



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, August 15, 2024

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

I. CALL TO ORDER

Called to order at 12:04 pm and Announcements made by Ms. McCarthy

Attending Members: McCarthy, O'Mara, Allen, Brescher, Poor, Mondani

Staff in attendance: William Saad, Zoning Administrator & Land Use Specialist

Remote Members: NONE

Absent: Botticelli

Late Arrivals: - NONE

Early Departures: - O'Mara

II. APPROVAL OF AGENDA

Motion: Motion to Approve the agenda, as drafted. (made by: Brescher) (seconded by: O'Mara)

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

III. PUBLIC COMMENT

Chair McCarthy called for public comment.

Comments: Ann Dewez voiced concerns regarding perceived potential conflicts.

IV. APPROVAL OF THE MINUTES

1. June 3, 2024

Approved as submitted.

V. REMAND HEARINGS

1. 11-24 Cathy Ward

9 West Dover Street

Pickering-Cook

(Under remand from Commonwealth of Massachusetts Land Court No. 22 MISC 000064 MDV) Applicant is appealing a determination by the Building Commissioner that the use of 9 West Dover Street as a short-term rental ("STR") business is not a commercial use prohibited in the residential zone in which it is located. Applicant requests that the Zoning Board of Appeals overturn the Commissioner's determination with respect to the property and further that zoning enforcement action be taken by issuing an order to the owner to cease and desist using the property as an STR. The Locus is situated at 9 West Dover Street, is shown on Assessor's Map 55.1.4 as Parcel 189 and in Plan Book 7, Page 29. Evidence of title is recorded in Book 1581, Page 238 on file at the Nantucket County Registry of Deeds. The site is zoned Residential Old Historic (ROH).

Voting:	Brescher, O'Mara, Marcklinger, Allen, McCarthy
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	George Pucci- KP Law
Discussion:	Attorney Pucci -Reviewed the draft decision with the Board. The Board - Suggested changes to the draft decision. The requested revisions involved paragraphs 35, 36, and 37, as well as the inclusion of those adjustments in a second copy that will be reviewed at the following meeting.

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Motion:	Moved to continue the public hearing to August 29 th , 2024 (made by: Brecher) (Seconded by: O'Mara)
Vote:	Carried 5-0// Brescher, O'Mara, Marcklinger, Allen, McCarthy- Aye

2. 20-24 Christopher Quick

15 Delaney Road

Pickering-Cook

Under remand from Commonwealth of Massachusetts Land Court No. 23 MISC 000056 MDV) The Applicant is appealing the Building Commissioner's September 21, 2022, determination pursuant to Zoning Code Section 139-31A-(1) and Massachusetts General Laws Chapter 40A, Sections 8 and 15. The Building Commissioner determined that the use of the Property for short-term rentals ("STR") does not violate Nantucket's Zoning Bylaw. Locus subject to the appeal is situated at 15 Delaney Road, shown on Assessor's Map 30 as Parcel 635 and upon Land Court Plan 14695-C. Evidence of owner's title is registered on Certificate of Title No. 25803 with the Nantucket County District of the Land Court. The site is zoned Residential-1 (R1)

Voting:	Brescher, O'Mara, Marcklinger, Allen, McCarthy
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	George Pucci- KP Law
Discussion:	Attorney Pucci -Reviewed the draft decision with the Board. The Board -Agreed any revisions should align with the Ward's decision and be reviewed at the following meeting.
Motion:	Moved to continue the public hearing to August 29 th , 2024 (made by: Brecher) (Seconded by: Allen)
Vote:	Carried 5-0// Brescher, O'Mara, Marcklinger, Allen, McCarthy (Aye)

VI. OLD BUSINESS

1. 18-24 43 W. Miacomet, LLC

43 West Miacomet Road

Cohen

The Applicant is requesting a Special Permit pursuant to Sections 139-13, 139-30, and 139-33A of the Nantucket Zoning Bylaw to demo the existing house and construct a new dwelling, shed, and install a pool and related pool equipment. The file with a copy of the complete description of the proposal is available for review at Planning and Land Use Services. The property is located at 43 West Miacomet Road and shown as Nantucket Tax Assessor's Map 86 Parcel 13.2, Lot 31 on Land Court Plan 17368-K. Owner's Title is shown as Certificate #27184 on file with the Nantucket County District of Land Court. The Locus is zoned Moorlands Management District (MMD).

