



ZONING BOARD OF APPEALS

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

Commissioners: Susan McCarthy (Chair), Elisa Allen (Clerk), Michael J. O'Mara, John Brescher, Joe Marcklinger
Alternates: Lisa Botticelli, Mark Poor, Jim Mondani

~~ MINUTES ~~

Thursday, January 11, 2024

Public Safety Facility, 4 Fairgrounds Road, Community Room –1:00 p.m.

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

I. CALL TO ORDER:

Called to order at 1051pm and Announcements made by Ms. McCarthy

Staff in attendance: Adrian Rodriguez, PLUS Administrative Specialist; William Saad, Land Use Specialist
Attending Members: McCarthy, Allen, O'Mara, Brescher, Marcklinger, Poor, Botticelli, Mondani
Remote attendance: None
Absent: -
Late Arrivals: -
Early Departures: -
Town Counsel: -

II. APPROVAL OF AGENDA

Motion: Motion to Approve the agenda, as drafted. (made by: Allen) (seconded by: Marcklinger)
Vote: Carried unanimously

III. APPROVAL OF MINUTES

Motion: Motion to Approve the minutes of November 10, 2023, and December 8, 2023, as drafted.
(made by: Marcklinger) (seconded by: O'Mara)
Vote: Carried unanimously

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

09-22 Harris on Weweeder, LLC **50 Weweeder Avenue** **Brescher**

Request for Withdrawal with Prejudice

The Applicant is seeking Variance relief pursuant to Nantucket Zoning Bylaw Section 139-32 from the intensity regulations in Section 139-16A to site a proposed pool cabana in the side yard setback as close as 2.7 feet from the side yard lot line in a zoning district that requires a minimum of a ten (10) foot side yard setback and to increase the allowable groundcover ratio to 7.9% in a zoning district with a maximum groundcover ratio of 7%. 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 with the Nantucket County District of the Land Court. The site is zoned Limited Use General 1 (LUG-1).

Voting:	McCarthy, Allen, Marcklinger, O'Mara, Poor
Alternates:	Mondani
Recused:	Brescher
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	-
Public:	-
Discussion: (12:19)	Saad - Explained that the applicants have requested a withdrawal with prejudice due to the application being over a year old with no resolution.

Motion:	Motion to approve the request for withdrawal with prejudice. (made by: O'Mara) (seconded by: Allen) (13:48)
Vote:	Carried 5-0 // McCarthy, Allen, Marcklinger, O'Mara, Poor

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

The Applicant is seeking Variance relief pursuant to Zoning Bylaw 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).

Voting:	McCarthy, Allen, Botticelli, Brescher, Mondani
Alternates:	-
Recused:	None
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Steven Cohen - Update provided as a courtesy on behalf of Billy; no requests made, just an update. - The original application sought rezoning relief related to acquiring land through the yard sale process. - The client is also purchasing land from an abutter, across the paper road. - The Board had initial concerns about granting rezoning relief, partly due to not yet owning the abutter's land. - Despite the Board's decision on rezoning relief, the process of land acquisition is proceeding, with a Land Court process underway for a landlord subdivision to segregate a piece of the land. - The plan is to return to the Board with a revised proposition once the client owns land on both sides of the road, presenting a different scenario for consideration. - Currently continuing with the process, planning to revisit with a more specific question later.
Discussion: (00:14:45)	Marcklinger - Question raised about proceeding with submitted plans despite pending land court approval. Cohen - Stated that the zoning relief is for relief to use the ground cover that would be available with the addition of the Yardsale land. - Acknowledgment of board's discomfort with the land acquisition from the abutter being a later step. - Reference to Lisa raising concerns about speculation and preference for more concrete facts. - Emphasis on wanting to narrow down the question, despite the relief being the same. - Willingness expressed to proceed now, but with consideration for the board's earlier concerns. O'Mara - Identified two distinct issues: The road being purchased from the town. A piece of land on 14 Brewster Road not yet acquired. - Acknowledged that action on the second property is not possible without the owner's permission. - Suggested extending the current discussion to a specific future date to reassess and proceed accordingly. Arthur Reade - Represented Joanne Bennett, a direct abutter to the property in question, monitoring the case for the past year, highlighting the nuisance and inconvenience of the prolonged process.

