

ZBA MEETING PACKET

09/08/22

NANTUCKET
TOWN CLERK

2022 AUG 16 PM 1:07

Nantucket Zoning Board of Appeals



PUBLIC NOTICE

A **PUBLIC HEARING** of the **NANTUCKET ZONING BOARD OF APPEALS** is scheduled for **1:00 PM** on **Thursday, September 08, 2022**, in the **Public Safety Facility Building** at 4 Fairgrounds Road, Nantucket, MA, 02554. Information about viewing the meeting can be found at <https://www.nantucket-ma.gov/138/Boards-Commissions-Committees>. A complete copy of each application is on file with the Zoning Board of Appeals at the office of Planning and Land Use Services at 2 Fairgrounds Road, Nantucket, MA 02554. Requests to review an electronic copy of the complete application materials may be submitted *via* e-mail to nsheriff@nantucket-ma.gov. Written comments for the **September 08, 2022** meeting received by 3:00 PM on Thursday, September 01, 2022 will be provided to the Board in advance of the meeting.

OLD BUSINESS

- Adam Delany-Winn, Trustee of Warren's Landing Nominee Trust File No. 22-21
- Kristina & Nicholas Amendolare File No. 37-21
- Harris on Weweeder, LLC File No. 09-22

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

Paul P. Moran & Jean M. Moran

File No. 10-22

Applicants are seeking Special Permit relief pursuant to Nantucket Zoning By-law Sections 139-30 and 139-2 in order to install an in-ground swimming pool. Locus is situated at 4 Washington Avenue, shown on Assessor's Map 60.2.4 as Parcel 65 and upon Land Court Plan 14672-A. Evidence of owner's title is registered on Certificate of Title No. 27684 with the Nantucket County District of the Land Court. The site is zoned Village Residential (VR).

Benjamin Rubenstein & Arienne Bistany

File No. 11-22

Applicants are seeking Special Permit relief pursuant to Nantucket Zoning By-law Sections 139-2 and 139-7A in order to install an inground swimming pool. Locus is situated at 51 Tennessee Avenue, shown on Assessor's Map 59.4 as Parcel 202 and as lot 138,147,150 upon Land Court Plan 3092-S. Evidence of owner's title is registered on Certificate of Title No. 27878 with the Nantucket County District of the Land Court. The site is zoned Village Residential (VR).



MEETING POSTING

TOWN OF NANTUCKET

Pursuant to MGL Chapter 30A, § 18-25
All meeting **notices and agenda** must be filed and time stamped with the Town Clerk's Office and posted at least 48 hours prior to the meeting (excluding Saturdays, Sundays and Holidays)



Committee/Board/s	Zoning Board of Appeals
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Day, Date, and Time	Thursday, September 08, 2022, at 1:00 PM
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Location / Address	4 Fairgrounds Road, Nantucket, MA PSF COMMUNITY ROOM
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Signature of Chair or Authorized Person	Leslie Woodson Snell, Deputy Director of Planning and Zoning Administrator
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WARNING: IF THERE IS NOT A QUORUM OF MEMBERS OR IF THE MEETING POSTING IS NOT IN COMPLIANCE WITH THE OPEN MEETING LAW, NO DELIBERATIONS MAY TAKE PLACE-BUT THE MEMBERS MAY APPEAR AND ANNOUNCE A NEW SCHEDULE.

AGENDA

(Subject to Change)

The meeting will be recorded and archived at www.nantucket-ma.gov

To view the LIVE broadcast of the meeting, see YouTube Link at https://youtu.be/UkTQNVtqt_0

BELOW ARE THE TOPICS THE CHAIR REASONABLY ANTICIPATES WILL BE DISCUSSED AT THE MEETING.

- I. CALL TO ORDER:
- II. APPROVAL OF THE AGENDA:
- III. APPROVAL OF THE MINUTES:
 - August 11, 2022

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

Pg 10-62 22-21 Adam Delaney-Winn, Trustee of Warren's Landing Nominee Trust **Reade**

Applicant is appealing the determination of the Zoning Enforcement Officer that the driveway accessing the locus from Blue Heron Way is in violation of Zoning Bylaw Section 139-20.1B (1) because there is an additional driveway access from Warren's Landing Road. Locus is situated at 40 Warren's Landing Road, shown on Assessor's Map 38 as Parcel 45, and as Lot 10 upon Land Court Plan 16956-E. Evidence of owner's title is registered on Certificate of Title No. 27280 with the Nantucket County District of the Land Court. The site is zoned Limited Use General 2 (LUG-2).

37-21 Kristina & Nicholas Amendolare**8 Bank Street****Williams**

Applicants are seeking a Special Permit pursuant to Zoning Bylaw Sections 139-30 and 139-33A to make renovations, including an addition, to a single-family dwelling that is pre-existing non-conforming to the setbacks. Locus is situated at 8 Bank Street, shown on Assessor's Map 73 and Parcel 69. Evidence of owner's title is recorded in Book 1770, Page 216 on file at the Nantucket County Registry of Deeds. The site is zoned Sconset Old Historic (SOH).

09-22 Harris on Weweeder, LLC**50 Weweeder Avenue****Brescher**

Applicant is seeking Variance Relief pursuant to Zoning Bylaw Section 139-32 from the intensity regulations of Section 139-16A to site a proposed pool cabana in the side yard setback as close as 2.7 feet from the side yard lot line in a zoning district that requires a minimum of a ten (10) foot side yard setback and to increase the allowable groundcover ratio to 7.9% in a zoning district with a maximum groundcover ratio of 7%. Locus is situated at 50 Weweeder Avenue, shown on Assessor's Map 79 as Parcel 15 and upon Land Court Plan 42927-A. Evidence of owner's title is registered on Certificate of Title No. 27684 with the Nantucket County District of the Land Court. The site is zoned Limited Use 1 (LUG-1).

V. NEW BUSINESS (INITIAL PUBLIC HEARINGS AND VOTES MAY BE TAKEN):**Pg 64-76****10-22 Paul P. Moran & Jean M. Moran****Santos**

Applicants are seeking Special Permit relief pursuant to Nantucket Zoning By-law Sections 139-30 and 139-2 in order to install an in-ground swimming pool. Locus is situated at 4 Washington Avenue, shown on Assessor's Map 60.2.4 as Parcel 65 and upon Land Court Plan 14672-A. Evidence of owner's title is registered on Certificate of Title No. 27684 with the Nantucket County District of the Land Court. The site is zoned Village Residential (VR).

Pg 77-109**11-22 Benjamin Rubenstein & Arienne Bistany****Williams**

Applicants are seeking Special Permit relief pursuant to Nantucket Zoning By-law Sections 139-2 and 139-7A in order to install an inground swimming pool. Locus is situated at 51 Tennessee Avenue, shown on Assessor's Map 59.4 as Parcel 202 and as lot 138,147,150 upon Land Court Plan 3092-S. Evidence of owner's title is registered on Certificate of Title No. 27878 with the Nantucket County District of the Land Court. The site is zoned Village Residential (VR).

VI. OTHER (VOTES MAY BE TAKEN)

VII. ADJOURNMENT (VOTE WILL BE TAKEN)

MINUTES

08/11/22



ZONING BOARD OF APPEALS

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

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

~~ MINUTES ~~

Thursday, August 11, 2022

Public Safety Facility, 4 Fairgrounds Road, Community Room –1:00 p.m.

This meeting was also held via remote participation using ZOOM and YouTube.

Called to order at 1:00 pm and Announcements made by Ms. McCarthy

Staff in attendance: Leslie Snell, Deputy Director of Planning; Nicky Sheriff, Administrative Specialist
Attending Members: McCarthy, Botticelli, O'Mara, Allen, Poor, Thayer
Absent: Toole, Mondani

Approval of Agenda

Motion **Motion to Approve as drafted.** (made by: O'Mara) (seconded)
Vote Carried unanimously

I. APPROVAL OF MINUTES

1. July 14, 2022

Motion **Motion to Approve as drafted.** (made by: Allen) (seconded)
Vote Carried unanimously

II. OLD BUSINESS

1. 37-21 Kristina & Nicholas Amendolare 8 Bank Street Williams
Continued to September 08, 2022

Voting McCarthy, Botticelli, O'Mara, Allen
Alternates Poor, Thayer
Discussion None
Motion **Motion to Continue to September 8.** (made by: Allen) (seconded)
Vote Carried 4-0

2. 22-21 Adam Delaney-Winn, Trustee of Warren's Landing Nominee Trust Reade
Continued to September 08, 2022

Voting McCarthy, Botticelli, O'Mara, Allen
Alternates Poor, Thayer
Discussion **Snell** – She anticipates this will eventually be withdrawn; the applicant and neighbor are working out issues.
Motion **Motion to Continue to September 8 with the caveat that Ms. Botticelli & Mr. O'Mara won't be here.** (made by: Botticelli) (seconded)
Vote Carried 4-0

3. 08-22 James & Jennifer Soltesz 2 Grey Lady Lane Williams
Applicants are seeking a Special Permit pursuant to Zoning Bylaw Section 139-16C(2). (Intensity regulations to validate an unintentional setback intrusion into the required 5-foot side yard setback area). In the alternative, Applicants are seeking relief by Variance pursuant to Section 139-16 to validate the unintentional sideline setback intrusion of approximately one (1) inch at the rear corner of the enclosed porch. Locus is situated at 2 Grey Lady Lane, shown on Assessor's Map 66 as Parcel 701 and upon Plan Book No. 1736 Page 58. Evidence of owner's title is recorded in Book 1736, Page 58 on file at the Nantucket County Registry of Deeds. The site is zoned Residential-5 (R-5).

Voting McCarthy, Botticelli, O'Mara, Allen, Poor
Alternates Thayer
Recused None
Documentation File with associated plans, photos and required documentation
Representing Linda Williams
Jennifer Soltesz, co-owner

Public None
Discussion **McCarthy** – Had requested a letter from Don Bracken, Bracken Engineering which came in yesterday.
Williams – Less than 1 square foot (sf) intrusion; neighbor has submitted a letter of no concerns. Condition would be no further construction in setback without permission of the Board.
McCarthy – The plans stamped approved by the Historic District Commission (HDC) show a jog in the porch and no intrusion into the setback.

Discussion about the plans which show a jog in the porch and intrusion into the setback versus the assertion there is no jog in the porch.

Allen – Asked who did the work and if they explained what happened.

Williams – That is in Mr. Bracken's letter. The builder goes off the pinning of the foundation.

McCarthy – This is the 2nd time we've seen this with a modular construction. The plans said something that was conforming then it went to something else without HDC approval. Questioned if the builder was going off incorrect plans. Asked when the foundation was done. We asked for the building permit.

Botticelli – They widened the porch after Mr. Bracken laid out the foundation; that's why we have a problem.

Williams – The second builder was Jeff Morash, who relied on Mr. Bracken's Dreamline plan approved by the HDC.

McCarthy – No one is taking responsibility and it should have been caught. These are professionals who should have known it was going to be a problem.

Allen – Asked if there are other options other than just approving it or asking them to correct the intrusion. She thinks this was an honest mistake.

Thayer – We've seen similar encroachments come in time after time; houses are designed too close to the setback, which is a huge mistake.

O'Mara – The Board has required a house be moved; we've approved the variance for a few; we've put conditions on the approval that if more work is going to be done, they have to clean up the error.

McCarthy – It's small enough that asking them to chop it off would be excessive. We asked for the application and the permit to see a timeline of progression; we got just the schematics. We are trying to find a way to say that the burden of proving it a mistake has been met and we can issue the special permit. That construction timeline should be in the file.

Discussion about discrepancies between the HDC approval and construction of the porch.

Motion **Motion to Approve the special permit with no additional groundcover without relief from the Board at which time the Board may consider a requirement that the encroachment be corrected.** (made by: Allen) (seconded)

Vote Carried 5-0

III. NEW BUSINESS

1. 09-22 Harris on Weweeder, LLC 50 Weweeder Avenue Brescher
- Applicant is seeking Variance Relief pursuant to Zoning Bylaw Section 139-32 from the intensity regulations of Section 139-16A to site a proposed pool cabana in the side yard setback as close as 2.7 feet from the side yard lot line in a zoning district that requires a minimum of a ten (10) foot side yard setback and to increase the allowable groundcover ratio to 7.9% in a zoning district with a maximum groundcover ratio of 7%. Locus is situated at 50 Weweeder Avenue, shown on Assessor's Map 79 as Parcel 15 and upon Land Court Plan 42927-A. Evidence of owner's title is registered on Certificate of Title No. 27684 with the Nantucket County District of the Land Court. The site is zoned Limited Use 1 (LUG-1).

Voting McCarthy, O'Mara, Allen, Poor, Thayer

Alternates Botticelli

Recused None

Documentation File with associated plans, photos and required documentation

Representing John Brescher, Glidden & Glidden, P.C.

Public None

Discussion **Brescher** – Explained the request. The structure is now framed out. This property is subject to 2 yard sales, which haven't been completed.

McCarthy – Suggested a site visit. She wants to see the "level of egregiousness."

O'Mara – Suggested Mr. Harris come in as well.

Allen – She wants to see the building permits for each structure on the lot and status of construction for each; that would confirm all permits are being adhered to.

McCarthy – She wants to see a site plan with current and proposed property lines and marking the setbacks.

Snell – There was an expectation that this plan was going to clear the Land Court, and it didn't. That might explain the surveyor.

O'Mara – The Land Court has been overloaded the past few years; that coupled with the small financial state could mean no one is interested. This has been at Land Court for about 10 years.

Brescher – The paper streets to the south are assessed at about \$3 per square foot and sold at about \$21,000.

McCarthy – We could continue this to allow for submission of a site plan and time line and allow for a site visit.

Motion **Motion to Continue to September 8th.** (made by: Allen) (seconded)

Vote Carried unanimously

IV. OTHER BUSINESS

1. Snell – Introduced Billy Saad a new Land Use Specialist.

V. ADJOURNMENT

Motion **Motion to Adjourn at 2:04 pm.** (made by: Botticelli) (seconded)
Roll-call vote Carried unanimously

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

1. None

Submitted by:
Terry L. Norton

OLD BUSINESS

Adam Delaney-Winn

Trustee of Warren's Landing Nominee Trust

File No. 22-21

40 Warren's Landing Rd

APPEAL



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

APPLICATION

Fee: \$450.00

File No. 22-21

Owner's name(s): Adam Delaney-Winn, Trustee of Warren's Landing Nominee Trust

**Mailing address: c/o Reade, Gullicksen, Hanley & Gifford, LLP
6 Young's Way, Post Office Box 2669, Nantucket, Massachusetts 02584**

Phone Number: 508-228-3128 E-Mail: air@readelaw.com

Applicant's name(s): Same

Mailing Address: Same

Phone Number: Same E-Mail: Same

Locus Address: 40 Warren's Landing Road Assessor's Map/Parcel: 38-45

Land Court Plan. 16956-E, Lot 10

Certificate of Title: 27280 Zoning District Limited Use General-2 (LUG-2)

Uses on Lot- Commercial: None

Residential: Number of dwellings One

Date of Structure(s): all pre-date 7/72 Yes

Building Permit Numbers:

Previous Zoning Board Application Numbers:

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

The property owner hereby appeals from the determination made by Marcus Silverstein, as Zoning Enforcement Officer, that the access to locus from Blue Heron Way is in violation of the provisions of Nantucket Zoning By-law §139-20.1.B(1) because there is an additional driveway access to locus from Warren's Landing Road. The appellant avers that the provisions of §139-20.1.B(1) are inapplicable. The existence of two driveway accesses to locus pre-exists the adoption of §139-20.1 by the 1998 Annual Town Meeting, and as a pre-existing, nonconforming condition is entitled to continue in existence and is protected against enforcement. See attached e-mail response by Mr. Silverstein dated August 31, 2021 to letter from Arthur I. Reade, Jr., dated August 30, 2021.

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: Adam Delaney-Winn, Trustee Owner*

By:

SIGNATURE: Arthur I. Reade, Jr. Applicant/Attorney/Agent

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: __/__/__

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

August 30, 2021

Marcus Silverstein,
Zoning Enforcement Officer
Planning and Land Use Services
2 Fairgrounds Road
Nantucket, Massachusetts 02554

Re: 40 Warren's Landing Road
Parcel 38-45

Dear Marcus:

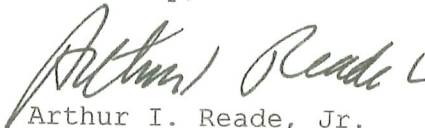
I have obtained from the Conservation Commission a copy of the letter sent to you by members of the Buttrick family, dated August 25, 2021, requesting action regarding the driveway access to 40 Warren's Landing Road from the right of way known as Blue Heron Way. I represent Warren's Landing Nominee Trust, owner of this property.

The access between locus and Blue Heron Way has been in existence since prior to the amendment of the Nantucket Zoning By-law to limit driveway access points, and the dual access from Blue Hero Way and Warren's Landing Road is accordingly a pre-existing, nonconforming situation, grandfathered accordingly. Locus has express, appurtenant easement rights in Blue Heron Way.

Accordingly, it would be inappropriate for any action to be taken by the Town against the access driveway to and from Blue Heron Way.

Thank you for your consideration.

Sincerely,



Arthur I. Reade, Jr.
air@readelaw.com

AIR/irv

cc: Sarah F. Alger, Attorney

Jeff Carlson, Conservation Commission

Arthur Reade

From: Marcus Silverstein <MSilverstein@nantucket-ma.gov>
Sent: Tuesday, August 31, 2021 8:15 AM
To: Arthur Reade
Cc: Jeff Carlson; 'Sarah F. Alger (sfa@sfapc.com)'; Paul Murphy; Megan Trudel
Subject: RE: 40 Warren's Landing Road

Arthur,

Unfortunately, the matter of the un-permitted secondary access at 40 Warren's Landing Rd. (Map# 38, Parcel# 45) remains an open violation dating to the first citation issued on October 16, 2019. A second citation was issued March 3, 2020. No appeal of the October 16, 2019 order was filed within the statutory appeal period and the violation stands. Furthermore, the secondary access is not a pre-existing nonconforming use. Although the 1971 aerial does show an access in the same or similar location, said access was closed some years prior to the 1998 bylaw and reestablished sometime between 1998 and 2003 without the required special permit.

The Warren's Landing Nominee Trust, Adam Delaney-Winn, Tr., is given five (5) days from the date of this email to either apply to the Planning Board for the required Special Permit for a secondary access, or close the access to vehicular traffic until such a time that the required permit(s) is/are obtained. Failure to comply will result in additional citations and fines.

Respectfully,

Marcus Silverstein
Zoning Enforcement Officer
Town of Nantucket

From: Arthur Reade <air@readelaw.com>
Sent: Monday, August 30, 2021 2:55 PM
To: Marcus Silverstein <MSilverstein@nantucket-ma.gov>
Cc: Jeff Carlson <JCarlson@nantucket-ma.gov>; 'Sarah F. Alger (sfa@sfapc.com)' <sfa@sfapc.com>
Subject: 40 Warren's Landing Road

Marcus,

Please see attached letter.

Thank you.

Arthur
8/30/2021

Arthur I. Reade, Jr., P.C.
Reade, Gullicksen, Hanley & Gifford, LLP
6 Young's Way

Town of Nantucket

Zoning Board of Appeals

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

PROPERTY OWNER..... *Adam Delaney-Winn, Trustee*
..... *of Warren's Landing Nominee Trust*
MAILING ADDRESS..... *c/o Reade, Gullicksen, Hanley & Gifford, LLP*
PROPERTY LOCATION..... *40 Warren's Landing Road*
ASSESSOR MAP/PARCEL..... *38-45*
SUBMITTED BY..... *Reade, Gullicksen, Hanley & Gifford, LLP*

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).

