



## ZONING BOARD OF APPEALS

2 Fairgrounds Road  
Nantucket, Massachusetts 02554  
[www.nantucket-ma.gov](http://www.nantucket-ma.gov)

**Commissioners:** Susan McCarthy (Chair), Lisa Botticelli (Vice chair), Ed Toole (Clerk), Michael J. O'Mara, Kerim Koseatac

**Alternates:** Mark Poor, Geoff Thayer, Jim Mondani

~~ MINUTES ~~

Thursday, January 14, 2021

*This meeting was held via remote participation using ZOOM and YouTube,*

*Pursuant to Governor Baker's March 12, 2020 Order Regarding Open Meeting Law*

Called to order at 1:00 p.m. and announcements made by Ms. McCarthy.

Staff in attendance: Eleanor Antonietti, Zoning Administrator; T. Norton, Town Minutes Taker  
Attending Members: McCarthy, Botticelli, O'Mara, Koseatac, Poor, Mondani  
Absent: Toole, Thayer  
Late Arrivals: Botticelli, 1:05 p.m.  
Early Departures: Botticelli, 1:34 p.m.

Agenda adopted by unanimous consent

Motion **Motion to Approve as drafted.** (made by: O'Mara) (seconded)  
Roll-call vote Carried 5-0//Botticelli, O'Mara, Koseatac, Poor, and Mondani-aye

### I. APPROVAL OF MINUTES

#### 1. December 10, 2020

Motion **Motion to Approve as drafted.** (made by: Mondani) (seconded)  
Roll-call vote Carried 5-0//McCarthy, O'Mara, Koseatac, Poor, and Mondani-aye

### II. OLD BUSINESS

1. 051-03 David S. Gesner & Julie A. Gesner 6 Fox Grape Lane Beaudette
- The Applicant seeks to ratify a previous determination that a proposed modification to the Comprehensive Permit, as amended, and the plans approved therewith, may be considered insubstantial pursuant to 760 CMR 56.05 (11)(a)(b), and as such, may be authorized and ratified by the Zoning Board of Appeals. Specifically, applicants seek to confirm that the bedroom count upon Lot 8 is three and the bedroom count upon Lot 9 is four. Furthermore, and to the extent necessary, Applicant requests the assent of the Zoning Board of Appeals to amend the Declaration of Restrictions and Easements, so as to effectuate and memorialize the foregoing request. The Locus is situated in the Beach Plum Village 40B, is known as 6 Fox Grape Lane, is shown on Assessor's Map 67 as Parcel 808, and as Lot 9 upon Plan No 2006-61. Evidence of owner's title is recorded in Book 1611, Page 116 on file at the Nantucket Registry of Deeds. The site is located in the Limited Use General Two (LUG-2) zone.
- Voting McCarthy, Botticelli, O'Mara, Koseatac, Mondani  
Alternates Poor  
Recused None  
Documentation File with associated plans, photos and required documentation  
Representing Richard Beaudette, Vaughn, Dale, Hunter, & Beaudette P.C.  
Julie A Gesner, co-owner
- Public Reade
- Discussion (1:11) **Beaudette** – He is representing his client, the former owner and seller, to clean up the record for the Gesners. Explained the situation leading to this request. Needs confirmation of the change to the Comprehensive Permit.  
**Antonietti** – She did a lot of research through the minutes and past records; the prior administrator had the habit of taking hand written notes and eventually transcribing but the typed transcript never made it to the Town Clerk and have not been located. Two of the current board members, Mr. O'Mara and Mr. Koseatac, were on the board at that time.  
**Reade** – Ms. Antonietti directed him to letters back in 2006 which jogged his memory; as he recalls, there were a number of issues raised at that time, but this was non-controversial.  
**McCarthy** – She agrees that based upon having the building permits and getting the Certificates of Occupancy, and a later model swap, she knows it's a practice that has happened. Her only concern would be a possible change to the bedroom count.  
**Beaudette** – He'd like the board to rule the change as insubstantial and that no relief is required, or something similar. He reached out to the attorney for Lot 8, who agreed to sign the paperwork once ZBA makes a ruling.  
**Mondani** – His only concern would be the neighbor who owns Lot 8 wanting to add a bedroom.

Discussion about the owners of Lot 8 not being able to get a fourth bedroom because of the cap on bedrooms in the Comprehensive Permit.

**Antonietti** – In 2017, Attorney Marianne Hanley came before the ZBA for a bedroom swap between Lots 2 and 34; that was properly memorialized.

**Koseatac** – He'd rather "bless the mess" and move on.

**Botticelli** – Agrees it is a paperwork error.

**O'Mara** – Also agrees.

**Antonietti** – She will create a narrative letter for filing with the Town Clerk and to go into the Building Department files; Ms. McCarthy would sign the letter. She will also have to sign the assent to amend the Declaration of Restrictions and Easements.

Motion **Motion to Ratify prior 2006 determination that a proposed swap of house models and corresponding bedroom counts between Lot 8 (9 Wood Lily) and Lot 9 (6 Fox Grape) may be considered an insubstantial modification to the Comprehensive Permit because it will not change the overall allowed bedroom count.** (made by: Botticelli) (seconded)

Roll-call vote Carried 5-0//McCarthy, Botticelli, O'Mara, Koseatac, and Mondani-aye

Motion **Motion to Authorize the Chair to sign the assent to the amendment of "Exhibit A" of the Declaration of Restrictions and Easements, so as to effectuate and memorialize the change in the number of bedrooms for Lot 8 to 3 and the number of bedrooms for Lot 9 to 4.** (made by: Botticelli) (seconded)

Roll-call vote Carried 5-0//McCarthy, Botticelli, O'Mara, Koseatac, and Mondani-aye

