



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 ~~

Tuesday, October 17, 2024

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

I. CALL TO ORDER

Called to order at 1:02 pm and Announcements made by Ms. McCarthy

Attending Members: McCarthy, Botticelli, O'Mara, Mondani

Remote Members: Brescher

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

Absent: -Allen & Marcklinger

Late Arrivals: - Poor (1:05)

Early Departures: -

II. APPROVAL OF AGENDA

Motion **Motion to Approve the agenda, as drafted with the revision that application 18-24 be heard first under Old**
: **Business.** (made by: O'Mara) (seconded by: Botticelli)
Vote: Carried 4-0 // McCarthy, Brescher, Botticelli, O'Mara (Aye)

III. PUBLIC COMMENT

Chair McCarthy called for public comment.

Comments: Megan Perry provided the Board with a timeline of events outlining the Town of Nantucket's option agreement with the developers of Surfside Crossing, emphasizing the need for independent legal counsel. She also mentioned her proposal for a collaborative property concept to the Select Board, which could be considered as a condition of a comprehensive permit, and pointed out that the Town is currently in Safe Harbor, allowing for the possibility of denying the permit. Diane Coombs agreed with Perry's statements.

IV. APPROVAL OF THE MINUTES:

- JULY 17, 2024
- SEPTEMBER 5, 2024

Motion:	Motion to approve, with the correction to the September 5th meeting minutes. (made by: Botticelli) (Seconded by: McCarthy)
Vote:	Carried 5-0// McCarthy, Botticelli, Brescher, Mondani, O'Mara (Aye)

- SEPTEMBER 12, 2024

Motion:	Motion to approve as drafted. (made by: Botticelli) (Seconded by: O'Mara)
Vote:	Carried 5-0// McCarthy, Botticelli, Brescher, Mondani, O'Mara (Aye)

V. 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

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zoned Moorlands Management District (MMD).

Voting:	McCarthy, Poor, Brescher, Botticelli
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Attorney Steven Cohen
Discussion:	Attorney Steven Cohen -Outlined the MMD bylaw requirements, emphasizing compliance with rules protecting endangered species, scenic views, wetlands, and vegetation, while proposing additional measures to restore disturbed areas and ensure environmental protection. Attorney Jesse Bell -Provided an overview of the proposed application. The proposed application involves the demolition of the existing dwelling and the construction of a new 1,900-square-foot residence with minimal ground cover, all within previously disturbed areas. It also includes associated structures, upgrades to the septic system, and a p-stone driveway. No new disturbance will occur except for temporary work on the septic field, and the proposal is in full compliance with local regulations governing impervious surfaces and ground cover. Brian Madden, LEC Environmental Consultant -Stated that the project complies with Massachusetts Natural Heritage regulations, minimizes environmental impact, and includes temporary septic-related disturbance and revegetation with native species. Dan Malloy, Site Design Engineering -Discussed the location of the underground vault for the generator, which is proposed behind the shed, and clarified its size and placement on the plan. Public Concern -Emily Molden’s concerns focused on ensuring the proposed application adheres to the zoning bylaw limits on impervious surfaces, maintaining the integrity of the surrounding landscape, and implementing conditions to prevent invasive species and allow areas to naturally revegetate. -Tom Barada’s concerns focused on the unnecessary relocation of the house, the potential impact on scenic integrity from altering sight lines, and the need for clarity on the noise levels of the proposed generator to ensure it doesn't disturb the environment. The Board -Requested an updated site plan showing both existing and proposed impervious surfaces, clarification of the proposed conditions, and exploration of ways to minimize the increase in impervious coverage, potentially by reducing the size of the shed or adjusting other areas like decking. Attorney Steven Cohen - Consented to execute an extension agreement.
Motion:	Moved to continue the public hearing to November 14, 2024 (made by: Brescher) (Seconded by: Botticelli)
Vote:	Carried 4-0// McCarthy, Poor, Brescher, Botticelli (Aye)

2. 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.

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Voting:	McCarthy, Brescher, Mondani, Poor, Botticelli
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Attorney Paul Haverty
Discussion:	The Board -Discussed tentative dates for special meetings. - Reviewed the Select Board's request for specific details to justify the need for special counsel, including scope and estimated costs, and agreed to reconvene for a collective review to ensure alignment. Attorney Paul DeRensis - Contended that the Board requires independent counsel to ensure its jurisdiction is protected and properly represented in negotiations. -Requested a site visit with the Board. The Board -Discussed updates on departmental feedback regarding design changes, including traffic, energy load, drainage, parking, and code compliance. Attorney Paul DeRensis -Explained his recount of the timeline for the HAC order. Attorney Paul Haverty -Clarified DeRensis' recount of the HAC order, explaining that while the Board could request an extension from the developer, the developer had the right to deny it, and if the Board lacked sufficient information, it could still make a decision, which would be subject to review by the Housing Appeals Committee. Susan McCarthy - Highlighted the differing interpretations of the timeline between the proponent and opponent, suggesting that the Board needs legal guidance from its own counsel. Public Concern -Joan Stockton urged the board to reject the proposal, arguing that it was primarily driven by profit, posed significant environmental, health, and safety concerns, and was inappropriate for Nantucket given its scale and impact on the community.
Motion:	Moved to continue the public hearing to November 14, 2024 (made by: Botticelli) (Seconded by: Mondani)
Vote:	Carried 5-0// McCarthy, Brescher, Mondani, Poor, Botticelli (Aye)

VI. NEW BUSINESS:

1. 19-24 Steven L. Cohen as Trustee of Area 51 Trust 51 West Miacomet Road Alger

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).

APPLICATION NOT OPENED DUE TO APPLICANT'S REQUEST.

Discussion:	Attorney Sarah Alger - Consented to execute an extension agreement.
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2. 12-24 South Siasconset Neighborhood Association, LLC

1 Magnolia Avenue, 10 Grand Avenue,

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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).

CONTINUED TO NOVEMBER 14, 2024

Voting:	McCarthy, Brescher, Mondani, Poor, Bottticelli
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	NONE
Discussion:	NONE
Motion:	Moved to continue the public hearing to November 14, 2024 (made by: Botticelli) (Seconded by: Mondani)
Vote:	Carried 5-0// McCarthy, Brescher, Mondani, Poor, Bottticelli (Aye)

3. 17-24 Rugged Scott, LLC

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.

CONTINUED TO NOVEMBER 14, 2024

Voting:	McCarthy, Brescher, Mondani, Poor, Bottticelli
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	NONE
Discussion:	NONE
Motion:	Moved to continue the public hearing to November 14, 2024 (made by: Botticelli) (Seconded by: Mondani)
Vote:	Carried 5-0// McCarthy, Brescher, Mondani, Poor, Bottticelli (Aye)

4. 23-24 CBR ACK Holdings, LLC

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 1981, Page 226 with the Nantucket Country Registry of Deeds. The site is zoned Residential Old Historic (ROH).

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Voting:	O'Mara, Mondani, Poor, Bottticelli
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Attorney Jennifer Cohen

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Discussion:	Attorney Jennifer Cohen - Consented to execute an extension agreement.
Motion:	Moved to continue the public hearing to November 14, 2024 (made by: Botticelli) (Seconded by: Mondani)
Vote:	Carried 4-0// O'Mara, Mondani, Poor, Botticelli (Aye)

VII. ADJOURNMENT

Motion:	Motion to adjourn.
Vote:	Carried 4-0// McCarthy, Mondani, Poor, Botticelli (Aye)

Submitted by: Rodlisha Dixon

YouTube Link: <https://www.youtube.com/watch?v=5m3xeglj8B4>