oliver

Abigail Camp

John McLaughlin

ASSOCIATE COMMISSIONERS

Stephen Welch

TJ Watterson

Jesse Dutra

STAFF

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

Waiver of the HDC 10 Day Hearing Requirement

I Stephen Thevaux

AS AGENT FOR Charles Schwarzapfel

STREET ADDRESS 9 Maine Ave

MAP/PARCEL 60.3.1 425

UNDERSTAND THAT THE ABOVE REFERENCED APPLICATION SUBMITTED ON 3/9/2021

WILL NOT BE REVIEWED BY THE HISTORIC DISTRICT COMMISSION, DUE TO THE COVID-19 PANDEMIC, WITHIN THE 10 DAY PERIOD AS REQUIRED BY:

SECTION 8 of the HDC enabling legislation: ... The Commission shall meet within ten (10) days of the receipt of an application for a certificate of appropriateness or permit for removal...

AND I AGREE TO A WAIVER OF THE ABOVE MENTIONED REQUIREMENT.

Signature 3/9/2021

Date

8 1/2 x 11

Town and County of Nantucket, MA

October 8, 2020

Property Information

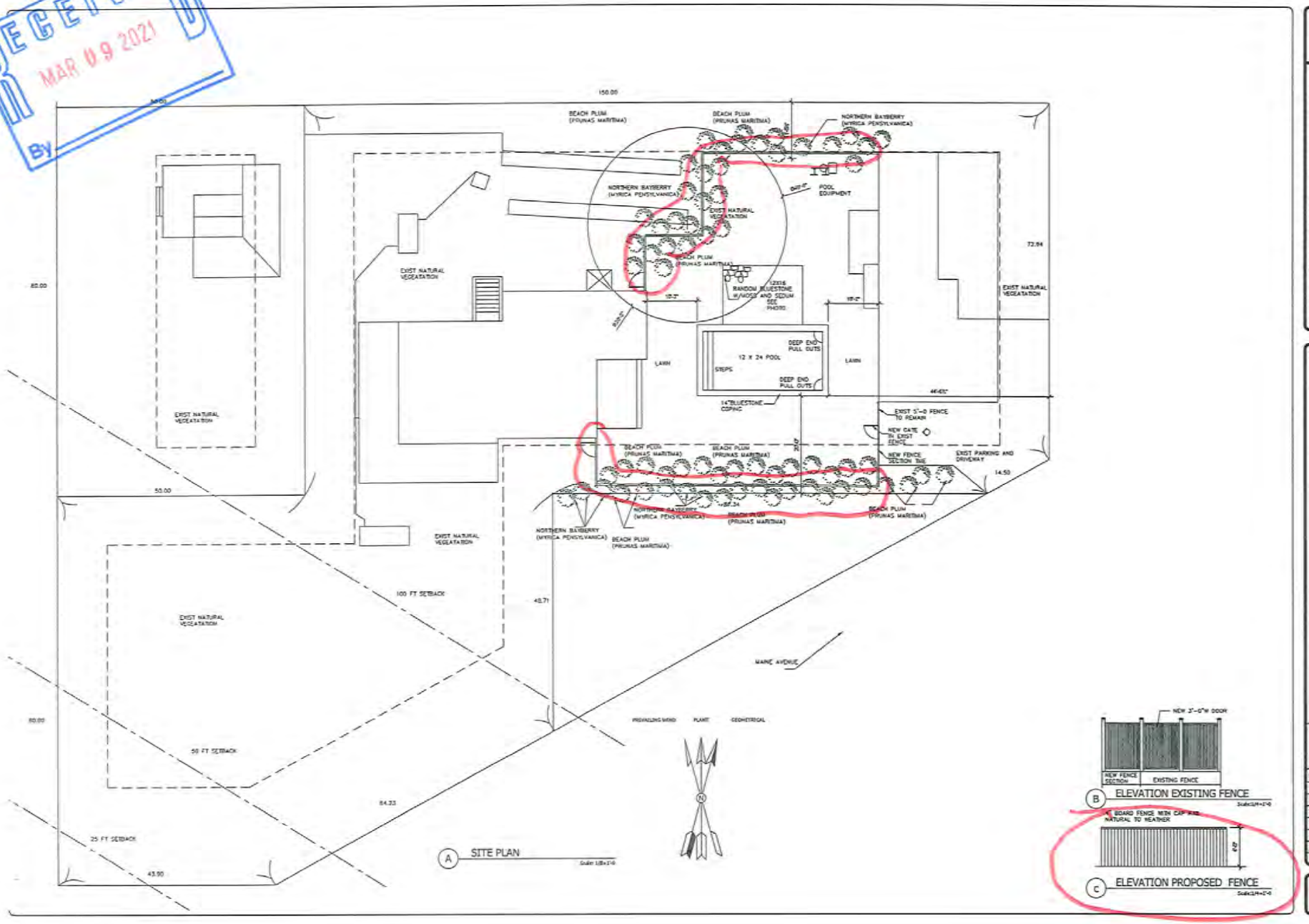
Property ID	60.3.1 425
Location	9 MAINE AV
Owner	SCHWARZAPFEL CHARLES R

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

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

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

RECEIVED
MAR 09 2021
By



NANTUCKET ARCHITECTURE GROUP LTD.
POST OFFICE BOX 1814
NANTUCKET, MASSACHUSETTS, 02554
TELEPHONE 508.228.5531
WWW.NANTUCKETARCHITECTURE.COM

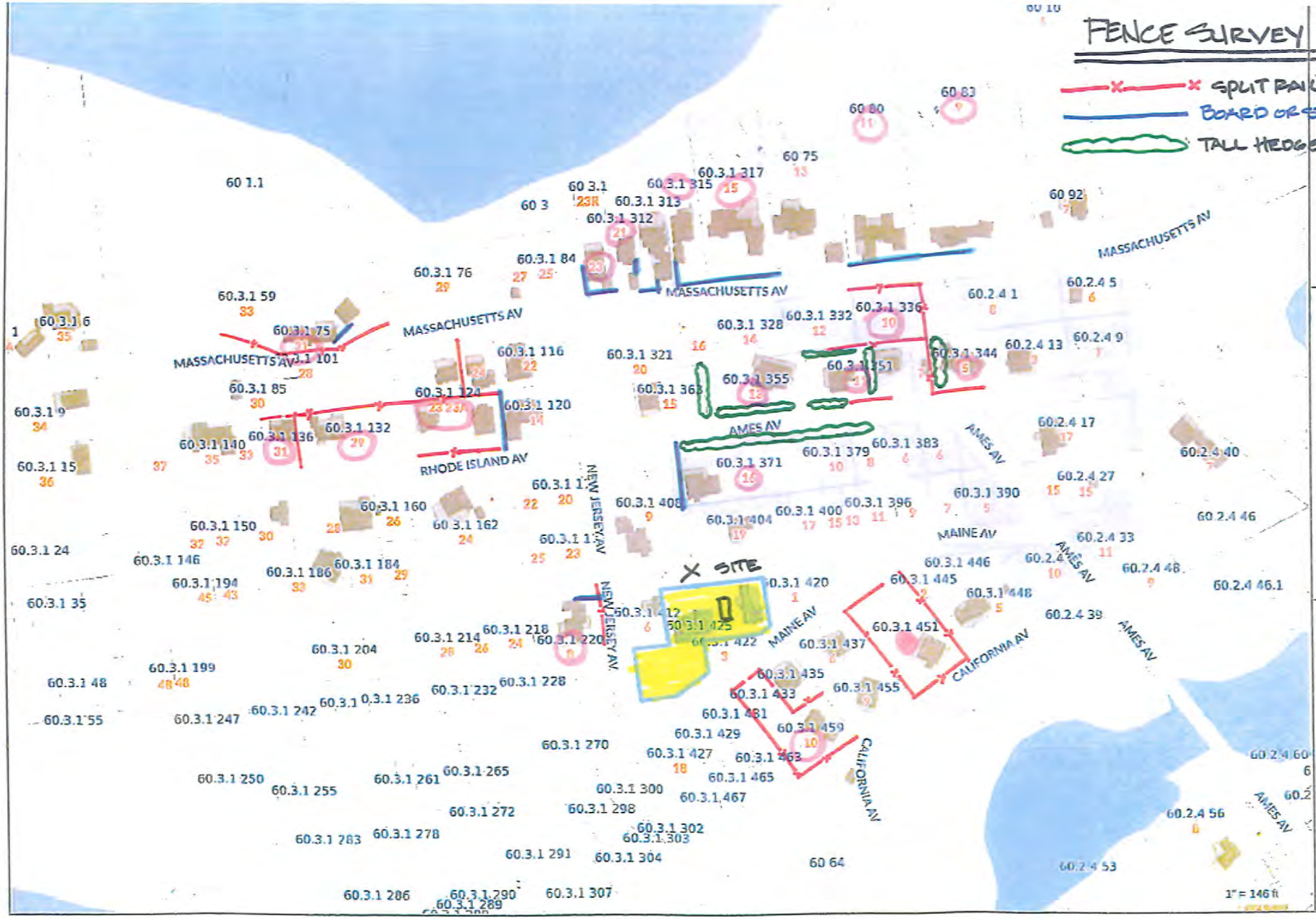
SHED RENOVATION FOR:
CHARLES AND PATRICIA SCHWARZAPFEL
9 MAINE AVENUE NANTUCKET, MASSACHUSETTS, 02554

PLAN

HDC: XX/XX/XX	
BIDDING:	
BLDG. DEPT:	
REVISIONS:	
REVISIONS:	
REVISIONS:	
REVISIONS:	

D/B: xxx copyright nag 2015

sheet number
S3

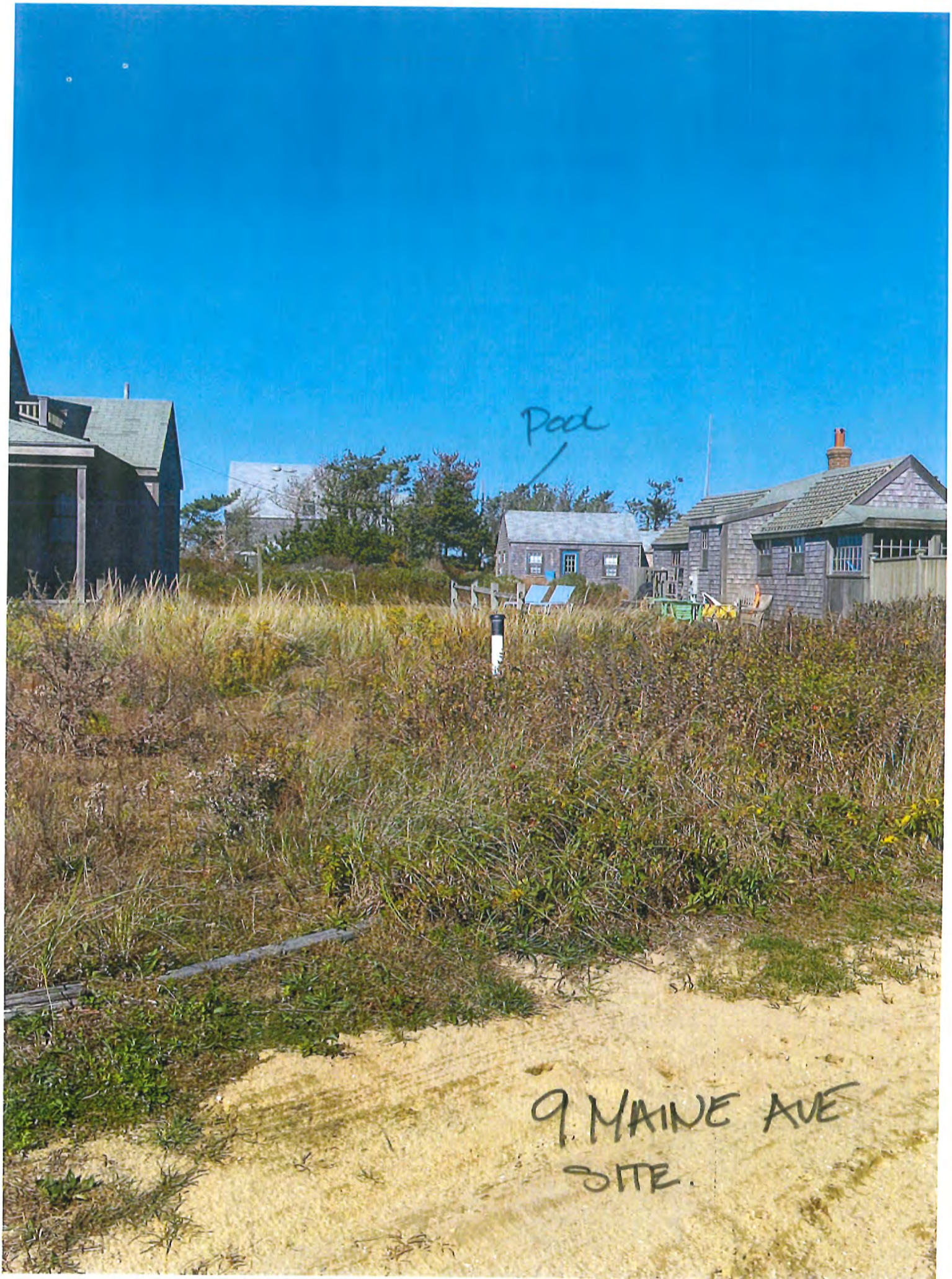


Property ID 6(
Location 9
Owner S

MAP NO

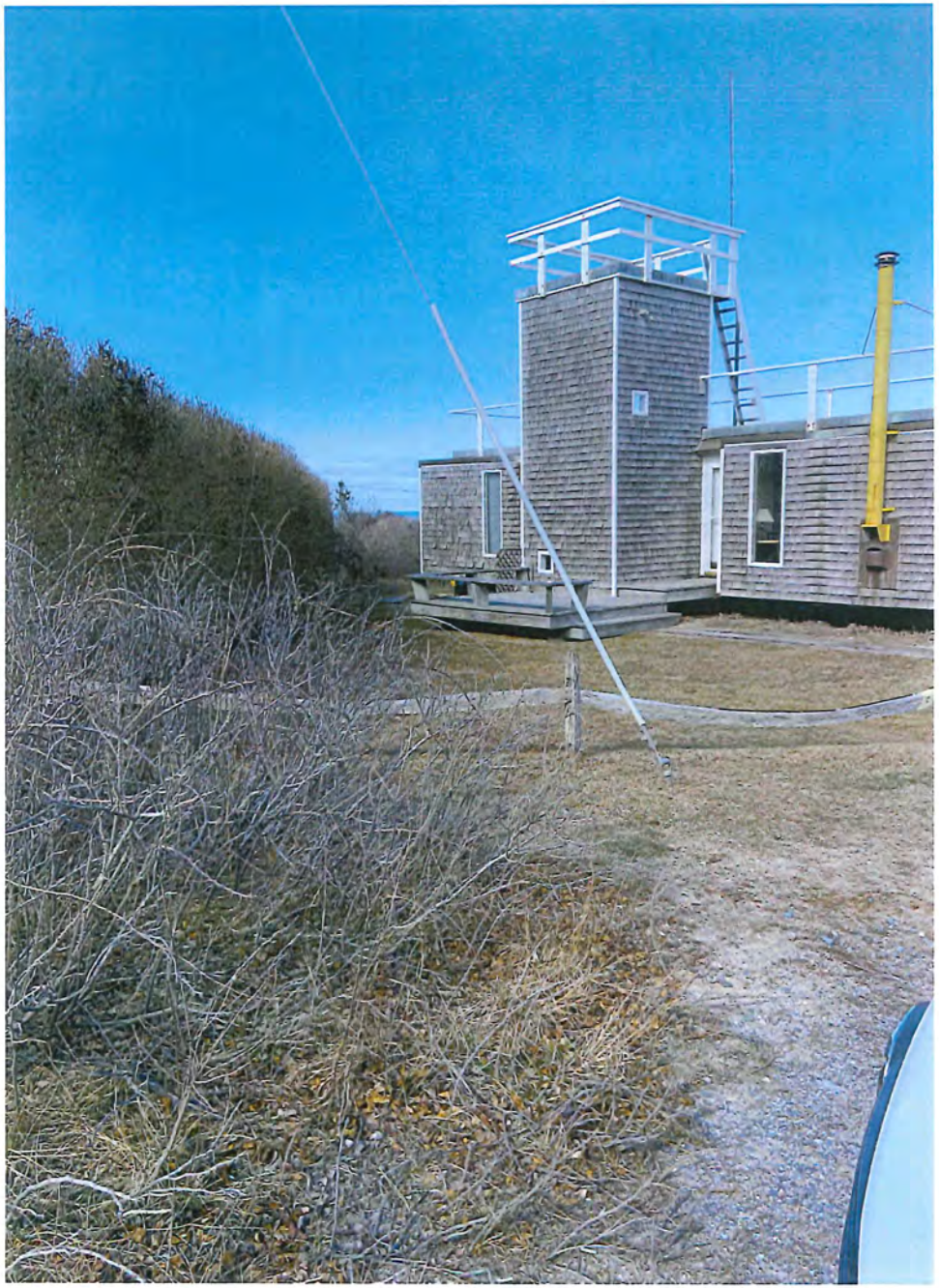
Town and Cou
and no warran
the validity or a
this map.

Geometry upd
Data updated .

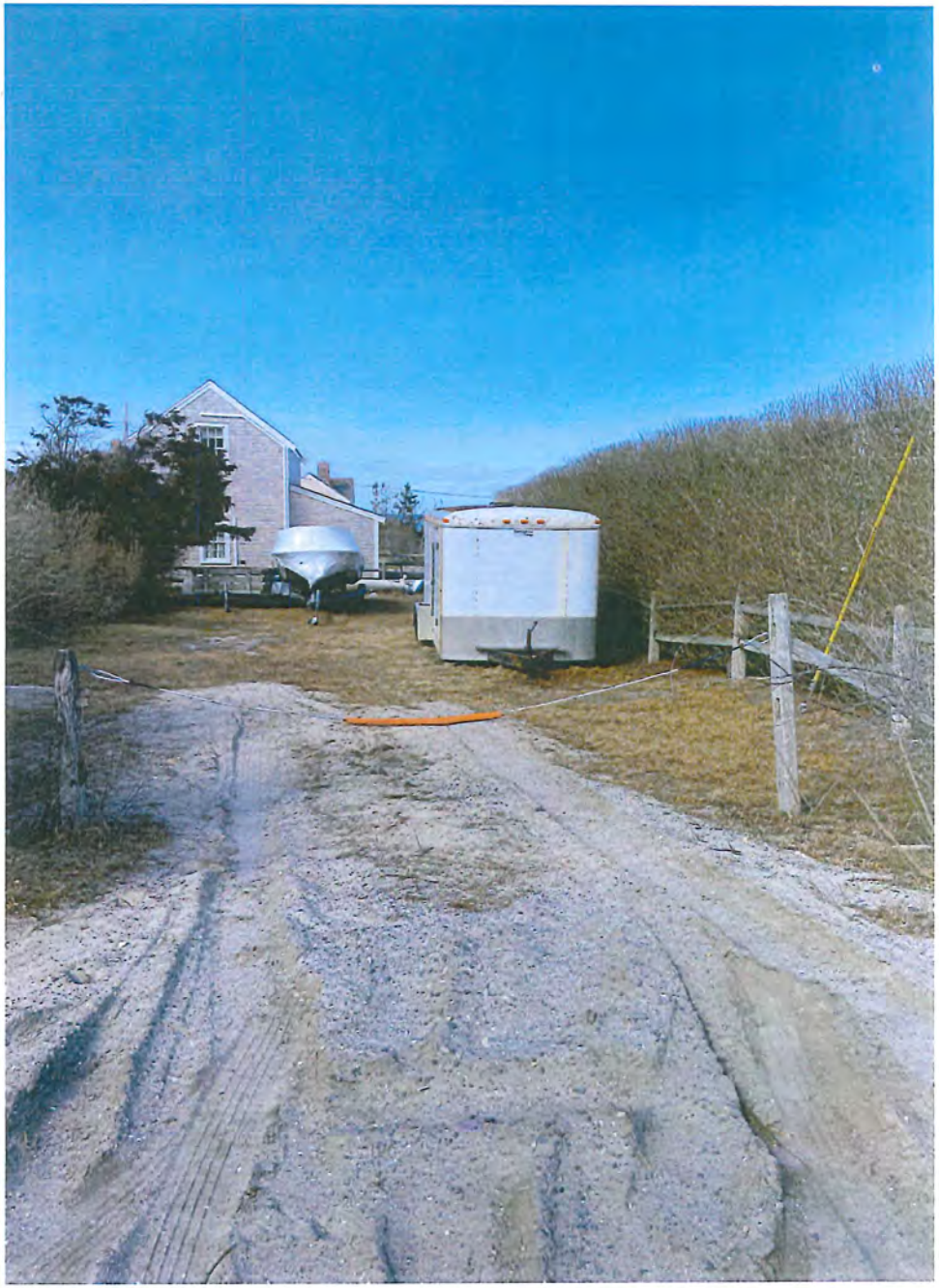

Pool
9 MAINE AVE
SITE.

