Nantucket Planning Board

Nantucket Planning Board APPROVED Minutes
Public Safety Facility Community Room
(First Floor)
April 10, 2023 @ 4:00 PM
https://www.youtube.com/watch?v=AMgD0ki8FpY

**The Planning Board meeting will be audio and video recorded*

Board Members: John Trudel, III (Chair), David Iverson (Vice-Chair), Nat Lowell, Barry Rector, Joseph Topham

Alternates: Stephen Welch, Carl Borchert, Abby De Molina

Staff: Andrew Vorce (Planning Director), Leslie Snell (Deputy Director of Planning), Meg Trudel (Land Use Planner) and Catherine Ancero (PLUS Administrative Specialist)

PLANNING BOARD
APPROVED MINUTES
04-10-2023

(*Subject to change*)

Please list below the topics the chair reasonably anticipates will be discussed at the meeting.

***The complete text, plans, application, or other material relative to each agenda items are Available for inspection at the Planning Office at 2 Fairgrounds Road between the hours of 8:30 AM and 4:30 PM**

I. Call to order:

Chair Trudel called the meeting to order at 4:06PM.

II. Approval of the agenda:

Motion/Vote: Vice-Chair Iverson moved to approve the agenda. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously 5-0.

III. Minutes:

- **March 9, 2023**
- **March 13, 2023**
- **March 20, 2023**

Motion/Vote: Mr. Rector moved to approve the set of minutes with minor changes to the March 9th and March 13th set of minutes and approve March 20th minutes with no changes. The motion was duly seconded by Mr. Topham and the motion was carried unanimously 5-0.

IV. <u>Secondary Dwellings:</u>

- **Brook P. Meerbergen – 9 Lewis Court**
- **DJ Wells Investments, LLC – 91 Hummock Pond Road**
- **P & M Reis Trucking Inc. – 10 Green Meadows**
- **Julie & Matthew Reinemo – 2 Eli Place – *SEE PUBLIC HEARING***

Motion/Vote: Mr. Rector moved to approve the first three second dwellings (9 Lewis Court, 91 Hummock Pond Road and 10 Green Meadows). The motion was duly seconded by Mr. Lowell and the motion was carried unanimously 5-0.

V. <u>Tertiary Dwellings:</u>

- **Margaret Carro & Phil Taylor – 21A Pine Grove Lane**

Motion/Vote: Mr. Rector moved to approve 21A Pine Grove Lane tertiary dwelling. The motion was duly seconded by Mr. Topham and the motion was carried unanimously 5-0.

VI. <u>ANR:</u>

- **Town of Nantucket – New Hampshire Ave, Massachusetts Ave, California Ave**
- **Sixty-Four Pocomo Road Realty Trust – 64 Pocomo Road**
- **Crib, LLC – 12 Nobska Way – *SEE PUBLIC HEARING***

Motion/Vote: Mr. Rector moved to approve the first two ANR applications (New Hampshire Avenue, Massachusetts Avenue and California Avenue and 64 Pocomo Road) in accordance with the recommendation outlined in the staff report. The motion was duly seconded by Vice-Chair Iverson and the motion was carried unanimously 5-0.

VII. <u>Previous Plans:</u>

- **Bittersweet Lane Subdivision,** *plan endorsement*
  Discussion: Mrs. Trudel stated that the Applicant submitted final plans for endorsement and staff's recommendation is to endorse the plans as submitted.

  Motion/Vote: Mr. Rector moved to endorse the plans as submitted. The motion was duly seconded by Mr. Topham and the motion was carried unanimously 5-0.

- **5 Bluet Court,** *Form J*
  Discussion: Mrs. Trudel stated that the Applicant is requesting a single Lot release. Planning staff is working with the Applicant and with Ed Pesce on a larger release for the remaining Lots on the roadway. For tonight's meeting the Applicant is only requesting for the single Lot and staff's recommendation is to endorse the Form J for the release of the single Lot.

  Motion/Vote: Vice-Chair Iverson moved to approve the endorsement and release of the single Lot. The motion was duly seconded by Mr. Rector and the motion was carried unanimously 5-0.

