



www.chilmarkma.gov

TOWN OF CHILMARK CHILMARK, MASSACHUSETTS

TOWN OFFICES:
Beetlebung Corner
Post Office Box 119
Chilmark, MA 02535
508-645-2100
508-645-2110 Fax

To: Martha's Vineyard Commission
From: Chilmark Planning Board
Date: January 11, 2017
Re: David A. Damroth Form C Definitive Subdivision Plan

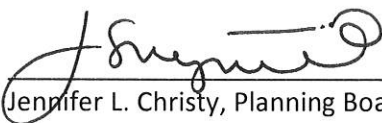
Commissioners:

At a meeting of the Chilmark Planning Board on January 9, 2017, the Board referred the David A. Damroth Form C Definitive Subdivision Plan, dated November 29, 2017, to the Martha's Vineyard Commission for the following DRI Referral Form checklist reasons:

- division of habitat – section 2.5
- division of 10-30 acres – section 2.3

The Board would like to note its general support of this subdivision plan.

Thank you,



Jennifer L. Christy, Planning Board Administrative Asst.

Chilmark Planning Board

Richard A. Osnoss, Chair
Christopher M. MacLeod
Janet L. Weidner

Peter B. Cook
Joan A. Malkin

John K. Eisner
Mitchell Posin

Martha's Vineyard Commission - Referral Form for Developments of Regional Impact

RETURN THIS FORM WITH DRI REFERRAL

Name of Applicant: DAVID A. DAMROTH

Address: P.O. Box 295 CHILMARK, MA 02535

% Doug Hehn, SBH, INC., P.O. Box 339, Tisbury, MA 02568

Phone: 508 627 2304

Fax: _____

Email: dave.mvy@aol.com
dhoehn@sbhinc.net

This project will require the following permits from the following local Boards: (**Please Specify**)

Building Permit: _____

Board of Selectmen: _____

Board of Health: _____

Conservation Commission: _____

Planning Board: APPROVAL OF SUBDIVISION

Zoning Board of Appeals: _____

Wastewater Commission: _____

Others: _____

For Town Use Only

Referring Board or Agent:

I have reviewed the development application and have determined that it meets one or more of the items contained in the Standards & Criteria, I am therefore sending, via certified mail, the development application to the Martha's Vineyard Commission as a Development of Regional Impact.

Signature: Jennifer L. Christy
CHILMARK PLANNING BOARD ADMIN. ASST.

Print Name: RICHARD A - OSNOSS, CHAIRMAN

Board: PLANNING BOARD

Town: CHILMARK

Martha's Vineyard Commission - Referral Form for Developments of Regional Impact

RETURN THIS FORM WITH DRI REFERRAL

STATEMENT FROM MUNICIPAL LAND USE REGULATORY AGENCY: This Board has determined that the proposed project, for which application for a development permit has been made, is one of regional impact using the following criteria:

(Please circle the appropriate number or numbers using the DRI Checklist Standards & Criteria)

