STATE OF RHODE ISLAND

WASHINGTON, SC. **SUPERIOR COURT**

(FILED: May 20, 2026)

ALIX CAVAS, ***Plaintiff,***	:	
v.	:	
MICHAEL P. MAHONEY and JILL M. WAINWRIGHT, ***Defendants/ Third-Party Plaintiffs,***	:	**C.A. No. WC-2024-0645**
v.	:	
CHARLES CAVAS, ***Third-Party Defendant.***	:	

DECISION

TAFT-CARTER, J. This matter is before the Court for decision following a nonjury trial on Plaintiff Alix Cavas's (Plaintiff or Alix) Amended Verified Complaint against Defendants Michael P. Mahoney (Mahoney) and Jill M. Wainwright (Wainwright) (collectively, Defendants), Defendants' counterclaim against Plaintiff, and Defendants' third-party complaint against Third-Party Defendant Charles Cavas (Third-Party Defendant or Charles).[1] Jurisdiction is pursuant to Rule 52(a) of the Superior Court Rules of Civil Procedure and G.L. 1956 § 8-2-14.

I

Travel of the Case

Plaintiff filed the operative complaint—the Amended Verified Complaint—in this matter on November 25, 2024. *See* Docket. Plaintiff's Amended Aerified Complaint contains four counts:

[1] Alix and Charles are married and share the last name Cavas. For the sake of clarity, they will be referred to by their first names. No disrespect is intended.

Count I, seeking a declaratory judgment that Plaintiff is the sole owner of a disputed area of land, that Defendants may not take harmful action with respect to Plaintiff's property ownership rights, and that Defendants have improperly trespassed on Plaintiff's property; Count II, to quiet title to the disputed area; Count III, alleging trespass against Defendants; and Count IV seeking civil damages for Defendants' placement of a fence and destruction of plantings in the disputed area. (Am. Verified Compl. ¶¶ 30-53.) In her prayer for relief, Plaintiff also requests an order enjoining and restraining Defendants from trespassing on her property, including the disputed area. *Id.* at 8. After a hearing on December 5, 2024, this Court denied Plaintiff's request for preliminary injunctive relief. (Tr. 74:15, Dec. 5, 2024.)

Defendants filed an Answer to Plaintiff's Amended Verified Complaint and Counterclaims against Plaintiff on December 13, 2024. *See* Docket. Defendants denied the majority of Plaintiff's allegations and asserted three causes of action in their counterclaim: Count I, seeking declaratory judgment that Defendants are the title owners of the disputed area, that Plaintiff has not acquired the disputed area by adverse possession, that Plaintiff is engaged in a continuous trespass on Defendants' property, that Defendants are entitled to injunctive relief ordering Plaintiff to cease her continuous trespass, and that Defendants are entitled to civil damages; Count II, alleging trespass against Plaintiff; and Count III, alleging intentional interference with contractual relations. (Answer ¶¶ 1-53; Counterclaim ¶¶ 31-59.)

On December 17, 2024, Defendants filed a Third-Party Complaint against Charles. *See* Docket. The Third-Party Complaint contains two counts: Count I, alleging trespass against Charles; and Count II, alleging intentional interference with contractual relations against Charles. (Third-Party Compl. ¶¶ 34-48.)

The action proceeded to a nonjury trial on all counts on August 7, 2025. *See* Docket. The parties agreed to incorporate the testimony from the preliminary injunction hearing as evidence in this bench trial. (Trial Tr. 11:10-14, Aug. 7, 2025.) The Plaintiff presented three witnesses: Alix Cavas, Camden Alexander Meystre (Meystre), and Charles P. Cavas. After the conclusion of Plaintiff's case-in-chief, Defendants presented two witnesses: Michael Patrick Mahoney and Jill Wainwright.

II

Findings of Fact

This Court, after thorough review of the evidence in this case, makes the following findings of fact.

The crux of this action is a dispute between neighbors over the location of a common boundary. *See generally*, Am. Verified Compl.; *see also*, Defs.' Answer and Countercls.; Defs.' Third-Party Compl. The parties stipulated that the disputed area "runs along the northern boundary of [95 Dendron Road] and [the] southern boundary of [105 Dendron Road], from Dendron Road to the rear of both properties" and "is that space between the points as certified by Robert C. Shultz (*sic*) Jr. on or about May 7, 2024 and the line of rocks and plantings to the north of the surveyed points, running the entire length" of the properties (the disputed area). (Am. Joint Statement of Undisputed Facts ¶ 10.)

Plaintiff and her former spouse purchased the property located at 95 Dendron Road, South Kingstown, Rhode Island, which is designated as South Kingstown Tax Assessor's plat 49-2, lot 33 (95 Dendron Road or Cavas Property), on August 30, 1994. (Joint Ex. 14; *see also* Am. Joint

Statement of Undisputed Facts ¶¶ 1-2.)[2] Plaintiff has resided at 95 Dendron Road consistently since acquiring the property in 1994. Beginning in September 2011, Charles has also resided at the property. (Am. Joint Statement of Undisputed Facts ¶ 6.) Defendant Mahoney purchased the abutting parcel with the address 105 Dendron Road, South Kingstown, Rhode Island (105 Dendron Road)[3] on January 27, 2017. Mahoney conveyed that property to himself and Wainwright on October 2, 2018. *Id.* ¶¶ 7-9.[4]

When Plaintiff acquired 95 Dendron Road in 1994, she understood the northern boundary of the property, beginning in the front yard near Dendron Road, to be delineated by "a stone wall and an extremely large and overgrown rhododendron," "an enormous boulder and then . . . larger rocks and smaller rocks that continuously line to the rear of the property[,]" as well as "some plantings," including, in the front yard, "a forsythia," and some shrubs, another forsythia, and "a couple of trees" toward the rear (eastern) boundary of the property. (Tr. 8:7-9, 8:23-9:5, Dec. 5, 2024.) Additionally, the rear half of the yard "was enclosed with chicken wire[.]" *Id*. at 8:10-11. Plaintiff testified that "[t]he chicken wire was removed" over the course of the years. *Id.* at 38:9.