VIII. <u>Preliminary Plan:</u>

- **Pennel Ames – 5 Nobska Way**
  Representing: Art Gasbarro
  Discussion: Mr. Gasbarro gave a brief overview of the application. This application is for a four lot, three buildable lots. The plan meets the requirements for frontage and lot regularity. There was mention of a pending Warrant Article regarding zoning freeze and express their intent to move forward with the preliminary plan. The intent of this plan is to freeze the zoning. The applicant will need to follow up with a definitive plan within the statutory timeframe. The zoning freeze goes with the land and not the plan.

Motion/Vote: Mr. Rector moved to approve the preliminary plan as proposed. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously 5-0.

IX. Public Hearings (Applications):

- **The Westmoor Club, 105 W. Chester Street, 109 W. Chester Street & 10 Westmoor Lane,** *action deadline 06-30-*2023
  REQUEST TO CONTINUE
- **Julie & Matthew Reinemo – 2 Eli Place,** *action deadline 07-09-2023,*
  REQUEST TO CONTINUE
  - **Second Dwelling:**
    - **Julie & Matthew Reinemo – 2 Eli Place**
- **40 OSR, LLC – 2A & 2B Forrest Avenue,** *action deadline 07-09-2023,*
  REQUEST TO CONTINUE

Discussion: The action deadlines for all properties are still in effect.

Motion/Vote: Mr. Rector moved to approve the request for continuance for the properties listed above at the next meeting, which was unanimously approved. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously 5-0.

- **ACK Mid Island, LLC & ACK Offices, LLC – 18, 18A, 20, 22, 24 & 26 Sparks Avenue,** *action deadline 06-30-2023*

Voting: (Chair) John Trudel, (Vice-Chair) David Iverson, Nat Lowell, Barry Rector and Joseph Topham
Alternates: Stephen Welch, Carl Borchert and Abby De Molina
Recused: None
Documentation: File with associated plans, photos and required documentation
Activated: None
Representing: Dan Mulloy, Engineer, and Attorney Steven Cohen.
Discussion: Mr. Mulloy and Attorney Cohen provided an update to the Board about the project. The Applicant mentioned some minor updates to the site plans based on the Board comments, including rumble strips, and they had already added them to the plan set. Mr. Pesce is still ongoing with his review. Wannacomet Water Company has issued their Certificate of Approval for the project. The traffic report will be going out for a peer review. The Applicant have a parking management plan laid out to produce resident-only spacing at different times. The Applicant are working with both parties to secure easements agreements with the shared driveway on one side, while on the other side, it's still a work in progress. They're strongly in favor of shared access and shared parking. The Applicant is also trying to make the project work to have a twenty-five affordable housing ratio and a year-round restriction plan in place. Chair Trudel opened the floor to the public. Curtis Barnes expressed concern about the parking being tight. Emily Molden from Nantucket Land Council raised concern about stormwater management plan and the need to incorporate nitrogen removal and rainwater calculations, which she had previously mentioned at the last public hearing. The Applicant did not mention these concerns, but they will provide information on them at the next meeting. Additionally, a new architect has been engaged to provide a Nantucket-friendly design, and a landscaping and screening plan is being developed. Tucker Holland, the Housing Director, expressed support for the developer's intention to make the project available only to year-rounds, whether as market or affordable housing.

Motion/Vote: Mr. Rector moved to continue this project to the next meeting. Vice-Chair Iverson expressed his appreciation for the work done so far. Chair Trudel acknowledges that some topics have already been discussed in previous meetings and that they are still addressing concerns, including issues with parking, traffic flow, and truck turning radius. The motion was duly seconded by Vice-Chair Iverson and the motion was carried unanimously 5-0.

- **Crib, LLC – 12 Nobska Way,** *action deadline 07-09-2023*
  Voting: (Chair) John Trudel, (Vice-Chair) David Iverson, Nat Lowell, Barry Rector and Joseph Topham
  Alternates: Stephen Welch, Carl Borchert and Abby De Molina
  Recused: None
  Documentation: File with associated plans, photos and required documentation
  Activated: None
  Representing: Art Gasbarro
  Discussion: Mr. Gasbarro gave a brief overview of the application. This is a rear lot subdivision. This property has already received approval for a subdivision for the lot. The new subdivision would eliminate the need for a roadway lot and create three parcels, in keeping with the intent of the rear lot subdivision bylaw. The plan meets all the requirements of the Board for a rear lot subdivision. The purpose of the subdivision is to create housing for Toscana's senior employees. There are no requests for additional relief for property line setbacks. Chair Trudel opened the floor to the public. There were no comments from the public.

