



Planning and Land Use Services

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

Date: August 11, 2022

To: Zoning Board of Appeals

From: Leslie Woodson Snell, AICP
Deputy Director of Planning

RE: Staff Report for 08-11-22 ZBA Meeting

I. APPROVAL OF THE MINUTES:

- July 14, 2022

Staff reviewed the minutes. We recommend approval.

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

37-21 Kristina & Nicholas Amendolare **8 Bank Street** **Williams**
Continued to September 8, 2022 *Sitting: SM, LB, ET, MO, EA*

22-21 Adam Delaney-Winn, Trustee of Warren's Landing Nominee Trust **Reade**
Continued to September 8, 2022 *Sitting: SM, LB, ET, MO, EA*

08-22 James & Jennifer Soltesz **2 Grey Lady Lane** **Williams**
Sitting: SM, LB, EA, MO, JT

Applicants are seeking a Special Permit pursuant to Zoning Bylaw Section 139-16C(2). (Intensity regulations to validate an unintentional setback intrusion into the required 5-foot side yard setback area). In the alternative, Applicants are seeking relief by Variance pursuant to Section 139-16 to validate the unintentional sideline setback intrusion of approximately one (1) inch at the rear corner of the enclosed porch. Locus is situated at 2 Grey Lady Lane, shown on Assessor's Map 66 as Parcel 701 and upon Plan Book No. 1736 Page 58. Evidence of owner's title is recorded in Book 1736, Page 58 on file at the Nantucket County Registry of Deeds. The site is zoned Residential-5 (R-5).

The Board requested that the applicant provide the Building file, HDC file, and a letter from Bracken Engineering at the next meeting for review.

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

09-22 Harris on Weweeder, LLC 50 Weweeder Avenue

Brescher

Applicant is seeking a variance pursuant to Zoning Bylaw Sections 139-16A and 139-32 to exceed the maximum allowable ground cover ratio of 7% and to reduce the side yard setback from 10 feet to 2.7 feet only where it applies to the proposed pool cabana. Locus is situated at 50 Weweeder Avenue, shown on Assessor's Map 79 as Parcel 15 and upon Land Court Plan 42927-A. Evidence of owner's title is registered on Certificate of Title No. 27684 on file at the Nantucket County District of the Land Court. The site is zoned Limited Use General 1 (LUG-1).

The applicant provided a detailed description of the proposal, which is included in your packet. The request is to grant a variance to allow the ground cover of the property to TEMPORARILY increase above 7% pending the finalization of a land conveyance from the Town of Nantucket to the applicant. Staff notes that the applicant was awarded the paper streets surrounding their property in October of 2010. Since that time, the legal work necessary to finalize the transaction has been stalled at the Land Court, through no inaction of the applicant. The Board has reviewed applications for other applicants with similar situations and has acted favorably.

The finding the Board will need to make to approve the variance is that "owing to circumstances related to soil conditions, shape or topography of such land or structures and especially affecting 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 a 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".

Staff recommends approval of the request because it is reasonable and consistent with prior actions of the Board, however, we note that the applicant already constructed the cabana without the benefit of a building permit. In doing so, he will be fined by the Building Commissioner for work without a permit if you approve this request.

See attached decisions for similar variance relief.

IV. ADJOURNMENT (VOTE WILL BE TAKEN)



RECEIVED

**TOWN OF NANTUCKET
BOARD OF APPEALS**

FEB 21 PM 3 46

NANTUCKET TOWN CLERK

NANTUCKET, MASSACHUSETTS 02554

Date: February 21, 2014

To: Parties in Interest and Others concerned with the Decision of
The BOARD OF APPEALS in the Application of the following:

Application No: 08-14

Owner/Applicant: LAURINDA PFAFF-LECAIN & LACEY BRANDT

Enclosed is the Decision of the BOARD OF APPEALS which has this
day been filed with the office of the Nantucket Town Clerk.