- | | |
|---|---|
| 1.1 a Discretionary Referral | 3.4 Demolition in a Commercial District |
| 1.1 b Discretionary Referral | 4.1 a 10 or More Dwelling |
| 1.1 c Discretionary Referral | 4.1 b 10 or More Rooms for Rent |
| 1.2 Previous DRI's – Modification | 4.2 Mixed-Use Development |
| 2.1 Division of Land - Commercial | 5.1 a Development in Harbors |
| 2.2 Division of Land – 6 or more lots | 5.1 b Development in 10 Acre Body of Water |
| <u>2.3</u> Division of 10-30 acres | 5.1 c Development in the Ocean |
| 2.4 a Division of Farm Land – Current | 5.2 Change in Intensity of Use of Comm. Pier |
| 2.4 b Division of Farm Land – Since 1974 | 5.3 a New Comm. Facilities on Pier |
| <u>2.4 c</u> Division of Farm Land – Prime Ag. Soil | 5.3 b Expansion of Comm. Facilities on Pie |
| <u>2.5</u> Division of Habitat | 5.3 c Change in Intensity of Use of Pier |
| 2.6 ANR in Island Road or Coastal DCPC | 6.1 Private Place Assembly 50+ over 2,000sf |
| 3.1 a Dev. of Comm. – 3,000 s.f. Mixed Use | 6.2 Public Place Assembly 50+ over 2,000 sf |
| 3.1 b Dev. Of Commercial - 2,000-3,000 s.f. | 6.3 County or Town Acquisition Priorities |
| 3.1 c Dev. of Commercial – 3,000 Mixed Use | 7.1 a Transportation Facility to or from M.V. |
| 3.1 d Dev. of Comm. – Aux. of 1,000 s.f. | 7.1 b Transportation Facility – internal system |
| 3.1 e Dev. of Comm. – 4 or more Mixed units | 8.1 Designated a DRI in a DCPC |
| 3.1 f Dev. of Comm. – 6,000 sf Outdoor Aux | 8.2i Demolition/Ext. Alt. of Historic Structures |
| 3.1 g Dev. of Comm. – Aux. 1,000 sf Outdoor | 8.2ii Demolition/Ext. Alt. Hist. Structure >100 yrs |
| 3.1 h Dev. of Comm. – Change of Use | 8.3 Archeology |
| 3.1 i Dev. of Comm. – Increased Intensity | 8.4 Significant Habitat |
| 3.1 j Dev. of Comm. – Parking 10 or more | 8.5 a Coastal DCPC – New access to coast |
| 3.1 k Dev. of Comm. – Airport Bus. Park | 8.5 b Coastal DCPC – New hard surface |
| 3.1 l Dev. of Comm. – High Traffic Generator | 8.5 c Coastal DCPC – New parking for 5 plus |
| 3.2 a Changed Threshold in B1 or B2 w/ Plan | 8.5 d Coastal DCPC –Development on Noman's |
| 3.2 b Changed Thresh subject Special Permit | 8.6 Critical Open Space |
| 3.2 c Changed Threshold – no other trigger | 8.7 Current of Former Farmland |
| 3.3 a Vehicular Refueling, junkyard, etc... | 9.1 a Telecommunications Tower over 35 feet |
| 3.3 b Storage of Fuel | 9.1 b Telecommunications Tower Reconstruction |
| 3.3 c Drive-through window service | 9.2 a Wind Energy Facilities over 150 Feet |
| 3.3 d Restaurant in B-1 (50 Seats or more) | 9.2 b Wind Energy Facilities in Ocean Zone |
| 3.3 e Restaurant outside B-1 | 9.2 c Wind Energy Facilities in Land Zone |
| 3.3 f Dev. outside B-1 requiring Parking Relief | 9.2 d Wind Energy Facilities near Town Bound |
| 3.3 h Container or Trailer used for Storage | 9.2 e Wind Energy Facilities other |
| 3.3 g Formula Retail | 9.3 Solar Facilities greater than 50,000 sf |

T 508-693-3453 – F 508-693-7894 – P.O. BOX 1447 – 33 New York Avenue – Oak Bluffs, MA 02557

INFO@MVCOMMISSION.ORG – WWW.MVCOMMISSION.ORG

MARTHA'S VINEYARD COMMISSION – SERVING AQUINNAH, CHILMARK, EDGARTOWN, GOSNOLD, OAK BLUFFS, TISBURY & WEST TISBURY

APPENDIX B

FORM C APPLICATION FOR APPROVAL OF A DEFINITIVE PLAN

File four (4) completed forms: two (2) with the Planning Board, one (1) with the Town Clerk, and one (1) with the Board of Health, together with the required filing fees.

Chilmark, MA 12/1, 2016
date

To the Planning Board & Board of Health:

The undersigned herewith submits the accompanying Definitive Plan of the property located in the Town of Chilmark for approval under the requirements of the Subdivision Control Law and the Planning Board's Rules and Regulations governing the Subdivision of Land in the Town of Chilmark.

A list of names and addresses of all persons owning rights in property abutting the proposed subdivision, including surface, mineral and security rights, is attached. These names are as they appear on the most recent tax list and land records.

