

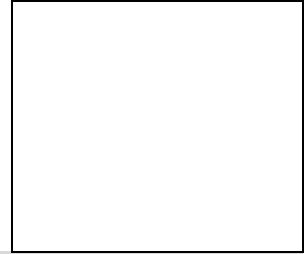
ZBA MEETING PACKET

09/14/23



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, September 14, 2023, 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, 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.

ZOOM WEBINAR REGISTRATION LINK:

https://us06web.zoom.us/webinar/register/WN_nu4-0kaIQG6v4n1i53DL6A

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

<https://youtu.be/8CZ1PrVnSTQ>

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:**

MAY 23, 2023
JULY 13, 2023
AUGUST 10, 2023

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

37-21 Kristina & Nicholas Amendolare

8 Bank Street

Williams

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 October 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 General 1 (LUG-1).

20-22 Steven L. Cohen & Christopher P. Choma, Trs. 29 Monomoy Rd Nominee Trust,

Cohen

Continued to October 12, 2023

Applicant is seeking Variance relief pursuant to Zoning Bylaw Section 139-32 for a waiver from the ground cover provision in Section 139-16 in order to construct an accessory structure of up to 780.25 SF. Locus is situated at 29 Monomoy Road, shown on Assessor's Map 54 as Parcel 209 and as Lots 10 and 11 on Land Court Plan 10937-C. Evidence of owner's title is registered on Certificate of Title No. 22883 at the Nantucket County District of the Land Court. The site is zoned Limited Use General 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

Williams

Requests to Withdraw without Prejudice

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).

11-23 13 Swain Nominee Trust

13 Swain Street

Swain

Applicant is seeking a Special Permit and Variance relief pursuant to Zoning Bylaw Section 139-32 and 139-33, to alter a pre-existing structure, on a pre-existing lot and to allow the stairs to be one and seven-tenths (1.7) feet from the side yard lot line. Locus is situated at 13 Swain Street, shown on Assessor's Map 42.4.1 as Parcel 77.1. Evidence of owner's title is recorded in Book 1571 and Page 109 with the Nantucket County Registry of Deeds. The site is zoned Residential-1 (R-1).

12-23 Holly Coburn

5 North Beach Street

Normand

Applicant is seeking Special Permit relief pursuant to the Zoning Bylaw Section 139-33.A.(1)(a) to remove the pre-existing nonconforming structure upon the premises and construct a new structure. Locus is situated at 5 North Beach Street and shown on Assessor's Map 42.4.1 as Parcel 92. Evidence of owner's title is recorded as Lot 34 in Book 1895 and Page 63 with the Nantucket County Registry of Deeds. The site is zoned Commercial Neighborhood (CN).

13-23 Surfside Drive, LLC

5 Surfside Drive

Beaudette

Applicant is seeking a modification of a Special Permit pursuant to Nantucket Zoning Bylaw Section 139-33 in order to alter and expand the pre-existing, nonconforming use by tearing down the existing commercial structure on

the premises and replacing it. Locus is situated at 5 Surfside Drive, shown on Assessor's Map 67, Parcel 251 and shown as Lot 29 on Land Court Plan 26439-H. Evidence of owner's title is registered on Certificate Title No. 27168 with the Nantucket County District of the Land Court. The site is zoned Residential-10 (R10).

VI. OTHER (VOTES MAY BE TAKEN)

- **ELECTION OF OFFICERS – (Chairman, Vice Chairman, and Clerk Positions)**

VII. ADJOURNMENT (VOTE WILL BE TAKEN)

MINUTES

05/23/23

ZONING BOARD OF APPEALS

Minutes of the Meeting of May 23, 2023. The meeting took place via remote participation using Zoom. Members of the Board present were Susan McCarthy, Lisa Botticelli, Jim Mondani, John Brescher and Michael O'Mara. Staff members present were Town Manager C. Elizabeth Gibson, Housing Director Tucker Holland, Town Administration Operations Administrator Erika Mooney, PLUS Administrative staff members Nickesha Sheriff and William Saad, and Attorney George Pucci of Town Counsel's office.

I. CALL TO ORDER

Vice Chair Holdgate called the Select Board meeting to order at 4:01 PM and explained the rules of this remote meeting.

Zoning Board of Appeals (ZBA) Chair Susan McCarthy called the ZBA to order at 4:03 PM.

II. JOINT MEETING WITH SELECT BOARD AND ZONING BOARD OF APPEALS REGARDING DECISION TO WITHDRAW APPEAL OF HOUSING APPEALS COMMITTEE DECISION FOR SURFSIDE CROSSING 40B.

Ms. Holdgate apologized to the Zoning Board of Appeals (ZBA) members for not having informed them in advance of the Board's decision to withdraw the appeal, and thanked the ZBA for the tremendous amount of time it spent on the Surfside Crossing (SSX) application. Ms. Mohr concurred and acknowledged that while there was a lapse in communication and appreciates the frustration it caused the ZBA, her decision would not have changed. ZBA member Lisa Botticelli spoke on the ZBA's frustration and said more support from the Select Board would have been appreciated. She asked where funds would come from for a percentage of the units at SSX to be year-round. She expressed concern about parking and other issues that she believes should be addressed. Discussion followed as to the timeframe of the ZBA's review of the SSX pending permit. Ms. Mohr said there may be some misunderstanding about the application under review by the ZBA and whether or not the Town had negotiating ability based on the SSX developers decision to proceed "at risk". She stated that her belief is that the Town had no negotiating leverage. Ms. Botticelli spoke on the lack of information given to the ZBA about the appeal. Ms. Holdgate commented that the year-round housing percentage is still being refined and that any funds expended for a "buy down" will have to be determined, including whether such funds are private or public. Mr. Fee said he agrees the ZBA should have been consulted and that he does not necessarily share the opinion expressed by Ms. Mohr. ZBA Alternate Member Jim Mondani expressed concern about the overall process. He said the ZBA "needs to know" what the Select Board discussed in executive session when it made the decision to withdraw the appeal. He asked why the Select Board did not choose to negotiate a non-40B project with the developer. Ms. McCarthy agreed that the lack of informing the ZBA of the Select Board's decision was disappointing and frustrating; however, noted that during the current review process, the ZBA can work with the developer on issues of concern. She said she appreciates recognition expressed by the Select Board members that the process should have been different. Dr. MacNab said he is not sure the outcome would have been the same if the ZBA had been involved in the decision to withdraw the appeal. Ms. Botticelli said she hopes the developer will be cooperative with the current review by the ZBA, noting it is a complex project and a lot of thought needs to go into it. Mr. Fee asked which staff are responsible for review, enforcement and monitoring of the permit conditions. Mr. Pucci explained the process and who typically reviews what, with 40B permits, as well as the timeframe. Ms. Mohr asked if there are any other resources the ZBA might want in order to conduct its review work. Ms. McCarthy said she does not believe so, at this point. She spoke about upcoming ZBA meetings for the permit review. Ms. Mohr commented that Mr. Mondani's comment about the Select Board negotiating a non-40B project, after the 40B process had commenced, would have required the developer's concurrence. Mr. Pucci concurred. Mr. Mondani said he

believes the ZBA needs special counsel. Ms. Holdgate said that it is the subject of the next agenda item. Ms. Botticelli asked again about “buydown” funds. Mr. Holland said the Affordable Housing Trust has been contemplating the use of funds for “buydown” purposes for home ownership. He noted this is tied to a Select Board Strategic Plan housing goal. He said such a program could be used for any number of projects and situations. He explained what would be required in exchange for such buydown funds. Ms. Botticelli spoke on what “year round residency” is, saying that it is “gray” in the Zoning bylaw. She suggested a ZBA member be included in any discussions with the SSX developer. Ms. Holdgate said that Ms. McCarthy has been included in at least one meeting with the developer, so far. Some discussion followed as to involvement of other ZBA member(s). Mr. Holland said that the AHT is assembling a work group to advise on the allocation of any potential public funds for this development, with a “buydown” program, with restrictions. Some discussion followed on this.

a) DISCUSSION OF BOARD OF APPEALS ASSOCIATE MEMBER’S REQUEST FOR SPECIAL COUNSEL.

Ms. Botticelli said the ZBA feels that it needs its own Counsel, separate from that of the Select Board. Mr. Mondani said he was supportive of the request for “therapeutic reasons”. He said the ZBA needs to “know things were done correctly and how to proceed forward”. He added that he doesn’t want to get “in depth” with the request but there is “a lot tension and misinformation and lack of information” as to the ZBA’s standing. Mr. Fee asked about the scope of a special counsel. Mr. Mondani said there is some concern that the ZBA should have the authority to make the call on the permit. He said there are unanswered questions about the permit. Dr. MacNab commented that the request is seemingly “therapeutic” rather than legal. Ms. Botticelli said “it would be nice” for the ZBA to have an advocate for its concerns. Ms. Holdgate noted special counsel would not be an opportunity to re-open the appeal. She added there is no conflict between the Boards as to the permit review or conditions. ZBA member Michael O’Mara, noting that he has sat on numerous 40B applications as a long-term member of the ZBA, concurred with the frustration as to the lack of communication, but believes everything else has been done properly, adding that he does not support the need for special counsel. Mr. Mondani said “underlying issues have caused problems”. Some discussion followed. Ms. McCarthy said she does not support special counsel. Dr. MacNab said the Board has apologized, and he does not see the need for special counsel. Ms. Mohr concurred. Mr. Fee said while he thinks Mr. Pucci is undeniably qualified, he can see how the ZBA would want special counsel. Mr. Mondani spoke in favor of special counsel. Some discussion followed. Ms. Holdgate asked Mr. Pucci if he saw any conflict between the Select Board and ZBA with respect to the plan review. Mr. Pucci said “no”. Ms. Holdgate thanked the ZBA for its time.

III. ADJOURNMENT

Ms. Botticelli moved adjournment at 5:15 PM; seconded by Mr. O’Mara; by roll call vote: Ms. McCarthy – Yes; Ms. Botticelli – Yes; Mr. O’Mara- Yes; Ms. Allen – Yes; Mr. Brescher – Yes. So voted.

The Select Board also unanimously adjourned at 5:14 PM.

**ZONING BOARD OF APPEALS
MAY 23, 2023 – 4:00 PM
REMOTE PARTICIPATION VIA ZOOM
NANTUCKET, MASSACHUSETTS**

List of documents used at the meeting:

- II. Joint Statement from Select Board and Surfside Crossing LLC dated 4/18/23

DRAFT

MINUTES

07/13/23



ZONING BOARD OF APPEALS

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

Commissioners: Susan McCarthy (Chair), Elisa Allen (Clerk), Michael J. O'Mara, John Brescher, Joe Marcklinger
Alternates: Mark Poor, Lisa Botticelli Jim Mondani

~~ MINUTES ~~

Thursday, July 13, 2023

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 1:00 pm and announcements made by Ms. McCarthy

Staff in attendance: Leslie Snell, Director of Planning, William Saad, Land Use Specialist, Nicky Sheriff, Administrative Specialist;
Paul Murphy, Building Commissioner
Attending Members: McCarthy, O'Mara, Allen, Brescher, Poor, Marcklinger, Botticelli
Remote participant:
Absent: Mondani

Agenda adopted by unanimous consent

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

I. APPROVAL OF MINUTES

- May 18, 2022
O'Mara – Pages 1,4 &5 “incorrect spelling of his name”
June 08, 2023
McCarthy- Pages 2 &8 “remove the word “foreign” after what Michael said and also some minor changes.
Motion **Motion to Approve as amended.** (made by: O'Mara) (seconded)
Roll-call vote Carried 5-0//Poor, Allen, McCarthy, O'Mara, and Brescher-aye

II. OLD BUSINESS

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

Requests to Withdraw without Prejudice

Discussion 7:38 **Alger-** I don't think it's appropriate to allow a withdrawal without prejudice when you've gone through over a year of public hearings, and you've closed the public hearing and you're at the brink of taking a vote. To withdraw it without prejudice after all this time is unfair, particularly to the abutters.

McCarthy- Can you explain the thought process behind this?

Williams- We just like to withdraw without prejudice and if we come up with something we'll come back again for the September meeting and I don't believe the Board has ever denied a request to withdraw without prejudice and as I say we'll come back, and they can start over again if they'd like to, but we'll come back and we'll ask to incorporate the entire record including all of their objections into the uh new record.

McCarthy- I would rather give an extension on this one because I do have some questions about the timing, not really your motivation so much as just procedurally to make sure that that we're doing the right thing. I hadn't really thought about the fact that we had closed the public hearing and I just want to make sure that the timeliness of the request is appropriate.

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

Alternates

Recused

Documentation **None**

Representing **Linda Williams & Michael Wilson**

Public **Sarah Alger**

Motion **Motion to continue to August 10, 2023.** (made by: Allen) (seconded)

Roll-call vote Carried 4-0//McCarthy, Allen, O'Mara, and Botticelli-aye

- 09-22 Harris on Weweeder, LLC 50 Weweeder Avenue Brescher
Continued to August 10, 2023

Proposed ZBA Minutes for July 13, 2023

Voting McCarthy, O'Mara, Allen, Poor, Mondani
Alternates
Recused Brescher
Documentation None
Representing None
Public None
Discussion None
Motion **Motion to continue to September 14, 2023.** (made by: Allen) (seconded)
Roll-call vote Carried 5-0//McCarthy, Allen, O'Mara, Poor, and Mondani-aye

3.06-23 NOB ACK, LLC

2 Nobadeer Way

Cohen

Requests to Withdraw without Prejudice

Voting McCarthy, O'Mara, Allen, Brescher, Botticelli
Alternates
Recused
Documentation None
Representing None
Public None
Discussion None
Motion **Motion to Withdraw without Prejudice.** (made by: Brescher) (seconded)
Roll-call vote McCarthy, O'Mara, Allen, Brescher, Botticelli- Aye

4.07-23 Charles B. Johnson

4 Harbor Square

Alger

Applicant is appealing the Building Commissioner's March 31, 2023, determination pursuant to Zoning Bylaw Section 139-25 and 139-31. The locus is situated at 4 Harbor Square, shown as Assessor's Map 42.2.4, Parcel 1, which is shown as lot 11 on Land Court Plan 10222-E. Evidence of owner's title is registered on Certificate of Title No. 17791 at the Nantucket Registry District of the Land Court. The site is zoned Commercial Downtown (CDT).

Representing- Sarah Alger & Daniel De Benedictis- Appellant
Rick Beaudette- Appellee

Discussion (15:15) **O'Mara-** For the record, I said that I was involved in the sale of the properties of Mr. Johnson's daughter about two years ago I didn't represent him, I represented the owner of the house that was purchased by the Johnsons'.

Alger- I don't believe that represents a conflict because you didn't represent anyone in the Johnson family, and it wasn't with respect to this property and it's more than two years ago.

O'Mara- I'd like to hear Mr. Beaudette's feelings on that.

Beaudette- I don't have an issue with that either.

Alger- I represent the Old North Wharf Corporation and Danielle de Benedictus represents Charles Johnson he's one of the shareholders in the cooperative and the holder of a long-term lease on a dwelling that's about 12 inches away from the proposed project at Harbor Square. We're appealing the decision of the Building Commissioner not to revoke the permit that was issued and to require an MCD Special Permit for this property. This is about ensuring that the property owner NIR is placed by the same set of ground rules that everyone else plays with on Commercial Enterprises. This is also not a Clam Shack it's a full-blown 62-seat restaurant with interior and exterior seating a full liquor license and an entertainment license so it's a significant change from what was there before which was a fish market and a takeout ice cream stand. There were three permits issued, the first two were for minor work although I have to say the bulk of the work was done under one of these 75 dollar permits that indicated no change in use, it was mostly demolition, we did not appeal those. The third permit that was issued at the end of January unfortunately despite inquiry was not revealed to us or made available until the middle of March and so as soon as we were aware of it, we appealed within the 30-day period. First of all, when you look at an MCD under 139 11 you have to look at all of the properties that are in common ownership and common control and when you look at the NIR properties that means not just the building that the Straight Wharf fish restaurant is being proposed but it's all of the buildings on that same parcel which is everything on Straight Wharf. The criteria for an MCD under 13911b includes a whole lot of different commercial uses but the easiest one to look at in this case is B5 a restaurant club and or bar use with a combined rated legal occupancy of a hundred or more and then and then you have to look also at C 139 11c which says pre-existing non-conforming uses shall be subject to the sub section when any extended or altered portion of the commercial uses added together starting from the effective date April 4 1979 as amended meets or exceeds the criteria of section B above which defines an MCD. The MCD process allows for abutters to have input into commercial uses that rise to the level of the of a major commercial development and that's important because it gives them the ability to talk about how the trash is going to be handled, what are the hours of operation going to be-all the things that we see all the other major commercial developments in town subjecting themselves to. I'm not saying that a special permit wouldn't issue it very well may issue but we don't know because they haven't applied for it and because they haven't applied for it none of the protections and conditions that would go into place on an MCD have been imposed or

even looked at or even discussed in this situation and that's important, particularly to Mr. Johnson living 12 inches away. I mean he really ought to be able to have some meaningful input into a change from a retail fish market and take-out ice cream stands to a full-blown license licensed 62-seat restaurant with a full liquor and entertainment license.

Botticelli- The detailed scope of work on the permit says "renovate existing dwelling". What is the dwelling?

Alger- There is no dwelling.

Botticelli- So this permit is completely erroneous in a way because it's not describing the work at all.

Alger- I just didn't harp on that because I thought it was a clerical error but you're right. The only place that you learn about what's happening is in section "E" where it says proposed use.

Marcklinger- Mr. Beaudette said this should be time-barred which to me meant the application was beyond the 30 days so if it wasn't in on time why are we here?

Alger- You have to appeal a permit either within 30 days or within 30 days of you being aware of it.

Marcklinger - To me, it seems like well it's just bad luck I didn't know about it and so every time something like this happens well, you know I wasn't informed I didn't find out till later. These are sophisticated people that are in the building department all the time, they know how to find things, and they're going down checking on the building permits all the time.

De Benedictis- I checked multiple times, I was emailing practically every day and we were told repeatedly that there was no permit on file so under these circumstances and the totality and the fact that the abutter was never notified. Maybe it got lost, I'm not implying anything nefarious happened I'm just saying we didn't have it.

Allen- Is there anything showing that the abutters were notified?

DeBenedictis- We received notice from the Con Com it was in order of conditions it said they were going to do a \$7900 repair on a retail store we never had any notification that they were going to do a complete million-dollar renovation and turn into use into a restaurant with an entertainment license 12 inches away from my client's home.

Botticelli- I mean irrespective of where your client lives it seems to me that this is a change of use and you should have some ability to check the list of how they're going to deal with the trash, it just seems fair.

Beaudette- We are asking that you uphold Paul's decision not to revoke the Building Permit that we have and I'm going to get to the legality of some of these things. I take issue with the insinuation that NIR doesn't play by the rules and that we didn't get permits. I've been representing NIR for over 16 years and one of the beauties of them as a client is they always get their permits as it is important to them to not have bad press like this for not getting permits so it's incorrect that they don't play by the rules, and they don't want to go get permits. I file MCD'S for them a couple of times a year, and, in this case, this is just an internal memo with all the permits on just this little that we compiled and those have been in place for some of them over two years so the insinuation that we didn't get the permits that we don't want to play by the rules is flat out incorrect. There are a couple of reasons why you should uphold Paul's decision, the first as Joe pointed out is that this matter is time-barred, Sarah said it's important that we get an MCD so that her clients have notice and can talk about trash and everything else well they've had notice for nearly two years. The very first application we filed was August 16, 2021, at the HDC and an abutter's notice was sent out to all these people that are appealing now and they didn't oppose anything, and that was approved unanimously. The set of plans with that application clearly shows a restaurant.

Botticelli- I have the October 15th permit here, it says to remove existing equipment, interior only remove existing dry wall. The description of the work is not reflective of what was done.

Beaudette- The third Building Permit everybody's talking about saying dwelling I agree that's a mistake. I think the question is did Paul think this was a dwelling? Did we think it was a dwelling? Did Scott Anderson think it was a dwelling as he was the one renovating it, I doubt it. I think it's a mistake and it should have said commercial structure, but it says dwelling, and I don't think it's relevant because everybody knows it's not a dwelling and none of the plans show it as a dwelling. In any event, they didn't appeal that permit either. Sarah says they didn't know that the permit existed, so I have a couple of thoughts on that. If it's true, it's either 30 days or 30 days when you have actual notice or constructive notice. Constructive notice by the way is I don't know there's a building permit but there's a heck of a lot of building going on there, so they clearly had constructive notice because this is probably the most visible property on the island being in front of the boats. Through your suggestion Susan there is a second reason why you should uphold Paul's decision and not revoke this permit and that's because this doesn't require an MCD period, the MCD provision of the bylaw 13911 B is the definition of what an MCD is, and it states that a an MCD is required for a group of structures or uses to be constructed it's a two-part test number two is meeting any of those criteria okay you need both of those in order to qualify for an MCD all right and then Sarah is relying on expanding that by including the provision in 13911C which is the pre-existing non-conforming use section of the MCD provision in the bylaw and that provision is only applicable for pre-existing non-conforming uses that you're going to extend or expand or alter okay this building this use has gone from a conforming use to a conforming use it is not a pre-existing non-conforming use that's the only time you use that provision of the bylaw and MCD is not use it's not an enumerated use in the bylaw and since there's no pre-existing non-conforming use here any expansion or alteration can't take place and be used to bring us into MCD land because you're not altering a pre-existing non-conforming use.

