



ZONING BOARD OF APPEALS

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

Commissioners: Ed Toole (Chair), Lisa Botticelli (Vice chair), Susan McCarthy (Clerk), Michael J. O'Mara, Kerim Koseatac
Alternates: Mark Poor, Geoff Thayer, Jim Mondani

~~ MINUTES ~~

Thursday, February 11, 2016

Public Safety Facility, 4 Fairgrounds Road, Community Room –1:00 p.m.

Called to order at 1:08 p.m.

Staff in attendance: Eleanor Antonietti, Zoning Administrator; T. Norton, Town Minutes Taker
Attending Members: Toole, Botticelli, McCarthy, Koseatac, Mondani
Absent: O'Mara, Poor, Thayer
Late Arrivals: None
Early Departures: None

Agenda adopted by unanimous consent

I. APPROVAL OF MINUTES

1. January 14, 2016: **Motion to Approve.** (made by: Botticelli) (seconded by: Koseatac) Carried unanimously

II. OLD BUSINESS

1. 04-16 Donald J. Mackinnon, Trustee of Nantucket 106 Surfside Realty Trust – *a/k/a* SURFSIDE COMMONS 40B
106 Surfside Road Mackinnon

Extend Close of Public Hearing deadline to September 30, 2016 (180 days from Initial Public Hearing with Extension)

CONTINUED TO APRIL 14, 2016

Sitting Toole, Botticelli, McCarthy, Koseatac, Mondani
Documentation File with associated plans, photos and required documentation
Representing None
Public None
Discussion Not opened at this time.
Motion **Motion to Accept the continuance. (made by: Botticelli) (seconded by: Koseatac)**
Vote Carried unanimously
Motion **Motion to Accept the extension. (made by: Botticelli) (seconded by: Koseatac)**
Vote Carried unanimously

III. NEW BUSINESS

1. 05-16 William J. Stone, II 8 Atlantic Avenue Jensen

CONTINUED TO MARCH 10, 2016

Applicant is requesting Special Permit relief pursuant Zoning Bylaw Section 139-16.C(2) to validate unintentional front and rear yard setback intrusions, both of which relate to the siting of stoops and stairs required by Building Code. In the alternative and to the extent necessary, the applicant seeks modification of prior Variance relief to validate the site of the dwelling. The Locus, an undersized lot of record created pursuant to M.G.L. Chapter 41 Section 81L, is situated at 8 Atlantic Avenue, is shown on Assessor's Map 55 Parcel 18, and as Lot 62 on Plan No. 2011-5. Evidence of owner's title is recorded at Book 1234, Page 237 on file at the Nantucket County Registry of Deeds. The site is zoned Residential 1 (R-1).

