

**JAY FREDERIC THEISE LAW ASSOCIATES LLC**

**Street Address for Delivery: 19 Locust Lane, Aquinnah, Ma. 02535**

**Mail Address: PO Box 755, Chilmark, Ma. 02535**

**Telephones: Office: 617-482-8300, Cell: 617-930-1575, E-Fax: 617-391-3027**

**E-Mail: [jft@theiselaw.com](mailto:jft@theiselaw.com)**

November 17, 2022

By email with attachments  
[James.Lampke@Lampkelaw.com](mailto:James.Lampke@Lampkelaw.com)  
Attorney James B. Lampke  
Law Offices of Lampke and Lampke  
115 North Street  
Suite 3  
Hingham, MA 02043

Re: Further letter in support of the objection of the MBG Realty Trust, Myron Garfinkle Trustee to the Foundation Building Plan Applications of Troy L. Stanfield and Kimberly Patterson Stanfield concerning 118 and 140 Sarita Walker Road, West Tisbury, MA.

Dear Attorney Lampke:

Thank you for yours of November 3, 2022, its enclosures, and the opportunity for my response before you make a decision regarding the Stanfield's application for foundation permits to which I have objected on behalf of abutter Myron Garfinkle, Trustee of the MBG Realty Trust.

I attach and incorporate by reference for your convenience my earlier letter of objections, an opinion letter of Attorney Eric Green previously presented to you in 2019 which concerns the present issue, yours of July 5, 2019 to West Tisbury Building Inspection Joseph Tierney, a copy of the first page of the Deed to Mr. and Mrs. Stanfield, my objection to Joe Tierney of September 22, 2022, and three depiction drawings that I made.

The principal although not only issue of objection is the position that the so-called 6.3 acre Stanfield lot Plan is in fact not 6.3 acres and cannot be 6.3 acres because of the operation of the derelict fee statute, MGLA Chapter 183, Section 58 which prevents the joinder of the prior two Coffin Trust Lots now shown on the present no notice ANR Plan filed at the Dukes County Registry of Deeds dated November 2, 2021 by the Sourati Engineering Group in Plan Book 19 Page 106.

Also please note that the quitclaim deed dated March 24, 2022 filed at Dukes Deeds Book 01619, in addition to referencing the plan also specifically conveys two lots, 2A – 1.1 and 2A – 1.2.

Attorney James B. Lampke  
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The Derelict Fee Statute operation makes it clear that these two lots are disconnected and cannot form a single 6.3-acre lot. The case of Kuczinski v. Gliniecki, 29 Mass.L.Rptr. 408 is clear that without specific reservation language the Derelict Fee Statute applies, as does Tattan v. Kurkan, 32 Mass.App.Ct. 239 which agrees and makes it clear the conveyance document (the deed), and not a plan determines the Derelict Fee issue.

I first encountered this matter in 2019 when I represented a group of abutters who objected to the issuance of a building permit for Lot 2A – 1.1. As a result of that engagement in addition to my own study of the law and facts, I engaged Attorney Eric Greene, appointed a Massachusetts Land Court Title Examiner by the Chief Justice of the Massachusetts Land Court Division of the Trial Court on March 26, 1993.

As Attorney Greene wrote in his opinion letter, in the first paragraph of page 1, “.....I have conducted extensive title research at the Dukes County Registry of Deeds “Deeds”, regarding the above-described premises as well as so called “Sarita Walker Road” and other abutting properties, concerning MGLA Ch. 183 Section 58; the so-called Derelict Fee Statute, and its application to the Private road and encapsulated driveway known as Sarita Walker Road in West Tisbury, MA. My opinion, for the reasons set forth below, is that the statute applies to “Sarita Walker Road, and in particular Lot 2A-1.1 (and other lots).” (Emphasis added.)

That examination included all the land included in the present Stanfield Deed and all of the adjoining lots all of which come from the original title held by the Coffin Real Estate Trust. (Note the Deed into the Stanfields comes from a number of individuals, all beneficiaries of the Coffin Trust, to whom the property was conveyed prior to the re-conveyance to the Stanfield’s.)

The Greene opinion concludes on page 3, “...in conclusion, my opinion is clear that Lot 2A – 1.1 as shown on a Plan as being 3.01 Acres is wrong to the extent it includes within its entire area the so-called 30’ wide Private way. Further, it appears that Lot 2A – 1.1 broken off from the Lot it was established from, was already cut off from its “Mother Lot”, by operation of the same statute. (Emphasis added.) The reference to the ‘same statute’ is to the Derelict Fee Statute. The “Mother Lot” referred to is Lot 2A – 1.2 referred to in the deed to Standfield shown on the 6.3-acre plan as connected to Lot 2A – 1.1. The 6.3 Acre Plan is wrong.

I stand on Eric Greene’s opinion.

As you wrote in your opinion of July 5, 2019, which was given to me by Joseph Tierney, the West Tisbury Building Inspector, at Page 4, Paragraph 3, Sarita Walker Road, “Sarita Walker Road is depicted on Plan 18-83 a 30’ private way.” Further down in the next paragraph you

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wrote, "...in addition, the way that becomes Sarita Walker Road appeared on other plans approved by the Planning Board as an ANR Plan. These various plans were used as Plan references for the creation of the subject property according to the Plan Reference legend...", and continuing on Page 5 you wrote, "...other ANR Plans for land in this area show lots having frontage or abutting on an unnamed road or way which is shown on the plan as a "(30' wide private)" way, which in subsequent plans noted above is labeled as Sarita Walker Road. "

Toward the end of that opinion you wrote, "...in other words, the way which became Sarita Walker Way was created in plans done by the owner of 118 Sarita Walker Road. The owner would be estopped from challenging the existence of the way it created. Conveyances have been based on the various ANR plans, showing Sarita Walker Road (labelled as such or as a private way). These documents support the conclusion that Sarita Walker Way at present and as it developed over time is a private way."(Emphasis added.)

You concluded on page 8, "...for the reason stated above, as well as other reasons not included ", (emphasis added), it is your opinion that the roadway had to be deducted and permit that had been issued revoked.

I ask now that if one of the "other reasons" that you did not specify included the fee in the way issue, and I assert herein that its application applies not only to lot 2A- 1.1 but also all of the lots including the intervening lots between lot 2A – 1.1 and 2A – 1.2 now shown as joined on this objection to 6.3-acre parcel Plan, and object to the issuances of the instant Stanfield Applications.

I therefore stand on both opinions.

As you know from my previous correspondence, there are additional reasons that support my client's objection, including the Flores/Sourati deduction calculation of only a small portion of a dirt path/driveway within the 30' wide designation of the road.

As you wrote in your opinion when words are not specifically defined in a by-law their plain and usual language controls; "Notably, the term "way" is not defined in the by-law. Accordingly, under Section 14.1 "words used in this zoning by-law shall carry their customary meanings as found in a standard dictionary," and, "...way is defined in a standard dictionary as a thorough fare for travel or transportation from place to place, an opening for passage route, the course travelled from one place to another," further support for the view that the 30' wide private way is a course or thoroughfare for travel.

I have also raised the issues of the by-law limitation of the maximum number of accesses off of a common driveway (which if applicable is already exceeded), and public safety particularly with respect to fire and emergency vehicle access on this clearly shown but not built

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30' wide lot private way, which has also been referred to by the Coffins as a Way/Driveway at various times.

The 6.3 Acre Plan is dated and filed in November of 2021. Nevertheless, in 2022 the Stanfield's applied to the Board of Health for a septic system by a superseding Plan for Lot 2A-1.2 only, showing it as a separate lot from Lot 2A-1.1. These are the so called joined lots on the earlier 6.3 Acre Plan, but not on the deed. It is clear that this subsequent Plan recreated the two separate lots (although still incorrect as a result of inclusion of land by others as a result of the Derelict Fee Statute), a clear admission against interest.

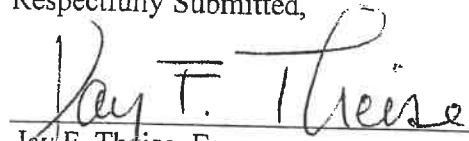
Without waiving any issue, and without prejudice to my client, it is clear that there has been little regard for the law and facts on the changing descriptions and nomenclature on the successive ANR Land Divisions, and most recent Septic Plan, which seem to suit the moment.

The 6.3 acre depicted lot is not, cannot, and never will be, as long as it includes non-owned property, some of which non owned property boundaries face each other to the midpoint of the 30' way, completely cutting off and preventing the joinder of the area shown on the 6.3-acre November 2, 2021 Plan as one lot. (See my depiction sketches attached hereto.)

With respect, the MBG Realty Trust objects to the Stanfield building permit applications, which should be denied.

This objection support letter is sent without prejudice to any and all issues including but not limited to those set forth herein.

Respectfully Submitted,



Jay F. Theise, Esq.

Counsel to the MBG Realty Trust,  
Myron Garfinkle, Trustee

Eric Greene opinion letter of  
11/18/19 with attached deeds  
referenced in his opinion

SHAPIRO & GREENE, P.C.  
ATTORNEYS AND CONVEYANCERS  
76 H STREET  
POST OFFICE BOX 986  
HULL, MA 02045-0986

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Telephone: (781) 925-0040 Facsimile: (781) 925-6077  
E-mail: ShapGreene@Aol.Com

Eric M. Greene  
Marshall D. Shapiro, Senior Counsel

Marjorie J. Famiglietti,  
Office Manager

File No. 19T463

November 18, 2019

Jay F. Theise, Esquire  
Jay F. Theise & Associates, LLC  
92 State Street  
Boston, MA 02109

Re: Lot 2A-1.1, 118 Sarita Walker Road,  
West Tisbury, Massachusetts

Dear Jay,

Pursuant to your request and our discussions, I have conducted extensive title research at the Dukes County Registry of Deeds ("Deeds") regarding the above described premises as well as so called "Sarita Walker Road" and other abutting properties, concerning MGLA c. 183, section 58; the so called Derelict Fee Statute, and its application to the Private road and encapsulated driveway known as Sarita Walker Road in West Tisbury, Ma. My opinion, for the reasons set forth below, is that the Statute applies to "Sarita Walker Road, and in particular Lot 2A-1.1 (and other lots).

My research into the title to Lot 2A-1.1, Sarita Walker Road, and the other lots abutting it begins with a deed from Richard W. Renehan, Trustee of Scrubby Neck Farm Trust to Benjamin H. Coffin, IV dated March 30, 1987 and recorded with said Deeds in Book 473, Page 312. Though not the first time that the title was put into the Coffin family's name, this deed covers all of the area directly abutting Sarita Walker Road prior to the various land divisions noted below. The said Benjamin H. Coffin, IV later gave a one half interest in the parcel to his wife Hazel Coffin by deed dated December 24, 1992 and recorded in Book 596, Page 69.

By deed dated July 14, 1996 and recorded in Book 682, Page 15, Benjamin H. Coffin, IV and Hazel Coffin gave a deed of Lot 1D to Francis M. and Sarita C. Valenti. Said deed also included a specific grant to use the 30' "existing sandy gravel road" shown on the plan (W-482) for access to Watcha Path. Please note that said Lot 1D appears to also abut this private road. Please also note that there was no reservation of title in and to the

fee of said road contained in this deed as would be required to exclude conveying to the center line under the Derelict Fee Statute which took effect in January of 1972.

By deed dated October 3, 1996 and recorded in Book 686, Page 368, Benjamin H. Coffin, IV and Hazel Coffin gave a deed of Lot 1C (which includes locus) to themselves as trustees of Coffin Real Estate Nominee Trust (the "Coffin Trust").

The said Coffin Trust trustees then conveyed out Lot E on Plan W-509 to third parties by deed dated October 29, 1999 and recorded in Book 780, Page 533. Said deed includes the entire access road now known as Sarita Walker Road where Lot E is on both sides of the said way and to the centerline of the road for the balance. No specific reservation of rights or the fee in the said road is stated though there are references to the costs of maintaining it in paragraph 9. Paragraph 10 gives an easement of the said way, but as it is included together with the fee conveyed as it is shown on plan W-509, it appears that the Coffin Trust may have landlocked itself by this deed. (Note: Although beyond the scope of what you asked me to opine to, this may be the case if this additional grant gave to the grantees anything more than only an easement to use the road from the end of their property along the said road to its terminus near Jone's Cove, which is the case on Plan W-509).

By deed dated July 13, 2017, Hazel T. Coffin as Trustee of the Coffin Trust conveyed Lot 2B-1 to Benjamin Howard Coffin V as trustee of a new trust. Said deed was recorded in Book 1443, Page 1068 and makes reference to the grantees "...right to use the roads as shown on said plan for all purposes for which roads are used..." The plan here specifically shows Sarita Walker Road as being more than just the traveled path. Further, Lot 2B-1 abuts it directly and again as there was no reservation made as to the fee in the said road, the Grantee would take to the center of it. The same would be true for Lots 2C and 2D conveyed by deed dated June 1, 2016 and recorded in Book 1407, Page 509, unlike the deed to the new trust referenced above, this second deed was for consideration to apparent third parties (the Walsdorfs).

Lot 2A-1.1 is shown on the plan recorded in plan Book 18, Page 83 as being on both sides of Sarita Walker Road. This is inconsistent with prior deeds referenced above. The Deed out of Lot 1D recorded in Book 682, Page 15 clearly shows the said lot abutting the "road" and as there was no specific reservation of rights to the road in the said deed, the grant should have run to the centerline of the road. The same would be true for the deed out of Lot E recorded in Book 780, Page 533. At best for Lot 2A-1.1, the deed for Lot E took the fee to the road, leaving the Lot to establish an easement by estoppel due to the road being shown on the land division plan. At worst, the deed for Lot E landlocked Lot 2A-1.1.

Under the Derelict Fee Statute the deed of Lot E included the fee in the said road where Lot E abutted Lot 2A-1.1, and as there is no specific reservation in the deed, and that as the road was shown on this and prior land division plans, a likely easement by estoppel was established. Access however is not the question here, but the fee to the area shown as the road within Lot 2A-1.1 is. Chapter 183, Section 58 makes clear that the reservation must be specific and there was nothing in the deeds even suggesting such a reservation never mind the making of a specific one. Both Kuczinski v. Gliniecki, 29 Mass.L.Rptr. 408 and Tattan v. Kurkan, 32 Mass.App.Ct. 239 clearly discuss and reinforce this point. Tatten goes on to say that even if the grantor's (Coffin Trust sic) intent was to retain the fee, something that cannot be ascertained from the record here, that intent is still not applicable absent an express reservation or exception of the fee in the road in the granting instrument; meaning the deed must include the reservation.

In conclusion, my opinion is clear that Lot 2A-1.1 as shown on a Plan as being 3.01 Acres is wrong to the extent it includes within it the entire area the so-called 30' wide Private way. Further, it appears that Lot 2A-1.1, broken off from the Lot it was established from, was already cut off from its "mother lot", by operation of the same statute.

Nothing in this opinion is a zoning opinion, and deals only with the size and bounds of Lot 2A-1.1.

