



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, March 10, 2016

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

Called to order at 1:09 p.m.

Staff in attendance: Eleanor Antonietti, Zoning Administrator; T. Norton, Town Minutes Taker
Attending Members: Toole, Botticelli, McCarthy, O'Mara, Koseatac, Poor, Thayer
Absent: Mondani
Late Arrivals: None
Early Departures: Botticelli, 1:24 p.m.

Agenda adopted by unanimous consent

I. APPROVAL OF MINUTES

- February 11, 2016: **Motion to Approve.** (made by: Botticelli) (seconded by: O'Mara) Carried unanimously

II. OLD BUSINESS

- 076-11 Sachems Path, LLC Sachems Path 40B Singer/Maguire
Request for determination that a change to a condition in the First Amended and Restated Comprehensive Permit, requested by the Nantucket Historic District Commission (HDC), is insubstantial and may therefore be approved as a minor amendment.

Sitting **Toole, Botticelli, O'Mara, Koseatac, Poor**
Documentation File with associated plans, photos and required documentation
Representing **Kate Ferreira**, Director of Housing Development Housing Assistance Corporation – HDC has requested a variety of driveway materials. Current houses have crushed shell. ADA houses must have paved driveways. The aprons are planned to be concrete.

Public None
Concerns (1:14) None.
Motion **Motion to Determine that this qualifies as an insubstantial change.** (made by: O'Mara) (seconded by: Koseatac)
Vote Carried 5-0

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

CONTINUED TO APRIL 14, 2016

- 06-16 1620 Capital, LLC 25 Broadway Brescher

Sitting **Toole, Botticelli, McCarthy, Koseatac**
Documentation File with associated plans, photos and required documentation
Representing Richard Glidden, Glidden and Glidden – Asked that this be held for Mr. Mondani to return.
Public Sarah Alger, Sarah F. Alger P.C.
Concerns (1:19) Discussion about whether or not Mr. O'Mara should sit in Mr. Mondani's stead.
Motion **Motion to Continue to April 14 meeting.** (made by: McCarthy) (seconded by: Botticelli)
Vote Carried 4-0

III. NEW BUSINESS

1. 05-16 William J. Stone, II 8 Atlantic Avenue Jensen
 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).
- Sitting **Toole, O’Mara, Koseatac, Poor, Thayer**
 Recused McCarthy
 Documentation File with associated plans, photos and required documentation
 Representing **Steven Cohen**, Cohen & Cohen Law PC – Having been moved, the house now needs to meet code with the addition of steps up to the doors; they are seeking relief from the encroachment caused by the additional steps. His client owns this and the abutting lot, so the side door is along an interior lot line; if that lot line were adjusted, the side stoop would be compliant; however, the front stoop still has a 4-foot encroachment into the 10-foot setback.
- Public None
 Concerns **Poor** – The building permit listed the distance from front line to building as 18 feet; it was issued with those dimensions. Feels there are ways to rectify the situation without the encroachment.
Toole – Feels the placement of the structure on the lot should have taken into account the need for a stoop.
Thayer – Remove the out-swinging storm door and the stoop would be smaller.
Toole – He’s not convinced they need a stoop. Asked Mr. Cohen to provide proof that there is no code alternative; he feels this is totally due to owner error.
Poor – Unless it’s more than two steps to grade, a compliant stoop is not necessary. The September 11, 2014 Building Department letter states the reason the Certificate of Occupancy (CO) was not issued was due to encroachment; nothing is said about requiring a stoop to satisfy the building code. Now Mr. Cohen is saying that the building inspector required a stoop or landing.
Toole – The photos submitted show no stoop.
O’Mara – It also shows an in-swinging door.
Cohen – The denial came at the inspection and was in the denial letter.
Toole – It seems the owner got the inspection and passed it then put the stoop on and then submitted the as-built. It was changed after the final inspection.
Cohen – He will look into whether or not there is a way to rectify the situation without requesting relief.
- Motion **Motion to Continue to April 14.** (made by: Poor) (seconded by: Thayer)
 Vote Carried unanimously
2. 09-16 Jennifer Regan 36 York Street Hanley
 Applicant is requesting modification of prior Special Permit relief granted pursuant to Zoning By-law Section 139-33.A to allow the alteration of a pre-existing nonconforming structure by lifting the structure to install a new foundation and basement. The structure, subsequent to the approved repositioning on the new foundation, is sited 1.5 inches closer in two corners abutting the westerly side and northerly front yard lot lines, but no closer to the side and front yard setbacks than said structure at its closest points. In the alternative, Applicant is requesting Variance relief pursuant to Section 139-32 from the intensity regulations in Section 139-16 to validate the unintentional change in setback distances as they pertain to the subject portions of the structure. The Locus, an undersized lot of record situated at 36 York Street, is shown on Assessor’s Map 55.4.1 as Parcel 103 and upon Plan Book 22, Page 120. Evidence of owner’s title is recorded at Book 1254, Page 178 on file at the Nantucket County Registry of Deeds. The site is zoned Residential 1 (R-1).
- Sitting **Toole, McCarthy, O’Mara, Koseatac, Poor, Thayer**
 Documentation File with associated plans, photos and required documentation
 Representing **Marianne Hanley**, Reade, Gullicksen, Hanley, & Gifford LLP – Requesting a modification or variance because the house has shifted and one setback is 1.5 inches closer; two sides are farther away and one stays the same.
- Public None
 Concerns No concerns.
 Motion **Motion to Grant the modification.** (made by: McCarthy) (seconded by: Poor)
 Vote Carried 5-0

