

Town and County of Nantucket
ROADS AND RIGHT OF WAY COMMITTEE

Posted Meeting of
August 16, 2022, at 4:00 pm
Held live in 131 Pleasant Street, Conference Room A, and by Zoom Videoconferencing

FINAL AND APPROVED MINUTES

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

A. Chair Bill Grieder called the meeting to order at 4:01 pm. In attendance were Committee Members Rick Atherton, Nelson, “Snookie”, Eldridge, Ed Gillum (4:12 pm), Bill Grieder, Allen Reinhard, Rob Ranney, Lee Saperstein, and Phil Smith; there was a quorum at all times. All present responded to an attendance roll call. The meeting was recorded and can be viewed on the Town’s You Tube site (on Town’s main web page as “Watch Meetings Live”, select “Playlists” then look for “Roads and Right of Way”.):

https://www.youtube.com/watch?v=licxavFOUVI&list=PL49sKqpy7VAi_AArzhvnU4I5DTnhiVDj1&index=27.

Supporters and Guests attending: TaKyra Netter (4:11 pm) and Will Dell’Erba, DPW staff; Lynn Filipski, President, ‘Sconset Civic Association.

Absent: Nat Lowell

B. Approval of the Agenda. The agenda was approved unanimously by acclamation.

C. Public Comments.

Lynn Filipski said that she had some comments about abusive use of the ‘Sconset Bluff Footpath and was invited to speak. She noted that she had read the November 22, 2010, report of the Sconset Footpath Public-Access Committee, a subcommittee of the Roads and Right of Way Committee, and its various recommendations. She reported that public annoyance to the abutting owners has only increased over the years and she was hopeful that regulations and their enforcement could be stricter. The sign at the entrance to the path is no longer accurate. The path is over used and crowded with as many as 600 daily visitors. The Director of the Department of Culture and Tourism, Shantaw Bloise-Murphy, has been helpful as has the DPW, which maintains the footpath. Bill Grieder offered to review hand-outs given by Culture and Tourism on the Bluff footpath. She added that a regular visit from a Nantucket Community Service Officer would be helpful. She offered also that a new sign, written simply but accurately and containing a QR code symbol that leads to detailed information on appropriate use of the path along with its history, would be very useful. She has looked at how other waterfront towns with heavy tourist use have protected their waterfront paths and trails. She asked that the

committee re-examine the use of footpath and Chair, Bill Grieder, said that it would. He asked Lynn Filipski to send him any and all current material from the Civic Association about the path. Several committee members had questions. Phil Smith asked if the public access points, including the lateral ways to the path, were adequate. He made the point, also, in anticipation of Agenda Item 6., that the flush monuments could be difficult to find. Lyn Filipski responded that many of the visitors came by bicycle or the public (NRTA) bus and, thus, the eastern end of the path, closest to 'Sconset center, was most heavily used. If people came by car, they tended to park in the center. To Lee Saperstein, who asked about commercial tour guides, she said that, yes, they were still dropping people off with an expected pick up 30 minutes or so later. In finishing, she thought that there ought to be a new survey and map of the footpath paid for by a Community Preservation Committee, CPC, grant.

D. Approval of the minutes of the meeting of July 19, 2022.

Lee Saperstein, Secretary, said that Rick Atherton had sent him two edits to the discussion, held last month under Public Comments, that provided up-dated information about the ConComm review of a Chapter 91 application for repair to a groin at 18 Washing Pond Road. These edits were accepted as editorial in nature and approval of the minutes was moved by Rick Atherton and seconded by Snookie Eldridge. Three committee members, Snookie Eldridge, Rob Ranney, and Phil Smith, abstained from voting because they were not present at last month's meeting. The balance of the committee, Rick Atherton, Ed Gillum, Bill Grieder, Allen Reinhard, and Lee Saperstein, voted unanimously by roll-call vote to approve the minutes.

2. If Available, Ken Beaugrand Update on Road, Sidewalk, and Takings Projects.

Ken Beaugrand was not in attendance. Will Dell'Erba reported on DPW road work later in the meeting.

5. Public Way Monument Project: Identify Installation Locations and begin Installation Process.

Because of the earlier discussion on public way monuments (see Public Comment, above) and Lynn Filipski's attendance by Zoom, Bill Grieder asked if we could temporarily skip Agenda Items 4. and 5. (Minutes 3. and 4.) in favor of a continuation of public way monuments; all agreed.