4 MAINE AVE
SPLIT

4 MAIN AVE.

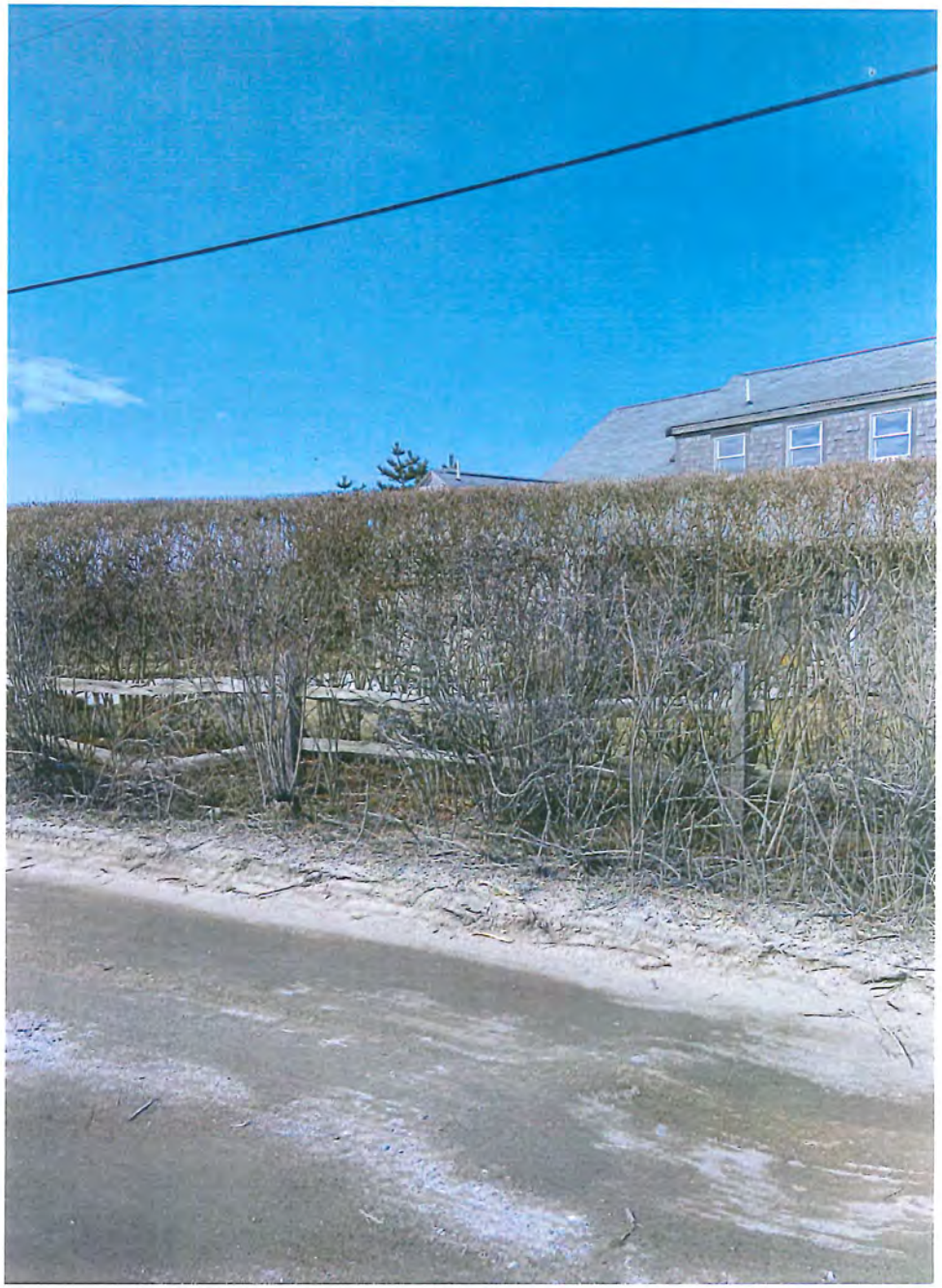


#5 AMES AVE SPLIT



~~#13~~ 11 AMES AVE SPLIT

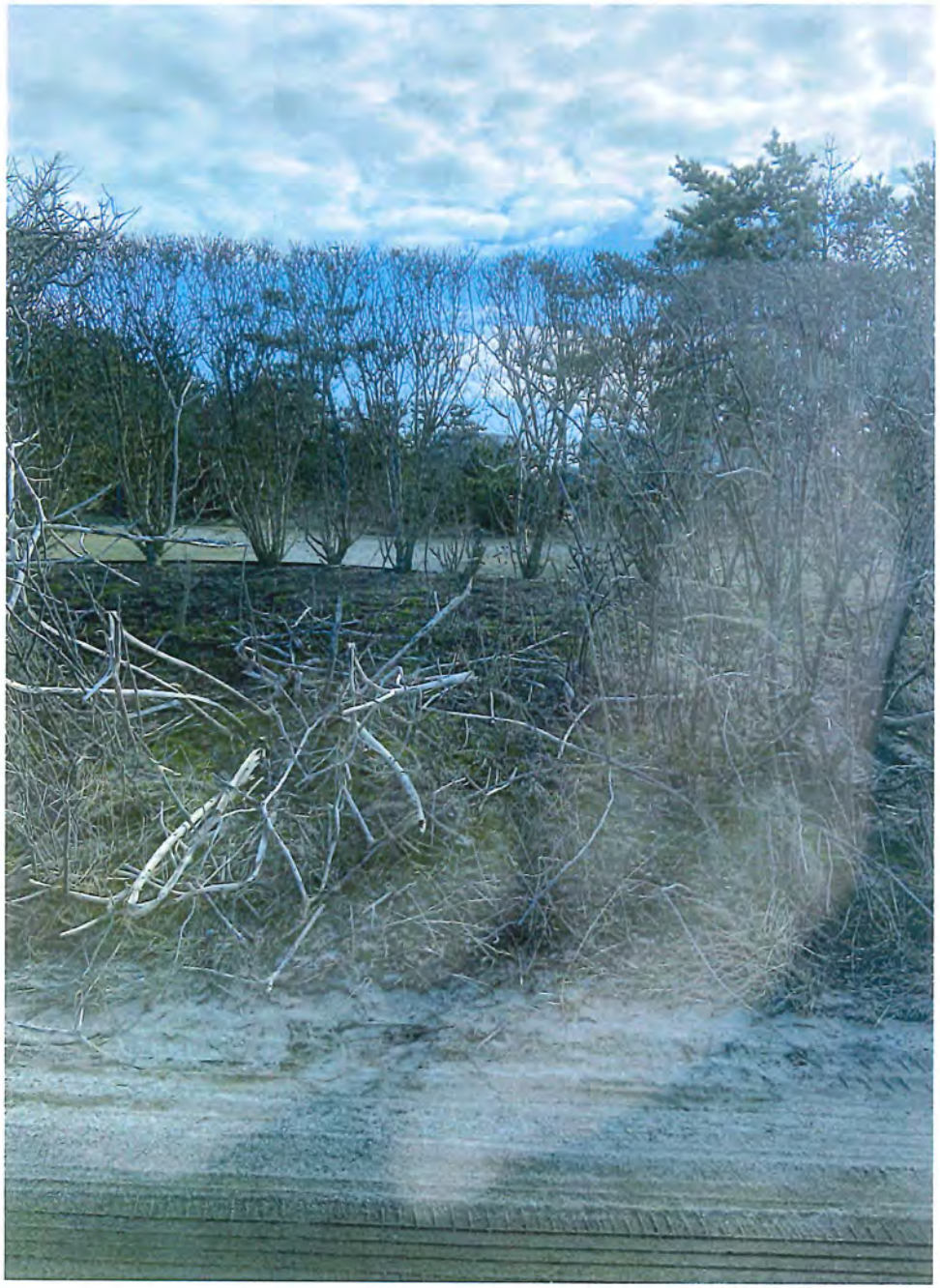
11 AMES AVE SPLIT



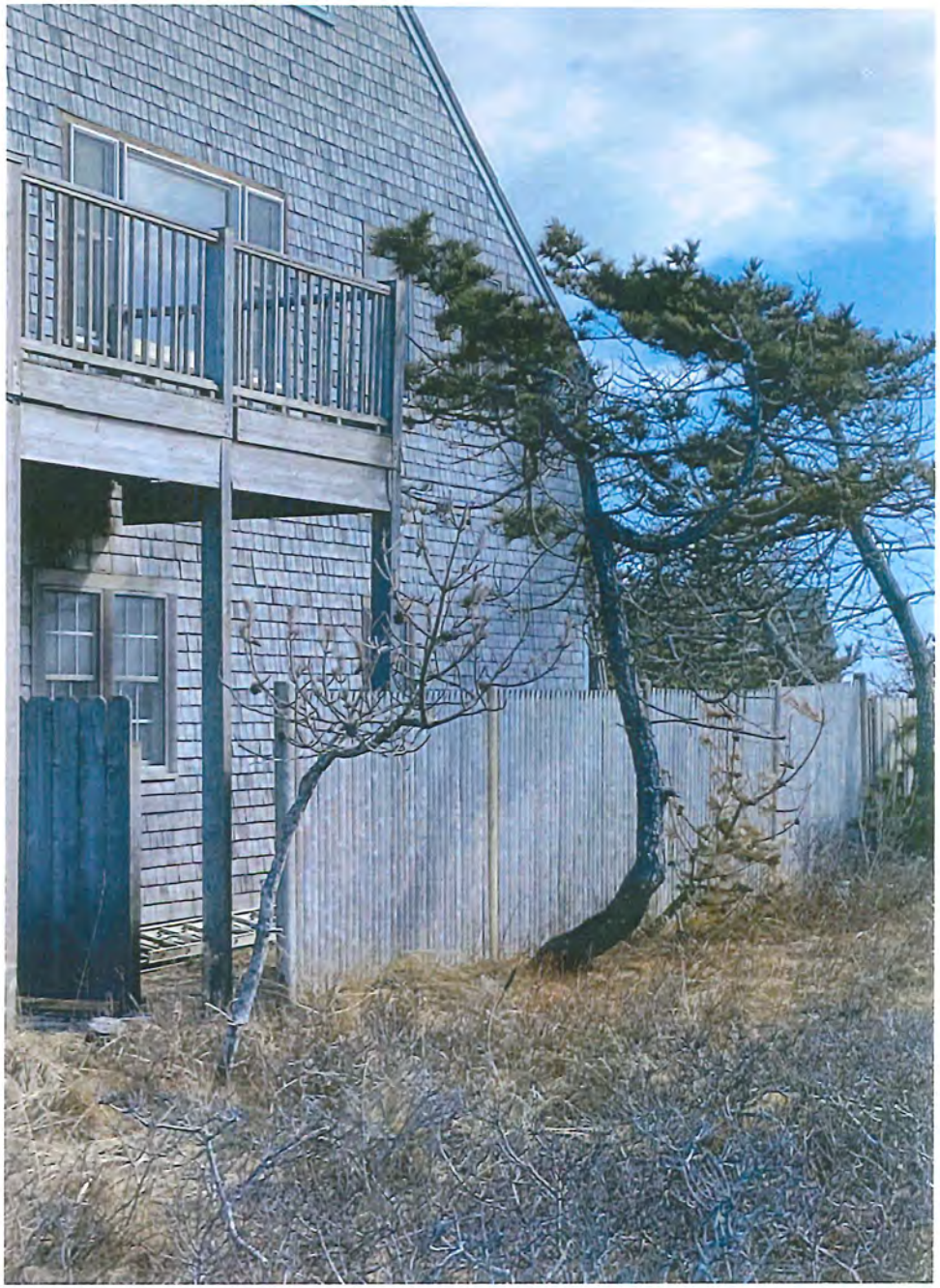
13 AMES AVE SPLIT HEDGE

16 AMES VIEWED FROM NEW JERSEY AVE
6 FT STOCKADE

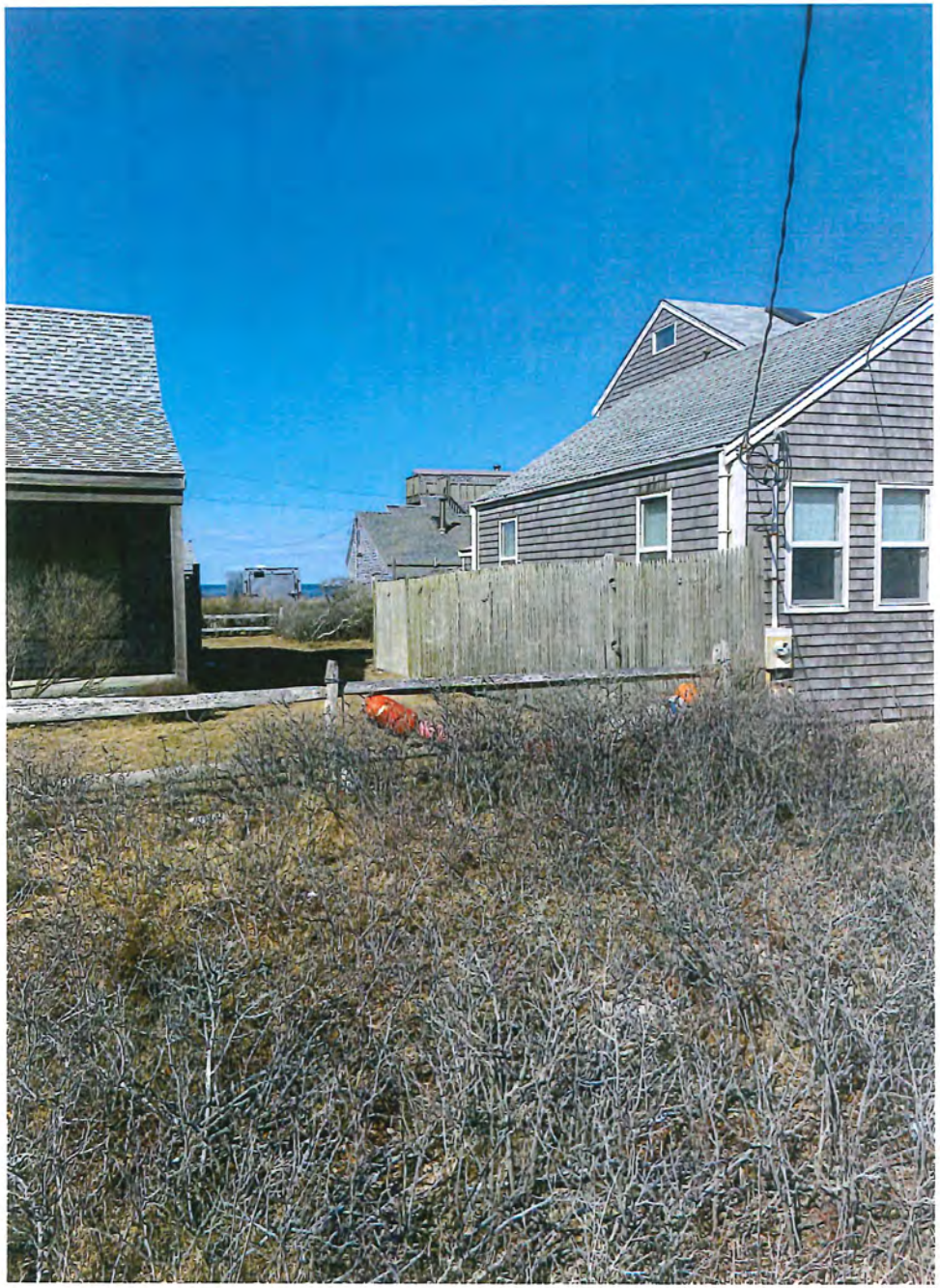
8 NEW JERSEY AVE
5' FT BOARD



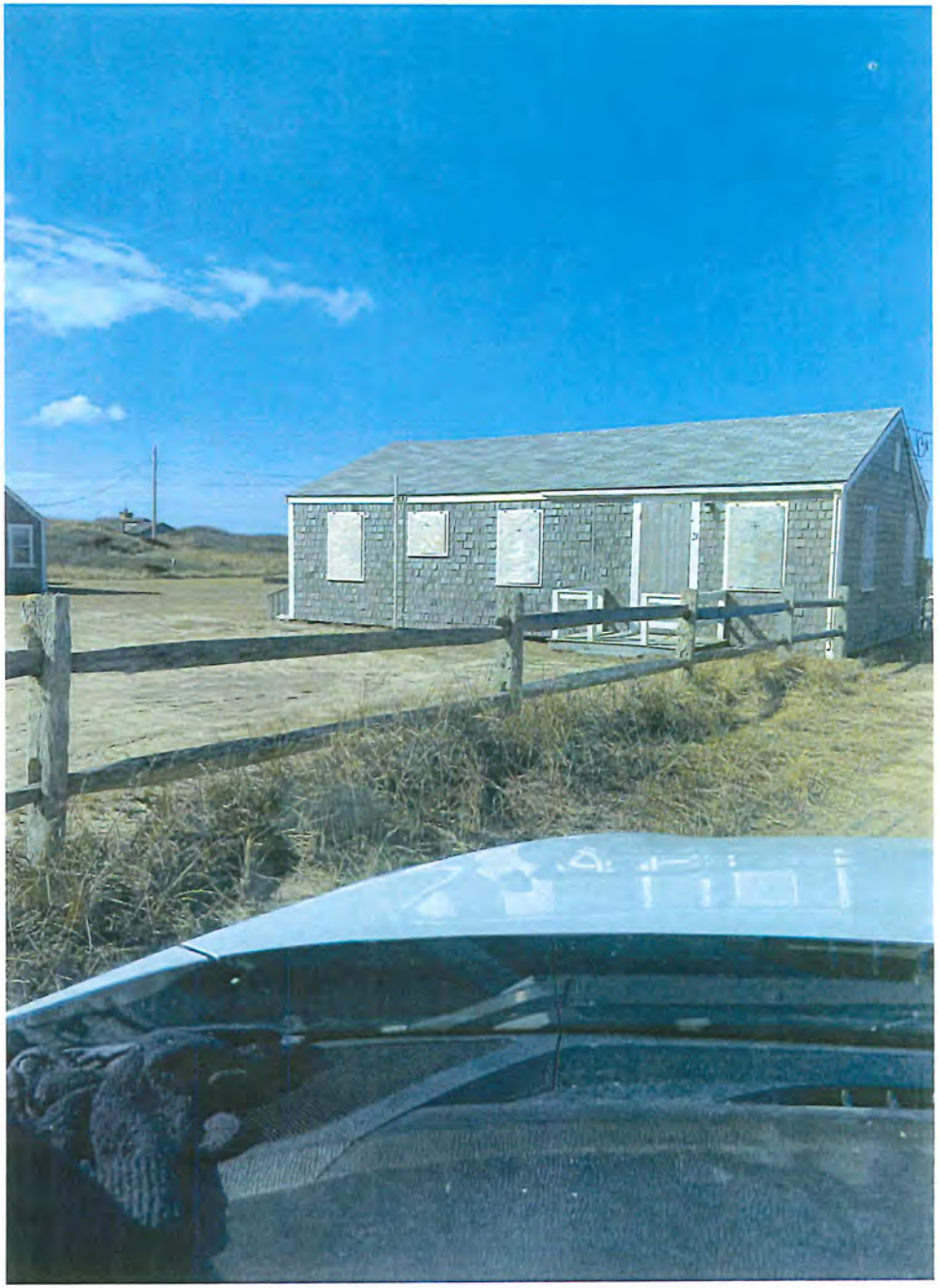
16 AMES 4' Tall Butm w/ Hedge



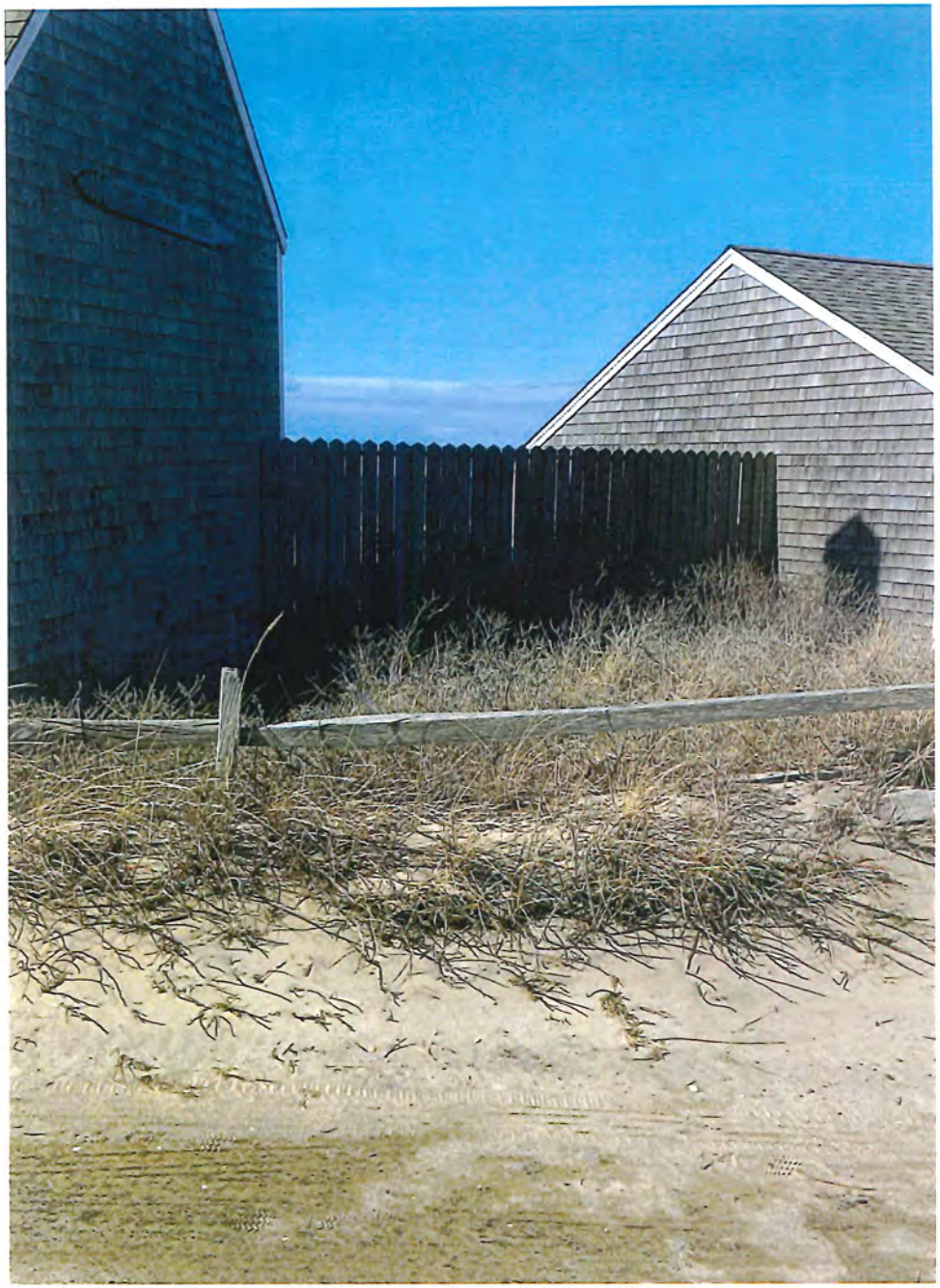
16 AMES AVE 6' FT STOCKADE



28 31 MASS AVE
5 FT STOCKADE

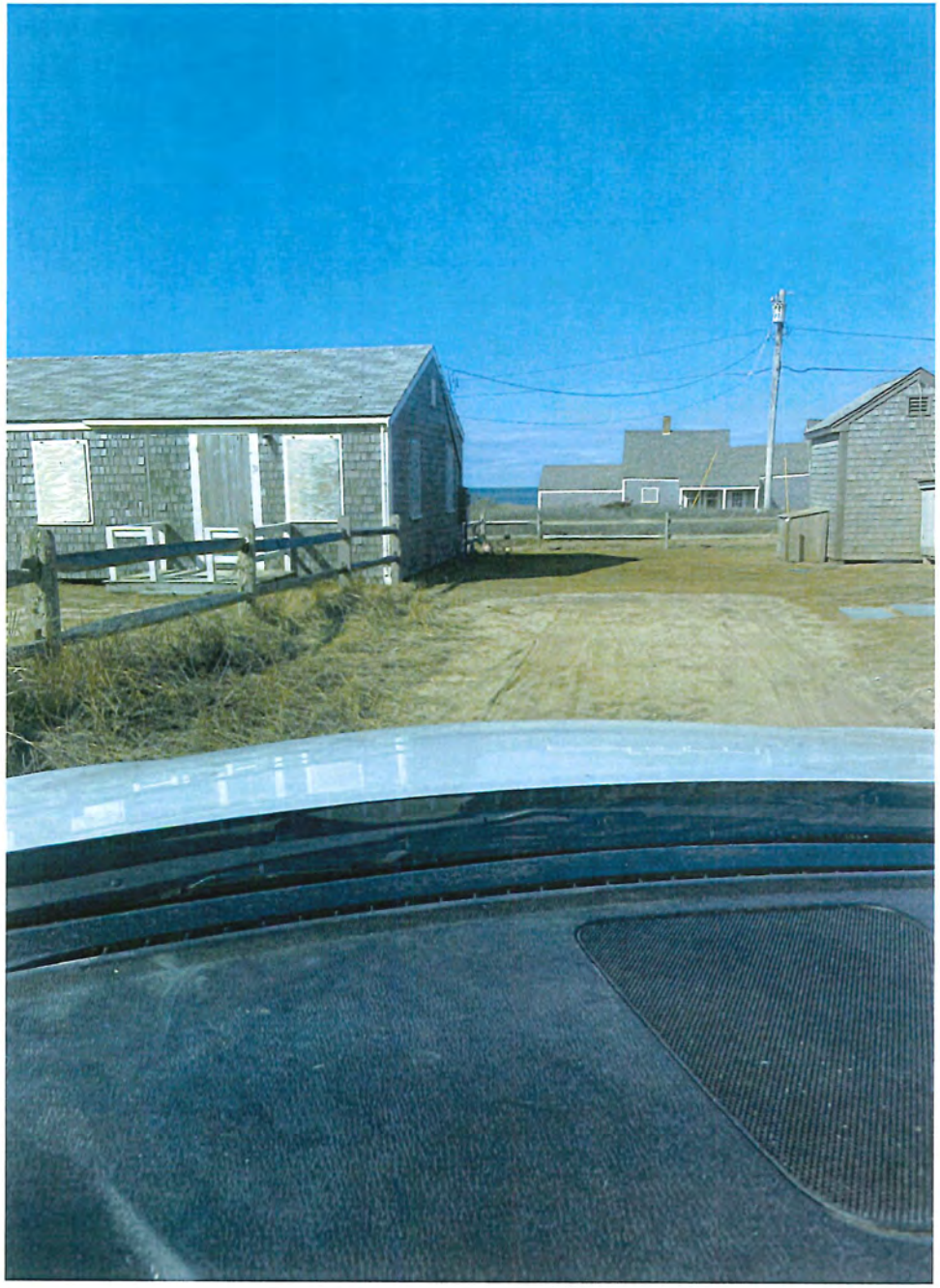


31 MASS AVE SPLIT

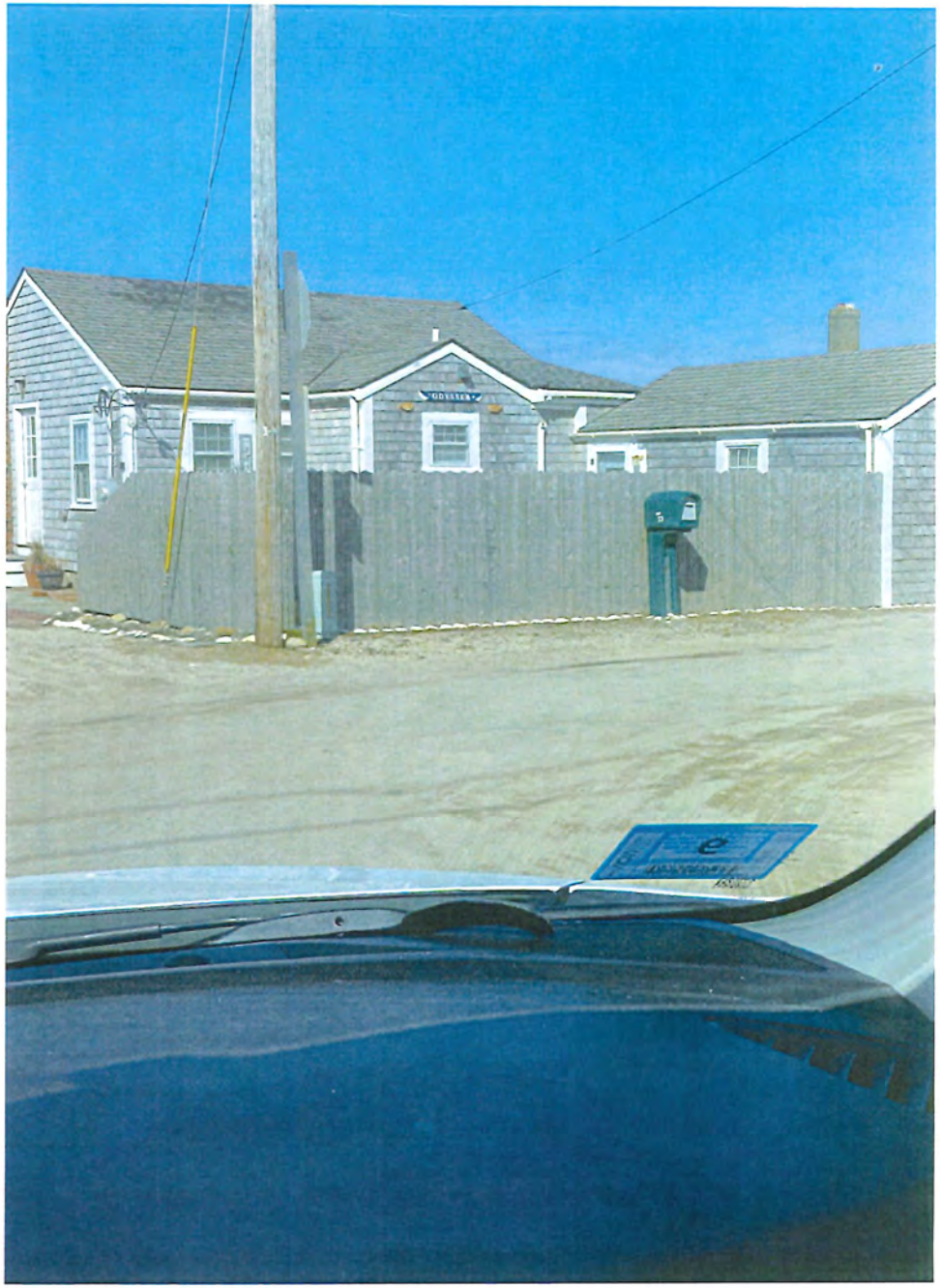


28 31 MASS AVE 6FT BOARD

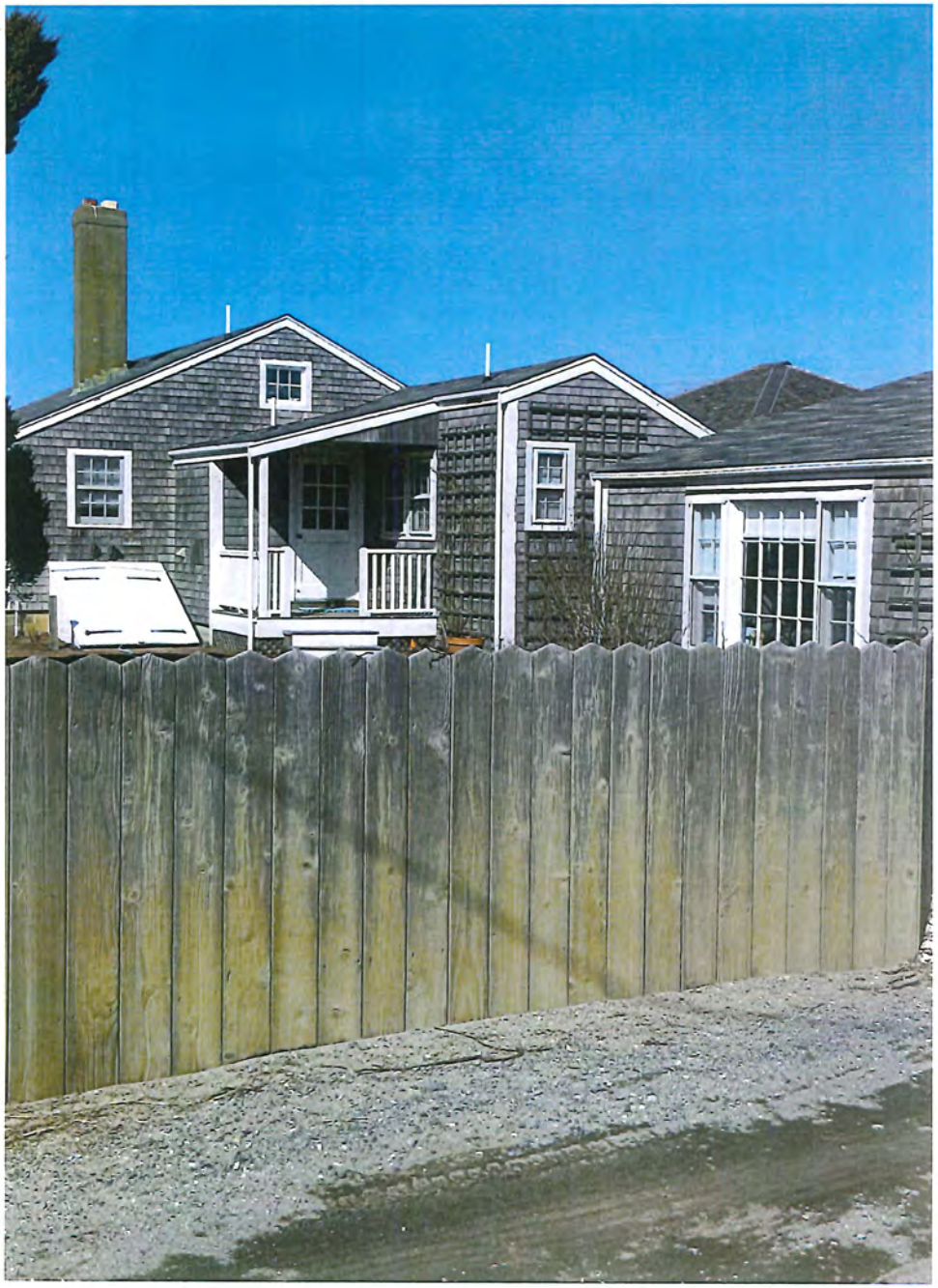
21 MASS AVE 5FT BOARD F



31 MASS AVE SPLIT



23 MASS. AVE · 5'FT BOARD



21 MASS AVE
4 FT BOARD PICKET

15 ~~23~~ MASS AVE
4FT BOARD CAP

15 MASS AVE. SPLIT

15 MASS AVE. 3 1/6" BOARD

9 MASS AVE.
3'-0 PICKET

10 MASS. AVE. NEW SOLID

11 MASS AVE 4FT PICKET

11 MASS AVE 2'-6 PICKET

Property Information

Property ID	60.2.4 63.1
Location	345 MADAKET RD
Owner	MADAKET MILK LLC

FILE COPY

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

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

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

75' Long Pool
345 Madaket Rd.

MAINE AVE

MAIN HOUSE

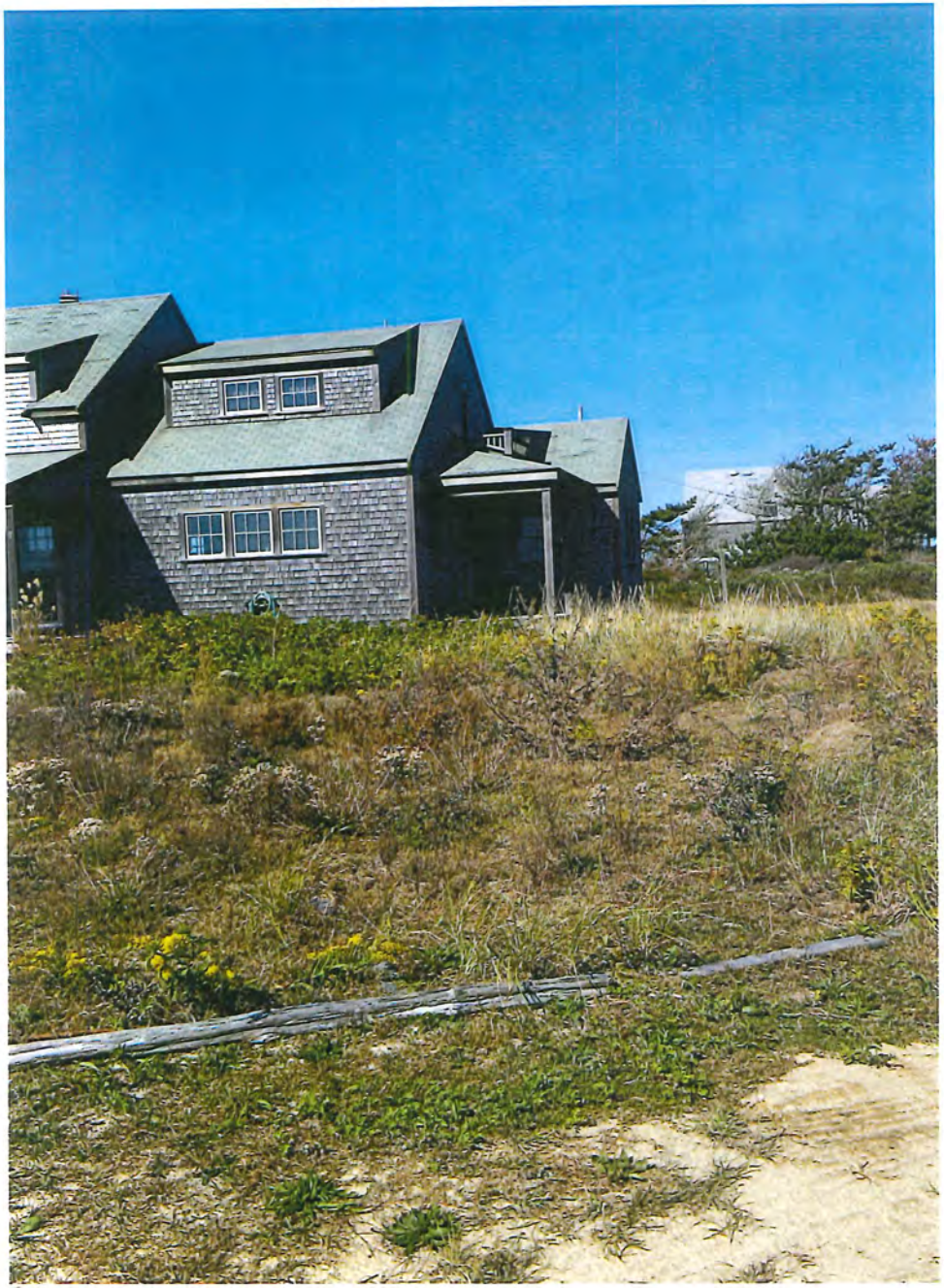
POOL

GUEST HOUSE

MAIN HOUSE

POOL

GUEST HOUSE



8½x11

Property Information

Property ID	60.3.1 425
Location	9 MAINE AV
Owner	SCHWARZAPFEL CHARLES R

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

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

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

MADAKET ADVISORY BOARD MEMORANDUM

Madaket Advisory Board *Meeting Memorandum* **HDC/MAB**

Date/Time 1/04/2021

MULTIPLE CONCERNS RK/TE

To: Historic District Commission BRUCE MANDEL RECUSED

From: Madaket Advisory Board

NOT IN FAVOR OF A POOL IN THIS LOCATION

Members Present

(X) Linda Williams- Chair (X)) Brad Fleming (X) Tom Erichsen (RECUSED) Bruce Mandel (X) Robert Kucharavy

Alternate: ( ) Mark Palmer ABSENT

Applicant **CHARLES SCHWARZAPFEL** Address **9 MAINE AVENUE**

Historic information/known history Eel Skin was moved to this site to avoid erosion

( ) Non-Contributing ( ) Contributing ( ) Individually significant

Comments

( ) Incomplete application ( ) Historical information needed **(X) CONCERNS** ( ) Recommend View

CONCERNS: MAB FEELS A VIEWING BY THE HDC IS CRITICAL PRIOR TO ANY APPROVAL – IT HAS TO BE SAID THAT ONCE YOUR CROSS MILLIE'S BRIDGE, THE ENVIRONMENT, STRUCTURES, SETTINGS, LANDSCAPE ARE TOTALLY DIFFERENT FROM MADAKET PROPER.

