



ZONING BOARD OF APPEALS

2 Fairgrounds Road
Nantucket,
Massachusetts 02554
www.nantucket-ma.gov

Commissioners: Susan McCarthy (Chair), Elisa Allen (Clerk), John Brescher, Joe Marcklinger, Lisa Botticelli
Alternates: Mark Poor, Jim Mondani

~~ MINUTES ~~

Thursday, January 9, 2025

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

I. CALL TO ORDER

Called to order at 1:05 pm and Announcements made by Ms. McCarthy

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

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

Absent:

Remote Members: Poor & Mondani

Late Arrivals: -

Early Departures: Brescher (1:54 pm)

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, Botticelli, Marcklinger (Aye)

III. APPROVAL OF THE MINUTES

• OCTOBER 22, 2024

CONTINUED TO FEBRUARY 13, 2025

• NOVEMBER 20, 2024

Motion:	Motion to approve as submitted. (Made by: Brescher) (Seconded by: Allen)
Vote:	Carried 5-0// McCarthy, Allen, Brescher, Botticelli, Marcklinger

IV. 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 FEBRUARY 13, 2025

Motion:	Motion to continue to February 13, 2025. (Made by: Botticelli) (Seconded by: Allen)
Vote:	Carried 5-0// McCarthy, Allen, Brescher, Botticelli, Marcklinger

2. 2024-0006, Fourteen Tautemo Way Realty Trust 14 Tautemo Way

Beaudette

CONTINUED TO FEBRUARY 13, 2025

Motion:	Motion to continue to February 13, 2025. (Made by: Botticelli) (Seconded by: Marcklinger)
Vote:	Carried 5-0// McCarthy, Allen, Brescher, Botticelli, Marcklinger

3. 2024-0003, 11 North Water Street LLC 11 North Water Street

Alger

The Applicant is requesting relief by Special Permit pursuant to Zoning Bylaw Section 139-33 to modify a previously granted Special Permit to alter and extend a pre-existing, nonconforming structure and use (transient residential facility – hotel). Additionally, the Applicant seeks relief by Variance pursuant to Zoning Bylaw Section 139-32 to allow an increase of ground cover, which results in a ground cover ratio of 49.6%, where 40% is the maximum allowed. Locus is situated at 11 North Water Street and shown on Assessor's Map 42.4.2 as Parcel 54.1. Evidence of owner's title is recorded in Book 1961, Page 293 with the Nantucket County Registry of Deeds. The site is zoned Residential Old Historic (ROH).

Voting:	McCarthy, Allen, Brescher, Botticelli, Marcklinger
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Attorney Sarah Alger
	- Presented the application and clarified that, should the variance be denied, the special permit would no longer be necessary. The Board - Expressed concerns regarding the potential increase in density in a historic neighborhood, the displacement of parking spaces, and the risk of setting a precedent for future variances in the area. - Suggested alternatives to avoid seeking variance relief, including requesting the Planning Board to pursue a zoning change to CDT or asserting that the 2016 special permit had been activated due to its recording. However, Alger indicated they were not inclined to pursue these alternatives, preferring to move forward with the variance request due to concerns about height limitations and the expiration of the special permit Brad Guidi (Homeowner) -Noted that the proposed increase of 859 square feet in ground cover on a 70,700-square-foot lot represents a modest change, with the addition of 8 guest rooms, down from the original 10. He highlighted the ongoing issue with short-term rental restrictions and the need for more guest rooms, stating the previous permit for the project contributes to the current proposal. Public Comment - James Frates, owner of 10 North Water Street, opposed the proposed variance, stating it would alter the residential character of the neighborhood. He expressed concerns that granting the variance would continue the trend of increasing bulk in the area, further eroding the historic character, and raised safety issues regarding the proximity to neighboring homes, especially after recent fires. - Malcolm MacNab, owner of 13 North Water Street, expressed concerns about parking and the increasing number of guest houses in the neighborhood. -Diane Coombs highlighted the importance of preserving the historic nature of the street and questioned the loss of its residential feel due to increased commercial use. -Megan Boyes voiced concerns about the size and scale of the proposed addition, highlighting its potential to overshadow neighboring properties and negative impact the historic district.

