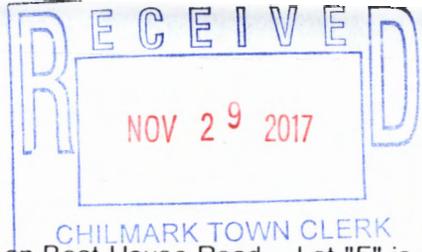


November 21, 2017
Selectman's Meeting
5:00 pm Chilmark Town Hall



Dear Honorable Selectman,

I ask you to consider my concerns in relation to Lot "F" on Boat House Road. Lot "F" is currently leased to Brian Vanderloop November 19, 2014 license #13700. I received a certified letter on November 10, 2017 from Schofield, Barbini & Hoehn informing the abutters in regards to leased lot "F". Stating Brian Vanderloop the applicant, has filed a notice of intent with the Chilmark and Aquinnah Conservation Commission. "Seeking permission to license and maintain an existing commercial pier and spiers that is within area subject to protection under the Mass wetlands protection act and the Chilmark and Aquinnah wetlands bylaws." (letter included line B)

At the Selectman's meeting on June 20, 2017 I expressed my concern about the property being licensed as non commercial as stated 4 times lease of lot "F", but being used as commercial.

*(lease included page 1 map, page 1 lease, page 3 lease)

It was suggested at the meeting, I follow up with the DEP to confirm the licensing of this as a non commercial site. After speaking with the DEP Southwest Regional Office, they confirmed that the property is a non commercial dock and structure. It is my understanding it is the DEP gives the license to licensee and determines whether structure and dock are commercial or not. He said if there is commercial activity being conducted on lot "F" then it is in violation with the lease. The DEP if licensing it as commercial would not differentiate between commercial fisherman, charter fisherman or other. As stated on page 3 of lease The Lot "F" "is to provide non commercial docking and boat access to navigable waters."

When the application was reviewed by the DEP the plan to be licensed was larger than the original plans and previously existing structure and dock. It was enough bigger than the DEP felt comfortable with. The licensee was informed in July of 2017 that they must apply for a license using a licensed engineer and surveyor.

It is my understanding that the boat houses leased to commercial fisherman in the town of Chilmark is by definition different than in the town of Aquinnah. Due to this I have concerns about the dock becoming commercial and the size of the excising dock that is in Chilmark waters. My concern is if the unlicensed portion of the dock remains in Chilmark waters and is permitted as a commercial dock then my access to the water way would be impaired. My dock and bulkhead are fully permitted and licensed since July 16 1979 license number 561. The lot "F" when the dock was built it was never licensed or permitted. Being that is in the past, as we move forward in this time of deed swapping and town line changing with Aquinnah. I would like to request that the portion of the dock and pilings that are in Chilmark waters be removed at the time that the pilings are being removed from Chilmark waters that were discussed at the June 20, 2017 Selectman's meeting.

In studying the surveyed charts from November 10, 2017. It is my understanding that the area of water that is in Aquinnah about 5 feet wide yet the boats that are tide up and rafted out at times greatly exceed this area. (picture included). This situation has created a navigational concern and blocking of access to my bulkhead and dock from the water. Under chapter 91 from 1866 "The general law Chapter 91 protects the public's interest in waterways of the commonwealth. It ensures that the public rights to fish, fowl and navigate are not unreasonably restricted and the unsafe or hazardous structures are repaired or removed. Chapter 91 protects the waterfront property owners ability to approach his land from the water." (copy of Chapter 91 included)

It is my understanding from my conversation with the DEP that this is the time to express my complaints about the application and when it comes to the Chapter 1 Hearing it is the time to again submit my concerns.

Thank you for your attention on this matter.