- ***There is no specific planting plan submitted with the application as should be nor is the location of the pool equipment shown on the plan on submission of the application, generally required by the HDC. This application should be held for complete planting details and location of the pool equipment and how that is supposed to be screened. The HDC should not have to come up with where equipment goes or what type of plantings should screen it. The applicant needs to provide that and a view from the street of proposed plan upon submission and not leave it up to the HDC to design it for them.**

- **Inappropriate location for a pool in important area of Madaket next to Eel Skin, one of the few remaining original structures on Smith's Point other than (the area past the bridge). This is a sensitive area, with older structures and unique landscape. Of the 50 units on Smith's Point, Fred Rogers and Eel Skin as the oldest historic/contributing structures and having a modern convenience such as a pool next to Eel Skin would not be appropriate.**

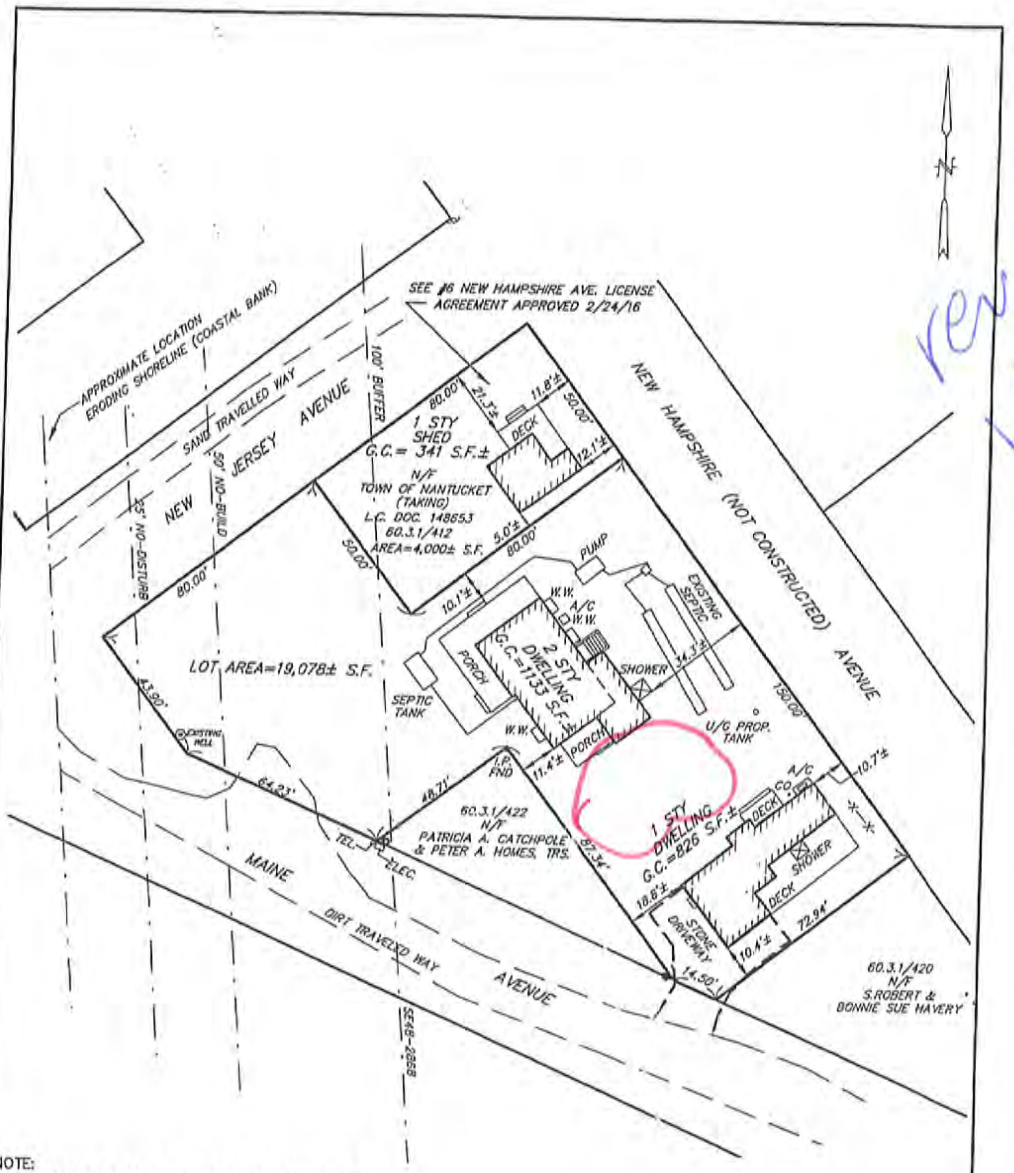
- **It would be the only pool past the bridge in a wide-open outwash landscape, which is different than the area of Madaket on the other side of the bridge. Not in context with the neighborhood whatsoever. Screening would draw attention to the pool.**
- **Groundcover in that area is naturally low and indigenous close to the beach (beach grass and other rough vegetation), less than 2-3 feet in general, any new plantings would create an unnatural landscape barrier and draw the eye to it, particularly as it would be located right along Maine as the pool is close to Maine. It would also be in the view shed from other areas of Smith's Point towards the Ocean being proximate to the beach.**
- **In all likelihood nonindigenous and higher plants would not survive. There are a very few that have tried to create a more formal landscape scheme done by professional landscapers on Maine, and all have for the most part died. Any of the other few hedges on the Point are farther away from the beach, not directly impacted by ocean spray or protected by old cedar trees or other structures. Due to the location of this lot close to the coastal bank there is no such protection for any new plantings in a sandy soil. Should the nonindigenous plantings that provide screening die there would be no screening for the pool. In any event, any required natural screening would have to be indigenous and would likely be only 2-3 feet high and ultimately would not provide any sight protection from Maine Avenue.**
- **Berming to hide the pool and elevate plantings is completely inappropriate. There are no created berms on the Point. The landscape is flat and this lot is flat.**
- **A curved 36" rock retaining wall with cap to hold back the berm from Maine is close to Maine, is totally inappropriate and out of character with the neighborhood. No other walls appear on Smith's Point.**
- **In other areas of Madaket, the HDC has in the past considered what actions have to take place in order to screen a pool. Excessive screening/fencing creates an unnatural barrier and actually brings attention to the pool. In this open landscape it would certainly be out of place.**
- **Will need ZBA approval. Many of the objections expressed by members and the public in person at the MAB meeting and by letter, are not within the purview of the HDC and better left to be expressed at the ZBA meeting.**
- **Landscape disturbance will be extreme to install the pool and would likely erase what groundcover is there presently.**
- **There is no topo map, height of the berm, the schematic from Maine to show the berm, plantings as viewed from the road.**

A letter from Pat Catchpole - 8 Maine Avenue, directly across the street – read into the record mentioned the quiet nature of the area, noise from pool is inappropriate, erosion, fragileness of the area, lights from a pool in a very dark skies positive area, steps from pristine beach, how are children protected from attractive nuisance, no pool fence, a fence would also be inappropriate. Area has remained relatively unchanged.

Bonnie and Bob Havery - 6 Maine 48 years, others have put in tall formal plantings all have died, some hedges on the Point on Rhode Island and Mass. Ave have distance from ocean and protected by some older cedars and houses, this is wide open so plantings here will not survive. Read letter into record. In ground pool completely out of character in the area, danger unfenced,

dangerous precedent. When visit site you can see the remnants of plantings that have died off and were done by professional landscapers and all died. Area by pool is still exposed to ocean.

Steve Murphy - 5 Rhode Island – 40 years, three winters ago water had encroached onto the lot, out of character with area, this is not like the rest of Madaket on the other side of the bridge, no security fence, old Eel skin house rented by multiple children. When HDC makes visit look at the limited growth above 2/3 feet and what it is and where it is. What is there is inadequate to cover the pool as close pool is to Maine Ave.



NOTE:
LOT IS SUBJECT TO THE FOLLOWING DOCUMENTS:

1) TOWN OF NANTUCKET ZONING BOARD OF APPEALS SPECIAL PERMIT L.C. DOC. #117530.
2) SEE ORDER OF CONDITIONS SE48-2868, L.C. DOC. #151092.
3) SEE GRANT OF EASEMENT TO NANTUCKET ELECTRIC COMPANY L.C. DOC. #151792.

LOT REZONED R-20 TO VR ARTICLE 20 STM 2009
ZONING CLASSIFICATION
DISTRICT: VR = VILLAGE RESIDENTIAL
MINIMUM LOT SIZE = 20,000 Sq. FT.
MINIMUM FRONTAGE = 100 FT.
FRONT YARD SETBACK = 20 FT.
REAR & SIDE LINE SETBACK = 10 FT.
ALLOWABLE GROUND COVER RATIO = 10%
EXISTING GROUND COVER RATIO = 10% (INCLUDING LICENSE AREA)

FOR PROPERTY LINE DETERMINATION THIS PLOT PLAN RELIES ON CURRENT DEEDS AND PLANS OF RECORD, VERIFIED BY FIELD MEASUREMENTS AS SHOWN HEREON. THIS PLAN IS NOT REPRESENTED TO BE A TITLE EXAMINATION OR A RECORDABLE SURVEY.

N.B. 340/79, 338/81, 414/9 & 424/72

COPYRIGHT BY NANTUCKET SURVEYORS LLC

AS-BUILT PLOT PLAN
9 MAINE AVENUE
IN
NANTUCKET, MASSACHUSETTS
SCALE: 1"=30' DATE: 12/17/18
DEED REFERENCE: LC# 22,351
PLAN REFERENCE: LCPL 2408-M
ASSESSOR'S REFERENCE:
MAP: 60.3.1 PARCEL: 425
PREPARED FOR:
DANIEL H. BATHON, JR.

NANTUCKET SURVEYORS LLC
5 WINDY WAY
NANTUCKET, MA. 02554

N9409

rev by MAB X not tha

Property Information

Property ID	60.2.4 63.1
Location	345 MADAKET RD
Owner	MADAKET MILK LLC

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

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

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

75' Long Pool
345 MADAKET RD.

MAINE AVE

MAIN HOUSE

POOL

GUEST HOUSE

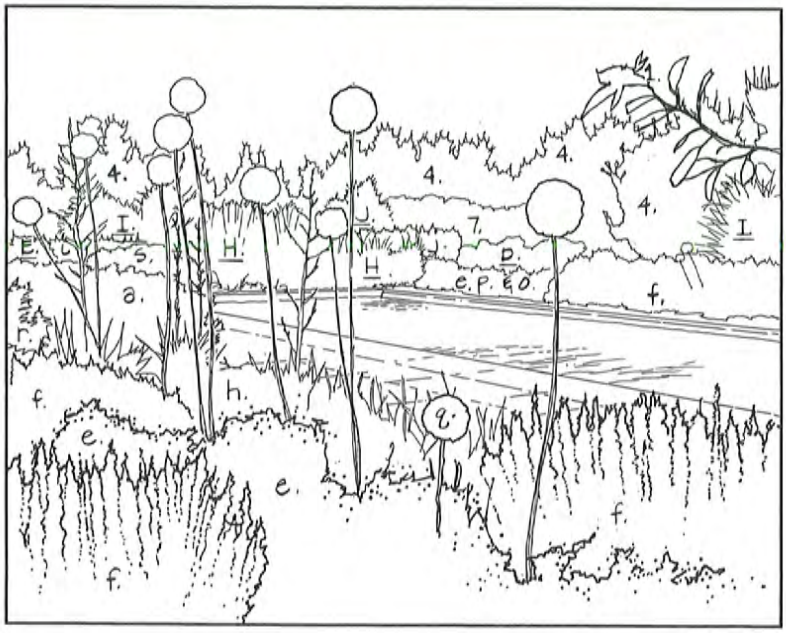
MAIN HOUSE

POOL

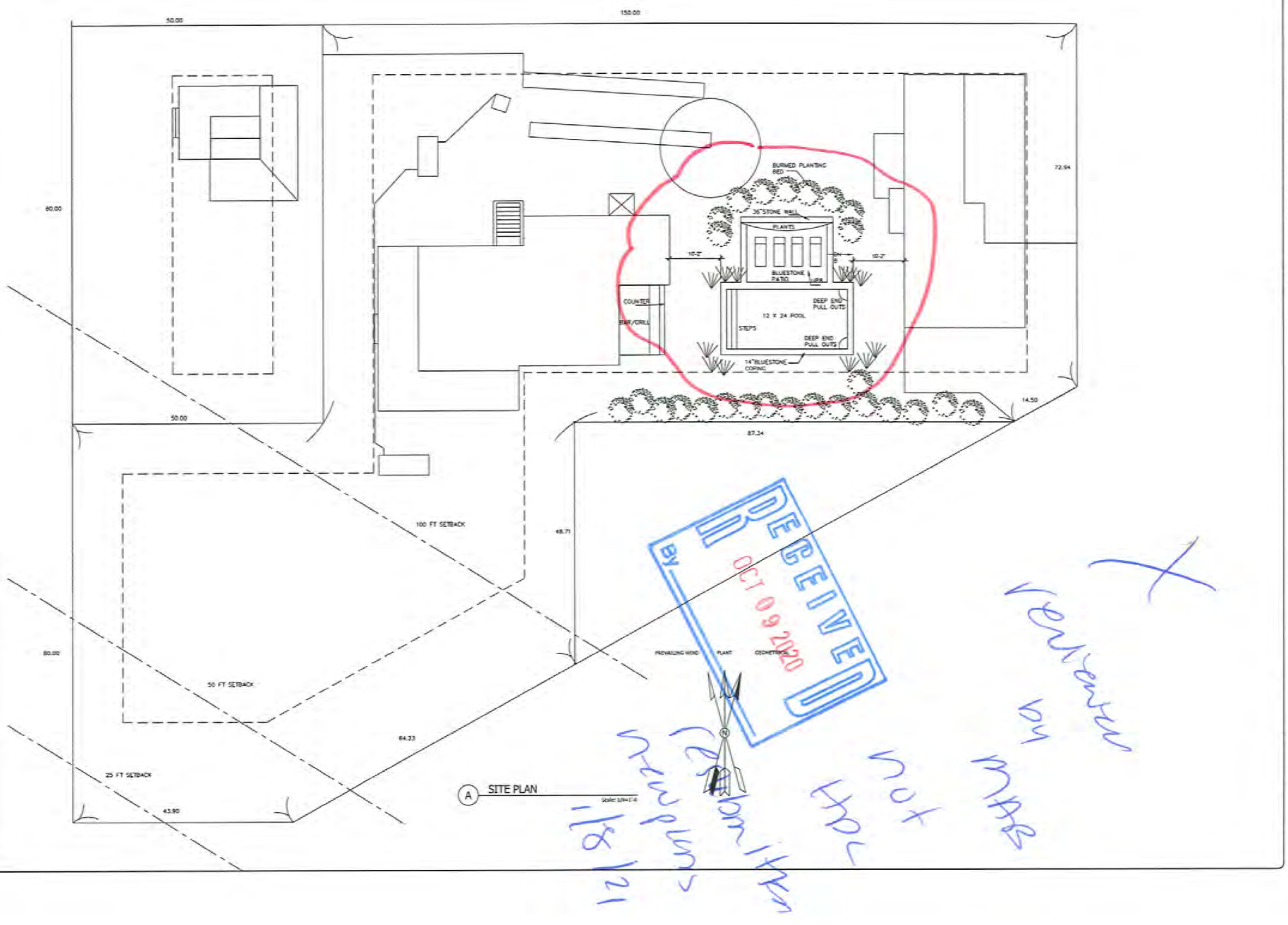
GUEST HOUSE

:ly summer. Photograph by Michael McKinley.

BLUESTONE
PATIO & POOL
COPING



Stone Wall w/ CAP.



A SITE PLAN

NANTUCKET ARCHITECTURE GROUP LTD.
POST OFFICE BOX 1814
NANTUCKET, MASSACHUSETTS, 02554
TELEPHONE 508.228.5631
WWW.NANTUCKETARCHITECTURE.COM

SHED RENOVATION FOR:
CHARLES AND PATRICIA SCHWARZAPFEL
9 MAINE AVENUE NANTUCKET, MASSACHUSETTS, 02554

PLAN

HDC: XX/XX/XX
BIDDING:
BLDG. DEPT:
REVISIONS:
REVISIONS:
REVISIONS:
REVISIONS:
D/B: xxx copyright nag 2015
client number

A3

CERTIFICATE NO: _____ DATE ISSUED: _____

8½ x 11

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

CERTIFICATE OF APPROPRIATENESS

for structural work.

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

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

This is a contractual agreement and must be filled out in ink. An application is hereby made for issuance of a Certificate of Appropriateness under Chapter 395 of the Acts and Resolves of Mass., 1970, for proposed work as described herein and on plans, drawings and photographs accompanying this application and made a part hereof by reference.

The certificate is valid for three years from date of issuance. No structure may differ from the approved application. Violation may impede issuance of Certificate of Occupancy.

PROPERTY DESCRIPTION

TAX MAP N°: 60 3.1 PARCEL N°. 425

Street & Number of Proposed Work: 9 MAINE AVE

Owner of record: MR. Charles SCHWARZAPFEL

Mailing Address: 9 MAINE AVE

NANTUCKET MA

Contact Phone #: _____ E-mail: _____

AGENT INFORMATION (if applicable)

Name: KLAQ.

Mailing Address: PO BOX 1814

NANTUCKET MA

Contact Phone #: 228-5231 E-mail: _____

STEVE@NANTUCKETARCHITECTURE.COM

FOR OFFICE USE ONLY

Date application received: _____ Fee Paid: $ _____

Must be acted on by: _____

Extended to: _____

Approved: _____ Disapproved: _____

Chairman: _____

Member: _____

Member: _____

Member: _____

Member: _____

Notes - Comments - Restrictions - Conditions

DESCRIPTION OF WORK TO BE PERFORMED

See reverse for required documentation.

☐ New Dwelling ☐ Addition ☐ Garage ☐ 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 R) ☐ Roof ☐ Other _____

Size of Structure or Addition: Length: 24 Sq. Footage 1st floor: 288 Decks/Patio: Size: _____ ☐ 1st floor ☐ 2nd floor
Width: 12 Sq. footage 2nd floor: _____ Size: _____ ☐ 1st floor ☐ 2nd floor
Sq. footage 3rd floor: _____

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

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

Additional Remarks

Historic Name:

Original Date:

Original Builder:

REVISIONS

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

(describe) SALT WATER INGROUND POOL W/ RAISED BLUESTONE PATIO & NATIVE PLANT SCREENING

*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: 3'-0
Type: TYP. 2.
Length: 24'

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 _____ Walkways _____ Walls _____

* Note: Complete door and window schedules are required.

COLORS

Sidewall _____ Clapboard (if applicable) _____ Roof _____
Trim _____ Sash _____ Doors _____
Deck _____ Foundation _____ Fence _____ Shutters _____

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

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

Date: 10/1/04 Signature: _____

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: 12/2/2020

Map: 60.3.1 **Parcel** 425

Address of Property: 9 HAIKE AVE

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

STEPHEN THERRIEN JR. AIA

Scope of Work: POOL

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:

January 20, 2021
Month/day/year of extension termination

Signature of Applicant/Owner/Representative

Stephen Therrien

Please print name of signatory

HISTORIC DISTRICT COMMISSION

2 Fairgrounds Road
Nantucket, Massachusetts 02554

Telephone: 508.325.7587
Email: hdcsubmissions@nantucket-ma.gov

COMMISSIONERS

Ray Pohl
Chairman

Diane Coombs
Vice-Chairman

Val Oliver

Abigail Camp

John McLaughlin

ASSOCIATE COMMISSIONERS

Stephen Welch

TJ Watterson

Jesse Dutra

STAFF

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

Waiver of the HDC 10 Day Hearing Requirement

I Stephen Theroux

AS AGENT FOR Mr. Charles Schwarz Appel

STREET ADDRESS 9 Maine Ave

MAP/PARCEL 60.3.1 425

UNDERSTAND THAT THE ABOVE REFERENCED APPLICATION SUBMITTED ON 10/8/2020

WILL NOT BE REVIEWED BY THE HISTORIC DISTRICT COMMISSION, DUE TO THE COVID-19 PANDEMIC, WITHIN THE 10 DAY PERIOD AS REQUIRED BY:

SECTION 8 of the HDC enabling legislation: ... The Commission shall meet within ten (10) days of the receipt of an application for a certificate of appropriateness or permit for removal...

AND I AGREE TO A WAIVER OF THE ABOVE MENTIONED REQUIREMENT.

Signature 10/8/2020 Date

Property Information

Property ID	60.3.1 425
Location	9 MAINE AV
Owner	SCHWARZAPFEL CHARLES R

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

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

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

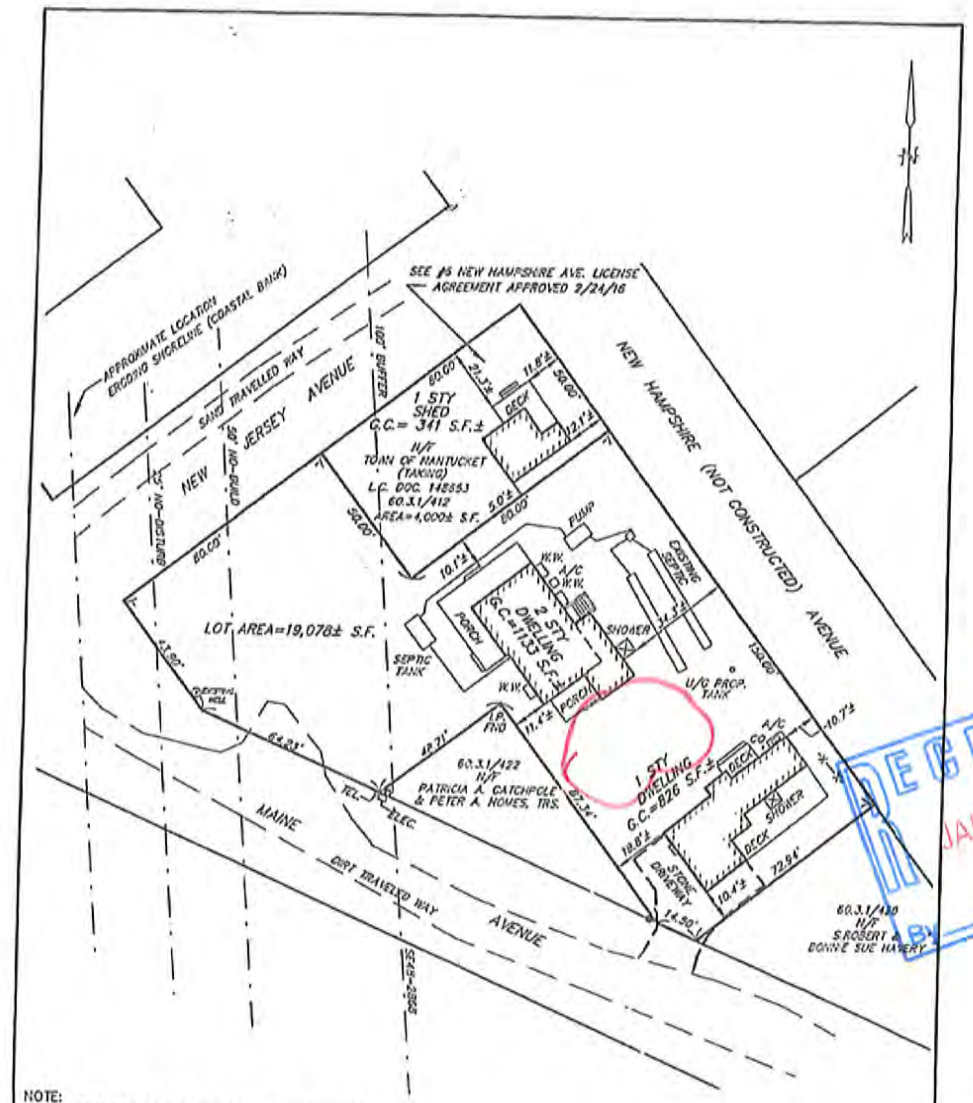
Property Information

Property ID	60.3.1 425
Location	9 MAINE AV
Owner	SCHWARZAPFEL CHARLES R

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

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

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



NOTE:
LOT IS SUBJECT TO THE FOLLOWING DOCUMENTS:

1) TOWN OF NANTUCKET ZONING BOARD OF APPEALS SPECIAL PERMIT L.C. DOC. #117530.
2) SEE ORDER OF CONDITIONS SE48-2868, L.C. DOC. #151092.
3) SEE GRANT OF EASEMENT TO NANTUCKET ELECTRIC COMPANY L.C. DOC. #151792.

LOT REZONED R-20 TO VR ARTICLE 20 STM 2009
ZONING CLASSIFICATION
DISTRICT: VR = VILLAGE RESIDENTIAL
MINIMUM LOT SIZE = 20,000 Sq. FT.
MINIMUM FRONTAGE = 100 FT.
FRONT YARD SETBACK = 20 FT.
REAR & SIDE LINE SETBACK = 10 FT.
ALLOWABLE GROUND COVER RATIO = 10%
EXISTING GROUND COVER RATIO = 10% (INCLUDING LICENSE AREA)

FOR PROPERTY LINE DETERMINATION THIS PLOT PLAN RELIES ON CURRENT DEEDS AND PLANS OF RECORD, VERIFIED BY FIELD MEASUREMENTS AS SHOWN HEREON. THIS PLAN IS NOT REPRESENTED TO BE A TITLE EXAMINATION OR A RECORDABLE SURVEY.

N.B. 340/79, 338/81, 414/9 & 424/72

COPYRIGHT BY NANTUCKET SURVEYORS LLC

AS-BUILT PLOT PLAN
9 MAINE AVENUE
IN
NANTUCKET, MASSACHUSETTS
SCALE: 1"=30' DATE: 12/17/18

DEED REFERENCE: LC# 22,351
PLAN REFERENCE: LCPL 2408-N

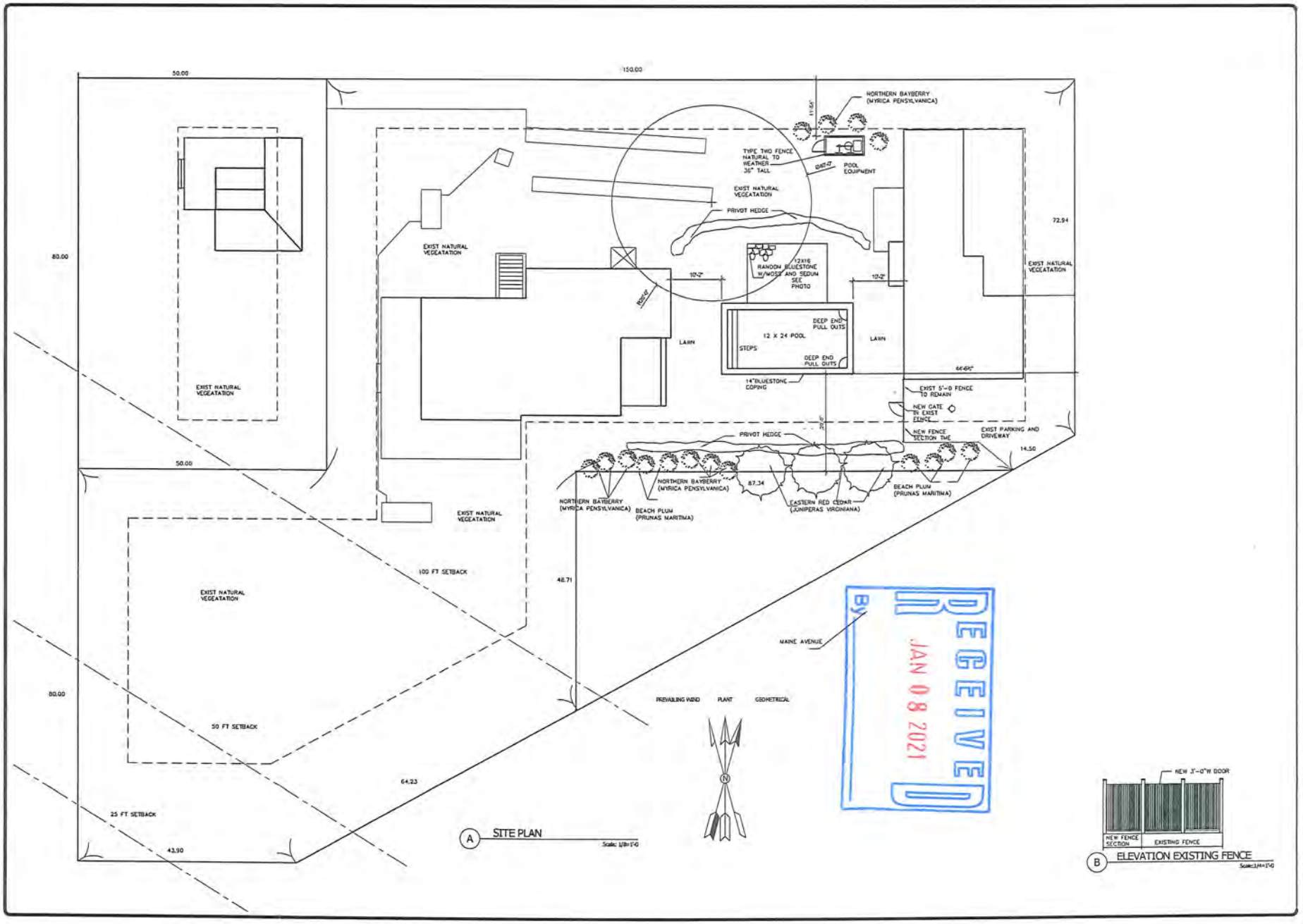
ASSESSOR'S REFERENCE:
MAP: 60.3.1 PARCEL: 425

PREPARED FOR:
DANIEL H. BATHON, JR.

