



TOWN OF CHILMARK
CHILMARK, MASSACHUSETTS

THE COMMONWEALTH OF MASSACHUSETTS

TOWN OFFICES:
Beetlebung Corner
Post Office Box 119
Chilmark, MA 02535
(508) 645-2110 Fax

To The Board of Appeals, TOWN of CHILMARK

March 6, 20 21

The undersigned hereby petitions the Board of Appeals to issue a Special Permit under the terms of the Zoning By-laws of the Town of Chilmark:

Article 4, Section 4.2 (A)(3) *OK JH 3/25/21*

at the premises owned by (Owner of Record) 22 Austin Pasture Realty Trust

at 22 Austin Pasture (street address),

Assessor's parcel MAP 33 LOT 47

In the following respect or any limitation, extension, change, alteration or modification of use, or method of use as may at hearing appear as necessary or proper in the premises.

State Briefly Reasons for Special Permit

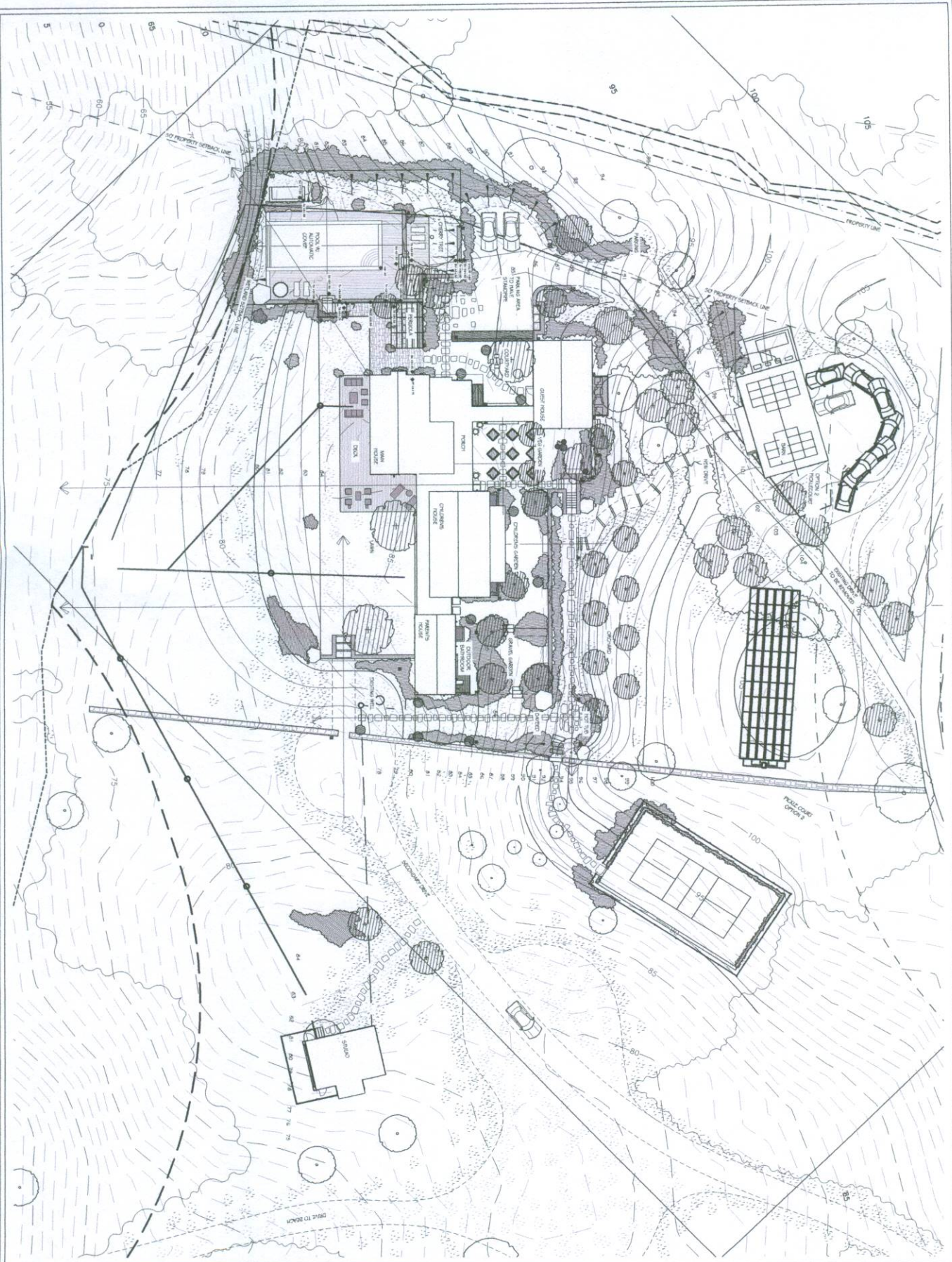
Construct a 30' by 60' pickleball court.

