

ZBA PACKET THURSDAY MARCH 11, 2021

1pm *via* ZOOM WEBINAR¹

REGISTRATION LINK:

https://zoom.us/webinar/register/WN_HGH01O-zSneS0kS0ahzi6g

To view the LIVE broadcast of the meeting, see YouTube Link at

https://youtu.be/3YN_E5ZATn8

¹ Participation in Public Comment will be available through Zoom Webinar. You must register in advance in order to participate. Use the link above to register for Zoom participation. Contact eantoniotti@nantucket-ma.gov with any questions.*



TOWN OF NANTUCKET BOARD OF APPEALS NANTUCKET, MA 02554

Agenda

(Subject to Change)

Thursday, March 11, 2021

1:00 PM

www.nantucket-ma.gov

Participation in Public Comment will be available through Zoom Webinar. You must register in advance in order to participate. Use the link below to register for Zoom participation. Contact ecantonietti@nantucket-ma.gov with any questions.

ZOOM WEBINAR REGISTRATION LINK:

https://zoom.us/webinar/register/WN_HGH01O-zSneS0kS0ahzi6g

To view the LIVE broadcast of the meeting, see YouTube Link at

https://youtu.be/3YN_E5ZATn8

I. CALL TO ORDER:

II. APPROVAL OF THE AGENDA:

III. APPROVAL OF THE MINUTES:

Pages 5 - 8

- February 11, 2021

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

- 11-20 Peter J. Mackay & Alison Mackay and David P. Mackay & Anne M. Phaneuf, Tr.,
Mackay/Phaneuf Family Trust 21 & 25 Monohansett Road Alger
Action Deadline May 13, 2021 **CONTINUED TO MAY 13, 2021**

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

- 04-21 Anton J. Mello, Tr., Mello Realty Trust 20 Miacomet Road Waickowski
Action Deadline June 9, 2021

Pages 13 - 22

Applicant seeks relief by Special Permit pursuant to Zoning By-law Section 139-16.C(2) to validate an unintentional setback intrusion. The subject barn structure was sited and built based on measurements taken from a reasonably licensed survey after 1990 and is not greater than 5 feet into the required rear yard setback and is not closer than 4 feet from the rear yard lot line. In a district where minimum rear yard setback is 15 feet, the barn is as close as 11.7 feet from the rear yard lot line. The Locus is situated at 20 Miacomet Road, is shown on Assessor's Map 67 as Parcel 336.2, and as Lot 4 on Plan Book 23, Page 81. Evidence of owner's title to is recorded in Book 1446, Page 283 on file at the Nantucket County Registry of Deeds. The site is zoned Limited Use General Two (LUG-2).

- 05-21 Richard P. Beaudette, Tr., Westwind Nom. Tr. 8 Isobel's Way Beaudette
Action Deadline June 9, 2021

Pages 23 - 51

Applicant is requesting Modification of prior relief by Special Permit granted in File No. 55-04 pursuant to Zoning By-law Section 139-16.C(2) in order to validate the siting of the subject garage structure 34.27 feet from the front yard lot line where minimum front yard setback is 35 feet. Specifically, the applicant proposes to change the use of the garage to a studio. There will be no change in footprint or ground cover as a result of the change of use. The Locus is situated at 8 Isobel's Way, is shown on Assessor's Map 49 as Parcel 13, and as Lot 2 on Plan File 12-F. Evidence of title is recorded in Book 1740, Page 284 on file at the Nantucket County Registry of Deeds. The site is zoned Limited Use General Three (LUG-3).

VI. OTHER BUSINESS: (Votes may be taken)

VII. ADJOURNMENT (VOTE WILL BE TAKEN)

MINUTES



ZONING BOARD OF APPEALS

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

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

~~ MINUTES ~~

Thursday, February 11, 2021

*This meeting was held via remote participation using ZOOM and YouTube,
Pursuant to Governor Baker's March 12, 2020 Order Regarding Open Meeting Law*

Called to order at 1:00 p.m. and announcements made by Ms. McCarthy

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

Agenda adopted by unanimous consent

Motion **Motion to Approve.** (made by: Botticelli) (seconded)
Roll-call vote Carried 5-0//McCarthy, Botticelli, O'Mara, Thayer, and Poor-aye

I. APPROVAL OF MINUTES

1. January 14, 2021

Motion **Motion to Approve as drafted.** (made by: Botticelli) (seconded)
Roll-call vote Carried 5-0//McCarthy, Botticelli, O'Mara, Thayer, and Poor-aye

II. OLD BUSINESS

1. 11-20 Peter J. Mackay & Alison Mackay and David P. Mackay & Anne M. Phaneuf, Tr., Mackay/Phaneuf Family Trust
21 & 25 Monohansett Road Alger

CONTINUED TO MAY 13, 2021

III. NEW BUSINESS

1. 02-21 ACK*NOW 14 Mill Street Pickering-Cook
- Appellants bring an appeal, pursuant to M.G.L. c.40A, Sections 8 & 15 and Zoning By-law Sections 139-29.E and 139-31, of a determination by the Building Commissioner that the use of 14 New Mill Street exclusively as a short-term rental ("STR") business is not a commercial use prohibited in the residential zone in which it is located. Appellant requests that the Zoning Board of Appeals overturn the Commissioner's determination with respect to the property and further that zoning enforcement action be taken by issuing an order to the owner to cease and desist using the property as an STR. The Locus is situated at 14 New Mill Street, is shown on Assessor's Map 55.4.4 as Parcel 133, and as Lot A-1 on Plan Book 14, Page 17. Evidence of title to 14 New Mill Street, LLC is recorded in Book 1559, Page 133 on file at the Nantucket County Registry of Deeds. The site is zoned Residential Old Historic (ROH).
- Voting McCarthy, Botticelli, O'Mara, Thayer, Mondani
Alternates Poor
Recused None
Documentation File with associated plans, photos, required documentation, and correspondence.
Representing Nina Pickering-Cook, Anderson & Krieger LLP, for ACK*Now and neighbors
Julia Lindner, Executive Director ACK*NOW
Beverly Dammin, 12 New Mill Street
- Public Paul Murphy, Building Commissioner
Alex Weisheit, K&P Law P.C., for ZBA
John Hofmann, Gilman, McLaughlin & Hanrahan, for 14 New Mill Street, LLC
Bob McLaughlin, Gilman, McLaughlin & Hanrahan LLP for 14 New Mill Street, LLC
Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP, for 14 New Mill Street, LLC
Robert Miklos, 16 Mill Street
- Discussion (1:10) **Pickering-Cook** – This is to appeal a December 1, 2020 decision by the Building Inspector, requesting the Board to overturn his ruling on 14 Mill Street, which is an investor-owned short-term rental (STR). This is not an attack on residents occasionally renting their homes for additional income. The issue is whether an investor-owned property, where no one lives, can be a legitimate use within a residential zone. Her clients contest that this is as a single-family home since no one claims it as a residence. Cited court cases in which it was ruled that STRs are a commercial use. The Nantucket Zoning bylaw has the concept of transient residential facility (TRF) and the definition for owner occupied, which requires the owner lives at least 3 months at the property. This is a TRF and they should acquire the appropriate license or shut down. Read into the record statements of opposition from her clients.

Dammin – We abut this property. 12 and 14 New Mill Street were in the Coffin family for many years until 12 New Mill Street was purchased by our family. Cited ways the neighborhood has been negatively impacted by the STR use at 14 New Mill Street versus 2-weeks (or more) rentals by owners on the street.

Lindner – ACK*NOW has been researching investor-owned STRs over the past few months and the impact on the Island; recapped their findings on housing and quality of life for year-round residents.

McCarthy – 14 New Mill Street was on the free market, but no one purchased it for year-round housing. Asked speakers to focus on the harm alleged against this property.

Pickering-Cook – There are examples around the Island on disruption, noise, traffic, anonymity, etc.

McCarthy – She understands that the neighborhood has changed; that happens. Traffic and noise increases for all of us in the high season; we have a larger year-round population, so traffic and noise have increased everywhere, and we have all lived next to rentals.

Pickering-Cook – Feels Ms. McCarthy is being dismissive of the neighbors' concerns. This property is 52 weeks of different rentals a year.

McCarthy – In her opinion, the neighbors' concerns don't rise to the level of harm.

Botticelli – In the definition of transient rentals, it mentions they don't have kitchens.

Pickering-Cook – Individual residents don't have their own kitchen and there is no commercial kitchen at the facility.

McCarthy – Looking at rooming, lodging, and guesthouse, it mentions those don't have commercial kitchens. Also, TRFs tend to have live-in managers.

McLaughlin – He represents 14 New Mill Street, LLC not the Copley Group; Copley Management Group manages the property. Zoning is the use and dimensions; this is a single-family home owned by a single entity. Reviewed the appellant's credentials to file this case. Standing is essential to this appeal. The Aggrieved must be evidenced as having established legal interest. Countered cases cited by Ms. Pickering-Cook. He expected police logs, traffic records, expert testimony, etc. to show how the neighborhood has been detrimentally impacted. We contest that the primary use for 14 New Mill Street is that of a single-family residence; it is not a rooming house or hotel. If this issue is a community-wide concern, it should be addressed at Town Meeting, not here.

McCarthy – This board is not in a position to decide standing.

Pickering-Cook – She is acting on behalf of not only ACK*NOW, but the neighbors as listed in her memorandum.

Weisheit – Standing is for a Land Court to decide; recommended the ZBA not address that.

Mondani – Asked Mr. Weisheit what standard to use in reviewing the Building Inspector's decision.

Weisheit – It's up to the Board to determine if what he did was reasonable based upon your understanding of the bylaw.

Murphy – The Board has his letter. Renting of homes is a permitted, primary, principal use regardless of who owns it. This should come through a Zoning Bylaw, not enforcement. This is not an accessory use; it doesn't matter who owns it or how long someone stays there.

McLaughlin – His issue is that the abutters appeal did not meet the 30-day appeal period. Ms. Pickering-Cook made the deadline for ACK*NOW but not the neighbors. Also, ACK*NOW does not prove agency.