An Appeal from this Decision may be taken pursuant to Section 17
of Chapter 40A, Massachusetts General Laws.

Any action appealing the Decision must be brought by filing a
complaint in Land Court within TWENTY (20) days after this day's
date. Notice of the action with a copy of the complaint and
certified copy of the Decision must be given to the Town Clerk so
as to be received within such TWENTY (20) days.

Eleanor W. Antonietti,
Zoning Administrator

cc: Town Clerk
Planning Board
Building Commissioner/Zoning Enforcement Officer

PLEASE NOTE: MOST SPECIAL PERMITS AND VARIANCES HAVE A TIME LIMIT
AND WILL EXPIRE IF NOT ACTED UPON ACCORDING TO NANTUCKET ZONING
BY-LAW SECTION 139-30 (SPECIAL PERMITS); SECTION 139-32
(VARIANCES). ANY QUESTIONS, PLEASE CALL THE NANTUCKET ZONING BOARD
OF APPEALS OFFICE AT 508-325-7587.

**TOWN OF NANTUCKET
ZONING BOARD OF APPEALS
2 FAIRGROUNDS ROAD
NANTUCKET, MA 02554**

Assessor's Map 60 Parcel 137
347 Madaket Road
Village Residential (V-R)

Lot D-1
Land Court Plan 3092-X
Certificate of Title 23296

At a Public Hearing of the NANTUCKET ZONING BOARD OF APPEALS held at 1:00 p.m., Thursday, January 9, 2014, 4 Fairgrounds Road, Nantucket, Massachusetts, the Board made the following decision on the application of **LAURINDA PFAFF-LECAIN & LACEY BRANDT**, of 22 Stonebridge Road, Wayland, Massachusetts 01778, **File No. 08-14**:

1. Applicants are seeking Variance relief pursuant to Nantucket Zoning Bylaw Section 139-32 from the intensity regulations in Section 139-16, in order to eliminate the front and side yard setback requirements to the extent necessary. Applicants propose to relocate an existing single-family dwelling and shed away from the eroding coastal bank through a reconfiguration of the existing lot with additional land licensed by the Town of Nantucket for use by the Applicants. The combined land will be used as a single lot for zoning purposes and the Licensed Areas will establish adjusted boundaries within the layout of Dayton Street and Denver Street. The existing structures will be relocated on a portion of the Licensed Areas so as to maximize the distance between the structures and the eroding coastal bluff. The existing Locus is non-conforming as to front yard setback with the shed sited as close as 12.32 feet from the front yard lot line in a zoning district where a twenty (20) foot setback is required, and as to side yard setback, with the shed sited as close as 9.37 feet from the side yard lot line where a ten (10) foot setback is required. In all other respects the existing lot is conforming to the dimensional requirements of the Zoning By-law. The Locus is situated at 347 Madaket Road, Assessor's Map 60 Parcel 137, is shown on Land Court Plan 3092-X as Lot D-1, and evidence of owner's title is registered as Certificate of Title No. 23296 in the Nantucket County Registry District of the Land Court. The site is zoned Village Residential (VR).

2. The Decision is based upon the Application and the material submitted with it and the testimony and evidence presented at the Hearing. The Planning Board made no recommendation, as the matter was not of planning concern. There were no letters on file in favor of or in opposition to the Application. No opposition was expressed at the Hearing.

3. The existing Locus, Lot D-1 shown on Land Court Plan 3092-X, consists of a 2,225 square foot dwelling and a 147 square foot shed, and has a lot area of 26,018± square feet. Due to the eroding coastal bank, the Applicants propose to relocate the existing structures currently on Lot D-1. The Locus will be reconfigured to form a single lot consisting of a lot area of 39,220± square feet. The reconfiguration will occur by combining Lot D-1 with three (3) additional Licensed Areas; "Remainder Lot D-3" with a lot area of 5,052± square feet and fronting on Ames Avenue; Parcel 2 with a lot area of 4,657± square feet; and Parcel 3 with a lot

area of 3,585± square feet. Parcels 2 and 3 are located within the layouts of Denver Street and Dayton Street. The proposed relocation of the structures and reconfigured Locus are shown on plan entitled "Plot Plan to Accompany a Z.B.A. Application for 347 Madaket Road in Nantucket, Massachusetts", prepared by Stephen J. Sullivan, Professional Land Surveyor of Earle & Sullivan, Inc., dated December 17, 2013, a reduced copy of which is attached hereto and marked as "Exhibit A".