  Motion/Vote: Mr. Rector moved to close the public hearing. The motion was duly seconded by Mr. Topham and the motion was carried unanimously 5-0.

  Motion/Vote: Mr. Rector moved to approve the applications with the following findings and conditions outlined in the staff report. The motion was duly seconded by Vice-Chair Iverson and the motion was carried unanimously 5-0.

  - **<u>ANR:</u>**
    - **Crib, LLC – 12 Nobska Way**

      Motion/Vote: Mr. Rector moved to approve the ANR application for 12 Nobska Way in accordance with the recommendation outlined in the staff report. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously 5-0.

- **30 North Beach Street, LLC – "The Beachside" – 30 North Beach Street,** *action deadline 07- 31-2023*
  Voting: (Chair) John Trudel, (Vice-Chair) David Iverson, Nat Lowell, Barry Rector and Joseph Topham
  Alternates: Stephen Welch, Carl Borchert and Abby De Molina
  Recused: None
  Documentation: File with associated plans, photos and required documentation
  Activated: None
  Representing: Attorney Sarah Alger, Don Bracken (Engineer) and Brad Guidy.
  Discussion: Attorney Alger gave a brief overview of the application. The application is about an amended operating plan and site plan for their property. The changes to the plan are in response to comments from previous meetings and conversations with abutters. The corner area has been changed to include angle parking, and drainage systems have been added. Two entrances to the site have been widened to allow two-way traffic. Fire truck turning analyses have been conducted to accommodate a fire truck going through the site. There were concerns about whether there would be any special events at the site. Mr. Guidy responded that there are no plans, but they would be open to occasional requests. There were discussions about the possibility of holding special events at a hotel, but it was clarified that the hotel's focus was not on events, and there were no plans for an event space specifically. Additionally, there was some discussion about potential future improvements in the area and whether there was a willingness to contribute towards them. However, since there were no specific projects proposed, it was difficult to propose a number for any contribution. There was discussion about the location of a food truck and noisy AC unit. Chair Trudel opened the floor to the public. The Board received a letter from Mr. Wood with comments about the AC units and landscaping plan. Attorney

Whit Gifford representing Mr. Wood confirms that the email was sent and apologized for the lateness of an email from Woods. Mr. Rector suggests submitting applications at least a week before meetings for adequate review. Emily Molden from Nantucket Land Council expresses her appreciation for the incorporation of more rain gardens and bioremediation areas into the projects. There are no concerns or questions regarding drainage or existing grades. There are some minor issues to be resolved, such as the location of the food truck and the noisy AC unit.

Motion/Vote: Mr. Rector moved to close the public hearing. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously 5-0.

Motion/Vote: Mr. Rector moved to approve the project with appropriate findings and conditions, which were discussed in previous meetings. Parking, lighting, and hours of operations are among the issues discussed. The motion was duly seconded by Mr. Topham and the motion was carried unanimously 5-0.

- **23 Broad Street Owner, LLC "Brotherhood of Thieves" – 23 Broad Street,** *action deadline 07-09-2023*

