

ZBA MEETING PACKET

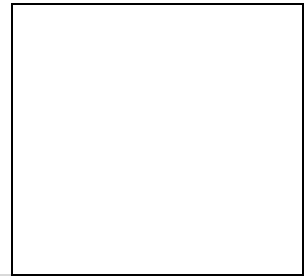
12/08/22



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
Day, Date, and Time	Thursday, December 8 , 2022, at 1:00 PM
Location / Address	4 Fairgrounds Road, Nantucket, MA 02554 PSF COMMUNITY ROOM & REMOTE PARTICIPATION VIA ZOOM WEBINAR
Signature of Chair or Authorized Person	Leslie Woodson Snell, Deputy Director of Planning and Zoning Administrator

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

YOUTUBE LINK FOR VIEWING ONLY:

<https://youtu.be/1JtBrmBwSCU>

ZOOM WEBINAR REGISTRATION LINK TO VIRTUALLY ATTEND MEETING:

https://us06web.zoom.us/webinar/register/WN_gHKEiqSfTcyYiplg8l9S5A

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:
 - November 10, 2022

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

37-21 Kristina & Nicholas Amendolare

8 Bank Street

Williams

Continued to January 12, 2023

Applicants are seeking Special Permit relief pursuant to Nantucket 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

Continued to January 12, 2023

Applicant is seeking Variance Relief pursuant to Nantucket Zoning Bylaw Section 139-32 from the intensity regulations in 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):

10-22 Paul P. Moran & Jean M. Moran

4 Washington Avenue

Santos

Continued to January 12, 2023

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).

15-22 Christopher Quick

15 Delaney Road

Anderson & Kreiger

Applicant is appealing the Building Commissioner's September 21, 2022 determination pursuant to Zoning Code Section 139-31A-(1) and Massachusetts General Laws Chapter 40A, Sections 8 and 15. The Building Commissioner determined that use of the Property for short-term rentals ("STR") does not violate Nantucket's Zoning Bylaw. Locus subject to the appeal is situated at 15 Delaney Road, shown on Assessor's Map 30 as Parcel 635 and upon Land Court Plan 14695-C. Evidence of owner's title is registered on Certificate of Title No. 25803 with the Nantucket County District of the Land Court. The site is zoned Residential 1 (R1).

18-22 Jeff McDermott, Et Al

32 Monomoy Road

Anderson & Kreiger

Applicants are appealing the Building Commissioner's October 31, 2022 determination pursuant to Zoning Code Section 139-31A-(1) and Massachusetts General Laws Chapter 40A, Sections 8 and 15. The Building Commissioner determined that use of the Property for short-term rentals ("STR") does not violate Nantucket's Zoning Bylaw. Locus subject to the appeal is situated at 32 Monomoy Road, shown on Assessor's Map 54 as Parcel 242 and upon Land Court Plan 14974-C. Evidence of owner's title is registered on Certificate of Title No. 25823 with the Nantucket County District of the Land Court. The site is zoned Limited Use General 1 (LUG-1).

17-22 Nantucket Cottage Hospital

16 Vesper Lane

Erickson

Applicant is seeking Variance relief pursuant to Nantucket Zoning ByLaw Section 139-16 in order to divide an existing lot, which is nonconforming as to frontage, into two lots, both of which will not meet the required frontage of 50 feet in the CN district. Both lots will be accessed via an easement from Vesper Lane. Locus is situated at 16 Vesper Lane, shown on Assessor's Map 34 as Parcel 72 and shown as Lot 1 with the Nantucket County Registry of Deeds. Evidence of owner's title is recorded in Book 184 and Page 112 with the Nantucket County Registry of Deeds. The site is zoned Commercial Neighborhood (CN).

VI. OTHER (VOTES MAY BE TAKEN)

Approval of 2023 Meeting Schedule

VII. ADJOURNMENT (VOTE WILL BE TAKEN)

MINUTES

11/10/22



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
Alternates: Mark Poor, Geoff Thayer, Jim Mondani

~~ MINUTES ~~

Thursday, November 10, 2022

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

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

Called to order at 1:05 pm and announcements made by Ms. McCarthy

Staff in attendance: Leslie Snell, Deputy Director of Planning; Nicky Sheriff, Administrative Specialist; Terry Norton, Town

Minutes Taker

Attending Members: McCarthy, Botticelli, O'Mara, Allen, Mondani

Absent: Poor, Thayer

Agenda adopted by unanimous consent

Motion **Motion to Approve.** (made by: Botticelli) (seconded)

Vote Carried unanimously

I. APPROVAL OF MINUTES

1. October 13, 2022

McCarthy – Typo on Item 12-22 O'Mara said “they” versus “the”

Motion **Motion to Approve as amended.** (made by: Botticelli) (seconded)

Vote Carried unanimously

II. OLD BUSINESS

1. 09-22 Harris on Weweeder, LLC

50 Weweeder Avenue

Brescher

CONTINUED to December 8, 2022

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

Discussion Not opened at this time.

Motion **Motion to Allow Continuance.** (made by: Botticelli) (seconded)

Vote Carried unanimously

III. NEW BUSINESS

1. 37-21 Kristina & Nicholas Amendolare

8 Bank Street

Williams

Applicants are seeking a Special Permit pursuant to Nantucket Zoning Bylaw Sections 139-30 and 139-33A in order 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).

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

Alternates None

Recused None

Documentation File with associated plans, photos and required documentation

Representing Linda Williams

Michael Wilson Esq.

Angus MacLeod, Architect

Jeff Blackwell, Blackwell & Associates

Kristina Amendolare, owner

Wayne McArdle, engineer

Public Jeff and Ann Ramsey Gardner, 9 Broadway

Jon Fitch, for the Gardners at 9 Broadway

Jesse Richins & Walter Kaeck, MRC Engineering

Sarah Alger, Sarah F. Alger P.C 11 Broadway

Kathy Arvay, 11 Front Street

Lyn Filipski, President 'Sconset Civic Association

Margret Van Deusen, 7 Front Street

Pamela Suan, 2 Broadway

Lisa Soeder 13 Broadway

Anne Maletta, 15 Broadway

Kitt Murphy, 'Sconse Civic Association & 'Sconset Trust

Williams – We are lifting this onto a new foundation, but we are not expanding the footprint.

Wilson – The zone requires a 5' setback; this has 3.5'. Asked that the 12 square feet (sf) intrusion going up 12" is a de minimis impact on the neighborhood.

Allen – Asked how deep they are going for the foundation.

MacLeod – It's a full basement with 8' clear ceiling height. The 1st floor elevation is at 18 with a mud wall at grade. It'll be about 10'4" to the bottom of the footings.

A. Gardner – The report says excavation is going down 17'.

MacLeod – The lot topography slopes up to the bank. His measurement is at the middle of the structure. The high part of the lot is about 4' higher.

Blackwell – The topographical survey provides existing threshold elevation of 19.72'. The depth below the existing threshold will demonstrate the final depth of the footings.

Discussion about the existing grade and the final grade.

Mondani – Asked if the roof plain weren't going up, would we be having this discussion.

Wilson – No. This isn't an expansion going up, it's an alteration; the configuration will be the same with no visual impact.

Amendolare – We purchased the home in 2020; we're looking to add a bedroom and the only way to go is down.

McArdle – They want a full basement; the site will be shored with a steel shoring system. The plant list has been submitted. The soldier piling system will be installed using vibration. We've proposed pre-construction surveys for all the neighbors. We will perform vibration monitoring during installation and a Geotech monitoring program. Someone from our office will monitor the site in real time; and we will have 2 seismographs installed and will be monitored at all times.

Allen – Asked how long the process will take until to put in the pilings, retaining walls and backfilling and pouring the foundation until they get to grade, and they can put a deck on the foundation.

Wilson – The general contractor can't be put out until the project is approved. Toscana has done an analysis of the site, but no one has been hired to do the work.

Mondani – Confirmed similar work with similar monitoring has been permitted.

McArdle – Listed projects with such close proximity to property lines that he has worked on. We are proposing to explore the retaining wall along Middle Gully Road: how deep, it's bearing, and how to protect it. Regarding monitoring, if we hit a threshold number, work will stop.

Wilson – Explained the liability of the contractor should the retaining wall start to fail.

Discussion about who's responsible for the liability insurance and its pertinence to the ZBA decision.

Wilson – Asked if the concern of Board member is that the excavation or vibrations could cause subsidence of the soil and collapse of the wall.

Allen – Her concern is the process in which these piles will be vibrated into place and how those vibrations will radiate out and affect the surrounding properties.

Wilson – Reviewed the monitoring that will be in place. Explained how the soil will be affected by the vibration.

O'Mara – Over the last few months, there's been a lot of discussion about the vulnerability of Middle Gully Road and maintaining the road's integrity. We never got an answer in terms of protecting the road.

Wilson – We will have seismic monitoring points above and below the road.

Botticelli – Asked the process should something happen.

McArdle – Work would stop until a plan is put in place to address the problem; the roadway and wall can take quite a bit of movement. The vibratory hammer is a Zero-Moment Hammer; it cancels out harmful startup/shut down vibrations. The vibrations would be a serious issue if we were working with stones or other blockages; we are talking about sand and the piles will go in within a couple of days.

McCarthy – There are a lot of people who are concerned about what will happen to their homes and the impact on emergency access.

McArdle – If there is any damage to the wall, work will stop, and repairs made.

O'Mara – Asked if it would be a good idea for the Town's engineer to inspect the work at the cost of the owner.

Snell – She can't recall a situation where the Town took that action. The Department of Public Works (DPW) would take steps to protect the road.

McCarthy – On the plan in the back triangle toward Beach Street, asked if the retaining to be removed will be replaced.

McArdle – That wall will not have to be replaced; the foundation will be in its place.

Open to public comment

Fitch – Referenced a letter opposing the request for special permit due to the significant risks the demolition of the structure will pose to the area. This is not about just 12sf; it's about the demolition of the structure. Asked for a denial of the request.

Wilson – This is not a demolition; it's an Historic District Commission (HDC) approved renovation project.

A. Gardner – There has been significant contributions from neighbors, geo-technical engineers, 'Sconset Civic Association, and others; reviewed those concerns. Insurance would only protect the Amendolare's; it would not protect the abutting homes should damage occur.

J. Gardner – Feels the potential risks are too great for a “trust-us” attitude. Little information has been made available. According to 1971 historic landmark data, this property is one of only 1000 remaining historic homes; abutting historic homes are fragile. Without adequate information, we and other abutters ask that the request be denied.

Richins – MRC’s primary concern is ensuring the design protects and stabilizes the wall. The cantilevered wall will deflect and cause some movement at the top of the slope, which is steep. All borings indicate loose soil. Zero-moment hammers can work, however, that’s with modern construction and the adjacent walls are old and brittle. No borings were done up the hill, so we don’t know if there are obstructions in the hill. Details of construction, sequencing, and erosion protection are necessary; we don’t have those details. Vibration limits are appropriate for modern, engineered walls, not old brittle walls. There should be an agreement plan in place in the event there is damage.

Alger – We’re very concerned about the safety of our property; we echo the concerns of the Gardners and their engineer. This property is served by an on-site septic system, which was repaired in 2020 and has a variance; it’s a 1-bedroom system. Nothing in the plan talks about safeguarding the septic or how they are going to get a new system for 2 bedrooms; she doesn’t think they will be able to have a 2-bedroom home. The project is clearly more detrimental to the neighborhood and won’t be successful. Urged the Board not to approve this permit.

McCarthy – If they can’t get the septic upgraded, they can’t move forward with the project.

Blackwell – One solution is to connect to public sewer. That is something the owner will have to secure despite the ZBA’s decision.

Mondani – Feels septic as well as insurance are not relative to the ZBA. There are other boards to permit those.

Arvay – We abut 8 Bank Street and Middle Gully Road. The retaining wall on the north of this site is on our property line. We would want our house inspected before work starts and have some recourse. We do not want any construction in the summer.

Filipski – There are no Town sewers in Cod Fish Park. This lot is one of only 2 lots that are only 1.238 acres, and it’s on a hillside location. The design to increase space above and below presents problems for neighbors and emergency access. An escrow account to address potential damage to neighbors was not provided. She has worked with DPW Director Stephen Arceneaux about the potential damage to Middle Gully Road. We find multiple issues with the depth they are going to and the ramifications for the area.

Kaeck – Reinforced Mr. Richins’ comments about the brittle wall holding up the road and adjacent properties.

Van Duesen – Our house is perched atop the ‘Sconset bank with no foundation and is supported by pilings of an indeterminate age. We have sheeting in front of the house, but it provides no support. The bank is fragile and eroding. We are concerned about the depth of excavation. This is a risky construction project proposed in a sensitive site where results could be catastrophic. We don’t know who the general contractor will be; it’s concerning we would have to chase the owners for reparations. Asked how many projects Mr. McArdle was involved in where the excavation was going into a coastal bank. Asked the Amendolares indemnify the neighbors and place funds in escrow for protection to the neighbors and the Town. Any owner within the area should be able to get a pre- and post-construction survey, not just the immediate abutters. Given climate change and sea-level rise, Codfish Park is under threat with the bank being the sole protection for the rest of ‘Sconset. The plan is to pump brown water away from the site but there is no stormwater plan for Codfish Park; there is no plan to capture and infiltrate the runoff on site. The intersection of Codfish Park Road and Beach Street doesn’t drain and can’t handle storm events. There is no application for demolition when we the neighbors think that will have to happen to complete this project. Asked for a denial.

Suan – She appreciates the technical evaluations. Those of us that own old historic homes without foundations, we hope people who come into the area will respect the history and architecture of the area. It concerns her a house this tiny and positioned as such will go from a 1-bedroom bungalow to a 2-bedroom home; that could open the door for a lot of the cute and quaint homes to be bought and renovated for rental use and thus lose the residential feel.

Soder – My house is 274 years old. Echoes the concerns of her neighbors and their attorneys, especially the impact of a 17’ excavation on the bluff and our homes. Hopes that if ZBA approves the height increase, you consider the fact this is 18’ above sea level and the fact that this is an emergency access road and construction could obstruct vehicular access. She feels any structure should harmonize with the neighborhood and site it is in. She can’t see a way, with all of the unknowns, that this cannot be more detrimental to the area.

O’Mara – One of the engineers brought up the groundwater at the depth they are going. Asked about that.

Wilson – The engineer report verifies groundwater is 5’ below the excavation; pumping is only to prevent concrete from going into the puddle after a rain.

McCarthy – Reviewed drainage as addressed in the previous application. She also has notes about moving the house.

McArdle – We believe the house is not being demolished; the house will be moved off site during construction of the foundation. It will be fully permitted and zoning compliant during construction.

Williams – It can’t leave Codfish Park; we haven’t explored where it will go because we don’t have a general contractor. Any time we block a street, we have to go to the Town.

Allen – Asked if there are pro-active plans for protection of the old wall and Middle Gully Road.

McArdle – Currently no. Some portions of the project will result in improved conditions of the wall and road. We will have to investigate drainage and the wall along Middle Gully. We can make the monitoring program more robust, come up

with a contingency plan, and stabilize the bank surface. We could move toward internal bracing to eliminate concerns about deflection.

O'Mara – We've spent a couple of hours on this application. He'd like to know more about mitigation of damage to the road and plans for contacting owners of homes who want their houses surveyed. Asked how they will ensure that if there is any damage to dwellings, the owner gets payback. There is insurance available for abutters' protection.

Botticelli – HDC has made the determination that the design is appropriate. Her concerns are stabilization of the bank and that the work won't be more detrimental to the neighborhood.

Mondani – Wants to understand what is meant by more detrimental to the neighborhood.

Snell – It's subjective; you have broad discretion to talk about that but advised against putting too much thought into non-ZBA issues. One thing the Planning Board sometimes does is require a Construction Management Plan and a construction timeline; people can view it.

Mondani – Would also like the applicant to talk to the Town about their concerns about Middle Gully Road

J. Gardner – The best plan is to not dig.

AGardner – We met with Richard Moore of DPW; they haven't responded to specific questions. There's a water pipe under Middle Gully; there's a pipe and leach field. According to the geotechnical report groundwater depth is 14.6' the excavation is 15' below. Insurance protects the owners, not anyone outside; questions why we should insure against catastrophic damage when there should be an escrow.

Maletta – She never received any notification; her neighbors, who were notified, told her. Her house is on boulders with partial cement footings; when trucks go down Broadway, the house shakes. She's never seen a hydrology report for 'Sconset. Any vibration or the way the sand moves or sits, it will fill in with water courses; that would cause her house to list. She fears the long-term effects from vibrations; she shouldn't be disadvantaged for this project in a very fragile system.

Murphy – Mr. Mondani mentioned that the objections seem to be more aesthetic. The objections are structural or to the excavation. All along the ZBA has asked questions, some of which have never been answered; that's why she is asking the project not be approved and not extended for another month.

Wilson – The Board is looking for more information; asked for a continuance to January 2023.

Motion
Vote
Motion to Continue to January 12, 2023. (made by: O'Mara) (seconded)
Carried unanimously

2. 0-22 Paul P. Moran & Jean M. Moran 4 Washington Avenue Santos
CONTINUED to December 8, 2022

Voting McCarthy, Botticelli, O'Mara, Allen, Mondani
Discussion Not opened at this time.
Motion **Motion to Allow Continuance.** (made by: O'Mara) (seconded)
Vote Carried unanimously

3. 15-22 Christopher Quick 15 Delaney Road Gagalis
CONTINUED to December 8, 2022

Voting McCarthy, Botticelli, O'Mara, Allen, Mondani
Discussion Not opened at this time.
Motion **Motion to Allow Continuance.** (made by: Botticelli) (seconded)
Vote Carried unanimously

4. 16-22 Dean & Alba Cestari 2 Nautilus Lane Williams
Applicants are seeking Special Permit relief pursuant to Nantucket Zoning By-law Section 139-16C(1) (Intensity regulations – setback) in order to reduce rear yard setback from 10 feet to 8 feet to construct a 10' x 19' in-ground pool. Locus is situated at 2 Nautilus Lane, shown on Assessor's Map 67 as Parcel 176.2 and lot 166 upon Land Court Plan 34507-26. Evidence of owner's title is registered on Certificate of Title No. 28810 with the Nantucket County District of the Land Court. The site is zoned Residential 10 (R-10)

Voting McCarthy, Botticelli, O'Mara, Allen, Mondani
Alternates None
Recused None
Documentation File with associated plans, photos and required documentation
Representing Linda Williams

Dr. Dean Cestari, owner
Gary King, Waterscape
Jill Evarts, 65 B Fairgrounds Road

Public
Discussion (3:24) **Williams** – This is for a small pool. A recent letter was "way off base". She has provided photos confirming that the pool will not be visible. The immediate abutter to the pool is in favor of the request to reduce the setback to 8 feet. The finding is that this is in keeping with the intent of the zoning bylaw.

Cestari – We bought this house and would love to spend time at the house and think the pool will make it special. We emailed the neighbors to ensure they had no concerns. The extra 2' makes a big difference in the size of the pool.

O'Mara – Asked if there were any letters opposed to this.

McCarthy – It's from Jill Evarts.

Williams – She’s not an abutter and her claims were spurious and irrelevant.

Cestari – The pool equipment will be next to the HVAC unit in the backyard and will be screened.

King – The pool equipment will not be in the setback. There is an area shown as a planter; that’s where the equipment will go. There will be a fence around it.

Allen – Asked about the strip of grass between the edge of the coping and the walkdown.

King – The walkdown stairs are in the way of moving the pool closer to the house.

Botticelli – If the pool were narrower, it wouldn’t need relief.

Mondani – The full provision isn’t in our packet.

Snell – The wrong section is referenced. Read the bylaws that are pertinent allowing a reduction in the setback 139-16 C.1.

Botticelli – Questions why we have zoning setbacks, if we’re going to always grant relief.

McCarthy – The zoning setbacks are considered to be reasonable for when a zoning changes, but she doesn’t see it for a installation of a pool.

Allen – Asked if there are other options for the pool not to intrude into the setback.

Botticelli – It could go elsewhere on the lot or be narrower.

Allen – It could be moved right up against the walkdown.

Mondani – This provision was put in place for when the zoning changes.

Botticelli – She agrees with Mr. Mondani. There are reasons to have zoning and feels it doesn’t apply to wanting a pool.

Williams – This board has granted similar relief.

King – Right now the pool is very narrow; you can’t put a pool up against the steps because you have run plumbing around it and access for a skimmer. We would like to have a walkway around the pool.

McCarthy – We’ve granted it more for a bump-out addition, but a pool is not a necessity.

Williams – She’s concerned about the level of negativity from Town board members against pools. According to the definition in the Town Code, this is a structure.

McCarthy – She would have concerns approving a shed to intruding into the setback; enhancements don’t carry the same weight as a residence.

Allen – Suggested redesigning so it doesn’t need relief.

O’Mara – You can either continue or we can vote to deny.

Cestari – We’ve looked at every possibility. The length is within the setback. It’s the width that intrudes.

Botticelli – A pool isn’t essential and shouldn’t intrude into the setback.

Williams – The neighbor most impacted by this has no concerns.

Evarts – Her concern is that’s it’s officially listed as a short-term rental property, and they are accepting 10 guests.

Botticelli – Being a short-term rental isn’t her concern. She sees no reason to grant a special permit for this.

O’Mara – This is an opportunity to withdraw. It’s getting late and it’s time to vote for a withdrawal.

Cestari – This is a huge investment, and we are committed to taking care of our home. We are withdrawing the short-term rental notice from all the realtors; this is for our family.

Williams – Asked for a withdrawal without prejudice.

Motion **Motion to Approve the withdrawal without prejudice.** (made by: Botticelli) (seconded)

Vote Carried unanimously

IV. OTHER BUSINESS

1. None

V. ADJOURNMENT

Motion **Motion to Adjourn at 3:53 pm.** (made by: Mondani) (seconded)

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

Continued to January 12, 2023

Kristina & Nicholas
AMENDOLARE

File No. 37-21

8 Bank St

SPECIAL PERMIT

Harris on Weweeder LLC

File No. 09-22

50 Weweeder Ave

VARIANCE

NEW BUSINESS

CHRISTOPHER QUICK

File No. 16-22

15 Delaney Road

APPEAL

ANDERSON KREIGER

KRISTEN GAGALIS
kgagalis@andersonkreiger.com
T: 617.621.6594
F: 617.621.6636

October 14, 2022

Re: Appeal of Building Commissioner's Zoning Enforcement Decision of September 21, 2022 at 15 Delaney Road

Dear Chair McCarthy and Members of the Board:

I represent Christopher Quick of 62R Cliff Road. By letter dated September 21, 2022, Nantucket Building Commissioner Paul Murphy declined my client's request to find that the use of the property located at 15 Delaney Road (the "Property") exclusively as a short-term rental ("STR") business was a "commercial use" prohibited in the residential zone in which it is located. My client hereby appeals the Building Commissioner's refusal to enforce a zoning violation at the Property.

For the reasons set forth in our Statement of Facts and Law and Requested Relief (**Addendum B**) and supported by our addenda, my clients request that the Nantucket Zoning Board of Appeals overturn Commissioner Murphy's determination with respect to the Property, and order the Property's owners to cease and desist using the Property as an STR.

I have enclosed the following in support of my client's application:

1. ZBA application form for appeal of Building Commissioner's determination;
2. Locus plan from the Nantucket Tax Assessor;
3. Certified abutters list and accompanying mailing labels;
4. Written Statement of Agency;
5. Check in the amount of \$450
6. Copy of Commissioner Murphy's September 21, 2022 Enforcement Denial (Addendum A);
7. Requested Relief and Statement of Facts and Law (Addendum B);
8. Copy of September 8, 2022 Enforcement Request (Addendum C);

October 14, 2022

Page 2

9. Copies of relevant sections of the Nantucket Zoning Code (Addendum D);
10. Copy of Use Table from Nantucket Zoning Code (Addendum E);
11. 15 Delaney Road Appellant – Abutters Map (Addendum F)

Best regards,



Kristen Gagalis

ecc: Clients

Attachment 1



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

A P P L I C A T I O N

Fee: \$450.00

File No._____

Owner's name(s):__Ralph W. and Bonnie A. Keith, Delaney Keith Trust_____

Mailing address: __9 Carriage Lane, Yarmouth, ME 04096_____

Phone Number: _____ Unavailable _____ E-Mail: _____ Unavailable _____

Applicant's name(s): __Christopher Quick_____

Mailing Address: _____P O BOX 610, PURCHASE, NY 10577_____

Phone Number: _____ E-Mail: _____ccq522@gmail.com_____

Locus Address: _____15 Delaney Road_____ Assessor's Map/Parcel: __30/ 635_____

Land Court Plan/Plan Book & Page/Plan File No.: _____C0025803/0_____

Deed Reference/Certificate of Title: __25803_____ Zoning District __R1_____

Uses on Lot- Commercial: Yes (describe) __transient residential_____

Residential: Number of dwellings __1_____ Duplex _____ Apartments _____

Date of Structure(s): Built in 2015

Building Permit Numbers: _____N/A_____

Previous Zoning Board Application Numbers: _____N/A_____

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

See Addendum B

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: Kristen Magalis Applicant/Attorney/Agent*

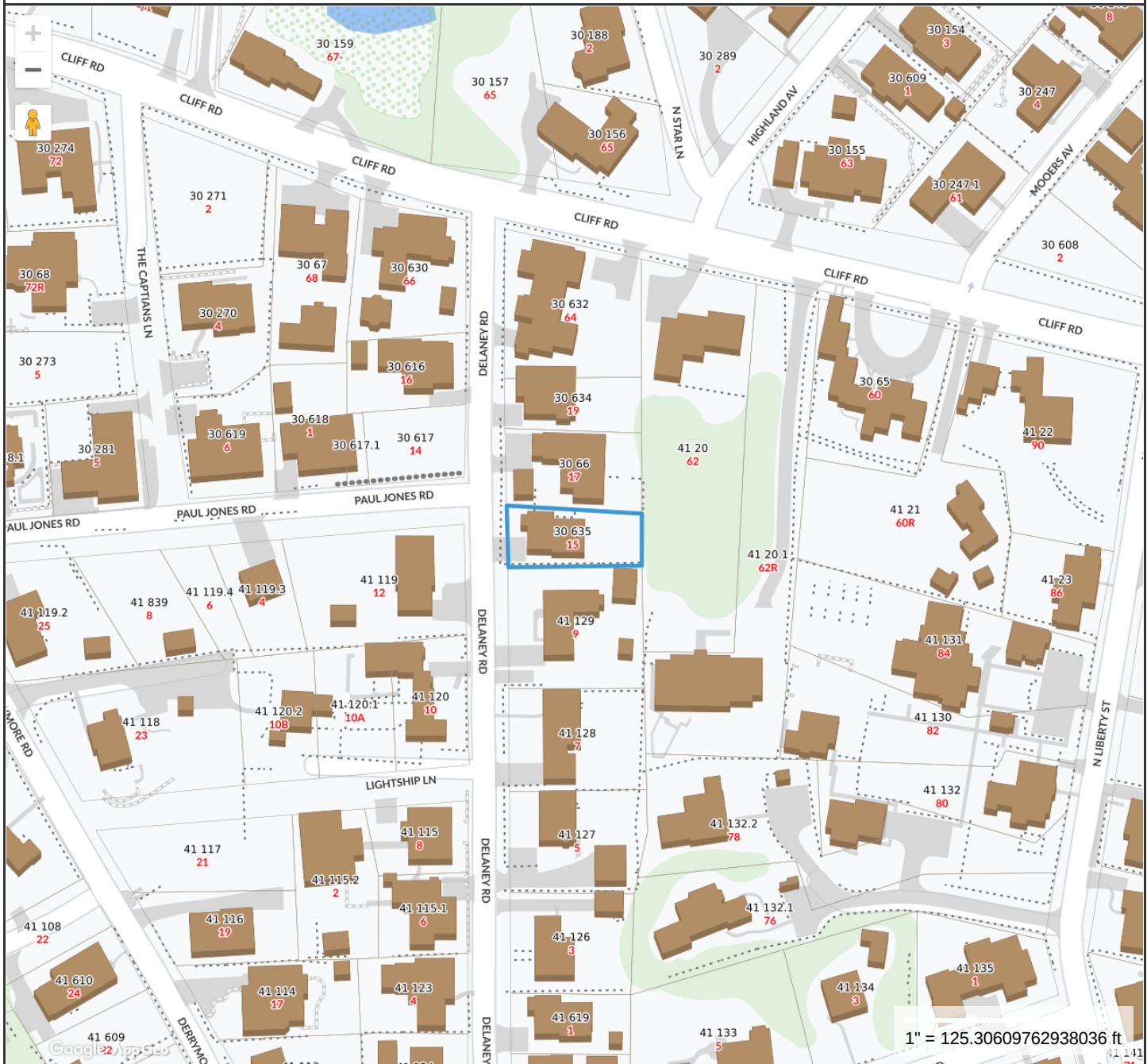
*If an Agent is representing the Owner or the Applicant, please provide a signed proof of agency.

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: __/__/__

Attachment 2

15 Delaney Rd Assessor Map



Property Information

Property ID 30 635
 Location 15 DELANEY RD
 Owner KEITH RALPH W TR & BONNIE A 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 07/28/2022
 Data updated Jan. 2021

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

Attachment 3

Town of Nantucket

Zoning Board of Appeals

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

PROPERTY OWNER Keith Ralph WTR + Bonnie ATR + Delaney Keith Trust
MAILING ADDRESS 9 Carriage Lane, Yarmouth ME 04096
PROPERTY LOCATION 15 Delaney Rd
ASSESSOR MAP/PARCEL 301635
APPLICANT Anderson Kreiger

SEE ATTACHED PAGES

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

October 13, 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: 2022.10.13
14:01:15 -04'00'

Abutters Listing

MBLU	Lot	Lot Cut	Owner Full Name	Co-Owner Full Name	Address Line 1	City	State	Zip	Location
30	65		MALONEY ROSALIE THOMPSON		2430 TRACY PLACE NW	WASHINGTON	DC	20008	60 CLIFF RD
30	66		DEMENOCAL GEORGE W & SARAH L		108 LOGAN ROAD	NEW CANAAN	CT	06840	17 DELANEY RD
30	67		SLOAN DAVID SCOTT TR	C/O HOLLAND & KNIGHT	10 ST JAMES AVENUE	BOSTON	MA	02116	68 CLIFF RD
30	155		HARBERT NANCY		2091 RIVOLI CT	NAPLES	FL	34105	63 CLIFF RD
30	156		SHAW JOHN B & ALLISON S TRST		129 DORADO BEACH	E DORADO	PR	00646	65 CLIFF RD
30	157		SHAW JOHN B & ALLISON S TRST		129 DORADO BEACH	E DORADO	PR	00646	65 CLIFF RD
30	159		FOGGY MANOR LLC		39 HEMLOCK HILL RD	ORCHARD PARK	NY	14127	67- CLIFF RD
30	270		4 TCL LLC		1165 PARK AVENUE APT 4D	NEW YORK	NY	10128	4 THE CAPTAINS LN
30	271		HARDEL REAL ESTATE LLC		23 OLD KINGS HWY SOUTH, STE 200	DARIEN	CT	06820	2 THE CAPTAINS LN
30	281		HARDEL REAL ESTATE LLC		23 OLD KINGS HWY SOUTH, STE 200	DARIEN	CT	06820	5 PAUL JONES RD
30	289		2 HIGHLAND AVENUE LLC		12 AMELIA DRIVE	NANTUCKET	MA	02554	2 HIGHLAND AV
30	616		MITCHELLS NANT PROPERTIES LLC	C/O SARAH & ANDREW MITCHELL	37 STUDDRIDGE ST	LONDON		SW6 3SL	16 DELANEY RD
30	617		NANTUCKET BOB LLC		8473 BAY COLONY DR APT 1602	NAPLES	FL	34108	14 DELANEY RD
30	618		OUR HAPPY PLACE LLC		43 WEST 64TH ST APT 7A	NEW YORK	NY	10023	1 PAUL JONES RD
30	619		TAKE IT EASH LLC		627 HARRIS ROAD	BEDFORD HILLS	NY	10507	6 THE CAPTAINS LN
30	630		237 MARLBOROUGH ST LLC		91 THORNDIKE STREET	BROOKLINE	MA	02446	66 CLIFF RD
30	632		SANDY LIGHT LLC		9 CARRIAGE LN	YARMOUTH	ME	04096	64 CLIFF RD
30	634		WOLFE RICHARD C TRST ETAL		PO BOX 107	NEWFIELDS	NH	03856	19 DELANEY RD
41	20		TEGAN JOHN J JR & LORRAINE A TRST	62 CLIFF RD REALTY TRUST	62 CLIFF RD	NANTUCKET	MA	02554	62 CLIFF RD
41	20	1	QUICK CHRISTOPHER & ANN B		P O BOX 610	PURCHASE	NY	10577	62R CLIFF RD
41	21		NOYES HARRIET TUTTLE & ROBERT		27 SHERATON PARK	ARLINGTON	MA	02474	60R CLIFF RD
41	22		READE ARTHUR I JR TR	90 NORTH LIBERTY PRESV TRUST	90 NORTH LIBERTY PRESV TRUST	NANTUCKET	MA	02584	90 N LIBERTY ST
41	23		WAGNER AUDREY K		86 N LIBERTY ST	NANTUCKET	MA	02554	86 N LIBERTY ST
41	115		XVII YEARS LLC		18 WAGON WHEEL RD	MAMONARECK	NY	10543	8 DELANEY RD
41	115	1	MIDLAND BEACH LLC		6 MIDLAND RD	WELLESLEY	MA	02462	6 DELANEY RD
41	115	2	SWAIN BRYAN J TR	SEAGRASS NOMINEE TRUST	SEAGRASS NOMINEE TRUST	NANTUCKET	MA	02554	2 LIGHTSHIP LN
41	117		YATES LINDA A		21 DERRYMORE RD	NANTUCKET	MA	02554	21 DERRYMORE RD

41	118		YATES LINDA & WELLS SARA A TR	YATES FAMILY 2015 TRUST	21 DERRYMORE RD	NANTUCKET	MA	02554	23 DERRYMORE RD
41	119		BRESCHER JESSIE M TRST ETAL	CRANSTON FAMILY NOM TRUST	37 CEENTER STREET	NANTUCKET	MA	02554	12 DELANEY RD
41	119	3	BRESCHER JESSIE M TRST ETAL	CRANSTON FAMILY NOM TRUST	37 CENTER STREET	NANTUCKET	MA	02554	4 PAUL JONES RD
41	119	4	BRESCHER JESSIE M TRST ETAL	CRANSTON FAMILY NOM TRUST	37 CENTER STREET	NANTUCKET	MA	02554	6 PAUL JONES RD
41	120		SGB PILGRIM LLC		350 FIFTH AVE STE 5319	NEW YORK	NY	10118	10 DELANEY RD
41	120	1	ARI REAL ESTATE LLC		10 DELANEY RD	NANTUCKET	MA	02554	10A DELANEY RD
41	120	2	ARI REAL ESTATE LLC		10 DELANEY RD	NANTUCKET	MA	02554	10B DELANEY RD
41	126		HENDRICKS KATHERINE & STEPHANIE		28 EXETER STREET APT 801	BOSTON	MA	02116	3 DELANEY RD
41	127		BEDELL JOSEPH P & KATIE		53 CATO LANE	NANTUCKET	MA	02554	5 DELANEY RD
41	128		KINNEY DOUGLAS M JR. & KIMBERLY		57 FRANKLIN PLACE	LAKE FORREST	IL	60045	7 DELANEY
41	129		QUICK CHRISTOPHER C & ANN B		PO BOX 610	PURCHASE	NY	10577	9 DELANEY RD
41	130		S NANTUCKET LLC		111 CENTER STREET	LITTLE ROCK	AK	72201	82 N LIBERTY ST
41	131		S NANTUCKET LLC		111 CENTER STREET	LITTLE ROCK	AK	72201	84 N LIBERTY ST
41	132		S NANTUCKET LLC		111 CENTER STREET	LITTLE ROCK	AK	72201	80 N LIBERTY ST
41	132	1	SHEELER TIMOTHY D & ELIZABETH Q		1080 WEST HILL DR	GATES MILLS	OH	44040	76 N LIBERTY ST
41	132	2	HENDERSON SCHUYLER ETAL		78 N LIBERTY ST	NANTUCKET	MA	02554	78 N LIBERTY ST
41	839		BRESCHER JESSIE M ETAL TRST		37 CENTER STREET	NANTUCKET	MA	02554	8 PAUL JONES RD
Count:	44								

Attachment 4

ANDERSON KREIGER

MEMORANDUM

To: Nantucket Zoning Board of Appeals

From: Nina Pickering-Cook and Kristen Gagalis
ANDERSON & KREIGER LLP

Re: **Statement of Agency**

Date: October 14, 2022

This office represents Christopher Quick of 62R Cliff Road (the “Appellant”). Christopher Quick is an abutter to an abutter within 300 feet of 15 Delaney Road (the “Property”) as shown by the Assessors’ abutters’ list attached to this appeal. *See Addendum F*. Therefore, he is a “party in interest” pursuant to G.L. c. 40A with respect to any zoning decision concerning the Property.

The Appellant requested zoning enforcement for a violation at the Property. The Building Commissioner denied the Appellant’s requested enforcement. As such, he is aggrieved by the Building Commissioner’s Decision and appeals it to this Board.



Kristen R. Gagalis

Addendum A



Planning and Land Use Services

Building ▪ Historic District Commission ▪ Planning Board ▪ Zoning Board of Appeals

BUILDING DIVISION

CERTIFIED MAIL # 7019 2970 0001 3015 7507

September 21, 2022

Kristen Gagalis
Anderson & Kreiger LLP
50 Milk Street 21st Floor
Boston MA 02109

Re: Request for Zoning Enforcement at 15 Delaney Road, Nantucket

Dear Ms. Gagalis,

I am in receipt of your zoning enforcement request dated September 8, 2022, with regard to the property located at 15 Delaney Road, Nantucket (the "property"). I will not pursue zoning enforcement at this time because, in my opinion, the use of the property for short term rentals does not violate the Town's Zoning Bylaw.

If you are aggrieved by this determination, you may appeal to the Nantucket Zoning Board of Appeals pursuant to G.L. c. 40A Sections 8 and 15.

Very truly yours,

Paul Murphy
Building Commissioner
Town of Nantucket

Cc: Andrew Vorce, Director of Planning, Leslie Snell, Deputy Director of Planning

Addendum B



MEMORANDUM

To: Nantucket Zoning Board of Appeals

From: Nina Pickering-Cook and Kristen Gagalís
ANDERSON & KREIGER LLP

Re: Statement of Facts and Law; Requested Relief

Date: October 14, 2022

This office represents Christopher Quick of 62R Cliff Road, Nantucket (the “Appellant”).

The Appellant appeals the Building Commissioner’s September 21, 2022 decision (the “Decision”) pursuant to Zoning Code Section 139-31-A-(1) and Massachusetts General Laws Chapter 40A, Sections 8 and 15. In the Decision, the Commissioner determined that use of the Property exclusively for short-term rentals (“STR”) does not violate Nantucket’s Zoning Bylaws despite its location in a residential zone. This finding is inconsistent with the Town’s Zoning Bylaws (“Bylaw”) and the R1 zoning district in which the Property is located. Where no one resides at the Property and it is being used solely as a pay-per-night or week rental operation, it is more properly defined as a Transient Residential Facility and, therefore, not allowed in the R1 residential district.

BACKGROUND

The Property is a 4 bedroom, 4 bath single-family home located in the R1 District, which permits only residential uses except in very limited circumstances (that do not apply here).

The owners of the Property are Ralph W. and Bonnie A. Keith, trustees of the Delaney Keith Trust, who have owned the Property since 2016. **Exhibit A.** The Property is advertised on multiple luxury vacation websites, and prices range from \$15,000 to \$19,000 per week. **Exhibit B.** Based on information and belief, no resident of Nantucket (or anywhere else) has lived in the Property as its residence since at least 2016 when the current owners took ownership.

The Appellant has experienced harm as a result of the use of the Property exclusively as a STR. Specifically, the Appellant has had increased noise and traffic from the Property, which he and other neighbors can describe further during the ZBA’s hearing.

As demonstrated by the manner in which Property’s owners advertise the Property and the Appellant’s experience with customers at the Property, the Property’s exclusive use as an STR is antithetical to the surrounding residential uses within the R1 District. The Owners are operating a

business through the Property for commercial purposes in direct contravention of the Zoning Bylaw. The Board should therefore order Ralph W. and Bonnie A. Keith, and the Delaney Keith Trust, to cease and desist all such uses at the Property.

On September 8, 2022, pursuant to G.L. 40A, § 7 and Town Zoning Bylaw § 139-25, the Appellant filed a request with Nantucket's Building Commissioner requesting that he issue a cease and desist order to the Owners for using the Property as an STR in a residential district.

Addendum C. The Commissioner denied the appellant's request on September 21, 2022, refusing to find the use of the Property as an STR violates the Town Zoning Bylaw. **Addendum A.** Where his Decision is not supported by either the Nantucket Zoning Bylaw or binding Massachusetts case law, this Board should take the unusual step of overturning the Building Commissioner's determination.

