



ZONING BOARD OF APPEALS

2 Fairgrounds
Road Nantucket,
Massachusetts
02554

[www.nantucket.
ma.gov](http://www.nantucket.ma.gov)

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

~~ MINUTES ~~

Thursday, March 12, 2026 ***Adopted April 09, 2026***

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 Chair McCarthy

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

Staff in attendance: Nicky Sheriff; Land Use Specialist

Absent: Poor, Marcklinger, Botticelli

Remote Members: -

Late Arrivals: -

Early Departures: -

II. APPROVAL OF AGENDA

Motion: Motion to approve the agenda.

(Made by: Brescher) (Seconded by: Elisa)

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

III. PUBLIC COMMENT

IV. APPROVAL OF MINUTES

V. OLD BUSINESS

2026-0034 Pamela Washburn Griffin Trust

54 Cliff Road

Link02554

Action Deadline April 14, 2026

The Applicant seeks relief by Special Permit pursuant to Nantucket Zoning Bylaw Sections 139-30 and 139-33A(1)(a) to alter a nonconforming garage structure by vertical expansion to the west and south, including dormers, resulting in an increase in height of approximately five (5) feet. The garage structure is nonconforming with respect to rear and westerly side yard setbacks, being located approximately 1.8' feet from the westerly lot line and 3.8' feet from the rear lot line. No expansion of the existing footprint is proposed, and no new nonconformities will be created. Locus is situated at 54 Cliff Road, shown on Assessor's Map 41 Parcel 26 and Lot 2 on Land Court Plan 15515-C. Evidence of owner's title is registered on Certificate of Title No. 24850 at the Nantucket County District of the Land Court. The site is zoned Residential Old Historic (ROH).

Voting:	McCarthy, Brescher, Allen, Constable, Mondani
Documentation:	File with associated plans, photos, correspondence and required documentation

Approved ZBA Minutes – March 12, 2026

Representing:	Victoria Ewing
Discussion:	The applicant explained that the primary dwelling lacks an attic or basement, creating a need for additional storage. The proposal does not include any change to the existing footprint and is limited to a height increase of approximately 5 feet, along with the addition of dormers designed symmetrically to maintain aesthetic balance with the surrounding neighborhood. It was emphasized that the project would not increase any existing nonconformities and that approval from the Historic District Commission had already been obtained. During discussion, the applicant clarified that the expanded space would remain unfinished and unconditioned, with no insulation, drywall, plumbing, or HVAC systems, and would be used exclusively for storage rather than as a studio or dwelling space. Board members discussed the importance of enforceability and agreed that conditions should clearly state that the space must remain unfinished and used only for storage, with any future changes requiring review and approval by the Board. Additional conditions discussed included prohibiting plumbing and air conditioning units.
Motion:	Motion to approve relief by Special Permit pursuant to Nantucket Zoning Bylaw Sections 139-30 and 139-33A(1)(a) to alter a nonconforming garage structure by vertical expansion to the west and south, including dormers, resulting in an increase in height of approximately five (5) feet. The garage structure is nonconforming with respect to rear and westerly side yard setbacks, being located approximately 1.8' feet from the westerly lot line and 3.8' feet from the rear lot line. No expansion of the existing footprint is proposed, and no new nonconformities will be created. Subject to the following conditions: 1) The proposed alteration shall be in substantial compliance with the Proposed Conditions shown upon "Exhibit A". 2) The project shall be completed in substantial conformity with the plans approved in connection with Certificate of Appropriateness No. HDC2025-10-13587. 3) There shall be no expansion of the structure without further relief from this Board; 4) The space shall remain unfinished, and its use shall be limited exclusively to storage. 5) There shall be no air conditioning units or plumbing for the structure. 6) There shall be no exterior construction allowed between Memorial Day and Labor Day of any given year for the work contemplated herein (Made by: Brescher) (Seconded by: Allen)
Vote:	Carried 5-0// McCarthy, Brescher, Allen, Constable, Mondani (Aye)

VI. NEW BUSINESS

2025-0023 AckReit1865

9 Hinsdale Road

Alger

Action Deadline February 27, 2026

The Applicant is appealing the Building Commissioner's July 14, 2025 violation order pursuant to Nantucket Zoning Bylaw Section 139-31 and is requesting a stay of the order while the property owner works to bring the site into compliance with the Zoning Bylaw. The Building Commissioner determined that storage containers located on the site are in violation of the Zoning Bylaw and ordered their immediate removal. The locus is located at 9 Hinsdale Road, shown on Assessor's Map 68, Parcel 776. Evidence of the owner's title is recorded on Certificate of Title No. 28895 in the Nantucket County District of the Land Court. The property is zoned Residential Commercial-2 (RC-2).

