

MEMO

To: MV Commission
From: Candace A. Nichols. Esq.
Attorney for Brent Staples and
Julie Johnson Staples
5 Oyster Lane, Chilmark, MA
Date: March 13, 2017

Dear Commissioners,

In follow-up to my public statements during the March 9, 2017, please find here:

1. 1987 Chilmark Planning Board Decision for the subdivision of Mary Jane Nevin Damroth and David Damroth. (See Attachment A.)

2. 1987 Chilmark Planning Board minutes dated March 23, 1987 outlining subdivision restrictions. (See Attachment B.)

- 100' no cut zones on Lots 1 through 4. (Ultimately the developer did not comply and placed no cut zones on only three lots.)

- Guest house limited to one on Lot 5.

- Lot 5 to be subdivided only and into two lots with one providing affordable housing either to a Damroth child or a Chilmark youth. (Lot 4 was not envisioned to be subdivided.)

3. 2003 Private Covenants on the Damroth Subdivision (covering all five lots that existed in 1987) drafted by David Damroth's attorney and recorded in the Duke's County Registry of Deeds in 2003. (See Attachment C.)

- These covenants are enforceable in court.

- They were not signed by or agreed to by the Chilmark Planning Board and differ somewhat from the March 23, 1987 decision as recorded in the minutes.

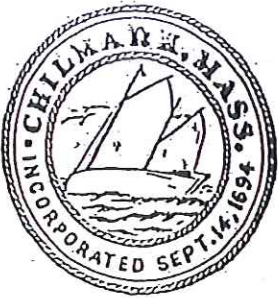
- Limits guest houses on Lot 5 to one.

- Grants developer flexibility to subdivide Lot 5 into three lots (two regular, and one youth lot) and grants developer the right to place youth lot on Lot 4 or 5. (Never part of the Chilmark Planning Board decision.)

4. Existing subdivision plot plan and photographs as original subdivision was developed without building envelopes. (See plot plan and photo attached as Attachment D.)

- The 900 square foot Staples home (built by David Damroth and Mary Jane Nevin Damroth as a real estate office) was sold to Julie and Brent Staples in 2004 for residential use.

- New house, built by Mary Jane Damroth Nevin, to be 1,700 square feet, is presently under construction and situated 100 feet from the Staples home.



TOWN OF CHILMARK
CHILMARK, MASS

TOWN OFFICE:
P. O. BOX 119
CHILMARK, MASS. 02535
TELEPHONE 617-645-2651

April 17, 1987

Carol Skydell
Town Clerk
Town Office
Chilmark, MA. 02535

Dear Carol:

At their meeting on April 13, 1987, the Chilmark Planning Board approved the subdivision plan submitted by Mary Jane and David Damroth on February 24, 1987 at their property at Quansoo by a unanimous vote.

There are several conditions regarding notes in the covenants and on the linen which will be included when the linen is signed by the members.

Very truly yours,

Ted Farrow, Chairman
Chilmark Planning Board

TF/cc

cc: Mary Jane & David Damroth

see underlined areas

Minutes of Chilmark Planning Board Meeting on March 23, 1987 at 7:00 p.m.

Attending: Chris Murphy, Acting Chairman, Annabel Dietz, Pat Lynch, Bart Smith, Bill Rossi, Rusty Walton, Mary Jane and David Damroth, Mark and Richard Baumhoffer, Tim Lasker, Larry Hepler, Flip Harrington, Sue Tonry, and Claire Checchi, secretary

Review of the minutes of the March 16, 1987 meeting. Motion was made and seconded and minutes were unanimously approved by the members.

