

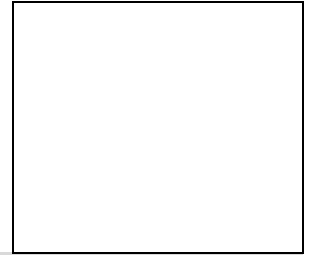


MEETING POSTING

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	Nantucket Roads and Right of Way Committee
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Day, Date, and Time	Tuesday November 19, 2024 at 4:00 p.m.
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Location / Address	□ NOTE: 131 Pleasant Street Meeting Trailer Room A and Remote Participation via Zoom The meeting will be aired at a later time on the Town's Government TV YouTube Channel https://www.youtube.com/channel/UC-sgA1fdoxteLNzRAUHIxa □
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Signature of Chair or Authorized Person	Bill Grieder, Chairman
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WARNING: IF THERE IS NO QUORUM OF MEMBERS PRESENT, OR IF MEETING POSTING IS NOT IN COMPLIANCE WITH THE OML STATUTE, NO MEETING MAY BE HELD!

AGENDA

List of the topics the chair reasonably anticipates will be discussed at the meeting

NANTUCKET ROADS & ROW COMMITTEE Tuesday November 19 , 2024 at 4 p.m.

ZOOM LINK

<https://us06web.zoom.us/j/84313022156?pwd=wOzqJqLLYqM5QFBO3jvhHhbFkNU1fk.1>

Meeting ID: 843 1302 2156

Passcode: 878821

Mobile: (646) 558-8656

1. Public comment on items not on the agenda.
2. Accept the October 15, 2024 minutes.
3. Encroachment and access update from Tracey MacDonald, Real Estate Specialist.
4. Encroachment policy review.
5. Other business and member comments.
6. Adjourn, Next meeting: **December 17, 2024 at 4:00pm**

ROADS AND RIGHT OF WAY COMMITTEE

Posted Meeting of

October 15, 2024, 2024, at 4:00 pm

Held in Hybrid Format

DRAFT MINUTES FOR REVIEW AND APPROVAL

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

Chairman Grieder opened the meeting at 4:05 pm. Attendees in person: B Grieder, A Reinhard, P Smith, E Gillum, N Eldridge and Nat Lowell. Via Zoom: Transportation Director Mike Burns (left the meeting at 4:54)

Public Comment (items not on the agenda) - none

Quick recap

The meeting focused on addressing various encroachment problems, including safety concerns, issues with gates, and developing private roads. The Committee also discussed the need for a more comprehensive approach to managing encroachments, the importance of considering the impact of private property owners' infrastructure on public spaces, and the need to review and update the current encroachment policy. The conversation ended with a discussion on ongoing issues with roads and the need for a coordinated review process to address these issues.

- Bill Grieder will:
 1. Send the current encroachment policy to Committee members for them to review. It will be an agenda item for next month's meeting. Committee members should review the policy and prepare suggestions for updates.
 2. Will request an update from Tracy MacDonald on Jefferson Avenue, Hulbert Avenue, and other pending road/access issues for the next meeting.
 3. Contact the DPW Director regarding rocks placed on the roadway on Warren's Landing Road and Eel Point Road.
- The Committee discussed scheduling a joint meeting with the Planning Board to review the impacts of new construction on existing roads

Milestone Crossing from Proprietors' Way off Hinsdale Road

- Bill Grieder noted a question had been raised by a citizen about a new gate erected on a path from Proprietors Way into the Milestone Crossing Development. He contacted a subdivision property owner about the gate. The property owner stated the old gate, had been knocked down and the path had been widened by dirt bikers and others creating a nuisance. The path was also being used as a staging area for employers picking up employees living in the Hinsdale Road area. The Homeowners Association (HOA) reinstalled the gate and lock to address the issue and gave the Fire Department (FD) the access code. Bill checked with the FD about the gate's status as an emergency

access point into the subdivision. He was told the fire department would use access through the playing fields off Nobadeer Road to the gate rather than through Proprietors Way.