4. Therefore, based upon the foregoing, the Board determined that a grant of Variance relief from the setback provisions in By-law Section 139-16 to allow the relocation of the single-family dwelling and shed as described above meets the requisite criteria. The Board specifically finds that due to the topography of the lot, the proximity of said eroding coastal bank endangering this Property, lack of sufficient area outside of the 50-foot no disturb buffer required by the Conservation Commission to site the dwelling outside of the required front and side yard setback requirements, and to soil conditions, with the sandy soil of the beach and the underlying soil of the lot potentially becoming unstable where the structure is currently sited, that a literal enforcement of the provisions of Section 139-16A of the Nantucket Zoning Bylaw would involve substantial hardship, financial and otherwise, to the Applicants and that relief would be in harmony with the general purpose of the Zoning Bylaw and may be granted without substantially derogating from the intent of the Bylaw. In view of the unique circumstances affecting this lot and not generally affecting the zoning district within which the lot is situated, there are sufficient grounds upon which to base a grant of variance. In addition, the Board recognizes that the collaboration between the Applicants and the Town of Nantucket has led to a creative solution to the otherwise intractable problem of severe coastal erosion. The addition of the Licensed Areas and the elimination of setback requirements to the extent necessary will enable the Applicants to relocate the structures and to maximize the distance between the endangered structures and the eroding coastal bluff. Given the unique circumstances affecting this lot and not generally affecting the zoning district within which the lot is situated, the relief granted and described in this paragraph will allow the location of the structures to be over the existing lot line and to straddle the lot and the Licensed Areas. For the purposes of zoning and the relief granted in this decision, the Licensed Area shall be considered part of the lot.

5. Accordingly, by a UNANIMOUS vote, the Zoning Board of Appeals made the finding that the requested VARIANCE relief, pursuant to Nantucket Zoning Bylaw Section 139-32 from the intensity regulations in Nantucket Zoning Bylaw Section 139-16, could be granted, based upon the unique circumstances affecting this lot and not generally affecting the zoning district within which the lot is situated, to allow the Applicants to relocate the existing structure on the Locus away from the eroding coastal bank and into portions of the three (3) additional Licensed Areas (as described in Paragraph 3 above) within the layouts of Denver Street and Dayton Street upon the following condition:

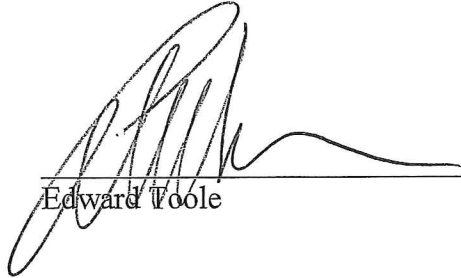
- (a) The relocation shall be done in substantial compliance with the plan entitled "Plot Plan to Accompany a Z.B.A. Application for 347 Madaket Road in Nantucket, Massachusetts", prepared by Stephen J. Sullivan, Professional Land Surveyor of Earle & Sullivan, Inc., dated December 17, 2013, a reduced copy of which is attached hereto and marked as "Exhibit A".