Continued to September 12, 2024

Voting:	Brescher, O'Mara, Marcklinger, Allen, McCarthy
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	NONE
Discussion:	NONE
Motion:	Moved to continue the public hearing to September 12 th , 2024 (made by: Allen) (Seconded by: Brescher)
Vote:	Carried 5-0// Brescher, O'Mara, Marcklinger, Allen, McCarthy (Aye)

VII. NEW BUSINESS

1. 19-24 Steven L. Cohen as Trustee of Area 51 Trust

51 West Miacomet Road

Cohen

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The Applicant is requesting a Special Permit pursuant to Sections 139-13, 139-30, and 139-33A of the Nantucket Zoning Bylaw to demo the existing house and construct a new dwelling, shed, and install a pool and related pool equipment. The file with a copy of the complete description of the proposal is available for review at Planning and Land Use Services. The property is located at 51 West Miacomet Road and shown as Nantucket Tax Assessor's Map 81 Parcel 52, Lot 9 on Land Court Plan 17368-D. Owner's Title is shown as Certificate #29355 on file with the Nantucket County District of Land Court. The Locus is zoned Moorlands Management District (MMD).

2. 12-24 South Siasconset Neighborhood Association, LLC

1 Magnolia

Avenue, 10 Grand Avenue, 7R, 10, 11, 16, 17, 19 Ocean Avenue, 2, 4, and 5 Cottage Avenue

Cohen

The Applicant is appealing the Building Commissioner's April 17, 2024, determination pursuant to Zoning Bylaw Section 139-25 and 139-31. The locus is situated at 1 Magnolia Avenue, 10 Grand Avenue, 7R, 10, 11, 16, 17, 19 Ocean Avenue, 2, 4, and 5 Cottage Avenue. The appeal consists of numerous parcels as identified on the Zoning Board of Appeals application (known as "The Summer House"), a complete record of the application, supporting materials, and relevant documents are available for public review at the Office of Planning and Land Use Services. The site is zoned Siasconset Old Historic (SOH) and Village Neighborhood (VN).

3. 23-24 Nancy Thornton, Successor Trustee of the SE Catcher Trust 6 W. Dover Street

Cohen

The Applicant is seeking Variance relief pursuant to the Zoning Bylaw Section 139-32 to validate the location of the studio/accessory structure. The structure is currently sited as close as 3.6 feet from the side yard lot line in a zoning district that requires a minimum of five (5) feet and was constructed without the necessary permits. Locus is situated at 6 West Dover Street and shown on Assessor's Map 55.4.1 as Parcel 191. Evidence of owner's title is recorded in Book 1926, Page 183 with the Nantucket Country Registry of Deeds. The site is zoned Residential Old Historic (ROH).

Continued to September 12, 2024

Voting:	Brescher, O'Mara, Marcklinger, Allen, McCarthy
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	NONE
Discussion:	NONE
Motion:	Moved to continue the public hearing to September 12 th 2024 (made by: Brescher) (Seconded by: Allen)
Vote:	Carried 5-0// Brescher, O'Mara, Marcklinger, Allen, McCarthy (Aye)

4. 21-24 K22S, LLC

126R Main Street

Williams

The Applicant is requesting relief by Special Permit pursuant to Zoning Bylaw Section 139-33.A(1)(a). Specifically, the Applicant is seeking to renovate and relocate the garage structure within the nonconforming easterly side yard setback area, reducing the setback encroachment from its current position of .0 feet from the easterly side yard lot line to approximately two (2) feet at its closest point. The use will remain a garage with an added interior studio. Locus is situated at 126R Main Street and shown on Assessor's Map 42.3.3 as Parcel 98.1. Evidence of the Owner's title is recorded in Book 1942, Page 74, and shown as Lot 2C in Plan No. 2023-29 with the Nantucket County Registry of Deeds. The site is zoned Residential Old Historic (ROH)

Voting:	Brescher, O'Mara, Marcklinger, Allen, McCarthy
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Rick Beaudette
Discussion:	Attorney Beaudette -Presented the application on behalf of the applicant. - Stated that the only relief requested is to move the garage with no change to the structure footprint or

