

Oak Bluffs, MA
Town Clerk's Office
Dec 18 20 19
Rec'd for Record
AT H M M

Memorandum

To: The Oak Bluffs Zoning Board of Appeals

From Martin V. Tomassian, Jr., Esq., Attorney for Henry and Joan Kriegstein

Re: Application for Variance filed by George Sourati, P.E, dated November 4, 2019

Date of Memorandum December 18, 2019

The applicants are requesting a variance from the set-back requirements of the Oak Bluffs Zoning By-Laws in Residential Zone 3.

Mr. Kriegstein's, life-long hobby has been the collection of dinosaur bone and fossils. His collection is so large he is having difficulty displaying it. He and his wife are planning to retire to their home on Hubbard Avenue and would like to build a private gallery extending from the rear or the eastward end of their home.

While the set-back requirement could be met, the addition would create ghastly aesthetics, and would block the view of their neighbors to the east, the Nichols. If that is their only choice they would not build.

If they could build it so as to continue or "extend" the roof line, by twenty (20) feet, keeping it at the same height of twenty six (26) feet, it would be more pleasing to the eye and not interfere with their neighbor's view though a corner of the addition would violate the set-back requirement.

While a variance may be a difficult objective to achieve, the applicants believe they may be able to demonstrate that they can meet the general requirements.

It is important to note that although this was originally the largest lot in the subdivision at 52,771, square feet it is even larger as a recent survey has revealed it is 81,000 square feet due to accretion. The other lots in the subdivision, have not had the same benefit and it is unlikely they ever will as they are upland lots

The four (4) rules of variance law that have developed due to statutes and case law, appear below in bold.

1. That there are circumstances relating to the soil conditions, shape or topography which especially affect the land or structure in question,, but which do not affect generally the zoning district in which the land or structure is located.

The rear portion of the lot looks like half of an uneven hexagonal and it is this peculiar *shape* that results in a bizarre set back configuration. In addition the waterfront has developed a peculiar *shape* because of accretion.

The house is built on a hill with a very steep gradient as can be observed by the *topographical* lines surrounding it.

2. That dues to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the zoning by-law would involve substantial hardship, financial or otherwise to the petitioner.

The applicants would truly like to be able to construct the addition creating their own private gallery. Is it a *hardship* if they can't? Well, perhaps not in the conventional sense as they already have a beautiful home on a beautiful parcel of land. While some believe a *hardship* should be related to whether or not one can actually build a home vs no home whatsoever, a *hardship* in this instance develops if the applicants can't bring their collection with them. Of course it might be a lot easier if it was a coin or stamp collection.

3. That desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the by-law.

In this instance because the construction contemplates a minor intrusion into the set-back it will not *nullify* or *substantially change* the by-law

4. That desirable relief may be granted without substantial detriment to the public good.

There would be no detriment to the public good, as this is the largest lot in the Hubbard Lane subdivision as can be seen on the attached aerial photo and the attached Hubbard Avenue matrix, averaging more than three and eight tenths (3.80) the size of the other lots.

In fact, quite the opposite of a detriment would occur because Mr. Kriegstein, would be able to continue to delight Island school children with a now larger collection. He has in the past invited students into his home for viewings and has taken some artifacts to various schools where he had given talks about them.

Attachments.

Arial Photograph of Hubbard Avenue subdivision with lot lines and lot information