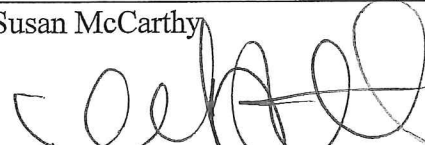
SIGNATURE PAGE TO FOLLOW

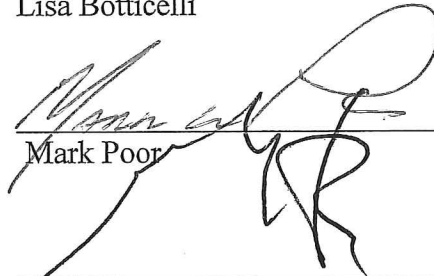
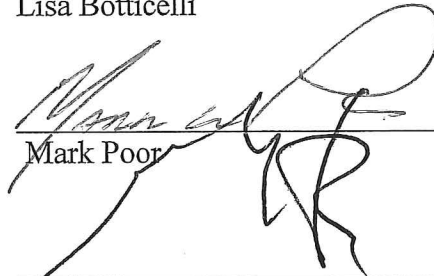
Assessor's Map 60 Parcel 137
347 Madaket Road
Village Residential (V-R)

Lot D¹
Land Court Plan 3092-X
Certificate of Title 23296

DATED: February 21, 2014


Edward Toole

Susan McCarthy

Lisa Botticelli


Mark Poor

Geoffrey Thayer

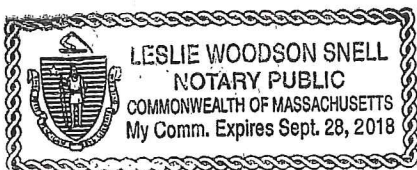
COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss

On the 21 day of February, 2014, before me, the undersigned notary public, personally appeared Geoff Thayer, one of the above-named members of the Zoning Board of Nantucket, Massachusetts, personally known to me to be the person whose name is signed on the preceding document, and acknowledged that he signed the foregoing instrument voluntarily for the purposes therein expressed.



Notary Public:
My Commission Expires:





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

NANTUCKET
TOWN CLERK
2018 MAY 10 PM 1:30

Date: May 9, 2019

To: Parties in Interest and Others concerned with the Decision of
The BOARD OF APPEALS in the Application of the following:

Application No.: 04-19

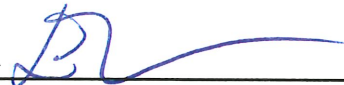
Owner/Applicant: LINDA YATES

Property Description: 21 Derrymore Road
Map 41, Parcel 117

Enclosed is the Decision of the BOARD OF APPEALS which has this
day been filed with the office of the Nantucket Town Clerk.

An Appeal from this Decision may be taken pursuant to Section 17
of Chapter 40A, Massachusetts General Laws.

Any action appealing the Decision must be brought by filing a
complaint in Nantucket Superior Court or Land Court within TWENTY
(20) days after this day's date. Notice of the action with a copy
of the complaint and certified copy of the Decision must be given
to the Town Clerk so as to be received within such TWENTY (20)
days.



Eleanor W. Antonietti,
Zoning Administrator

cc: Town Clerk
Planning Board
Building Commissioner/Zoning Enforcement Officer

PLEASE NOTE: MOST SPECIAL PERMITS AND VARIANCES HAVE A TIME LIMIT AND
WILL EXPIRE IF NOT ACTED UPON ACCORDING TO NANTUCKET ZONING BY-LAW
SECTION 139-30 (SPECIAL PERMITS); SECTION 139-32 (VARIANCES). ANY
QUESTIONS, PLEASE CALL THE NANTUCKET ZONING BOARD OF APPEALS OFFICE AT
508-325-7587.

