Nantucket Planning Board

APPROVED MINUTES OF 01-18-2024 (SPECIAL MEETING)

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

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

Alternates: Stephen Welch, Abby De Molina and John Kitchener

Staff: Leslie Snell (Director of Planning), Meg Trudel (Senior Planner), William Saad (Zoning Administrator/Land Use Specialist), and Catherine Ancero (Administrative Specialist)

PLANNING BOARD AGENDA (SPECIAL MEETING)
01-18-2024

(*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 item are available for inspection digitally. Email requests may be sent to wsaad@nantucket-ma.gov ***

****Participation in Public Hearings and Public Comment will be available through Zoom. Contact wsaad@nantucket-ma.gov with any questions. ****

Zoom Link:

https://us06web.zoom.us/j/86473773402?pwd=LF7LVxBHashZaI3FXDCA8cEnWvQMJz.1

this meeting will be audio and video recorded and uploaded to the Town's YouTube account after the meeting

I. Call to order:

Chair Iverson called the meeting to order at 4:00pm.

Chair Iverson read a prepared statement in accordance with Governor Baker's March 21, 2020, order regarding open meeting law, which outlines how the meeting is conducted via remote participation and states the ground rules for any discussion.

Roll Call of those participating:

Vote taken by Roll Call:
Vice-Chair Topham *Aye*
Nat Lowell *Aye*
John Trudel *Aye*
Barry Rector *Aye*
Chair Iverson *Aye*

Alternates:
Abby De Molina *Aye*
John Kitchner *Aye*
Stephen Welch *Aye*

Staff:
Billy Saad *Aye*
Megan Trudel *Aye*
Catherine Ancero *Aye*

II. Approval of the agenda:

Motion/Vote: Barry Rector moved to approve the agenda with the minor change, 14 Tripp Drive continued. The motion was duly seconded by Mr. Lowell and was carried unanimously with a vote of 5-0.

Vote taken by Roll Call:
Barry Rector *Aye*
Nat Lowell *Aye*
John Trudel *Aye*
Vice-Chair Topham *Aye*
Chair Iverson *Aye*

III. Minutes

- **January 8, 2024**

Motion/Vote: Barry Rector moved to approve the January 8th set of minutes as submitted. The motion was duly seconded by Mr. Lowell and was carried unanimously with a vote of 5-0.

Vote taken by Roll Call:
Barry Rector *Aye*
Nat Lowell *Aye*
John Trudel *Aye*
Vice-Chair Topham *Aye*
Chair Iverson *Aye*

- **January 11, 2024**

Recused: John Trudel was not present at the meeting.

Motion/Vote: Barry Rector moved to approve the January 11th set of minutes as submitted. The motion was duly seconded by Vice-Chair Topham and was carried unanimously with a vote of 4-0.

Vote taken by Roll Call:
Barry Rector *Aye*
Vice-Chair Topham *Aye*
Nat Lowell *Aye*
Chair Iverson *Aye*

IV. Second Dwellings:

- **Colby Crenshaw - 24 Almanac Road**
- **Frank & Susan Viano – 7A Crooked Lane**

Voting: (Chair) Iverson, (Vice-Chair) Topham, Nat Lowell, John Trudel, and Barry Rector
Alternates: None
Recused: None
Documentation: File with associated plans, photos and required documentation
Discussion: None

Motion/Vote: Mr. Rector moved to approve both secondary dwelling applications listed above with the findings and recommendations as stated in the staff report. The motion was duly seconded by Vice-Chair Topham and was carried unanimously with a vote of 5-0.