Pickering-Cook – Countered Mr. McLaughlin's claim and read her letter of December 30, 2020 citing the neighbors.

Dammin – We know Nantucket has changed; her point is that the transient tenants are disrespectful due to the nature that they are anonymous.

McCarthy – The behavior of the tenant isn't determined by the owner.

Pickering-Cook – The frequency and anonymity of STRs for profit only are looked at by the court as commercial use. The owner isn't relevant, it's the use; in this case it is solely for profit.

McCarthy – She respectfully disagrees with Ms. Pickering-Cook's assertion how Nantucketers use their homes. This is a traditional, accepted, celebrated use, which includes being an additional revenue stream for an Islander. There are different ways that people rent their homes.

Botticelli – This is very different than the past normal practice of residents renting their house out for extra income. She thinks it is turning into a problem for Nantucket. People should be allowed to rent their house and do what they want with their property; but this is different. This is a deeper issue the Island has to grapple with.

McCarthy – There is a Zoning Warrant Article that addresses investor-owned STR. We need to look at the bylaw as currently written and make a ruling based on that.

Pickering-Cook – She is trying to address the particular harm caused by the use of this particular property on her clients and their neighborhood.

McCarthy – Asked, if ZBA rules this is transient, would they need a special permit to change their use as a TRF.

Weisheit – If the ZBA finds it to be transient, it would require a special permit.

Antonietti – TRFs are not allowed in the ROH; rooming, lodging or guest house are allowed by special permit; a Hotel is not allowed.

McLaughlin – We all know this is a single-family house.

Reade – The use chart is confusing. TRF is allowed by special permit in that portion of the ROH within ¼ mile of downtown; this is outside that limit, so doesn't require a special permit.

Miklos – He is a party of interest and been impacted by the activities at 14 New Mill Street. The change of ownership and use has significantly impacted the neighborhood. The critical issue is that the use changes the character of the houses on the street. This is one of 800 remaining pre-civil war houses that contribute to the authenticity and character of Nantucket;

it was originally a 3-bedroom house converted to a 5-bedroom house thus destroying the historical character of the structure; destroying that historic character ultimately destroys the character of the street and the value of the homes.

O'Mara – Both sides have made good points; however, he hasn't heard anything that would compel him to overturn the building inspector's decision.

Thayer – He feels if we overturn the Building Inspector's decision, we become a policy board.

Botticelli – Her earlier discussion wasn't indicative that she disagrees with Mr. Murphy. There is no zoning reason to overturn Mr. Murphy's decision. This is a huge issue for the Island and needs to be discussed.

Mondani – This has been a great discussion about the issue. His view is that Mr. Murphy made the right interpretation of the bylaw and there is no reason to overturn it. The appellant has a challenge with the issue of standing. He believes ACK*NOW is trying to make a policy decision through this Board; it's a way to shoehorn their policy decision through the ZBA; that's not the right way.

Pickering-Cook – Read comments of concern from Jim Riesenbach at 7 New Mill Street and Louisa Schaeffer at 5 New Mill Street.

Motion **Motion to Deny the appeal and uphold the Building Inspector's determination this is not a commercial use.**
(made by: Thayer) (seconded)

Roll-call vote Carried 5-0//McCarthy, Botticelli, O'Mara, Thayer, and Mondani-aye

2. 03-21 Damon S. Cartelli & Debra A. Cartelli 35 Washington Street Beaudette
- Applicant is requesting Modification of prior relief by Variance granted in File No. 73-94 (recorded at Book 463, Page 206) pursuant to Zoning By-law Section 139-32 in order to validate the premises' insufficient frontage and a westerly lot line setback intrusion brought about by an interior lot line reconfiguration with abutting property. Specifically, Applicant requests that a Condition prohibiting more than one dwelling be eliminated to allow the applicant to construct a secondary dwelling upon the premises. Neither nonconformity will be affected by the proposed modification. The Locus is situated at 35 Washington Street, is shown on Assessor's Map 42.3.2 as Parcel 142, and as Lot 4 on Plan File 46-U. Evidence of title is recorded in Book 1635, Page 1329 on file at the Nantucket County Registry of Deeds. The site is zoned Residential Old Historic (ROH).

Voting McCarthy, Botticelli, O'Mara, Thayer, Mondani

Alternates Poor

Recused None

Documentation File with associated plans, photos and required documentation

Representing Richard Beaudette, Vaughn, Dale, Hunter, Beaudette, and Swain P.C.

Public None

Discussion (2:53) **Beaudette** – There are two non-conformities on the property: 29-foot frontage and easterly and westerly setbacks. The 1994 variance validated this and 32 Union Street as separately marketable lots with conditions. Explained the request to remove Conditions A and B. In 1994 they should have probably done an 81L subdivision; there would have been no restrictions in that case. This is an oversized lot.

Mondani – If we were to grant the variance, asked how it would impact 32 Union Street.

Beaudette – If the conditions are changed, the other property would have the ability to request the same.

Antoniatti – This is unique to this locus. The decision would not mention 32 Union Street; they cannot benefit from the relief unless they come to the ZBA.

McCarthy – Asked what the R1 to ROH change meant to the property.

Beaudette – That changed made 32 Union Street completely compliant and provided this site more groundcover with no setback.

McCarthy – Wonders why the Board would not now allow a second house on the lots. A second dwelling wouldn't overtax that lot and the frontage wouldn't be an issue.

Beaudette – His experience is that the ZBA typically wants to avoid non-conformity. If this came in as an empty lot today, a second dwelling would be allowed. Also, the property wasn't a subdivision but a lot-line change. He's seen this condition on another lot where a lot was limited to one dwelling; but the house took up the whole lot.

O'Mara – He has no opinion on this and will go along with the Board on this.

Botticelli – Asked if there would be any concern with parking.

Beaudette – He could see the Planning Board wanting them to extend the driveway past the house a bit; they have to meet Planning Board parking requirements.

McCarthy – Questions why they didn't go with an 81L. They might have gotten the variance because they chose the wrong venue to making two lots.

Discussion about access to the two lots.

Thayer – Asked where the second dwelling would be placed and generate sufficient parking.

Beaudette – The second dwelling would be in back of the main house; the lot is almost 10,000sf with a lot of room for parking in the front. They don't want to extend the driveway behind the front house.

Antoniatti – They could do a hammerhead-type configuration; there's time to figure that out.

Botticelli – Her concern is that you're adding density and more cars. They are asking to undo a restriction placed there because of a variance and feels there was a reason for that restriction.

Antoniatti – Many variances like this were issued; the Board did grant similar relief in an identical situation.

McCarthy – The Planning Board made an unfavorable recommendation under the Zoning Bylaw; the lots were created in 1983 and there were no grounds to grant the variance.

Proposed ZBA Minutes for February 11, 2021

Discussion on why the variance was granted with conditions in 1994 versus going with an 81L subdivision.

O'Mara – The conditions could have been offered up in the presentation.

McCarthy – If we allow the restriction to come off, the Planning Board will look closely at access and parking. It would have been allowed with an 81L; she's okay with removing the restrictions.

Mondani – We don't know why this was created.

Poor – The Planning Board didn't uphold the request for a second dwelling due to access.

Motion

Motion to Approve the relief to eliminate the first 2 conditions as requested. (made by: Mondani) (seconded)

Roll-call vote

Carried 4-1//McCarthy, O'Mara, Thayer, and Mondani-aye; Botticelli-nay

IV. OTHER BUSINESS

1. None

V. ADJOURNMENT

Motion

Motion to Adjourn at 3:33 p.m. (made by: Botticelli) (seconded)

Roll-call vote

Carried 5-0//McCarthy, Botticelli, Thayer, O'Mara, and Mondani-aye

Sources used during the meeting not found in the files or on the Town website:

1. None

Submitted by:

Terry L. Norton

OLD BUSINESS

Peter J. Mackay & Alison Mackay
and
David P. Mackay & Anne M. Phaneuf, Tr.,
Mackay/Phaneuf Family Trust

21 & 25 MONOHANSETT RD.

FILE NO. 11-20

SPECIAL PERMIT

CONTINUED TO

5/13/2021

NANTUCKET
TOWN CLERK

2020 DEC -7 AM 10: 22



TOWN OF NANTUCKET BOARD OF APPEALS NANTUCKET, MA 02554

File No. 11 - 20Map 27 Parcel 31

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

Peter J. Mackay et al, Tr. of Mackay/Phaneuf Family Trust

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

- ☐ For a public hearing on the application
- ☒ For a written decision
- ☐ For other action _____

Such application is:

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

The new time limit shall be midnight on May 13, 2021, which is not earlier than a time limit set by statute or bylaw.

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

Sarah F. Alger, Atty.
For Applicant (s)

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

December 4, 2020
Effective Date of Agreement

Town Clerk Stamp:

NEW

BUSINESS

ANTON J. MELLO, TRUSTEE
OF
MELLO REALTY TRUST

20 MIACOMET ROAD

FILE NO. 04-21

SPECIAL PERMIT



NANTUCKET
TOWN CLERK

2021 MAR -2 AM 11:33

Zoning Board of Appeals

FEB 08 2021

RECEIVED

**TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MA 02554**

APPLICATION

Fee: \$450.00

File No. 04-21

Owner's name(s): Mello Anton J. Trust and Mello Realty Trust

Mailing address: 20 Miacomet Road, Nantucket, MA 02554

Phone Number: (774) 325-6422 E-Mail: saltmeadows@gmail.com

Applicant's name(s): Tom Mello

Mailing Address: 20 Miacomet Road, Nantucket, MA 02554

Phone Number: (774) 325-6422 E-Mail: saltmeadows@gmail.com

Locus Address: 20 Miacomet Road Assessor's Map/Parcel: 67/336.2

Land Court Plan/Plan Book & Page/Plan File No.: Lot 4, Plan Book 83, Page 81

Deed Reference/Certificate of Title: 1446/283 Zoning District LUG-2

Uses on Lot- Commercial: None ☒ Yes (describe) Single family M01

Residential: Number of dwellings _____ Duplex _____ Apartments _____

Date of Structure(s): all pre-date 7/72 _____ or 1986

Building Permit Numbers: _____

Previous Zoning Board Application Numbers: _____

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

Please see attached separate addendum.

