



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, February 13, 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, 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: Mondani

II. APPROVAL OF AGENDA

Motion: Motion to approve the agenda, as amended, with item number 12-24 moved to the top of the agenda.
(made by: Brescher) (seconded by: Allen)

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

III. APPROVAL OF THE MINUTES

• DECEMBER 12, 2024

• JANUARY 09, 2025

Motion:	Motion to approve as submitted. (Made by: Allen) (Seconded by: Brescher)
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

The Applicant is appealing the Building Commissioner's April 17, 2024, determination pursuant to Zoning Bylaw Section 139-25 and 139-31, to decline the request for enforcement of the purported expansion of a pre-existing nonconforming use. 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).

Voting:	McCarthy, Allen, Mondani, Botticelli, Marcklinger
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Attorney Stephen Cohen
Discussion:	

	Attorney Stephen Cohen - Requested a three-month continuance to allow time for the Planning Board to review an MCD. -Agreed to sign an extension for the action deadline. Attorney Sarah Turano-Flores - Agreed with the approach and confirmed that the MCD process was under negotiation.
Motion:	Motion to continue until May 31, 2025. (Made by: Botticelli) (Seconded by: Allen)
Vote:	Carried 5-0// McCarthy, Allen, Brescher, Botticelli, Marcklinger (Aye)

V. OLD BUSINESS

1.2024-0008, 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. The site is zoned Limited Use General-2 (LUG-2).

Voting:	McCarthy, Allen, Mondani, Botticelli, Marcklinger *Brescher recused*
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Attorney Dan Bailey
Discussion:	Attorney Dan Bailey - Argued that the activities at 59 Southshore Road, including large events and weddings, constitute commercial uses not permitted in a residential district. He emphasized that the property is marketed for events, with materials showcasing event-specific amenities. Jamie Feeley (Homeowner) - Clarified that the property was intended as a family home, not for commercial use. He explained that the large wedding was a one-time event and a learning experience, with no plans for similar events in the future. Elisa Allen - Asked Feeley how he would prevent future large-scale events and address neighbor concerns. Jamie Feeley (Homeowner) - Stated that he rented the property without knowing the full scale of the event. However, future rental agreements would include stipulations to prevent similar events from occurring. Attorney Richard Beaudette - Argued that the property is used in accordance with zoning bylaws, emphasizing that no bylaw prohibits events on private property and the Town has not implemented regulations to restrict them. Paul Murphy (Building Commissioner) -Stated that he did not take enforcement action against Mr. Feeley due to the lack of applicable zoning bylaws, emphasizing that he has no jurisdiction over parties or property rentals. -Confirmed that there were no violations related to the event. The Board -Debated whether the activities at 59 Southshore Road qualified as a commercial use, which would not be permitted in a residential district, and whether the property was being used as an event venue in violation of the zoning bylaw. - Deliberated on whether the zoning bylaw provided sufficient grounds to overturn the Building Commissioner's decision.

	Public Comment - Diane Cabral expressed concern about the traffic congestion, large trucks delivering equipment, and the impact of the event on the neighborhood, including damage to her mailbox, which was later repaired. - Attorney John Markey, representative of Doris Strang, argued that the Board should make a finding that commercial activities were conducted at 59 Southshore Road and issue a cease-and-desist order to prevent future occurrences, emphasizing the importance of controlling advertising and ensuring contracts clearly outline requirements to avoid similar issues. -Hersel Allerhand, a resident of 47 Union Street, inquired whether it would be considered commercial for a neighbor to hold special events every week, get paid for them, and whether this would be allowed in a residential area, even if there were no issues with noise or crowds. -Sharon Chalk, a resident of 61 Southshore Road, stated that renters attempted to pay off her roofers due to noise disruptions and emphasized Jamie Feeley's responsibility for their actions. She mentioned that, going forward, she would document any future issues, likely through the police. -Charity Benz commented that she had been listening to the discussion and referenced a definition from Black's Law Dictionary, explaining the distinction between a commercial property and a residential property.
Motion 1:	Motion to close the public hearing. (Made by: McCarthy) (Seconded by: Marcklinger)
Vote:	Carried 5-0// McCarthy, Allen, Mondani, Botticelli, Marcklinger (Aye)
Motion 2:	Motion to overturn the Building Commissioner's determination regarding the use of 59 South Shore Road and to direct the issuance of a zoning enforcement order requiring the property owner to cease and desist from using the property as an event space or for any other commercial use.
Vote:	Failed 3-2//Botticelli, Allen, Marcklinger (Aye) Mondani & McCarthy (Nay)

VI. NEW BUSINESS

2. 2024-0006, Fourteen Tautemo Way Realty Trust

14 Tautemo Way

Beaudette

The Applicant is requesting relief by Special Permit pursuant to Zoning Bylaw Sections 139-2, 139-7A, and 139-30 to install a Residential Recreational Outdoor Water Feature (Large swimming pool). Locus is situated at 14 Tautemo Way and shown on Assessor's Map 83 as Parcel 13 and as Lot 19 on Land Court Plan 13629-E. Evidence of Owner's title is registered as Certificate of Title 29719 on file with the Nantucket Registry District of Land Court. The site is zoned Village Residential (VR).