Very truly yours,

**SHAPIRO & GREENE, P.C.**

By: 

Eric M. Greene  
EMG/mf



*Declaration of Homestead*

*69/100*

1528A

004730312

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**FIDUCIARY DEED**

RICHARD W. RENEHAN, Trustee of Scrubby Neck Farm Trust dated March 29, 1977 recorded with Dukes County Registry Book 344, Page 329 for consideration paid, and in full consideration of ONE DOLLAR (\$1.00) grants to BENJAMIN H. COFFIN, IV of 1137 Bass Boulevard, Dunedin, Pinella County, Florida 33528, with fiduciary covenants, a certain parcel of land with the buildings thereon, situated in West Tisbury, County of Dukes County, Commonwealth of Massachusetts, bounded and described as follows:

Beginning at a concrete bound on the southerly side of the Watcha Road at land of the Watcha Club, said concrete bound being about two hundred thirty (230) feet westerly of the road, leading to the Benjamin Athearn homestead; thence

- EASTERLY: by the Watcha Road about one thousand one hundred seventy (1170) feet to Quampachy cross-path; thence
- SOUTHEASTERLY: by land of the said The Watcha Club through the woods to a wire fence and a ridge and continuing generally in the same direction by the said wire fence and ridge to Watcha Pond at a place called Jones' Cove; thence
- SOUTHERLY, WESTERLY, NORTHERLY, WESTERLY, AND SOUTHERLY by said pond and a small cove to a wire mesh fence and a ridge at other land of the said Watcha Club; thence
- NORTH: about 60°W by the said other land of the Watcha Club and a wire mesh fence and a ridge about five hundred twenty (520) feet to a concrete bound at a corner of said fence; thence
- NORTH: about 18° 45'E and following the said wire mesh fence by the said land of the Watcha Club about seven hundred fifty (750) feet to a corner; thence
- SOUTH: about 84° 40'E still by the said wire mesh fence and land of the Watcha Club, about four hundred seventy (470) feet to a corner; thence
- NORTH: about 18° 00'E and by the said wire mesh fence and land of the Watcha Club about one hundred forty-four (144) feet to a corner near a well; thence
- NORTH: about 23° 00'W still by the said wire mesh fence and land of the Watcha Club about two hundred twenty-eight (228) feet to a corner at the enclosed parcel of land now or formerly of Maud H. Call; thence
- NORTH: about 82° W by the said described wire fence and land of the Watcha Club about seventy-five (75) feet to a corner; thence

1272A

00473 Pg: 313

NORTH: about 12° 30'E by the said wire mesh fence and ridge and land of the Watcha Club about one hundred fifty (150) feet to a corner at a picket and stone post fence; thence due

WEST: by the said picket and stone post fence and land of the Watcha Club about twenty-one (21) feet to a concrete bound at a corner in said described picket fence; thence

NORTH: about 5° 30'W and by the said picket and stone post fence and land of the Watcha Club about one hundred eighty (180) feet and continuing on the same course about one hundred twenty (120) feet by a wire fence to a corner and a pile of stones; thence in a course and by land of the said Watcha Club and through the high woods to the concrete bound at the point or place of beginning.

NORTHERLY:

The premises are conveyed together with rights of way appurtenant to the public ways and great ponds.

The premises are conveyed subject to and with the benefit of easements of record, insofar as the same may be now in force and applicable.

The above first described premises are conveyed together with the right to use for all purposes including utilities the so-called Joseph Walker Road from Scrubby Neck Road commonly referred to as Watcha Road to the Edgartown-West Tisbury State Highway.

The premises are conveyed together with a perpetual right and easement to use a certain 40 ft. strip of land for all purposes which public streets and ways now or hereafter may be used in the Town of West Tisbury together with the right to install and maintain utility lines above, along, and under said premises in common with all those lawfully entitled thereto, all as more particularly reserved by the Grantor herein in a certain deed dated February 17, 1976 recorded in Dukes County Registry of Deeds in Book 331, Page 371.

The premises are conveyed subject to a first mortgage held by the Plymouth Savings Bank recorded in Dukes County Registry of Deeds in Book 343, Page 559.

For title, see deed dated September 26, 1941 recorded with Dukes County Registry of Deeds in Book 201, Page 183. See also Estate of Sarita C. Walker, Dukes County Probate D7/4200. For Grantor's title, see deed to Grantor dated March 28, 1977 recorded with Dukes County Registry of Deeds in Book 343, Page 566.

EXCEPTING AND EXCLUDING from the above described premises (1) Lot 2 containing 6.796 acres of land, more or less, more particularly shown on a plan by Dean R. Swift, dated March 29, 1973 recorded in Dukes County Registry of Deeds in Book 308, Page 319, to which plan

*not  
cont*

Bk: 473 Pg: 314

reference is hereby made for a more particular description thereof; (ii) the premises conveyed to Albert J. Hakey by Deed dated December 27, 1979 and recorded in Dukes County Registry of Deeds in Book 371, Page 337; (iii) the premises conveyed to Michael Jampel by Deed dated February 12, 1981 and recorded in Dukes County Registry of Deeds in Book 381, Page 506; (iv) the premises conveyed to Francis M. Valenti, Jr. shown as Lot 1 on said plan by Dean R. Swift, by deed of even date and recorded prior hereto; and (v) the premises conveyed to Sarita C. Valenti and, at her death, to go to Sarita C. Valenti's children, shown as Lot 3 on said plan by Dean R. Swift, by deed of even date and recorded prior hereto.

Witness my hand and seal this 30th day of March, 1987.

William D. Doyle  
Witness

Richard W. Renshan  
Richard W. Renshan,  
Trustee as aforesaid

THE COMMONWEALTH OF MASSACHUSETTS

Suffolk, SS

March 30, 1987

Then personally appeared the above named RICHARD W. RENSHAN, Trustee as aforesaid, and acknowledged the foregoing instrument to be his free act and deed, before me.

Emily Clark Hunt  
Notary Public Emily Clark Hunt

My Commission Expires: 12/9/88

AC2  
March 27, 1987

MARTHA'S VINEYARD LAND BANK FEE

PAID: \$ \_\_\_\_\_  
 EXEMPT: \$ 0  
2271 5/12/87 James  
NO. DATE CERTIFICATION

Edgartown, Mass. May 12, 1987  
at 11 o'clock and 20 minutes A M  
Received and entered with Dukes County Deeds  
Book 473 page 312

Attest: Sue W. King  
Register

*Easement  
703/207 MP  
Eject. Clerk*

1596-10-89

of I, BENJAMIN H. COFFIN, IV  
Scrubby Neck Farm, West Tisbury, County of Dukes County, Massachusetts.

In consideration of marital affection, as a gift (no monetary consideration)

grant to my wife Hazel Coffin, as tenant in common,

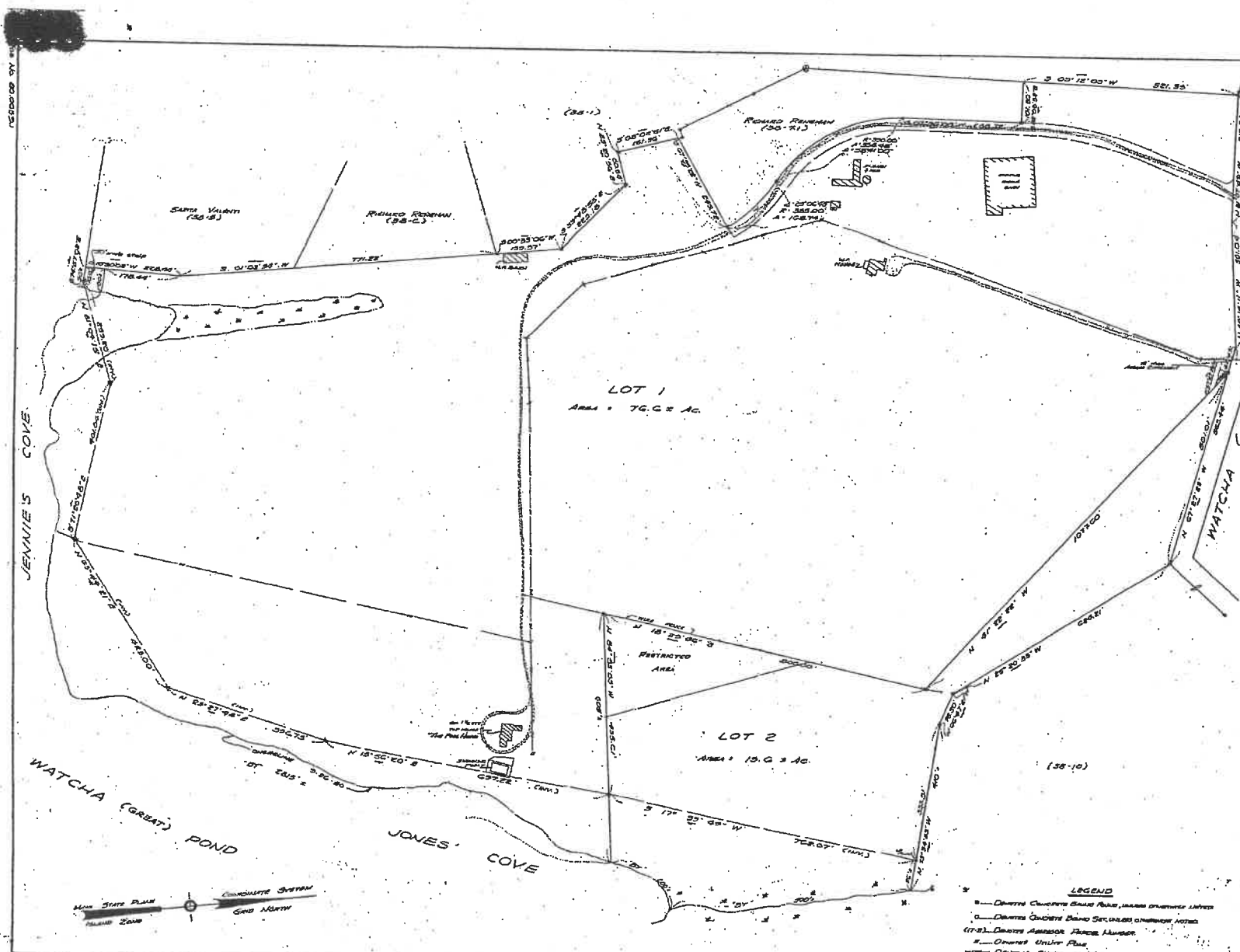
with quitclaim covenants of Scrubby Neck Farm, West Tisbury, Massachusetts an undivided one-half interest in and to that

certain parcel of land with buildings thereon, situated in West Tisbury, County of Dukes County, Commonwealth of Massachusetts, bounded and described as follows:

Beginning at a concrete bound on the southerly side of the Watcha Road at land of the Watcha Club, said concrete bound being about two hundred thirty (230) feet westerly of the road, leading to the Benjamin Athearn homestead; thence

- EASTERLY: by the Watcha Road about one thousand one hundred seventy (1170) feet to Quampachy cross-path; thence
- SOUTHEASTERLY: by land of the said The Watcha Club through the woods to a wire fence and a ridge and continuing generally in the same direction by the said wire fence and ridge to Watcha Pond at a place called Jones' Cove; thence
- SOUTHERLY, WESTERLY, NORTHERLY, WESTERLY, AND SOUTHERLY by said pond and a small cove to a wire mesh fence and a ridge at other land of the said Watcha Club; thence
- NORTH: about 60°W by the said other land of the Watcha Club and a wire mesh fence and a ridge about five hundred twenty (520) feet to a concrete bound at a corner of said fence; thence
- NORTH: about 18° 45'E and following the said wire mesh fence by said land of the Watcha Club about seven hundred fifty (750) feet to a corner; thence

*copy  
PL*



RECEIVED-ENTERED  
 1964. A. H.  
 COUNTY RECORDS DEPT.  
 OFFICE OF DEEDS  
 MAR - 5 1964  
 BEVERLY W. KING  
 CLERK

APPROVAL UNDER SUBDIVISION  
 CONTROL LAW NOT REQUIRED  
 WEST TISSBURY PLANNING BOARD  
 Thomas A. Coffin, Jr. R. A.  
 DATE: 12/15/63

\* AGENT FOR LOT 2 SHALL BE THE ESTATE OF  
 BENJAMIN H. COFFIN, JR. AND THE ESTATE OF MARY  
 ANN COFFIN, DECEASED, BY WILL, PROBATE COURT,  
 WEST TISSBURY, MASS., JANUARY 17, 1970.

\* I CERTIFY THAT THE SURVEYED PLANNED LOTS  
 COMPLY WITH THE SUBDIVISION CONTROL  
 LAWS AND REGULATIONS OF THE COMMONWEALTH OF  
 MASSACHUSETTS.

\* I CERTIFY THAT THE REPRESENTATION OF THIS  
 PLAN CONFORMS WITH THE RULES AND  
 REGULATIONS OF THE COMMISSIONER OF  
 DEEDS DATED, JUNE 17, 1970.

REGISTERED LAND SURVEYOR  
 DATE: 12/15/63



A Plan of Land in  
 WEST TISSBURY, MASS.  
 prepared for  
 BENJAMIN H. COFFIN, JR.  
 SCALE: 1" = 100' - DECEMBER 15, 1963

- LEGEND
- Concrete Curbs
  - Concrete Driveway
  - Concrete Foundation
  - Concrete Slab
  - Concrete Walk
  - Track in Wood Stage

SMITH & DOWLING  
 ENGINEERS & SURVEYORS & PLANNERS  
 State Road - Post Office Box 1087  
 Westport, Mass. 01886

9-81-M

1530070

SOUTH: about 84° 40'E still by the said wire mesh fence and land of the Watcha Club, about four hundred seventy (470) feet to a corner; thence

NORTH: about 18° 00'E and by the said wire mesh fence and land of the Watch Club about one hundred forty-four (144) feet to a corner near a well; thence

NORTH: about 23°00'W still by the said wire mesh fence and land of the Watcha Club about two hundred twenty-eight (228) feet to a corner at the enclosed parcel of land now or formerly of Maud H. Call; thence

NORTH: about 82° W by the said described wire fence and land of the Watcha Club about seventy-five (75) feet to a corner, thence

NORTH: about 12°30'E by the said wire mesh fence and ridge and land of the Watcha Club about one hundred fifty (150) feet to a corner at a picket and stone post fence; thence due

WEST: by the said picket and stone post fence and land of the Watcha Club about twenty-one (21) feet to a concrete bound at a corner in said described picket fence; thence

NORTH: about 5° 30'W and by the said picket and stone post fence and land of the Watcha Club about one hundred eighty (180) feet and continuing on the same course about one hundred twenty (120) feet by a wire fence to a corner and a pile of stones; thence in a course and by land of the said Watcha Club and through the high woods to the concrete bound at the point or place of beginning.

NORTHERLY:

The premises are conveyed together with rights of way appurtenant to the public ways and great ponds.

The premises are conveyed subject to and with the benefit of easements of record, insofar as the same may be now in force and applicable.

The above first described premises are conveyed together with the right to use for all purposes including utilities the so-called Joseph Walker Road from Scrubby Neck Road commonly referred to as Watcha Road to the Edgartown-West Tisbury State Highway.

The premises are conveyed together with a perpetual right and easement to use a certain 40 ft. strip of land for all purposes which public streets and ways now or hereafter may be used in the Town of West Tisbury together with the right to install and maintain utility lines above, along, and under said premises in common with all those lawfully entitled thereto, all as more particularly reserved in a certain deed dated February 17, 1976 recorded in Dukes County Registry of Deeds in Book 331, Page 371.