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	height and is therefore not substantially more detrimental to the neighborhood. Allen -Confirmed that the ridge height of the structure will not change due to move. - Questioned why the structure could not be relocated out of setback. O'Mara -Stated that the Board has consistently approved requests under 139-33 where height is not changing, and setback encroachment is being alleviated. Mondani -Stated that he visited the site and agreed with O'Mara. Concerns -Several abutters opposed the approval of the move and change of use (Sarah Alger, Kevin Toth, and Stephanie Bradford). The concerns involved the use change from garage to garage/studio, alterations and potential height change, driveway access, and the garage is a historical structure in the OHD. The Board -Discussed their limited purview to garage move and added use. -Discussed the possibility of including the condition of no beds being allowed.
Motion:	Moved to approve with the following conditions: adhere to exhibit A's requirements, no exterior construction between Memorial Day and Labor Day, no expansion or alteration to the structure, no further change of use within the required 5-foot setback, and no bedrooms without additional board approval. (made by: Brescher) (Seconded by: O'Mara)
Vote:	Carried 4-1// Brescher, O'Mara, Marcklinger, Allen (Aye) McCarthy (Nay)

5. 24-24 Elizabeth Cohn Stuntz, as Trustee of Ocean Avenue Nominee Trust 20 Ocean Avenue Reade

The Applicant is requesting relief by Special Permit pursuant to Zoning Bylaw Section 139-33.A(1)(a). Specifically, the Applicant seeks to remove and reconstruct the existing bicycle shelter currently sited in the westerly front yard setback, increasing the setback distance from the front yard lot line from three (3) feet to approximately eleven (11) feet in a zoning district that requires a minimum of 35 feet. Additionally, the Applicant proposes to alter the principal dwelling which will result in the closest point of the structure being sited as close as 28.5 feet where 35 feet is required. Locus is situated at 20 Ocean Avenue and shown on Assessor's Map 73.2.4 as Parcel 20 and as Lot 12 upon Land Court Plan No. 9595- H. Evidence of Owner's title is registered on Certificate Title No. 19945 with the Nantucket County District of Land Court, and recorded in Book 703, Page 115 with the Nantucket Registry of Deeds. The site is zoned Limited Use General-3 (LUG-3).

Voting:	Brescher, O'Mara, Marcklinger, Allen, McCarthy
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Arthur Reade
Discussion:	Attorney Reade -Presented the project and clarified that the request for relief can be approved as a special permit due to the Massachusetts State Zoning Act and its status as a preexisting nonconforming structure. Provided that the Board makes a Section 6 finding. The Board -Agreed that the proposed project can be approved without variance relief. -Discussed the need to cite both the local and state bylaws in their findings.
Motion:	Moved to approve with the findings and conditions for special permit relief listed in the staff report (made by: Allen) (Seconded by: Brescher)

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Vote:	Carried 5-0// Brescher, O'Mara, Marcklinger, Allen, McCarthy (Aye)
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VIII. OTHER

1. 076-11 Naomi Harnishfeger 5 Nanina Drive, Sachem's Path 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 changes consist of moving on a gazebo structure upon Lot 35, also known as 5 Nanina Drive of the 40B development known as Sachem's Path.

Voting:	Brescher, Poor, Marcklinger, Allen, Mondani
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Victoria Ewing
Discussion:	The Board - Agreed that the proposed changes to the plans would be considered insubstantial due to previous approval by the HOA and HDC. -Discussed the necessity of a properly surveyed plan.
Motion:	Moved to authorize the Chair to sign a letter memorializing the Board's decision that the request and application for 5 Nanina Dr constitutes an insubstantial modification to the comprehensive permit and the plan, contingent upon the submission of a proper survey plan. (made by: Allen) (Seconded by: Brescher)
Vote:	Carried 5-0// Brescher, Poor, Marcklinger, Allen, Mondani (Aye)

IX. ADJOURNMENT

Motion:	Motion to adjourn.
Vote:	Carried 5-0// Brescher, Poor, Marcklinger, Allen, Mondani (Aye)

Submitted by: Rodlisha Dixon

YouTube Reference Link: <https://www.youtube.com/watch?v=CiPnwJ335pI>