Voting: (Chair) John Trudel, (Vice-Chair) David Iverson, Nat Lowell, Barry Rector and Joseph Topham
Alternates: Stephen Welch, Carl Borchert and Abby De Molina
Recused: None
Documentation: File with associated plans, photos and required documentation
Activated: None
Representing: Attorney Sarah Alger, Jonas Baker and Jamie Strabino.
Discussion: Attorney Alger gave a brief overview of the application. The Application went through a permitting process a few years ago and has been open year-round now. The Applicant is seeking modifications to their previously approved plan, including a change in management and permission to have a low-level background music on the patio during the time it is open (11:30am to 10pm). The current conditions (7 and 8) preclude any music on the patio. There was discussion about requesting changes to the current permitting regulations for the outdoor patio and live music at the Brotherhood restaurant. The current regulation states that the patio is open from 11:30am to 10pm, and all services outside must be seated. Live music inside the building stops at 10pm. The request is to allow low-level background music outside from 11:30am to 10pm and to have the ability to do small events on the patio, such as the Chamber after-house event, which requires people to move around and not be seated. The request also includes the ability to have live music upstairs until 11pm and downstairs in the front area until 1am, consistent with other establishments in Town. Mr. Baker stated that the goal is to be able to use the patio for events without exceeding the occupancy limit of 80 people and to show respect to the neighbors and the Town's regulations. He also stated that there needs to balance the needs of the commercial district with the residential area behind it. There were concerns about the number of seats and how to monitor compliance. The owner-occupied would be responsible for maintaining compliance, and the Fire Department and Building Inspector would also perform inspections. The Board expressed concern about the use of the word "events" and suggested balancing the music with the neighboring businesses. The restaurant/bar wanted some flexibility in the summer to move things, which drives the business throughout the year. There were also concerns about parking, congregating, and noise, which the restaurant/bar would need to address. Amy Baxter, Licensing Administrator, discussed the licensing and management of the Brotherhood and Tap Room. Ms. Baxter confirmed that they have not received any recent complaints about the Tap Room and clarified the rules regarding music and outdoor seating. There was concern raised about how the walk-up and stand-up element would be managed on the patio during events, and the owner explained that they have a system in place to ensure compliance with occupancy limits. The possibility of a future change in management was also discussed, and it was noted that decisions would be based on future managers as well. It was also mentioned that the presence of apartments on the upper floors of the building was an incentive to keep the noise level down. Mr. Welch suggested using audio spotlight directional audio technology to improve the user experience and help