The premises are conveyed subject to a first mortgage held by the Plymouth Savings Bank recorded in Dukes County Registry of Deeds in Book 343, Page 559.

For title, see deed dated March 30, 1987 recorded with Dukes County Registry of Deeds in Book 473, Page 312.

EXCEPTING AND EXCLUDING from the above described premises parcels previously conveyed thereon by deeds duly recorded in the Dukes County Registry of Deeds.

W396:071

Executed as a sealed instrument this 24<sup>th</sup> day of December 1992  
Wm. S. Deane witness to DRC II Benjamin W. Corbin IV

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Commonwealth of Massachusetts

Dues on December 24 1992

Then personally appeared the above named Benjamin W. Corbin IV

and acknowledged the foregoing instrument to be his free act and deed,  
Before me, [Signature]  
IVS WEINER Notary Public - Justice of the Peace  
My commission expires 2/5 1994

X  
L9599 12/28/92 Rjm  
NO. DATE COMMUNICATION

Notary Public, State of Mass. Dec. 28 1992  
1 o'clock and 26 minutes P.M.  
soaked and entered with Dukes County Deed  
book 596 page 069

Witness: Security W. Ken  
[Signature]

MASS. REC. 88  
DUKES  
12/28/92  
EXPT. 6.00  
CASH 6.00  
942800 13:28  
EXCISE TAX

06820015

BENJAMIN H. COFFIN, IV and HAZEL T. COFFIN, <sup>a/k/a Hazel Coffin</sup> husband and wife,  
both of P. O. Box 2640, Vineyard Haven, Dukes County,  
Massachusetts,

DEEDS REG 08  
DUKES

17/22/96

*Cancelled*

TAX 592.80  
CASH 592.80

7416A000 15:36  
EXCISE TAX

in consideration of ONE HUNDRED THIRTY THOUSAND and 00/100  
(\$130,000.00) DOLLARS,

and satisfaction in full of a certain Option Agreement dated  
September 25, 1989, recorded in the Dukes County Registry of

Deeds in Book 538, Page 893,

*AN UNDIVIDED FIFTY (50) % INTEREST HC BHL*

Grant, to FRANCIS M. VALENTI, JR. and SARITACVALENTI, husband and

wife, as tenants by the entirety, <sup>IT'S BHL an undivided</sup> *AND FIFTY (50) % INTEREST TO SARAH*  
*E. VALENTI AND STEVEN T. VALENTI AS TENANTS IN COMMON. BTL*  
both of One Saunders Ledge, Nahant, Massachusetts,  
*ALL HC BHL*

with QUITCLAIM COVENANTS, *HC*

the land in West Tisbury, Dukes County, Massachusetts, described  
as follows:

Being Lot No. 1D on a certain plan of land entitled "Plan of  
Land in West Tisbury, Mass. Scale: 1"=100' March 8, 1990  
Hayes Engineering, Inc. Civil Engineers and Land Surveyors"  
recorded in the Dukes County Registry of Deeds as West Tisbury  
Case File No. *487*, to which plan reference is hereby made  
for a more particular description.

Said Lot No. 1D contains 15.5 acres, more or less, according to  
said plan.

The premises are conveyed subject to and together with the  
benefit of all appurtenant easements, restrictions and rights of  
way of record, including:

1. An appurtenant perpetual right and easement to use the  
"existing sandy gravel road" to "Watcha Path" for all purposes  
for which streets and ways may now or hereafter be used in the  
Town of West Tisbury, together with others now or hereafter  
entitled thereto; and to use the "30' wide way (private)" shown  
on said plan for the aforesaid purposes;

2. An appurtenant perpetual right and easement to use the  
existing way which extends from Watcha Path, opposite land of  
the Grantors, for 6600 feet, more or less, to the State Highway,  
which way may also be known as the "Joseph Walker Road" or the  
"Road to the Farm," for all purposes for which streets and ways  
may now or hereafter be used in the Town of West Tisbury;

3. Also assigning to Grantees; without covenants, the  
right and easement in common with others now or hereafter  
entitled thereto to use a certain 40-foot wide strip of land  
described in a deed dated February 17, 1976, recorded in said  
registry in Book 331, Page 371 for all purposes for which ways  
may now or hereafter be used in the Town of West Tisbury;

4. Also granting the perpetual right and easement to  
connect to and maintain the existing power and communications  
lines on the Grantors' property at Grantees' sole expense;  
provided however that by acceptance and recording hereof  
Grantees agree for themselves, their heirs and assigns, to share  
in equal pro rata proportions with others participating therein,  
in the cost of installation and maintenance of a new underground  
power line, upon the completion of which the existing line shall  
be discontinued and all rights therein shall cease and

*HC*  
*048 IV*

*Deed out*

*Incl. TO  
CERTIFICATE  
OF WAY OF  
SHOWN ON PLAN.*

*South Witter Road  
West Tisbury, MA 02571*

LAW OFFICES  
MONTGOMERY,  
MEISNER & PETERS  
P O BOX 1117  
EDGEMOUNT,  
MASSACHUSETTS  
02530



BK682PG016

determine. In the event that Grantors fail to replace said lines within one year from the date hereof, then Grantees shall have the right to install a new underground power line themselves.

5. Grantors hereby specifically reserve unto themselves, their heirs and assigns the right in their own discretion to grant rights and easements as aforesaid to others.

Executed as a sealed instrument this 14<sup>th</sup> day of July, 1996.

Benjamin H Coffin IV  
Benjamin H. Coffin, IV

Hazel T. Coffin  
Hazel T. Coffin

STATE OF FLORIDA

County of Pinellas, ss. Clearwater July 14, 1996

Then personally appeared the above named HAZEL T. COFFIN, and acknowledged the foregoing instrument to be her free act and deed, before me,

Vonda B. Fraska  
Notary Public  
My Commission Expires:



VONDA B. FRASKA  
COMMISSION # 096980  
EXPIRES AUG 8, 1998

Edgartown, Mass. July 22 1996  
at 3 o'clock and 036 minutes P M  
received and entered with Dukes County Deeds  
book 1082 page 05

Attest: Deanne E. Powers Register

MARTHA'S VINEYARD LAND BANK FEE  
 PAID: \$ 2600  
 EXEMPT \$  
NO. 8911 DATE 7/22/96 AL  
CERTIFICATION

LAW OFFICES  
MONTGOMERY,  
MEISNER & PETERS  
P O BOX 117  
EDGARTOWN,  
MASSACHUSETTS  
02539

HC  
8/14/96



00886 368

SACATA WACHUCA ROAD, LOT

We, BENJAMIN H. COFFIN, IV, and HAZEL T. COFFIN, husband and wife,

both of West Tisbury, County of Dukes County, Massachusetts, in consideration of marital estate planning (no monetary consideration)

Grant to HAZEL T. COFFIN and BENJAMIN H. COFFIN, IV, as Trustees of COFFIN REAL ESTATE NOMINEE TRUST, under declaration of trust dated October 8, 1996, to be recorded herewith in the Dukes County Registry of Deeds,

of 17 Morningside Drive, Norwood, Massachusetts 02062, with Quitclaim Covenants,

the land with the buildings and improvements thereon in West Tisbury, County of Dukes County, Massachusetts, described as follows:

PARCEL ONE:

Being Lot 1C shown on a plan entitled "Plan of Land in West Tisbury, Mass. Scale: 1"=100' 0' 50' 100' 200' 300' 400' March 8, 1990 Hayes Engineering, Inc. Civil Engineers & Land Surveyors," which said plan is recorded in said registry as West Tisbury Case File No. 482; said Lot 1C consisting of 61.01 acres of land according to said plan.

Subject to, and with the benefit of, easements and restrictions of record, to the extent now in force and applicable.

For title see deed dated December 24, 1992, recorded in said registry in Book 596, Page 69.

PARCEL TWO:

All our right, title and interest in and to the land in said West Tisbury described as Lots 12 and 13 of the Watcha Division Lots, being further described as bounded:

- Northerly: by the Mill Path or Road from Edgartown to West Tisbury;
- Southerly: by Watcha Path;
- Easterly: by Lot 11 in said Watcha Division; and
- Westerly: by Lot 14 in said Watcha Division.

Being the premises described in a deed dated August 26, 1988 to Charles R. Dougherty, as Trustee of Watcha Homer Trust, which said deed is recorded in said registry at Book 506, Page 452. For declaration of trust establishing Watcha Homer Trust see Instrument dated August 26, 1988 recorded in said registry at Book 506, Page 445.

PARCEL THREE:

All our right, title and interest in and to the land in said West Tisbury described in a deed dated December 24, 1992 recorded in said registry in Book 596, Page 124.

LAW OFFICES  
MONTGOMERY,  
MOSHER & PETERS  
P O BOX 117  
EDGARTOWN,  
MASSACHUSETTS  
02530

MARTHA'S VINEYARD LAND BANK FEE

1993 10/2/96  
NO. DATE CERTIFICATION

copy plus

RE 686PC369

There being no monetary consideration for this conveyance,  
Massachusetts deed stamps are not required to be affixed hereto.

Executed as a sealed instrument this 3 day of October, 1996.

Benjamin H. Coffin, IV  
Benjamin H. Coffin, IV

Hazel T. Coffin  
Hazel T. Coffin

THE COMMONWEALTH OF MASSACHUSETTS

County of Worcester, ss.

October 3, 1996

Then personally appeared the above named HAZEL T. COFFIN,  
and acknowledged the foregoing instrument to be her free act and  
deed, before me,

William J. White  
Notary Public  
My Commission Expires: 1/17/97

Worcester, Mass. Oct. 9 1996  
at 12 o'clock and 13 minutes P. M.  
received and entered with Dukes County Deeds  
book 686 page 368

Attest: Deane E. Power Registrar

LAW OFFICES  
OF  
MCMEN & PETERS  
P. O. BOX 111  
WORCESTER  
MASSACHUSETTS  
01602

*Attendant*  
*780/538*

**BA 7807533**

BENJAMIN H. COFFIN, IV and HAZEL T. COFFIN, individually and as TRUSTEES of COFFIN REAL ESTATE NOMINEE TRUST, under declaration of trust dated October 3, 1996, recorded in the Duker County Registry of Deeds in Book 686, Page 362, of 895 Michigan Avenue, County of Pinellas, Dunedin, Florida 34698, in consideration of ONE MILLION, FOUR HUNDRED THOUSAND and No/100 (\$1,400,000.00) DOLLARS, grant to COLLISTER JOHNSON and ELEANOR JOHNSON, TRUSTEES of the SCRUBBY NECK FARM REALTY TRUST, under declaration of trust dated November 2, 1999 to be recorded herewith, of 65 Holland Road, Far Hills, New Jersey 07931, with quitclaim covenants, a certain parcel of land situated in West Tisbury, County of Duker County, Massachusetts, with the buildings thereon, being bounded and described as follows:

Property Address: Sarita Walker Road, West Tisbury, MA

*Deed cut*  
*LOT E*

Being Lot E, consisting of 41.052± acres of land, as shown on a "Plan of Land in West Tisbury, Mass. prepared for Benjamin Coffin IV & Hazel Coffin Scale: 1"=100' December 13, 1996" filed as West Tisbury Case File No. 509 in the Duker County Registry of Deeds (the "Plan").

Said premises are conveyed subject to and with the benefits of the following easements, restrictions and reserved rights:

1. It is a condition of this conveyance that the Grantees shall not transfer or sell the granted premises for a period of five years from the date this deed shall have been recorded in the Duker County Registry of Deeds.
2. The premises are conveyed subject to, and together with the benefit of, easements, restrictions and reservations of record.
3. The premises are conveyed subject to the restriction for the benefit of Grantors' retained land shown as Lot F on the Plan that, prior to the construction of any structure on the granted premises, architectural plans for same shall first be submitted to Grantors for their approval, which said approval shall not be unreasonably withheld.
4. The premises are conveyed subject to the restriction for the benefit of Grantors' retained land, shown as Lot F on the Plan, that, prior to construction of any new structure on the

BN 780PG534

granted premises, there shall first be established a building envelope extending from the existing tree line eighty feet into the open fields. Within this zone a new single-family residential structure not more than 4,500 square feet in size containing no more than six bedrooms may be built; PROVIDED HOWEVER that no structure shall be constructed within 100 feet of the easterly boundary line of the granted premises and that all structures constructed within the building envelope shall be clustered together rather than strung out. See Exhibit "A" appended hereto for a graphic depiction of said building envelope.

5. The granted premises shall have the benefit of an appurtenant easement to use the 15' Right of Way shown on the Plan for access to Watcha Pond; PROVIDED HOWEVER that in the event the granted premises are ever subdivided, or used for other than the current purpose and/or for single-family purposes, the said easement shall terminate and be of no further effect.

6. The granted premises are conveyed subject to the restrictions for the benefit of Grantors' retained land that the existing "Pasture Area 1", as shown on the Plan, is to remain open and for possible agricultural uses and mowed so as to preserve the scenic view. In the event Grantees shall fail to maintain same, Grantors, their heirs and assigns shall have the right to cause said "Pasture Area 1" to be mowed and maintained as open land.

7. The granted premises are conveyed subject to the restriction for the benefit of Grantors' retained land, shown on Lot F on the Plan, that any tennis courts which may be constructed on the granted premises shall be located along the intersection of the north and northeasterly boundaries of the premises and shall be screened from view.

8. The granted premises are conveyed subject to the restriction for the benefit of Grantors' retained land that any access driveway for a new residence shall be located through the woods along the northeasterly boundary of the premises.

9. The granted premises are conveyed with the benefit of appurtenant easements to connect to and use the existing private electrical line, subject to sharing on a pro-rata basis the costs of maintaining and repairing said line; and to use the "Joe Walker" road, so-called, for access to the public way and for all other purposes for which roads are used in the Town of West Tibury, subject to the obligation to share on a pro-rata basis the costs of maintaining said way.

EDGARTOWN  
DEEDS REGISTRY  
DUKES COUNTY  
MAR 21 11  
11/09/99 5:22PM  
00000 11519  
DE  
\$6394.00  
\$6394.00

MARTHA'S VINEYARD LAND BANK FEE  
 PAID 28000  
 EXEMPT  
29267 11-4-99  
NO. DATE CERTIFICATION

BA 7807535

10. The premises are conveyed together with an appurtenant perpetual right and easement to use the existing way which extends from Watcha Path for 6,600 feet, more or less, to the State Highway, which way may also be known as the "Joseph Walker Road" or the "Road to the Farm" for all purposes for which streets and ways may now or hereafter be used in the Town of West Tisbury.

11. All of the foregoing reserved rights, easements and restrictions are imposed for the benefit solely of Grantors' said retained land (Lot F); all granted rights and easements are non-exclusive and subject to the rights of Grantor and others now or hereafter entitled thereto, subject to pro-rata sharing of the costs incident thereto.

\*\* Executed as a sealed instrument this 29 day of OCTOBER 1999.

*Benjamin H. Coffin IV*  
Benjamin H. Coffin, IV  
individually and as Trustee  
as aforesaid

*Benjamin H. Coffin IV* P.O.A.  
*Hazel T. Coffin*  
Benjamin H. Coffin, IV,  
individually and as Trustee as  
aforesaid

*Hazel T. Coffin*  
Hazel T. Coffin, individually  
and as Trustee as aforesaid

\*\* For title see deed from Benjamin H. Coffin IV and Hazel T. Coffin dated October 3, 1996 and recorded in the Duks County Registry of Deeds in Book 686, Page 368.