Sincerely,

Deborah Packer

6 Harbor Hill Road

Menemsha, Ma 02552

 **Schofield, Barbini & Hoehn Inc.**
Land Surveying & Civil Engineering 

12 Surveyor's Lane, Box 339
Vineyard Haven, Mass.
508-693-2781
www.sbhinc.net
dhoehn@sbhinc.net

NOV - 8 2017

Notification of Abutters Under
The Massachusetts Wetlands Protection Act
and The Chilmark and Aquinnah Wetlands Bylaws

In accordance with the second paragraph of Massachusetts General Laws Chapter 131, Section 40, you are hereby notified of the following:

- A. The name of the applicant is Brian Vanderhoop.
- B. The applicant has filed a Notice of Intent with the Chilmark and Aquinnah Conservation Commissions, seeking permission to license and maintain an existing commercial pier and spiles that is within an area subject to protection under the Massachusetts Wetlands Protection Act and the Chilmark and Aquinnah Wetlands Bylaws.
- C. The address of the lot where the activity is proposed is Lease Lot "F" on Boat House Road in Aquinnah on the Menemsha inlet.
- D. Copies of the Notice of Intent may be examined at Schofield, Barbini & Hoehn, Inc., 97 State Road, Vineyard Haven, Mass. between the hours of 8AM and 4PM on the following days of the week: Monday – Friday. For more information, call 508-693-2781. This is the applicant's representative.
- E. Information regarding the date, time and place of the public hearing may be obtained from Schofield, Barbini & Hoehn, Inc., 97 State Road, Vineyard Haven, MA by calling (508) 693-2781 between the hours of 8AM and 4PM on the following business days of the week: Monday – Friday. This is the applicant's representative.

Note: Notice of the public hearing including its date, time, and place will be published at least five days in advance in the Vineyard Gazette and/or Martha's Vineyard Times. Notice of the public hearing, including date, time and place will be posted in the City or Town Hall not less than forty-eight (48) hours in advance.

Note: You also may contact your local Conservation Commission or the nearest Department of Environmental Protection Regional Office for more information about this application or the Wetlands Protection Act. To contact DEP, call: Southeast Region: 508-946-2800.

Non Commercial dock use

page 1 map

"the dock and building are not to be used for commercial purposes.

page 1

"from the commonwealth of Massachusetts maintaining existing structure for non commercial use.

page 3

USE: the structures authorized herein shall be for private non-commercial use of this licensee.

the structures shall not be used for commercial purposes, leased, rented or otherwise let for compensation.

the structures authorized herion shall be limited to the following uses: non -commercial docking and boating acerss to navigable water ways.

10. d no boat moored at any dock may block or unduly impede navigation within the waterway or the use of any adjacent dock.

What is the purpose of Chapter 91?

Adopted in 1866, Massachusetts General Law Chapter 91 protects the public's interest in waterways of the Commonwealth. It ensures that public rights to fish, fowl and navigate are not unreasonably restricted and that unsafe or hazardous structures are repaired or removed. Chapter 91 also protects the waterfront property owner's ability to approach his land from the water.

What kinds of structures require Chapter 91 authorization?

Chapter 91 authorization is required for structures in tidelands, Great Ponds (over 10 acres in natural state) and certain rivers and streams. Types of structures include: piers, wharves, floats, retaining walls, revetments, pilings, bridges, dams and some waterfront buildings (if on filled lands or over water). You may also need a new license if there has been a structural change or a change in use of a previously licensed structure.

Do temporary or seasonal docks require licenses?