- Allen Reinhard stated he did a site and noted that the Proprietors Way was a walking path and not a vehicle access point.
- The Committee decided by consensus that there was no issue with the installation of the gate.

Encroachments

- Nelson Eldridge noted there are many roads in Sconset where property owners needed to remove encroachments before further discussions about additional town services could take place. Nat Lowell noted that encroachment is an island-wide issue and in many instances, has created public safety issues. The Committee discussed the complexities of property lines, encroachments, and the need for a more specific policy. The Committee expressed concern about the impact of new developments on existing layouts and the need for a more comprehensive approach to encroachments. Ed Gillum introduced the possibility of the Town installing no-parking yellow lines where residents have placed boulders or stakes to restrict parking. Bill Grieder noted the handling of encroachments is now centralized under Tracy MacDonald. The Committee requested Bill to send everyone a copy of the current Encroachment Policy.

Mike Burns and Nelson Eldridge left the meeting at 4:54

Tree Removal, Bluff Issues, and Encroachment Updates

- Bill Grieder discussed the successful removal of a problematic tree and the ongoing issue with the bluff. Carol Greenberg expressed her gratitude for the Department of Public Works' responsiveness. The main topic for the next meeting will be an update on encroachment issues and access points to the bluff.

Update on various road/access issues

- Ed Gillum requested an update from Tracy MacDonald on Jefferson Avenue, Hulbert Avenue and other pending road/access issues.
- Phil Smith noted that Mill Street has become very difficult to navigate due to parking along the road.

Motion to adjourn: by Allen Reinhard, seconded by Nat Lowell.

Motion adopted: unanimously at 5:05 pm

Next meeting: November 19, 2024 at 4:00 pm



TOWN OF NANTUCKET ENCROACHMENT POLICY

Effective Date: July 12, 1994

Date Adopted: July 12, 1994

Date Revised: November 1, 2000; January 31, 2013; November 5, 2014;
February 1, 2021 (Select Board name change)

Applicability: Town of Nantucket Property Owners and Lease Holders.

I. Purpose

To keep the Town-owned rights of ways ("Town Ways") open to the public. Encroachments into Town Ways are primarily significant plantings and landscaping, fences, structures and other improvements placed by property owners to maximize and expand the appearance of their property. As a result of these encroachments in the Town Ways, the safety of drivers and pedestrians may be at risk, the maintenance of these Town-owned right of ways may be prevented or impaired, and the Town may be subject to potential liability from any damage caused by these encroachments in addition to other potential issues caused as a result of the encroachments.

II. Definitions

Encroachment is an unlawful intrusion upon the right or possession of another. In the case of public ways, and sidewalk and bike path easements, the placement of any plantings, structures or other improvements in the boundaries of a public way is deemed to be an encroachment.

Note: G.L. c. 86, s. 3 prevents an abutting landowner from gaining title to a portion of a public way by adverse possession, but only when the boundaries of a public way are known or can be made certain by records or monuments. A property owner cannot claim property rights by adverse possession against a municipality. Adverse possession is the open, continuous and notorious possession of property for a period of twenty years.

III. Policy

It is the policy of the Town of Nantucket to have the property owner or the leasehold property owner, if applicable, and where possible, who placed the encroachments into the Town Ways to remove said encroachments from the Town Ways, unless authorized by the Select Board as follows.

Category I

Encroachments on Town Ways causing an immediate public safety hazard as determined by the Department of Public Works, or those blocking a Town Way so as to impede

public access, shall be removed immediately by the Town of Nantucket and the owner will be billed for the work done.

Please note that the Town Code Chapter 127-3 prohibits the placement of “obstructions” in any street, sidewalk bicycle path or “way” as defined without permission of the Select Board. After being notified by a police officer if the property owner fails to remove or commence the removal of the obstruction within 10 minutes after such notification, then he shall be punished by a fine not to exceed \$200. The obstruction is defined as any “bale, box, trunk, grate, cask barrel, garbage can, package dirt or other debris, gate, post or anything that acts as a barrier, whether portable or permanent”.

