

Harwich Planning Board
Town Hall, 732 Main Street, Harwich, MA – Griffin Room
Meeting Agenda
Tuesday, June 22, 2021 – 6:30 PM

This meeting of the Planning Board will be held in-person and may be available as a live broadcast on Channel 18. Members of the public with an interest in any portion or specific item on the agenda should plan for in-person attendance.

I. RECORDING NOTICE; CALL TO ORDER

According to MA Law anyone who intends to record the meeting must first notify the Chair who will then inform the other attendees at the start of the meeting.

II. PUBLIC HEARINGS

- A. **PB2021-10 Eastward MBT LLC**, as applicant, seeks to modify a Special Permit (PB2013-24) under §325-51.E. of the Code of Town of Harwich to authorize access to 26 Crocker Rise (Assessors Parcel ID 116-A2-12) via a proposed shared driveway located on the abutting property at 28 Crocker Rise (Assessors Parcel ID 116-A2-13). ***Request to continue to July 13, 2021.***

III. PUBLIC MEETING**

- A. New Business: ***Approval Not Required Plan(s):***

1. **PB2021-12 Christopher Wise**, as applicant, Andrew Singer, Esq., representative, seeks endorsement of an Approval Not Required plan for four (4) buildable lots and one (1) unbuildable lot as set forth in M.G.L. c. 41 §81. P. The parcels are identified as Assessors Parcel ID's 106-G7-3 and 97-No Parcel at 0 Hall's Path. The parcels are largely in the R-R and a small portion is in the C-H-2 zoning districts and in the W-R Overlay and the Pleasant Bay Watershed. The plan is entitled "Division of Land" prepared for Paul O'Connell Trustee, prepared by John McElwee, P.L.S., dated June 10, 2021.
2. **PB2021-13 Harwich Affordable Housing Trust, as applicant, Thomas Stello, P.L.S., representative**, seeks endorsement of an Approval Not Required plan for three (3) lots as set forth in M.G.L. c. 41 §81. P. The parcels are identified as Assessors Parcel ID's 82-R2, -R1 and -R3 at 283 Pleasant Lake Ave and 0 Pleasant Lake Ave., respectively. The parcels are located in the R-R and Six Ponds zoning districts. The plan is entitled "Plan of Land Pleasant Lake Avenue, Harwich MA" prepared for Harwich Affordable Housing Trust, prepared by Thomas M. Stello, P.L.S., dated June 10, 2021.

- B. Minutes: May 25, 2021

- C. Advisory Opinions: Zoning Board of Appeals – June 30, 2021

- D. Old Business: Language revisions to the 2021 Planning Board schedule to accommodate general planning discussions.

- E. Briefings and Reports by Board Members

IV. ADJOURN

**Per the Attorney General's Office – Boards/Commissions may hold an open session for topics not reasonably anticipated by the Chair 48 hours in advance of the meeting following "New Business".

Next Planning Board Meeting (Subject to Change) – Tuesday, July13, 2021.
*Requests for accommodations for any person having a disability can be made by contacting the
Administration Office at 508-430-7513.*

Authorized Posting Officer: Elaine Banta, ebanta@town.harwich.ma.us or 508-430-7511

EASTWARD COMPANIES

June 14, 2021

Harwich Planning Board
Town Hall
732 Main Street
Harwich, MA 02645

**RE: Hidden Cove – Request for Modification of Use Special Permit
Decision PB2013-24 – Request to Continue to 7/13/21 Meeting**

Dear Members of the Board:

Eastward Companies is requesting that our Modification Request be continued to your meeting on Tuesday, July 13, 2021. We're also renewing our waiver of opening the public hearing within the 65 day time period.

Thank you for your consideration of our request. If you should have any questions or need additional information, please do not hesitate to contact me.

Sincerely,



Susan B. Ladue
Regulatory Specialist

June 16, 2021

Staff Report

PB2021-12 Hall's Path ANR (Wise c/o Andrew Singer, Esq.)

Health Comments: The land is located in the Pleasant Bay Watershed. Thus, if this ANR plan and further division or subdivision of the land ultimately results in five or greater building lots in the aggregate, the Board of Health will require, among other things, under Section 1.211 of its regulations, that the building lots shall be served by a shared septic system that provides nitrogen removal technology, unless the lots are otherwise to be connected to and served by sewer.

Planning Comments:

Applicant/ prospective purchaser Christopher D. Wise seeks endorsement of an "Approval Not Required (ANR)" plan under M.G.L. c. 41 §§81L and 81P and §400-9 of the Harwich Code. The plan is titled "Paul O'Connell, Trustee, Hall's Path, Harwich, MA, Division of Land," Sheet C1.1.1., prepared by Coastal Engineering, Co., Orleans, MA, dated June 10, 2021, stamped June 10, 2021.

The plan proposes to divide the subject land into four new building lots and an unbuildable 4+ acre parcel. The four proposed building lots are all shown with at least the minimum amount of frontage required under zoning on a portion of so-called "Hall's Path" between Rte. 137 and Pleasant Bay Road. The owner of the land has joined in the ANR application.

The Applicant maintains that Hall's Path between Rte. 137 and Pleasant Bay Road is a 'public way,' and seeks the endorsement on this basis. A land division where all proposed building lots have the required frontage off a 'public way' does not constitute a "Subdivision" and does not require subdivision approval under the subdivision control law. Unless a public way is 'illusory,' i.e. it is either physically impassable, doesn't allow physical access to and within a building lot, or simply doesn't exist 'on the ground,' such a division off of a public way warrants ANR endorsement. Gates v. Planning Board of Dighton, 48 Mass.App.Ct. 394 (2000).

There are a limited number of methods currently available to establish a 'public way' under Massachusetts law: most typically, such a way is laid out (and accepted, as applicable) by a town, county or the state under MGL Chapter 81 or 82. A public way can also be established by prescription (i.e. by actual public use, general, uninterrupted, and continued for twenty years- MGL Ch. 187, s. 2), or by estoppel- (Barry v. Planning Board of Belchertown, 96 Mass.App.Ct. 314 (2019)).

It appears that the Applicant maintains, by use, custom and conduct, that portions of Hall's Path east of Rte. 137, not otherwise laid out and accepted as a town way, constitute a public way by prescription or estoppel. The Applicant has provided a variety of evidence in its application package to support this contention that this portion of Hall's Path is a public way: among other things, a letter from the Town Clerk in 2000 stating that Hall's Path is a Town Way. On the other hand, the Town does not actively maintain the portion of Hall's Path which is the subject of the ANR (Hall's Path east of Rte. 137 is almost entirely paved except for a portion on the subject land). This portion of Hall's Path does not have a 'layout' along its entire length; some sections have been laid out and accepted by the Town or under subdivision control; other sections have been shown and referred to as 'public way' in Land Court Confirmation cases; while other sections have been the subject of other ANRs endorsed by the Planning Board over time some of which describe Hall's Path as 'public'. Many deeds and plans describe Hall's Path historically as a 9-10 foot wide variable width way (though it has been physically improved and widened along its length over time incidentally by abutting owners).

If the Board believes that this portion of Hall's Path is a 'public way,' staff recommends 1) the Board find that the plan does not show a "Subdivision" and 2) that the Board endorse the plan as not requiring subdivision approval.

In the alternative, if the Board does not believe that Hall's Path, at least that portion necessary to provide access to the subject land, is a public way, the Board would need to determine whether Hall's Path is a way that predates adoption of subdivision control in the town (February 8, 1949); is of suitable width, grade and construction to provide safe and adequate access for vehicles and utilities to the proposed four building lots; and has the minimum frontage of at least such distance as is currently required and applicable under Chapter 325 of the Harwich Code. If the Board does not find that all are true, then the plan shows a Subdivision, shouldn't be endorsed, and the division would require review under the subdivision control law.

The Harwich Code Chapter 400, Article II (Subdivision Rules and Regulations) further provides that the Board may look to the subdivision road design standards contained in Appendix 2, Table 1 of said Rules and Regulations to assist in determining whether the way is of appropriate width, grade and construction for safe and adequate access to the proposed building lots.

Staff suggests that the Applicant has submitted ample evidence that this portion of Hall's Path predated adoption of subdivision control in the town.

Considerations/ Discussion

1.A. Whether Hall's Path access as shown on the ANR Plan is a public way;

1.B.i. In the alternative, whether Hall's Path access as shown on the ANR Plan existed at the time subdivision control became effective in the town; and

1.B.ii. Whether Hall's Path as shown on the ANR Plan has sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

2. Based on the above, whether the ANR Plan shows a subdivision and should be endorsed as not requiring approval under the subdivision control law.

Law Office of Singer & Singer, LLC

26 Upper County Road
P. O. Box 67
Dennisport, Massachusetts 02639

Andrew L. Singer
Marian S. Rose

Tel: (508) 398-2221
Fax: (508) 398-1568
www.singer-law.com

Myer R. Singer (1938-2020)

June 10, 2021

Via Email and Hand Delivery

Jonathon Idman, Esquire
Harwich Director of Planning and Community Development
732 Main Street
Harwich, MA 02645

Re: Proposed ANR Plan, Hall's Path, East Harwich

Dear Jon:

I am writing to submit the attached ANR Application form, land division plan, and supporting documentation in connection with a five-lot division on Hall's Path in East Harwich. The attached Memorandum documents that Hall's Path is a public way, provides access, and meets the criteria for approval of the ANR under Harwich regulations and Massachusetts State and Case law.

Lots 1-4 are conforming single-family residential dwelling lots. Lot 5 is presently unbuildable and will be the subject of a future four-lot subdivision filing. The 8.64± acres of land ["Property"] will ultimately contain a total of eight houses, a conforming number of houses on conforming lots.

We request to be placed on the Planning Board's agenda for June 22, 2021. We are happy to meet with representatives from the various Town Departments in advance of the Planning Board meeting if there are any questions.

Thank you for your time and consideration.

Very truly yours,
Andrew
Andrew L. Singer

ALS/a
Attachments

cc: Joseph Powers, Town Administrator

TOWN OF HARWICH PLANNING DEPARTMENT

**PLANNING BOARD APPLICATION
SUBDIVISION FORM B-1**



TO THE TOWN CLERK, HARWICH, MA

DATE - June 10, 2021

PART A – APPLICANT INFORMATION/AUTHORIZATION

Applicant Name(s)	Christopher D. Wise
Representative/Organization (Who will serve as the primary contact responsible for facilitating this application?)	Law Office of Singer & Singer, LLC
Street/PO Box	P.O. Box 67 26 Upper County Road
Town, ST, Zip	Dennisport, MA 02639
Phone	508-398-2221
Fax	508-398-1568
E-mail	alsinger@singer-law.com

The applicant is one of the following: *(please check appropriate box)*

- Owner
 Tenant*
 Prospective Buyer*
 Representative for Owner/Tenant/Buyer
 Other* _____ **Written permission of the owner(s).*

All other forms and information as required in the Harwich Code §400 shall be submitted as part of this application including municipal lien certificate(s), available through the Tax Collector's Office.

Authorization

Your signature hereby asserts, to the best of your knowledge, that the information submitted in this application is true and accurate; that you agree to fully comply with the Town of Harwich Zoning By-laws and the terms and conditions of any approval of this application by the Planning Board; and authorizes the Members of the Planning Board and Town Staff to visit and enter upon the subject property for the duration of the consideration of this application.

Christopher D. Wise - By: Andrew L. Singer, Atty

Applicant
Paul R. O'Connell - By: Andrew L. Singer, Atty

Owner(s) – Authorization must accompany application if the owner is not the applicant.

Official use only:

PLANNING DEPARTMENT	TOWN CLERK
Case #	

PART B – PROJECT LOCATION

Street Address	Hall's Path	
Village	East Harwich 02645	
Map	106 & 97	
Parcel	67-3 and no designation	
Zoning District(s)	C -H- 2 & RR	
Frontage (linear feet)	979	
Total land area (SF)	376,567	
Upland (SF)	376,567	Wetlands (SF)
Number of lots and/or parcels	Existing: 1+	Proposed: 5 (1 unbuildable)

The owner's title to said land is derived under deed from See Plan, dated _____, and recorded in the Barnstable Registry of Deeds Book and Page _____ or registered in Barnstable County Land Court Certificate of Title No. _____.

PART C – PROJECT DESCRIPTION

Number of lots and/or parcels	Existing: 1+	Proposed: 5 (1 unbuildable)
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The undersigned owners of all land described herein submitted in the accompanying plan entitled _____ and dated _____,

request a determination and endorsement by said Board that approval by it under the **Subdivision Control Law MGL Ch. 41 Sec. 81K-GG**: (check as appropriate)

is required (complete Part C.1 Subdivision) or is NOT required (complete Part C.2 ANR)

PART C.1 – Planning Board Approval is Required - Subdivision

- The accompanying plan is a (check one):
 - Preliminary plan
 - Definitive without a preliminary plan
 - Definitive following a Preliminary plan filed on _____ /case # PB _____
 - Modification of a Definitive plan approved on _____ /case # PB _____
 - Rescission of a Definitive plan approved on _____ /case # PB _____
- The applicant is also requesting a **Special Permit** to accompany the proposed plan for the following (check all that apply):
 - USE - Does not require Site Plan Review
 - ___ Open Space Residential Development
 - ___ Flexible Cluster Development/Six Ponds Special District
 - ___ Accessory Apartment
 - ___ Two-Family Dwellings
 - ___ Other _____
 - OVERLAY DISTRICT
 - ___ Water Resource Protection
 - ___ Harwich Center
 - ___ Six Ponds
 - ___ Village Commercial (Harwich Port)

**Note: Projects within the Harwich Center Overlay District may also be within the Harwich Center Historic District. This requires separate filing with the Historic District Commission. Please inquire with the Building Department for forms and instructions.*

PART C.2 – Planning Board Approval is Not Required - ANR

The accompanying plan does not require approval by the Planning Board because:

1. The lots are created on an approved way, with proper frontage and are served by safe and adequate access as follows:
- a. Every lot shown on the plan has frontage of at least such distance as is presently required by the Zoning Code of the Town of Harwich under Article VI: §325-15 and §325-16, Table 2 which requires 150 (except Lot 5) feet for erection of a building on such lot, and;
 - b. The lots shown on such plan front on one of the three types of ways specified in Chapter 41, Section 81L, MGL, and;
 - * a public way or a way that the Harwich Town Clerk certifies is maintained and used as a public way namely Halls' Path, or
 - a way shown on a plan previously approved and endorsed in accordance with the subdivision control law namely _____ on _____ and subject to the following conditions _____; or
 - a private way in existence on March 25, 1949, the date when the subdivision control law became effective in the Town of Harwich, and
 - c. The public or private way named above has, in the opinion of the Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the land abutting or served thereby, and for the installation of municipal service to serve such land and the buildings existing thereon to be erected.