He noted that we should move forward on the remaining installations; he hopes that the committee will target priorities for installing them. Lee Saperstein added that he has prepared a draft, updated master chart as well as a short report on his and Allen Reinhard's survey of potential remaining installation locations. He will send it to Bill Grieder in anticipation of an upcoming agenda item. When made final, it will go on the web site. Allen Reinhard reminded the committee that there are six upright monuments and six flush ones stored in the yard behind 2 Fairgrounds Road. He has spoken with DPW Director Stephen Arceneaux about submitting a work order for installing them. Stephen Arceneaux related that the DPW is swamped with work

now but may be able to get to the monuments in the fall. Lee Saperstein said that, once engaged in this project, the DPW may be receptive to a request for regular brush and grass trimming around the monuments.

Phil Smith asked if vertical monuments, because of their visibility, were preferable to flush ones, which also get grown over easily. Lee Saperstein and Allen Reinhard explained that there are locations, such as four-foot-wide pedestrian easements in the middle of driveways and other access ways, that militate for flush monuments. Ed Gillum agreed that some public ways need to remain un-blocked by signage. Snookie Eldridge said that he had always understood that the lateral way from Emily Street to the Bluff – between 27 and 29 Baxter Road -- belonged to the Commonwealth of Massachusetts because it controlled an earlier access way to the Humane Society shelter (now gone).

Anticipating future agenda items, Bill Grieder suggested that committee members visit the footpath. Phil Smith asked if heavy use on the path endangered the stability of the bluff. Snookie Eldridge replied that, given the path's distance from the edge, that it was unlikely. Allen Reinhard and Lee Saperstein added that additional publicity on appropriate behavior on the path would be useful, perhaps as a hand-out at the Tourist Center on Federal Street.

3. Chapter 91: Review Correspondence with ConComm.

Returning to the order of the Agenda, Bill Grieder reminded committee members that he and Ian Golding, Vice Chair of the Conservation Commission, ConComm, had an exchange of correspondence in which the ConComm promised to keep us informed of Chapter 91 applications; communication attached. Ed Gillum noted that an application for a change of use of a licensed structure requires a new Chapter 91 application. If a property with a license is conveyed but without a change in use, the existing license would transfer to the new owner. Lee Saperstein and Rick Atherton pointed out that the newspaper had just published a legal notice for a Chapter 91 application on Old North Wharf that asked for public comments; also attached.

4. Washing Pond Road – ConComm Hearing.

Also, as a continuation of the discussion that was begun during the review of last-month's minutes, Bill Grieder brought up the ConComm's review of an application for rebuilding a groin at 18 Washing Pond Road. The application was for reconstruction of the groin without any change in design but objections were lodged because there had been a change in the location of the house to be protected that should have led to a revised application, it was alleged. It may be that the ConComm will approve this application but with new or additional conditions.

Allen Reinhard said that he has walked the beach by the property. Lee Saperstein suggested that the committee keep up the pressure for a good flow of information on Chapter 91 applications. Bill Grieder promised to stay in contact with the ConComm.

6. Update About Road/Sidewalk Overlay on New Sewer Main Installation.

Bill Grieder also noted that he had written to David Gray, Sewer Department Director, about the committee's concern for careful road repaving after sewer installations. David Gray had written back promptly detailing the repaving work associated with the on-going sewer work; memorandum attached. He noted also that there is a working arrangement among the Sewer, Water, and Public Works Departments to coordinate all street openings such that only one repaving would be needed and that would be for a total curb-to-curb job.

Bill Grieder said that he is asking Will Dell'Erba to keep us posted on road works, which led smoothly to the next agenda item.

7. Will Dell'Erba Update on Park and Recreation Projects and DPW Road Projects.

Will Dell'Erba reported that the DPW leadership is preparing a list of future road works that will accompany a proposal for a State grant and that can be kept up to date for public information. He noted that the grant size is such that it can only cover repaving sections of roads rather than their entire length. Orange paint on a road is an indication that it is being reviewed for inclusion in the grant proposal.