direct patrons. Chair Trudel opened the floor to the public. Curtis Barnes raised concerns about the possibility of walking in with a dog and leaving with a drink. Mr. Baker emphasized that they are not running a bar and that they are training their staff to follow the law and prevent people from taking drinks outside. Mr. Baker emphasized that they have a fence and are following the regulations outlined in their application. Some of the abutters expressed concern about the potential for noise and disruption from standing patrons, as well as the historical balance between the neighborhood and commercial interests. Mr. Baker argued that the application is within the current wording of the liquor license and the restaurant has shown responsibility in managing their operations. There was a brief discussion about the seating arrangements and how the service would be managed. The abutters expressed concern that this would lead to loud and disruptive behavior from patrons, especially during the busy times like festivals or weddings. Vice-Chair Iverson argued that the liquor license is valuable and that the restaurant has shown to run a tight ship. Mr. Baker clarified that they are primarily a sit-down restaurant but want the option to have stand-up service during shoulder seasons or special events. Ann Davis, who owns property both on Ash Street and Ash Lane expressed concerns about the restaurant's history of obtaining Special Permits without considering the impact on the community. Ms. Davis stated that the Planning Board is urged to maintain a balance between the commercial interests and the historic neighborhood. Ms. Davis quotes a letter from a neighbor written in 2015, expressing concern about the Brotherhood's lack of thought and respect for their neighbors. Ms. Davis compliments the Planning Board for creating smart and thoughtful restrictions to maintain the balance between the historic neighborhood and commercial interests. Ms. Davis requests the Board to listen to their concerns. Mr. Baker clarifies that they are running a sit-down restaurant, but they want the option to remove the seats from the patio in the shoulder seasons to allow for meet and greets. Mr. Baker stated that they have no intention of turning the restaurant into a standing-only venue like Cisco Brewers. Roberta Saintmore stated that the Planning Board should be watching the Applicant closely and listening to the neighbors. She states that she and her fellow neighbors have reported violations and concerns to the Town Officials, but nothing has changed. She witnessed the Brotherhood violating the restrictions placed on them just a year ago including playing live music past the permitted time and reported it to the police. Ms. Saintmore believes that this behavior should not be rewarded, and the Board should not allow businesses to do whatever they want. The Select Board Chair Jason Bridges at the time had warned the applicants that there was no room for "creep" and that the neighbors would be watching closely. Despite this, the neighbors have reported numerous violations and concerns about the business, including live music being played past permitted hours, and the exhaust unit being in violation of the island's decibel limits. Ms. Saintmore urges the Board to enforce and respect the laws and make the business fix their exhaust unit. Ms. Saintmore argues that the applicant's behavior violates the license, and the restrictions should be enforced. Previous Boards have also rejected the applicant's request for music on the patio and more people standing due to it being disruptive to the neighborhood. Jamie Strabino defends the applicant's behavior regarding complaints about noise and smoke from their restaurant. Mr. Strabino states that they had the hoods repaired and checked for noise levels, and that the noise level is normal for a hood in use. Mr. Strabino also claims that smoke from other restaurants is a common occurrence when hoods are in use. Mr. Baker argued that it's not fair to give one business different hours of operation than its neighboring business, as they are similar. The neighbors expressed concerns about noise and accountability as they believe that the business owners should be held accountable for any noise complaints. The Board acknowledges these concerns and encourages the abutters to make official complaints to the Police Department if the business violates their permit. Chair Trudel states that the Board acknowledges that they cannot deal with noise complaints in real-time but will consider violations of the permit when brought to their attention. There is a disconnect between what the neighbors are reporting and what is being filed by the Town. Ms. Baxter provides reports regarding the noise complaints made on July 5th, October 8th and 22nd and that live music was noted in the reports, the officers did not find any audible sound at the time they arrived. She clarifies that the official categorization in their system is NOI which stands for noise complaint. Ms. Baxter states that they do not handle zoning violations and that they did not find any direct violation regarding the noise complaints. Ms. Baxter also states that the previous operators also played music on the patio which was not allowed and as a result the current operator received stricter conditions for their license. Ms. Baxter encourages the complainant to contact the management first before calling the Police and expresses a willingness to work with everyone within the community. Mr. Baker assures the community members that they are doing their best to mitigate the noise levels and are open to communication with the community. John Pressman residing on Ash Lane addressed the Board regarding a letter signed by twenty-four people who came together to preserve their neighborhood's environment and ability to enjoy their yards. Mr. Pressman referred to a previous application that was filed last year which was reviewed by the Planning Board, Select Board and HDC and the conclusion was a well thought out, reasoned decision that allowed for a balance between the Brotherhood's desire for music and the neighbor's wish for peace. Mr. Pressman states that the current question is whether to throw away that conclusion after less than a year. Mr. Pressman states that he believes that it should only be done if there are compelling reasons to do so. Mr. Pressman states that it lacks a clear rationale for why the change is necessary, apart from a reference to the need for a Chamber of Commerce night which is not held during the summer season. Mr. Pressman proposes three points for achieving balance. Mr. Pressman states that the past failure to comply with restrictions is concerning but hopes that the new management will not repeat the same mistakes. There was discussion that a trial period of more than one year is needed to see how the new management does. Mr. Pressman expressed concern about past violations of restrictions and argue that the Board should not reward infractions by granting additional rights. The Board should clarify what level of noise is allowed. Mr. Pressman suggested to allow music until 11pm on one floor at a time to see if the new management can keep it under control and that anyone who wants to hold a wedding or rehearsal dinner should obtain a Special Permit. Mr. Pressman states that the notice sent out had stated live music downstairs until 1pm not 1am and that proper notice must be given before any decision is made. The Board seems to agree to have a one-year review period at roughly the same time next year regarding noise levels of the events taking place near the restaurant. Emily Molden from the Nantucket Land Council thanks the Board for their time spent on the noise issue. She expressed concern with the extended hours of music and additional music on the patio but notes that they did not receive any specific complaints about it. Ms. Molden states that she appreciates the suggestion of coming back for another review and has faith in Jonas's ability to manage the restaurant. Mr. Baker states that he is open to feedback and is willing to work with everyone. Mr. Welch suggests having an email address in addition to a phone number for complaints to simplify the process and avoid hearsay. Questions about the hours of food service. Mr. Baker replied that they serve from 11:30AM until 10PM with the last seating at 10PM. The patio is cleared at 11PM. Mr. Baker states that they want to have a safety buffer zone of no music after 10PM for the patio and no music after 10:30PM for the upstairs area. Mr. Baker states that they are trying to accommodate guests who may show up late and want to have dinner and enjoy some music before the establishment closes. The food service ends at 10PM and the Applicant is not looking to extend the hours.

Motion/Vote: Vice-Chair Iverson moved to close the public hearing. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously 5-0.

Motion/Vote: Vice-Chair Iverson moved to allow low-level background music on the patio until 10PM an inside until 11PM with the condition that the primary use of the patio is not for stand-up, the management agreement needs to include an email for the manager, the annual review is scheduled for the following year, with ongoing monitoring of decibel levels, the downstairs music is allowed until 11PM during the summer until September 1st and then 10PM from October 1st for the downstairs music until 11PM and then 10PM from then on. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously 5-0.