From the time Plaintiff purchased 95 Dendron Road until January 2017, an elderly woman occupied 105 Dendron Road. *Id.* at 20:19-25. According to Plaintiff, there were "very few interactions" with the elderly former neighbor. (Trial Tr. 14:19-24, Aug. 7, 2025.) The former

[2] Plaintiff and her former husband conveyed 95 Dendron Road to Plaintiff (Alix Meystre) as the sole owner on September 24, 2008. Plaintiff again conveyed the property (as Alix Meystre) to herself (as Alix Cavas) on August 30, 2012.

[3] In their joint statement of undisputed facts, the parties state that both 95 Dendron Road and 105 Dendron Road are designated as South Kingstown Tax Assessor's plat 49-2, lot 33; however, a survey admitted into evidence at trial identifies the Mahoney property as South Kingstown Tax Assessor's plat 49-1, lot 13. (Joint Ex. 33.)

[4] There is no evidence in this trial record indicating the name of Defendant Mahoney's predecessor in title. The record merely indicates that an elderly woman resided at 105 Dendron Road prior to Mahoney and Wainwright. *See* Trial Tr. 15:1, 43:5-6, 45:16- 46:2, 83:18-23, Aug. 7, 2025.

neighbor had a "lawn service" care for her property. *Id.* at 15:1-2. Plaintiff observed her former neighbor's niece weeding while Plaintiff was in her front yard, and while she and her former neighbor's niece were outside at the same time, they "would banter." *Id.* at 15:5. On at least one occasion, her former elderly neighbor also came outside while Plaintiff and the former neighbor's niece were weeding. *Id.* at 14:17-15:6. Despite testifying that she observed her former neighbor outside and that her former neighbor's niece performed maintenance, Plaintiff testified that she has never seen either her prior or current neighbors make any improvements in the area of the rock wall, and that, prior to this dispute, she had never observed anyone other than herself, her family, or their guests in the area adjacent to the rock wall. (Tr. 13:2-5, Dec. 5, 2024.)

Plaintiff, an avid gardener, used the area up to the rock wall since she moved into the home at 95 Dendron Road. *Id.* at 11:1-3. While Plaintiff testified that she has maintained that area generally, there is little evidence indicating where along the rock wall the maintenance was performed or how long she has been performing such maintenance. *Id.* at 11:4-5. In one area, Plaintiff removed an "extremely large . . . rhododendron" from "immediately by the stone wall" in 1996. (Tr. 11:6-11, Dec. 5, 2024; Trial Tr. 16:1-3, Aug. 7, 2025.) Plaintiff planted mayflower and lily of the valley in other areas; however, neither specific dates nor specific locations were provided. (Tr. 11:11-12, Dec. 5, 2024.) Also within the area, "[t]here are fern." *Id.* at 11:12. The record is void, however, of evidence relative to who planted the fern, where the fern grow, how long they have been growing, or what type of maintenance Plaintiff performed in relation to the fern. In addition to the mayflower and lily of the valley, Plaintiff planted hosta. (Trial Tr. 12:14-17, 14:5-6, Aug. 7, 2025.) With regard to the hosta, she testified that she "ha[s] hosta in front of some of [the] rocks in between the shrubs . . . and other plantings." (Tr. 25:17-19, Dec. 5, 2024.)

Plaintiff or her husband have also trimmed the forsythia. *Id.* at 16:14-17. Significantly, however, Plaintiff "admitted[], with [her] past neighbor, as she was so old, [Plaintiff and her husband] would kind of walk around and help her keep it maintained on the other side." *Id.* at 16:17-20. Moreover, photographs admitted into evidence at trial demonstrated that the forsythia and other plants in the disputed area are not closely maintained or manicured. (Joint Exs. 7, 12, 22, 23, 41, 44, 48, 49, and 54 (depicting the forsythia bushes).)

Plaintiff "transplanted one [of the forsythia] so as to make it even bushier than it had been[.]" (Tr. 25:1-2, Dec. 5, 2024.) At trial, Plaintiff embellished her original testimony on this subject, stating that "over the course of the years, [she] actually transplanted some roots and expanded" the forsythia, "[s]o they've kind of grown along the rock area in the backyard, and [Plaintiff has] expanded a little bit in the front yard." (Trial Tr. 13:1-5, Aug. 7, 2025.) Plaintiff transplanted the forsythia "well over [twenty-five] years ago." *Id.* at 13:12-13.

When Plaintiff's children were small, she used the large boulder in the rock wall "as a kind of holding place" for her ex-husband's canoe and, later, two kayaks. (Tr. 11:12-15, Dec. 5, 2024.) Plaintiff was uncertain of the length of time that her family owned the canoe, and she estimated that they likely acquired it in 2000. *Id.* at 19:4-14. However, Plaintiff testified that "initially, it was in the backyard," but later, they "stopped dragging it" and began instead resting it upside down on the boulder to drain. (Trial Tr. 17:19-22, Aug. 7, 2025.) Plaintiff stored the kayaks on the boulder "during the summertimes for [her] kids or the neighbors' kids to . . . take." (Tr. 11:16-17, Dec. 5, 2024.) Although Plaintiff stated that she has "used [the big boulder] for decades to rest a canoe or kayaks," she did not specify when she transitioned from storing the canoe in the backyard to resting it on the boulder, nor did she specify whether the "decades" of use was a continuous span. *See id.* at 15:23-25; *see also* Trial Tr. 17:19-22, Aug. 7, 2025.