LEGAL ARGUMENT

A. The Owner's Use of the Property is a Commercial Use Not Permitted in the Residential Zoning District.

The Bylaw defines "commercial" as "a trade, occupation, or business, including transient residential facility, but excluding governmental, religious or private residential uses." Bylaw §139-2. On Nantucket, no commercial uses are allowed in the "Town Residential" districts (R-1, SR-1, ROH, SOH, R-5, R-5L, R-10, R-20 and R-40) or in the Country Residential districts (V-R, LUG-1, LUG-2, LUG-3 and MMD), with very limited exceptions.

By its nature as an exclusively STR property, the Property exists exclusively to serve commercial business purposes. The Owners are conducting numerous arms-length transactions for fixed rates over brief periods of time with unrelated third parties. Massachusetts courts have held that these type of commercial enterprises that charge weekly rental rates via contractual agreement are indeed commercial in nature and have no business in residential districts. *See, e.g., Stevens v. Zoning Bd. of Appeals of Bourne*, 97 Mass. App. Ct. 713 (2020) (finding an STR property that was solely rented pursuant to rental contracts with unrelated third parties was a commercial use prohibited in a residential district); *Styller v. Zoning Bd. of Appeals of Lynnfield*, 487 Mass. 588 (2021) (finding the same because "[h]omes are expected to be used as residences, not for profit."); *Lytle v. Swiec*, 2017 WL 2257702 (Mass. Land Ct. May 23, 2017) (holding a homeowner's use of one dwelling in his two-dwelling single-family home for weekly summer rentals was a commercial use prohibited in a residential district).

Although the Bylaw excludes "private residential uses" from the definition of "commercial," the Owners' use of the Property has nothing to do with "private residential uses." Exclusively renting an investment house to strangers is not even remotely akin to the "private uses" envisioned by the Bylaw, like offering one's residence to family or friends for the week, or inviting guests to stay at a property while the primary resident is there. There is no "resident" to use the home for private purposes; no one lives in the house full time. In fact, where the

Property is available to rent in short term stints year round, it is not possible to have the Property serve as anyone's residence. Taken together, these attributes of the Property place it squarely within the definition of "commercial".

B. The Property is a Transient Residential Facility

Rather, the Property is more properly characterized as a "Transient Residential Facility." Transient Residential Facilities are defined as "hotels; rooming, lodging or guest houses; and time-sharing or time-interval-ownership dwelling unit(s)." Bylaw § 139-2. Like commercial uses, no transient residential facilities are allowed in the R1 District. Bylaw § 139-7A.¹

The Property is continually available for short-term rentals in weekly increments. Therefore, the Property, as an exclusively short-term rental, is more closely aligned with the purposes and uses defined as transient residential uses than those uses defined as residential. For example, hotels offer rooms at both nightly and weekly rates, just as the Property does. Hotels also conduct arms-length transactions with third parties for financial gain, just as the Property does. The definition of "transient residential facilities" also includes "time-sharing" and "time-interval-ownership dwelling units," both of which cater to longer periods of use, but additionally require actual equity ownership in the property. By comparison, this Property actually has a *more* transient customer base than time-sharing or interval ownership, with shorter booking periods and renters who lack any ownership interest in the Property.

To find that the Property is a traditional residence and not a transient residential facility would render the definitional group of "transient residential facilities" an illogical combination of uses ill-suited to uniform application required under the Town's Zoning Bylaw. All types of lodging included within the Bylaw's definition of transient residential facilities cater to the same customer base as the Property and other STRs – individuals or small groups, who live elsewhere and who are looking to rent for a short, defined period of time.² Most transient residential facilities also presumably have similar impacts on surrounding areas, which is why the Bylaw is incredibly explicit about where these uses can legally take place (commercial districts) versus where they can only take place with permission or not at all (residential districts).

Excluding this Property (and all exclusively short-term rentals) from the definition of transient residential facilities is contrary to the State's characterization of STRs. In December 2018, the Massachusetts Legislature passed "An Act Regulating and Insuring Short Term Rentals." G.L. 64G, *et seq.* All of the lodging types listed as "transient residential facilities" in the Zoning Bylaw are subject to the room occupancy tax under G.L. 64G, §3, a list that now includes STRs. The Legislature's decision to include STRs renting more than 14-days a year in the room

¹ Rooming, lodging, and guest houses all share a common feature that is absent in the present case: residents who live on the property while guests come and go. No residents live at the Property.

² Both "hotel" and "rooming, lodging, and guest houses" are defined by the By-laws as "primarily temporary abode of persons who have a permanent residence elsewhere." By-laws, § 139-2. Time-shares are characterized by "the use being inherently transient." *Id.*

occupancy tax list is evidence that the state considers STRs such at this Property to be “commercial” not personal residential use, and therefore akin to a “transient residential facilities” on the island.

C. The Use of the Property as a STR is Not Accessory to Residential Use

A common refrain by owners of STRs is that using a property as an STR is an accessory use to the primary residential use. That argument fails here. Although “accessory dwelling” units are allowed in all residential districts on Nantucket, this Property cannot be considered an “accessory use” because there are simply no residents at the Property to create a residential use to which the use as a short term rental could be “accessory.”

The Bylaw defines “accessory uses” as “separate structures, buildings or uses which are *subordinate and customarily incidental* to a principal structure, building or use located on the same lot.” Bylaw § 139-2 (emphasis added). The principal structure located on the lot is a single family residence. **Exhibit C.** A “residence” is defined as “the act or fact of dwelling in a place *for some time*,” or “the place where one actually lives as distinguished from one’s domicile or a place of temporary sojourn.” Miriam–Webster’s Dictionary, (11th ed. 2020) (emphasis added). Therefore, to qualify as an “accessory dwelling,” the rental of the Property would have to be subordinate to the Property’s use as a single family residence. Based on advertising and Appellant testimonials, the Property is very plainly not a single family residence; it is a rental property 365 days a year. **Exhibit D.** Thus, the rental use predominates any other use and cannot be “accessory.”

Whether STRs can be accessory uses under zoning is an issue that has been decided by the courts. Just as Massachusetts courts have held that STRs are commercial uses, courts have also consistently found that STRs are not an accessory use to a residential use. See *Stevens, supra*, 97 Mass. App. Ct. 713; *Styller, supra*, 487 Mass. 588 (2021); *Lytle, supra*, 2017 WL 2257702. In *Styller*, the court reasoned that a single homeowner renting his property on Airbnb was not “clearly incidental to the use of the principal building” as a single family residence. 2018 WL 4502015, at *7. As the Land Court explained:

In zoning bylaws or ordinance, ‘incidental’ incorporates two concepts: It means that the use must not be the primary use of the property but rather *one which is subordinate and minor in significance* . . . [and] incidental, when used to define an accessory use, must also incorporate the concept of reasonable relationship with the primary use. It is not enough that the use be subordinate; *it must also be attendant or concomitant*. To ignore this latter aspect of ‘incidental’ would be to permit any use which is not primary, no matter how unrelated it is to the primary use.

Id. (internal citations and quotation marks omitted) (emphasis added). Using single family homes, such as the Property, as STRs is not “customary in connection with the principal building.” Putting it bluntly, the court stated: “Most people do not rent out their homes on a continuing basis. They live in them.” *Id.* at *8.

Likewise, in *Stevens*, the court refused to find that a house owned by an investment trust was an accessory use due in part to the fact that neither the Trustee nor any beneficiary of the trust resided at the property and use of the property was conducted pursuant to rental contracts with unrelated third parties, for financial gain by the investors. 97 Mass. App. Ct. at 718. In *Lytle*, the Land Court upheld the Hull ZBA’s determination that short-term renting of a unit alongside a lived-in residence was an unlawful commercial use and not a permitted accessory use. 2017 WL 2257702 at *7. The court reasoned that even though the owner was still occupying one-dwelling in the two-dwelling single family home, the separate commercial use of the other dwelling unit was not an accessory use due to the commercial nature of the rental. *Id.*

The bylaws of Lynnfield (*Styller*), Hull (*Lytle*) and Bourne (*Stevens*) all have similar definitions of “accessory use” to Nantucket’s, and all forbid the use of STRs as accessory uses to residential uses in residential districts. Applying Nantucket Bylaws to the Property should yield the same results as in *Styller*, *Lytle*, and *Stevens*: using a residence primarily as a rental property is not an accessory use to a residential use. Such an arrangement is commercial in nature and should not be tolerated in residential districts.

Courts are also clear that STRs cannot be considered “incidental” or “customary” to residential uses because they necessarily disrupt the character and use of single family homes, as is the case at the Property. There is nothing “customary” to single-family home ownership about the fairly new concept of investors buying up homes to rent to unaffiliated members of the public for profit. Indeed, when these houses are continually rented out to different parties, they preclude the customary use of the home as a “single family residence.” Additionally, as the court pointed to in *Styller*, the non-stop coming-and-going of different individuals destroys the concepts of continuity and supervision, which are bedrock principles of residential zoning districts. *Styller*, 2018 WL 4502015, at *7.

CONCLUSION

Allowing the Commissioner’s Decision to stand risks exacerbating a near-impossible situation for Nantucket’s already over-priced and under-supplied year-round housing stock. If it refuses to define the Property as a “commercial use” or “transient residential facility”, this Board would be giving investor groups the green light to continue buying up single family homes in residential districts and turning them into high-turnover rental properties. This would further blur the lines of commercial versus residential, and come at a high cost to actual residents of Nantucket’s many residential neighborhoods.

Nantucket Zoning Board of Appeals
October 14, 2022
Page 6

For these reasons and the many listed above, we urge the Board to overturn the Commissioner's Decision and find that the Property is a commercial use that is not allowed in the R1 district, and to require the Owners to immediately cease and desist such commercial operation at the Property.

Exhibit A

15 DELANEY RD

Location 15 DELANEY RD

Mblu 30/ / 635/ /

Acct# 0030-635

Owner KEITH RALPH W TR & BONNIE
A TR

Assessment \$2,231,600

PID 188608

Building Count 1

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2022	\$977,700	\$1,253,900	\$2,231,600

Owner of Record

Owner	KEITH RALPH W TR & BONNIE A TR	Sale Price	\$0
Co-Owner	DELANEY KEITH TRUST	Certificate	
Address	9 CARRIAGE LANE	Book & Page	C0025803/0
	YARMOUTH, ME 04096	Sale Date	03/09/2016
		Instrument	99

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
KEITH RALPH W TR & BONNIE A TR	\$0		C0025803/0	99	03/09/2016
BULLOCK MARK A TRST	\$1,500,000		C0025803/0	1O	10/02/2015
DESERT ISLAND LLC	\$1,000,000		C0024968/0	1U	10/13/2013
FINNEY JOHN R TRST	\$0		C0024968/0	99	01/25/2013

Building Information

Building 1 : Section 1

Year Built:	2015
Living Area:	2,617
Replacement Cost:	\$987,529
Building Percent Good:	99
Replacement Cost	
Less Depreciation:	\$977,700

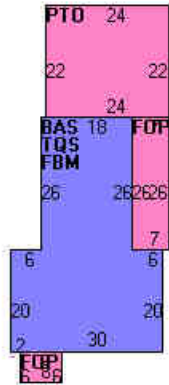
Building Attributes	
Field	Description
Style	Colonial
Model	Residential
Grade:	Very Good
Stories:	1.75
Occupancy	1
Exterior Wall 1	Wood Shingle
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F GlS/Cmp
Interior Wall 1	Drywall/Sheet
Interior Wall 2	
Interior Flr 1	Hardwood
Interior Flr 2	
Heat Fuel	Gas
Heat Type:	Hot Water
AC Type:	Central
Total Bedrooms:	4
Total Bthrms:	4
Total Half Baths:	1
Total Xtra Fixtrs:	
Total Rooms:	
Bath Style:	Average
Kitchen Style:	Luxurious
Num Kitchens	
Cndtn	
Num Park	
Fireplaces	

Building Photo



(<https://images.vgsi.com/photos/NantucketMAPotos//00\03\53\07.jpg>)

Building Layout



(https://images.vgsi.com/photos/NantucketMAPotos//Sketches/188608_1)

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	1,068	1,068
TQS	Three Quarter Story	1,068	801
FBM	Basement, Finished	1,068	748
FOP	Porch, Open, Finished	230	0
PTO	Patio	528	0
		3,962	2,617

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use

Use Code 1010
Description Single Fam M01
Zone R1
Neighborhood 850
Alt Land Appr No
Category

Land Line Valuation

Size (Acres) 0.12
Frontage
Depth
Assessed Value \$1,253,900

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2022	\$977,700	\$1,253,900	\$2,231,600
2021	\$977,700	\$1,154,900	\$2,132,600
2020	\$1,028,200	\$1,154,900	\$2,183,100
2018	\$936,500	\$1,154,900	\$2,091,400
2017	\$911,000	\$1,154,900	\$2,065,900

Exhibit B

15 Delaney Road, Nantucket MA



17 Photos of 15 Delaney Road, Nantucket MA

RENTAL

4

4

1

8

CLIFF

BEDROOMS

BATHROOMS

HALF BATHS

SLEEPS

AREA

Stunning four bedroom, four en-suite and one half bath Cliff area home with beautiful finishes. Gourmet kitchen and beautiful open living/dining area with gas fireplace overlooking back patio and fire pit. Side deck with grill. Media room with 65" Curved Smart TV and Sonos Surround Sound. iPad controlled Sonos sound system for deck, living/dining area, media room and master bedroom. Perfect for that special Nantucket getaway for yourselves or to entertain guests with separate bedroom spaces. Make those special memories and have a WHALE OF A TIME on Nantucket!

Show More

Rates and Availability

*Published rates do not include local & state taxes. Current state tax is 5.7% and current local tax is 6%. These taxes are both subject to change.

**Availability & rates are subject to change. Please contact Maury People Sotheby's International Realty to confirm.

15

= Available

45

= Unavailable

June 2023								
Su	Mo	Tu	We	Th	Fr	Sa	Week	Rate
28	29	30	31	1	2	3	May, 27, 2023 to June, 3, 2023	\$15000
4	5	6	7	8	9	10	June, 3, 2023 to June, 10, 2023	\$16500
11	12	13	14	15	16	17	June, 10, 2023 to June, 17, 2023	\$18500
18	19	20	21	22	23	24	June, 17, 2023 to June, 24, 2023	\$17000
25	26	27	28	29	30	1	June, 24, 2023 to July, 1, 2023	\$17000

July 2023

Su	Mo	Tu	We	Th	Fr	Sa	Week	Rate
25	26	27	28	29	30	1	June, 24, 2023 to July, 1, 2023	\$17000
2	3	4	5	6	7	8	July, 1, 2023 to July, 8, 2023	\$19000
9	10	11	12	13	14	15	July, 8, 2023 to July, 15, 2023	\$19000
16	17	18	19	20	21	22	July, 15, 2023 to July, 22, 2023	\$19000
23	24	25	26	27	28	29	July, 22, 2023 to July, 29, 2023	\$19000
30	31	1	2	3	4	5	July, 29, 2023 to August, 5, 2023	\$19000
August 2023								
Su	Mo	Tu	We	Th	Fr	Sa	Week	Rate
30	31	1	2	3	4	5	July, 29, 2023 to August, 5, 2023	\$19000
6	7	8	9	10	11	12	August, 5, 2023 to August, 12, 2023	\$19000
13	14	15	16	17	18	19	August, 12, 2023 to August, 19, 2023	\$19000
20	21	22	23	24	25	26	August, 19, 2023 to August, 26, 2023	\$19000
27	28	29	30	31	1	2	August, 26, 2023 to September, 2, 2023	\$19000
Today								

15 Delaney Road, Nantucket MA

October 2023

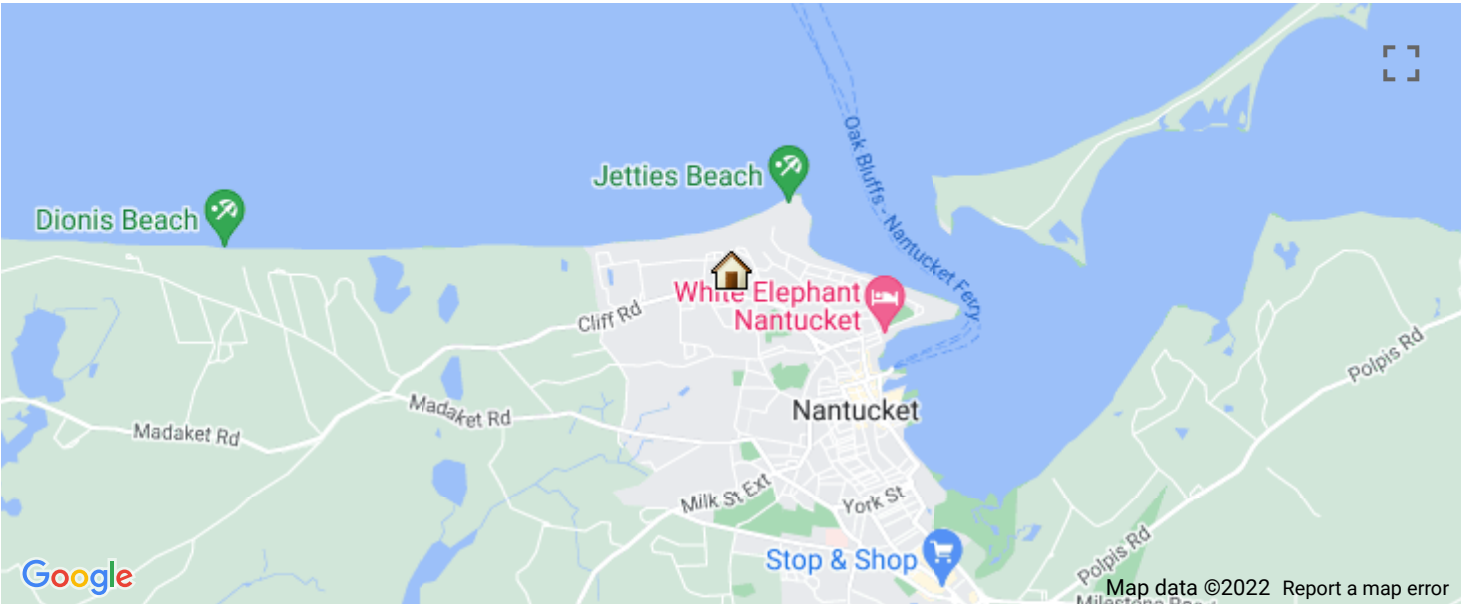
Su	Mo	Tu	We	Th	Fr	Sa	Week	Rate
1	2	3	4	5	6	7	September, 30, 2023 to October, 7, 2023	\$10000
8	9	10	11	12	13	14	October, 7, 2023 to October, 14, 2023	\$10000
15	16	17	18	19	20	21	October, 14, 2023 to October, 21, 2023	\$10000
22	23	24	25	26	27	28	October, 21, 2023 to October, 28, 2023	\$10000
29	30	31	1	2	3	4	October, 28, 2023 to November, 4, 2023	\$10000

November 2023

Su	Mo	Tu	We	Th	Fr	Sa	Week	Rate
29	30	31	1	2	3	4	October, 28, 2023 to November, 4, 2023	\$10000
5	6	7	8	9	10	11	November, 4, 2023 to November, 11, 2023	\$8000
12	13	14	15	16	17	18	November, 11, 2023 to November, 18, 2023	\$8000
19	20	21	22	23	24	25	November, 18, 2023 to November, 25, 2023	\$8000
26	27	28	29	30	1	2	November, 25, 2023 to December, 2, 2023	\$8000

Today

Map



Inquire About 15 Delaney Road

Fill out the form below to request more information.

Your Name (required)

Your Email (required)

Contact Preference

Either

Special Requests or Comments (required)

Sign up for email alerts? ☒

Phone

Evening Phone

Contact Time

Morning

☐ Send a copy of this request to my email

Send Inquiry

Share and Save 15 Delaney Road



Maury People Sotheby's International Realty

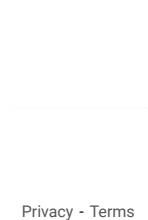
37 Main Street, Nantucket, MA 02554 | (508) 228-1881 info@maurypeople.com



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Covid 19 - Please review the Travel Order issued for Massachusetts

CAPE COD > NANTUCKET

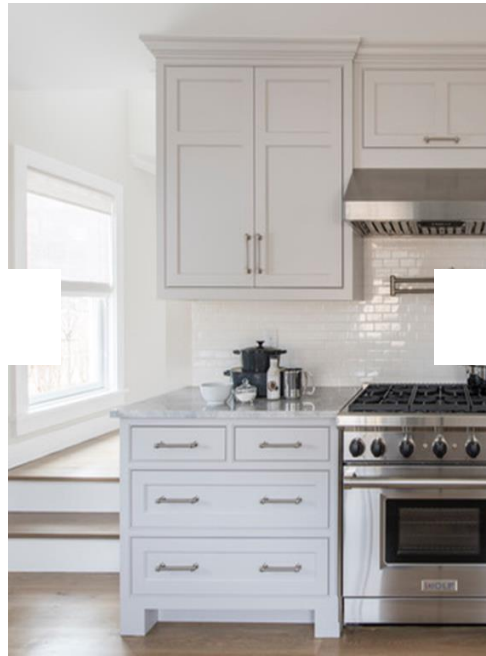
Need Help? Please call from 9am to 5pm at 508.228.9117 (Nantucket)

15 Delaney Road, Nantucket - Cliff

Tweet

Like 0

PhotosMap





Overview

Property ID	146368
Per week	\$16,000 - \$19,000
Property Type	House
Bedrooms	4
Sleeps	8
Occupancy Limit	8
Full Baths	4
Half Baths	1
Pets Allowed	No
Smoking	No

AvailabilityRates

Request QuoteFavorite

\$16,000 - \$19,000 week

REQUEST QUOTE

Customer Reviews (0)

+ Write a Review



Need Help?

Please call from 9am to 5pm at 508.228.9117

Description

Stunning recently re-done four bedroom, four and one half bath Cliff area home with beautiful finishes. Custom interior decor by Sophie Metz Design. Gourmet kitchen with SubZero, Wolf stove, and Cook & Cook Exquisite Custom Cabinetry. Beautiful open living/dining area with fireplace overlooking back patio and fire pit. Side deck with grill. Media room with 65" Curved Smart TV and Sonos Surround

Contact Us

Name

Sound. iPad controlled Sonos sound system for deck, living/dining area, media room and master bedroom. First floor: Gracious entry with powder room and window seat for relaxing. Open dining and living room with gas fireplace beyond. Fully equipped gourmet kitchen to right. Lower Level: Bright walkout basement media room. Additional King Bedroom with sitting area and en-suite tub/shower bathroom. Laundry equipped with XL capacity washer and steam dryer. Second floor: Master King Bedroom with sitting area, sound system, 50" HD TV, his and hers closets, private en-suite bath overlooking rear patio with RainHead shower. Queen Bedroom with his and hers closets, private en-suite bath with RainHead shower. Twin Bedroom with private bath. Outdoors: Patio with Paloform gas fire pit, dining table for 8. South facing private side deck with chairs for enjoying a morning cup of coffee. Outdoor shower with RainHead.

Amenities

GENERAL

- 1 Queen Bed(s) • 2 King Bed(s) • 2 Single Bed(s) • Smoke Free

TECHNICAL

- Cable TV
- Television
- Wireless Lan (Wi-Fi)

KITCHEN

- Blender
- Coffee Maker
- Dishwasher
- Disposal
- Full Size Refrigerator
- Lobster Pot
- Microwave
- Oven
- Stove
- Toaster

OTHER

- Beach Equipment
- Central AC
- Deck
- Dryer
- Iron
- Parking
- Patio
- Washer

Contact Us

Email Address

Phone Number

Message

SUBMIT

Telephone:
508.228.9117

Fax: 508.228.9227

Name Email Address

Phone Number

Message

SUBMIT

Telephone: 508.255.4949
Fax: 508.255.1222

HELPFUL LINKS

- Found a rental - what's next?
- Tenant guide
- List your rental property
- Buy a home
- Local housing data
- Mortgage rate watch
- Company information

Download Raveis
Cape Cod App ›

ABOUT WILLIAM RAVEIS

Whether you are a homeowner thinking of renting your property or a guest coming to Cape Cod & Nantucket, rest assured that you will be taken care of by the best in the business when you work with William Raveis - The Rental Company.

Our approach is unique - we work as a TEAM - without a commission... Read More

CONTACT US

With Vacation Rental Specialists from Falmouth to Provincetown and Nantucket, we can help you find the perfect home for your summer getaway!

Contact us to start building your own Cape Cod & Nantucket Memories!

- Office Locations
- Contact Us by Email
- Call Us - 508.255.4949 (Cape Cod) or 508.228.9117 (Nantucket)





(<https://www.jpfc.com>)
Home (<https://www.jpfc.com/>) >
Nantucket Rentals
(<https://www.jpfc.com/nantucket-rentals>)

Search by Rental ID or Address

GO

15 Delaney Road

Overview

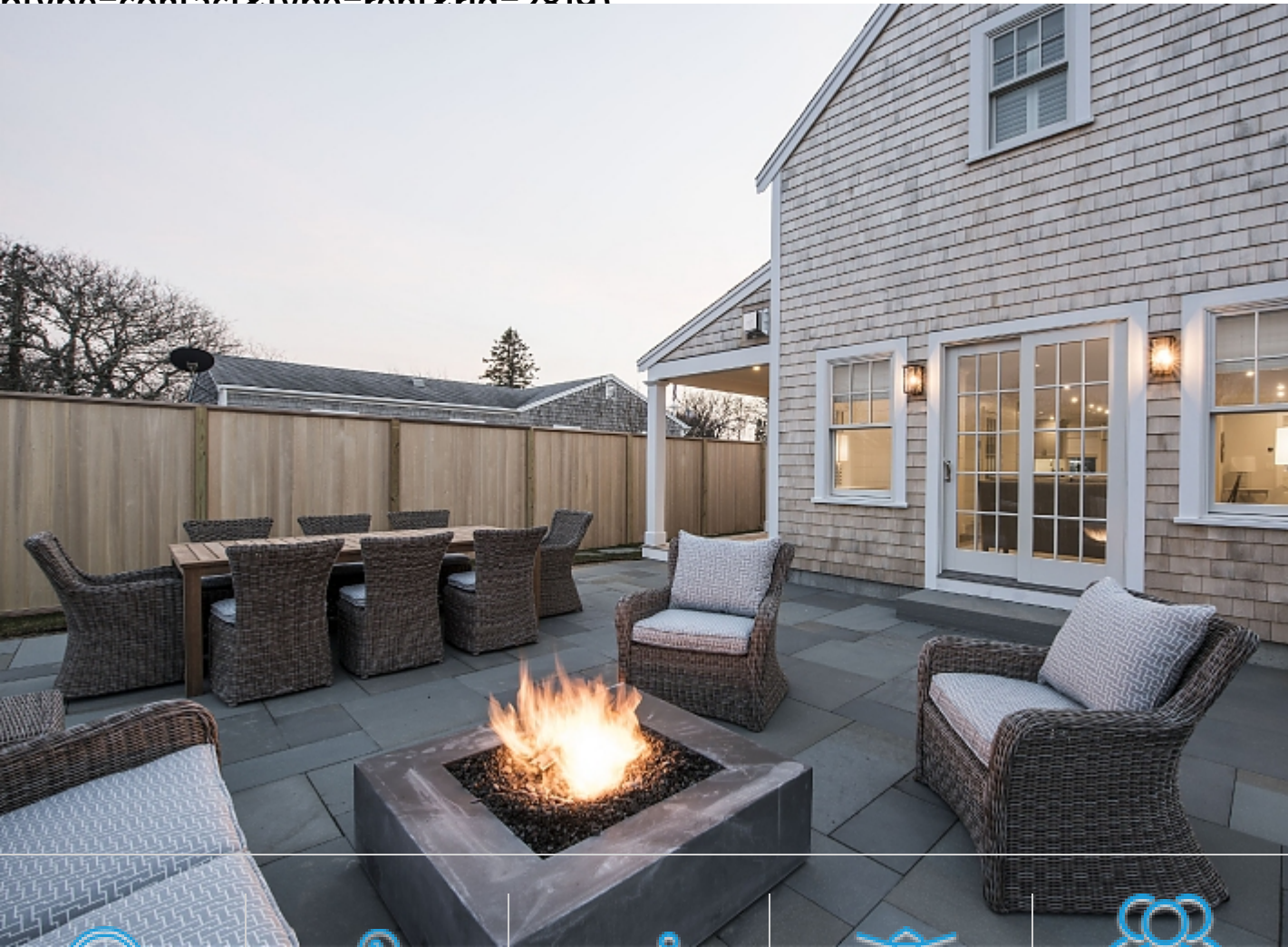
Map

Availability

\$16,000 - \$19,000 • Cliff

Rent Now

(<https://www.jpfc.com/index.php?type=contact&type=rent&rid=2819>)



 Nantucket Rentals SALES Bedrooms: (https://www.jpfc.com/nantucket-rentals)	 RENTALS (https://www.jpfc.com/nantucket-rentals)	 MARKET 4 beds (https://www.jpfc.com/sold-listings)	 AREA (https://www.jpfc.com/nantucket-island)	 ABOUT (https://www.jpfc.com/pepper-frazier-real-estate)
---	---	--	--	---

Capacity:

8



Beds Type / Floor

King	2
Queen	2
Twins	2
King	LL

Rental ID: #2819

15 Delaney Road, Nantucket, MA

STUNNING four bedroom, four en-suite and one half bath Cliff area home with beautiful finishes. Custom interior decor by Sophie Metz Design. GOURMET KITCHEN with SubZero, Wolf stove, and Cook & Cook Exquisite Custom Cabinetry. Beautiful open living/dining area with gas fireplace overlooking back patio and fire pit. Side deck with grill. Media room with 65" Curved Smart TV and Sonos Surround Sound. iPad controlled Sonos sound system for deck, living/dining area, media room and primary bedroom. Perfect for that special Nantucket getaway for yourselves or to entertain guests with separate bedroom spaces. Be one of the first to ENJOY this NEW home. Make those special memories and have a WHALE OF A TIME on Nantucket!

First Floor Description

Gracious entry with powder room and window seat for relaxing. Open dining and living room with gas fireplace beyond. Fully equipped gourmet kitchen to right. LOWER LEVEL: Bright walkout basement media room. Additional KING Bedroom with sitting area and attached tub/shower bathroom. Bathroom may be kept private to the bedroom or opened to the hall and accessible to the media room. Laundry equipped with XL capacity washer and steam dryer. OUTDOOR: Patio with Palomini gas fire pit, dining table for 8. South facing private side deck with chairs for enjoying a morning cup of coffee. Outdoor shower with RainHead.



Second Floor Description

Primary KING Bedroom with sitting area, sound system, 50" HD TV, his and hers closets, private bath overlooking rear patio with RainHead shower. South facing QUEEN Bedroom with his and hers closets, private bath with RainHead shower. North facing 2 TWIN Bedroom with his and hers closets, private bath with tub/shower.

Distance to Town: 1/2 mile

Distance to Beach: 1/3 mile

Amenities

- AirConditioning

BeachChairs

BeachTowels

Blender

CableTV

CoffeeMaker

Cooler

Deck

Dishwasher

Disposal

FoodProcessor

Grill

Heat

InternetAccess

Iron
- IroningBoard

LobsterPot

Microwave

Mixer

Parking

Patio

PatioDeckFurniture

Porch

Stereo

Stove

Toaster

TV

Vacuum

Walk to Water

Yard



SALES

(<https://www.jpfc.com/nantucket-rentals>)



RENTALS

(<https://www.jpfc.com/nantucket-rentals>)



MARKET

(<https://www.jpfc.com/nantucket-rentals>)



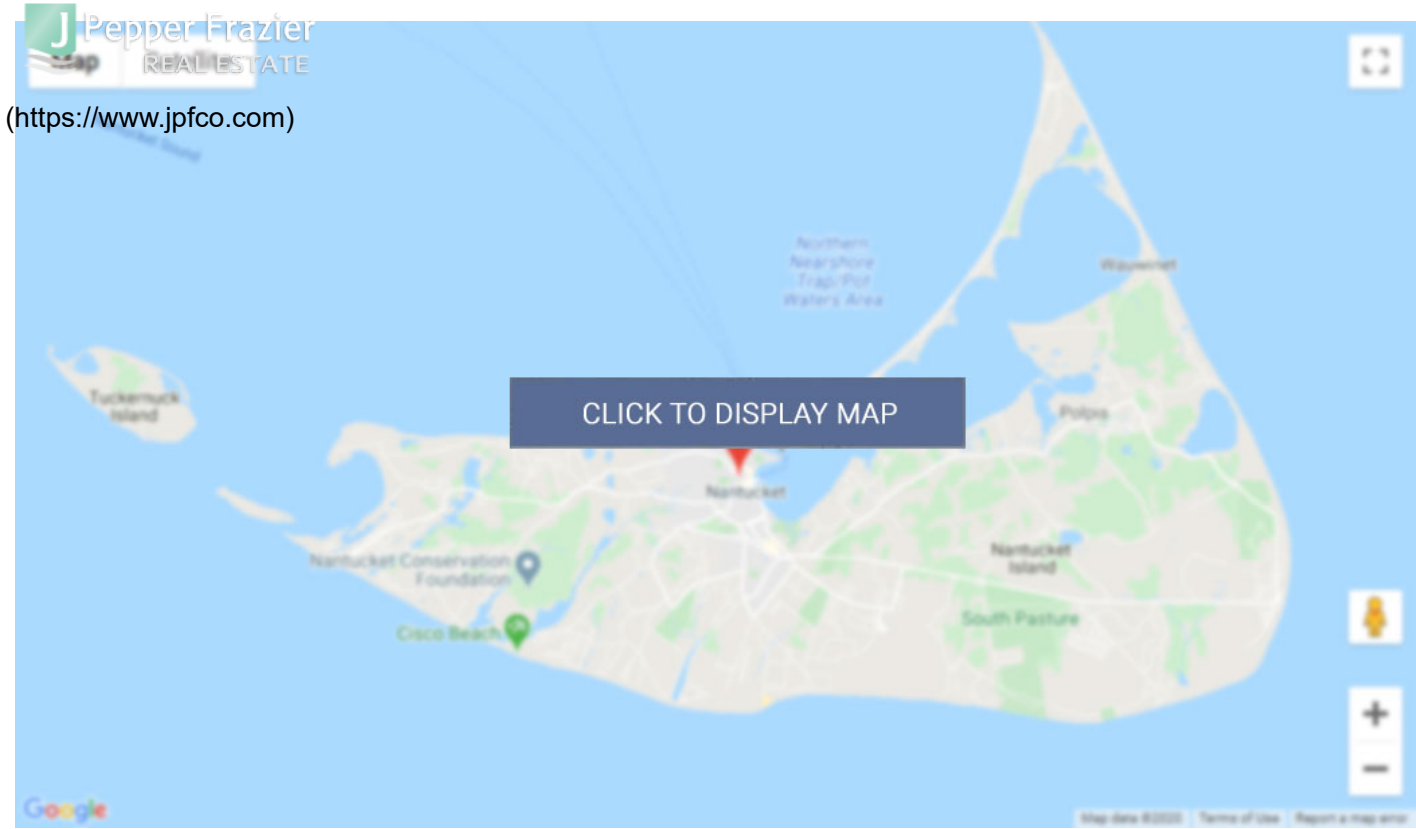
AREA

(<https://www.jpfc.com/nantucket-rentals>)



ABOUT

(<https://www.jpfc.com/nantucket-rentals>)



2023 Availability Sat-Sat

(Information contained herein is believed to be reliable but is not guaranteed.)

 June SALES	 RENTALS	 MARKET	 AREA	 ABOUT
06/03 - \$16,500 (https://www.jpfc.com/rentals/Cliff/15-Delaney-Road-2819.html)	06/10 - \$18,500 (https://www.jpfc.com/rentals/Cliff/15-Delaney-Road-2819.html)	RENT NOW (https://www.jpfc.com/rentals/Cliff/15-Delaney-Road-2819.html) sold listings	RENT NOW (https://www.jpfc.com/rentals/Cliff/15-Delaney-Road-2819.html) sold listings	RENT NOW (https://www.jpfc.com/rentals/Cliff/15-Delaney-Road-2819.html) sold listings



06/17 - \$19,000

06/24

(<https://www.jpfc.com>)

06/24 - \$19,000

07/01

RENT NOW ([https://www.jpfc.com/index.php?](https://www.jpfc.com/index.php?ptype=contact&type=rent&rid=2819&sdate=06/17/23)

[ptype=contact&type=rent&rid=2819&sdate=06/17/23](https://www.jpfc.com/index.php?ptype=contact&type=rent&rid=2819&sdate=06/17/23))

July

07/01 - \$19,000

07/08

RENT NOW

07/08 - \$19,000

07/15

RENT NOW ([https://www.jpfc.com/index.php?](https://www.jpfc.com/index.php?ptype=contact&type=rent&rid=2819&sdate=07/08/23)

[ptype=contact&type=rent&rid=2819&sdate=07/08/23](https://www.jpfc.com/index.php?ptype=contact&type=rent&rid=2819&sdate=07/08/23))

07/15 - \$19,000

07/22

RENT NOW ([https://www.jpfc.com/index.php?](https://www.jpfc.com/index.php?ptype=contact&type=rent&rid=2819&sdate=07/15/23)

[ptype=contact&type=rent&rid=2819&sdate=07/15/23](https://www.jpfc.com/index.php?ptype=contact&type=rent&rid=2819&sdate=07/15/23))

07/22 - \$19,000

07/29

RENT NOW ([https://www.jpfc.com/index.php?](https://www.jpfc.com/index.php?ptype=contact&type=rent&rid=2819&sdate=07/22/23)

[ptype=contact&type=rent&rid=2819&sdate=07/22/23](https://www.jpfc.com/index.php?ptype=contact&type=rent&rid=2819&sdate=07/22/23))

07/29 - \$19,000

08/05

RENT NOW ([https://www.jpfc.com/index.php?](https://www.jpfc.com/index.php?ptype=contact&type=rent&rid=2819&sdate=07/29/23)

[ptype=contact&type=rent&rid=2819&sdate=07/29/23](https://www.jpfc.com/index.php?ptype=contact&type=rent&rid=2819&sdate=07/29/23))

August

08/05 - \$19,000

08/12

RENT NOW

08/12 - \$19,000

08/19

RENT NOW

08/19 - \$19,000

08/26

RENT NOW ([https://www.jpfc.com/index.php?](https://www.jpfc.com/index.php?ptype=contact&type=rent&rid=2819&sdate=08/19/23)

[ptype=contact&type=rent&rid=2819&sdate=08/19/23](https://www.jpfc.com/index.php?ptype=contact&type=rent&rid=2819&sdate=08/19/23))

08/26 - \$19,000

09/02

RENT NOW ([https://www.jpfc.com/index.php?](https://www.jpfc.com/index.php?ptype=contact&type=rent&rid=2819&sdate=08/26/23)

[ptype=contact&type=rent&rid=2819&sdate=08/26/23](https://www.jpfc.com/index.php?ptype=contact&type=rent&rid=2819&sdate=08/26/23))



SALES



RENTALS



MARKET



AREA



ABOUT



(<https://www.jpfc.com>)

September

09/02 - 09/09	\$19,000	RENT NOW (https://www.jpfc.com/index.php?ptype=contact&type=rent&rid=2819&sdate=09/02/23)
09/09 - 09/16	\$18,000	RENT NOW (https://www.jpfc.com/index.php?ptype=contact&type=rent&rid=2819&sdate=09/09/23)
09/16 - 09/23	\$16,000	RENT NOW (https://www.jpfc.com/index.php?ptype=contact&type=rent&rid=2819&sdate=09/16/23)
09/23 - 09/30	\$0	RENT NOW
09/30 - 10/07	\$0	RENT NOW

*Rates must be confirmed prior to booking and do not include 11.7% state and local taxes.

Similar Nantucket Rentals

5 Wannacomet Road...
(<http://www.jpfc.com/nantucket-rentals/Cliff/5-Wannacomet-Road-House-1101.html>)



(<http://www.jpfc.com/nantucket-rentals/Cliff/5-Wannacomet-Road-House-1101.html>)
\$4,000 - \$7,000
4 3 and 0 half

65 Cliff Road
(<http://www.jpfc.com/nantucket-rentals/Cliff/65-Cliff-Road-1586.html>)



(<http://www.jpfc.com/nantucket-rentals/Cliff/65-Cliff-Road-1586.html>)
\$10,000 - \$20,000
4 4 and 0 half



(<https://www.jpfc.com>)

 SALES (https://www.jpfc.com/real-estate)	 RENTALS (https://www.jpfc.com/rentals)	 MARKET (https://www.jpfc.com/sold-listings)	 AREA (https://www.jpfc.com/nantucket-island)	 ABOUT (https://www.jpfc.com/j-pepper-frazier-real-estate)
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Addendum C

ANDERSON KREIGER

Kristen Gagalis
kgagalis@andersonkreiger.com
t: 617.621.6594

September 8, 2022

VIA EMAIL

Marcus Silverstein, Zoning Compliance Coordinator
Town of Nantucket
2 Fairgrounds Road
Nantucket, MA 02554
msilverstein@nantucket-ma.gov

Re: ***Request for Zoning Enforcement at 15 Delaney Road, Nantucket***

Dear Mr. Silverstein:

I am writing on behalf of Christopher and Ann Quick of 62R Cliff Road (the “Requestors”),¹ to request zoning enforcement against their neighboring property located at 15 Delaney Road and owned by Ralph W. and Bonne A. Keith Trust (the “STR Property”). Based on public advertising (attached as Exhibit 1 and available at <https://www.themaurypeople.com/nantucket-rentals/property/53049-15-delaney-road-nantucket>) and personal experience as its neighbor, the STR Property is being used primarily, if not exclusively, as a short-term rental (“STR”).²

15 Delaney Road’s use as a short-term rental is a commercial use. It is therefore prohibited in the R-1 District in which it is located, as the R-1 District only permits residential uses. Although it appears a single family home from the outside, the STR Property is not being used for a legitimate residential use under the Nantucket Zoning Bylaw.