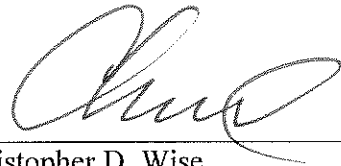
PROOF OF SAFE AND ADEQUATE ACCESS – Please attach all necessary documentation to this application for:

- Determination of Safe and Adequate Access for existing conditions
 - Satisfaction of Safe and Adequate Access for proposed conditions
2. The accompanying plan is not a subdivision because the plan does not show a division of land.
3. The division of the tract of land shown on the accompanying plan is not a "subdivision" because it shows a proposed conveyance/other instrument, namely _____ which adds to/takes away from/changes the size and shape of, lots in such a manner so that no lot affected is left without frontage as required by Zoning Code of the Town of Harwich under Article VI: §325-15 and §325-16, Table 2 which requires _____ feet.
4. The division of the tract of land shown on the accompanying plan is not a subdivision because two or more buildings, specifically _____ buildings were standing on the property prior to March 25, 1949 the date when the subdivision control law went into effect in the Town of Harwich and one of such buildings remains standing on each of the lots/said buildings as shown and located on the accompanying plan. Evidence of the existence of such buildings prior to the effective date of the subdivision control law as follows:
5. Other reasons or comments: *(See MGL, Ch41, §81-L)*

AUTHORIZATION

I, Christopher D. Wise, Authorized Signatory, hereby authorize Andrew L. Singer, Esquire, or any other attorney at the Law Office of Singer & Singer, LLC, of Dennisport, Massachusetts, to represent me and in my name, as Authorized Signatory of Christopher D. Wise to do all things necessary with respect to any application, including but not limited to, the signing of any application filed on my behalf with the Town of Harwich, or any Department, Board or Committee thereof, or any documents required in connection with any such filing, for the property located on Hall's Path, East Harwich, Barnstable County, Massachusetts.

EXECUTED as a sealed instrument this 9th day of June, 2021.

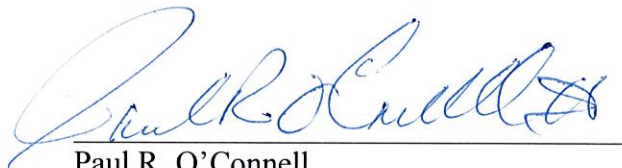


Christopher D. Wise
Authorized Signatory

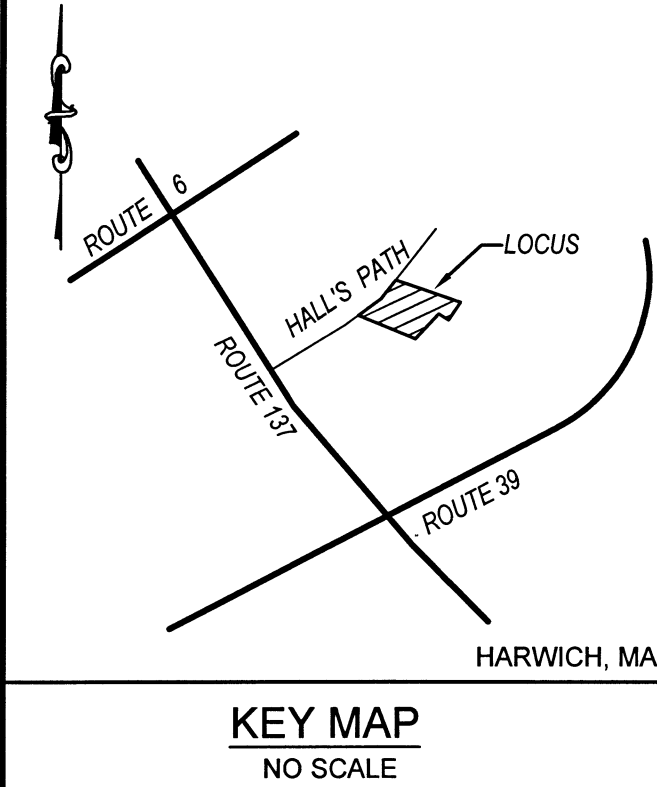
AUTHORIZATION

I, Paul R. O'Connell, Authorized Signatory, hereby authorize Andrew L. Singer, Esquire, or any other attorney at the Law Office of Singer & Singer, LLC, of Dennisport, Massachusetts, to represent me and in my name, as Authorized Signatory of Paul R. O'Connell, to do all things necessary with respect to any application, including but not limited to, the signing of any application filed on my behalf with the Town of Harwich, or any Department, Board or Committee thereof, or any documents required in connection with any such filing, for the property located on Hall's Path, East Harwich, Barnstable County, Massachusetts.

EXECUTED as a sealed instrument this 14th day of June, 2021.

A handwritten signature in blue ink, appearing to read "Paul R. O'Connell", written over a horizontal line.

Paul R. O'Connell
Authorized Signatory



APPROVAL NOT REQUIRED
**HARWICH
PLANNING BOARD**

DATE: _____

PLANNING BOARD ENDORSEMENT DOES NOT SIGNIFY THAT DETERMINATION OF COMPLIANCE WITH ZONING REQUIREMENTS HAS BEEN MADE OR INTENDED.

ZONING CLASSIFICATION:

R-R RESIDENTIAL RURAL ESTATE
MINIMUM AREA 40,000 S.F.
MINIMUM FRONTAGE 150 FT.

C-H-2 COMMERCIAL HIGHWAY
MINIMUM AREA 50,000 S.F.
MINIMUM FRONTAGE 150 FT.

FOR REGISTRY USE ONLY

REFERENCE:

ASSESSORS MAP 106 & 97
PARCEL G7-3 & NO PARCEL DESIGNATION

PLAN BOOK 690, PAGE 1
PLAN BOOK 603, PAGE 41

APPLICANT:
CHRISTOPHER WISE
P. O. BOX 785
CHATHAM, MA 02633

OWNER OF RECORD:

SYLVESTER REALTY TRUST, DB. 19988, PG. 219
HARWICH EAST REALTY TRUST, DB. 20829, PG. 144
PAUL R. O'CONNELL III, DB. 28101, PG. 9
HARWICH EAST REALTY TRUST, DB. 22255, PG. 269
QUASON REALTY TRUST, DB. 19605, PG. 13

c/o PAUL R. O'CONNELL III
300 BARNSTABLE ROAD
HYANNIS, MA 02601

SMITH FAMILY IRREVOCABLE TRUST
DB. 29508, PG. 49

PLAN BOOK 637 PAGE 63

NOTE:

LOT 5 LACKS 150 OF FRONTAGE AND IS NOT CONSIDERED A BUILDBLE LOT.

CAPE COD LIGHTHOUSE
CHARTER SCHOOL
DB. 25790, PG. 2

PLAN BOOK 628 PAGE 98

LOT 1

47,206± SF.
(1.08± AC.)
SHAPE = 18.12

LOT 2

43,284± SF.
(0.99± AC.)
SHAPE = 16.91

LOT 3

43,293± SF.
(0.99± AC.)
SHAPE = 16.04

LOT 4

43,920± SF.
(1.01± AC.)
SHAPE = 19.42

LOT 5

198,865± SF.
(4.57± AC.)



NO.	DATE	REVISION

SEAL

PROJECT
PAUL O'CONNELL TRUSTEE
HARWICH, MA

SHEET TITLE
DIVISION OF LAND

SCALE 1"=40'

DRAWING FILE C19166-ANR.dwg

DATE 6/10/2021

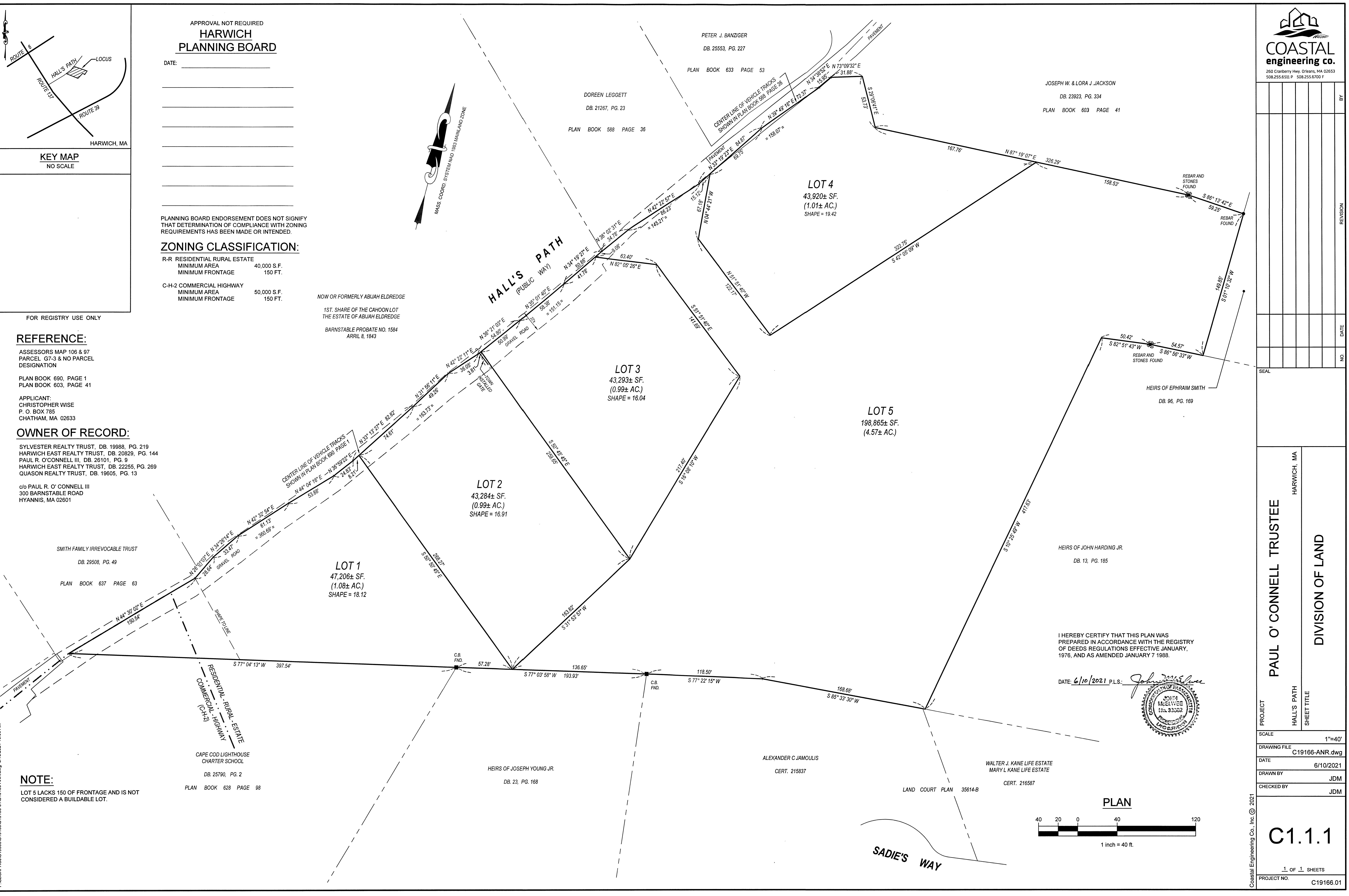
DRAWN BY JDM

CHECKED BY JDM

C1.1.1

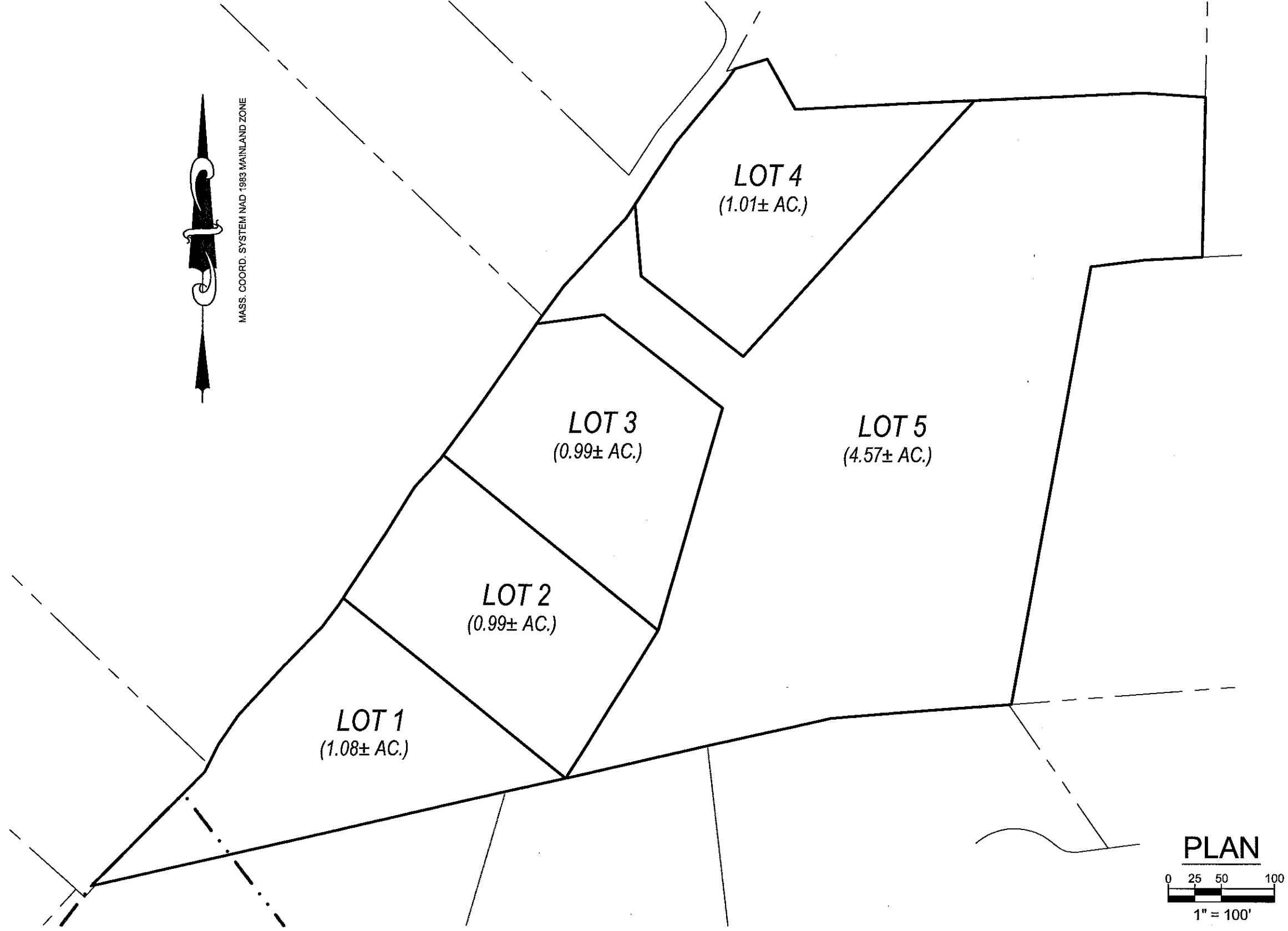
1 OF 1 SHEETS

PROJECT NO. C19166.01



F:\SDSKP\PROJECTS\19166\C19166-01\C19166-ANR.dwg 6/10/2021 10:50 AM

F:\SDSKPROJ\C19000\C19166\C19166-01\C19166-ANR.dwg 6/10/2021 11:32 AM



C19161-ANR.dwg
DRAWN BY: JDM
Coastal Engineering Co., Inc. © 2021



PROJECT

PAUL O'CONNELL TRUSTEE

100 SCALE
PLAN

HALL'S PATH

HARWICH, MA

SHEET NO.