1. Name of Subdivider David A. Damroth Phone 508-627-2306
Address C/o Schofield, Barbin & Hoehn Inc. 508-693-2781
2. Name of Owner same Phone _____
Address _____
3. Name of Engineer/Surveyor Schofield, Barbin & Hoehn Inc. Phone 693-2781
Address Box 339 Vineyard Haven MA 02568
4. Deed of Property Recorded in Year 2003, Book 949, Page 625 & 627
5. Location and description of Property: Assessors Map(s) 11 Parcel(s) 54.4
54.5
6. Is any part of this property within the boundaries of a District of Critical Planning Concern, as described in Article 2 of the Chilmark Zoning By-Laws? no
7. The following are all the mortgages, liens, easements, restrictions and other encumbrances on the whole or any part of the land within the proposed subdivision _____

8. The following are the easements and restrictions appurtenant to the land within the proposed subdivision over the land of others: see deeds 949-625 & 949-627

9. Check where applicable:

☒ No Preliminary Plan of this proposed subdivision has been submitted to the Board.

☐ A Preliminary Plan of this proposed subdivision, to which this plan conforms, was approved by the Board on _____.

☐ A Preliminary Plan of this proposed subdivision, to which this plan conforms, was approved by the Board with modifications, which modifications have been incorporated in the plan herewith submitted on _____.

10. The applicant(s) covenant(s) and agree(s) for himself (themselves) and his (their) heirs, executors, administrators, successors and assigns:

- a. To construct and complete the required improvements as finally approved by the Board within one year from the date of this application, or within such further time as the Board may allow in accordance with the specifications set forth in the Rules and Regulations of the Board.
- b. That, before the approval of the plan to which this application relates becomes effective, he (they) will cause to be filed with the Board a covenant satisfactory to the Board. Such covenant shall run with the land, and shall be properly recorded or registered. The covenant shall provide that no lot in the subdivision shall be sold and that no building shall be erected on any lot until the required improvements are completed in accordance with the specifications laid down by the Board so as to adequately serve such lot. If this application is approved, he (they) will fulfill such condition until compliance therewith is evidenced by a certificate by the Board.
- c. That if this application is approved, he (they) will cause the Definitive Plan of the subdivision to be recorded in the Registry of Deeds of Dukes County within fifteen days after such approval and that he (they) will not sell, or offer to sell, any of the lots within the subdivision until such plan is recorded and all other conditions specified by the Board have been carried out.

11. This application is accompanied by an original drawing of the Definitive Plan and all other plans, maps and material required as part of the Definitive Plan, and the required number of print copies of each, all on the forms and in the manner prescribed by the Board, and the necessary fee(s) as required under the Rules and Regulations of the Board.

WITNESS the signature(s) and seal(s) of the undersigned applicant(s) this 1st day of

December, 2016.

