



Planning and Land Use Services

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

Date: 07/13/2023
To: Zoning Board of Appeals
From: Billy Saad
Land Use Specialist
RE: Staff Report for 07-13--23 ZBA Meeting

III. APPROVAL OF THE MINUTES:
5/18/23 & 6/8/23

Staff reviewed the minutes. We recommend approval.

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

37-21 Kristina & Nicholas Amendolare
Action Deadline: June 22, 2023
Requests to withdraw without prejudice.

8 Bank Street

Williams
Sitting: SM, LB, MJO, EA, JM

09-22 Harris on Weweeder, LLC
Action Deadline: August 17, 2023
MP
Continued to August 10, 2023

50 Weweeder Avenue

Brescher
Sitting: SM, EA, MJO, GT,

20-22 Steven L. Cohen & Christopher P. Choma, Trs. 29 Monomoy Rd Nominee Trust,
Action Deadline: August 17, 2023

Cohen
Sitting: SM, LB, EA, JB, JM

06-23 NOB ACK, LLC
Action Deadline: July 28, 2023
Requests to withdraw without prejudice.

2 Nobadeer Way

Cohen

07-23 CHARLES B. JOHNSON

4 Harbor Square

Alger

Action Deadline: July 22, 2023

Sitting: SM, EA, MJO, JB, LB-Mullins

Conflicts: MP, JM

Applicant is appealing the Building Commissioner's March 31, 2023, determination pursuant to Zoning Bylaw Section 139-25 and 139-31. The locus is situated at 4 Harbor Square, shown as Assessor's Map 42.2.4, Parcel 1, which is shown as lot 11 on Land Court Plan 10222-E. Evidence of owner's title is registered on Certificate of Title No. 17791 at the Nantucket Registry District of the Land Court. The site is zoned Commercial Downtown (CDT).

**STAFF suggests the Board carefully examine the materials submitted by the Appellant found on Pages 25-37, and rebuttal materials submitted by the Appellee's attorney found on Pages 43-59.
Building Commissioner Paul Murphy will be present at the hearing.**

Section 139-11

Major Commercial Developments

A.

The Planning Board shall be the special permit granting authority for any "major commercial development" (or "MCD").

B.

A MCD shall be defined as a single commercial structure or use, or a group of commercial structures or uses, which is proposed to be constructed on a single lot or tract of land or on contiguous tracts of land and held in common ownership or control, meeting, in the aggregate, any one or more of the following criteria:

(1)

Five thousand square feet of commercial use, including, but not limited to, the total of the following:

(a)

Gross floor area of commercial use, including roofed-over storage areas;

(b)

Outdoor commercial use, including but not limited to sand, gravel or topsoil borrow operations and asphalt plants; land used commercially for recreation; and land used for the exterior storage or display of merchandise, equipment or material.

(2)

Four thousand square feet or more of gross floor area of commercial use, including roofed-over storage areas.

(3)

A commercial use requiring 20 or more off-street parking spaces pursuant to § **139-18**. A motor vehicle parking lot as defined in § **139-2** which contains 20 or more parking spaces shall not be considered an MCD.

(4)

Auditorium, theater or place of public assembly use with a rated legal occupancy of 100 or more persons.

(5)

Restaurant, club and/or bar use with a combined rated legal occupancy of 100 or more.

(6)

Developments which generate an estimated 10,000 gallons per day of wastewater.

(7)

Marinas, wharfs and piers containing 250 lineal feet or more of tie-up space for vessels.

(8)

Transient residential facilities with 10 or more guest rooms or units.

C.

Preexisting nonconforming uses shall be subject to this subsection when any extended or altered portion of the commercial use(s), added together starting from the effective date (April 4, 1979, as amended), meets or exceeds the criteria of Subsection B above, which defines a MCD.

STAFF ANALYSIS:

The proposed use of the locus is conforming and is currently zoned Commercial Downtown (CDT). Section 139-11.B defines an MCD as “a single commercial structure or use, or a group of commercial structures or uses, which is proposed to be constructed on a single lot or tract of land or on contiguous tracts of land and held in common ownership or control”. Staff notes that the building permit authorized an alteration to an existing structure.

The relevant sections of the By-law are:

Section 139-29.E(1)

(1) The Board of Appeals shall have the following powers:

[...]

(d) To hear and decide appeals from decisions of the Zoning Enforcement Officer.

Section 139-31.A(1) AN APPEAL TO THE BOARD OF APPEALS (OR TO THE ZONING ADMINISTRATOR IF AUTHORIZED TO HEAR SUCH APPEAL) MAY BE TAKEN:

By any person aggrieved by reason of his inability to obtain a permit or enforcement action from the Building Commissioner [see § 139-25B(1) above], the Zoning Enforcement Officer, or from any other administrative officer under the provisions of this chapter; or

139-31.E (3)

The concurring vote of at least four members of the Board of Appeals shall be necessary to reverse any order or decision of any administrative official under this chapter.

10-23 Nantucket Cottage Hospital

16 Vesper Lane

Erickson

Action Deadline: August 20, 2023

Sitting: SM, EA, MJO, JB,

JM

Applicant is seeking Variance relief pursuant to Nantucket Zoning ByLaw Section 139-16 in order to divide an existing lot, which is nonconforming as to frontage, into three lots, none of which will meet the required frontage of 50 feet in the CN district. The lots will be accessed via an easement from Vesper Lane. Locus is situated at 16 Vesper Lane, shown on Assessor’s Map 34 as Parcel 72 and shown as Lot 1 with the Nantucket County Registry of Deeds. Evidence of owner’s title is recorded in Book 184 and Page 112 with the Nantucket County Registry of Deeds. The site is zoned Commercial Neighborhood (CN).

The Applicant is seeking Variance relief to waive the required 50’ of frontage within the Commercial Neighborhood (CN) zoning district. The locus is an oversized rear lot with no existing frontage. It is accessed by an easement through Gouin Village. Applicant is proposing to convey its property at 18 Vesper Lane in exchange for the Affordable Housing Trust Fund property at 16 Vesper Lane. The hospital will convey a portion of 16 Vesper Lane back to the AHTF in order to divide the lot into 3 separate lots for the development of affordable housing. An access easement for the AHTF lots will be provided through Gouin Village and over the NCH site.

FINDINGS NECESSARY FOR GRANTING A VARIANCE:

Section 139-32.A

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.

A waiver from frontage does not nullify or substantially derogate from the intent or purpose of the Bylaw. For example, the Flex Development provision of the zoning bylaw allows for the reduction, and in some cases, elimination of frontage requirements. The applicant has submitted a draft decision included on pages 72-77 in the packet, which has been reviewed with Leslie Woodson Snell, the Director of Planning. Leslie will be present at the hearing.

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

10-22 Paul P. Moran & Jean M. Moran

4 Washington Ave

Santos

Action Deadline: August 17, 2023

Continued to August 10, 2023

VI. OTHER (VOTES MAY BE TAKEN)

VII. ADJOURNMENT (VOTE WILL BE TAKEN)