NANTUCKET SURVEYORS LLC
5 WINDY WAY
NANTUCKET, MA. 02554

N9409

RECEIVED
JAN 08 2021
BY



RECEIVED
JAN 08 2021
By

NANTUCKET ARCHITECTURE GROUP LTD.
POST OFFICE BOX 1814
NANTUCKET, MASSACHUSETTS, 02554
TELEPHONE 508.228.5631
WWW.NANTUCKETARCHITECTURE.COM

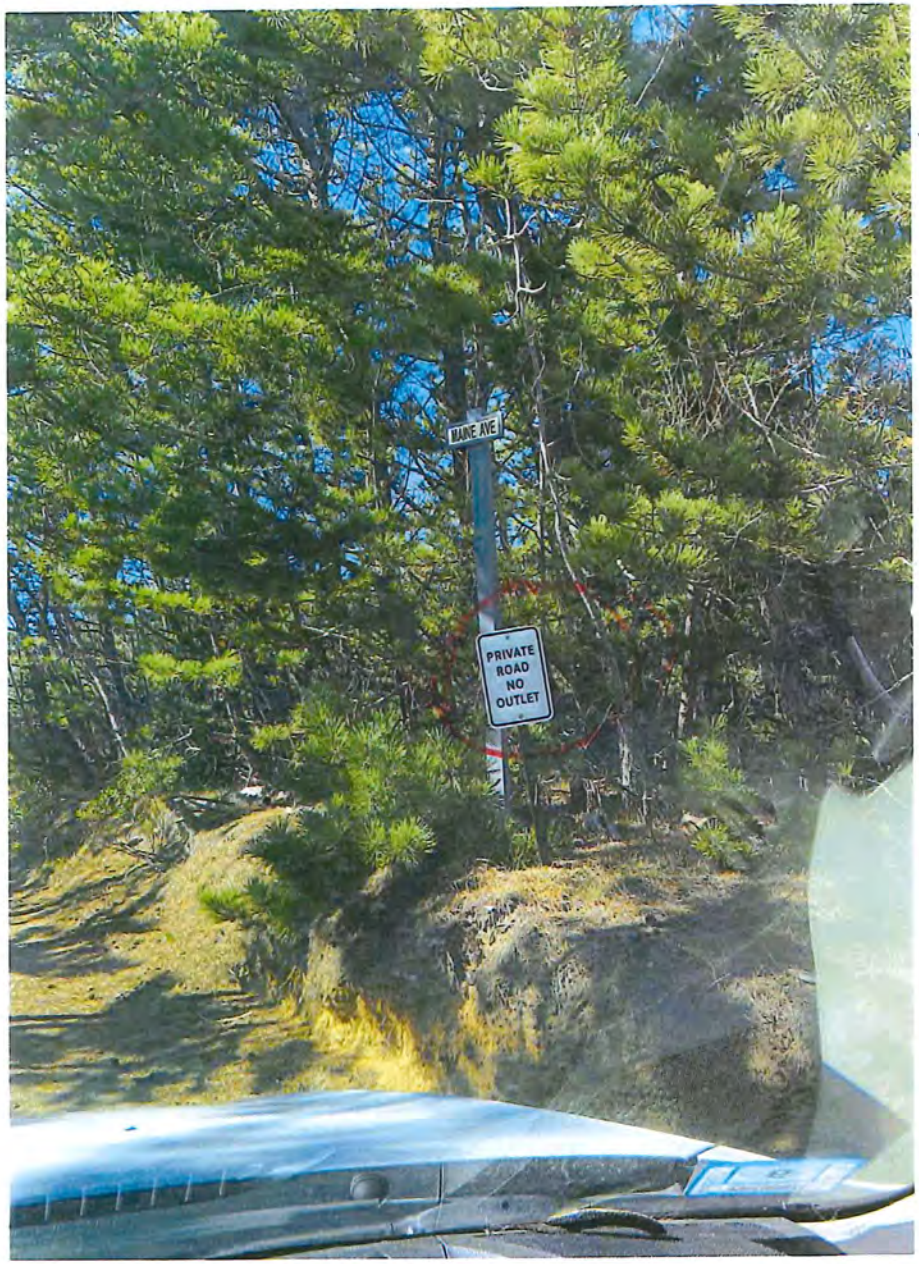
SHED RENOVATION FOR:
CHARLES AND PATRICIA SCHWARZAPFEL
9 MAINE AVENUE NANTUCKET, MASSACHUSETTS, 02554

PLAN

HDC: XX/XX/XX	
BIDDING:	
BLDG. DEPT:	
REVISIONS:	
REVISIONS:	
REVISIONS:	
REVISIONS:	

D/B: xxx copyright nag 2015
client number

S2

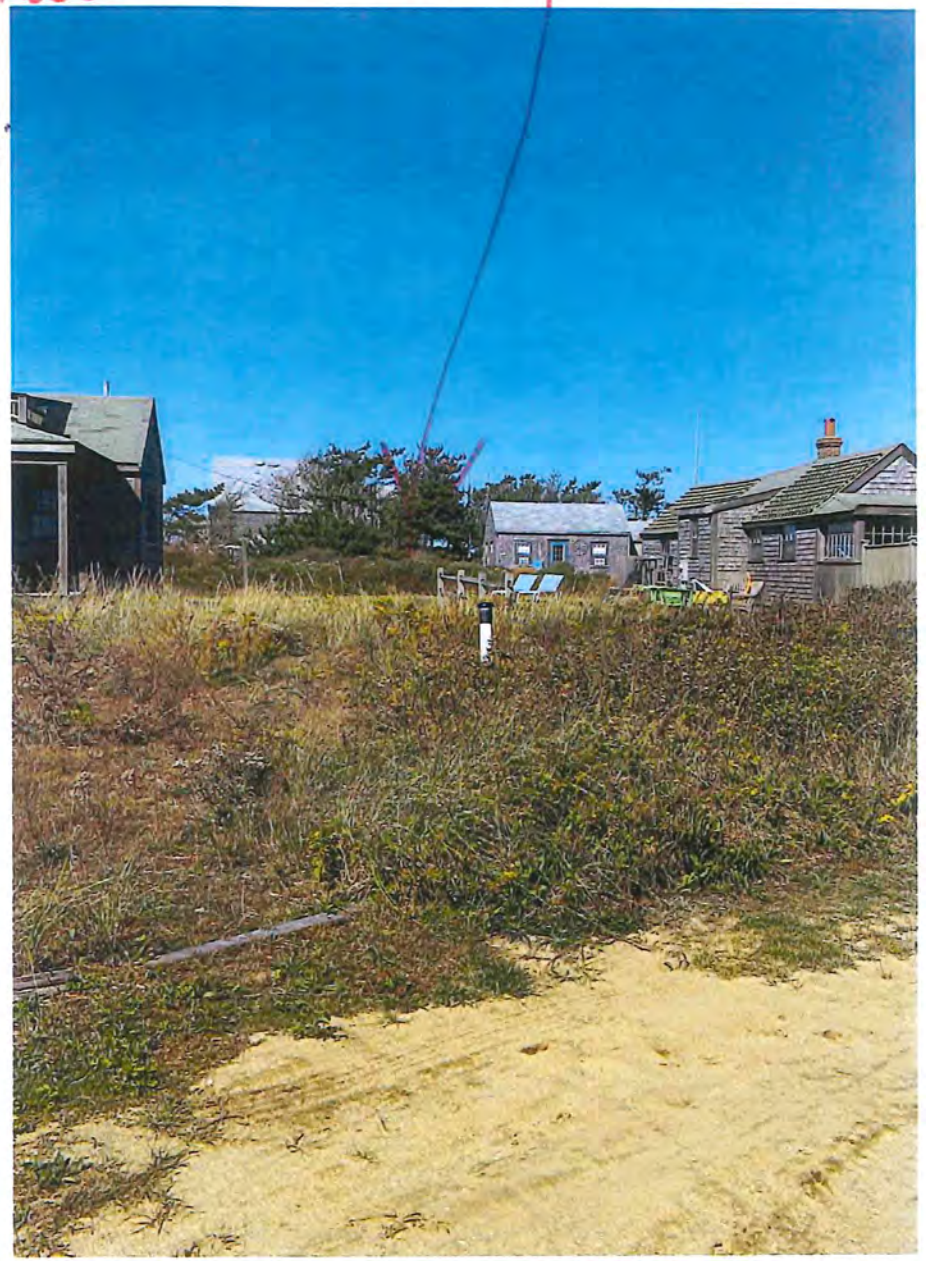


MAINE AVE

MAIN HOUSE

POOL

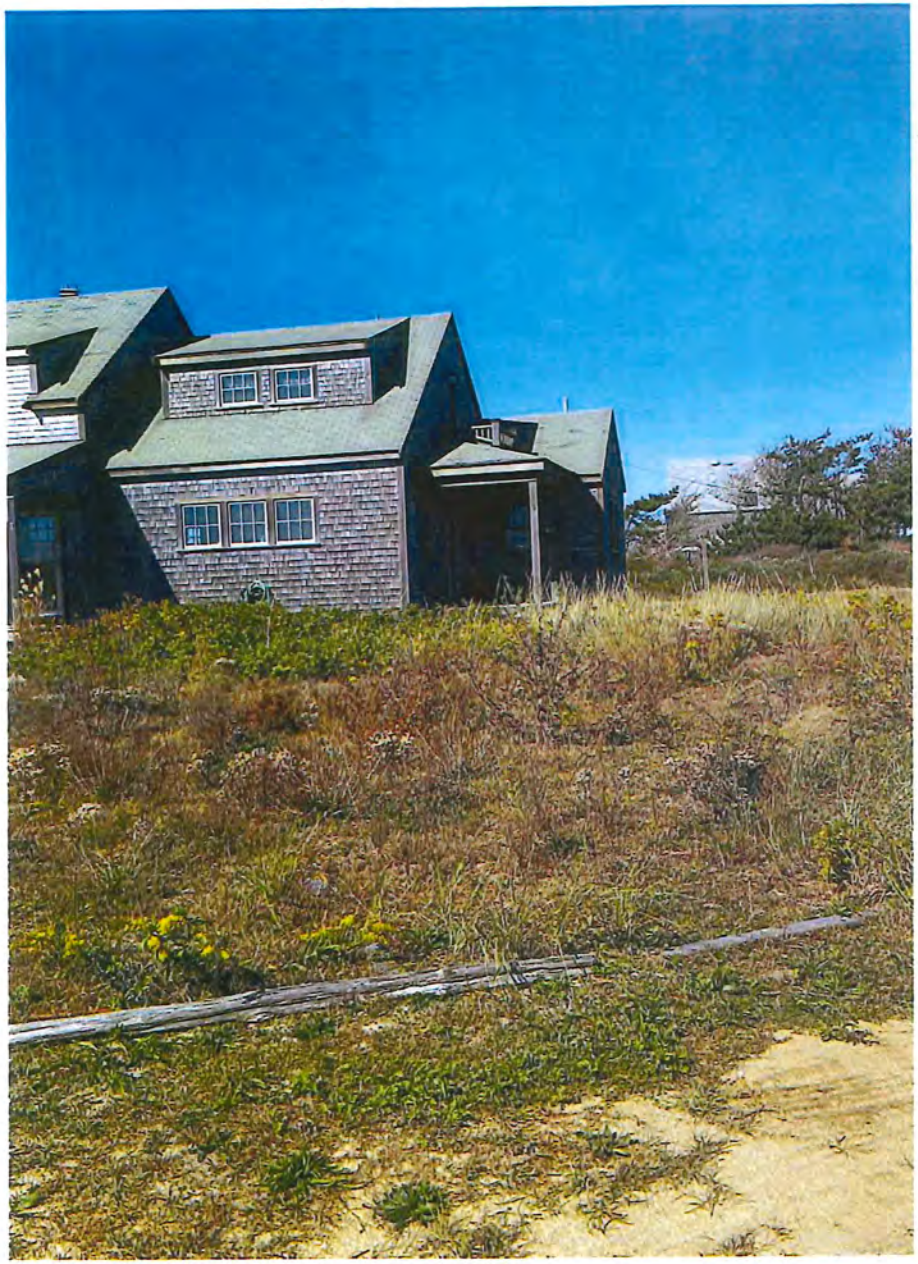
GUEST HOUSE

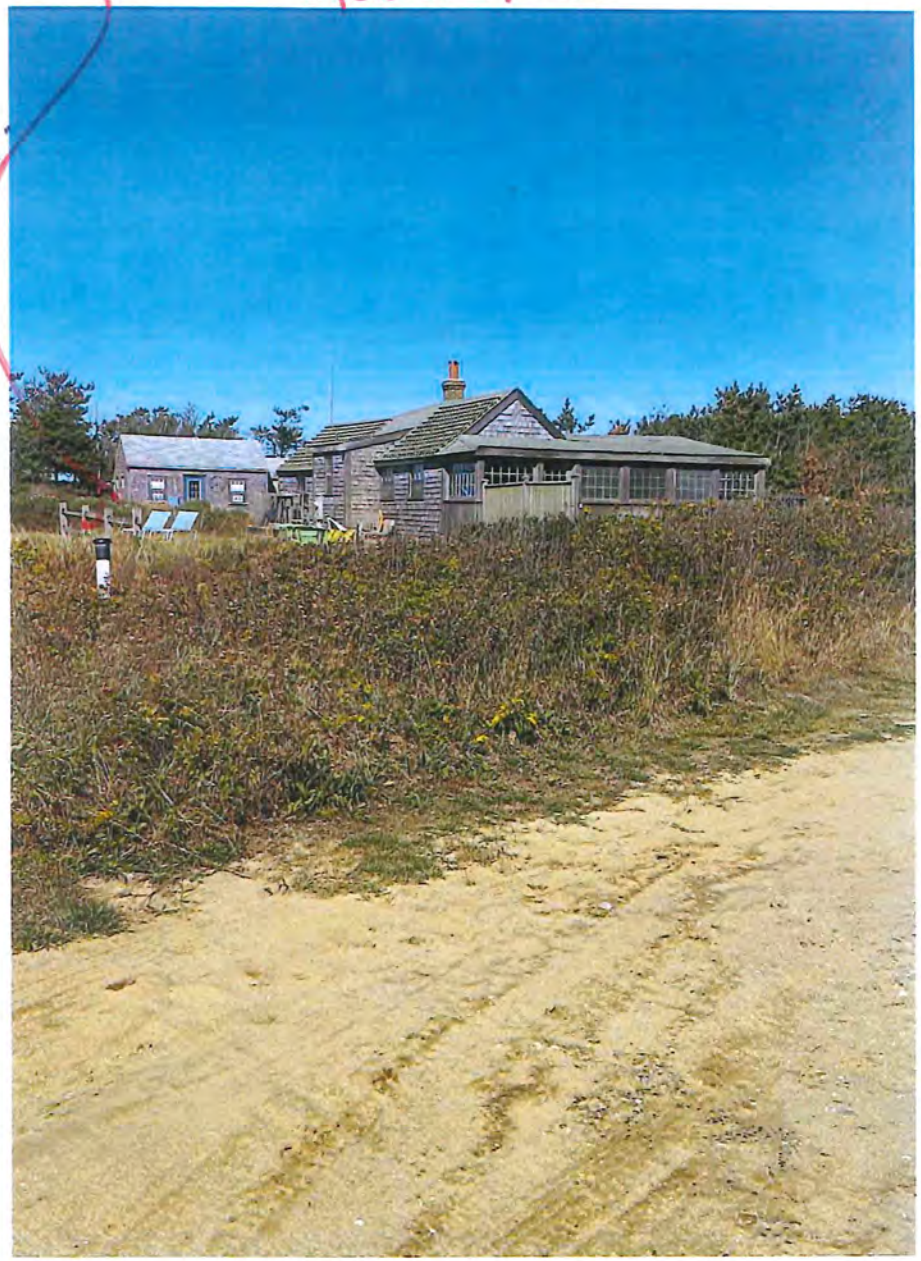


MAIN HOUSE

POOL

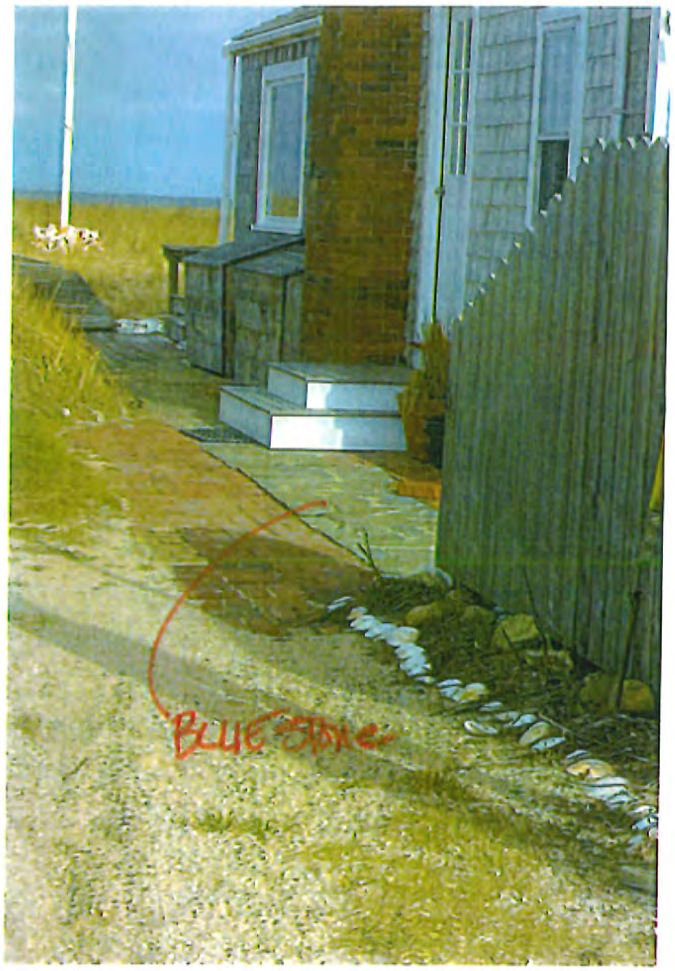
GUEST HOUSE





REAR OF PROPERTY

PLANT DEAD ENDS



BLUE STAKE

MA AVE

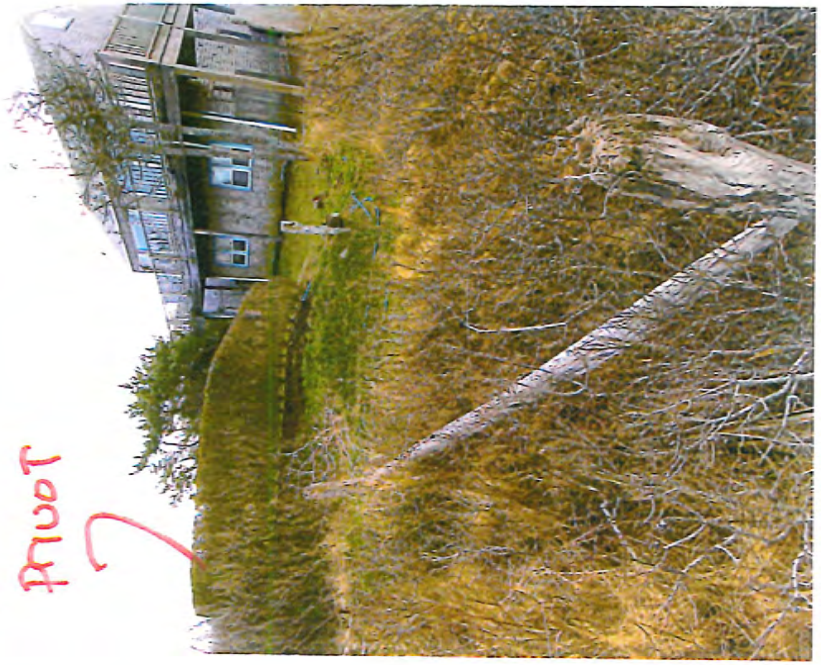
MA. AVE BRICK

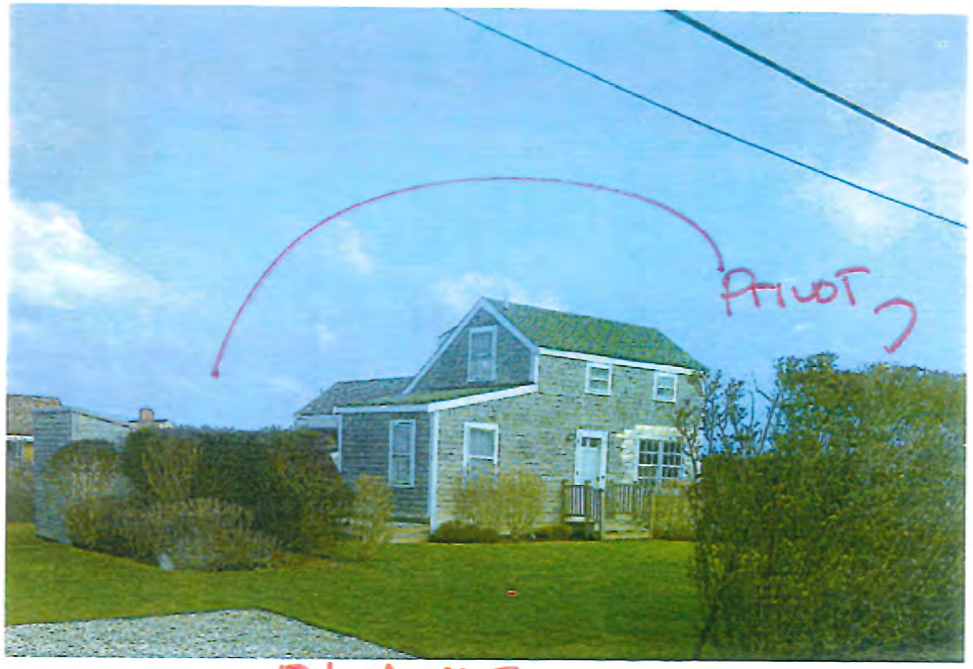
PATIO

BLUESTONE
Pavers

MA. AVE

Neighbor behind site
R1 AVE
PIVOT





R1 AVE

R.1 AVE

R1 AVE

RI Ave

Front

View site from Dune

- Sea Rocket (/info-details/coastal-landscaping-in-massachusetts-grasses-and-perennials#sea-rocket-) (*Cakile edentula*) (native)
- Seabeach Sandwort (/info-details/coastal-landscaping-in-massachusetts-grasses-and-perennials#seabeach-sandwort-) (*Honckenya peploides*) (native)
- Seaside Goldenrod (/info-details/coastal-landscaping-in-massachusetts-grasses-and-perennials#seaside-goldenrod-) (*Solidago sempervirens*) (native)

Coastal Dune Plant List

Plant List for Exposed Areas of a Coastal Dune

Fronting dunes and exposed secondary dunes are habitat for plant species that can tolerate wind, wind-blown sand, and salt spray; endure interaction with waves and flooding; and often even thrive on sand inundation. The plants listed below, as well as those listed above for Dry Beach areas, are appropriate for these environments along the Massachusetts coast.

- American Beachgrass (/info-details/coastal-landscaping-in-massachusetts-grasses-and-perennials#american-beachgrass-) (*Ammophila breviligulata*) (native)
- American Dunegrass (/info-details/coastal-landscaping-in-massachusetts-grasses-and-perennials#american-dunegrass-) (*Leymus mollis*) (native)
- Beach Heather (/info-details/coastal-landscaping-in-massachusetts-shrubs-and-groundcovers#beach-heather-) (*Hudsonia tomentosa*) (native)

Plant List for More Sheltered Areas of a Coastal Dune

More protected secondary dunes are able to host a greater variety of plant species, because they are more sheltered from wind, salt-spray, and wave action. The plants listed below, as well as those listed above for Exposed Areas of a Coastal Dune, are appropriate for these more sheltered dune environments in Massachusetts.

Grasses, Perennials, and Vines

- Black Grass (/info-details/coastal-landscaping-in-massachusetts-grasses-and-perennials#black-grass-) (*Juncus gerardii*) (native)
- Coastal Panic Grass (/info-details/coastal-landscaping-in-massachusetts-grasses-and-perennials#coastal-panic-grass-) (*Panicum amarum* var. *amarulum*) (not native; native to New Jersey south to Mexico)
- Eastern Showy Aster (/info-details/coastal-landscaping-in-massachusetts-grasses-and-perennials#eastern-showy-aster-) (*Eurybia spectabilis*) (native)
- Saltgrass (/info-details/coastal-landscaping-in-massachusetts-grasses-and-perennials#saltgrass-) (*Distichlis spicata*) (native)
- Saltmeadow Cordgrass (/info-details/coastal-landscaping-in-massachusetts-grasses-and-perennials#saltmeadow-cordgrass-) (*Spartina patens*) (native)

- White Oak (/info-details/coastal-landscaping-in-massachusetts-trees#white-oak-) (*Quercus alba*) (native) and other Quercus species (many native)

Coastal Bank Plant List

Plant List for Exposed Areas of a Coastal Bank

The top and face of the coastal bank is where the landform is most exposed to wind, salt spray, and storm waves. The plants listed below are appropriate for the rugged conditions of an exposed coastal bank in Massachusetts.

Grasses, Perennials, and Vines

- American Beachgrass (/info-details/coastal-landscaping-in-massachusetts-grasses-and-perennials#american-beachgrass-) (*Ammophila breviligulata*) (native)
- Coastal Panic Grass (/info-details/coastal-landscaping-in-massachusetts-grasses-and-perennials#coastal-panic-grass-) (*Panicum amarum* var. *amarulum*) (not native; native to New Jersey south to Mexico)
- Saltmeadow Cordgrass (/info-details/coastal-landscaping-in-massachusetts-grasses-and-perennials#saltmeadow-cordgrass-) (*Spartina patens*) (native)
- Seaside Goldenrod (/info-details/coastal-landscaping-in-massachusetts-grasses-and-perennials#seaside-goldenrod-) (*Solidago sempervirons*) (native)
- Switchgrass (/info-details/coastal-landscaping-in-massachusetts-grasses-and-perennials#switchgrass-) (*Panicum virgatum*) (native)
- Virginia Creeper (/info-details/coastal-landscaping-in-massachusetts-shrubs-and-groundcovers#virginia-creeper-) (*Parthenocissus quinquefolia*) (native)

Shrubs and Groundcovers

- Beach Heather (/info-details/coastal-landscaping-in-massachusetts-shrubs-and-groundcovers#beach-heather-) (*Hudsonia tomentosa*) (native)
- Beach Plum (/info-details/coastal-landscaping-in-massachusetts-shrubs-and-groundcovers#beach-plum-) (*Prunus maritima*) (native)
- Bearberry (/info-details/coastal-landscaping-in-massachusetts-shrubs-and-groundcovers#bearberry-) (*Arctostaphylos uva-ursi*) (native)
- Common Juniper (/info-details/coastal-landscaping-in-massachusetts-shrubs-and-groundcovers#common-juniper-) (*Juniperus communis*) (native)
- Marsh Elder (/info-details/coastal-landscaping-in-massachusetts-shrubs-and-groundcovers#marsh-elder-) (*Iva frutescens*) (native)

- Sea Lavender (/info-details/coastal-landscaping-in-massachusetts-grasses-and-perennials#sea-lavender-) (*Limonium carolinianum* or *nashii*) (native)
- Switchgrass (/info-details/coastal-landscaping-in-massachusetts-grasses-and-perennials#switchgrass-) (*Panicum virgatum*) (native)
- Virginia Creeper (/info-details/coastal-landscaping-in-massachusetts-shrubs-and-groundcovers#virginia-creeper-) (*Parthenocissus quinquefolia*) (native)

Shrubs and Groundcovers

- Beach Plum (/info-details/coastal-landscaping-in-massachusetts-shrubs-and-groundcovers#beach-plum-) (*Prunus maritima*) (native)
- Bearberry (/info-details/coastal-landscaping-in-massachusetts-shrubs-and-groundcovers#bearberry-) (*Arctostaphylos uva-ursi*) (native)
- Common Juniper (/info-details/coastal-landscaping-in-massachusetts-shrubs-and-groundcovers#common-juniper-) (*Juniperus communis*) (native)
- Large Cranberry (/info-details/coastal-landscaping-in-massachusetts-shrubs-and-groundcovers#large-cranberry-) (*Vaccinium macrocarpon*) (native)
- Lowbush Blueberry (/info-details/coastal-landscaping-in-massachusetts-shrubs-and-groundcovers#lowbush-blueberry-) (*Vaccinium angustifolium*) (native)
- Northern Bayberry (/info-details/coastal-landscaping-in-massachusetts-shrubs-and-groundcovers#northern-bayberry-) (*Myrica pensylvanica*) (native)
- Red Chokeberry (/info-details/coastal-landscaping-in-massachusetts-shrubs-and-groundcovers#red-chokeberry-) (*Aronia arbutifolia*) (native)
- Sweet Fern (/info-details/coastal-landscaping-in-massachusetts-shrubs-and-groundcovers#sweet-fern-) (*Comptonia peregrina*) (native)
- Virginia Rose (/info-details/coastal-landscaping-in-massachusetts-shrubs-and-groundcovers#virginia-rose-) (*Rosa virginiana*) (native)

Trees

- Black Cherry (/info-details/coastal-landscaping-in-massachusetts-trees#black-cherry-) (*Prunus serotina*) (native)
- Downy Serviceberry/Shadbush (/info-details/coastal-landscaping-in-massachusetts-trees#downy-serviceberry/shadbush-) (*Amelanchier arborea*) (native)
- Eastern Red Cedar (/info-details/coastal-landscaping-in-massachusetts-trees#eastern-red-cedar-) (*Juniperus virginiana*) (native)
- Gray Birch (/info-details/coastal-landscaping-in-massachusetts-trees#gray-birch-) (*Betula populifolia*) (native)
- Pitch Pine (/info-details/coastal-landscaping-in-massachusetts-trees#pitch-pine-) (*Pinus rigida*) (native)

- Lady Bird Johnson Wildflower Center's **Plant Database Page on *Amelanchier arborea*** (https://www.wildflower.org/plants/result.php?id_plant=AMAR3)
- Salicicola's ***Amelanchier arborea* Plant Gallery** (http://www.salicicola.com/photos/gallery/view/1518/3219)
- University of Connecticut's **Plant Database Page on *Amelanchier arborea*** (http://hort.uconn.edu/detail.php?pid=44)

Eastern Red Cedar

Eastern red cedar (*Juniperus virginiana*) is a native evergreen that grows 10 to 40 feet high with a pyramidal shape that becomes rounder with age. It is tolerant of salt and dry soils and is good for both exposed areas and sheltered coastal areas. The light-blue berries are an important food source for many birds and large and small mammals. In addition, cedars provide important protective cover for nesting, roosting, and winter shelter. Eastern red cedar is excellent as a specimen planting and useful in masses for windbreaks and screening. The leaves, roots, and berries of the red cedar have been used by the Native Americans for centuries as a botanical cure for many ailments, including asthma, colds, fevers, and hyperactivity, and for general cleansing and healing.

