



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, March 14, 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 1:12pm and Announcements made by Ms. McCarthy

Staff in attendance: William Saad, Land Use Specialist
Attending Members: McCarthy, Allen, Brescher, Marcklinger, Poor
Remote attendance: O'Mara
Absent: Botticelli, Mondani
Late Arrivals: -
Early Departures: -
Town Counsel: -

I. APPROVAL OF AGENDA

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

II. APPROVAL OF MINUTES

Discussion: McCarthy
Acknowledged the current quality of the minutes and supported the idea of making them more concise.
Decided to hold and edit the minutes for approval at the April meeting.

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

03-24 Arthur I. Reade Jr., Trustee of 90 North Liberty Preservation Trust 90 North Liberty Street

Voting: McCarthy, Brescher, Allen, Poor, Marcklinger
Motion: Motion to hold until April 11, 2024, meeting. (made by: Brescher) (seconded by: Allen) (28:52)
Vote: Carried 5-0 / / McCarthy, Brescher, Allen, Poor, Marcklinger (aye) // Marcklinger (nay)

06-24 Big Chicken Little, LLC

82 Easton Street

The Applicant is requesting a Modification of the previously granted Special Permit in File No. 011-04, which was modified in File No. 041-08, File No. 028-12, and File No. 18-18. Specifically, the Applicant proposes to alter and extend the preexisting nonconforming office use in order to convert the existing studio to be used as an office or as a garage apartment or primary dwelling as previously permitted in 2018. The main structure will continue to be used as an office. Additionally, to the extent necessary, Applicant seeks Special Permit relief pursuant to Zoning Bylaw Section 139-18, for a waiver of the onsite parking requirements. Locus is situated at 82 Easton Street, shown on Assessor's Map 42.4.2, Parcel 5, shown as Lot 4 upon Plan Book No. 7 Page 40. Evidence of owners' title is recorded in Book

1363 and Page 44 with the Nantucket County Registry of Deeds. The site is zoned Residential Old Historic (ROH).

Voting: McCarthy, Brescher, Allen, O'Mara, Marcklinger

Alternates: Poor

Documentation: File with associated plans, photos, correspondence and required documentation

Representing: Sarah F. Alger

Public: -

Discussion: **Brescher**

(00:08:35)

- Inquired about the nonprofit's expectations for visitor traffic, especially regarding drop-offs, acknowledging current parking challenges.
- Noted that if there were any changes to the current setup, it would necessitate a return to the committee for approval.

Alger

- Clarified that the space would serve as a housing office, which would not entail significant coming and going of people.

Marcklinger

- Voiced reservations about the transition from residential to commercial use.
- Opposed reducing parking, acknowledging the difficulty of the area's parking situation.

Saad

- Acknowledged that limiting the number of trips per day is theoretically a good idea but noted the practical challenge of relying on the public for enforcement by the zoning officer.

McCarthy

- Highlighted concerns about introducing non-conforming commercial office use into a dense residential area, despite the positive aspect of accommodating a nonprofit.
- Emphasized the importance of considering future implications of decisions, not just current usage.

Alger

- Clarified that the request is not for a waiver of the number of parking spaces but rather for a waiver regarding the configuration of those spaces, noting that seven spaces can be accommodated between the driveway and garage, which meets the requirement for both the house and the building without needing a special permit.

Marcklinger

- Stressed the significance of parking space configuration, observing that despite available driveways, people often park on the street.
- Predicted that, in practice, the seven allocated spaces would not be fully utilized, with possibly only a few cars in the garage and one in the driveway, complicating access due to the need for multiple cars to move for a single car to exit.
- Reinforced the importance of considering the practical implications of parking configuration.

O'Mara

- Considered the parking arrangement acceptable given the location's past zoning district of limited commercial (LC).

Allen

- Expressed no objection to converting the space for commercial use, especially for a nonprofit on the island.
- Indicated openness to approval with a few restrictions, recognizing the area's history of mixing commercial and residential uses.

McCarthy

Draft ZBA Minutes for March 14, 2024

- Proposed continuing the discussion until April to allow for the submission of the floor plan and for collaboration on a proposed decision with specific conditions.
- Sought clarification on the voting requirement for approval, confirming that an affirmative vote of a four-vote majority is needed.