NANTUCKET ZONING BOARD OF APPEALS
2 Fairgrounds Road
Nantucket, Massachusetts 02554

Assessor's Map 41, Parcel 117
21 Derrymore Road
Residential-1 (R-1)

Certificate of Title No 22854
Land Court Plan No. 13199-V
Lot 51

DECISION:

1. At a public hearing of the Nantucket Zoning Board of Appeals (the "Board") opened on Thursday, February 14, March 14, and closed on April 11, 2019 in the Conference Room, at 4 Fairgrounds Road, Nantucket, Massachusetts, the Board made the following Decision on the application of **LINDA A. YATES** (the "Applicant"), c/o Cohen & Cohen Law PC, 34 Main Street, 2nd Floor, P.O. Box 786, Nantucket, MA 02554, in **File No. 04-19**:
2. Applicant is requesting relief by Variance pursuant to Zoning By-law Section 139-32 for a waiver from the five (5) foot side yard setback provision in Section 139-16 in order to construct a new dwelling as close as two (2) feet from the northerly side yard lot line. The property is located at 21 Derrymore Road, shown on Assessor's Map 41 as Parcel 117 and as Lot 51 upon Land Court Plan 13199-V. Evidence of owner's title is registered on Certificate of Title No. 22854 at the Nantucket County District of the Land Court. The site is zoned Residential -1 (R-1).
3. Our decision is based upon the application and accompanying materials and representations and testimony received at our public hearing. The Applicant's attorney spoke in support of the application. There was no Planning Board recommendation on the basis that no matters of planning concern were presented. One Abutter letter in support of the application was received. One Abutter spoke in opposition at the Initial Public Hearing.
4. The Locus consists of a dimensionally conforming oversized vacant lot containing 9,228 square feet in the R-1 zoning district where minimum lot size is 5,000 sq. ft. Pursuant to Zoning By-law Section 139-16.C.3, the R-1 zoning district provides for a ten (10) foot front yard setback and five (5) foot side and rear yard setback, except that a ten (10) foot setback is also required from any constructed or unconstructed street or way. The locus fronts on Derrymore Road to the west and an unconstructed previously private way, Dartmouth Lane, to the north. The land located within the bounds of "Dartmouth Lane" was approved for Acquisition and Disposition by the Town by virtue of passage of Articles 96 and 97 at the 2014 Annual Town Meeting, as part of the Town's "Yard Sale" program. An Approval Not

Required (“ANR”) Plan approved by the Planning Board in July of 2014, on file with the Registry of Deeds at Plan No. 2014-63, created six Yard Sale parcels (Parcels A-F, *inclusive*). The Town took the way by *Eminent Domain* in November 2014 (Order of Taking registered as Land Court Document No. 146324).

5. Parcel D, as shown on Plan 2014-63, has a variable width of 15.00’ to 16.53’ and runs along the full 164.30 foot length of the northern boundary of Locus. The Disposition of Parcel D to the Applicant (and of the other parcels to the other abutters) has been held up for several years in the Land Court registration process. Under the terms of the Yard Sale Program, the Applicant is eligible to have right of first refusal to acquire the 2,517 sq. ft. parcel, since she is the only abutter thereto. Applicant has delayed her development of this lot for five years waiting for the Yard Sale process to be completed.
6. Applicant, through its counsel, presented testimony at the public hearing. He explained that due to the long narrow shape of the lot, and the unusual circumstances related to the title clearing of Parcel D, Applicant is seeking relief by Variance pursuant Zoning By-law Section 139-32 from the provisions of Section 139-16 to reduce the side yard setback on the north side of the premises by up to three (3) feet to allow for a new dwelling having approximately 1,552 square feet of ground cover to be as close as two (2) feet from the existing northerly lot line. The siting of said dwelling would create a new nonconformity which would be automatically cured when Yard Sale Parcel D is acquired by the Applicant and, by default, merged with Locus. This merger would result in the proposed dwelling being sited no closer than seventeen (17) feet from the new northerly lot line, thus in full compliance with the five (5) foot side yard setback requirement.
7. There was discussion of the protracted Land Court process as it relates to the eventual transfer of Parcel D to the Applicant. Staff provided materials demonstrating that significant progress had been made in this particular case and that the Land Court process was likely to reach completion within the year, if not sooner. The neighbor to the north, on the other side of the 33-foot wide former way, is the Applicant’s daughter, who supports the relief, and the neighbor to the south supports the relief, as it would allow for the parking and dwelling to move away from their house. An abutter expressed concern about future subdivision of the lot once the Yard Sale parcel is added. Attorney Cohen raised no objections to the proposed conditions recommended by the staff and clarified the parking area location on the plan.
8. Therefore, based upon the foregoing, owing to the unique circumstances surrounding this lot in the R-1 zoning district, a literal enforcement of the provisions of Section 139-16 (setbacks) would involve substantial hardship, financial or otherwise, because the Applicant has no ability to expedite the Land Court process by which she will eventually acquire Yard Sale Parcel D that will enable her to cure the setback encroachment. She has been waiting