Phil Smith asked if there is any news about 57 Pleasant Street and a possible sidewalk along it. Although there was nothing new to add, Lee Saperstein said that the committee had sent a memorandum on November 20, 2020, to the Town asking that sidewalks or multi-use paths be placed along key routes where pedestrians are forced onto the roadway; memorandum attached. Bill Grieder asked Will Dell'Erba to keep the committee informed on the progress of sidewalk repair and replacement.

Ed Gillum pointed out that many sidewalks such as the one by his home on North Liberty Street are a patchwork quilt of surface materials: brick, asphalt, and concrete. Lee Saperstein added that the same condition exists on Orange Street. Is there, Bill Grieder, asked, a policy on choice of sidewalk material when rebuilding them? Unless the contract specifies a particular surface, such in the Historic Downtown, sidewalks will be replaced with material similar to that which existed before construction using as much original material as can be salvaged.

Ed Gillum remembered that, when he was rebuilding the sidewalk in front of his house, the Town donated a palette of brick for his contractor to use. That program no longer exists.

8. Old, New, and Other Business, and Member Comments.

Snookie Eldridge reported that there is a substantial encroachment into the public way at 23 Main Street in 'Sconset. This is a State road, he added, and should be dealt with. Lee Saperstein suggested to Will Dell'Erba that he pass this to Ken Beaugrand for action by the encroachment committee. They are working together to document such encroachment abuses and would appreciate all input given by committee members who have all seen posts and boulders placed to

prevent parking in front of properties. Ed Gillum noted that many such have been placed by new owners who do not know the encroachment regulation. Lee Saperstein suggested that copies of the regulation be sent to the Nantucket Landscape Association if it is still active; barring that they should go also the Nantucket Builders Association, <http://www.nantucketbuildersassociation.org/>.

In another piece of new business, Allen Reinhard reported that he had been contacted by Lynn Filipski, President of the ‘Sconset Civic Association, about signs on Low Beach Road stating that it was private with the intention of discouraging the public from reaching Land Bank and Town-owned lands. Bill Grieder said that he will add this item to the committee’s agenda. He noted also that Patrick Reed, the Town’s new Transportation Planner had politely declined to attend a meeting until he was more attuned to the Town’s concerns. Bill Grieder said that he would renew the invitation to attend.

9. Adjourn.

A move to adjourn was made by Snookie Eldridge, seconded by Rick Atherton, and approved unanimously. Adjournment came at 5:12pm. The next meeting is at **4:00 pm on September 20, 2022**, and will be in 131 Pleasant Street with optional Zoom attendance.

Lee W. Saperstein, Secretary _____ Date _____

Roads and Right of Way Outstanding Projects List:

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

- Install remaining monuments at Sconset Footpath, Hulbert Ave., and other locations.
- Update file of existing monuments.
- Move monuments at Westchester St. Ext. & Crooked Lane.

Sidewalk Projects: (Lee & Allen).

- Prospect St. (sidewalk to Upper Vestal St.) and on to Madaket bike path.
- Cliff Rd. Coffin Park to bike path at Sherburne Tpk.
- Pleasant St. Gardner Perry Lane to Williams St.
- Lovers Lane Bike path and road reconstruction: follow progress.
- Follow implementation of downtown sidewalk improvements.
- Bike/Pedestrian connection from Surfside to Hummock Pond to Madaket paths.

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

- Make local license information available online.
- Harbor Walk Project, list of permits and approvals, Identify route.
- Chapter 91 licenses along route for the Harbor Walk.
- Locate other locations on waterfronts requiring licenses.

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

Nantucket Central Railroad trail map of route.
Island Trail Map with all walking trails.

This response to the letter appended below was received by Bill Grieder, Chair, Roads and Right of Way, on July 29, 2022.

From: Ian Golding <almac1@comcast.net>

Subject: Re: Chapter 91

Date: July 29, 2022 at 4:00:01 PM EDT

To: Bill Grieder <bill.grieder@gmail.com>

Cc: Erisman Chair Ashley <ashley.erisman@gmail.com>, Carlson Jeff <icarlson@nantucket-ma.gov>, Graves Sara <sarah.graves@gravesfa.org>, Allen Reinhard <allenreinhard@yahoo.com>

Hi Bill,

I am very pleased to hear that Roads & ROW are seeking information regarding Chapter 91 licenses on the Island, and would be happy to make sure that you are kept informed regarding future NOIs before the ConCom.