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: 2021.09.01 14:50:10 -04'00'

9-1-2021

DATE

ASSESSOR'S OFFICE
TOWN OF NANTUCKET

BUTTRICK HAROLD & ANN TRSTS
BUTTRICK NANTUCKET TRUST
110 RIVERSIDE DR APT 15D
NEW YORK, NY 10024

DRAKE DANIEL W & JUDITH S
P O BOX 194
NANTUCKET, MA 02554

NANTUCKET CONSERVATION FOUND I
PO BOX 13
NANTUCKET, MA 02554

DELOGU JOSEPH D
5310 37TH ST NORTH
ARLINGTON, VA 22207

HAFFENREFFER P R & WOODBURN R
C/O HEMENWAY & BARNES LLP
75 STATE STREET 16TH FLOOR
BOSTON, MA 02109-1466

NANTUCKET CONSERVATION FOUND I
PO BOX 13
NANTUCKET, MA 02554

FINNEGAN MARK D & HILARY B
126 OAK HILL RD
HARVARD, MA 01451

DELANEY-WINN ADAM TR
WARRENS LANDING NOM TRUST
192 MEADOWBROOK RD
WESTON, MA 02493

NANTUCKET CONSERVATION FOUND I
PO BOX 13
NANTUCKET, MA 02554

LYNCH HELEN M
1105 PARK AVE APT 12A
NEW YORK, NY 10128

BEAUMONT C DAVID & SUSAN
PO BOX 2990
NANTUCKET, MA 02584

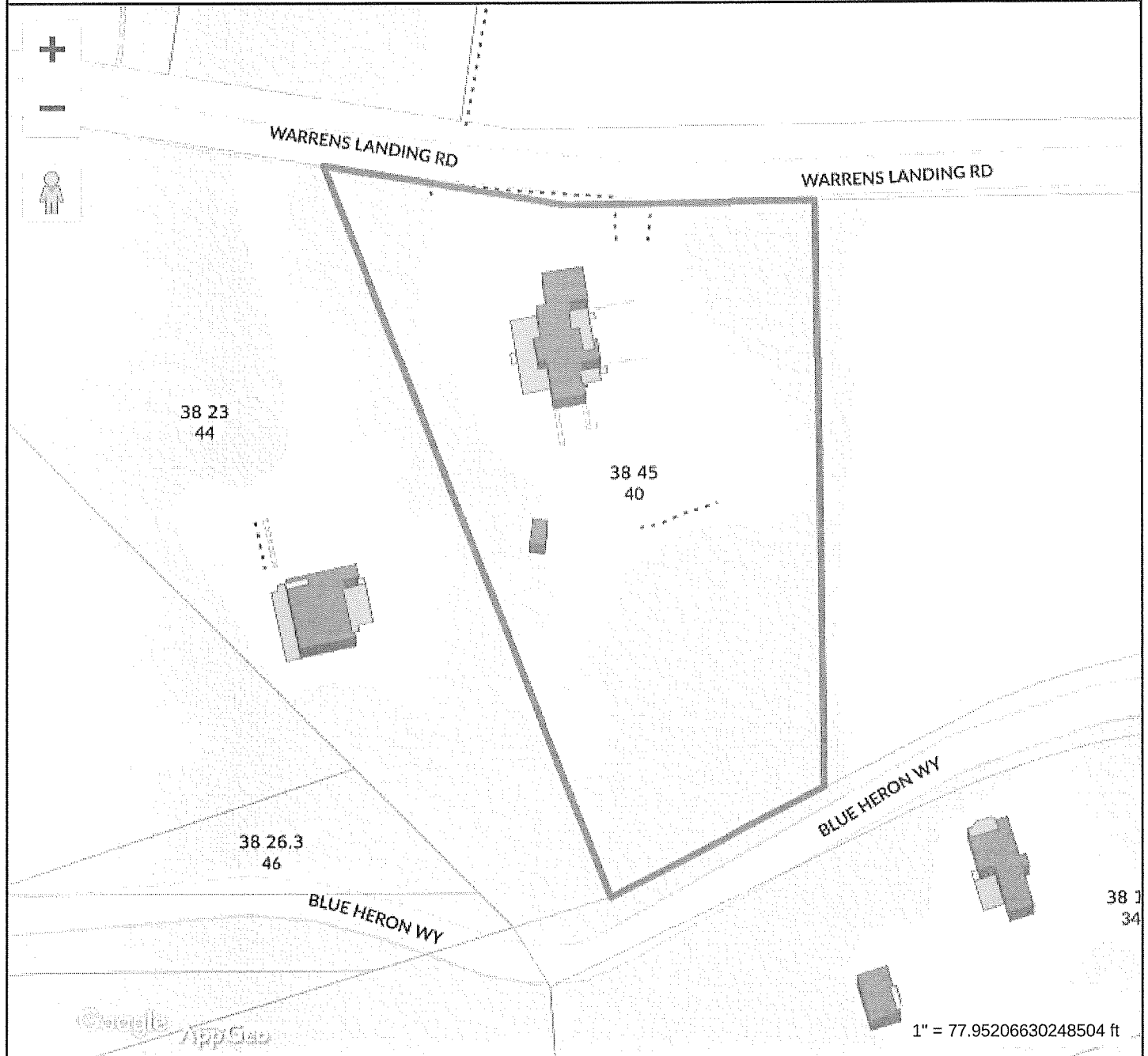
MALLOY JOHN M TR ETAL
MALLOY JOHN M TRUST AGREEMENT
PO BOX 176
NANTUCKET, MA 02554

STERLING JAMIE
1508 FOXHALL ROAD NW
WASHINGTON, DC 20007

FAR EAST NANTUCKET LLC
575 FAR HILL RD
WAYZATA, MN 55391

COHEN STEVEN L TR
PO BOX 786
NANTUCKET, MA 02554

40 Warren's Landing Road Parcel 38-45



Property Information

Property ID 38 45
 Location 40 WARRENS LANDING RD
 Owner DELANEY-WINN ADAM 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 07/29/2021
 Data updated Jan. 2021

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

Abutters Listing

MBLU	Lot	Lot Cnt	Owner Full Name	Co-Owner Full Name	Address Line 1	City	State	Zip	Location
38	11		BUTTRICK HAROLD & ANN TRSTS	BUTTRICK NANTUCKET TRUST	110 RIVERSIDE DR APT 15D	NEW YORK	NY	10024	34 WARRENS LANDING RD
38	11	4	DRAKE DANIEL W & JUDITH S		P O BOX 194	NANTUCKET	MA	02554	32 WARRENS LANDING RD
38	12		NANTUCKET CONSERVATION FOUND		PO BOX 13	NANTUCKET	MA	02554	34R WARRENS LANDING RD
38	23		DELOGU JOSEPH D		5310 37TH ST NORTH	ARLINGTON	VA	22207	44 WARRENS LANDING RD
38	26	1	HAFFENREFFER P R & WOODBURN R	C/O HEMENWAY & BARNES LLP	75 STATE STREET 16TH FLOOR	BOSTON	MA	02109-1466	10 BLUE HERON WY
38	26	3	NANTUCKET CONSERVATION FOUND		PO BOX 13	NANTUCKET	MA	02554	46 WARRENS LANDING RD
38	44		FINNEGAN MARK D & HILARY B		126 OAK HILL RD	HARVARD	MA	01451	36 WARRENS LANDING RD
38	45		DELANEY-WINN ADAM TR	WARRENS LANDING NOM TRUST	192 MEADOWBROOK RD	WESTON	MA	02493	40 WARRENS LANDING RD
38	46		NANTUCKET CONSERVATION FOUND		PO BOX 13	NANTUCKET	MA	02554	46 WARRENS LANDING RD
38	49		LYNCH HELEN M		1105 PARK AVE APT 12A	NEW YORK	NY	10128	43 WARRENS LANDING RD
38	50		BEAUMONT C DAVID & SUSAN		PO BOX 2990	NANTUCKET	MA	02584	35 WARRENS LANDING RD
38	51		MALLOY JOHN M TR ETAL	MALLOY JOHN M TRUST AGREEMENT	PO BOX 176	NANTUCKET	MA	02554	39 WARRENS LANDING RD
38	53		STERLING JAMIE		1508 FOXHALL ROAD NW	WASHINGTON	DC	20007	45 WARRENS LANDING RD
38	54		FAR EAST NANTUCKET LLC		575 FAR HILL RD	WAYZATA	MIN	55391	47 WARRENS LANDING RD
38	55		COHEN STEVEN L TR		PO BOX 786	NANTUCKET	MA	02554	49 WARRENS LANDING RD
Count:		15							



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COHEN STEVEN L TR
PO BOX 786
NANTUCKET, MA 02554

Materials Provided by the Appellee



Planning and Land Use Services

October 1, 2021

Re: ZBA File #22-21: Delaney-Winn, 40 Warren's Landing Appeal

Dear Board Members,

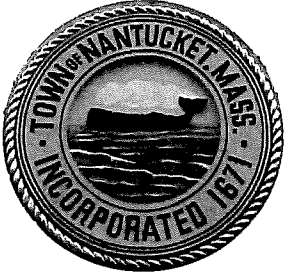
On October 16, 2019, a Violation Notice was issued to the owner(s) [Owner] of 40 Warren's Landing Rd. (Map# 38, Parcel# 45) pertaining to use of a secondary driveway access without the required Planning Board-issued special permit (Zoning Code §139-20.1B(1)). No appeal was filed within the statutorily required thirty (30) days that ended on or about November 15, 2019. A follow-up notice and fine were issued on March 3, 2020. And on August 31, 2021, it was conveyed through the Owner's current counsel that the matter remains unresolved. Also through counsel, Owner was given five (5) days from that date to file a request with the Planning Board or close the access to vehicular use.

The current appeal is unlawful due to a lack of timeliness. Although the August 31, 2021 response to the Owner is arguably "an order or decision" within the context of §139-31A(2), it is a continuation of the original October 16, 2019 order for which the appeal period is long expired. Signaling that a property owner can ignore a lawfully issued order, their statutory obligations, and subsequent orders for as long as they choose only to have a chance to vacate the order on appeal at some point in the future is bad practice and falls well outside the spirit and intent of local and state laws governing appeals.

Finally, the courts treat deadlines like appeal periods very seriously and the Board should as well. While the Owner arguably has a right to appeal the August 31, 2021 email, they do not necessarily have the right to have said appeal heard. I believe it is within the Board's authority to open the hearing, immediately entertain a vote to deny this appeal based on the lack of timeliness and vote to do so.

Respectfully,

Marcus Silverstein
Zoning Enforcement Officer
Town of Nantucket



Planning and Land Use Services

October 16, 2019

Warren's Landing Nominee Trust
c/o Davidson Perry-Miller
85 Newton St.
Weston, MA 02493

File #19-19842

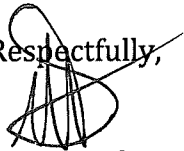
Dear Mr. Perry-Miller,

Please be advised that your property at **40 Warren's Landing Rd.** (Map# 38, Parcel# 45) is in violation of the following section(s) of the Nantucket Zoning Code, and you are subject to fines as allowed in §139-25C(1) of said code:

§139-20.1B(1): Installation of secondary driveway access/curb-cut without the required Special Permit.

Pursuant to MGL Ch. 40A, §7, and §139-25 of the Nantucket Zoning Code, you are ORDERED to apply for and receive the required Special Permit for the secondary access or close said access to vehicular use. Additionally, **you are hereby fined one hundred dollars (\$100)** for the above violation(s) on October 16, 2019.

Failure to comply with this order will result additional fines for each violation and day the violations persist, and possible legal action through the court system.

Respectfully,


Marcus Silverstein
Zoning Enforcement Officer
Town of Nantucket



Property Information

Property ID 38 45
 Location 40 WARRENS LANDING RD
 Owner DELANEY-WINN ADAM 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.

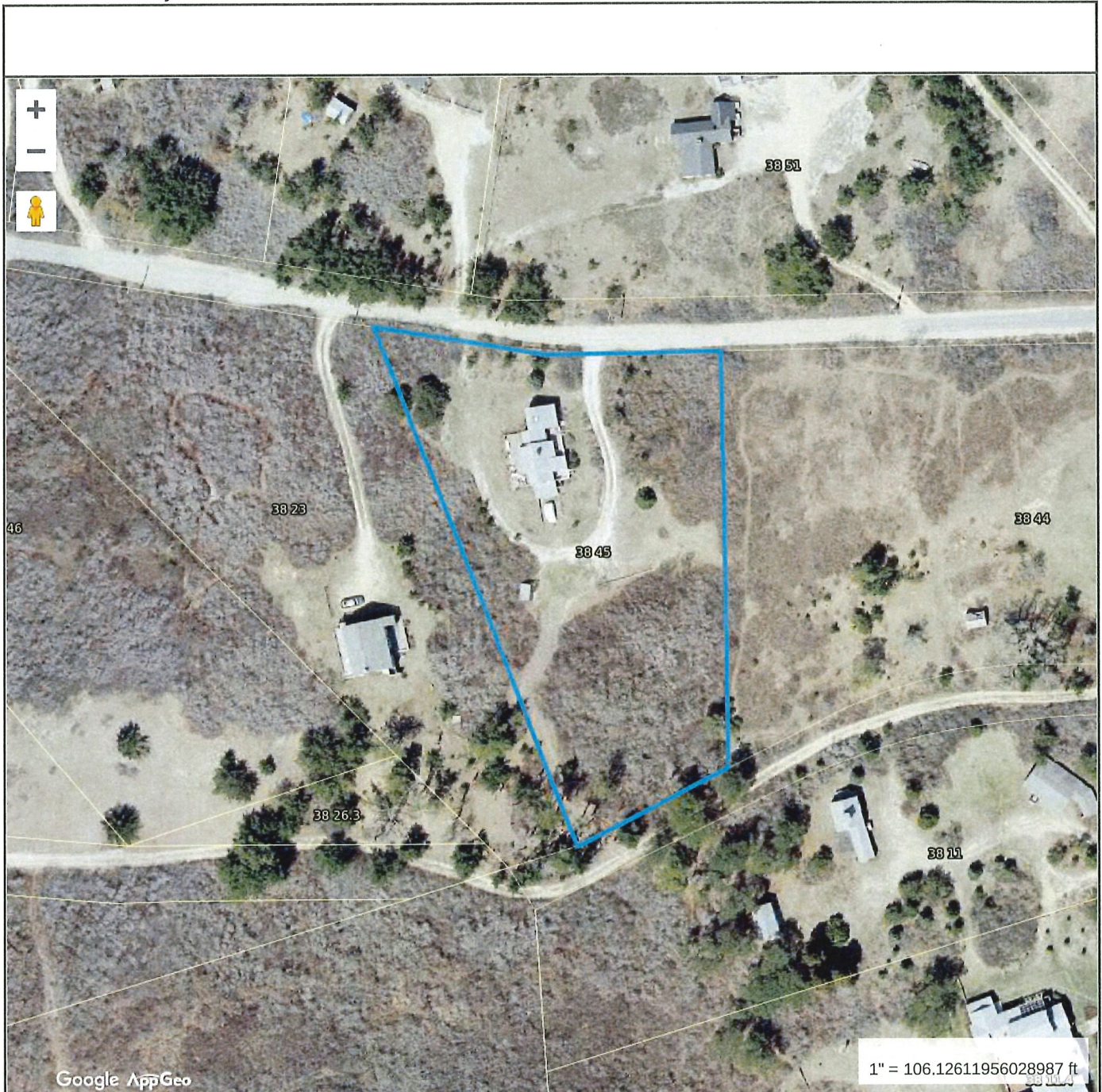
Geometry updated 07/29/2021
 Data updated Jan. 2021

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

Map Theme Legends

Aerial Photo, 1998

PARCELS



Property Information

Property ID 38 45
 Location 40 WARRENS LANDING RD
 Owner DELANEY-WINN ADAM TR



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

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Geometry updated 07/29/2021
 Data updated Jan. 2021

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

Map Theme Legends

Aerial Photo, 2003

PARCELS

Marcus Silverstein

From: Brian Elworthy <belworthy@gmail.com>
Sent: Tuesday, November 05, 2019 1:34 PM
To: Marcus Silverstein
Cc: nantucketproperties@gmail.com; Paul Murphy
Subject: Re: 40 Warren's Landing - Aerial Photos

Thanks for the prompt response, Marcus.

I respectfully disagree with this and so I'm going to turn it over to my attorney who will be in touch with you.

Thanks,

Brian Elworthy

On Tue, Nov 5, 2019 at 12:21 PM Marcus Silverstein <MSilverstein@nantucket-ma.gov> wrote:
Brian,

Thank you for providing the additional information. Unfortunately, the issue pertaining to a secondary access without the required special permit remains.

For a structure and/or use to be considered "pre-existing nonconforming" the structure and/or use must pre-exist the adoption of or change to the zoning bylaw that created the nonconformity and remain in existence and/or use since that time. Per the attached 1998 aerial, neither the pass-thru nor the access shown on the provided 1971 aerial are in existence on or around the time of the 1998 bylaw. The rear access was reestablished sometime between the 1998 and 2003 aerals but without the special permit that was then required.

As such, you are required to either receive the necessary special permit to maintain the secondary access, close said access to vehicular use, or successfully appeal the October 16, 2019 order.

Respectfully,

Marcus Silverstein
Zoning Enforcement Officer
Town of Nantucket

-----Original Message-----

From: Brian Elworthy <belworthy@gmail.com>
Sent: Monday, November 04, 2019 11:56 AM
To: Marcus Silverstein <MSilverstein@nantucket-ma.gov>
Cc: nantucketproperties@gmail.com
Subject: 40 Warren's Landing - Aerial Photos

Hi Marcus-

We spoke last week regarding my property's access to Blue Heron.

We reached out to our environmental engineer, Nantucket Engineering & Survey, PC, to provide the support that you

need to clarify our access rights.

You'll see from the attached a clear access point (actually two access points) has been in existence since as early as 1971. The subsequent photos show the maintenance of the access point in question since then, including through the date of the 1998 bylaws passage, to the present date.

I hope that this helps clarify any confusion. Would appreciate your conveying this if ever it gets questioned again. Given our plan to make infrequent use of that access point over time, I hope and suspect it will not.

Let me know if you have any questions.

Thanks,

Brian Elworthy
40 Warren's Landing
Nantucket, MA
(978)204-8705

--

Brian Elworthy
c: 978.204.8705
e: belworthy@gmail.com

Marcus Silverstein

From: Brian Elworthy <belworthy@gmail.com>
Sent: Monday, November 04, 2019 11:56 AM
To: Marcus Silverstein
Cc: nantucketproperties@gmail.com
Subject: 40 Warren's Landing - Aerial Photos
Attachments: HistoricAerials.pdf; ATT00002.txt

Hi Marcus-

We spoke last week regarding my property's access to Blue Heron.

We reached out to our environmental engineer, Nantucket Engineering & Survey, PC, to provide the support that you need to clarify our access rights.

You'll see from the attached a clear access point (actually two access points) has been in existence since as early as 1971. The subsequent photos show the maintenance of the access point in question since then, including through the date of the 1998 bylaws passage, to the present date.

I hope that this helps clarify any confusion. Would appreciate your conveying this if ever it gets questioned again. Given our plan to make infrequent use of that access point over time, I hope and suspect it will not.

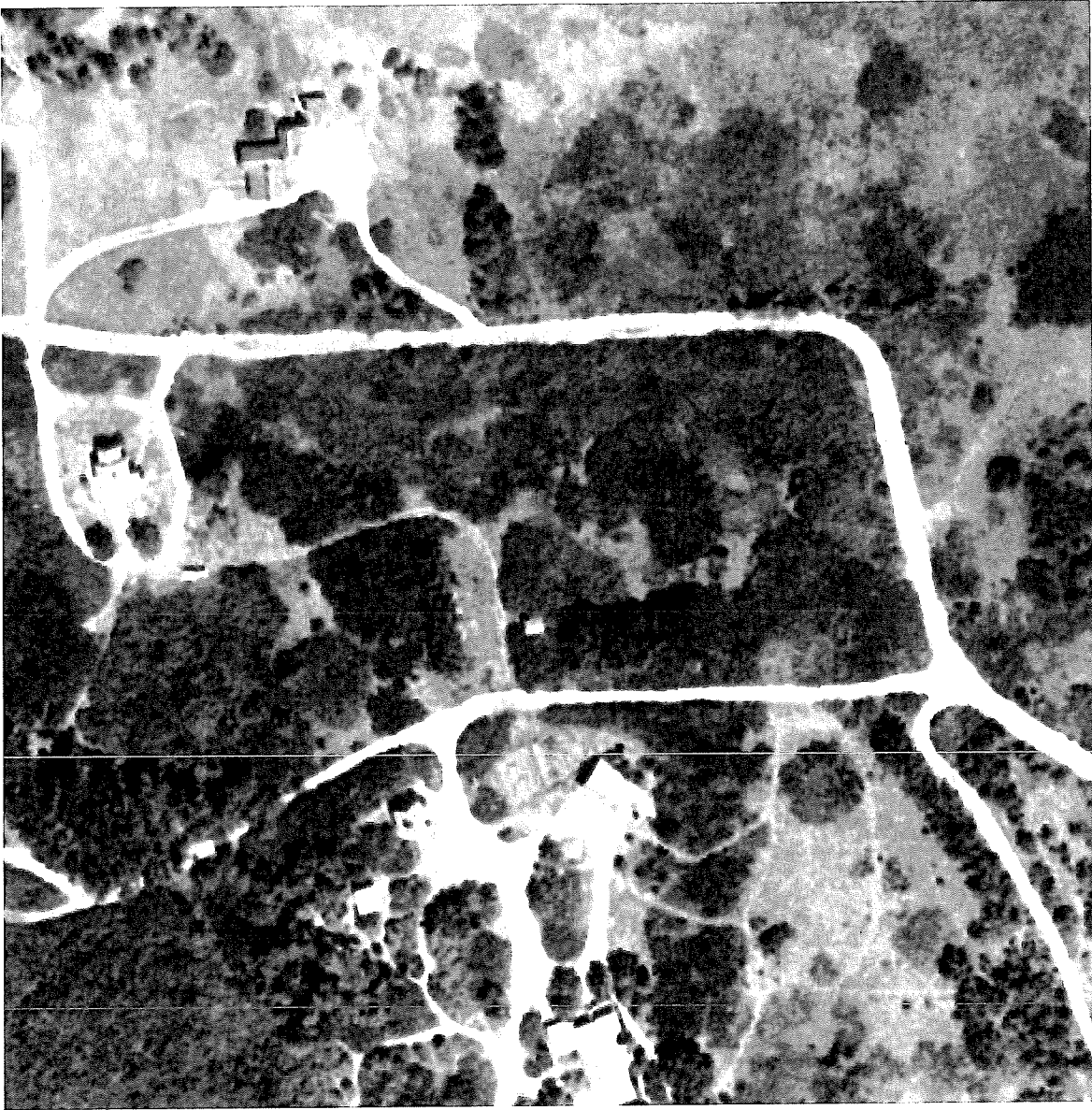
Let me know if you have any questions.