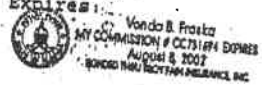
STATE OF FLORIDA

County of Pinellas, ss.

*29th October* 1999

Then personally appeared the above named BENJAMIN H. COFFIN, IV and HAZEL T. COFFIN, individually and as Trustees as aforesaid, and acknowledged the foregoing instrument to be their free act and deed, before me,

*Wanda B. Frost*  
Notary Public  
My Commission Expires



DK780PG536

# EXHIBIT "A"

BUILDING ZONE  
 FRONT OF HOUSE  
 MUST BE 80' FROM  
 FENCE AT TREE  
 LINE.  
 100' FROM  
 DEPTH LINE  
 HOUSE 4500 sq ft  
 CAN BE BUILT  
 ANY WHERE ABOVE  
 TREE LINE  
 BUT CLUSTERED  
 IN ONE SPOT  
 SIX BEDROOM  
 SINGLE FAMILY  
 HOME

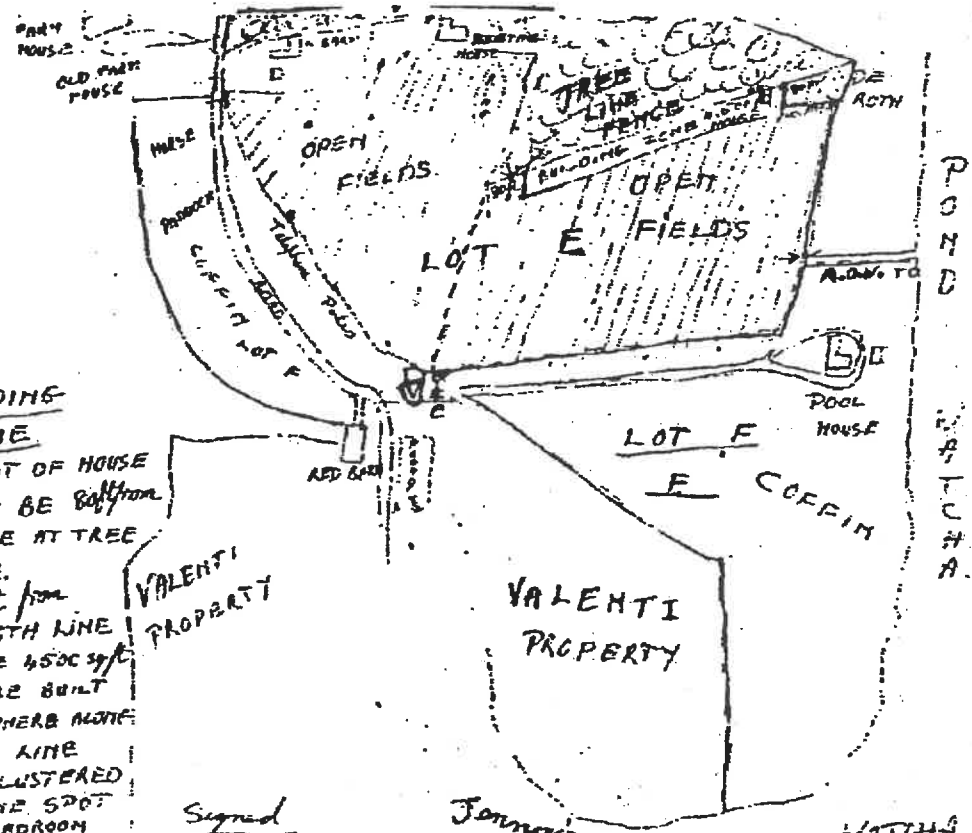
VALENTI PROPERTY

VALENTI PROPERTY

Signed

FORWARD CORNER

WATCH

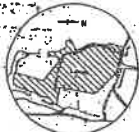


Edgewood Mass Nov. 4, 1999  
 at 4 o'clock and 18 minutes P.M.  
 received and entered with Duques County Deeds  
 book 780 page 536

Attest: *Daniel E. Pomeroy* Register



RECEIVED ENTERED  
 COUNTY OF DORSET  
 REGISTRY OF DEEDS  
 DANNE E. POWERS  
 62500



LOCAL MAP  
 SCALE 1" = 100' ± R.

140 WEST TIBBURY CT. 106

"I hereby certify that the preparation of this plan conforms with the Rules and Regulations adopted by the Registrars of Deeds on January 1, 1978, as amended."

"I hereby certify that this survey and plan conform to the Procedures and Technical Standards for the Practice of Land Surveying in the Commonwealth of Massachusetts."

*Douglas D. Dowling*  
 Professional Land Surveyor  
 Douglas D. Dowling P.E. P.L.S.

Date



JENNIFER'S COVE

LOT F-D

*Redone 08/15*

LOT E  
 TOTAL AREA = 41,000± sq. ft.  
 (PASTURE AREA 1 = 14,500± sq. ft.)

WATCHA (ANCIENT WAY - 3 Rods wide - 48.5') PATH

LOT F  
 TOTAL AREA = 20,04± ac.  
 PASTURE AREA 2 = 0.2± ac.  
 PASTURE AREA 3 = 2.4± ac.

(A.P. 38-7.11)  
 Lot 2

JONE'S COVE

WATCHA (GREAT) POND

LEGEND

- • • • • Denotes a 6" hole in a concrete base.
- • • • • Denotes a 4" hole in a 2" concrete base.
- (A.P. 7-40) • • • • • Most Tibbury Assessor's Parcel Number
- • • • • Denotes utility poles, unless noted otherwise
- • • • • Denotes box fire line.

ENDORSED: "Approval under Statewide Control Law not required."  
 WEST TIBBURY PLANNING BOARD  
*James A. [Signature]*  
*May 5, 1977*

NOTE:  
 Lots shown are subject to other easements and restrictions of record.

BEING A REVISION OF LOTS 10 AND 15, SHOWN ON WEST TIBBURY CASE FILE 482.

A Plan of Land in  
 WEST TIBBURY, MASS.  
 prepared for  
 BENJAMIN COFFIN IV  
 & HAZEL COFFIN  
 SCALE: 1"=100' DECEMBER 13, 1996

SMITH & DOWLING  
 ENGINEERS - SURVEYORS - PLANNERS  
 State Road Post Office Box 1087  
 Newbury Haven, MA - 02568  
 (508) 893-1100

JOB NO. 3029

W-509

509

509

509

509



Bk: 1443 Pg: 1068 Doc: DEED  
Page: 1 of 2 07/19/2017 02:28 PM

**FIDUCIARY DEED OF DISTRIBUTION**

I, **HAZEL T. COFFIN, TRUSTEE OF THE COFFIN REAL ESTATE NOMINEE TRUST**, u/d/t dated October 3, 1996 and recorded with the Dukes County Registry of Deeds in Book 686, Page 362, with an address c/o 4A Causeway Road, Vineyard Haven, MA 02568

As a distribution of beneficial interest in The Coffin Real Estate Trust, and for consideration of less than one hundred (\$100.00) dollars

grant to **BENJAMIN HOWARD COFFIN V, Trustee of The Benjamin Howard Coffin V Nominee Trust** u/d/t dated July 13 2017, which is recorded with the Dukes County Registry of Deeds in Book 1443, Page 1062, with an address c/o 1744 10th Street SW Largo FL 33778

**WITH QUITCLAIM COVENANTS**

The land with the buildings thereon in West Tisbury, County of Dukes County, Commonwealth of Massachusetts, more particularly bounded and described as follows:

Being Lot 2B-1 on a "Plan of Land in West Tisbury, Massachusetts prepared for Coffin Real Estate Nominee Trust Scale 1" = 80' May 17, 2017 Sourati Engineering Group PO Box 4458, 107 beach Road, Suite 202 Vineyard Haven, MA 02568 Phone (508) 693-9933" recorded with the Dukes County Registry of Deeds in Plan Book 18, Page 67.

The premises are conveyed together with the right to use the roads as shown on said plan for all purposes for which roads are used in the Town of Oak West, in common with all those lawfully entitled thereto.

Grantor hereby certifies under the pains and penalties of perjury that the premises herein conveyed is not homestead property.

For title see deed recorded with the Dukes County Registry of Deeds in Book 686, Page 368.

*Sainty Walker Road, West Tisbury*

MARTHA'S VINEYARD LAND BANK FEE  
PAID D  
EXEMPT D  
NO 57594 DATE 7/12/17 CERTIFICATION mt

WITNESS my hand and seal this 13 day of July, 2017.

Hazel T. Coffin, Trustee  
HAZEL T. COFFIN, TRUSTEE

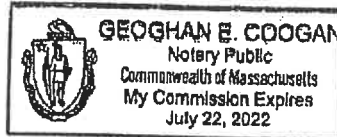
STATE OF MA

COUNTY: July 13 2017

On this 13 day of July 2017, before me, the undersigned notary public, personally appeared HAZEL T. COFFIN, TRUSTEE AS AFORESAID, who proved to me through satisfactory evidence of identification which was Pass ID, (source of identification) to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, and who swore or affirmed to me that the contents of the document are truthful to the best of his/her/their knowledge and belief.

[Signature]  
\_\_\_\_\_  
Notary Public

My commission expires:



ATTEST: Paulo C. DeOliveira, Register  
Dukes County Registry of Deeds

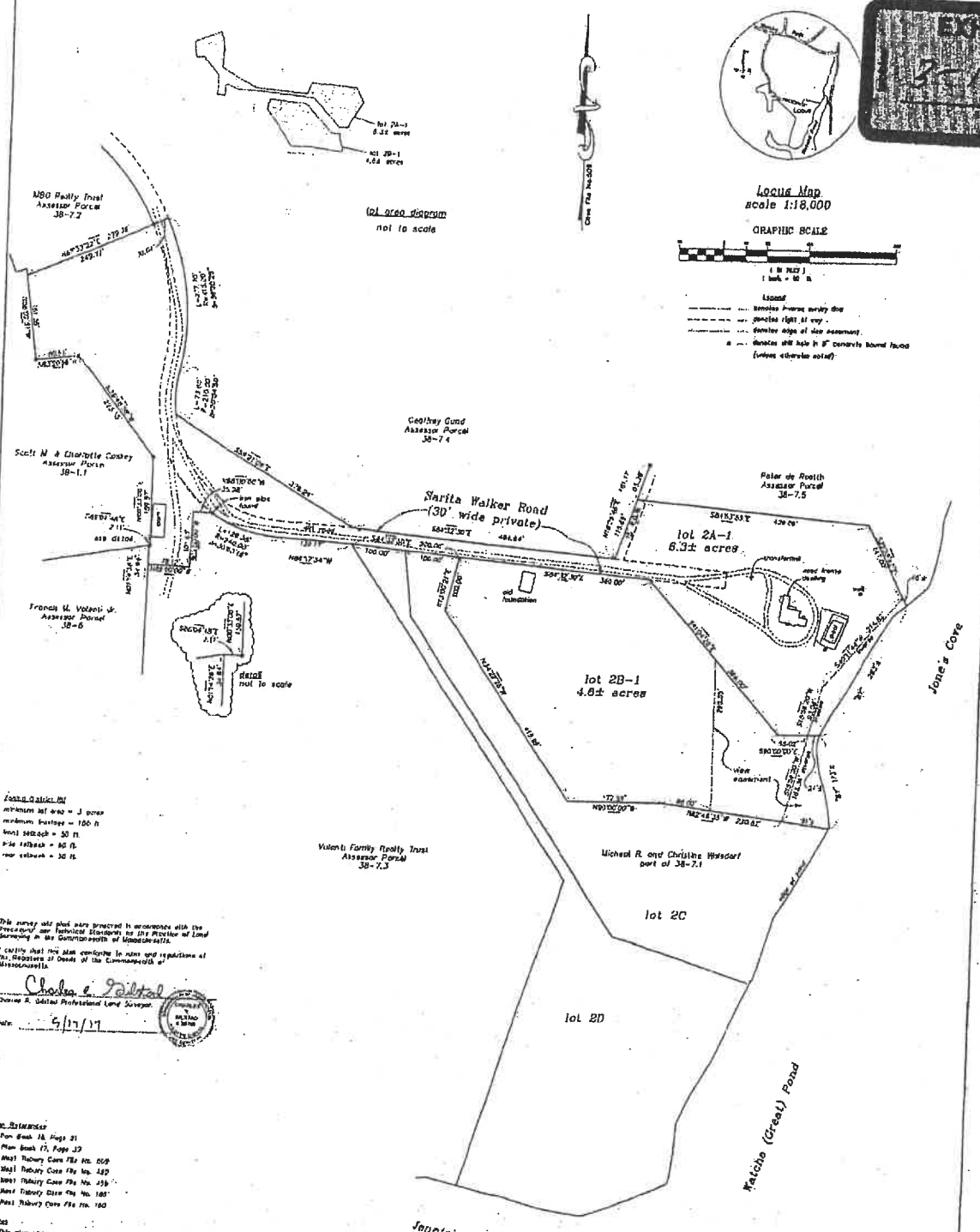


Locus Map  
scale 1:18,000

GRAPHIC SCALE



Legend  
--- denotes fence survey data  
--- denotes right of way  
--- denotes edge of low assessment  
--- denotes 20' high 12" concrete board fence (unless otherwise noted)



Lot 2A-1  
8.3± acres

lot 2B-1  
4.8± acres

lot 2D

Michael R. and Christine Wessner  
part of 38-7.1

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

I certify that this plan complies in form and substance with the Regulations of the Board of the Commonwealth of Massachusetts.

Charles E. Galtieri  
Charles E. Galtieri Professional Land Surveyor

- 1. Plan Book 18, Page 21
- 2. Plan Book 17, Page 22
- 3. 2001 Registry Case File No. 059
- 4. 2001 Registry Case File No. 482
- 5. 2001 Registry Case File No. 438
- 6. 2001 Registry Case File No. 188
- 7. 2001 Registry Case File No. 190

- Notes
- 1. This plan shows the subdivision of Lot 2A and 2B as shown on Plan Book 18, Page 21 and after reference to
- 2. The lots shown on this plan are subject to all easements and restrictions of record

Reference to "shown" means as submitted (including all notations and corrections) and is subject to other notations



APPROVED UNDER THE SUPERVISION  
CENTRAL LAW ENFORCEMENT  
WEST TUBURY PLANNING BOARD

Virginia S. Jones  
DATE 5/28/17

Plan of Land  
in  
West Tubury, Massachusetts  
prepared for  
Coffin Real Estate Nominee Trust  
Scale 1"=80' May 17, 2017



P.O. Box 4458  
107 Beach Road, Suite 202  
Fingwood Haven, MA 02568  
Phone (508) 693-9933  
www.Sowardgroup.com



2016 00003381

Bk: 1407 Pg: 509 Doc: DEED  
Page: 1 of 2 06/08/2016 09:21 AM

MARTHA'S VINEYARD LAND BANK FEE

PAID \$ 761.00

EXEMPT \$ \_\_\_\_\_

4897 NO. 6/8/16 DATE MIT CERTIFICATION

### QUITCLAIM DEED

I, HAZEL T. COFFIN, TRUSTEE OF THE COFFIN REAL ESTATE  
NOMINEE TRUST, w/d/t dated October 3, 1996 and recorded with the Dukes  
County Registry of Deeds in Book 686, Page 362, with an address c/o 4A  
Causeway Road, Vineyard Haven, MA 02568

for consideration paid of **THREE MILLION EIGHT HUNDRED**  
**(\$3,800,000.00) THOUSAND DOLLARS AND XX/100**

grant to **MICHAEL R. WALDSORF and CHRISTINE WALSDORF**,  
Husband and Wife as Tenants by the Entirety, with a mailing address of 385 West  
12<sup>th</sup> Street, Apt. E 3, New York, NY 10014.