RECEIVED
MAR 31 2021
[Signature]
CHILMARK TOWN CLERK

Petitioner *[Signature]* March 9, 2021

Address c/o Vineyard Land Surveying & Engineering, Inc.
P. O. Box 421 West Tisbury, MA 02575

Telephone Number 508-693-3774



<p>LEGEND</p> <ul style="list-style-type: none"> [Hatched Box] PAVING TYPE 1 [Hatched Box] WOOD DECK [Hatched Box] PAVING TYPE 2 [Hatched Box] LOCAL GRANITE OR FIELDSTONE IN ASPHALT PATTERNS [Hatched Box] PAVING TYPE 3 - FEA STONE GRAVEL [Hatched Box] PAVING TYPE 5 [Hatched Box] STERLING 3 STONES IN GRASS [Hatched Box] PAVING TYPE 4 [Hatched Box] FELDSTONE STERLING STONES IN GRAVEL [Hatched Box] BEACH TRACK ROAD SURFACE [Hatched Box] STONE RETAINING WALLS [Hatched Box] STAKING SIGN [Hatched Box] EXISTING TREE [Hatched Box] PROPOSED NEW TREE [Hatched Box] PROPOSED HEDGING [Hatched Box] PROPOSED SHIELD WALKS [Hatched Box] WOOD DECK RAISED [Hatched Box] VERTICAL GARDEN DECKS [Hatched Box] MEADOW GRASS [Hatched Box] MOON GRASS 	<p>REVISIONS:</p> <p>NOT FOR CONSTRUCTION</p> <ul style="list-style-type: none"> 07/03/2019 DO SET UPDATE 08/04/2019 DO SET UPDATE 07/27/2020 DO SET UPDATE 07/17/2020 GRADING UPDATE 02/11/2020 DO SET UPDATE 06/17/2020 GRADING UPDATE 10/26/2020 FINAL UPDATE
<p>MARTHA'S VINEYARD</p> <p>22 AUSTIN EXETER ROAD, CHILMARK, MA 02535</p> <p>11/29/2020 BARRY UPDATE 12/11/2020 POOL PERMIT</p> <p>DRAWING TITLE: HOUSE PLAN</p>	<p>SCALE: 1/4" = 1'-0"</p> <p>DRAWING NO.: L1001</p> <p>DATE: 19 APR 2019</p> <p>MIRANDA BROOKS LANDSCAPE DESIGN THE CARriage HOUSE 175 WYCKOFF STREET BROOKLYN, NY 11217 1 212 228 9523 F 212 254 5787</p>



Site Review Committee Town of Chilmark

APPLICATION FOR SITE REVIEW

Filing Fee: \$20 Check Date: Check #:

Assessors Map: 33 Lot: 47

Street Address: 22 Austin Pasture

Owner's mailing address: 10960 Wilshire Blvd Suite 1900, Los Angeles, CA 90024

Applicant(s): Reid Silva for Vineyard Land Surveying & Engineering;
Reid@VLSE.net

Description of the proposed development:

Construct a 30' x 60' pickleball court. This project is in the Squibnocket Pond District and is on the 5/27/21 ZBA agenda.

