



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, December 12, 2024

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

*The meeting video experienced technical difficulties at the start, with no audio for the first three minutes and thirty-six seconds. *

I. CALL TO ORDER

Called to order at 1:05 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

Late Arrivals: -

Early Departures: -

II. APPROVAL OF AGENDA

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

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

III. APPROVAL OF THE MINUTES

- OCTOBER 17, 2024
- OCTOBER 22, 2024
- NOVEMBER 14, 2024

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

IV. APPROVAL OF 2025 MEETING SCHEDULE

Motion:	Motion to approve the 2025 meeting schedule as amended, with the change of the October 9th meeting to October 16th. (Made by: Brescher) (Seconded by: Marcklinger)
Vote:	Carried 5-0 // McCarthy, Allen, Brescher, Marcklinger, Botticelli (Aye) O'Mara (abstained)

Special Announcement: Chair McCarthy expressed gratitude to Mr. O'Mara, the longest-serving Zoning Board member, during his final meeting. She acknowledged his years of dedicated service, his guidance in helping her transition into the role of Chair, and his thoughtful and measured approach to decision-making. Chair McCarthy thanked him for his commitment to the town and wished him well in his retirement.

V. OLD BUSINESS**1. 25-24 Surfside Crossing, LLC****Surfside Crossing 40B****Haverty****CONTINUED TO DECEMBER 18, 2024****2. 28-24 Kristina & Nicholas Amendolare****8 Bank Street****Williams**

Applicants are seeking a Special Permit pursuant to Zoning Bylaw Sections 139-30 and 139-33A to make renovations to a single-family dwelling, a portion of which is a vertical expansion within the required five-foot rear yard setback area. The dwelling is pre-existing non-conforming as to the westerly rear yard setback. Locus is situated at 8 Bank Street, shown on Assessor's Map 73 and Parcel 69. Evidence of owner's title is recorded in Book 1770, Page 216 on file at the Nantucket County Registry of Deeds. The site is zoned Sconset Old Historic (SOH).

Voting:	McCarthy, Allen, Marcklinger, Mondani, Botticelli
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Linda Williams & Attorney Michael Wilson
Discussion:	Attorney Wilson -Requested that board member Michael O'Mara remain a sitting board member for the application. -Presented the application to the Board. -Argued that the proposed change would not have a more substantial detrimental effect on the neighborhood. - Confirmed that the application aligns with the COA and that there are no deviations from the HDC's approved plans. The Board - Expressed concerns about the impact of the proposed height and setback expansion on the neighborhood. -Highlighted the importance of a detailed site plan showing existing and proposed elevations, ridge height, and jurisdictional limits to ensure compliance with approvals. Nicholas Amendolare (Owner) - Provided an overview of his family's ownership of 8 Bank Street, highlighting efforts to preserve its historical integrity. Addressed board concerns by confirming that the house would not be relocated, and that minimal excavation would be used for the addition. Emphasized their commitment to maintaining Middle Gully Road and requested approval for a minor alteration to the southwest corner, assuring that it would not be detrimental to the neighborhood. Don Bracken, Bracken Engineering - Explained the proposed shallow crawl space foundation for the north side to minimize excavation, with no major demolition. The expanded footprint at the back would use a small slab on grade, maintaining minimal impact. Public Concern -John Shay, representative of the Sconset Civic Association, expressed concern that converting the 100-year-old single-story building into a two-story structure would significantly alter the historic character of the area and impact the unobstructed view from Front Street, especially as a lawsuit challenging the HDC decision is still pending. -Katherine Murphy expressed concern about the height and massing of the proposed two-story structure in the heart of the village, worrying about its impact on the character of Sconset, and questioned whether the decision was premature given the pending legal proceedings.

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	-Lisa Soder expressed concerns about the project's scope, particularly regarding the height increase, lack of updated renderings, and the uncertainty of the certificate of appropriateness. - Sarah Alger, representing an abutter Willamina Austin, opposed granting relief, arguing it would harm the neighborhood and urged a delay for further review of materials. She recommended imposing conditions, including a one-bedroom restriction, work hour limits, and adherence to the submitted plans and construction methodology. -Joseph Arvay expressed confusion over the project's scope, noting that the initial plans indicated demolition, but it was unclear later. -Margaret Van Deusen raised concerns about the project, citing feedback from historic homeowners, major design changes, and the potential impact on the Sconset Old Historic District, urging the board to postpone the decision or reject the special permit. - Linda Del Vecchio-Gilbert voiced her support for the project, criticizing the community's treatment of the homeowners and urging the board to approve the plans, emphasizing the many changes made to address both community and board concerns. -Karel Greenberg urged the board to postpone the decision, emphasizing the importance of preserving the community's historic charm. The Board - Emphasized the need for clear, detailed site plans that show existing and proposed elevations, maximum ridge height, and setbacks to ensure compliance with zoning regulations. They also discussed adding conditions, such as limiting parking and construction timing, as well as enforcing a one-bedroom restriction for the property.
Motion 1:	Motion to close the public hearing. (made by: Mondani)
Vote:	Carried 5-0// McCarthy, Allen, Brescher, Mondani, Botticelli
Motion 2:	Motion to grant the special permit, contingent upon the following conditions: (1) compliance with the updated site plan, (2) restrictions on construction and parking, and (3) a one-bedroom limitation on the property, to be memorialized in the decision. (Made by: Botticelli) (Seconded by: Allen)
Vote:	Carried 5-0// McCarthy, Allen, Brescher, Mondani, Botticelli