Thanks,

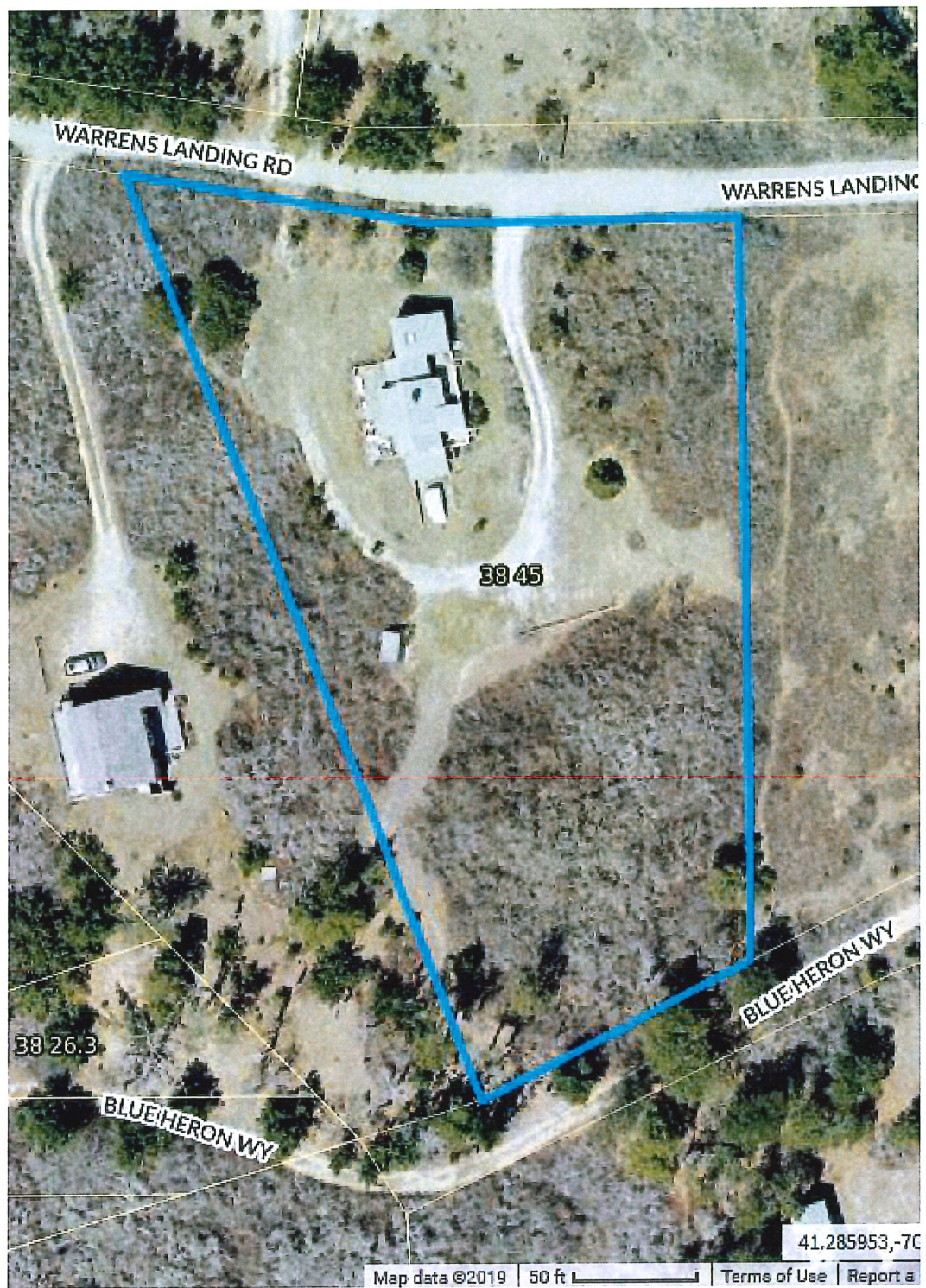
Brian Elworthy
40 Warren's Landing
Nantucket, MA
(978)204-8705

40 Warren's Landing Road – Historic Aerials

1971:



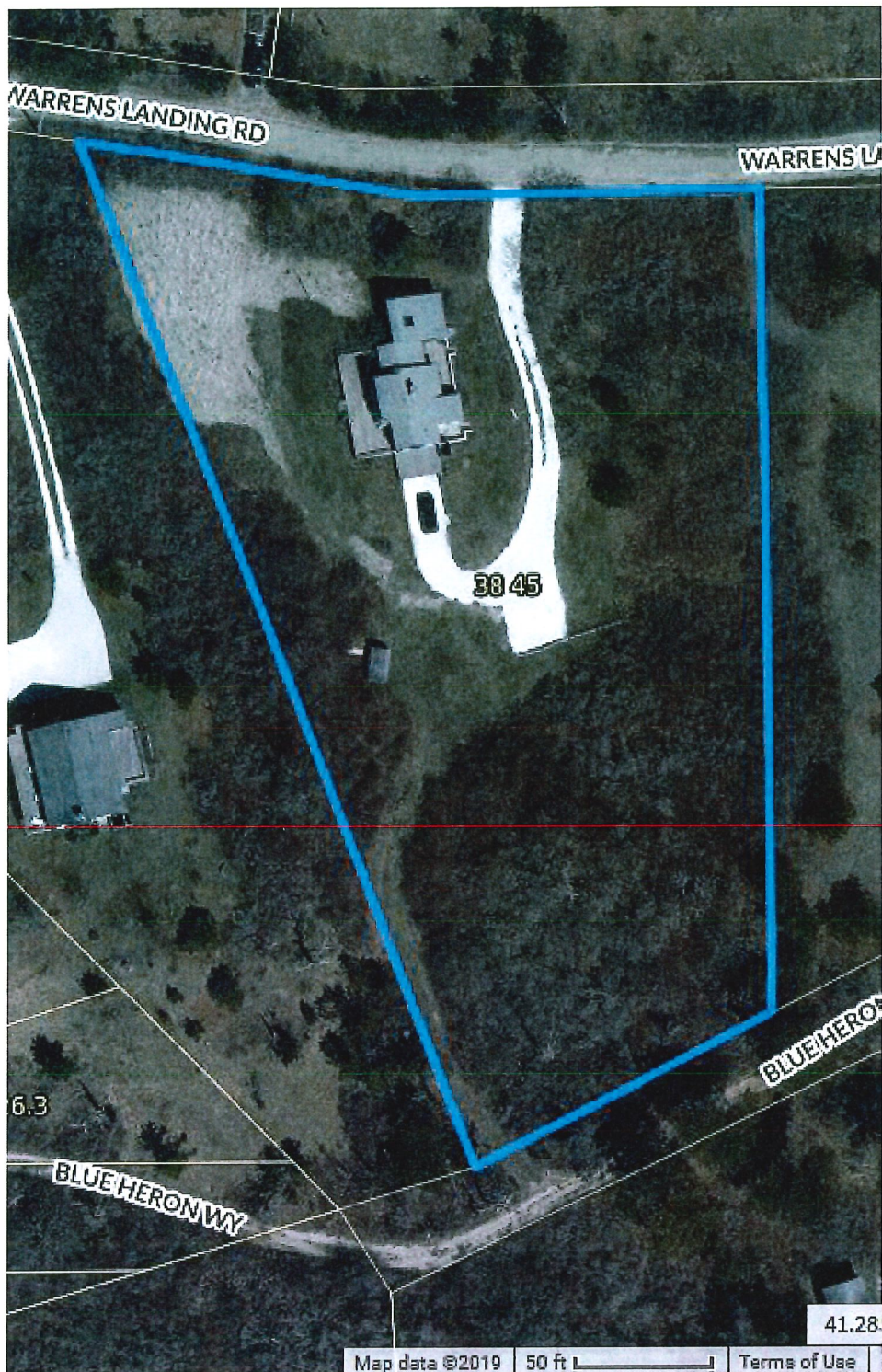
2003:



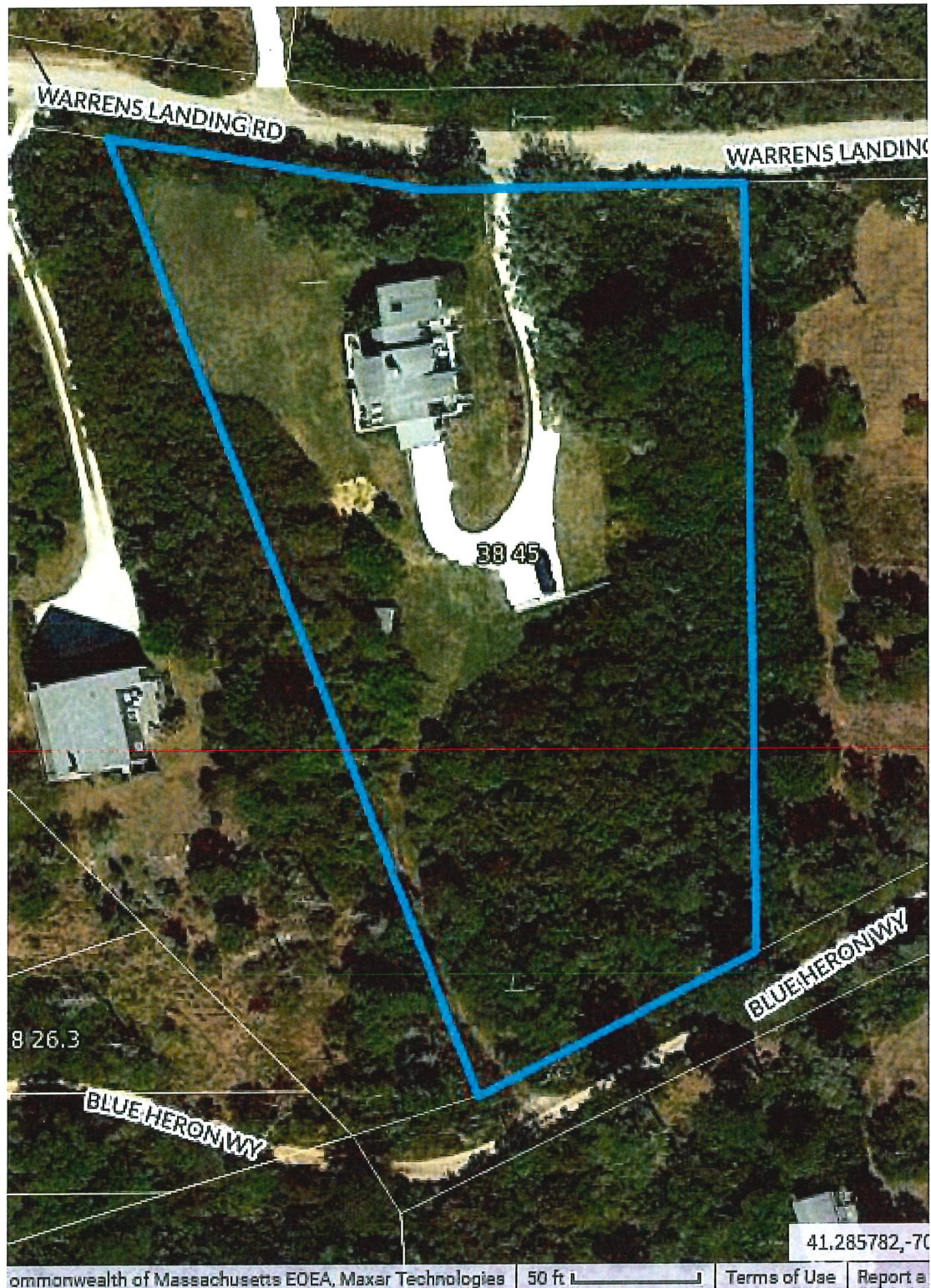
2011:

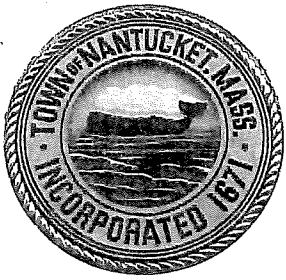


2014:



2018:





Planning and Land Use Services

March 3, 2020

Warren's Landing Nominee Trust
c/o Adam Delaney-Winn, Trs.
85 Newton St.
Weston, MA 02493

File #20-2841

Dear Mr. Delaney-Winn,

Please be advised that your property at **40 Warren's Landing Rd.** (Map# 38, Parcel# 45) is in violation of the following section(s) of the Nantucket Zoning Code, and you are subject to fines as allowed in §139-25C(1) of said code:

§139-20.1B(1): Installation of secondary driveway access/curb-cut without the required Special Permit.

Pursuant to MGL Ch. 40A, §7, and §139-25 of the Nantucket Zoning Code, you are ORDERED to apply for and receive the required Special Permit for the secondary access or close said access to vehicular use. Additionally, **you are hereby fined one hundred dollars (\$100)** for the above violation(s) on March 2, 2020.

Failure to comply with this order will result additional fines for each violation and day the violations persist, and possible legal action through the court system.

Respectfully,


Marcus Silverstein
Zoning Enforcement Officer
Town of Nantucket

7008 1830 0003 8937 4489

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com
OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$



Sent To Warren's Landing NT
Street, Apt. No., or PO Box No. c/o Delaney-Winn, Tr.
City, State, ZIP+4 02493 Del/War
PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Warren's Landing N.T.
c/o Adam Delaney-Winn, Tr.
85 Newton St.
Weston, MA 02493



9590 9402 3942 8060 9337 22

2. Article Number (Transfer from service label)

7008 1830 0003 8937 4489

COMPLETE THIS SECTION ON DELIVERY

A. Signature [Signature] ☐ Agent ☐ Addressee
X
B. Received by (Printed Name) VINCE C. Date of Delivery
D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery
☐ Domestic Return Receipt



Town of Nantucket Massachusetts

VIOLATION NOTICE

DEPARTMENT FILE NO.

20-2401

DATE NOTICE WRITTEN
2/1/00

DEPARTMENT:
☐ POLICE ☐ HEALTH ☐ BUILDING
☐ MARINE ☐ H.D.C. ☐

A 27232

NAME (Last, First, Initial) William J. ...		OWNER (if different) or PARENT (if minor) ...	
ADDRESS 20 Nantucket St. Nantucket, MA 02541		ADDRESS ...	
CITY/TOWN Nantucket	STATE MA	CITY/TOWN ...	STATE ...
DATE OF BIRTH ...	RACE/SEX ...	SOCIAL SECURITY NUMBER ...	ZIP ...
DATE OF VIOLATION 2/1/00	LOCATION OF VIOLATION ...	DESCRIPTION OF AREA/PREMISES, BICYCLE OR VEHICLE ...	
OFFENSE A. ... B. ...		VIOLATION CODE ...	TIME ... AM ... PM
OFFICER: CHECK ONE ONLY ☐ WARNING ☒ NON-CRIMINAL		IF NON-CRIMINAL TOTAL AMOUNT DUE: \$100.00	
OFFICER CERTIFIES COPY GIVEN TO VIOLATOR		ID NO. ...	BY HAND ☐ BY MAIL ☒
VIOLATOR ACKNOWLEDGES RECEIPT OF NOTICE			

WITNESSES:

Marcus Silverstein

From: Marcus Silverstein
Sent: Thursday, July 23, 2020 11:58 AM
To: belworthy@gmail.com
Cc: nantucketproperties@gmail.com; Paul Murphy; Jeff Morash; Jim Barry; Megan Trudel
Subject: RE: 40 Warren's Landing - Aerial Photos

Brian,

Ticket #27222 was issued to then-Trustee Davidson Perry-Miller. The fact you say the fine was paid is confusing since that ticket was also appealed by Mr. Perry-Miller, which was slated to be heard at District Court on July 9, 2020.

The hearing scheduled for August 18, 2020 concerns Ticket #27232 (Incident report #20-2841; issued to Trustee Adam Delaney-Winn on March 3, 2020 for \$300).

Per §139-20.1B(1) of the Nantucket Zoning Code, "No more than one driveway access shall be allowed on a lot. However, the Planning Board may grant a waiver to allow two or more driveway accesses in accordance with § 139-20.1C." The width of the existing secondary access is sufficient to permit its use by vehicles and is far in excess of what is necessary for pedestrian access. Pedestrian access is not at issue here. As such, you must either close the access to prohibit use by vehicles or receive the required special permit through the Nantucket Planning Board.

Please let me know of your decision by August 6, 2020.

Respectfully,

Marcus Silverstein
Zoning Enforcement Officer
Town of Nantucket

From: Brian Elworthy <belworthy@gmail.com>
Sent: Thursday, July 23, 2020 9:40 AM
To: Marcus Silverstein <MSilverstein@nantucket-ma.gov>
Cc: nantucketproperties@gmail.com; Paul Murphy <pmurphy@nantucket-ma.gov>; Jeff Morash <jmorash@nantucket-ma.gov>; Jim Barry <jbarry@nantucket-ma.gov>; Megan Trudel <mtrudel@nantucket-ma.gov>
Subject: Re: 40 Warren's Landing - Aerial Photos

Marcus-

Thanks for your response. The trustee did not request an appeal- at the time we had no desire to address this issue. In fact, we mailed a check to you back in November and the Town cashed a check for the amount of \$100; the check was number 419 and the memo clearly noted it was for violation of #27222. It was cashed on November 22, 2019. What am I missing?

Also, I asked my attorney (Don Pinto of Pierce Atwood, who has a lot of familiarity with the Town) to look into the bylaws and determine what, if anything, the Town can do to force me to take steps on my own land. Can you please point to the authority that gives the Town the ability to force me to erect a fence or plantings? The bylaws simply require me to stop using the driveway (which I have agreed to do) but we cannot find anything to suggest that I can be forced to landscape my property in a certain way (especially on my own dime). That said, I continue to make use of the path as a walking path so I would not put a fence under any circumstances.

Let's deal with the hearing first as, like yourself, I have no interest in going to a hot courtroom in August :-)

Thanks,

Brian

On Thu, Jul 23, 2020 at 9:11 AM Marcus Silverstein <MSilverstein@nantucket-ma.gov> wrote:

Brian,

With regards to the court date – Docket# 2088AC000117; 8/18/2020 – I have no control over that. When I received notice of the hearing I believed Mr. Delaney-Winn had requested an appeal of the fine. On second reading, it may be instead that the fine was not paid and the Town filed the criminal complaint. In the latter instance, I believe payment of the fine, and any possible late fees, will eliminate the need for the hearing. But you should contact the District Court directly to be certain. If the matter is an appeal, then it falls to Mr. Delaney-Winn to retract the appeal and pay the fine or carry forward with the appeal. Note, however, that neither payment nor successful appeal of the fine cures the secondary access violation.

In that regard, the access must be physically closed to vehicular use, or a Planning Board-approved special permit allowing the access to remain is required. For the former, allowing the area to grow in might prove to be the simplest solution, but a fence or other obstruction that disallows access by vehicles is acceptable. For the latter, please contact Megan Trudel at mtrudel@nantucket-ma.gov (copied) for information on how to proceed.

This matter has now lingered since October, 2019, and I would like to see it resolved one way or the other. I was preparing a new citation when I received your email, but will hold off until two weeks from today (August 6, 2020) before taking further action. Please inform me whether you decide to seek the special permit, or close the access to vehicular use within that time frame.

Respectfully,

Marcus Silverstein

Zoning Enforcement Officer

Town of Nantucket

From: Brian Elworthy <belworthy@gmail.com>

Sent: Wednesday, July 22, 2020 11:19 AM

To: Marcus Silverstein <MSilverstein@nantucket-ma.gov>

Cc: nantucketproperties@gmail.com; Paul Murphy <pmurphy@nantucket-ma.gov>; Jeff Morash <jmorash@nantucket-ma.gov>;

Jim Barry <jbarry@nantucket-ma.gov>

Subject: Re: 40 Warren's Landing - Aerial Photos

Hi Marcus-

Hope you are all staying safe and enjoying this relatively strange and unorthodox summer.

You probably recall our discussion at the end of last year regarding what is referred to as a second driveway on my property. The trustee of the trust that owns our house received a court summons regarding a code violation (he was named in his individual capacity, not as trustee, which was strange). I asked my attorney to look into this and he confirmed that this summons relates to the matter discussed at length below. At the time, I agreed to pay the fine (which I did) and stop making vehicular use of the grassy pathway. To my knowledge, no one has accessed this pathway. We have been down here since the end of June. I have also instructed any landscaper or other third-party to not drive their vehicles down that path. They seem to have all followed this request. I do have CCTV monitoring the property and occasionally through the winter I would be notified of vehicles with unknown occupants driving down my driveway (one was a Town of Nantucket vehicle, in fact) but I chalked it up as nosy neighbors or folks out for a Sunday drive- does not bother me. I suspect that our friendly neighbor, Mr. Drake, who confirmed initiating this crusade with you, can probably confirm that he and his wife have not taken any further video footage of anyone driving down this pathway.

Are you (or anyone else copied here) available to have a quick chat to discuss how this escalated to a court hearing? My preference would be to not have to make an appearance in court in August but I will be on-island and available as needed. I suspect that we can resolve this matter without having to go to court.

Let me know if you have time for a call.

Thanks,

Brian

On Thu, Nov 7, 2019 at 11:17 AM Marcus Silverstein <MSilverstein@nantucket-ma.gov> wrote:

Brian,

Per §139-31 of the Nantucket Zoning Code (<https://ecode360.com/11472652>) an appeal of any order or decision of the Zoning Enforcement Officer must be filed within thirty (30) days of the date of the order or decision. Take special note that the thirty day clock begins at "the date of the order or decision" and not from the receipt of an order or decision. Procedures for filing and for all other procedures and requirements concerning appeals are also spelled out under the link above. Again, that's §139-31 of the bylaw.

Instructions regarding paying or appealing a fine are on the back of the ticket. Payment or an appeals of a fine is to be made to the Nantucket District Court within twenty-one (21) days.

Also note that payment of a fine solely addresses the matter of the ticket and does not resolve a violation of the Zoning Code or constitute any other action in addressing a violation. Violations of the zoning bylaw can only be addressed by complying with or successfully appealing an order or decision. Compliance in this instance involves either closing the access to vehicular use or receiving the required special permit for a secondary access.

Lastly, there is no statutory time restriction to file for the secondary access special permit. As long as you make reasonably good faith and timely efforts to pursue the special permit, additional enforcement action is forestalled while that process plays out. If you do seek the special permit please keep me notified as to your progress.