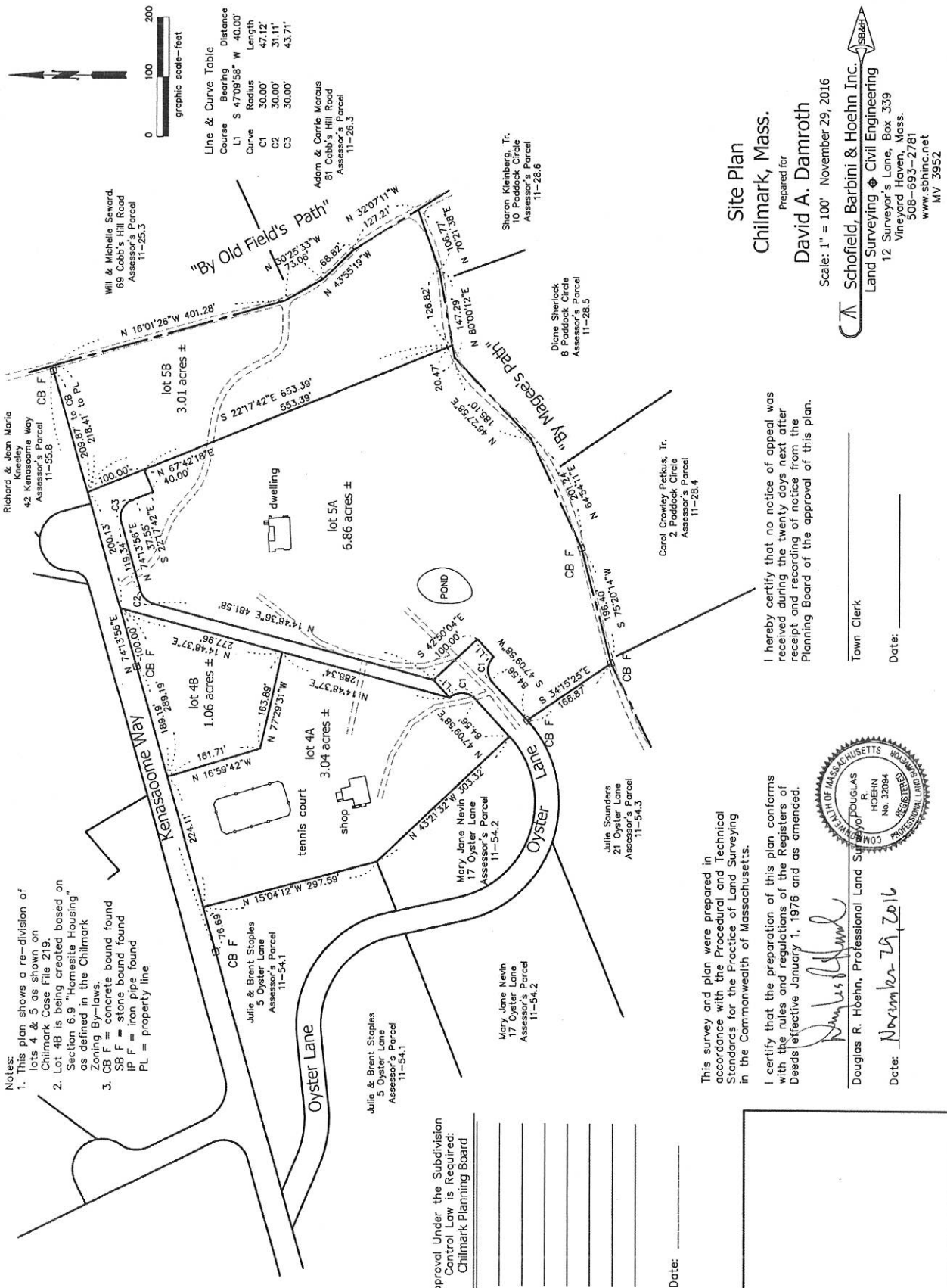
(Address of Owner) (Mortgagees)

Assented to: _____

Douglas R. Hoehn agent for owner

Notes:

1. This plan shows a re-division of lots 4, 5 and 5 as shown on Chilmark Case File 219.
2. Lot 4B is being created based on Section 6.9 "Homestead Housing" as defined in the Chilmark Zoning By-laws.
3. CB F = concrete bound found
IP F = iron pipe found
PL = property line



Site Plan
Chilmark, Mass.

Prepared for
David A. Damroth

Scale: 1" = 100' November 29, 2016

Schofield, Barbini & Hoehn Inc.
Land Surveying & Civil Engineering
12 Vineyard Lane, Box 339
Vineyard Haven, Mass.
508-693-2781
www.sbhinc.net
MV 3952

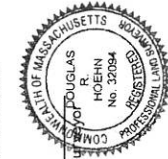
I hereby certify that no notice of appeal was received during the twenty days next after receipt and recording of notice from the Planning Board of the approval of this plan.

Town Clerk

Date:

This survey and plan were prepared in accordance with the Procedural and Technical Standards for the Practice of Land Surveying in the Commonwealth of Massachusetts.

I certify that the preparation of this plan conforms with the rules and regulations of the Registers of Deeds effective January 1, 1976 and as amended.