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

SIGNATURE: *Tom Mello* Owner*

SIGNATURE: *Robert P. Harkness* Applicant, Attorney/Agent*

*If an Agent is representing the Owner or the Applicant, please provide a signed proof of agency.

OFFICE USE ONLY

Application received on: __/__/__ By: _____ Complete: _____ Need Copies: _____
Filed with Town Clerk: __/__/__ Planning Board: __/__/__ Building Dept.: __/__/__ By: _____
Fee deposited with Town Treasurer: __/__/__ By: _____ Waiver requested: _____
Granted: __/__/__ Hearing notice posted with Town Clerk: __/__/__ Mailed: __/__/__
I&M __/__/__ & __/__/__ Hearing(s) held on: __/__/__ Opened on: __/__/__
Continued to: __/__/__ Withdrawn: __/__/__ Decision Due By: __/__/__
Made: __/__/__ Filed w/Town Clerk: __/__/__ Mailed: __/__/__

Addendum

Mello Anton J. Trust and Mello Realty Trust co-owners of the property located at 20 Miacomet Road, Nantucket, Massachusetts seek the issuance of a Special Permit under 139-16C (2) for the location of the old barn structure which was situated according to a February 3, 2015 surveyed plan by Jeffrey L Blackwell of Blackwell and Associates, Inc. and therefore, unintentionally the old barn was situated in error with 3.1 feet and 3.3 feet intrusions into the fifteen (15) feet zoning rear setback requirement. However, the intrusion into the setback is not greater than five (5) feet and therefore, the co-owners request the issuance of a Special Permit under the Town Bylaws Article III, Chapter 139-16C (2).

Chapter 139-16C(2) states,

“The Board of Appeals may grant a special permit to validate unintentional setback intrusions not greater than five feet into a required yard and not closer than four feet from a lot line, provided that it shall first find that the burden of correcting the intrusion substantially outweighs any benefit to an abutter of eliminating the intrusion and, if the intruding structure was so sited after 1990, the siting of the structure was reasonably based upon a licensed survey.” Town of Nantucket Bylaws Article III, Chapter 139-16C (2).

In this matter, the burden of correcting the intrusion substantially outweighs any benefit to an abutter of eliminating the intrusion as the current location of the old barn in question adjoins a 13.55 acre property owned by Surfside Crossing and as such, the existence of a three foot intrusion into the setback is not perceptible. Please see attached GIS of abutter lots.

Therefore, the co-owners request the issuance of a Special Permit under Town Bylaws Article III, Chapter 139-16C (2) because they acted in good faith in locating their old barn according to a surveyed plan; the intrusion into the setback is not greater than five feet and finally, the burden of correcting the intrusion substantially outweighs any benefit to an abutter of eliminating the current intrusion.

**Property Information**

Property ID 67 336.2
Location 20 MIACOMET RD
Owner MELLO ANTON J TRST

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

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

Geometry updated Jan. 2021
Data updated Jan. 2021



Property Information
Property ID 67 336.2
Location 20 MIACOMET RD
Owner MELLO ANTON J TRST



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

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Geometry updated Jan. 2021
Data updated Jan. 2021

CURRENT ZONING CLASSIFICATION:
Limited Use 2 (LUG-2)

MINIMUM LOT SIZE: 80,000 S.F. 87,105 S.F.±
MINIMUM FRONTAGE: 150 FT. SEE PLAN
FRONT YARD SETBACK: 35 FT. SEE PLAN
REAR/SIDE SETBACK: 15 FT. SEE PLAN
GROUND COVER % : 4% 2.4%

Existing:

67-49
N/F
TOWN OF NANTUCKET
(VACANT)

67-49.1
N/F
VIROJ NIPATNANTAPORN

67-509
N/F
NANTUCKET HOUSING
AUTHORITY
(VACANT)

67-510
N/F
NHA PROPERTIES INC

67-511
N/F
NHA PROPERTIES INC

67-512
N/F
NHA PROPERTIES INC

67-501
N/F
NANTUCKET HOUSING AUTHORITY

67-336
N/F
PHILIP M. MCLAUGHLIN &
ELLEN MALCOLM TRUSTEES
(VACANT)

67-336.3
N/F
SCOTT D. & AMANDA J. MCIVER

BUILDING LOCATION PLAN OF LAND IN NANTUCKET, MASS.

SCALE: 1"= 30' DATE: DECEMBER 21, 2020

Owner: **MELLO REALTY TRUST**

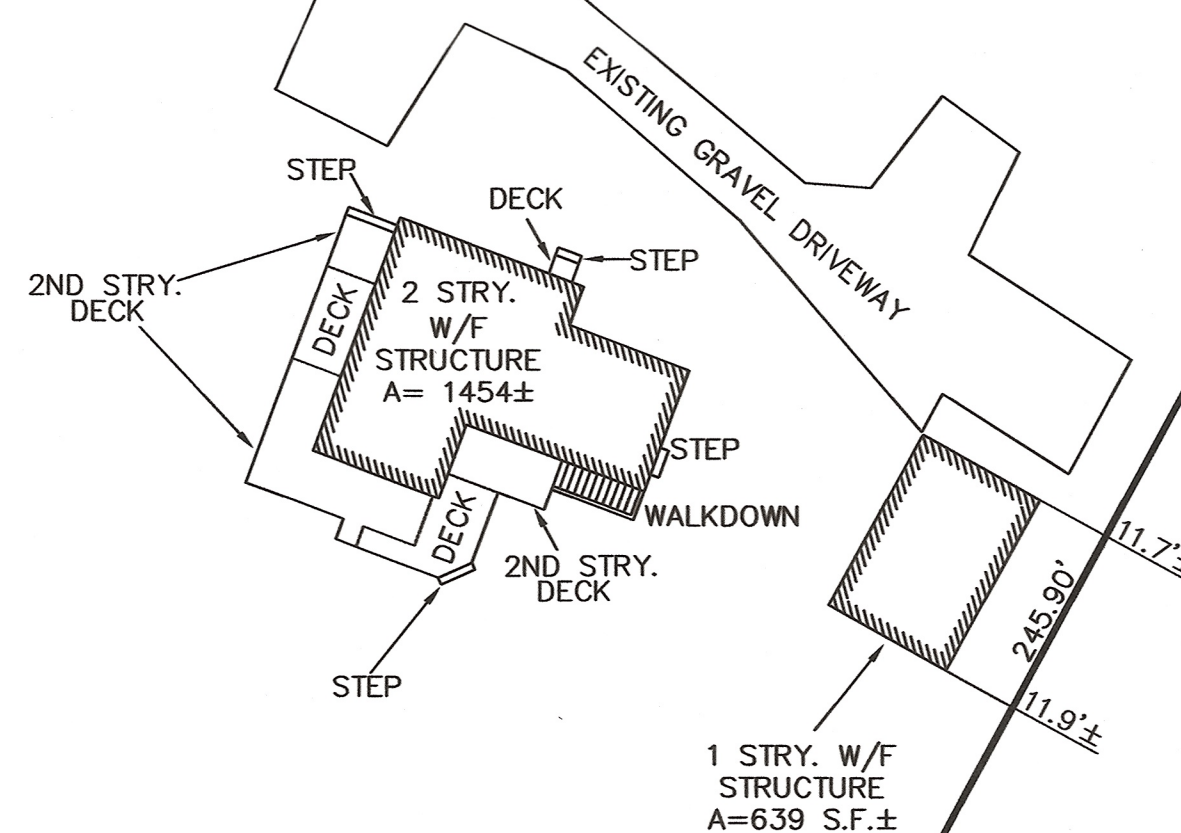
BK. 1446
Deed: PG. 283 Plan: BK. 23/81, LOT 4

Locus: 20 MIACOMET ROAD

BLACKWELL and ASSOCIATES, Inc.
Professional Land Surveyors
20 TEASDALE CIRCLE
NANTUCKET, MASS. 02554
(508) 228-9026



LOT AREA= 87,105± S.F.



THIS PLOT PLAN WAS PREPARED FOR THE TOWN OF NANTUCKET BUILDING DEPARTMENT ONLY AND SHOULD NOT BE CONSIDERED A PROPERTY LINE SURVEY. THIS PLAN SHOULD NOT BE USED TO ESTABLISH PROPERTY LINES, FENCES, HEDGES OR ANY ANCILLARY STRUCTURES ON THE PREMISES. THE PROPERTY LINES SHOWN RELY ON CURRENT DEEDS AND PLANS OF RECORD. THIS PLOT PLAN IS NOT A CERTIFICATION AS TO TITLE OR OWNERSHIP OF THE PROPERTY SHOWN. OWNERS OF ADJOINING PROPERTIES ARE SHOWN ACCORDING TO CURRENT ASSESSOR RECORDS.

ASSESSOR MAP: . . 67. . . , PARCEL: . 336.2. .