Respectfully,

Marcus Silverstein

Zoning Enforcement Officer

Town of Nantucket

From: Brian Elworthy <belworthy@gmail.com>
Sent: Thursday, November 07, 2019 9:55 AM
To: Marcus Silverstein <MSilverstein@nantucket-ma.gov>
Cc: nantucketproperties@gmail.com; Paul Murphy <pmurphy@nantucket-ma.gov>
Subject: Re: 40 Warren's Landing - Aerial Photos

Marcus-

Quick question on process, as my attorney is asking and I do not have the original copy of the violation notice in my possession at the moment, the notice of violation that was sent to me is dated 10/16/19. In order to preserve my right to contest the findings and not have the findings become a de facto ruling (thereby preventing me from contesting these findings), am I required to either 1) pay the fine by 11/16 or 2) contest it within 30 days of the date of the notice? And, if the latter, should I send a notice to your office? I am happy to pay the fine in order to preserve my ability to contest the findings- just tell me what is easier.

Thanks,

Brian

Thanks,

On Tue, Nov 5, 2019 at 1:33 PM Brian Elworthy <belworthy@gmail.com> wrote:

Thanks for the prompt response, Marcus.

I respectfully disagree with this and so I'm going to turn it over to my attorney who will be in touch with you.

Thanks,

Brian Elworthy

On Tue, Nov 5, 2019 at 12:21 PM Marcus Silverstein <MSilverstein@nantucket-ma.gov> wrote:

Brian,

Thank you for providing the additional information. Unfortunately, the issue pertaining to a secondary access without the required special permit remains.

For a structure and/or use to be considered "pre-existing nonconforming" the structure and/or use must pre-exist the adoption of or change to the zoning bylaw that created the nonconformity and remain in existence and/or use since that time. Per the attached 1998 aerial, neither the pass-thru nor the access shown on the provided 1971 aerial are in existence on or around the time of the 1998 bylaw. The rear access was reestablished sometime between the 1998 and 2003 aerials but without the special permit that was then required.

As such, you are required to either receive the necessary special permit to maintain the secondary access, close said access to

vehicular use, or successfully appeal the October 16, 2019 order.

Respectfully,

Marcus Silverstein
Zoning Enforcement Officer
Town of Nantucket

-----Original Message-----

From: Brian Elworthy <belworthy@gmail.com>
Sent: Monday, November 04, 2019 11:56 AM
To: Marcus Silverstein <MSilverstein@nantucket-ma.gov>
Cc: nantucketproperties@gmail.com
Subject: 40 Warren's Landing - Aerial Photos

Hi Marcus-

We spoke last week regarding my property's access to Blue Heron.

We reached out to our environmental engineer, Nantucket Engineering & Survey, PC, to provide the support that you need to clarify our access rights.

You'll see from the attached a clear access point (actually two access points) has been in existence since as early as 1971. The subsequent photos show the maintenance of the access point in question since then, including through the date of the 1998 bylaws passage, to the present date.

I hope that this helps clarify any confusion. Would appreciate your conveying this if ever it gets questioned again. Given our plan to make infrequent use of that access point over time, I hope and suspect it will not.

Let me know if you have any questions.

Thanks,

Brian Elworthy
40 Warren's Landing
Nantucket, MA
(978)204-8705

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Brian Elworthy

c: 978.204.8705

e: belworthy@gmail.com

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Brian Elworthy

c: 978.204.8705

e: belworthy@gmail.com

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Brian Elworthy

c: 978.204.8705

e: belworthy@gmail.com

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--
Brian Elworthy

c: 978.204.8705

e: belworthy@gmail.com

This email was scanned by Bitdefender

Marcus Silverstein

From: Sarah Buttrick <sebuttrick@me.com>
Sent: Wednesday, August 25, 2021 3:35 PM
To: Marcus Silverstein
Cc: Jeff Carlson; Sarah Alger
Subject: 40 Warren's Landing Road, hearing on Notice of Intent before the Conservation Commission 8/26/21
Attachments: Marcus Silverstein re 40 Warren's Landing Road rev. 8.25.21.pdf; 40 Warrens Landing Road violation October 16, 2019.pdf; 40 Warrens Landing Road violation March 3, 2020.pdf; NOI_40WarrensLanding_8-5-21.pdf

Dear Mr. Silverstein,

We are advised that our neighbor at 40 Warren's Landing Road has submitted an application to the Nantucket Conservation Commission for consideration tomorrow, August 26, 2021. We would like to voice our concern about one aspect of the proposal.

In the Notice of Intent before the Conservation Commission, there is a reference to an "existing driveway" onto Blue Heron Way (see p. 2 of the Nantucket Engineering & Survey letter under "Work Description"). We are not aware of any Special Permit that was granted for this second driveway, and note that two Notice of Violation letters were issued in late 2019 and early 2020 to the current owner for making a curb cut onto Blue Heron Way. These citations were issued after our uncle and neighbor Daniel Drake reported the violations.

We have lived at 34 Warren's Landing Road for generations, and there was never an active driveway from 40 Warren's Landing Road onto Blue Heron Way. Prior to the current owner, the access to Blue Heron Way that was opened about 20 years ago was used rarely and only as a walkway.

Blue Heron Way is a sand/dirt rutted road that is used as access to the Haffenreffers' property and has been used historically by people walking, jogging and biking. Two years ago, the Planning Board denied the application of a second curb cut to Blue Heron Way by the owner of 44 Warren's Landing Road, in part on the finding of the importance of maintaining the historical character of the 'way'.

The current owner of 40 Warren's Landing Road has been using this access as an illegal driveway regularly this summer. I attach six photographs taken this week, illustrating two instances, showing fresh tire tracks. Multiple cars, and some trucks have been seen using this illegally as a driveway.

We also note that the so-called existing second driveway on the plan runs within the 25 foot buffer zone of a wetland area and might be detrimental to it. For that reason, by copy of this letter we are also asking Jeff Carlson, as the administrative officer for the Conservation Commission, whether barring the use of this driveway is possible and can be incorporated into any order approving the Notice of Intent.

In addition to the photographs of the car tire tracks this week, copies of the two previous violations issued for using this as a driveway illegally, and the NOI that was submitted for review by the Conservation Commission tomorrow evening are attached.

We request that the current owners be required to close the access onto Blue Heron Way, to make it impassable by vehicles as they remain out of compliance. This could be achieved using landscaping, rock placement, or a split pole fence.

Thank you for your consideration

Please let us know if you have any questions.

Sincerely,

Sarah Buttrick, for
John Buttrick, Jerome Buttrick, Mary Buttrick Burnham and Catherine Buttrick Leland

cc. Jeff Carlson, Town of Nantucket, Department of Natural Resources

cc. Sarah Alger, Esq.

This email was scanned by Bitdefender

8/23/21 6:06PM

In addition to the photographs of the car tire tracks this week, copies of the two previous violations issued for using this as a driveway illegally, and the NOI that was submitted for review by the Conservation Commission tomorrow evening are attached.

We request that the current owners be required to close the access onto Blue Heron Way, to make it impassable by vehicles as they remain out of compliance. This could be achieved using landscaping, rock placement, or a split pole fence.

Thank you for your consideration

Please let us know if you have any questions.

Sincerely,

Sarah Buttrick, for
John Buttrick, Jerome Buttrick, Mary Buttrick Burnham and Catherine Buttrick Leland

cc. Jeff Carlson, Town of Nantucket, Department of Natural Resources
Sarah Alger, Esq.







Buttrick Family
34 Warrens Landing Road, Nantucket, MA 02554

August 25, 2021

Mr. Marcus Silverstein
Planning and Land Use Services, Zoning Enforcement
Town of Nantucket
2 Fairgrounds Road
Nantucket, MA. 02554

Dear Mr. Silverstein,

We are advised that our neighbor at 40 Warren's Landing Road has submitted an application to the Nantucket Conservation Commission for consideration tomorrow, August 26, 2021. We would like to voice our concern about one aspect of the proposal.

In the Notice of Intent before the Conservation Commission, there is a reference to an "existing driveway" onto Blue Heron Way (see p. 2 of the Nantucket Engineering & Survey letter under "Work Description"). We are not aware of any Special Permit that was granted for this second driveway, and note that two Notice of Violation letters were issued in late 2019 and early 2020 to the current owner for making a curb cut onto Blue Heron Way. These citations were issued after our uncle and neighbor Daniel Drake reported the violations.

We have lived at 34 Warren's Landing Road for generations, and there was never an active driveway from 40 Warren's Landing Road onto Blue Heron Way. Prior to the current owner, the access to Blue Heron Way that was opened about 20 years ago was used rarely and only as a walkway.

Blue Heron Way is a sand/dirt rutted road that is used as access to the Haffenreffer's property and has been used historically by people walking, jogging and biking. Two years ago, the Planning Board denied the application of a second curb cut to Blue Heron Way by the owner of 44 Warren's Landing Road, in part on the finding of the importance of maintaining the historical character of the 'way'.

The current owner of 40 Warren's Landing Road has been using this access as an illegal driveway regularly this summer. I attach six photographs taken this week, illustrating two instances, showing fresh tire tracks. Multiple cars, and some trucks have been seen using this illegally as a driveway.

We also note that the so-called existing second driveway on the plan runs within the 25 foot buffer zone of a wetland area and might be detrimental to it. For that reason, by copy of this letter we are also asking Jeff Carlson, as the administrative officer for the Conservation Commission, whether barring the use of this driveway is possible and can be incorporated into any order approving the Notice of Intent.

Marcus Silverstein

From: Marcus Silverstein
Sent: Tuesday, August 31, 2021 8:15 AM
To: 'Arthur Reade'
Cc: Jeff Carlson; 'Sarah F. Alger (sfa@sfapc.com)'; Paul Murphy; Megan Trudel
Subject: RE: 40 Warren's Landing Road

Arthur,

Unfortunately, the matter of the un-permitted secondary access at 40 Warren's Landing Rd. (Map# 38, Parcel# 45) remains an open violation dating to the first citation issued on October 16, 2019. A second citation was issued March 3, 2020. No appeal of the October 16, 2019 order was filed within the statutory appeal period and the violation stands. Furthermore, the secondary access is not a pre-existing nonconforming use. Although the 1971 aerial does show an access in the same or similar location, said access was closed some years prior to the 1998 bylaw and reestablished sometime between 1998 and 2003 without the required special permit.

The Warren's Landing Nominee Trust, Adam Delaney-Winn, Tr., is given five (5) days from the date of this email to either apply to the Planning Board for the required Special Permit for a secondary access, or close the access to vehicular traffic until such a time that the required permit(s) is/are obtained. Failure to comply will result in additional citations and fines.

Respectfully,

Marcus Silverstein
Zoning Enforcement Officer
Town of Nantucket

From: Arthur Reade <air@readelaw.com>
Sent: Monday, August 30, 2021 2:55 PM
To: Marcus Silverstein <MSilverstein@nantucket-ma.gov>
Cc: Jeff Carlson <JCarlson@nantucket-ma.gov>; 'Sarah F. Alger (sfa@sfapc.com)' <sfa@sfapc.com>
Subject: 40 Warren's Landing Road

Marcus,

Please see attached letter.

Thank you.

Arthur
8/30/2021

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

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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.

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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

August 30, 2021

Marcus Silverstein,
Zoning Enforcement Officer
Planning and Land Use Services
2 Fairgrounds Road
Nantucket, Massachusetts 02554

Re: 40 Warren's Landing Road
Parcel 38-45

Dear Marcus:

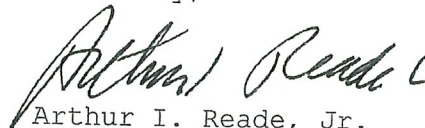
I have obtained from the Conservation Commission a copy of the letter sent to you by members of the Buttrick family, dated August 25, 2021, requesting action regarding the driveway access to 40 Warren's Landing Road from the right of way known as Blue Heron Way. I represent Warren's Landing Nominee Trust, owner of this property.

The access between locus and Blue Heron Way has been in existence since prior to the amendment of the Nantucket Zoning By-law to limit driveway access points, and the dual access from Blue Hero Way and Warren's Landing Road is accordingly a pre-existing, nonconforming situation, grandfathered accordingly. Locus has express, appurtenant easement rights in Blue Heron Way.

Accordingly, it would be inappropriate for any action to be taken by the Town against the access driveway to and from Blue Heron Way.

Thank you for your consideration.

Sincerely,



Arthur I. Reade, Jr.
air@readelaw.com

AIR/irv

cc: Sarah F. Alger, Attorney

Jeff Carlson, Conservation Commission

Letters

From: ddrake@ackquack.com

Date: October 6, 2021 at 4:19:41 PM EDT

To: Leslie Snell <LSnell@nantucket-ma.gov>

Subject: Re: Adam Delaney-Winn, Trustee of Warren's Landing Nominee Trust - File No. 22-21 -
Comment on Application

Town of Nantucket – Zoning Board of Appeals.

My wife and I are the owners of 32 Warren's Landing Road and, as such, received notice of the captioned application.

My parents purchased the parcel of land which included what are now 32 and 34 Warren's Landing Road in 1940. I have been on the island almost every summer since 1943. My wife and I moved here full time in 2000.

I am writing in support of the Zoning Enforcement Officer's recent determination that there was no driveway from the small, sandy road known as Blue Heron Way into the property at 40 Warren's Landing Road preceding the 1998 By-Law requiring permits for additional driveways.

As a frequent cyclist and walker on Blue Heron Way over the years, I didn't observe vehicular activity accessing the property from Blue Heron Way until late 2019 after the present owner purchased it. (Such activity is easy to spot because of tire marks in the sand.) Since then, I have seen tire tracks in the sand leading into the property regularly.

I believe it was 2000 or 2001 or even later when the prior owner cut a wide path running from Blue Heron Way to the clearing behind the rear parking area of 40 Warren's Landing Road. The explanation at the time that it was to enable the household's dogs to be walked without going on Warren's Landing Road. Again, I did not observe the wider path being used for vehicle access.

Thank you for your consideration,

Dan Drake

Daniel W. Drake
32 Warren's Landing Road
PO Box 194
Nantucket, MA 02554

Tel: 508.228.4833
Cell: 508.221.0770

From: Joe Delogu <jdelogu@fdstonewater.com>
Sent: Thursday, October 7, 2021 1:20 PM
To: Nickesha Sheriff <nsheiff@nantucket-ma.gov>
Cc: Leslie Snell <LSnell@nantucket-ma.gov>
Subject: Re: File # 22-21

Nicky, Leslie —

Following are my comments in response to the below File matter:

My name is Joseph Delogu, and I am the Fee Simple owner of 44 Warrens Landing Road - a directly abutting neighbor of 40 Warrens Landing Road, the subject of this matter. Officially, for the record, I am completely fine with the property owners at 40 Warrens Landing Road maintaining its current driveway on Warrens Landing Road, while also maintaining the rough opening and access point situated along Blue Heron as it presently exists.

My attorneys have done a considerable amount of research regarding Blue Heron. As I understand it, Blue Heron is NOT a public roadway. It is private property - with common rights of access to a limited number of "abutting landowners". As private property, I question whether it is even fair to subject it to the review being conducted here. Regardless, my greater concern is that in the three years of my ownership of 44 Warrens Landing Road, I have observed a consistent pattern where the same few members of the "abutting landowners" group seeks to disenfranchise other members of the "abutting landowners" group from fully utilizing and accessing Blue Heron - in violation of their common rights of access (in my opinion). Indeed, at one point, one of the members of the "abutting landowners" group confronted my landscaper - and said he could not run a Bobcat down Blue Heron for the purposes of landscaping the rear portion of my property (clearly not a violation of any rule, but lends perspective to what's really going on here). In the current situation with this File matter, I doubt this matter would even be in front of the Board if certain "abutting landowners" had not agitated for the Board's involvement.

If the Board feels it is in the Board's best interest to adjudicate differences between neighbors involving private property to which they have COMMON rights of use and access - well then "so be it". However, I suggest the Board should stand back from this situation and assess whether they're actually being manipulated and used as a "tool" to amplify the common use and access rights of some "abutting landowners" at the expense of other "abutting landowners".

Regardless, again, for the record - this abutting property owner has NO PROBLEM WHATSOEVER with the owner's of 40 Warrens Landing Road continuing to use their access point to Blue heron as they currently do.

Thank you very much for letting me comment on this File matter.

Best regards,

Joseph Delogu
Owner, 44 Warrens Landing Road

Reference: Town of Nantucket Board of Appeals meeting file no. 22-21

October 14, 2021

Adam Delaney-Winn, Trustee, Warren's Landing Nominee Trust

Dear Zoning Board of Appeals:

It has come to our attention that Adam Delaney-Winn, Trustee of Warren's Landing Nominee Trust, is appealing the Zoning Board's determination that the owners of 40 Warren's Landing Road do not have a grandfathered in second driveway onto Blue Heron Way.

I write on behalf of my family, as concerned neighbors. We have owned 34 Warren's Landing Road for four generations, since the 1940s, and during that time there has never been a driveway from 40 Warren's Landing Road onto Blue Heron Way that any of us can remember. It is only since the current owners moved in that the old lightly used foot path onto Blue Heron Way has been used for cars as if it were a driveway.

The current owners did not appeal the two violation notices for using an un-permitted secondary access that were issued on October 16, 2019, and March 3, 2020, so we thought this matter had been settled until we received their recently submitted Notice of Intent to the Conservation Commission (which we were alerted to as neighbors). This Notice of Intent to the Conservation Commission shows an existing secondary driveway onto Blue Heron Way on their plans. In the meantime, the current owners have continued to use the car access they have created onto Blue Heron Way.

From our perspective, it appears that by using the old footpath as a driveway the current owners are attempting to establish and broaden the access from their property so that it seems like a driveway was always there.

Attached is an aerial view of the property from the Town's website from 1998, confirming that there was no driveway from the property onto Blue Heron Way in 1998. The former owners had two curb cuts onto Warren's Landing Road so they could have a horseshoe shaped driveway. Our understanding is that the applicable law regarding secondary driveways requires that a special permit be granted before a secondary driveway is established. As far as we know, no such permit was granted to establish a secondary driveway for 40 Warren's Landing Road.

We respectfully urge you to uphold the ruling of the zoning enforcement officer.

Thank you for your consideration.

Sincerely,

Sarah Buttrick

For John Buttrick, Jerome Buttrick, Mary Buttrick Burnham and Catherine Buttrick Leland

SARAH F. ALGER, P.C.

ATTORNEYS AT LAW

FOUR NORTH WATER STREET • NANTUCKET, MASSACHUSETTS • 02554

TELEPHONE: 508-228-1118 FACSIMILE: 508-228-8004

SARAH F. ALGER

sfa@sfapc.com

JENNIFER E. CAREY

jec@sfapc.com

FIVE PARKER ROAD • POST OFFICE BOX 449

OSTERVILLE • MASSACHUSETTS • 02655

TELEPHONE: 508-428-8594 FACSIMILE: 508-420-3162

JOHN R. ALGER

1931-2007

September 1, 2022

BY E-MAIL

Susan E. McCarthy, Chair
Nantucket Zoning Board of Appeals
2 Fairgrounds Road
Nantucket, Massachusetts 02554

Re: ZBA File No. 22-21
Adam Delaney-Winn, Trustee
Warren's Landing Nominee
Trust
40 Warren's Landing Road
Assessor's Map 38, Parcel 45
Nantucket, Massachusetts

Dear Ms. McCarthy:

I represent Harold Edgar Buttrick and Ann S. Buttrick, Trustees of the Buttrick Nantucket Trust, the owners of the property at 34 Warren's Landing Road, and Daniel W. Drake and Judith S. Drake, the owners of the property at 32 Warren's Landing Road. The Drake and Buttrick Properties use Blue Heron Way, and they would be uniquely injured if the applicant's appeal is upheld.

We understand that the applicant in the above matter is prepared to proceed with his appeal at the Board's September 8th meeting and that the Board's meetings are now held in person only. Unfortunately, after monitoring this matter for about a year now, neither my clients nor I will be able to attend next Thursday's meeting. My associate, Jenn Carey, may be able to attend, but in the meantime, please accept this letter in opposition to Mr. Delaney-Winn's appeal.

We are in full support of the position taken by the Zoning Enforcement Officer, Marcus Silverstein, in this matter and ask that you uphold his decision and deny the applicant's appeal.

The secondary access from 40 Warren's Landing Road on to Blue Heron Drive is in violation of Nantucket Zoning By-law (the "By-law") §139-20.1.B(1) and must be closed. By-law §139-20.1.B(1) was first adopted on April 13, 1998, and provides that, "[n]o more than one driveway access shall be allowed on a

SARAH F. ALGER, P.C.

Susan E, McCarthy, Chair
Nantucket Zoning Board of Appeals
September 1, 2022
Page 2

lot. However, the Planning Board may grant a waiver to allow two or more driveway accesses in accordance with §139-20.1C." Accordingly, any secondary driveway access must have either (a) existed prior to April 13, 1998, or (b) been permitted by special permit by the Nantucket Planning Board. In this case, neither condition is satisfied.

The Planning Board has not granted the applicant a special permit for a secondary driveway access in accordance with By-law §§139-20.1.(b) and 20.1.C.

The purported secondary access from 40 Warren's Landing Road on to Blue Heron Drive was not in existence on April 13, 1998. A copy of the 1998 aerial plan from the Town's website is attached. It is evident from this plan that no secondary driveway access existed at that time. As stated by Mr. Silverstein in his August 31, 2021 email to the applicant's counsel that is included with the appeal, while the secondary driveway access may have been in existence in 1971, it was subsequently abandoned and not re-established until after 1998. At that point, a special permit would have been required to establish the secondary driveway access, and none was obtained.

Finally, this appeal is not timely. As noted in Mr. Silverstein's email, the applicant did not appeal either the October 16, 2019 and March 3, 2020 orders within thirty days of their issuance as required pursuant to Mass. Gen. Laws c. 40A, §§8 and 15. Accordingly, those orders are now final and unappealable, rendering the current action moot.