Vote taken by Roll Call:
Barry Rector *Aye*
Vice-Chair Topham *Aye*
John Trudel *Aye*
Nat Lowell *Aye*
Chair Iverson *Aye*

V. Public Hearing (Applications):

- **14 Tripp Drive, LLC – 14 Tripp Drive,** *action deadline 03-31-2024*
  Voting: Nat Lowell, Acting-Chair Joseph Topham, Barry Rector and John Trudel
  Alternates: Stephen Welch, Abby De Molina and John Kitchener
  Recused: None
  Documentation: File with associated plans, photos and required documentation
  Activated: None
  Representing: Paul Santos, Surveyor and Agent
  Discussion: The applicant is seeking a rear lot special permit. The ANR plan was endorsed at the last Planning Board meeting, serving as proof that two lots can be created. There was discussion on agreements for access, using easements from Tripp Drive and Proprietors Road for a driveway to the rear line. Mr. Trudel stated that in previous meetings, two findings were identified, consisting of the original four conditions and two additional conditions from the staff report on number 4. These conditions pertain to the requirement that the existing and newly created lots remain in the Homeowners Association. Additionally, the use of Proprietor's Way for a driveway is allowed only on the portion directly adjacent to the property. An extra condition was added that prohibits interconnected access between neighboring properties specifically beyond Lot 1 and Lot 2. Chair Iverson opened the floor to the public. Emily Molden expressed concerns about the legality of the ANR plan, stating it shows frontage on Proprietors Road that doesn't currently exist and so the access is essentially elusory, and the lot cannot be created off a way that is not actually providing the access and believes that there is a case law to support that. Mrs. Trudel disagreed with the notion that the Department of Natural Resources (DNR) provides the necessary means for an approved plan showing frontage on the Proprietors Way. Mrs. Trudel stated that speaking with the applicant, the intent seemed to be preserving existing vegetation rather than clear-cutting, although Mrs. Trudel acknowledged that they may need to clear some areas. Mrs. Trudel stated that the intent was that they preserve the integrity of the existing character of the neighborhood so showing it as a proof plan and as a concept could satisfy this requirement from a Planning Board's perspective. The Board members discuss the intent not to clear cut and preserve existing vegetation while demonstrating frontage. Leona Tripp voiced opposition, arguing that there's no legal basis for the subdivision due to insufficient frontage. Beth Jekanowski stated that she is in favor with the Planning Boards recommendation about not to clear cut.

Motion/Vote: Mr. Trudel moved to close the public hearing. The motion was duly seconded by Vice-Chair Topham and was carried unanimously with a vote of 5-0.

Vote taken by Roll Call:
John Trudel *Aye*
Vice-Chair Topham *Aye*

Barry Rector *Aye*
Nat Lowell *Aye*
Chair Iverson *Aye*

Motion/Vote: Mr. Trudel stated that it's important to note the discussions on access and Proprietor's Way for the community's benefit, avoiding clear-cutting for access. Mr. Trudel suggested including this note in the approval motion to demonstrate consideration for legality. If the note could be included, Mr. Trudel proposed a motion to approve the lot with of the findings and conditions as previously stated in. The motion was duly seconded by Vice-Chair Topham, and the motion was carried unanimously with a 5-0.

<u>Vote taken by Roll Call:</u>
John Trudel *Aye*
Vice-Chair Topham *Aye*
Barry Rector *Aye*
Nat Lowell *Aye*
Chair Iverson *Aye*

- **La Barca Realty Trust - 52 Burnell Street,** *action deadline 05-04-2024*
Voting: Chair Iverson, Nat Lowell, Barry Rector and John Trudel
Alternates: Stephen Welch, Abby De Molina and John Kitchener
Recused: Vice-Chair Joseph Topham
Documentation: File with associated plans, photos and required documentation
Activated: None
Representing: Dan Mulloy, Surveyor and Agent
Discussion: The planning board discussed a special permit rear lot application for a three-lot amendment modification to an existing subdivision. There was confusion in the previous meeting due to the presentation of the wrong plan. The current plan serves as a proof plan for creating three lots and ties in the approval for the neighboring Property's roadway. This modification serves as the proof plan for three lots and aligns with the previous approval of the property abutting 50 Burnell Street. Chair Iverson opened the floor to the public. Emily Molden expressed concerns about the consistency of waivers with the previous application and inquired about comments from Ed Pesce. Mr. Mulloy clarified that the proposed modification maintains the same waivers as the previous application and that Mr. Pesce's comments mainly focused on making sure that the Board received and approved the actual roadway plans, drainage, utilities, and grading which will be provided and reviewed as part of the plan.