- **40 Old South Road, LLC – 40 Old South Road,** *action deadline 06-11-2023*
  Voting: (Chair) John Trudel, (Vice-Chair) David Iverson, Nat Lowell, Barry Rector and Joseph Topham
  Alternates: Stephen Welch, Carl Borchert and Abby De Molina
  Recused: None
  Documentation: File with associated plans, photos and required documentation
  Activated: None

Representing: Art Gasbarro, Attorney John Brescher.
Discussion: Mr. Gasbarro gave a brief overview of the application. Mr. Gasbarro clarified that this is a new operation by the same owner and not a relocation of the existing Thai House. The proposed hours of operation are from 6AM to 10PM, serving breakfast through dinner for takeout. The retail portion of the store will be limited to pre-made packaged food and grocery-type items. The Applicants are not looking to be a convenience store. The Applicants have requested five waivers on parking spaces with employee housing included above the store restricted to employees who are not allowed to have vehicles on-site. The Applicants agreed to provide NRTA passes for all employees and bicycle racks on the site plan. The Applicant agreed to provide with a condition to receive a Certificate of Water Quality from the Wannacomet Water Company before releasing the final decision or occupancy. There was a brief discussion that involved the inclusion of a connector directly from the bike path to the sidewalk. The Applicant's agree to the monetary contribution to the Town's infrastructure in the area. Mr. Gasbarro stated that the proposed development on the abutting property is being revamped to reduce the need for parking waivers. He states that the two projects will proceed separately, and the screening and trees will be kept as open space. The Board asked about the adjoining lot and suggested working together for parking and entrance. Mr. Gasbarro states that the entrance and exits of the current proposal are not likely to change due to the building's loading zone configuration, sound traffic safety and vehicle trips. There is a possibility of incorporating a shared loading zone to create extra parking space, however it would depend on the design. Board members talked about the road not being wide enough for on-street parking and the idea of sharing the space. The Board discussed the placement of exits and the need to meet requirements for screening of a parking area. The Applicant went with a board fence instead of vegetative screening and that the fence can easily be removed if needed. The Board expressed concern about the potential for the parking lot to become saturated and overflow onto Old South Road. Mr. Rector questioned the disposition of the patios if it will be public or private. He also expressed concern that the businesses on the property may become successful and require more parking leading to overflow onto the main road. Another concern is about parking spaces being tied up if people are using the patios for longer periods of time. There was a brief discussion about granting an easement to the property next door for the interconnectedness of roadway systems and ensuring traffic flows. There were concerns about people parking on the bike path. There was a lengthy discussion concerning parking and the potential for cars to spill over onto neighboring streets. Mr. Gasbarro states that they can put up sign posting on the sidewalk along the frontage as there is no parking. Mr. Welch discussed a site plan labeled G11 that has been approved and includes potential shared parking. Mr. Welch suggests that resolving the easement issue is necessary to move forward with the plan and mentions the possibility of creating one-way traffic to gain additional parking spaces. There was discussion about whether to put a condition in the decision to require the property owners to work together for future access. Mrs. Snell states that the language could be added to the decision but acknowledges that it would be challenging to require shared access between non-commonly owned properties, making it difficult to enforce such a condition as well as not knowing what they will do. Mrs. Snell states that the Town could potentially take an easement in the future if necessary. Vice-Chair Iverson states that the waiver for five parking spaces, while neighboring businesses are not asking for any parking waivers. He expressed concerns that overflow parking might end up in the neighboring businesses spots. Vice-Chair Iverson states that interconnectivity is acknowledged as important, but there is uncertainty about how to handle the situation. It was suggested that the Applicant wait until next meeting to see the use and operation of the project before deciding. The Applicant addressed some concerns such as the contribution of $5000.00, issuance of the NRTA passes, and bike racks. Mr. Rector questioned the possibility of the Town taking an easement and the damages that would have to be awarded in such a circumstance due to avoid the Town spending money and to find a way to interconnect the two. Chair Trudel opened the floor to the public. There were no public comments.

Motion/Vote: Vice-Chair Iverson moved to continue to the next meeting. The motion was duly seconded by Mr. Topham and the motion was carried unanimously 5-0.