1980 Plan creating Lots 1,2 & 3. Lot 1 was the beginning of the Kriegstein Property

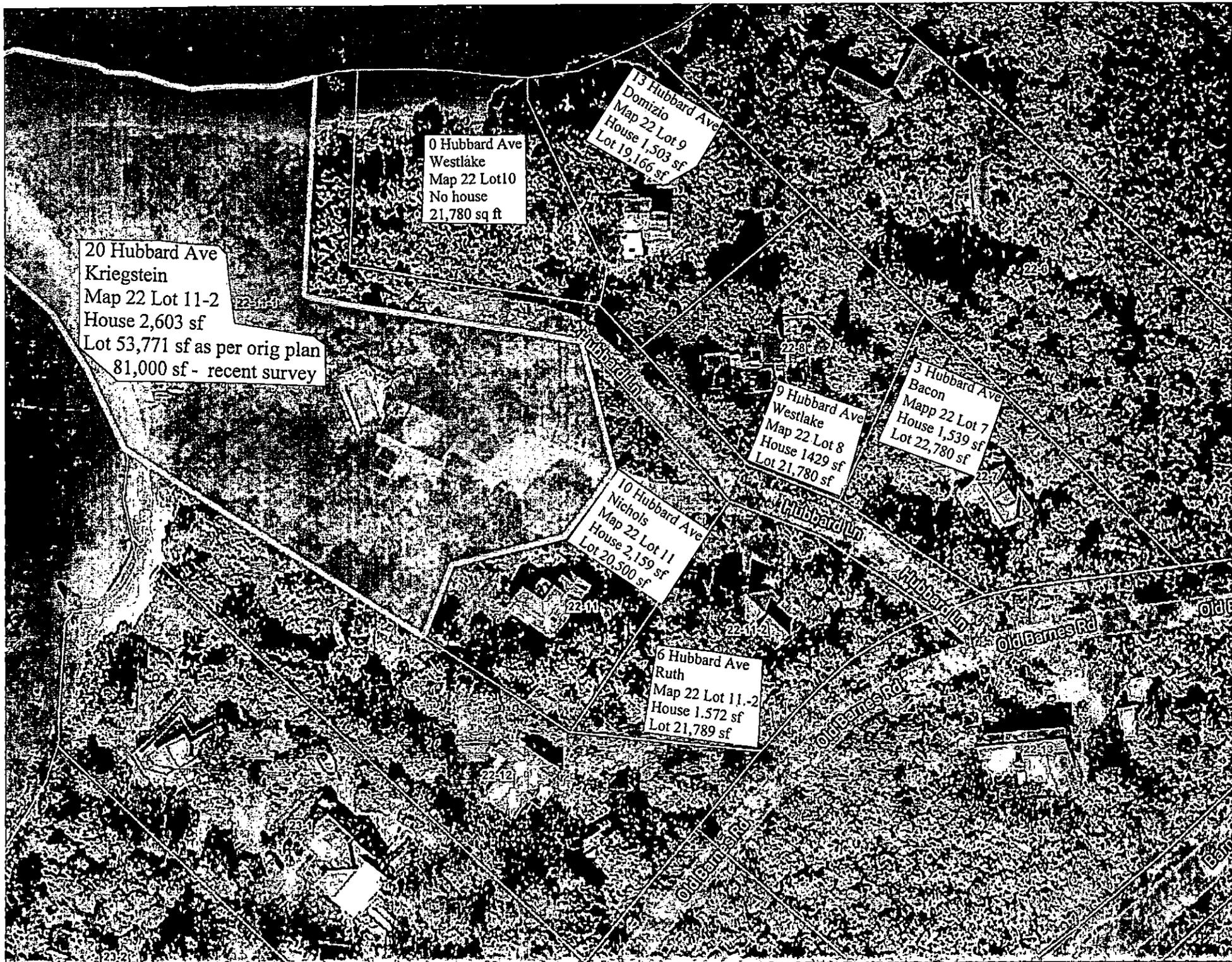
1982 Plan creating Lots 1 & 2. Lot 2 was added to the Kriegstein property (Lot 1 above)

Hubbard Avenue Lot Matrix

A portion of the 4Nov19 site plan showing no intrusion but blocking neighbor's view in yellow

A portion of the 4Nov 19 site plan showing the intrusion into the setback in red

Letters from 6 neighbors in favor of the application two of whom are immediate abutters.



