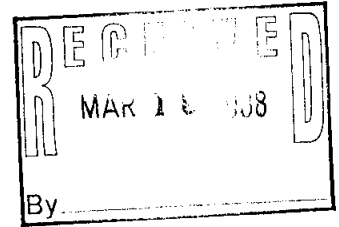




TOWN OF EDGARTOWN

Office of Town Clerk
Post Office Box 35
Edgartown, Massachusetts 02539
Telephone (508) 627-6110
Fax (508) 627-6123



March 11, 2008

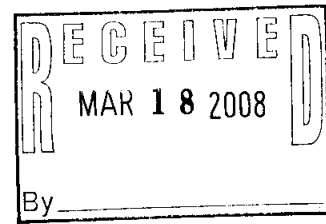
I hereby certify the following to be a true and exact copy of Article 1 for the Special Town Meeting held on March 6, 2008, and a true and exact copy of the vote passed under said Article on March 6, 2008.

ARTICLE 1. To see if the Town will vote to amend Section 14.2.2 of the Zoning By-law, which contains a Martha's Vineyard Commission regulation governing Special Ways and Special Way Zones, by substituting the text below for the text presently in place.

Article XIV. Overlay Districts

14.2 Island Road District

1. Major Roads
2. Special Ways



a. Purpose

The Special Way designation protects old cart paths and walkways that are cultural and historic links to the community's past, recreational resources for enjoyment of the outdoors, and a conservation resource to accommodate and promote non-motorized means of transportation. While some segments of a Special Way may be routinely used by automobiles, they nevertheless provide continuity to the entire Special Way and the community maintains an interest in how these segments are further utilized.

b. Designated Special Ways

Special Ways are typically evidenced by cart path depressions in the terrain measuring from a few inches to more than a foot. The Special Way is measured from the tops of the embankments on either side of the way. Absent such physical evidence or other documentation, its width shall be assumed to be eight (8) feet. Segments of Special Ways that are routinely traveled by automobiles may not have any physical characteristics to distinguish them from contemporary dirt roads. Such segments and their widths are noted as Special Vehicular Ways on a map entitled "Map of Special Ways, January 1, 2008." (Hereinafter "Map"). The designated Special Ways are (unless otherwise noted, designations were made at a Special Town Meeting held on March 6, 2008. The descriptive map and lot numbers refer to Edgartown Assessors maps dated January 1, 2007):

- 1) Dr. Fisher Road (a.k.a. Willay's Plain Path) - beginning at the Edgartown-West Tisbury Road at the western edge of Map 22 Lot 2.1 and running northwest to the Manuel Correllus State Forest at the northern edge of Map 22 Lot 54 (Designated April 2000, Edgartown Assessors maps dated January 1, 1999).
- 2) Ben Tom's Road – beginning at the north side of Edgartown-West Tisbury Road between Map 28 Lot 6 and Map 21 Lot 96 and running northwesterly and northerly following the west fork to Pennywise Path along the southern border of Map 21 Lot 169. .
- 3) Middle Line Path – beginning at Ben Tom's Road at the easternmost point of Map 21 Lot 133.1 and running northwesterly to its merging with Pennywise Path at the westernmost point of Map 22 Lot 125.20.
- 4) Pennywise Path – beginning at Tar Kiln Road and Three Cornered Rock Road and running easterly, across Whaler's Watch Way, to the northwestern point of Map 21 Lot 148.1, continuing easterly then northeasterly and ending at Edgartown-Vineyard Haven Road at the northeast corner of Map 21 Lot 36.33.
- 5) Tar Kiln Path – beginning at the Manuel Correllus State Forest between Map 10 Lot 96 and Map 11 Lot 1.143 running east to its intersection with Three Cornered Rock Road in the interior of Map 11 Lot 86.1.
- 6) Watcha Path -- beginning at the northeast point of Map 25 Lot 4, west of the intersection of Edgartown-West Tisbury Road and Oyster-Watcha Road, extending westerly some 360 feet along a segment formerly known as Mill Path, then southwesterly to the northeast point of Map 40 Lot 4.2, continuing southwesterly to the West Tisbury town line at the southern boundary of Map 40 Lot 6.

c. Establishment of the Special Way Zone

The area lying within twenty (20) feet of either side of the centerline of a designated Special Way shall comprise the Special Way Zone and be subject to the regulations herein.