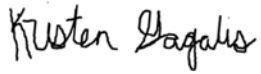
As a result, my clients are requesting, pursuant to G.L. c. 40A, § 7 and Nantucket Zoning Bylaw § 139-25, that the Town, acting through your office, issue a cease and desist of commercial use of the STR Property. My clients look forward to seeing their neighboring property return to single family residential use and to the permanent housing stock for the Island.

¹ I represent the Requestors solely for the purpose of this zoning enforcement action, and any related appeal.

² Although there is no definition for this use in the Nantucket Zoning Bylaw, G.L. c. 64G, §1 defines it as “an owner-occupied, tenant-occupied or non-owner occupied property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such.

Please respond as required under Nantucket Zoning Bylaw § 139-25(B)(1). If needed, I would be happy to provide more information specific to the STR Property (at least to the extent it is publicly available) and how it qualifies as a commercial use. I can be reached at the phone and email listed above. Thank you for your consideration of this important issue.

Sincerely,

A handwritten signature in black ink that reads "Kristen Gagalis". The script is cursive and fluid.

Kristen Gagalis

cc (via email): Clients
Nantucket Building Commissioner

EXHIBIT 1

15 Delaney Road, Nantucket MA



17 Photos of 15 Delaney Road, Nantucket MA

RENTAL

4

4

1

8

CLIFF

BEDROOMS

BATHROOMS

HALF BATHS

SLEEPS

AREA

Stunning four bedroom, four en-suite and one half bath Cliff area home with beautiful finishes. Gourmet kitchen and beautiful open living/dining area with gas fireplace overlooking back patio and fire pit. Side deck with grill. Media room with 65" Curved Smart TV and Sonos Surround Sound. iPad controlled Sonos sound system for deck, living/dining area, media room and master bedroom. Perfect for that special Nantucket getaway for yourselves or to entertain guests with separate bedroom spaces. Make those special memories and have a WHALE OF A TIME on Nantucket!

Show More

Rates and Availability

*Published rates do not include local & state taxes. Current state tax is 5.7% and current local tax is 6%. These taxes are both subject to change.

**Availability & rates are subject to change. Please contact Maury People Sotheby's International Realty to confirm.

15

= Available

~~45~~

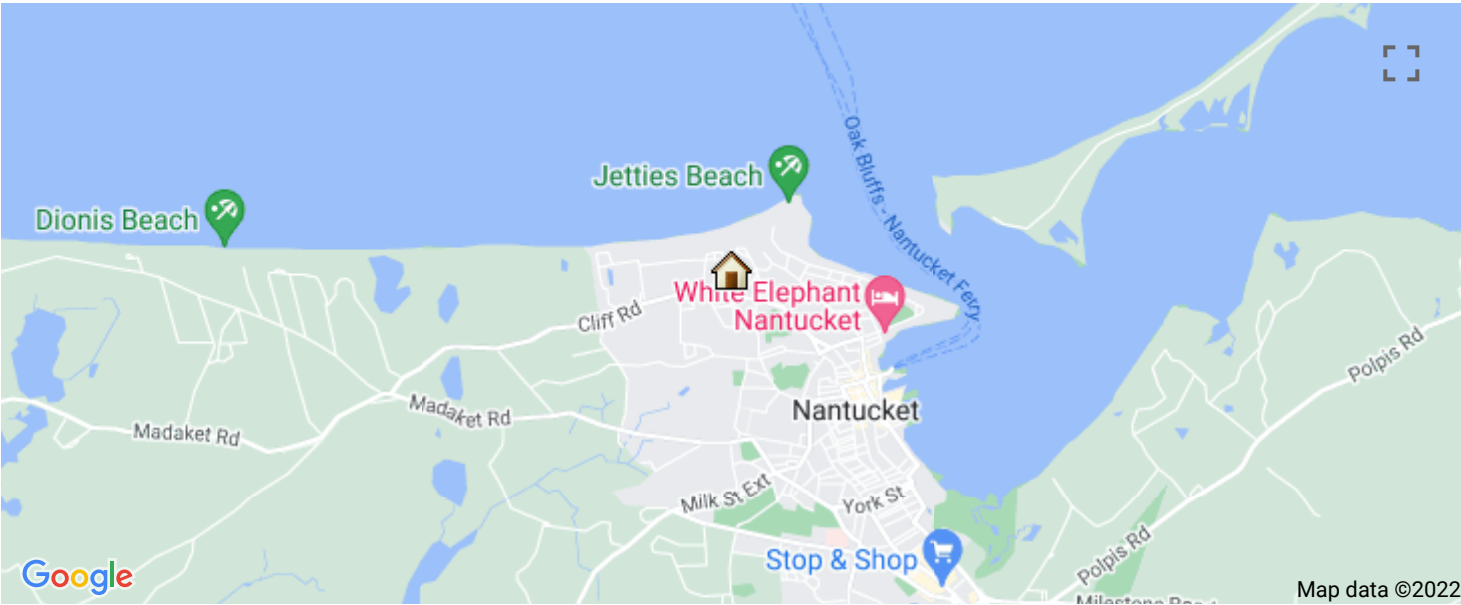
= Unavailable

June 2023								
Su	Mo	Tu	We	Th	Fr	Sa	Week	Rate
28	29	30	31	1	2	3	May, 27, 2023 to June, 3, 2023	\$15000
4	5	6	7	8	9	10	June, 3, 2023 to June, 10, 2023	\$15000
11	12	13	14	15	16	17	June, 10, 2023 to June, 17, 2023	\$17000
18	19	20	21	22	23	24	June, 17, 2023 to June, 24, 2023	\$17000
25	26	27	28	29	30	1	June, 24, 2023 to July, 1, 2023	\$17000

July 2023

Su	Mo	Tu	We	Th	Fr	Sa	Week	Rate
25	26	27	28	29	30	1	June, 24, 2023 to July, 1, 2023	\$17000
2	3	4	5	6	7	8	July, 1, 2023 to July, 8, 2023	\$18000
9	10	11	12	13	14	15	July, 8, 2023 to July, 15, 2023	\$18000
16	17	18	19	20	21	22	July, 15, 2023 to July, 22, 2023	\$18000
23	24	25	26	27	28	29	July, 22, 2023 to July, 29, 2023	\$18000
30	31	1	2	3	4	5	July, 29, 2023 to August, 5, 2023	\$18000
August 2023								
Su	Mo	Tu	We	Th	Fr	Sa	Week	Rate
30	31	1	2	3	4	5	July, 29, 2023 to August, 5, 2023	\$18000
6	7	8	9	10	11	12	August, 5, 2023 to August, 12, 2023	\$18000
13	14	15	16	17	18	19	August, 12, 2023 to August, 19, 2023	\$18000
20	21	22	23	24	25	26	August, 19, 2023 to August, 26, 2023	\$18000
27	28	29	30	31	1	2	August, 26, 2023 to September, 2, 2023	\$18000
Today								

Map



Inquire About 15 Delaney Road

Fill out the form below to request more information.

Your Name (required)

Your Email (required)

Contact Preference

Special Requests or Comments (required)

Sign up for email alerts? ☒

Phone

Evening Phone

Contact Time

☐ Send a copy of this request to my email

Send Inquiry

Share and Save 15 Delaney Road



Maury People Sotheby's International Realty

37 Main Street, Nantucket, MA 02554 | (508) 228-1881 info@maurypeople.com



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Addendums D&E

Addendum D

ARTICLE I Purpose; Definitions

§ 139-1. Purpose.

To promote the health, safety, convenience, morals and general welfare of its inhabitants, to lessen the danger from fire and congestion and to improve the Town under the provisions of the State Zoning Act, MGL c. 40A, the use, construction, repair, alteration and height of buildings and structures and the use of land and the size and shape of lots in the Town of Nantucket are hereby restricted and regulated as hereinafter provided.

§ 139-2. Definitions and word usage.

- A. Definitions. In this Zoning Bylaw, Chapter 139 of the Nantucket Code, the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings:

ACCESSORY DWELLING — A dwelling unit located within an owner-occupied single-family building. The exterior architectural design and use of an accessory dwelling shall be harmonious with the appearance and use of the structure as the owner's home. The gross floor area of the accessory dwelling shall not be more than the gross floor area of the primary dwelling and not greater than 550 square feet. The accessory dwelling shall be self-contained with separate sleeping, cooking and sanitary facilities for the exclusive use of the occupant. The structure containing the primary dwelling and accessory dwelling shall be in single ownership, and one of the units shall be owner-occupied. **[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; amended 4-6-2015 ATM by Art. 61, AG approval 8-5-2015]**

ACCESSORY USES — Separate structures, buildings or uses which are subordinate and customarily incidental to a principal structure, building or use located on the same lot. ¹ **[Amended 4-6-2015 ATM by Art. 64, AG approval 8-5-2015]**

ADULT ON-SITE MARIJUANA SOCIAL CONSUMPTION OPERATOR — A marijuana retailer where consumers are permitted to consume marijuana and marijuana products on its

1. Editor's Note: The former definition of "affordable unit" which immediately followed this definition, was replaced by the definition of "inclusionary unit," which is included in its proper alphabetical sequence.

premises[**Added 10-10-2018 STM by Art. 1, AG approval 8-6-2019**]

ADULT USES — All uses as described and defined in MGL c. 40A, § 9A, as may be amended from time to time to include: Any establishment which has 10% of its stock-in-trade on hand; whose sales, including rentals from such a portion of stock equals or exceeds 10% of monthly sales; or has 10% or greater floor area open to and observable by customers used for the display or storage of adult-oriented material, or as presentation time of live or recorded performances, shall be defined as an adult use. Adult uses are subject to the following standards:[**Added 4-10-2002 ATM by Art. 41, AG approval 7-31-2002; amended 4-6-2015 ATM by Art. 64, AG approval 8-5-2015; 4-2-2016 ATM by Art. 58, AG approval 7-12-2016**]

- (1) Adult uses shall be located in stand-alone facilities and shall not be allowed within a building or structure containing other retail, commercial, residential, industrial or other uses.
- (2) A minimum separation of 300 feet, measured between lot lines, is required between adult uses and state-certified public or private schools or state-licensed day-care centers.

AFFORDABLE HOUSING — Dwelling units restricted to occupancy by families with annual incomes less than 150% of the median annual household income for Nantucket County as determined by the most recent calculation of the U.S. Department of Housing and Urban Development.[**Added 4-12-1994 ATM by Art. 48, AG approval 4-29-1994; amended 4-8-2008 ATM by Art. 57, AG approval 8-18-2008; 4-6-2015 ATM by Art. 64, AG approval 8-5-2015**]

AGRICULTURE — The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary uses for packing, treating and storing the produce.

ALCOHOLIC BEVERAGE SALES — A facility for the retail sale of beer, wine, or other alcoholic beverages for off-premises consumption.[**Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008**]

ALTERATION — Any change in size, shape or use of a building or structure.

ANIMAL FEEDLOT — Land on which 25 or more livestock per acre are kept for the purpose of feeding.

APARTMENT — A dwelling unit located within a commercial structure or detached structures on the same lot with a commercial use. An apartment(s) shall not occupy more than 50% of the first floor area. The Planning Board may by special permit waive this requirement based on a finding that the commercial character of the area will not be negatively impacted by the location of a dwelling unit on the first floor of the commercial structure. A maximum of four apartments are allowed by right in certain districts, subject to the dimensional requirements set forth below. The Planning Board may issue a special permit to allow more than four apartments on larger lots, provided that: (1) the overall number of units shall not exceed the density set forth in the schedule below; and (2) the applicant shall demonstrate through submission of a dimensioned lotting plan that the subject property could be divided into multiple lots pursuant to a conventional subdivision plan without requiring waivers from the Planning Board's Rules and Regulations Governing the Subdivision of Land (as in effect at the time of application):**[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; amended 4-2-2013 ATM by Art. 30, AG approval 7-26-2013; 4-5-2014 ATM by Art. 66, AG approval 5-7-2014; 4-6-2015 ATM by Art. 64, AG approval 8-5-2015; 11-6-2017 STM by Art. 20, AG approval 2-26-2018]**

- (1) CDT — one dwelling unit is permitted for each 1,000 square feet of lot area.
- (2) CMI — one dwelling unit is permitted for each 2,000 square feet of lot area.
- (3) CN — one dwelling unit is permitted for each 3,000 square feet of lot area.
- (4) CTEC — one dwelling unit is permitted for each 4,000 square feet of lot area.
- (5) CI — one dwelling unit is permitted for each 5,000 square feet of lot area.

APARTMENT BUILDING(S) — A structure or structures containing a maximum of up to eight bedrooms in up to six dwelling units on a single lot, or an equivalent density, through the issuance of a special permit granted by the Planning Board, for a project, comprised of one or more parcels of land in the same ownership or control, that could be divided into multiple lots on a conventional subdivision plan meeting all dimensional and upland requirements of the bylaw and consistent with the

Rules and Regulations Governing the Subdivision of Land, as may be amended by the Planning Board from time to time, as demonstrated by the submission of a dimensioned lotting plan, with no commercial or other uses, shall be allowed in the following districts:**[Added 4-5-2014 ATM by Art. 68, AG approval 5-7-2014; amended 4-2-2016 ATM by Arts. 36, 60, AG approval 7-12-2016; 11-6-2017 STM by Art. 20, AG approval 2-26-2018]**

- (1) CN/VN — one dwelling unit is permitted for each 2,500 square feet of lot area.
- (2) CMI — One dwelling unit is permitted for each 1,250 square feet of lot area.

The Planning Board shall be the special permit granting authority.

AQUIFER — A geological formation that stores and transmits significant quantities of recoverable water.

ARCADE — A place or facility where any electric or electronic machine, such as pinball or other similar electronic games, is played for amusement only. Shall not be construed so as to include bingo games, juke boxes, children's mechanical rides (e.g., horses, rocket ships), or machines that sell merchandise nor shall it be construed so as to include gambling devices or any other devices prohibited by law.²**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

AUTOMOBILE SERVICE STATION — Any building, structure or land used primarily for the dispersal, sale, or offering for sale of automotive fuels, oils or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories, but not including major repair work, such as motor replacement or rebuilding, body and fender repair, or painting.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

AVERAGE MEAN GRADE — **[Added 4-12-1994 ATM by Art. 55, AG approval 4-29-1994]**

- (1) Average mean grade shall be the average of the mean grades established along the median grade line. There shall be only

2. Editor's Note: The former definition of "assisted-independent-living community," added 4-10-2000 ATM by Art. 27, AG approval 8-2-2000, which immediately followed this definition, was repealed 9-21-2009 STM by Art. 16, AG approval 12-11-2009.

one average mean grade for each continuous median grade line.

- (2) Where a side does not have continuous existing and/or finish grade lines, caused by retaining walls or horizontal breaks created by setbacks or protrusions, the average mean grade shall be the average of separately calculated average mean grades for each separate continuous median grade line and shall be proportional to the horizontal length of each continuous median grade line.

BAKERY — An establishment primarily engaged in the retail sale of baked goods for off-site consumption. A bakery may include, as an accessory use, wholesale distribution of goods prepared on the site.³**[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; amended 11-6-2017 STM by Art. 18, AG approval 2-26-2018]**

BUILDING — A structure forming a shelter for persons, animals or property and having a roof. Where the context allows, the word "building" shall be construed as though followed by the words "or part thereof."

BUILDING AND STRUCTURE HEIGHT — **[Added 4-12-1994 ATM by Art. 55, AG approval 4-29-1994; amended 4-12-1999 ATM by Art. 30, AG approval 8-10-1999; 4-2-2016 ATM by Art. 60, AG approval 7-12-2016]**

- (1) The height of the building or structure shall be established for each side.
- (2) There shall only be one highest point for each building or structure.
- (3) No one building and/or structure side shall exceed 32 feet, except in the CDT and CMI Districts, or as otherwise permitted.
- (4) Where a side does not have continuous existing and/or finish grade lines, the average mean grade shall be the average of separately calculated average mean grades of each separate continuous median grade line.

BUILDING, DETACHED — A building surrounded by an open space on the same lot.

3. Editor's Note: The definition of "breezeway," as amended, which immediately followed this definition, was repealed 11-6-2017 STM by Art. 18, AG approval 2-26-2018.

BUILDING ENVELOPE — The sole area on a lot, less than allowed by applicable setback requirements, for the placement of a building or other structures. **[Added 11-13-1990 STM by Art. 19, AG approval 3-19-1991]**

BUILDING COMMISSIONER — The chief official of the Town of Nantucket who is responsible for the administration and enforcement of Code of Massachusetts Regulations 780, State Board Building Regulations and Standards. **[Added 4-10-2000 ATM by Art. 36, AG approval 8-2-2000; amended 4-2-2016 ATM by Art. 60, AG approval 7-12-2016]**

BUILDING INSPECTOR — The Building Commissioner, or his/her designee, otherwise referred to in this chapter as the "Inspector of Buildings." **[Amended 4-10-2000 ATM by Art. 46, AG approval 8-2-2000]**

BUILDING, PRINCIPAL — A nonaccessory building on a lot in which a principal use is conducted.

BULK MERCHANDISE RETAIL — The sale of goods that require a large amount of floor space and which involves goods both warehoused and retailed at the same location. Items for sale include large, categorized products such as household appliances, furniture, construction and lawn equipment, electrical and heating fixtures and supplies, plumbing fixtures and supplies.⁴ **[Added 4-2-2013 ATM by Art. 30, AG approval 7-26-2013]**

CATERING SERVICE — An establishment in which food, meals, and incidental services are prepared and then delivered to another location for consumption. **[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

CLINIC, MEDICAL OR DENTAL — Offices organized as a unified facility by one or more physicians, dentists, chiropractors or other licensed practitioners to provide medical or dental treatment and examination, but not including bed-patient care. **[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

CLUB — Buildings and facilities, owned or operated by a corporation, association, person or persons, for a social, educational, or recreational purpose, to which membership is required for participation and not primarily operated for profit nor to render a service that is customarily carried on as a

4. Editor's Note: The definition of "capital improvements," which immediately followed this definition, was repealed 4-6-2015 ATM by Art. 64, AG approval 8-5-2015.

business.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

COMMERCIAL — As in a trade, occupation, or business, including a transient residential facility, but excluding governmental, religious or private residential uses.

COMMERCIAL WECS — A WECS designed or operated to provide energy principally to consumers located off the premises and does not meet the requirements established for a residential WECS.

CONSTRUCT — To build, erect or assemble. ⁵

CONTRACTORS SHOP — An establishment used for the indoor repair, maintenance, or storage of a contractor's vehicles, equipment, or materials, and may include the contractor's business office but which does not use any exterior storage area.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

CONVENIENCE STORE — A retail store offering for sale groceries and household items intended for the convenience of the neighborhood with a floor area of less than 2,500 square feet; does not include automotive service stations or vehicle repair shops.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

COUNTRY OVERLAY DISTRICT — The overlay district described in § 139-12F.⁶**[Added 4-9-2002 ATM by Art. 37, AG approval 7-31-2002]**

DAY-CARE CENTER — Any institution or place which receives for temporary custody, separate and apart from their parents, five or more children not of common parentage, under seven years of age, during part or all of the day, with or without stated educational purposes.

DISPOSAL — Any discharge, deposit, injection, dumping, spilling, leaking or placing so that waste may enter ground or surface water.

DOCK or PIER or WHARF — Each such word shall mean the same for purposes of this chapter, and shall be used interchangeably, either singularly or in the plural, in the conjunctive or in the

5. Editor's Note: The definition of "construction," which immediately followed this definition, was repealed 4-6-2011 ATM by Art. 64, AG approval 9-15-2011.

6. Editor's Note: The definition of "CPI," which immediately followed this definition, was repealed 4-6-2011 ATM by Art. 64, AG approval 9-15-2011, and the definition of "customary home occupation," which immediately followed was repealed 1-8-2001 STM by Art. 5, AG approval 4-10-2001. See now the definition of "home occupation."

disjunctive, and shall mean any structure, floating or fixed, attached or adjacent to land, and placed in or and extending into coastal inland waters (in the case of tidal waters, seaward of the mean high tide line) which is designed, or is suitable for use, for access to vessels, or for swimming or any other similar recreational, commercial, or educational purpose.⁷**[Added 4-10-2000 ATM by Art. 30, AG approval 8-2-2000]**

DRIVEWAY ACCESS — A vehicular access point onto any public way, private way or any way customarily used by the public for purposes for which a public way is generally used in the Town or County of Nantucket.⁸ **[Added 4-9-2001 ATM by Art. 27, AG approval 8-2-2001]**

DUPLEX — A structure containing two dwelling units, but not including primary dwelling with an accessory dwelling unit or tertiary dwelling unit contained therein. In the R-1 District only, both dwelling units shall be in the same ownership. A duplex shall not be construed to include a primary dwelling and secondary dwelling as defined in this chapter.**[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; amended 4-6-2015 ATM by Art. 64, AG approval 8-5-2015; 11-6-2017 STM by Art. 18, AG approval 2-26-2018]**

DWELLING UNIT — A room or enclosed floor space used, or to be used, as a habitable unit for one family or household, with facilities for sleeping, cooking and sanitation.

ELDER HOUSING FACILITIES — One or more structures used for independent living, assisted living, skilled nursing care, hospice care, and other long-term residential care for persons 55 or older or the disabled. Such structures may be detached dwelling units, attached dwelling units, integrated dwelling units, and/or multiple-bedroom long-term care facilities, as well as associated and ancillary facilities and services.**[Added 4-10-2000 ATM by Art. 27, AG approval 8-2-2000; amended 9-21-2009 STM by Art. 16, AG approval 12-11-2009]**

ELIGIBLE HOUSEHOLD — A household whose total annual income is less than 150% of the median annual household income for Nantucket County as determined by the most recent calculation of the U.S. Department of Housing and Urban Development.**[Amended 11-13-1990 STM by Art. 18, AG**

7. Editor's Note: The definition of "dormitory housing," added 4-9-2001 ATM by Art. 38, AG approval 8-2-2001, which immediately followed this definition, was repealed 4-8-2008 ATM by Art. 55, AG approval 8-18-2008.

8. Editor's Note: The definition of "dwelling," which immediately followed this definition, was repealed 4-6-2009 ATM by Art. 27, AG approval 8-10-2009.

approval 3-19-1991; 4-8-2008 ATM by Art. 57, AG approval 8-18-2008]

EMPLOYER DORMITORY — A dwelling on a lot occupied by a legally permitted or nonconforming commercial or nonprofit recreational use, or on an adjoining lot under the same ownership, all located outside of the TOD in which sleeping accommodations for more than five persons are provided by one or more employers, with occupancy limited solely to their employees.**[Amended 4-10-2000 ATM by Art. 31, AG approval 8-2-2000; 4-9-2001 ATM by Art. 37, AG approval 8-2-2001; 4-9-2001 ATM by Art. 38, AG approval 8-2-2001; 4-8-2008 ATM by Art. 55, AG approval 8-18-2008; 4-2-2013 ATM by Art. 30, AG approval 7-26-2013]**

ERECT — To construct or reconstruct or excavate, fill, drain or conduct physical operations of any kind in preparation for or in pursuance of construction or reconstruction; or to move a building or structure upon a lot.

FAMILY — One or more persons occupying a dwelling unit and living as a single household.**[Amended 4-6-2015 ATM by Art. 64, AG approval 8-5-2015]**

FLOOD HAZARD DISTRICT — An overlay district to all other districts. The district includes all special flood hazard zones designated as Zone A, AH, AO, A5-8, V5-8, and the FEMA Flood Boundary and Floodway Map, all of which indicate the one-hundred-year regulatory floodplain on Nantucket's Flood Insurance Rate Map (FIRM), dated July 2, 1992, and issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). Exact boundaries are further defined by the Flood Insurance study booklet dated June 3, 1986. The FIRM, and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commissioner, and Conservation Commission. **[Added 5-4-1993 ATM by Art. 44, AG approval 5-24-1993]**

FLOOR AREA, GROSS — The sum of the areas of the several floors of the structure, as measured by the exterior faces of the walls, including fully enclosed porches and the like as measured by the exterior limits thereof, but excluding basement and cellar areas devoted exclusively to uses accessory to the operation of the structure; and areas devoted to housing mechanical equipment customarily located in the basement or cellar, such

as heating and air-conditioning equipment, plumbing, electrical equipment, and residential laundry facilities.

FOOD PROCESSING ESTABLISHMENT — Manufacturing establishments that produce or process foods for consumption. Includes: (1) bakery products, sugar and confectionery products primarily for wholesale distribution, but not including a "bakery" as herein defined; (2) dairy products processing; (3) fats and oil products (including rendering plants); (4) fruit and vegetable canning, preserving, and related processing; (5) grain mill products and by-products; (6) meat, poultry, and seafood canning, curing, and byproduct processing; and (7) distilleries.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008; amended 11-6-2017 STM by Art. 18, AG approval 2-26-2018]**

FORMULA BUSINESS — A type of retail sales establishment, restaurant, tavern, bar, or take-out food establishment which is under common ownership or control or is a franchise, and is one of 10 or more other businesses or establishments worldwide maintaining two or more of the following features:**[Added 4-4-2006 ATM by Art. 42, AG approval 10-26-2006; amended 4-2-2013 ATM by Art. 31, AG approval 7-26-2013]**

- (1) Standardized menu or standardized array of merchandise with 50% or more of in-stock merchandise from a single distributor bearing uniform markings.
- (2) Trademark or service mark, defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs, that identifies and distinguishes the source of the goods from one party from those of others, on products or as part of store design, such as cups, napkins, bags, boxes, wrappers, straws, store signs or advertising devices.
- (3) Standardized color scheme used throughout the interior or exterior of the establishment, including, but not limited to, graphics, awnings, signage, and the like visible from the exterior of the structure.
- (4) Standardized interior decor, including, but not limited to, style of furniture, wall coverings, permanent fixtures, displays, window treatments.
- (5) Standardized uniform, including but not limited to aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags).

FRONTAGE — The lineal extent of the boundary between a lot and an abutting street measured along a single street line affording legal and practical access to the lot. For a lot abutting two or more streets, frontage is measured along any single street line of the lot. Frontage shall not include jogs in street width, backup strips and other irregularities in street line, such as at a turning "T" or hammerhead turnaround or street-width change.

GARAGE — A building for covered shelter of one or more motor vehicles. A garage shall be for vehicle parking at grade, or for commercial storage, repair, washing, painting or other servicing of motor vehicles. The Planning Board shall be the special permit granting authority for residential garages serving as a primary use on a lot. **[Amended 4-2-2013 ATM by Art. 30, AG approval 7-26-2013]**

GARAGE APARTMENT — A dwelling unit located within a residential or commercial garage. The dwelling unit shall not exceed 150% of the gross floor area of the garage. If located on the same lot as a primary dwelling unit, the following requirements shall be applicable: **[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; amended 4-6-2011 ATM by Art. 64, AG approval 9-15-2011]**

- (1) Both dwelling units shall be in the same ownership unless one of the two dwelling units is subject to the NHNC. The ownership of a lot by a condominium cooperative housing corporation, land trust, or other common interest ownership entity in which there is a separate beneficial ownership of the primary dwelling and garage apartment on the lot shall not be deemed to constitute "the same legal and beneficial ownership."
- (2) The Planning Board shall make a determination regarding the adequacy of access to the lot and structures prior to the issuance of a building permit. Planning Board approvals granted after April 8, 1996, shall be valid for a period of two years from the date of plan endorsement.

GROUND COVER — The horizontal area of a lot covered at grade by structures, together with those portions of any overhangs which contain enclosed interior space; excluding, for instance, tents, retaining walls, substantially below grade finished or unfinished space, exterior insulation, decks, unenclosed porches, unenclosed roofed overhangs and connectors, entryway hoods and projections, gazebos, pergolas, play structures, platforms and steps, docks, game playing courts at grade, exterior in-

ground residential swimming pools, exterior in-ground or above grade hot tub/spas, chimneys, bulkheads, bay and bow windows, window wells, unenclosed breezeways, air conditioning units, generators and generator enclosures, mechanical and utility equipment unroofed walled enclosures, exterior showers, fuel tanks, roof eaves, trash bins, and detached sheds not exceeding 200 square feet in ground cover and 16 feet in height, as measured from the top of the slab, pier, or crawl space foundation.**[Added 4-15-2003 ATM by Art. 48, AG approval 8-27-2003; amended 4-5-2014 ATM by Art. 68, AG approval 5-7-2014; 4-6-2015 ATM by Art. 64, AG approval 8-5-2015; 11-6-2017 STM by Art. 18, AG approval 2-26-2018; 4-1-2019 ATM by Art. 49, AG approval 8-6-2019; 4-1-2019 ATM by Art. 56, AG approval 8-6-2019]**

GROUND COVER RATIO — The ground cover upon a lot divided by the area of the lot, expressed as a percentage.**[Amended 4-12-1999 ATM by Art. 29, AG approval 8-10-1999; 4-15-2003 ATM by Art. 48, AG approval 8-27-2003]**

HAZARDOUS OR TOXIC MATERIALS — Liquid hydrocarbon products, including but not limited to residual oil, gasoline, fuel oil, diesel oil and any other toxic, caustic or corrosive chemicals, radioactive materials and other substances defined as being hazardous or toxic by the Massachusetts Division of Hazardous Waste under the provisions of MGL c. 21C and c. 21E. **[Amended 5-4-1993 ATM by Art. 42, AG approval 5-24-1993]**

HEALTH SPA — A place or building where massage, beauty treatment, cosmetic procedures, and related activities take place.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

HISTORICAL HIGH WATER TABLE — The highest groundwater elevation that is likely to occur at a given location, based on calculations made in accordance with the high groundwater methodology specified in the U.S.G.S. Water Resource Investigations Circular #83-4112 by Frimpter et al., and any subsequent revisions. **[Added 4-14-1997 ATM by Art. 48, AG approval 8-18-1997]**

HOME OCCUPATION — An occupation, trade, profession, or business activity conducted as an accessory use wholly or partly within a dwelling unit or in one or more accessory structures.**[Added 1-8-2001 STM by Art. 5, AG approval 4-10-2001; amended 4-6-2009 ATM by Art. 27, AG approval 8-10-2009]**

- (1) Home occupations shall be subject to the following requirements:
 - (a) The home occupation shall be conducted by occupants of a dwelling upon the lot, and not more than one additional worker who is not an occupant of a dwelling upon the lot.
 - (b) There shall be no exterior storage of material or equipment, unless effectively screened by a wall, fence or densely planted vegetative buffer.
 - (c) The gross floor area used in connection with the home occupation shall not exceed 800 square feet, not more than 200 square feet of which shall be used for retail sales.
 - (d) The home occupation, as projected, shall not generate an average daily traffic generation during the months of June through September that exceeds 14 vehicle trips per day.
 - (e) A use permit shall be obtained from the Building Commissioner for the home occupation.
 - (f) There shall be no retail sales except of commodities prepared, crafted or otherwise produced upon the lot.
- (2) Special permit relief. A special permit may be granted by the special permit granting authority for a home occupation (including multiple home occupations upon the same lot, collectively) which employs more than one nonresident of the lot, or which conducts retail sales in a gross floor area exceeding 200 square feet, provided that all of the other requirements are met and the criteria for the granting of a special permit under § 139-30 are met, and a home occupation for which a special permit is granted hereunder shall be subject to the provisions for minor site plan review under § 139-23.⁹

HOSPITAL — A health care facility providing patient treatment with specialized staff and equipment, including, but not limited to, bed-patient care, medical testing facilities, wellness center, rehabilitation facilities, medical offices (i.e., medical clinic), and ancillary facilities customarily associated with a hospital such as a helicopter landing pad, employee housing, maintenance facilities, retail sale of convenience and gift related items, and

9. **Editor's Note: The former definition of "household," which immediately followed this definition, was repealed 4-6-2015 ATM by Art. 64, AG approval 8-5-2015.**

cafeteria and food services. A hospital shall be exempt from § 139-11.**[Added 4-6-2015 ATM by Art. 70, AG approval 8-5-2015]**

HOT TUB/SPA — A structure designed to be used for recreational purposes accessory to a principal use, either above or below grade, containing water more than 24 inches in depth and less than 150 square feet of water surface area. This shall not include ornamental ponds, decorative water features, including, but not limited to, fountains, bird baths, and the like.**[Added 11-6-2017 STM by Art. 18, AG approval 2-26-2018]**

HOTEL — A building or buildings on a lot containing a commercial kitchen and rental sleeping units without respective kitchens, primarily the temporary abode of persons who have a permanent residence elsewhere.**[Amended 4-6-2009 ATM by Art. 27, AG approval 8-10-2009]**

IMPERVIOUS — For the purpose of enforcing the provisions of the Public Wellhead Recharge District, the term "impervious" shall mean those surfaces which will result in little or no infiltration of stormwater through underlying soil layers. Surfaces such as concrete, bituminous concrete, brick, or similar interlocking surfaces which have no interstitial gaps or openings shall be considered impervious. The designated review authority shall determine whether alternative paving surfaces which have interstitial openings can be deemed to reduce the impervious coverage of a lot. **[Added 4-14-1997 ATM by Art. 48, AG approval 8-18-1997]**

INCLUSIONARY UNIT — Any rental dwelling unit required pursuant to § 139-11J restricted to employee occupancy.¹⁰**[Amended 11-13-1990 STM by Art. 18, AG approval 3-19-1991; 4-14-1997 ATM by Art. 48, AG approval 8-18-1997; 4-6-2015 ATM by Art. 64, AG approval 8-5-2015]**

JUNK YARD — A structure or lot used in connection with a business for collection, storage, or sale of waste or scrap materials.**[Added 4-5-2014 ATM by Art. 68, AG approval 5-7-2014]**

KENNEL — A building for the boarding for pay or hire of four or more dogs.

¹⁰.Editor's Note: The former definition of "independent living cottages," added 4-10-2000 ATM by Art. 27, AG approval 8-2-2000, which immediately followed this definition, was repealed 9-21-2009 STM by Art. 16, AG approval 12-11-2009.

LANDSCAPE CONTRACTOR — A business engaged in the decorative and functional alteration, planting, and maintenance of grounds. Such a business may engage in the installation and construction of underground improvements but only to the extent that such improvements (e.g., drainage facilities) are accessory to the principal business and are necessary to support or sustain the landscaped surface of the ground.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

LARGE SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION — A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted and has a minimum nameplate capacity of 250 kW DC.**[Added 4-1-2019 ATM by Art. 62, AG approval 8-6-2019]**

LIGHT MANUFACTURING — An establishment engaged in the indoor manufacturing, processing, or fabrication of materials or products.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

LODGING, ROOMING OR GUEST HOUSE — A building or buildings on a lot containing rental sleeping units without respective kitchens, and not having a commercial kitchen, primarily the temporary abode of persons who have a permanent residence elsewhere.**[Amended 4-6-2009 ATM by Art. 27, AG approval 8-10-2009]**

LOT — A tract of land in common ownership, including land under water, not divided by a street, which may include multiple parcels of adjacent land in common ownership to the extent necessary to eliminate or minimize zoning nonconformities. However, two or more adjacent parcels in common ownership, each of which complies with all applicable zoning requirements, or each of which has been lawfully improved with one or more dwellings conforming to all applicable zoning requirements, if any, at the time of construction thereof, and each of which parcels was in compliance with area and frontage requirements applicable thereto at the time of such construction, shall be considered to be separate lots for all purposes under this chapter, notwithstanding any subsequently effective amendment to this chapter.**[Amended 4-12-1994 ATM by Art. 50, AG approval 4-29-1994]**

LOT AREA — The horizontal area of the lot exclusive of any area in a street or private way open to the public use or land seaward of the mean high tide line of any harbor, sound, ocean or estuary. For any lot created after November 14, 1990, 90% of

the minimum lot area required for the zoning district in which such lot is situated must be exclusive of areas subject to the protection under the Wetlands Protection Act, MGL c. 131, § 40, not including areas defined as land subject to coastal storm flowage, coastal flooding or inundation, or any area defined as a buffer zone under such statute. In addition, for any lot created after April 5, 2011, the wetlands defined in the local Wetlands Bylaw, Chapter 136 of the Code of the Town of Nantucket, shall also apply, not including areas defined as land subject to coastal storm flowage, coastal flooding or inundation, or any area defined as a buffer zone under such statute. **[Amended 11-13-1990 STM by Art. 16, AG approval 3-19-1991; 5-5-1992 ATM by Art. 36, AG approval 8-3-1992; 4-4-2011 ATM by Art. 60, AG approval 9-15-2011]**

LOT LINE — A line bounding a lot, including a street line or an interior line which divides the lot from another lot, or a natural boundary line for a lot.

LUMBERYARD — A facility where building materials such as lumber, plywood, drywall, cement blocks, roofing materials, insulation, and the like, including related products such as wallpaper, plumbing and electrical supplies, paint, glass, and hardware, are stored and sold. **[Added 4-2-2013 ATM by Art. 30, AG approval 7-26-2013]**

MAJOR COMMERCIAL DEVELOPMENT — See § 139-11.

MARIJUANA ESTABLISHMENT, RECREATIONAL — A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business as defined in MGL c. 94G, § 1, and 935 CMR 500.00, unless otherwise defined in this section. Recreational marijuana establishments are subject to the following standards: **[Added 11-6-2017 STM by Art. 2, AG approval 2-26-2018; amended 10-10-2018 STM by Art. 1, AG approval 8-6-2019]**

- (1) Recreational marijuana establishments shall be located in standalone facilities and shall not be allowed within a building or structure containing other retail, commercial, residential, industrial, or other uses, except for colocation with a licensed medical marijuana treatment center.
- (2) A minimum separation of 500 feet, measured between lot lines, is required between recreational marijuana establishments and state-certified public or private schools or state-licensed day-care centers.

- (3) Except where co-located, a minimum separation of 2,000 feet, measured between lot lines, is required between recreational marijuana establishments.
- (4) No building permit for a recreational marijuana establishment shall issue until the applicant has executed a host community agreement with the Town pursuant to MGL c. 94G, § 3(d).
- (5) A recreational marijuana establishment shall be required to obtain an annual certificate of inspection issued by the Inspector of Buildings.
- (6) A recreational marijuana retailer must operate and provide all storage within a permanent structure.
- (7) A recreational marijuana establishment shall not be eligible for qualification as a home occupation.
- (8) On-site consumption of marijuana products is prohibited.
- (9) Delivery of cannabis products to consumers is prohibited.
- (10) A special permit for a recreational marijuana establishment shall be limited to the applicant at the time of special permit issuance. Any changes to the owner/operator/licensee shall require a new special permit.
- (11) A recreational marijuana establishment shall not generate outside odors from the processing or manufacturing of marijuana or marijuana products.
- (12) An applicant for a special permit for a recreational marijuana establishment shall obtain a provisional license from the Cannabis Control Commission prior to submitting an application to the Planning Board for a special permit.

MARIJUANA MEMBERSHIP CLUB — An organization, club, lodge, other private grounds allowing on-site consumption of cannabis or marijuana products, but not operating as a licensed marijuana social consumption operator and where no sales occur. **[Added 10-10-2018 STM by Art. 1, AG approval 8-6-2019]**

MARIJUANA PRODUCTS — Cannabis or marijuana and its products unless otherwise indicated and as defined in MGL c. 94G, § 1, as may be amended. These include products that have been manufactured and contain cannabis or an extract from cannabis or marijuana, including concentrated forms of

marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.**[Added 10-10-2018 STM by Art. 1, AG approval 8-6-2019]**

MARIJUANA TREATMENT CENTER, MEDICAL — A premises approved under a medical use marijuana license pursuant to MGL c.94I that acquires, cultivates, processes, transports, sells, distributes, dispenses or administers marijuana for the benefit of registered qualifying patients in the treatment of debilitating medical conditions or the symptoms thereof. Medical marijuana treatment centers are subject to the following standards:**[Added 11-6-2017 STM by Art. 2, AG approval 2-26-2018]**

- (1) Medical marijuana treatment centers shall be located in standalone facilities and shall not be allowed within a building or structure containing other retail, commercial, residential, industrial, or other uses, except for co-location with a licensed recreational marijuana establishment.
- (2) A minimum separation of 500 feet, measured between lot lines, is required between medical marijuana treatment centers and state-certified public or private schools or state-licensed day-care centers.
- (3) No building permit for a medical marijuana treatment center shall issue until the applicant has executed a Host Community Agreement with the Town pursuant to MGL c.94G, § 3(d).