	- Stated at the last meeting no objection to a one-month continuance but recommended the application be withdrawn and resubmitted with new notice to ensure all interested parties are informed, considering potential neighborhood changes. - Strongly recommended withdrawing the case without prejudice, with the understanding it would proceed when the applicant is fully prepared and all issues, especially regarding land acquisition which remains hypothetical, are resolved. - Emphasized the uncertainty around acquiring additional land and the various factors that could prevent it from happening, advocating for withdrawal at this time without prejudice. Cohen - Acknowledged Arthur's point as fair and considered the ongoing land court process. - Proposed postponing to the April meeting, believing it provides ample time to resolve issues. - Agreed to withdraw the application by then unless there are significant changes to the facts. - Suggested this approach offers both parties time and a definitive date for resolution, with the option to withdraw if no imminent developments occur. Saad - Stated that the board decided to extend the discussion to a specific date, requests that the applicant be asked to provide necessary labels for proper re-noticing. - Highlighted the issue has been dormant for almost a year, emphasizing the need for updated notification to ensure all parties are informed. McCarthy - Highlighted the unpredictable timeline of Land Court processes, noting instances where cases lasted two years or even over ten years. - Advised consideration of Land Court's uncertain timeline in administrative decision-making regarding the case. - Opined that neither proposed path would disadvantage the applicant but suggested one path might be more considerate towards the abutters. Cohen - Expressed being persuaded that requesting a withdrawal without prejudice is the most considerate and procedurally appropriate action due to the prevailing uncertainty. - Stated that reapplying once the facts are more settled presents no issue.
Motion:	Motion to allow the applicant to withdraw without prejudice. (made by: Botticelli) (seconded by: Allen) (00:25:31)
Vote:	Carried 5-0 // McCarthy, Botticelli, Allen, Brescher, Mondani

20-23 5 Amelia Drive, LLC**5 Amelia Drive****Reade**

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).

Voting:	McCarthy, Brescher, Allen, O'Mara, Marcklinger
Alternates:	-
Recused:	-
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Arthur Reade - Recapped of the last meeting's proposal for constructing a roof over the existing patio, which was met with Board reluctance due to the 10-foot front yard setback issue. - Mentioned a continued discussion for alternative proposals, with recent materials prepared for a new proposal.

	- Introduced Matthew McEachern (Emeritus) and John King as present for the discussion. - Stated that a new proposal eliminates the need for relief from the Board of Appeals by avoiding extension into the 10-foot setback. - Discussed the need to reconstruct a raised patio, considering cutting it back to reduce proximity to the sideline of Amelia Drive. - Questioned whether reconstruction requires relief due to its location within the setback and its classification as a structure or landscaping feature. - Explained that the proposal for the patio to have a three-foot setback from the lot line and steps extending out, maintaining a distance of five-tenths of a foot from the lot line, with most construction within the existing patio's footprint. - Requested the Board to view this plan as an appropriate response to previous concerns about work within the setback area.
Public:	-
Discussion: (00:32:23)	Allen - Expressed appreciation for the redesign, particularly the placement of the structure outside the setback and its elevation. - Voiced concerns regarding the extended brick patio within the setback, questioning its necessity given the presence of a sidewalk and lack of outdoor dining. - Assessed the amount of hardscape in front of the building, suggesting an imbalance between hardscape and landscaping. - Recommended expanding the narrow planting bed towards the new covered porch to reduce hardscape and improve aesthetic appeal. - Stated that with the application to modify the entire front of the building, the extended brick patio is deemed unnecessary and inappropriate. - Expressed a desire for a wider planting bed to create a more substantial buffer from the street using vegetation. Matt McEachern - Clarified that the brick patio serves as an extension of the accessible entrance, linking to a ramp along the side of the property. - Mentioned that there is a door at the facade of the building, making the patio part of the accessible route. - Added this functionality as a key reason for the patio's inclusion in the design. McCarthy - Confirmed that the proposed 52-foot patio expansion is an addition to the existing brick patio, essentially extending it in a continuous manner to serve as a walkway in front of the building. - Inquired about the slope of the patio to ensure wheelchair accessibility, indicating an interest in how the patio integrates with the accessible route. - Clarified that the material for the patio expansion is the same as the existing patio, maintaining a flush connection for seamless transition. - Sought clarification on the term "raised" related to the patio's elevation, questioning whether it is raised in comparison to the sidewalk level or if it maintains a level flush with the building's entrance. McEachern - Confirmed the patio expansion uses the same material as the existing patio, ensuring uniformity and flush connections for seamless integration. - Described the section being discussed as part of the ramp system, designed to provide wheelchair accessibility by being flush with the existing building entrance. - Clarified that the current layout includes a large patio with a gentle slope, not quite a 1 in 20 ramp, incorporated into its design for accessibility.