Plaintiff planted a flower bed in the backyard at 95 Dendron Road in 1995 or 1996, and, although the flower bed has "evolved over the course of time," she testified she "still maintain[s] it to this day." (Tr. 17:25-18:4, 18:7-10, Dec. 5, 2024.) Prior to January 2017, Plaintiff placed a shed over a portion of the area that was previously a flower bed. (Trial Tr. 83:11-13, Aug. 7, 2025; *see also,* Joint Exs. 7, 22, 35, 43, and 56.) This shed is located on Plaintiff's property. (Trial Tr. 77:21-24, Aug. 7, 2025.)

Charles testified that after he began residing at 95 Dendron Road full time in September 2011, he maintained the disputed area along with Alix. (Trial Tr. 56:8-10, 56:21-57:1, Aug. 7, 2025.) Specifically, Charles testified that he has mowed the grass in the area by the stone wall, trimmed the "overhanging forsythia," and raked leaves from "the beds along the stone wall[.]" (*Id.* at 57:3-13.) Charles also testified that after approximately five or six years, he and Alix began hiring a contractor to perform clean-ups in the spring and fall. *Id.* at 57:14-16. Additionally, Charles testified that for the length of time he lived at the property up until the events giving rise to the instant dispute, "at least one kayak, if not two" had been stored on the large boulder. *Id.* at 59:2-3 (referencing Joint Ex. 35). Of note, Charles was granted a life estate in 95 Dendron Road. *Id.* at 60:9.

While Plaintiff did testify openly, at times she became defensive about the dispute. Mahoney, on the other hand, testified consistently and credibly. Since moving into the home at 105 Dendron Road in January 2017, the forsythia have "grow[n] free." (Tr. 52:21-23, Dec. 5, 2024.) Mahoney has never spoken to the previous owner of 105 Dendron Road, nor did he frequent 105 Dendron Road before moving there. *Id.* at 46:22-47:4, 57:11-13. Shortly after moving into the property, Mahoney received an unfortunate diagnosis, and he was therefore unable to perform any

maintenance on the property until he recovered the following year. (Trial Tr. 85:16-18, Aug. 7, 2025.) As a result, Wainwright arranged for some assistance with maintenance. *Id.* at 85:18-19.

Once Mahoney was able to resume maintenance on the property, he and Wainwright began to "maintain it . . . from basically the center of the . . . forsythia toward [their] property[.]" *Id.* at 85:2-5. Mahoney testified that he did not go on the other side of the forsythia bushes because he would have to trespass to do so. *Id.* at 84:21-23. Plaintiff did not contest this assertion, and photographs admitted into evidence at trial corroborate Mahoney's testimony. (Joint Exs. 7, 12, 22, 23, 41, 44, 48, 49, and 54 (depicting forsythia branches extending beyond the recorded/surveyed boundary line and the fence erected by Defendants).) Mahoney's testimony is also consistent with Charles's statement that he occasionally trimmed the "overhanging forsythia." *See* Trial Tr. 57:6-9, Aug. 7, 2025.

Furthermore, Mahoney firmly disputed Plaintiff's testimony that she was the only one to perform maintenance in the disputed area. (Tr. 52:24-53:4, Dec. 5, 2024.) Mahoney had a wood pile in the disputed area, as well as a sailboat. *Id.* at 51:1-7. These items were kept in the disputed area without objection from Plaintiff. *Id.* at 51:8-11. Mahoney asserts that there were no improvements to the disputed area other than the wild-growing forsythia. *Id.* at 54:20, 55:3-6. Mahoney also disputed Plaintiff's claim that she continues to maintain the flower bed, stating "there's a shed sitting directly on top of them, has been since [he] bought the property." (Trial Tr. 83:11-13, Aug. 7, 2025.) Additionally, Mahoney consistently testified that there were no obvious indications that Plaintiff or her family members conducted any activity on his side of the recorded boundary line. (Tr. 46:18-21, Dec. 5, 2024; Trial Tr. 95:20-23, Aug. 7, 2025.)

In August 2023, Plaintiff hired a contractor to install a dog fence. (Tr. 21:10-12, Dec. 5, 2024; *see also* Trial Tr. 63:1-2, Aug. 7, 2025.) The dog fence consists of a black chain link fence

along the northern, eastern, and southern boundaries of her backyard, as well as a white vinyl fence dividing her backyard and her front yard. (Trial Tr. 20:15-21:11, Aug. 7, 2025 (referencing Joint Ex. 27).) Mahoney does not object to Plaintiff entering the area for the purpose of accessing the plants; his only objection is to Plaintiff's installation of the dog fence on Defendants' property. (Tr. 55:17- 56:14, Dec. 5, 2024.)

Mahoney was alerted to Plaintiff's claim to a portion of his property when a contractor hired by Plaintiff knocked on his door and requested that he relocate his wood pile, which was located within the disputed area. *Id.* at 47:11-24, 51:3-7. Prior to Plaintiff's installation of the dog fence, there were "no issues whatsoever" between the parties. (Trial Tr. 89:20-21, Aug. 7, 2025.) Defendants had a survey performed, and a copy of that survey was transmitted to Plaintiff "[a]s soon as [Defendants] got it in [their] hands." *Id.* at 87:25-88:2. Ultimately, on November 14, 2024, Defendants installed a fence of their own along the surveyed boundary in the front yard portion of the disputed area. *Id.* at 80:10-14; *see also* Joint Ex. 33; Trial Tr. 69:8-11, 71:7-9, Aug. 7, 2025. Plaintiff filed the instant action the following day. *See* Docket.