Douglas R. Hoehn, Professional Land Surveyor

Date: November 29, 2016

Approval Under the Subdivision Control Law is Required:
Chilmark Planning Board

Date:



www.chilmarkma.gov

TOWN OF CHILMARK

CHILMARK, MASSACHUSETTS

TOWN OFFICES:
Beetlebung Corner
Post Office Box 119
Chilmark, MA 02535
508-645-2100
508-645-2110 Fax


DATE: December 7, 2016

REQUESTING BOARD: Planning Board

OWNER: David A Damroth

MAP & LOT: 011-055-04 & 011-055-05

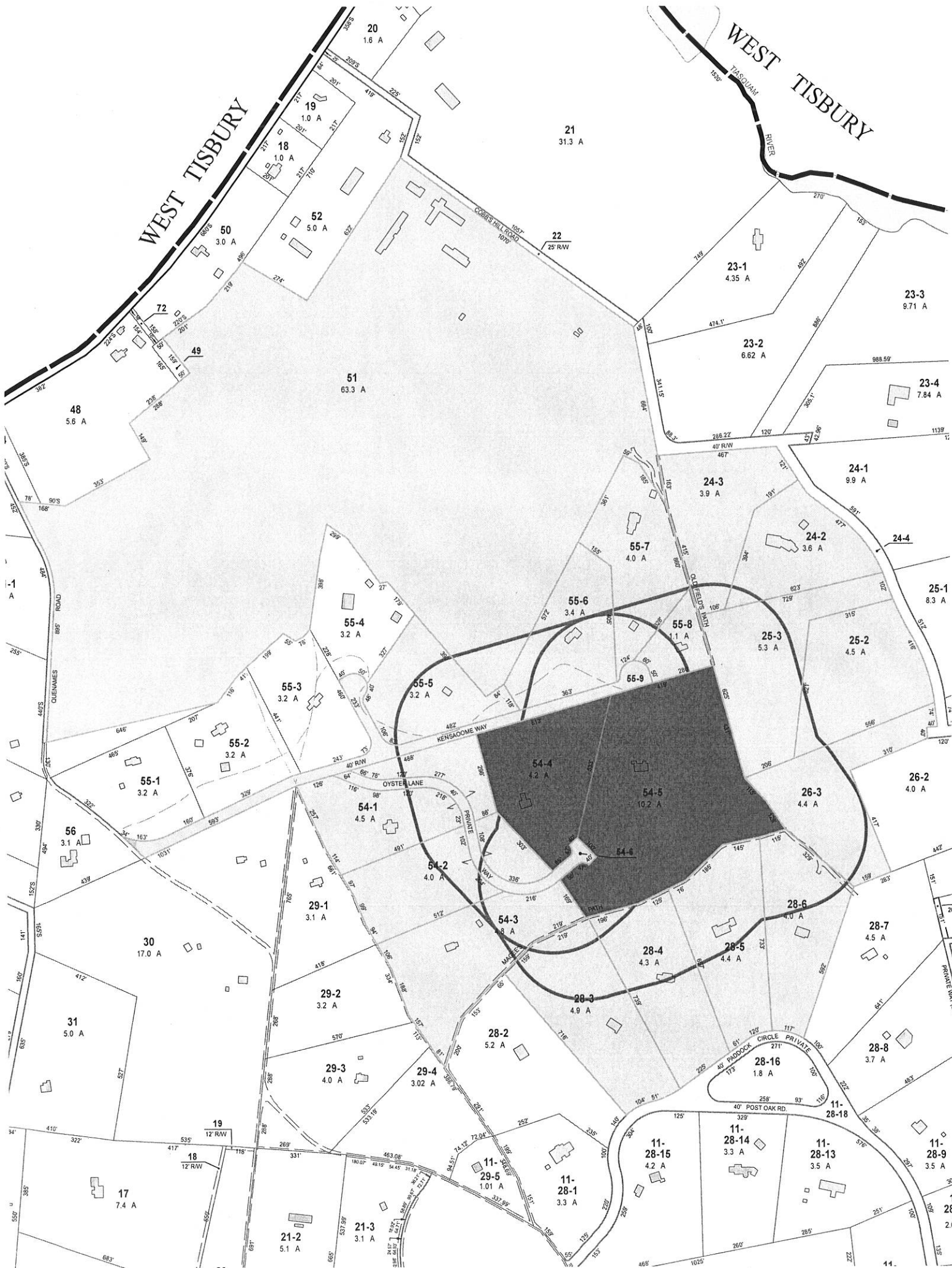
The names and addresses on the attached list are certified to be those of the owners of record with in 300 ft. of the above lot as noted on Chilmark Assessors Maps as of 1/01/16.