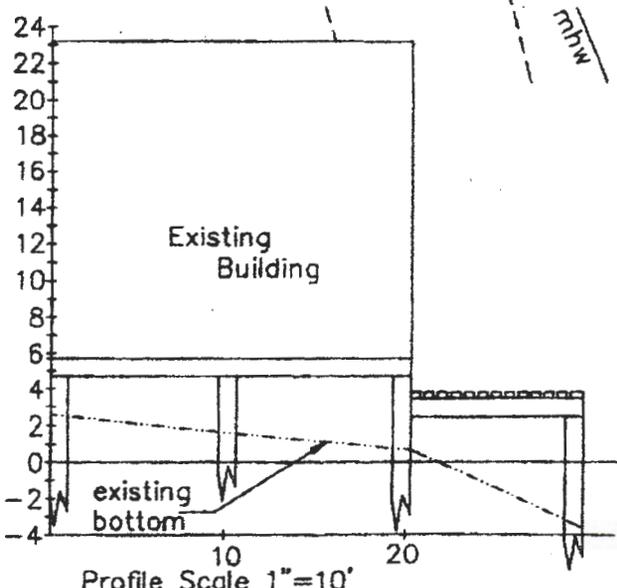
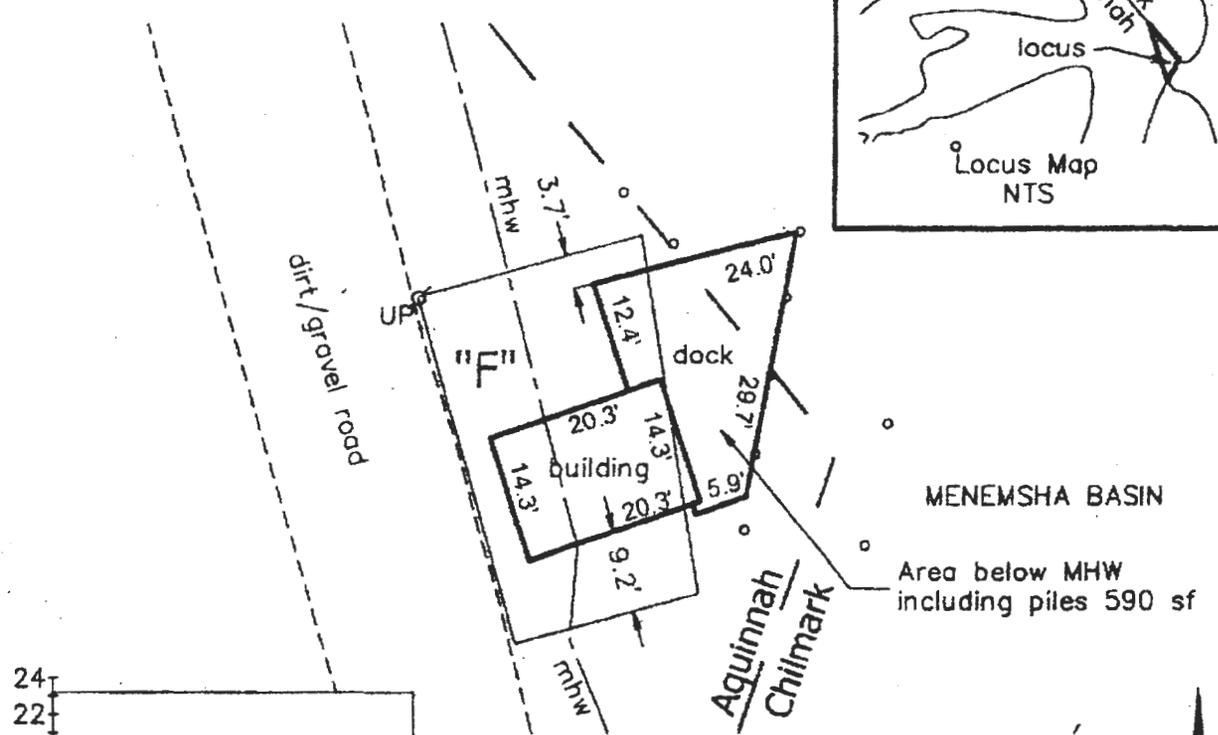
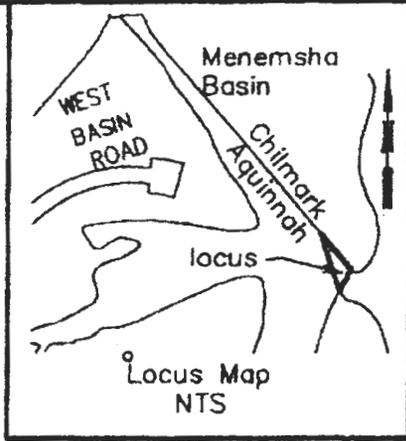
If a float is bottom-anchored and seasonal, it may be authorized by the local harbormaster or other authorized municipal official through a Section 10A permit, instead of the Department. However, seasonal and permanent pile-supported piers require licenses from the Department.