III

Standard of Review

"In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to Rule 58[.]" Super. R. Civ. P. 52(a). "Pursuant to this authority, the trial justice sits as a trier of fact as well as of law." *Parella v. Montalbano*, 899 A.2d 1226, 1239 (R.I. 2006) (internal quotations omitted). "Consequently, he or she weighs and considers the evidence, passes upon the credibility of the witnesses, and draws proper inferences." *Id.* at 1239 (internal quotation omitted). "[S]uch inferences, if reasonable, are entitled on review to the same weight as other

factual determinations." *Rhode Island Mobile Sportsfishermen, Inc. v. Nope's Island Conservation Association, Inc.*, 59 A.3d 112, 118 (R.I. 2013) (internal quotation omitted).

In the decision, the Court "need not engage in extensive analysis and discussion of all the evidence. Even brief findings and conclusions are sufficient if they address and resolve the controlling and essential factual issues in the case." *Parella*, 899 A.2d at 1239 (internal quotation omitted). Indeed, the "trial justice's analysis of the evidence and findings in the bench trial context need not be exhaustive . . . if the decision reasonably indicates that [the trial justice] exercised [her] independent judgment in passing on the weight of the testimony and the credibility of the witnesses[.]" *JPL Livery Services, Inc. v. State of Rhode Island Department of Administration*, 88 A.3d 1134, 1141 (R.I. 2014) (internal quotations omitted).

IV

Analysis

A

Plaintiff's Claims

1

Adverse Possession

"It is well settled in our state that land may be acquired through the doctrine of adverse possession when the elements identified in the General Assembly's codification of this method of acquisition are met." *Clark v. Buttonwoods Beach Association*, 226 A.3d 683, 690 (R.I. 2020). Pursuant to G.L. 1956 § 34-7-1:

> "Where any person or persons, or others from whom he, she, or they derive their title, either by themselves, tenants or lessees, shall have been for the space of ten (10) years in the uninterrupted, quiet, peaceful and actual seisin and possession of any lands, tenements or hereditaments for and during that time, claiming the same as his, her or their proper, sole and rightful estate in fee simple, the actual seisin

> and possession shall be allowed to give and make a good and rightful title to the person or persons, their heirs and assigns forever; and any plaintiff suing for the recovery of any such lands may rely upon the possession as conclusive title thereto, and this chapter being pleaded in bar to any action that shall be brought for the lands, tenements or hereditaments, and the actual seisin and possession being duly proved, shall be allowed to be good, valid and effectual in law for barring the action." Section 34-7-1.

Therefore, "to obtain property by adverse possession, a claimant must prove actual, open, notorious, hostile, continuous, and exclusive use of property under a claim of right for at least a period of ten years." *DiPippo v. Sperling*, 63 A.3d 503, 508 (R.I. 2013) (internal quotation omitted). "Upon ten years of uninterrupted, quiet, peaceful and actual seisin and possession of the land, good and rightful title vests immediately in the adverse claimant." *Clark*, 226 A.3d at 691 (internal quotation omitted).

"Evidence of adverse possession must be proved by strict proof, that is, proof by clear and convincing evidence of each of the elements of adverse possession." *Locke v. O'Brien*, 610 A.2d 552, 555 (R.I. 1992). Accordingly, "the evidence must be by a preponderance of clear and positive evidence or by evidence that is unambiguous and affirmative in character." *Id.* at 555 (internal quotation omitted). "[T]o establish a fact or an element by clear and convincing evidence a party must persuade the [factfinder] that the proposition is highly probable, or must produce in the mind of the factfinder a firm belief or conviction that the allegations in question are true." *Cahill v. Morrow*, 11 A.3d 82, 88 n.7 (R.I. 2011). "The burden at all times remains on the claimant to establish adverse use by strict proof." *Butterfly Realty v. James Romanella & Sons, Inc.*, 93 A.3d 1022, 1033 (R.I. 2014).

Indeed, "courts have questioned whether the concept of adverse possession is as viable as it once was, or whether the concept always squares with modern ideals in a sophisticated, congested, peaceful society." *Cahill*, 11 A.3d at 87 (internal quotation omitted). This is because,

"[i]n reality, adverse possession is nothing more than a person taking someone else's private property for his [or her] own private use." *Id.* at 88 (internal quotation omitted). Accordingly, "[a]lthough this Court duly recognizes its role as the judicial arm of government tasked with applying the law, rather than making law, it is not without an eyebrow raised at the ancient roots and arcane rationale of adverse possession that [this Court applies] the doctrine to this modern property dispute." *Id.*

i

Actual

"Actual possession, for purposes of adverse possession, has been defined as use and occupation of the property, or dominion over the property, or as possession in fact, effected by actual entry on, and actual occupancy of, the premises." 3 Am. Jur. 2d *Adverse Possession* § 16 (2009). A claimant may establish this element by demonstrating "possession evidenced by such use and occupation of the claimed property as to establish a clear dominion over it" or "effective control over a definite area of land, evidenced by things visible to the eye or perceptible to the senses." *Id.* To "occupy" is "to enter and take control of (a place)." Black's Law Dictionary (12th ed. 2024).

Plaintiff clearly gardened in the disputed area over the years. In addition, she used and stored her canoe and kayaks on the rocks. *See, e.g.*, Joint Exs. 29 and 57; *see also* Tr. 25:17-19, Dec. 5, 2024; Trial Tr. 17:19-22, Aug. 7, 2025. Although these uses of the disputed area indicate that Plaintiff "entered" the space on occasion, there is no evidence on this record that she "took control" over the area so as to occupy it. *See* Black's Law Dictionary (12th ed. 2024). When asked whether she has maintained the area "up to the rock wall," Plaintiff described the 1996 removal of the rhododendron. (Tr. 11:1-11, 12:24-13:1, Dec. 5, 2024; *see also* Joint Ex. 57.) Plaintiff reasoned

that removal of the rhododendron was necessary because it was very dark in that space. (Tr. 11:8-11, Dec. 5, 2024.) Plaintiff likes "natural" plants. *Id.* at 32:8-11. She "planted mayflower . . . and lily of the valley," and there is fern growing in the area. *Id.* at 11:11-12. Plaintiff created flower beds to beautify the space because "there were no, literally no flowers that grew anywhere on th[e] property." *Id.* at 32:3-8.