Town of Chilmark
Board of Assessors



10 PADDOCK CIRCLE
CHILMARK, MA 025335

January 5, 2017

Planning Board
Town of Chilmark
Chilmark, MA 02535

Re: David Damroth Sub-division

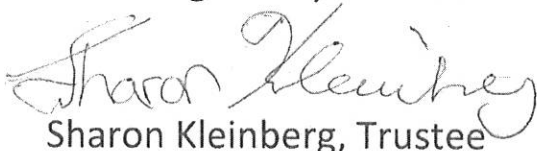
By email (jchristy@chilmarkma.gov)

We are one of the abutters (Assessor's Parcel 11.28.5) on the south boundary of proposed Lot 5B. Unfortunately we will be in California at the time of the Planning Board hearing on the above matter, scheduled for January 9, 2017, and therefore unable to attend.

We have no objection to the sub-division but would strongly suggest that there be a 100 foot deep buffer zone on the south border of the proposed lot. There is an ancient way that runs between this property and its southern abutters. Permitting a building or landscape in the 100 foot area would negatively alter the rural atmosphere of the area and affect everyone using the ancient trail. Since the proposed lot is over 500 feet in depth such a restriction should not unduly burden the owner in terms of placement of a dwelling.

Thank you for your consideration.

Kleinberg Family Nominee Realty Trust


Sharon Kleinberg, Trustee

Jennifer Christy

From: Alysa Emden <alysa@comcast.net>
Sent: Monday, January 09, 2017 3:07 PM
To: jchristy@chilmarkma.gov
Cc: alysa@comcast.net
Subject: RE: Damroth subdivision plan
Attachments: Bylaws - Kenasaoome Way Private Road & Utility Association 8-26-16.pdf; Easement 8-26-2016.pdf

Hi Jennifer – With respect to the proposed subdivision, I just wanted to be sure that the Planning Board is aware that the property involved in the subdivision is subject to (1) an easement with respect to access to Oyster Lane over Kenasaoome Way and use of a newly installed electric line down Quenames Road, as well as (2) the Bylaws of the Kenasaoome Way Private Way Road & Utility Association, Inc. (the “Association”). Both of these documents are recorded with respect to all of the properties on Kenasaoome & Oyster and apply to those properties as well as any subdivisions thereof, but I’m not sure they are the documents referenced in response to question 8 of the Damroth subdivision application.

In any event, I’ve attached copies of the recorded documents for the Board’s convenience. Please note that the Association Bylaws apply only to (1) the installation and upkeep of the main electric line that runs from South Road down Quenames Road to the intersection of Kenasaoome Way, where it connects to separate electric lines servicing Kenasaoome Way and Oyster Lane, respectively, and (2) the upkeep and maintenance of Kenasaoome Way. Oyster Lane is governed by a separate road association and the Oyster Lane utility line is owned by David Damroth, although I’m not sure if he owns it individually or otherwise.

On behalf of the Association, I would request that any documentation (I believe the official term is “linens” ?) regarding release of the proposed subdivision lots reference the Easement and Association Bylaws, and particularly the provisions requiring that owners of the newly subdivided lots become members of the Association and abide by the Association’s Bylaws, specifically payment of financial obligations imposed thereunder including the Initial Assessment for installation of the main electric line and annual assessments for upkeep of the main electric line and Kenasaoome Way road.

Please don’t hesitate to contact me if you or any of the members of the Board have any questions. You can reach me by email – alysa@comcast.net – or by phone 301.385.3721.