Voting:	McCarthy, Brescher, Botticelli, Allen, Marcklinger
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Attorney Sarah Alger
Discussion:	Chair McCarthy - Noted the Applicant requested a withdrawal without prejudice.
Motion:	Motion to approve the withdrawal without prejudice. (Made by: Allen) (Seconded by: Brescher)
Vote:	Carried 5-0// McCarthy, Brescher, Allen, Mondani, Constable (Aye)

2026-0035 Mayflower Crescent LLC

74 Monomoy Road

Alger

Action Deadline April 08, 2026

Approved ZBA Minutes – March 12, 2026

The Applicant is seeking relief by Variance pursuant to Zoning Bylaw Section 139-32 to construct a zoning shed with an approximate 22-foot front yard setback where 35 feet is required. The proposed shed will not exceed 200 square feet of ground cover or 16 feet in height, will have no heat or plumbing, and will not be used for habitation. Locus is situated at 74 Monomoy Road, shown on Assessor's Map 43 Parcel 151 and as Lots A, B, and C on Land Court Plan 14409-A. Evidence of owner's title is registered in Certificate of Title No. 27078 at the Nantucket Registry District of the Land Court. The site is zoned Limited Use General 1 (LUG-1).

Voting:	McCarthy, Brescher, Allen, Constable, Mondani
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Attorney Sarah Alger
Discussion:	Attorney Alger explained that the applicant is seeking a front yard setback variance to allow construction of a shed on a uniquely shaped, undersized lot constrained by wetlands, coastal bank regulations, and zoning setbacks. She noted that the triangular configuration of the lot, combined with significant environmental restrictions, leaves no feasible alternative location for the structure. The proposed shed, approximately 200 square feet and 16 feet in height, is intended for storage use and otherwise complies with zoning requirements aside from the setback relief requested. The Board discussed the application and questioned whether the hardship criteria were adequately met, noting that the proposed dwelling includes a basement that could potentially be used for storage. Members also raised concerns about setting a precedent for similar requests and considered whether the shed could be reduced in size or repositioned to minimize the extent of the setback encroachment. The applicant and engineer reiterated that site constraints, including topography and regulated buffer zones, significantly limit placement options. The Board requested additional information, including revised plans, elevations, and further exploration of alternative siting of the shed to reduce the impact of the variance. The Board voted to continue the application to a future meeting to allow the applicant to submit additional materials and revisions for further review.
Motion:	Motion to continue the application to the April 09, 2026, meeting. (Made by: Allen) (Seconded by: Mondani)
Vote:	Carried 5-0// McCarthy, Brescher, Allen, Constable, Mondani (Aye)

2026-0036 308 Madaket Road LLC

308 Madaket Road

Williams

Action Deadline June 10, 2026

The Applicant is seeking 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) and spa with a surface area of approximately 880 square feet. Locus is situated at 308 Madaket Road and shown on Assessor's Map 60.2.1 as Parcel 67 and as Lot 306 on Land Court Plan 3092-20. Evidence of Owner's title is registered as Certificate of Title No. 29374 at the Nantucket Registry District of Land Court. The site is zoned Village Residential (VR).

Voting:	McCarthy, Brescher, Allen, Constable, Mondani
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Linda Williams
Discussion:	Applicant representative Linda Williams explained that the proposed pool complies with all zoning requirements, including minimum lot size and required setbacks. She noted that the pool is located behind natural vegetation, fencing, and screening to minimize visibility from the street and neighboring properties. Pool equipment placement also meets setback requirements, and the siting is constrained by the location of the septic system and required yard setbacks. Melissa Walsh, a member of the public residing at 9 Washington Street, Madaket, spoke to seek clarification regarding the permitting process. She expressed support for the pool project but raised concerns about consistency with zoning regulations and potential precedent for future pools, and questioned whether a variance was required. The Chair clarified that the application is for a special permit, not a variance, and that the zoning bylaw allows pools in the VR district by special permit if all criteria are met. Board members confirmed that the proposal meets all applicable requirements and addressed abutter concerns, including that no additional exterior lighting is proposed beyond safety lighting and that adequate screening will be maintained. The Board found that the pool and associated mechanical equipment are in harmony with the zoning bylaw, that the lot size (26,821 sq. ft.) exceeds the minimum required (20,000 sq. ft.), and that setbacks are maintained. Standard ZBA conditions were applied, including chemical treatment regulations, pool filling and draining requirements, compliance