Motion:	Motion to grant the request to withdraw the application without prejudice. (Made by: Brescher) (Seconded by: Botticelli)
Vote:	Carried 5-0// McCarthy, Allen, Brescher, Botticelli, Marcklinger

4. 2024-0007, ACK KODA LLC 42 Shimmo Pond Road**Alger**

The Applicant is requesting relief by Special Permit pursuant to Zoning Bylaw Section 139-30 and 139- 33 to demolish two accessory structures, relocate, renovate, and expand the main dwelling, and construct a new guest house and new garage. The structures are pre-existing nonconforming as to ground cover and height. Locus is situated at 42 Shimmo Pond Road and shown on Assessor's Map 43 as Parcel 126 and as Lot 104 on Land Court Plan 11461-W. Evidence of Owner's title is registered as Certificate of Title 29579 on file with the Nantucket Registry District of Land Court. The site is zoned Limited Use General1 (LUG-1).

Voting:	McCarthy, Allen, Mondani, Poor, Marcklinger
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Attorney Sarah Alger
	Attorney Sarah Alger -Expressed willingness to address concerns raised by abutters The Board - Discussed concerns regarding the proximity of the pool, potential noise and light impacts, and the proposed accessory structures near the property line. Public Comment - Attorney Ryan Douglas, representing Alfieri Dominick and Polygon Trade, stated his clients did not oppose the project but sought clarification on concerns regarding the pool's proximity, including the location and noise mitigation for the pool machinery. He also inquired about the proposed accessory structures, specifically the guest house, and requested details on light and sound mitigation. Douglas expressed interest in collaborating with the applicant to address these concerns and noted that erosion control matters would fall under the Conservation Commission's jurisdiction. -Alfieri Dominick raised concerns about the project's compliance with the 75-foot buffer zone requirement due to the proposed pool and bulkhead's proximity to the coastal bank.
Motion 1:	Motion to close the public hearing. (Made by: Allen) (Seconded by: Marcklinger)
Vote:	Carried 5-0// McCarthy, Allen, Mondani, Poor, Marcklinger
Motion 2:	Motion to approve, with the finding that the alterations to the existing main dwelling, and the construction of the new guest house, dwelling structure, and garage, would not be substantially more detrimental to the neighborhood than the existing non-conforming structure. The approval was subject to the following conditions: (1) The project must comply substantially with the plans attached as Exhibit A. (2) The project must be completed in substantial conformity with the plans approved by the HDC certificate of appropriateness. (3) No further alterations or expansions, except for a zoning shed, shall occur without further relief from the board. 4. Shimmo Pond Road must be repaired and graded to its original or better condition prior to the issuance of a certificate of occupancy. (Made by: Allen) (Seconded By: Marcklinger)
Vote:	Carried 5-0// McCarthy, Allen, Mondani, Poor, Marcklinger Botticelli- Recused

5. 2024-0008, Stephen J. and Holly J. Visco 59 South Shore Road**Heyer**

The Applicants are appealing a determination by the Building Commissioner that the use of 59 South Shore Road as an event space 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 event space/and or commercial use. The locus is situated at 59 S. Shore Road and shown on Assessor's Map 80 as Parcel 308 and as Lot 6 on Plan File No. 53-J. Evidence of owner's title is recorded in Book 1784, Page 303 with the Nantucket County Registry of Deeds.

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The site is zoned Limited Use General-2 (LUG-2).