Alger- I want to clarify why we didn't appeal from the ConCom and the HDC and all of those. None of those permits allowed a change of use. I also want to point out that not only did we appeal the building commissioner's decision not to revoke the permit, we also appealed the issuance of the permit itself. To say that an MCD doesn't apply when you're adding over a hundred rated occupancy on straight wharf just doesn't make any sense at all.

McCarthy- Rick can you address Sarah's points about the change of use and adding hundreds of seats of restaurants seating without permits and then also just what you see would be a trigger to create an MCD?

Beaudette- I've been doing this a long time for this client, and I know in fact we would come into you guys if there was some kind of

non-conformity like parking when we were changing a use and that was going to change or increase parking, or we've been here a number of times for uses for individual buildings so that is exactly how it's always been interpreted. In terms of the numbers, I don't think if there are numbers like that out there, I don't think those can change because I think those restaurants have probably relied on those numbers for a long time and I don't think that can change now but even aside from that even if Sarah's right about increasing restaurants occupancy over the years I question the numbers. Just because someone says your occupancy went up when you did nothing the MCD provision of the bylaw is very clear to be constructed and those provisions must be read together so if it's a pre-existing non-conforming use that is to be constructed, expanded, altered, extended it says then that could trigger an MCD.

McCarthy- Just to clarify, Rick, the change of use the restaurant uses is allowed by right and the use that existed before these permits are pulled.

Beaudette- They both were as of right uses. It was a fish store, retail, and an ice cream shop and it went to a retail fish store and a restaurant. Any restaurant under 70 seats is allowed as a matter of right.

McCarthy- So they don't need a Special Permit or anything.

Beaudette- They don't need a special person if it was a restaurant with 71 seats, we would have to get a special permit not an MCD but for that use. If it's occupancy over a hundred for new construction or expansion of a pre-existing non-conforming use, then it's MCD.

Marcklinger - The time-barring thing, who decides? I agree that it wasn't in a timely fashion but here we are.

Beaudette- I mean at some point it is like a higher Court. I think ultimately if you agree with Paul that he should not have revoked a permit then your decision gets appealed to Superior Court and the Superior Court will clearly address the time of our issue and any other issues as well potentially, but I think they'll start there.

Allen- What was the occupancy number of the ice cream and fish store?

Beaudette- To be perfectly honest I don't know, but I can find out.

Allen- Does occupancy mean sitting and dining or does occupancy mean just standing in the space?

Beaudette- Both. I think it is included in the 63 that's our legal occupancy.

McCarthy- Yes, they're going to be more than just the people sitting in the restaurant inside but what I was trying to say was the calculation for the legal occupancy rate to my understanding from what I've read from both sides is the seats in the restaurant.

O'Mara In the past, in these situations, I think the Board was asked to determine whether the expansion of a pre-existing non-conforming space was reasonable, and I think that that's the question here. I think everyone knows that it wasn't intended to be a dwelling, never has been a dwelling. So how is the expansion going to affect the neighborhood?

Alger- One of the things that changed was the elimination of the parking requirement downtown, it states that a commercial use requiring 20 or more off-street parking spaces pursuant to 139/18. So, when the parking requirements for the CDT were eliminated a lot of the requirements for an MCD in the CDT were eliminated. I feel like this applicant should have had to do an analysis and provide it to you to show how they're not triggering an MCD.

Beaudette- To reiterate you don't even get to use the additive measures from 1979 which by the way the MCD provision was so different from that unless you have a proposed construction of a pre-existing non-conforming use.

Murphy- I issued this permit because I felt that I had the authority to issue it. This is a renovation of an existing building, it's not a new structure and it's not a non-conforming use. It's under 70 seats which is allowed in Commercial-Downtown, and I didn't go any further than that because I didn't feel that I needed to. Typically, when we look at occupancy, we don't really worry about staff in terms of how they hire, or how they fire, we just look at seats.

DeBenedictis- I think that this hundred number has been misconstrued. We're talking about more than 100 restaurant seats, which there are many more on the whole Wharf. There's only one order of conditions on file at Con Com but that is an order of conditions that relates to a permit that was issued under \$7900 renovation that turned into a million three construction of a different use. I just sat through a whole Con Com hearing where people were forced to go back for amended order of conditions on things that were so much more minor than that.

Beaudette- The idea that Paul issued a permit without a Con Com order of conditions is false. We sent a letter after the fact to the staff and said we're still not changing the footprint, but we have to replace the foundation. They've tried to get the Con Com to do the same thing they're asking you to do with this permit and the Con Com has said no three times.

Allen- I'm unclear and I want to know the repercussions of my vote and I'm tipping my hand right now, but I don't want to put a valid restaurant out of business. I want to give them the chance to do it the way we might think that they're not doing it correctly now to correct whatever we might think that they're doing wrong.

McCarthy- If we voted today and did not uphold your decision and said we are revoking this permit and we think it's an MCD what happens to the NIR permit?

Murphy- I would revoke the Building Permit. In an appeal, the Board has all the powers of the Building Commissioner so whatever you direct me to do I'd have to do it.

Brescher- I'll make a motion that we are upholding the issuance of the Building Permit and that we are upholding the determination of the Building Commissioner that a Major Commercial Development is not necessary.

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

Alternates

Recused Mondani

Documentation **Motion to Uphold the determination of the Building Commissioner and deny the appeal** (made by: Brescher)
(seconded)
Roll-call vote 5-0

3. 17-22 Nantucket Cottage Hospital 16 Vesper Lane Beaudette
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 three lots, none of which will meet the required frontage of 50 feet in the CN district. The lots will be accessed via an easement from Vesper Lane. Locus is situated at 16 Vesper Lane, shown on Assessor's Map 34, Parcel 72, and shown as Lot 1 on a plan dated May 5, 1978, 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).
Representing- Rick Beaudette

Discussion-2:00:22 **Beaudette**- 16 Vesper Lane is behind the Coast Guard housing on Vesper, and we have an oversized lot of approximately two acres in the CN District which requires 7500 square feet of lot area. The property currently is non-conforming as to frontage it has zero in a district that requires 50. It is currently accessed through an easement on the property of the Coast Guard and the property owned by the trust. We're here seeking a variance to allow us to take this property and create four lots one that will have the existing structure on it that we're keeping and three that are proposed to be conveyed to the Affordable Housing Trust in exchange for the affordable housing trust will convey 18 Vesper next to it. At the last hearing, I think in general the Board was in favor of the request but there were a couple of questions that people wanted some clarification on. I've drafted a decision that is in your packet and that isn't meant to be presumptuous, I did it just so it's in a form that we're used to looking at and it has a number of conditions that I think addresses some of those things and that those conditions have been vetted by Leslie as well but the first condition we put in there is that there will be no further subdivision of this without further relief from the Board. I did hopefully that's what Elisa was looking for and that addresses her concern um that the access easement is in good repair and accessible that the cost of that driveway access easement is born by the owners that the zoning board or zoning enforcement officer has enforcement capabilities of these conditions that the driveway is constructed of impervious materials and that and that the property conveyed to the trust as a condition.

Botticelli- What's going to be allowed to be built on these four (4) lots? Is it a single family?

Beaudette- I doubt it, I don't think the affordable housing trust has a plan yet. I think what's more than likely and what's allowed in CN district is apartments or apartment buildings.

Botticelli- I mean just give us a background on what's allowed all.

Snell- So I've talked with Tucker Holland the housing director about apartment buildings for those properties and you can have up to six units with up to a total of eight bedrooms, but it depends on your lot size so there's a density of eight bedrooms per lot depending on the size of the lot. You can have one dwelling unit for each three thousand square feet of lot area because they're in the Commercial Neighborhood District.

Brescher- Are we validating three lots as separately marketable and buildable?

Beaudette- You are that's what we're asking for.

Brescher- You might want to include that in the decision.

O'Mara- Any opposition from the neighbors on this?

Saad- There's been no opposition, there was one email back when they first submitted in December 2022 from the Coast Guard, and I believe that's been worked out between the applicant and the Coast Guard.

McCarthy- I appreciate the decision that you put together and submitted it cleared up the questions I had, which were more about the easement and access and understanding that the lot as it exists has no frontage and has always been accessed through the Coast Guard property.

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

Alternates

Recused Mondani

Documentation **Motion to approve Variance relief as requested** (made by: Brescher) (seconded by Allen)
Roll-call vote 5-0

III. NEW BUSINESS

1. 10-22 Paul P. Moran & Jean M. Moran 4 Washington Avenue Santos

Continued to August 10, 2023

Voting McCarthy, O'Mara, Allen, Brescher, Marcklinger

Alternates

Recused None

Documentation None

Representing None

Public	None
Discussion	None
Motion	Motion to continue 10-22 to August 10, 2023. (made by: Brescher) (seconded)
Roll-call vote	Carried 5-0// McCarthy, O'Mara, Allen, Brescher, Marcklinger -aye

IV. OTHER BUSINESS

V. ADJOURNMENT

Motion	Motion to Adjourn at 3:15 pm. (made by: Poor) (seconded)
Roll-call vote	Carried 5-0// aye

Submitted by:
Nicky Sheriff

DRAFT

MINUTES

08/10/23



ZONING BOARD OF APPEALS

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

Commissioners: Susan McCarthy (Chair), Elisa Allen (Clerk), Michael J. O'Mara, John Brescher, Joe Marcklinger
Alternates: Mark Poor, Lisa Botticelli, Jim Mondani

~~ MINUTES ~~

Thursday, August 10, 2023

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 1:03 pm and announcements made by Ms. McCarthy

Staff in attendance: Nicky Sheriff, Administrative Specialist

Attending Members: McCarthy, O'Mara, Allen, Brescher, Poor, Marcklinger, Mondani

Remote participant: McCarthy, O'Mara, Allen, Brescher, Poor, Marcklinger, Mondani

Absent: Mondani, Poor, Allen

Agenda adopted by unanimous consent

Motion **Motion to Approve as drafted.** (made by: Brescher) (seconded)

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

I. APPROVAL OF MINUTES

II. OLD BUSINESS

1. 37-21 Kristina & Nicholas Amendolare 8 Bank Street Williams
Continued to September 14, 2023

Motion **Motion to continue to September 14, 2023.** (made by: Botticelli) (seconded)

Roll-call vote Carried 4-0//McCarthy, Botticelli, O'Mara, and Marcklinger -aye

2. 09-22 Harris on Weweeder, LLC 50 Weweeder Avenue Brescher
Continued to September 14, 2023

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

Motion **Motion to continue to September 14, 2023.** (made by: Botticelli) (seconded)

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

3. 20-22 Steve L. Cohen & Christopher P. Choma, Trs. 29 Monomoy Rd Nominee Trust, 29 Monomoy Road Cohen

Continued to September 14, 2023

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

Motion **Motion to continue to September 14, 2023.** (made by: Botticelli) (seconded)

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

III. NEW BUSINESS

1. 10-22 Paul P. Moran & Jean M. Moran 4 Washington Avenue Santos

Continued to September 14, 2023

Motion **Motion to continue to September 14, 2023.** (made by: Brescher) (seconded)
Roll-call vote Carried 5-0// McCarthy, O'Mara, Botticelli, Brescher, Marcklinger -aye

IV. OTHER BUSINESS

V. ADJOURNMENT

Motion **Motion to Adjourn at 3:15 pm.** (made by: Brescher) (seconded)
Roll-call vote Carried 5-0// aye

Submitted by:
Nicky Sheriff

DRAFT

OLD BUSINESS

Harris on Weweeder LLC

File No. 09-22

50 Weweeder Ave

VARIANCE

Continued to October 12, 2023

STEVEN L. COHEN
&
CHRISTOPHER P. CHOMA
TRUST

File No. 20-22

29 MONOMOY ROAD

VARIANCE

Continued to October 12, 2023

Kristina & Nicholas
AMENDOLARE

File No. 37-21

8 Bank St

SPECIAL PERMIT

Draft Decision

NANTUCKET ZONING BOARD OF APPEALS
2 Fairgrounds Road
Nantucket, Massachusetts 02554

Assessor's Map 73.1.3, Parcel 69
8 Bank Street
Sconset Old Historic (SOH)

Book 1770, Page 216
No Plan of Record

1. At a public hearing of the Nantucket Zoning Board of Appeals ("ZBA"), opened at 1:00 P.M. on Thursday, December 9, 2021, and continued to Thursday, February 10, 2022, Thursday, May 12, 2022, Thursday, November 10, 2022, Thursday, February 9, 2023, and closed on Thursday, April 13, 2023, in order for a Decision to be submitted and voted on Thursday, May 11, 2023, in the Conference Room, at 4 Fairgrounds Road, Nantucket, Massachusetts, the Board made the following Decision on Thursday, May 11, 2023, on the Application of **Kristina & Nicholas Amendolare**, c/o Michael Wilson, Esq., 1 Hooper Farm Road, Nantucket MA. 02554, **File No. 37-21**.

2. Applicants are seeking relief by SPECIAL PERMIT pursuant to Nantucket Zoning By-law Section 139-30 (special permit) from the provisions of Section 139-33A(1)(a) (Preexisting, nonconforming uses, structures, lots). Applicants received Historic District Commission ("HDC") approval in Certificate of Appropriateness ("COA") #2021-05-3626 on September 7, 2021, to make renovations to an existing single-family dwelling.

Modifications include adding second-floor space to move the one (1) existing bedroom upstairs with a full bath and constructing a one-story addition on the northerly side of the structure. Height would increase to 20± feet. Groundcover would be increased from 27.7% ± (390 SF ±) to 40% ± (560 SF ±). The zoning district was changed from SR-1 to SOH which allows a maximum groundcover of 50%, a zero front yard setback, and requires a minimum of a 5-foot side and rear yard setback for this lot. Relief is sought to increase the height of the dwelling within the required 5-foot rear yard setback area without coming any closer to the westerly lot line than the existing structure. The second-floor addition would be constructed over the existing footprint. Only the southerly portion of the existing dwelling is sited within the rear yard 5-foot setback area, with the structure being sited as close as about 1.7 feet at its closest point on the southwesterly corner. In addition to the rear yard setback intrusion, the Locus is pre-existing nonconforming as to lot size with the lot containing about 1,409 SF of area with the locus conforming as to all other setback and groundcover requirements other than noted above.

The Locus, an undersized lot of record, is situated at 8 Bank Street and is shown on Nantucket Tax Assessor's Map 73.1.3 as Parcel 69. Evidence of owner's title is in Book 1770, Page 216 on file at the Nantucket County Registry of Deeds. The property is zoned Sconset Old Historic (SOH).

3. Our Decision is based upon the Application and accompanying materials, and representations and testimony received at our public hearings. There was no Planning Board recommendation, on the basis that no matters of planning concern were presented. Neighborhood opposition, both written and oral, was presented at the public hearings.

Over the course of the six (6) hearings, the ZBA heard neighborhood opposition to the project from Abutters, Abutter's Counsel, Abutter's Engineering Professionals, residents of Sconset, and the Siasconset Civic Association. Several letters expressing similar concerns were also submitted into the file. These concerns related to: the impact of the new foundation construction on houses above the locus sited on the bluff; the size and architectural design of the additions; the impact site constraints would have on the construction methodology of the foundation; and construction potentially jeopardizing the integrity of Middle Gulley Road, a sloped public right of way abutting the property and homes in the surrounding area. Opposition ultimately rested on the contention that the proposed alterations would be substantially more detrimental to the neighborhood than the existing nonconforming setback distance of the southwesterly portion of the structure sited within the required five-foot rear yard setback for the following reasons: the excavation and process of putting in a basement foundation poses a danger to the integrity of Middle Gulley Road and could potentially cause damage to adjacent lots and the structures thereon; the intensification of use of a very small house on a very small lot will overburden the property and surrounding areas; and, construction of the new full foundation would violate septic requirements.

4. Attorney Michael Wilson represented the Applicants at the public hearings. Additional testimony regarding this project in favor of the Application was received from Kristina Amendolare (owner), Linda Williams (Consultant), Angus Macleod (Designer), Wayne McArdle (Site Engineer), and Jeff Blackwell (Registered Land Surveyor). The Locus is shown on the Plan entitled, "Proposed Conditions Site Plan to Accompany Zoning Board of Appeals Application", ("Plan") dated November 15, 2021, prepared by Blackwell & Associates, Inc., a reduced copy of which is attached herewith as "Exhibit A". The project is benefited from approval by the Nantucket Historic District Commission ("HDC") in Certificate of Appropriateness No. HDC2021-05-3625. The structure was present on the lot by 1935 and had various uses in it. A later addition was made several years ago, and it was converted to a single-family dwelling. The structure, as modified during a period prior to the 1972 enactment of the Nantucket Zoning By-law, has remained unchanged and unaltered.

5. Applicants' representatives stated that best practices would be consistently and reliably applied to this renovation project, particularly the during construction of the new foundation, the matter of most concern to the neighbors. To mitigate any potential damage to surrounding abutting properties, the Applicants' engineer proposed to install the piles with a drilling method rather than the driving method to reduce the vibratory impact on Middle Gulley Road and the surrounding structures. It was further explained that the work will be done according to all applicable building code regulations, and all applicable Town agencies will review the proposed project prior to the issuance of a building permit. Pre-construction surveys will be offered to adjacent properties. Documentation resulting from the surveys will be retained for use in evaluating potential claims (if any) of damage to the identified properties. As a portion of the support wall for Middle Gulley Road lies on the locus it will be supported and shored up, not removed. A thorough inspection of the road has been done by the site engineer and the project will be monitored during the construction of the new foundation. Only one bedroom is proposed.

6. Based upon the testimony received at the Public Hearings, the site plan, the construction methodology, and the related engineering plan, the ZBA determined that the requested special permit relief for the vertical increase in the ridge portion of the structure sited within the southwesterly setback area may be granted based upon the findings the proposed project will not make the existing nonconforming 1.7-foot setback distance more nonconforming and will not be substantially more detrimental to the neighborhood than the existing nonconformities. The Board made this determination after substantial discussion with the applicants' representatives provided that the construction methodology is strictly adhered to in order to avoid damage to neighboring properties. The methodology of construction is detailed in the "Geotechnical Engineering Report", prepared by Wayne McArdle, P.E, and on file with the Town of Nantucket.

7. On April 13, 2023, the Zoning Board of Appeals voted unanimously to close the public hearing.

8. On May 11, 2023, based by a [REDACTED] vote, the Zoning Board of Appeals [REDACTED] the requested relief by **SPECIAL PERMIT** pursuant to Zoning Bylaw Section 139-33.A(1) in order to alter the pre-existing nonconforming single-family dwelling as proposed. The relief is conditioned upon the following:

- a. The proposed alterations and expansion shall be done in substantial conformity with the plans approved by Nantucket Historic District Commission Certificate of Appropriateness No. HDC2021-05-3625, as the same may be amended from time to time;

- b. The project shall be completed in accordance with the "Proposed Conditions Site Plan to Accompany Zoning Board of Appeals Application", dated November 15, 2021, prepared by Blackwell & Associates, Inc., a reduced copy of which is attached herewith as "Exhibit A";
- c. There shall be no further construction involving exterior changes or expansion without further relief from the ZBA;
- d. Prior to the issuance of a building permit, the General Contractor, Site Manager, and/or Construction Supervisor will provide all contact information to the Zoning Administrator and to any neighbors upon request;
- e. Middle Gulley Road shall not be used for parking for construction vehicles or any vehicles related to the project; and,
- f. There shall be no exterior construction between Memorial Day and Labor Day of any given year relative to construction contemplated under this decision.

SIGNATURE PAGE TO FOLLOW

Assessor's Map 73.1.3, Parcel 69
8 Bank Street
Sconset Old Historic (SOH)

Book 1770, Page 216
No Plan of Record

Dated: May, 2023

Susan McCarthy

Lisa Botticelli

Elisa Allen

Michael O'Mara

James Mondani

COMMONWEALTH OF MASSACHUSETTS

County of Nantucket, ss

On the _____ day of _____, 2023, before me, the undersigned notary public, personally appeared _____, one of the above-named members of the Zoning Board of Appeals of Nantucket, Massachusetts, personally known to me to be the person whose name is signed on the preceding document, and acknowledged that they signed the foregoing instrument as their free act and deed and voluntarily for the purposes therein expressed.