#### WITH QUITCLAIM COVENANTS

The land with the buildings thereon in West Tisbury, County of Dukes County,  
Commonwealth of Massachusetts, more particularly bounded and described as  
follows:

Being Lots 2C and 2D on a "Plan of Land in West Tisbury, Massachusetts  
prepared for Coffin Real Estate Nominee Trust Scale 1" = 80' September 18,  
2015 Sourati Engineering Group PO Box 4458, 107 beach Road, Suite 202  
Vineyard Haven, MA 02568 Phone (508) 693-9933" recorded with the Dukes  
County Registry of Deeds in Plan Book 18, Page 21.

The premises are conveyed together with the right to use the roads as shown on  
said plan for all purposes for which roads are used in the Town of Oak West, in  
common with all those lawfully entitled thereto.

Grantor hereby certifies under the pains and penalties of perjury that the premises  
herein conveyed is not homestead property.

For title see deed recorded with the Dukes County Registry of Deeds in Book 686,  
Page 368.

140 Santa Walker Rd., West Tisbury

MASSACHUSETTS EXCISE TAX  
Dukes County ROD #8 001  
Date: 06/08/2016 09:21 AM  
Cit# 041592 29479 Doc# 00003381  
Fee: \$17,328.00 Cons: \$3,800,000.00

WITNESS my hand and seal this 15<sup>th</sup> day of June, 2016.

Hazel T. Coffin Trustee  
HAZEL T. COFFIN, TRUSTEE

COUNTY: Pinellas STATE OF Florida

On this 1 day of June 2016, before me, the undersigned notary public, personally appeared HAZEL T. COFFIN, TRUSTEE AS AFORESAID, who proved to me through satisfactory evidence of identification which was FEDU, (source of identification) to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, and who swore or affirmed to me that the contents of the document are truthful to the best of his/her/their knowledge and belief.



Chika Barnhizer  
Notary Public

My commission expires: 2/10/20

Attest: Deanne E. Powers Register



GRANT OF EASEMENT

THIS AGREEMENT made this 31<sup>st</sup> of August, 2017, by and between HAZEL T. COFFIN, TRUSTEE OF the COFFIN REAL ESTATE NOMINEE TRUST, u/d/t dated October 3, 1996 and recorded with the Dukes County Registry of Deeds (the "Registry") in Book 686, Page 362, with a mailing address c/o Hazel T. Coffin, PO Box 1639, Vineyard Haven, MA 02568 (hereinafter referred to as the "Grantor"); and SARITA C. VALENTI and FRANCIS M. VALENTI, JR. and SARITA C. VALENTI, Trustees of the F. VALENTI REALTY TRUST, u/d/t dated March 17, 1992 and recorded with the Registry in Book 594, Page 818, with a mailing address of 5 Bourbon Street, Peabody, MA 01960 (hereinafter, collectively referred to as the "Grantees").

WHEREAS, Grantor owns and has fee simple title to two (2) parcels of land situated in West Tisbury, Dukes County, Massachusetts, and known as 140 Sarita Walker Road, being shown as Lots 2A and 2B on a certain plan of land entitled "Plan of Land in West Tisbury, Massachusetts prepared for Coffin Real Estate Nominee Trust Scale 1" = 80' September 18, 2015 Sourati Engineering Group PO Box 4458, 107 Beach Road, Suite 202 Vineyard Haven, MA 02568 Phone (508) 693-9933" recorded with the Registry in Plan Book 18, Page 21 (hereinafter referred to as the "Coffin property"); and

WHEREAS, the Grantees own and have fee simple title to two (2) parcels of land adjacent to the Coffin property, and known as 74 and 76 Sarita Walker Road, being shown as Lots 1 and 2 on a certain plan of land entitled "Plan of Land in West Tisbury, Mass. prepared for Benjamin H. Coffin March 29, 1973 Scale: 1" = 150' Dean R. Swift Reg'd Land Surveyor Vineyard Haven, Mass.", more particularly described in deeds recorded with the Registry in Book 308, Page 319, and Book 594, Page 825 (hereinafter referred to as the "Valenti property"); and

WHEREAS, the Grantees currently have the right and easement, appurtenant the Valenti property, to travel over the "30' WIDE WAY (Private)" shown on the plan filed in the Registry as West Tisbury Case File No. 509, and over the existing "dirt road" shown on the Easement Plan referred to below, but desire to affirm that right, and to also obtain the non-exclusive right and easement to connect the existing "dirt road" to the "30' ft Right of Way" located in the northernmost portion of the Valenti property and shown on plan recorded in the Registry in Book 308, Page 319; and

WHEREAS, the Grantor has agreed to grant and affirm such right and easement.

NOW, THEREFORE, in consideration of One (\$1.00) Dollar and other valuable consideration paid by Grantees to Grantor, receipt of which is acknowledged, it is mutually agreed as follows:

1. Grantor does hereby grant, assign, set over and convey to Grantees, and to their invitees, employees, agents, successors and assigns, a perpetual, appurtenant right and easement to continue to use the existing "dirt road" as a driveway, except for that the portion of the "dirt road" nearest to Sarita Walker Road, which shall be relocated by Grantee so that it

is located completely within a 30' wide area of the Coffin property identified with cross hatching on the Easement Plan prepared for Sarita C. Valenti by Sourati Engineering Group, LLC dated November 23, 2016 attached hereto as Exhibit "A" (the "Easement Area"). In addition, Grantees shall have the right and easement, within such Easement Area, to connect the existing "dirt road" to the "30 ft. Right of Way" located on the Valenti property; and to use same to travel between the Valenti property and the Sarita Walker Road and for all purposes for which roads and ways may now or in the future be used in the Town of West Tisbury.

2. Use of the Easement Area as a means of access and egress to a commercial enterprise is strictly prohibited. The Easement Area shall be 30' in width to conform with Town safety standards, but, to the extent reasonably possible, the existing width and character of the "dirt road" shall not change.
3. Grantor reserves for itself, its invitees, tenants, successors and assigns, the right to use the Easement Area for all purposes, except that (i) any use to be conducted within the confines of the "dirt road" (and the new connection to the Valenti property, once installed) shall be subsurface only; and (ii) any use which might unreasonably interfere with the use of the "dirt road", or which might otherwise cause a hazardous condition, is prohibited. In the event that any use by Grantor or Grantor's invitees, tenants, successors and assigns, disturbs the condition of the "dirt road", Grantor shall restore the condition of such "dirt road", as soon as reasonably possible, to its state immediately prior to such use.
4. Grantees, their successors and assigns, shall bear all liability with respect to use of the driveway by Grantees, their invitees, employees, agents, successors and assigns, and shall hold the Grantor, and their successors and assigns, harmless from and against any claim of damages to persons or property resulting from such use, except if such damages are caused by the negligence of Grantor.
5. The right to use the "dirt road" as a driveway shall benefit only the Valenti property described above, and no other property.

IN WITNESS WHEREOF the parties have duly executed this Agreement as a sealed instrument on the date first above written.

WITNESS:

Veronica Coffin

GRANTOR:

Coffin Real Estate Nominee Trust

By: Hazel T Coffin, Trustee

HAZEL T. COFFIN, its  
TRUSTEE

WITNESS:

GRANTEES:





M. Valenti, Trustee as aforesaid, and proved to me through satisfactory evidence of identification, which was a driver's license, to be the persons whose names are signed on the preceding document, and acknowledged to me that they signed it voluntarily for its stated purpose.



Print name:  
Notary Public  
My Commission Expires



[Signature]

[Signature]  
SARITA C. VALENTI

[Signature]

F. VALENTI REALTY TRUST

[Signature]

By: [Signature]  
FRANCIS M. VALENTI, JR., its Trustee  
By: [Signature]  
SARITA C. VALENTI, its Trustee

STATE FLORIDA  
Commonwealth of Massachusetts

\_\_\_\_\_, SS.

On this 31st day of AUGUST, 2017, before me, the undersigned notary public, personally appeared the above-named Hazel T. Coffin, Trustee as aforesaid and proved to me through satisfactory evidence of identification, which was a driver's license, to be the person whose name is signed on the preceding document, and acknowledged to me that she signed it voluntarily for its stated purpose, on behalf of the Coffin Real Estate Nominee Trust.

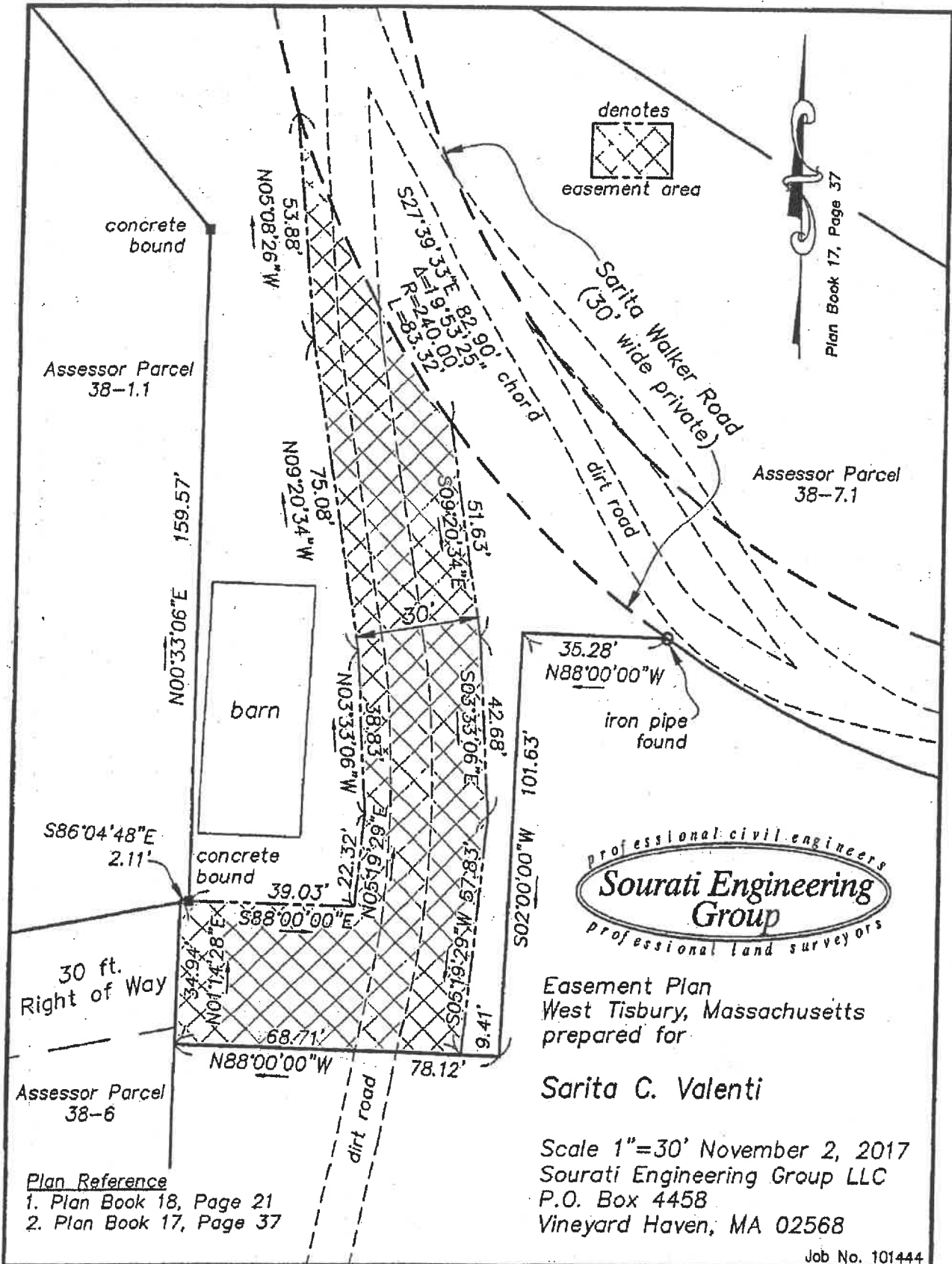


[Signature]  
Print name: SHAKEEL SALEH.  
Notary Public  
My Commission Expires: 03/14/2021

Commonwealth of Massachusetts

Dukes, SS.

On this \_\_\_\_\_ day of \_\_\_\_\_, 2017, before me, the undersigned notary public, personally appeared the above-named Sarita C. Valenti, individually and Trustee as aforesaid and Francis



denotes  
 [cross-hatch symbol]  
 easement area

Plan Book 17, Page 37

Professional civil engineers  
**Sourati Engineering Group**  
 Professional land surveyors

Easement Plan  
 West Tisbury, Massachusetts  
 prepared for

**Sarita C. Valenti**

Scale 1"=30' November 2, 2017  
 Sourati Engineering Group LLC  
 P.O. Box 4458  
 Vineyard Haven, MA 02568

Job No. 101444

Plan Reference  
 1. Plan Book 18, Page 21  
 2. Plan Book 17, Page 37

ATTEST: Paulo C. DeOliveira, Register  
 Dukes County Registry of Deeds

James Hauptke Opinion Letter  
of 7/5/19



*Law Offices of Lampke & Lampke*  
115 North Street, Suite 3 Hingham, MA 02043  
Phone: 781-749-9922 | [lampkelaw.com](http://lampkelaw.com) | Fax: 781-749-9923

*Three Generations of Legal Expertise*

**James B. Lampke, Esq.**  
[james.lampke@lampkelaw.com](mailto:james.lampke@lampkelaw.com)  
C: 617-285-4561

**Haskell A. Lampke, Esq.**  
(1910-2010)

**Daniel L. Lampke, Esq.**  
[daniel.lampke@lampkelaw.com](mailto:daniel.lampke@lampkelaw.com)  
C: 617-840-4338

INTER/INTRA DEPARTMENTAL MEMO  
REGARDING POLICY FORMULATION  
NOT A PUBLIC RECORD SUBJECT TO MANDATORY DISCLOSURE  
PROPER SUBJECT FOR EXECUTIVE SESSION  
ATTORNEY-CLIENT/ATTORNEY WORK PRODUCT PRIVILEGED MATERIAL

July 5, 2019

Joseph Tierney  
Building Inspector  
Town of West Tisbury  
1059 State Road  
P.O. Box 278  
West Tisbury, MA 02575

Re: 118 Sarita Walker Road  
Lot Area Requirements  
Propriety of Building Permit Issuance

Dear Mr. Tierney:

You have consulted with me relative to the propriety of a building permit that was issued by your office for property numbered 118 Sarita Walker Road (the locus, lot or property). Specifically, the issue is whether the provisions of Section 4.2-2A.3 of the West Tisbury Zoning Bylaw (the Bylaw) are applicable to the property such that the area of any public or private road within the property lot are to be deducted from the property's reported area of 3.1 acres, and if so, does that render the property deficient as to the minimum lot size requirements to be a buildable lot and entitled to a building permit.