for five years for the Yard Sale parcel to become available purchase so that she may make the desirable improvements and build upon this vacant lot. Furthermore, the desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the By-law.

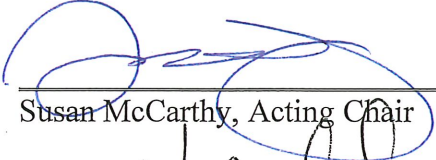
9. Accordingly, by a **UNANIMOUS** vote, the Board **GRANTS** the requested **VARIANCE** to reduce the side yard setback on the north side of the premises by up to three (3) feet to allow for a new dwelling of approximately 1,552 square feet of ground cover to be as close as two (2) feet from the existing northerly lot line, subject to the following conditions:
 - a) The parking area shall be east of the east side of the house;
 - b) The nonconformity shall be cured before a Certificate of Occupancy can be issued for the work contemplated under this decision;
 - c) A restriction on subdivision from the Town shall be recorded in the deed once Yard Sale Parcel D is acquired by owner and merged with the lot;
 - d) The property shall be nonconforming should the landowner decline to purchase the Yard Sale Parcel D; and
 - e) No construction shall take place on or over the lot line.

SIGNATURE PAGE FOLLOWS

Assessor's Map 41, Parcel 117
21 Derrymore Road
Residential-1 (R-1)

Certificate of Title No 22854
Land Court Plan No. 13199-V
Lot 51

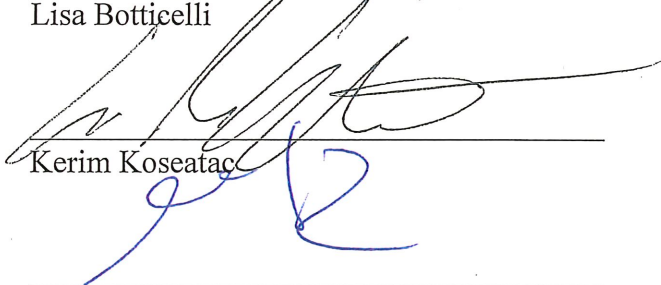
Dated: April 11, 2019



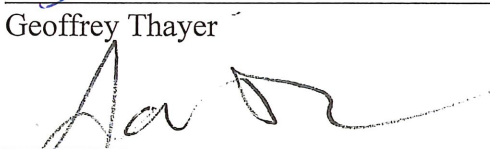
Susan McCarthy, Acting Chair



Lisa Botticelli



Kerim Koseatac



Geoffrey Thayer

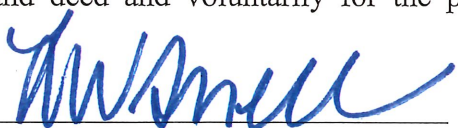


James Mondani

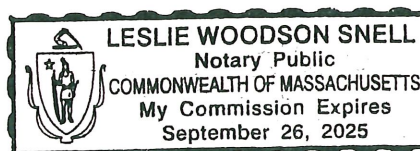
COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss.

On the 9 day of May, 2019, before me, the undersigned notary public, personally appeared Kerim Koseatac, one of the above-named members of the Zoning Board of Appeals of Nantucket, Massachusetts, personally known to me to be the person whose name is signed on the preceding document, and acknowledged that they signed the foregoing instrument as their free act and deed and voluntarily for the purposes therein expressed.