B7880

T: \LEO 25 JOB 31
V: \DRAWFILES\B7880\BLP-06-21-16.dwg 12/21/2020 3:22:46 PM EST

Town of Nantucket
Zoning Board of Appeals

LIST OF PARTIES IN INTEREST IN THE MATTER OF THE PETITION OF:

PROPERTY OWNER..... MELLO ANTON TR AND MELLO REALTY TRUST
MAILING ADDRESS..... 20 MIACOMET RD NANTUCKET MA 02554
PROPERTY LOCATION..... 20 MIACOMET RD
ASSESSOR MAP/PARCEL..... 67-336.2
APPLICANT..... ROBERT P WAICKOWSKI ESQ

SEE ATTACHED PAGES

I certify that the foregoing is a list of persons who are owners of abutting property, owners of land directly opposite on any public or private street or way; and abutters of the abutters and all other land owners within 300 feet of the property line of owner's property, all as they appear on the most recent applicable tax list (M.G.L. c. 40A, Section 11 Zoning Code Chapter 40A Section 139-2

2-3-2021

DATE

Digitally signed by Rob Ranney
DN: cn=Rob Ranney, o=Town of
Nantucket, ou=Assessor's Office,
email=rranney@nantucket-ma.gov, c=US
Date: 2021.02.03 12:45:48 -05'00'

ASSESSOR'S OFFICE
Town of Nantucket

Abutters Listing

MBLU	Lot	Lot Cut	Owner Full Name	Co-Owner Full Name	Address Line 1	City	State	Zip	Location
67	49		NANTUCKET TOWN OF		16 BROAD ST	NANTUCKET	MA	02554	15 A MIACOMET RD
67	49	1	NIPATNANTAPORN VIROJ		17 MIACOMET RD	NANTUCKET	MA	02554	17 MIACOMET RD
67	336		SURFSIDE CROSSING LLC	C/O VAUGHAN DALE HUNTER PC	2 WHALERS LANE	NANTUCKET	MA	02554	3 S SHORE RD
67	336	2	MELLO ANTON J TRST	MELLO REALTY TRUST	20 MIACOMET RD	NANTUCKET	MA	02554	20 MIACOMET RD
67	336	3	TANNER AMANDA JANE TR	PRAIANO TRUST	PO BOX 2446	NANTUCKET	MA	02584	22 MIACOMET RD
67	336	4	PENA MARIA & REGALADO SANTO TRS	24 MIACOMET REALTY TRUST	31 FIRST WAY	NANTUCKET	MA	02554	24 MIACOMET RD
67	470		ZIMICKI JACQUES ETAL		3 WHEROWHERO LN	NANTUCKET	MA	02554	3 WHEROWHERO LN
67	501		NANTUCKET HOUSING AUTHORITY		3 MANTA DR	NANTUCKET	MA	02554	6-12 NORQUARTA DR
67	507		NANTUCKET HOUSING AUTHORITY		3 MANTA DR	NANTUCKET	MA	02554	MIACOMET VILLAGE
67	508		NHA PROPERTIES INC		PO BOX 3149	NANTUCKET	MA	02584	2 NORQUARTA DR
67	509		NANTUCKET HOUSING AUTHORITY		3 MANTA DR	NANTUCKET	MA	02554	MIACOMET VILLAGE
67	510		NHA PROPERTIES INC		PO BOX 3149	NANTUCKET	MA	02584	1 NORQUARTA DR
67	511		NHA PROPERTIES INC		PO BOX 3149	NANTUCKET	MA	02584	3 NORQUARTA DR
67	512		NHA PROPERTIES INC		PO BOX 3149	NANTUCKET	MA	02584	5 NORQUARTA DR
67	516		BOUCHER TRACY & PAUL	C/O HABITAT FOR HUMANITY NANTUCKET	PO BOX 1022	NANTUCKET	MA	02554	4 NORQUARTA DR
67	699		HERRICK TYLER W ETAL TR	SACHEMS PATH HOMEOWNERS ASSC TRUST	PO BOX 2131	NANTUCKET	MA	02554	WAPPOSSETT CI
Count :	16								

NANTUCKET TOWN OF 16 BROAD ST NANTUCKET, MA 02554	NIPATNANTAPORN VIROJ 17 MIACOMET RD NANTUCKET, MA 02554	SURFSIDE CROSSING LLC C/O VAUGHAN DALE HUNTER PC 2 WHALERS LANE NANTUCKET, MA 02554
MELLO ANTON J TRST MELLO REALTY TRUST 20 MIACOMET RD NANTUCKET, MA 02554	TANNER AMANDA JANE TR PRAIANO TRUST PO BOX 2446 NANTUCKET, MA 02584	PENA MARIA & REGALADO SANTO TRS 24 MIACOMET REALTY TRUST 31 FIRST WAY NANTUCKET, MA 02554
ZIMICKI JACQUES ETAL 3 WHEROWHERO LN NANTUCKET, MA 02554	NANTUCKET HOUSING AUTHORITY 3 MANTA DR NANTUCKET, MA 02554	NANTUCKET HOUSING AUTHORITY 3 MANTA DR NANTUCKET, MA 02554
NHA PROPERTIES INC PO BOX 3149 NANTUCKET, MA 02584	NANTUCKET HOUSING AUTHORITY 3 MANTA DR NANTUCKET, MA 02554	NHA PROPERTIES INC PO BOX 3149 NANTUCKET, MA 02584
NHA PROPERTIES INC PO BOX 3149 NANTUCKET, MA 02584	NHA PROPERTIES INC PO BOX 3149 NANTUCKET, MA 02584	BOUCHER TRACY & PAUL C/O HABITAT FOR HUMANITY NANTUCKET PO BOX 1022 NANTUCKET, MA 02554
HERRICK TYLER W ETAL TR SACHEMS PATH HOMEOWNERS ASSC TRUST PO BOX 2131 NANTUCKET, MA 02554		

RICHARD P. BEAUDETTE, TRUSTEE
OF
WESTWIND NOMINEE TRUST

8 ISOBEL'S WAY

FILE NO. 05-21

MODIFICATION OF
SPECIAL PERMIT

ZBA 05-21

VAUGHAN, DALE, HUNTER, BEAUDETTE AND SWAIN

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

WHALER'S LANE

P.O. BOX 659

NANTUCKET, MASSACHUSETTS 02554

TEL: (508) 228-4455

FAX: (508) 228-3070

EDWARD FOLEY VAUGHAN

KEVIN F. DALE

RICHARD P. BEAUDETTE

BRYAN J. SWAIN

WILLIAM F. HUNTER

OF COUNSEL

February 8, 2021

VIA HAND DELIVERY AND E-MAIL

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



Re: **8 Isobel's Way, Nantucket, MA 02554**
Modification of ZBA Special Permit No. 55-04

Dear Eleanor,

I, Richard P. Beaudette, Trustee of the Westwind Nominee Trust (the "Applicant"), own the improved property located at 8 Isobel's Way, Nantucket, Massachusetts, 02554, by virtue of Deed recorded in Book 1740, Page 284, at the Nantucket Registry of Deeds (the "Premises"). The Premises is encumbered by Zoning Board of Appeals Special Permit No. 55-04 (the "Special Permit"), which validates the siting of a garage structure on the Premises which is 34.27 feet away from the front yard lot line along Isobel's Way, in a district where the minimum front yard setback is 35 feet. The Applicant desires to change the use of the Garage on the Premises to a studio space and therefore seeks to modify the Special Permit to allow for such change of use.

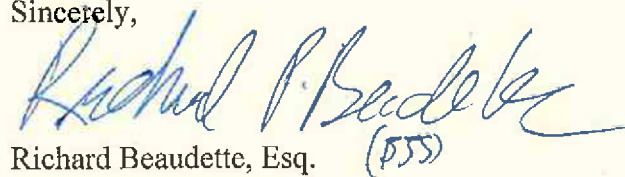
Enclosed please find a completed Zoning Board of Appeals Application, containing the following materials:

1. A check in the amount of \$450.00 made payable to the Town of Nantucket representing the filing fee,
2. Addendum,
3. Locus Plan from the Nantucket Tax Assessor's Map Book,
4. Surveyed plot plan of existing conditions in 8.5 by 11 format,
5. A certified abutters list, and Two (2) separate sets of addressed mailing labels based on the abutter list provided by the Tax Assessor's office

Please schedule the matter for the March 11, 2021 Zoning Board of Appeals meeting.

Thank you for your attention to this matter, please do not hesitate to call me should you have any questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard P. Beaudette".

Richard Beaudette, Esq.

(555)

RPB/BJS

Enc.

cc: Westwind Nominee Trust



NANTUCKET
TOWN CLERK

2021 MAR -2 AM 11:33

Zoning Board of Appeals

FEB 08 2021

RECEIVED

**TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MA 02554**

A P P L I C A T I O N

Fee: \$450.00

File No. 05-21

Owner's name(s): Richard P. Beaudette, Trustee

Mailing address: C/O VdHB&S, 2 Whalers Lane, PO BOX 659, Nantucket, MA 02554

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

Applicant's name(s): same as above

Mailing Address: same as above

Phone Number: same as above E-Mail: same as above

Locus Address: 8 Isobel's Way, Nantucket, MA 02554,

Assessor's Map/Parcel: 49 / 113

Land Court Plan/Plan Book & Page/Plan File No.: Lot 2 on Plan No. 12-F

Deed Reference/Certificate of Title: Book: 1740, Page 284: Zoning District: LUG -3

Uses on Lot- Commercial: None x Yes (describe) N/A

Residential: Number of dwellings 2 Duplex 0 Apartments 0

Date of Structure(s): all pre-date 7/72 0 or _____

Building Permit Numbers: _____

Previous Zoning Board Application Numbers: SP: 55-04

2 Fairgrounds Road Nantucket Massachusetts 02554
508325-7587 telephone 508-228-7298 facsimile

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

See Addendum attached hereto.

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

SIGNATURE:  Owner*
Richard P. Beaudette, Trustee (653)

SIGNATURE: _____ Applicant/Attorney/Agent*

*If an Agent is representing the Owner or the Applicant, please provide a signed proof of agency.