	- Mentioned that as part of the handicap (HC) approval process, adjustments were made to move the deck to the side while maintaining necessary access to the front door for handicap purposes. Allen - Inquired whether the planting bed could be modified by an additional foot or two in depth. McEachern - Acknowledged the possibility of reducing the patio's width by shaving a foot off to accommodate the request for a deeper planting bed. - Described the current state of the existing feature, which is integrated into the patio at a specific location along the front of the building. - Clarified that this feature is situated under an awning, making it less visible, but it is an important part of the building's front. - Noted the feature does not fully comply with code requirements, specifying that it should approximate a 1 in 20 slope, indicating this standard is not currently met. - Addressed Arthur's previous mention of the retaining wall and its dual role as a landscape feature, questioning the need for relief based on its classification as either a structure or purely landscaping. - Stated that retaining walls are typically assumed to be permissible up to property lines without requiring special relief, sparking debate on its definition as a structure. - Emphasized that the elevation of the patio remains modest, within a 24-inch range, mitigating concerns of it being an overly prominent feature. - Noted efforts to reduce the patio's depth to accommodate a 24-inch deep planting bed, enhancing the landscape while minimizing visibility from the street. - Acknowledged that the specific landscaping hadn't been thoroughly considered but suggested that the goal would be to cover any exposed portion of the foundation wall, which is minimal due to its 24 to 30 inches height. - Mentioned that hydrangeas could effectively obscure the foundation, making it visually unobtrusive. - Discussed the potential use of privet, which could grow tall (5 to 6 feet), potentially obscuring the building's facade, which is not desired as the aim is to maintain a welcoming entrance by keeping the front of the building visible. McCarthy - Mentioned the applicant is also seeking relief from off-street parking requirements under the Nantucket Zoning Bylaw, Section 18, which was previously introduced but not thoroughly discussed due to a shift in focus to setback issues towards the end of the last presentation. - Indicated that there were no objections to the request for parking relief during the last discussion. - Inquired if there is any further need to discuss the parking relief request, suggesting it could be included in the motion if there are no objections. - Observed that there appears to be a consensus, with everyone shaking their heads, indicating no need for further discussion on the parking relief request.
Motion:	Motion to approve the application with an amendment for a three-foot deep planting bed, an increase from the originally submitted 24-inch depth and grant relief from the off-street parking requirements as outlined under the Nantucket Zoning Bylaw § 139-18. (made by: Allen) (seconded by:) (00:40:34) Further discussion ensued. McCarthy - Stated that the applicant is also requesting approval to modify subparagraph 5(c) of ZBA file 02526, which currently allows for a seasonal awning over the outdoor dining area to be placed two feet from the front yard lot line.

- Mentioned that the modification involves removing this condition due to changes in plans where the awning will no longer be used, as there will be a screened porch constructed outside of the setback area.
- Questioned whether to modify 5(c) or completely remove it, given the screened porch's location outside the setback eliminates the need for the original condition related to the awning.

Brescher

- Acknowledged that the structure is now positioned outside of the setback, suggesting the variance previously required is no longer necessary.
- Suggested that while the project still needs formal approval for the conversion, the specific need for variance relief might be withdrawn given the adjustments to the structure's location, eliminating the need for variance due to its removal from the setback area.

McCarthy

- Stated that the proposed action involves granting a modification of the variance to allow the applicant to transform a temporary structure into a permanent one.
- Additionally, it includes approval for the relocation of the structure further back from its current position, essentially endorsing the movement while permitting the change to permanency.