MARITIME SERVICE STATION — A marine establishment which may include, but not be limited to, boat fuel sales, boat sales, boat rental, boat construction, boat maintenance, repair, and incidental painting, and marine equipment sales or rental.**[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009]**

MEAN GRADE — The median grade line established between existing grade and finish grade measured along a line four feet from the perimeter of the building or structure, extended four feet beyond the building or structure at each end. **[Amended 4-12-1994 ATM by Art. 55, AG approval 4-29-1994]**

MEANS OF ACCESS — A way affording vehicular access to a lot and across the line of the way [or lot line, for lots within the scope of § 139-33E(1)(b) below] and having sufficient width, suitable grades and adequate construction to provide for the year-round needs of vehicular traffic in relation to the way's prospective use

and for the installation of utility services.¹¹**[Amended 5-5-1992 ATM by Art. 44, AG approval 8-3-1992]**

MINING — The removal of any geologic material, including but not limited to topsoil, sand, gravel and clay, not to include removal associated with on-site road and building construction.¹²

MOTOR VEHICLE PARKING LOTS OR STRUCTURES — A commercial use dedicated to exterior or interior vehicular parking. Motor vehicle parking lots or structures that are constructed to meet the off-street parking requirements of § 139-18 of this chapter shall not be considered a separate use from the use requiring the off-street parking.**[Added 4-2-2016 ATM by Art. 60, AG approval 7-12-2016]**

MUNICIPAL — Of or by the Town of Nantucket, the County of Nantucket, or any agency, board or department thereof; and specifically including the Nantucket Islands Land Bank.**[Added 4-6-2015 ATM by Art. 66, AG approval 8-5-2015]**

NANTUCKET HOUSING NEEDS COVENANT-OWNERSHIP FORM — Shall mean a covenant affecting the title to real property, created pursuant to Chapter 100 of the Code of the Town of Nantucket, which relates to and regulates the terms of the purchase, sale and ownership of real property not held as a condominium (the "NHNC-Ownership Form").**[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009]**

NEIGHBORHOOD EMPLOYEE HOUSING — Housing for the exclusive use of employers who own or lease space on a lot, for the purpose of housing their employees, their spouses, domestic partners and dependents. A maximum of two dwelling units shall be permitted per lot with occupancy limited to a total of 18 persons. In the R-1, ROH, R-5, R-10, R-20, and R-40 Districts only, there shall be no more than two lots containing neighborhood employee housing or employer dormitory units (conforming or preexisting nonconforming), within a 1,000 foot radius. The Planning Board shall be the special permit granting authority.

11. Editor's Note: The former definition of "medical marijuana treatment center," which immediately followed this definition, was amended 4-5-2014 ATM by Art. 68 to become "registered marijuana dispensary," which was repealed 11-6-2017 STM by Art. 2, AG approval 2-26-2018.

12. Editor's Note: The former definition of "motel," which immediately followed this definition, was repealed 4-6-2009 ATM by Art. 27, AG approval 8-10-2009. The former definition of "multi-family dwelling," added 4-10-2000 ATM by Art. 33, AG approval 8-2-2000, as amended, which also followed this definition, was repealed 4-2-2013 ATM by Art. 30, AG approval 7-26-2013. The former definition of "moderately priced housing," which also followed this definition, added 4-12-1994 ATM by Art. 48, AG approval 4-29-1994, and amended 4-8-2008 ATM by Art. 29, AG approval 8-18-2008, was repealed 4-6-2015 ATM by Art. 64, AG approval 8-5-2015.

Site plan review in accordance with § 139-23 and the submission of a dormitory management plan shall be required.**[Added 4-9-2001 ATM by Art. 37, AG approval 8-2-2001; amended 4-2-2013 ATM by Art. 30, AG approval 7-26-2013]**

NONCONFORMING STRUCTURE, USE OR LOT — A structure or a use or lot that does not conform to a zoning restriction of this chapter for the zoning district in which it is located, provided that the nonconformity was lawfully in existence on the July 27, 1972, effective date of this chapter, or in the case of a structure, use or lot made nonconforming by an amendment of this chapter, on the effective date of such amendment.¹³

OFFICE — The building, room or building space where the clerical work of a business, trade or occupation, or profession is conducted or where the work of administration is conducted. Commercial office space shall not include any trading in merchandise or manufacturing or fabricating.

OPEN AIR MARKET — An occasional or periodic market held in an open area or in a structure where groups of individual sellers licensed by the Board of Selectmen offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include second-hand goods) dispensed from booths located on-site.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

OPEN LAND — A parcel or parcels of land or an area of water or wetlands or a combination of land and water or wetlands, not including streets, set aside in an undeveloped state.

ORIGINAL LOT — An existing lot, dividable into two lots pursuant to § 139-8C.**[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; amended 4-2-2016 ATM by Art. 54, AG approval 7-12-2016]**

OUTBUILDING(S) — Detached accessory residential structure(s) such as a cabana, barn, hoop barn, shanty, greenhouse, gazebo, playhouse, fitness studio, home office, but not including dwelling units or structures used for habitation, studios, or sheds.**[Added 4-2-2013 ATM by Art. 30, AG approval 7-26-2013]**

OWNER OCCUPIED — The primary residence, or temporary (seasonal) residence, of a person(s) or the individual beneficiaries of a legal entity that holds title to the property, where such

13. Editor's Note: The definition of "occupied," which immediately followed this definition, was repealed 4-6-2015 ATM by Art. 64, AG approval 8-5-2015.

persons are physically present and living within dwelling units on said property for at least three months each calendar year. Properties owned by corporations and the like, time sharing interval dwelling units, or where all units are made available for rent do not qualify as owner occupied.**[Added 4-6-2015 ATM by Art. 62, AG approval 8-5-2015]**

OWNERSHIP — Record title to land, as shown upon deeds or other documents of title on file at the Nantucket Registry of Deeds, the Nantucket Registry District of the Land Court, the Registries of Probate, or other applicable public offices.**[Added 4-6-2015 ATM by Art. 65, AG approval 8-5-2015]**

PARKING SPACE — An area dedicated to the parking of a motor vehicle meeting the requirements of § 139-18.**[Added 4-9-2001 ATM by Art. 27, AG approval 9-2-2001; amended 4-6-2015 ATM by Art. 64, AG approval 8-5-2015]**

PARKING SPACE: TANDEM/STACKED — A group of two or more parking spaces arranged one behind the other where one space blocks access to the other space.**[Added 4-15-2003 ATM by Art. 30, AG approval 8-27-2003]**

PERSONAL SERVICES — Establishments providing services generally related to personal non-medical needs, including, but not limited to: beauty and barber, clothing rental, garment repair, and shoe repair shops, tanning salons, photography studios, psychic reading, tattoo or body piercing studio, upholster shop, personal training. These uses may also include accessory retail sales of products related to the services provided. No personal service establishment shall exceed 3,000 square feet of floor area, and the aggregation of such service establishments on a lot (or on contiguous lots in one ownership) shall not exceed 4,000 square feet of floor area.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008; amended 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; 4-6-2015 ATM by Art. 64, AG approval 8-5-2015]**

PERSONAL WATERCRAFT — A small vessel of less than 16 feet in length which uses an inboard motor powering a waterjet pump or a propeller as its primary source of motive power and that is designed to be operated by a person sitting, standing or kneeling on the vessel rather than the conventional manner of sitting or standing inside a vessel. This term includes jet skis, wet bikes and surf jets.**[Added 4-8-2008 ATM by Art. 49, AG approval 8-18-2008]**

PHARMACY — An establishment engaged in the retail sale of prescription drugs, nonprescription medicines, home and personal care products, and related supplies.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

PRIMARY DWELLING — A detached single-family dwelling unit or the portion of a structure that contains a single dwelling unit. A primary dwelling may contain an attached garage.¹⁴**[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; amended 4-6-2011 ATM by Art. 64, AG approval 9-15-2011]**

PRINT SHOP — A retail establishment that provides duplicating services using photocopying, blueprint, and offset printing equipment and may include the collating and binding of booklets and reports.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

QUALIFIED FAMILY MEMBER DEED RESTRICTION — A deed restriction accepted and enforceable by the town of Nantucket, which limits owner-occupancy of a subject lot to the owner of the lot at the time the lot was subdivided into secondary lots, or the owner's spouse, and/or their parent(s), grandparent(s), children, brother(s) and/or sister(s). This deed restriction shall only be released by the Town in the event that an NHNC Ownership Form replaces this restriction.**[Added 4-1-2019 ATM by Art. 48, AG approval 8-6-2019]**

RECHARGE — The addition of water to the saturated zone of an aquifer. **[Added 4-14-1997 ATM by Art. 48, AG approval 8-18-1997]**

RECREATIONAL FACILITY — Golf courses, tennis, paddle, and racquet courts, bowling alleys, fitness centers, or the like, including any uses ancillary to the recreational facility. In the R-10 District only, the recreational facility may include accessory uses such as a restaurant, catering facility, snack bar, or pro shop that operate independently from the recreational facility.¹⁵**[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009]**

RESIDENTIAL WECS — A WECS designed or operated to provide energy principally to the residence and accessory structures

14. Editor's Note: The former definition of "primary lot," added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009, which immediately followed this definition, was repealed 4-2-2016 ATM by Art. 54, AG approval 7-12-2016.

15. Editor's Note: The former definition of "registered marijuana dispensary," added 4-2-2013 ATM by Art. 30, as amended, which immediately followed this definition, was repealed 11-6-2017 STM by Art. 2, AG approval 2-26-2018. See now the definitions of "marijuana establishment, recreational" and "marijuana treatment center, medical."

located on the lot, or on contiguous lots held in common ownership. A WECS designed or operated to provide more than 50% of its rated energy production for off-site consumption shall not be considered residential except in cases where such power is consumed by residences of adjacent property or within 1,000 feet, whichever is greater.**[Amended 4-6-2009 ATM by Art. 47, AG approval 8-10-2009]**

SECONDARY DWELLING — A detached single-family dwelling unit located on the same lot as a primary dwelling unit. The ground cover of the secondary dwelling shall be a minimum of 20% less or more than the primary dwelling. The secondary dwelling may contain an attached garage. The primary and secondary dwelling must be separated by a minimum distance of 10 feet, measured at grade at the closest point between the dwellings; excluding retaining walls, window wells, platforms, decks, and steps, chimneys, bulkheads, bay windows, bow windows, roof eaves and overhangs, air conditioning units, a maximum of two aboveground fuel tanks not to exceed 120 gallons each, trash bins, and fences. Relief from the ground cover and scalar separation requirements of this definition may be granted by a special permit issued by the Planning Board subject to a finding that the reduced separation is in harmony with the general purpose and intent of this chapter. A secondary dwelling may only be attached to the primary dwelling by a breezeway.**[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; amended 4-5-2010 ATM by Art. 56, AG approval 8-5-2010; 4-6-2011 ATM by Art. 64, AG approval 9-15-2011; 4-2-2013 ATM by Art. 40, AG approval 7-26-2013; 11-6-2017 STM by Art. 18, AG approval 2-26-2018; 4-3-2018 ATM by Art. 45; AG approval 7-18-2018]**

Both dwelling units shall be in the same ownership unless one of the two dwelling units is subject to the NHNC. The ownership of a lot by a condominium cooperative housing corporation, land trust, or other common interest ownership entity in which there is a separate beneficial ownership of the principal and secondary dwellings on the lot shall not be deemed to constitute "the same legal and beneficial ownership."

The Planning Board shall make a determination regarding the adequacy of access to the lot and structures prior to the issuance of a building permit. Planning Board approvals granted after April 8, 1996, shall be valid for a period of two years from the date of plan endorsement.

The principal purpose of secondary dwellings is to create housing opportunities through the provision of affordable rental housing for year round residents, including senior citizens, while affording the owner of the primary residence with the opportunity to generate supplemental income. The intent of this provision is also that one of the two dwellings be designated and constructed at such scale and bulk so as to be clearly subordinate in both use and appearance.

Notwithstanding any language contained herein to the contrary, any property that is owned by a validly created and existing cooperative housing corporation as of December 31, 2012, may be converted to a residential condominium form of ownership, maintaining the separate beneficial ownership of the primary and secondary dwellings, without subjecting such property to the Nantucket Housing Needs Covenant.¹⁶

SECONDARY LOTS — Lots created by the division of the original lot into two lots pursuant to § 139-8C. One of the two lots shall be subject to an NHNC-Ownership Form, or shall be owner-occupied by a qualified family member, in which case the lot shall be subject to the NHNC-Ownership Form, except for the established income and asset limits, or shall be subject to a qualified family member deed restriction. **[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; amended 4-2-2016 ATM by Arts. 54, 55, AG approval 7-12-2016; 4-1-2019 ATM by Art. 48, AG approval 8-6-2019]**

SHED — An accessory structure for storage purposes, not designed to be served by heat or plumbing and not to be used for habitation. **[Added 4-2-2013 ATM by Art. 30, AG approval 7-26-2013]**

SHOREFRONT LAND — A parcel or parcels of land, a portion of which is located within or abutting the mean high water line of the Atlantic Ocean, Nantucket Sound, Nantucket Harbor, Polpis Harbor, or Madaket Harbor.¹⁷ **[Added 4-13-1998 ATM by Art. 35, AG approval 7-31-1998]**

SOLAR ENERGY FACILITIES — All of the equipment, machinery, and structures used for either the primary or accessory purpose of converting, storing or transmitting electricity generated from solar energy. **[Added 4-1-2019 ATM by Art. 62, AG approval 8-6-2019]**

16. Editor's Note: See Ch. 100, Nantucket Housing Needs Covenant Program.

17. Editor's Note: The former definition of "sign," which immediately followed this definition, was repealed 4-6-2011 ATM by Art. 64, AG approval 9-15-2011.

SOLID WASTE — Discarded solid material with insufficient liquid content to be free flowing, including but not limited to rubbish, garbage, scrap material, junk, refuse and inert fill material.

SPECIAL PERMIT GRANTING AUTHORITY — The Board of Appeals except in those matters for which the Planning Board is specified as having jurisdiction under this chapter.

STABLE, PRIVATE — An accessory building in which horses are kept for private use, not for a fee, hire or sale.

STABLE, PUBLIC — An accessory building in which any horses are kept for a fee, hire or sale.

STORAGE CONTAINER — An outdoor container, such as fully enclosed semi-trailers, steel shipping containers, cargo containers, and the like, used for commercial storage of goods and materials that are not registered vehicles themselves or situated on a registered trailer or attached to a registered vehicle. This definition does not apply to registered or unregistered boat trailers, registered vehicles or sheds. **[Added 11-6-2017 STM by Art. 21, AG approval 2-26-2018]**

STREET —

- (1) A public way or a way which the Town Clerk certifies is maintained and used as a public way; or
- (2) A way shown on a plan approved and endorsed by the Nantucket Planning Board in accordance with the Massachusetts Subdivision Control Law¹⁸ and which has been improved and constructed in accordance with the requirements of such approval; or
- (3) A way in legal and physical existence when the Subdivision Control Law¹⁹ became effective on Nantucket on February 1, 1955, which has sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon and served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. **[Amended 5-5-1992 ATM by Art. 44, AG approval 8-3-1992; 11-6-2017 STM by Art. 18, AG approval 2-26-2018]**

18. Editor's Note: See MGL c. 41, § 81K et seq.

19. Editor's Note: See MGL c. 41 § 81K et seq.

STREET LINE — The line separating a street from a lot as duly determined by matters of record.

STRUCTURE — Anything constructed or erected, the use of which requires a fixed location on the ground. "Structure" shall be construed, where the context allows, as though followed by the words "or part thereof" and shall include, but not be limited to, buildings, retaining walls which support buildings, platforms, antenna towers, steel storage containers, lighthouses, docks, decks, chimneys, tents, and game courts. "Structure" shall not include retaining walls not exceeding four feet in height for landscaping purposes, fences, rubbish bins, underground propane tanks, stairs, access ramps, or platforms that provide the minimum Building Code compliant access to a structure and that extend into the required front, side, or rear yard setback less than a depth of three feet, and within a total area less than 20 square feet on a lot containing less than 40,000 square feet, and a maximum of two aboveground propane tanks not to exceed 120 gallons each. **[Amended 4-8-2008 ATM by Art. 63, AG approval 8-18-2008; 4-4-2011 ATM by Art. 58, AG approval 9-15-2011; 11-6-2017 STM by Art. 18, AG approval 2-26-2018; 4-1-2019 ATM by Art. 57, AG approval 8-6-2019]**

STUDIO — A building or a room or rooms where an artist, artisan, photographer or the like does his or her work.

SUPERMARKET — Stores where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer other home and personal care products, and which are substantially larger and carry a broader range of merchandise than convenience stores or pharmacies. **[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

SWIMMING POOL - COMMERCIAL — A structure designed to be used for recreational purposes, either above or below grade, containing water more than 24 inches in depth and exceeding 150 square feet of water surface area, or exceeding 1,000 gallons. This shall not include ornamental ponds, decorative water features, including, but not limited to, fountains, bird baths, and the like. The swimming pool may be a primary use or accessory use to a club, recreational facility, transient residential facility, yacht/sailing club, or other commercial use as identified in § 139-7A. **[Added 4-4-2011 ATM by Art. 58, AG approval 9-15-2011]**

SWIMMING POOL - RESIDENTIAL — A structure designed to be used for recreational purposes, either above or below grade, containing water more than 24 inches in depth and exceeding 150 square feet of water surface area, or exceeding 1,000 gallons. This shall not include ornamental ponds, decorative water features, including, but not limited to, fountains, bird baths, and the like. The swimming pool must be located on the same or contiguous lot as a residential dwelling or constructed for the benefit of a group of residences, such as a multifamily development, subdivision, or in conjunction with a neighborhood association. In the VR District only, 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 criteria being met: (1) the lot must meet or exceed the minimum lot size for the district, and (2) side and rear yard setbacks of 20 feet shall apply to the residential swimming pool and associated mechanical equipment.**[Added 4-4-2011 ATM by Art. 58, AG approval 9-15-2011; amended 4-1-2017 ATM by Art. 69, AG approval 5-31-2017]**

TAKE-OUT FOOD ESTABLISHMENT — A commercial establishment, the primary business of which is the sale of food and/or beverages, including but not limited to ice cream, sandwiches, pastries, prepared meals for consumption on or off the premises which is: **[Amended 4-12-1999 ATM by Art. 31, AG approval 8-10-1999]**

- (1) Primarily intended for immediate consumption rather than for use as an ingredient or component of meals;
- (2) Available upon a short waiting time; and
- (3) Packaged or presented in such a manner that it can be readily consumed outside the premises where it is sold.

TAKE-OUT STATION — A designated area within a take-out food establishment where a cash register or other means of taking and processing orders is located.**[Added 3-31-2012 ATM by Art. 56, AG approval 7-12-2012]**

TAXICAB BUSINESS — A service that offers transportation utilizing three or more motor vehicles to persons, including those who are handicapped, in return for remuneration.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

TENT — A portable enclosure constructed of fabric, plastic, or a similar pliable material supported by one or more poles and secured by pegs in the ground. Tents shall not be erected for

periods exceeding 30 days per calendar year; however, tents which in the aggregate exceed 150 square feet shall not be erected for more than three events per year or periods exceeding nine days per year, whichever is less, on properties where the principal use is residential unless a special permit from the Board of Appeals has been issued based on a determination that the use is ancillary to the residential use of the property and not a commercial use. **[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009]**

TERTIARY DWELLING **[Added 4-6-2015 ATM by Art. 62, AG approval 8-5-2015; amended 4-2-2016 ATM by Art. 51, AG approval 7-12-2016] —**

- (1) The tertiary dwelling shall be in the same ownership as at least one other owner-occupied dwelling unit on the lot, or shall be owned by a not-for-profit, religious, or educational entity, or shall be subject to a restriction limiting occupancy to a year-round household.
- (2) A third dwelling unit located on a lot, including the following options:
 - (a) A garage apartment not exceeding 650 square feet of gross floor area.
 - (b) A dwelling unit attached to or within a single-family dwelling, duplex, or an outbuilding or a dwelling unit attached to a studio or shed. When a tertiary dwelling unit is the third dwelling unit, within a single structure, a special permit issued by the Planning Board is required. **[Amended 4-1-2019 ATM by Art. 49, AG approval 8-6-2019]**
 - (c) A detached building containing not more than 650 square feet of ground cover and not more than 650 square feet of gross floor area.
- (3) In the R-5, R-10, and R-20 Districts, a maximum of eight bedrooms per lot shall be permitted at the following density:
 - (a) R-5: 1 bedroom per each 1,000 square feet of lot area;
 - (b) R-10: 1 bedroom per each 1,400 square feet of lot area;
 - (c) R-20: 1 bedroom per each 2,500 square feet of lot area;

- (4) Any waivers from the standards contained within Subsection (2) or (3) of this definition may be granted through the issuance of a special permit by the Planning Board.
- (5) The Planning Board shall make a determination regarding the adequacy of access to the lot and structures prior to the issuance of a building permit. Planning Board approvals shall be valid for a period of two years from the date of plan endorsement.

TIME-SHARING OR TIME-INTERVAL-OWNERSHIP DWELLING UNIT OR DWELLING — A dwelling unit or dwelling in which the exclusive right of use, possession or ownership circulates among various owners or lessees thereof in accordance with a fixed or floating time schedule on a periodically recurring basis, whether such use, possession or occupancy is subject to either: a time-share estate, in which the ownership or leasehold estate in property is devoted to a time-share fee (tenants in common, time-share ownership, interval ownership) and a time-share lease; or time-share use, including any contractual right of exclusive occupancy which does not fall within the definition of "time-share estate," including, but not limited to, a vacation license, prepaid hotel reservation, club membership, limited partnership or vacation bond, the use being inherently transient.

TINY HOUSE UNIT — A detached structure containing a dwelling unit with less than a total of 500 square feet constructed on a moveable trailer to be attached to a foundation pursuant to a building permit issued in accordance with Zoning Bylaw § 139-26. Only one tiny house unit shall be allowed per lot. The tiny house unit shall not be a recreational vehicle (commonly known as an RV), auto home, shipping container, motor vehicle, semi-trailer, camper, or boat, and shall not be located upon a lot with a commercial or other nonresidential use. The tiny house unit shall be owned by a not-for-profit, religious, or educational entity or shall be the primary residence of a person(s), or the individual beneficiary(ies) of a legal entity, that holds title, common title, or land lease to the property, or any direct family member of that person(s) (their child, parent, grandparent, or brother or sister, or their spouse's child, parent, grandparent, brother or sister). A tiny house unit may be a primary dwelling unit or may be located on a lot in lieu of an otherwise permitted secondary dwelling, garage apartment, or tertiary dwelling. If located on a lot with a primary dwelling, secondary dwelling, or garage apartment, the Planning Board shall make a determination regarding the adequacy of access to the lot and structures prior to the issuance

of a building permit. Planning Board approvals shall be valid for a period of two years from the date of plan endorsement.**[Added 4-2-2016 ATM by Art. 52, AG approval 7-12-2016]**

TOWN OVERLAY DISTRICT — The overlay district described in § 139-12E. **[Added 4-9-2002 ATM by Art. 37, AG approval 7-31-2002]**

TRANSFER STATION — A handling facility where solid waste is brought, stored and transferred from one vehicle or container to another vehicle or container for transport off-site to a solid waste treatment, processing or disposal facility.**[Added 4-8-2008 ATM by Art. 62, AG approval 8-18-2008]**

TRANSIENT RESIDENTIAL FACILITIES — Hotels; rooming, lodging or guest houses; and time-sharing or time-interval-ownership dwelling unit(s). In the ROH District only, rooming, lodging, and guest houses may be allowed by special permit for lots located entirely within a quarter-mile radius of the CDT District.**[Amended 4-6-2009 ATM by Art. 47, AG approval 8-10-2009; 4-6-2015 ATM by Art. 44, AG approval 8-5-2015]**

TRUCK/BUS TERMINAL — A facility for the receipt, transfer, short-term storage, or dispatching of goods transported by truck or the storage, service, or maintenance of buses not in active transport of passengers. Included in the use type would be express and other mail and package distribution facilities, including such facilities operated by the U.S. Post Office.²⁰**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

UNENCLOSED PORCH — An unenclosed appendage, whether roof covered or not, projecting from an exterior wall(s) of a structure. An unenclosed porch may connect portions of a single building, roof, or two or more buildings.**[Added 11-6-2017 STM by Art. 18, AG approval 2-26-2018]**

USE, PRINCIPAL — A use which is expressly permitted by this chapter (other than as an accessory use), either with a special permit or without need of one.

WATER-DEPENDENT USE — Uses and facilities that require direct access to or location in coastal waters and which therefore cannot be located inland, including uses that provide general public access to those waters.**[Added 4-8-2008 ATM by Art. 49, AG approval 8-18-2008]**

20. Editor's Note: The former definition of "used," which immediately followed this definition, was repealed 4-6-2015 ATM by Art. 64, AG approval 8-5-2015.

WIND ENERGY CONVERSION SYSTEMS (WECS) — Mechanisms, including all appurtenances thereto, designed or operated for the purpose of converting wind energy to electrical or mechanical power.

WINDMILL — A mill operated by the wind's rotation of large, oblique sails or vanes radiating from a shaft, used as a source of power.

WORKFORCE HOMEOWNERSHIP HOUSING — Ownership or rental of single-family dwelling units, pursuant to § 139-8D, where at least 25% of the total dwelling units are restricted to occupancy by households earning at or below the percentages of area median income set forth herein. An increment of 75% of the total 25% of the restricted units shall be restricted to occupancy by households earning at or below 80% of area median income. The remaining increment of 25% of the total 25% of the restricted units shall be restricted to occupancy by households earning at or below 175% of area median income.**[Added 11-9-2015 STM by Art. 2, AG approval 12-29-2015]**

WORKFORCE RENTAL HOUSING — Rental of multifamily dwelling units, pursuant to § 139-8D, where at least 25% of the total dwelling units are restricted to occupancy by households earning at or below 80% of area median income.**[Added 11-9-2015 STM by Art. 2, AG approval 12-29-2015]**

YARD — The area of a lot to be kept free of buildings and other structures (except fences, fence gates, landscape retaining walls, mail and lamp posts, utility service poles, and pedestals, lot accessways, and docks, bulkheads, groins and other coastal engineering structures). The setback distance from any required front, side, or rear yard shall be measured from the corner board of the structure, if applicable, or the closest point (excluding the eaves and any exterior insulation) between the structure and the lot line.**[Amended 4-2-2016 ATM by Art. 60, AG approval 7-12-2016; 4-1-2019 ATM by Art. 49, AG approval 8-6-2019]**

YARD, FRONT — The yard extending from the street line of a lot inwardly the required front-yard setback distance. For lots abutting two or more streets or ways, whether constructed or not, the required front yard setback shall be maintained from one street or way, and the required side yard setback shall be maintained from each other lot line, except in the R-1 and RC-2 Districts, where a minimum ten-foot side yard setback shall be maintained from any other street or way, whether constructed or not. For lots abutting one street or way, whether constructed or

not, on more than one side or portion thereof, the Planning Board may grant a waiver by special permit to allow the required side yard or rear yard setback to be maintained from such portion of the lot as the Planning Board determines to be consistent with the purpose of this definition. **[Amended 11-13-1990 STM by Art. 22, AG approval 3-19-1991; 5-5-1992 ATM by Art. 45, AG approval 8-3-1992; 4-1-2019 ATM by Art. 59, AG approval 8-6-2019]**

YARD, REAR or SIDE — The portion of any lot lying between the buildings upon such lot and each lot line other than a line adjoining a street.

ZONE II — The area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated. For the purposes of this chapter, the Zone II is coterminous with the Public Wellhead Recharge District established under § 139-12B of this chapter. **[Added 4-14-1997 ATM by Art. 48, AG approval 8-18-1997]**

ZONING ENFORCEMENT OFFICER — An official of the Town of Nantucket who is responsible for the administration and enforcement of the Nantucket Zoning Bylaw in accordance with the provisions of MGL c. 40A, § 7. **[Added 4-10-2000 ATM by Art. 46, AG approval 8-2-2000]**

- B. Word usage. "Shall" is considered mandatory and not discretionary.

Addendum E

ZONING

139 Attachment 2

Town of Nantucket
Use Chart
(See § 139-7A.)

[Amended 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; 4-4-2011 ATM by Arts. 58 and 61, AG approval 9-15-2011; 3-31-2012 ATM by Art. 47, AG approval 7-12-2012;
4-2-2013 ATM by Art. 30, AG approval 7-26-2013; 4-5-2014 ATM by Art. 67, AG approval 5-7-2014; 4-6-2015 ATM by Arts. 44, 47, 61, 62, 64, AG approval 8-5-2015;
11-9-2015 STM by Art. 2, AG approval 12-29-2015; 4-2-2016 ATM by Art. 36, 52, AG approval 7-12-2016; 4-1-2017 ATM by Art. 69, AG approval 5-31-2017; 11-6-2017 STM by Arts. 2, 19, 21, AG approval 2-26-2018; 10-10-
2018 STM by Art. 2, AG approval 5-8-2019; 4-1-2019 ATM by Art. 49, AG approval 8-6-2019]

- A = Accessory Use as defined in § 139-15
- FBED = Formula Business Exclusion District
- N = No
- SP = Special Permit issued by Zoning Board of Appeals, unless the Planning Board is designated as the special permit granting authority pursuant to another section of this chapter.
- Y = Yes

	Use	Town Residential Districts						Town Commercial Districts							Country Residential Districts					Country Commercial Districts	
		R-1 SR-1	ROH SOH	R-5 R-5L	R-10 R-10L SR-10	R-20 SR-20	R-40	CDT	CMI	CN	CTEC	CI	RC	RC-2	V-R	LUG-1	LUG-2	LUG-3	MMD	VN	VTEC
Residential	Primary dwelling	Y	Y	Y	Y	Y	Y	A	A	A	Y	N	Y	Y	Y	Y	Y	Y	Y	A	A
	Secondary dwelling	Y	Y	Y SP R-5L	Y SP R-10L	Y	Y	Y	N	N	N	N	Y	Y	Y	Y	Y	Y	N	N	N
	Accessory dwelling	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
	Tertiary dwelling	N	N	Y R-5 N R-5L	Y R-10 N R-10L N SR-10	Y R-20 N SR-20	Y	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	N
	Apartment	N	N	N	N	N	N	Y	Y	Y	Y	SP	N	N	N	N	N	N	N	N	N
	Apartment building	N	N	N	N	N	N	N	SP	SP	N	N	N	N	N	N	N	N	N	SP	N
	Tiny house unit	N	N	Y R-5 N R-5L	Y R-10 N R-10L N SR-10	Y R-20 N SR-20	Y	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	N
	Garage apartment	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	Duplex	Y N R-1 SR-1	N	Y N R-5L	Y R-10 N R-10L N SR-10	N	N	Y	Y	A	Y	N	Y	Y	N	N	N	N	N	N	N
	Workforce rental community	N	N	N	N	N	N	N	SP	SP	N	N	N	N	N	N	N	N	N	N	N
	Elder housing facilities	SP	SP	SP	SP	SP	SP	N	SP	SP	N	N	SP	SP	SP	SP	SP	SP	N	N	N
	Studio	A	A	A	A	A	A	Y	Y	Y	Y	Y	Y	Y	A	A	A	A	A	Y	Y
	Garage – residential	A/SP	A/SP	A/ SP	A/SP	A/SP	A/SP	N	N	A	A	N	A	A	A/ SP	A	A	A/SP	A	A	A
	Shed	A	A	A	A	A	A	N	N	A	A	A	A	A	A	A	A	A/SP	A	A	A
	Outbuildings – other	A	A	Y	Y	A	A	N	N	A	A	A	A	A	A	A	A	A/SP	A	A	A
	Swimming pool - residential	A	N	A	A	A	A	A	A	A	A	N	A	A	SP	A	A	A	SP	A	A
	Home occupations	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

NANTUCKET CODE

	Use	Town Residential Districts						Town Commercial Districts						Country Residential Districts					Country Commercial Districts		
		R-1 SR-1	ROH SOH	R-5 R-5L	R-10 R-10L SR-10	R-20 SR-20	R-40	CDT	CMI	CN	CTEC	CI	RC	RC-2	V-R	LUG-1	LUG-2	LUG-3	MMD	VN	VTEC
	Keeping of pets for personal use	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Business Commercial	Retail sales	N	N	N	N	N	N	Y	Y	Y	A	A	Y	Y	N	N	N	N	N	Y	A
	Convenience store	N	N	N	N	N	N	Y	Y	Y	N	N	Y	Y	N	N	N	N	N	SP	A
	Alcohol sales	N	N	N	N	N	N	Y	Y	SP/A	N	N	Y	Y	N	N	N	N	N	A	A
	Bakery	N	N	N	N	N	N	Y	Y	Y	Y	SP	SP/A	SP/A	N	N	N	N	N	Y	A/SP
	Open-air market	N	N	N	N	N	N	Y	Y	Y	N	N	Y	Y	N	N	N	N	N	Y	Y
	Pharmacy	N	N	N	N	N	N	Y	Y	Y	N	N	Y	Y	N	N	N	N	N	N	N
	Supermarket	N	N	N	N	N	N	Y	Y	SP	N	N	Y	Y	N	N	N	N	N	N	N
	Restaurants																				
	Small (up to 70 seats)	N	N	N	N	N	N	Y	Y	SP	N	N	Y	Y	N	N	N	N	N	SP	N
	Large (71-200 seats)	N	N	N	N	N	N	SP	SP	N	N	N	Y	Y	N	N	N	N	N	N	N
	Take-out food establishment	N	N	N	N	N	N	Y	Y	SP/A	N	N	SP	SP	N	N	N	N	N	A	N
	Drive-through take-out food	N	N	N	N	N	N	N	N	SP	N	N	SP	SP	N	N	N	N	N	N	N
	Tavern/Bar	N	N	N	N	N	N	Y	Y	SP/A	N	N	SP	SP	N	N	N	N	N	A	A
	Formula businesses																				
	Retail (includes: bakery, convenience store and pharmacy)	N	N	N	N	N	N	N	Y	Y	N	SP	SP/N in FBED	SP	N	N	N	N	N	N	N
	Supermarket	N	N	N	N	N	N	Y	Y	Y	N	N	Y	Y	N	N	N	N	N	N	N
	Restaurant																				
	Small (up to 70 seats)	N	N	N	N	N	N	N	SP	SP	N	N	SP/N in FBED	N	N	N	N	N	N	N	N
	Large (71-200 seats)	N	N	N	N	N	N	N	SP	N	N	N	SP/N in FBED	N	N	N	N	N	N	N	N
	Take-out food establishment	N	N	N	N	N	N	N	SP	SP	N	N	Y/N in FBED	N	N	N	N	N	N	N	N
	Tavern/Bar	N	N	N	N	N	N	N	SP	SP	N	N	Y/N in FBED	N	N	N	N	N	N	N	N
	Offices	N	N	N	N	N	N	Y	Y	Y	A	Y	Y	Y	N	N	N	N	N	Y	A
	Theatres, auditoriums, or other places of public assembly	N	N	N	N	N	N	Y	SP	SP	N	N	Y	Y	N	N	N	N	N	A	A/SP
	Personal services	SP	SP	SP N R-5L	SP N R-10L	SP	SP	Y	Y	Y	A	N	Y	Y	N	N	N	N	N	Y	SP
	Print shop	N	N	N	N	N	N	Y	Y	Y	Y	Y	SP	SP	N	N	N	N	N	N	N
	Laundromat or dry-cleaning establishment	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	N	N	N	N	N	SP	N
	Bank	N	N	N	N	N	N	Y	Y	Y	N	N	Y	Y	N	N	N	N	N	N	N
	Automated teller machine	N	N	N	N	N	N	Y/A	Y/A	Y/A	N	N	Y	Y	N	N	N	N	N	A	A
	Arcade	N	N	N	N	N	N	N	SP/A	SP/A	N	N	A	A	N	N	N	N	N	N	N
	Art gallery	N	N	N	N	N	N	Y	Y	Y	N	N	SP	SP	N	N	N	N	N	Y	Y
	Museum	N	N	N	N	N	N	Y	N	SP	N	N	Y	Y	N	N	N	SP	N	SP	N
	Catering	N	N	N	N	N	N	N	Y	Y	Y	SP	SP/A	SP/A	N	N	N	N	N	A	A
	Crematorium	N	N	N	N	N	N	N	N	N	N	Y	A	A	N	N	N	SP	N	N	N
	Funeral home	SP	SP	SP N R-5L	SP N R-10L	N	N	Y	Y	Y	N	Y	Y	Y	N	N	N	N	N	N	N
	Health spa	N	N	N	N	N	N	Y	Y	Y	N	N	Y	Y	N	N	N	N	N	N	N
	Medical clinic	N	N	N	N	N	N	N	SP	SP	N	N	Y	Y	N	N	N	N	N	N	N
	Adult on-site marijuana social consumption operator	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
	Marijuana membership club	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
	Marijuana establishment, recreational and marijuana treatment center, medical	N	N	N	N	N	N	N	N	SP	N	SP	N	N	N	N	N	N	N	N	N

ZONING

	Use	Town Residential Districts						Town Commercial Districts						Country Residential Districts					Country Commercial Districts		
		R-1 SR-1	ROH SOH	R-5 R-5L	R-10 R-10L SR-10	R-20 SR-20	R-40	CDT	CMI	CN	CTEC	CI	RC	RC-2	V-R	LUG-1	LUG-2	LUG-3	MMD	VN	VTEC
	Hospital	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	N	N	N	N	N	N
	Transient residential facilities																				
	Hotel or inn	N	N	N	N	N	N	SP	SP	SP	N	N	Y	N	N	N	N	N	N	N	N
	Rooming, lodging, or guest house	N	SP ¹	N	N	N	N	Y	Y	Y	N	N	Y	N	N	N	N	N	N	SP	N
	Time-sharing/Interval dwelling units	N	N	N	N	N	N	Y	Y	Y	N	N	Y	N	N	N	N	N	N	Y	N
Commercial Industrial	Contractor shop	N	N	N	N	N	N	N	SP	SP	Y	Y	SP	SP	N	N	N	N	N	N	A
	Lumberyard	N	N	N	N	N	N	N	N	SP	SP	Y	N	N	N	N	N	N	N	N	SP
	Bulk merchandise retail	N	N	N	N	N	N	Y	Y	Y	SP	Y	N	N	N	N	N	N	SP	SP	
	Landscape contractor	N	N	N	N	N	N	N	N	SP	Y	Y	SP	SP	N	N	N	N	N	N	SP
	Light manufacturing	N	N	N	N	N	N	N	N	A	SP/A	Y	SP	SP	N	N	N	N	N	SP/A	SP/A
	Food processing	N	N	N	N	N	N	N	N	SP	SP	Y	SP	SP	N	N	N	N	N	N	SP
	Shed - commercial	N	N	N	N	N	N	A	A	A	A	A	N	N	N	N	N	N	A	A	A
	Storage container	N	N	N	N	N	N	N	N	SP	SP	SP	N	N	N	N	N	N	N	N	N
	Interior or exterior storage or warehousing	N	N	N	N	N	N	N	N	A	SP/A	Y	SP	SP	N	N	N	N	N	A	SP/A
	Motor vehicle sales	N	N	N	N	N	N	N	SP	SP	N	SP	SP	SP	N	N	N	N	N	N	N
	Motor vehicle rental	N	N	N	N	N	N	Y	N	SP	N	SP	SP	SP	N	N	N	N	N	N	N
	Motor vehicle repair or painting	N	N	N	N	N	N	N	SP	SP	SP	Y	SP	SP	N	N	N	N	N	N	N
	Motor vehicle service station	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	N	N	N	N	N	N	N
	Motor vehicle parking lots or structures	N	N	N	N	N	N	Y	Y	Y	SP	SP	Y	Y	N	N	N	N	N	N	N
	Car wash	N	N	N	N	N	N	N	SP	N	N	SP	SP	SP	N	N	N	N	N	N	N
	Taxicab business	N	N	N	N	N	N	N	Y	Y	Y	N	SP	SP	N	N	N	N	N	N	N
	Bicycle rental or sale	N	N	N	N	N	N	Y	N	SP	SP	N	SP	SP	N	N	N	N	N	SP	A
	Maritime service station	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	SP
Yacht/Sailing clubs and marinas	N	N	N	N	N	N	Y	N	N	N	SP	Y	Y	N	N	N	N	N	N	SP	
Industrial	Adult uses	N	N	N	N	N	N	N	N	N	N	SP	N	SP	N	N	N	N	N	N	N
	Asphalt/Batching plant	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	N	N	N	N
	Licensed junkyard	N	N	N	N	N	N	N	N	N	N	SP	N	N	N	N	N	N	N	N	N
	Transfer station	N	N	N	N	N	N	N	N	N	N	SP	N	N	N	N	N	N	N	N	N
	Petroleum product storage or distribution facility (i.e. tank farm)	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	N	N	N	N
	Utility production/distribution (does not include WECS)	N	N	N	N	N	N	SP	SP	SP	SP	Y	N	N	N	N	N	N	N	N	N
	Mining	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	N	N	N	N
	Truck/Bus terminal	N	N	N	N	N	N	N	N	N	SP	Y	N	N	N	N	N	N	N	N	N
	Boat-related storage	N	N	N	N	N	N	N	N	SP	Y	Y	Y	Y	N	N	N	N	N	N	SP

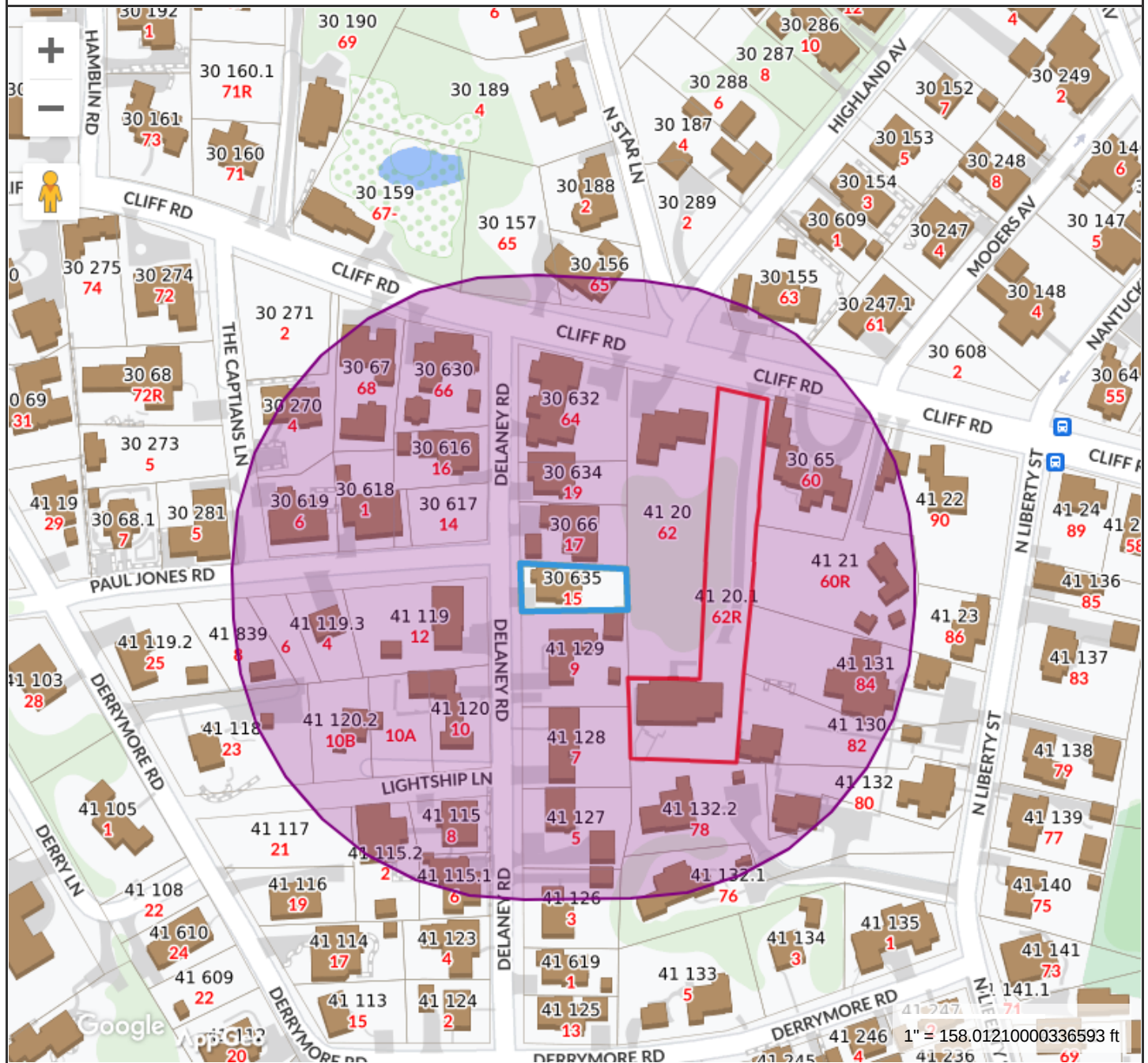
NANTUCKET CODE

	Use	Town Residential Districts						Town Commercial Districts						Country Residential Districts						Country Commercial Districts	
		R-1 SR-1	ROH SOH	R-5 R-5L	R-10 R-10L SR-10	R-20 SR-20	R-40	CDT	CMI	CN	CTEC	CI	RC	RC-2	V-R	LUG-1	LUG-2	LUG-3	MMD	VN	VTEC
Other	Preservation of a lot in its natural condition	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	Care and propagation of fish and shellfish	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	All agricultural uses allowed by Ch. 590 of the Acts of 1989, effective 3-8-1990 (including keeping of farm animals, greenhouses, truck gardens, farms, orchards and nurseries)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	Cemeteries	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	Municipal uses (any)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	Tents	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	Day-care center	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	Kennel	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
	Public stable	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
	Employer dormitory	N	N	N	N	N	N	N	N	N	N	N	N	N	SP	SP	SP	SP	N	SP	SP
	Neighborhood employee housing	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N	N	N	N	N	N
	Swimming pool - commercial	N	N	N	N	N	N	N	SP/A	SP/A	A	N	SP/A	SP/A	A	A	A	A	N	A	A
	Recreational facilities	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
	Club	N	N	N	SP	SP	SP	Y	Y	Y	Y	N	Y	Y	N	SP	SP	SP	N	SP	SP

NOTES:
¹See the definition of "transient residential facility" in § 139-2A.