d. Development Regulations

- 1) Development and use within a Special Way Zone shall not block or prevent non-motorized means of travel such as walking, horseback riding and bicycling along a Special Way.
- 2) There shall be no alteration of the width or surface materials of a Special Way. This provision is not intended to prevent the routine maintenance and repair of existing segments of Special Ways consistent with these Special Way regulations.
- 3) No Special Way shall be paved with impervious materials, except for segments that may be approved as crossings of a Special Way under 14.2.2.f.3). This provision is not intended to prevent the routine maintenance and repair of existing

segments of Special Vehicular Ways consistent with these Special Way regulations.

- 4) There shall be no removal of existing vegetation within a Special Way Zone other than to keep the Special Way clear of debris and overgrown vegetation, except as permitted as part of a Special Permit issued under 14.2.2.f or where:
 - a. natural vegetation has been removed prior to December 1, 2007,
 - b. the width of a Special Way Zone extends beyond a pre-existing fence, or
 - c. the width of a Special Way Zone extends beyond a fence allowed under 14.2.2.d.6).
- 5) No fences, walls, structures, excavations, fill or obstructions shall be made, erected, placed or constructed within the Special Way zone. However, pre-existing, nonconforming constructions and clearings may remain but may not be expanded.
- 6) Notwithstanding 14.2.2.d.5) above, areas where the Special Way Zone encompasses building lots that are less than one acre in area may have fences erected on those lots within the Special Way Zone provided the fences are at least 50% transparent, such as a split-rail or picket fence and have the following minimum setbacks from the Special Way centerline.

Fence Setbacks for Parcels Less than One (1) Acre

Fences must be at least 50% transparent

	Fence Height	Setback from centerline
Along the Special Way	Less than 4'	5' or 1' outside the top edge of the physical Embankment alongside the Special Way, whichever is greater.
	4' to 6'	10'
Along a Special Vehicular Way	Less than 4'	1' outside the traveled width
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- 7) The Special Ways are for non-motorized transportation and recreation only, except for those segments identified on the Map as Special Vehicular Ways or where active vehicular rights-of-way are found by the Planning Board after Public Hearing to have pre-existed the designation of the Special Way.

e. Permitted uses in the Special Way Zone

Any residential, recreational, agricultural or open space use permitted in the underlying zoning districts in which the Special Way Zone lies is permitted, subject to the regulations herein and provided that the use does not result in motor vehicle use of the Special Way segments, except for those segments

identified on the Map as Special Vehicular Ways or other segments where active vehicular rights-of-way have been found by the Planning Board to have pre-existed the designation of the Special Way. The nature and extent of pre-existing vehicular use on such ways may not be increased without a Special Permit under section 14.2.2.f.

f. Uses Requiring a Special Permit in the Special Way Zone

- 1) Any uses permitted in the underlying zoning districts in which the Special Way Zone lies which result in motor vehicle use of segments of the Special Way not allowed as a permitted use under 14.2.2.e. Additional vehicular access (i.e. entrances or curb cuts) to any Special Way or an increase in the nature and extent of pre-existing vehicular use of such ways shall require a Special Permit. In the case where a Special Permit is sought to increase the vehicular use of a Special Way, the Planning Board shall first evaluate and determine if:
 - a. alternate access is or might be available that could avoid vehicular use or increased vehicular use of the Special Way;
 - b. an existing access already serves the property; and
 - c. the location and width of the proposed access, its distance from other existing accesses, and the vegetation in the immediate surroundings are consistent with the purpose of this bylaw.
- 2) Uses allowed by Special Permit in the underlying zoning districts in which the Special Way Zone lies.
- 3) Crossing of a Special Way by a proposed dirt, paved, or otherwise improved roadway or by a utility or transmission line. Consideration of such crossings shall include deliberation of appropriate means to draw attention to the crossing for people's safety, including the surface composition of the crossing.
- 4) Development, uses, or structures for which the imposition of these regulations would otherwise deprive a landowner of all economically viable use and value of the parcel of land owned or controlled by the applicant, considered as a whole.
- 5) Where new roadways or other vehicular or utility right-of-ways, which encompass segments of any Special Way, are permitted or created by the Town of Edgartown, provisions shall be made to ensure that the integrity of the Special Way remains, consistent with the purpose of this bylaw.