Reade

- Clarified that the original relief sought for placing an awning within the setback is now irrelevant, as no overhanging structure (awning or roof) is proposed within the setback area.
- The condition requiring it to be an awning and not a roof is deemed irrelevant since no construction is planned in areas under ZBA jurisdiction.
- Noted any change of use for the property falls under the Planning Board's jurisdiction, which has already granted the necessary relief, not the ZBA, due to its authority over commercial use requiring special permit relief.
- Raised a query about whether the raised patio qualifies as a structure, arguing against this classification but expressing a desire to resolve the matter without dispute.
- Concluded that reconstructing the patio with a minor addition might be the only variance relief needed from the ZBA, simplifying the scope of requested variances.

McCarthy

- Inquired if anyone had strong feelings or wishes to assert that the raised brick patio constitutes a structure.
- Observed that there appeared to be no interest or concern among the attendees regarding this issue.
- Questioned the wording in the second occurrence of paragraph 5, which was likely a clerical error meant to be paragraph 6, specifically referring to 5(c).
- Highlighted the condition regarding future conversion of the cloth awning and framework into a more permanent structure like a porch or deck, noting the patio essentially serves as a deck but lacks an overhang.
- Suggested modifying the decision to clarify or update the wording, even if it may not be strictly necessary, due to the specific language used and to ensure clarity in the document.

Reade

- Clarified that the only relief within the ZBA's jurisdiction for this matter is variance relief, as all special permit relief related to commercial use falls under the Planning Board's authority, which has already been granted, as well as matters related to parking, noting that no parking relief was requested in this application.
- Points out that parking considerations were discussed and addressed in the Planning Board's decision, emphasizing that the Planning Board has already covered the aspect of parking relief for this project.

	McCarthy - Apologized for inadvertently looking at the wrong document, specifically the addendum from the Planning Board application. Saad - Mentioned not being able to provide a staff recommendation due to posting the packet before receiving updated information. - Stated that the raised brick patio being more akin to a deck by the ZEO (Zoning Enforcement Officer). - Suggested that if the Board is in favor, they should approve the raised brick patio to be within the setback since the overhang/roof is no longer an issue as it's no longer in the setback. - The recommendation aligns with the ZEO's determination that the brick patio resembles a deck. Allen - Emphasized that no variance is required. - Proposed a motion for approval with a 3ft deep planting bed. - Pointed out that the brick patio serves a purpose, especially for handicap accessibility. - Acknowledged the necessity of the patio but expressed a desire for a larger planting bed to comply with code. - Concluded by affirming that this is her motion. Saad - Suggested that if the board conditions it in that manner, they should also consider conditioning the deck to be one foot shorter. - Expressed the belief that they cannot compel the applicant to make changes to the planting bed. McCarthy - Stated the finding is that due to circumstances related to soil condition, shape, or topography of the land or structures, especially affecting them but not generally the zoning district, enforcing the provisions of this chapter literally would cause substantial hardship, whether financial or otherwise, to the petitioner or applicant. - It is also found that granting the desired relief would not result in substantial detriment to the public good and would not nullify or substantially detract from the intent or purpose of the bylaw. - Amended Motion: Made a motion to approve the relief requested and as conditioned: - Modify subparagraph 5c of ZBA file number 0252. - Approved the raised brick patio as shown on the plan but with the condition that the brick patio's width is reduced from 7.3 feet to 6.3 feet. - Increased the planting bed width from 3.2 feet to 4.2 feet. - Approved the proposed patio expansion within the setback area of 52 square feet. - Approved the steps leading from the sidewalk to be modified to 0.5 feet from the lot line. - Specified that no further alterations within the 10-ft required front yard setback area are allowed without additional relief from the ZBA. - Stated that all other conditions in the original decision remain in full force and effect. (00:52:51)
Vote:	Carried 5-0 // McCarthy, Brescher, Allen, O'Mara, Marcklinger

V. NEW BUSINESS (INITIAL PUBLIC HEARINGS AND VOTES MAY BE TAKEN)**21-23 Carl and Sharon Nielsen****2 Cabot Lane****Cohen**