Addendum F

Abutter's Map



Property Information

Property ID 30 635
 Location 15 DELANEY RD
 Owner KEITH RALPH W TR & BONNIE A 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 07/28/2022
 Data updated Jan. 2021

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

Jeff McDermott, Et Al

File No. 18-22

32 MONOMOY ROAD

APPEAL



NINA PICKERING-COOK
npickeringcook@andersonkreiger.com
T: 617.621.6536
F: 617.621.6636

November 4, 2022

Nantucket Planning and Land Use Services
c/o Nicky Sherriff
2 Fairgrounds Road
Nantucket, MA 02554

Re: *Appeal of Building Commissioner's Zoning Enforcement Decision of October 31st, 2022 at 32 Monomoy Road*

Dear Chair McCarthy and Members of the Board:

I represent the local advocacy group Monomoy Civic Association and the following property owners:

- Jeff McDermott of 38 Monomoy Road
- Matthew Westfall of 30 Monomoy Road
- Stephen Ketchum of 34 Monomoy Road
- Bob and Deborah Landreth of 4 Berkeley Avenue
- Mark Wilmot of 33 & 35 Monomoy Road

By letter dated October 31, 2022, Nantucket Building Commissioner Paul Murphy declined my clients' request to find that use of the property located at 32 Monomoy Road (the "Property") exclusively as a short-term rental ("STR") business was a "commercial use" prohibited in the residential zone in which it is located. My clients hereby appeal the Building Commissioner's refusal to enforce a zoning violation at the Property.

For the reasons set forth in our Statement of Facts and Law and Requested Relief (**Addendum B**) and supported by our addenda, my clients request that the Nantucket Zoning Board of Appeals overturn Commissioner Murphy's determination with respect to the Property, and order the Copley Group to cease and desist using the Property as an STR.

November 4, 2022
Page 2

I have enclosed the following in support of my clients' application:

1. ZBA application form for appeal of Building Commissioner's determination;
2. Locus plan from the Nantucket Tax Assessor;
3. Certified abutters list and accompanying mailing labels;
4. Written Statement of Agency;
5. Check in the amount of \$450;
6. Copy of Commissioner Murphy's October 31, 2022 Enforcement Denial (Addendum A);
7. Requested Relief and Statement of Facts and Law (Addendum B);
8. Copy of October 18, 2022 Enforcement Request (Addendum C);
9. Copies of relevant sections of the Nantucket Zoning Code (Addendum D);
10. Copy of Use Table from Nantucket Zoning Code (Addendum E);
11. 32 Monomoy Road Appellant – Abutters Map (Addendum F).

Best regards,



Nina Pickering-Cook

cc: Clients



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

A P P L I C A T I O N

Fee: \$450.00

File No._____

Owner's name(s):_____Copley Monomoy, LLC, a Massachusetts Limited Liability Company_____

Mailing address:_____896 Beacon Street, Boston, MA 02215_____

Phone Number:_____Unkonwn_____ E-Mail:_____Unknown_____

Applicants: Jeff McDermott, Matthew Westfall, Stephen Ketchum, Deborah Landreth, Bob Landreth, Mark Wilmot

Mailing Address: Anderson & Kreiger, c/o Nina Pickering Cook, 50 Milk Street, 21st Floor, Boston, MA 02109

Phone Number:_(617) 625-6536_____ E-Mail:___pickering@andersonkreiger.com_____

Locus Address: __32 Monomoy Road_____ Assessor's Map/Parcel:_____54/ 242_____

Land Court Plan/Plan Book & Page/Plan File No.: Plan 14974-C, dated 8/1/1950, Lot 4 on Land Court_____

Deed Reference/Certificate of Title: 149601/25823_____ Zoning District___LUG-1_____

Uses on Lot- Commercial: Yes (describe) ___Short-Term Rental_____

Residential: Number of dwellings___1___ Duplex _____ Apartments _____

Date of Structure(s): _____2004_____

Building Permit Numbers: _____N/A_____

Previous Zoning Board Application Numbers:_____N/A_____

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

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*

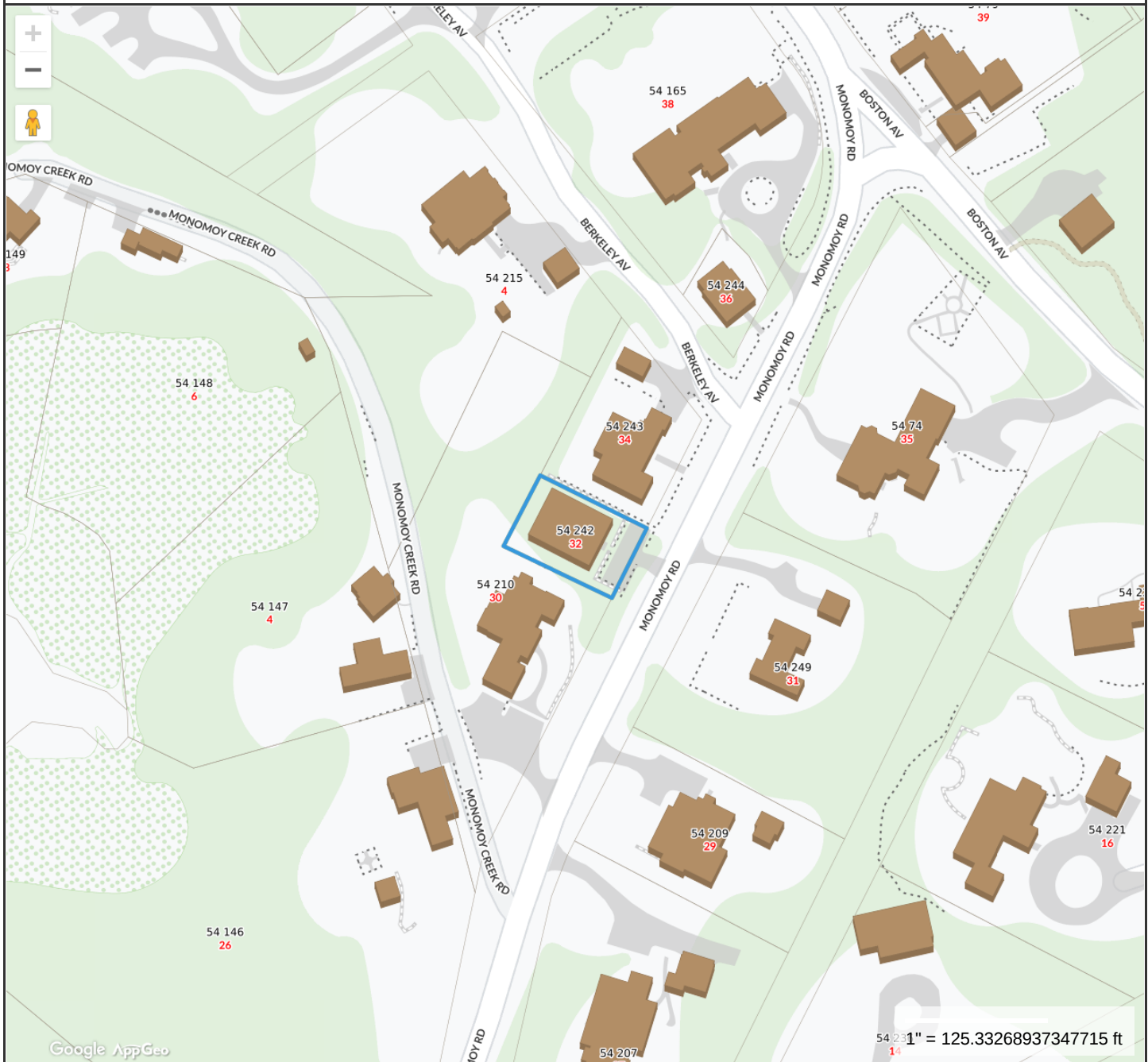
SIGNATURE: Justin Magalis (elb) Applicant/Attorney/Agent*

*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: __/__/__

32 Monomoy Road Locus Plan

**Property Information**

Property ID 54 242
Location 32 MONOMOY RD
Owner COPLEY MONOMOY LLC



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

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

Geometry updated 11/02/2022
 Data updated Jan. 2021

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

Town of Nantucket

Zoning Board of Appeals

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

PROPERTY OWNER.....Copley Monomay LLC.....
MAILING ADDRESS.....896 Beacon Street, Boston, MA 02215.....
PROPERTY LOCATION.....32 Monomay Rd.....
ASSESSOR MAP/PARCEL.....54-342.....
APPLICANT.....Anderson Kreiger.....

SEE ATTACHED PAGES

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

November 2, 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: 2022.11.02 09:09:36
-04'00'

WILMOT MARK S
33-35 MONOMOY RD
NANTUCKET, MA 02554

HOLDGATE DAWN E & MICHAEL K
PO BOX 869
NANTUCKET, MA 02554

WILLET E CROSBY & WILLET AUGUSTA W
TR
2400 INDIAN CREEK BLVD WEST
VERO BEACH, FL 32966

WILLET WILLIAM
6 MONOMOY CREEK RD
NANTUCKET, MA 02554

JP MORGAN TRUST CO TRST ETAL
OTIS BOOTH FAMILY TRUST
500 STANTON CHRISTIANA RD C/O
MEGHAN EBEID
NEWARK, DE 19713

BENNETT JOANN
27 MONOMOY ROAD
NANTUCKET, MA 02554

COHEN STEVEN L TR
29 MONOMOY RD NOM TRUST
PO BOX 786
NANTUCKET, MA 02554

WESTFALL MATTHEW S & LAURA J
1342 LACHMAN LANE
PACIFIC PALISADES, CA 90272

LANDRETH ROBERT E
1600 COUNTRY CLUB RD
MIDLAND, TX 79701

WYNNEMER LLC
65 SPRING DELL ROAD
LANCASTER, PA 17601

MASON LINDA A TRUSTEE
227 GARDEN ROAD
PALM BEACH, FL 33480

REDAN MONOMOY HOLDINGS LLC
1111 CAROLINE ST #2306
HOUSTON, TX 77010

JP MORGAN TRUST CO TRST ETAL
OTIS BOOTH FAMILY TRUST
500 STANTON CHRISTIANA RD
NEWARK, DE 19713

KNIGHT-SCHWARTZ C ETHELIND TR &
SCHWARTZ DAVID A TR
104 TIFFANY LANE
SUMMERVILLE, SC 29485



MEMORANDUM

To: Nantucket Zoning Board of Appeals

From: Nina Pickering-Cook and Kristen Gagalis
ANDERSON & KREIGER LLP

Re: **Statement of Agency**

Date: November 4, 2022

This office represents Jeff McDermott of 38 Monomoy Road, Matthew Westfall of 30 Monomoy Road, Stephen Ketchum of 34 Monomoy Road, Bob and Deborah Landreth of 4 Berkeley Avenue, and Mark Wilmot of 33 & 35 Monomoy Road (the “Appellants”), all of whom are abutters, or abutters to an abutter within 300 feet, of 32 Monomoy Road (the “Property”) as shown by the Assessors’ abutters’ list attached to this appeal. See **Addendum F**. Therefore, they are each a “party in interest” pursuant to G.L. c. 40A with respect to any zoning decision concerning the Property.

The Appellants requested zoning enforcement for a violation at the Property. The Building Commissioner denied the Appellants’ requested enforcement. As such, they are aggrieved by the Building Commissioner’s Decision and appeal it to this Board.

Signed,

A handwritten signature in blue ink that reads "Kristen Gagalis".

Kristen R. Gagalis

Anderson & Kreiger, LLP

Addendum A



Planning and Land Use Services

Building ▪ Historic District Commission ▪ Planning Board ▪ Zoning Board of Appeals

BUILDING DIVISION

CERTIFIED MAIL # 7020 0640 0000 3225 0768

October 31, 2022

Nina Pickering-Cook
Anderson & Kreiger LLP
50 Milk Street 21st Floor
Boston, MA 02109

Re: Request for Zoning Enforcement at 32 Monomoy Road, Nantucket

Dear Ms. Pickering-Cook,

I am in receipt of your zoning enforcement request dated October 18, 2022, with regard to the property located at 32 Monomoy Road, Nantucket (the "property"). I will not pursue zoning enforcement at this time because, in my opinion, the use of the property for short term rentals does not violate the Town's Zoning Bylaw.

If you are aggrieved by this determination, you may appeal to the Nantucket Zoning Board of Appeals pursuant to G.L. c. 40A Sections 8 and 15.

Very truly yours,



Paul Murphy
Building Commissioner
Town of Nantucket

Cc: Andrew Vorce, Director of Planning, Leslie Snell, Deputy Director of Planning

Addendum B



MEMORANDUM

To: Nantucket Zoning Board of Appeals

From: Nina Pickering-Cook and Kristen Gagalís
ANDERSON & KREIGER LLP

Re: **Statement of Facts and Law; Requested Relief**

Date: November 7, 2022

This office represents Jeff McDermott of 38 Monomoy Road, Matthew Westfall of 30 Monomoy Road, Stephen Ketchum of 34 Monomoy Road, Bob and Deborah Landreth of 4 Berkeley Avenue, and Mark Wilmot of 33 & 35 Monomoy Road, all of Nantucket (collectively the “Appellants”). The Appellants appeal the Building Commissioner’s October 31, 2022 Decision with respect to 32 Monomoy Road (the “Property”) to the Zoning Board of Appeals pursuant to Zoning Code Section 139-31-A-(1) and Massachusetts General Laws Chapter 40A, Sections 8 and 15.

In the Decision, the Commissioner determined that use of the Property exclusively for short-term rentals (“STR”) does not violate Nantucket’s Zoning Bylaws despite its location in a residential zone. This finding is inconsistent with the Town’s Zoning Bylaws (“Bylaw”) and the LUG-1 zoning district in which the Property is located. Where no one resides at the Property and it is being used solely as a pay-per-night or week rental operation, it is a commercial use – more properly defined as a Transient Residential Facility – and, therefore, not allowed in the LUG-1 District.

BACKGROUND

The Property is a 6 bedroom, 5½ bath single-family home located in the LUG-1 District of Nantucket, which permits only residential uses. The owner of the Property, The Copley Group, is a Massachusetts Limited Liability Company based in Boston. The Copley Group purchased the Property in 2015. It appears to also own numerous residential buildings in the Greater Boston area and twelve luxury homes on Nantucket. **Exhibit A.** The Owner advertises the Property as part of its “Nantucket Collection,” which consists of luxury rental homes available for rent year-around at both nightly and weekly rates. The services provided by The Copley Group to renters of its properties include things like a personal concierge. **Exhibit A.**

The Property is advertised on multiple luxury vacation websites, including The Copley Group’s own Nantucket Collection site, Sotheby’s International, and CapeCodVacation.com. **Exhibit B.**

Prices range from \$1,875 per night during the winter months to \$5,000 per night during peak weeks in the summer and fall. **Exhibit C.** Based on information and belief, no resident of Nantucket (or anywhere else) has lived in the Property as a residence since at least 2015 when The Copley Group purchased it.

The Appellants have experienced harm as a result of the use of the Property exclusively as an STR. Specifically, the Appellants have had increased and damaging noise and traffic from the Property, which they can describe further during the ZBA's hearing.

As demonstrated by the manner in which The Copley Group advertises the Property, and the Appellants' experience with customers at the Property, the Property's exclusive use as an STR is antithetical to the surrounding residential uses within the LUG-1 Country Residential District. The Copley Group is operating a business through the Property for commercial purposes in direct contravention of the Zoning Bylaw. The Board should therefore order The Copley Group to cease and desist all such uses at the Property.

On October 18, 2022, pursuant to G.L. 40A, § 7 and Town Zoning Bylaw § 139-25, the Appellants filed a request with Nantucket's Building Commissioner requesting that he issue a cease and desist order to The Copley Group for using the Property as an STR in a residential district. **Addendum C.** The Commissioner denied the appellants request on October 31, 2022, refusing to find that the use of the Property as an STR violates the Town Zoning Bylaw. **Addendum A.** Where his Decision is not supported by either the Nantucket Zoning Bylaw or binding Massachusetts case law, this Board should take the unusual step of overturning the Building Commissioner's determination.

LEGAL ARGUMENT

A. The Owner's Use of the Property is a Commercial Use Not Permitted in the Residential Zoning District.

The Bylaw defines "commercial" as "a trade, occupation, or business, including transient residential facility, but excluding governmental, religious or private residential uses." Bylaw §139-2. On Nantucket, no commercial uses are allowed in the "Town Residential" districts (R-1, SR-1, ROH, SOH, R-5, R-5L, R-10, R-20 and R-40) or in the "Country Residential" districts (V-R, LUG-1, LUG-2, LUG-3 and MMD), with very limited exceptions.

By its nature as an investor-owned rental property, the Property exists exclusively to serve commercial business purposes. The Copley Group is conducting numerous arms-length transactions for fixed rates over brief periods of time with unrelated third parties. Massachusetts courts have recently held that these type of commercial enterprises that charge weekly rental rates via contractual agreement are indeed commercial in nature and have no business in residential districts. *See, e.g., Styler v. Zoning Bd. of Appeals of Lynnfield*, 487 Mass. 588 (2021) (finding that an STR property was a commercial use prohibited in a residential district because

“short-term rental use of a one family home is inconsistent with the zoning purpose of the single-residence zoning district in which it is situated, i.e., to preserve the residential character of the neighborhood.”); *Stevens v. Zoning Bd. of Appeals of Bourne*, 97 Mass. App. Ct. 713 (2020) (finding an STR property that was solely rented pursuant to rental contracts with unrelated third parties was a commercial use prohibited in a residential district); *Lytle v. Swiec*, 2017 WL 2257702 (Mass. Land Ct. May 23, 2017) (holding a homeowner’s use of one dwelling in his two-dwelling single-family home for weekly summer rentals was a commercial use prohibited in a residential district).

The Bylaw excludes “private residential uses” from the definition of “commercial,” but The Copley Group’s use of the Property has nothing to do with “private residential uses.” Operating a company to rent an investment house to strangers is not even remotely akin to the “private uses” envisioned by the Bylaw, like offering one’s residence to family or friends for the week, or inviting guests to stay at a property while the primary resident is there. Because the Property is owned by an investor-group, there is no “resident” to use the home for private purposes; no one lives in the house full time. In fact, where the Property is available to rent in short term stints year round, it is not possible to have the Property serve as anyone’s residence. Taken together, these attributes of the Property place it squarely within the definition of “commercial”.

B. The Property is a Transient Residential Facility

Rather, the Property is more properly characterized as a “Transient Residential Facility.” Transient Residential Facilities are defined as “hotels; rooming, lodging or guest houses; and time-sharing or time-interval-ownership dwelling unit(s).” Bylaw § 139-2. Similar to commercial uses, no transient residential facilities are allowed in residential zoning districts, with the exception of rooming, lodging or guest houses, which are only allowed in ROH and SOH districts, and even then only with a special permit. Bylaw § 139-7A.¹

The Property is continually available for short-term rentals in both daily and weekly increments. Therefore, the Property, as an investor-owned STR, is more closely aligned with the purposes and uses defined as transient residential uses than those uses defined as residential. For example, hotels offer rooms at both nightly and weekly rates, just as the Property does. Hotels also conduct arms-length transactions with third parties for financial gain, just as the Property does. The definition of “transient residential facilities” also includes “time-sharing” and “time-interval-ownership dwelling units,” both of which cater to longer periods of use, but additionally require actual equity ownership in the property. By comparison, this Property actually has a *more* transient customer base than time-sharing or interval ownership, with shorter booking periods and renters who lack any ownership interest in the Property.

¹ It is important to note, however, that rooming, lodging, and guest houses all share a common feature that is absent in the present case: residents who live on the property while guests come and go - no residents live at the Property.

To find that the Property is a traditional residence and not a transient residential facility would render the definitional group of “transient residential facilities” an illogical combination of uses ill-suited to the uniform application required under the Town’s Zoning Bylaw. All types of lodging included within the Bylaw’s definition of transient residential facilities cater to the same customer base as the Property and other STRs – individuals or small groups who live elsewhere and who are looking to rent for a short, defined period of time.² Most transient residential facilities also presumably have similar impacts on surrounding areas, which is why the Bylaw is explicit about where these uses can legally take place (commercial districts) versus where they can only take place with permission or not at all (residential districts).

Excluding this Property (and all investor-owned STRs) from the definition of transient residential facilities is contrary to the Commonwealth’s characterization of STRs. In December 2018, the Massachusetts Legislature passed “An Act Regulating and Insuring Short Term Rentals.” G.L. 64G, *et seq.* All of the lodging types listed as “transient residential facilities” in the Zoning Bylaw are subject to the room occupancy tax under G.L. 64G, §3, a list that now includes STRs. The Legislature’s decision to include STRs being rented more than 14-days a year in the room occupancy tax list is evidence that the Commonwealth considers STRs such as this Property to be “commercial” use, not personal residential use, and therefore akin to a “transient residential facilities” on the island.

C. The Use of the Property as a STR is Not Accessory to Residential Use

At this point, the Town has repeatedly found that STRs are allowed in residential districts in Nantucket as accessory uses. Indeed, Town Counsel John Giorgio, at a recent Short Term Rental Workgroup, Data Subgroup meeting, stated: “[T]he building inspector has made the determination that [STRs] are permitted accessory uses.” Short Term Rental Workgroup, 10/28/2022, at

https://www.youtube.com/watch?v=8smSkZYsb1w&ab_channel=NantucketGovernmentTV .

But that argument fails here. Although “accessory dwelling” units are allowed in all residential districts on Nantucket, this Property cannot be considered an “accessory use” because there are simply no residents at the Property to which the STR is “accessory” to.

The Bylaw defines “accessory uses” as “separate structures, buildings or uses which are *subordinate* and *customarily incidental* to a principal structure, building or use located on the same lot.” Bylaw § 139-2 (emphasis added). The principal structure located on the lot is a single family residence. **Exhibit D.** A “residence” is defined as “the act or fact of dwelling in a place *for some time*,” or “the place where one actually lives as distinguished from one’s domicile or a place of temporary sojourn.” Miriam–Webster’s Dictionary, (11th ed. 2020) (emphasis added). Therefore, to qualify as an “accessory,” the rental of the Property would have to be subordinate

² Both “hotel” and “rooming, lodging, and guest houses” are defined by the By-laws as “primarily temporary abode of persons who have a permanent residence elsewhere.” By-laws, § 139-2. Time-shares are characterized by “the use being inherently transient.” *Id.*

to the Property's use as a single family residence. Based on advertising, ownership structure, and Appellant testimonials, the Property is very plainly not a single family residence; it is a rental property 365 days a year. **Exhibit C.** Thus, the rental use predominates any other use and cannot be "accessory."

The Town's determination on the issue of accessory use as STR is contrary to existing case law. Under Bylaw strikingly similar to Nantucket's, courts have consistently found that STRs are not an accessory use to a residential use. *See Stevens, supra*, 97 Mass. App. Ct. 713; *Styller v. Aylward*, WL 4502015 (Mass. Land Ct. Sept. 19, 2018), *aff'd* 487 Mass. 588, (2021).; *Lytle, supra*, 2017 WL 2257702. In *Styller*, the trial court reasoned that a single homeowner renting his property on Airbnb was not "clearly incidental to the use of the principal building" as a single family residence. 2018 WL 4502015, at *7. As the Land Court explained:

In zoning bylaws or ordinance, 'incidental' incorporates two concepts: It means that the use must not be the primary use of the property but rather *one which is subordinate and minor in significance* . . . [and] incidental, when used to define an accessory use, must also incorporate the concept of reasonable relationship with the primary use. It is not enough that the use be subordinate; *it must also be attendant or concomitant*. To ignore this latter aspect of 'incidental' would be to permit any use which is not primary, no matter how unrelated it is to the primary use.

Id. (internal citations and quotation marks omitted) (emphasis added). Using single family homes, such as the Property, as STRs is not "customary in connection with the principal building." Putting it bluntly, the court stated: "Most people do not rent out their homes on a continuing basis. They live in them." *Id.* at *8.

Likewise, in *Stevens*, the court refused to find that the use of a house owned by an investment trust was an accessory use due in part to the fact that neither the Trustee nor any beneficiary of the trust resided at the property and use of the property was conducted pursuant to rental contracts with unrelated third parties for financial gain by the investors. 97 Mass. App. Ct. at 718. In *Lytle*, the Land Court upheld the Hull ZBA's determination that short-term renting of a unit alongside a lived-in residence was an unlawful commercial use and not a permitted accessory use. 2017 WL 2257702 at *7. The court reasoned that even though the owner was still occupying one-dwelling in the two-dwelling single family home, the separate commercial use of the other dwelling unit was not an accessory use due to the commercial nature of the rental. *Id.*

CONCLUSION

Allowing the Commissioner's Decision with respect to 32 Monomoy Road, a permanent STR, to stand risks exacerbating a near-impossible situation for Nantucket's already over-priced and under-supplied year-round housing stock. Affirming the Decision would be giving investor

groups like The Copley Group the green light to continue buying up single family homes in residential districts and turning them into high-turnover rental properties. This would further blur the lines of commercial versus residential, and come at a high cost to actual residents of Nantucket's many residential neighborhoods.

For these reasons, we urge the Board to overturn the Commissioner's Decision and find that the Property is a commercial use that is not allowed in the LUG-1 District, and to require The Copley Group to immediately cease and desist such commercial operation at the Property.

Exhibit A

NANTUCKET VACATION RENTALS

SHARE THESE RESULTS

		Min Beds
Arrival		Departure



Google

(<https://maps.google.com/maps?ll=41.267173,-70.092625&z=13&t=m&hl=en-US&gl=US&mapclient=apiv3>)

Map data ©2022



38 PLEASANT STREET

([https://www.thecopleygroupnantucket.com/nantucket-](https://www.thecopleygroupnantucket.com/nantucket-132)

VACATION-RENTALS/38-PLEASANT-STREET)

6 Bedrooms 5.5 Bathrooms 12 Guests

Air Condition

Concierge

Spa/Jacuzzi

Outdoor Shower



26 PLEASANT STREET

([HTTPS://WWW.THECOPLEYGROUPNANTUCKET.COM/NANTUCKET-VACATION-RENTALS/26-PLEASANT-STREET](https://www.thecopleygroupnantucket.com/nantucket-vacation-rentals/26-pleasant-street))

5 Bedrooms 5.5 Bathrooms 12 Guests

Air Condition

Heated Pool

Concierge

Spa/Jacuzzi



27 NORTH BEACH STREET

([HTTPS://WWW.THECOPLEYGROUPNANTUCKET.COM/NANTUCKET-VACATION-RENTALS/27-NORTH-BEACH-STREET](https://www.thecopleygroupnantucket.com/nantucket-vacation-rentals/27-north-beach-street))

4 Bedrooms 2 Bathrooms 8 Guests

Air Condition

Concierge

Outdoor Shower

Yard



13A WESTERN AVENUE

([HTTPS://WWW.THECOPLEYGROUPNANTUCKET.COM/NANTUCKET-VACATION-RENTALS/13A-WESTERN-AVENUE](https://www.thecopleygroupnantucket.com/nantucket-vacation-rentals/13a-western-avenue))

4 Bedrooms 4 Bathrooms 8 Guests

Water View

Concierge

Air Condition

Outdoor Shower



13B WESTERN AVENUE

([HTTPS://WWW.THECOPLEYGROUPNANTUCKET.COM/NANTUCKET-VACATION-RENTALS/13B-WESTERN-AVENUE](https://www.thecopleygroupnantucket.com/nantucket-vacation-rentals/13b-western-avenue))

4 Bedrooms 4 Bathrooms 8 Guests

Water View

Concierge

Air Condition

Outdoor Shower



32 MONOMOY ROAD

([HTTPS://WWW.THECOPLEYGROUPNANTUCKET.COM/NANTUCKET-VACATION-RENTALS/32-MONOMOY-ROAD](https://www.thecopleygroupnantucket.com/nantucket-vacation-rentals/32-monomoy-road))

6 Bedrooms 6 Bathrooms 12 Guests

Water View

Concierge

Air Condition

Outdoor Shower



27 UNION STREET

([HTTPS://WWW.THECOPLEYGROUPNANTUCKET.COM/NANTUCKET-VACATION-RENTALS/27-UNION-STREET](https://www.thecopleygroupnantucket.com/nantucket-vacation-rentals/27-union-street))

5 Bedrooms 5.5 Bathrooms 10 Guests

Concierge

Air Condition

Outdoor Shower

Beach Chairs



59 ORANGE STREET

([HTTPS://WWW.THECOPLEYGROUPNANTUCKET.COM/NANTUCKET-VACATION-RENTALS/59-ORANGE-STREET](https://www.thecopleygroupnantucket.com/nantucket-vacation-rentals/59-orange-street))

5 Bedrooms 5 Bathrooms 10 Guests

Concierge

Air Condition

Outdoor Shower

Beach Chairs



1 DOLPHIN COURT

([HTTPS://WWW.THECOPLEYGROUPNANTUCKET.COM/NANTUCKET-VACATION-RENTALS/1-DOLPHIN-COURT](https://www.thecopleygroupnantucket.com/nantucket-vacation-rentals/1-dolphin-court))

5 Bedrooms 5.5 Bathrooms 10 Guests

Concierge

Air Condition

Outdoor Shower

Yard



17 LILY STREET

([HTTPS://WWW.THECOPLEYGROUPNANTUCKET.COM/NANTUCKET-VACATION-RENTALS/17-LILY-STREET](https://www.thecopleygroupnantucket.com/nantucket-vacation-rentals/17-lily-street))

4 Bedrooms 4.5 Bathrooms 9 Guests

Concierge
Air Condition
Spa/Jacuzzi
Outdoor Shower



27 1/2 NORTH BEACH STREET
([HTTPS://WWW.THECOPLEYGROUPNANTUCKET.COM/NANTUCKET-VACATION-RENTALS/27-12-NORTH-BEACH-STREET](https://www.thecopleygroupnantucket.com/nantucket-vacation-rentals/27-12-north-beach-street))

3 Bedrooms 2 Bathrooms 6 Guests

Air Condition
Concierge
Outdoor Shower
Yard



32 NONANTUM AVENUE

([HTTPS://WWW.THECOPLEYGROUPNANTUCKET.COM/NANTUCKET-VACATION-RENTALS/32-NONANTUM-AVENUE](https://www.thecopleygroupnantucket.com/nantucket-vacation-rentals/32-nonantum-avenue))

6 Bedrooms 7 Bathrooms 12 Guests

Heated Pool

Water View

Concierge

Air Condition



CONTACT US (/CONTACT-US)

The Copley Group Nantucket

PO Box 463

Nantucket, MA 02554

Phone: [\(508\) 901-9877 \(tel:5089019877\)](tel:5089019877)

Email: guestservice@thecopleygroup.com (<mailto:guestservice@thecopleygroup.com>)

QUICK LINKS

[Property Search \(/nantucket-vacation-rentals\)](/nantucket-vacation-rentals)

[About Us \(/about-us\)](/about-us)

[Things To Do \(/things-to-do\)](/things-to-do)

[Privacy Policy \(/privacy-policy\)](/privacy-policy)

[Site Map \(/sitemap\)](/sitemap)

[Home \(/\)](/)

FIND PROPERTY BY NAME

- Choose -

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COMPLIMENTARY CONCIERGE SERVICES

Named "Best Island in the World" by National Geographic and ranked in the top 10 by Travel and Leisure, Nantucket has a rich history, a vibrant social scene, and beautiful beaches (things-to-do/entertainment/beaches). When you book one of our Nantucket rentals (nantucket-vacation-rentals), you have access to our expert knowledge of the island and the best things to do (things-to-do) here.

We're happy to impart our first-hand knowledge of the island and help you plan exciting activities while you're staying with us. There are many historical landmarks to visit, museums to browse, delicious things to eat (things-to-do/dining) and interesting walking tours to participate in year-round.

Please reach out to us and let us know what your needs are, in advance of your arrival, so that your time with us is the most enjoyable and memorable it can be.

CONTACT THE COPLEY GROUP NANTUCKET (/CONTACT-US)

Discover Nantucket's Iconic Luxuries



REFERRALS

Whether it is your first visit to Nantucket, or you are returning for your 20th summer, we can refer you to the best spots and activities in Nantucket. Ask us about:

Restaurants

Outings such as fishing trips, scenic tours, bike rides, hikes, etc.

Family and kids activities

Baby equipment rentals

Private chefs

and more...

BROWSE OUR NANTUCKET RENTALS TODAY
([HTTPS://WWW.THECOPLEYGROUPNANTUCKET.COM/NANTUCKET-VACATION-RENTALS](https://www.thecopleygroupnantucket.com/nantucket-vacation-rentals))

PLAN YOUR STAY WITH THE COPLEY GROUP NANTUCKET



<https://www.thecopleygrouppnantucket.com/getting-to-nantucket>

GETTING TO NANTUCKET

<https://www.thecopleygrouppnantucket.com/getting-to-nantucket>



<https://www.thecopleygrouppnantucket.com/events>

EVENTS & FESTIVALS

<https://www.thecopleygrouppnantucket.com/events>



(<https://www.thecopleygroupnantucket.com/things-to-do>)

ACTIVITIES & ATTRACTIONS

(<https://www.thecopleygroupnantucket.com/things-to-do>)



(<https://www.thecopleygroupnantucket.com/nantucket-vacation-rentals>)

LUXURY RENTALS

(<https://www.thecopleygroupnantucket.com/nantucket-vacation-rentals>)



(<https://www.thecopleygroupnantucket.com/about-us>) ▲

ABOUT US

(<https://www.thecopleygroupnantucket.com/about-us>)



CONTACT US

<https://www.thecopleygroupnantucket.com/contact-us>

REFINE SEARCH

Arrival

Departure

SUBMIT



CONTACT US (/CONTACT-US)

The Copley Group Nantucket
PO Box 463
Nantucket, MA 02554

Phone: [\(508\) 901-9877 \(tel:5089019877\)](tel:5089019877)

Email: guestservice@thecopleygroup.com (<mailto:guestservice@thecopleygroup.com>)

QUICK LINKS

- [Property Search \(/nantucket-vacation-rentals\)](/nantucket-vacation-rentals)
- [About Us \(/about-us\)](/about-us)
- [Things To Do \(/things-to-do\)](/things-to-do)
- [Privacy Policy \(/privacy-policy\)](/privacy-policy)
- [Site Map \(/sitemap\)](/sitemap)
- [Home \(/\)](/)

FIND PROPERTY BY NAME

- Choose -

Exhibit B

32 MONOMOY ROAD

6 BR | 6 BA | 12 Guests

Add Favorite

✎ [Request info](#)

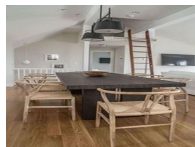
(<https://www.thecopleygroupnantucket.com/vacation-rental-inquiry?>

[inquiry_properties=73&url=https%3A//www.thecopleygroupnantucket.com/nantucket-vacation-rentals/32-monomoy-road](https://www.thecopleygroupnantucket.com/nantucket-vacation-rentals/32-monomoy-road))

[Share this Listing](#)

[IMAGES](#)

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Arrival	Departure
Promo Code	

Search Availability

Featured Amenities

- Water View
- Concierge
- Air Condition
- Outdoor Shower
- Yard
- Beach Chairs
- Beach Towels
- Patio

Description

Amenities

Rates

Availability

The Copley Group's Nantucket Collection homes are available for rent year-round. A one-week minimum rental- from Saturday to Saturday- is required during the summer high season. During non-peak season we have a three-night minimum stay requirement. For nightly rates during the shoulder and off-season please call or email us directly.

Any rates that are listed below are subject to change and should not be considered price quotes.

#	Night Available	#	Night Unavailable	#	Arrive Only	#	Depart Only
---	-----------------	---	-------------------	---	-------------	---	-------------

November 2022 - June 2023

[Location](#)



CONTACT US (/CONTACT-US)

The Copley Group Nantucket

PO Box 463

Nantucket, MA 02554

Phone: (508) 901-9877 (tel:5089019877)

Email: guestservice@thecopleygroup.com (mailto:guestservice@thecopleygroup.com)

QUICK LINKS

[Property Search \(/nantucket-vacation-rentals\)](#)

[About Us \(/about-us\)](#)

[Things To Do \(/things-to-do\)](#)

[Privacy Policy \(/privacy-policy\)](#)

[Site Map \(/sitemap\)](#)

[Home \(/\)](#)

FIND PROPERTY BY NAME

- Choose -

GO

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32 Monomoy Road, Nantucket MA



26 Photos of 32 Monomoy Road, Nantucket MA

RENTAL

65112

BEDROOMSBATHROOMSHALF BATHSSLEEPS

MONOMOYAREA

This property features extraordinary views of Nantucket Harbor and town. An upside down house, it has six bedrooms and five and one-half baths on three levels: there are two king bedrooms on the lower level; three bedrooms (two king and one queen) on the first floor and one bedroom (master suite, king) on the second level. Additionally, this stunning property features three living areas, a large deck, a gourmet kitchen - and is beautifully and fully appointed in a contemporary style.