2. 06-16 1620 Capital, LLC 25 Broadway Brescher
- Applicant is requesting Special Permit relief pursuant to Zoning By-law Section 139-33.A(1) to allow the alteration of a pre-existing nonconforming structure by lifting the structure to install a new foundation, adding new second floor dormers, and extending the existing one-story entry to two stories. While the height will increase from 20 feet to 21 feet, the footprint will not change. The property and pre-existing nonconforming duplex thereon are nonconforming with respect to lot area, setbacks, ground cover ratio, and use. The proposed alterations will not increase the pre-existing nonconformities. The Locus, an undersized lot of record, is situated at 25 Broadway, and is shown on Assessor's Map 73.1.3 as Parcel 108. Evidence of owner's title is recorded at Book 1489, Page 190 on file at the Nantucket County Registry of Deeds. The site is zoned Sconset Old Historic (SOH).
- Sitting Toole, Botticelli, McCarthy, Koseatac, Mondani
- Documentation File with associated plans, photos and required documentation
- Representing **John Brescher**, Glidden & Glidden – The owner wants to lift the pre-existing, non-conforming structure for a full basement; the height will increase to 21 feet; alterations include the addition of dormers and extending a 1-story extension to 2 stories. A number of letters from abutters focused on the process of construction with a request for no summer construction and expressing concern regarding the water and sewer lines. The general contractor will be required to provide contact information to all the abutters. His client has engaged McArdle Gannon Geotechnical Engineer.
Steve Theroux, Nantucket Architecture Group Ltd – Explained that the existing 1st floor is below street level and water from the street is draining into the house causing rot to the first floor. The basement will be 8 feet; the foundation will have room for habitable space and mechanicals.
Bernie Perkins, Toscana Corporation – As far as the road, Broadway in front of the property will have to be shut off from 7:30 a.m. to 4:00 p.m. for about 2 weeks during the excavation and construction of the basement; Front Street can be kept open for pedestrian traffic. When driving sheathing, we monitor how it is done; sheathing will be along Broadway only.
- Public **Sarah Alger**, Sarah F. Alger P.C., for George & Virginia Hill at 24 Broadway – Generally speaking her clients support the renovation. There are a lot of concerns about methodology, possible damage to the water and sewer lines, and access of year-round residents and some seasonal residents who visit in the off season. She wants the board to include these issues in their decision. Also, there is concern the structure will be moved from its historic location; it goes up and comes down in the same place. Asked for no exterior construction from Memorial Day to September 15 and no street construction Friday, Saturday, and Sunday; abutters properties are to be protected at all times; notification of abutters in regards to interruption of street access; and assurance that commercial vehicle parking will not impact the abutters use of their property.
Linda Holland, 29 Broadway – ‘Sconset has a lot of structures with no off-street parking; most parking is along Broadway and Centre Street. The scheduling for work and trucks is important; the idea of the workers car-pooling is a good one. Appreciates that the building is being saved.
Janet Ballou, 21 Front Street – Supports the renovation of the structure. Reiterated the space is very tight and this is major construction. Supports concerns expressed by Ms Alger. She is very concerned about the machinery to be used for digging the basement and the effect of vibration upon her structure. Asked about monitoring to ensure the structure doesn't go up any higher than proposed. Also requested no construction during the summer months.
Chris Holland, 29 Broadway – Cars are parked along Broadway all the time.
- Concerns **Toole** – With regards to the parking issue, asked for specific concerns.
Alger – The request is that construction vehicles be parked at a location other than on Broadway; that is a very narrow street. Asked if they could abide by the noise bylaw in regards to work hours; workers will start showing up at 6 a.m. and though they don't start work, they are usually noisy; asked that a provision ensure they do not arrive prior to 7 a.m. when work is allowed to start.
Botticelli – If there is legal on-street parking, the workers should be allowed to park there. This board can't restrict that.
Theroux – Work will not start until September 15, 2016 and the exterior work should be completed before the summer of 2017.
Koseatac – Wants to see in writing the construction protocol from McArdle.
Toole – Asked about the possibility of underpinning the basement as was done along Kite Hill.
Perkins – There is no room for that along Broadway.
Brescher – A geotechnical engineer will be on site for this project to ensure work is done correctly and safely.
Toole – The board and abutters would like to see that report ahead of time; would also like to see a detailed methodology from Toscana outlining the process of lifting the structure, excavating and constructing the basement, and replacing the structure on the new foundation.
Ballou – Reiterated her concern about driving the sheathing into the ground causing vibration.
Toole – Asked what difference is there between here and Kite Hill where Toscana decided another methodology was preferred in regards to excavating a basement.
Theroux – Rot is an issue; explained how the house would be lifted and that they can't under pin from below because the first floor is rotted. He will provide a surveying benchmark for before and after.
L Holland – The residents on the west side of Broadway can access their homes from Centre Street; the east side residents don't have an alternative access and cannot have their houses inaccessible.

Toole – Reviewed Ms Alger’s letter of concerns.

Discussion about construction: no exterior construction between June 15 and September 15 and work suspended for Memorial Day and Daffodil weekends. No exterior construction includes landscaping and machinery.

Toole – Instructed Mr. Brescher to create a parking plan for the workers.

L Holland – Pointed out that the water and sewer lines run down the north side of this property.