- Go Botany's **Plant Page on *Hudsonia tomentosa*** (https://gobotany.nativeplanttrust.org/species/hudsonia/tomentosa/)
- Lady Bird Johnson Wildflower Center's **Plant Database Page on *Hudsonia tomentosa*** (https://www.wildflower.org/plants/result.php?id_plant=HUTO)
- Salicicola's ***Hudsonia tomentosa* Plant Gallery** (http://172.104.19.75/gallery/view/1418/2938/)
- United States Department of Agriculture's **Plant Fact Sheet on Beach Heather** (https://plants.sc.egov.usda.gov/factsheet/pdf/fs_huto.pdf) (PDF, 153 KB)

Beach Plum

Beach plum (*Prunus maritima*) is a fast-growing, deciduous shrub with an average height of 4 to 7 feet, but can reach heights of 10 to 12 feet in inland, nutrient-rich soils. The plant, which is native to coastal areas of Massachusetts, is adapted to medium fertility, slightly acidic, loamy, and sandy soils. Over time, extensive colonies may develop from a single plant. In spring, snowy white flowers expand before the leaves, which are a dull-green color. The fruit ripens from August to October and can be harvested and processed into jam, syrup, and puree. Because of its tolerance of salt and its deep roots, beach plum is useful for stabilizing sand and landscaping a coastal dune.

Northern Bayberry

Photo: University of Connecticut Plant Database

Northern bayberry (*Myrica pensylvanica*) is a woody shrub averaging 5 to 7 feet in height, with a thicket-forming character. The dark green leaves are aromatic and may stay on the branches for most of the winter. The flowers and white fruit (which are also aromatic) are somewhat inconspicuous, and the berries are a staple food for many species of wildlife. The native bayberry is adapted to a wide variety of soil conditions, but does best on light-textured soils—it spreads naturally into bare sandy soils. Since it does form thickets, bayberry is useful for erosion control and wildlife shelter.

For more information, see:

- Lady Bird Johnson Wildflower Center's **Plant Database Page on *Morella pensylvanica*** (https://www.wildflower.org/plants/result.php?id_plant=MOPE6) (synonym of *Myrica*)
- Salicicola's ***Myrica pensylvanica* Plant Gallery** (http://172.104.19.75/gallery/view/1483/2651/)
- United States Department of Agriculture's **Plant Fact Sheet on Bayberry** (https://plants.sc.egov.usda.gov/factsheet/pdf/fs_mope6.pdf) (PDF, 88 KB)
- University of Connecticut's **Plant Database Page on *Myrica pensylvanica*** (http://hort.uconn.edu/detail.php?pid=292)

RANDOM BLUESTONE W/ MOSS & BEDDING

Nantucket SURVEYORS LLC
One of The TILTON Companies

P.O. Box 3627, Nantucket, Massachusetts 02584-3627
Tel. (508) 228-0240 Fax (508) 228-9856
www.nantucketsurveyors.com
nsllcinfo@nantucketsurveyors.com

December 21, 2020

Ray Pohl, Chairman
Nantucket Historic District Commission
2 Fairgrounds Road
Nantucket, MA 02554

RE: Application for Pool at 9 Maine Avenue

Dear Chairman Pohl and HDC Commissioners,

Nantucket Surveyors, LLC is writing this letter on behalf of the property owner, Charles R. Schwartzapfel in response to Mr. Mandel's e-mail voicing concern regarding the proposed pool for 9 Maine Avenue. We have reviewed the letter and have addressed the items pertinent to our involvement as follows:

- **Special Permit Requirements for Pools in VR Zone**: The proposed pool meets the requirements as set forth in Chapter 139-2. and the applicant acknowledges a Special Permit is required by the Zoning Board of Appeals.
- **Erosion:** Attached is a Coastal Zone Management (CZM) Shoreline Erosion map that shows the erosion rate of -10.89 ft/year in the project area. We recommend any issues related to erosion be addressed by the Zoning Board of Appeals.
- **Lighting:** All lighting will adhere to the Town of Nantucket By-Law Chapter 102 Outdoor Lighting.
- **Buffer Plantings:** As shown on the NAG plan, plantings will be used as privacy shields around the pool area. We recommend native beach grasses be planted along the pool edge while native bayberry or beach plum, common in the area, be planted around the patio and southern property line. The intent will be, with the placement of the pool between the two dwellings and the additional buffer plantings, for the pool not to be seen from the roads.
- **Pool Discharge:** The pool will consist of saltwater so no harmful chlorine will be stored on site and the equipment will be located behind the patio wall and screened behind the planting bed. If the pool needs to be drained in its entirety which rarely occurs, a service will be used to export the water to a facility. As currently situated the pool is out of Conservation Commission Jurisdiction.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to call our office.

Sincerely,
Nantucket Surveyors, LLC

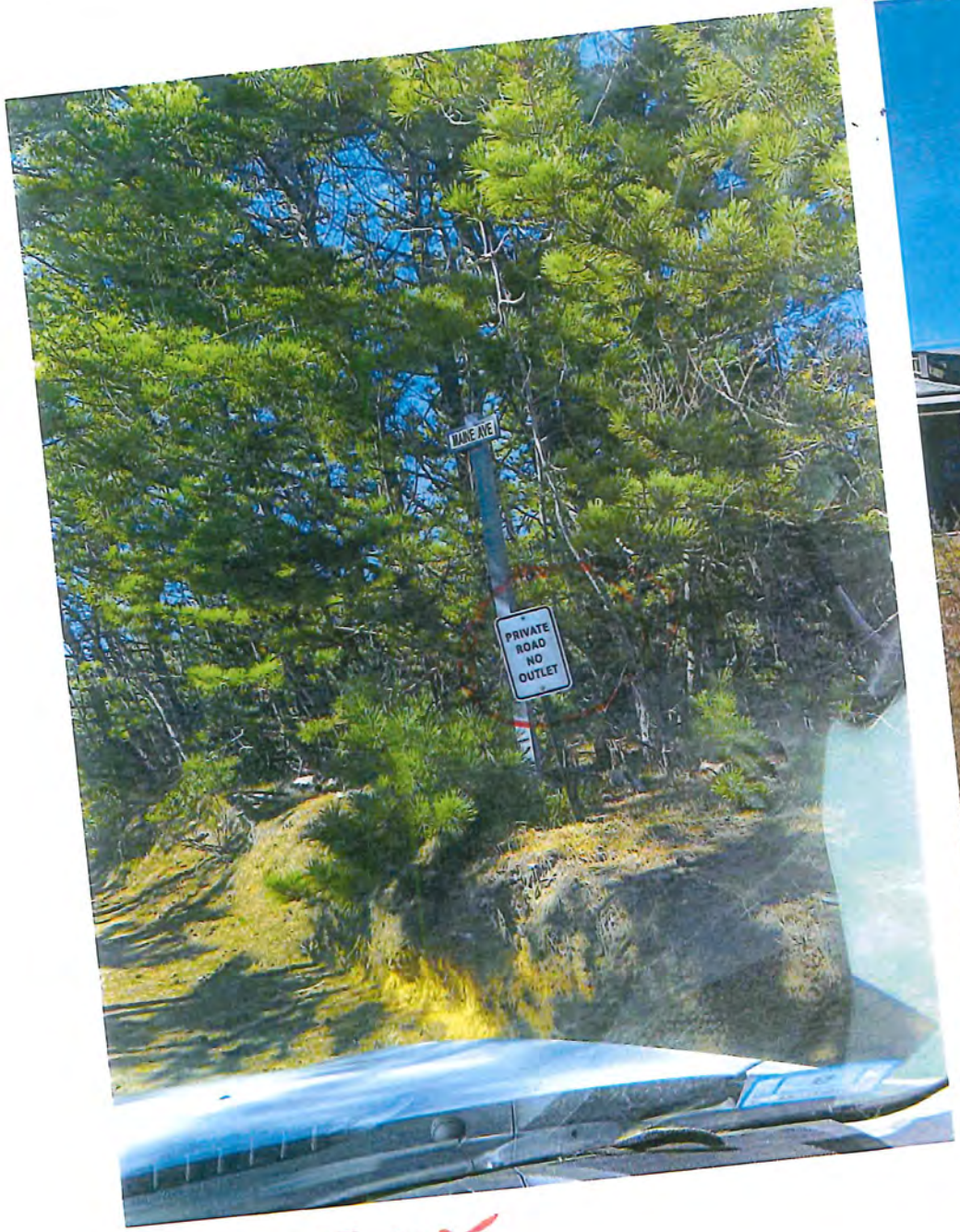
Paul J. Santos, PLS

Cc: Charles R. Schwartzapfel
Nantucket Architecture Group LTD.

MAIN HOUSE

POOL

GUEST HOUSE

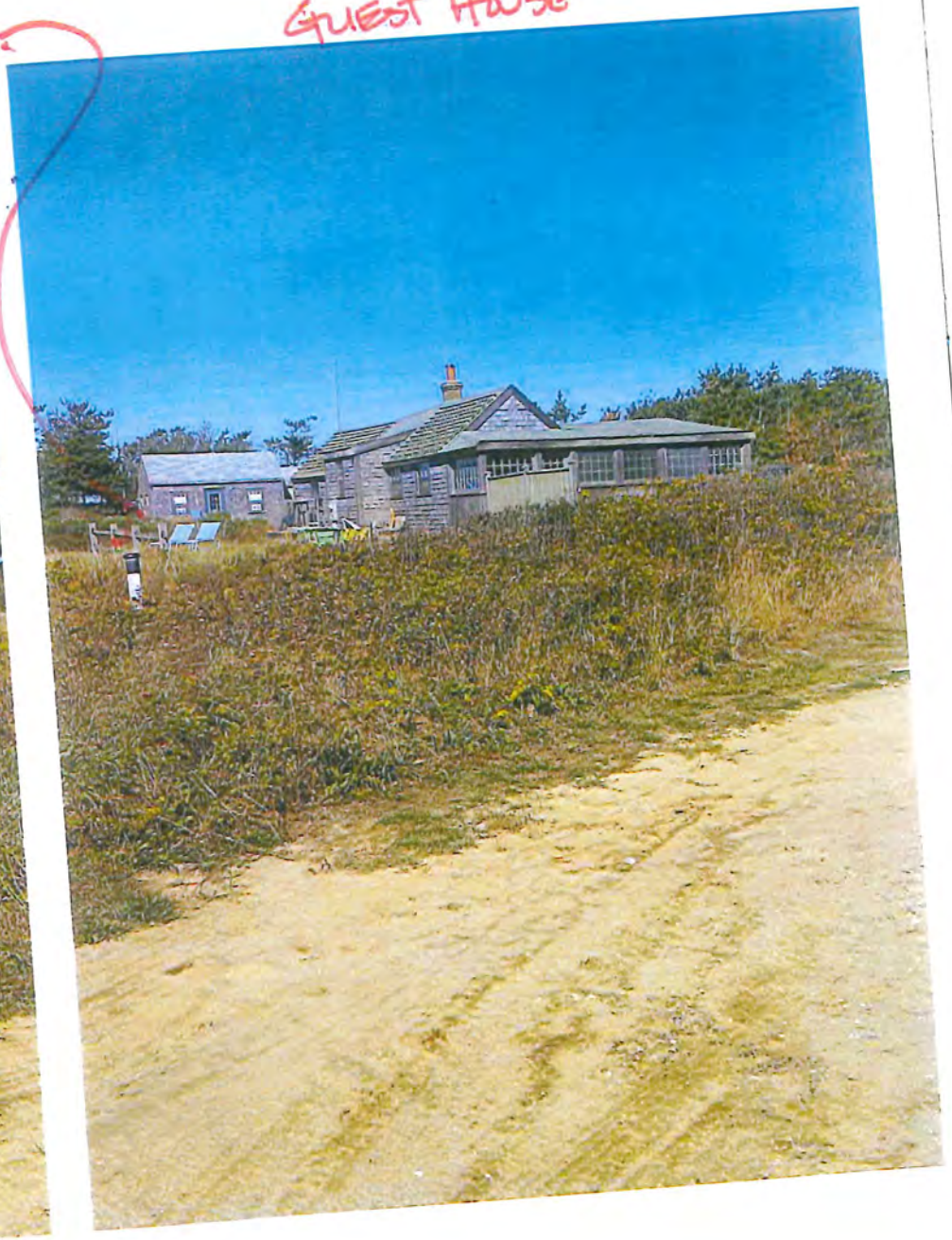


MAINE AVE

MAIN HOUSE

POOL

GUEST HOUSE



REAR of Property

Plans Dead Ends

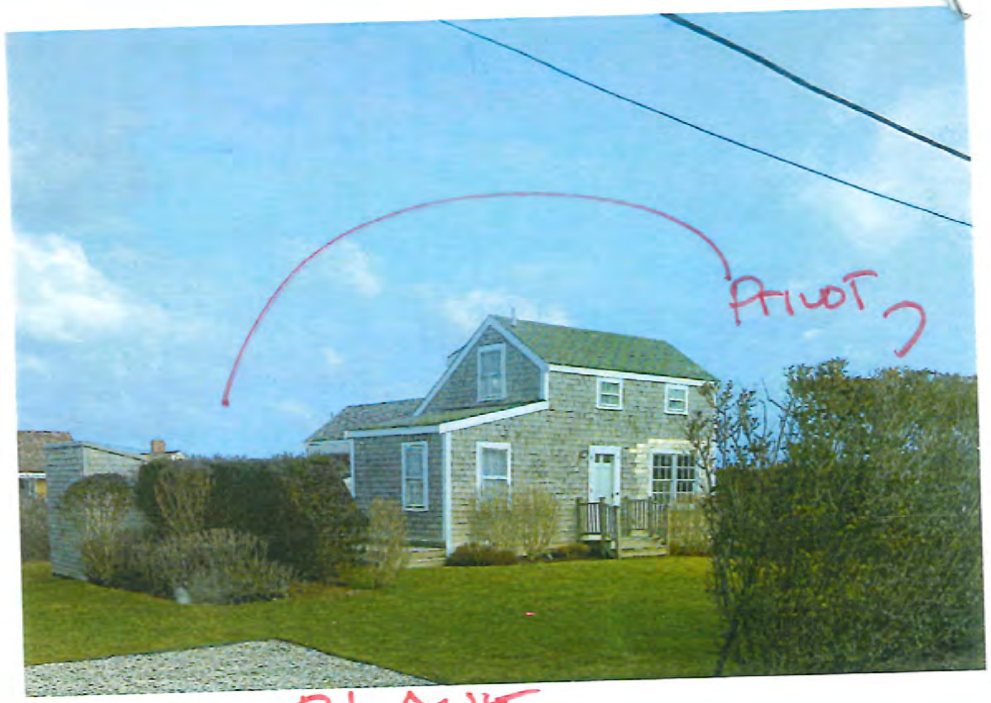
MA Ave

MAINE BRICK

PATIOT

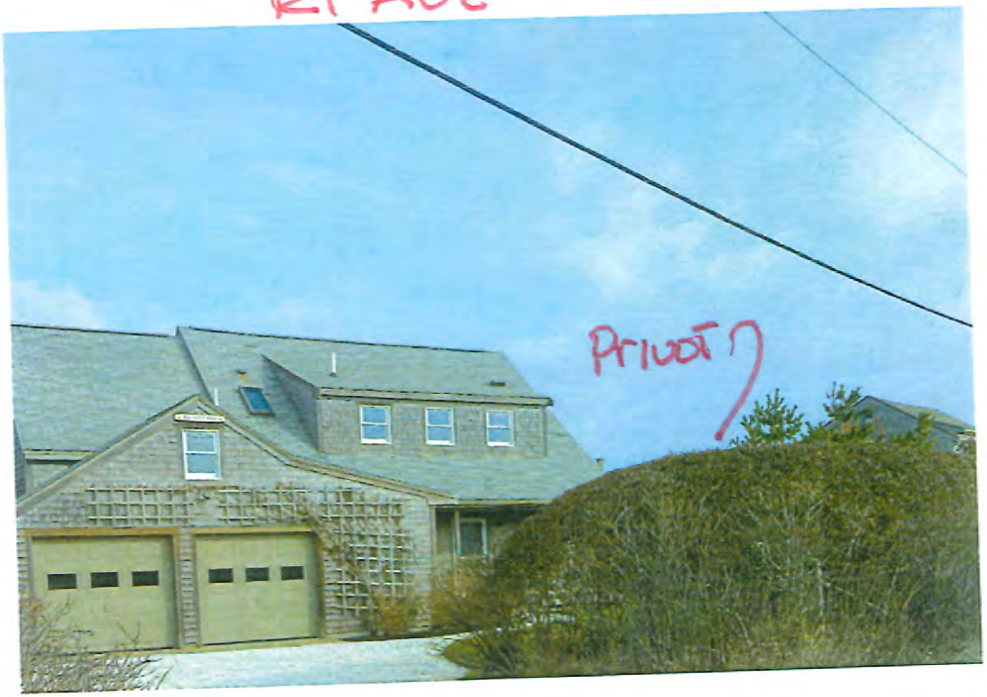
BLUESTONE
Pavers

Neighbor behind site
R1 AVE
Pivot



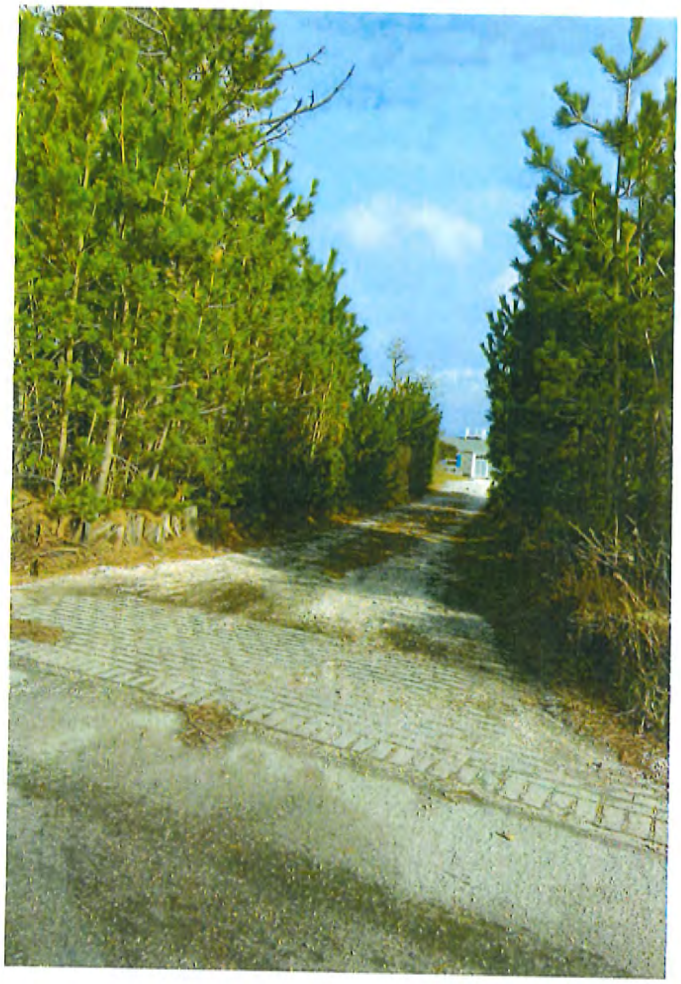
R1 AVE

R.1 AVE



R1 AVE

RI AVE



VIEW SITE FROM DUNE

ABUTTER LETTERS

Madaket Advisory Board *Meeting Memorandum* **HDC/MAB**

Date/Time 1/04/2021

MULTIPLE CONCERNS RK/TE

To: Historic District Commission BRUCE MANDEL RECUSED
From: Madaket Advisory Board

NOT IN FAVOR OF A POOL IN THIS LOCATION

FILE COPY

Members Present

(X) Linda Williams- Chair (X)) Brad Fleming (X) Tom Erichsen (RECUSED) Bruce Mandel (X) Robert Kucharavy

Alternate: ( ) Mark Palmer ABSENT

Applicant **CHARLES SCHWARZAPFEL** Address **9 MAINE AVENUE**

Historic information/known history Eel Skin was moved to this site to avoid erosion

( ) Non-Contributing ( ) Contributing ( ) Individually significant

Comments

( ) Incomplete application ( ) Historical information needed **(X) CONCERNS** ( ) Recommend View

CONCERNS: MAB FEELS A VIEWING BY THE HDC IS CRITICAL PRIOR TO ANY APPROVAL – IT HAS TO BE SAID THAT ONCE YOUR CROSS MILLIE'S BRIDGE, THE ENVIRONMENT, STRUCTURES, SETTINGS, LANDSCAPE ARE TOTALLY DIFFERENT FROM MADAKET PROPER.

- ***There is no specific planting plan submitted with the application as should be nor is the location of the pool equipment shown on the plan on submission of the application, generally required by the HDC. This application should be held for complete planting details and location of the pool equipment and how that is supposed to be screened. The HDC should not have to come up with where equipment goes or what type of plantings should screen it. The applicant needs to provide that and a view from the street of proposed plan upon submission and not leave it up to the HDC to design it for them.**

- **Inappropriate location for a pool in important area of Madaket next to Eel Skin, one of the few remaining original structures on Smith's Point other than (the area past the bridge). This is a sensitive area, with older structures and unique landscape. Of the 50 units on Smith's Point, Fred Rogers and Eel Skin as the oldest historic/contributing structures and having a modern convenience such as a pool next to Eel Skin would not be appropriate.**

Cathy Flynn

From: Bruce Mandel <bruce.mandel@gmail.com>
Sent: Saturday, October 17, 2020 3:22 PM
To: Cathy Flynn
Subject: HDC meeting of 20 OCTOBER 2020, re: 9 Maine Avenue

FILE COPY

To Cathy Flynn, Land Use Specialist

Dear Ms Flynn:

I am writing about the Agenda for the October 20, 2020 meeting of the Nantucket Historic District Commission which has as one of its items in the New Business View Pack for 10/20/2020 an item for 9 Maine Avenue; Property Owner: Mr. Charles Schwartzapfel; Scope of Work: Pool (Map/Parcel 60.3.1/425). This is shown on the agenda as Historic District Commission (HDC) – New Business and is listed in the agenda Section New Business as item 28. Please share this e-mail with the Commission Members and other staff and enter it as a document included in the file for this application to the HDC.

I am a resident of Madaket with concerns about Special Permit Relief in zone VR for pools that become visible from the roads and neighboring property. These are out of character for our community based on the approved Madaket Area Plan, which is intended as a guide to help maintain the quiet rural characteristics of our community. It is part of why a Special Permitting process for a pool is required in VR.

In considering the application, please consider the following:

This property is located in an area in close proximity to severe and accelerating coastal erosion. I suggest a staff site visit is in order since the GIS plan provided in the packet gives a false impression of there being considerable property between 9 Main Avenue and the ocean, which there is not. Hence, the structure would be an eventual environmental issue, similar to recently abandoned beach infrastructure components left after house moves or destruction. There ought to be a conditional approval item that the owner must remove any and all remains of the pool and its infrastructure in the event of coastal erosion. Perhaps a bond should be posted to cover those costs to protect TON from having to deal with it.

There is a second GIS document provided which depicts a more recent view of the area but is not of the subject property but does show severe erosion of the nearby area. This document refers to an address of 345 Madaket Rd with a 75 foot long pool. This is confusing since the referenced Madaket Rd address is not what is being submitted, although there is notation for Maine Ave on this GIS document.

The submitted plan also appears to be deficient in that it does not portray any site lighting photometrics. All exterior lighting fixtures should have an approved photometric pattern showing there will be no light cast off the subject property. All light fixtures should be shielded so as to only cast light downward, not outward toward abutters, roads and other neighbors.

Additionally, the submitted plans, while showing a single view of the proposed pool area from the interior of the property, there are no proposed views from off site or any abutters' properties nor from New Jersey Avenue or Maine Avenue.

Any approval ought to be conditioned that the pool area is to not be visible from the roads and the neighboring property at the time of inspection and noted as being "in perpetuity". Mature, indigenous plantings should be installed to accomplish this buffering instead of the proposed plan which has no

dangerous precedent. When visit site you can see the remnants of plantings that have died off and were done by professional landscapers and all died. Area by pool is still exposed to ocean.

Steve Murphy - 5 Rhode Island – 40 years, three winters ago water had encroached onto the lot, out of character with area, this is not like the rest of Madaket on the other side of the bridge, no security fence, old Eel skin house rented by multiple children. When HDC makes visit look at the limited growth above 2/3 feet and what it is and where it is. What is there is inadequate to cover the pool as close pool is to Maine Ave.

NANTUCKET PRESERVATION TRUST

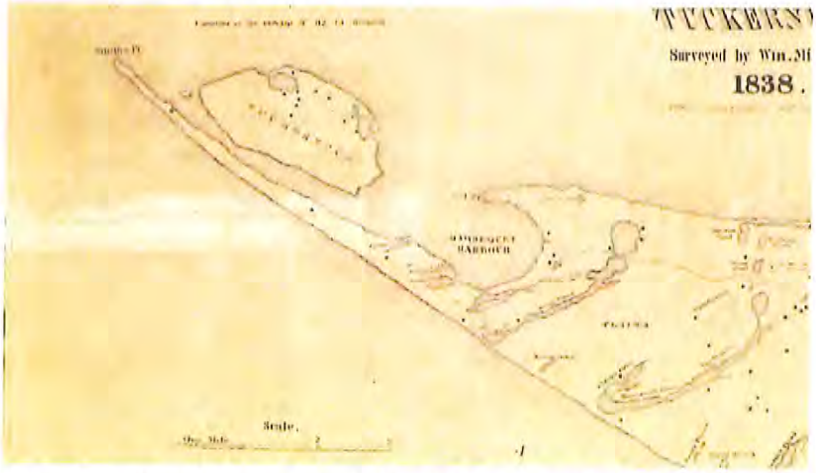
From B Herman 1/16/21 FILE COPY

UNCATEGORIZED

Smith's Point: Nantucket's Far West End

JANUARY 14, 2021 | RITA CARR

Smith's Point, the far western end of Madaket over Millie's Bridge across Hither Creek, feels like a remnant of a former Nantucket. Although it is unclear how the Point got its name, the Wampanoag called this area Nopque, meaning landing place. In *A Natural History of Nantucket*, Peter Brace describes Smith's Point "all outwash sand deposits held in place by American beach grass and some snow fencing," and his part of the island is particularly shaped by eroding waves and winds. Historic maps show the Point used to extend all the way to Tuckernuck, and until 1869 Nantucketers could drive cattle and other livestock across Smith's Point to Tuckernuck at low tide. In 1961, Hurricane Esther opened up a break in the point, and the resulting Esther Island remained severed from the rest of Nantucket until accreting sand re-connected it in 1986. More recently, in 2016, a winter storm took much of the beach away and turned Maine Avenue into a dead-end street.



Map of Nantucket including Tuckernuck, detail. 1838. Curtesy of the Nantucket Historical Association.

Cathy Flynn

From: Peter Homes <peter.homes@yahoo.com>
Sent: Monday, January 11, 2021 9:06 AM
To: Cathy Flynn
Subject: Pool on Smith Point

FILE COPY

Cathy,

I hope you are the proper person to speak with regarding the proposed inground swimming pool addition being proposed by 7 & 9 Maine Ave. As the co-owner of 8 Maine Ave,, along with my sister, Pat Catchpole, I believe we would be the most highly impacted neighbor by this proposal.

As I am sure you are aware, our area of Smith Pt. has been highly impacted by erosion over the last few years. 10 Maine Ave was moved away from danger and placed directly behind our home. The old Eel Skin Inn, part of the 7 & 9 Maine property, was moved directly across from us. We are all now tightly bunched together but for a good cause, saving homes that have stood for many decades.

We now have a new neighbor, with no sense of the history of Smith Point or of what has been happening there. No fault of theirs I suppose, but still important. I personally am not aware of any swimmig pools on Smith Point and my history goes back to 1972. Smith Point is not now nor has it ever been like other areas of the island, with grand mansions, swimming pools and tennis courts. Smith Point is humble, natural and, with very few exceptions, almost exactly like it was in 1972, save for the large amount of land taken by the Atlantic over the years.

The fact is, there is not enough space between residences to keep any pool from becoming a nuisance for noise, lighting, as well as a negative environmental impact.
Additionally, to compare this proposed pool on Smith Point to the one on the property across the bridge on the other side of Ames Ave. which has a large plot of land and no abutting neighbor directly adjacent to the pool location, is very much comparing apples and oranges.

This seems to be a case of a somewhat naive neighbor attempting to make his property look like others he has seen in other areas of the island. No big crime, but they need to be set straight about Smith Point and about what it is to own a home there and be a neighbor there.

Thank you for any assistance you can be to us.

Sincerely,

Peter Homes
8 Maine Avrenue
Nantucket, MA. 02554
917-922-6600

This email was scanned by Bitdefender

Cathy Flynn

From: Pat Catchpole <catchct@netscape.net>
Sent: Sunday, January 03, 2021 12:06 PM
To: Cathy Flynn
Subject: Madaket Advisory Board meeting January 4, 2021 re: 9 Maine Avenue application

To Cathy Flynn, Land Use Specialist, and the Madaket Advisory Board

Dear Ms. Flynn,
I am writing to address the agenda application item for a pool for 9 Maine Avenue, Madaket, scheduled for January 4, 2021.

