



**TOWN OF NANTUCKET
BOARD OF APPEALS
NANTUCKET, MA 02554**

STAFF REPORT

Thursday, June 10, 2021

1:00 PM

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ZOOM WEBINAR REGISTRATION LINK:

https://us06web.zoom.us/webinar/register/WN_qhYKz5mERqy8AAOaYA4HRA

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To view the LIVE broadcast of the meeting, see YouTube Link at
<https://youtu.be/Y1EEKV9B41Q>

Date: June 9, 2021
To: Zoning Board of Appeals
From: Eleanor W. Antonietti, Zoning Administrator
Re: June 10, 2021

I. APPROVAL OF THE MINUTES:

- April 8, 2021
- May 13, 2021

Pages 6 - 11

II. OLD BUSINESS (CONTINUED PUBLIC HEARINGS AND VOTES MAY TAKEN)

- 30-19 Habitat for Humanity Nantucket, Inc. Benjamin Drive project Holland
CONFIRMATION of Modification of prior Comprehensive Permits – Miacomet Village 40B
The Applicant requests confirmation of the 2019 approval to modify prior Comprehensive Permits, granted in accordance with Massachusetts General Laws ("M.G.L.") Chapter 40B, pursuant to 760 CMR 56.05. Although the subject property is permanently deed-restricted for the purpose of providing affordable year-round housing, the Applicant seeks to have the approved units contribute

Pages 13 - 160

to the required 10% Subsidized Housing Inventory (“SHI”) for the Town. The Department of Housing and Community Development (“DHCD”) has determined that a Local Initiative Program is the proper method to include the units on the SHI list. After conducting a site visit, DHCD issued a Project Eligibility Letter (“PEL”) on May 7, 2021. With a complete hearing process consisting of proper abutter notification and public comment having taken place in 2019, and with the issuance of the PEL, the Applicant is requesting the Board confirm and reissue the Decision in File No. 30-19, recorded at Book 1737, Page 20, on file at the Nantucket County Registry of Deeds, with a current date in order to establish both the bona fide permit and date of eligibility for inclusion on the SHI and toward certification, per DHCD guidance. With this, it is anticipated that the units will contribute to Nantucket’s next period of Safe Harbor relative to M.G.L. Chapter 40B. The property is situated within the Miacomet Village, a 40B subdivision approved and modified in Comprehensive Permit Decisions numbered 025-86, 050-86, 030-94, 110-93, and 17-97. Locus is shown as Lots 17B & 17C on Plan No. 2020-13. Evidence of owner’s title is in Book 1823, Page 230. The site is zoned Limited Use General 2 (LUG-2).

The Property is a portion of an affordable lot originally created under a 1993 Stipulation to approve a Comprehensive Permit in ZBA File No. 110-93 recorded in Book 449, Page 344, and under File No. 030-94 (“1994 CP”) recorded in Book 449, Page 347, as amended in File No. 017-97 recorded at Book 533, Page 69.

The 1994 CP issued on April 8, 1994, specifically addresses Lot 17 as follows in ¶5.e on Book 449, Page 350 of the recorded decision:

The areas shown as #17 will not contain any dwellings, but may have no more than two maintenance/storage garages.

On December 12, 2019, a modification was granted by the ZBA to Habitat for Humanity, Inc. (“Habitat”) and the Nantucket Housing Authority (“NHA”) for the 1994 CP and was recorded at Book 1737, Pages 20-26 (“2019 CP Modification”), found on Pages 16-22 of the Packet. The decision approved the elimination of the above-cited condition and modification of prior decisions to allow Lot 17 to be subdivided into three lots, two of which will be improved with dwelling units to be permanently restricted for affordable year-round housing and one of which will remain under the control and continue to be used by the NHA for storage/maintenance.

On March 4, 2020, Plan No. 2020-13, found on Page 15 of the Packet, was recorded showing the subdivision of Lot 17 into Lots 17A, 17B, and 17C. On April 20, 2021, the NHA conveyed Lots 17B and 17C to Habitat in Deed Book 1823, Page 230, found on Pages 23-26 of the Packet. On May 4, 2021, the Department of Housing and Community Development (“DHCD”) conducted a site visit of the project Locus. On May 7, 2021, DHCD issued a Project Eligibility Letter (“PEL”) for the project, found on Pages 54-57 of the Packet.