Official Signature and Seal of Notary Public
My commission expires:

EXHIBIT A

CURRENT ZONING CLASSIFICATION:
Siosconset Old Historic (SOH)

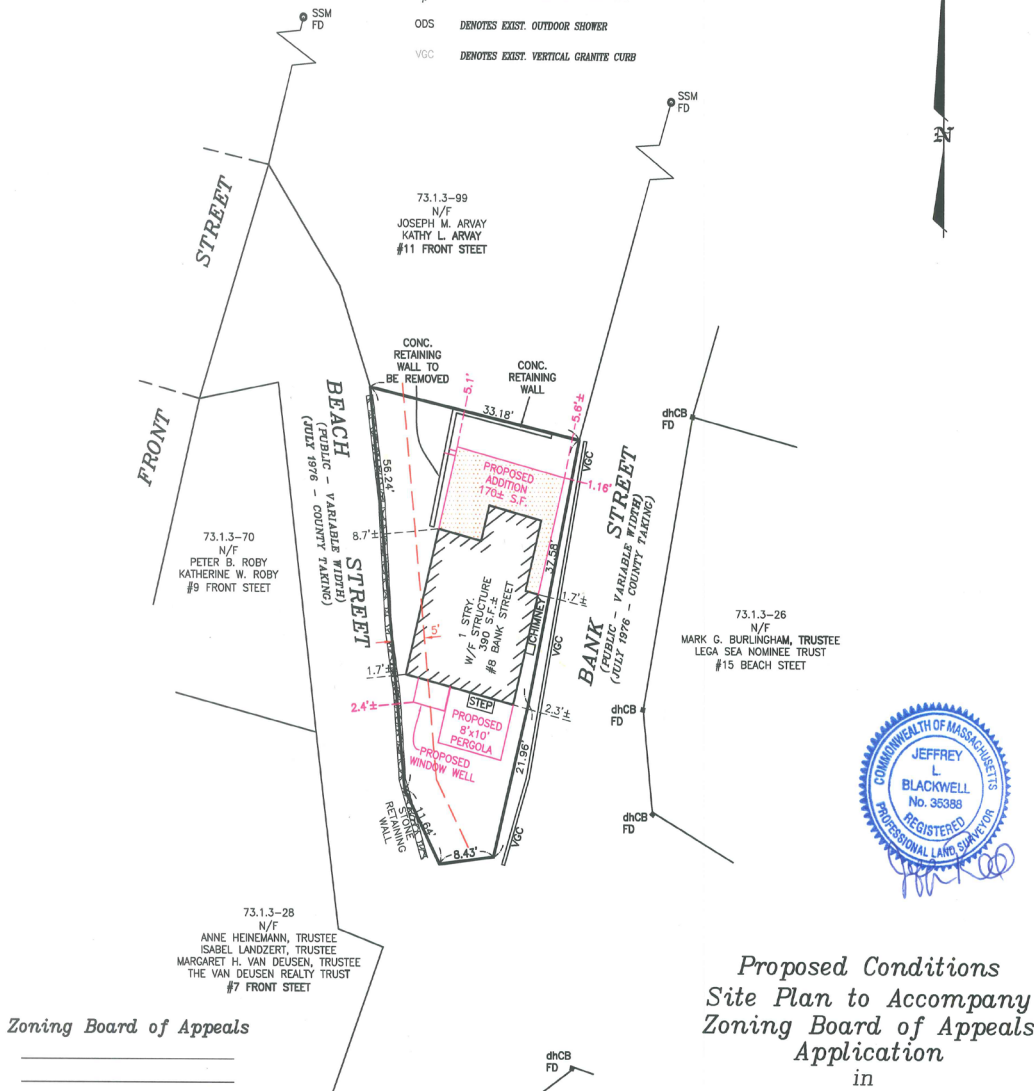
MINIMUM LOT SIZE: 5000 S.F.
MINIMUM FRONTAGE: 50 FT.
FRONT YARD SETBACK: none
REAR/SIDE SETBACK: 5 FT.
GROUND COVER %: 50%

Existing: 1,409 S.F. ±
SEE PLAN
SEE PLAN
SEE PLAN
27.7% ±

Proposed: 1,409 S.F. ±
SEE PLAN
SEE PLAN
SEE PLAN
40% ±

LEGEND

dhCB ■ DENOTES CONCRETE BOUND WITH DRILLHOLE FOUND
FD ○ DENOTES STEEL SURVEY MARKER FOUND
x3.5 DENOTES EXIST. GRADE SPOT ELEVATION
OOS DENOTES EXIST. OUTDOOR SHOWER
VGC DENOTES EXIST. VERTICAL GRANITE CURB



Zoning Board of Appeals

FILE NO. _____ DATE: _____

ORIGINAL, SIGNED AND STAMPED COPIES OF THIS PLAN MAY BE PHOTOCOPIED BY THE BOARD OF APPEALS OR THE NANTUCKET REGISTRY OF DEEDS FOR RECORDING PURPOSES. IN CASES OF DISCREPANCIES REGARDING INFORMATION CONTAINED HEREON AND UNAUTHORIZED PHOTOCOPIES OF THIS PLAN, ONLY ORIGINALLY STAMPED AND ENDORSED COPIES SHALL BE ACKNOWLEDGED BY THE CERTIFYING LAND SURVEYOR.

THIS INSPECTION PLAN WAS PREPARED TO ACCOMPANY AN APPLICATION TO THE NANTUCKET BOARD OF APPEALS AND IS NOT TO BE CONSIDERED A FULL INSTRUMENT SURVEY. THIS PLAN SHOULD NOT BE USED TO ESTABLISH PROPERTY LINES, FENCES, HEDGES OR ANY ANCILLARY STRUCTURES ON THE PREMISES. THE PROPERTY LINES SHOWN RELY ON CURRENT DEEDS AND PLANS OF RECORD.

THIS INSPECTION PLAN IS NOT A CERTIFICATION AS TO THE TITLE OR OWNERSHIP OF THE PROPERTY SHOWN. OWNERS OF ADJOINING PROPERTIES ARE SHOWN ACCORDING TO CURRENT TOWN OF NANTUCKET ASSESSOR RECORDS. THIS PLAN SHALL NOT BE USED FOR ANY OTHER PURPOSE OTHER THAN ITS INTENDED USE STATED ABOVE.

©Blackwell & Associates Inc.

T:\LUCAS JOB 50

V:\DRAWFILES\B8867\ZBA.dwg 11/15/2021 10:42:31 AM EST

OWNER INFORMATION

KRISTINA M. AMENDOLARE
NICHOLAS AMENDOLARE
DEED, BK. 1770, PG. 216
PLAN: NONE
ASSESSOR'S MAP 73.1.3, PARCEL 69
#8 BANK STREET

Proposed Conditions
Site Plan to Accompany
Zoning Board of Appeals
Application

in
Nantucket, Mass.

Prepared for

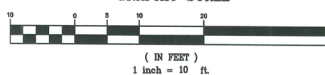
KRISTINA M. AMENDOLARE
NICHOLAS AMENDOLARE

Scale: 1" = 10' NOVEMBER 15, 2021

BLACKWELL & ASSOCIATES, Inc.

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

GRAPHIC SCALE



Sheet 2 of 2

B8867

NEW BUSINESS

13 Swain Nominee Trust

File No. 11-23

13 Swain St

SPECIAL PERMIT & VARIANCE



NANTUCKET
TOWN CLERK

2023 JUL 11 AM 8:26

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

APPLICATION

Fee: \$450.00

File No. 11-23

Owner's name(s): 13 Swain Nominee Trust

Mailing address: c/o Daniel Counihan, 12 Oceanwoods Drive, Duxbury, MA 02332

Phone Number: 410-456-8204 E-Mail: dancounihan1@gmail.com

Applicant's name(s): Daniel Counihan

Mailing Address: 12 Oceanwoods Drive, Duxbury, MA 02332

Phone Number: 410-456-8204 E-Mail: dancounihan1@gmail.com

Locus Address: 13 Swain Street Assessor's Map/Parcel: 42.4.1 / 77.1

Land Court Plan/ Plan Book & Page / Plan File No.: 2016-114 (Parcel 77.1)

Deed Reference / Certificate of Title: 1571 / 109 Zoning District R1

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

Residential: Number of dwellings 1 Duplex _____ Apartments _____

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

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:
Special Permit per section 139-33A (1)(2) to alter/extend an existing non-conforming structure. See attached narrative

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: Daniel Cawthon Owner*

SIGNATURE: Donald F. Bracken, Jr. Applicant/Attorney/Agent*
Donald F. Bracken, Jr., PE | Bracken Engineering, Inc.

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

OFFICE USE ONLY

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

2 Fairgrounds Road Nantucket Massachusetts 02554
508-325-7587 telephone 508-228-7298 facsimile

ZBA

BEAUDETTE AND SWAIN
PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW
35 OLD SOUTH ROAD, SUITE D
P.O. BOX 2049
NANTUCKET, MASSACHUSETTS 02584

RICHARD P. BEAUDETTE
BRYAN J. SWAIN

PHONE: (508) 228-4455
FAX: (508) 228-3070
WWW.NANTUCKETLAWFIRM.COM

OF COUNSEL
KEVIN F. DALE
WILLIAM F. HUNTER

August 14, 2023

VIA HAND DELIVERY

Billy Saad, Land Use Specialist
Town of Nantucket
Planning & Land Use Services
2 Fairgrounds Road, Nantucket, MA 02554
wsaad@nantucket-ma.gov

Re: Zoning Board of Appeals Variance and Special Permit Applications
13 Swain Nominee Trust, u/d/t July 25, 2016
13 Swain Street, Nantucket, MA 02554

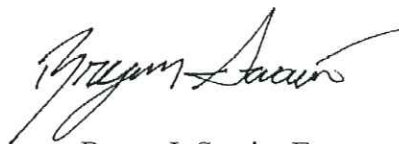
Dear Mr. Saad,

As you are aware, I represent 13 Swain Nominee Trust in the above-captioned matter.

Enclosed, please find an updated Addendum, containing an exhibit, which illustrates the requested relief in connection with the above-referenced applications.

Please let me know if you have any questions or need any additional information.

Sincerely,



Bryan J. Swain, Esq.

Encl.
cc:

13 Swain Nominee Trust



ADDENDUM

The Applicant, 13 Swain Nominee Trust, u/d/t dated July 25, 2016, is the owner of the improved real property located at 13 Swain Street, Nantucket Town and County, Commonwealth of Massachusetts, identified as Parcel 77.1 on Nantucket Tax Assessor's Map 42.4.1, and further identified as "New Parcel 77.1", on Plan No. 2016-114, on file at the Nantucket Registry of Deeds (the "Premises"), by virtue of deed recorded in book 1571, page 109, at said Registry, hereby seeks a Special Permit to alter a preexisting, nonconforming structure, on a preexisting, nonconforming lot, pursuant to Nantucket Zoning Bylaw Ch. 139-33, and in relation thereto, seeks variance relief, pursuant to said Zoning Bylaw, Ch. 139-32, to allow for a portion of the stairs providing egress to the dwelling to be 1.7 feet from the side-yard lot line.

EXISTING CONDITIONS

The Premises was created in 2016 pursuant to Massachusetts General Laws, Ch. 41, Section 81L of the subdivision control law. As shown on the existing conditions plan (attached hereto), the Premises is preexisting, nonconforming as to its' Frontage (20 feet), Lot Area (1,127 $\pm$ s.f.), Ground Cover Ratio (37.5%), Rear Setback (.3 feet over the lot line), and its' westerly side yard setback (.9 feet), while conforming as to the remaining two side yard setbacks.

The Premises is benefitted by a Parking, Utility and Access Easement¹ that runs over a portion of 11 Swain Street and provides the Applicant with a legally conforming parking space, utility rights thereunder, and a right to travel thereover to access to the Premises.

¹ Recorded in Book 1571, Page 111, at the Nantucket Registry of Deeds.

FLOOD HAZARD ZONE

The Premises is located in a Special Flood Hazard Zone which has a current flooding elevation of seven (7') feet. The locus's topographical elevations ranges between three (3) and four (4) feet. The current elevation of the first floor of the dwelling on the Premises is approximately four and one-tenth (4.1) feet, which is almost three (3) feet below the flood zone's seven (7) foot elevation.

PROPOSAL TO ALTER A PREEXISTING NONCONFORMING STRUCTURE

The Applicant desires to raise the existing dwelling on the Premises to construct a new special flood zone compliant foundation system, which will in turn, raise the elevation of the first floor of the dwelling to nine (9') feet.

While raising the building to install the new flood zone compliant foundation, the Applicant desires to move said structure, southeasterly (as shown on the "Proposed Conditions Plan, attached hereto), and the re-siting of such will reduce several existing nonconformities, including:

1. Removing the portion of the dwelling that encroaches on to the abutter's lot;
2. Decreasing the nonconforming rear lot line setback intrusion, by moving it from three-tenths (.3) feet over the abutter's property line, to seven-tenths (.7) feet from its own lot line, and
3. Decreasing the westerly side yard setback instruction from nine-tenths (.9) feet, to one and six-tenths (1.6) feet.

As the Applicant is proposing to alter a preexisting, nonconforming structure, on a preexisting nonconforming lot, it therefore requests a Special Permit, pursuant to Nantucket

Zoning Bylaw Ch. 139-33, to perform the work described herein above, and shown on the proposed conditions plan.

REQUEST FOR VARIANCE RELIEF

Due to the flood zone requirements that render the first floor of the dwelling to be located at a nine (9') foot elevation, the Applicant is required to install new stairs that safely provide egress to the nine (9') foot high first floor entry point. The newly proposed stairs on the westerly side of the dwelling will comply with current zoning regulations.

However, due to the circumstances relating to the flood zone, soil conditions, shape, and topography of the lot, the proposed stairs and landing on the southerly side of the dwelling will not conform to the R-1 Zoning District's five (5') foot side yard setback requirement, nor will it qualify as an exception to the definition of a "*Structure*" under Ch. 139-2, Definitions, of the Zoning Bylaw, which allows:

"....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."

The proposed stairs on the southerly side of the dwelling will be one and seven-tenths (1.7) feet from the side yard lot line of the dwelling and thirty-three (33) square feet of such stairs will be located within the side yard setback. As shown on the Proposed conditions plan, the house is proposed to be sited five (5') feet from the southerly side yard setback. But for the stairs providing access to the new nine (9') foot elevation entry point, this portion of the dwelling would comply with the existing side yard setback requirements.

Therefore, the Applicant request Variance relief, pursuant to Ch. 139-32 of the Nantucket Zoning Bylaw, to allow the stairs to be one and seven-tenths (1.7) feet from the side yard lot line.

SUMMARY OF THE PROPOSED WORK

The existing footprint of the structure is to remain the same and therefore, there will be no increase in ground cover. The work generally consists of raising the building's elevation to comply with special flood hazard zone requirements, moving the dwelling southeasterly to remedy its encroachment onto an abutting lot, decreasing two (2) side yard setback intrusions, and building the necessary stairs to provide safe egress to a newly raised building.

The Applicant will not be digging a new foundation on its lot for the newly raised structure, as it is proposed to sit on minimally disruptive pilings. The Applicant's contractor has informed us that while performing this work, the necessary tools to jack up and move the house will need to be brought onto the lot by hand. The Applicant does not foresee a need to use traditional heavy equipment to perform this work, and therefore this proposed work will be minimally disruptive to the neighborhood.

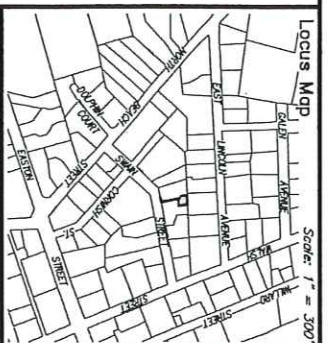
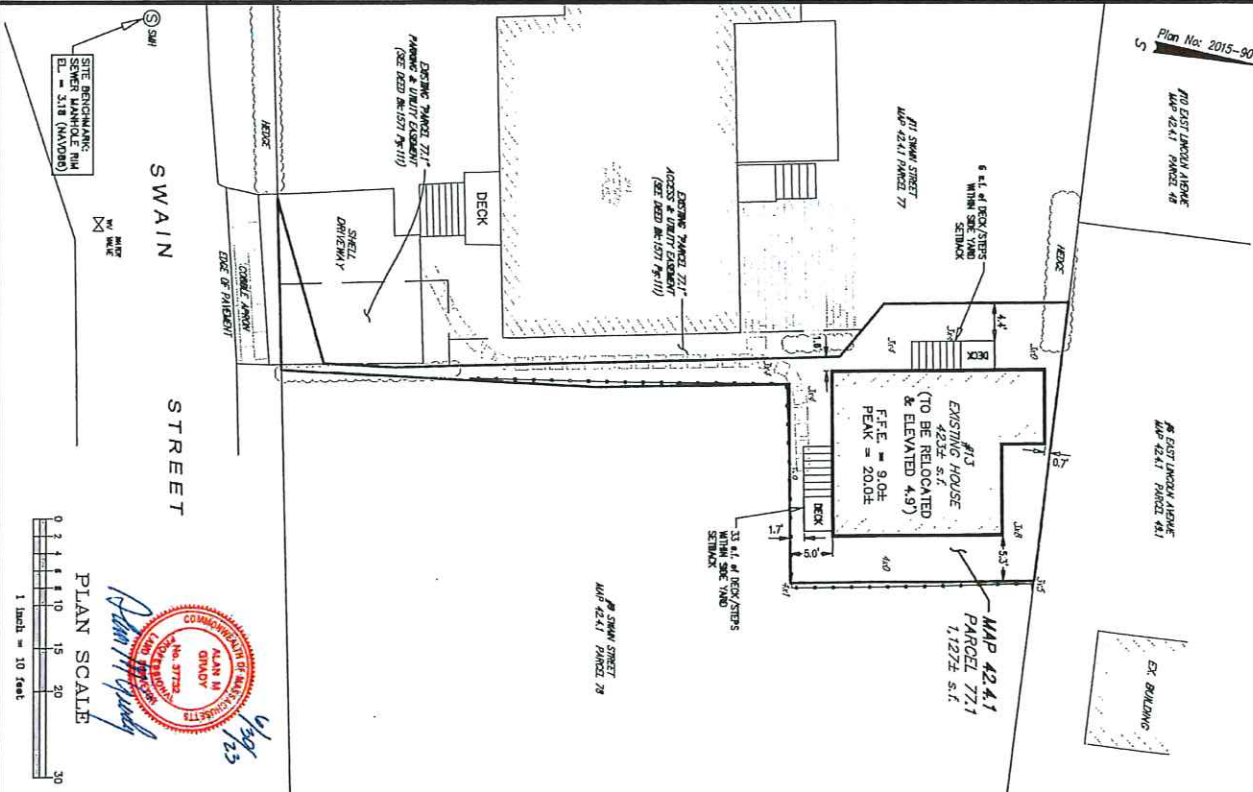
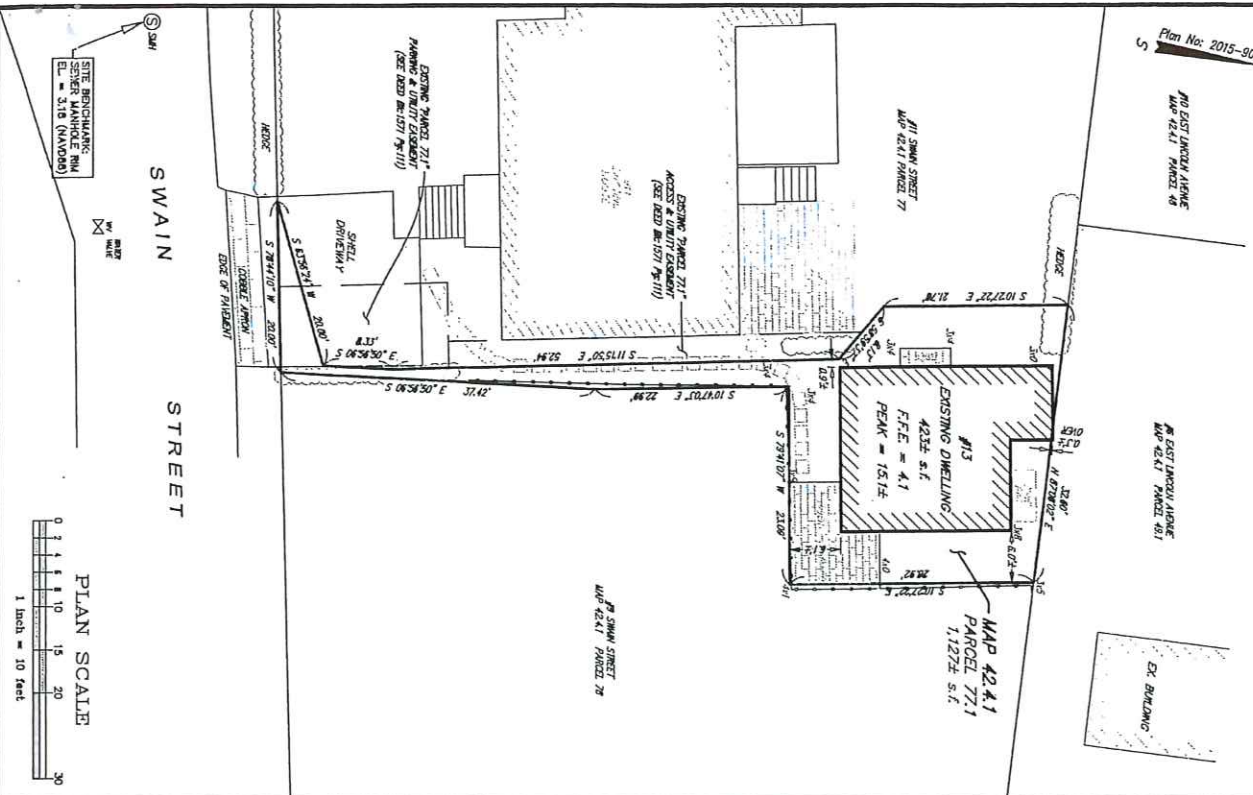
The Applicant owns the abutting lot, located at 11 Swain Street, and therefore can use any portion of that property for access and for storage of construction equipment or excavation materials, as either may be necessary in connection with this proposal.