Motion: **Motion to continue to the April 11th meeting. (made by: Allen) (seconded by: Brescher) (28:52)**

Vote: Carried 5-0 / / McCarthy, Brescher, Allen, O'Mara, Marcklinger (aye) // Marcklinger (nay)

05-24 Peter & Thea Kaizer

43 Millbrook Road

Applicants are seeking Special Permit relief from the provisions of Zoning Bylaw Section 139-16C(2) (Intensity regulations – unintentional setback intrusion) and pursuant to Section 139-30 (Special permits) to validate a front yard setback intrusion of about 9 ½ inches for a garage/studio structure. In the alternative, Applicants are seeking relief by Variance from the provisions of Section 139-16 and pursuant to Section 139-32 (Variances) to validate the setback intrusion. Locus is situated at 43 Millbrook Road, shown on Assessor's Map 56 as Parcel 233 and as Lot 5 in Plan Book 19, Page 69. Evidence of owners' title is recorded in Book 1622, Page 312 on file at the Nantucket County Registry of Deeds. The Locus is zoned Residential-20 (R-20).

Voting: McCarthy, Brescher, Allen, O'Mara, Marcklinger

Alternates: Poor

Documentation: File with associated plans, photos, correspondence and required documentation

Representing: **Linda Williams**

Public: -

Discussion: **McCarthy**

- (00:45:35)
- Expressed appreciation for Bracken's letter, highlighting the rarity of a surveyor stepping forward to assist a homeowner by acknowledging a good faith error in such applications.
 - Agreed that a special permit is appropriate for the situation.

Motion: **Motion to approve with the two conditions outlined in the staff report, emphasizing that the decisions are in substantial compliance with the HDC Certificate of Appropriateness (COA), etc. (made by: Allen) (seconded by: O'Mara) (50:20)**

Vote: Carried 5-0 / / McCarthy, Brescher, Allen, O'Mara, Marcklinger (aye)

04-24 Steven L. Cohen, Trustee of 39 Monomoy Trust

39 Monomoy Road

The Applicant is seeking a Special Permit pursuant to Zoning Bylaw Sections 139-30, and 139-33.A, to alter the preexisting, nonconforming single-family dwelling upon locus, which is preexisting nonconforming to front yard setback, side yard setback, and ground cover ratio. No new nonconformities will be created. Locus is situated at 39 Monomoy Road, shown on Assessor's Map 54 as Parcel 79 and upon Land Court Plan No 16289-I, Lot 14. Evidence of owner's title is registered on Certificate Title No. 29354 with the Nantucket County District of the Land Court. The site is zoned Limited Use General-1 (LUG-1).

Voting: McCarthy, Brescher, Allen, O'Mara, Marcklinger

Alternates: Poor

Documentation: File with associated plans, photos, correspondence and required documentation

Representing: **Steven Cohen**

Public: -

Discussion: **Marcklinger**

Draft ZBA Minutes for March 14, 2024

- (00:53:02) - Expressed preference for providing a range rather than an exact number for approvals, suggesting it would be more practical for field adjustments or unforeseen issues. For example, instead of stating "18", suggest "17 to 19", and for "33", propose a range of "30 to 34".
- Motion:** **Motion to approve, with the conditions listed in the staff report, adding an additional condition to have the stoop dimensioned. (made by: Brescher) (seconded by: O'Mara) (01:00:30)**
- Vote:** Carried 5-0 / / McCarthy, Brescher, Allen, O'Mara, Marcklinger (aye)

II. OTHER (VOTES MAY BE TAKEN)

- Discussion:** Town Issued Emails
- McCarthy**
- Discussed the board's consideration of adopting the practice used by several other boards to utilize a town-issued email for board business.
 - Highlighted the motivation behind this consideration, including the increased volume of litigation and Freedom of Information Act (FOIA) requests related to zoning issues, lawsuits, and other inquiries.
 - Pointed out the challenges and time-consuming nature of sifting through email correspondence for staff and board members.
- Saad**
- Stated that it would be best practice for board members to have Town email addresses, specifically for ease of managing FOIA requests. This approach allows the IT department to efficiently search the Town email server and extract emails pertinent to the requested topic.
- Motion:** **Motion for the staff to pursue the idea of obtaining Town-generated email addresses for board members. (made by: Brescher) (seconded by: Allen) (01:12:00)**
- Vote:** Carried 5-0 / / McCarthy, Brescher, Allen, O'Mara, Marcklinger (aye)

- Discussion:** Mass.gov Seminar, Conflict of Interest Training, March 28, 2024
- McCarthy**
- Noted the upcoming mass.gov seminar on conflict-of-interest training scheduled for March 28th, urging those who haven't signed up for the webinar to do so.
 - Mentioned that the email containing information about the conflict-of-interest seminar also includes dates for open meeting law seminars, which occur every few weeks. Although attendance may not be mandatory, it was suggested that these sessions are beneficial to participate in.

ZBA regular meeting, Thursday, April 11, 2024, at 1:00 PM in person and via Zoom

III. ADJOURNMENT (VOTES WILL BE TAKEN)

Motion:	Motion to adjourn. (made by: Allen) (01:15:00)
Vote:	Motion carried unanimously.

Submitted by: Elaina Cano