DHCD has been advising and working closely with Habitat in an effort to include housing it plans to create on the Town’s Subsidized Housing Inventory (“SHI” – the state 10% requirement). On June 3, 2021, Tucker Holland, the Town’s Municipal Housing Director, and Gerry Keneally, President of Habitat’s Board of Directors, submitted a letter, found on Page 14 of the Packet, stating that both the Town and Habitat, after consultation with and guidance from DHCD, seek to have these three affordable units included in the Town’s SHI list. DHCD determined that the proper way to include these units in the Town’s SHI is through the Local Initiative Program (“LIP”) whereby the three LIP units to be constructed upon Lots 17B and 17C would contribute to the Town’s affordable housing stock, thus helping the Town in its efforts to remain in Safe Harbor from 40B developments. Specifically, the units will be sold to eligible households whose annual income may not exceed 80% of the Area Median Income.

The specific request is that the ZBA:

1. **RATIFY** and **CONFIRM** its 2019 CP Modification granted to Habitat to allow for the creation of three housing units (one duplex and one single family home) on lots located off of Benjamin Drive, and
2. Authorize the Chair to sign the decision documenting the proceedings and approval of the request. The fully executed document must be recorded with the above-referenced documents attached as Exhibits no later than Friday, June 11th in order that the 3 units are eligible to contribute to the Town's next period of Safe Harbor from Chapter 40B.

- 06-21 Jayne C. Debiasio & Brian F. Debiasio 39 Meadow View Dr. Reade
CONTINUED TO JULY 8, 2021 *Sitting: SM LB ET KK At Table: MP GT JM*
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).

III. NEW BUSINESS (INITIAL PUBLIC HEARINGS AND VOTES MAY BE TAKEN):

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- 10-21 Brian Rice and Robert Goldrich 41 Crooked Lane Cohen
Action Deadline August 18, 2021
Applicant requests relief by Variance pursuant to Section 139-32 for a waiver from the front yard setback provisions in Section 139-16. The applicant proposes to construct a 384 SF detached garage in the existing driveway as close as 18' from the front yard lot line where 30' setback distance is required. The proposed encroachment is further back than the pre-existing nonconforming main dwelling which is sited as close as 3.6 feet from the front yard lot line. The Locus is constrained by wetlands such that there is no location for the garage that is outside both the 50' buffer and the front yard setback. The Locus is situated at 41 Crooked Lane, is shown on Nantucket Tax Assessor's Map 41 as Parcel 202, and as Lot 2 on Land Court Plan 32312-B and Lot 6 on LCP 32313-C. Evidence of owner's title is registered as Certificate of Title No. 20897 in the Nantucket County District of the Land Court. The site is zoned Residential – 20 (R-20).

Locus, as shown on Site Plan found on Page 169 of the Packet, is an oversized lot containing 76,964 SF in the R-20 zoning district where minimum required lot area is 20,000 SF. The Property is improved with a 1,687 SF primary dwelling, an 812 SF secondary DU, and a 214 SF garage. The circa 1900 main dwelling is pre-existing nonconforming at to setbacks, being sited as close as 3.6' from the front yard lot line where the front yard setback is 30'. The applicants were granted a Special Permit in 2012 to allow an expansion of the dwelling as close as 15.78' to the front yard lot line, amended in 2014 to substitute an updated As-Built showing the addition as close as 15.7' from Crooked Lane. These decisions are found on Pages 193-202 of the Packet. Apart from the front yard setback intrusions, the lot is otherwise dimensionally conforming to the intensity requirements of Section 139-16.

The locus is encumbered by a substantial wetland shown on the above-referenced plan. Although the property exceeds the required R-20 lot size by 56,964 SF, only roughly 3,000 SF of the locus is said to be outside of both the zoning setbacks and 50' wetland buffer zone, leaving a restricted available building envelope beyond what is existing.

The applicant proposes to add a 585 SF addition to the north (side) elevation of the main house, which does not require relief, to remove the 214 SF existing garage, and to construct a new 384 SF detached garage in the existing driveway, which is the subject of the present request for relief by Variance. Although the Conservation Commission denied a request to place the garage within the 50' wetland buffer zone and therefore outside the setbacks, they did grant an Order of Conditions, found on Pages 170-188 of the Packet, to construct "a garage and driveway with associated grading, landscaping and utilities within the buffer zone Bordering Vegetated Wetland". The proposed garage is sited within the existing driveway in the northeast corner of the lot, as close as 18' from the front yard lot line. This 12' encroachment is 14.4' further back from the front yard lot line than the main house.

The Applicant requests relief by Variance per Section 139-32.A to allow the proposed siting of the new garage 18' from front yard lot line. Although it is no closer than the main dwelling, it is an entirely new detached structure and therefore creates of a new front yard setback nonconformity.

