



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 ~~

Wednesday, November 20, 2024

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

I. CALL TO ORDER

Called to order at 1:08 pm and Announcements made by Ms. McCarthy

Attending Members: McCarthy, Allen, Brescher, Mondani, Botticelli

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

Absent: Poor, Marcklinger, O'Mara

Late Arrivals: -

Early Departures: -

II. APPROVAL OF AGENDA

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

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

III. OLD BUSINESS

1. 25-24 Surfside Crossing, LLC

Surfside Crossing 40B

Haverty

Voting:	McCarthy, Allen, Brescher, Mondani, Botticelli
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Attorney Paul Haverty, BBHS Law

Discussion:	Susan McCarthy - Reminded members of the agenda protocol and implemented a 3-minute timer for public comment, following the practice established by the Select Board in previous meetings. John Chessia, P.E - Provided a summary of issues for the Board to consider in their deliberation. The summary included site design, traffic, architectural design, irrigation wells, sanitary sewer, stormwater, setback compliance, and the recommendations outlined in the MEPA letter. The Board - Discussed concerns regarding changes affecting setbacks, neighboring wells, sidewalk easements, and sewer infrastructure, specifically the encroachment of buildings on sewer easements and the required setbacks for wells and sewer lines. Don Bracken - Stated that the sewer easement and force mains have been in place for many years, and that building a shed over the easement would not be an issue if it does not obstruct the Town's ability to access and repair the sewer system. Elisa Allen - Questioned whether certain elements of the project are still relevant or applicable, given that seven years have passed since the original application, and whether any aspects of the project should no longer be considered due to changes over time. John Chessia, P.E - Confirmed that his review was based on the most current plan, using his 2018 letter as a template. Attorney Paul Haverty - Stated that the Board should review the modification request in relation to the original application and approved decision, and not consider changes that have occurred since the original filing, as they are not relevant to the current review process. The Board - Discussed the possibility of conducting a site visit and requesting the installation of height poles. Attorney Paul Haverty - Inquired about the use of height poles for the site visit, expressing unfamiliarity with them, as typically balloon tests are used to assess building heights. Elisa Allen - Clarified the use of height poles on Nantucket, explaining that they are wooden poles erected to show the height of structure. Attorney Paul Haverty - Stated that, under Housing Appeals Committee regulations, local rules and concerns are determined by the date the comprehensive permit application was filed, so changes like increased traffic or new wells since 2018 cannot be considered. Attorney Alexander Weisheit, KP Law - Confirmed that local rules and regulations at the time the comprehensive permit application was filed apply, but the Board can inquire about current impacts based on existing conditions.
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Chair McCarthy

- Stated that the concern is not with the intent or approval of the original application, but with ensuring the protection of the neighborhood considering the present circumstances.
- Confirmed with Don Bracken that the site plan will be updated to incorporate the suggestions listed in Chessia's plan review letter.

The Board

- Inquired whether the applicant is required to comply with the recently adopted stretch code, or if the laws in effect at the time of the original submission still apply, given that the building permit had been revoked.

Attorney Alexander Weisheit, KP Law

- Explained that the laws in effect when the application was originally filed in 2018 would apply, meaning the developer would not need to comply with newer laws such as the stretch energy code or dark skies code.

The Board

- Expressed the hope that the developer would be a good neighbor and still adhere to the newer laws.

Attorney Paul Haverty

- Disclosed that the applicant does intend to be a good neighbor and is currently assessing the extent to which they will be able to comply with the bylaws.

The Board

- Reviewed comments from Lauren Sinatra (Energy Coordinator), Mike Burns (Transportation Program Manager), the Board of Health, the Affordable Housing Trust Fund, and the Historic District Commission (HDC).
- Agreed that Lisa Botticelli would meet with Holly Backus, Preservation Planner regarding the list of comments sent from HDC.

Public Comment

- Attorney Paul DeRensis raised concerns about the proposed stormwater management system, referencing Chessia's letter, which indicated that the system's design could potentially allow undetected spills or illegal discharges into the groundwater. He also noted the absence of a lighting plan and stated that he believed the southeast corner of the site had been clear-cut, lacking the required 25-foot buffer zone, and requested a site visit to verify this condition.
- Dennis Murphy, attorney for the Nantucket Land and Water Council, noted that the court vacated the previous approval, meaning the project should be treated as a new application. He raised concerns about the proposed impervious coverage exceeding allowable limits, recommended the Board retain an independent water quality consultant, and urged the Board to make decisions based on the community's best interests, without regard to prior permits.
- Linda DeRensis expressed concern regarding missing information in the developer's plans, including sewer easement details, building heights, and lighting waivers. She emphasized that any infrastructure not meeting town standards should be disregarded, as it was built at the developer's own risk. She also highlighted the need for a site visit to assess the impact of clear-cutting on the property.
- Patrick Taaffe stressed that the proposed housing development prioritizes market-rate units over affordable workforce housing for Nantucket's year-round residents, exacerbates local traffic conditions, and primarily benefits the developer, rather than addressing the island's genuine housing needs.
- Jacques Zimicki stated that the proposed development could contaminate nearby wells, including his own, due to Nantucket's unique geohydrology, and emphasized that the stormwater management system might not adequately prevent pollutants from entering the aquifer, potentially violating wellhead protection laws.

	The Board -Discussed the timeline for reviewing the proposed development, acknowledging that while no extension has been formally requested, there are differing views on whether the remand order's deadlines apply and if current conditions, such as traffic, can be considered instead of those from the 2018 application. Attorney Alexander Weisheit, KP Law - Confirmed that while the Board must adhere to the remand order's deadlines, it can consider current conditions. The Board -Discussed requesting a memo from Town Council to clarify the regulations and timelines related to the remand order, including the public hearing and review period, as well as any relevant correspondence between the Board and legal counsel, ensuring a consistent and clear understanding moving forward.
Motion 1:	Motion to request a memo from Town Council clarifying the regulations, timing, and review period related to the remand order, along with any relevant correspondence between the Board and legal counsel. (made by: Botticelli)
Vote:	Carried 5-0// McCarthy, Allen, Brescher, Mondani, Botticelli
Motion 2:	Motion to continue the public hearing to scheduled December 18, 2024. (made by: Botticelli) (seconded by: Brescher)
Vote:	Carried 5-0// McCarthy, Allen, Brescher, Mondani, Botticelli

IV. ADJOURNMENT

Motion:	Motion to adjourn.
Vote:	Carried 5-0// McCarthy, Allen, Mondani, Marcklinger, O'Mara

Submitted by: Rodlisha Dixon

YouTube Link: <https://www.youtube.com/watch?v=ibGDVPS7kbn>