The Applicants are seeking a Special Permit pursuant to Zoning Bylaw Section 139-33 A, to alter the preexisting, nonconforming cottage structure, which is nonconforming as to side and rear yard setbacks. Additionally, the Applicants seek zoning relief to allow for the house to be temporarily lifted from its foundation to allow for construction of the basement. Locus is situated at 2 Cabot Lane, shown on Assessor's Map 30 as Parcel 254 and upon Land Court Plan No 2023-38, Unit 2. Evidence of owner's title is recorded in Book 1945 and Page 40 with the Nantucket County Registry of Deeds. The site is zoned Residential-1 (R-1).

Voting:	Brescher, Allen, Botticelli, Marcklinger, Mondani
Alternates:	-
Recused:	-
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Steven Cohen
Public:	-
Discussion: (01:00:22)	Botticelli - Stated that the only request for relief would include: raising of the single-story structure to a second story, adding a dormer to the structure, and adding a basement to the setback. Cohen - Characterized the project as involving three key actions: - Descending under the encroachment for basement work. - Ascending with the encroachment for the addition of a second story. - Temporarily severing the structure from the foundation to facilitate construction. Allen - Questioned if there were any letters of opposition. Saad - Confirmed that he has not received any letters in opposition from the abutters. Marcklinger - Indicated that the floor ratio is expected to increase by 518% more than what currently exists. - Stated that ground cover will expand by 73%, which is considered substantial and considerable. - Questioned the sheathing process used in the front of the structure. - Revealed a pre-existing foundation on the lot, not included in the plans, featuring a cellar entrance that will be approximately three feet from the proposed window. - Described the plan as having an L-shaped layout. - Pondered how to determine if aspects of the design could be minimized to address these concerns. Cohen - Clarified that in certain zoning districts, the proposed actions are allowed. - Explained that if there are two pre-1972 dwellings on a single lot, they are considered eligible for conversion to a condominium. Marcklinger - Expressed concern that the development will accommodate more sleeping spaces and subsequently more vehicles on a very small lot. - Noted the absence of air conditioning units in the plans, which is problematic given the minimal setbacks—five feet on most sides and two to three feet at the back. - Observed that air conditioning units typically are installed after the building inspector has completed their final inspection, implying potential issues with setback compliance or neighbor impact post-approval.

	Cohen - Corrected the previous observation by pointing out that air conditioning (AC) units are indeed included in the plans, indicating their location with a reference to a specific "little box" marked "AC" on the plan. Marcklinger - Questioned the adequacy of parking spaces, noting the garage and the space in front of it provide two spots for the main house, but raised concerns that the space in front of the garage does not qualify as a full spot due to insufficient length. - Raised the issue of ensuring current site compliance, inquiring whether there's a need to verify that the site as it stands is compliant with a certificate of compliance for all existing structures and modifications. - Pointed out many changes between the current site and an old plot plan created 40 years ago, highlighting the addition of decks and other modifications. - Asked if these discrepancies necessitate action or if they are considered acceptable under grandfathering clauses. Cohen - Clarified that parking requirements are calculated based on the lot, not on the individual condo units. - Referenced zoning code 139-18, specifying parking requirements in the R1 district as one space for the primary dwelling and 0.6 spaces per bedroom of an accessory structure. - Concluded that, based on the calculation, three parking spaces are required to meet zoning requirements. - Acknowledged that the space in front of the garage is not considered a legal parking space. - Suggested that the legality of the pre-existing parking space is a matter for the Building Commissioner, not the current discussion. - Indicated that the decision to grant a building permit or a Certificate of Occupancy (CO) based on parking compliance is a separate issue to be addressed by the Building Commissioner. Saad - Stated that the relief requested is specifically limited to the expansion or alteration within the setback, thereby parking is not directly part of the discussion, although acknowledged as important. - Emphasized that the focus of the request for relief is specifically on modifications within the setback area. Botticelli - Recognized Joe's contribution as raising a valid concern about whether parking compliance should be considered part of the relief if the project does not meet the parking requirements set forth by the zoning bylaws. Cohen - Acknowledged that technically, parking compliance does not have to be part of the relief, but suggested that the Zoning Board of Appeals (ZBA) could make parking compliance a condition of its approval, considering it a technical requirement anyway. Brescher - Noted the board's historical practice of requesting construction methodologies for projects, suggesting it would be appropriate for this project as well, though not necessarily requiring extensive detail due to the absence of opposition letters. - Expressed that providing some form of construction methodology would be appropriate, especially if the board decides to grant relief. - Mentioned that while not directly within the board's purview, understanding the division of ground cover between units in a condominium setup, as specified in the master deed or Declaration of Trust, could be beneficial. This is particularly relevant given the project
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involves a single lot that is a condominium, and there's uncertainty whether Unit 1 has agreed to the proposed use of the remaining ground cover.