My brother and I own the house *directly* across the street from 9 Maine Avenue, where the pool is proposed to be built. My parents, who originally visited Nantucket in 1950, bought 8 Maine Avenue (Brigadoon) in the early 70s and are the original owners. Our families have enjoyed the quiet, peaceful solitude of Smith's Point for 5 decades. Our children adore it as much as we do, and eventually will become the owners.

As we've seen the dune size and beach erode over the years, 2 homes moved right near us after the February 2016 storm, plus the more recent loss of the Emery stilt house, we understand how incredibly fragile the area is. It is delicate and precious, a last outpost on the western tip of our favorite place in the world.

The current owner of 9 Maine is new to the area, and can't have an understanding of the real terror that storm produced for many of us, especially those who had to move their homes. Smith's Point is fragile, delicate and small, and feels more or less the way it did when we were teenagers. The loss of the corner of Maine Avenue to the storm is still a shock every time we see it. We know mother nature will always win.

The concept of a pool, steps from the most pristine beach and ocean, is ludicrous. And if you don't want the surf beach, a few hundred steps away is the "quiet beach," shallow, safe and total bliss. Smith's Point is a very quiet part of the island. We all encourage lights off in the evenings, so we can enjoy the magical night sky. A hole in the ground with salt water directly across from our deck, a few hundred feet from the ocean, is an anathema to me. There are noisy filters, maintenance, lights, fencing, parties. To hear pool noise over the surf, the surf being one of the reasons we love the area so much, is insane. And how will the local deer and kids be protected from wandering in – a huge fence?! It's just not appropriate in any way to the area. Not to mention it practically abuts our very expensive septic system.

While I am writing as a direct neighbor, I feel I speak for the entire neighborhood. So many owners have been there for decades – it's a place you love for finding it the way you left it, it's a community with character. An incredibly special community at that. I trust you will walk the area, and see how unchanged and like old Nantucket it is. It's one of the last places that still feels like I remember the island did in the 1960s, which is the best part of its charm. Can you imagine what Millie Jewett would think?!

Thank you,

Pat Catchpole
8 Maine Avenue
Smith's Point

This email was scanned by Bitdefender

Cathy Flynn

From: Bonnie Havery <BHavery@msn.com>
Sent: Wednesday, January 06, 2021 5:32 PM
To: Cathy Flynn
Subject: application for pool at 7 Maine Ave.

Categories: PRINTED AND ENERGOV

FILE COPY

We are writing because of our concern regarding the application of Charles Schwarzapfel to install an in-ground swimming pool on his property at 7/9 Maine Avenue on Smith Point. We know of neighbors who have voiced their very valid concerns, and rather than repeat them, we would like to submit the following:

We have been seasonal residents of Smith Point for close to 50 years, and recognize that it is one of the few neighborhoods of Nantucket that have maintained the character of old Nantucket, simple and in keeping with Nature. We know that there are many islanders who share this belief, and understand its importance for the island. Preserving that character has occasionally required watchfulness and action, and we believe that this is one of those times. An in-ground pool is completely out of character with our neighborhood. It would introduce a foreign element that could easily be used as a president for other in-ground pools, with all the noise generally connected with them, and the potential danger of an unfenced pool, changing the unpretentious nature of the Point. The Point has one of the most beautiful ocean beaches in America right at its doorstep, and an ideal family beach with generally calm waters in Madaket Harbor. We are puzzled by any feeling that there is a need on our Point for an additional place to swim.

We hope that you will consider the points raised by our neighbors and those raised in this letter in reaching your decision.

Respectfully submitted,

Robert and Bonnie Havery
6 Maine Avenue
Nantucket

This email was scanned by Bitdefender

Madaket Advisory Board *Meeting Memorandum* **HDC/MAB**

Date/Time 3/22/2021

To: Historic District Commission
From: Madaket Advisory Board

Members Present

(X) Linda Williams- Chair (X) Brad Fleming (X) Tom Erichsen (R) Bruce Mandel (X) Robert Kucharavy
Alternate: ( ) Mark Palmer

Applicant: Charles Schwarzapfel Address: 9 Maine Ave- Pool

Historic information/known history
(X) Non-Contributing ( ) Contributing ( ) Individually significant

Comments

( ) Incomplete application ( ) Historical information needed () No Concerns ( ) Recommend View

( ) Does not meet guidelines **(X) Not appropriate** *(As noted below)*

Recommendations:

- Location of the lighting of the pool and the pool equipment
- Does not fit the character of Smith's Point, out of context for the neighborhood
- The visual impact of what has to be done to screen the pool
- Close proximity to Eel Skin Inn- historical character

Public Comment
Robert and Bonnie Havery, 6 Maine Ave - Suggested Screen from beach and NH Ave. Would like HDC to consider historic value of Eel Skin Inn.
Pat Catchpole, 8 Maine Ave- not in context with area, pool lighting a concerned. Screening life span- Pool equipment location and pool lighting
Andrea Baier: represents homeowner at 19 NH Ave. lighting and pool equipment location.

Motion on Recommendations:
Motion to accept comments made by RK; Seconded by TE
4-1 Fleming, Erichsen, Kucharavy and Williams- aye//Mandel- Recused

Cathy Flynn

From: Stephen Theroux <steve@nantucketarchitecture.com>
Sent: Monday, March 22, 2021 2:11 PM
To: Cathy Flynn; Holly Backus
Cc: czarinalinda@comcast.net; Charles Schwartapfel (charles@crs-ra.com)
Subject: Emailing: eel skin pg 1.pdf, eel skin pg 2.pdf
Attachments: eel skin pg 1.pdf; eel skin pg 2.pdf

Categories: IMPORTANT

FILE COPY

Cathy and Holly,
Here is some supplemental information we were able to locate on Eel Skin, First 9 Maine Avenue was not its original location. It was located near Madaket Marine and was a shack that was moved in 3 pieces across the bridge. Second it was renovated by a previous owner and 70 % of the structure was replaced. Third it was moved a third time to its current location and a full basement was added under the structure. Forth the structure was deemed noncontributing by the HDC in 2006.

Please take this new information into consideration at tomorrow night's meeting.

Thank you
Stephen Theroux
NAg
Your message is ready to be sent with the following file or link attachments:

eel skin pg 1.pdf
eel skin pg 2.pdf

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

This email was scanned by Bitdefender

Cathy Flynn

From: Murphy, Stephen <Steve.Murphy@lockelord.com>
Sent: Monday, March 15, 2021 2:27 PM
To: Bonnie Havery; Cathy Flynn
Cc: abaier34@gmail.com; Pat Catchpole; Pat Catchpole; janelabarbera@gmail.com; Susan Hutton; 'dcrozier@rollins.edu'; Gerstman Richard; gpappageorge@sbcglobal.net; kmgel@gmail.com; marisakafantis@gmail.com
Subject: RE: Pool Application 9 Maine Avenue

Categories: IMPORTANT

FILE COPY

Dear Ms. Flynn:
While I note that the HDC may not consider the 9 Maine Avenue Pool application for some time I did want to go on record as a 40-year Summer resident of Smith Point with several points for the HDC's consideration:
1. The prior owners of the 9 Maine Avenue property (the Bathons) planted bayberry and beach plum in the southwest corner of the property parallel to New Jersey Avenue; they all died from the wind and salt air.
2. The earlier and current diagrams of the pool all suggest a unified single family property with the Eel Skin Inn to the east and the main house to the west. The fact is that Eel Skin will be rented (as it has been for the past 10 years or more) for much of the summer by families with children. The current diagrams show no protective borders or fences to protect children at Eel Skin from the threats presented by the pool.
3. The new diagrams seem to incorporate a pool house. Will the pool house be designed in a manner consistent with the historic character of Smith Point? What provision has been made to protect against spills of the chemicals necessary to maintain the salinity of the pool?
4. The new diagrams plainly show that some of the plantings to the south of the pool will be made on property owned by Brigadoon LLC. Has authorization been obtained from the property owners? Will the planned construction interfere with the Brigadoon LLC tight tank located on this same piece of property?
5. The new diagram show existing beach plum growing on the northern border of the 9 Maine Avenue property but as photos from the earlier submission clearly shows these plants are stunted at best as seen from the photos from the earlier submission taken from Maine Avenue directly through the 9 Maine Avenue property to the Saltaway Cottage on New Hampshire Avenue.

Thank you for your time and attention. Best regards, Steve Murphy

From: Bonnie Havery <BHavery@msn.com>
Sent: Sunday, March 14, 2021 3:08 PM
To: Cathy Flynn <cflynn@nantucket-ma.gov>
Cc: abaier34@gmail.com; Pat Catchpole <catchct@netscape.net>; Pat Catchpole <patchpole@gmail.com>; Murphy, Stephen <Steve.Murphy@lockelord.com>; janelabarbera@gmail.com; Susan Hutton <hutton4834@gmail.com>
Subject: Pool Application 9 Maine Avenue

**** External email ****
Regarding the application to install an inground pool at 9 Maine Ave.:

It seems to us that one of the key issues in this proposal is the fact that no matter how you try to hide this proposed pool, there would still be an element introduced to our neighborhood that would be out of character with the simple atmosphere of old Nantucket that exists there. The fact that it would be placed next to a structure of historic significance. the Eel Skin Inn, makes it even more egregious to any effort to protect an important part of Nantucket's history.

Cathy Flynn

From: Thomas Erichsen <erichsentbe@gmail.com>
Sent: Sunday, March 14, 2021 10:56 PM
To: Cathy Flynn
Subject: Fwd: Smith Point pool

FILE COPY

Sent from my iPhone

Begin forwarded message:

> **From:** "Murphy, Stephen" <Steve.Murphy@lockelord.com>
> **Date:** March 14, 2021 at 2:34:27 PM EDT
> **To:** Tom Erichsen <erichsentbe@gmail.com>
> **Subject: Smith Point pool**
>
> Tom: I trust that this note finds you and your family safe and healthy. I hss as d a couple of thoughts on the proposed pool that I would like to share with you:
> First, the prior owners of the property (the Bathons) planted bayberry, beach plum and grasses on the southwest corner of the property along New Jersey Avenue; they all died from the wind and. salt air.
> Second, the diagrams of the pool all suggest a unified property with Eel Skin to the east and the main house to the west. The fact is that Eel Skin will be rented for much of the summer by families with children. How will those families, and particularly the children, be protected from the threat presented by the pool? Why isn't some type of barrier being proposed for between the pool an Eel Skin?
> Third, the new plans seem to incorporate a pool house. Will that be designed in a manner consistent with the historic character of Madaket?
> Fourth, what provision has been made to protect against spills of the chemicals necessary to maintain the salinity of the pool?
> Thanks for your help Tom. Best regards, Steve
> [http://images.lockelord.net//Locke_Lord_SQ_Logo_RGB_web.png]<http://images.lockelord.net/>
>
> ---
>
> Atlanta | Austin | Boston | Brussels | Chicago | Cincinnati | Dallas | Hartford | Houston | London | Los Angeles | Miami | New Orleans | New York | Princeton | Providence | San Francisco | Stamford | Washington DC | West Palm Beach
>
> For more information visit www.lockelord.com<http://www.lockelord.com>
>
> CONFIDENTIALITY NOTICE:
> This e-mail and any attached files from Locke Lord LLP may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you received this e-mail by accident, please notify the sender immediately and destroy this e-mail and all copies of it. We may scan and or monitor emails sent to and from our servers to ensure regulatory compliance to protect our clients and business.

This email was scanned by Bitdefender

Cathy Flynn

From: Dara Foundyller <9massave@gmail.com>
Sent: Sunday, March 14, 2021 3:42 PM
To: Cathy Flynn
Subject: Pool Application - Smith's Point

Categories: IMPORTANT

Please deny the permit. Let Smith's Point simple cottage and beach lifestyle continue with thoughtful, appropriate evolution. Who needs a pool when you have public beaches at your front and back door. Maybe if you lived on Orange Street? Permit this, you set a precedent.
Dara Foundyller
9 Massachusetts Ave

This email was scanned by Bitdefender

FILE COPY

Cathy Flynn

From: Bill Hamlen <WilliamPHamlen@yahoo.com>
Sent: Sunday, March 14, 2021 3:24 PM
To: Cathy Flynn
Subject: Pools on Smith's Point

Categories: IMPORTANT

Hi Kathy,

My name is William Hamlen and my wife and I own the property on 8 New Jersey Avenue on Smith's Point. I understand that there is an application to put a pool on the Smith's Point. While I tread very cautiously in opposing anything that a neighbor may wish to do with his or own property, I am concerned that the excess water used to fill the pool AND maintain all of the proposed plants will deplete our fragile aquifer. I would also note that this winter's erosion has been severe and our aquifer is also under siege by the sea. If anything can be done to mitigate this risk to the aquifer, then I would rest my objections.

Thanks for your consideration,
William Hamlen

This email was scanned by Bitdefender

FILED

Cathy Flynn

From: Bonnie Havery <BHavery@msn.com>
Sent: Sunday, March 14, 2021 3:08 PM
To: Cathy Flynn
Cc: abaier34@gmail.com; Pat Catchpole; Pat Catchpole; Murphy, Stephen; janelabarbera@gmail.com; Susan Hutton
Subject: Pool Application 9 Maine Avenue

Categories: IMPORTANT

FILE COPY

Regarding the application to install an inground pool at 9 Maine Ave.:

It seems to us that one of the key issues in this proposal is the fact that no matter how you try to hide this proposed pool, there would still be an element introduced to our neighborhood that would be out of character with the simple atmosphere of old Nantucket that exists there. The fact that it would be placed next to a structure of historic significance. the Eel Skin Inn, makes it even more egregious to any effort to protect an important part of Nantucket's history.

Respectfully submitted,
Robert and Bonnie Havery
6 Maine Avenue

This email was scanned by Bitdefender

Cathy Flynn

From: Richard Gerstman <richard@gerstman.com>
Sent: Thursday, March 04, 2021 2:55 PM
To: Cathy Flynn
Subject: Swimming Pool at Maine Ave.

Categories: IMPORTANT

Dear Ms. Flynn,

My husband and I strongly oppose the installation of a swimming pool at Maine Avenue at Smith Point. We have been lucky enough to enjoy the natural beauty, tranquility and historical Nantucket aura of Smith Point every summer for 48 years in our "Jetsam" cottage at 22 Massachusetts Ave.

The building of this pool could result in many future pools here. Attempts to camouflage the negative visual impact of safety fencing around pools could be only temporary, because the wind and sandy soil in this area makes plantings futile. The water quality for drinking, swimming and fishing is very fragile here, and will be exacerbated with further pool installations. This pristine and unique environment must be preserved.

Thank you very much,
Jo Ann and Richard Gerstman

FILE COPY

This email was scanned by Bitdefender

-----Original Message-----
From: Andrea Baier <abaier34@gmail.com>
Sent: Sunday, February 21, 2021 2:03 PM
To: Cathy Flynn <cflynn@nantucket-ma.gov>
Cc: Baier Andrea <abaier34@gmail.com>; Baier Bruce <abbaier@att.net>
Subject: Re: Pool Application, 7/9 Maine Ave.

Hi Cathy

Thank you for your note.

I have, since writing this letter, seen the revised pool plans which include the landscaping and the location of the pump house/pool equipment. My hope is to include these additional concerns with the ones that I have already expressed in my letter dated 01/28/21.

As longer term landowners on Smith's Point and anyone else who is familiar with that unique, fragile area know, the suggested landscaping in the pool plan is ridiculous. While the plantings might survive one year, they would eventually all die from the sandy soil and the wintertime exposure to the ocean spray, and the pool would be completely exposed on both the north and south sides. Indeed, much of the planting that the owners had done last summer has already died.

Our very small cottage and deck on 19 New Hampshire Avenue looks directly onto the back of Eel Skin Inn and the lawn between Eel Skin and the bigger house. If someone from the HDC committee were to visit to our property, he/she would see that the distance between our cottage and Eel Skin is very close—indeed, on some mornings while standing on our deck and without at all raising my voice, I have carried on conversations with an Eel Skin Inn renter.

As far as I can tell from the proposal, the pump house would be right next to the back of Eel Skin on the north property line. Not only would we be looking directly at it, but also we would be constantly hearing the pump.

Again, thank you!

Sincerely,

Andréa Baier

FILE COPY

Cathy Flynn

From: Bonnie Havery <BHavery@msn.com>
Sent: Saturday, January 16, 2021 1:18 PM
To: Cathy Flynn
Subject: Smith Point pool application

Categories: TO BE ADDED TO ENERGOV AND APP

The following is a statement posted by the Nantucket Preservation Trust that is highly relevant to your considerations of the application to install an in-ground pool on Smith Point. Please bring this to meetings. Thank you.

The Havery's, 6 Maine Ave.

FILE COPY

Smith's Point: Nantucket's Far West End

JANUARY 14, 2021 RITA CARR

Smith's Point, the far western end of Madaket over Millie's Bridge across Hither Creek, feels like a remnant of a former Nantucket. Although it is unclear how the Point got its name, the Wampanoag called this area Nopque, meaning landing place. In *A Natural History of Nantucket*, Peter Brace describes Smith's Point "all outwash sand deposits held in place by American beach grass and some snow fencing," and his part of the island is particularly shaped by eroding waves and winds. Historic maps show the Point used to extend all the way to Tuckernuck, and until 1869 Nantucketers could drive cattle and other livestock across Smith's Point to Tuckernuck at low tide. In 1961, Hurricane Esther opened up a break in the point, and the resulting Esther Island remained severed from the rest of Nantucket until accreting sand re-connected it in 1986. More recently, in 2016, a winter storm took much of the beach away and turned Maine Avenue into a dead-end street.

Map of Nantucket including Tuckernuck, detail. 1838. Curtesy of the Nantucket Historical Association.

The Point has long been known for its excellent fishing, but few dwellings were constructed here, outside of a handful of fishing shacks and modest homes along Hither Creek. In the 1910s, Otis Emerson Dunham, owner of several hundred acres in Madaket, contracted with the Massachusetts Coastal Company to develop a subdivision he called "Maddequet Terrace," including much of Smith's Point. Though there was an early frenzy of buying, little development followed, and by 1920, many of the parcels were forfeited to the Town of Nantucket for delinquent tax benefits. For others, however, the ease of travel brought on by the introduction of the automobile to Nantucket inspired the building of simple cottages near the beaches of Smith's Point.

One of the oldest buildings on Smith's Point is the Eel Skin Inn at 9 Maine Avenue. It was originally constructed next to the Hither Creek Boat Yard circa 1910. It served as a shack for eel fisherman and others to skin their catch after a day's fishing. It was also, apocryphally, a rumrunner's shack during Prohibition. It was moved to its present site on Maine Ave in 1975 by Tom Lazor, also known as **Colonel Bat Guano**. A small addition was put on following the Inn's move across Hither Creek, but the structure's historic character is defined by its low roof profile and varied fenestration.

NANTUCKET PRESERVATION TRUST

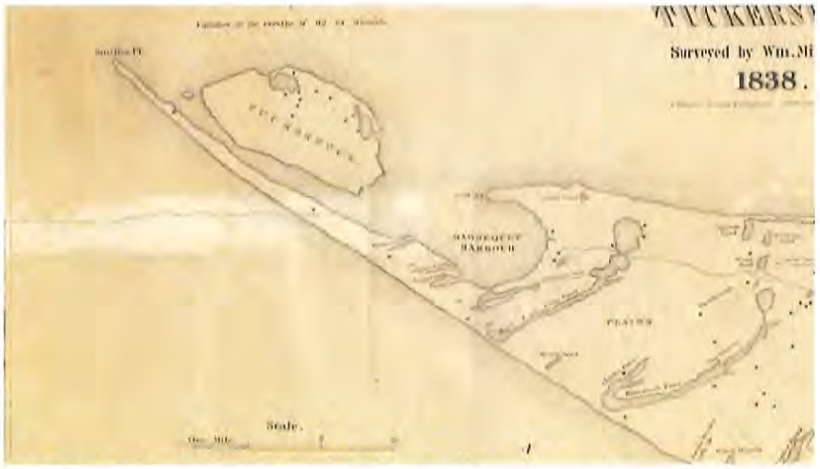
From B. Harvey & Tilcraft

UNCATEGORIZED

Smith's Point: Nantucket's Far West End

JANUARY 14, 2021 | RITA CARR

Smith's Point, the far western end of Madaket over Millie's Bridge across Hither Creek, feels like a remnant of a former Nantucket. Although it is unclear how the Point got its name, the Wampanoag called this area Nopque, meaning landing place. In *A Natural History of Nantucket*, Peter Brace describes Smith's Point "all outwash sand deposits held in place by American beach grass and some snow fencing," and his part of the island is particularly shaped by eroding waves and winds. Historic maps show the Point used to extend all the way to Tuckernuck, and until 1869 Nantucketers could drive cattle and other livestock across Smith's Point to Tuckernuck at low tide. In 1961, Hurricane Esther opened up a break in the point, and the resulting Esther Island remained severed from the rest of Nantucket until accreting sand re-connected it in 1986. More recently, in 2016, a winter storm took much of the beach away and turned Maine Avenue into a dead-end street.



Map of Nantucket including Tuckernuck, detail. 1838. Curtesy of the Nantucket Historical Association.

Cathy Flynn

FILE COPY

From: Joanna Leary <joanna.leary28@gmail.com>
Sent: Tuesday, February 02, 2021 9:27 AM
To: Cathy Flynn
Subject: pool at 9 Maine Avenue

Dear Ms. Flynn,

I write to express my concerns about the application by the new owners of 9 Maine Avenue in Madaket to put in an indoor pool. This is an extremely poor idea for a variety of reasons:

1. My primary concern is the water availability on Smith's Point. As you know, this is a highly fragile ecosystem. There is just not much fresh water in the lens below Smith's Point. An inground pool needs to filled with water: where are they going to get that water from? This would put undue stress on the aquifer.

2. We have been told that we will never get town water out to Smith's Point, so see above. What are we supposed to do when our wells run dry b/c of this ill-conceived pool? Our house is on Massachusetts Ave and we already have egregiously poor water quality. Over the 50+ years we have owned our home we have watched our water quality steadily decline as more and more houses were built on the point.

3. That area is vulnerable to ocean erosion and wave incursions. If there is a pool there, that is just one more thing to contribute debris to the ocean in the case of washover.

4. Allowing this pool to be put in sets a precedent for the rest of Smith's Point that is not a welcome one. Smith's Point cannot support **any** indoor pools.

For the above reasons, this application should be denied by the HDC. Please feel free to contact me if you have any questions.

Thank you for your time,

Joanna Leary
7 Massachusetts Avenue
207-408-1853

Cathy Flynn

From: Andrea Baier <abaier34@gmail.com>
Sent: Thursday, January 28, 2021 3:47 PM
To: Cathy Flynn
Subject: Pool Application, 7/9 Maine Ave.

FILE COPY

Hi Cathy

It has recently come to my attention that the owners of 7/9 Maine Ave. wish to build an in-ground pool on their property on Smith's Point.

My brothers and I own a small cottage on 19 New Hampshire Ave., which my parents purchased in the early 1970's. Our property abuts 7/9 Maine Ave.

As I am sure you know already, Smith's Point is unique. It is an environmentally fragile area, an informal beach scape neighborhood that is very different from the rest of Madaket. The cottages on Smith's Point are small, quaint structures, humble in their historic appeal and proud of the way that they blend with the aesthetic of the area. An in ground pool goes against the very nature of Smith's Point.

As you may also know, 7/9 Maine Ave. is separated from the ocean by a small dune that has, in the recent past, been destroyed and is only now, with the great effort of many of the homeowners, rebuilding. Indeed, Eel Skin Inn, the historic cottage original to 7/9 Maine Ave., had to be re-located and moved back when the waves were lapping at its door. From an environmental perspective, an in-ground pool in such an unstable area seems like a disaster waiting to happen.

My hope, and I know the hope of other land owners in the Smith's Point area, is that the application for a pool will be denied.

Thank you so much.

I hope that all is quiet on the island, that you are enjoying the winter months and staying healthy.

Sincerely,

Andréa Baier (and Doug, Bruce, and Chris Baier)
802-377-7227

a maine Ave pull

FILE COPY

#10-2033

2024

THE ARTS

Colonel Bat Guano's Eel Skin Inn

BY PETER B. BRACE
INDEPENDENT WRITER

Amongst proper beach cottages lining the Madaket sand roads — those named after U.S. states — with quarterboards such as "Saltaway," "Beachcomber", "Windblown", "Sea Urchin" and "Madascape" is the Eel Skin Inn at 9 Maine Ave., just west of California Avenue.

Tourists have never searched in vain for a bed & breakfast bearing that title. And, eels have never entered the cramped confines of this building — unless, of course, they were first speared for skinning and smoking.

The Eel Skin Inn, with its crooked roof and low-slung, narrow barracks look, was the late Tom Lazor's slice of west end summer heaven that he converted from an eel shack, originally located next to the Hither Creek Boatyard, into a cottage. When Lazor was alive, the Eel Skin Inn was teeming with neighborhood children, yellow Labrador retrievers and Lazor's west end co-conspirators.

"It was a Madaket shack," said Tennessee Avenue resident Beverly Hall. "Tom kept it rustic with real Madaket flavor. It was always appreciated, and you went in there and time went backwards. We always called it 'Tom's Beach' when we went swimming there."

The launching site for many a picnic to Esther's Island, steamer digging expeditions and simple lunches carried over the dunes, the Eel Skin Inn stands intact today because of those who understood Lazor's summer-in-Madaket mantra.

Its present owners, Rebecca and Edward Odegaard, were entranced immediately upon seeing the cottage, and purchased it because of what it represented: open stud walls, no electronic entertainment and beach sand that they knew they could never keep out.

"For years, we had owned a house in town, and I used to go out to Madaket to watch the sunset. In my wanderings, I came across the Eel Skin Inn, and I was really curious about it," said Odegaard. "It didn't look like a normal Nantucket house. It had the front seat of a car on the front. It was a little bit scary. I always thought that somebody with a shotgun would come out of the front door."

Surviving several plans for its demise or expansion prior to Rebecca's discovery, and coming out revived and fortified after the Odegaards' restoration, the Eel Skin Inn is once again on the market.

BEVERLY HALL PHOTO

REB BENCHLEY The Independent

BEVERLY HALL PHOTO

The man and his "inn," Tom Lazor, top. A.K.A. Colonel Bat Guano, spent as much time as he could at his Madaket cottage on Maine Avenue called the Eel Skin Inn, above. Lazor cherished the rustic summer essence of the cottage, the friendships and his son, Jared, at left. The Eel Skin Inn is now for sale for $1,495,000 by its present owners, Rebecca and Edward Odegaard, through real estate broker Susie Lister Locke, one of the colonel's close friends.

COLONEL BAT GUANO

"Live eels were first shipped from Nantucket to markets in Boston and New York in 1874," said Nantucket fishermen J. Clinton Andrews in his book, "Fishing Around Nantucket." "And they were packed in barrels of wet seaweed and sold for twenty dollars a barrel. The dealers kept a percentage or commission of the price paid by the buyers."

The spearing and marketing of American eels, which at one time thrived in Hither Creek, Madaket Harbor and the island's great ponds to support a fishery, sounds a little bit too much like work. And although Lazor's cottage had the work "eel" in its name, worked definitely did not come into play.

Playing hooky from real world responsibilities did, however, rule the day. Lazor, who also went by his self-dubbed "summer name," Colonel Bat Guano, was an advertising executive from Connecticut for several pharmaceutical companies, according to his friend Susie Lister Locke of Windwalker Real Estate, the listing broker for the colonel's cottage.

Locke said Lazor would arrive on the island by plane, along with a dozen yellow Labrador retriever puppies and head straight for the Eel Skin Inn. Within 20 minutes after arriving at his Maine Avenue digs, Lazor would be out on the water in his Boston Whaler.

Two milk crates of steamers were always hanging in the water off his Whaler and were fair game for those intrepid and honest enough to dig up replacements. A party atmosphere was the norm around the inn, recalled Locke, who remembers many picnic trips with Lazor and their crowd out to Esther's Island.

Locke said Lazor shared with her a part of Nantucket she never knew existed. Having never spent much time out in Madaket before she met Colonel Bat Guano, Locke eventually fell happily in love with Lazor's group of Madaket cottage dwellers.

A RUMRUNNER'S SHACK

The Eel Skin Inn comprises two bedrooms, a tiny bathroom, kitchen, small sitting room and a front porch facing the ocean just over the dunes about 150 feet from the water. Lazor, and the Odegaards after him, cherished the inn's fishing connection to the island's past, making just enough changes to keep the former eel shack habitable without stripping it of too much of its history and casual summer feel.

"I think that it was a smokehouse for eels that they caught. In fact, after we bought the house, somebody came by and gave us some eelspears and said that they originally came with the house and thought that they belonged with the house," said Odegaard.

Locke said eel fishermen would sit around a potbellied stove in the shack drinking rum, skinning and smoking their catch. Because their taste was too strong during the summer, eels were speared more frequently during the winter through holes in the ice, said Andrews.

"It was originally called the Five Ds, next to the Hither Creek Boatyard, now called Madaket Marine, and Tom moved it across the culvert and put it on that spot," Hall remembers.

Though deemed a non-contributing structure by the Historic District Commission's Nantucket Island Architectural and Cultural Resources Survey, the inn, which the HDC believes was built around 1910, may have served an alternate purpose.

"...Was a rumrunner's shack at the turn of the century when located at the

See UNDER THE EAVES, page 25

THE ARTS

Voters: Town should provide land for arts center

By Marli Guzzetta
Independent Arts Editor

We, the people of Nantucket, in order to form a more perfect island, establish the long-term growth of a substantial year-round sector of the local economy, provide a place for all forms of the arts to thrive, perform, create and learn, do ordain and establish that the city should provide land for the construction of the Community Arts Center — somewhere and at some point.

That was the result of the Annual Town Vote last Tuesday, when citizens voted 2,030 to 1,220 that the town should provide land for the creation of a Community Arts Center (Question 5) while voting 1,991 to 1,211 that the town should not provide management for the creation of a Community Arts Center (Question 6) and 1,785 to 1,404 that the town should also not provide financing for the creation of a Community Arts Center (Question 7).

"I'm thrilled. This underscores the general community support for a community arts center on town land, by overwhelming majority," said Finn Murphy, who served on the Board of Selectmen's work committee to explore possible uses for the property on 2 Fairgrounds Road, considered by many to be the lead contender for the site of a community arts center.