We request that the Board uphold Mr. Silverstein's decision and deny the applicant's appeal.

Thank you for your attention to this matter.

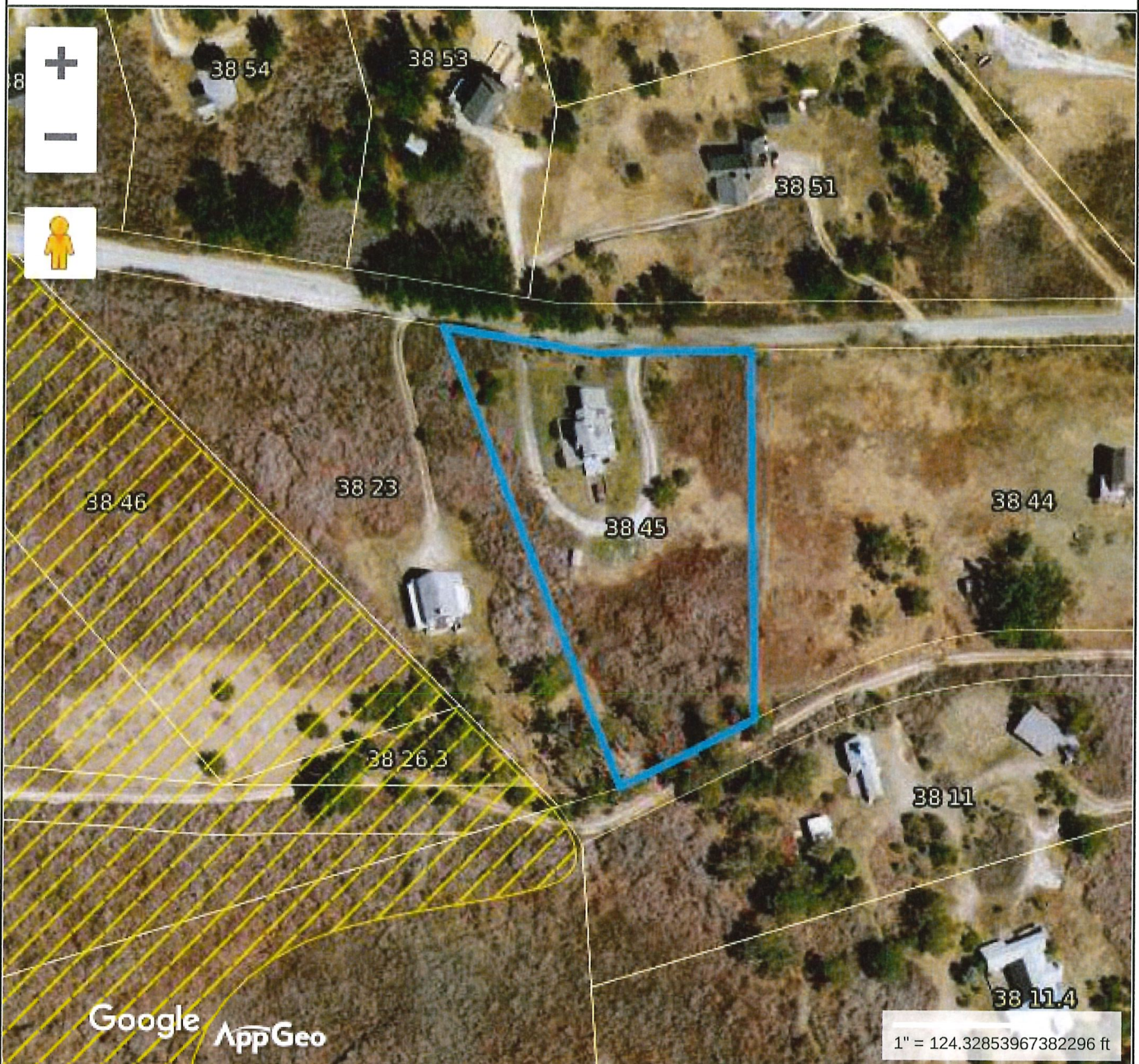
Sincerely,



SFA/

cc: Harold Edgar Buttrick and Ann S. Buttrick, Trustees
Mr. and Mrs. Daniel W. Drake

40 Warren's Landing Road 1998 Aerial

**Property Information**

Property ID 38 45
Location 40 WARRENS LANDING RD
Owner DELANEY-WINN ADAM 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 07/29/2021
Data updated Jan. 2021

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

Map Theme Legends

Natural Resource Protection

NHESP Certified Vernal Pools



NHESP Potential Vernal Pools



NHESP Priority Habitats of Rare Species



NHESP Estimated Habitats of Rare Wildlife



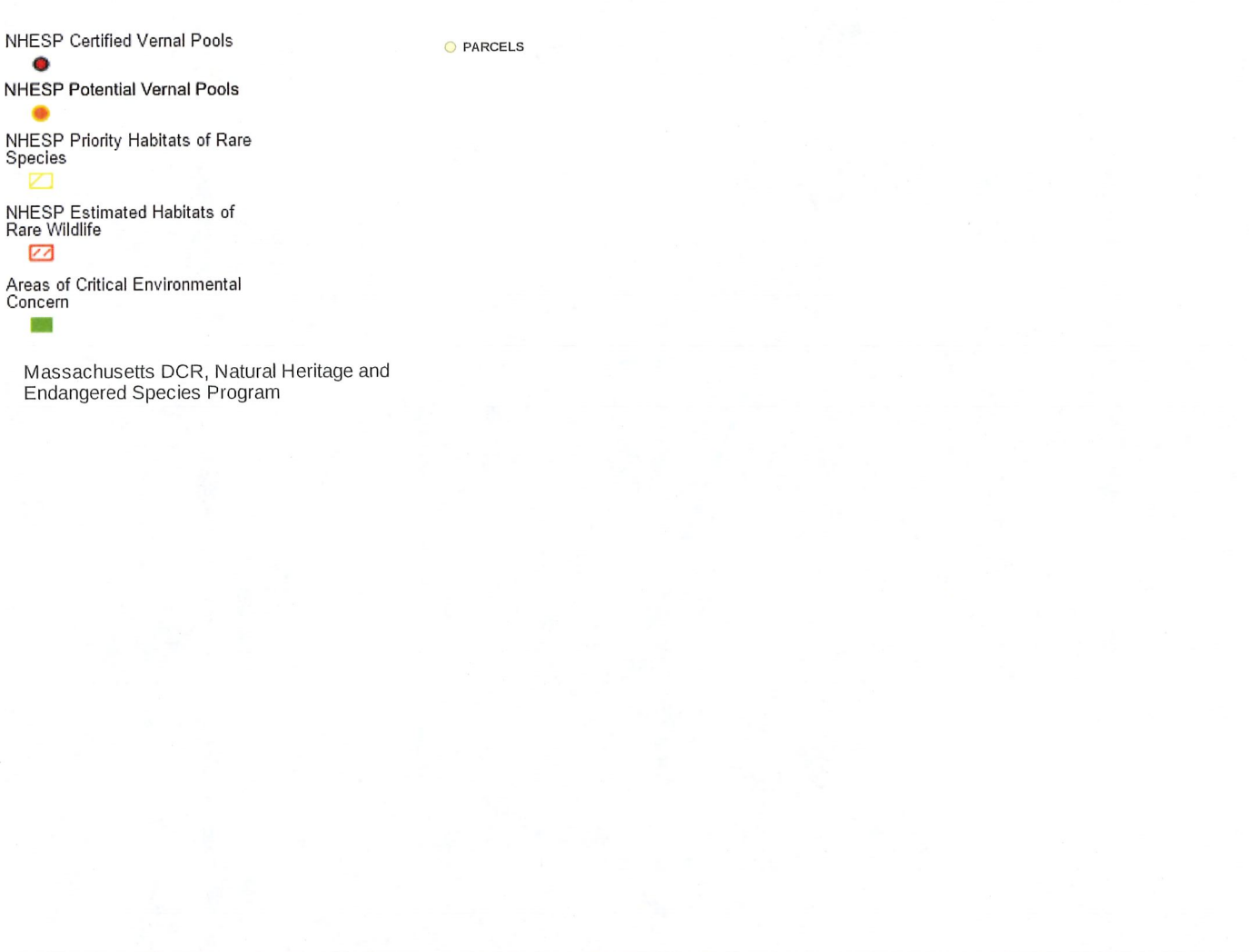
Areas of Critical Environmental Concern



Massachusetts DCR, Natural Heritage and Endangered Species Program

Aerial Photo, 1998

PARCELS



NEW BUSINESS

PAUL P. & JEAN M.
MORAN

File No. 10-22

4 Washington Ave

SPECIAL PERMIT



PAID

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

2022 AUG 12 AM 11:14

A P P L I C A T I O N

Fee: \$450.00

File No. 10-22

Owner's name(s): Paul P. Moran and Jean M. Moran, Trustees

Mailing address: 460 Ocean Road, Narragansett, RI 02882

Phone Number: 401-714-7617 E-Mail: pmoran@mclaughlinmoran.com

Applicant's name(s): Paul Moran

Mailing Address: 460 Ocean Road, Narragansett, RI 02882

Phone Number: 401-714-7617 E-Mail: pmoran@mclaughlinmoran.com

Locus Address: 4 Washington Avenue Assessor's Map/Parcel: 60.2.4/65

Land Court Plan/Plan Book & Page/Plan File No.: Land Court Plan - 14672-H

Deed Reference/Certificate of Title: 28661 Zoning District V-R Village Residential

Uses on Lot- Commercial: None Yes (describe)

Residential: Number of dwellings 1 Duplex Apartments

Date of Structure(s): all pre-date 7/72 or 2012

Building Permit Numbers: BP-2012-0281

Previous Zoning Board Application Numbers: N/A

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

Applicant is seeking Special Permit relief pursuant to Zoning By-law Sections 139-30 and 139-2 in order to install an in-ground residential swimming pool. Locus is located on the north side of Washington Avenue, contains an Area of 24,311+/- S.F. where 20,000 S.F. is required and is dimensionally conforming as to Frontage, Setbacks and Ground Cover. Locus is serviced by municipal water and a on-site subsurface sewage disposal system. The proposed pool and mechanical equipment will be setback a minimum of 20 feet from both the side and rear yards. In addition the pool will be setback 20 feet from the subsurface sewage disposal system in accordance with the State Environmental Code, Title 5.

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.

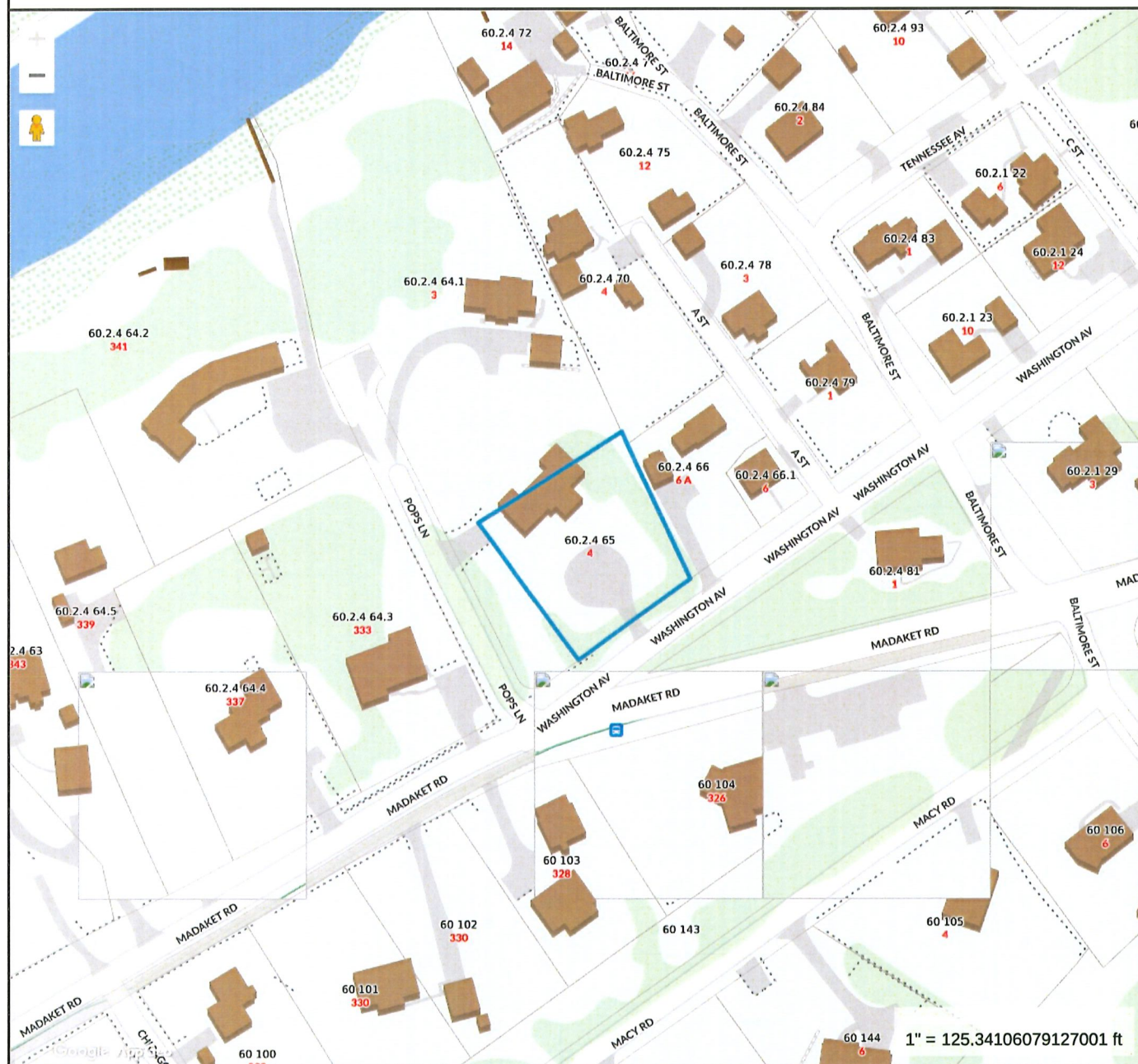
SIGNATURE: Paul P. Mora Owner*

SIGNATURE: Paul P. Mora 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: __/__/__

**Property Information**

Property ID 60.2.4 65
 Location 4 WASHINGTON AV
 Owner MORAN PAUL P TR



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

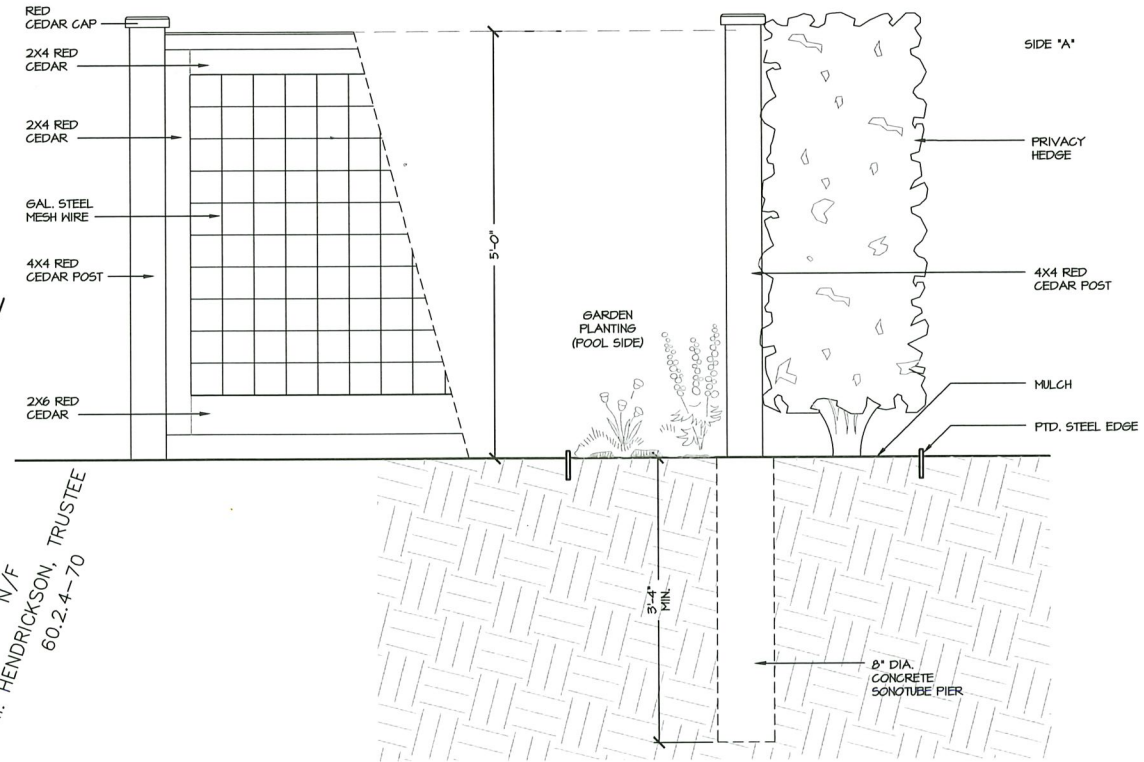
Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 05/31/2022
 Data updated Jan. 2021

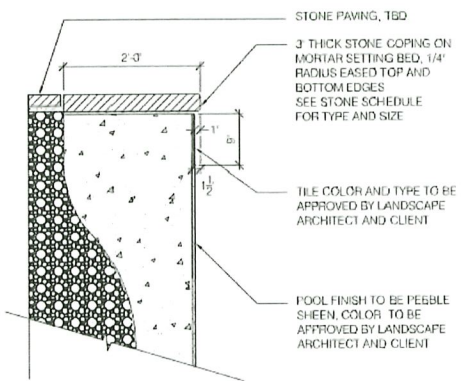
Print map scale is approximate.
 Critical layout or measurement
 activities should not be done using
 this resource.

RECEIVED
AUG 26 2022
By

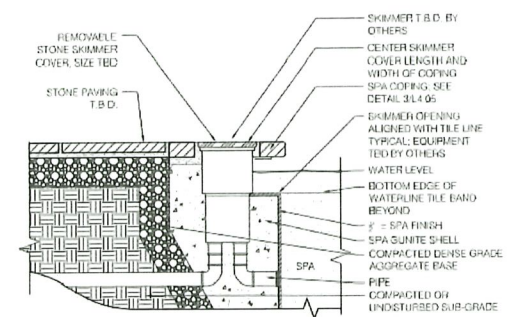
N/F
BURKE MATTHEW TR
POPS LANE HOLDING TRUST
DEED, DOCUMENT #172112 &
CERTIFICATE #28599



A FENCE DETAIL AROUND POOL
SCALE: 1"=1'-0"



B POOL COPING DETAIL
SCALE: N.T.S.



C POOL SKIMMER DETAIL
SCALE: N.T.S.

GENERAL NOTES:
1. DO NOT SCALE DRAWINGS.
2. VERIFY ALL DIMENSIONS
IN FIELD.
3. REPORT ANY DISCREPANCIES
TO JP COUTURE.

CUSTOM HOMES ■ RENOVATION
RESTORATION

JP COUTURE,
ARCHITECT

12 Arnold Street
Providence, RI 02906
Tel. 401.621.1861

JP@couturedesignassociates.com

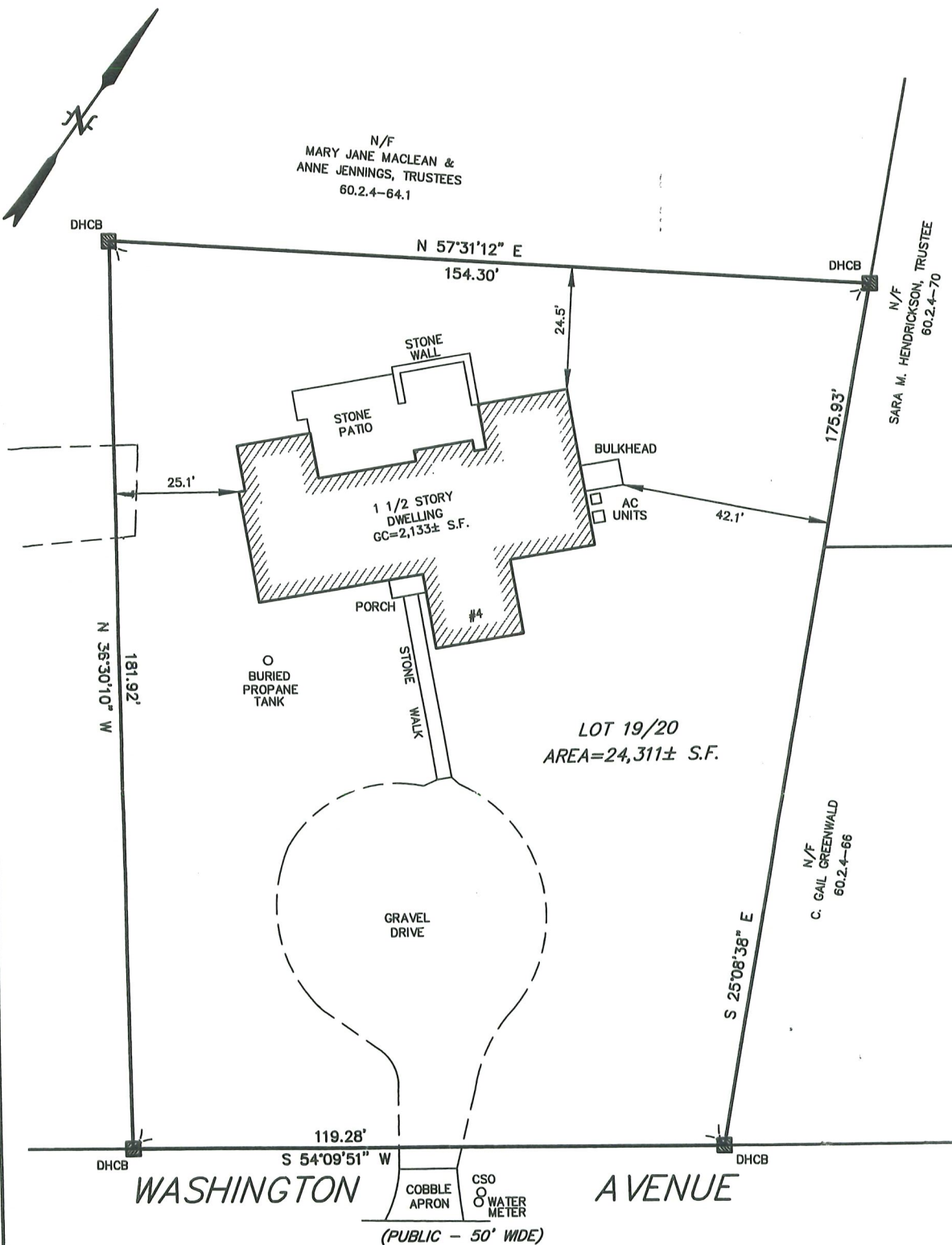
No.	Date	Revisions

MORAN RESIDENCE
4 WASHINGTON AVE
NANTUCKET, MA 02554

Date: AUG. 15, 2022

C1.1

Project Number:



CURRENT ZONING: V-R (VILLAGE RESIDENTIAL)
 MINIMUM LOT SIZE: 20,000 S.F.
 MINIMUM FRONTAGE: 100'
 FRONT YARD SETBACK: 20'
 SIDE AND REAR SETBACK: 10'
 ALLOWABLE G.C.R.: 10%
 EXISTING G.C.R.: 8.8%

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.