Official Signature and Seal of Notary Public
My commission expires:





2BA
NANTUCKET
TOWN CLERK

2022 FEB 25 AM 11:05

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

Date: February 10, 2022

To: Parties in Interest and Others concerned with the Decision
The BOARD OF APPEALS in the Application of the following:

Application No: 31-21

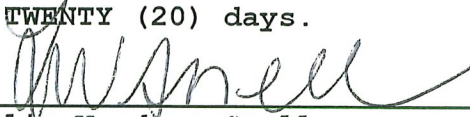
Current Owner/Applicant: James A. Genthner & Susan G. Genthner,
Trustees of the James A. Genthner and the Susan G. Genthner Trust

Property Description: 128 Surfside Road
Map 80, Parcel 299.1

Enclosed is the Decision of the BOARD OF APPEALS which has this day been filed with the office of the Nantucket Town Clerk.

An Appeal from this Decision may be taken pursuant to Section 17 of Chapter 40A, Massachusetts General Laws.

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Leslie Woodson Snell,
Zoning Administrator

cc: Town Clerk
Planning Board
Building Commissioner/Zoning Enforcement Officer

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NANTUCKET ZONING BOARD OF APPEALS
2 Fairgrounds Road
Nantucket, Massachusetts 02554

Assessor's Map 80, Parcel 299.1
128 Surfside Road
Limited Use General-1 (LUG-1)

Certificate of Title No. 28319
Land Court Plan No. 40394-B
Lot 3

DECISION:

1. At a public hearing of the Nantucket Zoning Board of Appeals ("the Board"), opened at 1:00 pm on Thursday, November 22, 2021, and continued and closed on January 13, 2022, *via* Zoom¹, the Board made the following decision on the application of **James A. Genthner and Susan G. Genthner, Trustees of the James A. Genthner Trust and the Susan G. Genthner Trust**, Post Office Box 64, Nantucket, Massachusetts 02554, **File No. 31-21**:

2. The Applicant is requesting relief by Variance pursuant to Nantucket Zoning By-law Section 139-32 to allow for a reduction of the rear yard setback from 10 feet to 5 feet and to allow for an expansion of the allowable ground cover from approximately 2,882 square feet to approximately 3,482 square feet. Specifically, Applicant proposes to construct a second dwelling with a ground cover of approximately 860 square feet in the northeast corner of the lot. The Locus is situated at 128 Surfside Road, is shown on Assessor's Map 80 as Parcel 299.1, as Lot 3 upon Land Court Plan 40394-B. Evidence of owner's title is registered on Certificate of Title No. 28319 with the Nantucket County District of the Land Court. The site is zoned Limited Use General-1 (LUG-1).

3. Our Decision is based upon the Application and accompanying materials, representations, and testimony received at our public hearing. There was no Planning Board recommendation on the basis that no matters of planning concern were presented. Except for the presentation by the Applicant there was no additional testimony presented at the public hearing.

4. Applicant explained the request for variance relief and the background related to the pending expansion of the property. At the 2010 Annual Town Meeting, Article 77 authorized the conveyance of a portion of Poplar Street. In 2013 the Applicant responded to a Request for Proposal, was deemed to be the most advantageous proposer, and was awarded surplus property

¹*This Open Meeting of the Nantucket Zoning Board of Appeals was conducted remotely consistent with Governor Baker's Executive Order of March 12, 2020, due to the current State of Emergency in the Commonwealth due to the outbreak of the "COVID-19 Virus."*

shown as “Poplar Street, Parcel J” on Plan No. 2012-68. Upon being awarded the property, the Applicant moved forward in good faith with design and permitting for the proposed second dwelling in anticipation of the transaction being finalized. Approvals from the Historic District Commission and the Planning Board were obtained, but, due to the fact that the property is registered with the Massachusetts Land Court, the process to transfer the property from the Town of Nantucket to the Applicant was not completed within the anticipated timeframe and those approvals expired. At this point, there is no indication that the transfer will be cancelled or abandoned. It is typical for actions by the Massachusetts Land Court to take a significant amount of time and the Applicant would like to move forward with the project.

