



ZONING BOARD OF APPEALS

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

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

~~ MINUTES ~~

Wednesday, February 19, 2025

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

I. CALL TO ORDER

Called to order at 1:06 pm and Announcements made by Chair McCarthy

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

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

Absent: -

Remote Members: -

Late Arrivals: -

Early Departures: Brescher (2:57 pm)

II. APPROVAL OF AGENDA

Motion: Motion to approve the agenda.

(made by: Brescher) (seconded by: Allen)

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

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, Mondani, Botticelli, Brescher, Allen
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Attorney Paul Haverty

Discussion:	Chair McCarthy - Inquired about an update from Town Counsel regarding the extension request motion and the conversation with Bristol Engineering about updating the report. Attorney George Pucci (Town Counsel) - Provided an update, stating that the extension request was granted by the Housing Appeals Committee, extending the deadline to close the public hearing to March 4 - Stated that regarding Bristol Engineering, the consultant, Peter Newton, will attempt to review the new materials and update his report by the March 4 public hearing deadline, though it may not be feasible. Once the engagement letter from the consultant is received, he will seek the town manager's authorization to proceed. - Recommended that if the Board keeps the public hearing open until March 4, they should continue taking in submissions and comments and potentially begin discussing potential decisions during that time. He noted the importance of discussing decisions during the public hearing to address any issues that arise before closing the hearing. William Saad (Zoning Administrator) - Confirmed that a Zoom-only meeting could be held on March 4 and suggested scheduling it at 1:00 p.m., or earlier if preferred, to accommodate the time constraints. Chair McCarthy - Explained that the Board intends to hear as much public testimony as possible before closing the public hearing, encouraging anyone wishing to speak to raise their hands so Staff could create a list. Attorney Paul DeRensis - Inquired whether there would be another substantive hearing before March 4 and if Bristol Engineering could address specific questions regarding the updated stormwater report. He emphasized that Bristol's update should reaffirm key aspects of their prior report. Chair McCarthy - Responded that no further hearings are anticipated before March 4 and suggested that questions about the updated stormwater report could be submitted through Staff Jim Mondani - Expressed surprise that the Town is paying for the update, as it should fall within the scope of typical peer review fees. Attorney George Pucci (Town Counsel) - Agreed with Mondani's concerns but explained that the applicant's refusal to fund the update led him to work with the Town Manager to pursue the option of town funding. Attorney Paul Haverty - Stated that the update is an independent study conducted by the Town, and as such, it does not fall within the scope of the peer review process. Don Bracken (Project Engineer) - Reiterated that the project complies with the Stormwater Management Act, and both the Board's consulting engineer and Weston & Samson have agreed with the compliance. - Clarified that the stormwater treatment design includes two pre-treatments followed by infiltration, which meets the required 44% Total Suspended Solids (TSS) removal. - Stated that space limitations prevent the use of wetland basins, but the system is designed to comply with the required standards. - Addressed concerns about the well influence zones, explaining that drainage areas were relocated to maintain at least a 100-foot distance from newly installed wells, as required.
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Lisa Botticelli

- Inquired about the maintenance of the underground systems compared to non-mechanical solutions, asking about the responsibility for maintaining the stormwater systems, particularly considering the sewer department's role.

William Saad

-Explained that the owner of the property would be responsible for maintaining the stormwater systems as outlined in the approved operation and maintenance plan, which is reviewed by the town's peer reviewer. He clarified that inspections would typically be done quarterly, with visual checks for any issues like oil sheen or debris in the catch basins. The infiltration systems would also be checked using inspection ports to monitor buildup or fluid accumulation.

Elisa Allen

- Followed up on the maintenance discussion, asking about the potential for water quality testing once the project is completed, particularly regarding the safety of the drinking water and whether any ongoing monitoring for contaminants would be required after construction.

-Expressed concern about the lack of any proposed monitoring systems to ensure the water remains safe for residents and the surrounding community.

Attorney Paul Haverty

-Stated that the stormwater management system presented is consistent with other systems used throughout Nantucket, and that they have not encountered any requirements for a higher level of stormwater management. He acknowledged that the context has changed since 2018, with the increasing presence of PFAS in the community, but emphasized that the town has not yet imposed any new regulations that would alter the requirements for this project.

John Chessia (Consulting Engineer)

- Acknowledged that a vegetated filter would provide better treatment but emphasized that systems are designed to address specific contaminants. He recommended installing monitoring wells to detect potential spills, as contaminants can take time to reach the groundwater.