OFFICE USE ONLY

Application received on: __/__/__ By: _____ Complete: _____ Need Copies: _____
Filed with Town Clerk: __/__/__ Planning Board: __/__/__ Building Dept.: __/__/__ By: _____
Fee deposited with Town Treasurer: __/__/__ By: _____ Waiver requested: _____
Granted: __/__/__ Hearing notice posted with Town Clerk: __/__/__ Mailed: __/__/__
I&M __/__/__ & __/__/__ Hearing(s) held on: __/__/__ Opened on: __/__/__
Continued to: __/__/__ Withdrawn: __/__/__ Decision Due By: __/__/__ Made: __/__/__ Filed
w/Town Clerk: __/__/__ Mailed: __/__/__

2 Fairgrounds Road Nantucket Massachusetts 02554
508325-7587 telephone 508-228-7298 facsimile

ADDENDUM

i. Introduction

Richard P. Beaudette, Trustee of the Westwind Nominee Trust (the “Applicant”), is the owner of the improved real property located at 8 Isobel’s Way, Nantucket, MA 02554, identified as Parcel 113 on Nantucket Tax Assessors’ Map 49, and is shown as Lot 4 on plan of land recorded at the Nantucket Registry of Deeds in Plan File 12-F (the “Premises”). As shown on the Existing Conditions plan, a copy of which is attached hereto as Exhibit “A” (the “Existing Conditions Plan”), the Premises is a 129,057 +/- square foot lot currently located in the Limited Use General - 3 (“LUG-3”) zoning district. The Applicant purchased the Premises on April 3, 2020, by virtue of Deed recorded in Book 1740, Page 284 at the Nantucket Registry of Deeds, a copy of which is attached hereto as Exhibit “B”.

ii. Background Information and Permitting History

The Premises is encumbered by Zoning Board of Appeals Special Permit No. 55-04 (the “Special Permit”, a copy of which is attached hereto as Exhibit “C”), which validates the siting of a garage structure on the Premises which is 34.27 feet away from the front yard lot line along Isobel’s Way, in a district where the minimum front yard setback is 35 feet. On November 23, 2020, the Applicant received approval from the Nantucket Planning Board to validate two (2) preexisting nonconforming curb cuts on the Premises.

iii. Proposed Change of Use

The Applicant desires to change the use of the Garage on the Premises to a studio space and therefore seek to modify the Special Permit to allow for the proposed change of use.

iv. Shed

There is a 167 ± s.f. shed in the setback. However, that structure has been in its current location since at least 2004¹ and is therefore a pre-existing, non-conforming setback intrusion, protected by M.G.L. Ch 40A §7.

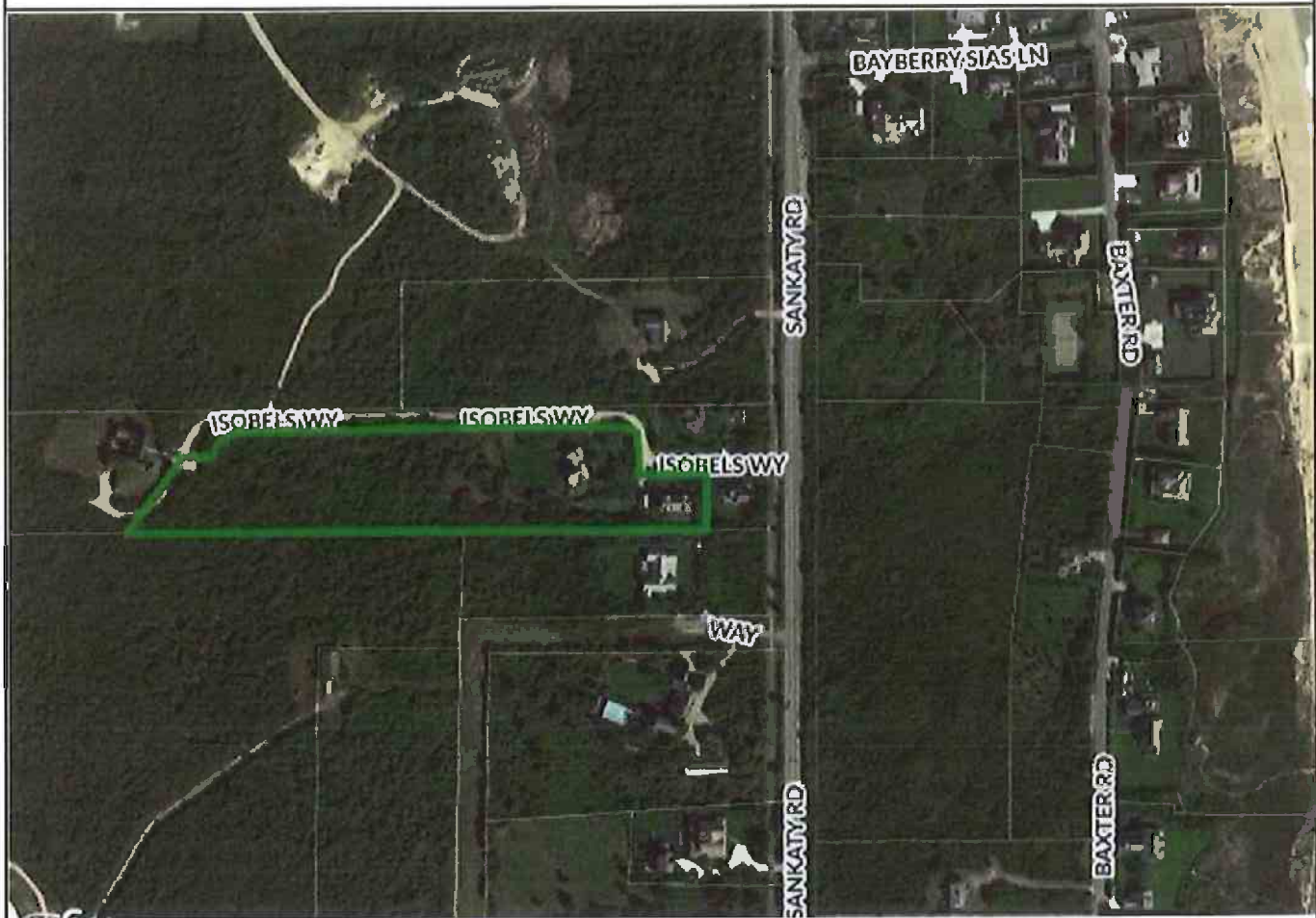
v. Parking

The Applicant is currently required to provide 2 parking spaces for the primary dwelling and two spaces for the secondary dwelling. Changing the use of the garage to studio space will require one (1) addition parking space, which will in turn, require the Applicant to provide five (5) aggregate parking spaces on the Premises. As seen on the Change of Use Site Plan (a copy of which is attached hereto as Exhibit "D"), the Applicant will provide five (5) parking spaces on the Premises. Therefore, the Applicant will be able to comply with the parking requirements if it is permitted to change the use of the garage to a studio space.

vi. Requested Relief

Therefore, the Applicant respectfully requests that the Board amend the Special to allow it to change the use of the garage to a studio space.

¹ See Plot Plans attached to Special Permit #55-04.



Property information

Property ID 49 113
Location 8 ISOBELS WY
Owner BEAUDETTE RICHARD P TR



MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

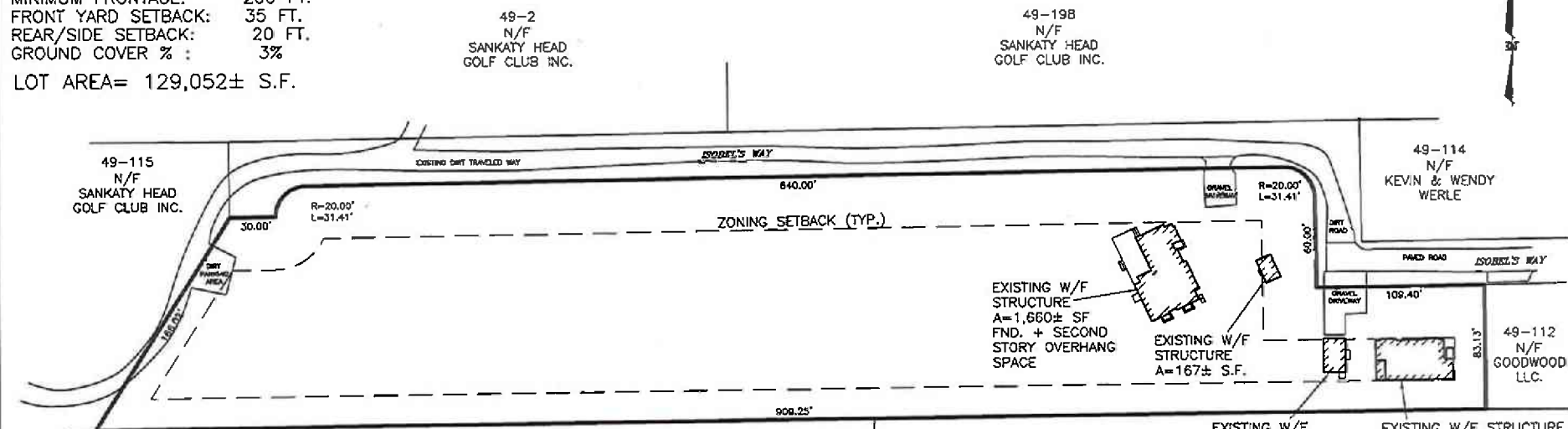
Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

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

EXHIBIT “A”

ZONING DISTRICT: (LUG-3)
LIMITED USE GENERAL - 3

MINIMUM LOT SIZE: 120,000 S.F.
MINIMUM FRONTAGE: 200 FT.
FRONT YARD SETBACK: 35 FT.
REAR/SIDE SETBACK: 20 FT.
GROUND COVER % : 3%
LOT AREA= 129,052± S.F.



TO: **WESTWIND NOMINEE TRUST** AND NO OTHERS.

I CERTIFY, TO THE BEST OF MY KNOWLEDGE, THAT THE PREMISES SHOWN ARE LOCATED IN FLOOD HAZARD ZONE: ... X ... DELINEATED ON F.I.R.M. / COMMUNITY PANEL NUMBER: 25019C0114G, BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY. EFFECTIVE DATE OF MAPS:

JUNE 09, 2014 AND AS PERIODICALLY REVISED.

THIS INSPECTION PLAN WAS PREPARED FOR MORTGAGE PURPOSES ONLY AND IS NOT TO BE CONSIDERED A FULL INSTRUMENT SURVEY. THIS PLAN SHOULD NOT BE USED TO ESTABLISH PROPERTY LINES, FENCES, HEDGES OR ANY ANCILLARY STRUCTURES ON THE PREMISES. THE PROPERTY LINES SHOWN RELY ON CURRENT DEEDS AND PLANS OF RECORD.

THIS INSPECTION PLAN IS NOT A CERTIFICATION AS TO THE TITLE OR ARE SHOWN ACCORDING TO CURRENT TOWN OF NANTUCKET ASSESSOR RECORDS.

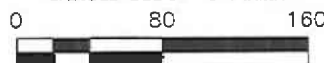
THIS PLAN SHALL NOT BE USED FOR ANY OTHER PURPOSE OTHER THAN ITS INTENDED USE STATED ABOVE.