Show More

Rates and Availability

*Published rates do not include local & state taxes. Current state tax is 5.7% and current local tax is 6%. These taxes are both subject to change.

**Availability & rates are subject to change. Please contact Maury People Sotheby's International Realty to confirm.

15

= Available

45

= Unavailable

	June 2023							
Su	Mo	Tu	We	Th	Fr	Sa	Week	Rate
28	29	30	31	1	2	3	May, 27, 2023 to June, 3, 2023	\$15000
4	5	6	7	8	9	10	June, 3, 2023 to June, 10, 2023	\$18000
11	12	13	14	15	16	17	June, 10, 2023 to June, 17, 2023	\$18000
18	19	20	21	22	23	24	June, 17, 2023 to June, 24, 2023	\$20000
25	26	27	28	29	30	1	June, 24, 2023 to July, 1, 2023	\$20000
July 2023								
	Mo	Tu	We	Th	Fr	Sa	Week	Rate

25	26	27	28	29	30	1	June, 24, 2023 to July, 1, 2023	\$20000
2	3	4	5	6	7	8	July, 1, 2023 to July, 8, 2023	\$20000
9	10	11	12	13	14	15	July, 8, 2023 to July, 15, 2023	\$20000
16	17	18	19	20	21	22	July, 15, 2023 to July, 22, 2023	\$20000
23	24	25	26	27	28	29	July, 22, 2023 to July, 29, 2023	\$20000
30	31	1	2	3	4	5	July, 29, 2023 to August, 5, 2023	\$20000

August 2023

Su	Mo	Tu	We	Th	Fr	Sa	Week	Rate
30	31	1	2	3	4	5	July, 29, 2023 to August, 5, 2023	\$20000
6	7	8	9	10	11	12	August, 5, 2023 to August, 12, 2023	\$20000
13	14	15	16	17	18	19	August, 12, 2023 to August, 19, 2023	\$22000
20	21	22	23	24	25	26	August, 19, 2023 to August, 26, 2023	\$22000
27	28	29	30	31	1	2	August, 26, 2023 to September, 2, 2023	\$22000

Today

32 Monomoy Road, Nantucket MA

RENTAL

6

BEDROOMS

5

BATHROOMS

1

HALF BATHS

12

SLEEPS

MONOMOY

AREA

This property features extraordinary views of Nantucket Harbor and town. An upside down house, it has six bedrooms and five and one-half baths on three levels: there are two king bedrooms on the lower level; three bedrooms (two king and one queen) on the first floor and one bedroom (master suite, king) on the second level. Additionally, this stunning property features three living areas, a large deck, a gourmet kitchen - and is beautifully and fully appointed in a contemporary style.

Show More

Rates and Availability

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**Availability & rates are subject to change. Please contact Maury People Sotheby's International Realty to confirm.

15 = Available

45 = Unavailable

	September 2023							
Su	Mo	Tu	We	Th	Fr	Sa	Week	Rate
27	28	29	30	31	1	2	August, 26, 2023 to September 2, 2023	\$22000
3	4	5	6	7	8	9	September 2, 2023 to September 9, 2023	\$18000
10	11	12	13	14	15	16	September 9, 2023 to September 16, 2023	\$18000
17	18	19	20	21	22	23	September 16, 2023 to September 23, 2023	\$18000
24	25	26	27	28	29	30	September 23, 2023 to September 30, 2023	\$18000
October 2023								

32 Monomoy Road, Nantucket MA

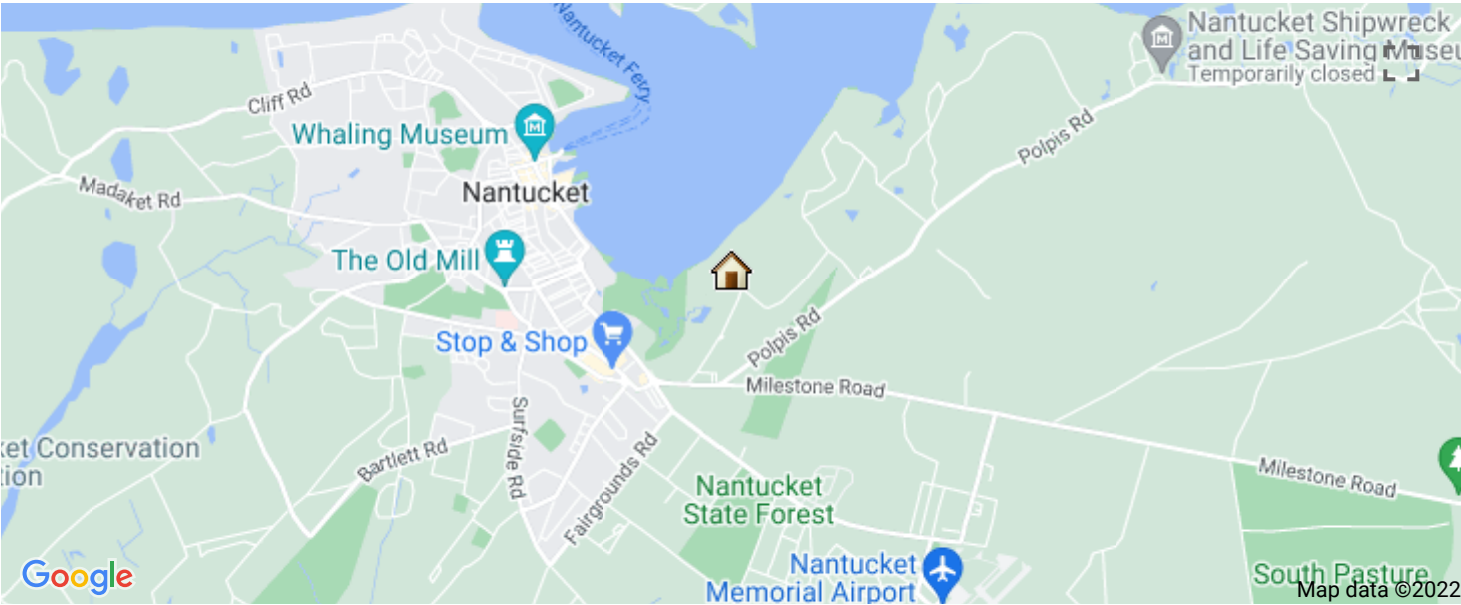
Su	Mo	Tu	We	Th	Fr	Sa	Week	Rate
1	2	3	4	5	6	7	September, 30, 2023 to October, 7, 2023	\$13500
8	9	10	11	12	13	14	October, 7, 2023 to October, 14, 2023	\$10000
15	16	17	18	19	20	21	October, 14, 2023 to October, 21, 2023	\$10000
22	23	24	25	26	27	28	October, 21, 2023 to October, 28, 2023	\$10000
29	30	31	1	2	3	4	October, 28, 2023 to November, 4, 2023	\$8000

November 2023

Su	Mo	Tu	We	Th	Fr	Sa	Week	Rate
29	30	31	1	2	3	4	October, 28, 2023 to November, 4, 2023	\$8000
5	6	7	8	9	10	11	November, 4, 2023 to November, 11, 2023	\$8000
12	13	14	15	16	17	18	November, 11, 2023 to November, 18, 2023	\$8000
19	20	21	22	23	24	25	November, 18, 2023 to November, 25, 2023	\$5500
26	27	28	29	30	1	2	November, 25, 2023 to December, 2, 2023	\$5500

Today

Map



Inquire About 32 Monomoy Road

Fill out the form below to request more information.

Your Name (required)

Your Email (required)

Contact Preference

Special Requests or Comments (required)

Sign up for email alerts? ☒

Phone

Evening Phone

Contact Time

☐ Send a copy of this request to my email

Send Inquiry

Share and Save 32 Monomoy Road



Maury People Sotheby's International Realty

37 Main Street, Nantucket, MA 02554 | (508) 228-1881 info@maurypeople.com



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Exhibit C

32 MONOMOY RD

Location 32 MONOMOY RD

Mblu 54/ / 242/ /

Acct# 00003102

Owner COPLEY MONOMOY LLC

Assessment \$2,584,400

PID 3102

Building Count 1

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2022	\$1,213,400	\$1,371,000	\$2,584,400

Owner of Record

Owner COPLEY MONOMOY LLC
Co-Owner
Address 896 BEACON STREET
BOSTON, MA 02215

Sale Price \$2,025,000
Certificate
Book & Page C0025823/0
Sale Date 10/16/2015
Instrument 00

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
COPLEY MONOMOY LLC	\$2,025,000		C0025823/0	00	10/16/2015
FULLER WILLIAM R TRST	\$0		C0023540/0	99	05/11/2010
FULLER WILLIAM	\$2,375,000		C0021668/0	1O	02/16/2005
MURPHY KENT J & LINDA J TRST	\$1,050,000		C0031315/0	1P	07/06/2004
KNIGHT CHARLOTTE ETHELIND	\$0		C0007/0307		12/01/1974

Building Information

Building 1 : Section 1

Year Built: 2004
Living Area: 3,704
Replacement Cost: \$1,257,419
Building Percent Good: 96
Replacement Cost
Less Depreciation: \$1,207,100

Building Attributes	
Field	Description
Style	Cape Cod
Model	Residential
Grade:	Good
Stories:	1.75
Occupancy	1
Exterior Wall 1	Wood Shingle
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Wood Shingle
Interior Wall 1	Plastered
Interior Wall 2	
Interior Flr 1	Hardwood
Interior Flr 2	
Heat Fuel	Gas
Heat Type:	Forced Air-Duc
AC Type:	Central
Total Bedrooms:	6
Total Bthrms:	5
Total Half Baths:	1
Total Xtra Fixtrs:	
Total Rooms:	
Bath Style:	Modern
Kitchen Style:	Luxurious
Num Kitchens	
Cndtn	
Num Park	
Fireplaces	

Building Photo



(<https://images.vgsi.com/photos/NantucketMAPotos//00\03\43\52.jpg>)

Building Layout



(https://images.vgsi.com/photos/NantucketMAPotos//Sketches/3102_364)

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	1,512	1,512
TQS	Three Quarter Story	1,512	1,134
FBM	Basement, Finished	1,512	1,058
FOP	Porch, Open, Finished	756	0
WDK	Deck, Wood	632	0
		5,924	3,704

Extra Features

Extra Features				Legend
Code	Description	Size	Value	Bldg #
FPL3	2 STORY CHIM	1.00 UNITS	\$4,000	1
FPO	EXTRA FPL OPEN	2.00 UNITS	\$2,300	1

Land

Land Use		Land Line Valuation	
Use Code	1010	Size (Acres)	0.15
Description	Single Fam M01	Frontage	0
Zone	LUG1	Depth	0
Neighborhood	850	Assessed Value	\$1,371,000
Alt Land Appr Category	No		

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2022	\$1,213,400	\$1,371,000	\$2,584,400
2021	\$1,184,400	\$1,262,800	\$2,447,200
2020	\$1,184,400	\$1,262,800	\$2,447,200
2018	\$894,900	\$1,262,800	\$2,157,700
2017	\$894,900	\$1,262,800	\$2,157,700

Addendum C

ANDERSON KREIGER

Nina Pickering-Cook
pickering@andersonkreiger.com
t: 617.621.6536

October 18, 2022

VIA EMAIL

Marcus Silverstein, Zoning Compliance Coordinator
Town of Nantucket
2 Fairgrounds Road
Nantucket, MA 02554
msilverstein@nantucket-ma.gov

Re: ***Request for Zoning Enforcement at 32 Monomoy Road, Nantucket***

Dear Mr. Silverstein:

I am writing on behalf of my clients Jeff McDermott of 38 Monomoy Road, Matthew Westfall of 30 Monomoy Road, Stephen Ketchum of 34 Monomoy Road, Bob Landreth and Deborah Landreth, both of 4 Berkeley Avenue, and Mark Wilmot of 33 & 35 Monomoy Road, (collectively, the “Requestors”), to request zoning enforcement against a neighboring property located at 32 Monomoy Road and owned by Copley Monomoy, LLC (managed by Copley Management & Development Corp.) (“32 Monomoy”).

Based on public advertising (attached as Exhibit 1 and available at <https://www.thecopleygroupnantucket.com/nantucket-vacation-rentals/32-monomoy-road>) and personal experience as its neighbors, the STR Property is being used exclusively as a short-term rental (“STR”).¹ 32 Monomoy Road’s use as an STR is a commercial use. Where 32 Monomoy is located in the LUG-1 District, which permits only residential uses, its use as a commercial property is prohibited. Although it may appear to be a single family home from the outside, the 32 Monomoy is not being used for any lawful residential use under the Nantucket Zoning Bylaw.

As a result, my clients are requesting, pursuant to G.L. c. 40A, § 7 and Nantucket Zoning Bylaw § 139-25, that the Town, acting through your office, issue a cease and desist of commercial use of 32 Monomoy. My clients look forward to seeing their neighboring property return to single family residential use and to the permanent housing stock for the Island.

¹ Although there is no definition for this use in the Nantucket Zoning Bylaw, G.L. c. 64G, §1 defines it as “an owner-occupied, tenant-occupied or non-owner occupied property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such.

Please respond as required under Nantucket Zoning Bylaw § 139-25(B)(1). If needed, I would be happy to provide more information specific as to the STR use of 32 Monomoy (at least to the extent it is publicly available) and how it qualifies as a commercial use. I can be reached at the phone and email listed above. Thank you for your consideration of this important issue.

Sincerely,



Nina Pickering- Cook

cc: Clients
Nantucket Building Commissioner

EXHIBIT 1

32 Monomoy Road - Nantucket

theconomygroupnantucket.com/nantucket-vacation-rentals/32-monomoy-road

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32 MONOMOY ROAD
6 BR /6 BA /12 Guests

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VIDEO

SEARCH AVAILABILITY

Arrival:
Departure:
Promo Code:
Search Availability

Featured Amenities

- Water View
- Concierge
- Air Condition
- Outdoor Shower
- Yard
- Beach Chairs
- Beach Towels
- Patio

32 Monomoy Road - Nantucket
theconomygroupnantucket.com/nantucket-vacation-rentals/32-monomoy-road

DESCRIPTION
AMENITIES
RATES
AVAILABILITY
LOCATION

The Copley Group's Nantucket Collection homes are available for rent year-round. A one-week minimum rental- from Saturday to Saturday- is required during the summer high season. During non-peak season we have a three-night minimum stay requirement. For nightly rates during the shoulder and off-season please call or email us directly.

Any rates that are listed below are subject to change and should not be considered price quotes.

Night Available
Night Unavailable
Arrive Only
Depart Only

October 2022 - May 2023

October 2022

Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

November 2022

Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

December 2022

Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

January 2023

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

February 2023

Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4				
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

March 2023

Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

April 2023

Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

May 2023

Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6		
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Addendum D

ARTICLE I Purpose; Definitions

§ 139-1. Purpose.

To promote the health, safety, convenience, morals and general welfare of its inhabitants, to lessen the danger from fire and congestion and to improve the Town under the provisions of the State Zoning Act, MGL c. 40A, the use, construction, repair, alteration and height of buildings and structures and the use of land and the size and shape of lots in the Town of Nantucket are hereby restricted and regulated as hereinafter provided.

§ 139-2. Definitions and word usage.

- A. Definitions. In this Zoning Bylaw, Chapter 139 of the Nantucket Code, the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings:

ACCESSORY DWELLING — A dwelling unit located within an owner-occupied single-family building. The exterior architectural design and use of an accessory dwelling shall be harmonious with the appearance and use of the structure as the owner's home. The gross floor area of the accessory dwelling shall not be more than the gross floor area of the primary dwelling and not greater than 550 square feet. The accessory dwelling shall be self-contained with separate sleeping, cooking and sanitary facilities for the exclusive use of the occupant. The structure containing the primary dwelling and accessory dwelling shall be in single ownership, and one of the units shall be owner-occupied. **[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; amended 4-6-2015 ATM by Art. 61, AG approval 8-5-2015]**

ACCESSORY USES — Separate structures, buildings or uses which are subordinate and customarily incidental to a principal structure, building or use located on the same lot. ¹ **[Amended 4-6-2015 ATM by Art. 64, AG approval 8-5-2015]**

ADULT ON-SITE MARIJUANA SOCIAL CONSUMPTION OPERATOR — A marijuana retailer where consumers are permitted to consume marijuana and marijuana products on its

1. Editor's Note: The former definition of "affordable unit" which immediately followed this definition, was replaced by the definition of "inclusionary unit," which is included in its proper alphabetical sequence.

premises[**Added 10-10-2018 STM by Art. 1, AG approval 8-6-2019**]

ADULT USES — All uses as described and defined in MGL c. 40A, § 9A, as may be amended from time to time to include: Any establishment which has 10% of its stock-in-trade on hand; whose sales, including rentals from such a portion of stock equals or exceeds 10% of monthly sales; or has 10% or greater floor area open to and observable by customers used for the display or storage of adult-oriented material, or as presentation time of live or recorded performances, shall be defined as an adult use. Adult uses are subject to the following standards:[**Added 4-10-2002 ATM by Art. 41, AG approval 7-31-2002; amended 4-6-2015 ATM by Art. 64, AG approval 8-5-2015; 4-2-2016 ATM by Art. 58, AG approval 7-12-2016**]

- (1) Adult uses shall be located in stand-alone facilities and shall not be allowed within a building or structure containing other retail, commercial, residential, industrial or other uses.
- (2) A minimum separation of 300 feet, measured between lot lines, is required between adult uses and state-certified public or private schools or state-licensed day-care centers.

AFFORDABLE HOUSING — Dwelling units restricted to occupancy by families with annual incomes less than 150% of the median annual household income for Nantucket County as determined by the most recent calculation of the U.S. Department of Housing and Urban Development.[**Added 4-12-1994 ATM by Art. 48, AG approval 4-29-1994; amended 4-8-2008 ATM by Art. 57, AG approval 8-18-2008; 4-6-2015 ATM by Art. 64, AG approval 8-5-2015**]

AGRICULTURE — The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary uses for packing, treating and storing the produce.

ALCOHOLIC BEVERAGE SALES — A facility for the retail sale of beer, wine, or other alcoholic beverages for off-premises consumption.[**Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008**]

ALTERATION — Any change in size, shape or use of a building or structure.

ANIMAL FEEDLOT — Land on which 25 or more livestock per acre are kept for the purpose of feeding.

APARTMENT — A dwelling unit located within a commercial structure or detached structures on the same lot with a commercial use. An apartment(s) shall not occupy more than 50% of the first floor area. The Planning Board may by special permit waive this requirement based on a finding that the commercial character of the area will not be negatively impacted by the location of a dwelling unit on the first floor of the commercial structure. A maximum of four apartments are allowed by right in certain districts, subject to the dimensional requirements set forth below. The Planning Board may issue a special permit to allow more than four apartments on larger lots, provided that: (1) the overall number of units shall not exceed the density set forth in the schedule below; and (2) the applicant shall demonstrate through submission of a dimensioned lotting plan that the subject property could be divided into multiple lots pursuant to a conventional subdivision plan without requiring waivers from the Planning Board's Rules and Regulations Governing the Subdivision of Land (as in effect at the time of application):**[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; amended 4-2-2013 ATM by Art. 30, AG approval 7-26-2013; 4-5-2014 ATM by Art. 66, AG approval 5-7-2014; 4-6-2015 ATM by Art. 64, AG approval 8-5-2015; 11-6-2017 STM by Art. 20, AG approval 2-26-2018]**

- (1) CDT — one dwelling unit is permitted for each 1,000 square feet of lot area.
- (2) CMI — one dwelling unit is permitted for each 2,000 square feet of lot area.
- (3) CN — one dwelling unit is permitted for each 3,000 square feet of lot area.
- (4) CTEC — one dwelling unit is permitted for each 4,000 square feet of lot area.
- (5) CI — one dwelling unit is permitted for each 5,000 square feet of lot area.

APARTMENT BUILDING(S) — A structure or structures containing a maximum of up to eight bedrooms in up to six dwelling units on a single lot, or an equivalent density, through the issuance of a special permit granted by the Planning Board, for a project, comprised of one or more parcels of land in the same ownership or control, that could be divided into multiple lots on a conventional subdivision plan meeting all dimensional and upland requirements of the bylaw and consistent with the

Rules and Regulations Governing the Subdivision of Land, as may be amended by the Planning Board from time to time, as demonstrated by the submission of a dimensioned lotting plan, with no commercial or other uses, shall be allowed in the following districts:**[Added 4-5-2014 ATM by Art. 68, AG approval 5-7-2014; amended 4-2-2016 ATM by Arts. 36, 60, AG approval 7-12-2016; 11-6-2017 STM by Art. 20, AG approval 2-26-2018]**

- (1) CN/VN — one dwelling unit is permitted for each 2,500 square feet of lot area.
- (2) CMI — One dwelling unit is permitted for each 1,250 square feet of lot area.

The Planning Board shall be the special permit granting authority.

AQUIFER — A geological formation that stores and transmits significant quantities of recoverable water.

ARCADE — A place or facility where any electric or electronic machine, such as pinball or other similar electronic games, is played for amusement only. Shall not be construed so as to include bingo games, juke boxes, children's mechanical rides (e.g., horses, rocket ships), or machines that sell merchandise nor shall it be construed so as to include gambling devices or any other devices prohibited by law.²**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

AUTOMOBILE SERVICE STATION — Any building, structure or land used primarily for the dispersal, sale, or offering for sale of automotive fuels, oils or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories, but not including major repair work, such as motor replacement or rebuilding, body and fender repair, or painting.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

AVERAGE MEAN GRADE — **[Added 4-12-1994 ATM by Art. 55, AG approval 4-29-1994]**

- (1) Average mean grade shall be the average of the mean grades established along the median grade line. There shall be only

2. Editor's Note: The former definition of "assisted-independent-living community," added 4-10-2000 ATM by Art. 27, AG approval 8-2-2000, which immediately followed this definition, was repealed 9-21-2009 STM by Art. 16, AG approval 12-11-2009.

one average mean grade for each continuous median grade line.

- (2) Where a side does not have continuous existing and/or finish grade lines, caused by retaining walls or horizontal breaks created by setbacks or protrusions, the average mean grade shall be the average of separately calculated average mean grades for each separate continuous median grade line and shall be proportional to the horizontal length of each continuous median grade line.

BAKERY — An establishment primarily engaged in the retail sale of baked goods for off-site consumption. A bakery may include, as an accessory use, wholesale distribution of goods prepared on the site.³**[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; amended 11-6-2017 STM by Art. 18, AG approval 2-26-2018]**

BUILDING — A structure forming a shelter for persons, animals or property and having a roof. Where the context allows, the word "building" shall be construed as though followed by the words "or part thereof."

BUILDING AND STRUCTURE HEIGHT — **[Added 4-12-1994 ATM by Art. 55, AG approval 4-29-1994; amended 4-12-1999 ATM by Art. 30, AG approval 8-10-1999; 4-2-2016 ATM by Art. 60, AG approval 7-12-2016]**

- (1) The height of the building or structure shall be established for each side.
- (2) There shall only be one highest point for each building or structure.
- (3) No one building and/or structure side shall exceed 32 feet, except in the CDT and CMI Districts, or as otherwise permitted.
- (4) Where a side does not have continuous existing and/or finish grade lines, the average mean grade shall be the average of separately calculated average mean grades of each separate continuous median grade line.

BUILDING, DETACHED — A building surrounded by an open space on the same lot.

3. Editor's Note: The definition of "breezeway," as amended, which immediately followed this definition, was repealed 11-6-2017 STM by Art. 18, AG approval 2-26-2018.

BUILDING ENVELOPE — The sole area on a lot, less than allowed by applicable setback requirements, for the placement of a building or other structures. **[Added 11-13-1990 STM by Art. 19, AG approval 3-19-1991]**

BUILDING COMMISSIONER — The chief official of the Town of Nantucket who is responsible for the administration and enforcement of Code of Massachusetts Regulations 780, State Board Building Regulations and Standards. **[Added 4-10-2000 ATM by Art. 36, AG approval 8-2-2000; amended 4-2-2016 ATM by Art. 60, AG approval 7-12-2016]**

BUILDING INSPECTOR — The Building Commissioner, or his/her designee, otherwise referred to in this chapter as the "Inspector of Buildings." **[Amended 4-10-2000 ATM by Art. 46, AG approval 8-2-2000]**

BUILDING, PRINCIPAL — A nonaccessory building on a lot in which a principal use is conducted.

BULK MERCHANDISE RETAIL — The sale of goods that require a large amount of floor space and which involves goods both warehoused and retailed at the same location. Items for sale include large, categorized products such as household appliances, furniture, construction and lawn equipment, electrical and heating fixtures and supplies, plumbing fixtures and supplies.⁴ **[Added 4-2-2013 ATM by Art. 30, AG approval 7-26-2013]**

CATERING SERVICE — An establishment in which food, meals, and incidental services are prepared and then delivered to another location for consumption. **[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

CLINIC, MEDICAL OR DENTAL — Offices organized as a unified facility by one or more physicians, dentists, chiropractors or other licensed practitioners to provide medical or dental treatment and examination, but not including bed-patient care. **[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

CLUB — Buildings and facilities, owned or operated by a corporation, association, person or persons, for a social, educational, or recreational purpose, to which membership is required for participation and not primarily operated for profit nor to render a service that is customarily carried on as a

4. Editor's Note: The definition of "capital improvements," which immediately followed this definition, was repealed 4-6-2015 ATM by Art. 64, AG approval 8-5-2015.

business.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

COMMERCIAL — As in a trade, occupation, or business, including a transient residential facility, but excluding governmental, religious or private residential uses.

COMMERCIAL WECS — A WECS designed or operated to provide energy principally to consumers located off the premises and does not meet the requirements established for a residential WECS.

CONSTRUCT — To build, erect or assemble. ⁵

CONTRACTORS SHOP — An establishment used for the indoor repair, maintenance, or storage of a contractor's vehicles, equipment, or materials, and may include the contractor's business office but which does not use any exterior storage area.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

CONVENIENCE STORE — A retail store offering for sale groceries and household items intended for the convenience of the neighborhood with a floor area of less than 2,500 square feet; does not include automotive service stations or vehicle repair shops.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

COUNTRY OVERLAY DISTRICT — The overlay district described in § 139-12F.⁶**[Added 4-9-2002 ATM by Art. 37, AG approval 7-31-2002]**

DAY-CARE CENTER — Any institution or place which receives for temporary custody, separate and apart from their parents, five or more children not of common parentage, under seven years of age, during part or all of the day, with or without stated educational purposes.

DISPOSAL — Any discharge, deposit, injection, dumping, spilling, leaking or placing so that waste may enter ground or surface water.

DOCK or PIER or WHARF — Each such word shall mean the same for purposes of this chapter, and shall be used interchangeably, either singularly or in the plural, in the conjunctive or in the

5. Editor's Note: The definition of "construction," which immediately followed this definition, was repealed 4-6-2011 ATM by Art. 64, AG approval 9-15-2011.

6. Editor's Note: The definition of "CPI," which immediately followed this definition, was repealed 4-6-2011 ATM by Art. 64, AG approval 9-15-2011, and the definition of "customary home occupation," which immediately followed was repealed 1-8-2001 STM by Art. 5, AG approval 4-10-2001. See now the definition of "home occupation."

disjunctive, and shall mean any structure, floating or fixed, attached or adjacent to land, and placed in or and extending into coastal inland waters (in the case of tidal waters, seaward of the mean high tide line) which is designed, or is suitable for use, for access to vessels, or for swimming or any other similar recreational, commercial, or educational purpose.⁷**[Added 4-10-2000 ATM by Art. 30, AG approval 8-2-2000]**

DRIVEWAY ACCESS — A vehicular access point onto any public way, private way or any way customarily used by the public for purposes for which a public way is generally used in the Town or County of Nantucket.⁸ **[Added 4-9-2001 ATM by Art. 27, AG approval 8-2-2001]**

DUPLEX — A structure containing two dwelling units, but not including primary dwelling with an accessory dwelling unit or tertiary dwelling unit contained therein. In the R-1 District only, both dwelling units shall be in the same ownership. A duplex shall not be construed to include a primary dwelling and secondary dwelling as defined in this chapter.**[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; amended 4-6-2015 ATM by Art. 64, AG approval 8-5-2015; 11-6-2017 STM by Art. 18, AG approval 2-26-2018]**

DWELLING UNIT — A room or enclosed floor space used, or to be used, as a habitable unit for one family or household, with facilities for sleeping, cooking and sanitation.

ELDER HOUSING FACILITIES — One or more structures used for independent living, assisted living, skilled nursing care, hospice care, and other long-term residential care for persons 55 or older or the disabled. Such structures may be detached dwelling units, attached dwelling units, integrated dwelling units, and/or multiple-bedroom long-term care facilities, as well as associated and ancillary facilities and services.**[Added 4-10-2000 ATM by Art. 27, AG approval 8-2-2000; amended 9-21-2009 STM by Art. 16, AG approval 12-11-2009]**

ELIGIBLE HOUSEHOLD — A household whose total annual income is less than 150% of the median annual household income for Nantucket County as determined by the most recent calculation of the U.S. Department of Housing and Urban Development.**[Amended 11-13-1990 STM by Art. 18, AG**

7. Editor's Note: The definition of "dormitory housing," added 4-9-2001 ATM by Art. 38, AG approval 8-2-2001, which immediately followed this definition, was repealed 4-8-2008 ATM by Art. 55, AG approval 8-18-2008.

8. Editor's Note: The definition of "dwelling," which immediately followed this definition, was repealed 4-6-2009 ATM by Art. 27, AG approval 8-10-2009.

approval 3-19-1991; 4-8-2008 ATM by Art. 57, AG approval 8-18-2008]

EMPLOYER DORMITORY — A dwelling on a lot occupied by a legally permitted or nonconforming commercial or nonprofit recreational use, or on an adjoining lot under the same ownership, all located outside of the TOD in which sleeping accommodations for more than five persons are provided by one or more employers, with occupancy limited solely to their employees.**[Amended 4-10-2000 ATM by Art. 31, AG approval 8-2-2000; 4-9-2001 ATM by Art. 37, AG approval 8-2-2001; 4-9-2001 ATM by Art. 38, AG approval 8-2-2001; 4-8-2008 ATM by Art. 55, AG approval 8-18-2008; 4-2-2013 ATM by Art. 30, AG approval 7-26-2013]**

ERECT — To construct or reconstruct or excavate, fill, drain or conduct physical operations of any kind in preparation for or in pursuance of construction or reconstruction; or to move a building or structure upon a lot.

FAMILY — One or more persons occupying a dwelling unit and living as a single household.**[Amended 4-6-2015 ATM by Art. 64, AG approval 8-5-2015]**

FLOOD HAZARD DISTRICT — An overlay district to all other districts. The district includes all special flood hazard zones designated as Zone A, AH, AO, A5-8, V5-8, and the FEMA Flood Boundary and Floodway Map, all of which indicate the one-hundred-year regulatory floodplain on Nantucket's Flood Insurance Rate Map (FIRM), dated July 2, 1992, and issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). Exact boundaries are further defined by the Flood Insurance study booklet dated June 3, 1986. The FIRM, and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commissioner, and Conservation Commission. **[Added 5-4-1993 ATM by Art. 44, AG approval 5-24-1993]**

FLOOR AREA, GROSS — The sum of the areas of the several floors of the structure, as measured by the exterior faces of the walls, including fully enclosed porches and the like as measured by the exterior limits thereof, but excluding basement and cellar areas devoted exclusively to uses accessory to the operation of the structure; and areas devoted to housing mechanical equipment customarily located in the basement or cellar, such

as heating and air-conditioning equipment, plumbing, electrical equipment, and residential laundry facilities.

FOOD PROCESSING ESTABLISHMENT — Manufacturing establishments that produce or process foods for consumption. Includes: (1) bakery products, sugar and confectionery products primarily for wholesale distribution, but not including a "bakery" as herein defined; (2) dairy products processing; (3) fats and oil products (including rendering plants); (4) fruit and vegetable canning, preserving, and related processing; (5) grain mill products and by-products; (6) meat, poultry, and seafood canning, curing, and byproduct processing; and (7) distilleries.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008; amended 11-6-2017 STM by Art. 18, AG approval 2-26-2018]**

FORMULA BUSINESS — A type of retail sales establishment, restaurant, tavern, bar, or take-out food establishment which is under common ownership or control or is a franchise, and is one of 10 or more other businesses or establishments worldwide maintaining two or more of the following features:**[Added 4-4-2006 ATM by Art. 42, AG approval 10-26-2006; amended 4-2-2013 ATM by Art. 31, AG approval 7-26-2013]**

- (1) Standardized menu or standardized array of merchandise with 50% or more of in-stock merchandise from a single distributor bearing uniform markings.
- (2) Trademark or service mark, defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs, that identifies and distinguishes the source of the goods from one party from those of others, on products or as part of store design, such as cups, napkins, bags, boxes, wrappers, straws, store signs or advertising devices.
- (3) Standardized color scheme used throughout the interior or exterior of the establishment, including, but not limited to, graphics, awnings, signage, and the like visible from the exterior of the structure.
- (4) Standardized interior decor, including, but not limited to, style of furniture, wall coverings, permanent fixtures, displays, window treatments.
- (5) Standardized uniform, including but not limited to aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags).

FRONTAGE — The lineal extent of the boundary between a lot and an abutting street measured along a single street line affording legal and practical access to the lot. For a lot abutting two or more streets, frontage is measured along any single street line of the lot. Frontage shall not include jogs in street width, backup strips and other irregularities in street line, such as at a turning "T" or hammerhead turnaround or street-width change.

GARAGE — A building for covered shelter of one or more motor vehicles. A garage shall be for vehicle parking at grade, or for commercial storage, repair, washing, painting or other servicing of motor vehicles. The Planning Board shall be the special permit granting authority for residential garages serving as a primary use on a lot. **[Amended 4-2-2013 ATM by Art. 30, AG approval 7-26-2013]**

GARAGE APARTMENT — A dwelling unit located within a residential or commercial garage. The dwelling unit shall not exceed 150% of the gross floor area of the garage. If located on the same lot as a primary dwelling unit, the following requirements shall be applicable: **[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; amended 4-6-2011 ATM by Art. 64, AG approval 9-15-2011]**

- (1) Both dwelling units shall be in the same ownership unless one of the two dwelling units is subject to the NHNC. The ownership of a lot by a condominium cooperative housing corporation, land trust, or other common interest ownership entity in which there is a separate beneficial ownership of the primary dwelling and garage apartment on the lot shall not be deemed to constitute "the same legal and beneficial ownership."
- (2) The Planning Board shall make a determination regarding the adequacy of access to the lot and structures prior to the issuance of a building permit. Planning Board approvals granted after April 8, 1996, shall be valid for a period of two years from the date of plan endorsement.

GROUND COVER — The horizontal area of a lot covered at grade by structures, together with those portions of any overhangs which contain enclosed interior space; excluding, for instance, tents, retaining walls, substantially below grade finished or unfinished space, exterior insulation, decks, unenclosed porches, unenclosed roofed overhangs and connectors, entryway hoods and projections, gazebos, pergolas, play structures, platforms and steps, docks, game playing courts at grade, exterior in-

ground residential swimming pools, exterior in-ground or above grade hot tub/spas, chimneys, bulkheads, bay and bow windows, window wells, unenclosed breezeways, air conditioning units, generators and generator enclosures, mechanical and utility equipment unroofed walled enclosures, exterior showers, fuel tanks, roof eaves, trash bins, and detached sheds not exceeding 200 square feet in ground cover and 16 feet in height, as measured from the top of the slab, pier, or crawl space foundation.**[Added 4-15-2003 ATM by Art. 48, AG approval 8-27-2003; amended 4-5-2014 ATM by Art. 68, AG approval 5-7-2014; 4-6-2015 ATM by Art. 64, AG approval 8-5-2015; 11-6-2017 STM by Art. 18, AG approval 2-26-2018; 4-1-2019 ATM by Art. 49, AG approval 8-6-2019; 4-1-2019 ATM by Art. 56, AG approval 8-6-2019]**

GROUND COVER RATIO — The ground cover upon a lot divided by the area of the lot, expressed as a percentage.**[Amended 4-12-1999 ATM by Art. 29, AG approval 8-10-1999; 4-15-2003 ATM by Art. 48, AG approval 8-27-2003]**

HAZARDOUS OR TOXIC MATERIALS — Liquid hydrocarbon products, including but not limited to residual oil, gasoline, fuel oil, diesel oil and any other toxic, caustic or corrosive chemicals, radioactive materials and other substances defined as being hazardous or toxic by the Massachusetts Division of Hazardous Waste under the provisions of MGL c. 21C and c. 21E. **[Amended 5-4-1993 ATM by Art. 42, AG approval 5-24-1993]**

HEALTH SPA — A place or building where massage, beauty treatment, cosmetic procedures, and related activities take place.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

HISTORICAL HIGH WATER TABLE — The highest groundwater elevation that is likely to occur at a given location, based on calculations made in accordance with the high groundwater methodology specified in the U.S.G.S. Water Resource Investigations Circular #83-4112 by Frimpter et al., and any subsequent revisions. **[Added 4-14-1997 ATM by Art. 48, AG approval 8-18-1997]**

HOME OCCUPATION — An occupation, trade, profession, or business activity conducted as an accessory use wholly or partly within a dwelling unit or in one or more accessory structures.**[Added 1-8-2001 STM by Art. 5, AG approval 4-10-2001; amended 4-6-2009 ATM by Art. 27, AG approval 8-10-2009]**

- (1) Home occupations shall be subject to the following requirements:
 - (a) The home occupation shall be conducted by occupants of a dwelling upon the lot, and not more than one additional worker who is not an occupant of a dwelling upon the lot.
 - (b) There shall be no exterior storage of material or equipment, unless effectively screened by a wall, fence or densely planted vegetative buffer.
 - (c) The gross floor area used in connection with the home occupation shall not exceed 800 square feet, not more than 200 square feet of which shall be used for retail sales.
 - (d) The home occupation, as projected, shall not generate an average daily traffic generation during the months of June through September that exceeds 14 vehicle trips per day.
 - (e) A use permit shall be obtained from the Building Commissioner for the home occupation.
 - (f) There shall be no retail sales except of commodities prepared, crafted or otherwise produced upon the lot.
- (2) Special permit relief. A special permit may be granted by the special permit granting authority for a home occupation (including multiple home occupations upon the same lot, collectively) which employs more than one nonresident of the lot, or which conducts retail sales in a gross floor area exceeding 200 square feet, provided that all of the other requirements are met and the criteria for the granting of a special permit under § 139-30 are met, and a home occupation for which a special permit is granted hereunder shall be subject to the provisions for minor site plan review under § 139-23.⁹

HOSPITAL — A health care facility providing patient treatment with specialized staff and equipment, including, but not limited to, bed-patient care, medical testing facilities, wellness center, rehabilitation facilities, medical offices (i.e., medical clinic), and ancillary facilities customarily associated with a hospital such as a helicopter landing pad, employee housing, maintenance facilities, retail sale of convenience and gift related items, and

9. **Editor's Note: The former definition of "household," which immediately followed this definition, was repealed 4-6-2015 ATM by Art. 64, AG approval 8-5-2015.**

cafeteria and food services. A hospital shall be exempt from § 139-11.**[Added 4-6-2015 ATM by Art. 70, AG approval 8-5-2015]**

HOT TUB/SPA — A structure designed to be used for recreational purposes accessory to a principal use, either above or below grade, containing water more than 24 inches in depth and less than 150 square feet of water surface area. This shall not include ornamental ponds, decorative water features, including, but not limited to, fountains, bird baths, and the like.**[Added 11-6-2017 STM by Art. 18, AG approval 2-26-2018]**

HOTEL — A building or buildings on a lot containing a commercial kitchen and rental sleeping units without respective kitchens, primarily the temporary abode of persons who have a permanent residence elsewhere.**[Amended 4-6-2009 ATM by Art. 27, AG approval 8-10-2009]**

IMPERVIOUS — For the purpose of enforcing the provisions of the Public Wellhead Recharge District, the term "impervious" shall mean those surfaces which will result in little or no infiltration of stormwater through underlying soil layers. Surfaces such as concrete, bituminous concrete, brick, or similar interlocking surfaces which have no interstitial gaps or openings shall be considered impervious. The designated review authority shall determine whether alternative paving surfaces which have interstitial openings can be deemed to reduce the impervious coverage of a lot. **[Added 4-14-1997 ATM by Art. 48, AG approval 8-18-1997]**

INCLUSIONARY UNIT — Any rental dwelling unit required pursuant to § 139-11J restricted to employee occupancy.¹⁰**[Amended 11-13-1990 STM by Art. 18, AG approval 3-19-1991; 4-14-1997 ATM by Art. 48, AG approval 8-18-1997; 4-6-2015 ATM by Art. 64, AG approval 8-5-2015]**

JUNK YARD — A structure or lot used in connection with a business for collection, storage, or sale of waste or scrap materials.**[Added 4-5-2014 ATM by Art. 68, AG approval 5-7-2014]**

KENNEL — A building for the boarding for pay or hire of four or more dogs.

