



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 ~~

Friday, January 24, 2025

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

I. CALL TO ORDER

Called to order at 1:04 pm and Announcements made by Ms. McCarthy

Attending Members: McCarthy, Allen, Botticelli, Mondani

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

Absent: -

Remote Members: Brescher

Late Arrivals: -

Early Departures: -

II. APPROVAL OF AGENDA

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

Vote: Carried 5-0 McCarthy, Allen, Brescher, Botticelli, Mondani

III. OLD BUSINESS

1. 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.

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

Discussion:	Chair McCarthy - Asserted that, in continuation of the discussion from the week prior, the next discussion item was the response by Brooks & DeRensis, representing Nantucket Tipping Point, followed by the architectural review. Attorney Paul DeRensis -Introduced Bo Barber as his first witness. Bo Barber - Emphasized that the current water system is inadequate, citing the Veranda House fire as a limit of the department's capabilities and stressing that the Town has underinvested in its water infrastructure. Attorney Paul DeRensis -Introduced Meghan Perry as his second witness. Meghan Perry - Expressed concerns about water contamination, referencing past testimony and highlighting the potential risks of overdevelopment, particularly the impact of additional water demand on the aquifer. She stressed the urgency of addressing water contamination, the lack of pressure for firefighting, and the overall risks to community health and safety. Attorney Paul DeRensis - Noted that the EPA is actively working to lower PFAS safety standards and highlighted the inadequacy of the current water system for large fires. Addressed modifications to the project, including the removal of a pedestrian walkway, changes to the stormwater system, and the usurpation of town property rights, all of which were not part of the original Housing Appeals Committee remand order. -Raised concerns about the addition of on-site generators, streetlights, and a well upstream of neighbor wells, and emphasized the project's failure to meet stormwater standards, setback requirements, and the Historic District Act. Chair McCarthy -Suggested the Board push the architectural review and hear the responses from Ryan Maxwell (Bracken Engineering), proposing the Board consider public comment afterward. Ryan Maxwell (Bracken Engineering) -Confirmed that he was stepping in for Don Bracken and clarified that the project complies with stormwater standards, citing Mr. Chessia's review. -Stated that any disagreement is a matter of interpretation, emphasizing that the developer believes they have met the stormwater requirements. John Chessia (Consulting Engineer) - Addressed the stormwater standards, discussing the requirement for pre-treatment prior to an infiltration system, and noted that the stormwater regulations did not specifically address contaminants like PFAS at the time they were written. He also clarified that the stormwater system design met the requirements for an LUPPL and that the pre-treatment devices in the plan provided adequate treatment. Attorney Paul Haverty - Responded to various concerns, emphasizing that the modifications were typical for a 40B development. He explained that lighting issues and stormwater compliance had been addressed through additional information since the Housing Appeals Committee process, and the fire access road was designed as emergency access, not requiring a 20 ft width. He also clarified that the stormwater impacts from impervious areas were comparable to those in the original project. - Noted that the remand order provision for considering changes applies only to the affected aspects of the project. He emphasized that the minor changes in stormwater from the original to the modified project should not warrant further review, as the impacts remain consistent with the original design.
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Attorney George Pucci (KP Law)

- Recommended that the Board consider expert testimony and technical analysis during the review process, given the four-year lapse since the case was originally remanded. He emphasized the importance of using hearing time to gather as much information as possible and advised the Board not to limit the scope of review.

Jim Mondani

- Asked the consulting engineer, John Chessia, why updated rainfall data from sources like Cornell or NOAA Atlas 14 wasn't used and whether using this newer data would make a difference. He also questioned the discrepancies between the original and modified plans, especially regarding impervious surfaces, open space, and total building area.

John Chessia

- Acknowledged that TP40 is outdated but noted it's still required by DEP, though newer data may show some differences for larger storms. He explained that the data was taken from the submitted plans, with the modified plans showing changes like a 25-foot buffer that affected impervious surface.

The Board

- Asked if another hearing was necessary to determine if the changes to the plans were substantial, and if the board could review the pro forma to understand why the project was considered uneconomic by the developer.

Attorney George Pucci (KP Law)

- Stressed that the Board should look at the current modified plans submitted, which include more detailed plans not available in the original submission. He explained that the developer can update plans through the process, but the Board must review what has been submitted for the project changes, and any economic analysis would occur only after the conditions have been decided.

Attorney Paul Haverty

- Explained that the developer initially submitted preliminary plans, which were reviewed by the Housing Appeals Committee (HAC). After HAC's decision, more detailed plans were submitted to the Board, which included additional features like ADA-compliant ramps and increased impervious area. Haverty emphasized that the Board must compare the original preliminary plans with the modified preliminary plans and that the pro forma could only be reviewed after the Board has made a final decision with all proposed conditions.