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

<u>Vote taken by Roll Call:</u>
John Trudel *Aye*
Barry Rector *Aye*
Nat Lowell *Aye*
Chair Iverson *Aye*

Motion/Vote: Mr. Trudel moved to approve the findings and conditions listed also noting for the condition #5 to be added with Ed Pesce's recommendation and comments. The motion was duly seconded by Mr. Lowell and the motion was carried unanimously with a vote of 5-0.

<u>Vote taken by Roll Call:</u>
John Trudel *Aye*
Nat Lowell *Aye*
Barry Rector *Aye*
Chair Iverson *Aye*

VI. <u>Public Hearings (Zoning Articles Proposed by Citizen Petition):</u>

- **"BB" Zoning Bylaw Amendment: Greenhouse or Greenhouse Shed (Jekanowski)**
  Voting: Chair Iverson, Vice-Chair Joseph Topham, Nat Lowell, and Barry Rector
  Alternates: Stephen Welch, Abby De Molina and John Kitchener
  Recused: John Trudel
  Documentation: File with associated plans, photos and required documentation
  Activated: None
  Representing: Beth Jekanowski, the proponent of the article
  Discussion: Mr. Trudel recused himself from the discussion regarding two items due to his absence during the January 11th meeting. Attorney Cohen clarified that the two articles weren't open for discussion at that time. Mrs. Trudel specified that the discussion concerning the greenhouse was open, however the short-term rental was not open. Mr. Trudel remained to recuse himself for both items, citing his past practice of recusing himself from short-term rental conversations. Mrs. Trudel presented language revisions clarifying that it was a shed or greenhouse. Also, Mrs. Trudel also thought it was important that he proposed language aligned with recent changes made to the definition of ground cover at the last Annual Town Meeting. This adjustment was to prevent potential issues with the proposed motion being rejected by the Attorney General's office due to outdated language. Chair Iverson opened the floor to the public. Beth Jekanowski expressed that her intent for the proposal is to provide choice without exceeding the existing 200 square foot footprint for sheds. Ms. Jekanowski had a clear conversation with Mrs. Trudel indicating they agreed.

  Motion/Vote: Mr. Rector moved to close the public hearing. The motion was duly seconded by Vice-Chair Topham, and the motion was carried unanimously with a vote of 4-0.

  <u>Vote taken by Roll Call:</u>
  Barry Rector *Aye*
  Vice-Chair Topham *Aye*
  Nat Lowell *Aye*
  Chair Iverson *Aye*

  Motion/Vote: Mr. Rector moved to give a positive recommendation for the Town Meeting and that includes the new verbiage in there to reflect what occurred with ATM 2023. The motion was duly seconded by Vice-Chair Topham, and the motion was carried unanimously with a vote of 4-0.

  <u>Vote taken by Roll Call:</u>
  Barry Rector *Aye*
  Vice-Chair Topham *Aye*
  Nat Lowell *Aye*
  Chair Iverson *Aye*

- **"Q" Zoning Bylaw Amendment: Regulating Residential Rental Use (Cohen)**
  Voting: Chair Iverson, Vice-Chair Joseph Topham, Nat Lowell, and Barry Rector
  Alternates: Stephen Welch, Abby De Molina and John Kitchener
  Recused: John Trudel
  Documentation: File with associated plans, photos and required documentation
  Activated: None
  Representing: Steve Cohen, proponent of the article
  Discussion: The Board discussed zoning bylaw amendment "Q", a proposed article addressing short-term rentals (STRs). Steve Cohen, as a citizen sponsor clarified the intentions behind the article which sought to formalize the current policies and mitigate lawsuits concerning short-term rentals (STRs). Mr. Cohen stated that the article included several sections: adding language to define commercial activity to include rental dwelling units, addressing corporations' ownership of STRs, and clarifying short-term and long-term rental durations. There were concerns regarding the scope of the article, its effectiveness in