Thanks again – Alysa McDaniel (Clerk, Kenasaoome Way Private Road & Utility Association)

From: Jennifer Christy [mailto:townclerk@chilmarkma.gov] **On Behalf Of** jchristy@chilmarkma.gov
Sent: Monday, January 09, 2017 11:31 AM
To: 'Alysa Emden'
Subject: RE: Damroth subdivision plan

Good Morning Alysa,

Please see attached information re the Damroth Form C public hearing today.

Thank you,

Jennifer L. Christy
Administrative Assistant to the Planning Board & the Human Resource Board
Chilmark Town Hall

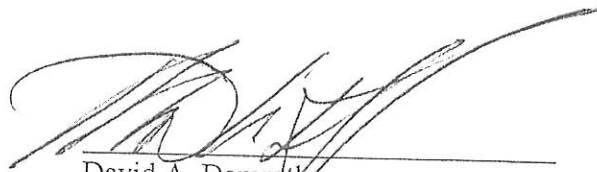
THE DAMROTH PROPERTY SUBDIVISION
PROTECTIVE COVENANTS

The undersigned, David A. Damroth, in exchange for the payment of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, subjects the property held by him and shown as lots 4 and 5 on the definitive plan of subdivision entitled "Plan of Land in Chilmark, Mass. Prepared For David A. & Mary Jane Damroth" by Schofield Brothers, Inc., and dated February 19, 1987, revised March 12, 1987, April 2, 1987, May 11, 1987, and recorded as Chilmark Case File No. 219 in the Dukes County Registry of Deeds (hereinafter "the definitive plan"), to the covenants, restrictions, easements and liens set forth below:

1. The purpose of the protective covenants is to establish a common scheme to achieve an attractive community and to protect the investments of and for the benefit of each owner.
2. The property shall be held, transferred, conveyed, sold, and occupied subject to the protective covenants with the Town of Chilmark and the covenants are to run with the land.
3. The 100' No Cut Buffer Zone, shall include no building in that zone and will be placed along the northern boundary of Lot #1-A. It shall continue down the western boundaries of Lots #1-A, 2 and 3, and across the southern boundary of Lot #3. It is delineated on the definitive plan. The existing dirt road as shown on the definitive plan will become a utility easement and will not be used for general traffic in favor of the new driveway as shown on the definitive plan.
4. The term "owner" shall mean record owner. The term "lot" shall mean a lot on the definitive plan.
5. These covenants are conditional upon the fact that the owner of lots 1, 2 and 3 shown on the definitive plan shall be bound by not less than the same Covenants as herein provided.
6. There are no guest houses allowed on any lots except for lot #5.
7. Lot #5 will not be subdivided into more than two lots and the youth lot designated below.
8. Anyone buying a lot must automatically become a member of the Great Pond Road Association.
9. The Road Association By-laws are attached hereto
10. No business activity that would compromise the residential rights of any lot owner will be permitted unless such activity is in full compliance with the zoning by-laws for the Town of Chilmark.
11. No unusual quantity of equipment or materials shall be stored outside a building without screening except during construction. The general purpose is to prevent eyesores in the community.

THE DAMROTH PROPERTY SUBDIVISION
PROTECTIVE COVENANTS
PAGE 2.

12. All service cables for telephone and electric, etc., shall be underground. Any owner may cross under the private way abutting his/her boundary for necessary access to said utilities.
13. David A. Damroth agrees to convey a youth lot to the Town of Chilmark at such time as all of the land of the Damroth Property Subdivision (meaning all of the lots shown on the definitive plan) is sold out of the Damroth family. For the purpose of this paragraph, the term "the Damroth family" shall mean the following individuals: David Damroth, Jessica Damroth Nairn, Timothy R. Damroth and Mary Jane Nevin. Notwithstanding the provisions of paragraph 7 of these Protective Covenants, David Damroth may create the youth lot by subdividing any of the lots he then owns in the Damroth Property Subdivision so long as, upon the creation of the youth lot, the remaining lots owned by David Damroth meet the minimum lot size requirement of the Chilmark Zoning By-law in effect as of September 29, 2003.
14. The protective covenants shall remain in effect for twenty-five years from September 29, 2003, and may be extended by the Chilmark Planning Board.