REQUESTED RELIEF

Therefore, the Applicant hereby request that the Board issue the Applicant the Special Permit and Variance Relief requested herein, and find the following:

1. Owing to the circumstances relating to the flood zone, soil conditions, shape, and/or topography of the Premises, but not generally affecting the zoning district in which it is located, a literal enforcement of the respective and applicable provisions of the Nantucket Bylaw, would involve substantial hardship, financial or otherwise, to the Applicant, and the desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of said bylaw;
2. That the Applicant's proposal is in harmony with the general purpose and intent of the Zoning Bylaw, and
3. That the extension, alteration, or change of the preexisting non-conforming structure is not substantially more detrimental than the existing non-conforming structure to the neighborhood.

EXISTING & PROPOSED CONDITIONS PLAN



1. LOCUS: #13 SWAIN STREET
MAP #2.41 PARCEL 77.1
2. OWNER: 13 SWAIN NOMINEE TRUST,
DANIEL G. COULINHAU, TRUSTEE,
12 OCEANWOODS DRIVE
DUNBURY, MA 02532
3. DEED REF: Bk:1571 Pg:109
4. PLAIN REF: Plan No: 2016-114 (NEW PARCEL 77.1)
5. LOCUS REF: WITHIN SPECIAL FLOOD HAZARD
ZONE "AE1/2" (VARIABLE DURATION
OR FLEA FLOOD INUNDATION DATE MAY 10,
20019C-0095-0 - dated 06/09/2014).
6. LOCUS DOES NOT ALTER THE NATURAL
HISTORICAL AND ENVIRONMENTAL SPECIES PROGRAM
(NHESP) AREAS OF ESTIMATED HABITATS OF
RARE WILDLIFE AND PRIORITY HABITATS OF RARE
SPECIES.

ZONE: R-1	REQUIRED	EXISTING	PROPOSED
LOT AREA	5,000 s.f.	1,927± s.f.	20.0'± s.f.
FRONTAGE	50'	20.7'	20.0'
FRONT YARD	10'	N/A	N/A
REAR YARD	5'	0.5'	1.5'
SIDE YARD	5'	0.5' (0.00')	0.5' (0.00')
GROUND COVER	(max 40.0%)	(40.0%)	(47.2%)
BUILDING HEIGHT	30' (max)	11.6±'	16.5±'

NOTE: SEE BLDG PLAN 2015-90 DIVING PARCEL 77 INTO 2 LOTS FOR PRE-EXISTING STRUCTURES.

B RACKETT
ENGINEERING INC.

48 HENNING FOND ROAD
BROZARD, LA. 71332
(504) 898-8330/870
(fax) 504-853-2382

13 OLD SOUTH ROAD
NANTUCKET, MA 02554
(508) 235-0944
www.brocketteng.com

PROPOSED SITE PLAN TO
ACCOMPANY A SPECIAL
PERMIT APPLICATION
IN NANTUCKET, MASSACHUSETTS

Prepared For:
13 SWAIN NOMINEE TRUST
#13 SWAIN STREET
MAP 42.4.1 PARCEL 77.1

[illegible]

PROJECT NARRATIVE 13 SWAIN STREET

This application is for an alteration of an existing non-conforming structure on an existing non-conforming lot.

The lot was created in 2016 pursuant to the provisions of Chapter 41, Section 81L of the Subdivision Control Law. The structure was built in 1950 according to the Assessor's records. It is a one-story, one-bedroom dwelling.

The lot contains 1,127 square feet of area with 20 feet of frontage on Swain Street. The lot has the benefit of a parking, utility, and access easement on 11 Swain Street.

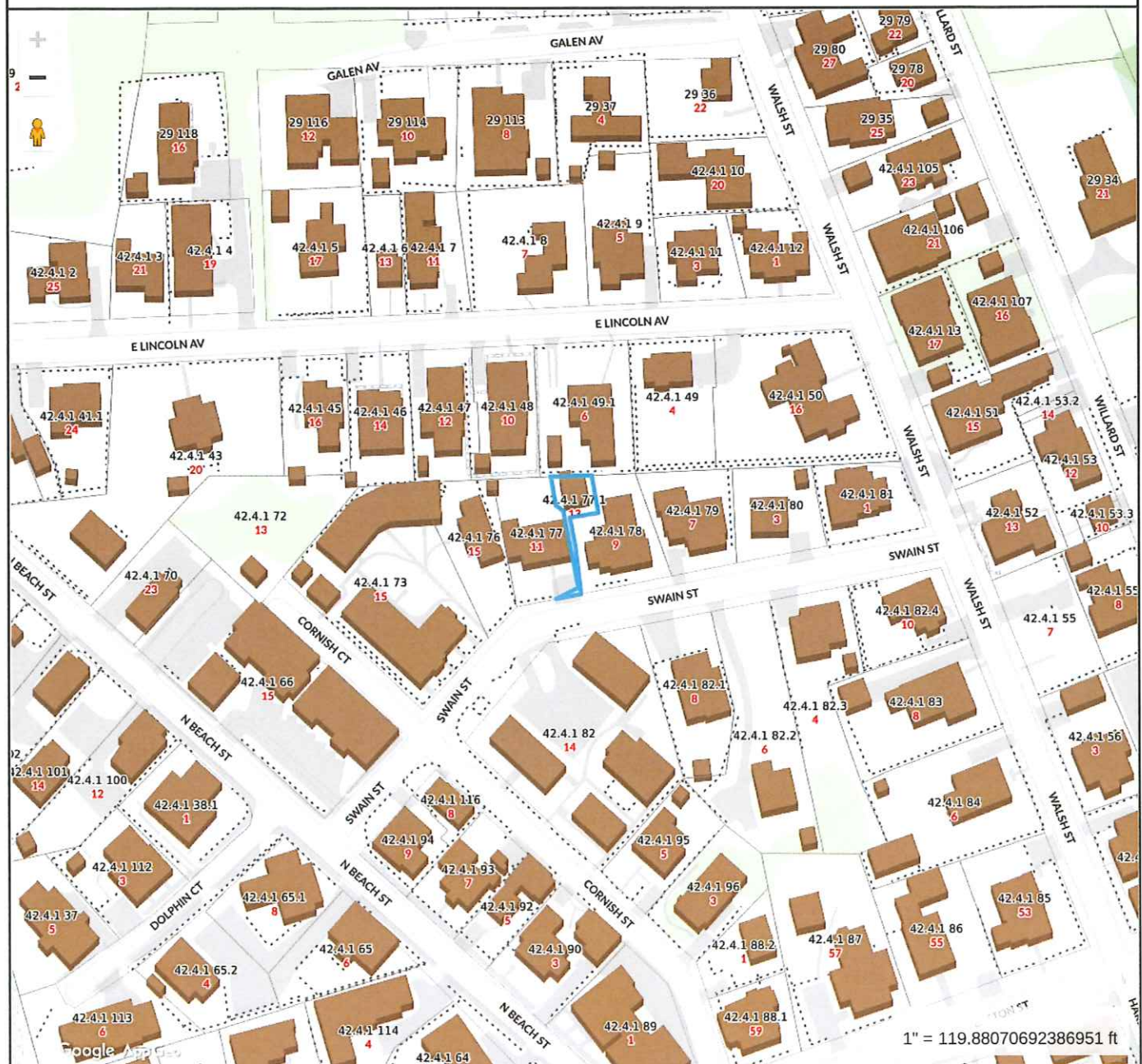
The property is in a Special Flood Hazard Zone. Site topography ranges between elevation 3 and 4. The flood zone elevation is 7. The existing first floor elevation is 4.1, several feet below the flood elevation.

The proposal is raising the existing structure and constructing a new flood zone compliant foundation system. The structure will also be re-located to remedy the existing encroachment on the property to the north. Due to the requirement to raise the first floor up to elevation 9, landings and stairs are now required for access to the building.

The proposed landing and stairs on the west side of the building will comply with zoning regulations, however, on the south side thirty-three square feet will be within the setback, hence the reason for the special permit.

The proposed project will be an improvement over existing conditions, and in our opinion, will not be more detrimental to the neighborhood than the existing nonconformity.

13 Swain Street - GIS Parcel Map

**Property Information**

Property ID 42.4.1.77.1
 Location 13 SWAIN ST
 Owner JENSEN PAUL S TR



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

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

Geometry updated 11/14/2022
 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..... 13 Swain Nominee Trust c/o Daniel Counihan
MAILING ADDRESS..... 12 Oceanwoods Drive, Duxbury, MA 02332
PROPERTY LOCATION..... 13 Swain Street
ASSESSOR MAP/PARCEL..... Map 42.4.1, Parcel 77.1
SUBMITTED BY..... Penni Pomeroy
Bracken Engineering, Inc.....
49 Herring Pond Road
Buzzards Bay, MA 02532

SEE ATTACHED PAGES

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

Digitally signed by Rob Ranney
DN: cn=Rob Ranney, o=Town of
Nantucket, ou=Assessor's Office,
email=rranney@nantucket-ma.gov, c=US
Date: 2023.06.08 11:11:36 -04'00'

06-08-2023

DATE

ASSESSOR'S OFFICE
TOWN OF NANTUCKET

Abutters Listing

MBLU	Lot	Lot Cut	Name Line 1	Name Line 2	Address Line 1	City	State	Zip	Location
29	36		22 WALSH STREET REALTY LLC		145 PICKNEY ST APT 502	BOSTON	MA	02114	22 WALSH ST
29	37		GIBBS MATTHEW A		86 PINCKNEY ST	BOSTON	MA	02114-1446	4 GALEN AV
29	113		REDETT JOHN & SUZANA I		9 RIDGEVIEW AVE	GREENWICH	CT	06830	8 GALEN AV
29	114		JOHNSON LINDA SUE		145 PINCKNEY ST APT 502	BOSTON	MA	02114	10 GALEN AV
29	116		1942 REALTY LLC		3963 MAPLE AVE SUITE 300	DALLAS	TX	75219-3226	12 GALEN AV
4241	4		MONTVALE INVESTMENT LLC		163 STARBOARD LANE	OSTERVILLE	MA	02655	19 E LINCOLN AV
4241	5		BUNKER CHERYL J		41 WINDERMERE RD	AUBURNDALE	MA	02466	17 E LINCOLN AV
4241	6		ZIRINSKY ROBERT		60 EAST 56TH ST 11TH FLOOR	NEW YORK	NY	10022	13 E LINCOLN AV
4241	7		SHAUGHNESSY ROBERT & MARQUES DIANA		5 NEW TOWNE DR	HINGHAM	MA	02043	11 E LINCOLN AV
4241	8		REGER ANDREW & BROOKE		52 BATTIN RD	FAIR HAVEN	NJ	07704	7 E LINCOLN AV
4241	9		5 EAST LINCOLN AVENUE LLC		1270 SOLDIERS FIELDS RD	BOSTON	MA	02135	5 E LINCOLN AV
4241	10		NESE VICTOR J TR		660 ROWLAND RD	FAIRFIELD	CT	06824	20 WALSH ST
4241	11		GUDONIS LAUREN B TRST	CEB NOMINEE TRST	56 MASCONOMO ROAD	MANCHESTER	MA	01944	3 E LINCOLN AV
4241	12		ACK EAST LINCOLN LLC		2626 GARFIELD ST NW	WASHINGTON	DC	20008	1 E LINCOLN AV
4241	13		BRANT POINT 17 WALSH ST LLC		18 THREE WALLS LN	DARIEN	CT	06820	17 WALSH ST
4241	38	1	1 DOLPHIN COURT LLC		896 BEACON STREET	BOSTON	MA	02215	1 DOLPHIN CT
4241	43		MUABESSAC LLC	C/O MARY C MEYERS	126 MARION HEIGHTS	GALAX	VA	24333	20 E LINCOLN AV
4241	45		RYAN MICHAEL O TR	MICHAEL O RYAN REV TRUST	56 DOWNING PARKWAY	PITTSFIELD	MA	01201	16 E LINCOLN AV
4241	46		14 EAST LINCOLN LLC		C/O 37 CENTER ST	NANTUCKET	MA	02554	14 E LINCOLN AV
4241	47		KNIGHT ROBERT A TR ETAL		566 COMMONWEALTH AVE PH1	BOSTON	MA	02215	12 E LINCOLN AV
4241	48		N SCOTT KNIGHT TR	COASTAL NOMINEE REALTY TRUST	63 BAY STATE ROAD	BOSTON	MA	02215	10 E LINCOLN AV
4241	49		NESTER BRIAN A & CONSTANTINA P		1995 AUGUSTA DR	CENTER VALLEY	PA	18034	4 E LINCOLN AV
4241	49	1	JONES MARYANN		176 ROWAYTON AVENUE	ROWAYTON	CT	06853	6 E LINCOLN AV
4241	50		CARR MARTHA A TRUSTEE	C/O CARR ROBERT	1023 N EDISON ST	ARLINGTON	VA	22205	16 WALSH ST
4241	51		REYES JAMES V		4655 HAWTHORNE LANE N W	WASHINGTON	DC	20016	15 WALSH ST
4241	52		JACOBS STEPHEN R & SUZANNE C		1830 RITTENHOUSE SQ APT 17A	PHILIDELPHIA	PA	19103	13 WALSH ST
4241	65		BPC 6 NORTH BEACH STREET LLC	C/O ANCHOR LINE PARTNERS	ONE POST OFFICE SQ	BOSTON	MA	02109	6 N BEACH ST
4241	65	1	8 NORTH BEACH STREET LLC	C/O ANCHOR LINE PARTNERS	ONE POST OFFICE SQ	BOSTON	MA	02109	8 N BEACH ST
4241	66		PIZZUTO MARIA L TR	BRANT PLACE REALTY TRUST	1200 SOLDIERS FIELD RD STE 102	BOSTON	MA	02134	15 N BEACH ST
4241	70		TWENTY THREE NORTH BEACH LLC	C/O GEOFFREY SILVA	23 NORTH BEACH ST	NANTUCKET	MA	02554	23 N BEACH ST
4241	72		GALLOWAY FRANCES C TRS ETAL	C/O MARY C MEYERS	126 MARION HEIGHTS	GALAX	VA	24333	13 CORNISH CT
4241	73	1	BRANT POINT INC		PO BOX 399	HYANNIS	MA	02601	15 SWAIN ST
4241	77		COUNIHAN DANIEL G TR	DANIEL G COUNIHAN REV TRUST	12 OCEANWOODS DRIVE	DUXBURY	MA	02332	11 SWAIN ST
4241	77	1	JENSEN PAUL S TR	13 SWAIN NOMINEE TRUST	C/O COUNIHAN DANIEL	DUXBURY	MA	02332	13 SWAIN ST
4241	78		LANE JAYNE E		41 MASSASOIT ROAD	DUXBURY	MA	02332	9 SWAIN ST

4241	79	NAVILILYLUNA LLC	1332 LITTLE BLUE HERON CT	NAPLES	FL	34108	7 SWAIN ST
4241	80	LAPOSTA JAMES E JR & SUSIE B	66 LAUREL ROAD	HAMDEN	CT	06517	3 SWAIN ST
4241	81	FORSTER ALAN M & NANCY ANN C	3510 EL CENTRO ST	ST PETE BEACH	FL	33706	1 SWAIN ST
4241	82	NANTUCKET ISLAND RESORTS LLC	75 PARK PLAZA #3	BOSTON	MA	02116	14 SWAIN ST
4241	82	MODESTINO MICHAEL F ETAL TRST	100 GRANDVIEW RD STE 320	BRAINTREE	MA	02184	8 SWAIN ST
4241	82	6 SWAIN STREET LLC	290 ELDERFIELDS ROAD	MANHASSET	NY	11030	6 SWAIN ST
4241	82	PHILLIPS ELISABETH HUGHES & CHARLES TR	1225 S OCEAN BLVD APT# 1002	DELRAY BEACH	FL	33483	4 SWAIN ST
4241	82	LYNCH ANN MARIE ETAL	844 GRAMATAN AVE	MT VERNON	NY	10065	10 WALSH ST
4241	83	8 WALSH LLC	300 A STREET SUITE 101	BOSTON	MA	02210	8 WALSH ST
4241	84	HEGENBART JOSEPH J III & MARIANNE	103 EAST 86TH STREET APT 7A	NEW YORK	NY	10028	6 WALSH ST
4241	87	FRANCIS KATHLEEN W TR	1170 PUGH ROAD	WAYNE	PA	19087	57 EASTON ST
4241	88	SPICER WILLIAM H & CHRISTINA J	10 E ROBIN RD	HOLLAND	PA	18966	1 CORNISH ST
4241	89	ONE NORTH BEACH ST LLC	1 N BEACH ST	NANTUCKET	MA	02554	1 N BEACH ST
4241	90	ANCHOR DOWN NANTUCKET LLC	3554 LENOX RD	BIRMINGHAM	AL	35213	3 N BEACH ST
4241	92	COBURN HOLLY	3835 OLYMPIA DR	HOUSTON	TX	77019	5 N BEACH ST
4241	93	CORT JACK & JEANINE	23 BITTERSWEET LANE	WESTON	MA	02493	7 N BEACH ST
4241	94	ROBINSON THOMAS	9 CLARK RD	BROOKLINE	MA	02445	9 N BEACH ST
4241	95	DOUGLAS RAYMOND ETAL	150 WHITE OAK SHADE RD	NEW CANAAN	CT	06840	5 CORNISH ST
4241	96	BLOOM MARTIN V TRST	3471 MAIN HWY #823	MIAMI	FL	33133	3 CORNISH ST
4241	105	HAROLD BROTHERS REALTY LLC	76 CLUBHOUSE DRIVE	HINGHAM	MA	02043	23 WALSH ST
4241	106	FANDREY EDWARD B & JOHANNA M	134 E 93RD ST APT 11C	NEW YORK	NY	10128	21 WALSH ST
4241	116	MOORE JUSTIN D & DAVID W	4402 RAWLINS ST	DALLAS	TX	75219	8 CORNISH ST
Count: 57							

Holly Coburn

File No. 12-23

5 North Beach St

SPECIAL PERMIT

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

2023 AUG 16 PM 2:38

NANTUCKET
TOWN CLERK

APPLICATION

Fee: \$450.00

File No. 12-23

Owner's name(s): **Holly Coburn**

Mailing address: **3835 Olympia Drive, Houston TX 77019**

Phone Number: **508-228-2044** E-Mail: **ben@normandresidential.com**

Applicant's name(s): **Same**

Mailing Address: **Same**

Phone Number: E-Mail:

Locus Address: **5 North Beach^C Street** Assessor's Map/Parcel: **42.4.1/92**

~~Land Court Plan~~/Plan Book & Page/Plan File No.: **Lot 34, Plan Book 15, Page 63**

Deed Reference/~~Certificate of Title~~: **Deed: Book 1895, Page 221**

Zoning District: **CN**

Uses on Lot- Commercial: **No** Yes (describe)

Residential: Number of dwellings: **1** Duplex _____ Apartments _____

Date of Structure(s): **1930**

Building Permit Numbers:

Previous Zoning Board Application Numbers:

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

See attached Addendum A

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: _____
Applicant/Attorney/Agent*

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

OFFICE USE ONLY

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

Addendum A

The Owner/Applicant, Holly Coburn (hereinafter referred to as "Coburn") is the owner of 5 North Beach Street ("the Premises") by virtue of a Deed recorded in Book 1895, Page 221 at the Nantucket Registry of Deeds. The Applicant is requesting Special Permit relief pursuant to Nantucket Zoning Bylaw Section 139-33.A(1)(a). in order to alter a pre-existing nonconforming structure as shown on the plan entitled, "Proposed Site Plan", prepared by Bracken Engineering, Inc., dated February 22, 2023, attached hereto as Exhibit B.

The Premises is a pre-existing lot of record in the Commercial Neighborhood ("CN") zoning district and contains a lot size of 3,150 square feet in a district that requires a minimum lot size of 7,500 square feet. The structures on the Premises are also nonconforming with respect to setbacks and use, being as close as 0.9 feet from the rear yard northly setback in a zoning district that requires a 10 foot rear yard setback; as close as 3.0 feet from the westerly side yard setback and 3.6 feet from the easterly side yard setback in a zoning district that requires a 5 foot setback. The structure on the Premises has historically been used as a residence since it was constructed in 1930. A primary dwelling is an accessory use in the CN district, but there is no commercial on the Premises, nor has there been one historically.