SKC-1

PROJECT NO.

C19166.01

SCALE

1"=100'

DATE

6/10/2021

Law Office of Singer & Singer, LLC

26 Upper County Road
P. O. Box 67
Dennisport, Massachusetts 02639

Andrew L. Singer
Marian S. Rose

Tel: (508) 398-2221
Fax: (508) 398-1568
www.singer-law.com

Myer R. Singer (1938-2020)

EMAIL MEMORANDUM

TO: Harwich Planning Board
FROM: Andrew L. Singer, Esquire
DATE: June 10, 2021
RE: Hall's Path ANR, East Harwich

Introduction

This Memorandum is in support of an application for endorsement of a five-lot ANR division of vacant land on Hall's Path in East Harwich (proposed Division of Land plan attached). Lots 1-4 are conforming single-family residential dwelling lots. Lot 5 is presently unbuildable and will be the subject of a future four-lot subdivision filing. The 8.64± acres of land ["Property"] will ultimately contain a total of eight houses, a conforming number of houses on conforming lots.

Hall's Path is a variable width public way that has existed since the early eighteenth century as evidenced by exhibits referenced below. All sections of Halls' Path, from Pleasant Bay Road through to Route 137, are paved except for a segment fronting on a portion of the Property.

Hall's Path satisfies the requirements of the Harwich Subdivision Rules and Regulations as well as Massachusetts State and Case Law to be approved as an ANR Plan. The Applicant requests that the Planning Board endorse the ANR plan.

Discussion

Property

The Property is shown on a plan of land recorded with the Barnstable County Registry of Deeds in Plan Book 690, Page 1 (copy attached). All of the Property fronts on Hall's Path. Hall's Path exists along the Property frontage as show on the submitted ANR Plan.

The northeastern portion of the Property frontage on Hall's Path is paved (in front of proposed Lot 4), and the southwesterly portion is gravel (in front of proposed Lots 1-3 and 5). Similar to what other landowners and the Town have historically done in compliance with accepted and customary Harwich Town practice over the years, the landowner had been in the process of improving the road in front of the Property utilizing his own land as necessary. At the request of the Building Department, this work was temporarily suspended pending the ANR plan application to the Planning Board. Subsequently, the Harwich DPW issued an Order to Cease and Desist dated April 15, 2021, based upon the landowner "undertaking alterations to a public way known as Hall's Path...." (copy of Order attached).

Hall's Path Between the Seventeenth and Twentieth Centuries

Hall's Path has existed since before the time of the Little Quason Division in the early eighteenth century. Evidence of the existence of Hall's Path between the seventeenth and twentieth centuries, inclusive, is as follows (copies of all attached):

1. A Transcription from the original Proprietor's Record Book maintained by the Town of Harwich concerning the Little Quason Division and sketch plans documenting the same are attached. The Transcript notes in referencing Lot 7 that one of the bounding description is "...by ye way that leads from Harwich to Chatham between ye Road that leads to hall's mill and Bangs..." The way referred to in this description is Halls Path. The Sketch Plan prepared by Eldredge Surveying and Engineering, LLC, delineating the Little Quason Division, also shows Hall's Path;
2. An 1831 Plan of Land by John G. Hale shows Hall's Path (interestingly, it is laid out in close proximity to the current location that Hall's Path traveled to this day);
3. The 1871 Road Taking for Route 137 identifies and references Hall's Path;
4. A 1938 Aerial Topographic Plan shows Hall's Path on the ground in close proximity to its current location (the attached is an excerpt and part of a larger plan);
5. The official 1943 U.S.G.S. Quad Sheet for Harwich shows Hall's Path (again in close proximity to its current location);
6. The 1972 Confirmation Plan adopted in the Judgment by the Massachusetts Land Court in Confirmation Case 37643 shows Hall's Path leading from Route 137 towards the Property as "(Public – Variable Width)";
7. The 1986 Confirmation Plan adopted in the Judgment by the Massachusetts Land Court in Confirmation Case 42571 shows Hall's Path immediately adjacent to the Property as "(Public – Variable Width)"; and
8. In the Judgment and Decision in Barnstable Superior Court Case CV05-469 (excerpts), Judge Nickerson acknowledges the existence of Hall's Path dating back to the Little Quason Division (see Page 4), and Hall's Path is shown on Exhibit 115A (the Eldredge Sketch layout of the Division) in the case.

Hall's Path in the Twenty-First Century

Extensive documentary evidence exists establishing that Hall's Path is a public way, and there is no evidence that it is not a public way. This evidence includes, without limitation (copies of all attached):

1. The 1972 and 1986 Land Court Confirmation Plans referenced above were supported and relied on by both the Town of Harwich and the adjacent landowner in establishing the right to expand the public way known as Hall's Path (see below) and access the land fronting on Hall's Path between the Property and additional land fronting on Route 137;
2. The ANR plans recorded in Plan Book 349, Page 20 and Plan Book 387, Page 65, respectively, each show Hall's Path as a public road;
3. A 2000 letter from the Harwich Town Clerk certifies that Hall's Path is a Town Road;

4. The Harwich Assessor's Street Names Listing Database includes Hall's Path as a Town road (excerpt attached);
5. The section of Hall's Path immediately adjacent to the Property and leading directly to Route 137 was recently widened and paved to apparently current road standards by the Town of Harwich, including the installation of drainage and sewer infrastructure. This road layout expansion presumably utilized land of the adjacent property owner in accordance with longstanding Harwich tradition and interpretation and is the same as the Property owner had recently been completing with his own land in reliance on the same tradition and interpretation before being asked to temporarily stop work;
6. The previously-referenced April 15, 2021, Harwich DPW Order to Cease and Desist identifies and acknowledges the Town's recognition of Hall's Path as "public way known as Hall's Path..."; and
7. Earlier this year, the Harwich DPW installed a metal gate across the entire twenty-two-foot width of Hall's Path at a location that is where Lots 2 and 3 meet on the proposed ANR Plan.

Hall's Path physically exists and is treated, acknowledged, recognized, and documented by the Town of Harwich and other private parties as a public way. As land fronting on a public way, the Massachusetts Courts have held that the Property is entitled to receive endorsement of the ANR Plan.

Harwich Subdivision Rules and Regulations

The Planning Board has previously endorsed multiple ANR plans and subdivision plans in the vicinity of the Property on Hall's Path, all recognizing Hall's Path as frontage for division purposes.

Section 400-5 of the Subdivision Rules and Regulations defines "Approval Not Required (ANR) Plan" as a "plan showing a division of land here each lot created is served by existing safe and adequate access (with limited exceptions). While an ANR does not require Planning Board approval, it does require Planning Board endorsement verifying that the plan is consistent with MGL c. 41, § 81L."

Section 400-5 of the Rules and Regulations further defines "Subdivision" and expressly states in such definition that "...provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the Subdivision Control Law if, at the time when it is made, every lot within the tract so divided has frontage on a public way or a way which the Town Clerk certifies is maintained and used as a public way, or a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law, or a way in existence when the Subdivision Control Law became effective in the Town, having in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon..." [emphasis added]. The language of Section 400-5 tracks MGL c. 41, § 81L.

ANR Endorsement Process

As was discussed when the owner and proposed purchaser and their legal representatives recently met on site and walked the section of Hall's Path along with representatives of the Town Building and Planning Departments as well as Town Administration, including two members of the Board of Selectmen, the existence of Hall's Path is not illusory. The road exists.

Section 400-9 of the Rules and Regulations list criteria for endorsement of an ANR plan. The proposed ANR plan for the Property satisfies each of the requirements. Specifically,

1. The four buildable lots (Lots 1 – 4, inclusive) meet the minimum frontage requirements of MGL c. 41, § 81L;
2. The lots shown on the ANR plan is a public way; and
3. Although not necessary to be established in accordance with Massachusetts State and Case law, it should be noted that the existing access provides sufficient width, suitable grades, and adequate construction to provide for the vehicular needs in relation to the four proposed, conforming, single-family dwelling lots, as well as installation of municipal services thereto, for all of the reasons set forth in this Memorandum. In addition, prior to the Town recently installing the gate across Hall's Path in front of the landowner's property, the road was in fact used by vehicles between Pleasant Bay Road and Route 137.

The ANR Plan merits endorsement, and the Applicant respectfully requests that the Planning Board endorse the plan.

Thank you.

690 1/1

KEY MAP
NO SCALE

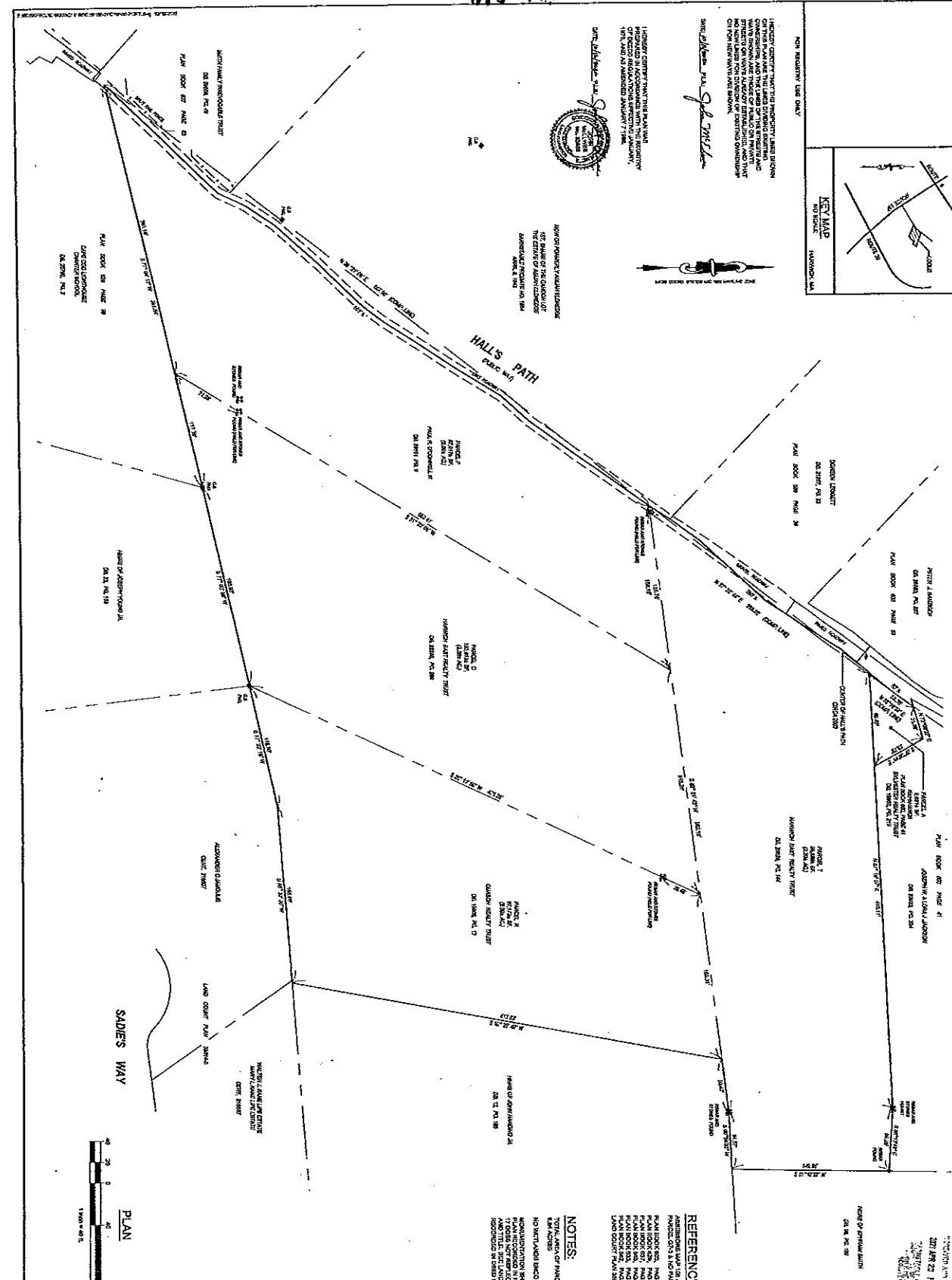
NON REGULATED LIME QUARRY

Paul O'Connell Trust

I HEREBY CERTIFY THAT THE BOUNDARY LINES SHOWN ON THIS PLAN ARE TRUE TO THE RECORDS OF THE MASSACHUSETTS DEPARTMENT OF LAND COURT, AND THAT THE SAME DO NOT VIOLATE ANY RIGHTS OF ADJACENT OWNERS, AND THAT THE SAME ARE THE RESULT OF A CAREFUL SURVEY OF THE LAND DESCRIBED AND THAT THE BOUNDARY LINES SHOWN ON THIS PLAN ARE TRUE TO THE RECORDS OF THE MASSACHUSETTS DEPARTMENT OF LAND COURT.



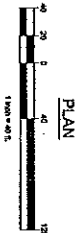
NOTE: THE CENTER OF MASSACHUSETTS DEPARTMENT OF LAND COURT IS LOCATED AT 100 STATE STREET, BOSTON, MASSACHUSETTS 02109.



690 1/1

REFERENCES:
PLAN 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150.

NOTES:
TOTAL AREA OF PARCELS 100-150 IS 48.00 AC.
NO WATERBODIES SHOWN OR INDICATED ON THIS PLAN.
NON REGULATED LIME QUARRY IS LOCATED ON THE EAST SIDE OF THE ROAD DESCRIBED IN PARCELS 100-150.
THE CENTER OF MASSACHUSETTS DEPARTMENT OF LAND COURT IS LOCATED AT 100 STATE STREET, BOSTON, MASSACHUSETTS 02109.



Credent Engineering Co., Inc. © 2008

PROJECT	PAUL O'CONNELL TRUSTEE
CLIENT	HALLS PATH
DATE	12/15/2020
PROJECT NO.	C1.1.1
SCALE	AS SHOWN
DRAWN BY	DMK
CHECKED BY	
APPROVED BY	

COASTAL engineering co.
150 STATE STREET, SUITE 200
BOSTON, MASSACHUSETTS 02109
TEL: 617.261.1111



TOWN OF HARWICH

DEPARTMENT OF PUBLIC WORKS

273 Queen Anne Road • P.O. Box 1543 • Harwich, MA 02645

Telephone (508) 430-7555

Fax (508) 430-7598

April 15, 2021

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
AND ELECTRONIC/FIRST CLASS MAIL

Mr. Paul O'Connell III
C/O Princi Mills Law
300 Barnstable Road
Hyannis, MA 02601

ORDER TO CEASE AND DESIST HALL'S PATH, HARWICH

Dear Mr. O'Connell,

It has been brought to the attention of the Town of Harwich that you are undertaking alterations to a public way known as Hall's Path, including clearing trees and altering the path. Such work is being undertaken in violation of the Town Code.