addressing for profit ownership of residential real estate and its potential impact on zoning regulations and future amendments. Chair Iverson opened the floor to the public. Anne Dewez expressed agreement with Chair Iverson's concerns about the limitations of the article in addressing the most pressing issue regarding short-term rentals (STRs). Ms. Dewez stated that there is a need to address the conversation of homes into strictly short-term rentals operated solely for profit. Ms. Dewez questioned the addition of the term "corporation" in the definition, that it overlooks other legal structures like LLCs, investment clubs, funds, and private equity entities. Ms. Dewez felt that the definition of corporation was too narrow to effectively restrain for profit ownership of residential real estate on Nantucket. Ms. Dewez stated that the article does not go far enough in addressing the primary concern of for-profit ownership of Nantucket Residential properties. Emily Molden stated that she recalled a citizen petition from the previous year to change the definition of commercial, however does not remember the details. Ms. Molden stated that at the time the Planning Board did not support it due to ongoing discussions with the short-term rental work group. Ms. Molden questioned whether the Planning Board would endorse a citizen petition such as this. Kathy Baird discussed the relationship between Steven's article and existing regulations in Chapter 123 regarding short-term rentals (STRs). Ms. Baird stated that Mr. Cohen's article would only be applicable if the STRs are in full compliance with Chapter 123. Ms. Baird expressed the importance of making sure that any regulations related to STRs are incorporated into the general bylaw rather than solely relying on zoning changes. Board members expressed concerns and discussed potential modifications. The board decided to keep the public hearing open and continue the discussion at the next meeting on the January 25th meeting. Mrs. Snell stated that there's the companion articles from Mr. Cohen and Mr. Kopko as well as an article from the Select Board. Mrs. Snell stated that there are conflicting inconsistencies or conflicting definitions among the proposals. Mrs. Snell suggested that if the Board is considering pursuing the Zoning Bylaw amendment discussed, it may be prudent to wait to see the direction taken by the Finance Committee (FinCom) and whether adjustments are needed to be consistent with whatever it is that they are doing. Chair Iverson mentioned that the Select Board's intention was to facilitate collaboration among the involved parties to address any concerns. Mrs. Trudel stated that she attended the Select Board's meeting and that she agrees with that assessment. The Town Council drafted some language to be like the Province Town article which made some amendments to that however her sense was from viewing that meeting they would love to move forward with something unified with everyone in agreement. Mrs. Trudel stated that the suggestion of holding off at least in the next few makes complete sense. Mr. Rector expressed concern about the significant disparity among the three articles regarding concrete issues related to short-term rentals. Mr. Rector requested messaging the Finance Committee to convey the Planning Board's interest in aligning with their direction before making any decisions on the article. Mrs. Snell will reach out to the Finance Committee chair to coordinate and communicate Mr. Rector's request. Chair Iverson proposed reaching out to the Select Board as well to let them know the urgency of finalizing decisions regarding short-term rental regulations withing the next couple of weeks and that its crucial as the Planning Board needs to finalize their own decisions accordingly. The Board would like to keep the hearing open and see what develops at the FinCom meeting. Beth Jekanowski expressed support for Mr. Cohen's proposed article. Ms. Jekanowski expressed the importance of giving people the opportunity to consider his article, suggesting that it provides a viable option for addressing the complex issue of short-term rentals.

Motion/Vote: Vice-Chair Topham moved to continue to January 25th. The motion was duly seconded by Mr. Rector and the motion was carried unanimously with a vote of 4-0.

Vote taken by Roll Call:
Vice-Chair Topham *Aye*
Barry Rector *Aye*
Nat Lowell *Aye*
Chair Iverson *Aye*

VII. **Other Business:**

- **Planning Board special meeting – Thursday, January 25, 2024, at 4PM via Zoom**
- **Planning Board special meeting – Thursday, February 8, 2024, at 4PM via Zoom**

VIII. <u>Public Comment</u> *for items not listed on the agenda*

XIII. <u>Adjournment</u>:

Vice-Chair Topham moved to adjourn the meeting at 5:20PM. The motion was duly seconded by Mr. Rector, and the motion was carried unanimously with a vote of 5-0.

<u>Vote taken by Roll Call:</u>

Vice-Chair Topham *Aye*
Barry Rector *Aye*
John Trudel *Aye*
Nat Lowell *Aye*
Chair Iverson *Aye*

Submitted by Catherine Ancero

***Link to the Planning Board packet:**

https://www.nantucket-ma.gov/AgendaCenter/ViewFile/Agenda/_01182024-13403?html=true