Public Hearing on Form C Application of Mary Jane and David Damroth

Have had covenants drawn up with specifics...no guest houses on four lots...
option will remain open on 5th lot - possible youth lots for Damroth children.
Also, it will be noted that if they sell this lot in the future, they will request
part of it be a youth lot for the town's youth. There will be 100 ft. buffer zones
around Lots 1 thru 4. They are making up a road association to tie-in with the
Quansoo Road Association for these 4 properties. Also, they were asked to include
in the covenants that they will only divide the 5th lot into two lots and NOT into
three in the future, if subdivided. David said that they will have an architectural
review board to see that there will not be any structures that will not conform with
the area. It was asked if they were going to allow people to walk the paths in the
area and there was some question of liability....they were told that by law they
are not liable for anyone walking on these roads. Rusty said that the Conservation
Commission would like permission to walk these and other paths for 9 months of the
year only. This will be further discussed. The Damroths were asked to put everything
on the linen when they come back to the board. Also that it be noted that after the
new road is put in that they will not use the present road. They agreed to do this.
They were also asked to include the covenants.

Sue Tonry was in for a sign permit. The board approved the sign but told her that
she needs to go to the Building Inspector because the business exists as a home
occupancy for Roberta Morgan. A letter will be sent to the building inspector.

Tim Lasker was in with the Baumhoffers because there was a problem passing papers
for Lot #1 because of the road arrangement. A Certificate of Performance was signed
by the board on March 2, 1987 and an escrow account was set up to finish the road
if need be. The lawyers at the closing asked that there be additions to this
Certificate and it will be revised by them and will be brought back to the board for
signatures.

The Baumhoffers asked about the youth lot that will be going to Daniel Rossi, Lot #8.
Chris said that an agreement will be drawn up by the Vineyard Conservation Society
who will be handling this and that they will be back in touch with Chris when it is
completed, and Chris will get in touch with the Baumhoffers and Rossi.

Chris said that he had spoken with Drew Marvel and that Drew had spoken with Warren
Flint from Lincoln about his consulting with the town on future planning, such as
Chilmark Center, etc. This will be discussed further when Drew is back with the
board and Ted Farrow returns on April 6.

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NOTE: Signed by David
Damroth and by his then
wife Mary Jane Damroth
n/k/a Nevin

THE DAMROTH PROPERTY SUBDIVISION
PROTECTIVE COVENANTS

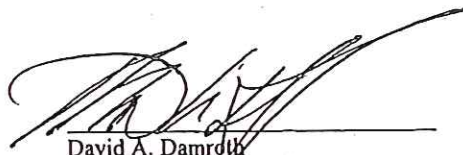
The undersigned, David A. Damroth, in exchange for the payment of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, subjects the property held by him and shown as lots 4 and 5 on the definitive plan of subdivision entitled "Plan 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.

see next page

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 Naim, 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.

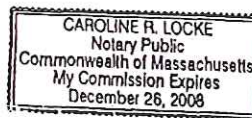

David A. Damroth
Date: 9/29/2003

Commonwealth of Massachusetts
County of Dukes County *October 6, 2003*

Then personally appeared the above-named David A. Damroth and acknowledged the foregoing instrument to be his free act and deed, before me

Edgartown, Mass *October 6, 2003*
at *3* o'clock and *16* minutes *P.M.*
received and entered with Dukes County
book *972* page *1005*

C. R. Locke
Caroline R. Locke, Notary Public
My Commission Expires: 12/26/2008



Attest:
Deanne E. Powers Register

THE DAMROTH PROPERTY SUBDIVISION
PROTECTIVE COVENANTS
PAGE 2.

