

## DOUG LIMAN

### MEMORANDUM

TO: Town of Chilmark Zoning Board of Appeals

CC: Leonard Jason Jr.

FROM: Doug Liman

DATE: August 28, 2016

SUBJECT: Appeal of a decision by Leonard Jason Jr to not require a building permit to build a concrete and steel bridge structure in the Squibnocket overlay district

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This memorandum summarizes the background and legal basis for an appeal of a ruling (“the Ruling”) by Leonard Jason Jr that a 300’ long pile supported structure (“the Structure”) is not a structure as defined in the Chilmark Zoning By-laws. We also take issue with his description of concrete and steel structure being a relocation of an existing at grade roadway. That decision was communicated to me in a letter I received on August 3 and is enclosed for reference as Exhibit A.

I. Background to this Appeal:

There is nobody in Chilmark who does not have intimate knowledge of the history of the Squibnocket restoration and access project. And we recognize that after years of discussions and arguments there is a great desire on the part of the town to get this behind us. We recognize that requiring a building permit will subject the causeway to strict zoning requirements of the Squibnocket overlay district and likely result in yet another town meeting and vote to amend the bylaws, and that many people would prefer to avoid this outcome including this author.

II. Is “the Structure” a structure:

The applicant in their Notice of Intent describe a “pile-supported structure” so it is not clear what rationale the building inspector would use to describe it otherwise. A conversation with building inspectors elsewhere on the island and Massachusetts found that all would require a building permit for a concrete and steel pile supported causeway because that is what is required by Massachusetts building code. While the law and Massachusetts building code would clearly define “the Structure” as a structure, there is also common sense. Yes this structure is a structure.

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As to whether this structure is a bridge or an elevated causeway, the answer is that the proposed elevated causeway contains a bridge roughly 300' in length consisting of steel pylons and a precast concrete slab roadway.

### III. Squibnocket Overlay District:

The zoning bylaws governing the Squibnocket overlay district are among the strictest on Martha's Vineyard. The intended location for "the Structure" is in zone B-1 of the Squibnocket overlay district. No structures are permitted as a right (and only limited structures such as those necessary for fishing are permitted by Special Permit) in zone B-1. Accordingly we take issue with the Building Inspector finding this structure complies with Town zoning.

### IV. Is "the Structure" a relocated roadway:

The Building Inspector's finding that this is the moving of an existing roadway is incorrect on several grounds. First, nowhere in the Squibnocket Farms Homeowners Association ("SFHA") N.O.I. does it make reference to the removal of the existing at grade roadway. In fact, the SFHA N.O.I. is for a brand new and second causeway and nowhere in their N.O.I. does it show the removal of the existing causeway and the applicant apparently has no obligation to do so. Even if they were contained within the same N.O.I., replacing an at grade roadway with a pile supported causeway does not exempt the new pile supported structure from Zoning bylaws.

### V. Building Code and Inspections:

Massachusetts has a building code specifically designed for structures such as this. If the Zoning Board of Appeals were to let "the Ruling" stand, there would be no mechanism by which the town could enforce Massachusetts building code for "the Structure." We are talking about a steel structure that will be pounded by the elements, suspending precast concrete slabs weighing many tons, 13' over the beach where we and our children play. Not only couldn't the town enforce the building code, the town would not be able to compile inspections as required by Massachusetts Building code for bridges and pile supported causeways.

List of Exhibits:

Exhibit A: Letter from Leonard Jason Jr



TOWN OF CHILMARK  
CHILMARK, MASSACHUSETTS

TOWN OFFICE:  
P. O. BOX 119  
CHILMARK, MASS. 02535

My name is Leonard Jason, Jr. I am the Building Inspector and Zoning Officer of the Town of Chilmark, and have served in that position for over 30 years. I am also a member of the Martha's Vineyard Commission ("MVC").

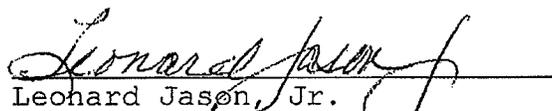
I have reviewed and am familiar with the plans for the Squibnocket Farm Access Causeway (the "Causeway"). The Causeway consists of an approximately 280 foot long at grade roadway, connecting the existing Squibnocket Road (which is public), to an approximately 300 foot long pile-supported elevated causeway to access Squibnocket Farm (formerly known as the Squibnocket Ridge subdivision). This Causeway is modeled after Menemsha drive-in dock.

In my opinion, the Causeway constitutes a relocated roadway, and is not a structure as that term is defined in the Chilmark Zoning By-laws. As such, the proposed Causeway would comply with Town zoning.

The Causeway was reviewed at length by the MVC, which issued a decision on May 24, 2016 unanimously approving the Causeway. A copy of the MVC decision is attached hereto. The MVC also specifically found that the Causeway complies with Town zoning:

"The Commission finds that the proposed development is consistent with a municipal development ordinances and by-laws, to the best of the Commission's knowledge."

Executed this 3<sup>rd</sup> day of August, 2016.

  
Leonard Jason, Jr.  
Building Inspector and  
Zoning Officer

Board of Selectmen	508-645-2101	•	Conservation Commission	508-645-2104	•	Town Clerk	508-645-2107
Board of Assessors	508-645-2102	•	Planning Board	508-645-2104	•	Tax Collector	508-645-2108
Board of Appeals	508-645-2102	•	Board of Health	508-645-2105	•	Accountant	508-645-2112
Building Inspector	508-645-2103	•	Treasurer	508-645-2106	•	Fax	508-645-2110