



Planning and Land Use Services

Building ▪ Health ▪ Historic District Commission ▪ Planning Board ▪ Zoning Board of Appeals

STAFF REPORT

Date: February 6, 2017

To: Zoning Board of Appeals

From: Eleanor W. Antonietti
Zoning Administrator

Re: February 9, 2017

1 I. APPROVAL OF THE MINUTES:

- January 12, 2017
- January 17, 2017

II. OLD BUSINESS:

- 41-16 Linda Mason 23 Monomoy Road Beaudette
CONTINUED to March 9, 2017
Sitting ET LB SM KK *Alternates* JM GT CONFLICTS: MJO MP
Applicant is seeking Special Permit relief pursuant to Zoning By-law Section 139-33.A to allow an increase in the pre-existing nonconforming ground cover ratio upon the pre-existing nonconforming locus. The proposed work consists of removing the pre-existing nonconforming dwelling and replacing it with a larger dwelling which will be sited so as to cure the nonconforming side and front yard setbacks. The Locus is situated at 23 Monomoy Road, is shown on Assessor's Map 54 as Parcel 205, and as Lot 17 upon Land Court Plan 10937-C. Evidence of owner's title is registered on Certificate of Title No. 22059 at the Nantucket County District of the Land Court. The site is zoned Limited Use General 1 (LUG-1).

III. NEW BUSINESS:

- 36-16 Loren H. Kroll and Norma J. Goldman 24 Coffin St. Beaudette
REQUEST FOR WITHDRAWAL WITHOUT PREJUDICE CONFLICTS: NONE
Applicant is requesting Special Permit relief pursuant Zoning By-law Sections 139-30.A and 139-16.C(2) to validate an unintentional side yard setback intrusion caused by the siting of a porch 9.5 feet from the side yard lot line abutting West Sankaty Street, where a ten (10) foot setback is required pursuant to Section 139-16.C(3). In the alternative, and to the extent necessary, Applicant

requests relief by Variance pursuant to Section 139-32 to allow said setback intrusion. The Locus is situated at 24 Coffin Street, is shown on Assessor’s Map 73.4.1 as Parcel 52, as Lot 2 upon Plan No. 2012-37. Evidence of owner’s title is in Book 1456, Page 168 on file at the Nantucket County Registry of Deeds. The site is zoned Sconset Residential 1 (SR-1).

This application was initially scheduled to be heard in November but has never been opened.

- 40-16 Sankaty Head Golf Club 100 Sankaty Road Dale
 Action deadline April 12, 2017 *Sitting* ^{1/17/17 meeting} LB SM KK GT MP
CONFLICTS: ET MJO

Applicant is requesting modification of prior Special Permit relief to alter and expand a pre-existing nonconforming use in order to construct four new duplex cottages to be used for on-site employee housing pursuant to Zoning By-law Section 139-33A(1). The proposed work will meet all dimensional and parking requirements of the By-Law. Applicant also requests a modification of prior Variance relief pursuant to Zoning By-law Section 139-32 to allow for duplex dwelling units in each cottage or, in the alternative, a primary dwelling unit and accessory apartment in each cottage. The locus is situated at 100 Sankaty Road, is shown on Nantucket Tax Assessor’s Map 49 as Parcel2, and as Lot 2A on Land Court Plan 9548-C. Evidence of owner’s title is registered as Certificate of Title No. 1308 in the Nantucket County District of the Land Court. The site is zoned Limited Use General 3 (LUG-3).

This was opened at the January 17th hearing. Applicant requested a re-noticing of the application to reflect a change in the proposed project and corresponding change in requested relief. The change entails a proposal to construct 4 modular duplex cottages on the southern portion of the 127 acre property. The initial proposal did not consist of Duplexes which are not allowed in the LUG-3 district.

Applicant is requesting approval to construct 4 new residential structures which will result in an extension of the pre-existing nonconforming use created by the existence of greater than three dwellings upon the premises. All residential structures are accessory to the primary use of the property as a private golf club and recreational facility which has existed on the site since c. 1921, well prior to the 1972 local adoption of the Zoning By-law. The 4 structures will be for the exclusive use of on-site employee housing. The structures will be dimensionally compliant as to all zoning requirements of the underlying LUG-3 district and additional parking will be provided.

THERE ARE TWO TYPES OF RELIEF IN QUESTION:

1. MODIFY PRIOR SPECIAL PERMITS

Pursuant to Zoning By-law Section 139-33.A(1), grant a modification to prior Special Permit relief to allow the extension of the preexisting nonconforming residential use with a finding that it would not be substantially more detrimental to the neighborhood than the existing use and would be in harmony with the general purpose and intent of the Zoning Bylaw.

Applicant maintains that the provision of this additional housing will be an overall benefit to the surrounding area and the island by virtue of creating suitable and affordable housing for summer employees and by reducing traffic created by employees coming from other areas where they may find housing.