VI. NEW BUSINESS

1. 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

CONTINUED TO JANUARY 9, 2025

Motion:	Motion to continue to January 9, 2025 meeting. (Made by: Brescher) (Seconded by: Mondani)
Vote:	Carried 5-0// McCarthy, Allen, Mondani, Marcklinger, O'Mara

2. 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).

Voting:	O'Mara, Allen, Marcklinger, Mondani, Botticelli
Alternates:	NONE
Documenta	File with associated plans, photos, correspondence and required documentation

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tion:	
Representing:	Attorney Jennifer Cohen
Discussion:	Attorney Jennifer Cohen -Introduced the application to the Board. Kaylin Casey, Owner -Explained that the goal was to clean up the situation, validate the location of the studio/accessory structure, and ensure all necessary inspections and permits were obtained The Board -Noted that the hardship did not appear to be significant enough to warrant a variance, as the applicant could potentially resolve the issue without the need for zoning relief, such as moving the structure.
Motion:	Motion to accept the withdrawal of the application without prejudice. (Made by: Botticelli) (Seconded by: Mondani)
Vote:	Carried 5-0// O'Mara, Allen, Marcklinger, Mondani, Botticelli

3. 29-24 1 South Mill LLC

1 South Mill Street

Williams

The Applicant is requesting relief by Special Permit pursuant to Zoning Bylaw Sections 139.30, and 139- 33.A(1)(a) to raise the preexisting nonconforming garage by six inches (from 15'6" to 16') to elevate it above ground level and construct a new foundation with a crawl space. Additionally, the Applicant seeks to change the use from a garage to a single-family dwelling. Locus is a nonconforming lot of record, and the structure is pre-existing nonconforming with respect to side and rear yard setback requirements, and ground cover. Locus is situated at 1 South Mill Street and shown on Assessor's Map 55.4.1 as Parcel 61. Evidence of owner's title is recorded in Book 1979, Page 1 with the Nantucket County Registry of Deeds. The site is zoned Residential Old Historic (ROH).

Voting:	Brescher, Allen, Marcklinger, Mondani, Botticelli
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Linda Williams
Discussion:	Linda Williams -Introduced application to the Board. The Board -Verified that there is no change to the footprint of the structure. -Confirmed that the proposed alteration/expansion involves the installation of a crawl space.
Motion 1:	Motion to close the public hearing. (Made by: Botticelli) (Seconded by: Allen)
Vote:	Carried 5-0// Brescher, Allen, Marcklinger, Mondani, Botticelli
Motion 2:	Motion to approve the application as is, with the findings and conditions outlined in the staff report. Finding: 1) That granting the proposed relief pursuant to By-law Section 139-33.A(1)(a) is consistent with the finding that the proposed renovations and change of use to a single family dwelling are not substantially more detrimental than the pre-existing nonconforming garage structure to the neighborhood, and are within the spirit and intent of the Bylaw. Conditions 1) The proposed alterations and expansion shall be in substantial compliance with the Plan shown upon "Exhibit A"; 2) The project shall be completed in substantial conformity with the plans approved in connection with the Historic District Commission Certificate Of Appropriateness #2024-07-10830 ; 3) There shall be no exterior construction allowed between Memorial Day and Labor Day of any given year the work contemplated herein; and, 4) There shall be no further alterations or expansion of the structure without further relief from this Board. (Made by: Allen) (Seconded by: Botticelli)
Vote:	Carried 5-0// Brescher, Allen, Marcklinger, Mondani, Botticelli

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4. 30-24 16 Williams LLC

16 Williams Street

Santos

The Applicant is requesting relief by Special Permit pursuant to Zoning Bylaw Sections 139-16C(1) and 139-30 to reduce the ten (10) foot required side yard setback to five (5) feet in the R-5 zoning district, for Lots 1, 2, and 3 as depicted on Plan No. 2024-34. Locus is situated at 16 Williams Street, shown on Assessor's Map 55 as Parcel 372, and as Lot 3 and a portion of Lot 2 on Plan No 2024-34. Evidence of owner's title is recorded in Book 1936, Page 38, and Book 1963, Page 236 with the Nantucket County Registry of Deeds. The site is zoned Residential-5 (R-5).

