

Town and County of Nantucket
ROADS AND RIGHT OF WAY COMMITTEE

Posted Meeting of
May 21, 2024, at 4:00 pm
Held by Zoom Videoconferencing @
<https://us06web.zoom.us/j/84313022156?pwd=wOzqJgLLYqM5QFBO3jvhHhbFkNU1fk.1>

FINAL AND APPROVED MINUTES

1. Call to Order, Approval of the Agenda, Approval of Minutes, and Public Comments.

A. Call to Order.

Chair Bill Grieder called the meeting to order at 4:04 pm; in attendance, confirmed by roll-call vote, were committee members Ed Gillum, Bill Grieder, Nat Lowell (added at 4:09 pm), Rob Ranney, Allen Reinhard, Lee Saperstein, and Phil Smith; there was a quorum at all times. The meeting was recorded and the video link for watching the meeting live is included above. It will be the same for the balance of this committee year.

Guest: Tracy MacDonald, Town of Nantucket Real Estate Specialist, Karel Greenberg, President, Siasconset Civic Association.

Absent: Rick Atherton and Nelson “Snookie” Eldridge.

The meeting was recorded and can be viewed on the Town’s You Tube site (on Town’s main web page at “Watch Meetings Live”, select “Playlists” then look for “Roads and Right of Way”): https://www.youtube.com/watch?v=EwdiGX1OPbY&list=PL49sKqpy7VAi_AAzhvnU4I5DTnhiVDj1&index=45.

B. Approval of the Agenda. The agenda was approved with the roll call (Ed Gillum, aye; Bill Grieder, aye; Rob Ranney, aye; Allen Reinhard, aye; Lee Saperstein, aye; and Phil Smith, aye.)

C. Approval of the minutes of the meeting of April 16, 2024.

A motion to approve the minutes of April 16, 2024, was made by Allen Reinhard, seconded by Phil Smith, and approved by roll-call vote (Ed Gillum, aye; Bill Grieder, aye; Nat Lowell, aye; Rob Ranney, abstain; Allen Reinhard, aye; Lee Saperstein, aye; and Phil Smith, aye.).

D. Public Comments on Matters Not on the Agenda.

There was none.

2. ‘Sconset Bluff Walk Update.

Bill Grieder reviewed conditions on the ‘Sconset Bluff Footpath and indicated items of information needed before asking the DPW for a work order to purchase and emplace public-

way monuments for locations needing but not having one. With the request for a work order will come also a question about funding needed for the work. Lee Saperstein said that he and Allen Reinhard had reviewed the need for public-way markers in October of 2022 and had written a note to file with their findings, which is attached.

Karel Greenberg, President, 'Sconset Civic Association, reported that the signage, with the path's history, rules of behavior, and location of the six access points, was installed recently by the DPW. Lee Saperstein told her that the offending tripping hazard stone at the intersection of the path and the lateral between 65 and 67 Baxter Road would be moved presently. Bill Grieder noted that there was concern for encroachments into the path and, in a few places, of the path onto private property and that a member of the path subcommittee would locate these and list them along with associated street numbers. Mention was made of a tree planted in a lateral way and this will be located also.

In a quick summary, Lee Saperstein explained how William J. Flagg purchased land just to the north of 'Sconset Village to create a subdivision that he called "Sankaty Heights" and how, when he subdivided the land into building plots, in 1899, he deeded a strip of land to the Town of Nantucket for a walking path. Each building lot has its eastern boundary described as this path. This boundary does not move with erosion, i.e., is not "ambulatory," which explains the loss of the path north of number 67 Baxter Road; the path did not move westward onto private property at this point. Copies of the relevant deeds are attached to these minutes. For the record, it is noted that the lateral access ways were taken several years ago by the Town, with the ways conveyed to the abutting landowners but with a pedestrian easement retained down the center of each way (see attached map).

A spirited discussion ensued about enforcement of civil behavior on the path, stairs over Town land down to the beach, and maintenance responsibilities. The last is the clearest; the Town is responsible for maintenance of the path. Regular mowing attests to the Town's acceptance of this responsibility. Lee Saperstein said that the Committee, in turn, should suggest to the DPW that shredded bark or pine can reduce the potential for tripping while reducing erosion of the path. Karel Greenberg reported that the Town assigns three Community Service Officers, CSOs, to 'Sconset and they patrol the path but not full time. Steps to the beach that cross Town land require a license and also permission from the Conservation Commission, ConComm. Inasmuch as some of these steps have signs that say "Private" on them, Tracy MacDonald will work with the Committee to identify these and to suggest to owners that they need to remove the signs and obtain necessary licenses. She mentioned that Amy Baxter is the Town's Licensing Administrator who may be contacted by those seeking a license. As privately owned structures, maintenance and liability coverage are the responsibility of the landowners. This is similar to, for example, the Land Bank's responsibility for its walking trails.