Why don't some people have permits or licenses?

Approximately 20,000 licenses have been issued since 1866, but many structures remain unlicensed for a variety of reasons. Many landowners don't realize they need authorization. Some owners simply are unaware of the law; others assume that prior owners obtained proper licensing; and still others don't know that a change in structure or use requires new licensing. Unlicensed structures are considered a public nuisance under M.G.L. Chapter 91, and their owners may be subject to MassDEP enforcement for maintaining unauthorized structures.

License No. 13770

Approved by Department of Environmental Protection
Date: NOV 19 2014



Scale 1"=20'

approx.. MLW

Note:
1. The dock and building are not be used for commercial purposes

<p>Propose: Simplified Licensing</p> <p>Adjacent Property Owners</p> <ol style="list-style-type: none"> 1. Frank Fenner 2. Town of Aquinnah 	<p>Plan Accompanying petition of:</p> <p>Brian Vanderhoop 10 Old South Road Aquinnah, MA 02535</p>	<p>Project Description:</p> <p>Licensing existing pier and structure for private use in Aquinnah, Ma at Menemsha Basin, Dukes County. By Applicant: Brian Vandeerhoop Date: 6/26/2014 Page 1 of 1</p>
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The Commonwealth Of Massachusetts



No. 13770

SIMPLIFIED LICENSE
BRP WW06

Applicant must fill in pages 1 and 2 of this license.

Brian Vanderhoop
Applicant's name

of the Town/City of:

Aquinnah
Town/City

in:

Dukes
County

County and Commonwealth aforesaid, has applied to the Department of Environmental Protection for a Simplified License to:

Please check

maintain an existing (pre-1984):

Please check all that apply below:

- pier/dock
- boat ramp
- ramp
- float(s)
- pile(s)
- boat lift
- boat house
- retaining wall/seawall
- bulkhead
- rip rap/stone revetment
- groin(s)
- Nonwater-dependent (NWD) residence
- other _____

construct a proposed or maintain an existing (post-1984):

Please check all that apply below:

- pier/dock Removable
- ramp
- float(s)
- pile(s)
- boat lift
- pile-supported boat house
- other _____

→ BUILT A FLOATING DOCK NEVER APPLIED FOR

and has submitted plans of the same; and whereas due notice of said application has been given, as required by law, to the [Please check one:] Board of Selectmen Mayor and City Council, of the Town/City of:

Aquinnah

Town/City

NOW, said Department, having heard all parties desiring to be heard, and having fully considered said application, hereby, subject to the approval of the Governor, authorizes and licenses said Licensee, subject to the provisions of the ninety-first chapter of the General Laws, and of all laws which are or may be in force applicable thereto, to:

Please check all that apply:

maintain existing structure(s) for:

- non commercial docking/access to navigable water
- shoreline stabilization
- residential, NWD building
- other Supersedes Interim Approval # 10877(2005)

Please check all that apply:

construct and maintain structure(s) for:

- non commercial docking/access to navigable water
- other _____

in and over the waters of:

Menemsha Basin
Waterway

in the Town/City of:

Aquinnah
Town/City

and in accordance with the locations shown and details indicated on the accompanying License Sketch Plan No. 13770 (total number of Sheet(s): 1)

NOTE: This License is not valid until such time as it has been numbered and signed by the appropriate State officials (see page 5) and recorded at the Registry of Deeds.

USE: The structures authorized herein shall be for private non-commercial use of the licensee. The structures shall not be used for commercial purposes, leased, rented or otherwise let for compensation. Any change in use shall require an amendment to this license by the Department. The structures authorized herein shall be limited to the following uses: noncommercial docking and boating access to navigable waters.

