



Planning and Land Use Services

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

Date: 02/02/2024
To: Zoning Board of Appeals
From: Billy Saad,
Zoning Administrator
RE: Staff Report for 02-08-24 ZBA Meeting

- I. CALL TO ORDER:**
II. APPROVAL OF THE AGENDA:
III. APPROVAL OF THE MINUTES:

- Pgs. 4-20**
- NOVEMBER 9, 2023 & DECEMBER 14, 2023 (RATIFY MINUTES)
 - JANUARY 11, 2024

Staff reviewed the minutes and recommends approval.

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

Pgs. 21-23 **Carl and Sharon Nielsen** **2 Cabot Lane**

Cohen

22-58 *Action Deadline: April 10, 2024*

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

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).

FROM THE JANUARY STAFF REPORT:

The Locus is a condominium unit numbered 2A Cabot Lane (a portion of 2 Cabot Lane) and contains 7,338 SF in the R-1 zoning district. The cottage structure is pre-existing nonconforming with respect to side and rear yard setbacks. The lot is otherwise dimensionally compliant.

The project consists of an addition resulting in a vertical expansion within the southwesterly side yard setback, and northwesterly rear yard setback. Specifically, a 2nd floor addition with dormers and the construction of a basement, which will require the house to be temporarily lifted. HDC approval No. HDC2023-08-8902 is on *Pages 92-103 of the Packet*.

A detailed narrative of the proposal is included in the packet. Staff recommends that the Board discuss things such as mitigation measures for excavation, access to the site, and where the structure will be proposed to be stored during the construction of the basement. No letters were received.

Relief is requested pursuant to **Section 139-33.A(1)(a)** which reads:

Preexisting, nonconforming structures or uses may be extended, altered, or changed, provided that:
(a) The special permit granting authority finds that such extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure and/or use to the neighborhood.
[...]

If the Board is inclined to approve the application, staff recommends the following findings and conditions:

Findings:

- 1) That granting the proposed relief pursuant to By-law Section 139-33.A(1)(a) is consistent with the finding that the proposed renovations are not substantially more detrimental than the pre-existing nonconforming dwelling to the neighborhood, and are within the spirit and intent of the Bylaw.

Conditions

- 1) No exterior construction shall be allowed between Memorial Day and Labor Day of any given year for the work contemplated herein;
- 2) The proposed alterations shall be in substantial compliance with the Proposed Conditions shown upon “Exhibit A”;
- 3) The proposed alterations shall be in substantial conformity with the plans approved in connection with Certificate of Appropriateness No. HDC-2023-08-8902, as the same may be amended from time to time; and

UPDATE:

The Applicant has submitted an updated site plan to address the AC unit placement and parking on ***Page 23 of the Packet***. The Applicant has indicated that the construction methodology report will be forthcoming. Staff has not received any communication or correspondence from abutters.

Action Deadline: April 10, 2024

Sitting: SM, JB, EA, MJO, Joe M

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).

FROM THE JANUARY STAFF REPORT:

The Locus contains 6,292 SF in ROH and is pre-existing nonconforming with respect to height, side, and rear yard setbacks. The lot is otherwise dimensionally compliant.

The proposal consists of relocating the dwelling by thirty inches (30") to the west and twenty-four inches (24") to the north. This adjustment would decrease the setback intrusion from North Avenue from the current 0.1' to 2.6' and decrease the setback intrusion from Easton Street from 2.4' to 3.8'. It's important to note that, in accordance with Section 139-16C.3 of the Bylaw, a zero-foot (0') front yard setback has been designated along Cliff Road. The preexisting nonconforming ridge height stands at 37.5', exceeding the maximum allowance of 30' as stipulated in Section 139-17.A of the Bylaw. The HDC approved the project as a "Staff Approval". The Applicant has submitted their staff approval application, *Pages 118-129 of the Packet*. Additionally, the move would satisfy the minimum setback requirement for fire-rated construction code compliance. Existing conditions are shown on *Page 114 of the Packet* and proposed conditions are shown on *Page 115 of the Packet*.

Relief is requested pursuant to **Section 139-33.A(1)(a)** which reads:

Preexisting, nonconforming structures or uses may be extended, altered, or changed, provided that:

(a) The special permit granting authority finds that such extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure and/or use to the neighborhood.

[...]

The proposed move alleviates the setback encroachments, and the preexisting nonconforming height of the structure will not be made more nonconforming. Staff recommends approval with the following findings and conditions:

Findings:

- 1) That granting the proposed relief pursuant to By-law Section 139-33.A(1)(a) is consistent with the finding that the proposed renovations are not substantially more detrimental than the pre-existing nonconforming dwelling to the neighborhood, and are within the spirit and intent of the Bylaw.