You are directed to Section 255-1 of the Town Code, which states that: *"No person shall obstruct or excavate any public or private way (excepting private driveways) without first obtaining a license therefor.* The Director of Highways and Maintenance or other official having charge of the streets and highways of the Town may, upon written application therefor, grant licenses in writing for the obstruction or excavation of any street or highway or for such excavation as may be required for the purpose of erecting, repairing, altering or removing any building or structure, for the laying of drains, gas pipes, or electric conduits or for any purpose which to him seems reasonable and proper, and such official in charge of the streets and highways shall require any person, firm or corporation acting under such license to make repair of any damage that may be done to any part of the highway resulting therefrom, and such repair shall be at the expense of the licensee.... The official having charge of the streets and highways shall require every licensee under this section to execute such indemnity bond and with sureties and in such sum which to him may seem reasonable and proper, and all such bonds shall be approved as to form by Town Counsel prior to execution" (emphasis added).

The Town has not issued a license allowing you to undertake any work on or within Hall's Path, and you are hereby **ORDERED TO CEASE AND DESIST** from making any further alterations, repairs, and/or improvements to Hall's Path unless there is compliance with the Town Code.

You are further hereby **ORDERED** to restore Hall's Path, including the surface of Hall's Path, to the condition that existed prior to your disturbance seven (7) days from the date of this Order and to remove from Hall's Path any equipment and materials therefrom.

Once you have brought Hall's Path into compliance, please contact me at 508-430-7555, so that I may inspect to confirm compliance with this order. If compliance is not achieved within seven (7) days of this demand notice, the Town will forward this matter to Town Counsel for further enforcement measures. Fines may also be assessed for non-compliance.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Lincoln Hooper', with a long horizontal flourish extending to the right.

Lincoln Hooper, Director

CC: prosrch@meganet.net
Joseph F. Powers, Town Administrator
Donna Molino, Assessing Department
Ray Chesley, Building Department

TRANSCRIPTION OF THE RECORD OF THE LOTS OF LAND
FOR YE LITTLE DIVISION SO CALLED JR QUASONS
PURCHASE LAID OUT BY CAPT. JOHN ATKINS JOSEPH COLE
AND MICAJAH SNOW COMTEE FOR YE PROPRIETORS OF SD
LAND TAKEN FROM THE PROPRIETORS BOOK AT THE
TOWN HALL IN HARWICH, MASSACHUSETTS

1 Lot Joseph Doane Esq lieth to ye westward of ye way of lead[ing] from Eastham to Chatham Beset to ye land formerly Sipson land and begins at hopkins his bound by the way from thence we[sterly] about 120 pole to Bangs land to a pine tree marked fro[m] thence southerly 44 pole to a pine tree marked thence Easter[ly] to a pine bush by sd way thence Northerly by ye way 36 poles to ye first Bounds

2 Lot is Joseph Youngs Begins at the Southeasterly corner of ye fir[st] lot to a pine bush thence Southerly by ye Rhoad 28 poles to a an oa[k] bush marked thence Westerly to Bangs land to a pine tree mar[ked] thence Northerly 40 poles to the first corner of the first l[ot] thence Easterly to the first bounds

3 Lot is Thomas Doanes begins at the South East corner of [the] second lot an oak Bush thence Southerly by ye Rhod 26 poles to a pine tree marked thence westerly to Banges land to a pine tree marked thence northerly 38 poles to ye southwest corner of ye 2 lot thence Easterly to ye first bounds

4 Lot Capt Joseph Harding begins at ye southeast corner [of the third] lot a pine tree thence Southerly 24 poles to Oak tree marked thence westerly to Banges his land at another tree marked thence Northerly 32 poles to the Southwest corner of ye 3 lot [thence] Easterly to ye first bound

5 Lot Micajah Snows begins at ye sout[east] corner of ye 4th lot at [an] oak bush thence Southerly by ye Road 24 poles to an oak bush marked thence westerly to Bangs his land a pine tree marked thence Northerly 29 poles to ye Southwest corner of ye 4th lot thence ea[sterly] to ye first bound

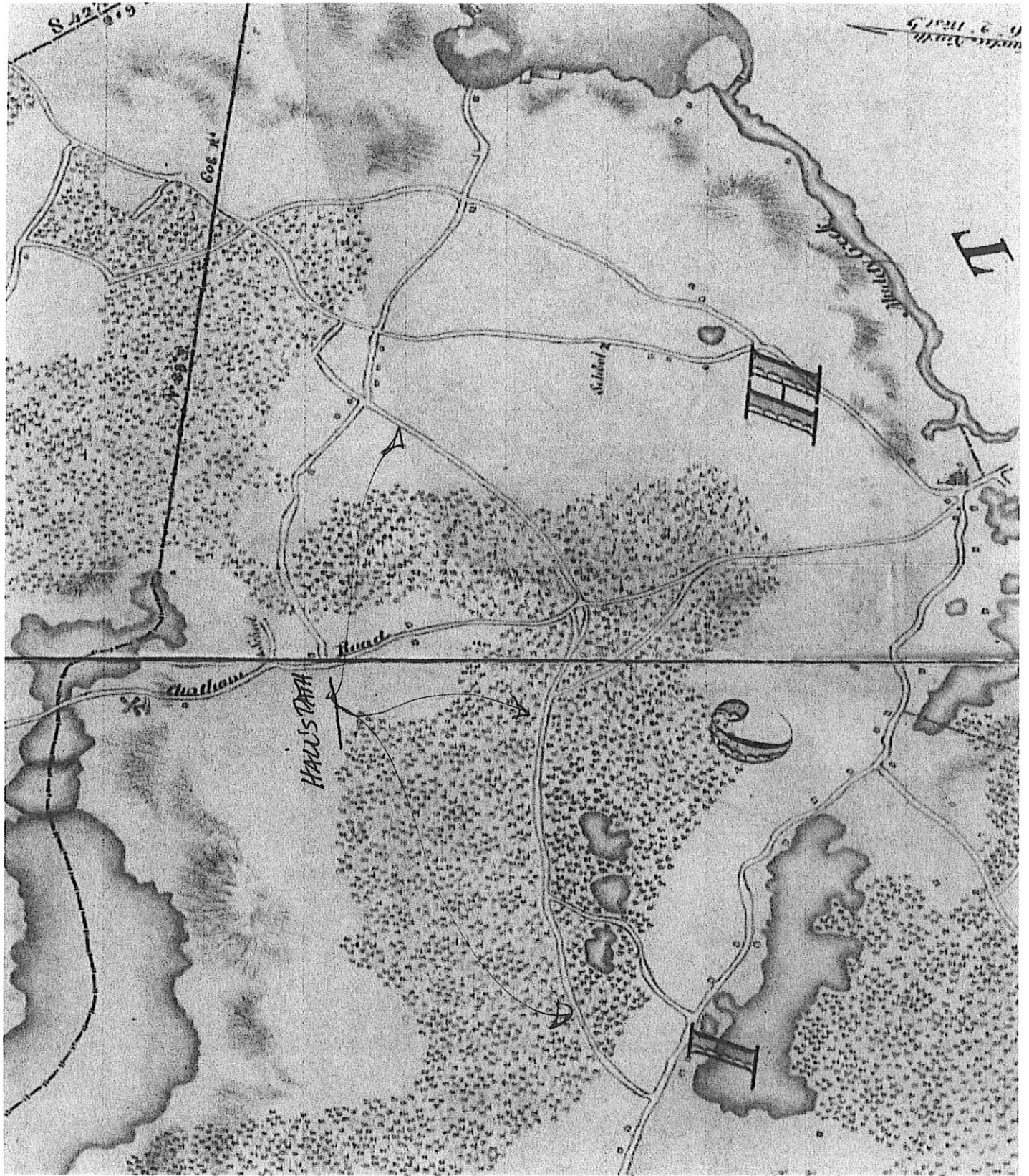
6 Lot Nicholas Snows begins at ye South East Corner of ye 5 lot an oak bush thence Southerly by ye Road 20 pole at [an] oa[k] Bush marked thence westerly to Bangs his land at a pine tree marked thence Northerly 28 poles to ye Southwest corner of ye 5 l[ot] thence Easterly to ye first Bound

7 Lot Capt. John Atkins begins at ye South East Corner of ye 6 lot at [an] oak bush thence Southerly by ye Road 20 pole to a pine stump and stak[e] thence westerly to a pine bush by ye way that leads from Harwich to Chatham between ye Road that leads to hall's mill and Bangs bound thence Northerly 27 poles to ye Southwest corner of the 6 lo[t] thence Easterly to ye first bound.

8 Blipha Hopkins + Sam'l King begins at the southeast corner of the 7th lot at the pine stump and stake thence Southerly by ye rod 20 pole to a pine bush marked thence westerly to ye rod that leads from harwich to Chatham to an oak bush marked thence northerly 27 pole to the southwest corner of the 7 lot thence.....[this portion of the description is at the bottom of the page and is cracked and broken off]

9 Lot is Thos Atkins beginning at ye southeast corner of ye 8 lot a pine bush thence southerly by ye Road 20 pole to an oak bush marked thence westerly to ye Rhode that leads from harwich to Chatham to a pine tree marked by ye Road thence Northerly 27 Pole to the southwest corner of ye 8 lot thence Easterly to ye first bound

10 Lot Stephen Hopkins beginning at ye southeast corner of ye 9 lot an oak bush thence Southerly by ye way 20 pole to a pine bush marked by ye way thence westerly to the way that leads from harwich to Chatham a pine tree marked by ye way thence Northerly 31 pole to ye Southwest corner of ye 9 lot thence Easterly to ye first corner



PORTION
 OF
 PLAN OF
 LAND
 IN
 HARWICH
 &
 BREWSTER
 BY
 JOHN G.
 HALE
 1831
 MA. SEC. OF
 STATE
 ARCHIVES
 VOL. 15 PG. 11

BREWSTER ROAD (RTE 137) 1871

TRANSCRIBED FROM

COUNTY COMMISSIONERS BOOK 4 PGS 286-290

1. Further confirmation of the location and relationship of Chalk Parcels 9E, 9D, 8B-1, 8B-2 and 8B-3 can be found in the forty foot wide County Road Layout and Taking known as Long Pond Road (Route 137), accepted by the County Commissioners on Nov 2, 1871 and recorded in County Commissioners Book 4, Page 286-290. The portions regarding LQL No. 8, 9 and 10 begin on Page 287 where the delineated line on the Northerly and Easterly side of the Forty Foot Layout states "...thence North 23 degrees West over land of Heirs of Joshua Nickerson 435 feet, thence North 30 degrees West over **Orleans Road, so called, (Route 39) 33 feet**, thence same course over land of **heirs Joshua Nickerson 400 feet**, thence North 28 degrees West over land of **Heirs of Seth and Joseph Ryder, 307 feet**, thence North 26 degrees west over land of **Caleb Nickerson 225 feet [Chalk Parcel 9E]**, thence North 18 ½ degrees West over land of **William Howes 337 feet [Chalk Parcel 9D]**, thence North 15 degrees West over land of **Caleb & Franklin Nickerson 250 feet [Chalk Parcel 8B-1]**, thence North 8 degrees West over land of same 103 feet [Chalk Parcel 8B-2], thence same course over land of heirs of **David Howes 59 feet to Hall's Path (so called) [Chalk Parcel 8B-3]**, thence same course over said path 12 feet, thence North 27 degrees west over land of Benjamin F. Eldredge 73 feet, thence same course over land of Widow Huldah Chase 418 feet [Vallie Land, later New Bedford Gas and Electric Company]..."

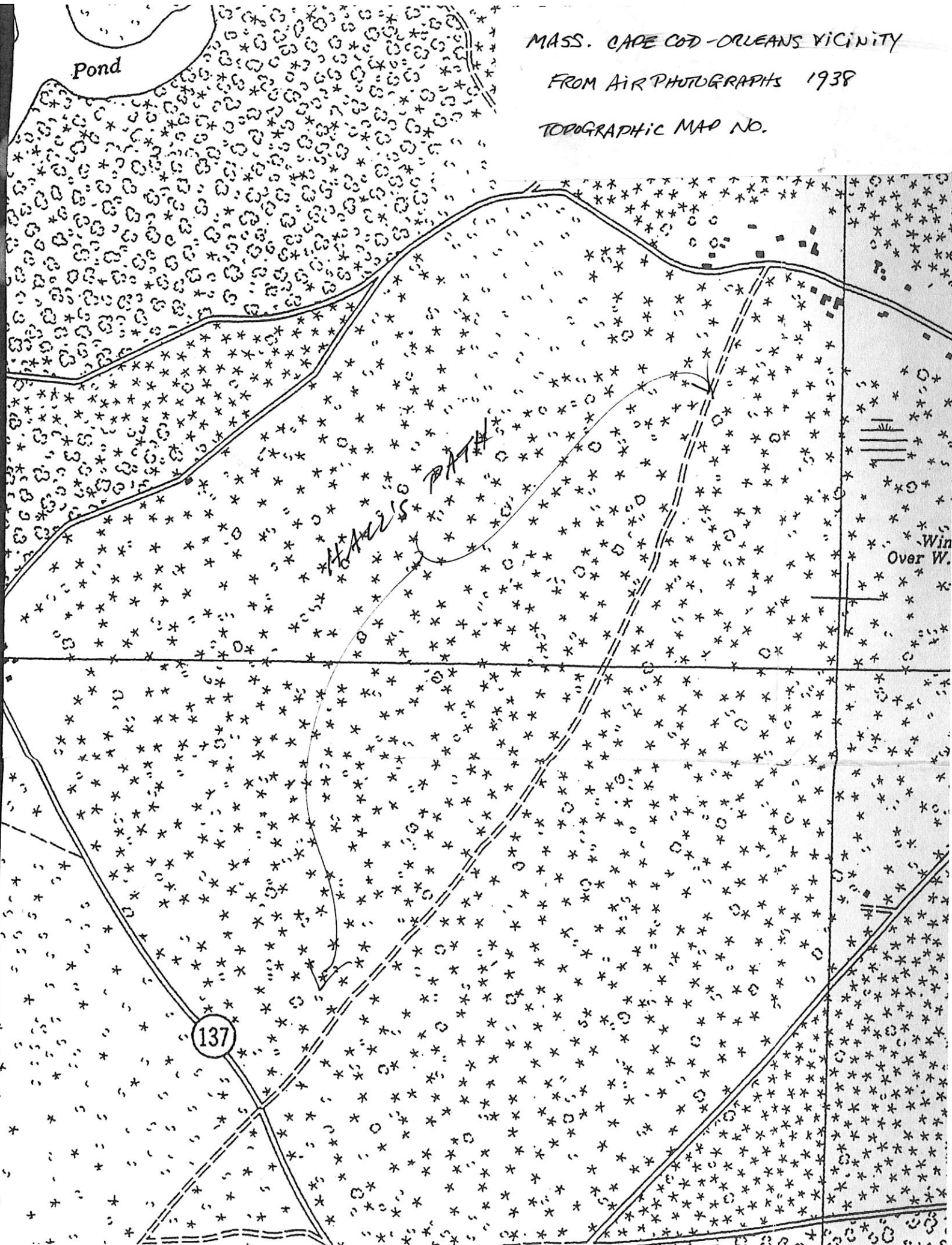
←
OVER HALL'S
PATH
12 FEET WIDE

MASS. CAPE COD - ORLEANS VICINITY

FROM AIR PHOTOGRAPHS 1938

TOPOGRAPHIC MAP NO.