REPORT OF THE SITE REVIEW COMMITTEE

Date: 5/3/2021

Committee members present:

Name	Present	Name	Present
Clarissa Allen, Chair	X	Sandy Broyard	X
Bill Rossi		Squib. Pond Dist. Adv. Cmte	X
Richard Osnoos	X	Janet Weidner	X
Lenny Jason		Jan Buhrman	X

Permits required:

Action	Y	N
Building Permit	Y	N
Board of Health	Y	N
Conservation Commission	Y	N
Historical Commission	Y	N
Planning Board	Y	N
Zoning Board of Appeals	Y	N

Findings and Recommendations: This property has a covenant attached that does not allow tennis courts. The Site Review Committee would like the project to be reviewed by the Building Inspector before voting on approval. The Squibnocket Pond Advisory Committee would like the project reviewed by the Planning Board & the Building Inspector.



TOWN OF CHILMARK, MASSACHUSETTS

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jchristy@chilmarkma.gov

Jennifer L. Christy
Planning Board Administrative Assistant

To: Board of Appeals, Building Inspector and the Squibnocket Pond District Advisory Committee (SPDAC)
From: Planning Board
Re: Pickle Ball Court at 22 Austin Pasture
Date: May 14, 2021

At a properly posted meeting of the Planning Board, on May 10, 2021, the Board voted the following motion:

The Planning Board is not in the position to interpret the application of the covenant to this issue of the pickle ball court, the Board would recommend that the Site Review Committee look at the site and see whether there is any detrimental effect considering the elements of the covenant.

Chilmark Planning Board

Rich Osness Peter B. Cook Janet L. Weidner Mitchell Posin
Catherine A. Thompson Ann Wallace Chris MacLeod

May 24, 2021

MEMORANDUM

To: Chilmark Planning Board
Rich Osnoss, Chair

From: Squibnocket Pond District Advisory Committee
Wendy Weldon, co-chair

Re: Construct a 30 x 60 foot pickleball court. This project is in the Squibnocket Pond District and is on the 5/27/21 ZBA agenda.

Assessors Map33 Lot 47

Street Address: 22 Austin Pasture

Owner(s): 22 Austin Pasture Realty Trust

Owner's mailing address: 10960 Wilshire Blvd. Suite 1900, Los Angeles, CA 90024

Applicant: Reid Silva

Applicant's address: P.O. Box 421; West Tisbury MA 0575

Applicant's phone number: 508-693-3774

Applicant's email address reid@vlse.net

Re: **Description of the proposed development**

Construct a pickleball court that meets the 50-foot setback. The project is in the Squibnocket Pond District.

At our meeting on May 24th, the Squibnocket Pond Advisory Committee reviewed plans presented by Cody Coutinho from Vineyard Land Surveying.

The proposed court will be built into a slope, have an elevation of 95, a 5-foot retaining wall of concrete on the north, a hard-impervious material of concrete for the court surface itself and a fence, possibly chain linked of an undetermined height, but probably over 5 feet on the other three sides of the court. The drainage will consist of a gravel strip around the outside of the court.

There was a question whether the covenant is still in effect. It was stated that it was renewed less than 30 years ago, and is a permanent covenant with the town.

With confirmation from Vineyard Land Surveying, there is a covenant with the Austin Pasture Subdivision originally written in 1979 and renewed by the property owners in 1998. It is also confirmed that it is a permanent covenant with the town of Chilmark and the Chilmark Planning Board. Article 5.D. reads, "No tennis courts shall be constructed on these lots." A copy of the covenant is attached to this report.

The committee asked who decides whether a pickleball court is considered the same as a tennis court? It was discussed that the Zoning Board will have the final decision. The building inspector considers them to be not the same.

There was concern that this particular pickleball court was similar in dimensions to a tennis court. It was discussed that a pickleball court is usually smaller than a tennis court.

The committee was concerned about the environmental impact of the court being cut into a steep hillside creating possible drainage problems and erosion. There was also concern that the court would be highly visible from some vantage points including Squibnocket Pond and the barrier beach.

Some members of the committee felt that the proposed court goes against the spirit of the covenant.

An email was read into the meeting from Luiza Vickers. She was not in favor of the proposal. A copy of her email is attached to this report.

Section 12.6 A of The General Regulations for The Squibnocket District, was read into the meeting. A copy of this section is attached to this report. It was discussed that the court is not in keeping with Regulations 1-3 of the Squibnocket District regulations, Section 12.6.