The decision would have to meet the threshold (established by MGL 40.A § 10 and locally per Section 139-32.A) which requires that the Board:

[...] specifically finds that owing to circumstances relating to soil conditions, shape or topography of such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this chapter would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and the desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such bylaw.

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- 11-21 Gregory Siemon Swart and Ann Cameron Kalb Swart, Tr. of Swart 2004 Trust
Action Deadline September 8, 2021 94 Quidnet Rd. Cohen
Applicant requests relief by Special Permit pursuant to Zoning By-law Section 139-33.A(2) to allow the alteration and expansion of a pre-existing nonconforming dwelling on an undersized lot. Specifically, applicant proposes to construct a roughly 142 SF single story addition to the main dwelling, resulting in an increase of the pre-existing nonconforming ground cover from 1,597 SF to 1,739 SF, increasing the ground cover ratio from 21.7% to 23.6% where maximum allowed is 12.5% or 1,500 SF pursuant to Section 139-33.E. The Locus is situated at 94 Quidnet Road, is shown on Tax Assessor's Map 21 as Parcel 107, and as Lot 1 on Land Court Plan 8606-A and Lot 31 on LCP 8606-B and as unregistered land on Plan Book 20, Page 19. Evidence of owner's title is registered as Certificate of Title No. 26749 in the Nantucket County District of the Land Court and recorded in Book 1628, Page 272 on file at the Nantucket County Registry of Deeds. The site is zoned Residential 20 (R-20) and Limited Use General 3 (LUG-3).

Locus is a pre-existing nonconforming and split zoning beachfront property comprised of 3 parcels, each separated by paper roads. The Aerial GIS is found on Page 210 of the Packet. The westernmost parcel has double frontage on Norcross Rd. a/k/a Quidnet Road to the west and Quidnet Road to the south and has a lot area of 7,361 SF in R-20 zoning district where minimum required lot area is 20,000 SF. As shown on existing conditions plans, found on Pages 211-212 of the Packet, this lot contains a historic 922 SF two-story dwelling and a 675 SF garage, with the garage roughly 0.4' over the western lot line into the road, where the required side yard setback is 10'. The dwelling is roughly 0.7' over the northerly rear lot line into a private property, where the

required rear yard setback is 10'. The dwelling is as close as 16.7' to the southerly front lot line where the required front yard setback is 30'. The existing ground cover of 1,597 SF yields a ground cover ratio of 21.7% for this parcel, where maximum allowed is the greater of either 920 SF (12.5%) or 1,500 SF pursuant to Section 139-33.E(1)(b). These nonconformities are said to predate the 1972 adoption of the Nantucket Zoning Bylaw.

The remainder two lots are vacant land rendered unbuildable by wetland protections. The middle parcel is in the R-20 district and has a lot area of 6,299 SF. The easternmost parcel is in the LUG-3 District and has a lot area of 9,352 where 120,000 SF is required. The portions of Sesachacha and Ocean Roads between the lots have 2,017 SF of combined lot area, but they are not yet owned by the Applicant. As stated in the Addendum, "Aggregated, the Applicant would have 25,029 SF of lot area, which would allow for 3,128.6 SF of ground cover, which is an allowance that is nearly double the existing ground cover, but the non-ownership of the paper roads and the non-contiguity of the parcels prevent this under the zoning bylaw."

As shown on Proposed Site Plan and Architectural Plans, found on Pages 213-217 of the Packet, Applicant proposes to add a 142 SF one-story addition to the western elevation of the dwelling, (the 20 SF bulkhead is excluded from ground cover). Therefore, the addition will result in an increase from 1,597 SF to 1,739 SF, for an increase in GCR from 21.7% to 23.6%, and 239 SF in excess of the 1,500 SF allowed per Section 139-33.E(1)(b).

Relief is sought per Section 139-33.A(2)

An extension, alteration, or change to an existing structure or a new structure that will result in an increase in the pre-existing nonconforming ground cover ratio of a lot may be allowed through the issuance of a special permit, provided that the special permit granting authority makes the following findings:

- (a) The increase in ground cover ratio will not be substantially more detrimental to the neighborhood than the existing nonconformity;
- (b) The resulting ground cover ratio is consistent with the character of the surrounding neighborhood; and
- (c) The extension, alteration, or change to the existing structure or the new structure is conforming to other dimensional requirements of this chapter.