10. Editor's Note: The former definition of "independent living cottages," added 4-10-2000 ATM by Art. 27, AG approval 8-2-2000, which immediately followed this definition, was repealed 9-21-2009 STM by Art. 16, AG approval 12-11-2009.

LANDSCAPE CONTRACTOR — A business engaged in the decorative and functional alteration, planting, and maintenance of grounds. Such a business may engage in the installation and construction of underground improvements but only to the extent that such improvements (e.g., drainage facilities) are accessory to the principal business and are necessary to support or sustain the landscaped surface of the ground.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

LARGE SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION — A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted and has a minimum nameplate capacity of 250 kW DC.**[Added 4-1-2019 ATM by Art. 62, AG approval 8-6-2019]**

LIGHT MANUFACTURING — An establishment engaged in the indoor manufacturing, processing, or fabrication of materials or products.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

LODGING, ROOMING OR GUEST HOUSE — A building or buildings on a lot containing rental sleeping units without respective kitchens, and not having a commercial kitchen, primarily the temporary abode of persons who have a permanent residence elsewhere.**[Amended 4-6-2009 ATM by Art. 27, AG approval 8-10-2009]**

LOT — A tract of land in common ownership, including land under water, not divided by a street, which may include multiple parcels of adjacent land in common ownership to the extent necessary to eliminate or minimize zoning nonconformities. However, two or more adjacent parcels in common ownership, each of which complies with all applicable zoning requirements, or each of which has been lawfully improved with one or more dwellings conforming to all applicable zoning requirements, if any, at the time of construction thereof, and each of which parcels was in compliance with area and frontage requirements applicable thereto at the time of such construction, shall be considered to be separate lots for all purposes under this chapter, notwithstanding any subsequently effective amendment to this chapter.**[Amended 4-12-1994 ATM by Art. 50, AG approval 4-29-1994]**

LOT AREA — The horizontal area of the lot exclusive of any area in a street or private way open to the public use or land seaward of the mean high tide line of any harbor, sound, ocean or estuary. For any lot created after November 14, 1990, 90% of

the minimum lot area required for the zoning district in which such lot is situated must be exclusive of areas subject to the protection under the Wetlands Protection Act, MGL c. 131, § 40, not including areas defined as land subject to coastal storm flowage, coastal flooding or inundation, or any area defined as a buffer zone under such statute. In addition, for any lot created after April 5, 2011, the wetlands defined in the local Wetlands Bylaw, Chapter 136 of the Code of the Town of Nantucket, shall also apply, not including areas defined as land subject to coastal storm flowage, coastal flooding or inundation, or any area defined as a buffer zone under such statute.**[Amended 11-13-1990 STM by Art. 16, AG approval 3-19-1991; 5-5-1992 ATM by Art. 36, AG approval 8-3-1992; 4-4-2011 ATM by Art. 60, AG approval 9-15-2011]**

LOT LINE — A line bounding a lot, including a street line or an interior line which divides the lot from another lot, or a natural boundary line for a lot.

LUMBERYARD — A facility where building materials such as lumber, plywood, drywall, cement blocks, roofing materials, insulation, and the like, including related products such as wallpaper, plumbing and electrical supplies, paint, glass, and hardware, are stored and sold.**[Added 4-2-2013 ATM by Art. 30, AG approval 7-26-2013]**

MAJOR COMMERCIAL DEVELOPMENT — See § 139-11.

MARIJUANA ESTABLISHMENT, RECREATIONAL — A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business as defined in MGL c. 94G, § 1, and 935 CMR 500.00, unless otherwise defined in this section. Recreational marijuana establishments are subject to the following standards:**[Added 11-6-2017 STM by Art. 2, AG approval 2-26-2018; amended 10-10-2018 STM by Art. 1, AG approval 8-6-2019]**

- (1) Recreational marijuana establishments shall be located in standalone facilities and shall not be allowed within a building or structure containing other retail, commercial, residential, industrial, or other uses, except for colocation with a licensed medical marijuana treatment center.
- (2) A minimum separation of 500 feet, measured between lot lines, is required between recreational marijuana establishments and state-certified public or private schools or state-licensed day-care centers.

- (3) Except where co-located, a minimum separation of 2,000 feet, measured between lot lines, is required between recreational marijuana establishments.
- (4) No building permit for a recreational marijuana establishment shall issue until the applicant has executed a host community agreement with the Town pursuant to MGL c. 94G, § 3(d).
- (5) A recreational marijuana establishment shall be required to obtain an annual certificate of inspection issued by the Inspector of Buildings.
- (6) A recreational marijuana retailer must operate and provide all storage within a permanent structure.
- (7) A recreational marijuana establishment shall not be eligible for qualification as a home occupation.
- (8) On-site consumption of marijuana products is prohibited.
- (9) Delivery of cannabis products to consumers is prohibited.
- (10) A special permit for a recreational marijuana establishment shall be limited to the applicant at the time of special permit issuance. Any changes to the owner/operator/licensee shall require a new special permit.
- (11) A recreational marijuana establishment shall not generate outside odors from the processing or manufacturing of marijuana or marijuana products.
- (12) An applicant for a special permit for a recreational marijuana establishment shall obtain a provisional license from the Cannabis Control Commission prior to submitting an application to the Planning Board for a special permit.

MARIJUANA MEMBERSHIP CLUB — An organization, club, lodge, other private grounds allowing on-site consumption of cannabis or marijuana products, but not operating as a licensed marijuana social consumption operator and where no sales occur. **[Added 10-10-2018 STM by Art. 1, AG approval 8-6-2019]**

MARIJUANA PRODUCTS — Cannabis or marijuana and its products unless otherwise indicated and as defined in MGL c. 94G, § 1, as may be amended. These include products that have been manufactured and contain cannabis or an extract from cannabis or marijuana, including concentrated forms of

marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.**[Added 10-10-2018 STM by Art. 1, AG approval 8-6-2019]**

MARIJUANA TREATMENT CENTER, MEDICAL — A premises approved under a medical use marijuana license pursuant to MGL c.94I that acquires, cultivates, processes, transports, sells, distributes, dispenses or administers marijuana for the benefit of registered qualifying patients in the treatment of debilitating medical conditions or the symptoms thereof. Medical marijuana treatment centers are subject to the following standards:**[Added 11-6-2017 STM by Art. 2, AG approval 2-26-2018]**

- (1) Medical marijuana treatment centers shall be located in standalone facilities and shall not be allowed within a building or structure containing other retail, commercial, residential, industrial, or other uses, except for co-location with a licensed recreational marijuana establishment.
- (2) A minimum separation of 500 feet, measured between lot lines, is required between medical marijuana treatment centers and state-certified public or private schools or state-licensed day-care centers.
- (3) No building permit for a medical marijuana treatment center shall issue until the applicant has executed a Host Community Agreement with the Town pursuant to MGL c.94G, § 3(d).

MARITIME SERVICE STATION — A marine establishment which may include, but not be limited to, boat fuel sales, boat sales, boat rental, boat construction, boat maintenance, repair, and incidental painting, and marine equipment sales or rental.**[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009]**

MEAN GRADE — The median grade line established between existing grade and finish grade measured along a line four feet from the perimeter of the building or structure, extended four feet beyond the building or structure at each end. **[Amended 4-12-1994 ATM by Art. 55, AG approval 4-29-1994]**

MEANS OF ACCESS — A way affording vehicular access to a lot and across the line of the way [or lot line, for lots within the scope of § 139-33E(1)(b) below] and having sufficient width, suitable grades and adequate construction to provide for the year-round needs of vehicular traffic in relation to the way's prospective use

and for the installation of utility services.¹¹**[Amended 5-5-1992 ATM by Art. 44, AG approval 8-3-1992]**

MINING — The removal of any geologic material, including but not limited to topsoil, sand, gravel and clay, not to include removal associated with on-site road and building construction.¹²

MOTOR VEHICLE PARKING LOTS OR STRUCTURES — A commercial use dedicated to exterior or interior vehicular parking. Motor vehicle parking lots or structures that are constructed to meet the off-street parking requirements of § 139-18 of this chapter shall not be considered a separate use from the use requiring the off-street parking.**[Added 4-2-2016 ATM by Art. 60, AG approval 7-12-2016]**

MUNICIPAL — Of or by the Town of Nantucket, the County of Nantucket, or any agency, board or department thereof; and specifically including the Nantucket Islands Land Bank.**[Added 4-6-2015 ATM by Art. 66, AG approval 8-5-2015]**

NANTUCKET HOUSING NEEDS COVENANT-OWNERSHIP FORM — Shall mean a covenant affecting the title to real property, created pursuant to Chapter 100 of the Code of the Town of Nantucket, which relates to and regulates the terms of the purchase, sale and ownership of real property not held as a condominium (the "NHNC-Ownership Form").**[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009]**

NEIGHBORHOOD EMPLOYEE HOUSING — Housing for the exclusive use of employers who own or lease space on a lot, for the purpose of housing their employees, their spouses, domestic partners and dependents. A maximum of two dwelling units shall be permitted per lot with occupancy limited to a total of 18 persons. In the R-1, ROH, R-5, R-10, R-20, and R-40 Districts only, there shall be no more than two lots containing neighborhood employee housing or employer dormitory units (conforming or preexisting nonconforming), within a 1,000 foot radius. The Planning Board shall be the special permit granting authority.

11. Editor's Note: The former definition of "medical marijuana treatment center," which immediately followed this definition, was amended 4-5-2014 ATM by Art. 68 to become "registered marijuana dispensary," which was repealed 11-6-2017 STM by Art. 2, AG approval 2-26-2018.

12. Editor's Note: The former definition of "motel," which immediately followed this definition, was repealed 4-6-2009 ATM by Art. 27, AG approval 8-10-2009. The former definition of "multi-family dwelling," added 4-10-2000 ATM by Art. 33, AG approval 8-2-2000, as amended, which also followed this definition, was repealed 4-2-2013 ATM by Art. 30, AG approval 7-26-2013. The former definition of "moderately priced housing," which also followed this definition, added 4-12-1994 ATM by Art. 48, AG approval 4-29-1994, and amended 4-8-2008 ATM by Art. 29, AG approval 8-18-2008, was repealed 4-6-2015 ATM by Art. 64, AG approval 8-5-2015.

Site plan review in accordance with § 139-23 and the submission of a dormitory management plan shall be required.**[Added 4-9-2001 ATM by Art. 37, AG approval 8-2-2001; amended 4-2-2013 ATM by Art. 30, AG approval 7-26-2013]**

NONCONFORMING STRUCTURE, USE OR LOT — A structure or a use or lot that does not conform to a zoning restriction of this chapter for the zoning district in which it is located, provided that the nonconformity was lawfully in existence on the July 27, 1972, effective date of this chapter, or in the case of a structure, use or lot made nonconforming by an amendment of this chapter, on the effective date of such amendment.¹³

OFFICE — The building, room or building space where the clerical work of a business, trade or occupation, or profession is conducted or where the work of administration is conducted. Commercial office space shall not include any trading in merchandise or manufacturing or fabricating.

OPEN AIR MARKET — An occasional or periodic market held in an open area or in a structure where groups of individual sellers licensed by the Board of Selectmen offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include second-hand goods) dispensed from booths located on-site.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

OPEN LAND — A parcel or parcels of land or an area of water or wetlands or a combination of land and water or wetlands, not including streets, set aside in an undeveloped state.

ORIGINAL LOT — An existing lot, dividable into two lots pursuant to § 139-8C.**[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; amended 4-2-2016 ATM by Art. 54, AG approval 7-12-2016]**

OUTBUILDING(S) — Detached accessory residential structure(s) such as a cabana, barn, hoop barn, shanty, greenhouse, gazebo, playhouse, fitness studio, home office, but not including dwelling units or structures used for habitation, studios, or sheds.**[Added 4-2-2013 ATM by Art. 30, AG approval 7-26-2013]**

OWNER OCCUPIED — The primary residence, or temporary (seasonal) residence, of a person(s) or the individual beneficiaries of a legal entity that holds title to the property, where such

13. Editor's Note: The definition of "occupied," which immediately followed this definition, was repealed 4-6-2015 ATM by Art. 64, AG approval 8-5-2015.

persons are physically present and living within dwelling units on said property for at least three months each calendar year. Properties owned by corporations and the like, time sharing interval dwelling units, or where all units are made available for rent do not qualify as owner occupied.**[Added 4-6-2015 ATM by Art. 62, AG approval 8-5-2015]**

OWNERSHIP — Record title to land, as shown upon deeds or other documents of title on file at the Nantucket Registry of Deeds, the Nantucket Registry District of the Land Court, the Registries of Probate, or other applicable public offices.**[Added 4-6-2015 ATM by Art. 65, AG approval 8-5-2015]**

PARKING SPACE — An area dedicated to the parking of a motor vehicle meeting the requirements of § 139-18.**[Added 4-9-2001 ATM by Art. 27, AG approval 9-2-2001; amended 4-6-2015 ATM by Art. 64, AG approval 8-5-2015]**

PARKING SPACE: TANDEM/STACKED — A group of two or more parking spaces arranged one behind the other where one space blocks access to the other space.**[Added 4-15-2003 ATM by Art. 30, AG approval 8-27-2003]**

PERSONAL SERVICES — Establishments providing services generally related to personal non-medical needs, including, but not limited to: beauty and barber, clothing rental, garment repair, and shoe repair shops, tanning salons, photography studios, psychic reading, tattoo or body piercing studio, upholster shop, personal training. These uses may also include accessory retail sales of products related to the services provided. No personal service establishment shall exceed 3,000 square feet of floor area, and the aggregation of such service establishments on a lot (or on contiguous lots in one ownership) shall not exceed 4,000 square feet of floor area.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008; amended 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; 4-6-2015 ATM by Art. 64, AG approval 8-5-2015]**

PERSONAL WATERCRAFT — A small vessel of less than 16 feet in length which uses an inboard motor powering a waterjet pump or a propeller as its primary source of motive power and that is designed to be operated by a person sitting, standing or kneeling on the vessel rather than the conventional manner of sitting or standing inside a vessel. This term includes jet skis, wet bikes and surf jets.**[Added 4-8-2008 ATM by Art. 49, AG approval 8-18-2008]**

PHARMACY — An establishment engaged in the retail sale of prescription drugs, nonprescription medicines, home and personal care products, and related supplies.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

PRIMARY DWELLING — A detached single-family dwelling unit or the portion of a structure that contains a single dwelling unit. A primary dwelling may contain an attached garage.¹⁴**[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; amended 4-6-2011 ATM by Art. 64, AG approval 9-15-2011]**

PRINT SHOP — A retail establishment that provides duplicating services using photocopying, blueprint, and offset printing equipment and may include the collating and binding of booklets and reports.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

QUALIFIED FAMILY MEMBER DEED RESTRICTION — A deed restriction accepted and enforceable by the town of Nantucket, which limits owner-occupancy of a subject lot to the owner of the lot at the time the lot was subdivided into secondary lots, or the owner's spouse, and/or their parent(s), grandparent(s), children, brother(s) and/or sister(s). This deed restriction shall only be released by the Town in the event that an NHNC Ownership Form replaces this restriction.**[Added 4-1-2019 ATM by Art. 48, AG approval 8-6-2019]**

RECHARGE — The addition of water to the saturated zone of an aquifer. **[Added 4-14-1997 ATM by Art. 48, AG approval 8-18-1997]**

RECREATIONAL FACILITY — Golf courses, tennis, paddle, and racquet courts, bowling alleys, fitness centers, or the like, including any uses ancillary to the recreational facility. In the R-10 District only, the recreational facility may include accessory uses such as a restaurant, catering facility, snack bar, or pro shop that operate independently from the recreational facility.¹⁵**[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009]**

RESIDENTIAL WECS — A WECS designed or operated to provide energy principally to the residence and accessory structures

14. Editor's Note: The former definition of "primary lot," added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009, which immediately followed this definition, was repealed 4-2-2016 ATM by Art. 54, AG approval 7-12-2016.

15. Editor's Note: The former definition of "registered marijuana dispensary," added 4-2-2013 ATM by Art. 30, as amended, which immediately followed this definition, was repealed 11-6-2017 STM by Art. 2, AG approval 2-26-2018. See now the definitions of "marijuana establishment, recreational" and "marijuana treatment center, medical."

located on the lot, or on contiguous lots held in common ownership. A WECS designed or operated to provide more than 50% of its rated energy production for off-site consumption shall not be considered residential except in cases where such power is consumed by residences of adjacent property or within 1,000 feet, whichever is greater.**[Amended 4-6-2009 ATM by Art. 47, AG approval 8-10-2009]**

SECONDARY DWELLING — A detached single-family dwelling unit located on the same lot as a primary dwelling unit. The ground cover of the secondary dwelling shall be a minimum of 20% less or more than the primary dwelling. The secondary dwelling may contain an attached garage. The primary and secondary dwelling must be separated by a minimum distance of 10 feet, measured at grade at the closest point between the dwellings; excluding retaining walls, window wells, platforms, decks, and steps, chimneys, bulkheads, bay windows, bow windows, roof eaves and overhangs, air conditioning units, a maximum of two aboveground fuel tanks not to exceed 120 gallons each, trash bins, and fences. Relief from the ground cover and scalar separation requirements of this definition may be granted by a special permit issued by the Planning Board subject to a finding that the reduced separation is in harmony with the general purpose and intent of this chapter. A secondary dwelling may only be attached to the primary dwelling by a breezeway.**[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; amended 4-5-2010 ATM by Art. 56, AG approval 8-5-2010; 4-6-2011 ATM by Art. 64, AG approval 9-15-2011; 4-2-2013 ATM by Art. 40, AG approval 7-26-2013; 11-6-2017 STM by Art. 18, AG approval 2-26-2018; 4-3-2018 ATM by Art. 45; AG approval 7-18-2018]**

Both dwelling units shall be in the same ownership unless one of the two dwelling units is subject to the NHNC. The ownership of a lot by a condominium cooperative housing corporation, land trust, or other common interest ownership entity in which there is a separate beneficial ownership of the principal and secondary dwellings on the lot shall not be deemed to constitute "the same legal and beneficial ownership."

The Planning Board shall make a determination regarding the adequacy of access to the lot and structures prior to the issuance of a building permit. Planning Board approvals granted after April 8, 1996, shall be valid for a period of two years from the date of plan endorsement.

The principal purpose of secondary dwellings is to create housing opportunities through the provision of affordable rental housing for year round residents, including senior citizens, while affording the owner of the primary residence with the opportunity to generate supplemental income. The intent of this provision is also that one of the two dwellings be designated and constructed at such scale and bulk so as to be clearly subordinate in both use and appearance.

Notwithstanding any language contained herein to the contrary, any property that is owned by a validly created and existing cooperative housing corporation as of December 31, 2012, may be converted to a residential condominium form of ownership, maintaining the separate beneficial ownership of the primary and secondary dwellings, without subjecting such property to the Nantucket Housing Needs Covenant.¹⁶

SECONDARY LOTS — Lots created by the division of the original lot into two lots pursuant to § 139-8C. One of the two lots shall be subject to an NHNC-Ownership Form, or shall be owner-occupied by a qualified family member, in which case the lot shall be subject to the NHNC-Ownership Form, except for the established income and asset limits, or shall be subject to a qualified family member deed restriction. **[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; amended 4-2-2016 ATM by Arts. 54, 55, AG approval 7-12-2016; 4-1-2019 ATM by Art. 48, AG approval 8-6-2019]**

SHED — An accessory structure for storage purposes, not designed to be served by heat or plumbing and not to be used for habitation. **[Added 4-2-2013 ATM by Art. 30, AG approval 7-26-2013]**

SHOREFRONT LAND — A parcel or parcels of land, a portion of which is located within or abutting the mean high water line of the Atlantic Ocean, Nantucket Sound, Nantucket Harbor, Polpis Harbor, or Madaket Harbor.¹⁷ **[Added 4-13-1998 ATM by Art. 35, AG approval 7-31-1998]**

SOLAR ENERGY FACILITIES — All of the equipment, machinery, and structures used for either the primary or accessory purpose of converting, storing or transmitting electricity generated from solar energy. **[Added 4-1-2019 ATM by Art. 62, AG approval 8-6-2019]**

16. Editor's Note: See Ch. 100, Nantucket Housing Needs Covenant Program.

17. Editor's Note: The former definition of "sign," which immediately followed this definition, was repealed 4-6-2011 ATM by Art. 64, AG approval 9-15-2011.

SOLID WASTE — Discarded solid material with insufficient liquid content to be free flowing, including but not limited to rubbish, garbage, scrap material, junk, refuse and inert fill material.

SPECIAL PERMIT GRANTING AUTHORITY — The Board of Appeals except in those matters for which the Planning Board is specified as having jurisdiction under this chapter.

STABLE, PRIVATE — An accessory building in which horses are kept for private use, not for a fee, hire or sale.

STABLE, PUBLIC — An accessory building in which any horses are kept for a fee, hire or sale.

STORAGE CONTAINER — An outdoor container, such as fully enclosed semi-trailers, steel shipping containers, cargo containers, and the like, used for commercial storage of goods and materials that are not registered vehicles themselves or situated on a registered trailer or attached to a registered vehicle. This definition does not apply to registered or unregistered boat trailers, registered vehicles or sheds. **[Added 11-6-2017 STM by Art. 21, AG approval 2-26-2018]**

STREET —

- (1) A public way or a way which the Town Clerk certifies is maintained and used as a public way; or
- (2) A way shown on a plan approved and endorsed by the Nantucket Planning Board in accordance with the Massachusetts Subdivision Control Law¹⁸ and which has been improved and constructed in accordance with the requirements of such approval; or
- (3) A way in legal and physical existence when the Subdivision Control Law¹⁹ became effective on Nantucket on February 1, 1955, which has sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon and served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. **[Amended 5-5-1992 ATM by Art. 44, AG approval 8-3-1992; 11-6-2017 STM by Art. 18, AG approval 2-26-2018]**

18. Editor's Note: See MGL c. 41, § 81K et seq.

19. Editor's Note: See MGL c. 41 § 81K et seq.

STREET LINE — The line separating a street from a lot as duly determined by matters of record.

STRUCTURE — Anything constructed or erected, the use of which requires a fixed location on the ground. "Structure" shall be construed, where the context allows, as though followed by the words "or part thereof" and shall include, but not be limited to, buildings, retaining walls which support buildings, platforms, antenna towers, steel storage containers, lighthouses, docks, decks, chimneys, tents, and game courts. "Structure" shall not include retaining walls not exceeding four feet in height for landscaping purposes, fences, rubbish bins, underground propane tanks, stairs, access ramps, or platforms that provide the minimum Building Code compliant access to a structure and that extend into the required front, side, or rear yard setback less than a depth of three feet, and within a total area less than 20 square feet on a lot containing less than 40,000 square feet, and a maximum of two aboveground propane tanks not to exceed 120 gallons each. **[Amended 4-8-2008 ATM by Art. 63, AG approval 8-18-2008; 4-4-2011 ATM by Art. 58, AG approval 9-15-2011; 11-6-2017 STM by Art. 18, AG approval 2-26-2018; 4-1-2019 ATM by Art. 57, AG approval 8-6-2019]**

STUDIO — A building or a room or rooms where an artist, artisan, photographer or the like does his or her work.

SUPERMARKET — Stores where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer other home and personal care products, and which are substantially larger and carry a broader range of merchandise than convenience stores or pharmacies. **[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

SWIMMING POOL - COMMERCIAL — A structure designed to be used for recreational purposes, either above or below grade, containing water more than 24 inches in depth and exceeding 150 square feet of water surface area, or exceeding 1,000 gallons. This shall not include ornamental ponds, decorative water features, including, but not limited to, fountains, bird baths, and the like. The swimming pool may be a primary use or accessory use to a club, recreational facility, transient residential facility, yacht/sailing club, or other commercial use as identified in § 139-7A. **[Added 4-4-2011 ATM by Art. 58, AG approval 9-15-2011]**

SWIMMING POOL - RESIDENTIAL — A structure designed to be used for recreational purposes, either above or below grade, containing water more than 24 inches in depth and exceeding 150 square feet of water surface area, or exceeding 1,000 gallons. This shall not include ornamental ponds, decorative water features, including, but not limited to, fountains, bird baths, and the like. The swimming pool must be located on the same or contiguous lot as a residential dwelling or constructed for the benefit of a group of residences, such as a multifamily development, subdivision, or in conjunction with a neighborhood association. In the VR District only, 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 criteria being met: (1) the lot must meet or exceed the minimum lot size for the district, and (2) side and rear yard setbacks of 20 feet shall apply to the residential swimming pool and associated mechanical equipment.**[Added 4-4-2011 ATM by Art. 58, AG approval 9-15-2011; amended 4-1-2017 ATM by Art. 69, AG approval 5-31-2017]**

TAKE-OUT FOOD ESTABLISHMENT — A commercial establishment, the primary business of which is the sale of food and/or beverages, including but not limited to ice cream, sandwiches, pastries, prepared meals for consumption on or off the premises which is: **[Amended 4-12-1999 ATM by Art. 31, AG approval 8-10-1999]**

- (1) Primarily intended for immediate consumption rather than for use as an ingredient or component of meals;
- (2) Available upon a short waiting time; and
- (3) Packaged or presented in such a manner that it can be readily consumed outside the premises where it is sold.

TAKE-OUT STATION — A designated area within a take-out food establishment where a cash register or other means of taking and processing orders is located.**[Added 3-31-2012 ATM by Art. 56, AG approval 7-12-2012]**

TAXICAB BUSINESS — A service that offers transportation utilizing three or more motor vehicles to persons, including those who are handicapped, in return for remuneration.**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

TENT — A portable enclosure constructed of fabric, plastic, or a similar pliable material supported by one or more poles and secured by pegs in the ground. Tents shall not be erected for

periods exceeding 30 days per calendar year; however, tents which in the aggregate exceed 150 square feet shall not be erected for more than three events per year or periods exceeding nine days per year, whichever is less, on properties where the principal use is residential unless a special permit from the Board of Appeals has been issued based on a determination that the use is ancillary to the residential use of the property and not a commercial use. **[Added 4-6-2009 ATM by Art. 27, AG approval 8-10-2009]**

TERTIARY DWELLING **[Added 4-6-2015 ATM by Art. 62, AG approval 8-5-2015; amended 4-2-2016 ATM by Art. 51, AG approval 7-12-2016] —**

- (1) The tertiary dwelling shall be in the same ownership as at least one other owner-occupied dwelling unit on the lot, or shall be owned by a not-for-profit, religious, or educational entity, or shall be subject to a restriction limiting occupancy to a year-round household.
- (2) A third dwelling unit located on a lot, including the following options:
 - (a) A garage apartment not exceeding 650 square feet of gross floor area.
 - (b) A dwelling unit attached to or within a single-family dwelling, duplex, or an outbuilding or a dwelling unit attached to a studio or shed. When a tertiary dwelling unit is the third dwelling unit, within a single structure, a special permit issued by the Planning Board is required. **[Amended 4-1-2019 ATM by Art. 49, AG approval 8-6-2019]**
 - (c) A detached building containing not more than 650 square feet of ground cover and not more than 650 square feet of gross floor area.
- (3) In the R-5, R-10, and R-20 Districts, a maximum of eight bedrooms per lot shall be permitted at the following density:
 - (a) R-5: 1 bedroom per each 1,000 square feet of lot area;
 - (b) R-10: 1 bedroom per each 1,400 square feet of lot area;
 - (c) R-20: 1 bedroom per each 2,500 square feet of lot area;

- (4) Any waivers from the standards contained within Subsection (2) or (3) of this definition may be granted through the issuance of a special permit by the Planning Board.
- (5) The Planning Board shall make a determination regarding the adequacy of access to the lot and structures prior to the issuance of a building permit. Planning Board approvals shall be valid for a period of two years from the date of plan endorsement.

TIME-SHARING OR TIME-INTERVAL-OWNERSHIP DWELLING UNIT OR DWELLING — A dwelling unit or dwelling in which the exclusive right of use, possession or ownership circulates among various owners or lessees thereof in accordance with a fixed or floating time schedule on a periodically recurring basis, whether such use, possession or occupancy is subject to either: a time-share estate, in which the ownership or leasehold estate in property is devoted to a time-share fee (tenants in common, time-share ownership, interval ownership) and a time-share lease; or time-share use, including any contractual right of exclusive occupancy which does not fall within the definition of "time-share estate," including, but not limited to, a vacation license, prepaid hotel reservation, club membership, limited partnership or vacation bond, the use being inherently transient.

TINY HOUSE UNIT — A detached structure containing a dwelling unit with less than a total of 500 square feet constructed on a moveable trailer to be attached to a foundation pursuant to a building permit issued in accordance with Zoning Bylaw § 139-26. Only one tiny house unit shall be allowed per lot. The tiny house unit shall not be a recreational vehicle (commonly known as an RV), auto home, shipping container, motor vehicle, semi-trailer, camper, or boat, and shall not be located upon a lot with a commercial or other nonresidential use. The tiny house unit shall be owned by a not-for-profit, religious, or educational entity or shall be the primary residence of a person(s), or the individual beneficiary(ies) of a legal entity, that holds title, common title, or land lease to the property, or any direct family member of that person(s) (their child, parent, grandparent, or brother or sister, or their spouse's child, parent, grandparent, brother or sister). A tiny house unit may be a primary dwelling unit or may be located on a lot in lieu of an otherwise permitted secondary dwelling, garage apartment, or tertiary dwelling. If located on a lot with a primary dwelling, secondary dwelling, or garage apartment, the Planning Board shall make a determination regarding the adequacy of access to the lot and structures prior to the issuance

of a building permit. Planning Board approvals shall be valid for a period of two years from the date of plan endorsement.**[Added 4-2-2016 ATM by Art. 52, AG approval 7-12-2016]**

TOWN OVERLAY DISTRICT — The overlay district described in § 139-12E. **[Added 4-9-2002 ATM by Art. 37, AG approval 7-31-2002]**

TRANSFER STATION — A handling facility where solid waste is brought, stored and transferred from one vehicle or container to another vehicle or container for transport off-site to a solid waste treatment, processing or disposal facility.**[Added 4-8-2008 ATM by Art. 62, AG approval 8-18-2008]**

TRANSIENT RESIDENTIAL FACILITIES — Hotels; rooming, lodging or guest houses; and time-sharing or time-interval-ownership dwelling unit(s). In the ROH District only, rooming, lodging, and guest houses may be allowed by special permit for lots located entirely within a quarter-mile radius of the CDT District.**[Amended 4-6-2009 ATM by Art. 47, AG approval 8-10-2009; 4-6-2015 ATM by Art. 44, AG approval 8-5-2015]**

TRUCK/BUS TERMINAL — A facility for the receipt, transfer, short-term storage, or dispatching of goods transported by truck or the storage, service, or maintenance of buses not in active transport of passengers. Included in the use type would be express and other mail and package distribution facilities, including such facilities operated by the U.S. Post Office.²⁰**[Added 4-8-2008 ATM by Art. 28, AG approval 8-18-2008]**

UNENCLOSED PORCH — An unenclosed appendage, whether roof covered or not, projecting from an exterior wall(s) of a structure. An unenclosed porch may connect portions of a single building, roof, or two or more buildings.**[Added 11-6-2017 STM by Art. 18, AG approval 2-26-2018]**

USE, PRINCIPAL — A use which is expressly permitted by this chapter (other than as an accessory use), either with a special permit or without need of one.

WATER-DEPENDENT USE — Uses and facilities that require direct access to or location in coastal waters and which therefore cannot be located inland, including uses that provide general public access to those waters.**[Added 4-8-2008 ATM by Art. 49, AG approval 8-18-2008]**

20. Editor's Note: The former definition of "used," which immediately followed this definition, was repealed 4-6-2015 ATM by Art. 64, AG approval 8-5-2015.

WIND ENERGY CONVERSION SYSTEMS (WECS) — Mechanisms, including all appurtenances thereto, designed or operated for the purpose of converting wind energy to electrical or mechanical power.

WINDMILL — A mill operated by the wind's rotation of large, oblique sails or vanes radiating from a shaft, used as a source of power.

WORKFORCE HOMEOWNERSHIP HOUSING — Ownership or rental of single-family dwelling units, pursuant to § 139-8D, where at least 25% of the total dwelling units are restricted to occupancy by households earning at or below the percentages of area median income set forth herein. An increment of 75% of the total 25% of the restricted units shall be restricted to occupancy by households earning at or below 80% of area median income. The remaining increment of 25% of the total 25% of the restricted units shall be restricted to occupancy by households earning at or below 175% of area median income.**[Added 11-9-2015 STM by Art. 2, AG approval 12-29-2015]**

WORKFORCE RENTAL HOUSING — Rental of multifamily dwelling units, pursuant to § 139-8D, where at least 25% of the total dwelling units are restricted to occupancy by households earning at or below 80% of area median income.**[Added 11-9-2015 STM by Art. 2, AG approval 12-29-2015]**

YARD — The area of a lot to be kept free of buildings and other structures (except fences, fence gates, landscape retaining walls, mail and lamp posts, utility service poles, and pedestals, lot accessways, and docks, bulkheads, groins and other coastal engineering structures). The setback distance from any required front, side, or rear yard shall be measured from the corner board of the structure, if applicable, or the closest point (excluding the eaves and any exterior insulation) between the structure and the lot line.**[Amended 4-2-2016 ATM by Art. 60, AG approval 7-12-2016; 4-1-2019 ATM by Art. 49, AG approval 8-6-2019]**

YARD, FRONT — The yard extending from the street line of a lot inwardly the required front-yard setback distance. For lots abutting two or more streets or ways, whether constructed or not, the required front yard setback shall be maintained from one street or way, and the required side yard setback shall be maintained from each other lot line, except in the R-1 and RC-2 Districts, where a minimum ten-foot side yard setback shall be maintained from any other street or way, whether constructed or not. For lots abutting one street or way, whether constructed or

not, on more than one side or portion thereof, the Planning Board may grant a waiver by special permit to allow the required side yard or rear yard setback to be maintained from such portion of the lot as the Planning Board determines to be consistent with the purpose of this definition. **[Amended 11-13-1990 STM by Art. 22, AG approval 3-19-1991; 5-5-1992 ATM by Art. 45, AG approval 8-3-1992; 4-1-2019 ATM by Art. 59, AG approval 8-6-2019]**

YARD, REAR or SIDE — The portion of any lot lying between the buildings upon such lot and each lot line other than a line adjoining a street.

ZONE II — The area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated. For the purposes of this chapter, the Zone II is coterminous with the Public Wellhead Recharge District established under § 139-12B of this chapter. **[Added 4-14-1997 ATM by Art. 48, AG approval 8-18-1997]**

ZONING ENFORCEMENT OFFICER — An official of the Town of Nantucket who is responsible for the administration and enforcement of the Nantucket Zoning Bylaw in accordance with the provisions of MGL c. 40A, § 7. **[Added 4-10-2000 ATM by Art. 46, AG approval 8-2-2000]**

- B. Word usage. "Shall" is considered mandatory and not discretionary.

Addendum E

ZONING

139 Attachment 2

Town of Nantucket
Use Chart
(See § 139-7A.)