A motion was made by Candy Shweder, "We are not recommending that the pickleball court be built." Rich Osness seconded the motion and the vote was unanimous in favor of the motion. Wendy Weldon recused herself as her property abuts 22 Austin Pasture.

Findings and recommendations: The project will have a significant impact on the Squibnocket Pond District and is not in keeping with the Covenant and the District regulations. The applicant will need to meet with the Board of Appeals before obtaining a Building Permit.

Present at the meeting from SPDAC: Candy Shweder, Leanne Cowley, Bill Rossi, Rich Osness and Wendy Weldon. Also present were Sandy Broyard, Alison Kisselgof and Cody Coutinho.

Sincerely,

Wendy Weldon and Leanne Cowley, co-chairs

cc. Reid Silva, Cody Coutinho

cc: Lenny Jason, Chilmark Building Inspector

cc: SPDAC voting members

cc: Chilmark Zoning Board of Appeals

3710719

Zoning Covenant
BE 3 PG PG 3 93

COVENANT

The undersigned, Alida B. Stange of Chilmark, Massachusetts, hereinafter called "Covenantor," having submitted to the Chilmark Planning Board a definitive plan of a subdivision entitled "Plan of Land in Chilmark, Mass. Surveyed for Alida B. Stange," dated August 27, 1979, made by Dean R. Swift, (being a subdivision of Austin Land, Quitsa, B. 356, P. 41, 1978) does hereby covenant and agree with said Planning Board and the successors in offices of said Board, pursuant to Sec. 81-U, Chapter 41, G. L. (Ter. Ed.) as amended, that:

- I. The Covenantor is the owner of record of the premises shown on the plan filed with the Chilmark Planning Board.
- II. This Covenant shall run with the land and be binding upon the executors, administrators, heirs, assigns of the Covenantor, and her successors in title to the premises shown on said Plan.
- III. The construction of ways and installation of municipal services shall be provided to serve any lot in accordance with the applicable Rules and Regulations of the Board. Deeds to all lots shown on said Plan which are owned by Covenantor shall be conveyed together with the following easements.
 - A. Owners of the Farmhouse (2) and Dolmen (1) Lots shall have the right to pass and re-pass to Squibnocket Pond along a six-foot right of way going over the Dolmen Lot and along the western boundary of Lot 3.
 - B. The cost of maintaining the common roads shall be shared equally by those who use them.
- IV. There is to be no subdivision of lots.
- V. Buildings and Improvements: Only one house is to be built on each lot, and that is to be located within the designated area indicated on Plan A. These areas may be modified prior to sale of any lot, and such modifications shall be described in the deed. Houses are to be used only for residential, recreational or farm purposes, which may include home crafts, home office uses and activities connected with farming.
 - A. The height of all structures is to be limited to eighteen feet from a point on the house site agreed upon by Covenantor and buyer.
 - B. The design of houses is to conform to the contours of the land and be in a style appropriate to the Vineyard, making use, where-ever possible, of traditional shingled exterior or of unfinished wood siding. Additions are to harmonize with the original design concept.

- 0710120
COPY -
- C. Parking lots are to be unpaved and within or adjacent to the area of the designated house site. All vehicles are to be parked so as to be as little visible as possible to other land-owners of the Old Sheep Farm.
 - D. No tennis courts shall be constructed on these lots.
 - E. All telephone and power lines are to be underground.
 - F. The only additional structures which may be built on these lots are:
 1. An unobtrusive boathouse.
 2. A guesthouse or studio.
 3. Two of the following: a garage, a barn, a storage shed.

Structures are to be either within the visual envelope of the main house or in a place sheltered from the view of other property owners. (Exception: Owners of the Farmhouse Lot may build a guesthouse, studio or barn on the foundations of the old barn.)

No structures except boathouses are to be built within 500 (five-hundred) feet of the shore of Squibnocket Pond.

- VI. If houses are rented, occupancy is to be limited to a maximum of two families per lot or, if a group, to seven people.
- VII. This covenant shall take effect upon approval of said Plan.
- VIII. Reference to this Covenant shall be entered upon said Plan, and this Covenant shall be recorded when said plan is recorded.

EXECUTED as a sealed instrument this 13th day of December, 1979.