- Highlighted the concern about how the project might consume a significant portion of the available ground cover on an already small lot, noting the entire lot has a 25% ground cover allowance.

Cohen

- Agreed that the points raised were valid and expressed willingness to comply with the board's potential conditions for approval.
- Offered to submit an appropriate construction methodology through staff and to provide an ascent by the other condo owner through staff as well, all before the issuance of a building permit.
- Acknowledged these steps as addressing appropriate concerns related to the project.

Marcklinger

- Inquired about the feasibility of adding a second floor to the structure, specifically questioning if the old boards from 40 years ago would be adequate for current building codes.
- Noted that the suitability for a second-floor addition depends on the extent of modifications to the floor below. If it involves removing all the walls, it likely would not be permissible without significant renovations.
- Indicated that the structure would essentially need to be extensively redone to accommodate the addition of a second floor, addressing concerns about compliance with building codes and structural integrity.

Cohen

- Acknowledged that part of the building will be preserved while other parts will be replaced.
- Stated that any sections of the building that are replaced will likely need to be reinforced with sistering for structural purposes.

Allen

- Expressed the need for clarification on how retaining structures will be implemented and the construction approach, especially considering the tight spacing of the project area.

Brescher

- Asked if the board requires submission and approval of specific details (like retaining structures and construction approach) before making a decision, or if it would be acceptable to include a condition in the decision requiring the applicant to submit these details for approval by staff and the Building Commissioner before any building permits are issued.

Botticelli

- Questioned if there were a set of general methodology guidelines.

Brescher

- Mentioned the existence of general guidelines, particularly when a general contractor (GC) is involved.
- These guidelines often include the GC's contact information and proposed construction hours.
- Explained that while general templates exist, each project tends to have unique considerations, especially regarding abutter concerns and site specifics.
- Noted that this project doesn't seem to have significant abutter concerns, so if they add the guidelines as an attachment, it would likely be quite standard or generalized.

Allen

- Expressed the desire to understand how the project will approach the tight construction area.
- Highlighted the importance of knowing how they will prevent the edges from caving in and retain stability, for example using steel plates to prevent issues with neighboring properties.

Cohen

- Confirmed that using steel sheeting, as mentioned earlier, is the right approach for retaining stability in the construction area.

	Brescher - Acknowledged the board's consideration and interest in a conceptual methodology. - Suggested that the board would like to review this methodology before making a decision on the matter. Botticelli - Mentioned the presence of a six-foot-high panel fence between the properties on the site plan. - Speculated that the fence would likely remain in place, and additional steel sheeting would be installed in front of it. - Emphasized the importance of documenting these details for clarity. Cohen - Acknowledged the board's interest in specific deliverables for the next meeting. - Mentioned the four key points to confirm: 1. Confirmation of compliant parking. 2. Verification that nothing within the setback is unrequested for relief, especially regarding air conditioning units. 3. Presentation of a written protocol for protecting abutting lots during construction and excavation. 4. Demonstration of the legal authority to claim the ground cover, either through an assent from the other condo unit owner or condo documents. - Indicated a willingness to provide the necessary information and documentation to address these points. - Requested a continuance to the February regularly scheduled meeting. Genesis Mendez, represents Carl and Sharon Nielson - Confirmed that the ground cover was included in the master documents and the purchase agreement.
Motion:	Motion to continue until February 8, 2024. (made by: Marcklinger) (seconded by: Botticelli) (01:52:00)
Vote:	Carried 5-0 // Brescher, Allen, Botticelli, Marcklinger, Mondani