"I think that it would be a good addition to our infrastructure here," said Nantucket Planning Director Andrew Vorce on the Community Arts Center. Board of Selectmen Chair Whitey Willauer seconded the support: "I like the idea. I think it's needed. ...You got one step in the right direction — one of the hardest things to do around here is find land for these situations."

Murphy and Reggie Levine, President of the Nantucket Arts Council, both agreed that the next step is a study for what is needed in an arts center and a subsequent proposal to bring to the town.

"It seems to me that this group now, based on this vote, would start putting together their specific program of what this center would be," Vorce said. "If they don't have specifics, they should get busy on that."

This gets to the most pressing question facing the future of the arts center now: Who?

Now that the town has voted to have non-civic groups spearhead the project, who is going to be its catalyst?

"Somebody has to become a proponent and initiate the action," Willauer said. "Somebody has to get behind this and be the proponent and organize this as far as the functions and the size and the shape and financing, you name it. This has to have people pushing it."

Levine suggested that the long-standing arts organizations should "of course be consulted."

"I would think you have certain organizations already in place: like the Nantucket Theatre Workshop, the Arts Council, the Artists' Association — these are three organizations that have been around a long time and have proven their worth."

Despite not yet knowing who will ultimately become the advocate for the center, Levine is wholly optimistic.

"This is an adventure that they're starting," Levine said. "It's a new concept, something that is long overdue — there should be a great deal of thought and enthusiasm, because this will have a tremendous impact on this community. And if we approach it with a positive idea, the attitude should be positive, because it's exciting. The other elements, they'll fall into place."

Under the Eaves

Continued from page 23

boatyard," reads the HDC's survey under the heading, "Significance."

Whatever its use, Lazor wanted it. He purchased the eel shack in 1975 for around $200, according to Locke, and moved in it three sections over to his land at the corner of Maine and New Jersey avenues, widening Millie's Bridge to get it across Hither Creek.

"I think someone named Miller may have owned it (at the boatyard)," said Hall. "I remember the day it was moved. That was a big day. They didn't think it would make it."

Piecing it back together, Lazor's renovations were just enough to add living space, plumbing, electricity and phone service.

The colonel eventually built what Locke calls the boathouse on his second lot at 7 Maine Ave. for his son, Jared.

The little bunkhouse about 100 feet from the inn has one bedroom, a full bathroom and a sundeck. A tiny garage/storage room is attached to the north side of the boathouse.

An old summer cottage

The Eel Skin Inn changed hands several times after Lazor — who passed away last year at 78 — sold it, and before the Odegaards bought it in May 2001 for $525,000.

"We went to look at it and it was definitely a house where the wind was blowing right through it," said Odegaard. "We saw it in March, but as soon as I walked into it I was completely smitten with bringing it back to life. The screen door came off in my hands as we walked into it.

"My husband's always wanted to have a house where he could walk to the beach with a book; we weren't concerned with the busyness of town."

Fiercely protective of their Smith's Point summer enclave, all of Lazor's neighbors were concerned that whomever bought the inn would scrape the lot clean and start over with an uncharacteristically large "beach" house, similar to those along Eel Point Road. And although the two owners before the Odegaards designed and filed such plans, none of them came to fruition.

And then Rebecca and her husband picked up the old inn, and the neighborhood relaxed.

"I think that out on Smith's Point there was huge sigh of relief that we didn't bulldoze it," said Odegaard. "They couldn't believe that we kept it. We really wanted to save it and not watch it fall down."

As former New York City dwellers who had historically restored their former Pine Street home, the Odegaards are at once believers in preservation and bohemians at heart when it comes to their summer cottage.

Replacing about 70 percent of the wood framing, flooring, walls and trim inside and out of the inn, the Odegaards believed in making it livable while protecting its shape and appearance, right down to the dip in the roof.

A mahogany enclosure was built over the east-end porch. All of the windows were replaced with antique glass and trimmed with mahogany. And a mahogany deck, nearly flush with the ground, was built onto the east side of the house with an outdoor shower on it.

Inside, the changes included a claw-foot bathtub in the west bedroom so Rebecca could look at the ocean while bathing. She also painted each room a different bright color: the colors of a beach ball as she describes it, including the red and cream-striped master bedroom floor, a turquoise smaller bedroom and a multicolored sitting room.

Beneath the house, the Odegaards dug a five-foot crawl space, and on the grounds created a three- to four-foot berm in front of their enclosed porch and down New Jersey Avenue, planting it with beach roses to screen the house from the road.

"I hope we kept a feel of an old summer cottage," said Odegaard. "We really wanted to have it be a carefree summer house instead of reconstructing a house from a busy city setting."

Not nearly as vaunted as Madaket Millie, nonetheless Tom Lazor still had his own following, his gang of Madaket disciples who ambled out of the pitch pine groves and over the dunes for his beach memorial service last August, some of them succumbing to Hall's goading to "go swimming with Tom" in the nude.

Married

Continued from page 21

they change," said Trounstine, whose essay is on "passion and longing, and learning about the power of permanence over the power of transience."

Propp wrote about her husband's tendency to be "verbally abusive."

"I thought about leaving the marriage, but decided to stay, because it dealt with my issues of needing to speak up and defend myself. And I feel like he's been a great teacher at that," Propp said. "Publishing my essay was part of my campaign to speak out, and I think the more I have spoken out, the more he respects me and kind of listens to what I have to say."

At other book talks the women have hosted, the first question posed by attendants is almost always "What do the husbands think?" according to Propp.

"Anybody who contributed had a pretty decent marriage," Propp said. "Nobody was going to write some scathing expose and remain married. In my case, and I know in Jean's case also, writing an essay about my husband has opened up lots of avenues of conversation. ...I think that the husbands were all incredibly generous to allow us to write about them."

Despite the hemming and hawing over divorce rates, Trounstine believes that marriage is a lasting, though flawed, institution. ("Without allowing everyone to marry, marriage is a more flawed institution," Trounstine added, referring to the lack of country-wide gay marriage.)

Propp and Trounstine do not claim to be experts on the subject of marriage. "We are not sociologists, and ours is not a book about answers, it's a book about questions," Propp said.

But they do admit that they have learned that the institution has enough room for everyone. "Marriage is different things to different people," Trounstine said. "There are a lot of ways that people can live their lives."

Book Talk

"Why I'm Still Married: Women Write Their Hearts Out on Love, Loss, Sex and Who Does the Dishes."

Co-sponsored by the Nantucket Atheneum and the annual Women's Gathering.

When: Saturday, April 22. Reception from 6-7 p.m. with food & libations. Talk at 7 p.m.

Where: Atheneum, Great Hall

Cost: Free

For more information on the discussion, call The Atheneum at 228-1110.

Cathy Flynn

From: Andrea Baier <abaier34@gmail.com>
Sent: Sunday, March 21, 2021 10:25 AM
To: Cathy Flynn
Subject: Erosion on Smith's Point/Pool Proposal

FILE COPY

The Point has long been known for its excellent fishing, but few dwellings were constructed here, outside of a handful of fishing shacks and modest homes along Hither Creek. In the 1910s, Otis Emerson Dunham, owner of several hundred acres in Madaket, contracted with the Massachusetts Coastal Company to develop a subdivision he called "Maddequet Terrace," including much of Smith's Point. Though there was an early frenzy of buying, little development followed, and by 1920, many of the parcels were forfeited to the Town of Nantucket for delinquent tax benefits. For others, however, the ease of travel brought on by the introduction of the automobile to Nantucket inspired the building of simple cottages near the beaches of Smith's Point.

One of the oldest buildings on Smith's Point is the Eel Skin Inn at 9 Maine Avenue. It was originally constructed next to the Hither Creek Boat Yard circa 1910. It served as a shack for eel fisherman and others to skin their catch after a day's fishing. It was also, apocryphally, a rumrunner's shack during Prohibition. It was moved to its present site on Maine Ave in 1975 by Tom Lazor, also known as **Colonel Bat Guano**. A small addition was put on following the Inn's move across Hither Creek, but the structure's historic character is defined by its low roof profile and varied fenestration.

The Crooked House, c. 1950. Curtesy of the Nantucket Historical Association

Another one of Smith's Point's oldest homes is the iconic Crooked House, noted in *Building with Nantucket in Mind* as "a delightful example of additive massing." It was built along Massachusetts Avenue before 1938. It was owned by Henry Coffin, who together with his wife Anna owned many parcels in Smith's Point. It's most notable summer resident, however, was Fred Rogers. After first renting the cottage in the summer of 1960, he and his wife Joanne received the house as a Christmas present from his parents, James and Nancy Rogers, and spent decades visiting each summer.

Just up the street from Crooked House is 23 Massachusetts Ave, a quintessential Madaket fishing cottage. The property was also once owned by Henry and Anna Coffin, who sold it to Mary B. Gardner in 1935. The cottage was built shortly thereafter and still retains its simplicity and charm.

Houses at the end of Massachusetts Avenue, 2020.

The eclectic mix of early fishing shacks, cottages and ranch-style houses built between the 1910s and 1940s, and more angular, mid-century homes on Smith's Point are unified by their integration into the landscape, materials, and generally unpretentious scale and massing. As development pressures increase, care must be taken to ensure the Point retains its unique character.

RAMBLINGS, UNCATEGORIZED

North Liberty Street's Threatened Streetscape

JANUARY 7, 2021 | RITA CARR

Friday, January 8 at 10 AM the Historic District Commission will hold a special meeting to hear a proposal to renovate and relocate on its lot the home at 27 North Liberty Street. ***Click here to view the proposed plans and other supporting documentation. View the meeting agenda here.***

Threatened: North Liberty Streetscape

In 2014, the North Liberty streetscape near the Lily Pond was threatened by a controversial application to move a barn off the property at 29 North Liberty Street. The proposal was denied by the Historic District Commission (HDC) but overturned by the Select Board on an appeal. Later, the HDC reversed their own decision and approved the move. An appeal in Nantucket Superior Court resulted in the upholding of the HDC's original denial. A later appeal in State appeals court also upheld the HDC's initial denial.

8½ x 11

Historic District Commission

OLD BUSINESS CHECKLIST

Planning and Land Use Services

2 Fairgrounds Road, Nantucket, Ma 02554
508-325-7587

This checklist MUST be submitted with your application.

*Refer to the HDC Policies and Procedures for Applicants for further information link below:

https://www.nantucket-ma.gov/DocumentCenter/View/28657/HDC-Policies-and-Procedures-for-Applicants-revised

Failure to submit the required documents below for an Old Business meeting MAY result in delays.

✓	Sign in submission at Front Desk
	HDC case number: (ex HDC2020-xx-xxxx), if applicable 05-0895 10-2033
✓	Copy of Minutes (application item circled)
✓	Reduced (8 ½ x 11) copy of application
✓	Locus Map: 4 copies: https://www.nantucket-ma.gov/151/GIS-Maps
✓	Four (4) copies of additional information requested by Commission- if applicable (i.e. pictures, FEMA flood Certificate, etc.)
✓	Four (4) Large sets of plans at 3/16" or ¼" scale (circle all that apply) a. Site Plan b. North Elevation c. South Elevation d. East Elevation e. West Elevation f. Window/Door Schedule
✓	One set reduced plans: 8 ½ x11
✓	Electronic Submission: Each of the foregoing documents (including this checklist) MUST BE scanned to a single PDF file and emailed to hdcsubmissions@nantucket-ma.gov.
	Signed Affidavit: see reverse side

III. CONSENT WITH CONDITIONS

	Property owner name	Street Address	Scope of work	Map/Parcel	Agent
1.	59 Bartlett Road, LLC **01-2663**	59 Bartlett Road	Driveway/ramp	66/99.1	Linda Williams
	• Due to minimal visibility				
2.	Sig Heller **01-2658**	17 Margaret's Way	Rev 44884; pool autocvr	20/65	Linda Williams
	• Pool must not be visible at time of inspection and in perpetuity				
3.	Joseph Kelly **01-2657**	4 Hollister Road	Shed	92.4/275	Linda Williams
	• Due to lack of visibility				
4.	Paula Barth **01-2659**	18 Gardner Street	Expd deck 53sf/dr chg	42.3.4/81	Chuck Lenhart/SCI
	• Due to lack of visibility				
5.	John Manera **01-2656**	5 Bartlett Road (portion)	New dwelling	55/102.3	Linda Williams
	• Remove capitals and plinths and keep railing/balusters				

Voting	Pohl, Coombs, McLaughlin, Camp, Oliver
Alternates	Welch, Thornewill
Recused	None
Documentation	None
Representing	None
Sign Advisory	None
Concerns	No additional concerns.
Motion	**Motion to Approve through staff per noted conditions. (Coombs)**
Roll-call Vote	Carried 5-0//Camp, Oliver, McLaughlin, Coombs, and Pohl-aye — Certificate # **HDC2021-01-(as noted)**

IV. NEW BUSINESS

	Property owner name	Street Address	Scope of work	Map/Parcel	Agent
1.	Charles Schwarzapfel **10-2033**	9 Maine Avenue	Pool	60.3.1/425	NAG

Voting	Pohl, Coombs, McLaughlin, Camp, Oliver
Alternates	Welch, Thornewill
Recused	None
Documentation	Landscape design plans, site plan, photos, correspondence, and advisory comments.
Representing	Steve Theroux, Nantucket Architectural Group
Public	None
Concerns (5:34)	**Theroux** – Presented project; stated comments by the abutters are not within HDC purview; 36" retaining wall was excluded; abutter on Rhode Island Avenue has a 4-foot vegetated berm. The MAB is made up of 5 Madaket residents who don't want a pool and feels it makes no sense for this to go back to them. Asked for a denial. Discussing where this lot is located and possible exposure to abutting roads. **Backus** – Read MAB comments; not in favor of the pool in this location; viewing is critical to any approval of a pool in this location; once across Millie's Bridge, this area is very different from the rest of Madaket; need to know where equipment is going. Eel Skin is circa 1868. Read letters of concern from abutters: not in context with the neighborhood whatsoever; any new plantings would create an unnatural landscape; would be within viewshed; no protection for vegetative screening on this coastal plain; berming is completely inappropriate in this flat landscape. **Flynn** – Mr. Theroux issued plans based upon MAB comments; MAB has not seen those revisions. There is another letter from Peter Holmes. During the MAB meeting, Ms. Williams reiterated HDC's purview is from a publicly travelled way. **Coombs** – Asked if this has gone to ConCom (outside their jurisdiction). HDC is concerned about keeping an area conducive to what has been there. To allow a pool to go in where it cannot be adequately screened is irresponsible. This is not a project that fulfills our mission. **Oliver** – Agrees with Ms. Coombs; this is the same as pools in Cisco. It will affect the aesthetic and quality of the environment. This is a beach seascape with informality, which is what draws people there. It will not blend in and be intrusive to the landscape or this historic structure. If we deny this, they will appeal to the Select Board. **McLaughlin** – He doesn't think there should be any problem. **Camp** – She drove out there today. This is the most relaxed, laid-back area of the Island and really just a dune. This is different from anyplace on the Island. Allowing a pool there would take away from its character. **Pohl** – His thoughts are similar to what's been said. Clearly there is a lot of shifting sand and landscape. It is hugely important to keep it informal. He thinks the revisions should go back to MAB. It would be foolish to issue a denial on the first hearing; we should ask for revisions.
Motion	**Motion to Hold for revisions and to go back to MAB. (Camp)**
Roll-call Vote	Carried 5-0//Oliver, Coombs, McLaughlin, Camp, and Pohl-aye — Certificate #

HISTORIC DISTRICT COMMISSION

2 Fairgrounds Road
Nantucket, Massachusetts 02554

Telephone: 508.325.7587
Email: hdcsubmissions@nantucket-ma.gov

COMMISSIONERS

Ray Pohl
Chairman

Diane Coombs
Vice-Chairman

Val Oliver

Abigail Camp

John McLaughlin

ASSOCIATE COMMISSIONERS

Stephen Welch

TJ Watterson

Jesse Dutra

STAFF

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

Waiver of the HDC 10 Day Hearing Requirement

I Stephen Thevaos

AS AGENT FOR Charles Schwarzpfel

STREET ADDRESS 9 Maine Ave

MAP/PARCEL 60.3.1 425

UNDERSTAND THAT THE ABOVE REFERENCED APPLICATION SUBMITTED ON 3/9/2021

WILL NOT BE REVIEWED BY THE HISTORIC DISTRICT COMMISSION, DUE TO THE COVID-19 PANDEMIC, WITHIN THE 10 DAY PERIOD AS REQUIRED BY:

SECTION 8 of the HDC enabling legislation: ... The Commission shall meet within ten (10) days of the receipt of an application for a certificate of appropriateness or permit for removal...

AND I AGREE TO A WAIVER OF THE ABOVE MENTIONED REQUIREMENT.

Signature _____ Date 3/9/2021

8½x11

Town and County of Nantucket, MA

October 8, 2020

Property Information

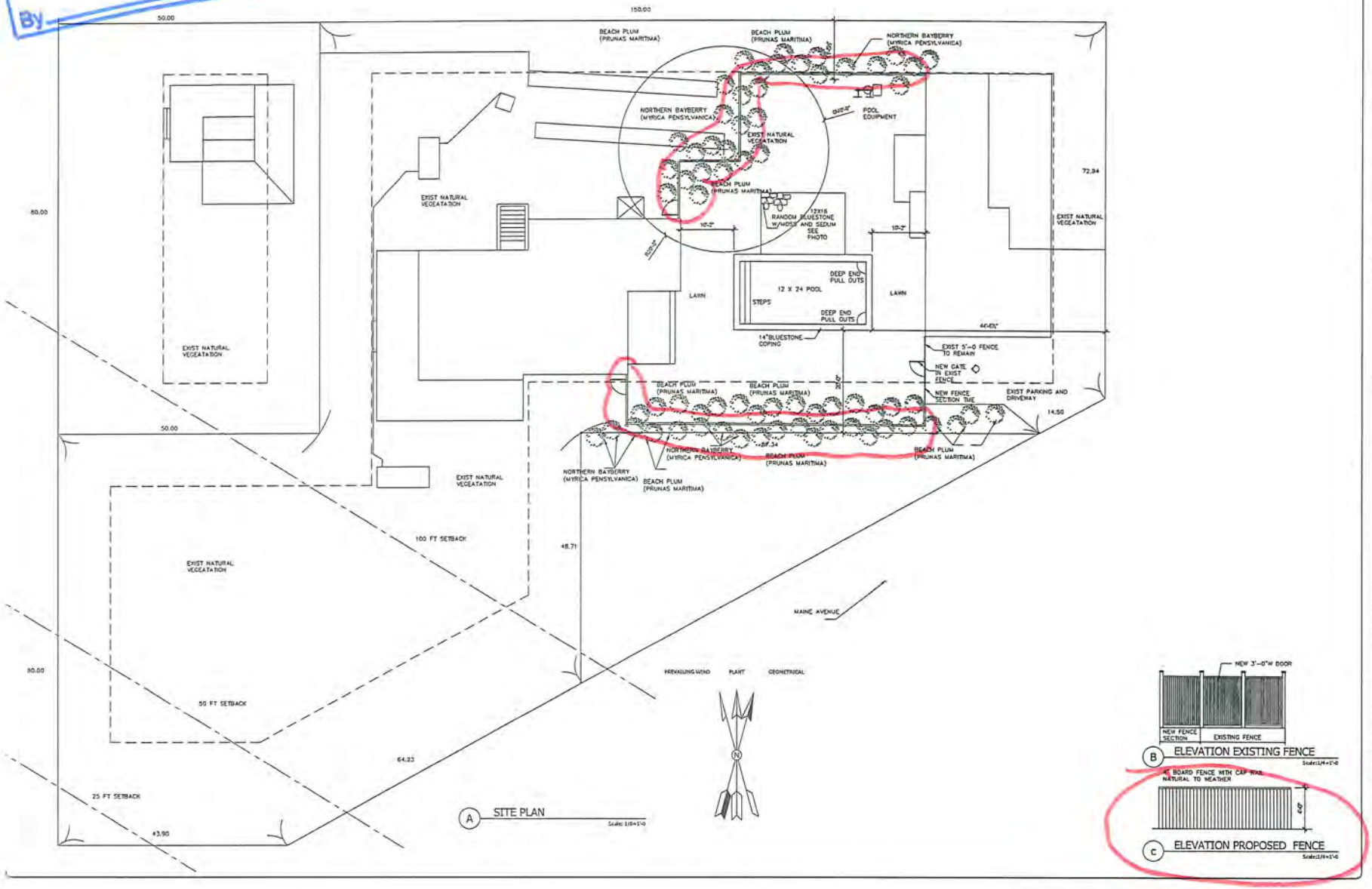
Property ID	60.3.1 425
Location	9 MAINE AV
Owner	SCHWARZAPFEL CHARLES R

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

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

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

RECEIVED
MAR 09 2021
By



NANTUCKET ARCHITECTURE GROUP LTD.
POST OFFICE BOX 1814
NANTUCKET, MASSACHUSETTS, 02554
TELEPHONE 508.228.5631
WWW.NANTUCKETARCHITECTURE.COM

SHED RENOVATION FOR:
CHARLES AND PATRICIA SCHWARZAPFEL
9 MAINE AVENUE NANTUCKET, MASSACHUSETTS, 02554

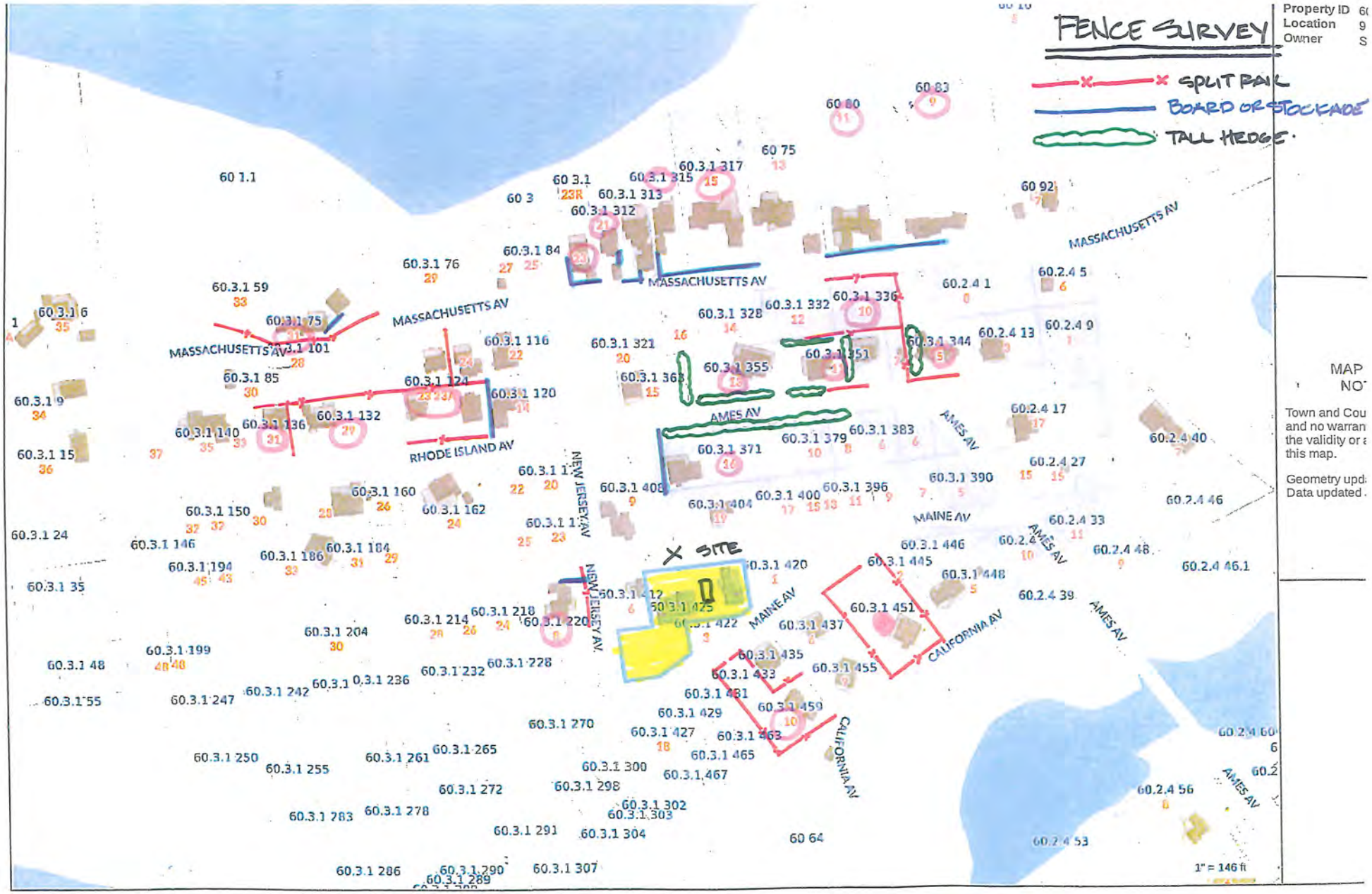
PLAN

HDC: XX/XX/XX
BIDDING:
BLDG. DEPT:
REVISIONS:
REVISIONS:
REVISIONS:
REVISIONS:

D/B:xxx copyright nag 2015

client number

S3

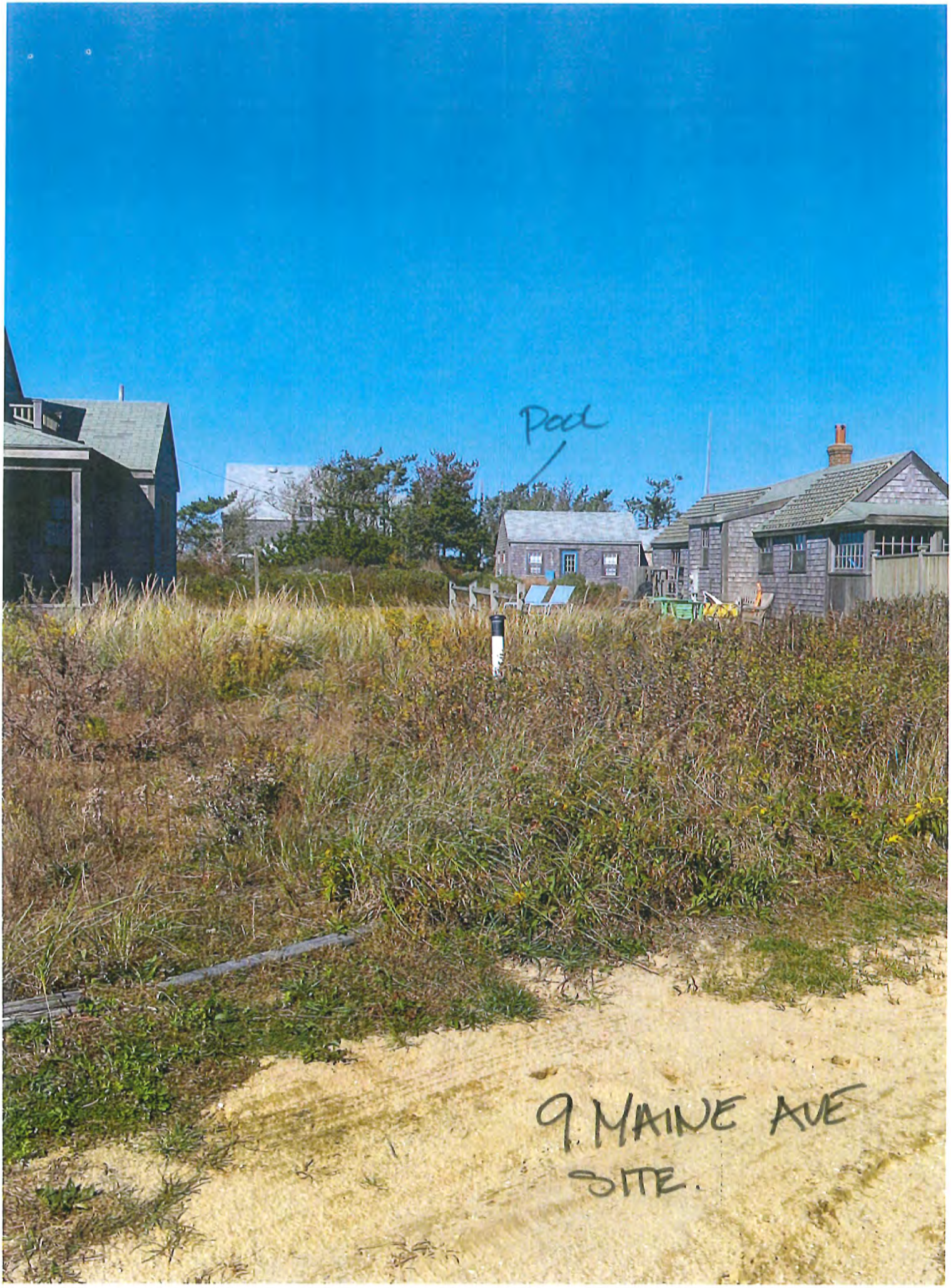


Property ID 6(
Location 9
Owner S

MAP NO

Town and Cou
and no warran
the validity or a
this map.

Geometry upd
Data updated .


Pool
9 MAINE AVE
SITE.