Pond



137

HARVEY'S

Win Over W.



PORTION of the
U.S. Geological 1943
edition - Harwich
Quadrangle sheet

ORLEANS; JUNC. U.S. 6 J 3 1 M.

42°30'

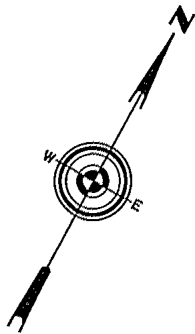
CONFIRMATION

PLAN OF LAND IN HARWICH

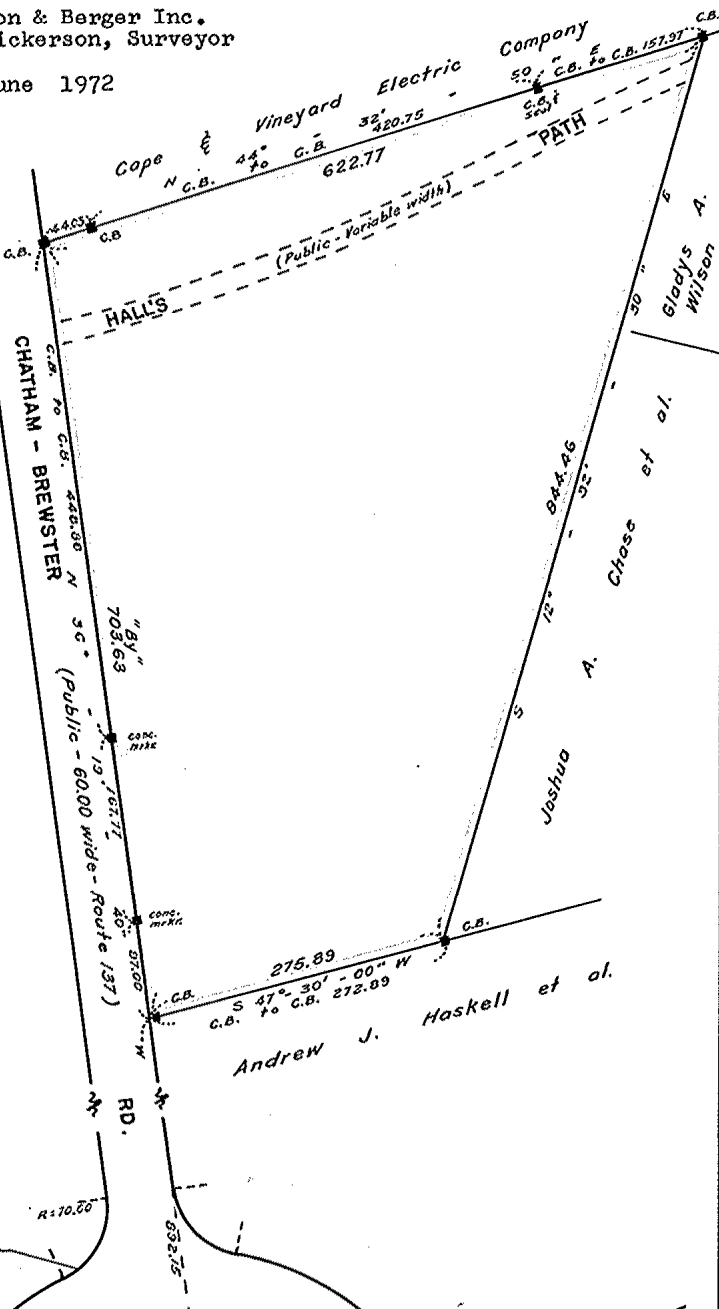
Nickerson & Berger Inc.
A. Henry Nickerson, Surveyor

June 1972

37643A

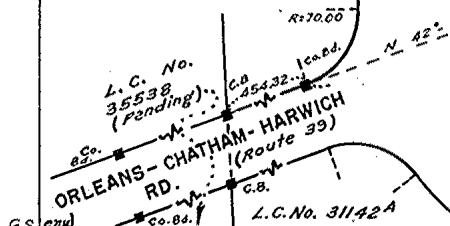


RECEIVED & RECORDED
JUL 24 10 51 AM '74
HARVARD COUNTY
REGISTER OF DEEDS
STEPHEN WHELES
REGISTER



L. C. No. 31142 A

ORLEANS-CHATHAM -
HARWICH (Route-39) RD.



Copy of part of plan
filed in
LAND REGISTRATION OFFICE
NOV. 3, 1972
Scale of this plan 120 feet to an inch
R.L. Woodbury, Engineer for Court
52 - A - 4

Owners: Oscar W. Doane Jr. + Peter M. Sykes

CONFIRMATION

42571A

PLAN OF LAND IN HARWICH

The BSC Group, Surveyors

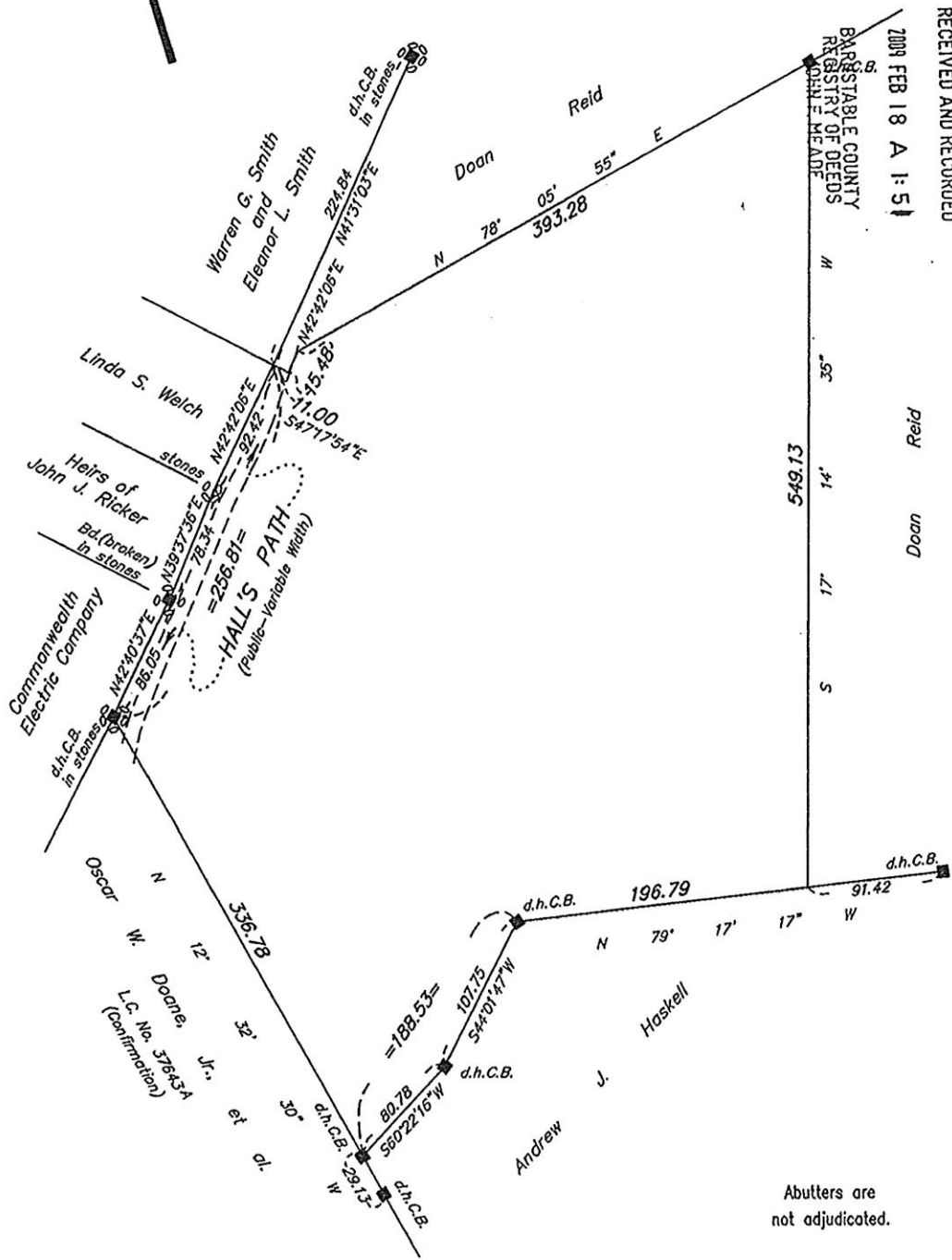
December 18, 1986



RECEIVED AND RECORDED

2009 FEB 18 A 1:51

BARSTABLE COUNTY
REGISTRY OF DEEDS
JOHN E. MEADE



Abutters are not adjudicated.

Copy of part of plan filed in
LAND REGISTRATION OFFICE
JUNE 16, 1989
Scale of this plan 80 feet to an inch
T.C. Pontbriand, Acting Engineer for Court

F12

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss.

SUPERIOR COURT

CV05-469

PAUL CUDDY and PAUL R. O'CONNELL, III,
TRUSTEES OF QUASON REALTY TRUST,
Plaintiffs.

v.

ELDREDGE PUBLIC LIBRARY, et al^{1 2},
Defendants

and

CV08-404

PAUL CUDDY and PAUL R. O'CONNELL, III
as TRUSTEES OF QUASON REALTY TRUST,
Plaintiffs

v.

GEORGE H. BAILEY, et al^{3 4},
Defendants

FINDINGS OF FACT, RULINGS OF LAW
AND ORDER FOR JUDGMENT

¹The Heirs, Successors and Assignees of Thomas Smith, and the Heirs, Successors and Assignees of Samuel Ryder, The Estate of Charlotte E. Webber and The Norman A. Keyes Trust.

²Original defendant Jan Gould Stewart entered into an agreement for judgment and has been dismissed from this action.

³Doris Bailey Jones, Martha J. Bailey, Clyde W. Tripp, Benjamin T. Nickerson, Nancy N. Tansey, Joyce E. Bearse, Thomas E. Tripp, Mary R. Gould, Harold J. Gould, Valerie Gould Cottrel, Ronne Lee Driscoll, fna, Ronne Lee Nickerson and all other heirs of Samuel Ryder.

⁴Original defendants Davis C. Howes, Individually and as Executor of the Estate of Helen H. Howes and Jan Gould Stewart entered into agreements for judgment and have been dismissed from this action.

The two above cited actions, consolidated for trial, seek to determine ownership of two adjoining parcels of land in the Town of Harwich. The non-jury trial began on May 16, 2011 and continued over the course of thirteen days. Additional evidence was received at the evidentiary hearing on motions to intervene on May 15th, June 18th and 19th, 2015. Based on all the credible evidence the court enters the following findings of fact.

FINDINGS OF FACT

While these two consolidated actions encompass numerous issues, they essentially revolve around the competing claims of the plaintiffs (the Trustees) and the viable 05-469 defendants (the Eldredge Public Library, The Estate of Charlotte E. Webber and The Norman A. Keyes Trust; hereafter collectively "the Library defendants" or individually "the Library", "Webber", or "Keyes")⁵ to two parcels of land, the Ryder Parcel and the Smith Parcel. The Trustees seek clear title to some 7.42 acres of land shown on a plan recorded in Barnstable Plan Book 616 page 96, the so-called Hood Plan (named for the surveyor and trial witness Richard J. Hood) (ex. 75). The Hood Plan rests on a claim of title derived through Samuel Ryder, Jr. (hence the Ryder Parcel), and is augmented by what the Trustees argue to be adverse possession. The Library claims the chain of title through Ryder, Jr. is imperfect and that the Library also holds an interest in the Ryder Parcel, a tract the Library claims is something less than the 7.42 acres sought by the Trustees.

The Library defendants claim a direct interest in the Smith Parcel as the successors to the

⁵The battle during the 2011 trial was waged between the Trustees and the Library. Webber and Keyes formally entered the fray upon the court's allowance of their 2013 and 2014 motions to intervene. See the court's Findings Of Fact, Rulings Of Law And Order Regarding The Motions to Intervene And Vacate Default filed herewith in case 05-469.

interests of Franklin and Charles H. Smith.⁶ The Trustees seek some or all of the Smith Parcel for themselves by virtue of adverse possession.

No one has been able to agree as to the precise location on the ground of either the Ryder Parcel or the Smith Parcel. This puzzle of competing interests, imperfect record titles and imprecise boundaries is the direct product of the history of land use on Cape Cod. During the eighteenth and early nineteenth centuries human activity on Cape Cod centered on the various villages. Farms and the homes of seafarers were found close to the villages. Outlying lands were nonetheless valuable as wood lots providing construction materials and fuel. As the nineteenth century progressed wood gave way to coal as a fuel and construction materials were more apt to be commercially milled in New England's timber regions. The wood lots were less valuable and often poorly described or simply ignored in deeds, wills and probates.

The economic forces just described were compounded by two other factors. First, the Barnstable County Registry of Deeds burned to the ground on October 22, 1827, leaving a void as to accurate pre-fire title records. Second, Cape Codders were sometimes reticent in recording deeds; particularly as to lesser-valued parcels, perhaps to avoid recording fees and property taxes. Altogether these factors combine to often leave a less than perfect record of land ownership as to Cape Cod wood lots, such as the Ryder and Smith Parcels.

Our focus is the area of the Town of Harwich known as East Harwich. In 1730 a large tract of land in the area was divided into twenty lots known as the Little Quason Division (ex. 115A). The Little Quason Division was bisected north to south by the public road then known as

⁶By the 2009 default of other Smith heirs in this action the Library argued it is entitled to full ownership of the Smith Parcel. The default has been removed and Webber and Keyes now stand with the Library as claimants of the Smith Parcel.

the Eastham to Chatham Road. Later in the nineteenth century, the road was called the Orleans to Chatham Road or more simply the Chatham Road. Today we know it as Church Street. For the sake of consistency in this narration it will be referred to as the Chatham Road.

Each lot in the Little Quason Division was in the shape of a trapezoid (but for Lot 14, a triangle), being long and narrow with the length of the lot running east to west. Both the Ryder and the Smith Parcels are part of the fourth lot of the Little Quason Division. As originally laid out, the fourth lot was bounded to the north by the third lot and to the south by the fifth lot. The Chatham Road formed the easterly boundary. To the west the fourth lot crossed Hall's Path, a cart way running more or less north to south, and ended at the so-called Bang's Line, the boundary of a large tract to the west (ex. 115A).

While a quick glance at the modern tax assessor's map of East Harwich (ex. 78) shows a hodgepodge of lots, subdivision roads and so on, there is still evidence today of the Little Quason Division. Such evidence is pertinent to our concerns. For example, the modern residential subdivision known as Huckleberry Path occupies the easterly portion of the fifth lot of the Little Quason Division and provides an obvious, well-documented southern boundary for the Ryder Parcel.