5. The lot currently contains a primary dwelling with a ground cover of approximately 1,411 square feet and a barn with a ground cover of approximately 1,211 square feet. The proposal consists of constructing a second dwelling on the northeast corner of the lot with a ground cover of approximately 860 square feet. Existing and Proposed conditions are shown on plan entitled, “Nantucket Zoning Board Application, dated December 18, 2021, a reduced copy of which is attached herewith as “Exhibit A”. The Locus is currently conforming as to all intensity requirements in Zoning By-law Section 139-16.A in the LUG-1 zoning district. If the conveyance from the Town to the Applicant was complete, the proposal would also comply with all intensity requirements in Zoning By-law Section 139-16.A in the LUG-1 zoning district and the variance would not be necessary to complete the project.

5. Relief is requested pursuant to By-law Section 139-32 which reads:

The Board of Appeals shall have the power to grant upon appeal or upon petition, with respect to particular land or structures, a variance from the terms of this chapter where the Board of Appeals specifically finds that owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting 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.

The proposed second dwelling will result in a temporary increase in ground cover beyond what is allowed on the lot as it is currently configured, but when the conveyance of land from the Town of Nantucket to the Applicant is complete, the ground cover nonconformity will be cured.

8. Therefore, based upon the foregoing, the Board finds that granting the proposed relief pursuant to By-law Section 139-32 is consistent with the finding that the particular land subject to the requested relief has circumstances related to shape that especially affects the subject lot, but not generally affects the zoning district in which it is located, and that a literal enforcement of the provisions of By-law Section 139-16A would involve substantial financial hardship to the petitioner (Applicant), and the desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Bylaw.

9. Accordingly, by a **SUPER MAJORITY** vote of four (4) in favor and one (1) opposed, the Board grants relief by **VARIANCE** pursuant to By-law Section 139-32 to allow a temporary increase in ground cover and reduction in rear yard setback in order to allow the construction of a second dwelling while the conveyance of land from the Town of Nantucket to the Applicant is pending. The relief shall be subject to the following conditions:

- a. The proposed alterations shall be in substantial compliance with the Proposed Conditions shown upon "Exhibit A";
- b. The relief granted for a reduction of the rear yard setback from 10 feet to 5 feet is specific to the second dwelling as shown upon "Exhibit A".

SIGNATURE PAGE FOLLOWS

Assessor's Map 80, Parcel 299.1
4 Lincoln Avenue
Limited Use General-1 (LUG-1)

Certificate of Title No. 28319
Land Court Plan No. 40394-B
Lot 3

Dated: February 10, 2022



Susan McCarthy



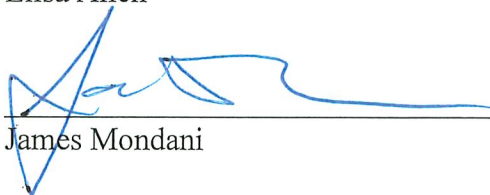
Edward S. Toole (Opposed) *NDS*



Michael J. O'Mara *NDS*



Elisa Allen

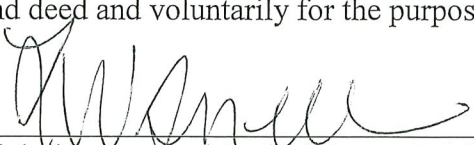


James Mondani

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss.

On the 15 day of February, 2021, before me, the undersigned notary public, personally appeared Elisa Allen, one of the above-named members of the Zoning Board of Appeals of Nantucket, Massachusetts, personally known to me to be the person whose name is signed on the preceding document, and acknowledged that they signed the foregoing instrument as their free act and deed and voluntarily for the purposes therein expressed.



Official Signature and Seal of Notary Public
My commission expires:

