



Planning and Land Use Services

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

Date: 12/8/2023
To: Zoning Board of Appeals
From: Billy Saad
Land Use Specialist
RE: Staff Report for 11-9-23 ZBA Meeting

III. APPROVAL OF THE MINUTES:

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

03-22 9 Thirty Acres LLC

9 Thirty Acres Lane

Alger

The Applicant is required to review with the Board all conditions set forth in the Decision in Zoning Board of Appeals File No. 03-22 at a Public Hearing pursuant to condition 19 of the Employee Dormitory Management Plan attached to the Decision as "Exhibit I". This review may result in additional conditions and or requirements being imposed by the Board. Locus is situated at 9 Thirty Acres Lane, shown on Assessor's Map 67, Parcel 115.7, and as Lot 3 upon Plan File 48-G. Evidence of owner's title is recorded in Book 1894, Page 54 on file at the Nantucket Country Registry of Deeds. The site is zoned Commercial Neighborhood (CN).

The Employee Dormitory Management Plan is on pages 13-15 of the Packet. Neighbor complaints and concerns are on pages 39-52 of the Packet. Staff has provided photos on pages 24-25 of the Packet, showing the current state of the site. The photos were taken on December 5, 2023.

09-22 Harris on Weweeder, LLC

50 Weweeder Avenue

Brescher

Action Deadline: January 31, 2024

Sitting: SM, EA, MJO, GT, MP

Continued to January 11, 2024

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

Cohen

Action Deadline: December 31, 2023

Sitting: SM, LB, EA, JB, Jim M

Applicant is seeking Variance relief pursuant to Zoning By-law Section 139-32 for a waiver from the ground cover provision in Section 139-16 in order to construct an accessory structure of up to 780.25 SF. Locus is situated at 29 Monomoy Road, shown on Assessor's Map 54 as Parcel 209 and as Lots 10 and 11 on Land Court Plan 10937-C. Evidence of owner's title is registered on Certificate of Title No. 22883 at the Nantucket County District of the Land Court. The site is zoned Limited Use General 1 (LUG-1).

FROM THE 1/12/23 STAFF REPORT:

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.

This is a unique situation given the layout of the lots abutting Orleans Road, see “Roadway Acquisition Plan” on **Page 69** of the packet. The acquisition of Lot “F” has been stalled at Land Court and therefore has not been legally acquired by the owner of 14 Brewster Road. Additionally, the owner of 14 Brewster Road would be required to obtain a written agreement with the Board of Selectman to finalize any such sale. While the acquisition of Lot “F” may be forthcoming to the applicant, the request for Variance is premature.

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 does not recommend approval of the request at this time.

UPDATE:

The Applicant is providing an update to the Board on the status of the application that has been continued since the January 12, 2023, meeting. Staff recommends this application be withdrawn without prejudice until more information is available.

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

18-23 7 I Street, LLC

7 I Street

Thornewill

Action Deadline: March 13, 2024

The Applicant is seeking a Modification to the previously issued Special Permit in ZBA File No. 077-12. Pursuant to Nantucket Zoning Bylaw Section 139-33.A.(1)(a) to change the use of the preexisting nonconforming garage to a secondary dwelling. Locus is situated at 7 I Street, shown on Assessor’s Map 59.4, Parcel 74, and shown as Lots 46, 57, and 68 on Land Court Plan 3092-S. Evidence of owner’s title is registered on Certificate Title No. 28515 with the Nantucket County District of the Land Court. The site is zoned Village-Residential (VR).

Applicant is requesting to change the use of the nonconforming garage/studio structure, currently granted under ZBA File No. 077-12, to a second dwelling. The garage structure, located as close as 6.3 feet from the southerly front yard lot line (abutting I street), in a zoning district requiring a minimum front yard setback of 20 feet, will undergo no exterior changes, and there will be no increase in ground cover.

This is an undersized lot containing approximately 12,000 square feet of lot area in a zoning district that requires a minimum of 20,000 square feet. The structures, which include a single family dwelling and garage/studio, are also nonconforming with respect to ground cover ratio having approximately 13.5% ground cover in a zoning district with an allowable maximum ground cover ratio of 10%.

Secondary dwellings are allowed in the VR district, subject to the following requirements, which the Applicant meets:

1. The ground cover of the secondary dwelling shall be a minimum of 20% less or more than the primary dwelling.
2. The primary and secondary dwellings must be separated by a minimum distance of 10 feet, measured at grade at the closest point between the dwellings.

Staff notes that the parking layout provided on the site plan, **page 89** of the packet, meets the minimum requirement of 4 parking spaces in the VR zoning district. Additionally, the Applicant must obtain secondary dwelling approval from the Planning Board should the Board approve the change in use. Two abutters letters were received in opposition, and are included in the packet on **pages 107-110**.

Staff is supportive of the Applicant's request as proposed. If the Board is inclined to approve this request, staff recommends approval with the following finding and condition.

Finding:

- 1) That the proposed change in use from a garage/studio to a secondary dwelling would be in harmony with the general purpose and intent of the Bylaw, the nonconforming setback distances are not being made more nonconforming and would not be substantially more detrimental to the neighborhood than the existing nonconformity.

Conditions:

- 1) There shall be no further expansion of the structures without further relief from the ZBA.

19-23 2 Easton Street LLC & Nantucket Boat House LLC

2 & 6 Easton Street

Hunton

Action Deadline: March 13, 2024

The Applicants are seeking Special Permit Relief pursuant to Nantucket Zoning Bylaw Sections 139-33A(1), 139-30, and 139-22(D) to reconfigure a preexisting nonconforming residential pier. Locus is situated at 2 & 6 Easton Street, shown on Assessor's Map 42.1.4, Parcels 8 & 9, and as Lot 2, Plan Book 18 Page 160 and Lot 1, Plan Book 18 Page 160. Evidence of owner's title is recorded in Book 1398, Page 329, and Book 1518, Page 251 on file at the Nantucket Country Registry of Deeds. The site is zoned Residential 1 (R-1).