Alida B. Stange
Alida B. Stange

COMMONWEALTH OF MASSACHUSETTS

Suffolk County, ss:

December 13th, 1979

Then personally appeared Alida B. Stange and acknowledged the foregoing instrument to be her free act and deed, before me

[Signature]
Notary Public



My commission expires:
10 APR 1981

Edgartown, Mass. January 14, 1980
at 12 o'clock and 14 minutes P M
Received and entered with Dukes County Deeds
book 371 Page 719

Attest: [Signature]
Register

A. The Site Review Committee shall review all applications for structures or for special permits within the District. The Committee shall be empowered to require that a Special Permit from the Board of Appeals be sought for any application which, in the opinion of the Committee, is not consistent with the purposes and intent of this bylaw. Guidelines for consideration shall include but not be limited to:

1. Development should be unobtrusive and subordinate to existing natural features and vegetation.
2. New structures shall not be built on ridges or hilltops, and intrusion into the skyline as viewed from public places shall be minimized.
3. Lawns and paved areas shall be kept to a minimum.
4. Exterior lighting shall be shielded so as not to project beyond the lot lines.
5. No new impervious surfaces allowed for driveways and parking areas except on slopes of 8% or more.

EMAIL FROM LUIZA VICKERS, member of SPDAC, sent May 23, 20210 at 8:45PM

Dear Wendy,

Thank you for making yourself available for the site visit this Sunday morning. Unfortunately, I will be in the air at the time of the zoom meeting and I won't be able to share my opinion in person about the proposed pickle ball court. I would very much appreciate if you could read this letter to our committee and allow me to share my thoughts on this matter.

Let me start with saying that there is a reason why we all love Chilmark and its uninterrupted beauty. We are here to preserve it and be good stewards and honor the intentions of the covenant that is with the town of Chilmark governing the Austin Pasture subdivision and the Squibnocket Pond District.

With that in mind, after the site visit I do not think that the pickle ball court is appropriate. It is similar to a tennis court. It requires a paved area, fencing and it is disruptive to the land.

In general regulations for the district we read:
"Development should be unobtrusive and subordinate to existing natural features and vegetation"

Well, this proposed development is far from that.
Its location raises a lot of questions and concerns.

It is paved , it is excavated into the hillside, it will require a significant retaining wall on at least 2 sides.

If built on the top of the hillside it will be obtrusive, pronounced and noticeable.
Quite opposite to the intentions of the covenant.

In general regulations:
"New structures shall NOT be built on ridges or hilltops."

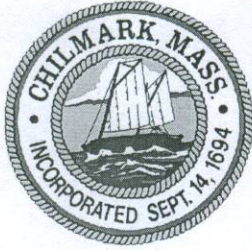
Proposed location of this court surely goes against this guideline. Not only it is obtrusive but also requires pavement which shall be kept to minimum. I am of the opinion that this is not a necessary application of the pavement and it should not be granted.

Another issue I am concerned about is fencing around the court. That, too, affects the preservation of unspoiled nature of the Pond.

And lastly, pickle ball is a friendly and a social game. I myself played few times with my neighbors on a court here in Chilmark, just about half a mile away from this site. The court is available to public and welcomes community members at all ages. I don't believe building another one at place with such a natural beauty, at a cost of interrupting the unspoiled nature is something I would support.

Thank you for your time and please consider what is the most important factor here- the intention of the covenants and the responsibility we have to uphold it.

Warm regards,
Luiza



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Jennifer L. Christy
Planning Board Administrative Assistant

To: Chilmark Zoning Board of Appeals
From: Planning Board
Re: Pickle Ball Court at 22 Austin Pasture
Date: June 14, 2021

At a properly posted meeting of the Planning Board, on June 14, 2021, the Board voted the following motion:

The Planning Board concurs with the May 24, 2021 finding and recommendations of the Squibnocket Pond District Advisory Committee (SPDAC): The project will have a significant impact on the Squibnocket Pond District and is not in keeping with the Covenant and District regulations.

Chilmark Planning Board

Rich Osnoss Peter B. Cook Janet L. Weidner Mitchell Posin
Catherine A. Thompson Ann Wallace Hugh S. Weisman