5.

6. 31-24 Greenstick LLC

18 Williams Street

Santos

31-24 Greenstick LLC 18 Williams Street Santos The Applicant is requesting relief by Special Permit pursuant to Zoning Bylaw Sections 139-16C(1) and 139-30 to reduce the ten (10) foot required side yard setback to five (5) feet in the R-5 zoning district, for Lots 1, 2, and 3 as depicted on Plan No. 2024-34. Locus is situated at 18 Williams Street, shown on Assessor's Map 55 as Parcel 371, and as Lot 1 and a portion of Lot 2 on Plan No 2024-34. Evidence of the Owner's title is recorded in Book 1925, Page 242 with the Nantucket County Registry of Deeds. The site is zoned Residential-5 (R-5).

Voting:	Allen, Marcklinger, O'Mara, Botticelli, McCarthy
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Paul Santos
Discussion:	The Board - Agreed to discuss both applications together but ultimately create two separate motions. - Discussed the application's request for a setback reduction from 10 feet to 5 feet for interior lot lines, with some members expressing concerns about the necessity of the reduction and its alignment with the bylaw's intent. - Questioned the enforceability of the proposed restriction on short-term rentals but recognized that the applicant's intention to provide year-round housing for employees was admirable. - Agreed to consider the reduction based on the project's design and its compliance with zoning requirements, without heavily weighing the applicant's intended use for the property.
Motion 1:	Motion to close the public hearing. (Made by: Botticelli) (Seconded by: Allen)
Vote:	Carried 5-0// Allen, Marcklinger, O'Mara, Botticelli, McCarthy
Motion 2:	Motion to approve the reduction in the setback from 10 feet to 5 feet for Lot 3 and a portion of Lot 2 at 16 Williams Street, contingent upon the following conditions: (1) the project must be completed in substantial compliance with the plan shown on Exhibit A, (2) construction must adhere to the Certificate of Appropriateness, (3) occupancy is limited to year-round or seasonal employees, with short-term rentals prohibited, and (4) no further alterations or reductions within the setbacks without additional approval from the board. (Made by: Botticelli) (Seconded by: O'Mara)
Vote:	Carried 4-1// Marcklinger, O'Mara, Botticelli, McCarthy (Aye) Allen (Nay)
Motion 3:	Motion to approve the reduction in the setback from 10 feet to 5 feet for Lot 1 and a portion of Lot 2 at 18 Williams Street, contingent upon the following conditions: (1) the project must be completed in substantial compliance with the plan shown on Exhibit A, (2) construction must adhere to the Certificate of Appropriateness, (3) occupancy is limited to year-round or seasonal employees, with short-term rentals prohibited, and (4) no further alterations or reductions within the setbacks without additional approval from the board. (Made by: Allen) (Seconded by: Botticelli)
Vote:	Carried 4-1// Marcklinger, O'Mara, Botticelli, McCarthy (Aye) Allen (Nay)

7. 32-24 Carl E Nelson & Karen L. Nelson

21 Wigwam Road

Reade

The Applicants are requesting relief by Variance pursuant to Nantucket Zoning By-law Section 139-32 to relocate a secondary dwelling onto the property and request relief from the ground cover requirements of Section 139-16 (intensity regulations – ground cover). Locus is situated at 21 Wigwam Road, shown on Assessor's Map 77, Parcel 5.9, and as Lot 821 on Land Court Plan 5004-50. Evidence of owner's title is registered on Certificate of Title No. 26485 at the Nantucket County District of the Land Court. The site is zoned Limited Use General-3 (LUG-3).

Voting:	Allen, Marcklinger, Brescher, Botticelli, McCarthy
Alternates:	NONE

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Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Arthur Reade & Lucas Velle
Discussion:	The Board - Expressed concern that granting the variance could establish a precedent that might erode the integrity of zoning regulations in future cases.

