



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, September 5, 2024

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

I. CALL TO ORDER

Called to order at 1:04 p.m. and Announcements made by Ms. McCarthy

Attending Members: McCarthy, Botticelli, Allen, Poor, Marcklinger

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

Remote Members: Brescher

Absent: O'Mara

Late Arrivals: Mondani (1:08 p.m.)

Early Departures:

II. APPROVAL OF AGENDA

Motion: Motion to Approve the agenda, as drafted. (made by: Botticelli) (seconded by: Allen)

Vote: Carried 5-0 // McCarthy, Allen, Marcklinger, Brescher, Botticelli (Aye)

III. PUBLIC COMMENT

-NONE

IV. APPROVAL OF THE MINUTES

-NONE

V. NEW BUSINESS

25-24 Surfside Crossing, LLC

Surfside Crossing 40B

Haverty

This matter is on remand pursuant to the order of the Housing Appeals Committee in Surfside Crossing, LLC v. Nantucket Zoning Board of Appeals, No. 2019-07, and the order of Nantucket Superior Court in Meredith v. Housing Appeals Committee, C.A. 2275-00025. The Applicant is seeking a Comprehensive Permit in accordance with M.G.L. Chapter 40B and ZBA File No. 20-18, in order to allow a multi-family project consisting of 156 condominium dwelling units in 18 multi-family buildings. The application and supporting materials are available for public review at the Zoning Board of Appeals office at 2 Fairgrounds Road between the hours of 7:30 A.M. and 4:30 P.M., Monday through Friday. The Locus is situated at 3, 5, 7, and 9 South Shore Road and is shown on Assessor's Map 67 as Parcels 336, 336.9, 336.8, and 336.7 and is shown as Lots 4, 3, 2, and 1 on Plan Book 25, Page 50 as recorded at the Nantucket Registry of Deeds. The total lot area of the combined parcels is approximately 13.6 acres. Evidence of owner's title is recorded in Book 1612, Page 62 at the Nantucket Registry of Deeds. The property is located in a Limited Use General 2 (LUG-2) and within the Public Wellhead Recharge District.

Voting:	Brescher, O'Mara, Marcklinger, Allen, McCarthy
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Attorney Paul Haverty
Discussion:	Jamie Feeley -Presented several changes implemented during the appeals process. -Outlined the limitations specified in the remand order issued by the Housing Appeals Committee.

ZBA Minutes – September 5, 2024

	-The limitations encompassed: • Building types • Number, location, and size of buildings • Building heights • Number and location of parking spaces • Roadways and traffic circulation both on and off the site Attorney DeRensis -Objected to the participation of board members McCarthy, Brescher, and Allen as voting members in the Surfside Crossing remand order deliberations due to an ethics complaint filed against them that is currently under review. - Objected to the Board's procedure. Attorney Pucci - Advised the Board to allow the Ethics Commission to complete its investigation without making any comments on it. - Confirmed that the decision to participate in the application process should be made by the board members or the appointing authority. -Instructed the Board to take DeRensis' objection under advisement and clearly specify for the record who the voting members for this application will be. The Board - Deliberated on whether the voting members should consist of those who had previously been involved with the subject matter. *See Motion 1*
Motion 1:	Moved to approve that the voting board members for File No. 25-24, Surf Side Crossing LLC remand hearing include any board members, whether full or alternate, who have previously sat on this subject matter in some capacity. (made by: Mondani) (Seconded by: Allen)
Vote:	Carried 3-2// Brescher, Allen, Mondani (Aye) Marcklinger and McCarthy (Nay)
Discussion Continued:	Attorney Haverty - Objected to Mondani's motion, as it deviated from the standard practice of having full voting members handle applications, with alternates only filling in when necessary. Additionally, changing this policy was deemed inappropriate given the board member's longstanding and strong objection to the project. Attorney Pucci - Advised the Board on the remand order, particularly concerning the scope of review and the directive from the Superior Court through the Housing Appeals Committee. - Stated that the scope of the remand order, issued by the Housing Appeals Committee as directed by the Superior Court, is quite broad and that technical issues could also be addressed due to the passage of time. The Board - Deliberated on the necessity of engaging independent special counsel to represent the ZBA in the Surfside Crossing Comprehensive Permit. *See Motion 2*
Motion 2:	Moved to request that the Select Board authorize funding for independent special counsel to represent the ZBA in the Surfside Crossing Comprehensive Permit (ZBA File No. 25-24) process. (made by: Mondani) (Seconded by: Allen)
Vote:	Carried 4-1// Mondani, Allen, McCarthy, Botticelli (Aye) Marcklinger (Nay)
Discussion Continued:	Andrew Kotchen -Reviewed the plan comparison with the Board. Don Bracken

ZBA Minutes – September 5, 2024

	-Discussed the technical changes made to the final plan set. The Board -Raised concerns about the trash management plan and the size of the community building. Attorney DeRensis - Requested that the board conduct a site visit due to safety concerns. - Raised concern about impacts on roadways and traffic. Concerns (Emily Molden, Mindy Leven, Kramer Mumford, Jack Winehold, Kathy Ward, Chris Meredith, Madeline Callahan) - Raised concerns about potential well water contamination, emergency access, current housing availability, and construction within a 100-foot well zone. - Megan Perry disclosed her filed ethics complaint to the Board
Motion 3:	Moved to continue the public hearing to October 17, 2024 (made by: Brecher) (Seconded by: O'Mara)
Vote:	Carried 5-0// Mondani, Allen, McCarthy, Botticelli, Brescher - Aye

VI. 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).

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)

Continued September 12, 2024

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:	NONE
Motion:	Moved to continue the public hearing to September 12, 2024 (made by: Allen) (Seconded by: O'Mara)
Vote:	Carried 5-0// Brescher, O'Mara, Marcklinger, Allen, McCarthy (Aye)

VII. OTHER

- ZBA regular meeting, Thursday, September 12, 2024, at 1 PM in person and via Zoom
- ZBA regular meeting (carry over if necessary), Thursday, September 19, at 1 PM in person and via Zoom
- ZBA special meeting (if necessary), Thursday, September 26, at 4 PM in person and via Zoom
- ZBA regular meeting, Thursday, October 17, 2024, at 1 PM in person and via Zoom

IX. ADJOURNMENT

Motion:	Motion to adjourn.
Vote:	Carried 5-0// McCarthy, Brescher, O'Mara, Marcklinger, Allen (Aye)

Submitted by: Rodlisha Dixon

YouTube Reference Link: [Nantucket Zoning Board of Appeals - September 5, 2024 \(Special Meeting\) \(youtube.com\)](#)