



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, April 8, 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

Attending Members: McCarthy, Botticelli, Toole, Koseatac, Poor, Thayer, Mondani

Absent: O'Mara

Early departure: Botticelli, 2:33 p.m.

I. NEW BUSINESS

1. 06-21 Jayne C. DeBiasio & Brian F. DeBiasio 39 Meadow View Drive Reade
- Applicants are seeking to further modify prior relief by Special Permit (Decision File No. 030-11 as modified by File No. 25-19). The 2011 decision permitted a reduction of the sideline setback from 10 feet to 5 feet in order to construct a garage/studio within the northerly side yard setback and was subject to certain conditions. Specifically, Applicants request elimination of condition 'a.' that the "studio shall not be for human habitation". Applicants have obtained Planning Board approval to convert the structure into a secondary dwelling. Locus is situated at 39 Meadow View Drive, shown on Assessor's Map 56 as Parcel 133, and as Lot 50 upon Land Court Plan 14830-O. Evidence of owner's title is registered on Certificate of Title No. 23121 with the Nantucket County District of the Land Court. The site is zoned Residential Twenty (R-20).
- Voting McCarthy, Botticelli, Toole, Koseatac
Alternates Poor, Thayer, Mondani
Recused None
Documentation File with associated plans, photos and required documentation
Representing Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP
Brian DeBiasio, owner
Public None
Discussion
- Reade** – This is to remove the condition that the studio "shall not be for human habitation" to allow it to become a secondary dwelling. The condition was connected to the septic; the site is now on Town sewer.
Antonietti – Confirmed the Planning Board approved the change though the decision has not yet been filed.
McCarthy – Reviewed the 2019 decision in which the other three conditions were removed. It seems that if it hadn't been for the septic, a secondary dwelling would have been allowed. She has no concerns.
Toole – Asked if there is a reason that it was tucked into the corner and not placed outside the setback.
McCarthy – She agrees at first it seemed like an attempt to come back for more and more; but now with Town water and sewer, this makes more sense.
Reade – The building envelop is constrained by wetlands. Reviewed the site plan showing the wetland boundaries. It now meets all Planning Board requirements as a secondary dwelling. There is no basement.
DeBiasio – The structure is within the 50-foot boundary and wouldn't be allowed today; at that time, this is where the Conservation Commission (ConCom) allowed the structure.
McCarthy – Suggested limiting it to one bedroom.
Mondani – Confirmed that Town water and sewer were added after the 2011 decision. He counts 5 structures on the property; asked if that is by right.
Reade – Yes, we aren't over groundcover.
Botticelli – One structure is excluded from groundcover.
Toole – Asked when the other structures were built.
DeBiasio – We purchased the property in 2008 and those structures were existing; we had two storage sheds removed. We had ConCom permission to rebuild the shed that is within the 25-foot buffer.
Toole – Wants evidence that ConCom permitted the rebuild of the shed.
Antonietti – The 2011 Order of Conditions pertains to construction of a studio/game room outside the 50-foot wetland buffer as well as removal of dead trees, replanting with native vegetation, and on-going maintenance of the existing structure.
Toole – He isn't hearing anything that permits "rebuilding" that shed. It is positioned on the wetland line. He wants to see they had permission to rebuild that shed in that location before we permit something else.

Botticelli – It makes sense to know it is being presented accurately with permission. As part of the decision, we would have to have proof it was granted by the ConCom. The zoning shed doesn't show up in 2011 but does show up in 2019.

Toole – We don't know when it was taken down and when it was rebuilt.

McCarthy – Would like to continue this until we know the zoning shed was properly permitted.

Antonietti – In a 2007 aerial, it looks like there is a structure there.

Botticelli – It isn't there in 1998 but shows up in 2006 and 2007. It's not there in 2011 and looks like a pile of rubble in 2014 and is back in 2018 but more rectangular.

Toole – You can't do that without permission; if you have proof of permission, he wants to see that.

Reade – At this point we need to continue to get to the bottom of the situation, though it isn't a zoning issue.

Mondani – Asked if the groundcover numbers have been updated; it's not clear to him.

Reade – Jeff Blackwell, Blackwell & Assoc., plan included in the packet has the current groundcover.

DeBiasio – When we bought the property, there were 5 sheds on the property, now there are 3.

McCarthy – You would need ConCom permission to have removed and rebuilt the shed in that location. It isn't on the 2011 plan, so our decision was based upon "incomplete" information. We want to ensure all appropriate steps have been taken.

Antonietti – This applicant was before us in 2019 to modify other conditions; that shed was shown on that plan. That 2019 modification relative to the structure being applied for now was allowed with the shed in place.

McCarthy – All we were doing was taking off the conditions against a bathtub or shower and allowing the ridge height of 23.3' and it ended up being 5.3' from the setback as opposed to 5.5'.

Antonietti – This is not a zoning issue and we weren't concerned in 2019.

McCarthy – Sees no harm in bringing this up.