3. Other Business and Member Comments.

Bill Grieder asked if there had been any additional discussion about Hawthorne Street in Surfside to which Tracy MacDonald replied that she had been in conversation with Andrew Vorce about it. In that one of the abutting properties has had its deed registered in the Land Court, taking and conveyance of the private way could be complicated. Earlier correspondence between the

Surfside Association and the DPW indicated that there were physical problems that inhibited the use of the way as an access point to the beach and that, furthermore, as land on a bluff, any changes would need to be approved by the ConComm. Tracy MacDonald said that she would be making a presentation to the Select Board about ways and the taking and conveyance of paper streets. Ed Gillum reported that there had been no action on East Hallowell Lane, a short, private way on the north shore. He was concerned, as a separate matter, about the number of abutting properties who have installed encroaching hardscaping and landscaping on public ways. Nat Lowell described such an installation on the westerly portion of Eel Point Road near to its intersection with Warrens Landing Road. Lee Saperstein said that this portion of Eel Point Road is privately owned.

As a final note, the acquisition of a pedestrian easement along Stone Alley was noted complimentarily, including maintenance of the way. It would be nice, though, to restore an identifying sign for the Alley.

4. Adjournment.

Adjournment came at 5:11 pm by motion of Phil Smith, seconded by Nat Lowell, and approved unanimously (Rick Atherton, aye, Ed Gillum, aye, Bill Grieder, aye, Nat Lowell, aye; Rob Ranney, aye; Allen Reinhard, aye, Lee Saperstein, aye, and Phil Smith, aye).

Next meeting: 4:00 pm, June 18, 2024.

Lee W. Saperstein, Secretary, May 25, 2024.

•	Identifying	encroachments	as	of	12/19/2023
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Roads & ROW Ongoing Projects List as of 1/11/24

Public Way Monument Project: (Lee & Allen & Snookie)

Update file of existing monuments

- In progress as of 7/25/2023

Install remaining monuments at Sconset Footpath, Hulbert Ave., and other locations

- Need scheduling with DPW as of 7/25/2023

Land Bank to install monuments at Westchester St. Ext. & Crooked Lane

- Land Bank to install monuments when they complete their access project as of 7/25/2023

Public Way Access Maintenance

- DPW work orders have been issued for the maintenance of the public path between 51 and 55 Nobadeer Ave, including brush cutting, and also to restore access to the public access path at 18 Nobadeer Avenue. Allen Reinhart to assist DPW the exact to avoid any encroachment on private property. as of 1/16/2024

- Reestablish access at 18 Nobadeer Avenue To be completed by homeowner as of 7/25/2023

Sidewalk Projects: (Lee & Allen)

Wauwinet Road Side Path

- This project under way by DPW as of 1/16/2024

Tom Nevers Side Path

- This project is being reviewed by the Bicycle and Pedestrian Advisory Committee (BPAC) and DPW as of 7/25/2023

Cliff Road Coffin Park to bike path at Sherburne Turnpike

- Request sent to Selectboard to add to future sidewalk list. as of 7/25/2023

Pleasant St. Gardner Perry Lane to Williams St.

- Project back for additional possible redesign as of 12/19/2023

Lovers Lane Bike path/ road reconstruction

This project is being managed by Town Administration and DPW. Staff meets each week with the engineer, GPI, to discuss steps to advance the design from preliminary to final design now that funding for permitting and construction has been approved. as of 7/25/2023

Follow implementation of downtown sidewalk improvements

- DPW continuing to reset bricks and curbing in the downtown area as of 12/19/2023

Bike/Pedestrian connection from Surfside to Hummock Pond to Madaket paths

- Land takings completed – needs Town Meeting funding as of 7/25/2023

Prospect Street sidewalk from Milk Street to Madaket bike path

- Unfeasible to complete past Quaker Cemetery footprint - need to develop alternative route, possible down Vestal St to Wynn Street to Madaket Road. as of 7/25/2023

Chapter 91 Monitor Project: (Lee, Rick, Phil)

GIS department head Nathan Porter making available online (Phil Smith reviewing) as of 7/25/2023

Chapter 91 Licenses

- Requested ConCom to copy RROW on any received applications or notices as of 7/25/2023
- Nantucket and Madaket Harbors Action Plan Update Committee Identify licenses along route for the Harbor Walk
 - Committee conducting public survey (Phil Smith reviewing) as of 7/25/2023

Nantucket Greenway and Trail System Project: (Allen, Lee)

Nantucket Central Railroad trail map of existing portions of route

- Locations identified at Easy Street, Washington Street extension, Naushop development and Bayberry Commons to Surfside as of 7/25/2023

Sconset Bluff Walk Subcommittee Review: (Allen, Ed, Nat)

- Identified (2) locations for monument installation as of 7/25/2023

Monuments to Be Installed

Hulbert Avenue

- Henry Street needs an upright (1) monument.
- James Street may not need to be marked but if it does, it will take a flush (1) one in the middle of the easement.
- Johnson Street needs a replacement flush (2) monument.
- Willard Street needs an upright (2).