(NOT TO BE RECORDED)



Arthur D. Gasbarro, III

GRAPHIC SCALE



(IN FEET)
1 inch = 80 ft.

DOCUMENT REFERENCES
ELECTRIC UTILITY EASEMENT
DEED BOOK 208 PG. 82

SPECIAL PERMIT
DEED BOOK 917 PG. 50

**MORTGAGE INSPECTION
PLAN OF LAND
IN NANTUCKET, MA
MARCH 20, 2020
SCALE: 1"=80'**

OWNER: WELLS NOMINEE TRUST
ADDRESS: 8 ISOBEL'S WAY
ASSESSOR MAP 49 PARCEL 113
DEED BOOK 968 PAGE 224
PLAN FILE 12-F; LOT 2

**NANTUCKET
ENGINEERING
& SURVEY, PC**
20 Mary Ann Drive Nantucket, MA 02554
NantucketEngineer.com 608-826-8063

EXHIBIT “B”



2020 00000836

Bk: 1740 Pg: 284 Page: 1 of 4
Doc: DD 04/03/2020 11:39 AMDEED

ERIKA A. WELLS, as surviving Trustee of WELLS NOMINEE TRUST under Declaration of Trust dated July 18, 2005, recorded with Nantucket Deeds in Book 968, Page 219, of Los Altos, California, for consideration paid in the amount of \$2,397,500.00, grants to RICHARD P. BEAUDETTE, Trustee of WESTWIND NOMINEE TRUST under Declaration of Trust dated March 23, 2020, recorded with Nantucket Registry of Deeds in Book 1740, Page 218, of 2 Whaler's Lane, Post Office Box 659, Nantucket, Massachusetts 02554, with QUITCLAIM COVENANTS,

That certain parcel of land situated in Nantucket, Nantucket County, Massachusetts, together with the buildings located thereon, now known and numbered as 8 Isobel's Way, Siasconset, consisting of Lot 2 upon plan by Michael S. Bachman dated September 21, 1981, recorded with Nantucket Deeds in Plan File 12-F, and containing 129,057 square feet, more or less, according to said plan.

Said land is conveyed subject to the following matters:

(a) Provisions of a Grant of Easement to Nantucket Electric Company dated December 7, 1983, recorded with Nantucket Deeds in Book 208, Page 86.

(b) Provisions of a Special Permit issued by the Nantucket Board of Appeals in File No. 055-04 dated September 13, 2004, recorded with Nantucket Deeds in Book 917, Page 50.

(c) Real estate taxes assessed by the Town of Nantucket for the fiscal year 2020, commencing on July 1, 2019.

For title, see Deed at Book 968, Page 224; Joseph L. Wells died on April 3, 2016; see M-792 recorded in Book 1609, Page 294, and Death Certificate recorded in Book 1735, Page 181 at Nantucket Registry of Deeds.

The Grantor hereby certifies that no beneficiary, nor a spouse, civil union partner, ex-spouse or ex-civil union partner of a beneficiary of Wells Nominee Trust, occupies or intends to occupy the land as a principal residence or is entitled to claim the benefit of an existing estate of homestead in the property by court order or otherwise.

I hereby certify that I am the sole present Trustee of Wells Nominee Trust, which is in full force and effect, has not been amended nor revoked, and has not terminated; and that I have been duly authorized to execute and deliver this instrument according to its terms and content by the holders of all of the beneficial interest in said Trust, none of the holders being under any disability to act, and none of the holders being a corporation which is disposing of all or substantially all of its property situated in Massachusetts.

[signature page to follow]

Executed and sealed on March 21, 2020.

Erika A. Wells

Erika A. Wells, Trustee as
aforesaid

STATE OF CALIFORNIA

034-40-9734, ss.

On this _____ day of March, 2020, before me, the undersigned notary public, personally appeared Erika A. Wells, Trustee of Wells Nominee Trust, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed voluntarily, as her free act and deed, for its stated purpose and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of her knowledge and belief.

please see ATTACHMENTS me
Notary Public

My commission expires:

MASSACHUSETTS EXCISE TAX
Nantucket County ROD #18 001
Date: 04/03/2020 11:39 AM
Crl# 464386 21984 Doc# 00000836
Fee: \$10,932.60 Cons: \$2,397,500.00

NANTUCKET LAND BANK CERTIFICATE	
☒ Paid \$	47950-
☐ Exempt	
☐ Non-applicable	
No.	41622
Date	4/3/2020
Authorization	<u>[Signature]</u>

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Santa Clara

On March 21, 2000 before me, Pa Ying D. Herlo, Notary Public
(insert name and title of the officer)

personally appeared Erica A. Wells
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

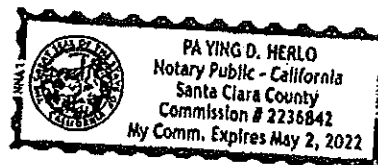
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Pa Ying D. Herlo

(Seal)



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

EXHIBIT “C”



TOWN OF NANTUCKET

BOARD OF APPEALS

NANTUCKET, MASSACHUSETTS 02554

Date: September 13, 2004

04 SEP 13 PM 2:07

RECEIVED

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

Application No.: 055-04

Owner/Applicant: Joseph L. Wells and
Crika A. Wells

Enclosed is the Decision of the BOARD OF APPEALS which has
this day been filed in the office of the Nantucket Town
Clerk.

An Appeal from this Decision may be taken pursuant to
Section 17 of Chapter 40A, Massachusetts General Laws.

Any action appealing the Decision must be brought by
filing an complaint in court within TWENTY (20) days after
this day's date. Notice of the action with a copy of the
complaint and certified copy of the Decision must be given
to the Town Clerk so as to be received within such TWENTY
(20) days.

Nancy J. Stevens
Nancy J. Stevens, Chairman

cc: Town Clerk
Planning Board
Building Commissioner

PLEASE NOTE: MOST SPECIAL PERMITS AND VARIANCES HAVE A TIME
LIMIT AND WILL EXPIRE IF NOT ACTED UPON ACCORDING TO NANTUCKET
ZONING BY-LAW §139-30I (SPECIAL PERMITS); §139-32I (VARIANCES)
ANY QUESTIONS, PLEASE CALL THE NANTUCKET ZONING BOARD OF APPEALS.

NANTUCKET ZONING BOARD OF APPEALS
One East Chestnut Street
Nantucket, Massachusetts 02554

Assessor's Map 49, Parcel 113
8 Isobel's Way, Siasconset
Limited Use General-3

Plan File 12-F
Lot 2
Deed, Book 198, Page 342

DECISION:

1. At a public hearing of the Nantucket Zoning Board of Appeals, on Friday, August 13, 2004, at 1:00 P.M., in the Conference Room, in the Town Annex Building, 37 Washington Street, Nantucket, Massachusetts, the Board made the following Decision on the Application of JOSEPH L. WELLS and ERIKA A. WELLS, c/o Reade, Gullicksen, Hanley & Gifford, LLP, Post Office Box 2669, Nantucket, Massachusetts 02584, File No. 055-04:

2. The Applicants are seeking relief by SPECIAL PERMIT under Nantucket Zoning By-law S139-16.C(2), to validate setback intrusion not greater than five feet into a required yard and not closer than four feet from a lot line. Specifically, the Applicants seek validation of the siting of a garage structure, built in 2000, which is sited as close as about 34.27 feet from the front yard lot line along Isobel's Way, in a district in which minimum required front yard setback is 35 feet. The Locus is situated at 8 ISOBEL'S WAY, SIASCONSET, Assessor's Map 49, Parcel 113, is shown upon plan recorded with Nantucket Deeds in Plan File 12-F as Lot 2, and is situated in a Limited-Use-General-3 zoning district.

3. Our Decision is based upon the Application and accompanying materials, including an affidavit from the builder of the garage structure, and representations and testimony received at our public hearing. The Planning Board made no recommendation, finding no matter of planning concern. Except for the presentation by the Applicants' representatives, there was no support nor opposition presented at the public hearing, neither in person nor by correspondence.

4. As presented by the Applicants' representatives and as set forth in the builder's affidavit, the builder sited the garage on the basis of a plot plan prepared by John J. Shugrue, a Registered Professional Land Surveyor, dated November 10, 1999, a reduced copy of which is attached hereto as Exhibit A, which showed that the distance between two virtually parallel lines,

which form the northerly and southerly boundary lines of the easterly portion of the Locus, where the garage was built, was 85.00 feet. On the basis of this, the builder established a building location which, based upon its distance from the southerly lot line and the dimensions of the building, would result in a front yard setback from Isobel's Way of about 36 feet, allowing one foot more than the required 35-foot front yard setback. After the garage was built and several years had passed, the Applicants requested final sign-off from the Building Department for the garage. At that time, a new plan was prepared by the same surveyor, dated June 23, 2004, a reduced copy of which is attached hereto as Exhibit B. This plan showed the distance between the northerly and southerly lot lines of the easterly portion of the Locus as 83.13 feet, and the front yard setback of the garage from Isobel's Way as 34.27 feet at the closest point. Apparently, the surveyor had originally overlooked a small jog in the line of Isobel's Way at the easterly boundary of the Locus; the record plan shows the easterly boundary of the Locus as 83.13 feet, while the adjacent westerly line of the adjacent parcel is shown as 85.00 feet.

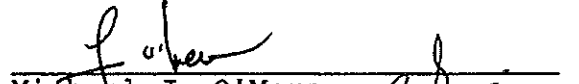
5. Members of the Board of Appeals questioned the status of the shed as shown upon Exhibits A and B, which lies 23.36 feet from Isobel's Way. However, there is a 90° bend in Isobel's Way, and when the shed was constructed in 1990 pursuant to Building Permit No. 7351-90, it may have been considered that this shed needed only to meet the side yard setback requirement of 20 feet. In any event, the Building Inspector signed off the final inspection upon the building permit on May 14, 1990, and therefore the shed is protected against enforcement by M.G.L., c. 40A, §7, and similar provisions of the By-law; and the issue of the shed is not before the Board of Appeals in this Application.