The only recent application that comes to mind between the White Elephant and Brant Point is 46 Easton St, which was before the ConCom for redevelopment in 2020, with an easement providing access to the water along the eastern edge of the property.

Dan Bailey, the attorney representing the owners, stated on 8/20/20 that the bulkhead was authorized by a Chapter 91 license issued in 1899 <https://nantucket-ma.gov/AgendaCenter/ViewFile/Minutes/08202020-8883>

On 9/17/20, there was a discussion about lateral access <https://nantucket-ma.gov/AgendaCenter/ViewFile/Minutes/09172020-9000>

On 10/01/20, Bailey stated that “access will go to the beach and extends along below the high water mark,” and at the end of the discussion the application was closed <https://nantucket-ma.gov/AgendaCenter/ViewFile/Minutes/10012020-9067>

All the best,

Ian

617.791.1551 cell

The original letter from Bill Grieder to the ConComm follows.

Conservation Commission
131 Pleasant Street, 2nd
Floor Nantucket, MA 02554

July 28, 2022

Dear Commissioners,

As part the Roads & ROW Committee mission, we are seeking information on current Chapter 91 licenses throughout the island. Our broad goal is to identify access ways to the harbor and beaches. To do this, the Committee needs to identify lands that hold a license and those that need one.

The Committee would like to know the annual state of license applications along with details of these applications and conditions applied to the resulting licenses. We would also like to find out those properties with licenses that are about to expire.

Our workgroup (Saperstein, Smith and Atherton) using some information provided by Jeff Carlson has been working with Nathan Porter to identify in the GIS, Ch. 91 licenses and the public way locations that have public way markers. We haven't captured any filings for all of the modifications currently in progress or expected to be along the shore between the White Elephant and Brant Point.

Since all filings must pass through the Conservation Commission, we are requesting to be copied on the filings as you receive them so we can be in the loop.

Thank you for your assistance,

Bill

Bill Grieder, Chairman, Nantucket Roads and Right of Way Committee
E bill.grieder@gmail.com
C 508-543-3311

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATERWAYS REGULATION PROGRAM**

**NOTICE OF CHAPTER 91 PERMIT APPLICATION NO. W22-6112
AND 401 WATER QUALITY CERTIFICATION APPLICATION
TRANSMITTAL NO. X288492**

Applicant: Stones Throw LLC

Property Owner: Old North Wharf Cooperative, Old North Wharf, Nantucket MA 02554

Project Location: 29C Old North Wharf, Nantucket, Nantucket County

Public Comments Deadline: As Specified Below

NOTIFICATION DATE: August 12, 2022

Public Notice is hereby given of the Chapter 91 and 401 WQC Combined Application by Stones Throw LLC, to conduct improvement & maintenance dredging in flowed tidelands of the Nantucket Harbor at 29C Old North Wharf in the Town of Nantucket, Nantucket County. The proposed project has been determined to be Water-Dependent.

Written comments on the 401 WQC Application must be sent **within twenty-one (21) days of this Notice by September 1, 2022 to:**

Alice Smith, MassDEP Wetlands Program, One Winter Street, 5th Floor, Boston, MA 02108
or via email to: alice.smith@mass.gov

Written comments on the Chapter 91 Permit Application must be sent **within fifteen (15) days of this Notice by August 26, 2022 to:**

Susan You, MassDEP Waterways Regulation Program, One Winter Street, 5th Floor, Boston, MA 02108
or via email to: susan.you@mass.gov

The Department will consider all written comments on this Combined Application received by the respective Public Comments Deadlines. Failure of any aggrieved person or group of ten (10) citizens or more to submit written comments as specified above will result in the waiver of any right to an adjudicatory hearing in accordance with 310 CMR 9.13(4)(c). The group of citizens must include no less than five (5) citizens who are residents of the municipality in which the proposed project is located. A public hearing may be held upon request by the Municipal Official.

Please be advised that even though the MassDEP Boston office is currently open to the public and the Waterways Program staffs are on a hybrid working model. It is recommended that documents and correspondence be filed electronically when possible. Written comments should be addressed the Department Staff above. If you do not have access to email, hard copy documents may be mailed to the Department Staff above or hand delivered to One Winter Street, Boston, MA.