Approved ZBA Minutes – March 12, 2026

	with the Historic District Commission certificate of appropriateness, and adherence to approved site plans.
Motion:	Motion to approve the 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) and spa with a surface area of approximately 880 square feet subject to the following conditions: a. All chemical treatments of the pool shall stop three weeks prior to any draining or discharging of the pool. If this is infeasible, the owner shall engage a professional company to discharge the pool water in a tanker and dispose of it at the Wastewater Treatment Facility. b. If a municipal water source is not available, the owner shall engage a professional company to fill the pool as needed. c. The pool shall not be chemically treated between November 1 and May 1 of any given year. d. The location of the pool, pool equipment, and landscaping shall be installed substantially as shown on the plan entitled, “Site Plan for Proposed Pool”, 308 Madaket Road, Nantucket, MA, prepared by David A. French, JR dated January 02, 2026, a reduced copy of which is attached hereto as Exhibit A. e. No landscape lighting relating to the pool was proposed or approved, except for the lighting in the pool as may be required for safety. In the future, any proposed landscape lighting relating to the pool shall be reviewed by the Board at a public hearing and shall be subject to a request for further relief. f. All work shall be done in substantial conformity with the Certificate of Appropriateness HDC2026-01-13991, duly issued by the Nantucket Historic District Commission. (Made by: Allen) (Seconded by: Brescher)
Vote:	Carried 5-0// McCarthy, Brescher, Allen, Constable, Mondani (Aye)

2026-0037 Michelle & Steven Garfinkel

13 Starbuck Road

Brescher

Action Deadline June 10, 2026

The Applicant is seeking relief by Special Permit pursuant to Zoning Bylaw Sections 139-2 and 139-30, and to the extent necessary a Variance pursuant to Section 139-32, to install a Residential Recreational Outdoor Water Feature (Large swimming pool) containing approximately 312 square feet of surface area. The proposed pool is approximately 18.6 feet from the rear lot line where 20 feet is required; alternatively, the pool may be relocated to comply with the required 20-foot setback. Locus is situated at 13 Starbuck Road and shown on Assessor’s Map 60 as Parcel 113 and as Lot 310 on Land Court Plan 3092-21. Evidence of Owner’s title is registered as Certificate of Title No. 26013 at the Nantucket Registry District of Land 6 Court. The site is zoned Village Residential (VR).

Voting:	McCarthy, Allen, Constable, Mondani
Conflict:	John Brescher
Documentation:	File with associated plans, photos, correspondence and required documentation
Representing:	Carrie Thornwell
Discussion:	The applicant presented two options: a primary proposal with a reduced setback of approximately 18.5 feet from the rear property line, requiring variance relief, and an alternative compliant plan meeting the required 20-foot setback, which would require only a Special Permit. The applicant explained that the reduced setback area abuts land owned by a conservation trust, noting there are no direct residential abutters in that direction, and submitted support from the land trust and neighboring property owners. However, the Board expressed concern that the variance criteria, particularly hardship related to soil, shape, or topography, were not met, and emphasized the importance of adhering to the established zoning framework for pools in the Village Residential District. The Board further noted that the zoning bylaw provides a clear path for approval under the Special Permit provisions when the required criteria are satisfied. In response to the Board’s feedback, the applicant agreed to proceed with the compliant plan and withdrew the variance request. The Board found that the proposal, as revised, meets the requirements for a Special Permit and is in harmony with the intent of the zoning bylaw. The Board voted to approve the Special Permit subject to standard ZBA conditions and approved the withdrawal of the variance request without prejudice.
Motion 1:	Motion to approve relief by Special Permit pursuant to Zoning Bylaw Sections 139-2 and 139-30, to install a Residential Recreational Outdoor Water Feature (Large swimming pool) containing approximately 312 square feet of surface with the pool sited 20 feet of side and rear yard setbacks subject to the following conditions:

Approved ZBA Minutes – March 12, 2026

	a) All chemical treatments of the pool shall stop three weeks prior to any draining or discharging of the pool. If this is infeasible, the owner shall engage a professional company to discharge the pool water in a tanker and dispose of it at the Wastewater Treatment Facility. b) If a municipal water source is not available, the owner shall engage a professional company to fill the pool as needed. c) The pool shall not be chemically treated between November 1 and May 1 of any given year. d) The location of the pool, pool equipment, and landscaping shall be installed substantially as shown on the plan entitled, “Proposed Pool Location Plan”, 13 Starbuck Road, Nantucket, MA, prepared by Hristo Krastev dated March 11, 2026, a reduced copy of which is attached hereto as Exhibit A. e) No landscape lighting relating to the pool was proposed or approved, except for the lighting in the pool as may be required for safety. In the future, any proposed landscape lighting relating to the pool shall be reviewed by the Board at a public hearing and shall be subject to a request for further relief. f) All work shall be done in substantial conformity with the Certificate of Appropriateness HDC2026-01-14101, duly issued by the Nantucket Historic District Commission. (Made by: Mondani) (Seconded by: Allen)
Motion 2:	Motion to approve withdrawal without prejudice of the Variance request. (Made by: Mondani) (Seconded by: Allen)
Vote:	Carried 4-0// McCarthy, Allen, Constable, Mondani (Aye)

VII. OTHER (VOTES MAY BE TAKEN)

- The next regular meeting is Thursday, April 09, 2026, at 1:00 pm.
- **Citizen Article: Zoning Bylaw Amendment MGL 41-81L- Emily Molden**
Emily Molden previously appeared before the Board in January to introduce her citizen article regarding M.G.L. c.41 §81L land divisions and indicated that she would return to request the Board’s support after first seeking a recommendation from the Planning Board. The Planning Board voted unanimously last month to support the article. Ms. Molden will attend the meeting to provide a brief overview and request support from the Zoning Board ahead of Annual Town Meeting.

Discussion

Emily Molden presented her citizen article proposing a zoning bylaw amendment related to lots created under the state’s 4181L pre-existing structures provision. She noted that this is the third year bringing a similar article to Town Meeting, having previously come close to the two-thirds vote requirement. Molden has collaborated with Deputy Planning Director Megan Trudel and Planning Board Chair David Iverson to refine the proposal, which now has unanimous Planning Board support. She explained that while state law allows creation of lots around pre-existing structures, the current local bylaw automatically grants these lots pre-existing non-conforming rights, even if newly created. The proposed amendment would remove this automatic designation, so redevelopment of these lots occurs under current zoning. Newly created lots seeking to expand or alter a nonconformity regarding setbacks or height would require a special permit from the Zoning Board of Appeals (ZBA), while preventing any increase in ground cover beyond allowable limits. Deputy Planning Director Megan Trudel emphasized that the amendment introduces permitting oversight and notice requirements without affecting state-mandated subdivision rights, ensuring that development on divided lots does not exceed existing density limits and allowing the ZBA to review each lot individually. Staff and the Planning Board support the article, noting that it would provide clarity and oversight for future lot redevelopment. Board members requested clarification regarding the status of lots created under a 4181L subdivision that do not alter existing structures. For example, dividing a 5,000-square-foot lot into 2,000- and 3,000-square-foot lots with structures and setbacks compliant but resulting in undersized lots. Molden and staff explained that under the proposed amendment, these lots would no longer automatically carry pre-existing non-conforming status, although they remain legally created under 4181L. Locally, they would occupy a “gray area”: undersized according to local zoning but not technically nonconforming under the old definition. A special permit from the ZBA would only be required if a lot owner sought to alter or expand a nonconformity, such as changing setbacks, height, or ground coverage; building within existing zoning allowances would not require a variance or permit. The discussion highlighted that while these lots are legally created under state law, local zoning now treats them as neither pre-existing non-conforming nor fully compliant with local lot size standards. This approach, vetted with Town Counsel, ensures that owners may develop the lots while maintaining appropriate permitting oversight for structural changes. The board recognized the complexity and unusual nature of these lots, noting that their status under the 4181L provisions

Approved ZBA Minutes – March 12, 2026

creates a unique “gray area” in zoning. It was agreed that under the new language, lots would only trigger ZBA review if structural alterations were proposed, rather than for the creation of the lots themselves. Board members suggested that additional clarification from Town Counsel would be helpful to fully understand the implications for lot status and special permits.

V I I I . A D J O U R N M E N T

Motion:	Motion to adjourn. (Made by: Mondani) (Seconded by: Allen)
Vote:	Carried 5-0// McCarthy, Brescher, Allen, Mondani, Constable (Aye)

Submitted by: Nicky Sheriff

YouTube Link: [Nantucket Zoning Board of Appeals - March 12, 2026](#)