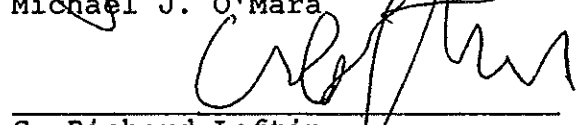
6. Applicants stated that the facts in this case fall squarely within the provisions of Zoning By-law §139-16.C(2); the intrusion into the front yard setback is about 0.73 feet and the remaining setback is about 34.27 feet, so the prerequisites for Special Permit relief, that the intrusion be of less than five feet and not closer than four feet to a lot line, are easily met. Several members of the Board of Appeals expressed concern with ratifying the surveyor's error, but under the circumstances of the *de minimis* intrusion in this case, the Board, by UNANIMOUS vote, made the finding that the intrusion was unintentional, caused by reasonable reliance upon a licensed survey, and that any benefit to neighbors (none of whom interposed any objection to the granting of relief) from physical correction of the existing location of the structure would be outweighed by the expense of moving the structure, and accordingly, also by UNANIMOUS vote, GRANTED relief by Special Permit under §139-

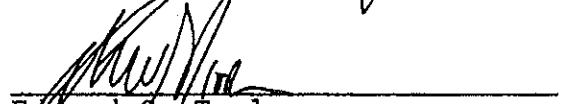
16.C(2), to ratify the siting of the existing garage as shown upon Exhibit B; subject to the condition that there shall be no expansion of the garage without further relief from the Board of Appeals.

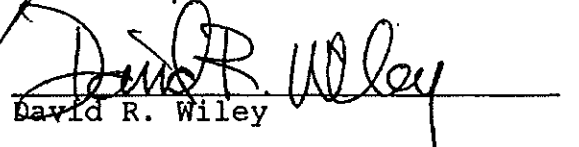
Dated: September 13, 2004


Nancy J. Sevrems

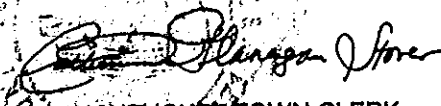

Michael J. O'Mara


C. Richard Loftin

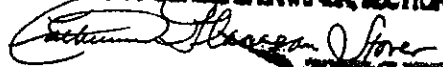

Edward S. Toole.


David R. Wiley

ATTEST: A TRUE COPY

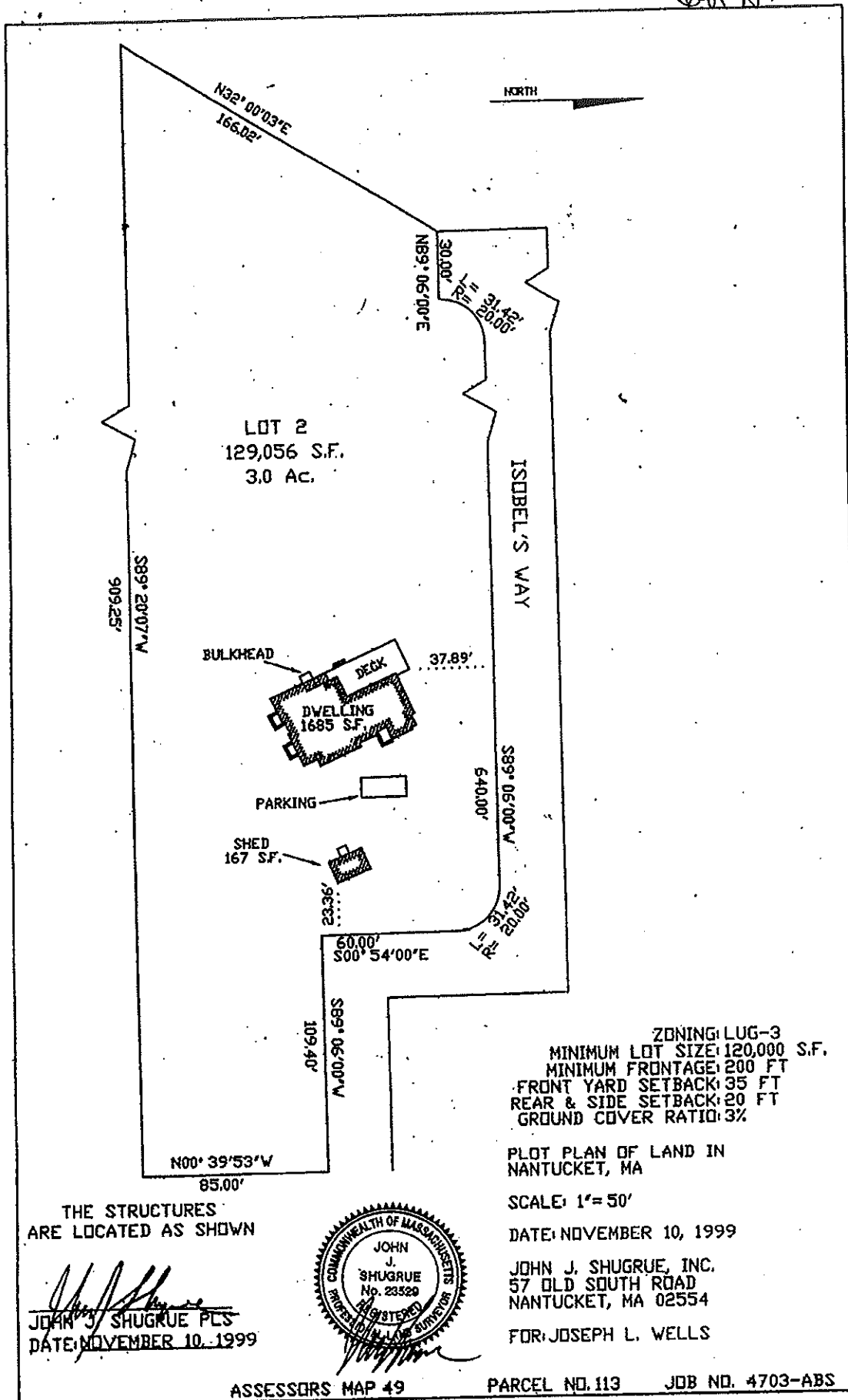

NANTUCKET TOWN CLERK

I CERTIFY THAT 20 DAYS HAVE ELAPSED AFTER THE DECISION WAS FILED IN THE OFFICE OF THE TOWN CLERK, AND THAT NO APPEAL HAS BEEN FILED, PURSUANT TO GENERAL LAWS 40A, SECTION 11

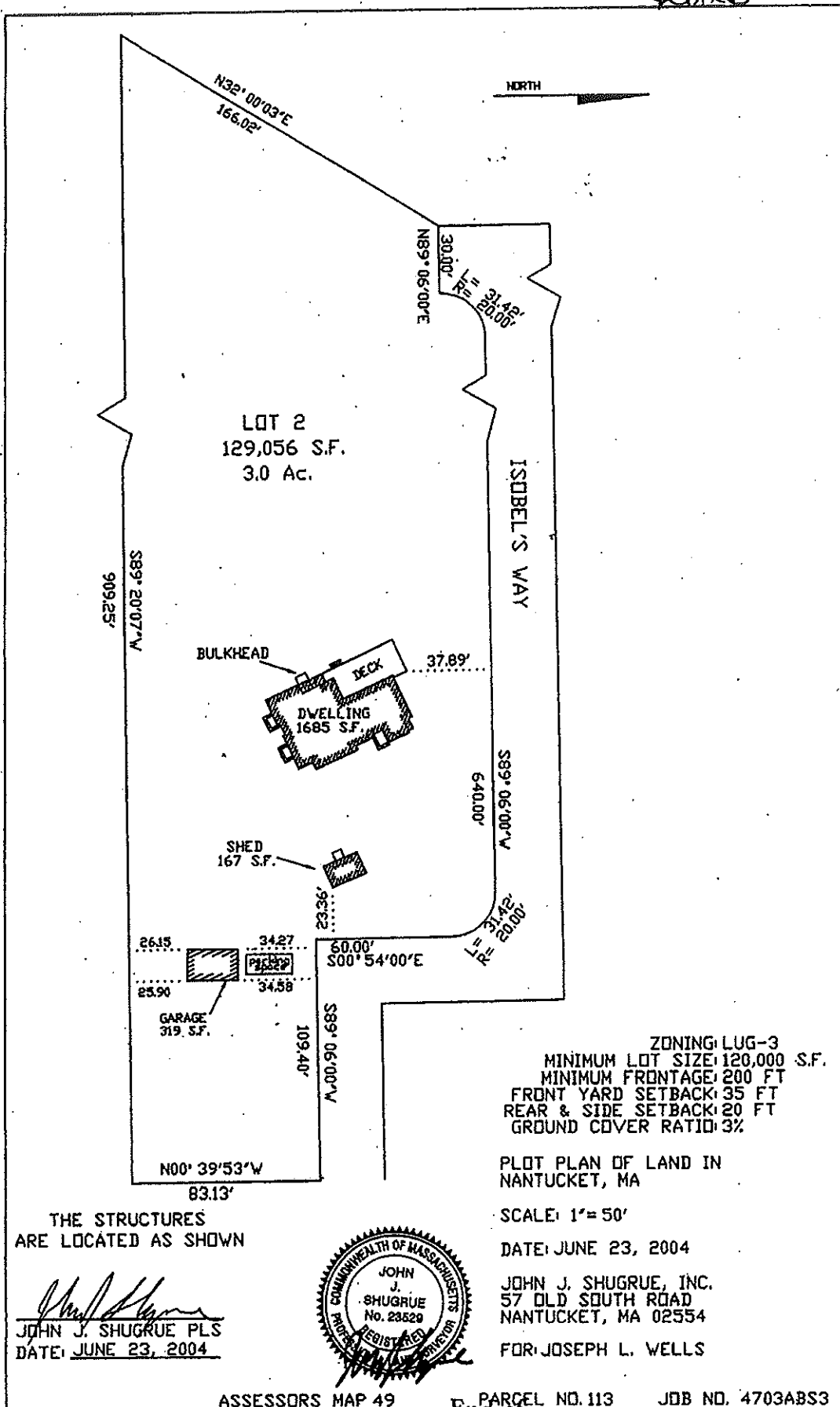

TOWN CLERK

OCT 05 2004

SA A.