The Applicant intends to move the existing structure to a property in Sconset and construct a new dwelling as shown on the attached site plan. The new structure will conform to all applicable zoning setbacks and the ground cover regulations of the CN district. The Applicant has Historic District Commission approval by virtue of Certificate of Appropriateness Number . However, the Premises will be nonconforming with respect to both use and lot size. HDC 2023-01-7695

Therefore, the Applicant is requesting Special Permit relief pursuant to Nantucket Zoning Bylaw Section 139-33.A(1)(a) in order to remove the pre-existing nonconforming structure upon the Premises and construct a new structure in accordance with the site plan attached hereto as Exhibit B. In this instance, because the pre-existing nonconforming use will be expanding because the ground cover is increasing and because the pre-existing nonconforming structure is being removed and replaced with a structure that is compliant with setbacks and ground cover ratio, the requested relief is in harmony with the general purpose and intent of the Zoning Bylaw and the extension of the nonconforming use is not substantially more detrimental to the neighborhood than the existing nonconformity.



Property Information

Property ID 42.4.1.92
 Location 5 N BEACH ST
 Owner OYSTER PROPERTIES LLC

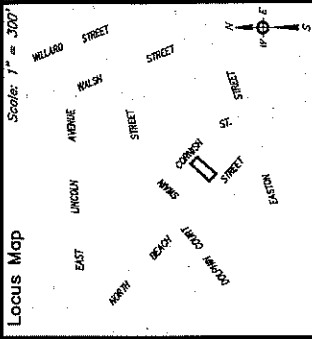


**MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT**

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 07/28/2022
 Data updated Jan. 2021

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



- Notes**
1. LOCUS: #5 NORTH BEACH STREET PARCEL 92 MAP 42.4.1
 2. OWNER: HOLLY COBURN 705 PIPER ROAD HOUSTON, TX 77024
 3. DEED REF: BK. 15 PG. 221
 4. PLAN REF: BK. 15 PG. 63 (LOT 34)
 5. LOCUS DOES FALL WITHIN SPECIAL FLOOD HAZARD ZONE "AE" (EL.7) AS SHOWN ON FEMA FLOOD INSURANCE RATE MAP No. 25019C-0086-G dated 06/09/2014.
 6. LOCUS DOES NOT FALL WITHIN THE HAZARDOUS WASTE AND TOXIC SUBSTANCES PROGRAM (NHPSP) AREAS OF ESTIMATED HABITATS OF RARE WILDLIFE AND PRIORITY HABITATS OF RARE SPECIES.

ZONING REQUIREMENTS

ZONE	ON REQUIRED	EXISTING	PROPOSED
LOT AREA:	7,500 s.f.	3,150 s.f.	3,150 s.f.
FRONTAGE:	50'	35'	35'
FRONT YARD:	10'	SEE PLAN	SEE PLAN
SIDE YARD:	5'	0.8x	5.5'
REAR YARD:	N/A	N/A	N/A
GROUND COVER:	40% (MAX)	28.2%	28.2%
		28.2%	28.2%

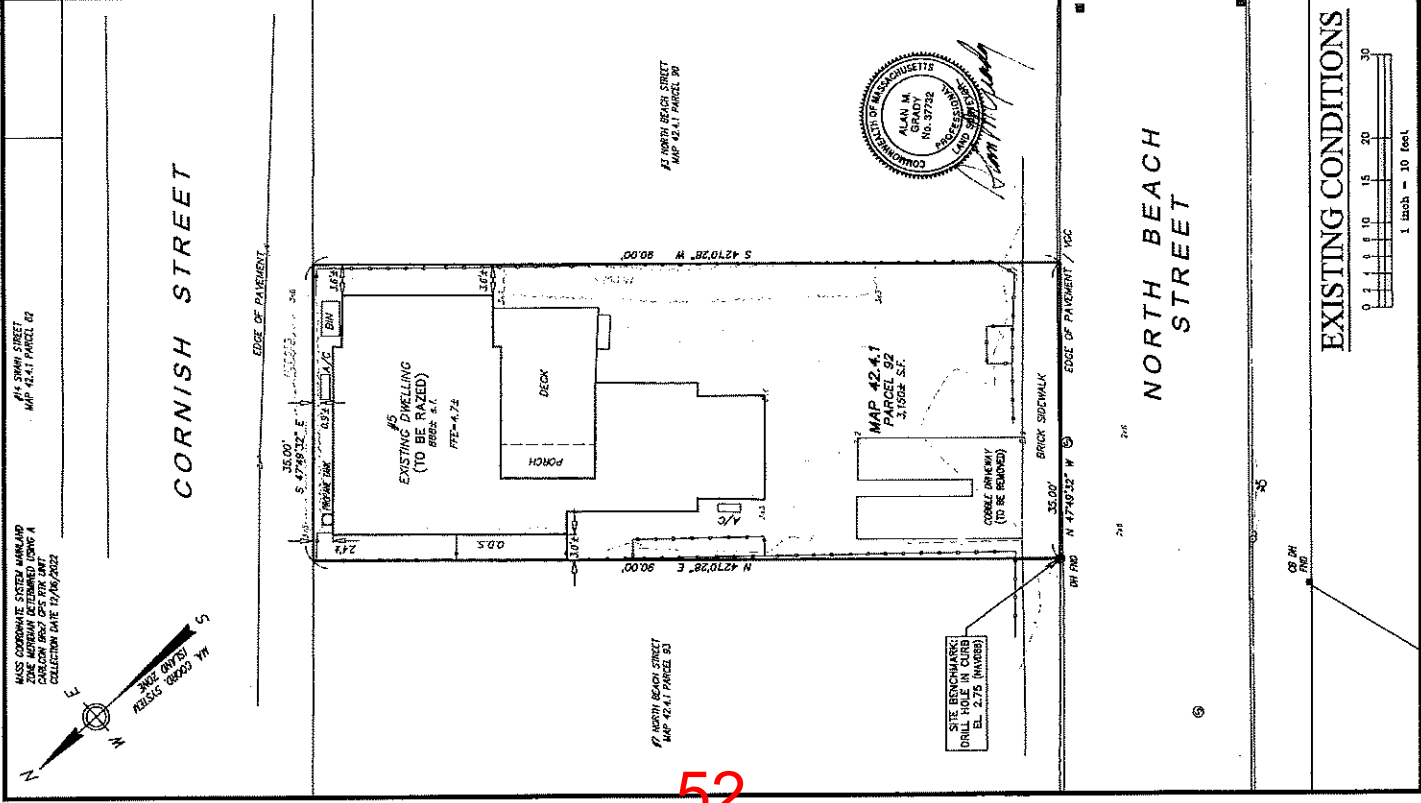
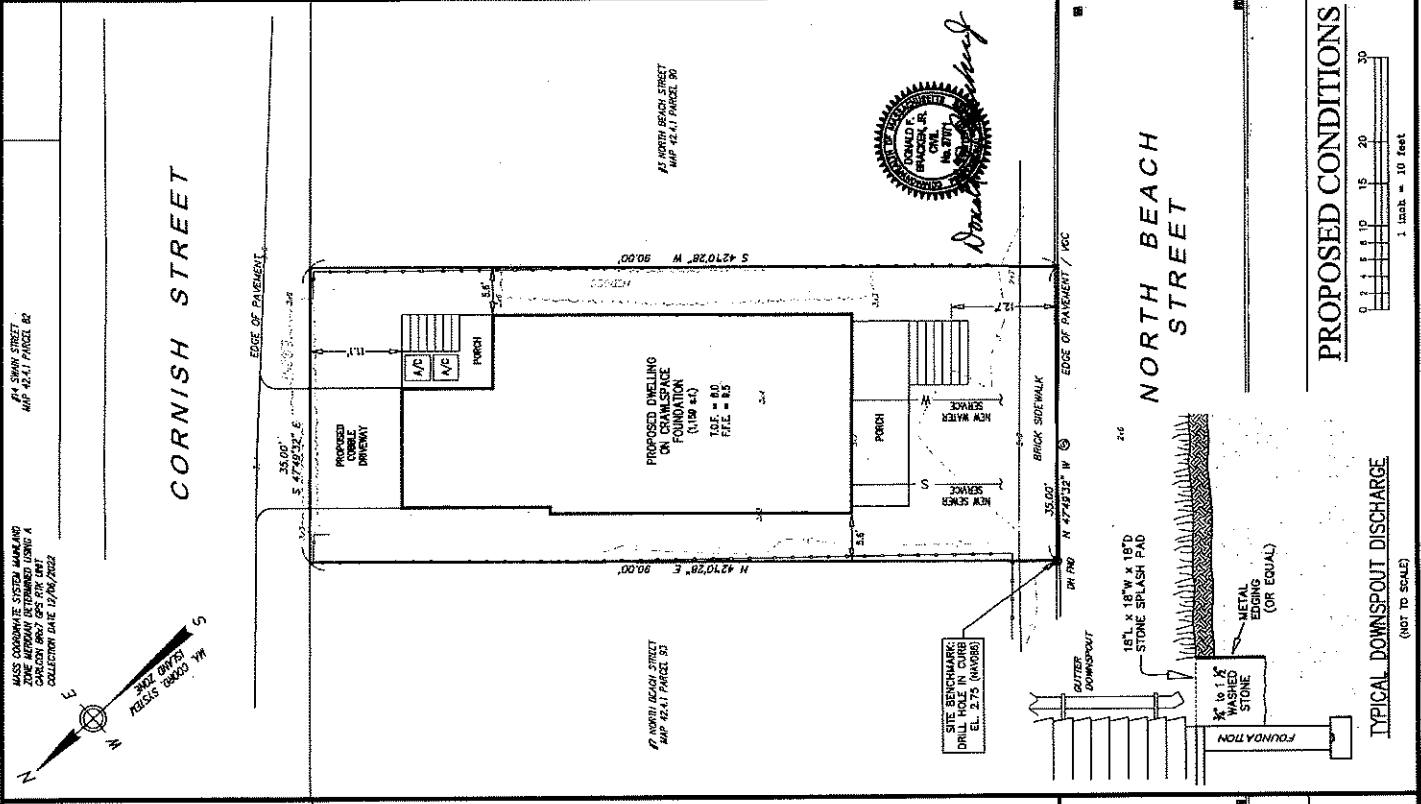
Prepared By: **BRACKEN ENGINEERING INC.**

48 HERRING POND ROAD
SUZANNAH, MA 02534
(tel) 608.833.0070
(fax) 608.833.1282
www.brackeneng.com

PROPOSED SITE PLAN
IN NANTUCKET, MASSACHUSETTS

Prepared For:
HOLLY COBURN
#5 NORTH BEACH STREET
MAP 42.4.1 PARCEL 92

No.	Date	Revision Description	Drawn	Checked	Sheet
1	FEBRUARY 22, 2023	RM/ERC/REI	DBB/ANG		1 of 1



Town of Nantucket

Zoning Board of Appeals

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

PROPERTY OWNER..... Holly Coburn
MAILING ADDRESS..... 3835 Olympia Dr. Houston TX 77019
PROPERTY LOCATION..... 5 North Beach St.
ASSESSOR MAP/PARCEL..... 42.4.1/92
SUBMITTED BY..... Benjamin Norman

SEE ATTACHED PAGES

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

August 10, 2023

DATE

Mary L.
Haley

Digitally signed by
Mary L. Haley
Date: 2023.08.10
15:29:10 -04'00'

ASSESSOR'S OFFICE
TOWN OF NANTUCKET

NANTUCKET ISLAND RESORTS LLC
C/O NEW ENGLAND DEVELOP-ACCTING
DEPT
75 PARK PLAZA #3
BOSTON, MA 02116

TAYLOR KIMBERLY K ETAL
76 EASTON ST
NANTUCKET, MA 02554

MOONTIDE LLC ETAL
2 COMMONWEALTH AVE UNIT 8G
BOSTON, MA 02116

NANTUCKET HOTEL HOLDINGS LLC
321 COMMONWEALTH RD STE 201
WAYLAND, MA 01778

ADAMS JULIE DEVITO
5 DOLPHIN COURT
NANTUCKET, MA 02554

1 DOLPHIN COURT LLC
896 BEACON STREET
BOSTON, MA 02215

KNIGHT ROBERT A TR ETAL
566 COMMONWEALTH AVE PH1
BOSTON, MA 02215

N SCOTT KNIGHT TR
COASTAL NOMINEE REALTY TRUST
63 BAY STATE ROAD
BOSTON, MA 02215

JONES MARYANN
176 ROWAYTON AVENUE
ROWAYTON, CT 06853

WHITE ELEPHANT HOTEL LLC
C/O NEW ENGLAND DEVELOPMENT-
ACCTING DEPT
75 PARK PLAZA STE 3
BOSTON, MA 02116

INCUBATOR ASSOCIATES LP
PO BOX 5826
BRIDGEPORT, CT 06610

STONE BRIDGE PROPERTIES INC
PO BOX 5826
BRIDGEPORT, CT 06601

66 EASTON LLC
66 EASTON STREET
NANTUCKET, MA 02554

PETROCELLI BRIGITTE L & NICHOLAS S
560 HARLAND STREET
MILTON, MA 02186

BPC 6 NORTH BEACH STREET LLC
C/O ANCHOR LINE PARTNERS
ONE POST OFFICE SQ
BOSTON, MA 02109

BPC 4 DOLPHIN COURT LLC
C/O ANCHOR LINE PARTNERS
ONE POST OFFICE SQ
BOSTON, MA 02109

PIZZUTO MARIA L TR
BRANT PLACE REALTY TRUST
1200 SOLDIERS FIELD RD STE 102
BOSTON, MA 02134

GALLOWAY FRANCES C TRS ETAL
C/O MARY C MEYERS
126 MARION HEIGHTS
GALAX, VA 24333

BRANT POINT INC
PO BOX 399
HYANNIS, MA 02601

BRANT POINT INC
PO BOX 399
HYANNIS, MA 02601

COUNIHAN DANIEL G TR
DANIEL G COUNIHAN REV TRUST
12 OCEANWOODS DRIVE
DUXBURY, MA 02332

JENSEN PAUL S TR & 13 SWAIN NOMINEE
TR
C/O COUNIHAN DANIEL
12 OCEANWOODS DRIVE
DUXBURY, MA 02332

LANE JAYNE E
41 MASSASOIT ROAD
DUXBURY, MA 02332

NAVILILYLUNA LLC
1332 LITTLE BLUE HERON CT
NAPLES, FL 34108

LAPOSTA JAMES E JR & SUSIE B
66 LAUREL ROAD
HAMDEN, CT 06517

NANTUCKET ISLAND RESORTS LLC
C/O NEW ENGLAND DEVELOP-ACCTING
DEPT
75 PARK PLAZA #3
BOSTON, MA 02116

MODESTINO MICHAEL F ETAL TRST
BPN REALTY TRUST
100 GRANDVIEW RD STE 320
BRAINTREE, MA 02184

6 SWAIN STREET LLC
290 ELDERFIELDS ROAD
MANHASSET, NY 11030

PHILLIPS ELISABETH HUGHES &
CHARLES TR
1225 S OCEAN BLVD APT# 1002
DELRAY BEACH, FL 33483

LYNCH ANN MARIE ETAL
844 GRAMATAN AVE
MT VERNON, NY 10065

8 WALSH LLC
300 A STREET SUITE 101
BOSTON, MA 02210

HEGENBART JOSEPH J III & MARIANNE
103 EAST 86TH STREET APT 7A
NEW YORK, NY 10028

EASTON STREET LLC
C/O CONGRESS WEALTH MANGT LLC
155 SEAPORT BLVD 3RD FL
BOSTON, MA 02110

FRANCIS KATHLEEN W TR
REV TRUST AGRMNT OF FRANCIS K W
1170 PUGH ROAD
WAYNE, PA 19087

NANTUCKET YACHT CLUB
PO BOX 667
NANTUCKET, MA 02554

SPICER WILLIAM H & CHRISTINA J
10 E ROBIN RD
HOLLAND, PA 18966

ONE NORTH BEACH ST LLC
1 N BEACH ST
NANTUCKET, MA 02554

ANCHOR DOWN NANTUCKET LLC
3554 LENOX RD
BIRMINGHAM, AL 35213

CORT JACK & JEANINE
23 BITTERSWEET LANE
WESTON, MA 02493

ROBINSON THOMAS
9 CLARK RD
BROOKLINE, MA 02445

DOUGLAS RAYMOND ETAL
150 WHITE OAK SHADE RD
NEW CANAAN, CT 06840

BLOOM MARTIN V TRST
MVB LIVING TRUST
3471 MAIN HWY #823
MIAMI, FL 33133

FRIEL PAUL W JR & DIANNE M
6227 MEDORA RD
LINTHICUM, MD 21090

SOUTH NOMINEE TRUST
71 EASTON STREET
NANTUCKET, MA 02554

NORTH NOMINEE TRUST
C/O GONNELLA MARK
73 EASTON ST
NANTUCKET, MA 02554

WHIRL TRADE NOMINEE TRST
C/O MCGLINN LISA A
210 TELLURIDE TRAIL
CHAPEL HILL, NC 27514

LANE WILLIAM F & JAYNE E TRST
41 MASSASOIT RD
DUXBURY, MA 02332

HOME AWEIGH LLC
C/O GLENN COURT
171 CHURCH ST
WESTON, MA 02493

WOLFF BARBARA JEAN TRST
LE DOLPHIN TRUST
6323 STEFANI DRIVE
DALLAS, TX 75225

202 VENTURES LLC
2814 UNIVERSITY TER NW
WASHINGTON, DC 20016

NANTUCKET ISLANDS LAND BANK
22 BROAD ST
NANTUCKET, MA 02554

NANTUCKET ISLANDS LAND BANK
22 BROAD ST
NANTUCKET, MA 02554

MOORE JUSTIN D & DAVID W
4402 RAWLINS ST
DALLAS, TX 75219

MARTIN DOLORES PAINO
2 COMMONWEATH AV
BOSTON, MA 02116

ben@normandresidential.com

From: Holly Coburn <hollycoburn@icloud.com>
Sent: Thursday, August 10, 2023 2:46 PM
To: <ben@normandresidential.com>
Subject: Application permission

Town of Nantucket, Board of Appeals,

I allow Benjamin Normand to sign applications and represent said applications for my property at 5 N. Beach St.

Sincerely,
Holly Coburn

Surfside Drive, LLC

File No. 13-23

5 Surfside Dr

MODIFICATION

BEAUDETTE AND SWAIN
 PROFESSIONAL LIMITED LIABILITY COMPANY
 ATTORNEYS AT LAW
 35 OLD SOUTH ROAD, SUITE D
 P.O. BOX 2049
 NANTUCKET, MASSACHUSETTS 02584

RICHARD P. BEAUDETTE
 BRYAN J. SWAIN

PHONE: (508) 228-4455
 FAX: (508) 228-3070
 WWW.NANTUCKETLAWFIRM.COM

OF COUNSEL
 KEVIN F. DALE
 WILLIAM F. HUNTER

August 14, 2023

VIA HAND DELIVERY AND EMAIL

Susan McCarthy, Chairwoman
 Nantucket Zoning Board of Appeals
 Planning and Land Use Building
 2 Fairgrounds Road
 Nantucket, MA 02554

Re: Surfside Drive, LLC
 5 Surfside Drive, Nantucket, MA 02554
 Application for a Special Permit

Dear Chairwoman McCarthy:

My client, Surfside Drive, LLC (the "Applicant"), owns 5 Surfside Drive, Nantucket Town and County, Commonwealth of Massachusetts (the "Premises") and operates its' preexisting, nonconforming, commercial tent rental company thereon and stores and warehouses trade equipment in connection therewith, via a duly issued Preexisting, Nonconforming Special Permit.

The Applicant seeks to Amend the Preexisting, Nonconforming Special Permit to permit it to alter and extend the commercial tent rental use by constructing a new structure on the Premises, which includes additional storage and warehousing in the newly proposed building and a four (4) bedroom garage apartment on the second floor therein.



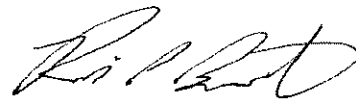
To that end, enclosed please find two (2) separate paper application packets including the following:

1. Complete application page;
2. Addendum;
3. Locus Plan from the Nantucket Tax Assessor's Map Book;
4. The Existing Conditions Plan;
5. The Proposed Conditions Plan;
6. The Complete Abutters Package, and
7. A check for \$450.00 made payable to the Town of Nantucket.

Please place this matter on the Zoning Board of Appeals agenda for its September 14, 2023, meeting. Please note that the Applicant reserves the right to supplement this application with additional materials at a later time.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Beaudette", written in a cursive style.