NB: 376/75 & 381/21



COPYRIGHT BY NANTUCKET SURVEYORS, LLC.

AS-BUILT PLOT PLAN
 #4 WASHINGTON AVENUE
 IN
 NANTUCKET, MASSACHUSETTS
 SCALE: 1"=20' DATE: 10/03/13

DEED REFERENCE: L.C. CERT. #24544
 PLAN REFERENCE: L.C. PLAN #14672-H
 ASSESSOR'S REFERENCE:
 MAP: 60.2.4 PARCEL: 65

PREPARED FOR:
 PAUL P. & JEAN M. MORAN
 NANTUCKET SURVEYORS LLC
 5 WINDY WAY
 NANTUCKET, MA. 02554

N-10076

4 Washington Avenue, Nantucket, MA
Applicant: Paul Moran



View from Washington Avenue



View from Pops Lane



View from gravel drive off of Pops Lane

Town of Nantucket

Zoning Board of Appeals

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

PROPERTY OWNER..... Paul P. Moran Trustee
MAILING ADDRESS..... 460 Ocean Road, Narragansett, RI 02882
PROPERTY LOCATION..... 4 Washington Avenue
ASSESSOR MAP/PARCEL..... 60.2.4/65
SUBMITTED BY..... Nantucket Surveyors, LLC

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)).

July 11, 2022

DATE

Mary Haley,
Senior Clerk,
Assessor's Office

ASSESSOR'S OFFICE
TOWN OF NANTUCKET

Digitally signed by
Mary Haley, Senior
Clerk, Assessor's Office
Date: 2022.07.11
13:45:09 -04'00'

Abutters Listing

MBLU	Lot	Lot Cut	Owner Full Name	Co-Owner Full Name	Address Line 1	City	State	Zip	Location
60	101		ALFORD EDWARD L & PATRICIA		PO BOX 537	SOUTH HADLEY	MA	01075-0537	330 MADAKET RD
60	102		ALFORD EDWARD L & PATRICIA		PO BOX 537	SOUTH HADLEY	MA	01075-0537	330 MADAKET RD
60	103		HERNANDEZ JOHN PATRICK ET AL		25 NORTHERN AV APT 1910	BOSTON	MA	02212	328 MADAKET RD
60	104		ANDERSON GRENNAN TRUSTEE	ANDERSON NOMINEE TRUST	P O BOX 5244	NANTUCKET	MA	02554	326 MADAKET RD
60	105		NICHOLSON LAURA TR	4 MACY RD REALTY TRUST	88 STRAWBERRY HILL ROAD	ACTON	MA	01720	4 MACY RD
60	143		TOWN OF NANTUCKET		16 BROAD ST	NANTUCKET	MA	02554	MACY RD
60	144		GREENE TIMOTHY		19 EAST BATTERY	CHARLESTON	SC	29401	6 MACY RD
60	146		GALLAGHER PHILIP N JR		PO BOX 1071	NANTUCKET	MA	02554	8 MACY RD
6021	23		RANKIN SCOTT M & JESSICA L		66 MOHAWK PATH	HOLLISTON	MA	01746	10 WASHINGTON AV
6021	29		ODELL ROBIN S & DEREK C		32 BRETTON RIDGE RD	MOUNT KISCO	NY	10549	3 WASHINGTON AV
6024	52		PEARSON JOHN R JR ETAL		5417 BARTLETT STREET	PITTSBURG	PA	15217	MASSACHUSETTS AV
6024	64	1	BURKE MATTHEW TR	POPS LANE HOLDINGS TRUST	POPS LANE HOLDINGS TRUST	ENCINO	CA	91316	3 POPS LN
6024	64	2	OVERCREEK LLC		1248 ZIMMER DR	ATLANTA	GA	30306	341 MADAKET RD
6024	64	3	333 MADAKET LLC		33 TAYLOR CROSS WY	BROOKLINE	MA	02445	333 MADAKET RD
6024	64	4	STARRY NIGHT LLC		C/O RUTH HODGES	LINCOLN	MA	01773	337 MADAKET RD
6024	64	5	LECLAIRE JOHN R & HODGES RUTH A		150 TRAPELO ROAD	LINCOLN	MA	01773	339 MADAKET RD
6024	66		GREENWALD C GAIL		21 FOLLEN ST	CAMBRIDGE	MA	02138	6 A WASHINGTON AV
6024	70		MANNING TODD D & KATHLEEN A		OLD MILL HOUSE	MILL LANE ASCOT		5L57RU	4 A ST
6024	72		WHELDEN HAROLD R & COLLEEN S TR	WHELDEN REALTY TRUST	14 BALTIMORE ST	NANTUCKET	MA	02554	14 BALTIMORE ST
6024	73		TAYLOR R SCOTT TRST ETAL		1333 WEST 11TH AVE	ANCHORAGE	AK	99501	16 BALTIMORE ST
6024	75		CARROLL JOHN T		566 HANCOCK STREET	WRENTHAM	MA	20293	12 BALTIMORE ST
6024	78		SCHMIDT GEORGE L TRUSTEE	3 A STREET REALTY TRUST	510 SOUTHSHIRE DR	BENNINGTON	VT	05201	3 A ST
6024	79		KOZAR RICHARD F & HEIDI TODD		235 QUARRY RD	LATROBE	PA	15650	1 A ST
6024	81		TURNER GEORGE M III TR	TURNER MICHELLE J TRUST	5 HIDEAWAY LANE	DUXBURY	MA	02332	1 WASHINGTON AV
6024	82		ANDERSON GRENNAN TRUSTEE	ANDERSON NOMINEE TRUST	P O BOX 5244	NANTUCKET	MA	02554	324 MADAKET RD
6024	83		1 TENNESSEE STREET LLC	C/O FRANCIS DISCALA	10 WALL ST	NORWALK	CT	06850	1 TENNESSEE AV
6024	84		2 TENN ZEN LLC		C/O PATRICIA M STOLTE	NANTUCKET	MA	02584	2 TENNESSEE AV
6024	86		STOLTE ROGER F & PATRICIA TRS	C/O STOLTE ROGER	PO BOX 2858	NANTUCKET	MA	02584	19 BALTIMORE ST
6024	89		LYMAN THEODORE P TRST ETAL	CHOATE HALL/SILVENA GINER	2 INTERNATIONAL PLACE	BOSTON	MA	02110	12 C ST
6024	93		RAY BONNIE S TR	RAY FAMILY TRUST	10 C STREET	NANTUCKET	MA	02554	10 C ST
Count:		30							

ALFORD EDWARD L & PATRICIA
PO BOX 537
SOUTH HADLEY, MA 01075-0537

ALFORD EDWARD L & PATRICIA
PO BOX 537
SOUTH HADLEY, MA 01075-0537

HERNANDEZ JOHN PATRICK ET AL
25 NORTHERN AV APT 1910
BOSTON, MA 02212

ANDERSON GRENNAN TRUSTEE
ANDERSON NOMINEE TRUST
P O BOX 5244
NANTUCKET, MA 02554

NICHOLSON LAURA TR
4 MACY RD REALTY TRUST
88 STRAWBERRY HILL ROAD
ACTON, MA 01720

TOWN OF NANTUCKET
16 BROAD ST
NANTUCKET, MA 02554

GREENE TIMOTHY
19 EAST BATTERY
CHARLESTON, SC 29401

GALLAGHER PHILIP N JR
PO BOX 1071
NANTUCKET, MA 02554

RANKIN SCOTT M & JESSICA L
66 MOHAWK PATH
HOLLISTON, MA 01746

ODELL ROBIN S & DEREK C
32 BRETTON RIDGE RD
MOUNT KISCO, NY 10549

PEARSON JOHN R JR ETAL
5417 BARTLETT STREET
PITTSBURG, PA 15217

BURKE MATTHEW TR
POPS LANE HOLDINGS TRUST
POPS LANE HOLDINGS TRUST
ENCINO, CA 91316

OVERCREEK LLC
1248 ZIMMER DR
ATLANTA, GA 30306

333 MADAKET LLC
33 TAYLOR CROSS WY
BROOKLINE, MA 02445

STARRY NIGHT LLC
C/O RUTH HODGES
LINCOLN, MA 01773

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NORWALK, CT 06850

2 TENN ZEN LLC
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C/O STOLTE ROGER
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BOSTON, MA 02110

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RAY FAMILY TRUST
10 C STREET
NANTUCKET, MA 02554

BENJAMIN RUBENSTEIN
&
ARIENNE BISTANY

File No. 11-22

51 Tennessee Ave

SPECIAL PERMIT



PAID

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

2022 AUG 12 PM 2:02

NANTUCKET
TOWN CLERK

APPLICATION

Fee: \$450.00

File No. 11-22

Owner's name(s): Benjamin Rubenstein and Arienne Bistany

Mailing address: 25 Rutland Square, Boston, MA 02118

Phone Number: _____ E-Mail: _____

Applicant's name(s): (Same)

Mailing Address: _____

Phone Number: c/o Linda Williams, 508-221-0432, czarinalinda@comcast.net

Locus Address: 51 TENNESSEE AVENUE, MADAKET

Assessor's Map/Parcel: 59.4-202

Land Court Plan/Plan Book & Page/Plan File No.: Lots 138, 147, 150 – 3092-S

Deed Reference/Certificate of Title: 27878 Zoning District VR

Uses on Lot- Commercial: None ☒ Yes (describe) _____

Residential: Number of dwelling: 2

Date of Structure(s): all pre-date 7/72: 1970 and 1975

Building Permit Numbers: _____

Previous Zoning Board Application Numbers: _____

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

(SEE ATTACHED 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: _____ Owner*

SIGNATURE: Linda Williams 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

Applicant is seeking relief by SPECIAL PERMIT pursuant to Nantucket Zoning By-law Section 139-2 (Definitions and word usage – swimming pools) and Section 139-7A (Use chart). Applicants propose to construct a small 18' x 8' residential swimming pool ("pool") within the envelop of an HDC approved new primary dwelling on their lot in Madaket. The property contains a single-family dwelling constructed in 1970 and a separate cottage/garage constructed in 1975. The property is now situated in the Village-Residential ("VR") zoning district. Residential pools are allowed by Special Permit in the VR provided the pool meets certain specified criteria as noted below in the By-law. The minimum required lot size in the VR is 20,000 SF. The Locus is oversized with the lot containing about 33,977 SF of lot area. The pool and associated equipment will be sited more than 20 feet from any side or rear yard lot line as required.

The pool will be so sited as to be blocked from visibility from Tennessee Avenue on the north by the new primary dwelling, from the east by the relocated existing dwelling and attached breezeway and from the south as the pool is sited over 200 feet from a section of Washington Avenue and the relocated existing dwelling. The pool is also located over 30 feet from M Street to the west, set into the substantial deck (no patio) and shielded by a raised seating area and existing vegetative screening. The pool is also sited at a higher elevation than M Street mitigating any visibility.

The HDC approved the pool/deck in COA #2022-05-6401 on July 5, 2022 primarily due to the location, screening and its being encompassed within the building envelop of the new primary dwelling, breezeway and relocated existing dwelling. There will be no exterior lighting related to the pool as conditioned by the HDC. Existing screening will remain and be augmented as shown on the site plan rendering. The pool equipment will be located below grade in a vault.

Roll Vote	Carried 5-0	Certificate #	HDC2022-05-6402
8. Rubinstein-Bistany	05-6401	51 Tennessee Avenue	New pool & deck
Voting	Pohl, Camp, Coombs, Oliver, Welch	59.4/202	Brook Meerbergen
Alternates	Dutra, Thomewill		
Recused	None		
Documentation	Landscape design plans, site plan, photos, historical documents, and advisory comments.		
Representing	Brook Meerbergen		
Public	None		
Concerns (5:49)	Meerbergen – Presented project; pool and deck at grade; mechanicals in vault under the deck; existing native vegetative buffer to remain; bench to have natural to weather vertical board. Backus – Read MAB comments 6/27: Visibility from M Street; size okay. More detailed native planting plan along lot line. A shingled-wall deck bench more appropriate. Ask there be no exterior landscape lighting. This is subject to a ZBA Special Permit. Camp – Her concern is visibility from M Street. Coombs – No concerns if the existing vegetation remains to screen it. Welch – No comments.		
Motion	Motion to Approve with existing vegetation to remain. (Welch)		
Vote	Carried 5-0	Certificate #	HDC2022-05-6401

In the VR zoning district, the Zoning Board of Appeals, acting as the special permit granting authority, may grant a special permit to allow a residential swimming pool on a lot subject to the following finding that the pool use and associated mechanicals are in harmony with the general purpose and intent of the Zoning By-law and provided that the project meets the following criteria:

- a) The lot must meet the minimum lot size for the district; and
- b) Side and rear yard setbacks of twenty (20) feet shall apply to the residential swimming pool and associated mechanical equipment.

In addition to the criteria being met, a finding that the use is in harmony with the general purpose and intent of the Zoning By-law may be made to grant the requested Special Permit relief.

The following conditions generally contained in other ZBA decisions that grant Special Permit relief for pools in Madaket's VR zoning district are acceptable to the Applicants:

- a) All chemical treatments of the pool water shall stop three weeks prior to any draining or discharging of the pool. If this is not feasible, the owner shall engage a professional company to discharge the pool water in a tanker and dispose of it at the Wastewater Treatment Facility.
- b) If a municipal water source is not available, the owner shall engage a professional company to fill the pool, as needed.
- c) The pool shall not be chemically treated between November 1 and May 1 of any given year.
- d) Any exterior lighting related specifically to the pool area shall comply with the provisions of Chapter 102 of the Town Code and be turned off by 10:00 pm each night and shall be down-lit.
- e) Owner shall use low-voltage lighting for exterior pool lighting.
- f) The location of the pool shall be installed substantially as shown on the "Bistany-Rubenstein Concept Plan" (the "Plan") submitted to with the HDC application and approved by the HDC on July 5, 2022, prepared by Brook Meerbergen, a reduced copy of which is attached hereto as Exhibit A.
- g) The landscaping shall be installed substantially as shown on the Plan.
- h) All work shall be done in substantial conformity with the Plan approved in conjunction with Certificate of Appropriateness No. HDC2022-05-6401, duly issued by the HDC.
- i) All mechanical equipment associated with the pool shall be located in a subterranean vault.

Linda Williams

From: Brook Meerbergen Designs <brooksdesigns@hotmail.com>
Sent: Thursday, August 11, 2022 10:00 AM
To: Linda Williams
Subject: Fw: ZBA Pool Application

See Authorization below

MEERBERGEN DESIGNS

PO BOX 673
NANTUCKET, MA 02554

508.228.1388

From: Arienne Bistany <ambistany@gmail.com>
Sent: Thursday, August 11, 2022 9:54 AM
To: Brook Meerbergen Designs <brooksdesigns@hotmail.com>
Cc: Ben Rubenstein <benr@horizonbeverage.com>
Subject: ZBA Pool Application

Brook,

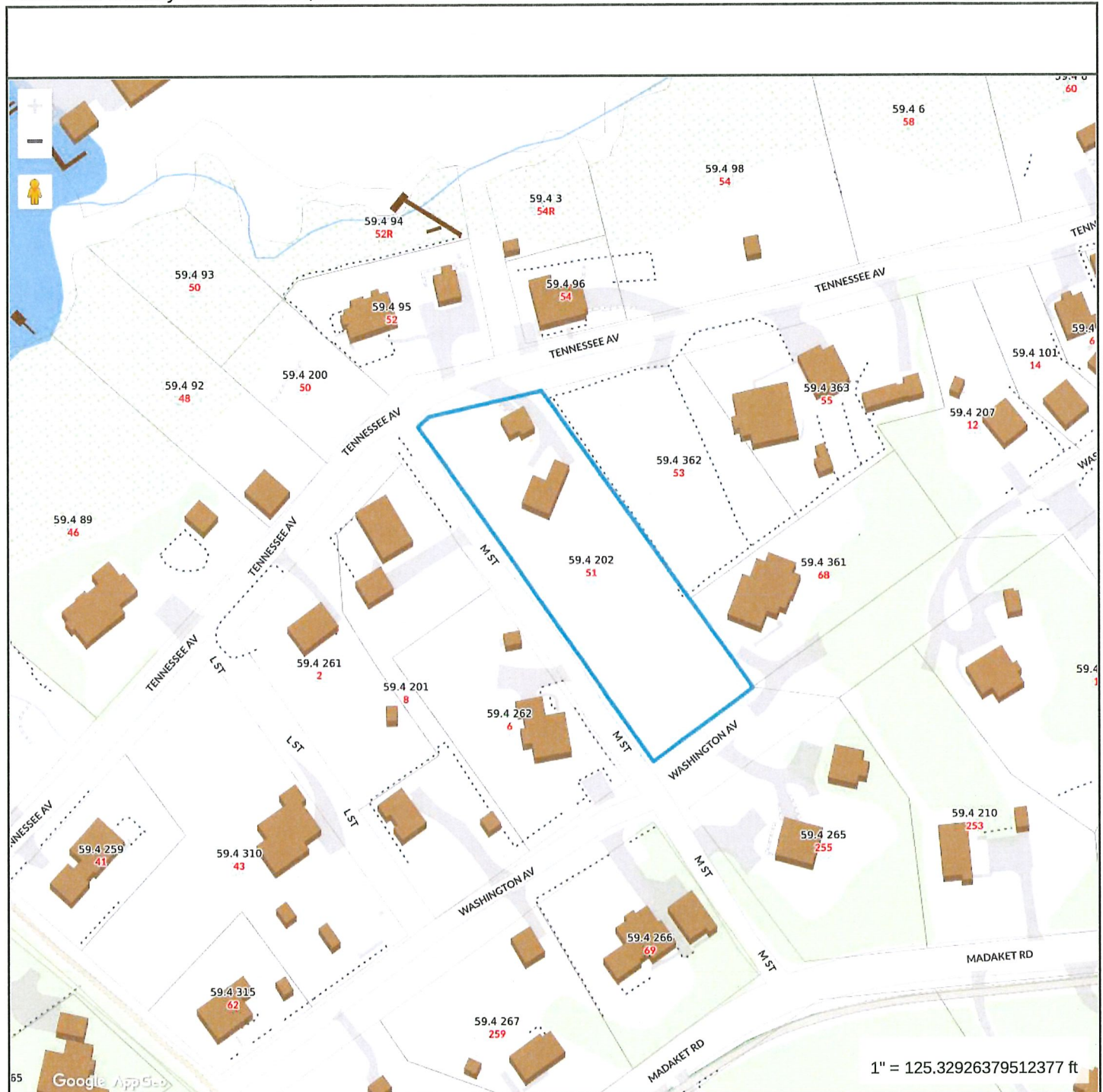
I authorize Linda Williams to sign and represent our pool application for the ZBA pool special permit.

This is in reference too our residence at 51 Tennessee Ave, Nantucket, MA.

Please let me know if you need any further assistance.