In addition, she assisted her elderly neighbor, as any good neighbor. *Id.* at 16:17-20 . The testimony concerning seasonal plantings alone fails to establish occupation. Both the timeframe for the plantings and the specific maintenance activities performed on the mayflower and lily of the valley were vague. Moreover, Plaintiff's testimony that "[t]here are fern in there" fails to convince this Court that she performed any "acts of dominion" over the area in dispute. *See id.* at 11:12. Additionally, Plaintiff testified that when she first acquired 95 Dendron Road in 1994, the line of rocks and plantings that she understood to delineate the boundary between her backyard and the property owned by her neighbor to the north was "very scarce," consisting of "maybe two, two shrubs . . . a forsythia . . . , [and] a couple of trees." *Id.* at 9:2-5. This alone may establish use; however, the record fails to establish occupation sufficient to objectively indicate the appropriation of the disputed area.

This conclusion equally applies to the storage of kayaks on the large boulder within the front yard portion of the disputed area. (Trial Tr. 53:24-54:1, Aug. 7, 2025.) While the Plaintiff maintained actual possession of the kayak storage area, the occupation objectively fails to indicate dominion of the area by Plaintiff. "To acquire title to land by adverse possession, a claimant must prove actual possession of the property claimed and acts of dominion over that property[.]" *Russo v. Stearns Farms Realty, Inc.*, 117 R.I. 387, 390, 367 A.2d 714, 716 (1977). While a use of the property has been demonstrated, Plaintiff failed to establish that "acts of dominion" took place

beyond the recorded boundary line. Although Plaintiff testified about maintaining plantings in the front yard near the rock wall, this testimony was inconsistent, and it failed to establish any act of dominion that occurred beyond the recorded boundary of 95 Dendron Road. Additionally, photographs showing plants in the front yard portion of the disputed area, as well as Plaintiff's testimony about them, fall short of establishing by clear and convincing evidence that the plants she alleges to have planted herself are those in the photographs. Although photographs presented at trial corroborate Plaintiff's assertion that she planted a flower bed, neither the testimony nor the demonstrative evidence establishes that the flower bed extended into the disputed area. *See* Joint Exs. 2, 38, and 39.

Similarly, Meystre's testimony concerning his childhood understanding that the northern boundary of 95 Dendron Road was delineated by the flower bed in the backyard is irrelevant. (Trial Tr. 52:2-8, Aug. 7, 2025.) His testimony, along with Plaintiff's, failed to establish that the flower bed in Plaintiff's backyard extended beyond the recorded boundary line. *See generally id.* at 50-55.

There are few morsels of credible evidence indicating that the flower bed or mulched area extended beyond the recorded boundary of 95 Dendron Road. Thus, Plaintiff failed to establish actual possession of the disputed area by clear and convincing evidence.

ii

Open and Notorious

"The 'open' and 'notorious' elements are considered together[.]" *Clark*, 226 A.3d at 691. "[T]he Court inquires whether the party claiming ownership by adverse possession used the property in a manner consistent with how owners of similar property would use such land and whether these uses were inclined to attract attention sufficient to place the world on constructive

notice." *Id.* (internal quotations omitted). "Although no particular act is required to establish an intention to claim ownership, the requisite act must put a reasonable property owner on notice that his [or her] property is being claimed." *McGarry v. Coletti*, 33 A.3d 140, 147 (R.I. 2011) (internal quotations omitted).

Plaintiff testified that she and her husband would "cut the forsythia back, keeping it healthy . . . and, . . . on occasion, [she] had actually transplanted one so as to make it even bushier than it had been[.]" (Tr. 24:24-25:2, Dec. 5, 2024.) This ambiguous activity would not "sufficiently attract[] enough attention to place the world on constructive notice" of an adverse possession claim. *See McGarry*, 33 A.3d at 146 (internal quotation omitted).

In *McGarry*, the Rhode Island Supreme Court held that an adverse possession claimant's conduct of laying crushed stone and planting several trees on a disputed strip of land was not sufficiently open and notorious because the existing "buffer property was 'wooded' and 'wild'" and therefore, "the trees that defendant planted may not have been sufficiently distinct from the trees that originally grew on the property[.]" *Id.* at 146-47. The Court further noted that although the claimant "maintained the disputed property annually," maintenance consisting of "simply clearing an area of debris and dead branches and trees" was also "insufficient to constitute 'open and notorious' use." *Id.* at 147.

The instant action is analogous to *McGarry*. Here, Plaintiff testified that she would "rake or blow leaves" and that she "cut the forsythia back, [to] keep[] it healthy," on one occasion transplanting a portion "to make it even bushier." (Tr. 24:20, 24:24-25:2, Dec. 5, 2024.) Photographs produced at trial established that the forsythia bushes between the parties' homes are not manicured to form a hedge; rather, they appear to grow quite freely. (Joint Exs. 7, 12, 22, 23, 41, 44, 48, 49, and 54 (depicting the forsythia bushes).) Plaintiff's conduct of occasionally

trimming the forsythia and, in one instance, transplanting some of the roots, is not sufficiently distinct from the free-growing forsythia that originally grew on the property. *See McGarry*, 33 A.3d at 146-47. This is particularly true in light of Mahoney's testimony that he and Wainwright prefer to "kind of [just] let the forsythia grow." (Trial Tr. 85:8-9, Aug. 7, 2025.)