Additional information regarding this Combined Application may be obtained by contacting the Department Staff above. Project plans and documents for this Application are on file with the Department for public viewing, by appointment only, at MassDEP, 1 Winter Street, Boston, MA 02108.

G13

Nantucket Sewer Department (NSD) Expansion Paving Project

(A Response from David Gray, NSD Director. August 9, 2022, as Summarized by Bill Grieder)

NSD does not support trench patching for any project. Required in all projects: complete roadway reclamation curb to curb then a base layer which we like it to settle if at all for about a year before the final coat is applied.

The 3rd force main project:

Sea St, Step Ln, Center to Lily, Lily St to Liberty St, Liberty to Winter St, across Main the full length of Pine St to Silver St, Silver to Pleasant, Pleasant to Atlantic Ave, Atlantic Ave full length then Surfside Rd all the way to S. Shore which has already Started construction.

These roads and the entire project have been through NHC review and have their blessing as well as the SB. Any and all sidewalks or curbs that are in the construction areas and that are impacted will be removed and documented as well as replaced with the materials that can be salvaged or replaced with approved products from the DPW lists.

A section of this force main falls within the historic downtown area. As such, brick sidewalks and curbing affected by construction will be restored in accordance with the Town of Nantucket HDC standards as required by the project's contract documents. All construction will occur within the existing Town-owned right-of-way.

One street that will be changing is Winter St will become cobble stone instead of asphalt.

Here is the link to the project: <https://nantucket-ma.gov/1930/Sea-Street-3rd-Sewer-Force-Main-Project>.

(Sent November 20, 2020)

MEMORANDUM:

FROM: Nantucket Committee on Roads and Right of Way, Allen Reinhard, Chair

TO: Libby Gibson, Town Manager, for the Select Board

Copy: Art Gasbarro, Chair, Traffic Safety Work Group, Stephen Welch, Chair, Capital Program Committee, Andrew Vorce, Planning Director, and Rob McNeil, Director, DPW

The Roads and Right of Way Committee has undertaken a project to identify critical missing sidewalks and to make recommendations for sidewalks on Town properties where no sidewalk currently exists. This creates situations where pedestrians are forced to walk in the trafficked roadway. We have identified six specific areas in or leading to the downtown area:

- Prospect Street from the end of the multi-use path past the hospital to Joy Street, (then repairing the sidewalk from Joy Street to Upper Vestal Street).
- The bicycle path/sidewalk connector to the Miacomet bike path beginning at the North Mill Street entrance to Mill Hill Park, thence to Old Farm Rd.
- Pleasant Street from Gardner Perry Lane to Williams Lane.
- Cliff Road from the end of the multi-use path to connect with the sidewalk opposite Coffin Park.
- North Liberty Street from Derrymore Road to Cliff Road.
- Lovers Lane bike path.

A discussion among Art Gasbarro, Andrew Vorce, Allen Reinhard and Lee Saperstein, with suggestions from Rob McNeil, considered which of these areas had a plan and survey showing a solution to create sidewalks or bike paths. We found that there are plans on file for three of these areas: 1. Prospect Street to Joy Street; 2. The Mill Hill bike path; and 3. The Lovers Lane bike path and road reconstruction, which was narrowly defeated at ATM. We also are aware of a plan to connect the historic downtown area with mid-town via Pleasant Street and Sparks Avenue.

Based on this information, especially as plans currently exist for each of these four areas, we felt the priority order of these projects should be as follows:

1. Pleasant Street and Sparks Avenue sidewalks including the missing section from Gardner Perry Lane to Williams Lane.

2. Prospect Street/Mill Hill multi-use path through Mill Hill to Joy Street (the approved Bracken Plan).
3. Prospect Street sidewalk from the end of bike path to Joy Street and possible reconstruction of sidewalks to Upper Vestal Street.
4. The multi-use path on Lovers Lane connecting Old South Road and Boulevarde.

Each of these areas has an existing survey plan available. Each of these connections would greatly improve the safety of pedestrians and bicycles and traffic flow in these key areas.

We urge the Select Board to consider these plans positively and to develop funding resources to implement these plans.

Allen B. Reinhard, Chairman