Baxter Road

(a utility pipe along Baxter may be a water main, take care on where to dig)

- Nosegay Lane has a flush monument at the footpath but needs an upright (3) at Baxter Road, probably by the signpost.
- Rosaly Lane needs a flush (3) monument by the footpath and an upright (4) by Baxter Road on the north side of the driveway (Joan Porter garage).
- Emily Lane is marked with flush monuments at either end of the way
- Anne's Lane also has no monuments and could use flush (5, 6) ones at either end.
- 65 Baxter Road has a flush monument at either end of the way to the footpath.

Tom Nevers

(Two private ways)

- 65 Wanoma Way - deeded way to Tom Nevers Pond.
- 63 Wanoma Way - Private way to the water.

Summary:

- Uprights: 4
- Flush monuments: 6

lws
2022-10-11

**DEEDS TO THE ‘SCONSET BLUFF AND BEACH
Flagg to Proprietors of the Common & Undivided Land, 1892**

“Know all men by these presents that I, William J. Flagg of the City, County, and State of New York, in consideration of one dollar and other considerations, paid by The Proprietors of the Common and Undivided Land of the Island of Nantucket, State of Massachusetts, Trustees for the purposes hereinafter described, the receipt whereof is hereby acknowledged, do hereby remise, release, and forever quitclaim unto the said Proprietors all my interest in land, situated on said Island of Nantucket, that lies Easterly of the most Easterly boundary lines of the most Easterly tier of lots (numbered from 1 to 43) on the plan on file with Nantucket Deeds, book of Plans No. 2. Fol. (folio?) 81, Entitled “Plan No. 2 of Land Belonging to W^m J. Flagg, Situated on Sankaty Heights, Nantucket, Mass.”, and of lots (numbered from 1 to 5) on another plan on file with Nantucket Deeds, Entitled, “Addition No. 1 to Sankaty Heights layout Belonging to William J. Flagg,” (Book of Plans No. 2 Fol. 83) as well as all that lies Eastward of the projection of said boundary lines crossing land of mine not included in any such lots, so as to form one continuous strip of land uninterrupted by any highway, and extending from a projection of the southerly boundary line of lot number Five (5) of said “Addition number 1” to a projection of the northerly line of the road that bounds on the North lot numbered one (1) of said “Plan number two,” and in its width, including all land lying between the said most easterly tier on lots on the West, and on the East by land heretofore conveyed by said Flagg to the said Proprietors, by deed on record in Nantucket Land Records to which reference is here made. Excepting, however and reserving to the Grantor, a piece of land adjoining on the East of lots No. 4 & 5 of said “Addition number 1”, bounded Westerly by said lots 4 & 5 and Easterly by a line running from the South Easterly corner of said lot 5, Seventy-one 27/100 feet to a point in an Easterly projection of the line dividing those lots, and Seventy-five (75) ft. from their west boundary, and thence running Seventy-nine 96/100 ft. to the North Easterly corner of said lot no. 4. For further description, see vote of acceptance by the Proprietors, at a meeting held Sept. 3, 1892. The strip of land hereby released is to be forever held in trust by the said Proprietors and their successors, for the purpose of a way or footpath along the bank, and for no other purpose or purposes whatsoever, and not to be granted or set off by said Proprietors in severalty to any person or persons whatsoever. And on further trust to convey the said land subject to and for the uses and purposes aforesaid, and no other, to the Town of Nantucket or other corporation or authority having power to accept or maintain highways in the territory within which said land lies, when said town or such corporation or authority will accept the conveyance. To have and to hold the granted premises, with all the privileges and appurtenances thereto belonging, to the said Proprietors of the Common and Undivided Land and to their successor and assigns forever, but in trust nevertheless as aforesaid. And I do hereby, for myself and my heirs, executors and administrators covenant with the said grantees and their successors and assigns that the granted premises are free from all incumbrances made or suffered by me, and that I will and my heirs, executors, and administrators shall warrant and defend the same to the said grantees and their successors and assigns forever against the lawful claims and demands of all persons claiming by, through, or under me but against none other. In witness whereof, the said William J. Flagg (having no wife living) hereto set my hand and seal this twenty-first day of September in the year one thousand eight hundred and ninety-two.