Conversely, in *Carnevale v. Dupee*, 853 A.2d 1197, 1201 (R.I. 2004), our Supreme Court held that "a landowner met the 'open and notorious' element of adverse possession because he *frequently* mowed the disputed land *and maintained a fence* that surrounded the land." *McGarry*, 33 A.3d at 146 (citing *Carnevale*, 853 A.2d at 1201 (emphasis added). There, the Court noted that such conduct "sufficiently attracted enough attention to place the world on constructive notice." *Carnevale*, 853 A.2d at 1201. Here, Plaintiff testified that she mowed in the disputed area, and Meystre similarly testified that he was required "to mow that strip of land between . . . the rock wall and . . . the driveway"; however, neither Plaintiff nor Meystre provided this Court with any evidence regarding the timing or frequency of the mowing or other maintenance. (Trial Tr. 52:11-13, Aug. 7, 2025.)

iii

Hostile

"A claimant makes a showing that the possession was 'hostile' if a determination is made that the possession of the occupier is to a visible line in all events, regardless of the location of the true boundary line." *Anthony v. Searle*, 681 A.2d 892, 898 (R.I. 1996) (internal quotation omitted). "[H]ostility of possession necessary to establish adverse possession implies the denial of the owner's title; and possession, however open and long it may be, is not adverse without the denial of the owner's title." *Cahill*, 11 A.3d at 90 (internal quotation omitted). "A possessor's use is hostile if it is a use inconsistent with the right of the owner, without permission asked or given,

such as would entitle the owner to a cause of action against the intruder for trespass." *DiPippo*, 63 A.3d at 508 (internal quotations and brackets omitted). "[H]owever, a person attempting to obtain title through adverse possession need not be under a good faith mistake that he or she had legal title to the land." *Tavares v. Beck*, 814 A.2d 346, 351 (R.I. 2003) (internal quotation omitted).

"[A] claim of right to own or use property will arise by implication through objective acts of ownership that are adverse to the true owner's rights, one of which is to exclude or to prevent such use." *Id.* (internal quotation omitted). "Thus, in establishing hostility and possession under a claim of right, the pertinent inquiry centers on the claimants' objective manifestations of adverse use rather than on the claimants' knowledge that they lacked colorable legal title." *Id.* However, "our adverse-possession statute was never intended to allow the possessor of property to mask his [or her] intent and then acquire the property by concealing the true situation from the record owner." *Id.* at 352 (internal quotation omitted). "While [our Supreme Court] has required something more than silent acquiescence to show that a use was permissive, a landowner need not formally or expressly grant a user permission" because sufficient permission "may be inferred from the surrounding circumstances." *Butterfly Realty*, 93 A.3d at 1033 (internal quotations omitted).

The evidence in this trial record fails to establish that Plaintiff occupied the disputed area "to a visible line in all events." *See Anthony*, 681 A.2d at 898 (internal quotation omitted). As discussed earlier, while Plaintiff testified that she maintained plants, mowed grass, and raked leaves, there is no evidence that these activities occurred beyond the recorded boundary of her property. Furthermore, it has not been established that any conduct within the disputed area was sufficiently open and notorious to put the world on constructive notice of her claim.

Moreover, Plaintiff testified that she maintained the southern side of the forsythia, as well as other plantings immediately to the south of the rock wall and sporadic line of rocks; however, Plaintiff also testified that she maintained the northern side of the forsythia bushes to assist her former neighbor who was elderly. *See* Tr. 16:18-20, Dec. 5, 2024. Such conduct, particularly in light of Plaintiff's concession that on occasion her former neighbor or her former neighbor's niece observed her maintenance of the forsythia while chatting in a neighborly manner, is precisely the type of circumstance that gives rise to an inference of permission. *See Butterfly Realty*, 93 A.3d at 1033. Additionally, when cross-examined on the issue of her prior neighbor, Plaintiff became defensive and evasive. *See* Trial Tr. 13:14-20, 15:7-16, 16:12-15, 18:20-23, 20:7-11, Aug. 7, 2025. The testimony relative to Plaintiff assisting her elderly neighbor objectively could lead a reasonable observer to believe that Plaintiff was being neighborly.

"When permission is granted for a particular use, a later use of the same kind cannot be characterized as adverse." *Hilley v. Lawrence*, 972 A.2d 643, 652 (R.I. 2009). "A permissive use may become hostile only when the permission has been withdrawn or when events have occurred indicating that the original permission no longer obtained." *Id.* (internal quotation omitted). Here, Plaintiff's claim for adverse possession is grounded in the assertion that she has performed certain gardening activities in the disputed area since acquiring 95 Dendron Road in 1994. Even if Plaintiff had established that she had actually used the disputed area in an open and notorious manner, which this Court has already found she did not, Plaintiff's use of the land lacked hostility because her offer of assistance paired with her neighborly banter with her former neighbor's niece gave rise to an inference of permission. There is no evidence in the trial record indicating that such permission was withdrawn or that an event indicating that the original permission no longer existed

until Plaintiff erected her fence in August of 2023. Thus, the limited use Plaintiff made of the disputed area was permissive until that time.