TERM: This License will expire fifteen (15) years from the date of License issuance. By written request of the Licensee for an amendment, the Department may grant a renewal for the term of years not to exceed that authorized in the original license.

WATERWAYS CONDITIONS:

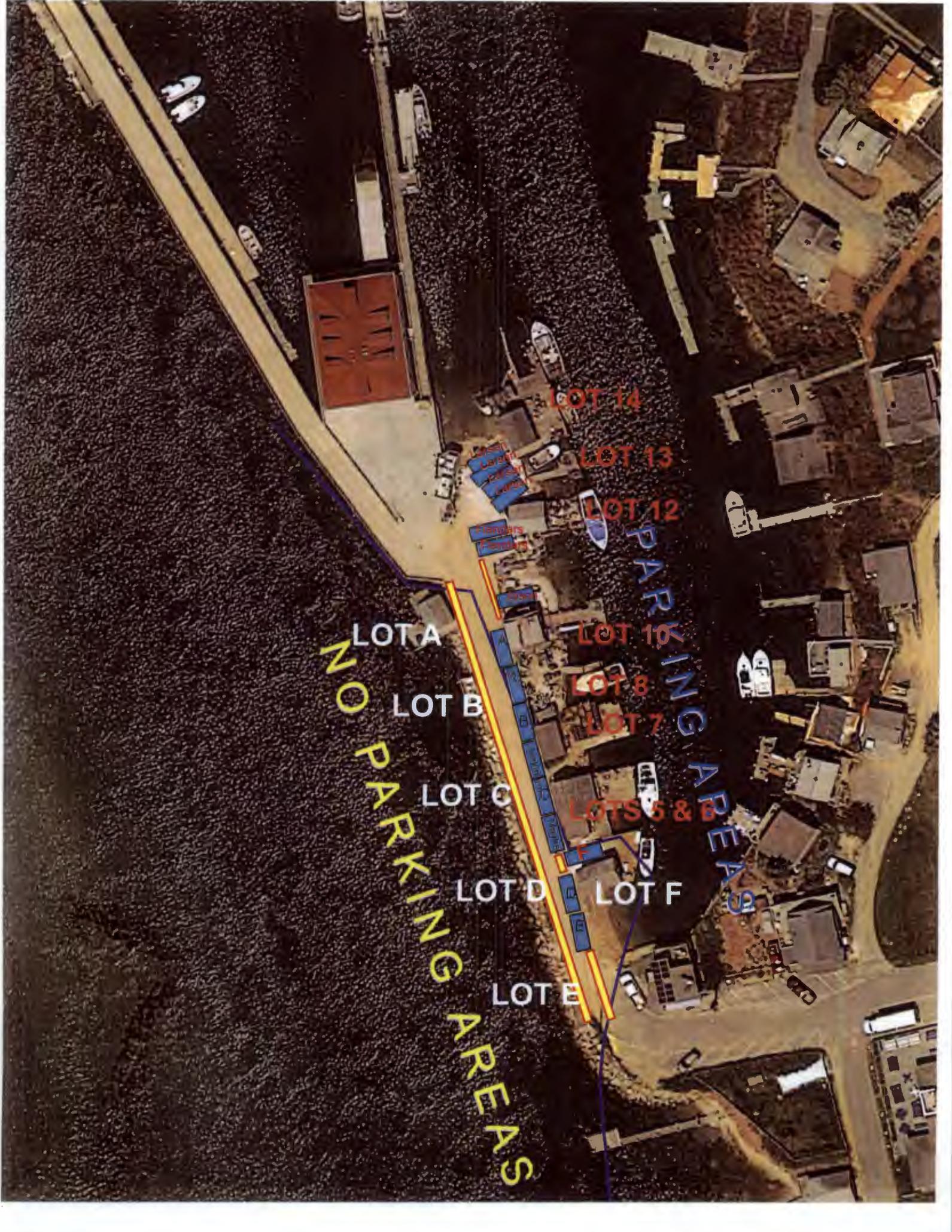
1. ACCESS: In accordance with any License condition, easement, or other public right of lateral passage that exists in the area of the subject property lying between the high and low water marks" or "below the ordinary high water mark", the Licensee shall allow the public in the exercise of such rights to pass freely over, under or around all structures within such (intertidal) area. Accordingly, the Licensee shall place and maintain, in good repair, a public access sign on the easterly/westerly or northerly/southerly sides of the pier/dock, authorized herein or at each property line, adjacent to the high water shoreline. Said signs shall comply with the Department's signage guidelines (see instructions) and shall be posted immediately upon license issuance or completion of construction. Nothing in this condition shall be construed as preventing the Licensee from excluding the public from portions of said structure(s) or property not intended for lateral passage.