Conditions

- 1) No exterior construction shall be allowed between Memorial Day and Labor Day of any given year for the work contemplated herein;
- 2) The proposed alterations shall be in substantial compliance with the Proposed Conditions shown upon "Exhibit A";

- 3) The proposed alterations shall be in substantial conformity with the plans approved in connection with Certificate of Appropriateness No. HDC-2023-09-9115, as the same may be amended from time to time; and
- 4) The issuance of a Certificate of Occupancy for the project shall be contingent upon surveyor certification that the height of the altered structure is no higher than the existing height of 37.5 feet above average mean grade.

UPDATE:

The applicant has submitted the construction protocol documents per the Board's request on **Pages 61-98 of the Packet**. The draft decision is included on **Pages 100-104 of the Packet**. Staff has not received any communication or correspondence from abutters.

Staff still recommends approval as outlined above (in addition to any other conditions the Board may determine to be appropriate).

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

Pgs.
131-144

01-24 HMSW, LLC

25 Sankaty Head Road

MacEachern

Action Deadline: May 8, 2024

The Applicant is seeking a Special Permit pursuant to Zoning Bylaw Section 139-30, and 139-33 A from the intensity regulations of Section 139-16A for the removal and construction of the existing garage structure, and alteration of the dwelling structure. As a result, the ground cover ratio will be 3.23% in a zoning district that requires a maximum ground cover of 3%. Locus is situated at 25 Sankaty Head Road, shown on Assessor's Map 48 as Parcel 3 and upon Land Court Plan No 23903-C, Lot 5. Evidence of owner's title is registered on Certificate Title No. 26309 with the Nantucket County District of the Land Court. The site is zoned Limited Use General 3 (LUG-3).

The Applicant requests relief by Special Permit pursuant to Section 139-33.A(4) to alter the structures on the lot, which have an existing ground cover ratio of 3.3% in the LUG-3 zoning district, which requires a maximum ground cover ratio of 3%.

Section 139-33.A(4) reads:

4. Removal and reconstruction of any or all of the preexisting nonconforming structure(s), or any portion(s) thereof, in excess of the permitted ground cover ratio upon a lot, shall be allowed by special permit, provided that:

(a) Such special permit shall have been issued prior to the removal of the preexisting nonconforming structure(s), or any portion(s) thereof;

(b) (Reserved)

(c) All reconstructed structure(s), or portion(s) thereof, shall conform to all applicable front, rear and side yard setback requirements; unless relief is granted under separate provisions of this chapter; and

(d) The special permit granting authority shall have made the finding that the result of the proposed removal and reconstruction shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure and/or use.

Specifically, the Applicant proposes to renovate the primary dwelling, resulting in a reduction of the ground cover of the structure by 454 ± square feet. Additionally, the applicant is proposing to construct a garage that will have approximately 418 square feet of ground cover.

The Locus, shown on the Existing Conditions Plan on **Page 137 of the Packet**, is a conforming lot of record, containing 155,576 ± square feet of lot area in a zoning district that requires a minimum lot area of 120,000 square feet. The lot conforms to all zoning requirements except for the ground cover ratio. It's important to note that the overage in ground cover ratio is due to erosion. The second dwelling building permit was closed in 2005, at which time the total lot area was 167,594 square feet, and the total ground cover ratio was approximately 2.9%, as shown on the Plot Plan on **Page 144 of the Packet**, supplemented by staff.

The proposed alterations and reallocation of ground cover from the reduced primary dwelling, and the proposed garage result in a net decrease of 36 square feet and GCR would decrease from 3.3% to 3.23%. Staff has not received any communication or correspondence from abutters.

Staff recommends approval with the following findings and conditions:

Findings:

- 1) That granting the proposed relief pursuant to By-law Section 139-33.A(4)(d) is consistent with the finding that the proposed alterations to the structures, which results in a decrease of ground cover ratio from 3.3% to 3.23%, are not substantially more detrimental than the pre-existing nonconforming structures to the neighborhood.

Conditions

- 1) No exterior construction shall be allowed between Memorial Day and Labor Day of any given year for the work contemplated herein;
- 2) The proposed alterations shall be in substantial compliance with the "Proposed Site Plan, 25 Sankaty Head Road", prepared by Site Design Engineering, dated December 11, 2023, attached herein as "Exhibit A";

VI. OTHER (VOTES MAY BE TAKEN)

- ZBA regular meeting – Thursday, March 14, 2024, at 1 PM in person and via Zoom

VII. ADJOURNMENT (VOTE WILL BE TAKEN)