Toole – Thinks there is no harm in protecting other boards; would like to think they would do the same for us.

Motion to Continue to May 13th meeting. (made by: Toole) (seconded)

Motion

Roll-call vote

Carried 5-0//McCarthy, Botticelli, Toole, Koseatac, and Thayer-aye

2. 07-21 William S. Cowzer & Aisling L. Cowzer

32 Equator Drive

Williams

Applicants are requesting Modification of a previously issued Special Permit in the Decision in ZBA File No. 106-93 granted pursuant to Zoning By-law Section 139-16.C(1) in order to reduce the required southwesterly side yard setback from 10 feet to 6.6 feet to validate the siting of an existing bulkhead. A Modification was granted in the Decision in ZBA File No. 16-14 to construct an exterior "walk-down" set of stairs in place of the bulkhead, reducing the setback to 5.4 feet at its closest point. However, as the Special Permit was never exercised within the statutorily required 3-year time period, relief has arguably expired. Applicants are now seeking the same relief in the form of a Modification of the Decision in File No. 106-93 for the same project. The Locus is situated at 32 Equator Drive, is shown on Assessor's Map 56 as Parcel 340, and as Lot 80 upon Land Court Plan 35397-G. Evidence of owner's title is registered on Certificate of Title No. 23394 with the Nantucket County District of the Land Court. The site is zoned Residential 20 (R-20).

Voting Botticelli, Toole, Poor, Thayer, Mondani

Alternates McCarthy

Recused Koseatac

Documentation File with associated plans, photos and required documentation

Representing Linda Williams

Williams & Aisling Cowzer, owners

Public None

Discussion

Williams – This relief was granted for a walkdown to be a 5.4'; that special permit expired, so this is the same request. Currently it is just a bilko. Only condition was no further construction in the setback without permission.

Thayer – He has no concerns; we granted the permit.

McCarthy – Nothing is changing except the date.

Motion to Grant relief as requested. (made by: Botticelli) (seconded)

Motion

Roll-call vote

Carried 5-0//Toole, Botticelli, Poor, Thayer, and Mondani-aye

3. 08-21 EBWC, LLC

4 Lincoln Avenue

Beaudette

Applicant is requesting relief by Special Permit pursuant to Zoning By-law Section 139-33.A to allow for the extension, alteration, and change of a dwelling which is pre-existing nonconforming as to height. In the alternative and to the extent necessary, Applicant requests relief by Variance pursuant to Section 139-32. Specifically, Applicant proposes to construct an addition to the dwelling with a ridge height extending from the pre-existing nonconforming ridge height. As a result of the project as proposed, the height nonconformity will decrease slightly. The Locus is situated at 4 Lincoln Avenue, is shown on Assessor's Map 30 as Parcel 151, as Lot 1 upon Land Court Plan 33167-B. Evidence of owner's title is registered on Certificate of Title No. 27906 with the Nantucket County District of the Land Court. The site is zoned Residential One (R-1).

Voting McCarthy, Toole, Koseatac

Alternates Poor, Thayer, Mondani

Recused Botticelli

Documentation File with associated plans, photos and required documentation

Representing Richard Beaudette, Vaughn, Dale, Hunter, Beaudette, and Swain P.C.,

Public None

- Discussion **Beaudette** – This is an oversized lot; the historic structure is 32.79', in excess of maximum height allowed in the bylaw. Want to put on an addition to the rear of the property. The back slope will be graded reducing the height in the rear to 32.46' and making the height slightly less nonconforming. Don't believe it is substantially more detrimental to the neighborhood.
- Toole** – Asked about the HDC approval and asked if there was proof of that.
- Beaudette** – Believes that the HDC approved this through staff.
- Thayer** – He'd like to see proof of that approval first. Doesn't know if we can grant contingent on HDC approval.
- McCarthy** – She can't read any text on page 61; this is the elevations. She's not so concerned but would like to see the HDC approval before we go forward.
- Toole** – He agrees, and there is no great hurry.
- McCarthy** – Suggested the plans be emailed to the members in advance of the meeting.
- Beaudette** – These might be the revised plans showing the conditions of the approval.
- Toole** – We don't know that.
- Motion **Motion to Continue to May 13th.** (made by: Toole) (seconded)
- Roll-call vote Carried 5-0//McCarthy, Toole, Thayer, Poor, Koseatac-aye

II. OTHER BUSINESS

1. Toole – Asked if there is a timeline for when the meetings go back into being in person.
Antonietti – She hasn't heard anything. It's up to Governor Baker.
McCarthy – She feels there is enough separation to hold the meeting with social distancing.

III. ADJOURNMENT

- Motion **Motion to Adjourn at 2:03 p.m.** (made by: Koseatac) (seconded)
- Roll-call vote Carried 5-0//McCarthy, Toole, Koseatac, Thayer, and Mondani-aye

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

1. None

Submitted by:
Terry L. Norton