Chair McCarthy

-Asked if the sewer pump-out station would still be needed, and if the generator's location was in the sewer easement area.

Don Bracken (Project Engineer)

- Explained that the sewer connection depends on timing and whether the town's sewer system is ready when construction begins. If not, the original plan, including a pump station, will be used

Jim Mondani

- Asked if construction could proceed at risk if the project were approved with conditions and appealed

Attorney George Pucci (Town Counsel)

-Clarified that the project cannot proceed at risk during an appeal to the Housing Appeals Committee (HAC).

Attorney Paul Haverty

- Argued that most issues being reviewed were outside the scope of the remand and emphasized that the project's impacts, such as water usage and stormwater surface area, had been significantly reduced.

Public Concern

-Dr. Timothy Lepore expressed concerns about the proposed development's fire access and water infrastructure. He cited concerns from local firefighters about limited access for emergency vehicles and highlighted potential risks to the community's safety and water supply, particularly due to the project's location in a Wellhead Protection District.

	- Meghan Perry addressed concerns about the fire chief's stance, stating that the chief had declined an independent third-party fire safety review, despite the availability of the State Fire Marshal's office to conduct such reviews at no cost. She emphasized the importance of ensuring fire safety and proper infrastructure before approving the project. -Attorney Dennis Murphy stated that the project's stormwater system fails to address the treatment of soluble pollutants before discharge, which could impact the groundwater and adjacent properties. He emphasized the need for additional treatment methods to comply with Massachusetts stormwater standards, particularly standards five and six. Murphy also emphasized that while pre-treatment is provided, it doesn't address soluble contaminants, which is crucial for groundwater protection. Argued that the project should meet the required stormwater standards or be scaled back to 15% impervious coverage. -Sean Reardon explained that the project's system does not meet the requirements of stormwater standards five and six, which are designed to handle higher pollutant loads in sensitive areas like this. He highlighted that the absence of proper treatment for soluble pollutants could introduce them into the groundwater, potentially affecting neighboring wells. -Kristen Mello commented on the water quality issues, noting that the proposed treatment system would be less effective than vegetative filters in treating pollutants. She pointed out that while the standards are evolving, the treatment methods currently in place may not be sufficient for the project's specific needs. She suggested adding monitoring wells to detect potential contamination before it spreads. Mello also expressed concern about the ability to condition protections for groundwater quality, stressing that the board must focus on the current situation, not past regulations. She highlighted the importance of protecting Nantucket's water supply and questioned how to manage potential degradation if it occurs. -Emily Molden expressed gratitude to the Board for their attention and involvement in the project. She emphasized the Land and Water Council's commitment to water protection and explained that the project had raised concerns because of its size, density, and potential impact on groundwater. She acknowledged that while other projects may not have required certain stormwater standards, the Surfside Crossing project is unique due to its scale and location in a Zone 2. She called for the board to apply the impervious surface standard properly and voiced support for improving enforcement of these standards' town-wide, while urging the Board to render a decision based on the current situation. -Attorney Paul DeRensis argued that the project poses a public safety hazard, not only for the residents of the island but also for future residents of the development. He emphasized that the hearing was supposed to allow the Town to identify local concerns and have the developer address them, but there have been no significant changes to the project. He pointed out that the failure to comply with stormwater standards is a major flaw, creating a threat to the town's drinking water aquifer. He also criticized the developer's defense that similar projects were allowed to bypass full compliance, arguing that the Surfside Crossing development is different in scale and density. He stressed that the ongoing threats to public health from contamination, such as cancer, make it irresponsible to continue with the old methods of allowing harmful practices. He concluded that the application must be denied due to the inability to properly mitigate the risks of chemical contamination. -Jacques Zimicki, an abutter, explained the history of well placement on his property and the complexities of the groundwater and stormwater systems. He highlighted concerns about the 100-foot and 300-foot regulations for well proximity to stormwater structures, arguing that 300 feet might not be enough due to the large volumes of water entering the system. He also raised concerns about pollutants, including PFAS, moving rapidly through the groundwater, stressing that stormwater systems may contribute to aquifer contamination
Motion:	Motion to continue the public hearing to March 4th. (Made by: Botticelli) (Seconded by: Allen)
Vote:	Carried 4-0// McCarthy, Mondani, Allen, Botticelli

VII. ADJOURNMENT

Motion:	Motion to adjourn.
Vote:	Carried 4-0// McCarthy, Allen, Botticelli, Mondani

Submitted by: Rodlisha Dixon

YouTube Link: <https://www.youtube.com/watch?v=vP5amdonI4k>