13 Hubbard Ave
Domizio
Map 22 Lot 9
House 1,503 sf
Lot 19,166 sf

0 Hubbard Ave
Westlake
Map 22 Lot 10
No house
21,780 sq ft

20 Hubbard Ave
Kriegstein
Map 22 Lot 11-2
House 2,603 sf
Lot 53,771 sf as per orig plan
81,000 sf - recent survey

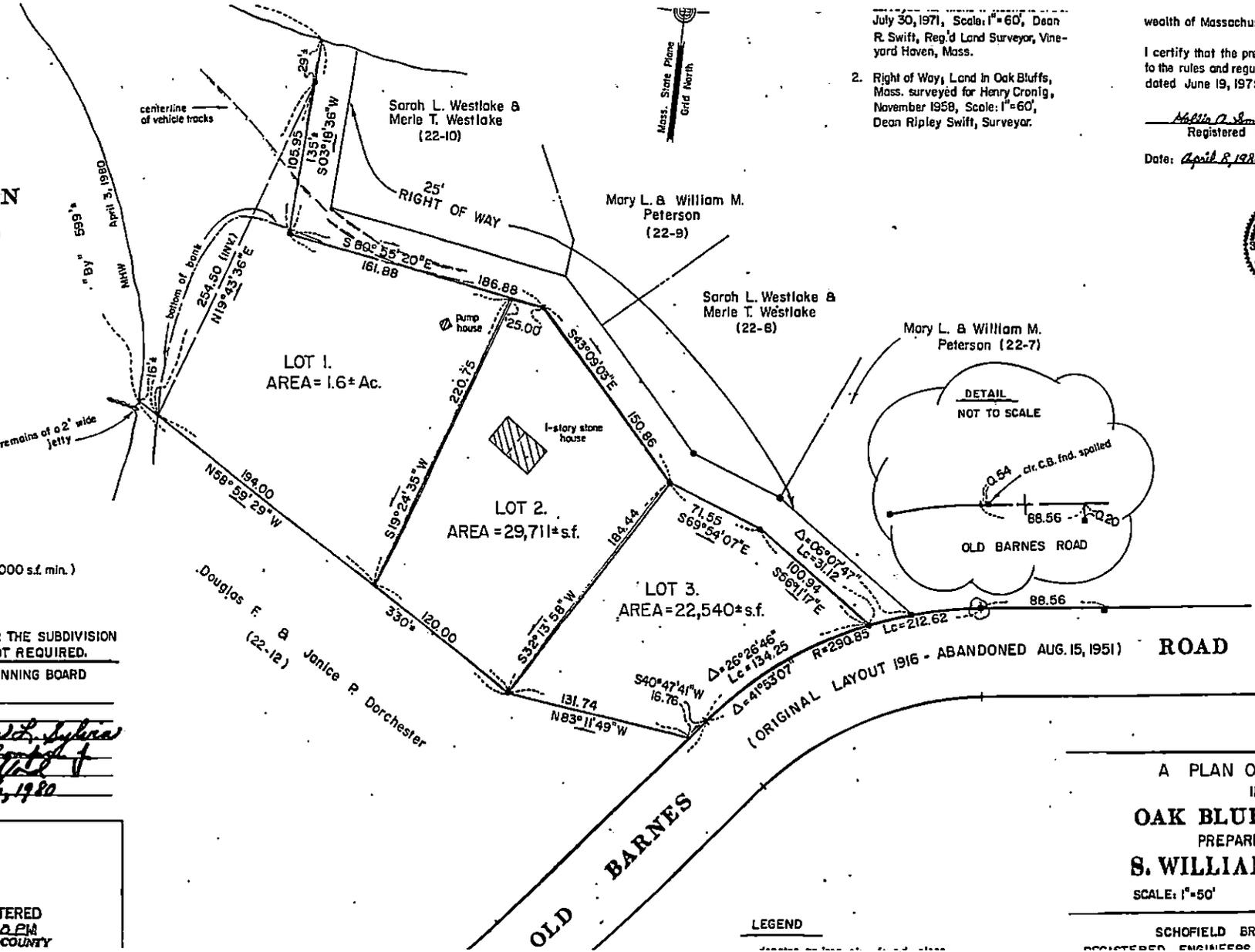
9 Hubbard Ave
Westlake
Map 22 Lot 8
House 1,429 sf
Lot 21,780 sf