2. 11-20 Peter J. Mackay & Alison Mackay and David P. Mackay & Anne M. Phaneuf, Tr., Mackay/Phaneuf Family Trust  
**CONTINUED TO MAY 13, 2021** 21 & 25 Monohansett Road Alger

### III. NEW BUSINESS

1. 01-21 Michael Metz 16 Western Avenue Reade  
Applicant seeks relief by Special Permit pursuant to Zoning By-law Sections 139-30.A and 139-33.A to alter, replace, and vertically extend a pre-existing nonconforming dwelling and accessory garage structure. Applicant proposes to relocate the detached garage to be attached to the house, thus decreasing the existing front yard encroachment. Further alterations are proposed to the dwelling. The structures are currently sited within the front and side yard lot lines. The altered structures would maintain encroachments but would not get closer to the lot lines than the existing structures or otherwise increase the nonconformities. The Locus is split between the R-20 and the LUG-2 zoning districts. The lot has a limited available building envelop due to shape, zoning setbacks, soil conditions, wetlands with associate buffer zones, and split zoning. The Locus is situated at 16 Western Avenue, is shown on Assessor's Map 87 as Parcel 72, and as Lot 3 upon Land Court Plan 8256-C. Evidence of owner's title is registered on Certificate of Title No. 22820 at the Nantucket County District of the Land Court. The site is zoned Residential 20 (R-20) and Limited Use General 2 (LUG-2).  
Voting McCarthy, O'Mara, Koseatac, Poor, Mondani  
Alternates None  
Recused Botticelli  
Documentation File with associated plans, photos, correspondence, architectural design plans, and required documentation  
Representing Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP  
Arthur Gasbarro, Nantucket Surveyors  
Public D. Maddalone, 14 Western Avenue  
Discussion (1:35) **Reade** – Explained the situation leading to this request.  
**McCarthy** – She's having trouble visualizing the enclosed portion of the existing porch.  
**Gasbarro** – Currently it is a Farmer's porch on 3 sides; it will be enclosed only to the dashed line.  
**Koseatac** – Asked when the work will be done. Construction in the summer would complicate traffic down there.  
**Reade** – His client is the contract purchaser and has no concrete plans for starting work.  
**Poor** – His only concern is we don't have existing elevations and proposed expansion in this packet. Asked why.  
**Reade** – The elevations had been undergoing the Historic District Commission (HDC) process, and we didn't have final plans until now.  
**McCarthy** – The direct neighbor to the east is concerned the new addition will look right into their bathroom.  
**Reade** – He doesn't know where the neighbor's bathroom is; currently there is a substantial and high hedge between the properties that would be maintained.  
**Gasbarro** – Reviewed the architectural plans.  
**McCarthy** – We can condition the decision to address screening.  
**Poor** – His other concern is the increase in groundcover; the upper portion stands out over the porch; wants to know that groundcover is okay.  
**Antonietti** – They have plenty of groundcover; it's called out in the Staff Report.  
**Reade** – Groundcover of the proposed has been calculated to be 1,777sf.  
Discussion about the east elevation which faces the neighbor who wrote the letter.  
**Maddalone** – We are the abutters to the east. We support the renovation, but our one concern is the increased mass of the garage – doubles in height, being in view of our bathroom window, and is within 7 feet of our privet.

**McCarthy** – It is unfortunate that the Maddalone’s put a skylight in a roof canted toward the neighbors; they do have the right to renovate their structure. We can condition the screening to be maintained and replaced if necessary.

**Antonietti** – Concerned about imposing a construction moratorium condition in residential areas; we do it for denser areas such as ROH and R-1.

**O’Mara** – Suggested construction take place between Labor Day and June 15<sup>th</sup>.

**Poor** – His concern is parking on Western Avenue if construction is in the summer.

**McCarthy** – Asked if in the past we’ve asked construction crews to park at public lots and car-pool to the site.

**Antonietti** – The ZBA did that in ‘Sconset, which is very dense.

**Koseatac** – He agrees with Mr. O’Mara about the construction dates. The beach parking lot in the summer is packed.

**McCarthy** – Ms. Maddalone said they did extensive renovations; asked if there were complaints regarding construction parking from the neighbors while that work was being done.

**Maddalone** – No; we talked to our neighbors before work was done and the largest amount of work took place in the winter.

**McCarthy** – She trusts Mr. Reade’s clients to be good neighbors regarding parking of construction vehicles.

**Poor** – He would like to see the HDC-approved drawings included in the file.

**O’Mara** – It doesn’t appear we will have any restrictions. Asked if Mr. Reade would be willing to provide his phone number to the neighbors so they have someone to call if an issue comes up.

**Antonietti** – They can call me.

Motion **Motion to Grant the Relief as requested with the appropriate screening of the garage to be maintained and/or disturbed area replaced.** (made by: Mondani) (seconded)

Roll-call vote Carried 5-0//McCarthy, O’Mara, Koseatac, Poor, and Mondani-aye

#### IV. OTHER BUSINESS

1. O’Mara – Asked for a moment of silence for former ZBA administrator Paul Jensen.
2. Antonietti – The Planning Board meeting to discuss zoning articles has been moved. Suggested Board members sign up for alerts for Planning Board meetings.

#### V. ADJOURNMENT

Motion **Motion to Adjourn and 2:15 p.m.** (made by: Koseatac) (seconded)

Roll-call vote Carried 5-0//McCarthy, O’Mara, Koseatac, Poor, and Mondani-aye

Sources used during the meeting not found in the files or on the Town website:

1. Draft ZBA minutes for December 10, 2020
2. Annual Town Meeting Zoning Warrant Articles

Submitted by:

Terry L. Norton