[Amended 4-6-2009 ATM by Art. 27, AG approval 8-10-2009; 4-4-2011 ATM by Arts. 58 and 61, AG approval 9-15-2011; 3-31-2012 ATM by Art. 47, AG approval 7-12-2012;
4-2-2013 ATM by Art. 30, AG approval 7-26-2013; 4-5-2014 ATM by Art. 67, AG approval 5-7-2014; 4-6-2015 ATM by Arts. 44, 47, 61, 62, 64, AG approval 8-5-2015;
11-9-2015 STM by Art. 2, AG approval 12-29-2015; 4-2-2016 ATM by Art. 36, 52, AG approval 7-12-2016; 4-1-2017 ATM by Art. 69, AG approval 5-31-2017; 11-6-2017 STM by Arts. 2, 19, 21, AG approval 2-26-2018; 10-10-
2018 STM by Art. 2, AG approval 5-8-2019; 4-1-2019 ATM by Art. 49, AG approval 8-6-2019]

- A = Accessory Use as defined in § 139-15
- FBED = Formula Business Exclusion District
- N = No
- SP = Special Permit issued by Zoning Board of Appeals, unless the Planning Board is designated as the special permit granting authority pursuant to another section of this chapter.
- Y = Yes

	Use	Town Residential Districts						Town Commercial Districts							Country Residential Districts					Country Commercial Districts	
		R-1 SR-1	ROH SOH	R-5 R-5L	R-10 R-10L SR-10	R-20 SR-20	R-40	CDT	CMI	CN	CTEC	CI	RC	RC-2	V-R	LUG-1	LUG-2	LUG-3	MMD	VN	VTEC
Residential	Primary dwelling	Y	Y	Y	Y	Y	Y	A	A	A	Y	N	Y	Y	Y	Y	Y	Y	Y	A	A
	Secondary dwelling	Y	Y	Y SP R-5L	Y SP R-10L	Y	Y	Y	N	N	N	N	Y	Y	Y	Y	Y	Y	N	N	N
	Accessory dwelling	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
	Tertiary dwelling	N	N	Y R-5 N R-5L	Y R-10 N R-10L N SR-10	Y R-20 N SR-20	Y	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	N
	Apartment	N	N	N	N	N	N	Y	Y	Y	Y	SP	N	N	N	N	N	N	N	N	N
	Apartment building	N	N	N	N	N	N	N	SP	SP	N	N	N	N	N	N	N	N	N	SP	N
	Tiny house unit	N	N	Y R-5 N R-5L	Y R-10 N R-10L N SR-10	Y R-20 N SR-20	Y	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	N
	Garage apartment	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	Duplex	Y N R-1 SR-1	N	Y N R-5L	Y R-10 N R-10L N SR-10	N	N	Y	Y	A	Y	N	Y	Y	N	N	N	N	N	N	N
	Workforce rental community	N	N	N	N	N	N	N	SP	SP	N	N	N	N	N	N	N	N	N	N	N
	Elder housing facilities	SP	SP	SP	SP	SP	SP	N	SP	SP	N	N	SP	SP	SP	SP	SP	SP	N	N	N
	Studio	A	A	A	A	A	A	Y	Y	Y	Y	Y	Y	Y	A	A	A	A	A	Y	Y
	Garage – residential	A/SP	A/SP	A/ SP	A/SP	A/SP	A/SP	N	N	A	A	N	A	A	A/ SP	A	A	A/SP	A	A	A
	Shed	A	A	A	A	A	A	N	N	A	A	A	A	A	A	A	A	A/SP	A	A	A
	Outbuildings – other	A	A	Y	Y	A	A	N	N	A	A	A	A	A	A	A	A	A/SP	A	A	A
	Swimming pool - residential	A	N	A	A	A	A	A	A	A	A	N	A	A	SP	A	A	A	SP	A	A
	Home occupations	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

NANTUCKET CODE

	Use	Town Residential Districts						Town Commercial Districts						Country Residential Districts					Country Commercial Districts		
		R-1 SR-1	ROH SOH	R-5 R-5L	R-10 R-10L SR-10	R-20 SR-20	R-40	CDT	CMI	CN	CTEC	CI	RC	RC-2	V-R	LUG-1	LUG-2	LUG-3	MMD	VN	VTEC
	Keeping of pets for personal use	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Business Commercial	Retail sales	N	N	N	N	N	N	Y	Y	Y	A	A	Y	Y	N	N	N	N	N	Y	A
	Convenience store	N	N	N	N	N	N	Y	Y	Y	N	N	Y	Y	N	N	N	N	N	SP	A
	Alcohol sales	N	N	N	N	N	N	Y	Y	SP/A	N	N	Y	Y	N	N	N	N	N	A	A
	Bakery	N	N	N	N	N	N	Y	Y	Y	Y	SP	SP/A	SP/A	N	N	N	N	N	Y	A/SP
	Open-air market	N	N	N	N	N	N	Y	Y	Y	N	N	Y	Y	N	N	N	N	N	Y	Y
	Pharmacy	N	N	N	N	N	N	Y	Y	Y	N	N	Y	Y	N	N	N	N	N	N	N
	Supermarket	N	N	N	N	N	N	Y	Y	SP	N	N	Y	Y	N	N	N	N	N	N	N
	Restaurants																				
	Small (up to 70 seats)	N	N	N	N	N	N	Y	Y	SP	N	N	Y	Y	N	N	N	N	N	SP	N
	Large (71-200 seats)	N	N	N	N	N	N	SP	SP	N	N	N	Y	Y	N	N	N	N	N	N	N
	Take-out food establishment	N	N	N	N	N	N	Y	Y	SP/A	N	N	SP	SP	N	N	N	N	N	A	N
	Drive-through take-out food	N	N	N	N	N	N	N	N	SP	N	N	SP	SP	N	N	N	N	N	N	N
	Tavern/Bar	N	N	N	N	N	N	Y	Y	SP/A	N	N	SP	SP	N	N	N	N	N	A	A
	Formula businesses																				
	Retail (includes: bakery, convenience store and pharmacy)	N	N	N	N	N	N	N	Y	Y	Y	N	SP	SP/N in FBED	SP	N	N	N	N	N	N
	Supermarket	N	N	N	N	N	N	Y	Y	Y	N	N	Y	Y	N	N	N	N	N	N	N
	Restaurant																				
	Small (up to 70 seats)	N	N	N	N	N	N	N	SP	SP	N	N	SP/N in FBED	N	N	N	N	N	N	N	N
	Large (71-200 seats)	N	N	N	N	N	N	N	SP	N	N	N	SP/N in FBED	N	N	N	N	N	N	N	N
	Take-out food establishment	N	N	N	N	N	N	N	SP	SP	N	N	Y/N in FBED	N	N	N	N	N	N	N	N
	Tavern/Bar	N	N	N	N	N	N	N	SP	SP	N	N	Y/N in FBED	N	N	N	N	N	N	N	N
	Offices	N	N	N	N	N	N	Y	Y	Y	A	Y	Y	Y	N	N	N	N	N	Y	A
	Theatres, auditoriums, or other places of public assembly	N	N	N	N	N	N	Y	SP	SP	N	N	Y	Y	N	N	N	N	N	A	A/SP
	Personal services	SP	SP	SP N R-5L	SP N R-10L	SP	SP	Y	Y	Y	A	N	Y	Y	N	N	N	N	N	Y	SP
	Print shop	N	N	N	N	N	N	Y	Y	Y	Y	Y	SP	SP	N	N	N	N	N	N	N
	Laundromat or dry-cleaning establishment	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	N	N	N	N	N	SP	N
	Bank	N	N	N	N	N	N	Y	Y	Y	N	N	Y	Y	N	N	N	N	N	N	N
	Automated teller machine	N	N	N	N	N	N	Y/A	Y/A	Y/A	N	N	Y	Y	N	N	N	N	N	A	A
	Arcade	N	N	N	N	N	N	N	SP/A	SP/A	N	N	A	A	N	N	N	N	N	N	N
	Art gallery	N	N	N	N	N	N	Y	Y	Y	N	N	SP	SP	N	N	N	N	N	Y	Y
	Museum	N	N	N	N	N	N	Y	N	SP	N	N	Y	Y	N	N	N	SP	N	SP	N
	Catering	N	N	N	N	N	N	N	Y	Y	Y	SP	SP/A	SP/A	N	N	N	N	N	A	A
	Crematorium	N	N	N	N	N	N	N	N	N	N	Y	A	A	N	N	N	SP	N	N	N
	Funeral home	SP	SP	SP N R-5L	SP N R-10L	N	N	Y	Y	Y	N	Y	Y	Y	N	N	N	N	N	N	N
	Health spa	N	N	N	N	N	N	Y	Y	Y	N	N	Y	Y	N	N	N	N	N	N	N
	Medical clinic	N	N	N	N	N	N	N	SP	SP	N	N	Y	Y	N	N	N	N	N	N	N
	Adult on-site marijuana social consumption operator	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
	Marijuana membership club	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
	Marijuana establishment, recreational and marijuana treatment center, medical	N	N	N	N	N	N	N	N	SP	N	SP	N	N	N	N	N	N	N	N	N

ZONING

	Use	Town Residential Districts						Town Commercial Districts						Country Residential Districts					Country Commercial Districts		
		R-1 SR-1	ROH SOH	R-5 R-5L	R-10 R-10L SR-10	R-20 SR-20	R-40	CDT	CMI	CN	CTEC	CI	RC	RC-2	V-R	LUG-1	LUG-2	LUG-3	MMD	VN	VTEC
	Hospital	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	N	N	N	N	N	N
	Transient residential facilities																				
	Hotel or inn	N	N	N	N	N	N	SP	SP	SP	N	N	Y	N	N	N	N	N	N	N	N
	Rooming, lodging, or guest house	N	SP ¹	N	N	N	N	Y	Y	Y	N	N	Y	N	N	N	N	N	N	SP	N
	Time-sharing/Interval dwelling units	N	N	N	N	N	N	Y	Y	Y	N	N	Y	N	N	N	N	N	N	Y	N
Commercial Industrial	Contractor shop	N	N	N	N	N	N	N	SP	SP	Y	Y	SP	SP	N	N	N	N	N	N	A
	Lumberyard	N	N	N	N	N	N	N	N	SP	SP	Y	N	N	N	N	N	N	N	N	SP
	Bulk merchandise retail	N	N	N	N	N	N	Y	Y	Y	SP	Y	N	N	N	N	N	N	SP	SP	
	Landscape contractor	N	N	N	N	N	N	N	N	SP	Y	Y	SP	SP	N	N	N	N	N	N	SP
	Light manufacturing	N	N	N	N	N	N	N	N	A	SP/A	Y	SP	SP	N	N	N	N	N	SP/A	SP/A
	Food processing	N	N	N	N	N	N	N	N	SP	SP	Y	SP	SP	N	N	N	N	N	N	SP
	Shed - commercial	N	N	N	N	N	N	A	A	A	A	A	N	N	N	N	N	N	A	A	
	Storage container	N	N	N	N	N	N	N	N	SP	SP	SP	N	N	N	N	N	N	N	N	N
	Interior or exterior storage or warehousing	N	N	N	N	N	N	N	N	A	SP/A	Y	SP	SP	N	N	N	N	N	A	SP/A
	Motor vehicle sales	N	N	N	N	N	N	N	SP	SP	N	SP	SP	SP	N	N	N	N	N	N	N
	Motor vehicle rental	N	N	N	N	N	N	Y	N	SP	N	SP	SP	SP	N	N	N	N	N	N	N
	Motor vehicle repair or painting	N	N	N	N	N	N	N	SP	SP	SP	Y	SP	SP	N	N	N	N	N	N	N
	Motor vehicle service station	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	N	N	N	N	N	N	N
	Motor vehicle parking lots or structures	N	N	N	N	N	N	Y	Y	Y	SP	SP	Y	Y	N	N	N	N	N	N	N
	Car wash	N	N	N	N	N	N	N	SP	N	N	SP	SP	SP	N	N	N	N	N	N	N
	Taxicab business	N	N	N	N	N	N	N	Y	Y	Y	N	SP	SP	N	N	N	N	N	N	N
	Bicycle rental or sale	N	N	N	N	N	N	Y	N	SP	SP	N	SP	SP	N	N	N	N	N	SP	A
	Maritime service station	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	SP
Yacht/Sailing clubs and marinas	N	N	N	N	N	N	Y	N	N	N	SP	Y	Y	N	N	N	N	N	N	SP	
Industrial	Adult uses	N	N	N	N	N	N	N	N	N	N	SP	N	SP	N	N	N	N	N	N	N
	Asphalt/Batching plant	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	N	N	N	N
	Licensed junkyard	N	N	N	N	N	N	N	N	N	N	SP	N	N	N	N	N	N	N	N	N
	Transfer station	N	N	N	N	N	N	N	N	N	N	SP	N	N	N	N	N	N	N	N	N
	Petroleum product storage or distribution facility (i.e. tank farm)	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	N	N	N	N
	Utility production/distribution (does not include WECS)	N	N	N	N	N	N	SP	SP	SP	SP	Y	N	N	N	N	N	N	N	N	N
	Mining	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	N	N	N	N
	Truck/Bus terminal	N	N	N	N	N	N	N	N	N	SP	Y	N	N	N	N	N	N	N	N	N
	Boat-related storage	N	N	N	N	N	N	N	N	SP	Y	Y	Y	Y	N	N	N	N	N	N	SP

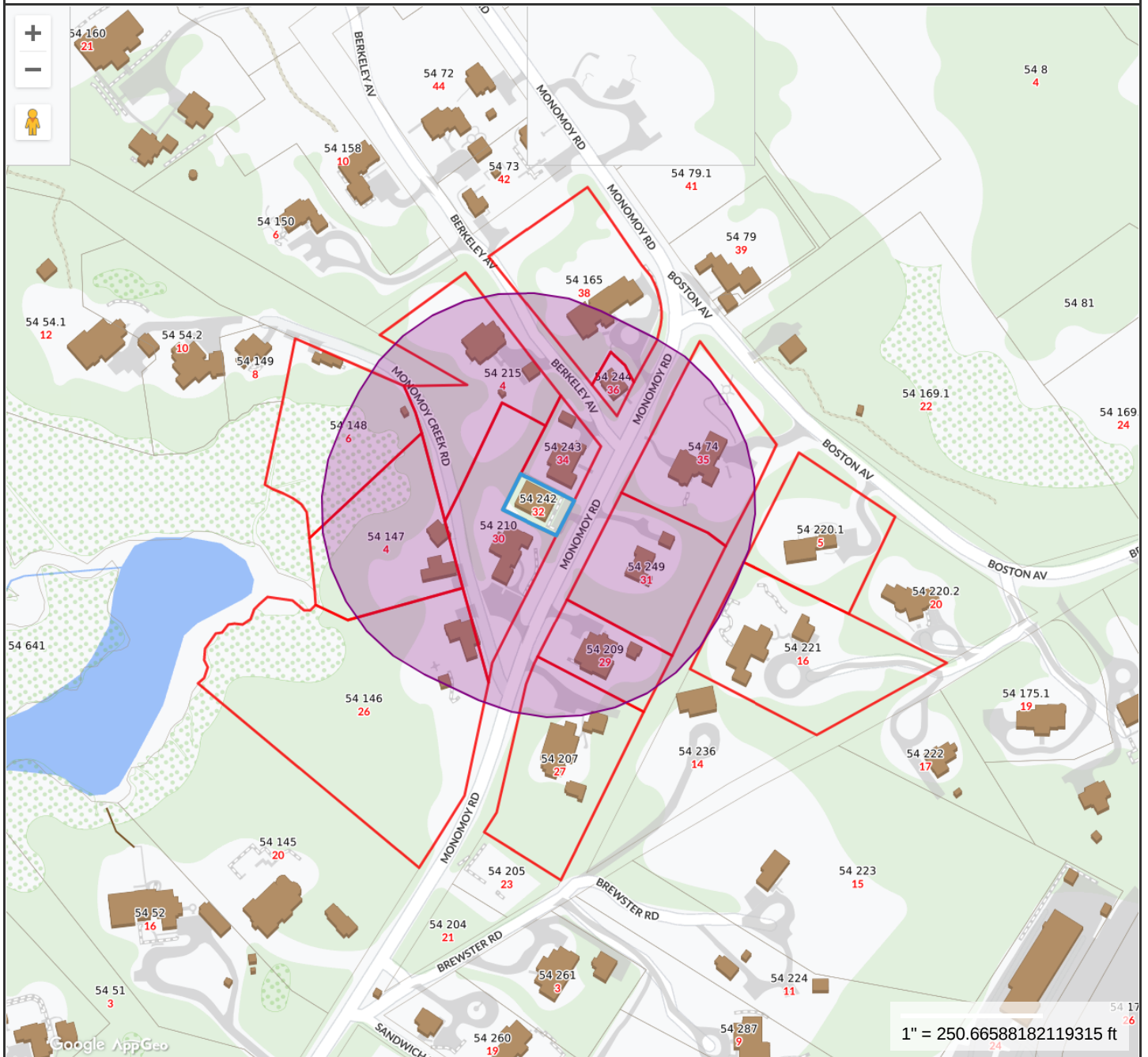
NANTUCKET CODE

	Use	Town Residential Districts						Town Commercial Districts						Country Residential Districts						Country Commercial Districts	
		R-1 SR-1	ROH SOH	R-5 R-5L	R-10 R-10L SR-10	R-20 SR-20	R-40	CDT	CMI	CN	CTEC	CI	RC	RC-2	V-R	LUG-1	LUG-2	LUG-3	MMD	VN	VTEC
Other	Preservation of a lot in its natural condition	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	Care and propagation of fish and shellfish	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	All agricultural uses allowed by Ch. 590 of the Acts of 1989, effective 3-8-1990 (including keeping of farm animals, greenhouses, truck gardens, farms, orchards and nurseries)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	Cemeteries	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	Municipal uses (any)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	Tents	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	Day-care center	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
	Kennel	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
	Public stable	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
	Employer dormitory	N	N	N	N	N	N	N	N	N	N	N	N	N	SP	SP	SP	SP	N	SP	SP
	Neighborhood employee housing	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N	N	N	N	N	N
	Swimming pool - commercial	N	N	N	N	N	N	N	SP/A	SP/A	A	N	SP/A	SP/A	A	A	A	A	N	A	A
	Recreational facilities	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
	Club	N	N	N	SP	SP	SP	Y	Y	Y	Y	N	Y	Y	N	SP	SP	SP	N	SP	SP

NOTES:
¹See the definition of "transient residential facility" in § 139-2A.

Addendum F

32 Monomoy Road Appellant - Abutters Map

**Property Information**

Property ID 54 242
Location 32 MONOMOY RD
Owner COPLEY MONOMOY LLC

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

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

Geometry updated 11/02/2022
Data updated Jan. 2021

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

NANTUCKET
COTTAGE
HOSPITAL

File No. 17-22

16 VESPER LANE

VARIANCE



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

A P P L I C A T I O N

Fee: \$450.00

File No._____

Owner's name(s): Nantucket Cottage Hospital

Mailing address: 57 Prospect Street, Nantucket MA 02554

Phone Number: 508-825-8100 E-Mail: jiveserickson@partners.org

Applicant's name(s): Jeanette Ives Erickson

Mailing Address: 57 Prospect Street, Nantucket MA 02554

Phone Number: 508-825-8100 E-Mail: jiveserickson@partners.org

Locus Address: 16 Vesper Lane Assessor's Map/Parcel: 3472

Land Court Plan/Plan Book & Page/Plan File No.: N/A

Deed Reference/Certificate of Title: 184/112 Zoning District CN

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

Residential: Number of dwellings 0 Duplex 0 Apartments 0

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

Building Permit Numbers: _____

Previous Zoning Board Application Numbers: _____

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

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: *Jeanette Lee Erickson* Owner*

SIGNATURE: *Jeanette Lee Erickson* 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: __/__/__

APPENDIX A

Variance Narrative

Nantucket Cottage Hospital (the “Hospital” or the “Petitioner”) has been working with the Town of Nantucket Affordable Housing Trust Fund (the “Trust”) to cooperatively address the housing needs on Nantucket.

As a result of these efforts, the parties have entered into a Memorandum of Understanding whereby they will exchange parcels of land to address their respective housing needs. Specifically, the Trust has agreed to convey its property at 18 Vesper Lane, shown as “UMass Parcel” on the Lotting Plan (defined herein), that formerly provided housing for those working at the UMass Field Station (the “Trust Property”) to the Hospital, which can be repurposed by the Hospital to provide critical housing for employees. In exchange for the Trust Property, the Hospital has agreed to convey a portion of its lot at 16 Vesper Lane (the “Property”) to the Trust so that the Trust can ultimately develop affordable housing. This is an opportunity for the Hospital to create employee housing units relatively quickly that will help address their housing needs in the short-term and for the Trust to acquire a development parcel for long-term development.

The Property is located within the Commercial-Neighborhood zoning district and the Nantucket Cottage Hospital Overlay district. As shown on the enclosed plan titled Lotting Exhibit, prepared by RJO’Connell & Associates, Inc. and dated September 16, 2022 (the “Lotting Plan”), the Property is a rear lot with access provided via an easement from Vesper Lane and it is large enough to be divided into two lots, one lot for the existing building owned by the Hospital and one lot that can be conveyed to the Trust. The portion of the Property that would be conveyed to the Trust from the Hospital meets the lot area requirements of the Nantucket Zoning Bylaw (the “Zoning Bylaw”) and has access via an easement from Vesper Lane. However, as an old rear lot, the Property does not have legal frontage. Accordingly, the Petitioner is submitting this application requesting a variance from Section 139-16 of the Zoning Bylaw to allow for the creation of “Proposed Parcel B” as shown on the Lotting Plan.

For the reasons set forth below, the Petitioner respectfully requests that the Zoning Board of Appeals grant the requested relief.

A) A literal enforcement of the provisions of the Zoning Bylaw would involve a substantial hardship, financial or otherwise, to the petitioner or appellant for the following reasons:

A literal enforcement of the provisions of the Zoning Bylaw would involve a substantial hardship to the Petitioner. The Property is a rear lot and will obtain pedestrian and vehicular access to Vesper Lane through an easement granted over private property and onto an existing private way known as Gouin Village. There is no way for the Property to independently acquire frontage because of the private ownership of the properties located between the Property and Vesper Lane. Absent relief granted from this Board, the Property will be undevelopable. As a result, the Hospital would not have the opportunity to acquire the Trust Property because it could not offer a portion of the Property to the Trust to provide crucially-needed affordable housing for

the residents of Nantucket through the development of affordable housing. Accordingly, literal enforcement of this Ordinance would involve a substantial hardship to the Petitioner. The Property is undevelopable without relief from the requirement that the Property have 50 feet of frontage.

B) The hardship is owing to the following circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located for the following reasons:

The Property is uniquely situated as a land-locked parcel surrounded by several privately-owned parcels. As a result, the Property must be located along a private way causing lack of frontage unique to the land. The existing lack of frontage due to the location of the Property is a hardship particular to Petitioner, which can be ameliorated by precluding the need for the Property to have 50 feet of frontage.

C) Desirable relief may be granted without substantial detriment to the public good for the following reasons:

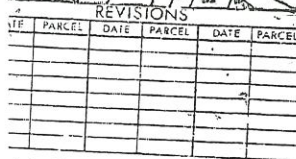
The requested relief can be granted without detriment to the public good. As detailed above, the Trusts intend to provide crucially-needed affordable housing for the residents of Nantucket through the development of affordable housing. Additionally, the Hospital is able to provide critical housing employee housing by exchanging a portion of the Property for the Trust Property. The Property has been identified as a promising location to provide these public benefits and the requested relief will allow the Property to be developed for this important purpose. Therefore, granting relief from the requirement for the Property to have frontage along a public way will not be a detriment to the public good. In fact, granting the relief benefits the residents of Nantucket by creating affordable housing opportunities and much needed employee housing for Nantucket's only hospital.

D) Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw for the following reasons:

The relief requested can be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw. According to Section 139-1, the Zoning Bylaw is intended to "promote the health, safety, convenience, morals and general welfare of its inhabitants...." The relief requested herein allows for the provision of employee and affordable housing, which is consistent with the Town's morals and interest in providing housing for the Hospital's employees and affordable housing for the residents will enhance the general welfare of its inhabitants. Because of the Property's access to Vesper Lane over private property and a private way, its lack of frontage will not impair the health, safety, or convenience of residents or other members of the public. Accordingly, the relief requested can be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

For the reasons set forth above, the Petitioner respectfully requests that the Zoning Board of Appeals grant the above-described variance and such other relief as the Board deems proper.

- Limit of 200 Sc



LEGEND

1. N.C.F. denotes Nantucket Conservation Foundation, Inc.
2. N.C.H. denotes Nantucket Cottage Hospital
3. U.S.A. denotes United States of America
4. (N.C.) denotes not constructed

Photogrammetry By:
ROCKWOOD MAPPING, INC.
ROCHESTER, N.Y.

PREPARED FOR:

NEW ENGLAND

DEVELOPMENT

75 PARK PLAZA
BOSTON, MA 02116
617-965-8700

PROJECT NAME:

16, 18, & 20 VESPER
LANE
NANTUCKET, MA

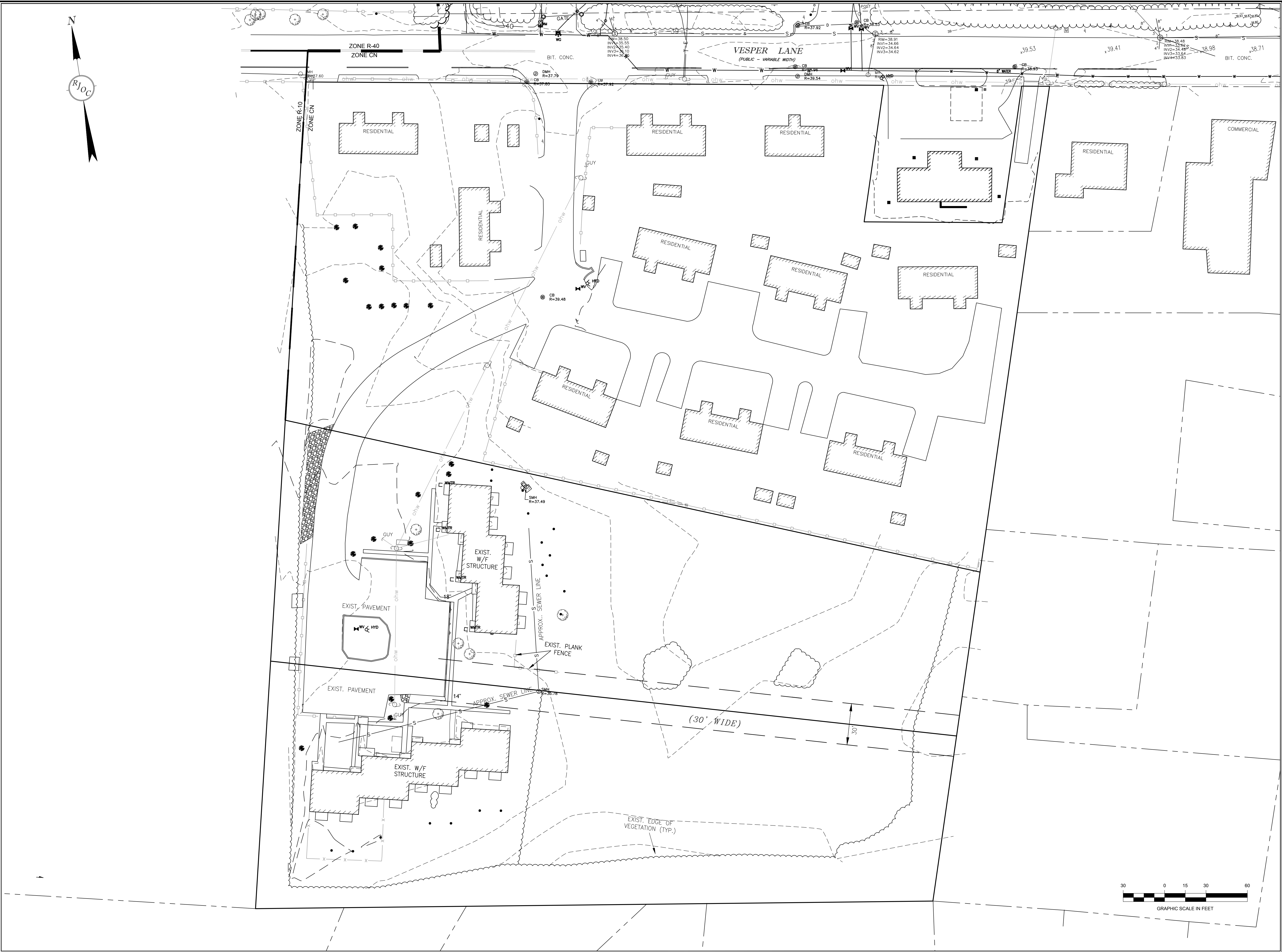
REAL: _____

DESIGNED BY:	SPC
DRAWN BY:	HAA
VIEWED BY:	SPC
SCALE:	1" = 30'
DATE:	09/16/2022
DRAWING NAME:	

EXISTING CONDITIONS PLAN

DRAWING NUMBER: **EC-1**

PROJECT NUMBER: 31050



PREPARED FOR:

**NEW ENGLAND
DEVELOPMENT**

75 PARK PLAZA
BOSTON, MA 02116
617-965-8700

REAL: _____

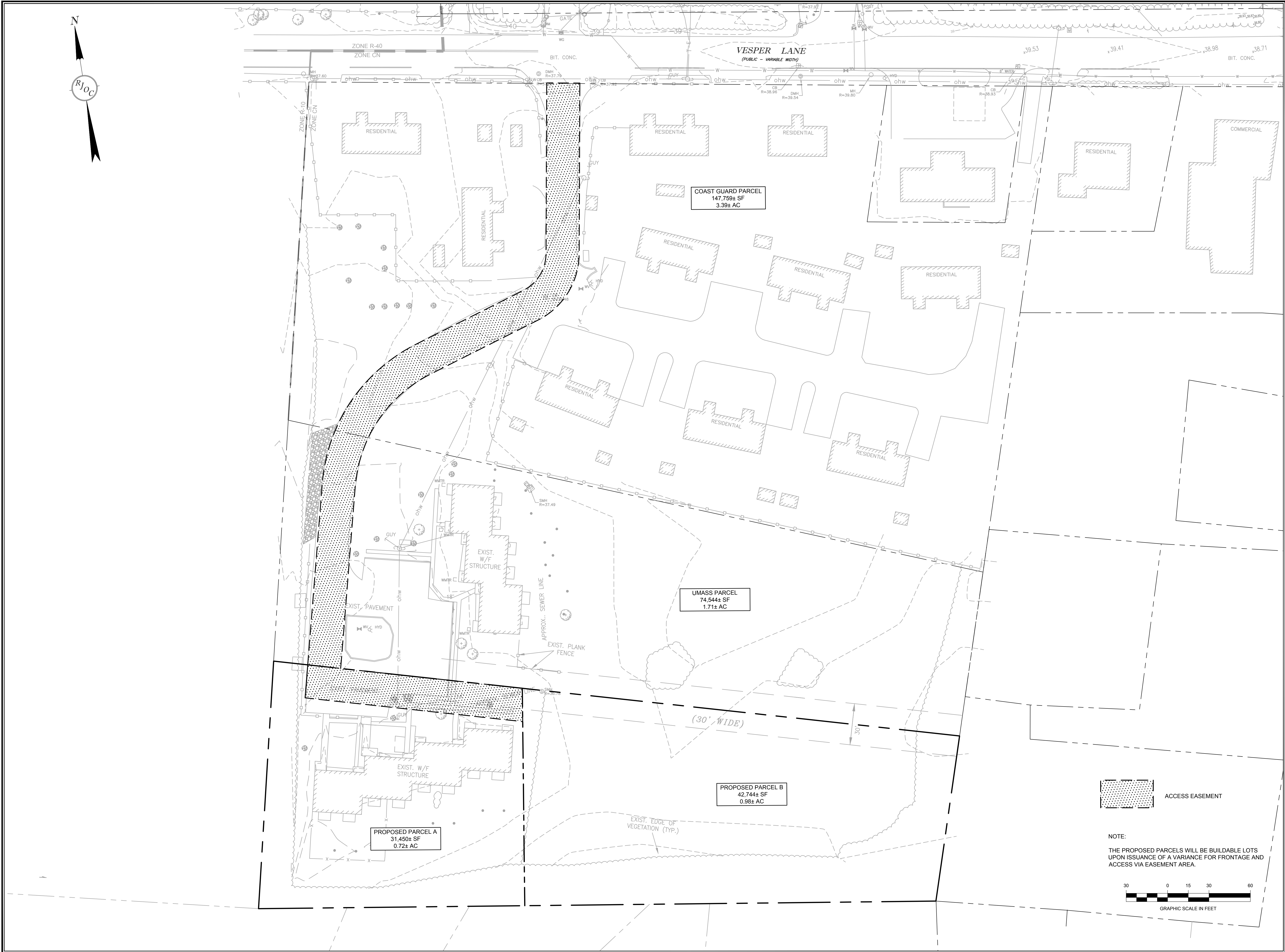
LOTTING EXHIBIT

DRAWING NUMBER:

PROJECT NUMBER: 01050

21058

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Town of Nantucket
Zoning Board of Appeals

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

PROPERTY OWNER..... Nantucket Cottage Hospital
MAILING ADDRESS..... 57 Prospect St, Nantucket, MA 02554
PROPERTY LOCATION..... 16 Vesper Ln
ASSESSOR MAP/PARCEL..... - 55/247.1
APPLICANT..... Christopher Clements

SEE ATTACHED PAGES

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

September 2, 2022

DATE

Mary Haley,
Senior Clerk,
Assessor's Office

Digitally signed by
Mary Haley, Senior
Clerk, Assessor's Office
Date: 2022.09.02
11:39:21 -04'00'

ASSESSOR'S OFFICE
Town of Nantucket

Abutters Listing

MBLU	Lot	Lot Cut	Owner Full Name	Co-Owner Full Name	Address Line 1	City	State	Zip	Location
55	245		4 ANNA DRIVE LLC		PO BOX 659	NANTUCKET	MA	02554	4 ANNA DR
55	245	2	SOUTHEY DANIEL O & CURRIE MICHELE L		PO BOX 824	NANTUCKET	MA	02554	7 ANNA DR
55	245	3	MURRAY ROBERT DEAN		5 ANNA DR	NANTUCKET	MA	02554	5 ANNA DR
55	245	4	BEAUDETTE RICHARD P & RICHELLE L		3 ANNA DR	NANTUCKET	MA	02554	3 ANNA DR
55	245	5	SEO REAL ESTATE LLC		302 BROADWAY RT 138 STE 6	RAYNHAM	MA	02767	19- SURFSIDE RD
55	245	6	8 ANNA DRIVE LLC		307 POLPIS RD	NANTUCKET	MA	02554	8 ANNA DR
55	245	7	ALBERTSON PHILIP K JR		6 ANNA DR	NANTUCKET	MA	02554	6 ANNA DR
55	246		SEVRENS NANCY J TRST		PO BOX 428	NANTUCKET	MA	02554	22 VESPER LN
55	247		TOWN OF NANTUCKET		16 BROAD STREET	NANTUCKET	MA	02554	18 VESPER LN
55	248		U S OF AMERICA	C/O U S COAST GUARD	2 EASTON ST	NANTUCKET	MA	02554	20 VESPER LN
55	256		RYDER RICHARD C & NANCY G TRS	RYDER FAMILY NOMINEE TRUST	15 SURFSIDE RD	NANTUCKET	MA	02554	15 SURFSIDE RD
55	257		RYDER RICHARD C & KIMBERLEY A TRST		15 SURFSIDE RD	NANTUCKET	MA	02554	13 SURFSIDE RD
55	258		RYDER JANET R TRUSTEE	J RYDER NOMINEE TRUST	11 SURFSIDE ROAD	NANTUCKET	MA	02554	11 SURFSIDE RD
55	259		CRIB LLC		19 ARROWHEAD DRIVE	NANTUCKET	MA	02554	17 SURFSIDE RD
55	260		OTTISON KARL & SUSAN TRST	RANDOM WINDS REALTY TRUST	170 ORANGE ST	NANTUCKET	MA	02554	3 COBBLE CT
55	261		BRESCHER JESSIE M TR	FIVE COBBLE CT REALTY TRUST	37 CENTER STREET	NANTUCKET	MA	02554	5 COBBLE CT
55	262		MARKS SCOTT		PO BOX 853	NANTUCKET	MA	02554	8 COBBLE CT
55	265		AUSTIN SALLYANNE		19 SURFSIDE RD	NANTUCKET	MA	02554	19 SURFSIDE RD
55	508		NASHAQUISSET COOPERATIVE INC	AMORY NATHANIEL & SARA	9 CABOT ST	WINCHESTER	MA	01890	27 WASHAMAN AV
55	509		NASHAQUISSET COOPERATIVE INC	FINN ROBERT A JR & EIDENT JENNIFER	193 CHERRY VALLEY RD	PRINCETON	NJ	08540	45 AUTOPSCOT CI
55	510	8	NASHAQUISSET COOPERATIVE INC	C/O SEEMAN WILLIAM H & ELLEN V	8 DARROWS RIDGE RD	EAST LYME	CT	06333	43 AUTOPSCOT CI
55	510	9	NASHAQUISSET COOPERATIVE INC	C/O LOOMAS PATRICK N TR	16 SALEM RD	WELLESLEY	MA	02481	41 AUTOPSCOT CI
55	511		NASHAQUISSET COOPERATIVE INC	MCDONOUGH THOMAS & KATHLEEN FUREY	2000 FERNDAL DR	WILMINGTON	DE	19810	37 AUTOPSCOT CI
55	512		NASHAQUISSET COOPERATIVE INC	C/O ALBERTSON KIMBERLY F ETAL	33 AUTOPSCOT CIR	NANTUCKET	MA	02554	33 AUTOPSCOT CI
55	513		NASHAQUISSET COOPERATIVE INC	C/O PICINICH JAMES K & ELENA F	800 WEST END AVE APT 7B	NEW YORK	NY	10025	31 AUTOPSCOT CI
55	514		NASHAQUISSET COOPERATIVE INC	C/O WARMS MARK E	BOX 540817	HOUSTON	TX	77254-0817	29 AUTOPSCOT CI

Abutters Listing

MBLU	Lot	Lot Cut	Owner Full Name	Co-Owner Full Name	Address Line 1	City	State	Zip	Location
55	515	8	NASHAQUISSET COOPERATIVE INC	C/O UNDERWOOD SARA M TRST	21 DEERWOOD RD	WELLESLEY	MA	02481	25 AUTOPSCOT CI
55	515	9	NASHAQUISSET COOPERATIVE INC	C/O PEAC FAMILY PARTNERSHIP LLC	23 AUTOPSCOT CIRCLE	NANTUCKET	MA	02554	23 AUTOPSCOT CI
55	516	8	NASHAQUISSET COOPERATIVE INC	C/O 19 AUTOPSCOT CIR LLC	1 WILLIAM COLLEARY LANE	SOUTHBOROUGH	MA	01772	19 AUTOPSCOT CI
55	516	9	NASHAQUISSET COOPERATIVE INC	C/O HOLLISTER THOMAS J & DIANE	101 CHESTNUTST APT H	BOSTON	MA	02108	21 AUTOPSCOT CI
55	517	8	NASHAQUISSET COOPERATIVE INC	BLOCK ELIZABETH W	4100 CATHEDRAL AVE NW #815	WAASHINGTON	DC	20016	15 AUTOPSCOT CI
55	518	8	NASHAQUISSET COOPERATIVE INC	C/O LAFONTAINE PAMELA S	135 IMPERIAL AVE	WESTPORT	CT	06880	11 AUTOPSCOT CI
55	522		NASHAQUISSET COOPERATIVE INC	C/O LOHRMAN JOHN & NATALIE TRS	3401 TUTTLE RD SUITE 290	SHAKER HEIGHTS	OH	44122	15 WASHAMAN AV
55	523	8	NASHAQUISSET COOPERATIVE INC	C/O MORAN MARC R & YUELING G	15 VALENTINE STREET UNIT 3	CAMBRIDGE	MA	02139	8 AUTOPSCOT CI
55	523	9	NASHAQUISSET COOPERATIVE INC		280 ABRAHAMS LANE	VILLANOVA	PA	19085	17 WASHAMAN AV
55	524		NASHAQUISSET COOPERATIVE INC	C/O REYES PROTACIO A & PHYLLIS	177 SOUTH AVE #1	NEW CANAAN	CT	06840	16 AUTOPSCOT CI
55	525		NASHAQUISSET COOPERATIVE INC	C/O MARASCO WILLIAM J	21 AARONS WAY	S YARMOUTH	MA	02673	19 WASHAMAN AV
55	526	1	NASHAQUISSET COOPERATIVE INC	GALLUP SAMANTHA & BARRY JR	235 TOKENEKE RD	DARIEN	CT	06820	32 AUTOPSCOT CI
55	526	8	NASHAQUISSET COOPERATIVE INC		3630 84TH AVE SE	MERCER ISLAND	WA	98040	40 AUTOPSCOT CI
55	526	9	NASHAQUISSET COOPERATIVE INC	C/O SUNG A KIM PARK TR	41 PHILLIPS ST APT 13	BOSTON	MA	02114	21 WASHAMAN AV
55	527		NASHAQUISSET COOPERATIVE INC	C/O MACDONALD LESLIE W JR	PO BOX 2538	NANTUCKET	MA	02584	24 AUTOPSCOT CI
55	528		NASHAQUISSET COOPERATIVE INC	C/O TUCKER F MICHAEL TRST	115 HUNTERFIELD RD	DELMAR	NY	12054	23 WASHAMAN AV
55	532		STRAZZULA KATHLEEN J		82 CRESCENT AV	SCITUATE	MA	02066	11 YOMPASHAM LN
55	533		LAWS WHITNEY E & SCHMITT MAKENZIE A TRS	SCHMITT FAMILY IRREVOCABLE FAMILY TRUST	9 YOMPASHAM LANE	NANTUCKET	MA	02554	9 YOMPASHAM LN
55	534		CHADWICK HOWARD B JR		7 YOMPASHAM LN	NANTUCKET	MA	02554	7 YOMPASHAM LN
55	539		NASHAQUISSET COOPERATIVE INC		PO BOX 3067	NANTUCKET	MA	02584	9 WASHAMAN AV
55	578		NASHAQUISSET COOPERATIVE INC	C/O BRADLOW ERIC T & LAURA W	128 BLEDDYN ROAD	ARDMORE	PA	19003	29 WASHAMAN AV
55	579	1	NASHAQUISSET COOPERATIVE INC	C/O GLEASON SUZANNE MARIE	7 S E MARLIN AVENUE	KEY LARGO	FL	33037	2 NETOWA LN
55	579	2	NASHAQUISSET COOPERATIVE INC	C/O NORTON ROBERT L & KATHRYN K	47 AUTOPSCOT CI	NANTUCKET	MA	02554	47 AUTOPSCOT CI
55	579	9	NASHAQUISSET COOPERATIVE INC	C/O FALCONE KATHERINE B	7900 ARLINGTON CR #403	NAPLES	FL	34113	4 NETOWA LN
55	900	1	RYAN KEITH E TRST ETAL	C/O RYAN GAIL	30 WESTOVER RD	SLINGERLANDS	NY	12159	2B ANNA DR
55	900	2	RYAN DENIS C. JR TRUST ET AL	C/O RYAN PATRICIA M	12 STONEHENGE LN	ALBANY	NY	11203	3C ANNA DR

Abutters Listing

MBLU	Lot	Lot Cut	Owner Full Name	Co-Owner Full Name	Address Line 1	City	State	Zip	Location
55	900	3	MILLER BRADY & SUZANNE		8 RELAY CT	COS COB	CT	O6807	2D ANNA DR
55	900	4	ROBINSON JULIAN JADE ET AL		61 OLD SOUTH RD #103	NANTUCKET	MA	O2554	2E ANNA DR
Count:	54								

Letters

Nickesha Sheriff

From: Ives Erickson, Jeanette,R.N.,D.N.P. <JIVESERICKSON@PARTNERS.ORG>
Sent: Thursday, December 1, 2022 4:18 PM
To: Spinella, Peter C CIV USCG SILC (USA); Nickesha Sheriff; Lee, Amy E.; Glowacki, Christopher A.; Gerard Keneally; Melissa Philbrick; Craig Mulhauser
Subject: Re: [URL Verdict: Neutral][Non-DoD Source] RE: Nantucket Zoning Board - Nantucket Cottage Hospital File No. 17-22

Thank you for copying me on this message. I am including the board and hospital leadership in this message so that they are aware of this request.

*Jeanette Ives Erickson RN, DNP, NEA-BC, FAAN
Chief Nurse Emerita
The Distinguished Paul M. Erickson Chair in Nursing
Massachusetts General Hospital*

From: Spinella, Peter C CIV USCG SILC (USA) <Peter.C.Spinella@uscg.mil>
Date: Thursday, December 1, 2022 at 2:39 PM
To: Nickesha Sheriff <nsheriff@nantucket-ma.gov>
Cc: Ives Erickson, Jeanette,R.N.,D.N.P. <JIVESERICKSON@PARTNERS.ORG>
Subject: RE: [URL Verdict: Neutral][Non-DoD Source] RE: Nantucket Zoning Board - Nantucket Cottage Hospital File No. 17-22

External Email - Use Caution

I would like to request a postponement of the meeting. The Proposal could have substantial impacts to our federal property and our families living there. I would like the opportunity to review an alternative solution with the hospital. There are also some questions about the deed granted to the town from government and the restrictions in the deed.

Peter C. Spinella
Lead Realty Specialist
United States Coast Guard
Shore Infrastructure Logistics Center
Civil Engineering Unit Providence
475 KILVERT ST STE 100
Warwick, RI 02886-1379
Peter.C.Spinella@uscg.mil
Office 401-736-1754

From: Nickesha Sheriff <nsheriff@nantucket-ma.gov>
Sent: Thursday, December 1, 2022 2:14 PM
To: Spinella, Peter C CIV USCG SILC (USA) <Peter.C.Spinella@uscg.mil>
Subject: RE: [URL Verdict: Neutral][Non-DoD Source] RE: Nantucket Zoning Board - Nantucket Cottage Hospital File No. 17-22

Peter,

OTHER BUSINESS



TOWN OF NANTUCKET
ZONING BOARD OF APPEALS
NANTUCKET, MA 02554

2023 Meeting Schedule

1:00 PM*

*4 Fairgrounds Road
Public Safety Facility Community Room*

Meeting Dates Thursdays:

January 12, 2023
February 09, 2023
March 09, 2023
April 13, 2023
May 11, 2023
June 08, 2023
July 13, 2023
August 10, 2023
September 14, 2023
October 12, 2023
November 09, 2023
December 14, 2023

January 11, 2024
February 08, 2024

Filing Deadline: Mondays

December 12, 2023
January 09, 2023
February 06, 2023
March 13, 2023
April 10, 2023
May 08, 2023
June 12, 2023
July 10, 2023
August 14, 2023
September 11, 2023
October 10, 2022
November 13, 2023

December 11, 2023
January 08, 2024

Meeting times* and dates are subject to change, if you have any questions please contact the ZBA office at 508-325-7587 Extension 7114.

2 Fairgrounds Road Nantucket Massachusetts 02554
(508)325-7587 telephone (508)228-7298 facsimile

End of Packet