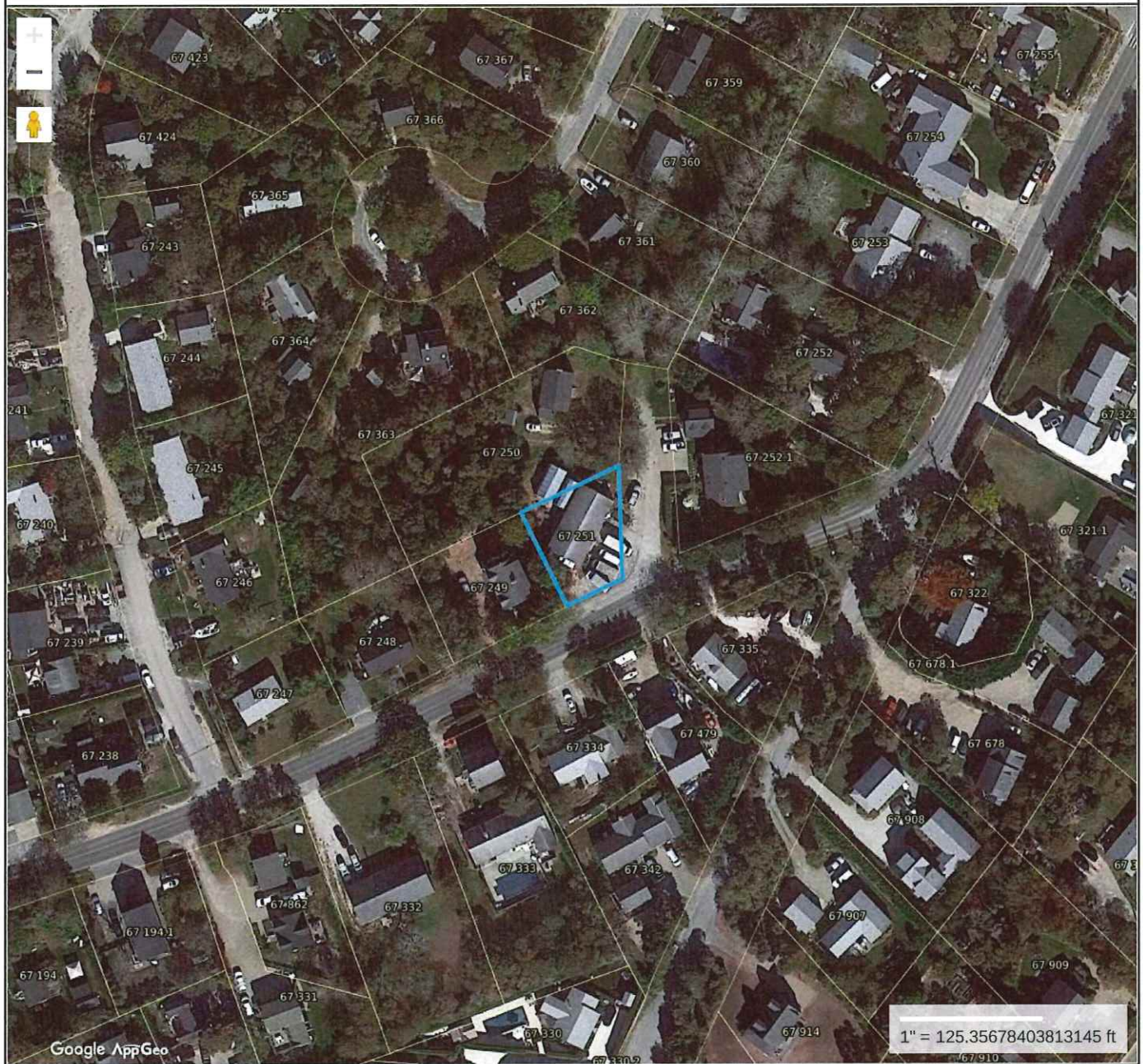
Richard Beaudette, Esq.

RPB/BJS

Encs.

cc:

Surfside Drive, LLC



Property Information

Property ID 67 251
 Location 5 SURFSIDE DR
 Owner SURFSIDE DRIVE 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 08/02/2023
 Data updated Jan. 2021

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



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

2023 AUG 16 PM 2:38

NANTUCKET
TOWN CLERK

A P P L I C A T I O N

Fee: \$450.00

File No. 13-23

Owner's name(s): Surfside Drive, LLC

C/O Beaudette and Swain, LLC

Mailing address: 35 Old South Road, STE D, Nantucket, MA 02254

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

Applicant's name(s): Surfside Drive, LLC

Mailing Address: same as above

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

Locus Address: 5 Surfside Drive Assessor's Map/Parcel: 67 / 251

Land Court Plan/Plan Book & Page/Plan File No.: Lot 29, LC Plan No. 26439-H

Deed Reference/Certificate of Title: 27168 Zoning District R-10

Uses on Lot- Commercial: None ☐ Yes (describe) Yes, storage and warehousing related to Tent Company

Residential: Number of dwellings ☐ Duplex ☐ Apartments ☐

Date of Structure(s): all pre-date 7/72 ☐ or 1 (commercial)

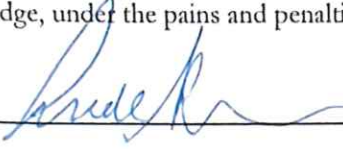
Building Permit Numbers: On file at PLUS

Previous Zoning Board Application Numbers: 61-01, 35-02

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

See Addendum

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

SIGNATURE:  Owner*

SIGNATURE: _____ Applicant/Attorney/Agent*

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

OFFICE USE ONLY

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

ADDENDUM

I. INTRODUCTION

The Applicant, Surfside Drive, LLC (the “Applicant”), is the owner of the improved real property located at 5 Surfside Drive, Nantucket Town and County, Commonwealth of Massachusetts, identified as Parcel 251 on Nantucket Tax Assessor’s Map 251, and further identified as Lot 29 on Nantucket Land Court Plan No. 26439-H (the “Premises”), by virtue of Certificate of Title No. 27,168 on file at the Nantucket Registry District of the Land Court.

II. EXISTING CONDITIONS

The Premises is located in the Residential - 10 (R-10) Zoning District and is preexisting, nonconforming as to having multiple curb cuts on the Premises, driveway access within 25 feet of an intersection, not having and on-site turnaround, its Lot Area (8,687 $\pm$ s.f.), and rear lot setback requirement, and currently complies with its Frontage, Front Yard setback, and Side Yard setback requirements.

As shown on the Existing Conditions Plan (attached hereto as Exhibit “A”), the Premises is currently improved with a 1,810 $\pm$ s.f. single story, wood frame commercial structure, which the Applicant uses for storage and warehousing associated with its commercial tent rental company, a preexisting, nonconforming use in the R-10 Zoning District.

The Premises is benefitted by two (2) Nantucket Zoning Board of Appeals Decisions, ZBA File Nos. 61-01¹, and 35-02² (the “Special Permits”), in which the Board issued a variance to validate the Premises as a separately marketable undersized lot, and a Special Permit to permit the

¹ Registered as Document Nos. 94614 and 96673.

² Registered as Document No. 97714.

Applicant to operate its preexisting, nonconforming tent rental storage on the Premises and to store and warehouse the trade equipment related thereto.

III. **PROPOSAL TO ALTER A PREEXISTING NONCONFORMING STRUCTURE**

The Applicant seeks to Amend the Special Permits and to alter and expand the preexisting, nonconforming use by tearing down the existing commercial structure on the Premises and replacing it with a new two (2) story, four (4) garage bay, wood frame structure, containing approximately 3,840 $\pm$ s.f. of storage and warehousing, allocated between the basement and first floor of the proposed structure, that will continue to be used in the same nature and purpose of the existing commercial tent rental use.

The Applicant also proposes to construct a four (4) bedroom garage apartment on the second floor of the structure, which is allowed by right in the R-10 Zoning District. The proposed expansion of the Premises and the floor plans related thereto, can be seen on the Proposed Conditions Plan (annexed hereto as Exhibit "B").

While performing the proposed work, the Applicant will remove the existing shed and two (2) hoop tents, that are either encroaching onto the neighbor's property and/or are encroaching into the rear lot setback. Additionally, the proposed work will cure the existing structure's rear lot line setback intrusion and result in the Premises being compliant with all zoning setback requirements.

The Applicant does not propose to change the quality or character of its preexisting nonconforming commercial tent storage use on the Premises, and desires to continue to operate such business in the same manner that it has for the past 20 years. The newly proposed structure will not be open to the general public and only the Applicant, its staff and residents of the building

will be allowed therein. Therefore, such continued use will not have a different effect on the neighborhood than what currently exists.

As the Applicant is proposing to alter a preexisting, nonconforming use, it therefore requests a Special Permit, pursuant to Nantucket Zoning Bylaw Ch. 139-33.

IV. PARKING CALCULATION TABLE

<u>USE</u>	<u>PARKING CALCULATION</u>	<u>NUMBER OF REQUIRED SPACES</u>
Storage and Warehousing: 3,840 s.f.	1 space per 900 s.f. of Use	4 spaces (3,840 / 900 = 4.26)
Garage Apartment: 4 bedrooms	1 space per bedroom	4 Spaces (4 Bedrooms)
Total Required Spaces:		8 Spaces

As shown on the Proposed Conditions Plan, the Applicant can provide eight (8) parking spaces and therefore no parking relief is necessary.

V. VEGETATIVE SCREENING FROM NEIGHBORS

As shown on the Proposed Conditions plan, the Applicant will install evergreen vegetative screening along portions of the perimeter of the Premises that will reduce visibility of the structure, and its' parking areas, from the neighboring properties.

VI. REQUESTED RELIEF

Therefore, the Applicant hereby request that the Board issue the Applicant the Special Permit requested herein, and find the following:

1. That the Applicant's proposal is in harmony with the general purpose and intent of the Zoning Bylaw, and
2. That the extension, expansion and alteration, or change of the preexisting non-conforming use is not substantially more detrimental than the existing non-conforming use to the neighborhood.
3. The Board modify Condition (d) of Nantucket Zoning Board of Appeals File No. 35-02, to allow the Applicant to construct the four (4) bedroom garage apartment, as presented.

EXHIBIT “A”

ZONING DISTRICT: RESIDENTIAL 10 (R-10)

MINIMUM LOT SIZE: 10,000 S.F.
MINIMUM FRONTAGE: 75 FT.
FRONT YARD SETBACK: 20 FT.
REAR/SIDE SETBACK: 10 FT.
GROUND COVER % : 25%

REFERENCE:
ZONING VARIANCE DOC. No. 94614
ZONING DECISION DOC. No. 96673
SPECIAL PERMIT DOC. No. 97714

LOT AREA=8,687± S.F.

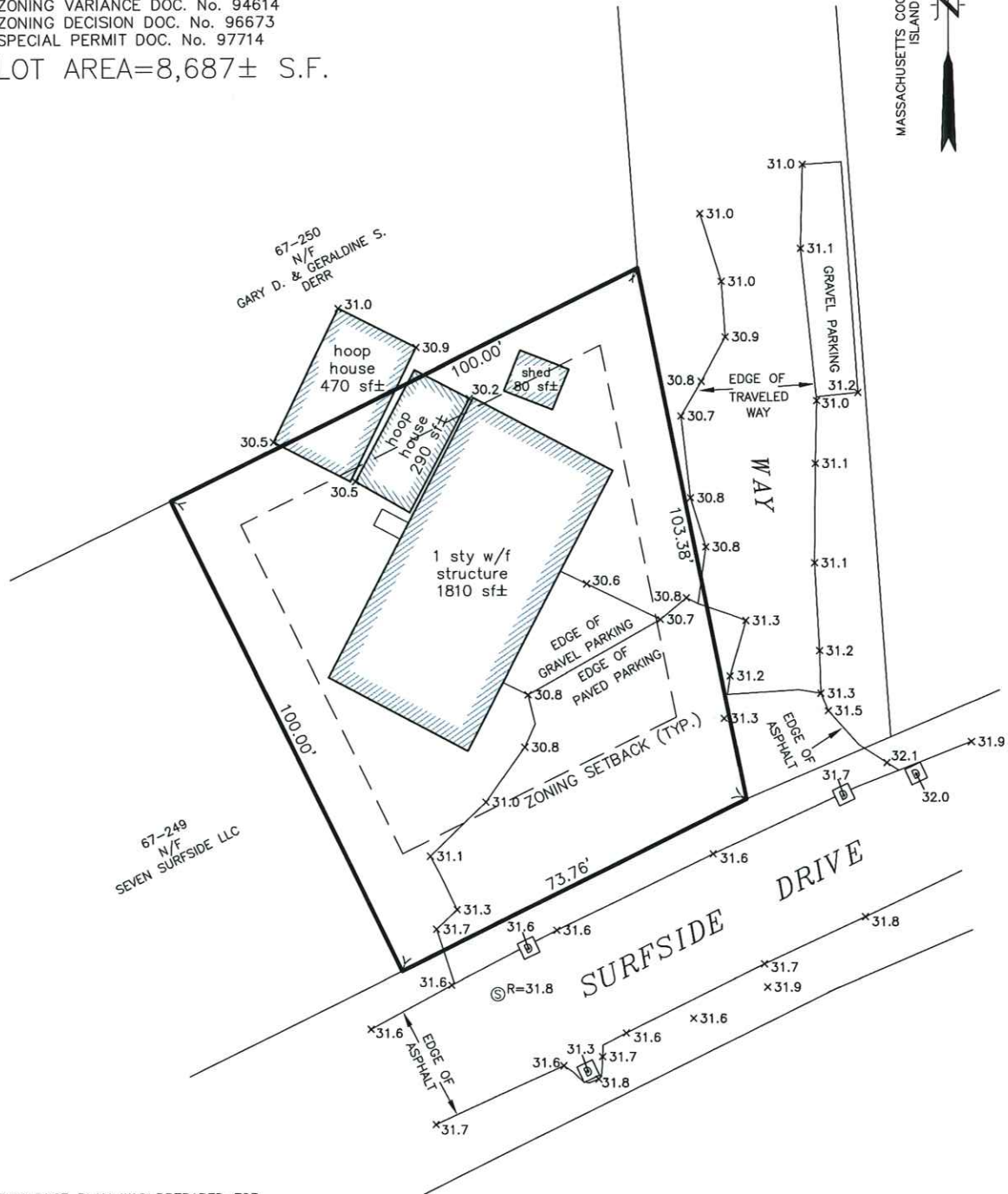
LEGEND

[D] = CATCHBASIN

[S] = SEWER MANHOLE

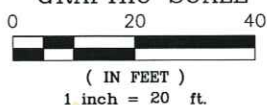
x31.0 = SPOT ELEVATION
1988 NAVD

MASSACHUSETTS COORDINATE SYSTEM
ISLAND ZONE



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

GRAPHIC SCALE



OWNER INFORMATION

SURFSIDE DRIVE LLC
CERT. 27,168
LCPL 26439-H, LOT 29
ASSESSOR'S MAP 67 PARCEL 251
5 SURFSIDE DRIVE

**EXISTING CONDITIONS
PLAN OF LAND**

in Nantucket, MA
Prepared For
SURFSIDE DRIVE LLC

5 SURFSIDE DRIVE
MAP 67 PARCEL 251

Scale: 1"=20' SEPTEMBER 19, 2022

NANTUCKET
ENGINEERING
& SURVEY, PC
20 Mary Ann Drive Nantucket, MA 02564
NantucketEngineer.com 608-625-6863

EXHIBIT “B”

MASSACHUSETTS COORDINATE SYSTEM
ISLAND ZONE



ZONING DISTRICT: RESIDENTIAL 10 (R-10)

MINIMUM LOT SIZE: 10,000 S.F.
MINIMUM FRONTAGE: 75 FT.
FRONT YARD SETBACK: 20 FT.
REAR/SIDE SETBACK: 10 FT.
GROUND COVER % : 25%

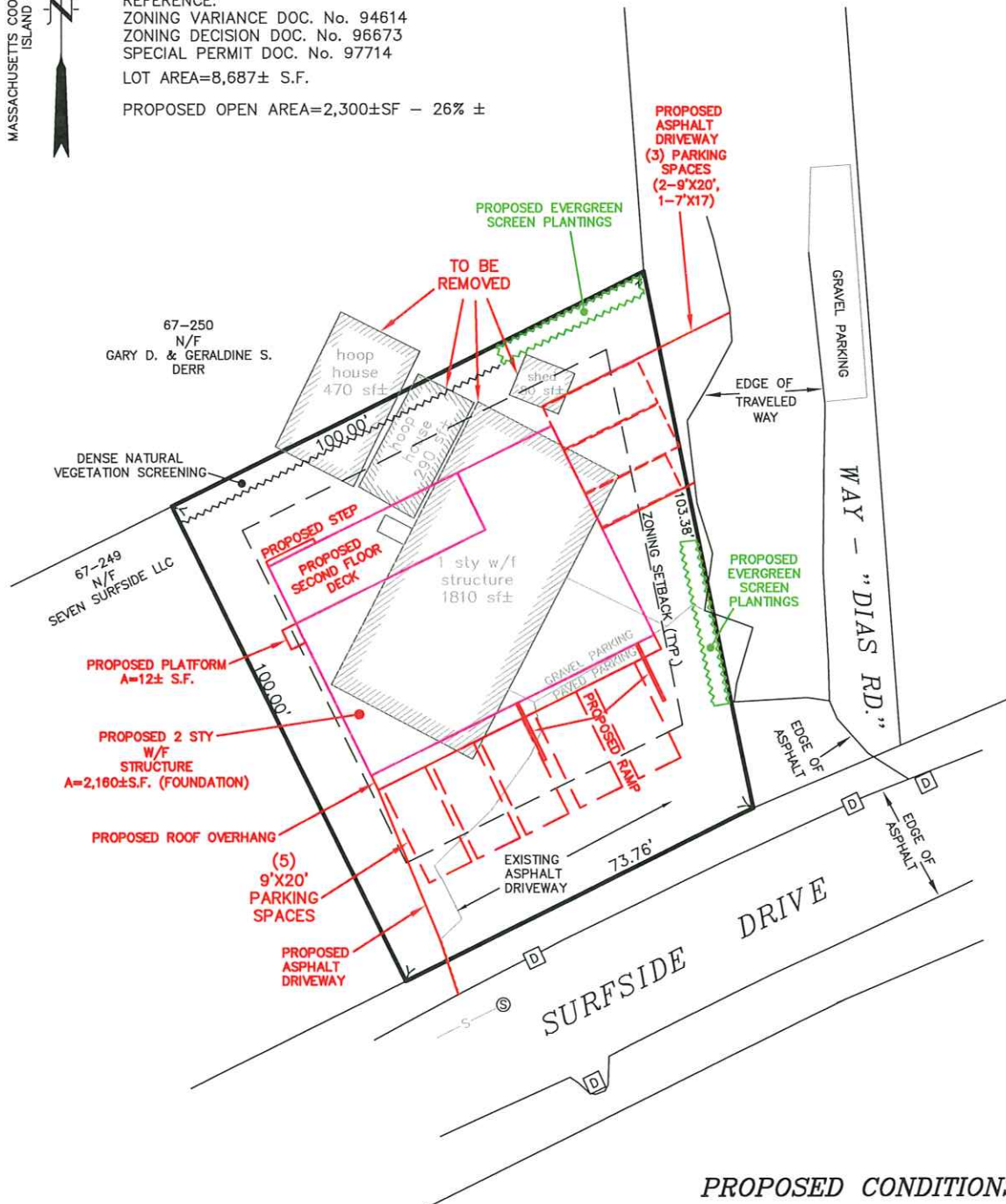
REFERENCE:
ZONING VARIANCE DOC. No. 94614
ZONING DECISION DOC. No. 96673
SPECIAL PERMIT DOC. No. 97714
LOT AREA=8,687± S.F.

PROPOSED OPEN AREA=2,300±SF - 26% ±

LEGEND

[D] = CATCHBASIN

[S] =SEWER MANHOLE



OWNER INFORMATION

SURFSIDE DRIVE LLC
CERT. 27,168
LCPL 26439-H, LOT 29
ASSESSOR'S MAP 67 PARCEL 251
5 SURFSIDE DRIVE

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

GRAPHIC SCALE



(IN FEET)

1 inch = 20 ft.

PROPOSED CONDITIONS

SITE PLAN

in Nantucket, MA

Prepared For

SURFSIDE DRIVE LLC

5 SURFSIDE DRIVE

MAP 67 PARCEL 251

Scale: 1"=20' AUGUST 5, 2023

NANTUCKET
ENGINEERING
& SURVEY, PC
20 Mary Ann Drive Nantucket, MA 02554
NantucketEngineer.com 508-825-5053

CERTIFICATE NO: _____

DATE ISSUED: 5/9/23

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

CERTIFICATE OF APPROPRIATENESS

for structural work.

NOTE: It is strongly recommended that the applicant be familiar with the HDC guidelines, *Building with Nantucket in Mind*, prior to submittal of application. Please see other side for submittal requirements. Incomplete applications will not be reviewed by the HDC.

This is a contractual agreement and must be filled out in ink. An application is hereby made for issuance of a Certificate of Appropriateness under Chapter 395 of the Acts and Resolves of Mass., 1970, for proposed work as described herein and on plans, drawings and photographs accompanying this application and made a part hereof by reference.

The certificate is valid for three years from date of issuance. No structure may differ from the approved application. Violation may impede issuance of Certificate of Occupancy.