Jim Mondani

- Referenced a 2018 water quality study by the Select Board and recommended updating it to address current concerns, proposing that the Board wait until the next meeting to allow everyone to review the relevant documents and request necessary updates

Architectural Review

Lisa Botticelli

- Relayed that the Historic District Commission (HDC) emphasized that Southshore Road is the most important public view of the development, raising concerns about the massing along this road. While appreciating the simplicity of the designs, the Commission expressed concerns about the repetitive nature of the structures and the lack of architectural diversity. They suggested that the scale of the buildings overwhelmed the site, with specific concerns about their height and how they addressed the streetscape. Landscaping was seen as crucial in breaking up the scale of the buildings, and careful tree placement was highlighted. The HDC also addressed concerns about materials, recommending painted trim instead of natural wood trim, and objected to the use of standing seam metal roofs and excessive variety in siding types. The community building was criticized for having two problematic cupolas, and the building was deemed over scaled.

Elisa Allen

- Expressed concerns about the landscape waivers, particularly the request to waive the protection of natural features and the requirement to plant new trees, questioning how this aligns with the landscape plan. She emphasized that such waivers contradict the development's goals and could

negatively impact the architecture and experience of the development.

Attorney Paul Haverty

-Clarified that the waiver request is not to avoid planting trees entirely but to allow for flexibility in meeting the requirements for tree planting based on the landscape plan.
-Stated that the developer does not have to justify every waiver request individually but that the overall determination is whether the project, with all conditions and waivers, is economically viable.

Thomas Zoli (Workshop APD)

- Explained that the building's scale and massing were designed to align with Nantucket's architectural context, with efforts to minimize height and break the community building into smaller volumes. He noted the building's size of 10,000 square feet exceeded previous conditions for a recreational building, emphasizing its purpose to accommodate the community's needs while balancing with the surrounding area.

The Board

-Voiced concerns regarding the clubhouse's excessive size in comparison to other island developments, recommending a reduction in size with an emphasis on increased outdoor space.
-Highlighted issues with parking and event space, specifically the potential for large events to cause parking shortages, and proposed limitations on the clubhouse's size and usage.
-Inquired whether the clubhouse could evolve into a commercial facility, particularly for hosting outside events or rentals, which would conflict with the residential character of the development.

Public Concern

-Linda DeRensis stated that the Surfside Crossing project had been issued a cease-and-desist order by the Nantucket Fire Department due to unpermitted fueling and fuel storage. She expressed concern over the developers' disregard for fire safety laws, noting that the fueling operation was surrounded by Pitch Pine, posing a disaster risk. Linda also highlighted the developers' intent to proceed with the project despite non-compliance and urged the Board to deny the building permit, stressing that the project jeopardized the safety and well-being of the community.

- Megan Perry addressed concerns over the project's adherence to minimum standards, emphasizing that striving for only the minimum should not be acceptable, especially when the developer seeks waivers from local regulations meant to protect the community. Additionally, regarding the aquifer contamination, Perry explained how increased water withdrawals could accelerate the movement of contaminants, stressing the risks posed by high-density development. She expressed her concern that water used for fire suppression might exacerbate contamination, emphasizing the need for proactive safeguards and independent evaluations.

-Patrick Tafe commented on the proposed sprinkler systems, stating that while they help in controlling fires inside buildings, they do not prevent fires from spreading outside the structures, which could still affect the surrounding neighborhood.

-Dennis Murphy, Nantucket Land and Water Council, reminded the Board that the Superior Court had vacated the Housing Appeals Committee's decision and emphasized that the Board should review the project changes in the first instance, as directed by the court. He referred to the remand order, which allows for the evaluation of modifications not initially anticipated, arguing against the claim that the board cannot consider certain issues raised by the Nantucket Land and Water Council. Additionally, he pointed out several unresolved stormwater concerns, such as the outdated use of TP40 data, lack of low-impact development consideration, unaddressed water quality concerns, and the absence of clarity on the type of generators to be used. He also highlighted that local bylaws disallow subsurface infiltration for non-residential development in a Zone 2, advising the board to consider this when deciding whether to grant waivers. Murphy concluded by stressing the importance of engaging on these issues, noting that the applicant's reluctance to address key concerns could lead to a standoff.

- Ayesha Khan expressed concern about the long-term risks of PFAS and chemical pollution, emphasizing that while the project may comply with state regulations, it overlooks local risks such as aquifer stress and impervious surfaces. She urged the Board to continue asking tough questions, seek independent evaluations, and ensure developments align with the community's long-term goals.

Motion:	Motion to continue to February 3, 2025. (Made by: Botticelli) (Seconded by: Allen)
Vote:	Carried 5-0// McCarthy, Allen, Brescher, Mondani, Botticelli

IV. ADJOURNMENT

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

Submitted by: Rodlisha Dixon

YouTube Link: https://www.youtube.com/watch?v=He3F_E9Onac