23-23 William M. Murphy, Trustee of 89 Easton Street Nominee Trust 89 Easton Street Santos

The Applicant is seeking a Special Permit pursuant to Zoning Bylaw Section 139-33 A, to alter the preexisting, nonconforming structure by relocation upon the lot. Locus is situated at 89 Easton Street, shown on Assessor's Map 42.4.4 as Parcel 21. Evidence of owner's title is recorded in Book 1944 and Page 118 with the Nantucket County Registry of Deeds. The site is zoned Residential Old Historic (ROH).

Voting:	McCarthy, Brescher, O'Mara, Marcklinger
Alternates:	Mondani, Poor
Recused:	None
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Paul Santos, Nantucket Surveyors - Identified the individuals present at the meeting: Paul Santos with Nantucket Surveyors, Joe Paul as the project architect from BPC, and William Murphy Trustee of 89 Easton Street Nominee Trust, the property owner. - Described the property at 89 Easton Street, known as Captain's Corners, located at the intersection of North Ave, Cliff Road and Easton Street. - Explained the applicant's intention to move a non-conforming dwelling to increase green space along North Avenue, create separation from the Nantucket Hotel service area, and comply with fire-rated construction code requirements. - Mentioned HDC approval for the move with the condition that the height of the structure cannot increase. - Highlighted the pre-existing non-conforming status of the dwelling due to its long-standing location and configuration.

	- Mentioned the existing height of the structure, which exceeds the maximum permitted under the bylaw. - Discussed the proposed relocation of the dwelling to increase setbacks from North Avenue, Easton Street, and Cliff Road, addressing zoning requirements. - Requested special permit relief under bylaw section 13933 A1 for the alteration of an existing structure without creating new non-conformities. - Provided information about the zoning district requirements and the property's current ground cover percentage. - Mentioned the project contractor and the geotechnical engineer, who will work on the site's engineering and shoring plan. - Mentioned the involvement of Tuscan Corp for building elevation and site contracting work. - Acknowledged agreement with the conditions outlined in the staff report. - Explained the construction timeline, aiming to have the house lifted, moved, and placed back on the foundation before Memorial Day. However, there might be adjustments if delays occur. - Clarified that the property's intended use is residential, not as a hotel or inn.
Public:	-
Discussion: (01:31:37)	Brescher - Expressed support for the current application. - Referenced the previous discussion about requiring construction methodologies for applications. - Suggested that it would be fair to require a construction methodology for this application as well. O'Mara - Pointed out the town's interest in preserving streets, citing past incidents where properties lost street access. - Mentioned a consistent requirement for protection measures in previous applications before the board. Santos - Express concern about pushing the decision to February, as it would significantly impact the project's dynamics. - Mentioned that engineered plans are forthcoming, and they can provide them before the decision is written and the appeal period ends. - Highlighted the team's experience in handling similar downtown projects with streets and abutters. - Noted that the geotechnical borings and other preparations are already underway. - Emphasized the importance of the engineered plans, and suggested making it a condition for approval. - Requested the board's consideration in this particular instance. Marcklinger - Pointed out the difference between this project and the previous one. - Acknowledged the engineer's vast experience and long history of working in Nantucket. - Mentioned that the other project is residential and the contractor is unknown. - Suggested that asking for a construction methodology in one situation is reasonable, but it might not be necessary to require it immediately in this case. Allen - Emphasized that the scale of this project is significantly different from the previous one. - Argued that comparing the two projects regarding the need for a construction methodology is not valid. - Advocated for evaluating this application individually.

