



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 12, 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, Allen, O'Mara, Marcklinger, Brescher

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

Remote Members: O'Mara

Absent: Mondani

Late Arrivals: Botticelli & Poor

Early Departures: Brescher

II. APPROVAL OF AGENDA

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

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

III. PUBLIC COMMENT

Chair McCarthy called for public comment.

Comments: Megan Perry expressed her concerns to the Board about the commercial use at 59 S Shore Road, asking for clarification on its impact in a residential area. She also noted that the Board's request for independent counsel on the Surfside Crossing deliberation missed the Select Board's deadline for the week, which could lead to delay in the next ZBA meeting.

IV. APPROVAL OF THE MINUTES

- JUNE 13, 2024
- JUNE 24, 2024
- JULY 11, 2024
- AUGUST 15, 2024
- AUGUST 29, 2024

Motion:	Moved to approve the minutes as submitted. (made by: Brescher) (Seconded by: Allen)
Vote:	Carried 5-0 // McCarthy, Allen, Marcklinger, Brescher, O'Mara (Aye)

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)

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Voting:	Brescher, O'Mara, Marcklinger, Allen, McCarthy
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Attorney Paul Haverly
Discussion:	NONE
Motion:	Moved to approve the decision as drafted (made by: Allen) (Seconded by: Brescher)
Vote:	Carried 4-1// Brescher, Allen, O'Mara, McCarthy (Aye) Marcklinger (Nay)

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:	NONE
Motion:	Moved to approve the decision as drafted (made by: Allen) (Seconded by: Brescher)
Vote:	Carried 4-1// Brescher, Allen, O'Mara, McCarthy (Aye) Marcklinger (Nay)

VI. OLD BUSINESS

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 October 17, 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 October 17, 2024 (made by: Allen) (Seconded by: Brescher)
Vote:	Carried 5-0// Brescher, Allen, O'Mara, Marcklinger, McCarthy (Aye)

VII. NEW BUSINESS

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

51 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 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 51 West Miacomet Road Cohen 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. 17-24 Rugged Scott, LLC Cohen 1 Blue Flag Path & 8 Blazing Star Road
 This matter is on remand pursuant to the order of the Housing Appeals Committee in Rugged Scott, LLC v. Nantucket Zoning Board of Appeals, No. 2018-01. Pursuant to Chapter 40B Sections 20 through 23 and CMR 56.00 to determine whether the proposed modifications to the comprehensive permit, specifically the addition of a garage on Lot 27, within the easement area shown on the plan, as well as the garage and use easement on Lot 27 identified in the easement grant, are substantial. This determination should also consider the context of the reciprocal easement granted by Lot 28 to Lot 27, as depicted on the plan. Loci are situated at 8 Blazing Star Road (Lot 27), and 1 Blue Flag Path (Lot 28) and shown on Assessor’s Map 67 as Parcel 826, and Assessor’s Map 67 as Parcel 827. Evidence of the Owner’s title are recorded in Book 1590, Page 196, and in Book 1593, Page 70 with the Nantucket County Registry of Deeds.

4. 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).

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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 October 17, 2024 (made by: Allen) (Seconded by: Marcklinger)
Vote:	Carried 5-0// Brescher, Allen, O’Mara, Marcklinger, McCarthy (Aye)

Motion:	Moved to take a 10- minute recess.
Vote:	Carried 5-0// Brescher, Allen, O’Mara, Marcklinger, McCarthy (Aye)

5. 26-24 Faith & George Breen 19 Broadway Williams
 The Applicants are requesting relief by Special Permit pursuant to Zoning Bylaw Section 139-33.A(1)(a). Specifically, the Applicants are seeking to raise the dwelling structure approximately four inches (4”, 19’6 to 19’10”) to move the dwelling up out of the ground and to construct a new foundation that will provide a crawl space. There is no change to the structure itself. The structure is pre-existing nonconforming with respect to side and rear yard setback requirements. The structure is sited as close as zero feet from the southerly side yard lot line; as close as about .4 feet from the lot line on Front Street on the east; as close as about .8 feet from the northerly lot line; and is conforming as to front yard setback requirement on Broadway, which is zero in the ROH. Locus is situated at 19 Broadway and shown on Assessor’s Map 73.1.3 as Parcel 111. Evidence of the Owner’s title is recorded in Book 1725, Page 259 with the Nantucket County Registry of Deeds. The site is zoned Sconset Old Historic (SOH).

Voting:	O’Mara, Marcklinger, Allen, McCarthy
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Linda Williams
Discussion:	Linda Williams -Presented the application to the Board.

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	-Explained that the applicant's intention is to raise the dwelling to build a new foundation as a means of preserving the historic structure. The Board -Confirmed that the total height will increase by four inches. -Discussed whether the way should be included on the plan attached to the decision. -Discussed the means and methodology.
Motion:	Moved to approve as submitted with the following conditions: The proposed alterations and expansion must comply substantially with the plan presented in Exhibit A. The project shall be completed in substantial conformity with the plans approved in connection with the HDC Certificate of Appropriateness. No exterior construction will be permitted between Memorial Day and Labor Day in any given year for the work contemplated herein. The proposed alterations and expansion shall also be in substantial compliance with the letter from the Nantucket Architecture Group attached to the decision as Exhibit B. Additionally, no further alterations or expansions of the structure shall occur within the required 5-foot side and rear yard setbacks without obtaining further relief from this board. (made by: Allen) (Seconded by: Marcklinger)
Vote:	Carried 5-0// Botticelli, Allen, O'Mara, Marcklinger, McCarthy (Aye)

VIII. OTHER

- 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// Botticelli, Allen, O'Mara, Marcklinger, McCarthy (Aye)

Submitted by: Rodlisha Dixon

YouTube Reference Link: <https://www.youtube.com/watch?v=Kjzt0QXHOAk>