Toole – Suggested a pre-construction meeting of the general contractor with the abutters before any work starts.

Discussion about the impact of the noise of workers coming and going and exterior heavy machinery in regards to “reasonable work hours.”

Brescher – He will provide the information requested for the next meeting.

Motion **Motion to Continue to March 10, 2016. (made by: Botticelli) (seconded by: McCarthy)**

Vote Carried unanimously

3. 07-16 William H. Ranney and Lori A. Ranney 3 Swayze Drive Brescher

Applicant is requesting Special Permit relief pursuant to Nantucket Zoning Bylaw Section 139-16.C.(1) to reduce the side yard setback from ten (10) feet to five (5) feet. In the alternative, the Applicant is requesting Variance relief pursuant to Section 139-32 from the intensity regulations in Section 139-16 to validate the air conditioning unit sited approximately 6.4 feet from the side yard lot line. The Locus is situated at 3 Swayze Drive, is shown on Assessor’s Map 66 as Parcel 153, and as Lot 74 upon Land Court Plan No. 28933-L. Evidence of owner’s title is registered at Certificate of Title 25935 on file at the Nantucket County District of the Land Court. The site is zoned Residential 10 (R-10).

Sitting Toole, Botticelli, McCarthy, Koseatac, Mondani

Documentation File with associated plans, photos and required documentation

Representing **John Brescher, Glidden & Glidden** – This is a request to reduce the side-yard setback from 10 feet to 5 feet for the siting of an air conditioning unit (A/C); the propane tanks are allowed. The bylaw allows for the request to reduce the side-yard setback in such situations. The structure was conforming when it was built under RC-2 zoning.

Public None

Concerns (2:16) Discussion about whether or not the other A/C needs relief.

Toole – This is specifically for the A/C, not for any future work or additions.

Motion **Motion to Grant the relief as requested the A/C unit only. (made by: Botticelli) (seconded by: McCarthy)**

Vote Carried unanimously

4. 08-16 Centre of Town, LLC 35 Centre Street Philbrick

Applicant is requesting the rescission of any conditions related to specific uses in prior Zoning Board of Appeals decisions. Variance relief pertaining to the rear yard setback shall remain in effect. The initial Variance, allowing construction of an office building within the rear yard setback, was further modified to validate the siting of mechanical units also within the rear yard setback. The current use (bakery with an on-site commercial kitchen and retail sales) and proposed use (addition of seating) of the property are allowed by right in the CDT. No exterior renovations are planned. The Locus is situated at 35 Centre Street, is shown on Assessor’s Map 42.3.1 as Parcel 3, and upon Plan File 44-A. Evidence of owner’s title is recorded at Book 1220, Page 86 on file at the Nantucket County Registry of Deeds. The site is zoned Commercial Downtown (CDT).

Sitting Botticelli (acting), McCarthy, Koseatac, Mondani

Documentation File with associated plans, photos and required documentation

Representing **Melissa Philbrick** – Reviewed the history of zoning and variances for this structure. Her client is looking to add chairs and tables inside the bakery; asking to be released from the requirements of the prior release in regards to setback.

Public None

Concerns (2:22) **Koseatac** – Asked if there are any comments or concerns from abutters.

Philbrick – No. This is a “clean-up” matter.

Motion **Motion to Grant the partial rescission of the rear-yard setback. (made by: McCarthy) (seconded by: Mondani)**

Vote Carried 4-0

IV. OTHER BUSINESS

1. Antonietti – She will send the board members the bylaw changes included in the warrant.
2. Toole – Through conversation through Ms Ilana Quirk, Kopelman & Paige LP, this board is not utilizing alternates as other boards do; the alternates would sit at the table and participate in the discussion; the chair at the end of the hearing would indicate who is voting on the motion, if not all five regular members are sitting. This eliminates the need for the “Mullen Waiver.” Discussion about implementing Ms Quirk’s suggestion.

V. ADJOURNMENT

Motion to Adjourn: 2:40 p.m.

Submitted by:
Terry L. Norton