Accordingly, this Court finds that Plaintiff did not establish by strict proof that her use of the disputed area was hostile and under a claim of right.

iv

Continuous

"It is true that the continuous and uninterrupted possession required to constitute adverse possession by the statute does not require a constant use of the occupied area." *Russo* , 117 R.I. at 392, 367 A.2d at 717 (internal quotation omitted). "It is necessary that it be continuous only in the sense that the claimant exercised a claim of right without interference at such times as it was reasonable to make a proper use of the land." *Id.* (internal quotation omitted). "Essentially, the test is whether the use to which the land has been put is similar to that which would ordinarily be made of like land by the owners thereof." *Id.*

Plaintiff points to various, distinct instances of conduct that occurred throughout the many years she has resided at 95 Dendron Road to establish continuous possession. *See, e.g.*, Tr. 11:6-11, 25:1-2, 25:17-19, Dec. 5, 2024; Trial Tr. 15:25-16:3, Aug. 7, 2025. However, Plaintiff also fails to establish this element. For example, Plaintiff testified that she and her mother removed the rhododendron from the rock wall in 1996. (Tr. 11:6-11, Dec. 5, 2024; Trial Tr. 16:1-3, 16:8-11, Aug. 7, 2025.) However, there is no evidence in this record indicating that Plaintiff's use or possession of that specific area continued after that one-and-one-half-day ordeal. In fact, Plaintiff testified that after she and her mother hacked all of the life out of that rhododendron, the stump was left behind, protruding from the rock wall, for nearly thirty years, and it was only finally removed when Defendants had their fence installed in November 2024. *See* Tr. 11:7-11, Dec. 5,

2024 (referencing Ex. 3 (depicting the stump protruding from the rock wall); *see also id.* at 23:7-9.

Plaintiff also testified that she created a flower bed in 1995 or 1996. *Id.* at 17:25-18:4 (referencing Joint Ex. 2). Although Plaintiff testified that she continues to maintain that flower bed "to this day," Plaintiff provided no details about the frequency or nature of the maintenance. Furthermore, Mahoney testified that the beds are no longer maintained because "there's a shed sitting directly on top of them[.]" (Trial Tr. 83:11-13, Aug. 7, 2025.) Moreover, evidence in the trial record directly contradicts Plaintiff's contention that the flower bed is still maintained, including photographs of the shed referred to by Mahoney and Plaintiff's own testimony that she now uses that area for compost. (Joint Exs. 7, 8, 18, 43, and 44; Tr. 19:18-19, Dec. 5, 2024.)

Although Plaintiff testified about some additional, more generalized maintenance within the disputed area, such as mowing grass, maintaining plantings, and raking leaves, Plaintiff presented no evidence about the precise locations in which each distinct activity occurred, nor did she elaborate on the frequency with which these activities were performed. *See, e.g.,* Tr. 11:4-5, 11:11-12, Dec. 5, 2024.

v

Exclusive

Plaintiff asserts that she has never seen anyone other than herself, her family members, or their guests in the disputed area "[i]n the more than thirty years" she has owned 95 Dendron Road. (Pl.'s Post-Trial Br. 10.) Therefore, Plaintiff asserts her use of the disputed area was exclusive. *Id.* Plaintiff's contention that her possession was exclusive because she has not personally observed anyone else in the disputed area for over thirty years lacks merit.

Indeed, Plaintiff failed to establish that she was in exclusive possession of any portion of the disputed area. Specifically, despite testifying that she never observed anyone other than herself, her family members, or their guests in area adjacent to the rock wall, Plaintiff also testified that she left the kayaks resting on the large boulder so they could be accessed not only by her own children, but by the neighbors' children as well. *See* Tr. 11:15-17, Dec. 5, 2024. Additionally, Plaintiff testified that in approximately 2000, nobody else stored anything in the area adjacent to the back corner of her yard; however, at present, her neighbor directly behind her stores his enormous boat in that area, and Defendants store their fire logs and other belongings in that area. *See id.* at 19:17-23. Although Plaintiff attempted to distinguish the area in which Defendants store their items from the disputed area by stating that it is "on the other side of the mulched area," as previously discussed, Plaintiff failed to establish that the mulched area seen in the demonstrative exhibits extends beyond the recorded boundary of 95 Dendron Road. *See id.* at 19:23-20:3; *see generally* Tr. Dec. 5, 2024; Trial Tr. Aug. 7, 2025.

Accordingly, this Court finds that Plaintiff failed to establish by clear and convincing evidence that she had exclusive possession of any portion of the disputed area.

vi

Statutory Period

Plaintiff asserts that the unrebutted record evidence clearly supports her adverse possession claim because it establishes that Plaintiff began possessing the disputed area shortly after purchasing 95 Dendron Road in 1994 and continued through the events that gave rise to this litigation. (Pl.'s Post-Trial Br. 11.) Plaintiff further asserts that Defendants' concessions that they cannot speak to anything that occurred in the disputed area prior to 2017 and their failure to elicit

any testimony contradicting that of Plaintiff's witnesses regarding Plaintiff's possession of the disputed area for twenty-three years prior to 2017 render Plaintiff's evidence unrebutted. *Id.*

"When faced with uncontradicted witness testimony and questions of credibility, [our Supreme] Court has held that a witness's uncontroverted, positive testimony ordinarily is conclusive upon the trier of fact." *Sepulveda as Trustee of 7 Half Mile Road Living Trust v. Buffum*, 334 A.3d 98, 105 (R.I. 2025) (internal quotation omitted). However, our Supreme Court has also held that "a trial justice may refuse to accept the uncontroverted testimony of proffered witnesses under certain circumstances." *Id.* (internal quotation omitted). '"For example, positive uncontroverted testimony may be rejected if it contains inherent improbabilities or contradictions, which alone, or in connection with other circumstances, tend to contradict it."' *Id.* (quoting *Pelletier v. Laureanno*, 46 A.3d 28, 39 (R.I. 2012)). "Such testimony may also be disregarded if it lacks credence or is unworthy of belief, especially if the testimony is that of a party to the litigation or of an interested witness." *Id.* (internal quotation omitted).