Voting:	McCarthy, Allen, Mondani, Botticelli, Marcklinger
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Attorney Rick Beaudette
Discussion:	-
Motion:	Motion to continue until March 13, 2025. (Made by: Marcklinger) (Seconded by: Allen)
Vote:	Carried 5-0// McCarthy, Allen, Botticelli, Marcklinger, Mondani (Aye)

3. 2024-0009, Jeff McDermott, Et Al

32 Monomoy Rd

Pickering-Cook/Gagalis

Applicants are appealing the Building Commissioner's December 3, 2024, determination letter pursuant to Zoning Bylaw Section 139-31A-(1) and Massachusetts General Laws Chapter 40A, Sections 8 and 15. The Building Commissioner determined that use of the Property for short-term rentals ("STR") does not violate Nantucket's Zoning Bylaw. Locus subject to the appeal is situated at 32 Monomoy Road, shown on Assessor's Map 54 as Parcel 242 and upon Land Court Plan 14974-C. Evidence of owner's title is registered on Certificate of Title No. 25823 with the Nantucket County District of the Land Court. The site is zoned Limited Use General 1 (LUG-1).

Voting:	McCarthy, Allen, Poor, Botticelli, Marcklinger
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Attorney Kristen Gagalis

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Discussion:	Attorney Kristen Gagalas - Presented the application, stating the property is being exclusively used as a short-term rental, which is a violation of Nantucket's zoning bylaws. Billy Saad - Suggested that if the Board wished to seek legal counsel, who was not present, they should consider continuing the matter, as the town is a party to the lawsuit and the action deadline is approaching. Lisa Botticelli - Disclosed that she had previously done work for one of the appellants and coordinated with staff to sign a conflict form after the meeting. Jeff McDermott (Applicant) - Highlighted ongoing issues such as noise and garbage complaints and emphasized that the property is rented commercially year-round.
Motion:	Motion to continue until March 13, 2025. (Made by: Allen) (Seconded by: Botticelli)
Vote:	Carried 5-0// McCarthy, Allen, Poor, Botticelli, Marcklinger (Aye)

4. 2025-0010 Daniel W. West

9 Towaddy Ln

West

Applicant is requesting relief by Special Permit pursuant to Zoning Bylaw Sections 139-30 and 13933A(1)(a) to alter and extend a pre-existing, nonconforming dwelling structure that does not meet side setback requirements, without increasing the nonconformity, and/or to obtain a special permit pursuant to §139-16.C(1) to reduce the side setback in an SR-20 zoning district from 10 feet to 5 feet. Locus is situated at 9 Towaddy Lane and shown on Assessor's Map 49.3.2 as Parcel 14.4. Evidence of owner's 3 title is recorded in Book 644, Page 31 with the Nantucket County Registry of Deeds. The site is zoned Sconset Residential 20 (SR-20).

Voting:	McCarthy, Allen, Brescher, Botticelli, Marcklinger
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Attorney Sarah Alger
Discussion:	-
Motion:	Motion to approve the request as submitted under section 139-33, finding that the alterations and extension to the existing dwelling structure are not substantially more detrimental to the neighborhood. The conditions of the approval are as follows: (1) The proposed alterations and extension shall be in substantial compliance with the site plan submitted by the applicant, which will be attached as Exhibit A to the decision. (2) The project shall be completed in substantial conformity with the plans approved by the Historic District Commission Certificate of Appropriateness. (3) No further alterations or expansions of the structure will be allowed without additional relief from this board. (4) Any damage to Towaddy Lane caused by construction activity shall be repaired and restored to its original condition or better prior to the issuance of a Certificate of Occupancy. (Made by: Botticelli) (Seconded by: Allen)
Vote:	Carried 5-0// McCarthy, Allen, Brescher, Botticelli, Marcklinger (Aye)

5. 2025-0011 Whitney H. Matthews

43 Union St

Reade

Applicant is requesting relief by Special Permit pursuant to Zoning Bylaw Sections 139-30 and 13933A(1)(a) to alter the pre-existing, nonconforming single-family dwelling by constructing upward additions within the footprint of the existing dwelling, partially within the nonconforming setback areas and without increasing any nonconforming setback distance. Locus is situated at 43 Union Street and shown on Assessor's Map 42.3.2 as Parcel 29. Evidence of owner's title is recorded in Book 1343, Page 286 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 Arthur Reade
Discussion:	Attorney Arthur Reade -Explained that the proposed alterations would not change the footprint of the house and emphasized that no excavation would occur The Board -Discussed whether the alterations to 43 Union Street would be detrimental to the neighborhood, particularly regarding the impact on a nearby town-owned elm tree.

	Public Comment -Mary Longacre, a member of the Tree Advisory Committee, emphasized the importance of protecting the elm tree and suggested adding a condition to prevent damage to it during construction. -Emily Molden, Nantucket Land and Water Council, concurred with Longacre and noted that conditions for tree protection have been applied in similar cases. Molden also encouraged the Board to allow the Tree Advisory Committee to review the matter and help craft a suitable condition, particularly regarding the potential impact of the driveway. - Liz Coffin, a resident of 47 Union Street, expressed concerns about the proposed expansion, stating it would exacerbate existing nonconformities and be detrimental to the neighborhood. She highlighted the impact on the health of the town-owned elm tree on Union Street and questioned the accuracy of measurements provided in the application, particularly regarding the property's ground cover and the location of the tree.
Motion:	Motion to continue to March 13, 2025, to allow the Tree Advisory Committee to meet and provide their input on the protection of the town-owned elm tree. (Made by: Allen) (Seconded by: Brescher)
Vote:	Carried 5-0// McCarthy, Allen, Brescher, Botticelli, Marcklinger (Aye)

VII. ADJOURNMENT

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

Submitted by: Rodlisha Dixon

YouTube Link: <https://www.youtube.com/watch?v=iO1k7haYW9M>