The Trustees and the Library defendants both derive their titles to the Ryder and Smith Parcels respectively from the Estate of Thomas Kendrick, Sr., who died in 1826 owning all of the fourth lot of the Little Quason Division east of Hall's Path (ex. 115B). The entire Kendrick, Sr. parcel consisted of 25.3 acres as determined by the Library's surveyor after recalculating the Little Quason Division. The Trustees rely on a different figure, twenty-eight acres, which has its origin in an 1828 sheriff's execution and set off whereby the sheriff opined the tract was then



LITTLE
QUASON
PURCHASE
DIVISION
HARWICH
PROPRIETORS
RECORDS
1730

SEE SHEET
A
EXHIBIT
115A
B. SUB. OF
CASE NO
LV05-469

LITTLE QUASON DIVISION

Eldredge Public Library

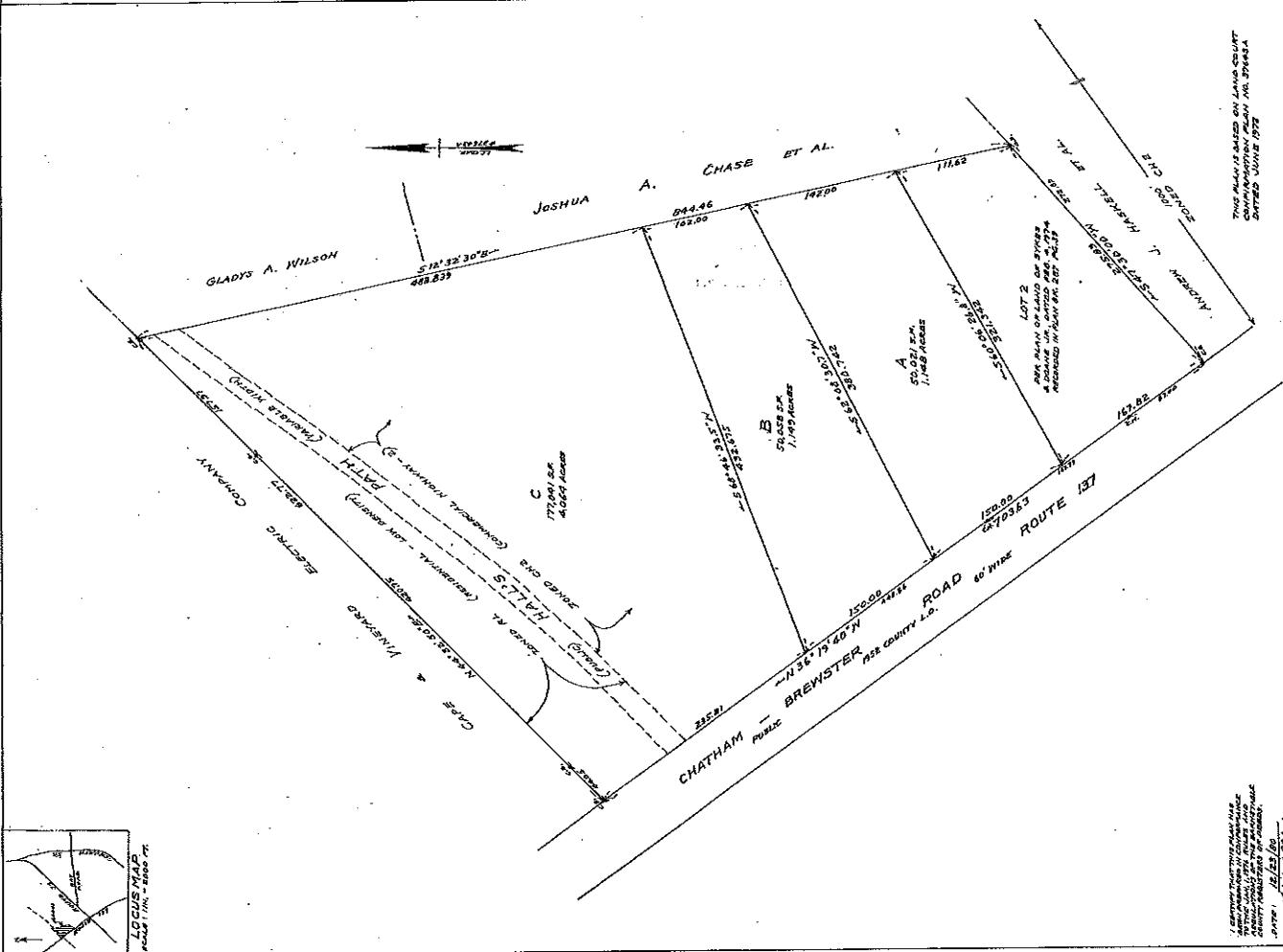
Compiled Study Plan
Eldredge Public Library

ELDREDGE SURVEYING
& ENGINEERING, LLC
1033 West Street, Orleans, MA, (508) 913-3555 Fax: (508) 913-2555

Page #	Description of Changes	Date
1	Revised the Little Quason Division based on the record documents located in the Registry of Deeds based on the Little Quason Division and the 1822 Record of the Survey of Orleans Line.	11-17-2010



Date: 06-02-2010
Scale: 1" = 100'
Project No.: 10000

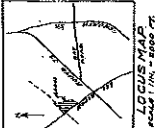


THIS PLAN IS BASED ON LAND SURVEY COMPANION PLAN 349.20-20-A DATED JUNE 1978

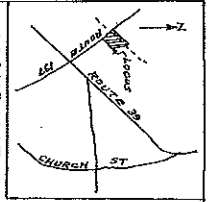
PLAN OF LAND
 EAST HARRISCH MASS.
 PETER M. GAYNES, R.
 100 STATE ST., SUITE 100, BOSTON, MASS. 02109
 REGISTERED PROFESSIONAL ENGINEER
 REG. NO. 10000
 125 STATE ST., SUITE 100, BOSTON, MASS. 02109
 REGISTERED PROFESSIONAL ENGINEER
 REG. NO. 10000

APPROVAL, UNLESS OTHERWISE
 CONTROL LAW NOT REQUIRED
 HARRISCH PLANNING BOARD
 DATE: 6/1/78
 [Signatures]

1. GENERAL THAT THIS PLAN IS BASED ON LAND SURVEY COMPANION PLAN 349.20-20-A DATED JUNE 1978.
 2. THIS PLAN IS BASED ON LAND SURVEY COMPANION PLAN 349.20-20-A DATED JUNE 1978.
 3. THIS PLAN IS BASED ON LAND SURVEY COMPANION PLAN 349.20-20-A DATED JUNE 1978.
 4. THIS PLAN IS BASED ON LAND SURVEY COMPANION PLAN 349.20-20-A DATED JUNE 1978.
 5. THIS PLAN IS BASED ON LAND SURVEY COMPANION PLAN 349.20-20-A DATED JUNE 1978.



LOCUS MAP
 1:25,000 SCALE
 18 511 000
 1:25,000 SCALE



RECEIVED AT THE OFFICE OF THE REGISTRAR OF DEEDS
NOV 14 1984
REGISTERED LAND SURVEYOR

LOCUS MAP
SCALE: 1/4\"/>

97-R-2
ELECTRIC CO. 622.77
NEW BEDFORD GAS & CO. EDISON ELECTRIC LIGHT CO.
157.97
97-R-2-2

COMMONWEALTH
N 44° 32' 50" E
1420.75

ZONED R-2
MIN. 10,000 SQ. FT.
MIN. 150 FT. FRONTAGE

CEASE OF PUBLIC USE - TRAIL
HALL'S
(PUBLIC)
MARKABLE WIDTH

PARCEL C-1
192,706 SQ. FT.
4.424 ACRES

ZONED C-H-2
MIN. 50,000 SQ. FT.
MIN. 150 FT. FRONTAGE

CHATHAM - BREWSTER
ROUTE 197
1982 COUNTY L.O.
N 35° 19' 40" W
310.81
60' WIDE ROAD

419.43
S 59° 50' 06" W

PARCEL B-1
34,398 SQ. FT.
0.789 ACRES
* TO BE CONVEYED TO DAVID SANDLER, SANDLER REALTY TRUST
* NOTE: TO BE USED AS A SEPARATE BUILDING, NOT TRUSTEES FOR CONVEYANCING PURPOSES ONLY.
380.742
S 62° 08' 50" W

DAVID SANDLER TRUSTEES,
SANDLER REALTY TRUST
DREX7012/859, P.L. BK. 399 P.L. 20
Lot A PLAN DATED DEC. 25, 1980
97-R-1-18

512° 32' 30" E
488.839
CHASE ET AL.

NE GLADYS A. WILSON

NE JOSHUA A. CHASE ET AL.
THIS SURVEY AND PLAN HENCE ARE MADE IN ACCORDANCE WITH THE PROVISIONS AND TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS BY REGISTERED LAND SURVEYOR
g/lly
REGISTERED LAND SURVEYOR

SCALE IN METERS
0 10 20 30
SCALE IN FEET
0 10 20 30
THIS PLAN IS BASED ON LAND COURT CONFIRMATION PLAN NO. 376-93-A DATED JUNE 1972 AND DOES NOT REPRESENT AN ACTUAL SURVEY ON THE GROUND.

APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED
HARWICH PLANNING BOARD

REGISTERED LAND SURVEYOR
DATE: 8/1/84
GARY P. TRISTRAM HAS BEEN AUTHORIZED TO CONDUCT AND SIGN THIS PLAN IN ACCORDANCE WITH THE REGULATIONS OF THE MASSACHUSETTS COUNTY REGISTRARS OF DEEDS.

PLAN OF LAND IN HARWICH, MASS.
FOR PETER M. SYKES

PREPARED BY: GARY P. TRISTRAM, REGISTERED LAND SURVEYOR, 1984
CHECKED BY: DAVID SANDLER, REGISTERED LAND SURVEYOR, 1984
SCALE: 1/4" = 40 FT. 120'
EDWARDS ENGINEERING CO., INC., 1580 CMT. ST., WILMINGTON, MASS.
NO. 0213-A



TOWN OF



HARWICH

Anita N. Doucette, CMC/AAE/CMMC
Town Clerk

732 Main Street
Harwich, Massachusetts 02645
Tel. 508-430-7516
FAX 508-432-5039

October 25, 2000

To whom it may concern:

This is to certify that Halls Path is a Town Road in the Town of Harwich.

Respectfully,

Anita N. Doucette, CMC/AAE/CMMC
Town Clerk

GLIDDEN DRIVE		21 PRIVATE	40'	1
GOMES WAY	<i>Harwath</i>	53 PRIVATE	40'	2
GOODNOUGH CIRCLE(RENAMED TANGLEWOOD CIR)		51 PRIVATE	50'	
GORDON RITCHIE ROAD	<i>Assessors</i>	1 TOWN	40'	1
GORDON ROAD		5 TOWN (1965)	30'	1
GORHAM COURT	<i>Street Names</i>	24 PRIVATE	30'	2
GORHAM ROAD		24, 32, 33 TOWN (1952)	40'	2
GRASSY POND ROAD	<i>Crithly</i>	22 TOWN	40'	1
GRAY ROAD		78 PRIVATE	30'	4
GREAT MARSH ROAD		29 PRIVATE	50'	1
GREAT WESTERN ROAD		36, 37, 38, 39 COUNTY	60' & VARIES	1 & 4
GREAT WOODS ROAD		104 PRIVATE	20'	3
GREEN LANE		50 TOWN (1995)	40'	4
GREEN NEEDLE LANE		4 PRIVATE	40'	1
GREENDALE LANE		32 TOWN (1973)	40'	2
GREY NECK LANE		11 TOWN (1953)	30'	1
GREY NECK ROAD		5 & 11 TOWN (1947)	40'	1
GRIST MILL LANE (H.C.)		41 TOWN (1981)	40'	2
GRIST MILL ROAD (E.H.)		117 TOWN/PART. (1982 & 1987)	40'	3
GROVE STREET (H.P.)(FRMLY MAIN ST)		6-B TOWN	24'	1
GULFORD DRIVE		40 PRIVATE	50'	1
GULL WAY		34 TOWN (1972)	30'	2
HALL AVENUE		4 TOWN (1973)	30'	1
HALLMARK LANE		94, 104 TOWN (2002)	50'	3
HALLS PATH		113, 117 TOWN (1975)	40'	3
HALLS PATH ONE(FRMLY HALLS PATH)		97, 113 TOWN (2001)	40'	3
HALLS WAY(FRMLY HALLS PATH)		113, 117 TOWN	40'	3
HAMILTON PLACE		10 TOWN (1963)	30'	1
HANDLERS WAY		21 PRIVATE	40'	1
HAPPY WAY		62 TOWN (1963)	40'	2
HARBOR LIGHT DRIVE		114 PRIVATE		3
HARBOR ROAD (H.P.)		15 TOWN (1952)	30'	1 & 2
HARBOR VIEW ROAD		6 TOWN (1948)	17'	1
HARBOR WAY (W.H.)		1 COUNTY	VARIES	1
HARD WAY		92 PRIVATE	50'	4
HARDEN LANE		76 TOWN (1968)	30'	3
HARDING LANE		113 TOWN (2002)	50'	3
HARNISS ROAD		3 TOWN (1971)	30'	1
HAROLD STREET		21 TOWN (1964)	40'	1
HAROMAR HEATH		73 & 85 TOWN (1972)	40'	3
HARVEST HOLLOW DRIVE		23 TOWN (1995)	50'	2
HARWICH PINES		103 PRIVATE	40'	3
HAR-WOODS AVENUE		60 TOWN (1975)	50'	4
HASKELL LANE		74 TOWN (1996)	50'	2
HATH-A-WAY		18 TOWN (1967)	30'	1
HAWKSNEST ROAD		85, 95, 104 COUNTY (1951)	33'	3
HEADWATERS DRIVE		80 & 81 TOWN (1980)	40' 50'	4
HEATHER ROAD		44 TOWN (1965)	40'	2
HELENA AVENUE (H.P.)		14 PRIVATE	10'	1

June 14, 2021

Staff Report

PB2021-13 Harwich Affordable Housing Trust (Stello, PLS) Pleasant Lake Avenue/ Bassett's Lane ANR

Planning Comments:

Applicant/ prospective purchaser Town of Harwich Affordable Housing Trust seek an "Approval Not Required (ANR)" plan endorsement under M.G.L. c. 41 §§81L and 81P and §400-9 of the Harwich Code. The endorsement will facilitate conveyance of certain land shown on the plan to the Housing Trust by establishing through the plan a common "boundary agreement and adjustment, due to deed description inconsistencies and encroachments for Assessors Parcel IDs 82-R1, 82-R2 and 82-R3." All current owners have joined in the ANR application.