Also please note that G.L. c. 86, Section 3 provides that the Select Board or the County Commissioners having authority over the public way in question notify the offending property owner of the encroachment by written notice, and then if the encroachment is not removed by the owner, may then remove it.

Category II

Encroachments on Town Ways that do not cause an immediate threat to public safety shall be removed by the property owner following the notification process identified below.

Category III

Encroachments that have a historical precedent, as determined by the Select Board, with advice of pertinent town officials, may be permitted to remain. Category III encroachments will be identified on a Town-maintained list and, where appropriate, on land records. The list will be maintained by the Town and noted on the Town GIS system.

IV. Procedure

The following procedures shall be followed for enforcement of this policy.

A complaint may be made directly to the Public Works Department by a member of the public. Additionally, if an encroachment is observed by the Fire Chief, Police Chief, Public Works Director, or their designees and employees, then they shall inform the Public Works Director.

Examples of encroachments:

- Obstructions to sight distances at street and driveway intersections;
- Obstructions that lessen sidewalk width;
- Stones, posts or any obstruction, placed on the edge of the pavement or shoulder of the way to prevent parking;
- Drain pipes not installed by the Town which discharge into the road portion of the public way;
- And other such hazards as identified by the Public Works Director or designee(s).

If, after review by the Public Works Director, the encroachment is deemed to be Category I, that is; an immediate threat to public safety, the unsafe condition shall be corrected, or made safe immediately, by the Public Works Department.

If after review by the Public Works Director, the encroachment is deemed not to be an immediate threat, that is a Category II, then the property owner or leaseholder shall be sent a letter, by the Select Board requiring the encroachment to be removed within 15 days from the certified date of receipt of the letter.

- A letter will be sent by mail informing the property owner or leaseholder of the encroachment. The property owner or leaseholder then has 15 days from receipt of the letter to initiate steps for remediation of the encroachment.
- If the property owner or leaseholder does not initiate steps within 15 days to remove the encroachment, the Public Works Department shall remove the encroachment and may charge costs to the property owner.
- Work that may be done by the DPW or Town subcontractors includes;
 - elimination of overhanging branches and foliage, which may be pruned to the edge of the right of way;
 - removal of stones or other impediments in the right of way;
 - removal of tripping hazards;
 - and removal of other such hazards as identified by the Public Works Director.

V. *Public Works Review Process*

Reviews may include reference to the Town GIS map, the Google World Map, and to plans and permits on file at the Building Department, Nantucket Registry of Deeds, Board of Health, and the Historic District Commission.

In certain cases the Public Works Director, may decide that the right of way needs to be surveyed to determine the extent of the encroachment. In the first instance, the level of precision for such a survey shall be a minimum of plus or minus one foot. The Director may subsequently decide that a more accurate survey may be required.

The property owner shall pay for the survey if an encroachment is found. If the owner provides a survey stamped by a Registered Land Surveyor, showing the information needed, it shall be accepted for review by the DPW Director.

VI. *Prevention of Encroachment Maintenance Requirements*

Hedges abutting public ways shall be trimmed back from the edge of the public way vertically up to a height of 14 feet and shall be clear of the Public Way.

Hedges that extend from a driveway along the right of way shall be no higher than 3 feet for a distance of 20 feet either side of the driveway.

Hedges for properties on corner lots shall be no higher than 3 feet for a distance of 20 feet along each road and there shall be no plantings or landscape elements within that 20 foot radius higher than 3 feet.

Fences along the public way shall be entirely clear of the public way, including the post hole. (As guidance, the face of the fence shall be 0.5 feet clear of the public way.)

The public way shall not be used for a parking area, other than allowed on-street parking.

VII. *Permitted Uses*

Category III: if the Select Board determines that certain historical encroachments do not pose a threat to public safety then it may grant an approval to the property owner. A fee shall be set which is a minimum of \$50 for the costs to review the easement application. In addition, a usage fee of \$10 per square foot of encroachment area shall be paid. These approvals shall be noted on the Town GIS Map.

Curb cuts to enter permitted parking areas shall be allowed, along with paving as required by the DPW.