Signed and sealed in } William J. Flagg. Seal.
presence of Anna Cook}

Commonwealth of Massachusetts. Nantucket. September 22nd, 1892. Then personally appeared the above-named William J. Flagg and acknowledged the foregoing instrument to be his free act and deed, before me – Josiah F. Murphey. Justice of the Peace
September 22, 1892. 11h 30 m. a.m. Received and Entered.

Attest: Lauriston Bunker. Register.”

(The above handwritten deed, recorded in the Nantucket Registry of Deeds in Book 76, page 342 *et seq.*, was transcribed by Lee W. Saperstein on Wednesday, May 27, 2015.)

**Proprietors to the Town of Nantucket, 1925
as Recorded in the “Original Certificate of Title, 1930, No. 1702”**

“Entered pursuant to a decree of the Land Court, dated at Boston, in the County of Suffolk and Commonwealth of Massachusetts, the **twenty-first** day of **April** in the year nineteen hundred and **thirty**, and numbered **11227** on the files of said Court.

Copy of Decree

Commonwealth of Massachusetts

Land Court

In the matter of the Petition of **Inhabitants of the Town of Nantucket, Trustee,**

Numbered **11227** after consideration, the Court doth adjudge and decree that said

Inhabitants of the Town of Nantucket, Trustee, as set forth in a deed given by the Proprietors of the Common and Undivided Land of the Island of Nantucket, Trustee to the inhabitants of the Town of Nantucket, dated May 1, 1925, recorded in Book 102, Page 119, but free from the condition set forth,

In the County of **Nantucket** and Commonwealth of Massachusetts

is the owner in fee simple

of that certain parcel of land situate in

Nantucket

In the County of **Nantucket** and Commonwealth of Massachusetts, bounded and described as follows:

Northerly	by	land now or formerly of Horace C. Grice one hundred and seventy-two and 8/10 (172.8) feet;
Easterly	by	land now or formerly of the Proprietors of the Common and Undivided Land on the Island of Nantucket thirty-seven hundred thirty-nine and 57/100 (3739.57) feet;
Southerly	by	a line being the northerly line of a way as shown on the plan hereinafter mentioned protracted easterly, two hundred five and 04/100 (205.04(<i>sic</i> feet; and
Westerly	by	lands of sundry adjoining owners as shown on said plan thirty-six hundred eighty-eight and 57/100 (3688.57) feet.

All of said boundaries are determined by the Court to be located as shown upon Plan numbered 11227A, which will be filed with the original certificate of title issued on this decree, the same being compiled from a plan drawn by William S. Swift, Civil Engineer, dated Sept. 22, 1924, and additional data on file in the Land Registration Office, all as modified and approved by the Court.

There is appurtenant to the land, hereby registered an easement to maintain over said Grice land a continuation of the foot path along the bank over land hereby registered.

And the Court doth adjudge and decree that said land be brought under the operation and provisions of Chapter 186 of the General Laws, and that the title of said

Inhabitants of the Town of Nantucket, Trustee, as aforesaid

to said land be confirmed and registered; subject, however, to any of the encumbrances mention in Section forty-six of said Chapter, which may be subsisting.

Witness, CHARLES THORNTON DAVIS, Esquire, Judge of the Land Court, at Boston, in said County of Suffolk, the twenty-first day of April in the year nineteen hundred and thirty, at ten o'clock and thirty minutes in the fore noon.

Attest, with the Seal of said Court, Charles A. Southworth, Recorder [Seal]

A true copy.

Attest, with the Seal of said Court, Charles A. Southworth, Recorder [Seal]

Received for Transcription at Nantucket County Registry District, April 24 1930,

At nine o'clock and — minutes A. M.

A true copy. Attest with Seal of Said Court,

(signed) Lauriston Bunker

Assistant Recorder"

(written by hand, sideways in the right-hand margin of page 2: "Address of owner: care Edward H. Perry, Chairman, Board of Assessors, Nantucket, Mass.")

(The above pre-printed and typed certificate was transcribed by Lee W. Saperstein on May 27, 2015. Material that was pre-printed is in nine-point type and material that was inserted by typewriter is in 12-point type.)

Report of the Sconset Foot-Path Subcommittee (Nov. 2010)

Part II, B.

Map Illustrating Recommendations

Legend: (red) Included in Article 74 as Adopted (8); (blue) Recommended for Inclusion at ATM 2011 (1); (green) Recommended to be Opened in First Stage Negotiations (5); (cross-hatch) Town Land