3. 10-16 MHD Partners Real Estate, LLC 4 Goose Cove Lane Brescher
- Applicant is requesting Variance relief pursuant to Zoning By-law Section 139-32 from the intensity regulations in the Village Height Overlay District (VHOD). Specifically, applicant intends to relocate an existing cottage from another property onto the subject premises, a vacant oversized lot. In 2009, the VHOD was adopted and the structure, which is 25.5 feet above average mean grade, was rendered pre-existing nonconforming. The maximum allowable height in the VHOD is 25 feet pursuant to Section 139-12.K(1). The structure, upon being relocated, will continue to be nonconforming with respect to height but will conform to all other intensity regulations of the Village Residential zoning district. The Locus is situated at 4 Goose Cove Lane, is shown on Assessor's Map 59.4 as Parcel 30, and as Lot 894 upon Land Court Plan No. 3092-119. Evidence of owner's title is registered at Certificate of Title 25954 on file at the Nantucket County District of the Land Court. The site is zoned Village Residential (VR) and is sited within the Village Height Overlay District (VHOD).
- Sitting **Toole, McCarthy, O'Mara, Koseatac, Poor, Thayer**
- Documentation File with associated plans, photos and required documentation
- Representing **Richard Glidden**, Glidden and Glidden – The house to be moved to this site is 25.5 feet tall and would be non-conforming; the house is located in Madaket Village and so currently non-conforming to the area 25-foot height limit.
- Public None
- Concerns **Toole** – The plan shows 6 to 8 inches of exposed foundation from grade. The lot is shown as perfectly flat and dimensions on the house show that it is 25.5 from grade. Would like to know whether or not the lot is actually flat or if there will be some grading.
Thayer – Would be nice to have an existing and proposed topographical plan.
- Motion **Motion to Continue to April 14.** (made by: Thayer) (seconded by: McCarthy)
- Vote Carried 5-0

IV. OTHER BUSINESS

1. 04-16 Donald J. Mackinnon, Trustee of Nantucket 106 Surfside Realty Trust – a/k/a SURFSIDE COMMONS 40B
 106 Surfside Road Mackinnon
- Discussion regarding scheduling of previously postponed site visit.
- Sitting Toole, McCarthy, O'Mara, Koseatac, Poor, Thayer
- Representing **Arthur Reade**, Reade, Gullicksen, Hanley, & Gifford LLP – This discussion is dealing with the question of putting up stakes at the corners of the proposed buildings and height balloons for a viewing before the April meeting. Want to schedule a viewing at which the board can view the dimensions of the structures.
- Concerns **Toole** – Stakes should be clearly and accurately posted at the corners of each of the four proposed residential buildings and the clubhouse with a key to the plan and stakes for reference; also stakes should be placed to identify the property lines; stakes should be placed at both sides of the proposed access; stakes showing proposed finished grade should be placed where fill conditions have been proposed as well as where cutting in is being done. Suggested painting the footprints of the buildings between stakes. Balloons should mark the height of the ridge and the eave height of the four corners of the buildings taking into consideration any fill.
 Discussion about the date for the viewing: March 29 at 2 p.m.
 Discussion about deadline for other boards to submit their comments before the ZBA review on April 14: April 7.

V. ADJOURNMENT

Motion to Adjourn: 2:18 p.m.

Submitted by:
 Terry L. Norton