Staff recommends to the Board that the plan does not show a "Subdivision," so-defined, and as such, warrants an endorsement that the plan does not require subdivision approval. The 'building' lots shown on the plan have the minimum frontage as is required under the Harwich zoning by-law on a public way (Pleasant Lake Avenue or Bassetts Lane), and the ways actually exist on the ground and provide 'vital' access within and to the lots (one of the lots affected is noted as 'unbuildable' on the plan because it lacks the required frontage). Bassetts Lane is a town way laid out in 1850; Pleasant Lake Avenue (Rte. 124) is a county road laid out in the late 19th century.

Findings/ Decision (as recommended by staff):

Motion that the plan titled "Plan of Land, Pleasant Lake Avenue, Harwich, Mass.," prepared for the Harwich Affordable Housing Trust Fund by TS Land Surveying, Inc., Harwich Port, MA 02646, dated June 10, 2021, stamped June 10, 2021, does not depict a subdivision and to endorse the plan as not requiring approval under the subdivision control law.

TOWN OF HARWICH PLANNING DEPARTMENT

PLANNING BOARD APPLICATION
SUBDIVISION FORM B-1



TO THE TOWN CLERK, HARWICH, MA

DATE 6-11-2021

PART A – APPLICANT INFORMATION/AUTHORIZATION

Applicant Name(s)	Harwich Affordable Housing Trust Fund
Representative/Organization (Who will serve as the primary contact responsible for facilitating this application?)	TS Land Surveying, Inc.
Street/PO Box	PO Box 303
Town, ST, Zip	Harwich, MA 02646
Phone	508-737-8635
Fax	
E-mail	office@tslandsurveying.com

The applicant is one of the following: (please check appropriate box)

- Owner
 Tenant*
 Prospective Buyer*
 Representative for Owner/Tenant/Buyer
 Other* _____ ***Written permission of the owner(s).**

All other forms and information as required in the Harwich Code §400 shall be submitted as part of this application including municipal lien certificate(s), available through the Tax Collector's Office.

Authorization

Your signature hereby asserts, to the best of your knowledge, that the information submitted in this application is true and accurate; that you agree to fully comply with the Town of Harwich Zoning By-laws and the terms and conditions of any approval of this application by the Planning Board; and authorizes the Members of the Planning Board and Town Staff to visit and enter upon the subject property for the duration of the consideration of this application.

Gwen P. Marceline, Chair Harwich Affordable Housing Trust
Applicant

See attached authorization letter from Gwen P., Patrick J. and Wayne L. Marceline

Owner(s) – Authorization must accompany application if the owner is not the applicant.

Official use only:

PLANNING DEPARTMENT	TOWN CLERK
Case # <u>PB2021-13</u>	

PART B – PROJECT LOCATION

Street Address		
Village	Zip Code	
Map	Parcel	
Zoning District(s)		
Frontage (linear feet)		
Total land area (SF)		
Upland (SF)	Wetlands (SF)	
Number of lots and/or parcels	Existing:	Proposed:

82-R1 Carrie E. Marceline - Dd Bk 1260, Pg 46 - May 1, 1964 82-R2 Elizabeth M. Marceline Trust-Dd Bk - 32119, Pg 241 - May 1, 2019
 The owner's title to said land is derived under deed from 82-R3 James G. Marceline - Dd Bk 21689, Pg 171 - Jan 10, 2007 dated _____, and recorded in the Barnstable Registry of Deeds Book and Page _____ or registered in Barnstable County Land Court Certificate of Title No. _____. Ref Probate No. BA18P-0358 and Dd Bk 31491, Pg 124 for Elizabeth M. Marceline Trust

PART C – PROJECT DESCRIPTION

Number of lots and/or parcels	Existing: 3	Proposed: 0
-------------------------------	-------------	-------------

The undersigned owners of all land described herein submitted in the accompanying plan entitled Plan of Land and dated June 10, 2021,

request a determination and endorsement by said Board that approval by it under the **Subdivision Control Law MGL Ch. 41 Sec. 81K-GG**: (check as appropriate)

is required (complete Part C.1 Subdivision) or is NOT required (complete Part C.2 ANR)

PART C.1 – Planning Board Approval is Required - Subdivision

- The accompanying plan is a (check one):
 - Preliminary plan
 - Definitive without a preliminary plan
 - Definitive following a Preliminary plan filed on _____/case # PB _____
 - Modification of a Definitive plan approved on _____/case # PB _____
 - Rescission of a Definitive plan approved on _____/case # PB _____
- The applicant is also requesting a **Special Permit** to accompany the proposed plan for the following (check all that apply):
 - USE - Does not require Site Plan Review
 - ___ Open Space Residential Development
 - ___ Flexible Cluster Development/Six Ponds Special District
 - ___ Accessory Apartment
 - ___ Two-Family Dwellings
 - ___ Other _____
 - OVERLAY DISTRICT
 - ___ Water Resource Protection
 - ___ Harwich Center
 - ___ Six Ponds
 - ___ Village Commercial (Harwich Port)

**Note: Projects within the Harwich Center Overlay District may also be within the Harwich Center Historic District. This requires separate filing with the Historic District Commission. Please inquire with the Building Department for forms and instructions.*

PART C.2 – Planning Board Approval is Not Required - ANR

The accompanying plan does not require approval by the Planning Board because:

1. The lots are created on an approved way, with proper frontage and are served by safe and adequate access as follows:
- a. Every lot shown on the plan has frontage of at least such distance as is presently required by the Zoning Code of the Town of Harwich under Article VI: §325-15 and §325-16, Table 2 which requires _____ feet for erection of a building on such lot, **and**;
 - b. The lots shown on such plan front on one of the three types of ways specified in Chapter 41, Section 81L, MGL, **and**;
 - a public way or a way that the Harwich Town Clerk certifies is maintained and used as a public way namely _____, or
 - a way shown on a plan previously approved and endorsed in accordance with the subdivision control law namely _____ on _____ and subject to the following conditions _____; or
 - a private way in existence on March 25, 1949, the date when the subdivision control law became effective in the Town of Harwich, and
 - c. The public or private way named above has, in the opinion of the Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the land abutting or served thereby, and for the installation of municipal service to serve such land and the buildings existing thereon to be erected.
- PROOF OF SAFE AND ADEQUATE ACCESS** – Please attach all necessary documentation to this application for:
- Determination of Safe and Adequate Access for existing conditions
 - Satisfaction of Safe and Adequate Access for proposed conditions
2. The accompanying plan is not a subdivision because the plan does not show a division of land.
3. The division of the tract of land shown on the accompanying plan is not a "subdivision" because it shows a proposed conveyance/other instrument, namely _____ which adds to/takes away from/changes the size and shape of, lots in such a manner so that no lot affected is left without frontage as required by Zoning Code of the Town of Harwich under Article VI: §325-15 and §325-16, Table 2 which requires _____ feet.
4. The division of the tract of land shown on the accompanying plan is not a subdivision because two or more buildings, specifically _____ buildings were standing on the property prior to March 25, 1949 the date when the subdivision control law went into effect in the Town of Harwich and one of such buildings remains standing on each of the lots/said buildings as shown and located on the accompanying plan. Evidence of the existence of such buildings prior to the effective date of the subdivision control law as follows:
5. Other reasons or comments: (See MGL, Ch41, §81-L)

Estate of James G. Marceline
Elizabeth M. Marceline Trust
22 Florence Avenue
Arlington, MA 02476

As of June 10, 2021

Harwich Affordable Housing Trust Fund
Harwich Town Hall
732 Main Street
Harwich Center, MA 02645
Attention: Donald F. Howell, Chair

RE: **Parcels 82/R1-R, 82/R3-R, 82/R4-R, 70/E2-R, 70/E3-R, and 82/S1-R located at Queen Anne Road Pleasant Lake Road (the "Property")**

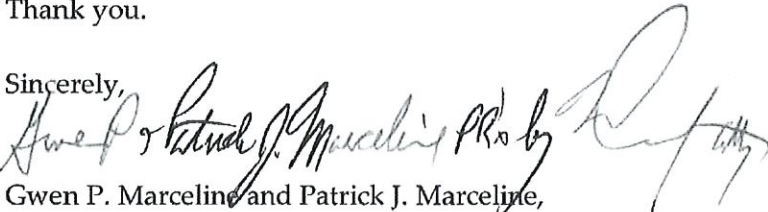
Dear Mr. Howell:

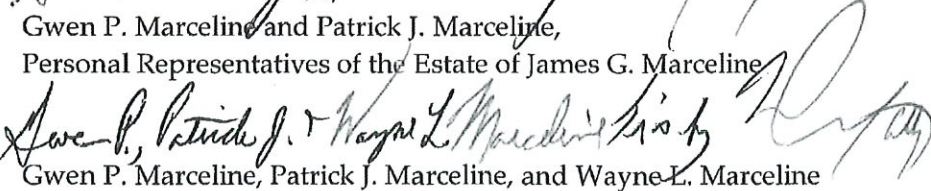
Estate of James G. Marceline and Elizabeth M. Marceline Trust are the current owners of the real property located at Queen Anne Road and Pleasant Lake Road, Harwich, MA, which includes certain parcels also having addresses of (i) Parcel Number 82/R1-R Pleasant Lake Avenue, (ii) Parcel Number 82/R3-R 0 Pleasant Lake Avenue, (iii) Parcel Number 82/R4-R Queen Anne Road, (iv) Parcel Number 70/E2-R 0 Pleasant Lake Avenue, (v) Parcel Number 70/E3-R 456 Queen Anne Road, and (vi) Parcel Number 82/S1-R 0 Pleasant Lake.

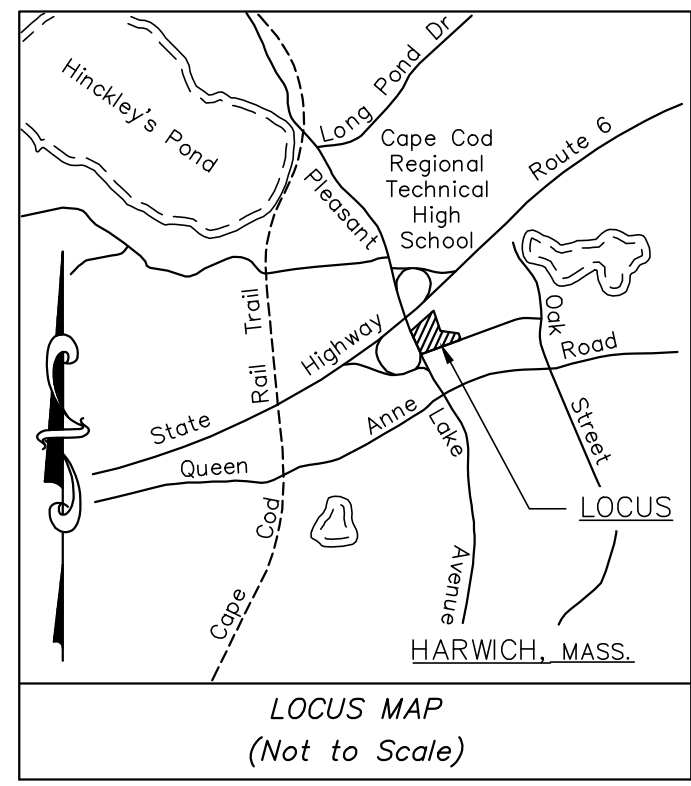
This letter authorizes Harwich Affordable Housing Trust Fund, and/or their respective affiliates, agents, attorneys, and/or representatives, to seek and obtain any permits, licenses, endorsements, and other approvals related to development of the Property from or with any and all agencies, offices, departments, authorities, boards, and commissions of the Town of Harwich including, without limitation, the Harwich Planning Board.

Thank you.

Sincerely,


Gwen P. Marceline and Patrick J. Marceline,
Personal Representatives of the Estate of James G. Marceline


Gwen P. Marceline, Patrick J. Marceline, and Wayne L. Marceline
Trustees of the Elizabeth M. Marceline Trust



LEGEND

- concrete bound/stone bound
- concrete bound to be set
- iron pipe
- wood fence
- x — post and wire fence
- o — chainlink fence

The purpose of this plan is for a boundary agreement and adjustment, due to deed description inconsistencies and encroachments, for assessors parcel IDs 82-R1-0, 82-R2-0 and 82-R3-0 as shown hereon.

ZONING DISTRICTS

R-L (Residential - Low Density)
Six Ponds Special District

	R-L	Six Ponds (Zone A)	Six Ponds (Zone B)
Minimum Area	40,000 S.F.	60,000 S.F.	100,000 S.F.
Minimum Frontage	150 Ft.	150 Ft.	200 Ft.

OWNER(S) OF RECORD

- #0 Pleasant Lake Ave.
Estate of James G. Marceline
Probate No. BA18P-0358
c/o Gwen P. and Patrick J. Marceline
Deed Book 1260, Page 46
Assessors Parcel ID 82-R1-0
- #283 Pleasant Lake Ave.
Wayne L. Marceline
Deed Book 32119, Page 239
Assessors Parcel ID 82-R2-0
- #0 Pleasant Lake Ave.
Gwen P., Patrick J. and Wayne L. Marceline,
Trustees of the Elizabeth M. Marceline Trust
Deed Book 21689, Page 171 (Parcel 1)
Assessors Parcel ID 82-R3-0

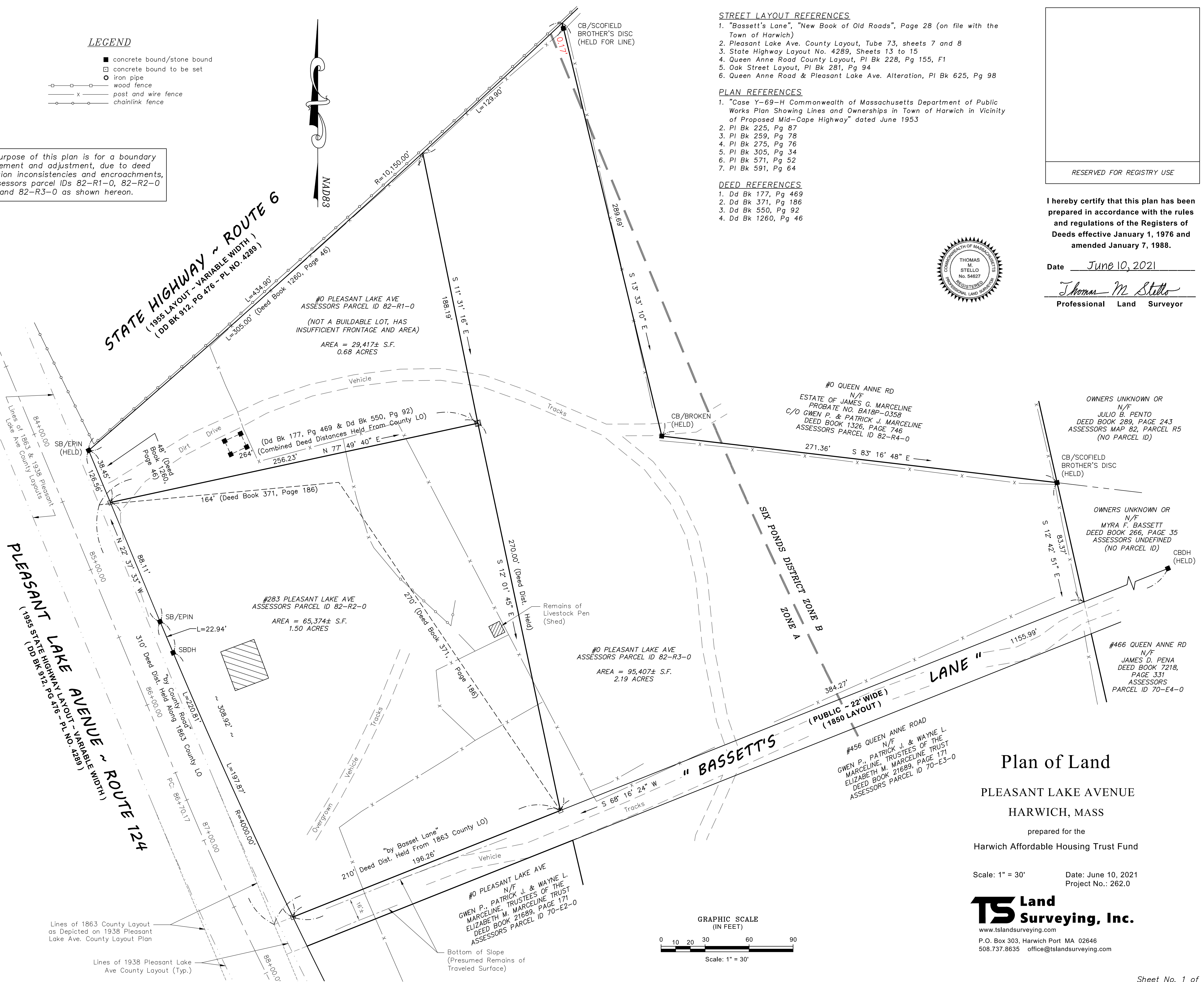
Approval Under the Subdivision Control Law **NOT** Required

