



Planning and Land Use Services

Building ▪ Historic District Commission ▪ Planning Board ▪ Zoning Board of Appeals

Date: August 11, 2021
To: Zoning Board of Appeals
From: Leslie Woodson Snell, AICP
Deputy Director of Planning
Re: Staff Report for 08-12-21 ZBA Meeting

I. CALL TO ORDER:

II. APPROVAL OF THE AGENDA:

III. APPROVAL OF THE MINUTES:

▪ July 8, 2021

The minutes have been reviewed and approval is recommended.

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

JAYNE C. DEBIASIO & BRIAN F. DEBIASIO, FILE NO. 06-21
DR. READE

39 MEADOW VIEW

CONTINUED TO SEPTEMBER 9, 2021 ACTION DEADLINE 10-05-21

SHANNAH GREEN, FILE NO. 14-21
ACTION DEADLINE 10-06-21

49 FAIRGROUNDS ROAD ALGER

Applicant requests a modification to a previously granted special permit to allow permanent use of the seasonally covered outdoor deck for outdoor classes. The deck was previously approved for use only through the COVID 19 pandemic. The Locus is situated at 49 Fairgrounds Road, is shown on Tax Assessor's Map 67 as Parcel 306, and Lots 56 and 57 upon Land Court Plans 34507-H and 34507-I. Evidence of owner's title is registered as Certificate of Title No. 16996 in the Nantucket County District of the Land Court. The site is zoned Residential 10 (R-10).

UPDATE: One new letter was received since the last meeting – see packet.

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

EUGENE H. CLAPP, III, TRUSTEE OF THE 42 CLIFF ROAD NOMINEE TRUST, FILE NO. 16-21
42 CLIFF ROAD READE ACTION DEADLINE 11-10-21

Applicant requests a special permit pursuant to Section 139-30 and 139-33A to alter and extend a pre-existing nonconforming single-family dwelling. The Locus is situated at 42 Cliff Road, is shown on Nantucket Tax Assessor's Map 42.4.4 as Parcel 40, and shown as Lot 2 in Plan Book 19, Page 88 and as Lot B on Plan No. 2014-49 filed with the Nantucket County Registry of Deeds. Evidence of owner's title is recorded in Book 341, Page 141 and Book 1831, Page 307 at the Nantucket County Registry of Deeds. The site is zoned Residential Old Historic (ROH).

The applicant is seeking to construct an addition to a pre-existing nonconforming dwelling. The proposed 126 square foot addition will be sited as close as 3.8 feet from the southwesterly side/rear yard lot line, which is consistent with the location of the existing structure. The finding that the Board needs to make to grant the relief is that the extension does not increase its nonconforming nature and does not create any new nonconformities, and that granting the special permit is in harmony with the purpose and intent of Bylaw.

GUY AND DIANE MADDALONE, FILE NO. 17-21
16 WESTERN AVENUE BAILEY ACTION DEADLINE 11-10-21

Applicant is appealing the decision of the Building Commissioner to deny their request to revoke Building Permit 2021-05-1732 with respect to the property at 16 Western Avenue. The Locus is situated at 16 Western Avenue and shown on Nantucket Tax Assessor's Map 87 as Parcel 72 and shown as Lot 3 on Land Court Plan 8256-F filed with the Nantucket County Registry District of the Land Court. Evidence of owner's title is recorded as Certificate No. 2282 on file at the Nantucket County Registry District of the Land Court. The site is zoned Residential 20 (R-20) and Limited Use General 2 (LUG-2).

The decision issued by the ZBA did not include a condition relative to a construction prohibition during the summer months. The minutes from that meeting are included in your packet. They reflect discussion about including a condition, which ultimately was not supported, which is also reflected in the minutes. The Building Commissioner must rely on the written decision issued by the Board when considering whether or not a building permit should be issued or revoked. Staff also emphasizes a point that was made during the January public hearing, which was that construction limitations in areas outside of the downtown have not been imposed by this Board.

The Board should understand that this is an APPEAL of the determination of the Building Commissioner. The Board must determine whether or not they support that determination. It is not the appropriate time to impose new conditions.

One letter in support of this request was received and is included in your packet.

ACK SMART AS APPLICANT FOR 21 WOODBINE, LLC, FILE NO. 18-21
21 WOODBINE STREET BEAUDETTE ACTION DEADLINE 11-10-21

Applicant requests variance relief to validate the location of a solar ground array within the side and rear yard setbacks. The Locus is situated at 21 Woodbine Street, is shown on Nantucket Tax Assessor's Map 80 as Parcel 321 and shown as Lot 4 on Plan No. 54W on file with the Nantucket County Registry of Deeds. Evidence of owner's title is recorded in Book 1342, Page 75 on file at the Nantucket County Registry of Deeds. The site is zoned Limited Use General 1 (LUG-1).

The applicant applied for and received a building permit to construct a solar array that complied with all setback requirements, however, it was constructed within the side and rear yard setbacks. Due to their knowledge of the Building Commissioner's reaction to the same situation at 12 S. Valley Road (see email dated April 14, 2021 in your packet) they applied for variance relief. In both situations, Applicant claims to have relied on a non-site-

specific email from the Zoning Compliance Coordinator from 2017 despite the fact that they applied to the HDC and obtained a building permit for a compliant solar array.

One letter in opposition to the request was received and is included in your packet.

ACK SMART AS APPLICANT FOR TIMOTHY AND LAUREN MINER, FILE NO. 19-21
12 S. VALLEY ROAD BEAUDETTE ACTION DEADLINE 11-10-21

Applicant requests variance relief to validate the location of a solar ground array within the front and side yard setbacks. The Locus is situated at 12 S. Valley Road, is shown on Nantucket Tax Assessor's Map 43 as Parcel 139, and shown as Lot 76 on Land Court Plan 11461-J and as Lot 21 on Land Court Plan 11641-H on file with the Nantucket County Registry District of the Land Court. Evidence of owner's title is recorded as Certificate of Title No. 24316 on file at the Nantucket County Registry District of the Land Court. The site is zoned Limited Use General 1 (LUG-1).

The applicant applied for and received a building permit to construct a solar array that complied with all setback requirements, however, it was constructed within the front and side yard setbacks. When requested to authorize a final sign off for the project, the Building Commissioner directed them to apply to the ZBA for variance relief (see email dated April 14, 2021 in your packet). Applicant claims to have relied on a non-site-specific email from the Zoning Compliance Coordinator from 2017 despite the fact that they applied to the HDC and obtained a building permit for a compliant solar array.

VI. OTHER (VOTES MAY BE TAKEN)

VII. ADJOURNMENT (VOTE WILL BE TAKEN)