In partial compensation for the private use of structures and/or fill on tidelands and/or private tidelands and/or Great Ponds which interferes with the rights of the public to use such lands, the Licensee shall allow the public to pass on foot, for any purpose and from dawn to dusk, within the area of the subject property lying seaward of the high water mark or, for Great Ponds within the public access way delineated on the License plan/or within 5 feet of the ordinary high water shoreline. This condition shall not be construed to prevent the Licensee from taking reasonable measures to discourage unlawful activity by users of the area intended for public passage, including but not limited to trespassing on adjacent private areas and deposit of refuse of any kind or nature in the water or on the shore. Further, the exercise by the public of free on-foot passage in accordance with this condition shall be considered a permitted use to which the limited liability provisions of M.G.L. c.21, s17c shall apply.

2. This License authorizes structure(s) and/or fill on:
FOR MassDEP USE ONLY

<input checked="" type="checkbox"/> Private Tidelands	In accordance with the public easement that exists by law on private tidelands, the Licensee shall allow the public to use and to pass freely upon the area of the subject property lying between the high and low water marks, for the purposes of fishing, fowling, navigation, strolling and the natural derivatives thereof.
<input checked="" type="checkbox"/> Commonwealth Tidelands	The Licensee shall not restrict the public's right to use and to pass freely, for any lawful purpose, upon lands lying seaward of the low water mark. The Commonwealth holds said lands in trust for the benefit of the public.
<input type="checkbox"/> Great Pond	The Licensee shall not restrict the public's right to use and to pass freely upon lands lying seaward of the high water mark for any lawful purpose.
<input type="checkbox"/> Navigable River or Stream	The Licensee shall not restrict the public's right to use and to pass freely, for any lawful purpose, in the waterway.

3. Unless otherwise expressly provided by this license, the Licensee shall not limit the hours of availability of any areas of the subject property designated for public passage, nor place any gates, fences, or other structures on such areas in a manner that would impede or discourage the free flow of pedestrian movement thereon. No restriction on the exercise of these public rights shall be imposed unless otherwise expressly provided in this license.



NO PARKING AREAS

LOT 14
LOT 13
LOT 12
LOT 10
LOT 8
LOT 7
LOTS 5 & 6
LOT F
LOT E
LOT D
LOT C
LOT B
LOT A

PARKING AREAS

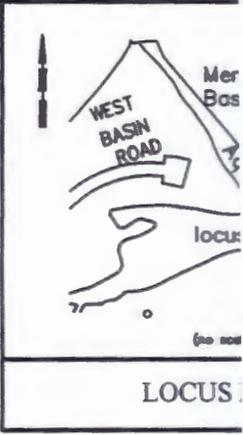
Car Wash
Car Wash
Car Wash
Hangers
Flammable

1. This plan and the accompanying certifications do not constitute a certification of title to the property displayed hereon.
2. I certify that this plan was prepared in accordance with the rules and regulations of the Registers of Deeds effective January 1, 1976 and as amended.
3. Ref. Chap. 41, Sec. 81-X., G.L.

I hereby 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 the division of existing ownership or for new ways are shown.

Professional Land Surveyor

Date: _____



dirt/gravel road

Locus:
Lat 41-21-4.93 Long 70-45-

parking

dock

building

spiles

MENEMSHA B

"F"

25.3'

Aquinnah
Chilmark