Both exceptions are relevant here. As discussed earlier, Plaintiff's testimony about her maintenance of plants near the rock wall in the front yard was inconsistent and vague, and, at trial, Plaintiff embellished her original testimony about transplanting the forsythia. Plaintiff also became defensive and evasive when she was cross-examined about the assistance she provided to her former elderly neighbor, further lessening her credibility. Meystre's testimony about mowing the area between the driveway and the rock wall was also imprecise, lacking any reference to the timing or frequency of the maintenance he performed. Finally, Charles's testimony about his own maintenance of the disputed area was vague, and, significantly, he too is an interested party with a life estate in 95 Dendron Road.

Moreover, even if this Court were to accept Plaintiff, Meystre, and Charles's testimony as unrebutted, positive evidence of the pre-2017 activity in the disputed area, as discussed earlier, that evidence nevertheless fails to establish that Plaintiff had actual, open, notorious, hostile, continuous, and exclusive possession of the disputed area under a claim of right for the statutory period.

2

Trespass

The denial of Plaintiff's adverse possession claim is dispositive of her claim for trespass against Defendants. Plaintiff's claim for trespass is accordingly denied.

3

Damages

Plaintiff also requests that this Court award her damages for Defendants' trespass and destruction of her plantings "in an amount to be determined at trial." (Am. Verified Compl. ¶ 53.) Having found that Plaintiff has not acquired title to the disputed area through the doctrine of adverse possession, this Court necessarily cannot find that Defendants committed a trespass. Accordingly, Plaintiff's claim for damages stemming from the alleged trespass by Defendants is denied.

Additionally, the credible evidence presented at trial established that Plaintiff's plantings remained intact during the 2025 growing season. *See* Joint Ex. 47 (depicting the disputed area in July 2025 rife with plantings similar to those to the south of the fence installed by Defendants). Accordingly, Plaintiff's request for damages as a result of the alleged destruction of her plantings is also denied.

B

Defendants' Counterclaim and Third-Party Complaint

1

Declaratory Judgment

Defendants seek a declaratory judgment that they are the title owners of the disputed area, that Plaintiff has not acquired the disputed area by adverse possession, that Plaintiff is engaged in a continuous trespass on Defendants' property, that Defendants are entitled to injunctive relief ordering Plaintiff to cease her continuous trespass, and that Defendants are entitled to civil damages. As stated earlier, this Court finds that Plaintiff has not acquired the disputed area through the doctrine of adverse possession. Accordingly, Defendants' request for a declaratory judgment with regard to ownership of the disputed area and Plaintiff's continuous trespass is granted.

With regard to civil damages, Defendants did not present any evidence of the damages suffered by them as a result of the trespass. Accordingly, Defendants' request for declaratory relief that they are entitled to civil damages is denied.

2

Trespass

"To recover for trespass, a party must show (1) the adverse party intentionally entered onto the owner's property; and (2) plaintiff had rightful possession of such property." *Smith v. Hart*, No. 99-109, 2005 WL 374350, at *5 (R.I. Super. Feb. 7, 2005), as amended (Mar. 1, 2005) (citing *State v. Verrecchia*, 766 A.2d 377 (R.I. 2001)). Having found that Plaintiff did not acquire title to the disputed area through the doctrine of adverse possession, Plaintiff and Third-Party Defendant here are not in "rightful possession of [the] property" upon which a portion of their fence was erected. Accordingly, Defendants' claims for trespass against Plaintiff and Third-Party Defendant

are granted. Plaintiff and Third-Party Defendant are ordered to remove the fence erected in the disputed area by July 31, 2026.

3

Intentional Interference with Contractual Relations

"To establish a *prima facie* claim for intentional interference with contractual relations, the aggrieved party must demonstrate (1) the existence of a contract; (2) the alleged wrongdoer's knowledge of the contract; (3) his or her intentional interference; and (4) damages resulting therefrom." *Lomastro v. Iacovelli*, 126 A.3d 470, 474 (R.I. 2015) (internal quotation omitted). "As to the requirement that the interference must be intentional . . . legal malice—an intent to do harm without justification—will suffice." *Id.* (internal quotation omitted). Thus, "aggrieved parties must allege and prove not only that the putative tortfeasor intended to do harm to the contract but that they did so without the benefit of any legally recognized privilege or other justification." *Id.* (internal quotation omitted). "If the [aggrieved party] establishes these *prima facie* elements, the burden then shifts to the [defending party] to prove that the contractual interference was indeed justified." *Id.*

Defendants here did not establish the existence of a contract with which either Plaintiff or Third-Party Defendant interfered. Accordingly, Defendants' claims for intentional interference with contractual relations are denied.

V

Conclusion

For the reasons set forth above, this Court concludes that: (1) judgment shall enter for Defendants on Counts I-IV of Plaintiff's Amended Verified Complaint; (2) judgment shall enter for Plaintiff on Count II of Defendants' counterclaim; (3) judgment shall enter for Third-Party

Defendant on Count II of Defendants' third-party complaint; (4) judgment on Count I of Defendants' counterclaim and Count I of Defendants' Third-Party Complaint shall enter in favor of Defendants in part and in favor of Plaintiff/Third-Party Defendant in part. Counsel shall submit the appropriate order for entry.

RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE:	**Cavas v. Mahoney, et al. v. Cavas**
CASE NO:	**WC-2024-0645**
COURT:	**Washington County Superior Court**
DATE DECISION FILED:	**May 20, 2026**
JUSTICE/MAGISTRATE:	**Taft-Carter, J.**
ATTORNEYS:	
For Plaintiff:	**Joshua S. Parks, Esq.** **Elizabeth M. Noonan, Esq.**
For Defendant:	**Michael P. Mahoney, *pro se*** **Jill M. Wainwright, *pro se***
For Third-Party Defendant:	**Charles Cavas, *pro se***