- 12-21 Wisentaner, Inc. 25 & 27 Young's Way Wisentaner
Action Deadline September 8, 2021
Applicant requests amendment of prior Special Permit relief granted in Zoning Board of Appeals File No. 037-12. Specifically, Applicant seeks to modify the relief and certain conditions therein to 1) eliminate the requirement for a lease and the related conditions as the lots are in common ownership; 2) convert a portion of the existing parking lot to an outdoor turf fitness area to allow for appropriate social distancing during the pandemic; 3) request waivers, to the extent necessary, from parking requirements in Section 139-18 and open area requirements in Section 139-16.E; and 4) substitute an updated Site Plan as new "Exhibit A." The Locus is situated at 25 and 27 Young's Way, is shown on Tax Assessor's Map 67 as Parcels 688 and 689, and as Lots 24 and 23 on Plan No. 2003-10. Evidence of owner's title is recorded in Book 1323, Page 115 and Book 1607, Page 179 on file at the Nantucket County Registry of Deeds. The site is zoned Commercial Trade, Entrepreneurship and Craft (CTEC).

The Applicant requests the amendment of prior Special Permit relief in File No. 037-12, found on Pages 230 – 235 of Packet, which granted unanimous approval to operate a 3,600 square foot recreational facility on 25 Young's Way and to allow parking on the adjacent property at 27 Young's Way subject to the following 4 conditions in ¶6:

2 Fairgrounds Road Nantucket Massachusetts 02554
508-325-7587 telephone 508-228-7298 facsimile

- a. That there shall be a lease between the Applicant and the property owner of 27 Young's Way (Map 67, Parcel 689) to allow thirteen (13) parking spaces to be sited on 27 Young's Way and notice of said lease shall be recorded;

➤ ELIMINATE

- b. That the hours of operation of the recreational facility shall be from 5:30 A.M. to 8:30 P.M.;

➤ NO CHANGE

- c. That the windows and doors shall be closed while the building is in use;

➤ MODIFY

- d. That should the lease between the Applicant and the owner of 27 Young's Way terminate, then the Applicant shall cease the operation of said recreational facility.

➤ ELIMINATE

Specifically, Applicant seeks to modify the relief and certain conditions therein to:

- eliminate the requirement for a lease and the related conditions 'a' & 'd' as the lots are in common ownership;
- convert a portion of the existing parking lot to a roughly 1,800 SF outdoor turf fitness area to allow for appropriate social distancing during the pandemic;
 - Building occupancy of 43 persons will remain unchanged as to the facility's indoor and outdoor use.
- request waivers, to the extent necessary, from aisle width parking requirements in Section 139-18 and open area requirements in Section 139-16.E; and
 - Open Space Requirement is met as shown on new Site Plan, so no relief necessary.
 - Loading zone no longer required and will be removed.
 - Total number of required parking spaces per Section 139-18 is 14 with a total of 18 provided on both lots.
 - **Section 139-18.A(9) Aisle width.**
For lots containing one or more commercial uses, aisle width shall not be less than 20 feet for ninety-degree parking, 15 feet for forty-five-degree parking (angle shall be measured between center line of parking space and center line of aisle), and 12 feet for parallel parking. Aisle width requirements shall not apply to residential uses except for lots containing multifamily or duplex dwelling units, in which case a minimum aisle width of 12 feet shall apply for ninety-degree, forty-five-degree, and parallel parking.
- substitute an updated Site Plan found on **Page 228 of Packet** as new "Exhibit A."

Locus underwent a zoning change from RC-2 to CTEC pursuant to approval of Article 42 at the 2019 ATM.

A letter expressing support regarding the request received after the deadline is **INCLUDED AT THE END OF THIS STAFF REPORT.**

IV. OTHER BUSINESS (Votes may be taken)

V. ADJOURNMENT (VOTE WILL BE TAKEN)

LETTER

Received after deadline

WISENTANER, Inc.

25 & 27 Young's Way

FILE No. 12-21

From: [Mark and Eithne Yelle](#)
To: [Eleanor Antonietti](#)
Subject: nantucket cycling & fitness
Date: Tuesday, June 08, 2021 11:58:53 AM
Attachments: [image001.png](#)

To whom it may concern

We are writing in support of our friend and neighbor Lisa Wisentaner from Nantucket Cycling and Fitness.

She is a wonderful neighbor on our shared street of Young's Way. There have never been any parking issues or noise during her hours of business.

We fully support her request for outdoor classes to help her recover from Covid loss of income.

Mark and Eithne Yelle, Members

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