



Planning and Land Use Services

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

Date: 10/16/2023
To: Zoning Board of Appeals
From: Billy Saad
Land Use Specialist
RE: Staff Report for 10-19--23 ZBA Meeting

III. APPROVAL OF THE MINUTES:

- 5/23/23, *pages 5-8 in the packet*
- 7/13/23, *pages 9-15 in the packet*
- 8/10/23, *pages 16-18 in the packet*
- 9/14/23, *pages 19-22 in the packet*

Staff reviewed the minutes. We recommend approval.

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

Starts
on
page
25

20-18 Surfside Crossing, LLC Surfside Crossing 40B

Discussion and Acknowledgment of the Regulatory Agreement between the Massachusetts Housing Finance Agency and Surfside Crossing, LLC

The draft regulatory agreement is in the packet, pages 25-49. The draft is currently under review by Town Counsel, and an email response from KP Law is in the packet, pages 51-52. The Applicant has provided the requested materials on pages 54-94. Town Counsel will attend the meeting, and Tucker Holland, Affordable Housing Director, will also be in attendance.

09-22 Harris on Weweeder, LLC

Action Deadline: November 17, 2023

Continued to November 9, 2023

50 Weweeder Avenue

Brescher

Sitting: SM, EA, MJO, GT, MP

20-22 Steven L. Cohen & Christopher P. Choma, Trs. 29 Monomoy Rd Nominee Trust,

Cohen

Action Deadline: November 17, 2023

Continued to November 9, 2023

Sitting: SM, LB, EA, JB, JM

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

13-23 Surfside Drive, LLC

5 Surfside Drive

Beaudette

Action Deadline:

Continued to November 9, 2023

14-23 Benjamin and Jacqueline deRuyter

12 Academy Lane

Beaudette

Action Deadline:

Continued to November 9, 2023

15-23 Allan and Darina McKelvie

6 Candle House Lane

Williams

Action Deadline:

Continued to November 9, 2023

16-23 Lee and Priscilla Saperstein

20 New Street

Williams

Action Deadline:

Continued to November 9, 2023

VI. OTHER (VOTES MAY BE TAKEN)

- **ELECTION OF OFFICERS** – (Chairman, Vice Chairman, and Clerk Positions)
- **ATM 2024 POTENTIAL CONCEPTS** - Special Permit granting authority for MMD

This is a potential concept to move the Special Permit Granting Authority role from the Planning Board to the Zoning Board of Appeals for all Special Permit requests in the Moorlands Management District (MMD). Various forms of Special Permit relief have been moved to the Planning Board over the last 10 years or so, and this is a zoning district where the ZBA may be more appropriate.

The planning board focuses on long-term land use planning and zoning regulation in line with the community's vision, while the ZBA deals with specific requests for special permits, variances, and appeals, offering a way for property owners to seek relief from zoning restrictions.

§ 139-13. Moorlands Management District MMD.

A. Purpose. The Moorlands Management District is established to protect areas of the island known to be excellent examples of temperate zone heath. Heath and moorlands on Nantucket Island represent an extremely fragile and unique environment, and are a rare and endangered landform of North America. Along coastal areas, they may also include flood-prone areas, glacial

valleys and coastal pond systems. It is the intention of this district to permit a type and integrity of use which is consistent with the long-term integrity of these special ecological systems.

[Amended 5-4-1993 ATM by Art. 43, AG approval 5-24-1993; 4-1-2017 ATM by Art. 73, AG approval 5-31-2017]

B. Permitted uses:

(1) Conservation and recreation, including structures and uses accessory thereto.

(2) One single-family dwelling unit not exceeding 800 square feet of ground coverage, plus not more than 400 square feet area in the aggregate devoted to decks, covered porches, accessory buildings, or other impervious surfaces.

C. Uses allowed by special permit with site plan review. The Planning Board is hereby designated the sole special permit granting authority for all uses, structures and extension or alteration of uses or structures within the Moorlands Management District, including, but not limited to the following:

[Amended 5-5-1992 ATM by Art. 40, AG approval 8-3-1992; 4-14-1997 ATM by Art. 49, AG approval 8-5-1997; 4-10-2002 ATM by Art. 36, AG approval 7-31-2002; 4-1-2017 ATM by Art. 73, AG approval 5-31-2017]

(1) One single-family dwelling unit exceeding 800 square feet of ground coverage, including structures and uses normally considered accessory thereto, may be allowed, provided that each special permit granted shall include conditions requiring the siting of structures and uses in a manner which minimizes potentially adverse effects on the moorlands environment and its scenic integrity.

(2) Subdivision of properties located within the Moorlands Management District shall require a special permit.

(a) The issuance of a special permit for subdivision in the Moorlands Management District shall include conditions as to the layout of lots, the design and location of public improvements, and the establishment of permitted building envelopes, so as to minimize potentially adverse effects on the moorlands environment and its scenic integrity.

(b) The Planning Board shall have the authority to require clustering of lots as a condition for the issuance of the special permit in order to accomplish the above-stated objectives.

D. Site plan approval. Prior to the issuance of a building permit for structures or uses permitted as a matter of right or by special permit in the Moorlands Management District, the **Planning Board** shall have the authority to review and approve the siting of said structure(s) on the lot in accordance with the following performance standards:

- (1) To maximize the protection of endangered plant and animal species through the siting of structures and uses a maximum distance away from known or suspected habitats of such species, even when such habitats are located off-site; to minimize disturbance to such species by limiting construction activities to certain times of the year.
- (2) To maximize the protection of scenic views through the siting of structures on lower elevations, and clustering of structures near other structures located off-site.
- (3) To maximize protection of moorlands and heath-land vegetation and landforms through the use of various measures, including, but not limited to, limitations on grading, fencing, landscaping, driveway and parking facilities, and other physical disruptions to indigenous natural systems.
- (4) The **Planning Board** may include conditions as part of the approval of such a site plan in order to assure conformance with the standards.

E. Procedures. [Amended 4-10-2000 ATM by Art. 46, AG approval 8-2-2000; 4-1-2017 ATM by Art. 73, AG approval 5-31-2017]

- (1) Failure of the **Planning Board** to notify the Building Inspector of its action with respect to such application within 20 days of the application filing date shall be deemed approval of the application by the **Planning Board**.
- (2) The Building Inspector shall not accept a building or use permit application for land in the Moorlands Management District unless it contains either:
 - (a) The **Planning Board's** decision on the site plan review application; or
 - (b) Documentation in a form satisfactory to the Building Inspector that 20 days have elapsed from the date of submission of the site plan review application to the

Planning Board without said Board having rendered a decision.

VII. ADJOURNMENT (VOTE WILL BE TAKEN)

DRAFT