PROPERTY DESCRIPTION

TAX MAP N°: 107 PARCEL N°: 251
 Street & Number of Proposed Work: 5 SURFIDE DRIVE
 Owner of record: NANTUCKET TRUST COMPANY
 Mailing Address: PO BOX 9244
NANTUCKET, MA 02544
 Contact Phone #: _____ E-mail: _____

AGENT INFORMATION (if applicable)

Name: VAL OVIK-DESIGN INC.
 Mailing Address: PO BOX 3057
NANTUCKET, MA 02544
 Contact Phone #: (508) 326-4219 E-mail: val@valovik.com

FOR OFFICE USE ONLY

Date application received: 5/2/23 Fee Paid: \$ 210.00
 Must be acted on by: 6/12/23
 Extended to: _____
 Approved: [Signature] Disapproved: _____
 Chairman: _____
 Member: _____
 Member: [Signature]
 Member: _____
 Member: _____

Notes - Comments - Restrictions - Conditions

Motion to approve subject to more typical, traditional Nantucket-type overhead garage doors.

DESCRIPTION OF WORK TO BE PERFORMED

See reverse for required documentation.

☐ New Dwelling ☐ Addition ☐ Garage ☐ Driveway/Apron ☐ Commercial ☐ Historical Renovation ☐ Deck/Patio ☐ Steps ☐ Shed
☐ Color Change ☐ Fence ☐ Gate ☐ Hardscaping ☐ Move Building ☐ Demolition ☐ Revisions to previous Cert. No. _____
☐ Pool (Zoning District _____) ☐ Roof ☒ Other COMMERCIAL - REPAIRS (WHOLESALE)
 Size of Structure or Addition: Length: 100' Sq. Footage 1st floor: 2140 Decks/Patio: Size: 12x10 ☒ 1st floor ☐ 2nd floor None
 Width: 47' Sq. Footage 2nd floor: 1920 Size: 8.4x10 ☐ 1st floor ☒ 2nd floor None
 Sq. Footage 3rd floor: _____

Difference between existing grade and proposed finish grade: North _____ South _____ East _____ West _____
 Height of ridge above final finish grade: North 24'-0" ± South 24'-0" ± East 24'-0" ± West 24'-0" ±

Additional Remarks

REVISIONS*

1. East Elevation
 Historic Name: _____ (describe)
 Original Date: _____
 Original Builder: _____
 2. South Elevation
 3. West Elevation
 4. North Elevation

Is there an HDC survey form for this building attached? ☐ Yes ☐ N/A *Cloud on drawings and submit photographs of existing elevations.

DETAIL OF WORK TO BE PERFORMED

Foundation: Height Exposed 8"-36" ☐ Block ☐ Block Parged ☐ Brick (type) _____ ☒ Poured Concrete ☐ Piers
 Masonry Chimney: ☐ Block Parged ☐ Brick (type) _____ ☐ Other _____
 Roof Pitch: Main Mass 3/12 Secondary Mass 4/12 Dormer 4/12 Other _____
 Roofing material: ☒ Asphalt ☐ 3-Tab ☒ Architectural
☐ Wood (Type: Red Cedar, White Cedar, Shakes, etc.) _____

Fence: Height: _____
 Type: _____
 Length: _____

Skylights (flat only): Manufacturer _____ Rough Opening _____ Size _____ Location _____
 Manufacturer _____ Rough Opening _____ Size _____ Location _____

Gutters: ☐ Wood ☐ Aluminum ☐ Copper ☐ Leaders (material) _____

Leaders (material and size):

Sidewall: ☐ White cedar shingles ☐ Clapboard (exposure: _____ inches) Front ☐ Side ☐

☒ Other BOARDS + BUTTER (like historic) NTW

Trim: A. Wood ☐ Pine ☐ Redwood ☒ Cedar ☐ Other _____

B. Treatment ☒ Paint ☐ Natural to weather ☐ Other _____

C. Dimensions: Fascia 1x4 Rake 1x8 Soffit (Overhang) 1'-0" Corner boards 1x6 Frieze _____

Window Casing 1x4 Door Frame 1x6 Columns/Posts: Round _____ Square 6"x8"
 Windows: ☒ Double Hung ☐ Casement ☐ All Wood ☐ Other _____

☐ True Divided Lights (muntins), single pane ☒ SDL's (Simulated Divided Lights) Manufacturer ANDERSON 400

Doors* (type and material): ☐ TDL ☐ SDL Front N/A Rear 9 LIGHT Side 9 LIGHT

Garage Door(s): Type OVERHEAD Material PAINTED WHITE

Hardscape materials: Driveways _____ Walkways _____ Walls _____

* Note: Complete door and window schedules are required.

COLORS

Sidewall NPW Clapboard (if applicable) _____ Roof BLACK
 Trim WHITE Sash WHITE Doors WHITE
 Deck NPW Foundation GRAY Fence _____ Shutters _____

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

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

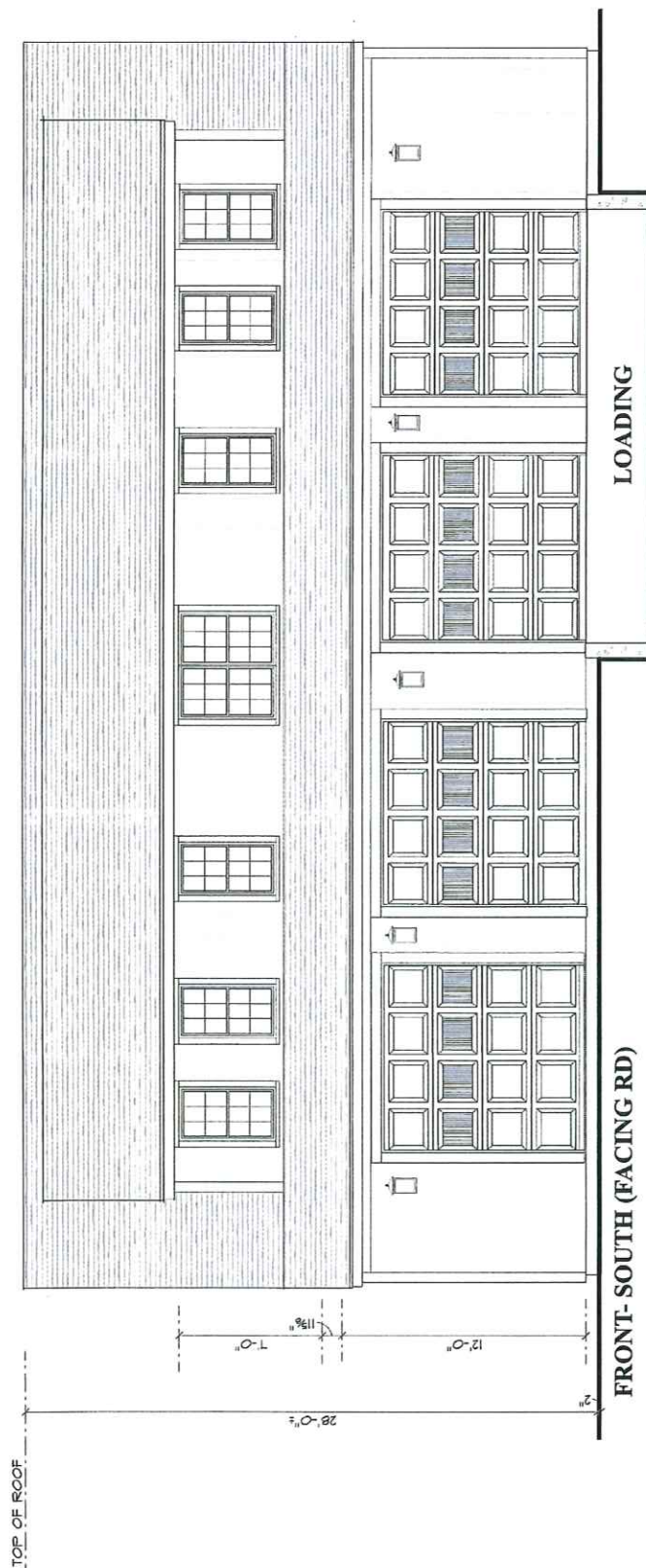
Date 5/23/23 Signature of owner of record [Signature] Signed under penalties of perjury



VAL OLIVER DESIGN, INC.
PO BOX 3057
NANTUCKET, MA 02584

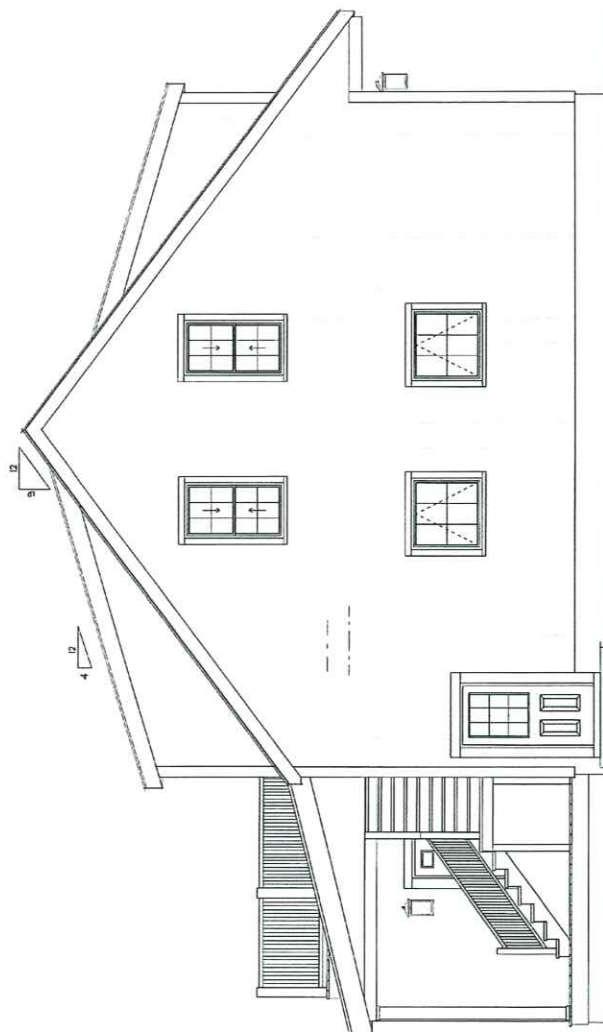
SURFSIDE DRIVE LLC-5 SURFSIDE RD
NEW STORAGE BUILDING

SCALE: 1/4"=1'-0"
DRAWN BY: VO
DATE: 4-23-23



LOADING

FRONT-SOUTH (FACING RD)



LEFT-WEST ELEVATION



VAL OLIVER DESIGN, INC.
PO BOX 3057
NANTUCKET, MA 02584

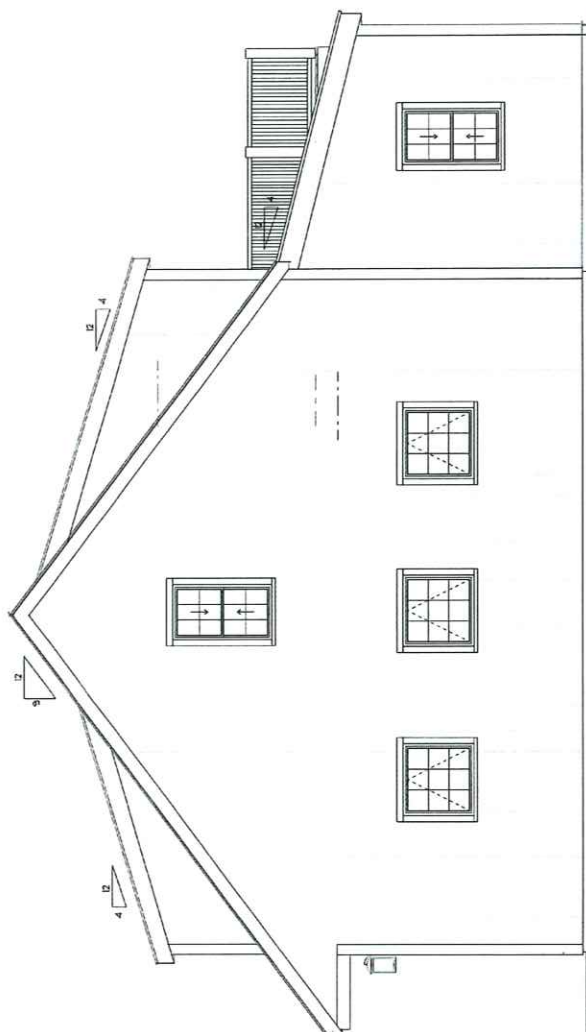
SURFSIDE DRIVE LLC-5 SURFSIDE RD
NEW STORAGE BUILDING

DATE: 4-23-23

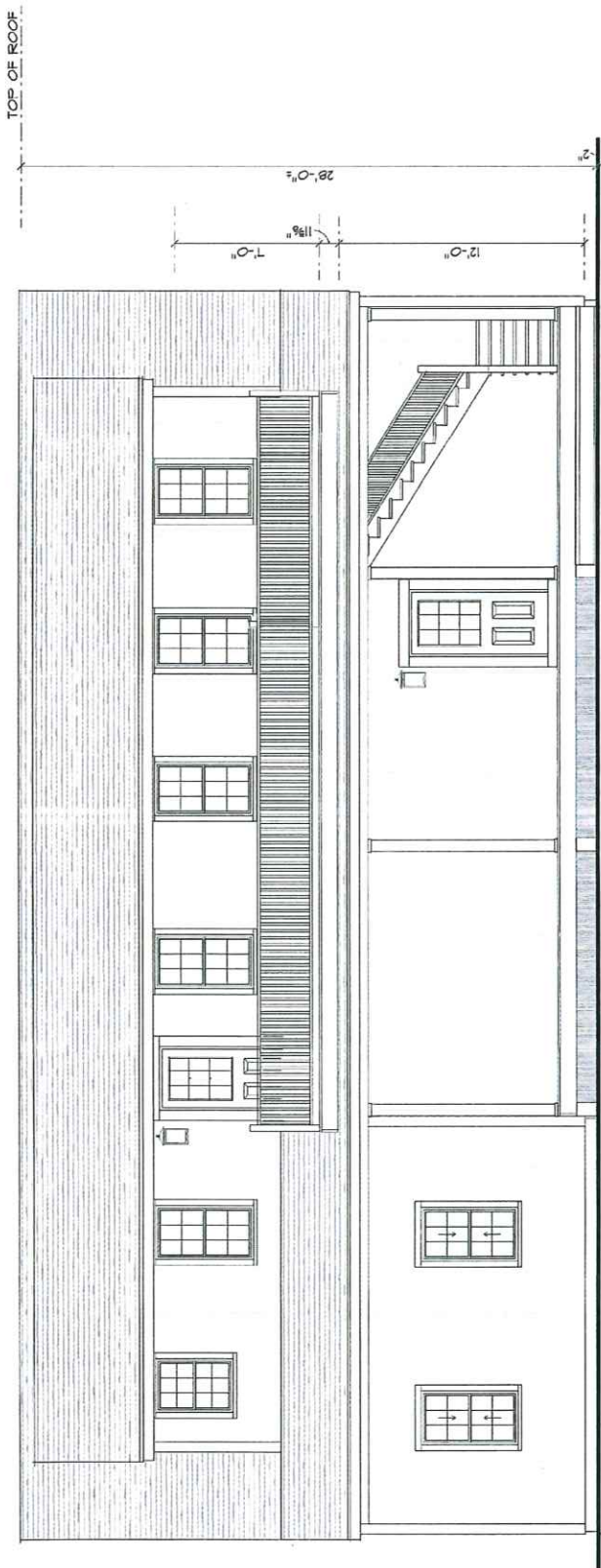
DRAWN BY: VO

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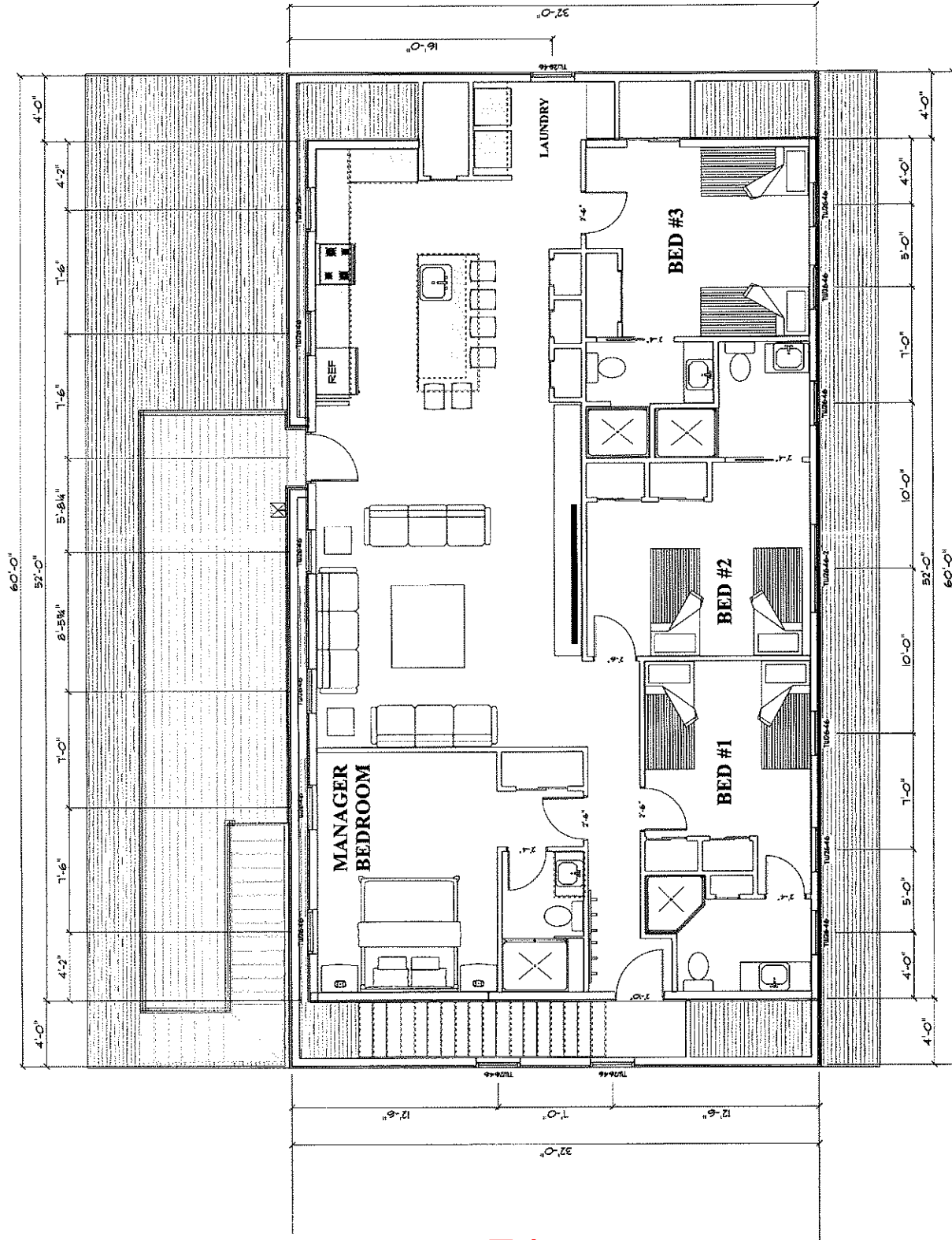
RIGHT-EAST ELEVATION



REAR-NORTH



SECOND FLOOR PLAN-1920SF

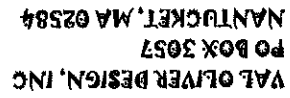


SCALE: 1/4"=1'-0"
DRAWN BY: VO
DATE: 4-23-23

NANTUCKET TENT COMPANY-NEW BUILDING
5 SURFSIDE DRIVE
NANTUCKET, MA 02584

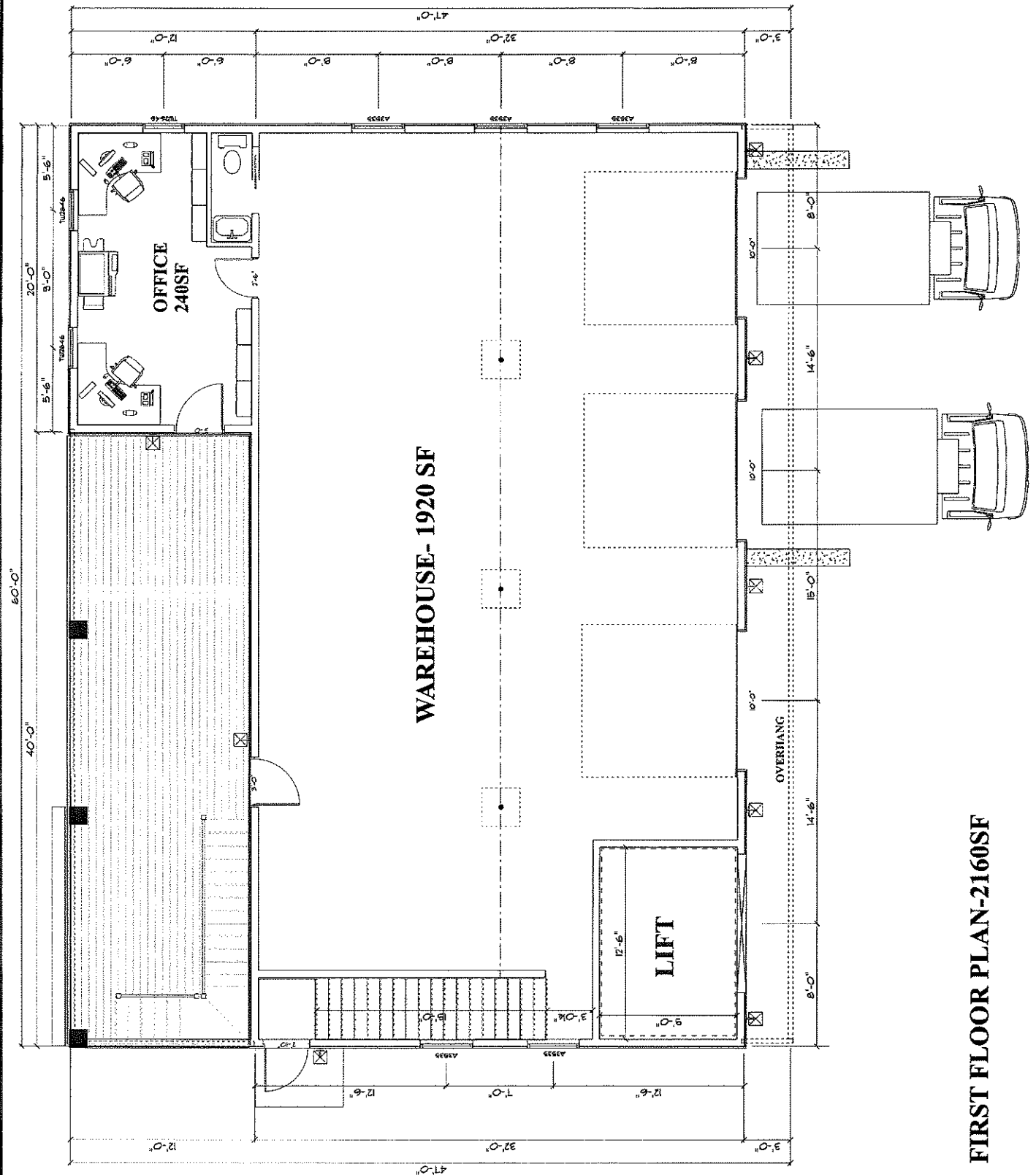
V&A OLIVER DESIGN, INC
PO BOX 3057
NANTUCKET, MA 02584