David A. Damroth
Date: 9/29/2003

THE DAMROTH PROPERTY SUBDIVISION
PROTECTIVE COVENANTS

The undersigned by this instrument subject the property held by her, in consideration of the release by the Chilmark Planning Board for sale to third parties, of Lots 1, 2 and 3 on the definitive plan of a subdivision entitled "a Plan of Land In Chilmark, MA. Prepared for David A. and Mary Jane Damroth", by Schofield Brothers, Inc., and dated February 19, 1987, revised March 12, 1987, April 2, 1987, May 11, 1987, and recorded as Chilmark Case File No. 219 in the Dukes County Registry of Deeds, to the covenants, restrictions, easements and liens set forth below

1. The purpose of the protective covenants is to establish a common scheme to achieve an attractive community and to protect the investments of and for the benefit of each owner.
2. The property shall be held, transferred, conveyed, sold, and occupied subject to the protective covenants with the Town of Chilmark and both covenants are to run with the land.
3. The 100' No Cut Buffer Zone, shall include no building in that zone and will be placed along the northern boundary of Lot #1-A. It shall continue down the western boundaries of Lots #1-A, 2, and 3, and across the southern boundary of Lot #3. ~~This is a No Touch area where no trees can be cut.~~ It is delineated on the Plan entitled "Subdivision of Land for David A. and Mary Jane Damroth. The existing dirt road as shown on the land will become a utility easement and will not be used for general traffic in favor of the new driveway as shown on the Plan
4. The term "owner" shall mean record owner. The term "lot" shall mean a lot on the Plan.
5. These covenants are conditional upon the fact that the owner of lots 4 and 5 shall be bound by not less than the same Covenants as herein provided.
6. There are no guest houses allowed on any lots except for lot #5.
7. Lot #5 will not be subdivided into more than two lots and the youth lot designated below.

THE DAMROTH PROPERTY SUBDIVISION
PROTECTIVE COVENANTS
PAGE 2.

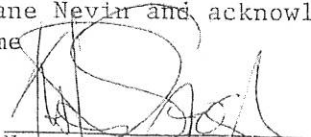
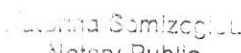
8. Anyone buying a lot must automatically become a member of the Great Pond Road Association.
9. The Road Association By-laws are attached hereto
10. No business activity that would compromise the residential rights of any lot owner will be permitted unless such activity is in full compliance with the zoning by-laws for the Town of Chilmark.
11. No unusual quantity of equipment or materials shall be stored outside a building without screening, except during construction. The general purpose is to prevent eyesores in the community.
12. All service cables for telephone and electric, etc., shall be underground. Any owner may cross under the private way abutting his/her boundary for necessary access to said utilities.
13. David Damroth agrees to convey a youth lot to the Town of Chilmark at such time as all of the land of the Damroth Property Subdivision is sold out of the Damroth family. For the purpose of this paragraph, the term "the Damroth family" shall mean the following individuals: David Damroth, Jessica Damroth Nairn, Timothy R. Damroth and Mary Jane Nevin. Notwithstanding the provisions of paragraph 7 of these Protective Covenants, David Damroth may create the youth lot by subdividing any of the lots he then owns in the Damroth Property Subdivision so long as, upon the creation of the youth lot, the remaining lots owned by David Damroth meet the minimum lot size requirement of the Chilmark Zoning By-law in effect as of September 29, 2003.
14. The protective covenants shall remain in effect for twenty-five years from September 29, 2003 and may be extended by the Chilmark Planning Board.


-Mary Jane Nevin

COMMONWEALTH OF MASSACHUSETTS

Norfolk County ss;

Then personally appeared the above names Mary Jane Nevin and acknowledged the foregoing instrument to be her free act and deed, before me


Notary Public: 
My Commission Expires: January 3, 2008