- **41 WMR Trust – 41 West Miacomet Road,** *action deadline 07-09-2023*

Voting: (Chair) John Trudel, (Vice-Chair) David Iverson, Nat Lowell, Barry Rector and Joseph Topham

Alternates: Stephen Welch, Carl Borchert and Abby De Molina

Recused: None

Documentation: File with associated plans, photos and required documentation

Activated: None

Representing: Attorney Steven Cohen

Discussion: Attorney Cohen clarified that one of their filings had the wrong address type saying Road instead of Avenue. Attorney Cohen gave a brief overview of the application, which is an environmentally sensitive area with highly restrictive zoning regulations. Attorney Cohen reminded the Board's role is to approve the structures that are accessory to residential use in order to minimize impact on the environment and maintain the area's scenic integrity. He states that the district is intended to be kept as open space and preserve the habitat of endangered species to be kept as open space and preserve the habitat of endangered species of plants and animals. Attorney Cohen states that the bylaw allows for only 800 square feet of ground cover and 400 square feet of impervious surface area without a Special Permit which is highly unusual compared to other zoning bylaws. The proposed development includes alterations to the house, a shed, a pavilion, an outdoor shower, a pool, and a small patio. Attorney Cohen states that the Board's role is to do a site plan review and consider three standards, including protecting plants and animals under MISA. The Applicant is applying for no additional ground cover which is unusual and will wait a no-take letter and are waiting for a study on an additional plant species from the Mass Natural Heritage and Endangered Species Program. The Applicant is applying for an additional of 430 square feet of additional second story structure which has been approved by the Historic District Commission. The Applicant is also proposing a reduction of 20% in impervious surfaces such as outdoor decks and stoops. Also, the Applicant is asking for a standard 200 square foot shed for storage purposes which does not resemble a cabana. The proposal includes a blue stone of 200 square feet and a pool. Attorney Cohen states that the structures are not excessive in size and are mostly located behind the house making it difficult to see from the road. The Applicant also plans to alter the driveway by creating a curve to screen the house from public areas. Attorney Cohen acknowledged the concerns of the neighbors and expects the Board to consider them. Chair Trudel opened the floor to the public. Chris Donlin who lives in West Miacomet Road states that she disagrees with Attorney Cohen's statement that the house is not visible from the street. She states that the house is visible and has a large, disturbed lawn area that needs to be addressed. Also, Ms. Donlin mentions that the lighting should be addressed and the pool and pool cabana do not belong in the MMD area. Mr. Donlin states that the MMD area is for scenic views, and they want to keep it that way. Ms. Donlin states that the HDC did not consider the MMD when they approved the plan for the house with third-floor dormers and a second-floor outdoor area. Joe Donlin a resident who has owned several houses on Nantucket Island since 1983 expressed his opposition to the proposal to the house with dormers and a swimming pool. Mr. Donlin states that the house is already the largest in the area and should not be further expanded. He expressed concern about the impact on the neighborhood and the island's unique character. Attorney Cohen states that Ford has good conditions implemented in other ways that post-state the MMD regulations which haven't been updated in a while. Emily Molden from the Nantucket Land Council acknowledged the purpose of the Moorland's Management District in protecting the long term integrity of the environment and the scenic integrity and the need for the Planning Board to address negative impacts from structures and uses proposed in the area. Ms. Molden expressed concern that the proposed pool, patio, pergola and shade structure were not appropriate for the site and were inconsistent with the Bylaw. She states that the property had already maxed out its ground cover and impervious surface area. Ms. Molden questioned the proposed location of the new shed and how it would interact with the parking area, as well as the relocation of the driveway and the potential impact on vegetation. Thomas Barada states that the upgrade from a three-bedroom to a five-bedroom house will require an upgrade to the leach field which may cause a significant disturbance to the area. Mr. Barada also points out that the plan only shows a 200 square feet Bluestone patio, however unclear if the area under the pergola will have a floor or remain as dirt, the view easement not adequately addressed on the plan and the HDC plans shows a fire pit. Mr. Barada states that the house's back wall would be visible from public roads and that the property's high elevation would make it visible from the tower. He also expressed concern about the headlights from the driveway of the proposed house that would shine into his home at night. Mr. Barada expressed concern about the potential impact of construction on wildlife in the area, like the short-eared owls and various plants and animals. There was a brief discussion that construction be restricted from June to September to protect the wildlife. Attorney Whit Gifford representing 39 West Miacomet LLC reminded the Board of the specific language they are following to safeguard the fragile and unique environmental areas. Attorney Gifford states the importance of limitations on grading, fencing, landscaping, and driveway locations. Attorney Gifford acknowledges that it can be difficult to say no to certain applications but it is necessary to follow the rules. Attorney Gifford mentions that the shed was one foot larger in square footage that it would have to be 50 feet off the line under the Zone. Attorney Gifford asked Emily Molden if the Land Bank is still actively managing the Moorsland in this area. Emily Molden stated that she is with the Land Council however the Land Bank is still actively managing that area however cannot speak directly about the management. Members of the public are opposed to the proposal of the pool, believe it is inappropriate for the location and citing its inconsistency with the spirit of the MMD zoning district. Vice-Chair Iverson states that some parts of the proposal seem acceptable, would not support any new disturbances to the site. Mr. Rector expressed concern that approving the proposal would set a precedent for more modifications and disturb the area. Some Board members also expressed concerns about the size and the visibility of the proposed development. Mr. Lowell expressed his concerns about the proposed development in the LUG-2 zoning district and questioned its compatibility with the area's character and scale. Abby De Molina states that she runs through that area all the time and expressed concerns about the potential disturbance that the proposed construction could cause to the surrounding area. She also expressed how sound travels in the area and suggested that any construction noise should be amplified. Chair Trudel expressed concern about the negative impacts of the proposed project on the environment and wildlife in the area. He also states that the project does not fit the character of the area and would be better suited to other parts of the island. Attorney Cohen indicated a willingness to consider construction limitations and address some concerns.