	- Debated whether the applicant had shown enough hardship related to the lot and the proposed move to justify granting the variance. - Discussed whether the requested variance would still align with the overall purpose and rules of the LUG-3 zoning district. - Expressed need to ensure that granting the variance did not create an inequity or undue hardship for other properties in the area.
Motion 1:	Motion to close the public hearing. (Made by: Brescher) (Seconded by: Allen)
Vote:	Carried 5-0// Allen, Marcklinger, Brescher, Botticelli, McCarthy
Motion 2:	Motion to approve the variance request, contingent upon the following conditions: (1) any further expansion of the structure requires additional approval from the ZBA, (2) no non-ground cover shed shall be allowed on the property, and (3) the structure must be built in compliance with the HDC's Certificate of Appropriateness (COA). (Made by: Brescher) (Seconded by: Allen)
Vote:	Carried 4-1// Allen, Marcklinger, Brescher, McCarthy (Aye) Botticelli (Nay)

8. 33-24 29 Jefferson, LLC

29 Jefferson Avenue

Reade

The Applicant is requesting relief by Special Permit pursuant to Nantucket Zoning By-law Section 139- 33(A) to alter and extend a preexisting nonconforming structure to allow the AC units to be placed at approximately .04 feet from the rear property line. The Locus is situated at 29 Jefferson Avenue, is shown on Nantucket Tax Assessor's Map 30 as Parcel 125, and is shown as Lot 1 on Land Court Plan 16877-C on file with the Nantucket County Registry District of the Land Court. Evidence of owner's title is recorded as Certificate of Title No. 27900 on file at the Nantucket County Registry District of the Land Court. The site is zoned Residential-1 (R-1).

Voting:	Allen, Marcklinger, Brescher, Botticelli, McCarthy
Alternates:	NONE
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Arthur Reade & Lucas Velle

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Discussion:	Laura Tret, Owner - Stated that she purchased the property in 2020 and installed the air conditioning unit in 2021 in good faith, believing it did not violate any setback rules. She mentioned that the unit had not caused issues with her neighbors until construction was required due to a mouse infestation, which made her neighbors aware of the air conditioner. Additionally, she emphasized the small size of the unit and its lack of noise or exhaust, asserting that it was not disturbing her neighbors. The Board - Expressed concern about the adequacy of space around the air conditioning unit for proper air intake and outflow, particularly given its proximity to a fence, which could lead to safety risks, including potential fire hazards and operational inefficiencies. - Discussed alternative locations for the unit, including relocating it to the front or side of the property or returning it to its previous location, which would avoid further zoning violations. William Saad - Stated that according to the bylaw (Section 13933 1A), any extension, alteration, or change to a non-conforming structure must not make the setback more non-conforming. In this case, the air conditioning unit's relocation would increase the non-conformity of the setback distance from 1.9 feet to 4 feet, which Billy argued is a violation of the bylaw. He expressed that it doesn't make sense to grant a special permit when the non-conformity would be increased. Attorney Arthur Reade - Disagreed with Staff's interpretation of the bylaw. He argued that the state law under the Massachusetts Zoning Act (Chapter 48, Section 6) overrides the local bylaw, allowing a special permit to extend the non-conformity and even make it more non-conforming, provided that the board finds it is not substantially more detrimental to the neighborhood. He believed that the board's potential decision to deny the special permit on the grounds of increasing non-conformity could be legally challenged and reversed on appeal.
	Public Comment - Attorney Kevin Dale representing Sandra Sheffield and her family (owner of 27 Jefferson Ave), who oppose the application for a special permit, arguing that the air conditioning unit was relocated inappropriately to a narrow rear yard setback area, only 1.9 feet wide, and now sits less than five inches from their property line. He emphasized that the unit was originally in front of the cottage, where it did not violate any zoning rules and had no impact on the neighborhood. Dale argued that the unit should be relocated back to its original position to avoid creating a new zoning violation, as the special permit relief was not warranted under the circumstances. - Thomas Sheffield, owner of 27 Jefferson Avenue, expressed concerns regarding the encroachment of fences, plantings, and an air conditioning unit onto his property. He noted potential issues with noise and fire hazards due to the unit's proximity to the property line and indicated plans to construct a fence for further protection. Mr. Sheffield requested the removal of the air conditioning unit, citing unresolved damage from these encroachments. - Victoria Ewing, representing the owner of 29 Jefferson Avenue, addressed the board, providing additional information and rebutting comments made by others. She clarified that the fence previously removed was on her client's property, not the Sheffield's, and the issue had been resolved. She then discussed the air conditioning unit, noting that it had been reviewed by the appropriate contractors and posed no safety concerns, such as fire hazards. Ewing emphasized that the unit was non-combustible and complied with all necessary regulations. She also mentioned that the proposed fence, which had been referenced by the Sheffield's, was not yet in place and would not affect the AC unit's current position.
Motion 1:	Motion to close the public hearing. (Made by: Botticelli) (Seconded by: Allen)
Vote:	Carried 5-0// Allen, Marcklinger, Brescher, Botticelli, McCarthy
Motion 2:	Motion to deny the application as submitted. (Made by: Botticelli) (Seconded by: Allen)
Vote:	Carried 5-0// Allen, Marcklinger, Brescher, Botticelli, McCarthy (Aye)

VII. ADJOURNMENT

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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=-vKKxPTfEcw>