HARWICH PLANNING BOARD

Date _____

The above endorsement makes no determination as to compliance with zoning except as to frontage

- NOTES:**
- The layout for "Bassett's Lane" is fixed by holding a concrete bound on the northern sideline located on the east end of the layout and by centering the layout on the bottom of slopes located on the west end of the layout near Pleasant Lake Ave.
 - The project is referenced to the Mass. State Plan Coordinate System based on the North American Datum of 1983 (NAD83), determined by redundant GNSS observations utilizing the Massachusetts Continuously Operating Reference Station Network (MaCORS).
 - The certifications shown hereon are intended to meet Registry of Deeds requirements and are not a certification of title or ownership of property.



STREET LAYOUT REFERENCES

- "Bassett's Lane", "New Book of Old Roads", Page 28 (on file with the Town of Harwich)
- Pleasant Lake Ave. County Layout, Tube 73, sheets 7 and 8
- State Highway Layout No. 4289, Sheets 13 to 15
- Queen Anne Road County Layout, Pl Bk 228, Pg 155, F1
- Oak Street Layout, Pl Bk 281, Pg 94
- Queen Anne Road & Pleasant Lake Ave. Alteration, Pl Bk 625, Pg 98

PLAN REFERENCES

- "Case Y-69-H Commonwealth of Massachusetts Department of Public Works Plan Showing Lines and Ownerships in Town of Harwich in Vicinity of Proposed Mid-Cape Highway" dated June 1953
- Pl Bk 225, Pg 87
- Pl Bk 259, Pg 78
- Pl Bk 275, Pg 76
- Pl Bk 305, Pg 34
- Pl Bk 571, Pg 52
- Pl Bk 591, Pg 64

DEED REFERENCES

- Dd Bk 177, Pg 469
- Dd Bk 371, Pg 186
- Dd Bk 550, Pg 92
- Dd Bk 1260, Pg 46



I hereby certify that this plan has been prepared in accordance with the rules and regulations of the Registers of Deeds effective January 1, 1976 and amended January 7, 1988.

Date June 10, 2021
Thomas M. Stello
Professional Land Surveyor

RESERVED FOR REGISTRY USE

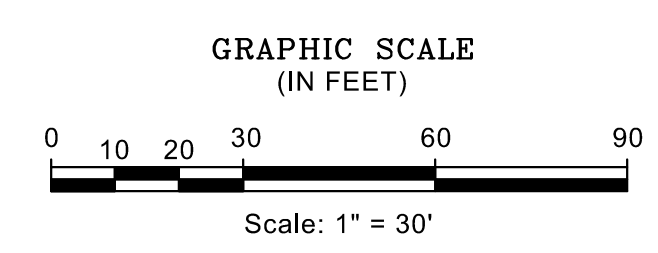
Plan of Land

PLEASANT LAKE AVENUE
HARWICH, MASS

prepared for the
Harwich Affordable Housing Trust Fund

Scale: 1" = 30' Date: June 10, 2021
Project No.: 262.0

TS Land Surveying, Inc.
www.tslandsurveying.com
P.O. Box 303, Harwich Port MA 02646
508.737.8635 office@tslandsurveying.com



**HARWICH PLANNING BOARD
TUESDAY MAY 25, 2021
MEETING MINUTES**

BOARD MEMBERS PRESENT: Chair Duncan Berry; Allen Peterson; David Harris; Mary Maslowski; and Craig Chadwick

BOARD MEMBERS ABSENT: William Stoltz; Arthur Rouse; Joe McParland

OTHERS PRESENT: Jon Idman (Town Planning Director); Connor Cummings; Ronald Cote

CALL TO ORDER: Mr. Berry called the meeting to order at 6:44 PM having established a quorum of members present through roll call. He noted that the meeting was being held with all members participating remotely via the **GoToMeeting.com** platform pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place

PUBLIC HEARING: PB2021-09 Seagulls LLC, 537 Rte. 28, Harwichport, Use Sp. Permit
Mr. Berry opened the hearing by reading the notice. He then asked that the applicant to present the request.

Connor Cummings and Ronald Cote, managers of applicant Seagulls LLC, discussed the request for the ice cream and retail shop.

Mr. Berry asked for comments from Mr. Idman.

Mr. Idman referred to and reviewed the staff report dated May 25, 2021, which set out recommended findings and conditions for a potential Special Permit decision on the matter. He explained that the ice cream use constitutes a fast-food/ takeout restaurant under the Harwich zoning code, which requires a use special permit. He underscored that there are no appreciable changes to the site or aspects of the proposed use that would create significant negative impacts; the use is in keeping and supports Harwichport as a walking village with small businesses; the use is similar in scale and character to prior and existing uses on-site; the existing onsite parking and septic system facilities are adequate for the use; and that the project is primarily interior fit-out. He said that any signage would require a sign permit from the building department, which is a suggested condition of approval. He concluded by recommending that the use is consistent with the required findings in the Harwich zoning code, warranting approval with conditions.

Mr. Chadwick asked about sign permitting and Mr. Idman responded.

Ms Maslowski confirmed with Mr. Idman that the proposed outdoor chairs on the front sidewalk were located outside the Route 28 layout.

The members generally discussed the practice and procedure of forming a motion on the matter.

Ms Maslowski moved to close the public hearing on the matter; Mr. Peterson seconded. Voted by roll call: the motion carried 5-0.

Ms Maslowski moved to adopt the recommended findings for the matter as written and presented in the staff report dated May 25, 2021. Mr. Chadwick seconded. Voted by roll call: the motion carried 5-0.

Based on the adopted findings, Ms Maslowski moved to grant a use special permit in the matter subject to the conditions of approval as written and presented in the staff report dated May 25, 2021. Mr. Chadwick seconded. Voted by roll call: the motion carried 5-0. The Board granted the use special permit, with conditions.

PUBLIC MEETING: PB2021-11 Seagulls LLC, 537 Rte. 28, Harwichport, SPR Waiver

Mr. Berry opened by reading the notice for the matter. He provided the applicant an opportunity to discuss the matter with the Board. Mr. Idman discussed the request and the Bylaw standard for granting a Waiver. The Board relied in part on the staff report and presentation and discussion on the related use special permit, which included facts and positions relevant to the Waiver request.

Ms Maslowski moved to adopt the recommended findings for the matter as written and presented in the staff report dated May 25, 2021. Mr. Harris seconded. Voted by roll call: the motion carried 5-0.

Based on the adopted findings, Ms Maslowski moved to grant a Waiver from Site Plan Review in the matter. Mr. Harris seconded. Voted by roll call: the motion carried 5-0. The Board granted the Waiver of Site Plan Review.

APPROVAL OF PRIOR MEETING MINUTES

Mr. Peterson moved to approve the draft meeting minutes as written for April 13, April 27, May 8 and May 11, 2021. Mr. Harris seconded. Voted by roll call: the motion carried 5-0.

OTHER BUSINESS

The Board discussed correspondence from the Commonwealth regarding proposed changes to MESA Priority Habitat mapping. The Board also discussed an upcoming virtual “40B” seminar presented by CPTC which the members are welcome to attend.

ADJOURNMENT

Mr. Peterson made the motion to adjourn at 7:17 PM, seconded by Ms Maslowski. Voted by roll call: the motion carried 6-0.

MATERIALS USED AT THE MEETING

- Staff Report, including recommended findings and conditions, for Case NOs. PB2021-09 & -11, dated May 25, 2021
- Agenda dated May 25, 2021

Respectfully Submitted, Jon Idman

Adopted:_____

HARWICH ZONING BOARD of APPEALS PUBLIC HEARINGS
Wednesday, June 30, 2021 at 7:00 p.m.
AGENDA

The Harwich Zoning Board of Appeals will hold a public hearing **on Wednesday, June 30, 2021 at 7PM in the Griffin Room of Town Hall, 732 Main Street, Harwich, MA** as noted below to hear the following cases. Any member of the public having interest in these applications is invited to provide information and comment relevant to these matters by submitting the same in writing via mail **by noon on Monday, June 28, 2021. Correspondence received after this time may be too late for submission to the Board. Case documents may be viewed on the Town Website via the Accela Citizen Access <https://aca3.accela.com/harwich/> Click Building and “Search Applications” or by specific request to building@townofharwich.us**

Case # 2021-24

James F. Turner, Tr. And Judith M. Turner, Tr., et al, through their agent, David Guimaraes have applied for a Special Permit to finish their basement into habitable space in a pre-existing, non-conforming single family dwelling. The application is pursuant to the Code of the Town of Harwich, §325-54 and Table 2 Area Regulations as set forth in MGL Chapter 40A §6. The property is located at **609 Main Street**. Map 40, Parcel C1 in the RM Zoning District.

Case # 2021-25

Harwich Bay Limited Partnership and Bank of America Corp., through their agent, William Sharkey have applied for a Variance to install new exterior security lighting at the Bank of America ATM. The application is pursuant to MGL Chapter 40A §10. The property is located at **305 Route 28**, Map 12, Parcel X3-33B in the RH-1 Zoning District.

Case # 2021-26

Glen R. Sherman and Lisa F. Sherman, through their agent, Timothy Holmes have applied for a Special Permit to construct a new detached accessory dwelling. The application is pursuant to the Code of the Town of Harwich, §325-Table 2, Area Regulations and Table 3, Height & Bulk Regulations as set forth in MGL Chapter 40A §6. The property is located at **20 Deacon’s Folly Road**, Map 46, Parcel M8-2 in the RL-1 Zoning District.

Case # 2021-27

Christen Ward, Trustee of the Wychmere Harborview Trust, through her agent, Attorney William Crowell has applied for a Special Permit (or in the alternative, a Variance) to construct a new in-ground pool and deck. The application is pursuant to the Code of the Town of Harwich, §325 Table 2 Area Regulations as set forth in MGL Chapter 40A §6 (or Chapter 40A §10). The property is located at **651 Route 28**, Map 15, Parcel C2- in the RL Zoning District.

Case # 2021-28

Patricia R. Irving, through her agent, Attorney William Crowell has applied for a Special Permit (or in the alternative, a Variance) to partially finish a basement, construct a 2nd floor dormer and add a 4’ x 7’ deck. The application is pursuant to the Code of the Town of Harwich, §325-54 and Table 2 Area Regulations as set forth in MGL Chapter 40A §6 (or Chapter 40A §10). The property is located at **119 Sisson Road**, Map 30, Parcel S2-A in the RL Zoning District.

In other business, the Board will address the following:

- * Approval of minutes from the May 26, 2021 meeting (if available).
- * New Business per the Board’s discretion.

Documents related to the above cases are on file with the Building Department and the Office of the Town Clerk located at 732 Main Street, Harwich. They are also available to view on the Town of Harwich website via the Accela Citizen Access Portal.

In accordance with State Law, this legal notice will also be available electronically at www.masspublicnotices.org. The Town is not responsible for any errors in the electronic posting of this notice.

Per the Attorney General's Office: The Board may hold an open session for topics not reasonably anticipated by the Chair 48 hours in advance of the meeting following "New Business."

This Agenda may change at the discretion of the Board.

Authorized Posting Officer: Shelagh Delaney, sdelaney@town.harwich.ma.us

Board of Appeals Recording Clerk

The Cape Cod Chronicle **Print dates: June10th and 17th, 2021.**

2021 Harwich Planning Board Schedule

Meetings begin at 6:30 PM, 732 Main Street, Town Hall, Griffin Room

Notices, Agendas, Applications, Forms, Fee Schedule and the Harwich Code (including zoning and subdivision regulations) are available on the Planning Department Home Page www.harwich-ma.gov

MEETING DATE	FILING DEADLINE
Tuesday, unless noted below	Tuesday by 3 PM, unless noted below
January 12, 2021	December 8, 2020
January 26, 2021	December 22, 2020
February 9, 2021	January 5, 2021
February 23, 2021	January 19, 2021
March 9, 2021	February 2, 2021
March 23, 2021	February 16, 2021
April 13, 2021	March 9, 2021
April 27, 2021	March 23, 2021
May 11, 2021	April 6, 2021
May 25, 2021	April 20, 2021
June 8, 2021	May 4, 2021
June 22, 2021	May 18, 2021
July 13, 2021	June 8, 2021
July 27, 2021	June 22, 2021
August 10, 2021	July 6, 2021
August 24, 2021	July 20, 2021
September 14, 2021	August 10, 2021
September 28, 2021	August 24, 2021
October 14, 2021 (Thursday)	September 7, 2021
October 26, 2021	September 21, 2021
November 9, 2021	October 5, 2021
November 30, 2021	October 26, 2021
December 14, 2021	November 9, 2021
December 28, 2021	November 23, 2021

Subject to its pending matters and statutory review timelines, the Board tries to reserve its first meeting of the month for informal or general planning discussions and its second meeting of the month for public hearings or specific regulatory matters.

This schedule (including meeting time and place) is subject to change.

The Board will make best efforts to work within the dates above but is not obligated to do so; the Board's review timelines are established under the Harwich Code and Massachusetts General Laws. In its discretion, the Board may schedule matters, which do not require public hearings, received after the respective filing deadline.

Incomplete applications may result in delays or denial.

For appointments, requests for accommodations or other assistance, please contact Planning Department staff Elaine Banta by telephone (508) 430-7511 or email ebanta@town.harwich.ma.us