3 Hubbard Ave
Bacon
Map 22 Lot 7
House 1,539 sf
Lot 22,780 sf

10 Hubbard Ave
Nichols
Map 22 Lot 11
House 2,159 sf
Lot 20,500 sf

6 Hubbard Ave
Ruth
Map 22 Lot 11-2
House 1,572 sf
Lot 21,789 sf

LAGOON
POND
(TIDAL)



July 30, 1971, Scale: 1"=60', Dean R. Swift, Reg'd Land Surveyor, Vineyard Haven, Mass.
2. Right of Way, Land in Oak Bluffs, Mass. surveyed for Henry Cronig, November 1958, Scale: 1"=60', Dean Ripley Swift, Surveyor.

wealth of Massachusetts.
I certify that the preparation of this plan conforms to the rules and regulations of the Registers of Deeds dated June 19, 1975.
Hollis A. Smith
Registered Land Surveyor
Date: April 8, 1980



ZONING: R-2 (20,000 s.f. min.)

APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED.
OAK BLUFFS PLANNING BOARD

Priscilla L. Sylvia
Janice R. Dorchester
John C. Bradford
Date: May 6, 1980

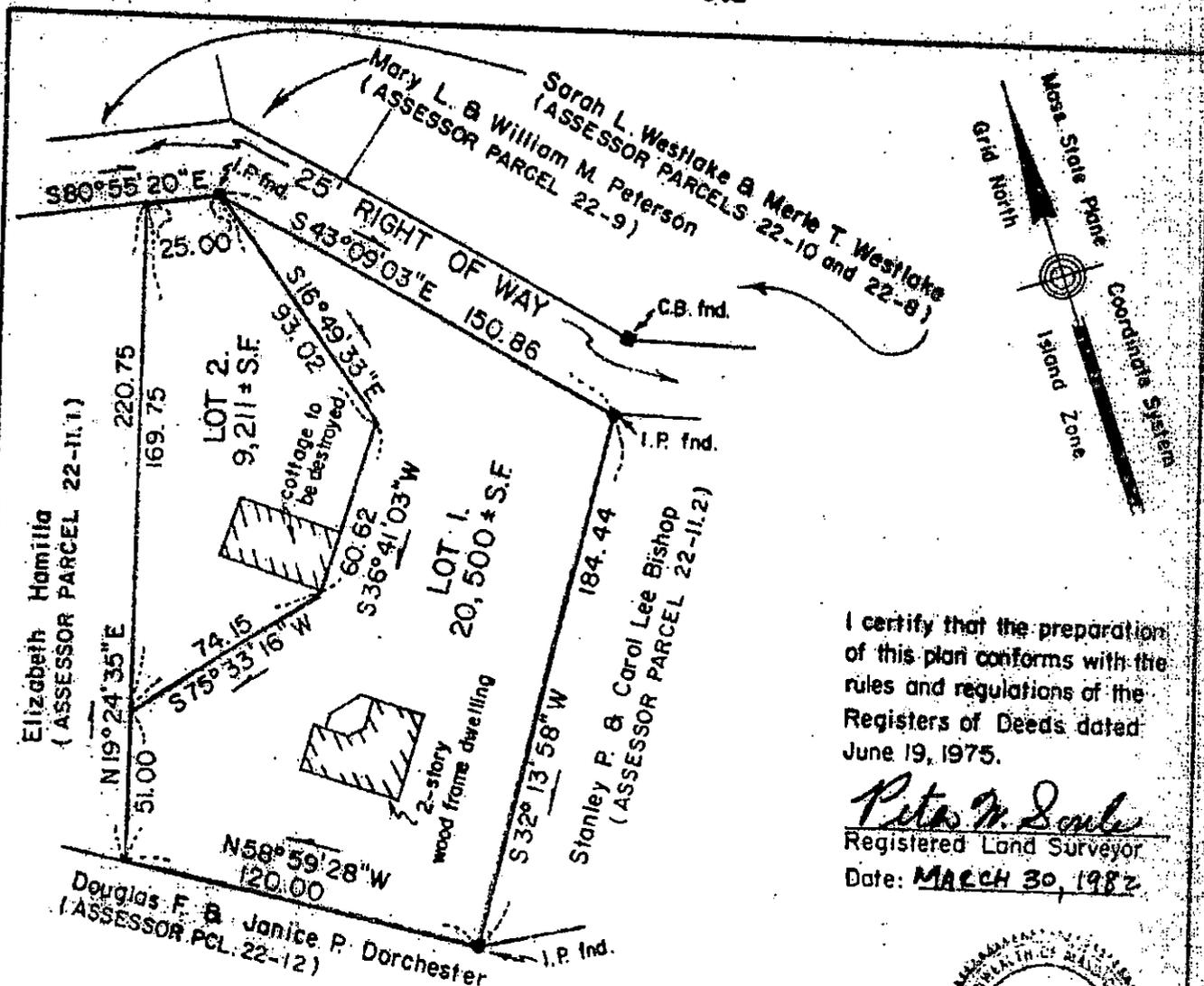
RECEIVED-ENTERED
1:30 PM
COUNTY OF DUKES COUNTY