Voting:	McCarthy, Allen, Mondani, Botticelli, Marcklinger
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Attorney Dan Bailey
Discussion:	Attorney Dan Bailey - Argued that large events held at 59 Southshore Road, including celebrity weddings and fundraisers, disrupted the residential neighborhood with amplified music, parking issues, and traffic. Attorney Kathleen Heyer - Clarified that the Visco family, while not direct abutters, was significantly impacted by the events, citing issues such as traffic congestion, amplified music noise, and limited access to their property on Zachary Way, which affected emergency vehicle access as well. The Board - Agreed that the central issue was whether hosting large events on the property constituted commercial use in a residential zone Attorney Richard Beaudette - Argued that Jamie Feeley's use of the property for occasional events was not commercial and aligned with residential zoning, emphasizing that short-term rentals and small-scale gatherings like weddings were permissible as ancillary residential uses. He also disagreed with the characterization of the property as hosting large-scale, regular events, countering that this portrayal was inaccurate. Paul Murphy - Clarified that, in accordance with his prior letter, he determined that enforcement action was not applicable regarding the events at 59 Southshore Road, as the property is private and outside of his jurisdiction. He further noted that both large and small parties, as well as fundraisers, are commonplace and customary on Nantucket, and, given this, he did not pursue enforcement, Public Comment - Patsy Wright, owner of 10 Cherry Street, expressed concern that Feeley's are running a commercial business on a residentially zoned property. - Attorney John Markey, representing Doris Strang, an abutter at 10 Tripp Dr, emphasized the distinction between private family events and commercial operations, arguing that renting the property for large events is a commercial activity, which should not be allowed in a residential zone. - Elizah Tripp, an abutter at 4 Tripp Dr, raised concerns over the large-scale events taking place and the impact they have on the neighborhood. - Meghan Perry expressed concerns about the property's commercial use as an event venue, highlighting its prior use as Westmore's event space, the lack of regulation for its commercial kitchen in a residential zone, and misrepresentation in real estate ads. - Holly Visco raised concerns regarding the property's potential future use, as it is currently advertised for \$65,000 per week for the upcoming season. - Attorney Sarah Alger expressed concern about the increasing trend of people pushing the limits of what is acceptable in Nantucket, emphasizing that while hosting occasional private events may be fine, transforming a home into an event venue with commercial amenities crosses the line, and argued that the Building Commissioner's decision should be overturned to prevent future commercial events at the property. - Deidra Slain Lewis, speaking on behalf of her elderly parents who are abutters, stated that while she hadn't planned to speak, she felt compelled to comment, noting that the property in question clearly appeared to be operating as a commercial event venue, citing the significant activity and staging of

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	equipment for a large event at the neighboring Surfside Crossing property. - Jack Moran, a former state trooper, argued that the events held at the property were lawful, with noise restrictions enforced, parking issues addressed, and the property used legally for rental income, and he opposed overturning the building commissioner's decision, as it would set a precedent for other residents hosting similar events. - David Callahan disagreed with Moran's statement, stating that multiple vehicles, including large transport vans, were parked illegally during an event, and that police officers present during the event were uncooperative in issuing tickets. - Jamie Feeley emphasized that the property was rented for a single wedding event and charitable purposes, not as a commercial venue, and he made efforts to minimize any neighborhood disruption, inviting open communication with neighbors to address concerns.
Motion:	Motion to continue to February 13, 2025. (Made by: Marcklinger) (Seconded by: Botticelli)
Vote:	Carried 5-0// McCarthy, Allen, Mondani, Botticelli, Marcklinger

V. OTHER

- ZBA special meeting, Wednesday, January 15, 2025, at 1 PM in person and via Zoom
- ZBA special meeting Friday, January 24, 2025, at 1 PM in person and via Zoom
- ZBA special meeting Friday, January 31, 2025, at 1 PM in person and via Zoom
- ZBA regular meeting, Thursday, February 13, 2025, at 1 PM in person and via Zoom

VI. ADJOURNMENT

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

Submitted by: Rodlisha Dixon

YouTube Link: <https://www.youtube.com/watch?v=K9GUuRGQED4>