g. Criteria for Special Permits

In considering a request for a Special Permit, the Planning Board shall consider whether the request is consistent with the purpose of the Special Way designation (14.2.2.a), whether the request is consistent with the intent of this bylaw, and whether the request will create conflicts with present or future uses of the Special Way. The Planning Board may grant a Special Permit for the use or alteration of a Special Way authorizing the way to be used or expanded to a width greater than twelve (12) feet only after the matter has been referred to the Martha's Vineyard Commission as a discretionary referral or otherwise for review as a Development of Regional

Impact and only after the Commission has approved the application.

h. Relocation of a Special Way

Relocation of a portion of a Special Way may be approved by the Planning Board upon holding a public hearing and finding that the relocation would: preserve the continuity of the way, create new trail connections, provide increased public trail access, improve safety, or otherwise enhance the way for trail users. However, it is beyond the jurisdiction of the Planning Board by such action to either grant or extinguish public or private rights-of-way that may exist in the Special Way.

ARTICLE 1. Moved that the Town vote to amend Section 14.2.2 of the Zoning By-law, which contains a Martha's Vineyard Commission regulation governing Special Ways and Special Way Zones, by substituting the text below for the text presently in place.

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debris and overgrown vegetation, except as permitted as part of a Special Permit issued under 14.2.2.f or where:

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for trail users. However, it is beyond the jurisdiction of the Planning Board by such action to either grant or extinguish public or private rights-of-way that may exist in the Special Way.

The Article was moved and seconded, then the Moderator opened the floor for discussion of the Article. Mrs. Therese Hall, spoke to the Article. Mr. Becker, Planning Board Chairman gave an explanation of the changes that were to be made in the By-Law. Benjamin L Hall, Jr. then went over the Article to explain what he considered was not correct in the By-law as it was being changes. Mr. Hall, stated by making a motion to indefinitely postpone the Article until an annual town meeting, he also made a motion to make many changes to the Article. Benjamin L Hall, Sr., also spoke on the merit of the Article. Many other persons spoke for or against the Article. Several persons called for the Moderator to move the question!!

The following are the events that took place with this Article.

The Article was moved and seconded, discussion took place, during Mr. Hall Presentation he first made a motion to Indefinitely Postpone the Article, the motion was moved and seconded; thereafter voted with the Moderator declaring that the motion to Indefinitely Postpone DID NOT CARRY.

Mr. Hall asked that the following Amendments be made to the Article:

At d: Development Regulations add *except as may be permitted by a special permit.*

At 5) add *Unless otherwise permitted before the word NO*

At 7) in line three *remove the word active from the sentence.*

At e. Permitted Uses in the Special Way Zone in line six remove the word *active.*

At f. 4) line two add *after of reasonable use of a parcel of land.;* and Remove *all economically viable use and value of the parcel of land owned or controlled by the applicant, considered as a whole.*

All amendments were moved and seconded; thereafter voted with the Moderator declaring that the amendments DID NOT CARRY.

The main Article as written was then voted by a paper vote. The count as follows YES 199 NO 47. The Article CARRIED by the required two thirds majority.

Attest:

Wanda M. Williams
Wanda M Williams
Town Clerk













Edgartown Special Ways

Special Vehicular Ways

Pennywise Path

& Ben Tom's Road

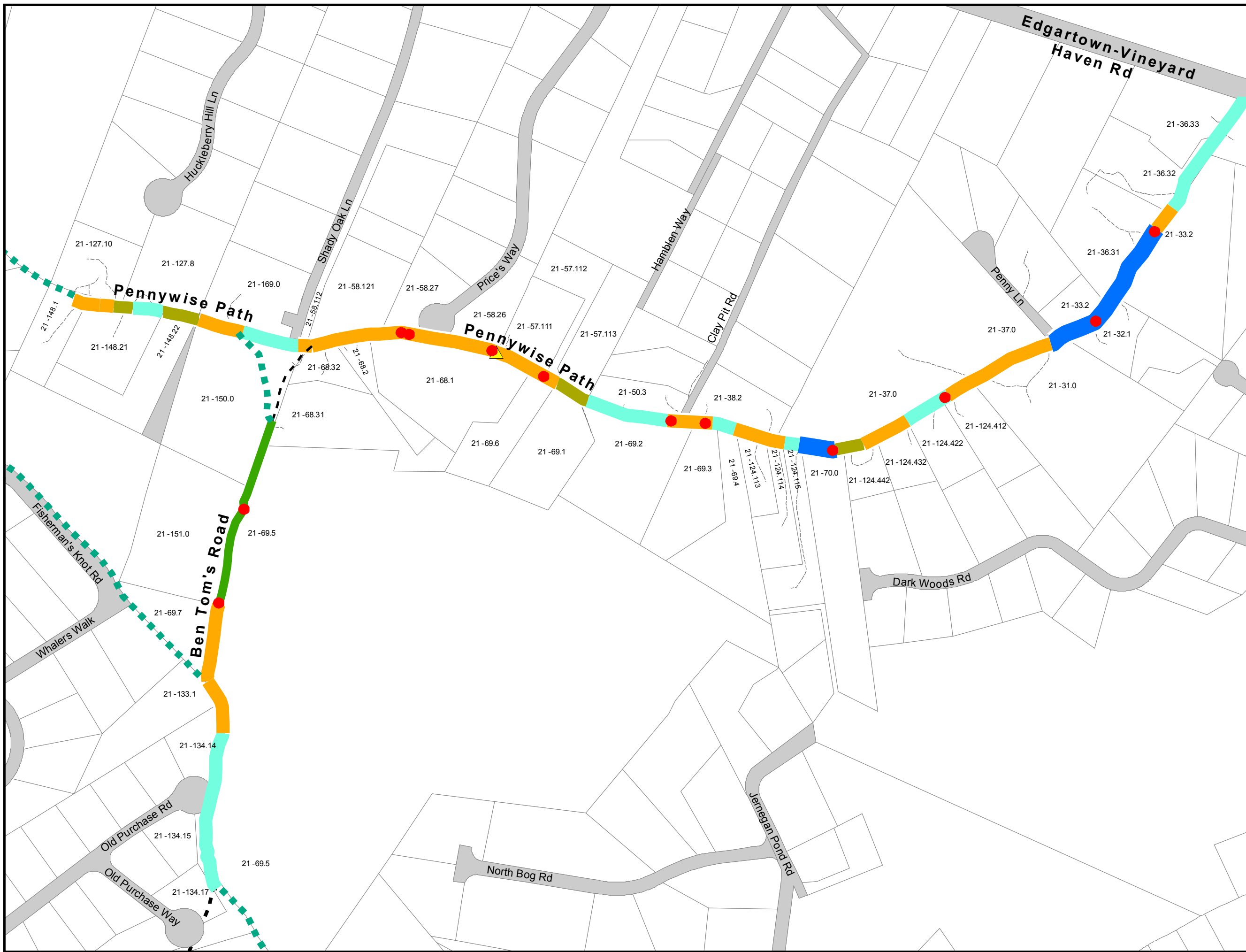
Measured Road Widths
as of January 1, 2008