LEGEND

A PLAN OF LAND
IN
OAK BLUFFS, MASS.
PREPARED FOR
S. WILLIAM HAMILLA
SCALE: 1"=50' APRIL 8, 1980

SCHOFIELD BROTHERS, INC.
REGISTERED ENGINEERS AND LAND SURVEYORS

402.052



I certify that the preparation of this plan conforms with the rules and regulations of the Registers of Deeds dated June 19, 1975.

Peter W. Scule
 Registered Land Surveyor
 Date: MARCH 30, 1982



APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED:
 OAK BLUFFS PLANNING BOARD

John C. Bradford
Richard L. Lyman
Thomas R. Lath
Samuel A. ...

Date: 3-31-82

NOTE:

Lot 2 does not comply with existing acreage requirements of the R-2 Zoning District of the Town of Oak Bluffs and is to be conveyed to the owner of Assessor Parcel No. 22-11.1.

PLAN REFERENCE:

See Oak Bluffs Case File No. 96.

PLAN OF LAND
 IN
 OAK BLUFFS, MASS.
 PREPARED FOR
 S. WILLIAM HAMILLA

SCALE: 1" = 50'

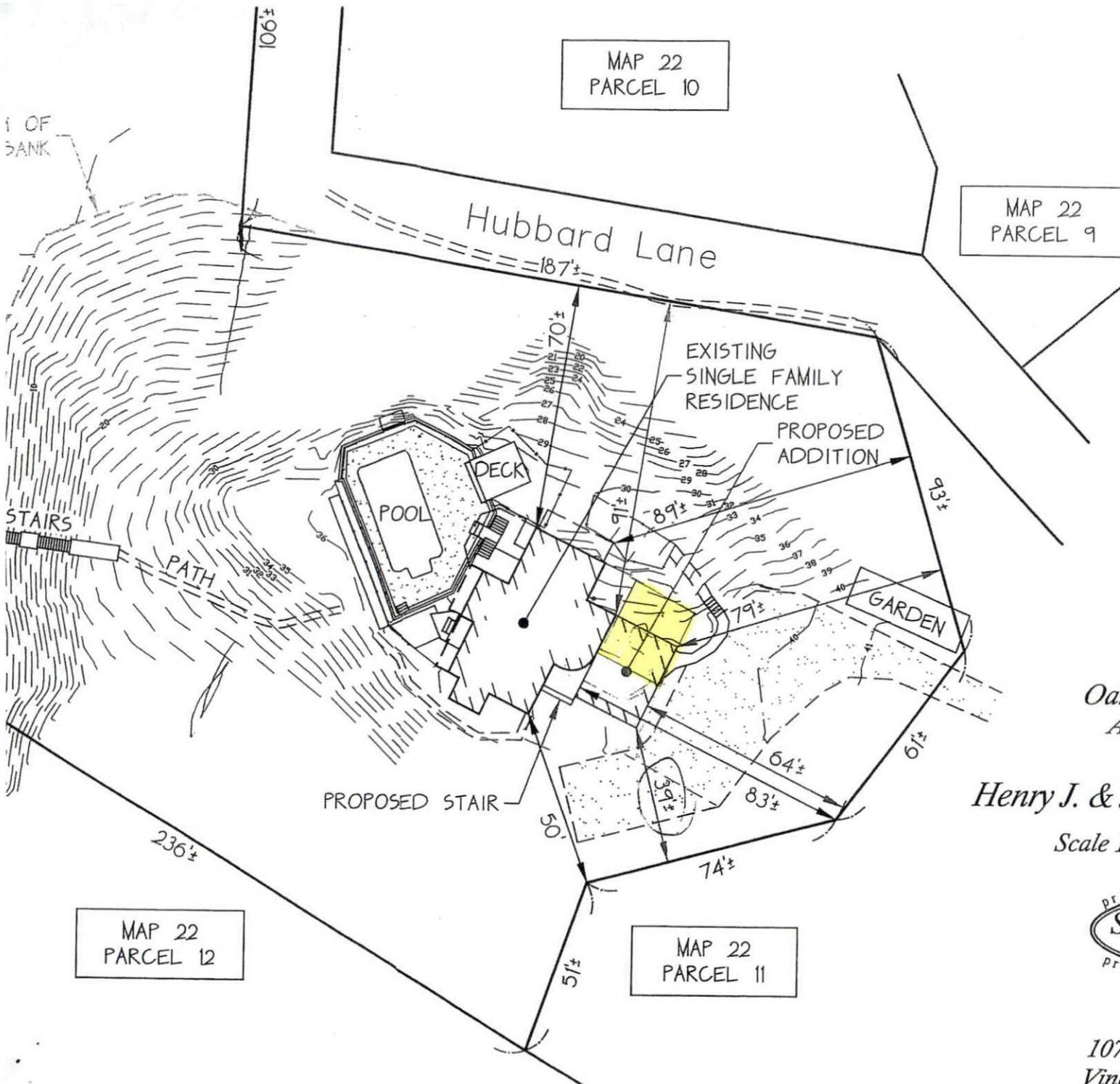
MARCH 29, 1982

SCHOFIELD BROTHERS, INC.

RECEIVED-ENTERED
 3:36 PM
 COUNTY OF DUKE'S COUNTY, VT.
 REGISTRY OF DEEDS
 MAY 27 1982

HUBBARD AVENUE

OWNER	STREET #	MAP/LOT	HOUSE SIZE	LOT SIZE	COMPARED TO	
					ACREAGE	KRIEGSTEIN
Westlake	0	22 / 10	no house	21,780 sf / .5	2.46	3.71 Due to Accretion
Bacon	3	22 / 7	1,538 sf	21,780 sf / 5	2.46	3.71
Ruth	6	22 / 11-2	1,572 sf	22,540 sf /	2.38	3.59
Westlake	9	22 / 8	1,429 sf	21,780 sf / 5	2.46	3.71
Nichols	10	22 / 11	2,159 sf	20,500 sf / .47	2.5	3.95
Domizio	13	22 / 9	1503 sf	19,166 sf / .44	2.8	4.20
Kriegstein	20	22 / 11-1	2,603 sf	53,771 sf / 1.21		
Kriegstein	(same parcel)		Due to accretion	81,000 sf /	1.85	



