



ZONING BOARD OF APPEALS

2 Fairgrounds Road
Nantucket, Massachusetts 02554
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, March 11, 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, Toole, O'Mara, Koseatac, Poor, Thayer, Mondani
Late Arrivals: O'Mara, 1:20 p.m.

Agenda adopted by unanimous consent

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

I. APPROVAL OF MINUTES

1. February 11, 2021

Motion **Motion to Hold for next month.** (made by: Botticelli) (seconded)
Roll-call vote Carried 5-0//Botticelli, Koseatac, Poor, Mondani, and Thayer-aye

II. OLD BUSINESS

1. 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. 04-21 Anton J. Mello, Tr., Mello Realty Trust 20 Miacomet Road Waickowski
Applicant seeks relief by Special Permit pursuant to Zoning By-law Section 139-16.C(2) to validate an unintentional setback intrusion. The subject barn structure was sited and built based on measurements taken from a reasonably licensed survey after 1990 and is not greater than 5 feet into the required rear yard setback and is not closer than 4 feet from the rear yard lot line. In a district where minimum rear yard setback is 15 feet, the barn is as close as 11.7 feet from the rear yard lot line. The Locus is situated at 20 Miacomet Road, is shown on Assessor's Map 67 as Parcel 336.2, and as Lot 4 on Plan Book 23, Page 81. Evidence of owner's title to is recorded in Book 1446, Page 283 on file at the Nantucket County Registry of Deeds. The site is zoned Limited Use General Two (LUG-2).

Voting Botticelli, Toole, Koseatac, Poor, Mondani

Alternates Thayer

Recused None

Documentation File with associated plans, photos and required documentation

Representing Robert Waickowski, Attorney for 20 Miacomet Road
Jeff Blackwell, Blackwell & Assoc.

Public None

Discussion **Waickowski** – Situating the barn, being 11 feet from the rear-yard setback where the zoning requires 15 feet, is the reason for the request. This is an unintentional intrusion into the setback.

Blackwell – We staked the buildings on the property in this location.

Toole – Asked for an explanation of how this happened.

Blackwell – There was confusion by a staff member about the Massachusetts Endangered Species Act (MESA) setback versus the zoning setback. He didn't catch that error until the foundation was in place. The MESA limit of work on the base plan was filed with MESA.

Toole – The applicant had asked permission to cut within 10 feet and that somehow became confused as the zoning setback.

Thayer – It sounds like it was a mistake.

Toole – There should be language that granting the relief doesn't allow further intrusion.

Antonietti – The condition would be no further intrusion into the setback without further approval from the Board.

Motion **Motion to Grant the relief with no further intrusion into the setback without ZBA approval.** (made by: Botticelli) (seconded)

Roll-call vote Carried 5-0//Botticelli, Toole, Koseatac, Poor, and Mondani-aye

2. 05-21 Richard P. Beaudette, Tr., Westwind Nom. Tr. 8 Isobel's Way Beaudette
- Applicant is requesting Modification of prior relief by Special Permit granted in File No. 55-04 pursuant to Zoning By-law Section 139-16.C(2) in order to validate the siting of the subject garage structure 34.27 feet from the front yard lot line where minimum front yard setback is 35 feet. Specifically, the applicant proposes to change the use of the garage to a studio. There will be no change in footprint or ground cover as a result of the change of use. The Locus is situated at 8 Isobel's Way, is shown on Assessor's Map 49 as Parcel 13, and as Lot 2 on Plan File 12-F. Evidence of title is recorded in Book 1740, Page 284 on file at the Nantucket County Registry of Deeds. The site is zoned Limited Use General Three (LUG-3).
- Voting McCarthy, Botticelli, Toole, O'Mara, Koseatac
 Alternates Poor, Thayer, Mondani
 Recused None
 Documentation File with associated plans, photos and required documentation
 Representing Richard Beaudette, Vaughn, Dale, Hunter, Beaudette, and Swain P.C., owner
 Public None
 Discussion **Beaudette** – This is to request a change of use of the garage, which intrudes into the setback by less than 1 foot; the owner received a permit for that intrusion. There is a note on the plan showing pool equipment at the back of the garage; the pool will probably be constructed in the future.
 Discussion about the prior decision granting the intrusion into the setback.
Toole – Asked if the building height is increasing.
Antonietti – It says no change.
Botticelli – Confirmed the outdoor shower and decking won't be in the setback.
McCarthy – The studio is a permitted use; the special permit is a "housekeeping" change.
Toole – If they aren't changing the footprint, asked the reason the Zoning Enforcement Officer bounced this.
Antonietti – Change of use of a non-conforming structure.
Toole – He thinks the pool equipment goes into the setback; that could be a problem.
Botticelli – On page 16 of the Staff Report, there is plan showing a small pool and the outdoor shower and pool equipment are off the setback; that can be conditioned not to be in the setback.
Antonietti – They aren't asking for any improvements aside from change of use; if they want to do anything else, that is another application.
McCarthy – The only thing they are asking for is the change of use; the confusion is the shed is sometimes called out as a garage. We can add a condition saying the siting of the shed as it is today with no additional setback intrusion.
Antonietti – Page 11 of the Staff report shows Art Gasbarro's, Nantucket Engineering & Survey, plan.
 Discussion and clarification about the shed and where pool equipment is going and it not being in the setback.
Toole – Asked to include, in the motion, moving the 167sf shed out of the setback.
Beaudette – The 167sf shed has been in that location since 1994.
McCarthy – Read the ZBA decision, paragraph 5, as recorded with the Deed on September 13, 2004.
 Motion **Motion to Grant the change of use and with no further setback intrusion without further relief from the Board.**
 (made by: Botticelli) (seconded)
 Roll-call vote Carried 5-0//McCarthy, Botticelli, Toole, Koseatac, and Poor-aye

IV. OTHER BUSINESS

1. Antonietti – She will be on leave starting next Wednesday and hopes to be back in time for the April meeting.

V. ADJOURNMENT

- Motion **Motion to Adjourn at 1:46 p.m.** (made by: Botticelli) (seconded)
 Roll-call vote Carried 5-0//McCarthy, Botticelli, Toole, O'Mara, and Koseatac-aye

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

1. None

Submitted by:
 Terry L. Norton