Thank you,

Arienne M. Bistany
203-858-2508

**Property Information**

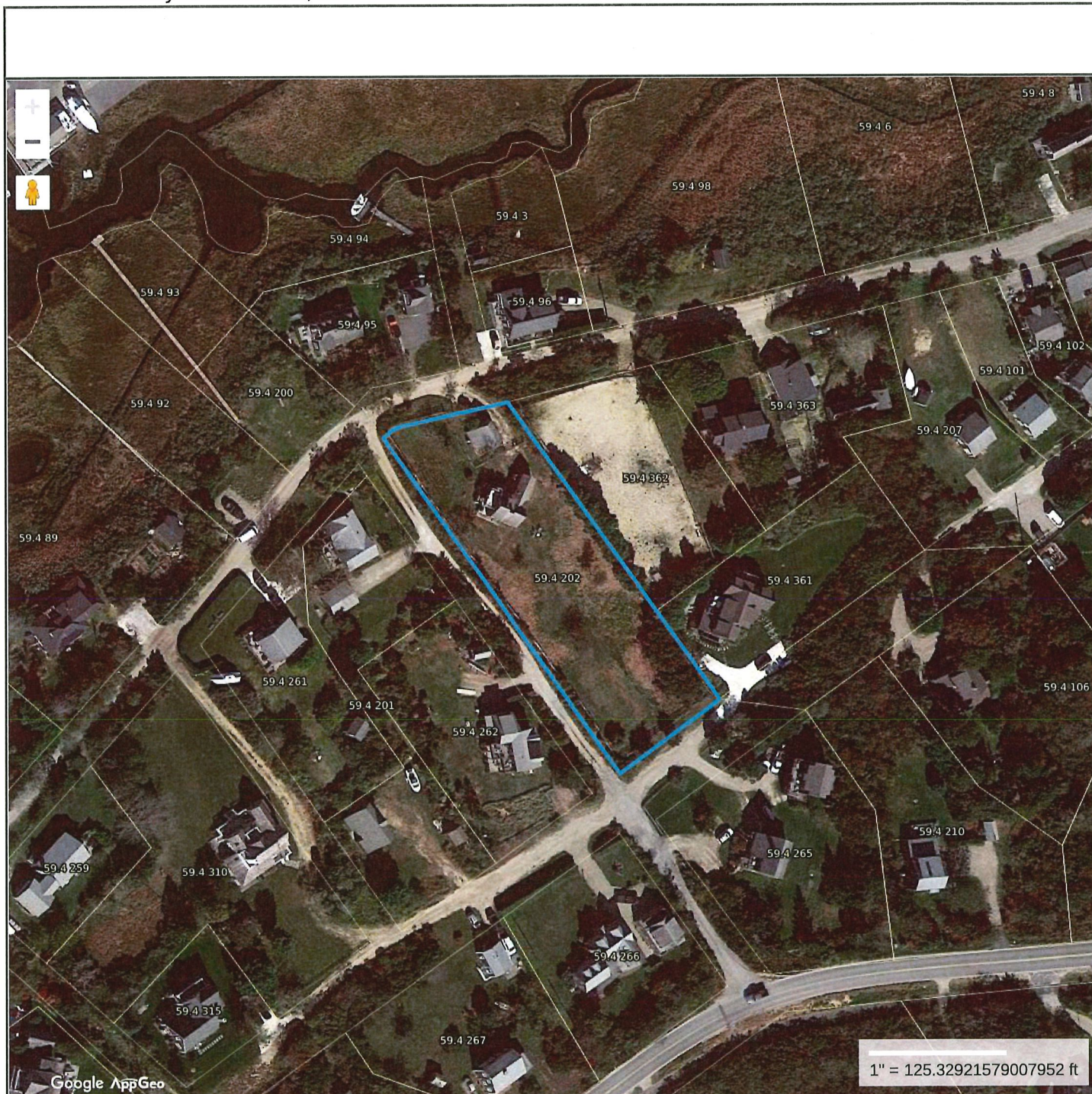
Property ID 59.4 202
Location 51 TENNESSEE AV
Owner RUBENSTEIN BENJAMIN & BISTANY ARIENNE M

**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 07/28/2022
Data updated Jan. 2021

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

**Property Information**

Property ID 59.4 202
Location 51 TENNESSEE AV
Owner RUBENSTEIN BENJAMIN & BISTANY
ARIENNE M

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Tennessee Ave

Tennessee Ave

Tennessee Ave

M St

M St

M St

M St

M St

384

Google

51 TENNESSEE AV

Location 51 TENNESSEE AV

Mblu 594/ / 202/ /

Acct# 00009136

Owner RUBENSTEIN BENJAMIN &
BISTANY ARIENNE M

Assessment \$1,563,300

PID 9136

Building Count 2

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2022	\$550,000	\$1,013,300	\$1,563,300

Owner of Record

Owner RUBENSTEIN BENJAMIN & BISTANY ARIENNE M
Co-Owner
Address 25 RUTLAND SQ
BOSTON , MA 02118

Sale Price \$2,000,000
Certificate
Book & Page C27878/0
Sale Date 09/25/2020
Instrument 10

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
RUBENSTEIN BENJAMIN & BISTANY ARIENNE M	\$2,000,000		C27878/0	10	09/25/2020
JENNISON EDWARD D TR ETAL	\$0		C0016506/0	99	08/25/2016
JENNISON THOMAS R TR	\$0		C0016/0506	99	10/18/1994
JENNISON WHITNEY	\$0		C0014/0058	99	05/26/1989

Building Information

Building 1 : Section 1

Year Built: 1970
Living Area: 1,104
Replacement Cost: \$532,064
Building Percent Good: 88
Replacement Cost
Less Depreciation: \$468,200

Building Attributes

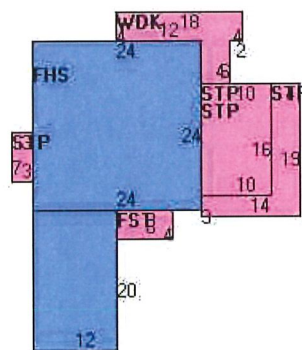
Field	Description
Style	Cape Cod
Model	Residential
Grade:	Good
Stories:	1.5
Occupancy	1
Exterior Wall 1	Wood Shingle
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F GlS/Cmp
Interior Wall 1	Drywall/Sheet
Interior Wall 2	
Interior Flr 1	Pine/Soft Wood
Interior Flr 2	
Heat Fuel	Oil
Heat Type:	Hot Air-no Duc
AC Type:	None
Total Bedrooms:	3 Bedrooms
Total Bthrms:	2
Total Half Baths:	0
Total Xtra Fixtrs:	
Total Rooms:	
Bath Style:	Average
Kitchen Style:	Modern
Num Kitchens	01
Cndtn	
Num Park	
Fireplaces	

Building Photo



(<https://images.vgsi.com/photos/NantucketMAPotos/\0026\51%20tennes>)

Building Layout



(https://images.vgsi.com/photos/NantucketMAPotos//Sketches/9136_103)

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	816	816
FHS	Half Story, Finished	576	288
FST	Utility, Finished	32	0
STP	Stoop	127	0
WDK	Deck, Wood	416	0
		1,967	1,104

Building 2 : Section 1

Year Built: 1975
Living Area: 84
Replacement Cost: \$97,428
Building Percent Good: 83
Replacement Cost Less Depreciation: \$80,900

Building Photo



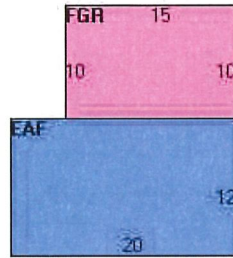
(<https://images.vgsi.com/photos/NantucketMAPotos//default.jpg>)

Building Attributes : Bldg 2 of 2

Field	Description
-------	-------------

Style	Cottage
Model	Residential
Grade:	Good
Stories:	1 Story
Occupancy	1
Exterior Wall 1	Wood Shingle
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F GlS/Cmp
Interior Wall 1	Wall Brd/Wood
Interior Wall 2	
Interior Flr 1	Minimum/Plywd
Interior Flr 2	
Heat Fuel	Oil
Heat Type:	Hot Water
AC Type:	None
Total Bedrooms:	1 Bedroom
Total Bthrms:	1
Total Half Baths:	0
Total Xtra Fixtrs:	
Total Rooms:	2
Bath Style:	Average
Kitchen Style:	
Num Kitchens	01
Cndtn	
Num Park	
Fireplaces	

Building Layout



(https://images.vgsi.com/photos/NantucketMAPhotos/Sketches/9136_103)

Building Sub-Areas (sq ft)			<u>Legend</u>
Code	Description	Gross Area	Living Area
EAF	Attic, Expansion, Finished	240	84
FGR	Garage, Finished	390	0
WDK	Deck, Wood	138	0
		768	84

Extra Features

Extra Features				<u>Legend</u>
Code	Description	Size	Value	Bldg #
FLU2	BRICK	1.00 UNITS	\$900	1

Land

Land Use

Use Code	109R
Description	MULTI NO 2ND DWG
Zone	VR
Neighborhood	450
Alt Land Appr	No
Category	

Land Line Valuation

Size (Acres)	0.78
Frontage	0
Depth	0
Assessed Value	\$1,013,300

387

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2022	\$550,000	\$1,013,300	\$1,563,300
2021	\$345,400	\$1,048,200	\$1,393,600
2020	\$345,400	\$1,048,200	\$1,393,600
2018	\$268,800	\$1,038,600	\$1,307,400
2017	\$268,800	\$952,100	\$1,220,900

CERTIFICATE NO: _____

DATE ISSUED: 7/15/22

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°: 59.4 PARCEL N°: 202

Street & Number of Proposed Work: 51 TENNESSEE

Owner of record: BISTANY-RUBINSTEIN

Mailing Address: 25 RUTLAND SQ
BOSTON, MA 02118

Contact Phone #: _____ E-mail: _____

AGENT INFORMATION (if applicable)

Name: BROOK MEERBERGEN

Mailing Address: PO BOX 673
02554

Contact Phone #: 81388 E-mail: _____

FOR OFFICE USE ONLY

Date application received: 5/26/22 Fee Paid: \$ 200

Must be acted on by: 7/15/22

Extended to: _____

Approved: _____ Disapproved: _____

Chairman: _____

Member: _____

Member: _____

Member: _____

Member: _____

Notes - Comments - Restrictions - Conditions

MAINTAIN EXX VEGETATION & MAINTAIN
AS NECESSARY TO BLOCK VISIBILITY OF
POOL/SPA.

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 PLUS DECKS & BENCH/OUTDOOR KITCHEN (COBBLES)

Size of Structure or Addition: Length: 18 Sq. Footage 1st floor: _____ Decks/Patio: Size: 1014 ☒ 1st floor ☐ 2nd floor

Width: 8 Sq. footage 2nd floor: _____ Size: _____ ☐ 1st floor ☐ 2nd floor

Sq. footage 3rd floor: _____

Difference between existing grade and proposed finish grade: North NO Δ'S South _____ East _____ West _____

Height of ridge above final finish grade: North 0'-0" South _____ East _____ West _____

Additional Remarks

REVISIONS* 1. East Elevation

389

POOL IS BELOW DECK LINE

Historic Name:

(describe)

1. South Elevation

EQUIP. UNDER DECK

Original Date:

3. West Elevation

Original Builder:

4. North Elevation

Is there an HDC survey form for this building attached? ☐ Yes ☐ N/A

*Cloud on drawings and submit photographs of existing elevations.

DETAIL OF WORK TO BE PERFORMED

Foundation: Height Exposed _____ ☐ Block ☐ Block Parged ☐ Brick (type) _____ ☐ Poured Concrete ☐ Piers

Masonry Chimney: ☐ Block Parged ☐ Brick (type) _____ ☐ Other _____

Roof Pitch: Main Mass _____/12 Secondary Mass _____/12 Dormer _____/12 Other _____

Roofing material: ☐ Asphalt: ☐ 3-Tab ☐ Architectural

☐ Wood (Type: Red Cedar, White Cedar, Shakes, etc.) _____

Fence: Height: NO FENCE

Type: AUTO COVER

Length: _____

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 MAHOG (NTW) 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.

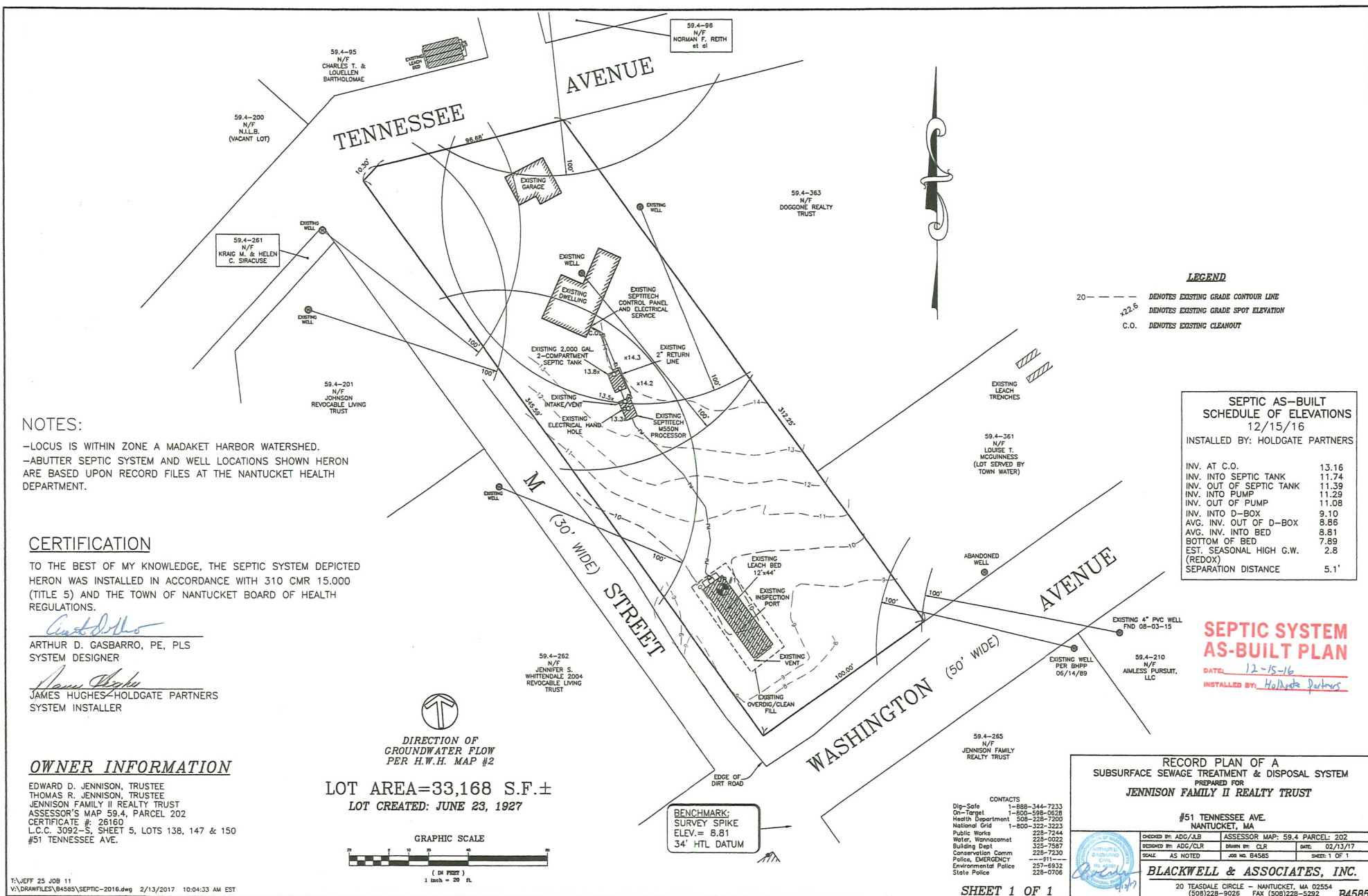
Date 05-26-22

Signature of owner of record

390

MEAL FOR PERRY-RUBINSTEIN

Signed under penalties of perjury



NOTES:

—LOCUS IS WITHIN ZONE A MADAKET HARBOR WATERSHED.
 —ABUTTER SEPTIC SYSTEM AND WELL LOCATIONS SHOWN HERON ARE BASED UPON RECORD FILES AT THE NANTUCKET HEALTH DEPARTMENT.

CERTIFICATION

TO THE BEST OF MY KNOWLEDGE, THE SEPTIC SYSTEM DEPICTED HERON WAS INSTALLED IN ACCORDANCE WITH 310 CMR 15.000 (TITLE 5) AND THE TOWN OF NANTUCKET BOARD OF HEALTH REGULATIONS.

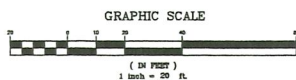
Arthur D. Gasbarro, PE
 ARTHUR D. GASBARRO, PE, PLS
 SYSTEM DESIGNER

James Hughes
 JAMES HUGHES—HOLDGATE PARTNERS
 SYSTEM INSTALLER

OWNER INFORMATION

EDWARD D. JENNISON, TRUSTEE
 THOMAS R. JENNISON, TRUSTEE
 JENNISON FAMILY II REALTY TRUST
 ASSESSOR'S MAP 59.4, PARCEL 202
 CERTIFICATE #: 26160
 L.C.C. 3092-S, SHEET 5, LOTS 138, 147 & 150
 #51 TENNESSEE AVE.

LOT AREA=33,168 S.F.±
 LOT CREATED: JUNE 23, 1927



DIRECTION OF
 GROUNDWATER FLOW
 PER H.W.H. MAP #2



BENCHMARK:
 SURVEY SPIKE
 ELEV. = 6.81
 34' HTL DATUM

LEGEND

20 — — — — — DENOTES EXISTING GRADE CONTOUR LINE
 ±22.6 DENOTES EXISTING GRADE SPOT ELEVATION
 C.O. DENOTES EXISTING CLEANOUT

SEPTIC AS-BUILT SCHEDULE OF ELEVATIONS 12/15/16 INSTALLED BY: HOLDGATE PARTNERS	
INV. AT C.O.	13.16
INV. INTO SEPTIC TANK	11.74
INV. OUT OF SEPTIC TANK	11.39
INV. INTO PUMP	11.29
INV. OUT OF PUMP	11.08
INV. INTO D-BOX	9.10
AVG. INV. OUT OF D-BOX	8.86
AVG. INV. INTO BED	8.81
BOTTOM OF BED	7.89
EST. SEASONAL HIGH G.W. (REDOX)	2.8
SEPARATION DISTANCE	5.1'

SEPTIC SYSTEM AS-BUILT PLAN

DATE: 12-15-16
 INSTALLED BY: Holdgate Partners

RECORD PLAN OF A SUBSURFACE SEWAGE TREATMENT & DISPOSAL SYSTEM PREPARED FOR JENNISON FAMILY II REALTY TRUST

#51 TENNESSEE AVE.
 NANTUCKET, MA

CHECKED BY: ADG/ALB	ASSESSOR MAP: 59.4 PARCEL: 202
DESIGNED BY: ADG/CLR	DRAWN BY: CLR
SCALE: AS NOTED	JOB NO. B4585
	SHEET: 1 OF 1

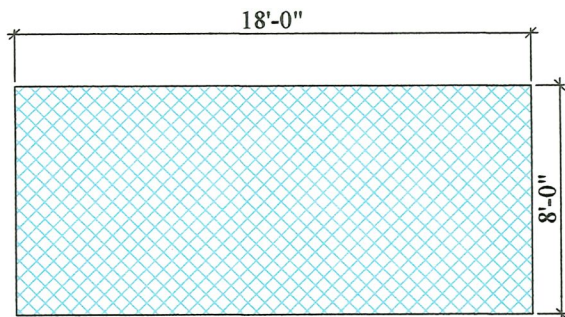


BLACKWELL & ASSOCIATES, INC.

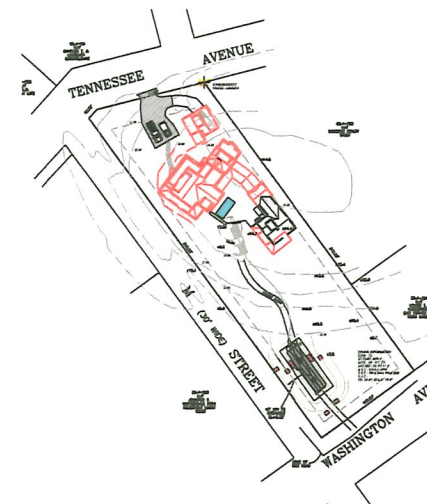
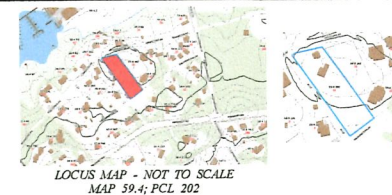
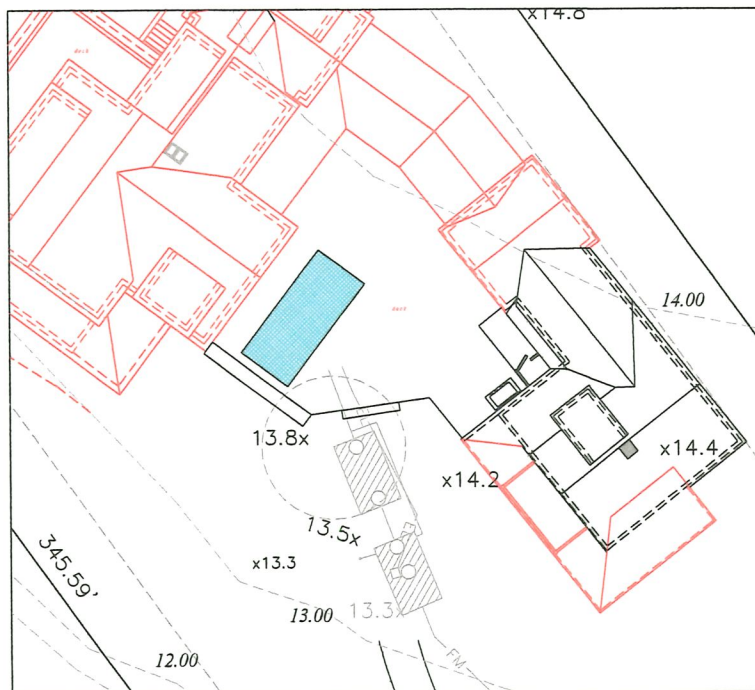
20 TEASDALE CIRCLE - NANTUCKET, MA 02554
 (508) 228-9028 FAX (508) 228-5232

CONTACTS
 Dig-Safe 1-888-344-7233
 On-Target 1-800-598-0628
 Health Department 508-228-7209
 National Grid 1-800-322-3223
 Public Works 228-7244
 Water, Wastewater 228-0022
 Building Dept 325-7587
 Conservation Comm 228-7230
 Police, Emergency 257-6932
 State Police 228-0708

SHEET 1 OF 1



ENDLESS POOL / SWIM SPA
(auto cover)



H.D.C. SUBMISSION

1	MAP 39.4 PCL 202
POOL & DECK - BISIANY RUBINSTEIN	51 TENNESSEE AVE NANTUCKET, MA
PLANS BY: BISIANY RUBINSTEIN	SCALE: 1/2" = 1'-0" / 1" = 5'-0" / 1" = 10'
DATE: 05/22/21	DATE: 05/22/21
REVISIONS	
MEERBERGEN DESIGNS P.O. BOX 673 NANTUCKET, MA 02554 508.228.1285	



51 TENNESSEE - WINTER (NO FOLIAGE)



51 TENNESSEE - SUMMER (FOLIAGE)



51 TENNESSEE - SUMMER (FOLIAGE)
FROM 070822 @ M STREET LOOKING SOUTH EAST



51 TENNESSEE - SUMMER (FOLIAGE)
FROM 070822 @ WASHINGTON LOOKING WEST



51 TENNESSEE - SUMMER (FOLIAGE)
FROM 070822 @ M STREET LOOKING
NORTH WEST

TOWN OF NANTUCKET
ZONING BOARD OF APPEALS

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

PROPERTY OWNER BENJAMIN RUBENSTEIN

MAILING ADDRESS 25 RUTLAND SQUARE, BOSTON, MA 02118

PROPERTY LOCATION 51 TENNESSESS AVENUE

ASSESSORS MAP/PARCEL 59.4-202

SUBMITTED BY LINDA WILLIAMS

SEE ATTACHED PAGES

I certify that the foregoing is a list of persons who are owners of land directly adjacent to the subject property or directly opposite the subject property on any public or private street or way, all as they appear on the most recent applicable tax list.