The applicant may also be eligible – but has not requested – for new Special Permit relief to allow EMPLOYER DORMITORIES, defined in Section 139-2.A as:

A dwelling on a lot occupied by a legally permitted or nonconforming commercial or nonprofit recreational use, or on an adjoining lot under the same ownership, all located outside of the TOD

accessory equipment will be surrounded by vegetative screening. The pool equipment will be located adjacent to the garage and will be screened by NTW fencing.

A portion of the pool will be built within the 100' wetland buffer and therefore subject to the jurisdiction of the Conservation Commission. Staff contacted the Natural Resources Dept. and was informed that the applicant had filed a Notice of Intent which is the application tied to an Order of Conditions. Typical restrictions regarding pools require that there be no discharge or draining of pool water into the areas of ConCom jurisdiction. There is also a submission requirement for separation to ground water to indicate actual ground water elevation.

There are comments submitted by 2 abutters Pages 81 - 82 of the Packet.

IV. OTHER BUSINESS:

- 051-03 Rugged Scott, LLC Rugged Scott *a/k/a* Beach Plum 40B Humphrey
Action Deadline February 20, 2017

The Applicant seeks a determination that proposed changes to the architectural plans approved with the Comprehensive Permit, as amended, may be considered insubstantial pursuant to 760 CMR 56.05 (11)(a)(b), and as such, may be authorized by the Zoning Board of Appeals. The proposed changes consist of the installation of an in-ground spa upon Market Rate Lot 2, also known as 3 Wood Lily Road, of the 40B development known as Beach Plum Village.

Building Permits for new construction on both market rate and affordable lots in the Rugged Scott 40B *a/k/a* Beach Plum Village are issued subsequent to receipt of a letter from the Zoning Administrator, signed by the Chairman, approving submitted architectural plans. As approved in the Comprehensive Permit (ZBA File No. 051-03 See Pages 105 - 148 of your packet) - the ZBA acts as the HDC for initial approval whereas HDC staff retains its status of granting final sign-off upon completion of the construction project and prior to issuance of a Certificate of Occupancy. Any changes to the structures after the issuance of a CO fall under the sole purview of the HDC unless the ZBA finds that the changes are substantially different from what was approved.

The installation of features such as pools or spas on individual lots was not contemplated in the Comp. Permit. The HDC would typically require that such an installation, including the associated equipment, be adequately screened by a NTW fence and/or vegetation. This 8' x 12' in-ground spa will have "no design elements above grade, will not be visible from the road, and it will be shielded from abutting parcels with landscape screening." The spa will be sited to the rear of the dwelling. There may be building code issues in terms of protective fencing.

The applicant came before the Board at the December 8th meeting. Sitting members at that time were ET, LB, SM, MJO, and KK. The Board approved a request to make a determination that proposed changes to the architectural plans approved with the CP were to be considered insubstantial pursuant to 760 CMR 56.05 (11). The changes pertained to new home construction upon Market Rate Lots 2, 3, 26, & the replacement of the existing pool and Community Center upon Lot 42.

760 CMR 56.05(11)(a)(b)(c) reads:

(11) CHANGES AFTER ISSUANCE OF A PERMIT.

- a) If after a Comprehensive Permit is granted by the Board, including by order of the Committee pursuant to 760 CMR 56.07(5), an Applicant desires to change the details of its Project as approved by the Board or the Committee, it shall promptly notify the Board in writing, describing such change. Within 20 days the Board shall determine and notify the Applicant whether it deems the change substantial or insubstantial, with reference to the factors set forth at 760 CMR 56.07(4).
- b) If the change is determined to be insubstantial or if the Board fails to notify the Applicant by the end of such 20-day period, the Comprehensive Permit shall be deemed to incorporate the Change.

- c) If the change is determined to be substantial, the Board shall hold a public hearing within 30 days of its determination and issue a decision within 40 days of termination of the hearing, all as provided in M.G.L. c. 40B, Section 21. Only the changes in the Project or aspects of the Project affected thereby shall be at issue in such hearing. An Applicant shall have the right at any time to withdraw its request for a change and to rely on the previously issued Comprehensive Permit. A decision of the Board denying the change or granting it with conditions which make the housing Uneconomic may be appealed to the Committee pursuant to M.G.L. c. 40B, Section 22; a decision granting the change may be appealed to the superior court pursuant to M.G.L. c. 40B, Section 21 and M.G.L. c. 40A, Section 17.

A formal modification request was submitted on January 31, 2017. Therefore, the Board must determine whether the requested change is a substantial or insubstantial within 20 days. If you determine that this is insubstantial, then you will need to determine whether or not it is architecturally appropriate. If you determine that it is substantial, then a public hearing will be scheduled for the next available meeting (April 13, 2017) and abutters will be noticed. It is worth noting that abutters would not be noticed for pools or spas if this were being reviewed by the HDC. Staff is not aware if the HDC has been asked to approve pools or spas in other local 40B projects where the HDC is the governing authority for architectural elements. Rugged Scott is the only 40B project of those approved on island which requested and received a waiver from HDC approval for initial construction.

V. ADJOURNMENT.