	- Highlighted the project's impact on traffic in multiple directions. - Asserted that asking for the methodology earlier should have been done when the application was filed. - Stressed the importance of ensuring safety and clarity by having this information before granting approval. - Expressed concern that granting approvals first and then waiting for paperwork could lead to congestion and unfairness to others. Santos - Acknowledged the board's responsibility for evaluating the merits of the zoning code and the special permit. - Suggested that the board might not thoroughly examine the engineering plans but rather treat the construction methodology as a checklist item. Allen - Argued that having the construction methodology submitted with the initial application is essential. - Believed that the approval should be contingent on the inclusion of this information, even if not everyone on the board fully understands the engineering plans. - Considered this sequence of actions as necessary before granting approval. Brescher - Expressed understanding of both perspectives on the matter. - Believed in maintaining fairness in the process by having all applicants adhere to the same standards, including a construction methodology. - Suggested a minimal and straightforward methodology, including details about shoring, the general contractor, and the timeline. Saad - Shared that he reached out to town administration regarding the sidewalk. - Explained that any damage to public property would be the responsibility of the applicant to repair. - Noted that the applicant would also need permitting to close off the sidewalk. Santos - Explained that the excavation and plans would undergo scrutiny from the building department and DPW. - Mentioned that permits for road closings, road openings, sidewalk permitting, etc., would be processed through DPW and the town administration. - Highlighted their experience with similar projects on the island, such as the complete rebuilding of Broad Street. - Assured that there would be a thorough review by Town Administration and DPW regarding project details. - Indicated that the sidewalk might be entirely rebuilt at the client's expense as part of the project. - Described North Avenue as serving both residential homes and as the service area for the Nantucket Hotel. - Emphasized that the property owner is also the abutter to the north. - Stated that there are qualified contractors on the island, and the current team is experienced in handling such projects. - Acknowledged the commission's perspective but expressed a different view. Allen - Acknowledged familiarity with the contractors involved and expressed confidence in their abilities. - Recognized North Avenue's significance as a delivery access for the Nantucket Hotel.
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	- Advocated for having a record of the contractors' methodology for retaining public access, considering it the best course of action. O'Mara - Believed that the requirement for a construction methodology is feasible. Joe Paul - Expressed understanding and appreciation for the board's position. - Noted that McArdle, the site engineer, is separate from the structural engineer and was recommended by Tuscana. - Mentioned that boring tests took place in mid-November and McArdle has been actively involved in the project for a few months. - Stated that they are waiting for the report and methodologies for protecting the street, excavating near property lines, and sidewalks, which will be the first call made to ensure building permit issuance. - Provided background information on McArdle's involvement and the separate structural engineer working on the project. - Noted that Mr. Murphy, the client, has experience in commercial construction and is aware of complex permitting processes. - Anticipated that while the board's request may not be a surprise, the potential delay in the decision could be unexpected. Marcklinger - Asked if there were any checklist for various applicants to review prior to coming to the ZBA. Mondani - Questioned whether it was not possible to move the structure enough to fix the setbacks. Paul - Explained that the decision to move the structure modestly without fixing the setbacks was influenced by HDC considerations. - Mentioned their conservative approach with the HDC and the desire to maintain the relationship with Easton Street. - Described the modest move as a result of HDC's potential imposition and the client's aim to create a landscape buffer along Easton Street without altering the Cliff Road side significantly. - Noted that moving the structure closer to Cliff Road or further back toward North Avenue would have changed the streetscape too much. - Discussed the client's intention to apply for historic tax credits, mentioning their collaboration with a historic tax credit consultant from Epsilon Associates.
Motion:	Motion to continue until February 8, 2024. (made by: Brescher) (seconded by: Allen) (1:51:51) O'Mara - Indicated that the primary topic of discussion was the construction methodology. - Expressed willingness to approve the application a month from now if all questions were answered and the methodology was provided. - Suggested that signing the decision a month later would align with the timeline as if the approval were granted on that day. - Received positive feedback and agreement from other board members regarding the timeline.
Vote:	Carried 5-0 // McCarthy, Allen, Brescher, O'Mara, Marcklinger

VI. OTHER (VOTES MAY BE TAKEN)

Discussion:	Saad - Informed the participants about the schedule for the next February meeting, which starts at noon. - Mentioned the hard stop at 3:30 PM for the meeting. - Explained their scheduling conflict with the Planning Board's special meetings, which occur every Thursday from now through mid-February.
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VII. ADJOURNMENT (VOTES WILL BE TAKEN)

Motion:	Motion to adjourn. (made by: Brescher) (seconded by: Allen) (1:55:16)
Vote:	Motion carried unanimously.

Submitted by: Elaina Cano