DATE:
July 11, 2022

Mary Haley, Senior
Clerk, Assessor's
Office
ASSESSORS OFFICE

Digitally signed by Mary Haley,
Senior Clerk, Assessor's Office
Date: 2022.07.11 11:46:07
-04'00'

Abutters Listing

MBLU	Lot	Lot Cut	Owner Full Name	Co-Owner Full Name	Address Line 1	City	State	Zip	Location
38	14		HITHER CREEK BOAT YARD INC		20 N CAMBRIDGE ST	NANTUCKET	MA	02554	16 N CAMBRIDGE ST
594	2		HITHER CREEK BOAT YARD INC		20 N CAMBRIDGE ST	NANTUCKET	MA	02554	MADAKET
594	3		TOPHAM LEIGH M TRST	LELANDS SHANTY NOM TRUST	20 HUMMOCK POND RD	NANTUCKET	MA	02554	54R TENNESSEE AV
594	89		EMERY CHRISTOPHER D TR & CHERYL A TR		PO BOX 99	NANTUCKET	MA	02554	46 TENNESSEE AV
594	92		NANTUCKET ISLANDS LAND BANK		22 BROAD STREET	NANTUCKET	MA	02554	48 TENNESSEE AV
594	94		TOPHAM LEIGH M TRST	LELANDS SHANTY NOM TRUST	20 HUMMOCK POND RD	NANTUCKET	MA	02554	52R TENNESSEE AV
594	95		BARTHOLOMAE CHARLES T & LOUELLEN		52 TENNESSEE AV	NANTUCKET	MA	02554	52 TENNESSEE AV
594	96		REITH NORMAN F ETAL		54 TENNESSEE AVE	NANTUCKET	MA	02554	54 TENNESSEE AV
594	98		REITH NORMAN F ETAL		54 TENNESSEE AVE	NANTUCKET	MA	02554	54 TENNESSEE AV
594	104		CONDON E MALCOLM III & CAROLYN		PO BOX 2346	NANTUCKET	MA	02584	8 N CAMBRIDGE ST
594	106		BURR FAMILY TRUST		175 SHANE DRIVE	CHATHAM	MA	02633	10 N CAMBRIDGE ST
594	200		NANTUCKET ISLANDS LAND BANK		22 BROAD STREET	NANTUCKET	MA	02554	50 TENNESSEE AV
594	201		JOHNSON ELWOOD M SR & CYNTHIA G TRST	JOHNSON REVOCABLE LIVING TRUST	PO BOX 2	HOPE VALLEY	RI	02832	8 M ST
594	207		DERBY NANTUCKET LLC		PO BOX 804	EAST ORLEANS	MA	02643	12 N CAMBRIDGE ST
594	210		MALITSKY ANNE B & JOSHUA		608 WEST BELDEN AVE #2	CHICAGO	IL	60614	253 MADAKET RD
594	211		SIMMONS ALAN & VIRGINIA A		11 HELMLOCK ROAD	WESTON	MA	02493	252 MADAKET RD
594	212		ROSS HENRY C & MARY ANNE		254 MADAKET RD	NANTUCKET	MA	02554	254 MADAKET RD
594	213		JOHNSON BERTYL V JR TR		PO BOX 3270	NANTUCKET	MA	02584	250 MADAKET RD
594	261		SIRACUSE KRAIG M & HELEN C		2201 WOODMONT RD	ALEXANDER	VA	22307	2 L STREET
594	262		ANDERSON JENNIFER S TR	JENNIFER S WHITTEDALE 2004 REVOCABLE TRU	6 M ST	NANTUCKET	MA	02554	6 M ST
594	265		JENNISON EDWARD D TRUSTEE	JENNISON FAMILY REALTY TRUST	35 TURNBULL RD	NEW HARTFORD	CT	06057	255 MADAKET RD
594	266		DUNLEAVY CHARLES E JR & RITA E TRST		4384 MECHANICSVILLE RD	MECHANICSVILLE	PA	18934	69 WASHINGTON AV
594	267		ODONNELL SYLVIE FORTIER TR ETAL	TWO FIFTY NINE MADAKET RD TRUST	259 MADAKET RD	NANTUCKET	MA	02554	259 MADAKET RD
594	310		OSGOOD ROBERT W IV & EMILY M		PO BOX 441	MARBLEHEAD	MA	01945	43 TENNESSEE AV
594	361		TRAFTON HEATHER ETAL		72 FAIRLEE ROAD	WABAN	MA	02468	68 WASHINGTON AV
594	362		CULBERTSON DEBORAH D TR		PO BOX 1237	NANTUCKET	MA	02554	53 TENNESSEE AV
594	363		CULBERTSON DEBORAH F TRUSTEE		PO BOX 1237	NANTUCKET	MA	02554	55 TENNESSEE AV
Count:		27							

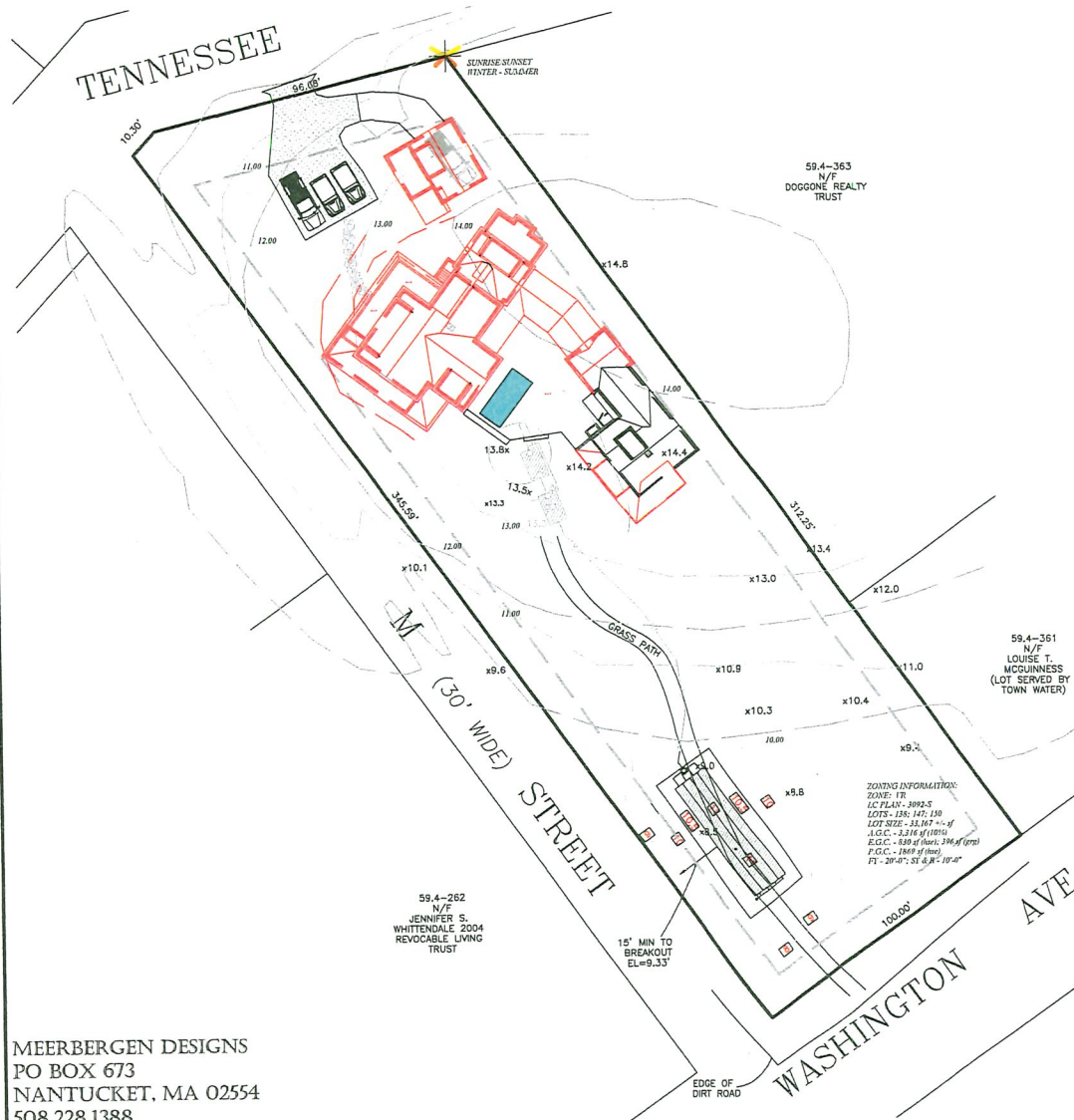


51 TENNESSEE - SUMMER (FOLIAGE)
FROM 070822 @ TENNESSEE & M STREET
LOOKING SOUTH EAST

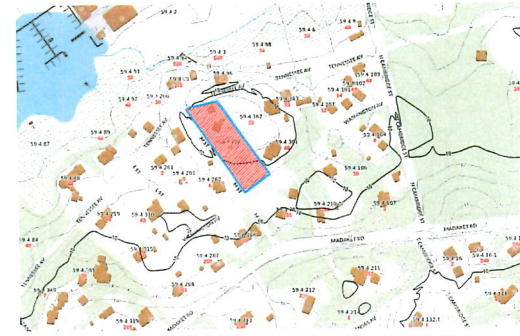


51 TENNESSEE - SUMMER (FOLIAGE)
FROM 070822 @ WASHINGTON & M STREET
LOOKING NORTH WEST

BISTANY-RUBENSTEIN - SITE CONCEPT
 51 TENNESSEE (MADAKET)
 SCALE: 1" = 50'-0"



MEERBERGEN DESIGNS
 PO BOX 673
 NANTUCKET, MA 02554
 508.228.1388



LOCUS MAP - NOT TO SCALE
 MAP 59.4; PCL 202

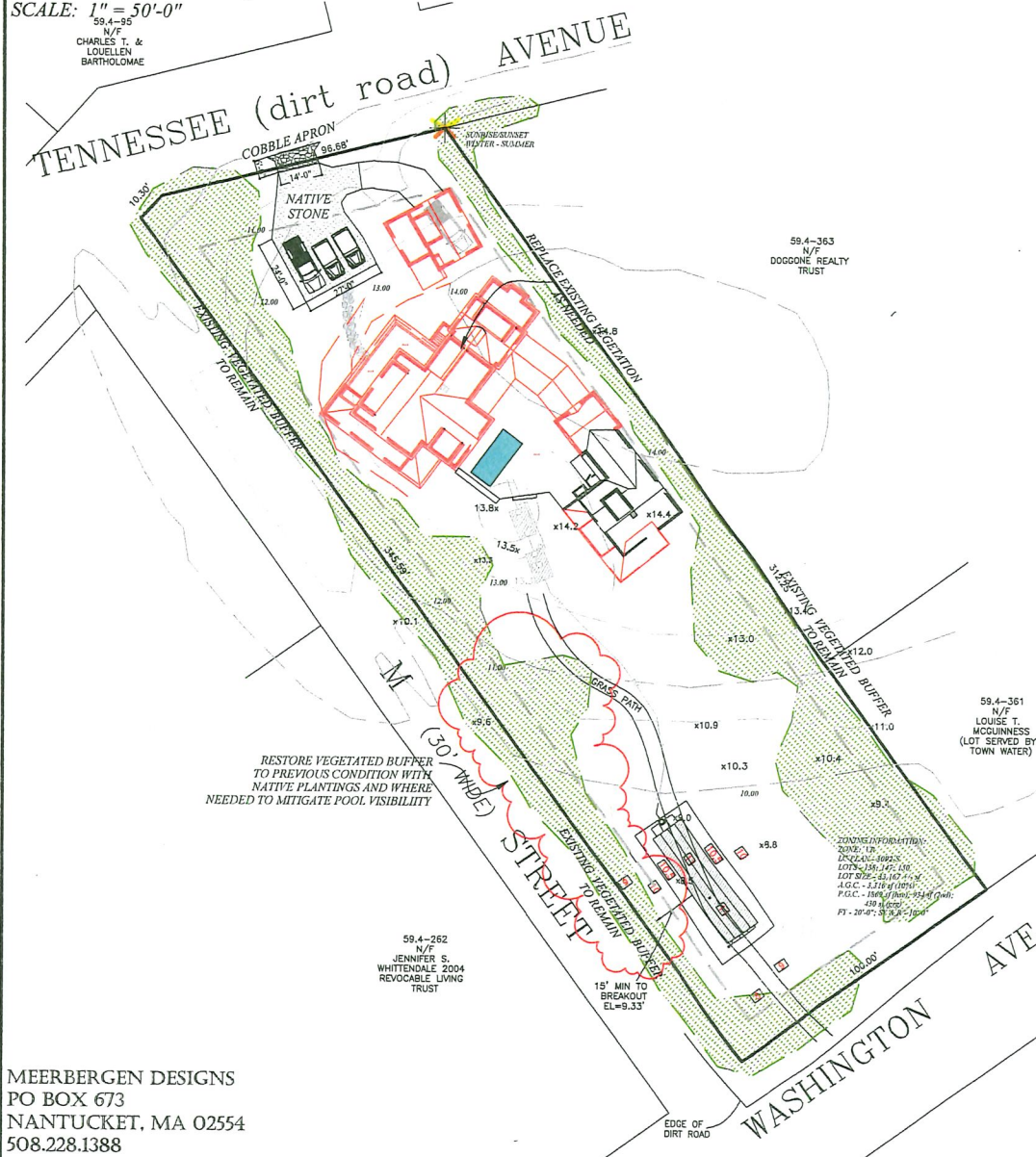
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 property of meerbergen designs and may
 not be copied or otherwise used for architectural,
 construction, or similarly, without the express
 written consent of Meerbergen Designs

BISTANY-RUBENSTEIN - PLANTING PLAN

51 TENNESSEE (MADAKET)

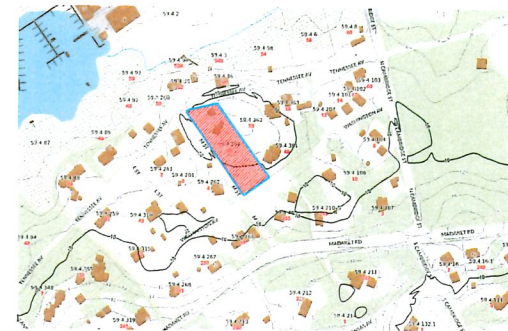
SCALE: 1" = 50'-0"

59.4-95
N/F
CHARLES T. &
LOUELLEN
BARTHOLOMAE



MEERBERGEN DESIGNS
PO BOX 673
NANTUCKET, MA 02554
508.228.1388

S1



LOCUS MAP - NOT TO SCALE
MAP 59.4; PCL 202

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NANTUCKET, MA 02554

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NANTUCKET, MA 02554

TOPHAM LEIGH M TRST
LELANDS SHANTY NOM TRUST
20 HUMMOCK POND RD
NANTUCKET, MA 02554

EMERY CHRISTOPHER D TR & CHERYL /
TR
PO BOX 99
NANTUCKET, MA 02554

NANTUCKET ISLANDS LAND BANK
22 BROAD STREET
NANTUCKET, MA 02554

TOPHAM LEIGH M TRST
LELANDS SHANTY NOM TRUST
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BARTHOLOMAE CHARLES T & LOUELLEN
52 TENNESSEE AV
NANTUCKET, MA 02554

REITH NORMAN F ETAL
54 TENNESSEE AVE
NANTUCKET, MA 02554

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54 TENNESSEE AVE
NANTUCKET, MA 02554

CONDON E MALCOLM III & CAROLYN
PO BOX 2346
NANTUCKET, MA 02584

BURR FAMILY TRUST
175 SHANE DRIVE
CHATHAM, MA 02633

NANTUCKET ISLANDS LAND BANK
22 BROAD STREET
NANTUCKET, MA 02554

JOHNSON ELWOOD M SR & CYNTHIA G
TRST
JOHNSON REVOCABLE LIVING TRUST
PO BOX 2
HOPE VALLEY, RI 02832

DERBY NANTUCKET LLC
PO BOX 804
EAST ORLEANS, MA 02643

MALITSKY ANNE B & JOSHUA
608 WEST BELDEN AVE #2
CHICAGO, IL 60614

SIMMONS ALAN & VIRGINIA A
11 HELMLOCK ROAD
WESTON, MA 02493

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NANTUCKET, MA 02554

JOHNSON BERTYL V JR TR
PO BOX 3270
NANTUCKET, MA 02584

SIRACUSE KRAIG M & HELEN C
2201 WOODMONT RD
ALEXANDER, VA 22307

ANDERSON JENNIFER S TR
JENNIFER S WHITTEDALE 2004
REVOCABLE TRU
6 M ST
NANTUCKET, MA 02554

JENNISON EDWARD D TRUSTEE
JENNISON FAMILY REALTY TRUST
35 TURNBULL RD
NEW HARTFORD, CT 06057

DUNLEAVY CHARLES E JR & RITA E TRS
4384 MECHANICSVILLE RD
MECHANICSVILLE, PA 18934

ODONNELL SYLVIE FORTIER TR ETAL
TWO FIFTY NINE MADAKET RD TRUST
259 MADAKET RD
NANTUCKET, MA 02554

OSGOOD ROBERT W IV & EMILY M
PO BOX 441
MARBLEHEAD, MA 01945

TRAFTON HEATHER ETAL
72 FAIRLEE ROAD
WABAN, MA 02468

CULBERTSON DEBORAH D TR
PO BOX 1237
NANTUCKET, MA 02554

CULBERTSON DEBORAH F TRUSTEE
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JENNISON EDWARD D TRUSTEE
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MECHANICSVILLE, PA 18934

ODONNELL SYLVIE FORTIER TR ETAL
TWO FIFTY NINE MADAKET RD TRUST
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OSGOOD ROBERT W IV & EMILY M
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WABAN, MA 02468

CULBERTSON DEBORAH D TR
PO BOX 1237
NANTUCKET, MA 02554

CULBERTSON DEBORAH F TRUSTEE
PO BOX 1237
NANTUCKET, MA 02554

Letters

Nickesha Sheriff

From: Scott Anderson <kona1dogsaa@gmail.com>
Sent: Thursday, September 1, 2022 1:51 PM
To: Nickesha Sheriff
Subject: Comments and concerns related to Rubenstein & Bistany File # 11-22

On behalf of my wife, Jennifer Anderson, and myself Scott Anderson, owners and year round residence of 6 M Street, here are some of our concerns and comments.

We are both wondering how the proposed 51 Tennessee project, plan to do any or all the construction without using M Street . M Street is a private road. The town of Nantucket has never maintained and refuses to maintain or make improvements to M Street. With this in mind, obviously heavy construction equipment, construction vehicles and a pool water tanker vehicle will be involved. Over the life of the project we believe extensive damage will take place , to M Street. If the plan Rubenstein / Bistany plan is to utilize M Street, we demand a bond be posted in the amount of not less than \$10,000 to protect the owners of 6 M Street and 8 M Street. Otherwise, the owners of the only two houses with M Street addresses, are left with the responsibility and increased cost to rectify damages to M Street.

Specifically related to the pool, we have great reservation about chemical run off during times of heavy rain. Without sanitary or storm sewers, we also have concern of chemical discharge and pollution when draining a pool with chemicals. Upon review of the building plans, it appears the septic system may fall to close to the existing wells located at 6 M Street and 8 M Street. Our fears are the contamination of our well water related to pool water, pool chemicals and a strained septic system at 51 Tennessee. We do not believe a septic system can be used to dispose of pool water or pool chemicals.

We have additional concerns related to additional ambient light from the new structures and pool lighting. While a pool can be a fun addition to a house, neighbors would be the ones impacted by the added light and late night noise associated with the pool.

Housing density in Madaket is a concern. Madaket used to be a quaint and quiet place. We respectfully ask the Zoning Board of Appeals hear our concerns and take appropriate action.

Respectfully, submitted,

Jennifer and Scott Anderson

This email was scanned by Bitdefender



End of Packet