Motion/Vote: Mr. Rector moved to continue this application to the next meeting. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously 5-0.

X. <u>Public Hearings (Zoning Articles):</u>

- **Zoning Bylaw Amendment: Off-street Parking Requirements** – to amend Section 139-18B "Off-street Parking Requirements" for "Duplex" and "Garage Apartment" uses.

Brief discussion of the proposed zoning bylaw amendment to adjust off-street parking requirements. The Board proposes a new language that would make the amendment compliant with the housing choice legislation. The main change is to reduce the existing counts of off-street parking from one per bedroom to 0.75 per bedroom. All required parking spaces must be on the lot and there is no waiver for this requirement. The Board decides to readvertise and re-open the public hearing to take comments before requesting approval for the motion. The Board motion to officially re-open the public hearing.

Motion/Vote: Mr. Rector moved to re-open the public hearing. The motion was duly seconded by Mr. Topham and the motion was carried unanimously 5-0.

Discussion: Chair Trudel re-opened the floor to the public. Mrs. Snell stated that the parking calculations are being reduced across the board. The maximum number of parking spaces for a duplex is four for the entire structure and not per unit. There were no public comments.

Motion/Vote: Mr. Rector moved to close the re-opening of the public hearing. The motion was duly seconded by Mr. Topham and the motion was carried unanimously 5-0.

Motion/Vote: Mr. Rector moved to give a positive recommendation with a quantum vote of a majority for the Town meeting. The motion was duly seconded by Vice-Chair Iverson and the motion was carried unanimously 5-0.

XI. **Public Comment** *for items not listed on the agenda*

There were no comments.

XII. **Other Business:**

- **Carl Borchert – Coastal Resilience Committee**

  Mr. Borchert accepted the Coastal Resilience Committee position.

  Motion/Vote: Mr. Rector moved to vote to have Mr. Borchert be the representative for the Coastal Resilience Advisory Committee. The motion was duly seconded by Vice-Chair Iverson and the motion was carried unanimously 5-0.

- **Annual Town Meeting – Saturday, May 6, 2023, at 8:00am (***Planning Board to convene 30 minutes prior to ATM, which begins at 8:30am, for any discussion, technical amendments, etc.***)**

  The Annual Town Meeting is set for May 6th at 8am.

- **Planning Board regular meeting – Monday, May 8, 2023, at 4PM via Zoom**

XI. **Adjournment:**

Mr. Rector moved to adjourn the meeting at 7:21PM. The motion was duly seconded by Vice-Chair Iverson and the motion was carried unanimously 5-0.