Charles R. Silted
11/4/19

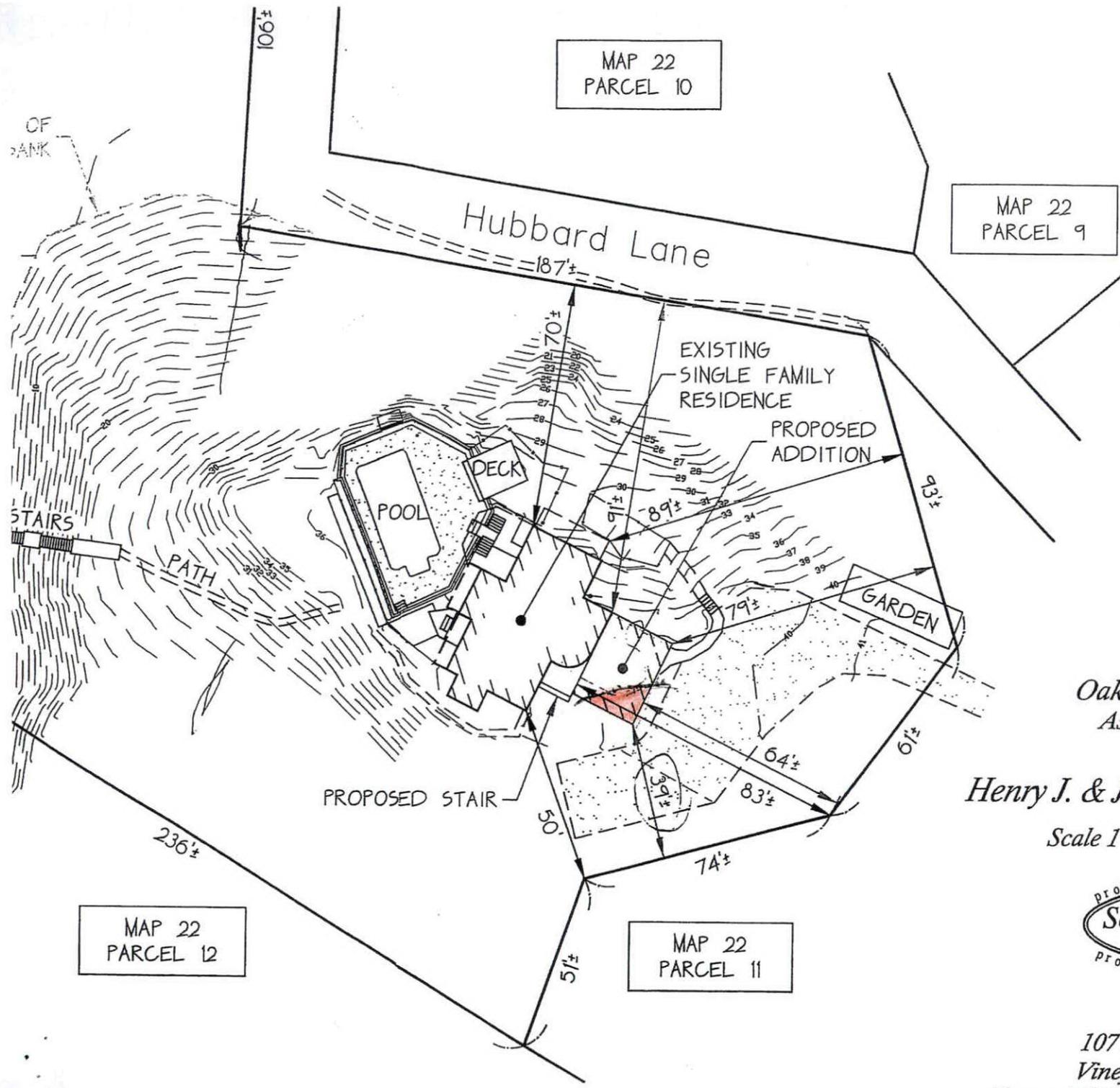
Site Plan
in
Oak Bluffs, Massachusetts
Assessor Parcel 22-11.1
prepared for

Henry J. & Joan B. Kriegstein, Trustees

Scale 1"=40' November 4, 2019



P.O. Box 4458
107 Beach Road, Suite 202
Vineyard Haven, MA 02568
Phone (508) 693-9933 Fax (508) 693-4933



Charles A. Silted
11/4/19

Site Plan
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