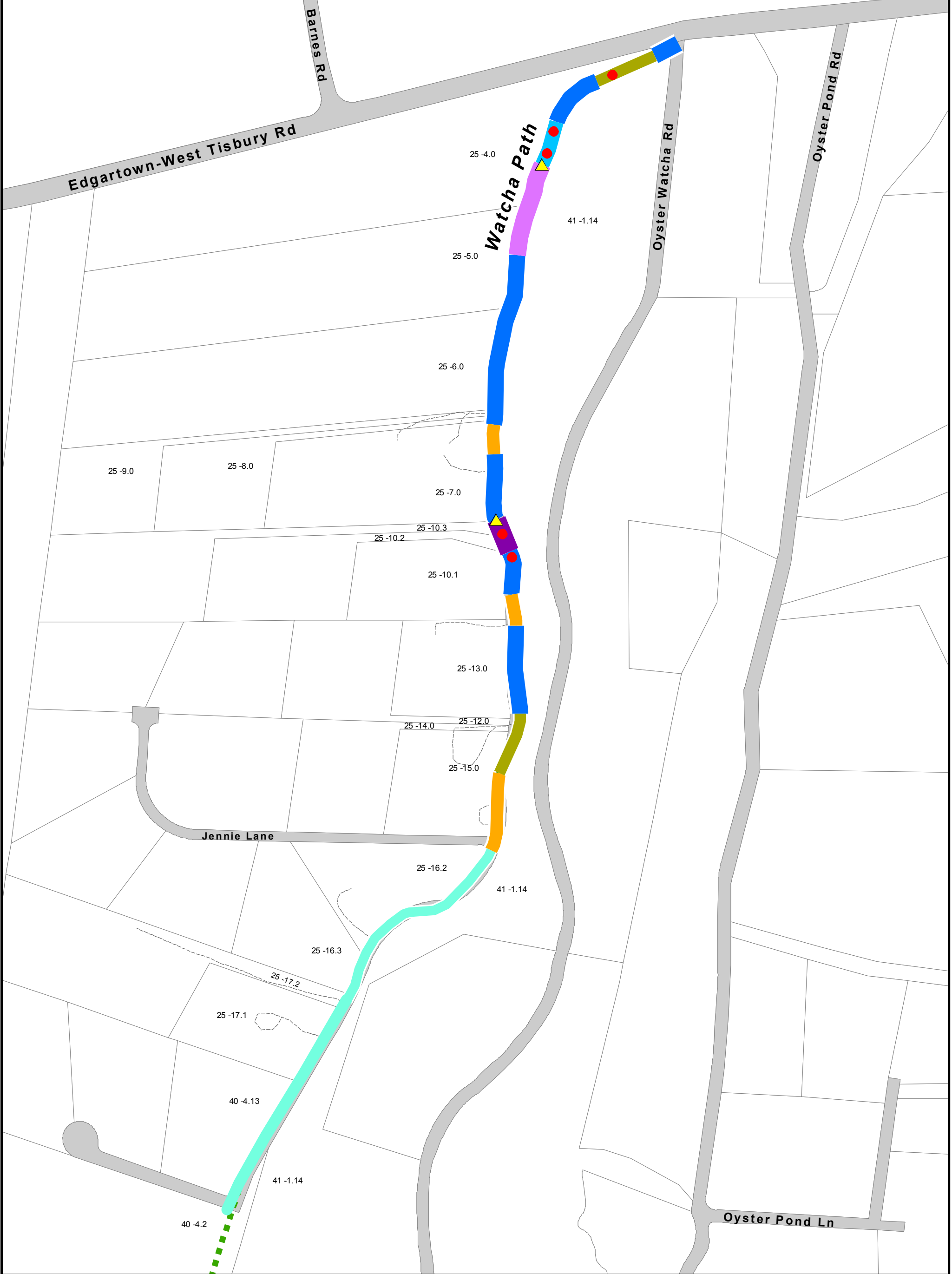
-  Width Pinch-point
-  Turn-out *
- Special Vehicular Ways Width**
-  9 feet
-  10 feet
-  11 feet
-  12 feet
-  14 feet
- Trail**
-  Special Way
- Additional Features**
-  Driveways
-  Other Dirt Road
-  Parcel Boundary
-  Road Right of Way
- 21 - 134.0 Map - Lot #

* Not included in width measurements

DISCLAIMER:
This map combines data from a variety of sources considered sufficiently accurate for the intended purposes of this map - a representation of the portion of certain Special Ways to be categorized as Special Vehicular Ways, and certain characteristics of such ways.

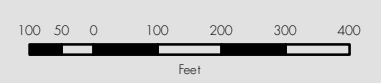
Compiled By: Martha's Vineyard Commission, CL Seidel, 2/12/08
(cls_trails; special_ways_walkinginventory.mxd)
Modified By: Martha's Vineyard Commission, B Veno, 2/20/08
pt_5086933453, www.mvcommission.org
Data: Trails - MVC 2008; Parcels & Right of Ways - Cartographic Associates 2003;
Projection: Stateplane, MA Mainland, NAD83, Meters
File: B_Veno/maps/special_ways/special_ways_vehicular_Penny.mxd - Original in color





Width Pinch-point	Special Vehicular Way Width
Turn-out *	
Trail	10 feet
Special Way	11 feet
Additional Features	12 feet
Driveways	13 feet
Parcel Boundary	14 feet
Road Right of Way	15 feet
25 - 13.0 Map - Lot #	16 feet
* Not included in width	

Edgartown Special Ways
Special Vehicular Ways
Watcha Path
 Measured Road Widths
 as of January 1, 2008



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