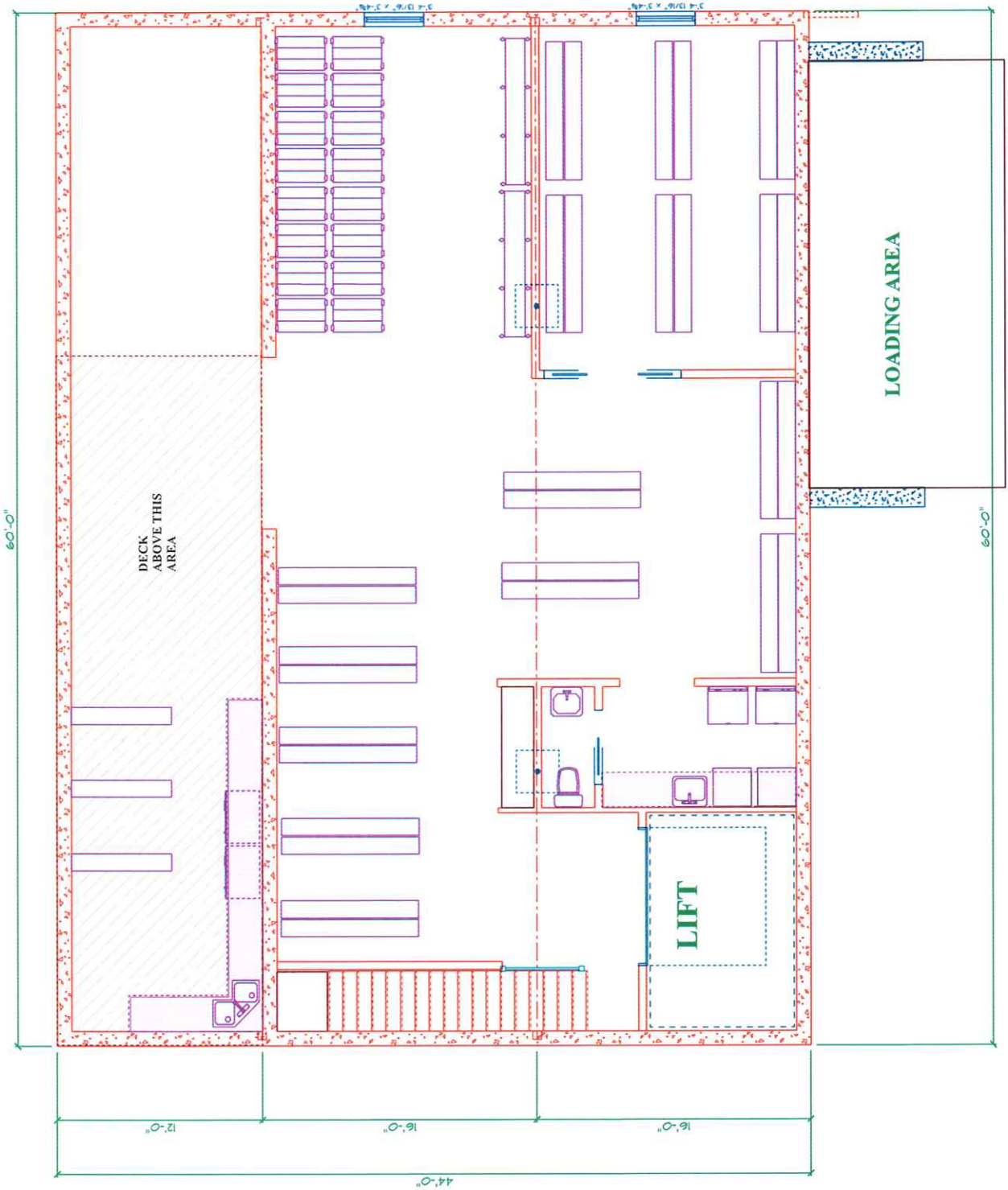


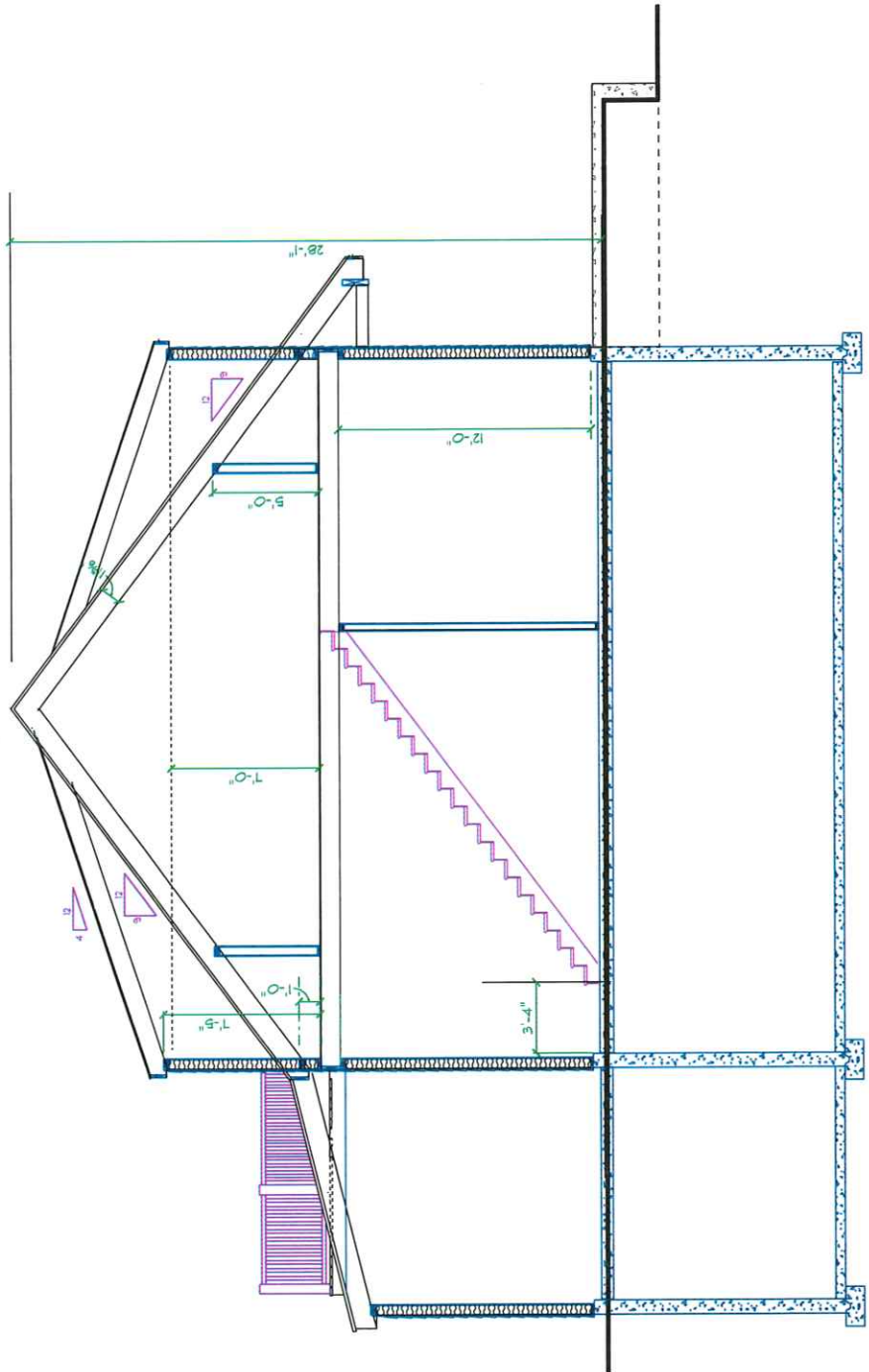
NANTUCKET TENT COMPANY-NEW BUILDING
5 SURFSIDE DRIVE

SCALE: 1/4"=1'-0"



BASEMENT FLOOR PLAN - 44' X 60'





Town of Nantucket

Zoning Board of Appeals

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

PROPERTY OWNER..... **SURFSIDE DRIVE LLC**
C/O Beaudette and Swain, LLC 35(D) Old South Road
MAILING ADDRESS..... **Nantucket, MA 02554**
PROPERTY LOCATION..... **5 SURFSIDE DR**
ASSESSOR MAP/PARCEL..... **67/251**
SUBMITTED BY..... **Bryan J. Swain**

SEE ATTACHED PAGES

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

July 27, 2023

DATE

Mary L. Digitally signed
Haley by Mary L. Haley
Date: 2023.07.27
11:35:47 -04'00'

ASSESSOR'S OFFICE
TOWN OF NANTUCKET

Abutters Listing

MBLU	Lot	Lot Cut	Name Line 1	Name Line 2	Address Line 1	City	State	Zip	Location
67	244		LINEMAN JOHN A		PO BOX 3826	NANTUCKET	MA	02584	7 PINE GROVE RD
67	245		MURPHY PAUL G & PATRICIA		28 HOOPER FARM RD	NANTUCKET	MA	02554	5 PINE GROVE RD
67	246		RAAB MATHEW T & THEA L		3 PINE GROVE RD	NANTUCKET	MA	02554	3 PINE GROVE RD
67	247		DUARTE DOMINIC A		3 CEDAR CIRCLE	NANTUCKET	MA	02554	11 SURFSIDE DR
67	248		HERRICK RICHARD R & DORIS A		9 SURFSIDE DR	NANTUCKET	MA	02554	9 SURFSIDE DR
67	249		SEVEN SURFSIDE LLC		PO BOX 5244	NANTUCKET	MA	02554	7 SURFSIDE DR
67	250		DERR GARY D & GERALDINE S		PO BOX 635	NANTUCKET	MA	02554	4 DIAS RD
67	252		CONRAD IRENE E		PO BOX 3294	NANTUCKET	MA	02584	65 HOOPER FARM RD
67	252	1	MISURELLI MICHAEL & CHRISTIE L		3 SURFSIDE DRIVE	NANTUCKET	MA	02554-4147	3 SURFSIDE DR
67	253		MILLER COURTNEY L ETAL		63 HOOPER FARM RD	NANTUCKET	MA	02554	63 HOOPER FARM RD
67	321	1	64 HRF LLC		4 MICHEME LANE	NANTUCKET	MA	02554	64 HOOPER FARM RD
67	322		WIGGIN KRIS JARED & ELIZABETH GRACE		66 HOOPER FARM RD	NANTUCKET	MA	02554	66 HOOPER FARM RD
67	332		REEL KEEPER LLC		PO BOX 3528	NANTUCKET	MA	02584	10 SURFSIDE DR
67	333		8 SURFSIDE DRIVE LLC		8 SURFSIDE DRIVE	NANTUCKET	MA	02554	8 SURFSIDE DR
67	334		SURFSIDE 6 ACK LLC		1636 3RD AVE STE 134	NEW YORK	NY	10128	6 SURFSIDE DR
67	335		MAYO JOSEPH M ETAL		2 SURFSIDE DRIVE	NANTUCKET	MA	02554	2 SURFSIDE DR
67	342		HF1 ACK LLC	C/O PLATT GEOFFREY	1636 3RD AVE SUITE 314	NEW YORK	NY	10128	71 HOOPER FARM RD
67	359		RYDER DONALD L & SUSAN E TR	S RYDER REALTY TRUST	6 DENNIS DR	NANTUCKET	MA	02554	6 DENNIS DR
67	360		MEDEIROS IRENE		8 DENNIS DR	NANTUCKET	MA	02554	8 DENNIS DR
67	361		HARNISHFEGGER CRAIG E		10 DENNIS DRIVE	NANTUCKET	MA	02554	10 DENNIS DR
67	362		SYLVIA PETER E & SUSAN		PO BOX 637	NANTUCKET	MA	02554	12 DENNIS DR
67	363		SANDERS BARRIE FEE & GRANT M TRS		14 DENNIS DR	NANTUCKET	MA	02554	14 DENNIS DR
67	364		PERRY MARY JANE		13 DENNIS DR	NANTUCKET	MA	02554	13 DENNIS DR
67	365		PYKOSZ JENNIFER F		P O BOX 2216	NANTUCKET	MA	02584	11 DENNIS DR
67	366		MORRIS MARTHA S		110 CHARLES ST #3	BOSTON	MA	02114	9 DENNIS DR
67	367		JONES TANIA H		7 DENNIS DRIVE	NANTUCKET	MA	02554	7 DENNIS DR
67	479		MAYO MATTHEW JOHN		2 SURFSIDE DRIVE	NANTUCKET	MA	02554	69 HOOPER FARM RD
67	678		HF2 ACK LLC		1324 LEXINGTON AVE STE 245	NEW YORK	NY	10128	68 HOOPER FARM RD
67	678	1	HF3 ACK LLC		1324 LEXINGTON AVE STE 245	NEW YORK	NY	10128	68R HOOPER FARM RD
67	862		AGUIAR LINDA & MATTHEW J		12 SURFSIDE DR	NANTUCKET	MA	02554	12 SURFSIDE DR
67	907		RYDER HAROLD B III		PO BOX 3442	NANTUCKET	MA	02584	72 HOOPER FARM RD
67	908		MERRILL ROBERT A TRS ETAL		500 REGENT PARK PALM BEACH	FL	FL	33480	70 HOOPER FARM RD
67	914		MARTUCCI JASON A		11 DOVER DR	WALPOLE	MA	02184	74 HOOPER FARM RD
Count:		33							

LINEMAN JOHN A
PO BOX 3826
NANTUCKET, MA 02584

MURPHY PAUL G & PATRICIA
28 HOOPER FARM RD
NANTUCKET, MA 02554

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NANTUCKET, MA 02554

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NEW YORK, NY 10128

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BOSTON, MA 02114

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PO BOX 3442
NANTUCKET, MA 02584

MERRILL ROBERT A TRS ETAL
500 REGENT PARK
PALM BEACH, FL 33480

MARTUCCI JASON A
11 DOVER DR
WALPOLE, MA 02184

LETTERS



September 6, 2023

Dear Chairperson McCarthy and Board members,

We are writing in opposition to the applicant Surfside Drive, LLC 's request to amend the preexisting, nonconforming special permit for its 5 Surfside Drive location. We are direct abutters to the property, residing at 3 Surfside Drive, our year-round home of the past 25 years. Our objection is to the density/intensity proposed in this location. Although the tent company and various other businesses have operated out of this location for longer than our time in the neighborhood non have operated at the scale of commercial and residential this applicant is seeking. Surfside Drive and the surrounding area is a neighborhood comprised of mostly year round residents and a few small businesses.

The application seeks to combine storage facilities, four bays for operation of its business enterprises, and a four-bedroom residence on its 8700 square foot lot.

Over the past 20 years, Surfside Drive, LLC has not been good stewards in the neighborhood - Operating well outside of their current permit, encroaching onto abutting properties, and showing a general disregard for neatness on their property. Please see attached photos.

In closing we don't oppose the applicant seeking to better their property but would like to see the zoning permit better reflect the neighborhood and what is sustainable on an 8700 square foot lot in respect to the long list of abutting properties.

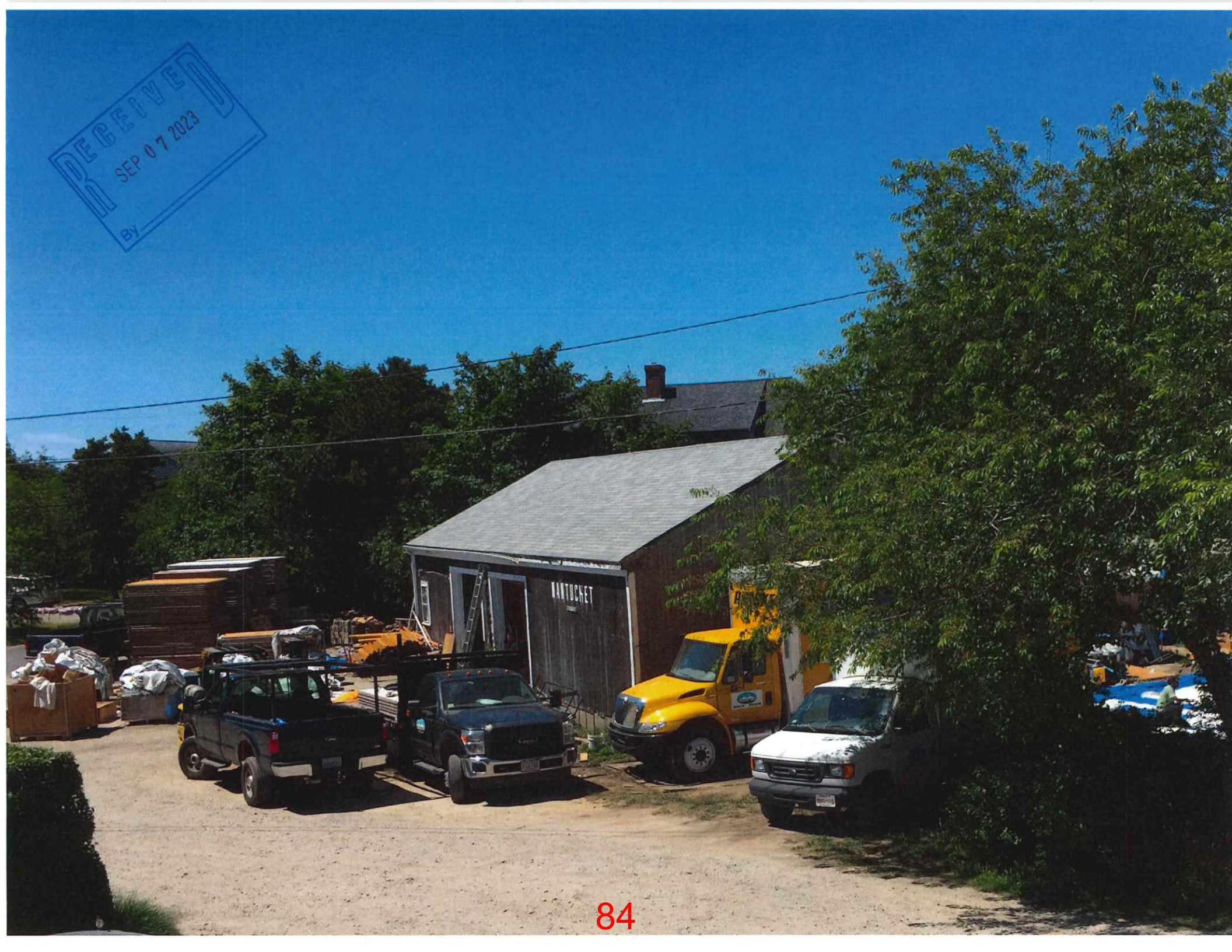
Sincerely,

Christie and Michael Misurelli

3 Surfside Drive

Nantucket, MA 02554

RECEIVED
SEP 07 2023
By



RECEIVED
SEP 07 2023
By _____



RECEIVED
SEP 07 2023
By _____





PAUL P. & JEAN M.
MORAN

File No. 10-22

4 Washington Ave

SPECIAL PERMIT

Requests to Withdraw without
Prejudice

End of Packet