Summary of Opinion- Based on my review of numerous plans, documents, our conversations, filings by attorneys for both the permit holder and abutters protesting the permit, and analysis of the law, it is my opinion that Section 4.2-2A.3 applies to the property. In so applying the Bylaw, the area of Sarita Walker Road within this lot should be deducted from the 3.1 acres area of the property. Presuming that upon doing so, as is suggested by various documents, the area of the lot is 2.24 acres, which is below the minimum area requirement of 3 acres. As a result, the lot as presently configured does not meet the minimum zoning requirements for a lot

in this district to be buildable. Accordingly, the lot does not qualify for a building permit as configured and any permit issued should be revoked.

### Analysis-

It is important to note that the issue here is the applicability of the Bylaw. If it is not applicable, the permit that was issued was properly issued. If the Bylaw is applicable, then the lot does not meet the required area requirements and the permit should be revoked.

It is also important to note that the issue is not the Approval Not Required (ANR) plan. The plan, as well as several other ANR plans for this and related properties, were approved by the Planning Board, not appealed and are thus presume at this time to be accurate.

An ANR endorsement on a plan by the Planning Board indicates that the Planning Board was satisfied that the plan did not require to be processed as a subdivision plan under the Subdivision Control Law, G.L. c.41, section 81P. Presumably this was because the Planning Board was satisfied that:

“the division of [the land shown on the plan] 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) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the city or town in which the land lies, 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. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by-law, if any, of said city or town for erection of a building on such lot [here a minimum of 100 feet], and if no distance is so required, such frontage shall be of at least twenty feet”.

The approval of a plan under the ANR plan process has no bearing on whether the lot or lots shown on the plan comply with zoning to be buildable. The ANR approval process is to ensure that any lots created have adequate frontage to meet access needs. The ANR process is distinct from the zoning or building permit process. Having approval under the ANR process does not ensure zoning compliance or that a lot shown on the plan is buildable. In fact, the various plans involved, including the plan creating the lot which is the subject of this inquiry, specify note that “Endorsement is without regard to buildability or permitted occupancy, does not stay zoning enforcement and is subject to other notation hereon.” Frontage and access is addressed by the Planning Board. Compliance with zoning to warrant the issuance of a building permit is addressed by the Building Inspector (subject to appeal to the Zoning Board of Appeals)

Simply stated, Section 4.2-2A.3 of the Bylaw requires, when determining if a lot meets the minimum lot size requirements for that district that any part of a public or private way is not to be included in calculating the lot size. I reached this conclusion by going through the following analysis.

### Facts Not Dispute-

#### I. Bylaw in question-

The pertinent part of the Bylaw in question provides in part as follows:

“ARTICLE IV ZONING DISTRICTS: DIMENSIONAL AND DENSITY REGULATIONS

SECTION 4.1 PURPOSE

The purpose of dimensional and density regulations is to establish lot size, setback, and related requirements to maintain the rural and historic character of West Tisbury and to encourage development that protects open space.

...

4.2-2 Interpretation of Dimensional Requirements

A. Requirements for Lot Area Calculations

For lots endorsed by the Planning Board after March 22, 1989, the following standards shall apply in calculating minimum lot area:

1. In the RU District, the minimum lot area must include in one contiguous parcel a minimum of one hundred thousand square feet of land which is not under any body of water (including watercourses) or wetland as defined in G.L. Section 40, Chapter 131;

2. In other districts, no land which is wetland as defined in G.L. Section 40, Chapter 131 shall be included in the determination of the lot area required for zoning compliance;

3. **For lots in all zoning districts, no part of a public or private way may be included in the lot area required for zoning compliance.”<sup>1</sup>**

(emphasis added)

2. The Lot in Question-

The lot in question is numbered 118 Sarita Walker Road.

The lot in question is shown as Lot 2A-1.1 on a plan captioned “Plan of Land in West Tisbury, Massachusetts, prepared for Coffin Real Estate Nominee Trust”, dated July 12, 2017 and filed with the Dukes County Registry of Deeds on October 20, 2017 in Book 18, Page 83 (Plan 18-83).

Lot 2A-1.1 on Plan 18-83 purports to be 3.1 +/- acres.

This plan received the endorsement on July 17, 2017 from the West Tisbury Planning Board that it met the requirements of an ANR plan.

The Bylaw is clear- “no part of a public or private way may be included in the lot area” calculations. The Town could have provided for in this exclusion qualifiers, such as permitting a percentage of a way or providing that a way could be included as approved by a permit granting authority. No such provision however exists.



Lot 2A-1.1 (the property in question) was created from a division of Lot 2A-1 as shown on a plan captioned "Plan of Land in West Tisbury, Massachusetts, prepared for Coffin Real Estate Nominee Trust", dated May 17, 2017 and filed with the Dukes County Registry of Deeds on June 15, 2017 in Book 18, Page 67 (Plan 18-67).

Lot 2A-1 on Plan 18-67 purports to be 6.3 +/- acres.

That plan received the ANR endorsement on May 22, 2017 from the West Tisbury Planning Board that it met the requirements of an ANR plan.

Lot 2A-1.1 is in a zoning district that requires a minimum lot size for buildable lots of at least 3 acres.

### 3. Sarita Walker Road-

As is evident by the plans prepared by the owner, Sarita Walker Road is within the property.

Sarita Walker Road is the road used to provide access to the property and to establish that the property has sufficient frontage.

Sarita Walker Road is depicted on Plan 18-83 "30' wide private" From the easterly terminus of the property, Sarita Walker Road continues to connect to Lot 2A-1.2 on Plan 18-83 and from that terminus appears to continue in a westerly and then northerly direction.

Sarita Walker Road appeared on various plans approved by the Planning Board by its ANR plan endorsement for several of the lots in this area as providing access and frontage for those lots. In addition, the way that became Sarita Walker Road appeared on other plans approved by the Planning Board as an ANR plan. These various plans were used as plan references for the creation of the subject property according to the Plan Reference legend on the plan creating the lot in question. I have attached to this memo copies of the following recorded ANR plans that establish this:

Ex. 1- Plan 17-37, dated July 16, 2012, ANR approval September 9, 2015 and filed with the Registry of Deeds on September 24, 2012; of note, the frontage for Lot 2 created by this plan appears to be Sarita Walker Road

Ex. 2- Plan 18-21 dated September 18, 2015, ANR approval September 21, 2015, and filed with the Registry of Deeds in 2016; of note, the frontage for lots 2C and 2D created by this plan (the Walsdorf lots) appears to be Sarita Walker Road

Ex. 3- Plan 18-67, dated May 17, 2017, ANR approval May 22, 2017, and filed with the Registry of Deeds on June 15, 2017; of note, frontage for Lot 2B-1 created by this plan is via Sarita Walker Road and access to Lot 2A-1 on the plan is via a 15' right of way to Sarita Walker Road

Ex. 4- Plan 18-83, dated July 12, 2017, ANR approval July 17, 2017, and filed with the Registry of Deeds on October 20, 2017; of note, this ANR plan created the property in question (Lot 2A-1.1) and Sarita Walker Road, shown on this plan, appears to lead to the frontage for the lot

Other ANR plans for land in this area show lots having frontage or abutting on an unnamed road or way which is shown on the plan as a "(30' wide private)" way, which in subsequent plans noted above is labeled as Sarita Walker Road. These plans, attached to this memo, include:

Ex. 5- Plan number W-160, dated December 10, 1979, ANR approval December 10, 1979, and filed with the Registry of Deeds on December 31, 1979; of note, the plan shows a path that follows the same path of what appeared in Plan 17-37 as Sarita Walker Road

Ex. 6- Plan number W-455 (labeled the Caskey Plan), dated September 13, 1993, ANR approval October 4, 1993, and filed with the Registry of Deeds on December 30, 1993; of note, a partial path appears which is labeled "30' wide right of way" that follows the same part of what appeared later as Sarita Walker Road

Ex. 7- Plan number W-482, dated March 8, 1990, ANR approval August 7, 1995, and filed with the Registry of Deeds on July 22, 1996; of note, a partial path labeled "30' wide way (private)" appears in the same area where Sarita Walker Road appears on later plans

Ex. 8- Plan W-509, dated December 13, 1996, ANR approval May 5, 1997, and filed with the Registry of Deeds on December 31, 1998; of note, it shows a full path labeled "30' wide way (private)", which appears in the same location of Sarita Walker Road in Plan 18-83

With the exception of Plan W-160 and W-455, these plans were prepared by the owner of the property in question or a family member. In other words, the way which became Sarita Walker Way was created in plans done by the owner of 118 Sarita Walker Road. The owner would be estopped from challenging the existence of the way created. Conveyances have been based on the various ANR plans, showing Sarita Walker Road (labeled as such or as a private way). Citations omitted.

These documents support the conclusion that Sarita Walker Road at present and as it developed over time is a private way.

Sarita Walker Road is within the boundaries of Lot 2A.1-1, the subject lot in this matter.

#### Further Discussion-

As previously stated in our discussions, an issue is whether Sarita Walker Road as it is called now or the configuration of Sarita Walker Road previously is a "public or private way"- the terms used in Section 14-2A.3- and how was it created. In considering that issue, one would look first to the Bylaw and see if those terms are defined.

The pertinent sections of the Bylaw on this aspect of the analysis are:

#### ARTICLE XIV DEFINITIONS

##### SECTION 14.1 GENERAL

**Except where specifically defined herein, all words used in this zoning bylaw shall carry their customary meanings as found in a standard dictionary. Words used in the present tense shall include the future. (emphasis added)**

Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary. The word shall is always mandatory. The word may is permissive. Building or structure includes any part thereof. The word lot includes the word plot or parcel. The word person includes an individual person, a firm, a corporation, a partnership, and any other agency of voluntary action. The word he shall include she or they. The phrase used for includes arranged for, designed for, intended for, maintained for, and occupied for.

#### SECTION 14.2 DEFINITIONS IN THIS BYLAW

In this zoning bylaw, the following terms shall have the meanings indicated unless a contrary meaning is required by the context or is specifically prescribed:

##### Section 14.2- Definitions-

...

Frontage: That boundary of a lot which lies along a street line (not along a common driveway) and which contains at least one physically adequate point of vehicular access into the lot, at a location that provides safe and adequate sight distance.

...

Lot: An area of land in one ownership with definite boundaries, used or available for use as the site of one or more buildings.

...

Private Road: A road providing access to lots that is not owned or maintained by the Town.

Public Road: A road that is owned or maintained by the Town or the Commonwealth of Massachusetts.

...

Street/Road: (a) a public way or a way which the Town Clerk certifies is maintained and used as a public way; or (b) a way shown on a plan approved and endorsed by the West Tisbury Planning board in accordance with the Massachusetts Subdivision Control Law and which has been improved and constructed in accordance with the requirements of such approval, or (c) a way in legal and physical existence when the Subdivision Control Law became effective in West Tisbury in April, 1973, which had 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 and served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

Notably, the term "way" is not defined in the Bylaw. Accordingly, under Section 14.1 " words used in this zoning bylaw shall carry their customary meanings as found in a standard dictionary.

"Way" is defined in a standard dictionary as follows:

"1. a : a thoroughfare for travel or transportation from place to place

b : an opening for passage Route

2 the course travelled from one place to another”

Merriam Webster Dictionary, <https://www.merriam-webster.com/dictionary/way>

This adds further support for the view that the “30’ wide (private)” or “30’ wide ay (private)” or Sarita Walker Road or however it is delineated, is a “course” or “throughfare” for travel. It is thus a “way” under Section 4.2-2A.3 of the Bylaw. It provides definition and access to Sarita Walker Road.

It is logical that a community may want to be sure what the correct area of a lot is. Such matters as setback, lot coverage and the like are dependent on the area and layout of property. One could have a modest size parcel which a large way in it. If the way is not subtracted out from the area, the calculations for seback, lot coverage and the like will be artificial due to the inclusion of the area of the way in the calculations. Stated differently, if the exclusion of ways from the calculation of lot size was not in the Bylaw, a public or private way could be in a lot to a substantial degree without affecting the real lot size. One cannot build on a public or private way; thus there is a rationale for not including its area in the lot size area calculations.

Factoring out certain parts of a lot is part of the Bylaw, in addition to the “public or private way” exclusion. The Bylaw provides for example for not including in lot coverage calculations other parts of a lot. See for example:

#### “4.2-2 Interpretation of Dimensional Requirements

##### A. Requirements for Lot Area Calculations

For lots endorsed by the Planning Board after March 22, 1989, the following standards shall apply in calculating minimum lot area:

- 1. In the RU District, the minimum lot area must include in one contiguous parcel a minimum of one hundred thousand square feet of land which is not under any body of water (including watercourses) or wetland as defined in G.L. Section 40, Chapter 131;**
- 2. In other districts, no land which is wetland as defined in G.L. Section 40, Chapter 131 shall be included in the determination of the lot area required for zoning compliance;”**

(emphasis added)

See also Section 5.2-1 of the Bylaw, which provides in part:

#### “SECTION 5.2 ALLOWABLE DENSITY

The allowable density for residential units is calculated by a formula based upon the net acreage of the property. This calculation involves two steps:

5.2-1 To determine net acreage, subtract from the total (gross) acreage of the site the total acreage of all floodplains, watercourses (including ponds), land in the shore zone of the Coastal District, and wetlands

as defined in Chapter 131, Section 40 of the General Laws as determined by an accredited wetlands specialist.”

In such situations where a permit may have been issued in error, one may be concerned about liability. However, in the absence of bad faith there would generally be no risk of liability. This is because the State Tort Claims Act, G.L. c. 258, provides in part that there is no liability arising due to the incorrect issuance of a permit. G. L. c258, section \_\_\_\_.

In addition, it is my understanding from the attorneys representing the permit holder and those appealing the issuance of the permit that the conveyance of this lot is on hold and that no work is being done under the permit until these issues are resolved.

Conclusion-

For the reasons stated above, as well as other reasons not included, it is my opinion based on the information provided and obtained that the language of Section 4.2-2A.3 of the Bylaw, requiring not including public or private ways in the area calculations of lots is applicable to the permit in question. The permit in question should be revoked. The holder of the permit has whatever appeal rights available under the law..

I trust that this addresses sufficiently your inquiry. If you have additional questions or wish to discuss this further, please do not hesitate to contact me.

Thank you for your courtesy and cooperation in this matter and for the opportunity to be of service.

Sincerely,

*s/ James B. Lampke*

James B. Lampke, Esq.

JBL/l

Encl.