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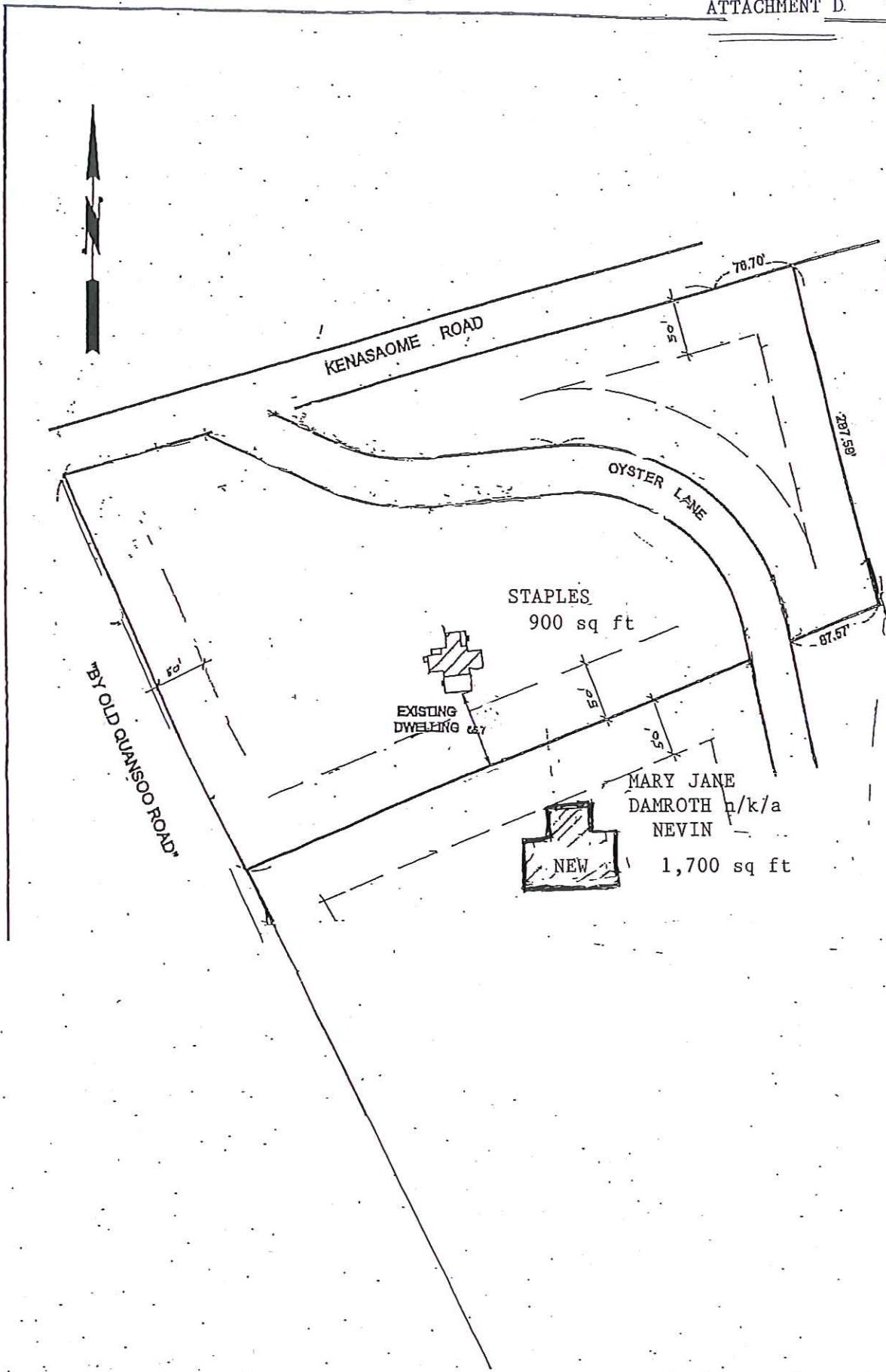
Mary Jane Nevin
Mary Jane Nevin

COMMONWEALTH OF MASSACHUSETTS

Norfolk County ss;

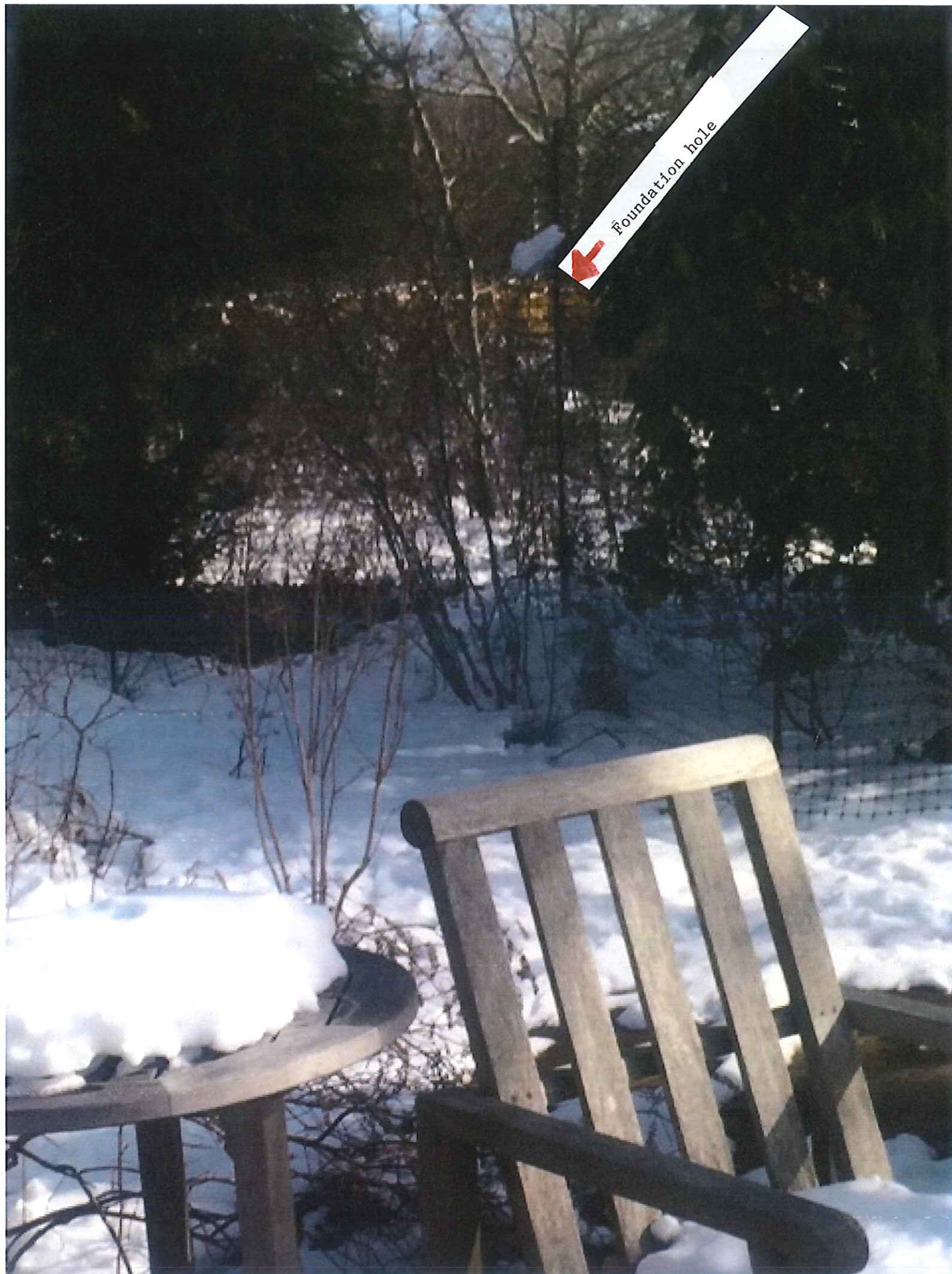
Then personally appeared the above names Mary Jane Nevin and acknowledged the foregoing instrument to be her free act and deed, before me


Katerina Samizoglou
Notary Public
My Commission Expires: January 2, 2009





Picture taken standing on the Staples deck. Nevin/Damroth foundation and then new house to the left of the snow/white mound.



Foundation hole