John J. Shugrue



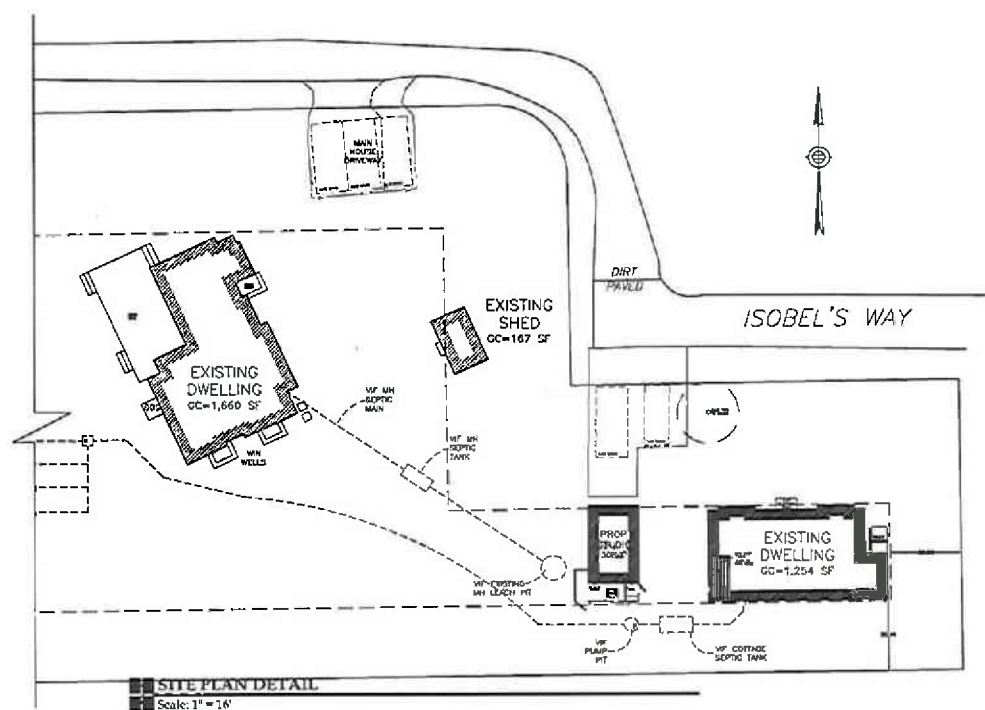
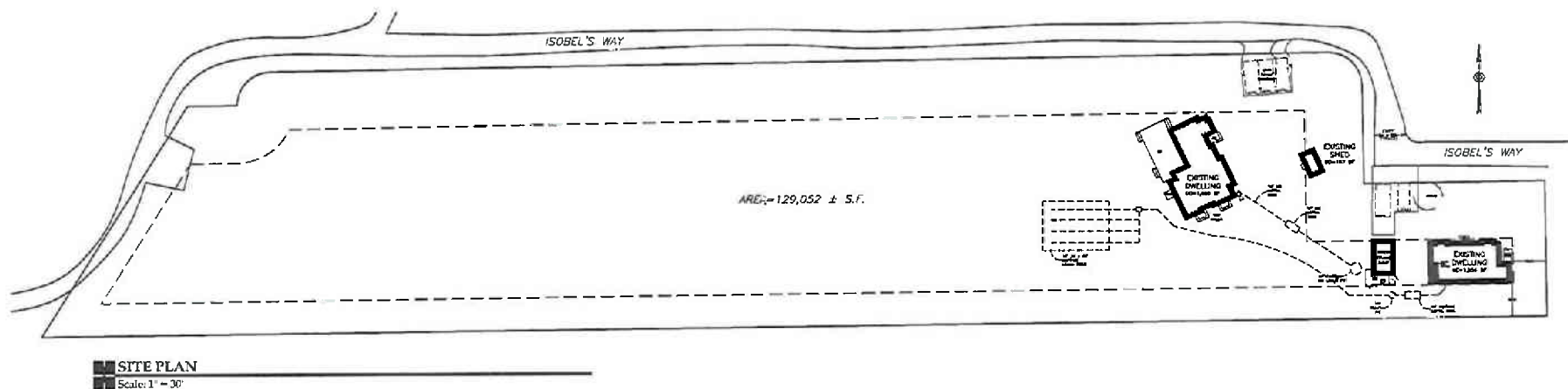
Nantucket County Received & Entered
Date: OCT 05 2004 Time: 3:00 PM
Attest: *James J. Kelley* Register of Deeds

EXHIBIT “D”

8 Isobel's Way, Siasconset, MA 02564



Locus Plan
Not To Scale


$$ARE_2 = 129,052 \pm 5.f.$$


SITE PLAN



S. M. ROETHKE
design, Inc.

1501 Old English Road
 Natick, MA 02554
 U.S.A. 508.513.7300 | F 508.825.7700
www.comcastvision.com

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written permission.

SITE PLAN

WESTWIND NOMINEE TRUST
8 Isobel's Way, Siasconset, MA 02564

REVISIONS:

Drawn by: SMR

Scale: As Noted

ZBA
REVIEW

08 FEB 2021

LS1.1

Town of Nantucket

Zoning Board of Appeals

LIST OF PARTIES IN INTEREST IN THE MATTER OF THE PETITION OF:

PROPERTY OWNER..... Richard P. Beaudette, Trustee
MAILING ADDRESS..... C/O VDHBS, 2 Whalers Lane, PO BOX 659, Nantucket, MA 02554
PROPERTY LOCATION..... 8 ISOBELS WY
ASSESSOR MAP/PARCEL..... 49/113
SUBMITTED BY..... Bryan J. Swain, Esq.

SEE ATTACHED PAGES

I certify that the foregoing is a list of all persons who are owners of abutting property, owners of land directly opposite on any public or private street or way; and abutters of the abutters and all other land owners within 300 feet of the property line of owner's property, as they appear on the most recent applicable tax list (M.G.L. c. 40A, Section 11 and Zoning Code Chapter 40A, Section 139-29B (2).

2-5-2021

DATE

Digitally signed by Rob Ranney
DN: cn=Rob Ranney, o=Town of
Nantucket, ou=Assessor's Office,
email=rranney@nantucket-ma.gov, c=US
Date: 2021.02.05 11:49:47 -05'00'

ASSESSOR'S OFFICE
TOWN OF NANTUCKET

Abutters Listing

MBLU	Lot	Lot Cut	Owner Full Name	Co-Owner Full Name	Address Line 1	City
49	2		SANKATY HEAD GOLF CLUB INC		PO BOX 293	SIASCONSET
49	81		BRODIE PETER W & ANNETTE W TRST	BRODIE NANT REALTY TRUST	717 ATLANTIC AV UNIT 4C	BOSTON
49	82		ST CLAIR DAVID W & EVALYN A TRST		31 SUNCLIFF DR	TARRYTOWN
49	83		SCONSET TRUST INC		PO BOX 821	SIASCONSET
49	90		SCONSET TRUST INC		P O BOX 821	SIASCONSET
49	112		GOODWOOD LLC		65 WEST MEADOW RD	EAST SETAUKET
49	113		BEAUDETTE RICHARD P TR	WESTWIND NOMINEE TRUST	PO BOX 659	NANTUCKET
49	114		WERLE KEVIN C & WENDY E		11 OLD STONE CROSSING	WEST TIMSBURY
49	115		SANKATY HEAD GOLF CLUB INC		PO BOX 293	SIASCONSET
49	163		SANKATY HEAD GOLF CLUB INC		PO BOX 293	SIASCONSET
49	164		SANKATY HEAD GOLF CLUB INC		PO BOX 293	SIASCONSET
49	198		SANKATY HEAD GOLF CLUB INC		PO BOX 293	SIASCONSET
Count:	12					

State	Zip	Location
MA	02564	100 SANKATY RD
MA	02111	70 SANKATY RD
NY	10591	74 SANKATY RD
MA	02564	79 SANKATY RD
MA	02564	81 SANKATY RD
NY	11733	76 SANKATY RD
MA	02554	8 ISOBELS WY
CT	06092	80 SANKATY RD
MA	02564	12 ISOBELS WY
MA	02564	100 SANKATY RD
MA	02564	100 SANKATY RD
MA	02564	90 SANKATY RD

SANKATY HEAD GOLF CLUB INC
PO BOX 293
SIASCONSET, MA 02564

BRODIE PETER W & ANNETTE W TRST
BRODIE NANT REALTY TRUST
717 ATLANTIC AV UNIT 4C
BOSTON, MA 02111

ST CLAIR DAVID W & EVALYN A TRST
31 SUNCLIFF DR
TARRYTOWN, NY 10591

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PO BOX 821
SIASCONSET, MA 02564

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P O BOX 821
SIASCONSET, MA 02564

GOODWOOD LLC
65 WEST MEADOW RD
EAST SETAUKET, NY 11733

BEAUDETTE RICHARD P TR
WESTWIND NOMINEE TRUST
PO BOX 659
NANTUCKET, MA 02554

WERLE KEVIN C & WENDY E
11 OLD STONE CROSSING
WEST TIMSBURY, CT 06092

SANKATY HEAD GOLF CLUB INC
PO BOX 293
SIASCONSET, MA 02564

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SIASCONSET, MA 02564

SANKATY HEAD GOLF CLUB INC
PO BOX 293
SIASCONSET, MA 02564

Enclosed please find a completed Zoning Board of Appeals Application, containing the following materials:

1. A check in the amount of \$450.00 made payable to the Town of Nantucket representing the filing fee,
2. Addendum,
3. Locus Plan from the Nantucket Tax Assessor's Map Book,
4. Surveyed plot plan of existing conditions in 8.5 by 11 format,
5. A certified abutters list, and Two (2) separate sets of addressed mailing labels based on the abutter list provided by the Tax Assessor's office

Please schedule the matter for the March 11, 2021 Zoning Board of Appeals meeting.

Thank you for your attention to this matter, please do not hesitate to call me should you have any questions or concerns.

Sincerely,



Richard Beaudette, Esq. (555)

RPB/BJs

Enc.

cc: Westwind Nominee Trust

**END OF
PACKET**