



ZONING BOARD OF APPEALS

2 Fairgrounds Road
Nantucket,
Massachusetts 02554
www.nantucket-ma.gov

Commissioners: Susan McCarthy (Chair), Lisa Botticelli (Vice Chair), Elisa Allen, John Brescher, Michael O'Mara,
Alternates: Mark Poor, Jim Mondani

~~ MINUTES ~~

Wednesday, June 28, 2023

This meeting was held via remote participation using ZOOM and YouTube.

I. CALL TO ORDER

Called to order at 2:18 pm and Announcements made by Ms. McCarthy

Attending Members: McCarthy, Botticelli, O'Mara, Allen, Brescher, Mondani

Staff in attendance: Leslie Snell, Zoning Administrator; William Saad, Land Use Specialist; Nickesha Sheriff, Administrative Specialist; Paul Murphy, Building Commissioner

Absent: Poor

Late Arrivals:

Early Departures: Brescher @ 4:02 pm

II. APPROVAL OF AGENDA

Motion: Motion to continue. (made by: Mondani) (seconded by: Botticelli)

Vote: Carried 5-0, Mondani, Botticelli, O'Mara, Brescher, McCarthy

III. SURFSIDE CROSSING FINAL SITE PLAN/ENGINEERING REVIEW & REVIEW OF CONDITIONS

Discussion:	McCarthy - Stated that she has thoroughly reviewed all plans, including various versions and updates from Chessia, Bracken, and Haverty. She also met with staff to review responses and compiled a checklist outlining conditions, specifying whether they are satisfied, forthcoming, or require action. She suggested that the Board focus on items requiring action or not yet satisfied and document any deficiencies in the draft letter to the Developer. Botticelli - Sought clarification from Town Counsel regarding the potential consequences and next steps should the Board decide to deny the permit. Pucci - Clarified that the Board is not issuing a new permit but rather reviewing the plans to ensure they conform to the original decision, as amended by the HAC. Botticelli - Acknowledged that the Board has the authority to identify deficiencies in the plans and sought clarification on how those deficiencies impact enforcement actions and compliance measures.
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Pucci

- Stated that if the project fails to comply with the conditions outlined in the approval, a formal request for enforcement would need to be submitted to the appropriate authority.

Botticelli

- Voiced frustration over the continued submission of conflicting plan iterations, highlighting the challenges this poses for the Board's review and decision-making process.

Pucci

- Emphasized that this is a technical review process and that the Board must rely on the peer review engineer's recommendations to ensure compliance with the approved plan set.

Chessia

- Noted that the applicant submitted a revised plan today, which differs from the previously reviewed version. Given the short timeframe, only a brief review was possible. However, it appears that the revised plan seeks to reconcile parking inconsistencies between the HAC Exhibit 3 plan submitted on Monday and the prior version, specifically by eliminating certain parking spaces.

Mondani

- Recommended the Board make note in the record of the submission of revised plans on the day of the meeting, emphasizing that such last-minute submissions are both unacceptable and unreasonable.

The Board

- Engaged in a discussion about the Board's role in the technical review process, emphasizing the importance of ensuring compliance with the approved plans. Acknowledged the responsibility to document any deficiencies in the final plans compared to the approved decision. Additionally, recognized that if a documented deficiency is ultimately constructed, it would necessitate a modification to the project and a determination from the Board.

McCarthy

- Recommended the Board document inconsistencies in the parking layout and change in size to the community building, noting that Exhibit 3 represents the HAC approved plan.

Botticelli

- Requested that any deficiencies in the architectural drawings be documented and emphasized that the final architectural drawings have not been provided, underscoring the need for a complete and accurate set of plans for proper review.

Mondani

- Asked the Building Commissioner how non-compliance with the architectural drawings would be addressed.

Murphy

- Stated he would bring any non-compliance issues to the developer's attention, allowing them the opportunity to correct the issue or return to the Board if necessary.

The Board

Identified the following items to be documented in the letter:

- Trash and recycling enclosures may not be sufficient for the project's density.
- Mr. Chessia's Appendix A response regarding stormwater regulations will be attached as an exhibit.

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	- Noted changes in impervious area between plans. - Nantucket Fire Department's correspondence with Code Red Consultants will be attached as an exhibit, with a response from NFD still pending. - Requested a comprehensive list of all items required before the issuance of a building permit and Certificate of Occupancy (CO) to be included as an exhibit. - Acknowledged that any deviations from the approved plans and conditions are undertaken at the developer's risk. Mondani - Approves of the letter but believes the project does not conform to requirements. Suggests the letter explicitly state that the project is not in conformity. Snell - Suggested a motion: "Motion to approve the plans as being in conformance with the Comprehensive Permit, as amended by the HAC decision, while acknowledging the deficiencies outlined in the Board's letter to the Developer dated June 28, 2023." Botticelli - Clarified that she is not approving the plan but is instead acknowledging the plan as amended by the HAC decision. Mondani - Asked Mr. Pucci if there is an obligation for the developer to comply with the letter. Pucci - Stated that it would not be in the applicant's best interest to ignore legitimate issues related to plan deficiencies or an inadequate submission identified by the Board. Mondani - Expressed concern that there is no clear directive requiring the developer to comply with the letter issued by the Board. - Asked the Build Commissioner if he would issue a permit if these issues were not addressed. Murphy - Noted that it is difficult to provide a definitive answer due to the hypothetical nature of the question. Stated that a determination would depend on identifying specific issues that are not addressed and evaluating them at that time. The Board - The Board discussed the letter, recognizing that choosing not to approve it would allow the developer to proceed with the HAC plan without addressing any deficiencies, leaving the Board with no leverage in future modification hearings. The Board reaffirmed its strong opposition to the project.
Motion:	Motion to approve the plans as being in conformance with the Comprehensive Permit, as amended by the HAC decision, and the HAC approved plans, except for the deficiencies as noted in the June 28, 2023, letter, and the attachments. (made by: O'Mara) Mondani proposed an amendment to change the word "deficiencies" to "nonconformities". The Board discussed and made the change to "deficiencies and or inconsistencies." Motion Amended to change "deficiencies" to "deficiencies and or inconsistencies" (made by: O'Mara)(seconded by: McCarthy)

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Vote:	Carried 4-1 // Botticelli, McCarthy, Allen, O'Mara (Aye) Mondani (Nay)

VI. ADJOURNMENT

Motion:	Motion to adjourn.
Vote:	Carried 5-0 // McCarthy, Botticelli, Allen, O'Mara, Mondani

Submitted by: William Saad

YouTube Link: <https://www.youtube.com/watch?v=iQ8WzvKMeFc>