Cc: Jennifer rand, Town Administrator

Coffin St Wls  
Deed TO  
Stanfields  
(Page 1)  
3/24/22

MARTHA'S VINEYARD LAND BANK FEE  
PAID \$70,000.00  
EXEMPT *M. McManus*  
64684 03/24/2022  
NO. DATE CERTIFICATION

QUITCLAIM DEED

We, **Hazel T. Coffin a/k/a Hazel Betty Coffin, Sarita Leslie Walker, Amanda Skye Walker and Sarita Christine Walker** (collectively, the "Grantor"), and care of Holiday FL,

in consideration paid and in full consideration of **THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS** paid,

grant to **Troy L. Stanfield and Kimberly Patterson Stanfield**, husband and wife as tenants by the entirety, of 153 Valley Road, Needham, MA 02492 (the "Grantee"),

with quitclaim covenants,

the land with the buildings or structures thereon situated in West Tisbury, Dukes County, Commonwealth of Massachusetts, described as follows:

Being the lot shown as "lot area 6.3 +/- acres" on a "Plan of Land in West Tisbury, Massachusetts prepared for Coffin Real Estate Nominee Trust Scale 1" = 80' November 2, 2021 Sourati Engineering Group PO Box 4458, 107 Beach Road, Suite 202 Vineyard Haven, MA 02568 Phone (508) 693-9933" recorded with the Dukes County Registry of Deeds in Plan Book 19, Page 106. Also the lots shown as "2A -1.1 and 2A - 1.2" on a "Plan of Land in West Tisbury, Massachusetts prepared for Coffin Real Estate Nominee Trust Scale 1" = 80' July 12, 2017 Sourati Engineering Group PO Box 4458, 107 Beach Road, Suite 202 Vineyard Haven, MA 02568 Phone (508) 693-9933", recorded with the Dukes County Registry of Deeds in Plan Book 18, Page 83.

Said premises are conveyed subject to and with the benefit of all rights, restrictions, easements, and appurtenances of record, if any, insofar as the same are now in force and applicable.

By signing below the Grantor hereby certifies, under the pains and penalties of perjury, that the Premises conveyed by this deed is not a principal residence and is therefore not homestead property pursuant to M.G.L. c. 188

For title see deed dated February 28, 2022 and recorded with the Dukes County Registry of Deeds in Book 1615, Page 878.

118 + 140 Sarita Walker Road, West Tisbury

Meise Objection Letter  
of 9/18/22 to Jae Tierney



JAY FREDERIC THEISE LAW ASSOCIATES LLC  
Street Address for Delivery: 19 Locust Lane, Aquinnah, Ma. 02535  
Mail Address: PO Box 755, Chilmark, Ma. 02535  
Telephones: Office: 617-482-8300, Cell: 617-930-1575, E-Fax: 617-391-3027  
E-Mail: [jft@theiselaw.com](mailto:jft@theiselaw.com)

September 18, 2022

Joe Tierney, West Tisbury Massachusetts Building Inspector  
By email attachment addressed to: [Inspect@westtisbury-ma.gov](mailto:Inspect@westtisbury-ma.gov)

Re: Objection to Application for foundation permits for 140 Sarita Walker Road,  
Parcels 38.7.1 and 38.7.12 filed under cover of August 31, 2022 and received by  
West Tisbury on September 2, 2022 by or on behalf of Troy and Kimberly  
Stanfield

Dear Mr. Tierney:

The undersigned legal counsel to the MBG Realty Trust, Myron Garfinkle, Trustee,  
(Objector), an immediate abutter to Troy and Kimberly Stanfield, owners and applicants  
(Applicants), for the above referred to permits, hereby files this objection to the same and  
requests they be DENIED.

Simply put Applicants' Counsel's cover letter of August 31, 2022 and its enclosures filed  
before you on September 2, 2022, are unbuildable as they depend upon a 6.3 acre lot that does  
not and cannot exist because of the Derelict Fee Statute, M.G.L.A. chapter 183, section 158,

popularly called the “Fee In The Way Law,” let alone the letter’s erroneous calculation of ‘as of right buildable square footage without Planning Board approval’.

#### THE FEE IN THE WAY DISCUSSION:

The words “Fee” as used in the statute means “Title” and “Way” applies to any and all “Private Ways.” Sarita Walker Road, as clearly shown on the Sourati Engineering ANR (Approval Not Required) Plan of November 2, 2021 (the Sourati Plan of 2021) attached to Applicant’s application is a such a Private Way.

The Fee In The Way statute automatically gives title in a private way to a buyer whose lot is cut out from a larger lot by a deed that describes one of its boundaries as the Way. All of the lots on Sarita Walker Private Road (Way) were cut out by various Coffin entity deeds, all of which used Sarita Walker as one of the bounds. The statute goes further and recites the Seller can eliminate automatic Title passage to the buyer only by the inclusion in the deed of very specific language. Merely granting a right to use the Way is not sufficient language to create the exception. The statute continues that the buyer automatically owns to the mid-point of the Way for the length of the property bound on the Way. If the seller owns the land directly across from the buyer on the Way, then the seller owns the other side to the mid-point. Otherwise, if two facing buyers have lots bound by the same Way, each owns to the mid-point, but the Seller retains no ownership. That is exactly the case here.

All of the Seller-Coffin deeds include Sarita Walker Road as a bound, none include the necessary exclusionary language to prevent the statute from passing the Way title to the Buyer, and as

clearly shown on the Objector Depiction attached here, a portion of the Gund and Walsdorf lots face each other on Sarita Walker Private Road (Way), cutting off the 6.3 Acres shown on the Sourati Plan of 2021.

In support of this objection, I also attach an unequivocal opinion letter dated November 18, 2019 from Attorney Erik M. Greene, certified by the Chief Justice of the Land Court of the Commonwealth of Massachusetts as a Land Court Title Examiner qualified to give expert opinions concerning land use matters, and the Affidavit of Brian Murphy, a licensed Massachusetts Professional Land Surveyor signed under the pains and penalties of perjury dated April 26, 2019 which states in paragraph 14 the Fee In The Way applies.

The Greene opinion and Murphy affidavit are also before you, attached to my memo with other exhibits on file at your office dated December 10, 2021, which I incorporate by reference in this Objection.

I further point out that the Applicants' Sourati 2021 Plan 30 foot wide Private Way creates a significant intrusion onto several portions of land owned by in addition to Mr. Gund and the Walsdorfs at the cutoff point, Gund at another point, Valenti, and Benjamin Coffin III.

The Applicants' Counsel's cover letter refers to the Sourati 2021 Plan showing the 6.3 acres. Massachusetts law is crystal clear the Plan does not grant title to the Way. See Tatten v Kurlan at 32 Mass. App. Ct. 239 (1992), holding the Fee In The Way statute requires words of express reservation to prevent the automatic conveyance of some or all of the Way, and that the

instrument of conveyance (the deed) is the only evidence with respect to the operation of the fee-in-the-Way, and plans are not sufficient or admissible as evidence.

Further, when the entire private way is properly measured and deducted (see discussion below in the Calculations section of this objection), and the lot properly viewed by the disconnect as the two separate lots there actually are, the barn lot buildable area is at best 2.8 acres and the Pool lot 2.5 acres, both non-conforming in this 3 buildable acre district.

The law, the unequivocal authoritative Land Court Examiner's opinion, and a licensed Land Surveyor's affidavit are before you. As stated at the beginning of this portion of the objection, the applications before you depend upon the existence of a 6.3-acre lot. No such lot exists. No permits may be granted.

#### THE CALCULATION DISCUSSION:

I further point out that the calculations of entitlement set forth in the Applicants' counsel's cover letter filed with the application are incorrect as there is no deduction for the entirety of the 30-foot-wide private way depicted on the Sourati 2021 Plan. Under the By-laws it is clear that the entirety of the 30-foot-wide private way that the Plan depicts must be deducted as non-buildable acreage. See Bylaw 4.2-1A(3). The Sourati Plan only deducts the "dirt path" included in the Way! As a result of this failure to deduct, Counsel's letter incorrectly states on page 2, "... the Property's net Lot area... is 263,372 s.f. (+/-) or 6.046 acres, the Property can support an RFA of 4,261 square feet...plus an additional SFA of 2,000 s.f. by right." On page 4, "Based on the Property's square footage of 263,372 that the property can support as of right

without need for Planning Board or ZBA approvals 4,261.5 square feet, plus an additional 2,000 square feet.” On page 5, “...without requiring any zoning relief from either the Planning Board or Zoning Board of Appeals.”

Without any waiver of the Fee-In-The-Way objection which substantially reduces some of the claimed owned area including the disconnect, Applicants claim of 4,261.5 square feet exceeds what may be built as of right. Deducting the entire 30-foot Way on Stanfields submitted Plan is undeniably 1.01 acres of square footage. The definition of an acre of the West Tisbury Bylaws is 43650 square feet. Therefore, 6.3 total acres shown on the plan minus 1.01 acres equals 5.29 acres on buildable land. So,  $6.3 - 1.01 = 5.29 \times 43650 = 230,908.5$ . Per the new bylaw the correct buildable measurement of 5.29 acres only permits as of right 4,072 square feet and up to 5,500 Max with a Special Permit. Therefore, before this application which calculates an RFA of 4,261.5 square feet which is overstated by 189 square feet is in order to be acted upon it must be brought before the Planning Board prior to any application for a building permit of any kind, and otherwise must now be denied.

#### CONCLUSION:

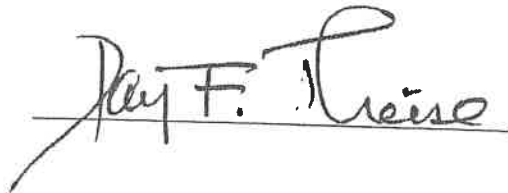
Without prejudice to any and all other issues such as access, public safety, Natural Heritage, maximum permissible access on a Way, no apparent turn around for emergency vehicles, environmental issues, etc., as these Applications are on a non-existent lot clearly established by including disconnecting land owned by others as a result of the Fee-In-The-Way statute, and are subject to a succeeding Plan filed on behalf of the same Applicants by their same Surveyor reestablishing separate lots to obtain a septic permit from West Tisbury for a smaller

lot (See Sourati Application For Disposal System signed by him on June 16, 2022, and Plan on file with the Board of Health showing the severed lots from the Sourati Plan of 2021), and the overstated as of right square footage claimed is not permissible without first obtaining Planning Board approval, Myron Garfinkle, Trustee of the MBG Realty Trust, a direct abutter Objects to any permits issuing and emphatically states the instant applications should be denied.

Respectfully,

Jay F. Theise

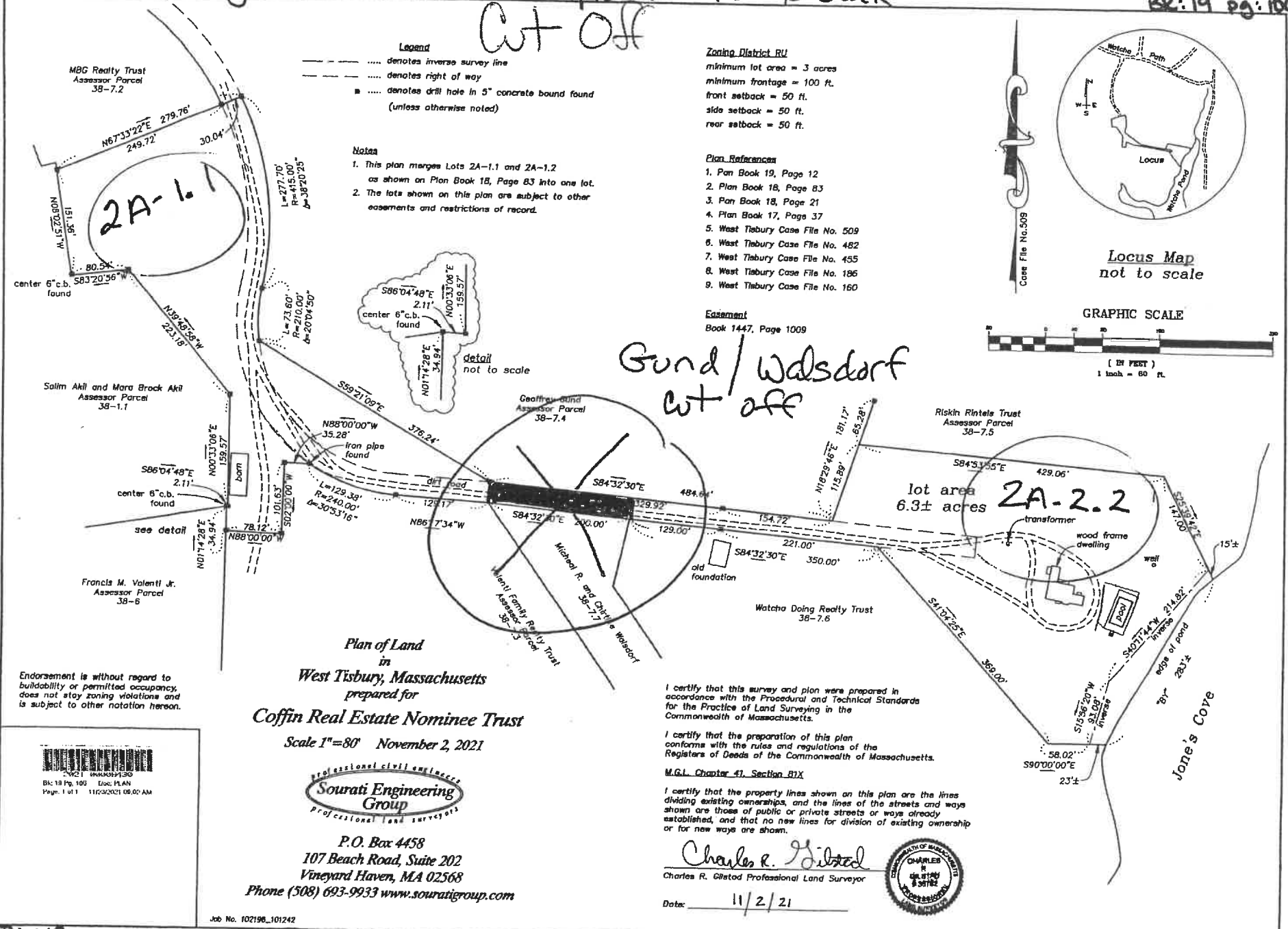
Counsel to Myron Garfinkle, Trustee

A handwritten signature in black ink that reads "Jay F. Theise". The signature is written in a cursive style with a horizontal line underneath the name.

These Depiction of  
Lot Cut off showing  
separated lots and 2A-1.1 and 2A-1.2

All Fee in Way  
Owned by Abutter along  
6.3 Acre Plan

These drawing - of 11/16/22 for  
Objection letter - Depiction - Not to Scale  
Cut Off



**Legend**

- ..... denotes inverse survey line
- ..... denotes right of way
- ..... denotes drill hole in 5" concrete bound found (unless otherwise noted)

**Notes**

1. This plan merges Lots 2A-1.1 and 2A-1.2 as shown on Plan Book 18, Page 83 into one lot.
2. The lots shown on this plan are subject to other easements and restrictions of record.

**Zoning District RU**

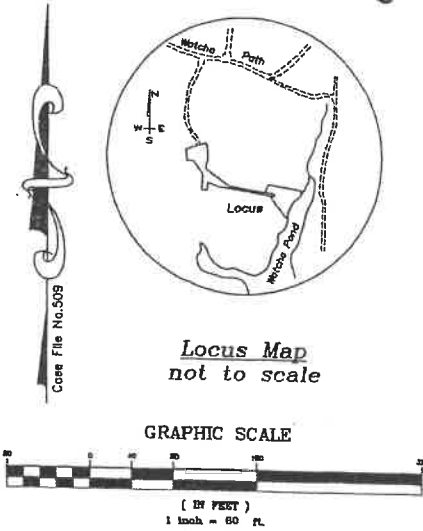
minimum lot area = 3 acres  
 minimum frontage = 100 ft.  
 front setback = 50 ft.  
 side setback = 50 ft.  
 rear setback = 50 ft.

**Plan References**

1. Plan Book 19, Page 12
2. Plan Book 18, Page 83
3. Plan Book 18, Page 21
4. Plan Book 17, Page 37
5. West Tisbury Case File No. 509
6. West Tisbury Case File No. 482
7. West Tisbury Case File No. 455
8. West Tisbury Case File No. 186
9. West Tisbury Case File No. 160

**Easement**

Book 1447, Page 1009



Endorsement is without regard to buildability or permitted occupancy, does not stay zoning violations and is subject to other notation hereon.

Barcode and technical information:

11/16/2022 10:00 AM  
 11/16/2022 10:00 AM  
 Page: 1 of 1 11/16/2022 10:00 AM

Plan of Land  
 in  
 West Tisbury, Massachusetts  
 prepared for  
**Coffin Real Estate Nominee Trust**  
 Scale 1"=80' November 2, 2021



P.O. Box 4458  
 107 Beach Road, Suite 202  
 Vineyard Haven, MA 02568  
 Phone (508) 693-9933 www.souratigroup.com

I certify that 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 of the Commonwealth of Massachusetts.

M.G.L. Chapter 41, Section 81X

I certify that the property lines shown on this plan are the lines dividing existing ownerships, and the lines of the streets and ways shown are those of public or private streets or ways already established, and that no new lines for division of existing ownership or for new ways are shown.

*Charles R. Gilsted*  
 Charles R. Gilsted Professional Land Surveyor



Date: 11/2/21



Legend:

Cut off

Valenti land

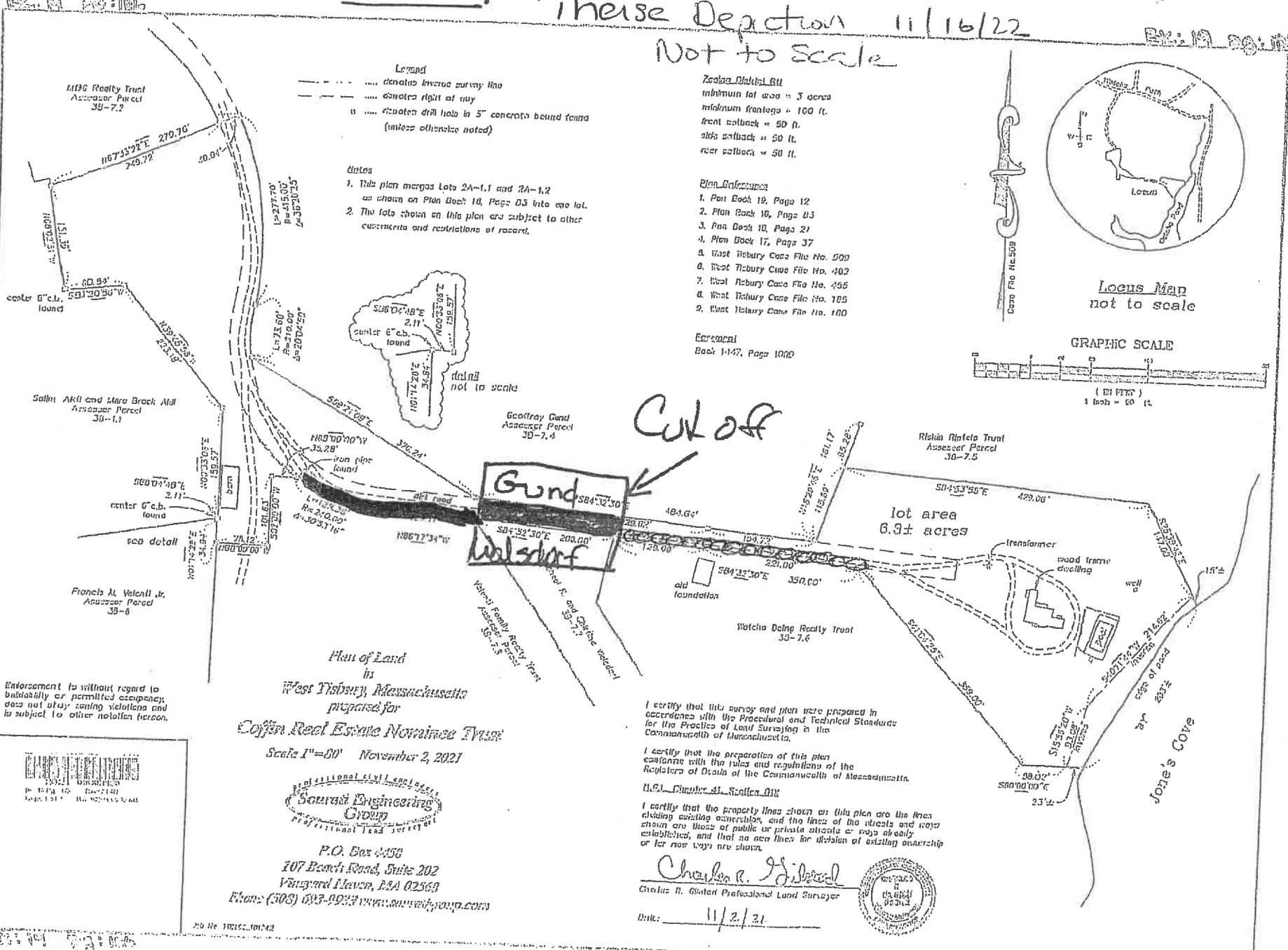
More Gund land

Ben Coffin Trust land

These Deposition 11/16/22

Not to Scale

Ex: 19 pg: 10



**Legend**

- denotes inverse survey line
- denotes right of way
- o situated drill hole in 5" concrete bound found (unless otherwise noted)

**Notes**

- This plan merges Lots 2A-1.1 and 2A-1.2 as shown on Plan Book 10, Page 03 into one lot.
- The lots shown on this plan are subject to other covenants and restrictions of record.

**Zeckel District 011**

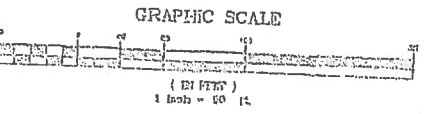
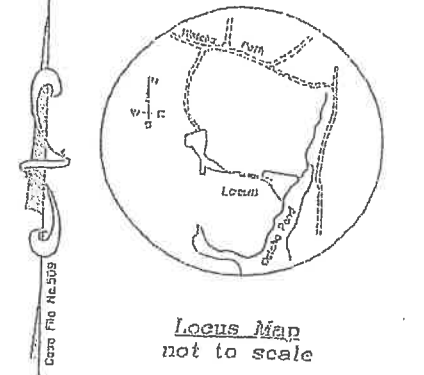
minimum lot area = 3 acres  
 minimum frontage = 100 ft.  
 front setback = 50 ft.  
 side setback = 50 ft.  
 rear setback = 50 ft.

**Plan References**

- Plan Book 10, Page 12
- Plan Book 10, Page 03
- Plan Book 10, Page 21
- Plan Book 17, Page 37
- West Hibernia Case File No. 509
- West Hibernia Case File No. 402
- West Hibernia Case File No. 455
- West Hibernia Case File No. 185
- West Hibernia Case File No. 160

**Enforcement**

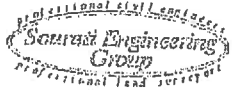
Book 1-147, Page 1009



Cut off

Gund  
Walsdorf

Plan of Land  
 in  
 West Hibernia, Massachusetts  
 prepared for  
 Coffin Real Estate Nominee Trust  
 Scale 1"=50' November 2, 2021



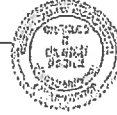
P.O. Box 4458  
 107 Beach Road, Suite 202  
 Vineyard Haven, MA 02569  
 Phone: (508) 647-9933 www.conradeng.com

I certify that 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 Registrars of Deeds of the Commonwealth of Massachusetts.

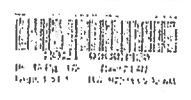
**Charles R. Gifford, D.L.S.**  
 I certify that the property lines shown on this plan are the lines showing existing ownership, and the lines of the streets and water shown are those of public or private streets or ways already established, and that no new lines for division of existing ownership or for new ways are shown.

Charles R. Gifford  
 Charles R. Gifford Professional Land Surveyor



Date: 11/2/21

Enforcement to without regard to buildability or permitted occupancy, does not abate zoning violations and is subject to other notation herein.

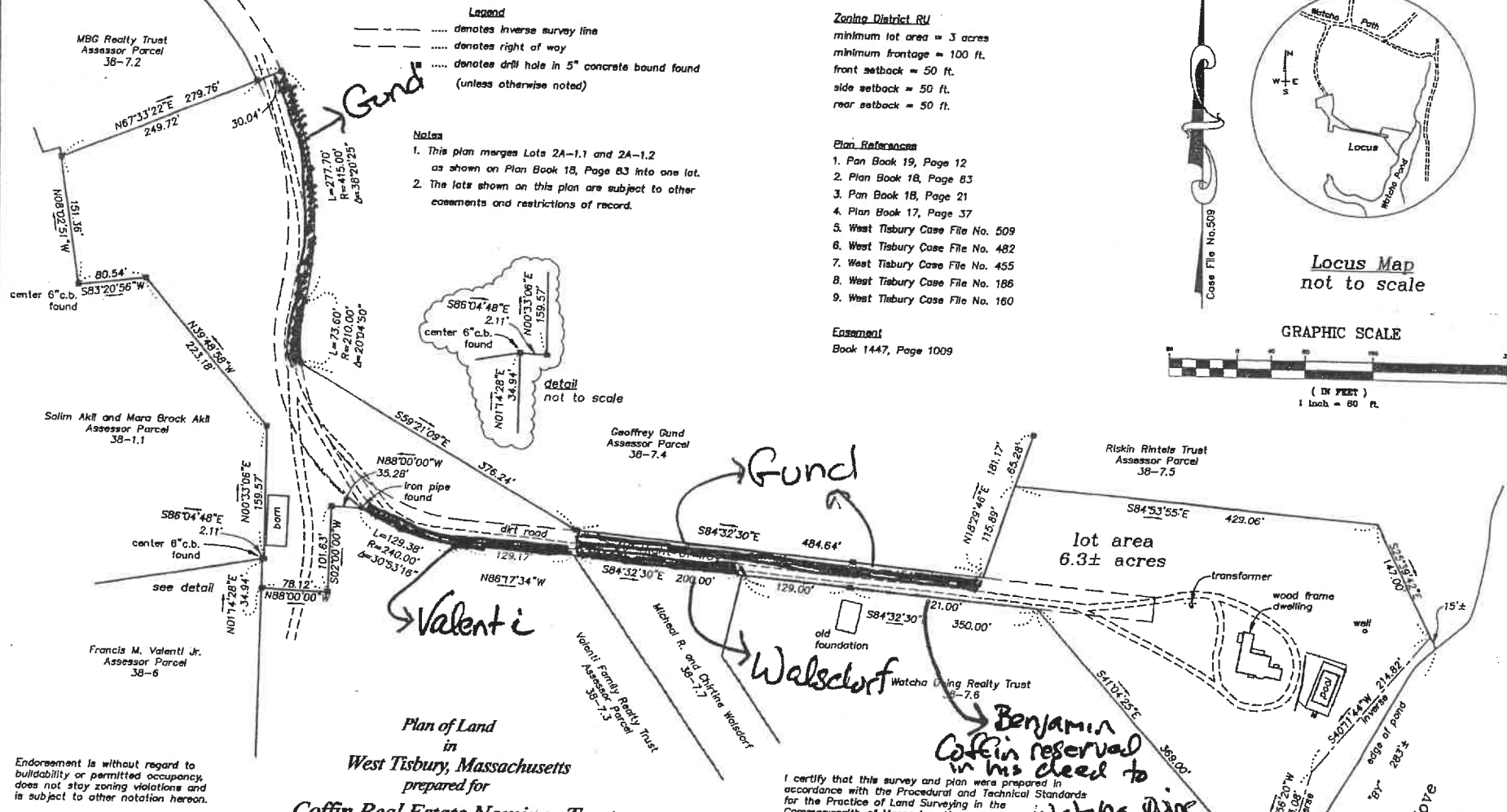


2021 NOV 02 10:42

Ex: 19 pg: 10

# Theise drawing of Fee in the way Land owned by Gund, Valenti, and Walsdorf

## Depiction - Not To Scale



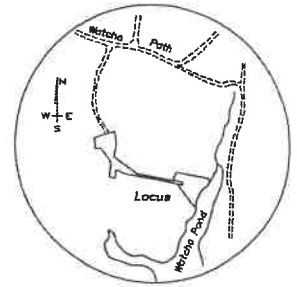
- Legend**
- ..... denotes inverse survey line
  - ..... denotes right of way
  - ..... denotes drill hole in 5" concrete bound found (unless otherwise noted)

- Notes**
- This plan merges Lots 2A-1.1 and 2A-1.2 as shown on Plan Book 18, Page 83 into one lot.
  - The lots shown on this plan are subject to other encumbrances and restrictions of record.

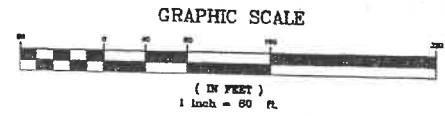
**Zoning District RV**  
 minimum lot area = 3 acres  
 minimum frontage = 100 ft.  
 front setback = 50 ft.  
 side setback = 50 ft.  
 rear setback = 50 ft.

- Plan References**
- Plan Book 19, Page 12
  - Plan Book 18, Page 83
  - Plan Book 18, Page 21
  - Plan Book 17, Page 37
  - West Tisbury Case File No. 509
  - West Tisbury Case File No. 482
  - West Tisbury Case File No. 455
  - West Tisbury Case File No. 186
  - West Tisbury Case File No. 160

**Easement**  
 Book 1447, Page 1009



**Locus Map**  
 not to scale



**Plan of Land**  
 in  
**West Tisbury, Massachusetts**  
 prepared for  
**Coffin Real Estate Nominee Trust**  
 Scale 1"=80' November 2, 2021



P.O. Box 4458  
 107 Beach Road, Suite 202  
 Vineyard Haven, MA 02568  
 Phone (508) 693-9933 www.souratigroup.com

Job No. 102196\_101242

I certify that 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 of the Commonwealth of Massachusetts.

M.G.L. Chapter 41, Section 81X

I certify that the property lines shown on this plan are the lines dividing existing ownerships, and the lines of the streets and ways shown are those of public or private streets or ways already established, and that no new lines for division of existing ownership or for new ways are shown.

*Charles R. Gilstad*  
 Charles R. Gilstad Professional Land Surveyor



Date: 11/2/21

*Benjamin Coffin reserved in his deed to Watcha Ding (Walsdorf) Note: Benj. Coffin not part of granters deed to Stanfield.*

Endorsement is without regard to buildability or permitted occupancy, does not stay zoning violations and is subject to other notation hereon.

01: 19 Pg: 108 Doc: PLAN  
 Page: 1 of 1 11/2/2021 09:00 AM