Applicant proposes to repair/reconfigure a bulkhead and pier structure due to the deterioration of the structures that have existed since the circa 1950's. Proposed conditions are shown on **page 119** of the packet, and do not result in a net increase of the dock structure's existing footprint.

This is an infrequent application for the Board and the applicable Bylaw is Section 139-22D:

§ 139-22Island perimeter restrictions.

D.

Any proposed extension or reconfiguration of or addition of new appurtenant structures to a preexisting nonconforming dock, pier or wharf must be reviewed and approved by the special permit granting authority in accordance with **§ 139-33A(1)**. In addition to the findings required by that section, the special permit granting authority shall find that the proposed extension, reconfiguration or addition does not result in a net increase of the structure's existing footprint and is not more detrimental to the marine environment than the existing structure. Such applications shall be referred by the special permit granting authority to the Harbor Master and the Natural Resources Department, or its successor agency, for comment and recommendation in accordance with the procedures of **§ 139-30**.

[Amended 6-5-2021 ATM by Art. 62, AG approval 10-7-2021]

Staff forwarded the application to the Director of the Natural Resources Department and the Harbormaster on 11/17/23. The Harbor Master's email response is on **page 126** of the packet. Staff can confirm, the Applicant received approval from the Conservation Commission at their June 22, 2023, meeting.

Staff recommends approval with the following findings and conditions:

Finding:

- 1) That the proposed repairs/alteration are not substantially more detrimental than the existing nonconforming structure and/or use to the neighborhood.
- 2) That the proposed repairs/alteration do not result in a net increase of the structure's existing footprint and is not more detrimental to the marine environment than the existing structure.

Conditions:

- 1) The project shall be completed in accordance with the plan entitled “Plan Showing Proposed Dock Improvements”, prepared for 2 Easton Street LLC, dated November 13, 2023, prepared by Coastal Engineering Co.

20-23 5 Amelia Drive, LLC

5 Amelia Drive

Reade

Action Deadline: February 21, 2024

The Applicant is seeking a Modification to the previously issued Variance in ZBA File No. 025-06. Pursuant to Nantucket Zoning Bylaw Section 139-32 to allow the construction of a permanent roof over the patio area. Locus is situated at 5 Amelia Drive, shown on Assessor's Map 67, Parcel 435, and shown as Lot 24 upon Plan File 30-D. Evidence of owner's title is recorded in Book 1906, Page 49 on file at the Nantucket Country Registry of Deeds. The site is zoned Commercial Neighborhood (CN).

Applicant is seeking approval to modify subparagraph 5.c of the Decision in ZBA File No. 025-06. This subparagraph currently permits the placement of a seasonal awning over the outdoor dining area, allowing it as close as two (2) feet from the front yard lot line. Subparagraph 5.c also stipulates that if the applicant wishes to convert the cloth awning and framework into a more permanent overhang structure, such as a porch or deck, further relief from the Board is required.

The Variance was originally granted to Cinco restaurant, the former operator of the site. However, after this decision, the Planning Board approved an amendment to the MCD special permit, allowing the conversion of use to multiple commercial kitchens and a take-out station. Through their deliberations, the Planning Board was supportive of the applicant's request, however, the approval to convert the cloth awning was outside of their scope.

No abutters concerns were received. Staff recommends approval.

If the Board is inclined to approve this application, staff recommends the following finding and conditions be made:

Finding:

- 1) 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.

Conditions:

- 1) There shall be no further alterations of the structure within the ten-foot required front yard setback area without further relief from the ZBA.
- 2) That all other conditions of the original decision remain in full force and effect.

VI. OTHER (VOTES MAY BE TAKEN)

- **051-03 Paul and Louise Laudano 10 Fox Grape Lane/Rugged Scott a/k/a Beach Plum 40B**

The Applicant seeks a determination that proposed changes to the architectural plans approved with the Comprehensive Permit, as amended, may be considered insubstantial pursuant to 760 CMR 56.05 (11)(a)(b), and as such, may be authorized by the Zoning Board of Appeals. The proposed change consists of the installation of an inground swimming pool upon Market Rate Lot 6, also known as 10 Fox Grape Lane of the 40B development known as Beach Plum Village.

The Applicant requests a determination that a proposed modification to the construction program for market rate lot 6, shown on page ** of the packet, to site a 23' x 10' private residential swimming pool. HDC approval has been included, and the Applicant states that they received HOA approval. The Board has issued a similar finding six (6) previous times for pool.

ADDRESS	LOT	POOL/SPA SIZE	DATE OF APPROVAL
3 Wood Lily Road	2	Spa – 6' x 12'	2/9/17
4 Cranberry Lane	34	Spa – 6' x 8'	2/1/18
2 Blazing Star Road	32	Spa – 6' x 12'	3/8/18
2 Cranberry Lane	35	Spa – 7' x 7'	3/8/18
2 Wood Lily Road	36	Spa – 7' x 9'	3/8/18
6 Fox Grape Lane	9	Pool - 22' x 9'	7/9/20

Staff is supportive of the Applicant's request.

If the Board is inclined to approve this request, the following finding must be made:

Finding:

- 1) That the proposal, upon the condition that the pool and related equipment be sited in full compliance with the setbacks as they apply specifically to Lot 6, may be considered an insubstantial modification.

- **2024 Zoning Board of Appeals Meeting Schedule**

VII. ADJOURNMENT (VOTE WILL BE TAKEN)