4 MAINE AVE
SPLIT

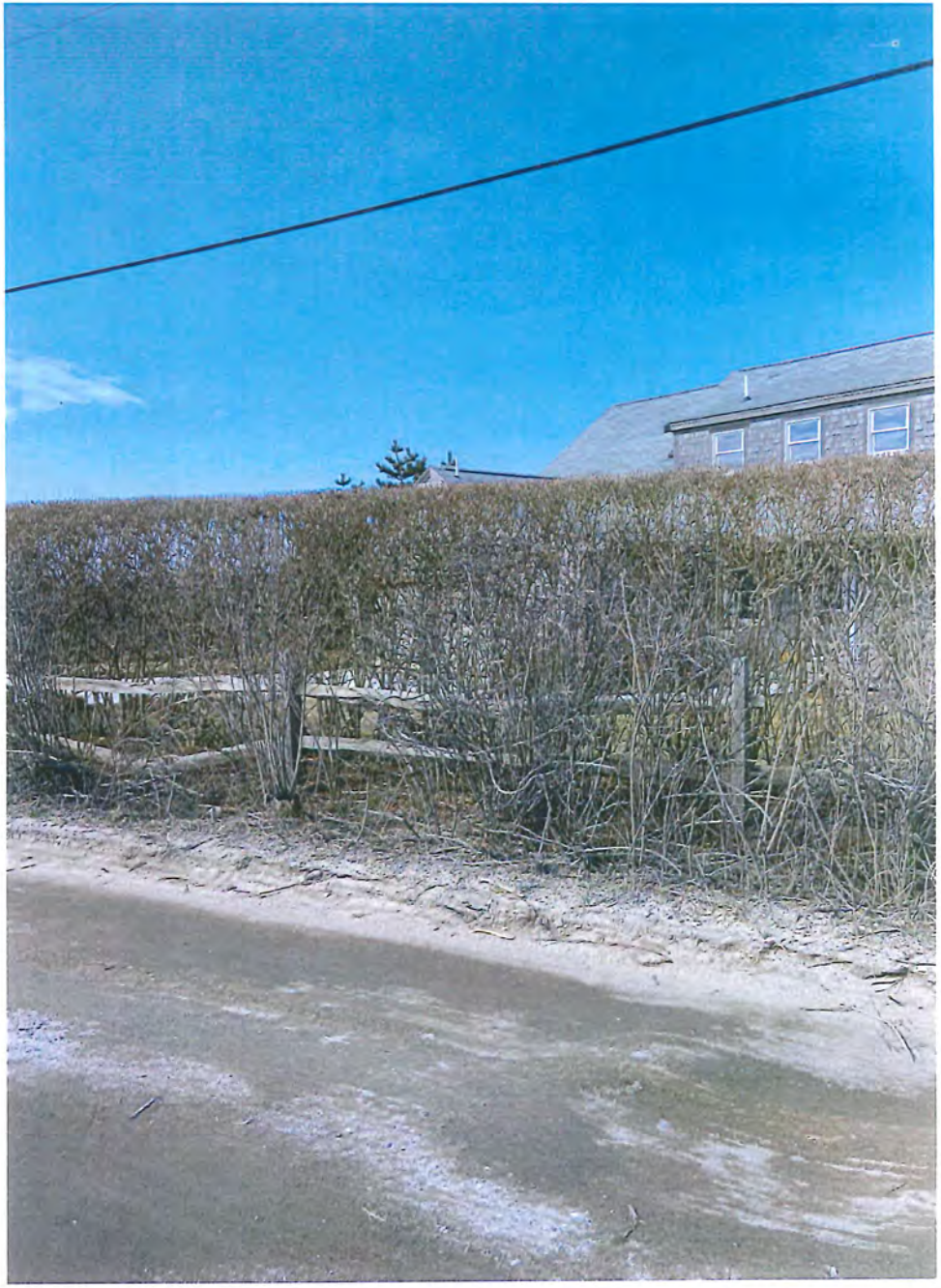
4 MAIN AVE.

#5 AMES AVE SPLIT

#13 AMES AVE SPLIT

11

11 AMES AVE SPLIT

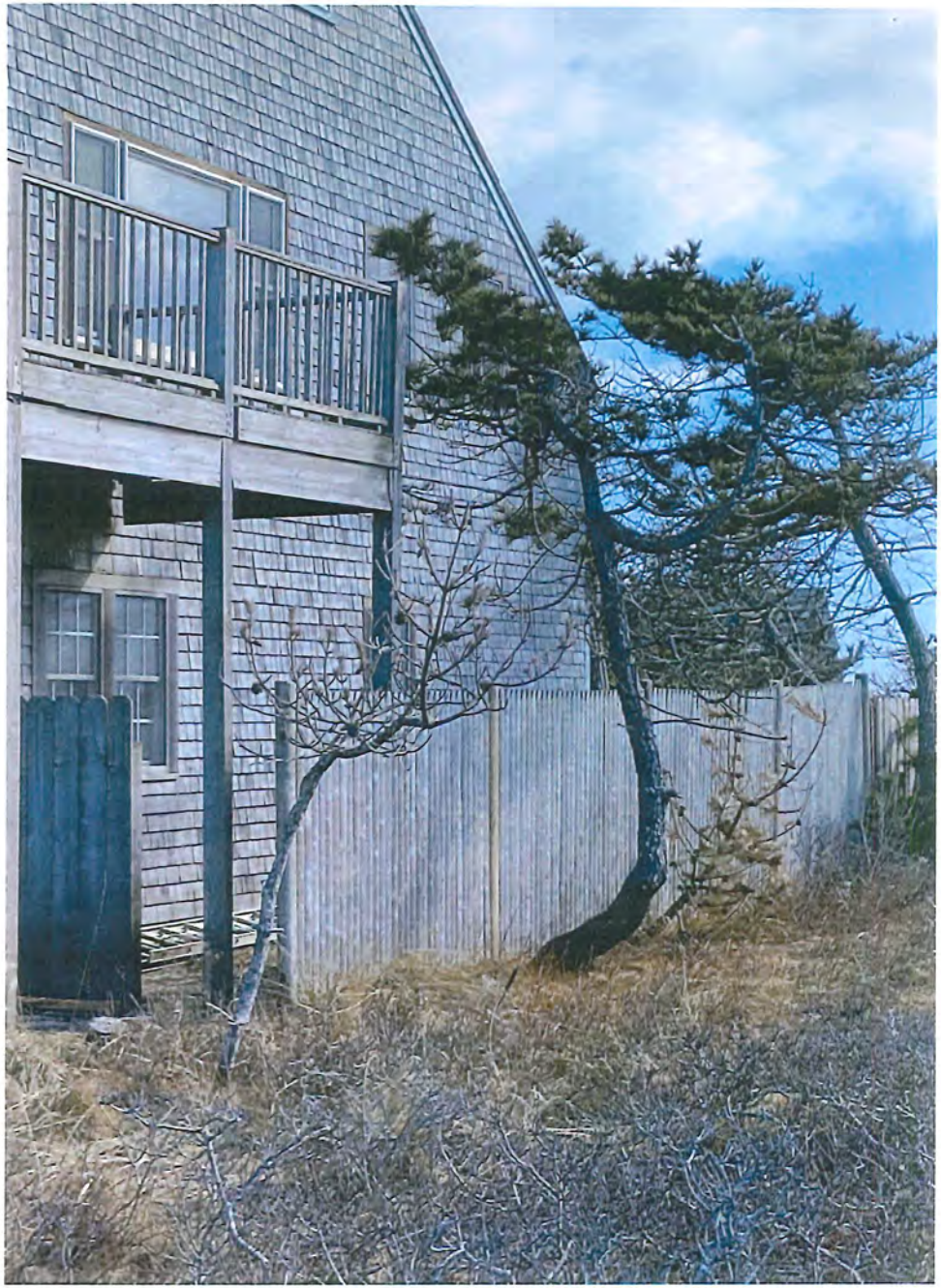


13 AMES AVE SPLIT HEDGE

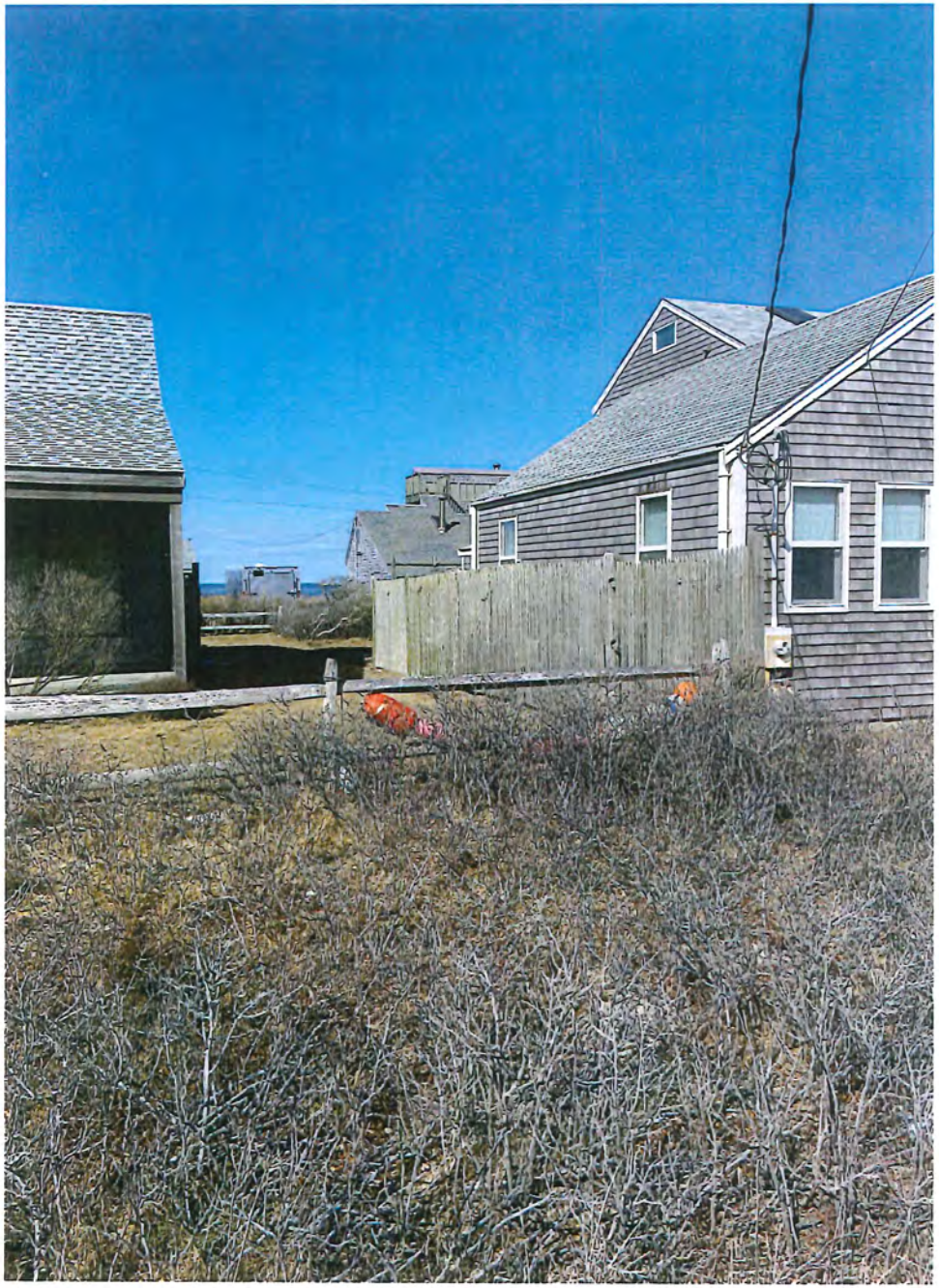
16 AMES VIEWED FROM NEW JERSEY AVE
6 FT STOCKADE

8 NEW JERSEY AVE
5' FT BOARD

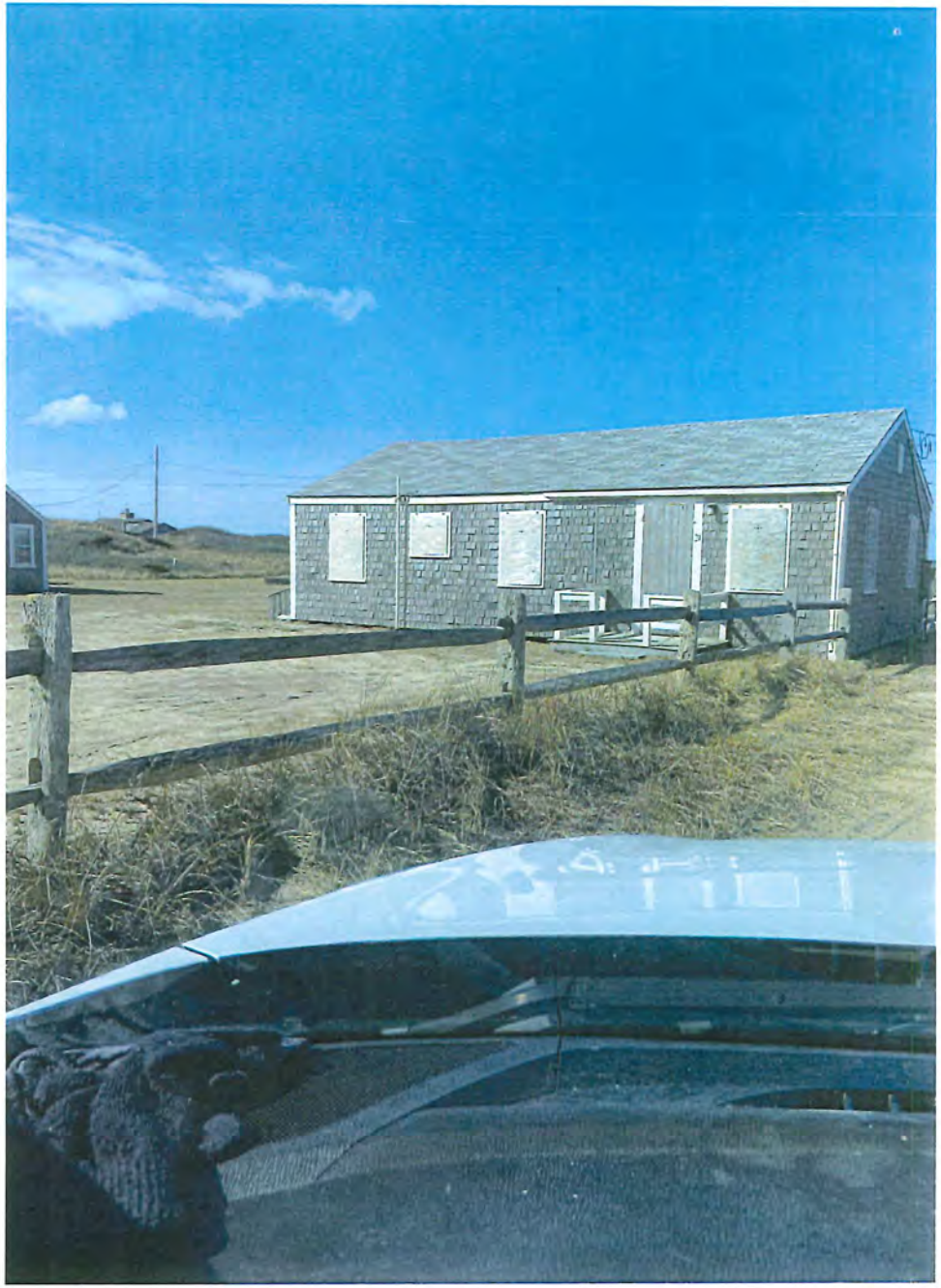
16 AMES 4' Tall Buffer w/ Hedges



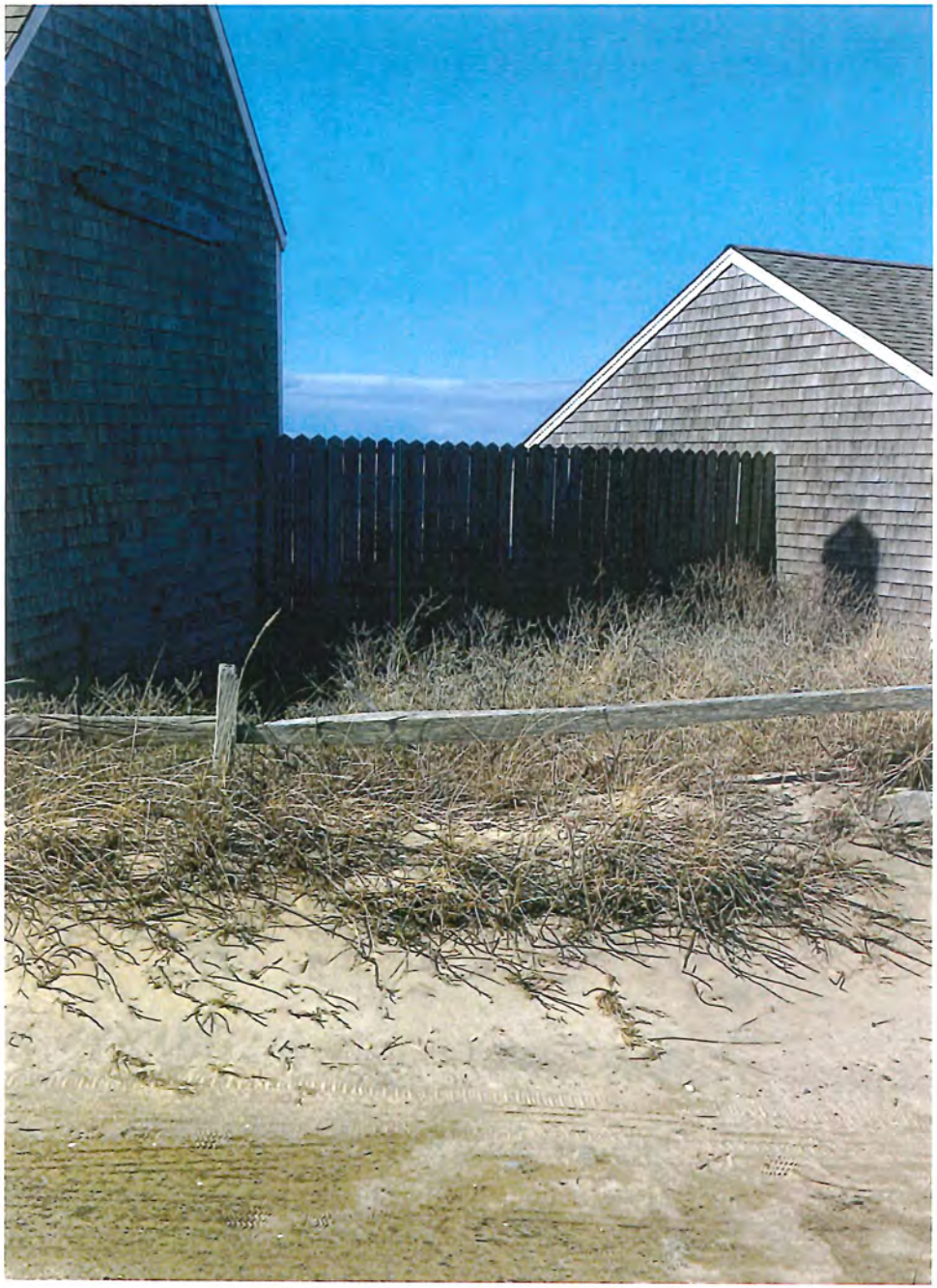
16 AMES AVE 6' FT STOCKADE



28 31 MASS AVE
5 FT STOCKADE

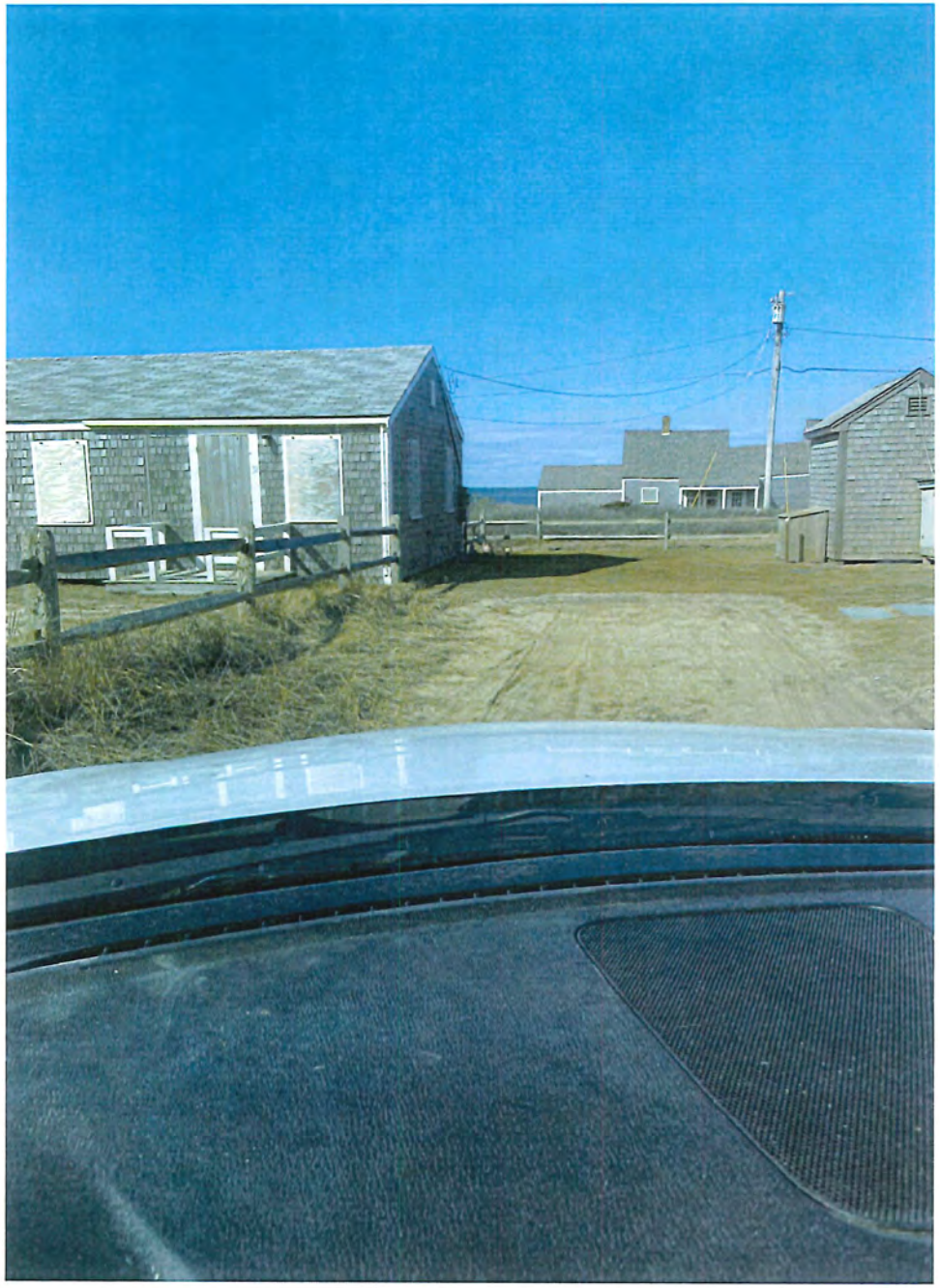


31 MASS AVE SPLIT

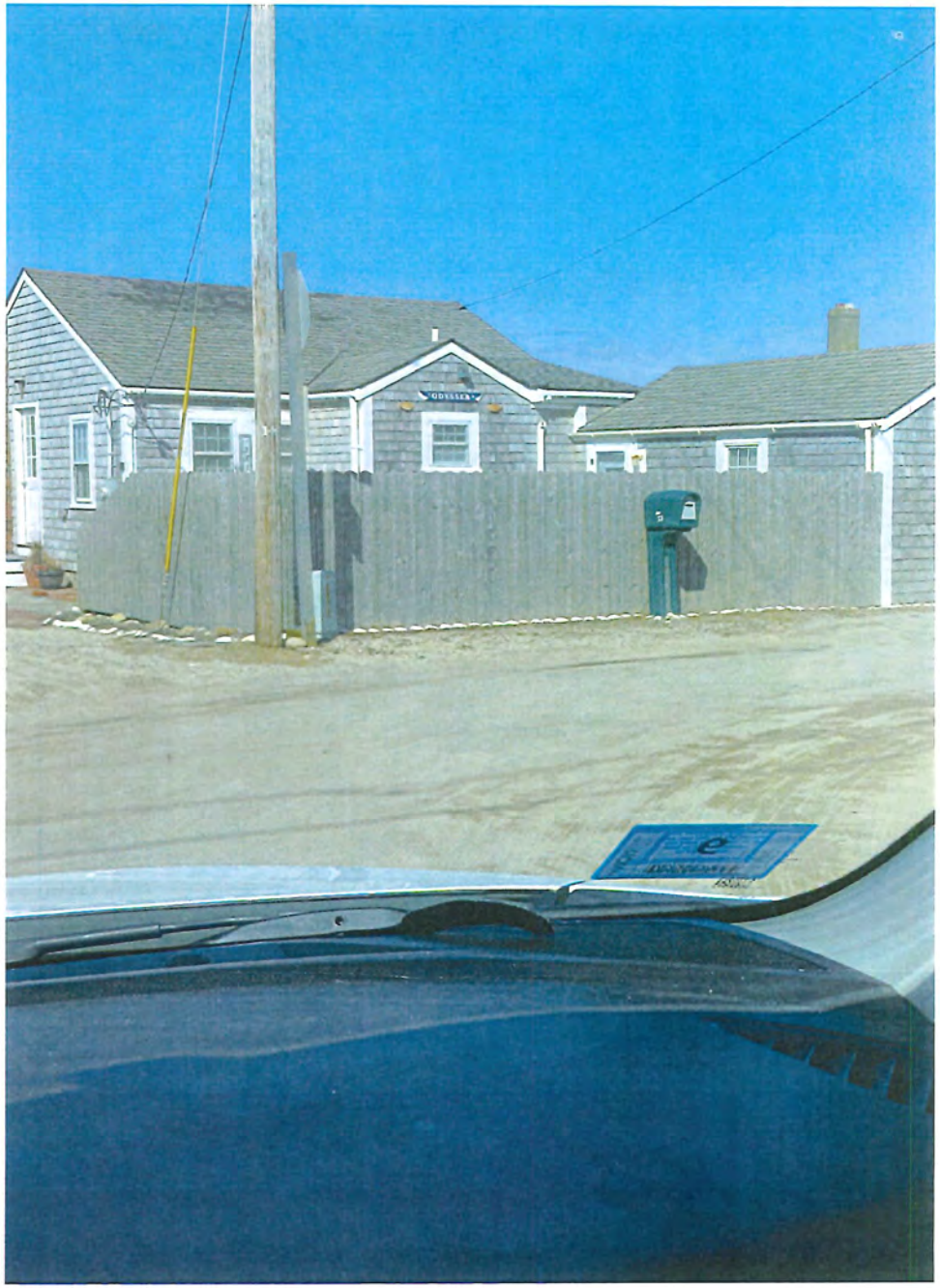


28 31 MASS AVE 6FT BOARD

21 MASS AVE 5FT BOARD F



31 MASS AVE SPLIT



23 MASS. AVE · 5'FT BOARD

21 MASS AVE
4 FT BOARD PICKET

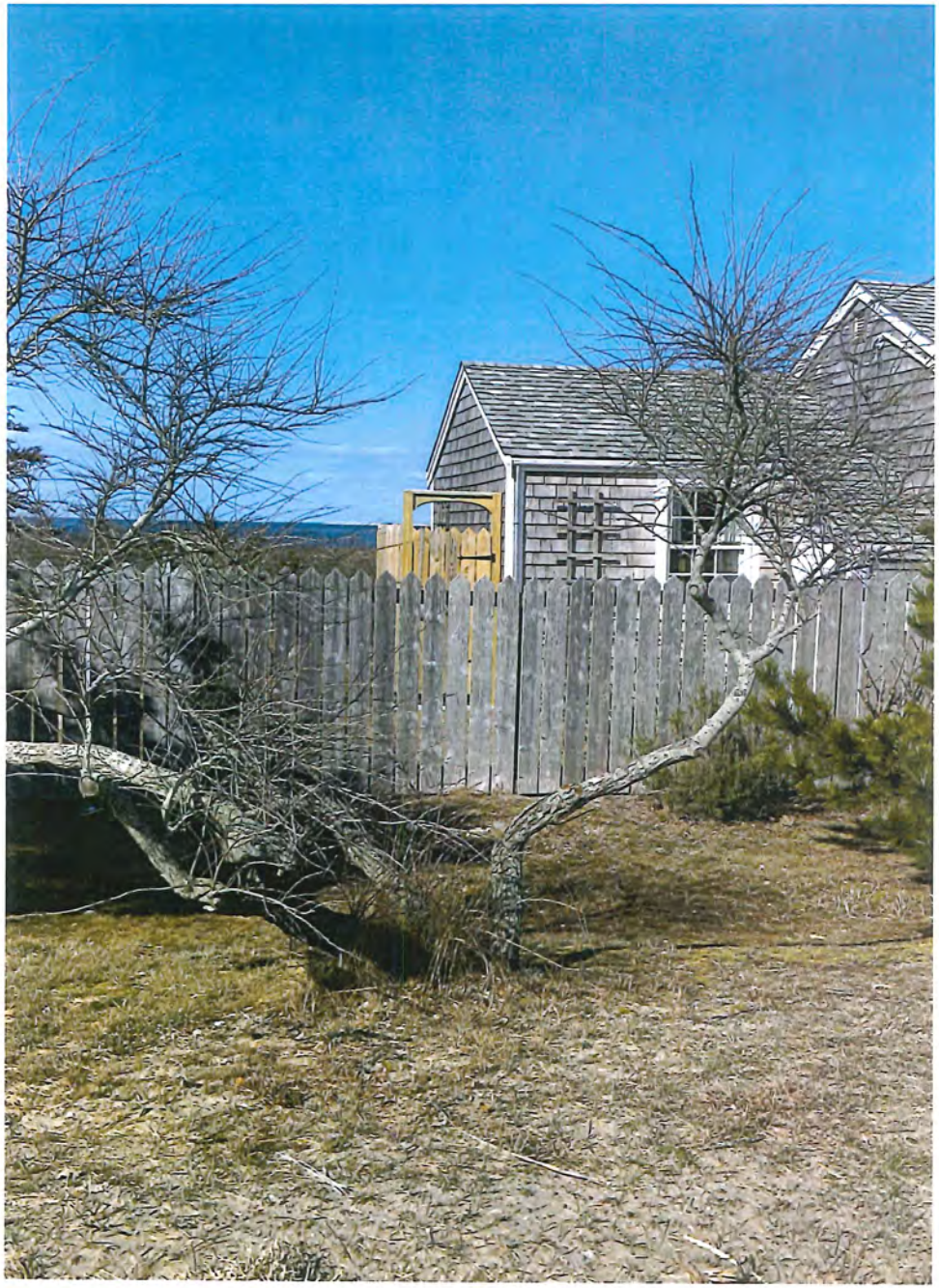
15 MASS AVE
4 FT BOARD CAP

15 MASS AVE. SPLIT

15 MASS AVE. 3 1/6" BOARD

9 MASS AVE: 3'0 PICKET

10 MASS. AVE. NEW SPLIT



11 MASS AVE 4FT PICKET

11 MASS AVE 2½ PICKET